



THE UNIVERSITY OF
NEW SOUTH WALES

**UNSW (Language Staff)
Enterprise Agreement 2004**

27 April 2004

Part 1 GENERAL

1.0 Title

This agreement will be known as *UNSW (Language Staff) Enterprise Agreement 2004* - "Agreement".

2.0 Arrangement

Clauses	Subject matter
Part 1	General
1.0	Title
2.0	Arrangement
3.0	Application and Operation
4.0	Definitions
Part 2	Remuneration
5.0	Salaries
6.0	Salary Sacrificing Scheme
7.0	Higher Duties Allowance and Appointment to a Higher Graded Position
8.0	Superannuation
Part 3	Organisational Change
9.0	Managing Change in the Workplace
Part 4	Conditions of Employment
10.0	Employment of Language Staff
11.0	General Terms and Conditions of Employment
12.0	Teacher Coordinators
13.0	Fixed-term Employment
14.0	Conversion from Fixed-term to Continuing Employment
15.0	Hours of Work
16.0	Annual Teaching Hours
17.0	Meal Breaks
18.0	Class Sizes
19.0	Performance Management and Misconduct
Part 5	Leave
20.0	Sick Leave
21.0	Annual Leave
22.0	Long Service Leave
23.0	Defence Forces Reserves Training Leave
24.0	Bereavement Leave
25.0	Special Leave
26.0	Parental Leave
27.0	Carer's Leave
28.0	Leave Without Pay

29.0	Employees Called as Witnesses
30.0	Employees Summoned as Jurors
31.0	Holy Days and Essential Religious or Cultural Duties
32.0	Public Holidays

Part 6 Other Matters

33.0	Consultation Between the Parties
34.0	Dispute Settling Procedures
35.0	Compensation for Loss or Damage to Personal Property
36.0	Occupational Health and Safety and First-aid
37.0	Career Development Scheme
38.0	Staff Personnel Files
39.0	No Extra Claims
40.0	Reopening of Negotiations

Part 7 Schedule

Schedule 1	Salaries
------------	----------

3.0 Application and operation

- (a) This Agreement will bind the National Tertiary Education Industry Union and the University of New South Wales; and binds and applies to all employees, as defined in the Agreement and according to its terms.
- (b) This Agreement will operate from the date of certification by the Australian Industrial Relations Commission (AIRC) until 1 December 2006.
- (c) This Agreement operates to the exclusion of any award of the AIRC except for the *Tertiary Education Superannuation Scheme (TESS) Superannuation Award 1988*.
- (d) This Agreement rescinds and replaces the *UNSW (Language Staff) Enterprise Agreement 2000*.
- (e) The University may offer Australian Workplace Agreements in accordance with the *Workplace Relations Act 1996*.
- (f) A copy of the Agreement will be made available to all employees.

4.0 Definitions

In this Agreement the following words mean:

Contact hours - hours of work in which the employee is engaged in face-to-face teaching and supervision of students in scheduled classes, laboratories, tours and excursions, including time spent consulting with students inside scheduled teaching programs, but does not include time spent in course preparation and administration.

Time allocated to required in-service training will entail a reduction in contact hours and preparation and administration related to those contact hours.

Director - the Director of the Institute of Languages or his or her nominee.

Employee(s) - Language staff employed by the University at or for the Institute.

Head of department - an employee who is assigned the responsibility for the overall management, supervision and administration of a department within the Institute, and whose duties may include teaching.

Institute - the Institute of Languages.

Language staff - employees employed in any class of work which forms a substantial part of the duties of the classifications of:

- (i) Language teachers;
- (ii) Teacher coordinators;
- (iii) Senior teacher coordinators;
- (iv) Heads of department.

Language teacher - a qualified employee engaged to conduct, teach, prepare and assess language classes, and/or perform any or all of the following duties as may be required by the Director: supervise language laboratories, assess essays and assignments, consult with students outside class times and prepare course or teaching materials.

Parties - the National Tertiary Education Industry Union and the University of New South Wales.

Senior teacher coordinator - an employee who is assigned the responsibility for the management of a significant program, activity or subcampus and whose duties may include teaching.

Service - shall include service with the University of New South Wales, with New South Global Pty Ltd and with any other service recognised by the University for service purposes at the Institute.

Casual and contract employment at the Institute will be recognised for service for the purpose of initial appointment step on the salary scale and long service leave where the employee gains employment in a fixed term contract or continuing employment.

Specialist language course - a one-off language course of limited duration.

Supervisor – shall mean a Head of Department or nominee who may be a teacher co-ordinator or senior teacher co-ordinator who co-ordinates the teaching undertaken by the teacher.

Teacher coordinator - an employee who in addition to the duties defined for a Language Teacher is assigned responsibilities which may include some or all of the

following for one or more courses or activities: co-ordination of teaching and/or teaching related activities, supervision of Language Teachers, preparation and design of course structure and syllabus, allocation of teaching duties and timetabling, in-service teacher training and consultation, student selection and other associated administrative duties.

Union - the National Tertiary Education Industry Union.

University - the University of New South Wales.

Part 2 REMUNERATION

5.0 Salaries

- (a) The salaries to be paid to employees covered by this Agreement are set out in Schedule 1 to this Agreement and include the following increases:

Instalment 1 (3% increase) payable from 1 March 2004.

Instalment 2 (2% increase) payable from 1 September 2004.

Instalment 3 (2% increase) payable from 1 February 2005.

Instalment 4 (3% increase) payable from 1 August 2005.

Instalment 5 (2% increase) payable from 1 January 2006.

Instalment 6 (2% increase) payable from 1 July 2006.

- (b) During the life of this Agreement there will be no further salary increases for employees covered by this Agreement other than the increases provided for by the terms of the Agreement.
- (c) Casual employees will be paid within 22 days of submitting a claim to the University.

5.1 Incremental Progression

Incremental progression to the top of the relevant salary range will occur annually except where provided for in subclause 19.1.1.

6.0 Salary Sacrificing Scheme

- (a) "Salary" means the salary, leave or other like payment prescribed for an employee from time to time in accordance with any award, certified agreement or contract of employment for any work performed and for any leave taken or other absence by the employee during employment.

“Scheme” means the salary sacrificing scheme for childcare benefit and superannuation or other agreed benefit provided for in this clause.

- (b) By written agreement with the University, an employee may receive in lieu of Salary:
 - (i) the benefit of services under the University’s child care scheme; or the benefit of an additional employer contribution to superannuation in lieu of an employee contribution (where the Scheme allows this); or any other benefit as approved by the University (cash payment made for the benefit of the employee) during the life of this Agreement.
 - (ii) an amount ("Amount") being the difference between Salary and the amount specified by the University from time to time as the value of the benefit received by the employee under the University’s Scheme.
- (c) An employee will be entitled to enter into a salary sacrificing arrangement with the University pursuant to subclause 6.0(b) on the date of appointment for new employees, or, on a fixed annual date for all other employees.
- (d) If an agreement is made under subclause 6.0(b) any other payment calculated by reference to the employee’s Salary and payable during employment, or on termination of employment will be calculated by reference to the Salary and not to the Amount.
- (e) An agreement under subclause 6.0(b) will terminate if:
 - (i) at any time the “Amount” in subclause 6.0(b)(i) is negative.
 - (ii) the employee withdraws from the Scheme by giving 8 weeks notice of an intention to withdraw from the Scheme.
- (f) Where an employee elects to receive a benefit as provided for in this clause every award and contract of employment applicable to that employee and the University is varied as necessary so as to give effect to this clause.
- (g) Each employee who agrees to the Scheme will enter into a written agreement which sets out the terms and conditions applying to the Scheme. The agreement should clarify the impact on the employee’s net pay, any new legal obligations associated with the sacrificing arrangements, and make provision for the employee to receive updates on the Scheme.

7.0 Higher Duties Allowance (HDA) and Appointment to a Higher Graded Position

- (a) A substantive position of an employee will be filled by an acting appointee for the period that the substantive employee is on leave or other duties.

- (b) An HDA will be paid to an employee who:
 - (i) is appointed in an acting capacity to perform all of the duties of a higher classified position for more than five (5) consecutive working days; and
 - (ii) performs the higher duties required to be performed during the appointment.
- (c) The rate of pay to apply for the HDA will be an amount equal to the difference between the minimum salary of the higher classified position and the normal salary received by the employee when in the substantive position.
- (d) "Salary" means the appropriate salary payable during the period the employee is required to temporarily perform the duties of the higher classified position. Any increases in salary during that period will be applied during the period of the temporary position.
- (e) An employee may be appointed temporarily to a higher graded position which becomes vacant for a fixed-term as under clause 13.0 of this Agreement. During that period, the employee will receive the appropriate salary for the higher graded position. At the end of the period, the employee will revert to their substantive position.
- (f) During extended periods of higher duties, an Internal Temporary Transfer should be used instead of an HDA.

