(1469) **SERIAL C3306**

CROWN EMPLOYEES DEPARTMENT OF JUVENILE JUSTICE - DIRECT CARE STAFF (CENTRES) 2004 AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Review of Award pursuant to Section 19 of the *Industrial Relations Act* 1996.

(No. IRC 1835 of 2004)

Before The Honourable Mr Deputy President Harrison 28 July 2004

REVIEWED AWARD

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2. Title

This Award shall be known as the Crown Employees Department of Juvenile Justice - Direct Care Staff (Centres) 2004 Award.

3. Definitions

"Act" means the *Public Sector Employment and Management Act* 2002, as amended.

"Ancillary Staff Residential Care, Category 1" means an employee engaged as such who is required to perform general cleaning duties and other work of a domestic nature associated with the Department's centre operations.

"Ancillary Staff Residential Care, Category II" means an employee engaged as such who is required to perform, in addition to the duties performed by an Ancillary Staff Residential Care, Category I employee, duties such as high cleaning, stripping and/or sealing of floors, loading and/or unloading of commercial type washing machines, farm duties and work of an outside nature.

"Ancillary Staff Residential Care, Category III" means an employee engaged as such who is required to undertake duties of a domestic nature in excess of those described in Categories I and II and shall also include duties normally undertaken by a stores assistant.

"Casual Employee" means and includes all persons employed who, on or after the operative date of this Award, are employed to work in an existing vacancy or in addition to normal staffing needs on a piecemeal basis, but shall not include a person employed in a temporary capacity for a set period.

"Association" means the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales.

"Centre" means a Juvenile Justice Centre and for the purposes of this Award includes the juvenile placements/transport unit.

"Day Worker" means an employee who works his/her ordinary hours from Monday to Friday and who commences work on such days at or after 6.00 am and before 10.00 am otherwise than as part of a shift system.

"Department" means the New South Wales Department of Juvenile Justice as listed in Schedule 1 of the Act.

"Director General" means the Chief Executive Officer of the Department.

"Escort" means a person who is engaged by the employer to accompany clients in care to and from the Courts, Centres or to any Institutions/ Establishments on an "as required" basis.

"Employee" means and includes all persons permanently, temporarily and casually employed under the provisions of the *Public Sector Employment and Management Act* 2002 in the Department of Juvenile Justice.

"PEO" means the Public Employment Office.

"Personnel Handbook" means the Public Service Personnel Handbook.

"Regulation" means the Public Sector Management (General) Regulation 1996.

"Shift Worker" means an employee who is not a day worker as defined.

Notation: General Conditions of Employment

It is the intention of the parties to this Award that all other conditions not specified in this Award will be provided in accordance with the Crown Employees (Public Service Conditions of Employment) Award 2002 published 21 March 2003 (338 I.G. 837) and the Public Service of New South Wales Personnel Handbook, August 1999 and subsequent variations.

4. Hours

(i)

(a) The ordinary hours of work for day workers, exclusive of meal times, shall be 152 hours per 28 calendar days to be worked Monday to Friday inclusive and to commence on such days at or after 6.00 am and before 10.00 am.

(b) The ordinary hours of work for shift workers (other than Senior Youth Workers employed in Juvenile Justice Centres), exclusive of meal times, shall not exceed 152 hours per 28 calendar days or an average of 38 hours per week in each roster cycle.

(c) The ordinary hours of work for Senior Youth Workers employed in the capacity of shift workers in Juvenile Justice Centres shall not exceed 152 hours per 28 calendar days or an average of 38 hours per week in each roster cycle. Each employee shall be free from duty for not less than eight full days and an allocated rostered day off in each cycle. Provided that the nine days in total shall only be given and taken in lots of three consecutive days in accordance with the 6/3 roster arrangements operating in the Department's Juvenile Justice Centres.

(ii) Each day worker shall be free from duty for not less than two full days in each week and each shift worker, other than employees specified in paragraph (c) of subclause (i) of this clause, shall be free from duty for not less than two full days in each week or four full days in each fortnight. Where practicable, such rostered days off duty shall be consecutive.

(iii) The hours of work prescribed in subclauses (i) and (ii) of this clause shall be arranged to allow variable working hours in each roster cycle of 28 days to ensure that each employee shall work his/her other ordinary hours of work on not more than 19 days in the cycle.

