

Independent Review of FENZ's Workplace Culture and Complaint Handling Practices

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Introduction

This Review was commissioned by the Deputy Public Service Commissioner to independently assess the Fire and Emergency New Zealand (FENZ) workplace culture and its handling of complaints of bullying and harassment.

Many organisations find it challenging to curtail bullying and harassment behaviour and to effectively address complaints. Complaints are complex to deal with, involving interpersonal relationships and group dynamics. They can involve serious harm and can raise issues of safety.

FENZ is not alone in its struggle with these issues. Indeed, MBIE's Summary Issues paper on Bullying and Harassment at Work¹ suggests New Zealand has higher rates of bullying than comparative countries.

FENZ has been working hard to address bullying and harassment issues since the Shaw Report was delivered in early 2019. This Review examines progress since then and recommends next steps.

The Report presented here has resulted from the input of many people who came forward to give this Review their views and to share their often painful experiences. I want to acknowledge both their willingness to contribute, and the value of the information and insights they provided.

FENZ provided all information and material requested by the Review in a timely way. Thanks also to the Department of Internal Affairs for providing the Review team with accommodation and IT support.

The Board Chair and the Chief Executive of FENZ were very supportive of this Review taking place and showed a genuine commitment to addressing the issues. With the new Chief Executive taking up his role in April, a new Executive Leadership Team structure in place and appointments almost complete, there is an opportunity now to decisively address some longstanding issues around complaints handling and to build and enhance FENZ's workplace culture.



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¹ "Bullying and Harassment at Work, Issues Paper: A Summary", Ministry of Business Innovation and Employment, 2020

Executive summary

Following the 2019 Shaw Report into bullying and harassment in Fire and Emergency New Zealand (FENZ), the organisation adopted all 33 recommendations of the Report and put in place a large programme of design and development work to implement them.

The response included the *Positive Workplace Culture Programme* which undertook work on developing:

- new FENZ Values and Code of Behaviour
- a policy relating to bullying, harassment and victimisation
- Respect and Inclusion workshops
- initiatives to address the complaints management processes.

These initiatives commenced a programme of work to change workplace culture. However, this Review has found that the work has yet to achieve the desired changes to address aspects of FENZ culture relating to bullying and harassment. **The key findings of this Review are:**

- FENZ did a lot of work to address the 2019 Shaw Report recommendations but has some way to go to achieve lasting culture change
- poor behaviours remain in FENZ which are both harming people and tarnishing FENZ's reputation
- the Behaviour and Conduct Office (BCO), set up to respond to complaints and improve workplace behaviour, fell short of its goals
- stronger leadership is needed at all levels, including visible, consistent words and actions that demonstrate and model the change FENZ is seeking
- systemic changes are needed to address barriers to cultural improvement, which requires a strong, deliberate focus on culture change
- changing the culture must be part of the core work of all leaders in FENZ.

FENZ did not achieve its desired changes following the Shaw Report, primarily due to incomplete implementation and the separation of the work into a discrete project rather than it being integrated into business as usual. Progress was also impacted by the wider challenges facing FENZ, both in embedding the major structural and organisational changes necessitated by its creation, and in meeting operational requirements in the context of a global pandemic.

Feedback from submitters and interviewees led the Review to conclude that there are many positives about the workplace culture at FENZ. Importantly, people reported an improvement in recent times, particularly in the inclusivity of the culture and in the improved relations between the career and volunteer parts of the workforce.

At the same time there is evidence that very poor behaviours remain in FENZ that are both harming people and tarnishing FENZ's reputation. These behaviours must now be addressed with some urgency.

Complaints handling

In attempting to implement all 33 of the Shaw Report recommendations concurrently, FENZ made the decision to adopt a "one stop shop" approach to its management of complaints of bullying and harassment. This was done with the laudable intention of ensuring its response was comprehensive and that each function or initiative designed in response to the Shaw Report had a home in the organisation. The creation of the Behaviour and Conduct Office (BCO) in FENZ became the key vehicle for addressing the Shaw Report recommendations relating to complaints handling.

Executive summary cont...

The BCO was designed to manage the end-to-end process for serious bullying and harassment complaints, as well as being responsible for data collection, management and reporting on complaints. Additionally, the BCO was given responsibility for education and training on behaviours (a function which is currently being scoped) and for intervention on emerging issues.

The Review has concluded that the breadth of the BCO's remit is too wide (even without the education and training functions) which has led to a number of unintended consequences. The most serious of these is the delay in establishing and finalising complaints management processes, leading to very long timeframes for resolving complaints – to the extent that some 66% of total open complaints are now more than 5 months old and 35% are more than 12 months old.

The BCO process was designed with the intention to be meticulous in protecting complainants' privacy, but this intent has led to it restricting information it provides to complainants and other parties about the progress of an investigation. While this may be done on the basis of employment law and natural justice requirements, complainants do not necessarily have awareness or understanding of this. This has unfortunately led to perceptions of secrecy and lack of transparency. This in turn has fuelled suspicions of a lack of impartiality and fairness in the BCO. The Review received strong feedback that some complainants did not have trust and confidence in the BCO to fairly deal with their complaints.

Recommendations

Addressing the findings of this Review requires a whole of organisation, end-to-end cultural change. This is not about updating policies and processes but is about changing attitudes and behaviour.

The required change will only occur if there is strong and accountable leadership, and clear expectations with consequences if they are not met. Additionally, there needs to be independent determination of complaints; a tangible shift towards diversity at all levels of the organisation; and strengthened people management and training.

The key recommendations are:

- The FENZ Executive Leadership Team to design and implement a clear culture change plan and a way to measure success
- Modernise the role of Chief Fire Officer. All new Chief Fire Officer appointments should be for a term of five years, with rights of renewal
- Establish an independent Advisory Committee to support FENZ to achieve cultural change, for at least a three-year period
- The FENZ Board to report to the Minister on a six-monthly basis for the next three years on its progress in implementing the recommendations of this Review
- There should be one stand-alone Code of Conduct that applies to all FENZ personnel. The Code should set out clear standards of expected behaviour and conduct
- There should be a "zero-tolerance" policy to bullying and harassment, incorporating the following elements:
 - Investigation of all formal complaints of bullying or harassment
 - Dismissal of personnel found by an investigation to have committed bullying or harassment
 - Referral of allegations of criminal offending to New Zealand Police

*Executive summary
cont...*

- There should be consistent and uniform criminal conviction vetting for all FENZ personnel
- The investigation and determination of conduct complaints against FENZ personnel should be moved to a new body, external to FENZ for a period of at least five years
- FENZ should safeguard the wellbeing and safety of complainants while their complaints are being investigated by:
 - Providing a programme that enables complainants to keep their active firefighting and emergency response training requirements up to date for the duration of the investigation and that the period of leave taken is not debited from their continuous service and honours eligibility
 - Establishing and funding a group of independent advocacy service providers whose services are published and made available to all personnel who require support through the duration of a complaint investigation process
 - Ensuring that all complainants are made aware of the counselling support available to them whilst their complaint is being investigated
 - Making sure that the details of the text or phone 1737 - Need to Talk service are included in all relevant documentation
- The FENZ workforce needs to reflect the make-up and diversity of the general population of New Zealand within the next 10 years
- Leaders are chosen and promoted based on their people management skills
- Training to deal with poor behaviour is prioritised.

The way forward

Three years have now passed since the Shaw Report. The intervening years have been challenging for FENZ. Not only has it been in the emergent phase of building a new organisation, but it has had to respond to the disruption of Covid. These challenges have undoubtedly impacted FENZ's response to the Shaw Report. Nonetheless, the fact that some culture problems remain means change must be made with some urgency.

To ensure the intended changes are achieved, the Review recommends FENZ undertake a refreshed implementation programme. This would involve extending the rollout of some partially implemented initiatives; addressing gaps (such as increasing the diversity of the workforce); and the leadership recommitting to the changes as being central to FENZ's future direction.

This Review recommends that FENZ reconsider its past approach of creating a special and discrete programme of work to address the culture changes needed. FENZ would achieve more by integrating this critical work into all aspects of its core work, making it a key accountability of all FENZ leaders to drive and manage this change.

FENZ's new Executive Leadership Team has a unique opportunity to begin its term with a visibly different approach, a clear sense of urgency and to set expectations and standards that support further integration of the workforce and zero tolerance of poor behaviour. FENZ already enjoys strong external support from the community. If this can be matched with a strong internal culture, the tandem enabling effects of a strong external environment and a positive internal culture will position FENZ well for the future.

Context for this Review

In July 2018 Fire and Emergency New Zealand (FENZ) commissioned Judge Coral Shaw to do an Independent Review of its workplace policies, procedures, and practices to address bullying and harassment. In her January 2019 report (the Shaw Report), Judge Shaw concluded that bullying and harassment was a feature of the FENZ workplace at all levels and across all regions.

The report made 33 recommendations to FENZ to improve its culture and complaint handling practices and stated that their implementation should be monitored and evaluated over a 36-month period. That time period has now expired. Following a request from the FENZ Board Chair, the Deputy Public Service Commissioner therefore commissioned this review of FENZ's progress in implementing the Shaw recommendations.

FENZ accepted all 33 of Judge Shaw's recommendations and formed a Positive Workplace Culture programme to be the vehicle for its work to effect change. This Review has examined the work and achievements of the Positive Workplace Culture Programme and looked in detail at FENZ complaints handling processes and procedures. It has also had discussions with a range of FENZ people and stakeholders, and accepted submissions over a period of seven weeks.

The Terms of Reference for this Review include the following three key areas:

- whether the recommendations in the Shaw Report have been implemented and the intended change realised
- whether FENZ's implementation of the recommendations in the Shaw Report and other related initiatives have been sufficiently impactful on organisational culture, particularly from the perspective of FENZ personnel
- any further steps that FENZ should take to strengthen its leadership and improve its systems, policies, procedures, and workplace culture, particularly around better incorporating the perspectives of complainants and the resolution of complaints about inappropriate workplace behaviour. This will include considering the experiences of individuals.

Approach and methodology

This Review was conducted in accordance with the Terms of Reference and following the process described in the Minute of Process for the Review, both contained in Appendix 4.

The Review considered documents provided to it by FENZ, confidential interviews with individuals and groups, and submissions and feedback provided confidentially through a dedicated FENZ Review email address.

The information gathered during the course of this Review was not gathered under research conditions. Those people and groups who contacted the Review chose to do so. The information individuals and groups shared with the Review provided valuable insights into use, experience and understanding of FENZ bullying and harassment complaints processes and into wider aspects of the FENZ workplace culture. This information has been considered in developing the narrative and recommendations in this Report.

The Review team comprised individuals external to FENZ. This team researched and analysed material for this Report independently of FENZ or any other organisation. The Review team designed and managed its own process. Information was sought from FENZ who willingly gave access to files and datasets requested by the Review. There were also discussions with FENZ leadership as part of data gathering and FENZ was given the opportunity to comment on the draft report. FENZ was otherwise not involved in the development of this Report or its recommendations, which are addressed to the Deputy Public Service Commissioner.

Structure of this Report

There are four main sections to this report:

Part I - Workplace culture in FENZ

Part II - FENZ complaints handling processes and procedures

Part III - The way forward

Part IV - Recommendations.

Brief background on FENZ

FENZ was established on 1 July 2017 to unify all pre-existing urban and rural firefighting services. It amalgamated more than 40 separate organisations and about 13,700 people from a wide range of firefighting services, and recognised both the fire and the emergency response aspects of modern firefighting roles. The amalgamation sought to bring together the cultures and practices of a range of different fire and emergency workforces into one structure. This included volunteer fire brigades, the New Zealand Fire Service, the National Rural Fire Authority, Rural Fire districts and rural fire authorities. The Review understands that about 70 percent of New Zealand is covered by volunteer fire brigades.

As the Shaw Report noted, FENZ inherited a multiplicity of groups, each with a strong sense of identity, history and behavioural norms.

As at 30 September 2022, FENZ consisted of 10,073 volunteer firefighters; 1,785 firefighters employed by FENZ (“career firefighters”); 1,692 volunteer regional support people and managers; and 1,120 National Headquarters (NHQ) personnel, paid regional support people and regional managers. In total this is 14,670 people. The FENZ term “personnel” is used throughout this Review to refer to the entire workforce.

A new Board Chair took up their role on 1 July 2021 and a new Chief Executive took up their role in April 2022.

Terms used in this Report

BCO is the Behaviour and Conduct Office, a unit of FENZ reporting to the Deputy Chief Executive, Office of the Chief Executive.

Chief Fire Officer is the Chief Fire Officer of a volunteer station or brigade

FENZ means Fire and Emergency New Zealand.

FENZ personnel or **personnel** has the meaning given in Section 6 of the Fire and Emergency New Zealand Act 2017. That is, it encompasses employees, volunteers and contractors.

Fire and Emergency Disputes Resolution Scheme (FEDRS), was established in 2021 to ensure FENZ meets its statutory requirement to operate a disputes scheme. It is operated under contract by the independent Complaint and Review Authority. It is referred to within FENZ as the Fire and Emergency Scheme or the Statutory Disputes Resolution Scheme.

Firefighter means either a career (employee) firefighter or volunteer firefighter.

National Headquarters (NHQ) refers to the national office for FENZ corporate and executive leadership functions.

Non-operational staff are FENZ volunteers or employees who are not involved in active firefighting and may be involved in administration and management. They are included in the umbrella term “FENZ personnel” where that term is used.

PFU refers to the New Zealand Professional Firefighters Union.

The **Shaw Report** is the “Independent Review of Fire and Emergency New Zealand’s workplace policies, procedures and practices to address bullying and harassment” Judge Coral Shaw, January 2019.

UFBA refers to the United Fire Brigades Association.

Part I

FENZ Workplace Culture

Progress with Shaw Report recommendations

The workplace culture of FENZ is a critical aspect of the organisation's effectiveness. The culture is influential in the ability to attract and retain both employees and volunteers and build strong local teams at brigade and station as well as NHQ.

The expectation from the Shaw Report was that implementing the recommendations made in early 2019 would improve the culture and reduce bullying and harassment. This section assesses the progress made in implementing those recommendations and the extent to which they have had the desired effect.

The Positive Workplace Culture Programme

FENZ accepted and adopted all 33 recommendations of the Shaw Report and put in place an initial programme of work (the Workplace Review Project) to develop an Action Plan to address them. This became the Positive Workplace Culture Programme, which commenced in August 2019. Its scope, as outlined in the programme plan, included work on:

- Values
- Code of Behaviour
- Policy to address bullying, harassment and victimisation
- The Respect and Inclusion initiative
- Complaints process design
- The establishment of the Behaviour and Conduct Office (BCO).