8.0 Superannuation

- (a) The University will maintain, for existing staff, the current employer contributions and arrangements for superannuation that are in effect as of the date of certification of this Agreement.
- (b) For new staff employed during the nominal term of this Agreement, the University will provide the same superannuation employer contributions and arrangements as are currently provided to employees.
- (c) Subclause (b) will end as a term of this Agreement on the nominal expiry date of this Agreement.
- (d) During the life of this Agreement, the parties will discuss the possibility of enhanced employee options in relation to superannuation, particularly in light of any changes to the UniSuper Trust Deed.

Part 3 ORGANISATIONAL CHANGE

9.0 Managing Change in the Workplace

9.1 Principles

- (a) The parties to this Agreement acknowledge that sound management of workplace change requires the involvement of the people who will be directly affected by that change.
- (b) This clause sets out processes to be followed in development of workplace change proposals.
- (c) Consideration of issues that may lead to workplace change will be discussed with employees liable to be directly affected as early as possible and prior to a decision being taken to proceed with any change.
- (d) Union members may seek the advice or assistance of their union at any time during the change process.

Job Security

- (e) Forced retrenchments will only occur as an absolute last resort. Throughout any change process the University will strenuously explore options to avert job loss.

9.2 Workplace Change Process

9.2.1 Preliminary Consideration of Workplace Change

- (a) The parties accept that there will often be discussion of issues which may or may not lead to workplace change prior to any development of a specific change proposal.
- (b) When these discussions appear likely to lead to the development of a specific change proposal, such discussions will involve all employees liable to be directly affected as soon as possible. An employee will be considered to be directly affected when the proposed change is likely to have an impact on that employee's work practices, working conditions, employment or career prospects.
- (c) Minor workplace changes such as adjustments to procedures and policies may be made through a less formal process.

9.2.2 The Discussion Paper

- (a) The University will issue documentation about the workplace change proposal (the Discussion Paper) to employees likely to be directly affected.
- (b) If it is anticipated that one or more of the following will occur, a copy of the change document will also be forwarded to the Union:
 - (i) relocating employees;
 - (ii) retrenchments;
 - (iii) changing hours of operation;

- (iv) introducing significant technological change;
 - (v) outsourcing;
 - (vi) changing work practices;
 - (vii) significant change in the workload of an employee; or
 - (viii) transfer of university functions to a UNSW controlled entity.
- (c) The Discussion Paper will address the following points:
- (i) the proposed time frame for examination of the change proposal;
 - (ii) the nature of the change proposal;
 - (iii) the reasons/aims for making the change;
 - (iv) relevant financial information;
 - (v) anticipated redundancies;
 - (vi) relevant staffing matters;
 - (vii) any workload implications; and
 - (viii) EEO implications.
- (d) The Discussion Paper will normally be issued to employees at a meeting arranged for the purpose of allowing employees and the unions the opportunity to initially comment on the change proposals. There will be at least 10 days notice of the meeting for unions to arrange representation and adequate time for all employees affected to organise their participation in this meeting.
- (e) Future meetings may be called by either party to present and/or explain to the employees the issues contained in the Discussion Paper.
- (f) In the circumstances referred to in subclause 9.2.2(b), affected employees and the union(s) will be involved in the examination of the change proposal. Involvement will include circulation of proposals for consideration; providing an opportunity for written responses or alternatives from affected employees and the union(s); meetings of employees and the union(s) to discuss and examine the change proposal and alternatives; provision of relevant information related to the proposal and alternatives; and may involve establishing a working party or other processes arising from consultation with employees.

9.2.3 The Recommendation Paper

- (a) Following the process in subclause 9.2.2, the University will issue documentation that sets out any changes recommended and the rationale for such changes (the Recommendation Paper). Employees who may be directly affected and the union(s) will be issued with a copy of the Recommendation Paper and will have an opportunity to comment on the recommendation(s).
- (b) The relevant union(s) will be involved in negotiating the implementation of any changes contained in the Recommendation Paper that will affect the employment conditions of employees.

9.2.4 Potential Job Loss

- (a) Where there is potential for the loss of positions following the change process outlined above, the University will identify the likely number and category of positions affected and consult with the employees likely to be affected and the relevant union(s) on the likely positions involved and on ways to avert potential job loss, or measures to minimise the adverse effects of job loss.
- (b) Measures referred to in subclause 9.2.4(a) may include natural attrition expressions of interest in voluntary redundancy, pre-retirement contracts, voluntary exit packages, redeployment, secondments, conversion to part-time employment, long service leave or leave without pay.
- (c) Where it is clear that there will be a loss of positions all affected staff will be invited to express interest in voluntary redundancy. In the event of an expression of interest in voluntary redundancy being accepted by the University, the employee will receive a payment no less than he/she would be entitled to under subclause 9.2.8.

9.2.5 Employees and Workplace Reorganisation

- (a) If a work unit is reorganised following the consultative process outlined in subclause 9.2.1, 9.2.2 and 9.2.3 above, the following procedures will apply in relation to employees on continuing contracts of employment.
 - (i) Where the duties of a position are not significantly changed, the existing incumbent will continue to hold the position.
 - (ii) Where the duties of a position are so significantly changed that it can be regarded as a new position or where a position is no longer required, the employee holding the position will become eligible for the purposes of subclause 9.2.5(a)(iii).
 - (iii) Where new position(s) are created, expressions of interest will be called for from amongst eligible employees within that work unit. The selection process used will be based on merit and will be determined following consultation between the parties.
- (b) When the procedures outlined in subclause 9.2.5(a) have been completed and there are eligible employees who do not gain positions, these employees will become displaced employees for the purpose of subclause 9.2.6.

9.2.6 Displaced Employees

- (a) The University is committed to redeploying displaced employees who elect to be redeployed and will offer the employee redeployment to a vacant position for which the employee has the skills and qualifications to undertake.
- (b) A displaced employee who has been advised in writing by the Director, Human Resources that his/her position has been made redundant, must elect to be considered for redeployment within 2 weeks of receiving such

notification. If no election for redeployment is made within 2 weeks, the displaced employee will be retrenched in accordance with subclause 9.2.8.

- (c) The University will undertake a redeployment process in accordance with subclause 9.2.7 for a minimum period of 10 weeks from the date that the employee elects to be redeployed.
- (d) A displaced employee who elects to be redeployed but is not redeployed will be retrenched in accordance with subclause 9.2.8.
- (e) The Implementation Committee will develop redeployment guidelines that will be based on the following principles:
 - (i) redeployees will be considered for vacant and new positions, including any positions made redundant by calls for voluntary redundancy, prior to the positions being advertised;
 - (ii) retraining will accompany redeployment.

9.2.7 The Redeployment Process

- (a) Where an employee has written to the University and expressed an interest in redeployment, he/she will have a minimum period of 10 weeks (“the redeployment period”) to be considered for redeployment.
- (b) An employee who seeks to terminate the redeployment process will receive payment for 10 weeks ordinary pay less any period of the redeployment period that has passed.
- (c) During the redeployment period the displaced employee may continue to work in his/her work unit or where available work temporarily in another work unit, or undertake training.
- (d) During the redeployment process a displaced employee will be eligible for:
 - (i) support in seeking redeployment within the University;
 - (ii) appropriate out placement support; and
 - (iii) a reasonable amount of time without loss of pay to attend job interviews or other job search activities.
- (e) No reasonable offer of redeployment or training will be refused by a displaced employee who elects to be considered for redeployment.
- (f) If the employee is not successful in being redeployed within the agreed notice period or elects to terminate the redeployment period early then the employee will be retrenched in accordance with subclause 9.2.8.

- (g) An employee who is redeployed to a position at a level lower than his/her previous salary level will receive salary maintenance at his/her previous rate of pay for 12 months. Following this period, the employee will be paid at the highest step on the salary range for the level to which he/she has been redeployed.

9.2.8 Retrenchment

- (a) A displaced employee who does not elect to be redeployed in accordance with subclause 9.2.6(b) can elect to accept 10 weeks notice or 10 weeks payment in lieu of notice.
- (b) A displaced employee who elects to work part or all of the 10 week notice period will only receive on retrenchment payment for the balance of the 10 weeks not worked.
- (c) An employee who is retrenched will be entitled to a severance payment based on 3 weeks salary for every completed year of service to a maximum of 52 weeks in addition to payment for annual leave in accordance with clause 21.0, payment on a pro-rata basis for leave loading and payment for long service leave in accordance with clause 22.0.
- (d) All payments referred to in this clause shall be calculated on the employee's salary at the date of cessation of employment. An employee who has converted from full-time to part-time employment will receive payment based on the full-time salary for his/her service up to the conversion to part-time employment and his/her payment from then on will be based on his/her part-time salary for the remaining period.

