

**COMMONWEALTH
OMBUDSMAN**



**OFFICE OF THE
COMMONWEALTH OMBUDSMAN
ENTERPRISE AGREEMENT
2017 - 2020**

Approved on 24 August 2017

Commencement date: 31 August 2017

Nominal expiry date: 31 August 2020

AG2017/3277

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FORMAL ACCEPTANCE OF AGREEMENT AND SIGNATORIES

Employer

Signed for, and on behalf of, the Commonwealth by the Commonwealth Ombudsman:

Signed:

Full Name: Michael Manthorpe
Title: Commonwealth Ombudsman
Date:
Address: Level 5, Childers Square, 14 Childers Street, Canberra City, Canberra 2601

Bargaining Representative - Community and Public Sector Union

Signed for, and on behalf of, the Community and Public Sector Union:

Signed:

Full Name: Melissa Donnelly
Title: Deputy Secretary
Date:
Address: 1/40 Brisbane Avenue, Barton, ACT 2600

Employee Bargaining Representative – Jaye Nang

Signed:

Full Name: Jaye Nang
Title: Dispute Resolution Officer
Date:
Address: Suite 2, Level 22 580 George Street, Sydney, NSW 2000

Employee Bargaining Representative – Karen Anderson

Signed:

Full Name: Karen Anderson
Title: Investigation Officer
Date:
Address: Level 5, 14 Childers Street, Canberra City, Canberra 2600

Employee Bargaining Representative – Andrew Pearce

Signed:

Full Name: Andrew Pearce
Title: Corporate Governance Officer
Date:
Address: Level 5, 14 Childers Street, Canberra City, Canberra 2600

PART A – SCOPE OF THE AGREEMENT

1. TITLE

- 1.1 This Agreement shall be known as the Office of the Commonwealth Ombudsman Enterprise Agreement 2017–2020.

2. PURPOSE OF AGREEMENT

- 2.1 The purpose of this Agreement is to outline the terms and conditions of employment for employees covered by this Agreement.

3. COVERAGE OF THE AGREEMENT

- 3.1 In accordance with s 172 of the *Fair Work Act 2009*, the Agreement covers:
- a. the Ombudsman (on behalf of the Commonwealth);
 - b. all non-SES employees of the Office of the Commonwealth Ombudsman; and
 - c. the Community and Public Sector Union, subject to the Fair Work Commission determining the union is covered.

4. DURATION

- 4.1 This Agreement will commence operation 7 days after approval by the Fair Work Commission and will nominally expire three years from the date of commencement.

5. OPERATION OF THE AGREEMENT

- 5.1 The operation of this Agreement is supported by the Office's policies and guidelines which will be made available to all employees. Notwithstanding this undertaking, employees should inform themselves of the provisions of this Agreement and associated policies and guidelines. The policies and guidelines do not form part of this Agreement and this Agreement will prevail to the extent of any inconsistency.
- 5.2 The Office and its employees agree that these supporting policies and guidelines will be available to all employees and will be updated as necessary following reasonable consultation.

6. DELEGATION

- 6.1 The Ombudsman may, in writing, delegate to, or authorise, a person to perform any of the Ombudsman's powers or functions under this Agreement, including this power of delegation.
- 6.2 A person exercising delegated powers or functions under sub-clause 6.1 must comply with any directions of the Ombudsman. Where possible these directions will be in writing.

7. RELATIONSHIP TO OTHER LEGISLATION

- 7.1 This Agreement operates in conjunction with a range of other Acts (including regulations, directions, rules or instruments made under those Acts) as in force from time to time, that may regulate terms and conditions of employment, including:
- a. *Public Service Act 1999*
 - b. *Fair Work Act 2009*
 - c. *Fair Work (Transitional and Consequential Amendments) Act 2009*
 - d. *Long Service Leave (Commonwealth Employees) Act 1976*
 - e. *Maternity Leave (Commonwealth Employees) Act 1973*
 - f. *Paid Parental Leave Act 2010*
 - g. *Public Employment (Consequential and Transitional) Amendment Act 1999*
 - h. *Public Governance, Performance and Accountability Act 2013*
 - i. *Privacy Act 1998*
 - j. *Superannuation Act 1976*
 - k. *Superannuation Act 1990*
 - l. *Superannuation Act 2005*
 - m. *Superannuation Benefits (Supervisory Mechanisms) Act 1990*
 - n. *Superannuation Guarantee (Administration) Act 1992*
 - o. *Superannuation (Productivity Benefit) Act 1988*
 - p. *Safety, Rehabilitation and Compensation Act 1988*
 - q. *Work Health and Safety Act 2011*

8. EMPLOYEE REPRESENTATION

- 8.1 The office recognises:
- the legitimate role of unions in the workplace; and
 - that employees are free to choose whether or not to join a union.
- 8.2 An employee may have an employee representative, who may be a union representative, to represent them in their industrial interests. The office and employee representative will deal with each other in good faith.
- 8.3 The role of employee representatives, including union delegates and other non-union employee representatives, is to be respected and facilitated.

9. DEFINITIONS

Term Used	Definition
Agreement	The Office of the Commonwealth Ombudsman Enterprise Agreement 2017 - 2020.
APS	The Australian Public Service.
APS employee	Has the same meaning as in the <i>Public Service Act 1999</i> .
Casual employee	A person engaged as an APS employee for duties that are irregular or intermittent.
De Facto partner	Means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and includes a former de Facto partner of the employee.
Dependant	In relation to child and dependant care responsibilities under clause 25, is a child or adult in relation to whom the employee has a substantial caring responsibility.
Dependant	In relation to circumstances other than child and dependant care responsibilities - a child or parent of the employee, or of the spouse/partner of the employee being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent upon the employee.
Executive level	An employee at the Executive Level 1 or Executive Level 2 classification or equivalent.
Employee	An employee employed in the Office of the Commonwealth Ombudsman covered by this Agreement whether full time or part time) and includes employees on temporary placement in the Office.
Full-time employee	A person engaged under paragraphs 22(2)(a) or 22(2)(b) of the <i>Public Service Act 1999</i> to work 150 hours in a settlement period.
Household member	Means the usual occupants of the dwelling in which the employee normally resides.
Immediate family	Means:

Term Used	Definition
	<ul style="list-style-type: none"> • a spouse or de facto partner of the employee, including a former spouse or de facto partner; • a child (including an adopted, foster or step child, or an ex-nuptial child); • a parent, grandparent, grandchild or sibling of the employee or the employee's spouse or de facto partner; and/or • traditional kinship where there is a relationship or obligation under the traditions of the community or group to which the employee belongs.
Medical certificate or other documentary evidence	<p>For personal leave purposes:</p> <ul style="list-style-type: none"> • a medical certificate from a registered health practitioner; or • evidence that would satisfy a reasonable person that the leave is taken for the reasons specified (which may include a statutory declaration where accepted by the employee's supervisor).
National Employment Standards	The Standards contained in Part 2-2 of the <i>Fair Work Act 2009</i> .
Non-ongoing employee	An APS employee engaged in the Office of the Commonwealth Ombudsman for a specified term or for the duration of a specified task, whose employment is covered by this Agreement.
the Office	Office of the Commonwealth Ombudsman.
Ombudsman	The Ombudsman as appointed under the <i>Ombudsman Act 1976</i> or the Ombudsman's delegate.
Ongoing employee	Person engaged under paragraph 22(2)(a) of the <i>Public Service Act 1999</i> .
Ordinary Hours	For full time employees, 150 hours over a settlement period, and for part time employees, the hours specified in an employee's part time work agreement.
Partner	A spouse or de facto partner of the employee.
Part time employee	An employee who is not engaged as a casual employee and whose ordinary hours of work are less than 150 hours in a settlement period.

Term Used	Definition
Settlement period	A four week period.
Standard hours	Seven hours 30 minutes per day to be worked 8:30am to 12:30pm and 1:30pm to 5:00pm, Monday to Friday.
Supervisor	The person who has operational and/or supervisory responsibility for another employee or a team of employees within the Office of the Commonwealth Ombudsman, which may include another supervisor/employee at, above or below the supervisor's level.

10. HOURS OF WORK

- 10.1 The ordinary hours of work for full-time employees is 150 hours over a four week settlement period. This equates to a standard working week of 37 hours and 30 minutes and a standard working day of 7 hours and 30 minutes.
- 10.2 For part time employees, the ordinary hours of work are those agreed in the part time work agreement or as designated for the particular job.
- 10.3 The standard day for full-time employees is defined as being working hours from 8.30am to 12.30pm and 1.30pm to 5.00pm (seven hours and 30 minutes) or the agreed hours for part time employees.
- 10.4 The bandwidth hours during which an employee may work their ordinary hours is 7am to 7pm Monday to Friday.
- 10.5 Unless there is a business need to vary hours to suit local conditions, or circumstances, the Office of the Commonwealth Ombudsman will be open to the public between 9am and 5pm Monday to Friday.
- 10.6 The times of commencement and cessation of duty outside of standard hours specified at clause 10.3 will be subject to agreement between the Ombudsman and the employee. This includes meal breaks.
- 10.7 An employee will not be expected to work more than:
- 10 hours ordinary time on any one day; or
 - five consecutive hours without a meal break of at least 30 minutes.
- 10.8 Both employees and supervisors have a mutual responsibility for managing their working hours and patterns. If in exceptional circumstances, employees are required to work in excess of their usual pattern of hours over a settlement period, supervisors will consult with the affected employees and have regard to the requirements of [section 62](#) of the *Fair Work Act 2009*.
- 10.9 All APS1-6 (and their equivalent) employees are required to record their hours worked each day in a manner determined by the Ombudsman.

11. FLEXIBLE WORKING ARRANGEMENTS

- 11.1 The Ombudsman is committed to providing flexible working arrangements to assist employees in getting an appropriate balance between their work and personal life, and all parties to this Agreement recognise the need for this balance. All parties to this Agreement recognise the need to balance these flexibilities with the Office's obligation to perform its functions in the most efficient and effective manner.
- 11.2 Flexible working arrangements enable employees and supervisors to vary their ordinary working hours, patterns and arrangements and provide employees with flexibility in relation to hours worked on any particular day. This will enable the Office to make arrangements, which

balance the employee's personal commitments and operational requirements, including arrangements for recording or averaging work hours.

- 11.3 All employees have access to flexible working arrangements (including flextime, subject to the limitations imposed by clause 11.4), subject to the Ombudsman's approval.

