

WESTERN SYDNEY UNIVERSITY



WESTERN SYDNEY UNIVERSITY ACADEMIC STAFF AGREEMENT 2022 EXPLANATORY DOCUMENT

This document provides an explanation of the terms and effect of the proposed *Western Sydney University Academic Staff Agreement 2022 (Proposed Agreement)* ahead of the online staff ballot that will be held between **9:00am on Monday, 28 November 2022** and **4:00pm on Tuesday, 29 November 2022**.

It also identifies whether there are any differences between the Proposed Agreement and the current *Western Sydney University Academic Staff Agreement 2017 (Current Agreement)*. This information is marked with the following symbol: ♦ If a clause is referred to as being “substantively unchanged,” it means that adjustments have been made to wording without altering the effect or operation of the clause.

It is important that you read this document carefully. You should also read and understand the Proposed Agreement, which can be accessed via this link: [Western Sydney University Academic Staff Agreement 2022](#).

In addition:

- ♦ material referenced in the Proposed Agreement can be accessed via this link: [Material Incorporated by Reference](#); and
- ♦ the Current Agreement can be accessed via this link: [Western Sydney University Academic Staff Agreement 2017](#).

IF THE PROPOSED AGREEMENT COMES INTO EFFECT, IT WILL SET OUT THE TERMS AND CONDITIONS OF YOUR EMPLOYMENT WITH THE UNIVERSITY.

If you have any questions regarding the Proposed Agreement, or require additional assistance reading or understanding any of the information set out below, you can:

- ♦ submit a question via email to ebfeedback@westernsydney.edu.au; or
- ♦ contact the NTEU, if you are a member of the union.

1. AGREEMENT TITLE

- 1.1 Clause 1 states that the Proposed Agreement is called the *Western Sydney University Academic Staff Agreement 2022*.

2. DEFINITIONS

- 2.1 Clause 2 defines the various terms that are used throughout the Proposed Agreement.
- 2.2 Defined terms are capitalised whenever they are used in the Proposed Agreement (and in this explanatory document) to indicate that they are defined by clause 2.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.
- ◆ The clause includes a new definition of “Casual Rate of Pay,” namely “the applicable hourly rate of pay for a casual Employee as prescribed by Schedule B to [the] Agreement, which is inclusive of a casual loading of 25% in lieu of all benefits under [the] Agreement to which a casual Employee is not entitled.”
- ◆ The clause introduces a new definition of “Chief People Officer,” namely “the most senior position within the University’s Office of People.” This definition has been introduced on the basis that the Chief People Officer has certain decision-making responsibilities in the Agreement.
- ◆ The clause also introduces a new definition of “Shiftworker,” namely “for the purposes of the NES, an Employee who works according to a roster that covers every day of the year.” The definition also notes that Shiftworkers are entitled to an additional 5 days of annual leave per year in accordance with subclause 28.3 of the Agreement.
- ◆ The definition of “Public Holidays” has been adjusted to include a reference to “any holiday declared or prescribed by, or under, a law of a State or Territory in which this Agreement operates.”

3. TERM OF THE AGREEMENT

- 3.1 Clause 3 states that the Proposed Agreement will commence 7 days after the date on which it is approved by the Fair Work Commission and will remain in effect until its Nominal Expiry Date of 1 March 2025. This is the Agreement’s “nominal term.”

4. APPLICATION OF THE AGREEMENT

- 4.1 Clause 4 states that the Proposed Agreement:
- wholly displaces and operates to the exclusion of all Awards and other agreements that would otherwise apply to Employees, except the National Employment Standards (NES);¹ and
 - will be read and interpreted in conjunction with the NES. If there is an inconsistency between the Proposed Agreement and the NES, and the NES provide a greater benefit, the NES provision will apply to the extent of any inconsistency.
- 4.2 The clause also outlines the categories of Employees who are not covered by the Proposed Agreement, namely:
- the Vice-Chancellor;
 - the Senior Deputy Vice-Chancellor;
 - Deputy Vice-Chancellors;
 - Pro Vice-Chancellor; and
 - Deans, Institute Directors, or equivalent (determined by reference to total remuneration package).
- 4.3 Nothing in the Proposed Agreement is to be taken as incorporating as a term of the Agreement any

¹The NES are 11 minimum employment entitlements that must be provided to all Employees.

University policy, procedure, or process referred to in the Proposed Agreement.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.
- ◆ The provision about the interaction between the Proposed Agreement and the NES (as referred to in point 4.1 above) is new.
- ◆ The reference to “Senior Deputy Vice-Chancellor” in the list of exclusions is also new, as this position was created after the Current Agreement commenced.

5. COVERAGE OF THE AGREEMENT

- 5.1 Clause 5 states that the Proposed Agreement will cover specified Employees and the University.
- 5.2 It also states that the Proposed Agreement will cover the NTEU upon the union making an application for coverage to the Fair Work Commission.
- ◆ The clause is unchanged.

6. RENEGOTIATION OF THE AGREEMENT

- 6.1 Clause 6 outlines the steps that will be taken by the University and the NTEU to make arrangements for commencing renegotiation of the Proposed Agreement as it nears its Nominal Expiry Date of 1 March 2025.
- ◆ The clause is unchanged.

7. INDIVIDUAL FLEXIBILITY ARRANGEMENTS

- 7.1 Clause 7 states that the University and an individual Employee can enter into an Individual Flexibility Arrangement (IFA) to vary the application of terms of the Proposed Agreement to meet the genuine needs of the University and the Employee and explains how an IFA is made.
- 7.2 IFAs can be made in relation to:
- the purchase and taking of an extra 4 weeks of annual leave per year; and
 - the taking of extra leave without pay after the birth or adoption of a child.
- ◆ The matters in relation to which an IFA can be made are unchanged.
 - ◆ There have been some minor changes to the way in which the administrative arrangements for entering into an IFA are expressed in the clause.
 - ◆ The notice period for either party wishing to terminate an IFA has been increased from 28 days to 13 weeks, although the parties can also terminate an IFA at any time by written agreement.

8. IMPLEMENTATION COMMITTEE

- 8.1 Clause 8 outlines the composition and role of the Implementation Committee, which is responsible for facilitating implementation of the Proposed Agreement by:
- being a forum for consultation on strategies to support implementation of the Proposed Agreement, including training for managers and Employees;
 - considering reports required by various clauses of the Proposed Agreement; and
 - monitoring and advising on the implementation of the Proposed Agreement.
- ◆ The clause is substantively unchanged.

9. AVAILABILITY OF THE AGREEMENT

9.1 Clause 9 specifies how Employees can access a copy of the Proposed Agreement. The University will make the Proposed Agreement available on its website and provide a printed copy on request to any Employee who does not have access to the website.

◆ The clause is substantively unchanged.

10. NO EXTRA CLAIMS

10.1 Clause 10 states that during the nominal term of the Proposed Agreement, the parties will not pursue any further claims about matters covered by the Proposed Agreement, unless the Proposed Agreement allows them to do so.

◆ The clause is substantively unchanged.

11. DISPUTE SETTLEMENT

11.1 Clause 11 sets out the process for dealing with disputes about any matters arising under the Proposed Agreement or the NES.

11.2 A dispute can be initiated by an Employee, the NTEU, or the University.

11.3 An Employee who is a party to a dispute can be assisted by a Representative.

11.4 The dispute process requires the parties to hold internal discussions in the first instance. If the dispute cannot be resolved internally, or needs to be resolved urgently, either party can refer the matter to the Fair Work Commission for conciliation and, if necessary, arbitration. Alternatively, the parties can agree to refer the matter to a third party other than the Commission for resolution.

◆ The clause is substantively unchanged.

12. TERMS OF ENGAGEMENT

12.1 Clause 12 sets out the information that is provided to Employees regarding the terms and conditions of their employment with the University and also covers how salaries are paid.

◆ The clause is substantively unchanged.

13. PROBATION

13.1 Clause 13 sets out the probationary process that will apply to certain ongoing and fixed term Employees who commence employment with the University on or after the date on which the Proposed Agreement commences.

