



Australian
Competition &
Consumer
Commission

ea

ACCC enterprise agreement

2011–14

The Australian Competition and Consumer
Commission fosters competitive, efficient,
fair and informed markets

Australian Competition and Consumer Commission

**Enterprise Agreement
2011-2014**

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Part 1: ACCC mission, values and principles

Mission

1. The mission of the ACCC is to enhance the welfare of Australians by:
 - promoting effective competition and informed markets
 - encouraging fair trading and protecting consumers
 - regulating the infrastructure services market and other markets where competition is restricted.
2. The ACCC has three objectives:
 - to promote rigorous, lawful competition and informed markets
 - to encourage fair trading and protect consumers
 - to regulate national infrastructure services and other markets where there is limited competition.

ACCC values

3. The ACCC's values set a standard of performance and behaviour which guides our actions. We are accessible, transparent, independent and fair in our dealings with the community including consumers, business and governments. We fulfil our role in a timely, effective and efficient manner that respects the confidentiality of information provided to assist us.

Principles

4. Consistent with the ACCC's mission and objectives and the ACCC and APS values, the following principles guide this Agreement:
 - a. the achievement of the mission and objectives depends on:
 - valuing and respecting the contribution of employees, their skills and professionalism
 - leadership in providing vision, direction, and good example
 - adequate resources to perform the ACCC's work
 - b. the encouragement of performance and achievement of individuals and teams is a basis for recognition, remuneration and reward
 - c. productivity and administrative efficiency gains contribute to improved salary and working conditions
 - d. performance is enhanced by continuous learning, providing opportunities for creativity, innovation and varied experience, to ensure we continue to work efficiently and effectively
 - e. to attract and support capable people, the principle of merit for recruitment, selection, remuneration, advancement and promotion, and access to training and development will be applied
 - f. respect for diversity of skills, backgrounds and abilities.

Part 2: Scope of Agreement

Purpose

5. The purpose of this Agreement is to set out, for its duration, the terms and conditions of employment for those employees it covers.

Title

6. This Agreement shall be known as the Australian Competition and Consumer Commission Enterprise Agreement 2011–2014.

Coverage

7. This Agreement is made under s.185 of the *Fair Work Act 2009* (FW Act) between the Chairperson and APS 1–EL 2 employees engaged under the *Public Service Act 1999* in the Australian Competition and Consumer Commission.
8. An employee temporarily performing at the Senior Executive Service (SES) work value may continue to be subject to this Agreement except where it is inconsistent with relevant legislation and binding instructions of the Delegate.

Operation of Agreement

9. This Agreement commences 7 days after it is approved by FWA under s.186 of the FW Act and nominally expires on 30 June 2014.
10. This Agreement states the terms and conditions of employment of the employees covered by this Agreement, other than terms and conditions applying under a Commonwealth law.
11. For the life of the Agreement a person or organisation covered by the Agreement will not pursue further claims for terms and conditions of employment that would have effect during the period of operation of this Agreement, except where consistent with the terms of this Agreement.
12. Should legislative changes affect employees' terms and conditions of employment during the life of this Agreement, the employees and the ACCC will consult on any action that might be appropriate to ensure that the objectives of the Agreement continue to be achieved.
13. This Agreement may only be varied in accordance with Division 7, Part 2-4 of Chapter 2 of the FW Act.
14. Employees covered by this Agreement continue to be subject to the provisions of, and regulations or instruments made under, legislation including:
 - *Australian Human Rights Commission Act 1986*
 - *Fair Work Act 2009*
 - *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*
 - *Long Service Leave (Commonwealth Employees) Act 1976*

- *Maternity Leave (Commonwealth Employees) Act 1973*
- *Occupational Health and Safety Act 1991*
- *Public Service Act 1999*
- *Safety, Rehabilitation and Compensation Act 1988*
- *Sex Discrimination Act 1984*
- *Superannuation Act 1976*
- *Superannuation Act 1990*
- *Superannuation Benefits (Supervisory Mechanisms) Act 1990*
- *Superannuation (Productivity Benefit) Act 1988*

Delegation

15. The Chairperson may, by instrument in writing, delegate to a person or persons any or all of the powers or functions under this Agreement. No such delegation shall prevent the personal exercise by the Chairperson of a power or function so delegated.

Flexible employment arrangements

16. This Agreement provides for flexible terms and conditions for employees through providing for individual flexibility arrangements (paragraphs 20–24), a special salary level (paragraphs 81–83) and flexible hours of attendance (paragraphs 148–149).
17. The Delegate may supplement the salary of an individual employee at any time, following consultation with the employee. Such supplementation will be reflected in an individual flexibility arrangement in accordance with paragraphs 16 and 20 to 24.

Supporting guidelines and policies

18. The operation of this Agreement is supported by Agency policies, procedures, guides and guidelines. These will apply in the form they are in as at the time of any relevant action/decision.

Policies, procedures, guides and guidelines which support the operation of this Agreement, conditions of employment or entitlements will be developed or varied in consultation with employees and the Workplace Relations Committee.

19. If there is any inconsistency between the policies, procedures, guides and guidelines and the terms of this Agreement, the express terms of this Agreement will prevail.

Individual flexibility arrangement

20. The Delegate and an employee covered by this Agreement may agree to make an individual flexibility arrangement (IFA) to vary the effect of terms of the Agreement in order to meet the genuine needs of the employee and employer; and in compliance with section 203 of the FW Act; this may occur if:
 - a. the agreement deals with one or more of the following matters:
 - i) arrangements about when work is performed
 - ii) overtime rates

- iii) allowances
 - iv) remuneration
 - v) leave
 - b. the arrangement meets the genuine needs of the Delegate and employee in relation to one or more of the matters mentioned in paragraph (a)
 - c. the arrangement is genuinely agreed to by the Delegate and the employee.
21. The Delegate must ensure that the terms of the IFA:
- a. are about permitted matters under section 172 of the FW Act
 - b. are not unlawful terms under section 194 of the FW Act
 - c. result in the employee being better off overall than the employee would be if no arrangement was made.
22. The Delegate must ensure that the IFA:
- a. is in writing
 - b. includes the name of the Delegate and employee
 - c. is signed by the employer and the employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee
 - d. includes details of:
 - i) the terms of the Agreement that will be varied by the arrangement
 - ii) how the arrangement will vary the effect of the terms
 - iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement
 - e. states the day on which the arrangement commences and, where applicable, when the arrangement ceases.
23. The Delegate must give the employee a copy of the IFA within 14 days after it is agreed to.
24. The Delegate or the employee may terminate the IFA:
- a. by giving no more than 28 days written notice to the other party to the IFA or
 - b. if the Delegate and employee agree in writing - at any time.

Definitions

25. The following table defines particular terms for the purpose of this Agreement:

Term	Definition
ACCC or the Commission	the Australian Competition and Consumer Commission
ACCC lawyers	employees of the ACCC employed as lawyers
Agreement	the Australian Competition and Consumer Commission Enterprise Agreement 2011–2014
anniversary date	the date of an employee's commencement
APS	the Australian Public Service
attendance record	attendance record accessed through Aurion ESS or other auditable attendance record approved by the Delegate
broadband	a group of two or more classifications
Chairperson	the person appointed as the chairperson of the ACCC (including a person acting as chairperson), who is the agency head as defined in the <i>Public Service Act 1999</i>
Delegate	see paragraph 15
employee	an employee, whether ongoing or non-ongoing, employed by the ACCC under and within the meaning of the <i>Public Service Act 1999</i> as amended; includes an employee who serves the Australian Energy Regulator but does not include an ACCC senior executive service (SES) staff member
employee representative	a representative chosen by the employee to assist them and includes an employee organisation official or member, family member, colleague, friend, professional advisor, manager, or member of the ACCC Workplace Relations committee

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family member	<p>a person who:</p> <ul style="list-style-type: none"> ▪ <i>is related by blood</i> ▪ <i>is or was related by marriage</i> ▪ <i>is or was in a bona fide domestic or household relationship with the employee without discrimination as to sexual preference</i> ▪ <i>has a strong affinity with the employee of the nature of a family relationship otherwise falling within this definition</i> ▪ <i>is a child, adopted child, or foster child of:</i> <ul style="list-style-type: none"> ▪ <i>the employee</i> ▪ <i>the employee's spouse, de facto spouse or partner</i> ▪ <i>the employee's former spouse, de facto spouse or partner</i>
FWA	Fair Work Australia
FW Act	<i>Fair Work Act 2009</i>
hours of work and attendance	<p>standard working hours: Monday to Friday, 7:25 hours per day, 37:05 hours per week, 74:10 hours per fortnight (known as the settlement period)</p> <p>standard hours of attendance: Monday to Friday 0830-1230 and 1330-1655, public holidays excepted</p> <p>flexible hours of attendance: Monday to Friday 0700-1900</p>
manager	the immediate manager/supervisor of the employee
merit	has the same meaning as defined in section 10(2) of the <i>Public Service Act 1999</i> and the <i>Public Service Commissioner's Directions</i> 2.3(b)
pay	has the same meaning as salary

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salary	the employee's rate of salary as shown in attachments A–D, including any adjustment for temporary performance at a higher level, and/or special salary level (SSL), or salary supplemented pursuant to paragraph 17; where salary sacrifice, purchased leave or other relevant arrangements are in place, the employee's salary for purposes of superannuation, severance and termination payments will be determined as if the salary sacrifice or other arrangements had not been entered into
senior manager	the Chief Executive Officer (CEO), Deputy CEO, an executive general manager, group general manager, general manager or regional director
transfer	movement between APS agencies (s. 26 of the Public Service Act), or internal assignment of duties (s. 25 of the Public Service Act)
union	an employee organisation as defined in s.12 of the <i>Fair Work Act 2009</i>
WRC	the ACCC's Workplace Relations Committee

Part 3: Classification structure and work value

Objectives

26. These provisions aim to:
- promote the attraction and retention of quality employees
 - provide clear and consistent paths for career progression
 - ensure duties are appropriately classified
 - provide flexibility to senior managers in the way teams are structured
 - uphold merit principles.

Classification structure

27. Where there are duties to be performed the Delegate will allocate these duties to a position. The Delegate will determine the appropriate classification level of the position by reference to the ACCC work level standards and job evaluation methodology.
28. Both positions and employees attract classification, as detailed in the *Public Service Classification Rules 2000* (PSCR):
- a. The Delegate must allocate an approved classification to each group of duties to be performed in the ACCC (PSCR, 9)
 - b. The Delegate must allocate an approved classification to each employee in the ACCC (PSCR, 6).
29. An employee's classification level will reflect the classification level of the position they occupy. In cases of temporary performance at a higher work value, the corresponding rise in an employee's classification will also be temporary.
30. Work value standards provide a guide for the knowledge, skills and attributes of work performed at each classification level.
31. The APS classifications applicable to this Agreement are:
- APS Level 1, APS Level 2, APS Level 3, APS Level 4, APS Level 5, APS Level 6, Executive Level 1, Executive Level 2, Graduate APS, Trainee APS (Administrative) and Trainee APS (Technical)
32. The APS Level 1 to Executive Level 2 classifications are grouped into a number of bands or tiers, each with a salary range defined by a base salary and a salary cap. The bands and tiers are groupings of APS classifications rather than classifications in themselves. They are:
- ACCC broadband – general (Attachment A)
 - ACCC broadband – legal (Attachment B)
 - ACCC broadband – graduate (Attachment C)

Assignment of duties within the classification structure

33. The Delegate will determine the appropriate mechanism to assign an employee to a position. In doing so the Delegate will have regard to each of the following:
- resource and funding implications
 - organisation needs and priorities
 - the career development needs of employees
 - the appropriate labour market
 - the requirements of legislation and this Agreement relating to selection and advancement.
34. One of the following mechanisms will be used to assign duties to an employee:
- engagement
 - transfer
 - temporary performance at a higher work value
 - broadband advancement
 - promotion
 - reduction.

Movement within the classification structure

35. Movement within the classification structure is dependent on both:
- the work value of the position and duties
 - the performance of the employee.
36. The following table summarises the mechanisms for moving within the classification structure. All such movement/advancement is subject to performance which is at least satisfactory.

How	Work value of position	Performance of employee
Salary progression (paragraphs 78–80)	position documentation reflects work value	assessment of employee's capabilities and performance against position description and review criteria
Temporary performance at higher work value (paragraphs 119–130)	position documentation reflects work value, or position analysis to confirm work value of temporary duties	merit recognition for periods of three months or less; merit selection for periods longer than three months

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How	Work value of position	Performance of employee
Broadband advancement (paragraphs 42–45)	position analysis to confirm additional work value	advancement criteria/ merit assessment
Promotion	position documentation reflects work value	merit selection
Reduction (paragraphs 98–99, 439–444, 503)	position documentation reflects work value	by agreement in an excess employee situation outcome of misconduct or underperformance

Broadbands

37. Broadband is the term commonly used to describe a group of two or more classifications to which the delegate has allocated a common set of duties. The broadband encompasses the range of work values and work level standards of the classification levels it includes.
38. The ACCC broadband – general has five bands of which band one (covering APS 1, APS 2 and APS 3) and band two (covering APS 4 and APS 5) are broadbands.
39. The ACCC broadband – lawyer has two bands or tiers of which only tier one (covering APS 3 APS 4, APS 5, APS 6, and EL 1) is a broadband.
40. The ACCC broadband – graduate has two bands of which band one (covering graduate APS) and band two (covering APS 3 and APS 4) are broadbands.
41. An employee at a lower classification level in a broadband may advance to another level in the broadband when there is work to be performed at the higher classification level and the merit process described in paragraphs 42–49 has been applied.

Broadband advancement

42. Transition points are indicated by shaded lines in the broadband structure tables in Attachments A and B.
43. An employee may progress within a band or tier, but not across a transition point, by means of salary progression (paragraphs 78–80).
44. A transition point may only be crossed through one of the following three processes, each initiated by a senior manager in an open and transparent manner:
 - a. merit assessment (paragraph 46)
 - b. internal merit selection (paragraph 47–48)
 - c. open merit selection (paragraph 49).

45. Each of the three processes is subject to both of the following requirements:
- an analysis of the work value of the position
 - the need for duties to be performed.

Merit assessment

46. The incumbent is invited to apply for advancement by addressing the selection criteria for the position in writing. A merit advisory committee is convened to assess the application and the applicant may be interviewed. If the applicant is assessed as suitable against the selection criteria a recommendation is made to the Delegate that the applicant be advanced across the transition point.

Internal merit selection

47. The position is advertised within the ACCC, inviting applications from any ongoing ACCC employee currently working within or above the ACCC band, or – in the lawyer classification structure – band equivalent.
48. A selection advisory committee assesses the applicants and makes a recommendation to the Delegate that the best applicant satisfying the selection criteria be advanced across the transition point.

Open merit selection

49. The position is gazetted and advertised, inviting applications from all interested parties. A selection advisory committee assesses the applicants and makes a recommendation to the Delegate.

ACCC broadband — lawyer

50. The classification structure for ACCC lawyers is set out in Attachment B. Within this classification structure, assignment of duties, movement, and the transition points operate as described in paragraphs 37–49.
51. An ACCC lawyer may not receive a promotion or salary progression in the ACCC broadband — lawyer, nor have their salary augmented through a Special Salary Level (SSL), without being an admitted practitioner, however described, of the High Court or the Supreme Court of a state or territory.
52. An employee working at the Legal 1.10 point before 4 June 2002, who subsequently moves out of the ACCC broadband — lawyer, shall for all intents and purposes have been advanced to the EL2 level.

ACCC broadband — graduate

53. The graduate APS classification is a training classification. Employees in the ACCC graduate APS classification are on probation.
54. The salary range for graduate APS employees is set out in Attachment C.
55. A graduate APS employee will be engaged at the GAPS A salary.

