



VOLUNTEER FIRE BRIGADES VICTORIA

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Concern

Delegates to VFBV State Council have raised concerns on behalf of member brigades worried about CFA's decision to collect and store volunteer's drivers licence numbers and expiry dates.

Following recent attention to data breaches involving Optus, Medibank and the cyber breach on FRV, members are understandably concerned and anxious about CFA's storage of personal information that could be potentially used to commit identify fraud against them.

While VFBV was aware of CFA's pursuit of exemptions under the National Heavy Vehicle Law which has resulted in CFA needing to record licence numbers of drivers of fatigue regulated vehicles (trucks 12T or over), we were somewhat taken by surprise at the Chief Officer's insistence that he wanted every single driver to provide their licence details into CFA systems regardless of whether they drove a fatigue regulated vehicle or not.

VFBV has formally requested details on how this information is being collected, stored and protected, including what cyber security measures have been put in

"It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness...it was the spring of hope, it was the winter of despair..."

And while the opening quote requires no introduction, Dickens' use of anaphora (repeated words) in his opening lines of *The Tale of Two Cities*, is a good backdrop to my description of our relationship with CFA as eternally optimistic...but complicated at times.

I spoke last month about the strength of VFBV's relationship with CFA being due to our commitment to working cooperatively together wherever we can, but disagreeing where we must.

And while VFBV works incredibly hard to have these disagreements behind closed doors, there comes a time when those efforts are unsuccessful and require us to engage more publicly. This is

place to ensure this information is safe (encryption) and who has access to this information. We have also sought information on whether CFA has conducted an independent security audit on the system that is intended to store this information to reassure members about the systems privacy.

SICKENING DECISION

by Adam Barnett, VFBV Chief Executive Officer

one of those times.

Recently, Supreme Court judge The Hon. Richards handed down her findings against the CFA who had terminated a volunteer firefighter's compensation for PTSD.

The volunteer joined CFA at the age of 19 and served as an active first responder for 24 years. His brigade was a busy structural brigade and was also an accredited road accident rescue brigade, where he attended countless incidents ranging from house fires, motor vehicle accidents, hazmat incidents and bushfires during his time with CFA.

Over time, he started to suffer from depression and anxiety and originally brushed it off to other life events. When things started to get worse, he sought treatment from his general practitioner and psychologist. He was then referred to a psychiatrist who, in 2018, diagnosed him to be suffering from major depression, anxiety and post-traumatic stress disorder (PTSD). In the psychiatrist's view, the PTSD was directly related to his service with the CFA, and the repeated trauma he had been exposed to.

When he made a claim under CFA's volunteer compensation scheme, CFA arranged for him to be assessed by their own independent psychiatrist, who confirmed the original diagnosis of PTSD with delayed onset and confirmed that his service to CFA as a volunteer firefighter was the significant contributing factor to his condition of PTSD.

Following this report, CFA accepted the claim, and commenced payments for ongoing reasonable medical expenses and weekly payments for replacement labour.

Between 2019 and 2022 two more psychiatrists confirmed the diagnosis, with one of these appointed and instructed by CFA to perform another independent medical examination.

Then in 2023, CFA went to yet another psychiatrist and asked the volunteer to again submit to another examination. This time, CFA chose to seek the opinion of Associate Professor Doherty, who provided a controversial opinion after a single consultation that not only did the volunteer not suffer from PTSD, but that it was impossible because there was no such thing as 'delayed onset PTSD' and in his view PTSD cannot by definition occur where the traumatisation of symptoms are not present within the first six months.

This was completely at odds with all the other psychiatrists, yet based on this single report, CFA then proceeded to write to the volunteer advising they "preferred A/Prof Doherty's opinion" over all others and advised they would be terminating his entitlements.

The volunteer responded to this proposal, and undertook yet another independent medical examination, who was now the fifth psychiatrist (sixth if you count the original psychologist) who confirmed the diagnosis of PTSD, and

that it was caused by his CFA service. This psychiatrist rebuffed A/Prof Doherty's view and opined that most patients who end up with PTSD are not acutely unwell in the immediate aftermath, and that a gradual build up is typical.

