### SCHEDULE OF COVER

**Period of Cover:** 01 July 2019 to 30 June 2020

**Name of Fund Member:** Office of the Australian Information Commissioner  
**Membership Number:** CC100854

This document is intended for internal use only

You are covered only for the classes of cover identified in this Schedule.

This Schedule of Cover is issued in conjunction with the General Terms and Conditions in the Comcover Statement of Cover. Where this Schedule differs from the General Terms and Conditions, this Schedule takes precedence to the extent of any inconsistency.

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<tr>
<th>Class of Cover</th>
<th>Liability Limit</th>
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General Notes:

Variations to General Conditions

Note: The following specified terms apply under this Schedule of Cover and replace the Comcover General Terms and Conditions as set out in the Comcover Statement of Cover to the extent of any inconsistency:

Territorial Limits: Worldwide

Retroactive Date(s):

General Liability 01/07/2007
Professional Indemnity 01/07/2007
Directors & Officers Liability 01/07/2007

Comcover Contact Numbers

To report claims or incidents which may give rise to a claim, and for advice on all claims, contact the Claims Department on 1-800-651-540 opt (1) (24 hours) or email claims@comcover.com.au.

For advice on current insurance requirements or any new covers required, contact your Relationship Manager on 1800 651 540 opt (3) or email comcover@comcover.com.au.

Notes attaching to and forming part of the Comcover Statement of Cover 2019 / 2020 in the name of:

Name of Fund Member: Office of the Australian Information Commissioner
Membership Number: CC100854

It is hereby noted and agreed that the Statement of Cover is amended as follows:

In all other aspects the Statement of Cover remains unaltered.
Guidance for staff

Dealing with privacy complaints about the OAIC

November 2019
Privacy complaints about the OAIC

November 2019

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Background

Purpose

This Guide applies to any officer of the OAIC who receives a complaint from an individual alleging that the OAIC has interfered with their privacy.

This Guide outlines:

- The process for handling a first instance complaint about an act or practice on the part of the OAIC that may be an interference with the privacy of an individual
- The role of the OAIC’s privacy officers
- The process for managing a complaint made under s 36 of the Privacy Act about an act or practice of the OAIC
- The legal basis for appointing an external investigator to conduct an investigation under s 40(1) of the Privacy Act and the role of the external investigator
- The role of Legal Services in procuring and appointing the external investigator
- The role of the case manager in progressing the s 36 privacy complaint
- Supporting the officer about whom a privacy complaint is made.

References in this Guide to provisions are to those contained in the *Privacy Act 1988* (Cth) (Privacy Act) unless otherwise indicated.

OAIC as an agency and as a regulator

The OAIC acts as the regulator in handling privacy complaints made about other APP entities. Just like other agencies, we may receive complaints from individuals who claim that the OAIC has interfered with their privacy.

Where an individual lodges a complaint about the OAIC’s conduct, we must first consider dealing with that complaint our capacity as a respondent agency, and second, in the event that the complainant continues to press their complaint after an attempt to resolve, in our capacity as a regulator.

Under s 36 an individual may complain to the Commissioner about an act or practice that may be an interference with their privacy. If such a complaint is made, and the act or practice may be an interference with the privacy of an individual, under s 40 the Commissioner is obliged to investigate the act or practice, subject to exceptions.

The requirement to investigate only applies if the complainant complained to the respondent first or if the Commissioner decides that it was not appropriate for the complainant to first complain to the respondent.

Where an individual complains that the OAIC has interfered with their privacy, there is a risk that the OAIC will be perceived to be biased or may have a conflict of interest in investigating its own actions. That is, a reasonable observer might consider that the OAIC may not bring an impartial mind as the regulator, in regulating its own actions.

In order to mitigate this risk, the OAIC has decided on a process by which it will seek the assistance of an appropriately qualified and experience external consultant to conduct an independent investigation into the act or practice about which the complainant complains under s 40(1).
Related material

- Privacy regulatory action policy
- Guide to privacy regulatory action
- Privacy Officer Appointment Instrument
- OAIC Privacy Management Plan

Guidance

Role of Privacy Officers

The Privacy (Australian Government Agencies — Governance) APP Code 2017 made under s 26G requires the OAIC to appoint at least one privacy officer who is the primary point of contact for advice on privacy matters in an agency and who handles privacy complaints, among other responsibilities.

Under the current Instrument of Appointment, the Principal Lawyer is the Chief Privacy Officer (CPO) and Senior Lawyers are Privacy Officers for the OAIC.

In the event that an officer in Enquiries or any other OAIC officer receives an individual’s claim in writing that suggest that the OAIC has interfered with their privacy, they should acknowledge the complaint and refer the claims to the CPO or another Privacy Officer.

The Privacy Officers will be responsible for registering the matter on TRIM, liaising with the complainant, dealing with the complaint at first instance and advising the complainant of the outcome.

The Privacy Officers will also liaise with the Commissioner about how to approach privacy complaints about the OAIC. In some instances, the Commissioner may consider exercising their discretion to find that it is not appropriate for the complainant to complain to the OAIC and may instead invite the complainant to make, or may decide to treat the first instance complaint as, an application made under s 36.

Officers who are subjects of the complaint

On receipt of a privacy complaint Legal Services will talk to the manager/s of any officer who is the subject of the complaint.

Any officer who is the subject of the complaint will be advised in broad terms of the nature of the complaint and will be directed not to access any of the OAIC’s document management systems (such as Content Manager or Resolve) relating to the complaint. They will be advised that an investigator will likely be in contact with them.

They will be offered support by their manager, including information about accessing such services as Employee Assistance Program.

Complaints will be handled with an appropriate level of confidentiality. Other officers within the team will generally not be made aware that the complaint is on foot.
Section 36 complaint

Legal Service's role

On receipt of the complaint made under s 36 about the OAIC you should refer the matter to Legal Services. Legal Services will usually decide to outsource the investigation to an appropriately qualified and experienced external investigator. Legal Services will retain the investigator in accordance with usual procurement processes. As part of this process, Legal Services will provide the investigator with the documents relevant to the complaint.

Legal Services will also ensure that the investigator is designated under the relevant instrument of appointment.

Once the investigator is retained, Legal Services will notify Dispute Resolution branch (DR) and provide the investigator's contact details.

Legal Services will be responsible for processing the invoices provided by the investigator.

Investigator’s role

Under s 24 of the Australian Information Commissioner Act (AIC Act), the Commissioner may engage consultants to assist in the performance of their functions and exercise of their powers, including privacy functions, where the relevant function or power can be delegated to a member of staff of the OAIC under s 25 of the AIC Act.

While it is not open to delegate a power to make a determination under s 52, an external consultant is able to make a recommendation arising out of their investigation.

The decision-maker will not be bound by any findings or recommendations made by the investigator. The investigator’s report will amount to relevant information to which the decision-maker is to have regard.

Case manager’s role

The case manager will manage the s 36 complaint in accordance with usual practices and procedures, including creating a Resolve file, and drafting and sending correspondence.

Once Legal Services notifies DR of the contact details of the investigator, it is for the case manager to liaise with the investigator. The case manager should also write to the complainants, notifying them of the investigator’s details and the fact that the investigator will be in contact with them.

The case manager should make contact with the investigator as soon as the complainant has been notified and introduce themselves as the point of contact for the management of the investigation.

Apart from outsourcing of the investigative role, the case manager will treat the complaint under s 36 in the same way that it would treat any other complaint about an APP entity, including by following the relevant parts of the guidance contained in Case management overview.

This means that the case manager will communicate with the complainant, providing them with updates on the progress of the case.

On receipt of the draft report from the investigator, the case manager will review the findings, reasons and recommendations for the following:

- understanding of all the complainant’s claims
- factual findings based on evidence
• logical reasoning
• correct application of the law and policy
• consistency with other cases
• any other matters the case manager considers relevant.

It is open to the case manager to go back to the investigator seeking clarification on any aspect contained in the report. The case manager should liaise with the decision-maker on these inquiries.

Once the case manager and the decision-maker are satisfied that they agree with the investigator’s report, they should provide procedural fairness to the complainant by providing the report and inviting comment, ensuring that enough information is provided to the complainant to enable them to understand why the information is relevant to their complaint.

Depending on the comments made by the complainant in response, the case manager, on consultation with the decision-maker, may need to confer further with the investigator.

Decision-maker

For s 36 privacy complaints about the OAIC, the decision-maker will be a member of the Executive, usually the Assistant Commissioner or the Deputy Commissioner. It is for the decision-maker in the OAIC to make the ultimate decision on a complaint. The investigative report will likely comprise the relevant information upon which the decision-maker makes the final decision but will not be definitive.

The decision-maker should set out in a decision record their consideration of the investigator’s report.

Decisions

Before making a decision to accept the findings and recommendations of the investigator the decision-maker will need to be satisfied of the matters outlined above.

An investigator may find that there has been no interference with privacy and may recommend in their report that the complaint be finalised under one or more of the grounds in s 41 of the Privacy Act, with the effect that the investigation is terminated. Provided that the decision-maker is satisfied with the investigator’s report, including they are satisfied with the matters outlined above, it is open to the decision-maker to finalise the matter by adopting the findings and recommendations of the investigator.

In the event that the investigator finds that there has been an interference with privacy on the part of the OAIC, conciliation should be considered. If conciliation is unsuccessful, the decision-maker will need to carefully consider next steps and may wish to seek legal advice. Depending on the circumstances of the case, it may be that the investigator is asked to provide recommendations to remedy the conduct. If those recommendations are agreed, it may be that the decision-maker considers it appropriate to finalise the matter under s 41(1)(da) on the basis that further investigation is not warranted having regard to all the circumstances.

However, whether to decline to investigate further, and if so on what ground, is a matter that will need to be considered on a case-by-case basis.
Contact: Legal Services
Instrument of Appointment

Public Interest Disclosure Act 2013

I, Angelene Falk, Australian Information Commissioner, as the principal officer of an agency for the purposes of the Public Interest Disclosure Act 2013 (Act), revoke all previous instruments of appointment made pursuant to section 36 of that Act, and appoint, pursuant to section 36 of that Act, as authorised officers for the purposes of the Act, the following public officials:

1. Elizabeth Hampton Deputy Commissioner
2. Andrew Solomon, Assistant Commission, Dispute Resolution
3. Caren Whip, Principal Lawyer
4. Cate Cloudsdale, Senior lawyer

Made in Sydney on 24 April 2019.

Signed

Angeline Falk
Australian Information Commissioner

24 April 2019
DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Office of the Australian Information Commissioner
(AG2016/877)

OFFICE OF THE AUSTRALIAN INFORMATION COMMISSIONER
ENTERPRISE AGREEMENT 2016-2019

Commonwealth employment

COMMISSIONER LEE MELBOURNE, 5 MAY 2016


[1] An application has been made for approval of an enterprise agreement known as the Office of the Australian Information Commissioner Enterprise Agreement 2016-2019 (the Agreement). The application was made pursuant to s.185 of the Fair Work Act 2009 (the Act). It has been made by the Office of the Australian Information Commissioner. The Agreement is a single enterprise agreement.

[2] I am satisfied that each of the requirements of ss.186, 187 and 188 as are relevant to this application for approval have been met.

[3] The CPSU, the Community and Public Sector Union, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers the organisation.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 12 May 2016. The nominal expiry date of the Agreement is 4 May 2019.

COMMISSIONER

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<Price code J, AE418799 PR580004>
OFFICE OF THE
AUSTRALIAN INFORMATION
COMMISSIONER

ENTERPRISE AGREEMENT
2016–2019
This Agreement is to be referred to the Fair Work Commission for approval pursuant to s 185 of the *Fair Work Act 2009*

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PART 1—TECHNICAL AND GENERAL MATTERS

1. Title

1.1 This Agreement will be known as the Office of the Australian Information Commissioner Enterprise Agreement 2016–2019.

1.2 This Agreement is made under Part 2-4 of the Fair Work Act.

2. Coverage

2.1 This Agreement covers the:

- Australian Information Commissioner on behalf of the Commonwealth of Australia and
- employees of the OAIC, subject to Clause 3

2.2 The parties to this Agreement are bound by its terms.

3. Application

3.1 This Agreement applies to all employees of the OAIC with the exception of:

(i) members of the Senior Executive Service;
(ii) employees on secondment arrangements whose salaries are payable by organisations other than the OAIC.

3.2 Employees acting temporarily in Senior Executive Service positions may continue to be subject to this Agreement. Any additional entitlements may be determined by the delegate.

4. Commencement and nominal expiry dates

4.1 This Agreement commences 7 days after the date this Agreement is approved by the FWC and nominally expires 3 years after commencement.

5. Relationship to other awards and legislation

5.1 Other Commonwealth laws concerned with employment, such as (but not limited to) the:

- Public Service Act 1999
- Privacy Act 1988
- Fair Work Act 2009
- Long Service Leave (Commonwealth Employees) Act 1976
• Maternity Leave (Commonwealth Employees) Act 1973
• Paid Parental Leave Act 2010
• Superannuation Act 1976
• Superannuation Act 1990
• Superannuation Benefits (Supervisory Mechanisms) Act 1990
• Superannuation Productivity Benefit Act 1988
• Superannuation Act 2005
• Safety, Rehabilitation and Compensation Act 2011
• Work Health and Safety Act 2011

continue to apply according to their terms.

5.2 There are policies and guidelines that support the operation of this Agreement. The policies and guidelines are not incorporated into and do not form part of this Agreement. If there is any inconsistency between the policies and guidelines and the express terms of this Agreement, the express terms of the Agreement will prevail to the extent of any inconsistency.

5.3 While recognising that the usual form of employment is ongoing, consistent with s 22 of the Public Service Act, the Australian Information Commissioner reserves the right to employ staff on a non-ongoing basis. Non-ongoing employees may be employed on an irregular or intermittent basis, or for a specified term or a specified task.

6. Individual flexibility arrangements

6.1 The OAIC and an employee covered by this Enterprise 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
   e. remuneration and/or
   f. leave

(ii) The arrangement meets the genuine needs of the OAIC and employee in relation to one or more of the matters mentioned in paragraph (i); and

(iii) The arrangement is genuinely agreed to by the OAIC and the employee.

6.2 The OAIC must ensure that the terms of the individual flexibility arrangement:
(i) are about permitted matters under s 172 of the Fair Work Act
(ii) are not unlawful terms under s 194 of the Fair Work Act, and
(iii) result in the employee being better off overall than the employee would be if no arrangement was made.

6.3 The OAIC must ensure that the individual flexibility arrangement:
(i) is in writing
(ii) includes the name of the employer and employee
(iii) is signed by the delegate and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee
(iv) includes details of:
   a. the terms of the Enterprise Agreement that will be varied by the arrangement
   b. how the arrangement will vary the effect of the terms
   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

6.4 The OAIC must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

6.5 The OAIC or employee may terminate the individual flexibility arrangement:
(i) by giving no more than 28 days written notice to the other party to the arrangement
(ii) if the OAIC and employee agree in writing – at any time.

7. Variations of Agreement

7.1 This Agreement may be varied by application to Fair Work Commission pursuant to Division 7, of Part 2-4 of the Fair Work Act 2009.

8. Interpretations

‘Action’ includes a refusal or failure to act.

‘APS’ means the Australian Public Service.

‘Casual employee’ means an employee engaged on an irregular or intermittent basis.

‘Delegate’ means the Australian Information Commissioner or someone delegated with relevant powers and functions of the Australian Information Commissioner.

‘Director’ means an employee at the EL2 classification.
‘Employee’ means a person employed full-time or part-time by the OAIC under and within the meaning of the Public Service Act 1999.


‘Family’ means the member of an employee’s family or a significant other person that the Delegate agrees, on reasonable grounds, has a strong affinity with the employee including immediate family as defined under s 12 of the Fair Work Act.

‘FWC’ means the Fair Work Commission.

‘Maternity Leave’ is a period of absence of up to 52 weeks in accordance with the Maternity Leave (Commonwealth Employees) Act 1973.

‘Registered Health Practitioner’ means a medical service provider or alternative health provider, licensed or registered, and recognised by a private health fund or by Comcare.

‘Medical certificate’ means a certificate provided by a Registered Health Practitioner as defined above.

‘NES’ means the National Employment Standards which are contained in the Fair Work Act.

‘OAIC’ means the Office of the Australian Information Commissioner.

‘Salary’ is the employee’s rate of salary/pay (in accordance with the salary/pay rates at Appendix B) and will be salary for all purposes. Specifically, where salary sacrifice arrangements and purchased leave options or other relevant arrangements are in place, the employee’s salary for purposes of superannuation, severance and termination payments will be determined as if the salary sacrifice or other arrangement had not been entered into.

‘SES’ means Senior Executive Service.

‘Supervisor’ means the employee responsible for a section or team within the OAIC.

9. Procedures for dealing with disputes

9.1 If a dispute relates to:
   (i) a matter arising under the Agreement, or
   (ii) the National Employment Standards

this term sets out the procedures to settle the dispute.

9.2 An employee who is party to the dispute may appoint a representative for the purposes of the procedures in this term.

9.3 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.
9.4 If discussions at the workplace level do not resolve the dispute, a party may refer the matter to Fair Work Commission.

9.5 The Fair Work Commission may deal with the dispute in two stages:

(i) the Fair Work Commission 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 the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
   a. arbitrate the dispute; and
   b. make a determination that is binding on the parties.

Note: If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Fair Work Act. A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5.1 of the Fair Work Act. Therefore, an appeal may be made against the decision.

9.6 While the parties are trying to resolve the dispute using the procedures in this term:

(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 employer to perform other available work at the same workplace, or at another workplace, unless:
   a. the work is not safe
   b. applicable occupational health and safety legislation would not permit the work to be performed
   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.

9.7 The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.

10. Delegations

10.1 The Australian Information Commissioner may delegate any or all of his or her powers and functions under this Agreement, including the power of delegation and may do so subject to conditions but no such delegation shall prevent the personal exercise by the Australian Information Commissioner of a power or function so delegated.
PART 2—STATEMENT OF BUSINESS PRINCIPLES

11. Objectives

11.1 This Agreement is to assist the OAIC in achieving its purpose, vision, and strategic goals, as reflected in the OAIC’s Strategic Plan from time to time.

11.2 The OAIC will facilitate a cooperative and consultative workplace through the consultation arrangements at Appendix A.

11.3 The role of workplace representatives, including union delegates and employee representatives, will be respected and facilitated, in accordance with the Fair Work Act.

11.4 This Agreement recognises the challenges and opportunities the OAIC and its staff have in further developing an independent statutory agency that delivers valued services to Parliament, government agencies, private entities, interest groups and the public while also offering a welcoming and flexible workplace in which staff have the opportunity to develop their skills and expertise.

12. Code of Conduct and APS Values

12.1 The OAIC is committed to delivering high quality professional public service. In implementing this Agreement, the OAIC will act ethically and lawfully as an employer. In implementing this Agreement and in undertaking his or her duties, an employee shall comply with the Australian Public Service Values and Code of Conduct and shall not behave in a way contrary to the interest of the OAIC.

12.2 In addition to the APS Code of Conduct, OAIC employees must comply with OAIC policies and guidelines and use the resources, equipment and facilities of the OAIC in a proper and lawful manner, recognising the particular nature of the OAIC’s role and functions.

12.3 Breaches of the Code of Conduct:

(i) Matters concerning possible breaches of the Code of Conduct as specified at 12.1 and 12.2 above, will be dealt with in accordance with relevant provisions of the Public Service Act 1999, Public Service Commissioner’s Directions and the Public Service Regulations 1999 and principles governing the application of natural justice.

Further information can be found in the OAIC’s Breaches of the APS Code of Conduct procedures.

(ii) Non-ongoing employees and employees on probation are excluded from the provisions of Clause 12.3 as this is dealt with under the terms of their engagement.
Further information is available in the OAIC’s Probation guidelines.

13. Anti-discrimination and workplace diversity

13.1 The OAIC is an organisation which values fairness, equity and diversity. Consistent with that aim, the OAIC is committed to preventing and eliminating discrimination on the basis of race, colour, gender, sexual orientation or practices, age, disability, marital status, family responsibilities, pregnancy, religion, political opinion, irrelevant criminal record, national extraction, membership or non-membership of a trade union or social origin.

13.2 The OAIC will develop and implement a Diversity strategy which recognises and values the diverse skills, cultural values and backgrounds of its employees and will incorporate actions previously detailed in its Reconciliation Action Plan, Disability Action Plan, Multicultural Action Plan/Multicultural Access and Equity Policy and Workplace Diversity Program.

13.3 The OAIC recognises the need for a supportive and flexible workplace to enable employees to combine work and family responsibilities. The Agreement contains clauses that support and promote flexible, family friendly practices and includes access to part time work, home-based work, parental leave and personal/carers leave which assist employees to balance their family and work responsibilities.

14. Workplace communication

14.1 The OAIC will consider, assess and respond to employee requests for changes to work arrangements in a transparent, prompt and reasonable manner, generally within 21 days of receiving a written request. If a decision cannot be made within 21 days, the employee will be advised of the reason for the delay and when a decision can be expected.

14.2 If the request is refused, the reason for the refusal will be provided in writing.
PART 3—EMPLOYMENT CONDITIONS

Part 3A: Performance management and learning and development

15. Talking about performance management framework

15.1 The purpose of the OAIC’s Talking about performance framework is to strengthen and support the OAIC in performing its functions by providing regular and formal assessment of employees’ work performance and to provide employees with skill development and career advancement opportunities. Further information can be found in the OAIC’s Talking about performance framework.

15.2 Annual assessment of an employee's performance will be the basis of salary progression within the pay points assigned to their classification and may also be taken into account:

(i) when considering an employee for temporary reassignment of duties or promotion

(ii) as a basis to commence proceedings in relation to the unsatisfactory performance of duties or misconduct.

15.3 Employees and supervisors will develop a performance agreement and employees will have their work performance assessed and rated, generally by their immediate supervisors. Employees will be eligible to advance by one salary point in the relevant classification pay range subject to meeting a performance standard rating of ‘Strong and effective contribution’ or ‘Sustained high level of contribution’.

15.4 Employees rated ‘Unsatisfactory contribution’ will not be eligible for salary progression and may be subject to proceedings noted at Clause 17 on ‘Managing Underperformance’.

15.5 The OAIC is committed to providing regular feedback on performance to staff and recognises that the Talking about performance framework is one avenue for this.

15.6 Employees who are not satisfied with the supervisor’s assessment may request a review by following the OAIC’s procedures in respect to review of employment decisions contained in Clause 52.

16. Learning and development

16.1 The OAIC is committed to providing opportunities for employees to gain and maintain the skills needed to do their jobs and assisting employees to achieve their full potential by supporting learning and development opportunities. The OAIC recognises the importance of supporting the development of our employees to achieve the best possible outcomes for our clients.
Further information can be found in the OAIC’s Talking about performance framework and Learning and Development Plan.

16.2 Learning and development activities will:
   (i) have a clear connection with the work of the OAIC
   (ii) have a direct link to individuals’ work responsibilities
   (iii) assist ongoing career development.

16.3 The parties to this Agreement are committed to adequate training support to accompany changes, innovations or improvements to work arrangements.

16.4 Performance agreements play a vital role in identifying learning and development needs for employees on an individual, work unit and agency basis.

16.5 Reimbursement of reasonable expenses when attending learning and development activities:
The OAIC will, subject to prior approval of such arrangements by the delegate including the cost, reimburse reasonable additional expenses arising from additional care arrangements when the employee is required to attend a particular learning and development activity outside normal hours of work or away from his or her normal work location.

16.6 Studies assistance:
The OAIC has a commitment to support employees undertaking formal studies that are relevant both to the OAIC and the employee’s personal career development.

   (i) Eligibility
       All ongoing employees not on probation and non-ongoing employees with more than 6 months service may apply for approval as a student. Approval as a student is not an automatic entitlement but may be granted subject to operational requirements of the OAIC and equity with other employees of the OAIC.
       An employee’s proposed course of study as a student must be approved by the delegate for the employee to have any access to any form of studies assistance.

   (ii) Study leave
       The Australian Information Commissioner or his delegate may grant paid study leave or study leave without pay to approved students.

   (iii) Financial studies assistance
       Approved students may apply for financial assistance up to $500 per semester per completed subject payable on the successful completion of the subject.
(iv) Advice of approval
Employees will be advised in writing of approval of their proposed course of study, study leave and/or financial assistance. Where a request is refused the employee may seek a review of the decision under Clause 52 of this Agreement.

Further information can be found in the OAIC’s Studies assistance guidelines.

17. Managing underperformance

17.1 The procedures for managing underperformance only apply to ongoing employees who are not on probation. They do not apply to non-ongoing employees. They do not apply in cases of suspected breaches of the Code of Conduct or where there is a health-related reason for unsatisfactory performance or where an essential qualification has been lost.

17.2 Where an employee’s performance consistently falls below an acceptable level it may be necessary to implement the procedures for managing poor performance.

17.3 A structured performance assessment plan must be developed. The performance assessment plan will be implemented over a period of time determined by the delegate not exceeding 2 months unless there are exceptional circumstances.