56. Upon successfully completing the first rotation and progression through the graduate training program and subject to a recommendation that the probationary period be continued, a graduate APS employee will be progressed to the GAPS B salary for a graduate APS.
57. Upon successfully completing the graduate year, a graduate APS will be progressed to GAPS C salary which is equivalent to APS Level 3 in accordance with the *Australian Public Service Classification Rules 2000*.
58. The employee will immediately be further advanced to GAPS D salary which is equivalent to ACCC broadband – general APS 4 or ACCC broadband – lawyer APS 4.
59. Further progression through the broadband will be in accordance with paragraphs 37–49.

Trainee APS (Administrative or Technical)/Apprentice APS (Trades)

60. The Trainee APS (Administrative), Trainee APS (Technical) and Apprentice APS (Trades) are training classifications. Employees in these trainee classifications are non-ongoing employees for up to eighteen months.
61. Salary levels upon engagement will be in accordance with the provisions of the *Australian Public Service Award 1998*, as amended from time to time.
62. The APS classification levels of the trainee positions will be in accordance with the *Australian Public Service Classification Rules 2000*.

Non-ongoing employees

63. To enable the ACCC to meet periods of high workload or when there is insufficient expertise or resources within the ACCC, the ACCC will engage employees:
 - for a specified term
 - for the duration of a specified task
 - for duties that are irregular or intermittent.
64. Except where otherwise stated in this Agreement, the terms and conditions for a non-ongoing employee shall be those set out in this Agreement for an ongoing employee.
65. An employee who is engaged or commences on an irregular or intermittent basis will be paid an additional 20 per cent of the hourly rate of pay payable to an ongoing employee at the same classification. This additional payment is in lieu of paid leave with the exception of Long Service Leave and payment for public holidays on which the employee is not rostered.

Part 4: Performance

Objectives

66. These provisions aim to promote commitment, motivation, and high performance in employees and teams through:
- well designed and interesting jobs
 - effective leadership, communication and feedback systems
 - continuous improvement of systems and processes
 - opportunities for individual and team development
 - recognition and reward for high performance and remedial actions for poor performance
 - the attraction and retention of quality employees.

Engagement or commencement requirements

67. An offer of engagement may provide for a probationary period, the length of which will be specified.
68. During the probationary period, an employee is not subject to either of the following provisions of this Agreement:
- managing unsatisfactory performance (Attachment H)
 - excess employees (Attachment K).
69. Where there is an allegation of a failure to uphold the code of conduct involving an employee on probation, the Delegate may take action to investigate the matter immediately. Any such investigation will be conducted in accordance with the principles of natural justice. If the allegation is substantiated, the Delegate may terminate the engagement immediately, without waiting for the probationary period to expire. The procedures for managing misconduct referred to in paragraph 352 do not apply.

Performance management framework

70. Managers will facilitate the participation of employees in the performance management framework.
71. The performance management framework should operate in conjunction with regular constructive feedback between the manager and the employee.
72. The performance management framework consists of the following components:
- performance feedback on a regular basis
 - performance development, including the Performance Development Plan (PDP) system
 - performance appraisal, including through the salary progression, Special Salary Level (SSL), and management of unsatisfactory performance systems.

Performance Development Plan

73. The Performance Development Plan (PDP) is a goal setting process that promotes high performance through:
 - personal development and growth
 - aligning an employee's development with the needs of the work team
 - improved systems and processes.
74. The PDP process occurs between a manager and an employee or team, when it is deemed necessary; either party may initiate the process.
75. Managers are required to report on PDP discussions in April and October each year, in alignment with the business planning and budget review process.
76. The PDP process is detailed in Attachment E.

Studies Assistance Scheme

77. Where a manager and an employee agree that formal study through an accredited institution is appropriate, an eligible employee may apply for assistance under the ACCC's Studies Assistance Scheme (SAS).

Salary progression

78. Salary progression is a system that promotes high performance through recognition and reward for accomplishments and good conduct leading to highly competent, skilled, and productive employees.
79. This process applies to all employees other than those:
 - at the salary cap immediately before a transition point
 - at the salary cap of their classification band or tier.

However, every employee's performance and conduct should be the subject of regular constructive feedback between that employee and their manager.
80. The procedures for managing salary progression are set out in Attachment F.

Special Salary Level

81. The Special Salary Level (SSL) scheme provides flexibility in the attraction and retention of employees through:
 - incentive and reward for continuing exceptional and valued contributions to the work of the ACCC
 - remuneration for atypical work where the market for the particular knowledge, skill and qualifications demands a special rate of salary.
82. The SSL scheme applies to all classifications.
83. The procedures for managing the SSL scheme are set out in Attachment G.

Managing unsatisfactory performance

- 84. This process aims to improve performance by addressing incidents of unsatisfactory performance of duties promptly, fairly, sensitively, and consistently.
- 85. Managers have a responsibility to ensure that the employees they supervise understand the standard of performance expected. Regular feedback should be the basis for identifying and addressing performance problems and clarifying expectations.
- 86. The procedures for managing unsatisfactory performance of duties are set out in Attachment H. These procedures do not apply to non-ongoing employees or employees on probation.

Part 5: Remuneration

Objectives

87. These provisions aim to link remuneration to productivity improvements over the life of this Agreement.
88. The ACCC and its employees recognise that this Agreement provides productivity and efficiency improvements and the ACCC is committed to maintaining and continuing to develop good governance arrangements.
89. The ongoing implementation of the following program of change will contribute to funding pay rises and conditions contained in this Agreement:
 - Implementation of a Digital Object Repository Information System (DORIS)
 - Upgrade in functionality of NGA-Net (e-Recruit)
 - Introduction of Business Process Automation in Aurion, an integrated payroll and human resource system
 - Upgrade of the functionality of the Intranet
 - Information and Communications Technology Transformation Programme
 - Establishment of the Organisational Wellbeing Committee
 - Standardisation of Position Documentation
 - Implementations of new technologies and systems in the Infocentre, the ACCC's telephone and email information and complaints service for consumers and businesses
 - Applications review and redevelopment of TRACKIT
 - The merge of the Merger and Adjudication Branches.

Method of salary payment

90. Employees will have their fortnightly net salary paid by electronic funds transfer into a financial institution account of their choice. Additional fixed deductions may be made to financial institutions subject to restrictions of the payroll system.
91. The fortnightly salary will be calculated according to the following formula:
$$\text{fortnightly salary} = (\text{annual salary} \times 12) \div 313$$

Salary on engagement, promotion or transfer

92. Where an employee is engaged, promoted, transferred, or reassigned either within the ACCC or from outside the ACCC, their salary will be paid at the base of the salary range attached to the relevant ACCC band or tier.
93. The Delegate may approve a higher salary within the relevant band or tier where one or more of the following applies:
 - salary progression in the classification has already occurred due to previous temporary performance at this level
 - the experience, qualifications and skills of the employee warrant payment of salary above the base rate

- the employee's prior salary equalled or exceeded the base salary of the new classification.
94. If an employee from another APS agency is assigned duties at the same classification level as at their previous agency and their salary level is above the cap for the classification, the employee is paid at the salary level of their previous agency (i.e. their current salary).
95. Where paragraph 94 applies, any performance rewards from the employee's previous agency will not be met by the ACCC. Work performed at that level in the previous agency will not count towards salary progression. The employee will be maintained on the previous salary until the cap of the ACCC salary range equals or exceeds their previous salary. The employee will then receive the cap of the classification level and any relevant salary increases.
96. Where an employee in the ACCC broadband – lawyer moves to the ACCC broadband – general and their salary level is above the cap for the classification level, the employee is paid at the salary level prior to the move and remains at that level until the cap of the classification range equals or exceeds their previous salary. The employee will then receive the cap of the classification level and any relevant salary increases.
97. Where at the time of engagement, promotion, or transfer, an employee's salary is incorrectly set at a salary level other than that which it has been agreed the employee will be paid, the Delegate may determine in writing the payment of the employee's salary at the correct salary level and any necessary adjustment will be made.

Salary on reduction

98. Where an employee moves to a lower classification, their salary level in the lower classification will be determined by the Delegate.
99. Where an employee accepts a position at a lower classification level than the level of the position they previously occupied, they accept the classification level and remuneration of the lower position.

Superannuation (employer contribution rate)

100. Where employer contributions are to an accumulation superannuation fund, the employer contribution will be 15.4% of the fortnightly superannuation contribution salary (or ordinary time earnings). This will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not apply where a superannuation fund cannot accept employer superannuation contributions (for example, unable to accept contributions for employees aged over 75 years).

Flexible remuneration packaging (salary packaging)

101. All ACCC employees will have access to flexible remuneration packaging. For more information about remuneration packaging, employees should refer to the Salary Packaging Employee Information Guide.

102. An employee who participates in flexible remuneration packaging will have his or her salary for all other purposes calculated as if the flexible remuneration packaging arrangement had not been entered into.
103. The ACCC will meet reasonable internal administrative costs. Costs and taxes directly associated with the employee's salary packaging must be met by the employee.

Junior rates

104. An ACCC employee under 18 years of age who is engaged or commences at the ACCC broadband – general APS 1 is considered a 'junior' employee for purposes of salary, and is paid at rates detailed in Attachment D.

Overtime

105. Paid overtime is time directed to be worked for a specific purpose by an APS 1–6 employee, outside standard hours as specified in paragraph 146.
106. Paid overtime can be worked only by the prior direction of the relevant manager. Where circumstances do not permit prior direction, paid overtime can be subsequently approved by the relevant manager.
107. All paid overtime must be claimed through the claims for payment of overtime payroll module and include the project code, if relevant.
108. For a part-time APS 1–6 employee, overtime is work performed at the direction of a manager which is not continuous with the employee's agreed or specified hours, or is beyond the total hours over the settlement period specified for the employee.
109. The employee's salary will be used for the calculation of overtime.
110. Overtime, whether paid or taken as time off in lieu, will be calculated at the multiplier of time and one half.
111. The Delegate may direct that overtime be paid at the multiplier of double time where the employee works overtime of:
 - 15 hours or more in any seven day period until the employee has a one day break from work (this could include a day of a weekend, a public holiday or leave of at least one day)
 - 10 hours or more on a weekend or one day of a weekend and an adjoining public holiday.
112. Where overtime is worked, the employee can choose an overtime payment or time off in lieu of overtime, except where the employee has reached the maximum carryover of flextime credit (37:05 hours), in which case an overtime payment must be made.
113. Where overtime is continuous with ordinary duty, overtime payments will be made for time actually worked; there will be no minimum period for payments. Where overtime is not continuous, payment for each separate overtime attendance will be for a minimum of two hours.
114. Where an employee works overtime they will be entitled to an eight-hour break plus actual travelling time before commencing work without incurring any loss of pay. Where this break is not possible due to operational requirements, the employee will

- be paid at the multiplier of time and one half worked for any period of work until an eight-hour break occurs.
115. The manager directing an employee to work overtime should have due regard for the health and safety of the employee. The manager should ensure the employee has a break each five hours of work and should provide taxi vouchers where necessary. The employee may refuse to work unreasonable additional hours in accordance with the National Employment Standards.
 116. Where an APS 1–6 employee is called into work to meet an emergency outside the flexible hours of attendance specified in paragraphs 148–149, the employee will be paid for the period of work and any time reasonably spent in travelling to and from the work place at the multiplier of double time. The minimum payment for such work will be two hours. This paragraph will not apply when an employee is recalled to duty while on-call as specified in paragraph 137.
 117. Executive level employees are not generally entitled to overtime payment. Employees at these levels are generally required to hold themselves in some degree of readiness for extra duty or recall to duty. However, the Delegate may direct that an executive level employee be paid overtime in exceptional circumstances. Payment is to be made in accordance with paragraphs 105–116.
 118. For more information about overtime, employees should refer to the Overtime and Meal Allowance Policy and Guideline.

Temporary performance at a higher work value

119. The Delegate may assign an employee work at a higher work value on a temporary basis. The use of such temporary assignments will be guided by the principle of merit for selection to perform work of a higher value (see also *Public Service Commissioner's Directions 4.7*).
120. Where the period of temporary performance at a higher work value is three months or less, a manager may allocate the temporary performance at a higher work value on a merit recognition basis, without the requirement for merit selection.
121. Where the period of temporary performance at a higher work value will or does extend beyond three months, a manager must advertise the opportunity for temporary performance at higher work value internally and make the assignment on a merit selection basis.
122. In exceptional circumstances the Delegate may grant an exemption from the merit selection requirement in paragraph 121.
123. All periods of temporary performance at a higher work value will be recorded on the employee's personal record.
124. Where an employee temporarily performs work at a higher work value for a continuous period of 5 working days or more, the employee will be paid at a rate consistent with the work value standards for the work being performed. An employee may be paid a portion of the rate where they will not be performing the full work value.

125. At the discretion of the Delegate, an employee temporarily performing work at a higher work value for periods of fewer than 5 working days may receive payment in exceptional circumstances.
126. While an employee is temporarily performing work at a higher work value, any resulting additional payment is treated as salary for the purpose of determining other allowances.
127. An employee temporarily performing work at a higher work value will be eligible for salary progression review at any time from four months following transfer to the higher work value. An employee who returns to a substantive position after performing work at a higher work value will be eligible for salary progression from four months following their most recent review in that position.
128. While an employee is temporarily performing work at a higher work value, the terms of this Agreement for the higher classification (e.g. overtime) will apply to the employee.
129. Where an employee is temporarily performing work at a higher work value, they will continue to receive any resulting additional payment while on paid leave and during public holidays, for the approved period of the temporary performance at the higher work value.
130. Where an employee is required to undertake the duties of a Senior Executive Service (SES) position, the pay and conditions of the employee will be determined by the Delegate.

Supported wage system

131. The supported wage system covers an employee who is unable to perform their duties to the level of competence required because of a disability and who meets the impairment criteria test for a disability support pension. The Delegate and an accredited assessor will assess and document the employee's capacity to do the job.
132. Eligible employees will be paid a percentage of the salary that corresponds to their assessed capacity but no less than the minimum prescribed rate set by FWA.

Resignation, permanent transfer to another APS agency

133. An employee must give fourteen days written notice of their decision to resign from the APS, and one month's notice for a voluntary move to another APS agency on permanent transfer or promotion; the Delegate can reduce the notice period in exceptional circumstances. A resigning or transferring employee must complete the ACCC's separation checklist before their resignation date or transfer date. Where the employee's date of resignation would fall on a non-business day, the effective date of the resignation will be the last business day prior to that non-business day.

Death of employee

134. Where an employee dies, or the Delegate directs that an employee will be presumed to have died on a particular date, the Delegate may authorise the payment of the amount of salary, annual leave and allowances to which the former employee would have been entitled had they otherwise ceased employment on resignation or retirement.

On-call duty

135. Where support or maintenance of critical business functions or systems is required, the Delegate may direct an APS 1 to APS 6 employee to be contactable and available 'on-call' to perform duty outside the standard working hours of the employee.
136. An employee who is on-call to perform duty will be paid an allowance as set out below:

Period of on-call	Rate of payment
Monday to Friday (outside standard working hours)	7.5% of the employee's hourly rate of salary
Saturday or Sunday	10% of the employee's hourly rate of salary
Public Holiday	15% of the employee's hourly rate of salary

137. The payment of this allowance will be subject to the following conditions:
- the on-call requirement is imposed by the prior written direction of the Delegate, or is subsequently approved in writing by the Delegate where the circumstances did not permit prior direction
 - the provisions of paragraph 116 (emergency duty) will not apply where an employee is recalled to duty while on-call.
138. On-call allowance is payable whether or not the on-call employee is required to work. Where an employee who has been on-call is required to work they will be paid overtime subject to:
- A minimum of one hour when work is performed without the necessity to travel to the workplace
 - A minimum of two hours, including actual travel time, if work is required to be performed at the workplace.
139. On-call allowance is not payable for any period for which the employee receives another type of paid allowance (including overtime), was not contactable or was not available.
140. Executive level employees are not generally entitled to an on-call allowance. However, in exceptional circumstances, the Delegate may direct an executive level employee to be on-call and receive payment in accordance with paragraphs 135–139.

