

# Corporate Governance Issues at Multi-Agency and Multi-National Wildfires

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## Abstract

Globally, modern organisations are expected to behave according to the behavioural norms of a “reasonable organisation”. Some of these behavioural norms are captured within corporate and common law whilst others are unwritten. Where once excepted from the norms of organisational behaviour, organisations established at short notice for the management of wildfire incidents are now increasingly expected to conform.

All managers of organisations are expected to take action to serve the interests of the organisation’s owners. In the public sector, the organisation’s owners are the government whose concern is generally the interest of constituents. Owners expect:

- Any risk to the owner’s interests and achievement of the organisation’s purpose to be managed,
- Strategies to achieve the organisation’s purpose to be planned and implemented (through the management of the organisation’s financial, physical, human resources,
- Loyalty, care and diligence in the undertakings of the organisation,
- Regular reassurance that the above three requirements are being met (via monitoring and reporting procedures).

Collectively, these expectations comprise those that are increasingly referred to in the media as “corporate governance” and there are many requirements that fit beneath these expectations.

Most organisations have a clearly articulated policy and set of procedures that ensure that governance requirements are met. Success is generally achieved by ensuring that all staff are informed of and manage within the policy and procedures for their area of work. At fire incidents, the consequence of governance requirements not being met includes either failure to meet incident objectives and/or exposure of the organisation’s owners to risk.

There are several situations that increase the risk of the governance requirements not being met. These situations are:

- Where an incident management system (or a “virtual organisation”) is applied to the incident and persons are filling roles other than their normal roles. The risk is compounded where normal organisational policy and procedures are no longer relevant, and
- Where resources from more than one organisation are utilised as an incident resources - leading to possible confusion over the policy and procedural framework in use (such as is increasingly the case with resources coming from different agencies, states and nations)

Key to successful incident management using incident control systems and resources from more than one agency is:

- Clarification of the governance framework that applies to the management of the incident, and

- The establishment of policy and procedures to enable incident personnel to work effectively within the governance framework.

This paper examines the issue of corporate governance at multi-agency and multi-national fire incidents and suggests that performance may be improved through the establishment of policy and procedural frameworks in pre-fire agreements that focus on governance issues and provide incident personnel with clear boundaries within which to work.

### **Public perception**

In the past, fire agencies responding to an emergency were not exposed to the same public scrutiny regarding their actions as other organisations. Fire agency staff were viewed as “heroes” and there was public acceptance that normal organisational processes may not have been followed due to the duress under which incident staff operated. Little (and not so little) mistakes were forgiven and forgotten.

There is a segment of fire industry community that continues to operate on the assumption that this public view continues to prevail. However, recent experience has suggested that public perception of the responsibilities of fire agencies has changed in keeping with the trend towards greater public accountability by all organisations. For example, in Victoria, the Coroner in the well publicized Linton Inquiry (findings in 2002) used public expectation of reasonable organisational behaviour as the basis for investigation. More recently, following the southeastern Australian wildfire emergency of the past summer, public and media interest regarding the accountability of fire agencies and their decision-making performance has reached an all time high.

Increasingly, fire agencies are expected to behave like any other organisation – with the management of fire emergencies as their core business. They are no longer exempt from workplace legislation at emergency incidents and are under increasing pressure to prove that they have followed proper process in emergency undertakings.

### **Incident management systems**

Many wildfire response agencies and other emergency response agencies use incident management systems for the management of incidents. The Australian Inter-service Incident Management System – Incident Control System (AIIMS ICS), is the Australian system that was used to manage all of the wildfires during the 2002 - 2003 wildfire season in Australia. The principles of AIIMS ICS are clear and include the appointment of one overall incident manager (“Incident Controller”), to whom responsibility for managing the incident is delegated by the designated “Control Agency” (agency with jurisdictional authority to control the fire), and management to a common set of objectives.

Worldwide, regardless of variations in name, configuration and terminology used, the common feature of incident management systems is that they are conceptually “virtual organisations” that are established at first response to an incident and exists only for the duration of the incident.

Although each incident organisation has a parent organisation (the fire agency with jurisdictional authority for the fire response effort) the “virtual organisation” is effectively a new organisation, created and structured according to the needs of the incident. It operates

under extreme, often highly charged pressure and is expected to set objectives and deliver against these objectives in a very short time frame, all the while ensuring proper process.

