



## DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**National Centre for Vocational Education Research Ltd T/A NCVER**  
(AG2021/6786)

### **NATIONAL CENTRE FOR VOCATIONAL EDUCATION RESEARCH LTD AGREEMENT 2021-2022**

Clerical industry

DEPUTY PRESIDENT DEAN

CANBERRA, 3 SEPTEMBER 2021

*Application for approval of the National Centre for Vocational Education Research Ltd Agreement 2021-2022.*

[1] An application has been made for approval of an enterprise agreement known as the *National Centre for Vocational Education Research Ltd Agreement 2021-2022* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by National Centre for Vocational Education Research Ltd T/A NCVER. The Agreement is a single enterprise agreement.

[2] I am satisfied that each of the requirements of ss 186, 187 and 188 as are relevant to this application for approval have been met.

[3] I note that the provisions at clause 70 (Personal leave), clause 74 (Leave without pay), clause 75 (Parental leave) and clause 82 (Redundancy) of the Agreement are likely to be inconsistent with the National Employment Standards (NES). However, noting clause 7 of the Agreement, I am satisfied the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[4] CPSU, the Community and Public Sector Union, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers the organisation.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 10 September 2021. The nominal expiry date of the Agreement is 30 June 2022.

DEPUTY PRESIDENT

Printed by authority of the Commonwealth Government Printer

<AE512973 PR733543>

# Enterprise Agreement 2021-2022

## National Centre for Vocational Education Research Ltd

---

This Agreement shall be known as the:

National Centre for Vocational Education  
Research Ltd Agreement 2021-2022

# Contents

PART A: Agreement formalities	5
1. Aim of Agreement	5
2. Area, incidence and parties bound	5
3. Date and period of operation	5
4. Agreement excludes other awards or Agreements	6
5. Attachments	6
6. Policies and relevant support documentation	6
7. National Employment Standards (NES)	6
8. Definitions	6
9. Delegations	8
10. Workplace Consultative Committee	8
11. Implementation and monitoring	8
12. Consultation	9
13. Employee representation	11
14. Closed Agreement	11
PART B: Principles of employment	12
15. Recruitment	12
16. Contract of employment	12
17. Flexibility	13
18. Probation	13
19. Job Evaluation and Remuneration Framework	14
20. Progression through job levels	14
21. Conflicts of interest and outside employment	15
22. Confidentiality	15
23. Privacy	16
24. Information systems and technology	16
25. Work health and safety (WHS)	16
26. Workplace discrimination, harassment and bullying	16
27. Environmental initiatives	16
28. Site transfers	17
29. Mature aged workers	17
30. Appeals procedure	17
PART C: Remuneration and allowances	18
31. Rates of pay	18
32. Increases in rates of pay	18
33. Method of salary payment	18
34. Salary for part-time employees	19
35. Salary for Trainees	19
36. Salary for Graduates	19
37. Salary advancement	19

38.	Superannuation	19
39.	Payment on death	21
40.	Overtime	21
41.	Time off in lieu (TOIL)	22
42.	Higher duties allowance	22
43.	Travel and accommodation expenses	22
44.	Work-related expenses	23
45.	Relocation expenses	24
46.	First aid certificate allowance	24
47.	Team building across NCVER	24
48.	Membership of professional associations	24
PART D: Working hours and balancing work and personal life		25
49.	Ordinary hours	25
50.	Part-time employees	25
51.	Flexible working arrangements and workloads	25
52.	Flexitime	26
53.	Flexibility in working hours for Managers	28
54.	Variable leave without pay (48 in 52)	28
55.	Working from home	29
56.	Care of an employee with long-term illness	29
57.	Childcare support	29
58.	Family violence support	29
59.	Wellbeing payment	30
60.	Flu vaccinations	31
61.	Reunion visits	31
62.	Donation for medical purposes	31
63.	Counselling services	31
PART E: Career, personal and performance development		32
64.	Career path	32
65.	Performance development cycle	32
66.	Underperformance	33
67.	Personal development	33
PART F: Leave		34
68.	Public holidays and Christmas shutdown	34
69.	Annual leave	34
70.	Personal leave	34
71.	Compassionate leave	36
72.	Special leave	36
73.	Long-service leave	36
74.	Leave without pay	37
75.	Parental leave	37
76.	Defence services leave	38
77.	Emergency services leave	39

78.	Jury service	39
Part G: Disciplinary action, dispute resolution and termination		40
79.	Disciplinary action	40
80.	Dispute resolution procedure	41
81.	Termination of employment	42
82.	Redundancy entitlements	43
PART H: Declaration and signatories		46
83.	Declaration	46
84.	Signatories	46
ATTACHMENT A: Rates of pay		47
ATTACHMENT B: Guidelines for individual salary advancement		48
ATTACHMENT C: Job Evaluation Advisory Committee Terms of Reference		50
ATTACHMENT D: Workplace Consultative Committee Terms of Reference		52

# PART A: Agreement formalities

## 1. Aim of Agreement

NCVER employees contribute to NCVER's mission: To deliver world class research, intelligent analytics and highly accessible data that is timely, relevant and trusted by our stakeholders.

NCVER respects its employees and aims to provide an environment where employees are able to realise both the goals of NCVER and their personal employment aspirations by providing a supportive work environment.

It is the purpose of this Agreement to document the conditions under which employees are employed at NCVER and to ensure employees are treated fairly. It is an objective of this Agreement that work conditions at NCVER enable employees to contribute to NCVER's corporate values as stated in the Strategic Plan.

To achieve this objective, NCVER wishes to provide its employees with:

- a) an efficient and productive work environment
- b) a work culture of good practice, quality assurance, and professionalism
- c) opportunities for collaboration and teamwork
- d) job satisfaction
- e) the opportunity to develop skills
- f) flexible and agreed work arrangements
- g) conditions and terms which are clear
- h) a workplace that respects, values and supports diversity
- i) a workplace free from discrimination, bullying and harassment
- j) work arrangements that attract and retain skilled workers and enable employees to balance their obligations to NCVER with those to their family and community.

## 2. Area, incidence and parties bound

This Enterprise Agreement is made pursuant to Part 2-4 of the Fair Work Act 2009 and shall cover in its terms:

- a) NCVER
- b) all employees of NCVER, save and except those employed in the position of Managing Director, General Manager, or any other position at or above the level of General Manager
- c) CPSU, the Community and Public Sector Union if the Fair Work Commission notes in its decision to approve this Agreement that it covers that union.

## 3. Date and period of operation

This Agreement will come into effect seven days after the Fair Work Commission approves the Agreement and shall nominally expire on 30 June 2022.

## 4. Agreement excludes other awards or Agreements

Excepting as otherwise provided for in this Agreement, this Agreement shall apply to the employment of employees of NCVER in lieu of any other Award, Agreement, and any other industrial instrument which might otherwise apply to the employees covered by this Agreement.

## 5. Attachments

Attachments referred to throughout this document form part of this Agreement and can only be varied by agreement between the parties to the Agreement. Following are attachments to this Agreement:

- a) Attachment A: Rates of pay
- b) Attachment B: Guidelines for individual salary advancement
- c) Attachment C: Job Evaluation Advisory Committee Terms of Reference
- d) Attachment D: Workplace Consultative Committee Terms of Reference

## 6. Policies and relevant support documentation

NCVER's policies and relevant support documentation are not incorporated into this Agreement by reference, and the obligation to comply with them arises as a separate obligation under general employment law. This Agreement is not to be read as incorporating policies and relevant support documentation by reference on account of matters arising under them being subject to the dispute resolution process. NCVER policies and relevant support documentation may be amended from time to time by the Managing Director. Consultation (refer to *Clause 12 Consultation*) with the Workplace Consultative Committee will take place prior to any amendments being made to corporate policies, or any new policies being introduced. Policies and relevant support documentation referred to in this Agreement can be found on NCVER's intranet under Policies & Guidelines.

In the recognition of equity, fairness and desired consistent application of policies and relevant support documentation, management will make available, where required, guidelines to assist their interpretation. Management will communicate decisions in a manner most effective to circumstance, including in writing, when appropriate. Circumstances of individual requests and decisions will not be disclosed for privacy reasons.

All entitlements and benefits shall be included in the Enterprise Agreement and be legally enforceable. National or state legislation, where it impacts the Agreement, will be adhered to. Policies and relevant support documentation shall only be used to support the Agreement, be enforceable and shall be subject to the dispute resolution procedure.

## 7. National Employment Standards (NES)

Where a term of the NES is more beneficial to a corresponding term of the Agreement, the term of the NES will apply.

## 8. Definitions

'Agreement' refers to the National Centre for Vocational Education Research Ltd Enterprise Agreement 2021-2022.

'Anniversary date' means the anniversary of an employee's commencement with NCVER.



'Board' means the Board of Directors of NCVER.

'Casual employee' means a person who is employed on an hourly basis and as required, as set out in *Clause 16 Contract of employment*.

'Company' means the National Centre for Vocational Education Research Ltd.

'Company contributions' refers to the statutory superannuation guarantee contribution, plus an NCVER supplementary amount, if applicable. Refer to *Clause 38 Superannuation*.

'Consultant' means a short-term contractor engaged to fulfil a specific task. Consultants are not considered as NCVER employees to be covered by this Agreement.

'Continuous service' means employment by NCVER including all periods of paid leave and all periods of unpaid sick leave or with a break between contracts of not more than sixty (60) working days for full-time employees (and pro rata for part-time employees).

'CPSU' means the Community and Public Sector Union (PSU Group).

'Employee' means employee, whether full time, part time, ongoing, fixed-term or casual, employed under and within the conditions of service as specified in this Agreement.

'Executive' means anyone occupying the position of Managing Director, General Manager, Executive Manager.

'Executive Committee' means the committee comprising of the Managing Director, General Managers, Executive Manager, Manager Finance & Governance, and Manager HR & Business Services.

'Family' or 'Immediate Family' of an employee means:

- a) a spouse or partner (including a former spouse or partner)
- b) a child, parent, grandparent, grandchild or sibling of the employee
- c) a child, parent, grandparent, grandchild or sibling of the employee's spouse or partner
- d) a person whom a parental or care order in the employee's favour applies from either a State, Territory or Commonwealth jurisdiction
- e) a member of an employee's household or a person of significance; and
- f) traditional kinship where there is a relationship or obligation, under the customs and traditions of the community or group to which the employee belongs

"Partner" means a person who, regardless of gender, is in a genuine domestic relationship, although not legally married to the employee.

"Child" in relation to a person includes an adopted child, a foster child, a step child (someone is a stepchild of the person if he/she would have been a stepchild except that the person is not legally married to the partner), an ex-nuptial child and a child of a person within the meaning of the Family Law Act 1975.

The Managing Director may apply the definition of 'Immediate family' to other individuals, on a case by case basis, and shall take into account cultural differences.

'Fixed term' means an employee engaged where work is of a project nature, or to specifically replace existing employees on extended leave. Fixed-term appointments should not exceed three years in duration initially and is of no more than six years continuous employment, as set out in *Clause 16 Contract of employment*.

'Flexitime' where an employee alters start and finish times from the standard, as set out in *Clause 52 Flexitime*.

'Flexi-leave' where an employee works less than their nominated regular hours on any day and is not on another form of leave as set out in *Clause 52 Flexitime*.

'HR' means Human Resources.

'JEAC' means Job Evaluation Advisory Committee. Refer to *Attachment C Terms of Reference*.

'NCVER' means the National Centre for Vocational Education Research Ltd.

'Ongoing employees' means those employed in a position of indefinite tenure.

'Parties' means NCVER, the employees covered by this Agreement and the CPSU.

'Support documentation' refers to other varying forms of documentation related to NCVER policies. These may include, but are not limited to, procedures, processes, guides, guidelines, forms and templates.

'Trainee' means an employee who has been engaged under the conditions of the Australian Traineeship Scheme or a similar structured training arrangement.

'WCC' means the Workplace Consultative Committee. Refer to *Clause 10 Workplace Consultative Committee and Attachment D Terms of Reference*.

## 9. Delegations

To ensure that decision making is more efficiently made at the level more knowledgeable of business needs and closest to the area affected, the Managing Director may delegate any powers or approval rights regarding matters contained within this Agreement, to Manager level.