FLEXTIME

- 11.4 Employees up to and including APS6 and equivalent classification levels are able to work flextime and to accrue a flextime credit (including part time employees). Flextime does not apply to Executive Level (and their equivalents) employees. Arrangements for Executive Level employees are covered under clause 14.
- 11.5 Flextime allows eligible employees to accrue a flextime credit for duty performed in excess (which does not attract overtime) of their ordinary hours of work over the settlement period. Employees with a flextime credit are, with the agreement of their supervisor, able to take time off work in respect of the additional hours worked, without deduction from leave credits.
- 11.6 An employee may, by agreement with his or her supervisor, carry over a balance of hours, not exceeding 37 hours and thirty minutes into the next settlement period. Employees should not exceed 37 hours and thirty minutes credit.
- 11.7 The Ombudsman may, where it is reasonable to do so because an employee has failed to comply with the flextime provisions, remove the employee from the arrangements for a specified period and that employee will revert to working standard hours.
- 11.8 Access to flextime may be restored where the Ombudsman is satisfied that the employee's attendance and compliance with the provisions is satisfactory.
- 11.9 Where it has not been possible for an employee to reduce a flex balance to zero at time of separation any credits will be paid out at single time rates.

NON-DIRECTED WORK OUTSIDE THE BANDWIDTH

- 11.10 Where an employee requests to work outside bandwidth hours, he or she may do so with the agreement of the Ombudsman. This includes a Saturday, Sunday or Public Holidays. Any hours worked under this provision shall count towards hours of duty on a 1:1 basis; that is, one hour claimed for each hour worked outside the bandwidth.

12. OVERTIME AND TIME OFF IN LIEU (TOIL)

- 12.1 Clauses 12 and 13 of this Agreement apply only to APS 1 to APS 6 employees.
- 12.2 Where an employee is directed by the Ombudsman to perform work in addition to their ordinary hours of work the employee will be eligible for payment of overtime, or time off in lieu (TOIL) subject to mutual agreement between the parties.
- 12.3 Overtime and TOIL rates are as follows:
- a. **Monday to Saturday:** time and a half for the first three hours and double time thereafter
 - b. **Christmas Close Down:** time and a half
 - c. **Sunday:** double time

d. **Public Holidays:** double time and a half

*See also clause 55 for payment of meal allowance during periods of paid overtime.

12.4 An employee is entitled to a 10 hour break including travelling time before recommencing work without incurring a loss of pay. Where such a break is not possible due to operational requirements, the Ombudsman will approve payment at double time for the next period of work.

13. TRAVELLING TIME

13.1 Employees at APS 1 to 6 levels required to travel within Australia on official business outside their ordinary hours may include the travel time as working hours on an hour for hour basis.

13.2 Travel time for air travel will commence one hour prior to flight departure (2 hours for international flights) and one hour after flight arrival.

13.3 Employees will travel on the day of business where a flight is available, unless otherwise agreed by the Ombudsman. Request for non-same day travel must be submitted in writing for approval prior to the day of travel. Where such requests are approved, and flights are available on the day of travel, travel time cannot be claimed.

14. EXECUTIVE LEVEL TIME OFF IN LIEU

14.1 The Office recognises that the hours of duty of Executive Level employees (and equivalents) are not regular or easily categorised. While Executive Level employees (and equivalents) are not eligible for flextime, supervisors should allow these employees flexibility in their working arrangements, including hours of work and travel time, and have the authority to grant time off in lieu in recognition of additional hours worked, where it is considered such hours are in excess of agreed working arrangements. This means that supervisors should, as appropriate, agree to absences, including whole days. Such absences do not need to be covered by official leave and will not necessarily be granted on an hour to hour basis.

15. PART TIME WORK

15.1 Part time arrangements are available to employees, subject to the operational requirements and Ombudsman approval, as a means of balancing the competing demands of work, family and lifestyle. Agreed part time arrangements will be specified in the part time work agreement.

15.2 Part time employees are those who are not engaged as a casual employee and whose ordinary hours of work are less than 150 hours in a four week settlement period.

15.3 Other than in exceptional circumstances to be determined by the Ombudsman, part time employees will be required to work a minimum of three consecutive hours on any one day.

15.4 Remuneration and other benefits for part time employees will be calculated on a pro-rata basis. For allowances of a reimbursement or expense related nature, part time employees will receive the same amounts as full-time employees.

15.5 The Ombudsman may approve an extension of part time employment upon application, subject to operational requirements. Arrangements will be reviewed on a six monthly basis.

- 15.6 A full time employee will not be required to convert to part time hours without his or her agreement.
- 15.7 Where an employee converts from full time work to part time work, the period of part time work is to be specified. The employee will revert back to full time work at the completion of this period.
- 15.8 Where an employee's circumstances alter before the expiry of the agreed period, and the employee is personally available to return to full time work, the employee may apply to revert back to full time employment.
- 15.9 Where an employee who is engaged or assigned duties in a management initiated part time opportunity and wishes to convert to full time employment the employee may apply to the Ombudsman, stating reasons and benefits to the Office.
- 15.10 The Office will ensure that all employees returning from maternity, parental, adoption or foster parents leave will have access to part time work in accordance with section 65 of the *Fair Work Act 2009*.

16. JOB SHARING

- 16.1 The Ombudsman may approve job sharing arrangements between two or more employees wishing to share the one full-time job, subject to operational requirements and the basis of the employees' applications. The details of any job sharing arrangement will be agreed to in writing between the supervisor and the employees involved.

17. FLEXIBILITY ARRANGEMENTS

- 17.1 The Ombudsman and employees covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
- a. the arrangement deals with one or more of the following matters:
 - arrangements about when work is performed;
 - overtime rates;
 - penalty rates;
 - allowances;
 - remuneration; and
 - leave and leave loading.
 - b. the arrangement meets the genuine needs of the Office and employee in relation to one or more of the matters mentioned in paragraph (a); and
 - c. the arrangement is genuinely agreed to by the Ombudsman and employee.
- 17.2 The Ombudsman must ensure that the terms of the individual flexibility arrangement:
- a. are about permitted matters under section 172 of the *Fair Work Act 2009*; and

- b. are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
- c. result in the employee being better off overall than the employee would be if no arrangement was made.

17.3 The Ombudsman must ensure that the individual flexibility arrangement:

- a. is in writing; and
- b. includes the name of the employer and employee; and
- c. is signed by the Ombudsman and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
- d. includes details of:
 - the terms of the enterprise agreement that will be varied by the arrangement; and
 - how the arrangement will vary the effect of the terms; and
 - how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
- e. states the day on which the arrangement commences and, where applicable, when the arrangement ceases.

17.4 The Ombudsman must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

17.5 The Ombudsman or employee may terminate the individual flexibility arrangement:

- a. by giving no more than 28 days written notice to the other party to the arrangement; or
- b. if the Ombudsman and employee agree in writing — at any time.

18. WORKING FROM HOME

18.1 The Ombudsman may approve an employee working from home, subject to operational requirements, provided that the work to be performed is appropriate and the following primary considerations/issues are properly addressed:

- work health and safety considerations;
- security issues;
- the capacity of ICT services; and
- effective working arrangements and the productivity of the employee being maintained.

18.2 Approval for an employee working from home may be granted on:

- a formal basis for periods up to six months; or

- informal (ad hoc) basis for continuous periods of up to three days or for an ad hoc/intermittent requirement that may extend for a period of 3 months.

- 18.3 The arrangement may be varied or terminated as a result of:
- operational requirements (including budget considerations and the capacity of ICT services);
 - unsatisfactory performance of duties;
 - ineffectiveness of the arrangement; and/or
 - failure of the employee to comply with office requirements.

- 18.4 Employees who are subject of performance management or disciplinary action will not have access to home based work.

19. RIGHT TO REQUEST FLEXIBLE WORKING ARRANGEMENTS

- 19.1 An employee may request a change in working arrangements in accordance with [section 65](#) of the *Fair Work Act 2009*.

20. PUBLIC HOLIDAYS

- 20.1 Employees will be entitled to the following public holidays:
- New Year's Day (1 January);
 - Australia Day (26 January);
 - Good Friday;
 - Easter Monday;
 - Anzac Day (25 April);
 - The Queen's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
 - Christmas Day (25 December);
 - Boxing Day (26 December); and
 - Any other day, or part-day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the Fair Work Regulations from counting as a public holiday.
- 20.2 If under a state or territory law, a day or part day is substituted for one of the public holidays listed above, then the substituted day or part day is the public holiday.
- 20.3 The Ombudsman and an employee may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.

- 20.4 An employee, who is absent on a day or part-day that is a public holiday in the place where the employee is based for work purposes, is entitled to be paid for the part or full day absence as if that day or part-day was not a public holiday, except where that person would not normally have worked on that day.
- 20.5 Where a public holiday falls during a period when an employee is absent on leave (other than annual or paid personal leave) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is on half pay).
- 20.6 If under a law of a State or Territory every Sunday is declared or prescribed by or under that law to be a public holiday, there is no entitlement to receive payment as a public holiday if the employee would have worked, or does perform work, on that day. In these circumstances, payment will only be made at the public holiday rate of pay if the employee performs work on that day, and the Sunday would otherwise be a public holiday under sub-clauses 20.1 and 20.2.

21. CHRISTMAS CLOSE DOWN

- 21.1 The Office will close its normal operations from midday on the last working day before Christmas, with business resuming on the first working day after New Year's Day.
- 21.2 Employees will be provided with time off for the working days between Christmas and New Year's Day and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave, payment for the Christmas closedown provision will be in accordance with the entitlement for that form of leave, (e.g. if on long service leave half pay, payment is on half pay).
- 21.3 There will be no deduction from annual or personal leave credits for the closedown days.

22. PROBATION

- 22.1 All new ongoing APS employees engaged in the Office will be required to successfully complete a probation period. The maximum probationary period will be six months.

23. INDUCTION PROGRAM

- 23.1 The Office will maintain an updated Induction Handbook to support the orientation into the Office of all new employees regardless of tenure, proposed period of service or previous work background into the Office.

24. STUDY ASSISTANCE

- 24.1 The Ombudsman is committed to supporting employees undertaking formal studies that are relevant both to the employee's career and to the Office.
- 24.2 An employee's proposed course of study must be approved by the Ombudsman for the employee to have access to any form of studies assistance. The Ombudsman will consider operational requirements, the benefit of the proposed course of study to the Office and to the employee's career, and the capacity of the employee to balance the study commitments with his or her work responsibilities.

STUDY LEAVE

- 24.3 The Ombudsman may approve up to 60 hours of paid study leave per semester to attend formal lectures, seminars, presentations, tutorials, including on-line, residential or other events scheduled as part of an approved course of study and occurring during agreed ordinary hours.
- 24.4 The Ombudsman may approve miscellaneous leave per semester, including full time study, for research, exam preparation and to sit exams, which may be paid or unpaid. This leave will not count towards the 60 hours paid study leave covered under sub-clause 24.3.

