DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Access Macquarie Ltd T/A Macquarie University English Language Centre
(AG2017/3234)

MACQUARIE UNIVERSITY ENGLISH LANGUAGE CENTRE
TEACHERS ENTERPRISE AGREEMENT 2017

Educational services

DEPUTY PRESIDENT COLMAN
MELBOURNE, 16 OCTOBER 2017

Application for approval of the Macquarie University English Language Centre Teachers Enterprise Agreement 2017.

[1] An application has been made for approval of an enterprise agreement known as the Macquarie University English Language Centre Teachers Enterprise Agreement 2017 (the Agreement). The application was made pursuant to s.185 of the Fair Work Act 2009 (the Act). It has been made by Access Macquarie Ltd T/A Macquarie University English Language Centre. The agreement is a single enterprise agreement.

[2] The Applicant has provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement.

[3] Subject to the undertakings referred to above, and on the basis of the material contained in the application and accompanying statutory declaration, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[4] The National Tertiary Education Industry Union being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) and based on the statutory declaration provided by the organisation, I note that the Agreement covers the organisation.
The Agreement was approved on 16 October 2017 and, in accordance with s.54, will operate from 23 October 2017. The nominal expiry date of the Agreement is 31 July 2018.

DEPUTY PRESIDENT

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ANNEXURE A

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Attention: Christopher Demos
Agreement Assessor
Member Support Research Team

Deputy President Coleman
Fair Work Commission
11 Exhibition Street
MELBOURNE  VIC  3001

Email: member.assist@fwc.gov.au

10 October 2017

Dear Deputy President Coleman,

Re: AG2017/3234 – Undertaking under section 190 of the Fair Work Act 2009 (Cth) in relation to the Macquarie University English Language Centre Teachers Enterprise Agreement 2017 (Agreement)

Access Macquarie Limited (AccessMQ) undertakes, while the Agreement is in operation, the following:

Clause 51.4

Where Clause 51.4 provides for a severance payment which is lower than the NES requires in any particular circumstance, AccessMQ will pay no less than the severance pay required by the NES.

For the avoidance of doubt, all reference to provisions of legislation in these undertakings is a reference to those provisions as amended or replaced.

Yours sincerely

Thushy Sathiamoorthy
Managing Director
Access Macquarie Limited
Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.

Macquarie University
English Language Centre Teachers Enterprise Agreement 2017

This Agreement supersedes the Macquarie University English Language Centre Teachers Enterprise Agreement 2015.

Table of Contents

1. Title 3
2. Coverage of Agreement 3
3. Application 3
4. Term of Agreement 3
5. Renegotiation of Agreement 3
6. Definitions 4
7. Employment and Workplace Consultation 5
8. Staff Personnel Files 6
9. Union Rights & Resources 6
10. Policies 7
11. Equal Employment Opportunity 7
12. Health and Safety 7
13. Intellectual Freedom 7
14. Sustainability 8
15. Instrument of Appointment 8
16. Contracts of Employment 8
17. Annual Teaching Hours and Teaching Periods 9
18. Hours of Work 9
19. Requests for Flexible Work Arrangements 10
20. Home Based Work Arrangements 10
21. Overtime 11
22. Meal Allowance 11
23. Workloads 12
24. Overseas Duties 13
25. Sessional Employment 14
26. Personal Leave 15
27. Annual Leave 18
28. Concessional Days 20
29. Parental Leave 20
30. Long Service Leave 25
31. Study Leave 26
32. Graduation Ceremony Leave 26
33. Special Leave 26
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>34  Leave Without Pay</td>
<td>26</td>
</tr>
<tr>
<td>35  Religious, Cultural and Ceremonial Leave</td>
<td>26</td>
</tr>
<tr>
<td>36  Defence Forces Leave</td>
<td>26</td>
</tr>
<tr>
<td>37  Jury Leave</td>
<td>27</td>
</tr>
<tr>
<td>38  Leave to be a Witness</td>
<td>27</td>
</tr>
<tr>
<td>39  Leave to Assist in Emergencies and Disasters</td>
<td>27</td>
</tr>
<tr>
<td>40  Career Break Leave</td>
<td>27</td>
</tr>
<tr>
<td>41  Classification of Staff</td>
<td>28</td>
</tr>
<tr>
<td>42  Salaries and Payments</td>
<td>30</td>
</tr>
<tr>
<td>43  Superannuation</td>
<td>30</td>
</tr>
<tr>
<td>44  Sessional Pay</td>
<td>31</td>
</tr>
<tr>
<td>45  Incremental Progression</td>
<td>31</td>
</tr>
<tr>
<td>46  Performance Development and Review</td>
<td>31</td>
</tr>
<tr>
<td>47  Professional Development</td>
<td>32</td>
</tr>
<tr>
<td>48  Study Support Arrangements</td>
<td>32</td>
</tr>
<tr>
<td>49  Dispute Resolution</td>
<td>33</td>
</tr>
<tr>
<td>50  Managing Change in the Workplace</td>
<td>34</td>
</tr>
<tr>
<td>51  Termination Payment: Fixed Term Contract Staff</td>
<td>36</td>
</tr>
<tr>
<td>52  Redundancy, Redeployment and Retrenchment</td>
<td>38</td>
</tr>
<tr>
<td>53  Termination of Employment</td>
<td>40</td>
</tr>
<tr>
<td>54  Resignation</td>
<td>42</td>
</tr>
<tr>
<td>55  Outside Work and Conflict of Interest</td>
<td>42</td>
</tr>
<tr>
<td>56  Flexibility Arrangements</td>
<td>44</td>
</tr>
<tr>
<td>57  Grievances Handling Principles</td>
<td>45</td>
</tr>
<tr>
<td>58  Unsatisfactory Performance</td>
<td>45</td>
</tr>
<tr>
<td>59  Misconduct and Serious Misconduct</td>
<td>49</td>
</tr>
<tr>
<td>60  Intellectual Property</td>
<td>54</td>
</tr>
<tr>
<td>Schedule 1: Salaries</td>
<td>58</td>
</tr>
<tr>
<td>Schedule 2: Allowances</td>
<td>61</td>
</tr>
<tr>
<td>Schedule 3: Parental Leave for Staff Employed by AMQ Prior to 1 January 2010</td>
<td>63</td>
</tr>
</tbody>
</table>
1. Title

This Agreement will be known as Macquarie University English Language Centre Teachers Enterprise Agreement 2017 (Agreement).

2. Coverage of Agreement

This Agreement is binding on:

- Access Macquarie Limited (59 003 849 198), Level 2, 160 Herring Road, Macquarie University, NSW, 2109 (AMQ);
- each Teaching Staff Member of Macquarie University English Language Centre (ELC), Level 3, Building E3B, Macquarie University, NSW, 2109; and
- the National Tertiary Education Union, Level 1, 55 Holt Street, Surry Hills, NSW, 2010 (NTEU).

3. Application

This Agreement will apply to all staff members of Access Macquarie Limited who are engaged as teaching staff within Macquarie University English Language Centre in the State of NSW.

This Agreement does not apply to:

- AMQ staff members engaged as teaching staff who occupy positions above Senior Teacher;
- AMQ staff members engaged as non-teaching staff; or
- work performed on a voluntary basis outside normal hours in the area of IELTS testing and associated IELTS Preparation Programs by AMQ staff members engaged as teaching staff in ELC.

4. Term of Agreement

This Agreement will take effect seven days after approval from the Fair Work Commission (FWC), until the nominal expiry date of 31 July 2018. It will continue to have coverage until the finalisation of a subsequent agreement or until otherwise varied or terminated in accordance with the Fair Work Act 2009.

5. Renegotiation of Agreement

AMQ and the NTEU agree the expeditious negotiation of a replacement Agreement is in the best interests of AMQ and ELC staff. To this end:

5.1. No less than 3 months prior to the nominal expiry date of this Agreement, the parties shall, by agreement or at least 10 days notice of one party, meet and discuss the renegotiation process.

5.2. The parties shall at their first meeting establish an indicative program of meetings.
5.3. Despite the foregoing the NTEU and AMQ may, during the life of this Agreement, agree in writing on a substitute set of arrangements regarding the renegotiation of a new Agreement from those set out above, and if they do so, they shall comply with those arrangements.

6. Definitions

**Career Break**: break to undertake travel, volunteer work, professional development or study which is approved by the ELC.

**Consultation**: that the relevant participants will exchange views and relevant information on the matter being considered and that the views expressed will be taken into account before AMQ makes a final decision.

**Continuing Contract**: an employment contract with no fixed end date.

**Continuous Service**: includes paid service and periods of approved leave at AMQ, and service with Macquarie University which AMQ recognises for continuity of employment. Breaks in service of up to three months and approved unpaid leave do not break Continuous Service but do not count as service for the purpose of calculating entitlements.

**Core Program**: ELC English Language courses with CRICOS Codes

**Dispute**: a matter raised by a staff member, AMQ or NTEU as to the application of this Agreement or the NES.

**Family Member**: includes child (including an adult child, adopted child, foster child or stepchild); spouse or partner (including same sex partner, de facto partner or former spouse or partner); parent, parent-in-law, foster parent or person who stands in that place; grandparent or grandchild; sibling; traditional kinship relation; or a person who stands in a bona fide domestic or household relationship with the Staff Member in which there is inferred some dependency or support role for the Staff Member.

**FWC**: Fair Work Commission

**Fixed Term Contract**: an employment contract with a fixed end date.

**Management**: Positions of Managing Director, AMQ; Director, ELC; Head, ELC; Head, Academic Programs, ELC; or their nominee or other position as determined by the Managing Director, AMQ from time to time.

**Monetary Activity**: activities undertaken by an AMQ staff member for which they receive monetary benefit, other than in the course of their AMQ employment.

**Non-Teaching Week**: a week between teaching blocks.

**Reasonable Business Grounds**: Reasonable business grounds for refusing a request from a staff member may include, for example: the effect on the workplace and the employer’s business of approving the request, including the financial impact of doing so and the impact on efficiency, productivity and customer service; the inability to organise work among existing staff; and, the inability to recruit a replacement staff member or the practicality or otherwise of the arrangements that may need to be put in place to accommodate the staff member’s request.
**Sessional Employment:** employment on a casual basis, for services to be undertaken from time to time on an as needs basis during a defined period.

**Staff / Staff Member:** person(s) employed by Access Macquarie Limited under an English Language Teacher or Senior Teacher contract to work within Macquarie University English Language Centre.

**Teaching Week:** a week within teaching blocks during which a staff member may be required by AMQ to undertake teaching activities.

**Union:** The National Tertiary Education Industry Union.

7. **Employment and Workplace Consultation**

7.1. The Joint Consultative Committee (JCC) will be a consultative group which provides a mechanism for consultation between AMQ, ELC Teachers and their representatives on the implementation and application of the Agreement and any other employment related matters, including ELC employment related policy changes. For the duration of this Agreement, the JCC will comprise the following members:

- 3 teachers including two elected by teaching staff and one appointed by the NTEU;
- Managing Director of AMQ and/or nominees;
- 2 other management representatives of AMQ, to be appointed by AMQ;
- A Chair of the JCC will be determined out of and by the teacher members.

7.2. The JCC will meet on a quarterly basis or as otherwise agreed by all members. Meetings shall, as far as possible, be scheduled at times that minimise impact on the teaching duties of teacher members of the JCC.

7.3. Other staff, management representatives or NTEU representatives may be invited to join the meetings from time to time, by agreement of the JCC.

7.4. An agenda item for each JCC meeting shall include a discussion regarding the MQ ELC’s performance including student numbers and finances. AMQ will consider the views of the JCC employee representatives.

7.5. The minutes of JCC meetings will be made available to Teachers, with the exception of material related to confidentiality and privacy.

7.6. Continuing and fixed term JCC teacher members will be released from ordinary duties to attend JCC meetings and will be allowed up to two hours preparation time during working hours for each hour of the meeting.

7.7. Sessional staff who are members of the JCC will be entitled to attend JCC meetings on rostered days, including up to two hours of preparation time for each hour of the meeting. When participating in official JCC meetings on rostered days, they will be paid no less than what they would have earned had they worked on that day or part day. When attending official JCC meetings on non-rostered days they will be paid the sessional non-teaching pay rate for each hour they attend a meeting plus up to two hours of preparation time for each hour of the meeting.
8. **Staff Personnel Files**

8.1. Staff will be able to view their personnel files upon request and in the presence of their manager or an AMQ human resources representative.

8.2. Staff members will be advised by AMQ as soon as practicable of any documents being placed in their personnel file relating to their performance.

9. **Union Rights & Resources**

9.1. **Inductions and Information**

9.1.1. AMQ shall include material provided by the NTEU in information provided to all new teachers.

9.2. **Payroll Deductions**

9.2.1. As a service to its teaching staff AMQ shall provide for the deduction of union dues from salary at a rate or amount advised from time to time as payable under the union rules, where this has been authorised by the staff member either before or after the commencement of this Agreement. The staff member or the union shall be entitled to cancel the arrangement by advice in writing.

9.2.2. AMQ shall continue to provide payroll deductions currently provided to teaching staff members.

9.3. **Training Leave**

9.3.1. Subject to any operational requirements of a relevant work area, paid leave of absence will be granted to staff members to attend short trade union training courses conducted by or with support of NTEU which are relevant to the business of the union or industrial relations in the AMQ workplace.

9.3.2. AMQ shall be entitled to establish administrative procedures to verify applications for leave under this clause.

9.3.3. Not more than 3 days leave each for a maximum of 3 staff members shall be granted over any 1 year period to any staff member under this clause.

9.4. **Recognition of Workplace Representative**

9.4.1. The parties recognise that some staff members have important representative and other roles in facilitating the effective operation of this Agreement, including seeking compliance with its terms and resolving disputes or potential disputes, or giving effect to the objectives and commitments of this Agreement. These staff members include union delegates, and other staff members who represent staff interests on, or who are elected to serve on, AMQ/ELC committees or those established under this Agreement. The parties shall actively support staff in carrying out these functions to ensure that this Agreement is implemented.

9.4.2. Time release to attend JCC meetings will be given to members of the committee and other staff members asked to attend.
10. Policies

10.1. During the term of this Agreement, AMQ will undertake its best endeavours to review all relevant policies to ensure consistency with the provisions of this Agreement.

10.2. Where AMQ policies are inconsistent with this Agreement, this Agreement takes precedence.

11. Equal Employment Opportunity

11.1. AMQ is committed to ensuring that all staff members are treated fairly and equally when employment decisions are made and that unlawful discrimination does not take place in accordance with the Anti-Discrimination Act 1977 or any other relevant State or Federal legislation.

11.2. All parties are to observe the principles of Equal Employment Opportunity (EEO) as outlined in the relevant Discrimination, Bullying and Harassment Prevention policy, in place from time to time.

12. Health and Safety

12.1. AMQ is committed to providing a safe and healthy environment for staff and visitors by taking all reasonable and practical steps to ensure that risks to the health and safety of persons are addressed.

12.2. It is AMQ’s policy to seek active support from all management and staff in achieving Health & Safety objectives for the protection of both staff and visitors by initiating strategies and programmes designed to address health and safety matters.

12.3. AMQ and its staff are to ensure compliance with all relevant workplace health and safety legislative and statutory requirements.

12.4. Health and safety representatives will oversee all of AMQ’s WHS activities, as per the relevant Work, Health and Safety policy, in place from time to time.

