

The *University of Adelaide Enterprise Agreement 2017-2021* (Agreement) will be varied by inserting this Schedule 8 into the Agreement.

SCHEDULE 8: JOB PROTECTION FRAMEWORK DUE TO COVID-19

PART 1: INTRODUCTION AND OPERATIVE PARTS

1. Purpose and aim

- 1.1 The purpose of this Schedule is to give effect to the National Jobs Protection Framework for the University, its staff members and NTEU to respond to the impact of COVID-19. The Framework recognises that:
- 1.1.1 on 11 March 2020, the World Health Organisation declared a global pandemic arising from the spread of the COVID-19 coronavirus.
- 1.1.2 as a result of that pandemic, many public health measures have been adopted by governments, including travel bans and limiting physical interaction.
- 1.1.3 the response to the impact of COVID-19 in some ways will be short-term and others long-term;
- 1.1.4 the University has suffered a significant financial detriment as a result of the impact of COVID-19;
- 1.1.5 all staff are integral to the delivery of the University's goals; and
- 1.1.6 special provisions are needed for maintaining employment of staff affected by the impact of COVID-19.
- 1.2 This Schedule is to be read in conjunction with the terms of the Memorandum of Understanding between the University and NTEU, but the Memorandum of Understanding is not incorporated into this Schedule.
- 1.3 This Schedule contains a number of temporary changes to some Agreement provisions to lessen the number of job losses that would otherwise occur as a result of the significant financial impact of COVID-19 on the University.

2. Operative parts

- 2.1 This Schedule will take effect from the date specified in the decision by the Fair Work Commission to approve this Schedule as a variation of the Agreement.
- 2.2 The terms of this Schedule will cease to operate on 30 June 2021 unless extended or foreshortened in whole or in part by agreement of the University and NTEU. No such extension can apply beyond 31 December 2021.
- 2.3 Any such agreed extension(s) or foreshortening(s) shall be notified in writing to the Fair Work Commission within seven (7) days of that agreement being reached.
- 2.4 This Schedule does not alter the nominal expiry date of the Agreement.

- 2.5 The terms of this Schedule shall prevail over the terms of the Agreement, but only to the extent of any inconsistency.
- 2.6 A staff member who accepted a reduced fraction or salary on a temporary basis after 11 March 2020 but before the commencement of this Schedule, shall be deemed to have accepted such a reduction pursuant to the terms of this Schedule and shall have the entitlements attached thereto.
- 2.7 The Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between the Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

Restorations upon expiry of this Schedule

- 2.8 Upon the expiry of this Schedule, all rates of pay will be restored prospectively from 3 July 2021, and service shall be calculated, as if this Schedule and measures taken under it never had effect. A staff member whose job role or duties has changed as a result of the operation of this Schedule will return to perform the duties or job role they held prior to this Schedule coming into effect, unless the job is abolished in accordance with the terms of this Schedule. For the avoidance of doubt, a reference to rates of pay includes any incremental advancement and salary increases consequent upon promotion or reclassification that a staff member would have been entitled to, had this Schedule never come into effect.

PART 2: JOB PROTECTION MEASURES

3. Stand down

- 3.1 The purpose of this clause is to ensure staff members who might otherwise be stood down without pay continue to receive a salary.
- 3.2 Where a staff member cannot usefully be employed due to a stoppage of work for any cause for which the University cannot reasonably be held responsible, the University may stand the staff member down (i.e. where a staff member could have been stood down under the FW Act).
- 3.3 A staff member is only able to be stood down during a period in which the circumstances in clause 3.2 exist. A staff member or their representative may request a review of this at any time.
- 3.4 Where a staff member is stood down, the following shall apply:
 - 3.4.1 the University must continue to explore all options for other work that could be assigned to the staff member during the period of stand down;
 - 3.4.2 the University must consider any professional development or training that could be undertaken;
 - 3.4.3 the University must offer the staff member a voluntary redundancy, if the stand down continues beyond 30 days' duration. The staff member may choose to accept that offer or to reject it and remain stood down;

3.4.4 without prejudice to the requirements of clause 3.2, the University may require the staff member to do some work under this clause.

3.5 The University need not pay the staff member's usual salary where a staff member is stood down. Instead, the staff member will be paid, in any given pay period, in accordance with the following:

3.5.1 for any period in which the University is declared to be Category B, 30% of the staff member's usual salary or \$1500 a fortnight, whichever is greater;

3.5.2 in all other circumstances, 50% of the staff member's usual salary or \$1500 a fortnight, whichever is greater.

3.6 For the avoidance of doubt, this clause replaces the power to stand down staff provided by s 524 of the FW Act.

4. Allocation of work

4.1 This clause governs only:

4.1.1 the allocation of work to retain casual staff and the allocation of positions to retain fixed-term staff in employment; and

4.1.2 the order of preference to be given in the temporary reassignment of duties to different categories of staff;

and does not govern the selection process for a vacant continuing position.

4.2 Where there is no work or insufficient work available for a continuing or fixed-term staff member, the University will seek to identify other work for that staff member to perform. Within this process, available work will be assigned first with a view to preventing compulsory redundancy, then to staff who have been stood down, in order to provide them with some work under clause 3. This allocation of work for these purposes shall take precedence over the allocations described in clauses 4.3 to 4.6.