Part 4 CONDITIONS OF EMPLOYMENT

10.0 Employment of Language Staff

10.1 General

- (a) Employment of Language Staff will be on a continuing, fixed-term or casual basis.
- (b) Not less than 70 percent of equivalent full-time language staff positions at the Institute will be filled by staff employed on a continuing basis. Except that for the first two years of a new initiative course, the staff involved in such an initiative will not be included in the statistics.
- (c) A "new initiative course" is one that meets the following criteria:
 - (i) is outside what is currently accepted as the core teaching programs conducted at the Institute. Core teaching programs include:

- (a) DIMIA (Department of Immigration, Migrant and Indigenous Affairs Courses) settlement of newly arrived migrants;
 - (b) DEST (Department of Employment, Science and Training) professional migrant courses given to those with overseas professional training who wish to apply for positions in Australia;
 - (c) ELICOS;
 - (d) EAP;
 - (e) General Proficiency;
 - (f) Modern Languages; and
 - (g) Language Teacher Education;
- (ii) may be in a new location away from King Street Campus or Western Campus;
 - (iii) trials a new teaching course to assess if it is profitable;
 - (iv) involves the hiring of a large number of staff (10 plus); and
 - (v) could have uncertainty of funding.
- (d) Subclause 10.1(b) will not operate so as to alter the employment status of any employee, other than through the acceptance by the employee of an offer made by the University.
 - (e) Any offer of appointment to Language Staff will be in writing and will state the type of appointment offered and specify the documents which govern the conditions of employment, which documents will be located in the Institute in a place readily accessible to the employee at all times.

10.2 Part-time Employment

- (a) Part-time employees will mean employees normally employed for 10 hours or more per week or less, as agreed between a part-time employee and the Director, and who may be required to perform the full range of duties specified for the full-time position.
- (b) Where a part-time employee is engaged on either a permanent or fixed-term basis for a stated fraction of the time worked by full-time employees, such an employee will be paid such fraction of the salary determined for a full-time position and such fraction, on a pro rata basis, of the recreation, sick and long service leave, and other benefits, prescribed by this Agreement and State Government legislation for a full-time employee.

10.3 Casual Employment

"Casual employee" means a language teacher employed to teach or perform casual teaching or teacher related duties and paid on an hourly rate of pay as under Schedule 1 of this Agreement. The casual rate of pay includes a casual loading to compensate the language teacher for employment benefits not available to casual employees. The casual loading will be:

- (i) 21% from 1 March 2004;
 - (ii) 22% from 1 February 2005; and
 - (iii) 23% from 1 January 2006.
- (a) The casual hourly rate includes payment for half an hour of preparation and/or marking for each hour of face-to-face teaching.
 - (b) Except as provided in clause 10.3(d), a casual employee will only be employed for up to 9 hours of teaching per week.
 - (c) In exceptional circumstances, a casual employee may be employed for up to 20 hours of teaching per week for a maximum of 5 weeks where it is necessary to cover:
 - (i) a period of approved absence up to 5 weeks leave in total;
 - (ii) an unexpected temporary increase in student numbers. In this circumstance the employee will be offered work until the end of the relevant term.
 - (iii) study tours of up to four weeks; or
 - (iv) such other circumstances as agreed by the University and union from time to time.
 - (d) Where it is known in advance that a casual employee will be required for more than 9 hours per week for a period greater than 5 weeks, a full-time or part-time fixed-term contract will be offered for that period.
 - (e) Only the following other conditions of employment covered by this Agreement will apply to casual employees:

Clauses: 3.0, 4.0, 5.0, 9.1, 9.2.1, 9.2.2, 9.2.3, 10.1(a), 10.3, 11(d), 17.0, 18.0, 19.0, 21.0(b) [applies in the sense that the casual rate has loading for annual leave], 26.8, 33.0, 34.0, 35.0, 36.0, 38.0, 39.0, 40.0.
 - (f) Casual work will normally be offered to existing part time employees or casual employees or to those who have been employed on a fixed term contract in the Institute in the current or previous year who have expressed an interest in further work at the Institute.

11.0 General Terms and Conditions of Employment

- (a) Part-time and full-time staff must give 4 week's written notice of resignation or be subject to the payment or forfeiture of 4 week's pay if notice is less than 4 weeks, unless the Director agrees to a shorter period of notice.
- (b) Language Staff will, subject to the approval of the Director, be entitled to engage in part-time professional work in addition to their University duties as defined by the Director.
- (c) All employees will be given a signed copy of their contract of employment.

- (d) New teaching staff will undertake an induction program during normal work-time to familiarise them with the Institute and identify required duties and skills.
- (e) Each employee will be informed of the name or position of the person who is their supervisor. The supervisor will be the Head of Department or his or her nominee.

12.0 Teacher Coordinators

- (a) Teacher coordinator positions may be permanent or fixed-term (in accordance with the provisions of this Agreement).
- (b) A teacher coordinator who is required to coordinate two to three classes will be paid at Step 1 or 2 of the teacher coordinator classification scale depending on experience as a teacher coordinator.
- (c) A teacher coordinator who coordinates four or more classes will be paid an additional allowance equal to the difference between the salary paid to a teacher coordinator and the salary paid to a senior teacher coordinator on the first step, pro rata for the period in which four or more classes are coordinated.
- (d) For the purposes of subclause 12.0(b) above, coordination will involve coordinating 40-60 class contact hours per week.
- (e) For the purposes of subclause 12.0(c) above, coordination will involve coordinating 80 or more class contact hours per week.
- (f) Language staff may be appointed as an acting teacher coordinator for a defined time in order to cover a period of someone who is on leave or temporarily absent. The person acting in the position will be given a letter confirming their temporary appointment, the length of the appointment and whose position they are acting in.
- (g) Co-ordinator positions will first be advertised internally as a promotional opportunity for staff. Any internal staff applicant must meet all essential criteria for the position before they will be considered. The Institute reserves the right to advertise externally if a suitable internal applicant does not apply.

13.0 Fixed-term Employment

13.1 General

- (a) This clause applies to full-time and part-time employees who are employed for a fixed-term (specified period of time).

- (b) Fixed-term appointments may be made in the following circumstances:
- (i) to replace permanent employees absent on leave; or
 - (ii) to conduct courses for which there is a specific and immediate need for a short duration; or
 - (iii) where a short-term appointment of a person with specialist knowledge is necessary; or
 - (iv) where short-term funds are available; or
 - (v) to meet tuition needs of a Department that cannot be met by the permanent staff and which are temporary in nature; or
 - (vi) contracted services funded for a specified period of less than twelve months; or
 - (vii) for other reasons as agreed between the University and the NTEU from time to time.

13.2 Allocation of Contracts

- (a) The University shall offer fixed-term contracts in accordance with this subclause.
- (b) The University will endeavour to offer as long a fixed-term contract as possible and to offer contract rather than casual employment where possible.
- (c) Language staff who have been employed on a fixed-term contract at the Institute in the current or previous year of service and casual employees who have taught for more than 150 hours during the current or previous year will be invited to submit an expression of interest in fixed-term positions which may become available in the following 12 months.
- (d) The Institute will offer fixed-term contracts that become available to those employees who have expressed interest in fixed-term positions under subclause 13.2(c). If it is determined through the merit process in clause 13.2(e) that an appointment cannot be made from this pool, the Institute may appoint an external applicant to the position.
- (e) Contracts will be offered based on merit, having regard to qualifications, skills and experience relevant to the work to be performed. The Institute will use the current merit application form (or such other form as developed in agreement with the union).

13.3 Extension of Contracts for 10 weeks or Less

- (a) Regardless of the provisions of clause 13.2, where, during the course of the teaching year, a short term fixed term contract (of 10 weeks or less) is renewed for a period (of 10 weeks or less) because the same or similar teaching is required in the same department and programme, the holder of the current fixed term contract will be offered the renewed contract first. This clause will only apply where the position involves teaching the same or substantially similar material or coursework as in the previous fixed term contract, or material that is the next stage of a particular program.

- (b) Where there is more than one contract employee performing the work in clause 13.3(a) who could be given the further contract renewal and there are insufficient contract offers for all the staff concerned, the contract allocation shall be in accordance with clause 13.2.

13.4 Terms and Conditions of Fixed-term Employment

- (a) Each fixed-term employee will be given a contract which will state:
 - (i) the nature of duties and responsibilities in specific terms;
 - (ii) classification on appointment on the current salary scale;
 - (iii) initial salary;
 - (iv) salary increments throughout the term of the contract;
 - (v) the date of taking up duties and the date of termination of the contract; and
 - (vi) the name of any other industrial instrument which sets out other conditions of employment that apply to the employee.
- (b) Fixed-term employees will be entitled to all benefits of this Agreement except where the contrary intention is expressly stated in this Agreement.
- (c) Where an employee on a fixed-term contract accepts a permanent position in the University, the period of fixed-term employment will be counted towards the accumulation of all leave.

13.5 Notice of Cessation of a Fixed-term Contract

- (a) The University will provide staff employed on fixed-term contracts, written notice of whether or not the staff member will be offered a new fixed-term contract, upon expiry of their current contract in accordance with the following:

<u>Period of Continuous Service</u>	<u>Notice Period Required</u>
more than 6 months but less than 1 year	at least 2 weeks
1 year or more but less than 2 years	at least 3 weeks
2 years or over	at least 4 weeks

13.6 Severance Payment

- (a) A fixed term contract employee, other than one employed to replace a permanent employee absent on leave, whose contract is not renewed in circumstances where the employee seeks to continue employment will be entitled to a severance payment in accordance with sub-clause 13.6.2 under the following circumstances:
 - (i) the employee has had a period of continuous service of 2 years or more and is employed on a second or subsequent fixed term contract and the duties are no longer required by the Institute; or

- (ii) where the employee is employed on a fixed term contract for 2 years or more and where the duties of the kind performed continue to be required but another person has been appointed to the same or substantially similar duties.