The hours worked on each of those days shall be arranged to include a proportion of one hour (such proportion shall be on the basis of 0.4 of one hour for each eight-hour shift worked) which shall accumulate towards the employee's allocated day off duty on pay.

(iv) An employee who has not worked or is not regarded by reason of subclause (iii) of this clause as having worked a complete four-week cycle shall receive pro rata accrued entitlements for each day or shift worked (or each fraction of a day or shift worked) or regarded as having been worked in such cycle, payable for the rostered day off, or, in the case of termination of employment, on termination.

(v) The employee's allocated day off duty prescribed in subclause (iii) of this clause shall be determined by having regard to the operational needs of the centre. Where practicable, such allocated day off duty shall be consecutive with the days off duty prescribed by subclause (ii) of this clause.

(vi) Once set, the allocated day off duty may not be changed in a current cycle unless there are genuine unforeseen circumstances prevailing. Where such circumstances exist and the allocated day off is changed, another day shall be substituted in the current cycle. Should this not be practicable, the day must be given and taken in the next cycle immediately following.

(a) There shall be no accrual of credit towards an allocated day off for each day of ordinary annual leave taken. However, where an employee has accumulated sufficient time to take his/her allocated day off duty prior to entering on annual leave, it shall be allowed to the employee on the first working day immediately following the period of leave.

(b) Where an employee has not accumulated sufficient time for an allocated time for an day off duty prior to entering on annual leave, time in credit shall count towards taking the next allocated day off duty falling in sequence after the employee's return to duty.

(viii) An employee entitled to allocated days off duty in accordance with subclause (iii) of this clause shall continue to accumulate credit towards his/her allocated day off duty whilst on family and community service, military, study, special and sick leave. Where an employee's allocated day off duty falls during a period of sick leave, the employee's available sick leave shall not be debited for that day.

(ix) Where an employee's allocated day off duty falls due during a period of worker's compensation, the employee, on returning to duty, shall be given the next allocated day off in sequence.

(x) Permanent part-time employees, due to the terms of engagement, are paid for all time worked, as there is no accrual of time for rostered days off.

(xi) All time between the rostered starting and ceasing time each day shall be paid for as working time other than for one rostered meal break of no less than 30 minutes and no more than one hour. Provided that, in any cases where it is determined that, due to the direct care nature of the work, meals are to be taken with and at the allocated meal times for clients in care, any time allowed for the partaking of a meal in such circumstances should be regarded as working time.

The Department may require a staff member to perform duties beyond the hours determined under this clause but only if it is reasonable for the staff member to do so. A staff member may refuse to work additional hours in circumstances where the working of such hours would result in the staff member working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:

(i) the staff member's prior commitments outside the workplace, particularly the staff member's family and carer responsibilities, community obligations or study arrangements;

(ii) any risk to staff member health and safety;

(iii) the urgency of the work required to be performed during additional hours, the impact on the operational commitments of the organisation and the effect on client services;

(iv) the notice (if any) given by the Authority regarding the working of the additional hours and by the staff member of their intention to refuse the working of additional hours; or any other relevant matter.

5. Roster of Hours

(i) The ordinary hours of work for each employee shall be displayed on a roster in a place conveniently accessible to employees. Such roster shall be displayed at least 14 days prior to the commencing date of the first working period in any roster. Provided that this provision shall not make it obligatory for the employer to display any roster of ordinary hours of work of employees who may be called upon to relieve absent employees.

(ii) A roster may be altered at any time to enable the service of a centre to be carried on where another employee is absent from duty on account of illness or in an emergency or due to unforeseen circumstances, but, where any such alteration involves an employee working on a day which would have been his/her day off, such time worked shall be paid for at overtime rates.

(iii) Where practicable, a shift worker who is required to change from one shift to another shift will be given 24 hours' notice of the proposed change. Where a change occurs with less than 24 hours' notice, all time worked outside that shown on the employee's roster (prior to alteration) shall be paid for at overtime rates.

(iv) Rostered days off duty in accordance with subclause (iii) of clause 4, Hours, are to be shown on the roster of hours for each employee.

(v) There shall be a minimum break of eight hours between ordinary rostered shifts.

6. Casual Employees

(i) A casual employee is one engaged on an hourly basis otherwise than as a full-time or part-time employee.

(ii) A casual employee may only be engaged in the following circumstances: for short-term periods where there is a need to supplement the workforce arising from fluctuations in the needs of the centre; on escort duties or in place of another employee who is absent; or in an emergency.