Following receipt of this report and choosing not to engage with any of the five previous psychiatrists who had all diagnosed PTSD, CFA again wrote to the volunteer advising they still preferred A/Prof Doherty's opinion and terminated his compensation.

The volunteer argued in court that it was unreasonable for CFA to 'cherry pick' the medical evidence. CFA denied the suggestion that it had cherry-picked.

The Court, when examining this chain of events, was scathing of CFA, with the Judge determining:

"The CFA's decision to terminate [the volunteer's] entitlements to compensation was legally unreasonable. As the sole arbiter of the merits of [the volunteer's] claim, it changed its mind about his entitlement to compensation on the basis of a single medical opinion that was contrary to all of the opinions it had previously accepted. It did so without engaging with the reason why A/Prof Doherty held a different opinion, and without considering whether it should accept the premise of his opinion. The CFA's reasons for decision disclosed no intelligible foundation for preferring A/Prof Doherty's opinion and its underlying premise."

In response to CFA's defence and explanation the judge said in her summary:

"With respect, this explanation entirely missed the point of difference between A/Prof Doherty's and all the other experts. A/Prof Doherty's departure from the previous opinions was not due to a different or more thorough assessment of [the volunteer's] medical history and clinical records. It was because of his asserted premise that there is no such condition as delayed onset (or delayed expression) PTSD..."

Her Honor found that CFA's determination to terminate the volunteer's entitlement to compensation was legally unreasonable, and warned:

"Another dimension of the unreasonableness of the CFA's decision arises from the fact that the CFA administers the compensation scheme for the benefit of all volunteers, and to support the viability of the CFA as a volunteer fire service. It is a significant matter for the administration of the scheme for the CFA to deny liability for compensation for delayed onset PTSD, on a basis that may not reflect the general consensus of psychiatric opinion. If the CFA takes a consistent approach in other similar cases, its unquestioning acceptance of A/Prof Doherty's opinion that there is no diagnosable and recognised condition of delayed onset PTSD may have consequences for the ongoing

capacity of the CFA to provide fire services in country Victoria."

Her Honour then made an order setting aside CFA's decision.

My reaction to this sordid tale is likely very similar to many of yours. I was angry, disgusted and then ultimately left with a feeling of deep disappointment that we could find ourselves here in 2024. What governance failures have occurred that has allowed an organisation established by Parliament to support a volunteer emergency service, to stray so far away from what is a pretty basic responsibility to look after those of us who get injured?

Each volunteer who I have observed hearing this story, I have seen the blood drain from their faces as they shake their head as the full consequences become evident. In my view this is a CFA home goal, and this incident will send a shiver down the spine of every CFA volunteer, who will now have a question mark in their head as to if they were to suffer a similar fate, would they also be left unprotected and abandoned at their time of greatest need?

A service that relies on people to put themselves in harm's way in order to protect others cannot operate without confidence that it will look after any members who get hurt in the process. It pains me to say that CFA's behaviour in this instance was egregious.

The CFA volunteer compensation scheme was hard fought for by the volunteer associations and embedded into the Country Fire Authority Act to ensure volunteers would never receive any less protection than their paid counterparts who are covered by WorkSafe. It was also intended to be designed specifically to cater to volunteers unique circumstances. It is therefore sacrosanct to VFBV, and any attack on volunteers' rights and protections must be met head on.

VFBV has demanded that CFA issue an apology to the volunteer, and immediately reinstate his compensation and support. We have also requested CFA undertake a review of CFA's volunteer compensation operating model and related processes to ensure current arrangements are adequate and meet our expectations. We must look at what decisions have been delegated to middle management, and what checks and balances are in place to safeguard against such bias creeping into decision making.

In an effort to ensure something like this can never happen again, VFBV is demanding the introduction of independent medical panels to deal with controversial or outlier medical views and other decisions.

We have also advised CFA that we intend on pursuing a review of the CFA Regulations, including exploring appeal mechanisms to ensure a volunteer does not have to go all the way to the Supreme Court just to overturn what is



blatantly a miscarriage of justice. Members would recall we have previously called for a Volunteer Ombudsman.

No volunteer can have any doubt that their ability to provide for themselves and their families can ever be in question should they be hurt on the fireground.