The programme was established with sound programme management approaches and processes and had specific resources applied. Evidence of FENZ's commitment to this programme is the operating budget of \$9m over three years which was applied to the programme to ensure appropriate resourcing. The Review examined the two most recent of the (six) six monthly reports to the Board on progress², produced to outline the work of the programme against the Shaw Report recommendations.

In summary, FENZ's self-assessment of progress included the following activities:

- developed and launched a set of Values (April 2019)
- developed and launched a Code of Behaviour (August 2020)
- launched a series of Respect and Inclusion videos (Videos 3&4 in August 2020)
- released the Policy on bullying, harassment and victimisation (August 2020)
- implemented the permanent structure for the Behaviour and Conduct Office (commenced the process in October 2021)
- published a series of "How Do I?" guides for personnel on what to do if bullying, harassment or unwanted interpersonal behaviour is occurring (March 2022).

In the context of this work, it is clear that FENZ is committed to achieving positive change in FENZ culture relating to bullying and harassment behaviours. The Review considers that work undertaken has begun the work of achieving improvement in the workplace culture and addressed the Shaw recommendations to some degree. However, the Review has found that implementation approaches did not capitalise on this work and thus did not achieve the desired level of change to address aspects of FENZ culture relating to bullying and harassment. More remains to be done to convert policies to sustained change in behaviours and culture.

² Positive Workplace Culture Report, Six Month Progress Report October 2021; Positive Workplace Culture Report, Six Month Progress Report November 2021 – April 2022

***Capitalising on
work already
undertaken***

Additionally, the Review considers that the approach of creating a special programme to address this work does not enable FENZ to optimise change. Leaders at all levels of FENZ must drive change, and the new Executive Leadership Team must visibly lead it. Making change part of the core work of FENZ is critical to achieving sustainable improvement in the negative aspects of FENZ culture.

Activities undertaken by the Positive Workplace Culture Programme (and outlined in the six-monthly progress reports) were wider than those mentioned above. The Review has focussed on those Positive Workplace Culture Programme activities that appear intended to reach all personnel and to influence behaviours throughout FENZ.

A key initiative has been the “Be an Upstander” message (contained within the Policy to address bullying, harassment and victimisation). Being an “Upstander” is about calling out poor behaviour as you witness it occurring, and stepping in to shut down the harmful behaviour if you feel safe to do so. It is also about providing support to the person who is experiencing the unwanted behaviour³. Feedback to the Review suggested that the approach works best when the upstander is someone who is part of a supportive cohort and not an isolated individual.

The messaging has been very successful in terms of its communication – the message has resonated and was referenced to this Review multiple times. While the Upstander message has been heard, its value is in people taking action and more is needed to enable this. Developing written tools and scenario training with case examples as practical guides for personnel to use would support personnel to feel confident to act. This needs to occur with consistency and continuity in order for the “Upstander” message to be truly successful.

The Review also received feedback about the Respect and Inclusion work, which was positively received by those involved with or exposed to this work. A number of personnel reported seeing positive results from the Respect and Inclusion Taskforce, such as greater acceptance of diversity in the workforce.

It is unclear from documentation provided to the Review whether this initiative was fully implemented across the country at all levels, and feedback suggested there was a lot of variability in the implementation and emphasis given to it locally. This feedback included the fact that workshops were optional (not compulsory), so those not interested in the topic (arguably some of the people who most needed to attend) did not attend. There was also disappointment that the programme of workshops appeared to come to a premature close. The Review understands that this was unavoidable, due to the restrictions imposed by Covid. However, the initiative was impactful and worthwhile for those who were exposed to it, and the workshops should now be reinstated and rolled out across the country.

As a general observation, the Review found that many of the Positive Workplace Culture initiatives completed their design stage and in some cases were piloted, but that they were not comprehensively implemented. For example, documents or posters were sent out without any supporting information or training material and were then regarded as having been implemented. One Chief Fire Officer outlined that the first they knew that their responsibilities were changing with regard to complaints was the “pink poster” that arrived at the station without any other communication. Such comments were common themes in the feedback received by the Review.

³ FENZ “Respond as an upstander when you witness unwanted behaviour”, version dated 11 February 2022

Capitalising on work already undertaken cont...

A more comprehensive approach to implementation would involve communication through a range of channels for every initiative, in a process that, once refined can be made repeatable. This would ensure that the groundwork done by the Positive Workplace Culture Programme is fully capitalised upon to leverage culture change.

Implementing important areas of change is challenging in a distributed organisation and feedback to the Review was that there are disconnects in communication lines between NHQ and the districts – the communication lines are not strong enough. There is also a perception within NHQ that to directly reach and effectively communicate with the volume and geographic spread of volunteers is logistically difficult. However, available technologies mean that neither the cost nor the geography should be barriers to effective communication and training. As part of improving its overall approach to implementing change, FENZ could look to other geographically distributed organisations to see if their approaches to communication and implementation of culture related initiatives would be of assistance.

Overall the Positive Workplace Culture programme undertook considerable work in the design and piloting phases of a number of constructive initiatives. But in itself this has not sufficiently changed the negative aspects of FENZ culture. The Review considers that opportunities exist for FENZ to build on the work done to date and to embed the desired changes throughout the organisation.

Measures of culture and behaviour

The Positive Workplace Culture Reports, released publicly and available on FENZ's website, canvass the activity undertaken (and intended to be undertaken) in relation to workplace culture. Considerable diligence is evident in the work of designing policies. However, activities do not automatically create outcomes and policies alone are insufficient to create and sustain change. At present, FENZ is largely measuring progress through this activity reporting and assuming activity is outcome.

Actual progress would be demonstrated by behavioural change – and this is challenging to apply quantitative measures to. The Review found that there are few quantitative sources in FENZ from which it can be determined whether behaviours have changed and whether the incidence of bullying and harassment have actually reduced.

While this is generally a difficult area in which to gain solid data, a variety of means can be deployed which collectively will provide leadership with a clearer view than raw complaint numbers will do on their own. Complaint numbers, complaint process feedback surveys, employee/volunteer surveys and exit interviews applied consistently are all sources that FENZ can use – multiple sources are needed to build a picture. These sources need to be carefully designed to specifically seek out information on areas of concern to FENZ, such as the level of under-reporting that might be occurring. Under-reporting is a key indicator in itself of whether behaviours are changing (or not) and whether people feel it is both safe and worthwhile to make a complaint.

One of the few sources of data currently available to assist in gaining a picture of the current situation, apart from engagement feedback to this Review and complaint numbers, is the employee and volunteer surveys.

The employee and the volunteer surveys for 2019 to 2022 included the following results relevant to this Review:

Table 1: Relevant Results From Employee and Volunteer Surveys

NB: A blank square means this question was not asked in this survey/year. Where the wording of questions has been changed across years, these have been grouped together (with dotted lines between) to show results for similar questions.

Questions (similar questions delineated as a group)	Employee Result 2019	Volunteer Result 2019	Employee Result 2020	Volunteer Result 2020	Employee Result 2021	Volunteer Result 2021	Employee Result 2022	Volunteer Result 2022
Participation Rate	42% - 1,240 respondents	10% - 1,167 respondents	32% - 947 respondents	17% - 1,969 respondents	39% - 1,173 respondents	21% - 2,320 respondents	40% - 1,213 respondents	22% - 2,487 respondents
I feel safe to report unwanted interpersonal behaviour			62%	70%	62%	70%	64%	73%
I feel safe to tell the truth even when it is unpopular	59%		51%		52%			
I feel safe to speak out			52%	62%	52%	64%		
It is clear what “bullying and harassment” means in our organisation			58%	69%	62%	71%		
We have clear and effective systems for dealing with workplace bullying and harassment, which are applied equally to everyone	49%		48%		47%			
FENZ has processes that allow workplace bullying and harassment to be dealt with effectively							47%	
FENZ supports an inclusive environment	62%		61%	68%	61%	70%		
FENZ has a respectful and inclusive culture			55%	66%	56%	67%	53%	
My brigade has a respectful and inclusive culture (volunteer)								75%
I know how to access support when experiencing unwanted behaviour			70%	72%	72%	74%	72%	76%

**Measures of
culture and
behaviour change
cont....**

Although participation rates are improving, particularly by volunteers, the rates are still very low by both public sector and international standards⁴ and insufficient to give FENZ a confident view of its progress in improving workplace culture (and more specifically the elimination of bullying and harassment).

The average rate of participation for employed personnel across the 4 years of surveys (in the table) was 38.25% and for volunteers was 17.5%. The first priority for FENZ is therefore to actively work to increase the response rates.

The second priority is to ensure the results are comparable across years. The inconsistency of question wording across the years and the removal of some relevant questions in more recent years has reduced clarity in these results.

A few general observations can be made as follows:

- among respondents there is a relatively high rate of feeling safe to report unwanted behaviour – this is a good base to work from in addressing bullying and harassment
- the number of people feeling safe to speak out is lower than those feeling safe to report. This question was removed in 2022, presumably replaced by the single question on feeling safe to report unwanted behaviour
- the questions regarding clear definition/understanding of bullying and harassment should be continued in order to enable assessment of both communication and process improvement. Survey designers should consider splitting these questions to ensure an accurate view – one for definition and one for understanding
- the question regarding clear/effective process for dealing with bullying and harassment was asked of employees in 2021 and 2022 but not of volunteers. It would help FENZ management if consistent questions regarding unwanted behaviours, bullying and harassment were asked across all personnel. This area would also benefit from separating the question themes, i.e. firstly are the processes clear and secondly are they applied equally.

Survey design is a complex area which requires expertise and experience to ensure accuracy and clarity of results. To ensure it can obtain a clear and more accurate view of progress in future, FENZ needs to put in place key measures that enable a view across years, and work to improve both its current practice around survey management, and the low response rates.

At a bigger picture level, it would support FENZ decision-makers if measures were subject to integrated design across different data collection channels to provide the best possible picture of culture and behaviour change indicators. As already discussed, this would include exit interviews that specifically include exploration of this area.

⁴ Few benchmarks are publicly available for New Zealand but the Public Service Commission is focussing on achieving a 60% participation rate for its Public Service Census. DIA's 2022 Whakahoki Kōrero recently achieved a 60% participation rate. "Culture Amp" cited an ideal survey response rate for organisations of more than 1000 employees as 65-80%. See [What is a good employee survey response rate? | Culture Amp](#)

Key aspects of the FENZ workplace culture today

FENZ is a very large organisation with almost 15,000 personnel across 650 locations. With such a large complement of personnel and so many individual sites there is a range of cultural features at play and considerable variability between locations. It follows that not all of the elements described below are present in every workplace location.

Subcultures

The Shaw Report outlined several sub-cultures within FENZ that had a negative impact on both individuals and the organisation and contributed to bullying and harassment. Specifically identified were the “hero culture” and the “tribal culture”. Some of the features of these sub-cultures described in that report⁵ included:

- a) **hero culture** – accepting and tolerating a degree of bullying as coming with the territory of an environment in which reduced empathy and increased toughness are coping mechanisms.
- b) **tribal culture** – including differences and tensions between “tribes” within the wider organisation based on career versus volunteer and rural versus urban. These tensions and rivalries are still very much in evidence.

Features of FENZ culture

In addition to these sub-cultures identified in the Shaw Report, this Review’s engagement identified a range of additional features both positive and negative, which are significant aspects of the FENZ workplace culture.

firefighting as a calling - while the focus of this Review was on the complaint process and the incidence of bullying and harassment, many of those who engaged with the Review shared how much they loved their role. They told the Review that there are good and incredible people in FENZ and that there are awesome stations and brigades. They also said how proud they are to be or have been a firefighter, to serve their communities, and to be there to help another human being when they need help the most.

volunteer culture – also noted in the Shaw Report was the volunteer culture with its high levels of passion and commitment to community service. Part of this culture for volunteers is the significant importance placed on the honours system as it is one of the few forms of recognition for volunteers and is often associated with family traditions of service. Volunteers rightly enjoy high levels of respect and gratitude from the public they serve.

the distributed nature of working in FENZ – the distributed way of working (for national functions) is truly integrated and incorporated in the organisation. While many organisations claim to be distributed, they are more accurately described as geographically dispersed. FENZ however has truly distributed its national functions and mastered the art of working this way.

service ethic and commitment to community – another positive feature is the high level of dedication to the kaupapa of protecting the community evidenced by nearly all personnel. The connection to this kaupapa is so powerful that it is still very strong even where people have been the victims of bullying or harassment.

⁵ Shaw Report, page 19

Features of FENZ culture cont....

employee-led networks – are another positive feature. The networks connect personnel across the country and provide valuable forums for people with common interests or issues. Examples are the Whiria te tāngata Rainbow network and the Afi Pasefika network.

camaraderie – many brigades operate like a social club, engendering a club atmosphere and a sense of inclusion or belonging. This strengthens the bond between personnel and their ability to rely on each other when doing the often difficult and distressing work they do.

loyalty to fellow union members – similar to the camaraderie referenced above is the strong bonds of loyalty which exist between career personnel. As with volunteers the bonds of trust and loyalty to one another are necessitated by the fact that they routinely put their lives and safety in each other's hands. These bonds are reinforced by their membership of the New Zealand Professional Firefighters Union (PFU). Submitters to the Review referenced the high degree of loyalty that PFU members have to each other. This can have mixed effects. On the one hand it reinforces the sense of commitment and vocation that career firefighters evidence which enables them to make such an important contribution to society. On the other hand it may mean that there is a level of under-reporting of bullying and harassment in the career workforce. Even where a victim is willing to speak out, people told the Review that due to ties of loyalty witnesses often decline to corroborate or support the victim's claims.

"the boys' club" – was commonly referenced in feedback. The nature of this feedback is that there is a prevalent "boys' club" culture within FENZ which characteristically involves long-serving male firefighting colleagues who are sexist and intolerant, and whose behaviours generally serve to stifle diversity, inclusiveness and respectful behaviours. Those who participate actively protect each other and have a code of "no narking". This aspect of the workplace culture featured in some of the worst bullying and harassment behaviours reported by complainants. The Review also heard that some people were too scared to talk with the Review because of this aspect of the culture and how things operate within their workplace.

Feedback to the Review suggested that currently there is a variable pattern in regard to the prevalence of the boys' club culture. That is to say that there are some stations where it remains a dominant influence and the culture is unchanged. However in other stations the boys' club culture is either not evident at all or the station is on a journey of transitioning out of this culture.

rank trumps other considerations – rank matters most to many personnel and it trumps all else including speaking up against bad behaviour. It influences how individuals relate to each other, and in some instances how those of lower rank are treated, and how they are expected to respond to that treatment. At present the achievement of rank is based on proficiency in a technically-based skillset and does not require demonstrated leadership or people management capability.

