



University of Technology, Sydney

UNIVERSITY OF TECHNOLOGY, SYDNEY

SENIOR STAFF GROUP COLLECTIVE AGREEMENT 2007

PART A - OPERATION OF THE AGREEMENT

1. TITLE

This Agreement will be known as the University of Technology, Sydney Senior Staff Group Collective Agreement 2007.

2. ARRANGEMENT

CLAUSE TITLE	PAGE
PART A - OPERATION OF THE AGREEMENT	3
1. TITLE	3
2. ARRANGEMENT [Subject to final outcomes]	3
3. DEFINITIONS	4
4. APPLICATION.....	5
5. RELATIONSHIP WITH AWARDS AND CERTIFIED AGREEMENTS	5
6. AUSTRALIAN WORKPLACE AGREEMENTS	6
7. OBJECTIVES OF AGREEMENT	6
8. LENGTH OF AGREEMENT	6
9. CHANGE MANAGEMENT	6
10. DISPUTE RESOLUTION PROCEDURES	7
PART B – PERFORMANCE AND REMUNERATION	8
11. PERFORMANCE REVIEW AND DEVELOPMENT	8
12. PERFORMANCE PAY	8
13. SUPERANNUATION FLEXIBILITY	9
14. FLEXIBLE SALARY PACKAGING.....	9
PART C - LEAVE MATTERS	10
APPLICATION OF LEAVE PROVISIONS TO PART-TIME STAFF MEMBERS	10
15. PUBLIC HOLIDAYS.....	10
16. ANNUAL LEAVE.....	10
17. CHRISTMAS – NEW YEAR LEAVE	10
18. SICK LEAVE	11
19. PERSONAL LEAVE	11
20. LONG SERVICE LEAVE.....	12
21. LEAVE WITHOUT PAY.....	13
22. PARENTAL LEAVE	14
23. COMMUNITY LEAVE.....	15
24. ABSENCE FROM DUTY.....	15
PART D – GENERAL CONDITIONS OF EMPLOYMENT	17
25. MODES OF EMPLOYMENT	17
26. CATEGORIES OF APPOINTMENT	17
27. RENEWAL OF FIXED-TERM APPOINTMENTS	17
28. PROBATION	18
29. HOURS ARRANGEMENTS	18
30. EQUITY.....	19
31. INDIGENOUS AUSTRALIAN EMPLOYMENT	19
PART E – DISCIPLINE AND TERMINATION.....	20
32. MANAGING UNSATISFACTORY PERFORMANCE	20

33	DISCIPLINARY ACTION FOR MISCONDUCT	20
34	NOTICE PERIODS FOR TERMINATION BY THE UNIVERSITY	23
35	REDUNDANCY	23
36	SEPARATION FROM EMPLOYMENT ON MEDICAL GROUNDS	25
	SCHEDULE 1	27

3. DEFINITIONS

This clause contains definitions of relevant terms used throughout this Agreement. Where a term is specific to a particular clause, the definition for that term appears in the relevant clause.

- 3.1 'AIRC' or the 'Commission' refers to the Australian Industrial Relations Commission.
- 3.2 'Act' means the *Workplace Relations Act 1996* (Commonwealth) (as amended or replaced from time to time).
- 3.3 'Authorising officer' means the person or position determined as such under applicable University policies or by the Vice-Chancellor.
- 3.4 'Consultation' at UTS involves the timely provision of information about a matter requiring a decision, and opportunities for relevant parties to identify, seek clarification and respond to issues that are raised for the purposes of:
- achieving effective communication
 - allowing decision making by the University to be informed by the views of the parties who will be affected by the decision, and
 - minimising the risks of conflict and misunderstanding.

While it is accepted that consultation may not lead to agreement by all of the parties, consultation does mean that the views that are expressed by them shall be taken into account before final decisions are made by the University.

- 3.5 'Disciplinary action' means action by the University to discipline a staff member for unsatisfactory performance or misconduct in accordance with the provisions of this Agreement and may include one or more of the following:
- (a) formal censure
 - (b) withholding of performance-related remuneration;
 - (c) demotion to a lower salary within a classification level;
 - (d) demotion by one or more classification levels;
 - (e) reversion to substantive position (applicable to reversionary appointments only);
 - (f) suspension with or without pay;
 - (g) termination of employment.
- 3.6 'Medical certificate' means a certificate issued by a person registered or licensed as a practicing health practitioner and the certificate is issued in respect of the area of practice in which the practitioner is registered or licensed.
- 3.7 'Policy' or 'procedure' means a University policy, procedure or guideline, as appropriate under the University policy framework.
- 3.8 'Representative' means a person chosen by the staff member where the staff member elects to be represented in relation to a specific matter under this Agreement. The chosen representative cannot be a person who is currently a practicing solicitor or barrister.
- 3.9 'Staff member' or 'staff' or 'Senior Staff' means one or more members of the Senior Staff employed by the University covered by this Agreement (refer to Clause 4, Application). 'Senior Staff' are all those appointed to Executive, management and senior specialist roles and any like positions created during the life of this Agreement.
- 3.10 'Supervisor' means the person or position as nominated by the University from time to time.

3.11 'The University' means the University of Technology, Sydney as the employer.

3.12 Use of singular and plural

For the purposes of this Agreement, unless the context otherwise requires, words in the singular include words in the plural and vice versa.

3.13 'Vice-Chancellor' means the person appointed as such to be the Vice-Chancellor of the University or equivalent, and includes anyone fulfilling that role on a temporary basis, or any nominee of the Vice-Chancellor.

4. APPLICATION

4.1 This Agreement will be binding according to its terms upon:

- (a) University of Technology, Sydney, and
- (b) Senior Staff employed by the University in accordance with this Agreement and who are paid a rate in accordance with Schedule 1 of this Agreement.

4.2 This Agreement does not apply to:

- (a) Support Staff solely classified as levels 1-10 in the University of Technology, Sydney Support Staff Agreement 2006; or
- (b) Academic Staff solely classified as levels A-E in the University of Technology, Sydney Academic Staff Agreement 2006.

5. RELATIONSHIP WITH AWARDS AND CERTIFIED AGREEMENTS

5.1 This Agreement constitutes a closed agreement and comprehensively regulates the relationship between the University and those employees whose employment is subject to the Agreement.

5.2 This Agreement is an Employee Collective Workplace Agreement pursuant to Section 327 of the *Workplace Relations Act 1996* (as amended) and rescinds and replaces the *University of Technology Sydney Certified Agreement (Senior Staff Group) 2004*. To remove any uncertainty, this Agreement wholly displaces and operates to the exclusion of all awards and other agreements that would otherwise apply to staff whose employment is regulated by the provisions of this Agreement.