(iii) A casual employee shall be paid on an hourly basis of 1/38th of the appropriate rate prescribed plus 15% thereof with a minimum payment of four hours for each engagement.

(iv) A casual employee shall be entitled to the shift allowances prescribed in clause 8, Shift Work, where a shift commences prior to 6.00 am or finishes subsequent to 6.00 pm.

(v) For weekend and public holiday work, casual employees shall, in lieu of all other penalty rates and the 15% casual loading, receive the following rates:

(a) time and one half for work between midnight Friday and midnight Saturday;

(b) time and three quarters for work between midnight Saturday and midnight Sunday; and

(c) double time and one half for work on a public holiday.

(d) For the purpose of this clause, any shift the major portion of which is worked on a Saturday, Sunday or public holiday shall be deemed to have been worked on a Saturday, Sunday or public holiday and shall be paid as such.

(vi) On termination a casual employee shall be paid 1/12th of ordinary earnings in lieu of recreation leave.

(vii) A casual employee's employment may be terminated for any reason by the giving of one hour's notice by either party.

7. Part-time Employment

(i) The Department is committed to providing part-time work opportunities where practicable. Such arrangements should provide flexibility for effective use of resources for the Department's operation and be of benefit to employees.

(ii) Part-time arrangements must be acceptable to both the Department and the employee and shall be in accordance with Flexible Work Practices Policy and Guidelines issued by the PEO.

(iii) For the purposes of this Award, a part-time employee is one who is permanently appointed to work a specified number of hours up to 32 hours in any full week of seven days.

(iv) Employees engaged pursuant to subclause (iii) of this clause shall be paid an hourly rate calculated on the basis of $1/38^{th}$ of the appropriate rate prescribed in this Award with a minimum payment of four hours for each start. In an emergency part-time employees may work more than 32 hours in one week and in such case will be paid for the hours actually worked at a rate calculated in accordance with this subclause. Provided that, where a part-time employee works more hours than the rostered ordinary hours of work for full-time employees engaged on a shift, overtime in accordance with clause 12, Overtime, will apply.

(v) Part-time employees shall be entitled to all other benefits of this Award not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours.

8. Shift Work

(i) Shift Loadings

A shift worker employed on a shift shall be paid, for work performed during the ordinary hours of any such shift, ordinary rates plus the following additional shift loadings depending on the commencing times of such shifts:

Day	at or after 6.00 am and before 10.00 am	Nil
Afternoon	at or after 10.00 am and before 1.00 pm	10%
Afternoon	at or after 1.00 pm and before 4.00 pm	12.5%
Night	at or after 4.00 pm and before 4.00 am	15%

Night	at or after 4.00 am and before 6.00 am	10%

(ii) The loadings specified in subclause (i) of this clause shall only apply to shifts worked from Monday to Friday.

(iii) Weekends and Public Holidays

For the purpose of this clause, any shift the major portion of which is worked on a Saturday, Sunday or public holiday shall be deemed to have been worked on a Saturday, Sunday or public holiday and shall be paid as such.

(iv) Saturday Shifts

Shift workers working on an ordinary rostered shift between midnight on Friday and midnight on Saturday which is not a public holiday shall be paid for such shifts at ordinary time and one half.

(v) Sunday Shifts

Shift workers working on an ordinary rostered shift between midnight on Saturday and midnight on Sunday which is not a public holiday shall be paid for such shifts at ordinary time and three quarters.

(vi) Public Holidays

With the exception of employees who are required to work on a seven-day roster basis, the following shall apply:

(a) where a shift worker is required to and does work on a public holiday, the shift worker shall be paid at two and a half times the rate for time worked. Such payment shall be in lieu of weekend or shift allowances which would have been payable if the day had not been a public holiday;

(b) a shift worker rostered off duty on a public holiday shall be paid one day's pay for that public holiday or have one day added to his/her annual holidays for each such day.

(vii) A seven-day shift worker is entitled to receive the compensation provisions for regularly working Sundays and public holidays as specified in subclause (ii) of clause 9, Annual Leave and Certain Penalty Payments for Seven-day Shift Workers.

9. Annual Leave and Certain Penalty Payments for Seven-Day Shift Workers

Employees are entitled to annual leave as follows:

(i) Employees engaged as day workers, Monday to Friday, shall be entitled to annual leave in accordance with the provisions of the Regulation, that is, four weeks of paid leave for each completed year of service for full-time employees.