17.4 The assessment process must have regard for the principles of procedural fairness, and natural justice and consider issues of privacy.

17.5 Where the delegate determines, on the basis of the assessment, that the employee’s performance remains unsatisfactory; he or she will commence action to:

- assign the employee to other duties
- reduce the employee’s classification
- terminate the employee
- take some other form of appropriate action.

Part 3B: Classification, pay rates and remuneration arrangements

18. Increases in rates of pay

18.1 Salary increases as follows:

(i) 3% on the first full pay period following commencement
(ii) 2% on the first full pay period following the end of the 12th month after commencement, and
(iii) 1% on the first full pay period following the end of the 24th month after commencement.
19. Classification structure and remuneration

19.1 The range of duties assigned to each position and the employees engaged to perform them, shall be allocated an approved APS classification within the classification structure included at Appendix B. Further information on work level standards that apply to each classification can be found in the APS’s Work Level Standards guidance.

19.2 Where an employee commences employment with the OAIC, or is moved or promoted to a position in the OAIC, salary will be payable at the minimum salary point applicable to the employee’s position classification unless the Australian Information Commissioner or delegate authorises payment above the minimum point in that salary range having regard to skills, qualifications, experience, market considerations and equity with other employees. The Australian Information Commissioner or delegate may authorise payment above the maximum point of the salary range, where immediately prior to commencing with the OAIC, the employee was in receipt of salary above the maximum point in the current salary range whether or not the previous employment was within the APS.

19.3 Incorrect salary point:
Where, at the time of engagement, an employee’s salary is set at an incorrect salary point within the applicable salary scale the Australian Information Commissioner or delegate may authorise in writing the payment of the correct salary point.

19.4 Reversion:
Where an employee requests in writing to perform work at a lower work value level, the OAIC may determine in writing that the employee shall be paid a rate of salary applicable to the lower work value position classification.

19.5 Irregular or intermittent employees:
Non-ongoing employees who are employed on an irregular or intermittent basis will be paid an additional loading of 20% of salary in lieu of paid leave and public holidays not worked. Irregular and intermittent employees are entitled to long service leave under the Long Service Leave (Commonwealth Employees) Act 1976.

20. Payment of salary and flexible remuneration packaging

20.1 An employee shall be paid fortnightly in arrears and by electronic funds transfer into a financial institution account of his or her choice.

In the event of an overpayment of salary or allowances monies will be recovered from future pays in accordance with the OAIC Chief Executive Instructions.

20.2 The fortnightly pay shall be based upon the following formula:

\[
\text{fortnightly pay} = \text{remuneration} \times \frac{12}{313}
\]

20.3 A remuneration packaging scheme is available to employees:
(i) An employee may opt to receive a mix of cash and specified non-cash items up to the total value of his or her current salary.

(ii) The remuneration packaging scheme shall be undertaken by a bureau service on behalf of the OAIC and participating employees.

(iii) The total cost of an employee's participation in the scheme, including the cost of cash, non-cash items, taxation and administration/bureau fees, shall be met by the participating employee.

(iv) The implementation and operation of the remuneration packaging scheme shall be cost neutral for the OAIC.

(v) The salary which would have been used for superannuation purposes and severance and termination payments but for the employee electing the option of remuneration packaging is the salary to be used to determine salary for superannuation purposes and severance and termination payments.

21. Remuneration for higher duties

21.1 The filling of short term vacancies by higher duties will only occur where essential to the operational requirements of the OAIC.

21.2 An employee will only be assigned duties at a higher classification level where the period exceeds 15 days or in the case of operational type positions such lesser period as determined by the OAIC.

21.3 Where an employee is assigned duties at higher classification level in excess of 15 days, payment will commence from the beginning of the higher duties period. The parties agree that employees should not be rotated through positions in order to avoid payment of higher duties.

21.4 An employee who is required to undertake duties at a higher classification will not be required to do so without higher remuneration.

21.5 Where an employee is temporarily assigned duties at a higher classification, remuneration will be paid at the minimum rate applicable to the higher classification, unless otherwise determined to be at a higher rate by the Australian Information Commissioner or delegate.

21.6 Where an employee is temporarily assigned duties and the full range of duties is not performed, the Australian Information Commissioner or delegate may determine the remuneration to be paid to the employee.

21.7 An employee temporarily assigned duties at a higher classification level shall be entitled to receive the rate applicable for the higher position during a period of paid leave or public holiday provided that the employee would have received the rate applicable for the higher position if he or she had not been absent from the workplace for the period of the paid leave or the public holiday.
21.8 An employee who has been temporarily assigned duties at a higher level and has been assessed in accordance with Clause 15, to receive a salary increase within the higher classification level may retain that salary point on promotion. The Australian Information Commissioner or delegate will take into account the length of the period of higher duties and how recently the higher duties were performed.

21.9 Where non-Senior Executive Service employees are required to temporarily perform work in Senior Executive Service jobs for more than one week, they will be paid additional salary. The amount of additional salary will be determined by the Australian Information Commissioner or delegate.

22. Payment of overtime

22.1 An employee who is directed by the Australian Information Commissioner or delegate to work outside of standard hours shall be working overtime and shall be entitled to be paid or to receive time off in lieu in accordance with this Clause. This should not result in the employee working hours which are unreasonable or are a risk to employee health and safety.

Further information can be found in the OAIC’s Policy on attendance, flextime, overtime and TOIL.

22.2 The hourly rate for overtime payment will be ascertained by applying the following formulae:

**Time and a half rate:**
\[
\frac{\text{annual salary}}{313} \times \frac{6}{37 \frac{1}{4}} \times 1.5
\]

**Double time rate:**
\[
\frac{\text{annual salary}}{313} \times \frac{6}{37 \frac{1}{4}} \times 2
\]

**Double time and a half rate:**
\[
\frac{\text{annual salary}}{313} \times \frac{6}{37 \frac{1}{4}} \times 2.5
\]

22.3 For the purpose of calculating the formula at 22.2 prescribed weekly hours before overtime is payable will be 37 ⅛.

22.4 Executive Level employees:

Except with the approval of the Australian Information Commissioner or delegate, an Executive Level 1 or Executive Level 2 employee shall not be subject to the provisions of Clause 22. Where the Australian Information Commissioner or delegate has approved payment to employees at the Executive Level 1 or 2, payment shall be made at the maximum rate applicable to an APS Level 6. Payment of overtime will only be approved for Executive Level employees in exceptional circumstances.
22.5 Time-off-in-lieu:
Where the Australian Information Commissioner or delegate and an employee agree, time-off-in-lieu of payment for overtime may be taken, with the time off accrued at the overtime multiplier, within 4 weeks or such other agreed period from the time of working the overtime. Where the time off is not taken within 4 weeks or such other agreed period then payment for the overtime shall be made.

22.6 Monday to Saturday:
Overtime worked Monday to Saturday will be paid at time and a half for the first 3 hours each day and double time thereafter.

22.7 Sunday:
Overtime worked on a Sunday will be paid at the rate of double time.

22.8 Public holiday:
Overtime on a Public Holiday will be paid at time and a half during standard hours and double time and a half outside of standard hours (as defined in Clause 27.1).

22.9 Eight hour break:
An employee who works so much overtime that the employee has not had at least 8 consecutive hours off duty plus reasonable travelling time:

(i) between the termination of the employee’s ordinary duty on any day or shift, and the commencement of the employee’s ordinary work on the next day or shift, or

(ii) on a Saturday, Sunday or a public holiday, not being an ordinary working day, or on a rostered day off, in the 24 hours preceding the employee’s ordinary commencing time on the employee’s next ordinary day or shift

will be granted time off under sub-Clause 22.10.

22.10 An employee who is compelled to work so much overtime that the employee meets the conditions of sub-Clause 22.9 will:

(i) be allowed to leave work after such overtime for a period of 8 consecutive hours off duty, plus reasonable travelling time, and will suffer no loss of pay for ordinary working time occurring during the employee’s absence

(ii) provided that if an employee is required to resume or continue work on the specific written instruction of the Australian Information Commissioner or delegate, without having had 8 consecutive hours off duty plus reasonable travelling time the employee will be paid at double ordinary time rates (for time worked) until the employee has had 8 consecutive hours off duty plus reasonable travelling time; and

(iii) the employee is to suffer no loss of pay for ordinary working time occurring during the employee’s absence.
22.11 Overtime not continuous with ordinary duty:
Subject to this clause, where an employee is required to perform overtime duty and such duty is not continuous with ordinary duty, the minimum overtime payment for each separate overtime attendance will be 4 hours at the prescribed overtime rate.

22.12 Where more than one attendance is involved, the minimum overtime payment provision will, subject to the prescribed minimum payment, not operate to increase an employee’s overtime remuneration beyond that to which the employee would have been entitled had the employee remained on duty from the commencing time of duty on one attendance to the ceasing time of duty on a subsequent attendance.

22.13 For the purposes of determining whether an overtime attendance is or is not continuous with ordinary duty, or is or is not separate from other duty, meal periods will be disregarded.

22.14 Where an overtime attendance, not continuous with ordinary duty, involves duty both before and after midnight, the minimum payment provisions of this sub-clause will be satisfied when the total payment for the whole of the attendance equals or exceeds the minimum payment applicable to one day. Where a higher overtime rate applies on one of the days, the minimum payment will be calculated at the higher rate.

22.15 Meal allowance:
Where an employee is required to work overtime for periods in excess of 3 hours a meal allowance shall be paid in accordance with the Australian Taxation Office (ATO) Reasonable Allowance Rates. This will be varied in line with the ATO’s annual Ruling in June of each year. Payment will be made through the payroll system. An additional amount may be paid for overtime worked in excess of 10 hours. In exceptional circumstances, the delegate may consider a further payment.

22.16 Reimburse reasonable expenses:
Where an employee agrees or is directed to work overtime the Australian Information Commissioner or delegate will, subject to prior approval of such arrangements including the cost, reimburse reasonable additional expenses arising from any additional care arrangements due to the requirement to work overtime.

23. Superannuation

23.1 The OAIC will make superannuation contributions in accordance with its obligations under relevant legislation.

23.2 Where an employee has chosen an accumulations superannuation fund other than the PSS Accumulation Plan (PSSap), the employer contribution will be the same percentage of the fortnightly superannuation contribution salary as that required for employees who are members of PSSap. This will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not
apply where a superannuation fund cannot accept employer superannuation contributions (e.g. unable to accept contributions for people aged over 75).

Note: At the time of commencement of this Agreement the rate of PSSap employer contribution is 15.4 %.

23.3 Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that does not count as service, unless otherwise prescribed by legislation.

24. (Not used)

Part 3C: Flexible work arrangements

25. Work/life balance

25.1 The OAIC acknowledges that employees have to balance their working life with other commitments, including family and the community. This is recognised through the provision of a range of flexible attendance arrangements, leave provisions and assistance programs. When applying flexible attendance arrangements and other employment conditions, the OAIC and its employees will consider the operational needs of the OAIC and any effect on other employees to ensure equitable outcomes.

26. Part-time requests

26.1 Under the Fair Work Act (FWA) eligible employees have the right to request flexible working arrangements. The OAIC is committed to providing equitable outcomes for all eligible employees under the FWA and any part-time requests have to be balanced with the operational needs of the OAIC and those of other employees in the work area. Employees agree to be flexible in implementing part-time requests.

26.2 The OAIC may support part-time requests from eligible employees under the FWA for a range of different circumstances, including but not limited to:

(i) return from maternity/parental leave and additional leave under Clauses 36.1, 37 and 38.1 of this Agreement

(ii) pre-retirement transition

(iii) short-term requests such as personal illness, carer needs and study.

26.3 A job sharing request may be supported where it fits within operational requirements.

26.4 Proposals for part-time work may be initiated by supervisors.

26.5 A part-time employee shall accrue all entitlements under this Agreement, other than entitlements to reimbursement, on a pro rata basis.
26.6 Where a request is not agreed to, the employee has the right to seek a review of the decision. The OAIC will consider other alternatives where possible, and outline reasons where a request is not supported.

Further information can be found in the OAIC’s Part-time work policy.

27. **Hours of work**

27.1 The delegate will determine all matters relating to hours of duty in accordance with the provisions of this clause to ensure that they are consistent with client access, security and operational requirements of the OAIC.

27.2 The OAIC recognises the need for employees to balance their working life commitments with other competing interests, including family and carer responsibilities and does not expect employees to work unreasonable additional hours. It is recognised that some employees will need to work extra hours from time to time in order to meet deadlines and deal with unexpected contingencies. It is expected that supervisors and employees will implement effective work plans to minimise the need to work additional hours, wherever possible.

27.3 **Standard hours and bandwidth:**

   (i) Standard hours of work shall be 150 hours in each 4-week settlement period.

   (ii) Standard hours shall be worked within the bandwidth of 7.30 am to 7.00 pm Monday to Friday.

   (iii) A standard day is 8.30 am to 5.00 pm with an hour for lunch between 12.30 pm and 1.30 pm.

27.4 Notwithstanding sub-Clause 27.3(ii), standard hours may be worked outside of the bandwidth where an employee and the Australian Information Commissioner or delegate so agree and where operational and security requirements permit. Agreements under this clause should be reviewed on a regular basis to ensure the approved arrangements are operating effectively. In these circumstances employees will not be entitled to overtime payments for agreed work outside the bandwidth hours.

27.5 **Core hours:**
Core hours will be 10.00 am to 12.00 midday and 2.00 pm to 4.00 pm unless varied by agreement by an employee and their supervisor. Supervisors will genuinely consider an employee’s personal circumstances when considering any request consistent with Clause 13.3. Employees shall ordinarily be present at work during core hours.

27.6 **Unpaid meal breaks:**
An employee must not work for longer than 5 hours without an unpaid break for a meal of a minimum of 30 minutes and no longer than 2 hours.
27.7 **Start and finish times:**
Starting and finishing times within the bandwidth are to be determined by the Australian Information Commissioner or delegate, after consultation with employee/s. To optimise effective client service, supervisors may require employees (including part-time employees, where this is consistent with their ordinary hours) to attend at specific times during general business hours of 8.30 am to 5.00 pm. It is understood that these arrangements should provide employees flexibility to balance work and personal obligations subject to operational requirements of the OAIC, the need for appropriate supervisory arrangements to be in place and occupational health and safety principles.

27.8 **Use of taxis after hours:**
Where an employee is directed to work after 7.30 pm, the OAIC will provide Cabcharge for the journey home of that employee, subject to prior approval by the relevant supervisor or Director.

27.9 **Flexleave:**
Employees classified as APS 1–6 shall have access to flexleave provisions. Flextime credits accrue only for time worked within the bandwidth or where there is an agreement to work outside the bandwidth. In accessing flexleave:

(i) An employee may not have an accrual in excess of one standard week (or equivalent pro rata for employees working part time) flexleave at the conclusion of any settlement period. Excess flex leave should be utilised in the period that it accrues. Any excess will be reduced automatically to one standard week at the end of the settlement period unless approval is given by the supervisor to carry excessive flex credits forward. This will only occur in exceptional circumstances, eg, periods of high workload. This additional carryover should be used within the next settlement period. The purpose of flex leave is to provide flexibility in work patterns over a regular period and not to build up excessive credits to be used in conjunction with annual leave. An employee may not have a debit of flexleave in excess of 10 hours at the conclusion of any settlement period.

(ii) Periods of absence shall be taken at such times and in such periods as are agreed between the employee and the Australian Information Commissioner or delegate.

(iii) Supervisors must ensure that they manage the hours their team members work so that excessive flextime credits are not accrued without the opportunity for employees to access their flextime leave. If a supervisor identifies that an employee is working excessive hours, they will review employees' work arrangements in the relevant area to establish whether alternative arrangements are available (eg overtime).

(iv) On termination of employment:
a. outstanding flex credits should be acquitted, where possible, as no payment for accumulated flex will be made
b. flex debit balances should be processed as leave without pay in accordance with the OAIC Chief Executive Instructions.

27.10 Where an employee fails to comply with the provisions of flextime, a supervisor may recommend to the delegate that the employee be removed from the flextime scheme for a specified period. The employee would revert to working standard hours for the specified period.

Further information can be found in the OAIC’s Guidelines on attendance, flextime, overtime and TOIL.

27.11 Executive Level employees

(i) Remuneration for Executive Level employees incorporates a component to compensate for the extra demands which may be placed on such employees, including working beyond standard hours.

(ii) Executive Level employees have the flexibility to responsibly manage their own workloads to meet operational needs in consultation with their supervisors. Strategies to reduce the need to work unreasonable additional hours include reviewing workloads, priorities and work practices.

(iii) At times, Executive Level employees may be required to work extended hours during peak workload periods during the week and weekends, but this should not be for lengthy periods. Where it is foreseen that there will be an increase in workload the employee’s supervisor is to raise with the Director/Assistant Commissioner as early as possible to address any issues including work priorities and appropriate time off in lieu (TOIL).

(iv) It is expected that any TOIL arrangements will be discussed and considered at the time of the increased workload. Evidence of hours worked may be required. Executive Level employees will be able to access agreed TOIL as soon as possible, subject to operational requirements. Where agreement cannot be reached between an employee and their Director, the matter may be referred to the delegate to resolve.

(v) TOIL will not be on an hour for hour basis.

Further information can be found in the OAIC’s Guidelines on attendance, flextime, overtime and TOIL.

27.12 Absences without approval:
Where an employee is absent from duty without approval, all pay and other benefits provided under this Agreement, eg flextime, will cease to be available until the
employee resumes duty or is granted leave. Where flextime no longer applies, employees will revert to standard hours (as defined in this clause).

28. **Home-based work and remote access**

28.1 Where consistent with client service and other operational requirements, an employee may request the OAIC to approve home-based work on either an ongoing or temporary basis.

28.2 Any ongoing or temporary arrangement may be terminated by the Australian Information Commissioner or delegate for cause (eg ineffectiveness of the arrangement, or failure of the employee to comply with requirements). Where the Australian Information Commissioner or delegate has decided to terminate an arrangement, the employee concerned shall be given reasonable notice of the termination.

Further information can be found in the OAIC’s **Telework policy**.

29. (not used)

**Part 3D: Leave provisions and public holidays**

30. **Annual leave**

30.1 **Purpose:**

To provide an equitable work/life balance, the OAIC recognises that it is important for both the employee and the organisation for employees to access annual leave on a regular basis. Employees are encouraged to take their annual leave credits in the year when the credits accrue and are expected to take at least 2 weeks (or 50%) of those annual leave credits in the year when the credits accrue.

30.2 **Credit:**

A full-time employee shall accrue 20 days paid annual leave per completed year of service. Annual leave will accrue progressively and may be accessed as it accrues.

(i) **Re-credit:** An employee who would have been able to access personal/carer’s leave, compassionate leave, community service leave or any other type of leave where the NES provides that they not be taken to be on annual leave will be re-credited their annual leave for the period the other leave is granted. The provisions for the other leave to be granted as set out in this agreement apply.

30.3 Annual leave shall be taken at such a time or times and in such a period or periods as may be agreed between the employee and the employee’s supervisor. Annual Leave will not be prepaid.
30.4 Excess leave credit

(i) To assist staff to appropriately utilise their annual leave to maintain an appropriate work-life balance and to assist the OAIC to better manage its accrued annual leave liability employees and the OAIC agree that generally an annual leave credit of more than 6 weeks is excessive.

(ii) Therefore if the annual leave credit an employee is likely to accumulate by 30 June in any given year is over 6 weeks (inclusive of accrued and pro rata entitlements) (or a pro-rated period for non full-time employees) notice will be provided by the OAIC to the employee in the preceding December and March and a request made to the employee to reduce the leave credit to no more than 6 weeks (or a pro-rated period for non full-time employees) by taking annual leave by 30 June.

(iii) Where an employee has more than 6 weeks accrued annual leave credit (or a pro-rated period for non full-time employees) the Australian Information Commissioner or delegate may direct an employee to take annual leave within a reasonable period to reduce their accumulated annual leave credit to 6 weeks (or a pro-rated period for non full-time employees). The reasonable period would not usually be longer than 6 months but in exceptional circumstances may be a longer period.

30.5 Cash out of annual leave:

(i) An employee who has accessed at least 3 weeks annual leave in any 12 month period and has an accrual of at least 5 weeks annual leave may be paid out 1 week of annual leave in lieu of absence from the workplace, subject to subclause (iii) below.

(ii) The delegate may approve further cash out of annual leave if circumstances warrant approval and where the employee has accessed a reasonable amount of annual leave over the previous 12 months, subject to subclause (iii) below.

(iii) Each agreement to cash out a particular amount of paid annual leave must be in writing. Employees cashing out annual leave are required to maintain a balance of at least 4 weeks and the OAIC must pay the employee at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone in accordance with the requirements of s 93 of the Fair Work Act.
31. Purchased leave scheme

31.1 An employee may, with the approval of the Australian Information Commissioner or delegate, purchase from one to four additional weeks of annual leave.

31.2 The leave shall be purchased for the amount the employee would have received for the period of leave purchased, if he or she had taken ordinary annual leave for that period, as estimated at the time of applying for participation in the purchased leave scheme.

31.3 The purchase price of the leave shall be deducted from the fortnightly pay of the purchasing employee in equal instalments over the stipulated period prior to the leave being taken:
   - 4 weeks purchased leave 26 pay periods
   - 3 weeks purchased leave 20 pay periods
   - 2 weeks purchased leave 13 pay periods
   - 1 week purchased leave 7 pay periods

31.4 All such leave purchased shall be taken within a 12 month period from the commencing date of accrual or shall be forfeited and the purchase price of the leave refunded.

31.5 Purchased leave shall be taken in accordance with the rules applying to annual leave at Clause 30.

31.6 Approval for entry into the purchased leave scheme is subject to the operational requirements of the OAIC.

31.7 Purchased leave shall count as service for all purposes.

31.8 Entry into the purchased leave scheme shall not affect the superannuation obligations of the OAIC and/or the employee involved.

32. Career break scheme

32.1 Employees will be eligible to apply for a 3 month unpaid career break scheme after they have been employed for 5 years and for a further 3 months unpaid for each subsequent 5 year period. The 3 month period is in calendar days and will be non-cumulative. All approvals will be subject to operational requirements and the negotiation of a mutually agreeable period of absence. Where it is of direct benefit to the work of the OAIC and the career development of the employee it will count as service.

33. Retirement transition

33.1 Employees who have stated an intention to retire from the workforce within 2 years are able to participate in a retirement transition arrangement. Financial
assistance of up to $500 will be provided for access to retirement seminars and/or superannuation and financial advice. Transition arrangements may vary between individuals as both individual and operational needs are considered, but may include access to part-time work (refer Clause 26.1 for part-time provisions) and/or changes in work level or responsibilities by agreement.

Further information can be found in the OAIC’s Part-time work policy.

34. Personal/carer’s leave

34.1 Personal/carer’s leave may be taken only in the event of personal illness or injury or an unexpected emergency affecting the employee or the illness or injury of, or an unexpected emergency affecting, a member of the employee’s family or household. However, leave will not be granted for the purpose of an employee’s unexpected emergency where it would result in the employee having less than 10 days’ personal/carer’s Leave credits per year available for use for personal injury or illness or caring purposes as provided under the Fair Work Act. The OAIC recognises that caring arrangements may include supporting ill family members interstate or in hospital and caring for a family member where a primary carer is unable to do so.

34.2 Entitlement:

(i) **Ongoing employees:** An employee shall be entitled to 16 days paid personal/carer’s leave upon engagement and shall accumulate a further 16 days paid personal/carer’s leave per completed year of service.

(ii) **Non-ongoing employees:** A non-ongoing employee shall be entitled to 16 days personal/carer’s leave per annum, which accrues progressively. A non-ongoing employee whose employment extends beyond 9 months will be entitled to the full 16 days personal leave. Leave will accrue on a pro rata basis and will not exceed the entitlement that would have occurred if the employee were an ongoing employee.

(iii) If a non-ongoing employee is then engaged on an ongoing basis, they shall be credited with a full entitlement to personal/carers leave as if they had accrued from the date of their commencement in the OAIC.

(iv) An employee in receipt of compensation for more than 45 weeks will accrue personal/carer’s leave on the basis of the hours actually worked.

(v) An employee will not be entitled to paid personal/carer’s leave while also entitled to paid leave under the Maternity Leave (Commonwealth Employees) Act 1973.

34.3 Reasonable evidence:
Reasonable evidence, such as a medical certificate, is to accompany any application for leave of 3 consecutive days or more.
(i) Where 16 days of personal/carer’s leave have been granted in any 
accrual year, any subsequent applications for personal/carer’s leave 
shall be accompanied by reasonable evidence, such as a medical 
certificate.

(ii) The Australian Information Commissioner or delegate may request an 
employee to provide reasonable evidence, such as a medical 
certificate, when any future absence on personal/carer’s leave occurs.

34.4 Notification:
An employee absent from the workplace on account of illness or caring 
responsibilities shall inform his or her immediate supervisor before the normal 
commencing time of work or as soon as practicable, by a previously agreed method.

