



## Temporary station closures and appliances offline (TOLing): Advice and instructions for permanent members

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**1. Can officers (of any rank) be directed to act-down (to any rank)?**

The Department's current position is no: management does not support the acting down of officers. That being so, the Union is not about to oppose what amounts to a management ban on acting-down. Consequently, members are advised that no officer member is to act-down.

**2. Can officers elect (ie, choose, or agree) to act-down?**

No. The Department's position against acting-down is to be strictly observed until further notice.

**3. Can "spare" officers be directed to provide minimum staffing on specialist appliances for which they are qualified?**

Yes, provided that:

- a) only members of Station Officer rank can do so; and
- b) there can be no more than one Station Officer per specialist appliance; and
- c) consistent with subclause 6.6.3, no Station Officer, other than the Fleet Officer, can staff a major aerial appliance under any circumstance.

***These are usually firefighter positions, so isn't this acting-down?***

No. Subject to the above three conditions, the Union considers the minimum staffing of two firefighters per specialist appliance to be just that, a minimum, and as such, views the casual variation of staffing on heavy hazmat and heavy rescue appliances to Station Officer and one firefighter as an enhancement, albeit temporary.

**4. Can officers (of any rank) be directed to perform outduties?**

No. While Relieving Officers and members performing higher duties (see Award subclause 12.18) may be directed to work elsewhere, any order for an officer who is not a dedicated reliever or performing higher duties to perform an out-duty is contrary to the Award, and is therefore unlawful and to be ignored.

The exception to this is where a Station Officer stands by with their appliance at a TOLed station elsewhere, and this is explained in some detail at point 12.

**5. Can officers elect (ie, choose, or agree) to perform outduties?**

Yes. In the absence of any Award provision expressly prohibiting this, the State Committee has decided that genuinely voluntary officer outduties should be permitted, provided the Department agrees to payment of the relevant Award provisions, until further notice. This will remain under review that any officer member who feels they have been pressured to perform an outduty should contact the Union immediately.

**6. Can a firefighter be directed to perform an out-duty or relieve at a retained-only station without a Station Officer present?**

Yes, but they must be of at least Senior Firefighter rank (ie, a QF or below cannot work at a retained station unless a Senior Firefighter or Station Officer is present). See SITREP 34/2010.

SF was confirmed as the minimum rank to be used to cover initial shortages at retained brigades in settlement of a dispute before the IRC. This is not considered “acting-up” to Station Officer though, nor is it new. It is simply acting as the OIC in accordance with the long standing provisions of the Act. To quote from FRNSW Standing Orders:

*“The Fire Brigades Act 1989 clearly states that whenever any permanent officer or firefighter, regardless of rank, attends an incident at which retained firefighters are in attendance, the senior ranked permanent officer or firefighter automatically becomes the officer in charge unless the function is delegated.”*

There is one further limitation in that a Senior Firefighter cannot be required to act as both the OIC of a retained station and a driver/pump operator as well. As SITREP 3/2009 observed, *“it is impossible to perform the duties of both the officer in charge and the motor driver simultaneously. It is neither safe nor fair for members to be expected to do so.”*

**7. Can Relievers and/or outduties be ‘leapfrogged’ (ie moved into a station in order to release another member at that station so the 2<sup>nd</sup> member may then relieve or perform an outduty elsewhere)?**

Yes, but only within the limits already set by the Award (eg, 12 outduties per year, 16 maximum hours’ work) and the advice at point 1 above about acting-down.

**8. Can Leading Firefighters act-up as Station Officers?**

As per subclause 7.1 of the Award, only Leading Firefighters who have successfully completed the Station Officers’ Promotional Program (SOPP) may act-up to Station Officer rank (and be paid at the S/O Level 1 rate while they do so) without restriction. Conversely, an LF who has not completed the SOPP cannot act-up to Station Officer.

Members should note that in settlement of an earlier dispute over LF promotions, the Department assured the IRC and Union that each class of SOPP graduates would be promoted to S/O before the completion of the next SOPP. It follows that there should never be more than one class of SOPP graduates available to act-up at any point in time.

**9. Can an appliance be TOLed if it has the minimum staffing present and available?**

No. The Union is already aware of several instances where an appliance was fully staffed by the oncoming shift but was still taken off line and the station closed. This is flatly opposed.

Members are hereby instructed that under no circumstance is any member (including a reliever or member on recall) to leave a station in order to perform relieving or outduties if, by doing so, they would reduce that shift’s safe and effective minimum crewing for any appliance.

Note 1: This instruction does not apply to members who are being held back on overtime from the immediately-preceding shift (ie, “staying-back”). If a member staying-back is directed to stand-down and the station or appliance is consequently then TOL, then this becomes a “standard” (for want of a better term) TOL situation and the Union instruction banning relief or out-duty ceases to operate. If management decides to recall another member or redirects spare staff from elsewhere to the station, thereby restoring safe and effective minimum staffing, then the instruction shall once again apply, but this time for the balance of that shift.

Note 2: To avoid doubt, the term “not to leave the station” does not mean that a fully crewed appliance cannot leave the station, simply that an individual member is not to depart the station in order to relieve at some other station, thereby TOLing the original station.

Note 3: This instruction applies to all permanently-staffed appliances at the station, including specialist appliances and, in the case of City of Sydney (only), the LSV. In the event that there are sufficient staff present and available to crew all appliances, but insufficient staff with the necessary qualifications, then this instruction shall still apply but the appliance that is short of the required operators shall remain off line until the required number of suitably-qualified staff arrive at the station, at which point the instruction shall no longer have effect and any “excess” staff may then be directed elsewhere.

