

**DEPARTMENT OF FOREIGN  
AFFAIRS AND TRADE**

**ENTERPRISE AGREEMENT  
2011 - 2014**

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## **SCOPE AND OBJECTIVE**

### **TITLE**

- 1.1 This Agreement will be known as the Department of Foreign Affairs and Trade Enterprise Agreement 2011- 2014.

### **PARTIES COVERED**

- 1.2 This Agreement is made between and covers the Secretary of DFAT on behalf of the Commonwealth and DFAT employees under section 172 of the *Fair Work Act 2009*.
- 1.3 This Agreement covers the following employee organisations, which were bargaining representatives for this Agreement, if Fair Work Australia notes in its decision to approve this Agreement that it covers the following employee organisations:

Community and Public Sector Union (CPSU)

Australian Manufacturing Workers' Union (AMWU)

Media, Entertainment and Arts Alliance (MEAA)

Australian Salaried Medical Officers Federation (ASMOF)

- 1.4 This Agreement covers the terms and conditions of employment of all non-SES Australian Public Service (APS) employees of DFAT employed under the *Public Service Act 1999*.

### **OBJECTIVE**

- 1.5 This Agreement aims to facilitate achievement of departmental priorities and requirements including by:
- i. encouraging employees and supervisors to manage and prioritise workloads within reasonable working hours;
  - ii. maintaining a strong performance-based culture;
  - iii. continuing to improve the department's effectiveness through high-quality management of its human resources to achieve excellence in foreign and trade policy and client service;
  - iv. increasing operational efficiency with streamlined administrative processes and more flexible working arrangements;

- v. aiming to ensure flexibility for employees to better balance their professional and personal lives;
- vi. promoting employee commitment to DFAT by upholding workplace diversity, anti-discrimination and employee-friendly principles and policies;
- vii. enhancing employee development through a positive working environment that emphasises well-focused training and career development;
- viii. promoting adherence to the APS Values and the APS Code of Conduct set out in the *Public Service Act 1999* and the DFAT Code of Conduct for Overseas Service, which takes account of the particular significance of the department's role outside Australia. Ethical conduct by employees contributes significantly to efficiency and effectiveness in the workplace and to the standing of the department and its employees in Australia and internationally.

1.6 In developing this Agreement, four principles have been embraced:

- i. the Agreement has been developed to contribute to a harmonious working environment in the department with the aim of ensuring that DFAT is an employer of choice by providing employment conditions that appropriately recognise and remunerate employees;
- ii. the arrangements and provisions contained herein have been developed and will be implemented in the context of the department's overall budget;
- iii. the parties to this Agreement recognise the link between gains in productivity and the need to reflect these in improved conditions of employment where possible; and
- iv. a commitment to consult with employees and their representatives, including through the Workplace Relations Committee (WRC), on working arrangements and conditions of employment.

## INTERPRETATIONS/DEFINITIONS

### 1.7 For the purposes of this Agreement:

- ‘Agreement’ means the Department of Foreign Affairs and Trade Enterprise Agreement 2011- 2014;
- ‘APS’ means the Australian Public Service;
- ‘APS employee’ means an APS employee engaged under section 22 of the *Public Service Act 1999*;
- ‘casual’ means an employee engaged on an irregular or intermittent basis pursuant to section 22(2)(c) of the *Public Service Act 1999*;
- ‘CMD’ means Corporate Management Division;
- ‘crisis-related duty’ - for the purposes of paragraphs 3.25 and 3.29 of this Agreement, crisis-related duty refers to work performed by an employee in response to an overseas crisis as determined by the Secretary.
- ‘department’ or ‘DFAT’ means the Department of Foreign Affairs and Trade;
- ‘employee’ means an employee of DFAT who is employed under the *Public Service Act 1999* and whose employment is covered by this Agreement;
- ‘employee organisation’ means an organisation of employees, including unions, registered pursuant to the *Fair Work (Registered Organisations) Act 2009*;
- ‘family’ - for the purposes of the provisions on personal/carer’s leave and compassionate leave set out in this Agreement, means
  - i. a spouse or de facto partner (irrespective of gender), child (including an adopted child, a step-child, a foster child, a child who is the subject of a permanent care order or an ex-nuptial child), parent, grandparent, grandchild or sibling of the employee; and/or
  - ii. a child (including an adopted child, a step-

child, a foster child, or an ex-nuptial child),  
parent, grandparent, grandchild or sibling of a  
spouse or de facto partner of the employee;  
and/or

iii. traditional kinship where there is a relationship  
or obligation, under the customs and traditions  
of the community or group to which the  
employee belongs;

iv. reference to a spouse or de facto partner also  
includes a former spouse or former de facto  
partner of the employee;

- ‘FWA’ means Fair Work Australia;
- ‘HOM’ means Head of Mission;
- ‘HOP’ means Head of Post;
- ‘HRM’ means Human Resource Manual;
- ‘ICPs’ means employees engaged pursuant to the  
department’s Indigenous Cadetship Program;
- ‘non-ongoing employee’ means a non-ongoing APS  
employee engaged under sections 22(2)(b) or 22(2)(c)  
of the *Public Service Act 1999*;
- ‘ongoing employee’ means an ongoing APS employee  
engaged under section 22(2)(a) of the *Public Service Act  
1999*;
- ‘Parliamentary Service’ refers to employment under  
the *Parliamentary Service Act 1999*;
- ‘promotion’ has the same meaning given by  
subparagraph 4.6(1) of the *Public Service  
Commissioner’s Directions 1999*;
- ‘qualifying service’ means service that is recognised  
for redundancy pay purposes;
- ‘Secretary’ means the Secretary of the Department of  
Foreign Affairs and Trade;

- ‘SES’ means the Senior Executive Service established by the *Public Service Act 1999*;
- ‘technical employees’ means ongoing employees in the ICT Services Branch, ICT Planning and Development Branch, Diplomatic Security Branch and at overseas posts who provide technical support and services to the department;
- ‘WRC’ means the Workplace Relations Committee established under this Agreement.

## **REPRESENTATION**

- 1.8 The parties to this Agreement recognise that all employees are free to choose whether or not to join a union or other employee organisation, without disadvantage or discrimination. The department recognises the legitimate role of unions to act on behalf of their members and to organise and bargain collectively.
- 1.9 In any matter arising under this Agreement, an employee may have an employee representative assist or represent them, and all relevant persons will deal with any such representative in good faith. This assistance includes acting as an advocate.
- 1.10 The parties to this Agreement agree to the principle that employee representatives shall be provided with reasonable facilities to carry out their roles. Information on the role of employee representatives is detailed in Annex 4 and the HRM.

## **COMMENCEMENT AND DURATION**

- 1.11 In accordance with section 54 of the *Fair Work Act 2009* this Agreement commences operation seven days after it is approved by FWA or 1 July 2011, whichever is the later. The nominal expiry date of this Agreement is 30 June 2014.

## **COMPREHENSIVE AGREEMENT**

- 1.12 This Agreement exhaustively states the terms and conditions of employment of the employees covered by this Agreement other than the terms and conditions applying under Commonwealth law (including determinations made pursuant to section 24(1) of the *Public Service Act 1999*).

1.13 It is acknowledged that employment in the department is in accordance with the provisions of legislation, as may be amended from time to time, including:

- *Administrative Decisions (Judicial Review) Act 1977;*
- *Age Discrimination Act 2004;*
- *Australian Human Rights Commission Act 1986;*
- *Disability Discrimination Act 1992;*
- *Fair Work Act 2009;*
- *Long Service Leave (Commonwealth Employees) Act 1976;*
- *Maternity Leave (Commonwealth Employees) Act 1973;*
- *Occupational Health and Safety Act 1991;*
- *Paid Parental Leave Act 2010;*
- *Privacy Act 1988;*
- *Public Employment (Consequential and Transitional) Amendment Act 1999;*
- *Public Service Act 1999;*
- *Racial Discrimination Act 1975;*
- *Safety Rehabilitation and Compensation Act 1988;*
- *Sex Discrimination Act 1984;*
- *Superannuation (Productivity Benefit) Act 1988;*
- *Superannuation Act 1976;*
- *Superannuation Act 1990;*
- *Superannuation Act 2005;*
- *Superannuation Benefits (Supervisory Mechanisms) Act 1990;*
- *Superannuation Guarantee (Administration) Act 1992;*

## **INDIVIDUAL FLEXIBILITY ARRANGEMENTS**

1.14 The department and an employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

- i. the arrangement deals with one or more of the following matters:
  - a) arrangements about when work is performed;
  - b) overtime rates;
  - c) penalty rates;
  - d) allowances; and/or
  - e) leave; and
- ii. the arrangement meets the genuine needs of the department and the employee in relation to one or more of the matters mentioned in sub-paragraph 1.14(i); and
- iii. the arrangement is genuinely agreed to by the department and the employee.

1.15 The department must ensure that the terms of the individual flexibility arrangement:

- i. are about permitted matters under section 172 of the *Fair Work Act 2009*; and
- ii. are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
- iii. result in the employee being better off overall than the employee would be if no arrangement was made.

1.16 The department must ensure that the individual flexibility arrangement:

- i. is in writing; and
- ii. includes the name of the employee and the Secretary; and
- iii. is signed by the Secretary and the employee, and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
- iv. includes details of:
  - a) the terms of this Agreement that will be varied by the arrangement; and
  - b) how the arrangement will vary the effect of the terms; and

- c) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
  - v. states the day on which the arrangement commences and, where applicable, when the arrangement ceases.
- 1.17 The department must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 1.18 The number of individual flexibility arrangements entered into will be reported to the WRC.
- 1.19 The department or the employee may terminate the individual flexibility arrangement:
  - i. by giving no more than 28 days written notice to the other party to the arrangement; or
  - ii. if the department and employee agree in writing – at any time.

### **GIVING PRIMACY TO THE PARTIES**

- 1.20 To maintain the integrity of this Agreement, the parties agree to meet and confer about a relevant matter where for any reason a provision of this Agreement is not enforceable, or amendments to legislation or regulations undermine the operation of a provision of this Agreement or make a provision of this Agreement not enforceable.

### **DELEGATIONS**

- 1.21 The powers and functions assigned to particular individuals under this Agreement may be delegated on condition that:
  - i. delegations can only be made to DFAT employees;
  - ii. the power to delegate cannot itself be delegated;
  - iii. the delegate must comply with directions from the person making the delegation.

### **CONSULTATION PROCEDURES**

- 1.22 This clause applies where a decision is made to introduce major changes in a work area that are likely to have significant effects on employees, other than where provision is already made elsewhere in this Agreement regarding a specific major change.

- 1.23 Where a definite decision is made to introduce major changes in program, organisation, structure or technology that are likely to have significant effects on employees, the Secretary must notify the employees who are likely to be affected by the proposed changes and their representatives, if any.
- 1.24 Significant effects include:
- i. termination of employment;
  - ii. major changes in the composition, operation, or size of the department's workforce or in the skills required;
  - iii. the elimination or diminution of job opportunities, promotion opportunities or job tenure;
  - iv. significant alteration in hours of work;
  - v. the need to retrain employees;
  - vi. the need to relocate employees to another workplace; and
  - vii. the major restructuring of jobs.
- 1.25 The Secretary must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in paragraph 1.23, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- 1.26 The discussions must commence as early as practicable after a definite decision has been made to make the changes referred to in paragraph 1.23.
- 1.27 For the purposes of such discussion, the employees concerned and their representatives, if any, are to be provided in writing all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees. The Secretary is not required to disclose confidential or commercially sensitive information to the employees.

#### **ADDITIONAL CONSULTATION ARRANGEMENTS**

- 1.28 In addition to (but not inconsistent with) the procedures outlined above, and to facilitate the harmonious operation of this Agreement, and such other workplace relations and conditions

of employment issues such as may arise from time to time, consultative arrangements will continue to operate and will involve:

- i. a commitment to consult with employees and their representatives about workplace matters that affect them;
- ii. maintenance of the WRC, which is the peak consultative body through which employees' views can be given consideration; and
- iii. a designated employee who will report to the First Assistant Secretary, Corporate Management Division (FAS CMD), and who will provide a first point of contact for any matters arising out of the operation of this Agreement. The same employee will oversee employees in relation to the secretariat function for the WRC and its sub-committees.

1.29 For the purposes of the Additional Consultation Arrangements, 'consultation' means the sharing of information and providing a genuine opportunity for employees and their representatives to put their views to the appropriate decision maker and for those views to be properly considered and responded to before a decision is made.

### **THE WORKPLACE RELATIONS COMMITTEE (WRC)**

1.30 The WRC will provide a forum for:

- i. considering and developing means of improving the quality of the work environment;
- ii. addressing matters of employment concern, including those arising from the implementation and operation of this Agreement; and
- iii. such other responsibilities as are assigned to the WRC under the terms of this Agreement.

1.31 Members of the WRC will be drawn from a wide cross-section of employees. The WRC will comprise employee representatives (two employees from each band and broadband and one SES employee); up to two representatives chosen by each union and by the Association of Foreign and Trade Employees (AFTE); and representatives of the department's management.

1.32 Band and broadband employee representatives will be elected by employees, with the election to be managed by the

designated employee, as defined in paragraph 1.28(iii). The designated employee has the responsibility for organising elections for band and broadband employee representatives, covering nominations, polling of employees, and declaration of poll outcome. Elections will be conducted in accordance with the principles of openness of process, confidentiality and accountability, and as agreed by the WRC.

- 1.33 The operations of the WRC and its sub-committees (see paragraph 1.35) will be guided by a set of Operating Principles (Principles) agreed, and amended from time to time as necessary, by WRC members. The Principles will be announced and made easily accessible to all employees. They will promote, as the basis of the WRC's work, the objective of effective consultation, whereby WRC members, and through them employees, have the opportunity to contribute to the development of decisions on the department's human resource management and related policies. The Principles will make appropriate provision for participation in the WRC by non-WRC members. These Principles are to be read in conjunction with Annex 4 of this Agreement (Principles relating to DFAT Workplace Delegates).
- 1.34 The WRC will meet at least four times each year, normally in September, November, March and June. The Chair may consider requests by members for additional meetings. The Secretary, or nominee, will chair the WRC. The members of the WRC will seek to resolve issues through a process of consultation. In addition to considering issues that arise from time to time and may be placed on the WRC's agenda, the WRC will develop a program allowing for in-depth discussion of a key issue at any of its meetings. Such a discussion would not preclude consideration of that issue at other times.
- 1.35 The WRC may establish sub-committees as required. Sub-committees will comprise members and/or nominees of the WRC, including representatives of the relevant unions as required. Currently, two sub-committees have been established: the Work Health and Safety Sub-Committee and Overseas Conditions of Service Sub-Committee. Both sub-committees will expect to meet twice yearly or more and will report major proposals and developments affecting work health and safety and overseas conditions of service to the WRC.

1.36 Facilities will be made available for WRC members to participate in WRC activities as part of their duties.

## **PROCEDURES FOR RESOLVING DISPUTES**

1.37 If a dispute relates to:

- i. a matter arising under this Agreement; or
- ii. the National Employment Standards in Part 2-2 of the *Fair Work Act 2009*;

this section sets out procedures to settle the dispute.

1.38 An employee who is a party to the dispute may appoint a representative for the purposes of these procedures.

1.39 Resolution of disputes is to occur in good faith by following the same principles as the good faith bargaining requirements at section 228 of the *Fair Work Act 2009*.

1.40 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.

1.41 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to FWA.

1.42 FWA may deal with the dispute in two stages:

- i. FWA will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
- ii. if FWA is unable to resolve the dispute at the first stage, FWA may then:
  - a) arbitrate the dispute; and
  - b) make a determination that is binding on the parties.

*Note:* If FWA arbitrates the dispute, it may also use the powers that are available to it under the *Fair Work Act 2009*. A decision that FWA makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5-1 of the *Fair Work Act 2009*. Therefore, an appeal may be made against the decision.

1.43 While the parties are trying to resolve the dispute using these procedures:

- i. an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
  - ii. an employee must comply with a direction given by the department to perform other available work at the same workplace, or at another workplace, unless:
    - a) the work is not safe; or
    - b) applicable work health and safety legislation would not permit the work to be performed; or
    - c) the work is not appropriate for the employee to perform; or
    - d) there are other reasonable grounds for the employee to refuse to comply with the direction.
- 1.44 The parties to the dispute agree to be bound by a decision made by FWA in accordance with these procedures.

