



**Australian Crime Commission
Enterprise Agreement**

2011 – 2014
our people, our future



Formal Agreement to the Terms and Conditions of the *Australian Crime Commission Enterprise Agreement 2011-2014* under sub-section 185(2) of the *Fair Work Act 2009*

By signing below, the Australian Crime Commission (the Employer) and the Community and Public Sector Union (bargaining representative for Australian Crime Commission employees) signify their agreement to the terms and conditions of the *Australian Crime Commission Enterprise Agreement 2011-2014*, pursuant to sub-section 185(2) of the *Fair Work Act 2009*.

For and on behalf of the Australian Crime Commission (the employer)	
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PART A: SCOPE OF AGREEMENT

Title

1. This Agreement shall be known as the Australian Crime Commission Enterprise Agreement 2011-2014.

Scope of Coverage

2. This Agreement is made under section 172 of the *Fair Work Act 2009* and applies to and covers:
 - a) The Chief Executive Officer (CEO) of the Australian Crime Commission (ACC) on behalf of the Commonwealth of Australia;
 - b) All ACC non- SES employees employed under the *Public Service Act 1999*;
 - c) All ACC non-SES employees employed under the *Public Service Act 1999* on higher duties in an SES classification; and
 - d) Where the Community and Public Sector Union (CPSU) gives notice in accordance with subsection 183(1) of the FW Act, Fair Work Australia will note in its decision to approve this agreement that the Agreement covers the CPSU.

Operation of the Agreement

3. This Agreement will come into operation seven days after it is approved by Fair Work Australia.
4. The nominal expiry date of this Agreement is 30 June 2014.
5. 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 this Agreement.
6. This Agreement operates in conjunction with ACC policies, procedures and guidelines (as updated from time to time) that employees are expected to comply with; however these policies, procedures and guidelines do not form part of this Agreement and this Agreement will prevail over a policy, procedure or guideline, to the extent of any inconsistency.
7. Policies, procedures and guidelines which are referenced in and support the operation of this Agreement may be made or varied from time to time following consultation and will apply in the form they are in as at the time of any relevant action/decision.
8. Policies, procedures and guidelines that alter employee conditions or entitlements will be made or varied following consultation and by agreement with the National Consultative Committee (NCC). Agreement should be reached within a reasonable timeframe, for example three months.
9. It is acknowledged that employment in the ACC is subject to the provisions of various Acts (including regulations, directions, rules or instruments made under those Acts) as in force from time to time, including:
 - *Australian Crime Commission Act 2002*;
 - *Fair Work Act 2009*
 - *Public Service Act 1999*

- *Long Service Leave (Commonwealth Employees) Act 1976*
- *Maternity Leave (Commonwealth Employees) Act 1973*
- *Superannuation Act 1976, Superannuation Act 1990, Superannuation Act 2005*
- *Occupational Health and Safety Act 1991 or its replacement*
- *Safety, Rehabilitation and Compensation Act 1988*

Delegation

10. The CEO may delegate to or authorise a person to perform any of the CEO's functions or powers under this Agreement and may do so subject to conditions.

Flexibility Agreements

11. The CEO and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
- a) the arrangement deals with one or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) remuneration; and
 - (vi) leave.
 - b) the arrangement meets the genuine needs of the CEO and employee in relation to one or more of the matters mentioned in paragraph (a); and
 - c) the arrangement is genuinely agreed to by the CEO and employee.
12. The CEO must ensure that the terms of the individual flexibility arrangement:
- a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
 - b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
 - c) result in the employee being better off overall than the employee would be if no arrangement was made.
13. The CEO must ensure that the individual flexibility arrangement:
- a) is in writing; and
 - b) includes the name of the ACC and the employee; and
 - c) is signed by the CEO and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - d) includes details of:
 - (i) the terms of the Agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (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; and
 - e) states the day on which the arrangement commences and, where applicable, when the arrangement ceases.
14. The CEO must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
15. The individual flexibility arrangement must provide that the CEO 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 CEO and employee agree in writing — at any time.

Australian Crime Commission Act 2002

16. The parties covered by this Agreement agree to consult about the implications of any changes to the *Australian Crime Commission Act 2002* if those changes were to affect the employment of employees and/or their conditions within the ACC.

Legislative or Machinery of Government Changes

17. If legislative or machinery of government changes arise during the life of this Agreement, the parties must consult on any action that might be appropriate to ensure that the objectives of this Agreement continue to be achieved.

Variations to Agreement

18. This Agreement may only be varied in accordance with the *Fair Work Act 2009*.

PART B: OBJECTIVES

ACC Business

The ACC works to achieve the outcome of reduced serious and organised crime threats of most harm to the community. It does this through the identification and sustained pursuit of serious organised crime of national significance.

The ACC's focus is on three priority areas of work:

- Providing high level strategic assessments, including specialist advice on national criminal intelligence priorities.
- Delivering criminal intelligence products and national criminal intelligence and information systems, that are designed to complement and support operational efforts, and
- Leading and participating in national criminal investigations with our partner agencies. These investigations underpin ACC's ability to provide unique intelligence and achieve co-ordinated outcomes.

The work of the ACC is supported by a strong value proposition that includes five core capabilities and strengths:

Information systems

Combined Australian intelligence holdings from Commonwealth and State sources

Coercive powers

The use of coercive powers to obtain information

Strategic products

Products that inform target areas for intervention

Legislative framework

This allows information and intelligence sharing across multi agencies

Specialist skills

People with investigative, intelligence and analytical skills to add value to raw data holdings, working in partnership with others is a key operating principle for the ACC

ACC People

The ACC has a diverse workforce, comprising employees from a range of disciplines and secondees from partner agencies.

During the life of this agreement, the ACC will continue to develop our workforce to ensure that staffing capability supports the needs of the business.

The ACC will focus on its employees to ensure the agency has the right capability mix to meet its outcomes. This will be achieved through recruitment, staff development programs targeted to address identified skill gaps and through the Performance Development System.

The ACC will continue to focus on ethical behaviour, integrity and accountability in all activities and will retain the highest standards of security.

Security Requirements

All ACC employees must satisfy and abide by the ACC's security requirements.

All ACC employees must:

- be able to obtain a security clearance to a minimum of "Negative Vetting Level 1" when they join the ACC; and
- maintain their "Negative Vetting Level 1 or higher" security clearance which will be revalidated at least every ten years.

Holding a current "Negative Vetting Level 1" or higher security clearance is an essential qualification for ACC employees. In the event the employee security classification requirements change for ACC employees during the life of this Agreement, achieving and maintaining the required level of security clearance will continue to be an essential qualification for ACC employees.

In the event that an employee is unable to obtain a higher security clearance than "Negative Vetting Level 1" when required they will be redeployed where possible to an area of the ACC which maintains their current security clearance.

In the event that changes to the security classification occur, consultation will take place with the NCC in relation to the implications for existing ACC staff.

Employment Screening

Given the sensitivity and nature of the work undertaken by the ACC, all potential ACC employees as part of the merit process must undergo the Employment Screening Process, to determine their suitability in the ACC.

Productivity Initiatives

To ensure continuous improvement in organisational and individual productivity and performance, pay and conditions outcomes contained within this Agreement are linked to the following improvements in productivity:

- An increased focus on performance management by better integrating individual key performance indicators with ACC key result areas, enabling managers to identify and improve areas or individuals where underperformance is impacting on ACC outputs and objectively implement measures to address;
- Implementation of the revised ACC fleet policy and redefining the use of operational vehicles and home garaging entitlements to achieve vehicle fleet optimisation;
- Review of mobile phone and modem usage and entitlements;
- Continued focus on reducing travel expenditure and increasing use of video conference and teleconference facilities;
- Fostering a culture that encourages staff to identify opportunities for business and process improvement and the realisation of potential efficiencies and savings; and,
- Ensure employee and management compliance with the annual leave clauses requiring employees to take a minimum of two weeks annual leave each year and enforcing the direction to take annual leave to reduce annual leave balances when they accrue in excess of two years worth of annual leave.

PART C: REMUNERATION

Classification Structure and Remuneration

19. The classification structure for employees covered by this Agreement is comprised of:
- a) Australian Public Service Level 1 (APS1) to Australian Public Service Level 6 (APS6); and
 - b) Executive Level 1 (EL1) to Executive Level 2 (EL2)
 - c) ACC Trainee (APS3/4 broadband)

The classification structure and remuneration within that structure for the ACC is outlined at Appendix D.

Work Level Standards

20. The Work Level Standards are the primary tool to classify roles and functions of all non-SES levels within the ACC's classification structure in a fair and consistent manner. Work Level Standards will be maintained for all classifications in an ACC policy and be consistent with Australian Public Service (APS) requirements. Any changes to the Work Level Standards will be subject to consultation through the NCC.
21. The Work Level Standards are designed to:
- define the expertise, key skills and qualities needed at each level, thereby supporting performance management and learning and development across the ACC;
 - assist in developing and/or refining job descriptions for new or existing positions;
 - assist in designing and classifying new jobs, or modifying existing ones, as ACC functions are expanded or varied;
 - be used to guide the development of selection criteria; and
 - be used in considering any requests from employees for review of their existing job classification.
22. The ACC agrees to undertake a work value review on APS 3 EPMC monitoring staff within 6 months of the commencement of this Agreement.

Payment of Salary

23. An employee's base rate of pay (in accordance with Appendix D) will be the employee's salary for all purposes including for superannuation, overtime, severance and termination.
24. Participation in salary sacrifice arrangements or purchase of leave options will not affect annual salary for these purposes.

Salary Increases

25. Salary increases provided as part of this Agreement are contained in Appendix D. Eligible employees will receive:
- A salary increase of 4% effective from the date of commencement of this Agreement.
 - Effective from 1 July 2012 salaries will be increased in accordance with the salary rates in Appendix D.

- **Effective from 1 July 2013 salaries will be increased in accordance with the salary rates in Appendix D.**

Mandatory Participation in the Performance and Development System (PDS)

26. **The PDS must be completed by 1 July each year.**
27. **For the purpose of clause 25 an employee will be ineligible to receive salary increases and incremental progression if they have not participated in the PDS process and have not attained a rating of satisfactory or above.**
28. **Where an employee goes on long term leave (e.g. maternity leave, long service leave) across a period where the PDS cycle ends, the employee and their manager must ensure the PDS cycle is completed prior to the leave commencing, unless exceptional circumstances exist.**
29. **Both managers and employees have a responsibility to actively participate in the PDS. Employees and managers who take all reasonable steps to complete the PDS will not be exempt from the salary increases.**

Frequency and Formula

30. **Salaries are paid in arrears fortnightly on a Thursday by electronic funds transfer to a designated account chosen by the employee. Employees will be advised in advance if a payday will be brought forward to accommodate for public holidays and shutdown periods.**

Payment of fortnightly salary is based on the following formula:

	Formula
Calculation of Fortnightly Salary	Annual Salary x 12 ÷ 313

31. **Employees may change their payment details via the Employee Self Service function via the Enterprise Resource Planning (ERP) system provided they are changed prior to the cut off for the relevant pay period.**

Salary on Commencement, Promotion or Movement

32. **When an employee commences work or is promoted to a position within the ACC, salary will be payable at the minimum pay point of the salary range applicable to the classification of the job. At the discretion of the CEO, the employee may be paid at a higher increment point if the experience, qualifications and skills of the employee are considered to warrant higher remuneration. Where an employee has already achieved salary advancement through the PDS at or above the appropriate level, their commencing salary will be adjusted to reflect the incremental advancement.**
33. **An employee will only be entitled to advance to the next increment point if they have been appointed for six months or more prior to 30 June of that year, subject to satisfactory performance.**
34. **In extraordinary circumstances and only with CEO approval, if following appointment or promotion it becomes evident that an employee possesses the skills and experience which warrant access to a higher increment point, the**

employee may be entitled to apply to access the higher increment point, subject to satisfactory performance.

35. Unless a higher salary is determined, an existing APS employee moving to the ACC at the same classification level whose current salary does not match an ACC pay point for that classification (and is below the maximum pay point at the ACC for that APS classification) will be paid at the pay point within the classification range closest to, but not lower than their current salary.
36. An employee moving to the ACC from another APS agency, whose current salary exceeds the current maximum of the relevant classification level in this Agreement, will be maintained on their current salary until such time as their salary is absorbed by ACC pay increases.

Salary on Reduction

37. Where an employee requests or agrees in writing to perform work at a lower classification level, salary will be determined at a rate applicable to the lower level for the period specified. Normally this would be at the top of the salary range of the lower classification however the CEO may determine a salary point commensurate with experience and qualifications.
38. Where an employee is permanently reduced to a lower classification level, by consent or at the direction of the CEO, the CEO will determine salary within the lower classification level having regard to the experience, qualifications and skills of the employee and the circumstances under which the reduction occurred.

Former Australian Workplace Agreement (AWA) employees

39. Employees who have had their salary maintained as a result of terminating their AWA will not be eligible for salary increases as per clause 25 until such time that the employees actual salary falls within the prescribed range for their classification as outlined in Appendix D.

Former Performance Review Process (PRP) Employee

40. Employees who previously achieved a PRP increment will continue to receive that increment level, as increased in accordance with the salary rates at Appendix D paid in this Agreement, until such time as a promotion or reduction in classification.

ACC Staff Intake Program

41. During the life of this Agreement the ACC will investigate the feasibility of implementing an Accelerated Advancement Program for employees engaged through the ACC Staff Intake Program if this program is implemented. The proposed program will be progressed through the NCC.
42. The CEO may engage a person as an ACC Trainee.
43. An ACC Trainee will be required to undertake a course of training determined by the CEO. While undertaking training, an ACC Trainee will be paid at a salary level within the APS 3 part of the APS 3/4 ACC Trainee broadband as determined by the CEO. When the CEO is satisfied that the course of training has been successfully completed, the ACC Trainee will be allocated a classification in

accordance with the Classification Rules. The CEO will then assign duties within the APS 4 part of the APS 3/4 ACC Trainee broadband and determine salary.

Payslips

44. Electronic payslips are supplied to employees via the Employee Self Service (ESS) function of the ERP system once completion of the relevant pay period has passed. The payslip contains information in relation to salary and other earnings, tax payable, leave entitlements and superannuation. Employees are encouraged to regularly check their payslips and raise any irregularities with the Pay and Conditions Team.

Underpayment of Salary

45. In the event of underpayment of salary or allowances to an employee, the salary owing to the employee will be paid as soon as practicable and where possible, in accordance with the employee's request.

Overpayment of Salary

46. In the event of overpayment of salary or allowance to an employee, where the Pay and Conditions Team has not already advised the employee, the employee must notify the Pay and Conditions Team immediately following recognition of an overpayment.
47. Where an overpayment has occurred, the overpayment must be recovered in accordance with the Chief Executive Instructions, the employee authorises the ACC to recover the overpayment from the employee's future salary payments as soon as practicable and subject to negotiation with the employee, until the full amount is recovered. The minimum amount that will be deducted from salary is 20% of the overpayment unless otherwise agreed.