FINANCIAL ASSISTANCE

- 24.5 The Ombudsman may approve financial assistance to undertake an approved course of study. Financial assistance is in the form of a bursary that is paid on receipt of proof of costs incurred and successful completion of approved studies. The amounts are:
- a. **University students:** \$292 per unit (subject) to a maximum payment of \$1166 per academic year
 - b. **TAFE students:** \$292 per semester – total \$583 per academic year.
- 24.6 The bursary payment is not payable to employees on leave without pay.
- 24.7 The Ombudsman may approve the cost of a training course of study in a tertiary institution where the course is approved as part of the employee's Professional Development Plan. The Ombudsman may approve reasonable time off to travel to and from the training.

OTHER MATTERS

- 24.8 Travel time of up to 30 minutes each way will be granted to attend approved study activity within agreed ordinary hours.
- 24.9 Employees may have reasonable use of Ombudsman office equipment, for purposes connected with their approved course of study, outside standard hours with approval of their supervisor.

25. CHILD AND DEPENDANT CARE POLICY

- 25.1 In recognition of child and dependant care responsibilities, on prior approval the Ombudsman will approve reimbursement of reasonable expenses (on receipt of satisfactory evidence) arising from additional family arrangements made necessary where an employee is:
- a. required to travel away from his or her normal work location for business purposes; or
 - b. directed to work additional hours or attend a conference or training course outside the bandwidth or outside the employee's ordinary hours of work.

26. VACCINATION PROGRAMS

- 26.1 The Office will fund and make arrangements for annual flu vaccinations to be made available to all employees.

27. EMPLOYEE ASSISTANCE SCHEME

- 27.1 A confidential counselling service (the Employee Assistance Scheme) will be made available to employees and their immediate families to help them resolve work related and personal problems. Counselling sessions will be provided at no cost to the employee, although employees who fail to attend a session may incur any resultant fee.

28. ANTI-DISCRIMINATION AND WORKPLACE DIVERSITY

- 28.1 The Office is an organisation, that values fairness, equity and diversity, and respect and acceptance of diversity is an integral part of our own workplace. Consistent with that aim, the Office is committed to preventing and eliminating discrimination on the basis of race, colour, descent, national or ethnic origin, immigrant status and racial hatred, sex, sexual harassment, gender identity, intersex status, sexual orientation, marital status or relationship status, breastfeeding, family responsibilities, pregnancy, age, mental or physical disability, religion, political opinion, irrelevant criminal record, national extraction, membership or non-membership of a trade union or social origin.

29. SUPPORT FOR MATURE AGED WORKERS

- 29.1 The Ombudsman values the skill, expertise and knowledge held by mature aged workers. In keeping the Ombudsman's commitment to work/life balance, flexible working arrangements such as part-time and the use of annual and long service leave provisions can be suitable for use by mature age employees as a means to assist their transition to retirement.

- 29.2 Employees are encouraged to explore these flexibilities as a means of extending their working lives.
- 29.3 Subject to operational requirements, supervisors will favourably consider flexible working arrangements as a means to retaining mature age employees who might otherwise choose to leave the Office.

30. PERFORMANCE MANAGEMENT FRAMEWORK

- 30.1 The Performance Management Framework (PMF) is the framework for guiding and handling performance management, performance assessment, performance/career development and managing underperformance within the Office.
- 30.2 The aim of the PMF is to ensure:
- that performance expectations are clearly articulated and managed;
 - role and goal clarity is clearly established;
 - there is a clear link between the employee's individual/team performance and the achievement of the Office's Strategic objectives;
 - regular communication/feedback and constructive assessment in relation to employee performance and behaviour is facilitated and promoted;
 - employee learning and development needs are identified and addressed;
 - high performance is recognised; and
 - a structured process for managing underperformance is in place.
- 30.3 The two key elements of the PMF are the Performance Management Program (PMP) Guidelines and Managing Underperformance Guidelines. The PMP Guidelines and Managing Underperformance Guidelines, as varied from time to time, outline the detailed processes and requirements in relation to these two elements.
- 30.4 The PMF applies to all Office employees, with the following exceptions:
- employees on probation;
 - non-ongoing employees are excluded from certain requirements under the PMP; and
 - the provisions contained in the Managing Underperformance Guidelines do not apply to non-ongoing employees.
- 30.5 In addressing issues where employees are not performing to the required standard, the PMF is designed to:
- have regard to the principles of procedural fairness;
 - ensure processes are timely and effective;
 - restore performance of the employee to the required standard; and
 - have regard to the individual circumstances of the employee, including any health issues.
- 30.6 Salary advancement through a classification and/or broadband is subject to employees' performance being assessed as at least satisfactory under the PMP and the employee meeting the requirements of clause 39 and/or 40.

PART E – MANAGING EXCESS EMPLOYEE SITUATIONS

31. COVERAGE

31.1 This Part only applies to ongoing employees covered by this Agreement who are not on probation.

32. DEFINITION OF EXCESS EMPLOYEES

- 32.1 An employee is an excess employee if:
- a. the employee is included in a class of employees employed in the Office that comprises a greater number of employees than is necessary for the efficient and economical operation of the Office;
 - b. the services of the employee cannot be effectively used because of technological or other changes in the work methods of the Office or changes in the nature, extent or organisation of the functions of the Office; or
 - c. the duties usually performed by the employee are to be performed at a different locality, the employee is not willing to perform duties at that locality and the Ombudsman has determined that these provisions will apply to that employee.

33. CONSULTATION WITH POTENTIALLY EXCESS EMPLOYEES

- 33.1 When the Ombudsman becomes aware that an employee is likely to become an excess employee (i.e. potentially excess), the Ombudsman will advise the employee of the situation in writing.
- 33.2 The Ombudsman will, as soon as possible, hold discussions with the employee or, where they choose, his or her nominated representative, to consider:
- a. actions that might be taken to reduce the likelihood of the employee becoming excess;
 - b. redeployment opportunities for the employee within the Office or another APS Agency; and
 - c. the possibility of voluntary redundancy.
- 33.3 Consistent with the interests of the efficient management of the Office and where a suitable vacancy exists, the Ombudsman will take all reasonable steps to reassign duties to the excess employee within the Office and explore options to assist with career transition.
- 33.4 This consultation period will extend for at least a one month period, but may be reduced with the written agreement of the employee.
- 33.5 Where 15 or more employees are likely to become excess, the Ombudsman will comply with Division 2, Part 3-6 of the *Fair Work Act 2009*.

34. VOLUNTARY REDUNDANCY

- 34.1 At the end of the consultation period (unless the employee agrees to a shorter period) referred to under clause 33 the Ombudsman may advise, in writing, the employee who has been identified as potentially excess that they are excess to the Office's requirements and make an offer of voluntary redundancy.
- 34.2 The advice provided to the employee under sub-clause 34.1 will include, if this has not already been provided to the employee during the consultation period:
- a. the amounts payable as redundancy pay, pay in lieu of notice and accrued annual and long service leave credits;
 - b. information in relation to the amount of accumulated superannuation contributions and superannuation options, or where this is not practicable, advice on how the employee can ascertain this information; and
 - c. any taxation applying to the various redundancy payments.
- 34.3 Where the Ombudsman invites an excess employee to accept voluntary redundancy, the employee will have one month to accept that offer (the consideration period). Where the offer is accepted the Ombudsman will not give notice of termination of employment before the end of that period without the agreement of the employee.
- 34.4 Only one offer of voluntary redundancy will be made to an excess employee.
- 34.5 An employee that has been advised that they are an excess employee will be reimbursed up to a maximum of \$600 for professional financial advice for the purposes of making a decision in relation to their redundancy options.
- 34.6 Where an excess employee agrees to redundancy, the Ombudsman may terminate the employee's employment, by giving the required notice of termination of employment, under s 29 of the *Public Service Act 1999*. The period of notice will be 4 weeks (or 5 weeks for an employee over 45 and with at least 5 years of continuous service).
- 34.7 Where an employee's employment is terminated at the beginning of, or within, the notice period, the employee will receive payment in lieu of notice as set out in the *Fair Work Act 2009* for the unexpired portion of the notice period.
- 34.8 Employees not accepting an offer of voluntary redundancy will be covered by clause 35.

REDUNDANCY PAY

- 34.9 An employee who accepts an offer of voluntary redundancy and whose employment is terminated by the Ombudsman under s 29 of the *Public Service Act 1999* on the grounds that he/she is excess to the requirements of the Office, is entitled to payment of a redundancy benefit of an amount equal to two weeks' salary for each completed year of continuous service, plus a pro-rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the National Employment Standards (NES).
- 34.10 The minimum sum payable will be 4 weeks' salary and the maximum will be 48 weeks' salary.

34.11 The redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part time hours during his or her period of service and the employee has less than 24 years full-time service (refer to sub-clause 34.17), subject to any minimum amount the employee is entitled to under the NES.

SERVICE FOR REDUNDANCY PAY

34.12 The following types of service are counted in the calculation of service for the purposes of redundancy pay:

- Service in the Office of the Commonwealth Ombudsman.
- Government service as defined in s 10 of the *Long Service Leave Act 1976*.
- Service within the Commonwealth, which is recognised for long service leave purposes, other than service with a Joint Commonwealth-State body corporate in which the Commonwealth has a controlling interest.
- Service with the Australian Defence Forces.
- APS service immediately preceding deemed resignation under repealed section 49 of the *Public Service Act 1922*, if service has not been recognised for redundancy pay purposes.
- Service in another organisation where:
 - an employee was transferred from the APS to that organisation with a transfer of function; or
 - an employee engaged by that organisation on work within a function is engaged in the APS as a result of the transfer of that function to the APS; and
 - such service is recognised for long service leave purposes.

34.13 For earlier periods of service to count there must be no breaks between the periods of service, except where:

- a. the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
- b. the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the repealed s 49 of the *Public Service Act 1922*.

34.14 Any period of service which ceased for the following reasons will not count as service for redundancy pay purposes.

- a. by way of termination under s 29 of the *Public Service Act 1999*;
- b. on a ground equivalent to any ground listed in this sub-clause;
- c. through voluntary retirement at or above the minimum retiring age applicable to the employee; or

- d. with payment of a redundancy benefit or similar payment or an employer financed retirement benefit.

34.15 Absences from work that do not count as service for leave purposes will not count as service for severance pay purposes.

RATE OF PAYMENT FOR REDUNDANCY BENEFIT

34.16 For the purposes of calculating any payment for the redundancy benefit, salary will include:

- a. the employee's salary at the substantive work value level; or
- b. the salary of the higher work value level, where the employee has been working at the higher level for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination of employment; and
- c. other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses or a payment for disabilities associated with the performance of duty.

34.17 Where an employee has worked part time hours during his or her period of service and the employee has less than 24 years full-time service, the 2 weeks per year of service that relates to the part time service will be paid on pro-rata basis as follows:

- current annual full-time equivalent salary (used for redundancy purposes), divided by full time hours, multiplied by the part time hours for that part time period worked.