◆ The clause now expressly excludes Employees appointed pursuant to clause 16: *Academic Decasualisation*, as such Employees will be subject to a separate confirmation period as outlined in that clause.

13.2 Existing Employees who are on probation when the Proposed Agreement commences will continue to be covered by the probation process prescribed by the Current Agreement.

13.3 Probation is for a period of up to 2 years and can be extended by a further period of up to 1 year in certain circumstances.

13.4 The clause provides for at least quarterly review meetings to be held between an Employee and their Supervisor to provide regular feedback about the Employee's work performance and identify and address any concerns as soon as possible.

13.5 Subject to compliance with the review process and following completion of at least:

- 6 months' service; or
- if performance concerns relate to the Employee's teaching, 2 teaching periods during which the Employee has been scheduled to teach;

a Supervisor can recommend termination of employment to the relevant Dean or Director at any time during the probationary period. The Dean or Director will then consider the referral and either confirm the Employee's employment or recommend termination to the nominated Employment Executive member.

13.6 If an Employee's employment is terminated whilst they are on probation, they will receive 6 months' notice or payment in lieu.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.
- ◆ The clause now clarifies that at the end of a probationary period, a Supervisor can either confirm an Employee's employment (if the Employee has achieved the required performance standard) or refer the matter to the relevant Dean or Director for review and consideration (if identified performance concerns have not been resolved). The Dean or Director will then consider the referral and either confirm the Employee's employment or recommend termination to the nominated Employment Executive member.

14. CATEGORIES OF EMPLOYMENT

14.1 Clause 14 outlines the categories of employment in which Employees can be engaged, namely ongoing, part-time, fixed term, and casual.

14.2 The clause also outlines the limitations on the use of fixed term employment and prescribes the circumstances in which fixed term employment can be used.

- ◆ Other than the provision referred to below, the clause is substantively unchanged.
- ◆ Provisions relating to further employment in a fixed term position if the work continues to be available have been moved into this clause from clause 15: *Conversion* but have not otherwise been changed.
- ◆ The clause now specifies a minimum engagement period for casual Employees. More specifically, a casual Employee must now be engaged and paid for at least 2 hours of work on each occasion they are required to attend work. This payment includes any incorporated time and payment for preparation or associated working time prescribed by *Schedule 2: Casual Academic Pay Rates*.

15. CONVERSION

15.1 Clause 15 describes how fixed term and casual Employees can apply for conversion to ongoing/fixed term employment, the eligibility criteria for making such an application, and the circumstances in which the University must approve an application.

15.2 Casual Employees remain entitled to apply for conversion to fixed term or ongoing employment if they have been employed by the University on a regular and systematic basis in the same or substantially similar role during the immediately preceding 24 months. The clause outlines what the University will consider when assessing an application for conversion from a casual Employee, including operational availability and needs, the relevant position classification standards, and the casual Employee's performance.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.

Fixed term Employees

- ◆ A fixed term Employee can now apply for conversion if they:

- have 3 or more years of Continuous Service under fixed term contracts;
- are on their second or subsequent contract; and
- were originally or subsequently appointed to the position through an open and competitive selection process.

Requirements relating to the availability of ongoing work and satisfactory performance are now considered after an application for conversion has been made (that is, they are no longer a prerequisite for making an application).

- ◆ The clause now imposes a positive obligation on the University to grant conversion from fixed term to ongoing employment unless limited specified circumstances apply, namely:
 - the Employee has not performed satisfactorily;
 - the University no longer requires work of the same or similar nature to be performed within the Employee's work unit; or
 - having regard to all the relevant circumstances, there would be insufficient work available for the Employee to be usefully employed on an ongoing basis.

The Current Agreement does not contain this express obligation.

Fixed term Contract Research Employees

- ◆ A fixed term Contract Research Employee can now apply for conversion if they:
 - have 3 or more years of Continuous Service under fixed term contracts;
 - are on their second or subsequent contract; and
 - have completed an Academic Career Development, Planning, and Review process in the 12 months prior to applying for conversion.

Requirements relating to the availability of sufficient revenue or funding streams and the transferability of/demand for the Employee's skills are now considered after an application for conversion has been made (that is, they are no longer a prerequisite for making an application).

- ◆ The clause now imposes a positive obligation on the University to grant conversion from fixed term Contract Research employment to ongoing employment unless limited specified circumstances apply, namely:
 - the Employee is a student (and this was the primary reason for their appointment), a genuine retiree (including an Employee on a pre- or post-retirement contract), or has performed unsatisfactorily in the position; or
 - the head of the Employee's academic unit is not, on reasonable and demonstrable grounds, satisfied that there is likely to be sufficient revenue or funding streams to support the Employee's employment, or the Employee has generic and transferable skills in addition to their research specialty, and those skills are subject to ongoing demand within the University.

The Current Agreement does not contain this express obligation.

Casual Employees

- ◆ The clause confirms that in addition to the right to apply for conversion under the Agreement, casual Employees may be entitled to conversion to ongoing employment in accordance with the NES. Conversions under the NES may be at the initiative of either the Employee or the University.
- ◆ The clause also includes a reference to the new Casual Conversion Application Form, which will be introduced to streamline and simplify the conversion application process for casual Employees.
- ◆ Provisions relating to Teaching Focused Roles and Career Development Fellowships have been removed

as these roles have been discontinued.

16. ACADEMIC DECASUALISATION

16.1 This is a new clause that sets out how the University will create a program to transition the work undertaken by casual Employees to ongoing academic positions (**Program**).

◆ As part of the Program, the University will create and fill 150 FTE ongoing academic positions (**Positions**) as follows:

- on or before 1 July 2023: 30 FTE Positions;
- on or before 1 March 2024: a further 60 FTE Positions; and
- on or before 1 March 2025: a further 60 FTE Positions, although if the University experiences a budget deficit in 2024, the final tranche of 25 FTE Positions will be filled between 1 March 2025 and 30 June 2025.

◆ Positions can be full-time or part-time, provided the minimum fraction for a Position is 0.4 FTE.

◆ An Employee who is appointed to a Position will primarily perform teaching work that was previously performed by casual Employees.

◆ To ensure equity for existing casual Employees, the University will first advertise Positions internally for at least 10 business days. If no internal applicant is appointable, the University can then advertise a Position externally.

◆ Applicants for a Position must:

- have been awarded, or submitted, a relevant doctoral qualification (unless a PhD would not normally be required for the appointment);
- have worked as a casual academic for a total period of at least 2 teaching sessions within the previous 2 years at an Australian higher education institution;
- not have held an ongoing position at an Australian higher education institution in the previous 3 years; and
- provide evidence they meet these criteria.

The University will, however, have the discretion to accept an application from someone who:

- does not meet the requirements due to having taken parental leave or for other personal reasons;
- is not a doctoral graduate; or
- has insufficient experience;

if they otherwise satisfy the requirements and are suitably qualified to perform the Position for which they have applied.

◆ Workloads for Positions will be allocated as follows:

- during the first year of appointment: at least 10% for research, scholarship, and maintenance of disciplinary currency;
- during the second year of appointment: 10 to 20% for research, scholarship, and maintenance of disciplinary currency;
- during the third year of appointment: 10 to 30% for research, scholarship, and maintenance of disciplinary currency;
- after the third year of appointment: in accordance with clause 23: *Academic Workloads*.

◆ A 2-year confirmation period will apply to appointments to Positions. This period can be extended by up to 1 year if the Employee is absent from work to such an extent that it has not been possible to assess their performance during the initial 2-year period. The clause outlines the process to be followed during the confirmation period.

- ◆ The clause also states that the University will reduce its use of casual employment by at least 25% on a FTE basis as compared to the University's proportional FTE casual academic workforce (excluding Clinical and Fieldwork supervision) at the date of commencement of the Agreement, and requires the University to provide specified information to the Implementation Committee about the operation of the Program.

17. ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES EMPLOYMENT

17.1 Clause 17 states the University's commitment to Aboriginal and Torres Strait Islander Peoples employment, and contains provisions relating to:

- Aboriginal and Torres Strait Islander Peoples leadership;
- the circumstances in which a position will be identified (that is, be a position that will only be filled by an Aboriginal and Torres Strait Islander Peoples person);
- increasing and enhancing employment opportunities for Aboriginal and Torres Strait Islander peoples, including a commitment to increase the number of ongoing and fixed term Aboriginal and Torres Strait Islander Peoples Employees to 77;
- the Aboriginal and Torres Strait Islander Peoples Employment and Advisory Committee, including the Committee's role and composition;
- the selection and advancement of Aboriginal and Torres Strait Islander Peoples Employees, including independent representation on panels relating to recruitment and other professional opportunities; and
- the payment of an Aboriginal and Torres Strait Islander Peoples language allowance to an ongoing or fixed term Employee who is required to use an Aboriginal and Torres Strait Islander Peoples language in the course of their employment.

- ◆ Whilst the Current Agreement contains this clause, the content of the clause has been re-written in the Proposed Agreement.
- ◆ The clause also clarifies that provisions relating to cultural and ceremonial leave for Aboriginal and Torres Strait Islander Peoples Employees are now contained in clause: 32 *Cultural and Ceremonial Leave for Aboriginal and Torres Strait Islander Peoples Employees*.

18. PAY RATES

18.1 In addition to the 2% administrative increase that took effect on 29 April 2022, clause 18 sets out the increases to salaries and allowances that will take place during the nominal term of the Proposed Agreement, namely:

- 2.6% effective the first full pay period practicable after the date on which Employees approve the Proposed Agreement and the *Western Sydney University Professional Staff Agreement 2022* and backdated to 14 October 2022;
- 3.35% effective the first full pay period after 1 October 2023;
- 2.9% effective the first full pay period after 1 October 2024; and
- 2.6% effective the first full pay period after 1 March 2025.

18.2 The Salary rates for full-time Employees engaged at levels A to E are set out in Schedule 1 to the Proposed Agreement.

18.3 Allowances are set out in Schedule 3 to the Proposed Agreement.

18.4 Incremental progression through salary levels may be withheld in cases of unsatisfactory performance, Misconduct or Serious Misconduct, or Research Misconduct.

- ◆ Other than the provision referred to below, the clause is substantively unchanged.
- ◆ The clause now expressly states that allowances are also subject to the pay rate increases referred to in point 18.1. Increases prescribed by the Current Agreement were applied to allowances, but the previous

clause did not make reference to this being the case.

19. SUPERANNUATION

19.1 Clause 19 outlines the superannuation arrangements that apply to Employees.

19.2 The University will continue to make 17% employer superannuation contributions for ongoing and fixed term Employees.

◆ The changes that have been made to this clause are set out below.

Choice of superannuation fund

◆ The clause has been updated to reflect legislative changes relating to choice of superannuation fund, namely:

- an Employee who is engaged when the Agreement commences operation will now be allowed to choose their own fund in accordance with the legislation;
- similarly, a new Employee will also be allowed to nominate a fund of their choice. If they do not nominate a fund, the University will make the Employee's contributions into their stapled fund as advised by the Australian Taxation Office (ATO). If the ATO advises the University that the Employee does not have a stapled fund, the University will open a UniSuper account on the Employee's behalf and make contributions into that account.

Note: a "stapled fund" is an existing superannuation account linked to an individual employee and which follows them as they change jobs.

Under the Current Agreement, an Employee was required to join UniSuper upon commencing employment with the University and did not have the option to choose their own fund.

◆ The clause also now states that subject to legislative limitation, UniSuper is the default superannuation fund of the Agreement, and that the University will provide information about UniSuper as part of its onboarding process for new ongoing and fixed term Employees.

Superannuation contributions during periods of unpaid parental leave

◆ The clause also provides enhanced superannuation entitlements for ongoing and fixed term Employees who take unpaid parental leave. The University will now continue to make employer contributions for an Employee during periods of paid and unpaid parental leave for up to 52 weeks from the date of commencement of the leave at the rate that applied when the Employee went on leave. Under the Current Agreement, contributions are only made for the first 3 months of unpaid leave.

20. SALARY PACKAGING

20.1 Clause 20 deals with the availability of salary packaging for ongoing and fixed term Employees, which must be consistent with the University's *Salary Packaging Guide*.

20.2 Either the University or the Employee can terminate a salary packaging agreement by providing 4 weeks' written notice to the other party.

◆ The clause is substantively unchanged.

21. ANNUAL LEAVE LOADING

21.1 Clause 20 outlines the annual leave loading entitlements of ongoing and fixed term Employees.

21.2 The loading is 17.5% of 4 weeks of the Employee's Base Rate of Pay for each full year worked, capped at the loading applicable to Level B, Step 3 as set out in Schedule 1 to the Proposed Agreement.

◆ The clause is unchanged.

22. CAR KILOMETRE ALLOWANCE AND JOURNEYS REQUIRING TEMPORARY RESIDENCE

22.1 Clause 22 outlines the circumstances in which a car kilometre allowance will be payable and covers the payment of expenses when the University directs an Employee to work away from their nominated work location and the Employee has approval to occupy a temporary residence.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.
- ◆ The clause now states if the University requires an Employee to travel to a location other than their nominated work location the Employee will, if practicable, use public transport or an available University pool vehicle.
- ◆ If public transport is unavailable or impractical and a pool vehicle is unavailable (including for a regular pattern of duties, for example: timetabled weekly lectures or recurring meetings), the Employee will be paid a car kilometre allowance in accordance with the clause if they undertake the travel using their own vehicle. Under the Current Agreement, the allowance is paid if there is no University vehicle or public transport available, or it is unreasonable or impractical to use them in the circumstances.

23. ACADEMIC WORKLOADS

23.1 Clause 23 describes how workloads are determined for academic staff other than casual Employees, research only Employees, and Employees who are expressly exempted from the clause due to their particular circumstances.

23.2 The clause also outlines how disputes about workload allocation will be resolved.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.
- ◆ The maximum weekly teaching allocation has been reduced from 13 to 12 hours to reflect the fact that Individual Work Agreements will now allocate a minimum of 20% to research.
- ◆ The threshold for marking relief has been increased from 120 to 150 students per teaching session.
- ◆ Nomenclature has been updated to refer to “subjects” instead of “units.”

24. UNIVERSITY AND ACADEMIC UNIT WORK PLAN COMMITTEES

24.1 Clause 24 sets out the composition and role of the University and Academic Unit Work Plan Committees.

24.2 The Committees are responsible for the University Work Plan Policy and Academic Unit Work Plan Policies and their implementation. They can also deal with disputes about workload allocation under clause 23: *Academic Workloads*.

- ◆ The clause is unchanged.

25. ACADEMIC CAREER DEVELOPMENT, PLANNING, AND REVIEW

25.1 Clause 25 outlines the academic career development, planning, and review process.

- ◆ Other than updates to nomenclature to replace “units” with “subjects,” the clause is unchanged.

26. FLEXIBLE WORK PROVISIONS

26.1 Clause 26 provides an overview of the flexible work provisions contained in the Proposed Agreement to assist Employees with identifying their entitlements.

- ◆ Other than the provision referred to below, the clause is unchanged.
- ◆ The clause has been amended to:

- remove the existing reference to salary packaging arrangements as these do not relate to flexible work; and
- add a reference to clause 32: *Cultural and Ceremonial Leave for Aboriginal and Torres Strait Islander Peoples Employees*.

27. RIGHT TO REQUEST FLEXIBLE WORKING ARRANGEMENTS

27.1 Clause 27 outlines the circumstances in which an eligible Employee can request a flexible working arrangement, including:

- how long an Employee must be employed before they can request an arrangement;
- the circumstances in which an Employee can request an arrangement;
- the types of arrangements that may be put in place;
- how a request for flexible working arrangements must be made; and
- the grounds on which the University can decline a request.