4.3 Where there is work required to be performed and that work was usually performed by a casual staff member who had been regularly employed by the University and the staff member had a reasonable expectation that they would continue to be employed by the University, then the casual staff member will continue to be engaged to perform that work. Where such a casual staff member suffers a reduction in casual work or has no work as a result of the impact of COVID-19, the staff member will have first order of preference to resume that work upon it becoming available again.

4.4 Where there is work required to be performed and that work was usually performed by a fixed-term staff member, and the staff member was not subject to any formal disciplinary procedures, the staff member shall be offered a new contract if their contract comes to an end and the University has an ongoing need for their position. Where a fixed-term staff member is not offered a further contract as a result of the impact of COVID-19, and the staff member was not subject to any formal disciplinary procedures, the staff member will have first order of preference to be offered a further fixed-term contract upon that work becoming available again.

4.5 For the purposes of this clause, a casual staff member includes a person who has lost employment due to the impact of COVID-19 and includes persons who had a reasonable expectation of casual employment in the second half of 2020.

4.6 Subject to clauses 4.2 to 4.5 of this Schedule nothing in clause 4 prevents the University from making staff allocation and selection decisions.

4.7 Allocation of work under this provision will not of itself change the staff member's employment status (for example, will not change from continuing to fixed-term or casual, or from fixed-term to casual).

5. Redeployees

5.1 In the filling of vacancies, redeployees have first preference, and then all other staff members (including casuals) are to be considered according to the University's existing merit-based selection procedures.

6. No new external appointments

6.1 No external appointment will be made whilst this Schedule is in effect except as follows:

6.1.1 professorial appointments; or

6.1.2 bona fide circumstances where the receipt of a grant from an external source which substantially covers the employment is dependent on the identity of the occupant of the position to be filled; or

6.1.3 special circumstances where a job requires skills or attributes that are not available within the existing workforce. Each such proposed appointment shall be reported to the CTMC; or

6.1.4 a person who, prior to the commencement of this Schedule, had received an offer of employment during 2020; or

6.1.5 a person referred to in clause 4.

6.2 To avoid doubt, the limitations on external appointments referred to in this clause relate to staff members and employment by the University, whether or not that employment is covered by this Agreement.

PART 3: SPECIAL COVID-19 ENTITLEMENTS

7. COVID-19 leave

7.1 A staff member who has a certified diagnosis of COVID-19 and who is not fit for work shall have access to two weeks paid leave to cover a period of any consequent illness, to be known as COVID-19 leave. This leave shall not reduce other leave entitlements.

7.2 A staff member, other than a staff member described in clause 7.1, will be entitled to up to two weeks' paid leave (without deduction from other leave credits) if:

7.2.1 they are required to isolate on medical advice or on the advice of public health authorities; or

7.2.2 where in order to perform caring duties for a person for whom carers' leave applies is required to isolate on medical advice or the advice of health authorities; and

7.2.3 because of those circumstances is not reasonably able to perform all of their duties or hours.

7.3 This entitlement shall be subject to the provision of reasonable evidence.

7.4 The entitlements under clauses 7.1 and 7.2 shall also be extended to casual staff as paid leave (meaning payment for the work/hours which would have been performed other than for the leave) on the same basis as staff entitled to personal leave.

7.5 To avoid doubt, these provisions do not operate to reduce any other leave entitlement under the Agreement.

8. Domestic and Family Violence protections

8.1 The parties recognise that the impact of COVID-19 has created particular problems for staff experiencing domestic and family violence.

8.2 Staff who experience domestic and family violence during the operation of this Schedule will be entitled to 5 days' paid domestic and family violence leave, such leave is in addition to any other domestic and family violence leave entitlements contained in the Agreement.

9. Staff at higher risk

9.1 Recognising the higher risk of COVID-19 faced by various groups of staff, the University will wherever possible facilitate periods of working from home beyond those mandated for this purpose for:

9.1.1 Aboriginal and Torres Strait Islander staff;

9.1.2 other staff in high risk groups (such as defined by Australian Government Department of Health).

9.2 In doing so, the University may ask for appropriate evidence from a registered health professional, in the case of clause 9.1.2.

10. Staff member performance evaluation

10.1 The University will take into account the impact of COVID-19 on the working environment and personal lives of all staff when undertaking any performance evaluation, or managing performance of any staff member.

11. Probationary staff

11.1 Probation targets will, where necessary, be adjusted to reflect any disruption caused by the impact of COVID-19. This can be initiated by either the staff member or the University. Any changes to targets must be agreed to by the staff member.

12. Recovery of expenses

- 12.1 Where a staff member has incurred costs to enable the staff member to perform their job role in response to the impact of COVID-19, the University will reimburse the staff member the full amount of the costs. This does not apply where the costs are unreasonable, unrelated to performing the staff member's job or would have been incurred by the staff member regardless of their role with the University.
- 12.2 The staff member should make reasonable attempts to obtain any necessary equipment from the University, or University approval prior to incurring any expenditure on work- related items. Approval will not be unreasonably refused.