Supported Wage System (SWS)

48. Employees who are eligible for a supported wage who meet the impairment criteria for the Disability Support Pension will be paid the applicable percentage of the relevant rate for the work value they are performing in accordance with the Special Supported Wage System (Employees with a Disability) Australian Pay and Classification Scale.
49. Employees covered by the SWS will be those who are unable to perform the full range of duties because of the effects of a disability. The SWS does not apply to employees who have claims outstanding that are subject to the worker's compensation provisions or any provision relating to the rehabilitation of employees injured in the course of their employment.

Supported Wage System (Employees with a Disability) Australian Pay and Classification Scale.

50. An assessment of an employee's productive capacity will be made in accordance with the SWS, and are specified as follows:

Assessed Capacity	Percentage Of Prescribed Salary
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%
60%	60%
70%	70%
80%	80%
90%	90%

Superannuation

51. The Government has provided choice of superannuation fund to Commonwealth employees to provide employees with greater choice and control over their superannuation savings.
52. The ACC will provide choice of superannuation for eligible employees who are members of the Public Sector Superannuation accumulation plan (PSSap) or who are eligible to join the PSSap. Employees may choose any complying superannuation fund provided it can accept employer contributions by electronic funds transfer (EFT). Any fees associated with EFT and/or the administration of superannuation contribution via Super Choice will be payable by the employee.
53. Employer contributions to the PSSap will be 15.4% of the employee's fortnightly contribution salary. Employer contributions for employees in other accumulation schemes will be at the same rate as for employees in PSSap. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not apply where a superannuation fund cannot accept employer superannuation contributions (e.g. unable to accept contributions for people aged over 75)
54. Existing Public Sector Superannuation (PSS) and Commonwealth Superannuation Scheme (CSS) arrangements will continue in accordance with the relevant legislation and requirements.
55. Superannuation salary is only reviewed annually for all employees on their birthday irrespective of which superannuation scheme they belong to.

Salary Packaging

56. Salary packaging, in accordance with the ACC's Salary Packaging Policy, is available to all employees at no cost to the ACC. Under the policy, ACC employees can take up to 100% (employees must still meet their relevant superannuation requirements) of their annual salary as non-cash items and other benefits. To safeguard their interests and those of the ACC, employees must receive expert financial advice before electing to salary package. When submitting their application to participate in salary packaging, employees must provide evidence of receipt of this advice at that time.

57. Where employees take up the option of salary packaging on a 'salary sacrifice' basis, the employee's salary for purposes of superannuation, severance and termination payments (and other purposes) will be determined as if the salary sacrifice arrangements had not been entered into.

Higher Duties

58. Work that is undertaken temporarily at a higher APS classification level will receive payment at the higher level subject to the provisions contained in clauses 60.
59. Where a position is to be filled on a temporary basis that is expected to be for a period in excess of three months, an internal expression of interest process will normally be undertaken to fill that position.
60. When filling a temporary vacancy, managers should consider the following:
- Providing adequate opportunity and consideration to all employees within the ACC who may be qualified, interested and available for the higher duties;
 - Providing development opportunities to employees;
 - The availability of suitably qualified employees within the ACC; and
 - Administrative efficiency.
61. Where an employee has been in receipt of higher duties from 1 January or earlier and remains on higher duties at that classification level or higher until 1 July in that year, salary advancement will occur at the employee's higher duties and substantive levels effective from 1 July, subject to participation in the PDS at the higher classification and performance ratings outlined in clause 324.
62. Where an employee achieves salary progression at a higher classification based on their performance assessment at that level, then reverts back to their lower classification and later performs at the higher level again, the employee will be paid at the last salary point the employee was on at the higher classification, irrespective of the length of time which may have lapsed.
63. Where an employee temporarily performs the duties of a particular higher classification for a period of 10 consecutive days or more the salary of the higher classification will be paid at the minimum pay point. The CEO may authorise payment of salary above the minimum point in that salary range having regard to experience, qualifications and skills of the employee, and specific market factors.
64. An employee who is promoted between 1 January and 30 June each year who was in receipt of higher duties immediately before the promotion, is eligible for salary advancement at that level (i.e., at the promotion classification) effective from 1 July if the combined period at the higher level (i.e., the period of higher duties and the period at the substantive higher level) is six continuous months or more, subject to participation in the PDS and performance ratings outlined in clause 324.

Partial Performance

65. At the CEO's discretion, an employee may be paid for partial performance at a higher classification level where they perform partial duties for 10 consecutive days or more. A requirement to temporarily perform only some of the tasks of another position may arise where:

- it is not essential for all duties to be performed;
 - there is no-one available who can perform all the duties efficiently; or
 - an unqualified employee is selected to temporarily perform other tasks.
66. The tasks to be performed and the rate of payment for partial performance will be determined prior to commencement of the higher duties. The 10 day limit for payment still applies in cases of partial performance.

Higher Duties at the SES Level

67. If an employee is to undertake higher duties at the SES level for 10 consecutive days or more, the employee will be paid at the minimum salary bandwidth contained in the SES Remuneration Policy. The CEO may authorise payment of salary above the minimum point in that salary range having regard to experience, qualifications and skills of the employee, and specific market factors. During any period of higher duties at the SES level, any employee normally within a classification described in clause 19 will continue to be covered by the terms and conditions of this Agreement.

PART D: WORKING ENVIRONMENT

Hours of Work

68. 7 hours 30 minutes will be the ordinary day applying to all full-time employees (except shift workers as outlined in Appendix A). This represents 37.5 hours per week which will be the ordinary weekly hours for full-time employees other than shift workers. A part-time employee's ordinary hours of work will be those agreed between the CEO and the employee.
69. The 'ordinary day' is generally between the hours of 8:30am to 12:30pm and 1:30pm to 5:00pm. Payment of salary and leave calculations are based on the ordinary day (i.e. for a full-time employee, the fortnightly salary is based on 7.50 hours per day x 10 = 75 hours per fortnight).
70. The pattern of hours by which employees meet these hours of duty is a matter for agreement between manager and employee. However, an employee will ordinarily not be required to work more than:
- nine hours ordinary time on any day; and
 - five consecutive hours without a meal break of at least 30 minutes.
71. Managers and employees are to ensure that, within operational requirements, flexible working arrangements contained in this Agreement are able to be accessed in such a way to ensure that recognition of, and reward for, performance is based primarily on performance, not hours at work.
72. Managers and employees need to consider the following issues in managing attendance patterns:
- the need to meet operational requirements;
 - impact on internal or external clients;
 - impact on other members of the team or work group;
 - personal needs of the employee;
 - no excessive accrual of hours; and
 - changes should not be agreed where the intention is to maximise other entitlements (such as maternity leave or superannuation).

73. In circumstances where work pressures result in an employee being required to work, or being likely to work excessive, or unreasonable hours, the manager in consultation with the employee will consider and implement one or more of the following strategies to reduce the amount of excessive, or unreasonable hours being accumulated:
- review of workloads and priorities;
 - re-allocation of resources; and
 - consideration of appropriate arrangements for time off in lieu, in line with the "Flexitime" provisions of this Agreement, or recompense.
74. In accordance with section 62(2) of the *Fair Work Act 2009*, the following are to be taken into account when determining whether additional hours are reasonable:
- (a) any risk to employee health and safety from working the additional hours;
 - (b) the employee's personal circumstances, including family responsibilities;
 - (c) the needs of the workplace or enterprise in which the employee is employed;
 - (d) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;
 - (e) any notice given by the employer of any request or requirement to work the additional hours;
 - (f) any notice given by the employee of his or her intention to refuse to work the additional hours;
 - (g) the usual patterns of work in the agency, or the part of the agency, in which the employee works;
 - (h) the nature of the employee's role, and the employee's level of responsibility;
 - (i) whether the additional hours are in accordance with averaging terms of hours worked over a certain period of time – generally over a period of 26 weeks.
75. The maximum weekly hours that the ACC ordinarily expects an employee to commit to should be no more than 37.5 hours per week plus reasonable additional hours as described above.
76. In accordance with section 62(3) of the *Fair Work Act 2009*, the ACC does not expect an employee to work hours that are unreasonable (as defined above) and supports an employee's right to refuse to work unreasonable hours.

Bandwidth

77. The bandwidth of hours in which an employee may work ordinary hours is from 7:00am to 7:00pm Monday to Friday.
78. Where an employee requests to work outside this bandwidth, including on Saturday or Sunday, the employee and their manager may agree to this, subject to operational requirements and work availability. Any hours worked on this basis will be considered 'ordinary hours' and not attract additional duty rates.

Flexitime

79. Flexitime is a system of flexible working hours which enables employees and managers to vary working hours, patterns and arrangements to provide

maximum flexibility for both employees and the organisation. Flexitime arrangements apply to APS1 to APS 6 employees and exclude Executive Level employees and ACC employees working shift arrangements.

80. Employees are entitled to accrue flex credits and managers must ensure that access to flex leave is planned and accommodated. In the interests of administrative efficiency, time-off under the flexible working hours arrangements for short and part-day absences to enable employees to meet personal needs, is encouraged, in preference to using other forms of leave.
81. There is no limit to flex leave to be taken but such leave is subject to manager approval, based on operational requirements.
82. Employees are able to accumulate both flex credits and debits as follows:
 - a maximum of 10 hours flex debit (debits in excess of 10 hours will be treated as leave without pay and an appropriate deduction made from the employee's pay) will be made in accordance with the Chief Executive Instructions (CEI);
 - a maximum of 22.50 hours (three days) or equivalent part time hours flex credit and managers and employees have a responsibility to manage working hours to ensure that employees are productively employed; and
 - Once an employee has accrued 22.50 hours or equivalent part time hours in flex credit, they must only work standard days until such time as their flex credit is reduced and commit to taking a minimum of one working day of flex leave within the following calendar month, in consultation with their manager.
 - In exceptional circumstances, an employee may accrue flex credit beyond 22.50 hours with the express agreement of their manager.
83. In discussing working patterns, managers and employees need to consider and reach agreement on:
 - the maximum period of flex leave which may be taken at any one time;
 - the period of core time, if any, to apply to the work team or work area;
 - any approved formal study commitments of the employee; and
 - any other relevant issues for the team or work area.
84. An APS1 to APS6 employee who is travelling or on duty away from the employee's usual place of work may be able to claim for time necessarily spent in travel or on duty (exclusive of overtime duty) in excess of:
 - the employee's ordinary hours of work for the day; and
 - the time necessarily spent travelling to and from home and the usual place of work.
85. Due to operational or other requirements (e.g. insufficient work), a manager, following consultation with an affected employee, a team or work area as a whole; where appropriate, may withdraw access to flexitime.
86. Access to flexible working arrangements will not apply where:
 - an employee's manager reasonably considers the employee's attendance is unsatisfactory; or
 - an employee's manager reasonably considers the employee is misusing the arrangements.
87. Where flexitime is withdrawn, an employee will revert to ordinary hours and days as defined above in clause 66.

88. Access to flextime may be restored when the manager is satisfied that an employee's attendance is satisfactory.
89. Decisions to put employees on fixed hours for unsatisfactory attendance or misuse of the arrangements will be in accordance with the principles of natural justice and fairness. Such decisions will only be taken where:
- the facts have clearly been established;
 - provision of counselling on deficiencies and/or expectations of the employee has been provided;
 - the employee has been given an opportunity to respond to the reasons for the proposed decision; and
 - the employee has been given an opportunity to change their behaviour.
90. An employee authorises any flex debit that the employee has upon cessation from the ACC (aside from death) to be deducted from the employee's final payment of entitlements in accordance with the CEIs.
91. Managers must ensure that action is taken to reduce any flex credits an employee has upon the receipt of notice or resignation. Any remaining credit will not be paid out following cessation.

Additional Duty and Overtime

92. Flextime will be used as far as possible to meet operational requirements. Employees will, however, make themselves available for reasonable additional duty provided it does not result in the working of unreasonable hours as defined in this Agreement.
93. Additional duty is work performed by employees other than Executive Level employees at the direction of management for work outside the bandwidth (includes Saturday, Sunday, and public holidays) or in excess of nine hours within the bandwidth on any week-day.
94. Time off in lieu (TOIL) is the standard form of recompense for all additional duty. The payment of additional duty may be authorised by a manager where it is impractical for the employee to take time in lieu within a reasonable time. Prior to the work being undertaken, agreement must be reached by the manager and the employee as to whether the time worked will be compensated through overtime payment otherwise TOIL will be the default option.
95. TOIL or payment for additional duty is calculated as follows:

Day	Rate	Formula
Monday to Saturday	Time and a half for the first three hours and double time after the first three hours.	Additional Duty Hours x Annual Salary x 12 ÷ 313 ÷ 75 hours/week x 1.5 or 2
Sunday	Double time.	Additional Duty Hours x Annual Salary x 12 ÷ 313 ÷ 75 hours/week x 2

96. Where additional duty is worked on a public holiday the rate of payment is as follows:
- a) for duty within the ordinary day, the rate is calculated at time and a half (as employees are already being paid for the working day on a public holiday);
 - b) for duty outside the ordinary day, the rate is calculated at double time and a half; or
 - c) for duty on Easter Saturday, the rate is double time and a half.
97. For work health and safety reasons, an employee is entitled to an eight hour break plus reasonable travelling time before recommencing work without incurring any loss of pay. Where a manager requests an employee to return to work prior to the expiration of this combined break and travelling time, the employee will be paid double time until the employee has had such time off. This requirement does not apply to Emergency Duty unless the time worked, excluding travelling time, is at least three hours on each call.
98. Where safety and security issues arise, appropriate transport home will be arranged for employees working additional duty.
99. Where possible, employees undertaking additional duty outside the bandwidth will be given access to car parking.
100. Where an employee who is not an Executive Level employee is called to work without prior notice to meet an emergency, which is not continuous with ordinary duty and outside the bandwidth hours, they will be paid for the period of work, and any time necessarily spent in travelling to and from the work site at double time for a minimum period of two hours. Where more than one period of duty is involved, the minimum additional duty payment provision will not operate to increase the employee's additional duty remuneration beyond the amount which would have been received had the employee remained on duty from the commencing time of one period of duty to the ceasing time of the following periods of duty.
101. TOIL or payment for emergency additional duty is calculated as follows:

	Formula
TOIL/Payment for Emergency Additional Duty	$\text{Additional Duty Hours} \times \text{Annual Salary} \div 12 \div 313 \div 75 \text{ hours/fortnight} \times 2$

102. Employees who perform additional duty while on call will be entitled to additional duty payment of:
- a) one hour, where duty does not require attendance at the workplace (any subsequent phone calls within the first hour can not be claimed); or
 - b) three hours, where duty requires attendance at the workplace.
103. Executive Level employees do not have prescribed hours for attendance purposes. The salary package for the Executive Level employees incorporates recognition for the additional responsibility associated with those positions and for additional hours that may be necessary. Therefore, Executive Level employees are not entitled to payment for additional duty.

