



Enterprise Bargaining Meeting 5

Wednesday 10th May 2017

10am – 4.00pm

Building EB, Boardroom (EB.2.23), Parramatta South campus

Attendees:

Professor Denise Kirkpatrick (Chair)

Professor Gregory Kolt

Professor Kevin Dunn

Susan Hudson

Natasha Maiolo

Clare Bockmann

Sonya O'Shanna (notes)

Dr David Burchell (NTEU)

Tamara Talmacs (NTEU)

Rohan Giles (NTEU)

Leslie Cowles (NTEU)

Scott Pendlebury (CPSU)

Chris Bird (CPSU)

Lorraine Fordham (CPSU)

Carmel Votano (CPSU)

Michael Reolon (CPSU)

Agenda

1. Welcome – Professor Kirkpatrick

2. Clauses for discussion:
 - a. Misconduct and Serious Misconduct
 - b. Unsatisfactory Performance
 - c. Dispute Settlement
 - d. Professional Staff Career Development and Planning
 - e. Academic Career Development, Planning and Review
 - f. Professional Staff Workloads

3. Outstanding clauses for review:
 - a. Policy – waiting for confirmation of agreement in writing from NTEU
 - b. Salary Packaging – waiting for confirmation of agreement in writing from NTEU
 - c. Fixed Term Severance Pay – waiting on response from Unions
 - d. Availability of the Agreement – no agreement
 - e. Supervision – no agreement

- f. Flexible Work Provisions – no agreement
- g. Right to request flexible work arrangements – no agreement
- h. Termination of Employment – no agreement
- i. Long Service Leave – no agreement
- j. Sick Leave - waiting for confirmation of agreement in writing from NTEU
- k. Annual Leave – no agreement
- l. Flexible hours of work scheme – to be discussed 10th May
- m. Organisational Change – revised version sent to unions for agreement
- n. Job Security and outsourcing – to be discussed 10th May
- o. Personal Leave – no agreement
- p. Parental Leave – to be discussed 10th May
- q. Terms of Engagement – no agreement
- r. Domestic Violence support – no agreement
- s. Probation
- t. Superannuation

4. Next meeting – Wednesday 24th May 2017

Clauses to be discussed:

- a. Workloads (Academic)

Professional Staff Agreement – current clause 49

Academic Staff Agreement – current clause 43

1. MISCONDUCT OR SERIOUS MISCONDUCT

1.1 Application

~~(a) This clause applies to all Employees, excluding casual Employees and Employees serving a probationary period. For Employees serving a probationary period, subclause 13.6 applies. This clause does not apply to:~~

~~(i) casual Employees; or~~

~~(ii) Employees serving a probationary period.~~

1.2 Definitions

(a) For the purposes of this clause:

(i) **Disciplinary Action** ~~means any action by the University to discipline an Employee for Misconduct or Serious Misconduct and may include one or more of the following includes:~~

A. formal counselling;

B. staff development (including training);

C. **written warnings** ~~(including written warnings);~~

D. withholding an increment for up to one year;

E. demotion ~~by one or more classification levels or increments~~; and/or

F. termination of employment **without notice** (in cases of Serious Misconduct only);

~~(ii) Misconduct means wilful or deliberate and improper conduct that is not Serious Misconduct, but is nevertheless conduct that is:~~

~~(iii) dereliction of the duties required of the Employee's position;~~

~~(iv) conduct that causes an impediment to the carrying out of an Employee's duties or to other Employees carrying out their duties;~~

~~(v) a breach of the Employee's contract of employment which does not warrant the termination of the Employee's employment; or~~

~~(vi)(ii) a breach of the University's policy which does not warrant the termination of the Employee's employment.~~

~~(iii) Serious Misconduct means includes:~~

~~A. wilful or deliberate behaviour by an Employee that is inconsistent with the continuation of the contract of~~

Comment [WSU1]: It is the University's view that formal warnings resulting from a disciplinary process should always be recorded in writing.

Comment [SO2]: The FWA allows termination without notice for serious misconduct.

Comment [WSU3]: Replaced with definition of "Serious Misconduct" contained in the Fair Work Regulations.

employment;

B. conduct that causes serious and imminent risk to:

C. the health or safety of a person; or

D. the reputation, viability, or profitability of the University;

E. an Employee, in the course of their employment with the University, engaging in:

1) theft;

2) fraud; or

3) assault;

4) being intoxicated at work; or

A-F. refusing to carry out a lawful and reasonable instruction that is consistent with an Employee's contract of employment.

~~A. a serious dereliction of duties;~~

~~B. conduct that causes a serious impediment to an Employee carrying out their duties or to other Employees carrying out their duties;~~

~~C. a serious breach of the Employee's contract of employment which may, if proven, warrant the termination of the Employee's employment under this Agreement;~~

~~D. a serious breach of the University's policy which may, if proven, warrant the termination of the Employee's employment;~~

~~E. wilful or deliberate behaviour by the Employee that is inconsistent with the continuation of their contract of employment;~~

~~F. conduct that causes serious and imminent risk to:~~

~~• the health and safety of a person, where the conduct represents a wilful or deliberate disregard of such health or safety; or~~

~~• the reputation, viability or profitability of University business, other than conduct in accordance with clause 63: Intellectual Freedom;~~

~~G. engaging in theft, fraud or assault in the course of the Employee's employment;~~

~~H. being under the influence of a legal or illegal substance that may impact the Employee's judgment and ability to perform their duties. An Employee will be taken to be under the~~

~~influence if the Employee's faculties are, by reason of the Employee 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 Employee is unfit to be entrusted with the Employee's duties or with any duty that the Employee may be called upon to perform;~~

~~i. refusing to carry out a lawful and reasonable instruction that is consistent with the Employee's contract of employment; and~~

~~j. where there has been a previous finding of Misconduct made against an employee, an act of Misconduct which has not previously been the subject of the relevant processes, the total effect of which amounts to Serious Misconduct.~~