35. INVOLUNTARY REDUNDANCY PROVISIONS

RETENTION PERIODS

35.1 The purpose of the retention period is to allow an employee to continue to remain employed whilst attempting to secure alternative employment.

35.2 An excess employee who has declined a voluntary redundancy will be entitled to the following periods of retention:

- a. 56 weeks where an employee has 20 years or more service or is over 45 years of age; or
- b. 30 weeks for all other employees.

35.3 If an employee is entitled to a redundancy payment in accordance with the National Employment Standards, the relevant period in sub-clause 35.2 will be reduced by the number of weeks redundancy pay that the employee will be entitled to under the National Employment Standards on termination, calculated at the expiration of the retention period (as adjusted by this sub-clause).

35.4 The retention period will not be extended by any periods of personal leave supported by medical evidence taken by the excess employee during the retention period unless, after considering the circumstances of the individual case, the Ombudsman deems an extension as a result of the period of leave taken to be reasonable.

35.5 The retention period will commence on the earlier of the following:

- the day the employee advises the Ombudsman in writing that they do not accept the offer of voluntary redundancy made under sub-clause 34.1; or
- one month after the day on which the Ombudsman offered the employee voluntary redundancy under sub-clause 34.1.

35.6 During the retention period the Ombudsman:

- a. will continue to try and redeploy the excess employee to suitable vacancies that arise within the Office; and/or
- b. may, with four weeks' notice, reassign duties at a lower APS classification to the excess employee (where this occurs before the end of an employee's retention period, the employee will receive income maintenance to maintain salary at the previous higher level for the balance of the retention period).

35.7 It is the excess employee's responsibility to take all reasonable steps to identify and apply for suitable vacancies at their substantive level.

35.8 The excess employee may request assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment where these expenses are not met by the prospective employer.

35.9 Where an excess employee is required to move the employee's household to a new locality as a result of a reduction in classification under sub-clause 35.6b. the Ombudsman will approve reasonable expenses where these expenses are not met by the prospective employer.

INSUFFICIENT PRODUCTIVE WORK AVAILABLE DURING RETENTION PERIOD

35.10 Where the Ombudsman is satisfied that there is insufficient productive work available for the employee within the Office during the remainder of the retention period and that there is no reasonable redeployment prospects in the APS:

- a. the Ombudsman may, with the agreement of the employee, terminate the employee's employment under s 29 of the *Public Service Act 1999*; and
- b. upon termination, the employee will be paid a lump sum comprising:
 - the balance of the retention period (as shortened for the National Employment Standards under sub-clause 35.3) and this payment will be taken to include the payment in lieu of notice of termination of employment; and
 - an additional redundancy payment equal to the amount the retention period was shortened by under sub-clause 35.3.

INVOLUNTARY TERMINATION OF EMPLOYMENT

35.11 The Ombudsman may involuntarily terminate the employment of an excess employee at the end of the retention period under s 29 of the *Public Service Act 1999*.

35.12 Where procedures outlined in this Agreement may lead to termination of employment on any of the allowable grounds under s 29 of the *Public Service Act 1999*, those procedures will be followed before an ongoing employee's employment may be terminated.

- 35.13 An excess employee's employment will not be involuntarily terminated if the employee has not been invited to accept an offer of voluntary redundancy or has elected to be terminated but the Ombudsman has refused to approve it.
- 35.14 An excess employee's employment will not be involuntarily terminated without being given four weeks' notice or five weeks' notice for an employee over 45 with at least five years of continuous service, or payment in lieu of notice.
- 35.15 The specified periods of notice will as far as practicable be concurrent with the retention periods.
- 35.16 During the retention period, the Office will provide reasonable development opportunities to assist the excess employee with redeployment.

36. SALARY

36.1 Employees will receive a salary increase of:

- 3% on commencement of the Agreement
- 2% 12 months after commencement
- 1% 18 months after commencement

36.2 Salary ranges and pay points to apply under this Agreement are set out at **Attachment A**.

37. PAYMENT OF SALARY

37.1 Employees will be paid fortnightly in arrears and the fortnightly rate of pay will be based on the following formula:

$$\text{Fortnightly pay} = \frac{\text{annual salary} \times 12}{313}$$

37.2 Employees will have their fortnightly salary paid by electronic funds transfer into a financial institution of his or her choice.

37.3 Access to the financial institution must be available to the pay processing system used by the Office at the time.

38. OFFICE CLASSIFICATION STRUCTURE

38.1. The Office's classification structures and broadbands under this Agreement are detailed in **Attachments A and B**.

OFFICE'S TRAINING BROADBAND

38.2. The Office's Training Broadband at **Attachment B** is used for those employees required to undertake a training and/or development programme and whose progression is subject to successful completion of that programme.

38.3 The Ombudsman may assign other classifications to the Office's Training Broadband relevant to the training and/or development programme being undertaken by an employee or to ensure consistency with whole of government approaches.

OFFICE GRADUATES

38.4 Graduates will be engaged at the APS 3 classification level within the Office's Training Broadband. The salary will be the base point of the APS3 classification level unless the Ombudsman approves payment of a higher salary having regard to the experience, qualifications, skills and previous salary of the employee.

- 38.5 On successful completion of the Graduate Programme, Graduates will, subject to Ombudsman approval, be advanced to the APS 4 classification level within the Training Broadband.
- 38.6 The Ombudsman will then assign duties within the APS 4/5 broadband (Ombudsman Band 4) and determine salary.

OFFICE TRAINEES

- 38.7 Trainee employees will be engaged within the Office's Training Broadband and undertake a course of training and/or development determined by the Ombudsman.
- 38.8 When the Ombudsman is satisfied that the course of training and/or development has been successfully completed, he/she will advance the employee to a classification that will be not less than the APS 3 classification level and determine salary. The employee will then be integrated into the relevant Ombudsman Band in the classification structure at **Attachment A**.

39. BROADBANDING

- 39.1 The provisions relating to advancement within the broadband are as follows:
- a. advancement within a broadband is based on the performance of the employee and the needs of the Office;
 - b. an employee who is at the maximum level applicable at the classification and meets the requirements of sub-clauses 40.1 and 40.4 may be advanced to the next classification level provided that:
 - there is sufficient ongoing work required to be performed at the higher work level; and
 - they have been assessed as having the skill requirements for the available work at the next classification level.
 - c. where the advancement relates to the APS4/5 broadband (Ombudsman Band 4) and where more than one employee satisfies the performance and skills requirements, but there is insufficient ongoing work available for all such employees, a merit selection will be used to determine advancement; and
 - d. where an employee is advanced within a broadband, they are automatically reclassified to the relevant APS classification.

40. SALARY ADVANCEMENT TO HIGHER PAY POINTS

- 40.1 Employees who are not on the top point of their salary range will be eligible for salary advancement, subject to:
- having a current performance development agreement in place for the relevant year's cycle; and
 - being assessed as performing to a satisfactory standard at his or her current level under the Performance Management Program (PMP).

- 40.2 The requirements of sub-clause 40.1 will also apply to progression from a lower level to the higher level within the broadbanded classifications.
- 40.3 An employee who is assessed as not performing to a satisfactory standard under the PMP will not advance a pay point.
- 40.4 Subject to sub-clause 40.1 the date of effect for pay point advancement will be 12 months from whichever is the later, of the date the employee:
- commenced with the Office; or
 - last advanced in pay through either promotion or pay point advancement.

41. SALARY ON ENGAGEMENT, PROMOTION AND ASSIGNMENT OF DUTIES

- 41.1 An employee's salary on engagement, promotion and assignment of duties (including movement from another APS Agency) will normally be at the minimum salary rate for the classification, unless the Ombudsman approves payment at a higher salary point within the classification range based on experience, qualifications and skills.
- 41.2 Where an APS employee moving to the Office is receiving a salary in his or her previous APS agency that exceeds the current maximum pay point in the Office for that classification, the Ombudsman may approve continued payment at that salary until it is absorbed by Office pay increases at the relevant classification level, at which time the employee will move to the next pay point immediately above their current salary level.
- 41.3 Where an employee commences in the Office at the same classification and is in receipt of a salary that does not have a direct translation point in the Office's salary scale, the salary payable will be the next highest point within the Office's salary range for that classification.
- 41.4 Where the classification of an employee is reduced, on either a temporary or ongoing basis, salary will be determined by the Ombudsman having regard to the experience, qualifications and skills of the employee.
- 41.5 Where, at the time of engagement, an employee's salary is set at an incorrect salary point (in error) within the applicable salary scale, the Ombudsman may determine, in writing, that the employee will be paid salary at the more correct salary point.

42. NON-ONGOING EMPLOYEES ENGAGED FOR DUTIES THAT ARE IRREGULAR OR INTERMITTENT (CASUAL EMPLOYEES)

- 42.2 Non-ongoing employees engaged for duties that are irregular or intermittent will receive a loading of 20 per cent of salary in lieu of public holidays on which the employee is not rostered to work and paid leave. Such employees will still accrue long service leave.

43. FLEXIBLE REMUNERATION PACKAGING

- 43.1 All ongoing employees, and non-ongoing employees engaged for a period in excess of 12 months will have access to flexible remuneration packaging as detailed in the Office's Flexible Remuneration Packaging Guidelines.
- 43.2 In providing flexible remuneration packaging there will be no additional cost to the Office and any fees charged for administrative costs or fringe benefits tax as a result of these arrangements will be payable by the employees concerned.
- 43.3 The Office will also offer a limited menu administered in house for employees.
- 43.4 Where flexible remuneration packaging is accessed under this clause, salary for all purposes will continue to be calculated as if the packaging arrangements had not been entered into.

44. SUPERANNUATION

- 44.1 The Ombudsman will ensure that all new employees will be provided with information about superannuation options and levels of employer contributions on commencement or recommencement of employment.
- 44.2 The Ombudsman will make compulsory employer contributions as required by the applicable legislation and fund requirements.
- 44.3 Where employer contributions are to an accumulation superannuation fund the employer contribution will be 15.4% of the fortnightly superannuation contribution salary. This will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not apply where a superannuation fund cannot accept employer superannuation contributions (e.g. unable to accept contributions for people aged over 75).
- 44.4 The Ombudsman may choose to limit superannuation choice to complying superannuation funds that allow employee and/or employer contributions to be paid through fortnightly electronic funds transfer using a file generated by the Office's payroll system.

45. PAYMENT ON DEATH

- 45.1 Where an employee dies, or the Ombudsman directs that the employee will be presumed to have died on a particular date, the Ombudsman may approve the payment of the amount, which the former employee would have been entitled had he or she ceased employment on resignation or retirement. Long service leave credits will be paid out in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
- 45.2 Payment may be made to dependants or the partner of the former employee or the employee's legal representative. If a payment has not been made within twelve months of the former employee's death it shall be paid to the employee's legal representative.