13.6.2 Severance Pay Entitlements

Where an employee is entitled to severance payment, the following will apply:

<u>Length of continuous service</u>	<u>Severance pay</u>
2 years or more to less than 3 years	4 weeks pay
3 years or more to less than 4 years	5 weeks pay
4 years and over	6 weeks pay

13.7 Continuous Service

For the purposes of subclause 13.5 and 13.6, continuous service will mean service at the Institute, the University and/or NewSouth Global Pty Ltd, inclusive of breaks in service of up to 6 weeks.

14.0 Conversion from Fixed-Term to Continuing Employment

- (a) A fixed-term employee may be offered a continuing position during the term of his/her contract.
- (b) To comply with subclause 10.1(b) of this Agreement, a review committee will be established with:
 - (i) the Director;
 - (ii) two persons nominated by the Director, of whom at least one will be a member of the continuing Language Staff; and
 - (iii) two members of the continuing Language Staff nominated by the Union.

The normal term for the committee will be for two years for nominated positions to enable experience to develop.

- (c) The Committee will meet at least twice per year to determine how many (if any) conversions to continuing employment should be offered to current contract staff in order to comply with the ratio of continuing positions in subclause 10.1(b).
- (d) To assist the workings of the committee, the Director will nominate a staff member(s) who will be required to develop and maintain information on:
 - (i) the number of equivalent full-time language staff positions across the Institute as a whole;

- (ii) the number of equivalent full-time language fixed-term contract staff (if any) who should be offered continuing employment in order to comply with the ratio of continuing positions in subclause 10.1(b);
- (iii) a list of language staff on contract, other than employees in a nominated appointment (clause 13.2(d)). This list should accurately record their full length of service at the Institute. This list will first be checked with the staff concerned and a copy given to all the staff on the list. Any dispute about the information will be resolved by the Committee.

Length of service will be calculated according to the permanency guidelines policy attached to the letter signed by the UNSW Director, Human Resources and dated 4 December 1997.

- (e) Language staff from within the Institute who are on the list in clause 14.0(d)(iii) will be offered, in order of length of service, conversion from contract to continuing positions in sufficient numbers to comply with the percentage requirements of clause 10.1(b). These offers of conversion will be made as soon as possible following the meeting of the review committee in subclause 14.0(b).
- (f) The criteria for determining continuing employment will be length of service, however, in the event that two or more candidates for a continuing position have comparable lengths of service (within 4 weeks of each other), the Committee will have regard to qualifications, skills and experience of those particular candidates.

15.0 Hours of Work

15.1 Ordinary Hours of Work

Ordinary hours of work for Language Staff will be 35 hours per week. Such hours will be worked between 8.00 am and 10.00 pm Monday to Friday inclusive.

15.2 Contact Hours

- (a) Within such ordinary hours of work, the following conditions will apply:
 - (i) language teachers will be responsible for a maximum of 20 contact hours per week;
 - (ii) teacher coordinators will be responsible for a maximum of 14 contact hours per week;
 - (iii) senior teacher coordinators will be responsible for a maximum of 12 contact hours per week; and
 - (iv) heads of department will be responsible for a maximum of 10 contact hours per week.

- (b) A language teacher will be required to perform no more than 4 hours per day of face to face teaching except where otherwise agreed to in writing between the staff member and the Institute.
- (c) A language teacher may, at any stage after their initial appointment agree, and confirm in writing, to teach up to 24 contact hours in a normal working week. In signing off such a variation to hours:
 - (i) it must be agreed in advance the period that the variation will apply;
 - (ii) the average teaching hours per week must be no more than twenty for the teaching term or the teaching year;
 - (iii) it is understood that the hours in excess of twenty will not attract overtime payment, and
 - (iv) it is understood that this may require more than 4 hours teaching contact per day.
- (d) There will not be, on any one day, more than 8 hours between the commencement and completion of duty, except that the employee may agree to vary this provision.

15.3 Classes after 6.00 pm

- (a) A full-time or part-time employee's weekly contact hours can be scheduled by agreement to include evening teaching.
- (b) Evening classes will be scheduled so as to conclude not later than 9.00 pm.
- (c) No employees will be required to work after 6.00 pm on more than two nights per week, after having worked during the day, unless the employee agrees to vary this provision.
- (d) The starting time for any formal commitment (including committee work) will not be before 11.00 am on the day after an evening commitment which finishes after 8.00 pm unless the employee agrees to vary this provision.

15.4 Overtime

- (a) Where the University requires an employee to work either:
 - (i) more than the number of ordinary hours per week set out in clause 15.1; or
 - (ii) more than the contact hours set out in clause 15.2; or
 - (iii) outside the daily span of hours as outlined in clause 15.1 (ie before 8.00am or after 10.00pm Monday to Friday inclusive); or
 - (iv) on Saturday or Sunday; then

the employee will be entitled to be paid at overtime rates.
- (b) Where overtime is worked, an employee will be paid on:

- (i) 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;
 - (ii) Sunday - double the ordinary rate of pay; and
 - (iii) public holidays- two and a half times the ordinary rate of pay.
- (c) The minimum payment will be three hours, at the overtime rates in clause 15.4(b), where overtime is worked:
- (i) on a Saturday or a Sunday; or
 - (ii) on a public holiday.

15.5 Meal Allowance

When an employee is required to work:

- (i) for a period of 2 hours beyond their normal finishing time and beyond 6.00pm; or
- (ii) overtime for more than 5 hours on a Saturday, Sunday or a public holiday; then

the employee will be paid a meal allowance, following current university practice, in addition to any overtime payment.

15.6 Variation to Hours of Work

Employees may vary their contracted hours per week subject to the approval of the Director. Employees who request a reduction in their number of hours of work on a temporary basis, may not be guaranteed a return to their original number of hours of work on the cessation of such temporary reduction, unless an agreement to return to the original number of hours has been made prior to the reduction in hours taking effect.

15.7 Tours and Excursions

- (a) Employees on excursions for more than half a day but less than a full day will not be scheduled to perform teaching duties on their return that day from that excursion.
- (b) The responsibility for supervision of an excursion will be carried by at least two employees unless the employee and the Director agree to vary this provision.
- (c) Employees who are on tours which are part of course requirements, and which involve one or more overnight stays, will not be required to work the rest of the day if they return before 12 noon. If they return after 12 noon they will not be required to work the following day.

16.0 Annual Teaching Hours

The annual teaching requirement for language teaching staff will be 41 weeks (820 hours).

17.0 Meal Breaks

- (a) Not less than thirty minutes and except with the permission of the University not more than one hour will be allowed for each meal provided that where employees are called upon to work any portion of their meal hours such time will count as part of their ordinary working hours.
- (b) An employee will not be required to work overtime beyond 6.00 pm without a meal break of at least thirty minutes which will not count as time worked. An employee will not be required to work more than five hours without a meal break.

18.0 Class Sizes

In general the ratio of teacher to students will be no more than one to eighteen in any class. This may be varied to a maximum of 20 after agreement with the teacher taking the class.

19.0 Performance Management and Misconduct

Any decision to terminate an employee's employment with the University for disciplinary reasons will only occur in accordance with this clause.

19.1 Management of Unsatisfactory Performance

- (a) A supervisor should first make every effort to resolve instances of possible unsatisfactory performance through guidance, counselling, staff development and/or appropriate work allocation.
- (b) Where the steps in subclause 19.1(a) have been unsuccessful, the supervisor will formalise the performance concerns by making the employee aware of the perceived deficiencies in performance and identifying the performance standard required.
- (c) The employee will be given an opportunity to respond to the supervisor's concerns and to raise any mitigating circumstances.
- (d) If the supervisor remains concerned about the employee's performance having considered any response by the employee, the supervisor will provide the necessary guidance, assistance, training or counselling to enable the employee to meet the appropriate performance standard.
- (e) The supervisor should allow a reasonable timeframe for the employee to improve performance taking into account the duties required of the position. The timeframe should be established in consultation with the employee and

will not normally be less than three months. The supervisor should meet regularly with the employee during the review period.

- (f) Where the supervisor believes that the employee's performance remains unsatisfactory following the steps set out in subclauses 19.1(b) – (e) above, the supervisor will advise the employee in writing of the deficiencies in performance, and of any further proposed action. The employee will have an opportunity to make a response to the supervisor's assessment.

19.1.1 Withholding of an Increment

- (a) A supervisor who proposes to withhold an increment from an employee entitled to incremental progression in accordance with clause 5.1 will:
 - (i) Advise the employee of the reasons for the proposed withholding of the increment; and
 - (ii) Give the employee an opportunity to respond to the reasons provided; and
 - (iii) Allow sufficient opportunity (usually at least 3 months) for the employee to improve performance to the standard required to progress to the next incremental step.
- (b) Where the steps referred to in subclause 19.1.1(a) have been carried out and the supervisor remains of the view that the increment should be withheld, the supervisor will make a recommendation to the Deputy Vice-Chancellor who will make a final determination.