34.5 Conversion:
An employee may access personal/carer’s leave on half-pay where personal 
circumstances require. Where half pay personal/carers leave is taken, each day 
taken equates to half a day personal/carer’s leave credit

34.6 Invalidity:
An employee will not, without the employee’s consent, be retired on invalidity 
grounds before the employee’s paid personal/carer’s leave credit has expired except 
as required by legislation.

35. Compassionate and bereavement leave

35.1 Employees are entitled to take two days paid leave, on each permissible 
occaasion, for the purposes of spending time with a member of the employee’s family 
or household who has a personal illness or injury that is life threatening or upon the 
death of a member of an employee’s family or household in accordance with s 105 
of the NES.

35.2 An additional day may be granted to an employee upon the death of a member 
of an employee’s family or household.

35.3 Casual employees are entitled to 2 days unpaid compassionate leave per 
occasion.

35.4 The Australian Information Commissioner or delegate may approve one day 
per occasion for the purpose of attending the funeral of a person with a relationship 
to the employee other than of a member of an employee’s family or household.

35.5 An employee may be required to provide reasonable evidence to support each 
application for compassionate or bereavement leave.

36. Maternity leave

36.1 Employees covered by this Agreement are entitled to the provisions set down 
in the Maternity Leave Act (Commonwealth Employees) 1973 (Maternity Leave Act) if 
they are eligible under that Act.
36.2 Access to paid maternity leave is subject to a qualifying period of 12 months continuous employment as specified in the Maternity Leave Act.

36.3 Under the Maternity Leave Act eligible employees may access up to 12 weeks paid leave, inclusive of public holidays. An employee who is on a period of paid or unpaid maternity leave under the Maternity Leave Act will also have access to a further 4 weeks paid leave to be taken in conjunction with maternity leave. In total, 16 weeks paid leave may be accessed for maternity leave purposes.

36.4 Under the Maternity Leave Act eligible employees may access a period of up to 52 weeks, including approved paid and unpaid leave. An employee may request in writing to return to work during this period on a date earlier than previously approved. The granting of such a request will be at the discretion of the delegate in accordance with s 7A of the Maternity Leave Act. Employees resuming duty full time following their period of maternity leave will return to the position they held prior to their maternity leave or, if the position no longer exists, a position that is nearest in status and remuneration. Any request to resume work on part-time basis will be in writing and in accordance with Clause Error! Reference source not found. (part time) of this Agreement.

36.5 An employee who is pregnant is required to absent herself from duty 6 weeks before the expected date of confinement until 6 weeks after the actual date of birth of the child, unless a medical certificate is provided declaring her fit to either continue or return to duty.

36.6 Periods of paid leave during maternity leave will count as service for all purposes. Where an employee does not have a full year of service, the first 12 weeks (including unpaid leave) also counts for service.

36.7 In order to provide a more flexible administration of maternity leave an employee may elect to receive payment for their maternity leave (including the additional 4 weeks leave under Clause 36.3) at half pay. Only the equivalent full-pay period will count as service.

37. Parental leave

37.1 Parental carer’s leave:

(i) An employee who is not covered by the maternity leave provision but has the same qualifying period of service as per an employee under Clause 36.2, and who has primary parental responsibility caring for a newborn or recently adopted or fostered child under the age 16, is entitled to 16 weeks paid primary carer’s leave from the birth, adoption or fostering of the child.

(ii) Up to 2 weeks of this paid leave can be taken by the employee, prior to the date of adoption or fostering, to assist in finalising administrative arrangements.
(iii) An employee accessing primary carer’s leave may request a period or periods of up to 52 weeks, including paid and unpaid leave.

(iv) An employee who is not covered by the maternity leave provision but has the same qualifying period of service as per an employee under Clause 36.2, and who has non-primary parental responsibility caring for a newborn or recently adopted or fostered child under the age 16, may request a period of up to 52 weeks of unpaid leave.

(v) Employees resuming full-time duty following their period of approved leave will return to their previously held position, or if that position no longer exists, a position that is nearest in status and remuneration. Any request to resume work on a part-time basis will be in writing and in accordance with Clause 26 of this Agreement.

(vi) Periods of paid leave under this clause will count as service for all purposes. Paid leave may be accessed at half pay. Only the equivalent full pay period will count as service.

(vii) The Australian Information Commissioner or delegate may request reasonable evidence in support of an application, which may include a statutory declaration.

(viii) Where both partners are employed by the OAIC and one partner has accessed, or intends to access, paid maternity or primary carer’s leave; the other partner may only access primary carer’s leave on a non-concurrent basis and so that the combined period of paid leave does not exceed 18 weeks.

37.2 Flexible work arrangements for parents:

(i) An employee who is a parent, or has responsibility for the care of a child of school age or younger or a child under 18 who has a disability, may request flexible working arrangements, including part-time hours. The employee is not eligible to make this request unless they have completed at least 12 months of continuous qualifying service the Australian Information Commissioner or delegate may waive this requirement in exceptional circumstances).

(ii) A casual employee engaged for irregular or intermittent duties may only request flexible work arrangements if the employee:

- is a long term casual employee immediately before making the request; and
- has reasonable expectation of continuing employment on a regular and systematic basis.

Note: ‘long term casual employee’ is defined at s 12 of the Fair Work Act

(iii) A request made in accordance with Clause 37.2(i) must be in writing and set out details of the change sought and the reasons for the change. The Australian Information Commissioner or delegate 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.

(iv) For the purposes of this clause:
- ‘qualifying service’ means service that is recognised for redundancy pay purposes;

37.3 Supporting parent leave:

(i) Six weeks paid supporting parent leave will be granted to an employee following the birth, adoption or long-term fostering of a child.

(ii) The OAIC recognises that a parent may include a person who is in a demonstrated parental relationship to the child. The Australian Information Commissioner or delegate may request reasonable evidence in support of an application, which may include a statutory declaration.

(iii) This period of supporting parent leave will count as service and may be taken in one block or, subject to operational requirements, as part of a flexible work arrangement within 12 months of the birth, adoption or fostering of the child.

(iv) This leave is not available to employees covered by paid Maternity or Primary carers leave provisions.

(v) Paid leave may be accessed at half pay. Only the equivalent full-pay period will count as service.

38. Request for additional leave following maternity or parental leave

38.1 An employee may request additional unpaid leave up to a further 52 weeks following their maternity leave or parental leave. This leave will not count as service.

38.2 For operational planning purposes requests for this additional leave should be made, where possible, at the commencement of the maternity or parental leave period. Otherwise, employees requesting additional leave under this clause are to provide at least 4 weeks notice of their request.

38.3 An employee may request in writing to return to work during this period on a date earlier than previously approved. The granting of such a request will be at the discretion of the Australian Information Commissioner or delegate and subject to 4 weeks notice for planning purposes.

38.4 Employees resuming duty after this period of leave will return to the same classification level they held prior to their maternity or parental leave. Any request to resume work on part-time basis will be in writing and in accordance with Clause 26 of this Agreement.
39. Jury leave

39.1 An employee is entitled to paid leave to attend jury service. An employee will continue to be paid by the OAIC in lieu of any other payment for jury service. An employee shall be required to pay to the OAIC the amount received for jury service except payments relating to meals, accommodation or fares in accordance with the OAIC Chief Executive Instructions.

39A. Leave for ADF Reserve and Continuous Full Time Service or Cadet Force obligations

39A.1 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.

(i) An employee is entitled to leave with pay, of up to four weeks during each financial year, and an additional two weeks’ paid leave in the first year of ADF Reserve service, for the purpose of fulfilling service in the ADF Reserve.

(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.

(iii) An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to three weeks each financial year to perform duties as an officer or instructor of cadets. For these purposes ‘Cadet Force’ means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.

(iv) 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 annual leave accrual.

39B War Service Sick leave

39B.1 Employees with Defence Force service prescribed by the Veterans’ Entitlement Act 1986 are eligible for additional sick leave while unfit for duty because of a war or defence caused condition. A war-caused condition means an injury or disease of an employee that has been determined under the relevant legislation to be war-caused or defence-caused.

39B.2 Eligible employees will accrue a special credit of nine weeks on commencement in the APS and an annual credit of three weeks for each year of APS service. Unused credits will accumulate to a maximum of nine weeks.
39C Cultural Leave

39C.1 Leave for cultural, religious, ceremonial and National Aboriginal & Islander Day Observance Committee Week (NAIDOC) leave may be granted by the Australian Information Commissioner or delegate in the following situations:
   i. one day's paid leave per year for NAIDOC week; or
   ii. unpaid leave for days of cultural, religious, ceremonial and NAIDOC significance

39D Moving

39D.1 One day paid leave per year may be granted by the Australian Information Commissioner or delegate for the purposes of assisting employees in moving house.

40. Other leave

40.1 Miscellaneous leave with or without pay may be granted by the Australian Information Commissioner or delegate. Unless the Australian Information Commissioner determines otherwise, any continuous period of Miscellaneous leave without pay greater than 30 calendar days will not count as service for Annual Leave and Personal/carer's Leave purposes. Applications will be considered subject to the operational requirements of the OAIC and equity with other employees.

Further information can be found in the OAIC's Policy on miscellaneous leave

40.2 Emergency service duties leave
In accordance with section 108 of the FWA the OAIC will provide unpaid leave for community service personnel for emergency services duties encompassing leave for the emergency service responses, regular training, reasonable recovery time and ceremonial duties.

40.3 Community volunteering:
The OAIC will support community volunteer leave of one day paid per calendar year for employees to undertake voluntary work for a not-for-profit community organisation. The timing of the leave must be approved by the supervisor. Additional unpaid leave of up to 4 days per calendar year may be approved based on operational requirements. Employees will be required to provide appropriate evidence to support leave applications.

40.4 Elder and disabled care leave:
An employee with 12 months of continuing service may request unpaid discretionary leave of up to 12 months to provide care or support to:
   • an elderly parent
   • a child with a disability
   • a family member with high support needs

where the parent or child requires ongoing care or support.
40.5 For any of the above leave that is discretionary the employee’s request must be in writing and set out the period of leave being sought and the reasons for the leave. The Australian Information Commissioner or delegate may refuse an employee request under this clause on reasonable business grounds and must provide in writing within 21 days the reasons for any refusal of the request. Refer to Clauses 36.1–38.1 for flexible working arrangements following maternity or parental leave and Clause 26.3 of this Agreement for part-time work requests.

41. **Long service leave**

41.1 Employees covered by this Agreement are entitled to the provisions set down in the *Long Service Leave (Commonwealth Employees) Act 1976*.

41.2 Under the Act, full time employees are generally entitled to 3 months long service leave on full pay after 10 years qualifying service with a rate of accrual of 3/10 month per year of service.

41.3 Part-time and casual employees accrue long service leave on a pro rata basis in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976*.

41.4 Long service leave will be granted in blocks of at least seven calendar days at full pay or 14 calendar days at half pay and will not be able to be broken by other forms of leave unless required by legislation.

(i) Re-credit: An employee who would have been able to access personal/carer’s leave, compassionate leave, community service leave or any other type of leave where the NES provides that they not be taken to be on annual leave will be re-credited their long service leave for the period the other leave is granted. The provisions for the other leave to be granted as set out in this agreement apply.

42. **Portability of leave**

42.1 Where an employee moves (including on promotion or for an agreed period) to the OAIC from an employer staffed under the Public Service Act, the *Parliamentary Service Act 1999* or from the ACT Government Service, accrued annual leave and personal/carer’s leave (however described) will be transferred, provided that there is no break in continuity of service. Future entitlements to annual and personal/carer’s leave will be those prevailing in the OAIC.

43. **Public holidays and Christmas Closedown**

43.1 **Public holidays**

Employees will be entitled to the following public holidays:

- New Year’s Day (1 January)
- Australia Day (26 January)
• Good Friday
• Easter Monday
• Anzac Day (25 April)
• Queen’s birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory)
• Christmas Day (25 December)
• Boxing Day (26 December)
• any other day, or part-day, declared or prescribed by or under a law of a State or Territory to be observed generally within the 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 from counting as a public holiday.

43.2 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.

43.3 The Australian Information Commissioner and an employee may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.

43.4 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.

43.5 Where a public holiday falls during a period when an employee is absent on leave (other than Annual or paid Personal/carers leave) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave (e.g. if on long service leave on half pay, payment is on half pay).

44. Christmas closedown

44.1 The OAIC will close its normal operations from close of business on the last working day before Christmas, with business resuming on the first working day after New Year’s Day.

44.2 Employees will be provided with time off for the working days between Christmas and New Year’s Day and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave, payment for the Christmas closedown provision will be in accordance with the entitlement for that form of leave, (e.g. if on long service leave half pay, payment is on half pay).
44.3 There will be no deduction from Annual or Personal/carer’s leave credits for the closedown days.

Part 3E: Separation procedures

45. Redundancy

45.1 Legislation:
The legislative basis for certain action relating to the management of excess employees may be found in the Public Service Act, specifically:

- s 23, relating to reducing an employee’s classification
- s 25, assignment of duties
- s 27, the Public Service Commissioner’s power to move an excess employee to another agency
- s 29, termination of employment.

45.2 Excess employee:

(i) The procedure for handling excess employees set out below applies to all employees except:
   a. an ongoing employee who is on probation
   b. a non-ongoing employee.

(ii) When the OAIC is aware that an employee is likely to become excess, the Australian Information Commissioner or delegate will advise the employee of the situation at the earliest practicable time. An employee is an excess employee if:
   a. the OAIC has a greater number of employees than is necessary for the effective performance of a particular role or function within the OAIC
   b. the services of the employee cannot be effectively used because of technological or other changes in the work methods of the OAIC or changes in the nature, extent or organisation of the functions of the OAIC
   c. where 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 locality and the OAIC has determined that the provisions of this clause will apply to that employee.

45.3 Consultation process:

(i) The Australian Information Commissioner or delegate will hold discussions with an excess employee to consider:
a. measures that could be taken to resolve the situation, including redeployment opportunities for the employee, at or below level, within or outside the OAIC

b. whether termination of employment (voluntary redundancy) might be appropriate

c. where the employee chooses a representative, the Australian Information Commissioner or delegate will hold the discussions with the employee's representative

(ii) The maximum period of time allowed for consultations should be one month (4 weeks) unless a lesser period is agreed to.

45.4 Early separation:

(i) Where an employee is likely to be the subject of action under these provisions, the Australian Information Commissioner or delegate may provide to that employee an early separation opportunity.

(ii) This option provides for separation to occur within 14 days of the employee being advised that they are excess under Clause 45.2.

(iii) It attracts an additional payment of 8 weeks salary (or 10 weeks for an employee over 45 years of age with at least 5 years continuous service), over and above any other amount paid on separation in accordance with Clause 45.6.

(iv) The payment is in lieu of the time that may have reasonably been expected to elapse for the purposes of the consultation, consideration periods and notice periods.

45.5 Separation with consent

(i) Where an employee is advised in writing that they are excess and that it is proposed to terminate the employee in accordance with s 29 of the Public Service Act, the employee will have a maximum period of one month to consider their position and provide their consent to the termination of their employment or request redeployment assistance.

(ii) The Australian Information Commissioner or delegate will not give an employee notice of termination of their employment under s 29 of the Public Service Act until the expiration of that one-month period (unless the employee requests an earlier termination of employment date within that one-month period).

(iii) Within that month, unless agreed otherwise, an employee consenting to termination of employment must be given all the relevant financial information, including:

a. amount of redundancy pay, pay in lieu of notice and cashable leave credits

b. amount of accumulated superannuation contributions

c. options open to the employee concerning superannuation
d. taxation rules applying to the various payments

e. assistance up to a maximum of $800 for financial advice and career counselling, reimbursed on production of receipts

(iv) The employee is only entitled to receive one offer of voluntary retirement.

45.6 Redundancy benefit:
Where the provisions of this clause provide for less than the National Employment Standards (NES), the NES will prevail.

(i) An excess employee who agrees to be voluntarily retrenched and whose employment is terminated by the delegate under s 29 of the Public Service Act on the grounds that he/she is excess to requirements is entitled to be paid a sum 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 NES.

(ii) The minimum sum payable will be 4 weeks salary and the maximum will be 48 weeks salary.

(iii) The redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during their period of service and the employee has less than 24 years full-time service.

(iv) For the purpose of calculating payment, salary will include:

a. the employee’s salary

b. the salary including higher duties, where the employee has been receiving higher duties allowance for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination of employment

c. other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

45.7 Period of notice:

(i) Where the excess employee agrees to be voluntarily retrenched the Australian Information Commissioner or delegate may terminate the employment of the employee by giving the required notice of termination of employment under s 29 of the Public Service Act. The period of notice will be 4 weeks (or 5 weeks for an employee over 45 years of age with at least 5 years of continuous service).

(ii) Where an employee whose employment is terminated at the beginning of or within the notice period, the employee will receive
payment in lieu of notice for the unexpired portion of the notice period. This amount is additional to any redundancy benefit payment.

45.8 Periods of service:

(i) For earlier periods of service to count there must be no breaks between the periods of service, except where:
   a. the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer
   b. the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the then s 49 (as repealed in 1966) of the repealed Public Service Act 1922

(ii) Subject to Clause 45.8(a) service for redundancy pay purposes means:

(iii) service with the OAIC
   a. Government service as defined in s 10 of the Long Service Leave Act 1976
   b. service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth has a controlling interest) which is recognised for long service leave purposes
   c. service with the Australian Defence Forces
   d. APS service immediately preceding deemed resignation under the then s 49 (as repealed in 1966) of the repealed Public Service Act 1922, if the service has not previously been recognised for severance pay purposes; and
   e. service in another organisation where an employee was transferred from the APS to that organisation with a transfer of function, or an employee engaged by that organisation on work within a function, is appointed as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes. (Note: transfer means the movement to a new agency under the Public Service Act).

(i) Any period or service which ceased through termination of employment on the following grounds will not count as service for redundancy pay purposes:
   a. the employee lacks, or has lost an essential qualification for performing his or 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 sub-section 22(6) of the Public Service Act, including probation
f. a breach of the Code of Conduct
g. for a reason equivalent to a reason listed above at Clause 45.8 (ii)(a) to (f) under the repealed Public Service Act 1922
h. any other ground prescribed by the Public Service Regulations
i. through voluntary retrenchment at or above the minimum retiring age applicable to the employee
j. payment of a redundancy benefit or similar payment or an employer financed retirement benefit.

(ii) Absences from work which do not count as service for long service leave purposes will not count as service for severance pay purposes.

45.9 Redeployment:
This clause is intended to provide an employee with far more intensive and immediate redeployment assistance.

(i) The OAIC will assist employees throughout the redeployment process by providing reasonable expenses and time off to attend necessary employment interviews where the costs are not met by the prospective employer.

(ii) If an excess employee wishes to be redeployed rather than consent to termination of employment, the OAIC will take all reasonable steps, consistent with the efficient management of the OAIC, to assign duties to that employee in accordance with s 25 of the Public Service Act.

(iii) In the first instance, this placement will be handled within the OAIC.

(iv) The OAIC may also choose to offer the services of a selected outplacement/career management provider at any point in the process (on and from the point the employee is advised that they are likely to become excess).

(v) The OAIC will give excess employees the option of seeking redeployment in the APS in accordance with any APS wide redeployment arrangements in place at the time.

(vi) The redeployment process commences from the date the employee is advised, in writing, that they are an excess employee.

(vii) Where the Australian Information Commissioner or delegate is satisfied that there is insufficient productive work available for the employee within the OAIC during the remainder of his or her redeployment period, the Australian Information Commissioner or delegate may, with the agreement of the employee, terminate the employee’s employment under s 29 of the Public Service Act and pay an agreed lump sum not greater than the salary which would be payable for the balance of the redeployment period.
(viii) If redeployment has not proven to be a successful option, an employee can consent to termination at the end of the first 2 month period, in preference to continuing redeployment action. If an employee consents to termination of employment at this point and this employment is terminated by the OAIC under s 29 of the Public Service Act on the grounds he/she is excess to requirements, they will be eligible to receive the full redundancy benefit as specified at Clause 45.6(i) and 45.6(ii).

45.10 Salary maintenance:
Where the OAIC reduces the classification of an employee under s 23 of the Public Service Act, salary maintenance will be applied from the date of reduction in classification for a period of 6 months. Salary maintenance will be calculated on the basis of the employee’s regular and ongoing salary.

45.11 Involuntary termination of employment:
(i) If after 3 months from the date an employee has been notified in writing under clause 45.5(i) that they are an excess employee:
   a. the OAIC has been unable to assign duties to the employee (at or below level) despite having taken all reasonable steps to do so
   b. the employee has not consented to termination of employment

the Australian Information Commissioner or delegate may decide to involuntarily terminate the employment of the excess employee under s 29 of the Public Service Act.

(ii) An excess employee cannot have their employment terminated involuntarily unless they have rejected the opportunity to provide their consent to their termination of employment.

(iii) employees whose employment has been terminated involuntarily by the Australian Information Commissioner or delegate under s 29 of the Public Service Act will receive the same entitlements on termination as employees who consent to termination of employment except that the redundancy benefit will be reduced to account for salary payments received during the redeployment period. The reduction in the amount of the redundancy benefit cannot be more than half the amount the employee would have received if they had provided their consent to termination of their employment subject to any minimum amount the employee is entitled to under the NES.

(iv) If an employee is entitled to a redundancy period under the NES, the redeployment/retention period at Clause 45.11(i) will be reduced by the employees’ redundancy pay entitlement under the NES on termination, calculated as at the expiration of the retention period (as adjusted by this clause).
46. Payment on death

46.1 Where an employee has died or the Australian Information Commissioner or delegate has directed that an employee will be presumed to have died on a particular date, the Australian Information Commissioner or delegate may authorise the payment of the amount to which the employee would have been entitled had the employee ceased employment through resignation or retirement. Payment may be made to dependants or the partner of the employee or the employee’s legal personal representative. If a payment has not been made within 12 months of the employee’s death, it shall be paid forthwith to the legal personal representative. Long service leave credits will be paid out in accordance with the Long Service Leave Act (Commonwealth Employees) 1976.

47. Abandonment of employment

47.1 Where an employee is absent from duty without permission for more than 21 calendar days, they will be considered to have abandoned their employment unless they can prove to the satisfaction of the OAIC that the absence was, in all the circumstances, warranted. Where an employee is unable to substantiate that their absence from duty is or was warranted, their employment may be terminated under s 29 of the Public Service Act, subject to Part 3-2 of the Fair Work Act, on the ground of ‘non-performance of duties’.

48. Resignation

48.1 Notice periods: The OAIC expects that employees would provide reasonable notice of their intention to resign. This notice period should be a minimum of 2 weeks where possible.

Part 3F: Safe and supportive working environment

49. Work health and safety

49.1 The parties to this Agreement are committed to effective cooperation between the OAIC and its employees on work health and safety (WH&S) matters. The OAIC and its employees aim to create and maintain a safe working environment and to fulfil their requirements under the Work Health and Safety Act 2011 (Cth) (WH&S Act). Further information can be found in the OAIC’s Work Health and Safety policy and the OAIC’s Harassment Policy.

49.2 Supporting eye health:

(i) The OAIC will reimburse employees for attendance at standard eye examinations for screen based equipment, for any portion of the fee not covered by Medicare. Appointments may be made every 2 years or as otherwise approved.
(ii) In addition, where an employee requires new spectacles/lenses as the result of such appointment, the OAIC offers financial support for the cost of spectacles/lenses for any portion not covered by private health insurance up to the following amounts:

- $80 for single
- $140 for bifocal or multifocal

49.3 **Annual influenza vaccinations:**
The OAIC will provide annual influenza injections for interested employees.

49.4 Under the *Safety, Rehabilitation and Compensation Act 1988*, the OAIC has an ongoing responsibility to manage workers' compensation claims and provide rehabilitation and return to work programs for injured employees. Supervisors and colleagues of injured employees will cooperate with case managers to provide the necessary work environment and duties to enable employees to achieve the objectives set down in their rehabilitation plan.

50. **Employee assistance**

50.1 The OAIC provides employees and their families with access to a confidential, professional counselling service to help them resolve either personal or work related problems. On commencement, employees will be advised of the availability of the employment assistance program (EAP) service.

50.2 There will be no initial cost to employees who contact the counselling service, however if the counselling service refers the employee to another service, or agrees to provide services in addition to those under contract to the OAIC, then the employee will be responsible for any costs which may arise.

50.3 Supervisors may access the service to support them in their roles and should encourage employees to use the service where appropriate.

51. **Healthy lifestyle**

51.1 The OAIC encourages its employees to consider healthy lifestyle activities as a means to develop and maintain work and life balance. In addition, financial support of up to $250 per financial year will be available to reimburse employees who undertake approved activities. The supported activities will have an emphasis on promoting health and wellbeing and be approved by the delegate.

Further information can be found in the OAIC's *Healthy Lifestyle Program guidelines*.
Part 3G: Review of employment decisions

52. Review of employment decisions

52.1 An employee may seek a review of actions under s 33 of the Public Service Act.

52.2 Termination of employment:

(i) The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee has under:
   a. the Fair Work Act
   b. other Commonwealth laws (including the Constitution)
   c. at common law.

