



# Sick Leave & the Attendance Management Policy (AMP)

In late 2012 the Industrial Relations Commission of NSW ordered a new Attendance Management Policy (AMP). The purpose of this notice is not to explain the new AMP in any great detail, but simply to offer a practical, step-by-step guide for members targeted by the Policy.

## SLAnT reviews and AMP triggers

As with the first AMP, all permanent firefighters' sick leave usage will be regularly reviewed using SLAnT (the Department's Sick Leave Analysis Tool). Members who hit one of more of the following AMP triggers over the 12 months prior to the date of that review:

- 50 hours of sick leave within any 13 week period, or 96 or more hours in total;
  - 4 or more separate sick leave occurrences within any 13 week period;
  - an apparent pattern of sick leave (eg weekends, same day of week, pre or post annual leave rosters, pre or post public holidays, during school holidays or coinciding with special events); or
  - a failure to provide the required supporting documentation;
- will be identified for closer review.

It is important for everyone (including management) to recognise that hitting one or more of these triggers does not itself constitute an AMP breach. It is simply a trigger for the Superintendent to review that member's situation more closely. The Superintendent must then decide whether there are any known or apparent explanations for the member's sick leave (this may include checking with the member's Inspector and/or Station Officer) and, after taking all relevant factors into consideration, to either (1) require the member to "show cause" why they are not in breach of the AMP or (2) take no further action.

What is a relevant factor for the Superintendent to consider? Common sense will go a long way here, as will erring on the side of caution and giving members the benefit of the doubt. We would expect, for example, that a member who had averaged (say) 40 hours sick leave p.a. over the past 10 years should and would be automatically waived through, regardless of how much sick leave they took in the past 12 months. After all, it only takes one bad flu outbreak to lay an entire family low for weeks, let alone for two or three sets of 10/14 shifts.

So the first step is the SLAnT review, and the second step is the Superintendent's initial screen. Where the Superintendent decides at this stage to take no further action then most members will never know they'd even been under review. If, however, the Superintendent decides to progress to the third step then they must write to and ask the member to "show cause" why the member should not be found to be in breach of the AMP. Remember this is still at this stage only an inquiry, not an AMP breach.

## What to do if you receive a "show cause" letter

- Do:** Fax the letter to the Union Office asap (9218 3488) including, if possible, your private email address and most convenient telephone contact. Your case will then be assigned to an FBEU Industrial Officer, who will contact you as soon as possible to discuss your situation and advise you on your response.
- Don't:** Sign, send or discuss anything for, to or with any FRNSW officer or manager before you have spoken with an FBEU Industrial Officer.

Members who receive a show cause letter are supposed to respond in writing within 12 calendar days or, if by that time the member is on any form of leave, then by the completion of the next shift actually



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worked. For example, the deadline for a response to a letter received 2 days before a period of annual leave will be the end of the first shift/day worked following that leave period.

The AMP allows members the option of ignoring a show cause letter, but failure to reply without adequate reason is an automatic breach of the policy. Note that a non-response in this situation results in one breach only, not one breach for the "show cause" trigger and a second breach for the non-response.

## What to do if the Superintendent finds you in breach

After considering their show cause reply, the Superintendent must write to the member confirming that:

- the member's explanation has been accepted and there will be no further action taken; or,
- the firefighter's explanation has not been accepted and that the firefighter is therefore in breach of the policy. Note that Superintendents are required to include a summary of their reason(s) for not accepting the member's explanation.

If the member's explanation has not been accepted then the member will be asked (but not ordered) to sign the Superintendent's letter. Members have three options here:

1. to sign the letter without any notation, which will then be placed on the member's P file; or
2. to sign the letter together with a notation that they disagree with the report, which will then be placed on the member's P file; or
3. to refuse to sign the letter, which will be noted by the Superintendent and then be placed on the member's P file. In this case (only), the Department must also then notify the Union within 7 days and allow the Union to reply to the Superintendent's letter on behalf of the member, and to place a copy of the Union's reply on the member's personnel file.

**Do:** Politely decline to sign the Superintendent's letter until you have spoken with the Union, and fax the letter to the Union Office asap (9218 3488). The Industrial Officer who was assigned to your case at the show cause stage will contact you again as soon as possible to discuss your situation and advise you on your response.

**Don't:** Sign the Superintendent's letter before seeking advice from the Union. Never sign a letter or report that you disagree with without noting this, otherwise your agreement will be assumed and this may affect any later defence against sanctions and/or disciplinary action.

## What to do if you're notified of an attendance management interview

A member who records two or more AMP breaches within any 24 month period will be required to attend an attendance management interview with their Inspector and/or Superintendent. By this stage sanctions and disciplinary action become possible outcomes so the Union will ensure that a representative attends these interviews whenever and wherever requested, provided sufficient notice is given. It follows that members who are notified of their need to attend an attendance management interview (the AMP requires that members are given advance notice in writing) should contact the Industrial Officer previously assigned to your case as soon as possible to review your situation and arrange Union representation.

**Do:** Immediately contact the FBEU Industrial Officer previously assigned to your case.

**Don't:** Contact or discuss your situation with your senior officers before speaking with the Union.