PART G - ALLOWANCES AND REIMBURSEMENTS

46. GENERAL

46.1 Unless otherwise specified the payments of allowances and reimbursements covered in this Part will not count as salary for any purpose.

47. HIGHER DUTIES ALLOWANCE

- 47.1 Where an employee is temporarily assigned to duties at a higher classification level, the Ombudsman may approve the payment of a higher duties allowance (HDA) as follows:
- where the duties involve management responsibilities and are to be performed for a continuous period of at least one week the employee will be entitled to HDA for the entire period; or
 - where the duties do not involve management responsibilities and are to be performed for a continuous period of at least one month (i.e. any period of four consecutive weeks), the employee will be entitled to the HDA for the entire period.
- 47.2 An employee performing all of the duties of a position at a higher classification will be paid HDA equal to the difference between the employee's usual salary and the base salary of the higher classification unless the Ombudsman approves payment at a higher salary having regard to the employee's experience, skills and qualifications.
- 47.3 An employee performing part of the duties of a position at a higher classification will receive payment at a rate determined by the Ombudsman.
- 47.4 Where an employee does not qualify for an allowance under sub-clause 47.1, the employee may apply for the allowance where he or she has in a financial year performed duties of the higher value for a minimum of six non-consecutive weeks. The employee will be entitled on application within a reasonable period to the allowance in respect of any period in the financial year in excess of six weeks.
- 47.5 Where an employee, who is receiving the allowance, and is granted paid leave or observes a public holiday, the employee will continue to receive the allowance during that absence, however, the allowance will not be paid beyond the date for which the allowance is granted.
- 47.6 Where an employee, immediately prior to termination of employment, has been in receipt of the allowance for a continuous period of 12 months or more, the allowance will count as salary for all purposes.

48. FIRST AID ALLOWANCE

48.1 Where the Ombudsman is satisfied that an employee possesses a current first aid certificate, a continuing ability commensurate with the qualification and the employee has been given first aid responsibilities, the Ombudsman will approve payment of an allowance as set out in the following table.

Current rate	On commencement of Agreement	12 months after commencement	18 months after commencement
\$32 per fortnight	\$32.95	\$33.60	\$33.95

49. HEALTH AND SAFETY REPRESENTATIVES, WORKPLACE HARASSMENT CONTACT OFFICERS AND EMERGENCY CONTROL WARDENS ALLOWANCE

49.1 In recognition of the responsibilities of Health and Safety Representatives, Workplace Harassment Contact Officers and Emergency Control Wardens the Ombudsman will approve payment of an allowance to employees who fulfil each of these roles as set out in the following table.

Current rate	On commencement of Agreement	12 months after commencement	18 months after commencement
\$32 per fortnight	\$32.95	\$33.60	\$33.95

49.2 Generally, a Health and Safety Representative, Workplace Harassment Contact Officer or Emergency Control Warden may not undertake the role of First Aid Officer. However, it is acknowledged that there may be circumstances when the Ombudsman may approve an employee undertaking a number of roles and in such cases the employee will be paid the allowance for each role.

50. COMMUNITY LANGUAGE ALLOWANCE

50.1 Where, in providing client or employee services, the Ombudsman determines there is a continuing need to utilise an employee's particular language skills for communication in languages other than English, (including Indigenous languages and utilising deaf communication skills), the employee will be paid a community language allowance on the following basis:

Standard	Level of Competence
CLA Rate 1	<p>An employee who:</p> <ul style="list-style-type: none"> passes the Language Aide Test conducted by the National Accreditation Authority for Translators and Interpreters (NAATI); or is recognised by NAATI to possess equivalent proficiency; or is waiting to be assessed by the above means and whose supervisor certifies that the employee uses the language skills to meet operating requirements of the workplace, until such time assessment is completed; or is assessed to be at the equivalent level by the Ombudsman or body approved by the Ombudsman.

Standard	Level of Competence
CLA Rate 2	An employee who is: <ul style="list-style-type: none"> • accredited or recognised by NAATI at the Para professional Interpreter /Translator level or above; or • assessed to be at the equivalent levels by the Ombudsman or body approved by the Ombudsman.

50.2 The Community Language Allowance rates payable are:

- a. CLA rate 1 \$848 per annum
- b. CLA rate 2 \$1696 per annum.

51. PROFESSIONAL PAYMENTS ASSISTANCE

51.1 The Ombudsman will approve payment for professional practice, memberships or other fees for those employees in positions where the Ombudsman has determined that those professional skills, qualifications and memberships are required in order to enhance the performance or the effectiveness of the Office in the performance of its functions.

52. RESTRICTION ALLOWANCE

52.1 An employee who needs to be contactable and available to work outside their ordinary hours of work may be placed under a restriction direction by the Ombudsman. A restricted employee may be required to work at their usual workplace or at another designated workplace, including their home.

52.2 A restriction allowance will not be paid to Executive Level employees or an employee who does not remain contactable or available to perform extra duty.

52.3 The restriction allowance payments for each hour restricted are:

- a. Monday to Friday – 7.5 per cent of the hourly rate of salary
- b. Saturday and Sunday – 10 per cent of hourly salary
- c. Public holidays – 15 per cent of hourly salary

52.4 Where an employee on restriction is recalled to duty and receives an overtime payment, the employee will not be entitled to receive the Restriction Allowance for the period for which overtime is payable.

53. REMOTE LOCALITY PAYMENT

53.1 Where an employee is required to perform field work in a remote geographic location for a period of three weeks or less and the employee does not have access to accommodation, but instead is required to 'camp', the Ombudsman will approve a remote localities payment of \$65 per day in addition to Travelling Allowance.

54. MOTOR VEHICLE ALLOWANCE

- 54.1 The Ombudsman may approve an employee's request to use a private vehicle at his or her own expense for work related travel. Where the Ombudsman's approval is obtained, the employee will be paid the lesser of:
- a. the transport costs which would otherwise have been paid by the Office, including any discounted fares that would have been available (these are GST exclusive); or
 - b. a Motor Vehicle Allowance paid in accordance with the rates set by the *Tax Assessment Regulations 1997*.
- 54.2 A Motor Vehicle Allowance will only be paid where the employee has obtained prior approval and subject to any conditions that may be set by the Ombudsman including providing evidence that the vehicle is covered by comprehensive insurance.

55. MEAL ALLOWANCE

- 55.1 If an employee is directed to work overtime as detailed in clause 12 and it has been more than five hours since their last meal break, they will be required to take a meal break of a minimum of 30 minutes and maximum of 60 minutes. Provided the employee works beyond the meal period and takes a meal break they will be paid a meal allowance. The amount of the meal allowance will be the amount published from time to time by the Australian Taxation Commissioner as the reasonable amount for overtime meal expenses in the Commissioner's ruling on reasonable travel and meal allowance expense amounts. Payment will be through the salary system.
- 55.2 The meal period means the following periods:
- a. 7.00am to 9.00am
 - b. 12 noon to 2.00pm
 - c. 6.00pm to 7.00pm
 - d. Midnight to 1.00am.

56. LOSS AND DAMAGE TO CLOTHING OR PERSONAL EFFECTS

- 56.1 The Ombudsman may approve reimbursement for loss or damage to an employee's clothing or personal effects that occurred in the course of the employee's duties.

57. EYEWEAR REIMBURSEMENT FOR SCREEN BASED WORK

- 57.1 Where an approved examiner has certified that eyewear is required to perform screen based work the Ombudsman will approve reimbursement of:
- a. \$120 for single focus lenses eyewear
 - b. \$165 for bifocal lenses eyewear

- 57.2 Reimbursement for approved eyewear will only be granted once every two years.
- 57.3 Non ongoing employees, employed for a period in excess of six months will be granted reimbursement for approved eyewear.

58. LIFESTYLE CONTRIBUTION

- 58.1 In recognition of the benefit to the Office of employees undertaking health and wellbeing initiatives of their own, each eligible ongoing employee may seek reimbursement of these expenses, up to a maximum of \$299 per annum (as a single payment). Further information is available in the Lifestyle Contribution guidelines.

59. TRAVEL ALLOWANCES (TA)

ELIGIBILITY FOR TRAVEL ALLOWANCE

- 59.1 Employees travelling between centres in Australia for official purposes which require an overnight absence will be entitled to an allowance in respect of accommodation, meals, and incidental expenses.
- 59.2 The Office will adopt the rates contained in the applicable Australian Taxation Office Determination as varied from time to time.
- 59.3 The principle behind the payment of travel assistance is that employees are not out of pocket for the costs of accommodation, meals and incidentals while travelling on official business.
- 59.4 Where the Ombudsman has made commercial accommodation arrangements (i.e. staying at hotel/motels), payment will be made directly to the provider by corporate credit card in order for the Ombudsman to recover the GST component.

ELIGIBILITY FOR PART DAY TRAVEL ALLOWANCE

- 59.5 An employee who travels away from the usual place of work on Ombudsman business for a period of not less than 10 hours, but is not absent overnight, will receive a reimbursement of costs, consisting of the lunch allowance rate and the incidental allowance in line with the relevant Ombudsman allowances rates. To be eligible for the payment, travel must be to a locality which would attract full payment of the travelling allowance if the employee were to stay overnight at that locality.

ADJUSTMENT TO TRAVEL ALLOWANCE PAYMENTS

- 59.6 Where an employee's travel arrangements have varied so as to affect the total amount payable as travel allowance, the employee must provide a statement of the travel actually undertaken and the expenses accrued for acquittal and any adjusting payment or repayment.
- 59.7 The Ombudsman may adjust the travel allowance where there is sufficient proof that a different travel allowance is needed to meet reasonable accommodation, meal and incidental costs incurred.
- 59.8 The Ombudsman may reimburse reasonable travel related expenses where costs have been incurred above the travel allowance rate, where there is sufficient proof that the expenses were incurred.

60. TEMPORARY RELOCATION ASSISTANCE FOR PERIODS OF GREATER THAN 3 WEEKS

- 60.1 Where an employee is required to work in a different geographic location for more than three weeks the Ombudsman, in consultation with the employee, will approve an agreed package of assistance – from the day on which the employee commences work in the temporary locality. This will include reasonable temporary accommodation costs and payment for any reasonable

and unavoidable continuing expenses incurred where the employee's usual residence is left unoccupied. This can include care-taking or maintenance costs. Any assistance will exclude payment for rates, land tax and insurance.

TEMPORARY RELOCATION IN EXCESS OF 13 WEEKS

- 60.2 Where an employee is required to work, on a temporary basis, in a different geographic location for more than 13 weeks, in addition to the package of assistance agreed under sub-clause 60.1 the Ombudsman will also agree to one or more of the following (where applicable):
- a. payment of reasonable transport and removal costs to and from the new location;
 - b. payment of costs to store household furniture; and/or
 - c. where an employee is not accompanied to the new location by his or her dependant(s) or partner, the employee will be eligible for payment of one reunion visit to his or her place of work for each 13 week period he or she is away from his or her usual residence.
- 60.3 An employee who requests to temporarily work in another geographic location may receive temporary assistance at the discretion of the Ombudsman.