## 10. Workplace Consultative Committee

The Workplace Consultative Committee (WCC) provides a consultative mechanism in relation to workplace matters that have consequences for employees. Workplace matters include HR policies, redundancies, dispute resolution, the introduction of change and where agreed, ongoing review and provision of feedback on these matters.

For the term of this Agreement, Committee membership will remain unchanged to that of the preceding Agreement.

The WCC is not a decision making Committee of NCVER however it is a body responsible for and committed to open discussion and direct consultation with employees on workplace matters. Such matters will be discussed in a spirit of cooperation and trust to ensure that employees have an opportunity to raise workplace concerns, to receive sufficient information on matters that affect them, to have an opportunity to contribute their views on those matters and to have meaningful involvement in decision making. The WCC will consider and consult with employees, in a timely manner on matters that have consequences for employees before being implemented.

Refer to *Attachment D* for full terms of reference for the WCC.

## 11. Implementation and monitoring

NCVER is committed to ensuring the successful implementation of this Agreement. Information sessions will be delivered to all employees with responsibility for implementation of the Agreement to ensure that the application and interpretation of the provisions contained within are applied consistently and in the spirit in which they were intended.

The WCC is responsible for monitoring the implementation of this Agreement and a review of the operation of this Agreement will be undertaken on an annual basis by the WCC.

## 12. Consultation

12.1. This clause applies if NCVER:

- a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
- b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

### Major change

12.2. For a major change referred to in paragraph 12.1. a):

- a) NCVER must notify the relevant employees of the decision to introduce the major change; and
- b) subclauses 12.3. to 12.9. apply.

12.3. The relevant employees may appoint a representative for the purposes of the procedures in this term.

12.4. If:

- a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- b) the employee or employees advise NCVER of the identity of the representative;

NCVER must recognise the representative.

12.5. As soon as practicable after making its decision, NCVER must:

- a) discuss with the relevant employees:
  - i. the introduction of the change; and
  - ii. the effect the change is likely to have on the employees; and
  - iii. measures that NCVER is taking to avert or mitigate the adverse effect of the change on the employees; and
- b) for the purposes of the discussion—provide, in writing, to the relevant employees:
  - i. all relevant information about the change including the nature of the change proposed; and
  - ii. information about the expected effects of the change on the employees; and
  - iii. any other matters likely to affect the employees.

12.6. However, NCVER is not required to disclose confidential or commercially sensitive information to the relevant employees.

12.7. NCVER must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

12.8. If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of NCVER, the requirements set out in paragraph 12.2. a) and subclauses 12.3. and 12.5. are taken not to apply.

- 12.9. In this term, a major change is *likely to have a significant effect on employees* if it results in:
- a) the termination of the employment of employees; or
  - b) major change to the composition, operation or size of NCVER's workforce or to the skills required of employees; or
  - c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure);  
or
  - d) the alteration of hours of work; or
  - e) the need to retrain employees; or
  - f) the need to relocate employees to another workplace; or
  - g) the restructuring of jobs.

### Change to regular roster or ordinary hours of work

12.10. For a change referred to in paragraph 12.1. b):

- a) NCVER must notify the relevant employees of the proposed change; and
- b) subclauses 12.11. to 12.15. apply.

12.11. The relevant employees may appoint a representative for the purposes of the procedures in this term.

12.12. If:

- a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- b) the employee or employees advise NCVER of the identity of the representative;  
NCVER must recognise the representative.

12.13. As soon as practicable after proposing to introduce the change, NCVER must:

- a) discuss with the relevant employees the introduction of the change; and
- b) for the purposes of the discussion—provide to the relevant employees:
  - i. all relevant information about the change, including the nature of the change; and
  - ii. information about what NCVER reasonably believes will be the effects of the change on the employees; and
  - iii. information about any other matters that NCVER reasonably believes are likely to affect the employees; and
- c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

12.14. However, NCVER is not required to disclose confidential or commercially sensitive information to the relevant employees.

12.15. NCVER must give prompt and genuine consideration to matters raised about the change by the relevant employees.

12.16. In this term:

**relevant employees** means the employees who may be affected by a change referred to in subclause 12.1.

## 13. Employee representation

In any matter arising under this Agreement, an employee may have an employee representative, assist or represent them, and all relevant persons will deal with any such representative in good faith. To avoid doubt, this assistance includes acting as an advocate.

Where reference is made to consultation with employees, NCVER will, where employees choose, also consult with the employee's representative.

The parties recognise that the arrangements regarding consultation, cooperation, participation and exchange of information under this Agreement place considerable obligations, duties and responsibilities on workplace representatives.

To assist in meeting these obligations, duties and responsibilities, NCVER will provide reasonable paid time and facilities having regard to the operational requirements of NCVER and resource requirements associated with the provision of such facilities.

For the purposes of this provision, reasonable access will be provided to office equipment (including photocopying facilities), communications systems (including email), and accommodation (including storage facilities). Time to attend reasonable training will also be provided.

No employee shall be disadvantaged as a result of activities conducted in accordance with this clause.

In addition to the rights of employee representatives set out above, NCVER will consider requests from CPSU workplace representatives for all-employee emails and seek to facilitate those requests where possible, subject to operational requirements.

## 14. Closed Agreement

From the commencement of this Agreement, a party to the Agreement or an employee whose employment is subject to the Agreement shall not pursue further claims for terms and conditions of employment that would have effect during the period of operation of this Agreement, except where consistent with the terms of the Agreement.

# PART B: Principles of employment

## 15. Recruitment

NCVER is committed to following a recruitment process based on merit that supports internal mobility wherever appropriate. Full details can be found in the Recruitment and Selection Policy and relevant support documentation (as amended from time to time) available on NCVER's intranet under Policies & Guidelines. This policy does not form part of this Agreement.

## 16. Contract of employment

Employees will generally be employed as ongoing employees, subject to the satisfactory completion of the period of probation.

Employment can be:

- a) full-time or part-time ongoing
- b) full-time or part-time fixed term
  - i. Fixed-term appointments will generally be used where work is of a project nature, with approved contingent funding, or to specifically replace existing employees on extended leave. Fixed-term appointments should not exceed three years in duration initially. Where, due to circumstances beyond the control of the incumbent fixed-term contractor, an extension is required to complete the work, the contract can be extended up to the period required to complete the contracted work, or for the period that contingent funding is approved (whichever comes first) and is of no more than six years continuous employment.
  - ii. NCVER is under no obligation to extend or renew a fixed-term contract.
  - iii. NCVER may choose to convert a fixed-term employee at the end of their contract to an ongoing employee where the fixed-term position was initially of 12 months or longer duration.
- c) Casual, on an hourly and as required, basis
  - i. Casual employees who are paid on an hourly basis receive 25% casual loading on top of the minimum hourly rate otherwise applicable to a part-time or full-time employee. The casual loading is compensation for the fact that casual employees are not entitled to paid leave, payment for public holidays not worked, payment in lieu of notice or termination and redundancy pay.
  - ii. Right to casual conversion
    - a. A casual employee's right to request casual conversion and entitlements are to be offered in accordance with the National Employment Standards. This clause contains additional provisions.
    - b. Where an employee has been engaged on a casual basis and the pattern of employment has become regular and systematic for a period of 6 months, NCVER in consultation with the employee will make a decision as to the ongoing need for the position and fill it on an appropriate basis (fixed term or ongoing) and in accordance with NCVER's Recruitment and Selection Policy.

## 17. Flexibility

- a) The Managing Director and an employee covered by this Agreement may, after an employee has commenced employment, agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
  - a) the Agreement deals with one or more of the following matters:
    - i. arrangements about when work is performed
    - ii. overtime/penalty rates
  - b) the arrangement meets the genuine needs of NCVER and the employee in relation to one or more of the matters mentioned in paragraph a)
  - c) the arrangement is genuinely agreed to by the Managing Director and employee and is by mutual consent.
- b) The Managing Director must ensure that the terms of the individual flexibility arrangement:
  - a) are about permitted matters under section 172 of the Fair Work Act 2009
  - b) are not unlawful terms under section 194 of the Fair Work Act 2009
  - c) result in the employee being better off overall than the employee would be if no arrangement were made.
- c) The Managing Director must ensure that the individual flexibility arrangement:
  - a) is in writing
  - b) includes the name of NCVER and employee
  - c) is signed by the Managing Director and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee
  - d) includes details of:
    - i. the terms of the Agreement that will be varied by the arrangement
    - ii. how the arrangement will vary the effect of the terms
    - iii. how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement
    - iv. states the day on which the arrangement commences.
- d) The Managing Director must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- e) The Managing Director or employee may terminate the individual flexibility arrangement:
  - a) by giving no more than 28 days written notice to the other party to the arrangement, or
  - b) if the Managing Director and employee agree in writing, at any time.

## 18. Probation

For appointments of 12 months or more duration, every new employee at NCVER shall be appointed on probation for a period of six months. The purpose of the probationary period is to ascertain whether the conduct and work performance of the appointee meet the required standards for the position. Following appropriate

discussion and documentation, at the conclusion of the probationary period the relevant manager will confirm or terminate the appointment in writing. For appointments less than 12 months in duration, an appropriate probationary period will be agreed in writing prior to the commencement of employment.

## 19. Job Evaluation and Remuneration Framework

Positions within NCVER are evaluated and assigned to an appropriate position level within the NCVER Job Evaluation and Remuneration Framework.

The framework seeks to facilitate a consistent, systematic, fair and transparent approach to position sizing and position level assignment.

The full NCVER Job Evaluation and Remuneration Framework Guide can be found on NCVER's intranet under Policies & Guidelines. Modifications to wording within the Framework Guide may occur during the life of this Agreement. A Job Evaluation Advisory Committee will be established and this Committee and the Workplace Consultative Committee will be consulted regarding any proposed changes to the Framework Guide. Any changes will be to provide better clarification of contents only and will not result in material differences in job sizing or remuneration of positions.

Employees who are paid above the top of the salary range for their position will continue to receive annual company wide salary increases as per *Clause 32 Increases in rates of pay*, however will not be eligible to apply for individual salary review until such time that they change positions and/or their salary falls below the top of the level.

The sizing methodology and salary ranges will be reviewed in conjunction with an external remuneration expert at the beginning of negotiations of the next Enterprise Agreement.

## 20. Progression through job levels

Employees may apply to have their job re-classified. Generally, applications are accepted during the period January – mid February each year. A timetable with precise dates will be released on a yearly basis.

An appropriately evidenced application may be submitted by the employee or relevant manager to the HR Manager for consideration by the Executive Committee.

### 20.1. Progression through Job Matrix

For positions that offer graduated progression opportunities and appear within a progression cluster (as indicated on the NCVER Job Matrix), an employee may apply to be re-classified to the next level position within that cluster.

Application may be made if the following criteria is satisfied;

- a) the employee must be being paid at least at midpoint for their current level, and;
- b) the employee must be assessed as already performing at a level commensurate with all the higher job evaluation factors as outlined in the next level position description, as determined by their manager, and;
- c) the employee must have attained the relevant knowledge and qualifications for the higher-level position, and;
- d) the manager must be able to demonstrate that there is enough work available requiring the higher-level capability to justify a reclassification of the position to the next level.

### 20.2. Personal re-classification



In exceptional circumstances, an individual may be performing at a sustained higher level than their position requires, but there are limited opportunities to progress to a higher level position. In the interests of providing career progression and staff retention, individuals in this situation may apply for personal re-classification.

Application may be made if the following criteria is satisfied;

- a) the employee must be assessed as already performing at a level commensurate with higher level job evaluation factors, as determined by their manager and supported by evidence, and;
- b) the manager must be able to demonstrate that the higher level contributions are required, and being applied and utilised on an ongoing basis.

The final determination will be at the Managing Director's discretion and will take into account the alignment of the individual's higher level outputs with the company's strategic objectives.

If an individual is successful in achieving a personal re-classification, their personal job level will be adjusted, however their position title will remain unchanged. The position level within the NCVER Job Matrix will remain unchanged.

If there is a requirement for a position to be formally recognised and occupied within the structure, then Managers should put forward a case to have a new position created, and it will be filled in line with NCVER's Recruitment and Selection Policy.

### 20.3. Newly created positions

All newly created positions within the NCVER Job Matrix (that is newly introduced positions, or those appearing on the matrix but unoccupied) will be advertised in line with NCVER's Recruitment and Selection Policy.

