



SITREP 41/15

Not SMART: Department wrong on retained rostering

Last week's Commissioner's Corner #628 referred to an intranet story titled "SMART rostering commences for Retained Firefighters in January" which advised (amongst other things) that "All firefighters should update their availability for December and the New Year period in the test site".

Members are not required or expected to do this and should refuse any direction to do so.

The Union is disappointed by this development, not least because we advised the Department of our opposition to the SMART acronym (System to Manage Availability Rostering and Timesheets) many weeks ago owing to its use of the word "rostering". The new system is not a rostering system.

The 2014 Retained Award reforms that gave rise to the new system allow for rostering of members in two circumstances only, being:

- 1) if you don't declare your compulsory availability for the coming week by 1800hrs on Wednesday (subclause 28.6.3); or
- 2) if too many members declare compulsory availability for the same period (subclause 28.6.4).

In either case the Duty Commander may (not must) then allocate compulsory availability hours for the member(s) concerned in consultation with the Captain and member(s).

These are the only two instances when compulsory availability may be rostered. Ordinary availability may never be rostered. Because most members remain on Base retainers, the Award requires only 24 hours of compulsory availability each week so the remaining 144 hours of the week are entirely up to you to confirm your availability (or not) for all, some or none of those 144 hours. While the system has been set up with availability as a default (each member is shown as available unless you declare you are unavailable), this does not mean guaranteed availability, or that you are required to attend. There is no penalty for a member who is shown as available but does not attend. Your only obligation is to maintain the Award's required attendance percentages - 33% of all calls except during times of compulsory availability, when it is 80% (but still not 100%) of all calls. More information can be found on the Union's website in the "Availability, attendance and the new 2014 Retained Award" notice issued on 30 May 2014.

For reasons known only to the Department, management is currently ignoring the Award requirement for members to declare their 24 hours of compulsory availability (their first version of the Gartan system didn't even allow members to enter it). This is perhaps an attempt to keep retained members in the dark about the difference between compulsory and ordinary availability, and of the higher retainer payments now possible under our 2014 Award reforms. We'll be following this up in 2016 but in the meantime, members should understand that the new system does not allow management to roster your availability. There is no Union ban on members using or relying on the system for more than the 24 compulsory hours per week - it was always intended as a tool to help and members are welcome to do so cooperatively - but the suggestion that you are now required to declare your availability for the full week and/or meet all of the availability shown by the system is simply wrong.

Jim Casey
State Secretary

Thursday 31 December 2015



Availability, attendance and the new 2014 Retained Award

The new 2014 Retained Award which takes effect Friday 30 May delivers many improvements including new ranks, quicker progression and, of course, higher rates of pay. These are discussed separately in SITREP 20/2014, which can be found on the Union's website. This short FAQ deals only with the Award's new availability and attendance requirements and should be read in conjunction with the new award itself.

1. What is "compulsory availability"?

Clause 28 of the new Award introduces a requirement for retained employees to nominate a minimum number of hours during which you will be available to respond. During these hours, which are known as "compulsory availability" hours, you will be expected to attend 80% (rather than the usual 33%) of all calls received by your station averaged over a four week period.

Your "compulsory availability" hours are fixed by your Retainer Type (Standard or Weekday) and Level (Base, 50%, 75% or 100%). Every member is starting on the Standard, Base Retainer, so you and every member will need to provide 24 hours per week of "compulsory availability".

2. Who decides my "compulsory availability" times?

You do. You choose the days and times of your 24 hours per week of "compulsory availability", and you may change these days and times from one week to the next. If you want to nominate one solid block of 24 hours from, say, midnight Monday to midnight Tuesday then you can do just that. You could also nominate 24 separate periods of 1 hour each or anything in between. The hours don't need to be even (e.g., you could nominate three separate 6 hour blocks and six 1 hour blocks to make up your 24 hours) and there is no minimum or maximum time required for each block.

There is one exception to the "you decide" rule, and this occurs when multiple members all nominate the same time. For example, if your station has a pumper and tanker that requires a minimum staffing of six (4 for the pumper and 2 for the tanker), then no more than 7 members should nominate "compulsory availability" for any one time. If 8 or more members did nominate for a certain time then the Inspector may (not must) reassign the surplus staff to some other time. This should be done in consultation with the "surplus" members, but the easiest way to avoid this is to ensure that your station does not exceed the limits at subclause 28.6.5 for any time period.

3. What's the difference between "availability" and "attendance"?

There is no requirement for you to declare anything more than your minimum "compulsory availability" hours. There is, however, a need for you to attend at least 33% of all calls received by your station averaged over a six month period, and 80% of all "compulsory availability" calls averaged over a four week period.

