



BULLETIN

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TO ALL UFUA MEMBERS

LANDMARK COMPENSATION DETERMINATION FOR PFAS ILLNESS

A recent Comcare workers compensation determination for a retired ACT firefighter has drawn a direct link between exposure to Per- and polyfluoroalkyl substances (PFAS) in firefighting foam, and non-Hodgkin's Lymphoma (NHL). **The UFU understands that this determination is a world first.**

The insurance claims manager for the ACT Government, EML, issued the determination on behalf of the ACT Government, accepting liability to pay compensation to the firefighter for NHL. NHL is one of the prescribed cancers under the Safety, Rehabilitation and Compensation Act 1988 (SRC Act), otherwise known as the Commonwealth Presumptive Legislation that covers UFU ACT Branch and UFU Aviation Branch members. NHL is also covered by presumptive legislation in all state-based workers compensation schemes.

Relevantly the determination states:

...it was confirmed that you were employed as a firefighter by ACT Government, ACT Fire and Rescue from 2 September 1976 until you retired on 30 September 2000. It was confirmed that during the course of your employment you would have been exposed to many chemical and by-products of combustion on an almost daily basis, including PFAS from firefighting foams.

In a medical report dated 14 September 2020 Dr (name redacted) identified that most cases of non-Hodgkin's lymphoma do not have an easily identifiable cause however, there are a number of risk factors including chemical exposure. He notes that if you were exposed to PFAS and related compounds, that would substantially increase your lifetime risk of developing non-Hodgkin's lymphoma. **Given your known history as a firefighter and**

the chemicals commonly used by firefighters, Dr (name redacted) expected that you would have elevated blood PFOA compound levels. Given the increased risk of non-Hodgkin's lymphoma in this group he opined that your employment likely contributed to the development of your low-grade non-Hodgkin's lymphoma. (emphasis added)

Dr (name redacted) considered the literature on non-Hodgkin's lymphoma in a medical report dated 8 September 2020. He opined that the evidence suggests that the risk of non-Hodgkin's Lymphoma as a firefighter is more than just "ephemeral or nominal". Further "while accepting that any mere increase in risk does not establish a causal connection, I believe that one can presume causal connection through exposure to chemicals and I believe that this increased risk is enough to consider it "substantial". I believe that the risk is more than minimal"

Dr (name redacted) **concluded the exposure you had as a firefighter was more than a minimal contribution to the development of your non-Hodgkin's lymphoma. Therefore, his opinion was that your employment as a firefighter with the ACT Government did contribute in a material degree to the causation or aggravation of your cancer. (emphasis added)**

Based on the evidence before me, **I am satisfied that your condition was contributed to, to a material degree, by your employment. Exposure to chemicals throughout your 25 years of employment with ACT Government was a factor in the development of your primary non-Hodgkin's lymphoma 5 years post-retirement.** Therefore, I have accepted non-Hodgkin's lymphoma (B-type follicular lymphoma) under section 14 of the SRC Act. (emphasis added)

Subsequently, a further determination accepted liability for permanent impairment and non-economic loss (NEL). EML determined that the impairment equates to a 34% whole person impairment. Now that the time periods allowed for a party to challenge the determination have elapsed, we can safely report on these important determinations.

The significance of these determinations is not just monetary: they create a disincentive to inaction on PFAS. While the ACT Government phased out use of PFAS by April 2005 (except for a few small extinguishers), recent testing of fire station sites has shown significantly elevated PFAS levels. We expect that the Comcare determinations will add impetus to site remediation and calls for testing of firefighters. **Every day that PFAS remains present at fire stations is potentially a day of additional firefighter exposure.**

The UFUA National Office congratulates the ACT Branch and their retired member Mike McGee on these landmark determinations. UFUA current serving and retired members in all jurisdictions who are concerned about PFAS exposure are encouraged to contact their UFUA Branch.

Authorised by National Secretary Peter Marshall