19.2 Management of Allegations of Misconduct or Serious Misconduct

- (a) A supervisor will seek to resolve an allegation of misconduct through guidance, counselling or other appropriate action in the first instance.
- (b) Where the steps in subclause 19.2(a) have been unsuccessful or are inappropriate due to the serious nature of the allegation(s), a supervisor will provide a report to their supervisor detailing the allegation(s) of misconduct or serious misconduct against the employee. A copy of the report will be provided to the employee. The employee will be given an opportunity to respond to the allegation(s) and to raise any mitigating circumstances.
- (c) Having considered the employee's response, and any other relevant material, the supervisor's supervisor will advise the employee of any proposed action.

19.3 Recommendation to Terminate Employment

- (a) A supervisor or supervisor's supervisor who proposes to terminate the employment of an employee following the procedures outlined in subclauses 19.1 or 19.2 will prepare a recommendation for consideration by the Deputy Vice-Chancellor.

- (b) The recommendation will clearly set out the reasons for the recommendation, the steps taken by the University in accordance with subclauses 19.1 or 19.2 (whichever is applicable) and any response made by the employee, including mitigating circumstances and any other relevant material.
- (c) A copy of the recommendation will be provided to the employee. An employee will have a period of seven working days after being provided with a copy of the recommendation to provide to the Deputy Vice-Chancellor a submission in response to the recommendation.
- (d) Pending receipt of any response by the employee in accordance with subclause 19.3(c) above, the Deputy Vice-Chancellor may direct the employee to be absent from the workplace on full pay.
- (e) The Deputy Vice-Chancellor will make a final determination as to whether the employment should be terminated having taken into account both the supervisor's recommendation and any response by the employee.

Part 5 LEAVE

20.0 Sick Leave

- (a) A full-time employee who satisfies the University that he/she is unable to perform his or her duties by reason of personal illness or personal incapacity (not being illness or incapacity caused by injury arising out of the course of his or her employment) will, subject to the conditions specified in this clause, be entitled, during such illness or incapacity, to sick leave with pay for which ever is greater of the periods specified here under:
 - (i) two weeks during the first year of service; three weeks in the second year of service; six weeks in any subsequent year of service; or
 - (ii) a period calculated by allowing two weeks for each completed year of service and by deducting therefrom the number of days of sick leave previously allowed during the whole of the employee's service.
- (b) A part-time employee will be entitled to the sick leave arrangements referred to in (a) above on a pro rata basis.
- (c) If any sick leave absence exceeds three consecutive working days, the employee will provide a certificate by a medical practitioner as to the nature of the illness or incapacity involved.
- (d) The University may require an employee to produce a certificate from a medical practitioner for any sick leave absence (subsequent to such requirement being made) stating that the employee is unable to attend for duty on a day or days in respect of which he/she claims sick leave.

- (e) An employee absent from duty due to personal illness or personal incapacity will as far as is practicable:
 - (i) inform the University within twenty four hours of the commencement of the absence of his/her inability to attend for duty;
 - (ii) state the nature of the personal illness or personal incapacity; and
 - (iii) state the estimated duration of the absence.

21.0 Annual Leave

- (a) Employees will be eligible after the completion of each 12 months of service to be granted four weeks annual leave on full pay (as defined in the Annual Holidays Act, 1944) in addition to any public holiday occurring during such period of annual leave.
- (b) Casual employees will be paid annual leave in accordance with the provisions of the Annual Holidays Act, 1944.
- (c) Annual leave may be granted before or after the completion of 12 months' service in broken periods by agreement between the University and the employee, provided that the period of annual leave granted will not exceed the proportion of the years' annual leave which the employee has accrued at the date of the commencement of the annual leave.
- (d) In the event of the death of any employee, the monetary value of all annual leave for which the employee was eligible at the time of death will be paid to his or her legal personal representative, unless paid by the University to the employee's widow, widower or the guardian of the infant children of the employee.
- (e) For employees other than those required to meet the needs of the Institute, the designated period for annual leave will be January each year. Provided that employees who have not accrued the full quota of four weeks' leave will take their accrued leave followed by leave without pay for the balance of the four week leave period. Provided further that these arrangements may be varied by agreement negotiated between the employee and the Director.
- (f) Employees who defer their annual leave (or part thereof) in order to meet the needs of the Institute may take the deferred period of leave during the following year, at a mutually satisfactory time to be negotiated with their head of department and the Director. Where a deferred period of leave is not taken the University may allow annual leave to accumulate up to a maximum of fifty (50) days' entitlement.
- (g) Annual leave accruing in excess of the prescribed maximum will be forfeited. Provided that before such annual leave is forfeited the employee will be:

- (i) advised in writing that annual leave will be forfeited unless he/she begins taking the accrued annual leave within one month of the date of written advice; and
 - (ii) given the opportunity to take the annual leave.
- (h)
- (i) If an employee has been absent from duty on leave without pay for more than five working days in all in any year (being a period of 12 months commencing on the anniversary of the date on which the employee commenced their current period of employment with the University) the period of absence from duty on leave without pay will not be counted as service for the purpose of determining eligibility for annual leave in that year.
 - (ii) Where an employee is granted and takes long service leave on half pay, the period of such long service leave will be taken into account to the extent of one-half thereof only in determining the employee's accrual of annual leave.
- (i) Annual leave will accrue fortnightly, provided that where the services of an employee terminates for any reason, credit will be given for periods of less than one fortnight in computing any leave which may be due.
- (j) Where an employee, who is eligible for sick leave, produces a satisfactory medical certificate to the effect that he/she has been incapacitated for a period of one week or more whilst on annual leave, the University will recredit the employee with an equivalent period of annual leave, provided that no such recredit will be granted to an employee on annual leave immediately prior to retirement, resignation or termination of service.

21.8 Annual Leave Loading

- (a) Employees will be granted an annual leave loading equivalent to 17.5 percent of four weeks' ordinary salary or wages.
- (i) Upon retirement or termination by the University for any reason other than misconduct, an employee who has not been paid an annual leave loading to which he/she is entitled will be paid the loading which would have been payable had the retirement or termination not occurred.
 - (ii) On resignation or dismissal for misconduct annual leave loading is not payable when an employee is granted annual leave to his/her credit or the monetary value thereof.
- (b) Broken service during a year does not attract the annual leave loading (e.g. if an employee resigns and is subsequently re-employed during the same year) only the service from the date of re-employment attracts the annual leave loading subject to the foregoing conditions. The annual leave loading is to be calculated and paid at the ordinary rate of pay in the last pay of the year.

- (c) Part-time employees who satisfy the foregoing conditions are eligible for pro-rata annual leave loading.

22.0 Long Service Leave

- (a) Employees will be eligible for long service leave as follows:
 - (i) After ten years' service (whether continuous or broken) to three months' leave on full pay or six months' leave on half pay.
 - (ii) After fifteen years' service (whether continuous or broken) to four months and fifteen days' leave on full pay or nine months' leave on half pay.
 - (iii) Between ten and fifteen years' service (whether continuous or broken) leave will accrue proportionately on the basis of subclause 22.0(a)(i) of this clause.
 - (iv) In excess of fifteen years' service (whether continuous or broken), leave additional to that prescribed in subclause 22.0(a)(ii) will accrue on a pro-rata basis of two months and fifteen days on full pay or five months on half pay, for each completed five years of service.
 - (v) Where an employee has completed at least five years' continuous service, but less than ten years' continuous service and the employee's services are terminated by the University for any reason other than for serious and willful misconduct, or by the employee on account of illness, incapacity, or domestic or other pressing necessity, or by reason of the death of the employee, such employee will be entitled to a proportionate amount of long service leave on the basis of three months for fifteen years' service. For the purpose of the application of this provision, it will be interpreted in the same manner as the similar provision in the Long Service Leave Act, 1955.
- (b) If an employee has an entitlement to long service leave under subclauses 22.0(a)(i) to 22.0(a)(iv) but prior to entering upon such leave has his/her employment terminated by dismissal or by notice duly given by either party, the employee will be entitled to receive the monetary value of the leave at credit computed at the rate of salary which such employee was receiving immediately prior to the termination of employment.
- (c) In the event of the death of an employee, the monetary value of all long service leave for which the employee was eligible at the time of death will be paid to the employee's legal personal representative, unless paid by the University to the employee's widow, widower, or the guardian of the infant children of the employee.
- (d) For the purpose of calculating service in respect of clause 22.0(a):

Any periods of leave without pay:

- (i) will not count as service when determining whether an employee has completed ten years' service;
 - (ii) prior to completing ten years' service will not count as service for the purposes of long service leave;
 - (iii) not exceeding six months will count for long service leave purposes where an employee has completed ten or more years' service, but where such period of leave without pay exceeds six months the whole period of leave without pay will not count as service.
- (e) Where an employee is granted leave for service in Her Majesty's Forces, such service will be counted as ordinary service in computing long service leave.
- (f) Eligibility for long service leave will be determined taking into account prior continuous paid service with New South Wales universities, NewSouth Global Pty Ltd and with any other Australian universities which grant transferability of service with Australian universities for long service leave to employees employed by those universities provided that:
- (i) prior continuous paid service with another or other Australian university/universities prior to 1 January 1969, will not be taken into account when determining eligibility for long service leave;
 - (ii) if an employee has availed himself or herself of long service leave or is eligible to be paid or has been paid in lieu of long service leave by the releasing University, he or she will not accrue any entitlement to leave for the period of service with the releasing university for which leave has been paid or for which there is eligibility for payment, but subject to these conditions such a period will be included as qualifying service for determining when he or she is eligible to take long service leave under this agreement;
 - (iii) there is not more than two months between the cessation of employment with a releasing university and the commencement of employment with the University, in which case continuity of service will be deemed not to have been broken for the purposes of long service leave, however, the period between the two contracts of employment will not be taken into account in determining length of service for long service leave;
 - (iv) the employee will be required to serve at least five years with the University before being permitted to take accrued long service leave or to be paid in lieu on termination of employment, except that in eligible cases, payment in lieu of such leave will be made when an employee (a) dies, (b) retires on or after 60 years of age or such other age as the retirement provisions of the Superannuation Act, 1916, may provide, or (c) receives an invalid or breakdown pension under the provisions of the Superannuation Act, 1916; and

- (v) these conditions will not apply to employees on short-term appointments at the University, however, when an employee is appointed to a position which is not short-term full recognition for all prior continuous service will be given in accordance with these conditions.
- (vi) Service with the Universities of the South Pacific or Papua New Guinea or the Papua New Guinea Institute of Technology or any recognised University in New Zealand, may also be recognised for determining long service leave eligibility.

23.0 Defence Forces Reserves Training Leave

- (a) Employees who serve on a part-time basis in the naval, military or air force reserves are to be granted military leave on each military leave year (i.e. 1 July to 30 June) on the following basis:
 - (b) In respect of annual training:
 - (i) where an employee is a member of the Naval Forces - 13 calendar days on full pay;
 - (ii) where an employee is a member of the Military Forces - 14 calendar days on full pay;
 - (iii) where an employee is a member of the Air Force -16 calendar days on full pay.
 - (c) In respect of attendance at a school, class or course of instruction:
 - (i) where an employee is a member of the Naval Forces - 13 calendar days on full pay;
 - (ii) where an employee is a member of the Military Forces - 14 calendar days on full pay;
 - (iii) where an employee is a member of the Air Force - 16 calendar days on full pay.
- (d) Where the Commanding Officer of a unit of the Reserves in which an employee serves certifies in writing that it is necessary for the employee to attend for the purposes of obligatory training on days additional to those specified in subclauses; 23.0(b) or 23.0(c) above, the University may grant leave of absence to the employee for a further period not exceeding 4 calendar days in any one Military Leave Year.
- (e) Where in the opinion of the University it would not be in the University's interest to grant an employee leave of absence to attend at an annual training or at a school, class or course of instruction, such leave will be refused but the employer will grant leave of absence to the employee to attend at an equivalent training or at an equivalent school, class or course.

- (f) Any leave required in excess of that provided for in subclauses 23.0(b), 23.0(c) and 23.0(d) of this clause is to form a charge against the employee's accrued leave credits and/or leave without pay at the option of the employee.

24.0 Bereavement Leave

- (a) Bereavement leave on full pay of three days per year is allowed in relation to the death of an immediate family member as defined below:

“immediate family” covers:

- (i) a spouse (including a former spouse, a de facto spouse, a former de facto spouse, and same sex partner);
 - (ii) a child or an adult child (including an adopted child, a step child or an ex nuptial child), parent, parent-in-law, foster parent, grandparent, grandchild or sibling of the employee;
 - (iii) a relative, who lives with the employee in the same household.
- (b) A further absence of up to three days may be allowed in any one year in relation to the death of an immediate family member with the approval of the Director, Human Resources.
 - (c) Access to leave to meet ceremonial or religious requirements regarding bereavement, may be made available with the approval of the Director, Human Resources or nominee.
 - (d) If an employee is on a period of approved leave at the time of death of an immediate family member, he/she may apply for up to 3 days bereavement leave, and be recredited the other period of leave.

25.0 Special Leave

- (a) Paid special leave of up to 3 days per year may be given to an employee on account of special circumstances or emergencies. Applications for special leave will be considered on their merits.
- (b) Special circumstances or emergencies:
 - (i) may include situations such as where the employee's home has been damaged by fire, flood or other mishap, burglary, or where the employee is to take part in state emergency services activities.
 - (ii) do not include situations such as moving house, care of an immediate family member, arranging or attending conferences or similar events or other private business that the employee was aware of in advance sufficient to use other forms of leave.

- (c) There is no entitlement to special leave if the leave sought coincides with any other period of leave.

26.0 Parental Leave

26.1 Maternity Leave

- (a) An employee who becomes pregnant is entitled to a period of up to 52 weeks maternity leave. Such leave will be taken within the period from 20 weeks before the expected date of delivery to 52 weeks after the commencement of the period of paid leave.
- (b) By agreement with the University, the maternity leave may be taken in more than one consolidated period.

26.2 Adoption Leave

- (a) An employee who adopts a child is entitled to a period of up to 52 weeks of adoption leave, commencing from the date of placement of the child.
- (b) Adoption leave may not be accessed for a child who has been living with the partner (including same-sex partner) of an employee prior to the employee adopting the child.

26.3 Conditions for Maternity and Adoption Leave

- (a) Where an employee takes maternity leave or adoption leave in accordance with subclause 26.1 or 26.2 above, 14 weeks of the leave will be on full pay, in addition to any public holiday occurring while he/she is on parental leave. The remaining period of the leave will be unpaid.
- (b) For part-time employees, the paid portion of the leave will be paid at the proportionate part-time rate of pay. Where a full-time employee has converted to part-time employment prior to going on maternity leave for reasons related to the pregnancy, she will be paid at the full-time rate of pay.
- (c) An employee may elect to take the 14 weeks paid maternity or adoption leave entitlement over a period of 28 weeks at half pay. All leave accruals during the period of paid maternity or adoption leave at half pay will be calculated on a pro rata basis.
- (d) In addition to the period of 52 weeks leave referred to in subclause 26.1 and 26.2, an employee may apply to the University for additional unpaid leave.

26.4 Partner Leave

An employee will be entitled to partner leave as follows:

- (a) An employee will be entitled to 10 working days paid partner leave, to be taken during the period three weeks prior to and three months after the expected birth or placement of the child. For part-time employees, the paid portion of the leave will be paid at the appropriate part-time rate of pay.
- (b) In addition to the 10 days paid leave set out in subclause 26.4(a) above, an employee whose partner (including same-sex partner) has given birth to a child will be entitled to a further unbroken period of 50 weeks unpaid partner leave.
- (c) In addition to the periods of partner leave referred to in subclauses 26.4(a) and (b), an employee may apply to their supervisor for additional unpaid partner leave.

26.5 Foster Parent Leave

- (a) From the time that the child enters their care an employee acting as the primary carer of a foster child on a long term placement will be entitled to:
 - (i) three weeks leave on full pay or six weeks leave on half pay if the child is younger than five;
 - (ii) two weeks leave on full pay or four weeks leave on half pay if the child is five and over.

26.6 General Conditions of Leave

- (a) Unless it is impracticable, an employee will provide their supervisor with at least 10 weeks' notice of the intention to take parental leave and at least 4 weeks' notice of the date on which the parental leave will commence.
- (b) An employee who has taken maternity leave will not be eligible for partner leave in respect of the same child.
- (c) Adoption leave may be taken by either parent, except that where both parents are employed by the University, one employee's paid adoption leave entitlement will be reduced by any period of paid adoption leave taken by the employee's partner (including same-sex partner).
- (d) Appropriate certification relating to the birth or adoption of the child and, where appropriate, the employee's legal responsibility must be produced if required by the University.
- (e) If requested by an employee, any paid portion of parental leave may be paid as a lump sum.

26.7 Fixed-term Appointments

- (a) An employee employed on a fixed-term contract of employment will cease to have an entitlement to parental leave upon the expiration of the contract, except as provided for in subclauses 26.7(b) and (c) below.
- (b) An employee employed on a fixed term contract of employment whose contract expires when she is at least 20 weeks pregnant, and whose employment is not continued beyond the expiry date of the contract, will be entitled to payment of the full paid maternity leave in accordance with subclause 26.3 above unless:
 - (i) she was offered and refused another contract of employment broadly comparable to her existing position; or
 - (ii) a significant majority of the duties and responsibilities of the existing position are no longer being performed.
- (c) An employee employed on a fixed term contract who is on maternity leave at the expiry of the contract and who is subsequently employed on a further employment contract for the same position after a gap in time, not being longer than the period of parental leave would have been, will be entitled to the full paid maternity leave entitlement subject to fulfilling the eligibility requirements set out in this clause.