#### **TERMINATION OF EMPLOYMENT**

- 1.45 The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee enjoys under:
- i. the *Fair Work Act 2009*;
  - ii. other Commonwealth laws (including the Constitution); and
  - iii. at common law.
- 1.46 Termination of, or a decision to terminate employment, cannot be reviewed under the procedures for resolving disputes addressed in paragraphs 1.37 to 1.44.
- 1.47 Section 29(3) of the *Public Service Act 1999* sets out the grounds on which the Secretary may terminate the employment of an ongoing employee. Nothing in this Agreement prevents the Secretary from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu in accordance with section 123(1)(b) of the *Fair Work Act 2009*, subject to compliance with the procedures established by the Secretary for determining whether an employee has breached the APS Code of Conduct under section 15 of the *Public Service Act 1999*.

## **CAREER AND EMPLOYMENT**

### **INTRODUCTION**

- 2.1 DFAT needs to attract and retain skilled staff able to deliver high-quality foreign and trade policy outcomes for the government and for the Australian community. The department aims to offer its employees professionally rewarding career opportunities with appropriate training and development, incentives for high performance, the best practicable conditions of service, and fair and transparent staffing processes. In deploying and managing staff in Australia and overseas in the context of meeting corporate objectives, the department will seek to assist staff to balance their personal and professional lives.
- 2.2 DFAT generally relies on ongoing employment as the standard form of employment in the department. The parties to this Agreement recognise that this form of employment normally provides the greatest security and wellbeing for DFAT employees and their families.

### **HUMAN RESOURCE MANAGEMENT**

- 2.3 The department acknowledges its employees as its most fundamental and valued resource and remains committed to continually improving, in consultation with staff, its human resource management.
- 2.4 The department aims to provide information to employees and supervisors to facilitate the effective day-to-day operations of the department. In accordance with human resource management best practice, the department maintains a Human Resource Manual (HRM) and other policy documents, as amended from time to time, to implement the principles and conditions outlined in this Agreement, and to provide information on how the department will ordinarily make decisions on human resource management issues.
- 2.5 References in this Agreement to the department's HRM are for the further information of staff and it is not intended that the HRM forms part of this Agreement. Should there be any inconsistency between the HRM and the terms of this Agreement, the express terms of this Agreement will prevail.

However, DFAT and its employees recognise that they will have reference to the HRM in the department's day-to-day operations.

- 2.6 The department will continue to review and update the HRM as necessary, in consultation with employees and their representatives and in a manner consistent with the principles contained in this Agreement. This will include continuing the process of consultation with the WRC and its sub-committees. The department will continue to announce significant amendments of the HRM by administrative circular.
- 2.7 Any relevant action taken, or decision made, by the department will be consistent with the terms of policies, procedures and guidelines in force as at the time the relevant action is taken or decision is made.

### **STAFF SUPPORT AND WELFARE SERVICES**

- 2.8 The department recognises that employees often operate under difficult and stressful circumstances and is committed to providing a solid support network for staff and their families.
- 2.9 The department provides support services including the Medical Unit, the Work Health and Safety Unit, the Staff Counselling Office, the Workplace Diversity Unit (WDU), the Family Liaison Officer (FLO) and the Community Liaison Officer network.
- 2.10 The Staff Counselling Service is on call for emergency counselling assistance. Staff in Regional and Passport Offices have access to equivalent clinical services through contracted service providers. The Service provides confidential counselling support on work or personal matters to both employees and their families.
- 2.11 The FLO provides information, support and assistance to employees, in Australia and overseas, on a wide range of general and personal issues, including information for employees and families preparing for or returning from a posting and assistance to employees and families temporarily evacuated to Australia due to a crisis at post.
- 2.12 Employees will be entitled to a free influenza vaccination once a year, as set out in the HRM.

## **LEADERSHIP AND MANAGEMENT**

- 2.13 Strong leadership and management are vital in ensuring that DFAT remains a high-performing department in which employees are motivated to contribute to corporate goals. A key objective of this Agreement, therefore, is to reinforce the department's performance orientation through a strong performance management system.
- 2.14 The development of strong leadership and management skills is given high priority in DFAT's training and development policy (see paragraphs 2.62 - 2.66 below). These skills will continue to underpin the successful operation of DFAT's performance management system. They are necessary for supervisors at all levels and essential for advancement into the SES. Supervisors are required to undertake leadership and management training, including with respect to the performance management system.

## **WORKPLACE DIVERSITY**

- 2.15 DFAT recognises the importance of embracing workplace diversity and equity, specifically the unique qualities, attributes, skills and experiences all employees bring to the workplace. An employee's family, carer and other responsibilities, and the need to balance these with work, also contribute to the diversity of our workforce. DFAT and its employees will actively promote a positive work environment based on respect and continue to implement and promote the department's Workplace Diversity Program to assist in giving effect to the APS Values and Code of Conduct. Further details are set out in the HRM.

### **Support for Indigenous Employees**

- 2.16 Efforts to promote the recruitment, career development and retention of Indigenous employees and to promote awareness of Indigenous Australia within DFAT form part of the department's Workplace Diversity Program. Subject to operational requirements, the department will consider the implementation of whole of government policies and programs relevant to the recruitment, career development and retention of Indigenous employees. The department will seek to ensure that Indigenous employees maximise their potential for a successful career in DFAT. This includes providing Indigenous employees

with the opportunity to apply for postings and placements (i.e. internal transfers) in accordance with section 25 of the *Public Service Act 1999*. Further details are outlined in DFAT's Reconciliation Action Plan and the HRM, which incorporate an Indigenous Recruitment and Career Development Strategy.

### **Support for Employees with Disability**

- 2.17 The department is committed to increasing employment opportunities and accessibility for people with disability, increasing disability awareness and ensuring consultation with employees with a disability occurs when developing policies and programs that may impact on them. Further details are outlined in DFAT's Disability Action Strategy and the HRM.

### **Anti-discrimination**

- 2.18 DFAT is committed to fostering a positive workplace where people treat each other and the community with respect. DFAT and its employees will work to prevent and eliminate discrimination in the department on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, consistent with the *Fair Work Act 2009*, the *Public Service Act 1999* and other relevant legislation. The conditions regarding the official recognition of de facto relationships for the purposes of conditions of service under this Agreement apply regardless of sexual preference.

### **A Diverse Workplace Free of Harassment, Bullying and Discrimination**

- 2.19 Harassment, bullying and discrimination are unacceptable in DFAT and contrary to the APS Values and Code of Conduct. The department is committed to providing a fair, flexible, safe and rewarding workplace, where all employees are responsible for promoting a work environment free from harassment, bullying or discrimination. Managers and supervisors have particular responsibilities for implementing the department's Workplace Diversity Program as set out in the HRM, being alert to diversity issues in the workplace and taking timely action in response to reported or observed harassment, bullying or discrimination. The department does not tolerate behaviour

which undermines morale and productivity and which, if not dealt with, can harm the well being and performance of individuals and work units. The department's Code of Conduct for Overseas Service explicitly prohibits employees serving overseas from bullying, discriminating against, or harassing any other person.

- 2.20 In circumstances where a harassment, bullying or discrimination issue arises, the department will take prompt action to address specific concerns of the affected employee including, where appropriate, changes to work placements. There are many formal and informal actions available to resolve discrimination, bullying or harassment concerns of aggrieved employees. These actions range from mediation between the parties to lodgement of a formal grievance with associated investigation and the potential for action under the Code of Conduct. Procedures for determining breaches of the Code of Conduct will be done in accordance with procedural fairness and natural justice, as set out in sections 15(3) and 15(5) of the *Public Service Act 1999*. An employee is entitled at any stage of an investigation or determination process to have a person of choice (e.g. a family member, union delegate, work colleague or lawyer) present during meetings or interviews into allegations of harassment, bullying or discrimination. Further details on how the department deals with cases of harassment, bullying or discrimination are contained in the HRM and the Conduct and Ethics Manual.
- 2.21 The formal point of contact for employees is the Director, Management Strategy Conduct and Diversity Section or, in the case of Regional and State Passports Office employees, State and Territory Office Directors. The Workplace Diversity Unit (WDU) and nominated Workplace Diversity Contact Officers (WDCOs) play a key role in supporting the department's Workplace Diversity Program and the prevention of harassment, bullying and discrimination in the workplace. The department supports the WDCOs with appropriate facilities, training and guidance to carry out their role.
- 2.22 With the common goal of promoting a productive workplace, the department will seek to ensure:

- i. that employees are provided with a fair, flexible, safe and rewarding workplace, characterised by respect, courtesy inclusion and equity;
  - ii. early intervention in instances of workplace harassment, bullying or discrimination and fair treatment of employees involved; and
  - iii. appropriate resolution of employees' complaints about alleged workplace harassment, bullying or discrimination.
- 2.23 The department will involve the parties to this Agreement in discussion on the department's harassment, bullying and discrimination policies and update the Ethics Committee and WRC on an annual basis on progress in meeting the aforementioned objectives.

### **WORK HEALTH AND SAFETY (WH&S)**

- 2.24 DFAT recognises the importance of maintaining a healthy and safe workplace for workers and visitors.
- 2.25 All parties have a responsibility to support the department in meeting its work health and safety obligations under current WH&S legislation. All parties must comply with safety directions so as not to place themselves or others at risk of injury or illness. This includes:
- i. observing and following safety requirements and procedures;
  - ii. reporting all potential and actual workplace hazards and incidents;
  - iii. participating in effective consultation and cooperating on WH&S matters; and
  - iv. complying with the Health and Safety Management Arrangements (HSMAs) which detail the department's work health and safety management processes, responsibilities and commitments.
- 2.26 Arrangements under the HSMAs for the operation of the WRC WH&S Sub-Committee, state and territory Health and Safety Committees and overseas posts' Health and Safety Forums shall only be altered by agreement of the WRC.

- 2.27 The WRC WH&S Sub-Committee with its membership of Health and Safety Representatives provides the framework for effective cooperation and consultation between the department and employees on WH&S matters. This sub-committee will review the Designated Work Groups as required, and ensure appropriate training is provided to Health and Safety Representatives.
- 2.28 References in this Agreement to the department's HSMAs are for further information of employees and it is not intended that the HSMAs form part of this agreement. However, DFAT and its employees recognise that they will refer to the HSMAs for management of work health and safety.

### **STAFFING STRUCTURES**

- 2.29 The department's staffing structure consists of: Broadband One (comprising APS Levels 1-3); a PG/CG/ICP/ICPG Training Band (comprising APS Levels 2-5); Broadband Two (comprising APS Levels 4-5); the APS Level 6, Executive Level 1 and Executive Level 2 Bands; the Public Affairs Officers Bands; and the Medical Officers Bands; which cover all employees under this Agreement (see Annex 1). The structure is based on the authorised eight-level APS classification structure. Work Level Standards have been developed for each classification and level and shall not be altered except by agreement between the department and representatives of employees at the WRC.
- 2.30 In the event that new APS Classification Rules are developed, the parties shall meet and confer about the best mechanisms to give effect to the changes.

### **PERFORMANCE MANAGEMENT**

- 2.31 The objectives of the performance management system are to encourage and reward high achievement, to improve and manage individual performance to expected work-level standards and to develop and train employees to meet both the career development and training needs of individuals and the department's skills needs. The department is committed to a performance management system that is fair and equitable for all employees, is conducted with integrity and is consistent with the *Public Service Act 1999*.

- 2.32 Mutual obligation is a key component of the performance management system. Supervisors are obliged to ensure that performance management processes are in place and operate effectively. Employees are obliged to actively participate in performance management processes to ensure they are carried out constructively and to mutual benefit.
- 2.33 The performance management system (PMS) provides supervisors and employees with a framework to:
- i. improve organisational performance by linking and aligning individual and organisational objectives and outcomes;
  - ii. encourage, recognise and reward employees for their performance and achievements;
  - iii. provide a mechanism for pay point advancement within broadbands and bands and to support postings, placements and promotion processes;
  - iv. develop and train employees to meet both the needs of individuals and the skills needs of the department; and
  - v. identify and manage performance problems early, including underperformance.
- 2.34 The HRM provides guidance to employees and supervisors on the department's PMS. It sets out the procedures and supporting practices that underpin the performance management system.

### **Participation**

- 2.35 The timing of the performance management cycle will be from 1 April to 31 March each year with the mid-term review to be held during September and October.
- 2.36 All ongoing employees will participate in the performance management system. However, for any cycle, employees must have worked or been on paid leave for at least 100 work days of the performance cycle (full time; pro rata for part-time employees) to be eligible to receive a performance appraisal rating and annual pay point advancement or performance bonus.
- 2.37 Non-ongoing employees engaged for more than 12 months will

participate in the performance management system. However, for any cycle, non-ongoing employees must have worked or been on paid leave for at least 100 work days of the performance cycle (full time; pro rata for part-time employees) to be eligible to receive a performance appraisal rating and annual pay point advancement or performance bonus.

- 2.38 Non-ongoing employees engaged for less than 12 months are not eligible to participate in the performance management system.
- 2.39 An employee undertaking a formal secondment or external placement, approved by the department, with another organisation (whether public or private, a foreign ministry or international body, and including training courses) for an agreed period, whose placement is funded by the department and who does not draw any performance rewards from that other organisation, will be eligible to participate in the department's performance management system. Guidelines are detailed in the HRM.
- 2.40 Non-SES employees on continuous higher duties in non-SES positions for the entire performance cycle will be appraised at that level. Pay point advancement or the payment of performance bonuses will be at the higher level for employees who are currently at the top of their substantive broadband or band. The pay point/s gained at the higher level will be maintained while the employee is on paid higher duties or should he/she subsequently be promoted to the higher level.

### **Key Elements of DFAT's Performance Management System**

- 2.41 It is the responsibility of the employee and supervisor to complete a performance agreement at the start of the performance cycle, or when the employee takes up a new position.
- 2.42 The main elements of the PMS are:
- i. performance agreements are the basis for assessment of individual performance. Performance agreements must:
    - a) reflect the work level standards relevant for the employee's APS classification;
    - b) clearly specify the major objectives and outcomes expected; and

- c) include well-defined and achievable performance indicators;
- ii. regular and constructive two-way feedback that encourages honest and open discussion between supervisors and employees, is consistent with a “no surprises” approach and is complemented by formal appraisal interviews at mid and end of cycle;
- iii. mid-term reviews are an essential part of the PMS and it is the obligation of both supervisor and employee to ensure these take place. Mid-term reviews should consist of discussion about overall performance (including training and development plans);
- iv. collective upward appraisals are an essential component of the system. It ensures that the supervisor’s performance as a manager is properly assessed and taken into consideration when determining his/her performance rating;
- v. it is the obligation of both the supervisor and the employee to ensure an end-of-cycle appraisal takes place. Individual end-of-cycle appraisals must take into account comments from an employee’s previous supervisor/s during the performance management cycle;
- vi. end of placement/posting interviews are required for all employees when either the supervisor or employee leaves a work unit or when the employee takes an extended leave of absence from the department where it is expected that they will not resume duties by the end of the performance management cycle. End of placement/posting interview comments must be factored into the final performance rating at the end of the performance cycle;
- vii. supervisors conducting end-of-cycle appraisals and end-of-placement/posting interviews should provide employees with a clear and honest appraisal of their performance; and employees should respond and discuss all aspects of their performance appraisal including, where appropriate, aspects of their performance that they consider support a claim for a higher rating;
- viii. supervisors responsible for the appraisal of employees should be at least one substantive band or broadband level above the employees they supervise, unless otherwise approved by an SES officer in the work area;

- ix. where a determination has been made that an employee has breached the APS Code of Conduct, the DFAT Code of Conduct for Overseas Service or departmental security standards, this will be taken into account, as appropriate, in determining the employee's final annual performance rating for the year in which the determination is made.

### **Performance Appraisal Ratings**

2.43 Performance appraisal ratings will be provided on the basis of a four-point rating scale as set out below:

- i. Performing exceptionally
  - a) the employee consistently exceeds expectations against the objectives and indicators set out in their performance agreement.
- ii. Performing well
  - a) the employee meets and may sometimes exceed expectations against the objectives and indicators set out in their performance agreement.
  - b) there may be development and training options to consider in conjunction with this assessment.
- iii. Performing satisfactorily
  - a) the employee generally meets expectations against the objectives and indicators set out in their performance agreement.
  - b) this rating could be applied to new employees, newly promoted or transferred employees or employees returning from long term absences, as it reflects that the employee is in a stage of learning and development and/or that the employee has not been in their position for a period long enough to demonstrate that they are performing well.
  - c) Employees receiving this rating who require further development could take advantage of further training, guidance and development, including through a Skills Development Plan (SDP).
- iv. Needs improvement

- a) the employee performs below the standard expected in key aspects of their duties against objectives and indicators set out in their performance agreement.
- b) employees who receive this rating would begin a formal performance management process as outlined in Annex 2 to this Agreement.