61. PERMANENT RELOCATION ASSISTANCE

- 61.1 Where an existing Office employee is compulsorily assigned duties on an ongoing basis to another location and as a result is required to relocate his or her domicile, the Ombudsman will approve reasonable costs associated with the move, including:
- a. moving of household furniture and effects to the new location;
 - b. cost of transporting the employee and his or her family to the new location;
 - c. up to four weeks temporary accommodation at the new location;
 - d. payment of a disturbance allowance of \$512 (employee without dependants or partner), \$1042 (employee with one or more dependants or partner) and \$219 (full-time student dependant child);
 - e. where appropriate reasonable costs associated with sale of a home in the old locality and purchase of a home in the new locality or, where appropriate, termination of a lease;
 - f. reasonable familiarisation and organisation travel ahead of the move; and
 - g. movement of pets, motor vehicles or costs associated with the move that is reasonable or unavoidable.
- 61.2 The Ombudsman may agree to the payment of some or all of the costs detailed in sub-clause 61.1 where an existing employee has:
- a. a partner who is also entitled to the payment of removal or similar expenses; or
 - b. already received some or all of the above expenses as part of a temporary relocation immediately preceding removal.

62. OVERSEAS TRAVEL

- 62.1 Business class travel may be used where an employee is required to travel overseas on official business
- 62.2 Where an employee travels overseas on official business, subject to Ombudsman approval, he or she will be provided with:
- a. a corporate credit card to meet expenses that cannot be direct billed to the Office, for example, accommodation costs and any unforeseen work related expenses;
 - b. an Overseas Travelling Allowance for meals and incidental expenses to be calculated in accordance with the rates advised from time to time by the Australian Taxation Office, Taxation Ruling – Income Tax: reasonable allowances amounts as varied from time to time; and
 - c. a cash advance to cover projected expenses likely to be incurred in the course of his or her work. For example, Interpreter fees.
- 62.3 The Ombudsman may adjust the Overseas Travel Allowance where there is sufficient proof, such as receipts, that the Travel Allowance paid was insufficient to meet reasonable costs incurred.
- 62.4 The Ombudsman will agree to meet the reasonable costs of medical or dental attention required by an employee as a result of an injury or disease that requires immediate attention while the employee is travelling overseas. An employee may use his or her corporate credit card to pay for any necessary medical, dental or hospital treatment.
- 62.5 Where the employee pays for any such treatment themselves, the Ombudsman will reimburse the employee the cost of the treatment.

63. GENERAL PROVISIONS

- 63.1 All employees (other than casual employees) will be entitled to leave as specified in this Part, subject to the approval of the Ombudsman.
- 63.2 Absences on approved leave should be recorded in the manner determined by the Ombudsman.
- 63.3 All paid leave will count as service, subject to sub-clause 80.4.

64. PORTABILITY OF LEAVE

- 64.1 Where an employee moves (including on promotion or for an agreed period) from another agency where they were an ongoing APS employee, the employee's unused accrued annual leave and Personal/Carer's leave (however described) will be recognised, provided there is no break in continuity of service.
- 64.2 Where an employee is engaged as either an ongoing or non-ongoing APS employee immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused accrued annual leave and personal/carers leave (however described) will be recognised.
- 64.3 Where a person is engaged as an ongoing employee, and immediately prior to the engagement the person was employed as a non-ongoing APS employee, the Ombudsman may, at the request of the employee, recognise any accrued annual leave and personal/carers leave (however described), provided there is no break in continuity of service. Any recognised annual leave excludes any accrued leave paid out on separation.
- 64.4 For the purpose of this clause:
- a. 'APS employee' has the same meaning as the *Public Service Act 1999*.
 - b. 'Parliamentary Service' refers to employment under the *Parliamentary Service Act 1999*.

65. ANNUAL LEAVE

- 65.1 Annual leave credits will accrue on a daily basis at the rate of twenty working days for each completed year of service. Part time employees will accrue annual leave on a pro-rata basis.
- 65.2 Employees will have access to annual leave entitlements as they accrue, subject to Ombudsman approval.
- 65.3 Annual leave will not accrue during periods not regarded as service for annual leave purposes.
- 65.4 Annual leave may be accessed for part day absences.
- 65.5 Where an employee has an existing annual leave credit in excess of 40 days (or a pro-rata amount for part time employees) at the end of any month during the year or on the

employee's commencement with the Office, the employee will continue to accrue annual leave, but may be directed, in writing, to take a period of leave, of not more than one quarter of their total leave credit, within a 3 month period.

- 65.6 Where an employee's leave is cancelled without reasonable notice at any time after it has been approved, or an employee is recalled to duty from leave, the employee will be entitled to be reimbursed reasonable travel costs and incidental expenses not otherwise recoverable under any insurance or from any other source.
- 65.7 The Ombudsman may approve other types of leave during a period of annual leave if satisfactory evidence is provided. Annual leave will be re-credited to the extent of any other leave granted.
- 65.8 Where an employee is recalled to duty from annual leave, the period that the employee is recalled to duty will be re-credited to his or her annual leave entitlement.
- 65.9 An employee will be entitled to payment in lieu of annual leave on separation from the APS in respect of unused credits that have accrued to the date of separation.

VOLUNTARY CASH OUT OF ANNUAL LEAVE

- 65.10 The Ombudsman may agree to an employee's request to 'cash out' up to two weeks of their accrued annual leave entitlement. The cash out is subject to:
- the employee retaining a balance of annual leave credits of at least 20 days after the cash-out;
 - the employee providing a written election to forgo the amount of annual leave to be cashed out; and
 - only one application being made in a calendar year.
- 65.11 When an employee cashes out leave he/she must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone.

66. PERSONAL LEAVE

ACCRUAL

- 66.1 Ongoing full time employees accrue progressively 18 days full-pay personal leave for each completed year of service.
- 66.2 Ongoing Ombudsman employees new to the APS are credited with their full entitlement on commencement and thereafter annually on the anniversary of commencement.
- 66.3 Non-ongoing employees are entitled to 18 days personal leave for each completed year of service, which accrues progressively. Employees will have access to entitlements as they accrue.
- 66.4 Part time employees will have his or her personal leave calculated on a pro rata basis.

APPROVAL OF PERSONAL LEAVE

- 66.5 The Ombudsman will, subject to available credits, approve personal leave with pay for an employee who is absent in the following circumstances:
- a. personal illness or injury;
 - b. attending medical or health related appointments;
 - c. to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
 - a personal illness, or personal injury, affecting the member; or
 - an unexpected emergency affecting the member.
 - d. attending to legal matters of an immediate nature;
 - e. urgent personal matters of an immediate nature;
 - f. accompanying family with health and legal matters;
 - g. urgent household matters or repairs;
 - h. work relocation in relation to clause 60; and
 - i. extraordinary circumstances.
- 66.6 Leave must not be used for the purposes of sub-clauses 66.5(d) to 66.5(i) if it would be detrimental to an employee in any respect, when compared to the National Employment Standards under the *Fair Work Act 2009*. Employees may not use more than three consecutive days of personal leave in respect of these matters.
- 66.7 Where personal leave for the purposes of sub-clauses 66.5(a) to 66.5(c):
- is for more than three consecutive days; or
 - the employee has taken more than 10 days of personal leave without documentary evidence in a calendar year;
- the employee must provide a satisfactory medical certificate or other documentary evidence.
- 66.8 The Ombudsman may request that an employee provide a satisfactory medical certificate or other documentary evidence for any period of personal leave.
- 66.9 Where an ongoing employee has exhausted all of his or her personal leave credits, he or she may anticipate up to 18 days of personal leave credits from his or her next year's credits. Employees must make the nomination in writing. If separation occurs prior to credit accruing, final salary will be adjusted to recover any anticipation.
- 66.10 If personal leave credits are exhausted, personal leave due to personal illness or injury may be granted without pay.

CASUAL EMPLOYEES

- 66.11 Casual employees are entitled to two days unpaid personal leave for caring purposes for each permissible occasion, subject to notifying the employee's supervisor and providing satisfactory evidence.

NOTIFYING ABSENCES

- 66.12 An employee must give their supervisor, via a telephone call, unless otherwise agreed or not practicable, notice of taking the leave as soon as practicable and must also advise their supervisor of the period or expected period of leave. If the employee's supervisor cannot be contacted by telephone then the employee must notify an appropriate alternative supervisor.
- 66.13 Where an employee has been absent on personal leave for illness or injury purposes for a continuous period of more than two weeks, the employee's supervisor should contact the HR Team, which will assess whether support or rehabilitation intervention is necessary.

PUBLIC HOLIDAYS DURING LEAVE

- 66.14 Personal leave will not be debited where an employee is medically unfit for duty on a public holiday that the employee would otherwise observe.

INTERACTION WITH OTHER LEAVE TYPES

- 66.15 An employee on personal leave who has exhausted their paid personal leave credits may, subject to Ombudsman approval, be granted annual leave or long service leave. Any grant of long service leave for this purpose is subject to the requirements of sub-clause 68.2. Any such application must be supported by a medical certificate.
- 66.16 An employee on annual, compassionate, long service or purchased leave can, on production of a medical certificate, apply to take personal leave and have the annual, compassionate, long service or purchased leave recredited.

TERMINATION OF EMPLOYMENT – INVALIDITY RETIREMENT

- 66.17 An employee will not, without his or her consent, be terminated on invalidity grounds before his or her personal leave credits have been exhausted, unless provided by legislation.
- 66.18 An employee who has been terminated from the APS on the grounds of invalidity, and is subsequently re-appointed as a result of action taken under s 75 of the *Superannuation Act 1976*, can be credited with personal leave equal to the balance of personal leave in credit at the time of termination.

EMPLOYEE RETURNING TO WORK AFTER RECEIVING COMPENSATION PAYMENTS FOR MORE THAN 45 WEEKS

- 66.19 An employee in receipt of workers' compensation payments for more than 45 weeks will, on return to work, accrue personal leave on the basis of actual hours worked.

PAYMENT ON SEPARATION

- 66.20 Unused personal leave credits will not be paid out on separation.

67. COMPASSIONATE/BEREAVEMENT LEAVE

- 67.1 An employee is entitled to three days compassionate leave for each occasion where a member of the employee's immediate family or household contracts an illness, or sustains an injury, that poses a serious threat to his or her life, or dies.
- 67.2 Subject to the discretion of the Ombudsman, additional leave may be granted to employees from his or her personal leave entitlement. Leave must not be taken for this purpose to the extent that it would be detrimental to an employee in any respect, when compared to the National Employment Standards under the *Fair Work Act 2009*.