12.5. There will be up to 2 WHS Representatives from ELC.

12.6. Staff members will have access to services provided by the Macquarie University Employee Assistance Program. If this is not available AMQ will offer an equivalent alternative.

13. Intellectual Freedom

13.1. AMQ supports the intellectual freedom of its staff members within ELC.

13.2. Intellectual freedom means:

   - The principle that staff members may express opinions about the operations of ELC in the appropriate forum;

   - The principle that staff members may pursue critical and open inquiry in relation to the practice of teaching English as a second language and, in that context, discuss freely, teach, assess, develop curricula, publish and research within the limits of their professional competence, ELC policy and professional standards;

   - The principle that staff members may participate in public debates and express opinions about issues and ideas related to their discipline area as teachers of English as a second language;
• The principle that staff members may participate in professional and representative bodies and engage in community service outside of business hours without fear of harassment, intimidation or unfair treatment.

13.3. In the exercise of Intellectual Freedom, staff members must act lawfully and in a professional and ethical manner at all times. Staff members must not harass, vilify, intimidate or defame ELC, AMQ, any associated entities or any of its staff members. Conduct contrary to this subclause clause may result in disciplinary action, up to and including termination of employment.

14. Sustainability

14.1. It is agreed that all parties have an interest in the restriction of carbon emissions, reductions in energy and water consumption and the development of environmentally sustainable work practices, especially as these factors impact on the work environment.

14.2. AMQ will consult with its staff members on such issues with a view to achieving, as far as practicable, a sustainable work environment.

14.3. All parties acknowledge that AMQ is subject to restrictions in this regard via obligations to its parent company and other stakeholders.

15. Instrument of Appointment

At the time of appointment AMQ will provide a staff member with a letter of offer identifying AMQ as the employer, the type of employment and various terms and conditions, including but not limited to the following:

• classification, level and salary on commencement;
• full time equivalent basis of appointment;
• details regarding any relevant probationary period;
• duties and reporting relationships applicable to the appointment;
• length of contract.

16. Contracts of Employment

Contract Types, Availability and Staff Selection for Conversion

16.1. All parties recognise that operational levels will fluctuate from time to time.

16.2. It is the intent of AMQ that should market conditions allow it, continuing contract staff will be engaged in preference to fixed term and/or sessional staff.

16.3. AMQ undertakes, subject to Clause 16.4, to maintain continuing employment contracts for no fewer than 16 FTE English Language Teachers, plus up to 4 Senior Teacher appointments.

16.4. Should particular programs or the overall business of ELC suffer a significant commercial decrease in student numbers, any proposed reduction in the number of continuing contracts as per subclause 16.3 will be subject to the Managing Change provisions of this Agreement.
16.5. Fixed-term contracts for English Language Teachers ordinarily will be for periods of one year. If a Teacher begins employment part way through a calendar year, their employment contract may be for the remainder of that calendar year. Shorter fixed term contracts may be offered on occasions when business needs require, but normally these will be no shorter than three months.

16.6. When continuing contract(s) and/or fixed term contracts of one year become available through vacancies or increased operational requirements, all existing staff, regardless of employment type will be eligible to apply for the available contract(s). In exceptional circumstances, external candidates may also be invited to apply.

16.7. AMQ recognises the contributions of the teaching staff to the work of the ELC. Teachers will be asked to apply for available contracts. Applications will be considered based on merit, including positive contributions to the ELC. Selection criteria will be relevant to the specifics of the position being offered as well as the operational needs of ELC and the individual programs.

17. Annual Teaching Hours and Teaching Periods

17.1. The maximum annual hours that ELC teachers are required to work are:

- 900 hours face to face teaching (equivalent to 45 weeks x 20 hours); or
- 1,575 hours non-teaching (equivalent to 45 weeks x 35 hours); or
- a combination of the above.

17.2. The year consists of:

- 45 teaching weeks;
- 7 non-teaching weeks.

The above figures include Public Holidays and Concessional Days.

18. Hours of Work

18.1. The ordinary hours of work for a full-time ELC teacher (pro-rata for part-time) will normally be 35 hours per week averaged over the period of the teaching block or any period of other assigned duties. This includes a succeeding non-teaching week if that non-teaching week is not taken as holidays.

18.2. Ordinary hours of work will be undertaken between 8.00am to 6.00pm, Monday to Friday.

18.3. Hours of work outside those stated in 18.2 can be negotiated: see Flexibility Arrangements Clause 56.

18.4. The length of a day for sessional teaching staff shall be defined as:

18.4.1. A half day is two (2) hours or less of teaching or three and a half (3.5) hours or less of non-teaching duties.

18.4.2. A day is more than two (2) hours and up to four (4) hours of teaching or more than three and a half (3.5) hours and up to seven (7) hours of non-teaching duties.
18.5. If an ELC sessional, fixed term contract or continuing contract teacher is required to undertake relief duties; the first 7 hours are counted as ordinary hours. In circumstances where a staff member may be required to attend from 8am and to teach the afternoon session, any hours worked over 7 hours in a day will be counted and paid as management requested overtime.

18.6. After working 5 hours or more, staff must take an unpaid meal break of not less than thirty (30) minutes each day, Monday to Friday.

18.7. Teacher hours at work will include sufficient time between 8.00am and 6.00pm to ensure their accessibility to students and other staff.

19. Requests for Flexible Work Arrangements

19.1 With the approval of management, a teacher may vary their contracted hours per week on a temporary basis.

19.2 A Staff Member may make a request to move to a flexible work arrangement for up to three years (or longer by agreement between the Staff Member and their Supervisor), if the Staff Member:

   19.2.1 has carer responsibilities;
   19.2.2 has a disability;
   19.2.3 is 55 or older;
   19.2.4 is experiencing domestic violence; or
   19.2.5 is supporting a family or household member who is experiencing domestic violence.

19.3 Employees who wish to access flexible work arrangements will make written application to their Supervisor setting out the nature of flexibility required and the proposed period of time the arrangement will be in place.

19.4 The Company may refuse an application for flexible work arrangements on reasonable business grounds. If the application is refused the Company must provide detailed reasons in writing to the Employee.

19.5 In addition to any other rights in this Agreement, if an application for a flexible work arrangement is refused the Staff Member may make further application where circumstances have changed, or six months from the date of the initial application.

19.6 AMQ must give a written response within 21 days of the application stating whether AMQ grants or refuses the request.

20 Home Based Work Arrangements

20.1 Home based work arrangements may be negotiated between the ELC and the staff member on a case by case basis, in accordance with the relevant Occasional Home Based Work policy, in place from time to time.

20.2 When considering an Occasional Home-Based work proposal AMQ will examine the suitability, nature and requirements of the work, the reasons for the staff member wanting to work from home, the delegation of work to the staff member, the effect on co-workers/customer service and the method of monitoring and assessing the arrangement.
21 Overtime

21.1 Work that is requested by management in excess of 35 hours per week and/or 20 face to face teaching hours will be compensated by overtime payment as in clause 21.5 below, based on the staff member’s base rate of salary.

21.2 Exceptions to the face to face teaching hours may be varied for specific ELC courses.

21.3 Contract teachers requested/approved by management to work in any of the following circumstances will be paid the applicable overtime rate as set out in clause 21.5 below:

- more than the number of ordinary hours per week set out in clause 18.1 above; or
- except where clause 21.2 applies, more than the face to face teaching hours set out in the Annual Teaching Hours clause 17 (adjusted in any year in which the teacher has not taken annual leave); or
- for the extra four hours of a requested double teaching shift; or
- for work carried out on a Saturday, Sunday or Public Holiday; or
- in the case of Relief duties:
  - for the extra four hours of a double teaching shift; or
  - where a relief teacher is required to be present from 8am to 5.15pm on any scheduled relief day, for the extra time involved in excess of 7 hours.

21.4 Written approval or request from management is required prior to overtime being undertaken.

21.5 Where approved overtime is worked, a staff member will be paid at the following rates:

- Monday to Saturday: one and a half times the ordinary rate of pay for the first two hours and double the ordinary rate of pay thereafter;
- Sunday: double the ordinary rate of pay, with a minimum of four hours paid; and
- Public Holidays: two and a half times the ordinary rate of pay, with a minimum of four hours paid.

21.6 Overtime hours are not counted as part of a teacher’s maximum annual teaching requirement.

22 Meal Allowance

22.1 Staff requested/approved to work in any of the following circumstances will be paid a meal allowance, in addition to any overtime payment:

- beyond 7pm on any week day; or
- for a period of work of four (4) or more hours on a Saturday, Sunday or public holiday; or
- more than two (2) hours of overtime in any one day.
22.2 Refer to Schedule 2 for further information.

23 Workloads

23.1 The ELC will seek to allocate workloads that, having regard to the needs of the business, are reasonable, manageable and, as far as reasonably practicable, equitably distributed, and will consider where reasonably feasible a range of workload factors which include but are not limited to:

- effective maximum face to face teaching hours;
- modes of delivery;
- courses taught, marking and evaluation load;
- supervision and curriculum specified consultation of students;
- staff development requirements, including the mentoring of new and/or less experienced staff; and
- administrative duties.

23.2 It is acknowledged by the parties that this clause sets out the intention and expectation of the parties with regard to workloads. The actual terms and conditions of the work are set out in the Hours of Work Clause 18 and Overtime Clause 21.

23.3 Within 175 hours per 5 week block, the allocations for General and Academic courses are:

- 100 hours teaching;
- 50 hours preparation, marking and evaluation; and
- 25 hours other duties (eg. administration, meetings, co-teacher and/or convenor liaison, emailing, etc).

23.4 Within 350 hours per 10 week block of University and Macquarie University International College preparation programs, it is anticipated that the allocations will be:

- 200 hours teaching;
- 100 hours preparation, marking, evaluation, cross-marking, and student supervision and consultation; and
- 50 hours other duties (eg. administration, meetings, co-teacher and/or convenor liaison, emailing, etc).

23.5 Coordinators will be allocated a reduced teaching load commensurate with the nature, duration and complexity of their assigned responsibilities, in accordance with Schedule 2, Clause 6.

23.6 Within the ordinary hours of 35 hours of any non-teaching week, teachers will attend compulsory and other professional development, and assist with program related or other tasks if requested by Convenors, Senior Teachers or management.
23.7 A Staff Member’s workload will comprise activities consistent with their position and will take into consideration the Staff Member’s level of appointment and ordinary hours of work.

23.8 Should a Staff Member or group of Staff have a concern about their workload, the matter should be raised initially with the Head of Academic Programs. The Head of Academic Programs and/or their nominee will examine the concerns raised and attempt to resolve the matter within ten working days where practicable.

23.9 If the matter remains unresolved to the satisfaction of the Staff Member(s) or the Head of Academic Programs or their nominee, either may make a written request to the Head, ELC for consideration and attempted resolution by the Head and/or their nominee.

23.10 If the matter is not resolved at the stage referred to in subclause 23.9, it may be dealt with in accordance with the Dispute Resolution clause.

24 Overseas Duties

24.1 Teachers may be requested to undertake domestic or international travel as part of their duties to support the business imperatives of the ELC.

24.2 As a general principle teachers should never be personally "out of pocket" when undertaking business-related travel, nor should it be an opportunity for salary supplementation.

24.3 ELC recognises that work involving domestic or international travel has important Professional Development implications, so to the greatest extent possible, opportunities should be allocated on an equitable and transparent basis.

24.4 All overseas travel will be voluntary for Teachers covered by this Enterprise Agreement.

24.5 Teachers who are requested to undertake business-related travel by their supervisor will have the opportunity to negotiate mutually agreeable schedules for the travel consistent with the relevant Travel Policy, in place from time to time.

24.6 The Company will meet all legitimate business expenses associated with approved business travel and pay an expense based allowance agreed by AMQ and the employee to cover the following, which shall include but not be limited to:

- transport costs (e.g. airfares, car hire, private vehicle use, tolls etc);
- accommodation and utilities
- communication expenses such as Internet and phones;
- meals;
- travel-related costs (e.g. Visa, inoculations etc); and
- additional baggage expenses in the case of exhibitions.

24.7 Except in exceptional circumstances, AMQ will not meet or reimburse private expenses incurred, including but not limited to:

- mini bar expenses;
• snacks and morning and afternoon teas;
• bar and alcoholic beverages other than part of an evening meal;
• health spa, sauna, massage and similar expenditure;
• in room movies; and
• laundry expenses for trips of four (4) days or less duration.

24.8 Higher levels of pay will be negotiated commensurate with higher level duties when applicable.
24.9 When a Teacher covered by this Enterprise Agreement agrees to undertake work away from their primary place of work, including duties performed within or outside Australia, all duties will be treated as time worked for the purposes of this Agreement.
24.10 All travel must be formally approved by the Managing Director and will be governed by the processes outlined in the relevant Travel policy, in place from time to time. Staff may be entitled to an advance against estimated expenditure prior to departure.
24.11 A teacher who travels overseas for AMQ must be offered a reasonable rest period between the end of the journey and the commencement or resumption of duties. A reasonable rest period is a minimum of 24 hours from the end of the flight to commencement of duties for journeys that are over eight hours in duration.
24.12 Teachers will be paid the ordinary rate of pay for time spent travelling from the time they leave their residential address to the time of arrival at their destination and paid for the time spent travelling on the return trip from the place of departure to their residential address. The employee may take personal recreational time on the route, in which case they will not be paid during any additional time taken, unless it is taken as paid annual leave. Time spent after arriving at the destination which is not related to work will not be paid.

25 Sessional Employment

25.1 Where reasonably practicable, the ELC will provide sessional staff with at least two weeks’ notice as to whether there is expected to be work available for them in the following teaching block.
25.2 Upon request, sessional teaching staff will be given feedback and guidance on future work opportunities at the ELC.
25.3 Each sessional staff member will be provided with access to a workstation, email account and Macquarie University Library Card.
25.4 Sessional teachers will only be required to attend on their specified rostered days for the period of their appointment. Sessional teachers may agree to attend on other days and, if attendance is authorised by the ELC, will be paid at the appropriate teaching or non-teaching rate for the hours and work performed.
25.5 Sessional teachers will be entitled to unpaid Personal Leave. The ELC may require a medical certificate or statutory declaration in support of any period of unpaid personal leave. The sessional teacher and their relevant manager will agree on the period for which the staff member will be entitled to be unavailable for work. The ELC will not fail to re-engage a sessional staff member because they accepted the entitlement to unpaid personal leave.
25.6 Sessional teachers will not be required to work two teaching shifts on any day, but may be asked and may agree to work such shifts, at the applicable hourly teaching rate for the additional hours.

25.7 Sessional teachers are required to work for seven hours a day and will be paid at the appropriate daily rate. Sessional teacher hours at work will include sufficient time between 8.00am and 6.00pm to ensure their accessibility to students and other staff.

25.8 Sessional teachers are not entitled to overtime. However, additional hours that are approved or requested in advance by management, and worked by Sessional teachers, will be paid at either the hourly teaching rate or at the hourly non-teaching rate as in Schedule 1, depending on the duties required.

25.9 Sessional teachers are required to undertake all teaching and associated duties, as directed from time to time.

26 Personal Leave

26.1 Continuing and fixed term staff employed by AMQ within ELC at the commencement of this Agreement will retain all accrued but untaken Personal Leave balances.