2.44 Performance appraisal ratings will be recommended by the immediate supervisor on the basis of the employee's performance against the objectives and indicators set out in the individual performance agreement but are subject to review and confirmation at divisional level.

2.45 At the end-of-cycle appraisal interview, supervisors should inform employees of the performance appraisal rating they intend to recommend. If an employee will be recommended for a rating of 'performing exceptionally', the employee should be informed that the initial rating does not guarantee that a final rating of 'performing exceptionally' will be awarded to any individual employee.

2.46 Taking into account the discussion of overall performance at the appraisal interview, supervisors must enter an employee's performance appraisal rating, comments and indicate training and development needs in the Peoplesoft system. Placements and postings committees may take this into account in placements and postings decisions. Comments from previous supervisors must also be taken into account in determining the employee's rating and must be appropriately weighted. This assessment will be shared with the employee prior to the divisional review.

2.47 A divisional review will be conducted by the relevant First Assistant Secretary of all eligible employees in his/her Division rated:

- i. as 'performing exceptionally' and 'performing well'; and
- ii. as 'performing satisfactorily' and 'needs improvement' to ensure awareness of the outcomes and to oversee an appropriate strategy aimed at lifting performance.

2.48 The divisional review will take into account supervisors' assessments of individual employees (as entered in the

PeopleSoft system). The Division Head, in consultation with Branch Heads and supervisors, and HOM/HOPs, directors/managers of State, Territory and passport offices and other line areas where applicable, will consider these recommendations.

- 2.49 Following the divisional review, employees will be advised of their final rating. It is a requirement that employees be given the opportunity to discuss their final rating with their supervisor.
- 2.50 At the end of each annual performance management cycle, the outcomes by division, gender and classification will be reported to the Executive and published for the information of employees.
- 2.51 Training in performance management is critical to ensuring the system's integrity and effective operation. All employees are required to attend appropriate departmental training in performance management.

#### **Advancement through Broadbands, Bands and Payment of Performance Bonuses**

- 2.52 Employees who receive a 'performing exceptionally' or 'performing well' rating will advance one salary pay point or, if they are at the top pay point of a broadband or band, will receive two per cent of their annual base salary as at 1 April as a performance bonus. PGs/CGs/ICPGs at the APS 3.2 level will not be entitled to a performance bonus.
- 2.53 Employees who receive a 'performing satisfactorily' or 'needs improvement' rating will not be entitled to a pay point advancement or bonus.
- 2.54 Non-ongoing Medical Officers move pay points and/or receive a performance bonus of base salary (as at 1 April following the appraisal cycle) on the basis of performance appraisal ratings, as set out in this Agreement.
- 2.55 Jobs will be redesigned and performance agreements modified in line with relevant work level standards as employees move APS levels through a broadband. The names of those employees progressing to a higher APS level within a broadband through the performance management system will be published in an

administrative circular.

- 2.56 On conclusion of a formal secondment or external placement, approved by the department, during which an employee did not participate in the department's performance management system, he/she may apply to the Secretary or the Secretary's delegate (Assistant Secretary, Staffing Branch) to be reintegrated at a higher pay point than the employee's substantive pay point level. The Secretary or delegate will take into account any available performance information from the period of secondment or external placement in determining the pay point to apply on reintegration. In all cases, reintegration will be to a pay point within the employee's substantive broadband or band.
- 2.57 Advancement of employees between broadbands, bands, and promotion to the SES band will be on the basis of a formal selection process. The pay point to which employees will advance following such selection processes will be decided by the Secretary or the Secretary's delegate (Assistant Secretary, Staffing Branch), taking account of the requirements of the jobs to be filled.

### **Review Procedures**

- 2.58 If employees have concerns about the manner in which the performance management process has been conducted, they may elect to deal with the matter under internal departmental procedures in one or more of the following ways:
- i. informal discussion between the supervisor and the employee;
  - ii. an expression of concern in writing to the supervisor; and
  - iii. an expression of concern in writing to an SES officer in the employee's work area.
- 2.59 Employees may submit a request for a review of their performance rating to FAS CMD. The deadline for such requests will be published annually in an administrative circular. FAS CMD will agree to review an employee's performance rating only if the employee has demonstrated that he/she has taken reasonable steps to resolve relevant issues in the workplace and within the parent division, and that there has been a significant

procedural flaw in the appraisal process. Only in exceptional circumstances will FAS CMD agree to review an employee's performance rating solely on the basis of a disagreement about the appropriate rating.

### **Skills Development Plan**

- 2.60 Where it has been identified that the employee lacks the necessary knowledge or skills to carry out the duties of a position, the supervisor must prepare a formal Skills Development Plan (SDP) in consultation with the employee and Staffing Branch. The mutually agreed plan would:
- i. identify the existing skills or knowledge of the employee and/or the new skills or knowledge needed;
  - ii. identify and explain expected training and development outcomes;
  - iii. identify the most appropriate mechanism for developing the skills and/or knowledge; and
  - iv. identify how the training will be provided, including through the department's regular training program. Supervisors and employees should consult Staffing Branch as necessary about training options.
- 2.61 Only in exceptional circumstances would an employee undertake a second formal SDP in the same work unit with the same supervisor.

### **TRAINING AND DEVELOPMENT**

- 2.62 DFAT and its employees recognise the importance of training and development as an investment in people. The department is committed to providing all employees with focused training and development opportunities directly relevant to the department's corporate goals, and will provide specific resources for this purpose.
- 2.63 The training and development needs of employees will continue to be addressed as part of the performance management process.
- 2.64 The training and development needs of employees will vary according to their role in the organisation and the stage they

have reached in their careers. To make best use of the department's available training resources, priority will be given to:

- i. leadership and management skills;
- ii. core professional knowledge and skills, including policy, advocacy, media, communication, technical and resource management skills;
- iii. languages; and
- iv. orientation and induction training.

2.65 The department will ensure that appropriate training is available to technical staff to facilitate the development and maintenance of relevant technical skills and competencies, including in first aid.

2.66 Supervisors will, as part of their annual upward appraisals, be assessed on the degree to which they assist staff in meeting agreed training and development needs.

## **ENGAGEMENT AND PROMOTION PROCESSES**

2.67 The department is committed to good practice in its engagement and promotion processes. In filling vacancies, the department will seek to balance operational requirements, the need to provide a career structure for employees, and the requirement for employment opportunities to be open to competition from all members of the Australian community.

2.68 The department will seek initially to fill its vacancies with employees at level. Where that is not possible, the department places emphasis on the following principles when seeking to fill vacancies:

- i. all engagement and promotion decisions are based on merit and in accordance with the *Public Service Act 1999* and subordinate legislation;
- ii. the department may review engagement and promotion processes as necessary in consultation with staff;
- iii. there is a preference to fill vacancies through bulk round processes where appropriate;

- iv. bulk rounds are desirable on at least an annual basis, although this will be subject to there being available vacancies;
- v. specialist selection processes are used to ensure the department is staffed with appropriately skilled employees in specialist areas
  - where possible, ongoing vacancies that arise in Passport Offices and in State/Territories Offices will be filled through bulk or specialist selection processes.
- vi. feedback will be provided to unsuccessful departmental candidates at the end of the selection process.

## **PROBATION**

2.69 New APS employees who are engaged as ongoing employees in DFAT will be subject to a condition of satisfactory completion of a probation period. The new employee is to be advised in a letter confirming the offer of employment that the period of probation will be for a minimum of six months, which may be extended up to a maximum of twelve months. The circumstances in which the probation period may be extended include where departmental requirements with respect to work level standards and compliance with the APS Values and Code of Conduct and the DFAT Code of Conduct for Overseas Service have not been met during the initial probation period.

## **SECURITY**

- 2.70 A current security clearance is an essential qualification for performing duties in the department and is also a condition of employment in the department. If an employee loses their security clearance, their employment will be terminated. Any other reduction in the level of an employee's security clearance (except for operational reasons) could lead to invocation of the Redeployment, Reduction and Retrenchment provisions of this Agreement (set out in paragraphs 2.101 to 2.103 below).
- 2.71 All security clearance decisions made within the department are subject to the internal review process set out in the DFAT Security Instructions.
- 2.72 An employee whose employment is terminated because that employee has lost his/her security clearance has the rights and

remedies in relation to termination of employment as set out in paragraphs 1.45 to 1.47 of this Agreement.

## **POSTINGS AND PLACEMENTS**

- 2.73 The department is committed to providing employees with the opportunity to apply for postings and placements (i.e. internal transfers) in accordance with section 25 of the *Public Service Act 1999*. The postings and placements processes enable the department to deploy employees to meet operational priorities and make best use of their skills, taking into account employees' career needs and the personal interests of employees where possible. Details about the postings and placements processes are set out in detail in the HRM.

## **POLICY GRADUATES**

- 2.74 The Policy Graduate (PG) Program is designed to provide the department with a pool of professional employees interested in making a commitment to a long-term career in DFAT. Selection will be on the basis of relevant qualifications, a written application, an interview process and other assessment exercises, as determined by the department.
- 2.75 PGs will enter the department at APS 3.2 level within the PG/CG/ICP/ICPG Training Band and will complete a twenty-four month graduate training program.
- 2.76 PGs will enter into performance agreements with their supervisors at the beginning of each placement and will have their performance appraised and rated at the conclusion of each placement against those performance agreements. PGs will enter the department's formal performance management system, as set out in this Agreement, from the start of the first full performance management cycle following their commencement with the department. Director, Graduate, Management and Administrative Trainees Section has overall responsibility for determining PGs' annual performance rating.
- 2.77 The Secretary will re-allocate PGs to a level not less than APS 4.1 at the conclusion of the first full performance management cycle following their commencement with the department. This reallocation will be subject to an individual's satisfactory

completion of a six month probation period and his/her obtaining a performance rating at the level of 'Performing Well'.

## **CORPORATE GRADUATES**

- 2.78 The Corporate Graduate (CG) Program is designed to provide the department with a pool of high quality, resourceful employees from accountancy and financial management, information communications and technology, human resources and commerce disciplines who are interested in building a career in managing the department's assets and resources in Australia and overseas. Selection will be on the basis of relevant qualifications, a written application, an interview process and other assessment exercises, as determined by the department.
- 2.79 CGs will enter the department at APS 3.2 level within the PG/CG/ICP/ICPG Training Band and will complete a twenty-four month graduate training program.
- 2.80 CGs will enter into performance agreements with their supervisors at the beginning of each placement and will have their performance appraised and rated at the conclusion of each placement against those performance agreements. CGs will enter the department's formal performance management system, as set out in this Agreement, from the start of the first full performance management cycle following their commencement with the department. Director, Graduate, Management and Administrative Trainees Section has overall responsibility for determining CGs' annual performance rating.
- 2.81 The Secretary will re-allocate CGs to a level not less than APS 4.1 at the conclusion of the first full performance management cycle following their commencement with the department. This reallocation will be subject to an individual's satisfactory completion of a six month probation period and his/her obtaining a performance rating at the level of 'Performing Well'.

## **ADMINISTRATIVE OFFICER DEVELOPMENT PROGRAMS**

- 2.82 The department runs two Administrative Officer Development Programs (ADPs): one at Broadbands One and Two; and one at the APS Level 6 and Executive Level 1 Bands. They aim to provide the department with a pool of appropriately trained employees to fill administrative and management positions in

Canberra and at overseas posts, including Senior Administrative Officer positions. Participants undertake a two-year program in the corporate and functional areas of the department to equip them with the necessary administrative and financial management skills.

- 2.83 ADPs will enter into performance agreements with their supervisors at the beginning of each placement and will have their performance appraised and rated at the conclusion of each placement against those performance agreements. ADPs will continue to take part in the department's formal performance management system, as set out in this Agreement. Director, Graduate, Management and Administrative Trainees Section has overall responsibility for determining ADPs' annual performance rating.

## **INDIGENOUS RECRUITMENT AND CAREER DEVELOPMENT**

- 2.84 The department will seek to recruit suitably qualified Indigenous Australians through general and specialist recruitment processes. The department will also participate in APS-wide Indigenous employment programs including, but not limited to:
- i. APSC Indigenous Cadetship Program;
  - ii. APSC Indigenous Graduate Program; and
  - iii. DEEWR Indigenous Australian Government Development Program.
- 2.85 The department will consult Indigenous employees on changes to the Reconciliation Action Plan and the Indigenous Recruitment and Career Development Strategy, through the Indigenous Task Force and in consultation with the Indigenous Employees Network.
- 2.86 As stated in paragraph 1.7, for Indigenous employees, the definition of family extends to members of an employee's kinship group and extended family, for the purposes of the provisions on personal/carer's leave and compassionate leave set out in this Agreement.

## Indigenous Cadetship Program

- 2.87 DFAT's Indigenous Cadetship Program is run in conjunction with the Commonwealth Government's National Indigenous Cadetship Support (NICS). The awarding of Indigenous Cadetships to tertiary students is designed to ensure that Indigenous Australians are part of a pool of professional employees interested in making a commitment to a long-term career in DFAT. Selection will be managed by DFAT through the NICS, and be made on the basis of a written application, satisfactory academic achievement, an interview process and any additional assessment exercises, as determined by the department.
- 2.88 For the duration of the cadetships, cadets will be employed as ongoing employees at the APS 2 level while performing practical, on-the-job training during the long vacation in the academic year (usually December to February). Salary will be paid at 50 per cent of the APS 2.1 rate during the study component of the cadetship.
- 2.89 Completion of the cadetship occurs upon graduation.
- 2.90 In anticipation of graduation, cadets are eligible to apply for DFAT's Graduate Programs or may enter the department as an Indigenous Cadetship Program Graduate (ICPG).
- 2.91 The starting annual salary of ICPGs will be at the APS 3.2 level within the PG/CG/ICP/ICPG Training Band.
- 2.92 ICPGs will complete a 24 month graduate training program, except where otherwise agreed between the department and the ICPG.
- 2.93 ICPGs will enter into performance agreements with their supervisors at the beginning of each placement and will have their performance appraised and rated at the conclusion of each placement against those performance agreements. ICPGs will enter the department's formal performance management system, as set out in this Agreement, from the start of the first full performance management cycle following their commencement with the department as an ICPG. Director, Graduate, Management and Administrative Trainees Section has overall

responsibility for determining ICPGs' annual performance rating.

- 2.94 The Secretary will re-allocate ICPGs to a level not less than APS 4.1 at the conclusion of the first full performance cycle following their commencement with the department. This reallocation will be subject to an individual's satisfactory completion of a six month probation period and his/her obtaining a performance rating at the level of 'Performing Well'.

### **Indigenous Traineeship Program**

- 2.95 DFAT's Indigenous Traineeship Program is run in conjunction with the DEEWR Indigenous Australian Government Development Program. The awarding of Indigenous Traineeships to candidates is designed to ensure that Indigenous Australians are part of a pool of professional employees interested in making a commitment to a long-term career in DFAT. Selection will be managed by DFAT through the APS Indigenous Pathways Program, and be made on the basis of a written application, satisfactory academic achievement, an interview process and any additional assessment exercises, as determined by the department.
- 2.96 For the duration of the traineeship, trainees will be employed as ongoing employees at the APS 2 level while performing practical, on-the-job training. Trainees will be expected to complete a Certificate III or IV course through a registered training provider.
- 2.97 At the end of the traineeship, the trainee can apply for a position in the broadband placements round.

### **INTERMITTENT/IRREGULAR EMPLOYEES**

- 2.98 The department may engage non-ongoing employees for duties which are intermittent and irregular to address fluctuating workload issues. Such non-ongoing employees will be engaged in accordance with section 22(2)(c) of the *Public Service Act 1999*. Where this occurs:
- i. non-ongoing employees engaged on an intermittent or irregular basis will be paid for a minimum of four hours work per engagement period, regardless of the hours actually worked. Above this minimum amount, the non-

- ongoing employee will be paid for each hour that he or she works;
- ii. non-ongoing employees engaged on an intermittent or irregular basis will be entitled to long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*;
  - iii. subject to sub-paragraph 2.98 (ii) non-ongoing employees engaged on an intermittent or irregular basis will not receive any paid leave, including annual leave, personal/carer's leave, maternity, adoption or foster parents' leave, or be paid for public holidays or additional holidays, but will be entitled, for each day of work performed, to a 20 per cent loading;
  - iv. non-ongoing employees engaged on an intermittent or irregular basis will not be entitled to flex-time;
  - v. non-ongoing employees engaged on an intermittent or irregular basis are entitled to excess duty allowance paid in accordance with the relevant provisions of this Agreement.