68. LONG SERVICE LEAVE

- 68.1 The entitlement to long service leave is provided for under *the Long Service Leave (Commonwealth Employees) Act 1976*.
- 68.2 The minimum period during which long service leave can be taken, subject to Ombudsman approval, is seven calendar days at full pay (or 14 calendar days at half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation.

69. PURCHASED LEAVE

- 69.1 Ongoing employees may, subject to Ombudsman approval, purchase one, two, three or four weeks purchased leave credits each year. Credits must be purchased in one week blocks.
- 69.2 Purchased leave must be used within 12 months of the commencement of salary deductions.
- 69.3 Where the Ombudsman approves the application for purchased leave credits, the employee will have an amount deducted from his or her fortnightly salary over a 12 month period or at a lesser period at the request of the employee according to the following formula

Gross fortnightly salary X number of weeks of Purchased Leave credits

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- 69.4 Purchased leave counts as service for all purposes.
- 69.5 Purchased leave credits will be allocated to the employee following the commencement of salary deductions.
- 69.6 Approval of purchased leave does not affect the employee's continuity of service or salary for superannuation purposes.

70. MATERNITY LEAVE

- 70.1 The Ombudsman will grant eligible employees maternity leave in accordance with the provisions of the *Maternity Leave (Commonwealth Employees) Act 1973*.
- 70.2 Employees may be eligible for up to 12 weeks of paid maternity leave subject to the requirements of the *Maternity Leave (Commonwealth Employees) Act 1973*.

- 70.3 Employees who are eligible for paid maternity leave may elect to have the payment for that leave spread over a maximum of 24 weeks at a rate no less than half normal salary. Where payment is spread over a longer period, only half of the total weeks of the leave period will count as service.
- 70.4 Where an employee is entitled to paid leave under the *Maternity Leave (Commonwealth Employees) Act 1973*, the Ombudsman will grant the employee an additional two weeks paid leave, to be taken in conjunction with the paid maternity leave. The additional two weeks paid maternity leave may be taken at half pay, and will count as service for all purposes.
- 70.5 Paid maternity leave provided by the *Maternity Leave (Commonwealth Employees) Act 1973* is not extended by public holidays or any closedown period occurring during the initial period of up to 12 weeks or the period of up to 24 weeks, where payment for maternity leave is spread over a longer period.
- 70.6 Leave during the additional 2 week period (or 4 week period where taken at half pay) will be extended by public holidays and/or any closedown occurring during this period.
- 70.7 An employee is unable to access paid personal leave while on paid maternity leave.

71. ADOPTION AND FOSTER PARENTS LEAVE

- 71.1 An employee who is the primary carer is entitled, subject to Ombudsman approval, to paid adoption leave or paid foster parent leave of 14 weeks at full pay or 28 weeks at half pay for the purposes of adopting or fostering a child, where the employee has 12 months or more continuous service in the APS as at the date of placement of the child. Adoption leave may be taken in one block or as separate absences over a 12 month period at the discretion of the Ombudsman.
- 71.2 An employee with less than 12 months continuous service in the APS is eligible for adoption/foster parent leave, but only two weeks will be paid.
- 71.3 Where an employee elects to take paid adoption/foster parent leave at half pay, a maximum of 14 weeks counts as service for all purposes.
- 71.4 An employee is not entitled to adoption/foster parents leave unless the child that is, or is to be, placed with the employee:
- is, or will be, under 16 as at the day of placement, or the expected day of placement, of the child; and
 - has not, or will not have, lived continuously with the employee or the employee's partner for a period of 6 months or more, as at the day of placement, or the expected day of placement, of the child; and
 - is not (otherwise than because of the adoption or fostering arrangement) a child or step child of the employee or the employee's spouse or partner, unless that child had not been in the custody and care of the employee or their partner for a significant period.
- 71.5 Where a fostered child is subsequently adopted by the employee, the employee is not eligible for further leave under this section in relation to the same child where adoption or foster care leave has previously been granted.

- 71.6 Foster parents leave applies in relation to a child for whom the employee has assumed long term responsibility arising from the placement of the child by a permanent 'fostering' arrangement by a person/organisation with statutory responsibility for the placement of the child, and where the child is not expected to return to their family.

72. SUPPORTING PARTNER LEAVE

- 72.1 The Ombudsman will grant 10 days paid supporting partner leave to an ongoing employee where the employee's partner has given, or is giving birth, to a child or whose partner is the primary care giver for an adopted or fostered child.
- 72.2 Supporting partner leave is available from one week prior to the expected due date or placement of the child and must be taken within 12 months of the birth of the child or in the case of adoption/fostering, within 12 months from the date when the adoption/fostering commences.
- 72.3 An employee may be required to provide evidence in support of their application for leave (e.g. evidence of the birth of a child, or the placement of an adopted/fostered child).
- 72.4 An employee who is eligible for maternity or adoption/foster parents leave is not eligible for supporting partner leave.

73. RETURN TO WORK AFTER PARENTAL, MATERNITY, ADOPTION AND FOSTER PARENTS LEAVE

- 73.1 The return to work guarantee provided by [section 84](#) of the *Fair Work Act 2009* applies in respect of employees ending maternity leave, adoption or foster or general parental leave.

74. UNPAID PARENTAL LEAVE

- 74.1 The Ombudsman will approve unpaid parental leave for an employee in accordance with sub-clauses 74.2 to 74.4.
- 74.2 Employees who have completed at least 12 months of continuous service in the APS and are entitled to access maternity or adoption and foster parents or supporting partner leave are entitled to take a period of up to 24 months unpaid parental leave. This period is reduced by any paid periods of maternity or adoption and foster parents or supporting partner leave.
- 74.3 Where an employee's partner is entitled to access maternity or adoption and foster parents or supporting partner or unpaid parental leave either under this Agreement, or in accordance with the terms and conditions of employment provided by another employer, the total period of leave (i.e. maternity or adoption and foster parents or supporting partner or unpaid parental leave) that may be taken between the couple cannot exceed 24 months in duration, or extend beyond 24 months after the date of birth or date of placement of the child.
- 74.4 Periods of unpaid parental leave will not count as service for any purpose.

75. JURY LEAVE

- 75.1 The Ombudsman will grant an employee leave to attend jury service. An employee will continue to be paid by the Office but the amount payable to the employee will be reduced by the total amount of jury service pay that has been paid, or is payable, to the employee.

76. RELIGIOUS, CULTURAL AND CEREMONIAL LEAVE

- 76.1 The Ombudsman may grant employees reasonable paid and unpaid miscellaneous leave to take part in activities associated with their culture or ethnicity, including participation in NAIDOC week activities. Any leave without pay granted under this clause will not count as service for any purpose, unless required by legislation.
- 76.2 The Ombudsman may grant miscellaneous leave without pay to Indigenous Australian employees for ceremonial purposes arising under Aboriginal or Torres Strait Islander law. This leave does not count as service.

77. WAR SERVICE SICK LEAVE

- 77.1 The Ombudsman will grant war service sick leave to employees with a war-caused or defence-caused medical condition/injury accepted by the Department of Veterans' Affairs within the meaning of all relevant legislation.
- 77.2 Eligible employees may accrue two separate credits, a special credit of nine weeks on commencement in the APS and an annual credit of three weeks for each year of APS service. Unused credits will accumulate to a maximum of nine weeks.

78. SUPPORT FOR DEFENCE RESERVISTS

- 78.1 The Ombudsman may grant an employee leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations.
- 78.2 An employee is entitled to ADF Reserve leave with pay, for up to four weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.
- a. During the employee's first year of ADF Reserve service, a further two weeks paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements.
 - b. With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years, to enable the employee to undertake training as a member of the ADF Reserves.
 - c. Employees are not required to pay their tax free ADF Reserve salary to the Office in any circumstances.
- 78.3 An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to three weeks each financial year to perform duties as an officer or instructor of

Cadets. For these purposes 'Cadet Force' means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.

- 78.4 Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake Continuous Full Time Service (CFTS). Unpaid leave for the purpose of CFTS counts for all purposes except Annual leave.
- 78.5 Eligible employees may also apply for annual leave, long service leave, leave without pay, top-up pay or they may use flextime or make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.
- 78.6 Employees are to notify supervisors at the earliest opportunity once the dates for ADF Reserve, CFTS or Cadet Force activities are known and/or changed.

79. COMMUNITY SERVICE LEAVE

- 79.1 Employees who are members of a recognised emergency management body have access, subject to Ombudsman approval, to reasonable periods of paid leave for:
- a. emergency services responses; and
 - b. reasonable travel and recovery time.
- 79.2 Employees who are members of a recognised emergency management body have access, subject to Ombudsman approval, to reasonable periods of non-paid leave for:
- a. regular training; and
 - b. ceremonial duties.

80. MISCELLANEOUS LEAVE

- 80.1 The Ombudsman may approve paid or unpaid miscellaneous leave, which may count as service or not count as service, for any reason considered by the Ombudsman to be appropriate and subject to any conditions which may be set by the Ombudsman.
- 80.2 Where possible, accrued paid leave should be accessed prior to the taking of unpaid leave.
- 80.3 Miscellaneous leave for a part day may be approved where no viable alternative exists.
- 80.4 Where an employee does not resume duty in the APS at the end of a period of miscellaneous leave, whether paid or unpaid, the leave will not count as service for any purpose, unless required by legislation.

81. UNAUTHORISED ABSENCE

- 81.1 Where an employee is absent for any period without approval, the Ombudsman may deem the employee to be on unauthorised absence. Unauthorised absences will be unpaid and will not count as service for any purpose. All pay and other benefits provided under this Agreement will cease to be available until the employee resumes duty or is granted leave for the period.

82. CONSULTATION ON MAJOR CHANGES

- 82.1 This Part applies if the Office:
- a. has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to the Office; and the change is likely to have a significant effect on employees; or
 - b. proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major Change

- 82.2 For a major change referred to in sub-clause 82.1a:
- a. the Office must notify the relevant employees of the decision to introduce the major change; and
 - b. Sub-clauses 82.3 to 82.9 apply.
- 82.3 The relevant employees may appoint a representative for the purposes of the procedures in this Part.
- 82.4 If:
- a. a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - b. the employee or employees advise the employer of the identity of the representative; the employer must recognise the representative.
- 82.5 As soon as practicable after making its decision, the Office must:
- a. discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the Office is taking to avert or mitigate the adverse effect of the change on the employees; and
 - b. For the purposes of the discussion – provide, in writing, to the relevant employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the employees; and
 - (iii) any other matters likely to affect the employees.