5.3 Unless provided for by this Agreement, Protected Award Conditions (as defined under section 354 of the Act) including:

- (a) rest breaks
- (b) incentive-based payments and bonuses
- (c) annual leave loadings
- (d) observance of days declared by or under a law of the State of NSW to be observed generally within NSW as public holidays by workers in NSW and entitlements of staff to payment in respect of those days
- (e) days to be substituted for, or a procedure for substituting days referred to in paragraph (d)
- (f) monetary allowances for:
 - i. expenses incurred in the course of employment; or
 - ii. responsibilities or skills that are not taken into account in rates of pay for staff; or
 - iii. disabilities associated with the performance of particular tasks or work in particular conditions or locations
- (g) loadings for working overtime or for shift work
- (h) penalty rates
- (i) outworker conditions
- (j) any other matter specified in the *Workplace Relations Regulations (Commonwealth)* as varied from time to time

are expressly excluded by this Agreement.

5.4 Nothing in this Agreement shall be taken as incorporating as a term of this Agreement, any policy, procedure or guideline referred to in this Agreement. If there is any inconsistency between a policy, procedure or guideline and the express terms of this Agreement, the express terms of this Agreement prevail.

6. AUSTRALIAN WORKPLACE AGREEMENTS

The University may enter into Australian Workplace Agreements (AWAs) with staff covered by this Agreement. Those AWAs may either operate to the exclusion of this Agreement or prevail over those terms to the extent of any inconsistency, as specified in each AWA.

7. OBJECTIVES OF AGREEMENT

The objectives of this Agreement are to:

- (i) Optimise the capacity of UTS to attract and retain the best leaders by offering attractive remuneration and conditions;
- (ii) Contribute to creating a sense of collaboration and shared purpose across the University's senior management team;
- (iii) Foster a performance culture at UTS and to support this through effective and efficient performance management processes coupled with suitable rewards;
- (iv) Enable a direct employment relationship between the University and its senior managers;
- (v) Provide employment arrangements for staff which better reflect best practice and focus on improved productivity, efficiency, effectiveness, quality and flexibility. Such arrangements should establish a model for the arrangements that can then be extended to all staff; and
- (vi) Support and implement the principles of equity, diversity, workplace safety and sustainability.

8. LENGTH OF AGREEMENT

This Agreement will come into force on the date on which the Agreement is lodged in accordance with Section 347 of the *Workplace Relations Act 1996* (as amended), and will continue to be in operation for three years from the date of lodgement.

9 CHANGE MANAGEMENT

9.1 General principle

The University and staff recognise that change will occur as the University evolves over time and are committed to pursuing ongoing improvements in the quality of University programs and support services. It is acknowledged that sound management of workplace change includes the involvement of those who will be affected by the change. The process described in this clause applies to those changes that could reasonably be expected to significantly and detrimentally affect the job security and conditions of staff as employees.

9.2 Initiation of change

Consideration of issues which may lead to workplace change will be discussed with all staff likely to be affected, as early as possible and prior to a decision being taken to proceed with any change. Such staff will be informed about the process by which the change proposal will be examined.

9.3 Change process

A staff member likely to be affected by the change will have an opportunity for discussion with their supervisor and to comment on the change process and any accompanying documentation.

10. DISPUTE RESOLUTION PROCEDURES

General principles

10.1 As far as possible disputes should be resolved at the level at which they arise and by the staff directly involved in the dispute. Where a dispute arises out of the interpretation, application or operation of any provision of this Agreement, the procedures contained in this clause will be followed. Those who are party to a dispute must cooperate to ensure that these procedures are carried out as quickly as is reasonably possible. Throughout this process the staff member may choose to be assisted or represented by a representative of their choice.

Process

10.2 A staff member or group of staff initiating a dispute of the nature described in paragraph 10.1 shall notify their supervisor in writing and in sufficient detail for the supervisor to comprehend the matter(s) to which the dispute relates and the circumstances giving rise to the dispute.

10.3 Within 5 working days of initiating the dispute in accordance with 10.2, the staff member or group of staff and the supervisor will, in the first instance, meet and attempt to reach written agreement resolving the dispute.

10.4 Where the steps in subclause 10.3 are unsuccessful, the matter will be referred, as appropriate, to a more senior manager than the immediate supervisor within five working days, unless some longer period is agreed by the staff member or group of staff and the supervisor.

10.5 Where a dispute is not resolved under subclause 10.4, those who are party to the dispute may agree to seek the assistance of a mediator. The mediator must be agreed between the parties.

10.6 Except where an occupational hazard exists, until the procedures described in subclauses 10.2 to 10.5 have been exhausted:

- (a) work shall continue in the normal manner
- (b) no industrial action shall be taken by the University or the staff
- (c) the University, the staff member or the staff member's representative shall not take any other action likely to exacerbate the dispute.

10.7 Where the dispute is not resolved by the process referred to above, either party to the dispute may refer the matter to the AIRC for conciliation and/or arbitration.

10.8 Any dispute referred to the AIRC under this Clause should be dealt with by a member agreed by the parties to the dispute at the time or in default of agreement, a member nominated by either the head of the relevant AIRC panel or the AIRC President. Subject to any legal right of appeal or review which might exist, (which in the case of the Commission dealing with the dispute, shall include the right to appeal to a Full Bench of the AIRC) the resolution of the dispute shall be binding on the parties to the dispute.

PART B – PERFORMANCE AND REMUNERATION

11 PERFORMANCE REVIEW AND DEVELOPMENT

11.1 Principles

The performance review and development process at UTS provides a framework for identifying, evaluating and developing performance. The University is committed to the ongoing application of an effective performance review and development process, linked to the achievement of individual, work area and organisational goals.

At UTS performance and development are considered to be equally important for the achievement of results and continuous development of priority capabilities at all levels – for individuals, teams and the University. This dual focus supports a vibrant learning and working environment that also supports career and skill development of staff.

Senior staff and their supervisor will establish an annual program of development activities, which may include study release or other professional and/or leadership development activities. The development plan must be relevant to the senior staff member's role and the needs of the University.

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

- determine work priorities, workload and performance expectations over the next period;
- discuss the staff member's plans to take annual, long service and other forms of leave;
- provide feedback in relation to performance;
- discuss and identify assistance and support that will be provided to improve performance where performance is assessed as requiring improvement;
- identify the support that will be provided for professional and career development;
- update the position description for the staff member's position, if necessary; and
- discuss other personal and work issues that may impact on work performance.

All Senior Staff will participate in the performance review and development process. This includes staff serving a period of probation. The performance review and development process will be integrated with arrangements in relation to probation and performance pay.

12. PERFORMANCE PAY

12.1 Principles

12.1.1 This Agreement progresses the achievements made during the life of the previous Agreement in developing the performance-related reward model for Senior Staff. Over the life of this Agreement, increases in remuneration for senior staff will transition to being wholly based on assessment of performance undertaken in accordance with the performance review process in place at the University and applying at the relevant time.

