

**THE UNIVERSITY OF NEWCASTLE**

**TEACHERS ENTERPRISE AGREEMENT**

**2010**

This Agreement takes effect from 28 January 2011

[2011] FWAA 426



## DECISION

*Fair Work Act 2009*

s.185 - Application for approval of a single-enterprise agreement

**University of Newcastle**

(AG2010/24364)

### UNIVERSITY OF NEWCASTLE TEACHERS ENTERPRISE AGREEMENT 2010

Educational services

VICE PRESIDENT LAWLER

MELBOURNE, 21 JANUARY 2011

*Application for approval of the University of Newcastle Teachers Enterprise Agreement 2010.*

[1] An application has been made for approval of an enterprise agreement known as the *University of Newcastle Teachers Enterprise Agreement 2010 (Agreement)*. The application was made pursuant to s.185 of the *Fair Work Act 2009 (Act)*. It has been made by the *University of Newcastle*. The Agreement is a single-enterprise agreement.

[2] I am satisfied that each of the requirements of ss.186, 187 and 188 of the Act as are relevant to this application for approval have been met.

[3] The National Tertiary Education Industry Union being a bargaining representative for the Agreement has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s. 201(2) of the Act I note that the Agreement covers this organisation.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 28 January 2011. The nominal expiry date of the Agreement is 30 June 2013.



VICE PRESIDENT

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**PART A: SCOPE OF THE AGREEMENT****1.0 APPLICATION**

1.1 This Agreement will be known as the University of Newcastle Teachers Enterprise Agreement 2010.

1.2 This Agreement is binding upon:

- (i) All staff members employed as Teachers by the University; and
- (ii) The University of Newcastle.

1.3 This Agreement will not apply to any staff member covered by The University of Newcastle Academic Staff Enterprise Agreement 2010 or The University of Newcastle General Staff Enterprise Agreement 2010.

1.4 This Agreement has been negotiated between and applies to:

- (i) The University of Newcastle; and
- (ii) Members of Teaching Staff; and
- (iii) The National Tertiary Education Industry Union (NTEU).

(herein referred to as the "parties").

**2.0 OPERATION OF THE AGREEMENT**

2.1 This Agreement will come into force on and from the date 7 days after the Agreement is approved by Fair Work Australia and will remain in force up to and including 30 June 2013.

[**Note:** This Agreement was approved by Fair Work Australia on 21 January 2011 and accordingly takes effect from 28 January 2011].

2.2 This is a single-enterprise Agreement made under Section 172 (2) of the Fair Work Act 2009.

2.3 This Agreement operates to the exclusion of, and wholly replaces, all relevant awards and agreements which may otherwise, but for this clause, apply to those staff whose employment falls within the scope of this Agreement, except for the National Employment Standards. There will be no further claims in matters related to this Agreement during its nominal term except where permitted by this Agreement.

2.4 Where policies, codes, procedures, guidelines and other administrative arrangements of the University are referred to in this Agreement, the terms thereof are explicitly not incorporated into the Agreement and do not form part of the Agreement. The University will consult with the Teachers Consultative Committee on policy and guideline development that affects the working conditions of staff, and apply policies in a fair and consistent manner.

2.5 The parties to this Agreement will commence negotiations for a replacement Agreement no later than three months before the expiry of this Agreement. This will include discussions on scheduling and resourcing.

**3.0 DEFINITIONS**

In this Agreement the following definitions will apply:

3.1 "**Agreement**" means *The University of Newcastle Teachers Enterprise Agreement 2010*.

3.2 "**Consultation**" means a process in which the University, staff and, where they choose, their representative, have the time and opportunity to exchange information about a matter or issue, provide relevant documents and details, hold discussions to explain their points of view, and genuinely understand the respective views in the decision making process, but does not include the need to reach agreement.

3.3 "**Director**" means the Head of the Organisational Unit.

3.4 "**ELICOS**" means English Language Intensive Course for Overseas Students.

- 3.5 “**Head Teacher**” means a staff member who is responsible for duties in addition to teaching duties that may include: coordination of teaching and/or teaching related activities; supervision; preparation and design of course structure and syllabus; allocation of teaching duties and timetabling; coordination of professional development teacher training; student allocation; counselling students on academic issues; and other associated administrative duties.
- 3.6 “**Program Coordinator**” means a staff member whose duties include managing, supervising and administering a Program or Learning Development.
- 3.7 “**Learning Adviser**” means a Learning Development staff member who provides learning opportunities and strategies for students of the University to assist them in their studies, and who works with Academic staff to create discipline-relevant methods to develop students’ academic skills.
- 3.8 “**Staff member**” means a person employed as a Teacher.
- 3.9 “**Supervisor**” means a person with line management responsibility for a staff member.
- 3.10 “**Teaching Block**” means the combination of a contact teaching period and a non teaching period that may include in-service training.
- 3.11 “**The Conservatorium**” means a school whose role is to train performers and composers for various music careers.
- 3.12 “**The Union**” means The National Tertiary Education Industry Union.
- 3.13 “**The University**” means The University of Newcastle.

#### **4.0 FLEXIBILITY**

- 4.1 The University and a staff member covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement. The terms of this Agreement that may be varied by an individual flexibility arrangement is in relation to:
- (i) Long Service Leave
- 4.2 Any flexibility arrangement agreed to under this clause must:
- (i) be about matters that would be permitted matters if the arrangement were in an Enterprise Agreement; and
- (ii) not include a term that would be an unlawful term if the arrangement were in an Enterprise Agreement.
- 4.3 Any flexibility arrangement must be genuinely agreed to between the staff member and the University.
- 4.4 Any individual flexibility arrangement agreed to between a staff member and the University will result in the staff member being better off overall than the staff member would have been if no individual flexibility arrangement were agreed to.
- 4.5 A flexibility arrangement may be terminated by either the staff member or the University by:
- (i) giving written notice of not more than 28 days; or
- (ii) at any time, if they agree in writing to the termination.
- 4.6 Any individual flexibility arrangement agreed to must:
- (i) be in writing and signed by the staff member and the University; and
- (ii) be signed by the parent or guardian of the staff member if the staff member is under 18;
- (iii) include details of:
- (a) the terms of the Enterprise Agreement that will be varied by the arrangement; and
- (b) how the arrangement will vary the effect of the terms; and

- (c) how the staff member will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
  - (iv) state the day on which the arrangement commences.
- 4.7 A copy of the individual flexibility agreement will be provided to the staff member within 14 days after it is agreed to.

## **5.0 AVAILABILITY OF THE AGREEMENT**

- 5.1 The University will provide staff with access to this Agreement via the University web pages. A hard copy will be made available from Human Resource Services on request.

## **PART B: PERFORMANCE AND CONDUCT**

### **6.0 PERFORMANCE DEVELOPMENT FRAMEWORK**

- 6.1 The University will promote a Performance Development Framework that:
- (i) aligns each staff member's endeavours with operational and strategic objectives;
  - (ii) provides an ongoing opportunity for dialogue, confidential discussions and feedback between staff and their supervisor;
  - (iii) identifies and facilitates individual staff development to maintain skills, enhance their career and promote organisational performance;
  - (iv) promotes resolution of performance concerns;
  - (v) identifies and clarifies roles, duties, goals and objectives; and
  - (vi) recognises and rewards performance.
- 6.2 Accountability for the Performance Development Framework rests with the supervisor who will be required to undertake appropriate training.
- The supervisor, following discussion with the staff member, may delegate Performance Development Framework responsibility to an alternate supervisor.
- 6.3 The supervisor and the staff member have joint responsibility for the mutual development of a Performance and Development Plan, which includes:
- (i) planning and goal setting;
  - (ii) performance feedback; and
  - (iii) review of achievements and the effectiveness of development activities previously undertaken.
- 6.4 Performance and Development Plans will have regard to the staff member's level of appointment, duties, workload, and operational needs, the resources available and equitable access to development opportunities.
- 6.5 Performance feedback will include student feedback on teaching from at least one course per year for which the staff member has had some responsibility for teaching, as agreed with the supervisor. Student feedback on its own cannot be used as a measure of teaching performance.
- 6.6 A mentor may be used to encourage the professional and personal development of the staff member.
- 6.7 The Performance Development Framework operates in association with, but separate to:
- (i) Managing Staff Workload - Clause 8;
  - (ii) Performance Concerns – Clause 10;
  - (iii) Unsatisfactory Performance - Clause 11; and

- (iv) Staff Development - Clause 14.

## **7.0 STAFF SUPERVISION**

- 7.1 Each staff member will have a nominated supervisor. This supervisor will be responsible for providing assistance and direction.
- 7.2 All supervisors will be required to undertake appropriate supervisor training.
- 7.3 The University will consult on supervisor training requirements with the Teachers Consultative Committee.

## **8.0 MANAGING STAFF WORKLOAD**

- 8.1 The objective of this clause is to ensure that workloads are equitable, transparent, and reasonable within the ordinary hours of duty and without risks to health and safety.
- 8.2 The allocation of work will be determined, in consultation with the staff member, by the staff member's supervisor. Workloads will take into consideration the staff member's level of appointment and time fraction and the importance of maintaining an appropriate balance between work and family/community life.
- 8.3 In determining whether work or workloads are reasonable or unreasonable the following must be taken into account:
- (i) any risk to the staff member's health, safety and welfare;
  - (ii) the needs of the University;
  - (iii) the nature of the staff member's role, and their level of responsibility;
  - (iv) the staff member's personal circumstances including any family and/or carer responsibilities; and
  - (v) any other relevant matter.
- 8.4 A staff member who has concerns about their workload should raise the issue with their supervisor in the first instance.
- 8.5 If the staff member's concerns remain unresolved, the issue should be raised with the appropriate Director or equivalent.
- 8.6 If the staff member believes the issue is still not resolved, the matter may be referred by the staff member to the Director, Human Resource Services who will investigate the matter and make a recommendation to resolve the matter.
- 8.7 Broad, systemic workload concerns are to be raised directly with the Director, Human Resource Services or through the Teachers Consultative Committee.
- 8.8 In assessing workload concerns, primary indicators to be considered include:
- (i) the ongoing need to work excessive hours;
  - (ii) excessive overtime;
  - (iii) the inability for staff members to clear accrued leave or TOIL.

## **9.0 PROBATION**

- 9.1 Staff members, other than casual staff members, may be engaged subject to a reasonable probationary period that is directly related to the nature of the work to be carried out and the nature of the employment. Probation does not apply where the staff member already has a continuing appointment or has previously been employed in the same or substantially similar role.
- 9.2 Staff members may be subject to a probationary period of up to 6 months. Probation may be extended for a further period of up to 6 months.

- 9.3 The relevant supervisor is responsible for ongoing and regular assessment of the staff member throughout the probationary period. The assessment of probationary staff will be directly related to their work as defined by the position description, the Classification Descriptors and compliance with University Policies and Code of Conduct.
- 9.4 Probationary staff will be provided with periodic counselling to confirm progress or identify difficulties. Where concerns about performance are identified during probation, the staff member will be notified at the earliest opportunity. The staff member and supervisor will develop strategies for resolution, including relevant staff development.
- 9.5 At least one 1 month prior to the end of the probation period, the relevant Director or equivalent will conduct a formal probation review. The Director will meet with the staff member as part of the review to discuss the staff member's performance and conduct, and identify any significant concerns. The Director will prepare a written probation report and provide a recommendation.
- 9.6 The staff member will be provided with a copy of the probation report. The staff member will have 5 working days from receipt of the report to respond and/or provide additional information in relation to the probation report.
- 9.7 Following receipt of the probation report and the response from the staff member, the Director will forward the report and any response to the Director, Human Resource Services together with a recommendation that:
- (i) the appointment be confirmed;
  - (ii) the probationary period be extended for a nominated period; or
  - (iii) the appointment be terminated.
- The Director, Human Resource Services will review the recommendation and seek further details if necessary.
- 9.8 The staff member will be advised in writing by the Director, Human Resource Services of a decision, and reasons, to confirm appointment or extend the period of probation, or a recommendation that the appointment be terminated.
- 9.9 In the case of a recommendation that the appointment be terminated, the staff member may make a written request to the Director, Human Resource Services that the recommendation be reviewed in accordance with Inquiry Officer - Clause 56. Such a request must be made within 5 working days of written advice of the recommendation being given to the staff member by the Director, Human Resource Services.
- 9.10 The appropriate Deputy Vice-Chancellor will consider the probation report, recommendation, any material submitted by the staff member and any report arising from a review by an Inquiry Officer under Clause 56 and will decide that:
- (i) the appointment be confirmed; or
  - (ii) the probationary period be extended for a nominated period; or
  - (iii) the appointment be terminated with 2 weeks notice or payment in lieu of notice.
- 9.11 The appropriate Deputy Vice-Chancellor will inform the staff member of the decision in writing.

## **10.0 PERFORMANCE CONCERNS**

- 10.1 On identification of concerns about a staff member's performance, the supervisor and staff member will meet to:
- (i) specify and discuss those concerns, taking into account relevant factors;
  - (ii) attempt to resolve the matters of concern through measures such as guidance, counselling, development and work allocation; and
  - (iii) discuss and set the timeframe within which concerns are to be addressed.

**11.0 UNSATISFACTORY PERFORMANCE**

11.1 For the purposes of this clause:

**“Unsatisfactory Performance”** means a persistent and/or serious failure of the staff member to perform work which would be reasonably required having regard to:

- (i) the nature and purpose of the position; and
- (ii) the level of classification.

11.2 Where action has been taken under Performance Concerns – Clause 10, and the supervisor is of the opinion that the performance of the staff member is unsatisfactory, the supervisor will meet with the staff member and discuss:

- (i) the details of the unsatisfactory performance;
- (ii) any mitigating circumstances or alternative views;
- (iii) the improvement required;
- (iv) activities designed to assist in improving performance (where appropriate);
- (v) the time within which reasonable improvement is to be achieved and maintained; and
- (vi) the potential consequences of continued unsatisfactory performance, which may include disciplinary action under Disciplinary Action – Clause 13.

11.3 A written record of the discussion and the measures to address the unsatisfactory performance will be made and a copy supplied to the staff member.

11.4 Where the processes referred to above have not produced the required performance improvement(s), the supervisor will make a report in writing addressing the issues identified in Clause 11.2. The report will also include evidence and a record of the measures taken to remedy the unsatisfactory performance.

11.5 A copy of the report is to be provided to the staff member and the relevant Director. The staff member may choose to:

- (i) respond in writing to the report within 10 working days of receipt of the report; and/or
- (ii) meet with the Director to discuss the response and/or provide any further information.

11.6 The Director, after taking into account the supervisor’s report and any response provided by the staff member, may decide to:

- (i) take no further action;
- (ii) refer the matter back to the supervisor for a further review period; or
- (iii) recommend to the relevant Deputy Vice-Chancellor that disciplinary action be taken in accordance with Disciplinary Action – Clause 13.

The Director will advise the staff member in writing of the decision.

11.7 The staff member may, within 5 working days of being provided with a report which includes a recommendation under Clause 11.6 (iii), request that the matter be referred to a Committee of Inquiry under Clause 57.

