

CROWN EMPLOYEES

AGEING, DISABILITY AND HOME CARE –
NSW DEPARTMENT OF FAMILY AND COMMUNITY SERVICES
(COMMUNITY LIVING AWARD) 2015

****Variation Award as at 30 August 2017
(Please refer to attached yellow pages)**

Reviewed Award
as at 17 November 2015

**CROWN EMPLOYEES AGEING, DISABILITY AND HOME CARE –
NSW DEPARTMENT OF FAMILY AND COMMUNITY SERVICES
(COMMUNITY LIVING AWARD) 2015**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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

(No. IRC 663 of 2015)

Before Commissioner Stanton

17 November 2015

REVIEWED AWARD

PART A

1. Arrangement

PART A

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2. Definitions

"Act" means the *Government Sector Employment Act 2013* and its Regulations and any replacement Act and Regulations.

"ADHC" means Ageing, Disability and Home Care of the Department of Family and Community Services.

"Allocated day off" (ADO) means a day off in a roster cycle at a time operationally convenient as provided in Clause 4.

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

"Award" means an Award as defined in the NSW *Industrial Relations Act 1996*.

"Casual employee" means any employee engaged in terms of Chapter 2, Part 2.6 Casual Employees, of the Act and any guidelines issued thereof or as amended from time to time.

"Day Worker" means a worker who works their ordinary hours Monday to Friday and who commences work on such days at or after 6.00am and before 10.00am, otherwise than as part of a shift system.

"Department" means Ageing, Disability and Home Care of the Department of Family and Community Services

"Department Head" means the Secretary of the Department of Family and Community Services

"Disability Support Worker" means a person appointed to the position of Disability Support Worker who is employed to assist and support clients in group homes, centre-based respite units and in-home support services.

"Employee" means an officer, staff member or casual employee unless otherwise specified.

"Part-time staff member" means a staff member whose contract hours are less than the full-time hours specified in this Award.

"Public Holiday" means a day proclaimed under the *Banks and Bank Holiday Act 1912*, as a bank or public holiday. This definition does not include a Saturday which is such a holiday by virtue of section 15A of that Act, and 1 August or such other day that is a bank holiday instead of 1 August.

"Shift worker" means a staff member who is not a day worker.

"Team Leader" means a person appointed to the position of Team Leader.

"Staff member" means an officer or temporary employee as defined in the Act and, unless otherwise specified in this Award, includes both full-time and part-time staff.

"Unit" means a group home, respite centre or in-home support service.

3. Salaries

(1) Rates of Pay

- (i) Rates of pay and allowances payable to staff members covered under this Award shall be those specified in Part B Schedule 1 Monetary Rates.

(2) Disability Support Workers (DSWs)

- (i) The salary range for employees is that contained in Part B Schedule 1 Monetary Rates.

- (ii) From the date of effect of this Award new appointments of staff members to DSW will be to an appropriate year in the scale based on years of equivalent full time service providing direct care services within an accommodation setting to clients with a disability.
 - (iii) Casual DSW employees will be paid at an appropriate year in the scale based on hours and years of equivalent full time service providing direct care services within an accommodation setting to clients with a disability. Each year of service requires the completion of 12 months calendar service and 1982 hours.
 - (iv) Employees who possess a Certificate III Disability, or higher qualification acceptable to ADHC, will be paid at not less than the rate applicable to the 4th year of service.
 - (v) Confirmation of permanent appointment to a DSW position is subject to completion of a workplace induction program.
 - (vi) Other than accelerated progression arising from sub-clause (iv) above, staff members progress through the DSW salary range by way of annual increments subject to satisfactory performance and conduct of services in accordance with the Government Sector Employment Regulation 2013.
 - (vii) The transitional arrangements for employees at the effective date of the Award in the classifications of Residential Support Worker Level 1/2 to the Disability Support Worker salary range, are contained at Part B Schedule 2 of this Award.
- (3) Team Leader
- (i) The salary rates for Team Leaders are contained at Part B Schedule 1 Monetary Rates of this Award.
 - (ii) The rates of pay on Part B for Team Leader One Unit are inclusive of three afternoon, two evening and one weekend penalty shift every 28 day roster period. The Team Leader will not be required to work this precise configuration of penalty and weekend shifts in any 28 day period. The actual work requirements will be determined by operational needs.
 - (iii) Appointment as a Team Leader will be subject to a competitive merit selection process to a vacant Team Leader position designated as such.
 - (iv) An appointee to a position of Team Leader requires possession of Certificate IV Disability, or equivalent qualification, and Certificate IV Frontline Management, or equivalent qualification.
 - (v) A staff member may be appointed as a Team Leader where they do not possess the Team Leader qualifications, but they must obtain the qualifications within 12 months of date of appointment.
 - (vi) Where other than an existing permanent officer is appointed to a Team Leader position and that appointee does not possess the Team Leader qualifications prior to appointment, confirmation of appointment may only occur after the person has obtained the Team Leader qualifications.
 - (vii) ADHC will determine the location and number of Team Leader positions on the usual basis of 1 Team Leader per unit. However ADHC will consult with the PSA for proposals of jointly managed units as they arise.
- (4) Community Support Worker, Community Worker and Community Consultant
- (i) ADHC will consult with the PSA if proposed to establish any new positions in community based services.
 - (ii) A Community Support Worker implements client plans which encourage independent living, social and vocational skills training, community access support, and leisure, recreation and adult education in consultation with other professional staff and Community Workers. There are no

qualification requirements for appointment to this position.

- (iii) A Community Worker provides client services and develops client programs to encourage independent living and social, vocational, leisure and recreation skills training and community access support in a team setting.
- (iv) A Community Worker is required to possess, a minimum of an Associate Diploma acceptable to ADHC requiring a minimum of two years full-time study or equivalent part-time study thereof from a recognised University or College of TAFE. They shall be appointed on the 1st year of the salary range for Community Worker and shall progress to the 8th year by annual increments subject to satisfactory conduct and services.
- (v) A Community Worker who possesses a Degree qualification acceptable to ADHC requiring a minimum of three years full-time study or equivalent part-time study thereof, shall be appointed on the 3rd year of the salary range for Community Worker and shall progress to the 8th year by annual increments subject to satisfactory conduct and services.
- (vi) A Community Consultant provides direct intervention and case management for clients with complex needs including the development, co-ordination and supervision of client programs that include behaviour intervention, independent social and vocational skills training and provides clients with community access support in a multi-disciplinary team setting.
- (vii) A Community Consultant must possess a Degree qualification or higher acceptable to ADHC requiring a minimum of four years full-time study or equivalent part-time study thereof. They shall be appointed on the 1st year of the salary range for Community Consultant and progress to the 5th year by way of annual increments subject to satisfactory conduct and services.

4. Hours

- (i) 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 at or after 6:00am and before 10.00am.
- (ii) The ordinary hours of work for shift workers, 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.
- (iii) Each day worker shall be free from duty for not less than two full days in each week. Each shift worker 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.
- (iv) The hours of work prescribed in subclauses (i) - (iii), shall be arranged to allow variable working hours in each roster cycle of 28 days to ensure that each staff member shall work their ordinary hours of work on not more than 19 days in each cycle.
- (v) The hours worked on each day shall be arranged to include a proportion of one hour which shall accumulate towards the staff members allocated day off (ADO) duty on pay. Such proportion shall be on the basis of 0.4 of one hour for each eight-hour shift worked, and 0.5 of one hour for each ten hour shift worked.
- (vi) Each full-time staff member shall be entitled to 12 ADOs per annum.
- (vii) The staff member's ADO prescribed in sub-clause (v) shall be determined having regard to the needs of ADHC. Where practicable, the ADO is to be consecutive with the rostered days off duty prescribed by sub-clause (ii).
- (viii) Once set, the ADO may not be changed in a current cycle unless there are genuine unforeseen circumstances prevailing. Where such circumstances exist, and the ADO 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.

- (ix) There shall be no accrual of credit towards a ADO for ordinary annual leave taken in accordance with clause 13 Recreation Leave. However, where a staff member has accumulated sufficient time to take their ADO prior to entering on recreation leave, and that day would have been taken if the staff member had not gone on recreation leave, it shall be allowed to the staff member on the first working day immediately following the period of leave.
- (x) Where a staff member has not accumulated sufficient time for an ADO prior to entering on recreation leave, time in credit shall count towards the next ADO falling in sequence after the staff member has returned to duty.
- (xi) A staff member shall continue to accumulate credit toward their ADO whilst on sick leave. Where a staff member's ADO falls during a period of sick leave, the staff member's available sick leave shall not be debited for that day.
- (xii) Where a staff member's ADO falls during a period of workers' compensation, the staff member, on returning to duty, shall be given the next ADO in sequence.
- (xiii) Where a staff member's ADO falls on a public holiday as prescribed by Clause 14 Public Holidays, the next working day shall be taken in lieu thereof.
- (xiv) All time between the rostered starting and ceasing times each day shall be paid for as working time, except for one unpaid meal break of no less than 30 minutes and no more than one hour.
- (xv) A period of 20 minutes shall be allowed to staff members for a morning or afternoon tea break and such period shall be included in the ordinary hours of work. Time taken for such breaks shall be without interruption of service.
- (xvi) There shall be a minimum break of eight hours between ordinary rostered shifts or a break equal in length to the shift previously worked, whichever is greater.