Formal TOIL Arrangements for ACC Operational Employees

104. Those employees who are defined as 'ACC Operational Employees' will be entitled to access TOIL arrangements in recognition of the duties, regular disruptions and unusual hours of work.
105. TOIL arrangements will differ depending on the work group and the ongoing expectation of disruption and the requirement to be accessible outside of the ordinary hours of work. The ACC does not expect operational employees to work beyond nine hours in an ordinary day but recognises that the unique circumstances of some operational roles may sometimes require additional hours to be undertaken. This should only occur in circumstances that are unexpected and unanticipated and only as a result of operational requirements.
106. The maximum amount of TOIL accruable is 40 hours per month before the manager and the employee must take action to reduce the credit. No further accrual of TOIL may occur once a balance reaches 40 hours. The taking of TOIL should be planned in any rostering arrangements and in normal circumstances be kept below 16 hours.
107. These arrangements will apply to the following groups in the prescribed forms and for all purposes defines the category of employees referred to as 'ACC Operational Employees':
108. For the purpose of clauses 109 -113 an Operations Manager includes:

C&A managers, TD managers, I managers, CHSU managers, Section heads (operational), PTSU and Surveillance oversight or equivalent

Arrangements for Executive Level Physical and Technical Surveillance Employees and Operational Investigators

109. Executive Level Physical and Technical Surveillance employees and Operational Investigators (as per definition in High Risk Employees) will be entitled to access TOIL arrangement for all hours worked over nine hours. TOIL will be accessible on an hour for hour basis including any additional hours worked on weekends and public holidays.
110. Additional hours can only be claimed where employees are directed to work additional hours and only with the approval of the relevant Operations Manager. Operational Investigators will also accrue TOIL consistent with clauses 111-112.

Arrangements for Executive Level Covert Human Intelligent Source Handlers (CHSU)

111. In recognition of the requirement to be available outside of the ordinary hours of work and the disruption to home life, Executive Level CHSU employees are entitled to accrue TOIL based on the number of operational phone calls received and responded to outside of the ordinary hours of work.
112. For the purpose of calculating TOIL, any phone call that requires management action will be averaged and calculated as one hour per call for the initial call. Making or receiving subsequent related calls will be averaged and calculated as 15 mins per occasion. Any other calls will be averaged and calculated as 15 minutes per occasion. Evidence of this will be based upon reporting requirements as agreed with the relevant Operations Manager.
113. While Covert Human Intelligence Source (CHIS) Handlers are not ordinarily expected to work in excess of nine hours in any day, TOIL may also be accrued on an hour for hour basis as a result of a recall to duty or as a result of an

unexpected and unanticipated operational requirement to work in excess of nine hours, or as agreed with the Operations Manager Monday to Friday or for any additional hours worked on weekends or public holidays. The additional hours can only be claimed when they have been approved by the relevant Operations Manager.

Executive Level Employees Working Arrangements

114. The ACC recognises the focus on achievement of outcomes for Executive Level employees. The achievement of organisational outcomes involves considerable working effort which may require variable and additional working hours to achieve these outcomes. It is important that the Agency recognise these efforts and contributions made by these employees.
115. The ACC does not endorse working arrangements that require Executive Level employees to work excessive hours over significant periods. Therefore Executive Level employees should not commence work on any day without having at least eight hours plus reasonable travelling time minimum break from the previous day's work.
116. Executive Level employees are able to work flexible working hours consistent with organisational requirements. This means that variations in attendance times and short-term absences including full days may be agreed without the need for a leave application.
117. The arrangements in relation to these flexible working hours for Executive Level employees must be determined and agreed to by the employee and their direct manager prior to any leave being taken and taking into account the needs of the ACC and the individual's personal work commitments.
118. In the event that an Executive Level employee undertakes additional productive effort which involves working in excess of ordinary hours for sustained periods, the manager and employee may agree upon arrangements for reasonable time off to recognise the additional effort.
119. During the course of this agreement the ACC will develop additional guidelines on the working arrangements for Executive Level employees which will be incorporated into training for managers. These guidelines will assist the ACC in taking steps to ensure that Executive Level employees in different work units and different locations receive consistent treatment in relation to time off in recognition of additional hours worked

Working Outside the Office

120. All arrangements concerning employees who work outside the office will be in accordance with the ACC's Working Outside the Office Policy.
121. An employee with a formally approved working outside the office arrangement is covered by the same employment conditions as an employee working at an office-based site.

Part-Time Employment

122. A part-time employee is one whose regular hours of work are consistently less than 150 hours over a four-week period.

123. A manager and employee will determine attendance patterns taking into consideration operational requirements and the employee's personal needs.
124. A full-time employee may request to work on a part-time basis for a finite period which would be reviewed on a six monthly basis. Such requests for part-time work are subject to approval by the CEO who will take into account operational requirements, the ability to redistribute the duties of the position in the employee's absence and the ability to revert the role back to full-time at the cessation of the period.
125. An employee returning from maternity/parental leave will have the ability to access part-time employment for at least 24 months after returning to work. The part-time hours and days of work are to be agreed between the manager and the employee having regard to operational requirements and the employee's circumstances.
126. Remuneration and other conditions are calculated on a pro-rata basis, apart from allowances of a reimbursement nature where a part-time employee will receive the same amount as a full-time employee. Part-time employees accrue all leave entitlements as per full-time employees on a pro rata basis, based on the employee's hours per week. Superannuation entitlements for part-time employees are based on the relevant superannuation legislation.
127. Part-time employees will not normally be expected to work outside of the agreed working patterns. Flextime is available to part-time employees who are not Executive Level or work according to a shift roster. The conditions which apply are as per full-time employees. Any additional hours worked within the bandwidth are paid at the normal salary rates.
128. Employees working part-time as a result of a graduated return to work program are not automatically entitled to flex leave as any variations to working hours would be subject to treating medical practitioner approval.
129. If an instance does arise and the part-time employee is directed to work additional hours outside of the bandwidth due to operational requirements, the hours will be paid at additional duty rates. Additional duty for part-time employees should only be performed where absolutely necessary.
130. Part-time employees are entitled to payment for public holidays as outlined in the Agreement if they are scheduled to work on the public holiday.
131. An employee who is part-time should be genuinely considered for promotion and transfers on the basis of merit but any part-time arrangement will need to be renegotiated in the new position.

Casual Employees

132. A non-ongoing employee who is engaged to do work that is irregular or intermittent in nature will receive a 20% loading in addition to their hourly rate of salary. This loading is in lieu of public holidays not worked and all leave entitlements except:
 - a) Long Service Leave; and
 - b) Two days unpaid Personal or compassionate leave per each permissible occasion as prescribed by the *Fair Work Act 2009*.

Requests for Flexible Working Arrangements

133. An employee who is a parent, or has responsibility for the care of a child may request the ACC for a change in working arrangements to assist the employee to care for the child if:
- a) the child is under school age; or
 - b) the child is under 18 and has a disability.
134. The employee is not entitled to make the request unless they have completed at least 12 months continuous service with the ACC immediately before making the request (the CEO may waive this requirement in exceptional circumstances)
135. The request must be in writing and set out the details of the change sought and the reasons for the change.
136. The ACC will provide the employee with a written response to the request within 21 days stating whether the request is granted or denied. The ACC may only refuse the request on reasonable business grounds and will provide written notice of the reasons pertaining to the decision of refusal to the employee within 21 days of receiving the written request.

Job Sharing

137. Job sharing is an arrangement subject to operational requirements, initiated by two or more employees wishing to share one full-time job, each working part-time on a regular basis. Job-sharing can be adapted to a variety of circumstances, because arrangements are designed individually to suit the needs of ACC, the job-sharers and the nature of the job. Employees working under job-sharing arrangements will be considered to be part-time employees.

ACC Employees Working Shift Arrangements

138. The ACC has a requirement for some employees to work shift arrangements to meet operational requirements. The provisions for ACC Employees Working Shift Arrangements are attached at Appendix A.

Healthy and Safe Working Environment

139. The ACC Executive is committed to taking all reasonably practicable steps to protect the health and safety of employees, contractors, secondees and visitors. The ACC acknowledges that some employees work in low-risk environments and others may undertake very high-risk activities, and as such recognises its duty of care to all employees. The ACC works with other Federal, State and Territory agencies and acknowledges that its duty of care is not diminished because of this. In pursuit of this purpose, the ACC is committed to consulting with employees about workplace health, safety and welfare matters that may affect employees at work and this commitment is complemented by formal consultative mechanisms.
140. In accordance with the *Occupational Health and Safety Act 1991* (OH&S Act), the ACC has developed Health and Safety Management Arrangements which:
- enable effective cooperation between the employer and the employees in promoting and developing measures to ensure the employees' health, safety and welfare at work;
 - provide adequate mechanisms for informing the employees about the arrangements;
 - provide adequate mechanisms for reviewing the effectiveness of the arrangements;

- provide adequate mechanisms for the variation of the arrangements in consultation with the employees;
 - provide for a dispute resolution mechanism to deal with disputes arising in the course of consultations between the employer and the employees; and
 - established a work health safety committee
141. A National Work Health & Safety (WHS) Committee meets on a quarterly basis and is responsible for:
- supporting the ACC Executive by assisting in developing, reviewing and implementing measures designed to protect and proactively manage health and safety of staff at work;
 - promoting and monitoring measures taken to ensure safe work practices;
 - facilitating co-operation between staff and management on WHS issues;
 - facilitating consultation and communication of information to staff in relation to WHS matters;
 - undertaking any functions as prescribed in the WHS Act or regulations;
 - undertaking any other functions agreed between the employer and the Committee; and
 - reviewing and monitoring all policies, guidelines and practices within the ACC as they relate to the health and safety of employees, visitors and contractors and make appropriate recommendations for the development of ACC specific policies, procedures and guidelines.

All recommendations made by the Committee will be forwarded to the Senior Executive for information.

Employee Assistance

142. The ACC will provide access to a confidential, professional counselling service for employees and their families to help them resolve both personal and work-related problems, at no cost to employees and their families. The Employee Assistance Program (EAP) provides assistance through professional counselling for ACC employees and members of their immediate families who face problems of a personal, family related or employment nature.
143. The EAP covers a wide variety of problems and concerns such as: work related issues, alcohol and other drug related problems, stress management, depression/anxiety, family and marital problems, grief, eating disorders, elder care coping skills, etc.
144. Employees and their immediate family members can contact their local EAP provider directly to make an appointment. Employees should refer to the EAP information located on the Intranet.

Workplace Equity and Diversity

145. The ACC is an inclusive organisation that values fairness, equity and diversity. The ACC is committed to encouraging a diverse and equitable workforce in which it is acknowledged that people have different qualities, skills, qualifications, experience, cultures, abilities and attitudes to work. Valuing and making the most of these differences can improve the workplace for individuals and enhance the overall performance of the organisation. The ACC is committed to:
- providing a safe, secure and healthy workplace;
 - employees treating each other with respect and dignity;

- employees accepting responsibility for their own actions;
- providing appropriate means to address discrimination and harassment;
- making judgments genuinely based on equity and merit;
- valuing the differences and diversity of people; and
- eliminating artificial, unfair and inappropriate barriers.

146. The ACC will consult with employees and where they choose, their representatives on equity and diversity issues through regional and national consultative forums.

Drug and Alcohol Testing

147. As a result of the type of work activities the ACC undertakes, organisational and public expectation dictates that as a law enforcement agency ACC employees will adhere to the highest standards of personal and professional integrity. Due to the potential dangers presented to ACC employees working in high risk areas, the ACC will continue to adopt a comprehensive approach to the minimisation of harm arising from the effects of drugs and alcohol in the workplace.

148. High risk employees will continue to be subject to the ACC Drug and Alcohol Policy. The policy outlines the ACC's approach to deterring drugs and alcohol abuse by all ACC employees and detecting drugs and alcohol abuse by employees working in high risk areas of ACC activities.

149. Within the first year of this agreement the ACC Drug and Alcohol Policy will be reviewed and expanded to include random un-announced drug and alcohol testing of any non-high risk employees in accordance with the relevant policy.

PART E: LEAVE PROVISIONS

Introduction

150. The ACC provides access to a wide range of flexible options for leave which assist employees with balancing their work and personal responsibilities with the operational needs of the ACC. Types of leave include:
- Annual Leave;
 - Purchased Leave;
 - Personal/Carer's Leave;
 - Maternity Leave;
 - Adoption Leave /Foster Parents Leave;
 - Unpaid Parental Leave;
 - Supporting Partner Leave;
 - Compassionate/Bereavement Leave;
 - Long Service Leave;
 - Defence Leave;
 - Miscellaneous Leave with and without Pay;
 - NAIDOC leave; and
 - Community Service Leave.
151. It is expected that the responsibility for management of leave will be a consultative process between an employee and their manager and coordinated through the ERP system.
152. All leave balances are based on the ordinary working day of 7 hours 30 minutes for full-time employees and pro rata of approved daily hours for part-time employees.
153. Where an employee is absent from duty without approval, all pay and other benefits provided under this Agreement will cease to be available until the employee resumes duty or is granted leave.

Annual Leave

154. The purpose of annual leave is to enable employees to take a reasonable break from work. Employees are encouraged to take annual leave on a regular basis and it is important for managers and employees to ensure that the planning of leave is an integral part of workforce planning.
155. A full-time employee is entitled to 20 working days (four weeks) paid annual leave for each completed year of service. This equates to a maximum annual leave credit of 150 hours for a full-time employee which accrues on a pro-rata fortnightly basis.
156. A part-time employee will accrue annual leave on a pro-rata basis according to the approved part-time hours.
157. The accrual of annual leave is based on the employee's ordinary hours of work and is reflected on each employee's payslip and in ERP.
158. ACC employees working shift arrangements will accrue an additional half day of paid annual leave for each Sunday and public holiday worked, up to a maximum of five days (calculated at the ordinary working day rate for ACC employees working shift arrangements) for each year of service, credited on 1st of January

each year. A rostered shift of three hours or more which commences or ceases on a Sunday or public holiday will count in this calculation.

159. Taking into consideration the principles of employee health and wellbeing, each employee is required to take a minimum of two weeks paid annual leave per year to have a reasonable break from work and avoid the accrual of excess leave.
160. Excess leave is defined as an annual leave of 40 working days (eight weeks) for full-time employees; the equivalent pro-rata amount for part-time employees; and 50 working days (ten weeks) for ACC employees working shift arrangements.
161. For those employees who have accrued more than the prescribed amounts, the CEO may direct the employee to take annual leave until their leave is reduced to a reasonable level below the prescribed amounts listed at clause 160 (as applicable).
162. In the event that the CEO directs an employee to take a specified amount of annual leave, the employee will be provided with four weeks written notice of the intention for the employee to be absent on annual leave and the relevant dates they will be required to be away from work (unless that employee is granted approval under the circumstances described at clause 163).
163. The CEO may give approval for annual leave in excess of 40 working days to be retained in certain circumstances (for example, for an overseas holiday) subject to an agreed date for the excess leave to be taken.
164. Annual leave may be taken at any time, on full pay, subject to operational requirements and the approval of the employee's manager. Annual leave may also be taken on half pay in exceptional circumstances and only by prior approval by the manager and subject to the employee not having an annual leave accrual in excess of eight weeks. Annual leave counts as service for all purposes.
165. Employees who commence with, or return to, the ACC and who carry over an annual leave credit of 40 working days or more will be given a 12 week grace period in which the employee's credit must be reduced to less than 40 working days.
166. In exceptional circumstances, the CEO may authorise or extend a grace period as referred to in clause 165 where employees with excessive leave credits are not directed to take leave.
167. Upon resignation from the APS or termination of employment, all untaken annual leave credits will be paid out to the employee at the normal rate of pay.
168. Employees who are unfit for work or have a caring responsibility for one day or more whilst on annual leave and produce satisfactory medical evidence may apply for personal leave. Annual leave will be re-credited to the extent of personal leave granted.
169. Annual leave credit will not be debited where an employee is on annual leave on a designated public holiday with the exception for shift workers as outlined in Appendix A
170. Where an employee is due to take annual leave and they wish to have their entitlement pre-paid, a request must be forwarded to the Pay and Conditions Team no less than two weeks prior the commencement of annual leave.