12.1.2 In 2007, base salaries were increased by 3% from the first pay period commencing on or after 1 April 2007, with additional payments being subject to assessment of an individual's performance.

12.1.3 Salary adjustments will take effect from the first pay period commencing on or after 1 April each year.

12.2 Performance-Based Remuneration

The following principles will apply to performance-based remuneration from the review period in 2008 and thereafter:

- 12.2.1** Performance payments will be awarded in accordance with the performance review process in the range of 0% - 12% of base salary. The quantum of any performance increase will be linked to the assessment of performance made in accordance with the processes of the performance management system in place and applying at the relevant time.
- 12.2.2** Performance payments will be expressed as a percentage of base salary. A staff member may consolidate performance payments into base salary in accordance with the Performance and Remuneration Guidelines applying at the relevant time.
- 12.2.3** At the end of a 12-month review period, a staff member whose performance is assessed, in accordance with the Performance and Remuneration Guidelines, as '*meeting expectations*' will receive a 4% performance payment, which may be consolidated into base salary.
- 12.2.4** During the life of this Agreement, the University will examine ways in which performance payments might include an assessment of organisational performance.

12.3 Faculty-based salary supplementation and individual performance arrangements

- 12.3.1** For 2007, eligible staff who are already participating or who elect to participate in a faculty-based salary supplementation scheme shall not be considered for individual performance pay increases where such performance pay increases would result in their base salary moving beyond the midpoint of their salary scale.
- 12.3.2** For 2007, if a staff member who is appointed above the midpoint of a salary scale and either receives a salary supplementation payment from the time of appointment or subsequently chooses to participate in a salary supplementation scheme where available then that staff member is not entitled to be considered for individual performance pay increases.
- 12.3.3** Where staff and the University enter into individually designed performance-based remuneration arrangements, such arrangements may stipulate that the performance-based remuneration provisions described in this clause shall not apply.
- 12.3.4** From 2008, staff who participate in a faculty-based salary supplementation scheme or who have an individual performance arrangement will be required to participate in the performance review and development process to have access to any increases that might be consolidated into base pay as set out in sub-clause 12.2. They will not be eligible for any lump sum bonus components under clause 12.2.

13 SUPERANNUATION FLEXIBILITY

The University will, for the life of the Agreement, maintain existing arrangements for superannuation in respect of access to superannuation schemes, contribution rates and provisions according to the staff member's fund and membership classification. The University's default fund is UniSuper. Staff who are members of UniSuper can access the flexibility of superannuation contributions, including Choice of Fund, in the context of their UniSuper membership and in accordance with the UniSuper Fund's rules.

14 FLEXIBLE SALARY PACKAGING

All eligible employees may choose to enter into a salary packaging arrangement with the University for the purposes of receiving a salary lower than that to which they are entitled, in exchange for a "benefit" of equivalent value. The list of approved benefits and details of the scheme are contained in the University's salary packaging guidelines, as varied and amended from time to time.

PART C - LEAVE MATTERS

APPLICATION OF LEAVE PROVISIONS TO PART-TIME STAFF MEMBERS

A part-time staff member shall be granted the amount of leave available under the relevant clauses of this Agreement according to the proportion of full-time of her/his appointment.

15 PUBLIC HOLIDAYS

- 15.1** The days on which public holidays will be observed will be any day gazetted as a public holiday or any other day proclaimed by the Governor of New South Wales as a public holiday to be observed throughout the whole of the State or a region of the State.
- 15.2** A staff member who agrees to work on a public holiday shall be entitled to an alternative day off at a time agreed between the staff member and her/his supervisor.

16 ANNUAL LEAVE

Principles

Staff are encouraged to take annual leave to promote health and well-being. A staff member and her/his supervisor will discuss the staff member's annual leave plans in the context of their annual workplan. A staff member may take leave as it accrues subject to her/his supervisor's approval of the start and completion dates of that leave. A supervisor must normally approve annual leave prior to the staff member taking leave.

Eligibility and entitlement

- 16.1** All staff covered by this Agreement are entitled to paid annual leave. Full-time staff are entitled to 20 working days of annual leave per annum, accrued pro-rata on the basis of service. Service excludes periods of leave without pay.
- 16.2** A staff member may accumulate up to 40 days annual leave (pro-rata in the case of part-time staff). A staff member who has accumulated more than 40 days annual leave will be given notice by his/her supervisor to take annual leave within twelve months of the date of the notice. The supervisor's notice may specify the commencement and termination dates of such leave which must be for a period of at least 10 days. The leave will reduce the staff member's accumulated leave to less than 40 days on the staff member's return to work. The staff member will be provided with the opportunity to propose alternative dates for the leave, provided that the total period of leave is no less than the period specified by the supervisor. The supervisor and staff member may agree to alternative dates for the leave, subject to operational requirements.
- 16.3** Where, in accordance with sub-clause 16.2, a supervisor directs or approves a staff member to take a period of annual leave, the staff member will be regarded as being on leave for the period specified or approved by the supervisor and the staff member's leave credits will be reduced accordingly.

Leave arrangements on termination of employment

- 16.4** Staff should endeavour to take their accrued annual leave prior to the termination of their employment with the University.
- 16.5** A supervisor may direct a staff member to take any period of annual leave during the period of notice of termination of employment for any reason.

17 CHRISTMAS – NEW YEAR LEAVE

- 17.1** The University provides three days Christmas – New Year leave on full pay without deduction from

any leave account to all continuing and fixed-term staff. Christmas – New Year leave combined with the designated public holidays (Christmas Day, Boxing Day, New Year's Day) results in the University's closure over this period. One day is in lieu of Bank Holiday (August) while the other two days are provided by the University.

- 17.2** Where a staff member is required by their supervisor to work on any of the three days provided for in sub-clause 17.1, the supervisor and staff member will agree to an alternative day/s leave on full pay.

18 SICK LEAVE

Eligibility and entitlement

- 18.1** All staff covered by this Agreement are entitled to paid sick leave. For full-time staff sick leave accrues at the rate of 15 working days per calendar year of service. For staff starting work during the year and staff appointed for a fixed-term period of twelve months or less, the entitlement accrues for each full month remaining in that year. This entitlement accumulates with each calendar year of service and is reduced by any sick leave taken.
- 18.2** If unable to attend work through illness, a staff member shall notify their nominated supervisor within 24 hours of normal commencement of duty, stating the incapacity and likely length of absence. A medical certificate is required when a staff member takes four or more days of sick leave.
- 18.3** Staff may access their sick leave in the form of personal leave to provide care for sick relatives or household members or for bereavement due to the death of a relative or household member, in accordance with the provisions for Personal Leave (refer to sub-clause 19.5).