11.8 If the matter is referred to the Deputy Vice-Chancellor under Clause 11.6 (iii), the appropriate Deputy Vice-Chancellor will take into account:

- (i) the supervisor’s report and supporting materials;
- (ii) the staff member’s response to the supervisor’s report;
- (iii) the Directors’ recommendation under Clause 11.6 (iii); and, if applicable
- (iv) any findings and recommendations of the Committee of Inquiry under Clause 57.

The appropriate Deputy Vice-Chancellor will make a determination in relation to Disciplinary Action - Clause 13 and advise the staff member in writing of the decision.

11.9 Throughout this process, performance concerns will be dealt with in a timely manner.

## 12.0 MISCONDUCT/SERIOUS MISCONDUCT

12.1 For the purpose of this clause:

12.1.1 “**Misconduct**” means conduct which is not serious misconduct but which is nonetheless conduct which is unsatisfactory;

12.1.2 “**Serious Misconduct**” has its ordinary meaning and includes:

- (i) wilful or deliberate behaviour by a staff member that is inconsistent with the continuation of the contract of employment;
- (ii) conduct that causes serious and imminent risk to:
  - (a) the health or safety of a person; or
  - (b) the reputation, viability or profitability of the University;
- (iii) the staff member, in the course of the staff member’s employment, engaging in:
  - (a) theft; or
  - (b) fraud; or
  - (c) assault;
- (iv) the staff member being intoxicated at work such that the staff member’s faculties are, by reason of the staff member being under the influence of intoxicating liquor or a drug (except a drug administered by, or taken in accordance with the directions of, a person lawfully authorised to administer the drug), so impaired that the staff member is unfit to be entrusted with the staff member’s duties or with any duty that the staff member may be called upon to perform;
- (v) the staff member refusing to carry out a lawful and reasonable instruction that is consistent with the staff member’s contract of employment;
- (vi) serious and/or repeated bullying or harassment, including sexual harassment.

12.2 Where a matter which may involve misconduct or serious misconduct has been dealt with as if it were a case of unsatisfactory performance under Unsatisfactory Performance - Clause 11, it cannot be dealt with under this clause.

12.3 Wherever possible, a staff member’s supervisor will attempt to resolve instances of possible misconduct through guidance, counselling and appropriate staff development or work allocation and/or formal written notification of the University’s expectations.

12.4 Any allegations of misconduct or serious misconduct will be considered by the appropriate Deputy Vice-Chancellor. If the appropriate Deputy Vice-Chancellor believes such allegations warrant further investigation he or she will:

- (i) notify the staff member of the allegations in writing and in sufficient detail to enable the staff member to understand the precise nature of the allegations and to properly consider and respond to them; and require the staff member to submit a written response within 10 working days unless, where required, the matter has been referred to an external body; or
- (ii) where required, refer the matter to an external body with the appropriate jurisdiction to deal with the matter and in such cases, inform the staff member in writing at the time of such referral.

- 12.5 Any time after an allegation of misconduct/serious misconduct has been received by the Deputy Vice-Chancellor, the Deputy Vice-Chancellor may suspend the staff member on full pay, or may suspend the staff member without pay if the Deputy Vice-Chancellor is of the view that the alleged conduct amounts to serious misconduct such that it would be unreasonable to require the University to continue employment during a period of notice. Provided that:
- (i) where the suspension without pay occurs at a time when the staff member is on paid leave of absence, the staff member will continue to receive salary for the period of leave of absence;
  - (ii) the staff member may engage in paid employment or draw on any annual leave or long service leave credits for the duration of the suspension without pay;
  - (iii) the Deputy Vice-Chancellor may at any time direct that salary be paid on the ground of hardship;
  - (iv) any lost salary and other entitlements will be reimbursed if it is ultimately determined that dismissal is not warranted.
- 12.6 During any period of suspension the staff member may be excluded from the University, provided that they shall be permitted reasonable access to the University for the preparation of their case and to collect personal property.
- 12.7 If the allegations are admitted in full by the staff member, or if the staff member has not responded to the allegations, and the appropriate Deputy Vice-Chancellor is of the view that the conduct amounts to misconduct or serious misconduct, the Deputy Vice-Chancellor may decide to take Disciplinary Action – Clause 13, and if so, will advise the staff member in writing of the decision and the operative date of the disciplinary action.
- 12.8 If the allegations are denied in part or in full the appropriate Deputy Vice-Chancellor will refer the matter to a Committee of Inquiry – Clause 57 unless they decide to take no further action, or counsel or censure the staff member for unsatisfactory behaviour and take no other action.
- 12.9 Any Committee of Inquiry report, or findings of an external body in accordance with Clause 12.4 (ii) will be considered by the appropriate Deputy Vice-Chancellor, who will determine:
- (i) there is no misconduct/serious misconduct and take appropriate action; or
  - (ii) to counsel or censure the staff member; or
  - (iii) that misconduct/serious misconduct has occurred and advise the staff member of the disciplinary action to be taken in accordance with Disciplinary Action - Clause 13.

### **13.0 DISCIPLINARY ACTION**

- 13.1 Decisions to discipline a staff member may result from:
- (i) Unsatisfactory Performance - Clause 11; or
  - (ii) Misconduct / Serious Misconduct - Clause 12.
- 13.2 The decision to take disciplinary action is made by the Vice-Chancellor or appropriate Deputy Vice-Chancellor. Disciplinary action means any one or combination of the following:
- (i) counselling; and/or
  - (ii) further training and development; and/or
  - (iii) formal censure; and/or
  - (iv) loss of increment(s); and/or
  - (v) demotion; or
  - (vi) termination alone.
- 13.3 In cases involving misconduct not amounting to serious misconduct, disciplinary action will be limited to the scope of Clause 13.2 (i) – (v).

**PART C: PROFESSIONAL DEVELOPMENT****14.0 STAFF DEVELOPMENT**

14.1 The University will provide opportunities for staff to participate in development activities which will be within the resources available and subject to the approval of the Director. The University also acknowledges the critical importance of career progression to the effective and efficient operation of the University, and for the recognition of its staff. This may be facilitated through Performance Development Framework – Clause 6. Non-teaching periods will generally be available for participation in development activities.

**15.0 INDUCTION**

15.1 The University will have an induction program for new staff and provide access to relevant information and staff support sites.

**16.0 STUDY LEAVE, EXAMINATION LEAVE AND REIMBURSEMENT OF FEES**

16.1 The University may grant study leave and/or examination leave and/or reimbursement of fees for a program of study relevant to the staff member's employment and of benefit to the University.

16.2 Full-time or part-time staff members who are continuing or contingent, or have a fixed term employment contract of at least 12 months, are eligible to apply for study leave and/or examination leave and/or reimbursement of fees.

16.3 Study leave is to be taken during working hours and is for the purpose of enabling the staff member to meet program requirements.

16.4 Study leave and/or examination leave, including travel time associated with attending examinations, when granted, will be accordance with Clause 16.5.

**16.5 Provisions for Study Leave, Examination Leave and Travel Time**

<b>TYPE OF LEAVE</b>	<b>PERIOD OF LEAVE</b>
<b>Study Leave</b>	Up to a maximum of 35 hours per semester or trimester in addition to any period of approved examination leave.
<b>Examination Leave</b>	The actual duration of the examination.
<b>Examination Leave for a Take Home Examination</b>	The actual duration of the examination up to a maximum of 4 hours for each examination.
<b>Pre-examination leave</b>	An amount of time equal to the actual duration of the examination, to be taken during ordinary working hours prior to the examination occurring, in addition to examination leave and travel time.
<b>Travel Time</b>	The time required to travel from a staff member's usual place of work to attend an examination where such travel can only be undertaken during ordinary working hours.

16.6 Study Leave is not intended to enable a staff member to undertake a full-time equivalent program of study.

Study Leave:

- (i) is only available during the operation of the program;
- (ii) will only be granted for one program of study at a time;
- (iii) will generally be granted at the rate of half an hour for every hour face-to-face or equivalent; and
- (iv) is an expendable grant which lapses if not used in the nominated semester or trimester.

- 16.7 A staff member may seek a review of a decision regarding study leave and/or examination leave and/or reimbursement of fees from the appropriate Deputy Vice Chancellor, or nominee.
- 16.8 The University will reimburse fees for eligible staff members undertaking an approved program of study, in line with the relevant University policy on reimbursement of fees.

#### **PART D: MANAGING CHANGE**

##### **17.0 ORGANISATIONAL CHANGE**

- 17.1 Where workplace change is being considered, the University will consult with and provide relevant information to affected staff, including staff on extended periods of leave, in order to work towards mutually acceptable solutions and/or alternatives. Where the workplace change is significant or where staff have concerns regarding the change, consultation will include the Unions.
- 17.2 Should mutually acceptable solutions or alternatives not be achieved and where the University is considering workplace change that is likely to have a significant impact on staff, such as:
- (i) the termination of the employment of staff members; or
  - (ii) major change to the composition, operation or size of the University's workforce or to the skills required of staff members; or
  - (iii) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
  - (iv) the alteration of hours of work; or
  - (v) the need to retrain staff members; or
  - (vi) the need to relocate staff members to another workplace; or
  - (vii) the restructuring of jobs
- the following will apply:
- (a) The management of workplace change will be conducted objectively and transparently according to an appropriate timeframe.
  - (b) The University will give prompt and genuine consideration to matters raised by staff and the Unions in relation to the proposed changes.
  - (c) Options such as attrition, voluntary separation, job redesign, redeployment, training and development, use of leave by agreement, conversion to part-time employment, relocation support, secondment and transfer will be considered, wherever possible, to avert or minimise potential redundancy.
- 17.3 The University will draft a Consultation Paper to facilitate consultation with, and provision of information to, affected staff and the Unions. The Consultation Paper will address:
- (i) an explanation of the University's rationale, process and quantifications that lead to the requirement for change;
  - (ii) means and timeframe for change;
  - (iii) identification of the positions affected and the stakeholders on whom the change will impact;
  - (iv) financial, staffing and training implications; and
  - (v) the measures to be taken to avert or mitigate adverse impact on staff.
- 17.4 The University will meet with affected staff and the Unions to discuss the Consultation Paper.
- 17.5 The Consultation Paper will be placed on the University website and staff and the Unions will be given the opportunity to provide comments, recommendations and submissions.

- 17.6 The University will consider the comments, recommendations and submissions and provide feedback to the staff member(s) and the Union(s).
- 17.7 The Consultative Committee(s), will have an opportunity to comment on the process of consultation that has occurred and the issues raised and make any recommendation(s). These recommendations will be considered and may be reflected in the Proposal referred to in Clause 17.8.
- 17.8 The University will prepare a formal Proposal which includes the details specified in Clause 17.3 above and the outcome of any consultations.
- 17.9 The University will forward the Proposal to affected staff and the Unions. The Proposal will also be published on the University website.
- 17.10 The Proposal and any recommendations will be forwarded to the Vice-Chancellor for consideration and determination.

## **18.0 REDEPLOYMENT AND REDUNDANCY**

### **18.1 Voluntary Separation**

- 18.1.1 Where a position is no longer required the incumbent may become a detached staff member. The detached staff member will be notified in writing as soon as possible.
- 18.1.2 The staff member will have a period of 4 weeks from the date of the notice in Clause 18.1.1 within which to elect to do one of the following:
- (i) accept a separation package to be taken up within a period of 2 weeks comprising:
    - (a) 26 weeks salary; plus
    - (b) 2 weeks' salary for each completed year of service at the University up to a combined maximum of 52 weeks; and
    - (c) a 10% loading on the above combined total; and
    - (d) statutory entitlements; or
  - (ii) seek redeployment and remain as a detached staff member for a period of up to 26 weeks. The date of commencement of the 26 week period is the date of notification of becoming a detached staff member.
- 18.1.3 If the staff member has not taken one of the options outlined in Clause 18.1.2 above they will be deemed to have chosen the option in Clause 18.1.2 (ii).

### **18.2 Redeployment**

- 18.2.1 A staff member who has elected the option in Clause 18.1.2 (ii) will have preference of appointment to suitable alternative positions where vacancies exist or are expected to exist in a reasonable period of time. Preference will include employment and/or training and development for positions at their classification level and within the ambit of their skills and experience.
- 18.2.2 The salary of detached staff will be maintained during the period of redeployment.
- 18.2.3 Wherever possible, the University will endeavour to redeploy staff into a position equal to the staff member's substantive position at the time they were declared detached. Where a staff member accepts redeployment to a lower level position prior to the conclusion of the redeployment period in Clause 18.1.2 (ii), they will receive salary maintenance for a period of 26 weeks from the date of detachment.
- 18.2.4 The University will allocate suitable temporary work to the detached staff member. Wherever possible, the staff member will continue to work at the same work value/classification level during the period of detachment.

- 18.2.5 If a staff member elects to be redeployed in accordance with Clause 18.1.2 (ii), they may, at a later date elect to be made redundant at any time during the 26 week period mentioned in Clause 18.1.2 (ii) above. Should this occur they will receive a payment in accordance with Clause 18.3.1.
- 18.2.6 During the redeployment period of 26 weeks, the staff member will be provided with training and development where additional skills are required, subject to approval by the Director, Human Resource Services, and:
- (i) may take reasonable time to attend job interviews and undertake job search; and/or
  - (ii) may have reasonable time to attend and be provided with financial and personal counselling; and/or
  - (iii) be provided with assistance, wherever practical, by Human Resource Services.
- 18.2.7 Where a staff member has chosen to exercise the right of preference of employment for a particular position in reference to Clause 18.2.1, a Selection Committee will determine the suitability of the applicant for redeployment, to the position on the basis of the selection criteria. The Committee will recommend one of the following options:
- (i) that the position be offered to the staff member (or the preferred applicant where more than 1 detached staff member applies). The Committee may decide the applicant should be given 3 months appropriate training to acquire skills for the position;
  - (ii) redeployment for a trial period of 3 months, with training where the applicant lacks relevant and related experience in a similar work field. The Director will review the redeployment at the end of 3 months and either confirm the appointment (with further training if deemed necessary) or, if either the Director or the staff member considers the trial is unsuccessful, discuss further options for redeployment with the staff member; and/or
  - (iii) that any or all of the applicants for redeployment are not suitable for redeployment to the available position.
- 18.2.8 In relation to Clause 18.2.7 (iii), staff not successful in being redeployed to an available position will have access to the Inquiry Officer procedure - Clause 56.
- 18.3 Redundancy**
- 18.3.1 If separation or successful redeployment has not occurred within the 26 weeks following the notification of becoming a detached staff member, the staff member will become redundant and be provided with a redundancy package which comprises:
- (i) 26 weeks salary; plus
  - (ii) 2 weeks salary for each year of service completed at the University, up to a combined maximum of 52 weeks; and
  - (iii) statutory entitlements.
- 18.3.2 Where reasonable offers of redeployment at the same level, and training and development are refused by a detached staff member, the Director, Human Resource Services will review each case with a view to recommending:
- (i) a further offer of redeployment and/or training and development; or
  - (ii) the immediate provision of a redundancy package as outlined in Clause 18.3.1.
- 18.4 Payments made under this clause will be calculated at the staff member's substantive salary level at the date of separation.

**PART E: SEPARATION FROM EMPLOYMENT****19.0 RESIGNATION AND TERMINATION**

19.1 Termination of employment will occur as provided in this Agreement. The following clauses set out the procedures that may lead to termination of employment:

- (i) Probation – Clause 9;
- (ii) Unsatisfactory Performance - Clause 11;
- (iii) Misconduct / Serious Misconduct - Clause 12;
- (iv) Disciplinary Action - Clause 13;
- (v) Redeployment and Redundancy - Clause 18;
- (vi) Abandonment of Employment – Clause 20;
- (vii) Incapacity - Clause 21.