## 21. Conflicts of interest and outside employment

In order to better manage and/or avoid potential conflicts that compromise NCVER's position, an employee must advise the Managing Director before undertaking employment outside of NCVER. Unpaid voluntary work undertaken outside working hours is not included. NCVER will maintain a register of outside employment which will be reviewed annually.

Employees with existing arrangements will be asked to disclose these to the Managing Director for review.

Full details can be found in the Employee Propriety Policy and relevant support documentation (as amended from time to time) available on NCVER's intranet under Policies & Guidelines. This policy does not form part of this Agreement. Failure to adhere to the requirements shall constitute unsatisfactory behaviour and may result in disciplinary action in accordance with *Clause 79 Disciplinary action*.

## 22. Confidentiality

All employees are required to comply with legal obligations of confidence regarding confidential information gained through his/her employment with NCVER. Full details can be found in the Employee Propriety Policy, Privacy Policy, Intellectual Property Policy and relevant support documentation (as amended from time to time) available on NCVER's intranet under Policies & Guidelines. These policies do not form part of this Agreement. Failure to adhere to the requirements of these policies shall constitute unsatisfactory behaviour and may result in disciplinary action in accordance with *Clause 79 Disciplinary action*.

## 23. Privacy

NCVER must comply with the Privacy Act 1988 and amendments to this Act. This means all employees are required to comply with the Privacy Act 1988, including the Australian Privacy Principles which form Schedule 1 of the Act, and the Privacy Amendment (Notifiable Data Breaches Act) 2017. The Privacy Act governs how personal information, including personal information defined by the Act as 'sensitive', must be managed from point of collection, through to retention, use, disclosure, protection and destruction. Full details of privacy and data breach requirements are provided in NCVER's Privacy Policy and relevant support documentation (as amended from time to time) available on NCVER's intranet under Policies & Guidelines. This policy does not form part of this Agreement. Failure to adhere to the requirements of the Privacy Policy shall constitute unsatisfactory behaviour and may result in disciplinary action in accordance with *Clause 79 Disciplinary action*.

## 24. Information systems and technology

IT Policies are designed to ensure the security of NCVER IT systems and the data held on them, including the parameters for appropriate use of systems and the data held within. Full details can be found in the Acceptable use; Data Protection; Internet; and Security Policies and relevant support documentation (as amended from time to time) available on NCVER's intranet under Policies & Guidelines. These policies do not form part of this Agreement. Failure to adhere to the requirements shall constitute unsatisfactory behaviour and may result in disciplinary action in accordance with *Clause 79 Disciplinary action*.

## 25. Work health and safety (WHS)

NCVER will strive to provide safe working conditions for all people associated with its business. NCVER management and all employees have a responsibility for implementing the WHS Policy. NCVER will ensure employees are consulted and encouraged to contribute to the decision-making process on WHS matters and that all managers, team leaders and employees receive appropriate information, instruction, training and supervision to carry out their responsibilities.

Full details can be found in the WHS Policy and relevant support documentation (as amended from time to time) available on NCVER's intranet under Policies & Guidelines. This policy does not form part of this Agreement.

## 26. Workplace discrimination, harassment and bullying

NCVER is committed to providing a harassment and discrimination free working environment for all its employees. Full details can be found in the Workplace Discrimination, Harassment and Bullying Policy and relevant support documentation (as amended from time to time) available on NCVER's intranet under Policies & Guidelines. This policy does not form part of this Agreement. Failure to adhere to the requirements shall constitute unsatisfactory behaviour and may result in disciplinary action in accordance with *Clause 79 Disciplinary action*.

## 27. Environmental initiatives

NCVER and its employees are committed to exploring initiatives and implementing practical measures that reduce NCVER's carbon footprint, promote environmental sustainability and minimise the unnecessary consumption of resources.

## 28. Site transfers

Employees and their representatives will be consulted at the earliest practicable stage of any proposal to move employees to a new site. Consultation will include:

- a) an explanation of, and opportunity to discuss, the business case for the move
- b) discussion of alternative options if the proposed move is likely to cause significant inconvenience to those affected
- c) the selection of functions to be moved
- d) the process for selection of employees to move so that to the fullest extent practicable the movement of employees will be on a voluntary basis if not all functions are moving
- e) hardship factors which will be considered in selecting employees to move if not all functions are moving.

## 29. Mature aged workers

NCVER supports mature aged employees to utilise flexible work practices, such as the variety of leave provisions and part-time working options as a means to assist transition into retirement, if desired.

Employees are encouraged to discuss the various options, e.g. purchased leave (refer to *Clause 54 Variable leave without pay*), part-time work (refer to *Clause 50 Part-time employees*) etc.

## 30. Appeals procedure

An employee may lodge a written appeal to the WCC in relation to any dispute concerning their conditions of employment and have access to the dispute resolution procedure as per *Clause 80 Dispute resolution procedure*.

## PART C: Remuneration and allowances

### 31. Rates of pay

The rates of pay for employees covered under this Agreement shall be those contained in *Attachment A: Rates of pay*. Where an employee takes up the option of salary packaging, the employee's salary for purposes of superannuation, severance and termination payments, and any other purposes, will be determined as if the salary packaging arrangement had not occurred.

### 32. Increases in rates of pay

Following negotiations which considered:

- a) wage movements in comparable organisations as examples State/Territory training authorities, the Commonwealth (eg Department of Education, Skills and Employment), universities and other research agencies such as the Australian Council for Educational Research (ACER) and the Australian Institute of Health and Welfare (AIHW)
- b) recent changes in wages nationally and in the Consumer Price Index (CPI)
- c) economic forecasts of wage movements and changes to the CPI
- d) any national safety net adjustments made by the Fair Work Commission (as a minimum benchmark) and having regard to:
  - i. productivity in NCVER (noting there is no single definitive measure of productivity)
  - ii. affordability so that employee shedding is not required to finance pay rises

The following increase to rates of pay will apply:

- a) From the first full pay period after this Agreement is approved by the Fair Work Commission an increase of 1.5% will be paid to existing employees covered under this Agreement. Employees of NCVER at the time this Agreement is approved by the Fair Work Commission, will receive back pay to 1 July 2021. Employees employed after 1 July 2021 will receive back pay to the start date of their employment with NCVER.

The parties will review the quantum specified in *Clause 31 Rates of pay* by 1 February each year of this Agreement if the rate of inflation (CPI) for the previous year at the December quarter (based on the National All Groups) exceeds the agreed salary increase.

### 33. Method of salary payment

Employee salaries are paid fortnightly by electronic funds transfer to a nominated account(s) with a financial institution of their choice located in Australia. Changes to the form of payment may be made to accommodate unusual situations or circumstances with prior consultation with the affected employee.

The fortnightly rate of pay is determined by applying the following formula:

$$\text{Fortnightly pay} = \text{Annual salary} \times 12 \div 313.$$

The hourly rate of pay is based on a standard day (7.5 hours) and is determined by applying the following formula:

$$\text{Hourly rate} = \text{Fortnightly pay} \div 75$$

## 34. Salary for part-time employees

Salary for part-time employees will be calculated according to hours worked, on a pro-rata basis of a standard day (7.5 hours).

## 35. Salary for Trainees

NCVER may choose to appoint trainee employees. Trainees will be paid according to the rates set by the Fair Work Commission.

## 36. Salary for Graduates

NCVER may choose to appoint employees under its graduate program. Graduates will be paid at the bottom of position Level 5.

Graduates will be consulted prior to placements and upon satisfactory completion of the program may be offered a Level 5 position, with their salary moving to the mid-point of Level 5 at that time.

## 37. Salary advancement

Each year, during January – mid February, employees will be entitled to submit an application to have their salary reviewed.

Any adjustment to their salary will be above that specified in *Clause 32 Increases in rates of pay*.

Refer to *Attachment B: Guidelines for individual salary advancement* for full details of the process.

Where salaries are deemed to be at an appropriate level for the position within NCVER, and significant contribution above and beyond the usual requirements of the position have occurred, recognition via non-salary related benefits may be considered.

Employees in position levels 1 - 4 will be entitled to a 2% salary advancement annually on their anniversary date, subject to satisfactory performance, until midpoint of their salary level is reached. Once employees have reached midpoint, or if they wish to be considered for an increase in excess of 2%, they may apply for a further review as outlined above.

For employees employed by NCVER prior to the implementation of this Agreement, who were previously in Band 1 and have moved to Level 5 under the NCVER Job Evaluation Framework, this arrangement will remain in place until such time they reach midpoint of Level 5, change positions, or change job level.

## 38. Superannuation

Previous Enterprise Agreements introduced grandfathering arrangements for superannuation contributions. For the life of this Agreement, the grandfathered arrangements will continue as follows:

- a) for employees receiving 16% company contributions, the rate of company contribution will be maintained
- b) for employees receiving 13% company contributions, the rate of company contribution will be maintained
- c) for employees receiving 12% company contributions, the rate of company contribution will be maintained
- d) new fixed-term and ongoing employees will receive 12% company contributions

- e) casual employees will receive company contributions in line with the Australian Taxation Office's Superannuation Guarantee Ruling (currently 10%).

These contributions are inclusive of the amount provided for under the Australian Taxation Office's Superannuation Guarantee (SG) Ruling. Should the SG rates be increased, NCVER company contributions will be maintained at the above levels until such time that the SG amount exceeds NCVER contributions. If the SG rate is increased to a level in excess of the above amount, the NCVER company contributions will be increased to match the SG rate.

Should NCVER Company contributions exceed the concessional contributions cap for an individual, NCVER will, with the permission of the employee, convert the excess amount to an allowance, payable each fortnight. Salary increases and superannuation contributions will not be payable on this allowance. Should there be a subsequent increase in the concessional contributions cap, the allowance, in part or whole (depending on actual figures) will revert back to superannuation contributions at that time.

Employees may nominate a complying superannuation fund of their choice to which superannuation contributions will be paid.

Superannuation contributions will be made for employees over 70 years of age, conditional upon such arrangements being permitted by the applicable legislation and/or ATO rulings.

New employees will be issued with a standard choice form to nominate a complying superannuation fund of their choice. This form should be completed and returned to the Payroll Officer within 28 days of commencement of employment with NCVER.

Until 31 October 2021, failure to provide such notice will result in superannuation contributions being placed in the default NCVER superannuation plan with AMP.

From 1 November 2021, should notice not be received within 28 days of commencement of employment, NCVER will contact the ATO to determine whether a 'stapled fund' exists for an employee. If no stapled fund exists, NCVER will place contributions in the default NCVER superannuation plan with AMP.

Employees may notify, in writing, any change in their choice of superannuation fund at intervals of not less than 12 months, by completing a standard choice form and forwarding to the Payroll/Administration Officer.

In addition any employee who is a member of a complying superannuation fund will be able to make personal contributions to superannuation by way of after-tax salary deduction or a sacrifice of gross (pre-tax) salary (subject to statutory limits).

It is the employee's responsibility to monitor the amount of personal contributions to ensure statutory limits are not exceeded.

Subject to relevant legislation, employees will be able to make contributions to superannuation on behalf of their spouse. NCVER recommend employees seek independent financial advice regarding the impact of spouse superannuation contributions.

For all new employees, NCVER will offer a financial superannuation counselling opportunity to the value of \$300 to be taken within the first 12 months of employment. A one off counselling opportunity will also be available to any employee within two months prior to reaching the minimum preservation age or at any-time after. Paid leave of up to two hours is available for this financial counselling. Financial assistance is accessible as a reimbursement upon production of an eligible receipt.

### 39. Payment on death

Upon the death of an employee, any payments that the employee was entitled to upon cessation of employment shall be paid to the employee's estate.

### 40. Overtime

Overtime will be payable to full-time employees in salary Levels 1-7, including graduates and trainees, and only with the prior approval of the relevant manager. For staff employed by NCVET prior to the implementation of this Agreement, who were previously in Band 2 and have moved to Level 8 under the NCVET Job Evaluation Framework, this arrangement will remain in place until such time they change positions or move to a higher job level.

Subject to the operation of NCVET’s flexible working-time arrangements, for full-time employees who are eligible for overtime, all work done in excess of usual daily ordinary hours shall be overtime.

Overtime will not be paid except where it has been authorised by the relevant manager.