171. Where an employee is being paid for a period of Higher Duties, payment for the performance of those tasks will continue where their manager deems that the Higher Duties would have continued were they not taking annual leave.
172. Managers are responsible for ensuring their employees do not build excessive leave. It is important that managers and employees recognise and accept their mutual responsibility to integrate the management of working hours and leave planning, including flexible working arrangements, into the overall approach to their business and workforce planning.

Cashing Out of Annual Leave

173. Effective from 1 October 2011 the CEO may approve a request in writing from an employee to cash out annual leave if they have:
- taken at least 2 weeks or the equivalent amount of annual leave in the preceding 12 months; and
 - will have a remaining balance of at least 4 weeks annual leave after the cash out.
174. Employees may only make an election to cash out annual leave once every 12 months and each agreement to do so must be made in writing.
175. When cashing out annual leave the employee is to be paid at least the same amount that would have been payable to the employee had the employee taken the leave that is being cashed out.

Purchased Leave

176. To provide employees with further opportunity to balance work and life, additional leave may be applied for in blocks of one, two, three or four weeks of unpaid leave which is funded by salary deductions spread evenly over the year. All ongoing employees are eligible to apply for purchased leave. In exceptional circumstance the CEO may approve purchased leave for a non-ongoing employee.
177. Applications for purchased leave are voluntary and operate over a 12 month period commencing at the time the purchased leave period begins.
178. Following approval of the purchased leave, fortnightly deductions will commence on the first available payday after an application has been lodged with the Pay and Conditions team. Related salary deductions will be over a maximum period of 26 pay days. Calculations will be based on an employee's gross annual salary at the time the purchased leave is taken. Tax will be calculated based on the gross fortnightly salary after deductions for purchased leave have been made.
179. Gross salary deductions for purchased leave will include any allowances paid in the nature of salary. Similarly, deductions will be adjusted to reflect any salary increases (such as promotions, higher duties etc) that affect deductions for the period of purchased leave taken.
180. Purchased leave cannot be accumulated and must be used within the year applied.
181. Only one application for purchased leave can be accepted per year and leave must be taken in the year it is approved.

182. The minimum absence at any one time should be one week (equivalent to one shift week for ACC employees working shift arrangements). Applications for purchased leave for less than five days may not be approved.
183. Purchased leave will count as service for all purposes and consequently there is no deferral of any leave credits. Fortnightly deductions for purchased leave will continue while employees are on other types of paid leave such as annual leave, long service leave, personal leave and paid maternity leave.
184. Purchased leave is in addition to, but may be taken in conjunction with, other types of leave such as annual leave, long service leave, maternity leave or other unpaid leave.
185. The time at which the leave is taken is to be subject to manager approval after consideration of both work and personal needs and is to be taken in the year for which it is approved.
186. Upon cessation, an employee agrees that any outstanding deductions for purchased leave will be treated as an overpayment in accordance with clauses 46-47. Alternatively, any amount to be refunded will be included in final monies to be paid. If the outstanding amount is greater than final monies owing to the employee, the Pay and Conditions Team will negotiate with the employee regarding any additional recovery.

Personal/Carer's Leave

187. Personal/carer's leave provides employees with access to paid personal leave in the event of:
 - a) personal illness or injury;
 - b) caring responsibilities; or
 - c) other exceptional circumstances that are related to the health and wellbeing of employees (such as doctor/specialist appointment etc).
188. Ongoing full-time employees will be credited with 18 days paid personal/carer's leave as at their accrual date.
189. Ongoing part-time employees will be credited with a pro-rata 18 day personal/carer's leave credit based on their ordinary weekly hours as at their personal/carer's leave accrual date.
190. All ongoing employees will be credited with their relevant personal/carer's leave allowance on the anniversary date of their engagement to the APS.
191. Non-ongoing employees (other than casual employees) will accrue personal/carer's leave from their date of commencement on a pro-rata of the annual rate for ongoing employees (18 days) and are able to access such leave after one month's service. On completion of 12 months of continuous service, non-ongoing employees are credited annually on each anniversary of their commencement (as per ongoing employees).
192. Personal leave is cumulative; however any unused personal leave will not be paid out on cessation of employment.
193. Employees may be able to access personal/carer's leave at half pay instead of full pay where extraordinary circumstances exist.

194. Ordinarily, satisfactory medical evidence must be provided in the event of absence due to personal illness, injury or for caring purposes. Satisfactory evidence would generally take the form of a medical certificate as outlined in clauses 208-2010.
195. Up to five days of paid personal/carer's leave may be accessed without suitable evidence per anniversary year; however not more than three consecutive days may be accessed without provision of suitable evidence.
196. Any personal leave taken in excess of the entitlement listed at clause 195 will be treated as personal/carer's leave without pay unless suitable evidence is produced.
197. Both paid and unpaid personal/carer's leave may be accessed for the purposes of caring or supporting for family or household members of the employee who may be ill or injured.
198. Carer's leave must not be taken to supervise children during school holidays, curriculum breaks or other related vacations where the child is not actually ill.
199. There is no limit as to the amount of personal/carer's leave which may be accessed for caring purposes.
200. Personal/carer's leave will not be debited from an employee's balance where an employee is on such leave on a designated public holiday. Satisfactory medical evidence will be required where personal/carer's leave is accessed either side of a public holiday.
201. Where an employee is on personal/carer's leave for one day or more while on annual or long service leave and produces satisfactory medical or other evidence of the illness, injury or caring responsibility, the employee may apply for personal/carer's leave. In this event, the amount will be credited back to the employee's balance to the extent of personal/carer's leave granted.
202. For the purpose of clause 201, satisfactory evidence is a medical certificate from registered health practitioner. A statutory declaration will not be accepted.
203. Other leave taken as leave without pay in excess of 30 calendar days in a year will defer an employee's next personal/carer's leave accrual date by the total amount of calendar days leave without pay taken.
204. The maximum amount of continuous paid and unpaid personal/carer's leave will be 78 weeks. Unpaid personal/carer's leave may be granted where paid personal/carer's leave is exhausted. Unpaid personal/carer's leave will count as service for up to 78 weeks.
205. Where an employee has been absent on personal leave and there is a likelihood that early intervention will assist the employee in returning to work in a safe manner, the ACC will review the case and determine whether the employee should undergo an independent health assessment.
206. An independent health assessment should provide advice on an employee's medical condition, the duties an employee can perform, and appropriate strategies for returning the employee to work.
207. At a reasonable time before an employee is to be examined by the independent medical advisor, the ACC will advise the employee of the time and place of the

examination, the relevant provisions of the *Privacy Act 1988* and the employee's right to submit material for consideration by the examining doctor who is conducting the health assessment.

Provision of Suitable Evidence

208. For short term absences suitable evidence for illness or injury can include:

Evidence from a registered health practitioner including but not exclusively, medical practitioners, nurse practitioners, clinical psychologists, dentists, occupational therapists, physiotherapists, podiatrists, radiographers, chiropractors, or opticians.

209. Where it is not reasonably practical to provide a medical certificate due to extenuating circumstances, an employee can provide a statutory declaration.

210. In respect of carer's leave taken evidence from appropriate sources such as schools or child care centres may be accepted.

211. A manager will request the employee to provide further medical evidence from a registered health practitioner (doctor or general practitioner) for illness or injury where:

- a) a pattern of absence has been identified; or
- b) the period of absence is more than 5 consecutive days; or
- c) further evidence or information is needed to support the application for leave; or
- d) arrangements are in place for managing attendance as part of performance management; or
- e) the manager has concerns regarding the amount of un-evidenced personal/carer's leave an employee has taken in a calendar year.

212. Where a statutory declaration is made by the employee for access to personal/carer's leave, the statutory declaration must include:

- a) a statement to the effect that the employee has, is or will be unfit for work during the period due to illness or injury; or
- b) a statement to the effect that the employee is required to be absent for caring purposes; and
- c) a statement outlining the reason/s why it was impractical for the employee to obtain suitable documentary evidence.

Parental, Maternity Leave and Other Related Entitlements

Maternity Leave

213. Maternity leave is available to an employee for her absence from the workplace on the birth of her child, or from an earlier date of confinement.

214. Eligible employees are entitled to maternity leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*, including access to up to 12 weeks paid maternity leave. These employees will also receive an additional two weeks paid parental leave to be taken immediately following the period of paid maternity leave provided under the *Maternity Leave (Commonwealth Employees) Act 1973*.

215. The CEO will approve spreading the payment for the paid period of maternity and parental leave over a maximum period of 28 continuous weeks at half normal pay. Only the paid period of leave (i.e. 14 weeks) will count as service for all purposes.

216. Employees are entitled to 52 weeks leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*.

Return to Work from Maternity and Parental Leave

217. Where an employee returns to work after a period of maternity/parental leave, the employee will be assigned to the position previously performed or if that position no longer exists to an available position for which they are qualified and suited, which is appropriate to the employee's skills and classification

218. An employee returning to duty from maternity/parental leave will have the right to access part-time work in accordance with the part-time provisions in this Agreement.

Adoption/Foster Parent's Leave

219. An employee who has 12 continuous months of APS service is entitled to 14 weeks paid leave for the purposes of adopting a child or following permanent placement of a child under a fostering arrangement.

220. Following adoption/fostering approval, an employee who is the primary carer of the child is entitled to 14 weeks of paid adoption leave where:

- a) the adoptive/foster child will be under the age of 16 years on the day of placement with the employee; and
- b) the adoptive/foster child has not previously lived with the employee for a period of six months or more before the day of placement; and
- c) the adoptive/foster child is not a child or step-child of the employee or the employee's partner, unless that child had not been in the custody and care of the employee or the employee's partner for a significant period of time.

221. Documentary evidence of approval for adoption or permanent placement under a fostering arrangement must be submitted when applying for adoption leave.

222. Adoption leave/foster parent's leave is available from one month prior to the expected date of placement of a child.

223. Adoption/foster parent's leave must be taken as a single, unbroken period.

224. An employee is unable to access personal leave while on paid adoption/foster parents leave.

225. In order to provide more flexible provisions for adoption leave/foster parent's leave, employees have the option to spread the payment for adoption/foster parent's leave over a period of up to 28 weeks at a rate of half normal salary. Only the first 14 weeks of adoption/foster parent's leave will count as service for all purposes. Any adoption/foster parent's leave in excess of 14 weeks does not count as service for any purpose.

226. Where an employee returns to work after a period of adoption/foster parent's leave, the employee will be assigned to the duties previously performed or to alternative duties appropriate to the employee's skills and classification.

227. An employee returning to duty from adoption/foster parent's leave will have the right to access part-time work in accordance with the part-time provisions in this Agreement.

Unpaid Parental Leave

228. An employee with at least 12 months continuous service may access unpaid parental leave for an initial period of 12 months if:

- a) the leave is associated with the birth of a child of the employee or the employee's spouse or de facto partner; or
- b) the placement of a child with the employee for adoption; and
- c) the employee has or will have a responsibility for the care of the child.

229. Taking unpaid parental leave does not prevent an employee from accessing other kinds of paid leave (other than paid personal/carer's leave, compassionate/bereavement leave and community service leave). If the employee does so, the taking of the other paid leave does not break the continuity of the period of unpaid parental leave.

230. An employee may request in writing for the ACC to agree to an extension of unpaid parental leave for a further period of up to 12 months immediately following the end of the available parental leave period.

231. The ACC may refuse an extension based only on reasonable business grounds. If the ACC does refuse an extension, they will provide notice of the reasons pertaining to the decision of refusal to the employee as soon as practicably possible.

Supporting Partner Leave

232. An employee whose partner gives birth or adopts/fosters a child will be entitled to two weeks of paid or four weeks of half pay supporting partner leave following the birth, permanent fostering or adoption of a child.

233. This leave must be taken within eight weeks following the birth, permanent fostering or adoption of the child.

234. Where supporting partner leave is taken at half pay only the first two weeks will count as service.

235. Documentary evidence of a partners expected date of confinement or adoption or foster arrangement must be submitted when applying for supporting partner leave.

Notice and Evidence Requirements

236. An employee must provide the ACC with written notice of their intention to take unpaid parental leave at least ten weeks before the proposed commencement date or if that is not practicable, as soon as reasonably possible.

237. The written notice must specify the proposed start and end dates of the leave.

238. At least four weeks before the proposed start date in the written notice, the employee must confirm the intended start and end dates and advise of any changes as soon as practicably possible.

239. The ACC may request the employee to provide evidence requirements as set out in section 74(5) of the *Fair Work Act 2009*.

Compassionate/Bereavement Leave

240. An employee is entitled –two to three days of paid compassionate/bereavement leave per permissible occasion when a member of the employee’s immediate family, or a member of the employee’s household:

- a) contracts or develops a personal illness that poses a serious threat to his or her life; or
- b) sustains a personal injury that poses a serious threat to his or her life; or
- c) dies.

241. An employee may take compassionate/bereavement leave for a particular permissible in accordance with section 105 of the *Fair Work Act 2009* occasion if the leave is taken:

- a) to spend time with the member of the employee’s immediate family or household who has contracted or developed the personal illness, or sustained the personal injury (as defined above); or
- b) after the death of the member of the employee’s immediate family or household.

Long Service Leave

242. Long service leave will accrue and be available to eligible employees in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

243. Where a request for long service leave is approved it must be taken for a minimum of seven consecutive calendar days.

244. The granting of such leave is subject to operational requirements however leave will not be unreasonably refused.

245. Employees may request to take long service leave at either full or half pay.

246. Consistent with the intent of the *Long Service Leave (Commonwealth Employees) Act 1976*, periods of long service leave cannot be broken with any other leave except as provided for by legislation.

Defence Leave

247. An employee may be granted leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full-time Service (CFTS) or Cadet Force obligations.

248. An employee is entitled to ADF Reserve leave with pay, for up to four weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required.

- a. During the employee's first year of ADF Reserve service, a further two weeks paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements.
- b. With the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years, to enable the employee to undertake training as a member of the ADF Reserves.

c. Employees are not required to pay their tax free ADF Reserve salary to the Agency in any circumstances.

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

Miscellaneous Leave

252. The intention of miscellaneous leave is to provide flexibility to managers and employees by providing leave, either with or without pay, for a variety of purposes.
253. Miscellaneous leave may be granted having regard to the operational requirements of the ACC, including for purposes that the CEO considers to be in its interests.
254. Leave may be granted:
- a) for the period requested or for another period;
 - b) with or without pay; and
 - c) subject to conditions.

Miscellaneous Leave with Pay

255. Miscellaneous leave with pay may be granted for, but not limited to, the following circumstances:
- a) attendance at a funeral;
 - b) household emergencies;
 - c) compelling personal reasons;
 - d) participation in major international sporting events;
 - e) participation in the Police Games;
 - f) participation in graduation ceremonies;
 - g) participation in religious and cultural events
 - h) donating blood; and
 - i) for short term volunteer and community purposes.