In any other organisation the process of setting objectives, the selection and induction of new employees to achieve these objectives and the delivery of results against these objectives, whilst ensuring proper process, would be expected realistically to take months or years.

### **Multi agency and multi-national response**

Within Australia there is a range of fire agencies, each with their own special set of legislative and operational requirements. They include full time career fire services, part time and volunteer fire services, and government agencies whose primary function is to manage public (crown) land.

Being unpredictable in its location, size and timing, wildfire incidents can call for any combination of these resources to come together at any time to work together to respond to the fire. When doing so, Australian fire agencies strictly adhere to the principles of AIIMS ICS, as mentioned previously.

During the 2002–2003 wildfire season in Australia, the aforementioned fire agencies worked together in many different combinations and permutations to combat the wildfires. They were assisted by other emergency support agencies (such as the Red Cross), by overseas fire services (from America and New Zealand) and by a large contingent of contractors.

The 2002-2003 wildfire season demonstrated that Australia's (and the world's) fire fighting resource is now viewed as a national, and perhaps even global resource. Fire agencies are now expected to provide assistance to other fire agencies - in neighbouring regions and to other countries as required.

Additionally, fire management teams from one agency are increasingly being asked to take on the responsibility for managing fire incidents in other jurisdictions, especially where the responsible fire fighting agency is over-stretched. Within Australia, such arrangements have become commonplace, with agencies from one jurisdiction or state taking responsibility for control of a fire in other jurisdictions or states. Additionally, when the Australian fire authorities provided assistance to fire authorities in the United States of America in both 2000 and 2002, Australians were even appointed to positions of authority there.

Confusion at multi-agency fires can result when personnel act in accordance with the policies and practices of their parent agency, rather than those of the organisation within which they are now deployed. For example, what may be an acceptable risk management process in one agency may not be acceptable in another.

### **Legislative frameworks**

All wildfire agencies operate under a set of legislation that applies to fire fighting, the workplace in general and the management of the environment. Organisations with sound governance practices ensure that all legislation requiring compliance is identified and then systematically monitored on a regular basis.

Where a fire agency is operating interstate or internationally, then the legislation relating to the jurisdiction of the destination applies and this may include significantly more than one Act or regulation, and may include workplace and environmental management legislation. Interstate and international deployments pose a considerable risk that persons from other jurisdictions do not understand the applicable legislation or countries and the possibility of breaches are much more likely. Care must be taken to ensure that all persons deployed in such a situation are provided with the necessary information relating to the relevant legislative framework in place.

Necessary information can be provided by:

- Providing an expert advisor on legislation to provide advice to an incident management team (where they are from another agency),
- Deploying fire fighters under the direct supervision of an local and informed supervisor,
- Educating fire fighters on the respective legislative framework in place prior to deployment.

In general, fire fighting legislation provides overriding protection for fire fighters operating within the legislative framework of the control agency and the law recognises that mistakes are made in pressure situations. However, the likelihood of mistakes can be lessened if strategies are employed to minimise mistakes.

### **Delegation of authority**

Fundamental to governance is the formal delegation of the owner's authority to organisation's managers and employees. In the public sector, delegations include the authority to apply specific legislation.

Emergency service and fire legislation often includes provision for authority to be delegated to fire agency personnel working within both their own agency jurisdiction or within co-operative arrangements with neighbouring agency jurisdictions. Such is the case with Victorian legislation that allows for automatic cross agency delegated authority to all fire personnel operating outside their immediate jurisdiction.

However, fire agency personnel are increasingly being deployed interstate or overseas and these situations may not have been foreseen by those designing legislation. In the past, resources were deployed interstate or internationally on the basis of goodwill and the delegation of authority was not considered important.

However, nowadays, it is important that the authority to act according to a set of legislation is formally delegated to interagency, interstate and international fire personnel and that the limits to their action appropriately defined. Such delegation also requires a definition of the extent of the protection of delegated persons in the event of a mishap. The intent is that everyone knows what he or she can and can't do and there is protection of personnel working within that delegation.

A recent court case in Victoria ruled that the delegation is void unless it is in writing and given directly to the delegated person (not just recorded in minutes).