## **DIRECTORS OF STATE AND TERRITORY OFFICES**

- 2.99 Directors of State and Territory Offices will have access to official vehicles for private use under the terms of the department's Executive Vehicle Scheme.
- 2.100 The Secretary may approve one spouse reunion visit per year for Directors and Deputy Directors of State and Territory Offices whose spouse remains at the pre-transfer locality.

## **REDEPLOYMENT, REDUCTION AND RETRENCHMENT**

- 2.101 The parties to this Agreement recognise that, for a variety of reasons, ongoing employees might, at some point, have to consider the options of redeployment, reduction or retrenchment. The procedures for handling redeployment, reduction and retrenchment for these employees are described in Annex 3.
- 2.102 Reduction or retrenchment represents a significant personal and financial transition. Ongoing employees who are directly affected by reduction or retrenchment will therefore be reimbursed, within three months of seeking professional

financial advice on the impact of the reduction or retrenchment, an amount specified in the HRM towards the cost of this advice.

2.103 Where an ongoing employee becomes excess (within the meaning of Annex 3, paragraph 1), the matter will be dealt with in accordance with the redeployment, reduction and retrenchment provisions specified in this Agreement.

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## **MORE FLEXIBLE WORKING ARRANGEMENTS**

### **A FLEXIBLE WORKPLACE**

- 3.1 The department is committed to maintaining and further developing a flexible workplace subject to meeting operational requirements. Flexible working arrangements help employees to balance their professional and personal lives, while providing supervisors with the flexibility needed to deliver high quality services to our clients. Both supervisors and employees have a responsibility to ensure that such flexible arrangements are implemented fairly and according to the following principles:
- i. primary responsibility for developing working arrangements lies with individual work units;
  - ii. in developing more flexible arrangements, supervisors are required to consult fully with employees and to ensure they have taken into account the views and interests of employees. Supervisors are also responsible for ensuring employees are able to access flexible working arrangements, subject to operational requirements;
  - iii. in considering requests for access to work-life balance provisions (e.g. leave or part-time employment), supervisors are required to take into account the views and interests of employees and endeavour to achieve mutually-acceptable outcomes; and
  - iv. where a formal application for access to a work-life balance provision is not approved, reasons shall be provided to the employee in writing.

### **WORKING SMARTER**

- 3.2 The department's greatest asset is the professionalism and dedication of its employees, who accept the importance of ongoing efforts to improve work practices and productivity. Acknowledging the positive impact of the Working Smarter initiative on the department's operations and working environment, the parties to this Agreement agree to sustain efforts to implement Working Smarter principles at all of the department's locations, including overseas posts. Commitment to the Working Smarter principles - including in relation to areas such as handover and briefing practices - will help to:

- i. empower colleagues to operate effectively and sustainably, while allowing for 'surge capacity' when necessary;
  - ii. foster the qualities of high productivity, sound judgement, good time management, strategic delegation, effective priority-setting, a focus on advocacy and outcomes and a sensible work-life balance as core attributes of successful employees; and
  - iii. assist colleagues to deal pre-emptively with problems that could arise from unsustainable workloads, ineffective structures, unprofessional behaviour, or poor management.
- 3.3 The department will continue to recognise and reward employees who manage workloads effectively within reasonable hours.
- 3.4 Supervisors have a responsibility to minimise excessive working hours, including at overseas posts. Their outcomes in this respect will be reflected in their performance appraisals. As required, strategies to reduce the need for excessive hours should be developed consultatively with employees. They should include regular reviews of work practices; rigorous prioritisation; time management training; and appropriate access to time-off-in-lieu and flex-time leave to compensate for unavoidable periods when long hours have had to be worked.
- 3.5 The Executive will continue to show leadership in advancing smarter work practices.

### **PERMANENT PART-TIME WORK**

- 3.6 The department acknowledges the importance of a work environment that assists employees to balance their various work and personal life responsibilities. The department is committed to providing opportunities for employees at all levels to work on a regular part-time basis, especially parents of children under five years of age. Accordingly, employees will be entitled to apply for and have access to part-time work, including job-sharing, subject to the terms of paragraph 3.7. For part-time employees, remuneration and other benefits will be calculated on a pro rata basis, with the exception of those allowances of a reimbursable nature, in which case part-time

employees will be paid in full. The workload will be adjusted to reflect the hours of the permanent part-time employee, as per HRM guidelines.

- 3.7 While the department is committed to providing part-time arrangements to employees, the parties recognise that operational requirements may mean that some positions are less suitable for part-time arrangements. In such cases, the department may advise that part-time work is not available for that position, but would seek to reach agreement on alternative arrangements with the employee to address the employee's work-life balance, including transfer to a position suitable for part-time work. In a transfer situation, the shared goal of the department and the employee will be the identification, where possible, of a position that draws upon the employee's skills, competencies and experience without diminishing, on an overall basis, the employee's work capacity, income or equivalent career progression.

### **MATURE-AGED EMPLOYEES**

- 3.8 The department recognises that, with the continued ageing of the Australian workforce, it should seek to optimise the contribution of mature-age employees, and encourage those who are making a valuable contribution to stay longer in the workforce. The department will give sympathetic consideration to flexible working arrangements as a means of retaining mature-aged employees who might otherwise choose to leave.

### **HOME-BASED WORK (INCLUDING TELE-WORKING)**

- 3.9 The parties recognise the value of implementing flexible and innovative work-life programs including home-based work and shared-work arrangements.
- 3.10 Tele-working on a short or long term basis may be accessed by employees subject to operational requirements, security considerations and where consistent with the department's policies on hours of work and work health and safety. The department's tele-working policy, outlined in the HRM, provides guidance and further details.

### **CHILD CARE**

- 3.11 The continued provision within the RG Casey Building of the

Currawong Childcare Centre demonstrates the department's commitment to assist employees balance professional and personal responsibilities. In order to enhance DFAT employees' access to the Centre, DFAT employees have priority over employees from any other organisation in securing childcare places. Allocation of places at the Centre is managed by Centre management, in consultation with the department, through a system in which applicants are awarded points for a number of criteria. DFAT families returning unexpectedly from post for operational reasons and at the department's initiative will receive higher priority access to the Centre in accordance with the allocation policy. In order to provide quality, affordable child care, the department will work with the operator of the Centre to ensure that fees will be maintained at market rates. The department offers salary packaging of childcare fees for its employees with children in care at the Currawong Childcare Centre, as well as salary packaging of childcare fees for its employees with children in care at childcare centres associated with other APS agencies, consistent with taxation legislation and rulings.

- 3.12 The department will reimburse additional childcare costs where employees are required by management to increase their hours of work to cover emergency situations or to meet short term work commitments, including short term missions.

### **EMERGENCY CARE OF DEPENDANTS**

- 3.13 In exceptional circumstances, where a dependant requires care and an employee has pressing work requirements, if the employee agrees and attends for work, the department will reimburse reasonable, unavoidable costs of commercially-provided emergency care for that dependant with an amount corresponding to the standard rates charged by local reputable providers. Reimbursement of emergency care is available for up to a maximum of five days per calendar year. Where possible, employees should obtain prior approval for reimbursement of emergency care from their Division Head or HOM/HOP (or other SES employee at a post).

### **HOURS OF WORK**

- 3.14 Supervisors and employees must reach agreement on patterns of attendance at work, based on the operational needs of the

department, client service requirements and bearing in mind employees' personal responsibilities.

- 3.15 In determining the hours of work, supervisors and employees will comply with the following:
- i. hours of work for full-time employees are 150 hours over a four week period, unless stated otherwise in this Agreement. This reflects an average 7 hours 30 minutes of work each day;
  - ii. to the greatest extent possible, areas of the department will be adequately staffed to meet operational requirements during the 7.00 am to 7.00 pm flex-time bandwidth;
  - iii. only in exceptional circumstances will employees be required to work more than 10 hours in any one day. In addressing such issues, supervisors should bear in mind the length of travelling time to and from the place of work which an employee may face;
  - iv. an employee will not be required to work for more than five consecutive hours without at least a 30 minute break;
  - v. core hours may be varied by a written agreement between supervisors and employees, noting that core time should not exceed four and a half hours per day and will not be set outside the standard hours of 8.30 am to 5.00 pm Monday to Friday; and
  - vi. core hours will default to 9.30 am to 12.00 pm and 2.00 pm to 4.00 pm in the absence of any differing agreement between supervisors and employees.

### **FLEXIBLE WORKING ARRANGEMENTS**

- 3.16 Flex-time and time-off-in-lieu (TOIL) are systems of flexible working hours. They enable employees and supervisors to vary work attendance to meet peak workloads, enhance organisational flexibility and facilitate employees' ability to meet their personal commitments. Electronic time-recording and reporting functionality provide an efficient and transparent method of recording employees' attendance and monitoring access to flex-time and TOIL for additional hours worked. In managing flexible working arrangements appropriately, managers and employees should refer to the operations of the flex-time and TOIL systems as set out in the HRM.

3.17 Flex credits and TOIL built up in one work area cannot be carried over to another. Where an employee's move to a new work area is confirmed, supervisors and employees must facilitate arrangements which enable the employee to use any accrued flex or TOIL before departure. Where an employee is given less than two weeks notice to relocate from one work area to another within the department in Canberra, supervisors and employees must take immediate steps to reduce the employee's flex or TOIL credits. In these circumstances only, if the employee is not reasonably able to reduce accrued flex or TOIL credits to zero prior to departure, SES supervisors of the two work areas shall consult, taking into account the views of the employee, and may agree to a carryover between work areas of up to 15 hours.

### **Flex-time**

3.18 With the exception of shiftworkers, the flex-time system is a condition of service for APS Level 1 to 6 employees in Canberra, State, Territory and Passport Offices and overseas posts.

3.19 The flex-time system operates only within the working hours bandwidth of 7.00 am to 7.00 pm Monday to Friday (or as varied at post for the local five-day standard working week). Any work performed outside the bandwidth does not count towards flex credits.

3.20 In managing flex-time arrangements, the following will apply:

- i. the settlement period is four weeks;
- ii. at the conclusion of a settlement period, the maximum carryover of flex-time credit is 37.5 hours and maximum debit is 15 hours;
- iii. flexible working hours will not be available in circumstances where a supervisor reasonably considers the employee's attendance unsatisfactory. In such cases, a supervisor may require an employee to work the 'standard hours' specified in paragraph 3.15(v) until alternative arrangements can be made;
- iv. an employee may take flex leave consistent with the terms of the HRM.

## **Time-off-in-lieu**

- 3.21 Executive Level 1 and 2 employees do not have access to the flex-time system. Instead, Executive Level 1 and 2 employees are entitled to compensatory time off (time-off-in-lieu), on an 'hour for hour' basis, for additional hours worked within the bandwidth of 7:00am to 7:00pm Monday to Friday (or as varied at post for the local five-day standard working week). Any work performed outside the bandwidth does not count towards TOIL unless taken as compensation for hours subject to excess duty (paragraph 3.29 on excess duty refers). Any such absences must be recorded for workers' compensation purposes. Further details on the operation of TOIL are set out in the HRM.
- 3.22 APS Level 1 to 6 employees may elect to take TOIL instead of receiving an excess duty payment where the employee has worked additional hours that are subject to an excess duty allowance. Any TOIL taken pursuant to this paragraph is calculated in accordance with paragraph 3.28.
- 3.23 In managing TOIL arrangements the following will apply:
- i. TOIL should be utilised as close to when it accrues as practicable and taken within four weeks of accrual (the settlement period);
  - ii. at the conclusion of a settlement period, the maximum carryover of TOIL credit is 37.5 hours;
  - iii. where an APS Level 1 to 6 employee has elected to take TOIL instead of receiving an excess duty allowance, and the employee has not been granted that time off within an agreed period due to operational requirements, the employee may claim payment of the original excess duty entitlement.

## **EXCESS DUTY**

- 3.24 At times, employees may be directed to work excess duty. Employees may refuse to work the excess duty in circumstances where the excess duty would result in the employee working hours which are unreasonable having regard to:
- i. any risk to the employee's health and safety that might reasonably be expected to arise if the employee worked the additional hours;

- ii. the employee's personal circumstances, including any family responsibilities;
- iii. the operational requirements of the workplace or enterprise, in relation to which the employee is required or requested to work the additional hours;
- iv. any notice given by the employer of the excess duty requirement or request that the employee work the additional hours and by the employee of his/her intention to refuse to work the additional hours;
- v. whether any of the additional hours are on a public holiday;
- vi. the employee's hours of work over the four-week period ending immediately before the employee is required or requested to work the additional hours; and
- vii. any other relevant matter.

3.25 Excess duty is undertaken only when a supervisor directs the employee to work:

- i. outside the standard working week bandwidth hours of 7.00 am and 7.00 pm; or
- ii. in excess of 7.5 hours for employees undertaking crisis-related duties during the standard working week bandwidth.

3.26 Excess duty cannot be self-initiated. An employee is not on excess duty where an employee attends and attendance is voluntary and at the employee's own discretion.

3.27 Emergency excess duty is defined as excess duty where the employee is recalled to duty after completion of a working day and prior to the commencement of the next working day and has no prior notice.

3.28 APS Level 1 to 6 employees are entitled to an excess duty allowance where they have worked excess duty. For APS Level 1 to 6 employees, excess duty and emergency excess duty will be paid at the following rates:

- i. from Monday to Saturday, an hourly rate of time and a half for the first three hours each day and double time thereafter;

- ii. on a Sunday, an hourly rate of double time; and
- iii. on a public holiday, in addition to single time for the holiday;
  - (a) the first 7.5 hours of duty (within the standard working week bandwidth) will be paid at time and a half and any additional hours will be paid at double time; and
  - (b) emergency excess duty will be paid at double time.
- iv. Part-time APS Level 1 to 6 employees will receive payment for excess duty as outlined in the HRM.

3.29 Executive Level 1 and 2 employees are not eligible for excess duty payments. Executive Level 1 and 2 employees are entitled to take TOIL on an 'hour for hour' basis as compensation for excess hours worked. The Secretary may approve excess duty payments for Executive Level 1 and 2 employees in exceptional circumstances (such as crisis-related duty). Where the Secretary has approved excess duty payments to Executive Level 1 and 2 employees in exceptional circumstances, employees cannot re-convert the payment into TOIL credits or take TOIL with a residual payment.

3.30 Where an employee is directed to work excess duty, the employee is to have an eight hour break plus reasonable travelling time before commencing work again. If the break occurs during the employee's normal work hours, the employee will receive their normal salary during that period. APS Level 1-6 employees will still be entitled to claim an excess duty payment for the excess duty worked in accordance with paragraph 3.28. Unless an excess duty payment is approved in exceptional circumstances in accordance with paragraph 3.29, Executive Level 1 and 2 employees will still be entitled to take TOIL on an 'hour for hour' basis for the excess duty worked. The TOIL credits cannot be taken during the eight hour break. In some circumstances an eight hour break will not be possible due to operational requirements. Where the relevant HOM/HOP, Branch Head or State/Territory/Passport Office Director approves that, for operational reasons, an employee is unable to take an eight hour break after working excess duty and before commencing work again, the employee will be paid for the hours worked during what would have been an eight hour break in accordance with the excess duty rates specified in

paragraph 3.28.

- 3.31 Paragraph 3.30 does not apply to an employee who is directed to work outside the standard working week bandwidth for a period of two (2) hours or less and the period of work commences no earlier than two (2) hours before the beginning of the bandwidth.
- 3.32 In extraordinary circumstances where employees have worked for sustained periods under pressure, the Secretary shall have the discretion to make one-off payments to employees in addition to those specified elsewhere in this Agreement. A one-off payment made under this paragraph will not count as salary for superannuation purposes.