13. Superannuation

- 13.1 Where any measure in this Schedule would result in a reduction in employer superannuation contributions than would otherwise be paid to the staff member if the Schedule was not in effect, the University will continue to make contributions as if the Schedule had never come into operation.
- 13.2 Subject to the Rules of the superannuation fund, a staff member who is a member of a defined benefit scheme will maintain member contributions in alignment with the contributions made by the University so as to maintain their service fraction and Benefit Salary.

PART 4: CHANGES TO CONDITIONS

14. Introduction

- 14.1 This Part allows the University, where the circumstances in the clause are met, to change the specified employment conditions, but only to the extent provided by the clause.

15. Change to duties

- 15.1 By giving two weeks' notice, the University may direct staff to temporarily undertake duties outside the scope of their classification and position description or expectations, so long as the duties are within the staff member's skill level and competency and it is safe to do so.
- 15.2 These may be higher-level or lower-level duties, but the staff member's pay will not be affected (including that any existing temporary higher-level appointment or higher level allowance is unaffected), subject to the requirement that a staff member shall not at any time be paid at a rate less than that which would apply to that work under the relevant Award.
- 15.3 The consultation and managing change provisions of the Agreement do not apply to these temporary assignments.
- 15.4 Where practicable, work which would otherwise be paid as overtime should be allocated to another staff member in order to make up a shortfall in the load of the latter staff member.

Academic workload

- 15.5 The existing academic workload clauses in the Agreement continue to apply, subject to the following.

- 15.6 To the extent that a staff member is unable to perform their research or other duties due to the impact of COVID-19, the University may allocate alternative work (including additional teaching work) to the staff member in order to make up a full workload allocation. The overall workload cap in the Agreement will continue to apply, but this might include re-arranging the academic staff member's workload for the year.
- 15.7 In addition to any procedural requirements contained in the Agreement, the University must discuss the alteration of the workload with sufficient time for the staff member to prepare for the change in workload allocation.
- 15.8 Any expectations in relation to research performance or output (as they relate to performance evaluation, or career progression, or promotion, or probation) must be adjusted to take account of any direction or reallocation made under this clause.

16. Staff member-initiated change to hours of work and leave

- 16.1 A staff member who is working from home may apply for one or more of the following flexible working arrangements:
- 16.1.1 a change to their start and finish times to suit their personal and/or family circumstances (any such staff member-initiated change will not attract overtime rates);
- 16.1.2 a reduction in fraction; and/or
- 16.1.3 purchase of extra leave with a consequent reduction in pay (that is, under clause 4.16.5 of the Agreement).
- 16.2 Any request by the staff member for one of the above flexible working arrangements will not be unreasonably refused by the University. The University must provide a written response to an application for a flexible working arrangement under clause 16.1 of this Schedule within five (5) working days, unless otherwise agreed.
- 16.3 The University and the staff member will agree upon the end date of a flexible working arrangement, which may be beyond the expiry of this Schedule.
- 16.4 A staff member whose fraction is reduced under this clause will have a commensurate reduction in workload.

17. Impact on service

- 17.1 A break in employment caused by the impact of COVID-19 shall not count as service for any purpose, but shall not constitute a break in service for any purpose.

PART 5: TEMPORARY CHANGES TO PAY

18. Introduction

- 18.1 This Part of this Schedule allows the University, where the circumstances in the clause are met, to change a staff member's pay.

19. Temporary reductions to salary and allowances

19.1 If the University is declared to be in Category A and remains in Category A, the University may implement any of the below to an amount equivalent to a maximum total of 10% of a staff member's salary in any given pay period:

19.1.1 postponement of the date of effect of pay rises (as outlined in clause 20);

19.1.2 removal of annual leave loading (as outlined in clause 21);

19.1.3 generalised purchased leave arrangement (as outlined in clause 22); and

19.1.4 temporary reduction in salary, to a maximum of 5% of the salary above \$30,000 (as outlined in clause 24).

19.2 If the University is declared to be in Category B and remains in Category B, the University may implement any of the below to an amount equivalent to a maximum total of 15% of a staff member's salary in any given pay period:

19.2.1 postponement of pay rises (as outlined in clause 20);

19.2.2 removal of annual leave loading (as outlined in clause 21);

19.2.3 generalised purchased leave arrangement (as outlined in clause 22); and

19.2.4 temporary reduction in pay, to a maximum of 10% of the salary above \$30,000 (as outlined in clause 24).

19.3 For the purpose of this Part, salary means salary and allowances or loadings (howsoever described) other than allowances that constitute a reimbursement of expenditure or are discretionary payments.

19.4 Any reduction in salary and allowances permitted by this Part is not subject to later retrospective payment for the period in which the reduction was in effect.

19.5 The comparator is against the salary of the given pay period the staff member would have received had this Schedule never come into effect.

20. Postponement of pay rises

20.1 This clause applies to any increase in salary or rate of pay due to a staff member pursuant to a term of the Agreement setting salaries generally for staff.

20.2 If the University is declared to be in Category A or Category B, then the University may postpone the date of effect of any increase under clause 20.1 above, to the first pay period which commences after the expiry of this Schedule or the first pay period which commences after the University is no longer in either category, whichever comes first.