Sickness during annual and long service leave

- 18.4** A staff member who becomes ill for a period of five consecutive working days during annual or long service leave may claim sick leave (to the extent of sick leave accrued) instead of the annual or long service leave for the period of the illness. A medical certificate must be submitted covering the period of the sick leave.

Sick leave without pay

- 18.5** At the discretion of the University, a staff member whose sick leave entitlement has been exhausted may be granted sick leave without pay (SLWOP). A period of sick leave without pay must be covered by an appropriate medical certificate.

Special sick leave

- 18.6** Up to 20 days paid special sick leave may be granted by the Vice-Chancellor (or nominee) to a staff member who is terminally or critically ill and on an extended period of sick leave. Special sick leave may only be granted when normal sick leave and other leave entitlements have been exhausted.

19 PERSONAL LEAVE

Definitions

- 19.1** For the purposes of this Clause, '**relative**' is defined as follows:
- (a) spouse, former spouse, a de facto spouse, or former de facto spouse (de facto spouse includes partners of the same sex) or
 - (b) child or adult child (including adopted child, step-child, ward or ex-nuptial child), parent (including step-parent), grandparent, grandchild or sibling (including step- or half-sibling) of the staff member or staff member's spouse as defined in (a) above.

There may be definitions of 'relative' which are not included here but due to wider kinship and family networks of many cultures would be considered appropriate under this Clause.

Principles

19.2 Personal leave may be granted to assist staff to achieve a work life balance. Personal leave acknowledges that staff of the University are also members of families and communities and have commitments not related to work. In addition to the personal leave available in accordance with this Clause, staff may use available annual leave or long service leave, or leave without pay for personal reasons. The University expects supervisors to be sensitive and flexible in making arrangements for staff members to attend to personal matters.

Entitlement

19.3 A staff member may be granted up to seven days personal leave with pay per calendar year under circumstances including the following:

- (a) to provide care or support to relatives or members of their household who are ill
- (b) bereavement due to the death of a relative or household member
- (c) to deal with an emergency situation arising due to fire, flood, burglary or other unforeseen event beyond the control of the staff member
- (d) where the carer of a staff member's child is unable to look after the child
- (e) attendance at the staff member's own graduation, citizenship and justice of the peace ceremony (normally expected to be up to half a day for each ceremony)
- (f) moving house (normally expected to be up to one day per twelve months)
- (g) appointments and commitments associated with pre and post natal responsibilities
- (h) to adhere to and celebrate cultural or religious days of observance.

19.4 Personal leave is not cumulative.

19.5 In addition to an entitlement to personal leave, a staff member is entitled to access his/her sick leave accrued from 24 October 1995 for leave to provide care or support to relatives or members of their household who are ill (ie sub-clause 19.3(a) above) or for bereavement due to the death of a relative or household member (ie sub-clause 19.3(b) above).

19.6 Staff who have exhausted their personal leave and sick leave entitlements may apply for any available annual leave and/or long service leave or leave without pay to cover the necessary period of absence. In exceptional circumstances such as multiple deaths within a family and/or household in a twelve month period, additional paid personal leave may be granted by the Vice-Chancellor.

20 LONG SERVICE LEAVE

Principles

Long Service Leave is an entitlement that recognises length of service to the University. Once staff become eligible to take long service leave, they are encouraged to take periods of long service leave during their employment. Staff and supervisors will discuss staff members' long service leave plans in the context of annual workplans.

Eligibility and entitlement

- 20.1** A full-time staff member is entitled to long service leave at the rate of 44 working days long service leave on full pay on the completion of ten years service. After the initial ten years service, long service leave accrues at the rate of eleven working days for each completed year of service and pro-rata for less than a completed year of service.
- 20.2** Subject to the operational requirements of the University, a staff member may take long service leave at a time of his/her choosing if the staff member provides a minimum of six months written notice. If the staff member provides less than six month's notice, the leave may be granted at the discretion of the supervisor. Long service leave may be taken on half pay.

Effect of leave without pay

- 20.3** Periods of leave without pay (except sick leave without pay, which, when aggregated, does not exceed six months) are not counted as service for the purpose of determining eligibility for long service leave (ie calculating ten years service).

Pro-rata long service leave

- 20.4** Staff who have completed between five and ten years of service are entitled to payment for long service leave on a pro-rata basis in the following circumstances:
- (a) upon termination of employment for any reason other than unsatisfactory performance or misconduct (eg medical retirement or redundancy)
 - (b) upon resignation on account of illness, incapacity or domestic or other pressing necessity; or
 - (c) upon retirement at or after age 60 or at such retirement age in accordance with the provisions of the relevant superannuation scheme; or
 - (d) upon the expiry of one or more continuous fixed-term appointments.
- 20.5** In the case of the death of a staff member any long service leave entitlement, including pro-rata entitlements, will be paid to the staff member's estate.

Recognition of prior service with another institution

- 20.6** Service for full-time or part-time staff commencing on or after 26 January 1988 (date of establishment of UTS) means full-time or part-time service (whether continuous or broken) as a staff member at UTS and/or continuous full-time or part-time service with other Australian higher education institutions (includes Universities and CAEs, does not include TAFE).
- 20.7** For the purposes of sub-clause 20.6 above continuous service is deemed to be where the period between ceasing with one employer and commencing with the next is not greater than two months. This intervening period is not counted as service.
- 20.8** Notwithstanding sub-clause 20.6 above, if a staff member has taken long service leave or is eligible to be paid or has been paid in lieu of long service leave by the releasing institution or any other institution, the staff member will not accrue any entitlement to leave for the period of service with the releasing institution for which leave has been taken, paid or for which there is eligibility for payment, but subject to this sub-clause such a period shall be included as qualifying service for determining when the staff member is next eligible to take long service leave.

21 LEAVE WITHOUT PAY

- 21.1** All staff covered by this Agreement may apply for leave without pay. Leave without pay may be granted at the discretion of the University.
- 21.2** Leave without pay does not break continuity of service: a staff member remains a staff member of the University during leave without pay and the provisions of many policies continue to apply during leave without pay. For example, staff are bound by the University's Code of Conduct, and may apply for positions/promotion rounds advertised within the University.

21.3 Periods of leave without pay will not count as service for the purpose of determining entitlements (subject to sub-clause 20.3 which outlines the effects of leave without pay on long service leave).

22 PARENTAL LEAVE

Definition

For the purposes of this Clause, 'partner' includes same sex partners.

Principles

22.1 Parental leave enables parents employed at UTS to care for their child (biological, adopted or foster). Parental leave incorporates maternity, adoption, partner's and foster parent's leave.

Eligibility for parental leave

22.2 All staff covered by this Agreement employed on a continuing or fixed-term basis may be eligible for parental leave.

22.3 A fixed-term staff member will only be granted paid and/or unpaid parental leave if the period of leave falls within the time span of their fixed-term appointment. If the fixed-term staff member is subsequently offered another appointment, he or she may extend into the period of the new appointment the date for return from leave.