1.3 General

~~(b)(a) Any matter involving alleged Misconduct or Serious Misconduct must be reported to the Executive Director, Human Resources as soon as practicable.~~

~~1.3 The University may only take action against an ongoing or fixed term Employee for alleged Misconduct or Serious Misconduct under this clause.~~

~~(a)(b) If a matter that could be dealt with under this clause has in good faith been addressed involving Misconduct has been dealt with in good faith under clause 48xx: Unsatisfactory Performance, it will not be necessary to follow the procedures set out in this clause this clause will not apply.~~

~~(b)(c) An Employee may choose to be accompanied by a support person or Representative, including an official of the relevant Union, at any stage of the process conducted prescribed by this clause.~~

~~(c)(d) If a person is required to deal with a matter under this clause on behalf of the University but a potential conflict of interest exists, if there is a potential conflict of interest regarding a person required to deal with a matter for the University under this clause, the University may nominate an alternate person to deal with the matter.~~

~~(d)(e) The making of a frivolous, vexatious or bad faith complaint or allegation (which may include fabricating the complaint or allegation) will be dealt with under the procedures prescribed by this clause.~~

1.4 Records

(a) All documents relevant to the process conducted under this clause should be kept including, but not limited, to meeting notes.

1.5 Suspension in cases of alleged Serious Misconduct

~~(a) In cases of alleged Serious Misconduct, An Employee may be suspended with or without pay at any stage of a process conducted under this clause time:~~

~~with pay if there is a possibility of a risk to: the health and safety of a person; the security, reputation, viability, or profitability of the University's business; or of interference with evidence relevant to the investigation; or~~

Comment [WSU4]: Current 1.3 goes without saying, as the clause applies to all employees other than those expressly excluded.

- ~~(b)~~(a) ~~without pay if the alleged Serious Misconduct is such that it would be unreasonable to allow the Employee to continue in paid employment during the process.~~
- ~~(c)~~(b) ~~Any suspension without pay will be subject to the following~~In cases of suspension without pay:
- (i) ~~where if the~~ suspension occurs whilst the Employee is on paid leave, the Employee will continue to be paid for the duration of the leave; ~~and~~
 - ~~(ii)~~ (ii) the Employee can engage in paid employment, or utilise accrued annual or long service leave entitlements for the duration of the suspension; and
 - ~~(ii)~~ (ii) If the Employee is suspended without pay, the University will do everything practically possible to expedite the procedures. Any Employee suspended without pay whose allegations are not sustained following investigation will be paid for any lost income. The Employee will be reimbursed any lost income if the allegations are not sustained.
- (c) During any period of suspension, the Employee will be excluded from University premises except for reasonable access to prepare their case and/or collect personal property.

1.6 Informal resolution

- ~~(a)~~ If appropriate, the University will first attempt to informally resolve matters that give rise to the operation of this clause through discussion, guidance, counselling, and/or staff development.
- ~~(c)~~(b) Any attempt at informal resolution, whether successful or not, will be documented in writing.

2. Agreed early resolution

- ~~(a)~~ At any stage during the process prescribed by this clause, the University and the Employee may agree to place the process on hold for up to 10 working days (or longer period as agreed) and enter into confidential and without prejudice discussions with a view to reaching a mutually agreed early resolution of the matter.
- ~~(b)~~ In the event that the University and the Employee are unable to reach a mutually agreed early resolution of the matter within the period agreed for early resolution, the process will be resumed.
- ~~(c)~~ Unless otherwise agreed, any time taken or information exchanged during successful or attempted early resolution cannot be relied upon by any party to the benefit or prejudice of the University or the Employee.

2.2 Informal Resolution

- ~~(a)~~ Where an Employee is alleged to have engaged in Misconduct or Serious Misconduct, the University (the Office of People and Culture) will determine whether it is appropriate for the matter to be dealt with under this clause.

- ~~(b) — If the University (the Office of People and Culture) is of the view that the matter may give rise to a finding of Misconduct and warrants further action, the University will make all reasonable efforts to informally resolve the matter using discussion, guidance, counselling and/or staff development.~~
- ~~(c) — Informal resolution of a matter that, in the University's view, may give rise to a finding of Misconduct, may include the Employee admitting to the conduct alleged and/or an agreement being made for early resolution of the matter.~~
- ~~(d) — If the University is unable to resolve alleged Misconduct informally, it will refer the matter for formal investigation.~~
- ~~(e) — If the University (the Office of People and Culture) is of the view that the matter may give rise to a finding of Serious Misconduct and warrants further action, informal resolution will not apply and the matter will be referred immediately for formal investigation.~~

~~2.3 — Formal Investigation~~

- ~~(a) — A formal investigation into alleged Misconduct or Serious Misconduct will be carried out by an investigator appointed from a pool of investigators agreed between the University and the Unions.~~
- ~~(b) — The University will provide the investigator with terms of reference to report on the facts relating to the allegation(s), including whether any mitigating circumstances are evident.~~
- ~~(c) — The University will advise the Employee of its decision to conduct an investigation into alleged Misconduct or Serious Misconduct and of clause 58: Employee Representation, unless the University determines that exceptional circumstances exist and that it is not appropriate for the Employee to be aware of and involved in the investigation.~~
- ~~(d) — If the Employee is advised of the University's decision to conduct an investigation, then, as part of the formal investigation:

 - ~~the investigator will provide the Employee with an opportunity to be interviewed;~~
 - ~~the Employee may provide the investigator with a list of persons relevant to the investigation together with the contact details of those persons (where known by the Employee) and a brief summary of the evidence that they are expected to provide;~~
 - ~~the investigator will interview any person to establish the facts and any mitigating circumstances;~~
 - ~~the investigator will make all reasonable attempts to interview persons nominated by the Employee. Any refusal or failure by a nominated person to participate in the formal investigation will not prejudice the investigation;~~
 - ~~the investigator will take into account any information relevant to the matter; and~~
 - ~~the investigator will give adequate opportunity to the Employee or their Representative to respond to the allegations and/or make submissions and/or challenge any evidence.~~~~
- ~~(e) — The investigator will decide the appropriate process for the investigation including:~~