20.3 This clause does not apply to casual staff.

21. Cancellation of leave loading

21.1 Clause 4.1.4 of the Agreement will not apply until 3 July 2021 being the first pay period which commences after the expiry of this Schedule.

21.2 For the purposes of clauses 19.1 and 19.2, the removal of the payment of annual leave loading will be regarded as a 1.35% reduction in salary in each pay period covered by the Schedule.

22. Purchased Leave Arrangements

- 22.1 The University may, on giving two (2) weeks' notice, direct a fixed term or continuing staff member to enter into a Purchased Leave Arrangement.
- 22.2 This clause does not apply to:
- 22.2.1 casual staff; or
 - 22.2.2 staff members when they are taking Maternity or Adoption Leave in accordance with clause 4.5 of the Agreement; or
 - 22.2.3 staff members who are temporarily incapacitated in accordance with clause 6.6 of the Agreement (UniSuper benefit); or
 - 22.2.4 a staff member who is on a period of extended leave without pay (greater than 1 month and no longer than 2 years); or
 - 22.2.5 a staff member employed after the Schedule came into effect; or
 - 22.2.6 a staff member whose fixed term contract ends prior to 18 December 2020.
- 22.3 A Purchased Leave Arrangement under this clause operates in addition to, and separate from, any Purchased Leave Arrangement under clause 4.16.5 of the Agreement.
- 22.4 For the purpose of implementing this clause, the University will direct a staff member to enter into a Purchased Leave Arrangement that requires them to purchase an additional 15 days' leave (110.25 hours) to be taken before 21 May 2021. This clause will apply to part-time staff members on a pro-rata basis.
- 22.5 Under the Purchased Leave Arrangement, staff will be required to take the additional leave during the specified University close down periods outlined in clause 23 of this Schedule.
- 22.6 In the event that a staff member cannot take the purchased leave during the close down periods due to operational requirements, as approved by the Executive Dean/Divisional Head, the staff member must nominate alternative substitute dates for the purchased leave to be taken before 21 May 2021.
- 22.7 Without limiting the operation of clause 31.1, a staff member who leaves the University prior to 21 May 2021, will have their final pay adjusted to either refund the amount of any purchased leave they have paid for but not yet taken or to deduct the amount of any purchased leave already taken but not yet paid for.
- 22.8 For academic staff, unless an alternative time is agreed under clause 4.1.6.2 of the Agreement, academic staff to whom clause 4.1.6 of the Agreement applies will be scheduled to take 20 days annual leave (pro rata for part-time staff) as follows:
- 22.8.1 Wednesday 30 December 2020 – Thursday 31 December 2020 (2 days); and
 - 22.8.2 Monday 11 January 2021 – Thursday 4 February 2021 (18 days).
- 22.9 A staff member who participates in the Purchased Leave Scheme under this Schedule will have a commensurate reduction in workload. For academics, this means that workload allocation will be adjusted. For the avoidance of doubt, there will be no requirement or expectation that staff taking purchased leave during Closedown Periods (or at some other agreed alternative time), will work while on leave or 'catch up' on the work that would otherwise be performed in that period.

23. Additional Closedown Periods

- 23.1 The close down periods under this clause operate in addition to and separate from the Christmas Closedown in clause 4.14 of the Agreement.
- 23.2 The University will close down for the following periods:
- 23.2.1 Friday 18 December 2020 to Thursday 24 December 2020;
- 23.2.2 Monday 4 January 2021 to Friday 8 January 2021; and
- 23.2.3 Monday 19 April 2021 to Friday 23 April 2021.
- 23.3 A staff member who does not participate in the Purchased Leave Arrangement in accordance with clause 22 may agree other arrangements with their supervisor. Other arrangements might include accessing other accrued leave, purchasing leave under clause 4.16.5 of the Agreement or taking leave without pay for some or all of the close down dates, or accessing annual leave, in advance of accruing that leave, of up to a total of five (5) days negative annual leave balance at any point in time.

24. Temporary salary reductions

- 24.1 Subject to the conditions set out in clause 19, the University may implement a generalised temporary salary reduction in accordance with this clause.
- 24.2 The University may implement, by giving two weeks' notice, a temporary reduction in pay in any given pay period of 3.5%, for which the first \$30,000 (per annum) shall be exempt. This will apply until the first pay period after the expiry of this Schedule or the first pay period after the University is no longer in either Category A or B, whichever comes first.
- 24.3 The salary reduction will not apply to a staff member:
- 24.3.1 while they are stood down; or
- 24.3.2 who is employed on a casual basis.
- 24.4 For the purposes of Clauses 19.1 and 19.2, the \$30,000 exempt amount shall be disregarded. For example, if a 3.5% salary reduction is imposed in accordance with clause 24.2 it will be regarded as a 3.5% reduction for the purposes of clauses 19.1 and 19.2 notwithstanding the 3.5% reduction doesn't apply to the \$30,000 exempt amount.