5. Roster of Hours

- (i) The ordinary hours of work for each staff member shall be displayed on a roster in a place conveniently accessible.
- (ii) The roster shall be displayed at least two weeks prior to the commencing date of the first working day in the roster. Provided that this provision shall not make it obligatory for ADHC to display any roster of ordinary hours of work of a member of the relieving staff.
- (iii) A roster may be altered at any time to enable the operation of the service to be carried on where another staff member is absent from duty on account of illness or in an emergency, but where any such alteration involves a full-time staff member working on a day which would have been their ADO such time worked shall be paid at overtime rates.
- (iv) Where a change in roster occurs with less than 24 hours notice to the staff member affected, all time worked outside that shown on the staff member's roster (prior to the alteration) shall be paid for at overtime rates.
- (v) Rosters providing for shift work at a location that is normally a day-work operation shall not be introduced into any service or section thereof, until such time as the proposals relating thereto are conveyed to ADHC for its approval and the opportunity has been given to the Association to discuss the matter with ADHC and the service concerned.
- (vi) The ADOs in accordance with clause 4, Hours, are to be shown on the roster of hours for each staff member.
- (vii) Any change in the displayed roster must be notified verbally or in writing to the staff member concerned and shown on the operational roster.

- (viii) The working of more than seven consecutive shifts by staff members is prohibited, except where a staff member makes a special request, which is agreed by ADHC.

6. Part-Time Staff Members

(1) Types of Part-time Engagement

- (i) A staff member may work on a part-time basis by way of;
- (a) Part-time Employment Contract: Contract of employment for less than full-time hours; or
 - (b) Part-time Leave Without Pay: Approved application to work less than full-time hours by way of a grant of leave without pay each week or fortnight; or
 - (c) Part-time Loading: Grandparented salary arrangement.
- (ii) The specified number of hours for a part-time staff member may be balanced over a week or fortnight, provided that the part-time contract hours shall be deemed to be the specified number of hours for the purposes of accrual of leave provided for in this Award.
- (iii) There shall be no interruption to the continuity of employment of a part-time staff member merely by reason of a staff member working on a 'week on, week off' basis in accordance with this sub-clause.

(2) Part-time Employment Contract

- (i) A part-time staff member is one who is contracted to work a specified number of hours per week which are less than full-time hours.
- (ii) Part-time staff members shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed in this Award with a minimum three hours for each start.
- (iii) Unless otherwise specified in this Award, part-time staff members receive full time entitlements on a pro rata basis calculated according to the number of hours a staff member is contracted to work.
- (iv) Incremental progression for part-time staff members is the same as for full-time staff members, that is, part-time staff members receive an increment annually.
- (v) ADHC may request, but not require, a part-time staff member to work additional hours.
- (vi) Except where payment of overtime is provided for under Clause 9, for any time worked in excess of the staff member's ordinary contracted hours and up to 76 hours in a fortnight, a part-time staff member is to be paid at their hourly rate plus a loading of 4/48ths in lieu of recreation leave.

(3) Part-time Leave Without Pay

- (i) A staff member engaged on a full-time basis may apply to take leave without pay on a part-time basis in accordance with Clause 72 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- (ii) A staff member working part-time by way of leave without pay is entitled to a minimum three hours for each start.
- (iii) The conditions of employment for a staff member engaged on a part-time basis by way of part-time leave without pay are those provided for in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, Government Sector Employment Act 2013 and Regulations.

(4) Part-time Loading (Grandparented Salary Arrangement)

- (i) Subclauses (1), (2) and (3) above do not apply to part-time employees in receipt of a 15% part-time loading under a grandparented salary arrangement. The following applies to these employees;
 - (a) Persons employed on a part-time basis may be employed for not less than eight or more than 32 hours in any full week of seven days, such week to be coincidental with the pay period, and shall be paid for the actual number of hours worked each week an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate prescribed, plus 15 per cent thereof. Employees shall not be engaged for less than three hours for each start.
 - (b) In an emergency, part-time workers may be allowed to 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 paragraph (a) of this sub-clause.
 - (c) A part-time worker called up to work in an emergency on their rostered day(s) off shall be entitled to a minimum payment of three hours at the appropriate rate calculated in accordance with paragraph (a) of this sub-clause whether required for the full three hours or not.
 - (d) With respect to employees employed on a part-time basis under this subclause, the provisions of subclauses (v) - (xiii) of clause 4 Hours, clause 9 Overtime, clause 13 (ii) Recreation Leave and subclauses (i) - (ii) of clause 14 Public Holidays, shall not apply.

7. Casual Employees

(1) Engagement of Casual Employees

- (i) A casual employee may be employed subject to the usual basis of employment of staff in the Department being that of an officer.
- (ii) A casual employee may only be engaged in the following circumstances
 - On a relief basis to fill irregular or intermittent vacancies; or
 - To carry out work on a short-term basis; or
 - To carry out urgent work or in an emergency.
- (iii) Casual employees can be included in operational rosters but employment for fixed or regular hours for a single period in excess of 4 weeks would in most instances be as a temporary employee.
- (iv) A casual employees' contract of employment may be terminated for any reason by giving of three hours' notice by either the employee or ADHC.

(2) Hours of Work

- (i) A casual employee is engaged and paid on an hourly basis.
- (ii) A casual employee will be paid for a minimum of 3 consecutive hours for each engagement.

(3) Rate of Pay

- (i) A casual employee shall be paid on an hourly basis of one thirty-eighth of the appropriate salary rate prescribed in this Award, plus 15% casual loading thereof.

- (ii) A casual employee shall be entitled to the shift allowances prescribed in clause 11 Penalty Rates for Shift Work and Weekend Work and Special Working Conditions. Such employees shall only be entitled to the additional rates where their shifts commence prior to 6.00am or finish subsequent to 6.00pm Monday to Friday inclusive.
- (iii) Casual employees in receipt of penalty rates for working midnight Friday to midnight Sunday and Public Holidays, shall receive those penalty rates in lieu of the 15% casual loading.
- (iv) On termination, a casual employee shall also receive 4/48ths of ordinary earnings in lieu of recreation leave.
- (v) A casual employee shall be paid overtime in accordance with the provisions of Clause 9 of this Award.

(4) Conditions of Employment

- (i) The following clauses of this Award do not apply to casual employees
 - Subclauses (v) to (xi) of clause 4 Hours
 - clause 5 Roster of Hours
 - Clause 13 Recreation Leave
 - Clause 14 Public Holidays
 - Clause 15 Paid Union Leave
- (ii) Casual employees shall be entitled to all other benefits of this Award in the same proportion as their ordinary hours of work bear to full-time hours, unless otherwise specified.
- (iii) Casual employees are entitled to Long Service Leave in accordance with the provisions of the *Long Service Leave Act 1955*.
- (iv) A casual employee shall also receive the following entitlements in accordance with Clause 12 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009:
 - (a) Clause 12.5 Leave
 - (b) Clause 12.6 Personal Carers Entitlement for Casual Employees
 - (c) Clause 12.7 Bereavement Entitlements for Casual Employees
 - (d) Clause 12.8 Application of other clauses of this Award to Casual Employees
 - (v) Other than as provided for in sub-clause (iv) above of this Award, Clause 12 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 shall not apply.

8. Temporary Employees

- (i) Temporary employees are those engaged in accordance with Section 43 (b) of the Act.
- (ii) Temporary employees are defined as staff members and receive all of the benefits of this Award in the same manner as permanent officers, unless otherwise specified.