~~who the investigator will interview;~~

~~what documents the investigator will review;~~

~~what other information the investigator will take into account;~~

~~on what basis interviews will be conducted, provided that an interviewee will have the right to be accompanied by a Representative or support person, who may be an official of the relevant Union acting in the capacity of a support person; and~~

~~confidentiality obligations;~~

~~(f) The investigator will conduct the investigation as expeditiously and confidentially as possible.~~

~~(g) The investigator will provide a written report about the facts to the University after the conclusion of the investigation. The report must include:~~

~~any documents provided to and relied upon by the investigator in reporting on the facts; and~~

~~a summary of the evidence relied upon by the investigator arising out of interviews. The report must not include any working documents prepared by or for the investigator or any notes or records of interview.~~

~~(h) If, following completion of the investigation and consideration of the investigator's report, the University is of the view that:~~

~~no further action in relation to the alleged Misconduct or Serious Misconduct is warranted, the University will advise the Employee of its decision in writing;~~

~~further action in relation to the alleged Misconduct or Serious Misconduct is warranted, the University will issue formal allegations of Misconduct or Serious Misconduct in accordance with subclause 49.29;~~

~~the complainant may have made a frivolous, vexatious or bad faith complaint or allegation (or fabricated the complaint or allegation), then the complainant's conduct will be dealt with under the process prescribed in this clause.~~

2.41.7 Allegations

~~(a) If an Employee is alleged to have engaged in Misconduct or Serious Misconduct and informal resolution is not appropriate or has been unsuccessful. If the University has determined that formal allegations of Misconduct or Serious Misconduct should be laid, the University will notify the Employee of the allegation(s) in writing, and in sufficient detail to enable the Employee to understand, and respond to, the allegation(s), together with a copy of all parts of the investigator's report relied upon by the University in making the allegation(s). Before providing the report or extracts from the report to the Employee, the University will remove any material it considers should be excluded if exceptional circumstances exist.~~

~~(b) The Employee will be given 10 working days (or longer period as agreed) to respond to the allegation(s).~~

1.8 Response to allegations

Admission or no response

~~(a) If the Employee:~~

~~(i) admits the allegations in part or in full; or~~

~~(ii) does not respond to the allegations;~~

~~the Employment Executive Member will determine what, if any, Disciplinary Action is to be taken.~~

Denial

~~(b) If the Employee denies the allegations, the Employment Executive Member will commission a formal investigation into the allegations.~~

1.9 Formal investigation and outcome

~~(b) Upon completion of the formal investigation, the Employment Executive Member will consider the investigator's findings and determine what, if any, Disciplinary Action is to be taken.~~

~~(c) When providing their response to the allegation(s), the Employee can request that the matter be referred to a Misconduct Committee.~~

~~(d) Misconduct Committee~~

~~(e) Where a matter is referred to a Misconduct Committee, the Committee will be convened within 10 working days where possible. The Misconduct Committee will consist of 3 members as follows:~~

~~(f) an Employee of the University nominated by the University;~~

~~(g) a trained employee of the University who is nominated by the staff representatives on the Implementation Committee, and who is drawn from a pool of trained employees selected through an expression of interest process by the Implementation Committee; and~~

~~(h) an independent Chair selected by the Vice-Chancellor from a pool of Chairs and, where the employee is a Union member, by agreement with the relevant Union. Chairs appointed under this clause will have relevant experience and be independent.~~

~~(i) The role of the Misconduct Committee will be to provide a report to the University regarding any matters that the Misconduct Committee considers the University should take into account when making any decision regarding the allegation(s) and the Employee. In doing so, the Misconduct Committee will consider:~~

~~(j) the investigator's report;~~

~~(k) the allegation(s) of Misconduct or Serious Misconduct made against the Employee;~~

~~(l) the Employee's response to the allegations of Misconduct or Serious Misconduct;~~

~~(m) any additional submissions or material provided to, or sought by, the Misconduct Committee by/from the Employee in person or in writing in relation to the allegation(s);~~

~~(n) any mitigating circumstances;~~

- ~~(o) — whether the procedures that were followed by the investigator under subclause 40.25 afforded procedural fairness to the Employee; and~~
- ~~(p) — any other matters that may have a material relevance to any decision which may be made by the University regarding disciplinary action.~~
- ~~(q) — The role of the Misconduct Committee will not be to reinvestigate the matter. The Misconduct Committee may, however, consider additional material evidence (whether from persons or documents) which was not available to the investigator.~~
- ~~(r) — The Misconduct Committee will prepare any report as expeditiously and confidentially as possible.~~
- ~~(s) — Determination~~
- ~~(t) — After considering the Employee's response to the allegation(s) of Misconduct or Serious Misconduct and, if applicable, the report of the Misconduct Committee, the University will determine what, if any, Disciplinary Action should be taken.~~
- ~~(u) — Any decision to terminate an Employee's employment must be approved by the Vice-Chancellor, but only after the Employee has been given an opportunity to respond to a show cause letter. An Employee will be given 10 working days (or longer period as agreed) to respond to a show cause letter.~~
- ~~(v) — Where a decision to take action has been made in accordance with this clause, no further appeal can be made within the University. Nothing in this clause will be construed as excluding the jurisdiction of any external court or tribunal which would be competent to deal with this matter.~~
- ~~(w) — Notice of Termination of Employment~~
- ~~(x) — The University may terminate the employment of an Employee for Serious Misconduct with the following notice of termination or payment in lieu:

| | |
|---|------------------------------|
| (a) — | (z) — Peri |
| (aa) — 1 year or less | (bb) — 1 |
| (cc) — More than 1 year and | (dd) — 2 |
| (ee) — More than 3 years and | (ff) — 3 |
| (gg) — More than 5 years | (hh) — 4 |~~
- ~~(b) — If the Employment Executive determines that the Employee's employment should be terminated, the Employee will be given 5 working days (or longer period as agreed) to respond to a show cause letter.~~
- ~~(ii) — Where a decision has been made in accordance with this clause, no further appeal against that decision can be made within the University. Nothing in this clause will be construed as excluding the jurisdiction of any external court or tribunal that would be competent to deal with the matter, or such greater notice as is provided for under the Employee's contract of employment. In addition to this period of notice, Employees who are over 45 years of age at the time of the giving of notice and who have at least 2 years' continuous service with the University will receive an additional one week of notice.~~
- ~~(j)(c) — The University may terminate the employment of an Employee without notice where the Employee is found to have engaged in conduct of a kind envisaged in the Act such that it would be unreasonable to require the University to continue employment during a notice period.~~