While the concept of being an Upstander, (when inappropriate behaviour is challenged by a witness or bystander), is reasonably well known throughout the organisation, it has to compete with other influences and in particular, the norm against narking and the protection of rank, both of which are deeply entrenched and longstanding.

***Features of FENZ
culture cont....***

With respect to another key aspect described in the Shaw Report – the tensions between career versus volunteer and rural versus urban - the Review heard feedback which suggested mixed progress. Considerable positive comment was made about how much the relationship between career and volunteer firefighters has improved since 2017. The picture was less positive with respect to the barriers between urban and rural and there is opportunity for FENZ to do further work to dissolve the rural/urban divide.

In September 2021 FENZ introduced a new District structure. This represented a significant change to the operating environment and provided FENZ with a more direct working relationship with volunteers. It is envisaged that, over time, this will also enable FENZ to support positive culture change at local levels.

Systemic opportunities for changing culture

In light of the cultural features outlined above, the Review identified several factors which if addressed, could provide opportunities for FENZ to achieve sustainable change. These are outlined below.

Diversity in the workplace

Diversity in the workplace means a culture where people from a variety of ethnic and minority backgrounds, genders and sexual orientations, religions and languages are all welcome and able to fully participate in that workplace.

New Zealand's **Public Service legislation** strengthens and supports diversity and inclusion commitments and explicitly requires Chief Executives to pursue fairness and diversity and to foster a workplace that is inclusive for all. Likewise the Crown Entities Act 2004 contains provisions ensuring Crown Entity employers provide an equal opportunities programme and recognise the aspirations and employment requirements of Māori, ethnic and minority groups, women and people with disabilities.⁶ The latter legislation is what applies directly to FENZ, but the former also provides relevant guidance.

Women comprise approximately 20.65% of FENZ personnel overall but they are only 5.47% of career firefighters and 17.4% (as at 30 June 2022) of volunteer firefighters. The quickest way to achieve a culture which is safer for and more inclusive of women is to rapidly increase the number of women in FENZ. FENZ needs to set a target for increased levels of women's participation and adopt active strategies to achieve it, including addressing the issues that are currently acting as barriers for women. This will serve to pave a path for other groups as well.

Māori comprise approximately 8.8% of FENZ total personnel. Māori men are approximately 10% of male personnel, and Māori women comprise some 2% of FENZ female personnel. The Review recommends that FENZ sets a target to increase these levels to more closely reflect the proportion of Māori in the general population.

The current lack of diversity in FENZ reflects its history and the "club" aspects of its culture. At present, some women reported they are subject to sexism, harassment, and derisory treatment in the FENZ workplace on an ongoing basis. This is an urgent matter for FENZ to address to ensure the safety of women in its workplaces. FENZ would benefit from meeting and discussing with New Zealand Defence Force its 2019 "Operation Respect" programme, which includes addressing sexual behaviour on a continuum of what is appropriate.

There is a "Women in FENZ" network established in 2016, to "identify, support and grow the talent of our operational women"⁷ and also a Regional Women's Advisory Network in each of the five regions. These networks provide support to women in frontline roles as well as having a role to inform "priorities for improving the recruitment, retention and development of women across the organisation". FENZ also has a permanent team of employees – the Women's Development Team – within the Office of the Chief Executive to support the work to improve the status of women in the organisation. Additionally, the National Women's Advisory Committee is supported by an independent Chair.

⁶ Crown Entities Act 2004, 118 (2) and (3)

⁷ "Women in Fire and Emergency [WFENZ]", 6 May 2022

Diversity in the workplace cont...

FENZ also has a Diversity and Inclusion Strategy (2018) as part of its suite of strategies and plans under the umbrella of the “Growing Our People” 10-year plan. The women’s networks and the Diversity and Inclusion Strategy are positive elements. What is needed now is specific action to improve diversity. The Review recommends that in addition to improving the number and status of women and Māori in the organisation, FENZ identifies requirements that are acting as barriers to the recruitment, retention and progression of minority and diverse populations (Asian, Pasifika, and rainbow), and implements a programme of work to remove these.

Initiatives that would support this decisive action could include:

- ensuring diverse interview and selection panels
- employing more formal recruitment assessment tools to ensure candidate performance and integrity
- setting targets for intake of personnel to reach 50% women and pursuing campaigns to achieve these targets
- setting a target of 50% women at second and third tiers of management
- examining the entry and training requirements for women in both the New Zealand Police and the New Zealand Defence Force to see how these take into account physical differences between men and women and assessing their applicability to FENZ
- setting targets and taking proactive approaches to representation for other minority groups including Pasifika, Asian and rainbow communities. These targets should reflect the proportions of these groups in wider New Zealand society.

Higher levels of inclusion of women and diverse groups both as employees and volunteers will help change attitudes and behaviours at the front line. The inclusion of women and diverse groups has been shown by other public sector organisations to lead to higher levels of employee engagement, improved performance, retention of talent, improved staff wellbeing and lower levels of unacceptable behaviour. Addressing barriers to increased diversity would be a solid first step to enabling a campaign to be successful to increase the number of women and minority groups in FENZ. FENZ needs to reach a critical mass of women and other groups reflective of New Zealand’s diverse communities in order to drive change to a new culture.

It should be noted that the new Executive Leadership Team structure includes a Deputy Chief Executive Kaupapa Māori and Cultural Communities. This demonstrates FENZ’s commitment to working with tangata whenua and other cultural communities to build a positive culture in FENZ. Additionally, there are currently women in four of the seven Deputy Chief Executive roles⁸, increased from one in the previous structure. This is another positive development.

⁸ Two appointees and two Acting in Deputy Chief Executive positions.

Implementation and reinforcement of existing inclusive policies

In some instances, FENZ has already taken a positive and inclusive position but that position is not being expressed in the day-to-day reality of the workplace. An example of this is the wearing of rainbow epaulets. While FENZ uniform policy is that managers can approve the wearing of these as part of the uniform on certain occasions, the policy appears not to be well known and such approval has at times been countermanded. Not only does the actual policy need to be clearer, but its promulgation needs to be consistent across the country.

The important role of volunteers

Around 70% of New Zealand is covered by volunteer brigades. People who volunteer for FENZ give freely of their own time and skills. They make a considerable commitment in the service of their community and contribute greatly to the safety of New Zealanders.

Their reward does not come in the form of remuneration, but from the meaning and pride arising out of community service, and the camaraderie that goes with being part of a team that performs dangerous and sometimes awful work.

FENZ supports this volunteer workforce in a number of ways but especially through a national team in NHQ – the Volunteer Resilience team – which works with brigades to help them attract and retain volunteers; provides capability improvement training programmes; and direct support to Chief Fire Officers.

Volunteers deserve acknowledgement, gratitude and a high degree of support in a variety of forms from FENZ. It is in this context that the Review discusses the following issues.

Volunteers and volunteer brigades

The Fire and Emergency New Zealand Act 2017 retained the ability of volunteer brigades to be formed as separate legal entities to FENZ. Some brigades are incorporated societies, some are charities, and some have other formative arrangements. Each brigade retains some form of articles, or rules of association it works to. These arrangements are independent of FENZ.

The volunteer workforce is critical to FENZ's operational effectiveness and capability. The capability and willingness of that workforce comes down to what happens at the local level – the willingness and skills of those in charge to attract, manage, incentivise, develop and retain good volunteers.

Firefighters (both career and volunteer personnel) are vested with considerable powers and authorities under the FENZ Act – some exceeding even the powers of Police in terms of the ability to enter premises without warrant or prior notification. Firefighters also have responsibility for members of the public when they are at their most vulnerable, in distress or danger, sometimes dying or recently deceased.

Volunteers and the FENZ Act

Given the significance of the powers bestowed on firefighters and the responsibilities that come with them, the public expectation would be that both employee and voluntary FENZ personnel are working under the same standards regarding conduct and behaviour. In all likelihood, in an emergency, members of the public would not distinguish between employees and volunteers (unless they are known to them), so operationally, at the front line, it is all one organisation.

The ability to hold people to account

When FENZ was created by its new Act in 2017, the Agreements of Service between volunteer fire brigades and the (former) New Zealand Fire Service Commission were carried over and continued until they either expired or “any new arrangements are agreed between the volunteer fire brigades and the Commission”⁹. This means that under the Act FENZ has the ability to apply a sanction such as the removal of the volunteer’s status as an “authorised person”,¹⁰ that is, someone who has the ability to respond to an emergency on FENZ’s behalf. However the brigade can choose to allow the volunteer to remain a member of the brigade notwithstanding disciplinary action from FENZ. As a separate legal entity, this is a decision for the brigade.

When a brigade is formed, it will usually take guidance on its formation from the Model Rules (owned by the United Fire Brigades Association) the current version of which is dated 2008. These rules contain sections covering “Members Duties and Conduct” and “Discipline of Members”, both of which refer to Appendix 2 as setting out the standards of conduct. This Appendix contains two relevant clauses regarding a) acting with respect for safety, health and rights; and b) maintaining proper standards of integrity and conduct.

At 30 June 2017 (on the establishment of FENZ) a letter was issued jointly by UFBA and FENZ to amend the Model Rules, replacing rule 7 (regarding discipline of members) with FENZ’s applicable policies and processes. This means that while volunteers are covered by FENZ’s Code of Behaviour, the application of that Code in disciplinary situations is different to that of employees. As noted, this means that in serious situations following investigation, FENZ can withdraw a volunteer’s “authority to respond”. If this occurs, a volunteer cannot respond to an operational incident i.e. be part of a crew fighting a fire or responding to an emergency.

However as noted, a decision by FENZ to revoke a volunteer’s ability to respond due to serious misconduct does not automatically entail discharge from the brigade. Therefore due to the structural nature of the arrangements for volunteer brigades contained in the Act, a volunteer who has had their ability to respond withdrawn can still remain a member of a brigade. Their presence may remain, even after serious misconduct. It would better support FENZ’s work to achieve cultural change at the local level, if there was a way to disqualify or remove volunteers who have had their ability to respond status revoked, from continuing to belong to any brigade.

Regardless of employee or volunteer status, the same standards of expected behaviour and sanctions for serious misconduct should apply across the entire workforce. FENZ’s one page “Code of Behaviour” is a good start and the Values resonated with many. Now, what is needed is to ensure FENZ has the ability to hold people to account against the standards of behaviour and conduct that it sets.

The Review accordingly suggests that DIA investigate and provide advice to the Minister of Internal Affairs on the best way to ensure that a volunteer who has had their ability to respond revoked by FENZ due to serious misconduct, is no longer able to remain a member of a volunteer brigade or to transfer to another brigade.

⁹ The Fire and Emergency New Zealand Act 2017, Clause 11 of Schedule 1

¹⁰ The Fire and Emergency New Zealand Act 2017, Part 1 sections 6, 23 and 24

Brigade leadership - Chief Fire Officers

A great deal is expected of volunteer leaders in Chief Fire Officer positions including good leadership of people and leading cultural change in addition to significant operational responsibilities. In some cases, this can mean the role is equivalent to a full-time role. In the context of the requirements of the role, more developmental support is needed from FENZ for volunteer Chief Fire Officers.

FENZ currently provides a "Volunteer Executive Officer Course", run six times per year and covering 72 participants nationally, including Chief Fire Officer and Deputy Chief Fire Officer roles. The course is 32 hours in total, 3.25 hours (less than 10%) of which covers areas such as the Code of Behaviour, people management, and an introduction to the leadership development framework; a very small proportion of the course. Fewer than 3% of Chief Fire Officers (9 Chief Fire Officers in total across two years) completed this course. Both the content of the course and the numbers of Chief Fire Officers who have attended the course, are insufficient to address the culture change capabilities and responsibilities of these key roles in the organisation.

The Review recommends FENZ increases the proportion of content on behaviour and leadership in these courses; and establishes a rollout plan that ensures the courses are attended by a greater number of Chief Fire Officers.

Regarding the appointment of Chief Fire Officers, the Model Rules of Association 2008 outline that "Pursuant to a resolution passed by the majority of the Members, the brigade may make comments or recommendations to the Regional Manager about the candidates for appointment to the positions of Chief Fire Officer and Deputy Chief Fire Officer." The brigade has a say, but FENZ makes the final decision.

In many if not all brigades the appointment of the Chief Fire Officer is for an indefinite term. This means it is up to Chief Fire Officers when they leave office and they can be in their role for decades. The Review heard that this longevity of tenure is not a problem where the Chief Fire Officer is competent and a good leader. However, feedback to the Review was that where a Chief Fire Officer does not have this competency and allows (or worse practises) bullying and harassment, it is very detrimental to the culture of that brigade, and means there is insufficient protection for victims of such behaviour.

Three things would support sustainable culture change: firstly, the requirements of the Chief Fire Officer position need to be significantly updated in the Model Rules to include the need for people management and leadership capabilities and attributes (demonstrated in past behaviours and experience) as well as the ability and commitment to improving diversity; secondly, a more comprehensive (in both content and numbers of people) training and development programme for Chief Fire Officers on people leadership; and thirdly the duration of appointment for a Chief Fire Officer should be no more than five years before a performance review is undertaken and the incumbent is either reappointed for a further five years or the position is open for applications.

Vetting

Vetting for criminal convictions is an important first step to ensuring all personnel are clear of problematic behaviours as they enter into a relationship with FENZ and so must be enforced and tracked.

Criminal conviction vetting is a requirement for entry to both career and volunteer roles. The vetting checks are recorded centrally for volunteers in the system called e-Recruit. For employees, there is no central registry kept whereby it can be confirmed that a clean vet has been completed. This is held in individual personnel files. For personnel who are concerned about their personal safety in the workplace it may be helpful to ensure this policy and process is clear and well communicated because there is a need to provide a fundamental level of reassurance that FENZ cares about the safety of its people.

The central registry for volunteer vets should be replicated for employees, ensuring a consistent approach from the viewpoint of all personnel.

The UFBA

The United Fire Brigades Association of New Zealand Inc. (UFBA) has been in existence (in various iterations) for over a century. It is both an incorporated society and a registered charity. Brigades are the members, and individuals within the brigade are automatically enrolled upon joining that brigade. Brigades pay an annual levy (funded by FENZ) to UFBA which is agreed at the prior UFBA AGM.