◆ Other than the provisions referred to below, the clause is substantively unchanged.

◆ The clause now clarifies that an Employee's Supervisor is responsible for considering and determining a request for flexible working arrangements. The Current Agreement refers to "the University."

◆ The clause now requires that before responding to a request the Supervisor must discuss the request with the Employee and genuinely try to reach agreement on a change in arrangements that will reasonably accommodate the Employee's circumstances having regard to:

- the Employee's needs, based on their personal circumstances;
- the consequences for the Employee if the requested changes are not made; and
- any reasonable business grounds for refusing the request.

◆ The clause also clarifies the details a Supervisor must provide when formally responding to a request for flexible working arrangements, including details of the reasons for refusal, how they apply to the Employee, and whether there are alternative arrangements that may be put in place to accommodate the Employee's circumstances.

28. ANNUAL LEAVE

28.1 Clause 28 deals with the accrual and taking of annual leave by an ongoing or fixed term Employee. It also allows the University to direct an Employee to take excess accrued annual leave in certain circumstances.

36.1 An Employee who is not a Shiftworker accrues 20 days of paid annual leave per year of service. An Employee who is a Shiftworker accrues an additional days of paid annual leave per year of service.

◆ Other than the provisions referred to below, the clause is unchanged.

◆ The clause now refers to "an Employee who is a Shiftworker" rather than "an Employee who works according to a roster that covers every day of the year."

◆ The threshold for the University being able to direct an Employee to take excess annual leave has been increased from 30 to 40 days (for a full-time Employee, pro rata for a part-time Employee).

◆ The clause now also states that if an Employee has accrued excess annual leave, the Employee and their Supervisor may, in the first instance, genuinely try to reach agreement about how to reduce or eliminate the excess accrual, failing which the University can direct the Employee in writing to take annual leave. Any such direction must not:

- result in the Employee's remaining annual leave balance being less than 30 days (when any other paid annual leave arrangements are taken into account);

- require the Employee to take any period of annual leave of less than 5 days;
- require the Employee to take annual leave less than 8 weeks or more than 12 months after the direction is given; and
- be inconsistent with any other leave arrangement agreed between the Employee and their Supervisor.

29. CHRISTMAS AND NEW YEAR SHUTDOWN

29.1 Clause 29 relates to the Christmas and New Year shutdown and also covers:

- the granting of Concessional Days to ongoing and fixed term Employees during a shutdown; and
- directions to take leave during a shutdown.

- ◆ Other than the provision referred to below, the clause is unchanged.
- ◆ The clause now states that an Employee who is directed to work on a Concessional Day(s) will be entitled to take the day(s) at another time by agreement with their Supervisor. The Current Agreement refers to the alternative time being “approved” by the Supervisor.

30. LONG SERVICE LEAVE

30.1 Clause 30 deals with the accrual and taking of long service leave. It also allows the University to direct an Employee to take excess accrued long service leave in certain circumstances.

38.1 A full-time Employee who has completed 10 years of continuous service is entitled to 3 months’ long service leave at their Base Rate of Pay. After 10 years of service, a full-time Employee will continue to accrue long service leave as follows:

- for continuous service of between 10 and 15 years’ duration: leave will accrue on a pro rata basis at the rate of 1.5 months’ leave per 5 years of continuous service; and
- for continuous service of more than 15 years’ duration: leave will accrue on a pro rata basis at the rate of 2.5 months’ leave per 5 years of continuous service.

A part-time Employee accrues long service leave on a pro rata basis.

38.2 Casual Employees are entitled to long service leave in accordance with the *Long Service Leave Act 1955* (NSW).

- ◆ Other than the provisions referred to below, the clause is unchanged.
- ◆ The way in which the long service leave entitlement is expressed has been simplified but the amount of the entitlement is unchanged.
- ◆ In relation to the recognition of prior casual service by an ongoing or fixed term Employee, the clause now allows for a break of up to 16 weeks between casual engagements, which is an increase from the 2 months prescribed by the Current Agreement.

31. PERSONAL LEAVE

31.1 Clause 31 deals with the accrual and taking of personal leave by an ongoing or fixed term Employee.

31.2 Paid personal leave is available to an ongoing or fixed term Employee:

- to meet family, cultural, religious, or special needs in accordance with the NSW Premier’s List of Days of Religious Significance for Multicultural NSW;
- to care for a dependent or member of their immediate family who requires care or support due to personal illness or injury or an unexpected emergency affecting the family member;
- when compassionate grounds arise; and/or

- to provide support to a person who is experiencing family and domestic violence.

31.3 A full-time ongoing or fixed term Employee is entitled to 6 days of paid personal leave per year of service and can also use their accrued paid sick leave entitlement if they have exhausted their paid personal leave. A part-time Employee accrues personal leave on a pro rata basis.

- ◆ Other than the provisions referred to below, the clause is unchanged.
- ◆ The clause now confirms that personal leave accrues daily, but unused leave does not accrue from year to year. This does not represent a change in practice.
- ◆ The clause includes a new definition of “compassionate grounds” which expands the circumstances in which personal leave can be taken to include stillbirth or miscarriage. The new definition is:

compassionate grounds means circumstances in which:

(i) *a member of the Employee’s immediate family:*

- A. *contracts or develops a personal illness that poses a serious threat to the immediate family member’s life;*
- B. *sustains a personal injury that posts a serious threat to the immediate family member’s life; or*
- C. *dies;*

(ii) *a child is stillborn, where the child would have been a member of the Employee’s immediate family, if the child had been born alive; or*

(iii) *the Employee, or the Employee’s current spouse or de facto partner, has a miscarriage before 20 weeks’ gestation.*

- ◆ There is a new entitlement to take paid personal leave to provide support to a person who is experiencing family and domestic violence.
- ◆ A casual Employee is now entitled to 3 days of unpaid personal leave for each occasion on which compassionate grounds arise. This is an increase from the 2 days prescribed by the Current Agreement.
- ◆ The clause now expressly states that a full-time ongoing or fixed term Employee who has exhausted their paid personal leave entitlement will be entitled to further paid personal leave of 3 days per occasion on which compassionate grounds arise.
- ◆ The clause now states that whilst an Employee must give notice to the University of their intention to take personal leave as soon as practicable, the notice may be given after the leave has commenced.
- ◆ Provisions relating to additional personal leave for Aboriginal and Torres Strait Islander Peoples Employees to participate in and/or fulfil cultural and/or ceremonial obligations have been moved from this clause into the new clause 32: *Cultural and Ceremonial Leave for Aboriginal and Torres Strait Islander Peoples Employees*.

32. CULTURAL AND CEREMONIAL LEAVE FOR ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLES EMPLOYEES

- ◆ This is a new clause, into which the entitlement to additional personal leave for Aboriginal and Torres Strait Islander Peoples Employees has been moved from clause 31: *Personal Leave*. The amount of leave provided remains unchanged.

32.1 A full-time ongoing or fixed term Employee who has identified themselves to the University as an Aboriginal and Torres Strait Islander Peoples person is entitled to:

- 5 days of paid leave; and

- 10 days of unpaid leave;

per year of service to participate in and/or fulfil cultural and/or ceremonial obligations.

32.2 Unused cultural and ceremonial leave does not accumulate from year to year. This position is consistent between the Current and Proposed Agreements.

32.3 Cultural and ceremonial leave remains subject to the notice and evidence requirements outlined in the clause.

- ◆ The clause now states that cultural and ceremonial leave will be credited to the Employee upon commencement of their employment and then on each anniversary of their commencement date. A part-time Employee, or a fixed term Employee engaged for less than 12 months, will be credited leave on a pro rata basis. When such leave formed part of the Personal Leave clause, it accrued on a daily basis rather than being credited upfront. The requirement for an Employee to identify themselves to the University as an Aboriginal and Torres Strait Islander Peoples person has been introduced to facilitate granting of the leave.