**10. *Can an already TOLed appliance be re-staffed mid-shift by TOLing another appliance at that station? In other words, if the heavy rescue appliance at a station was TOLed at the start of shift but the station’s pumper has remained on line, can the station’s pumper be TOLed later that shift if a major rescue incident occurs in order to staff the heavy rescue appliance?***

No. Consistent with point 9, members are hereby instructed that under no circumstance is any fully-staffed appliance to be de-staffed in order to staff another already-TOLed appliance.

The Department has already shown that it is prepared to place cost savings above community safety by closing stations. Management calls this “risk management”. Firefighters and 99% of this state’s ordinary citizens call it for what it is: dangerous and reckless.

For the Department, it’s only a small leap from TOLing pumpers to not staffing specialist appliances at all. If we allow management to “cross-crew” second appliances (eg, major aerials, heavy rescues, heavy hazmat) in the way contemplated by the above example then we will be signing the death warrant for S/O and 5 stations and literally hundreds of firefighters’ jobs. Don’t do it. If you’re ordered to, contact a Union official.

**11. *Is there a limit on the number of times a station (or shift) can be TOLed?***

No, but other limits already set by the Award (eg, 12 outduties per year, 16 maximum hours’ work) must still be observed and will therefore limit the number of times a particular shift can be TOLed or, in many instances, moved up.

If, for example, a platoon is short one Station Officer and two of the three firefighters left have already completed their 12 outduties then management will have the choice of either:

- i) directing a spare Relieving Officer to the station; or
- ii) recalling a Station Officer; or
- iii) TOLing the station and directing the one firefighter who can still perform outduties to do so elsewhere.

TOLing under point (iii), whilst available to management, would appear to be the least feasible option in this situation as it would render two firefighters spare but unavailable to respond.

**12. *Is there a limit on the number of times an appliance can be required to ‘stand by’ at another station (ie. move up)?***

The Award defines “stand by” as “a period of duty up to and including four hours performed by a Firefighter at a station other than the station to which the Firefighter commenced duty and where the Firefighter finishes duty at the station at which duty commenced.”

In practical terms, this has always meant sending a “spare” firefighter elsewhere to cover a mid-shift shortage (eg, to release another firefighter who was attending an interview, or on a few hours’ consolidated

leave, etc.) and, provided the stand by duty lasted no longer than four hours and the firefighter performing the stand by duty returned to their own station before the conclusion of that rostered shift, it would not count as an outduty. The differences between an outduty and a stand by are therefore that:

- a) there is no limit on the number of stand bys that a member can be directed to perform;
- b) the relieving allowance is not payable for a stand by; and
- c) to be counted as a stand by and not an outduty, the duration of the stand by duty (ie, the actual period of relief, excluding travel time there and back) must last no longer than four hours; and
- d) to be counted as a stand by and not an outduty, a member must both start and finish the shift at their own station (ie, by 0800 or 1800 hrs, not 0830 or 1830hrs with 30 minutes' overtime). That is to say, it is not possible for management to avoid a stand by becoming an outduty (thereby eroding the members' annual outduty limit and avoiding having to pay the \$29.58 relieving allowance) by paying overtime while the member travels back to their own station.

So stand bys, as contemplated by the Award, are (and always have been) used to cover for mid-shift staff shortages elsewhere. The stand bys that the Department is now requiring appliances to perform in order to cover for TOLED appliances elsewhere are no different. Members who stand by elsewhere for a TOLED appliance can therefore only do so for a maximum of four hours before that stand by becomes an outduty, which will then both attract the relieving allowance and count against that member's annual outduty limit. Similarly, members who stand by elsewhere for a TOLED appliance and who do not then return to their own station until after 0800 or 1800 hrs (whichever applies) will have also performed an outduty, again qualifying for the relieving allowance counting against those members' annual outduty limit.

Note: There is a distinction between (a) a stand by/move up to cover for staff shortages and subsequently, a TOLED appliance, and (b) a stand by/move up to cover for genuine operational reasons such as a major bushfire incident, etc. – the former being an entirely new practice that is nonetheless captured by the spirit, intent and literal meaning of the Award's "stand by" definition and the latter being well understood NSWFB/FRNSW operational custom and practice.

**In summary:**

- Officers cannot act-down, but may be directed to staff heavy hazmat and rescue appliances (see points 1, 2 and 3).
- Officers cannot be directed to perform outduties, but may agree to do so (points 4 and 5).
- The minimum rank required to act as OIC at a retained station is Senior Firefighter (point 6).
- There is no ban or restriction on "leap-frogging" of relievers and/or outduties (point 7).
- Leading Firefighters cannot act-up to Station Officer rank unless they have successfully completed the SOPP (point 8).
- Fully staffed appliances are not to be taken off line (point 9).
- Fully staffed appliances are not to be taken off line to staff TOLED appliances, which are not to be "cross-crewed" (point 10).
- While there is no limit on the number of times an appliance may be TOLED or directed to stand by for a TOLED appliance elsewhere, outduty limits and other Award provisions may operate to prevent either happening (points 11 and 12).
- Members who stand by for a TOLED appliance elsewhere will have performed an outduty if that stand by duty exceeds four hours' duration and/or have not returned to their own station by 0800 or 1800 hrs (point 12).



**Jim Casey**  
**State Secretary**

**Friday 30 November 2012**