(ii) Termination of, or a decision to terminate employment, cannot be reviewed under Procedures for dealing with disputes (Clause 9) or procedures for the Review of employment decisions (Clause 52.1) of this Agreement.

(iii) Nothing in this Agreement prevents the OAIC from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with the relevant provisions of the Fair Work Act, subject to compliance with the procedures established by the OAIC for determining whether an employee has breached the Code of Conduct under s 15 of the Public Service Act.

52.3 Unsatisfactory performance of duties (underperformance):
Where an employee is aggrieved about an action or decision related to the unsatisfactory performance of their duties, these matters will be addressed with the provisions at Clause 17 of this Agreement and, if necessary, under sub-Clause 52.2 above.

Part 3H: Allowances

53. Workplace allowances

53.1 An allowance of $31.80 per fortnight will be paid to an employee who is appointed to undertake one or more of the following roles:

- First Aid Officer (requires current Senior First Aid Certificate or equivalent)
- Health and Safety Representative
- Fire Warden
- Harassment Contact Officer.

53.2 Payment of the allowance will cease for continuous absences of over 4 weeks.
53.3 Each role has inherent training requirements which must be successfully met as a condition of receiving the allowance.

53.4 Where employees accept more than one of these roles, they will only be entitled to a single allowance.

**54. Motor vehicle allowance**

54.1 Where the Australian Information Commissioner or delegate considers that it will result in greater efficiency or involve less expense, he or she may authorise an employee to use a private motor vehicle owned or hired by that employee at their own expense for official purposes.

54.2 Motor vehicle allowance will be payable in accordance with the ATO Reasonable Allowance Rates, as varied from time to time.

**55. Travelling allowance**

55.1 A travelling allowance shall be payable to an employee who undertakes travel on official business and is required to be absent overnight.

55.2 Travelling allowances are in addition to the cost of conveyance.

55.3 An employee who is travelling to a place of work in anticipation of a permanent move to that place of work, and who has been advised in writing that the move is to be made permanent, will not be eligible to receive travelling allowance during employment at that place of work.

55.4 **Travelling allowance rates:**

   (i) An employee who is required to be absent overnight from the employee’s usual place of work on official business, under Clause 55.1 will be paid, prior to undertaking the travel, in accordance with the ATO Rulings on Reasonable Daily Travel Allowance amounts (equivalent non-SES rates).

   (ii) **Private non-commercial rate:**

   Where commercial accommodation is not required the employee is not eligible to receive a payment under Clause 55.4(i). The employee will be eligible to receive a payment for every overnight absence in accordance with ATO rulings for reasonable daily travel allowance (equivalent non-SES) amounts for meals and incidentals (for capital cities) published annually.

55.5 **Reviewed travelling allowance:**

After an employee has resided in the one locality for a period of 21 days, the employee will be paid an allowance equal to the amount actually expended on accommodation, meals and incidentals, or an amount which the OAIC considers to be reasonable in the circumstances.
55.6 **Part day travelling allowance:**
It is recognised that employees may be required to be absent for more than a standard day when travelling to attend meetings in regional areas or interstate. To compensate an employee for time spent travelling and additional costs, an employee who is required to be absent from the employee’s usual place of work on official business for a period of not less than 10 hours, but is not absent overnight, may be paid $80. Supervisors may agree to reasonable compensatory time off or include as flexleave in recognition of any additional time spent travelling outside normal working hours when the period of travel is less than 10 hours. The employee’s normal travelling time would be taken into account when considering this.

55.7 **Approval of additional expenses:**
Where reasonable evidence is provided to the satisfaction of the Australian Information Commissioner or delegate that the allowance payable to an employee under 55.1, 55.4 and 55.6 is insufficient to cover expenses which have been, or may be, incurred, the Australian Information Commissioner or delegate may direct payment as is necessary to meet those expenses.

55.8 **Repayment when travel not undertaken:**
An employee who fails to undertake the anticipated travel, or who undertakes the travel for a lesser period than anticipated, will repay either the full travel allowance, or the difference between the allowance paid and the amount that would have been payable for the actual absence in accordance with the OAIC Chief Executive Instructions.

55.9 **Accommodation/meals provided by the Commonwealth:**
Where an employee is provided with either accommodation or adequate meals, or both, at Commonwealth expense:

(i) the employee will not be paid those components of the allowance under Clause 55.1 in respect of any accommodation or meals provided, and

(ii) payment will be made in respect of incidental expenses during the period as the delegate directs.

55.10 Where an employee who is absent on duty from the employee’s usual place of work takes personal/carer’s leave for a condition for which the employee is not at fault and is unable to return home, the employee is entitled to be reimbursed an amount equal to the costs incurred by the employee up to the amount that would be payable under Clause 55.1.

55.11 **Reimbursement for carer’s costs:**
Where an employee is required to travel for the purpose of official duty away from his or her usual place of work the employee will, subject to prior approval of the arrangements and the cost, be entitled to be reimbursed for any additional costs associated with additional care arrangements.
55.12 **Overseas travel:**

(i) An employee required to travel on official business overseas will be provided with a recoverable cash advance to meet reasonable accommodation, meal and incidental expenses. The cash advance will be administered on a case-by-case basis having regard to the costs associated with the country being visited. The rates in accordance with the ATO Rulings will be used as a basis for determining reasonable expenses.

(ii) An employee will be required to comply with the conditions for overseas travel set out in the OAIC’s travel diary and acquit any payments.

56. **Class of air travel**

56.1 An employee is entitled to economy class where required to travel on official business within Australia.

56.2 An employee is entitled to business class where required to travel on official business overseas.

57. **Relocation expenses**

57.1 The OAIC may determine the extent of any financial assistance for relocation from one locality to another upon promotion, engagement, movement of an employee or where an employee is assigned duties at or below level.

58. **Loss, damage and indemnity**

58.1 The OAIC may approve reimbursement to an employee for loss or damage to clothing or personal effects which occurred in the course of the employee’s work.
PART 4—APPENDICES

APPENDIX A — Consultation

OAIC consultation forum

The parties agree to continue the OAIC consultation forum (OCF). The OCF provides a forum for consultation between the OAIC, employees and their representatives to consider:

- proposed changes to its terms of reference
- issues relating to the implementation of this Agreement
- policies and guidelines relating to working arrangements

The OCF will meet every 6 months on dates set in advance. In exceptional circumstances, extra meetings may be convened.

Further information can be found in the OCF’s Terms of Reference.

Consultation on policies and guidelines related to working arrangements

Any proposed new, or a proposed substantive change to an existing, policy or guideline relating to working arrangements will be made available to staff for comment via the OAIC’s intranet for at least 2 weeks.

Procedure for consultation on major changes

(1) The following procedure applies if the OAIC:

   (a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its operations that is likely to have a significant effect on the employees; or

   (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

(2) For a major change referred to in paragraph (1)(a):

   (a) the OAIC must notify the relevant employees of the decision to introduce the major change; and

   (b) subclauses (3) to (9) apply.
(3) The relevant employees may appoint a representative for the purposes of these procedures.

(4) If:

(a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

(b) the employee or employees advise the OAIC of the identity of the representative;

the OAIC must recognise the representative.

(5) As soon as practicable after making its decision, the OAIC must:

(a) discuss with the relevant employees:

(i) the introduction of the change; and

(ii) the effect the change is likely to have on the employees; and

(iii) measures the OAIC is taking to avert or mitigate the adverse effect of the change on the employees; and

(b) for the purposes of the discussion - provide, in writing, to the relevant employees:

(i) all relevant information about the change including the nature of the change proposed; and

(ii) information about the expected effects of the change on the employees; and

(iii) any other matters likely to affect the employees.

(6) However, the OAIC is not required to disclose confidential or commercially sensitive information to the relevant employees.

(7) The OAIC must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

(8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the operation of the OAIC, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.
(9) In this term, a major change is likely to have a significant effect on employees if it results in:

(a) the termination of the employment of employees; or

(b) major change to the composition, operation or size of the OAIC’s workforce or to the skills required of employees; or

(c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or

(d) the alteration of hours of work; or

(e) the need to retrain employees; or

(f) the need to relocate employees to another workplace; or

(g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

(10) For a change referred to in paragraph (1)(b):

(a) the OAIC must notify the relevant employees of the proposed change; and

(b) subclauses (11) to (15) apply.

(11) The relevant employees may appoint a representative for the purposes of these procedures.

(12) If:

(a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

(b) the employee or employees advise the OAIC of the identity of the representative;

the OAIC must recognise the representative.

(13) As soon as practicable after proposing to introduce the change, the OAIC must:

(a) discuss with the relevant employees the introduction of the change; and
(b) for the purposes of the discussion - provide to the relevant employees:

(i) all relevant information about the change, including the nature of the change; and

(ii) information about what the OAIC reasonably believes will be the effects of the change on the employees; and

(iii) information about any other matters that the OAIC reasonably believes are likely to affect the employees; and

(c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

(14) However, the OAIC is not required to disclose confidential or commercially sensitive information to the relevant employees.

(15) The OAIC must give prompt and genuine consideration to matters raised about the change by the relevant employees.

(16) In this procedure:

"relevant employees" means the employees who may be affected by a change referred to in subclause (1).
APPENDIX B—Rates of pay

<table>
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<th>Classification</th>
<th>Rate prior to commencement</th>
<th>On the first full pay period following commencement</th>
<th>On the first full pay period following the end of the 12th month after commencement</th>
<th>On the first full pay period following the end of the 24th month after commencement</th>
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APPENDIX C— Junior rates of pay and supported wage for employees with a disability

Junior rates of pay

Junior rates of pay as a percentage of the APS Level 1 classification component shall apply as follows:

- under 18 years of age – 60%
- at 18 years of age – 70%
- at 19 years of age – 81%
- at 20 years of age – 91%

Supported wage for employees with a disability

1. Employees eligible for a supported wage

1.1 This Appendix defines the conditions which will apply to employees who, because of the effects of a disability, are eligible for a supported wage. In the context of this appendix, the following definitions will apply:

‘Supported Wage System’ means the Commonwealth Government system to promote employment for people who cannot work at full salary because of a disability, as documented in the Department of Education, Employment and Workplace Relations Supported Wage System Handbook.

‘Approved assessor’ means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual’s productive capacity within the Supported Wage System.

‘Disability support pension’ means the Commonwealth Government pension scheme to provide income security for persons with a disability as provided for under the Social Security Act 1991 (Cth), as amended from time to time, or any successor to that scheme.

‘Assessment instrument’ means the tool provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

2. Eligibility criteria

2.1 Employees covered by this appendix will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
2.2 This appendix does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers’ compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their employment.

3. Supported wage rates

3.1 Employees to whom this appendix applies shall be paid the applicable percentage of the relevant salary rates under this Agreement, according to the following schedule:

<table>
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<th>Assessed capacity</th>
<th>% of relevant salary rate</th>
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<tr>
<td>10%</td>
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<tr>
<td>90%</td>
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</table>

4. Assessment of capacity

4.1 For the purpose of establishing the percentage of the relevant salary rate to be paid to an employee under this Agreement, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor and documented in an assessment instrument.

5. Lodgement of assessment instrument

5.1 All assessment instruments under the conditions of this appendix, including the appropriate percentage of the relevant salary rate to be paid to the employee, will be lodged by the OAIC with Fair Work Australia.

5.2 All assessment instruments shall be agreed and signed by the parties to the assessment.

6. Review of assessment

6.1 The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

7. Other terms and conditions of employment

7.1 Where an assessment has been made, the applicable percentage will apply to the salary rate only. Employees covered by the provisions of this appendix will be
entitled to the same terms and conditions of employment as all other employees
covered by this Agreement paid on a pro rata basis.

8. **Workplace adjustment**

8.1 The OAIC will take all reasonable steps to make changes in the workplace to
enhance the employee's capacity to do the job. Changes may involve redesign of job
duties, working time arrangements and work organisation in consultation with other
employees in the area.

9. **Trial period**

9.1 In order for an adequate assessment of the employee's capacity to be made,
an employer may employ a person under the provisions of this appendix for a trial
period not exceeding 12 weeks, except that in some cases additional work
adjustment time (not exceeding 4 weeks) may be needed.

9.2 During the trial period the assessment of capacity will be undertaken and the
proposed salary rate for a continuing employment relationship will be determined.

9.3 The minimum amount payable to the employee during the trial period will be
no less than $81 per week.

9.4 Where the employer and employee wish to establish a continuing employment
relationship following the completion of the trial period, a further contract of
employment shall be entered into based on the outcome of assessment under
Clause 4 of this appendix.
Formal acceptance of Agreement and signatories

Employer

Signed for, and on behalf of, the Commonwealth of Australia by the Acting Australian Information Commissioner.¹

Signed: .................................................. Timothy Pilgrim PSM
Acting Australian Information Commissioner
Level 3, 175 Pitt Street, Sydney, NSW

Date 6/4/16

Bargaining Representative: Community and Public Sector Union

Signed for, and on behalf of, the Community and Public Sector Union

Signed: .................................................. Melissa Donnelly
Acting CPSU National President
Community and Public Sector Union
5/191-199 Thomas Street, Haymarket NSW 2000

Date 7/4/16

¹ The Australian Information Commissioner is the Agency Head of the Office of the Australian Information Commissioner by virtue of s5(3)(b) of the Australian Information Commissioner Act 2010
OFFICE OF THE
AUSTRALIAN INFORMATION
COMMISSIONER
ENTERPRISE AGREEMENT
2016–2019
This Agreement is to be referred to the Fair Work Commission for approval pursuant to s 185 of the *Fair Work Act 2009*

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PART 1—TECHNICAL AND GENERAL MATTERS

1. Title

1.1 This Agreement will be known as the Office of the Australian Information Commissioner Enterprise Agreement 2016–2019.

1.2 This Agreement is made under Part 2-4 of the Fair Work Act.

2. Coverage

2.1 This Agreement covers the:

- Australian Information Commissioner on behalf of the Commonwealth of Australia and
- employees of the OAIC, subject to Clause 3

2.2 The parties to this Agreement are bound by its terms.

3. Application

3.1 This Agreement applies to all employees of the OAIC with the exception of:

(i) members of the Senior Executive Service;
(ii) employees on secondment arrangements whose salaries are payable by organisations other than the OAIC.

3.2 Employees acting temporarily in Senior Executive Service positions may continue to be subject to this Agreement. Any additional entitlements may be determined by the delegate.

4. Commencement and nominal expiry dates

4.1 This Agreement commences 7 days after the date this Agreement is approved by the FWC and nominally expires 3 years after commencement.

5. Relationship to other awards and legislation

5.1 Other Commonwealth laws concerned with employment, such as (but not limited to) the:

- Public Service Act 1999
- Privacy Act 1988
- Fair Work Act 2009
- Long Service Leave (Commonwealth Employees) Act 1976
• Maternity Leave (Commonwealth Employees) Act 1973
• Paid Parental Leave Act 2010
• Superannuation Act 1976
• Superannuation Act 1990
• Superannuation Benefits (Supervisory Mechanisms) Act 1990
• Superannuation Productivity Benefit Act 1988
• Safety, Rehabilitation and Compensation Act 2011
• Work Health and Safety Act 2011

continue to apply according to their terms.

5.2 There are policies and guidelines that support the operation of this Agreement. The policies and guidelines are not incorporated into and do not form part of this Agreement. If there is any inconsistency between the policies and guidelines and the express terms of this Agreement, the express terms of the Agreement will prevail to the extent of any inconsistency.

5.3 While recognising that the usual form of employment is ongoing, consistent with s 22 of the Public Service Act, the Australian Information Commissioner reserves the right to employ staff on a non-ongoing basis. Non-ongoing employees may be employed on an irregular or intermittent basis, or for a specified term or a specified task.

6. Individual flexibility arrangements

6.1 The OAIC and an employee covered by this Enterprise 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
   e. remuneration and/or
   f. leave

(ii) The arrangement meets the genuine needs of the OAIC and employee in relation to one or more of the matters mentioned in paragraph (i); and

(iii) The arrangement is genuinely agreed to by the OAIC and the employee.

6.2 The OAIC must ensure that the terms of the individual flexibility arrangement:
(i) are about permitted matters under s 172 of the Fair Work Act
(ii) are not unlawful terms under s 194 of the Fair Work Act, and
(iii) result in the employee being better off overall than the employee
would be if no arrangement was made.

6.3 The OAIC must ensure that the individual flexibility arrangement:
   (i) is in writing
   (ii) includes the name of the employer and employee
   (iii) is signed by the delegate and employee and if the employee is under
        18 years of age, signed by a parent or guardian of the employee
   (iv) includes details of:
        a. the terms of the Enterprise Agreement that will be varied by the
           arrangement
        b. how the arrangement will vary the effect of the terms
        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

6.4 The OAIC must give the employee a copy of the individual flexibility
arrangement within 14 days after it is agreed to.

6.5 The OAIC or employee may terminate the individual flexibility arrangement:
   (i) by giving no more than 28 days written notice to the other party to
       the arrangement
   (ii) if the OAIC and employee agree in writing – at any time.

7. Variations of Agreement

7.1 This Agreement may be varied by application to Fair Work Commission
pursuant to Division 7, of Part 2-4 of the Fair Work Act 2009.

8. Interpretations

‘Action’ includes a refusal or failure to act.
‘APS’ means the Australian Public Service.
‘Casual employee’ means an employee engaged on an irregular or intermittent basis.
‘Delegate’ means the Australian Information Commissioner or someone delegated
with relevant powers and functions of the Australian Information Commissioner.
‘Director’ means an employee at the EL2 classification.
'Employee' means a person employed full-time or part-time by the OAIC under and within the meaning of the *Public Service Act 1999*.

'Fair Work Act' means the *Fair Work Act 2009*.

'Family' means the member of an employee’s family or a significant other person that the Delegate agrees, on reasonable grounds, has a strong affinity with the employee including immediate family as defined under s 12 of the *Fair Work Act*.

'FWC' means the Fair Work Commission.

'Maternity Leave' is a period of absence of up to 52 weeks in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*.

'Registered Health Practitioner’ means a medical service provider or alternative health provider, licensed or registered, and recognised by a private health fund or by Comcare.

'Medical certificate’ means a certificate provided by a Registered Health Practitioner as defined above.

'NES’ means the National Employment Standards which are contained in the *Fair Work Act*.

'OAIC’ means the Office of the Australian Information Commissioner.

'Salary’ is the employee’s rate of salary/pay (in accordance with the salary/pay rates at Appendix B) and will be salary for all purposes. Specifically, where salary sacrifice arrangements and purchased leave options or other relevant arrangements are in place, the employee’s salary for purposes of superannuation, severance and termination payments will be determined as if the salary sacrifice or other arrangement had not been entered into.

'SES’ means Senior Executive Service.

'Supervisor’ means the employee responsible for a section or team within the OAIC.

9. **Procedures for dealing with disputes**

9.1 If a dispute relates to:

(i) a matter arising under the Agreement, or

(ii) the National Employment Standards

this term sets out the procedures to settle the dispute.

9.2 An employee who is party to the dispute may appoint a representative for the purposes of the procedures in this term.

9.3 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.
9.4 If discussions at the workplace level do not resolve the dispute, a party may refer the matter to Fair Work Commission.

9.5 The Fair Work Commission may deal with the dispute in two stages:

(i) the Fair Work Commission 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 the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
   a. arbitrate the dispute; and
   b. make a determination that is binding on the parties.

Note: If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Fair Work Act. A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5.1 of the Fair Work Act. Therefore, an appeal may be made against the decision.

9.6 While the parties are trying to resolve the dispute using the procedures in this term:

(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 employer to perform other available work at the same workplace, or at another workplace, unless:
   a. the work is not safe
   b. applicable occupational health and safety legislation would not permit the work to be performed
   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.

9.7 The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.

10. Delegations

10.1 The Australian Information Commissioner may delegate any or all of his or her powers and functions under this Agreement, including the power of delegation and may do so subject to conditions but no such delegation shall prevent the personal exercise by the Australian Information Commissioner of a power or function so delegated.
PART 2—STATEMENT OF BUSINESS PRINCIPLES

11. Objectives

11.1 This Agreement is to assist the OAIC in achieving its purpose, vision, and strategic goals, as reflected in the OAIC’s Strategic Plan from time to time.

11.2 The OAIC will facilitate a cooperative and consultative workplace through the consultation arrangements at Appendix A.

11.3 The role of workplace representatives, including union delegates and employee representatives, will be respected and facilitated, in accordance with the Fair Work Act.

11.4 This Agreement recognises the challenges and opportunities the OAIC and its staff have in further developing an independent statutory agency that delivers valued services to Parliament, government agencies, private entities, interest groups and the public while also offering a welcoming and flexible workplace in which staff have the opportunity to develop their skills and expertise.

12. Code of Conduct and APS Values

12.1 The OAIC is committed to delivering high quality professional public service. In implementing this Agreement, the OAIC will act ethically and lawfully as an employer. In implementing this Agreement and in undertaking his or her duties, an employee shall comply with the Australian Public Service Values and Code of Conduct and shall not behave in a way contrary to the interest of the OAIC.

12.2 In addition to the APS Code of Conduct, OAIC employees must comply with OAIC policies and guidelines and use the resources, equipment and facilities of the OAIC in a proper and lawful manner, recognising the particular nature of the OAIC’s role and functions.

12.3 Breaches of the Code of Conduct:

(i) Matters concerning possible breaches of the Code of Conduct as specified at 12.1 and 12.2 above, will be dealt with in accordance with relevant provisions of the Public Service Act 1999, Public Service Commissioner’s Directions and the Public Service Regulations 1999 and principles governing the application of natural justice.

Further information can be found in the OAIC’s Breaches of the APS Code of Conduct procedures.

(ii) Non-ongoing employees and employees on probation are excluded from the provisions of Clause 12.3 as this is dealt with under the terms of their engagement.
13. Anti-discrimination and workplace diversity

13.1 The OAIC is an organisation which values fairness, equity and diversity. Consistent with that aim, the OAIC is committed to preventing and eliminating discrimination on the basis of race, colour, gender, sexual orientation or practices, age, disability, marital status, family responsibilities, pregnancy, religion, political opinion, irrelevant criminal record, national extraction, membership or non-membership of a trade union or social origin.

13.2 The OAIC will develop and implement a Diversity strategy which recognises and values the diverse skills, cultural values and backgrounds of its employees and will incorporate actions previously detailed in its Reconciliation Action Plan, Disability Action Plan, Multicultural Action Plan/Multicultural Access and Equity Policy and Workplace Diversity Program.

13.3 The OAIC recognises the need for a supportive and flexible workplace to enable employees to combine work and family responsibilities. The Agreement contains clauses that support and promote flexible, family friendly practices and includes access to part time work, home-based work, parental leave and personal/carers leave which assist employees to balance their family and work responsibilities.

14. Workplace communication

14.1 The OAIC will consider, assess and respond to employee requests for changes to work arrangements in a transparent, prompt and reasonable manner, generally within 21 days of receiving a written request. If a decision cannot be made within 21 days, the employee will be advised of the reason for the delay and when a decision can be expected.

14.2 If the request is refused, the reason for the refusal will be provided in writing.
PART 3—EMPLOYMENT CONDITIONS

Part 3A: Performance management and learning and development

15. Talking about performance management framework

15.1 The purpose of the OAIC’s Talking about performance framework is to strengthen and support the OAIC in performing its functions by providing regular and formal assessment of employees’ work performance and to provide employees with skill development and career advancement opportunities. Further information can be found in the OAIC’s Talking about performance framework.

15.2 Annual assessment of an employee's performance will be the basis of salary progression within the pay points assigned to their classification and may also be taken into account:

(i) when considering an employee for temporary reassignment of duties or promotion

(ii) as a basis to commence proceedings in relation to the unsatisfactory performance of duties or misconduct.

15.3 Employees and supervisors will develop a performance agreement and employees will have their work performance assessed and rated, generally by their immediate supervisors. Employees will be eligible to advance by one salary point in the relevant classification pay range subject to meeting a performance standard rating of ‘Strong and effective contribution’ or ‘Sustained high level of contribution’.

15.4 Employees rated ‘Unsatisfactory contribution’ will not be eligible for salary progression and may be subject to proceedings noted at Clause 17 on ‘Managing Underperformance’.

15.5 The OAIC is committed to providing regular feedback on performance to staff and recognises that the Talking about performance framework is one avenue for this.

15.6 Employees who are not satisfied with the supervisor’s assessment may request a review by following the OAIC’s procedures in respect to review of employment decisions contained in Clause 52.

16. Learning and development

16.1 The OAIC is committed to providing opportunities for employees to gain and maintain the skills needed to do their jobs and assisting employees to achieve their full potential by supporting learning and development opportunities. The OAIC recognises the importance of supporting the development of our employees to achieve the best possible outcomes for our clients.
Further information can be found in the OAIC’s Talking about performance framework and Learning and Development Plan.

16.2 Learning and development activities will:

(i) have a clear connection with the work of the OAIC
(ii) have a direct link to individuals’ work responsibilities
(iii) assist ongoing career development.