Basic entitlement

22.4 Staff are entitled to up to 104 weeks unpaid parental leave from the date of birth or taking custody of the child after completion of 40 weeks continuous service. The 40-week service requirement applies to all forms of parental leave.

Paid parental leave - maternity and adoption

22.5 To be eligible for paid parental leave, a female staff member (in the case of maternity leave) or the primary carer (in the case of adoption leave) must have completed 40 weeks continuous service prior to the expected date of birth or adoption of the child. Unless there is a break in service this qualifying period need only be served once.

22.6 The paid parental leave entitlement comprises:

- (a) up to 20 weeks leave on full pay which may be taken as 40 weeks on half pay or a mix of full and half pay to commence no later than the date of birth or adoption of the child
- (b) up to 30 days paid leave for phased return to work. All or part of the equivalent value of this leave (calculated at the salary rate applicable at the date of return from parental leave) may be used for professional and career development projects.

22.7 If both parents are UTS staff they may share the paid parental leave provided that both staff have completed the 40-week qualifying period prior to the expected date of birth or adoption of the child. However, the partner's entitlement to parental leave will be reduced by any paid partner's leave taken at the time of the birth or adoption of the child.

Unpaid parental leave

22.8 A primary carer is entitled to a grant of up to 104 weeks unpaid parental leave from the date of birth or date of placement of her/his child.

Cessation of pregnancy

22.9 In the event of a still birth or miscarriage after the commencement of parental leave, the staff member may access their personal, sick, annual, long service leave and/or leave without pay for such period as a registered medical practitioner certifies as necessary. A staff member's illness not related to the direct consequences of the birth will be dealt with in accordance with Clause 18 [Sick Leave].

Partner's leave

22.10 A staff member is entitled to a period of up to 20 working days paid leave (paid partner's leave), which may be taken at any time in the three-month period following the birth of a child of his/her partner or on placement of a child (in the case of adoption leave).

Foster parents' leave

22.11 A staff member who assumes the role of primary carer for a foster child shall be granted a maximum of the following in the twelve month period from the time the foster child enters the staff member's care:

- (a) six weeks at half pay or three weeks at full pay if the child is under five; or
- (b) three weeks at half pay or eight days at full pay if the child is five years of age or older.

Right of return to former position

22.12 A staff member has a right to return to their former position after parental leave. 'Former position' is defined as the position held by the staff member immediately prior to the commencement of leave; except where by reason only of the pregnancy a staff member has been transferred to a more suitable or safe position before commencing maternity leave, the position held by her immediately before she transferred to the temporarily suitable or safe position.

23 COMMUNITY LEAVE

Special community leave may be granted to staff to enable them to perform a service to the community. This leave applies only to activities which are not regarded as duty and which are not covered by other forms of available leave. The length of the period of leave granted will vary depending upon the circumstances. However, the leave is to be limited to the minimum time necessary in each circumstance. Community leave may be taken for matters such as:

- jury service
- attendance as a witness for the Crown
- attendance as a witness for proceedings in the AIRC
- volunteer emergency services as a member of a voluntary service organisation
- blood donation
- military service
- participation in National Aboriginal and Islander Day of Observance Committee (NAIDOC) Day by indigenous Australian staff
- selection as a representative for participation in National and/or International sporting competitions.

24 ABSENCE FROM DUTY

24.1 Staff must advise their supervisors of all absences from duty. Normally, prior notice of absence must be provided, however, where such notice cannot be provided staff shall notify their supervisors within 24 hours of normal commencement of duty stating the reason for the absence and likely length of absence.

24.2 Staff are required to promptly submit a leave application in respect of any absence. Where a leave application is not provided by a staff member, the supervisor may arrange for the appropriate leave record to be adjusted and for the staff member to be notified of that adjustment.

- 24.3** Failure by a staff member to advise their supervisor of an absence in excess of ten sequential working days must be brought to the attention of the Director, Human Resources by the supervisor. The Director, Human Resources may deem the absence to be abandonment of employment and the staff member's employment may be terminated.
- 24.4** Where a staff member's employment is terminated in accordance with sub-clause 24.3 above and the staff member can provide reasonable justification for an absence, the Director, Human Resources will reinstate the staff member's employment.

PART D – GENERAL CONDITIONS OF EMPLOYMENT

25 MODES OF EMPLOYMENT

25.1 Full-time employment

Full-time employment means employment for the full number of hours prescribed by sub-clause 29.1. A staff member may be employed full-time on either a continuing or fixed-term basis in accordance with Clause 26 (Categories of Appointment).

25.2 Part-time employment

Part-time employment means employment for a specified period of time where such time is less than the normal weekly hours specified for a full-time staff member and/or less than the ordinary weeks per year, and for which all entitlements are paid on a pro-rata basis calculated by reference to the time worked.

Staff employed on a part-time basis will receive the salary and non-salary conditions of a full-time appointment calculated on a pro-rata basis.

26 CATEGORIES OF APPOINTMENT

The University shall engage senior staff on either a fixed-term or continuing basis. Fixed-term employment is the normal category of appointment that applies to senior staff, although the Vice-Chancellor may approve employment of a senior staff member on a continuing basis. Nothing in this clause shall limit the number or proportion of staff that UTS may employ in a particular type of appointment.

26.1 Continuing appointment

A continuing appointment is made for an indefinite period. A continuing appointment may be made on either a full-time or part-time basis.

26.2 Fixed-term appointment

A fixed-term appointment is made for a specified term or ascertainable period of up to 5 years. The contract for this employment will specify the starting and finishing dates of that employment. A fixed-term appointment may be made on either a full-time or part-time basis.

26.3 Reversionary appointment

A Senior Staff appointment may provide for reversion to a substantive position at the conclusion of the Senior Staff appointment. The letter of appointment to the Senior Staff position will specify if reversionary arrangements are to apply and the classification level applicable.

27. RENEWAL OF FIXED-TERM APPOINTMENTS

27.1 Fixed-term appointments may be renewed at the discretion of the University for periods of up to five (5) years.

27.2 The University will provide a staff member, whose fixed-term appointment is to be renewed with notice of renewal according to the following:

Length of fixed-term appointment	Notice of renewal
2 years or less	3 months
More than 2 years and up to 5 years	6 months

27.3 Where the staff member is reappointed for a further term, the existing level of remuneration will normally apply. Where a staff member who has a reversionary appointment is not offered another term and the staff member reverts to their substantive level then they will transfer to the point on the substantive salary scale they would have reached had they not been appointed to the senior staff position.

28 PROBATION

28.1 Application

The provisions of this clause apply to new staff members covered by this Agreement and employed from the date of lodgement of the agreement. Staff members who are already members of the University and have completed a probationary period will not be required to participate in a period of probation upon appointment to a position covered by this Agreement.