33. SICK LEAVE

33.1 Clause 33 deals with the accrual and taking of sick leave by an ongoing or fixed term Employee.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.
- ◆ The clause now clarifies that an Employee can take sick leave to attend a medical appointment, *including for the purposes of receiving a vaccination* (italicised words are new).
- ◆ The clause also now states that whilst an Employee must give notice to the University of their intention to take sick leave as soon as practicable, that notice may be given after the leave has commenced.
- ◆ The clause introduces a new entitlement in the form of “pandemic-related sick leave” and outlines the notice and evidence requirements that apply to such leave. More specifically, in the event of the World Health Organisation declaring a pandemic:
 - a casual Employee will be entitled to 4 hours paid leave—payable at Rate S—to receive a pandemic-related vaccination;
 - an ongoing or fixed term Employee will be entitled to up to an additional 15 days of paid pandemic-related sick leave if they are unable to work or attend their normal place of work due to the infectious disease that is the subject of the declared pandemic or Public Health Order (PHO). An Employee will not, however, be entitled to this additional leave if they are unable to attend their normal place of work due to a refusal, without reasonable grounds, to comply with any PHO requirement to receive any pandemic-related vaccination(s);
 - if an Employee is fit for work but a PHO prevents them from attending their normal place of work, the Employee’s Supervisor will make all reasonable efforts to enable the Employee to work remotely for the duration of the PHO; and
 - if remote work arrangements are not practicable due to the nature of the Employee’s duties and responsibilities, the Employee can use their pandemic-related sick leave and accrued sick leave until the accruals are exhausted or the PHO is lifted, whichever occurs first.

34. PARENTAL LEAVE

34.1 Clause 34 sets out parental leave entitlements, which consist of:

- birth-related leave;
- adoption-related leave; and
- foster placement-related leave.

34.2 All Employees, including casuals, are entitled to up to 52 weeks of unpaid parental leave if they are, or will

be, the primary carer of the child during the period of leave.

34.3 An ongoing or fixed term Employee who has (or will have completed) at least 52 weeks of Continuous Service immediately prior to commencing parental leave will be entitled to paid leave as follows:

- for birth-related leave: 20 weeks;
- for adoption-related leave: 20 weeks; and
- for foster placement-related leave – 6 weeks if the child is younger than 5 years of age, or 3 weeks of the child is aged 5 years or more.

Paid parental leave is provided on a pro rata basis for:

- part-time Employees; and
- ongoing Employees or fixed term Employees on a contract with a term of at least 1 year who have or will have completed less than 52 weeks of Continuous Service immediately prior to commencing parental leave.

34.4 Paid parental leave can be taken at half pay.

34.5 An Employee who takes paid parental leave will be entitled to a phased return to work if they return to work:

- full-time or on the same part-time arrangement that was in place immediately before the leave commenced; and
- within 52 weeks of commencing the leave.

“Phased return” means that an Employee can be absent on pay for 20% of their ordinary hours in the 40 weeks following their return to work. For a full-time Employee this equates to 1 day per week.

34.6 The clause also outlines:

- how to apply for parental leave;
- an Employee’s rights upon returning to work after parental leave;
- what happens with parental leave if both parents are Employees of the University; and
- how other entitlements (including the right to incremental progression) are impacted by parental leave.

◆ Other than the provisions referred to below, the clause is substantively unchanged.

◆ The terminology used in the clause differs to that used in the Current Agreement, which specifically refers to “maternity” and “adoption” leave instead of “parental leave.”

◆ The clause now provides that an eligible Employee will only be entitled to payment for a subsequent period of parental leave at their full-time Base Rate of Pay if the Employee has been working full-time for at least 12 weeks immediately prior to starting the subsequent period of leave (excluding any phased return arrangements), otherwise the Employee will be paid based on their average rate of pay in the 52 weeks immediately prior to starting the subsequent period of leave. The Current Agreement provides that if an Employee:

- has a combination of full-time and part-time service; and/or
- has worked reduced hours at any time following their return to work from an earlier period of [parental] leave;

the rate of pay for the subsequent period of leave will be based on the Employee’s average rate of pay:

- in the 52 weeks preceding the period of leave; or
- during the period since they returned from the earlier period of [parental] leave;

whichever is less.

35. PARTNER LEAVE

- ◆ This is a new clause that has been separated from Parental Leave for ease of reference.

35.1 Clause 35 outlines an ongoing or fixed term Employee's entitlement to paid partner leave if they have or will have completed 52 weeks of Continuous Service as at the date or expected date of birth or adoption of a child and are not eligible for parental leave in accordance with clause 34: *Parental Leave*. It also explains how an Employee can apply for such leave.

34.1 A casual Employee, or an ongoing or fixed term Employee who is not eligible for paid partner leave, is entitled to unpaid partner leave in accordance with the *Fair Work Act 2009 (Cth)*.

- ◆ Paid partner leave now comprises:

- non-primary carer partner leave; and
- primary carer partner leave.

Non-primary carer partner leave

- ◆ Non-primary carer partner leave is available where the Employee will not be the primary carer of the child during the leave. It can be taken at the same time as any leave taken by the primary carer of the child.

- ◆ An eligible Employee is entitled to a total of 8 weeks of paid non-primary carer partner leave to be taken as follows:

- 2 weeks' leave taken at the time of birth or adoption of the child; and
- 6 weeks' leave taken in one block at any time within 52 weeks of the birth or adoption of the child.

This entitlement is consistent with the partner leave entitlement prescribed by the Current Agreement.

Primary carer partner leave

- ◆ Primary carer partner leave is a new form of leave that is available where the Employee will be the primary carer of the child during the period of the leave. It cannot be taken at the same time as any leave taken by the Employee's spouse or de facto partner.

- ◆ An Employee will be considered the primary carer of the child if, during the period of the leave, the Employee's spouse or de facto partner is:

- working on an ongoing, fixed term, or casual basis and not on any form of paid or unpaid leave in relation to the child;
- enrolled with an officially recognized education provider and studying on a full-time basis; or
- otherwise unable to be the primary carer of the child.

- ◆ An eligible Employee is entitled to a total of 20 weeks of primary carer partner leave to be taken as follows:

- 2 weeks' leave taken at the time of birth or adoption of the child; and
- 18 weeks' leave taken in one block at any time within 52 weeks of the birth or adoption of the child, including immediately after the 2 weeks' leave mentioned above.

36. MISCARRIAGE, STILLBIRTH, OR DEATH OF CHILD

- ◆ This is a new clause that combines new and existing provisions from the Current Agreement.

36.1 Clause 36 outlines new leave entitlements that are available to an Employee if they or their spouse/de facto partner miscarry, or they experience a stillbirth or the death of their child. It also sets out the notice

and evidence requirements that apply to such leave.

Miscarriage leave

- ◆ Miscarriage leave provisions are new.
- ◆ An ongoing or fixed term Employee is now entitled to 5 days of paid miscarriage leave on each occasion that the Employee or their spouse/de facto partner miscarries. An Employee can also use their accrued sick leave or personal leave (as appropriate) if they need to take a longer period of leave.
- ◆ A casual Employee is entitled to be absent from work without pay for 5 days on each occasion that the Employee or their spouse/de facto partner miscarries.
- ◆ **Miscarriage or miscarries** is defined as the cessation of pregnancy by miscarriage up to 20 weeks' gestation.
- ◆ Miscarriage leave will commence from the first working day following the miscarriage occurs and must be taken in one continuous block of leave.

Stillbirth or death of child

- ◆ These provisions have been moved from Parental Leave and expanded/clarified.
- ◆ An Employee who is entitled to parental leave and whose child is stillborn or dies shortly after birth remains entitled to parental leave in accordance with clause 34: *Parental Leave*, subject to providing a medical certificate.
- ◆ The clause now provides that if an Employee's child is stillborn before their expected date of birth, the Employee's entitlement to parental leave will be calculated based on the child's expected date of birth.
- ◆ The clause also provides that an Employee who is entitled to parental leave and whose child is stillborn or dies during the 24-month period starting on the child's date of birth may:
 - before the leave starts, give the University written notice cancelling their parental leave; or
 - if the parental leave has started, give the University at least 4 weeks' written notice that they wish to return to work on a specified day.