The UFBA receives approximately \$4.2m¹¹ per annum from FENZ. This is organised by FENZ paying grant monies to each brigade for specific areas of expenditure, including payment of the UFBA levy for membership.

The services provided by the UFBA to FENZ under this agreement comprise advocacy and support; service honours; conferences and events; and volunteer capability development, among others.

Of the \$4.2m, \$1.57m is allocated to UFBA operating costs; approximately \$2m to conference and events; \$109k to advocacy and support¹²; and approximately \$368k to volunteer capability development. Services are specified in Appendix 1 and Key Performance Indicators in Appendix 3 of the agreement between FENZ and UFBA. There are no KPIs outlined for services relating to volunteer capability development.

FENZ receives a quarterly report from the UFBA regarding its use of funds and delivery against the KPIs.

The services provided by the UFBA to its members are understood to include advocacy for those involved in a complaint process, as well as more general advocacy to FENZ on behalf of members on important issues of mutual interest, the latter being part of general operating costs.

While the UFBA says it has never declined advocacy services, feedback from complainants suggests that individuals often cannot access advocacy services when they need them, and they do not necessarily understand the role or value of the UFBA in this area. Some complainants (regarding bullying, harassment and victimisation) expressed a wish to have the option to access independent advocacy services as they did not necessarily trust either FENZ or UFBA to support them with this. In contrast to this it should be noted that UFBA cites a satisfaction rate of 82% by individuals supported over the past 18 months. The need for independent advocacy services is further outlined later in this report.

The Review believes there is an opportunity for FENZ and UFBA to place greater emphasis and resources in two key areas of the service agreement: advocacy and support; and volunteer capability development. From the feedback received by this Review, these are areas in which a greater proportion of the available funds would support improvements in culture and behaviours (aiming to reduce the incidents of bullying and harassment), as well as increased support for victims where bullying and harassment does occur. The addition of specific KPIs for services relating to capability development would also be beneficial.

¹¹ Conditional Grant Agreement (FENZ and UFBA) 2021/22

¹² The UFBA notes that the \$109K advocacy and support funding from FENZ does not reflect all UFBA's costs in this area, such as the salaries of two FTE advocates, and expenses for 18 trained volunteer support personnel. The total investment in advocacy and support services by UFBA via FENZ is approximately \$280K.

Leadership of culture change

In addition to driving through the systemic opportunities for achieving positive culture change, other facets of leadership are required as FENZ moves forward. Above all else, FENZ personnel need to see a change from the Executive Leadership Team and this change needs to be consistent across that team and over time. Given that the new Executive Leadership Team is now forming, it has the opportunity to demonstrate the visible ownership and modelling required by all levels of leadership for sustainable change to occur. Only with this repeated and consistent stance will personnel believe that change is occurring.

For the Executive Leadership Team, and others in leadership positions in FENZ, this must involve:

- visible action on matters of bullying and harassment, poor behaviour and negative aspects of culture
- changing the culture must be and be seen to be at the heart of everything the Executive Leadership Team is doing, not off to the side as a special programme
- the Board must hold the Executive Leadership Team accountable for the delivery of real and sustained change; and that accountability must be transparent to the rest of the organisation
- the Board and the Executive Leadership Team must set clear expectations and put in place measures of accountability against them
- there must now be more urgency to the actions taken in this area, and more speed and dexterity in their implementation.

There is a lot still for FENZ leadership to do to eliminate bullying, harassment and poor behaviours, but there is also a great deal to be gained.

Conclusion on FENZ workplace culture

FENZ has done a great deal of work and begun to establish a pathway to culture change over the past few years. This has included putting in place:

- new Values;
- policies and processes to guide behaviour and conduct;
- the Positive Workplace Culture and Respect and Inclusion work.

These elements are sound and are well supported by FENZ personnel. However, in themselves they have not resulted in the level of change needed to fully address bullying and harassment behaviours. These initiatives would benefit from reconfirmation. For example renewed emphasis of the Values; the adoption of a zero tolerance approach to bullying and harassment; and training on what constitutes appropriate behaviour would increase the rate of change. Rather than being treated as a separate stream of work, the response to the Shaw Report should be central to and integrated throughout FENZ's work programme and repositioned as central to its future direction. Areas where there are gaps, such as increasing the diversity of the workforce, are a further opportunity for FENZ to accelerate the positive culture changes it is seeking.

With regard to the "boys' club" aspect of the culture in some stations, the Review has made a number of specific recommendations designed to combat this, including the adoption of a zero tolerance approach to bullying and harassment; the introduction of a five year term for Chief Fire Officers; and the augmentation of leadership and management training across the organisation. These are urgent matters for FENZ to address to ensure the safety of women and all personnel in its workplaces.

Part II

FENZ Complaint Handling Policies and Procedures

Context

FENZ set out to address the Shaw recommendations in 2019 with the intent to achieve significant change, and to do this through the pursuit of excellence and continuous improvement. A significant amount of hard work has occurred and FENZ was committed to fully responding to the Shaw Report by making changes in the organisation. The Review acknowledges and credits FENZ for this commitment, effort and intent. This acknowledgment is an important context for the following examination of complaint handling policies and procedures in FENZ.

Complaint numbers in FENZ – current situation

In FENZ, the Behaviour and Conduct Office (BCO) has responsibility for (among other things) recording and tracking data on all bullying and harassment complaints made within FENZ. The (interim¹³) BCO was first established in March 2019 and one of its responsibilities was to bring together the datasets within FENZ to create an overall and accurate view of FENZ complaints so that progress could be tracked and analysed over time.

To understand how complaint numbers have changed since the Shaw Report, the Review sourced a range of data from FENZ.

2022 - current open complaints

As at 30 September 2022 FENZ was dealing with a total of 51 open complaints:

Bullying - 37
Sexual assault – 7
Sexual harassment - 1
Harassment - 2
Discrimination – 1
Alcohol/drugs – 1
Outside work - 1
Victimisation - 1

Bullying is clearly the key source of current open complaints, directly accounting for approximately 72.5% of the total number.

Timeliness

Of the 51 open complaints, 17 have been open for five months or less. The rest have been open for more than six months and 8 of them have been open for 15 months or more. The table below (provided by FENZ) outlines the age of complaints by calendar months they have been open.

Complaints about	1	2	3	4	5	7	8	9	10	11	12	13	16	19	21	23	24	Total
Alcohol/drugs	1																	1
Bullying	2	2	5	1	1		2	1	2	2	3	10	3	1	1		1	37
Discrimination															1			1
Harassment-physical		1																1
Harassment-verbal				1														1
Outside Work						1												1
Sexual assault-indecent			1						2	2	1							6
Sexual assault-violation		1																1
Sexual harassment-digital					1													1
Victimisation																1		1
Total	3	4	6	2	2	1	2	1	4	4	4	10	3	1	2	1	1	51

¹³ The Interim BCO did not have the full range of responsibilities of the permanent BCO, which was put in place from October 2021.

Complaint numbers in the last six years 2017- 2022

The following data (also provided by FENZ) shows the breakdown of complaints by job role (complainant and subject) and by region as at 30 September 2022:

BCO complaints by role of complainant and calendar year (data received), as at 30 Sept 2022.

Year	Career	Career- non- operational	Career- operational	Contractor	Ex- Volunteer	Media	Public	Unknown	Volunteer	Total
2017								3		3
2018							1	4	3	8
2019	2						1	15	7	25
2020	32			1	5	3	7	3	42	93
2021	30		1	1	5		14		51	102
2022	5	7	6	1			4		20	43
Total	69	7	7	3	10	3	27	25	123	274

BCO complaints by role of subject and calendar year (date received), as at 30 Sept 2022.

Year	Career (non- operational)	Career (operational)	Career- non- operational	Career- operational	Employee (permanent)	Ex- Volunteer	Non- FENZ	Public	Unknown	Volunteer	Volunteer (operational)	Total
2017			1	1						1		3
2018			1			1				6		8
2019			3	5				1		16		25
2020			15	27		1		1	5	44		93
2021			22	12		2			4	61	1	102
2022	1	4	10	2	1		1			11	13	43
Total	1	4	52	47	1	4	1	2	9	139	14	274

BCO complaints by region of the subject and calendar year (date received), as at 30 Sept 2022.

Year	1- Te Hiku	2- Ngā Tai ki te Puku	3- Te Ūpoko	4- Te Ihu	5- Te Kei	COMCEN	NHQ	NTC	Unknown	Total
2017				2				1		3
2018	4	1		3						8
2019	3	6	4	7	3			2		25
2020	17	14	22	22	4		12	2		93
2021	25	12	22	14	9	1	17	1	1	102
2022	9	4	6	12	1	1	8	2		43
Total	58	37	54	60	17	2	40	5	1	274

As the BCO was not in existence in 2017 and 2018, it is assumed that the 11 complaints received during that period were transferred to the BCO from a prior process. FENZ records provided to Judge Shaw by Human Resources indicated that in the period from 1 July 2017 to late 2018, the number of bullying and harassment cases formally processed by Human Resources was 37. This covered all personnel i.e. volunteer and career firefighters and non-operational personnel and contractors. It is not known if the 11 complaints in the table above (for 2017 and 2018) were part of the 37 complaints advised to Judge Shaw by HR.

The Shaw Report referenced its own survey into bullying and harassment in FENZ. The survey received 1,487 responses. Some 669 people (45% of respondents) reported witnessing and/or experiencing bullying or harassment in FENZ. The breakdown between witnessing and experiencing is not known.

Complaint numbers in the last six years 2017-2022 cont...

The Shaw Report survey indicated that less than half of those experiencing bullying and harassment actually reported it. This suggests a higher level of occurrence of incidents than the 37 complaints reported to Judge Shaw by HR and a significant level of under-reporting.

The data in the FENZ tables above shows that since the Shaw Report, complaint numbers in FENZ have risen and then declined. The biggest increase occurred after the establishment of the (Interim) Behaviour and Conduct Office in March 2019, when FENZ personnel were encouraged to bring forward complaints. The BCO data indicates that 93 complaints were made in 2020 and 102 in 2021. In 2022, (representing three quarters of the year), 43 complaints have been received.

This is a very significant reduction. While it is possible that there are simply fewer incidences of bullying and harassment, this seems unlikely in the context of the information gathered through submissions and interviews.

The Review has identified several factors that may be influencing current complaint numbers:

- high levels of under-reporting caused by the difficulty and duration of the BCO complaints management/resolution process
- the strong views held by some FENZ personnel that the complaints process is not impartial
- the existence of this Review and people waiting to see its outcome.

The first two of these factors are explored in subsequent sections of this report.

Relationship of complaint numbers to actual incidents

The BCO has been working to cleanse the data relating to complaints and ensure tracking is more reliable in the future. However, this will still not reveal the actual rate of incidence of bullying and harassment or the relationship of complaint numbers to the actual rate of incidence. This is data that is very difficult to collect reliably and requires a number of methods to be applied consistently over time (such as employee/volunteer surveys and exit interviews).

The fact that nearly all respondents to the Review wanted guarantees of anonymity due to fear of reprisals is concerning. The level of concern indicates that whatever is the incidence of bullying and harassment, where it does occur its severity is considerable. The Review also heard that many others who wanted to tell their story did not approach the Review at all because of fear of consequences.

Based on feedback from personnel, this Review concluded that there may be significant under-reporting of bullying and harassment in FENZ, and while rates of reporting improved in the early establishment of the BCO, this has not been sustained.

Complaints management in FENZ

What people told the Review about making a complaint in FENZ

This section provides an overview of feedback to the Review regarding FENZ complaint management; complaint pathways in operation in FENZ today; work undertaken to improve complaints management; and the results of this work.

A complaints process can have high-stakes for the participants - actions taken on BCO (or FEDRS) recommendations may have significant disciplinary, career, and employment consequences. Employees can be dismissed; volunteers can be discharged. How people see the process is as important as the process itself. What follows is a summary of the feedback and perceptions of those that made submissions and/or made themselves available to the Review as interviewees. Given the nature of this Review, most feedback refers to experience pre-2022.

there is no independence – people the Review spoke to see the “boys’ club” culture¹⁴ of FENZ and have little or no trust that there will be impartiality in either investigation or decision-making. People believe that long standing relationships are used inappropriately to influence outcomes.

trust and confidence is low or non-existent – people cite experiences of their complaint and personal information being shared inappropriately as part of the complaints process, including with those they are complaining about, who also often gain access to information about the process which the complainant does not. While natural justice and employment law may require this to be the case, complainants talking with the Review indicated that the level of information available to parties is imbalanced. Additionally, the process is seen by some who approached this Review as compromised at least, or corrupt at most. Feedback to the Review suggests that there is no confidence that the outcome of a complaint will be fair and impartial.

complainants are punished – feedback to the Review indicated that often it is the complainant who is placed on leave when they make a complaint, either genuinely or ostensibly for their own wellbeing and safety, while the subject of the complaint continues their career or service without disruption.

predetermined outcome – many complainants providing feedback to the Review felt that the outcome had been pre-determined, irrespective of the findings resulting from the complaints process.

the process takes too long - an issue that the Review heard over again was the lack of timeliness and that complaints took months, sometimes years, not weeks, to address. People outlined to the Review that they felt long complaint processes effectively sanction poor behaviour. Additionally, they said that often complaints pass through many, many hands and so cease to be confidential.

¹⁴ This is discussed earlier in this Report under “Key Aspects of the FENZ Workplace Culture Today”.

***What people told the
Review about making a
complaint in FENZ cont...***

processes are confusing – feedback was that people are not sure what to do or where to go when an issue arises. They see multiple processes and procedures; a lack of a stable complaint management environment; and managers and leaders who are not trained to be able to help. People are not sure how the process works before going into it. They told the Review they do not know what to expect, how to prepare, what advocacy, legal or wellbeing support is available or provided, how long the process will take, or what happens next at any given stage.

poor communication – people told the Review that there is a lack of communication about whether and how a complaint has been closed, or if it has been closed. Reporting on complaint outcomes to wider FENZ is opaque or non-existent.

leaders – people feel it is the luck of the draw with leaders and that leaders' skills in managing conflict and handling complaints are extremely variable.

repeat victimisation – people told the Review that often the complainant or upstander becomes a target, as well as being punished both by the process and by others. They also said that they felt revictimised by others not understanding how serious the complaint is to the person making it.

emotional toll – people said that their mental health deteriorated both from the harm and from the complaints process itself. The wellbeing of family, friends and colleagues at work was affected and people said it took a huge emotional effort to protect others from what was happening.

collateral damage – people reported, for example, that their children, family, friends and supporters were targeted. There was stress not only from the harm itself but also from the process carrying over into other areas of life.

