

1. Name: **Australian Salaried Medical Officers Federation (NSW)**
2. Address: **Suite 46, Level 3, 330 Wattle Street ULTIMO NSW 2007;
Locked Mail Bag No 13 GLEBE NSW 2037**
3. Capacity of notifier: **Industrial Organisation of Employees.**
4. The question, dispute or difficulty concerns the following industrial matters:
 - (i) The Staff Specialists' (State) Award (the Award) in clause 4, Normal Duties Part A-General at (c) (i) states: "*With the exception of Staff Specialists working in accordance with paragraph (d) below, Normal Duties will be worked within the span of hours of 7.00 am to 6.00 pm Monday to Friday inclusive.*"
 - (ii) Paragraph (d) indicates that special categories of Staff Specialists defined in Part C of Schedule 3 of the Award may be required to undertake shift work as part of their Normal Duties.
 - (iii) Part C of Schedule 3 of the Award limits the requirement to work shift work to Emergency Medicine.
 - (iv) Hunter New England Local Health District (HNELHD) has been rostering Staff Specialists employed in what is known as Hunter Retrieval Service at John Hunter Hospital for Normal Duties outside the span of hours 7.00am to 6.00pm Monday to Friday.
 - (v) HNELHD has refused to pay shift and weekend penalties to Staff Specialists it rosters to work outside the span of 7.00am to 6.00pm Monday to Friday on the basis that it apparently considers a Retrieval Service to be distinguishable from Emergency Medicine.
 - (vi) Staff Specialists have endeavored to resolve this matter directly and internally without the matter having been resolved.
 - (vii) ASMOF provided suggestions for a resolution in correspondence dated 30th September 2016 (copy attached). To date there has been no reply or formal acknowledgement of receipt of this letter, although HNELHD Workforce staff have indicated in telephone communications that it has been received and that a response has been drafted.
 - (viii) As discussions between the parties consistent with clause 3, Issue Resolution, of the Staff Specialists' (State) Award have not resulted in a resolution of this matter, ASMOF requests the assistance of the Industrial Relations Commission and that this matter be listed for a compulsory conference.
5. The award, agreement or determination which applies to the employees, etc. is:
Staff Specialists' (State) Award (374 IG 1451)
Staff Specialists' Determination
6. The person to contact on behalf of the notifier is:
Bob Morgan, Senior Industrial Advisor
Phone: 9212 6900 Facsimile: 9212 6911

7. The other persons affected by or involved in this question, dispute or difficulty are:

The Director General of Health in respect of the Hunter New England Local Health District
73 Miller Street, NORTH SYDNEY NSW 2060
Phone: 9391 9706 Facsimile: 93919931
Attention: Alan Berendsen, Associate Director, Workplace Relations

Michael DiRienzo, Chief Executive, Hunter New England Local Health District
Lookout Road
NEW LAMBTON NSW 2305

Attention: Angela Bryant, Senior Human Resource Consultant
Phone: 4985 3383
Email: Angela.Bryant@hnehealth.nsw.gov.au

Dated: 6th December 2016


Dr Tom Karplus
Secretary
Notifier

To the Industrial Registrar,
Sydney.

Attachment (2 pages)



Australian Salaried Medical Officers'
Federation (New South Wales)

Level 3 Suite 46 330 Wattle Street Ultimo New South Wales 2007
Locked Mail Bag No 13 Glebe New South Wales 2037
Telephone: (02) 9212 6900 Facsimile: (02) 9212 6911
Email: asmof@asmof.org.au Website: www.asmfns.org.au

Karen Kelly
Acting Chief Executive
Hunter New England Local Health District
Lookout Road
NEW LAMBTON NSW 2305

Without prejudice

Dear Ms Kelly,

Hunter Retrieval Service

ASMOF is aware that the Hunter Retrieval Service employs a number of Staff Specialists who are required to work outside of the spread of hours as defined in Part A (c) of clause 3, Normal Duties, of the Staff Specialists' (State) Award (the Award). We note that the Shift Work provisions in sub clause (d) are not applied to the Emergency Physician Staff Specialists employed by the service.

I understand that HNELHD is meeting with the Director of the Hunter Retrieval Service, Dr Mary Morgan on the 18th October in an attempt to regularise the arrangements.

ASMOF makes the following observations and suggestions:


1. It is not allowable under the Award as it currently stands to roster Staff Specialists, other than those employed in Emergency Medicine, outside the hours of 7.00am to 6.00 pm Monday to Friday.
2. Arrangements have been made to extend the shift work provisions of the Award to Retrievalists employed by the Ambulance Service of NSW, NETS and HNELHD at Tamworth. This has been done either by Determination or administrative action. It is unconscionable that Staff Specialists performing the same Retrieval duties within the same LHD are remunerated differently.
3. It is inappropriate to create an industrial fiction that Staff Specialist Emergency Physicians employed in the Hunter Retrieval Service are Intensivists, and that they can be expected to be rostered for shift work without the benefits of shift work penalties being applied to them. This misapplication of the Staff Specialist Award should not be allowed to continue.

4. There are three possible solutions for you to consider: (i) That the Chief Executive seeks a Determination from the Ministry to extend the shift work provisions of the Award to Staff Specialist Retrievalists of all craft groups; (ii) That the Chief Executive applies the shift work provisions to the Retrievalists by administrative action to resolve the inequity; (iii) that an application be made to vary by consent Part C of Schedule 3 of the Award to extend shift work entitlements to those who are required to be rostered for hours beyond the spread defined in the Normal Duties clause of the Award.

These solutions are applicable under the Award and using Determinations that have already been applied to other services by the Ministry of Health. The current remuneration arrangements for your Staff Specialists working for the Hunter Retrieval Service are in breach of the Award and we seek resolution as a matter of urgency.

Please don't hesitate to contact me if you wish to discuss any aspect of this matter. An ASMOF representative is also able to attend the planned meeting if you need further assistance in the just application of the Staff Specialist Award to the Hunter Retrieval Service.

Yours faithfully,



Bob Morgan
Senior Industrial Advisor
ASMOF

30th September 2016