37. FAMILY AND DOMESTIC VIOLENCE LEAVE

37.1 Clause 37 outlines entitlements relating to family and domestic violence leave. It also sets out the notice and evidence requirements that apply to such leave.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.
- ◆ The clause includes an updated definition and examples of "family and domestic violence," including coercive control.
- ◆ The clause also includes updated definitions of "close relative" and "immediate family." "Close relative" is now defined to include a person who is related to the Employee according to Aboriginal or Torres Strait Islander kinship rules; "immediate family" now includes an express reference to the Employee's current or former intimate partner.
- ◆ The clause now expressly states that the University will treat information about applications for family and domestic violence leave or support confidentially as far as it is reasonably practicable to do so but notes that there may be some circumstances in which the University is required to disclose information (for example: by law, or to protect the life, health, or safety of an Employee or other person).
- ◆ The entitlement to paid family and domestic violence leave has been doubled, from 10 to 20 days per year.

This entitlement is available in full at the start of each 12-month period of an Employee's employment but does not accumulate from year to year.

- ◆ An Employee may also apply to the Office of People for additional paid leave.

38. JURY SERVICE AND WITNESSES

38.1 Clause 38 deals with the circumstances in which an ongoing or fixed term Employee is required to attend court for jury service or as a witness (including on behalf of the University).

- ◆ The title of the clause has been changed from "Jury Duty and Witnesses" to "Jury Service and Witnesses," however the clause itself is substantively unchanged.

39. AUSTRALIAN DEFENCE FORCE RESERVES TRAINING LEAVE

39.1 Clause 39 deals with the provision of leave to an ongoing or fixed term Employee who serves in the Australian Defence Force Reserves.

- ◆ Other than the provision referred to below, the clause is substantively unchanged.
- ◆ The clause no longer allows the University to defer the granting of such leave because the timing of requested leave is not in the University's interests.

40. EMERGENCY SERVICES CALLOUT LEAVE

40.1 Clause 40 deals with the provision of leave to an Employees who is a member an accredited voluntary Emergency Services organisation and provides assistance during a declared emergency.

- ◆ The clause is unchanged.

41. LEAVE WITHOUT PAY

41.1 Clause 41 deals with the provision of leave without pay to an ongoing or fixed term Employee.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.
- ◆ The eligibility requirement of "18 months of *full-time* Continuous Service" that is in the Current Agreement has been removed and replaced with a basic requirement of 18 months' Continuous Service.
- ◆ The clause now allows an Employee to apply for leave without pay to undertake a position—whether as an employee or a volunteer—with an external organisation for up to 12 months if:
 - the Employee has received an offer from the organisation;
 - the position represents a professional development opportunity for the Employee; and
 - the position is related to the Employee's role at the University.

If an Employee takes leave without pay for this purpose, the leave will not break their continuity of service provided that the Employee returns to their employment with the University for at least 12 months.

42. SUPPORT FOR ORGAN DONORS

- ◆ This is a new clause.

42.1 Clause 42 outlines the support the University will provide to an Employee who is donating a kidney or partial liver.

- ◆ The University will regard the Employee as being on authorised absence from duty during the time required to undergo and recover from surgery, for a period of up to 6 weeks.

- ◆ The University will also make payments to the Employee equal to the difference between any payments received by the University from the Federal Government (under the Living Organ Donor Scheme) and the Employee's Base Salary, for a period of up to 6 weeks.

43. GENDER AFFIRMATION LEAVE

- ◆ This is a new clause.

43.1 Clause 43 contains a new entitlement to paid gender affirmation leave.

- ◆ A full-time Employee will be entitled to up to 20 days of paid gender affirmation leave per annum for the purposes of taking steps to affirm their gender. This process may include:
 - social affirmation (for example, changing the Employee's pronouns and/or name);
 - medical affirmation (for example, surgery and/or hormone therapy, attendance at medical and/or counselling appointments, and rest and recovery from medical procedures); and/or
 - legal affirmation (for example, legally changing the Employee's name and/or gender marker on personal identification documents like the Employee's passport, birth certificate, driver licence, and banking documentation).

A part-time Employee will be entitled to paid gender affirmation leave on a pro rata basis.

- ◆ Unused gender affirmation leave does not accrue from year to year.
- ◆ The clause also outlines how an Employee can take and apply for gender affirmation leave.

44. PUBLIC HOLIDAYS

44.1 Clause 44 outlines the paid Public Holidays to which an ongoing or fixed term Employee is entitled.

- ◆ The clause is substantively unchanged.

45. JOB SECURITY

- 45.1 Clause 45 deals with job security, and states that over the nominal term of the Agreement, the University will seek to minimise retrenchments where possible, and not increase casual employment at the expense of ongoing employment.
- 45.2 The clause also commits the University to advertising all level A positions internally in the first instance. A casual Employee will be eligible to apply for such a position if they have been employed by the University for at least 2 teach sessions in the preceding 24 months.
- ◆ Other than the provision referred to below, the clause is unchanged.
 - ◆ Targets in the Current Agreement regarding appointments and conversions have been removed from the Proposed Agreement as they no longer apply.

46. ORGANISATIONAL CHANGE

46.1 Clause 46 prescribes the process that the University must follow if it wishes to undertake organisational change.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.

Limitation on organisational change

- ◆ The clause includes a new provision to the effect that during the nominal term of the Agreement and subject to any exceptional circumstances that may arise, an Employee will not be subject to more than one

organisational change process that may result in the termination of their employment on the ground of redundancy (excluding any form of voluntary separation, including calls for expressions of interest in voluntary redundancy). Examples of “exceptional circumstances” include substantial adverse changes in Government funding, or major negative economic disruption.

Redistribution of remaining work

- ◆ The clause maintains the requirement for a change proposal to include proposals to mitigate the effect of any increases to workloads but now additionally requires a change proposal to consider the redistribution of any remaining work from a position(s) proposed to be disestablished.
- ◆ The clause also now states that where any work remaining from a disestablished position(s) cannot be accommodated within the available workload(s) of remaining ongoing and fixed term Employees, the position(s) will not be disestablished.
- ◆ The final change plan must now confirm the manner in which any work remaining from a disestablished position(s) will be redistributed, provided that any such work must be accommodated within the ordinary hours of remaining ongoing and fixed term Employees and any applicable workload limits prescribed by clause 23: *Academic Workloads*.
- ◆ The post-restructure review provisions also now require the University to:
 - provide Employees in a work unit and their Representatives with an opportunity to comment on any persistent increase to workloads they believe is a result of the change, including any increase resulting from the redistribution of work previously undertaken by a disestablished position(s);
 - assess whether, as a result of the change, the work of a disestablished position(s) has been accommodated within the available workloads of remaining ongoing and fixed term Employees; and
 - outline a proposal to remedy workload intensification (including the creation of new position(s)) where work remaining from a disestablished position(s) has not been successfully accommodated.

47. REDEPLOYMENT AND REDUNDANCY

47.1 Clause 47 deals with redeployment and redundancy in the event that an ongoing or fixed term Employee is displaced as a result of organisational change.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.

Displaced Employees

- ◆ The clause now states that an Employee may be displaced as a result of organisational change because the University no longer requires the Employee’s job to be performed by anyone *due to its permanent abolition, or permanent abolition of University operations* (italicised words are new).
- ◆ If an Employee is displaced as a result of organisational change, the clause now requires the University to advise Employee of the grounds on which the University determined that their job is no longer required to be performed by anyone.