This may appear academic to operational fire fighters. However, with the current trend to identifying blame and seeking damages, costly legal battles are inevitable when damage to

private property or an injury does occur as the result of an action by a person who has no formal delegation to act under that jurisdiction.

In last summer's wildfires in south eastern Australia, on-ground fire fighters in Victoria had difficulty understanding why there was a problem with borrowing resources deployed to an adjoining fire in New South Wales. At first glance there was no problem (especially if you subscribe to the theory that all problems can be fixed afterwards). The resource exchange was not known by either Incident Controller and was in neither Incident Action Plan.

However reality struck when a house in Victoria was nearly ignited by an aerial ignition operation conducted by an aircraft "borrowed" from New South Wales unofficially one afternoon. The Incident Controller (responsible in New South Wales for the aircraft), on being made aware that his plane was unofficially lighting fires in another state, was horrified at the likely legal ramifications to himself, being accountable for the consequence of actions for which he had been given no authority to undertake. Additionally, the aircraft did not meet Victorian aviation standards and was invading controlled airspace.

### **Incident outcomes and indicators of performance**

Governments and those responsible for governing fire agencies have a responsibility to define the desired outcomes from incidents within their jurisdiction and to set the indicators against which the performance of their resources will be measured. These outcomes and performance indicators are then generically applied to all fires with the agency's jurisdiction and provide a guide to on-ground fire personnel regarding the appropriate fire response.

Typical outcomes relate to safety of fire fighters, minimal loss to life and property, minimal fire size (for example, "fire size less than five hectares") and efficiency and effectiveness of fire effort. Performance indicators refer to the acceptable standard to be achieved (for example "seventy-five percent of fires suppressed at less than five hectares").

Common outcomes required by career fire agencies include expedient fire suppression and protection of life and (private) property. The fire fighting legislation under which they act frequently permits almost any action (knocking down adjoining houses etc) if required to suppress the fire. Such fire fighting legislation is viewed by many fire fighters from these agencies to override all other legislation and as providing the authority for them to take almost any action, if required, to suppress the fire.

On the other hand, land management agencies, responsible for administering environmental and indigenous legislation in their normal business also require minimal damage to environmental and indigenous values as a measurable outcome ("damage" defined as a breach of environmental or indigenous legislation).

Where a single agency responds to a routine fire, respondents usually follow established procedure and work practice designed to meet the required agency outcomes and standards of performance. This is especially the case where fire fighters are full time career fire fighters who follow practised "Standard Operating Procedures", designed to steer actions to reflect the desired outcomes. Conflict over policy issues and on-ground priorities are rare at single agency fire responses.

However, issues arise where several fire agencies, such as a “fire only” agency and a “land management” agency, are working together on a fire. Both sets of personnel are usually trained in their respective legislation and authorisations. Both sets of personnel are absolutely loyal to their organisations and their respective policies.

Land management agency policy might direct the fire fighters to take account of environmental and indigenous values when selecting fire control tactics (for example to avoid using machinery in environmental reference areas or an area of historical indigenous significance. However, “fire agency” policy might encourage fire fighters to disregard these considerations, and take whatever action necessary to control the fire in the shortest time, to the smallest size and with minimal effort. On ground conflict is inevitable.

Such situations were common during the recent fires in south-eastern Australia with many on-ground disputes between fire personnel from different agencies who were each acting according to their agency policy. A sizeable proportion of the fires were burning in National Parks where each of the respective land management agencies made considerable efforts to plan effective fire control strategies that attempted to protect environmental and indigenous values as well as the built assets of more recent habitation. Unfortunately, “fire service” personnel, whose agency frequently does not place an emphasis on such values, often (whether intentionally or unintentionally) disregarded such considerations. On-ground conflicts were frequent.

On ground interagency relations and the effectiveness and efficiency of the fire suppression effort would have been considerably improved had, prior to deploying resources to a joint agency wildfire incident, fire agencies had clarified the policy framework in place and identified and resolved differences their differences.

### **Risk management policies**

A similar situation exists regarding the varied risk management policies of fire agencies.

All organisations are expected to have identified their corporate and operational risk and have policies in place to manage these. Organisations manage their risk by ensuring that the key risks have been identified and by establishing policies to manage these risks accordingly.

