



Review of a series of complaints made to Fire and Emergency New Zealand

Background

1. Ms X is a volunteer firefighter. Since 2016, she has made a series of inter-related formal complaints (the series of complaints or this matter) to Fire and Emergency New Zealand (FENZ) and its predecessor the New Zealand Fire Service (NZFS), including about the conduct of a number of FENZ and NZFS employees and/or volunteers (FENZ personnel). The series of complaints are described in Appendix A.
2. Ms X and FENZ disagree as to whether the series of complaints has been appropriately addressed. Ms X's view is that they have not been. FENZ is of the view that this matter has already been thoroughly considered and concluded. FENZ's position is that, in substance, the matter is covered by two formal complaints that Ms X made to FENZ: one on 23 August 2017 and one on 3 December 2017. FENZ considers that both of the formal complaints have been properly investigated already.

Purpose

3. The purpose of this Review is to determine the steps required to resolve and close this matter, and to take any of those steps that are within the Reviewer's control.

Scope

4. The Reviewer is to independently review how FENZ handled the series of complaints (including through the work of contractors) and is to consider, make findings, and report on, any inadequacies.
5. The Reviewer may also investigate or re-investigate any aspect of the series of complaints if the Reviewer:
 - considers it appropriate and necessary to do so in order to achieve the purpose of this Review;
 - has Ms X's consent; and
 - is satisfied that doing so would not be inconsistent with the principles of natural justice and would not otherwise be an abuse of process.
6. In making these assessments the Reviewer is to determine, on the balance of probabilities, whether FENZ acted fairly, reasonably and in compliance with relevant internal and Public Service system-wide policies which may include:
 - the NZFS policy entitled "Respond to bullying"
 - the NZFS "Report and investigate alleged misconduct" process
 - the FENZ policies which corresponded to or replaced the NZFS policies referred to above
 - the FENZ Standards of Conduct (as amended at various times)
 - the FENZ Conflicts of interest, gifts, prizes, and hospitality policy

- the WorkSafe Preventing and Responding to Bullying at Work Good Practice Guidelines (as amended at various times)
 - the State Services Commission (SSC, now the Public Service Commission) Standards of Integrity and Conduct
 - the Public Service Commission Positive and Safe Workplaces Model Standards
 - FENZ's Interim Dispute Resolution Process.
7. In addition, the Reviewer may make any recommendations that they consider necessary or appropriate to assist in achieving the purpose of the Review.

Findings of liability and fault

8. The Reviewer will not make findings as to the civil, criminal, or disciplinary liability of any person but may make:
- findings of fault, including in relation to named institutions or named individuals (including any current or former FENZ personnel or contractors)
 - recommendations that further steps be taken to determine liability.

Process

9. Following consultation with Ms X and FENZ, the Reviewer will develop their own process for this Review and record that process in a Minute. At a minimum, the process must provide both Ms X and FENZ with an opportunity to:
- be interviewed
 - make submissions
 - present supporting documentary evidence
 - comment on the draft report
10. All interviews are to be recorded, transcribed and provided to the complainant and FENZ, with any appropriate redactions from a privacy perspective. This may be necessary if, for example, a reference is made to disciplinary action that has been taken.

Appointment

11. The Deputy Public Service Commissioner has the power to undertake an independent Review under schedule 3, clause 5(2)(b) of the Public Service Act 2020 on the FENZ Board Chair's request.
12. The Deputy Public Service Commissioner appoints Mr Simon Mount KC to undertake this Review (Reviewer).

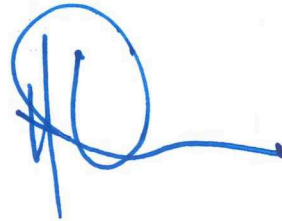
Functions and Powers

13. 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, 10 and 11 of the Public Service Act to the Reviewer.

Deliverables, timeframes, and reporting

14. The Review must be completed as soon as practicable with an indicative reporting date of three months after the Review has commenced, if the Reviewer decides that investigation or re-investigation under clause 5 is not required. The Reviewer will provide the final report to Ms X, the Deputy Public Service Commissioner, and the FENZ Board Chair.