Redeployment

- ◆ The clause introduces expanded provisions to explain and/or clarify how the University will manage the redeployment process for a displaced Employee who elects redeployment.
- ◆ Redeployment will now be managed by the relevant Change Manager in conjunction with the Senior HR Partner responsible for the displaced Employee’s work unit (**redemption team**).
- ◆ If a displaced Employee elects redeployment:

- the redeployment team will proactively identify suitable vacant positions for redeployment based on the Employee's skills, qualifications, experience, and any reasonable retraining that may be provided to the Employee to enable them to perform the duties of a vacant position;
- the Employee must agree to undertake any reasonable retraining that the University may require to enable the Employee to be redeployed to a suitable vacant position;
- the University will keep a register of displaced Employees and the redeployment team will examine all vacant positions before advertising to determine whether there is a displaced Employee suitable for redeployment; and
- if a suitable vacant position is available, the Employee will be offered appointment to the position. If more than one displaced Employee is being considered for a position, the redeployment team will:
 - o decide which Employee best meets the position requirements based on their skills, qualifications, and experience; and
 - o provide the unsuccessful Employee(s) with written reasons as to why they were not offered appointment to the position.

Calculating Continuous Service

- ◆ The clause now states that for the purposes of calculating an Employee's redundancy or retrenchment entitlements, where an Employee has a combination of full-time and part-time service, the Employee's part-time service will be converted to the full-time equivalent and payment made at the Employee's full-time Base Rate of Pay.

48. MANAGING ILL HEALTH OR INJURY

48.1 Clause 48 states that the University may require an Employee to undergo an independent medical examination if the Chief People Officer (or their nominee) reasonably considers that:

- the Employee's ability to perform or resume their duties is in doubt because of the Employee's illness or injury, and it is unclear whether the Employee will be able to perform or resume their duties within a reasonable time; or
- the health, safety, or welfare of the Employee and/or other Employees and/or students may be at risk of being adversely affected by the Employee's illness or injury.

The process for managing such circumstances is outlined in the clause.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.

Application of the clause

- ◆ Under the Current Agreement, the process prescribed by the clause does not apply to an Employee who is receiving workers compensation benefits. In the Proposed Agreement, this exemption will no longer apply if such an Employee has been assessed by the University's workers compensation insurer as being permanently unfit to return to work at the University in any capacity.
- ◆ The clause also contains a new statement affirming that the University is committed to retaining its Employees and will make reasonable adjustments to accommodate an Employee's illness or injury to assist them to perform the inherent requirements of their role. Where such adjustments cannot be made or are not successful, the University may act on the process in the clause.

49. UNSATISFACTORY PERFORMANCE

49.1 Clause 49 outlines the process for managing unsatisfactory performance by an ongoing or fixed term Employee.

- ◆ Unsatisfactory performance occurs when an Employee has, over a reasonable period of time, failed to meet the standard of performance expected for the Employee’s position, having regard to the Employee’s level and duties and any mitigating factors.
- ◆ Other than the provisions referred to below, the clause is substantively unchanged.

Records

- ◆ The clause now clarifies that a Supervisor must keep a written record of all meetings held with an Employee regarding the Employee’s unsatisfactory performance.

Counselling and guidance

- ◆ The “informal counselling” process is now referred to as “counselling and guidance,” however the matters to be discussed during the process remain unchanged, namely:
 - the Supervisor’s concerns regarding the Employee’s performance;
 - the nature of the improvement required (which may include directing the Employee to undertake appropriate training);
 - the time within which reasonable improvement is expected; and
 - the Employee’s response, if any, to the Supervisor’s concerns (including any mitigating factors).
- ◆ The clause now expressly states that when holding counselling and guidance discussions, the Supervisor must:
 - advise the Employee that the discussions are being held under the unsatisfactory performance clause; and
 - provide the Employee with a copy of the clause and explain the consequences of continued unsatisfactory performance.
- ◆ Any Performance Improvement Plan must include details of previous discussions between the Supervisor and Employee regarding the Employee’s unsatisfactory performance.
- ◆ The clause retains the option of referral to an Unsatisfactory Performance Review Committee if a Supervisor recommends termination of Employment for continued unsatisfactory performance.

50. MISCONDUCT OR SERIOUS MISCONDUCT

50.1 Clause 50 outlines the process for dealing with alleged Misconduct or Serious Misconduct. It applies to all Employees other than casuals and Employees who are serving a probationary period.

- ◆ Other than the provisions referred to below, the clause is substantively unchanged.

Definition of “Serious Misconduct”

- ◆ The definition of “Serious Misconduct” has been amended to include sexual harassment.

Formal investigation

- ◆ The clause now allows the formal investigation into alleged Misconduct or Serious Misconduct to be carried out by an internal investigator if the available evidentiary material consists solely or primarily of records held by the University. Under the Current Agreement, a formal investigation may only be carried out by an external investigator.

- ◆ Internal investigators must be selected from a pool agreed between the University and the NTEU.
- ◆ The University will, in consultation with the NTEU through the Implementation Committee, develop written guidelines to assist with determining whether an investigation should be carried out internally or externally having regard to the circumstances of the case.

51. CONTRAVENTIONS OF THE RESEARCH CODE OF PRACTICE

51.1 Clause 51 outlines the process for dealing with contraventions of the University's *Research Code of Practice (Code)*. It applies to all Employees other than casuals and Employees who are serving a probationary period.

- ◆ The clause was previously entitled "Research Misconduct."
- ◆ The process for dealing with contraventions of the Code has been rewritten to align more closely with the *Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research*, as published by the National Health and Medical Research Council, Australian Research Council, and Universities Australia.
- ◆ An overview of the new process is as follows:
 - suspected contravention(s) reported to relevant Academic Unit Director of Research/equivalent or Director, Research Impact and Integrity, who will then consult with the Deputy Vice-Chancellor and Vice-President (Research, Enterprise and International) (**DVC(REI)**) to determine whether the report relates to a potential contravention of the Code;
 - if a determination is made that the report relates to a potential contravention of the Code, the DVC(REI) will refer the matter to an Assessment Officer for preliminary assessment. The Assessment Officer may be:
 - the relevant Dean, Institute Director, or Academic Unit Director of Research;
 - the Director, Research Impact and Integrity; or
 - an alternative senior member of staff with expertise in the conduct of academic research;
 - following completion of the preliminary assessment, the Assessment Officer will provide the DVC(REI) with written advice regarding the following:
 - a summary of the process undertaken by the Assessment Officer;
 - an inventory of the facts and information gathered by the Assessment Officer;
 - an evaluation of the facts and information gathered by the Assessment Officer;
 - how the suspected contravention relates to the Code and/or the University's research processes; and
 - the Assessment Officer's recommendation for further action;
 - the DVC(REI) will then consider the Assessment Officer's report and determine whether the matter should be:
 - dismissed;
 - resolved at the Employee's academic unit level (with or without corrective actions);
 - referred for action in accordance with other University processes; or
 - referred for Research Investigation;
 - the Research Investigation may be carried out by an investigator or an investigation panel, and will:

- examine the facts and information gathered as part of the preliminary assessment;
 - gather and examine any further relevant evidence as required; and
 - prepare a report for the DVC(REI) setting out its findings and recommendations. The Employee will be given an opportunity to comment on a draft of the document before it is finalised;
- the DVC(REI) will then consider the matter and make a final determination, provided that any recommendation to terminate the Employee's employment will be referred to the Vice-Chancellor for approval, and the Employee will first be provided with an opportunity to respond to a show cause letter.

52. TERMINATION OF EMPLOYMENT

- 52.1 Clause 52 prescribes the length of notice the University must provide when terminating a casual Employee's employment or renewing/not renewing a fixed term contract.
- 52.2 The clause also prescribes the length of notice that all Employees, including casuals, must provide to the University if they wish to resign from their employment.
- 52.3 If an Employee's employment ceases for any reason, the University will be entitled to deduct any money owing by the Employee to the University from any money the University owes to the Employee (for example, the Employee's final pay), except for money owed in lieu of annual leave or annual leave loading.
- ◆ Other than the provision referred to below, the clause is substantively unchanged.
 - ◆ The clause now stipulates that any payments due to an Employee upon the cessation of their employment with the University must be made within 7 days of the date on which their employment ceases.