Professional Staff Agreement – current clause 48

Academic Staff Agreement – current clause 42

1. UNSATISFACTORY PERFORMANCE

1.1 Application

- (a) ~~This clause does not apply to:~~
- ~~(i) casual Employees; or~~
 - ~~(ii) Employees serving a probationary period.~~

1.2 General

- (a) ~~Unsatisfactory performance occurs when an Employee has, over a reasonable period of time, failed to meet the means standard of performance of an Employee's (other than casual Employees) allocated duties at a standard less than is reasonable expected for the Employee's position, considering having regard to the Employee's level and duties, of the position and taking into account any mitigating factors, which may impede the Employee performing their duties at a satisfactory level. Examples of sufficient mitigating factors include relevant personal and health issues or the absence of training, resources or guidance which the Employee might reasonably expect to have received. An Employee's inability to meet workloads demonstrated to be unreasonable does not constitute unsatisfactory performance.~~
- (b) ~~If a matter involving unsatisfactory performance has been dealt with under **clause 49: Misconduct or Serious Misconduct**, it will not be necessary to follow the procedures set out under this clause will not apply.~~
- (c) ~~An Employee may choose to be accompanied by a support person or Representative, **who may be including** an official of the relevant Union, at any stage of a process ~~conducted under prescribed by~~ this clause.~~

1.21.3 Informal counselling

- (a) ~~If an Employee's performance is unsatisfactory, **At the Employee's** Supervisor will meet with the Employee to discuss:~~
- ~~(i) the Supervisor's concerns regarding the Employee's performance;~~
 - ~~(ii) the nature of the improvement required (this may include directing the Employee to undertake appropriate training);~~
 - ~~(iii) the time within which reasonable improvement is expected; and~~
 - ~~(iv) the Employee's response, if any, to the Supervisor's concerns.~~
- (b) ~~The Supervisor will keep a written record of the meeting and provide a copy to the Employee.~~
- (a) ~~make all reasonable efforts to resolve instances of unsatisfactory performance informally using discussion, guidance, counselling and/or staff development, including directing the Employee to undertake a program to assist in improving performance. A Supervisor must give an Employee an opportunity to respond to any concerns about the Employee's performance.~~

1.4 Performance Improvement Plan

- (a) ~~If the Employee's performance does not satisfactorily improve after informal counselling. Disciplinary action should be used as a last resort. If a Supervisor has been unable to informally resolve instances of unsatisfactory performance, the Supervisor will formally interview the Employee (the "First Formal Interview"), giving the Employee an opportunity to respond. the Supervisor will advise that more formal measures are required to assist the Employee to improve their performance.~~
- (b) ~~The Supervisor and the Employee will agree upon a Performance Improvement Plan (PIP), which sets out:~~
- ~~(b) _____~~
- (c) ~~A record of the First Formal Interview with the Supervisor will be made and given to the Employee together with a document setting out:~~
- (i) ~~the nature of the Employee's unsatisfactory performance;~~
 - (ii) ~~the specific areas that require improvement;~~
 - (iii) ~~the specific performance standard that is expected and how improvement will be measured;~~
 - (iv) ~~any support to be provided to assist the Employee to reach the specific performance standard;~~
 - (v) ~~the length of the review period, which will provide a reasonable opportunity for the specific performance standard to be met;~~
 - ~~(vi) the dates on which the Employee and the Supervisor will meet to discuss the PIP; and~~
 - ~~(vii) the consequences of continued unsatisfactory performance.~~
- (c) ~~If the Employee refuses to participate in the PIP process, the Supervisor may issue a lawful and reasonable direction to the Employee to participate in the process.~~

1.5 Review of Performance Improvement Plan

- (d) ~~The Employee may also have their comments recorded and placed on file. Where there are no further instances of formal discussion of unsatisfactory performance for a further period commensurate with the review period, the records will be removed from the file.~~
- (e) ~~Before the commencement of the review period, an Employee may request that the Dean or Director of the School or work unit determine whether the specific performance standard that is expected is reasonable.~~
- (a) ~~If, after the review period identified in the PIP, the Supervisor is of the view that:~~
- (i) ~~the Supervisor determines that the Employee's performance has satisfactorily improved, the specific performance standard identified in the First Formal Interview has been reached, the Supervisor will advise the Employee in writing and the process will conclude; or~~

~~(ii) the Employee has exhibited a reasonable level of improvement towards reaching the specific performance standards identified in the PIP, the Supervisor may extend the review period; or~~

~~(iii) the Employee has not reached the specific performance standards identified in the PIP, the Supervisor will refer the matter to the nominated Employment Executive Member for determination.~~

1.6 Determination by Employment Executive Member

~~1.3 If after the review period the Supervisor determines that the specific performance standard identified in the First Formal Interview has not been reached:~~

~~(i) but the Supervisor is of the view that:~~

~~A. the Employee has exhibited a reasonable level of improvement towards reaching the specific performance standard(s) identified in the First Formal Interview; and~~

~~B. an extension of the review period would be appropriate to allow the Employee a further opportunity to achieve the required standard;~~