Policies to manage the risk to incident personnel may include induction, personal protective equipment, training, allocation of tasks according to capability, management of fatigue, alcohol, drug, driving, health and fitness policies etc. Critical to the success of risk management is assurance that all personnel understand the risk involved and the associated treatment policies, and then operate within the limits of these policies.

However, issues of confusion and conflict can arise where agencies operate together at a wildfire incident and the relevant policies of each of the agencies differ.

For example, an identified difference between the policies of Australian fire agencies is in regard to the use of defensive fire fighting strategies to protect houses from an on-coming fire front, particularly where the firefighters are located upslope of the fire and in heavy fuels. Defensive fire fighting in such situations is allowable within the risk management policies of some Australian fire agencies (such as in New South Wales), as it is intended for the protection of life and property and is believed to be an expectation of the public.

Conversely, such a situation is considered potentially life threatening by some Victorian fire agencies, as it breaks a number of recognised “Watchout Situations” (recognised dangerous situations), and is strictly in breach of agency policy.

It may be argued that operational decisions relating to risk can be made on the day of the incident. This is true to a certain extent as evaluation of risk is a key part of incident planning. However, modern organisations would call this style of risk management “reactive”, focused on compliance and crisis response, and it would certainly not be considered best corporate practice. Best practice in the broader corporate community is the “proactive” or strategic management of risk, where likely risks are considered well before the crisis arises, and treatments fully considered and implemented. Many fire agencies do this for their routine business and single agency incident response, but are less likely to do this for multi-agency incident response.

The differences in agency policy can be managed if all agencies are aware of, and have reached agreement regarding the differences in their policies prior to the incident, and have informed all levels of management of the resolved position. Attempts by operational staff to resolve such differences at the time of the incident can cause unnecessary inter-agency tension, ineffectiveness on the fire ground and possible compromise of fire fighter safety.

Moreover, since the inception of the “global” fire fighting concept, all Australian fire agencies (and perhaps agencies in other countries too) can expect to work together some time in the future. In view of this situation, and in recognition of the likely pitfalls ahead, Australian fire agencies could consider the development of a National approach to the development of policies for the management of key identifiable risks at wildfires, so that issues of incompatible policies do not occur.

### **Deployment of personnel**

A key risk to personnel deployed to work under the direction of another agency is the possibility of a mismatch between their skills and experience, and the tasks to which they are allocated. This is equally an issue both for both incoming personnel, where the incident managers do not have access to relevant information about their expertise, and also for the fire managers themselves as they attempt to deploy incident personnel from other agencies both safely and effectively. With poor information, the risk of a poorly matched deployment is high and the likely consequences include ineffectiveness and possible breaches of fire fighter safety.

Lack of such information in part led to the deployment of an urban fire crew to a forest fire situation at Linton in 1998 with the result being five fatalities. Conversely, in the southeastern Australian fires of the past summer, lack of good information and recognition of the likely risks led to numerous complaints from experienced fire fighters relating to being under-deployed. Without good information about cross agency resources, fire agencies attempting to manage their risk are in a no-win situation.

The safe and effective deployment of personnel is dependent upon the incident manager having a clear understanding of the skills and experience of resources under his command and the necessary information to match those to specific job requirements.

Most agencies have a good understanding of the skills and experience of their own personnel, and fire managers usually have access to some sort of database to source these. More recently, some agencies even have more complex databases that automatically match the skills and experience of staff with the requirements of the job, for the example the FireWeb system as used by the Department of Sustainability and Environment in Victoria. But these systems do not hold information about personnel from other agencies either in Victoria, or from interstate or international fire agencies.

Whilst the manual method of transferring personnel data has been used by many agencies to date, it must be recognised that data integrity is at risk and the likelihood of error high.

To rectify the situation within Australia, a number of actions are required, including:

- recognition of the risk (both positive and negative) resulting from poorly matched deployments,
- the acceptance of agreed competency standards for each of the key roles (there is a current project underway by the Australasian Fire Authorities Council), and
- the development of a interface system to individual agency databases so that interagency resource data can be accessed by incident managers.

Even with a national interfacing database, there is still doubt about the accuracy of matching of persons to specific risk environments, given that national competency assessment methods and contexts vary considerably. This issue may be alleviated for Australian agencies once common assessment instruments are developed for all fire roles within AIIMS ICS.