(ii) Employees engaged as seven-day shift workers under this Award and who are regularly required to perform rostered duty on Sundays and public holidays shall receive the following compensation and be subject to the following conditions:

(a) For ordinary rostered time worked on a Saturday - additional payment at the rate of half time.

(b) For ordinary rostered time worked on a Sunday - additional payment at the rate of three quarter time.

(c) When rostered off on a public holiday - no additional compensation or payment.

(d) When rostered on a public holiday and work performed - additional payment at the rate of half time.

(e) Annual leave at the rate of six weeks per year inclusive of any public holiday/s.

(f) Additional payment on the following basis:

Number of ordinary shifts worked on Sundays and/or public holidays during a qualifying period of 12 months from 1 December one year to 30 November the next year	Additional Payment
4 to 10	1/5th of one week's ordinary salary
11 to 17	2/5ths of one week's ordinary salary
18 to 24	3/5ths of one week's ordinary salary
25 to 31	4/5ths of one week's ordinary salary
32 or more	One week's ordinary salary

(iii) The additional payment shall be made after 1 December in each year for the preceding 12 months, provided that:

(a) Where the employment of an employee is terminated or the employee retires, the employee shall be entitled to be paid the additional payment that may have accrued under this paragraph from the preceding 1 December until date of termination or retirement.

(b) Payment shall made at the rate applying as at 1 December each year or at date of termination or retirement.

10. Annual Leave Loading

(a) Employees under the terms of this Award (other than seven-day shift workers) are entitled to the payment of an annual leave loading of 17.5% on the monetary value of four weeks' annual (recreation) leave.

(b) Employees who are engaged as seven-day shift workers, and accrue additional leave as compensation for work performed regularly on Sundays and public holidays, are entitled to annual leave loading calculated on the actual leave accrued or on the monetary value of five weeks' ordinary pay, whichever is the higher.

11. Meals and Breaks

(a) Meal breaks must be given to and taken by employees. No employees shall be required to work continuously for more than five hours without a meal break, provided that:

(i) where the prescribed break is more than 30 minutes, the break may be reduced to not less than 30 minutes if the staff member agrees. If the employee requests to reduce the break to not less than 30 minutes, the reduction must be operationally convenient; and

(ii) where an employee is called upon to work for any portion of a rostered unpaid meal break, such time shall be paid for at the overtime rate.

(b) Where the nature of the work of an employee or a group of employees is such that meals are to be taken at the allocated meal time for clients in care, in these circumstances the provisions of paragraphs (i) and (ii) of subclause (a) of this clause shall not apply. However, all time in such circumstances shall be paid at the appropriate rate for the shift and the employer will provide a meal to each employee free of charge. The meal to be of the same or no less than the quality of that provided to the clients under supervision.

12. Overtime

Overtime shall be paid at the following rates:

(i) The rates specified are in substitution for and not cumulative upon the rates payable for work performed on Monday to Friday, Saturday, Sunday or public holidays.

(ii) Weekdays (Monday to Friday inclusive) - at the rate of time and one half for the first two hours and at the rate of double time thereafter for all directed overtime worked outside the employee's ordinary hours of duty.

(iii) Saturday - all overtime worked on a Saturday at the rate of time and one half for the first two hours and at the rate of double time thereafter;

(iv) Sundays - all overtime worked on a Sunday at the rate of double time;

(v) Public holidays - all overtime worked on a public holiday at the rate of double time and one half.

(vi) An employee who works overtime shall be entitled to be absent until eight consecutive hours have elapsed.

(vii) Where an employee, at the direction of the employer, resumes or continues work without having had eight consecutive hours off duty, then such employee shall be paid at the appropriate overtime rate until released from duty. The employee shall then be entitled to eight consecutive hours off duty.

(viii) For the purposes of assessing overtime, each day shall stand alone, provided however that, where any one period of overtime is continuous and extends beyond midnight, all overtime hours in this period shall be regarded as if it had occurred within the one day.

(ix) Employees recalled to work overtime after leaving the employer's premises, whether notified before or after leaving the premises, shall be paid for a minimum of four hours' work at the appropriate rate for each time so recalled; provided that, except in unforeseen circumstances arising, an employee shall not be required to work the full minimum number of hours prescribed above if the job the employee was recalled to perform is completed within a shorter period.