These were the recurrent themes in the feedback provided to the Review. The Review understands that FENZ is aware of these perceptions and is working to address aspects of processes and practices that have caused them. As an example, the BCO now includes the outcome of an investigation in its letter to a complainant once the investigation is complete.

In summary, complainants reported that the delays and lack of information combined with the ostracism and gaslighting of colleagues made making a complaint a harrowing experience resulting in serious emotional and mental harm, including cases of suicide ideation. Most complainants who gave feedback to the Review said that the process of making a complaint was as distressing, or even more distressing, than the original behaviours leading to the complaint.

Complaint pathways & processes

FENZ's most significant response to the Shaw Report recommendations regarding the management of bullying and harassment complaints was to establish the Behaviour and Conduct Office (BCO).

The intention of the BCO was to have a single body responsible for the management and investigation of complaints made within FENZ, as well as education, training and proactive intervention activities.

However, the pathways available to make a complaint are numerous. This arises from the well-intended approach of "no wrong door", ensuring complainants are able to make their complaint to the person they feel most comfortable doing so. The Review has found the pathways are difficult for complainants to assess (and determine the best option for themselves), and difficult to source information about.

The pathways for complainants include the following:

- the BCO (all employees and volunteers, contractors, and members of the public)
- legal action under the Employment Relations Act 2020 (employed personnel)
- the Fire and Emergency Disputes Resolution Scheme (volunteers)
- Human Resources (for complaints originating prior to the establishment of the permanent BCO¹⁵)
- the direct line manager (all personnel)
- a higher level manager (all personnel)
- the Human Rights Commission Dispute Resolution Service (generally if resolution has not been satisfactorily achieved through earlier processes. Employees may not use this in addition to the Employment Relations Authority)
- NZ Police for matters of a criminal nature (all personnel)
- The relevant union or association for support or advocacy.¹⁶

The complaints process for volunteers and employees

For FENZ personnel, entry to the complaints process is generally either through a line manager or the BCO. There are also the options of self-resolution or facilitated resolution through their manager or another manager further up the line. The BCO can also refer parties back to self-resolution.

If a volunteer complainant is dissatisfied with the response received from the BCO process they can go to the Fire and Emergency Disputes Resolution Scheme (FEDRS)¹⁷. Employees can also pursue their complaint under the Employment Relations Act, and can use this route to escalate their complaint if they are dissatisfied with prior processes. Thus if an employee's complaint is not resolved to their satisfaction, it can be pursued either through employment law processes (Mediation Services or the Employment Relations Authority) or through the Human Rights Commission's Disputes Resolution Services (not both).

¹⁵ Human Resources may also provide support to managers dealing with low level matters and the BCO will be kept informed of these

¹⁶ The Review understands that there may also be an informal avenue that some personnel use to forward their complaint to the Chief Executive.

¹⁷ The Fire and Emergency Dispute Resolution Scheme (also known as the Fire and Emergency Scheme) is available to help members of the public and volunteers resolve disputes with Fire and Emergency New Zealand. It is administered by ICRA, an independent dispute resolution service.

The complaints process for volunteers and employees cont...

Where a complaint is referred to the Police, and depending on advice from Police, the BCO may pause its investigation while the Police investigate and then recommence when the Police process has concluded.

Overall, the Review understands that since June 2019 FENZ personnel have been encouraged to take bullying and harassment complaints to the Interim and then the Permanent BCO. Further, feedback to the Review indicated that few volunteers would consider taking a complaint to the FEDRS as the bar is perceived to be too high in terms of both the nature of the complaint and the process. It may be that this is a result of a lack of awareness or understanding of the purpose and intent of the FEDRS scheme.

This means the BCO is the main vehicle for FENZ personnel complaints.

Safety during complaint processes

Placing a volunteer complainant on leave can be an important action to protect their wellbeing and safety while the complaint is being investigated. However it can send a signal (even if this signal is unintentional) that a complainant will be exited if they speak up.

When the leave is extended beyond a reasonable period (for example 6 weeks) while the complaint is addressed, the volunteer can lose access to training and to other prerequisites to retain their status as an active firefighter and emergency responder. Long periods of leave can also affect rank. By default – when complaints are not resolved in a timely way - the volunteer is in effect discharged. This should be seen in the context of the current open complaints – 34 of the 51 complaints as at 30 September were more than five months old and around half of these 34 relate to volunteers.

Measures need to be taken to ensure volunteers who are placed on leave while their complaint is being investigated are not disadvantaged by virtue of that leave-taking.

FENZ has more scope to ensure an employee complainant is placed in a safer context without jeopardising their employment status. The employee can be deployed to another location for a period of time or moved onto alternative duties. This, however, may still mean their emergency responder credentials lapse if the alternative duties do not enable requirements for this to be met.

The Review considers that FENZ should enable complainants (both employees and volunteers) to maintain their active firefighter status when placed on leave or into non-active roles. Remedies for this situation need to be quickly considered by FENZ.

Proactive intervention

The BCO has also been building a proactive intervention approach, following a pilot which was undertaken in 2020. The piloted approach included facilitated discussions (at individual, team and leader levels), Respect Training, and Code of Behaviour workshops, the mix of which was discussed and planned with each location included in the pilot.

The proactive intervention process now in place is intended to operate at a very early stage of the emergence of poor behaviours in a workplace and to address issues before they escalate into larger problems.

Advocacy services available to complainants

Advocacy is available on request to both complainants and respondents in a complaint process through both the UFBA and the PFU.

The UFBA is funded by FENZ to provide advocacy services to its members, both in terms of advocacy on policy matters and in terms of advocacy for individuals during complaints processes. Feedback to the Review suggests people see the latter as problematic. They are unclear how advocacy is assigned by the UFBA in a complaint process, particularly when (as often happens) both the complainant and the respondent are enrolled in the UFBA and therefore eligible to be represented. The UFBA can represent both the complainant and the respondent in a complaint process, engendering concerns among complainants about conflict of interest, impartiality and fairness. For its part, the UFBA maintains that where support is provided to both parties it is always done across an ethical wall and that transparency and fairness is paramount in the process.

The PFU also provides support to its members during complaints processes. The same issue of perceived conflict arises as often both the complainant and the respondent can be PFU members. The PFU advised that while it is not often that a complainant does request union representation, it would be provided where requested. If both complainant and respondent request union representation and support, the parties would be provided with separate representatives.

Complainants reported to the Review that they felt both the UFBA and the PFU supported the respondent more than the complainant. The UFBA notes that this may in part be due to the fact that respondents are more likely to be referred to the UFBA by the BCO. Similarly the PFU agreed that it is more likely that a respondent will seek union support and representation than a complainant will, since respondents receive a letter informing them of allegations and advising that their employment may be in jeopardy. Both the UFBA and the PFU say that while they are not often requested to support a complainant they provide the same level of support to both complainants and respondents.

Both the UFBA and PFU further advised that to their knowledge no-one had ever been denied representation or support, regardless of whether they were the complainant, the respondent or a third party (e.g. a witness).

The Review understands that FENZ also provides some ex gratia funding for independent advocacy support. This is available only to volunteers on a case-by-case basis, and by application. This does not appear to be a well-known source of support.

Managers and leaders have also supported complainants or respondents through complaint resolution processes. However, this practice can lead to concerns about impartiality and fairness where the issue has arisen within the span of control or influence that manager or leader. It is a similar concern to that raised where the UFBA or the PFU is supporting both the complainant and respondent through a process. Fundamental conflicts arise in many aspects of the FENZ complaints management process.

Overall, the Review considers that the advocacy services currently available to complainants need to be improved, as those theoretically doing the advocating are not seen as necessarily or unequivocally acting on behalf of the complainants. Nor are services sufficient so as to ensure coverage of all who need advocacy. The funding of an independent advocacy service by FENZ should be considered.

Criminal matters

Under the current Standards of Conduct Policy, any employee who breaches the Standards of Conduct Policy or the law can be disciplined. This includes employees being dismissed if they are convicted of a crime. The situation is less straightforward with respect to volunteers. As outlined earlier in this report, volunteers may be disciplined under FENZ's Standards of Conduct Policy (or the law) but FENZ has no ability to remove the volunteer as a member of a brigade. In the practical implementation of disciplinary outcomes, the brigade is a separate legal entity and can make its own decision.

Thus it is not necessarily the case that the same outcomes and consequences apply across all FENZ personnel, nor across different brigades.

Practices with regard to suspension or "standing down" of volunteers if they are charged with an offence by Police are variable and up to the brigade in question. This means that habitual harmers can continue operating in a brigade for long periods of time while Police investigations occur. While the presumption of innocence until guilt is proven is a founding principle of New Zealand's justice system, victims and their rights and safety must also be considered.

The Review understands that in May 2022 FENZ updated its guidance to Chief Fire Officers to make it clear that volunteers should be suspended while facing serious criminal investigations and where a case has not yet been heard in court. This guidance needs to be the subject of regular communication to Chief Fire Officers and incorporated into their training.

Support services

FENZ offers an employee assistance programme (EAP) operated through Vitae. This provides a degree of initial support. Additional counselling and psychological support can be made available on a case-by-case basis.

There are links in FENZ policies and documents to direct readers to the support services available to FENZ personnel who have experienced or witnessed harassment or harm. Many of these services are also available to members of the public, while some are FENZ specific (e.g. the Firefighters Welfare Society, or through unions and associations).

One omission from FENZ material is the inclusion of references to the free text or phone service 1737 – Need to Talk. The "seek safety, health and wellbeing" support identifies Vitae and regional peer supports, but this no longer reflects current FENZ regional structure. Having raised this omission, the Review understands this is currently being addressed by FENZ.

The Accident Compensation scheme can fund counselling if a workplace claim of bullying and harassment is accepted.

From the perspective of many complainants who gave feedback to the Review, these services do not meet their needs, are too generic, or are not available to them for long enough in the context of the duration of complaints processes. However, FENZ advised the Review that it does extend the duration of wellbeing services on a case-by-case basis.

If FENZ is able to reduce the timeframes for resolution of complaints, then the current suite of support services may be enough. However, given the current resolution timeframes, the Review recommends FENZ ensures all complainants are made aware of the options available to them for counselling support.

FENZ work on complaints handling processes

Policy development

Since the delivery of the Shaw Report, FENZ has undertaken significant work to address the recommendations made regarding bullying and harassment. This section outlines FENZ's work to date.

FENZ's "Policy to address bullying, harassment, and victimisation" was created in August 2020 (last updated 15 February 2022). It identifies the routes that can be taken when experiencing bullying, harassment or victimising behaviour. The policy covers how to raise concerns and pathways for resolution. The document setting out the policy includes links to the BCO, as well as links to helplines; internal supports; external intervention through NZ Police; the Human Rights Commission; WorkSafe; Mediation Services; the Employment Relations Authority (for FENZ employees); the FENZ Act disputes resolution scheme (for volunteers); and through unions and associations.

The policy is sound. However, the number of links in the document make it complicated to navigate, and it is therefore not as user friendly as it could be. The key points need to be integrated into a single standalone and easy-to-read document.

Complaints process guide

A guide to the complaints process (established in February 2020 and since updated) describes the BCO and provides a high level schematic of the complaints process. It is supported by a series of "How do I" guides.

If someone is thinking about making a complaint, they can access these guides, but they need to find it themselves, which is not necessarily helpful if they do not know it exists and do not know where to look for it. This would be easily remedied with additional communication.

The establishment and scope of the Behaviour and Conduct Office (BCO)

Prior to FENZ's establishment on 1 July 2017, there were different complaints procedures operating for career, volunteer, and rural firefighting services, and for NHQ personnel.

The establishment of the BCO has been FENZ's key response to the Shaw Report recommendations regarding complaints processes. It was intended to become a "one-stop-shop" for the management of complaints and related conduct issues, as well as working to prevent conduct issues through education, training and proactive intervention.

The BCO was designed to manage sensitive and complex complaints, which can be made by personnel or members of the public. FENZ messaging to staff is that all bullying and harassment complaints should be advised to BCO. It is also the BCO's responsibility to maintain records and reporting on all complaints in FENZ, requiring all complainants or their managers to notify the BCO. The BCO manages the process up to the point where recommendations are given.

The scope of the BCO remit is broad and there are many competing priorities with a range of skills and competencies required to effectively address them all. The BCO's responsibilities include:

- setting standards;
- providing training and education;
- proactive intervention;
- collecting and maintaining data/records;
- creating management information and reports
- case management of complaints.

The establishment and scope of the Behaviour and Conduct Office (BCO) cont...

KPMG report

The BCO is also expected to have a key role in integrating FENZ Values and the Code of Behaviour with bullying and harassment complaint management.

While the concept of having a single function is sound, the BCO has, understandably in the Review's view, struggled to meet all the requirements of its overly-wide brief. The Review notes that BCO personnel are highly dedicated, diligent and professional in their role.

FENZ is very committed to the Kia Tika value (we do the right thing) in its approach and the BCO has adopted an aim of continuous improvement. In this context the Board Chair commissioned a health check report from KPMG to evaluate the BCO's processes and establish its operational readiness. KPMG made a number of suggestions regarding the final form of the BCO. FENZ's responses to these suggestions are included in KPMG's November 2021 report.

KPMG assessed whether the BCO:

- was procedurally sound and free from bias and influence
- contained the right safeguards for the parties using the BCO
- had clear lines of accountability
- was ready to be implemented successfully.

KPMG reported to FENZ in November 2021, finding that significant progress had been made with implementing the BCO, but that there were some areas where the process needed to be strengthened (such as stakeholder buy-in; current FENZ organisation change; and addressing legacy issues that could affect perception of the BCO).

This Review sought an update on FENZ's responses to the KPMG report. As at July 2022, the BCO was still establishing itself, its policies and its procedures. The BCO advises it has been making steady progress in filling vacancies and getting its policies and procedures documented and checked. It is continuing to implement its responses to the KPMG report with outstanding recommendations relating to the Terms of Reference and membership of the BCO panel; and the memorandums of understanding with unions and associations.

Unintended consequences of complaints process

While there are several complaints pathways available in FENZ, material from the BCO strongly suggests that the BCO should be the pathway used and that all complaints regarding unwanted behaviour or bullying and harassment should be notified to the BCO - including notification of complaints that may be self-resolved.

This has had an unintended consequence in that the perception of some managers is that it takes away their ability to manage complaints or issues locally before they escalate. While there may still be serious or complicated complaints which would appropriately be referred to a specialist complaints process, a good manager will generally be able and willing to resolve most complaints or issues of misconduct.

