

Establishing the State Fire and Emergency Services Commission

Tasmania Fire and Emergency Service (TFES) Reforms

Position Paper - November 2024



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1. Introduction

The Tasmania Fire Service (TFS) and the State Emergency Service (SES) are Tasmania's expert emergency prevention, preparation and response agencies for fire, flood and storm events.

The Tasmania Fire and Emergency Service (TFES) Reforms recognise that governance change within and across the TFS and SES is necessary following multiple independent reviews and inquiries.

The TFES Reforms are about ensuring that the TFS and SES are ready for a future of increasingly intense, severe and frequent fire, flood and storm emergencies.

Reviews and inquiries have highlighted the strengths, weaknesses and similarities between and within both organisations with recommendations for reform to best support emergency prevention and response.

Following consideration of the analyses and findings of these reviews, as well as public consultation on previously proposed reforms in 2023, in September 2024 the Tasmanian Government announced the future for the TFES governance to:

- establish the TFES in legislation to bring together the TFS and SES under one organisational banner, whilst maintaining their individual operational identities, roles and responsibilities;
- establish the role of Fire and Emergency Services Commissioner (FES Commissioner) in legislation as the operational lead of the TFES;
- establish the State Fire and Emergency Services Commission (SFESC) as the statutory authority in charge of TFES, with a skills-based board;
- establish a volunteer charter in legislation; and
- replace the existing Act and regulations with contemporary, principles-based legislation.

2. Objectives

This Position Paper presents the findings of relevant reports, reviews and investigations into determining best and common practice for establishing the future SFESC with a “skills-based board”.

The Paper outlines the recommended composition and structure of the SFESC that will feature in the revised TFES legislation.

The intention of releasing this paper is to provide early awareness of the approach being adopted, and for the approach to be further considered and refined through feedback received, to then inform legislative drafting.

3. Current Governance Arrangements

3.1 State Emergency Service (SES)

The SES is established under the *Emergency Management Act 2006*. Since 2014, the SES has reported to the Chief Officer (now FES Commissioner). The TFES Reforms will formalise this reporting arrangement in legislation by bringing the SES under the management of the future SFESC and FES Commissioner.

3.2 Tasmania Fire Service (TFS)

The TFS is established under the *Fire Service Act 1979*. It is the operational arm of the State Fire Commission (SFC). The TFS currently reports to the Chief Officer and SFC, which will shift to SFESC and FES Commissioner as part of the reforms.

3.3 State Fire Commission (SFC)

The SFC is the statutory authority that controls the TFS. It is a representative based Commission with membership prescribed in the *Fire Service Act 1979* as:

- An independent chair,
- The Chief Fire Officer of the TFS,
- 1 person nominated by the United Firefighters Union (Tasmanian Branch),
- 1 person nominated by the Tasmanian Retained Volunteer Firefighters Association,
- 1 person nominated by the Tasmanian Volunteer Fire Brigades Association,
- 1 person nominated by the Department of Treasury and Finance, and
- 2 people nominated by the Local Government Association of Tasmania.

The functions and powers of the SFC in section 8 of the Act are:

- to formulate the policy in respect of the administration and operation of the Fire Service;
- to co-ordinate and direct the development of all fire services throughout the State;
- to develop effective fire prevention and protection measures throughout the State;
- to develop and promulgate a State fire protection plan;
- to standardise, as far as is practicable, fire brigade equipment throughout the State;
- to establish and maintain training facilities for brigades;

- to conduct such investigations into fires as it considers necessary, and to prepare reports and recommendations to the Minister arising from those investigations;
- to conduct such investigations into the use of fire as it considers necessary, to instruct the public in the wise use of fire, and to disseminate information regarding fire protection measures and other related matters;
- to advise the Minister on such matters relating to the administration of this Act as may be referred to it by the Minister, and on matters that, in the opinion of the Commission, should be brought to the attention of the Minister; and
- to exercise such other functions vested in or imposed on it by this Act or such other functions relating to the preventing or extinguishing of fires as may be imposed on it by the Minister from time to time.

Over recent years, several reviews into the effectiveness of the SFC's governance arrangements have been completed with many recommending governance and operational reform.

These have focused on the current composition of the SFC, compared to its roles and responsibilities. Predominantly, these analyses and findings have been made in the:

- 2020 *Review of the Fire Service Act 1979* by Mr Mike Blake, and
- 2022 *Consultation Outcomes Report on the Blake Review and Treasury Options Paper* by Mr Michael Stevens.