(x) Where a change in an employee's roster occurs with less than 24 hours' notice to the employee affected, all time worked outside that shown on the employee's roster (prior to alteration) shall be paid for at overtime rates.

(xi) All time worked by part-time employees in excess of the rostered daily ordinary hours of work prescribed for the full-time employees employed on that shift in the centre concerned, or, where there are no such full-time employees employed on that shift in the centre concerned, all time in excess of eight hours per day, shall be paid for at the applicable overtime rates.

On Call - When an employee is directed to be on call for a possible recall to duty, payment of an on call allowance shall be made. The allowance to be paid is that specified by the Crown Employees (Public Service Conditions of Employment) Award 2002, as varied.

(xii) A staff member may be directed by the Department to work overtime, provided it is reasonable for the staff member to be required to do so. A staff member may refuse to work overtime in circumstances where the working of such overtime would result in the staff member working unreasonable hours. In determining what is unreasonable, the following factors shall be taken into account:

(a) the staff member's prior commitments outside the workplace, particularly the staff member's family and carer responsibilities, community obligations or study arrangements;

(b) any risk to staff members' health and safety;

(c) the urgency of the work required to be performed during overtime, the impact on the operational commitments of the organisation and the effect on client services;

(d) the notice (if any) given by the Authority regarding the working of the overtime and by the staff member of their intention to refuse overtime; or

(e) any other relevant matter.

13. Leave in Lieu of Payment of Overtime

An employee who at the direction of the employer works overtime may elect to take leave in lieu of payment for all or part of the entitlement in respect of time worked.

The following provisions shall apply to taking the leave in lieu:

(i) the employee shall advise the supervisor, before the overtime is worked or as soon as practicable on completion of overtime, that the employee intends to take leave in lieu of payment;

(ii) the leave shall be calculated at the same rate as would have applied to the payment of overtime in terms of this clause;

(iii) the leave must be taken at the convenience of the Department, except when leave in lieu is being taken to look after a sick family member in terms of clause 85, Sick Leave to Care for a Family Member, of the Crown Employees (Public Service Conditions of Employment) Award 2002;

(iv) the leave shall be taken in multiples of no less than a quarter day;

(v) leave in lieu accrued in respect of overtime worked on days other than public holidays shall be given by the employer and taken by the employee within three months of accrual;

(vi) at the employee's election, leave in lieu accrued in respect of overtime worked on a public holiday may be added to the employee's annual leave credits and may be taken in conjunction with annual leave; and

(vii) an employee shall be paid for the balance of any overtime entitlement not taken as leave in lieu.

14. Sick Leave

Sick leave shall be granted and administered in accordance with the provisions contained in Part 6 of the Regulation and clause 83, Sick Leave, of the Crown Employees (Public Service Conditions of Employment) Award 2002.

15. Other Leave Entitlements

(i) Maternity leave, parental leave, adoption leave, family and community services leave and all other leave (except for extended leave) shall be granted and administered in accordance with Part 6 of the Regulation and the leave provisions of the Crown Employees (Public Service Conditions of Employment) Award 2002.

(ii) Extended leave shall accrue and shall be granted to employees in accordance with the provisions of Schedule 5 to the *Public Sector Management Act* 1988, as amended from time to time.

16. Rates of Pay and Allowances

The minimum rates of pay and allowances to be paid to employees are set out in Table 1 - Rates of Pay and Allowances, of Part B, Monetary Rates.

17. Higher Duties

Employees covered by this Award, when called upon by the employer to perform work of a classification or position paid on a higher scale, will be paid the higher rate on the completion of a minimum of one eight-hour shift.

Relieving for part of a shift in a higher position will not attract monetary payment but will be compensated through the acquisition of skills and experience gained by this opportunity. Provided that no employee covered by this Award shall be disadvantaged by the provision.

The provisions of this clause apply only to where an employee is called upon to relieve in another position covered by this Award.

18. Escort Duty

(i) A casual employee engaged on escort duty shall receive the following entitlements based on rates of pay for escorts provided in Table 2 - Casual Escorts, of Part B, Monetary Rates.

(ii) Where an engagement is four hours or less, a minimum payment of four hours shall be paid at the applicable rate of pay for the day.

(iii) Where an engagement is in excess of four and up to eight hours, all such time shall be paid at the employee's applicable rate of pay for the day.