9. Overtime

- (1) Rates Payable - All Employees

- (i) The following rates are payable for overtime worked and shall be in substitution of and not cumulative upon the rates payable for shift work performed on Monday to Friday, Saturday, Sunday or Public Holiday -
 - (a) Monday - Saturday inclusive: Time and one half for the first two hours and double time thereafter.
 - (b) Sunday: Double time.
 - (c) Public Holidays: Double time and one half.
 - (ii) The rate of payment for overtime is to be determined according to the day of the week on which the time is actually worked in accordance with sub-clause (i) above.
 - (iii) Subject to subclauses (v) below, an employee may be directed by the Department Head to work overtime.
 - (iv) An employee may refuse to work overtime where the working of overtime would result in the employee working hours which are unreasonable.
 - (v) For the purposes of subclause (iv) above, what is unreasonable or otherwise will be determined having regard to:
 - (a) any risk to employee health and safety;
 - (b) the employee's personal circumstances including any family and carer responsibilities, community obligations or study arrangements;
 - (c) the urgency of the work required to be performed, the impact on operational commitments and the effect on client services;
 - (d) the notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
 - (e) any other relevant matter.
 - (vi) Where an employee works overtime as an extension of shift and ceases work at a time when reasonable means of transport home are not available, they shall be paid at ordinary rates for the time reasonably spent travelling from the place of work to the officer's home.
- (2) Break Between Work - All Employees
- (i) When overtime is necessary it shall be arranged so that employees have at least eight (8) consecutive hours off duty between work on successive days or shifts.
 - (ii) An employee who has not had at least eight (8) consecutive hours off duty in accordance with subclause (i) above, shall be released from duty after completion of the overtime until they have had eight (8) consecutive hours off duty without loss of pay for ordinary working time occurring during their absence.
 - (iii) If ADHC directs an employee to resume or continue to work without having had at least eight (8) consecutive hours off duty in accordance with subclause (i) above, they shall be paid at double rates until released from duty for such period and then shall be entitled to be absent until they have had eight (8) consecutive hours off duty without loss of payment for ordinary working time occurring during such absence.
 - (iv) At cessation of eight (8) hour break prescribed by sub-clauses (i) - (iii) above, the employee is required to return to duty for remainder of a rostered shift or, if available, apply for leave to cover the remainder of any rostered hours.

- (v) Overtime may be worked prior to the commencement of a rostered shift, in which case the break provision prescribed by sub-clauses (i) - (iii) shall apply from the cessation of all work continuous with the overtime.
- (3) Recall to Duty - Staff Members
- (i) A staff member recalled to work overtime after leaving the employer's premises shall be paid for a minimum of four (4) hours' work at the appropriate overtime rate for each time they are so recalled.
 - (ii) A staff member shall not be required to work the full minimum number of hours prescribed under sub-clause (i) above, if the job they were recalled to perform is completed within a shorter period.
 - (iii) A staff member recalled to duty shall be paid all fares and expenses reasonably incurred as in travelling to and from their place of work.
 - (iv) Provided that where a staff member elects to use their own mode of transport, they shall be paid an allowance equivalent to the travelling rate as prescribed in the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- (4) Planned Overtime - All Employees
- (i) Where overtime worked is not continuous with ordinary hours, and/or additional hours in the case of a part-time staff member, and the employee has elected to accept an offer of overtime work with at least 24 hours notice, then the recall to duty provisions in subclause (3) above will not apply.
- (5) Payment of Overtime - Full-time Staff Members
- (i) A full-time staff member is to be paid at overtime rates for all time worked;
 - (a) outside the ordinary hours permitted under Clause 4 Hours, and/or
 - (b) outside that shown on the staff member's roster (prior to the alteration) where a change in roster occurs with less than 24 hours notice to the affected staff member.
- (6) Payment of Overtime - Part-time Staff Members
- (i) A part-time staff member is to be paid at overtime rates for all time worked;
 - (a) longer than the normal rostered shift length for a full-time employee for that shift, and/or
 - (b) in excess of 152 hours in a 28 day roster period, and/or
 - (c) in excess of the hours prescribed for a full-time staff member in Clause 4 Hours, and/or
 - (d) outside that shown on the staff member's roster (prior to the alteration) where a change in roster occurs with less than 24 hours notice to the affected staff member.
 - (ii) In the case of subclause (i)(a) above, where there is no normal rostered shift length for a full-time staff member for that shift, then overtime is to be paid for all time worked in excess of eight (8) hours in a continuous period.
 - (iii) In the case of sub-clause (i)(b) above, the part-time staff member must be rostered to work a number of ordinary hours and have actually worked additional hours totalling to 152 hours in the roster period prior to becoming eligible to a payment of overtime under this sub-clause.

(7) Payment for Overtime or Leave in Lieu

- (i) The Department Head shall grant compensation for directed overtime worked either by payment at the appropriate rate or, if the staff member so elects, by the grant of leave in lieu in accordance with this clause.
- (ii) The following provisions shall apply to the leave in lieu:-
 - a. The staff member shall advise the supervisor before the overtime is worked or as soon as practicable on completion of overtime, that the staff member intends to take leave in lieu of payment.
 - b. The leave shall be calculated at the same rate as would have applied to the payment of overtime in terms of this clause.
 - c. 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 such cases, the conditions set out in clause 81, Sick Leave to Care for a Family Member of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, shall apply.
 - d. The leave shall be taken in multiples of a quarter day, unless debiting of leave in hours or in fractions of an hour has been approved.
 - e. Leave in lieu accrued in respect of overtime shall be given by the Department and taken by the staff member within three months of accrual unless alternate local arrangements have been negotiated between the Department Head and the Association.
 - f. A staff member shall be paid for the balance of any overtime entitlement not taken as leave in lieu.

(8) Payment of Overtime - Casual Employees

- (i) A casual employee is to be paid overtime rates for all time worked;
 - a. longer than the normal rostered shift length for a full-time employee for that shift; and / or
 - b. in excess of 152 hours in a 28 day roster period.
- (ii) In the case of subclause (i)(a) above, where there is no normal rostered shift length for a full-time staff member for that shift, then overtime is to be paid for all time worked in excess of eight (8) hours in a continuous period.
- (iii) In the case of subclause (i)(b) above, the casual employee must work the 152 hours in a roster period prior to becoming eligible to a payment of overtime under this sub-clause.
- (iv) Overtime payments for casual employees are based on the ordinary hourly rate plus the 15% loading set out in Clause 7 Casual Employees.

10. Sleepovers

- (i) "Sleepover" means a continuous period during which an employee is required to sleepover at a unit and be available to deal with any urgent situation, which may arise during the sleepover period.
- (ii) It is expected that an employee performing sleepover work will ordinarily be able to have a reasonable night's sleep. Accordingly such work will not be performed where:
 - (a) The facilities in the home, or

- (b) The activities or behaviour of the clients residing there are such that an officer could not ordinarily be expected to have a reasonable night's sleep or would be put at risk if sleeping or woken from sleep during a sleepover.
- (iii) ADHC shall take all reasonable steps to enable the employee to have a reasonable night's sleep on the premises. These include:
- (a) Providing a vacant room, able to be locked by the employee.
 - (b) Ensuring that the room is provided with:
 - a telephone and/or other emergency communication facilities so that assistance may be summoned if required;
 - a bed and other suitable sleeping requirements such as a light and clean linen;
 - an ability to view outside the room when locked without opening the door, including external lighting.
 - (c) Giving the employee access to the facilities within the Unit for the purposes of personal hygiene and the taking of meals, which shall be provided free of charge.
- (iv) An employee shall only perform sleepover work under the following conditions:
- (a) there is an agreement between the employee and ADHC in regard to the sleepover and the sleepover periods required and except in the case of an emergency, the agreement is made at least one (1) week in advance;
 - (b) a sleepover period shall consist of not more than eight (8) continuous hours;
 - (c) a staff member may be required to undertake sleepover work for no more than eight (8) nights in any period of twenty eight (28) days;
 - (d) the sleepover shall not commence earlier than 10pm and shall not finish later than 7am;
 - (e) no work other than that of an essential nature involving direct care of the clients shall be required to be performed during the sleepover;
 - (f) each period of sleepover work should follow on from an afternoon shift and should not be followed by a day shift the next day.
- (v) An employee performing sleepover work shall be paid:
- (a) A sleepover allowance equivalent to five (5) hours payment at ordinary rates.
 - (b) In the event that the employee has not received a reasonable night's sleep, the employee shall be paid:
 - (1) If disturbed to perform any necessary work, the work shall be paid at overtime rates in addition to the sleepover allowance.
 - (2) If disturbed by clients on two or more occasions, but not in order to perform any necessary work, the employee shall be paid as for an active night shift, in lieu of the sleepover allowance.
 - (3) If disturbed by clients on two or more occasions to perform any necessary work, the work shall be paid for at overtime rates, with a minimum payment of an amount equal to the rate for an active evening shift, in addition to the sleepover allowance.