**19.2 Resignation**

19.2.1 A staff member, other than a casual staff member, who intends to resign from their employment with the University, is required to give sufficient notice so as to complete their existing teaching commitments. The University will not unreasonably refuse a request by a staff member to reduce the period of notice.

19.2.3 Non-Tertiary Music Teachers or casual staff members engaged for 12 weeks or more will give 2 weeks notice of resignation unless a lesser period is mutually agreed with the Director.

**19.3 Termination**

19.3.1 Where the University terminates the employment of a staff member, the staff member will be given notice or payment in lieu of notice as provided in the table below, except where greater notice has been specified in the staff member's contract of employment or other clauses in this Agreement. The University will provide written advice of the notice period.

<b>Staff member's period of continuous service with the University</b>	<b>Period of Notice</b>
Not more than 1 year	At least 1 week
More than 1 year but not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks
More than 5 years	At least 4 weeks

If the staff member is over 45 years old at the time of the notice and has completed at least 2 years of continuous service with the University the staff member will receive an additional 1 week's notice (or payment in lieu).

19.3.2 The employment of a casual staff member may be terminated by the University by the giving of 1 hour's notice, or the minimum period of engagement, whichever is the greater.

19.3.3 Non-Tertiary Music Teachers or casual staff members engaged for 12 weeks or more must be given 2 weeks notice, or payment in lieu of such notice, should the University wish to terminate their employment.

**20.0 ABANDONMENT OF EMPLOYMENT**

20.1 Where a staff member has been absent from duty for a continuous period of 5 working days without advice to their supervisor or the approval of the University, the following will apply:

- (i) The University will make reasonable attempts to contact the staff member (including a registered letter), using their most currently available contact details, requiring the staff member to provide an explanation for the absence.
- (ii) The staff member will be on unauthorised leave without pay for the period of the absence.
- (iii) If there was reasonable cause for the absence, the staff member may apply for an appropriate form of leave to cover the absence.
- (iv) If the staff member does not establish to the satisfaction of the appropriate Deputy Vice-Chancellor that there was a reasonable cause for the absence, and the staff member seeks to resume duty, the matter may be dealt with as possible misconduct under Misconduct/Serious Misconduct – Clause 12.
- (v) If the staff member fails to respond within 10 working days of the date of the registered letter under Clause 20.1 (i) (that is, a minimum of 15 total working days absence), the staff member will be deemed to have abandoned his/her employment. In this case, the staff member will be entitled only to payment up to the last day of attendance for duty or authorised leave.

## **21.0 INCAPACITY**

- 21.1 Where a staff member's capacity to perform their duties is in doubt due to ill health, the University will consider mechanisms such as reasonable adjustment and appropriate use of leave options to support the staff member's return to full duties within a reasonable timeframe. Consideration will be given as to whether the duties may be permanently modified. This process will be undertaken in consultation with the staff member.
- 21.2 Where issues of incapacity cannot reasonably be resolved under Clause 21.1, the University may require the staff member to undergo a medical examination by a medical practitioner chosen by the University at the expense of the University.
- 21.3 The University will provide the staff member with written notice of the medical appointment at least 1 month prior to the date of the appointment. The staff member and the University may agree to a different notice period.
- 21.4 Where, prior to the expiry of the period of notice, the staff member applies to the staff member's superannuation fund for ill-health retirement or temporary disability benefit under the rules of the superannuation fund, the requirement for a medical examination under Clause 21.2 will lapse and subject to Clause 21.5, no further action will be taken under this clause.
- 21.5 Where the superannuation fund decides that the staff member is capable of resuming work and the Vice-Chancellor elects to dispute this decision, the Vice-Chancellor may direct the staff member to attend a medical examination in accordance with Clause 21.2 and then proceed in accordance with the remainder of this clause.
- 21.6 A copy of the medical report made by the medical practitioner required under Clause 21.2 will be made available by the University to the staff member concerned on receipt, or to the staff member's doctor if medical advice is given to that effect.
- 21.7 If the medical report states that the staff member is or will be able to perform the inherent requirements of their substantive position within 6 months of the date of the report (Clause 21.6), action in relation to this clause will cease, subject to the staff member resuming their duties on or before the expiration of that period. The University will consider the medical report and any advice from the staff member's treating doctor in constructing an appropriate return to work plan. If the staff member does not resume duties within the 6 month period, the Vice-Chancellor will consider any further medical report(s) and may:
- (i) notify the staff member of the decision to terminate their employment by reason of ill health; or
  - (ii) extend the period for a further period of no more than 3 months. Should the staff member not resume duty in that period, the Vice-Chancellor may notify the staff member of the decision to terminate their employment by reason of ill-health.

- 21.8 If the medical report states that the staff member is unable to perform the inherent requirements of their substantive position and is unlikely to be able to resume those duties within 6 months of the date of the report referred to in Clause 21.6, the staff member may, within 10 working days of receipt of the medical report, request a review of the medical report.
- 21.9 The review of the medical report will be conducted by an independent medical practitioner with the relevant area of expertise, agreed upon by both the University and the staff member or their representative. If the parties are unable to agree on a suitable medical practitioner, then the University will request the President of the New South Wales branch of the Australian Medical Association to nominate a suitable medical practitioner to carry out the review.
- 21.10 If the review under Clause 21.9 indicates that the staff member is able to resume duty within 6 months from the date of the initial report referred to in Clause 21.6, action will be taken in accordance with Clause 21.7.
- 21.11 If a review of the medical report is not requested by the staff member or if the review confirms a finding of incapacity to resume duty, the Vice-Chancellor may notify the staff member of the decision to terminate their employment by reason of incapacity. The notice of termination due to incapacity, or pay instead of notice, will be 6 months.
- 21.12 In making an assessment as to whether a staff member is unable to perform his or her duties and is unlikely to be able to resume them within a reasonable period, the medical practitioner or panel of medical practitioners appointed pursuant to this clause should, as far as practicable, apply the standards used by the staff member's superannuation scheme, if any, in determining qualification for the payment of a disablement pension or other similar benefit.
- 21.13 The provisions of this clause do not override New South Wales Workers Compensation legislation.

## **PART F: WORKING ENVIRONMENT**

### **22.0 INTELLECTUAL PROPERTY RIGHTS**

- 22.1 Subject to legislative provisions on moral and intellectual property rights, the following principles will apply to the management of intellectual property:
- 22.1.1 The University asserts ownership of intellectual property created by originators in the course of their employment with the University unless specified otherwise.
- 22.1.2 A minimum of 50% of the net income received by the University as a result of exploitation of University intellectual property will be distributed to the originator.
- 22.1.3 The rights and responsibilities of originators and managers of intellectual property are to be properly communicated to staff.
- 22.2 Nothing in this clause prevents a staff member from entering into a commercial agreement with the University.
- 22.3 Disputes regarding intellectual property rights may be referred to the Inquiry Officer – Clause 56.
- 22.4 Nothing in this clause will be construed as excluding the jurisdiction of any external body competent to deal with intellectual property rights.

### **23.0 INTELLECTUAL FREEDOM**

- 23.1 The parties to the Agreement are committed to act in a manner consistent with the protection and promotion of intellectual freedom within the University.
- 23.2 Staff members have the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media.
- 23.3 Staff members providing statements / public comment on behalf of the University may only do so in accordance with the appropriate authorisation / delegation and the University Code of Conduct.
- 23.4 The University will encourage staff to participate in governance of the institution. The University is committed to operating in a transparent manner.

**24.0 EQUITY AND EQUAL EMPLOYMENT OPPORTUNITY**

24.1 The parties to the Agreement are committed to the principles of equal employment opportunity, equity and inclusive practice and will implement initiatives to promote diversity of the workforce.

**25.0 OCCUPATIONAL HEALTH, SAFETY AND WELFARE**

25.1 The University will comply with the Occupational Health and Safety Act 2000 (NSW) and the Occupational Health and Safety Regulation 2001 (NSW) and other associated regulations. In addition, the University will continue to promote Occupational Health and Safety and Welfare and maintain and enhance the University's policy and management framework, including the assignment of responsibilities and training, to improve Occupational Health and Safety and Welfare.

25.2 Concerns regarding occupational health and safety may be resolved by reference to the University's Occupational Health and Safety Committee. Should this avenue fail to resolve the concerns the matter may then be referred to the Dispute Resolution Procedure - Clause 58.

25.3 The University will provide a program, incorporating the principle of reasonable adjustment, to support injured/ill staff members to return to the workplace.

25.4 Nothing in this clause will be construed as excluding the jurisdiction of any external body competent to deal with occupational health and safety matters.

**26.0 DISCRIMINATION, HARASSMENT, BULLYING AND VICTIMISATION**

26.1 The University is committed to preventing and eliminating all forms of unlawful discrimination and harassment.

26.2 The University will comply with its obligations under the Federal and NSW legislation relating to discrimination.

26.3 The University will not tolerate discrimination, harassment, bullying or victimisation. Where there is an allegation relating to this type of behaviour, the University will act promptly to address the matter. This includes eliminating the potential for such behaviour and providing appropriate support.

26.4 In the event of alleged discrimination, harassment, bullying or victimisation, a staff member or their representative may refer the matter to the University's Complaints Procedure or notify a dispute under the Dispute Resolution Procedure - Clause 58.

26.5 Nothing in this clause will be construed as excluding the jurisdiction of any external body competent to deal with alleged discrimination, harassment, bullying and victimisation.

**27.0 STAFF COUNSELLING AND ASSISTANCE**

27.1 The University will provide timely access to a counselling service for staff members and their families through an Employee Assistance Program.

27.2 The University will report annually to the Teachers Consultative Committee on the operation of the Employee Assistance Program.

**PART G: REMUNERATION ARRANGEMENTS****28.0 SALARY**

28.1 This Agreement provides for the following salary increases for all staff covered by this Agreement:

2010	2% from 31 March	2% from 1 October
2011	2% from 1 March	2% from 1 October
2012	2% from 1 March	2% from 1 October
2013	2% from 1 March	2.65% from 30 June

28.2 Salaries, allowances and casual rates will be paid in accordance with Schedule 1 - Rates and Allowances.

**29.0 SALARY PACKAGING**

- 29.1 The University will offer salary packaging. A staff member may choose to take the salary component of their total remuneration as cash salary or select a combination of cash salary and approved benefits to suit their individual needs.
- 29.2 The University will consult with the Teachers Consultative Committee on salary packaging opportunities as they arise.

**30.0 SUPERANNUATION**

- 30.1 The University will maintain the current employer contributions and arrangements for superannuation that are in effect as at the date of lodgment of this Agreement with Fair Work Australia, subject to those arrangements being consistent with the UniSuper Trust Deed and its application.
- 30.2 Contributions for existing staff who are members of UniSuper will continue to be made to UniSuper. Contributions for existing staff who are members of NSW State Superannuation Scheme or NSW State Authorities Superannuation Scheme will continue to be made to NSW State Superannuation Scheme or NSW State Authorities Superannuation Scheme. Contributions for new staff, other than those staff transferring membership in NSW State Superannuation Scheme or NSW State Authorities Superannuation Scheme, will be consistent with the UniSuper Trust Deed and its application.
- 30.3 Should any amendment to the UniSuper Trust Deed make it possible for employer contributions to be varied, the University may allow such flexibility at the staff member's request. Any reduction in the employer superannuation contribution will be paid as salary.

**31.0 OVERTIME**

- 31.1 The University may require a staff member to work reasonable overtime which will be paid in accordance with this clause. Wherever possible, a staff member will be given at least 48 hours notice of any overtime to be worked. A staff member will not be required to work overtime if the staff member informs the University of circumstances which would make the requirement to work overtime unreasonable.
- 31.2 Approval to work overtime must be given by the appropriate Director prior to the commencement of overtime. Staff who choose to work additional hours of their own volition are not entitled to be granted overtime.
- 31.3 Overtime worked outside ordinary or rostered hours of duty as required by the University:
- (i) will be paid for at the rate of 1.5 times the ordinary rate of pay for the first 2 hours and 2 times the ordinary rate of pay thereafter until completion of the overtime work;
  - (ii) between midnight Saturday and midnight Sunday will be paid for at 2 times the ordinary rate of pay;
  - (iii) on a public holiday will be paid at 2.5 times the ordinary rate of pay;
  - (iv) for work on Sundays or public holidays will have a minimum payment of 4 hours at the appropriate overtime rate.
- 31.4 When overtime work is necessary it will be so arranged that:
- (i) staff members have at least 10 consecutive hours off duty between the work of successive days;
  - (ii) if the staff member has not had at least 10 consecutive hours off duty between the completion of overtime and the commencement of ordinary duty, the staff member will not be required to report for duty until at least 10 hours has elapsed since the completion of overtime;

- (iii) if, on the instructions of the University, a staff member resumes or continues work, in terms of 31.4 (ii) above, without having had 10 consecutive hours off duty, they will be paid at overtime rates until released from duty. The staff member will be entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- 31.5 Where a staff member has been instructed to report for duty for pre-arranged overtime on a day which they would not have been required to work and on reporting for duty on that day finds that no overtime is available, the staff member will be paid 3 hours overtime at the overtime rate for that day.
- 31.6 Each day's overtime will stand alone and will be calculated to the nearest quarter of an hour.
- 31.7 Staff members called back for work after leaving the University's premises will be paid for a minimum of 4 hours at the appropriate overtime rate for that period. Each call will stand alone. This clause will not apply in cases where it is customary for a staff member to return to the University's premises to perform pre-arranged overtime or where the overtime is continuous (subject to a reasonable meal break) with the completion or commencement of normal working time.
- 31.8 Where a part-time staff member works more hours per week than their ordinary part-time hours of work per week, but not in excess of the ordinary hours of duty for a full-time staff member in the same classification, the staff member will be paid at the ordinary rate of pay for each additional hour so worked.
- 31.9 Where a Head Teacher is required to perform overtime, the calculation of the payment of overtime will not exceed the maximum salary rate for Teachers under the relevant salary scale in Schedule 1.
- 31.10 Where overtime is worked in accordance with this clause a staff member may request to be granted Time Off In Lieu of Overtime Payment (T.O.I.L.). T.O.I.L.:
- (i) must be agreed by the Director prior to the overtime being worked;
  - (ii) will be taken at a time mutually convenient to the University and the staff member;
  - (iii) is calculated as the equivalent of the full overtime payment in hours as specified in Clause 31.3 which would have been payable as overtime;
  - (iv) can be accrued on a quarterly basis;
  - (v) when not taken within a 3 month period, the University may, with reasonable notice, direct the staff member to take the time off in lieu or the staff member will be paid at the applicable overtime rate; and
  - (vi) can be accumulated by a staff member to a maximum of 35 hours.

### **32.0 RELIEVING ALLOWANCE**

- 32.1 A relieving allowance will be paid to a staff member for relieving in an existing position which is at a higher classification level, where the staff member performs the duties for a period of at least 5 consecutive working days.
- 32.2 The allowance will be an amount equal to the difference between the minimum salary of the higher classified position and the salary that the staff member is receiving in the position they substantively occupy, or a percentage of that amount if partial duties are performed.
- 32.3 The staff member will be paid the relieving allowance rate during periods of personal leave, annual leave and long service leave provided that periods of such leave are reasonable and within the period of relieving.