26.2 There will be no limit on the accrual of Personal Leave.

26.3 Staff, other than Sessional staff, will be allocated and entitled to 15 days paid Personal Leave per year upon commencement of employment and all Personal Leave entitlements will be calculated on the relevant pro-rata basis for part-time Staff.

26.4 Sessional staff will not be entitled to nor accrue paid Personal Leave.

26.5 Where a public holiday occurs during the period a staff member is on Personal Leave, no deduction will be made from the staff member’s Personal Leave accrual for the public holiday.

26.6 Personal Leave will not be paid out upon termination of employment.

26.7 Staff may apply to take accrued Annual Leave if they have exhausted their accrued Personal Leave, or may apply to take Leave Without Pay (subject to approval by management) once they have exhausted their accrued Annual Leave and Personal Leave.

26.8 Accrued Personal Leave can be taken for the purposes of:

- Sick leave
- Carer’s leave
- Compassionate leave
- Moving house

26.9 Staff are entitled to take Sick Leave when they are unable to attend work due to a personal illness or injury. In the case of employees attending specialist medical appointments, sick leave may be claimed if the appointment cannot reasonably be made outside working hours.

26.10 A valid medical certificate (or where it is not reasonably practicable - a statutory declaration) is required for absences in excess of 2 consecutive days. After 5 periods of uncertified sick leave in any year of service, management may require an acceptable medical certificate for any future absence(s).
26.11 Staff are entitled to take Carer’s Leave when they are required to provide care or support to an immediate family member or other member of their household, due to illness, injury or an unexpected emergency. A valid medical certificate, statutory declaration or other suitable evidence in support of an application for carer’s leave must be provided to the ELC on ELC’s request.

26.12 Staff are entitled to take up to 5 days Compassionate Leave for each occasion, when a Family Member as defined in Clause 8 has a personal illness or injury that poses a serious threat to his or her life or dies, for the purpose of spending time with the Family Member or after the death of the Family Member, provided that the implementation of this sub clause will not be less than the requirements of the National Employment Standards.

For the purposes of Bereavement Leave, Family Member will include:

- aunts and uncles; and
- siblings of partner.

26.13 Staff may request to take Annual Leave in conjunction with any period of Compassionate Leave. Such requests will not be unreasonably refused by the ELC.

26.14 Where required, a further period of Leave Without Pay, not exceeding 5 days, may be approved.

26.15 Management may grant additional unpaid Compassionate Leave at its discretion. This may, for example, include a situation where a long period of travel is required to attend a funeral.

26.16 Evidence of the staff member’s requirement to take Compassionate Leave (eg. valid doctor’s certificate or death certificate) must be provided to the ELC on ELC’s request.

26.17 In ordinary circumstances, a Staff Member may access one day of personal leave per occasion to move household property to a new residence. If the Staff Member can demonstrate a genuine need, leave in excess of one day may be approved.

**Domestic Violence**

26.18 For the purposes of this Agreement, the ELC adopts the definitions of Domestic Violence and Domestic Relationship from the NSW Police Force Domestic and Family Violence Policy (as varied from time to time). This definition (at the date of this Agreement) includes domestic and family violence involving an abuse of power, in an intimate partner relationship or after separating from the relationship. It extends beyond physical violence and may involve the exploitation of power imbalances and patterns of abuse over many years. Domestic and family violence can occur in all sectors of the community and in traditional and non-traditional settings. It amounts to a pattern of behaviour that can include:

- (a) escalating levels of abuse and violence;
- (b) intimidation;
- (c) physical abuse;
- (d) sexual assault;
(e) verbal abuse and/or threats;
(f) psychological abuse;
(g) threats to harm others, and/or causing harm to pets;
(h) threats to damage property or actually damaging property;
(i) financial deprivation and social isolation;
(j) coercive control in order to maintain control over the victim’s behaviour, or to have them suffer emotional or physical torment and live in fear.

26.19 A Staff Member who is affected by Domestic Violence, as defined in subclause 26.18, may access personal leave, including an additional 5 paid leave days per annum (non-accumulative) for the following reasons:

(a) attending medical or professional counselling appointments;
(b) organising alternative accommodation, care and/or education arrangements;
(c) attending court hearings and/or police appointments;
(d) accessing legal advice.

26.20 A Staff Member may be required to provide supporting documentation from time to time to access personal leave for this purpose.

26.21 The ELC will undertake a risk assessment in circumstances where a Staff Member who is affected by, or is concerned that they may be exposed to, Domestic Violence, seeks support from the ELC. The risk assessment will be undertaken in order to determine the suitability of risk mitigation strategies in relation to the Staff Member’s safety in the workplace and, if appropriate, that of their colleagues.

26.22 Where practicable the ELC may approve a Staff Member’s request for the following:

(a) changes to hours of work;
(b) relocation to suitable employment;
(c) temporary change to their work location;
(d) changes to University-provided contact details such as phone numbers and email addresses;
(e) other measures, if any appropriate to the circumstances.

26.23 The ELC understands that Staff may also experience violence outside of a domestic setting and will consider any request to access the support measures in place relating to Domestic Violence in other genuine circumstances and at the ELC’s absolute discretion.
27 Annual Leave

27.1 Annual Leave Entitlements

27.1.1 Continuing and fixed term staff employed by AMQ within the ELC at the commencement of this Agreement will retain all accrued but untaken Annual Leave balances.

27.1.2 All Annual Leave entitlements will be calculated on the relevant pro-rata basis for part-time Staff.

27.1.3 Sessional staff will not accrue nor be entitled to Annual Leave.

27.1.4 Annual Leave will accrue at a rate of 20 days per year of employment for full-time staff and pro-rata for part-time staff.

27.1.5 Annual Leave will be allowed to accumulate to a maximum balance of 315 hours (9 weeks), at which time a staff member can be instructed to take up to 175 hours (5 weeks) of leave, with notice of 3 months. Such direction will only occur after attempts have been made to reach a mutually agreeable outcome on the taking of accumulated annual leave.

27.1.6 At the time Annual Leave is taken, 17.5% Leave Loading will be paid on the base salary rate applicable when the leave is taken.

27.1.7 Accrued Annual Leave will be paid out upon termination of employment, and Leave Loading of 17.5% will be paid on the base salary rate applicable at the date of termination.

27.1.8 Where a public holiday occurs during the period a staff member is on Annual Leave, no deduction will be made for that day.

27.1.9 If a staff member falls ill or is injured while on Annual Leave, the staff member will, subject to the provision of a valid medical certificate or statutory declaration, be entitled to take personal leave for the period of the illness or injury and have this period re-credited to their Annual Leave.

27.1.10 All Annual Leave requests are subject to the prior approval of management and will not be unreasonably refused.

27.2 Taking Annual Leave

27.2.1 Annual Leave may be taken during Teaching or Non-Teaching Weeks. The timing of Annual Leave normally will be discussed in advance between the Staff Member and the Supervisor.

27.2.2 Requests for Annual Leave must be submitted at least 5 weeks in advance of the proposed Annual Leave start date. In exceptional circumstances, management will, on a case by case basis, consider requests submitted less than 5 weeks in advance of the leave start date.

27.2.3 Consideration of Annual Leave requests will be based on the operational requirements of the ELC, and will be subject to the availability of experienced Staff to manage the Teaching Programs and workloads. Leave requests will not be unreasonably refused. The reasons for any refusal will be discussed in an expedient manner with the staff member.
27.2.4 Such annual leave may be taken in conjunction with leave without pay, according to Clause 34 Leave Without Pay.

27.3 Annual Leave in Advance

27.3.1 With the approval of the Head, ELC, the ELC and a Staff Member may agree in writing to the Staff Member taking up to 10 days paid annual leave which is yet to be accrued.

27.3.2 This agreement must:

(a) state the amount of leave to be taken in advance and the date on which leave is to commence; and
(b) be signed by the employer and the Staff Member and, if the Staff Member is under 18 years of age, by the Staff Member’s parent or guardian.

27.3.3 The ELC must keep a copy of any agreement under clause 27.3 as an employee record.

27.3.4 If, on the termination of the Staff Member’s employment, the Staff Member has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 27.3, the ELC may deduct from any money due to the Staff Member on termination an amount equal to the amount that was paid to the Staff Member in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

27.4 Purchased Leave

27.4.1 All Staff who have continuing employment and Staff on a fixed-term appointment greater than 12 months may purchase up to four weeks additional leave in a 12 month period. Additional leave may be purchased in one week increments up to the maximum of 4 weeks.

27.4.2 Purchased leave must be taken within a specified 12 month period and will not attract annual leave loading. Staff will apply to take the additional purchased leave in the same way as Annual Leave and approval will be subject to the needs of the work unit. A request will not be unreasonably refused.

27.4.3 Purchased leave will count as Continuous Service for all purposes.

27.4.4 Purchased leave will be funded by a corresponding reduction in the Staff Member’s ordinary rate of pay within the specified 12 month period.

27.4.5 Purchased leave is subject to the following provisions:

(a) purchased leave cannot be accrued and will be refunded where it has not been taken in the specified 12-month period;
(b) other paid leave taken during the specified 12-month purchased leave period (ie personal leave, annual leave, long service leave etc) will be paid at the purchased leave rate of pay;
(c) personal leave cannot be taken during a period of purchased leave
(d) Purchased Leave Rate of Pay will be the salary applicable for all purposes including superannuation;
(e) Higher Duties Allowance will not be paid during a period of purchased leave;
at the conclusion of the specified 12 month period the Staff Member will revert to their base salary.

**28 Concessional Days**

Staff will receive a minimum of 3 paid leave days between 26 December and 1 January, in addition to Annual Leave.

**29 Parental Leave**

29.1 Parental Leave for Staff Employed by AMQ prior to 1 January 2010

29.1.1 Staff employed by AMQ prior to 1 January 2010 will be entitled to Parental Leave as set out in Schedule 3 to this Agreement.

29.1.2 This sub-clause shall be read in conjunction with the National Employment Standards on Parental Leave and the Fair Work Amendment Act 2013 (as amended), where there is a discrepancy between the sub-clause and the legislation the more favourable provision to the employee will apply.

29.2 Parental Leave for New Staff Employed by AMQ On or After 1 January 2010

29.2.1 Staff employed by AMQ on or after 1 January 2010 are entitled to Parental Leave in accordance with this clause 29.2, and 29.3, 29.4, 29.5, 29.6 and 29.7.

29.2.2 This sub-clause shall be read in conjunction with the National Employment Standards on Parental Leave and the Fair Work Amendment Act 2013 (as amended), where there is a discrepancy between the sub-clause and the legislation the more favourable provision to the employee will apply.

29.2.3 All Parental Leave entitlements will be calculated on the relevant pro-rata basis for Part-Time Staff.

29.2.4 Sessional Staff with a reasonable expectation of continuing regular and systematic employment may be entitled to take unpaid Parental Leave in accordance with NES.

29.2.5 All teaching hours worked as a sessional staff member will count towards qualification for paid parental leave. To qualify for paid parental leave, a sessional staff member will need to have worked:

- 900 face-to-face teaching hours; or
- 1,575 non-teaching hours; or
- an equivalent combination of the above; or
- the contracted pro-rata equivalent to the above (if they have been on a fixed-term or continuing contract for less than 12 months).

29.2.6 Parental leave applies to birth or adoption of a child under 16 years of age.

29.2.7 Parental Leave encompasses the following types of unbroken periods of leave:

- Paid Parental Leave (birth or primary caregiver);
- Adoption Leave (adoption); and
• Partners Leave (birth or adoption).

29.2.8 Periods of Parental Leave will be counted as service; however, other leave entitlements will only accrue on paid Parental Leave.

29.2.9 Parental Leave may be taken at full pay or half pay.

29.2.10 Staff members are entitled to up to 12 months parental leave including paid and unpaid parental leave.

29.2.11 A further 12 months unpaid parental leave can be requested and will only be refused on reasonable business grounds.

29.2.12 A staff member returning from parental leave may request flexible working arrangements which will only be refused on the basis of reasonable business grounds.

29.2.13 Parental Leave entitlements are also subject to the National Employment Standards which are available at www.fairwork.gov.au or from Human Resources. To the extent that the Agreement provisions in some areas are superior to NES standards, the Agreement provisions will prevail.

29.3 Paid Parental Leave for Primary Care Giver

29.3.1 Staff members who are the primary care giver will be entitled to paid Parental Leave on the following basis, inclusive of any entitlement they have under relevant legislation:

- 14 weeks paid leave after 12 months continuous service with AMQ;
- 26 weeks paid leave after 24 months continuous service with AMQ;
- After the second paid period of parental leave, a 2 year qualifying period applies for paid parental leave upon return to work from the second or subsequent period of paid parental leave.

29.3.2 All teaching hours worked as a sessional staff member will count towards qualification for paid Parental Leave. To qualify for paid Parental Leave, a staff member will need to have worked:

- 900 face-to-face teaching hours; or
- 1,575 non-teaching hours; or
- An equivalent combination of the above; or
- The contracted pro-rata equivalent to the above (if they have been on a fixed-term or continuing contract for less than 12 months).

29.3.3 Payment of Parental Leave will be based on average full-time equivalent hours for which the staff member is employed over the 12 months prior to the commencement of maternity leave.

29.3.4 Staff members wishing to take paid Parental Leave need to provide the following documents and notices to Human Resources and their direct Manager:
• A medical certificate verifying pregnancy indicating the expected date of birth.

• Formal written application for Parental Leave stating the dates of leave 10 weeks before the first day of the intended leave.

29.3.5 Where there is a pregnancy-related illness, miscarriage or stillbirth within 28 weeks of the expected date of birth, Special Maternity Leave will be granted within the following parameters:

• 6 weeks paid Special Maternity Leave will be given upon provision of a Medical Certificate;

• Personal Leave may also be used if extended leave is advised in writing by a Medical Practitioner.

29.4 Adoption Leave

29.4.1 Staff members may apply for adoption leave to adopt a child under the age of 16 years:

■ Who is not the natural child or stepchild of the staff member or their spouse; and

■ Who had not at the proposed date of placement lived continuously with the staff member for a period of more than 6 months.

29.4.2 Adoption leave will start from the date on which custody is taken, even if this is before the date of the court order.

29.4.3 Adoption leave is taken by either of the adoptive parents. Adoption leave comprises:

• Short Adoption Leave – unbroken period of three week’s leave at the time of the placement of the child with the staff member. This may be taken concurrently by both parents.

• Extended Adoption Leave – a further unbroken period of up to 49 weeks leave is available for primary caregiver of the child.

29.4.4 Staff will be entitled to Adoption Leave on the following basis:

• 14 weeks paid leave after 12 months continuous service with AMQ; or

• 26 weeks paid leave after 24 months continuous service with AMQ;

• After the second paid period of Adoption Leave, a 2 year qualifying period applies for paid maternity leave upon return to work from the second or subsequent period of paid adoption leave.

29.4.5 All teaching hours worked as a sessional staff member will count towards qualification for paid adoption leave. To qualify for paid adoption leave, a staff member will need to have worked:
• 900 face-to-face teaching hours; or
• 1,575 non-teaching hours; or
• an equivalent combination of the above; or
• the contracted pro-rata equivalent to the above (if they have been on a fixed-term or continuing contract for less than 12 months).

29.4.6 A continuing or fixed term staff member, or eligible Sessional staff member, is entitled to two days unpaid leave to attend compulsory interviews associated with the adoption. The staff member needs to advise Human Resources of these dates in writing as soon as possible and provide a statement by an adoption agency or other appropriate body confirming attendance.