(iv) Any time worked in excess of eight hours with a child in care on any day shall be overtime and paid as follows:

(a) All overtime worked on Monday to Saturday, inclusive, shall be paid for at the rate of time and one half for the first two hours and double time thereafter, such overtime to be calculated with reference to Rate A of Table 2.

(b) All overtime worked on Sunday shall be paid for at the rate of double time, such overtime to be calculated with reference to Rate A of Table 2.

(c) All overtime worked on a public holiday shall be paid for at the rate of double time and one half, such overtime to be calculated with reference to Rate A of Table 2.

(v) Excess Travelling Time

Any time spent away from home in excess of eight hours without a child in care on any day shall, except where an overnight stay is involved, be travelling time and be compensated for at the ordinary rate applicable for that day.

(vi) Overnight Stays

(a) Where an engagement involves an overnight stay, the provisions of the Public Sector Management General Regulation shall be applied.

(b) "Overnight stay" has the meaning that an employee is away from his/her home at or after midnight as a result of escorting a client.

(c) Payment of working time shall cease for overnight stays when the child ceases to be in the care of the employee.

(vii) Escort Duty (Other than Casual Employees)

An employee undertaking escort duties will be paid at the employee's ordinary rate of pay for the employee's classification or position and, where applicable for the work performed, will be paid appropriate entitlements, including overtime, prescribed by this Award.

19. Uniforms and Protective Clothing

(i) Sufficient and serviceable uniforms or overalls shall be supplied, free of cost, to each employee or casual employee required to wear them; provided that any employee or casual employee to whom a new uniform or part of a uniform has been supplied by the Department who, without good reason, fails to return the corresponding article last supplied, shall not be entitled to have such article replaced without payment therefore at a reasonable price.

(ii) An employee or casual employee on leaving the service of the Department shall return any uniform or part thereof supplied by the Department which is still in use by that employee immediately or prior to leaving.

(iii) If the uniform of an employee is not laundered at the expense of the Department, an allowance prescribed in Table 3 - Allowances, of Part B, Monetary Rates, shall be paid to such employees.

(iv) The allowance referred to in subclause (iii) of this clause is payable to full-time and part-time employees but shall not be payable to casual employees.

(v) Each employee or casual employee whose duties require him/her to work in the rain will be supplied with suitable protective clothing upon request.

(vi) Each employee or casual employee whose duties require him/her to work in a hazardous situation with or near machinery shall be supplied with appropriate protective clothing and equipment.

20. Settlement of Disputes

(i) All industrial grievances or disputes shall initially be dealt with as close to the source as possible, with graduated steps for further attempts at resolution at higher levels of authority within the Department, if required.

(ii) An employee is required to notify in writing their immediate supervisor as to the substance of the grievance, dispute or difficulty, request a meeting to discuss the matter and, if possible, state the remedy sought.

(iii) The immediate supervisor shall convene a meeting in order to resolve the grievance, dispute or difficulty within two working days, or as soon as practicable, of the matter being brought to attention.

(iv) If the matter remains unresolved with the immediate supervisor, the employee may request to meet the appropriate person at the next level of management in order to resolve the matter. This manager shall respond within two working days, or as soon as practicable. The employee may pursue the sequence of reference to successive levels of management until the matter is referred to the Centre Manager and subsequently to the Cluster Director.

(v) The Centre Manager or Cluster Director may refer the matter to the Department's Human Resources or Industrial Relations Unit or any senior employee delegated by the Director General of the Department.

(vi) If the matter remains unresolved, the Department shall provide a written response to the employee and any other party involved in the grievance, dispute or difficulty concerning action to be taken, or the reason for not taking action, in relation to the matter.

(vii) An employee, at any stage, may request to be represented by their union.

(viii) If the matter remains unresolved, either of the parties may refer the matter to the New South Wales Industrial Relations Commission. The parties shall agree to be bound by any order or determination by the New South Wales Industrial Relations Commission in relation to the dispute.

(ix) Whilst the procedures outlined in this clause are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in the case involving occupational health and safety, if practicable, normal work shall proceed in a manner which avoids any risk to the health and safety of any employee or member of the public.

(x) Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the *Anti-Discrimination Act* 1977) that makes it impractical for the staff member to advise their immediate manager, the notification may occur to the next appropriate level of management, including where required, to the Department head or delegate.

21. Anti-Discrimination

(a) It is the intention of the parties bound by this Award to seek to achieve the object in section 3(f) of the *Industrial Relations Act* 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities of a carer.

