



24 August 2017

Mr Paul Baxter
Commissioner
Fire and Rescue NSW
1 Amarina Avenue
GREENACRE NSW 2190

Dear Mr Baxter,

Re: Revised Response Protocols

I refer to the letter from Deputy Commissioner Hamilton dated 10 August 2017 confirming the Department's decision to no longer pursue its previously proposed "Risk Based Response Protocols" (RBRP) regime, and to instead propose some refinement of the current response arrangements.

The Union welcomes the decision to abandon the RBRP, which firefighters strongly opposed in the expectation that it would have:

- Increased distances travelled by responding resources under emergency conditions;
- Increased risk of delayed attendance and/or larger fires if the initial response was involved in an MVA or heavy traffic conditions en route;
- Increased risk of injury to firefighters attending calls that are found to be actual fires, and to persons trapped in those fires;
- Reduced retained activity, interest and skill levels and consequently;
- Reduced retained availability and attendance; and
- Reduced retained earnings.

Unfortunately all of those concerns remain under the revised proposal and the Department's letter of 10 August actually conceded that "*some Retained Brigades may encounter a substantial and ongoing reduction in the work collectively available to that Brigade's employees*".

In my letter of 10 November 2016 to then-FRNSW Commissioner Mullins concerning the RBRP I advised that the Union "*acknowledges technological advances and remains open to reviewing response protocols to ensure they remain appropriate, but this preparedness is tempered by our expectation that retained firefighters will not suffer as a result.*" That position stands but having carefully considered the Department's revised proposal, the Union believes that it may be possible to accommodate the expectations and concerns of both parties and therefore seeks further high-level discussion around the following issues and concepts.

Actual cost savings to be jointly measured

FBEU modeling of current retained labour-related costs and the earlier RBRP's expected impact estimated retained labour-related cost savings in the order of between \$5M and \$6M pa, and therefore well over 10% of the retained workforce's total income. While there was understandable uncertainty around both the projected impact and resultant savings, the gap between the FRNSW and FBEU estimates of those RBRP savings remained significant.

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The Union seeks prior agreement on a means by which the parties will jointly measure the actual impact of the revised response protocols on retained incident rates and wages.

Mobilisation arrangements and time penalties to be subject to local consultation

The application and extent of selective calling (ie, alerting individual appliances rather than stations) and mobilisation (ie, time penalties) should be subject to consultation between local management and affected crews prior to implementation and, if implemented, to ongoing review on a brigade by brigade basis according to local risks and operations, including the actual performance (ie, response times) of each brigade.

Exploration of “low” and “high” priority incident notification

The Union invites discussion on the concept of "low priority" and “high priority” notification for retained firefighters, who would then know if they were attending as part of the required initial response, or to a confirmed incident (ie “high priority”), or as a secondary and additional response (ie “low priority”).

These “low priority” calls would be the incidents to which the Department is proposing to neither respond nor alert affected retained brigades. Retained firefighters could still choose to attend “low priority” calls, however they would know in advance that they would not be required in most instances and could therefore make an informed choice without worrying that they had let down their brigade or community, or unnecessarily leaving their primary employment, etc. The concept requires further discussion and refinement, but it would likely be the case that attendance to “low priority” calls would not count (either positively or adversely) towards the Award’s required attendance levels

Award variation to preclude restricted response

The Union seeks, as a threshold issue, the Government’s consent to an Award variation to preclude any possible implementation of restricted response (ie, the notification and response of less than all of a retained brigade's employees).

Preservation of current leave values

The Department previously offered to freeze the monetary value of any affected retained firefighter’s accrued annual leave. The Union seeks confirmation of this offer and the extension of this arrangement to an indefinite floor (not ceiling) on all currently accrued leave.

Higher retainers for affected brigades

The Union proposes the payment of higher retainers to retained staff at brigades that suffer reductions in incident response, and therefore potential income, in order to help offset their financial loss. These higher retainers would continue to be monitored against the actual impact on each affected brigade and could therefore be reduced, increased or cease to be paid altogether. The impact levels at which higher retainers would be paid requires further investigation and discussion between the parties.

Because the higher retainers would be paid at these brigades in order to offset lost income, and not to improve availability, the recipients of these higher retainers would not be required to provide additional availability or more than 33% attendance.

Annualised salaries for seriously impacted brigades

The Union also proposes to explore the concept of annualised salaries for seriously affected

retained brigades, whose retained firefighters would receive all-inclusive payments that were not dependent on the number of calls received and attended.

Mr Hamilton's letter seeking the Union's response "*within 14 days so that affected retained firefighter brigades may be notified of the proposed changes and the implementation timetable in accordance with clause 27.6*" suggests that he had already formed the view that consultation has concluded, that the Department has no genuine interest in the Union's response and that the sole purpose of seeking this response was to tick the consultative requirement boxes of subclauses 27.4 and 27.5 and move directly to implementation under subclause 27.6.

With respect to the Deputy Commissioner, that sort of approach is not supported by the industrial case law on what constitutes consultation, and it is not open to him to determine that consultation has concluded in any event. The Award is clear in that only the Commissioner can conclude that the consultation process has been exhausted, and then only if there is a reasonable basis for you to do so.

Given the Union has had no discussions with you on this important issue and the suite of matters raised in this correspondence, it would appear unreasonable to determine the consultation process exhausted. I trust you will concur and therefore invite you to contact me directly to arrange a mutually convenient meeting.

Yours sincerely,



Leighton Drury
State Secretary