28.2 Period of probation

28.2.1 For staff on continuing appointments, the probation period will be determined at the time of appointment and will be six to twelve months, giving consideration to the level and complexity of the position and the period of appointment.

28.2.2 For staff on fixed-term appointments the period of probation will be six to twelve months except that the period of probation must not exceed one quarter of the period of appointment. The length of probation will be determined at the time of appointment giving consideration to the level and complexity of the position and the period of appointment.

28.2.3 The University may decide to waive or shorten the probationary period for a staff member.

28.3 Probation process

28.3.1 A formal review of the staff member's performance will be conducted by the supervisor before the end of the period of probation resulting in a recommendation to the supervisor's supervisor about continuation or termination of appointment. The final decision on probation will be made by the Vice-Chancellor.

28.3.2 Where employment is to be terminated, the University may, at its discretion, provide up to four (4) weeks notice or payment in lieu thereof to the staff member.

28.3.3 Despite any other provision of this Agreement, the University may, at any time during the probation period, confirm or terminate the employment of a probationary staff member.

29 HOURS ARRANGEMENTS

29.1 The normal pattern of attendance is five seven-hour days per week, Monday to Friday, except where alternative arrangements are specified in the staff member's letter of appointment or otherwise agreed with their supervisor.

29.2 Senior staff engaged on a part-time basis will work the hours specified in their letter of appointment.

29.3 At all times senior staff must be mindful of the workload demands set for staff, the potential impact of excessive working hours on health and the need to plan for and provide opportunities for leave.

30 EQUITY

30.1 Anti-discrimination

In accordance with relevant anti-discrimination legislation, the University will not discriminate and will work to help prevent and eliminate any such discrimination at UTS.

30.2 Pay Equity

The University will continue to monitor pay equity issues within UTS, and is committed to the development and implementation of appropriate strategies to remedy any identified problems.

30.3 Career Equity

The University will progressively implement strategies designed to overcome career path obstacles for all staff but with particular emphasis on redressing points of disadvantage experienced by women and members of other EEO groups.

30.4 Access and Equity for Staff with Disabilities

The University is committed to making reasonable accommodation for staff with disabilities to enable them to perform their duties. The University will continue to monitor and report on access and equity for staff with disabilities and is committed to the development and implementation of appropriate strategies to remedy any identified problems.

31 INDIGENOUS AUSTRALIAN EMPLOYMENT

For the purposes of this clause "Indigenous Australian person" means a person of Aboriginal or Torres Strait Island descent who identifies as an Aboriginal or Torres Strait Island person and is accepted as such by his/her community.

31.1 Objectives

The University and the Senior Staff Group as parties to this Agreement are committed to the objective of increased employment and development opportunities for Indigenous Australians inside the University. This objective is a desirable end in itself and forms part of the University's commitment to reconciliation with Indigenous Australian people as well as being a necessary pre-condition for improving Indigenous Australian student participation throughout the University.

PART E – DISCIPLINE AND TERMINATION

32 MANAGING UNSATISFACTORY PERFORMANCE

Nothing in this clause prevents the Vice-Chancellor referring a question of possible unsatisfactory performance to a supervisor for appropriate action.

32.1 The provisions of this clause apply when taking disciplinary action against a staff member, but not a probationary staff member, for unsatisfactory performance. However, where a matter that may involve unsatisfactory performance has been dealt with in good faith as though it were a case of misconduct, the procedures of this clause are not required, but the procedures of Clause 33, including notice periods and review procedures, must be followed.

32.2 If a supervisor forms the view that the performance of a staff member is unsatisfactory, the supervisor will address the issue(s) promptly and, in consultation with the staff member, will develop and implement specific strategies to address any concerns related to the staff member's performance.

32.3 To assist the staff member to address any performance concerns, the supervisor will:

- (a) counsel the staff member on the nature of the improvement required and the time within which reasonable improvement is expected;
- (b) inform the staff member that action is being taken in accordance with this clause, and
- (c) make a record of the counselling given and provide a copy to the staff member.

32.4 Where a supervisor believes that the processes referred to in 32.2 have not produced the desired improvements in performance, the supervisor will make a report to the Authorising Officer and, at the same time, provide a copy to the staff member. The report will state clearly the aspects of performance viewed as unsatisfactory and the record of attempts to remedy the problem/s. The staff member will be invited to make a written response at this time. The staff member may, within ten working days of receipt of the report, submit to the Authorising Officer a written response to the report. The Authorising Officer will review the report and any response provided by the staff member and may decide to refer the report to the Vice-Chancellor.

32.5 Upon receipt of the report and any written response from the staff member, the Vice-Chancellor will first be satisfied that:

- (a) appropriate steps have been taken to bring the unsatisfactory nature of performance to the staff member's attention;
- (b) an adequate opportunity to respond was given;
- (c) any response was taken into account, and
- (d) a reasonable opportunity has been afforded to remedy the performance problem.

32.6 The Vice-Chancellor may then decide to:

- (a) take no further action;
- (b) refer the matter back to the supervisor (via the Authorising Officer) to ensure that the steps referred to in paragraph 32.5 are complied with in substance and in a manner appropriate to the circumstances, or
- (c) take disciplinary action.

32.7 The Vice-Chancellor will advise the staff member in writing of the decision and the date of effect of the decision.

32.8 The decision of the Vice-Chancellor under this clause will be final. However, this does not exclude the jurisdiction of any external tribunal that would be competent to deal with the matter.

33 DISCIPLINARY ACTION FOR MISCONDUCT

- 33.1** For the purposes of this clause **'Misconduct'** means:
- (i) 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; or
 - (ii) 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; and/or
 - (iii) serious dereliction of duties.
- 33.2** The Vice-Chancellor must follow the provisions of this clause before taking disciplinary action against a staff member for misconduct. However, where a matter that may involve misconduct has been dealt with in good faith as if it were a case of unsatisfactory performance under Clause 32, the procedures of this clause are not required, but the procedures of Clause 32 must be followed.
- 33.3** The Vice-Chancellor will consider any allegation/s of misconduct. If the Vice-Chancellor believes the allegation/s warrant further investigation then the Vice-Chancellor will:
- (a) notify the staff member in writing and in sufficient detail to enable the staff member to understand the precise nature of the allegation/s, and to properly consider and respond to them; and
 - (b) require the staff member to submit a written response within ten working days.
- 33.4** If the staff member denies in part or full the allegation/s, or fails to submit a written response to any allegations, the Vice-Chancellor will:
- (a) arrange for the matter to be investigated; or
 - (b) counsel and/or censure the staff member for unsatisfactory behaviour and take no other action; or
 - (c) take no further action.
- 33.5** If the staff member admits in full the allegation/s, and the Vice-Chancellor is of the view that the conduct amounts to misconduct, then the Vice-Chancellor may take disciplinary action, subject to following the procedure described in subclause 33.6.
- 33.6** Before deciding to take disciplinary action, the Vice-Chancellor will:
- (a) invite the staff member to advise within five working days, in writing, any matters that he or she may wish the Vice-Chancellor to take into account at the time a decision as to disciplinary action is considered;
 - (b) have regard to any such matters brought to attention by the staff member when deciding whether any disciplinary action should be taken; and
 - (c) advise the staff member of that decision and of the operative date of any disciplinary action to be taken.
- 33.7** Where the Vice-Chancellor is of the view that there has been no misconduct and decides to take no further action under 33.4, the Vice-Chancellor will immediately advise the staff member in writing and may, by agreement with the staff member, publish the advice in an appropriate manner.

