



File Ref. No: FRN17/863  
TRIM Ref. No: D18/32805

Leighton Drury  
State Secretary  
Fire Brigade Employees' Union of NSW  
1-7 Belmore St  
Surry Hills NSW 2010

14 May 2018

Dear Mr Drury,

Further to our recent discussion of e-recall and recall kilometres: As discussed, it was the intention of the parties when framing certain provisions within the Permanent Award in 2014 that a firefighter on a transfer list could perform overtime recalls close by to their residence and be paid recall kilometres as if the closest station to their residence is their base station.

This was jointly intended by the parties to improve equity and access to overtime amongst firefighters. I understand that up to now, overtime recall lists are maintained somewhat inconsistently. The person maintaining any particular list is aware that the firefighter in question works locally, but would have no specific knowledge of whether a firefighter has claimed residential status on a Transfer List.

As you know, some firefighters on Transfer Lists who have been recalled to work overtime at or nearby to their base station, have now claimed recall kilometres from the station nearby to their residence in the transfer list area, greatly increasing their claim for kilometres in a way that was never intended by the parties. As I undertook to do, I have attempted to estimate the additional cost of those claims, without prejudice.

It has proved very difficult to estimate the additional cost, as the firefighters on Transfer Lists change over time and the Lists are updated, not saved by past date. If any of these claims were to be paid, the additional unanticipated costs are unfunded and would have to be found elsewhere. As this was not the intention of the parties, I trust you will not support individuals chasing windfall payments of this type.

I look forward to briefing you shortly on the intended go live of e-recall.

Yours sincerely

A handwritten signature in black ink, appearing to read "Bernard King".

Bernard King  
Director Employee Relations

Fire & Rescue NSW

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6 June 2018

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

Dear Mr Baxter,

I write further to the Union's letter of 5 April and the ongoing discussions with FRNSW Employee Relations on the issue of recall kilometres, and in formal response to the Department's reply correspondence that was received over 5 weeks later, on 14 May.

The Union's position on this matter remains unchanged by the Department's assertions about the alleged joint intention of the parties in 2014. Subclause 9.8 changed the calculation (and therefore payment) of kilometres for members claiming residential priority and on recall. This allowed members to perform recalls where (or closer to where) they resided instead of where they were stationed, not in addition to where they were stationed.

Not that anything turns on it now, but the Union knew precisely what it was agreeing to in 2014, and would not have consented to amend subclause 9.8 had it operated in the manner that the Department supposedly intended.

The conclusion of the Department's tardy response with a plaintive appeal to "not support individuals chasing windfall payments of this type" was inappropriate and provocative. The Department's failure to adjust its administrative processes to reflect all revised Award arrangements is not our members' fault or concern and as I explained on 5 April, it is not open to either FRNSW or the FBEU to waive employee entitlements to payment and/or the employer's obligation to pay.

Unfortunately, the Union's reason and patience has again failed to bear fruit. Be advised that failure from this point forward to provide written confirmation of FRNSW's commitment to pay all outstanding kilometre entitlements under subclause 9.8 on the pay day of 21 June 2018 will cause the Union to commence alternative actions, including industrial action, without further warning to you.

Yours sincerely,

Leighton Drury  
State Secretary

**Fire Brigade Employees' Union of New South Wales**

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