Mainstreaming law & policy project:

A (nearly) end of project report…

Michael Eburn and Steve Dovers
College of Law & Fenner School of Environment and Society
The Australian National University
CANBERRA ACT 0200
E: stephen.dovers@anu.edu.au
The project aims

• Emergency management is a whole of government and cross-sectoral challenge. It need to be a mainstream issue – it’s everyone’s business.

• We asked “How does law impact upon emergency management and in particular the emergency services?”

• (Focus on EM and EMOs.)
Methods

• Legal research and policy analysis.
• Desktop studies of law and policy.
• Informed by end user input.
• Interviews with chief officers and lots of feedback from volunteers and others.
• Assistance from NSW RFS, Treasury Managed Fund and Suncorp Metway.
• Summary outputs (and see Eburn’s blog)

– Reporting on literature review and review of evidence before the 2009 Vic Bushfires Royal Commission to identify perceived legal impediments to effective mainstreaming.

– Opportunities for mainstreaming do exist (extent), but may disagree with implementation (strength).
Published

Eburn, M and Dovers, S, ‘Understanding Fire Law’ (2011) 82 Fire Note

– A preliminary report on the mainstreaming fire management into law and policy and the start of our analysis into the extent of post-bushfire litigation.
Published


- A preliminary report confirming that many of the perceived legal risks were misunderstood and/or overstated.
Published


– A report on the impact of inquiries and public criticism on emergency managers.
Published


- analysis and advice re an emergent issue
Published


– The issue of effective warnings remains the ‘Achilles heel’ in emergency response, both in practice and in terms of legal liability.

– An invited paper on the implications of new Work Health and Safety laws for volunteers in the emergency services.

– A seminal publication on the reality of post fire litigation based on the available reported and online cases and the experience of the NSW Rural Fire Service.

– There isn’t much; fear of law bigger than the real risk.
Published


– Considering the real liability of councils if they release hazard mapping information and concluding the fear is overstated. Information on risk should be released.

– An invited paper following significant UK prosecutions and changes to Australian Work Health and Safety law and their implications for emergency responders.

- Part of a special issue of AJEM focussing on the related CRC projects. It was argued that an absence of clearly defined goals in emergency management policy inhibits our ability to make decisions on what are acceptable trade-offs and makes it impossible to know when EM goals have been achieved.
Published


– This publication identified areas that would benefit from policy or legal development; eg identifying the objective and measures of success of EM policy; avoid ‘policy by inquiry’; establish a more effective way to identify potential learning from past events.

– Law is a tool subject to constitutional and political limitations. A significant impediment to developing resilient communities is the lack of legal standing of ‘community’.
In Press

  
  – Updated text: cases and materials on law dealing with the emergency services and emergency response.
Under review

• Eburn, M, ‘Suing the Australian fire brigades: a question of duty’ Submitted to Dictum, the law journal of Victoria University.
  – Reporting on three cases that were decided in 2012 by the Supreme Courts of New South Wales, Tasmania and the Australian Capital Territory and the implications of these decisions for Australian fire services.
Under review

• Eburn, M and Dovers, S, What are the ‘measures of success’ in fire policy and management?’ Submitted to the *International Journal of Wildland Fire*.
  – Final report on research including interviews to identify ‘measures of success’ and their limitations
  – Need to define, be realistic, accept multiple measures.
Under review

  - Final report on research on the limitations of post-event as ways to identify lessons to be learned from fire and hazard events.
  - ‘Lessons learned’ facility, different forms of inquiry…
Forthcoming

• Eburn, M and Dovers, S, ‘Risk sharing and risk assessment in fire management’.
  – A paper considering how the perception of risk and appropriate risk management varies depending on one’s perspective from emergency service chief officer to community member.
Forthcoming

  – Assessing and mitigating risk is fundamentally an issue of politics not science.