Part 6: Flexible working conditions

Objectives

141. These provisions aim to:
- improve productivity
 - promote fair work patterns
 - encourage a balance between the work and private lives of all employees
 - attract and retain quality employees.

Principles

142. Managers and employees have a responsibility to ensure that the ACCC's working conditions are administered and accessed in such a way as to ensure each of the following:
- a. the assessment of, and reward for, an employee's performance is based primarily on their output, not hours at work
 - b. the ACCC's objectives are achieved
 - c. these conditions are applied fairly and consistently across the ACCC.
143. A manager has a responsibility to minimise the extent to which an employee is required to work beyond normal working patterns and to ensure an employee is able to access employment terms and conditions, including utilisation of flextime credits, access to time off in lieu, and payment for overtime, where eligible.
144. An employee is responsible for consulting their manager in accessing these terms and conditions. An employee must be aware that organisational requirements may limit access to some conditions at certain times.

Hours of work and attendance

145. The business hours of the ACCC's Canberra, Melbourne and Sydney offices are 0830 to 1730 each business day and the ACCC's Adelaide, Brisbane, Darwin, Hobart, Perth, and Townsville offices are 0900 to 1700 each business day.
146. Standard working hours are Monday to Friday, 7:25 hours per day, 37:05 hours per week, 74:10 hours per fortnight (known as the settlement period).
147. Standard hours of attendance are Monday to Friday 0830–1230 and 1330–1655, public holidays excepted.
148. Flexible hours for attendance are Monday to Friday 0700–1900. An employee may choose start, finish, and break times within this span, subject to their manager's prior agreement.
149. An employee who has responsibility for the care of a child under school age or under 18 and with a disability, may request access to flexible working arrangements, including flexible hours of work, attendance and part time employment, to assist them to care for the child. A manager may only refuse such a request on reasonable business grounds, in accordance with the FW Act.

- 150. For a part-time employee, standard hours of work and attendance are those agreed with the Delegate.
- 151. An employee will not be required to work more than 10 hours in a 24-hour period.
- 152. All employees are required to keep a daily attendance record. Employees working under the flextime scheme (paragraphs 156–167) of this Agreement are required to complete the corporate attendance record. Employees not working under the flextime scheme are required to record their attendance on the corporate attendance record or in some other approved auditable manner.
- 153. Employees are required to advise a manager of unexpected absences as soon as possible.

Breaks from work

- 154. An employee should not work more than five hours without a break of at least 30 minutes. Apart from breaks from telephone duty (paragraph 155), breaks taken from work (e.g. for shopping, coffee, smoking, lunch, socialising) within the work day are not paid breaks.
- 155. An Infocentre employee on telephone duty must take a paid five minute break from the telephone within every hour of duty. These five minute breaks do not accumulate. After two hours and before five hours of telephone duty, an Infocentre employee or switchboard operator must take a paid 15 minute break from the telephone.

Flextime scheme

- 156. APS 1–6 employees may participate in the flextime scheme. This is a scheme whereby hours worked in excess of 7:25 hours per day/37:05 hours per week/74:10 hours per settlement period may count as credit for time off.
- 157. Travel on official business outside Monday to Friday 0700 to 1900 will not count as credit for flextime, but will be covered by the provisions for domestic business travel (paragraphs 283–284). Travel on official business inside Monday to Friday 0700 to 1900 is recorded as hours worked.
- 158. Part-time APS 1–6 employees may participate in the flextime scheme by arrangement with their manager. Flextime may not be used to vary a part-time employee's hours without the consent of the employee concerned.
- 159. The Delegate may direct that an employee not participate in the flextime scheme. In this case the employee will work standard hours. In consultation with the employee the Delegate will specify the employee's hours of attendance.
- 160. An employee participating in the flextime scheme is required to maintain accurate and complete records of their attendance for work on the corporate attendance record. An employee must deduct breaks taken within the work day (i.e. between the time of starting and finishing on that day) from attendance credits. An employee must submit an accurately completed corporate attendance record to their manager for verification at the end of each settlement period.
- 161. The settlement period for the flextime scheme is the two week period over which calculations are made to determine the working hours credit or debit carry over.

162. An employee's attendance in excess of standard working hours is subject to the availability of work and the agreement of the employee's manager. To ensure productivity is maintained and improved, attendance beyond standard working hours that is not required, in the view of the employee's manager, will not accrue flextime credits. Attendance for work beyond the flexible hours span of Monday–Friday 0700–1900 will count for flextime credit only with approval by the manager.
163. The maximum permitted flex credit carry over from one settlement period to the next is 37:05 hours credit. Subject to paragraph 162 and with agreement of the manager and the employee, the employee may carry over a flex credit in excess of 37:05 hours into the next settlement period. Where this occurs, the overall flex credit must be reduced to 37:05 hours, or below, by the end of that next settlement period. Where for operational reasons this is not possible then the employee may elect to be paid overtime for all hours worked in excess of the 37:05 hours flex credit.
164. An employee may use up to five days of flex credit for flex leave over two consecutive settlement periods from this carry over.
165. All flex leave is subject to the approval of the employee's manager. Approval will not be unreasonably withheld.
166. The maximum permitted flex debit carry over from one settlement period to the next is 10 hours.
167. Any flex debit in excess of 10 hours at the end of a settlement period will be treated as leave without pay and the employee's salary will be adjusted accordingly.

Executive level employees: flexible hours and time off

168. The ACCC recognises the focus on achievement of outcomes for executive level employees. The achievement of organisational outcomes involves considerable working effort which may require variable and additional working hours to achieve these outcomes. It is important that these efforts and contributions are recognised by the ACCC.
169. Executive level employees may choose start, finish, and break times within the flexible hours span of 0700–1900 subject to their manager's agreement. They may agree with their manager on variations to their attendance times and on short-term absences, including full day absences, without the need for a leave application.
170. As a general principle and subject to operational requirements, executive level employees should have a break of at least 8 hours plus reasonable travelling time, between ceasing work on one day and commencing work on the following day.
171. An executive level employee will have reasonable access to time off in keeping with the following principles:
 - a. this provision will be administered flexibly by managers having regard to principles of mutuality and reciprocity, taking account of demands on the work area and the need of employees to balance their work and private lives
 - b. reasonable requests will not be refused except for operational reasons; where a request is refused, the manager must advise the employee and People Services and Strategy Branch in writing of the reason for the refusal

- c. this provision is not intended to compensate for additional hours worked on a one for one basis.
- 172. The ACCC will develop additional guidelines on the working arrangements for executive level employees which will be incorporated into training for executive level employees and their managers.

Unsociable and additional hours

- 173. Unsociable and additional hours shall be compensated through the granting of time off in accordance with executive level TOIL arrangements for executive level officers and for APS 1-6 staff through the granting of flex time off or payment of overtime as agreed. Generally work outside the bandwidth hours and on weekends and public holidays will attract overtime rates for non executive staff.

Unreasonable additional hours

- 174. Employees will not be required to work unreasonable additional hours and are entitled to refuse this work if deemed to be unreasonable additional hours.
- 175. In determining whether additional hours are reasonable, consideration will be given to:
 - a. any risk to employee's health and safety from working the additional hours
 - b. the employee's personal circumstances, including family responsibilities
 - c. the hours the employee has already worked in the last month and preceding month
 - d. the needs of the workplace or enterprise in which the employee is employed
 - e. whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours
 - f. any notice given by the employer of any request or requirement to work the additional hours
 - g. any notice given by the employee of his or her intention to refuse to work the additional hours
 - h. the usual patterns of work in the APS
 - i. the nature of the employee's role, and the employee's level of responsibility
 - j. any other relevant matter.

Part-time work

- 176. An employee who is engaged or commences on a part-time basis works fewer than 37:05 hours per week. Part-time hours included in part-time work arrangements will be within the flexible hours of attendance as specified by this Agreement.
- 177. An employee will be able to enter part-time work agreements with the Delegate, where the Delegate recognises that such an agreement will be compatible with the ACCC's operational needs.

178. An employee may initiate proposals for part-time work. The Delegate will not unreasonably oppose requests for part-time work. Within the six weeks prior to the birth of the employee's child, the employee will have access to part-time work if requested. An employee returning from maternity, adoption, foster carer's, or supporting partner's leave will have access to part-time work in accordance with paragraph 149.
179. Remuneration and other benefits for a part-time employee will be calculated on a pro rata basis apart from those allowances of a reimbursement nature, where a part-time employee will receive the same amount as a full-time employee. The ordinary hourly rate of salary for a part-time employee will be the same as for an equivalent full-time employee.
180. A full-time employee who becomes a part-time employee is able to revert to full-time hours.
181. The Delegate and employee may agree to vary specified hours of work, including between part-time and full-time and vice versa. These considerations will be based on the operational needs of the work area and will take into account the personal needs of the employee.
182. No employee will be required to vary part-time hours agreed during the time of the part-time agreement.

Home-based work

183. The ACCC supports the practice of working from home as part of its flexible work arrangements.
184. Approval of applications for home-based work will be determined by the Delegate on a case by case basis. The ACCC's organisational needs are a key factor in the consideration of such applications.
185. For more information on home-based work the employee should refer to the Home Based Work Guideline.

Monitoring working hours

186. For the purposes of work allocation, resource management and occupational health and safety managers are to report quarterly as follows:
 - in relation to APS 1–6 employees, where an employee accumulates in excess of 37:05 hours flextime credit in three or more settlement periods in the quarter
 - in relation to executive level employees, where an employee exceeds 110 per cent of standard working hours in the quarter.
187. Where an executive level employee is identified as having exceeded 110 per cent of standard working hours in a quarter, People Services and Strategy Branch will contact the employee and their manager directly, after which an excess working hours management plan must be developed within 7 working days.

Part 7: Leave

Objective

188. These provisions aim to ensure good health and appropriate work and recreation balance for employees.

Principles

189. Employees are encouraged to take their annual leave entitlement.
190. Except as directed by the Delegate, periods of leave without pay not counting as service and unauthorised absences, will not count in calculating annual, long service, and personal leave accruals.
191. Where any designated public holiday for which an employee is entitled to payment occurs during any period of annual or personal leave, the period of the holiday is not deducted from the employee's leave entitlement.

Annual leave

Accrual

192. An employee will accrue annual leave progressively (in real time) each fortnight based on an accrual rate of 148:20 hours for each year of service. Noting that part-time employees will accrue annual leave on a pro rata basis in accordance with the National Employment Standards.
193. An employee in receipt of employee compensation for more than 45 weeks will cease to accrue annual leave. An employee who is on a graduated return to work program and who has received compensation for a total of 45 weeks will accrue annual leave credits on a pro rata basis for hours actually worked.

Approval

194. Annual leave can be taken as it accrues, subject to the approval of an employee's manager. Such approval shall not be unreasonably refused.
195. Annual leave must be accrued before it can be taken; it cannot be taken in anticipation of future accrual.

Cash out of annual leave

196. An employee may choose to cash out annual leave credits subject to the following:
- a. the employee must apply to cash out annual leave in writing
 - b. the employee can only cash out annual leave once in any 12 month period
 - c. at the time that the cash out occurs, the employee must have taken at least three weeks of leave for recreational purposes over the two calendar years immediately preceding the cash out, which can include a combination of annual leave, purchased leave or long service leave

- d. following the cash out the employee's remaining accrued entitlement to annual leave must be at least four weeks.

Annual leave at half pay

197. Subject to the agreement of their respective managers, an employee may elect to take annual leave at half pay, in which case, payable leave credits will only be deducted for half of the leave duration.
198. Annual leave taken at half pay will only be available at a minimum of one week's duration (2.5 days leave credits) per request.

Excess annual leave

199. Any annual leave entitlement in excess of 55 days is called 'excess annual leave'.
200. Where an employee has excess annual leave on 1 October in each year, the employee and their manager will agree on a plan to reduce the leave to below 55 days credit within six months.
201. If the employee has excess annual leave remaining on 1 April, the employee can be directed to take leave in accordance with s.93 (3) of the FW Act.
202. Where an employee has been on compensation leave and has commenced a graduated return to work program, they will not be directed to be on leave until three months after returning to their pre-injury hours of work.

Purchased leave

203. All ongoing ACCC employees are eligible to apply for purchased leave of between one and four week-long blocks, according to the following schedule:

Purchased leave applied for on or before:	Maximum period that can be purchased for the calendar year:
15 December (previous calendar year)	4 week-long blocks
15 March	3 week-long blocks
15 June	2 week-long blocks
15 September	1 week-long block

204. Purchased leave must be used during the calendar year within which it has been purchased. Any outstanding monies will be reconciled at the end of the purchased leave year.
205. For more information on purchased leave, the employee should refer to the Purchased Leave Guideline.

Personal, carer's and compassionate leave

Accrual

- 206. An employee will accrue personal/carer's leave progressively (in real time) each fortnight based on an accrual rate of 148:20 hours for each year of service. Accrual will be on a pro rata basis for part-time employees.
- 207. On engagement, an ongoing full-time employee will be credited with 148:20 hours personal leave, based on approved weekly hours and from their first anniversary date will acquire personal leave in real time each fortnight on an accrual rate of 148:20 hours for each year of service. Ongoing part-time employees will be credited with personal leave on a pro rata basis for the proportion of standard working hours they are actually working.
- 208. From engagement, non-ongoing employees will accrue personal leave progressively (in real time) each fortnight.
- 209. Personal leave accruals of a non-ongoing employee carry over personal leave from an immediately previous ACCC engagement.
- 210. An employee in receipt of employee compensation for more than 45 weeks will cease to accrue personal leave. An employee who is on a graduated return to work program and who has received compensation for a total of 45 weeks will accrue personal leave credits on a pro rata basis for hours actually worked.
- 211. Personal leave credits and debits will be maintained in hours and minutes. Unused personal leave credits will accumulate.

Approval

- 212. Subject to the Delegate's approval, personal leave may be taken for one or more of the following reasons:
 - the employee is not fit for work because of a personal illness or personal injury affecting the employee
 - to attend medical examinations, tests, and treatment
 - to provide care or support to a family member, or a member of the employee's household, who requires support because of:
 - i) a personal illness or personal injury affecting the member
 - ii) an unexpected emergency affecting the member
 - as supporting partner's leave (paragraphs 235–236)
 - compassionate leave where a family member contracts or develops a personal injury or illness that poses a serious threat to their life, or dies.
- 213. Where personal leave credits have been exhausted, employees:
 - i) may access up to 2 days paid compassionate leave
 - ii) may access up to 5 days paid supporting partner's leaveon each occasion that meets the criteria outlined above, in accordance with the National Employment Standards.

Note: Access to paid compassionate leave and paid supporting partner's leave in accordance with the National Employment Standards, cannot reduce the balance of an employee's personal/carer's leave credits to below that which is stipulated as an entitlement by the National Employment Standards.

- 214. Single absences of less than one day can be taken as personal leave, or leave under the flexible working arrangements.
- 215. An employee is obliged to inform the ACCC of the reason for, and likely duration of, absences for which personal leave is sought. An employee may be required to support an application for personal leave with satisfactory evidence.
- 216. An employee who is sick or required to care for a sick family member for one day or longer while on annual leave or long service leave and who produces satisfactory medical evidence may apply for personal leave to be approved for that period instead of the annual or long service leave previously approved. Annual leave or long service leave will be re-credited to the extent of the number of full days of personal leave granted.
- 217. Where an employee's entitlement to paid personal leave is exhausted, the Delegate may approve additional leave as unpaid personal leave or half pay personal leave if the employee is sick. The Delegate will determine whether unpaid personal leave counts as service.
- 218. Where an employee takes leave without pay not to count as service, personal leave credits will be adjusted on a pro rata basis.
- 219. An employee will not be entitled to paid personal leave while also taking paid leave under the *Maternity Leave (Commonwealth Employees) Act 1973*, maternity leave, adoption leave, foster carer's leave, or supporting partner's leave.
- 220. Accrued personal leave credits will not be paid out on separation from the ACCC.