### **33.0 HIGHER DUTIES ALLOWANCE**

- 33.1 A higher duties allowance may be paid where a staff member is required to perform duties at a higher classification for a fixed period of time or perform tasks related to a specific task or project.
- 33.2 This allowance will be paid where:
- (i) the work value is clearly greater than the substantive level of the staff member; and

- (ii) those duties comprise a significant proportion of the work undertaken by the staff member for a period of at least 5 consecutive working days.
- 33.3 The allowance is to be determined by reference to the relevant descriptors and relevant pay points as well as the substantive salary level of the staff member.
- 33.4 The staff member will be paid the higher duties allowance rate during periods of personal leave, annual leave and long service leave provided that periods of such leave are reasonable and within the period of higher duties.
- 33.5 Higher duties arrangements will be approved by the appropriate delegated officer.
- 34.0 WORK RELATED TRAVEL**
- 34.1 Each staff member will have a primary place of work.
- 34.2 Where a staff member is directed to undertake work away from their primary place of work, including duties performed either within or outside Australia, all duties will be treated as time worked for the purposes of this Agreement including travelling time.
- 34.3 A staff member working away from their primary place of work who is required to travel outside their ordinary hours of work is entitled to be paid at the ordinary hourly rate for the time taken in travelling, or to take time off in lieu on an equivalent basis, by agreement between the staff member and their supervisor.
- 34.4 Where a staff member is required to work away from their primary place of work for all or part of a day, the period of travel time to be counted as work time will be the difference between their usual travelling time from home to their primary place of work and return, and the total amount of time spent travelling that day.
- 34.5 A staff member who travels overseas on a journey in excess of 8 hours will have at least 10 consecutive hours off duty between the end of the journey and the commencement of authorised duties.
- 34.6 Staff directed to travel on official University business will receive travel entitlements as outlined in the University Policy and Procedures.

## **PART H: EMPLOYMENT ARRANGEMENTS**

### **35.0 CATEGORIES OF EMPLOYMENT**

- 35.1 At the time of appointment the University will provide the staff member with an instrument of appointment that stipulates:
- (i) the type of employment, the duties, the primary place of employment, the reporting relationships, the superannuation scheme and the University's contribution level;
  - (ii) the classification level and salary of the staff member on commencement of the employment, and the hours or the fraction of full-time hours to be worked;
  - (iii) for contingent employment, specify the contingency;
  - (iv) for a fixed-term staff member, the period of the employment with a starting and a finishing date;
  - (v) for a casual staff member, the duties required, the number of hours required, the rate of pay; and a statement that any additional duties required during the term will be paid for;
  - (vi) for a staff member on probation, the length and terms of the probation; and
  - (vii) other main conditions of employment, including any right to apply for conversion.
- 35.2 All staff members will be entitled to a written statement of service stating the period of employment and the duties performed.

- 35.3 Staff members will be provided with access to office space; photocopying facilities; a telephone; a location for receiving mail; and appropriate computer facilities including email and internet access.
- 35.4 **Additional Employment**
- 35.4.1 Nothing in this Agreement prevents a staff member from engaging in additional work with the University as a casual staff member for work unrelated to, or identifiably separate from, the staff member's normal duties.
- 35.4.2 Additional employment must not adversely affect the discharge of the staff member's primary duties and responsibilities.
- 35.5 **Full-time and Part-time Employment**
- 35.5.1 Continuing, fixed-term and contingent employment may be on a full-time or a part-time basis.
- 35.5.2 Part-time entitlements are paid on a pro rata basis calculated according to the fraction of full-time hours worked.
- 35.5.3 Where a part-time staff member agrees to vary their contract weekly hours of work in the same or substantially similar position, their existing contract hours will be varied accordingly.
- 35.6 Categories of employment include:
- (i) **'Continuing Employment'** means all employment that is not contingent, fixed-term, or casual employment, and for which there is no set date for the employment to cease.
- (ii) **'Contingent Employment'** means employment provided from identifiable funding external to the University for the life of a specific task or project or for the duration of the funding. Such employment has no fixed end date and the contract is not terminable by the University, other than during a probationary period, or for unsatisfactory performance, or for serious misconduct (in which case the procedures and notice in Probation - Clause 9, Unsatisfactory Performance - Clause 11, Misconduct/Serious Misconduct - Clause 12 apply), or by the occurrence of the contingency.
- (iii) **'Fixed-Term Employment'** means employment for a specified term, for which the instrument of engagement will specify the starting and finishing dates and for which during the term of employment the contract is not terminable by the University, other than during a probationary period, or for unsatisfactory performance, or for serious misconduct (in which case the procedures and notice in Probation - Clause 9, Unsatisfactory Performance - Clause 11, Misconduct/Serious Misconduct - Clause 12 apply); or where the work is no longer required to be undertaken, in which case the fixed term staff member is entitled to payment equivalent to either 6 months salary or the balance of the contract, whichever is the lesser.
- The minimum duration of a fixed term contract for a staff member will usually be 12 months. A staff member may be employed on a fixed term basis for less than 12 months where exceptional circumstances justify this. Generally, fixed term employment will be in 6 month units where possible.
- (iv) **'Casual Employment'** means employment by the hour and paid on an hourly basis that includes a loading of 23% (from 01/01/2011, a loading of 24% and from 01/01/2012, a loading of 25%) in lieu of benefits in this Agreement that are not provided to casual staff. Casual employment may be on an hourly or sessional basis.
- 35.7 The staffing ratios for continuing, contingent, fixed-term and casual employment will be reviewed each March and August using the HECS Census dates as an indicator. The Deputy Vice-Chancellor (Academic and Global Relations) will report by 30 September each year, to the Teachers Consultative Committee, taking into account the need for flexibility generated by peaks and troughs imposed by student intakes, staffing arrangements, operational performance and future needs. The report will include recommendations on the proportion of ongoing to contingent to fixed-term to casual employment.

## 35.8 Contingent and Fixed-term Employment

### 35.8.1 Notice at Expiry of Contingent & Fixed Term Employment

35.8.1.1 The University will provide:

- (i) to a contingent staff member a written notice invoking the contingency and the University's intention to discontinue the position.
- (ii) to a fixed-term staff member a written notice of the expiry of the contract and the University's intention to:
  - (a) continue the position with the same or substantially similar duties on a fixed-term basis;
  - (b) continue the position with the same or substantially similar duties on a continuing basis; or
  - (c) discontinue the position.

35.8.1.2 The notice under 35.8.1.1 will be the greater of:

- (i) any entitlement to notice prescribed in the staff member's contract of employment; or
- (ii) 4 weeks notice.

35.8.1.3 In addition to this notice, a staff member over the age of 45 years at the time of the giving of notice and with not less than 2 years continuous service shall be entitled to an additional week's notice.

35.8.1.4 Where the position is discontinued, the University may make payment in lieu of notice for the whole or part of the notice period.

35.8.1.5 Where, because of circumstances relating to the provision of specific funding to support employment, external to the University and beyond its control, the University is not reasonably able to give the notice required by this clause, it will be sufficient compliance with this clause if the University:

- (i) advises those circumstances to the staff member in writing at the latest time at which the notice would otherwise be required to be given; and
- (ii) gives notice to the staff member at the earliest practicable date thereafter.

### 35.8.2 Offer of Further Employment

Other than in exceptional circumstances, at the time of giving the notice required by Clause 35.8.1.1 (ii), where that decision is to continue the position with the same or substantially similar duties, the incumbent will be offered further employment in the position provided that:

- (i) the incumbent was employed in that position or a substantially similar position through a competitive and open selection process;
- (ii) the incumbent has performed satisfactorily in that position;
- (iii) where the staff member refuses any reasonable offer of further employment there will be no entitlement to severance pay.

### 35.8.3 Right to Apply For Conversion

35.8.3.1 Where further employment is offered under Clause 35.8.2 and the staff member was employed in the same or substantially similar position through a competitive and open selection process and has performed at a satisfactory level, the staff member may apply for conversion to continuing employment on the same salary and classification.

- 35.8.3.2 Staff who have been employed on a contingent or fixed-term contract for 12 months or more may apply for conversion to continuing employment on the same salary and classification where the staff member was employed in the relevant position through a competitive and open selection process and has performed at a satisfactory level.
- 35.8.3.3 The University may refuse conversion on reasonable grounds.
- 35.8.3.4 The University will determine an application for conversion either by offering conversion to continuing appointment or by rejecting the application, and will provide a written response, including reasons, to the staff member.
- 35.8.3.5 A staff member must not be engaged and re-engaged nor have their hours reduced in order to avoid any obligation under this clause.

#### 35.8.4 **Severance Pay**

Where the staff member seeks to continue the employment, severance pay is payable on the following basis:

- 35.8.4.1 On termination of a contingent contract of employment; or
- 35.8.4.2 On termination of a fixed term contract of employment where:
- (i) the staff member is employed on a second or subsequent fixed term contract and the same or substantially similar duties are no longer required by the University; or
  - (ii) the staff member is employed on a fixed term contract and the duties performed continue to be required but another person has been appointed, or is to be appointed, to carry out the same or substantially similar duties.
- 35.8.4.3 Severance payments will be calculated on the average number of weekly hours worked for the duration of the contingent, or fixed-term employment.
- 35.8.4.4 The following severance arrangements apply to staff members employed on a fixed-term basis and staff members employed on a contingent basis for 10 years or less.

<b>Length of continuous service</b>	<b>Severance Pay</b>
Less than 1 year	Nil
More than 1 year but less than 2 years	4 weeks
More than 2 years but less than 3 years	6 weeks
More than 3 years but less than 4 years	7 weeks
More than 4 years but less than 5 years	8 weeks
More than 5 years but less than 6 years	10 weeks
More than 6 years but less than 7 years	11 weeks
More than 7 years but less than 8 years	13 weeks
More than 8 years but less than 9 years	14 weeks
More than 9 years but less than 10 years	16 weeks
10 years and more	12 weeks

- 35.8.4.5 Where a staff member is employed on a contingent employment contract for a period in excess of 10 years, a severance payment based on 2 weeks for every year of continuous service will apply instead of the severance payment set out in Clause 35.8.4.4, up to a maximum of 52 weeks.

#### 35.8.5 **Deferral of Severance Payment**

Where the University advises a staff member in writing that further employment may be offered within 6 weeks of the expiry of a period of contingent or fixed-term employment, the University may defer payment of severance benefits for a maximum period of 6 weeks from the expiry of the period of fixed-term or contingent employment. Where an offer of employment is made within this period, no severance payment will be made.

### 35.8.6 Breaks in Service

35.8.6.1 For the purpose of this Agreement and for the purpose of determining which provisions under this Agreement apply to contingent and fixed-term staff members, breaks between contingent or fixed-term appointments of up to 2 months will not constitute a break in continuous service. A break between contingent or fixed-term contracts, where the second or subsequent contingent or fixed-term contract is for the same position, will not constitute a break in service if that break covers the summer period between main semesters. The lengths of and breaks between contingent or fixed-term contracts will not be structured to avoid obligations with regard to severance payments.

35.8.6.2 Periods of approved unpaid leave will not count for service, but will not constitute breaks in service for the purposes of this clause.

### 35.9 Casual Employment

35.9.1 Casual staff members will be paid according to the duties undertaken. Casual rates are described in Schedule 1 - Rates and Allowances. These rates include from the date of signing this Agreement a 23% loading, from 1/01/2011 a 24% loading, and from 1/01/2012 a 25% loading.

35.9.2 The University will pay casual staff members within 22 days from submitting a completed valid claim for payment to the appropriate representative as identified by the University to the staff member.

#### 35.9.3 Review of casual employment

The review nominated in Clause 35.7 will include a review of casual staff. The report of the Deputy Vice-Chancellor (Academic and Global Relations) will include recommendations on the utilisation of casual and/or sessional employment.

35.9.4 Casual staff may apply for conversion to continuing, contingent or fixed-term employment where the staff member has been employed on a regular and systematic basis for either:

- (i) at least an average of 50% of the ordinary weekly hours that would have been worked by a full-time employee during the preceding 12 month period; or
- (ii) over the immediately preceding period of at least 24 months.

35.9.5 The University may refuse conversion on reasonable grounds.

35.9.6 The University will determine an application for conversion either by offering conversion to a continuing, contingent or fixed-term appointment or by rejecting the application, and will provide a written response, with reasons, to the staff member. An offer of conversion will indicate the hours and pattern of work, which will be consistent with the staff member's casual engagement.

35.9.7 A staff member must not be engaged and re-engaged nor have their hours reduced in order to avoid any obligation under this clause.

### 36.0 ABORIGINAL AND TORRES STRAIT ISLANDER EMPLOYMENT

36.1 The University acknowledges that Aboriginal and Torres Strait Islander people are two distinct racial groups within the term "Indigenous Australians". For the purposes of this clause, "Aboriginal and Torres Strait Islander" or "Indigenous" person means any person who is of Aboriginal and/or Torres Strait Islander descent who is recognised and accepted as such by other Aboriginal or Torres Strait Islander peoples and who identifies as an Aboriginal and/or Torres Strait Islander.

36.2 The University will establish and maintain a workplace environment that values Aboriginal and Torres Strait Islander peoples' cultures, aspirations and contributions. This is expressed, in part, in the University's Strategic Plan and Equity Plan.

- 36.3 The University will continue to implement, fund, and comply with its Indigenous Employment Strategy, in partnership with Aboriginal and Torres Strait Islander stakeholders, including, but not limited to, the Wollotuka Institute and BATSJET. Under the Indigenous Employment Strategy, the University will improve representation, retention, and career development of Aboriginal and Torres Strait Islander staff, with the following objectives:
- (i) ensure significant Aboriginal and Torres Strait Islander representation in employment throughout the University, and across classification levels and within all areas of the University;
  - (ii) increase the number of identified positions for Aboriginal and Torres Strait Islander peoples across classification levels and areas of the University;
  - (iii) increase opportunities for further study, training and career development for Aboriginal and Torres Strait Islander staff, including Aboriginal and Torres Strait Islander fellowships and scholarships, and provide adequate time release to enable this to occur;
  - (iv) promote self-determination by Aboriginal and Torres Strait Islander staff in respect of career choices and opportunities;
  - (v) establish employment and training opportunities within the University for Aboriginal and Torres Strait Islander students or graduates of the University, including Aboriginal and Torres Strait Islander cadetships;
  - (vi) recognise the uniqueness of Aboriginal and Torres Strait Islander knowledge and research methodologies;
  - (vii) identify and recognise workload implications that arise for Aboriginal and Torres Strait Islander staff in adhering to community and cultural protocols; and
  - (viii) encourage and facilitate networking for Aboriginal and Torres Strait Islander staff.
- 36.4 The University and its staff will respect the diverse cultural, social and religious systems practiced by Aboriginal and Torres Strait Islander peoples. The University recognises, acknowledges and will actively promote Aboriginal and Torres Strait Islander knowledge, language and scholarship in collaboration with Aboriginal and Torres Strait Islander stakeholders.
- 36.5 The University will provide, and encourage staff to participate in, Indigenous Cultural Competency training/Indigenous Studies training with a priority for those with supervisory and/or teaching and learning responsibilities.
- 36.6 The University will ensure that staff are supported by University policies and procedures aimed at eliminating racism and discrimination in the workplace. The University's employment policies and procedures will recognise and promote knowledge of, and commitment to, Aboriginal and Torres Strait Islander peoples and cultures. Areas such as workload, staff development, promotion and reclassification will recognise Aboriginal and Torres Strait Islander values and academic achievements.
- 36.7 To facilitate the implementation of this clause, the University will appoint an Indigenous Employment Coordinator as an identified Aboriginal and Torres Strait Islander position.
- 36.8 **Selection and Recruitment**
- 36.8.1 Where applicants for positions identify themselves, in their applications, as an Aboriginal and/or Torres Strait Islander, the Selection Committee will have appropriate Aboriginal or Torres Strait Islander representation.
- 36.8.2 Prior to the expiration of an Aboriginal and/or Torres Strait Islander cadetship, traineeship or apprenticeship, the University, in consultation with the staff member, will explore further opportunities with preference of employment.
- 36.8.3 Indigenous staff on fixed-term contracts will be supported in seeking alternative employment opportunities within the University prior to the expiry of their contract.