- (vi) An employee who is required by ADHC to accompany clients on excursions, etc. which necessitate overnight stays shall be paid a minimum allowance equivalent to eight (8) hours pay at ordinary rates for each overnight stay. If an employee is required to perform any necessary work during the night, the work shall be paid for at overtime rates.
- (vii) Employees shall comply with ADHC's reasonable requirements in relation to the recording of client's behaviour during sleepover periods. Claims for the additional payments provided under paragraph (v)(b) of this clause may be declined if such records have not been maintained for the particular night.
- (viii) Before sleepover work is introduced at a Unit, ADHC shall assess the suitability of the home and residents for such arrangements. Such arrangement shall be monitored and shall be reviewed, if new clients move into the home or in the event that a clients health or behaviour alters in such a way that concerns arise as to the continuing suitability of sleepover arrangements, or if officers as a result are unable to achieve a reasonable night's sleep during sleepover work. A timely review shall also be conducted if a written request identifying the reason the review is sought is made by staff members performing such work at a unit or by the Association. Whilst such reviews are conducted, sleepover work shall not be performed at the Unit.
- (ix) In the event that a dispute arises as to the suitability of a Unit, group of clients, or employee for sleepover work, the dispute shall be discussed by the parties on an urgent basis, in accordance with the award dispute resolution procedures.

11. Penalty Rates for Shift Work and Weekend Work and Special Working Conditions

- (i) Shift workers working afternoon or evening shift shall be paid the following loadings in addition to the ordinary rate for such shift; provided however, that part-time employees engaged under Clause 6(1)(i)(a) and (c), shall only be entitled to the additional rates where their shifts commence prior to 6.00am or finish subsequent to 6.00pm.

Afternoon shift commencing at 10.00am and before 1.00pm - 10 per cent

Afternoon shift commencing at 1.00pm and before 4.00pm - 12.5 per cent

Evening shift commencing at 4.00pm and before 4.00am - 15 per cent

Evening shift commencing at 4.00am and before 6.00am - 10 per cent

- (ii) For the purposes of this clause, day, afternoon and evening shifts shall be defined as follows:

"Day shift" means a shift which commences at or after 6.00am and before 10.00am.

"Afternoon shift" means a shift which commences at or after 10.00am and before 4.00pm.

"Evening shift" means a shift which commences at or after 4.00pm and before 6.00am on the day following.

- (iii) Staff members whose ordinary working hours include work on a Saturday and/or Sunday shall be paid for ordinary working hours worked between midnight on Friday and midnight on Saturday at the rate of time and one-half and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of time and three-quarters. These extra rates shall be in substitution for, and not cumulative upon, the shift loadings prescribed in subclause (i) of this clause.
- (iv) Subclause (iii) shall apply to part-time workers engaged under Clause 6(1)(i)(c), but such workers shall be paid the shift allowances under subclause (iii) in lieu of the 15% part-time loading.
- (v) This clause does not apply to staff members employed in the classification of Team Leader. The rate of pay for Team Leader is an all-inclusive rate.

- (vi) In all cases where a shift worker works during the period of changeover to and from daylight saving time, the shift worker shall be paid the normal rate for the shift.

12. Meals

- (i) Time not exceeding one hour and not less than 30 minutes shall be allowed for each meal.
- (ii) In any cases where the Department determines that the needs of the clients are such that employees cannot be permitted to leave the Department's premises during any meal break, unpaid meal breaks will not be provided and any time allowed for the partaking of a meal on the Department's premises shall be regarded as part of the ordinary hours for the shift.
- (iii) Where an employee in the course of their employment partakes of a meal or light refreshment other than routine meals, in company with clients, as part of individual lifestyle plan requirements, the cost of the meal or light refreshment shall be borne by the employer upon the provision of receipts from the staff member.
- (iv) Where an employee is called upon to work any portion of an unpaid meal break, such time shall be paid for at overtime rates.
- (v) An employee required to work overtime following on the completion of their normal shift for more than two hours shall be allowed 20 minutes for the partaking of a meal and a further 20 minutes after each subsequent four hours' overtime. All such time shall be counted as time worked.
- (vi) The meals referred to in sub-clauses (ii), (iii) and (v) of this clause shall be allowed to the employee free of charge. Where the employer is unable to provide such meals, a meal allowance under the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 shall apply.
- (vii) Where practicable, employees shall not be required to work more than five hours without a meal break.

13. Recreation Leave

(1) General

- (i) Except where stated otherwise in this Award, all staff members accrue paid recreation leave at the rate of 20 working days per year.
- (ii) Part-time staff members shall accrue paid recreation leave on a pro-rata basis in the following manner;
 - (a) Part-time staff members engaged under Clause 6(1)(i)(a) and (c) will accrue pro-rata recreation leave based on the contracted hours contained in the employment contract.
 - (b) Part-time staff members engaged under Clause 6(1)(i)(b) will accrue pro-rata recreation leave based on the ordinary hours worked.
- (iii) Additional recreation leave, at the rate of 5 days per year, accrues to a staff member who is stationed indefinitely in a remote area of the State, being the Western and Central Division of the State described as such in the Second Schedule to the *Crown Lands Consolidation Act 1913* before its repeal.
- (iv) Staff members who prior to 30.4.99 were employed in the classification of Senior/Chief/Principal Youth Worker and in receipt of six weeks recreation leave in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, may continue to accrue recreation leave at the rate of six weeks per year.
- (v) Staff members covered by sub-clause (iv) above, may elect to revert to four weeks recreation leave per annum, and therefore receive the provisions of clause 14 Public Holidays. This election may only be made once and such option is not reversible.

- (vi) Staff members covered by sub-clause (iv) above, may elect at any time, to cash out any recreation leave accrued in addition to the entitlement under sub-clause (i) above.
- (vii) The provisions of sub-clauses (2), (3) and (4) of this Award are taken from the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009. Any variations to that Award in regards to these provisions are to apply and be incorporated into this Award.

(2) Limits on Accumulation and Direction to take Leave

- (i) At least two (2) weeks consecutive weeks of recreation leave shall be taken by a staff member every 12 months, except by agreement with the Department Head in special circumstances.
- (ii) Where the operational requirements permit, the application for leave shall be dealt with by the Department Head according to the wishes of the staff member.
- (iii) The Department Head shall notify the staff member in writing when accrued recreation leave reaches 6 weeks or its hourly equivalent and at the same time may direct a staff member to take at least 2 weeks recreation leave within 3 months of the notification at a time convenient to ADHC.
- (iv) The Department Head shall notify the staff member in writing when accrued recreation leave reaches 8 weeks or its hourly equivalent and direct the staff member to take at least 2 weeks recreation leave within 6 weeks of the notification. Such leave is to be taken at time convenient to ADHC.
- (v) A staff member must take their recreation leave to reduce all balance below 8 weeks, and ADHC must cooperate in this process. ADHC may direct a staff member with more than 8 weeks to take their recreation leave so that it is reduced to below 8 weeks by school term one 2010.

(3) Conservation of Leave

- (i) If ADHC is satisfied that a staff member is prevented by operational or personal reasons from taking sufficient recreation leave to reduce the accrued leave below an acceptable level of between 4 and 6 weeks or its hourly equivalent, the Department Head shall:-
 - (1) Specify in writing the period of time during which the excess shall be conserved; and
 - (2) On the expiration of the period during which conservation of leave applies, grant sufficient leave to the staff member at a mutually convenient time to enable the accrued leave to be reduced to an acceptable level below the 8 weeks' limit.
 - (3) A Department Head will inform a staff member in writing on a regular basis of the staff member's recreation leave accrual.
 - (4) Miscellaneous
 - (i) Recreation leave is to be granted in multiples of 1 hour.
 - (ii) Recreation leave for which a staff member is eligible on cessation of employment is to be calculated to a quarter day (fractions less than a quarter being rounded up).
 - (iii) Recreation leave does not accrue to a staff member in respect of any period of absence from duty without leave or without pay, except as specified in sub-clause (iv) below.
 - (iv) Recreation leave accrues during any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the *Workers Compensation Act 1987*; or any period of sick leave without pay or

any other approved leave without pay, not exceeding 5 full time working days, or their part time equivalent, in any period of 12 months.

- (v) The proportionate deduction to be made in respect of the accrual of recreation leave on account of any period of absence referred in sub-clause (iv) above, shall be calculated to an exact quarter-day (fractions less than a quarter being rounded down).
- (vi) Recreation leave accrues at half its normal accrual rate during periods of extended leave on half pay or recreation leave taken on half pay.
- (vii) Recreation leave may be taken on half pay in conjunction with and subject to the provisions applying to adoption, maternity or parental leave under the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- (viii) On cessation of employment, a staff member is entitled to be paid, the money value of accrued recreation leave which remains untaken.
- (ix) A staff member to whom sub-clause (viii) above applies, may elect to take all or part of accrued recreation leave which remains untaken at cessation of active duty as leave or as a lump sum payment; or as a combination of leave and lump sum payment.