Long service leave

- 221. An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
- 222. The minimum period of long service leave which may be granted is seven calendar days. For any period of long service leave the final date will be the day before the employee returns to duty or commences another leave type.

Parental leave

Maternity leave

- 223. An employee who is entitled to 12 weeks paid leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973* (hereafter referred to as the Maternity Leave Act) will be entitled to an additional 4 weeks paid leave. The employee may elect to spread the payment of the total paid maternity leave of 16 weeks, up to a period of 32 weeks at a rate of no less than half their salary. The first 16 weeks of maternity leave count for service for all purposes.
- 224. In accordance with the Maternity Leave Act an employee may furnish a certificate given by a medical practitioner certifying that she is fit for duty within the period of

six weeks before the expected birth of her child. The delegate may give the employee permission to continue to perform duty up until two weeks before the expected birth of her child on the basis of certification of fitness. In the last two weeks the Delegate will need to be satisfied additionally that it is appropriate, in all the circumstances, for the employee to remain on duty.

Adoption leave

- 225. An employee with 12 months continuous service in the APS who is the primary care giver to an adopted child may take adoption leave.
- 226. Adoption leave applies where the child is under the age of 16 years and the adoptive child has not lived with the employee for a period of six months or more immediately before the adoption. The adoptive child cannot be a child of the employee or the employee's partner, unless that child had not been in the custody and care of the employee or the employee's partner for a continuous period of six months or more immediately before the adoption.
- 227. Eligible employees may take 16 weeks paid leave from the date of placement of the child. Paid adoption leave may be taken up to a period of 32 weeks at a rate of no less than half their salary but any period of leave in excess of 16 weeks will not count as service for any purpose.
- 228. An employee who has insufficient annual leave credits may take 2 days unpaid pre-adoption leave to attend interviews or examinations required to obtain approval to adopt a child.
- 229. An employee must provide written notice to the Delegate of their intention to apply for adoption leave and the date the child is expected. Documentary evidence of approval for adoption must be submitted when applying for this leave.

Foster carer's leave

- 230. An employee with 12 months continuous service in the APS who is the primary care giver to a foster child may take foster carer's leave.
- 231. This entitlement applies in relation to a child for whom the employee has assumed long term responsibility arising from the placement of the child by a permanent 'fostering' arrangement:
 - by a person/organisation with statutory responsibility for the placement of the child
 - where the child is not expected to return to their family.
- 232. Eligible employees may take 16 weeks paid leave from the date of placement of the child. Paid foster carer's leave may be taken up to a period of 32 weeks at a rate of no less than half their salary but any period of leave in excess of 16 weeks will not count as service for any purpose.
- 233. An employee who has insufficient annual leave credits may take 2 days unpaid pre-foster carer's leave to attend interviews or examinations required to obtain approval to foster a child.
- 234. An employee must provide written notice to the Delegate of their intention to apply for foster carer's leave and the date the child is expected. Documentary evidence of

approval of a permanent fostering arrangement must be submitted when applying for this leave.

Supporting partner's leave

235. An employee with 12 months continuous service in the APS who is not the primary care giver to a dependent child may take up to 15 days paid supporting partner's leave and up to 5 days from personal leave credits. Supporting partner's leave is to be taken within 6 weeks of the date of the birth, the adoption of the dependant child, or the placement of the dependant child on a permanent fostering arrangement. The leave can only be taken on full pay.
236. An employee without 12 months continuous service in the APS who is not the primary care giver to a dependent child may take up to 5 days from personal leave credits. Supporting partner's leave is to be taken within 6 weeks of the date of the birth, the adoption of the dependant child, or the placement of the dependant child on a permanent fostering arrangement.

Unpaid parental leave

237. Employees may access the unpaid parental leave provisions in accordance with Division 5, Part 2-2, Chapter 2 of the FW Act.
238. Where an employee is on unpaid parental leave (including unpaid maternity, adoption, or foster carer's leave) and their existing superannuation fund rules do not already provide for such payments, the ACCC will continue to pay the employer contribution to superannuation as if that employee was not on unpaid parental leave.

Return to work after parental leave

239. On ending parental leave, an employee is entitled to return to:
- a. the employee's pre-parental leave duties
 - b. if those duties no longer exist – an available position for which the employee is qualified and suited at the same classification and pay as applied pre-parental leave. Where this is not practical, other duties will be sought, with the redeployment, reduction, and redundancy provisions applying to any placement.
240. For the purposes of this clause, duties means those performed:
- a. if the employee was moved to safe duties because of the pregnancy – immediately before the move
 - b. if the employee was moved to safe duties because of the pregnancy – immediately before the part-time employment began
 - c. otherwise – immediately before the employee commenced parental leave.
241. An employee who has responsibility for the care of a child under school age or under 18 and with a disability, may request access to flexible working arrangements, as outlined in paragraph 149.

Direction to attend medical examination

242. Under *Public Service Regulation* 3.2, the Delegate may, by written notice, direct an employee to attend a medical examination if the Delegate believes that the state of health of the employee:
- a. may be affecting the employee's work performance
 - b. has caused, or may cause the employee to have an extended absence from work
 - c. may be a danger to the employee
 - d. has caused, or may cause, the employee to be a danger to other employees or members of the public
 - e. may be affecting the employee's standard of conduct.
243. For the purpose of paragraph 242(b), an extended absence is:
- an absence from work of at least four continuous weeks
 - a combined total of absences from work, within a 13-week period, whether based on a single or separate illness or injury, of at least four weeks.

Defence Reservists leave

244. An employee is entitled to ADF Reserve leave with pay, for up to four weeks during each financial year for the purpose of fulfilling service in the ADF Reserve. These purposes include training and operational duty as required:
- a. during the employee's first year of ADF Reserve service, a further two weeks paid leave may be granted to facilitate participation in additional ADF Reserve training, including induction requirements
 - b. with the exception of the additional two weeks in the first year of service, leave can be accumulated and taken over a period of two years, to enable the employee to undertake training as a member of the ADF Reserves
 - c. employees are not required to pay their tax free ADF Reserve salary to the Agency in any circumstances.
245. An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to three weeks each financial year to perform duties as an officer or instructor of Cadets. For these purposes 'Cadet Force' means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.
246. Defence Reserve leave counts as service for all purposes, except for unpaid leave to undertake Continuous Full Time Service (CFTS). Unpaid leave for the purpose of CFTS counts for all purposes except annual leave.
247. Eligible employees may also apply for annual leave, long service leave, leave without pay, top-up pay or they may use flextime or make up time for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations.
248. Employees are to notify supervisors at the earliest opportunity once the dates for ADF Reserve, CFTS or Cadet Force activities are known and/or changed.

Other leave

- 249. The Delegate may approve other leave, with or without pay, for any purpose which the Delegate considers to be in the interests of the ACCC and/or the Commonwealth.
- 250. An employee on leave without pay who wishes to return to work prior to the agreed return date is required to give four weeks notice of their intention to return to work.
- 251. Attachment I contains an indicative listing of purposes for which the Delegate may approve other leave.

Preservation of entitlements and portability of leave

- 252. All leave entitlements accrued by ACCC employees by virtue of their employment in the APS before the commencement date of this Agreement are unaffected by this Agreement.
- 253. Where an employee joins the ACCC on or after the commencement date from an employer staffed under the *Public Service Act 1999*, the *Parliamentary Services Act 1999* or from the ACT Government Service, accrued annual leave and personal/carer's leave (however described) will be transferred, provided there is no break in continuity of service.

Public holidays

- 254. An employee will observe the following public holidays each year and will be paid salary as if that day were not a public holiday:
 - a. 1 January (New Year's Day)
 - b. 26 January (Australia Day)
 - c. Good Friday and Easter Monday
 - d. 25 April (Anzac Day) or a substitute day
 - e. in each state and territory, the day observed to celebrate the anniversary of the birthday of the Sovereign
 - g. 25 December (Christmas Day)
 - h. 26 December (Boxing Day)
 - i. an additional day (to be treated as a public holiday for the purposes of this Agreement) between Christmas Day and New Year's Day on:
 - if Christmas Day falls on a Sunday—28 December
 - if Christmas Day falls on a Monday or a Wednesday—27 December
 - if Christmas Day falls on a Tuesday—31 December
 - if Christmas Day falls on a Thursday, Friday or Saturday—29 December.
- 255. State, Territory and local public holidays will be observed by employees who work in that State, Territory, or locality when these days are declared State or Territory law or gazetted in the relevant State or Territory government gazette.
- 256. An employee and the Delegate may agree to substitute any holiday prescribed in paragraph 255 above for a cultural or religious day of significance to the employee having regard to operational requirements.

- 257. Employees will be paid at the rate of salary applicable on that day, had the day not been a public holiday.
- 258. An employee, who is absent on a day or part-day that is a public holiday in the place where the employee is based for work purposes, is entitled to be paid for the day or full day absence as if that day or part-day was not a public holiday, except where that person would not normally have worked on that day.
- 259. Where a public holiday falls during a period when an employee is absent on leave (other than annual or paid personal/carer's leave) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave (for example, if on long service leave on half pay, payment is on half pay).

Christmas Shutdown

- 260. ACCC will shut down at noon on the last working day before Christmas Day and re-open on the first working day after New Year's Day.
- 261. An employee required to work during the shutdown period will be paid at overtime rates.
- 262. Where a part-time employee is not rostered to work during any portion of the shutdown period, they can elect to take the equivalent time off by agreement with their manager.

Unauthorised absence

- 263. Where an employee is absent from duty without approval, all pay and other benefits provided under this Agreement, (e.g. flexible working arrangements) will cease to be available until the employee resumes duty or is granted leave. Where flexible working arrangements no longer apply, employees will revert to standard hours of attendance as defined in paragraphs 147 or 150 or other hours as agreed between the manager and the employee.

Part 8: Other working conditions and allowances

Objective

264. These provisions aim to:

- ensure that an employee is not financially disadvantaged by costs reasonably incurred in the course of their official duties
- recognise and support employees' health and wellbeing.

Variation to allowances or working conditions

265. The levels of allowances and accommodation rates payable under this part are reviewed by the Delegate every 1 July.
266. The Delegate may increase any allowances and accommodation rates specified in this Agreement.

Healthy lifestyle reimbursement

267. In recognition of the benefits of a healthy lifestyle, a reimbursement of up to \$300 per annum for health lifestyle related expenses will be provided to employees as a one off annual payment each financial year, providing that they satisfy the criteria specified in paragraph 268.
268. To receive a reimbursement for healthy lifestyle related expenses, an employee must:
- a. have incurred the costs they are claiming within the financial year in which the claim is made
 - b. submit an application to their manager, accompanied by all relevant documentation
 - c. have their application approved by their manager, having regard to the relevance of the costs incurred against the criteria outlined in the Healthy Lifestyle Reimbursement guidelines
 - d. have been an employee of the ACCC for a minimum of three (3) months prior to the deadline for submission in the year for which they are claiming.
269. Only one application per employee will be processed for reimbursement of healthy lifestyle related expenses. All applications are to be submitted with relevant documentation for processing within the period commencing 1 March to 31 March within the financial year for which the employee is claiming.
270. If an employee is absent from work during the period 1 March to 31 March, they can submit relevant documentation for processing prior to this time.

Travel and related allowances

Mode of travel

271. Economy class air travel, train, or motor vehicle, are the standard forms of transport to be used by an employee required to travel within Australia on official business.

Calculation of travel allowance

272. For part day travel which does not involve an overnight stay, the employee travelling on official business for a period of 10 hours or more will be paid a part day travel allowance of \$60. An employee who undertakes travel for a lesser period than anticipated must repay any excess travel allowance advanced to the employee.
273. An allowance will be payable to an employee who travels on official business and is away from home overnight. The allowance, which is payable in advance where practicable, is to meet the cost of meals and any incidental expenses incurred by the employee while travelling on official business. The rates of travel allowance will be based upon those contained within Table 2 (rounded down) of the annual Australian Taxation Office Tax Determination relating to reasonable travelling and meal allowance expenses, as varied from time to time. Currently those rates are:

Breakfast	Lunch	Dinner	Incidentals
\$25	\$35	\$49	\$24

274. Where any meals are provided without expense to the employee, the value of the meal is deducted from the travel allowance calculation, except where paragraph 272 applies.
275. An employee who is required to be absent overnight from their usual place of work on official business will be paid an allowance for incidental expenses at the rate of \$24 for each overnight stay (i.e. where date change occurs). Incidental expenses meet those costs incidental to the requirement to be away from home overnight; e.g. laundry, toiletries, and personal transport costs.
276. In calculating the allowances payable under paragraphs 272-275 time involved in official travel by rail or air will include 90 minutes before the scheduled time of departure from the city of the employee's usual place of work and 90 minutes after the time of the employee's return to that city. For all other means of travel, the actual times of departure from and return to the city of their headquarters will be used. The allowance for meals and incidentals is inclusive of the goods and services tax.

Accommodation

277. An employee who is required to be absent overnight from their usual place of work on official business within Australia will have the cost of accommodation met.
278. The maximum accommodation cost to apply to each city will be guided by the annual taxation determination for reasonable travel.
279. Accommodation costs will be paid directly to the provider or their agent by the ACCC.

280. Additional accommodation costs can be met with the prior approval of, and in circumstances determined by, the Delegate.

Extended absences on official business

281. The Delegate will determine appropriate allowances where an employee is required to be temporarily absent from their usual place of work on official business in one locality for more than two weeks.
282. The Delegate will also determine appropriate allowances where an employee participates in an approved employee development program.

Time off for domestic business travel

283. Employees may take time off to a maximum of 7:25 hours, to recover from the demands of business travel occurring outside Monday to Friday 0700 to 1900.
284. Time taken off for this purpose will be by agreement with the employee's manager and must be used within fourteen working days of completion of the business travel or where exceptional circumstances do not permit this, as soon as possible, by agreement with the employee's manager.

Workplace responsibility allowance

285. A Workplace Responsibility Allowance (WRA) of \$24 per fortnight will be paid to employees for undertaking the following workplace responsibility roles:
- a. First Aid Officer
 - b. Fire Warden
 - c. Health and Safety Representative
 - d. Workplace Contact Officer.
286. Employees who undertake more than one of the above workplace responsibility roles will only receive one payment of the allowance per fortnight.
287. To be eligible for payment of the WRA on the basis of undertaking the role of First Aid Officer, an employee must:
- a. possess the required qualifications for first aid at the minimum accreditation standard of Senior First Aid Certificate (Level 2 or equivalent)
 - b. have continuing expertise commensurate with that training
 - c. be appointed as a First Aid Officer by the Delegate.
288. To be eligible for payment of the WRA on the basis of undertaking the role of Fire Warden, an employee must:
- a. be appointed as a Fire Warden by the Delegate
 - b. have successfully undertaken relevant fire warden training.
289. To be eligible for payment of the WRA on the basis of undertaking the role of Health & Safety Representative, an employee must:
- a. be elected as a Health & Safety representative under the ACCC HSMA

- b. have successfully undertaken the relevant Health & Safety Representative training.
290. To be eligible for payment of the WRA on the basis of undertaking the role of Workplace Contact Officer, an employee must:
- a. be elected as a Workplace Contact Officer under the ACCC's Workplace Contact Officer policy
 - b. have successfully undertaken the relevant training.