(b) It follows that, in fulfilling their obligations under clause 20, Settlement of Disputes, of this Award, the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the Award which, by its terms or operation, has a direct or indirect discriminatory effect.

(c) Under the *Anti-Discrimination Act* 1977, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.

(d) Nothing in this clause is to be taken to affect:

(i) Any conduct or act which is specifically exempted from anti-discrimination legislation;

(ii) Offering or providing junior rates of pay to persons under 21 years of age;

(iii) Any act or practice of a body established to propagate religion which is exempted under section 56 (d) of the *Anti-Discrimination Act* 1977;

(iv) A party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

(e) This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

Notes:

(a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

(b) Section 56(d) of the *Anti-Discrimination Act* 1977 provides:

> "Nothing in this Act affects … any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

22. Savings Clause

No employee or casual employee is to suffer a loss in salary or conditions as a result of the implementation of this Award.

23. No Extra Claims

During the term of this Award, no wages or other claims may be made, except if agreed by the parties.

24. Notation

It is the intention of the parties that this Award shall apply in place of the following industrial instruments with respect to the classifications in this Award and the parties shall take all steps necessary to rescind these instruments:

The Juvenile Justice (NSW) Enterprise Agreement, 1994 - Health & Research Employees Association (NSW)

General Division Instructional Staff, etc., Institutions, Department of Youth and Community Services Agreement (2276 of 1980, with respect to employees of the Department of Juvenile Justice)

Consolidated General Staff Institutions, Department of Youth and Community Services Agreement (2385 of 1982)

Escorts, Department of Youth and Community Services Agreement (2270 of 1980)

Maintenance Officers Determination (764 of 1982)

25. Area, Incidence and Duration

(i) This Award is made following a review under section 19 of the *Industrial Relations Act* 1996 and rescinds and replaces the Crown Employees Department of Juvenile Justice Direct Care Staff (Centres) 2001 Award published 28 September 2001 (328 I.G. 114) and all variations thereof.

(ii) The changes made to the Award pursuant to the Award Review pursuant to section 19(6) of the *Industrial Relations Act* 1996 and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310 I.G. 359) take effect on and from 28 July 2004.

(iii) The Award remains in force until varied or rescinded, the period for which it was made having already expired.

PART B

MONETARY RATES

Table 1 - Rates of Pay And Allowances

Senior Youth Worker	In November 2002 a new classification in the Crown Employees (Department of Juvenile Justice - Detention Centres 2002) Award replaced the classification.
Vocational Instructor	In November 2002 a new classification in the Crown Employees (Department of Juvenile Justice - Detention Centres 2002) Award replaced the award classification and relevant conditions of employment.
Maintenance Officer	In November 2002 a new classification in the Crown Employees (Department of Juvenile Justice - Detention Centres 2002) Award replaced the award classification and relevant conditions of employment.
Outdoor Attendant	In November 2002 a new classification in the Crown Employees (Department of Juvenile Justice - Detention Centres 2002) Award replaced the award classification and relevant conditions of employment.

Table 2 - Casual Escorts

Casual Escorts	In November 2002 a new classification in the Crown Employees (Department of Juvenile Justice - Detention Centres 2002) Award replaced the award classification and relevant conditions of employment.

Table 3 - Allowances

Broken Shift Allowance	In November 2002 a new classification in the Crown Employees (Department of Juvenile Justice - Detention Centres 2002) Award replaced the award classification and relevant conditions of employment.
Additional Duties Allowance	In November 2002 a new classification in the Crown Employees (Department of Juvenile Justice - Detention Centres 2002) Award replaced the award classification and relevant conditions of employment.
Uniform Allowance	In November 2002 a new classification in the Crown Employees (Department of Juvenile Justice - Detention Centres 2002) Award replaced the award

	classification and relevant conditions of employment.
Sewerage and Grease Traps	In November 2002 a new classification in the Crown Employees (Department of Juvenile Justice - Detention Centres 2002) Award replaced the award classification and relevant conditions of employment.
Chokages	In November 2002 a new classification in the Crown Employees (Department of Juvenile Justice - Detention Centres 2002) Award replaced the award classification and relevant conditions of employment.
Supervision of Residents	In November 2002 a new classification in the Crown Employees (Department of Juvenile Justice - Detention Centres 2002) Award replaced the award classification and relevant conditions of employment.

R. W. HARRISON *D.P.*

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