- 82.6 The Office is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 82.7 The Office must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 82.8 If a Part in this Enterprise Agreement provides for a major change to production, program, organisation, structure, or technology in relation to the Office, the requirements set out in sub-clauses 82.2a, 82.3 and 82.5 are taken not to apply.
- 82.9 In this Part, a major change is **likely to have significant effect on employees** if it results in:
- a. the termination of the employment of employees; or
 - b. major change to the composition, operation or size of the Office's workforce or to the skills required of employees; or
 - c. the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - d. the alteration of hours of work; or
 - e. the need to retrain employees; or
 - f. the need to relocate employees to another workplace; or
 - g. the restructuring of jobs.

Change to regular roster or ordinary hours of work

- 82.10 For a change referred to in sub-clause 82.1b:
- a. the Office must notify the employees of the proposed change; and
 - b. sub-clauses 82.11 to 82.15 apply.
- 82.11 The relevant employees may appoint a representative for the purposes of the procedures in this Part.
- 82.12 If:
- a. the relevant employee(s) appoint(s) a representative for the purposes of consultation; and
 - b. the employee(s) advise(s) the Office of the identity of the representative,
the employer must recognise the representative.
- 82.13 As soon as practicable after proposing to introduce the change, the employer must:
- a. discuss with the relevant employees the introduction of the change;
 - b. for the purposes of the discussion – provide to the relevant employees:
 - (i) all relevant information about the change including the nature of the change proposed;

- (ii) information about what the Office reasonably believes will be the effects of the change on the employees; and
- (iii) information about any other matters that the Office reasonably believes are likely to affect the employees; and
- (iv) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

82.14 The Office is not required to disclose confidential or commercially sensitive information to the relevant employees.

82.15 The Office must give prompt and genuine consideration to matters raised about major change by the employees.

82.16 In this Part the term: "relevant employees" means the employees who may be affected by a change referred to in sub-clause 82.1.

83. WORKPLACE RELATIONS COMMITTEE

83.1 It is agreed that a Workplace Relations Committee (WRC), consisting of management and employee representatives, will continue to be the forum for consultation on office employment and workplace relations matters, including the implementation and operation of the Agreement.

83.2 The detail on the operation of the Workplace Relations Committee will be outlined in the Workplace Relations Committee's Terms of Reference.

83.3 The WRC will:

- meet at least three times per year (unless otherwise agreed by the WRC)
- establish and amend the Terms of Reference by agreement; and
- have the number of employees and/or employee representatives being equal to or greater than the number of management representatives.

84. DISPUTE RESOLUTION PROCEDURE

84.1 This clause sets out the procedures to settle a dispute relating to:

- a. a matter arising under this Agreement; or
- b. the National Employment Standards.

84.2 An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this clause.

84.3 The parties to the dispute must first attempt to resolve the matter at the workplace level by discussions between the employee or employees concerned and the relevant supervisor/s and/or management.

84.4 If discussions at the workplace level do not resolve the dispute a party to the dispute may refer the matter to the Fair Work Commission.

84.5 The Fair Work Commission may deal with the dispute in 2 stages:

- a. the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
- b. if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
 - arbitrate the dispute; and
 - make a determination that is binding on the parties.

Note: If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

84.6 While the parties are trying to resolve the dispute using the procedures in this clause:

- a. an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
- b. an employee must comply with a direction given by the Ombudsman to perform other available work at the same workplace, or at another workplace, unless:
 - the work is not safe; or
 - applicable occupational health and safety legislation would not permit the work to be performed; or
 - the work is not appropriate for the employee to perform; or
 - there are other reasonable grounds for the employee to refuse to comply with the direction.

84.7 The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this clause.

ATTACHMENT A – OFFICE CLASSIFICATION STRUCTURE AND SALARY RATES

Ombudsman Band	Current APS Structure	Current Salary	3% on Commencement of Agreement	2% 12 months after commencement	1% 18 months after commencement
OMB 1	APS level 1				
	1	\$43,283	\$44,582	\$45,474	\$45,929
	2	\$44,737	\$46,080	\$47,002	\$47,473
	3	\$45,950	\$47,329	\$48,276	\$48,759
	4	\$47,841	\$49,277	\$50,263	\$50,766
OMB 2	APS level 2				
	1	\$48,985	\$50,455	\$51,465	\$51,980
	2	\$50,335	\$51,846	\$52,883	\$53,412
	3	\$51,659	\$53,209	\$54,274	\$54,817
	4	\$53,000	\$54,590	\$55,682	\$56,239
	5	\$54,321	\$55,951	\$57,071	\$57,642
OMB 3	APS level 3				
	1	\$55,796	\$57,470	\$58,620	\$59,207
	2	\$57,246	\$58,964	\$60,144	\$60,746
	3	\$58,700	\$60,461	\$61,671	\$62,288
	4	\$60,222	\$62,029	\$63,270	\$63,903
OMB 4	APS level 4				
	1	\$62,186	\$64,052	\$65,334	\$65,988
	2	\$64,164	\$66,089	\$67,411	\$68,086
	3	\$65,833	\$67,808	\$69,165	\$69,857
	4	\$67,518	\$69,544	\$70,935	\$71,645
	APS level 5				
	1	\$69,359	\$71,440	\$72,869	\$73,598
	2	\$71,535	\$73,682	\$75,156	\$75,908
	3	\$73,547	\$75,754	\$77,270	\$78,043

Ombudsman Band	Current APS Structure	Current Salary	3% on Commencement of Agreement	2% 12 months after commencement	1% 18 months after commencement
OMB 5	APS level 6				
	1	\$74,914	\$77,162	\$78,706	\$79,494
	2	\$76,779	\$79,083	\$80,665	\$81,472
	3	\$78,879	\$81,246	\$82,871	\$83,700
	4	\$82,844	\$85,330	\$87,037	\$87,908
	5	\$86,053	\$88,635	\$90,408	\$91,313
OMB 6	Executive level 1				
	1	\$96,035	\$98,917	\$100,896	\$101,905
	2	\$103,702	\$106,814	\$108,951	\$110,041
OMB 7	Executive level 2				
	1	\$111,820	\$115,175	\$117,479	\$118,654
	2	\$117,936	\$121,475	\$123,905	\$125,145
	3	\$126,743	\$130,546	\$133,157	\$134,489

ATTACHMENT B –OFFICE TRAINING BROADBAND

Broadband	Classification	Current Salary	3% on Commencement of Agreement	2% 12 months after commencement	1% 18 months after commencement
Training Broadband	APS level 4				
	1	\$62,186	\$64,052	\$65,334	\$65,988
	2	\$64,164	\$66,089	\$67,411	\$68,086
	3	\$65,833	\$67,808	\$69,165	\$69,857
	4	\$67,518	\$69,544	\$70,935	\$71,645
	APS level 3				
	1	\$55,796	\$57,470	\$58,620	\$59,207
	2	\$57,246	\$58,964	\$60,144	\$60,746
	3	\$58,700	\$60,461	\$61,671	\$62,288
	4	\$60,222	\$62,029	\$63,270	\$63,903
	APS level 2				
	1	\$48,985	\$50,455	\$51,465	\$51,980
	2	\$50,335	\$51,846	\$52,883	\$53,412
	3	\$51,659	\$53,209	\$54,274	\$54,817
	4	\$53,000	\$54,590	\$55,682	\$56,239
	5	\$54,321	\$55,951	\$57,071	\$57,642
	APS level 1				
	1	\$43,283	\$44,582	\$45,474	\$45,929
	2	\$44,737	\$46,080	\$47,002	\$47,473
	3	\$45,950	\$47,329	\$48,276	\$48,759
4	\$47,841	\$49,277	\$50,263	\$50,766	

C1. EMPLOYEES ELIGIBLE FOR A SUPPORTED WAGE

C1.1 This Attachment defines the conditions that will apply to employees who, because of the effects of a disability, are eligible for a supported wage. In the context of this Attachment, the following definitions will apply:

'Supported Wage System'	means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in 'Supported Wage System Handbook'. The Handbook is available from the following website: www.jobaccess.gov.au .
'Approved Assessor'	means a person accredited by the managing unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.
'Disability Support Pension'	means the Commonwealth Government pension scheme to provide income security for persons with a disability as provided for under the <i>Social Security Act 1991 (Cth)</i> , as amended from time to time, or any successor to that scheme.
'Assessment Instrument'	means the tool provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.
'Relevant Minimum Wage'	means the minimum wage prescribed in this Agreement for the class of work for which an employee is engaged.
'Supported Wage System Wage Assessment Agreement'	means the document in the form required by the relevant Commonwealth Government department that records the employee's productive capacity and agreed wage rate.

C2. ELIGIBILITY CRITERIA

C2.1 Employees covered by this Attachment will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged, because of the effects of a disability on his or her productive capacity and who meet the impairment criteria test for a Disability Support Pension.

C2.2 This Attachment does not apply to any existing employee who has a claim against the employer that is subject to the provisions of workers' compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of his or her employment.

C3. SUPPORTED WAGE RATES

C3.1 Employees to whom this Attachment applies shall be paid the applicable percentage of the relevant minimum wage, according to the following schedule:

- Provided that the minimum payment should not be less than \$84 per week or an amount higher as prescribed by the Fair Work Commission.
- Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

Assessed Capacity	% of Relevant Salary Rate
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

C4. ASSESSMENT OF CAPACITY

C4.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

C4.2 All assessments made under this schedule must be documented in a Supported Wage System wage assessment agreement, and retained by the employer as a time and wages record in accordance with the *Fair work Act 2009*.

C5. LODGEMENT OF ASSESSMENT INSTRUMENT

- C5.1 All Supported Wage System wage assessment agreements under the conditions of this Attachment, including the appropriate percentage of the relevant minimum wage to be paid to the employee, shall be lodged by the employer with the Fair Work Commission.
- C5.2 All assessment instruments shall be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

C6. REVIEW OF ASSESSMENT

- C6.1 The assessment of the applicable percentage should be subject to annual review or more frequent review on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

C7. OTHER TERMS AND CONDITIONS OF EMPLOYMENT

- C7.1 Where an assessment has been made, the applicable percentage shall apply to the relevant wage rate only. Employees covered by the provisions of this Attachment will be entitled to the same terms and conditions of employment as all other employees covered by this Agreement paid on a pro rata basis.

C8. WORKPLACE ADJUSTMENT

- C8.1 The Ombudsman shall take all reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve redesign of job duties, working time arrangements and work organisation in consultation with other employees in the area.

C9. TRIAL PERIOD

- C9.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this Attachment for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.
- C9.2 During that trial period the assessment of capacity shall be undertaken and the proposed salary rate for a continuing employment relationship shall be determined.
- C9.3 The minimum amount payable to the employee during the trial period shall be no less than \$84 per week or an amount higher as prescribed by the Fair Work Commission.
- C9.4 Work trials should include induction or training as appropriate to the job being trialled.
- C9.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under clause [C4](#).