53. FIXED TERM EMPLOYEES SEVERANCE PAY

- 53.1 Clause 53 prescribes the severance pay to which a fixed term Employee will be entitled if their employment with the University ceases.
- ◆ Other than the provision referred to below, the clause is substantively unchanged.
 - ◆ Provisions relating to the severance payable if, at the end of a first fixed term contract, a position is offered on a continuous basis but the Employee is not re-employed have been moved into this clause from clause 15: *Fixed Term Conversion* without amendment.

54. ABANDONMENT OF EMPLOYMENT

- 54.1 Clause 54 outlines the steps the University will take if an ongoing or fixed term Employee abandons their employment. The clause does not apply to casual Employees.
- 54.2 The University may use the clause if an Employee is absent from work for a continuous period of at least 5 working days without the University's approval, or apparent good cause.
- ◆ The clause now states that when communicating with an Employee in accordance with the clause, the University will use the Employee's personal and emergency contact details as listed in the University's human resources information system.
 - ◆ The process for dealing with possible abandonment of employment is now as follows:

- the Chief People Officer will make reasonable attempts to contact the Employee (which may include contacting their nominated emergency contact(s)) to check the Employee’s welfare and request an explanation for their absence;
- if the Chief People Officer is satisfied with the reason for the Employee’s absence, no further action will be taken under the clause and the Employee’s absence will be recorded using an approved leave category appropriate to the circumstances;
- if the Chief People Officer’s attempts to contact the Employee are unsuccessful, they will send the Employee an email, text message, and letter via mail advising the Employee that they are on unapproved leave and must contact the University within 10 working days;
- if the Employee does not respond to the University within 10 working days, or their response does not establish a reasonable explanation for the absence, the University will consider the Employee as having abandoned and therefore terminated their employment; and
- if an Employee’s employment terminates under the clause, the date of termination will be the last day on which the Employee attended work or was on approved leave.

55. WORK HEALTH AND SAFETY, AND FIRST AID

- 55.1 Clause 55 relates to the provision of a safe and healthy workplace in accordance with the University’s obligations under the *Work Health and Safety Act 2011 (NSW)* and related legislation, and Employee representation by a health and safety representative.
- 55.2 It also prescribes the payment of a First Aid Allowance to an Employee who is appointed as being responsible for the maintenance of first aid facilities, injury records, and the provision of first aid to other Employees and students.

◆ The clause is unchanged.

56. DIGNITY AND RESPECT AT WORK

- 56.1 Clause 56 outlines the University’s commitment to creating and maintaining a working environment of dignity, mutual respect, and inclusion.

◆ Other than the provisions referred to below, the clause is substantively unchanged.

◆ The clause includes new definitions of **adverse behaviours**, **gendered violence**, **sexual harassment**, and **work-related bullying** and associated examples of such behaviours.

◆ The clause now states that the University will “proactively” work towards preventing and eliminating adverse behaviours in employment at the University including, where practicable, behaviours from third parties with which/whom the University has a contractual relationship and managing associated risks in consultation with Health and Safety Representatives, Work Health and Safety Committees, and Employees.

◆ The clause also states that the University will provide information and training on identifying and preventing adverse behaviours in staff development programs for all employees (including senior employees to whom the Agreement does not apply) and review associated policies in accordance with the *Policy Framework Policy*.

57. EMPLOYEE REPRESENTATION

- 57.1 Clause 57 states that if an Employee requires assistance about their employment conditions, they can nominate a representative (who may an official of the NTEU) to assist them.

◆ The clause is unchanged.

58. UNION REPRESENTATION

58.1 Clause 58 relates to:

- the provision of office space, notice boards, and other facilities to the NTEU;
- the NTEU's entitlement to hold member meetings, and the circumstances in which this can occur;
- the provision of up to 25 days' paid leave to the NTEU for accredited Employee union representatives to attend industrial relations training courses or seminars;
- the provision of NTEU information packs at orientation sessions for new Employees;
- the provision of 50% time release to the NTEU Branch President; and
- payroll deductions.

◆ Other than the provision referred to below, the clause is substantively unchanged.

◆ The clause includes a new provision stating that the University will invite the NTEU to attend all orientation sessions for new Employees. Where addresses to new Employees are scheduled, the NTEU will be given the opportunity to make a 5-minute presentation.

59. PAY AND CAREER EQUITY

59.1 Clause 59 states the University's commitment to merit-based recruitment and pay and career equity for Employees.

59.2 The clause also commits the University to:

- providing the annual Workplace Gender Equality Agency (or equivalent) report to the Implementation Committee and all Employees;
- implementing and monitoring procedures and strategies to overcome obstacles to career progression for women and other EEO target groups; and
- working towards achieving gender balance on University-level committees, and all committees relating to University governance.

◆ The clause is unchanged.

60. PERSONAL REPORTS

60.1 Clause 60 outlines the circumstances in which the University may place an adverse report on an Employee's personnel file.

◆ The clause is unchanged.

61. INTELLECTUAL FREEDOM

61.1 Clause 61 deals with the protection and promotion of intellectual freedom within the University and outlines the rights of Employees in this regard.

◆ Other than the provision referred to below, the clause is unchanged.

◆ The clause now expressly states that the exercise of intellectual freedom rights does not constitute Misconduct or Serious Misconduct and is not subject to disciplinary action.

62. INTELLECTUAL PROPERTY

62.1 Clause 62 deals with the maintenance of an Intellectual Property Policy in consultation with Employees and the NTEU.

- ◆ Other than the provision referred to below, the clause is unchanged.
- ◆ The clause now states that in maintaining the Policy, the University will address the rights of Aboriginal and Torres Strait Islander Peoples Employees to assert and retain communal ownership of any cultural intellectual property including traditional knowledge and knowledge systems, and cultural expressions, language, practices, and heritage.

63. POLICY

63.1 Clause 63 provides Employees and the NTEU with the opportunity to comment on any new policy or guideline that affects working conditions prior to finalisation.

- ◆ The clause is unchanged.

64. COMPENSATION FOR LOSS OR DAMAGE TO PERSONAL PROPERTY

64.1 Clause 64 deals with the payment of compensation to an Employee if their personal property is damaged due to:

- the negligence of the University and/or another Employee in performing their duties;
- a defect in the University's materials or equipment; or
- the Employee protecting or attempting to protect the University's property from loss or damage.

- ◆ The clause is unchanged.

65. CHANGES TO REGULAR ROSTER OR ORDINARY HOURS OF WORK

65.1 Clause 65 prescribes the consultation process that will occur if the University proposes changes to an Employee's regular roster or ordinary hours of work. This consultation term is required by the *Fair Work Act 2009* (Cth).

- ◆ The clause is unchanged.

66. ENVIRONMENTAL SUSTAINABILITY

66.1 Clause 66 confirms that the University has become a signatory to the UN Sustainable Development Solutions Network Higher Education Commitment.

66.2 The clause also commits the University to maintaining a program to build staff awareness of various environmental initiatives.

- ◆ The clause is unchanged.

SCHEDULE 1: ANNUAL ACADEMIC STAFF PAY RATES

Schedule 1 sets out the annual pay rates for full-time Employees over the nominal term of the Proposed Agreement.

SCHEDULE 2: CASUAL ACADEMIC PAY RATES

Schedule 2 sets out the pay rates for casual Employees over the nominal term of the Proposed Agreement.

- ◆ Rate F: Laboratory Supervision contained in the Current Agreement has been re-named “Rate U: Laboratory Supervision” to avoid confusion with Rate F: Repeat Tutorial.

SCHEDULE 3: ALLOWANCES

Schedule 3 sets out the following allowances payable over the nominal term of the Agreement:

- Aboriginal and Torres Strait Islander Peoples language allowance; and
- first aid allowance.

SCHEDULE 4: POSITION CLASSIFICATION STANDARDS

Schedule 4 outlines the position classification standards applicable to academic roles classified between levels A and E.

- ◆ The classification standards are unchanged.