This whole episode starts to sound remarkably like the fight we had to have to get fire services to recognise the link between firefighting and cancer. Proving PTSD is not like proving a broken arm or broken leg. The sectors' knowledge and understanding of PTSD is still evolving.

VFBV has renewed its call for presumptive legislation for PTSD. The Commonwealth, the ACT, NT, QLD and Tasmania have already added PTSD to their presumptive schemes for emergency service workers, and VFBV has been calling on the Victorian Government to do the same.

It saddens me to no end that a brave sick volunteer not only had to battle their illness contracted by their CFA service, but at the same time then had to fight the very same organisation just for a fair go. He deserved better, and so does each and every other CFA volunteer in the state. Our pursuit of presumptive rights does not let CFA off the hook.

As at writing, CFA is in the process of reinstating the volunteer's entitlements; have agreed to a review; and has provided in principle support for medical panels.

VFBV will not rest until these issues have been resolved to our satisfaction, and we call on all volunteers to support us in our pursuit of fair and reasonable arrangements that prioritise a volunteer's health and wellbeing above all else and ensure that our compensation arrangements not only meet the expectations of the membership, but sufficiently serve the legislations intent of providing an organisational arrangement designed to encourage, maintain and strengthen the capacity of volunteers to provide CFA services.

A genuine relationship that is honest requires transparency, and it is important to the broader membership that we make you aware of our efforts in trying to right the various wrongs that get reported to us from time to time, while also maintaining constructive relationships to best influence how these matters are resolved.

To this end, we will keep you updated of our progress, but fear not – we will remain frank and fearless and will not rest until these matters are resolved.

Travel reimbursement rate

CFA has agreed to a VFBV request for it to review its volunteer travel reimbursement rate, pointing out that the rate set by the Australian Taxation Office has changed twice since CFA revised its rate to \$0.78 back in 2022.

The ATO set the rate to \$0.88 effective 1 July 2024, and CFA has confirmed that effective immediately, it will be applying the \$0.88 c/km rate to all volunteer travel reimbursement, and that all the various forms held by CFA were in the process of being updated.

VFBV welcomes this announcement and thanks CFA for its prompt attention to this matter.

Deputy CFA Chair Tony Peake OAM announced that CFA Board had appointed Robyn Harris as CFA's interim CEO while the Board conducts a search and appointment process for the ongoing CEO role. Robyn has been with CFA since November 2021.

VFBV warmly welcomes Robyn to the role and looks

Interim CEO

forward to working with her.

While Robyn is in the interim CEO role, her position of Group General Manager Strategic Services will be filled by Sam Costanzo, who will retain his duties as CFA's Chief Financial Officer and Chief Procurement Officer.

Affiliation

Again in 2023/24, CFA Brigades and Groups showed it is more important than ever that volunteers have a strong, united, independent and credible voice with almost 95% of Brigades demonstrating strong support for VFBV's important work representing and advocating for all CFA volunteers. Thank you to all brigades and groups who affiliated last year.

Brigade and Group secretaries have received the 2024/25 renewal notices for your Brigade/Groups' VFBV Affiliation and Welfare Fund subscriptions with a due date of 30th June, 2024.

The Board is determined that brigades/groups should benefit from the strong governance of the association and have reduced the affiliation rate from \$84 to \$75.

We encourage Brigades to also subscribe to the VFBV Welfare Fund which is a capital fund and an exclusive benefit to affiliated members with VFBV funding all the administration and operating costs

SOP feedback

CFA has recently released another 17 revised SOPs for volunteer feedback and consultation. At time of press, we are currently undertaking a log of changes and will prepare SOP feedback surveys once we have completed our analysis of changes. These will be uploaded to the VFBV website shortly.

Given the importance of SOPs in CFA's operational doctrine, VFBV encourages all senior volunteers to make themselves familiar with the proposed changes and provide feedback ASAP.

Please visit the VFBV website to access drafts and change logs to help guide your feedback.

ensuring 100% of funds received go directly to CFA volunteers experiencing personal hardship. The VFBV Welfare Fund provides small grants up to \$5,000 to assist volunteer members and long service ex members and has distributed more than \$2.5 million dollars to volunteers in need since its inception.