### 36.9 Indigenous Australian Leave

In order to fulfil unique Indigenous cultural responsibilities, the University supports Aboriginal or Torres Strait Islander staff by providing access to a pool of 5 days paid Indigenous Australian Leave annually (in addition to the personal leave provisions), for the purposes of:

- (i) bereavement leave;
- (ii) participation in National Aboriginal and Islander Day celebrations; and
- (iii) participation in and fulfilment of ceremonial obligations, attendance at community organisation business or other relevant cultural events.

### 36.10 Indigenous Australian Language Allowance

In recognition of the importance of Indigenous Languages, a staff member who is required to use Indigenous Language in the course of their employment and is proficient in the language will be paid an allowance of:

#### 36.10.1 Level 1 - \$1400.00 per annum

Level 1 is an elementary level. This level of proficiency is appropriate for staff members who are capable of using a minimal knowledge of language for the purpose of simple communication;

#### 36.10.2 Level 2 – \$2800.00 per annum

Level 2 represents a level of ability for the ordinary purposes of general business, conversation, reading and writing.

36.11 The level of proficiency and the approval for payment of this allowance will be determined by the Executive Team of the Wollotuka Institute.

## 37.0 HOURS OF WORK

37.1 Ordinary hours of work for teachers will be 35 hours per week. These hours will be worked within the following span of hours:

- (i) International Foundation and Newstep - 8.00 a.m. to 9.00 p.m. Monday to Friday; and
- (ii) ELICOS and Learning Support - 9:00 a.m. to 6:00 p.m. Monday to Friday.

37.2 The span of hours may be varied by agreement between individual employees and their Director, or after consultation with the Teachers Consultative Committee, by agreement with the majority of staff members and their Director.

## 38.0 DUTIES AND CONTACT HOURS

38.1 Each position should have a position description developed within the context of the work unit, to clearly describe the position's purpose, key functions and relationships, duties, responsibilities, activities and skills required.

### 38.2 ELICOS Duties

38.2.1 Contact hours includes teaching or supervision of students in scheduled: classes; lectures; individual or group tutorials and/or consultations; self access groups; examinations; excursions; study tours; or other teaching activities, including flexibly delivered programs.

38.2.2 Other duties may be considered as contact hours on agreement of the Director and the staff member including but not limited to: preparation of course and learning materials; communication with students and marking of assessment tasks arising from flexibly delivered programs; coordination of courses; Computer Assisted Language Learning; International English Language Testing System; exchange programs; or student activities and publications; consultation with academic staff; and meetings.

38.2.3 Duties associated with teaching includes time spent consulting with students on an unscheduled basis, marking, course preparation and administration, attending meetings, curriculum development, developing assessment programs and professional development.

### 38.3 **ELICOS Contact Hours**

38.3.1 Full-time staff will be required to work up to 820 contact hours per year normally at 20 contact hours per week, with a maximum of 22 contact hours in any week.

38.3.2 The contact hours will be spread over 9, 5-week teaching blocks per annum.

38.3.3 The span of contact hours will not be greater than 7 hours in any one day unless there is mutual agreement between the Director and the staff member.

38.3.4 A Head Teacher will teach a maximum of 10 contact hours each week of each teaching block.

38.3.5 Staff members will not be required to teach more than 5 contact hours per day.

### 38.4 **International Foundation and Newstep Duties**

38.4.1 Contact hours includes teaching or supervision of students in scheduled: classes; lectures; individual or group tutorials and/or consultations; self access groups; examinations; excursions; study tours; or other teaching activities, including flexibly delivered programs.

38.4.2 Other duties may be considered as contact hours on agreement of the Director and the staff member including but not limited to: preparation of course and learning materials; communication with students and marking of assessment tasks arising from flexibly delivered programs; coordination of courses; Computer Assisted Language Learning; International English Language Testing System; exchange programs; or student activities and publications; consultation with academic staff; and meetings.

38.4.3 Duties associated with teaching includes time spent consulting with students on an unscheduled basis, marking, course preparation and administration, attending meetings, curriculum development, developing assessment programs and professional development.

### 38.5 **International Foundation and Newstep Contact Hours**

38.5.1 Full-time staff will be required to work up to 700 contact hours per year, normally at 20 contact hours per week, with a maximum of 24 contact hours in any week.

38.5.2 The contact hours will be spread over 3 teaching blocks per annum totalling 46 weeks and will include 5 weeks for examination supervision and 3 weeks professional/curriculum development.

38.5.3 Staff will be required to participate in ancillary teaching duties as required, for a period of up to one week preceding each teaching block. Such duties will include necessary curriculum development, faculty liaison and course integration.

38.5.4 The span of contact hours will not be greater than 8 hours in any day unless there is mutual agreement between the Director and the staff member.

38.5.5 A Head Teacher will teach a maximum of 15 contact hours each week of each teaching block.

38.5.6 Staff members will not be required to teach more than 6 contact hours per day.

### 38.6 **Learning Development Duties**

38.6.1 Contact hours include teaching or supervision of students in scheduled: Faculty specific or generic workshops; individual or group tutorials; individual consultations; or other teaching activities, including flexibly delivered programs.

38.6.2 Other duties may be considered as contact hours on agreement of the Director and the staff member including but not limited to: communication with students and assessment of tasks arising from flexibly delivered programs; coordination of courses; English Language testing and assessment; consultation with academic staff; and meetings.

38.6.3 Duties associated with teaching includes time spent consulting with students on an unscheduled basis, course preparation and administration, attending meetings, curriculum development, developing workshop materials and professional development.

### 38.7 Learning Development Contact Hours

38.7.1 Full-time staff will be required to work up to 820 contact hours per year normally at 18 contact hours per week, with a maximum of 20 contact hours in any week.

38.7.2 The contact hours will be spread over a period of 46 weeks per year.

38.7.3 The span of contact hours will not be greater than 7 hours in any one day unless there is mutual agreement between the Director and the staff member.

38.7.4 A Head Teacher will teach a maximum of 10 contact hours each week of each teaching block.

38.7.5 Staff members will not be required to teach more than 5 contact hours per day.

### 38.8 Non-Tertiary Music Teachers Duties

Descriptors for Non-Tertiary Music Teachers are set out in Schedule 2 to this Agreement.

38.8.1 Tuition includes one on one or class instrumental or vocal tuition, or classroom tuition in early childhood music or musicianship, or the tuition of an ensemble group and includes up to one hour of duties associated with tuition for each hour of face-to-face tuition.

38.8.2 Duties associated with tuition includes time spent consulting with students or parents, lesson preparation, marking or student performance assessment, administration, attending meetings and the supervision of excursions or study tours.

38.8.3 Other duties includes supervision of student excursions or study tours, including orchestral, band or other ensemble tours, or student performances approved by the University, meetings called by the Conservatorium or the University, or any administration, preparation, student consultation, marking or performance assessment required to be performed in addition to the one hour of duties associated with tuition.

### 39.0 MEAL BREAKS

39.1 An unpaid meal break of not less than thirty minutes and not more than one hour will be allowed for each meal, provided that where staff members are called upon to work any portion of their meal hours such time will count as part of their ordinary working hours. A staff member will not be required to work more than 5 hours without a meal break.

### 40.0 CLASS SIZES

40.1 Other than for lectures, no ELICOS staff member will be required to teach a class size in excess of National ELT Accreditation Scheme (NEAS) guidelines.

40.2 Other than for lectures or exceptional circumstances, no Learning Development, International Foundation or Newstep staff member will be required to teach a class size in excess of 25 students.

### 41.0 QUALIFICATIONS AND RECOGNITION OF SERVICE

#### 41.1 Non-Tertiary Music Teacher Qualifications

A Non-Tertiary Music Teacher will have a degree or diploma from a recognised tertiary institution and/or have equivalent qualifications and/or professional experience.

#### 41.2 Teachers, Other Than Non-Tertiary Music Teachers, Qualifications

41.2.1 "3 year trained teacher" means a teacher with a 3 year teaching qualification or equivalent.

41.2.2 "4 year trained teacher" means:

- (i) a teacher with a 4 year degree that includes at least one year of full-time study of education; or

- (ii) a 3 year degree plus a one year full-time education degree or diploma or such qualification deemed to be equivalent.

41.2.3 "5 year trained teacher" means a 4 year trained teacher who has, in addition, a one year full-time qualification in a relevant discipline.

41.3 Staff will commence and progress through salary steps as follows:

41.3.1 ELICOS and Learning Support Program

- (i) A 3 year trained teacher without prior service will commence on Step 1 of the scale;
- (ii) A 4 year trained teacher without prior service will commence on Step 2 of the scale; and
- (iii) A 5 year trained teacher without prior service will commence on Step 3 of the scale.

41.3.2 International Foundation and Newstep

- (i) A 4 year trained teacher without prior service will commence on Step 1 of the scale.
- (ii) A 5 year trained teacher without prior service will commence on Step 2 of the scale.

41.3.3 Fixed term, contingent and continuing staff will progress incrementally through their pay scale on an annual basis, subject to satisfactory performance.

#### 41.4 Recognition of Prior Service

The University will recognise teaching service, either continuing, fixed term, contingent or casual, at a recognised institution in a field directly related to teaching, on the basis of 1 increment for each year of service, in any of the following recognised institutions:

- (i) ELICOS Institutions and institutions which teach English as a foreign or second language;
- (ii) universities, colleges and tertiary education institutions;
- (iii) primary or secondary schools; or
- (iv) International Foundation Studies institutions.

### **PART I: FLEXIBLE WORKING ARRANGEMENTS**

#### **42.0 FLEXIBLE WORKING ARRANGEMENTS FOR CARERS**

42.1 The right of staff members to request flexible working arrangements to care for children in certain circumstances is prescribed in the National Employment Standards under the Fair Work Act 2009. The remainder of this clause summarises the statutory provisions.

42.2 A staff member who is a parent, or has responsibility for the care of a child may request that the University agree to a change in working arrangements (e.g. changes in hours of work, patterns of work or location of work) to assist the staff member to care for a child if the child is:

- (i) under school age; or
- (ii) under 18 and has a disability.

42.3 The staff member is not entitled to make the request unless:

- (i) staff members other than casuals - the staff member has completed at least 12 months continuous service with the University immediately before making the request; or
- (ii) staff members who are casuals – the staff member:
  - (a) is a long term casual staff member of the University immediately before making the request; and

- (b) has a reasonable expectation of continuing employment with the University on a regular and systematic basis.

- 42.4 A request must be in writing and set out details of the change sought and the reasons for the change.
- 42.5 The University must give the staff member a written response to the request within 21 days, stating whether the University grants or refuses the request. The University may refuse the request only on reasonable business grounds.
- 42.6 If the University refuses the request, the response must include details of the reasons for the refusal.

## **PART J: LEAVE AND HOLIDAYS**

### **43.0 ANNUAL LEAVE**

- 43.1 A staff member, other than a casual, accrues annual leave on a daily basis at the rate of 20 working days per annum (full-time rate).
- 43.2 Approval of annual leave, not exceeding accruals, will be by agreement between the staff member and the University.
- 43.3 **Payment of Annual Leave**
  - 43.3.1 Whilst on annual leave, at the ordinary rate of pay that would have been paid had the staff member not been on leave, excluding any ordinary overtime or penalty rate that would have applied.
  - 43.3.2 On termination accrued annual leave will be paid at the ordinary rate of pay at the date of termination.
  - 43.3.3 In the event of death, payment of accrued annual leave owed to the staff member at the date of death will be paid to the staff member's estate.

### **43.4 Impact of Other Leave**

- 43.4.1 Any period of leave without pay greater than 5 working days within a 12 month period, to be calculated from a staff member's anniversary of employment with the University, will not count as service for the purpose of calculating annual leave.
- 43.4.2 Annual leave accrued whilst a staff member is on any period of leave on reduced pay will accrue at a proportionate rate calculated in accordance with the fraction that the reduced pay bears to the staff member's ordinary working hours.
- 43.4.3 Where a staff member on a period of approved annual leave becomes eligible for personal leave because of illness, injury or incapacity, for a period of 1 week or more and produces a satisfactory medical certificate, they will have an equivalent period of annual leave re-credited. This provision does not apply to a staff member on annual leave immediately prior to retirement or resignation.

### **43.5 Direction to Take Leave**

The University may direct a staff member to take, at such time as is convenient to the working of the University, annual leave for which the staff member is eligible, but as far as practicable the wishes of the staff member concerned will be taken into consideration when fixing the time for the taking of annual leave.

### **43.6 Accrual of Annual Leave**

If a staff member does not avail themselves of the full amount of annual leave accrued to them each year, the University may allow the annual leave to accumulate up to a maximum of 40 days entitlement. Once a staff member's annual leave balance reaches 40 days the staff member must take 10 days annual leave within 1 month of notification by the University.

**43.7 Annual Leave Loading**

- 43.7.1 Staff members, other than casuals, will be paid an annual leave loading at 17.5% of the ordinary pay multiplied by 4 weeks.
- 43.7.2 Annual leave loading will be paid each December at the ordinary rate of pay on the date of payment and is subject to retrospective adjustments where a retrospective pay increase is awarded after this date.
- 43.7.3 Where a staff member commences after 1 December in any year annual leave loading will be paid on a pro rata basis calculated on the completed months of service.
- 43.7.4 Annual leave loading is payable on termination as follows:
- (i) On termination for any reason, payment is to be calculated on a pro rata basis at the ordinary rate of pay, as at the date of termination.
  - (ii) In the event of the death of a staff member, payment is to be calculated on a pro rata basis and at the ordinary rate of pay, as at the date of death. Payment will be made to the staff member's estate.