#### Rates

Time/Day	Rate
First three hours (Mon - Sat)	Time and one half
After the first three hours	Double time
Sunday	Double time
Public Holiday	Double time and one half

#### Part-time employees

All part-time employees will be consulted when additional work is available and, if agreed, can work the additional time over their contracted hours. A 15% loading on their ordinary rate, in lieu of leave entitlements, will apply to the hours worked beyond their contracted hours.

For part-time employees eligible for overtime, overtime will be paid when working in excess of 37.5 hours per week or 7.5 hours per day. Overtime will not be paid except where it has been authorised by the relevant manager.

Any part time employee who works additional hours in any week will have the payment received under the Agreement reconciled with what would have been paid under the Award, with any shortfall paid in the next pay period.

#### Work for unplanned out of hours situations

From time to time, at short notice, staff may be asked if they are able to work to attend to unplanned out of hours situations (e.g. IT outages). In this instance, the method of compensation for time worked (as provided for under this clause) will ideally be agreed between the manager and employee prior to the work being performed.

#### Time off in lieu

An employee and their manager (through mutual agreement) may allow for the employee to take time off in lieu of payment for overtime. For the purposes of this provision, ‘time off in lieu’ will be granted for a period equivalent to the period of overtime worked.

## Meal allowance

Where an employee who is eligible for overtime payment is directed to work overtime for at least three hours outside their ordinary hours, their manager will approve a flat rate overtime meal allowance of \$26. Where an employee works a further five hours overtime on a Saturday, Sunday or public holiday, they will receive an additional overtime meal allowance of \$26. Where a group of staff are working overtime, the company may provide a meal in lieu of paying a meal allowance. Staff may choose to be paid a meal allowance instead of being provided a meal. Meal allowance is only payable for staff working away from their place of residence.

## 41. Time off in lieu (TOIL)

Subject to the operation of NCVER's flexible working-time arrangements (refer to *Clause 51 Flexible working arrangements and workloads*), those employees who are not eligible for paid overtime (i.e. employees in Levels 8-12), and with prior approval by their manager, are able to take TOIL for work done in excess of normal daily hours.

## 42. Higher duties allowance

An allowance for performing the duties of a higher position will be paid for a period of acting in that position. No payment is payable for periods of less than ten working days.

Higher duties may be paid for performance at a higher level either within the employee's salary level, or within a higher level. Approval of higher duties allowance is given by the Managing Director on the recommendation of the relevant manager.

The payment may either reflect full or partial performance of the duties of the position. Should partial performance of duties be approved, the duties to be undertaken together with the residual duties will be noted and provided to the employee.

## 43. Travel and accommodation expenses

Overseas and domestic air travel will be at economy standard or as otherwise specified as a result of a higher standard being included in project contracts.

Travel and accommodation expenses for work-related travel approved by the relevant manager are reimbursed as informed by the Australian Taxation Office (taxation determination regarding reasonable travel and meal allowance expense amounts). The conditions applicable to the payment of travel allowance are:

- a) employees will be paid an appropriate meal allowance for their period of absence
- b) incidentals allowance is payable at the rate of one allowance per each overnight absence (not payable for day trips)
- c) where meals are provided to an NCVER employee as part of conference/seminar proceedings or otherwise provided by a third party at no cost to the NCVER employee, meal allowance is not payable by NCVER in respect of that meal.

Variations to accommodation allowances may be approved by the Managing Director or HR Manager in special circumstances. For example, where no accommodation is available within reasonable proximity to the work location within the specified accommodation allowance or where employees are required to stay at the same



venue as other members of a party with whom they are working, even though it may be more expensive than provided for by their standard allowance.

All overseas travel is subject to prior approval by the Managing Director. Rates of travel allowance will be determined in accordance with information received from the Australian Taxation Office.

Where employees are residing at a locality away from their home locality for more than 21 days, reviewed rates of travelling allowance in accordance with information received from the Australian Taxation Office and based on reasonable accommodation and meals costs shall apply after the 21-day period.

Employees in levels 1-7\*:

- a) required to travel for business outside of normal business hours (8.45am to 5.00pm Monday to Friday) are entitled to claim travel hours as working time. This includes travel time to and from the airport from their normal place of residence, workplace or booked accommodation.
- b) requested by an Executive to attend, as a representative of NCVER, an NCVER or external stakeholder function outside of normal business hours (8.45am to 5.00pm Monday to Friday) are entitled to record these hours, including travel time, as working time, provided employees have agreed such a request.
- c) have the option (subject to discussion and prior approval from their manager) to;
  - i. record additional working hours as flexitime (refer to *Clause 52. Flexitime*)
  - ii. be paid overtime (refer to *Clause 40. Overtime*)
  - iii. take time off in lieu (refer to *Clause 41. Time off in lieu (TOIL)*).

\*For employees who were employed by NCVER prior to 1 July 2018 and were in Band 2 in the previous framework, and are in Level 8 under the current NCVER Job Evaluation Framework, this arrangement will remain in place until such time they change positions or move to a higher job level.

For employees in Levels 8-12 if travel time is deemed excessive or burdensome, flexibility exists whereby managers are, on a case by case basis, encouraged to discuss with their employees mechanisms to recognise official travel outside their normal working hours.

Full details can be found in the Staff Travel Policy and relevant support documentation (as amended from time to time) available on NCVER's intranet under Policies & Guidelines. This policy does not form part of this Agreement.

## 44. Work-related expenses

In addition to travel costs away from home base (*Clause 43 Travel and accommodation expenses*), relocation expenses (*Clause 45 Relocation expenses*) and reunion visits (*Clause 61 Reunion visits*), upon production of satisfactory evidence, NCVER will meet reasonable requests for the reimbursement of expenses incurred by employees in performing their duties.

This will require the prior agreement of the HR Manager or the Managing Director and may be a regular claim. This will include reimbursement of telephone calls (requiring itemised evidence), fuel and parking costs incurred in using a private vehicle for approved work purposes (excluding daily parking or daily travel to and from work), and any other approved expenditures.

Laptop computers and mobile telephones will be available from a company pool for the work use of employees requiring such equipment when working off site.

## 45. Relocation expenses

An ongoing or fixed-term employee with a contract of 12 months minimum, who is moving from interstate to take up the appointment, or a current employee who is required to move interstate to fulfil NCVER business needs, may be eligible for reimbursement of relocation expenses. These expenses may cover:

- a) the cost of relocating household effects, on the provision of three written quotes from different removalists
- b) if required, accommodation in either city to a maximum of five nights, paying the appropriate per diem and accommodation allowance for that city
- c) a motor vehicle allowance if the employee drives from one site to the other, or an economy air-fare, or a first-class train fare for each family member.

In addition, if relocation assistance is granted, a disturbance allowance will also be paid. For the life of this Agreement, a one-off disturbance allowance of \$810 for an employee who relocates alone or \$1,500 for an employee who relocates with a spouse, partner or dependant will be applicable.

Should an employee who has received relocation assistance resign from NCVER within the first 12 months of employment, they may be required to refund a pro-rata amount of monies paid by NCVER for relocation purposes.

## 46. First aid certificate allowance

Where an employee possesses a current Senior First Aid certificate and is appointed as a first aid officer for a period of three years for NCVER, then that employee will be paid an allowance for this responsibility. For the life of this Agreement, this amount will be \$26.32 per fortnight.

## 47. Team building across NCVER

A budget of \$100 per annum per employee for each Branch within NCVER will be allocated each financial year to be used at the discretion of the Branch manager for team building. Funds may be used for one event or a number of events whose structure and purpose demonstrably benefit team performance and culture. Managers should ensure that at least one activity per year is designed to contribute to NCVER corporate goals and productivity. Consideration should be given to the amount of time away from the workplace, particularly if a number of events are arranged. This money is not cumulative from year to year. Events that facilitate across branch linkages are encouraged.

The Christmas lunch for all employees is considered a team building activity in addition to the above. This will be held annually in Adelaide at a date determined by the Executive Committee.

## 48. Membership of professional associations

All employees are encouraged to belong to appropriate professional associations. NCVER will pay the annual membership fees of one association for each employee. Such membership will be at the Managing Director's approval. Additional membership funded by NCVER may be available at the Managing Director's discretion. Nominated employees are also given membership of AVETRA.

# PART D: Working hours and balancing work and personal life

## 49. Ordinary hours

The ordinary hours of work shall consist of a working day of 7.5 hours for full-time employees.

An unpaid meal break of a minimum of 30 minutes shall be taken daily by a staff member to commence no later than 5 hours following the commencement of ordinary hours of work for the day. For staff who work 6 hours or less in a day, the requirement to take an unpaid meal break may be waived by mutual consent between the employee and manager (or team leader).

Flexitime is available to all employees in accordance with *Clause 52 Flexitime*.

## 50. Part-time employees

An employee may request part-time employment at any time. Managers will make every attempt to accommodate the request having regard to both the operational requirements and the personal needs of the employee.

Part-time employees, in agreement with their manager and taking account of business needs, will:

- a) nominate set days each week when they will work, or
- b) work flexible arrangements as determined by business needs.

For part-time employees, pro rata conditions will apply for all leave.

Part-time hours can be varied by agreement between the employee and their manager.

An employee who is part-time should be genuinely considered for promotion and transfer on the basis of merit, but any part-time arrangement will need to be renegotiated in the new position.

## 51. Flexible working arrangements and workloads

NCVER will endeavour to provide workloads that allow for a desirable work/life balance that recognises the family and other personal commitments and circumstances of employees. This Agreement contains mechanisms to assist in achieving that balance such as part-time working arrangements, flexitime and variable leave without pay, and individual flexibility agreements. Refer to *Clauses 50 Part-time employees, 52 Flexitime, 54 Variable leave without pay and 17 Flexibility*.

In making decisions about access to these entitlements, managers will consider and ensure that NCVER operational/corporate objectives are met while endeavouring to assist employees to achieve a good work/life balance.

Whilst NCVER will consider requests for flexible working arrangements from any employee, employees who have worked with NCVER for at least 12 months can, under the Fair Work Act, request flexible working arrangements if they:

- a) are the parent, or have responsibility for the care, of a child who is school aged or younger
- b) are a carer (under the Carer Recognition Act 2010)

- c) have a disability
- d) are 55 or older
- e) are experiencing family or domestic violence
- f) provide care or support to a member of their household or immediate family who requires care and support because of family or domestic violence.

Where a decision is to refuse the entitlement, the employee may request a written statement from the manager setting out reasonable operational reasons for this decision. The written explanation will be given within ten working days.

All decisions relating to refusal of entitlement are subject to the dispute resolution procedure, refer to *Clause 80 Dispute resolution procedure*. Where access to an entitlement is denied, the manager/team leader and the employee will discuss alternatives that may allow the employee's work life balance to be achieved.

Managers should not ordinarily allocate work that cannot reasonably be done within an employee's standard working hours. It is acknowledged that there are periods when it is not possible to comply with this intent. The time off in lieu or overtime provisions should be utilised for short periods of time where employees are requested to work more than their standard hours. Refer to *Clauses 41 Time off in lieu (TOIL) and 40 Overtime*.

This Agreement recognises the responsibility of managers to ensure that NCVER's objectives are achieved and work obligations in each area are fully carried out within an environment of reasonable workloads and annual leave entitlements.

The work objectives are negotiated within the performance plan and will be re-negotiated if organisational needs change or excessive workloads occur.

Where excessive workloads are identified these will be reviewed by the manager with a view to finding ways to achieve the required results without continual reliance on excessive workloads. If a situation remains unresolved, the matter may be escalated through the dispute resolution mechanism (*Clause 80 Dispute resolution procedure*).

Working hours are to be safe and employee safety is to be considered in questions of overtime, rostering and attendance requirements. An employee may refuse to work hours that are unreasonable.

## 52. Flexitime

Flexitime is available to all employees in Levels 1-9, at the discretion of their immediate manager. For employees who were employed by NCVER prior to 1 July 2018, and were in Band 3 under the previous framework and are in Level 10 under the current Job Evaluation Framework, this arrangement will remain in place until such time they change positions or move to a higher job level. Refer also to *Clause 53 Flexibility in working hours for Managers*. Consideration must be given to the impact on clients, other members of the branch and the personal needs of the employee, that adequate supervision is available, and the safety of the employee when deciding whether flexitime arrangements are appropriate. Employees and managers must ensure that the operational needs of NCVER are met.

Based on work requirements or non-compliance to the flexitime guidelines, a manager may cause an employee, or group of employees in a workplace to revert to standard hours for a period, or enter into a local agreement to temporarily vary the existing flexitime arrangement.