~~then the Supervisor may extend the review period accordingly; or~~

~~(ii) the Supervisor will make a written report describing the unsatisfactory performance and the record of attempts to remedy it. A copy of the report will be given to the Employee who, within 10 working days, may respond in writing to the Supervisor. The Supervisor will then provide a copy of the report and the Employee's response to the Dean or Director of the School or work unit.~~

~~(b) The Dean or Director, upon receipt of the Supervisor's report and any response from the Employee, will determine whether the process under this clause has been followed. If the process has not been followed, the Dean or Director will recommence the process. If the process has been followed, then the Dean or Director will formally interview the Employee (the "**Second Formal Interview**"), giving the Employee an opportunity to respond.~~

~~(c) A record of the Second Formal Interview with the Dean or Director will be made and given to the Employee, together with a document setting out:~~

~~(i) the nature of the unsatisfactory performance;~~

~~(ii) the specific areas that required improvement;~~

~~(iii) the specific performance standard that was expected and how improvement will be measured;~~

~~(iv) any support provided to assist the Employee to reach the specific performance standard; and~~

~~(v) the consequences of continued unsatisfactory performance.~~

~~The Employee may have their comments recorded and placed on file.~~

~~(d) If after the Second Formal Interview the Dean or Director determines that the specific performance standard identified in the First Formal Interview has not been reached, the Dean or Director will advise the Employee in writing. The Dean~~

~~or Director will provide a report to the Employment Executive Member recommending disciplinary action.~~

~~(e)(a)~~ Following consideration of the ~~report (including any comments recorded from the Employee)~~ matter, the Employment Executive Member may ~~decide to:~~

- ~~(i) determine that take no further action should be taken, in which case the process will conclude; or~~
- ~~(ii) determine that refer the matter back to the Dean or Director and Supervisor to ensure that the disciplinary processes contained in this clause have been complied with in substance and in a manner appropriate to the circumstances the review period identified in the PIP should be extended, in which case the matter will be referred back to the Employee's Supervisor; or~~
- ~~(iii) determine that take disciplinary action should be taken. Which his may include, but is not limited to, the removal of duties and/or responsibilities for which the Employee is paid an allowance, or demotion by one or more classification levels or increments; or~~
- ~~(iv) recommend to the Vice-Chancellor that the employment of the Employee's employment be terminated for unsatisfactory performance.~~

~~(b)~~ The Employment Executive Member will advise the Employee of the determination in writing ~~of their decision or recommendation in relation to disciplinary action~~ within 10 working days.

1.7 Recommendation to Vice-Chancellor

~~The Employee may make a written submission to the Employment Executive Member within 5 days of receipt of the advice. Where a recommendation to the Vice-Chancellor that the employment of the Employee be terminated has been proposed, the Employee may also request a review of the process leading to the Employment Executive Member's recommendation, in which case the Employment Executive Member will refer the matter to an Unsatisfactory Review Performance Committee ("Review Committee").~~

~~1.4~~ If the Employee does not make a submission under subclause 48.14, the Employment Executive Member will confirm their decision under subclause 48.13.

~~(a)~~ If the Employee makes a submission under subclause 48.14, the Employment Executive Member may, having considered the submission:

- ~~(i) confirm their decision under subclause 48.13; or~~
- ~~(ii) decide to take some other form of action under subclause 48.13.~~

~~(b)(a)~~ If the Employment Executive Member makes a recommendation to the Vice-Chancellor pursuant to ~~subclauses 48.15 or 48.16~~ subclause 1.6(b), the Vice-Chancellor may:

- ~~(i) refer the matter back to the Employment Executive Member for other action; or~~
- ~~(ii) terminate the employment of the Employee with notice~~ Employee's employment for unsatisfactory performance.

1.1 — ~~Unsatisfactory Performance Review Committee~~

- ~~(a) — The Review Committee will be convened within 15 working days where practicable and will comprise:
 - ~~(i) — an Employee of the University nominated by the University;~~
 - ~~(ii) — a trained Employee of the University who is nominated by the staff representatives on the Implementation Committee, and who is drawn from a pool of trained Employees selected through an expression of interest process by the Implementation Committee; and~~
 - ~~(iii) — an independent Chair selected by the Vice-Chancellor from a pool of Chairs in consultation with the relevant Union. Chairs appointed under this clause will have relevant experience and be independent.~~~~
- ~~(b) — The terms of reference of the Review Committee will be to report on whether the process set out in this clause has been followed.~~
- ~~(c) — A Review Committee will:
 - ~~(i) — allow the Employee and the University to choose to be assisted by an Employee of the University or their Representative;~~
 - ~~(ii) — provide an opportunity for the Employee to be interviewed;~~
 - ~~(iii) — interview any person to establish the facts as to whether the process referred to in this clause was followed;~~
 - ~~(iv) — conduct all interviews in the presence of the Employee or, where requested, the Employee's Representative and the University's representative;~~
 - ~~(v) — conduct proceedings as expeditiously and confidentially as possible, consistent with the need for fairness;~~
 - ~~(vi) — ensure that the Employee or their Representative and the University or its representative have the right to ask questions of interviewees and to make submissions;~~
 - ~~(vii) — keep a record of its proceedings; and~~
 - ~~(viii) — provide a written report to the Vice-Chancellor with a copy to the Employee as soon as possible following the conclusion of its proceedings.~~~~
- ~~(d) — The Employee will be given 5 working days to respond to the report of the Review Committee.~~
- ~~(e) — Having considered the report of the Review Committee and any response from the Employee, the Vice-Chancellor may then decide to:
 - ~~(i) — take no further action and advise the Employee in writing and may, with their agreement, publish the advice in an appropriate manner;~~
 - ~~(ii) — take action to remedy any procedural problem; or~~
 - ~~(iii) — take action to formally terminate employment.~~~~
- ~~(f) — Where a decision to take action has been made in accordance with this clause, no further appeal can be made within the University. Nothing in this clause will be construed as excluding the jurisdiction of any external court or tribunal which, but for this clause, would be competent to deal with the matter.~~

~~(g) Nothing in this clause prevents the termination of employment of an Employee under clause 13: Probation.~~