25. Extreme financial hardship

- 25.1 The University must allow for individual exceptional circumstances of extreme hardship.
- 25.2 Where a staff member would experience extreme hardship in individual exceptional circumstances as a result of the application of clauses 21, 22 or 24 they may make an application to the Executive Director of Human Resources or a nominee.
- 25.3 The application will specify the circumstances that are individual to the staff member and how they will result in extreme hardship. An application made in accordance with this clause will be considered expeditiously (but no more than seven (7) working days). If the University rejects an application, it must provide written reasons for their decision.

26. Implementation of measures under clauses 20 and 24

- 26.1 For the avoidance of doubt, where the University implements a measure under clause 20 or clause 24:
- 26.1.1 the salary rate prescribed by the Agreement and payable to an affected staff member shall be temporarily altered accordingly, and
 - 26.1.2 hourly rates payable to an affected staff member as overtime for professional staff and/or allowances in accordance with clauses 3.6, 3.7, 3.8, 3.9 and 3.10 of the Agreement will be calculated based on the temporarily altered salary rates.

27. Performance-based contract staff

- 27.1 Part 5 applies to staff on Senior Staff Contracts.

PART 6: DIRECTIONS TO TAKE LEAVE

28. Annual leave

- 28.1 The University may direct a staff member to take annual leave on two weeks' notice, but only in accordance with this clause, and if the direction is reasonable in all the circumstances.
- 28.2 The staff member is entitled to retain a minimum 10 days balance, unless the Agreement allows for a lower minimum balance to remain.
- 28.3 The leave must be taken at a time that is agreed, or otherwise commence no later than two months after the direction.
- 28.4 Leave will not be directed to be taken at a time when the staff member otherwise has unavoidable work obligations (e.g. grant applications).
- 28.5 Where leave is directed to be taken, the leave must be accounted for in workload that has been allocated, and performance expectations.
- 28.6 By agreement with the University, a staff member may choose to take an extended period of annual leave at a commensurately lower rate of pay (e.g. 20 days leave at half-pay, instead of 10 days leave at full-pay).

29. Long service leave

- 29.1 Subject to the application of the NES, the University may, on two weeks' notice direct a staff member to take long service leave in accordance with this clause, where the direction is reasonable in all the circumstances. This clause does not limit the University's capacity to otherwise direct the taking of long service leave under the Agreement.
- 29.2 If the University is declared to be in Category A, the University may direct a staff member to take long service leave to reduce their long service leave balance down to 65 working days.
- 29.3 If the University is declared to be in Category B, the University may direct a staff member to take long service leave to reduce their long service leave balance down to 45 working days.
- 29.4 The leave must be taken at a time that is agreed, or otherwise commence not later than two months after the direction.

- 29.5 Leave will not be directed to be taken at a time when the staff member otherwise has unavoidable work obligations (e.g. grant applications).
- 29.6 Where leave is directed to be taken, the leave must be accounted for in workload that has been allocated, and performance expectations.
- 29.7 By agreement with the University, a staff member may choose to take an extended period of long service leave at a commensurately lower rate of pay (e.g. 20 days leave at half-pay, instead of 10 days leave at full-pay).

PART 7: CHANGE MANAGEMENT

30. Change management

- 30.1 This clause does not apply to the temporary reassignment of duties under clause 15 or stand downs under clause 3 or change management processes commenced in accordance with the Agreement prior to the commencement of this Schedule.
- 30.2 Where a workplace change is proposed by the University, the CTMC will consider any proposed change and within five (5) working days, attempt to agree to a timeframe and process to consult with affected staff about the change.
- 30.3 In coming to agreement, the CTMC will take into account:
- 30.3.1 any urgency created by the impact of COVID-19;
- 30.3.2 the scale of the change (including, without limitation, the number and nature of staff who will be affected by the change, the level to which the affected staff will have their work arrangements changed, potential for job losses or loss of job or promotion opportunities).
- 30.4 If the CTMC cannot agree to a process and timeframe, the matter will be referred to the Arbitrator in accordance with the dispute settling clause 33.17.
- 30.5 Any consultation process determined under clause 30.2 or 30.4 above must involve the University providing information to the staff members and NTEU about the change, and invite the staff to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities) and the University must consider any views given by the staff about the impact of the change. An affected staff member must be able to appoint a representative for the purpose of the consultation. For a change to the staff member's regular roster or ordinary hours of work, the Agreement term will apply.

PART 8: TERMINATION OF EMPLOYMENT

31. Termination pay

- 31.1 Upon termination of employment for any reason whatsoever (whether during the operation of this Schedule or beyond its expiry), the staff member's final pay will be calculated as if this Schedule and any measures taken under it never had any effect (other than leave taken and the cancellation of annual leave loading).

32. Redundancy

- 32.1 During the life of this Schedule there will be no forced redundancies as a generalised cost-cutting measure which are not connected to a reduction in work.

32.2 Redundancies may only be made in accordance with this clause. Before any redundancy, consultation as contained in clause 30 must occur.

When a redundancy may occur

32.3 The University may only make staff involuntarily redundant in the following circumstances:

32.3.1 where the redundancy is due to the permanent abolition of a substantial work function (such as the abolition of a discipline) or closure of a campus, in accordance with clause 32.4 which results in the work no longer being required to be performed by anyone; or

32.3.2 where the redundancy is due to an insufficiency of work in a particular work unit or function and there is a surplus of staff, in accordance with clause 32.5.