Investigation of Misconduct

- 33.8** Where a matter is referred for investigation in accordance with 33.4(a), an investigator will be appointed by the Vice-Chancellor within 20 working days.
- 33.9** The investigator will investigate the facts relating to the alleged misconduct, including whether any mitigating circumstances are evident.
- 33.10** The investigator will:
- (a) meet with the Vice-Chancellor and staff member who each may be assisted or represented by a representative (in the case of a staff member), or the University's relevant association (in the case of the University);

- (b) interview any person and take account of any material the investigator thinks fit to establish the merits or facts of the particular case;
- (c) conduct the investigation normally within one month of the appointment of the investigator unless otherwise agreed between the Vice-Chancellor and the staff member.

33.11 Within 10 working days (or longer period as agreed between the Vice-Chancellor and staff member) of completing the process under 33.10, the investigator will provide a report to the Vice-Chancellor and the staff member.

33.12 On receipt of the report of the investigator, and having considered its findings on the facts related to the alleged misconduct, including any findings as to whether any mitigating circumstances are evident, the Vice-Chancellor may take disciplinary action.

33.13 If, having considered the investigator's findings on the facts, the Vice-Chancellor is of the view that there has been no misconduct the Vice-Chancellor will immediately advise the staff member in writing. The Vice-Chancellor may, by agreement with the staff member, publish the advice in an appropriate manner.

Suspension

33.14 The Vice-Chancellor may suspend a staff member with pay, or without pay if the Vice-Chancellor is of the view that it would be unreasonable to continue the staff member's attendance at work pending further investigation.

33.15 Any such suspension will be subject to the following conditions:

- (a) where suspension without pay occurs at a time when the staff member is on paid leave of absence the staff member will continue to receive a salary for the period of leave of absence;
- (b) the staff member may engage in paid employment or draw on any annual leave or long service leave credits for the duration of the suspension without pay;
- (c) the Vice-Chancellor may at any time direct that salary be paid on the ground of hardship.

33.16 During any period of suspension the staff member may be excluded from the University, however, he/she will be permitted reasonable access to the University for the preparation of his/her case and to collect personal property.

33.17 Where a staff member has been suspended without pay pending the decision of the Vice-Chancellor, then any pay withheld will be reimbursed if it is determined that there was no misconduct.

33.18 A decision taken by the Vice-Chancellor's not to dismiss or impose another penalty will not be construed as an admission that there was no conduct justifying suspension without pay.

Other Matters

33.19 This clause in no way constrains the University 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.

33.20 The action of the Vice-Chancellor 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.

34 NOTICE PERIODS FOR TERMINATION BY THE UNIVERSITY

34.1 Where, in accordance with subclauses 32.7 and 33.12, the Vice-Chancellor has confirmed a decision to terminate the employment of a staff member, notice or payment in lieu will be as provided in subclauses 34.2 to 34.4.

34.2 The staff member will receive the following minimum period of notice of their last day of duty as follows:

Period of continuous service	Period of notice
1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years of completed service	4 weeks

34.3 In addition to this period of notice, staff who are over 45 years of age at the time of giving notice and who have at least two years' continuous service with the University will receive an additional one week of notice.

34.4 Payment instead of notice will be made if the University 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, the University will pay out the remainder of the notice period. Any payments in lieu of notice will be based on the staff member's salary at the date of cessation of employment.

34.5 In instances of termination as a result of misconduct involving suspension without pay, there will be no requirement for the notice prescribed in this clause.

35 REDUNDANCY

35.1 Application

This clause applies to a continuing staff member and not to staff who are on fixed-term or reversionary appointments.

35.2 Definition

'Redundant position' means a position that is identified as surplus to the University's requirements for reasons of an economic, technological, structural or similar nature. Such reasons may include, but are not limited to:

- (a) a decrease in student demand or enrolments in any academic course or subject or combination or mix of courses or subjects conducted on one or more campuses;
- (b) a decision to reduce or cease providing or to vary a service, function or activity conducted on one or more campuses;
- (c) financial exigency within an organisational unit or cost centre; or
- (d) changes in technology or work methods.

35.3 Provision of information and consultation

35.3.1 Where the University has decided to make redundant the positions of one or more staff, it will:

- (a) provide affected staff with relevant information including the following:
 - (i) the redundancies and the reasons for them;
 - (ii) the number and categories of staff likely to be affected; and
 - (iii) the time when, or the period over which, the University intends to carry out the redundancies
- (b) consult with affected staff about measures to mitigate any negative consequences of the change. Such measures may include natural attrition, voluntary separation, fixed-term

retirement contracts, leave without pay, voluntary conversion to part time employment (for a specified period of time unless otherwise agreed), long service leave, and/or redeployment.

35.3.2 Following the discussions with the affected staff, the University will decide which measures will be pursued.

35.4 Voluntary separation

35.4.1 The Vice-Chancellor may invite the staff member(s), who have been provided with information as required under paragraph 35.3.1, to apply for voluntary separation. The invitation will include details of the voluntary separation benefit that would be payable, under subclause 35.5.

35.4.2 A staff member will have six weeks from the date of the Vice-Chancellor's invitation in which to submit an application for voluntary separation to the Vice-Chancellor.

35.4.3 Where a staff member applies for voluntary separation the Vice-Chancellor must inform the staff member whether the application is approved no later than 5 working days after the expiration of the six week period referred to in paragraph 35.4.2. Where the Vice-Chancellor does not approve the application, the staff member will be advised of the reasons for that decision and will be informed that their employment is to continue.

35.5 Voluntary separation benefit

For the purposes of this subclause 'pay' means current base salary.

- (i) The amount paid for voluntary separation will consist of the following components:
 - (a) a lump sum of 12 weeks pay
 - (b) severance pay at the rate of 3 weeks pay for each completed year of service for the first 10 years of service
 - (c) for each year of service thereafter severance pay at the rate of 2 weeks pay for each completed year of service
 - (d) the total amount of payment under (a), (b) and (c) above shall not in total exceed payment equivalent to 66 weeks pay
 - (e) entitlements in the form of accrued annual leave and long service leave.
- (ii) The final date of employment will be determined by the staff member's supervisor in consultation with the staff member.
- (iii) All payments under this subclause will be calculated on the basis of the pay applicable to staff member's average proportion of full-time employment over his/her last five years of service or his/her proportion of full-time employment at the date of cessation of employment, whichever is the greater.
- (iv) The benefits under 35.5 are in lieu of any notice period, access to a scheme of redeployment or other redundancy benefit.