29.4.7 Procedure for Adoption Leave Applications: Before commencing short and/or extended adoption leave the staff member should provide:

• Written notice of any approval or other decision to adopt a child at least 10 weeks before the expected date of placement.

• Written notice of the start and finish dates of the leave as soon as the staff member is notified of the expected date of the placement of the child, but at least 14 days before proceeding on leave.

• A statement by an adoption agency or other appropriate body of the expected placement of the child with the staff member for adoption.

• A statutory declaration (for extended adoption leave) stating the period of adoption leave taken by their spouse, and that the staff member will be the primary caregiver of the child.

29.5 Partner’s Leave

29.5.1 Continuing and fixed term staff members who are not the primary carer of the child will be entitled to four (4) weeks paid Partner’s Leave (pro-rata for part-time staff) and a further four (4) weeks unpaid Partner’s Leave.

29.5.2 Where both staff members are employed by AMQ, entitlement of parental leave will be reduced by any partner’s leave taken for maternity leave or adoption leave.

29.5.3 Staff wishing to take Partner’s Leave need to provide the following documents and notices to Human Resources and their direct Manager:

• A medical certificate verifying pregnancy indicating the expected date of birth;

• Formal written application for Partner’s Leave stating the dates of leave 10 weeks before the first day of the intended leave.

29.6 Changes to Parental Leave

29.6.1 Subject to the needs of the business, a staff member can make changes to the length of parental leave before or during leave taken. This should be
communicated with AMQ as soon as possible along with approval from the Managing Director.

29.6.2 A staff member must provide Human Resources and their direct Manager with at least 14 days written notice of any changes before the proposed date of change.

29.6.3 In the case of an earlier or later than expected birth, the staff member must notify AMQ of the change to their Parental Leave as soon as possible.

29.6.4 Cancelling before starting leave. Parental leave applied for is automatically cancelled if:

- The staff member withdraws the application for leave by written notice forwarded to Human Resources and their direct Manager; or
- The pregnancy concerned terminates other than by the birth of a living child or the placement of the child concerned does not proceed.

29.6.5 Cancelling after starting leave. If the pregnancy of a staff member on leave terminates other than by the birth of a living child, it is the right of the staff member to resume work. Staff members should notify Access Macquarie as soon as possible in writing. AMQ will ensure that recommencement occurs within 2 weeks after the date of notice.

29.7 Return to Work After or During Parental Leave

29.7.1 The staff member is entitled to the position they held immediately prior to going on leave.

29.7.2 Should AMQ have undergone any restructuring either during a staff member’s parental leave or upon their return and their previous position no longer exists, they will be treated no less favourably than other staff members in relation to Clauses 50 and/or 52. The staff member will be offered the same opportunities for application of new positions as any other staff member. AMQ will contact any staff member on parental leave who may be affected by any restructuring initiatives.

29.7.3 If the staff member’s position is made redundant while they are on paid Parental Leave and they are unable to be redeployed, they will be entitled to the balance of their paid parental leave and their full entitlements under Clauses 51 and/or 52.

29.7.4 A staff member transferred to a safe job before proceeding on maternity leave is entitled to the position they held immediately before they were transferred.

29.7.5 If a staff member wishes to return to work earlier, written notice needs to be provided to Human Resources and their direct Manager at least 6 weeks prior to the return date. The staff member will forfeit any remaining payment for parental leave owing and any remaining unpaid leave as stipulated by legislation as of the return date.

29.8 Work Health and Safety Considerations

29.8.1 AMQ will take all steps and appropriate measures to ensure the health and safety of all staff. Special precautions and working arrangements may be made to ensure the health and safety of a female staff member’s unborn child. The staff member
needs to ensure that any specific needs are communicated as soon as possible and forward any recommendations from a registered medical practitioner. AMQ may request that the staff member consult with a registered medical practitioner for guidance in workplace safety measures taken.

29.8.2 It is the staff member’s responsibility to advise Human Resources of their pregnancy as soon as practical so that appropriate measures and precautions can be taken.

30  Long Service Leave

30.1 All Long Service Leave entitlements will be calculated on the relevant pro-rata basis for Part-Time Contract staff and Sessional Staff.

30.2 On completion of 10 years Continuous Service all staff members will receive 3 months paid Long Service Leave, calculated at the staff member’s ordinary rate of pay, as defined by the NSW Long Service Leave Act 1955 (as amended), at the time the leave is taken.

30.3 In addition, staff members completing Continuous Service of 10 years and over will receive 15 calendar days of Long Service Leave per year, calculated on the staff member’s base salary at the time the leave is taken.

30.4 For those staff members who transferred their employment from Macquarie University to AMQ effective from 1 January 2008, AMQ acknowledges that past service with Macquarie University and service recognised by Macquarie University as at the date of transfer will be recognised as service with AMQ.

30.5 Where a staff member has completed at least 5 but less than 10 years Continuous Service, the staff member will be entitled to a proportionate amount of Long Service Leave calculated on the Staff member’s ordinary rate of pay, as defined by the NSW Long Service Act 1955 (as amended) at the time, on the basis of 2 months for 10 years Continuous Service, under the following circumstances:

- The staff member is terminated by AMQ for any reason other than serious and wilful misconduct;
- The staff member resigns on account of illness, incapacity or domestic or other pressing necessity;
- The death of the staff member.

30.6 Taking Long Service Leave

30.6.1 Long Service Leave can accrue to a maximum of 4.5 months (or equivalent pro-rata) before a staff member can be instructed to take a minimum of 6 weeks, with 12 weeks written notice.

30.6.2 Long Service Leave is to be taken as a minimum period of 7 calendar days, unless otherwise agreed with management and Human Resources.

30.6.3 Staff members must give 12 weeks’ notice of their intention to take Long Service Leave, unless otherwise agreed with management and Human Resources.
31 Study Leave

31.1 All Study Leave entitlements will be calculated on the relevant pro-rata basis for Part-Time Staff.
31.2 Sessional Staff will not be entitled to Study Leave.
31.3 Up to 8 days paid Study Leave in any one academic year will be granted on the basis of 2 days per subject/unit for examinations or major assignments.
31.4 For masters degree subject by research and thesis an additional 10 days paid leave will be granted.
31.5 For PhD degrees a total of 45 days paid leave will be granted, at a rate of 15 days per year, or as otherwise agreed between the Staff Member and management.
31.6 To qualify for Study Leave, the study must relate to the staff member’s current or potential position within ELC, as determined by AMQ.
31.7 Study Leave will not be granted for repeat subjects other than in exceptional circumstances as determined by AMQ, which may include illness, other compassionate grounds or work pressures.
31.8 For information on Study Support Arrangements refer to Clause 48.

32 Graduation Ceremony Leave

32.1 Staff wanting to attend their own Graduation Ceremony will receive 0.5 days paid leave provided the ceremony is held during normal working hours.

33 Special Leave

33.1 Additional paid leave may be granted for extraordinary circumstances, at the sole discretion of management.

34 Leave Without Pay

34.1 Leave Without Pay is unpaid leave approved in advance that may be granted at the sole discretion of management.
34.2 Other than exceptional circumstances or in relation to subclause 26.14 or as in Annual Leave above, Annual Leave must be exhausted before Leave Without Pay will be granted.
34.3 Leave Without Pay does not break continuity of service. However, the period of such breaks will not count as service for the accrual of any leave entitlements.

35 Religious, Cultural and Ceremonial Leave

35.1 Where practicable, Staff will be granted Annual Leave or Leave Without Pay or other applicable leave under this clause for observance of holy days or attendance at essential religious, cultural or ceremonial duties associated with the staff member’s faith or culture.

36 Defence Forces Leave

36.1 Up to 2 weeks of salary supplementation per financial year for annual approved Defence Forces training will be provided to all full-time and part-time staff who are members of the Reserve Forces.
36.2 Documentary evidence from the Reserve Forces is required.
37 Jury Leave

37.1 Fully paid jury leave will be granted to continuing and fixed-term contract staff members required to attend Jury Duty, for the duration of Jury Duty.

37.2 Proof of attendance at jury duty must be provided.

37.3 Amounts received for attendance at Jury Duty (other than meal and/or travel allowances) must be paid to AMQ.

38 Leave to be a Witness

38.1 Staff called as a Crown Witness or a Witness relating to AMQ or Macquarie University proceedings, will receive full pay for the working period involved.

38.2 If a staff member is summoned or called as a Witness in any other circumstance they will be required to take Annual Leave.

39 Leave to Assist in Emergencies and Disasters

39.1 Providing the staff member is not required by the ELC for essential operations or emergencies, they will receive full pay for the work period involved.

39.2 The ELC must be advised immediately of the staff member’s proposed absence.

39.3 Evidence from the voluntary organisation is required.

40 Career Break Leave

40.1 A staff member may take a career break to undertake travel, volunteer work, professional development or study, by prior agreement with the ELC.

40.2 A staff member will be eligible for Career Break Leave after the full-time equivalent of two years continuous service.

40.3 Career Break Leave does not constitute a staff entitlement and mutual agreement between the staff member and their manager will be required.

40.4 A combination of Annual Leave, Long Service Leave and Leave Without Pay can be used to undertake a Career Break. However, all Annual and Long Service Leave must be used before Leave Without Pay can be taken.

40.5 Career Break Leave cannot be used for the purposes of undertaking paid work, unless it is otherwise agreed with management and is for the purposes of professional development.

40.6 Any work undertaken during Career Break Leave is subject to the provisions in Clause 55 Outside Work and Conflict of Interest.

40.7 Where Leave Without Pay is utilised to undertake a Career Break, the provisions in clause 34 apply.

40.8 An application for Career Break Leave must be submitted at least 3 months prior to the proposed leave commencement date.

40.9 Without limiting the ELC’s discretion, some or all of the following factors, among others, may be reviewed when considering an application for Career Break Leave:

- Eligibility for Career Break Leave;

- Where relevant, eligibility for Annual Leave, Long Service Leave and Leave Without Pay;
• Individual circumstances;
• Timing of the leave;
• Operational impact including cost, service delivery and performance of the individual and the business.

40.10 Any refusal of an application for Career Break Leave will be accompanied by a written explanation.
40.11 Any Career Break Leave will be subject to the approval of the Director, ELC.
40.12 A staff member undertaking Career Break Leave is able to request an early return to work, at least 4 weeks prior to the revised return date. The staff member’s manager will consider the factors in Clause 40.9 in making a decision on such requests.
40.13 Career Break Leave can be taken for a minimum of 3 months and a maximum of 12 months.

41 Classification of Staff

41.1 A pay step is calculated according to points allocated for a teacher’s highest qualification and years of teaching experience. In calculating the appropriate commencing pay step for a teacher, the points for the highest qualification (see Table 1 below) and the points for cumulative teaching experience (see Table 2 below) are added, and the total of these points is then compared to the pay step in Table 3 - Step Calculator.
41.2 As per NEAS/TEQSA requirements, all English Language Teaching staff must have a minimum qualification of one of the following:

- recognised degree or equivalent and a recognized TESOL qualification; or
- recognised degree or equivalent and a teaching qualification with TESOL method; or
- recognised degree in education with TESOL method.

41.3 The following table, Table 1, shows points for different qualifications. Only one qualification, normally the highest qualification attained, is to be used in calculating points towards a pay step.

Table 1: Points allocated for Qualifications

<table>
<thead>
<tr>
<th>Qualification</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bachelor’s degree with TESOL certificate</td>
<td>1</td>
</tr>
<tr>
<td>Bachelor’s Degree with Diploma in TESOL</td>
<td>2</td>
</tr>
<tr>
<td>Master’s degree in Education or Modern Languages including or with a recognized TESOL qualification</td>
<td>3</td>
</tr>
<tr>
<td>Master’s degree or higher in Applied Linguistics or Applied Linguistics (TESOL) or Master’s degree in Education (TESOL) or equivalent</td>
<td>4</td>
</tr>
</tbody>
</table>
41.4 When a teacher achieves a higher qualification that would entitle them to the points for a higher pay step, the teacher will be promoted to the higher pay step, and paid from the first full pay period after formal notification by the staff member to the Human Resources Manager.

41.5 The following table, Table 2, shows points for teaching experience. Teaching experience is to be estimated according to teaching time completed and type of institution. All teaching experience is to be taken into account in calculating points for experience.

**Table 2: Points Allocated for Teaching Experience**

<table>
<thead>
<tr>
<th>Completion of Full-Time Teaching¹ Equivalent to:</th>
<th>Teaching other than ESL/EFL in a Relevant Tertiary Institution²</th>
<th>Teaching including LOTE or ESL/EFL to Students in Schools²</th>
<th>Teaching ESL/EFL in a Relevant Tertiary Institution²</th>
<th>ELC Teaching Experience² &amp; ³</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 year</td>
<td>1/2</td>
<td>1/2</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>2 years</td>
<td>1/2</td>
<td>1/2</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

¹ One year of full-time teaching equals 900 face-to-face teaching hours.
² All teaching experience is cumulative in assessing experience level. This includes teaching in primary and secondary schools and ELICOS High School Preparation centres.
³ 2 pts for the first year of ELC experience, 1pt for each subsequent year.

41.6 Commencing teachers must present verifiable evidence of experience in terms of hours and type of institution, for experience gained at institutions other than ELC (formerly known as NCELTR ELP and CME).

41.7 The following table, Table 3, shows the total points required for particular pay steps. Total points equal the sum of points for highest qualification and for cumulative experience, based on Table 1 and Table 2 above.

**Table 3: Step Calculator**

<table>
<thead>
<tr>
<th>Step</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1-2.5</td>
</tr>
<tr>
<td>2</td>
<td>3-4.5</td>
</tr>
<tr>
<td>3</td>
<td>5-6.5</td>
</tr>
<tr>
<td>4</td>
<td>7-8.5</td>
</tr>
<tr>
<td>5</td>
<td>9-10.5</td>
</tr>
<tr>
<td>6</td>
<td>11+</td>
</tr>
</tbody>
</table>
42 Salaries and Payments

42.1 Salary Rates

Details of Salary Rates are provided in Schedule 1 of this Agreement.

42.2 Salary Increases

42.2.1 A salary increase of 2% will occur from the first full pay period following the approval of this Agreement by the FWC; and

42.2.2 a further salary increase of 1.5% will be paid from 1 January 2018.

42.3 Salary Payments

42.3.1 Salaries will be paid fortnightly by direct electronic funds transfer to an account nominated by the Staff Member at an Australian based financial institution.

42.3.2 AMQ will issue pay slips to Staff electronically.

42.4 Flexible Salary Packaging

42.4.1 All eligible staff may choose to enter into a salary packaging arrangement with AMQ for the purposes of receiving a salary lower than that to which they are entitled in Schedule 1, in exchange for a “benefit” of equivalent value.

42.4.2 Where an agreement is reached between a staff member and AMQ in accordance with this subclause, benefits may be provided to the extent that the cost to AMQ of providing the benefits and the reduced salary does not exceed the cost to AMQ of providing the salary prior to entering into the salary packaging arrangement. Any arrangements will be in accordance with relevant legislation.

43 Superannuation

43.1 The default superannuation fund of AMQ is UniSuper.

43.2 Subject to 43.3 below, staff will be paid in accordance with current Superannuation legislation to UniSuper or the staff member’s Choice of Fund.