**44.0 LONG SERVICE LEAVE**

44.1 The provisions in relation to the accrual and payment of long service leave entitlements for staff are as follows:

	<b>Staff members, other than casual staff members</b>	<b>Casual staff members</b>
<p>44.1.1 <b>A staff member will have an entitlement to long service leave as follows:</b></p> <p>(i) At the completion of 10 years service (whether continuous or broken);</p> <p>(ii) After 10 years service, but less than 15 years service (whether continuous or broken); and</p> <p>(iii) After 15 years of service (whether continuous or broken).</p>	<p>3 months leave on ordinary pay.</p> <p>In addition to 44.1.1 (i), an additional accrual of 9 calendar days per year of service.</p> <p>In addition to 44.1.1 (ii), an additional accrual of 15 calendar days per year of service.</p>	<p>2 months leave on ordinary pay.</p> <p>In addition to 44.1.1 (i), an additional accrual of 6 calendar days per year of service.</p> <p>In addition to 44.1.1 (ii), an additional accrual of 6 calendar days per year of service.</p>
<p>44.1.2 <b>A staff member will be eligible for paid long service leave as follows:</b></p> <p>(i) After 10 years service (whether continuous or broken);</p> <p>(ii) Where service with the University is less than 10 years, but greater than 5 years (whether continuous or broken);</p> <p>(iii) Where service with the University is less than 5 years; or</p> <p>(iv) In lieu of leave.</p>	<p>Whilst on approved long service leave or on termination for any reason, including death.</p> <p>On a pro rata basis on termination, where terminated by the University for any reason other than the staff member's serious and wilful misconduct, or by the staff member on account of illness, incapacity or domestic or other pressing necessity, or by reason of the death of the staff member.</p> <p>NIL</p> <p>Not applicable</p>	<p>Whilst on approved long service leave or on termination for any reason including death or as payment in lieu of leave.</p> <p>In accordance with the <i>Long Service Leave Act (NSW) 1955</i>.</p> <p>NIL</p> <p>Entitled to take payment in lieu of leave.</p>

	Staff members, other than casual staff members	Casual staff members
<b>44.1.3 Long service leave will be paid as follows:</b>		
(i) Whilst on leave;	At the rate of pay that would have been paid had the staff member not been on leave, excluding any ordinary overtime or penalty rate that would be applied.	At ordinary rate of pay of the staff member at the date of taking long service leave or at the average ordinary rate of pay earned by the staff member in the preceding 5 year period, whichever is the greater.
(ii) On termination;	At the staff member's ordinary rate of pay as at the date of termination.	At the ordinary rate of pay of the staff member at the date of termination or at the average ordinary rate of pay earned by the staff member in the preceding 5 year period, whichever is the greater.
(iii) On death;	To the staff member's estate.	To the staff member's estate.
(iv) As payment in lieu; or	Not applicable	At the ordinary rate of pay of the staff member at the date of the payment in lieu or at the average ordinary rate of pay earned by the staff member in the preceding 5 year period, whichever is the greater.
(v) For a staff member with at least 10 years service, who has worked a mix of ordinary hours of work during their employment with the University and who has an accumulation less than that prescribed in 44.1.1 (i).	The staff member may elect to take either a reduced period of leave at their ordinary rate of pay or the full period of leave, in which case the staff member will be paid their ordinary rate of pay as at the date of taking long service leave or the average ordinary remuneration earned by the staff member in the preceding 5 year period, whichever is the greater.	

#### 44.2 Impact of Leave Without Pay

For the purpose of determining a staff member's long service leave entitlement, leave without pay will affect the accrual of long service leave as follows:

- (i) For staff members with less than 10 years service, any period of leave without pay greater than 5 days in any 12 month period, will generally not count as service;
- (ii) For staff members with 10 years or more service, any period of leave without pay of 6 months or less will count as service;
- (iii) Where an employer other than the University pays to the University an appropriate amount to cover the staff member's accrual of long service leave during the period of leave without pay, the period of leave without pay will count as service.

#### 44.3 Impact of Personal Leave

Where a staff member on approved long service leave becomes eligible for personal leave for a period of 5 working days or more, the staff member will have an equivalent period of long service leave recredited, subject to providing satisfactory evidence to support the claim for personal leave.

#### 44.4 Impact of Other Leave

All paid leave will count as service for the purpose of calculating a staff member's long service leave entitlement. Long service leave accrued whilst a staff member is on any period of leave on reduced pay will accrue at a proportionate rate calculated in accordance with the fraction that the reduced pay bears to the staff member's ordinary working hours.

#### 44.5 Leave Plans

44.5.1 The parties to this Agreement actively support the utilisation of long service leave in accordance with this clause so as to:

- (i) promote the health and welfare of members of staff; and
- (ii) allow effective management of leave liabilities.

44.5.2 A leave plan is to be developed and agreed upon between a staff member and their supervisor. In developing the plan, a staff member is entitled to take long service leave at the time of his or her choosing, except where there are compelling operational reasons not to grant the leave at the requested time. The leave plan is to achieve the following:

- (i) the maximum accrual held by a staff member at any time will generally be 3 months of long service leave.
- (ii) flexibility for staff to accrue additional leave up to a maximum of 5 years worth of annual accrual (excluding the 3 months referred to in Clause 44.5.2 (i)) where the plan commits to an extended absence on long service leave, subject to the following provisions;
- (iii) staff members who are eligible to take long service leave and already have a 3 month long service leave accrual, will generally utilise their further annual accrual within the year it accrues with the exception of the initial entitlement after 10 years service.
- (iv) in recognition of existing excessive accruals leave plans will aim to achieve a reduction of accruals each year, in accordance with the following schedule:
  - (a) A maximum of 4 and a half months long service leave accrual by year end 2013; and
  - (b) A maximum of 3 months long service leave accrual by year end 2016.

44.5.3 Staff on substantial periods of long service leave will have their positions backfilled unless suitable alternative arrangements are made to address workload.

44.5.4 Should a dispute arise in connection with a long service leave plan, the staff member may seek a review in accordance with Inquiry Officer – Clause 56.

#### 44.6 Direction to Take Leave

44.6.1 Where a staff member does not have an agreed leave plan, as per Clause 44.5, and their long service leave accrual is in excess of 6 months, the University may give the staff member written notice to take up to 3 months of long service leave, at a time convenient to the needs of the University, provided that:

- (i) the University will give the staff member at least 6 months written notice of the date from which leave must commence;
- (ii) the staff member will not be required to take long service leave within 12 months of the notified date of retirement of the staff member;

- (iii) the minimum period of leave the University can require a staff member to take will be 6 weeks; and
- (iv) the University will not require the staff member to take a further period of long service leave for a period of 2 years after the end of that period of leave.

44.6.2 Where a staff member and supervisor develop an agreed leave plan, as per Clause 44.5, within 2 weeks of the staff member's written notice to take leave, a direction under Clause 44.6.1 to take long service leave will lapse.

44.6.3 Where a staff member is directed to take long service leave, the University will backfill their position by temporary replacement, unless suitable alternative arrangements are made.

#### 44.7 **Leave on Half Pay**

A staff member may choose to take long service leave at half pay, which will reduce the accrued long service leave entitlement by half the period of long service leave taken.

#### 44.8 **Leave on Double Pay**

A staff member may choose to take long service leave at double pay, which will reduce the accrued long service leave entitlement by double the period of long service leave taken.

#### 44.9 **Break in Service with the University**

For all staff members, including casual staff, a break in service will not interrupt continuity of service, but will not count as service for the purpose of determining the staff member's long service leave entitlement, where the break in service is of 2 months or less, for any reason or for a longer period where the break has been made by the University for reason of slackness of trade.

#### 44.10 **Prior Service**

44.10.1 Full-time and part-time continuous service by a staff member with any institute of higher education in Australia, as defined in Schedule 1 of the Higher Education Act (NSW) 2001, will count for determining the staff member's long service leave accrual with the University, allowing for long service leave taken or paid out by the previous institute of higher education

44.10.2 A break in service of 2 months or less between the cessation of employment with the previous institute of higher education and the commencement of employment with the University, will not interrupt continuity of service but will not count as service. A break in service of more than 2 months will break continuity of service and will not count as service.

#### 44.11 **Long Service Leave Act**

The provisions of the Long Service Leave Act (NSW) 1955, as amended, will apply to those matters not covered by the provisions of this clause.

### 45.0 **PERSONAL LEAVE**

#### 45.1 **Personal Leave Entitlement**

45.1.1 A staff member, other than a casual staff member, is entitled to take up to 25 days paid personal leave in a 12 month period in the event of the following:

- (i) sickness, which is illness, injury or incapacity;
- (ii) caring for a family member/member of the household suffering from an illness, injury or incapacity;
- (iii) compassionate needs;
- (iv) bereavement;
- (v) unforeseen emergency;
- (vi) moving residence; or
- (vii) attending significant cultural events of relevance to the staff member.

- 45.1.2 A staff member, other than a casual staff member, is entitled, as part of personal leave, to accrue 15 days sick leave per year of service less the number of sick leave days taken.
- 45.1.3 Staff members, other than casual staff members, who exhaust their 25 days personal leave entitlement in a 12 month period, may access their accrued sick leave entitlement for any period of sick leave occurring within the same 12 month period.
- 45.1.4 A casual staff member is entitled to not be available to attend work or to leave work for up to 2 days per occasion for personal leave related matters. A casual staff member is not entitled to any payment for the period of non-attendance owing to such an absence.
- 45.1.5 Personal leave may be taken for periods of 1 hour or greater.

## 45.2 Conditions

- 45.2.1 For the purpose of this clause, "family member" includes:
- (i) a spouse or partner of the staff member, including same sex partner, former partner, de facto partner or a former de facto partner;
  - (ii) a child (including an adopted child, a step child or foster child), parent (including a foster parent and/or legal guardian), grandparent, grandchild or sibling of the staff member or spouse or partner of the staff member; or
  - (iii) any other close relative of the staff member, where "close relative" means a person related by blood, marriage or affinity, with whom the staff member has a significant relationship, or any other person with whom the staff member has a close and significant relationship.
- 45.2.2 Staff members will, wherever practicable, give their supervisor prior notice of the need to take leave, the reasons for taking leave and the estimated length of absence. In relation to leave taken for the circumstances specified in Clause 45.1.1(ii) - (iii), the staff member will also advise of the nature of the relationship involved, and where appropriate, the nature of the care involved.
- 45.2.3 If it is not possible for a staff member to give prior notice of the absence, the staff member will notify the supervisor of the absence as soon as practicable, stating the details outlined in Clause 45.2.2.
- 45.2.4 If any absence under these provisions exceeds three consecutive working days, the staff member applying for the leave will provide satisfactory evidence, such as a medical certificate or a statutory declaration as to the nature of circumstances involved and stating that the staff member is/was unable to attend duty on the days in respect of which the staff member seeks the personal leave.
- 45.2.5 Wherever possible, staff should provide evidence of the need for accessing personal leave.
- 45.2.6 Except in the case of a staff member who is sick, where the staff member anticipates the absences may be regular or for extended periods, the staff member and the supervisor should explore alternative means of balancing operational needs and family and personal responsibilities, including home based work, part-time work or job sharing. In the case of a staff member who is sick, he or she may choose to explore alternative working arrangements with their supervisor.
- 45.2.7 Where evidence of inappropriate personal leave usage patterns by a staff member emerges, the University may either:
- (i) require documentary evidence for each future period of leave for a specified period of time, but for no longer than 12 months; or
  - (ii) where justified, refer the matter to the Unsatisfactory Performance – Clause 11 or Misconduct/Serious Misconduct – Clause 12 procedures.

## **46.0 COMPASSIONATE LEAVE**

### **46.1 Entitlement to compassionate leave**

46.1.1 Staff members who have exhausted all of their personal leave are entitled to 2 days of compassionate leave for each permissible occasion when a member of the staff member's family or a member of the staff member's household:

- (i) contracts or develops a personal illness that poses a serious threat to his or her life; or
- (ii) sustains a personal injury that poses a serious threat to his or her life; or
- (iii) dies.

46.1.2 If a staff member, other than a casual staff member, takes a period of compassionate leave, it will be at the staff member's base rate of pay for the ordinary hours of work in the period.

46.1.3 For casual staff members, compassionate leave is unpaid leave.

### **46.2 Taking compassionate leave**

46.2.1 A staff member may take compassionate leave:

- (i) to spend time with the member of the staff member's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in Clause 46.1.1 (i) or (ii); or
- (ii) after the death of the member of the staff member's immediate family or household referred to in Clause 46.1.1 (iii).

46.2.2 A staff member may take compassionate leave for a particular permissible occasion as:

- (i) a single continuous 2 day period; or
- (ii) 2 separate periods of 1 day each; or
- (iii) any separate periods to which the staff member and the University agree.

46.2.3 If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the staff member may take the compassionate leave for that occasion at any time while the illness or injury persists.

46.2.4 Staff members will, wherever practicable, give their supervisor prior notice of the intention to take leave, the estimated length of absence, the nature of the relationship involved, and where appropriate, the nature of the illness or injury.

46.2.5 The staff member applying for the leave will provide satisfactory evidence, such as a medical certificate or a statutory declaration, which includes sufficient information to enable the University to be reasonably satisfied that the leave is being taken for a permissible occasion in circumstances specified in Clause 46.1.1.

## **47.0 PARENTAL LEAVE**

### **47.1 Parental Leave (General Conditions)**

47.1.1 Parental leave includes primary carer leave and partner leave and is granted in relation to the birth of a child or the adoption or fostering of a child of which the staff member is, or will be, the parent.

47.1.2 For the purposes of this clause:

- (i) "Expected date of birth" means the date identified by appropriate certification to be the expected birth date;
- (ii) "Partner" means the partner of the primary carer, which includes a spouse or de facto, including a same sex partner;

- (iii) "Primary carer" means a person who has the primary responsibility for the care of a new born or newly adopted or fostered child and who physically cares for the child on a daily basis.
- (iv) 'Adopting or Fostering a Child' relates to a child not older than 5 years, provided:
  - (a) the child is not the child or step child of the staff member or the staff member's partner; and
  - (b) the child has not previously lived with the staff member for a continuous period of more than 6 months as at the proposed date of placement.

47.1.3 The University will not refuse employment or dismiss a staff member or take any other action that disadvantages a staff member, on the grounds of pregnancy, possible pregnancy, being on parental leave, or making a request for parental leave.

47.1.4 A staff member, other than a casual, may take other leave, including annual leave, long service leave or leave without pay in addition to parental leave.

47.1.5 Periods of parental leave will be regarded as service for incremental purposes. Paid parental leave will count for the purpose of annual leave accrual. Where paid parental leave is taken at a pro rata rate, annual leave will accrue proportionally. Parental leave without pay exceeding 5 working days will not count for the accrual of annual leave.

47.1.6 Parental leave without pay will count as service for long service leave purposes only where the staff member has completed 10 years service and provided that such parental leave without pay does not exceed 6 months. Absence on unpaid parental leave does not break continuity of service.

47.1.7 Supervisors and staff members are to make reasonable adjustments to work arrangements, where necessary.

47.1.8 A staff member may apply to the University to change the period of parental leave.

## 47.2 Eligibility

47.2.1 A staff member, other than a current casual:

- (i) who has had employment with the University for a period of 12 months or more at the date of birth or of adoption/fostering, will be eligible for paid parental leave as defined in this clause; or
- (ii) who has had less than 12 months employment with the University at the date of birth or adoption/fostering, will be eligible for parental leave without pay for a period of 52 weeks.

47.2.2 A casual staff member who is employed by the University immediately prior to the taking of leave will be eligible for parental leave without pay for a period of up to 52 weeks.

47.2.3 A staff member employed on a fixed-term or contingent contract of employment will cease to have an entitlement to parental leave upon the expiration of the contract.