(5) Additional Recreation Leave - Shiftworkers

- (i) Staff members who are rostered to work their ordinary hours on Sundays and/or Public Holidays during a qualifying period of employment for recreation leave purposes shall be entitled to receive additional recreation leave as follows:

| Number of ordinary shifts worked on Sundays and/or Public Holidays during qualifying period of employment for Annual Leave purposes | Additional Recreation Leave |
|---|-----------------------------|
| 4 to 10 | 1 day |
| 11 to 17 | 2 days |
| 18 to 24 | 3 days |
| 25 to 31 | 4 days |
| 32 or more | 5 days |

- (ii) For part-time staff members, the "days" referred to in the above table will be equivalent to pro-rata contracted hours.
- (iii) A staff member may elect to be paid an amount equivalent to the value of their additional recreation leave entitlement accrued under subclause (i). Such election must be in writing and may be made at any time subject to sub-clause (iv) below.
- (iv) Additional recreation leave accrued under Clause 14(5) is accrued over at least a 12 month qualifying period and will be credited to the leave balance or paid out, according to the election of the staff member, on anniversary of employment.
- (v) Provided further that on termination of employment, staff members shall be entitled to payment for any untaken recreation leave due under Clause 14(5), together with payment for any untaken leave in respect of an incomplete year of employment, calculated in accordance with Clause 14(5).

(6) Annual Leave Loading

- (i) A shift worker, shall be paid whilst on recreation leave their ordinary pay plus shift allowances and weekend penalties relating to an average of shift penalties received by a staff member in a 12 month period prior to commencing on leave. Where a staff member has not worked shift work for a period of 12 months prior to commencement on leave, then an average of shift penalties paid in the lesser period since date of appointment as a staff member is to apply.
- (ii) Provided that, in relation to subclause (i) above, shift allowances and weekend penalties shall not be payable for public holidays which occur during a period of recreation leave or for days which have been added to recreation leave in accordance with the provisions of Clause 14 Public Holidays.
- (iii) Staff members shall be entitled to an annual leave loading of 17.5%, or shift penalties as set out in subclauses (i) and (ii) above, whichever is the greater, on up to four weeks recreation leave for non-shift workers and up to five weeks recreation leave for shift workers.
- (iv) Where staff members receive additional recreation leave under Clause 13(1)(iv), the annual leave loading shall continue to be paid on a maximum of 4 weeks leave.
- (v) For the calculation of annual leave loading, the leave year shall commence on 1 December each year and shall end on 30 November of the following year.
- (vi) Payment of the annual leave loading shall be made on the recreation leave accrued during the previous leave year and shall be subject to the following conditions:
 - (1) Annual leave loading shall be paid on the first occasion in a leave year, other than the first leave year of employment, when a staff member takes at least two (2) consecutive weeks recreation leave. Such leave may be a combination of recreation leave, public holidays, extended leave (long service leave), leave without pay, time off in lieu and rostered day off with pay.
 - (2) If at least two weeks' leave, as set out in paragraph (1) of this subclause, is not taken in a leave year, then the payment of the annual leave loading entitlement for the previous leave year shall be made to the staff member as at 30 November of the current year.
 - (3) While annual leave loading shall not be paid in the first leave year of employment, it shall be paid on the first occasion in the second leave year of employment when at least two weeks leave as specified in paragraph (1) of this subclause, is taken.
 - (4) A staff member who has not been paid the annual leave loading for the previous leave year, shall be paid such annual leave loading on resignation, retirement or termination by the employer for any reason other than the staff member's serious and intentional misconduct.
 - (5) Except in cases of voluntary redundancy, proportionate leave loading is not payable on cessation of employment.

14. Public Holidays

(1) General

- (i) Staff members shall be allowed to have public holidays off on full pay.
- (ii) For the purposes of this clause the following shall be deemed public holidays, viz: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Christmas Day, Boxing Day, Anzac Day, Queen's Birthday, Local Labour Day and any other day duly proclaimed and observed as a public holiday throughout the State of New South Wales.

- (iii) Except as otherwise provided in this subclause, where a staff member is required to and does work on any day of the holidays set out in subclause (ii) above, whether for a full shift or not, the staff member shall be paid at time and a half extra to the weekly rate for the ordinary rostered hours of duty. Such payment is to be in lieu of weekend or shift allowances which would otherwise be payable had the day not been a public holiday.
 - (iv) Staff members may elect to be paid at half time extra to the weekly rate for the ordinary rostered hours and have the equivalent of the rostered hours added to their period of recreation leave for each public holidays worked in lieu of the payment provided in subclause (iii) above.
 - (v) Staff members who are rostered off duty on a public holiday shall:
 - (1) be paid one day's pay in addition to the weekly rate or, if the officer so elects,
 - (2) have one day added to their period of recreation leave.
 - (vi) Where a staff member is rostered for a shift that crosses midnight on a public holiday, and the total rostered hours on the public holiday are less than the equivalent of a full shift, for the purposes of subclause (v) above, the shift will be deemed to have been worked on the day on which the majority of time was actually worked.
 - (vii) Where because of the majority of hours falling on a non-public holiday the shift is regarded as a non-public holiday shift, the staff member shall be deemed to have been rostered off duty on the public holiday and shall be paid in accordance with subclause (v).
 - (viii) The elections referred to in sub-clauses (iv) and (v) above, and in this sub-clause are to be made in writing. Provided that a staff member may at any time change their election and may also elect to cash out any additional recreation leave balance accrued from these elections.
 - (ix) In addition to those public holidays specified in subclause (ii) above, staff members shall be entitled to an extra public holiday each year. Such public holiday will occur on a day between Boxing Day and New Year's Day determined by the appropriate Department Head as a public service holiday.
 - (x) Staff members receive the public holiday in sub-clause (ix) above in lieu of any local holiday.
 - (xi) For the purposes of this clause "full pay" shall mean the appropriate rate prescribed for the hours which the staff member would have worked had the day not been a public holiday.
 - (xii) Team Leaders will ordinarily be rostered off duty on public holidays and receive the benefits under sub-clause (v) above.
- (2) Six Weeks Base Recreation Leave Staff Members
- (i) Sub-clauses in section (2) apply to staff members in receipt of six weeks leave.
 - (ii) The provisions of sub-clause (1) (i) - (v) do not apply. However, staff members may receive the additional public holiday in sub-clause (1) (ix) and may exercise the elections specified in subclause (1) (vi) and (vii) above.
 - (iii) Where a staff member is required and does work on any public holiday, whether for a full shift or not, they shall be paid at half time extra for the ordinary rostered hours of duty.
- (3) Part-time Staff Members
- (i) The provisions of this sub-clause (1) apply to part-time staff members engaged under Clause 6(2) and

- (ii) The provisions of sub-clause (1) do not apply to part-time staff members engaged under Clause 6(4) of this Award and who are in receipt of the 15% part-time loading. However, each staff member engaged under Clause 6(4) who is required to and does work on a public holiday as defined under sub-clause (ii) above, shall be paid at the rate of double time and one-half in lieu of the 15% part-time loading.

15. Paid Union Leave

- (i) The provisions for paid Union Leave will be in accordance with Section 5 Clauses 53 to 66 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009.
- (ii) In addition to the provisions under sub-clause (i) above, members of the Association, who are accredited by the Association as Association delegates, shall be entitled to apply for paid special leave for attendance at Association delegates' meetings.

16. Payment and Particulars of Salary

- (i) Wages shall be paid fortnightly; provided that, for the purpose of adjustments of wages related to alterations in the basic wage, from time to time affective, the pay period shall be deemed to be fortnightly. On each payday the pay shall be made up to a date not more than three days prior to the day of payment and shall include all payments due to the staff member for that particular pay period.
- (ii) Staff members shall have their salary paid into a bank or other financial institution in New South Wales, as nominated by the staff member. Salaries shall be deposited by ADHC in sufficient time to ensure that salaries are available for withdrawal by staff members by no later than pay day.
- (iii) Staff members proceeding on long service leave, extended leave and recreation leave, shall on request, be paid in advance prior to commencing such leave. However, where a staff member wishes to receive their pay on their usual pay day, this shall be done.
- (iv) Notwithstanding the provisions of subclause (ii) above, a staff member should be paid all monies due to them by ADHC within 48 hours of ceasing duty on the last day of employment.
- (v) On each pay day a staff member, in respect of the payment then due, shall be furnished with a statement, in writing, containing the following particulars, namely: name, the amount of ordinary salary, the total number of ordinary hours, the total number of hours of overtime worked, if any, the amount of any overtime payment, the amount of any other monies paid, and the purpose for which they are paid and the amount of the deductions made from total earnings and the nature thereof.
- (vi) Where retrospective adjustments of wages are paid to staff members, such payments, where practicable, shall be paid as a separate payment to ordinary wages. Such payment shall be accompanied by a statement containing particulars as set out in subclause (v) above.