~~(h) Nothing in this clause prevents the Vice-Chancellor or the Employment Executive Member referring a question of possible unsatisfactory performance to a Supervisor for appropriate action.~~

1.51.8 Notice of termination of employment

(a) If the ~~University terminates the employment of an Employee~~Employee's employment is terminated for unsatisfactory performance, the Employee will receive the following formal notice of termination or payment in lieu will be given to the Employee:

| Period of continuous service | Period of |
|-------------------------------------|------------------|
| 1 year or less | 1 week |
| More than 1 year and up to 3 years | 2 weeks |
| More than 3 years and up to 5 years | 3 weeks |
| More than 5 years | 4 weeks |

or such greater notice as is ~~provided for underprescribed by~~ the Employee's contract of employment. ~~In addition to this period of notice, Employees who are~~An Employee who is over 45 years of age ~~at the time of the giving of notice and who~~and has have completed at least 2 years' ~~of e~~Continuous Sservice with the University at the time notice is given will receive an additional ~~one 1 week of notice~~weeks' notice or payment in lieu.

Professional Staff Agreement – current clause 27

1. CAREER PLANNING AND DEVELOPMENT

- ~~(a)~~ The University is committed to providing opportunities for career planning and development through a number of initiatives including the Professional Development Program which provides a diverse range of practical and informative skill related courses designed to enhance the capabilities of people and support the implementation of the University's Strategy.
- ~~(b)~~(a) The University will provide Employees with a range of centrally-funded training and development opportunities, through the Organisational Development Unit, and externally delivered programs related to the ~~work of the~~ University's work. ~~In 2013, the expenditure on professional staff development was \$4,200,000. The University intends to spend no less than this amount per annum in real terms over the life of this Agreement, and will inform the Unions of the steps being taken by the University in relation to training and development generally at least twice per calendar year.~~
- ~~(c)~~(b) ~~In recognising the importance of building the skills and professionalism of Employees and promoting a welcoming, productive and engaged workplace that achieves common ideals and goals,~~ The University is committed to providing all Employees with:
- (i) the opportunity to be involved in the planning of their work, and to develop personal skills that complement their work unit's goals;
 - (ii) the opportunity to access a personal career development plan that will lead to identifiable career opportunities; and
 - (iii) equity of access to training and development opportunities.
- ~~(d)~~(c) The University will provide opportunities for career progression by:
- (i) advertising all ongoing and fixed-term vacancies on the University website. ~~Vacancies for positions at HEW Level 6 or below will be advertised internally in the first instance;~~
 - ~~(ii)~~ ~~advertising vacancies internally in the first instance where there is a reasonable pool of internal applicants;~~
 - ~~(iii)~~(ii) broadbanding of specified positions; and
 - ~~(iv)~~(iii) appointing Employees, other than casual Employees, to temporarily perform the duties of a higher classified position in accordance with clause xx: Higher Duties.
- ~~(e)~~(d) Career and development opportunities for an individual Employee should initially be identified in discussion with their Supervisor, ~~and. These~~ may include:
- (i) on-the-job coaching;
 - ~~(ii)~~ ~~internal temporary transfers;~~
 - ~~(iii)~~(ii) attendance at training courses, ~~/~~ programs or conferences;
 - ~~(iv)~~(iii) networking and mentor relationships;
 - ~~(v)~~(iv) temporarily performing duties of a higher classified position;

Comment [WSU1]: Deleted "internal temporary transfers" – same as secondments, which are covered in (v).

~~(vi)~~(v) job rotation, secondments, and employee exchange programs;

~~(vii)~~(vi) research or project work;

~~(viii)~~(vii) support for ongoing accredited education; and

~~(ix)~~(viii) involvement in internal or external committees or University governance.

~~(f)~~(e) The University will make funding available to support agreed career development plans.

1.1 Annual Planning and Career Development Program

(a) An Employee and their Supervisor will meet at least annually ~~with each Employee who reports to them~~ to discuss the planning goals and objectives of their work unit for the next 12 months and to clarify how they relate to the Employee.

~~(a)~~(b) The Employee and their Supervisor will complete a standard planning and career development document setting out the agreed work plan and career development program for the Employee. The Supervisor will:

- (i) provide the Employee with an opportunity to meet and discuss goals, identify work priorities, and clarify expectations;
- (ii) assist the Employee in identifying career skill development needs in their current position and ~~assist in identifying~~ career development opportunities;
- (iii) provide ~~the Employee with~~ guidance and constructive feedback;
- (iv) identify and support higher duties opportunities as career development; and
- (v) implement, where possible, an agreed career development program.

~~(b)~~(c) If an Employee is reasonably of the opinion that they are not being given training or development opportunities, they should raise the matter ~~at the first instance~~ with their Supervisor ~~in the first instance~~. If the matter is not resolved, the Employee may ~~then~~ raise the matter with the ~~Executive Director, Human Resources, HR Strategy and Services~~ or other person nominated by the University for resolution.

(d) The University will consult with Employees on the development of the standard planning and career development process.

1.2 Reimbursement of course fees

(a) The University may reimburse an ~~ongoing or fixed-term~~ Employee ~~(other than a casual Employee)'s~~ for course fees for study ~~undertaken that provides the Employee with skills~~ directly related to ~~their~~ ~~the Employee's~~ current position, or ~~that might~~ ~~may~~ reasonably be expected to be utilised within the University in the future.

(b) If the University requires an Employee to undertake training, it will be regarded as part of ~~their~~ ~~the Employee's~~ duties and count as time worked.

1.3 Study leave

~~(a)~~ An ongoing or fixed-term Employee who is (other than a casual Employee) undertaking an approved course of formal study or training related to their work is entitled to:

~~(i)~~ take up to 5 hours' paid leave per week; and

~~(ii)~~ additional paid leave to attend examinations.

This time may be accumulated to a maximum of 35 hours in any semester.