47.2.4 A staff member who is on leave without pay (other than parental leave without pay) is not eligible for parental leave for the duration of the leave without pay. Eligibility for any paid leave entitlements will be assessed and may be applicable on a pro rata basis, if the staff member's scheduled return from leave without pay is within 26 weeks after the birth or date of adoption/fostering.

## 47.3 Parental Leave (Primary Carer)

### 47.3.1 Entitlements

- (i) A staff member who gives birth or adopts or fosters a child and is the primary carer, is entitled to the equivalent of 26 weeks normal pay over a period of up to 52 weeks, to be taken as a block or blocks of any combination of full pay, pro rata pay or leave without pay.

- (ii) A prospective mother may commence parental leave up to 20 weeks prior to the expected date of birth.
- (iii) At least 4 weeks prior to the expiry of the staff member's approved period of parental leave, the staff member may request an extension of unpaid parental leave for a further period of up to 52 weeks immediately following the end of the current parental leave period.
- (iv) Where a pregnancy terminates by miscarriage, still birth or due to a life threatening circumstance, after 20 weeks of pregnancy have elapsed, or the child dies within 4 weeks of the birth, the staff member will be entitled to 6 weeks paid leave.
- (v) Where both the primary carer and the partner are staff members, the primary carer paid leave entitlement may be distributed between the two staff members so long as they are the primary carer for the respective periods and at least one of the staff members is eligible.
- (vi) Where the staff member is the partner of a person who gives birth and the staff member takes over the responsibilities of primary carer or takes over as primary carer in relation to an adopted or fostered child, they will be granted the paid parental leave entitlement less the period where they were not the primary carer.

#### 47.3.2 Risks to Pregnant or Breastfeeding staff

- (i) Where a staff member is pregnant or breastfeeding and, in the opinion of a registered medical practitioner a risk assessment of the workplace and work related activities is necessary, the supervisor will arrange for the assessment and, by agreement with the staff member, will temporarily adjust the staff member's working conditions, duties, or hours of work in order to avoid exposure to the risk.
- (ii) If adjustment is not feasible or cannot readily be made, the University will consult the staff member on options such as secondment to a role not exposed to the risk (on the existing rate and conditions), working from home, commencing parental leave or commencing personal leave.

#### 47.3.3 Return to Work

- (i) A staff member is entitled to return to the substantive position occupied before taking leave, unless otherwise agreed. If the staff member began working part-time because of the pregnancy, the relevant position is the position held immediately before the staff member began working part-time. If the staff member was seconded to an alternate job, the relevant position will be the position held immediately prior to the secondment. If that position no longer exists, the staff member will return to an appropriate position for which they are qualified, and which is at the same level and pay as the pre parental leave position.
- (ii) At least 4 weeks prior to the approved return to work, a staff member may request to return on a part-time basis, in which case:
  - (a) part-time work arrangements for a defined period will be approved by the University where reasonable and practicable;
  - (b) the part-time work arrangements will be binding on the staff member concerned for the duration of the approved period, unless agreed otherwise; and
  - (c) the staff member may access accrued long service leave to make up the difference between the part-time hours and the hours of duty in their substantive position.
- (iii) The University will grant mothers who are breastfeeding paid breaks each day as necessary and provide access to comfortable, private facilities for the purpose of breastfeeding or expressing and storing breast milk.

**47.4 Parental Leave (Partner)**

47.4.1 A staff member is entitled to partner leave of 2 weeks paid leave to be taken during the period 3 weeks prior to the expected birth or placement of the child, and up to 6 months after the actual birth or placement of the child, and additional unpaid partner leave of up to 50 weeks; or

47.4.2 If a pregnancy terminates by miscarriage, still birth or due to a life threatening circumstance after 20 weeks of pregnancy has elapsed, or the child dies within 4 weeks of the birth, the partner is entitled to 2 weeks paid leave.

**48.0 EMERGENCY SERVICES LEAVE**

48.1 Staff members will be entitled to leave to engage in voluntary emergency management activities in accordance with the provisions of the Community Service Leave provisions of the Fair Work Act 2009 (see Chapter 2, Part 2-2, Division 8 of the Act).

48.2 The University will grant up to the first 2 days of such leave on any occasion as paid leave where the staff member is a member of a recognised emergency management body. The University will extend by a total of 2 days the initial period of paid leave in the event that the emergency is declared a natural disaster by the relevant State Government Authority.

48.3 The staff member may apply for and will be granted accrued annual leave or long service leave for any period of voluntary emergency management activities in excess of any paid leave granted under Clause 48.2, rather than being required to take unpaid leave as provided for under the National Employment Standards.

48.4 A staff member taking leave to engage in voluntary emergency management activities will notify the University as soon as is practicable of the nature of the absence and its estimated duration.

48.5 Any period of leave to engage in voluntary emergency management activities will count as service for all purposes.

**49.0 JURORS LEAVE**

49.1 A staff member required to attend for jury service during ordinary working hours will notify the University as soon as practicable of the date when required to attend for jury service. The staff member will give the University proof of attendance, duration of that attendance and of the amount of any payment received in respect of such jury service (other than the amount received in respect of travelling).

49.2 A staff member will be paid by the University an amount equal to the difference between the amount received in respect of attendance for jury service and the amount of wages which would have been received in respect of ordinary time usually worked had the staff member not been on jury service.

**50.0 WITNESS LEAVE**

50.1 A staff member required as a witness on behalf of the University or as a witness in proceedings relating to a University matter will, for the purposes of this Agreement, be regarded as being on duty and will not receive witness fees for the period for which they are required as a witness.

50.2 In all other cases, a staff member subpoenaed, summoned, or called as a witness will notify the University of their required absence and will apply for and be granted leave (other than personal leave) for the period of absence.

**51.0 LEAVE WITHOUT PAY**

51.1 The University and a staff member may agree to the taking of leave without pay and to the terms and conditions upon which such leave is given and taken. Applications for such leave must be accompanied by a statement of the circumstances supporting the application. After a period of leave without pay, a staff member will return at the substantive level which they held before taking the leave.

**52.0 PUBLIC HOLIDAYS**

- 52.1 Staff members, other than casual staff members, who are not required for duty, will be allowed to observe the following days (or substitute holiday proclaimed for the State of NSW) as holidays without loss of pay:
- (i) New Year's Day;
  - (ii) Australia Day;
  - (iii) Good Friday;
  - (iv) Easter Saturday;
  - (v) Easter Monday;
  - (vi) Anzac Day;
  - (vii) Queen's Birthday;
  - (viii) Labour Day;
  - (ix) Christmas Day;
  - (x) Boxing Day; and
  - (xi) all other proclaimed public holidays for the State.
- 52.2 A staff member who is required to work on a public holiday will, for ordinary hours of duty actually worked, be paid at 2.5 times the ordinary rate of pay. Provided that the additional payment will be in substitution for any shift allowance or penalty applicable and not in addition to it for the hours worked.

**53.0 UNIVERSITY HOLIDAYS**

- 53.1 The University will identify a minimum of 3 working days in the period between 27 December and 31 December each year as University holidays for those members of staff not required for duty.
- 53.2 The Tuesday immediately following Easter Monday will be a University holiday.
- 53.3 Members of staff required for duty on the above days will be granted equivalent time off during the following month.
- 53.4 One of the days identified at Clause 53.1 is in substitution for Newcastle Show Holiday.

**PART K: CONSULTATION****54.0 REPRESENTATION**

- 54.1 At any stage, a staff member may nominate a representative for the purposes of this Agreement, from whom they may seek advice, assistance or representation.
- 54.2 A representative must be:
- (i) a member of the staff of the University; or
  - (ii) an official or office holder of the relevant Union;
- who is not a member of the legal profession, such as a barrister or solicitor, in private practice.
- The University, in turn, will not be represented by a member of the legal profession, such as a barrister or solicitor, in private practice.
- 54.3 In instances where staff request representation which may not conform to Clause 54.2, the University will give reasonable consideration to the request.

54.4 Representation responsibilities will be regarded as duty. The University will allow staff reasonable time away from usual duties, to represent staff in relation to this Agreement subject to operational requirements.

#### **55.0 TEACHERS CONSULTATIVE COMMITTEE**

55.1 A Teachers Consultative Committee (TCC) will be established to meet on a regular basis, or as requested, to discuss the implementation of, and consult on matters arising from, this Agreement. The University recognises the Union(s) role in facilitating consultation and communication between staff and management.

55.2 The TCC will:

- (i) consist of 3 nominees of the NTEU (2 of whom will be teaching staff of the University) and 3 nominees of the University;
- (ii) have a quorum of 2 NTEU nominees and 2 University nominees;
- (iii) be empowered to co-opt further members or allow additional attendees.

55.3 NTEU nominees of the TCC who are staff members of the University will be allowed reasonable time off during working hours to attend and prepare for meetings in relation to this Agreement. In making such arrangements, staff members will discuss the need to leave their work area with their supervisor before doing so.

55.4 Access to appropriate facilities, including electronic facilities and notice boards, will be provided to the NTEU nominees of the TCC to perform responsibilities related to this Agreement.

55.5 To facilitate communication with staff, NTEU nominees of the TCC may hold meetings of staff on the premises of the University during work breaks or as otherwise agreed by the University. Adequate notice will be given to the University of the intention to hold formal meetings.

#### **PART L: REVIEW PROCESSES AND DISPUTE RESOLUTION**

##### **56.0 INQUIRY OFFICER**

56.1 A staff member may make an application in writing to the appropriate Deputy-Vice Chancellor to review a decision in relation to:

- (i) Performance Development Framework – Clause 6; or,
- (ii) Managing Staff Workload – Clause 8; or
- (iii) Probation – Clause 9; or
- (iv) Redeployment – Clause 18.2; or
- (v) Intellectual Property Rights – Clause 22; or
- (vi) Leave – Clauses 43 – 51.

56.2 The University will appoint an Inquiry Officer who:

- (i) is without conflict of interest;
- (ii) has the capacity to undertake the inquiry within the context of the relevant University policies and processes;
- (iii) will apply the principles of procedural fairness.

Prior to appointment of an Inquiry Officer, the University will consult with the relevant union about the appointment.

56.3 The Inquiry Officer will determine the procedure for conducting a review in a timely manner and will outline the procedure to the staff member. The objective of any review will be to:

- (i) determine whether the relevant procedures were complied with; and

- (ii) whether any procedural difficulty is fundamental; and
- (iii) consider any other facts that may have had a bearing on the decision.

56.4 The Inquiry Officer will examine the application in accordance with the relevant clause of this Agreement and any other relevant policies and procedures of the University.

56.5 The Inquiry Officer may interview the applicant and make any other enquiries to assist in making a decision in relation to the application, including receiving submissions from the staff member seeking the review, and their representative or any other relevant person.

56.6 The Inquiry Officer will provide a written report to the appropriate Deputy Vice-Chancellor within 10 working days of the completion of the proceedings. In making a report to the appropriate Deputy Vice-Chancellor the Inquiry Officer will make:

- (i) findings in relation to the matters specified at 56.3 and provide reasons; and
- (ii) comments on the process, facts or any mitigating circumstances relevant to the case and may make recommendations.

The staff member will be provided with a copy of the Inquiry Officer's report at the same time as the report is provided to the appropriate Deputy Vice-Chancellor, and the staff member will have a period of 5 working days in which to provide comment on the report to the appropriate Deputy Vice-Chancellor.

56.7 After considering the report(s) and the staff member's response, the appropriate Deputy Vice-Chancellor will determine that:

- (i) the decision is upheld; or
- (ii) the decision is overturned; or
- (iii) the provisions of this Agreement should be reapplied from the point at which it was found that procedural fairness did not occur; and/or
- (iv) some other outcome.

#### **57.0 COMMITTEE OF INQUIRY**

57.1 A Committee of Inquiry may be initiated by a staff member writing to the appropriate Deputy Vice-Chancellor to request a review of a recommendation in relation to Unsatisfactory Performance – Clause 11.

57.2 A Committee of Inquiry will also be initiated where required in accordance with the provisions of Misconduct/Serious Misconduct - Clause 12.

57.3 The Committee of Inquiry will comprise:

- (i) a staff member employed and chosen by the University;
- (ii) a staff member nominated by the relevant union;
- (iii) an independent Chairperson.

57.4 Each appointee must satisfy the following criteria:


- (i) be without conflict of interest;
- (ii) have the capacity to undertake the inquiry within the context of the relevant University policies and procedures;
- (iii) be able to apply the principles of procedural fairness.

57.5 The staff member and the University may be assisted before the Committee of Inquiry by a representative, should they choose.

- 57.6 The Committee of Inquiry will:
- (i) provide an opportunity for the staff member to be interviewed and ensure that they have adequate opportunity to respond to any decision/review/report/allegation/recommendation;
  - (ii) take into account such further materials as the Committee believes appropriate to substantiate (or otherwise) any matters in dispute;
  - (iii) seek information and advice in relation to policy, practice and procedural matters;
  - (iv) interview any person it thinks fit, including the staff member concerned, to establish the process, facts and any mitigating circumstances relevant to the particular review/report/allegation/recommendation;
  - (v) conduct all interviews in the presence of the staff member and/or a representative as specified in Clause 57.4;
  - (vi) conduct proceedings as expeditiously as possible;
  - (vii) conduct proceedings in camera unless otherwise agreed;
  - (viii) ensure that the staff member, or where they choose their representative, and the University or its representative, have the right to ask questions of interviewees, to make submissions and present and challenge evidence, provided that where the committee so determines the staff member, but not their representative, may be excluded from the conduct of the proceedings;
  - (ix) determine whether an audio recording of the proceedings (but not the Committee's deliberations) will be made. Where an audio recording is made, it will be available to the staff member and their representative on request.
- 57.7 Hearings of a Committee of Inquiry will be conducted within 4 weeks of applications being made to it unless the University and the staff member agree otherwise.
- 57.8 The Committee of Inquiry will provide a written report to the appropriate Deputy Vice-Chancellor and the staff member within 10 working days of the conclusion of proceedings. In its report the Committee may comment on the process, facts or any mitigating circumstances relevant to the case and may make recommendations to the Deputy Vice-Chancellor.
- 57.9 Having considered the Committee of Inquiry report, any determination of the appropriate Deputy Vice-Chancellor will be final.
- 58.0 DISPUTE RESOLUTION PROCEDURE**
- 58.1 Where a dispute arises, or is considered likely to arise, regarding the interpretation, application or operation of any provision of this Agreement or the National Employment Standards, the procedures contained in this clause will be followed.
- 58.2 A dispute arising under this clause will in the first instance be discussed by the staff member(s) and their supervisor in an effort to resolve the matter promptly. The staff member(s) may seek the assistance of the relevant Union or other support person (being a staff member) in which case the supervisor may also have a support person.
- 58.3 Where the steps in Clause 58.2 are unsuccessful, or where the Union raises a dispute, a representative of the relevant Union(s) and a representative of the University will discuss the dispute and attempt to reach an agreement.
- 58.3 Where the dispute is not resolved under Clause 58.3, at the request of either party a Disputes Committee will be convened within five (5) working days, unless agreed otherwise. The Disputes Committee will consist of two (2) nominees of the University and two (2) nominees of the Union.
- 58.4 If there is no resolution of the dispute the matter may be referred to Fair Work Australia, or to a person who is a member of the Industrial Relations Commission of New South Wales in accordance with S146B of the New South Wales Industrial Relations Act. In dealing with the dispute the relevant body may exercise the procedural powers in relation to hearings, witnesses, evidence and submissions which are necessary to make such dealing effective.