Flexitime credits are not paid out at separation.

## A. Principles of the flexitime system

This system is to operate by individual negotiation between an employee and the appropriate manager and will function on principles based on effective and flexible NCVER operations. Flexi-leave is where an employee works less than their nominated regular hours on any day and is not on another form of leave.

## B. Employee responsibilities

Employees covered by flexitime arrangements will each day record their actual time of arrival and departure, any breaks and core-hour leave absences on an approved timesheet.

## C. Management responsibilities

In the event where an employee and manager cannot resolve a disagreement concerning flexitime arrangements, the employee may request that the matter be referred to the Managing Director, or delegate thereof, who will finally determine the matter.

## D. System operation specifics

### a) Application

Applicable to all employees covered by this Agreement.

### b) Maximum credit

Fifteen hours carry over credit only at end of each pay fortnight.

### c) Maximum debit

Seven hours and thirty minutes carry over debit only at end each pay fortnight.

### d) Standard day

8.45am to 5.00pm (seven hours and thirty minutes with forty-five minute lunch break).

### e) Core times

9.30am to noon and 2.00pm to 4.00pm Monday to Friday (normal working days).

### f) Flexitime bandwidth

7.30am to 6.30pm Monday to Friday (normal working days).

### g) Flexitime credit usage

Between one minute and 15 hours at any one time.

## E. Approval of flexitime credit

a) Flexitime credit in excess of the maximum requires the approval of the relevant Executive.

b) A manager may require an employee not to work hours in addition to their regular hours where there is insufficient work.

c) Prior approval and reasonable notice is required for any flexi-leave during core-time hours or where predetermined operational requirements would be affected.

- d) The manager will consider operational requirements and the needs of employees when determining whether or not to approve flexi-leave.

### 53. Flexibility in working hours for Managers

It is recognised that work demands on managers will, at times, require extended hours to be worked.

Acknowledging these hours, and in lieu of traditional flexitime arrangements, managers may vary daily attendance times and an Executive can allow them to take short-term absences without deduction from leave entitlements, in recognition of prior extended work hours and load.

This will be by negotiation and mutual agreement, taking into account business needs, and personal circumstances to best support work/life balance.

### 54. Variable leave without pay (48 in 52)

Variable leave provides employees with the opportunity, subject to negotiations with their manager and approval by the Managing Director, to take leave in addition to their normal weeks of annual leave (refer to *Clause 69 Annual leave*). This provision allows greater flexibility for employees who wish to address personal issues of work/life balance, and for employees who wish to extend their leave options for other personal reasons.

Application for variable leave should be made on the variable leave agreement form and intended dates for use of variable leave should be given together with an indication of when annual leave will be taken. This forms the basis of the variable leave agreement for a 12 month period. Prior to each individual period of variable leave taken within the agreement year, a leave entry in the Employee Self Service (ESS) system must be completed and authorised by the employee’s manager. Variable leave becomes available to the employee as soon as they begin to work under the reduced salary. However, employees are responsible for giving reasonable notice that they wish to take variable leave.

Under this provision an employee may purchase up to four weeks variable leave per year, to be taken in addition to annual leave, by being paid a reduced salary for 52 weeks. The formula for calculating reduced salary is below and ensures horizontal equity against other forms of flexible working practices.

---

**Adjustment to salary of a person working VLWOP**

---

Number of potential working days in a year: 227.89\*

*\*The formula for calculating the pay rate for persons on variable leave is:*

$$\frac{\text{potential working days in year (227.89)} - \text{variable leave days}}{\text{potential working days in year (227.89)}}$$

---

Days VLWOP	Salary paid during VLWOP year
5	0.978 of full time salary
10	0.956 of full time salary
15	0.934 of full time salary
20	0.912 of full time salary

---

On average there are 365.25 days per year of which 5/7 are weekdays, therefore weekdays = 260.89 days. There are 13 public holidays (including 3 NCVER holidays) and we allow 20 days per year annual leave, therefore 260.89-13-20=227.89.

This form of leave does not lead to loss of any other entitlements, apart from the specified salary variation and a corresponding reduction in superannuation contributions.

If employment is terminated, a reconciliation of payment received and purchased leave taken will be made and the employee's final payment will be adjusted to take into account any over or under payments.

## 55. Working from home

NCVER provides the option for all staff to access working from home arrangements in accordance with the Working from Home Policy (as amended from time to time). This policy does not form part of this Agreement.

## 56. Care of an employee with long-term illness

Where an employee suffers from a long-term illness which does not permit regular attendance at the workplace, NCVER will undertake, as far as is practicable and with the Managing Director's approval, to make flexible working arrangements for that employee, having consideration to that employee's role and responsibilities. Refer to *Clause 51 Flexible working arrangements and workloads*.

## 57. Childcare support

NCVER will contribute to the cost of school holiday care for primary school children of employees when an employee requests annual leave during a school holiday period and for business reasons is unable to take that leave. Where both carers work for NCVER, the allowance will only be paid when both are at work.

On production of receipt from an approved school holiday program provider, NCVER will reimburse \$18 per child per day to a maximum of \$180 per family per school holiday period.

Where an employee has caring responsibilities and NCVER requires that employee to travel, NCVER will reasonably compensate for costs incurred when alternative care arrangements are required.

## 58. Family violence support

Parties to this Agreement acknowledge that an employee who is experiencing domestic or relationship violence (actual or threatened) can make reasonable use of, and NCVER will provide reasonable access to, existing leave and flexible working arrangements to assist them in dealing with issues arising from such situations.

5 days unpaid leave per calendar year is available to those employees who have either exhausted all leave entitlements or prefer to take unpaid leave.

For employees who have exhausted leave entitlements, upon application to the Managing Director, up to 5 days paid special leave in a calendar year may be granted for the purposes of dealing with domestic violence issues.

An employee experiencing family violence may raise the issue with their immediate supervisor, manager, an Executive or with HR. The person with whom the issue has been raised may seek advice from HR if the employee chooses not to see HR.

Where requested by an employee, HR will liaise with the employee's supervisor on the employee's behalf, and will make a recommendation on the most appropriate form of support for the employee.

In order to provide a safe working environment to all employees, NCVER will consider any reasonable request from an employee experiencing family violence for:

- a) changes to their span of hours or pattern of hours
- b) job redesign or changes to duties, where suitable alternatives are able to be identified
- c) relocation to suitable employment or alternative work location within NCVER where suitable alternative is able to be identified
- d) a change to their work telephone number or email address to avoid harassing contact
- e) any other appropriate measure including those available under existing Individual Flexibility Arrangements and flexible work arrangements.

Such alternatives may be agreed on a temporary or permanent basis, on a case by case basis.

## 59. Wellbeing payment

A payment of up to \$110 per financial year will be allocated to each employee to contribute to personal items that assist them to participate in healthy lifestyle activities.

All or part of the payment will be accessible as a reimbursement upon production of a receipt issued for an eligible item. Multiple items up to the value of the payment may be claimed but employees can only claim on one occasion per year. Submissions for payment must be made by 20 June, approved by a person who has appropriate expense authorisation delegation.

Eligible items include, but are not limited to:

- a) weight loss programs
- b) substance abuse management
- c) Initial and diagnostic health check-ups (ie dental, eyesight, cholesterol, etc)
- d) massage sessions
- e) meditation sessions
- f) fitness classes
- g) gym membership
- h) relaxation sessions
- i) 'self' training (eg positive thinking, self-esteem, emotion management, etc)
- j) alternative therapies (not otherwise covered by the individual's health fund)
- k) sporting activities/instruction (leisure courses)
- l) sporting/health equipment
- m) to purchase equipment to setup and/or maintain a home office environment compliant with NCVER and WHS requirements.



## 60. Flu vaccinations

NCVER will make available to all employees covered under this Agreement free flu vaccinations. Should an employee not be on-site on the specified date, NCVER will reimburse the cost of out of pocket expenses charged by the employee's private physician or accredited healthcare professional.

## 61. Reunion visits

An employee who, as a consequence of his/her engagement by the NCVER, is required to become temporarily domiciled in a place other than the locality in which his/her principal place of residence is located for a minimum of three months, and is provided by the NCVER with assistance in the provision of that temporary domicile, will be entitled to a reunion fare to that locality. This will occur provided that the entitlement does not arise more frequently than at two calendar month intervals with the first entitlement due after an absence of two months (eg six entitlements over a period of 12 calendar months).

There will be no entitlement to a reunion fare when the locality of the employee's principal place of residence is also that of the place of employment.

'Reunion fare' is defined as a return economy class air fare on a scheduled commercial airline to that airport closest to the employee's principal place of residence.

## 62. Donation for medical purposes

Any employee will be granted leave with pay for a maximum of four visits each year for a period of 1.5 hours each time to donate blood.

Application for leave for organ donation may be made through personal leave provisions. Refer to *Clause 70 Personal leave*.

## 63. Counselling services

An employee is entitled to four NCVER-funded confidential counselling visits per financial year with NCVER nominated service providers. This counselling may be related to personal, work-related or family issues.

# PART E: Career, personal and performance development

## 64. Career path

NCVER recognises the benefits to NCVER and the individual when employees have the opportunity to enhance their future career prospects through expanded job experience and the development of a wider range of skills.

On an ongoing basis, NCVER commits to promoting career development opportunities that are consistent with business needs by:

- a) highlighting job opportunities as they arise within NCVER
- b) identifying the scope of career development on a NCVER wide basis
- c) encouraging lateral as well as upward career moves, including mentoring/coaching, succession planning and job rotations
- d) promoting employee development opportunities as outlined in the Personal Development Policy and relevant support documentation (as amended from time to time) available on NCVER's intranet under Policies & Guidelines. This Policy does not form part of this Agreement. Also refer to *Clause 67 Personal development*.

## 65. Performance development cycle

NCVER is committed to creating a work environment that supports high levels of individual, team and organisational performance through a shared commitment and understanding of goals and priorities.

A collaborative approach to managing performance development, through regular, constructive conversations between employees and those they report to, is essential.

This approach requires an equal and balanced assessment of an individual's past performance as well as consideration of future performance and opportunity, giving support as needed to both informal learning and formal professional development, and taking into account both the individual's and NCVER's needs.

The NCVER Performance Development Cycle (PDC):

- a) will align individual and shared objectives with strategic objectives and provide a joint consensus of where we are going, and importantly how we will do it
- b) will help build relationships through respectful and timely conversations that establish and build trust
- c) will establish accountability for, and ownership of, outcomes
- d) will provide opportunity for review, reflection and learning on actual outcomes compared to planned objectives
- e) will identify opportunities for improvement focus and future development opportunities
- f) acknowledges that 'how' we do things (that is our commitment to behaving in a manner consistent with NCVER values), is as important as 'what' we achieve
- g) should be applied equitably but allow suitable flexibility to cater for individual needs.

## 66. Underperformance

NCVER places high priority on regular and constructive communication between employees and those they report to, related to performance. NCVER has a 'no surprises' culture which means that unsatisfactory performance is:

- a) dealt with as soon as possible, and
- b) not raised, in the first instance, at appraisal time.

Where an employee is exhibiting unsatisfactory performance, the following guidelines are to be followed:

- a) Poor performance must be dealt with quickly by the relevant manager. The employee may choose to have another employee or a representative present during these discussions.
- b) Actual examples of poor or unsatisfactory performance must be given by the manager.
- c) Time must be allowed for the employee to respond to the examples and to raise other matters they believe are relevant.
- d) A decision must be made to help rectify the performance and an agreed performance improvement strategy be developed with a minimum three month timeframe.
- e) The employee will receive regular feedback throughout the period of the performance improvement plan to assist all parties in monitoring progress and targeting assistance.
- f) A written record will be kept of the discussion and examples and decisions made and kept in the employee's personnel file. The record of the meeting will be signed by all parties.
- g) If, after the agreed timeframe, the expected improvement is not forthcoming, then a further discussion is to be held immediately.
- h) The employee is to be made aware of the implications of continuing poor performance. These may be continuing counselling/mentoring, more training or dismissal. Notice of these implications is to be given to the employee in writing. A further date of at least one month in the future will be set when improved performance is to be expected.
- i) Sufficient time must be given to the employee to improve performance.
- j) If, at the end of the second review period, the employee's performance has not improved, the employee's employment may be terminated with appropriate notice in accordance with legislation (*see Clause 81 Termination of employment*).