35.6 Retrenchment

35.6.1 Following the close of the period for application referred to in 35.4.2, the Vice-Chancellor may formally advise in writing any staff member who has not applied for voluntary separation that the staff member occupies a position deemed to be surplus to the requirements of the University and that their employment will be terminated in accordance with this clause. Such a termination is referred to as a "retrenchment".

35.6.2 Benefits on retrenchment

- (i) A staff member will be given eight weeks' notice (or equivalent compensation) prior to a retrenchment taking effect.
- (ii) On retrenchment, a staff member will receive a severance payment of two weeks for each completed year of service with the University, to a maximum of 38 weeks' salary.

35.7 Leave and expenses

35.7.1 A staff member who is retrenched will be entitled to reasonable leave with full pay to attend necessary employment interviews. Where expenses to attend such interviews are not met by the prospective employer, the staff member will be entitled to reasonable travel and other incidental expenses incurred in attending such interviews as determined by the University.

35.7.2 The University will reimburse reasonable costs and charges as determined by the Authorising Officer (or equivalent) associated with a program of retraining as an agreed measure to mitigate the effects of his/her position being surplus.

36 SEPARATION FROM EMPLOYMENT ON MEDICAL GROUNDS

36.1 The procedures outlined in this clause apply to all staff covered by this Agreement. Nothing in this clause is intended to preclude a staff member from initiating separation from employment on medical grounds or from applying to their superannuation fund for ill-health retirement or temporary disability benefit.

36.2 If the Vice-Chancellor believes there is doubt regarding a staff member's capacity to perform the duties of their office, the Vice-Chancellor may require the staff member to undergo a medical examination. The University will choose a medical practitioner to conduct the medical examination at the expense of the University. The Vice-Chancellor will provide a staff member with written notice that a medical examination is required.

36.3 If, within the notice period referred to in subclause 36.2, the staff member elects to apply to their superannuation fund for ill-health retirement or temporary disability benefit and provides the Vice-Chancellor with evidence of the application and co-operates with the superannuation fund in the processing of the application, the requirement for a medical examination will lapse. In this case, subject to the provisions of this Clause, the Vice-Chancellor will take no further action until such time as the superannuation fund has reached a decision on the application.

36.4 Where the superannuation fund decides that the staff member, following a period of receipt of a temporary disability benefit, is capable of resuming work and the Vice-Chancellor elects to dispute this decision, the Vice-Chancellor may proceed to provide the staff member with written notice of not less than two months, except in exceptional circumstances, that a medical examination is required.

Medical report

36.5 Where a medical examination is sought by the University, the practitioner conducting the examination will be asked to advise whether the staff member is unable to perform his or her duties and is unlikely to be able to resume those duties within a reasonable time, being not less than twelve months. A copy of the medical practitioner's report will be made available to the Vice-Chancellor and to the staff member. The staff member will also be advised that an application to refer the report to a panel of medical practitioners for confirmation may be made within 14 days of the medical report being supplied to the staff member.

36.6 Notwithstanding the provisions of subclause 36.5, where a staff member has been continually absent from employment on account of a medical condition which has been the subject of examination under subclause 36.5, and the absence has been for a period of not less than two years, the University may terminate the staff member's employment with six month's notice or pay in lieu thereof.

- 36.7** A staff member (or person acting on their behalf) may request that the findings of the medical examination referred to in subclause 36.5 be confirmed by a panel of medical practitioners in accordance with subclause 36.9 below. The Vice-Chancellor must receive such a request within 14 days of the medical report being supplied to the staff member.
- 36.8** If such a request is received, the Vice-Chancellor will not terminate the employment of the staff member unless and until the panel confirms the findings of the report.
- 36.9** Where a request pursuant to subclause 36.7 is received, the required panel will consist of three medical practitioners, as follows:
- (a) one medical practitioner appointed by the University;
 - (b) one medical practitioner appointed by the staff member or a person acting on his/her behalf; and
 - (c) one medical practitioner appointed by the President of the New South Wales Branch of the Australian Medical Association.

This panel will not include the practitioner who made the initial report. Every effort will be made to appoint a panel no later than seven days from the staff member's request being received by the Vice-Chancellor.

- 36.10** In making an assessment as to whether or not a staff member is unable to perform his/her duties and is unlikely to be able to resume them within twelve months, the medical practitioner or panel of practitioners, as far as possible, will apply the same standards of permanent incapacity as contained in the trust deeds of the staff member's superannuation scheme, if any, in determining qualification of a disablement pension or other similar benefit.

Separation from employment

- 36.11** If the medical examination report reveals that the staff member is unable to perform his or her duties and is unlikely to be able to resume them within twelve months, and a request pursuant to subclause 36.7 has not been received, the Vice-Chancellor may terminate the staff member's employment. In this case, the University will provide six months notice or pay in lieu thereof.
- 36.12** The University may, at its option, pay compensation in lieu of notice equal to the total amounts that the University would have been liable to pay to the staff member if the staff member's employment had continued until the end of the required period of notice. Prior to taking action to terminate the employment of a staff member, the Vice-Chancellor may offer the staff member the opportunity to submit a resignation. If a resignation is offered, the Vice-Chancellor will accept it immediately and will not proceed with action to terminate employment.
- 36.13** Failure by a staff member to undergo a medical examination may be regarded as prima facie evidence that a medical examination would have found the staff member unable to perform their duties and unlikely to be able to resume them within twelve months. In this case, the Vice-Chancellor may act in accordance with subclause 36.11. However, such a failure by a staff member in these circumstances will not constitute misconduct nor lead to any greater penalty or loss of entitlements than would have resulted from an adverse medical report.
- 36.14** These provisions will not displace or override any existing workers' compensation schemes or awards whether State or Federal, including WorkCover, or the provisions contained in any workers' compensation or relevant discrimination legislation that may be enacted.

SCHEDULE 1

Senior Staff Classification Structure

Classification	Minimum salary point
Senior Staff Specialist 1	\$83,900
Senior Staff Specialist 2	\$95,352
Senior Staff Specialist 3	\$106,804

Classification	Minimum salary point
Senior Staff Group 1	\$83,900
Senior Staff Group 2	\$100,517
Senior Staff Group 3	\$119,846
Senior Staff Group 4	\$142,483
Senior Staff Group 5	\$169,651

NOTE: The salary points in the above table will be reviewed annually in light of outcomes arising out of the annual performance review process undertaken in accordance with clause 12 and benchmarked against relativities in the external marketplace.