~~(a)~~(b) Arrangements for taking leave are to be agreed between the Employee and their Supervisor.

1.4 Multiskilling

~~(a)~~ The University embraces the advancement of multi-skilling where appropriate in job design and redesign, through the support of the development of a flexible workforce and employee skill development.

~~(b)~~(a) The University may direct an Employee to perform work and/or use equipment as may reasonably be required within reason given having regard to the Employee's existing skill base, provided that the Employee has been properly trained and licensed, and the skill competency levels required fall within the Employee's classification level.

Any direction given by the University under this clause will be consistent with the University's responsibility to provide a safe and healthy working environment.

Academic Staff Agreement – current clause 24

1. ACADEMIC CAREER DEVELOPMENT, PLANNING AND REVIEW

- ~~(a)~~ The University is committed to providing opportunities for career planning and development through a number of initiatives including the Professional Development Program which provides a diverse range of professional opportunities to enhance capabilities, career development and support the implementation of the University's Strategy.
- ~~(b)~~(a) In recognising the importance of building the professionalism of Employees and promoting a welcoming, productive and engaged workplace that achieves common ideals and goals, ~~t~~The University will provide Employees with:
- (i) the opportunity to be involved in the planning of their work, and to develop personal skills that complement their work unit's goals; and
 - (ii) career development opportunities

1.1 The Academic Career Development, Planning and Review process

- ~~(c)~~(b) All ongoing Employees ~~and who are ongoing and~~ fixed-term employed Employees engaged for 12 months or more will participate in the University's Academic Career Development, Planning and Review (ACDPR) process.
- ~~(d)~~(c) If an Employee is on probation, ~~t~~The Academic Career Development, Planning and Review ACDPR process for an Employee who is within their probationary period will link with those processes in accordance with ~~be incorporated into the process prescribed by clause 13: Probation.~~
- ~~(e)~~
- ~~(d)~~ Subject to subclause 24.1, it is the responsibility of the ~~As part of the ACDPR process,~~ Supervisor~~s~~ and the Employees ~~will:~~ to
- (i) ~~An Employee will meet their Supervisor~~ meet at least annually to discuss the Employee's past performance and future development plans; ~~for the purposes of which the Employee and will provide their Supervisor with relevant information and documentation on their~~ about the Employee's performance;
 - (ii) complete a Career Development Plan each year, and within a reasonable timeframe consistent with the School Work Plan process requirements for ~~that the relevant year;~~ and
 - ~~(iii)~~(iii) review ~~that~~ Plan at least once in the course of the School's academic year.
- ~~(e)~~ An Employee who does not participate in the ~~Academic Career Development, Planning and Review~~ ACDPR process cannot:
- (i) ~~be confirmed from probation~~ have their probation confirmed;
 - (ii) be promoted;
 - (iii) apply for Professional Development Program leave;

Comment [WSU1]: This has been moved from the current

~~(iv)~~ attend conferences paid for by the University, or ~~held in during~~ University time;
or

~~(iii)(v)~~ receive salary increments, or recruitment and retention loadings.

(f) The ~~Academic Career Development, Planning and Review~~ ACDPR process will:

(i) be informed by ~~an annually updated version of the~~ Employee's annually updated career plan which will be completed by the Employee Career Development Plan;

(ii) cover all aspects of ~~the~~ Employee's Work Plan;

(iii) provide ~~the~~ Employee with an opportunity to ~~document and~~ discuss their achievements and ~~identify any factors that may facilitate~~ ways in which their professional development may be facilitated;

(iv) ~~assist an~~ ensure the Employee ~~to be fully~~ is aware of their responsibilities and duties, and the effect ~~that~~ these have on the University's operations;

~~(v)~~ ~~provide a basis for further professional development of the Employee;~~

~~(vi)(v)~~ ~~provide positive feedback, and encouragement or guidance as appropriate on the Employee's performance and development where appropriate and provide guidance and feedback to an Employee where performance and/or development is assessed as requiring improvement;~~

~~(vii)~~ ~~be available to assist any Employee engaged in a TFR to develop a plan to transition to a teaching and research role pursuant to subclauses 14.54 to 14.56; and~~

~~(viii)(vi)~~ ~~include an annual evaluation of research supervision.~~

~~An Employee will meet their Supervisor at least annually to discuss the Employee's past performance and future development plans and will provide relevant information and documentation on their performance.~~

(g) As part of an academic development program, Schools may augment the assessment of teaching performance ~~measurement and assessment~~ with a program of peer review and mentoring. ~~If this occurs, with peer reviewers being will be~~ approved by the Supervisor in consultation with the Employee. ~~Where If~~ agreement cannot be reached ~~on reviewers,~~ ~~the~~ Employee may request an alternative peer reviewer on reasonable grounds, and the Supervisor will not unreasonably refuse such a request.

1.11.2 Evaluation of ~~t~~Teaching

~~(a)~~ As part of the ~~Academic Career Development, Planning and Review~~ ACDPR process, all Employees ~~will bear e~~ required to undergo ~~take~~ annual evaluation of:

~~(i)~~ the full range of their teaching activities; and

~~(ii)~~ the units in which they teach. ~~Such evaluation is to cover a full range of teaching activities.~~

~~(b)~~ ~~An Employee will make S~~ Student Feedback on Teaching (SFT) outcome ~~student evaluation outcomes, which relate to the teaching of the individual Employee will be confidential to that Employee, except that the Employee will make them~~ available to their

Comment [WSU2]: Current 24.6(e) has been deleted – professional development is already covered by (e)(iii) above.

Comment [WSU3]: Reference to TFRs has been removed as the University proposes to discontinue this category of Academic employment.