Key reflections made in these reviews, and others, have included that:

- “There are potential benefits to an independent skill-based board, including the reduction in perceived conflicts of interest and improved governance arrangements” (page 90 of the 2016 House of Assembly Standing Committee on Community Development – *Inquiry into the State Fire Commission*).
- “If a statutory authority is adopted, the statutory authority should be “skills-based (rather than representative) appointed by, and reporting to, the Minister” (page 51, Mike Blake, *Review of the Fire Service Act 1979*).
- “The Blake report in its text on the SFC and [State Fire Management Council] states that the structure should change to a skill-based board. This is consistent with modern governance structures across all Boards that advise government or departments. This change should be enacted as part of the transition of the SFC” (page 9, Michael Stevens, *Consultation Outcomes Report*).
- “Despite having many attributes of a governing board, the SFC is largely composed of nominees of interest groups, particularly employee associations

and Local Government, which is fundamentally inconsistent with it exercising the role of a governing board. Therefore, the Commission is assessed as a policy board operating in an area of whole of community effect for the purposes of remuneration” (2024 Sizing Statement for the SFC, Department of Premier and Cabinet).

3.4 State Fire Management Council (SFMC)

The State Fire Management Council (SFMC) is included in the *Fire Service Act 1979* as an independent advisory body to the Minister for Police, Fire and Emergency Management on cross-tenure vegetation fire management policy, research, advocacy and strategy, and related matters.

Its mandated membership includes representation from TFS, Sustainable Timber Tasmania, Parks and Wildlife, TasFarmers, the Tasmanian Forest Products Association, and the Local Government Association of Tasmania.

The SFMC oversees Fire Management Area Committees, also defined in the legislation.

A key strength of the Council is its developed networks and relationships across fire response agencies, land managers and the community.

In his 2020 Review, Mike Blake recommended that the SFC be abolished for a departmental model, and that the SFMC should remain in legislation albeit with a review of membership.

Following the Tasmanian Government’s commitment not to abolish the SFC following Mike Blake’s review, Michael Stevens noted (p9, *Consultation Outcomes Report*):

“It does not seem to be effective or efficient to maintain two statutory bodies so it would make sense to place these roles within a reformed SFC. Given the number of members of the SFMC it would not be useful to put all current members of the SFMC on the SFC. The SFC should be given the legislative ability to create subcommittees of which the SFMC would be one and contained in the legislation. This would ensure that the community representation existing in the SFMC is maintained.”

3.5 Local Government

Tasmania’s local government sector contributes significantly to Tasmania’s emergency management arrangements, for example:

- Roles and responsibilities for emergency prevention, preparation and planning under the *Emergency Management Act 2006* (EMA), including municipal emergency coordinator roles,

- Providing resources for SES municipal volunteer units, as required under the EMA, and
- Legislated roles on the SFC, SFMC and other regional emergency management forums and committees.

4. Relevant public statements

In total, 52 submissions were made in response to the public consultation on the *Tasmania Fire and Emergency Service Bill 2023* between September and December 2023. The following are samples of specific feedback made on the SFC, SFMC, or other relevant governance matters.

All submissions have been considered in the preparation of this position paper. All bodies and individuals who have made submissions are acknowledged and thanked for their contributions. While some components of submissions may not have been addressed or adopted, it is hoped that this paper explains the rationale for this.

All submissions are available on the TFS webpage at:

<https://www.fire.tas.gov.au/reform/>

4.1 *Tasmanian Fire and Emergency Service Alliance*

The Tasmania Fire, Rescue and Emergency Responders Alliance (the Alliance) comprises the United Firefighters Union (Tasmania Branch), the State Emergency Service Volunteer Association, the Tasmanian Retained Volunteer Firefighters Association, and the Tasmanian Volunteer Fire Brigades Association.

In a joint submission to the *Tasmania Fire and Emergency Service Bill 2023*, the Alliance called for a similar model to the current SFC be retained in any proposed new Act, that the Commissioner of TFES be the Chair, and the membership to be a mix of representative and skills-based positions. The Alliance also called for the SFMC to continue in legislation.

The Alliance proposed the following membership of 11 people:

- Commissioner TFES (Chair)
- 1 x Tasmanian Retained Volunteer Firefighters Association
- 1 x Tasmanian Volunteer Fire Brigades Association
- 1 x State Emergency Service Volunteer Association
- 1 x United Firefighters Association
- 2 x SFMC members
- 1 x Property Council of Tasmania
- 2 x Minister appointments (skills-based)
- 1 x Treasury appointment (skills-based).