17. Accommodation and Amenities

- (i) Suitable dining areas, lavatory and washing facilities and lockable facilities for staff members personal belongings shall be made available in all Departmental facilities.
- (ii) In all units, hot and cold showers and conveniences shall also be available for staff members.
- (iii) Where major additions to presently occupied buildings or new buildings are erected, the amenities to be available in such additions or new buildings shall be the subject of negotiations between the parties.

18. Uniforms and Protective Clothing

- (i) Staff members shall not be required to wear a uniform or any part thereof. Therefore, no allowance in lieu of the supply of uniforms shall be payable.

- (ii) Where the nature of the duties to be performed so warrants, suitable protective outer garments shall be available for the use of staff members.

19. Dispute Resolution Procedures

- (i) All grievances and disputes relating to the provisions of the Award 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 ADHC, if required.
- (ii) A staff member is required to notify, in writing, their immediate manager 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) 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.
- (iv) The immediate manager 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.
- (v) If the matter remains unresolved with the immediate manager, the staff member 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 staff member may pursue this sequence of reference to successive levels of management until the matter is referred to the Regional Manager or Branch Head.
- (vi) The Regional Manager or Branch Head may refer the matter to ADHC's Human Resources or Employment Relations Branch for consideration.
- (vii) If the matter remains unresolved, ADHC shall provide a written response to the staff member 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.
- (viii) A staff member, at any stage, may request to be represented by their union.
- (ix) The staff member or the union on their behalf, or the Department Head, may refer the matter to the Industrial Relations Commission of New South Wales if the matter is unresolved following the use of these procedures.
- (x) The staff member, union and ADHC shall agree to be bound by any order or determination by the Industrial Relations Commission in relation to the dispute.
- (xi) Whilst the procedures outlined in subclauses (i) to (x) above are being followed, normal work undertaken prior to notification of the dispute or difficulty shall continue unless otherwise agreed between the parties, or, in a 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 staff member or member of the public.

20. Anti-Discrimination

- (i) 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 as a carer.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by 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.

- (iii) 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.
- (iv) Nothing in this clause is to be taken to affect:
 - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this Award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the 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 the 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."

21. Association Representative

- (i) An officer appointed Association representative shall, upon notification thereof in writing to ADHC, be recognised as the accredited representative of the Association and shall be allowed the necessary time, during working hours, to interview ADHC and staff members on matters affecting staff members.

22. Notice Board

- (i) ADHC shall provide and erect a notice board of reasonable dimensions in each unit, to be erected in a prominent position and upon which the Association representative shall be able to post Association notices.

23. Medical Examinations

- (i) Staff members required to work in areas where they are subject to a higher than normal risk of infection shall be given appropriate check-ups upon making application therefore to ADHC.

24. Deduction of Union Membership Fees

- (i) The union shall provide ADHC with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the union's rules.
- (ii) The union shall advise ADHC of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of union fortnightly membership fees payable shall be provided to the employer at least one month in advance of the variation taking effect.

- (iii) Subject to (i) and (ii) above, ADHC shall deduct union fortnightly membership fees from the pay of any staff member who is a member of the union in accordance with the union's rules, provided that the staff member has authorised ADHC to make such deductions.
- (iv) Monies so deducted from staff member's pay shall be forwarded regularly to the union together with all necessary information to enable the union to reconcile the credit subscriptions to staff member's union membership accounts.
- (v) Unless other arrangements are agreed to by ADHC and the union, all union membership fees shall be deducted on a fortnightly basis.
- (vi) Where a staff member has already authorised the deduction of union membership fees from his or her pay prior to this clause taking effect, nothing in this clause shall be read as requiring the staff member to make a fresh authorisation in order for such deductions to continue.

25. Mobility of Staff

- (i) All staff members are recruited to a District, not a unit. The movement of staff members within the District will occur in a reasonable manner.
- (ii) Staff may be rotated through shifts at various units for the following purposes where practicable:
 - For staff and workforce development, including unit induction;
 - To meet client support needs;
 - To address Work Health and Safety issues or injury management obligations;
 - When a staff member has identified a desire to work in another unit; or
 - To support workforce requirements including the filling of long term vacancies.
- (iii) Staff will not be asked to work a shift in another unit:
 - Without reasonable notice; or
 - If the distance the staff member is required to travel is unreasonable having regard to the individual's circumstances
- (iv) Where possible, all transfers will be undertaken on a voluntary basis.
- (v) Where an involuntary transfer is necessary, consultation with the PSA will be undertaken prior to the transfer being affected.
- (vi) For the purposes of this clause, no transfer will be used as a punitive measure.

26. General Conditions of Employment

- (i) It is the intention of the parties to this Award that all other conditions not specified in this Award will be in accordance with the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, , Government Sector Employment Act 2013 and the Government Sector Employment Regulation 2013..
- (ii) The salary rates in Part B of the Award are set in accordance with movements in salary from the Crown Employees (Public Sector - Salaries 2015) Award and any variation or replacement Award.

27. Extra Claims

The No Extra Claims clause (clause 8) contained in the Crown Employees (Public Sector- Salaries 2015) Award shall apply to the employees covered by this Award.

28. Area, Incidence and Duration

This Award applies to staff members and casual employees who are employed by ADHC in a classification listed in Part B of this Award, and defined in Clause 2 of Part A of this Award, who come within the constitutional coverage of the Association.

This award was made following a review under section 19 of the Industrial Relations Act 1996 and rescinds and replaces the Crown Employees Ageing, Disability and Home Care - Department of Human Services NSW (Community Living Award) 2010 Award published 24 September 2010 (370 IG 442) and all variations thereof.

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 IG 359) take effect on 17 November 2015.

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

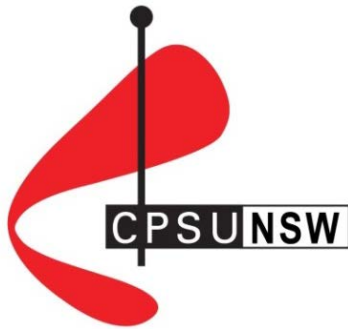
PART B

Schedule 1 - Monetary Rates

| Level | Year | Effective from 1.7.15 Per Annum \$ |
|---------------------------|------|--|
| Disability Support Worker | 1 | 49,799 |
| | 2 | 50,675 |
| | 3 | 52,002 |
| | 4 | 53,014 |
| | 5 | 54,015 |
| | 6 | 55,502 |
| | 7 | 56,466 |
| | 8 | 57,460 |
| | 9 | 59,383 |
| | 10 | 61,314 |
| Team Leader* One Unit | 1 | 88,015 |
| | 2 | 89,781 |
| Team Leader* Two Units | 1 | 90,646 |
| | 2 | 92,446 |
| Community Support Worker | 1 | 49,799 |
| | 2 | 50,675 |
| | 3 | 52,002 |
| | 4 | 53,014 |
| | 5 | 54,015 |
| Community Worker | 1 | 54,015 |
| | 2 | 55,502 |
| | 3 | 57,460 |
| | 4 | 60,789 |
| | 5 | 63,617 |
| | 6 | 66,799 |
| | 7 | 70,329 |
| | 8 | 73,712 |
| Community Consultant | 1 | 71,113 |
| | 2 | 74,658 |
| | 3 | 77,448 |
| | 4 | 80,528 |
| | 5 | 84,570 |

J. D. STANTON, Commissioner

Printed by the authority of the Industrial Registrar.



CROWN EMPLOYEES

AGEING, DISABILITY AND HOME CARE –
NSW DEPARTMENT OF FAMILY AND COMMUNITY SERVICES
(COMMUNITY LIVING AWARD) 2015

VARIATION Award
as at 30 August 2017

**Variation of the Award is listed below:

| Clause No. | Subject matter |
|------------|---|
| 4 | Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation |
| 16 | Paid Special Sick Leave |
| 29 | No Extra Claims |
| Schedule 3 | Allowances |
| Schedule 4 | Rostering Principles |

**CROWN EMPLOYEES AGEING, DISABILITY AND HOME CARE –
NSW DEPARTMENT OF FAMILY AND COMMUNITY SERVICES
(COMMUNITY LIVING AWARD) 2015**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by the Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, Industrial Organisation of Employees.