Redundancy following permanent abolition of a substantial work function or campus closure

32.4 Where the University decides to permanently abolish a substantial work function (such as the abolition of a discipline) or close a campus the University must only make a staff member involuntarily redundant where:

32.4.1 the staff member's work is no longer required to be performed by anyone;

32.4.2 the University has sought to redeploy the staff member. In exploring redeployment, the University will ensure the staff member is made aware of all relevant vacancies and redeploy them to any position in the University that is appropriate to the skills and competencies of the staff member or which the staff member could perform at a satisfactory level within a reasonable time with appropriate training and support, provided that a staff member shall not be required to accept redeployment to a lower classification level. Where more than one redeployee is an applicant for a particular position, the University's existing merit-based selection procedures will apply in choosing between them. The redeployment period for exploring redeployment possibilities shall be a reasonable period, not less than any such period in the Agreement;

32.4.3 the University has explored with the staff member other measures that may be taken to avoid termination; and

32.4.4 the University must report the actions it has taken under this clause to the CTMC prior to issuing a notice of termination.

Redundancy where there is a permanent insufficiency of work in a particular work unit or function and there is a surplus of staff

32.5 Where there is a permanent insufficiency of work in a particular work unit or function and there is a surplus of staff, the University must only make a staff member involuntarily redundant where it has:

32.5.1 identified the number of surplus staff members;

32.5.2 offered a voluntary redundancy to all affected staff. The University must allow all those who volunteer to separate, unless the staff member has particular skills and/or experience such that they are essential to the operation of the particular work unit or function, or there are more people volunteering than the identified surplus (in which case then clause 32.5.3 will apply);

32.5.3 adopted fair and objective criteria for selection for redundancy where the University is required to select staff for involuntary redundancy, either as a result

of too few people volunteering or too many people volunteering;

32.5.4 sought to redeploy the staff member. In exploring redeployment, the University will ensure the staff member is made aware of all relevant vacancies and redeploy them to any position in the University that is appropriate to the skills and competencies of the staff member or which the staff member could perform at a satisfactory level within a reasonable time with appropriate training and support, provided that a staff member shall not be required to accept redeployment to a lower classification level. Where more than one redeployee is an applicant for a particular position, the University's existing merit-based selection procedures will apply in choosing between them. The redeployment period for exploring redeployment possibilities shall be a reasonable period, not less than any such period in the Agreement;

32.5.5 explored with the staff member other measures that may be taken to avoid termination; and

32.5.6 reported the actions it has taken under this clause to the CTMC prior to issuing a notice of termination.

32.5.7 Nothing in clause 32.5 shall prevent multiple units or functions being dealt with simultaneously.

Voluntary separation packages

32.6 At any time during the life of this Schedule, the University may make a general call for voluntary separations across the entire University or a substantial part based on occupation or organisational structure, or an early retirement scheme.

32.7 The University must allow all those who volunteer to separate, unless the staff member has particular skills and/or experience such that they are essential to the operation of the particular work unit or function.

Redundancy pay

32.8 This Schedule does not affect redundancy or like payments, or provisions relating to notice periods as governed by the Agreement.

PART 9: COMMITTEES

33. COVID-19 Temporary Measures Committee

33.1 This clause establishes the COVID-19 Temporary Measures Committee (the **CTMC**).

33.2 The CTMC shall consist of three nominees of the University and three nominees of NTEU.

33.3 The CTMC will meet as often as necessary to fulfil its functions as assigned in this Schedule.

33.4 The function of the CTMC are those assigned to it under the terms of this Schedule, and to:

33.4.1 be provided with information relevant to the operation of this Schedule;

33.4.2 oversee the implementation of the Schedule;

33.4.3 carry out its functions in relation to change proposals in accordance with clause 30;

33.4.4 deal with any dispute over a term of this Schedule or the application of this Schedule, in accordance with clause 33.13 to 33.16.

33.5 The CTMC is not empowered to deal with disputes about matters dealt with in Part 10 or which cost-saving measures the University may implement.

33.6 Nominees may be changed by providing written notice to the other members of the CTMC.

Information

33.7 There must be full information-sharing about matters relevant to the application of this Schedule (itself subject to arbitration), including any dispute about confidentiality. Where it is agreed (or arbitrated) that information is to be provided on a confidential basis, those confidences must be respected.

Agreement of the CTMC

33.8 An agreement of the CTMC is deemed to have been made on a majority view.

NTEU nominees

33.9 NTEU nominees on the CTMC who are University staff will have reasonable time release during working hours to carry out duties in relation to the implementation of this Schedule.

33.10 NTEU delegates will be allowed reasonable time during working hours to assist NTEU nominees in carrying out the role of the CTMC.

Communication

33.11 In addition to holding meetings with staff, members of the CTMC may consult by Email List with staff in an area affected by the implementation of measures provided by this Schedule. This consultation can occur by use of an Email List that is to be used solely for the purpose of ensuring that the terms of this Schedule are operating as intended.