Supervisor ~~and discuss them for discussion with their Supervisor~~ at the ~~time of~~ the ~~Employee's Academic Career Development, Planning and Review ACDPR~~ meeting. ~~An Employee's SFT outcomes may also be accessed by the Dean or Institute Director.~~

~~(h)(c) The University may use, for any purpose, aggregate findings that relate to the relevance and quality of courses and units in terms of student needs and expectations.~~

~~(d) Student evaluations and the Employee's reflections on these evaluations, and plans to address areas needing development, will be incorporated into the Academic Career Development, Planning and Review ACDPR process will incorporate:~~

~~(i) SFT outcomes;~~

~~(ii) the Employee's response to the SFT outcomes; and~~

~~(iii) any plans to address areas identified as needing development.~~

~~(e) Evaluation of teaching performance must be considered in the context of the teaching and learning environment. Student evaluation on SFT outcomes cannot its own cannot be used as the sole measure of an Employee's teaching performance.~~

~~(f) The University may use, for any purpose, aggregate findings that relate to about the relevance and quality of courses and units in terms of student needs and expectations.~~

1.21.3 The Academic Career Development, Planning and Review Report

(a) The ~~Academic Career Development, Planning and Review ACDPR~~ Report will include a ~~summary form that will the following, as a minimum, provide:~~

(i) the date ~~on which~~ the ~~annual performance and review meeting discussion~~ took place;

(ii) a summary of ~~the Employee's~~ areas of achievement ~~of the Employee;~~

(iii) ~~a summary of the student evaluation outcomes which relate to the teaching of the Employee Employee's SFT outcomes, and agreed strategies to build on strengths and address any apparent weaknesses address any areas identified as needing improvement;~~

(iv) a summary of any ~~other~~ areas of concern ~~regarding the Employee's performance requiring improvement; and~~

~~(v) a summary of any problems being experienced by the Employee; and~~

~~(vi) any other relevant information~~

~~(b) The Employee will must be given an the opportunity to read, comment on, and sign the annual Academic Career Development, Planning and Review ACDPR Report prepared by the Supervisor. The details of this reporting process are contained within subclause 24.13.~~

~~(c) The Supervisor will then forward the completed Academic Career Development, Planning and Review ACDPR Report to the Dean or Director of the School or work unit for confidential storage.~~

~~(d) The Academic Career Development, Planning and Review ACDPR Report will form part of subsequent reviews.~~

1.31.4 Review Unsatisfactory performance

- (a) ~~An Employee must be given the opportunity to read, comment on and sign the annual Academic Career Development, Planning and Review Report prepared by the Supervisor. The details of this reporting process are contained within subclause 24.13.~~
- (b) ~~The Academic Career Development, Planning and Review process for an Employee who is within their probationary period will link with those processes in accordance with clause 13: Probation.~~
- (c) ~~(b)~~ ~~Where~~ ~~If the a~~ Supervisor is of the view that the performance and/or development of an Employee is ~~not satisfactory~~ unsatisfactory, the Supervisor will consult the Dean or Director of the School or work unit, and the matter will be dealt with in accordance with clause 43: Unsatisfactory Performance.

Professional Staff Agreement – current clause 26

1. WORKLOADS

1.1 Principles

(a) ~~It is in the interests of the University and its Employees to ensure that workloads are realistic and achievable within ordinary hours of work. The University does not encourage or condone a workplace culture that requires staff to work excessive hours. Whilst recognising that reasonable overtime may, from time to time, occasionally be required to meet operational needs;~~

Comment [WSU1]: This statement is aspirational and confers no entitlement to employees.

(i) ~~it is the responsibility of Supervisors have a responsibility to ensure that unreasonable expectations are not made of Employees and that Employees are not required to work excessive hours;~~ and

(ii) ~~it is the responsibility of Employees have a responsibility to ensure that they are not working excessive hours.~~

(b) The University will not make workload demands of Employees that are inconsistent with these principles.

1.2 Allocation of workload

(a) Supervisors are ~~responsible for ensuring to ensure~~ that workloads are fairly and equitably allocated to teams or individuals in consultation with Employees.

(b) ~~Workload allocation takes into account the Work Health and Safety principles relevant to the University;~~

Comment [SO2]: Deleted reference to WHS – the University is legally obliged to meet its WHS obligations.

(c) ~~Individual workloads are to be discussed and negotiated during Performance Management Reviews, and monitored in accordance with subclauses 26.8 to 26.10 clause 1.3 below;~~

(d) ~~Employees should not be required to work unreasonable overtime.~~

(e) ~~Without disrupting the operation of their work unit, an Employee should be able to:~~

(i) ~~be able to~~ use their flex-time credits as set out in **clause xx: Flexible Hours of Work Scheme**; and

(ii) ~~be able to~~ take their **accrued** annual leave ~~within the limits imposed by in accordance with clause xx: Annual Leave.~~

1.3 Monitoring of workload

(a) Primary indicators of unreasonable workload may include ~~an ongoing need to work excessive hours, unreasonable overtime, and or an Employee's inability for Employees to clear their~~ accrued leave or flex credit;

(b) Supervisors ~~have a responsibility to are responsible for:~~

(i) ~~monitoring and review reviewing~~ workloads for signs of overwork; and

(ii) ~~monitoring~~ patterns of work and/or total hours worked over a given period of time, leave balances, accrued time in lieu, and flex balances.

(c) The Implementation Committee will ~~, at the institutional level,~~ monitor overtime ~~worked,~~ leave balances, accrued time in lieu, and flex credits, and may be used as a forum to facilitate consultation on ~~matters concerning~~ workloads.

1.4

Individual Workload Review

- (a) If an Employee is concerned ~~with his/her~~about their workload, ~~the Employee~~they may request a workload review ~~by discussing issues through discussion~~ with their Supervisor.
- (b) ~~If the issue~~matter is not ~~satisfactorily~~ resolved through ~~this process~~discussion with the Supervisor, the Employee may ~~approach~~discuss the matter with the Dean or Director of the ~~Employee's~~ School or work unit.
- ~~(c)~~(c) ~~If the satisfactory resolution is not achieved~~matter is not resolved through discussion with the Dean or Director, the Employee may ~~raise the issue~~discuss the matter with the ~~Executive~~ Director, ~~HR Strategy and Services~~Human Resources (or nominee).