43.3 Notwithstanding clause 43.2, those existing ELC teachers who at 1 January 2010 are entitled to receive 17% superannuation contributions, will not be disadvantaged by any changes to superannuation under this Agreement and will retain their current superannuation arrangements, unless negotiated otherwise and agreed by both parties.

43.4 Staff may elect to salary sacrifice to their superannuation fund, within legislative boundaries.

43.5 Provided that AMQ’s Deed of Covenant with UniSuper so allows, a Staff Member who is a member of UniSuper and who is eligible to receive the employer superannuation contribution specified in sub-clause 43.3 in excess of statutory superannuation amounts may elect to make reduced staff superannuation contributions to increase take home salary or to access any other superannuation flexibility so allowed by the relevant Trust Deed and Deed of Covenant.
44 Sessional Pay

44.1 Loading for Sessional pay will be 25%.
44.2 Sessional pay loading referred to in 44.1 is in lieu of payment for Public Holidays, Annual Leave and Personal Leave.
44.3 Sessional staff are classified according to clause 41.

44.3.1 Sessional staff rates of pay will be according to the criteria provided in Schedule 1.
44.3.2 Sessional staff required to attend for 8.00am relief duties but not required to teach until an afternoon class will be paid at the daily teaching rate, with Additional Hours being paid at the non-teaching rate for work in excess of 7 hours.
44.3.3 Sessional staff called in to teach on days other than their rostered days will be paid a minimum of the half day rate, even if they are not required to work/teach a half day.
44.3.4 Sessional staff will be paid for the following activities at the non-teaching hourly rate, where these activities do not form part of normal course requirements:

- Marking;
- Curriculum and/or materials development;
- Compulsory Professional Development or training;
- Meetings notified as compulsory by Management, ELC or nominee.

45 Incremental Progression

45.1 On completion of each 12 months service with AMQ, staff with continuing or fixed-term contracts will be eligible to progress to the next salary step within their classification, unless the staff member is the subject of a review by way of the Unsatisfactory Performance or Misconduct and Serious Misconduct processes, in which case the decision on incremental progression will be taken at the end of such review.
45.2 If at the end of such a review, the incremental progression is granted, the salary increase will be backdated to the date of the 12 month anniversary.
45.3 Sessional staff will be eligible for progression after the completion of each:

- 900 face-to-face teaching hours; or
- 1,575 non-teaching hours; or
- an equivalent combination of the above.

46 Performance Development and Review

46.1 The performance development and review process provides a framework for identifying, evaluating and developing the performance of staff. Performance development and review is linked to the achievement of individual, work area and organisational goals.
46.2 All staff will participate in the performance development and review program. Each staff member will have a supervisor nominated by ELC. In exceptional circumstances, staff
members may request a change of supervisor. These supervisors will conduct the performance development and review program annually with staff. The program is designed to enhance staff performance and therefore the performance of ELC and AMQ.

46.3 The performance development and review program provides staff and supervisors with the opportunity to:

- jointly consider work priorities, workload and performance expectations over the annual review period;
- provide feedback in relation to performance;
- determine if the staff member’s performance requires referral to the Unsatisfactory Performance process;
- establish if the staff members performance warrants reward or recognition;
- identify any assistance and support that will be provided to improve performance;
- identify professional and career development needs and what will be done to support these needs. This may include the appointment of an advisor who will assume the role of coach or mentor;
- update the position description for the staff member’s position if necessary; and
- discuss as appropriate any other issue that may impact on work performance and development.

47 Professional Development

47.1 The ELC supports its teaching staff in the development and maintenance of relevant skills and capabilities. Staff members (continuing, fixed-term and sessional) are encouraged to identify and discuss training and development needs with their supervisor.

47.2 Professional Development will be provided to teaching staff through both formal and informal professional development activities in accordance with ELC policy, procedure and guidelines.

47.3 Sessional staff will have access to ELC in-house training and Professional Development opportunities. Compulsory Professional Development and training will be paid at the non-teaching hourly rate. Management will advise which training sessions will be compulsory.

47.4 Where ELC requires that a staff member attend and/or present at courses, workshops, conferences or seminars, ELC will cover the costs as per the relevant travel policy. When this is required of a sessional teacher on a rostered teaching day, they will be paid no less than what they would have earned had they worked on that day or part day. When it is required on a day or part day for which they are not rostered to work, they will be paid at the relevant sessional non-teaching pay rate.

48 Study Support Arrangements

48.1 Study Support will be provided for study commenced after 1 January 2010.

48.2 All Study Support will be calculated on the relevant pro-rata basis for Part-Time Staff.
48.3 Sessional Staff will not be entitled to Study Support.
48.4 Continuing and fixed term staff undertaking the Master of Applied Linguistics at Macquarie University will have their fees reimbursed upon successful completion of each unit.
48.5 Fixed and continuing staff undertaking the Masters of Applied Linguistics at an institution other than Macquarie University will have 50% of their fees reimbursed upon successful completion of each unit.
48.6 Should a staff member leave AMQ within 3 years of having completed each unit of the course, and had it paid for by AMQ, they must pay back these fees according to the following table:

<table>
<thead>
<tr>
<th>Time of Leaving</th>
<th>% Pay Back of Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Within 1 Year of Completion of Unit</td>
<td>100</td>
</tr>
<tr>
<td>After 1 Year and Within 2 Years of Completion of Unit</td>
<td>75</td>
</tr>
<tr>
<td>After 2 Years and Within 3 Years of Completion of Unit</td>
<td>50</td>
</tr>
<tr>
<td>After 3 Years of completion of Unit</td>
<td>0</td>
</tr>
</tbody>
</table>

48.7 Study Support for other relevant courses will be considered on a case by case basis.
48.8 To qualify for Study Support, the study must relate to the staff member’s current or potential position within ELC, as determined by management.
48.9 Repayment would not apply if termination of employment occurs for the following reasons:
   - Forced redundancy;
   - Serious personal illness or incapacity (medical certificates required);
   - Death of the staff member.
   - In the event of non-renewal of an employment contract at the instigation of the ELC.

48.10 Staff who receive Study Support from the ELC will need to enter into an agreement with AMQ which will cover payback arrangements and the need to present at conferences and deliver Professional Development to ELC staff.

49 Dispute Resolution

49.1 Where a Dispute arises as to the operation and application of this Agreement or the National Employment Standards (NES), the following process will be followed in a timely manner.

49.2 In the event of a dispute initiated by a staff member, staff members, or the NTEU, AMQ/ELC, the staff member or a representative of the union, will initially attempt to resolve the dispute in accordance with this clause. However, no AMQ policy or part of an AMQ policy shall constitute a term of this Agreement.

49.3 At any stage of the dispute a staff member may appoint a union or other representative to accompany or represent them in relation to the dispute.
49.4 Where a staff member brings a dispute, initially the staff member will discuss the matter with their relevant Manager or where appropriate, a staff member who is more senior than their Manager and attempt to resolve the dispute.

49.5 Where subclause 49.4 above is not practical or a dispute is not resolved through subclause 49.4, the staff member or their union or other representative must make written request for a meeting with a relevant senior manager of AMQ/ELC, stating the nature of the dispute. The staff member (if appropriate), relevant senior officer, or accredited representative of the union (if the staff member so chooses) with the authority to resolve the dispute, and a relevant senior manager of AMQ/ELC with authority to resolve the dispute shall meet within 5 working days of the request.

49.6 Where the matter in dispute remains unresolved and, where appropriate, the steps in subclauses 49.2 to 49.5, have been taken, a party to the dispute may refer the dispute to the FWC for conciliation. If the matter cannot be resolved through conciliation, either party to the dispute may elect to have the FWC arbitrate the matter. The parties agree to be bound by and implement any order, decision or recommendation of the FWC.

49.7 Until the steps in subclauses 49.2 to 49.4 have been concluded:

- work shall continue in the normal manner;
- no industrial action shall be taken by any party to the dispute or the Agreement; and
- the ELC shall not change work, staffing or the organisation of work if such is the subject of the dispute, nor take any other action likely to exacerbate the dispute.

49.8 In dealing with the dispute, the FWC (or other body) may exercise the procedural powers in relation to hearings, witnesses, evidence, interim decisions and submissions which are necessary to make such dealing effective.

49.9 The above procedure will also apply to disputes about the National Employment Standards, with the exception that it will not apply to a dispute about whether AMQ had reasonable business grounds under subsection 65(5) or 76(4) of the Fair Work Act.

50 Managing Change in the Workplace

50.1 Where the ELC is considering the implementation of workplace change that could reasonably be expected to have significant effects on staff they will engage in a consultative process with all affected staff and the JCC. Significant effects may arise from, but are not limited to:

- the need to transfer staff to other work or locations including transfer to a new employer;
- a reduction in the number of positions;
- the alteration of hours of work across a work unit (eg. the introduction of shiftwork);
• the alteration of the way in which work is performed and organised within a work unit which may be due, but not limited to, the introduction of new technology or other changes to programs or organisation structure; or

• the closure of an ELC work unit or part of an ELC work unit; or

• changes which bring about redundancy, retrenchment or redeployment.

50.2 Staff Members will be entitled to request the advice or assistance of their union or chosen representative if they so choose, at any stage of discussion of the workplace change.

50.3 During the Consultation process the ELC will provide, to all affected staff, the JCC, and their union or chosen representative, all relevant information about the proposed workplace changes. The information will include but is not limited to:

• documentation setting out recommended changes and the rationale for the change, including objectives and aims of the change;

• the likely effects of the change upon staff, including changes to roles, structures, proposed redundancies and/or redeployments and/or closure of an ELC work unit or part of an ELC work unit;

• the proposed timelines for implementation; and

• the financial implications of the proposed change.

50.4 As part of the Consultation process affected staff and their union will be given reasonable time to provide a response to the proposed changes and to any further recommendations made by the ELC as a consequence of consultation. A response may include an alternative proposal for the provision of current services. The ELC will consider the submissions and respond to affected staff and, if they so choose, their representatives before making a decision whether or not to proceed with the workplace change.

50.5 When the ELC confirms a decision to proceed with the change proposal, it will:

• inform affected staff and their union;

• undertake an assessment of the potential impacts on Equal Employment Opportunity target groups, indigenous employment strategies and the job security of staff in the affected area;

• where necessary, undertake an assessment of staff training needs arising from the change;

• consult with affected staff about the implementation of the change; and

• consult with affected staff about a process for monitoring the effects of the change after implementation.

50.6 Where implementation of workplace change leads to a position becoming redundant, the ELC will implement the redundancy provisions of this Agreement.
50.7 The ELC will implement these Managing Change procedures for any proposal to contract out work currently being performed by any staff member, or to commence using (or increase the use of) independent contractors or labour hire workers to perform a type of work currently being performed by staff members.

Roster Changes

50.8 In circumstances where the ELC intends to change a Teacher’s regular roster or ordinary hours of work, the ELC will:

50.8.1 provide information to the Teacher about the change;
50.8.2 invite the Teacher to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities); and
50.8.3 consider any views given by the Teacher about the impact of the change.

51 Termination Payment: Fixed Term Contract Staff

51.1 Where a fixed-term staff member is terminated prior to the expiry of his or her contract, AMQ will pay the staff member the greater of:

- the salary which the staff member would have received if they had continued employment until the expiry of the fixed-term contract; or
- the retrenchment benefit payable under subclause 51.4

51.2 A staff member whose fixed-term contract of employment is not renewed at the expiry of the contract will be entitled to a severance payment in accordance with subclause 51.4 or 51.5 below, except where:

- the staff member was employed on a first fixed-term contract where the position is of a type described in subclause 51.4, unless a position with the same or substantially similar duties continues to be required but another person has been appointed, or is to be appointed, to that position; or
- the staff member was replacing another staff member on leave or secondment from the workplace.

51.3 No severance payment is payable if AMQ obtains alternative employment for the staff member on:

- terms and conditions substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the staff member at the time the fixed-term contract comes to an end; and
- the basis that the staff member has continuity of service with the new employer in his or her new role.

51.4 Except when an existing staff member has been seconded into one of the positions below, where a staff member is entitled to a severance payment in accordance with subclause 51.2 above, the following payments will apply where the position is:
funded from an identifiable source(s) external to AMQ that is not part of an operating grant from government or funding comprised of payments of fees made by or on behalf of students; or

- research only position; or

- for a specific task or project.

**Table 4: Severance pay for 51.4 conditions**

<table>
<thead>
<tr>
<th>Length of Continuous Service</th>
<th>Severance pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1 year</td>
<td>0 weeks</td>
</tr>
<tr>
<td>1 year and up to the completion of 2 years</td>
<td>4 weeks</td>
</tr>
<tr>
<td>2 years and up to the completion of 3 years</td>
<td>6 weeks</td>
</tr>
<tr>
<td>3 years and up to the completion of 4 years</td>
<td>7 weeks</td>
</tr>
<tr>
<td>4 years and over</td>
<td>8 weeks</td>
</tr>
</tbody>
</table>

51.5 Where a staff member is entitled to a severance payment in accordance with subclause 51.4 above, the following payments will apply for all fixed-term positions other than those specified in subclause 51.4 above:

**Table 5: Severance pay for other conditions**

<table>
<thead>
<tr>
<th>Length of Continuous Service</th>
<th>Severance pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than 1 year but less than 2 years</td>
<td>4 weeks</td>
</tr>
<tr>
<td>2 years or more but less than 3 years</td>
<td>6 weeks</td>
</tr>
<tr>
<td>3 years or more but less than 4 years</td>
<td>7 weeks</td>
</tr>
<tr>
<td>4 years or more but less than 5 years</td>
<td>8 weeks</td>
</tr>
<tr>
<td>5 years or more but less than 6 years</td>
<td>10 weeks</td>
</tr>
<tr>
<td>6 years or more but less than 7 years</td>
<td>11 weeks</td>
</tr>
<tr>
<td>7 years or more but less than 8 years</td>
<td>13 weeks</td>
</tr>
<tr>
<td>8 years or more but less than 9 years</td>
<td>14 weeks</td>
</tr>
<tr>
<td>9 years or more but less than 10 years</td>
<td>16 weeks</td>
</tr>
<tr>
<td>10 years or more</td>
<td>20 weeks</td>
</tr>
</tbody>
</table>
51.6 Where a staff member with between 5 and 10 years of Continuous Service is entitled to a severance payment, he or she will be entitled to a payment in lieu of long service leave calculated at the pro-rata rate of 2 months for 10 years of Continuous Service.

52 Redundancy, Redeployment and Retrenchment

52.1 Voluntary Redundancy

52.1.1 Where it has been decided to make one or more positions redundant in an area as a consequence of the Managing Change in the Workplace process (Clause 50), AMQ may invite staff members to apply for voluntary redundancy.

52.1.2 Individual staff members will have 6 weeks from the date of the invitation to submit an application for voluntary redundancy to AMQ.

52.1.3 AMQ may reject any applications for voluntary redundancy where it considers that the position is necessary to its ongoing operations.

52.1.4 Where AMQ accepts an application for voluntary redundancy, AMQ will consult with the staff member and agree on the final date of employment.

52.2 Voluntary Redundancy Benefit

52.2.1 The amount paid for voluntary redundancy will consist of:

- a lump sum payment of 20 weeks salary;
- an additional lump sum calculated on length of Continuous Service with AMQ and/or ELC (see table in clause 52.5); and
- all entitlements for accrued annual and long service leave.

52.3 All payments for voluntary redundancy will be calculated at the staff member’s ordinary rate of pay (excluding loadings) at the date of cessation.