16.3 The parties to this Agreement are committed to adequate training support to accompany changes, innovations or improvements to work arrangements.

16.4 Performance agreements play a vital role in identifying learning and development needs for employees on an individual, work unit and agency basis.

16.5 Reimbursement of reasonable expenses when attending learning and development activities:
The OAIC will, subject to prior approval of such arrangements by the delegate including the cost, reimburse reasonable additional expenses arising from additional care arrangements when the employee is required to attend a particular learning and development activity outside normal hours of work or away from his or her normal work location.

16.6 Studies assistance:
The OAIC has a commitment to support employees undertaking formal studies that are relevant both to the OAIC and the employee’s personal career development.

(i) Eligibility
All ongoing employees not on probation and non-ongoing employees with more than 6 months service may apply for approval as a student. Approval as a student is not an automatic entitlement but may be granted subject to operational requirements of the OAIC and equity with other employees of the OAIC. An employee’s proposed course of study as a student must be approved by the delegate for the employee to have any access to any form of studies assistance

(ii) Study leave
The Australian Information Commissioner or his delegate may grant paid study leave or study leave without pay to approved students.

(iii) Financial studies assistance
Approved students may apply for financial assistance up to $500 per semester per completed subject payable on the successful completion of the subject.
(iv) **Advice of approval**  
Employees will be advised in writing of approval of their proposed course of study, study leave and/or financial assistance. Where a request is refused the employee may seek a review of the decision under Clause 52 of this Agreement.

Further information can be found in the OAIC’s [Studies assistance guidelines](#).

### 17. Managing underperformance

17.1 The procedures for managing underperformance only apply to ongoing employees who are not on probation. They do not apply to non-ongoing employees. They do not apply in cases of suspected breaches of the Code of Conduct or where there is a health-related reason for unsatisfactory performance or where an essential qualification has been lost.

17.2 Where an employee’s performance consistently falls below an acceptable level it may be necessary to implement the procedures for managing poor performance.

17.3 A structured performance assessment plan must be developed. The performance assessment plan will be implemented over a period of time determined by the delegate not exceeding 2 months unless there are exceptional circumstances.

17.4 The assessment process must have regard for the principles of procedural fairness, and natural justice and consider issues of privacy.

17.5 Where the delegate determines, on the basis of the assessment, that the employee’s performance remains unsatisfactory; he or she will commence action to:

- assign the employee to other duties
- reduce the employee’s classification
- terminate the employee
- take some other form of appropriate action.

### Part 3B: Classification, pay rates and remuneration arrangements

#### 18. Increases in rates of pay

18.1 Salary increases as follows:

- (i) 3% on the first full pay period following commencement
- (ii) 2% on the first full pay period following the end of the 12th month after commencement, and
- (iii) 1% on the first full pay period following the end of the 24th month after commencement.
19. Classification structure and remuneration

19.1 The range of duties assigned to each position and the employees engaged to perform them, shall be allocated an approved APS classification within the classification structure included at Appendix B. Further information on work level standards that apply to each classification can be found in the APS’s Work Level Standards guidance.

19.2 Where an employee commences employment with the OAIC, or is moved or promoted to a position in the OAIC, salary will be payable at the minimum salary point applicable to the employee’s position classification unless the Australian Information Commissioner or delegate authorises payment above the minimum point in that salary range having regard to skills, qualifications, experience, market considerations and equity with other employees. The Australian Information Commissioner or delegate may authorise payment above the maximum point of the salary range, where immediately prior to commencing with the OAIC, the employee was in receipt of salary above the maximum point in the current salary range whether or not the previous employment was within the APS.

19.3 Incorrect salary point:
Where, at the time of engagement, an employee’s salary is set at an incorrect salary point within the applicable salary scale the Australian Information Commissioner or delegate may authorise in writing the payment of the correct salary point.

19.4 Reversion:
Where an employee requests in writing to perform work at a lower work value level, the OAIC may determine in writing that the employee shall be paid a rate of salary applicable to the lower work value position classification.

19.5 Irregular or intermittent employees:
Non-ongoing employees who are employed on an irregular or intermittent basis will be paid an additional loading of 20% of salary in lieu of paid leave and public holidays not worked. Irregular and intermittent employees are entitled to long service leave under the Long Service Leave (Commonwealth Employees) Act 1976.

20. Payment of salary and flexible remuneration packaging

20.1 An employee shall be paid fortnightly in arrears and by electronic funds transfer into a financial institution account of his or her choice.

In the event of an overpayment of salary or allowances monies will be recovered from future pays in accordance with the OAIC Chief Executive Instructions.

20.2 The fortnightly pay shall be based upon the following formula:

\[
\text{fortnightly pay} = \text{remuneration} \times \frac{12}{313}
\]

20.3 A remuneration packaging scheme is available to employees:
(i) An employee may opt to receive a mix of cash and specified non-cash items up to the total value of his or her current salary.

(ii) The remuneration packaging scheme shall be undertaken by a bureau service on behalf of the OAIC and participating employees.

(iii) The total cost of an employee’s participation in the scheme, including the cost of cash, non-cash items, taxation and administration/bureau fees, shall be met by the participating employee.

(iv) The implementation and operation of the remuneration packaging scheme shall be cost neutral for the OAIC.

(v) The salary which would have been used for superannuation purposes and severance and termination payments but for the employee electing the option of remuneration packaging is the salary to be used to determine salary for superannuation purposes and severance and termination payments.

21. Remuneration for higher duties

21.1 The filling of short term vacancies by higher duties will only occur where essential to the operational requirements of the OAIC.

21.2 An employee will only be assigned duties at a higher classification level where the period exceeds 15 days or in the case of operational type positions such lesser period as determined by the OAIC.

21.3 Where an employee is assigned duties at higher classification level in excess of 15 days, payment will commence from the beginning of the higher duties period. The parties agree that employees should not be rotated through positions in order to avoid payment of higher duties.

21.4 An employee who is required to undertake duties at a higher classification will not be required to do so without higher remuneration.

21.5 Where an employee is temporarily assigned duties at a higher classification, remuneration will be paid at the minimum rate applicable to the higher classification, unless otherwise determined to be at a higher rate by the Australian Information Commissioner or delegate.

21.6 Where an employee is temporarily assigned duties and the full range of duties is not performed, the Australian Information Commissioner or delegate may determine the remuneration to be paid to the employee.

21.7 An employee temporarily assigned duties at a higher classification level shall be entitled to receive the rate applicable for the higher position during a period of paid leave or public holiday provided that the employee would have received the rate applicable for the higher position if he or she had not been absent from the workplace for the period of the paid leave or the public holiday.
21.8 An employee who has been temporarily assigned duties at a higher level and has been assessed in accordance with Clause 15, to receive a salary increase within the higher classification level may retain that salary point on promotion. The Australian Information Commissioner or delegate will take into account the length of the period of higher duties and how recently the higher duties were performed.

21.9 Where non-Senior Executive Service employees are required to temporarily perform work in Senior Executive Service jobs for more than one week, they will be paid additional salary. The amount of additional salary will be determined by the Australian Information Commissioner or delegate.

22. Payment of overtime

22.1 An employee who is directed by the Australian Information Commissioner or delegate to work outside of standard hours shall be working overtime and shall be entitled to be paid or to receive time off in lieu in accordance with this Clause. This should not result in the employee working hours which are unreasonable or are a risk to employee health and safety.

Further information can be found in the OAIC’s Policy on attendance, flextime, overtime and TOIL.

22.2 The hourly rate for overtime payment will be ascertained by applying the following formulae:

\[
\text{Time and a half rate:} \quad \frac{\text{annual salary}}{313} \times \frac{6}{37 \frac{1}{2}} \times 1.5 \\
\text{Double time rate:} \quad \frac{\text{annual salary}}{313} \times \frac{6}{37 \frac{1}{2}} \times 2 \\
\text{Double time and a half rate:} \quad \frac{\text{annual salary}}{313} \times \frac{6}{37 \frac{1}{2}} \times 2.5
\]

22.3 For the purpose of calculating the formula at 22.2 prescribed weekly hours before overtime is payable will be 37 \(\frac{1}{2}\).

22.4 Executive Level employees:

Except with the approval of the Australian Information Commissioner or delegate, an Executive Level 1 or Executive Level 2 employee shall not be subject to the provisions of Clause 22. Where the Australian Information Commissioner or delegate has approved payment to employees at the Executive Level 1 or 2, payment shall be made at the maximum rate applicable to an APS Level 6. Payment of overtime will only be approved for Executive Level employees in exceptional circumstances.
22.5 **Time-off-in-lieu:**
Where the Australian Information Commissioner or delegate and an employee agree, time-off-in-lieu of payment for overtime may be taken, with the time off accrued at the overtime multiplier, within 4 weeks or such other agreed period from the time of working the overtime. Where the time off is not taken within 4 weeks or such other agreed period then payment for the overtime shall be made.

22.6 **Monday to Saturday:**
Overtime worked Monday to Saturday will be paid at time and a half for the first 3 hours each day and double time thereafter.

22.7 **Sunday:**
Overtime worked on a Sunday will be paid at the rate of double time.

22.8 **Public holiday:**
Overtime on a Public Holiday will be paid at time and a half during standard hours and double time and a half outside of standard hours (as defined in Clause 27.1).

22.9 **Eight hour break:**
An employee who works so much overtime that the employee has not had at least 8 consecutive hours off duty plus reasonable travelling time:

(i) between the termination of the employee’s ordinary duty on any day or shift, and the commencement of the employee’s ordinary work on the next day or shift, or

(ii) on a Saturday, Sunday or a public holiday, not being an ordinary working day, or on a rostered day off, in the 24 hours preceding the employee’s ordinary commencing time on the employee’s next ordinary day or shift

will be granted time off under sub-Clause 22.10.

22.10 An employee who is compelled to work so much overtime that the employee meets the conditions of sub-Clause 22.9 will:

(i) be allowed to leave work after such overtime for a period of 8 consecutive hours off duty, plus reasonable travelling time, and will suffer no loss of pay for ordinary working time occurring during the employee’s absence

(ii) provided that if an employee is required to resume or continue work on the specific written instruction of the Australian Information Commissioner or delegate, without having had 8 consecutive hours off duty plus reasonable travelling time the employee will be paid at double ordinary time rates (for time worked) until the employee has had 8 consecutive hours off duty plus reasonable travelling time; and

(iii) the employee is to suffer no loss of pay for ordinary working time occurring during the employee’s absence.
22.11 Overtime not continuous with ordinary duty:
Subject to this clause, where an employee is required to perform overtime duty and such duty is not continuous with ordinary duty, the minimum overtime payment for each separate overtime attendance will be 4 hours at the prescribed overtime rate.

22.12 Where more than one attendance is involved, the minimum overtime payment provision will, subject to the prescribed minimum payment, not operate to increase an employee’s overtime remuneration beyond that to which the employee would have been entitled had the employee remained on duty from the commencing time of duty on one attendance to the ceasing time of duty on a subsequent attendance.

22.13 For the purposes of determining whether an overtime attendance is or is not continuous with ordinary duty, or is or is not separate from other duty, meal periods will be disregarded.

22.14 Where an overtime attendance, not continuous with ordinary duty, involves duty both before and after midnight, the minimum payment provisions of this sub-clause will be satisfied when the total payment for the whole of the attendance equals or exceeds the minimum payment applicable to one day. Where a higher overtime rate applies on one of the days, the minimum payment will be calculated at the higher rate.

22.15 Meal allowance:
Where an employee is required to work overtime for periods in excess of 3 hours a meal allowance shall be paid in accordance with the Australian Taxation Office (ATO) Reasonable Allowance Rates. This will be varied in line with the ATO’s annual Ruling in June of each year. Payment will be made through the payroll system. An additional amount may be paid for overtime worked in excess of 10 hours. In exceptional circumstances, the delegate may consider a further payment.

22.16 Reimburse reasonable expenses:
Where an employee agrees or is directed to work overtime the Australian Information Commissioner or delegate will, subject to prior approval of such arrangements including the cost, reimburse reasonable additional expenses arising from any additional care arrangements due to the requirement to work overtime.

23. Superannuation

23.1 The OAIC will make superannuation contributions in accordance with its obligations under relevant legislation.

23.2 Where an employee has chosen an accumulations superannuation fund other than the PSS Accumulation Plan (PSSap), the employer contribution will be the same percentage of the fortnightly superannuation contribution salary as that required for employees who are members of PSSap. This will not be reduced by any other contributions made through salary sacrifice arrangements. This clause does not
apply where a superannuation fund cannot accept employer superannuation contributions (e.g. unable to accept contributions for people aged over 75).

*Note:* At the time of commencement of this Agreement the rate of PSSap employer contribution is 15.4%.

23.3 Employer superannuation contributions will not be paid on behalf of employees during periods of unpaid leave that does not count as service, unless otherwise prescribed by legislation.

24. (Not used)

Part 3C: Flexible work arrangements

25. Work/life balance

25.1 The OAIC acknowledges that employees have to balance their working life with other commitments, including family and the community. This is recognised through the provision of a range of flexible attendance arrangements, leave provisions and assistance programs. When applying flexible attendance arrangements and other employment conditions, the OAIC and its employees will consider the operational needs of the OAIC and any effect on other employees to ensure equitable outcomes.

26. Part-time requests

26.1 Under the Fair Work Act (FWA) eligible employees have the right to request flexible working arrangements. The OAIC is committed to providing equitable outcomes for all eligible employees under the FWA and any part-time requests have to be balanced with the operational needs of the OAIC and those of other employees in the work area. Employees agree to be flexible in implementing part-time requests.

26.2 The OAIC may support part-time requests from eligible employees under the FWA for a range of different circumstances, including but not limited to:

   (i) return from maternity/parental leave and additional leave under Clauses 36.1, 37 and 38.1 of this Agreement

   (ii) pre-retirement transition

   (iii) short-term requests such as personal illness, carer needs and study.

26.3 A job sharing request may be supported where it fits within operational requirements.

26.4 Proposals for part-time work may be initiated by supervisors.

26.5 A part-time employee shall accrue all entitlements under this Agreement, other than entitlements to reimbursement, on a pro rata basis.
26.6 Where a request is not agreed to, the employee has the right to seek a review of the decision. The OAIC will consider other alternatives where possible, and outline reasons where a request is not supported.

Further information can be found in the OAIC’s Part-time work policy.

27. Hours of work

27.1 The delegate will determine all matters relating to hours of duty in accordance with the provisions of this clause to ensure that they are consistent with client access, security and operational requirements of the OAIC.

27.2 The OAIC recognises the need for employees to balance their working life commitments with other competing interests, including family and carer responsibilities and does not expect employees to work unreasonable additional hours. It is recognised that some employees will need to work extra hours from time to time in order to meet deadlines and deal with unexpected contingencies. It is expected that supervisors and employees will implement effective work plans to minimise the need to work additional hours, wherever possible.

27.3 Standard hours and bandwidth:

(i) Standard hours of work shall be 150 hours in each 4-week settlement period.

(ii) Standard hours shall be worked within the bandwidth of 7.30 am to 7.00 pm Monday to Friday.

(iii) A standard day is 8.30 am to 5.00 pm with an hour for lunch between 12.30 pm and 1.30 pm.

27.4 Notwithstanding sub-Clause 27.3(ii), standard hours may be worked outside of the bandwidth where an employee and the Australian Information Commissioner or delegate so agree and where operational and security requirements permit. Agreements under this clause should be reviewed on a regular basis to ensure the approved arrangements are operating effectively. In these circumstances employees will not be entitled to overtime payments for agreed work outside the bandwidth hours.

27.5 Core hours:
Core hours will be 10.00 am to 12.00 midday and 2.00 pm to 4.00 pm unless varied by agreement by an employee and their supervisor. Supervisors will genuinely consider an employee’s personal circumstances when considering any request consistent with Clause 13.3. Employees shall ordinarily be present at work during core hours.

27.6 Unpaid meal breaks:
An employee must not work for longer than 5 hours without an unpaid break for a meal of a minimum of 30 minutes and no longer than 2 hours.
27.7 **Start and finish times:**
Starting and finishing times within the bandwidth are to be determined by the Australian Information Commissioner or delegate, after consultation with employee/s. To optimise effective client service, supervisors may require employees (including part-time employees, where this is consistent with their ordinary hours) to attend at specific times during general business hours of 8.30 am to 5.00 pm. It is understood that these arrangements should provide employees flexibility to balance work and personal obligations subject to operational requirements of the OAIC, the need for appropriate supervisory arrangements to be in place and occupational health and safety principles.

27.8 **Use of taxis after hours:**
Where an employee is directed to work after 7.30 pm, the OAIC will provide Cabcharge for the journey home of that employee, subject to prior approval by the relevant supervisor or Director.

27.9 **Flexleave:**
Employees classified as APS 1–6 shall have access to flexleave provisions. Flextime credits accrue only for time worked within the bandwidth or where there is an agreement to work outside the bandwidth. In accessing flexleave:

(i) An employee may not have an accrual in excess of one standard week (or equivalent pro rata for employees working part time) flexleave at the conclusion of any settlement period. Excess flex leave should be utilised in the period that it accrues. Any excess will be reduced automatically to one standard week at the end of the settlement period unless approval is given by the supervisor to carry excessive flex credits forward. This will only occur in exceptional circumstances, eg, periods of high workload. This additional carryover should be used within the next settlement period. The purpose of flex leave is to provide flexibility in work patterns over a regular period and not to build up excessive credits to be used in conjunction with annual leave. An employee may not have a debit of flexleave in excess of 10 hours at the conclusion of any settlement period.

(ii) Periods of absence shall be taken at such times and in such periods as are agreed between the employee and the Australian Information Commissioner or delegate.

(iii) Supervisors must ensure that they manage the hours their team members work so that excessive flextime credits are not accrued without the opportunity for employees to access their flextime leave. If a supervisor identifies that an employee is working excessive hours, they will review employees’ work arrangements in the relevant area to establish whether alternative arrangements are available (eg overtime).

(iv) On termination of employment:
27.10 Where an employee fails to comply with the provisions of flextime, a supervisor may recommend to the delegate that the employee be removed from the flextime scheme for a specified period. The employee would revert to working standard hours for the specified period.

Further information can be found in the OAIC’s Guidelines on attendance, flextime, overtime and TOIL.

27.11 Executive Level employees

(i) Remuneration for Executive Level employees incorporates a component to compensate for the extra demands which may be placed on such employees, including working beyond standard hours.

(ii) Executive Level employees have the flexibility to responsibly manage their own workloads to meet operational needs in consultation with their supervisors. Strategies to reduce the need to work unreasonable additional hours include reviewing workloads, priorities and work practices.

(iii) At times, Executive Level employees may be required to work extended hours during peak workload periods during the week and weekends, but this should not be for lengthy periods. Where it is foreseen that there will be an increase in workload the employee’s supervisor is to raise with the Director/Assistant Commissioner as early as possible to address any issues including work priorities and appropriate time off in lieu (TOIL).

(iv) It is expected that any TOIL arrangements will be discussed and considered at the time of the increased workload. Evidence of hours worked may be required. Executive Level employees will be able to access agreed TOIL as soon as possible, subject to operational requirements. Where agreement cannot be reached between an employee and their Director, the matter may be referred to the delegate to resolve.

(v) TOIL will not be on an hour for hour basis.

Further information can be found in the OAIC’s Guidelines on attendance, flextime, overtime and TOIL.

27.12 Absences without approval:
Where an employee is absent from duty without approval, all pay and other benefits provided under this Agreement, eg flextime, will cease to be available until the
employee resumes duty or is granted leave. Where flextime no longer applies, employees will revert to standard hours (as defined in this clause).

28. Home-based work and remote access

28.1 Where consistent with client service and other operational requirements, an employee may request the OAIC to approve home-based work on either an ongoing or temporary basis.

28.2 Any ongoing or temporary arrangement may be terminated by the Australian Information Commissioner or delegate for cause (e.g., ineffectiveness of the arrangement, or failure of the employee to comply with requirements). Where the Australian Information Commissioner or delegate has decided to terminate an arrangement, the employee concerned shall be given reasonable notice of the termination.

Further information can be found in the OAIC’s Telework policy.

29. (not used)

Part 3D: Leave provisions and public holidays

30. Annual leave

30.1 Purpose:
To provide an equitable work-life balance, the OAIC recognises that it is important for both the employee and the organisation for employees to access annual leave on a regular basis. Employees are encouraged to take their annual leave credits in the year when the credits accrue and are expected to take at least 2 weeks (or 50%) of those annual leave credits in the year when the credits accrue.

30.2 Credit:
A full-time employee shall accrue 20 days paid annual leave per completed year of service. Annual leave will accrue progressively and may be accessed as it accrues.

(i) Re-credit: An employee who would have been able to access personal/carer’s leave, compassionate leave, community service leave or any other type of leave where the NES provides that they not be taken to be on annual leave will be re-credited their annual leave for the period the other leave is granted. The provisions for the other leave to be granted as set out in this agreement apply.

30.3 Annual leave shall be taken at such a time or times and in such a period or periods as may be agreed between the employee and the employee’s supervisor. Annual Leave will not be prepaid.
30.4 Excess leave credit

(i) To assist staff to appropriately utilise their annual leave to maintain an appropriate work-life balance and to assist the OAIC to better manage its accrued annual leave liability employees and the OAIC agree that generally an annual leave credit of more than 6 weeks is excessive.

(ii) Therefore if the annual leave credit an employee is likely to accumulate by 30 June in any given year is over 6 weeks (inclusive of accrued and pro rata entitlements) (or a pro-rated period for non full-time employees) notice will be provided by the OAIC to the employee in the preceding December and March and a request made to the employee to reduce the leave credit to no more than 6 weeks (or a pro-rated period for non full-time employees) by taking annual leave by 30 June.

(iii) Where an employee has more than 6 weeks accrued annual leave credit (or a pro-rated period for non full-time employees) the Australian Information Commissioner or delegate may direct an employee to take annual leave within a reasonable period to reduce their accumulated annual leave credit to 6 weeks (or a pro-rated period for non full-time employees). The reasonable period would not usually be longer than 6 months but in exceptional circumstances may be a longer period.

30.5 Cash out of annual leave:

(i) An employee who has accessed at least 3 weeks annual leave in any 12 month period and has an accrual of at least 5 weeks annual leave may be paid out 1 week of annual leave in lieu of absence from the workplace, subject to subclause (iii) below.

(ii) The delegate may approve further cash out of annual leave if circumstances warrant approval and where the employee has accessed a reasonable amount of annual leave over the previous 12 months, subject to subclause (iii) below.

(iii) Each agreement to cash out a particular amount of paid annual leave must be in writing. Employees cashing out annual leave are required to maintain a balance of at least 4 weeks and the OAIC must pay the employee at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone in accordance with the requirements of s 93 of the Fair Work Act.
31. **Purchased leave scheme**

31.1 An employee may, with the approval of the Australian Information Commissioner or delegate, purchase from one to four additional weeks of annual leave.

31.2 The leave shall be purchased for the amount the employee would have received for the period of leave purchased, if he or she had taken ordinary annual leave for that period, as estimated at the time of applying for participation in the purchased leave scheme.

31.3 The purchase price of the leave shall be deducted from the fortnightly pay of the purchasing employee in equal instalments over the stipulated period prior to the leave being taken:
   - 4 weeks purchased leave 26 pay periods
   - 3 weeks purchased leave 20 pay periods
   - 2 weeks purchased leave 13 pay periods
   - 1 week purchased leave 7 pay periods

31.4 All such leave purchased shall be taken within a 12 month period from the commencing date of accrual or shall be forfeited and the purchase price of the leave refunded.

31.5 Purchased leave shall be taken in accordance with the rules applying to annual leave at Clause 30.

31.6 Approval for entry into the purchased leave scheme is subject to the operational requirements of the OAIC.

31.7 Purchased leave shall count as service for all purposes.

31.8 Entry into the purchased leave scheme shall not affect the superannuation obligations of the OAIC and/or the employee involved.

32. **Career break scheme**

32.1 Employees will be eligible to apply for a 3 month unpaid career break scheme after they have been employed for 5 years and for a further 3 months unpaid for each subsequent 5 year period. The 3 month period is in calendar days and will be non-cumulative. All approvals will be subject to operational requirements and the negotiation of a mutually agreeable period of absence. Where it is of direct benefit to the work of the OAIC and the career development of the employee it will count as service.

33. **Retirement transition**

33.1 Employees who have stated an intention to retire from the workforce within 2 years are able to participate in a retirement transition arrangement. Financial
assistance of up to $500 will be provided for access to retirement seminars and/or superannuation and financial advice. Transition arrangements may vary between individuals as both individual and operational needs are considered, but may include access to part-time work (refer Clause 26.1 for part-time provisions) and/or changes in work level or responsibilities by agreement.

Further information can be found in the OAIC’s Part-time work policy.