### **FLEXIBLE WORKING ARRANGEMENTS FOR PARENTS**

- 3.33 An employee who is a parent, or has responsibility for the care of a child under school age or a child under 18 who has a disability, may request flexible working arrangements, including part-time hours (refer to paragraphs 3.6 and 3.7 for part-time work entitlements). The employee is not eligible to make this request unless they have completed at least 12 months of continuous qualifying service (the Secretary may waive this requirement in exceptional circumstances).
- 3.34 A casual employee engaged for irregular or intermittent duties may only request flexible working arrangements if the employee:
- i. is a long-term casual employee immediately before making the request; and
  - ii. has a reasonable expectation of continuing employment on a regular and systematic basis.
- 3.35 A request made in accordance with paragraph 3.33 above must be in writing and set out details of the change sought and the reasons for the change. The Secretary will respond in writing to the request within 21 days and will only refuse on reasonable business grounds. Where the request is refused, the response will include reasons for the refusal.

## SHIFTWORK

3.36 The parties to this Agreement recognise the important contribution to the operational efficiency of the department made by employees required to work on specified shifts. In managing shift arrangements, every effort will be made to maximise productivity and resource efficiency, giving due regard to work health and safety issues, and enabling employees to balance their professional and personal commitments. At the same time, the parties to this Agreement agree that compensation for these employees must be provided in as administratively simple a way as possible. The parties to this Agreement, therefore, agree that the following principles will apply for remuneration of employees directed to work on specified shifts:

- i. compensation for shiftwork will be provided as a taxable annual allowance ('shift allowance'), calculated as a set percentage of salary and paid fortnightly. Agreement to participate in the shift system will confirm each employee's willingness to work rostered shifts in return for receiving the shift allowance;
- ii. supervisors may withdraw employees from the shift roster system for operational reasons, or for unsatisfactory attendance or performance. Shift allowance will also cease where employees are on leave other than annual leave, compassionate leave and personal/carers' leave at full pay;
- iii. annualised shift allowances will be calculated using the method contained in the HRM. Shift roster changes (including the removal of shift rostering arrangements) which reflect changing departmental needs will be implemented in consultation with employees;
- iv. the separate shift rate payments for ordinary duty are:
  - 15% where any part of the rostered shift falls between 6.00 pm and 6.30 am Monday to Friday;
  - 30% where ordinary hours are worked continuously for a period exceeding 4 weeks on a shift falling wholly within the hours of 6.00 pm and 8.00 am;
  - 50% where ordinary duty is performed on Saturday;

- 100% where ordinary duty is performed on Sunday; and
- 150% where ordinary duty is performed on a public holiday.

- 3.37 Precise arrangements for the payment of the shift allowances have been developed by relevant program managers, in consultation with employees and, where necessary, taking account of the specific conditions prevailing in each work unit where shiftwork is undertaken. These will be updated in consultation with employees as necessary to reflect changing departmental needs.
- 3.38 As shiftworkers are unable to access the flex-time provisions of this Agreement, payment for excess duty will be made for work in excess of rostered hours where this is specifically directed by the supervisor. Payment for excess duty will be separate from the shift allowance and will be made at the rates referred to in paragraph 3.28 above and as set out in the HRM.
- 3.39 If a state or territory government declares Easter Saturday as a public holiday, this will be taken account of for the purposes of calculating annualised shift penalty and excess duty entitlements in Australia.
- 3.40 The department will fund an annual health assessment for shiftworkers on a voluntary basis.

### **MEDICAL OFFICERS**

- 3.41 A loading in lieu of overtime of 15 per cent of base annual salary will be payable to medical officers as recognition of the requirement that they be 'on call' (i.e. available to perform duty) outside regular business hours.
- 3.42 Medical Officers who receive an 'on call' allowance are not entitled to receive the restriction allowance detailed in paragraph 4.71.
- 3.43 Medical Officers will be entitled to the following for their continuing professional development:
- up to one week per annum paid attendance at approved professional development conferences or seminars, including:

- return air fares;
- registration fees; and
- accommodation and meals.

3.44 In recognition of their unique specialist skills and importance to the health of staff at Australia’s missions overseas, Medical Officers will be entitled to a \$15,000 allowance where they have a Fellowship (Specialist) qualification with one of the following:

- Fellowship of the Royal Australian College of General Practitioners;
- Fellowship of the College of Rural and Remote Medicine;
- Fellowship of the Faculty of Occupation Medicine (Royal Australasian College of Physicians).

They will also be entitled to a second allowance of \$15,000 for a qualification in tropical medicine in recognition of the importance to our regional posts of medical officers’ qualifications in this field. Details are set out in the HRM.

## **PASSPORT OFFICES**

3.45 Where Client Service levels, as outlined in the Passports Client Service Charter, have been exceeded, employees will be rewarded through a system developed by supervisors in consultation with passport office employees. A productivity fund of \$260,000 will be available each year to provide for bonus payments to individual employees working in Passport Offices. The productivity fund will be increased in line with annual salary increases. The maximum individual bonus will be \$1700 in any 12 month period.

3.46 Bonuses paid under the reward system will be paid annually as a lump sum.

3.47 The Secretary may approve special excess duty payments to enable a Passport Office to cope with increases in demand and other unforeseen circumstances, taking into account the Office’s record in meeting its Client Service levels as outlined in the Passports Client Service Charter. In such circumstances, the amount paid may include reasonable travelling time to and from duty.

3.48 Employees called out after-hours to attend requests for urgent

passport issues will be paid emergency excess duty at the rates referred to in paragraph 3.28 above and as set out in the HRM, plus reasonable travelling time.

- 3.49 Where APS 1 to 6 Passport Office employees work on a day that is a public holiday for that Office, those employees are entitled to choose either an excess duty allowance or to take TOIL in accordance with paragraph 3.28 for duty performed on that day. Unless an excess duty payment is approved in exceptional circumstances in accordance with paragraph 3.29, Executive Level 1 and 2 Passport Office employees may only take TOIL on an 'hour for hour' basis (paragraph 3.29 also refers). Where an APS Level 1 to 6 Passport Office employee elects to take TOIL rather than receiving an excess duty allowance, the subsequent use of TOIL will be subject to operational requirements as negotiated between the particular employee and relevant supervisor. Where no agreement is reached, time accrued will be paid out at excess duty rates.

## **CONSULAR AND PASSPORTS SERVICES**

- 3.50 The 24 Hour Consular Emergency Centre (CEC) contributes significantly to the department's capacity to deliver consular and passports services efficiently, compassionately and in keeping with the expectations of the government and the travelling public. Employees working shifts in the CEC will be eligible to be paid a fortnightly allowance on the basis of the principles described in paragraphs 3.36 to 3.40 above.
- 3.51 Employees providing consular and passports services to the Australian public often operate under difficult and stressful circumstances. Therefore, consistent with the department's commitment to provide a solid support network for employees, where the need arises, and in accordance with its obligations under relevant laws, supervisors will arrange to provide counselling support, and within existing budgetary resources, other relevant professional training to employees providing consular and passports services in Australia and overseas.

## **TECHNICAL SERVICES**

- 3.52 The department recognises the important contribution technical employees make to its effective operations in Australia, and at overseas posts. It recognises that the work undertaken,

including through short-term missions and by Regional Technical Officers, often involves long hours of work under difficult circumstances. It is important that supervisors ensure that compensation for such long hours is provided in appropriate and flexible ways, including through the utilisation of TOIL, flex-time and, where the provisions of paragraphs 3.24 to 3.31 apply, payment of excess duty allowance. Those technical employees on long-term shiftwork in Canberra will receive the appropriate shift allowance on the basis of the principles described in paragraphs 3.36 to 3.40 above.

- 3.53 Technical employees are also entitled to receive a site allowance in situations, particularly overseas, where the working conditions are difficult. Details are outlined in the HRM.

### **EMPLOYEES PERFORMING CLASSIFIED COURIER SERVICES**

- 3.54 Specific arrangements for employees performing classified courier runs have been developed in consultation with relevant employees, and are detailed in the HRM. These include access to an annualised shift allowance for full-time couriers. The arrangements may be amended from time-to-time in consultation with employees to meet changing operational requirements.

## LEAVE AND ALLOWANCES

### **PUBLIC HOLIDAYS AND ADDITIONAL HOLIDAYS**

- 4.1 Employees are entitled to a minimum of 14 days holiday, consisting of public holidays, additional holidays, days in lieu of Christmas closedown and any days taken in lieu of a public holiday or additional holiday.

#### Public Holidays in Australia

- 4.2 Employees based in Australia are entitled to the following public holidays:
- i. New Year's Day (1 January);
  - ii. Australia Day (26 January);
  - iii. Good Friday;
  - iv. Easter Monday;
  - v. Anzac Day (25 April);
  - vi. Queen's Birthday (on the day on which is it celebrated in a state or territory or a region of a state or territory);
  - vii. Christmas Day (25 December);
  - viii. Boxing Day (26 December); and
  - ix. any other day, or part-day, declared or prescribed by or under a law of a state or territory to be observed generally within that state or territory, or a region of the state or territory, as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the *Fair Work Regulations 2009* from counting as a public holiday.
- 4.3 If under a state or territory law, a day or part-day is substituted for one of the public holidays listed above, then the substituted day or part-day is the public holiday.
- 4.4 The employee and the Secretary may agree on the substitution of a day or part-day that would otherwise be a public holiday, having regard to operational requirements.
- 4.5 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 part 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. Where a public holiday falls during a period when an employee is absent on leave (other than annual leave or PCL) 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.

### **Christmas Closedown and Additional Holidays in Australia**

- 4.6 Employees in Australia are entitled to the following additional holidays and will be paid salary as if that day were not an additional holiday and the employee had ordinarily worked on that day:
- i. three days in lieu of Christmas closedown observed around the Christmas Day and New Year's Day period, as determined by FAS CMD; and
  - ii. such other additional holidays as are necessary to meet the terms of paragraph 4.1, as determined by Directors of State, Territory and Passport Offices.

### **Holidays at Post**

- 4.7 Employees on posting are entitled to the same number of holidays that are observed in Canberra each year pursuant to paragraphs 4.2 and 4.6. At posts, employees may be requested to work on a public holiday listed in paragraph 4.2 or an additional holiday listed in paragraph 4.6 due to operational requirements and/or relevant local factors. Where an employee works on a public holiday or additional holiday, an employee will be given an alternate holiday in lieu of the public holiday, as determined by post management. The employee may refuse the request (and take the public holiday or additional holiday off) if the employee has reasonable grounds for doing so and in these circumstances will not be given the alternate day off. The factors determining whether an employee's refusal is reasonable are set out in the HRM.
- 4.8 Where, in accordance with paragraph 4.7, employees work on a public holiday listed in paragraph 4.2, or an additional holiday listed in paragraph 4.6, and take an alternate holiday, the employees are not entitled to receive any excess duty allowance

in respect of work performed on the public holiday or additional holiday.

## **ANNUAL LEAVE**

- 4.9 Employees are entitled to 22 days paid annual leave for each 12 month period worked.
- 4.10 Employees are required to obtain the prior authorisation of their supervisor before taking annual leave. Supervisors are required to process leave applications promptly. The supervisor may refuse to authorise a period of annual leave where it is necessary to do so due to operational requirements.
- 4.11 An employee who is:
- i. employed to work in an area in which shifts are continuously rostered 24 hours a day for 7 days a week; and
  - ii. regularly rostered to work those shifts; and
  - iii. regularly works on Sundays and public holidays
- is entitled to an additional five days paid annual shift work leave for each 12 month period worked.
- 4.12 Pro rata adjustments to annual leave balances will be made for part-time employees and for periods of leave without pay which do not count as service. For employees not engaged on an irregular or intermittent basis, accrued annual leave will be paid out on termination of employment.
- 4.13 Employees who have annual leave balances of more than 1/13 of the number of nominal hours worked by the employee during the period of 104 weeks (i.e. more than 40 days annual leave for full-time employees, pro rata for part-time employees) ending on 1 July each year, will be directed to take an amount of annual leave equal to:
- i. one quarter of the employee's total annual leave balance; or
  - ii. the number of days required to reduce the employee's total annual leave balance to 33 days (pro rata for part-time employees), whichever is the less.
- 4.14 On 1 March each year, an employee who was directed to take annual leave on the previous 1 July in accordance with paragraph 4.13 will have his/her annual leave balance reviewed

and if on that date the employee has an annual leave balance of more than 1/13 of the number of nominal hours worked by the employee during the period of 104 weeks (i.e. more than 40 days annual leave for full-time employees, pro rata for part-time employees), the employee may again be directed to take an amount of annual leave equal to:

- i. one quarter of the employee's total annual leave balance; or
- ii. the number of days required to reduce the employee's total annual leave balance to 33 days (pro rata for part-time employees), whichever is the less.

4.15 Employees and supervisors will develop arrangements to ensure employees comply with the annual leave limits stipulated above.

4.16 Where, in exceptional circumstances, employees are not approved to take leave because of operational reasons, Assistant Secretary, Staffing Branch may defer the direction to take leave. Requests for deferral require Division Head/HOM/HOP support.

4.17 Arrangements for directing ongoing employees on long-term leave to take excess leave in accordance with paragraphs 4.13 and 4.14 will be considered on a case-by-case basis.

4.18 Non-ongoing employees not engaged on an irregular or intermittent basis will accrue annual leave on a pro rata basis from the commencement of employment.

4.19 The Secretary may, from time to time, for operational reasons, offer an employee the opportunity to forgo an amount of annual leave that is credited to the employee, up to a maximum of 1/13 of the nominal hours worked by the employee in a 12 month period, and provided that the employee's remaining annual leave balance will be at least 20 days.

4.20 An employee who has been offered the opportunity to forgo an amount of annual leave by the Secretary may elect to forgo that amount of annual leave by giving his/her election in writing to the Secretary.

4.21 The Secretary will consider the employee's election and after giving due consideration to operational requirements, the employee's circumstances and the need to ensure that the employee has adequate periods of recreation and rest from

work, may authorise the employee to forgo the amount of annual leave.

- 4.22 In the event that the Secretary authorises an employee to forgo an amount of annual leave, the employee and the Secretary will make an agreement in writing setting out the amount of paid leave to be forgone. The employee will receive pay in lieu of the amount of annual leave forgone at a rate that is no less than the employee's base rate of pay at the time that the employee and the Secretary make the agreement.

#### **ADDITIONAL HARDSHIP LEAVE**

- 4.23 Additional Hardship Leave (AHL) applies to some hardship posts overseas and remote localities within Australia as detailed in the HRM. In line with Working Smarter principles, AHL credits should be used in the year that they accrue. Employees who maintain over 12 months AHL credits on 1 July each year, and on 1 July in each subsequent year, will be directed to take AHL for a period equal to the excess credit.

#### **PAYMENT ON DEATH**

- 4.24 Where an employee dies, or the Secretary directs that an employee will be presumed to have died on a particular date, the Secretary may authorise the payment of any accrued leave entitlement to their surviving spouse, dependants or estate. Any such payment may be reduced by the amount of any monies owed to the department by the employee.

#### **PERSONAL/CARER'S LEAVE (PCL)**

- 4.25 DFAT supports employees who are required to care for and support an ill family or household member. Carers are employees who, in addition to the employees' normal family responsibilities, provide care and support to family members not necessarily residing with the employee, or members of their household, who are sick or ageing, or have a physical or mental illness, or injury, or a disability.
- 4.26 The department recognises that carer responsibilities vary considerably, depending on the level of care and assistance required. The department also recognises that while employees would normally provide care and assistance outside normal working hours, there are times that employees are required to

provide more care or support because of illness, or disability, and at those times the employee will have access to PCL provisions or, where feasible, be able to work from home.

- 4.27 PCL for ongoing employees will be credited annually in advance. Full-time ongoing employees will be credited with 20 days PCL, pro-rated for part-time ongoing employees, on the date of engagement. PCL will be credited, in advance, on the completion of a period of 12 months of service. There is no limit on the amount of unused credits of PCL that can be accumulated. Existing half-pay credits are able to be converted to full pay PCL credits.
- 4.28 Any leave without pay taken by an employee within a PCL accrual year that is in excess of 30 calendar days and does not count as service will defer the PCL accrual date by an equivalent number of days.
- 4.29 Full-time non-ongoing employees engaged for a specified term, or for the duration of a specified task pursuant to section 22(2)(b) of the *Public Service Act 1999*, will accrue PCL as follows, applied pro rata for part-time employees:
- i. PCL will be accrued over periods of continuous service. Continuous service is defined as service over a single period or over consecutive periods where there is no break in employment. A break is defined as any period greater than five working days. Such breaks will not count as service;
  - ii. for continuous service of 12 months or less, 6.25 hours PCL per month will accrue progressively;
  - iii. after 12 months continuous service, non-ongoing employees will then be credited with 30 days PCL. Thereafter, non-ongoing employees will be credited with PCL at the same rate and in the same manner as for ongoing employees; and
  - iv. unused PCL is accumulated annually.
- 4.30 Employees may use their PCL for personal illness or injury or to provide care or support to a member of the employee's family or a member of the employee's household who requires care or support because of a personal illness, personal injury or an unexpected emergency.