52.4 Redundancy, Redeployment and Retrenchment

52.4.1 Where it has been determined to make specific positions redundant as a consequence of the Managing Change in the Workplace process (Clause 50), AMQ will inform affected Staff that if redeployment is not possible they will be retrenched.

52.4.2 AMQ will provide as much notice as possible of its intention to retrench the staff member, with a minimum of 6 weeks.

52.4.3 AMQ will pay for up to two counselling sessions from an independent financial advisor nominated by AMQ for a staff member whose position has been made redundant.

52.4.4 AMQ will take all reasonable steps to identify positions to which the staff member may be redeployed.

52.4.5 Where AMQ identifies a position that may be suitable, it will:

- review the skills needed to perform the essential requirements of the position;
• assess if the staff member has the necessary skills or is able to be retrained to perform in the position; and

• where it is assessed that the staff member is able to be retrained, provide such training as is necessary.

52.4.6 The staff member will not refuse a reasonable offer of redeployment or training but is not obliged to accept a lower level position.

52.4.7 If requested by a retrenched staff member, AMQ will provide a letter certifying that he/she is the occupant of a position deemed to be surplus to the requirements of AMQ.

52.4.8 A staff member will be allowed up to one day’s time off without loss of pay for each week of notice to attend necessary employment interviews. The staff member, at the request of AMQ, will be required to provide proof of attendance at an interview or payment will not be made for the time absent.

52.5 Retrenchment Benefit

52.5.1 A staff member who is retrenched will be entitled to the following payments at the staff member’s ordinary rate of pay (excluding loadings).

52.5.2 Payment in respect of Continuous Service with AMQ as follows provided that the total payment does not exceed the equivalent of 52 weeks pay.

**Table 6: Retrenchment Benefits**

<table>
<thead>
<tr>
<th>Period of Continuous Service</th>
<th>Severance Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1 year</td>
<td>4 weeks</td>
</tr>
<tr>
<td>1 year and less than 2 years</td>
<td>8 weeks</td>
</tr>
<tr>
<td>2 years and less than 3 years</td>
<td>12 weeks</td>
</tr>
<tr>
<td>3 years and less than 4 years</td>
<td>15 weeks</td>
</tr>
<tr>
<td>4 years and less than 5 years</td>
<td>18 weeks</td>
</tr>
<tr>
<td>After 5 years</td>
<td>18 weeks plus 2 weeks’ pay for each additional year of Continuous Service or pro-rata for part thereof.</td>
</tr>
</tbody>
</table>

52.5.3 Entitlement in the form of accrued annual and long service leave. For a staff member with more than 5 years Continuous Service but less than 10 years, a proportionate entitlement will be paid in respect of long service leave.
52.5.4 If, during the period of notice, a staff member, whose position has been made redundant under Clause 52 resigns their employment or agrees that redeployment is not an option, they will still be entitled to payments under Clause 52.5.2 plus a payment for the balance of the notice period or 6 weeks pay whichever is the lesser.

52.6 Re-employment after Redundancy or Retrenchment

52.6.1 A staff member who has received a voluntary redundancy or a retrenchment package will not be re-employed on a continuing basis, by AMQ, within two years of the last day of duty of the staff member.

52.7 Transfer or Transmission of Business

52.7.1 The redundancy and notice clauses in this agreement do not apply where there is a transfer or transmission of business and a staff member:

- accepts employment with the new employer with continuity of service, or
- does not accept an offer of employment with the new employer and the offer of employment:
  - contained terms and conditions which were substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the staff member at the time of ceasing with the Employer; and
  - was made on the basis that the staff member had continuity of service with the new employer.

52.7.2 Any transfer or transmission of business will be subject to the Managing Change in the Workplace Clause 50 of this agreement.

52.7.3 If a transfer or transmission of business occurs, AMQ will make its best endeavours to negotiate the transfer of leave entitlements.

53 Termination of Employment

53.1 All decisions to terminate the employment of a staff member will be made in accordance with the relevant clauses in this Agreement.

53.2 Provision of Notice

53.2.1 AMQ will not terminate the employment of a staff member without providing appropriate notice or pay in lieu as per the relevant clauses of this Agreement or letter of appointment, except in the case of serious misconduct and unsatisfactory performance (see Misconduct and Serious Misconduct clause 59 and Unsatisfactory Performance clause 58).

53.2.2 The period of notice (or pay in lieu of such notice) will be 4 weeks.

53.2.3 Where the staff member has completed at least 2 years Continuous Service with AMQ and is over 45 years of age, they will receive an additional week of notice.
53.2.4 Upon termination of employment for any reason whatsoever, AMQ will be entitled to deduct from any monies due to the staff member other than monies due in lieu of accrued annual leave, any monies owing by the staff member to AMQ. Such a deduction will only be made if the employee authorises it in writing.

53.3 Abandonment of Employment

53.3.1 Where a staff member is absent from duty for a continuous period of 5 working days without advising their Supervisor or having approval from AMQ, or without apparent good cause, the Human Resources Manager or nominee will make reasonable attempts to contact the staff member requesting reasons for the unauthorised absence from duty. Correspondence sent to the staff member will detail the effect that not responding to AMQ’s request may have on their employment.

53.3.2 If the staff member or, if they so choose, their representative fails to respond to AMQ’s correspondence within 10 working days or the response fails to establish a reasonable cause for the absence then AMQ may terminate the staff member’s employment. Date of termination will be the last day the staff member was present at work. The staff member will be paid leave owed at the date of termination.

53.3.3 A staff member will not be deemed to have abandoned employment where AMQ has withheld approval for leave. An unauthorised absence in this situation will be regarded as possible misconduct and handled in accordance with clause 59.

53.4 Termination on the Grounds of Illness

53.4.1 If AMQ believes there is doubt regarding a staff member’s capacity to perform the duties of their position due to serious illness, AMQ may require the staff member to undergo a medical examination. AMQ will nominate a medical practitioner to conduct the medical examination at its expense and will provide written notice of not less than one month that a medical examination is required. A statement setting out the inherent duties performed by the staff member will be provided to the practitioner to assist in the assessment.

53.4.2 Copies of the medical report will be provided to the staff member and AMQ.

53.4.3 If the medical report finds that the staff member will be able to resume and perform the inherent requirements of their substantive position within a 12 month period, AMQ will proceed with a return to work plan (or amended plan depending on the circumstance). Notwithstanding the above, a staff member who has not returned to work within 24 months of commencing leave may be terminated by AMQ in accordance with subclause 53.2.

53.4.4 If the medical report finds that the staff member will be unable to perform the inherent requirements of his or her substantive position within a 12 month period, AMQ will proceed to terminate the staff member’s employment.

53.4.5 AMQ will support an application to the staff member’s superannuation fund for ill health retirement or temporary disability benefit under the rules of the superannuation fund. If the staff member proceeds with this action, the requirement for a medical examination will lapse. If the medical report has been
obtained prior to the Staff Member making this decision, it may be used as evidence in this process.

53.4.6 If the staff member is a member of a superannuation fund which does not provide for ill health retirement or temporary disability benefit, or the fund declines to provide such benefits, AMQ will offer in writing:

- to allow the staff member the opportunity to submit a resignation and, if the resignation is offered, will accept it immediately; or
- where no resignation is forthcoming within 28 days of the written advice, to terminate the employment of the staff member with payment in lieu of notice of 6 months salary (for a continuing appointment, an existing convertible appointment or a fixed-term of more than one year) or 2 months salary or to the end of the fixed-term, whichever is smaller (for a fixed-term of less than 1 year).

53.4.7 If, within 14 days of the medical report being made available, the staff member (or, if they so choose, their representative) so requests, AMQ will take no further action until the findings of the report are confirmed by a review panel. The review panel will consist of 2 medical practitioners, one appointed by AMQ and one by the staff member. The practitioners will not have been involved in preparing the original report or the staff member’s course of treatment.

53.4.8 AMQ may consider a staff member’s refusal to undergo a medical examination in accordance with these procedures as prima facie evidence that such a medical examination would have found that the staff member was unable to resume duty and may act accordingly. No penalties in terms of misconduct will be enacted under this clause, and all outstanding entitlements will be paid to the exiting staff member.

53.4.9 These provisions do not displace or override any existing or future applicable workers’ compensation schemes, legislation or relevant industrial instruments.

54 Resignation

54.1 A continuing or fixed-term staff member may resign from their employment with AMQ by the giving (in writing) of four weeks notice, unless otherwise agreed with management. AMQ may at its sole discretion, elect to pay in lieu of all or part of the notice period.

55 Outside Work and Conflict of Interest

55.1 Outside Work

55.1.1 A continuing or fixed-term contract staff member must advise AMQ in writing prior to being engaged in any activity for any person or entity (other than AMQ except where this is part of any AMQ activity), for which the Staff Member derives a benefit, which has a monetary value (Monetary Activity).

55.1.2 If a Staff Member is involved in any Monetary Activity of which they have not advised AMQ in writing, AMQ can require the Staff Member to cease involvement in the Monetary Activity at any time. If AMQ requires a Staff Member to cease involvement in the Monetary Activity, the Staff Member must cease all involvement immediately.
in the Monetary Activity unless and until any such time that AMQ permits the Staff Member in writing to re-commence involvement in the Monetary Activity.

55.1.3 The provisions in clause 55.1.1 and 55.1.2 apply to all full-time Staff Members and all part-time Staff Members whose part-time appointment is at a time fraction of 0.8 or above.

55.2 Conflict of Interests

55.2.1 In this clause, Conflict means any actual or potential conflict of interest in relation to the best interests of AMQ and includes, without limitation, any matter, which may cause injury to the reputation of AMQ.

55.2.2 If a Staff Member is involved in any activity for any person or entity which gives rise to, or may give rise to, a Conflict (Conflict Activity), the staff member must inform AMQ in writing as soon as they become aware of the Conflict or potential Conflict and must resolve the Conflict or potential Conflict as reasonably required.

55.2.3 Without limiting the remainder of this clause if a Conflict arises, or may arise, as a result of a Staff Member being a shareholder, joint venturer, an investor, unit holder, director, consultant, adviser, contractor, principal, agent, manager, staff member, beneficiary, partner, associate, trustee or financier then the staff member must immediately and fully disclose the Conflict to AMQ in writing and must resolve the Conflict as reasonably required by AMQ.

55.2.4 AMQ has the discretion to impose reasonable conditions (including ceasing the activity) on a staff member in relation to the performance of any Conflict Activity.

55.3 General

55.3.1 In the event that a staff member is unable to fulfil their obligations to AMQ and the staff member’s obligations regarding any Monetary Activity or Conflict Activity, the staff member must give precedence to their obligations to AMQ and, if required to do so by AMQ, cease any involvement in the Monetary Activity or Conflict Activity.

55.3.2 In relation to any activity for any person or entity other than AMQ which the staff member is involved in, the staff member must ensure that:

- the activity will not impinge upon the satisfactory performance of their AMQ related duties;
- AMQ resources are not used for the activity without prior written approval;
- the activity is not injurious to the reputation of AMQ;
- AMQ is protected from vicarious liability in any legal action arising from the activity; and
- the activity does not create a Conflict for the Staff Member.
56 Flexibility Arrangements

56.1 An employer and staff member covered by this agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:

- the arrangement deals with one or more of the following matters:
  
  - Clause 27.2 Taking Annual Leave;
  
  - Clause 18 Hours of Work;

- the arrangement meets the genuine needs of the employer and staff member in relation to 1 or more of the matters mentioned in this clause; and

- the arrangement is genuinely agreed to by the employer and staff member.

56.2 The employer must ensure that the terms of the individual flexibility arrangement:

- are about permitted matters under section 172 of the Fair Work Act 2009; and

- are not unlawful terms under section 194 of the Fair Work Act 2009; and

- result in the staff member being better off overall than the staff member would be if no arrangement was made.

56.3 The employer must ensure that the individual flexibility arrangement:

- is in writing; and

- includes the name of the employer and staff member; and

- is signed by the employer and staff member and if the staff member is under 18 years of age, signed by a parent or guardian of the staff member; and

- 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 staff member will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and

  - states the day on which the arrangement commences.

56.4 The employer must give the staff member a copy of the individual flexibility arrangement within 14 days after it is agreed to.

56.5 The employer or staff member may terminate the individual flexibility arrangement:

- by giving no more than 28 days written notice to the other party to the arrangement; or
• if the employer and staff member agree in writing at any time.

57 Grievances Handling Principles

57.1 Grievances primarily arise when an employee feels they have been treated unfairly or unlawfully by Access Macquarie, a client or another employee regarding workplace or work related issues. Grievances may also be in relation to systems or practices in the workplace.

57.2 Grievances can be regarding, but are not limited to, discrimination, harassment; working conditions or decisions applied affecting ones employment.

57.3 In this clause Grievance means a grievance a Staff Member has about any matter, other than about:

a) the interpretation or implementation of this Agreement (grievances of this type will be dealt with in accordance with the Dispute Resolution clause 49);

b) concerns about WH&S matters should be directed firstly to a Supervisor, and if unresolved to the Human Resources Manager, or a local WH&S representatives or AMQ’s responsible officer for WH&S matters;

c) conduct of another Staff Member which could constitute misconduct, serious misconduct or unsatisfactory performance (which should be dealt with under the provisions of this Agreement concerning misconduct, serious misconduct or unsatisfactory performance);

d) steps taken or being taken against a Staff Member (i.e., the potential Grievant) under the provisions of the Agreement concerning misconduct, serious misconduct or unsatisfactory performance (which should be dealt with under the provisions of this Agreement concerning misconduct, serious misconduct or unsatisfactory performance); or

e) any matter that can be dealt with by an alternative documented policy that has been implemented in accordance with Clause 7 Employment and Workplace Consultation.

57.4 Grievances will be managed by the ELC in accordance with the relevant Grievance Handling policy and procedures, in place from time to time.

58 Unsatisfactory Performance

58.1 This clause will apply to all fixed-term and continuing staff members employed under Macquarie University English Language Centre Teachers’ Enterprise Agreement 2017.

58.2 Staff members must know in advance the name of their designated supervisor and a relationship between the supervisor and the staff member needs to have been established. Where a staff member’s supervisor has formed the view that the staff member’s performance is unsatisfactory:

a) the supervisor will meet with the staff member and discuss those areas of performance that have been identified as unsatisfactory;

b) at the meeting the staff member will be given a reasonable opportunity to respond to the criticism made of his/her performance;
c) the supervisor will determine and advise the staff member which improvements are required for performance to be satisfactory;

d) the improvements identified by the supervisor at (c) will be documented and provided to the staff member in writing;

e) where reasonable and appropriate the staff member will be provided with training and/or development; and

f) the staff member will be given a reasonable period of time, which, depending on the circumstances shall not normally be more than 10 weeks, to improve those areas of performance identified as being unsatisfactory.

58.3 A staff member may choose to be accompanied to any meeting by a union representative or support person of their choice. The staff member and their representative or support person may withdraw to consult if required. The staff member is expected to participate in the discussion and respond to issues raised. The representative or support person may participate in the meeting but ordinarily will not answer for the staff member.

58.4 At the end of the period specified in subclause 58.2 (f) the supervisor will meet with the staff member and review their performance. Following that review:

a) where the supervisor determines that all aspects of the staff member’s performance are now satisfactory it will be recorded and no further action will be taken; and

b) where the supervisor determines any aspect of the staff member’s performance remains unsatisfactory, the supervisor will:

   i. make a report to the Director, ELC within 5 working days of meeting with the staff member; and

   ii. provide a copy of the report to the staff member.