34. Personal/carer’s leave

34.1 Personal/carer’s leave may be taken only in the event of personal illness or injury or an unexpected emergency affecting the employee or the illness or injury of, or an unexpected emergency affecting, a member of the employee’s family or household. However, leave will not be granted for the purpose of an employee’s unexpected emergency where it would result in the employee having less than 10 days’ personal/carer’s Leave credits per year available for use for personal injury or illness or caring purposes as provided under the Fair Work Act. The OAIC recognises that caring arrangements may include supporting ill family members interstate or in hospital and caring for a family member where a primary carer is unable to do so.

34.2 Entitlement:

(i) **Ongoing employees:** An employee shall be entitled to 16 days paid personal/carer’s leave upon engagement and shall accumulate a further 16 days paid personal/carer’s leave per completed year of service.

(ii) **Non-ongoing employees:** A non-ongoing employee shall be entitled to 16 days personal/carer’s leave per annum, which accrues progressively. A non-ongoing employee whose employment extends beyond 9 months will be entitled to the full 16 days personal leave. Leave will accrue on a pro rata basis and will not exceed the entitlement that would have occurred if the employee were an ongoing employee.

(iii) If a non-ongoing employee is then engaged on an ongoing basis, they shall be credited with a full entitlement to personal/carers leave as if they had accrued from the date of their commencement in the OAIC.

(iv) An employee in receipt of compensation for more than 45 weeks will accrue personal/carer’s leave on the basis of the hours actually worked.

(v) An employee will not be entitled to paid personal/carers leave while also entitled to paid leave under the Maternity Leave (Commonwealth Employees) Act 1973.

34.3 Reasonable evidence:
Reasonable evidence, such as a medical certificate, is to accompany any application for leave of 3 consecutive days or more.
(i) Where 16 days of personal/carer’s leave have been granted in any accrual year, any subsequent applications for personal/carer’s leave shall be accompanied by reasonable evidence, such as a medical certificate.

(ii) The Australian Information Commissioner or delegate may request an employee to provide reasonable evidence, such as a medical certificate, when any future absence on personal/carer’s leave occurs.

34.4 Notification:
An employee absent from the workplace on account of illness or caring responsibilities shall inform his or her immediate supervisor before the normal commencing time of work or as soon as practicable, by a previously agreed method.

34.5 Conversion:
An employee may access personal/carer’s leave on half-pay where personal circumstances require. Where half pay personal/carers leave is taken, each day taken equates to half a day personal/carer’s leave credit.

34.6 Invalidity:
An employee will not, without the employee's consent, be retired on invalidity grounds before the employee's paid personal/carer’s leave credit has expired except as required by legislation.

35. Compassionate and bereavement leave

35.1 Employees are entitled to take two days paid leave, on each permissible occasion, for the purposes of spending time with a member of the employee’s family or household who has a personal illness or injury that is life threatening or upon the death of a member of an employee’s family or household in accordance with s 105 of the NES.

35.2 An additional day may be granted to an employee upon the death of a member of an employee’s family or household.

35.3 Casual employees are entitled to 2 days unpaid compassionate leave per occasion.

35.4 The Australian Information Commissioner or delegate may approve one day per occasion for the purpose of attending the funeral of a person with a relationship to the employee other than of a member of an employee’s family or household.

35.5 An employee may be required to provide reasonable evidence to support each application for compassionate or bereavement leave.

36. Maternity leave

36.1 Employees covered by this Agreement are entitled to the provisions set down in the Maternity Leave Act (Commonwealth Employees) 1973 (Maternity Leave Act) if they are eligible under that Act.
36.2 Access to paid maternity leave is subject to a qualifying period of 12 months continuous employment as specified in the Maternity Leave Act.

36.3 Under the Maternity Leave Act eligible employees may access up to 12 weeks paid leave, inclusive of public holidays. An employee who is on a period of paid or unpaid maternity leave under the Maternity Leave Act will also have access to a further 4 weeks paid leave to be taken in conjunction with maternity leave. In total, 16 weeks paid leave may be accessed for maternity leave purposes.

36.4 Under the Maternity Leave Act eligible employees may access a period of up to 52 weeks, including approved paid and unpaid leave. An employee may request in writing to return to work during this period on a date earlier than previously approved. The granting of such a request will be at the discretion of the delegate in accordance with s 7A of the Maternity Leave Act. Employees resuming duty full time following their period of maternity leave will return to the position they held prior to their maternity leave or, if the position no longer exists, a position that is nearest in status and remuneration. Any request to resume work on part-time basis will be in writing and in accordance with Clause Error! Reference source not found. (part time) of this Agreement.

36.5 An employee who is pregnant is required to absent herself from duty 6 weeks before the expected date of confinement until 6 weeks after the actual date of birth of the child, unless a medical certificate is provided declaring her fit to either continue or return to duty.

36.6 Periods of paid leave during maternity leave will count as service for all purposes. Where an employee does not have a full year of service, the first 12 weeks (including unpaid leave) also counts for service.

36.7 In order to provide a more flexible administration of maternity leave an employee may elect to receive payment for their maternity leave (including the additional 4 weeks leave under Clause 36.3) at half pay. Only the equivalent full-pay period will count as service.

37. Parental leave

37.1 Parental carer’s leave:

(i) An employee who is not covered by the maternity leave provision but has the same qualifying period of service as per an employee under Clause 36.2, and who has primary parental responsibility caring for a newborn or recently adopted or fostered child under the age 16, is entitled to 16 weeks paid primary carer's leave from the birth, adoption or fostering of the child.

(ii) Up to 2 weeks of this paid leave can be taken by the employee, prior to the date of adoption or fostering, to assist in finalising administrative arrangements.
(iii) An employee accessing primary carer’s leave may request a period or periods of up to 52 weeks, including paid and unpaid leave.

(iv) An employee who is not covered by the maternity leave provision but has the same qualifying period of service as per an employee under Clause 36.2, and who has non-primary parental responsibility caring for a newborn or recently adopted or fostered child under the age 16, may request a period of up to 52 weeks of unpaid leave.

(v) Employees resuming full-time duty following their period of approved leave will return to their previously held position, or if that position no longer exists, a position that is nearest in status and remuneration. Any request to resume work on a part-time basis will be in writing and in accordance with Clause 26 of this Agreement.

(vi) Periods of paid leave under this clause will count as service for all purposes. Paid leave may be accessed at half pay. Only the equivalent full pay period will count as service.

(vii) The Australian Information Commissioner or delegate may request reasonable evidence in support of an application, which may include a statutory declaration.

(viii) Where both partners are employed by the OAIC and one partner has accessed, or intends to access, paid maternity or primary carer’s leave; the other partner may only access primary carer’s leave on a non-concurrent basis and so that the combined period of paid leave does not exceed 18 weeks.

37.2 Flexible work arrangements for parents:

(i) An employee who is a parent, or has responsibility for the care of a child of school age or younger or a child under 18 who has a disability, may request flexible working arrangements, including part-time hours. The employee is not eligible to make this request unless they have completed at least 12 months of continuous qualifying service (the Australian Information Commissioner or delegate may waive this requirement in exceptional circumstances).

(ii) A casual employee engaged for irregular or intermittent duties may only request flexible work arrangements if the employee:

- is a long term casual employee immediately before making the request; and
- has reasonable expectation of continuing employment on a regular and systematic basis.

*Note:* ‘long term casual employee’ is defined at s 12 of the Fair Work Act.

(iii) A request made in accordance with Clause 37.2(i) must be in writing and set out details of the change sought and the reasons for the change. The Australian Information Commissioner or delegate 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.

(iv) For the purposes of this clause:
   • ‘qualifying service’ means service that is recognised for redundancy pay purposes;

37.3 **Supporting parent leave:**

(i) Six weeks paid supporting parent leave will be granted to an employee following the birth, adoption or long-term fostering of a child.

(ii) The OAIC recognises that a parent may include a person who is in a demonstrated parental relationship to the child. The Australian Information Commissioner or delegate may request reasonable evidence in support of an application, which may include a statutory declaration.

(iii) This period of supporting parent leave will count as service and may be taken in one block or, subject to operational requirements, as part of a flexible work arrangement within 12 months of the birth, adoption or fostering of the child.

(iv) This leave is not available to employees covered by paid Maternity or Primary carers leave provisions.

(v) Paid leave may be accessed at half pay. Only the equivalent full-pay period will count as service.

38. **Request for additional leave following maternity or parental leave**

38.1 An employee may request additional unpaid leave up to a further 52 weeks following their maternity leave or parental leave. This leave will not count as service.

38.2 For operational planning purposes requests for this additional leave should be made, where possible, at the commencement of the maternity or parental leave period. Otherwise, employees requesting additional leave under this clause are to provide at least 4 weeks notice of their request.

38.3 An employee may request in writing to return to work during this period on a date earlier than previously approved. The granting of such a request will be at the discretion of the Australian Information Commissioner or delegate and subject to 4 weeks notice for planning purposes.

38.4 Employees resuming duty after this period of leave will return to the same classification level they held prior to their maternity or parental leave. Any request to resume work on part-time basis will be in writing and in accordance with Clause 26 of this Agreement.
39. Jury leave

39.1 An employee is entitled to paid leave to attend jury service. An employee will continue to be paid by the OAIC in lieu of any other payment for jury service. An employee shall be required to pay to the OAIC the amount received for jury service except payments relating to meals, accommodation or fares in accordance with the OAIC Chief Executive Instructions.

39A. Leave for ADF Reserve and Continuous Full Time Service or Cadet Force obligations

39A.1 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.

(i) An employee is entitled to leave with pay, of up to four weeks during each financial year, and an additional two weeks’ paid leave in the first year of ADF Reserve service, for the purpose of fulfilling service in the ADF Reserve.

(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.

(iii) An employee who is an officer or instructor of cadets in a Cadet Force may be granted paid leave of up to three weeks each financial year to perform duties as an officer or instructor of cadets. For these purposes ‘Cadet Force’ means the Australian Navy Cadets, Australian Army Cadets, or the Australian Air Force Cadets.

(iv) 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 annual leave accrual.

39B War Service Sick leave

39B.1 Employees with Defence Force service prescribed by the Veterans’ Entitlement Act 1986 are eligible for additional sick leave while unfit for duty because of a war or defence caused condition. A war-caused condition means an injury or disease of an employee that has been determined under the relevant legislation to be war-caused or defence-caused.

39B.2 Eligible employees will accrue a special credit of nine weeks on commencement in the APS and an annual credit of three weeks for each year of APS service. Unused credits will accumulate to a maximum of nine weeks.
**39C Cultural Leave**

39C.1 Leave for cultural, religious, ceremonial and National Aboriginal & Islander Day Observance Committee Week (NAIDOC) leave may be granted by the Australian Information Commissioner or delegate in the following situations:

i. one days paid leave per year for NAIDOC week; or

ii. unpaid leave for days of cultural, religious, ceremonial and NAIDOC significance

**39D Moving**

39D.1 One day paid leave per year may be granted by the Australian Information Commissioner or delegate for the purposes of assisting employees in moving house.

**40. Other leave**

40.1 Miscellaneous leave with or without pay may be granted by the Australian Information Commissioner or delegate. Unless the Australian Information Commissioner determines otherwise, any continuous period of Miscellaneous leave without pay greater than 30 calendar days will not count as service for Annual Leave and Personal/carer’s Leave purposes. Applications will be considered subject to the operational requirements of the OAIC and equity with other employees.

Further information can be found in the OAIC’s Policy on miscellaneous leave

40.2 Emergency service duties leave

In accordance with section 108 of the FWA the OAIC will provide unpaid leave for community service personnel for emergency services duties encompassing leave for the emergency service responses, regular training, reasonable recovery time and ceremonial duties.

40.3 Community volunteering:

The OAIC will support community volunteer leave of one day paid per calendar year for employees to undertake voluntary work for a not-for-profit community organisation. The timing of the leave must be approved by the supervisor. Additional unpaid leave of up to 4 days per calendar year may be approved based on operational requirements. Employees will be required to provide appropriate evidence to support leave applications.

40.4 Elder and disabled care leave:

An employee with 12 months of continuing service may request unpaid discretionary leave of up to 12 months to provide care or support to:

- an elderly parent
- a child with a disability
- a family member with high support needs

where the parent or child requires ongoing care or support.
40.5 For any of the above leave that is discretionary the employee’s request must be in writing and set out the period of leave being sought and the reasons for the leave. The Australian Information Commissioner or delegate may refuse an employee request under this clause on reasonable business grounds and must provide in writing within 21 days the reasons for any refusal of the request. Refer to Clauses 36.1–38.1 for flexible working arrangements following maternity or parental leave and Clause 26.3 of this Agreement for part-time work requests.

41. Long service leave

41.1 Employees covered by this Agreement are entitled to the provisions set down in the Long Service Leave (Commonwealth Employees) Act 1976.

41.2 Under the Act, full time employees are generally entitled to 3 months long service leave on full pay after 10 years qualifying service with a rate of accrual of 3/10 month per year of service.

41.3 Part-time and casual employees accrue long service leave on a pro rata basis in accordance with the Long Service Leave (Commonwealth Employees) Act 1976.

41.4 Long service leave will be granted in blocks of at least seven calendar days at full pay or 14 calendar days at half pay and will not be able to be broken by other forms of leave unless required by legislation.

(i) Re-credit: An employee who would have been able to access personal/carer’s leave, compassionate leave, community service leave or any other type of leave where the NES provides that they not be taken to be on annual leave will be re-credited their long service leave for the period the other leave is granted. The provisions for the other leave to be granted as set out in this agreement apply.

42. Portability of leave

42.1 Where an employee moves (including on promotion or for an agreed period) to the OAIC from an employer staffed under the Public Service Act, the Parliamentary Service Act 1999 or from the ACT Government Service, accrued annual leave and personal/carer’s leave (however described) will be transferred, provided that there is no break in continuity of service. Future entitlements to annual and personal/carer’s leave will be those prevailing in the OAIC.

43. Public holidays and Christmas Closedown

43.1 Public holidays

Employees will be entitled to the following public holidays:

- New Year’s Day (1 January)
- Australia Day (26 January)
• Good Friday
• Easter Monday
• Anzac Day (25 April)
• Queen’s birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory)
• Christmas Day (25 December)
• Boxing Day (26 December)
• any other day, or part-day, declared or prescribed by or under a law of a State or Territory to be observed generally within the 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 from counting as a public holiday.

43.2 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.

43.3 The Australian Information Commissioner and an employee may agree on the substitution of a day or part day that would otherwise be a public holiday, having regard to operational requirements.

43.4 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.

43.5 Where a public holiday falls during a period when an employee is absent on leave (other than Annual or paid Personal/carers leave) there is no entitlement to receive payment as a public holiday. Payment for that day would be in accordance with the entitlement for that form of leave (eg if on long service leave on half pay, payment is on half pay).

44. Christmas closedown

44.1 The OAIC will close its normal operations from close of business on the last working day before Christmas, with business resuming on the first working day after New Year’s Day.

44.2 Employees will be provided with time off for the working days between Christmas and New Year’s Day and will be paid in accordance with their ordinary hours of work. Where an employee is absent on leave, payment for the Christmas closedown provision will be in accordance with the entitlement for that form of leave, (e.g. if on long service leave half pay, payment is on half pay).
44.3 There will be no deduction from Annual or Personal/carer’s leave credits for the closedown days.

### Part 3E: Separation procedures

#### 45. Redundancy

45.1 **Legislation:**
The legislative basis for certain action relating to the management of excess employees may be found in the Public Service Act, specifically:

- s 23, relating to reducing an employee’s classification
- s 25, assignment of duties
- s 27, the Public Service Commissioner’s power to move an excess employee to another agency
- s 29, termination of employment.

45.2 **Excess employee:**

(i) The procedure for handling excess employees set out below applies to all employees except:

a. an ongoing employee who is on probation
b. a non-ongoing employee.

(ii) When the OAIC is aware that an employee is likely to become excess, the Australian Information Commissioner or delegate will advise the employee of the situation at the earliest practicable time. An employee is an excess employee if:

a. the OAIC has a greater number of employees than is necessary for the effective performance of a particular role or function within the OAIC
b. the services of the employee cannot be effectively used because of technological or other changes in the work methods of the OAIC or changes in the nature, extent or organisation of the functions of the OAIC
c. where 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 locality and the OAIC has determined that the provisions of this clause will apply to that employee.

45.3 **Consultation process:**

(i) The Australian Information Commissioner or delegate will hold discussions with an excess employee to consider:
a. measures that could be taken to resolve the situation, including
redeployment opportunities for the employee, at or below level,
within or outside the OAIC
b. whether termination of employment (voluntary redundancy) might
be appropriate
c. where the employee chooses a representative, the Australian
Information Commissioner or delegate will hold the discussions
with the employee’s representative

(ii) The maximum period of time allowed for consultations should be one
month (4 weeks) unless a lesser period is agreed to.

45.4 Early separation:

(i) Where an employee is likely to be the subject of action under these
provisions, the Australian Information Commissioner or delegate may
provide to that employee an early separation opportunity.

(ii) This option provides for separation to occur within 14 days of the
employee being advised that they are excess under Clause 45.2.

(iii) It attracts an additional payment of 8 weeks salary (or 10 weeks for an
employee over 45 years of age with at least 5 years continuous service),
over and above any other amount paid on separation in accordance with
Clause 45.6.

(iv) The payment is in lieu of the time that may have reasonably been
expected to elapse for the purposes of the consultation, consideration
periods and notice periods.

45.5 Separation with consent

(i) Where an employee is advised in writing that they are excess and that
it is proposed to terminate the employee in accordance with s 29 of
the Public Service Act, the employee will have a maximum period of
one month to consider their position and provide their consent to the
termination of their employment or request redeployment assistance.

(ii) The Australian Information Commissioner or delegate will not give an
employee notice of termination of their employment under s 29 of
the Public Service Act until the expiration of that one-month period
(unless the employee requests an earlier termination of employment
date within that one-month period).

(iii) Within that month, unless agreed otherwise, an employee consenting
to termination of employment must be given all the relevant financial
information, including:

a. amount of redundancy pay, pay in lieu of notice and cashable leave
credits
b. amount of accumulated superannuation contributions
c. options open to the employee concerning superannuation
d. taxation rules applying to the various payments

e. assistance up to a maximum of $800 for financial advice and career counselling, reimbursed on production of receipts

(iv) The employee is only entitled to receive one offer of voluntary retirement.

45.6 **Redundancy benefit:**
Where the provisions of this clause provide for less than the National Employment Standards (NES), the NES will prevail.

(i) An excess employee who agrees to be voluntarily retrenched and whose employment is terminated by the delegate under s 29 of the Public Service Act on the grounds that he/she is excess to requirements is entitled to be paid a sum 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 NES.

(ii) The minimum sum payable will be 4 weeks salary and the maximum will be 48 weeks salary.

(iii) The redundancy benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during their period of service and the employee has less than 24 years full-time service.

(iv) For the purpose of calculating payment, salary will include:

a. the employee’s salary

b. the salary including higher duties, where the employee has been receiving higher duties allowance for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice of termination of employment

c. other allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

45.7 **Period of notice:**

(i) Where the excess employee agrees to be voluntarily retrenched the Australian Information Commissioner or delegate may terminate the employment of the employee by giving the required notice of termination of employment under s 29 of the Public Service Act. The period of notice will be 4 weeks (or 5 weeks for an employee over 45 years of age with at least 5 years of continuous service).

(ii) Where an employee whose employment is terminated at the beginning of or within the notice period, the employee will receive
payment in lieu of notice for the unexpired portion of the notice period. This amount is additional to any redundancy benefit payment.

45.8 Periods of service:

(i) For earlier periods of service to count there must be no breaks between the periods of service, except where:
   a. the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer
   b. the earlier period of service was with the APS and ceased because the employee was deemed to have resigned from the APS on marriage under the then s 49 (as repealed in 1966) of the repealed Public Service Act 1922

(ii) Subject to Clause 45.8(a) service for redundancy pay purposes means:

(iii) service with the OAIC
   a. Government service as defined in s 10 of the Long Service Leave Act 1976
   b. service with the Commonwealth (other than service with a joint Commonwealth-State body corporate in which the Commonwealth has a controlling interest) which is recognised for long service leave purposes
   c. service with the Australian Defence Forces
   d. APS service immediately preceding deemed resignation under the then s 49 (as repealed in 1966) of the repealed Public Service Act 1922, if the service has not previously been recognised for severance pay purposes; and
   e. service in another organisation where an employee was transferred from the APS to that organisation with a transfer of function, or an employee engaged by that organisation on work within a function, is appointed as a result of the transfer of that function to the APS and such service is recognised for long service leave purposes. (Note: transfer means the movement to a new agency under the Public Service Act).

(i) Any period or service which ceased through termination of employment on the following grounds will not count as service for redundancy pay purposes:
   a. the employee lacks, or has lost an essential qualification for performing his or 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 sub-section 22(6) of the Public Service Act, including probation
f. a breach of the Code of Conduct
g. for a reason equivalent to a reason listed above at Clause 45.8 (ii)(a) to (f) under the repealed Public Service Act 1922
h. any other ground prescribed by the Public Service Regulations
i. through voluntary retrenchment at or above the minimum retiring age applicable to the employee
j. payment of a redundancy benefit or similar payment or an employer financed retirement benefit.

(ii) Absences from work which do not count as service for long service leave purposes will not count as service for severance pay purposes.

45.9 Redeployment:
This clause is intended to provide an employee with far more intensive and immediate redeployment assistance.

(i) The OAIC will assist employees throughout the redeployment process by providing reasonable expenses and time off to attend necessary employment interviews where the costs are not met by the prospective employer.

(ii) If an excess employee wishes to be redeployed rather than consent to termination of employment, the OAIC will take all reasonable steps, consistent with the efficient management of the OAIC, to assign duties to that employee in accordance with s 25 of the Public Service Act.

(iii) In the first instance, this placement will be handled within the OAIC.

(iv) The OAIC may also choose to offer the services of a selected outplacement/career management provider at any point in the process (on and from the point the employee is advised that they are likely to become excess).

(v) The OAIC will give excess employees the option of seeking redeployment in the APS in accordance with any APS wide redeployment arrangements in place at the time.

(vi) The redeployment process commences from the date the employee is advised, in writing, that they are an excess employee.

(vii) Where the Australian Information Commissioner or delegate is satisfied that there is insufficient productive work available for the employee within the OAIC during the remainder of his or her redeployment period, the Australian Information Commissioner or delegate may, with the agreement of the employee, terminate the employee’s employment under s 29 of the Public Service Act and pay an agreed lump sum not greater than the salary which would be payable for the balance of the redeployment period.
(viii) If redeployment has not proven to be a successful option, an employee can consent to termination at the end of the first 2 month period, in preference to continuing redeployment action. If an employee consents to termination of employment at this point and this employment is terminated by the OAIC under s 29 of the Public Service Act on the grounds he/she is excess to requirements, they will be eligible to receive the full redundancy benefit as specified at Clause 45.6(i) and 45.6(ii).

45.10 **Salary maintenance:**
Where the OAIC reduces the classification of an employee under s 23 of the Public Service Act, salary maintenance will be applied from the date of reduction in classification for a period of 6 months. Salary maintenance will be calculated on the basis of the employee’s regular and ongoing salary.

45.11 **Involuntary termination of employment:**
(i) If after 3 months from the date an employee has been notified in writing under clause 45.5(i) that they are an excess employee:
   a. the OAIC has been unable to assign duties to the employee (at or below level) despite having taken all reasonable steps to do so
   b. the employee has not consented to termination of employment
the Australian Information Commissioner or delegate may decide to involuntarily terminate the employment of the excess employee under s 29 of the Public Service Act.

(ii) An excess employee cannot have their employment terminated involuntarily unless they have rejected the opportunity to provide their consent to their termination of employment.

(iii) employees whose employment has been terminated involuntarily by the Australian Information Commissioner or delegate under s 29 of the Public Service Act will receive the same entitlements on termination as employees who consent to termination of employment except that the redundancy benefit will be reduced to account for salary payments received during the redeployment period. The reduction in the amount of the redundancy benefit cannot be more than half the amount the employee would have received if they had provided their consent to termination of their employment subject to any minimum amount the employee is entitled to under the NES.

(iv) If an employee is entitled to a redundancy period under the NES, the redeployment/retention period at Clause 45.11(i) will be reduced by the employees’ redundancy pay entitlement under the NES on termination, calculated as at the expiration of the retention period (as adjusted by this clause).
46. **Payment on death**

46.1 Where an employee has died or the Australian Information Commissioner or delegate has directed that an employee will be presumed to have died on a particular date, the Australian Information Commissioner or delegate may authorise the payment of the amount to which the employee would have been entitled had the employee ceased employment through resignation or retirement. Payment may be made to dependants or the partner of the employee or the employee’s legal personal representative. If a payment has not been made within 12 months of the employee’s death, it shall be paid forthwith to the legal personal representative. Long service leave credits will be paid out in accordance with the *Long Service Leave Act (Commonwealth Employees) 1976*.

47. **Abandonment of employment**

47.1 Where an employee is absent from duty without permission for more than 21 calendar days, they will be considered to have abandoned their employment unless they can prove to the satisfaction of the OAIC that the absence was, in all the circumstances, warranted. Where an employee is unable to substantiate that their absence from duty is or was warranted, their employment may be terminated under s 29 of the Public Service Act, subject to Part 3-2 of the Fair Work Act, on the ground of ‘non-performance of duties’.