- 4.31 For absences exceeding three consecutive days, and/or for absences in excess of seven days PCL within an accrual year an employee must provide a medical certificate from a registered health practitioner or, if it is not reasonably practicable to obtain a certificate, a statutory declaration, confirming personal illness, personal injury, details of the care or support situation or details of the unexpected emergency.
- 4.32 The medical certificate need only state the employee is unfit for duty. Where a statutory declaration is provided, it must contain information that would satisfy a reasonable person that the leave is taken for a circumstance stated in paragraph 4.30.
- 4.33 Ongoing and non-ongoing employees who have exhausted their PCL, and non-ongoing employees engaged on an irregular or intermittent basis, are entitled to two days unpaid carer's leave for each occasion where a member of the employee's family, or member of the employee's household, requires care or support because of personal illness, personal injury or an unexpected emergency.
- 4.34 An employee who is medically unfit for duty for one day or longer or who has to provide care while on Annual Leave or Long Service Leave and who produces satisfactory medical evidence may apply for PCL. Annual Leave or Long Service Leave will be re-credited to the extent of the period of PCL granted.
- 4.35 Where the Secretary considers there are exceptional circumstances and all other forms of leave are exhausted, additional paid personal leave at half-pay may also be granted to an ongoing employee.

#### **COMPASSIONATE LEAVE**

- 4.36 Employees are entitled to three days compassionate leave on each occasion where a member of the employee's family or household contracts an illness, or sustains an injury, that poses a serious threat to his/her life, or dies. This leave will count as service for all purposes and will be paid leave, except for employees who are engaged on an intermittent or irregular basis.

## STUDY LEAVE

- 4.37 The department is committed to providing employees with the opportunity to pursue part-time study, provided it is relevant to the department's corporate objectives and its evolving human resources requirements. To that end, the Secretary may, on application by an employee, approve the employee undertaking a course of study at an institution, having regard to:
- i. the financial resources and operational needs of the department;
  - ii. the work performance of the employee;
  - iii. the career development needs of the employee; and
  - iv. the number of working hours required.

## MATERNITY LEAVE

- 4.38 In accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*, the department will provide maternity leave to female employees who become pregnant.
- 4.39 Where an employee is eligible for paid maternity leave, and wishes to take a consecutive period of unpaid maternity leave, the employee may elect to spread the payment for the period of paid maternity leave over a period of up to 24 weeks at half salary. For the purpose of calculating the period of service of an employee who makes such an election, that part of maternity leave which counts towards service is that part for which the employee would have been paid had maternity leave been taken at full pay.
- 4.40 In addition to an employee's entitlement to paid maternity leave under the *Maternity Leave (Commonwealth Employees) Act 1973* the department will provide paid maternity support leave of an additional two weeks full paid leave or four weeks at half pay to female employees who become pregnant. The leave must be taken immediately after any entitlement to paid maternity leave under the *Maternity Leave (Commonwealth Employees) Act 1973* finishes. This leave will be considered part of the total maternity leave period taken by an employee. For the purpose of calculating the period of service of an employee who elects to take paid maternity support leave at half pay, that part of the employee's maternity support leave which counts towards service is that part for which the employee would have been

paid had maternity support leave been taken at full pay.

## **ADOPTION LEAVE**

- 4.41 Where an employee with 12 months qualifying service adopts a child and has a primary carer role for that child, the employee may take a total of 12 weeks paid leave and 40 weeks unpaid leave from the day of placement of the child with the employee for adoption or one week earlier in the case of an inter-country adoption. The employee may elect to be paid in the manner outlined in paragraph 4.39. Where the employee does not have 12 months qualifying service, the leave will be unpaid.
- 4.42 In addition to the entitlement to paid adoption leave set out in paragraph 4.41, the department will provide paid adoption support leave of an additional two weeks paid leave to an employee who has the primary carer role. The employee may elect to take this leave in the manner outlined in paragraph 4.40. The leave will be scheduled to occur immediately after paid adoption leave set out in paragraph 4.41 finishes. Any leave taken pursuant to this paragraph will be deducted from the entitlement to 40 weeks of unpaid leave provided for in paragraph 4.41.
- 4.43 Where an employee is not the primary care giver of the adopted child, but has responsibility for the care of that child, they are entitled to provisions equivalent to those for parental leave as outlined in paragraphs 4.46 to 4.48.

## **FOSTER PARENTS' LEAVE (INCLUDING PERMANENT CARE ORDERS)**

- 4.44 Employees who foster a child or are responsible for a child under a Permanent Care Order are entitled to provisions equivalent to those for adoption leave as outlined in paragraphs 4.41 to 4.43.
- 4.45 This entitlement should apply 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 or Care Order:
- i. by a person/organisation with statutory responsibility for the placement of the child; and

- ii. where the child is not expected to return to their family.

#### **PARENTAL LEAVE - PAID**

- 4.46 Employees who are not entitled to paid maternity, adoption or foster parents' leave are entitled to paid parental leave:
- i. to attend the birth of their child, or their partner's child;
  - ii. to give birth and recover from a birth where the employee is not eligible for paid maternity leave; or
  - iii. to care for an adopted child, or a child for whom the employee is a guardian, and for whom the employee has recently assumed care where the employee is not eligible for paid adoption leave.
- 4.47 Eligible employees are entitled to up to 2 continuous weeks of full pay parental leave. The Secretary may approve the payment of the two weeks parental leave over a period of four weeks at half pay. Only the first two weeks of this leave (at either full or half pay) will count as service.
- 4.48 An employee may access up to 2 weeks additional leave on full pay from his or her PCL credits immediately following the period of leave taken in paragraph 4.47.

#### **PARENTAL LEAVE - UNPAID**

- 4.49 An employee with 12 months qualifying service at the date of birth of a child or placement of a child for adoption or fostering (including permanent child care order), and who has or will have responsibility for the care of the child, may take unpaid parental leave of up to 12 months, less any period of paid maternity, adoption, foster parents' (including Permanent Care Orders) or parental leave (pursuant to paragraphs 4.38 to 4.48) that the employee has taken. Parental leave (unpaid) must be taken in a single continuous period.
- 4.50 Except if otherwise approved by FAS CMD, parental leave (unpaid) must start no later than:
- i. the date of the birth of the child; or
  - ii. in the case of adoption, from the date of placement of the child; or

- iii. immediately after the cessation of paid leave pursuant to paragraphs 4.38 to 4.48; or
  - iv. where the employee's partner has taken any maternity, adoption or parental leave in relation to the child, immediately after the end of the partner's leave; or
  - v. if the employee has a spouse or de facto partner who is not an employee (and the spouse or de facto partner has responsibility for the care of the child from the date of birth or placement until commencement of the employee's leave) the period of parental leave may start at any time within 12 months after the date of birth or day of placement of the child.
- 4.51 Any application to extend the period of unpaid parental leave, or leave approved under paragraph 4.38, 4.41, and 4.44, of an employee for a further 12 months, immediately following the end of the initial 12 month period, will be agreed by the department in accordance with section 76 of the *Fair Work Act 2009*. The request must be made in writing at least four weeks before the end of the initial 12 month period. The department must give an employee a written response to the request stating whether the request is granted or refused as soon as practicable, and not later than 21 days after the request is made.
- 4.52 Unpaid parental leave, while recognised as continuous employment in the department, will not count as service for any purpose.

#### **RETURN TO WORK AFTER PARENTAL LEAVE**

- 4.53 The department will comply with section 84 of the *Fair Work Act 2009*.

#### **LONG SERVICE LEAVE**

- 4.54 An employee is eligible for long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.
- 4.55 The minimum period during which long service leave can be taken is seven calendar days (at full or half pay). Long service leave cannot be broken with other periods of leave, except as otherwise provided by legislation.

## MISCELLANEOUS LEAVE - PAID

- 4.56 Supervisors may approve Miscellaneous Leave with pay. Unless specified below, these absences should not exceed three days, except in relation to jury service and community service leave. Community service leave includes all emergency service responses, regular training, reasonable travel and recovery time and ceremonial duties. If the period does exceed three days, employees will need to submit a hard copy leave application to the Director, Payroll Services Section for approval before the leave may be taken.
- 4.57 This leave can be approved for reasons including but not limited to:
- i. appearing as a witness in legal proceedings for civil cases. Where leave is in connection with jury service or to attend as a witness for the Crown, leave can be for more than three days. If employees are summonsed as a witness in any industrial proceedings under the *Fair Work Act 2009*, the leave will only be for the time that they are necessarily absent from duty to attend as a witness.
  - ii. blood and body tissue donors. It is not necessary to take PCL if employees are absent from duty for short periods during working hours to donate blood or other body tissue. Employees should seek their supervisor's agreement to be away from the workplace and a record of absence will need to be kept for workers' compensation purposes only. There is no need to submit a leave application as the absence will be treated as duty.
  - iii. vaccinations. If employees are absent from duty because of illness following vaccination or inoculation in connection with official duty, they may be granted paid leave on presentation of a medical certificate stating that the illness is attributable to the vaccination or inoculation. Employees may also be reimbursed for any related medical costs. If the absence is less than three days, there is no need to submit a leave application because the absence will be treated as duty. Where the absence is for more than three days, a leave form and appropriate medical evidence are required. In this situation, the leave will be recorded as paid leave in the interests of the Commonwealth.

- iv. employees preparing for and/or attending industrial proceedings, to which the department is a party, in line with the procedures for resolving disputes set out in paragraphs 1.37 to 1.44, may apply to take paid leave, subject to approval by the Secretary or his delegate.
- v. union workplace delegates, representing DFAT union members, at formal relevant union forums and training.
- vi. emergency services members requiring leave in relation to this membership. Leave may be granted for the period requested by the particular organisation. The member should provide satisfactory evidence that specifies the time for which the member is needed.
- vii. ceremonial leave may be granted to an indigenous employee for ceremonial purposes (including NAIDOC leave).
- viii. if employees are participating as an accredited official/competitor at an international sporting event, leave to attend the event may be granted for the official period of the event.
- ix. household removal associated with a domestic or overseas transfer, or recruitment from interstate or overseas. If employees need to take this leave they will have to apply for it in Employee Self Service (ESS) module of Peoplesoft. Employees need to be aware that the entitlement to three days leave includes leave prior to the relocation and leave at the new location.
- x. leave taken because of destruction or damage to an employee's house or contents.
- xi. leave to engage in any other eligible community service activity as defined in Division 8 of Part 2-2 of the *Fair Work Act 2009*.

#### **MISCELLANEOUS LEAVE - UNPAID**

4.58 The department recognises that Leave Without Pay can bring substantial benefits to both the department and to employees, contributing to a flexible and motivated workforce. The department is committed to facilitating:

- i. leave for employees to accompany a spouse on posting overseas or interstate with DFAT or other Australian Government Agency;
  - ii. leave for employees to take up a statutory appointment with a Member of Parliament or in the Governor-General's Office;
  - iii. ceremonial leave (including NAIDOC leave) for an indigenous employee in excess of the three days discussed in the previous section.
- 4.59 Leave Without Pay for other reasons will be considered on a case-by-case basis depending on the department's operational requirements and the merits of each case. These reasons include:
- i. leave to engage in other employment either inside or outside the Australian Public Service;
  - ii. leave to undertake academic studies of relevance to the department;
  - iii. leave to address other specific professional responsibilities or interests of the employee;
  - iv. leave for other reasons.
- 4.60 Applications will be considered in the light of departmental needs as well as employee preferences. Factors considered when framing and assessing applications should include:
- i. the time period envisaged;
  - ii. the reason for the leave (e.g. study, secondment or personal); and
  - iii. departmental staffing needs.

#### **DEFENCE RESERVISTS' LEAVE**

- 4.61 An employee may be granted leave (with or without pay) to enable the employee to fulfil Australian Defence Force (ADF) Reserve and Continuous Full Time Service (CFTS) or Cadet Force obligations.
- 4.62 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.

- i. 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.
  - ii. 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.
  - iii. Employees are not required to pay their tax-free ADF Reserve salary to the department in any circumstances.
- 4.63 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 as service for all purposes except in the accrual of annual leave.
- 4.64 Eligible employees may also apply for annual leave, long service leave or leave without pay, or they may use flex-time or TOIL for the purpose of fulfilling ADF Reserve, CFTS or Cadet Force obligations. If employees utilise annual leave or long service leave entitlements to undertake ADF Reserve, CFTS or Cadet Force obligations, they may be eligible to top up this paid leave by cashing out part of their entitlement to paid Defence Reserve leave in paragraph 4.62.
- 4.65 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.

#### **PURCHASED LEAVE**

- 4.66 The purchased leave scheme allows employees to access up to four weeks additional leave per year, with salary payments averaged over the whole year or less to ensure that a standard rate is received each fortnight. Purchased Leave will not affect entitlements to other forms of leave. Employees accessing this scheme can elect to 'purchase' between one and four weeks. This election may be made at any time and remains in force for the following year. Elections cannot be varied except in exceptional circumstances. An application for purchased leave must be approved in accordance with the HRM.

## **PORTABILITY OF LEAVE**

- 4.67 Where an employee moves (including on promotion or for an agreed period) from another agency where he or she was an ongoing APS employee, the employee's unused accrued annual leave and PCL (however described) will be recognised, provided there is no break in service longer than two months.
- 4.68 Where an employee is engaged as either an ongoing or non-ongoing APS employee immediately following a period of ongoing employment in the Parliamentary Service or the ACT Government Service, the employee's unused annual leave and PCL (however described) will be recognised.

## **UNAUTHORISED LEAVE**

- 4.69 Where an employee is absent from duty without approval, all pay and other benefits provided under this Agreement, including flex-time, will cease to be available until the employee resumes duty or is granted leave. Where flex-time no longer applies, employees will revert to working 'standard hours' as specified in paragraph 3.15(v).

## **ALLOWANCES**

- 4.70 Where an employee is eligible, the following allowances will be paid at or above the relevant award rate, as set out in the HRM:
- First Aid Allowance;
  - WH&S Safety Representatives Allowance;
  - Motor Vehicle Allowance;
  - Out-of-Hours Parliamentary, Media, Protocol and Consular Duties Allowance;
  - Language Proficiency Allowance;
  - Community Language Allowance.

## **RESTRICTION ALLOWANCE**

- 4.71 The purpose of restriction allowance is to compensate staff who need to remain 'on-call' (i.e. available to perform duty) outside the standard working day (i.e. 7.00am to 7.00pm) for continuous periods of five working days or more. Staff must be available to perform duty and be significantly limited in their activities

during the period in question to be entitled to claim restriction allowance.

- 4.72 Supervisors are to take into account the fact that placing employees under restriction imposes certain limitations on employees' free time and should only be resorted to where absolutely necessary. Consequently, if restriction is essential, its period is to be kept to a minimum, and where possible, shared among a group of employees. Employees on restriction should only be recalled to duty in essential situations.
- 4.73 It follows that restriction allowance will not be paid for any period in which an employee either does not remain contactable, does not maintain the required degree of readiness to undertake work-related duties or is not significantly limited in their activities during the period in question.
- 4.74 The fact that staff may be required to carry a mobile phone and remain contactable does not in itself entitle the staff member to a payment of a restriction allowance. In these situations supervisors should only make out of hours contact in emergency situations. Staff at posts and in Australia need to be able to demonstrate that there is a reasonable likelihood that they will be contacted and that this contact is reasonably frequent. This can be based on demonstrated past experience.

#### **DEPARTMENTAL LIAISON OFFICER ALLOWANCE**

- 4.75 Departmental Liaison Officer Allowance (DLOA) is paid to a DFAT employee occupying a nominated position at Parliament House and in the Secretary's office in lieu of overtime. The rate of DLOA is \$18,161 per annum. This rate will be adjusted in line with and at the time of general pay increases. An employee who undertakes the duties of a DLO in the absence of the substantive occupant of a nominated position at Parliament House or in the Secretary's Office shall receive a DLO allowance for total days worked after five continuous working days in position. The DLO allowance payable will be pro-rated from the annual amount.