15. If the report contains personal or confidential material and therefore cannot be published on the Commission's website in full, the Reviewer may prepare a summary version suitable for public release and provide it to the Deputy Public Service Commissioner, who will consider whether publication of the summary on the Commission's website is in the public interest, after giving Ms X and FENZ an opportunity to comment.

A handwritten signature in blue ink, consisting of a large loop followed by a horizontal stroke and a small upward tick at the end.

Helene Quilter
Deputy Public Service Commissioner

Date: 28 February 2023

Appendix A – The Series of Complaints

1. Ms X's complaints of 15 October 2016 and following to and/or about **[REDACTED]**.
2. Ms X's complaints about FENZ's responses to her requests for leave from the Y Brigade, and FENZ's responses to her requests that individuals be stood down, be directed that they may not speak with or approach Ms X or others in relation to Ms X's complaints and/or not be permitted to continue being involved in handling her complaints.
3. Ms X's complaints about proposals to terminate her membership of the Y Brigade and other steps taken in that regard.
4. Ms X's complaint of 7 November 2016 to the then New Zealand Fire Service Chief Executive and National Commander, and related complaints.
5. Ms X's complaint to the Interim Dispute Resolution Process (IDRP) of 14 August 2017.
6. Ms X's complaint of 3 December 2017 to the then FENZ Chief Executive and related complaints to the then FENZ Chief Executive.
7. Ms X's complaints about the terms of reference for the IDRP investigation, the process and approach employed by the IDRP investigator, and the content of the IDRP Investigator's report.
8. Ms X's complaints regarding witness tampering and intimidation in relation to the IDRP Investigation, and actions of members of Y Brigade in relation to the IDRP investigation.
9. Ms X's complaints about the time it took for FENZ to make the apology recommended by the IDRP Investigator and other matters relating to that apology, and the other steps FENZ took and did not take in respect of the recommendations made by the IDRP investigator (including issues arising and statements made about who in FENZ had access to the IDRP Investigator's report).
10. Ms X's complaints about a case study for FENZ training allegedly based on Ms X's complaints, written by or contributed to by **[REDACTED]**.
11. Ms X's complaints about FENZ's decision not to proceed with an investigation it had commissioned an external law firm to carry out into complaints made by Ms X, and other matters related to that decision.
12. Ms X's complaints about FENZ's responses to requests she made for support and other assistance, including for funding for legal advice and representation.
13. Ms X's complaint that in early 2018 FENZ's **[REDACTED]** described Ms X as "paranoid" when speaking to a counsellor about Ms X in the context of counselling Ms X had requested.
14. **[REDACTED]**.
15. FENZ's actions in relation to Ms X's in-person complaint to the (then) State Services Commission of 4 March 2019, which was referred to the Department of Internal Affairs (DIA) as the monitoring agency. This includes the way in which FENZ engaged with Ms X

and DIA over DIA's handling of the complaint, and FENZ's refusal to provide information requested for a proposed mediation.

16. Ms X's complaints about FENZ advising her that the issues she was raising were the same as those covered by the Shaw Report and therefore did not require separate action.
17. Ms X's complaint of 17 March 2020 to the then FENZ Board Chair, and related complaints to the then Board Chair.
18. Ms X's complaint of 14 December 2020 to the then FENZ Board Chair, the complaints referred to in that complaint, and subsequent complaints to the then and now current FENZ Board Chairs.
19. Ms X's complaints to and about **[REDACTED]**, and the FENZ Board about **[REDACTED]** process, decision-making and other handling of her complaints.
20. Ms X's complaints about decisions by FENZ at various stages to pause its consideration of Ms X's complaints because of other processes, including a complaint by Ms X to the Privacy Commissioner and a proposed investigation by a barrister **[REDACTED]**.
21. FENZ's actions in relation to Ms X's complaints to **[REDACTED]** of 6 August 2020, including the way in which FENZ engaged with Ms X and **[REDACTED]** over **[REDACTED]** handling of these complaints.
22. Ms X's complaints about not having been able to attend the Y Brigade since late 2016, including not having been reintegrated into that Brigade.
23. Ms X's complaints about FENZ's decision to close her complaints in 2021.