4.2 State Fire Management Council

In its submission, the SFMC expressed concerns with the (formerly) proposed Committee and that it lacked detail in the legislation around its roles and functions. The SFMC recommended:

- “Recommendation 5: The TFES Draft Bill should guarantee good governance. To ensure that the advice of a committee is reported to the Minister and the TFES Commissioner, the new TFES Bill would need to a) establish an advisory body with an independent chair that advises the Minister and TFES Commissioner, and b) support the power and authority of that committee”.

The SFMC also noted that Fire Management Area Committees (FMACs) and Fire Management Areas (FMAs) should continue “due to their critical role in managing bushfire risk at a strategic level”. SFMC strongly encouraged that FMACs continue to be legislated, and to investigate linkages with the Municipal Emergency Management Committees.

In support of the SFMC, other submissions (including RACT, Parks and Wildlife Service and independents) advocated that the SFMC continue its functions.

4.3 Local Government Association of Tasmania (LGAT)

In its submission, LGAT advocated that it should maintain a role on the (formerly proposed) committee, noting local government’s role in collecting the Fire Service Contribution, emergency management, supporting community preparedness and building community resilience.

4.4 Community & Public Sector Union (CPSU)

In its submission, the CPSU advocated that the SFC be retained as a statutory authority. The CPSU advocated that if a committee was established (as formerly proposed), the CPSU ought to be a member.

5. “Representative” vs “skills-based” boards

Representative Board: means that the composition of the Board is made up predominantly by members from a particular interest group(s), to represent that group’s interests to the Board and organisation. This can result in conflicts of interest and bias in decision making, which are declared in order to be managed. The SFC is a representative board with mandated membership from interest groups.

Skills-based Board: means that the composition of the board is made up predominantly by members who are independent of the organisation they are managing. This seeks to avoid conflicts of interest. The Government has committed to a statutory authority with a skills-based board as part of the TFES Reforms.

Reviews and reports have highlighted the challenges representative based boards pose and face when it comes to performing governance roles effectively whilst balancing inherent conflicts of interest with representative memberships.

As shown in the literature review of Attachment 1, leading guidance on establishing “best practice” boards includes that a majority of members should be independent directors. This is to ensure that decisions that are made by the Board are made in the interest of the organisation, rather than specific interest groups.

Guidelines also recommend:

- limiting the number of people on the board to ensure productivity of the group,
- having an independent chair,
- not including the Chief Executive Officer as a member of the Board,
- recruiting members according to a skills-matrix, and
- establishing an Advisory Panel to recruit members according to the skills-matrix.

Locally, Tasmania’s government businesses are established by principles-based legislation (more information is at Attachment 1).

This includes that the boards of government businesses comprise no more than 8 independent Directors with an independent Chair. In practice, many boards include people with lived experience in the industry or industry knowledge, however their primary skills are in corporate governance e.g. risk, audit, financial. In some circumstances (e.g. TasIrrigation or TasRacing) there are representative members on the Boards.

Reviews into Tasmania’s arrangements have recommended moving away from representative membership to a “skills-based” board. Under this model, reviewers have recommended that advisory subcommittees be established to inform the actions of the Commission, such as including the SFMC as a subcommittee as recommended by Michael Stevens.

6. The Future: SFESC in legislation

The SFESC board will have wide ranging and complex emergency responsibilities, including controlling and directing the TFS, SES and FES Commissioner to lawfully, safely and effectively complete their duties, anticipate and respond to risk, comply with government and legislation requirements, and collect and expend publicly raised levies.

The SFESC will also be responsible for duties completed by the SES including all-hazards emergency preparation and response.

The Government has committed to drafting legislation that is principles based.

Therefore, the drafting instructions for the TFES Bill are:

Drafting instructions for the TFES Bill:

- there is to be a Board of Directors to oversee the SFESC,
- the Board will include one independent Chair and no more than 8 other members (Directors),
- the Chair and Directors are to be appointed by the Governor, on the recommendation of the Minister,
- Directors are to be appointed with “skills and experience to ensure the SFESC meets its functions and objectives”,
- the Board will be able to establish subcommittees.

Underpinning this model will be the development of:

- a skills-matrix to ensure the appropriate skills are present on the Board and to inform succession planning (see an example at Attachment 2), and
- the development of an Appointment Panel to make appointment recommendations to the Minister for Police, Fire and Emergency Management.