#### **HIGHER DUTIES ALLOWANCE**

- 4.76 Where an employee is selected for temporary assignment to work in a higher band or broadband or in an SES classification for a continuous period of 21 calendar days or more, the

employee will be paid at a salary point in that higher band nominated by the relevant supervisor.

#### **RELOCATION EXPENSES**

- 4.77 If an employee is transferred or recruited at departmental initiative within Australia, he/she will receive reasonable relocation expenses including, where appropriate, temporary accommodation allowance, as determined by the Secretary, and as detailed in the HRM.

#### **REMOTE LOCALITIES ASSISTANCE**

- 4.78 Employees in Darwin or on Thursday Island, and employees transferring to these localities during the term of this Agreement, will receive remote localities assistance at or above the relevant award rate, as detailed in the HRM.

#### **SUPPORT FOR PROFESSIONALS**

- 4.79 The department recognises the benefits of membership of professional organisations and training and will reimburse membership fees/accreditation fees and training fees where a membership or accreditation from a professional association is deemed by the department to be required for an employee to undertake their responsibilities for the department.

\* \* \* \* \*

## **REMUNERATION**

### **PRODUCTIVITY PAYMENTS**

- 5.1 This Agreement is an important reform package providing productivity and efficiency improvements, with benefits to employees and their families and to DFAT's clients and the community in general. In recognition of the productivities and efficiencies in this Agreement, all employees will receive:
- i. a 3 per cent increase to base annual salary per year. The first increase will commence on the date this Agreement comes into force in accordance with paragraph 1.11. The second increase will commence on 1 July 2012. The final increase will commence on 1 July 2013.

### **PAYMENT OF SALARY**

- 5.2 Employees will be paid fortnightly at a rate based on the following formula:

Fortnightly pay = annual salary ×  $\frac{12}{313}$

313

- 5.3 Annual salary rates, which are to apply from the commencement of this Agreement, are set out in Annex 1.

#### **Setting Starting Salary**

- 5.4 Employees who commence duty with the department after this Agreement comes into effect will be placed on the minimum point within the advertised salary range, unless the Secretary determines otherwise.

#### **Correcting Starting Salary**

- 5.5 Where, at the time of engagement, an employee's salary is set at an incorrect salary point within the applicable salary scale, the Secretary may determine, in writing, the payment of the employee's salary at the correct salary point.

#### **Salary on Reduction**

- 5.6 Where an employee agrees, in writing, to temporarily perform

work at a lower work level standard, the Secretary may determine, in writing, that the employee shall be paid a rate of salary applicable to the lower work value level.

### **Method of Payment**

- 5.7 Employees will have their salary paid fortnightly by electronic funds transfer into the Australian financial institution account of their choice, subject to any constraints imposed by the department's Human Resource Management Information System.
- 5.8 All payments of monies usually processed through the payroll system will be paid on Public Service pay days. Only in exceptional circumstances will payments be made at another time.

### **REMUNERATION SUPPLEMENTATION**

- 5.9 The Secretary, or the Secretary's delegate, may from time to time supplement an employee's remuneration to meet particular workplace or operational requirements, or in recognition of additional responsibilities. This includes in relation to employees serving overseas on a long term posting who are covered by this Agreement. The number of individual supplementary remuneration arrangements entered into will be reported to the WRC.

### **SALARY PACKAGING**

- 5.10 Employees may elect to sacrifice salary for non-monetary benefits in accordance with salary packaging guidelines as set down in the HRM. Any Fringe Benefits Tax and administrative costs incurred as a result of the employee's remuneration packaging arrangements will be met by the employee. Where an employee takes up the option of salary packaging the employee's tax liability will reflect the packaging arrangement. The employee's salary for other purposes is calculated as if the salary packaging arrangements had not been in place.

## **SUPERANNUATION PAYMENT**

### **Employer Superannuation Contributions**

- 5.11 The department will make compulsory employer contributions as required by the applicable legislation and fund requirements.
- 5.12 Employer contributions to the PSSap will be 15.4% of the employee's fortnightly contribution salary. Employer contributions for employees in other accumulation schemes will be at the same rate as for employees in PSSap. Employer contributions will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not apply where a superannuation fund cannot accept employer superannuation contributions (e.g. unable to accept contributions for people aged over 75).
- 5.13 Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that does not count as service, unless otherwise required under legislation.
- 5.14 The Secretary may choose to limit superannuation choice to complying superannuation funds that allow employee and/or employer contributions to be paid through fortnightly electronic funds transfer using a file generated by the department's payroll system.

### **Mandated Superannuation Contributions for Employees Aged 70 Years or Older**

- 5.15 An employee who is aged 70 years or older is entitled to superannuation contributions, at the relevant rate, if the contributions are accepted by the employee's superannuation fund.

### **'In-lieu-of-superannuation' Allowance for Employees Aged 70 Years or Older**

- 5.16 An employee will receive an 'in-lieu-of-superannuation' allowance where the following conditions are satisfied:
- i. the employee is aged 70 years or older; and
  - ii. DFAT is not permitted under any Commonwealth law to pay all or part of an employer contribution to the

employee's superannuation fund in respect of the employee.

- 5.17 The in-lieu-of-superannuation allowance that is payable to an employee is equivalent to the amount that DFAT would have paid as a superannuation contribution if the employee was under 70 years of age and was a member of the Public Sector Superannuation Accumulation Plan (PSSAP), less any contribution amount accepted by the employee's superannuation fund.
- 5.18 In-lieu-of-superannuation allowance will be paid as a taxable allowance in the employee's taxable fortnightly salary.
- 5.19 An employee who is currently a member of Public Sector Superannuation Defined Benefit (PSSDB) Scheme, and seeks financial advice on becoming a member of PSSAP, will be eligible for reimbursement for that financial advice up to \$500.

#### **OVERSEAS CONDITIONS OF SERVICE**

- 5.20 The Secretary may determine conditions of service for employees working overseas on a long-term posting. Details are set out in the HRM.
- 5.21 Employees serving overseas on a long-term posting will receive a conditions package which will include, as determined appropriate to the post and its circumstances, a Cost of Living Allowance, with provision for at least biannual review and adjustment, a Hardship Allowance and a Cost of Posting Allowance, the latter updated annually in line with salary movements. The package will also include accommodation, health care, assistance with children's education, reunion fares and other conditions of service as detailed in the HRM.
- 5.22 Changes to overseas conditions, apart from routine adjustments, will be referred to the Overseas Conditions of Service (OCS) Sub-Committee, which will expect to meet twice yearly. The membership of the OCS Sub-Committee will comprise individuals who collectively are broadly representative of the staff of the department and staff representatives.
- 5.23 At least once a year the management representative will submit a report to the WRC on the operation of, and developments in reviewing, the conditions package provided to employees

serving overseas.

- 5.24 The parties to this Agreement agree to work within the broad goal that, as a minimum, there will be no overall reduction in the balance of conditions for employees serving overseas.

### **SHORT-TERM DOMESTIC AND OVERSEAS MISSIONS**

- 5.25 The standard for official domestic air travel within Australia is economy class, except for travel in excess of three hours flight time, for which the standard is business class. The class of air travel for employees undertaking multi-sector official international air travel is business class for all sectors. The class of travel for single-sector (one-way or return) official international travel of less than two hours duration each way is economy class. Where business class is the entitlement and is not available, the class of travel for all employees is the next class below business class. However delegates have the discretion to agree to a higher class of travel in exceptional circumstances, including where the nominal class of travel is economy.
- 5.26 Travel, where possible, should be undertaken during the normal bandwidth. Where travel is undertaken within the normal bandwidth, staff are entitled to accrue flex-time or TOIL in accordance with paragraphs 3.18-3.23. For interstate or international travel, TOIL will be available for a maximum of one hour travelling time each way where that travelling time takes place outside 7.00am to 7.00pm Monday to Friday, or on weekends or public holidays. Where an employee travels on a commercial flight, travelling time will commence one hour prior to scheduled departure.
- 5.27 Where employees are required to be away from home overnight on official business, they will receive travel allowance (TA). Where the TA is insufficient to meet reasonable costs incurred for accommodation, meals or incidentals the difference may be reimbursed.
- 5.28 Current DFAT TA rates are available in the HRM. DFAT will use its subscription services to adjust these rates from time-to-time. Where an employee travels to a location where subscription rates are unavailable, the Secretary will set the TA amount.

- 5.29 Where an employee, performing duty temporarily away from their normal place of work, is not entitled to TA, they may apply for reimbursement of reasonable travel costs. Further details are contained in the HRM.
- 5.30 An employee who undertakes travel for a lesser period than anticipated must repay any excess TA advanced to the employee.
- 5.31 Other issues relating to official travel in Australia and overseas, including access to rest periods, insurance reimbursements, childcare reimbursements, possible use of annual leave in conjunction with official travel, and any loss or damage to an employee's personal effects, will be settled by the relevant program manager in consultation with the relevant employee, and drawing as appropriate on information contained in the HRM.
- 5.32 Employees undertaking official travel in Australia and overseas for a period of one week or more will be entitled to 30 minutes of personal telephone calls per week. Where possible, employees should use telephones in DFAT offices or posts, or official mobile phones, to make such calls.
- 5.33 The department recognises the opportunities for employees to develop skills and gain valuable overseas experience through undertaking short-term missions. Supervisors will seek to provide employees with opportunities to undertake short-term missions as they present themselves, including for staff development needs, subject to work demands and funding constraints.
- 5.34 The Secretary may approve applications from employees to be accompanied by their spouses or de facto partners at official expense on short-term missions overseas, subject to specified criteria published in the HRM. Eligibility will be established on the basis of 40 weeks aggregate periods of approved overseas travel on short-term missions.
- 5.35 Comprehensive details of all travel provisions are contained in the HRM.

**ANNEX 1**

**STAFFING STRUCTURES AND PAY POINTS**

<b>DFAT Staffing Structure</b>		
<b>Executive Level 2 Band</b>	<i>Promotion</i>	
	Executive Level 2	<i>Work level standard</i>
<b>Executive Level 1 Band</b>	<i>Promotion</i>	
	Executive Level 1	<i>Work level standard</i>
<b>APS Level 6 Band</b>	<i>Promotion</i>	
	APS Level 6	<i>Work level standard</i>
<b>Broadband 2</b>	<i>Promotion</i>	
	APS Level 5	<i>Work level standard</i>
	APS Level 4	<i>Work level standard</i>
<b>Broadband 1</b>	<i>Promotion</i>	
	APS Level 3	<i>Work level standard</i>
	APS Level 2	<i>Work level standard</i>
	APS Level 1	<i>Work level standard</i>

<b>PG/CG/ICP/ICPG Training Band</b>
<i>Promotion</i>
<i>Work level standard</i>
<i>Training Band Work level standard</i>
<i>PG/CG Recruitment ICP Graduation</i>
<i>ICP Recruitment</i>

**Broadband 1, APS Level 1-3**

		<b>2010-2011 EA pay point</b>	<b>Pay point following 2011-14 EA salary adjustment 2011-2012</b>	<b>Pay point following 2011-14 EA salary adjustment 2012-13</b>	<b>Pay point following 2011-14 EA salary adjustment 2013-14</b>
APS Level 1	1	39,688	40,879	42,105	43,368
	2	43,345	44,645	45,985	47,364
APS Level 2	1	45,946	47,324	48,744	50,206
	2	47,547	48,973	50,443	51,956
	3	49,617	51,106	52,639	54,218
APS Level 3	1	52,067	53,629	55,238	56,895
	2	56,750	58,453	60,206	62,012

**Broadband 2, APS Level 4-5**

		<b>2010-2011 EA pay point</b>	<b>Pay point following 2011-14 EA salary adjustment 2011-2012</b>	<b>Pay point following 2011-14 EA salary adjustment 2012-13</b>	<b>Pay point following 2011-14 EA salary adjustment 2013-14</b>
APS Level 4	1	58,345	60,095	61,898	63,755
	2	62,199	64,065	65,987	67,967
APS Level 5	1	64,336	66,266	68,254	70,302
	2	66,313	68,302	70,351	72,462
	3	68,747	70,809	72,934	75,122

**Public Affairs Officers (Broadband 2)**

		<b>2010-2011 EA pay point</b>	<b>Pay point following 2011-14 EA salary adjustment 2011-2012</b>	<b>Pay point following 2011-14 EA salary adjustment 2012-13</b>	<b>Pay point following 2011-14 EA salary adjustment 2013-14</b>
PAO 1/ APS 4	1	63,889	65,806	67,780	69,813
PAO 1/ APS 5	1	65,760	67,733	69,765	71,858
	2	67,288	69,307	71,386	73,527
	3	70,307	72,416	74,589	76,826

**APS Level 6 Band**

		<b>2010-2011 EA pay point</b>	<b>Pay point following 2011-14 EA salary adjustment 2011-2012</b>	<b>Pay point following 2011-14 EA salary adjustment 2012-13</b>	<b>Pay point following 2011-14 EA salary adjustment 2013-14</b>
APS Level 6	1	70,934	73,062	75,254	77,511
	2	75,186	77,442	79,765	82,158
	3	79,758	82,151	84,615	87,154

**Public Affairs Officers (APS Level 6 Band)**

		<b>2010-2011 EA pay point</b>	<b>Pay point following 2011-14 EA salary adjustment 2011-2012</b>	<b>Pay point following 2011-14 EA salary adjustment 2012-13</b>	<b>Pay point following 2011-14 EA salary adjustment 2013-14</b>
PAO 2/APS 6	1	73,937	76,155	78,440	80,793
	2	79,552	81,939	84,397	86,929
	3	86,511	89,106	91,780	94,533

### Executive Level 1 Band

		<b>2010-2011 EA pay point</b>	<b>Pay point following 2011-14 EA salary adjustment 2011-2012</b>	<b>Pay point following 2011-14 EA salary adjustment 2012-13</b>	<b>Pay point following 2011-14 EA salary adjustment 2013-14</b>
Executive Level 1	1	88,333	90,983	93,712	96,524
	2	93,034	95,825	98,700	101,661
	3	96,225	99,112	102,085	105,148
	4	98,808	101,772	104,825	107,970

### Public Affairs Officers (Executive Level 1 Band)

		<b>2010-2011 EA pay point</b>	<b>Pay point following 2011-14 EA salary adjustment 2011-2012</b>	<b>Pay point following 2011-14 EA salary adjustment 2012-13</b>	<b>Pay point following 2011-14 EA salary adjustment 2013-14</b>
PAO 3/EL1	1	93,073	95,865	98,741	101,703
	2	98,099	101,042	104,073	107,195
	3	106,716	109,917	113,215	116,611

**Executive Level 2 Band**

		<b>2010-2011 EA pay point</b>	<b>Pay point following 2011-14 EA salary adjustment 2011-2012</b>	<b>Pay point following 2011-14 EA salary adjustment 2012-13</b>	<b>Pay point following 2011-14 EA salary adjustment 2013-14</b>
Executive Level 2	1	106,716	109,917	113,215	116,611
	2	113,535	116,941	120,449	124,063
	3	117,207	120,723	124,345	128,075
	4	120,524	124,140	127,864	131,700

**Senior Public Affairs Officers (Executive Level 2 Band)**

		<b>2010-2011 EA pay point</b>	<b>Pay point following 2011-14 EA salary adjustment 2011-2012</b>	<b>Pay point following 2011-14 EA salary adjustment 2012-13</b>	<b>Pay point following 2011-14 EA salary adjustment 2013-14</b>
SPAO 1/EL2	1	113,535	116,941	120,449	124,063
SPAO 2/EL2	1	119,216	122,792	126,476	130,271
	2	120,571	124,188	127,914	131,751

**Medical Officers**

		<b>2010-2011 EA pay point</b>	<b>Pay point following 2011-14 EA salary adjustment 2011-2012</b>	<b>Pay point following 2011-14 EA salary adjustment 2012-13</b>	<b>Pay point following 2011-14 EA salary adjustment 2013-14</b>
Medical Officer 2	1	117,907	121,444	125,088	128,840
	2	121,250	124,888	128,634	132,493
Medical Officer 3	1	123,537	127,243	131,060	134,992
	2	127,459	131,283	135,221	139,278
Medical Officer 4	1	134,733	138,775	142,938	147,226
	2	139,987	144,187	148,512	152,968
	3	146,147	150,531	155,047	159,699

## ANNEX 2

### FORMAL PERFORMANCE MANAGEMENT PROCEDURES

- 1 The supervisor should ensure that the employee has a performance agreement in place in accordance with paragraph 2.41 of this Agreement; understands the standards of work performance expected; and has received appropriate training and assistance to perform his/her duties.
- 2 Where underperformance occurs it must be addressed quickly and formal performance management procedures must be conducted in accordance with the principles of natural justice and procedural fairness.
- 3 It is the supervisor's responsibility to provide regular feedback on performance and to develop strategies to address underperformance as soon as any performance issues are identified. Initially, this should be done through objective and clear feedback from the supervisor and the provision of informal counselling. This step may be taken at any time in the performance management cycle and is consistent with a "no surprises" approach to performance management. This step of the process is critical to allow an employee to improve their performance without more formal processes being necessary.
- 4 Where underperformance might be related to matters outside the supervisor's expertise, assistance should be sought from the appropriate area of CMD, including the Staff Counselling Office.
- 5 If, during the performance management cycle, an employee's performance continues to fail to meet the standard expected, the next step is for the supervisor to formally counsel the employee. The supervisor should ensure the employee is given feedback on performance based on their performance agreement and appropriate work level standards and the areas for improvement and that there are clear, accurate and relevant written records of discussions. The employee must be advised that he/she may be accompanied by a representative or person of their choice to provide support and has the opportunity to respond in writing.
- 6 If an employee receives a performance rating of 'needs improvement' or if, during a performance management cycle, an

employee's performance fails to improve following formal counselling (as provided for in paragraph 5 above) the Assistant Secretary, Staffing Branch has the authority to initiate and oversee the following process:

- i. Assistant Secretary, Staffing Branch will advise both the employee and his/her supervisor that the employee has failed to meet the standard of work performance expected (i.e. performing at 'performing satisfactorily' level or above) and that a Skills Development Plan (SDP) will be agreed and implemented for a period of three months. That advice will outline the dates of the review period (which may be shortened if the supervisor and Assistant Secretary Staffing Branch so propose and the employee, having been given the opportunity to obtain independent advice, agrees) and instruct the employee and his/her supervisor to develop a written agreement for the three-month period, indicating how the employee's performance needs to improve to reach the standard of work performance expected.
- ii. The written agreement between the employee and his/her supervisor should set out:
  - a) the performance concerns;
  - b) the type of work that will be assigned to the employee during the review period; and
  - c) the standard of work performance the employee is to attain and sustain during the review period.