For managers without strong people management competencies, BCO taking over a complaint may be a relief. However, it also means that these managers are not developing their skills and FENZ is not making clear an expectation that this development should happen. Those with less experience and fewer management skills are not being provided with training and support to do what is normally expected of a management role.

For leaders who allow bullying and harassment to persist, the BCO process could be seen as absolving them of responsibility for taking action to stop harmful behaviour. At worst this enables enclaves of bullying and harassment to thrive.

The centralisation of complaints management needs therefore to be coupled with a strong and visible effort to build leadership and management capability and help people managers understand what they can and should do in difficult situations. Adopting this more integrated approach would mean there was concurrent effort at the prevention end as well as the process management end.

An important exception to this feeling of management disempowerment was reported to the Review in the way Māori personnel can and do deal with issues of behaviour and conduct. By agreement of the parties involved complaints or interpersonal conflicts are sometimes taken to a marae setting and addressed according to tikanga. There is no specific policy supporting this but it happens nonetheless. These instances are a significant exception to the general finding that managers and leaders feel disempowered by BCO policies and practices. It appears issues dealt with in this way do not appear in BCO records.

As noted earlier, another unintended consequence of BCO processes has arisen from the BCO's intent to preserve and protect complainants' privacy. In its efforts to be meticulous in respecting privacy the BCO has been very restrictive in the information it provides to complainants and to other parties about the progress of an investigation. Unfortunately, people see the lack of information coming from the BCO about matters directly concerning them, as a lack of transparency or even as secrecy. While this may not be the intention, it is certainly the perception. The situation is not helped by a lack of reporting to personnel at an organisation-wide level about the outcome of investigations.

The Review has raised this with FENZ and understands this issue is currently being addressed through the development of an information sharing framework for the BCO.

Improvement opportunities in the management of complaints

Given the “one stop shop” nature of the BCO, the design and effective execution of its processes is critical to its success. A sound complaints process should incorporate a set of standards that include:

- **Clarity** of process, roles and responsibilities, and what complainants and respondents can expect from the process and what will be expected of them
- **Timeliness** targets within which complaints will be acknowledged, investigated, outcome determined and resolution action taken
- Principles of **impartiality**
- **Reporting and metrics**
- What good **communications** practice will look like.

The Review has found that despite best intentions and sound rationale, the terminology used, and the focus on continuous improvement have led to confusion and uncertainty for complainants. Each of the above areas of good practice standards is examined in the following pages and the situation explained from the complainant perspective, based on feedback to the Review.

Clarity of process

There is documentary and practical confusion about current FENZ bullying and harassment complaints processes. FENZ’s policy assumes the BCO is involved in all bullying and harassment complaints and that the BCO is advised of those complaints which are self-resolved. In practice, other processes are operating as part of self-resolution and where complaints pre-date the BCO.

As of July 2022 the permanent BCO was still being staffed up and creating policies and procedures.

The Review understands that complaints made prior to the establishment of the permanent BCO in October 2021 are being managed through Human Resources (HR). This means non-BCO processes continue to be “live” within the organisation and, in some cases, seen by complainants as an option still available to use. The Review also heard from parties who were unsure of which complaints process they were participating in, as well as being uncertain whether the complaint had been resolved or not.

In addition, there are other ways of raising a complaint within FENZ e.g. through unions and associations, to higher ranks, or through processes in brigade Rules of Association.

The BCO wanted to be a centre of excellence and as part of that aim adopted a continuous improvement approach to its work. From a FENZ perspective these continuous improvement changes do not alter the investigative process and relate only to the service experience they are trying to provide. However, feedback suggests that from a complainant perspective, such improvements nonetheless give an impression of continuous change resulting in uncertainty and a perception that a person entering the process one week may undergo a different process from a person entering it a week later. A laudable business objective of applying continuous improvement practices has thus had an unfortunate consequence of uncertainty around process. This means the requirement of clarity has not been fulfilled. Communications updates to all personnel on any process changes would alleviate this problem.

Timeliness

When the permanent BCO was established it examined the open cases at that time (October 2021). The BCO reviewed the status of each case individually and established that 59 were open cases. A number of others were declared no longer open. Along with other complaints received by the BCO, this brought the total to 64 open cases as at the end of February 2022. As at September 2022, there were 51 open cases, the majority of which have been in the system for six months or more.

Timeliness cont...

Up until 2022, the BCO reported on the progress of complaints that were open for more than 120 days. This practice has not continued. In November 2021, the BCO reported that the status of complaints that were open for more than 120 days had not changed since October 2021. In the period from August 2021 to November 2021, there was only slight progress in closing these cases, in part due to the transition from interim BCO to permanent BCO. Clearly more resource was needed here. An earlier intervention, such as a dedicated team focussed on clearing the older complaints, would have put the permanent BCO in a better position to achieve improved timeliness.

According to the data provided by FENZ (firstly as at early June 2022 and more recently as at 30 September 2022) the BCO has a closure rate of around four cases per month. FENZ has outlined to the Review that this does not reflect the actual closure rate for the following procedural reasons. Firstly, the BCO reclassifies cases that have reached an outcome to “review” status to ensure they are not “closed” in the system without a lessons learned review taking place. While it is described as being in review status, the complaint has actually reached the end of its process. Secondly, while cases are going through an investigation, BCO still classifies them as open until they reach the end of the investigation process and a decision has been made. At that point, a case will be moved to “review”.

To the BCO, the review stage of the BCO process is a “lessons learned” exercise, where the complaint process is reviewed to determine any lessons that can be learned and be applied to other cases. It is not a review of the outcome of the complaint or an opportunity to reconsider the complaint itself. In other words, it is a business process review targeted at identifying systemic improvements to the complaint system rather than a review of the individual’s complaint. However the terminology is confusing as “review” in most contexts indicates something not yet closed. A complaint will only be moved by the BCO to “closed” status following the end of the lessons learned review.

Cases which are not progressing to investigation and which are not being managed by the BCO are classified by the BCO as “open” until the BCO is informed of the outcome. This ensures BCO can track through to the conclusion. Therefore, more “open” cases may be actually closed than appear in the data provided to the Review.

From the perspective of this Review, while FENZ and BCO have good reasons for the design of the process and the labels used at each stage, this approach makes it difficult to gain a clear picture of complaint resolution rates.

A number of people who contacted the Review suggested they had unresolved complaints that were more than two years old, but this does not appear in the FENZ data provided to the Review, and may result from complainants being dissatisfied with the outcome – the complaint is not closed from their perspective.

The main point regarding timeliness, however, is that as at 30 September 2022, 34 of 51 open cases have been open for more than 5 months, and 18 cases – approximately 35% of total cases - have been open for more than 12 months.

Timeliness cont...

Untimely resolution of complaints creates a range of risks and impacts. Aside from the fact that delays and long timeframes result in lost opportunities for the complainant (job progression and status for example), they present greater risks as things remain unaddressed and can create an environment which facilitates further delay and countersuits. More and different people can become involved in the process over time (for example, due to staff turnover) creating a credibility and trust issue for the BCO and for FENZ in general.

A further worrying outcome of untimely resolution is that habitual bullies and harassers can continue to perpetrate harm. Habitual bullies and harassers will assess the performance of complaints resolution processes to establish just how far they can go and for how long they can continue without being detected or held to account. The Review heard many instances in which the process and its duration were identified by complainants as causing more harm than the original incident. Long timeframes amount to a tacit endorsement of the status quo and this reinforces the perception that there are no consequences for harassers or bullies.

The respondents in the complaint process are also adversely impacted by the time taken to resolve the complaint. The accusation hangs over them like a cloud. It is in the interests of all parties to have a timely process.

Principles of impartiality

The BCO design includes a Panel which is responsible for triaging complaints and deciding on appropriate BCO actions (including investigations or mediation), reviewing results and providing recommendations. The Panel was designed to meet twice weekly.

As at July 2022, the BCO Panel was entirely composed of FENZ personnel. This membership created complainant perceptions about the independence of the BCO in handling complaints and has fuelled the lack of trust in FENZ complaints processes.

At the time of this Review, the final form of the BCO Panel has yet to be determined. As at October 2022, FENZ is currently considering a BCO Panel that would comprise the Director of the BCO and four independent members. The Review understands that the intention is for the Chair to be independent.

While this is an improvement on earlier models proposed, it remains unlikely that this will be independent enough to allay complainant concerns about impartiality and fairness. It would include the Director of the BCO which is problematic as a key issue voiced by complainants who have been victims of serious harassment or bullying is that they believe having any FENZ personnel on the Panel compromises the process.

While the BCO genuinely sees itself as willing and capable of holding the organisation to account, many personnel do not trust this to be the case – “it’s still FENZ investigating itself” is how this was described to the Review.

Reporting and metrics

The reporting for complaints needs to be carefully considered and has no doubt also been impacted by the BCO's breadth of responsibility and thinly spread resources.

Due to the pathway options available within FENZ for complainants to choose from, and the split responsibilities still in place between the BCO and HR, the data about complaints is somewhat unreliable. While the creation of the BCO was in part designed to centralise both complaints handling and data collection, neither has been fully achieved, meaning a complete picture of bullying and harassment in FENZ is not available to support FENZ leaders' decisions to resource and prioritise complaints management and processes.

The Review notes that most of the reporting it has seen is based on complaint numbers, data presented in various ways and from a variety of perspectives – such as complaints by complainant role and subject role (as per the tables included earlier in this report). The BCO began reporting on decision-making outcomes in October 2022, so outcome reporting is at a very early stage. This reporting will require sharpening and honing to be useful from a leadership perspective.

This need to redirect the focus onto outcomes is consistent with other areas in FENZ (for example the Positive Workplace Culture Programme) where activity is conflated with outcome. Complaints reporting does need to focus on the activity, and how it is measuring up against KPIs (i.e. resolution timeframe targets); but it must also include the results (i.e. the impact of the process on improvement in the rate of complaints). Additionally, this reporting should be transparent and available to all FENZ personnel.

Last year, NZ Police committed to improving reporting systems for bullying and culture related issues, including the development of a new separate reporting channel with additional staff appointed to this initiative. The Review suggests FENZ could see if learnings could be applied in enhancing FENZ's own reporting systems.

Good communications

The BCO has attempted to be meticulous in protecting the privacy of complainants in its processes. This was to address the concerns that victims were being revictimised by earlier processes in which the confidentiality of their personal information was not respected. However the focus on privacy has inadvertently created another problem, or at least BCO's interpretation of what protection of privacy entails has. Feedback to the Review was consistent in expressing the frustration of complainants that they were unable to get any information or meaningful updates about the status of their own complaints because of "privacy". Other parties to the process (respondents or witnesses) reported the same. This emphasis on privacy has come to be interpreted by personnel as secrecy and lack of transparency.

In relation to communications in the context of complaint processes, there are several areas for consideration. Firstly, it should not be assumed that all parties to a complaint (complainant and subject included) know or understand the provisions of employment law and natural justice in relation to availability of information, nor their obligations in relation to privacy and use of information given to them in the course of the process. Communication in this area may require continual augmentation to be effective.

***Good
communications
cont...***

Secondly, some managers of personnel who were involved in a complaint said they felt left in the dark about the progress of the investigation or any relevant developments they thought they should be aware of. This may also indicate a lack of understanding and/or it may indicate a shortfall in the process.

Finally, some feedback to the Review indicated that by taking responsibility for all complaints, the BCO had replaced managerial responsibility.

Regular updates to all parties to an investigation (within the confines of employment law and natural justice principles) as to the status of the investigation and expected timeline are essential. This avoids misinformation, anxiety, the perception of collusion and the perception of lack of progress.

FENZ could also adopt an approach of sharing with all personnel the data on complaints that is provided to the Board. This would mean information on the numbers and types of cases as well as a high level view of the outcomes of cases is made transparent throughout the organisation.

***Conclusion on FENZ
complaint handling
policies and
procedures***

FENZ acted with strong and well-founded intentions to respond with positive change to the Shaw Report. It put in place the BCO as a key response to the Shaw Report recommendations, and this was intended as a comprehensive response to addressing the issues in complaints handling policies and procedures. But this pursuit of excellence and continuous improvement has led to some unintended consequences in complaints management, which must now be addressed with some urgency.

FENZ does need a specialist body to set standards, manage its complaints, eliminate the backlog and report on the metrics against the standards. However, this has to be that body's sole focus and it should be independent of FENZ for complainants to trust it and be confident to use it.

Part III

The Way Forward

The way forward

Since the Shaw Report, FENZ's activities have built a strong foundation for positive culture change. There were many issues to address from that Report, and FENZ has taken action on all fronts. With a new Executive Leadership Team soon to be in place, this is a good time to take a more strategic view – to identify the key levers for change going forward and to focus investment of effort on those levers.

Designing and implementing change is now part of the core work of FENZ. Approaches to implementation adopted since the Shaw Report need to be taken to the next level. While programme formation (such as the Positive Workplace Culture programme) and programme management structures and disciplines can be useful, they can also serve to take the focus on those functions out of the core leadership and governance process. The change required in FENZ is the work of the whole organisation, and it is not a special programme – it is ongoing change, development and improvement work. Its agenda needs to be designed as part of the organisation's short, medium and long term planning processes, and implemented and monitored through core organisational processes.

The new approach and plan should be designed to capitalise on the progress FENZ has made. It would incorporate the lessons from the past few years of effort, and address those areas where the effort made has not fully resulted in the gains envisaged. This section provides the Review's view of the priorities. However it is important to note at this juncture in FENZ's development as one organisation, it is critical that the new Executive Leadership Team form its own plan, own it and actively lead it.

The Review has aligned its recommended priorities with FENZ's values, outlined below.

Whanaungatanga We are better together

Applying this Value in the context of next stage improvements for FENZ means seeking to further integrate the cultures of the merged organisations and shape the desired "one organisation" positive culture. From the perspective of the key areas of discussion in this Review, this means:

engagement, implementation and communication – building a new, more comprehensive approach to implementing organisational initiatives, incorporating a well-rounded approach to change management. A strong model of implementation will support FENZ to ensure change reaches all parts of the organisation to equal degrees and is effective in embedding layers of change over time.

select key symbols of fairness and one organisation – identifying which symbols will carry the most weight in achieving change is difficult. Some of the areas identified by this Review include applying the same standards and Code of Behaviour equally to all personnel. Setting expectations and building these in to the structures that shape volunteerism in FENZ will support positive change in the "professionalisation" of the volunteer workforce and in doing so, continue to improve the relationship between career and volunteer personnel.

improving diversity – driving increased diversity to, over time, ensure FENZ workforce mirrors the general population of New Zealand will, in itself, drive positive cultural change. The Review suggests setting targets and timeframes, and developing proactive approaches and campaigns in recruitment and selection to ensure diversity increases and becomes a change driver in itself.

seeking the experience and expertise of others – at various points throughout this report the Review has identified other organisations that have tackled similar issues to those FENZ faces. This has included the NZ Police's work on its workplace culture and the NZDF's Operation Respect. Much valuable insight can be gained through inviting others to share their experiences. The Review recommends FENZ invite these organisations and others which have been on similar journeys, to participate in an advisory capacity in selected pieces of design and implementation work.