6.1 Membership appointment process

The membership of the SFESC will not be prescribed in the legislation.

Instead, it will be informed by assessments of each applicant of the SFESC against a skills-matrix to identify the skills needed, and then reviewed and appointed by the Minister on the recommendation of an Appointment Panel.

It is not proposed that the FES Commissioner be on the Board, but this is possible if deemed appropriate against the skills-matrix. Not including the CEO on a skills-based board is consistent with the best-practice guidelines. Instead, the Commissioner would brief the Commission on key matters and action requests of the Commission.

The number of members on the Board is based on the legislated limit for Tasmania’s Government Business Enterprises (GBEs) and State Owned Companies (SOCs) and is intended to keep the group at a manageable level in line with principles.

6.2 Transition planning

Further work will need to occur to develop a comprehensive plan to smoothly transition between the current SFC and future SFESC, noting it is possible some members may nominate and be successfully re-elected.

This transition will be supported in legislation with the new Act to commence on “proclamation”, and with necessary savings and transitional arrangements to ensure that the current SFC continues until the SFESC begins.

6.3 Subcommittees of the Skills-Based Board

The legislation will provide that the SFESC will be able to establish, amalgamate or dissolve subcommittees.

It is proposed that there are two advisory subcommittees established in legislation:

- A subcommittee that represents the views of volunteers and employees; and
- A subcommittee that continues the functions of the SFMC.

If these subcommittees were included in the legislation they would not be able to be dissolved or amalgamated by the SFESC. Having these two subcommittees included in the legislation would not limit the SFESC from establishing additional subcommittees (e.g. risk and audit committees) or other stakeholder interest subcommittees.

In addition to the legislation being developed, more work will occur within TFS, SES and DPFEM to determine the future subcommittees of the SFESC.

The membership of the subcommittees would not be legislated. Membership would be the decision of the SFESC. The Minister will be able to give directions to the SFESC regarding membership of subcommittees, if necessary.

The features of the subcommittees may appear in the Regulations (rather than the Bill), and will include:

Drafting instructions for the TFES Regulations:

- Subject to a direction of the Minister, the SFESC must determine the membership of the committees so that the membership is most appropriately skilled to achieve the functions and objectives of the subcommittee.
- Subcommittees will be chaired by an appropriately skilled person approved by the SFESC. **Option** – *it could be prescribed that the Chair must be independent from the Commission, the emergency services and the associations that represent the members of the associations. Having an independent chair would ensure objectivity and would draw together potential disparate points of views between organisational volunteer or employee groups.*
- The SFESC may give directions in writing to a subcommittee, and the subcommittee must comply with those directions, unless the directions conflict with the objectives of the subcommittee.
- The SFESC must approve the terms of references for the subcommittees. The terms of reference must clearly identify the functions and objectives of the subcommittee. The functions and objectives of the subcommittee must support the delivery of functions and objectives of the TFES.
- The SFESC must consult subcommittees on matters relating to their terms of references.
- The terms of reference must set the tenure of the membership and chair, frequency of meetings, quorum, and anything else deemed necessary.
- Subcommittees must provide at least yearly reports to the SFESC on the work underway/achieved by the subcommittee. These updates must be included in the SFESC Annual Report.
- The SFESC may consider remuneration and allowances for members of subcommittees, other than for members who are state servants.
- The Minister may seek advice directly from the SFESC or the subcommittees.

It will be important to ensure that consultation with subcommittees is genuine, effective and timely and is undertaken in a way to reduce risks of prolonged timeframes for decision making by the SFESC.

It is likely that the following supporting process would occur (or similar):