Further work to match the job requirements of incident management systems and associated competency standards, from other countries (such as from the United States of America) to those from Australia will additionally reduce the likelihood of poorly matched deployments.

### **Governance issues at multi agency fires**

For a number of years, there has been an expectation that the use of a common incident management system (such as AIIMS ICS in Australia) will result in seamless inter-agency incident management. However, this is not the case.

Primarily this is because incident management systems provide an operating system that works within an overall policy framework. The individual organisation's governing body is responsible for establishing a policy framework that sets the direction and limitations for the organisation. Management is responsible for managing the operations to deliver the specified outcomes. Incident management systems do not provide a policy framework and will only work effectively if these overarching requirements are in place.

There is rarely an issue with single agency incident responses using an incident management system, as the governance and policy framework of the "parent" organisation apply. However with multi-agency responses, clarification of the governance and policy frameworks are needed for the incident management system to operate effectively. Without these requirements in place, all involved agencies and their personnel are exposed to considerable risk.

Critical requirements are:

- Clarification of the relevant impacting legislation,

- Delegation of authority to all relevant personnel, and
- Policies designed to manage organisational risk, including all risks to the health and safety of personnel.

Establishing agreements at the time of the incident, when agencies are under tremendous pressure is inappropriate and time wasting. The fire ground is certainly not the appropriate place for these differences to arise and be resolved effectively.

## **Solutions**

Australian fire agencies cannot be sure, these days, of the inter-agency arrangements under which they will work and the policies of those agencies with which they will be working. One means for addressing this issue is for fire agencies to develop pre-fire agreements, well before the occurrence of an incident, that address governance requirements.

Pre-fire agreements are already in place between a range of fire agencies and nations including:

- Department of Sustainability and Environment and Country Fire Authority (both Victorian),
- Department of Sustainability and Environment (Victoria) and State Forests (New South Wales),
- The Department of the Interior and the Department of Agriculture of the United States of America and the Australian participating agencies,

Under these agreements, fire fighters deployed to work for the other agency are informed about legislation and policy framework within which they work. They can identify “what is the same” and “what is different” between the respective agencies.

However, given that no fire agency can be certain of the arrangements under which it will be working in the future, an alternative and preferred solution is for all the Australian fire agencies to reach a collective agreement on governance and policy arrangements for fire incidents. Similarly, international agreements could also be reached. This is possibly not as difficult as it sounds as the principles of governance are now fairly commonplace, are recognised globally, are referred to regularly in the media and are a public expectation.

## **Conclusion**

Where once excepted from the norms of organisational behaviour, fire agencies operating at emergency incidents are now increasingly expected to conform and ensure that their corporate governance and policy arrangements meet public expectation, even during emergencies. Additionally, incident management systems (such as AIIMS ICS in Australia) do not address such issues and therefore do not result in seamless inter-agency incident management as originally expected.

Incident management systems will only provide an operating system that works within an overall governance framework that should include:

- Clarification of the relevant impacting legislation,
- Delegation of authority to all relevant personnel, and
- Policies designed to manage organisational risk, including all risks to the health and safety of personnel.

Where one agency works alone, the governance framework is clear and incident managers and fire personnel follow standard policies and procedures to ensure risks are minimised. However, where more than one agency is involved, there may be more than one set of policies in place and these may contradict each other. The risk of non-compliance is magnified.

The differences in agency policy can be managed if both agencies are aware of, and have reached agreement regarding the differences in their policies prior to the incident, and have informed all levels of management of the resolved position.

Establishing agreements at the time of the incident, when agencies are under tremendous pressure may result in faulty decisions, inter-agency tension, ineffectiveness on the fire ground and possible compromise of fire fighter safety. Where a risk can be foreseen, best practice in organisational risk management is “proactive” or strategic risk management, where likely risks are considered well before the crisis arises and treatments devised.

One solution is for fire agencies to develop pre-fire agreements to address governance requirements. An alternative and preferred solution is for all the Australian fire agencies to reach a collective agreement on governance arrangements for fire incidents, because no agency can be sure of the agencies with which it will work in the future.

The development of pre-fire agreements should improve the safety, effectiveness and efficiency of fire fighting performance as incident personnel will be provided with clear boundaries within which to work and can focus their energies on key incident control concerns rather than those of governance.

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