33.12 Staff shall be entitled to be consulted during work times subject to specific operational requirements (e.g. lecture times), including by virtual/online meetings and other forms of workplace consultation.

Disputes

33.13 This clause governs:

33.13.1 any dispute in relation to a matter arising under this Schedule or in relation to the National Employment Standards as they relate to the operation of this Schedule;

33.13.2 a dispute about whether a dispute is about a matter arising under this Schedule.

33.14 These procedures shall apply to any dispute raised by a staff member, Union or the University to which the University is a party.

For the avoidance of doubt, the dispute settling clause of the Agreement shall not apply to a matter arising under this Schedule or in relation to the National Employment Standards as they apply to a matter governed by this Schedule.

33.15 Any dispute shall first be considered by the CTMC. The CTMC will attempt in good faith to resolve the dispute by attempting to achieve agreement. If the dispute is not resolved by the CTMC within 5 working days, the dispute may be referred by either party to an Arbitrator for resolution.

33.16 A staff member may appoint a Representative for the purpose of this dispute settling procedure.

Arbitration

33.17 Wherever this Schedule refers to a matter being arbitrated, it shall be arbitrated in accordance with clause 33.18 to 33.24.

33.18 By the commencement of this Schedule or soon after, the General Secretary of NTEU and the University shall agree on the members of an Arbitration Panel. Members of the Arbitration Panel must be independent of the University, staff and NTEU. The reasonable cost of the Arbitrator in each case shall be met by the University.

33.19 The Arbitrator shall be nominated from the Arbitration Panel, with the University and NTEU alternating nomination of the Arbitrator.

33.20 The dispute will be arbitrated in one of the following ways:

33.20.1 with agreement of the parties, an informal conference with the parties agreeing in advance to accept a recommendation of the Arbitrator; or

33.20.2 with the agreement of the parties, by final offer arbitration; or

33.20.3 by hearing.

33.21 Where the dispute is to be heard, the following apply:

33.21.1 the Arbitrator will decide all matters as quickly as possible having regard to equity, good conscience and the substantial merits of the case;

33.21.2 the Arbitrator shall determine a fair and efficient procedure, ensuring procedural fairness (which may include production of information), having regard to clause 33.22;

33.21.3 the CTMC may agree such other powers and procedures as may be necessary.

33.22 The dispute will be arbitrated within 5 working days of the referral to the Arbitrator (or such longer period if agreed by the parties to the dispute).

33.23 No person bound by the Agreement shall knowingly give false or misleading information or evidence to the Arbitrator.

33.24 Arbitration proceedings shall be conducted in public or private as determined by the Arbitrator. Arbitration decisions will be published and are not confidential. Brief reasons for decision shall be given, but not necessarily at the same time as giving the decision.

34. Expert Assessment Panel

34.1 Before accessing any cost-saving measures in Parts 4, 5 and 6 of this Schedule, available to a university in Category A or Category B, the University must satisfy the Expert Assessment Panel (**EAP**) that the relevant Category threshold referred to in Part 10 of this Schedule has been met, including by providing relevant internally-certified financial information and enrolment data. In making its submission to the EAP, the University will also demonstrate how the cost saving measures selected by the University are proportional to the financial impact and are necessary to avoid or minimise loss of job opportunities. The statement will indicate whether the University has identified and implemented other reasonable cost-saving measures and indicate the number of jobs preserved as a result. The cost saving measures to be considered by the University will be:

34.1.1 a cut in senior executive salaries higher than that borne by staff;

34.1.2 reduction in capital works;

34.1.3 reduction in travel;

34.1.4 debt capabilities;

34.1.5 drawing on cash reserves;

34.1.6 drawing on investments.

34.2 The EAP consists of two nominees of AHEIA, two nominees of NTEU and an agreed independent Chair. As far as practicable, the nominees will remain the same throughout the term of this Schedule to ensure consistency for all participating universities. The members are nominees not representatives, given the function is to determine a question of fact.

34.3 The EAP will appoint an independent accountant to verify the figures provided and the methodology used to calculate them.

34.4 The role of the EAP is to consider the University submission and determine whether a Category threshold has been met. The EAP will act quickly and provide a draft decision to the University for comment further before confirming a decision which will be final.

34.5 The EAP's final report will be provided to the University and the NTEU and will outline whether the University has met the criteria for Category A or Category B, the measures in Part 5 of this Schedule that the University has indicated it intends to use, and the extent to which these measures are likely to protect jobs.

- 34.6 The EAP will conduct a review six monthly at the initiative of the University or the NTEU to determine whether the relevant Category threshold continues to be met, or at any other time if there is an extraordinary change to the University's financial situation. If the EAP determines that a University is no longer eligible to access particular cost saving measures the EAP will give reasonable notice to the University that it is not eligible to access those measures prospectively.
- 34.7 For the avoidance of doubt, the EAP cannot direct or require the University to adopt or not adopt any cost saving measure, either under this Schedule or otherwise.
- 34.8 All information provided by the University to the EAP is provided on a commercial in confidence basis.

PART 10: DETERMINING THRESHOLDS

35. Introduction

- 35.1 The University may access the cost-saving measures contained in Part 5 once the University has demonstrated to the EAP that it has met the threshold of the Category defined below.