NAIDOC Leave

256. Employees are entitled to one day of paid miscellaneous leave per year for the purpose of participating in NAIDOC week celebrations. Employees may be required to provide suitable evidence.

Miscellaneous Leave without Pay

257. Miscellaneous leave without pay may be granted for, but not limited to, the following circumstances:
- a) study purposes;
 - b) accompanying a partner on a posting;
 - c) non APS employment in the interests of the Commonwealth; and

d) engagement in outside employment.

258. The period of approved leave without pay must not exceed 12 months except in exceptional circumstances and if it is in the interests of the ACC. For periods greater than 3 months the approval rests with the CEO.
259. Any request for extension past the initial period will be treated as a new application.
260. Any application for leave without pay must be in the interests of the ACC and must not have a detrimental effect on operational requirements. An employee wishing to apply for miscellaneous leave without pay in excess of three months should utilise all available paid annual leave and long service leave prior to the commencement of miscellaneous leave without pay.
261. Leave without pay in excess of 30 calendar days per year will not count as service for long service leave, annual leave and personal/carer's leave purposes. Where leave without pay does not count as service, accrual of annual leave will be reduced and the accrual date of personal leave and long service leave will be deferred by the total number of calendar days taken.

Community Service Leave

262. In accordance with the provisions of Division 8 the *Fair Work Act 2009*, an employee who engages in an eligible community service activity is entitled to be absent from work for both paid and unpaid leave for the purposes of community service volunteering (including emergency service activities).
263. Each of the following is an eligible community service activity:
- a) Jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory; or
 - b) A voluntary emergency management activity including regular training and ceremonial duties as well as emergency services responses and recovery time;
 - c) An activity prescribed in the *Fair Work Regulations*.

Agency Shut Down

264. Employees, other than shiftworkers, will observe the agency shut down between Christmas Day and New Year's day and the two working days after the New Year's Day public holiday. These days are in recognition of previous increases in ordinary working hours and inclusive of the Christmas, Boxing and New Year's Day public holidays (or substitutes).
265. If an employee is directed by the CEO to work during this shutdown period, the employee will be entitled to a day off to be taken within four weeks (for each day worked) or, with the agreement of the employee's manager, at another time convenient to the employee.
266. If an employee is absent on long service leave, paid maternity leave, paid adoptive or foster parent's leave these employees will be entitled to have the relevant shut down days added to their leave period. Employees, except shift workers, who are absent on annual leave or personal/carer's leave during the Agency shut down will not have credits deducted for the relevant working days that would have occurred during shut down.
267. A part-time employee will observe Agency shut down based on their ordinary hours of work.

Public Holidays

268. Employees will observe the following holidays each year:

- New Year's Day;
- Australia Day ;
- Good Friday and the following Monday;
- Anzac Day;
- the relevant Queen's Birthday observance day;
- Christmas Day;
- Boxing Day;
- Any other day or part day, declared under a State or Territory law and are observed by the community generally in the relevant part of the State or Territory, as a public holiday including Labour Day equivalent other than those excluded by Fair Work Regulations as counting as a public holiday.

Portability of Accrued Leave

269. New employees recruited directly from an employer covered by the *Public Service Act 1999*, the *Parliamentary Service Act 1999* or from ACT Government will have accrued annual leave and personal/carer's leave, however described, recognised by the ACC provided there is no break in continuity of service.

270. Operational employees who are recruited from a State agency may have their various forms of accrued leave recognised subject to approval by the CEO.

271. Provisions for the recognition of prior service for long service leave purposes are set out in the *Long Service Leave (Commonwealth Employees) Act 1976*.

272. It is the responsibility of the employee to provide relevant records, advised as necessary by People Services, for establishing recognition of prior service.

Resignation

273. Where an employee wishes to resign from their employment at the ACC, they are required to give four weeks notice of their intention to resign unless otherwise agreed. This notice period will enable the employee to complete outstanding tasks and/or hand over work to other employees, and will allow the ACC to commence action to fill the position and process final entitlements.

PART F: ALLOWANCES

Physical Surveillance Team Leader and Coordinator Allowance

274. Those employees engaged as either a *Physical Surveillance Team Leader* or *Physical Surveillance Coordinator* will be entitled to a loading of 14% payable on top of the substantive salary payable in recognition for the unique responsibilities and conditions they are subject to through their employment in that role. The loading is considered salary for all purposes including for superannuation, overtime, severance and termination.
275. Any employee who is transferred, promoted, temporarily acts or commenced into the specific role only will also be entitled to access the loading.
276. Any employee who is transferred, promoted or re-assigned to another role will no longer be entitled to receive the loading.
277. This loading is not intended to have flow-on effects to any other employee group in the ACC.

Meal Allowance

278. A meal allowance will be paid in accordance with clause 279 where employees are required to work additional duty as per clauses 92-103. Executive Level employees who are directed to work such hours will also be paid a meal allowance. The CEO will determine the amount of meal allowance from time to time. The claim for meal allowance should be made no later than one month after working additional hours.
279. Where the additional duty period worked is continuous and after ordinary duty and extends beyond a meal break, or, where additional duty is worked beyond these hours and the employee takes an unpaid break of at least 30 minutes a meal allowance will be paid:
- between the hours of 7:00am to 8:00am;
 - between the hours of 12:30pm to 1:30pm;
 - between the hours of 6:00pm to 7:00pm; and
 - between the hours of 12:00am to 1:00am.
280. This will be paid via the payroll system in the pay period following the one in which the application was made.

Meal Allowance for Physical and Technical Surveillance Operatives

281. Physical and technical surveillance operatives who work beyond a 10.5 hour day will be entitled to claim a meal allowance in the same manner as clauses 278-280. This benefit will only be available if the need to work this extra time is unanticipated and the shift falls outside the bandwidths listed in clause 279.

Travel and Accommodation

282. All travel should be arranged to take advantage of the maximum discounts available, including best fare of the day where practicable. All conditions in relation to class of airfare and standard of accommodation, rates of travel allowance and vehicle allowance are contained in the ACC Travel Policy. This policy is underpinned by the Chief Executive's Instructions. The rates of

allowances will be increased from time to time based on advice sought by the ACC in relation to travelling allowances in line with other Commonwealth agencies.

283. An employee who undertakes travel on official business and is required to be away from home overnight will be entitled to payment of a travel allowance to cover the reasonable cost of meals and incidental expenses. The components for meals will not be paid where they are otherwise provided by the ACC or another organisation.
284. All accommodation and travel expenses including but not limited to, air travel and hire car, will be paid for by the ACC. If an employee incurs additional expenses in relation to official business travel, these may be reimbursed through the Travel section providing a tax invoice is produced and cost centre manager approval is obtained.
285. An allowance for part day travel will be paid where an employee is required to travel for official purposes for a period of ten hours or more, but where no overnight stay is required.
286. Payment arrangements and the level of entitlement for travel expenses may be reviewed after 21 (continuous) days away from home. Payment after 21 days may be made on the basis of reimbursement of reasonable actual expenses.
287. Employees who fail to undertake scheduled travel, or undertake travel for a lesser period than anticipated will repay any amount of allowance in excess of their actual entitlement in accordance with the CEIs.
288. If an employee chooses to stay at accommodation other than ACC preferred accommodation, they will be paid an allowance of \$60 per night.
289. Where an employee is required to travel for the purposes of work, the CEO, Executive Directors or National Managers may approve TOIL for travel outside the bandwidth, where the employee is not entitled to flextime. Employees who receive a flex entitlement may claim travel time as flex time in accordance with the ACC Flex Policy.
290. Employees who apply for personal/carer's leave for personal illness or injury whilst in receipt of meals and incidentals allowance and/or staying in accommodation provided by the ACC, and who are unable to return home, will be entitled to continued payment of the meals and incidentals allowance and/or provision of accommodation until they are able to return home.
291. Where a medical practitioner certifies that an employee is critically or dangerously ill while absent from their usual place of duty, the ACC may approve reimbursement of return travel for a member of their immediate family or household.

Remote Localities Entitlements

292. Financial assistance may be payable to an employee as a result of any requirement to relocate to a remote locality.
293. Entitlements for remote locality relocations will be supported by the development of the remote localities entitlements policy.

Relocation

294. The CEO may determine the extent of any financial assistance payable to an employee, or prospective employee, of the ACC for the relocation from one locality to another upon promotion, engagement or ongoing or temporary reassessment in excess of 21 calendar days.
295. Entitlements for relocation will be supported by the relocation entitlements policy.

Removal Expenses

296. The CEO may approve the reimbursement of removal expenses, or an amount of removal expenses, on ceasing employment for an employee who:
- a) is employed in the ACC for a specified term or for a specified task; and
 - b) was reimbursed for removal expenses on engagement, or whose removal expenses on engagement were met by the ACC; and
 - c) ceases employment other than as a result of a breach of the Code of Conduct.

Expenses on Recall from Leave

297. The CEO may pay an employee travel and incidental expenses reasonably incurred because:
- a) the employee's leave is cancelled; or
 - b) the employee is recalled to duty from leave.

Other Allowances

298. An employee may be required to undertake particular duties which attract allowances in accordance with this Agreement. The allowance will be paid on a fortnightly basis in addition to salary. These are as follows:

a) First Aid Allowance

299. First aid allowance is payable at a rate of \$490 per annum (*pa*) as at the commencement of this Agreement. From 1 July 2012, the rate will increase to \$502 *pa*. From 1 July 2013 the rate will increase to \$515 *pa*. For an employee to receive first aid allowance there must be a requirement for a first aid officer within the relevant office, as determined by the CEO. The employee must have completed an appropriate first aid training course to become a qualified first aid officer.
300. Payment of first aid allowance will only commence after the first aid certificate has been received by the Pay and Conditions Team, and the CEO has approved the payment. The first aid allowance is paid on a pro-rata fortnightly basis. First aid allowance will not be included in salary for overtime or shift penalty payments.
301. First aid allowance counts towards salary for superannuation, subject to the relevant superannuation legislation.
302. First aid allowance will not be payable where an employee is on approved leave for a continuous period greater than two weeks.

b) On Call Allowance

303. In exceptional circumstances, an employee may be required to be placed on call outside work hours for a finite period of time. On call allowance is only available to APS1 to APS6 level employees. Some reasons an employee may be directed to be on call include:
- a) urgent operational requirements;
 - b) requirement of a specialised nature (i.e. translating/interpreting); and
 - c) point of contact for security/office monitoring.
304. For an employee to receive on call allowance there must be a genuine requirement and justification for the employee to be directed to be on call, as determined by the CEO. The CEO would also need to stipulate how long the employee will be required to be on call (should be no more than two consecutive months).
305. On call allowance is payable at a percentage of the employee's hourly rate for each hour they are restricted outside the bandwidth at the following rates:
- a) 7.5% on Monday to Friday;
 - b) 10% on Saturday and Sunday; and
 - c) 15 % on Public Holidays.
306. Employees will not be paid on call allowance during their ordinary working hours. For example, if an employee has been directed to be on call for 24 hours, they cannot claim their on call allowance until after they leave work, where on call allowance is payable until they commence work again the next day or during periods of leave.
307. On call allowance will not count as salary for the purposes of overtime or shift penalty payments. Employees will not be paid on call allowance during any period of leave.
308. Employees who perform additional duty while on call will be entitled to a minimum, additional duty payment of:
- a) one hour, where duty does not require attendance at the workplace; or
 - b) three hours, where duty requires attendance at the workplace;
309. If an employee is required to perform subsequent periods of duty within the minimum payment period, only the initial minimum is payable. Where an employee is required to undertake a second period of duty that commences after the minimum payment period has elapsed for the previous first period of duty, a further minimum payment period commences and a further minimum is payable.

c) Community Language Allowance

310. Community language allowance (CLA) is payable to employees who use their bilingual or multilingual skills in carrying out their duties. The employee's skills must be in languages other than English and may include the Aboriginal and Torres Strait Islander languages, Auslan or other forms of communication for the hearing impaired.
311. An employee is eligible for CLA where there is an identifiable and continuing need for the particular language skills possessed by the employee in providing client services, and the employee's language competence meets one of the following standards:

- a) National Accreditation Authority for Translators and Interpreters (NAATI) accreditation as a Language Aide;
- b) NAATI accreditation as a professional or paraprofessional interpreter;
- c) current DFAT testing for Language Proficiency at the S2R2 level;
- d) recognised tertiary qualification in interpreting;
- e) recognised level of competency to deliver client services in ATSI languages, Auslan and languages for which NAATI does not test.

312. The payment of CLA will be linked to the annual PDS cycle. At the end of cycle review, the employee must advise their manager that they are receiving CLA and the employee and manager are to discuss the use made of the employee's language skills in the workplace. Based on these discussions, the employee's manager may determine that there is no demand for the employee's language skills or the employee does not have the requisite qualification and so advise Pay and Conditions that the employee will be no longer entitled to CLA. If the manager does not advise Pay and Conditions to cease payment the employee will continue to be entitled to CLA for the next PDS cycle.

313. There are two levels of payment of the allowance:

CLA 1	\$828 per annum from date of commencement; From 1 July 2012 the rate will increase to \$849 pa. From 1 July 2013 the rate will increase to \$870 pa;
	NAATI Language Aide Test or equivalent;
	Current DFAT testing for Language Proficiency at the S2R2 level or higher;
	Recognised level of competency to deliver client services in languages for which NAATI does not test;
CLA 2	\$1681 per annum from date of commencement; From 1 July 2012 the rate will increase to \$1722 pa. From 1 July 2013 the rate will increase to \$1765 pa;
	NAATI Para-professional interpreter and higher;
	Recognised tertiary qualification in interpreting;
	Recognised level of competency to deliver client services in ATSI languages;
	Recognised Auslan qualification.

314. CLA will not count as salary for the purposes of overtime or penalty payments. The allowance will be paid pro rata to part-time employees.

315. CLA will be paid during periods of paid leave. It will continue to be paid during periods of higher duties provided the employee's duties permit use of their language skills in the workplace. CLA counts as salary for superannuation purposes, subject to the relevant superannuation legislation.

Reimbursement for Loss or Damage

316. The CEO may reimburse an employee a reasonable amount to repair or replace clothing or personal effects where loss or damage is experienced as a result of work related activities.

PART G: PERFORMANCE AND DEVELOPMENT

Introduction

317. The ACC is committed to developing its people and organisational capability. The PDS is a vital tool which supports the ACC to develop its values, culture and strategic direction through effective management of employees.

318. The PDS provides a means of identifying an individual work plan including goals, on-going feedback of performance and the mechanism to plan professional development. It is designed to:

- align individual work output with the ACC's strategic direction;
- improve the contribution which individuals, teams and managers can make to the agency's overall performance;
- foster professional development and job satisfaction of staff; and
- encourage regular feedback and foster a performance culture within the ACC.

Participation in the System and Annual Cycle

319. All ongoing and non ongoing employees are required to participate in the ACC PDS. Where possible, secondees should participate in the ACC's PDS. Where they do not, they must participate in their home agency's PDS equivalent and advise ACCPDS in writing.

320. The PDS cycle will occur over a 12 month period commencing 1 July to 30 June.

Mandatory Participation in the PDS

321. An employee will be ineligible from receiving salary increases and incremental progression where they have not appropriately participated in the PDS process. The PDS for all employees is to be completed by 30th June each year. Both managers and employees have a responsibility to actively participate in the PDS.