58.5 The staff member may provide a written response to the report to the Director, ELC. Any response by the staff member must be provided within 5 working days of the staff member receiving the report specified in subclause 58.4 (b).

58.6 The Director, ELC:

a) will review the report and any response from the staff member;

b) may seek further information from the staff member or Supervisor regarding the report or the response from the staff member; and

c) will, if requested by the staff member, seek input from up to 2 colleagues nominated by the staff member in ELC, and give them a reasonable opportunity to provide such input.

58.7 Having regard to the report and any further information obtained in the process referred to in subclause 58.6, the Director, ELC will either:

a) refer the matter back to the supervisor for a further review period, which, depending on the circumstances will not normally be more than 8 weeks with
directions with which the supervisor must comply before the matter is referred back to the Director, ELC to be dealt with under this sub-clause; or

b) provide a report to the Human Resources Manager which:
   i. identifies the aspects of performance the Director, ELC regards as unsatisfactory;
   ii. records the attempts to remedy the unsatisfactory performance; and
   iii. includes the staff member’s responses and, if sought, colleagues’ responses.

58.8 If the Director, ELC provides a report to the Human Resources Manager:

a) the Director, ELC will also provide a copy of the report to the staff member; and

b) the staff member will have 10 working days from receipt of the report to provide a written response to the report to the Human Resources Manager.

58.9 If the Human Resources Manager receives a report they will:

a) consider the report, any response to the report from the staff member and review the processes undertaken by the supervisor and the Director, ELC; and

b) determine whether the processes have been complied with in substance and in a manner appropriate to the circumstances. On the basis of that determination, the Human Resources Manager may decide to:

   i. take no further action; or

   ii. refer the matter back to the supervisor or Director, ELC with directions which either or both of them must comply with before the matter is referred back to the Human Resources Manager to be dealt with under this subclause 58.9; or

   iii. refer the matter to an Unsatisfactory Performance Review Committee (UPRC).

58.10 If the Human Resources Manager decides to refer the matter under subclause 58.9 (b) iii the Human Resources Manager will appoint a UPRC. The UPRC will comprise:

a) a Chair appointed by the Managing Director from a pool agreed between the Managing Director and the Chair of the JCC. The Chair shall be external to the Staff Member’s immediate work area or may be external to ELC;

b) one Staff Member (not being the Human Resources Manager), appointed by the Managing Director; and

c) one representative of the NTEU drawn from NTEU delegates working at ELC.

58.11 The UPRC will review whether the processes as outlined in this clause were followed and whether the merits of the allegations are substantiated.
58.12 The UPRC:

a) will review all reports from the supervisor and Director, ELC to the extent that the reports deal with the unsatisfactory performance issues under review;

b) will review all responses from the staff member;

c) may interview the staff member (and/or their representative if they so choose), supervisor, Director, ELC and Human Resources Manager;

d) may take into account any further material it believes is appropriate to consider about the process adopted under this clause; and

e) will endeavour to provide a report to the Human Resources Manager on its findings within five days of its last meeting. The UPRC will also provide a copy of the report to the Staff Member.

58.13 The Human Resources Manager will forward all reports, responses and associated materials to the Managing Director for consideration and decision. The Managing Director or their delegate will determine to:

a) take no further action; or

b) refer the matter back to the supervisor or Director, ELC with directions which either or both of them must comply with before the matter is referred back to the Managing Director or their delegate to be dealt with under this subclause 58.13; or

c) take disciplinary action which is limited to:
   • counselling;
   • written warning;
   • formal censure;
   • withholding of an increment;
   • varying the Staff Member’s duties/removing any Administrative position;
   • demotion by one or more salary steps or one or more classification levels; or
   • termination of employment.

58.14 The Managing Director or their delegate will instruct the Human Resources Manager to advise the Staff Member in writing of his/her determination under subclause 58.13.

58.15 If the Managing Director determines to terminate the employment of the Staff Member, the period of notice shall be as determined under sub-clause 53.2 of this Agreement.

58.16 A determination made by any Supervisor or officer of ELC to take no further action will not prevent AMQ from relying on the relevant unsatisfactory performance in any future matter. However where the information from the relevant unsatisfactory performance has been relied on in a future matter, the Staff Member concerned must be informed.
59 Misconduct and Serious Misconduct

59.1 Application

59.1.1 This clause will apply to all continuing and fixed-term staff employed under Macquarie University English Language Centre Teachers’ Enterprise Agreement 2017.

59.2 Definitions

59.2.1 Misconduct includes:

• wilful conduct by a staff member that is unsatisfactory or otherwise unacceptable to AMQ; or

• unethical behaviour in Research.

59.2.2 Serious misconduct includes:

• serious misbehaviour of a kind which constitutes a serious impediment to the carrying out of a staff member’s duties or to a staff member’s colleagues carrying out their duties;

• conviction by a Court of competent jurisdiction of an offence of a kind that may be reasonably regarded as constituting a serious impediment to the discharge by the Staff Member of his or her functions or duties, or to the staff member’s colleagues carrying out their functions or duties; or

• repeated incidents of misconduct;

• incidents of different types of misconduct;

• serious dereliction of duties; and/or

• serious acts or omissions of Misconduct in Research.

59.2.3 Disciplinary action means any action by AMQ to discipline a staff member for unsatisfactory performance or misconduct or serious misconduct and is limited to:

a) counselling;

b) written warning;

c) formal censure;

d) withholding of an increment;

e) termination of employment.

In cases of misconduct, disciplinary action is limited to (a) to (e) above.

59.2.4 Unethical behaviour in Research means fabrication, falsification, plagiarism, or other practices that seriously deviate from those commonly accepted within the
academic or research community for proposing, conducting or reporting research. It includes misleading ascription of authorship including the listing of authors without their permission, attributing work to others who have not in fact contributed to the research, and the lack of appropriate acknowledgment of the work of others. It does not include honest errors or honest differences in interpretation of data.

59.3 Procedures

59.3.1 AMQ must follow the procedures of this clause before taking disciplinary action against a staff member for misconduct or serious misconduct. However, where a matter that may involve misconduct or serious misconduct has been dealt with in good faith as if it were a case of unsatisfactory performance under clause 58, the procedures of this clause are not required, but the procedures of clause 58, including notice periods, must be followed if the staff member’s employment is terminated.

59.3.2 A staff member may choose to be accompanied to any meeting by a union or other representative of their choice. The staff member and their chosen representative may withdraw to consult if required.

59.3.3 A staff member’s supervisor should initially, if appropriate, seek to resolve instances of possible misconduct or serious misconduct through guidance, counselling, training or a written warning. If the staff member’s supervisor is unable to resolve the possible misconduct or serious misconduct, or considers that it is not appropriate to do so, the supervisor must refer the alleged conduct to the Human Resources Manager.

59.3.4 The Human Resources Manager may refer the alleged conduct to the Managing Director for consideration as to whether the staff member’s employment should be suspended. If the alleged conduct is referred to the Managing Director under this sub clause, the Managing Director may, at any time, suspend the staff member with pay during the period in which the procedures in this clause are followed.

59.3.5 The Managing Director will only suspend with pay if there are reasonable grounds for this which have been explained in writing to the suspended staff member.

59.3.6 The Human Resources Manager will consider any alleged conduct referred to him/her under subclause 59.3.3 and may:

a) take no further action;

b) refer the matter to an Investigator for the purpose of investigating the alleged conduct; or

c) proceed under subclause 59.3.11.

59.3.7 An investigator, who may be an external party, a staff member or officer of AMQ, will not have had any prior involvement in or dealings with the alleged conduct and not have any conflict of interest in investigating the matter.
59.3.8 The Investigator will investigate the alleged conduct and provide the Human Resources Manager with a report of his/her investigations.

59.3.9 If, following the consideration of the conduct alleged by the supervisor and the report of the investigator, if any, the Human Resources Manager believes the alleged conduct does not warrant further investigation, the Human Resources Manager will notify the staff member in writing that no further action will be taken by AMQ in relation to the alleged conduct.

59.3.10 If, following the consideration of the conduct alleged by the supervisor and the report of the Investigator, if any, the Human Resources Manager believes the alleged conduct warrants further investigation then he/she will:

a) notify the staff member in writing of the nature of the allegation/s in sufficient detail to enable the staff member to understand the allegation/s, and to properly consider and respond to them;

b) provide the staff member with a copy of the investigator’s report, if any; and

c) provide the staff member with an opportunity to submit a written response to the allegations, including any mitigating circumstances. Any response must be made within ten working days of receipt of the allegations by the Staff Member.

59.3.11 If the staff member admits the allegation/s in part or in full, or fails to submit a written response to any allegations, the Human Resources Manager will refer the matter to the Managing Director. The Managing Director may then:

a) take no further action in relation to any or all of the allegation/s which the staff member has admitted in part or in full or failed to respond to;

b) in relation to any allegations which have not been responded to, warn in writing or censure the staff member for unsatisfactory conduct and take no other action;

c) determine whether any of what has been admitted or not responded to constitutes misconduct or serious misconduct and if so, determine what, if any, disciplinary action is proposed to be taken; or

d) defer any decision under (b) or (c) above until any allegation/s that the Staff Member has denied in part or in full (or has not admitted) have been investigated by a Committee.

59.3.12 If the Managing Director makes a determination under subclause 59.3.11 (c), he/she must proceed in accordance with subclause 59.5.4 below.

59.3.13 If the staff member denies any of the allegation/s in part or in full, the Human Resources Manager may:

a) refer any of the allegation/s to a Misconduct Investigation Committee (MIC); or

b) take no further action in relation to those allegations.
59.4 The Misconduct Investigation Committee

59.4.1 If the Human Resources Manager determines that any of the allegations of misconduct/serious misconduct should be referred to a MIC under subclause 59.3.13(a) above, the Human Resources Manager will appoint a MIC in accordance with this clause 59.4.2. The MIC will convene within 15 working days of its appointment.

59.4.2 The Committee will comprise three (3) persons consisting of:

- a Chair appointed by the Managing Director, from a pool agreed between the Managing Director and the Chair of the JCC. The MIC Chair may be external to AMQ, in relation to any allegations of misconduct or serious misconduct which do not include Unethical Behaviour in Research;
- one staff member appointed by the Managing Director; and
- one NTEU representative appointed by the affected staff member and drawn from a pool of NTEU delegates working at AMQ.

59.5 Terms of Reference and Procedures of the MIC

59.5.1 The terms of reference of the MIC are to report on the facts relating to the alleged misconduct or serious misconduct and any mitigating circumstances raised by the staff member in their response to the Human Resources Manager.

59.5.2 The MIC will:

a) determine whether a staff member on suspension with pay shall remain on suspension with pay;

b) allow the staff member (and/or, if they so choose, the staff member’s union or other representative) a reasonable opportunity to attend an interview and provide him/her with an opportunity to respond to the allegations of misconduct or serious misconduct;

c) make all reasonable efforts to interview any person it thinks fit to establish the facts of the particular case;

d) invite the staff member (and/or, if they so choose, the staff member’s union or other representative) and AMQ’s representative to attend all interviews conducted by the MIC;

e) provide the staff member (and/or, if they so choose, the staff member’s union or other representative) and AMQ’s representative with an opportunity to ask questions of interviewees whose interview they attend;

f) provide the staff member (and/or, if they so choose, the staff member’s union or other representative) and AMQ with a reasonable opportunity to make submissions and present evidence to the MIC;

g) conduct the investigation as expeditiously as possible consistent with the requirements of this subclause;
h) take into account other material it believes appropriate to the case, including any alleged conduct not responded to or admission made by the staff member in relation to any matter relating to, concerning or arising out of the allegations at any time;

i) keep a record of proceedings; and

j) provide a report of its findings and a copy of proceedings to the staff member and to the Human Resources Manager within 5 working days of completion of the proceedings.

59.5.3 The Human Resources Manager will provide the MIC report, the investigators report, if any, the allegations and any response to the allegations by the staff member to the Managing Director.

59.5.4 The Managing Director will:

a) advise the staff member and their union or other representative, if appropriate, of his/her decision regarding what disciplinary action, if any, is proposed to be taken;

b) if any disciplinary action is proposed to be taken, invite the staff member and their union or other representative to advise in writing, within five working days, about any matters that he or she wants the Managing Director to take into account in making a decision about what disciplinary action is to be taken;

c) consider any matters brought to his/her attention by the staff member or their union or other representative when deciding what, if any, disciplinary action should be taken; and

d) if any disciplinary action is to be taken, advise the staff member and their union or other representative of his/her final decision about what disciplinary action is to be taken, and of the operative date of any disciplinary action to be taken.

59.5.5 If, having undertaken the procedure in clause 59.5.4, the Managing Director is of the view that the conduct amounts to misconduct or serious misconduct, then the Managing Director may take disciplinary action against the Staff Member.

59.5.6 If the Managing Director is of the view that there has been no misconduct or serious misconduct and decides to take no further action, the Managing Director will advise the Staff Member in writing.

59.6 Other Matters

59.6.1 This clause in no way constrains AMQ from carrying out other or further investigations relating to the consequences of conduct of a staff member or former staff member when required in the public interest; e.g. Enquiring into the truth of research results.
59.6.2 The action of the Human Resources Manager and the Managing Director under this clause will be final. However, this clause does not exclude the jurisdiction of any external tribunal that would be competent to deal with the matter.

59.7 Notice Periods

59.7.1 Where the Managing Director decides to terminate the employment of a staff member, notice or payment in lieu of notice will be as provided in Clause 53 of this Agreement.

59.7.2 Payment in lieu of notice of termination will be made if AMQ does not require the person to work out the notice period. Where the Staff Member is only required to work part of the notice period, AMQ will pay out the remainder of the notice period.

59.7.3 Any payments in lieu of notice will be based on the Staff Member’s salary at the date of termination of employment.

59.7.4 In instances of termination of employment as a result of serious misconduct involving suspension with pay (refer to subclause 59.3.4 and 59.3.5), there will be no requirement for the notice of termination prescribed in this Clause.

60 Intellectual Property

60.1 Definitions

- “Intellectual Property” includes all developed materials, all copyright and teaching materials, hard copy and online, all teaching related documents, forms and processes, all student support materials, operational and administrative documents, forms and processes.

- “Administration Material” is material that is created/generated by the administrative processes of AMQ, and includes all material that is not teaching or research related.

- “Confidential Information” means all information of AMQ of a confidential nature, and may include financial, technical, proprietary and operational information, techniques, processes, know-how, and other commercially valuable information of any kind, including materials relating to curriculum.

- “Scholarly Work” is work that includes any article, book, manual, creative writing or like publication or any digital or electronic version of these that contains material written by a staff member based on that staff member’s scholarship, learning or research, but does not include work that is a computer program, Teaching Material or Administration Material.

- “Teaching Material” means all documents, materials or digital or electronic objects created or used for the purposes of teaching and education at AMQ and includes lecture notes that are made available to students, computer generated presentations, course guides, examination scripts, assessment guides, course databases and websites including ELC Online, and personal teaching and lecture notes made available to students.
60.2 Disclosure and Removal

60.2.1 A staff member of AMQ must not disclose or publish or enable to be disclosed or published any intellectual property of AMQ.

60.2.2 A staff member of AMQ must not copy or remove any IP of AMQ for purposes of use, disclosure or publication by themselves or any person after they cease to be a staff member of AMQ.