48. **Resignation**

48.1 **Notice periods:** The OAIC expects that employees would provide reasonable notice of their intention to resign. This notice period should be a minimum of 2 weeks where possible.

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**Part 3F: Safe and supportive working environment**

49. **Work health and safety**

49.1 The parties to this Agreement are committed to effective cooperation between the OAIC and its employees on work health and safety (WH&S) matters. The OAIC and its employees aim to create and maintain a safe working environment and to fulfil their requirements under the *Work Health and Safety Act 2011* (Cth) (WH&S Act). Further information can be found in the OAIC’s Work Health and Safety policy and the OAIC’s Harassment Policy.

49.2 **Supporting eye health:**

   (i) The OAIC will reimburse employees for attendance at standard eye examinations for screen based equipment, for any portion of the fee not covered by Medicare. Appointments may be made every 2 years or as otherwise approved.
(ii) In addition, where an employee requires new spectacles/lenses as the result of such appointment, the OAIC offers financial support for the cost of spectacles/lenses for any portion not covered by private health insurance up to the following amounts:

- $80 for single
- $140 for bifocal or multifocal

49.3 Annual influenza vaccinations:
The OAIC will provide annual influenza injections for interested employees.

49.4 Under the Safety, Rehabilitation and Compensation Act 1988, the OAIC has an ongoing responsibility to manage workers’ compensation claims and provide rehabilitation and return to work programs for injured employees. Supervisors and colleagues of injured employees will cooperate with case managers to provide the necessary work environment and duties to enable employees to achieve the objectives set down in their rehabilitation plan.

50. Employee assistance

50.1 The OAIC provides employees and their families with access to a confidential, professional counselling service to help them resolve either personal or work related problems. On commencement, employees will be advised of the availability of the employment assistance program (EAP) service.

50.2 There will be no initial cost to employees who contact the counselling service, however if the counselling service refers the employee to another service, or agrees to provide services in addition to those under contract to the OAIC, then the employee will be responsible for any costs which may arise.

50.3 Supervisors may access the service to support them in their roles and should encourage employees to use the service where appropriate.

51. Healthy lifestyle

51.1 The OAIC encourages its employees to consider healthy lifestyle activities as a means to develop and maintain work and life balance. In addition, financial support of up to $250 per financial year will be available to reimburse employees who undertake approved activities. The supported activities will have an emphasis on promoting health and wellbeing and be approved by the delegate.

Further information can be found in the OAIC’s Healthy Lifestyle Program guidelines.
Part 3G: Review of employment decisions

52. Review of employment decisions

52.1 An employee may seek a review of actions under s 33 of the Public Service Act.

52.2 Termination of employment:

(i) The sole and exhaustive rights and remedies of an employee in relation to termination of employment are those that the employee has under:
   a. the Fair Work Act
   b. other Commonwealth laws (including the Constitution)
   c. at common law.

(ii) Termination of, or a decision to terminate employment, cannot be reviewed under Procedures for dealing with disputes (Clause 9) or procedures for the Review of employment decisions (Clause 52.1) of this Agreement.

(iii) Nothing in this Agreement prevents the OAIC from terminating the employment of an employee for serious misconduct, without further notice or payment in lieu, in accordance with the relevant provisions of the Fair Work Act, subject to compliance with the procedures established by the OAIC for determining whether an employee has breached the Code of Conduct under s 15 of the Public Service Act.

52.3 Unsatisfactory performance of duties (underperformance):
Where an employee is aggrieved about an action or decision related to the unsatisfactory performance of their duties, these matters will be addressed with the provisions at Clause 17 of this Agreement and, if necessary, under sub-Clause 52.2 above.

Part 3H: Allowances

53. Workplace allowances

53.1 An allowance of $31.80 per fortnight will be paid to an employee who is appointed to undertake one or more of the following roles:

- First Aid Officer (requires current Senior First Aid Certificate or equivalent)
- Health and Safety Representative
- Fire Warden
- Harassment Contact Officer.

53.2 Payment of the allowance will cease for continuous absences of over 4 weeks.
53.3 Each role has inherent training requirements which must be successfully met as a condition of receiving the allowance.

53.4 Where employees accept more than one of these roles, they will only be entitled to a single allowance.

54. Motor vehicle allowance

54.1 Where the Australian Information Commissioner or delegate considers that it will result in greater efficiency or involve less expense, he or she may authorise an employee to use a private motor vehicle owned or hired by that employee at their own expense for official purposes.

54.2 Motor vehicle allowance will be payable in accordance with the ATO Reasonable Allowance Rates, as varied from time to time.

55. Travelling allowance

55.1 A travelling allowance shall be payable to an employee who undertakes travel on official business and is required to be absent overnight.

55.2 Travelling allowances are in addition to the cost of conveyance.

55.3 An employee who is travelling to a place of work in anticipation of a permanent move to that place of work, and who has been advised in writing that the move is to be made permanent, will not be eligible to receive travelling allowance during employment at that place of work.

55.4 Travelling allowance rates:

(i) An employee who is required to be absent overnight from the employee’s usual place of work on official business, under Clause 55.1 will be paid, prior to undertaking the travel, in accordance with the ATO Rulings on Reasonable Daily Travel Allowance amounts (equivalent non-SES rates).

(ii) Private non-commercial rate:
Where commercial accommodation is not required the employee is not eligible to receive a payment under Clause 55.4(i). The employee will be eligible to receive a payment for every overnight absence in accordance with ATO rulings for reasonable daily travel allowance (equivalent non-SES) amounts for meals and incidentals (for capital cities) published annually.

55.5 Reviewed travelling allowance:
After an employee has resided in the one locality for a period of 21 days, the employee will be paid an allowance equal to the amount actually expended on accommodation, meals and incidentals, or an amount which the OAIC considers to be reasonable in the circumstances.
55.6 **Part day travelling allowance:**
It is recognised that employees may be required to be absent for more than a standard day when travelling to attend meetings in regional areas or interstate. To compensate an employee for time spent travelling and additional costs, an employee who is required to be absent from the employee’s usual place of work on official business for a period of not less than 10 hours, but is not absent overnight, may be paid $80. Supervisors may agree to reasonable compensatory time off or include as flexleave in recognition of any additional time spent travelling outside normal working hours when the period of travel is less than 10 hours. The employee’s normal travelling time would be taken into account when considering this.

55.7 **Approval of additional expenses:**
Where reasonable evidence is provided to the satisfaction of the Australian Information Commissioner or delegate that the allowance payable to an employee under 55.1, 55.4 and 55.6 is insufficient to cover expenses which have been, or may be, incurred, the Australian Information Commissioner or delegate may direct payment as is necessary to meet those expenses.

55.8 **Repayment when travel not undertaken:**
An employee who fails to undertake the anticipated travel, or who undertakes the travel for a lesser period than anticipated, will repay either the full travel allowance, or the difference between the allowance paid and the amount that would have been payable for the actual absence in accordance with the OAIC Chief Executive Instructions.

55.9 **Accommodation/meals provided by the Commonwealth:**
Where an employee is provided with either accommodation or adequate meals, or both, at Commonwealth expense:

(i) the employee will not be paid those components of the allowance under Clause 55.1 in respect of any accommodation or meals provided, and

(ii) payment will be made in respect of incidental expenses during the period as the delegate directs.

55.10 Where an employee who is absent on duty from the employee’s usual place of work takes personal/carer’s leave for a condition for which the employee is not at fault and is unable to return home, the employee is entitled to be reimbursed an amount equal to the costs incurred by the employee up to the amount that would be payable under Clause 55.1.

55.11 **Reimbursement for carer’s costs:**
Where an employee is required to travel for the purpose of official duty away from his or her usual place of work the employee will, subject to prior approval of the arrangements and the cost, be entitled to be reimbursed for any additional costs associated with additional care arrangements.
55.12 **Overseas travel:**

(i) An employee required to travel on official business overseas will be provided with a recoverable cash advance to meet reasonable accommodation, meal and incidental expenses. The cash advance will be administered on a case-by-case basis having regard to the costs associated with the country being visited. The rates in accordance with the ATO Rulings will be used as a basis for determining reasonable expenses.

(ii) An employee will be required to comply with the conditions for overseas travel set out in the OAIC’s travel diary and acquit any payments.

56. **Class of air travel**

56.1 An employee is entitled to economy class where required to travel on official business within Australia.

56.2 An employee is entitled to business class where required to travel on official business overseas.

57. **Relocation expenses**

57.1 The OAIC may determine the extent of any financial assistance for relocation from one locality to another upon promotion, engagement, movement of an employee or where an employee is assigned duties at or below level.

58. **Loss, damage and indemnity**

58.1 The OAIC may approve reimbursement to an employee for loss or damage to clothing or personal effects which occurred in the course of the employee’s work.
APPENDIX A — Consultation

OAIC consultation forum

The parties agree to continue the OAIC consultation forum (OCF). The OCF provides a forum for consultation between the OAIC, employees and their representatives to consider:

- proposed changes to its terms of reference
- issues relating to the implementation of this Agreement
- policies and guidelines relating to working arrangements

The OCF will meet every 6 months on dates set in advance. In exceptional circumstances, extra meetings may be convened.

Further information can be found in the OCF’s Terms of Reference.

Consultation on policies and guidelines related to working arrangements

Any proposed new, or a proposed substantive change to an existing, policy or guideline relating to working arrangements will be made available to staff for comment via the OAIC’s intranet for at least 2 weeks.

Procedure for consultation on major changes

(1) The following procedure applies if the OAIC:

   (a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its operations that is likely to have a significant effect on the employees; or

   (b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

(2) For a major change referred to in paragraph (1)(a):

   (a) the OAIC must notify the relevant employees of the decision to introduce the major change; and

   (b) subclauses (3) to (9) apply.
(3) The relevant employees may appoint a representative for the purposes of these procedures.

(4) If:

(a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

(b) the employee or employees advise the OAIC of the identity of the representative;

the OAIC must recognise the representative.

(5) As soon as practicable after making its decision, the OAIC must:

(a) discuss with the relevant employees:

(i) the introduction of the change; and

(ii) the effect the change is likely to have on the employees; and

(iii) measures the OAIC is taking to avert or mitigate the adverse effect of the change on the employees; and

(b) for the purposes of the discussion - provide, in writing, to the relevant employees:

(i) all relevant information about the change including the nature of the change proposed; and

(ii) information about the expected effects of the change on the employees; and

(iii) any other matters likely to affect the employees.

(6) However, the OAIC is not required to disclose confidential or commercially sensitive information to the relevant employees.

(7) The OAIC must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

(8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the operation of the OAIC, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.
In this term, a major change is likely to have a significant effect on employees if it results in:

(a) the termination of the employment of employees; or

(b) major change to the composition, operation or size of the OAIC’s workforce or to the skills required of employees; or

(c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or

(d) the alteration of hours of work; or

(e) the need to retrain employees; or

(f) the need to relocate employees to another workplace; or

(g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

(10) For a change referred to in paragraph (1)(b):

(a) the OAIC must notify the relevant employees of the proposed change; and

(b) subclauses (11) to (15) apply.

(11) The relevant employees may appoint a representative for the purposes of these procedures.

(12) If:

(a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

(b) the employee or employees advise the OAIC of the identity of the representative;

the OAIC must recognise the representative.

(13) As soon as practicable after proposing to introduce the change, the OAIC must:

(a) discuss with the relevant employees the introduction of the change; and
(b) for the purposes of the discussion - provide to the relevant employees:

(i) all relevant information about the change, including the nature of the change; and

(ii) information about what the OAIC reasonably believes will be the effects of the change on the employees; and

(iii) information about any other matters that the OAIC reasonably believes are likely to affect the employees; and

(c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

(14) However, the OAIC is not required to disclose confidential or commercially sensitive information to the relevant employees.

(15) The OAIC must give prompt and genuine consideration to matters raised about the change by the relevant employees.

(16) In this procedure:

"relevant employees" means the employees who may be affected by a change referred to in subclause (1).
## APPENDIX B—Rates of pay

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<th>On the first full pay period following the end of the 12th month after commencement</th>
<th>On the first full pay period following the end of the 24th month after commencement</th>
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APPENDIX C— Junior rates of pay and supported wage for employees with a disability

Junior rates of pay

Junior rates of pay as a percentage of the APS Level 1 classification component shall apply as follows:

- under 18 years of age – 60%
- at 18 years of age – 70%
- at 19 years of age – 81%
- at 20 years of age – 91%

Supported wage for employees with a disability

1. Employees eligible for a supported wage

1.1 This Appendix defines the conditions which will apply to employees who, because of the effects of a disability, are eligible for a supported wage. In the context of this appendix, the following definitions will apply:

‘Supported Wage System’ means the Commonwealth Government system to promote employment for people who cannot work at full salary because of a disability, as documented in the Department of Education, Employment and Workplace Relations Supported Wage System Handbook.

‘Approved assessor’ means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual’s productive capacity within the Supported Wage System.

‘Disability support pension’ means the Commonwealth Government pension scheme to provide income security for persons with a disability as provided for under the Social Security Act 1991 (Cth), as amended from time to time, or any successor to that scheme.

‘Assessment instrument’ means the tool provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.

2. Eligibility criteria

2.1 Employees covered by this appendix will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.
2.2 This appendix does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers’ compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their employment.

3. **Supported wage rates**

3.1 Employees to whom this appendix applies shall be paid the applicable percentage of the relevant salary rates under this Agreement, according to the following schedule:

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<th>% of relevant salary rate</th>
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4. **Assessment of capacity**

4.1 For the purpose of establishing the percentage of the relevant salary rate to be paid to an employee under this Agreement, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor and documented in an assessment instrument.

5. **Lodgement of assessment instrument**

5.1 All assessment instruments under the conditions of this appendix, including the appropriate percentage of the relevant salary rate to be paid to the employee, will be lodged by the OAIC with Fair Work Australia.

5.2 All assessment instruments shall be agreed and signed by the parties to the assessment.

6. **Review of assessment**

6.1 The assessment of the applicable percentage should be subject to annual review or earlier on the basis of a reasonable request for such a review. The process of review shall be in accordance with the procedures for assessing capacity under the Supported Wage System.

7. **Other terms and conditions of employment**

7.1 Where an assessment has been made, the applicable percentage will apply to the salary rate only. Employees covered by the provisions of this appendix will be
entitled to the same terms and conditions of employment as all other employees covered by this Agreement paid on a pro rata basis.

8. **Workplace adjustment**

8.1 The OAIC will take all reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve redesign of job duties, working time arrangements and work organisation in consultation with other employees in the area.

9. **Trial period**

9.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this appendix for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.

9.2 During the trial period the assessment of capacity will be undertaken and the proposed salary rate for a continuing employment relationship will be determined.

9.3 The minimum amount payable to the employee during the trial period will be no less than $81 per week.

9.4 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment shall be entered into based on the outcome of assessment under Clause 4 of this appendix.
Formal acceptance of Agreement and signatories

Employer

Signed for, and on behalf of, the Commonwealth of Australia by the Acting Australian Information Commissioner.¹

Signed: ................................................................................. .................................
Timothy Pilgrim PSM                                   Date
Acting Australian Information Commissioner
Level 3, 175 Pitt Street, Sydney, NSW

Bargaining Representative: Community and Public Sector Union

Signed for, and on behalf of, the Community and Public Sector Union

Signed: ................................................................................. .................................
Melissa Donnelly                                       Date
Acting CPSU National President
Community and Public Sector Union
5/191-199 Thomas Street, Haymarket NSW 2000

¹ The Australian Information Commissioner is the Agency Head of the Office of the Australian Information Commissioner by virtue of s5(3)(b) of the Australian Information Commissioner Act 2010
XXX 2020

By email:

Dear,

I am pleased to offer you employment with the Office of the Australian Information Commissioner.

In accordance with Section 22(2)(b) of the Public Service Act 1999, you have been selected for engagement as a non-ongoing employee as an XXX commencing on XXX.

You are required to provide original proof of qualifications and identity (including any name changes) and original evidence of your date of birth (birth certificate or passport). If you are not an Australian citizen, you also need to provide evidence of permanent residency or a valid working visa.

For the duration of your employment with the OAIC you will be required obtain and maintain a security clearance. In addition to this, you will be required to obtain a police check upon commencement of employment.

The details of your non-ongoing engagement are outlined on the attached "Engagement Contract for a Non-Ongoing Employee". Please read it carefully and return the signed copy to me within 5 working days.

If you have any queries on this matter, please contact me on XXX.

Yours sincerely,
ENGAGEMENT CONTRACT FOR A NON-ONGOING EMPLOYEE

Section A: To be completed by the employee -

Surname: 

Given Names: 

Address: 

Date of Birth: 

Are you an Australian Citizen? Yes / No

*If NO do you have permanent residency status and/or a work visa? Yes / No

Have you received a redundancy payment from an APS Agency or other non-APS Commonwealth employer? Yes/No

Section B: To be completed by the Human Resources Section -

<table>
<thead>
<tr>
<th>Section</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Classification</td>
<td></td>
</tr>
<tr>
<td>Salary</td>
<td></td>
</tr>
</tbody>
</table>

1. Duration and type of non-ongoing engagement -

You are a person engaged for a specified term of:

Commencement date: Days per week: **5 days**

Separation date: Hours per week: **37hr 30 mins**

2. Assignment of duties -

The duties that you will be expected to undertake during your period of temporary engagement are attached.
3. Employment Status -

In accordance with Section 22(2)(b) of the Public Service Act 1999 you are engaged as a non-ongoing employee of the Office of the Australian Information Commissioner.

As a non-ongoing employee, your employment is subject to a range of legislation and industrial instruments, the most significant of which are the Office of the Australian Information Commissioner Enterprise Agreement and the Public Service Act 1999.

4. Extension of Engagement –

As a non-ongoing employee, there may be circumstances which require the Office of the Australian Information Commissioner to extend your engagement beyond the initial term. Extensions will be up to eighteen (18) months, but not exceeding eighteen (18) months unless there are extenuating circumstances which are consistent with the regulations and intent of the Public Service Act 1999.

5. APS Values and Code of Conduct –

The Australian Public Service (APS) is underpinned by a number of principles and values which are shared across the service. The APS Values and Code of Conduct outline your responsibilities as an employee of the Office of the Australian Information Commissioner. All employees are expected to adhere to a standard of behaviour that upholds the APS Values and Code of Conduct. A copy of the APS Values and Code of Conduct is attached for your information. Employees are also to comply with the Office’s Email/Internet Policy and the policy on Making Public Comment in a Private Capacity.


You acknowledge and agree that intellectual property rights (excluding moral rights) in material created by You during your term of employment will vest automatically in and be owned by the Commonwealth.

You acknowledge that You may be entitled to moral rights as described in Part IX of the Copyright Act 1968 in material created by You during your term of employment. You agree and consent to all acts or omissions performed by the Commonwealth in relation to all material created by You during the course of your employment (whether such acts or omissions occur before or after the time at which this consent is given).

You warrant that You will not make any claim or take any action against the Commonwealth contesting ownership of intellectual property rights or assertion of moral rights in relation to work created by You for so long as those rights subsist.
7. Superannuation Arrangements –

As an employer, the Office of the Australian Information Commissioner is required to pay employer superannuation contributions. If you have contributed to the Commonwealth Superannuation Scheme (CSS) or the Public Sector Superannuation defined benefits Scheme (PSSdb) in past employment you may be required to rejoin the relevant scheme.

Employees who are not required to rejoin the PSSdb or the CSS have choice of superannuation fund. The Office contributes 15.4% of full-time contribution salary (salary for superannuation purposes reviewed on your birthday).

You may choose to join the Public Sector Superannuation accumulation plan (PSSap). The Product Disclosure Statement for the PSSap is available. Further important information regarding matters such as insurance and investment options and beneficiary nomination is available from the website http://www.pssap.gov.au.

You may elect to have employer contributions paid to another complying fund or retirement savings account. Enclosed is a Standard Choice form which you are required to complete. You are able to make a choice of superannuation fund once a year.

If an election is not received by your first payday, contributions will be sent to the default superannuation fund which is the PSSap.

8. Termination Provisions –

Your temporary engagement will automatically cease at the end of the period stated in point 1 of this contract, and will be subject to the continued availability of work, satisfactory conduct and performance, and availability of funds.

Termination of engagement prior to the stated expiry of the engagement period

The Public Service Act 1999, enables the Office of the Australian Information Commissioner, as your employer, to terminate your engagement for a range of operational reasons prior to the stated expiry of your engagement period. These reasons include (but are not limited to):

- The duties for which you were engaged are no longer available;
- The duties for which you were engaged have been completed ahead of time; and
- A decision has been made that those duties are no longer required to be performed.

The Office of the Australian Information Commissioner is required to provide you with a minimum notice period or payment in lieu of notice under the Fair Work Act for when the work is no longer required to be performed. This is summarised as follows:
<table>
<thead>
<tr>
<th>Employee’s period of continuous service</th>
<th>Period of notice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not more than 1 year</td>
<td>At least 1 week</td>
</tr>
<tr>
<td>More than 1 year but not more than 3 years</td>
<td>At least 2 weeks *</td>
</tr>
</tbody>
</table>

*The period of notice is increased by 1 week if you are over 45 years old and have completed at least two years of continuous service.

Your engagement may also be terminated prior to the stated expiry of your engagement period if you breach the APS Code of Conduct or for non performance, under performance or unsatisfactory performance of duties. In these cases, payment in lieu of notice will not be payable.

I accept and understand the conditions of my non-ongoing engagement with the Office of the Australian Information Commissioner.

I acknowledge receipt of the following documents –

- Engagement Contract for a Non-ongoing Employee and Duties
- OAIC Enterprise Agreement 2016-19
- APS Values and Code of Conduct
- Product Disclosure Statement for the Public Sector Superannuation (accumulation plan)
- Superannuation Choice form
- Fair Work Information Statement

Signature of non-ongoing employee

Date / /
XXX 2020

By email:

Dear,

Congratulations on your successful application for employment with the Office of the Australian Information Commissioner (OAIC).

I am pleased to offer you ongoing employment under Section 22(2)a of the Public Service Act 1999 as an XXX section of the OAIC. Your salary on commencement will be $XXX (FTE) per annum.

Your engagement is subject to the Public Service Act 1999, Public Service Regulations, Australian Public Service Commissioner’s Directions, Classification Rules and relevant Commonwealth legislation. In particular, I draw your attention to the Australian Public Service (APS) Code of Conduct and Values, which you are bound by.

Your expected commencement date is **Monday XX**

Your engagement will be subject to a probationary period of 6 months during which time your work performance, conduct and attendance will be assessed by your supervisor. Your engagement may be terminated at any time during this period if your work performance, conduct or attendance is considered unsatisfactory. If probation requirements have not been met, the delegate will ordinarily terminate your employment. However, if there are exceptional or unusual circumstances, the delegate may approve an extension of your probationary employment.

For the duration of your employment with the OAIC you will be required obtain and maintain a security clearance. In addition to this, you will be required to obtain a police check upon commencement of employment.

As an employer, the Office is required to pay employer superannuation contributions. If you have contributed to the Commonwealth Superannuation Fund, you will be required to repay this amount to the Commonwealth Superannuation Fund.
Scheme (CSS) or the Public Sector Superannuation defined benefits Scheme (PSSdb) in past employment you may be required to rejoin the relevant scheme. If you do not, then you may choose to nominate any complying fund of your choice as long as the fund is compliant and accepts electronic transfer of contributions. The Office contributes 15.4% of full-time contribution salary (salary for superannuation purposes reviewed on your birthday). The default fund, should you not make an active choice, is the Public Sector Superannuation Accumulation Plan (PSSap). Information about the default fund, including insurance, investment options and beneficiary nomination is available from the website at https://pssap.gov.au/

If you wish to accept this offer of engagement as an ongoing employee, please sign, date and return to me the attached Acceptance of Offer of Engagement as an Ongoing Employee within three days.

We look forward to you joining the Office.

Yours sincerely,
ACCEPTANCE OF OFFER OF ENGAGEMENT AS AN ONGOING EMPLOYEE

I accept the offer of engagement as an ongoing employee with the Office of the Australian Information Commissioner as an APS 6 Policy Adviser with a commencing salary of $82,219 (FTE) per annum.

I confirm that I have read and understood the terms and conditions of engagement.

I agree to produce the following documents on commencement:

- Birth certificate or other evidence of birth or
- Passport/certificate of naturalisation (if applicable)
- Proof of change of name (if applicable)
- Qualifications (if applicable)

I *have/*have not received any redundancy payment from an APS Agency or non-APS Commonwealth employer within the preceding twelve (12) months.

I acknowledge receipt of the following documents –

- OAIC Enterprise Agreement
- APS Code of Conduct
- Product Disclosure Statement for the Public Sector Superannuation (accumulation plan)
- Superannuation Choice form
- Fair Work Information Statement

Signed: .................................................................................

Name: .................................................................................