Meal allowance

291. A meal allowance will be paid to an employee on overtime in accordance with the time periods and minimum hours worked in the following table:

Employee type	Overtime period	Min hrs to be worked	Type of working day
Full time Part time	Commenced 0600 hrs or earlier	Five	Normal working day
Full time	Commenced at or before 1200 & ceased at or after 1400 hrs	Five	Weekend, public holiday
Part time	Commenced at or before 1200 & ceased at or after 1400 hrs	Five	Normal working day outside of part-time work schedule
Full time	at work at 2000 hrs or later	Two	Normal working day, weekend, public holiday.
Part time	at work at 2000 hrs or later	Two	Normal working day, weekend, public holiday; if outside part-time work schedule
Full time Part time	at work at 0000 hrs	Two	Normal working day, weekend, public holiday

292. The meal allowance will be \$25.80 for each meal purchased within the period worked.
293. Meal allowance claims must be claimed through the claims for payment of overtime payroll module and include the project code, if relevant.
294. Where an executive level employee not receiving overtime is required to work hours that would normally attract a meal allowance, the meal allowance will be \$25.80 for each meal purchased.

Motor vehicle allowance

295. The Delegate may authorise an employee to use a private motor vehicle, or a vehicle hired by the employee, for official purposes where it will result in greater efficiency or be of less expense to the ACCC. For example, the motor vehicle allowance calculated in accordance with the following rates is not to exceed the best fare of the day for a flight to the same destination.
296. An employee authorised to use a private motor vehicle for official purposes will be entitled to the following allowances:

Engine capacity	Allowance cents per kilometre
More than 2600cc	70 cents
More than 1600cc but not more than 2600cc	69 cents
1600cc or less	58 cents

297. Where an employee can demonstrate that the allowance payable is insufficient to meet reasonable expenses incurred in official use of the vehicle, the Delegate may approve the payment of an additional allowance.
298. No additional allowance is payable should a person or persons whose travel costs would otherwise have been met by the ACCC accompany the employee in their private vehicle.

Relocation assistance

299. Where an employee relocates from one locality to another upon promotion, transfer, ongoing reassignment or temporary reassignment in excess of 12 months, the provisions contained in Attachment J will apply in relation to the payment of relocation assistance.

Loss, damage and indemnity

300. The Delegate may approve reimbursement to an employee for loss or damage to clothing or personal effects which occurs in the course of the employee's work.
301. The Delegate has the discretion to reimburse an employee for expenses reasonably and unavoidably incurred in carrying out the ACCC's functions.

Employee assistance program

302. Employees and their immediate family will have access to the ACCC's Employee Assistance Program (EAP) for personal or work related problems.

Part 9: Cooperative working relationship

Objective

303. These provisions aim to promote employee satisfaction and welfare, and organisational productivity, through a cooperative working relationship.

Representation

304. In any matter arising under this Agreement, an employee may have an employee representative, which may be a union representative, support or represent them and all relevant persons will deal with any such representative in good faith.
305. Time spent fulfilling the duties of an employee representative, is time on duty. Release from normal duties to fulfil the duties of an employee representative will be subject to operational requirements and prior approval from the representative's manager. Such approval will not be unreasonably withheld.

Discrimination free workplace

306. The ACCC is committed to the fair and equitable treatment of all employees and to supporting an inclusive, safe, fair, productive and successful workplace that is free from discrimination and harassment.
307. To support a work environment free from discrimination and harassment, management and employees are responsible for ensuring that they are aware of what constitutes discrimination, bullying and harassment and for taking all reasonable steps to prevent and eliminate unlawful discrimination.
308. For information about behaviour at work employees should refer to the Harassment and Discrimination-Free Workplace Policy and Procedures.

Participative work practices

309. The participative work practices provisions below operate in addition to, and are not intended to impact upon the operation of, the consultation on major change provisions of this Agreement (paragraphs 316–325).
310. The ACCC is committed to consulting employees in a timely and appropriate manner about workplace matters affecting them. It will genuinely involve employees and seek their contribution to the decision making process.
311. This commitment is complemented by an ACCC Workplace Relations Committee (WRC) for the life of this Agreement, as set out in the WRC terms of reference (Attachment L).
312. The WRC will meet at least quarterly to consult on conditions of employment and other matters affecting the implementation of this Agreement, including:
- the achievement of productivity savings contemplated by and costs arising from this Agreement
 - workplace issues arising from this Agreement
 - work value standards

- the development and review of employment related policies, procedures, and guidelines.
313. To facilitate consultations, information from ACCC databases will be made available to the WRC as appropriate and relevant, and subject to appropriate privacy limitations.
314. The terms of reference for the WRC may be reviewed by the WRC and any agreed changes recommended to the Delegate for approval.

Employee rights

315. The ACCC recognises the importance of affording employees the right to representation and freedom of association in the workplace. Accordingly, all employees, subject to their manager's approval and operational requirements, shall have:
- a. the right to reasonable paid time to seek and receive advice and assistance from their union or their other chosen representative in the workplace
 - b. the right to reasonable paid time to attend meetings with their union or other chosen representative
 - c. the right to be represented by their union or their other chosen representative on any employment issue
 - d. the right to paid leave to attend any legal or industrial proceedings where the employee is a witness or party to a workplace dispute
 - e. the right to discuss employment-related issues with other employees in their workplace.

Consultation on major change

316. This provision applies if:
- a. the ACCC has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise
 - b. the change is likely to have a significant effect on employees of the ACCC.
317. The ACCC must notify the relevant employees of the decision to introduce the major change.
318. The relevant employees may appoint a representative for the purposes of the procedures in this provision.
319. If:
- a. a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation
 - b. the employee or employees advise the ACCC of the identity of the representative, the ACCC must recognise the representative.
320. As soon as practicable after making its decision, the ACCC must:
- a. discuss with the relevant employees:
 - i) the introduction of the change

- ii) the effect the change is likely to have on the employees
 - iii) measures the ACCC is taking to avert or mitigate the adverse effect of the change on the employees, and
 - b. for the purposes of the discussion — provide, in writing, to the relevant employees:
 - i) all relevant information about the change including the nature of the change proposed
 - ii) information about the expected effects of the change on the employees
 - iii) any other matters likely to affect the employees.
321. However, the ACCC is not required to disclose confidential or commercially sensitive information to the relevant employees.
322. The ACCC must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
323. If a clause in the Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the ACCC, the requirements set out in paragraphs 317, 318 and 320 are taken not to apply.
324. In this provision, a major change is likely to have a significant effect on employees if it results in any of the below:
- a. the termination of the employment of employees
 - b. major change to the composition, operation or size of the ACCC's workforce or to the skills required of employees
 - c. the elimination or diminution of job opportunities (including opportunities for promotion or tenure)
 - d. the alteration of hours of work
 - e. the need to retrain employees
 - f. the need to relocate employees to another workplace
 - g. the restructuring of jobs.
325. In this provision, 'relevant employees' means the employees who may be affected by the major change.

Principles for workplace delegates

326. The role of union workplace delegates is to be respected and facilitated.
327. The ACCC and workplace delegates must deal with each other in good faith.
328. The rights of union workplace delegates and recognised representatives include but are not limited to:
- the right to be treated fairly and to perform their role as workplace delegates without any discrimination in their employment
 - recognition by the ACCC that endorsed workplace delegates speak on behalf of their members in the workplace
 - the right to participate in collective bargaining on behalf of those who they represent, as per the FW Act

- the right to reasonable paid time to provide information to and seek feedback from employees in the workplace
 - reasonable paid time off to represent union members in the agency at relevant union forums
 - reasonable access to ACCC facilities for the purpose of carrying out work as a delegate and consulting with workplace colleagues and the union, subject to ACCC policies and protocols
 - reasonable paid time during normal working hours to consult with colleagues in the workplace
 - reasonable access to appropriate training in workplace relations matters including training provided by a union
 - the right to consultation and access to relevant information about the workplace and the ACCC
 - the right to reasonable paid time to represent the interests of members to the employer and industrial tribunals.
329. The ACCC will seek to facilitate official union communication with employees by means that may include:
- the use of email as a means of communicating with employees and other means of information sharing, including written materials, electronic billboards, and access to websites
 - group or individual meetings between employees and their representatives.
330. In exercising their rights, workplace delegates and unions will consider operational issues, departmental policies and guidelines and the likely affect on the efficient operation of the ACCC and the provision of services by the Commonwealth.

Review of actions and dispute settlement

331. The review of actions and dispute settlement provisions below (paragraphs 332–351) are separate and are not intended to impact upon one another's operation or the right of an employee to seek a review of APS employment under the *Public Service Act 1999*.
332. Where grievances arising from decisions affecting employees and disagreements arising from this Agreement occur, as far as practicable they should be resolved in a cooperative manner at the worksite level through each of the following:
- promptly addressing those disagreements and grievances as they arise in accordance with the procedures set out below
 - discussing those disagreements and grievances in a fair, honest and constructive way
 - seeking to resolve those disagreements and grievances wherever possible without recourse to third parties, though an employee may choose to be represented or assisted by a person of their choice.
333. Matters outside this Agreement – including workplace policies, guidelines and procedures other than those which are directly related to employment conditions – are not subject to the dispute settlement procedures (paragraphs 344–351).

Review of actions

- 334. Where local grievances arise over decisions or actions affecting an employee, the employee and the ACCC agree that work will continue according to custom and practice while the procedures outlined in this section are applied.
- 335. Where local grievances arise over decisions or actions affecting an employee, every effort will be made to resolve the matter through discussion between the relevant manager and the employee concerned.
- 336. Employees are expected to raise issues of concern with their manager as soon as they arise. Managers are expected to respond promptly and to initiate discussions within two working days of receiving an employee's request.
- 337. Where those discussions fail to resolve the matter, an employee may refer the matter to the next level of management for resolution.
- 338. In circumstances where the matter relates to the behaviour of the manager or senior manager and the employee considers it would be inappropriate to discuss the matter at that level, the employee may similarly discuss the matter with a higher level of management.
- 339. In those exceptional circumstances where the matter remains unresolved after discussions with the appropriate level of management, an employee may refer the matter to the Delegate who may, where they consider it necessary or appropriate, appoint an independent person from within or outside the ACCC to assist in resolving the matter and/or to investigate the matter and make recommendations to the Delegate.
- 340. The final internal adjudicator will be the Delegate, who will advise the employee and the manager in writing of their decision in respect of the matter and the reasons for that decision, including (but subject to appropriate privacy safeguards) the outcome of any investigation of the matter.
- 341. In normal circumstances the resolution of the workplace issue should be completed within three months.
- 342. At any stage throughout this process the employee and/or the manager may seek the assistance of the Employee Assistance Program (paragraph 302). An employee may seek review of certain employment-related actions under the *Public Service Act 1999*.
- 343. The Delegate may, subject to the complaint and the outcome of the investigation being recorded in writing, choose to adopt the review and its outcome undertaken under paragraphs 331 to 341 as a primary review for the purposes of the *Public Service Regulations*.

Dispute settlement procedures

- 344. If a dispute relates to:
 - a. a matter arising under the Agreement
 - b. the National Employment Standards
 - c. occupational health and safetythis section sets out procedures to settle the dispute.

345. The Agency or an employee or employees who is a party to the dispute may appoint another person, organisation or association to accompany and/or represent them for the purposes of this section.
346. In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees concerned and the relevant supervisor or supervisors and/or management.
347. If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to FWA.
348. FWA may deal with the dispute in two stages:
- a. FWA will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion, or making a recommendation
 - b. if FWA is unable to resolve the dispute at the first stage, FWA may then:
 - i) arbitrate the dispute
 - ii) make a determination that is binding on the parties.
349. If FWA arbitrates the dispute, it may also use the powers that are available to it under the Act. A decision that FWA makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.
350. While the parties are trying to resolve the dispute using the procedures in this section:
- a. an employee must continue to perform his or her work as he or she would normally in accordance with established custom and practice at the ACCC that existed prior to the dispute arising, unless he or she has a reasonable concern about an imminent risk to his or her health or safety
 - b. an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
 - i) the work is not safe
 - ii) applicable occupational health and safety legislation would not permit the work to be performed
 - iii) the work is not appropriate for the employee to perform
 - iv) there are other reasonable grounds for the employee to refuse to comply with the direction.
351. The parties to the dispute agree to be bound by a decision made by FWA in accordance with this section.

Misconduct

352. The procedures for determining allegations of misconduct and for dealing with whistleblowing disclosures are dealt with under the *Public Service Act 1999*.

Right of entry

353. The ACCC recognises the right of entry provisions of the FW Act.

Freedom of association

354. Employees are free to join unions of their choice or not to join unions. No employee will be discriminated against or disadvantaged with respect to any term or condition of this Agreement, on account of membership or non-membership of, or holding office in, a union.

Part 10: Workplace adjustment

Excess employees

355. The excess employee provisions outlined in Attachment K are designed to facilitate effective career transition for excess employees while meeting organisational needs.

Termination of employment

356. The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee enjoys under:
- The FW Act
 - other Commonwealth laws (including the Constitution)
 - common law.
357. Termination of, or a decision to terminate employment, cannot be reviewed under the review of action and dispute settlement procedures addressed in paragraphs 331–351.
358. Nothing in this Agreement prevents the Delegate from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with the FW Act, subject to compliance with the procedures established by the Delegate for determining whether an employee has breached the code of conduct under section 15 of the *Public Service Act 1999*.

Part 11: Salary increase and bonus

Salary

359. This Agreement provides for the following increases to ACCC employees' salaries from the first day of the first full pay period commencing on or after:

Date	1 July 2011 or 7 days after approval of this Agreement from FWA, whichever is the later	1 July 2012	1 July 2013
Salary increase	3%	3%	3%

360. The salary increases listed above do not apply to an employee whose salary is set through a SSL (paragraphs 81–83) or supplementation (paragraph 17).

Bonus

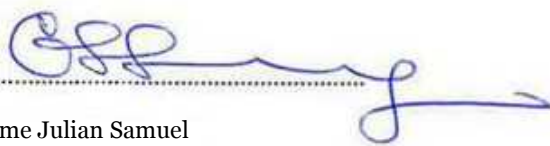
361. A 1.5 % of salary bonus will be paid to all eligible employees. An eligible employee is a person who is employed by the ACCC and is subject to this Agreement on the same day as the salary increase (paragraph 359) comes into effect. Employees will receive the 1.5 % of salary bonus on the first available payday after the commencement of the Agreement.

Part 12: Signature pages


362. The persons below sign this agreement in accordance with Regulation 2.06A of the *Fair Work Regulations 2009*.


Employer

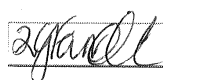
Signed by the Chairperson, Australian Competition and Consumer Commission.

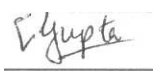
Signed: 
Name: Graeme Julian Samuel
Date: 14 July 2011

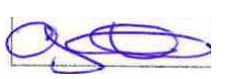
Bargaining Representatives


Signed: 
Name: Shane Dallas
Address: 400 George St
Brisbane QLD 4000
Date: 14 July 2011


Signed: 
Name: Gina D'Ettorre
Address: 360 Elizabeth St
Melbourne VIC 3000
Date: 14 July 2011


Signed: 
Name: Tanya Farrell
Address: 23 Marcus Clarke St
Canberra ACT 2601
Date: 14 July 2011

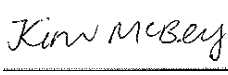
Signed: 
Name: Chandni Gupta
Address: 400 George St
Brisbane QLD 4000
Date: 14 July 2011


Signed: 
Name: Tony Hilton
Address: 233 Adelaide Terrace
Perth WA 6000
Date: 14 July 2011


Signed: 
Name: Sue Jacquier
Address: 19 Grenfell St
Adelaide SA 5000
Date: 14 July 2011


Signed: 
Name: Eric Lauro
Address: 19 Grenfell St
Adelaide SA 5000
Date: 14 July 2011

Signed: 
Name: Tim Massey
Address: 233 Adelaide Terrace
Perth WA 6000
Date: 14 July 2011

Signed: 
Name: Kim McBey
Address: 370 Flinders Mall
Townsville QLD 4810
Date: 14 July 2011

Signed: 
Name: Sharon Patrick
Address: 23 Marcus Clarke St
Canberra ACT 2601
Date: 14 July 2011

Signed: 
Name: Colin Pennell
Address: 360 Elizabeth St
Melbourne VIC 3000
Date: 14 July 2011

Signed: 
Name: Neera Stephenson
Address: 23 Marcus Clarke St
Canberra ACT 2601
Date: 14 July 2011

Continued over...