60.3 Identifying IP

60.3.1 All developed materials, all copyright and teaching materials, hard copy and online, all teaching related documents, forms and processes, all student support materials, operational and administrative documents, forms and processes created by a staff member of AMQ in the course of employment, or developed specifically for AMQ purposes and paid for by AMQ, is the intellectual property of AMQ.

60.3.2 In determining whether any material was created during AMQ employment, the criteria used will include, but not be limited to, the following:

a) Whether resources of AMQ were used in the process, including office facilities and equipment;

b) Whether the AMQ staff member created the material with the input of other AMQ staff members, students or associates;

c) Whether the AMQ staff member in dealing with any external agency in relation to the material was understood to be a representative of AMQ;

d) Whether the AMQ staff member claimed pay for additional work or any in-kind payment for additional (over workload) work or other entitlements in respect of creation of the material.

60.3.3 In particular:

a) Confidential information of AMQ is the property of AMQ;

b) AMQ Administration material and forms are the property of AMQ;

c) All programs and teaching materials (including online) developed as part of the course of employment of any AMQ staff member are the property of AMQ;

d) Teaching related materials, including course notes, student academic support processes and forms; assessment information, forms and descriptors; teaching administration information, forms and materials, are the property of AMQ;

e) Commercial materials developed as part of the course of employment of any AMQ staff member, eg. for IELTS Online or other commercial projects - are the property of AMQ;
f) Scholarly work commissioned by ELC is the property of AMQ, unless by prior agreement in writing;
ENDORSEMENT OF AGREEMENT

Signed for and on behalf of Access Macquarie Ltd:

[Signature]

Full Name: Thushyanthan Sathiamoorthy
Title: Managing Director
Address: Level 2, 160 Herring Road
         Macquarie University NSW  2109

In the presence of:

[Signature]

Full Name: Carina Jarman
Date: 1 August 2017

Signed for and on behalf of the National Tertiary Education Industry Union as employee bargaining representatives:

[Signature]

Full Name: Grahame McCulloch
Title: General Secretary
Address: Level 1, 120 Clarendon Street
         South Melbourne VIC  3205

in the presence of:

[Signature]

Full Name: Renee Veal
Date: 1 August 2017
Schedule 1: Salaries

The following Annual Salaries will apply to the English Language Teachers at Macquarie University English Language Centre.

Continuing and Fixed Term Contract Salaries: Teachers

<table>
<thead>
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<th>Contract</th>
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Continuing and Fixed Term Contract Salaries: Senior Teachers

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<th>1/01/2018 1.5% increase $ pa</th>
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### Sessional Teaching Pay Rates -

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<td></td>
<td>Day Rate</td>
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</tr>
<tr>
<td></td>
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</tr>
<tr>
<td>Step A</td>
<td>Step 2</td>
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<table>
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### Sessional Non-Teaching Pay Rates

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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2% increase</td>
<td>1.5% increase</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hourly Rate</td>
<td>Hourly Rate</td>
<td>Hourly Rate</td>
<td></td>
</tr>
<tr>
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<td>25% Loading</td>
<td>25% Loading</td>
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</tr>
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Schedule 2: Allowances

1. Higher Duties

- Where AMQ requires a staff member to perform the duties of a position classified at a higher level for a minimum period of five consecutive working days (or in the case of a part time staff member for a minimum period of the Staff Member’s normal working week), the staff member will be paid their substantive salary and an allowance equal to the difference between the Staff member’s substantive salary and the minimum salary for the level of the higher classified position. An example of this would be a teacher temporarily undertaking the duties of a senior teacher.

- When the Staff Member has performed higher duties for more than 12 months the Supervisor will take action to have the position classification reviewed by the Human Resources Manager, begin recruitment action or provide the Human Resources Manager with reasons for continuation of the Higher Duties Allowance.

- A Staff Member who receives a Higher Duties Allowance for a period in excess of 20 working days will be paid such an allowance for all paid leave taken during that period.

- Opportunities to act in higher positions should be seen as professional development for Staff Members and be offered to eligible Staff on an equitable basis.

- Where a Teacher is appointed to a position which involves management of a major project or program for instance the Post Entry Program or the ELC Translation and Interpreting Program, a Higher Duties Allowance of 10% of annual salary will be paid for the period of those duties.

- Where particular skills, qualifications and experience are required for work on a non-core program or project, these may be recognised by payment of a Higher Duties Allowance of 5% for the period the Staff member works on the major program or project.

2. First Aid Allowance

- Staff appointed as First Aid Officers must have a current First Aid Certificate and shall be paid:
  - $936.35 per annum from the first full pay period from date of approval,
  - $950.40 per annum from 1 January 2018,

3. Overnight Excursion Allowance

- Teachers attending and supervising overnight student excursions on week days will be eligible for their daily pay plus an additional four hours pay at the overtime teaching rate.

- Teachers attending and supervising overnight student excursions which include a Saturday and/or Sunday will be eligible for their daily pay for the weekdays involved, plus an additional four hours pay at the overtime teaching rate for every night the teacher is away from home, plus pay at the teaching overtime rate applicable for Saturdays and/or Sundays for seven hours.
4. Day Excursion Allowance

- In the case of sessional employees, excursion supervision up to three and a half (3.5) hours will be paid at the half day rate and excursion supervision greater than three and a half (3.5) hours and up to seven (7) hours will be paid at the day rate. If the excursion is greater than seven (7) hours teachers will receive the hourly teaching rate for every hour after seven (7) hours.

5. Meal Allowance

- In accordance with Clause 22 meal allowances will be paid in the following amount:
  - $18.65 from first full pay period from date of approval,
  - $18.93 from 1 January 2018,

- In the case of study tours an allowance for breakfast and lunch will be paid in the following amount:
  - $18.65 from first full pay period from date of approval,
  - $18.93 from 1 January 2018,

- In the case of study tours an allowance for dinner/evening meal will be paid in the following amount:
  - $29.98 from first full pay period from date of approval,
  - $30.43 from 1 January 2018,

6. Course Coordinators

- Course Coordinators will be rostered to work in that role for 0.4 FTE in weeks 1 and 5 and 0.2 FTE for weeks 2 to 4. This allocation can be increased by ELC management as necessary.
- For fewer than 12 classes coordination will be provided by Senior Teachers
- 12 to 18 classes there will be a minimum of one Course Coordinator
- 19 to 26 classes there will be a minimum of two Course Coordinators
- 27 to 34 classes there will be a minimum of three Course Coordinators
- 35 to 42 classes there will be a minimum of four Course Coordinators
- Course Coordinators will be given time off teaching duties to perform the work of a Course Coordinator.
- This Course Coordinator system will be discussed at JCC meetings.
- Course Coordinators will be paid an additional 5% per of their current base teaching salary per week. The extra 5% on top of the current teacher classification will be paid for weeks for which the Course Coordinator is appointed and rostered to that role.
Entitlements

| Parental Leave (includes the birth or adoption of a child) | Full time continuing and fixed term – primary carer | 14 weeks paid leave upon commencement. Additional 12 weeks paid leave with more than 1 years Continuous Service. Unpaid parental leave up to the child’s 2nd birthday. Up to 2 days paid leave to attend compulsory interviews as part of an adoption procedure. | See Procedures below Fixed-term and Sessional teachers, who satisfy eligibility requirements, will be entitled to payment for the full period of parental leave. If a Staff Member’s partner is employed by the University, paid leave may be shared up to the total of 26 weeks. |
| Part time or Long Term Sessionals – primary carer | Paid on proportional basis of the full time entitlement. |

| Partner’s Leave | Full-time and part-time Academic and General Staff | Up to 4 weeks paid leave (pro-rata for part-time Staff). Up to 4 weeks unpaid leave. | Entitlement to parental leave will be reduced by any partner’s leave taken at the time of the birth or adoption of the child. |

Procedures

In order to assist Staff Members to balance work and family responsibilities, the University provides parental leave to eligible Staff in respect of the birth of a child to them or their partner; or the placement of a child with the Staff Member with a view to adoption; or foster parenting arrangements. This schedule sets out procedures relating to parental leave.

1. Leave before Parental Leave
   (a) A Staff Member may take sick leave for routine medical appointments and for pre natal classes held in working hours.
   (b) If a Staff Member’s partner is pregnant, the Staff Member may take accrued but untaken personal leave for routine medical appointments and for pre natal classes held in working hours.

2. Transfer to Safe Work
   (a) Where illness or risks arising out of pregnancy or hazards connected with normal duties make it inadvisable for a pregnant Staff Member to continue in her substantive role, the duties shall be modified or the Staff Member transferred to a safe position at the same classification level until the commencement of parental leave.
   Alternatively, if the Staff Member agrees and it is both possible and appropriate, a
working at home agreement may be negotiated with the Staff Member for an appropriate and specified period.

(b) If the adjustments cannot reasonably be made, the provisions of Section 81 of the Fair Work Act 2009 will apply.

(c) The parental leave taken will be paid at the rate of the Staff Member's substantive salary. If the Staff Member changed temporarily to a reduced hours position because of the pregnancy, the relevant salary when taking parental leave will be the substantive salary paid immediately before the hours of work were reduced.

3. Taking of leave

(a) A Staff Member may take parental leave as full-time or with the approval of the Head as:

(i) part-time; or

(ii) partly full time and partly part time.

(b) Unpaid parental leave may begin at any time up to 2 years from the date of birth or adoption of the child.

(c) A Staff Member should not take parental leave at the same time as the Staff Member's partner but this does not apply to:

(i) four weeks partner’s leave taken at the time of the birth of the child; or

(ii) paid parental leave shared by the Staff Member and the Staff Member’s partner at the time the child has been placed with them or with a view to the adoption of the child.

(d) A Staff Member may elect to take a period of annual leave or long service leave to which there is an entitlement, instead of unpaid parental leave. The period of annual leave or long service leave so taken shall be treated as part of parental leave.

(e) A Staff Member granted part-time parental leave may resume full-time work on giving the Head four weeks’ notice. A Staff Member may not be able to return to the former position in a full-time capacity until the leave would have expired but must be placed on duties at the same classification and level as the former position.

4. Adoption and foster care

(a) Adopting parents may apply for parental leave in respect of a child who is under 18 years old provided that:

(i) the child is not a natural child or step-child of the Staff Member or the Staff Member’s partner;

(ii) the child has not, at the proposed date of placement, previously lived with the Staff Member for a continuous period of more than 6 months.

(b) If a Staff Member becomes the primary care giver of a foster child on a long-term placement, the Staff Member may take paid parental leave for 6 weeks at half pay for a child under 18.
(c) Parental leave will commence from the date on which the Staff Member takes
custody of the child, irrespective of whether that date is before or after the date on
which the court makes an order for the adoption of the child by the Staff Member.

5. Entitlement to Paid Parental Leave

(a) Fixed-term or long term sessional Staff Members who commence a period of paid
parental leave prior to the expiration of their contract, will be entitled to payment for
the full period of paid parental leave to which they have an entitlement.

(b) A Staff Member who returns to work within their period of paid leave may bank the
difference to use for discretionary purposes. This retained entitlement may be taken
at any time, in agreement with the Head, up to the child’s second birthday and
available to use as:

(i) a subsidised part-time return to work to assist in a phased return to the
workplace, or

(ii) a further period of paid parental leave with notice requirement of 4 weeks
written notice, or

(iii) for professional development purposes and/or a research grant.

6. Premature Birth, Still Birth, Miscarriage or Death of Child

(a) If a Staff Member gives birth prematurely she is treated as being on paid parental
leave from the date she enters on leave to give birth to the child and any previous
leave arrangements may need to be varied.

(b) A Staff Member whose child is stillborn or dies shortly after birth may return to work
before the end of the parental leave.

(c) In the event of a miscarriage any absence from work is to be on sick leave where
there is an entitlement and unpaid authorised absence for long term sessionals.

7. Payment of Salary

(a) The salary costs of Staff Members on paid parental leave are met from a central
account. This will allow the provision of essential replacement for absent Staff.

8. Effect on Other Entitlements

(a) Paid parental leave or partner’s leave on full pay will count in full and parental leave
paid at half pay will count to the extent of one half thereof for the accrual of annual
leave.

(b) Parental leave without pay counts as service for incremental purposes.

9. Changes While on Leave

(a) While on parental leave, a Staff Member may change the period of leave or any part-
time arrangement once without the consent of the Head and any number of times
with the consent of the Head.
10. Replacement Staff

(a) A ‘replacement Staff Member’ appointed under or seconded to temporarily fill a vacancy due to parental leave are to be informed that the employment is due to parental leave and is subject to termination or variation according to the parental leave arrangements exercised by the Staff Member being replaced.

11. Further Pregnancy

(a) A Staff Member who becomes pregnant while on parental leave is entitled to a further period of parental leave. However, remaining parental leave from the former pregnancy lapses as soon as the new period of parental leave begins.

12. Return to Work and Right of Return to Former Position after Parental Leave

(b) A Staff Member shall confirm their intention to return to work by notice in writing not less than 6 weeks prior to the expiration of parental leave. Staff returning from parental leave will receive a local briefing on the latest changes and developments in their working environment, including any necessary training. Members of Academic Staff who resume normal duties after an absence of one year or greater will be entitled to apply for a ‘start-up’ grant through the Research Office.

(c) A Staff member has a right to their former position if they resume duty within a period up to the child’s second birthday.

(d) A Staff member may request to work part-time or different hours following the birth or adoption of a child to meet parental or carer’s responsibilities. The Director, ELC will, in taking account of the inherent requirements of the job, not unreasonably refuse requests made for these reasons. If a Staff Member disagrees with the Director’s decision they may lodge an appeal to the Director, Human Resources.

(e) A Staff Member may take long service leave to make up the difference between the approved part-time hours and the hours of duty of their substantive position.

13. Former Position Redundant

(a) Where the University has commenced a managing change process in accordance with the Agreement, which is likely to have significant effect on the Staff Member’s position, the University will notify the Staff Member and allow them reasonable opportunity to participate in the process. If the position the Staff Member occupied prior to the commencement of parental leave is identified as a redundant position the University will provide reasonable opportunity for redeployment in accordance with the Redundancy, Redeployment and Retrenchment provisions of this Agreement.

14. Nursing Mothers

(a) Support will be provided to women returning to work after parental leave to continue with breast-feeding, if that is their choice. Breaks for expressing and storing breast milk and to breast feed if the child is in nearby care will be allowed.
Attention: Christopher Demos
Agreement Assessor
Member Support Research Team

Deputy President Coleman
Fair Work Commission
11 Exhibition Street
MELBOURNE VIC 3001

Email: member.assist@fwc.gov.au

10 October 2017

Dear Deputy President Coleman,

Re: AG2017/3234 – Undertaking under section 190 of the Fair Work Act 2009 (Cth) in relation to the Macquarie University English Language Centre Teachers Enterprise Agreement 2017 (Agreement)

Access Macquarie Limited (AccessMQ) undertakes, while the Agreement is in operation, the following:

Clause 51.4

Where Clause 51.4 provides for a severance payment which is lower than the NES requires in any particular circumstance, AccessMQ will pay no less than the severance pay required by the NES.

For the avoidance of doubt, all reference to provisions of legislation in these undertakings is a reference to those provisions as amended or replaced.

Yours sincerely

[Signature]

Thushy Sathiamoorthy
Managing Director

Access Macquarie Limited