Auahatanga
We strive to
improve

FENZ's Auahatanga Value, in the context of this Review, focusses on improving people capability as the key driver of overall change. In this way, FENZ would then be working more at the preventive and harm reduction end to ensure that over time, less effort would be required at the complaint investigation and resolution end.

Levers in this area include:

leadership selection – at every level the selecting of leaders must include the leader's ability to understand, live, model and drive the right behaviours, including those around respectful interaction with others. Good general leadership and people management skills are essential. Focus on attributes and behaviours in recruitment, appointment, development and promotion is just as important as the potential to train for technical capability. Initiatives should include putting in place new recruitment and selection criteria for all positions involving people management; and implementing the recommended five year term for Chief Fire Officers.

management development – in Review engagement with groups and individuals, many people identified the need for managers to be appointed with, and/or trained in, the skills to effectively manage difficult conversations, interpersonal conflict and misconduct complaints.

Managers and leaders are not explicitly trained in conflict management and dispute resolution. Nor is there currently any training on how to go about implementing the outcomes of complaint investigations once the manager is told of the outcome.

Developing people management skills not only improves the general capability of the workforce, it will also have a positive impact on the number and severity of bullying and harassment complaints. Implementing a comprehensive (and required) learning and development programme for people managers should be a high priority for FENZ. It should include skills generally needed in building effective teams, as well as skills and tools for dealing with inappropriate behaviours and facilitating difficult conversations. Once the programme is in place (available) it should be included in every people manager's performance development plan.

proactive intervention – resourcing and driving the implementation of the proactive intervention, education and training aspects of the BCO's management of the complaints process.

measuring change – having a clear view of how change is progressing is important to ensuring the Executive Leadership Team is making informed decisions around priorities and resource allocation across time. The Review considers FENZ's priorities in this area should include shifting measurement frameworks from activity based measurement to results and outcomes. Gaining a clearer picture over time includes working to improve response rates to personnel surveys; improving exit interview processes and data capture; broadening measurement on the complaints area to include tracking of complaint findings; and generally heightening both focus and discipline on data capture and information management processes.

Kia tika
We do the right
thing

In the context of this Review important symbols of this Value, would relate to responses to those who have experienced bullying and harassment, or have had poor experiences of the complaints management process in FENZ. This would include:

acting on perceptions relating to independence – the Review has recommended the establishment of an independent body to handle FENZ conduct complaints. This may take time to establish, requiring policy and legislative development by the

Department of Internal Affairs, decisions by the Minister and appointment of independent members. While this occurs, as an interim measure, FENZ must seek to make the BCO Panel as independent as possible by seeking appointment of an external, independent chair and making all the panel members also external and independent.

providing improved access to advocacy and support services – funding and putting in place a range of external and independent advocacy and support services available to all complainants.

addressing the unintended penalties resulting from safety measures – ensuring personnel placed on leave for their own safety during a complaint process are able to keep their active firefighting and emergency response training requirements up to date, and that the period of leave is not debited from their continuous service and honours eligibility. This measure will also support improvement in reporting rates (reduced under-reporting of complaints).

ensuring criminal vetting is consistently applied and managed – the requirement for criminal vetting for all personnel needs to be consistently implemented and a central register maintained to record and support management of this process. Vetting should be repeated for all personnel at each 10 year service interval.

addressing the backlog of complaints – applying urgency and resources (incorporating the need for independence, transparency and impartiality) to clearing the backlog of older complaints as quickly as possible.

Manaakitanga

We serve and support

Fully integrated change and improvement, where the design and implementation of all initiatives are woven together to achieve a strength greater than the sum of the parts, is one of the more difficult aspects of organisational change to achieve. Leadership team navigation of this is essential to success. Applying the manaakitanga Value to FENZ's development is implied in all the changes so far discussed, but encompasses in particular:

leadership behaviour modelling – creating visibility of the new Executive Leadership Team; being seen to act consistently and in a united way; improving transparency of complaint outcomes; making the difficult decisions evident; and demonstrating how to take responsibility when things go wrong.

harnessing the passion and dedication of the workforce – leveraging this strength to drive improvements in areas of weakness, such as extending the rollout of the Respect and Inclusion workshops to improve understanding, tolerance and behaviours.

The way forward for complaints management

The biggest issues with current complaints handling processes are a lack of trust in the impartiality and fairness of the decision-making; lack of timeliness; and the “secrecy” of the process.

The approach that would give the greatest level of assurance to complainants would be to remove the whole complaints management function (i.e. registry, case management, investigative and decision-making functions) out of FENZ altogether and establish a body completely external to and independent of FENZ to investigate and determine conduct complaints.

Such a body – a FENZ Conduct Complaints Authority – could comprise a Chair and members appointed by the Minister of Internal Affairs. The Chair would report directly to the Minister. The Authority would accept all new conduct complaints from any FENZ personnel. It would also have the discretion to re-open any

***The way
forward for
complaints
management
cont...***

complaints that have been made to FENZ since its establishment, upon the request of the complainant.

People wanting to make a complaint could communicate directly with this Authority through a free text or phone “speak up” line so that they could be assured that they could raise their concerns in confidence.

As noted, adopting this solution would entail policy and legislative processes which could take some time. An interim approach could be to increase the independence of FENZ’s triage and decision-making panel by having it comprised entirely of external appointees who could be appointed by the Minister of Internal Affairs. Appointees could comprise a workplace behaviour expert (nominated by PSC or MBIE) as well as nominees from bodies such as:

- The New Zealand Law Society – Employment Law Committee
- Arbitrators and Mediators Institute of New Zealand (AMINZ)
- an association or union not associated with FENZ.

Other measures that would increase the level of trust and confidence could include:

- regular updates to all parties to an investigation as to the status of the investigation and expected timeline
- regular reporting to all personnel of the data that goes to the Board about the number of cases and the outcomes of cases
- Additional communication to all people managers regarding their responsibilities in relation to BCO responsibilities
- Distillation of the complaints management process into one easily accessible and readable document, placed in a highly visible and obvious place on FENZ personnel portal.

Part IV

Recommendations

Recommendations

Addressing the findings of this Review requires a whole of organisation, end to end cultural change. This is not about updating policies and processes but about changing attitudes and behaviour.

The required change will only occur if there is strong and accountable leadership and clear expectations with consequences if they are not met. Additionally, there needs to be independent determination of complaints; a tangible shift towards diversity at all levels of the organisation; and strengthened people management and training. That is focus of the 20 recommendations below.

Strong and accountable leadership

All leaders own the change

1. Clear performance expectations should be placed on all leaders at every level within FENZ requiring them to role model and take responsibility for the culture change required within the organisation.

There is a clear culture change plan and a way to measure success

2. The FENZ Executive Leadership Team should design and implement a plan to enhance the workplace culture at FENZ. At a minimum the plan will include:
 - Identifying key characteristics of the desired culture
 - Making adjustments and improvements to policies and processes throughout the lifecycle of FENZ personnel to orient systems to these desired cultural characteristics.
 - Leveraging the strengths of the existing culture such as: the organisational Values; the Respect and Inclusion and Positive Workplace Culture Programmes; the “Be an Upstander” messaging and the dedication and commitment of its workforce.
 - A system for monitoring and measuring the change that will provide reliable insights into results
 - Actions that will be taken specifically to reduce the divide between rural and urban workforces
 - A clear view of how the Executive Leadership Team will drive and govern the change.
3. The FENZ Executive Leadership Team should provide a report to the FENZ Board within 6 months, on achievement against milestones in the plan to enhance workplace culture and on further on actions to improve:
 - Reporting measures and standards of data collection to enable better monitoring of progress in reducing bullying and harassment across years
 - Initiatives to drive higher personnel survey response rates
 - Measures taken to increase exit interviews and transparent reporting of analysis of those interviews.

Transparent reporting on progress

4. The FENZ Board should report to the Minister on a six-monthly basis for the next three years on its progress in implementing the recommendations of this Review. The reports will include an assessment of progress against the milestones and targets that are put in place, supported by data. Data on the outcome of complaints should be included as well. These reports will be shared with all FENZ personnel and the public.
5. The FENZ Board should also report regularly to the Minister on how it is ensuring the Executive Leadership Team takes ownership over the desired culture.

The role of Chief Fire Officer is modernised

6. All new Chief Fire Officer appointments should be for a term of five years, with rights of renewal. Renewal should be subject to a review that considers past performance including in role modelling the desired culture, leadership, and people management.
7. The Volunteer Executive Officer course should be revised to significantly increase its focus on behaviour management and people leadership; and FENZ should rollout the course to cover all Chief Fire Officers.

An independent Advisory Committee provides assurance

8. An independent Advisory Committee should be established to support FENZ to achieve cultural change, for at least a three-year period. Committee members will include experts in achieving organisational change in uniformed services. The New Zealand Police, New Zealand Customs Service, and New Zealand Defence Force may be able to assist in identifying and/or providing suitable experts.

Clear expectations and consequences

A single Code of Conduct for all FENZ personnel

9. There should be one stand-alone Code of Conduct that applies to all FENZ personnel (the Code). The Code should set out clear standards of expected behaviour and conduct.

There is a “zero-tolerance” policy for bullying and harassment

10. There should be a “zero-tolerance” policy in relation to bullying and harassment at FENZ, incorporating the following elements:
 - Investigation of all formal complaints of bullying or harassment
 - Dismissal of personnel found by an investigation to have committed bullying or harassment
 - Referral of allegations of criminal offending to New Zealand Police.

Serious misconduct will result in volunteers being removed from their brigade

11. Where a volunteer is found to have committed bullying or harassment or any other form of serious misconduct, FENZ should not only remove their status as a person authorised to respond to emergencies on behalf of the agency, but also work to ensure that they can no longer be a member of any volunteer fire brigade.

Criminal offending is identified and dealt with

12. There should be consistent and uniform criminal conviction vetting for all FENZ personnel. Vetting should be:
 - Recorded in an up to date and continuously maintained central registry
 - Undertaken afresh every 10 years of service.
13. FENZ's updated policy on standing down personnel who are charged with criminal offending should be finalised and drawn to the attention of all leaders.

Independent determination of complaints

Conduct complaints are investigated and determined by an independent body

14. The investigation and determination of conduct complaints against FENZ personnel should be moved to a new body, external to FENZ for a period of at least five years.

The body, called, the Independent FENZ Conduct Complaints Authority ('the Authority'), should have the following features:

- A part-time Chair and four part-time members, all entirely independent of FENZ.
- Members could include a workplace behaviour expert nominated by PSC, together with nominees from such bodies as:
 - The New Zealand Law Society – Employment Law Committee
 - Arbitrators and Mediators Institute of New Zealand (AMINZ)
 - An association or union not associated with FENZ
- Delegated power from the FENZ Board, to determine conduct complaints and make decisions as to employment consequences
- Hosted and supported by DIA, which will take over the registry, case management and investigative functions from the current BCO
- Accepts all new conduct complaints from any FENZ personnel
- Has a discretion to re-open any complaints that have been made to FENZ since its establishment, upon request of a complainant
- Remain in place for five years and is then reviewed to determine future requirements.

DIA should provide advice to the Minister by 28 February 2023 on options for how best to implement this recommendation.

There is improved communication around complaint handling

15. The Authority should develop clear complaint handling policies and processes and make these readily available to all FENZ personnel as soon as possible. This should build on the work already undertaken by the BCO, with a particular focus on:
 - Improving communication with parties to an investigation
 - Ensuring that there is consistency in how complaints are treated

- Providing greater certainty around the complaints process by distilling it into one easily accessible and readable document
- Sharing data relating to the status and outcome of investigations into bullying and harassment complaints with all FENZ personnel and the public.

Complainants are kept safe

16. FENZ should safeguard the wellbeing and safety of complainants while their complaints are being investigated by:
 - Providing a programme that enables complainants to keep their active firefighting and emergency response training requirements up to date for the duration of the investigation and that the period of leave taken is not debited from their continuous service and honours eligibility
 - Establishing and funding a group of independent advocacy service providers whose services are published and made available to all personnel who require support through the duration of a complaint investigation process.
 - Ensuring that all complainants are made aware of the counselling support available to them whilst their complaint is being investigated
 - Making sure that the details of the text or phone 1737 – Need to Talk service are included in all relevant documentation.

Diverse leaders and workplaces

17. The FENZ workforce needs to reflect the make-up and diversity of the general population of New Zealand within the next 10 years. To achieve this FENZ should put in place a comprehensive plan within the next 12 months for improving the diversity of its workforce. That plan will include:
 - Setting specific targets for recruitment, in particular targets to address the under-representation of women at all levels of the organisation with the goal to make material progress within 3 years
 - Instituting a policy of diverse representation on selection panels for recruitment and promotion, this could be implemented immediately
 - Identifying requirements that are acting as barriers to retention and progression of women and implementing a programme to remove these
 - Identifying requirements that are acting as barriers to retention and progression of minority and diverse populations (including Asian, Pasifika and rainbow) and implementing a programme of work to remove these
 - Implementing the Respect and Inclusion workshops across the country.

Improved people management

Leaders are chosen and promoted based on their people management skills

18. The selection and promotion criteria for all leaders in both career and volunteer roles within FENZ should explicitly include people management and team leadership experience and capability.

Training in dealing with poor behaviour is prioritised

19. As a priority FENZ should ensure that people leaders and managers receive comprehensive training on how to deal with inappropriate behaviours, facilitating difficult conversations, and leading effective teams. This training should:
 - Be delivered face to face wherever possible
 - Be supported by a readily available package of online resources that can be used to refresh memories as difficult situations arise
 - Set clear expectations around implementing the outcomes of complaint investigations
 - Be a requirement for personnel with significant people management responsibilities as part of their Personal Development Plans, with credit for completion.
 20. FENZ should work with the UFBA to look at prioritising the provision of capability development training for volunteers in the contract between the two organisations, specifically in the following areas:
 - Provision of training for volunteers on expected behaviour and the Code
 - Provision of management and people leadership training to Brigade Leaders.
-

Appendices

Appendix 1 - Summary comment on FENZ's progress implementing Shaw recommendations

It has been clear to this Review that FENZ is highly committed to achieving change that addresses bullying and harassment behaviours. From the time the Shaw Report was delivered, FENZ adopted all 33 recommendations with the intention of implementing a comprehensive programme of policies to address them.