Continued from previous...

Signed: 

Name: Sam Strudwick-Day
Address: 175 Pitt St
Sydney NSW 2000

Date: 14 July 2011

Signed: 


Name: Rupert Evans (CPSU)
Address: 440 Collins St
Melbourne VIC 3000

Date: 14 July 2011

Signed: 

Name: Kerry Jane Taylor
Address: 360 Elizabeth St
Melbourne VIC 3000

Date: 14 July 2011

Signed: 

Name: Michael White (MEAA)
Address: 40 Brisbane Ave
Barton ACT 2600

Date: 14 July 2011

Signed: 

Name: Jennifer Taylor-Davis
Address: 400 George St
Brisbane QLD 4000

Date: 14 July 2011

Attachment A: ACCC broadband – general and rates of pay

363. The following table details the classification structure and rates of pay for the ACCC broadband—general:

ACCC Band	APS Classification	Base and Cap	As at 30 June 2011	Following 3% salary increase (paragraph 359)	Following 3% salary increase 1 July 2012	Following 3% salary increase 1 July 2013
One	APS 1	Base	41026	42257	43524	44830
		Cap	45345	46705	48107	49550
	<i>Transition point: see paragraphs 42-49</i>					
	APS 2	Base	46428	47821	49255	50733
		Cap	51483	53027	54618	56257
	<i>Transition point: see paragraphs 42-49</i>					
	APS 3	Base	52880	54466	56100	57783
		Cap	57077	58789	60553	62370
Two	APS 4	Base	58942	60710	62532	64408
		Cap	63996	65916	67893	69930
	<i>Transition point: see paragraphs 42-49</i>					
	APS 5	Base	65741	67713	69745	71837
		Cap	69708	71799	73953	76172
Three	APS 6	Base	72769	74952	77201	79517
		Cap	81562	84009	86529	89125
Four	EL1	Base	90413	93125	95919	98797
		Cap	100060	103062	106154	109339
Five	EL2	Base	104819	107964	111203	114539
		Cap	122839	126524	130320	134229

Attachment B: ACCC broadband – lawyer and rates of pay

364. The following table details the classification structure and rates of pay for ACCC lawyers:

Tier	Equivalent to ACCC	APS Classification	Pay Range	As at 30 June 2011	Following 3% salary increase (paragraph 359)	Following 3% salary increase 1 July 2012	Following 3% salary increase 1 July 2013
One	Band 1	APS3	(Fixed)	55638	58789*	60553	62370
	Band 2	APS4	Base	58942	60710	62532	64408
			Cap	62397	65916*	67893	69930
	Band 2	APS5	(Fixed)	67800	71799*	73953	76172
	Transition point: see paragraphs 42-52						
	Band 3	APS6	Base	72769	74952	77201	79517
			Cap	81562	84009	86529	89125
	Transition point: see paragraphs 42-52						
	Band 4	EL 1	Base	90413	93125	95919	98797
Cap			112472	115846	119322	122901	

Two	Band 5	EL 2	Base	118859	122425	126098	129880
			Cap	125982	129761	133654	137664

* The cap of the APS classifications APS 3 to APS 5 have been adjusted to correspond to those of the ACCC Broadband – general rates of pay.

Attachment C: ACCC broadband – graduate APS and rates of pay

365. The following table details the classification structure and rates of pay for ACCC graduates:

Graduate Band	Equivalent to ACCC	APS Classification	Pay Range	As at 30 June 2011	Following 3% salary increase (paragraph 359)	Following 3% salary increase 1 July 2012	Following 3% salary increase 1 July 2013
GAPS 1	-	Graduate APS	GAPS A	51483	53027	54618	56257
			GAPS B	54257	55885	57561	59288
GAPS 2	Band 1	APS 3	GAPS C	54257	55885	57561	59288
	Band 2	APS 4	GAPS D	58942	60710	62532	64408

Attachment D: ACCC junior rates of pay

366. The following table details the junior rates of pay:

Age	ACCC Band	APS Classification	As at 30 June 2011	Following 3% salary increase (paragraph 359)	Following 3% salary increase 1 July 2012	Following 3% salary increase 1 July 2013
Under 18 (60%)	Band 1	APS 1	24615	25353	26114	26897

Note: Employees 18 years and over are paid adult rates of pay.

Attachment E: Performance Development Plan

Introduction

367. The Performance Development Plan (PDP) process is integral to the performance management framework described in paragraphs 70–72.
368. Performance development planning applies to all employees.
369. Managers have a key role in driving the development and implementation of PDP arrangements across the ACCC.
370. The PDP process should occur in conjunction with regular constructive feedback between the manager and the employee.
371. Where an employee is eligible for salary progression, PDP discussions occur separately to those for salary progression review (paragraphs 78–80, Attachment F). The two processes are separate because they result in different outputs:
- the outputs of PDP are personal development and plans for system improvement
 - the output of a salary progression review is a salary decision.

Objective

372. The objective of PDP is to enhance performance through each of the following:
- personal development and growth
 - aligning an individual's development with the needs of the ACCC
 - improved systems and processes.

Timeframe

373. PDP discussions occur as necessary throughout the year. Managers are required to report on PDP discussions in April and October each year, in alignment with the business planning and budget review process.

Process

374. The PDP process occurs between a manager and an employee or team; either party may initiate the process.
375. PDP is a cyclical process with three phases: reflect, plan, and perform.

Reflect

376. The reflection phase is an opportunity for the employee and manager to reflect on past actions and experiences and to discuss changes in the work environment and what impact these may have in the future. It is an opportunity to update the job description for the position to ensure it is an accurate representation of both the work and the value of the work being performed.

Plan

- 377. In the planning phase, the employee and manager develop the plan of action together, setting goals that contribute to the employee's personal development and the performance of the work team.
- 378. The plan sets out the actions that will be performed to achieve these goals and includes resources or assistance necessary to achieve the goals and target dates for goal achievement.

Perform

- 379. In the performance phase the employee and manager take responsibility for performing actions to achieve the planned goals; this may include learning, coaching, regular informal feedback, sharing of new skills and knowledge, and allocation of resources as necessary.

Documentation

- 380. The plan of action may be written.
- 381. Any documentation for the PDP process, including plans of action, will be held by the employee and their manager or senior manager only.

Report

- 382. The senior manager must provide notification to People Services and Strategy Branch that the PDP process has been followed.
- 383. Any actions which involve expenditure (e.g. training, study, or resources) should be notified to the relevant sections of People Services and Strategy Branch before incurring the expenditure.

Attachment F: Salary progression

Introduction

384. Salary progression is integral to the performance management framework described in paragraphs 70–72.
385. Salary progression applies to employees below the cap of their classification level, with the exception of ACCC graduates, trainee employees, employees on probation, or employees on junior rates of pay. Notwithstanding these exceptions, every employee's performance should be the subject of regular constructive feedback between that employee and their manager.

Objective

386. The objective of the salary progression system is recognition of, and reward for, an employee's progress toward the highly competent, skilled and productive behaviour and conduct expected at the employee's classification level.
387. Salary progression review will occur separately to PDP discussions (paragraphs 73–76), because the two processes result in different outputs:
- the outputs of PDP are personal, professional and career development
 - the output of salary progression is a salary decision related to an employee's capabilities and performance.

Classification structure and salary range

388. Classifications in the ACCC classification structure — general and ACCC broadband — legal have a salary range defined by a base (lowest point) and a cap (highest point).
389. The salary cap is the top salary level of the classification; it represents the value of the job. An employee who reaches the cap has achieved the level of performance and behaviour expected of a fully competent, skilled, productive and professional employee for that classification level.
390. The base salary marks the entry level for an employee at that classification. The base to cap salary range recognises that the employee needs to gain experience, skill and knowledge to become fully competent, skilled, productive and professional at that classification level. The employee's progress towards that level of skill, competence, productivity and professionalism will be recognised and rewarded through salary progression. The rate and degree of progression may vary between employees.

When to review salary progression

391. A manager may review an employee's salary progression any time from four months following their most recent salary progression review (or pay point advancement).
392. An employee on official secondment or ACCC endorsed temporary transfer, may be reviewed for salary progression against the ACCC criteria by the host agency. An employee on non-ACCC endorsed temporary transfer will be eligible for salary progression at any time from four months following their return to the ACCC.

393. Where an employee has not previously been reviewed for salary progression in their current position, the review may be conducted any time from four months following the date of their engagement, promotion, temporary assignment or transfer to their current position.
394. In determining when to review salary progression the manager should consider the following factors:
- a. work milestones – the timing of the review may be related to the:
 - i) completion of a project
 - ii) achievement of a milestone in a project, or in a work or planning cycle
 - b. resumption of a substantive position after an extended period of temporary assignment at a higher work value
 - c. the employee's development, demonstrated through performance and capabilities – the rate and degree of progress made by the employee towards being fully competent, skilled, productive and professional for their classification level
 - d. the timing and outcome of the employee's most recent salary progression review.
395. An employee may not be reviewed for salary progression for their classification level more than twice in a 12 month period regardless of the review outcome. Where an employee is reviewed twice within a twelve month period, the earlier of the two reviews will represent the date from which the next 12 month period begins.
396. An employee temporarily performing work at a higher work value may have their salary reviewed for the temporary position at any time from four months following assignment to the higher position.
397. An employee returning to a substantive position from a higher work value may be eligible for salary review at any time from four months following their most recent review at the substantive position.
398. An employee may request a salary progression review. The request is to be in writing and the review is to be concluded within 21 days of the request being made.
399. Where an employee has not had a salary progression review for 12 months, People Services and Strategy Branch will advise the employee's manager of the requirement to conduct a review and provide the manager with documentation and supporting material necessary to conduct the review.

Feedback between salary progression reviews

400. Informal feedback about an employee's performance should occur as early as practical after the performance and should form part of an ongoing dialogue between manager and employee about performance.
401. Feedback can be initiated by the manager or sought by the employee.

Review process

402. The employee's manager will conduct the review, in conjunction with the relevant senior manager, where applicable.

403. Where the employee has had more than one manager during the period since their previous review, the review may involve the other manager(s).

Criteria for review

404. When reviewing an employee for salary progression, the manager will use the [*Integrated Leadership System*](#) capabilities, as reflected in the employee's position document, to assess their progress against the capabilities required for the classification level of the employee. The core capabilities are:

For APS 1-6

- supports strategic direction
- achieves results
- supports productive working relationships
- displays personal drive and energy
- communicates with influence

For EL 1-2

- shapes strategic thinking
- achieves results
- cultivates productive working relationships
- exemplifies personal drive and integrity
- communicates with influence.

Output of review

405. Progression through the salary range will be by percentage of the employee's current salary, with delegation exercised by the senior manager for progression up to and including the nominal sum of 4 per cent in a 12 month period, and by the Delegate for progression totalling a nominal sum exceeding 4 per cent in a 12 month period.
406. The salary progression cannot result in the employee exceeding the cap for their level.

407. The salary progression is based on an assessment against the review criteria, according to the table below:

Progress since last review (or, where applicable, on engagement, promotion or temporary assignment to current position)	Salary progression outcome. Salary increases by:
The employee has made exceptional progress towards being fully competent, skilled, productive and professional for their classification level.	any percentage (up to cap)
The employee has made significant progress towards being fully competent, skilled, productive and professional for their classification level.	2% - ≤ 4% (over a 12 month period)
The employee has made some progress towards being fully competent, skilled, productive and professional for their classification level.	≤ 2% (over a 12 month period)
The employee has not progressed towards being fully competent, skilled, productive and professional for their classification level OR has not performed satisfactorily.	no change

Review of salary progression decision

408. Where a grievance arises over a salary progression decision, the process set out in paragraphs 334–343 of this Agreement will be followed.

Attachment G: Special Salary Level

Introduction

- 409. The Delegate may set the Special Salary Level (SSL) for a suitable employee at up to 20 per cent above the salary cap of the relevant classification range.
- 410. The Delegate may set and review the level and suitability of an employee for an SSL at any time.
- 411. The SSL applies to all classifications.

Objective

- 412. The SSL system is aimed at providing:
 - flexibility in the attraction and retention of employees
 - incentive and reward for continuing exceptional and valued contributions to the work of the ACCC
 - remuneration for atypical work where the market for the particular knowledge, skill and qualifications demands a special rate of salary.

Process/suitability

- 413. The Delegate determines the suitability of an employee for an SSL. The determination will be based on each of the following considerations:
 - a. for existing employees:
 - the employee has a sustained, excellent and exceptional level of performance
 - the employee is contributing to the objectives of the ACCC beyond the classification value of the job;
 - b. for specialist employees:
 - the employee has special knowledge, skills and qualifications
 - the employee is applying their knowledge, skills and qualifications to achieving the objectives of the ACCC;
 - c. where market reality applies:
 - the salary rates of other relevant employees
 - the current remunerative package of the employee or potential employee
 - the likelihood of the person providing value for money.

Moderation

- 414. The SSL will be moderated by the Chief Executive Officer in conjunction with senior managers.

Effect of salary increases

- 415. Employees in receipt of an SSL do not receive the salary increase as set out in paragraph 359.
- 416. Relativities between the SSL and the salary cap of the employee's classification range may reduce over time, unless the SSL is reviewed in accordance with paragraph 419 and reset by the Delegate.
- 417. Where the salary of an employee receiving an SSL equals or falls below the salary cap of the employee's classification range, the employee will receive a salary at the salary cap of the their classification range and will no longer be considered as an employee with an SSL.

Promotion and transfer

- 418. An employee in receipt of a SSL will not automatically retain that SSL upon promotion or transfer to a new position. The Delegate may approve a higher salary level in accordance with paragraphs 93 and 413.

Review of SSL

- 419. An employee on a special salary level may have their level reviewed at any time by the Delegate. The review may be initiated by the Delegate or requested by the employee. The criteria set out in paragraph 413 are assessed at the review. On review, the Delegate may decide to:
 - make no adjustment to the SSL
 - increase the SSL
 - reduce the SSL.

Review of decision

- 420. Where a grievance arises from a SSL decision, the procedures set out in paragraphs 331–343 are to be followed.

Attachment H: Managing unsatisfactory performance of duties

Introduction

- 421. Recognising that unsatisfactory performance of duties may arise (paragraphs 84–86), in fairness to all employees, when they do arise these issues will be addressed promptly, with fairness, sensitivity, and in a consistent manner.
- 422. The following provisions do not apply to employees on probation, or non-ongoing employees.

Objective

- 423. The objective of the following provisions is to improve performance.
- 424. It is the duty of all managers to regularly communicate with their staff about performance requirements and to provide feedback on their performance.

Underperformance

- 425. Acceptable standard of performance refers to both qualitative and quantitative aspects of work performance. It refers to what is acceptable, qualitatively and quantitatively, having regard to the nature of the work, the level of the position and the skills and experience of the employee.
- 426. Underperformance occurs when an employee consistently fails to work at an acceptable standard.
- 427. Underperformance must not be confused with misconduct. Misconduct is generally seen to be a failure to observe workplace rules. The following procedures must not be used for dealing with misconduct.

Preliminary measures

- 428. It is the manager's responsibility to ensure that each of the following steps have been taken before issuing a written warning to the employee:
 - a. the employee has been provided with a written articulation of the acceptable standard of performance and current position documentation
 - b. the PDP process has been followed and/or the employee has been provided with an opportunity to explain whether personal circumstances are impinging on performance
 - c. the employee has been advised of sources of advice or support.

Written warning

- 429. In circumstances where performance remains unsatisfactory the following process, aimed at improving performance, must be followed.