## 67. Personal development

NCVER encourages employees to undertake personal development to enhance skills and personal effectiveness, in line with personal development plans and NCVER's strategic and operational needs. Also refer to *Clause 65 Performance development cycle*.

Personal development may occur through avenues such as study assistance (financial assistance and/or study leave), training, work experience or mentoring. Full details regarding personal development can be found in the Personal Development Policy and relevant support documentation (as amended from time to time) available on NCVER's intranet under Policies & Guidelines. This policy does not form part of this Agreement.

## PART F: Leave

### 68. Public holidays and Christmas shutdown

An employee will adhere to the public holidays as observed in the State/Territory where the employee ordinarily performs duty.

When any designated public holiday for which an employee is entitled to payment occurs during any period of annual leave, then that public holiday is not deducted from the balance of an employee's annual leave entitlement.

All NCVER employees, except those engaged on a casual basis, will be entitled to three extra paid holidays between Christmas and New Year in addition to the designated public holidays (part-time employees will receive payment for their normal hours of work). The NCVER offices will be closed between Christmas and New Year.

From time to time where a single business day falls in the middle of public holidays (eg Christmas/New Year period), NCVER may choose to close for that day. In this circumstance employees are able to utilise flexi-leave or take annual leave to cover.

### 69. Annual leave

Annual leave provides employees with the opportunity to take a break from work and pursue personal interests. This provision aims to promote the general wellbeing of employees and to create a reasonable balance between work and life.

Managers are responsible for managing leave by organising workloads. Employees are responsible for giving reasonable notice that they wish to take annual leave. Applications for annual leave of more than 6 weeks duration, or where combined with other leave, the total absence is greater than 6 weeks, are to be approved by the Managing Director or delegate. Leave for periods less than these amounts may be approved by the relevant manager or delegate.

A full-time employee is entitled to 20 working days (150 hours) of annual leave for each year of service. Part-time employees receive a pro-rata entitlement. Annual leave accumulates progressively and indefinitely. Leave may be taken as accrued.

Leave can only be taken at a time approved by the manager and/or team leader and can be taken in more than one period. Annual leave of over eight weeks (40 days) (pro-rata for part-time employees) cannot be accumulated without prior approval by the Managing Director. The Managing Director may direct employees with an excessive annual leave balance to take a period of leave to reduce the balance to below eight weeks.

If an employee on annual leave wishes to convert to:

- a) sick leave: this will be at the Managing Director's discretion upon receipt of a medical certificate
- b) special leave: this will be at the discretion of the Managing Director.

### 70. Personal leave

NCVER recognises that employees will need time away from work because of personal illness or injury, to care for an immediate family or household member or for other unplanned special circumstances. Unused personal leave credits accumulate without limitation, but unused personal leave credits are not paid out on separation.

## Entitlement

- a) From the commencement of employment at NCVER, full time employees are granted personal leave of 20 working days on full pay.
- b) From each anniversary of that employment, the employee is granted a further 20 days on full pay.
- c) From the commencement of employment at NCVER, fixed-term employees (except those who receive a casual loading) are granted personal leave of 3.4 working days on full pay, then accrue 1.66 days after the second and subsequent completed months of service.
- d) Full-pay credits may be converted to half-pay credits as required.
- e) NCVER may, subject to approval by the Managing Director, on application by the employee:
  - i. advance the employee personal leave credits otherwise due on the next anniversary of employment and/or
  - ii. grant to the employee special paid or unpaid leaveWhere such request for either i. and/or ii. above is denied, the employee will be provided with written reasons for the decision.
- f) Part-time employees will receive the above entitlements on a pro-rata basis.

## Use of personal leave

Circumstances giving rise to the use of personal leave are:

- a) to recover from a personal illness or injury
- b) to care for immediate family or household members who are ill or injured and for whom the employee has caring responsibility (but not simply to undertake normal caring responsibilities)
- c) to assist family members with legal and medical appointments that could not be made outside of working hours
- d) for bereavement leave for a family member (in excess of compassionate leave entitlement)
- e) to move house
- f) to respond to any emergency considered appropriate by their manager
- g) for pre-natal appointments.

## Leave for caring purposes

There is no cap placed on the use of personal leave for caring purposes. However, it is only to be used for occasional, non-avoidable and non-enduring situations while longer-term arrangements are being made if necessary. For example, personal leave cannot be used as a substitute for normal child care arrangements during school holidays or to attend planned school functions such as sports days or parent/teacher meetings. The flexible working hours system or annual leave should be used in these circumstances. Refer to *Clauses 52 Flexitime* and *69 Annual leave*.

All employees, including casual employees are entitled to two days unpaid carers leave each time a member of their immediate family or household requires care and support due to illness, injury or unexpected emergency.

Unpaid carers leave is only available for full-time and part-time employees once paid personal leave entitlements have been exhausted.

### Leave for moving house

One day per year may be taken for the purpose of moving house. This leave is deducted from an employee's Personal Leave entitlement.

### Certification requirements

An employee must provide medical certification or other evidence for personal leave absences of more than two consecutive scheduled working days. A manager or an Executive may request medical certification or other evidence for any absences if there is a pattern of recurring and/or frequent absences, or there is reasonable doubt that Personal Leave is not being taken in a manner consistent with the purposes for which it is intended. Any request for certification or evidence must be made in advance and not retrospectively.

Additional information can be found in the Personal leave guidelines (as amended from time to time) available on NCVER's intranet under Policies & Guidelines. These guidelines do not form part of this Agreement.

## 71. Compassionate leave

An employee is entitled to a period of up to two days compassionate leave for each occasion when a member of the employee's immediate family or household member:

- a) contracts or develops a personal injury or illness that poses a serious threat to his or her life, or
- b) dies

Application for extension of this leave up to five days may be made to the Managing Director and will be determined on a case-by-case basis. Where the application for an extension is denied, the employee will be provided with written reasons for the decision.

Any period of compassionate leave in excess of two days will be deducted from an employee's personal leave entitlement (refer to *Clause 70 Personal leave*). In the case of an employee having exhausted their personal leave entitlements, special leave may be applied for (refer to *Clause 72 Special Leave*).

## 72. Special leave

Additional special leave may be approved on a paid or unpaid basis at the discretion of the Managing Director on the recommendation of the relevant manager. This may include paid or unpaid ceremonial/religious leave for employees of Aboriginal or Torres Strait Islander descent, for any other recognised religious holidays or bereavement, or to deal with an emergency situation.

## 73. Long-service leave

After seven years continuous service an employee qualifies for 45.5 working days leave on full pay, or 91 days on half pay at this time. In respect of each continuous year's service thereafter, 6.5 days on full pay or 13 days on half pay will be granted. Broken periods of service, where the break is up to 60 days in duration, will accumulate long service leave.

Where a public holiday falls due (on a weekday) such public holidays will not be counted as long-service leave.

For employees who have had continuous employment at NCVET for a period greater than ten years as at 6/2/2003, then in the sixteenth year of service and thereafter, 10.7 days leave on full pay or 21.4 days leave on half pay will be granted.

Long-service leave does not accrue during a period of leave without pay. When employees are on a period of secondment, long-service leave may accrue at the discretion of the Managing Director.

Applications for long-service leave of more than 6 weeks duration, or where combined with other leave, the total absence is greater than 6 weeks, are to be approved by the Managing Director. Leave for periods less than these amounts may be approved by the relevant manager and/or team leader.

Employees may request to be paid out part or all long-service leave credits after seven years of service. Employees will apply in writing to the Managing Director. The request will be approved unless the Managing Director decides that in the interests of the employee's welfare, the employee has not planned (or does not plan) to take an adequate break from work. Such decisions of the Managing Director will be in writing. An 'adequate break from work' may differ from situation to situation, giving regard to individual workplace health and safety factors or extenuating circumstances.

If an employee with not less than seven years' continuous service resigns before taking long-service leave, a pro-rata lump sum payment in lieu of leave will be made.

Long-service leave may be converted to personal leave or special leave at the discretion of the Managing Director.

## 74. Leave without pay

Leave without pay (LWOP), other than that referred to in *Clause 54 Variable leave without pay*, may be granted by the Managing Director for any period. Where the request for LWOP is denied, the employee will be provided with written reasons for the decision.

All leave entitlements (annual, long service and personal leave) will not accrue whilst a person is on LWOP.

Where an employee has approved LWOP for a period of six months or longer, the employee may be required to return to a position at the same salary level, performing commensurate duties to those prior to going on leave, but is not guaranteed the particular position they held prior to going on leave. Employees on LWOP for a period of six months or longer will have their right to vote on employee issues suspended.

LWOP for work-related purposes which will not result in such loss of entitlements may be approved at the discretion of the Managing Director.

Employees returning from a period of LWOP will not be made redundant unless circumstances as outlined in *Clause 82 Redundancy entitlements* have occurred.

## 75. Parental leave

Employees with at least 12 months continuous service are entitled to 12 months parental leave without pay if the leave is associated with:

- a) the birth of a child of the employee or the employee's spouse, or
- b) the placement of a child (under five years of age) with the employee for adoption, and

the employee has or will have primary responsibility for the care of the child.

The primary carer is entitled to 15 weeks paid parental leave within the 12 month parental leave period.

*Primary carer* means the person who holds primary responsibility for care of the newborn or newly adopted child at the time of birth or adoption and who continues to be the primary carer immediately following birth or day of adoption placement. The primary carer is the person who meets the child's physical needs more than anyone else. Only one person can be the child's primary carer. In most cases, the primary carer will be the birth mother of a newborn or the initial primary carer of a newly adopted child.

Employees have the option of taking their paid leave entitlements (which may be made up of annual leave and long service leave in addition to the 15 weeks paid parental leave) at half pay.

Each leave type (parental, annual, long service leave) is to be taken in a block and is exclusive of any public holidays and NCVER close-down days that fall during the period.

Paid secondary carer leave of three weeks is available within three months of the birth of a child, or from the date of adoption placement.

An employee who is pregnant is required to be absent from work six weeks before the expected date of birth until six weeks after the actual birth of the child, unless the employee provides medical evidence declaring that the employee is either fit to continue or return to work.

Where both parents are employees of NCVER and choose to share parental leave, their combined period of absence must not exceed 12 months from the date of birth or adoption placement.

Employees have a right to request additional unpaid parental leave of up to 12 months. Where the request for additional unpaid parental leave is denied, the employee will be provided with written reasons for the decision.

### Agreed return to work provisions

Where an employee has approved parental leave for a period in excess of 12 months, the employee may be required to return to a position at the same salary level, performing commensurate duties to those prior to going on leave, at the same level, but is not guaranteed the particular position they held prior to going on leave.

### Right to request part time employment

An employee returning to work from parental leave has the right to request flexible working arrangements, including part time employment. Refer to *Clause 51 Flexible working arrangements and workloads*.

Where the returning employee seeks part-time employment, the employee's previous duties must be considered for conversion initially and, if this is not practical, the employee may be transferred to an alternative role, suitable for part-time employment.

Where the request for part time employment is denied, the employee will be provided with written reasons for the decision.

## 76. Defence services leave

Any employee of NCVER belonging to the reserve defence forces will have leave approved for mandated training.



## 77. Emergency services leave

Any employee who is a volunteer worker with a recognised emergency management body will be granted up to ten days leave with pay to fulfil their duties in relation to an emergency situation they are required to attend. This leave is not available for ongoing duties of a non-emergency roster.

## 78. Jury service

Leave of absence with full pay will be granted by the Managing Director to enable an employee to attend Court as a juror.

# Part G: Disciplinary action, dispute resolution and termination

## 79. Disciplinary action

An employee who exhibits:

- a) unsatisfactory behaviour
- b) behaviour in a private capacity that adversely and seriously reflects on NCVER
- c) gross misconduct

may become liable to disciplinary action.

Where allegations regarding any of the above are made against an employee, the employee shall at any time be entitled to assistance or representation from anyone of their choice.