(Case No. 2017/177667)

Before Chief Commissioner Kite

30 August 2017

VARIATION

- 1. Delete Part A, Arrangement of award published 15 January 2016 (378 IG 1542) and insert in lieu thereof the following:

PART A

1. Arrangement

PART A

| Clause No. | Subject Matter |
|------------|--|
| 1. | Arrangement |
| 2. | Definitions |
| 3. | Salaries |
| 4. | Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation |
| 5. | Hours |
| 6. | Roster of Hours |
| 7. | Part-time Staff Members |
| 8. | Casual Employees |
| 9. | Temporary Employees |
| 10. | Overtime |
| 11. | Sleepovers |
| 12. | Penalty Rates for Shift Work and Weekend Work and Special Working Conditions |
| 13. | Meals |
| 14. | Recreation Leave |
| 15. | Public Holidays |
| 16. | Paid Special Sick Leave |
| 17. | Paid Union Leave |
| 18. | Payment and Particulars of Salary |
| 19. | Accommodation and Amenities |
| 20. | Uniforms and Protective Clothing |
| 21. | Dispute Resolution Procedures |
| 22. | Anti-Discrimination |
| 23. | Association Representatives |
| 24. | Notice Board |
| 25. | Medical Examinations |
| 26. | Deduction of Union Membership Fees |
| 27. | Mobility of Staff |
| 28. | General Conditions |

- 29. No Extra Claims
- 30. Area Incidence and Duration

PART B

- Schedule 1 - Monetary Rates
- Schedule 2 - Transitional Arrangements
- Schedule 3 - Allowances
- Schedule 4 - Rostering Principles

2. Insert after clause 3 Salaries, the following new clause:

4. Salary Packaging Arrangements, Including Salary Sacrifice to Superannuation

- (1) The entitlement to salary package in accordance with this clause is available to:
- (i) permanent full-time and part-time employees;
 - (ii) temporary employees, subject to the Department or agency's convenience; and
 - (iii) casual employees, subject to the Department or agency's convenience, and limited to salary sacrifice to superannuation in accordance with sub-clause (7).
- (2) For the purposes of this clause:
- (i) "salary" means the salary or rate of pay prescribed for the employee's classification by clause 3, Salaries of this Award, and any other payment that can be salary packaged in accordance with Australian taxation law.
 - (ii) "post compulsory deduction salary" means the amount of salary available to be packaged after payroll deductions required by legislation or order have been taken into account. Such payroll deductions may include, but are not limited to, taxes, compulsory superannuation payments, HECS payments, child support payments, and judgement debtor/garnishee orders.
- (3) By mutual agreement with the Department Head, an employee may elect to package a part or all of their post compulsory deduction salary in order to obtain:
- (i) a benefit or benefits selected from those approved by the Department Head; and
 - (ii) an amount equal to the difference between the employee's salary, and the amount specified by the Department Head for the benefit provided to or in respect of the employee in accordance with such agreement.
- (4) An election to salary package must be made prior to the commencement of the period of service to which the earnings relate.
- (5) The agreement shall be known as a Salary Packaging Agreement.
- (6) Except in accordance with sub-clause (7), a Salary Packaging Agreement shall be recorded in writing and shall be for a period of time as mutually agreed between the employee and the Department Head at the time of signing the Salary Packaging Agreement.
- (7) Where an employee makes an election to sacrifice a part or all of their post compulsory deduction salary as additional employer superannuation contributions, the employee may elect to have the amount sacrificed:
- (i) paid into the superannuation fund established under the *First State Superannuation Act 1992*; or

- (ii) where the employer is making compulsory employer superannuation contributions to another complying superannuation fund, paid into the same complying fund; or
 - (iii) subject to the Department or agency's agreement, paid into another complying superannuation fund.
- (8) Where the employee makes an election to salary sacrifice, the employer shall pay the amount of post compulsory deduction salary, the subject of election, to the relevant superannuation fund.
- (9) Where the employee makes an election to salary package and where the employee is a member of a superannuation scheme established under the:
- (i) *Police Regulation (Superannuation) Act 1906*;
 - (ii) *Superannuation Act 1916*;
 - (iii) *State Authorities Superannuation Act 1987*; or
 - (iv) *State Authorities Non-contributory Superannuation Act 1987*,

the employee's Department or agency must ensure that the employee's superable salary for the purposes of the above Acts, as notified to the SAS Trustee Corporation, is calculated as if the Salary Packaging Agreement had not been entered into.

- (10) Where the employee makes an election to salary package, and where the employee is a member of a superannuation fund other than a fund established under legislation listed in sub-clause (9) of this clause, the employee's Department or agency must continue to base contributions to that fund on the salary payable as if the Salary Packaging Agreement had not been entered into. This clause applies even though the superannuation contributions made by the Department or agency may be in excess of superannuation guarantee requirements after the salary packaging is implemented.
- (11) Where the employee makes an election to salary package:
- (i) subject to Australian Taxation law, the amount of salary packaged will reduce the salary subject to appropriate PAYG taxation deductions by the amount packaged; and
 - (ii) any allowance, penalty rate, payment for unused leave entitlements, weekly worker's compensation or other payment, other than any payments for leave taken in service, to which an employee is entitled under this Award or any applicable Award, Act or statute which is expressed to be determined by reference to the employee's rate of pay, shall be calculated by reference to the rate of pay which would have applied to the employee under clause 3, Salaries of this Award if the Salary Packaging Agreement had not been entered into.
- (12) The Department Head may vary the range and type of benefits available from time to time following discussion with the Association. Such variations shall apply to any existing or future Salary Packaging Agreement from date of such variation.
- (13) The Department Head will determine from time to time the value of the benefits provided following discussion with the Association. Such variations shall apply to any existing or future Salary Packaging Agreement from the date of such variation. In this circumstance, the employee may elect to terminate the Salary Packaging Agreement.
3. Insert after subclause (viii) in clause 6, Roster of Hours, the following new subclause:
- (ix) Rosters shall be developed and implemented in accordance with the 'Rostering Principles' at Schedule 3.

4. Insert after clause 15 Public Holidays, the following new clause:

16. Paid Special Sick Leave

- (1) Paid special sick leave shall be granted by the Department if an employee satisfies the following criteria:
- (i) has ten or more years of service
 - (ii) has been or will be absent for a period of at least three months; and
 - (iii) has exhausted or will exhaust, all sick leave entitlements.
- (2) Paid sick leave will be granted in accordance with the following table:

| Completed years of service | Number of working days | | |
|----------------------------|------------------------|------------|------------|
| | 5 day week | 6 day week | 7 day week |
| 10 | 22 | 26 | 30 |
| 20 | 44 | 52 | 60 |
| 30 | 66 | 78 | 90 |
| 40 | 88 | 104 | 120 |
| 50 | 110 | 150 | 150 |

5. Delete subclause (ii) of clause 28 General Conditions of Employment.
6. Delete clause 27, Extra Claims.
7. Insert after clause 28 General Conditions, the following new clause:

29. No Extra Claims

Other than as provided for in the *Industrial Relations Act* 1996 and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014, there shall be no further claims/demands or proceedings instituted before the NSW Industrial Relations Commission for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the Employees covered by the Award that take effect prior to 30 June 2018 by a party to this Award.

8. Delete Schedule 1 - Monetary Rates of Part B and insert in lieu thereof the following:

PART B

Schedule 1 - Monetary Rates

| Classification and Grades | Effective from 1.7.17 Per Annum \$ |
|---------------------------|--|
| Disability Support Worker | |
| Year 1 | 52,320 |
| Year 2 | 53,241 |
| Year 3 | 54,635 |
| Year 4 | 55,697 |
| Year 5 | 56,749 |
| Year 6 | 58,312 |
| Year 7 | 59,325 |
| Year 8 | 60,368 |
| Year 9 | 62,390 |
| Year 10 | 64,418 |
| Team Leader - One Unit | |
| Year 1 | 92,470 |

| | |
|--------------------------|--------|
| Year 2 | 94,327 |
| Team Leader - Two Units | |
| Year 1 | 95,235 |
| Year 2 | 97,126 |
| Community Support Worker | |
| Year 1 | 52,320 |
| Year 2 | 53,241 |
| Year 3 | 54,635 |
| Year 4 | 55,697 |
| Year 5 | 56,749 |
| Community Worker | |
| Year 1 | 56,749 |
| Year 2 | 58,312 |
| Year 3 | 60,368 |
| Year 4 | 63,867 |
| Year 5 | 66,837 |
| Year 6 | 70,181 |
| Year 7 | 73,889 |
| Year 8 | 74,444 |
| Community Consultant | |
| Year 1 | 74,713 |
| Year 2 | 78,437 |
| Year 3 | 81,369 |
| Year 4 | 84,605 |
| Year 5 | 88,851 |