322. Employees and managers who take all reasonable steps to complete the PDS will not be exempt from the salary increases.

Performance Assessment

323. Assessment will be based on overall achievement of key performance indicators in the context of the employee's expected level of skills, capability and workplace behaviour. The assessment will consider what has been achieved, how it was achieved, the level of difficulty of the tasks and how the employee's achievements align to the ACC's strategic direction. The rating scale for assessment of an employee's contribution are based on a five point scale outlined as follows:

Rating	Outcome
1. High Performing	Advance one Increment
2. Fully Effective	Advance one Increment
3. Satisfactory	Advance one Increment
4. Needs Support	No Increment
5. Unsatisfactory	No Increment

Increment Progression Based on Ratings

324. Employees rated as 'high performing', 'fully effective' or 'satisfactory' are entitled to progress one increment.
325. However, the employee must have been performing at that classification level for six months before 1 July to be entitled to progress to the next increment.
326. Employees who receive a rating of 'needs support' or 'unsatisfactory' are not eligible to progress through increments. Employees who receive either of these ratings are to have a performance improvement plan in place and their performance is to be monitored in accordance with the Managing Underperformance at Appendix B.
327. Eligible employees already at the top salary point within their classification will not progress beyond that increment point.

Confidentiality and Support

328. Performance appraisals and reports will contain personal information and will be treated as "Staff-In-Confidence". They will only be used for legitimate personnel management processes, such as aggregating developmental needs across the Agency to enable prioritising of training and development initiatives. Performance appraisals and reports will not be made available to selection panels except at the request of the staff member.
329. At any stage during the PDS process, an employee may seek support and/or representation of a third party of their choice.

Reviews of the PDS

330. The ACC is committed to conducting reviews of the PDS on a regular basis to take account of the evolving nature of the Agency. Reviews will evaluate the effectiveness of the operation of the PDS in the workplace and may lead to modifications and improvements. Terms of reference for any major formal reviews will be agreed in consultation with staff.

Study Support

331. The ACC recognises the need for employees to develop their skills and knowledge through participation in formal tertiary studies of relevance to the ACC.
332. Tertiary study support is applicable to study resulting in at least Diploma level of achievement. Other short programs provided by universities or TAFE should be applied for via Learning and Development.
333. Tertiary Study Support is available to:
- All ongoing (permanent) ACC employees.
 - Non-ongoing ACC employees can receive Tertiary Study Support after three months of their contract and at the discretion of their manager.
 - Seconded employees should they apply for study support through their home agency.
334. The ACC's Learning and Development Policy contains further information.

Support for Professionals

335. The ACC will meet the costs for those employees whose professions require a membership to fulfil their duties and have requirements for continuing education to maintain their memberships.

PART H: WORKING RELATIONS

Cooperative Workplace Relations – Consultation, Communication and Representation

336. In addition to the model term set out at clauses 341-350 the ACC is committed to providing a strong cooperative working relationship between the ACC management and its employees.
337. In making decisions that affect employees, the ACC commits to engaging in consultation with employees and, where employees choose to be represented, their representatives. The ACC acknowledges that consultation includes a requirement that the agency provide all relevant information concerning the agency and employees to ACC employees and their representatives in a timely manner.
338. Where possible the Agency will provide employees and their representative with a genuine opportunity to influence the decision-maker prior to a decision that effects them being made.
339. ACC employees and their representatives will be advised of the outcomes of the decision, including how their collective feedback was considered in the decision making process.
340. In any matter arising under this Agreement, an employee may choose to have an employee representative, which may be a union representative, assist or represent them, and if they so choose all relevant persons will deal with any such representative in good faith. To avoid doubt, this assistance includes acting as an advocate for the employee where the employee so chooses.

Consultation Term

341. This term applies if:
- a) the ACC has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and
 - b) the change is likely to have a significant effect on employees of the ACC.
342. The ACC must notify the relevant employees of the decision to introduce the major change.
343. The relevant employees may appoint a representative for the purposes of the procedures in this term.
344. If:
- a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - b) the employee or employees advise the ACC of the identity of the representative;
the ACC must recognise the representative.
345. As soon as practicable after making its decision, the ACC must:
- a) discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the ACC 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.
346. However, the ACC is not required to disclose confidential or commercially sensitive information to the relevant employees.
347. The ACC must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
348. If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in clauses 349 and 342 are taken not to apply.
349. 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 the employer'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.
350. In this term, *relevant employees* means the employees who may be affected by the major change.

National and Local Consultative Committees

351. This section sets out the arrangements for consultation and communication within the ACC through the formal consultative mechanisms of the NCC and Local Consultative Committee (LCC) in each ACC office.

Through these forums, all employees and where they choose, their representatives have the opportunity to have direct input into:

- a) discussions on a wide range of issues, including financial and human resource planning, workplace diversity, work organisation and structures, and the application of working conditions;
- b) monitoring and consulting on the implementation of the Enterprise Agreement including the ethics and organisational values of the ACC; and
- c) the promotion of cooperative workplace relations within the ACC.

ACC Employee-Elected Representatives

352. ACC employee-elected representatives (from each ACC office) will be elected for a term of three years. A deputy representative will be elected at the same time for the three year term. Elections will be conducted using a simple, fair and transparent process. There is no requirement to use the Australian Electoral Commission. Any difficulties with these elections are to be dealt with through the dispute resolution procedures as outlined in this Agreement.

353. All ACC employee-elected representatives are to be provided with the opportunity for training in their role, time to participate in meetings and provide feedback to employees, and access to office equipment.

National Consultative Committee (NCC)

354. As outlined above, the operation of the NCC is provided for in the following clauses of this Agreement.

Purpose

355. The purpose of the NCC is to provide a forum to be conducted three times each year for:

- a) consultation between management and employees through their representatives on issues which affect their workplace nationally;
- b) to raise local issues which have been unable to be resolved through established arrangements;
- c) to oversight the implementation of or any variation to the *ACC Enterprise Agreement 2011-2014*; and
- d) the composition of the NCC.

356. The NCC will comprise:

- a) The CEO (chair);
- b) Executive Director, People, Business Support and Stakeholder Relations;
- c) Executive Director, Target Development, Fusion and Performance;
- d) National Manager, People, Security and Integrity;
- e) an elected ACC employee from each of the ACC offices;
- f) a representative Regional Manager Business Support;
- g) two nominated CPSU representatives (who may be external to the ACC)
- h) two nominated employee representatives where the employees have requested their participation (which may be external to the ACC); and
- i) People Services representative

Confidentiality

357. Minutes of meetings, once cleared by Committee members, are to be posted on the ACC's Intranet website. However, it is recognised that some sensitive matters may be discussed and may need to be treated as confidential. The Committee members agree that material associated with confidential matters may not be released unless agreed by the CEO.

Secretariat

358. People Services will provide secretariat support to the NCC.

National Consultative Committee Sub-committees

359. The NCC may establish sub-committees to deal with significant issues.

Frequency of Meetings

360. The NCC ordinarily meets three times each year, but extraordinary meetings may be called by the CEO to deal with urgent issues affecting employees.

Local Consultative Committees (LCCs)

- 361. An LCC will continue in each ACC office.
- 362. The purpose and matters for consultation at these Committees will be the same as that for the NCC, but with greater emphasis on local issues affecting all APS and seconded employees including police.
- 363. The composition and conduct of meetings is to be a matter to be resolved by management and employees in each region as outlined above in clauses 351-352.
- 364. Minutes of LCC meetings are to be taken and tabled at the NCC meetings. Copies are to be forwarded to People Services within two weeks of the meeting.
- 365. Meetings are to be conducted quarterly or more frequently as determined by the Committee.
- 366. The LCC will be chaired by the Office Manager in each office.

Dispute Resolution Term

- 367. If a dispute relates to:
 - a) a matter arising under the agreement; or
 - b) the National Employment Standards;this term sets out procedures to settle the dispute.
 - 368. An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
 - 369. In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.
 - 370. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Australia.
 - 371. Fair Work Australia may deal with the dispute in two stages:
 - a) Fair Work Australia will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - b) if Fair Work Australia is unable to resolve the dispute at the first stage, Fair Work Australia may then:
 - (i) arbitrate the dispute; and
 - (ii) make a determination that is binding on the parties.
- Note* If Fair Work Australia arbitrates the dispute, it may also use the powers that are available to it under the *Fair Work Act 2009*.
- 372. A decision that Fair Work Australia makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5.1 of the *Fair Work Act 2009*. Therefore, an appeal may be made against the decision.
 - 373. While the parties are trying to resolve the dispute using the procedures in this term:
 - a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and

- b) an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
- (i) the work is not safe; or
 - (ii) applicable occupational health and safety legislation would not permit the work to be performed; or
 - (iii) the work is not appropriate for the employee to perform; or
 - (iv) there are other reasonable grounds for the employee to refuse to comply with the direction.

374. The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this term.

Review of Employment Actions

375. In accordance with section 33 of the *Public Service Act 1999* and the Public Service Regulations, an employee may request a review of action that relates to his or her employment.

376. Where an employee lodges an application for review of action under this framework the CEO may adopt the procedures and outcome of any internal review under this clause for the purposes of the primary review conducted under the relevant Public Service Regulations.

PART I: WORKFORCE ADJUSTMENT AND TERMINATION OF EMPLOYMENT

REDEPLOYMENT, REDUNDANCY AND TERMINATION OF EMPLOYMENT

Introduction

These provisions outline the arrangements for the termination of employment of ongoing employees who are not on probation, on the grounds that they are excess to the requirements of the ACC.

Termination of Employment

377. The CEO may terminate the employment of an employee at any time in accordance with section 29 of the *Public Service Act 1999*, the *Fair Work Act 2009* and this Agreement.
378. The sole rights and remedies of an employee in relation to a review of a termination of employment are those that the employee enjoys under:
- Division 11 of Part 2.2 of Chapter 2 of the *Fair Work Act 2009*;
 - Parts 3.1 and 3.2 of Chapter 3 of the *Fair Work Act 2009*;
 - other Commonwealth laws (including the Constitution); and
 - common law.
379. Termination of, or a decision to terminate, employment cannot be reviewed under this Agreement (including under this dispute resolution provision) nor under the review of action provisions of the *Public Service Act 1999*.
380. Nothing in this Agreement prevents the CEO from terminating the employment of an employee for misconduct, without further notice or payment in lieu, in accordance with the *Fair Work Act 2009* subject to compliance with the procedures established by the CEO for determining whether an employee has breached the Code of Conduct under section 15 of the *Public Service Act 1999*.

Excess Staff

381. An employee may be declared excess if:
- a) he or she is employed substantively at a level or in a class where there is a greater number of employees than is necessary for the efficient and economical working of the ACC;
 - b) the services of the employee can no longer be effectively used because of technological or other changes in the work methods or structural or similar changes in the nature, extent or organisation of the functions of the ACC;
 - c) the duties of the employee are to be performed at a different locality and the employee is not willing to perform duties at that locality and the CEO agrees that the employee is excess.

Consultation Arrangements

382. On becoming aware that any employee is likely to become excess to requirements, the CEO will advise the employee of the situation as soon as practicable.
383. Discussions with the potentially excess employee will be held to determine:
- a) any redeployment opportunities for the employee concerned; and
 - b) whether voluntary retrenchment might be appropriate.
384. During these discussions, an employee may elect to be represented by an employee representative of their choice.
385. Where two or more employees are likely to become excess, the CEO will discuss the situation, where relevant employees so request, with chosen employee representatives.
386. At the completion of the discussions or at the end of period of one month (commencing on the date that the employee is advised that they are potentially excess), whichever is the earlier, the CEO may:
- a) invite the potentially excess employee to elect voluntary retrenchment; or
 - b) declare the employee excess.
387. The CEO may, before the conclusion of discussions, invite other employees who are not potentially excess, to express interest in voluntary termination of employment, where those terminations would permit the redeployment of employees who would otherwise be excess.

Voluntary Redundancy

388. Where the CEO invites an excess employee to elect for voluntary retrenchment, the employee will have a maximum of one calendar month in which to elect to do so.
389. Only one invitation to elect for voluntary retrenchment will be made to an employee.
390. If the employee does not elect for voluntary retrenchment they may be declared excess.
391. Where the CEO declares an employee excess, the CEO shall, within two months of such declaration, invite the employee to elect for voluntary retrenchment (if this has not already occurred), and the employee shall have a maximum of one calendar month in which to elect to do so.
392. The CEO may give notice of termination as soon as an election for voluntary termination is received from an employee.
393. An employee who has been invited to elect to take voluntary retrenchment will, prior to or during the month following the invitation, be given information on:
- a) the amount of severance pay, pay in lieu of notice and paid up leave credits;
 - b) the amount of accumulated superannuation contributions;
 - c) the options open to the employee concerning superannuation; and
 - d) the taxation rules applying to the various payments the employee is entitled to receive.

394. This information is provided as guidance only and does not bind the ACC as a contractual term.
395. An employee who has been invited to elect to take voluntary retrenchment, or who has been declared excess, is also entitled to reimbursement for financial and/or career counselling, to a maximum of \$400 in total.

Severance Benefit

396. An employee who elects for voluntary retrenchment and whose employment is terminated by the CEO under section 29 of the *Public Service Act 1999* on the grounds that the employee is excess to the requirements of the ACC is entitled to be paid a severance benefit equal to two weeks salary for each completed year of eligible service plus a pro rata payment for completed months of service since the last completed year of service.
397. The minimum severance benefit payable will be four weeks salary and the maximum will be forty-eight weeks salary, subject to the minimum entitlements prescribed by the National Employment Standards.
398. The severance benefit will be calculated on a pro-rata basis for any period where the employee has worked part-time hours during their period of eligible service and they have less than twenty-four years full-time service.
399. The severance benefit will be calculated on the basis of:
- a) the employee's base salary; or
 - b) the salary of the higher position, where the employee has performed higher duties and has been paid at the higher level for a continuous period of at least 12 months immediately preceding the date on which he or she is given notice of termination of employment; and
 - c) other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

Eligible Service

400. Eligible service for severance pay purposes means:
- a) service with the ACC;
 - b) Government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
 - c) service with the Commonwealth (other than service with a Joint Commonwealth/State body corporate in which the Commonwealth does not have a controlling interest) which is recognised for long service leave purposes;
 - d) service with the Australian Defence Forces;
 - e) APS service immediately preceding deemed resignation under the repealed section 49 of the *Public Service Act 1922*, if service has not previously been recognised for severance pay purposes;
 - f) service in another organisation where an employee at a non-SES classification moves from the APS to that organisation with a transfer of function, or an employee engaged by that organisation on work within a function is appointed as a result of the transfer of the function to the APS and such service is recognised for long service leave purposes.
401. For earlier periods of service to count there must be no breaks between periods of service, except where the break in service is less than one month and occurred

where an offer of employment in relation to the second period of service, with the new employer was made and accepted by the employee before the first period of service ended (whether or not the two periods of service were or are with the same employer or agency).