36. Categories

- 36.1 The University is in Category A if the following metrics are met:

36.1.1 it can demonstrate a forecast reduction in total revenue between 5.0% and less than 10.0% (measured over a 12-month period against 2019 actuals); and

36.1.2 it has a core operating cash flow margin of greater than 3.0% and less than or equal to 6.0%; or

36.1.3 it meets one of the metrics as identified below as it relates to Category B.

- 36.2 The University is in Category B if the following metrics are met:

36.2.1 it can demonstrate a forecast reduction in total revenue of 10.0% or greater (measured over a 12-month period against 2019 actuals); and

36.2.2 it has a core operating cash flow margin of 3.0% or less.

- 36.3 For the purpose of this clause, the % total revenue reduction test is to be measured on a calendar actual year to date and forecast basis for 2020 and 2021 compared to 2019 full year total revenue actual result.

- 36.4 For the purpose of this clause, Core Operating Cash Flow Margin = Core Operating Cash Flow [1][2][3] / Revenue excluding non-core and non-cash revenue items [4][5]

Core Operating Cash Flow Margin Notes

[1] Core operating cash flow = Operating result excluding non-core items [2] + Depreciation + Interest/finance costs + Other non-cash items [3]

[2] Examples of non-core items to be excluded from operating result are capital grants, impact of significant one-off items.

[3] Examples of non-cash items to be excluded from operating result are unrealised gains/losses in investments, leave provisions, gain/loss on disposal of assets. If any non-cash

item has already been excluded from the operating result as a non-core item [2], do not exclude it here again (to prevent double counting).

[4] Example of non-core items reported in revenue and to be excluded from revenue is capital grants.

[5] Examples of non-cash items reported in revenue and to be excluded from revenue are unrealised gains/losses on investments, gains/losses on disposal of assets.

- 36.5 During the life of this Schedule, the University may move from one Category (or no category) to another Category (or no category) upon declaration of the EAP.

PART 11: INTERPRETATION

37. Interpretation

- 37.1 Headings are to be used as a guide to interpretation.
- 37.2 The purpose and aims set out in clause 1 provide the context for this Schedule, and all terms should be interpreted in that context.
- 37.3 Reference to the singular is a reference to the plural and vice versa.

38. Definitions

- 38.1 The following definitions apply to terms contained in this Schedule.
- 38.1.1 **Agreement:** the University of Adelaide Enterprise Agreement 2017-2021;
- 38.1.2 **Arbitrator:** person appointed under clause 33.19;
- 38.1.3 **Award:** either the *Higher Education Industry – Academic Staff – Award 2020* or *Higher Education Industry – Professional Staff – Award 2020*, as applicable;
- 38.1.4 **Category A:** see clause 36.1 of this Schedule;
- 38.1.5 **Category B:** see clause 36.2 of this Schedule;
- 38.1.6 **the impact of COVID-19:** events or circumstances directly caused by the COVID-19 crisis or indirectly, where COVID-19 was a substantial part of the cause;
- 38.1.7 **COVID-19 Temporary Measures Committee (or CTMC):** see clause 33 of this Schedule;
- 38.1.8 **Email List:** a bulk email address provided by the University which does not disclose the email addresses of individual staff members;
- 38.1.9 **Expert Assessment Panel (or EAP):** refer to clause 34 of this Schedule;
- 38.1.10 **FW Act:** the *Fair Work Act 2009* (Cth);
- 38.1.11 **Involuntary redundancy:** where the staff member has not accepted an offer of voluntary redundancy and is unable to be redeployed;
- 38.1.12 **Memorandum of Understanding:** the MOU signed by the NTEU and the University;

- 38.1.13 **NES:** is Part 2-2 of the FW Act;
- 38.1.14 **NTEU:** National Tertiary Education Industry Union;
- 38.1.15 **a Representative:** means a person nominated by choice (other than a person who is a practising legal practitioner), or a staff member of the University, or an officer or staff member of NTEU, or an officer or staff member of an employer association;
- 38.1.16 **the University:** the University of Adelaide;
- 38.1.17 **this Schedule:** this document, which has effect following approval by the Fair Work Commission;
- 38.1.18 **voluntary redundancy:** where staff members volunteer for redundancy;
- 38.1.19 **voluntary separation package:** a set of entitlements provided by the University consistent with the voluntary separation payments provided for in the Agreement or on the same terms as if the staff member was retrenched for redundancy, whichever is the greater;
- 38.1.20 **workplace change:** without derogating from the matters required to be considered under the Agreement, means a change to a staff member's roster or ordinary hours of work initiated by the University, or a major workplace change that is likely to have a significant effect on staff. **Significant effects** include:
- 38.1.20.1 termination of employment;
 - 38.1.20.2 changes to the composition, operation or size of the University's workforce or skills required of staff;
 - 38.1.20.3 elimination or diminution of job opportunities including opportunities for promotion or continuing employment;
 - 38.1.20.4 outsourcing of work; and
 - 38.1.20.5 restructuring and/or relocation of work units.

Significant effects do not include a temporary change to duties in accordance with clause 15.