26.8 Casual Employees

- (a) A casual employee who is pregnant will be entitled to maternity leave on the same basis as a continuing or fixed-term employee provided that:
 - (i) she has been employed by the University on a regular and systematic basis for a continuous period of at least 24 months, including breaks in service not exceeding 4 months, immediately prior to the pregnancy; and
 - (ii) she has not accessed paid maternity leave from any other employer for the pregnancy.
- (b) Notwithstanding subclause 26.8(a) above, a casual employee will not have an entitlement to re-employment at the end of a period of approved maternity leave.
- (c) A casual employee who takes maternity leave will remain an employee of the University for the period of maternity leave.
- (d) Where a casual employee declares a desire to return to work following a period of maternity leave but work no longer exists, the employee will cease employment as at the last day of maternity leave. However, the work unit in which the casual employee was employed will give reasonable consideration to the employee for suitable casual work.
- (e) A casual employee who receives paid maternity leave will be paid at a fortnightly rate of pay equal to the average fortnightly rate of pay the

employee was paid over the 12 months immediately preceding the date on which maternity leave is commenced. The full amount of the maternity leave will be paid to the casual employee at the commencement of the maternity leave.

26.9 Continuity of Service and Other Conditions of Employment

- (a) Absence on parental leave will not break continuity of service with the University.
- (b) Absence on paid parental leave will count as service for all purposes.
- (c) Incremental progression will continue during periods of paid parental leave and where the employee has either been at work or on paid leave for at least six months of the previous 12 month period.
- (d) Absence on unpaid parental leave will not count as service for the purposes of:
 - (i) long service leave unless the employee has completed 10 years service with the University and the period of unpaid parental leave taken is less than 6 months; or
 - (ii) annual leave.
- (e) An employee may elect to cover any of the period of unpaid parental leave by taking accrued annual leave and/or long service leave.

26.10 Unplanned Cessation of Parental Leave

- (a) If parental leave has commenced, or has been approved but not commenced, and:
 - (i) in the case of maternity leave, the pregnancy of the employee terminates other than by the birth of a living child, or the employee's child dies during the period that the staff member is on leave; or
 - (ii) in the case of adoption leave, the child dies during the period that the employee is on leave;

the employee will be entitled to sick leave and bereavement leave in addition to any entitlement to such leave set out elsewhere in this Agreement to a maximum of 14 weeks from the date or expected date of birth or placement of the child.

- (b) A medical certificate will be required to support any period of leave pursuant to subclause 26.10(a) above.

26.11 Resumption of duty

- (a) On finishing parental leave, an employee is entitled to resume work in the position he/she held immediately before commencing parental leave except that:
 - (i) if the employee was transferred to a safe job because of her pregnancy, the relevant position is the position held immediately before the transfer;
 - (ii) if the employee began working part-time because of the pregnancy, the relevant position is the position held immediately before the employee began working part-time;
 - (iii) if immediately before starting parental leave the employee was acting in or temporarily performing the duties of a position for a period equal to or less than the parental leave, then the relevant position is the position held by the employee immediately before taking the acting or temporary position.
- (b) An employee on parental leave will be consulted in accordance with clause 9.0 of this Agreement concerning any significant workplace change affecting the position she/he held before commencing parental leave.
- (c) If that position no longer exists, the University will employ the employee in a position commensurate with the classification and duties of the position the employee was performing immediately prior to taking parental leave.
- (d) If no such position is identified, the employee may be retrenched with the appropriate retrenchment benefit in accordance with clause 9.0 of this Agreement.
- (e) An employee may negotiate with the University to return to work from a period of parental leave earlier than the date originally approved.

26.12 Return to Work on a Part-Time Basis

- (a) The University is committed to family friendly work practices and will give due consideration to assisting staff to balance work and family needs subject to the requirements of the work unit.
- (b) A full-time employee on a period of parental leave may apply to return to work on a part-time basis for a defined period following the completion of the parental leave.
- (c) An application to return to work on a part-time basis must be made at least eight weeks prior to the completion of the parental leave.
- (d) If it is not practicable for an employee to resume work on a part-time basis in the position which s/he held prior to taking parental leave, the employee will be so advised. If in such circumstances the University identifies a suitable vacant position to which the employee may be placed on a part-time basis,

and the employee agrees, the employee will be placed in the alternate position and be paid the appropriate proportion of the salary applicable to her/his former substantive position for the period of part-time employment.

- (e) At the conclusion of the period of part-time employment, the employee will return to her/his substantive position on a full-time basis. If the former position occupied by the employee prior to taking parental leave no longer exists, the provisions of subclause 26.11(c) and (d) above will apply.
- (f) Prior to the expiry of the defined period provided for in subclause 26.12(b) above, additional part-time employment may be negotiated between an employee and the supervisor.

27.0 Carer's Leave

27.1 Interpretation

"Carer's leave" means the use of part of an employee's entitlement to sick leave for the purposes of caring for an immediate family member as defined in subclause 24.0(a) "Bereavement Leave".

27.2 Entitlement to Carer's Leave.

Carer's leave is available as follows:

- (i) in the first year of employment, the employee can take up to 6 days of available sick leave as carer's leave;
- (ii) in the second year of employment, the employee can take up to 8 days of available sick leave as carer's leave;
- (iii) in the third and subsequent years of employment, the employee can take up to 12 days of available sick leave as carer's leave; and
- (iv) if the current year's entitlement to sick leave is exhausted, accumulated sick leave may be accessed for carer's leave.
- (v) If all accessible leave for the purpose of carer's leave is exhausted, a staff member may, with the approval of the Vice-Chancellor or nominee, take leave without pay to cover the absence.

27.3 Conditions of Carer's Leave

To be entitled to carer's leave, the following conditions must be met:

- (i) Normally the employee must be responsible for the care and support of the person concerned.
- (ii) The employee will not be entitled to take carer's leave where another person has carer's leave to care for the same person.
- (iii) All absences for carer's leave, apart from 3 single day absences per year, must be supported by a medical certificate from the treating doctor stating the illness of the person concerned and the illness is such as to require care by another.

28.0 Leave Without Pay

An employee may apply to the University for leave without pay. Any such application will be considered by the University and the leave applied for may be granted on terms and conditions acceptable to the University.

29.0 Employees Called as Witnesses

- (a) An employee required to attend as a witness should notify the Human Resources Department through his/her supervisor of the dates of any absence from work.
- (b) An employee required as a witness by the University, or directly in a matter relating to a University award or industrial agreement in the Australian Industrial Relations Commission or its successor, will be regarded as being on duty. Consequently there will be no loss of pay or leave for the absence from work.
- (c) An employee called as a witness by a party other than the University, or in a matter unrelated to the University, may choose to take leave without pay or take annual leave. Where this occurs the employee must notify his/her supervisor in advance.

30.0 Employees Summoned as Jurors

- (a) An employee required to serve as a juror will :
 - (i) notify his/her supervisor of the dates of any absence from work expected as a result of that service.
 - (ii) provide the Human Resources Department of the University with proof of the dates of attendance, and the monies received for the jury service, other than any travel allowance.
- (b) The University will pay to the employee his/her full salary for the period of jury service, but the employee is required to pay the University the money received for the jury service, other than any travel allowance. The employee may retain the payment for jury service by choosing to have an equivalent amount deducted from his/her credit for annual leave.

31.0 Holy Days and Essential Religious or Cultural Duties

Language staff at the Institute will be granted recreation leave or long service leave (where the employee has an entitlement to recreation leave or long service leave); or leave without pay to observe holy days or to attend

essential religious or cultural duties associated with a particular religious faith or culture.

32.0 Public Holidays

Employees will be allowed to observe the following days as holidays without loss of pay:

New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, and all other proclaimed public holidays for the State.

Part 6 OTHER MATTERS

33.0 Consultation Between the Parties

33.1 Implementation Committee

The parties agree that for the purposes of facilitating the implementation of this Agreement an Implementation Committee will be established which will:

- (i) comprise two employees nominated by the NTEU and two employees nominated by the University;
- (ii) meet at the request of either party to this Agreement to discuss issues arising out of, and to develop strategies for the implementation of this Agreement; and
- (iii) be cognisant of the special needs of EEO groups.

33.2 Consultation on University Policies

(a) Without limiting the University's current practice of consultation about policy, the University will develop and/or maintain policies in relation to:

- (i) Intellectual Property;
- (ii) Intellectual Freedom;
- (iii) Workplace Bullying; and
- (iv) Redeployment Guidelines.

(b) Matters covered by:

- (i) the Intellectual Property policy will include the rights of employees to an appropriate share in the ownership and control of intellectual property, including intellectual property arising from on line teaching and learning.
- (ii) the Intellectual Freedom policy will include the rights and freedoms of employees to comment and engage in public debate, including a debate on the operation and governance of the University.

- (iii) the Workplace Bullying policy will include procedures for dealing with complaints of workplace bullying in a timely and effective manner. The parties agree that there is no place for bullying in the workplace. Workplace bullying includes behaviour aimed to demean, humiliate or intimidate employees either as individuals or as a group.
- (iv) the Redeployment Guidelines will include measures to facilitate the redeployment of displaced employees.
- (c) The policies referred to in subclause 33.2(a) above will be developed and regularly reviewed through the University's consultative processes, including with the unions.
- (d) Policies will contain a fair and transparent mechanism for resolving disputes arising from the implementation of the policy. The parties agree that disputes arising from the implementation of these policies will not be referred through the disputes settling procedures (Clause 34.0) of this Agreement.