- 58.5 Should Fair Work Australia or the Industrial Relations Commission of New South Wales proceed with the matter, it will then:
- (i) seek to facilitate a fair and reasonable conclusion to the dispute as promptly as possible, via mediation and/or conciliation of the matter in dispute. If these options are unsuccessful, Fair Work Australia or the Commission may arbitrate the matter. The parties to the dispute may be represented by a person(s) of their choice;
  - (ii) make a recommendation to the parties to the dispute or, if the matter is arbitrated, make a determination. The parties to the dispute will consider any recommendation made. Any determination made will be binding on the parties, subject to a party to the dispute exercising a right of appeal under the Fair Work Act.
- 58.6 This dispute resolution procedure does not apply where the matter is being dealt with in accordance with the Inquiry Officer – Clause 56 or Committee of Inquiry – Clause 57 process.
- 58.7 Until the procedures in this clause have been exhausted, work will continue and no industrial action or any other action likely to exacerbate the dispute will be taken by any party to the dispute.

**FORMAL AGREEMENT**

Signed.....		GRAHAME MCCULLOCH
		Full name in block letters
.....	120 Clarendon St, South Melbourne 3205	.....
	Address	
General Secretary, National Tertiary Education Industry Union		
Date.....	17/12/2010	

Signed Paul PAUL RONALD MUNRO  
Full name in block letters

Position Associate Director, Employee Relations

The University of Newcastle, University Drive, Callaghan NSW 2308  
Address

Signed for and on behalf of The University of Newcastle

Date 21/12/10.....

**SCHEDULES****SCHEDULE 1: RATES AND ALLOWANCES TO BE PAID FOR TEACHERS****1.1 ELICOS AND LEARNING SUPPORT SALARIES PAYABLE**

Classification	Step	Current	2%	2%	2%	2%	2%	2%	2%	2.65%
			31/03/10	1/10/10	1/03/11	1/10/11	1/03/12	1/10/12	1/03/13	30/06/13
Head Teacher	01	76,191	77,715	79,269	80,854	82,471	84,120	85,802	87,518	89,837
	02	77,620	79,172	80,755	82,370	84,017	85,697	87,411	89,159	91,522
	03	79,071	80,652	82,265	83,910	85,588	87,300	89,046	90,827	93,234
Teacher	01	46,741	47,676	48,630	49,603	50,595	51,607	52,639	53,692	55,115
	02	49,282	50,268	51,273	52,298	53,344	54,411	55,499	56,609	58,109
	03	51,819	52,855	53,912	54,990	56,090	57,212	58,356	59,523	61,100
	04	54,361	55,448	56,557	57,688	58,842	60,019	61,219	62,443	64,098
	05	56,902	58,040	59,201	60,385	61,593	62,825	64,082	65,364	67,096
	06	59,438	60,627	61,840	63,077	64,339	65,626	66,939	68,278	70,087
	07	61,978	63,218	64,482	65,772	67,087	68,429	69,798	71,194	73,081
	08	64,518	65,808	67,124	68,466	69,835	71,232	72,657	74,110	76,074
	09	67,057	68,398	69,766	71,161	72,584	74,036	75,517	77,027	79,068
	10	69,598	70,990	72,410	73,858	75,335	76,842	78,379	79,947	82,066

**1.2 INTERNATIONAL FOUNDATION AND NEWSTEP SALARIES PAYABLE**

Classification	Step	Current	2%	2%	2%	2%	2%	2%	2%	2.65%
			31/03/10	1/10/10	1/03/11	1/10/11	1/03/12	1/10/12	1/03/13	30/06/13
Head Teacher	01	77,900	79,458	81,047	82,668	84,321	86,007	87,727	89,482	91,853
Teacher	01	50,282	51,288	52,314	53,360	54,427	55,516	56,626	57,759	59,290
	02	52,408	53,456	54,525	55,616	56,728	57,863	59,020	60,200	61,795
	03	55,239	56,344	57,471	58,620	59,792	60,988	62,208	63,452	65,133
	04	58,073	59,234	60,419	61,627	62,860	64,117	65,399	66,707	68,475
	05	60,199	61,403	62,631	63,884	65,162	66,465	67,794	69,150	70,982
	06	63,031	64,292	65,578	66,890	68,228	69,593	70,985	72,405	74,324
	07	65,864	67,181	68,525	69,896	71,294	72,720	74,174	75,657	77,662
	08	67,990	69,350	70,737	72,152	73,595	75,067	76,568	78,099	80,169
	09	70,821	72,237	73,682	75,156	76,659	78,192	79,756	81,351	83,507

Continuing, contingent and fixed-term staff will progress incrementally through their pay scale on an annual basis, subject to satisfactory performance.

**2.0 CASUAL RATES****2.1 ELICOS AND LEARNING SUPPORT CASUAL RATES**

	Current	2%	2%	2%	2%	2%	2%	2%	2%	2%	2.65%
		31/03/10	1/10/10	1/01/11	1/03/11	1/10/11	1/01/12	1/03/12	1/10/12	1/03/13	30/06/13
<b>Casual Loading</b>	23.00%	23.00%	23.00%	24.00%	24.00%	24.00%	25.00%	25.00%	25.00%	25.00%	25.00%
<b>Casual Contact Teaching Rate</b>  (1 contact hour and 1 hour duties associated with teaching)	67.12	68.46	69.83	70.40	71.81	73.25	73.84	75.32	76.83	78.37	80.45
<b>Casual Non-Teaching Rate</b>  (per hour worked)	33.57	34.24	34.92	35.20	35.90	36.62	36.92	37.66	38.41	39.18	40.22

**2.2 INTERNATIONAL FOUNDATION AND NEWSTEP CASUAL RATES**

	Current	2%	2%	2%	2%	2%	2%	2%	2%	2%	2.65%
		31/03/10	1/10/10	1/01/11	1/03/11	1/10/11	1/01/12	1/03/12	1/10/12	1/03/13	30/06/13
<b>Casual Loading</b>	23.00%	23.00%	23.00%	24.00%	24.00%	24.00%	25.00%	25.00%	25.00%	25.00%	25.00%
<b>Casual Contact Teaching Rate</b>  (1 contact hour and 2 hours duties associated with teaching)	88.22	89.98	91.78	92.53	94.38	96.27	97.05	98.99	100.97	102.99	105.72
<b>Casual Non-Teaching Rate (per hour worked)</b>	44.12	45.00	45.90	46.27	47.20	48.14	48.53	49.50	50.49	51.50	52.86

- 2.3 Any duties that a casual International Foundation or Newstep staff member is required to perform in addition to or separate from teaching for which the Contact Teaching Rate is paid, will be paid at the Casual Non-Teaching Rate. These duties may include: setting and/or marking of subject or course-wide examinations, essays or assessment tasks; activities associated with the coordination of subjects; attendance at meetings; curriculum development; developing assessment programs; and preparation of substantial subject guides or reading lists.
- 2.4 Where a casual staff member is required to teach students in the course of an excursion or study tour, these hours will be paid at the appropriate contact hour or tuition rate. All other hours worked will be paid at the appropriate non-teaching rate for ELICOS and Learning Support, International Foundation and Newstep, or for Non-Tertiary Music Teachers the other duties rate. Where a staff member is required to work outside the span of hours identified in Hours of Work - Clause 37, overtime rates will be paid.

### 3.0 NON-TERTIARY MUSIC TEACHERS SALARY RATES

Non-Tertiary Music Teachers	Current	2%	2%		2%	2%		2%	2%	2%	2.65%
		31/03/10	1/10/10	1/01/11	1/03/11	1/10/11	1/01/12	1/03/12	1/10/12	1/03/13	30/06/13
<b>Casual Loading</b>	23.00%	23.00%	23.00%	24.00%	24.00%	24.00%	25.00%	25.00%	25.00%	25.00%	25.00%
Tuition * (1 tuition hour and 1 hour duties associated with tuition)	56.74	57.87	59.03	59.51	60.70	61.91	62.41	63.66	64.93	66.23	67.99
Other Duties ** (per hour worked)	28.37	28.94	29.52	29.76	30.36	30.97	31.22	31.84	32.48	33.13	34.01
Musical Accompaniment *** (1 accompaniment hour and 1 hour duties associated with accompaniment)	56.74	57.87	59.03	59.51	60.70	61.91	62.41	63.66	64.93	66.23	67.99
Musical Accompaniment and Other Duties **** (per hour worked)	28.37	28.94	29.52	29.76	30.36	30.97	31.22	31.84	32.48	33.13	34.01

“**Tuition**” includes one on one or class instrumental or vocal tuition or classroom tuition in early childhood music or musicianship or the tuition of an ensemble group and includes up to one hour of duties associated with tuition for each hour of face-to-face tuition.

“**Duties associated with tuition**” includes time spent consulting with students or parents, lesson preparation, marking or student performance assessment, administration, attending meetings and the supervision of excursions or study tours.

\*\* **“Other duties”** includes supervision of student excursions or study tours, including orchestral, band or other ensemble tours, or student performances approved by the University, meetings called by the Conservatorium or the University, or any administration, preparation, student consultation, marking or performance assessment required to be performed in addition to the one hour of duties associated with tuition.

\*\*\* **Musical Accompaniment** where the accompanist is required to accompany students in public concerts and studio recitals authorised by the University, the rate of pay will recognise preparation, rehearsal and performance. For Performance of major works requiring considerable preparation and/or performance time, payment for additional hours are to be decided by the Director.

\*\*\*\* **Musical Accompaniment and Associated Duties** (involves playing for rehearsals of choirs or other ensembles, where directed by the University).

#### 4.0 ALLOWANCES

##### 4.1 Program Coordinator Allowance

		2%	2%	2%	2%	2%	2%	2%	2.65%
<b>Program Coordinator Rate = Head Teacher Rate + Loading</b>	<b>Current</b>	31/03/10	1/10/10	1/03/11	1/10/11	1/03/12	1/10/12	1/03/13	30/06/13
<b>Loading - \$ per year</b>	3,989	4,069	4,150	4,233	4,318	4,404	4,492	4,582	4,703

##### 4.2 First Aid Allowance

When a staff member is appointed by the University to be responsible for first-aid facilities, injury records and providing first-aid to other staff members and/or students, that staff member will be paid an allowance at the rate of \$14.00 per week as varied from time to time, during the period of appointment provided that the staff member possesses a current first-aid certificate of the St. John Ambulance Association or an equivalent first-aid qualification.

**SCHEDULE 2****NON-TERTIARY MUSIC TEACHERS DESCRIPTORS**

These classification descriptors describe the broad categories of responsibilities attached to teaching staff in different categories.

- Single Study Conservatorium Teacher
  - Musicianship Presentation
  - Ensemble Presentation
  - Early Childhood Music Teacher
- 

**Single Study Conservatorium Teacher**

The position of Single Study Conservatorium Teacher will normally involve preparation, teaching and administration. Staff members would normally work independently reporting to the head of the relevant section for supervision purposes.

**Specific Duties****1. Preparation**

Undertake preparation to teach including the promotion of Conservatorium study and screening of potential students; design study programs; maintain and improve teaching knowledge, pedagogy and repertoire; maintain performance skills; organise studio recitals and record backing tapes.

**2. Teaching**

Undertake teaching tasks including demonstration, tuition and support for students; provide accompaniment where required and prepare students for examinations, eisteddfods, auditions and performances.

**3. Administration**

Undertake administrative tasks including schedule of available hours; liaise with potential students, parents, administration staff and Coordinator of Non-Tertiary Studies; provide register of student attendance; complete claims for payment of lessons; and provide music scores.

**Skills and Experience**

- Appropriate tertiary qualifications.
  - Good teaching skills.
  - Good musicianship skills.
  - Ability to liaise with students, parents, staff and outside organisations.
  - Administrative skills.
- 

**Musicianship Presentation**

Musicianship presentation will normally involve preparation, teaching, marking, and administration. Staff members would normally work independently reporting to the Assistant Dean – Academic Studies for supervision purposes.

**Specific Duties****1. Preparation**

Undertake preparation to teach including: the formulation and preparation of work sheets; research and preparation of recorded examples; the formulation and production of tests and the monitoring and design of teaching to accommodate individual student's progress.

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**2. Teaching**

Undertake teaching tasks including: demonstration; set appropriate standards; supervision; provide encouragement and set tasks and homework for students.

**3. Marking**

Undertake marking as created by the teaching mode used.

**4. Administration**

Undertake administrative tasks including: the organisation of exam entry for AMEB and Trinity qualifications; liaise as necessary with parents; assist with the provision of material and guidance in enrolment procedures and assist with the formulation of curriculum development and the standardisation of syllabi.

**Skills and Experience**

- Appropriate tertiary qualifications.
  - Good teaching skills.
  - Good musicianship skills.
  - Ability to liaise with parents.
  - Administrative skills.
- 

**Ensemble Presentation**

Ensemble presentation will normally involve preparation, teaching, marking, and administration. Staff members would normally work independently reporting to the head teacher of the relevant section for supervision purposes.

**Specific Duties****1. Preparation**

Undertake preparation to teach including attendance at in-service courses, reading days and networking with professionals within a particular discipline; arranging or modifying commercial arrangements; score preparation; research and acquisition of recorded examples and journal information; setting up rehearsals and formulation of programs.

**2. Teaching**

Undertake teaching tasks including planned, balanced rehearsals, provide encouragement, specific learning objectives and an interesting and disciplined rehearsal environment.

**3. Administration**

Undertake administrative tasks including the organisation of a diary of activities and concerts; liaise with Hall Manager, office staff and Band Association; purchase of new material; supervision and maintenance of the music library; monitor enrolment; provide advice for new membership and a cost neutral budget for workshop and camp activities.

**Skills and Experience**

- Appropriate tertiary qualifications.
  - Good teaching skills.
  - Good musicianship skills.
  - Ability to liaise with staff and outside organisations.
  - Administrative skills.
-

## Early Childhood Music Teacher

The position of Early Childhood Music Teacher will normally involve preparation, teaching and administration. Staff members would normally work independently, reporting to the head teacher for supervision.

### Specific Duties

#### 1. Preparation

Undertake preparation to teach including the setting of goals for various age groups; prepare repertoire for individual groups; write material to suit various groups; write weekly lesson plans; provide teaching aids; prepare audio tapes and maintain pedagogy and repertoire.

#### 2. Teaching

Undertake teaching tasks including classes for 2 to 3 year olds, with adults present; provide smooth separation of 4 year olds from carers; develop competency of 5 to 8 year olds; address special needs of individual children; maintain ongoing program evaluation; present open days; provide demonstration lessons and prepare concert items.

#### 3. Administration

Undertake administrative tasks including marketing of programs and concerts; purchase of resources; photocopy worksheets; liaise with parents and administrative staff, assist with staging and transporting instruments and attend staff meetings.

### Skills and Experience

- Appropriate tertiary qualifications.
- Good teaching skills.
- Good Musicianship skills.
- Ability to communicate/relate well with young children.
- Ability to liaise with parents and staff.
- Administrative skills.