402. Prior service, which would otherwise be eligible service, will not be eligible service if it was terminated by way of:
- a) voluntary or involuntary retrenchment;
 - b) termination of employment or dismissal on grounds of invalidity, inefficiency, loss of qualifications or misconduct;
 - c) termination of probationary employment for any reason;
 - d) forfeiture of office/non performance of duties; or
 - e) resignation/retirement from employment with the payment of an employer financed retirement benefit or employee superannuation contributions.
403. Absences from work which do not count as service for any purpose will not count as service for severance pay purposes.

Involuntary Redundancy

404. The CEO may only approve the involuntarily redundancy of an excess employee under the following circumstances:
- a) if the employee has formally been given the opportunity to elect for voluntary retrenchment and has not taken it up;
 - b) at the end of the retention period;
 - c) if there is no suitable alternative employment for the employee in the ACC; and
 - d) if the employee has been invited to elect for voluntary redundancy and the CEO does not accept the election.
405. An employee who is involuntarily retrenched is entitled to receive the same superannuation and leave payments as are payable to a person who accepts voluntary retrenchment.

Retention Periods

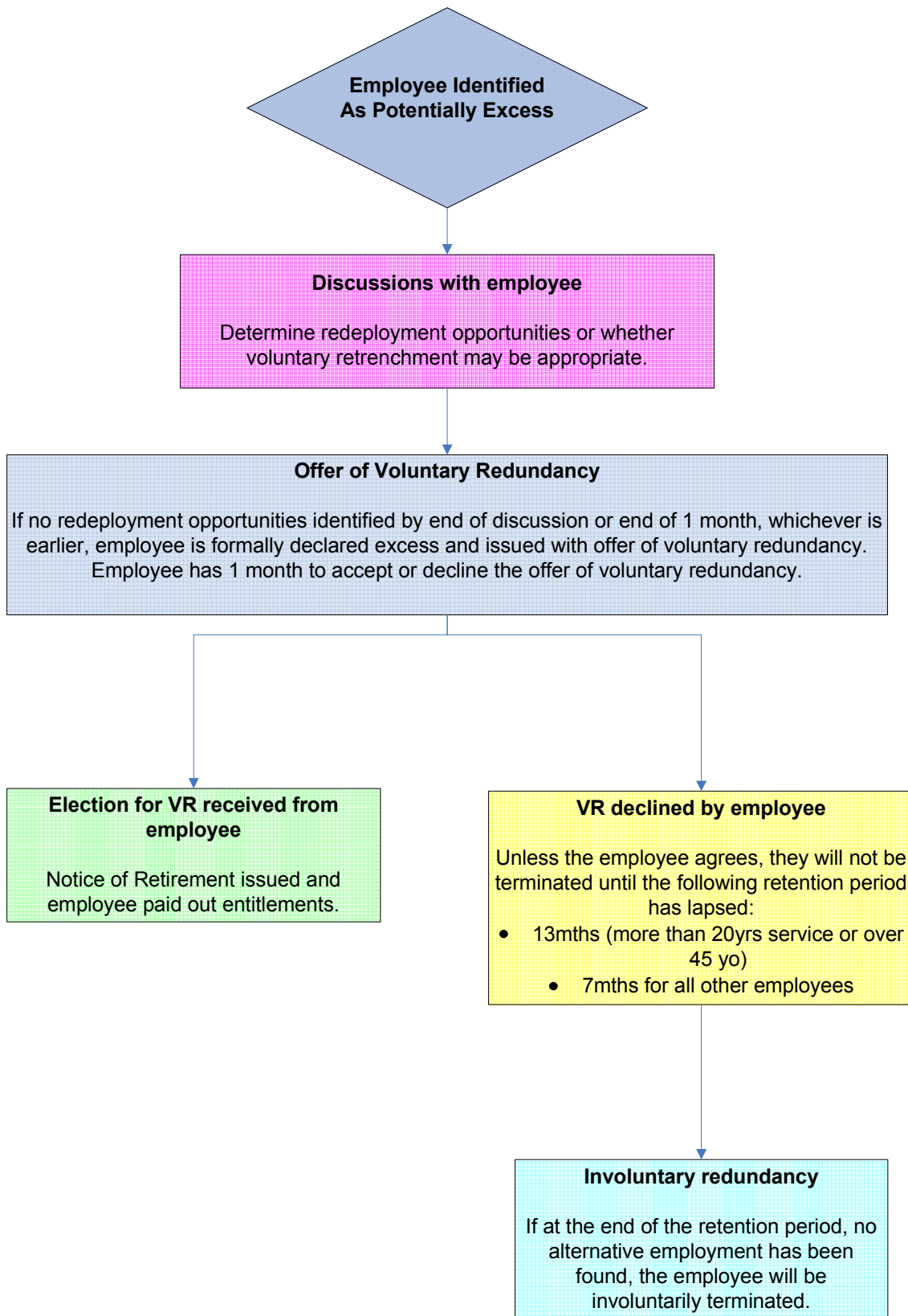
406. Unless the employee agrees, an excess employee's employment will not be involuntarily terminated by the CEO under section 29 of the *Public Service Act 1999* until the following retention periods have elapsed:
- a) 13 months where an employee has 20 or more years of service or is 45 years of age or over; or
 - b) Seven months for other staff.
407. The retention period will commence on the earlier of the following:
- a) the day the employee is advised in writing by the CEO that he or she is an excess employee; or
 - b) one month after the day on which the CEO invites the employee to elect for voluntary redundancy.
408. During the retention period the CEO:
- a) will continue to take reasonable steps to find alternative employment for the excess employee; and/or
 - b) may, with four weeks notice, reduce the excess employee's classification as a means of securing alternative employment for the excess employee. Where an excess employee is reduced in classification before the end of the appropriate retention period, he or she will continue to be paid at their previous level for the balance of the retention period.

409. The excess employee may request assistance in meeting reasonable travel and incidental expenses incurred in seeking alternative employment.
410. Where the CEO believes that there is insufficient productive work available for an excess employee during the retention period, the CEO may, with the agreement of the employee, terminate the employee's employment under section 29 of the *Public Service Act 1999* and pay the balance of the retention period as a lump sum. This payment will be taken to include the payment in lieu of notice of termination of employment. An employee whose employment is terminated in these circumstances will also be entitled to a redundancy payment in accordance with their National Employment Standards entitlement.
411. If the employee would otherwise be entitled to redundancy pay when their employment would be involuntarily terminated at the end of a retention period, under the National Employment Standards the retention period will be reduced by an amount equivalent to the redundancy pay entitlements of the employee. For example, if the employee would be entitled to redundancy pay equal to eight weeks salary on termination of employment, the retention period will be reduced by eight weeks.

Period of Notice

412. Where an excess employee has their employment terminated, the employee will be given four weeks notice (or five weeks notice for an employee 45 years of age or over with at least five years of continuous service). This period of notice will as far as practicable be concurrent with the retention periods.
413. Where an employee terminates employment or has their employment terminated at the beginning of, or within, the notice period, payment in lieu of notice may be made to the employee.

Overview of Redeployment and Redundancy Procedures



APPENDIX A: REMUNERATION AND ENTITLEMENTS FOR ACC EMPLOYEES WORKING SHIFT ARRANGEMENTS

General Conditions

Definition of shift worker

414. An employee will be considered as an ACC employee working shift arrangements if they are rostered to perform ordinary duty outside the period 6:30am to 6:00pm, Monday to Friday, and/or on Saturdays, Sundays or public holidays for an ongoing or fixed period.
415. A full-time employee working shift arrangements works 10.5 hours per day. Over an eight week roster period (28 shifts) this averages out to 36.75 hours per week. Shift arrangements only apply to APS 1 to APS 6 employees.
416. The approved roster arrangements for the ACC are:
- 6:30am to 6:00pm (one hour break);
 - 8:30am to 8:00pm (one hour break);
 - 10:00am to 9:30pm (one hour break); and
 - 12:30pm to 12:00am (one hour break).

Payment of Salary and Shift Penalties

417. ACC employees working shift arrangements will be paid based on the same fortnightly calculations as non-shift arrangement employees. Any shift penalty payments are based on the ordinary hourly rate of pay calculations and are in addition to ordinary fortnightly salary.

Payments Stand Alone

418. Shift penalty payments will not be taken into account in the computation of additional duty or in the calculation of any allowance based upon salary, nor will it be paid with respect to any shift for which any other form of penalty payment is made under this Agreement or under the provisions of the relevant Act or regulations.

Introduction of Shifts

419. Introduction of additional shiftwork, a new roster or rearrangement of shift cycles not included in this Agreement may be made with the approval of the CEO, after consultation with the employees affected. Shift rosters will specify the commencing and finishing times of the ordinary working hours of the respective shifts.

Twenty-Four Hour Limit

420. Except at the regular changeover of shifts, an employee should not be required to work more than one shift in each 24 hours.

Exchange of Shifts

421. ACC employees working shift arrangements may exchange shifts or rostered days off by mutual agreement, provided they have the consent of the CEO, and

provided the arrangement does not give any employee an entitlement to an additional duty payment.

Rosters

422. Rosters are to be determined by consultation between the employer and employees, and where they choose, their representatives.
423. The roster arrangement is to be formulated so as to provide for:
- two shifts on followed by two shifts off;
 - four shifts on followed by four shifts off; or
 - an alternate schedule approved by the CEO, in consultation with the employees and where they choose, their representatives, involving no more than three consecutive night shifts.
424. Where possible the roster is to have a forward rotation of shifts, for example, day shift followed by night shift.
425. The conditions relating to change of shift notice and posting of rosters will be negotiated between the parties in the workplace.
426. The timing and nature of the meal breaks is to be subject to consultation between the local manager and affected employees.

Rest Relief

427. For work health and safety reasons, an employee working shift arrangements is entitled to an eight hour break plus reasonable travelling time before recommencing work without incurring any loss of pay.

Leave

428. ACC employees working shift arrangements are entitled to leave arrangements as per Part E of this Agreement, with the exception of the Agency shut down days outlined in clauses 264-267, as employees working shift arrangements have not been required to increase their ordinary daily hours.
429. The duration of a shift will be deducted from the employee's leave credits, except in the case of long service leave, where calendar days apply.
430. Shift penalty payments will be made in respect of any duty which an employee would have performed had the employee not been on approved Annual Leave. Shift penalty payments will not be made where an employee is on any other type of leave.
431. ACC employees working shift arrangements will accrue an additional half day of paid annual leave for each Sunday and public holiday worked, up to a maximum of 5 days, credited on 1 January each year. A rostered shift of 3 hours or more which commences or ceases on a Sunday or public holiday will count in this calculation.
432. Annual leave taken on a public holiday will be deducted from annual leave entitlements.

Penalty Rates

15% Loading

433. An ACC employee working shift arrangements who performs ordinary duty on a shift, any part of which falls between the hours of 6:00pm and 6:30am (Monday to Friday), will be paid an additional 15% of their salary for that shift.

Night Shifts

434. Where an employee working shift arrangements is required to work ordinary hours continuously for a period exceeding four weeks on a shift falling wholly within the hours of 6:00pm and 8:00am, they will be paid with respect to that shift an additional 30% of their salary for that shift.

Saturday Loading

435. ACC employees working shift arrangements will be paid at the rate of 50% additional to the ordinary rate of pay for all rostered time of ordinary duty performed on Saturday.

Sunday Loading

436. For ordinary rostered duty performed on Sunday by an employee working shift arrangements, payment will be made at the rate of 100% additional to the ordinary rate of pay.

Public Holiday Loading

437. An ACC employee working shift arrangements who is rostered to perform ordinary duty on a public holiday, and who does not observe the holiday, will be entitled to additional payment at the rate of 150% for the actual time worked on the holiday, subject to the provisions regarding Public Holiday duty. Holiday duty will include duty on December 25 and Easter Saturday, whether or not another day has been declared as a substitute public holiday.

Time Off in Lieu of Penalty Payments

438. Time off in lieu of shift penalty rates may be granted with the agreement of the employee. The amount of time allowed shall be calculated by multiplying the number of hours worked by the relevant shift penalty rate for those hours.

Public Holiday Duty

439. A holiday means a holiday as prescribed in clause 268 of this Agreement.

Time Off in Lieu of Public Holidays

440. Where, in a cycle of shifts on a regular roster, an ACC employee working shift arrangements is required to perform rostered duty on each of the days of the week, that employee will, in respect of a public holiday which occurs on a day on which the employee is rostered off duty, be granted, if practicable, within one month after the holiday, a day's leave (based on the rostered hours) in lieu of that holiday.

441. Where it is not practicable to grant a day off in lieu, the employee will be paid one day's pay at the ordinary rate.

442. Shift penalty payments are not payable during any period of standard lieu time taken (that is where 10.5 hrs lieu time per shift for full-time employees is taken).

However, with approval of the employee's manager, an employee may take additional lieu time to enable them to still receive penalty payments.

443. Where an employee takes lieu time on a shift that attracts penalty payments, they may request additional lieu time equivalent to the penalty payment for that day. This would equate to 12.075 hours lieu time on a weekday (where 15% penalty rates are payable); 15.75 hours lieu time on a Saturday; and 21 hours lieu time on a Sunday.

Minimum Payment

444. The minimum payment for additional duty on a public holiday for each separate attendance will be four hours. Where more than one attendance is involved, the minimum payment provision will not operate to increase an employee's additional remuneration beyond that to which the employee would have been entitled had the employee remained on duty from the commencing time of duty on one attendance to the ceasing time of duty on a subsequent attendance.

445. For the purposes of the foregoing:

- duty broken by a meal period will not constitute more than one attendance; and
- the minimum extra payment will not be applicable to holiday ordinary duty which, disregarding meal periods, is continuous with ordinary duty occurring on the day preceding or on the day succeeding the holiday.

Twelve Hour Shifts

Introduction of Shifts

446. The agreement of the CEO and a majority of employees affected is required prior to the introduction of 12 hour shifts on agreed rosters at agreed locations.

Trials

447. Prior to the introduction of 12 hour shifts, a trial period will be undertaken, unless otherwise agreed between the manager and affected employees. The duration of the trial will be for a period of not less than six months.

Additional Duty

Definition

448. Duty will be considered additional duty where:

- it is performed on any day which is outside the normal rostered ordinary hours of duty on that day; or
- it is performed in excess of the weekly hours of ordinary duty, or an average of the weekly hours of ordinary duty over a cycle of shifts.

Duration

449. Employees performing 12 hour shifts should not normally perform additional duty where it will fall within a period of 12 hours on either side of a normal or night shift.

450. In all but exceptional circumstances, the maximum length of time a person should have to remain on duty is 14 hours, including the 12 hour shift and a two hour additional duty period before or after the shift.

451. Time in lieu is the standard form of recompense for all additional duty. The payment of additional duty may be authorised by a manager where it is impractical for the employee to take time in lieu within a reasonable time.

Payment and Rates

452. Time in lieu or payment for additional duty for ACC employees working shift arrangements is calculated at the following rates:

Days	Rate	Formula
Monday to Saturday	Time and a half for the first three hours and double time after the first three hours.	$\text{Additional Duty Hours} \times \text{Annual Salary} \times 12 \div 313 \div 73.5 \text{ hours/week} \times 1.5 \text{ or } 2$
Sunday	Double time	$\text{Additional Duty Hours} \times \text{Annual Salary} \times 12 \div 313 \div 73.5 \text{ hours/week} \times 2$
Public Holidays	Double time and a half	$\text{Additional Duty Hours} \times \text{Annual Salary} \times 12 \div 313 \div 73.5 \text{ hours/week} \times 2.5$

Emergency Duty

453. Where a shift worker is called on duty to meet an emergency at a time when the employee would not ordinarily have been on duty, and no notice of such call was given to the employee prior to ceasing ordinary duty, the employee will be paid for such emergency duty at the rate of double time. The time for which payment will be made will include time necessarily spent in travelling to and from duty. The minimum payment will be two hours at double time. This provision will not apply to employees whose duty for the day is varied by alteration of the commencement of the scheduled shift to meet an emergency.