As this Review outlines, FENZ put in place the Positive Workplace Culture programme and has since done a great deal of work, largely consisting of two tranches of activity – firstly, the creation of the Behaviour and Conduct Office as the function responsible for complaints management; and secondly, the development of Values and policies designed to support positive behaviours. Much good work has been done designing and developing initiatives such as the FENZ Values; Respect and Inclusion; and “Be an Upstander”.

FENZ has completed its own assessment of progress with Shaw recommendations and this has been largely positive. The Review agrees that much activity has been undertaken and some good initiatives developed. However, while these policies are foundational, in themselves they are not enough to achieve sustainable change in workplace culture.

This is for two broad reasons. Firstly, the impact of policies and behaviour codes has been undermined by incomplete or variable implementation and by constraints created by systemic barriers. Secondly, for the policies and programmes to be effective they needed to be supported by people leadership and people management training throughout the organisation. Additionally, some aspects of the design and implementation process for the BCO have inadvertently contributed to deep mistrust of the complaints management process in FENZ.

This Review is therefore recommending that FENZ focus on:

1. the removal of systemic barriers to change;
2. building its management and leadership capability;
3. supporting leadership of change at all levels and driven by the new Executive Leadership Team; and
4. rebuilding trust and confidence in the complaints management process by making it independent.

These areas of focus will in time, make the substantive difference to the FENZ culture that the Shaw Report envisaged.

Appendix 2: People spoken to in the course of the Review

Name	Title
Individuals	
Rebecca Keoghan	Chair, FENZ
Kerry Gregory	Chief Executive, FENZ
Raewyn Bleakley	Deputy Chief Executive, Office of the Chief Executive (OCE)
Dr Jason Price	Director Behaviour and Conduct Office
Sid Wellik	Chief Legal Advisor
Michelle Richards	People Services Manager, FENZ
Craig Scott-Hill	Manager Region HR Operations, People Exchange
Elizabeth Church	National Manager Workplace Culture and Exchange
Catherine Coe	Principal Advisor Leadership Development (Workforce Capability Directorate)
Karyn Basher	Legal Counsel, FENZ
Lucy Cotterill	Chief Advisor to the DCE Office of the Chief Executive, FENZ
Gabrielle Cus	Acting National Communications and Engagement Manager, FENZ
Ryley Webster	Principal Advisor Volunteer Sustainability
Jane Yates	Senior Advisor Volunteer Recruitment

Members and representatives of the following groups of FENZ personnel

Respect and Inclusion Taskforce
 Pou Takawaenga Māori Team
 Women's Network
 Hiwa-i-te-rangi National Advisory Roopu
 Afi Pasefika
 Whiria te tāngata Rainbow Network

Unions and Associations

NZ Professional Fire Fighters Union Inc
 The United Fire Brigades Association of NZ Inc
 NZ Firefighters Welfare Society
 Rural Professional Association
 The NZ Fire Commanders Association Inc
 Public Service Association

Other people

Todd Mushet	Worksafe NZ
Dr John Fitzgerald	Worksafe NZ
Judge Coral Shaw	Independent Reviewer
KPMG	Review Team
Tania Kura	Deputy Commissioner, Leadership & Capability, NZ Police
Simon Routh-Jones	Former Inspector Scottish Fire and Rescue Service
Liz Sinclair	Former Chair, FENZ Women's Advisory Committee

People who responded to the invitation to give feedback

The Review met with a range of individuals at their request, and also received written submissions and feedback. In all 100 people contacted the Review. Responses were from both current and former personnel. Nearly every person requested confidentiality.

Appendix 3: Documents reviewed

Key references

Independent Review of Fire and Emergency New Zealand's workplace policies, procedures and practices to address bullying and harassment, Judge Coral Shaw (retired)

Fire and Emergency New Zealand Act 2017

KPMG – Independent Assessment of the Behaviour and Conduct Office.

Fire and Emergency New Zealand documents

a) Main documents

Annual Reports: 2019, 2020, 2021

Statement of Intent 2020-2024

Statement of Performance Expectations 2021 – 2022

We are Fire and Emergency New Zealand – Our National Strategy 2019 – 2045

Fire and Emergency National Strategy 2019-2020

Fire and Emergency - Ten year plan

Volunteerism Strategy 2019- 2029 (and progress reports 2020- 2021)

Safety Health and Wellbeing Strategy 2017-2022

Diversity and Inclusion Strategy (June 2018)

Model Rules of Association (2008)

Standards of Conduct policy

Code of Behaviour

Behaviour and Conduct Office – Complaints process and associated documents (May 2022)

Internal Audit Report – Bullying and Harassment Review (May 2016)

Positive Workplace Culture Reports: April 2020 to April 2022

Policy to address bullying, harassment and victimisation.

b) Other documents

A large number of other documents were reviewed that related to the Shaw Report, FENZ complaints processes, and FENZ workplace culture including:

- Complaints data and reports
- Induction documents (employee, volunteer)
- Personnel data (demographic, people survey, exit interview data, gender and ethnic gender pay gap)
- BCO structure and process documents
- Progress reports (Positive Workplace Culture, KPMG recommendations, Champions of Change)
- "How Do I" guides, guidance on complaints processes

- IDRP and FEDRS process documents and operational guidelines
- Safety, health and wellbeing, and victim support documents
- Volunteer recognition documents
- Communication strategy and documents.

c) Other Sources

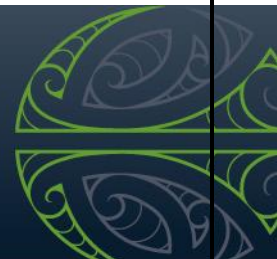
- Worksafe - Guidance on bullying and mentally healthy work assessment (July 2022)
- MBIE - Bullying and Harassment at Work, Issues Paper: A Summary”, Ministry of Business Innovation and Employment, 2020
- PSC - **Code of conduct** for the Public Sector - Standards of Integrity and Conduct (June 2007)
- Office of the Controller and Auditor General (OAG): The Integrity Framework, Putting integrity at the core of how public organisations operate (June 2022)
- OAG – Seminar on bullying and harassment: Presentation by Debbie Francis and Sandi Beatie (May 2022)
- New Zealand Police: Workplace Culture Survey 2022
- New Zealand Defence Force: Operation Respect Programme 2019.

Appendix 4: Terms of Reference and Minute of Process

Terms of Reference



Te Kawa Mataaho
Public Service Commission



Review of FENZ's Workplace Culture and Complaint Handling Practices

Background

In July 2018 Fire and Emergency New Zealand (FENZ) commissioned Judge Coral Shaw to do an Independent Review of its workplace policies, procedures, and practices to address bullying and harassment. In her January 2019 report (the Shaw Report), Judge Shaw concluded that bullying and harassment was a feature of the FENZ workplace at all levels and across all regions. The report made 33 recommendations to FENZ to improve its culture and complaint handling practices and stated that their implementation should be monitored and evaluated over a 36-month period. That time-period has now expired.

FENZ has undertaken, and continues to undertake, significant work to address the issues identified in the Shaw Report. But there are questions as to whether sufficient progress has been made to transform FENZ's workplace into a positive and safe workplace for all FENZ employees, including career firefighters, and volunteers (together, FENZ personnel), particularly for women within the organisation. A number of current and former FENZ personnel have raised concerns with the media and public service agencies about FENZ's workplace culture including its complaint handling practices. The FENZ personnel raising concerns say that there is a lack of accountability for inappropriate behaviour, complainant's voices are not being heard in culture change initiatives, and there is limited trust and engagement with complaint handling processes. Notably, there are only a small number of women who are FENZ personnel.

Given these matters, the FENZ Board Chair has requested, pursuant to schedule 3, clause 5(2)(b) of the Public Service Act 2020, that Deputy Public Service Commissioner, Ms Helene Quilter (the Deputy Public Service Commissioner), exercise her powers and functions under clauses 2 to 4 and 8 to 11 of that schedule to conduct a review into FENZ's workplace culture and complaint handling practices (the Review).

Purpose

All FENZ personnel are entitled to work in a safe and inclusive workplace, where people treat one another with respect and work together to deliver for the communities they serve. FENZ recognises that entitlement and is committed to building a workplace culture that promotes respect, inclusion, trust, accountability, and productivity. It wants all its personnel to feel valued, heard and supported. The purpose of this review is to assist FENZ in achieving those goals, by independently assessing the progress that has been made since the Shaw Report and identifying what is working, what needs to be fixed, and where there are opportunities to improve or accelerate its culture change programme.

Scope

The Review is to consider, make findings on, and report on:

- whether the recommendations in the Shaw Report have been implemented and the intended change realised.
- whether FENZ's implementation of the recommendations in the Shaw Report and other related initiatives have been sufficiently impactful on organisational culture, particularly from the perspective of FENZ personnel.
- any further steps that FENZ should take to strengthen its leadership and improve its systems,¹⁸ policies, procedures, and workplace culture, particularly around better incorporating the perspectives of complainants and the resolution of complaints about inappropriate workplace behaviour. This will include considering the experiences of individuals.
- any other relevant matters identified by the Reviewer and agreed with the Deputy Public Service Commissioner to be necessary to provide a complete report on the above.

Out of scope

The Review will not make findings as to the civil, criminal, or disciplinary liability of any person but may identify further steps that could be taken.

Existing avenues of complaint and support open to current and former FENZ volunteers and employees will not be affected by this Review.

Process

The Reviewer will develop their own process for this Review and may record that process in minutes. This may be done in consultation with potential Review participants. This may include a mix of interviews, focus groups, surveys and document review.

¹⁸ Including recruitment, training, appointment, and performance management systems.

Appointment

The Deputy Public Service Commissioner appoints Ms Belinda Clark QSO to undertake this review (Reviewer).

Functions and Powers

Pursuant to schedule 3, clause 6 of the Public Service Act and, for the purposes of the Review, the Deputy Public Service Commissioner delegates her functions and powers under schedule 3, clauses 2 to 4 and 8 to 11 of the Public Service Act to the Reviewer.

Application of provisions of the Inquiries Act 2013

The Deputy Public Service Commissioner certifies it is reasonably necessary that the provisions of the Inquiries Act 2013, specified in schedule 3, clause 8(2) of the Public Service Act, apply in relation to the Review. This is because:

- the Reviewer should have powers to regulate the procedures of the Review; and
- Given the nature of the Review, and the need to balance the public interest in disclosure with the privacy interests of potential participants, the Reviewer should have the power to restrict access to the information the Reviewer receives.

Deliverables, timeframes, and reporting

The Review will commence immediately and will be completed by 1 November 2022.

Te Kawa Mataaho intends to make the final report public, subject to any appropriate redactions for privacy reasons.

Te Kawa Mataaho - Public Service Commission

Review of FENZ's Workplace Culture and Complaint Handling Practices

Minute of Process

Introduction

1. As set out in the terms of reference for this Review, Deputy Public Service Commissioner Ms Helene Quilter has appointed the Reviewer to independently assess Fire and Emergency New Zealand (FENZ) workplace culture and complaint handling practices.
2. This minute sets out the process for FENZ personnel (i.e., employees, volunteers and contractors) to engage with the Review. This includes engagement with current and former FENZ personnel.

Focus of this independent Review

3. The focus of this Review is on the systemic or organisational aspects of how FENZ manages complaints and the workplace culture at FENZ. Individual complaints or cases are relevant insofar as they may illustrate system-wide features. However, the resolution of specific complaints will not be addressed through this Review.

Contact information for the Review

4. The Review has established an email address FENZReview@dia.govt.nz. Anyone who wishes to submit their thoughts or experiences of complaints handling or workplace culture at FENZ can email this address. All information and feedback received through this email address will be considered and analysed by the Review.
5. Submissions received through the email will close on 5 August 2022.

Intended process

6. The process for the Review will encompass a document review, the receipt of submissions and meetings.
7. Information and feedback obtained from all these processes and channels will be analysed by the Review. The Review will make a report of its findings to the Deputy Public Service Commissioner by 1 November 2022.

a) Document Review

8. The Review will review documents related to FENZ's workplace culture and complaints handling practices. This will include, but not be limited to:
 - Judge Coral Shaw's Independent Review of FENZ's workplace policies, procedures, and practices to address bullying and harassment (January 2019)
 - KPMG Independent Evaluation Report of the BCO (November 2021)
 - Behaviour and Conduct Office policies, procedures, and evaluations

- People engagement surveys and related material
- WorkSafe information
- Other relevant information concerning complaints procedures, and processes and workplace culture.

b) Engagement Process

9. In addition to FENZ leadership and other relevant parts of FENZ (including the BCO and the Women's Development Directorate), the Review will engage with people and groups who wish to provide relevant information. This will be through meetings with individuals or groups that the Review will set up, as appropriate. This engagement is expected to cover:
 - FENZ advisory groups and taskforces (such as National Women's Advisory Committee, Respect and Inclusion Taskforce and Hiwa-i-te-rangi National Advisory Roopu)
 - Unions and firefighter associations
 - FENZ staff groups and networks
 - Individuals
10. The engagement process is expected to be completed by 5 August 2022.

c) Channels

11. The primary point of contact with the Review is the FENZ Review email FENZReview@dia.govt.nz. All FENZ personnel will be advised of this email address.
12. The Review also proposes:
 - MS Team meetings with staff networks such as but not limited to: – FENZ Women's Network (WFENZ)
 - Pou Takawaenga Māori Team
 - Whiria te Tāngata
 - Disability network
 - Afi Pasifika
 - Meetings (or phone/zoom/Teams calls) with some individuals, for example women firefighters; people with experience of FENZ complaints processes.
 - Other groups which may be suggested in the course of the engagement

d) Confidentiality

13. Because of the nature of the Review, focussed as it is on organisational culture, it is not necessary to identify individuals in the report. In order to protect people's privacy, comments or feedback from personnel will not be attributed. Feedback from engagement will be included as part of the Review's analysis but without attribution or identification.

14. Groups or individuals that the Review has engaged with in an official or expert capacity (e.g. FENZ leadership; union and association representatives, workplace and organisational culture experts or other advisors) will be named in an Appendix to the Review.

Information about the Review

15. Information about the Review can be found on the Public Service Commission website

<https://www.publicservice.govt.nz/resources/independent-review-into-fire-and-emergencys-workplace-culture-and-complaint-handling-practices/>

Belinda Clark

FENZ Review

16 June 2022