9. Delete Table 1 of Schedule 2 - Transitional Arrangements in Part B and insert in lieu thereof the following:

Table 1

Transitional Arrangements for Residential Support Workers Level 2 with 12 months or more service at their current rate of pay who were prevented from further annual increments due to qualification requirements under previous award provisions.

| Classification and Grades | 1.7.17 Per annum 2.50% \$ |
|------------------------------------|------------------------------------|
| Residential Support Worker Level 2 | |
| Year 1 | 55,697 |
| Year 2 | 56,749 |
| Year 3 | 58,312 |
| Year 4 | 59,325 |
| Year 5 | 60,368 |
| Year 6 | 62,390 |
| Disability Support Worker | |
| Year 5 | 56,749 |
| Year 6 | 58,312 |
| Year 7 | 59,325 |
| Year 8 | 60,368 |
| Year 9 | 62,390 |
| Year 10 | 64,418 |

10. Delete Schedule 3 - Allowances of Part B and insert in lieu thereof the following:

Schedule 3 - Allowances

| | |
|--|------------------------------------|
| Allowances | 1.7.17 Per annum 2.50% \$ |
| (i) An officer who is required by the Department to accompany clients on excursions, etc, which necessitate overnight stays shall be paid in allowance equivalent to eight hours at ordinary rates for each overnight stay (ii) An officer who is nominated to supervise a team in a community based service, other than in a residential setting, shall be paid a Team Leader Allowance as follows | |
| No of staff Supervised 5 to 10 | 4,021 |
| No of staff Supervised 11 to 25 | 6,714 |
| No of staff supervised 26 to 40 | 9,411 |
| No of staff Supervised 40 + | 10,736 |

11. Insert after Schedule 3 - Allowances of Part B, the following new Schedule:

Schedule 4 - Rostering Principles

- (1) Statement of Intent

These principles are to be adopted by Regions in rostering Disability Support Workers and Team Leaders within Ageing, Disability and Home Care (ADHC). They are to be read in conjunction with the Crown Employees Ageing, Disability and Home Care - Department of Human Services NSW (Community Living Award) 2016 (hereafter referred to as the Award).

ADHC is responsible for the delivery of client services in the accommodation and respite business stream. In determining rostering requirements line managers must have regard to the identified client needs requiring staff support, OH&S obligations, management of risk and the allocated budget.

This document set outs the principles to be applied in the rostering of staff in line with the Award provisions.

- (2) Award and General Parameters

- (i) Rosters must meet the needs of ADHC and its clients. In this context ADHC is committed to maximising the flexibility available to employees to balance their work and personal/family obligations.
- (ii) Requests for roster changes due to personal/family obligations should be given favourable consideration where the request can be practicably and reasonably facilitated. So far as possible, reasonable notice should be provided by the employee. In this context Team Leaders need to consider NSW Government policy and legislative requirements regarding accommodating personal and family obligations, and may need to balance competing and/or conflicting requests from staff. The Business link Human Resources section in each Region are available to provide advice to Team Leaders when making rostering decisions.
- (iii) Shifts may be swapped by mutual agreement with the prior approval of the Team Leader.
- (iv) The requirements of Clause 5 "Hours" and Clause 6 "Rosters of Hours" of the Award are to be met. Rosters are to be for a period of 28 calendar days.
- (v) Standard shift lengths for full time employees are 8 or 10 hours.

- (vi) The minimum ordinary hours that may be rostered for permanent/temporary part time or casual employees is 3 hours and ordinary shift lengths will otherwise not exceed normal full time hours.
- (vii) Clause 6 "Roster of Hours" of the Award sets out the terms and conditions of payment to staff, including the payment of overtime, where alterations are made to a roster.
- (viii) Where a change in roster occurs within less than 24 hours' notice to the affected staff member all time worked outside that shown on the roster shall be paid at overtime rates.

(3) Master and Operational Rosters

- (i) Master rosters are developed by Team Leaders in consultation with staff and provided to Coordinators Accommodation and Respite for approval.
- (ii) Operational rosters are developed by Team Leaders in consultation with staff.
- (iii) Rosters are not to be used as a mechanism to inappropriately advantage or disadvantage any staff member.
- (iv) The development of master rosters and any changes to them are to be the subject of consultation with all permanent and temporary staff.
- (v) Operational rosters are developed from the master roster in consultation with staff. Operational rosters will reflect deviations from the master roster.
- (vi) An operational roster may be changed at any time to enable the operation of the service to be carried on. Long term or anticipated changes to client needs will be reflected as a change to the master roster.
- (vii) Operational rosters are to be displayed two weeks in advance of the rostering commencing.
- (viii) Any change in the displayed operational roster must be notified verbally and in writing, where practical, to the staff member concerned. In all cases a written record of the decision must be kept. Any change to the operational roster which exceeds the cost of the roster budgeted for that location is subject to approval.

(4) Needs Based Rostering

- (i) All full-time and part-time employees are employed as shift workers on a 24/7 basis in accordance with the Award subject to any part-time work agreements.
- (ii) The rostering arrangements should be appropriate to the client needs and the staffs' skills.
- (iii) All staff should be rostered in a way that:
 - (a) is based on rostering need such as capacity for supervision (informal/formal); ability to perform key worker role; and opportunity to work alongside other colleagues.
 - (b) facilitates their attendance at staff meetings and approved professional development and training. Every endeavour is to be made to ensure all staff can attend staff meetings e.g. the immediately prior rostered night shift to be arranged for a person outside the unit.
- (iv) All employees who have not previously worked in a ADHC Group Home or Respite Unit where they will be required to work are to receive 3 hours of orientation to the unit or more if necessary. The hours for the orientation are to be supernumery for the employee being inducted into the unit.

(5) Filling of Vacant Shifts - Where the Vacancy Will Not Exceed 5 Working Days

- (i) For vacancies not exceeding 5 working days there is usually a need to supplement the workforce as a consequence of:
 - (a) changing client needs
 - (b) the absence of another employee
 - (c) an emergency.
- (ii) Vacancies not exceeding 5 working days are to be filled in the following order:
 - (a) Additional hours offered to permanent and/or temporary part-time employees.
 - (b) Engagement of casual employees at ordinary rates i.e. not overtime work.
 - (c) Overtime.
 - (d) Agency staff.
- (iii) In the filling of vacancies not exceeding 5 working days regions should explore options for using existing staff from within the Cluster and also within Region.
- (iv) Provided that in making the offer of additional, casual or overtime hours, the total number of hours which will be worked by the employee in the fortnight period is taken into account. This is necessary to meet OH&S responsibilities in relation to fatigue management. The working of a maximum of 96 hours per fortnight is considered reasonable
- (v) All employees are expected to take reasonable steps to fill immediate short term vacancies. The filling of all other vacancies will be the responsibility of the line manager responsible for rostering of that Unit.
- (vi) Disability Support Workers need not seek the approval of the Team Leader or the on-call officer in filling a short-term vacancy, provided that the offer of hours or work is line with these principles and follows the order set out in (ii) above. However, in emergency situations, particularly in instances where the immediate health and safety of a client or employee is seriously at risk and the Team Leader is not rostered to work, employees may directly contact employees to attend work in the absence of an approval from a manager to do so. Contact is to be made with the line manager responsible for rostering of that Unit as soon as practicable after the engagement has been made.

(6) Filling of Vacant Shifts - Vacancies Exceeding 5 Days

- (i) Where it is known in advance that there will be a vacant line on a roster and the vacancy is not short term, ADHC's preference is to fill the entire line wherever practicable. The order outlined below will be applied in the first instance to the entire vacancy. If it is found that the vacancy can not be filled by a single staff member, then the vacant shifts will be offered to staff in the following order;
 - (a) Permanent part-time staff to be offered a temporary increase in hours.
 - (b) New temporary contract of employment or variation of contract for existing temporary staff. Where appropriate may also be administered by way of payment of additional hours.
 - (c) Engagement of casual employees at ordinary rates i.e. not overtime work.
 - (d) Overtime.

- (e) Engagement of agency staff.
 - (ii) The Guidelines for the Engagement of Agency staff in Group Homes and Respite Centres are to be consulted where it is proposed to engage agency staff.
- (7) Dispute Resolution
- (i) In the first instance concerns about rostering should be the subject of discussion between the staff members involved and their immediate supervisor. Team meetings or supervision sessions may be the appropriate forum for these discussions. In the case that the matter remains unresolved, the matter should be raised with the Coordinator Accommodation and Respite who will address the issue if necessary with the Manager, Accommodation and Respite.
 - (ii) ADHC will monitor the application of these principles by Regions through the localised joint consultative committees between ADHC and the PSA. Where issues remain unresolved they may be referred to ADHC's Central Office for assistance.
12. This variation shall take effect on and from 1 July 2017.

P. KITE, Chief Commissioner

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