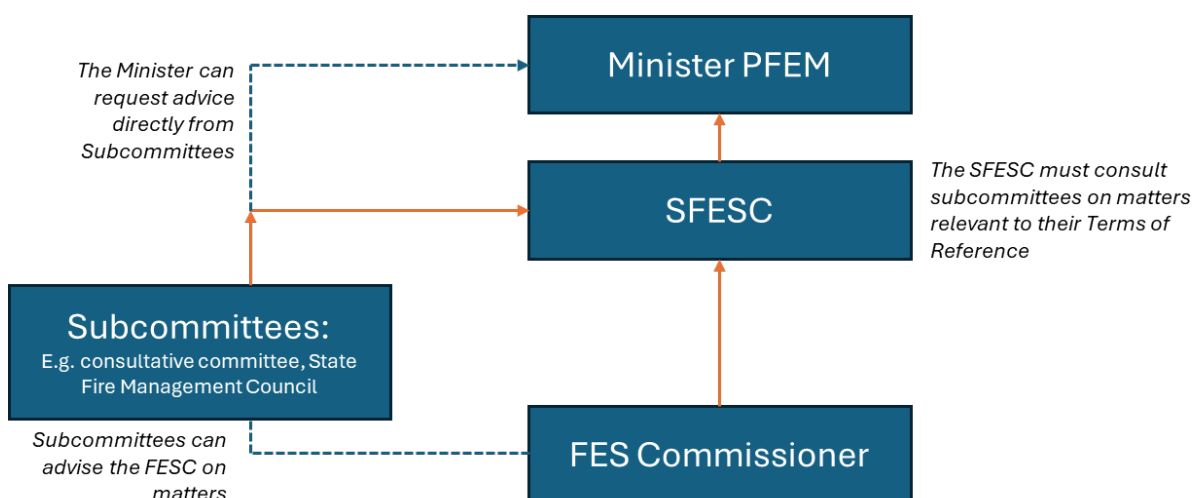


- subcommittees routinely meeting the week/fortnight before the Commission meeting;
- subcommittees would receive the relevant papers and/or proposals in order to consider these and develop advice to give to the Commission;
- the subcommittee Chair, on behalf of the subcommittee, would report to the Commission (in person or in writing) to provide the subcommittee’s feedback on the relevant matter, for the Commission’s consideration and debate.

It is not proposed that chairs of the subcommittees have enduring positions on the SFESC. Instead, they will be invited as guests or observers to contribute to specific matters as required.

Under this model, it is proposed that the roles and responsibilities of the SFMC, and the FMACs under the SFMC, would remain unchanged.

Figure 1: Proposed SFESC and subcommittee model.



7. Feedback

Feedback on these matters is welcome and should be made in writing. Feedback must be received by close of business on 14 February 2025.

Email your feedback/submission to tfes@dpfem.tas.gov.au

Mail your feedback/submission to:

Strategy and Support
2/47 Liverpool Street
Hobart 7000

Publishing submissions: Submissions will be treated as public information and will be published on the DPFEM website. Only an individual's name, or the organisation making a submission will be published. More information around the [Tasmanian Government's Public Submissions Policy](#) is available on the DPAC website.

8. Attachment 1 – Guidelines for “Best Practice” Skills-based Boards

8.1 Tasmanian Government Guidelines for Board Appointments (2016)

The Tasmanian Government Department of Treasury and Finance *Guidelines for Board Appointments* (2016) (the Guidelines) apply to all Government Business Enterprises (GBEs) and State-Owned Companies (SOCs). It is the Government’s expectation that all Government business board appointments will be made in accordance with these guidelines.

The Guidelines recommend that Board Directors have a range of skills, experience, qualifications, expertise and vision, including the following areas as a minimum:

- Corporate governance;
- Finance and accounting;
- Strategic planning;
- Relevant industry knowledge; and
- An understanding of the Government context including the Government’s objectives and risk appetites.

The Guidelines also recommend:

- Establishing a Director Election Advisory Panel (and potentially a nomination committee), to identify potential candidates and make recommendations to the Minister on suitable candidates;
- Recruitment should be informed by a skills-matrix which identifies the skills, experience, qualifications, expertise and vision required for the Board;
- The number of members on a Board should be the minimum number that can effectively carry out the mandate of the Government business;
- Remuneration is to be in accordance with the *Government Board and Committee Remuneration Framework*; and
- The Chief Executive Officer (CEO) should not be considered for appointment as a Board Director unless it can be demonstrated that it is in the best interests of the business.

8.2 ASX Corporate Governance Council (2019)

The Department of Treasury and Finance features are in line with the eight Principles of the ASX *Corporate Governance Council Corporate Governance Principles and Recommendations* (4th Edition, 2019), which notes that a high performing, effective board is essential for the proper governance of a listed entity.

The ASX Guidelines note that to be independent, the director would be “free of any interest, position or relationship that might influence, or reasonably be perceived to influence, in a material respect their capacity to bring an independent judgement to bear on issues before the board, and

to act in the best interests of the entity as a whole rather than in the interests of an individual security holder or other party”.

8.3 OECD Guidelines on Corporate Governance of State-Owned Enterprises (2024)

The OECD Guidelines note under Part VI that the state should ensure that boards of State-Owned Enterprises have the necessary authority, competencies and objectivity to carry out their functions of strategic guidance, risk management oversight and monitoring of management.