33.2.1 Indigenous Australian Employment

- (a) In the first 3 months of this Agreement, an Indigenous Employment Strategy Consultative Committee (IESCC) will be formed as part of the University's development of an Indigenous Employment Strategy.
- (b) The IESCC will include as part of its membership:
 - (i) A nominee of the local branch President of the NTEU;
 - (ii) Two indigenous Australian employees; and
 - (iii) Two nominees of the local indigenous community.
- (c) One of the key objectives of the Indigenous Employment Strategy will be to work towards achieving particular targets in relation to increasing employment and development opportunities for indigenous Australians.

33.3 Union Rights

- (a) In recognising that unions are the legitimate representatives of employees the University will assist the Union by providing appropriate support for authorised union activities.
- (b) An employee who has been appointed as a union representative will be allowed reasonable paid time and will be considered to be on duty for the conduct of union activities. The University recognises the additional time that Branch Presidents (or equivalent) contribute to union activities.
- (c) The University supports leave that will improve the skills of union representatives. An employee who is a union representative will be granted a reasonable paid leave of absence to attend external union meetings, trade union training courses and union related activities provided that adequate

notice has been given to the Manager Industrial Relations. Such leave of absence will not normally be more than 6 days per year.

- (d) The Union may hold meetings of members on the premises of the University provided that adequate notice has been given to the Manager Industrial Relations of the intention to hold a formal meeting.
- (e) As far as practicable, union meetings should be held during meal breaks or other work breaks. Union meetings may only be held during working hours if agreed between the union and the University.
- (f) The Union will be informed of all formal induction sessions for new employees by the University, and will be permitted to distribute union information at those sessions.

34.0 Dispute Settling Procedures

- (a) Where a dispute arises, or is considered likely to arise, regarding the interpretation, application or operation of any provision of this Agreement, the procedures contained in this clause will be followed.
- (b) A dispute arising between an employee or group of employees and a supervisor will, in the first instance, be discussed by them without delay in an effort to resolve the matter promptly. The employee(s) may seek the assistance of the relevant union.
- (c) Where the steps in subclause 34.0(b) are unsuccessful, a representative of the union and a representative of the University will discuss the dispute and attempt to reach agreement.
- (d) Where a dispute is not resolved under subclause 34.0(c), at the request of either party a Disputes Committee will be convened within 5 working days, unless agreed otherwise. The Disputes Committee will consist of nominees of the University and nominees of the union.
- (e) The Disputes Committee will attempt to resolve the matter within 5 working days of its first meeting. Any resolution will be in the form of a written agreement subject, if necessary, to ratification by either party.
- (f) Until the procedures described in subclauses 34.0(c) - (e) have been exhausted:
 - (i) no industrial action will be taken by the University or the union;
 - (ii) the University will not change work, duties, staffing or the organisation of work if such is the subject of a dispute, nor take any other action likely to exacerbate the dispute; and

- (iii) the subject matter of the dispute will not be taken to the AIRC by the union or by the University.
- (g) The parties may agree to refer the dispute to a mediator agreed to by the parties. The parties will implement any agreed outcome from the mediation and the dispute will be resolved.
- (h) Where the dispute remains unresolved any party may refer the matter to the Australian Industrial Relations Commission for conciliation and/or arbitration. Subject to the legislative rights of any party to appeal a decision of the AIRC, the parties will implement any arbitrated decision of the AIRC in resolution of the dispute.

35.0 Compensation for Loss or Damage to Personal Property

- (a) The University will compensate an employee to the extent of damage sustained to personal property where such damage is sustained:
 - (i) due to the negligence of the University, another employee, or both, in the execution of their duties;
 - (ii) by a defect in the University's materials or equipment, or
 - (iii) where an employee has protected or attempted to protect the University's property from loss or damage.
- (b) For the purposes of this clause, personal property means an employee's clothes, spectacles, hearing-aid or tools of trade which are ordinarily required for the performance of duties.
- (c) This clause will not apply when an employee is entitled to payment under the Workers' Compensation Act, 1987 for such damage.

36.0 Occupational Health and Safety and First-aid

- (a) The University is committed to meeting its statutory obligations under the OH&S Act (2001) as amended and other relevant state and federal legislation.
- (b) The University will ensure that the unions have the opportunity to nominate an appropriate number of representatives onto the various University Occupational Health and Safety committees.
- (c) The University will ensure that employees, and in particular health and safety committee members and representatives, receive appropriate training in occupational health and safety that may include but will not be limited to:
 - Hazardous Substances;
 - Ergonomic/office safety;
 - Safety committee induction;
 - Dangerous Goods;

Manual handling;
Ionising and non-ionising radiation;
Laser safety;
Bio-hazards and related matters;
Operating plant and equipment; and
Emergency Evacuation Procedures (EEP);

- (d) The University will provide and maintain adequate first-aid facilities.
- (e) An employee appointed by the University as a First Aid Officer will be paid an allowance of \$420 per annum.

37.0 Career Development Scheme

- (a) The University is committed to providing all employees, including fixed-term staff, with the opportunity to be involved in the planning process within their work unit and to develop personal skills that complement their work unit's goals. The University is also committed to providing all employees with the opportunity to access a personal career development scheme to assist in enhancing career opportunities.
- (b) Career development opportunities for individual employees should initially be identified through discussions with their Head of Department or nominee. The University will provide sources for advice and support to assist employees and Heads of Department (or nominees) in identifying career development opportunities.
- (c) Development opportunities may include on-the-job coaching, internal temporary transfers, attendance at training courses, networking and mentor relationships, job rotation or project and research work, additional leave, involvement in internal or external committees, and work or study fellowships.
- (d) The University will make available a designated fund to support career development initiatives for staff covered by this Agreement.

38.0 Staff Personnel Files

An employee will be able to view their Personnel File and should be advised of any adverse reports or documents relating to performance placed on that file.

39.0 No Extra Claims

During the life of this Agreement the parties agree not to pursue any further claims in relation to matters covered by this Agreement except where this is specifically contemplated in the Agreement.

40.0 Reopening of Negotiations

- (a) The parties undertake to reopen negotiations at least 3 months before the expiry date of this Agreement.
- (b) This current Agreement will continue to apply until the replacement agreement is certified.

Signed for and on behalf of the
National Tertiary Education Industry Union

[Print name]

in the presence of

[Print name]

Date

Signed for and on behalf of
the University of New South Wales

[Print name]

in the presence of

[Print name]

Date

Part 7 SCHEDULE

Schedule 1 SALARIES

Language Teacher (Classification rate code - 5901)

Step	Current	1/3/04	1/9/04	1/2/05	1/8/05	1/1/06	1/7/06
1	36,914	38,021	38,782	39,557	40,744	41,559	42,390
2	39,385	40,567	41,378	42,205	43,472	44,341	45,228
3	41,968	43,227	44,092	44,973	46,323	47,249	48,194
4	44,550	45,887	46,804	47,740	49,173	50,156	51,159
5	47,132	48,546	49,517	50,507	52,022	53,063	54,124
6	49,710	51,201	52,225	53,270	54,868	55,965	57,085
7	52,295	53,864	54,941	56,040	57,721	58,876	60,053

Casual hourly rate for a Language Teacher (Classification rate code - 5902)

Current	1/3/04	1/9/04	1/2/05	1/8/05	1/1/06	1/7/06
46.61	48.41	49.38	50.78	52.31	53.79	54.87

Rate derived by (Annual salary for Step 5 ÷ 52 ÷ 35 x 1.5) x casual loading

Casual hourly rate for a Non Classroom Language Teacher (Classification rate code - 5906)

Current	1/3/04	1/9/04	1/2/05	1/8/05	1/1/06	1/7/06
29.64	30.51	31.12	32.00	32.96	33.90	34.57

Teacher Co Ordinator (Classification rate code - 5904)

Step	Current	1/3/04	1/9/04	1/2/05	1/8/05	1/1/06	1/7/06
1	54,388	56,020	57,140	58,283	60,031	61,232	62,457
2	56,262	57,950	59,109	60,291	62,100	63,342	64,609

Senior Teacher Co Ordinator (Classification rate code - 5907)

Step	Current	1/3/04	1/9/04	1/2/05	1/8/05	1/1/06	1/7/06
1	57,493	59,218	60,402	61,610	63,458	64,728	66,022
2	59,369	61,150	62,373	63,621	65,529	66,840	68,177

Head of Department (Classification rate code - 5903)

Step	Current	1/3/04	1/9/04	1/2/05	1/8/05	1/1/06	1/7/06
1	60,885	62,712	63,966	65,245	67,202	68,546	69,917
2	63,990	65,910	67,228	68,572	70,630	72,042	73,483
3	67,097	69,110	70,492	71,902	74,059	75,540	77,051

Casual CULT* and PEAT** hourly marking rate (Classification rate code - 5905)

Current	1/3/04	1/9/04	1/2/05	1/8/05	1/1/06	1/7/06
42.64	43.92	44.80	45.69	47.06	48.01	48.97

* Combined University Language Test - English test for students of NESB for university entrance

** Professional English Assessment Test – test for overseas trained teachers