430. The manager should provide a written warning notice. The warning should specify each of the following:
- a. the acceptable standard of work
 - b. how the employee's work does not meet that standard
 - c. what the employee must do to meet that standard
 - d. how long the employee has to meet the required standard (*specified period*)
 - e. the consequences if the employee does not meet the required standard
 - f. the employee's right to request a review of action (paragraphs 331–343). A review of action inquiry can run concurrently with the process to manage underperformance.

Note: the *specified period* in 430(d) generally will be no less than one month and no more than two months. The type of duties to be performed typically determines the length of the specified period. In a processing role where duties require that the employee meet daily or short-term timeframes (e.g. executive assistants role, various corporate jobs) the specified period would be shorter. In a role where duties require the employee to produce work over a longer period (e.g. investigative, research or analytical role) the specified period may need to be longer.

431. A copy of this warning will be provided to the relevant senior manager.

Assessment period

432. The employee has the period specified in paragraph 430(d) to meet the required standard before further action will be taken.
433. During this period the manager or senior manager will assess the employee's performance at least on a fortnightly basis and prepare a written progress report on the employee's performance. Where necessary an independent person from outside the employee's team or section may undertake the assessment.
434. The employee must be given the opportunity to provide comments on each report.

Where performance has improved

435. If the employee has met the required standard of performance by the end of the specified period, no further action will be taken. The employee will be informed in writing that they meet the required standard of performance and that the process has concluded.

Action if performance remains unsatisfactory

436. If the employee's performance fails to meet the required standard by the end of the specified period the employee will be asked to show cause within seven days as to why further action should not be taken against them.
437. Further action includes one or more of the following:
- a. assignment of more suitable duties
 - b. removal of special salary level (where applicable)
 - c. reduction in classification

- d. termination of employment on the grounds of unsatisfactory performance of duties.

Reassignment

- 438. Assignments to other duties shall be processed in accordance with section 25 of the *Public Service Act 1999*.

Reduction in classification

- 439. An action pursuant to section 23(4)(e) of the *Public Service Act 1999* will reduce an employee's classification.
- 440. A notice of reduction takes effect after one month unless the employee lodges an appeal.
- 441. If an employee is reduced in classification without consent, the employee may lodge an appeal to the Delegate within 14 days of the notice of reduction on one or both of the following grounds:
 - a. they met the required standard of performance
 - b. there was a serious defect in the application of the above procedure.
- 442. The Delegate will consider the matter and decide to confirm or revoke the notice of reduction in classification within four weeks from the date the appeal was lodged. If the appeal is successful, the notice of reduction in classification is revoked without detriment to the employee.
- 443. Where an employee lodges an appeal and the Delegate's decision is upheld, the reduction takes effect on the day the appeal is dismissed or withdrawn or one month after the notice is issued, whichever is the later. During the course of an appeal, the employee will remain in their current job. If the employee fails to appear at a scheduled hearing of the appeal, the Delegate may dismiss the appeal.
- 444. An employee may also seek review of the decision under the *Public Service Act 1999*. The Delegate may, subject to the complaint and the outcome of the investigation being recorded in writing, choose to adopt the review and its outcome undertaken under paragraphs 441–443 as a primary review for the purposes of the *Public Service Regulations 1999*.

Termination

- 445. Where an employee is terminated on the grounds of unsatisfactory performance, the notice of termination will take effect:
 - a. 14 days after the day on which the notice is given, or after the expiration of the period of notice required under the FW Act, whichever is the later, or
 - b. after payment of compensation instead of notice.
- 446. Before deciding to terminate the employment of an employee, the Delegate is to ensure that correct procedures have been followed.

Guidance or assistance

447. An employee may choose to receive guidance or assistance, or have representation, from an employee representative at any stage of the procedure.

Documentation

448. All steps throughout the process must be documented. Documentation is kept confidential between the employee and the Delegate (and their representatives, if necessary). The employee has access to correspondence between the employee and the manager, progress reports (paragraph 433) and any evidence associated with the employee's performance.
449. Actions arising from paragraph 437 will be recorded on the employee's personal record. All documentation is kept in accordance with the National Archives of Australia approved record disposals authorities.

Temporary transfer

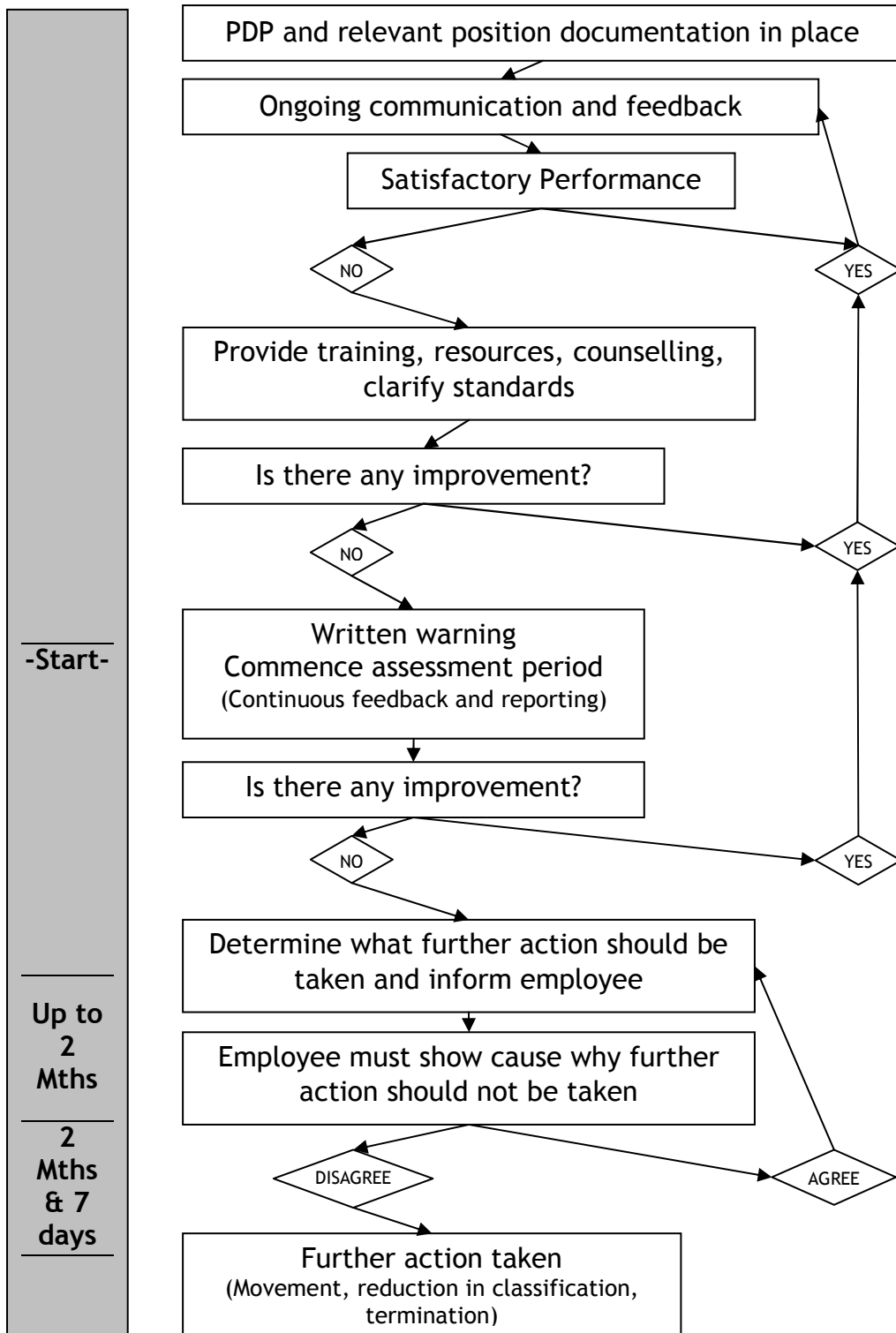
450. If an employee commences a temporary work placement with another agency after the issue of a written warning but before the specified period has concluded, upon their return the process will continue from the point it was at when the employee left.

Leave

451. Requests for annual leave, purchased leave or long service leave may be approved, but will not extend the assessment period unless this is agreed with the Delegate or unless the leave had been approved before the written warning.
452. The Delegate may extend the assessment period for time taken on personal leave if satisfactory evidence is provided and the leave period was a continuous absence of five days or more. The total aggregated period of extension cannot exceed two weeks unless the Delegate determines otherwise. A medical certificate or other evidence will be required for absences due to personal leave of more than three days. Paragraph 242 may be invoked, enabling the ACCC to request a health assessment.

Flowchart: managing unsatisfactory performance process

453. The following flowchart shows the process for managing unsatisfactory performance:



Attachment I: Other leave

454. Other leave with pay may be granted by the Delegate in, but not limited to, one or more of the following circumstances:
- approved training/study purposes
 - jury service
 - attendance at legal hearings as a witness under subpoena
 - participation in major international sporting events
 - illness where the employee is unfit for duty due to a war-caused medical condition as specified by the Department of Veterans' Affairs
 - participation in State Emergency Service and other emergency volunteer organisation activities
 - attendance at industrial proceedings associated with this Agreement
 - a disaster significantly affecting the employee
 - cultural or ceremonial purposes and NAIDOC activities (either paid or unpaid)
- Note:** In providing leave to release community service volunteers for emergency services duties, leave for the purposes of regular training and ceremonial duties and emergency services, responses and reasonable recovery time is included.
455. Other leave without pay may be granted by the Delegate in, but not limited to, one or more of the following circumstances:
- defence service
 - full time study commitments
 - parental leave (including for adopted and foster children)
 - ceremonial purposes
 - days of cultural or religious significance for employees
 - accompanying a spouse on a posting
 - meeting carer commitments (other leave without pay taken when Personal Leave credits have been exhausted)
 - non APS employment or work in the interests of the APS
 - engagement in work or employment in the interests of defence or public safety
 - other purposes where other types of paid leave have been exhausted.
 - attendance at the employee's own graduation ceremony from a recognised tertiary institution.
456. Where the ACCC initiates secondments or where there are special circumstances in the interests of the ACCC, the Delegate may grant leave without pay to count as service for all purposes. In all other instances, leave without pay will not count for service for all purposes.
457. A period of leave granted with pay counts as service for all purposes.
458. Leave with or without pay does not count as service for any purpose if the employee does not resume duty in the APS at the end of the period of the leave.

Attachment J: Relocation assistance

459. To avoid unreasonable financial disadvantage to an ACCC employee required to relocate to a different geographic location upon promotion, ongoing reassignment or temporary reassignment in excess of 12 months, any of the following forms of assistance may be provided by the Delegate:
- a. payment or reimbursement of reasonable transport and removal costs
 - b. payment or reimbursement of reasonable temporary accommodation costs at the new location
 - c. payment of a one-off disturbance allowance (amount determined by the Delegate), taking into account any disturbance suffered by the employee's dependants
 - d. reimbursement of reasonable costs incurred in avoiding serious disruption to the final two years of the employee's dependants' secondary education
 - e. reimbursement of reasonable costs associated with the sale and consequent purchase of a home
 - f. reimbursement for the cost of reconnecting utilities at the new location (with respect to telephone, only payable where the employee had a telephone at their previous location)
 - g. reimbursement for stamp duty on registering one motor vehicle owned by the employee at the new location, an establishment fee for the transfer of their driving licence to the new location, and an establishment fee for the transfer of the registration of one motor vehicle at the new location
 - h. reimbursement of reasonable costs incurred in moving domestic pets to the new location.
460. In exceptional circumstances, an employee who initiates a transfer may receive assistance at the discretion of the Delegate. For more information the employee should refer to the Employee Instigated Relocation Policy.

Attachment K: Excess employees

Principles

461. The excess employee provisions are designed to facilitate effective career transition for excess ACCC employees while meeting the organisational requirements of the ACCC.
462. These excess employee provisions recognise the need for financial security and supportive career counselling while employees seek new employment.
463. Where 15 or more employees become excess, sections 530 to 534 of the FW Act will also apply to the provisions within this part.
464. Where an excess employee situation exists the ACCC will give priority to redeployment of employees, in accordance with the '*APS Redeployment Policy – April 2011*'.

Meaning of excess employee

465. An employee is an excess employee for the purposes of this attachment if at least one of the following applies:
- the number of employees is greater than is necessary for the efficient and economical working of the ACCC
 - the services of an employee cannot be effectively used because of technological or other changes in work methods or changes in the nature, extent or organisation of the functions of the ACCC
 - the duties usually performed by the employee are to be performed in a different locality and the employee is not willing to perform the duties at the other locality and the Delegate has determined that these provisions will apply to that employee.

Definitions

466. Under this attachment the following definitions apply:

Term	Definition
<i>consideration period</i>	is a period of two months commencing from the time the Delegate has made an offer of voluntary redundancy
<i>salary</i>	Includes: <ol style="list-style-type: none"> temporary performance allowance if the employee was entitled to receive that allowance for a continuous period of at least one year immediately before the employee is given an offer of a voluntary redundancy other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred.

Continued over...

Continued from previous...

Term	Definition						
<i>retention period</i>	<p>is a period of 56 or 30 weeks depending on length of service and commencing at the completion of the consideration period</p> <table> <tr> <th><u>Length of service (years)</u></th><th><u>Retention period (weeks)</u></th></tr> <tr> <td>Where the employee has 20 years or more service or is over 45 years of age:</td><td>56</td></tr> <tr> <td>For all other employees:</td><td>30</td></tr> </table> <p>If an employee is entitled to a redundancy payment in accordance with the National Employment Standards, the relevant retention period outlined above is reduced by the number of weeks redundancy pay that the employee will be entitled to under the NES on termination, as at the expiration of the relevant retention period.</p>	<u>Length of service (years)</u>	<u>Retention period (weeks)</u>	Where the employee has 20 years or more service or is over 45 years of age:	56	For all other employees:	30
<u>Length of service (years)</u>	<u>Retention period (weeks)</u>						
Where the employee has 20 years or more service or is over 45 years of age:	56						
For all other employees:	30						
<i>service for retention period and severance pay</i>	<ul style="list-style-type: none"> ▪ service in the Agency ▪ government service as defined in s.10 of the <i>Long Service Leave (Commonwealth Employees) Act 1976</i> ▪ service with a Commonwealth body (other than service with a joint Commonwealth-state body corporate) in which the Commonwealth has a controlling interest which is recognised for long service leave purposes ▪ service with the Australian defence forces ▪ APS service immediately preceding deemed resignation under repealed s.49 of the <i>Public Service Act 1922</i>, if the service has not previously been recognised for severance pay purposes ▪ service in another organisation where an employee moved from the APS to that organisation with a transfer of function, or where an employee engaged by the organisation on work within a function is engaged in the APS as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes. <p>For earlier periods of service to count, there must be no breaks between the periods of service except where:</p> <ul style="list-style-type: none"> ▪ the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer ▪ the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the repealed section 49 of the <i>Public Service Act 1922</i>. 						

Continued over...

Continued from previous...

Term	Definition
<i>service for retention period and severance pay, cont.</i>	<p>Service not to count for severance pay purposes</p> <p>Any period of service which ceased pursuant to sections 29(3) or 29(4) of the FW Act or the equivalent previous provisions of the superseded or repealed <i>Public Service Act 1922</i>, or an equivalent provision under other Commonwealth legislation, including termination with the payment of a redundancy benefit or similar payment or an employer financed retirement benefit, will not count as service for severance pay purposes.</p> <p>Absences from duty which do not count as service for long service leave purposes will not count as service for severance pay or retention period purposes.</p>

Application

467. These provisions do not apply to non-ongoing employees and employees on probation.
468. An offer of voluntary redundancy to an employee who is not fit for, and not at work, may be made to an employee who is excess in accordance with the paragraphs below only where the Delegate, having regard to the Commonwealth's liability, decides it is appropriate.