The Guidelines also recommend:

- Part VI.D – an appropriate number of independent board members should be on boards and on specialised board committees.
- Part VI.F – good practice calls for the chair to be independent and with a role separate from that of the EO.
- Part VI.G – where employee representation on the board is mandated, mechanisms should be developed to guarantee that this representation is exercised effectively and contributes to the enhancement of the board skills, information and independence.

8.4 Government Business Enterprises and State Owned Companies

In November 2024, the Tasmanian Government released its proposed governance reforms of Tasmania’s GBEs and SOCs, with an intention to introduce legislation in parliament in 2025. These reforms may impact the legislation underpinning GBEs and SOCs currently.

The establishment of Government Business Enterprise Boards in Tasmania is set out in the *Government Business Enterprises Act 1995*. This applies to the Boards of Sustainable Timber Tasmania, Hydro Tasmania, MAIB, Port Arthur Historic Site, the Public Trustee and the Tasmanian Public Finance Corporation. The legislation provides:

- Boards must have a chairperson, and not less than 3 and not more than 8 other persons;
- All members including the chair are to be appointed by the Governor on the recommendation of the Treasurer and Minister,
- The Board may provide recommendations in respect of members of the Board,
- The person recommended to the Governor must have the experience and skills necessary to enable the Government Business Enterprise to achieve its objectives,
- The CEO of the GBE cannot be the chairperson of the Board.

Under the legislation (s16), an audit committee must be established by GBE Boards.

The boards of Tasmania’s SOCs are established in the individual legislation of each of those companies. This includes TT-Line, TasRacing, TasIrrigation, TasPorts, Metro, TasNetworks.

Other than TT-Line, all SOCs provide a minimum requirement that “Directors must have the skills and experience necessary to enable the Company to achieve its objectives”. TT-line does not include this statement.

TasIrrigation requires one member to be a representative of farmers and graziers, TasPorts requires that the Minister must establish a vacancy panel to recruit new members, and TasRacing requires that there are 7 directors, of whom 6 are associated in some way with the three codes of racing.

9. Attachment 2 – Example Skills Matrix

The following is an example of a skills matrix that could be used to inform the recruitment of the skills-based SFESC.

SKILLS SOUGHT
Skills sought from the Chair
Leadership qualities and the ability to promote effective working relationships in complex government agencies/organisations.
An ability to communicate complex and sensitive assessments in a tactful manner.
A well-founded understanding of the principle of good organisational governance and accountability, including financial and risk management.
Skills sought from the Chair and all members
Skill 1 - Extensive governance knowledge and experience
Strategic thinking
Strategic financial skills with exceptional financial literacy and the ability to understand and interrogate financial statements
Risk and compliance expertise
Corporate governance expertise and awareness and experience in working within Government
Commercial acumen
Ability to lead the board or a committee of the board
Previous board or governance experience
Skill 2 - Financial Reporting
Accounting and auditing standards
Accounting and financial management

SKILLS SOUGHT
Skill 3 – System of risk oversight and management
Risk identification, evaluation and management in complex organisations
Public/private sector risk management experience
Good understanding of public sector emerging risks and opportunity identification and response
Skill 4 – System of internal control
Accountability and internal control management guidance
Operations of government and the public sector
Understanding of processes, practices and record keeping in complex organisations
Understanding of compliance and internal control principles
Understanding of the key elements of control effectiveness and methodologies for assessment
Understanding of requirements of information and communication technology
Skill 5 – Professional and industry skills
Related industry / sector experience to the fire and emergency services
Related industry / sector experience relating to fire and emergency service volunteers and/or employment matters
Related industry/sector experience to local government
Relevant Chief Financial Officer or equivalent experience
Relevant Chief Audit Executive or equivalent experience
Relevant Chief Risk Officer or equivalent experience
Corporate lawyer or equivalent experience

SKILLS SOUGHT
Practical ICT experience including cyber risks
Skills in strategic priority areas, including digital
Advanced understanding of stakeholder engagement concepts
Skill 6 – Personal attributes and behavioural qualities
Integrity/ethics and modelling organisational values
Effective listener/communicator/strategic questioner
Unwavering professionalism, ethical behaviour, commitment influencer and negotiator
Critical and innovative thinker
Transformational leadership skills
Willingness to constructively challenge management practices and information
Capacity to ensure integrity of Board decision-making
Secondary considerations – Diversity
Age
Gender Diversity
Cultural Diversity
Geographic location
Employment diversity