

ACT FIRE & RESCUE

STAFF MINUTE

Subject: ACTF&R Release of Information to the UFUA
Reference: SM2019058
Distribution: All Members All Stations
Date: 27 March 2019

ACTF&R Release of Information to the UFUA

Good afternoon. You may have seen in the media today reports about the release of your pay and other information to the UFUA. The information below may assist in answering any questions you have on the process. Alternatively, if you have any other questions please don't hesitate to ask them through ESAHaveyoursay@act.gov.au.

Can the Government release private information to the UFUA?

The *Fair Work Act* ('FWA') allows a union to enter an employer's premises and inspect documents relating to suspected contraventions of the FWA or an enterprise agreement, or to be provided with copies of documents which relate to the suspected contravention. The purpose of this process is for the union to receive information in order to assess if it's suspicion is founded.

What private information is being sought by the UFUA?

Broadly, the UFUA is seeking pay and rostering details going back one year. The information can only be provided for members of the union, not non-members.

Why did the ACT government query the request for the documents?

The FWA provisions that govern the right of entry and access to documents require that the documents cannot be provided where a law of the Territory prevents it. The *Information Privacy Act* ('IP Act') provides the Territory cannot disclose personal information unless there is consent of the individual concerned, or it is required or authorised under a law or a court order. Mere membership of a union does not equate to an individual union member's consent to release the information.

The Territory supports the right of a union to access documentation in support of its members. The Territory also places primacy on the privacy of all individuals, whether employees or members of the public, as required by the IP Act. There were doubts concerning whether the release and content of the information sought by the UFUA

would be legally authorised and the Territory sought the Fair Work Commission's assistance to determine how the information could be released. The UFUA position brought the issue before the Federal Court and the matter was heard yesterday.

What did the Court find?

The matter was discussed in the Court and the result was an agreed position on the way forward. This allowed the UFUA to access to the documents and ensured the Territory is compliant with the legislative provisions related to privacy.

Was the government concerned about handing over the documents?

No. The primary concern of the Territory was compliance with its obligations under both the FWA and IP Act in relation to privacy. The Territory supports the right of unions to access documentation in support of their member employees.

What are the UFUA's concerns?

It is the Government's understanding that the UFUA has concerns over the interpretation of a clause of the enterprise agreement which relates to shift loading following a period of overtime following a prior shift, and the duration of a rest period between shifts. The Territory has a different interpretation of that clause. The issue is presently before the Fair Work Commission to determine if it has jurisdiction to resolve the matter.

Why have overtime hours increased dramatically from 2016 to the present?

This is because there has been a higher than expected number of ACTF&R staff retiring recently, as well as a number of staff who have taken long-term leave or are medically unfit for front-line duties. ACTF&R has been recruiting additional firefighters as quickly as possible, but in the short to medium-term, vacancies will continue to need to be covered by overtime.

What is ACTF&R doing to ensure firefighters are not fatigued?

ACTF&R continues to monitor the levels of overtime being worked and to ensure that the limits set by the Enterprise Agreement are maintained. The service is also currently reviewing its stand-up arrangements for days with elevated fire danger to determine if the level of bushfire risk is outweighed by the risk of fatigue for firefighters recalled to duty to staff tankers and CAFS units. The management of fatigue is a shared responsibility between staff and management and any firefighters who believe that fatigue may impact on their health, wellbeing or operational performance should immediately contact their supervisor.



Regards

Mark