Excess employee process

469. Where an excess employee situation is identified, the Delegate will:
- advise, in writing, the employee(s) directly of the situation, the reasons and scope
 - explore redeployment options for excess staff both internally and through the wider APS through collaborative arrangements with other agencies
 - hold discussions with the employee(s) and/or their representatives where requested by the employee
 - where redeployment options are unavailable, offer affected employee(s) a voluntary redundancy, (commencement of the consideration period).

Voluntary redundancy

470. Where the Delegate has made an offer of a voluntary redundancy, the employee will be given a period of two months (i.e. the consideration period) to accept the offer of voluntary redundancy. The offer must state when the Delegate proposes to issue the termination notice if the offer is accepted.
471. An employee who has received an offer of voluntary redundancy must advise the Delegate in writing before the end of the consideration period whether the employee wishes to be considered for re-assignment or termination.

472. If an employee accepts an offer of voluntary redundancy, the Delegate must issue a 'notice of termination' under section 29 of the *Public Service Act 1999* at the time set out in the offer, unless another time has been agreed, or the Delegate and the employee agree subsequent to the offer not to proceed with the voluntary redundancy.
473. If the employee does not accept an offer of a voluntary redundancy or express a preference, the employee will be taken to have a preference to be considered for re-assignment and will move into the retention period.
474. Two months after being made excess, the employee will be made an offer of voluntary redundancy.
475. Job swaps will be available until the end of the period for consideration of voluntary redundancy where an ACCC employee who is excess but does not want a voluntary redundancy, swaps jobs with an employee from within the ACCC or from another agency who is not excess but who wants voluntary redundancy, subject to the Delegate's approval case by case.
476. Only one offer of voluntary redundancy will be made to an employee during an 'excess employee process'.
477. Where:
- a redundancy situation exists and an offer to elect to be terminated voluntarily has been made to an employee (or employees) who has rejected that offer
 - an employee (or employees) is doing the same work at the same level and in the same location as the employee (or employees) offered the election, and has requested to be terminated voluntarily, been refused and still wishes to accept voluntary retrenchment
 - the employee (or employees) who rejected the offer to elect to be terminated voluntarily must not be involuntarily retired.

<i>Example</i>
<p>There are five employees (A, B, C, D & E) doing the same work at the same level at the same location. It is decided that three positions are no longer required and A, B & C are invited to elect voluntary retirement. A and B accept the offer, C rejects it.</p> <p>Options:</p> <ol style="list-style-type: none"> Neither D nor E express interest in voluntary retirement. C is involuntarily retired D requests voluntary retirement. That request can be accepted and C remains in employment. D requests voluntary retirement. That request can be rejected and both D and C remain in employment. Both D and E request voluntary retirement. Both requests are rejected. C remains in employment. Both D and E request voluntary retirement. One of the requests is accepted and either D or E is voluntarily retired. The other remains in employment with C.

Financial information (i.e. notice of entitlements)

478. At the time of the offer of voluntary redundancy, or as soon as possible thereafter, but in any event no later than one month after the offer, the Delegate must give an employee all of the following financial information:
- the amount of severance pay, pay in lieu of notice and paid up leave credits

- b. the amount of accumulated superannuation contributions
 - c. options open to the employee in relation to superannuation
 - d. taxation rules applying to payment to the employee.
- 479. From the time of offer of voluntary redundancy until termination or re-assignment employees will be able to access up to a maximum of \$400 for the purpose of seeking financial advice.

Career transition assistance

- 480. At the time of the offer of voluntary redundancy, or as soon as possible thereafter, but in any event no later than one month after the offer, employee(s) will be provided with career transition assistance which will include each of the following:
 - a. advice on the re-assignment and redundancy process
 - b. a point of contact for individual queries
 - c. assistance with identifying re-assignment opportunities
 - d. active canvassing and support for job swaps
 - e. training/redeployment assistance.

Shortening the consideration period

- 481. The two month consideration period can be reduced. This is subject to the employee advising that they have been provided with access to the 'financial information' and the approval of the Delegate.
- 482. The employee will be paid salary in lieu for the portion of the consideration period unexpired at the date of termination.
- 483. The Delegate cannot require an employee to reduce this period; only an employee can request that their period be shortened.

Extending the consideration period

- 484. The Delegate may extend the consideration period by up to one week where the employee requires personal illness or injury leave. A medical certificate must be provided for any period of personal leave.
- 485. This additional period is not eligible to be paid in lieu if the employee subsequently retires during the period.

Severance pay

- 486. An excess employee who agrees to be voluntarily retrenched and whose employment is terminated by the Delegate under section 29 of the *Public Service Act 1999* on the grounds that he/she is excess to the requirements of the ACCC, is entitled to be paid redundancy/severance pay consisting of both the following:
 - a. two weeks salary for each completed continuous year of service
 - b. a pro rata payment for completed continuous months of service since the last completed year of service.

The minimum amount of severance pay is an amount equal to four weeks salary and the maximum amount payable is an amount equal to 48 weeks salary and also subject to any minimum amount the employee is entitled to under the National Employment Standards.

487. Severance pay is calculated on a pro rata basis for any period of service when the employee worked part-time.

Reassignment

488. If the employee does not accept an offer of a voluntary redundancy or express a preference, the employee will be taken to have a preference to be considered for re-assignment and will move into the retention period.

Retention period

489. The retention period is to enable excess employees to be reassigned within the APS or to find other suitable employment. Consistent with this intention, during the retention period, both of the following will apply:
- a. the Agency will continue to provide and resource career transition services and support and take all reasonable steps to move an excess employee to a suitable vacancy, including, with the approval of the Public Service Commissioner where necessary, to another agency and to pursue placements outside the APS consistent with this Agreement
 - b. employees will take all reasonable steps to secure ongoing re-assignment or placement.

Reassignment services

490. Each of the following provisions will apply to employees during their retention period:
- a. the employee can access up to \$3000 for payment of external redeployment services or training opportunities that would be expected to enhance the employment prospects of employees
 - b. potentially excess and excess ACCC employees will be considered first, and in isolation from, and not in competition with, other applicants who are not excess for an advertised vacancy to which the employee seeks transfer
 - c. suitable trial placements in another organisation including private sector organisations will be funded for up to three months where there is an identifiable opportunity for ongoing placement and no job swap arrangement is involved; an individual employee may undertake more than one trial placement
 - d. if a suitable vacancy does not exist at the same level within the ACCC, the Delegate may reassign the employee to a job with a lower classification. If this occurs, the employee will be entitled to income maintenance during the retention period to maintain their level of salary. Where an employee is reduced in classification after the offer of voluntary redundancy and before the end of the retention period, income maintenance will apply for the balance of the period

- e. reasonable leave with full pay to attend necessary employment interviews and where expenses to attend interviews are not met by the prospective employer, reimbursement of reasonable travel expenses.

Personal leave during retention period

491. The Delegate may extend the retention period for time taken on personal leave. The period must be continuous absence of five days or more and the total aggregated period of extension cannot exceed four weeks. The retention period will not be extended for other absences except where the Delegate considers there are compelling reasons for taking such leave and the employee's ability to participate in the re-assignment process has been significantly affected by the absence.

Additional support on completion of retention

492. Where an employee has not been redeployed by completion of the retention period, additional support may be provided if the employee:
- has less than 10 years of service
 - has more than 20 years of service
 - is 45 years or older.
493. Eligible employees, as defined in paragraph 492, may receive additional support if they have met each of the following qualification criteria:
- a. full participation in external redeployment services or training opportunities funded by the ACCC, as demonstrated by a satisfactory report from the service/training provider(s)
 - b. active, regular and ongoing pursuit of employment or reassignment opportunities, as demonstrated by documentary evidence of enquiries and applications
 - c. where applicable, satisfactory participation in any suitable trial placement in another organisation, as demonstrated by a satisfactory report from that organisation.
494. In exceptional circumstances the Delegate may waive the qualification criteria in paragraph 493.
495. The maximum additional support that can be provided is indicated in the following table:

Retention period completed	Additional support
<i>56 weeks</i>	<i>Up to three months employment, or outplacement services to the value of \$3000 where agreed by the employee and the Delegate</i>
<i>30 weeks</i>	<i>Up to two months employment, or outplacement services to the value of \$2000 where agreed by the employee and the Delegate</i>

Termination at the end of retention period

496. The employment of an excess employee who has not been reassigned at the end of the retention period may be terminated under section 29 of the *Public Service Act 1999* without their consent. Termination will take effect at the end of the retention period, unless there is additional support provided (paragraphs 492–495), or an extension of the retention period (paragraph 491).
497. An employee who is to be involuntary terminated after unsuccessful reassignment will be provided with relevant financial information at the time the Delegate issues the ‘notice of termination’. Severance benefits as specified under this agreement are not available to an employee who resigns or consents to involuntary redundancy during the retention period, or is involuntarily terminated at the conclusion of the retention period.
498. In deciding whether to terminate an excess employee, the Delegate will take account of any re-assignment process that may be in progress.
499. An excess employee may consent to involuntary redundancy during the retention period.

Notice of termination (i.e. notice period)

500. An employee is terminated by the Delegate giving the employee a notice of termination under section 29 of the *Public Service Act 1999*. If the employee is at least 45 years old and has at least five years’ continuous service, the notice period is five weeks; in any other case the notice period is four weeks.
501. The Delegate may terminate an employee before the end of the notice period. If this occurs, a payment in lieu of notice must be made of the amount of salary which the employee would have received had the employee worked until the end of the notice period.
502. In situations where an employee is to be terminated at the end of a retention period, the period of notice will as far as practicable be concurrent with the retention period.

Notice periods for reduction in classification

503. Where the Delegate proposes to reduce an excess employee’s classification, the employee will be given no less than one month’s notice.

Moving household

504. Where it is necessary, as a result of assignment of duties or reduction in classification, for an excess employee to move the employee’s household to a new locality, the employee will be entitled to reasonable relocation assistance as if the employee were being promoted, or assigned duties in another place.

Termination during retention period

505. Where the Delegate determines there is insufficient productive work available for an excess employee during the retention period, the Delegate may terminate the

employment of the employee before the end of the retention period, after consulting the employee and the employee's representative if the employee so wishes.

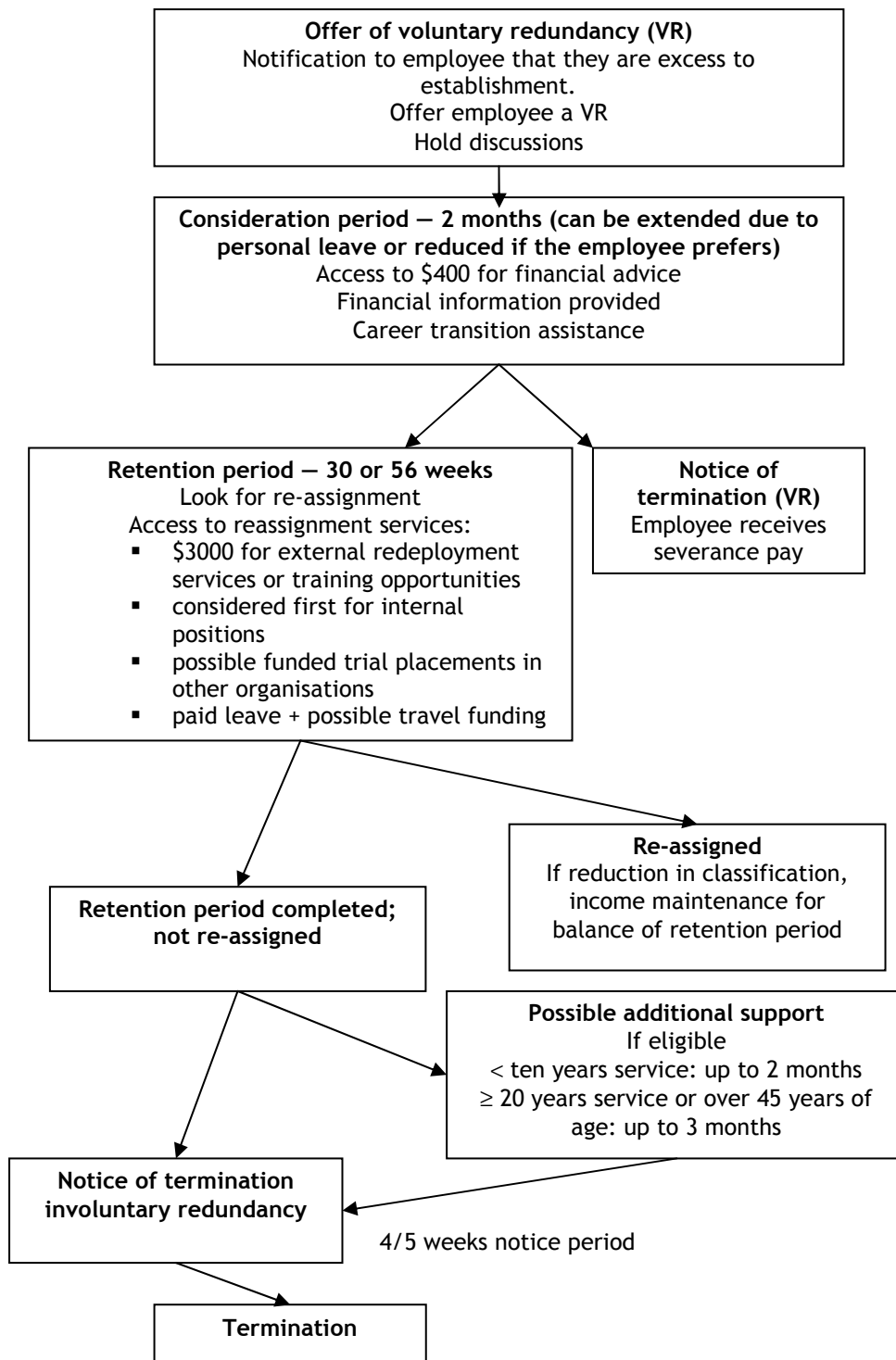
506. Where the employment of an excess employee is terminated by the Delegate under section 29 of the *Public Service Act 1999* during the retention period the employee will receive a payment equal to the salary for the remainder of the retention period. Such payment will be reduced or increased by an amount equivalent to the employee's entitlement to redundancy pay under the National Employment Standards.
507. The employee's date of termination for this purpose will be the date specified by the Delegate in the 'notice of termination' issued under section 29 of the *Public Service Act 1999*.

Review

508. Review of actions (paragraphs 331–343) applies only to entitlements available to excess employees.

Flowchart: managing excess employees

509. The following flowchart details the process for managing excess employees.



Attachment L: Workplace Relations Committee

Terms of reference

510. The Australian Competition and Consumer Commission Enterprise Agreement 2011–2014 provides a commitment that the ACCC will consult employees in a timely and appropriate manner about matters affecting them. The Agreement provides for the establishment of a formal consultative mechanism to be known as the ACCC Workplace Relations Committee (WRC).

Purpose

511. The WRC will meet at least quarterly to consult on conditions of employment and other matters affecting the implementation of the Agreement, including, but not limited to, each of the following:
- the achievement of productivity savings contemplated by, and costs arising from the Agreement
 - workplace issues arising from the Agreement
 - work value standards
 - the development of and review of ACCC employment related policies, procedures and guidelines.

Membership

512. Eight staff representatives, elected by staff as follows:
- Canberra—two representatives
 - Melbourne and Hobart—two representatives
 - Brisbane and Townsville—one representative
 - Sydney—one representative
 - Adelaide and Darwin—one representative
 - Perth—one representative.
513. Two employee organisation representatives, where requested by the employees.
514. Managers' representatives:
- two senior managers from relevant business areas, as appointed by the ACCC
 - the General Manager, People Services and Strategy Branch - who will chair the meetings of the WRC.
515. The WRC will be supported by a secretariat based in the People Services and Strategy Branch.

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