Retained members are entitled to attend any call received by their station. This applies equally to members who have declared their availability beforehand and to those who have not. In fact with one exception (see subclause 6.5.4), it even applies to members who expressly said that they would not be available, but who then responded anyway. The realities of modern-day life mean that declaring your availability is an indicative courtesy, not a binding commitment – even in the case of

“compulsory availability”. The new Award recognises that unexpected emergencies can and will happen to all of us from time to time, which is why even “compulsory availability” hours require only an 80% attendance rather than 100%.

You could say that the Retainer rewards you for your hours of “compulsory availability”, but not your attendance, and the hourly rate rewards you for your attendance, but not your availability. The point here is that if the Department wants more declared availability from your brigade then it now has the option of offering and paying higher Retainers.

4. When and how do I declare my “compulsory availability”?

Members are required to nominate and declare their chosen 24 hours of compulsory availability for the coming week (which starts at midnight each Thursday) by not later than 1800 hours each Wednesday. The Department is currently working on a software solution that will allow members to do this remotely (using their mobile phone or home computer) or at the station, but this is not expected to be available until later this year. In the meantime, members can use a whiteboard at the station, an Occurrence Book entry, or even a simple email or hand-written note telling the Captain the days and times that you have nominated. You do not need to use any system that you do not want to use. This includes any “interim availability system” that Zone management attempts to foist onto your station.

5. What if I don’t declare my “compulsory availability”?

Technically, if you haven’t declared your “compulsory availability” by 1800 hours Wednesday then your Duty Commander (not Captain) may (not must) then allocate some or all of those hours for you, although this must still be done where possible in consultation with both you and your Captain.

In practice, most members and most brigades should see no real change. If your station is running well now, without any real availability or attendance problems, then a half-sensible Zone management team will continue to allow the station to run itself without enforcing, monitoring or allocating the station’s “compulsory availability” hours. It’s only at the handful of stations where staff shortages are requiring staff from other stations to maintain minimum staffing that the “compulsory availability” hours should be monitored and enforced - but also where the higher Retainers should be offered.

6. What if I can’t make the 80% of calls requirement?

The 80% of calls during periods of “compulsory availability” is averaged over a four week period, so if you miss the target for one week then you will still have another three weeks to make up the shortfall. If you remain below the 80% requirement after that four week period then you’ll be written to and advised that your attendance levels will be monitored for the next three months. So you basically have four months - the first four weeks and the following three months of monitoring - to turn your attendances around before management can take any further action about your attendance levels.

7. How can I progress to a higher level Retainer?

The decision to offer anything other than the Standard, Base Retainer is up to management. You cannot choose to be paid a higher Retainer simply by offering more hours of “compulsory availability” – the Department must first offer a higher Retainer position to your station and you must then apply and be selected for it. On the other hand, management cannot require you to work a higher Retainer (and the “compulsory availability” hours that go with it) if you do not want to.

Offers of higher Retainers, and changes from one Retainer to another, will not occur weekly. Rather, changes in the Retainer are expected to operate as a longer-term response by management to ongoing attendance and availability problems. The Union expects that the great majority of

members will remain on the Standard, Base Retainer for the foreseeable future simply because the great majority of stations are not experiencing the sort of attendance and availability problems that would cause management to intervene. That said, the Union also expects that, over time, more and more members at more and more stations will move to the higher Retainers simply because competing pressures for members' time will require this.

8. Is the Department's information about the new Award correct?

While we've not been present at most of the Department's station information sessions, the "station presentation" material that we've seen suggests that the advice being given to members by management is *broadly* correct. There are however significant errors in some of that material, with the Department incorrectly stating:

- a) that the decision on whether to use its "interim availability solution" is up to each Zone Management Team. It's not. See Question 5 above.
- b) that "compulsory availability" must be in minimum 4 hour blocks. Not true. See Question 2.
- c) that all members are required to indicate their availability for the entire week. Definitely not – members are required to indicate their 24 "compulsory availability" hours only. See Questions 3, 5 and 7.
- d) that members who fail to declare any availability, or who declare availability for a "full" period, will be allocated different "compulsory availability" hours by the Captain in consultation with the Duty Commander. See Award subclauses 28.6.3 and 28.6.4 which clearly state that it is the Duty Commander who does this, and that this should be done, if practicable, in consultation with both the Captain and the firefighter. Further, the Department's material is silent on this but those subclauses also provide that you cannot be allocated any "compulsory availability" hours between 0600 and 1800 hrs, Monday to Friday without your consent.
- e) that "*when relief duties are in place, only firefighters who have declared their availability will be entitled to payment for incidents that occur during this time*" and that "*extra firefighters that do respond, will not be entitled to any payment for the response*". This is not entirely correct. Members who respond to the station or the incident in good faith, having not received prior notification that relief duties are in place, will remain entitled to payment.
- f) that "*when relief duties are in place, Captains/OICs are to notify all staff that have said they are not available that they are not required to respond. The recommended way of doing this is via text message*". This is not in the Award and is not correct. Captains have no such responsibility and should not do so unless they are paid authorised duties (minimum 1 hour).
- g) that the payment of penalty rates for all work performed between 0001 hours and 2400 hours each Easter Sunday "*does not come into affect until Easter 2015*" is disputed, with the Union still pressing for payment for those who worked Easter Sunday this year. More to follow.
- h) that a member who performs higher duties "*does not automatically get higher retainer if substantive officer is receiving [a higher retainer]*" is inconsistent with the Award which, at subclause 7.3.2, gives the member who is performing higher duties the option.