Where an employee may be liable to disciplinary action:

- a) The disciplinary allegation may be dealt with and determined by the employee's immediate manager who, after affording the employee a reasonable opportunity to respond in writing or orally, shall, if applicable, counsel and convey to the employee the standards expected of that employee. A written record of such counselling shall be made. The employee will be shown the written record and will have the opportunity to comment on its contents whether in writing or orally.
- b) An employee, the employee's immediate manager, or the Managing Director may require a disciplinary allegation to be referred to the Managing Director to be dealt with and determined by the Managing Director in accordance with the provisions of this clause.
- c) The employee shall be informed by the Managing Director in writing of the alleged behaviour or omission and shall be given reasonable opportunity to respond in writing or orally to each allegation.
- d) If it is alleged that the behaviour or omission constitutes gross misconduct:
  - i. the employee shall, on receipt of the written notice of the allegation(s), be entitled to take not more than seven days special leave with pay and shall provide a written response
  - ii. the Managing Director shall refer the allegation(s) and the employee's response to an appropriate person or committee formed for the purpose, or external counsellor/consultant who shall investigate and provide a report to the Managing Director within seven days
- e) The Managing Director shall have regard to the report and shall determine, on the balance of probabilities, whether the employee is liable to disciplinary action and shall so advise the employee.

Where the Managing Director determines that an employee is liable to disciplinary action:

- a) The Managing Director shall so inform the employee and provide the employee with a reasonable opportunity to respond (either orally or in writing) as to what, if any, disciplinary action should be taken by the Managing Director if that issue has not previously been addressed by the employee; and
- b) If the Managing Director determines that disciplinary action should be taken, the Managing Director may do any one, or more, of the following:

- i. counsel the employee as to the standard of work or behaviour expected of the employee
- ii. reprimand the employee
- iii. suspend the employee without remuneration for a period not exceeding four weeks
- iv. if the employee has been the subject of previous disciplinary action, terminate the employee's employment on giving four weeks' notice or making payment in lieu thereof
- v. if the employee is guilty of gross misconduct, terminate the employee's employment with or without notice

Appropriate written records shall be kept at each step of the disciplinary action.

An employee may appeal in writing against the disciplinary finding, the disciplinary action or both to the Chair of the NCVER Board, and have access to dispute resolution procedures as outlined in *Clause 80 Dispute resolution procedure*.

The Managing Director may delegate to another person any part or the whole of the Managing Director's participation in the disciplinary and/or appeal process.

All employees who are material to the investigation must take part in internal investigations if required.

## 80. Dispute resolution procedure

- a) A dispute regarding the application of, or interpretation of this Agreement, the application of any policy or relevant support documentation referred to in this Agreement, disputes arising under the National Employment Standards (NES) in the *Fair Work Act 2009*, or any other workplace grievance, must initially be dealt with as close to the source(s) as possible, with graduated steps for further discussion and resolution at higher levels of authority.
- b) An employee or group of employees may choose to be assisted by a representative of their choice, at any stage of the process. Any reference to an employee or group of employees also applies to their chosen representative.
- c) At the first stage of the process the employee or employees should, where the employee feels comfortable, inform their manager, or a senior member of employee, or the HR Manager of the substance of the grievance or dispute. As soon as practicable, the employee(s) with the grievance and their manager and/or any other appropriate party shall meet and confer on the matter.
- d) If the matter is not resolved at such a meeting, the employee(s) with the grievance or the manager and/or any other appropriate party shall arrange for further discussions between the employee(s) and more senior levels of management.
- e) If the matter is not resolved through this process the employee(s) may request that the Workplace Consultative Committee (WCC) consider the matter, and the following steps will apply;
  - i. The employee(s) or their representative is required to notify (in writing or otherwise) the WCC of the substance of the grievance and request a meeting with WCC for bilateral discussions and state the remedy sought.
  - ii. In cases of conflict resolution, the WCC may set up a conciliation committee of appropriately skilled NCVER employees not involved in disputes brought before it by employee(s). The Managing Director will not form part of the conciliation committee.

- iii. The conciliation committee may include persons other than members of the WCC (e.g. Human Resources, an Executive or external expert and/or independent parties) as deemed appropriate.
  - iv. The WCC will establish a process that provides for procedural fairness and independence ensuring both chairing and membership of any conciliation committee is as best as possible 'arms-length' from the matter to be resolved.
  - v. The conciliation committee should allow any employee to be heard in accordance with 'procedural fairness'. If a committee member is deemed to have a real or perceived conflict of interest in a matter being considered, the member will be excused from committee discussions on the matter.
  - vi. An employee may ask and give reasonable reason for any member of the conciliation committee to be excused from participating in a dispute they have under consideration where a conflict of interest is real or perceived.
  - vii. The conciliation committee will make written recommendations to resolve the dispute to the Managing Director for consideration and approval. The Managing Director will communicate by means appropriate the approved recommendation(s) to the relevant employee(s) for their consideration.
  - viii. In all actions and reports the conciliation committee and Managing Director must abide by Australian Privacy Principles (available at [www.oaic.gov.au](http://www.oaic.gov.au)) and keep confidential all matters requested by the employee(s), including as appropriate recommendations.
  - ix. The Managing Director is subject to the above and where appropriate will be excluded for reason of conflict and other independent arrangements will be made.
- f) If, however, the employee(s) does not request the involvement of the WCC, or if the dispute is unable to be resolved in the workplace with the WCC's involvement, the employee(s) may take the matter to the Fair Work Commission and/or may engage legal counsel. If legal proceedings outside NCVER are instituted by the employee(s), then the Managing Director will inform the Board.
  - g) While the employee(s) and NCVER are trying to resolve the dispute, normal work (that is the work performed prior to the dispute arising) must continue, providing it is safe to do so from a health and welfare perspective, or there are other reasonable grounds for not continuing work.
  - h) The employee(s) and NCVER agree that, should there be no resolution of the dispute either by the parties or by mediation, the Commission is empowered to settle the matters in dispute by conciliation or arbitration and that they will accept and implement the decision of the Commission in relation to any matters arising under the National Employment standards.
  - i) Nothing contained in this procedure will prevent NCVER, employees, the employee's union or other representatives from entering into negotiations at any level if it seems likely to help resolve the problem. Where any party does this, it must advise the other parties involved in the dispute.

## 81. Termination of employment

An employee's employment may be terminated in accordance with the Fair Work Act 2009 and subordinate legislation. Termination of, or a decision to terminate employment cannot be reviewed under the Workplace Consultative Committee outlined in this Agreement. The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those applicable to the employee and NCVER under:

- a) Part 3-2 of the Fair Work Act 2009 (as amended from time to time)
- b) other Commonwealth laws (including the Constitution)
- c) at common law

Poor performance by an employee will be dealt with under the procedures outlined in *Clause 66 Underperformance*.

## Employee consultation process

Prior to reaching any decision to terminate an employee on grounds other than would justify summary dismissal, NCVER will:

- a) inform the employee that the termination of their employment is being considered
- b) advise the employee of the reasons for termination
- c) provide the employee with an opportunity to show cause why their employment should not be terminated

An employee shall be given reasonable time to respond, and shall be provided with details of any relevant material. An employee may be assisted by a workplace representative.

Any request by the employee to meet and discuss the matter shall not be unreasonably refused.

## Resignation

NCVER requires employees to give a reasonable period of notice of intention to resign from their employment. A minimum period of two weeks notice is required unless otherwise indicated by the Managing Director. Four weeks notice is required for employees within salary levels 10-12, and key individuals within NCVER. All employees will receive notification of applicable notice period in enterprise wide salary adjustment letters each year. Thereafter, the applicable notice period for employees will be specified in the letter of offer at the time of employment or change in role.

Annual and long service leave cannot be taken during the notice period.

If an employee fails to give the required notice, NCVER has the right to withhold monies due to the employee to a maximum amount equal to the employee's rate of pay for the period of notice.

## 82. Redundancy entitlements

### Definition

Redundancy is where a position is no longer required to be performed as a result of:

- a) the closing down or reorganisation of the whole or part of NCVER's operations or by amalgamation of NCVER's operation with another organisation
- b) the adoption of changed business practices
- c) technological change, changes to business levels
- d) the duties usually performed by the employee are to be moved to an interstate location and the employee is unable to perform the duties at the new location

An employee shall not be deemed redundant if:

- a) immediately prior to termination he/she is employed on a casual or fixed-term basis
- b) immediately prior to termination he/she is employed on a fixed-term basis and the termination occurs on the expiry of the fixed term
- c) he/she has voluntarily retired under provisions of a pension or superannuation scheme
- d) he/she is offered suitable alternative employment on the same site
- e) the closure is attributable to war, earthquake, or civil disturbance

Before identifying a position as being redundant, NCVER will consider alternative options, including transfer, redeployment, reduction in hours and job swaps.

When a position is identified as being redundant, the Managing Director or representative of, will at the earliest practicable time:

- a) advise in writing, the employee(s) directly affected of the situation, the reasons for the decision, and the reasons for not pursuing alternative options
- b) hold discussions with the employee(s) and, if they choose, their representatives.

The following periods of notice of redundancy will apply:

<b>Notice period</b>	
Employees under 45 years of age	Five weeks notice, or payment in lieu of notice
Employees 45 years of age and over, with at least two years continuous service	Six weeks notice, or payment in lieu of notice

In addition to the prescribed period of notice above, employees will also be entitled to the following payment;

<b>Period of continuous service</b>	<b>Payment</b>
Up to 7 years	2 weeks salary for each year (or part year) of service, for the first 6 years
7 years or more	2 weeks salary for each year (or part year) of service, for the first 6 years, plus 3 weeks salary for each year (or part year) beyond 7 years

The maximum entitlement under this clause shall be payment equivalent to a total of 52 weeks salary.

Any part year of service will be counted as a full-year for the purposes of calculating years of service payment. Broken periods of service, where the break is up to 60 days in duration, will be accumulated.

Where an employee has worked part-time during the period of service, or taken variable leave without pay, the redundancy payment will be calculated on a pro-rata basis.

Salary means final salary or an average of the past 12 months, whichever is the greater.

NCVER will provide the affected employee(s) with the following:

- a) financial information regarding the amount of severance pay (including pay in lieu of notice, any pro-rata annual leave or pro-rata long service leave), taxation rates applicable to various payments, and any options in relation to superannuation
- b) assistance with access to counselling/outplacement services

### Selection process

Where selection for retrenchment is necessary, because the number of employees in like positions needs to be reduced, selection will be based on matching performance and skills of employees with the ongoing business need. The primary factors for selection for retention will be performance and skills. Where possible, NCVET will also consider the preferences of affected employees.

### Involvement of the Workplace Consultative Committee (WCC)

The Managing Director will consult with the WCC where it is determined that multiple redundancies are necessary in advance of individual positions being identified. Where individual redundancies arise, the Managing Director will consult with the WCC, except where doing so would pose an unacceptable risk to the NCVET. Following all instances of redundancy, the Managing Director will provide a report to the WCC outlining the reasons for the decision and the reasons for not pursuing alternative options. Refer to *Clause 10 Workplace Consultative Committee* for explanation of role and purpose of WCC.

## PART H: Declaration and signatories

### 83. Declaration

The parties acknowledge that:

- a) this Agreement is made and approved under the Fair Work Act 2009;
- b) by signing below, the parties to this Agreement signify their agreement to its terms.

### 84. Signatories

This Agreement is made in Adelaide on this the 2nd day of September 2021.

Signed for and on behalf of the  
**National Centre for Vocational  
Education Research Ltd** by  
being signed by **MR SIMON WALKER**  
being the person who holds  
the position of **MANAGING DIRECTOR**.

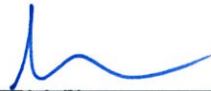


Witness signature

Level 5, 60 Light Square

Adelaide SA 5000

Witness address

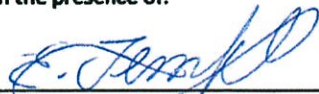


MR SIMON WALKER

2 September 2021

DATE

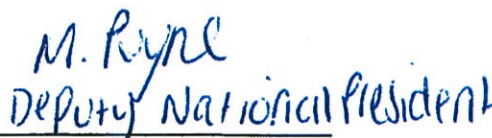
Signed by **MELISSA PAYNE**, Deputy National President  
on behalf of the **Community and Public Sector  
Union of L6/191-199 Thomas Street,  
Haymarket, NSW 2000** acting in the negotiations  
in the presence of:



Witness signature

101 Henley Beach Rd  
Torrensville SA 5031

Witness address



MELISSA PAYNE

2 September 2021

DATE



# ATTACHMENT A: Rates of pay

The following rates of pay apply under the National Centre for Vocational Education Research Ltd Enterprise Agreement 2021-2022.