454. Time off in lieu or payment for emergency additional duty is calculated as follows:

	Formula
TOIL/Payment for Emergency Additional Duty	$\text{Additional Duty Hours} \times \text{Annual Salary} \times 12 \div 313 \div 73.5 \text{ hours/fortnight} \times 2$

Higher Duties

455. A manager may temporarily assign duties that are within the shift worker’s training, skill and competence, and provided that such duties are not designed to promote de-skilling.

456. A shift worker will not be required to carry out any duties which are inconsistent with the CEO’s responsibility to provide a safe and healthy working environment.

457. Where a shift worker is temporarily assigned to the duties of a higher position which is determined by the manager to be filled for a continuous period of two shifts or more the shift worker will be paid at the base salary point of the classification except where partial performance arrangements apply.
458. A shift worker may be paid for partial performance at a higher classification level. The duties to be performed and the amount paid would be determined by the appropriate manager.
459. Where any work is performed at a higher level for less than two shifts, and not paid at a higher salary rate, it will be recorded and taken into account in the shift worker's annual performance and salary review.

Part-time Shift Arrangements

460. Employees employed by the ACC on a part-time basis as an employee working shift arrangements will have all entitlements of full-time employees working shift arrangements available to them on a pro-rata basis.

Review of Shift Arrangements

461. The parties to this Agreement agree that shift arrangements may be reviewed throughout the life of this Agreement.
462. Any changes to shift arrangements (except in accordance with clause 396) must be as a result of consultation and agreement by the NCC and the affected employees and must bear the approval of Fair Work Australia to vary this Agreement under the *Fair Work Act 2009* (as applicable).
463. In the event that shift arrangements are not reviewed throughout the life of this Agreement, the parties agree to review ACC shift arrangements through the course of future enterprise bargaining.

Appendix B: FAIRNESS IN MANAGING UNDER PERFORMANCE

Introduction

464. Recognising that under performance issues sometimes arise in the ACC, in fairness to all employees, when they do arise these issues will be addressed promptly and fairly. Feedback will be the initial and primary channel for discussing these issues. More specifically, when under performance issues arise the relevant manager and employee will promptly and jointly develop and implement strategies to address the under performance.
465. These strategies for employees should be given no less than four weeks to take effect before the procedure outlined below can be initiated.

General Provisions

466. The CEO may determine all matters relating to the management of under performance in accordance with this Appendix.

These provisions do not apply to:

- an employee who is subject to a period of probation, during the probationary period;
 - an employee who is engaged for a specified term or for the duration of a specified task; or
 - an employee who is engaged on an irregular or intermittent basis.
467. Where a case of apparent performance problems results directly and principally from a medical condition, the matter should initially be dealt with in accordance with fitness for duty instructions. The existence of a medical condition does not prevent the CEO from taking appropriate action in accordance with this Appendix.
468. Where an employee's performance problems involve a breach of legislation or directions or other misconduct, disciplinary action should be considered.
469. Where an employee cannot be effectively employed because of technological or other changes in the work methods of the ACC the employee may be treated as excess in accordance with Part I of this Agreement.
470. The CEO may direct that a person, other than an employee's manager, is to undertake the performance assessment of an employee where the employee can show just cause for the direction before the commencement of the assessment period.

Identifying Performance Problems

471. In line with good management practice, any performance problems will be raised with an employee at the time they are identified and assistance will be provided to overcome them. A performance problem will be identified during the performance assessment process or through other feedback processes or general observation of ongoing performance.
472. The following provisions will only be invoked where:
- an employee's performance problems are ongoing;
 - the employee's performance remains below the expected standard; and
 - informal resolution of performance issues has been attempted.

Notice of Performance Counselling – Step One

473. The manager must notify the employee in writing that a performance problem has been identified and performance counselling is to take place. The notice must detail the place, date and time that counselling will take place – at least 48 hours notice must be given. If desired, the employee may be accompanied and represented in performance counselling by a third party of their choice.

474. The notice must also:

- identify the areas where performance is not satisfactory;
- clearly define the performance objectives and standards that the employee must attain and sustain; and
- outline the process to be followed and explain possible outcomes if unsatisfactory performance continues.

Termination of Employment with Consent

475. An employee may have their employment terminated, with their consent, at any stage in the process after the notice of performance counselling has been issued. Where an employee agrees to termination of employment within the initial eight week assessment period outlined below, the employee will be entitled to payment of a lump sum balance of the eight week period. The normal periods of notice do apply but will be deemed to run concurrently with the balance of the assessment period.

Counselling and Development of a Performance Improvement Plan – Step Two

476. The manager undertakes the performance counselling and in consultation with the employee determines a Performance Improvement Plan (PIP). A PIP defines the strategies that will be put in place to assist the employee attain and sustain the identified performance objectives and standards and is the basis of the formal assessment process (see step 3). PIPs must include:

- the period of assessment (eight weeks);
- arrangements for close supervision during the assessment period;
- arrangements for on-the-job assistance and monitoring of work performance; and
- review of training and/or learning development where appropriate, which would be reflected in a revised Team and Individual Learning Plan.

477. When developing a PIP, the manager and the employee should also consider options that may assist to address the employee's performance problems. Options include:

- reassignment of duties, voluntary reduction in classification;
- mediation;
- change of pattern of attendance;
- permanent part-time work;
- medical review by an approved provider;
- Employee Assistance Program; and
- the taking of leave.

478. The counselling session, including the PIP, must be formally documented and should be signed by both the manager and the employee. The employee must be advised that they have the right to respond to any matters related to the counselling session.

479. People Services are to be involved in the performance improvement process in all cases.

Assessment Process – Step Three

480. Over the initial eight week assessment period, the manager should review the employee's performance and PIP each week and provide detailed oral and/or written feedback to the employee on their progress. Monitoring of work performance during the assessment period will not include performance data collected before the commencement of the assessment period. Feedback must be formally documented and should be signed by both the manager and the employee. The employee must be advised that they have a right to respond to any matters related to the feedback sessions.

481. The PIP may be reassessed by the manager and employee as part of this process. This must be clearly documented (and should be signed by both the manager and the employee), including the reasons for any change. At the end of the assessment period, the manager will advise the employee in writing of one of the following possible outcomes:

- They attained the necessary standard of performance and the assessment process under the management of performance provisions is therefore complete. The employee must also be advised that if their performance again falls below the required standard within the next six months, their performance will formally be reassessed as per their previously agreed PIP (with any necessary modifications) for a minimum period of four weeks;
- Their performance has improved substantially but they have still not attained the necessary standard and therefore the assessment period will be extended for a further maximum period of four weeks; or
- They have not attained and sustained the necessary standard of performance and that a recommendation is to be forwarded to the CEO recommending that the employee:
 - be reassigned duties at level;
 - be reassigned duties on reduction;
 - be reassigned duties one or more pay levels; or
 - have their employment terminated.

482. Where:

- an employee attained the necessary standard with the assessment process being declared complete (in accordance with the above paragraph); and
- their performance (at the same classification level) again falls below the required standard within the next six months;
- their performance will be formally reassessed as per their previously agreed PIP (with any necessary modifications) for a minimum period of four weeks. At the conclusion of the assessment period the manager should have regard to previous recovery action undertaken when making a decision as to the appropriate action.

Follow-Up Action – Step Four

483. Where termination of employment, pay level reduction or reassignment of duties action is the considered response, the manager will submit a recommendation, including the reasons for the recommendation, to the CEO.

484. The CEO will advise the employee in writing of the decision. The employee has seven days in which to respond and show that the proposed action is unreasonable in that they met the required standard or that there was a serious defect in the application of the formal procedures outlined above.

485. After considering any response from the employee, the CEO may:

- **proceed with recommended action;**
- **undertake further action; or**
- **take no further action.**

486. Where the course of action followed is:

- **Termination of employment - the notice will take effect in accordance with section 117 of the *Fair Work Act 2009*;**
- **Reassignment on reduction – A notice of reassignment will be issued. The notice will take effect seven days after issue or a later date if specified in the notice;**
- **Reassignment at level – A notice of reassignment will be issued. The notice will take effect seven days after issue or a later date if specified in the notice; or**
- **Reduction of pay level – A notice of reduction of salary will be issued. This notice will take effect seven days after issue or a later date if specified in the notice.**

Appendix C: DEFINITIONS

Terms	Meaning
Academic Period	A semester of academic term as part of an approved course of study
ACC	Australian Crime Commission
ACC Operational Employee	An Executive Level employee engaged in one of the following work groups: <ul style="list-style-type: none"> • Physical and Technical Surveillance (PSU/TSU); • Covert Human Source Unit (CHSU); and • Operational Investigators
Agency	ACC or a Department or Agency as defined in the <i>Public Service Act 1999</i>
Approved Institution	A university, college of technical and further education or equivalent
APS	Australian Public Service
APS Values	Principles and desired standards of public service administration as set out in Section 10 of the <i>Public Service Act 1999</i> as amended from time to time
AWA	Australian Workplace Agreement
Bargaining/Employee Representative	An individual nominated by an employee to represent them in matters relating to workplace relations
Calendar Year	The year commencing 1 January and ending 31 December
CEO	Chief Executive Officer
Code of Conduct	Standards of individual behaviour and interrelationships as set out in Section 13 of the <i>Public Service Act 1999</i> as amended from time to time
CPSU	Community and Public Sector Union
Commonwealth	The Commonwealth of Australia
Dependant	The spouse of the employee; and/or a child or parent of the employee, or of the spouse of the employee, being a child or parent who ordinarily resides with the employee and who is wholly or substantially dependent upon the employee
Employee	A person employed by the ACC under and within the meaning of the <i>Public Service Act 1999</i>
Executive Level	Classifications of Executive Level 1 and Executive Level 2 Employees
Family	A person who is related by blood or marriage, adoption, fostering or traditional kinship; or a person who stands in a demonstrated genuine domestic relationship with the employee without discrimination as to sexual Preference. Family includes a spouse (including a former spouse, a de facto partner or a former de facto partner), a child, or an adult child (including an adopted child, or a step child) a parent, grandparent, grandchild or sibling of the employee or spouse of the employee.
Fair Work Act, FW Act	<i>The Fair Work Act 2009</i>
Flexitime	Refers to the flexitime system for APS1-6 employees where time worked over the ordinary working hours are compensated by time off work
FWA	Fair Work Australia

High Risk Employees	Refers to employees performing duties of Physical Surveillance Operatives, Technical Surveillance Operatives, Deep Cover Operatives, Covert Human Intelligence Source Handlers and Case Managers, Investigators issued with an ACC firearm or home force/service issued firearm and investigators managing sources or conducting covert operations, Executive Level 2 Operational Managers who have or are likely to have a command and control function over the Operational 'high risk areas'.
Immediate Family	A spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or A child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.
LCC	Local Consultative Committee
Manager	The person to whom an employee is responsible and who is authorised by the CEO to exercise the powers and responsibilities of manager in relation to that employee
NCC	National Consultative Committee
Non-ongoing Employee	An employee engaged under the <i>Public Service Act 1999</i> as non-ongoing
OHS	Occupational Health & Safety
Ongoing Employee	An employee engaged under the <i>Public Service Act 1999</i> as ongoing
PDS	Performance Development System
PRP	Performance Review Process (pre ACC)
SES	Classifications of Senior Executive Service Band 1 and Senior Executive Service Band 2 Employees
SEM	Senior Executive Meeting
TOIL	Time off in Lieu
Workplace Relations	Matters dealing with the terms and conditions of employment in the workplace
WHS	Work Health and Safety

APPENDIX D: Classification and Remuneration Structure for the ACC

CLASSIFICATION	SALARY EFFECTIVE pre commencement	From commencement	1.7.2012	1.7.2013
+Executive Level 2				
EL2.3	\$118,183	\$122,910	\$127,507	\$132,276
EL2.2	\$111,539	\$116,001	\$120,340	\$124,841
EL2.1	\$104,893	\$109,089	\$113,169	\$117,402
Executive Level 1				
EL1.4	\$103,682	\$107,829	\$110,525	\$113,288
EL1.3	\$97,560	\$101,462	\$103,999	\$106,599
EL1.2	\$91,438	\$95,096	\$97,473	\$99,910
*EL1.1	\$86,000	\$89,440	\$91,676	\$93,968
+APS6				
6.4	\$76,839	\$79,913	\$82,099	\$84,345
6.3	\$73,524	\$76,465	\$78,557	\$80,706
6.2	\$70,208	\$73,016	\$75,014	\$77,066
*6.1	\$67,900	\$70,616	\$72,548	\$74,533
+APS5				
5.4	\$65,674	\$68,301	\$70,338	\$72,435
5.3	\$64,534	\$67,115	\$69,116	\$71,177
5.2	\$63,180	\$65,707	\$67,666	\$69,684
5.1	\$61,934	\$64,411	\$66,332	\$68,310
+APS4				
4.4	\$60,290	\$62,702	\$64,809	\$66,987
4.3	\$58,702	\$61,050	\$63,102	\$65,223
4.2	\$57,116	\$59,401	\$61,397	\$63,461
4.1	\$55,526	\$57,747	\$59,688	\$61,694
+APS3				
3.4	\$53,772	\$55,923	\$58,204	\$60,578
3.3	\$52,455	\$54,553	\$56,778	\$59,094
3.2	\$51,138	\$53,184	\$55,353	\$57,611
3.1	\$49,822	\$51,815	\$53,928	\$56,127
+APS2				
2.4	\$48,505	\$50,445	\$52,094	\$53,797
2.3	\$46,916	\$48,793	\$50,388	\$52,035
2.2	\$45,328	\$47,141	\$48,682	\$50,273
2.1	\$43,742	\$45,492	\$46,979	\$48,515
APS1				
1.4	\$42,717	\$44,426	\$45,537	\$46,675
1.3	\$41,359	\$43,013	\$44,088	\$45,190
1.2	\$40,005	\$41,605	\$42,645	\$43,711
1.1	\$38,650	\$40,196	\$41,201	\$42,231

* Adjusted at APS 5th percentile effective salary pre commencement

+ Adjusted by $\sqrt{\text{percentage difference to APS median (November 2010)}}$ 1 July 12 & 1 July 13

ACC Trainee				
4.4	\$60,290	\$62,702	\$64,809	\$66,987
4.3	\$58,702	\$61,050	\$63,102	\$65,223
4.2	\$57,116	\$59,401	\$61,397	\$63,461
4.1	\$55,526	\$57,747	\$59,688	\$61,694
Advancement barrier				
3.4	\$53,772	\$55,923	\$58,204	\$60,578
3.3	\$52,455	\$54,553	\$56,778	\$59,094
3.2	\$51,138	\$53,184	\$55,353	\$57,611
3.1	\$49,822	\$51,815	\$53,928	\$56,127