Need more information?

The Union and the Department understand that the new Retainers and "compulsory availability" system is bound to have teething problems and have agreed to work through those problems as and where they arise. The Union is encouraging members at all stations to give the new system a go and to develop local systems and arrangements that work for you and your station while the availability software remains under development. It doesn't matter if mistakes are made in the interim, what does matter is that members familiarise themselves with the new system and read and understand the Award itself.

Finally, we're on your side and here to help you. Members with questions are encouraged to contact one of our Country Organisers or the Union Office by phone, fax or email. We've also opened a specific thread on our online forum where members' questions can be put and answers found.

28. Attendance and Availability Requirements

28.1 The following attendance guidelines shall apply to employees covered by this Award:

28.1.1 Attendance at Incidents -

28.1.1.1 Employees are required to attend a minimum of 33% of all calls received by the employee's brigade in any six month period.

28.1.1.2 Employees are also required to attend a minimum of 80% of all calls received by the employee's brigade during periods of compulsory availability in any four week period.

28.1.2 Attendance at Drills - Employees are required to attend a minimum of 75% of all regular drills conducted at their brigade in any six month period.

28.2 Any calls received or drills conducted during a period of approved leave or authorised absence shall be deemed to have been attended at the relevant minimum level, being either 33%, 75% or 80% subject to subclause 28.1, when determining an employee's levels of attendance.

28.3 In cases where an employee's attendance falls below the requirements prescribed by subclause 28.1, the employee's Area Commander shall notify the employee in writing of such deficiency and inform the employee that his/her attendance will be monitored over the next 3 months. If the employee's attendance does not meet the required levels pursuant to subclause 28.1.1 for that 3 month period then disciplinary action may be initiated.

28.4 Employees who have been notified in terms of subclause 28.3 may make application to the Commissioner for special consideration.

28.5 The attendance requirements referred to in subclause 28.1 may be altered by agreement between the Department and Union.

28.6 Compulsory Availability

28.6.1 Employees are required to declare a minimum number of hours during which they will be available to respond over the course of the coming week, and the days and times upon which this declared availability will apply. The minimum number of hours required of each employee shall be known as compulsory availability, and shall be determined by their current Retainer as provided at subclause 6.3.1.1.

28.6.2 Subject to subclauses 28.6.3 and 28.6.4, the day(s) and time(s) of any period(s) of compulsory availability shall be determined by the firefighter in consultation with their Captain and the other employees attached to their brigade and confirmed by each employee using an agreed system or, if the Department and Union are not agreed, a system determined by the Industrial Relations Commission.

28.6.3 Employees who have not declared their compulsory availability for the requisite number of hours for the week commencing 0001 hours Friday by 1800 hours on the Wednesday immediately beforehand may be allocated the day(s) and time(s) of their period(s) of compulsory availability for the coming week by the Duty Commander in consultation, if practicable, with the brigade's Captain, provided that an employee on the Standard Retainer cannot be assigned to a Weekday Retainer period without their consent.

28.6.4 If by 1800 hours on the Wednesday it is found that a surplus number of employees have declared their availability for a particular period then the Duty Commander may select the surplus employee(s) and allocate alternate day(s) and time(s) of compulsory availability for the employee(s) in consultation, if practicable, with them and the brigade's Captain, provided that an employee on the Standard Retainer may not be reassigned to a Weekday Retainer period without their consent.

28.6.5 The surplus number of employees referred to in subclause 28.6.4 shall be determined by reference to the following table:

Minimum number of employees required to maintain safe and effective staffing	Surplus number of employees for the purpose of subclause 28.6.4
2	3 or more
4	6 or more
6	8 or more
8	10 or more

28.6.6 An employee who has declared a particular day(s), time(s) and/or period(s) of availability for the coming week may subsequently arrange a mutual exchange with another employee provided that the minimum number of hours required of the employee by subclause 28.6.1 will still be met and further, that the exchange receives the prior approval of the brigade's Captain or Deputy Captain.

28.6.7 An employee who has been allocated a particular day(s), time(s) and/or period(s) of availability for the coming week pursuant to subclause 28.6.3 may apply to have such day(s), time(s) and/or period(s) varied, either in whole or in part, by written application to the Duty Commander, but must maintain that allocated availability unless and until advised otherwise by the Duty Commander.