Notwithstanding the rates of pay specified below, NCVER may negotiate with an existing or prospective employee an individual remuneration package. This is provided that the components of the package to be negotiable are subject to aggregate value remaining constant had the employee not agreed to the package, and includes all other conditions in this Enterprise Agreement.

## NCVER full-time equivalent annual pay rates and pay increases

Job Level	Scale	@ 1 July 2021 1.5% increase
<b>Trainee</b>	Trainee wages will be set according to rates set by the Fair Work Commission	
<b>3</b>	bottom	\$ 48,548
	mid-point	\$ 53,908
	top	\$ 59,267
<b>Graduates</b>	Graduates will be paid at the bottom of level 5 for the duration of their participation in the Graduate Program	
<b>4</b>	bottom	\$ 54,328
	mid-point	\$ 60,318
	top	\$ 66,308
<b>5</b>	bottom	\$ 60,843
	mid-point	\$ 67,569
	top	\$ 74,294
<b>6</b>	bottom	\$ 68,094
	mid-point	\$ 75,660
	top	\$ 83,226
<b>7</b>	bottom	\$ 78,287
	mid-point	\$ 87,009
	top	\$ 95,731
<b>8</b>	bottom	\$ 90,057
	mid-point	\$ 100,039
	top	\$ 110,023
<b>9</b>	bottom	\$ 103,612
	mid-point	\$ 115,066
	top	\$ 126,625
<b>10</b>	bottom	\$ 115,697
	mid-point	\$ 128,517
	top	\$ 141,338
<b>11</b>	bottom	\$ 129,253
	mid-point	\$ 143,965
	top	\$ 158,676
<b>12</b>	bottom	\$ 145,015
	mid-point	\$ 160,778
	top	\$ 176,540

# ATTACHMENT B: Guidelines for individual salary advancement

## Salary advancement

In January – mid February each year, following finalisation of the previous year's PDC process, employees may apply for a review of their salary, above that allowed for via the company wide salary increase, using the following guidelines.

### A. To facilitate a corporate perspective on negotiations:

1. The employee and manager should discuss the merits of applying for a salary review during the 12 month PDC conversation and note the outcome of this conversation on the PDC form.
2. By mid February each year (exact date will be advised yearly by the Executive Committee), employees are to put their request for a salary review, in writing, using the salary advancement template. The template should be passed to their immediate manager.
3. The template will pass through the employee's immediate manager, then to the HR Manager who will facilitate discussions with the Executive Committee.
4. The HR Manager will then meet with the Executive Committee to discuss all applications submitted. If required, the Managing Director, or other member of the Executive Committee, when considering the request, will consult with relevant informed parties, including, as required, the individual submitting the request.
5. The applicant will receive a written response to their request. All employees submitting a request for a review in salary will have the option of a personal meeting with the Managing Director to discuss the outcome.
6. Salary negotiations will be completed in a timely manner and approved adjustments will take effect from 1 April each year.
7. Employees may seek a review of their salary through their manager outside the yearly window for reviews, when there are sustained changes in complexity and responsibility in their job.
8. The application process, as well as the outcomes, will recognise and respect both confidentiality of the request and the individual, including any consultation.

### B. Factors in remuneration negotiation:

A number of factors will be taken into consideration in the negotiation. These are:

1. The relative performance of the employee against the Job Evaluation Factors set for their position and demonstrated increase in skills and knowledge.
2. Demonstration of sustained increase in skills, knowledge and expertise, deeper and broader problem solving capability, increased strategic input and contribution, amongst other relevant areas applicable to their position.
3. Changes in market value (using benchmarks with similar positions elsewhere in the labour market).
4. NCVER business needs and financial capacity.

Where salaries are deemed to be at an appropriate level for the position within NCVER and the skills and knowledge of the individual, recognition via non-salary related areas may be considered.

Noting that the main salary increase across NCVER will be the annual enterprise-wide adjustment and that under budget constraints additional salary costs should be within an average of 1% per annum across the organisation.

# ATTACHMENT C: Job Evaluation Advisory Committee Terms of Reference

## **Purpose**

The purpose of the Job Evaluation Advisory Committee (JEAC) is to provide an impartial and objective review of newly created positions and provide recommendation to the Managing Director and relevant Executive as to the placement of positions within the NCVER Job Evaluation Framework (excluding Managers and Executive level positions).

The Committee is involved in the determination of job evaluation for base-line positions, but not the placement of individuals.

## **Confidentiality**

The JEAC members agree that all matters relating to job evaluation remain confidential to the Committee and information is not discussed, copied or disseminated outside of the Committee.

## **Membership**

- Chair (HR Manager or a delegate nominated by them)
- (2) Staff Representatives, nominated and (if required) voted for by staff
- (2) Staff Union Representative/s, nominated and (if required) voted for by CPSU Members
- Administrative support (provided by HR)

JEAC members are appointed for the life of the current Enterprise Agreement cycle.

## **Responsibilities of HR**

- To co-ordinate, organise and facilitate meetings
- To provide appropriate training on the evaluation process to Committee members
- To advise job evaluation outcomes
- To facilitate the appointment process for new Committee members

## **Process**

1. The JEAC will meet on an as needs basis.
2. All newly created permanent and fixed term NCVER positions will be considered by the JEAC. Casual and temporary contract staff may be appointed outside of the framework on an as needs basis.
3. If a position already exists within the framework, it does not need to be re-evaluated prior to appointing incumbents to the position, unless material changes that may affect the evaluation of the position have occurred. If material changes have occurred, the JEAC will undertake an evaluation of this position.
4. Only the position is evaluated, not the position incumbent or their placement.
5. The information on which the position is evaluated is contained within the position description. Where clarification is required, HR or a nominated Committee member will gather further information from the applicable manager or request the manager meet with the Committee to discuss.
6. The JEAC compare the alignment of the evaluation with the proposed level provided by the manager. Where the outcome is different, the evaluation should be revisited to check for accuracy. Where a re-check does not change the JEAC result, the HR Manager will discuss with the relevant manager.

7. Agreement on evaluations will be by consensus. Where the Committee cannot reach agreement, and has received all information required, the Chair may ask the Committee to consider putting the matter to a vote.
8. The HR Manager will put forward the final recommendation of the Committee to the Managing Director and relevant Executive for review and final approval.

#### **Documentation**

Each Committee member will receive the Job Evaluation Framework and the Position Description to be evaluated. Documentation provided is to be used only by the JEAC and must not be made available outside of the Committee.

#### **Communication of outcome/s**

There will be no communication of outcomes from the JEAC to other staff. All communication regarding outcomes will be made by the HR Manager.

#### **Disputes**

Disputes will be referred to the Managing Director for resolution.

# ATTACHMENT D: Workplace Consultative Committee Terms of Reference

## Background

The Workplace Consultative Committee (WCC) was formed by the merger of previous employee representative committees (namely the Joint Consultative Committee and Staff Consultative Committee). The term of the incumbent Committee aligns with the term of the NCVET Enterprise Agreement.

## Purpose

The Workplace Consultative Committee (WCC) provides a consultative mechanism in relation to workplace matters that impact employees. Workplace matters include HR policies, redundancies, dispute resolution, the introduction of change and where agreed, ongoing review and provision of feedback on these matters.

## Function

The WCC is not a decision-making Committee of NCVET however it is a body responsible for and committed to open discussion and direct consultation with employees on workplace matters. Such matters will be discussed in a spirit of cooperation and trust to ensure that employees have an opportunity to raise workplace concerns, to receive sufficient information on matters that affect them, to have an opportunity to contribute their views on those matters and to have meaningful involvement in decision making. The WCC will consider and consult with employees in a timely manner, on matters that have consequences for employees before being implemented.

The Workplace Consultative Committee (WCC):

- a) will act as a representative group of all employees and managers covered by the NCVET Enterprise Agreement
- b) is responsible for monitoring the implementation of the Agreement
- c) undertake tasks, as needed, in support of its advisory work including consulting with affected employees on relevant issues and provide feed-back to the Committee
- d) will receive a verbal or written report of all decisions taken by the Managing Director and the Executive Committee relating to HR policies, redundancies and the introduction of change of significant consequence to employees which will be documented in meeting minutes
- e) will receive a bi-annual report summarising activity for the previous period at the first meeting of each calendar year and financial year. The report will include information on:
  - i. the use of flexibility agreements
  - ii. salary advancement outcomes, including automatic salary advancement limits for Level 1-4 positions
  - iii. employer superannuation contributions
  - iv. the use and nature of contracted employees, including term of appointment
  - v. other issues as agreed by members of the WCC

## Membership

The Workplace Consultative Committee will comprise:

- a) Managing Director
- b) 1 representative elected by managers
- c) 2-4 representatives elected by all other remaining employees, as determined by employees
- d) 1 nominee of CPSU members
- e) HR representative

The Chairperson of the WCC will be nominated and agreed upon by WCC representatives. WCC representatives may choose to Chair meetings on a rotational basis. At the request of WCC representatives, the WCC may at times decide to meet without the presence of the Managing Director.

The secretariat position will be occupied by the HR representative.

The term of appointment for representatives will be for the duration of the current Enterprise Agreement. Where any work has been started by WCC members prior to formation of a new Committee, a suitable cross-over period with new appointed members will be negotiated.

In undertaking their responsibilities, new WCC members and members of ad-hoc sub committees must be provided with appropriate support, including training as soon as practicable and within reasonable time, to ensure they are able to adequately perform their duties.

#### **Conflict of interest**

WCC members are required to bring to the Chairs' attention any conflict of interest or potential conflicts they may have with any item on the committee's agenda.

#### **Sub-Committees and additional/alternative representation**

When required the Committee can form temporary sub-committees or working groups on topics where wider input is required.

The term of these sub-committees will be time bound and limited to the resolution of the issue.

Terms of Reference of ad-hoc committees shall be approved by the WCC.

Any members of such committees are also subject to 'Conflict of interest' as above.

Ad-hoc committees may include, but is not limited to, issues that require consultation processes to assist with conflict resolution.

#### **Consultation processes in issues of dispute or conflict resolution**

The WCC provides a supportive role and has the following specific procedures in the event of helping resolve employee conflicts or disputes that are raised for example with WCC members.

1. In cases of conflict resolution, the WCC may set up a conciliation committee of appropriately skilled NCVET employees not involved in the dispute brought before it. The Managing Director will not form part of the conciliation committee.
2. The conciliation committee may include persons other than members of the WCC (e.g. HR representative, an Executive or external expert and/or independent parties) as deemed appropriate.

3. The WCC will establish a process that provides for procedural fairness and independence ensuring both chairing and membership of any conciliation committee is as best as possible 'arms-length' from the matter to be resolved.
4. The conciliation committee should allow any employee to be heard in accordance with 'procedural fairness'. If a committee member is deemed to have a real or perceived conflict of interest in a matter being considered, the member will be excused from committee discussions on the matter.
5. An employee may ask and give reasonable reason for any member of the 'conciliation committee' to be excused from participating in a dispute they have under consideration where a conflict of interest is real or perceived.
6. The conciliation committee will make written recommendations to resolve the dispute to the Managing Director for consideration and approval. The Managing Director will communicate by means appropriate the approved recommendation(s) to the relevant employee(s) for their consideration.
7. In all actions and reports the conciliation committee and Managing Director must abide by Australian Privacy Principles (available at [www.oaic.gov.au](http://www.oaic.gov.au)) and keep confidential all matters requested by employees, including as appropriate recommendations.
8. The Managing Director is subject to the above and where appropriate will be excluded for reason of conflict and other independent arrangements will be made.

#### **Frequency of meetings**

The WCC will meet every six weeks and more frequently if required.

#### **Agenda and meeting papers**

All WCC agendas and meeting papers will be circulated electronically to WCC members. An email will be sent to staff notifying them of the forthcoming meeting and how to raise matters with WCC members; this email will include a link to the WCC page on the intranet.

#### **Minutes**

Minutes of meetings will be in the form of a record of important issues and comments raised by members together with key decisions and actions. Minutes will be distributed electronically to WCC members and made available to all employees via the intranet no later than five business days after a meeting.

#### **Training**

WCC members and members of ad-hoc sub committees will be provided training to help members perform their duties (eg negotiation, prevention of bullying, mediation, effective dispute resolution, anti-discrimination, equal opportunity, privacy).