A copy of the agreement must be provided to the Assistant Secretary, Staffing Branch.
- iii. During that three-month period the supervisor will review the employee's performance against the written agreement and will prepare written reports monthly. The employee will have the opportunity to comment on the supervisor's progress reports, which will be held by the supervisor until the end of the three-month period.
- iv. At the end of the three-month period, the supervisor will forward to the Assistant Secretary, Staffing Branch, an assessment of whether the employee has met the performance requirements as set out in the written agreement and whether the employee is performing at the standard of work performance expected. That report will

include the progress reports and any comments by the employee. The employee will be provided with the report and given at least seven days to provide comments.

- v. Following consideration of any comments from the employee (or expiry of the deadline for such comment), if the Assistant Secretary, Staffing Branch determines that the employee has met the required performance standard, this process comes to an end and no further action will be taken. This does not preclude the commencement of a further SDP at any time in the future, although a further SDP does not need to have a three-month implementation and review period. A further SDP with a three-month implementation and review period can only be commenced if the performance management procedures under Annex 2 are triggered once again.
- vi. Following consideration of any comments from the employee (or expiry of the deadline for such comment), if the Assistant Secretary, Staffing Branch and another substantive SES employee not in the employee's division, office or post determine that the employee has not met the required performance standard, the employee will be advised of the likely range of employment actions that are being considered. The employee will be given at least 14 days to provide comments in writing on the report and to show cause as to why employment action should not be taken pursuant to sub-paragraph 6(vii) below.
- vii. Following consideration of any comments from the employee (or expiry of the deadline for such comment), the Assistant Secretary, Staffing Branch and another substantive SES employee not in the employee's division, office or post, may decide to:
  - a) reduce the employee's classification;
  - b) reassign the employee to other duties;
  - c) reduce the employee's salary;
  - d) recommend to the Secretary that the employee's employment be terminated;
  - e) take some other action, including extension of the SDP implementation and review period.
- viii. The maximum an employee could be reduced in salary under this provision is the number of pay points

equivalent to two levels in the approved eight level APS classification structure.

- ix. If a recommendation is made to the Secretary (or the Secretary's delegate not being Assistant Secretary, Staffing Branch) that the employee's employment be terminated, the employee will have 14 days to show cause why this action should not be taken.
  - x. At the end of 14 days, the Secretary (or delegate), having considered any representation made by the employee, may issue a notice of termination of employment to the employee.
  - xi. An employee who has received a notice of termination of employment from the Secretary (in accordance with sub-paragraph 6(x) above) will have his/her employment terminated in accordance with that notice.
  - xii. An employee whose employment is to be terminated by the Secretary is entitled to receive four weeks notice (five weeks if the employee is aged 45 or older) or payment in lieu.
- 7 Where an employee has already completed a formal SDP within the past 24 months, any subsequent review period will be for a period of two months.
- 8 An employee may be accompanied by a representative or a person of their choice to provide support at any stage of the procedure outlined above.
- 9 Where an employee cannot be employed effectively because of technological or other changes in work methods, the matter will be dealt with in accordance with the redeployment, reduction and retrenchment provisions specified in this Agreement.
- 10 Under the terms of the *Public Service Act 1999*, an employee is entitled to seek a review, in accordance with the regulations, of any action that relates to his/her APS employment, except where that action consists of the termination of that employment. The procedure outlined above will not be used for invalidity reasons.
- 11 The provisions of this Annex apply only to non-probationary employees.

## ANNEX 3

### **REDEPLOYMENT, REDUCTION AND RETRENCHMENT**

- 1 A non-probationary, ongoing employee becomes excess if:
  - i. the duties performed by the ongoing employee are no longer necessary for the efficient and economical working of the department; or
  - ii. the services of the employee cannot be effectively used because of technological or other changes in the work methods of the department or structural or other changes in the nature, extent or organisation of the functions of the department; or
  - iii. the duties usually performed by the employee are to be performed at a different locality, the employee is not willing to perform duties at the new locality and no suitable alternative duties can be identified at the current locality and the Secretary has determined that the redeployment, reduction and retrenchment provisions of the agreement apply to the employee.
- 2 When the Secretary is aware that an ongoing employee is likely to become excess:
  - i. the Secretary will take all reasonable steps, consistent with the efficient management of the department, to assign the ongoing employee to a suitable vacancy; and
  - ii. the Secretary will at the earliest practicable time advise the ongoing employee.
- 3 The Secretary will not advise an ongoing employee that he or she is excess until discussions have been held with the potentially excess ongoing employee to consider redeployment opportunities, including whether the ongoing employee seeks redeployment, whether voluntary retrenchment may be appropriate and whether the ongoing employee wants to elect voluntary retrenchment. The ongoing employee may be accompanied by a person of their choice to provide support at these discussions. The maximum time within which such discussions are to take place shall be one month or four weeks, whichever is the longer.
- 4 The Secretary may, prior to the conclusion of these discussions,

invite ongoing employees who are not potentially excess to express interest in voluntary retrenchment, where those retrenchments would permit the redeployment of ongoing employees who are potentially excess.

- 5 Redeployment of employees will be managed by Staffing Branch, with the new placement decided by the Placements Committee in consultation with the employees and potential work areas.

### **Voluntary Retrenchment**

- 6 Where the Secretary invites an excess ongoing employee to do so, the ongoing employee will have one month to elect to be voluntarily retrenched. The Secretary will not give notice of termination under section 29 of the *Public Service Act 1999* before the end of that period, unless such election is received earlier. Within that month the ongoing employee must be given information on:

- i. the amount of redundancy pay, payment in lieu of notice and the value of leave credits to be paid out;
- ii. the amount of accumulated superannuation contributions;
- iii. the options open to ongoing employees concerning superannuation; and
- iv. the taxation rules applying to the various payments.

Only one election for voluntary retrenchment may be made by an excess employee.

### **Period of Notice**

- 7 Where the ongoing employee elects to be voluntarily retrenched, the Secretary can approve the ongoing employee's retrenchment, and upon approval will give the required notice of termination as required under section 29 of the *Public Service Act 1999* and section 117 of the *Fair Work Act 2009*. The period of notice will be four weeks (or five weeks for an ongoing employee over 45 with at least two years of continuous service). Where an ongoing employee separates or is retrenched at the beginning of, or within, the notice period, the ongoing employee will receive payment in lieu of notice for the unexpired portion of the notice period.

## Redundancy Benefit

- 8 An ongoing employee who elects for retrenchment with a redundancy benefit, and whose employment is terminated by the Secretary under section 29 of the *Public Service Act 1999* on the grounds that he or she is excess to the requirements of the department, is entitled to payment of a redundancy benefit of an amount equal to two weeks salary for each completed year of continuous service, plus a pro rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the National Employment Standards (NES).
- 9 The minimum sum payable will be four weeks salary and the maximum will be 48 weeks salary.
- 10 The redundancy benefit will be calculated on a pro rata basis for any period where an ongoing employee has worked part-time hours during his or her period of service and where the ongoing employee has less than 24 years full-time service, subject to any minimum amount the employee is entitled to under the NES.
- 11 Subject to this paragraph, service for redundancy benefit purposes means:
  - i. service in the department;
  - ii. government service as defined in section 10 of the *Long Service Leave (Commonwealth Employees) Act 1976*;
  - iii. service with the Australian Defence Forces where the ongoing employee is not in receipt of a service pension in respect of the relevant service;
  - iv. APS service immediately preceding deemed resignation (under the repealed section 49 of the *Public Service Act 1922*), if the service has not previously been recognised for severance pay purposes; and
  - v. service in another organisation where an ongoing employee was moved from the APS to that organisation due to an assignment of duties, or an ongoing employee engaged by that organisation on work within a function is appointed as a result of the movement of that function to the APS and such service is recognised for long service leave purposes.

- 12 For periods of service to count there must be no breaks between the periods of service, except where the break in service is less than one month and occurs where an offer of employment in relation to the second period of service was made and accepted by the employee before the first period of service ended (whether or not the two periods of service are with the same employer or agency); or where the break occurred because the ongoing employee was deemed to have resigned from the APS on marriage under the repealed section 49 of the *Public Service Act 1922*.
- 13 Any period of service which ceased:
- i. through termination on the following grounds, or on a ground equivalent to any of the following grounds:
    - a) the ongoing employee lacks, or has lost, an essential qualification for performing his/her duties;
    - b) non-performance, or unsatisfactory performance, of duties;
    - c) inability to perform duties because of physical or mental incapacity;
    - d) failure to satisfactorily complete an entry level training course;
    - e) failure to meet a condition imposed under section 22(6) of the *Public Service Act 1999*; or
    - f) a breach of the Code of Conduct; or
  - ii. on a ground equivalent to a ground listed in subparagraph 13(i) above under the repealed *Public Service Act 1922*; or
  - iii. through voluntary retirement at or above the minimum retiring age applicable to the ongoing employee; or
  - iv. 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.
- 14 On separation, absences which do not count as service for any purpose will not count as service for redundancy pay purposes.

#### **Rate of Payment - Redundancy Benefit**

- 15 For the purposes of calculating any payment under paragraph 8 above, salary will comprise the following only:
- i. the ongoing employee's salary; or

- ii. the salary of the higher position, where the ongoing employee has been acting in a higher position for a continuous period of at least 12 months immediately preceding the date on which the ongoing employee is given notice of retrenchment; and
- iii. other allowances in the nature of salary paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty and performance bonuses.

### **Retention Periods**

- 16 An excess ongoing employee who does not agree to be retrenched with the payment of a redundancy benefit will be entitled to the following period of retention:
- i. 13 months where the employee has 20 years or more service or is over 45 years of age; or
  - ii. 7 months for all other employees.
- 17 If an employee is entitled to a redundancy payment in accordance with the National Employment Standards, the applicable retention period as identified in paragraph 16 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 retention period (as adjusted by this paragraph).
- 18 The retention period will commence on the earlier of the following:
- i. the day the ongoing employee is advised in writing by the Secretary that he or she is an excess ongoing employee; or
  - ii. one month after the day on which the Secretary invites the ongoing employee to elect to be voluntarily retrenched; and
  - iii. it will be extended by any periods of personal leave certified by a registered health practitioner approved by the department taken during the retention period.
- 19 During the retention period the Secretary will continue to take reasonable steps to find alternative employment for the excess

ongoing employee including:

- i. potential excess employees being considered in isolation for any DFAT vacancies;
- ii. referral to the APSC's Career Transition and Support Centre or, where this is not available, an alternate redeployment service provider; and/or
- iii. may reduce the excess employee's classification as a means of securing alternative employment for the excess ongoing employee. Where an excess ongoing employee is reduced in classification before the end of the appropriate retention period, the ongoing employee will continue to be paid at his/her previous salary level for the balance of the retention period.

20 Where the Secretary is satisfied that there is insufficient productive work available for an excess ongoing employee during the remainder of the retention period and that there are no reasonable redeployment prospects in the APS:

- i. the Secretary may, with the agreement of the ongoing employee, terminate the ongoing employee's employment under section 29 of the *Public Service Act 1999*; and
- ii. upon termination, the employee will be paid a lump sum comprising:
  - a. the balance of the retention period (as shortened for the NES under paragraph 17 above) and this payment will be taken to include the payment in lieu of notice of termination of employment;
  - b. the employee's NES entitlement to redundancy pay.

21 An excess ongoing employee will not be retrenched involuntarily if the ongoing employee has not been invited to elect to be retrenched.

22 An excess ongoing employee will be given four weeks notice (or five weeks notice if the employee is over 45 with at least two years of continuous service) where it is proposed that the ongoing employee will be involuntarily retrenched. This period of notice will be provided four weeks (or five weeks as applicable) prior to the expiry of the retention period. The notice period will be extended by any periods of personal leave certified by a registered health practitioner approved by the

department which is taken by the ongoing employee during this period.

## ANNEX 4

### **PRINCIPLES RELATING TO DFAT WORKPLACE DELEGATES**

- 1 The role of union workplace delegates and other elected union representatives is to be respected and facilitated.
- 2 The department and union workplace delegates must deal with each other in good faith.
- 3 In discharging their representative roles at the workplace level, the rights of union workplace delegates include but are not limited to:
  - i. the right to be treated fairly and to perform their role as workplace delegates without any discrimination to their employment;
  - ii. recognition by the agency that endorsed workplace delegates speak on behalf of their members in the workplace;
  - iii. the right to participate in collective bargaining on behalf of those whom they represent, as per the *Fair Work Act*;
  - iv. the right to reasonable paid time to provide information to and seek feedback from employees in the workplace on workplace relations matters at the department during normal working hours;
  - v. the right to email employees in their workplace to provide information and seek feedback subject to individual employees exercising a right to 'opt out' (for employee-wide emails, applications must be submitted to the designated employee (paragraph 1.28(iii) refers) who will manage the distribution of material by the department on behalf of union delegates or bargaining representatives as applicable; for emails to employees in individual work units, workplace delegates must ensure that emails are sent only to union members and employees who have expressly consented to receiving such email communication);
  - vi. undertaking their role and having union representation on the Workplace Relations Committee;

- vii. reasonable access to departmental facilities (including telephone, facsimile, photocopying, internet and email facilities, meeting rooms, lunch rooms, tea rooms and other areas where employees meet) for the purpose of carrying out work as a delegate and consulting with members and other interested employees and the union, subject to the department's policies and protocols;
- viii. the right to address new employees about union membership at the time they enter employment;
- ix. the right to consultation, and access to relevant information about the workplace and the department; and
- x. the right to reasonable paid time to represent the interests of members to the employer and industrial tribunals.

4 In discharging any roles that may involve undertaking union business, the rights of union workplace delegates include but are not limited to:

- i. reasonable paid time during normal working hours to consult with other delegates and union officials in the workplace, and receive advice and assistance from union staff and officials in the workplace;
- ii. reasonable access to appropriate training in workplace relations matters including training provided by a union;
- iii. reasonable paid time off to represent union members in the department at relevant union forums.

5 In exercising their rights, workplace delegates and unions will consider operational issues, departmental policies and guidelines and the likely effect on the efficient operation of the department and the provision of services by the Commonwealth.

6 For the avoidance of doubt, elected union representatives include APS employees elected to represent union members in representative forums, including, for example, CPSU Section Secretaries, Governing Councillors and Section Councillors, and APESMA Government Division Committee members.