(BLOCK LETTERS)

Date: ..................................................................................
OAIC Induction Program Framework

Aim
To create an induction program that supports supervisors to familiarise a new starter with the OAIC’s culture and procedures so they can settle into their role quickly.

Objectives
1. Quickly progress to productive work.
2. Ensure alignment with OAIC culture.
3. Learn to work with OAIC systems.
4. Capitalise on individual strengths.

Key staff
Supervisor
The supervisor has a key role in the induction process by:

- welcoming the new starter to the OAIC
- providing the knowledge a new starter needs to commence their duties
- making a new starter feel supported in their role
- coordinating the new starter’s induction schedule, including liaising with key personnel to arrange meetings (as outlined below)
- fulfilling WHS requirements i.e. workstation checklist
- ensuring the new starter makes a positive contribution to the OAIC.

Induction Coordinator
The induction framework will be overseen by the Induction Coordinator who will:

- administer the program
- develop supporting resources
- collect and analyse feedback from new starters to continually improve the program.

Where there are multiple new starters commencing at the same time, the Induction Coordinator will liaise with supervisors to ensure there is a coordinated approach to relevant meetings/tasks.

Program structure
The Induction program commences when the officer responsible for the engagement / employment of a new starter advises the Induction Coordinator.

The Induction Coordinator suggests that supervisors generally follow the timeline below however supervisors are free to customise this to suit the needs of the new starter and their team. For example:

- suggested topics can be covered in a single meeting, rather than separately as suggested below
- meetings suggested for week 1-2 can be held on day one, if the supervisor thinks that they are of particular importance.
<table>
<thead>
<tr>
<th>Task</th>
<th>Responsibility</th>
<th>Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notify AHRC HR following recruitment process to confirm employment arrangements.</td>
<td>Director</td>
<td></td>
</tr>
<tr>
<td><em>HR will send an email to the new starter containing the Fair Work Information Statement, link to OAIC Enterprise Agreement as well as various forms required for payroll purposes (TFN, Super, Bank details).</em></td>
<td>Supervisor</td>
<td></td>
</tr>
<tr>
<td>Advise the Induction Coordinator (as soon as practical following confirmation of employment) of the following (email <a href="mailto:programcoordinator@oaic.gov.au">programcoordinator@oaic.gov.au</a>):</td>
<td>Supervisor</td>
<td></td>
</tr>
<tr>
<td>• Name of person being employed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Position title and classification</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Applicable Branch and Section/Team</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Direct report i.e. the supervisor’s name</td>
<td></td>
<td></td>
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<tr>
<td>• Date of commencement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Applicable email mailing list(s)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Resolve clearance details if applicable</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Employment status is ongoing, non-ongoing, agency</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provide Induction Program Framework and supporting material to Supervisor.</td>
<td>Induction Coordinator</td>
<td>1,2,3,4</td>
</tr>
<tr>
<td>• Supervisor’s Induction task checklist and List of Meetings: <a href="http://example.com">D2017/003043</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Induction meeting topics and resources: <a href="http://example.com">D2017/003063</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Email templates: <a href="http://example.com">D2017/003524</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Email to ICT Services:</td>
<td>Induction Coordinator</td>
<td>1,3</td>
</tr>
<tr>
<td>• Create outlook profile</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Create email credentials (including mailing lists)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Email to AHRC HR:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Update Payroll / ConnX profile</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Request for Personnel Induction to be conducted on day one</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Email to AHRC Reception:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Advise start date and person to contact on their arrival</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Request security pass and name plaque to be available on day one</td>
<td></td>
<td></td>
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<tr>
<td>Email to AHRC Finance:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Create finance / travel profile</td>
<td></td>
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<tr>
<td>Email to Administration and Records Officer and Information Systems Manager:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Update OAIC internal phone list</td>
<td></td>
<td></td>
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<tr>
<td>• Create personnel folders in TRIM</td>
<td></td>
<td></td>
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<tr>
<td>• Create Resolve clearance profile, if applicable</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Create TRIM profile and applicable security / access groups</td>
<td></td>
<td></td>
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<tr>
<td>• Provide TRIM training, preferably on day of commencement</td>
<td></td>
<td></td>
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</tbody>
</table>
- Provide Resolve introduction training, preferably within a few days of commencement
- Add to R&S workbook
- Provide training on records management practices and overview of OAIC records management policies

**Email to Officer Manager:**
- Update Organisation chart
- Seating arrangements
- Corporate / key resources meeting with new starter

**Email to Executive Officer:**
- Make arrangements for Week 1 security clearance meeting

**Email to Executive Assistant:**
- Arrange for Executive introductions ie meet and greet

**Email to SCaC (Media OAIC):**
- Update media list
- Update New Starter Newsletter

**Email to Principal Privacy Officer:**
- Arrange for Privacy and FOI training sessions

| Email new starter confirming starting day, time, location and contact details for arrival. | Supervisor | 1,3 |
| Resource: D2017/003524 |

| Two weeks before commencement date — send email to all OAIC staff advising of commencement of new starter including any other relevant details. | Relevant Assistant Commissioner |
| Resource: D2017/003524 |

| Make arrangements with Office Manager regarding location and desk requirements for new starter, and ensure that the desk is properly prepared for the new starter. | Supervisor |

**Commencement**

**DAY 1**

<table>
<thead>
<tr>
<th>Task</th>
<th>Responsibility</th>
<th>Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Welcome meeting with Director.</strong></td>
<td>Supervisor to arrange</td>
<td>1,2</td>
</tr>
<tr>
<td><strong>Topic to be covered:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Outline the Branch’s role</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Where the new starter fits in</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>First meeting with Supervisor.</strong></td>
<td>Supervisor</td>
<td>1,2</td>
</tr>
<tr>
<td><strong>Topics to be covered:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Basic orientation of workplace and facilities</td>
<td></td>
<td></td>
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<tr>
<td>- Basic administration information (e.g. hours of work, pay cycles, general conditions of work, etc.)</td>
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<tr>
<td>- Introduction to rest of team</td>
<td></td>
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<tr>
<td>- Introduction to buddy / mentor (if applicable)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Personnel Induction with AHRC HR

**(Covers APS values and Code of Conduct, Confidentiality agreement, WHS Training, use of IT, EAP)**

**Email to new starter with role related information.**

**Email to provide:**
- Links to OAIC legislation and other relevant information
- Link to OAIC Organisation Chart
- Link to APS Online Induction (for non APS new starters - delete from email template if not applicable)
- Link to OAIC Corporate Plan
- Information about significant projects the new starter will be involved with

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### WEEKS 1 – 2

<table>
<thead>
<tr>
<th>Task</th>
<th>Responsibility</th>
<th>Objective</th>
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</thead>
<tbody>
<tr>
<td><strong>Role meeting with Supervisor.</strong></td>
<td>Supervisor</td>
<td>1,2,3</td>
</tr>
<tr>
<td><strong>Topics to be covered:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Program of work — outline of work priorities</td>
<td></td>
<td></td>
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<tr>
<td>• Key milestones</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Role expectations</td>
<td></td>
<td></td>
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<tr>
<td>• Key events and meetings</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Key resources meeting with Office Manager.</strong></td>
<td>Induction Coordinator to arrange</td>
<td>1,3</td>
</tr>
<tr>
<td><strong>Topics to be covered:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Internal procedures (time recording, leave recording, email signatures etc.)</td>
<td></td>
<td></td>
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<tr>
<td>• Hugo and OAIC website</td>
<td></td>
<td></td>
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<tr>
<td>• Skype introduction</td>
<td></td>
<td></td>
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<tr>
<td>• Corporate services (travel, petty cash, mail etc.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Style Guide and Office templates</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Level 2 and Level 3 walk around and introduction to OAIC staff.</strong></td>
<td>Supervisor</td>
<td>1,2,3</td>
</tr>
<tr>
<td><strong>Meeting with Executive Officer (TBA) to discuss security clearance and working with Executive.</strong></td>
<td>Induction Coordinator to arrange</td>
<td>1,3</td>
</tr>
</tbody>
</table>
**‘Meet and Greet’ meetings with Executive Team organised through the Executive Assistant.**

**Suggested topics:**
- Executive background and role
- Responsibilities overview
- OAIC culture (independence of agency, public regulator role i.e. the “umpire”, standards expected, achieve goal of high regard by peers and public for the work of the OAIC)

**OAIC systems applicable training sessions:**
- TRIM — must be in first week, preferably first day
- Resolve (if relevant) — must be in first week, preferably first day

**Role specific training sessions:**
- Enquiries line — 1 hour
  Any other sessions applicable to the new starter e.g. specific training sessions on sections of the Privacy Act and FOI Act

**Meeting with Chief Privacy Officer (Caren Whip) with regards to privacy obligations and OAIC FOI requests.**

**Meeting with Information Systems Manager to discuss best practice record keeping and legal obligations, OAIC record keeping processes and procedures, and Information Publication Scheme requirements.**

**Complete WHS Workstation Checklist (checklist provided to new starter by HR).**

**Performance Management meeting and TAP discussion, including discussion about career development needs, training and any probation requirements.**

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### WEEKS 3 – 4

<table>
<thead>
<tr>
<th>Task</th>
<th>Responsibility</th>
<th>Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meetings / training with other sections/key stakeholders, where relevant, including:</td>
<td>Supervisor to arrange</td>
<td>1</td>
</tr>
<tr>
<td>- Dispute Resolution branch introduction (contact Amie Grierson and Rocelle Ago)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Regulation and Strategy branch introduction (contact TBA)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- My Health Record system introduction for new starters in Enquiries/DR Privacy Complaints/SCaC/R&amp;S Health &amp; Assessments (contact Zoe Fitzell)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- FOI Act obligations (FOI coordinator – Raewyn Harlock)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Any other teams/stakeholders applicable to the new starter</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Meeting - arrange a meeting with the OAIC staff delegate of the CPSU for an introduction to the CPSU (Jake Barry as at May 2019)

<table>
<thead>
<tr>
<th>Task</th>
<th>Responsibility</th>
<th>Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Feedback meeting with Supervisor.</td>
<td>Supervisor</td>
<td>1, 3, 4</td>
</tr>
<tr>
<td><strong>Topics to be covered:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Overall progress</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Any areas for improvement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Any impediments to role performance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Progress of development of key stakeholder relationships</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• OAIC systems review – i.e. is any additional / refresher training needed?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evaluation of induction experience with Induction Coordinator.</td>
<td>Induction Coordinator</td>
<td>1, 3</td>
</tr>
<tr>
<td><strong>Topics to be covered:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Confirm all induction processes have been completed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Feedback on the induction program</td>
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MONTH 6

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<tr>
<th>Task</th>
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<td>Meeting to review program of work and achievement of key milestones, and set goals for next period.</td>
<td>Supervisor</td>
<td>1, 2, 4</td>
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<tr>
<td>Review progress and evaluate against induction objectives.</td>
<td>Induction Coordinator</td>
<td>1, 2, 3, 4</td>
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List of resources to be provided to Supervisor by the Induction Coordinator

1. **Induction meetings topics and resources checklist**, including:
   - First meeting with Supervisor topics – including orientation requirements
   - First role meeting with Supervisor topics
   - Key resources meeting with Office Manager, topics with additional information for each of the topics

2. **Email templates** for:
   - Confirmation email before commencement
   - All staff email
   - Links to new starter information following commencement

3. **Supervisor’s Induction checklist** including:
   - List of meetings to be arranged and tasks to be performed and appropriate timing
   - List of meetings to be held by Supervisor and appropriate timing
Breaches of the APS Code of Conduct Procedures

June 2017
## Change history

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Statement from Agency Head

I, Timothy Pilgrim, Agency Head of the Office of the Australian Information Commissioner, establish these procedures under subsection 15 (3) of the Public Service Act 1999 and the Public Service Amendment Act 2013.

Timothy Pilgrim
Australian Information Commissioner
June 2017
Introduction

The APS Code of Conduct (the Code) sets out the behavioural standards expected of APS employees. The Code is set out in section 13 of the Public Service Act 1999 (PS Act). The PS Act requires the head of each agency to establish procedures for determining whether an employee has breached the Code and what sanction, if any, is to be imposed if a breach is found.

What is a Breach of the Code?

An APS employee whose conduct does not comply with a standard of conduct listed in the Code can be found to have breached the Code. In these procedures, a reference to a breach of the Code includes reference to conduct set out in subsection 15 (2A) of the PS Act in connection with their engagement as an employee.

An APS employee (current or former) whose conduct does not comply with an element of the Code can be found to have breached the Code. Where a provision of the Code contains more than one element, it may not be necessary for a person to have breached all elements in order for a breach of the Code to be determined.

The Code specifies different levels of connectedness between the standard of conduct and APS employment as follows:

- in connection with employment (more than just in the course of employment)
- at all times.

‘In connection with APS employment’ is construed broadly and is not confined to performance of the tasks of the job or other conduct in the course of employment. It may include conduct in connection with engagement as an APS employee (such as knowingly providing false or misleading information) and conduct outside the normal workplace and normal working hours (such as at social events endorsed by the employer).

Not all suspected breaches of the Code will be the subject of formal action. Depending on the seriousness of the conduct, the employee’s history and an assessment of whether the incident is likely to be an isolated one, counselling or a warning may be more appropriate.

Application and availability of procedures

All APS employees, agency heads and statutory office holders are subject to the Code.

These procedures apply when determining whether a person who is an APS employee in the OAIC, or who is a former APS employee who was employed in the OAIC at the time of the suspected misconduct, has breached the Code.

These procedures also apply when determining any sanction to be imposed on an employee in the OAIC who has been found to have breached the Code.

As provided for in subsection 15 (7) of the PS Act, these procedures are made available on the OAIC’s intranet.

Decision-maker and sanction delegate

As soon as practical after a suspected breach of the Code has been identified and the Information Commissioner or delegate has decided to deal with the suspected breach under these procedures,
the Information Commissioner or delegate will appoint an independent person (decision maker) to make a determination.

The role of the decision maker is to determine in writing whether a breach of the Code has occurred.

The decision maker may seek the assistance of an investigator with matters including investigating the alleged breach, gathering evidence and making a report of recommended factual findings to the decision maker.

The person who is to decide what, if any, sanction is to be imposed must hold a delegation of the power under the PS Act to impose sanctions (the sanction delegate).

The decision maker who makes the determination may also be the sanction delegate in the same matter, where they have the relevant delegation under section 15 and/or 29 of the PS Act.

Independence

The decision maker and the sanction delegate must be, and must appear to be, independent and unbiased. They should have no previous reporting responsibilities in relation to the matters raised in the suspected breach.

They must advise the Information Commissioner in writing if they consider that they may not be independent and unbiased, or if they consider that they may reasonably be perceived not to be independent and unbiased, for example if they are a witness in the matter.

Suspension and temporary reassignment of duties

Section 28 of the PS Act and regulation 3.10 of the Public Service Regulations (the Regulations) set out the legislative basis for suspending an employee who is suspected of having breached the Code. Employees may be suspended with or without pay if the Information Commissioner or delegate believes on reasonable grounds that an employee has breached the Code and where suspension is in the public or the OAIC’s interest.

As an alternative to suspension, the Information Commissioner or delegate may decide that it is more appropriate to temporarily reassign the employee’s duties.

Determination process

The process for determining whether a person has breached the Code must be carried out with as little formality and as much expedition as a proper consideration of the matter allows.

The process must be consistent with the principles of procedural fairness.

A determination may not be made in relation to a suspected breach of the Code by a person unless reasonable steps have been taken to:

Inform the person of:

- the details of the suspected breach of the Code (including any subsequent variation of those details)
- the sanctions that may be imposed on them under subsection 15 (1) of the PS Act, and give the person reasonable opportunity to make a written statement, or provide further evidence in relation to the suspected breach, within seven calendar days or any longer period that is allowed.
A person who does not make a statement in relation to the suspected breach is not, for that reason alone, to be taken to have admitted to committing the suspected breach.

For the purpose of determining whether an employee has breached the Code, a formal hearing is not required.

Where the decision maker conducts a meeting or interview with the person suspected of breaching the Code and they request to have a support person present and it is considered reasonable in the circumstances, this request should be granted.

Sanctions

Sanctions are intended to be proportionate to the nature and seriousness of any breach. A sanction cannot be imposed unless it has been determined that a breach has occurred. More than one sanction may be imposed.

The process for deciding on sanction must be consistent with the principles of procedural fairness.

If a sanction is to be imposed on an employee, the employee must be given a written statement setting out:

- the determination
- the sanction or sanctions that are under consideration, and
- the factors that are under consideration in determining any sanction to be imposed, and
- be given reasonable opportunity to make a written statement in relation to sanctions under consideration within seven calendar days, or any longer period that is allowed by the sanction delegate. The sanction delegate may decide to give the employee the opportunity to make both a written and oral statement.

The Information Commissioner or delegate may impose the following sanctions where an employee is found to have breached the Code:

- termination of employment
- reduction in classification
- re-assignment of duties
- reduction in salary
- deductions from salary, by way of fine, or
- a reprimand.

Sanctions may not be imposed by the OAIC on former employees.

Record of determination and sanction

If a determination in relation to a suspected breach of the Code by an employee in the OAIC is made, a written record must be made of:

- the suspected breach
- the determination
- any sanctions imposed as a result of a determination that the employee has breached the Code, and
• If a statement of reasons was given to the employee in relation to the determination and/or the sanction decision — that statement of reasons.

Records relating to misconduct should not be placed on the employee's personal file but kept on a separate misconduct file and held in secure storage.

The Archives Act 1983 and the Privacy Act 1988 apply to OAIC records.

Moving to a different agency or resignation

Movement between agencies (including on promotion) for employees suspected of a breach of the Code will not take effect until the matter is resolved, unless agreed by the respective Agency Heads.

Resolution is by:
• a determination being made, or
• a decision that a determination is not necessary.

Should the Agency Heads agree to a move prior to the resolution of a suspected breach of the Code, the receiving agency may continue an investigation and/or impose a sanction based on the former agency's investigation.

Where an employee resigns during the course of an investigation the Information Commissioner or delegate may choose, depending on the circumstances, to discontinue the process.

Review rights

Non-SES employees who have been found to have breached the Code and who wish to challenge either the determination that a breach has occurred or the sanction imposed (except in the case of termination) may lodge an application under Division 5.3 of the Regulations. Making an application for review does not stay the action.

An application for review of a determination that an employee has breached the Code or a sanction imposed as a result of the breach must be made to the Merit Protection Commissioner, as required by Regulation 5.24(2).

An application for review of any other action that relates to a person's APS employment, including suspension, would generally in the first instance be made to the Information Commissioner or delegate (see Regulation 5.24(1), and section 33 of the PS Act).

An employee who has been dismissed may have the right under the unfair dismissal provisions of the Fair Work Act 2009 for a remedy.

The PS Act contains other provisions that enable an inquiry to be commenced into an alleged breach of the Code by an APS employee or former APS employee, and a determination made. Section 41B provides that an inquiry may be undertaken by the Australian Public Service Commissioner at the request of the Information Commissioner or the Prime Minister. Section 50A provides that an inquiry may be undertaken by the Merit Protection Commissioner at the request of the Information Commissioner and with the agreement of the APS employee or former employee.
Criminal matters

Where an employee has been charged with a criminal offence (including in relation to activity occurring in a person's private life), the Information Commissioner may decide that it is appropriate to investigate the matter as a possible breach of the Code. The Commissioner may decide on this course of action if the person's conduct relates to behaviour that could have an impact on the person's ability to maintain honesty and integrity in their APS employment, is otherwise inconsistent with the APS Values, or is likely to damage the integrity and/or good reputation of the APS.

References

*Public Service Act 1999*
*Public Service Amendment Act 2013*
*Public Service Regulations 1999*
*Australian Public Service Commissioner's Directions 2016*
*APS Values and Code of Conduct in Practice*
*Public Interest Disclosure procedures*
Fraud Control Plan

2017-2019
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<td>6 January 2012</td>
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<td>18 March 2014</td>
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<td>Triennial (3 Yearly) Review and update for better practice</td>
<td>21 March 2017</td>
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Background

The Commonwealth Fraud Control Framework is made up of the Fraud Rule (Public Governance, Performance and Accountability (PGPA) Rule 2014 - section 10) supported by the Commonwealth Fraud Control Policy (Fraud Policy) and the Resource Management Guide No 201 – Preventing, detecting and dealing with fraud (Fraud Guidance).

As the Office of the Australian Information Commissioner (OAIC) is a non-corporate government agency the Fraud Rule and Fraud Policy are binding on the organisation and the Fraud Guidance represents better practices which can be adopted or adapted.

The Commonwealth Fraud Control Rule 2014 (the Fraud Rule) stipulates that non-corporate Commonwealth agencies regularly undertake a fraud risk assessment and update their Fraud Control Plan. The Fraud Guidance suggests a minimum of every two years and the OAIC has adopted this better practice frequency.

In completing the Fraud Risk Assessment and updating the Fraud Control Plan the objective is to identify potential fraud risk categories that the OAIC is exposed to in achieving its core objectives of ensuring the provision of public access to Commonwealth Government information, protection of individuals' personal information, and performance of information commissioner, freedom of information and privacy functions.

This Fraud Control Plan reflects the Commonwealth Fraud Control Framework (Rule, Policy, Guide), Commonwealth Risk Management Policy & Framework, responsibilities under the Public Governance, Performance & Accountability (PGPA) Act 2013, PGPA Rule 2014, the Public Service Act 1999, the APS values and current government policy and practice in fraud control.

Fraud control policy statement

The OAIC adopts the policy and practices set out in the Fraud Rule, Fraud Policy, and Fraud Guidelines - adapted as applicable, and is committed to protecting its information assets, intellectual property, revenue, expenditure and physical property from any attempt, either by members of the public, contractors, sub-contractors, agents, intermediaries or its own employees, to gain financial or other benefits, or to cause a loss, by deceit.

The OAIC will promote a strong ethical environment and ensure that all staff are aware of the APS values and code of conduct and their responsibilities in relation to these.

The OAIC will annually report information on:

- suspected fraud
- matters under investigation
- completed matters, whether the fraud was proven or not
- whether the matter was dealt with by a criminal, civil or administrative remedy.

Definitions and fraud control responsibilities

Definition of fraud and fraud control

Fraud is not restricted to monetary or material benefits. The definition of fraud is as defined by the Guidelines:

Dishonestly obtaining a benefit, or causing a loss, by deception or other means.
There is a mental or fault element to fraud requiring intent; it requires more than carelessness, accident or error.

A benefit may be tangible or intangible including the unauthorised provision of access to or disclosure of information. A benefit may also obtained by a third party rather than, or in addition to, the perpetrator of the fraud.

**Examples of fraud**

Fraud against the Commonwealth may include (but is not limited to):

- theft
- accounting fraud (e.g. false invoices, misappropriation)
- misuse of Commonwealth credit cards
- unlawful use of, or unlawful obtaining of, property, equipment, material or services
- causing a loss, or avoiding and/or creating a liability
- providing false or misleading information to the Commonwealth, or failing to provide information when there is an obligation to do so
- misuse of Commonwealth assets, equipment or facilities
- cartel conduct
- making, or using, false, forged or falsified documents, and/or
- wrongfully using Commonwealth information or intellectual property.

**Definition of Fraud control and responsibilities**

Fraud control is the effective utilisation of resources to prevent/minimise deceit or other dishonest conduct against the Commonwealth by members of the community, employees or external providers.

The primary responsibility for fraud control rests with the Australian Information Commissioner, as the Accountable Authority. This responsibility is for all activities conducted by the OAIC whether an activity is performed directly or outsourced to an external service provider. Effective fraud control requires the commitment of all officials, contractors and third-party providers.

The general and specific fraud control responsibilities of the Commissioner as Accountable Authority are to:

- govern the entity in a way that promotes: the proper use and management of public resources for which the authority is responsible; the achievement of the purposes of the entity and the financial sustainability of the entity (PGPA Act section 15);

- establish and maintain an appropriate system of risk oversight and management for the entity and an appropriate system of internal controls for the entity, including implementing measures directed at ensuring officials of the entity comply with the finance law (PGPA Act section 16)

- be satisfied that their entities comply with the mandatory requirements in section 10 of the PGPA Rule (the Fraud Rule). The requirements are:
Fraud Control Plan

2017-2019

a) conducting fraud risk assessments regularly and when there is a substantial change in the structure, functions or activities of the entity

b) developing and implementing a fraud control plan that deals with identified risks as soon as practicable after conducting a risk assessment

c) having an appropriate mechanism for preventing fraud, including by ensuring that:
   i. (i) officials in the entity are made aware of what constitutes fraud; and
   ii. (ii) the risk of fraud is taken into account in planning and conducting the activities of the entity

d) having an appropriate mechanism for detecting incidents of fraud or suspected fraud, including a process for officials of the entity and other persons to report suspected fraud confidentially

e) having an appropriate mechanism for investigating or otherwise dealing with incidents of fraud or suspected fraud, and

f) having an appropriate mechanism for recording and reporting incidents of fraud or suspected fraud.

• train personnel involved in fraud control

• foster and maintain the highest standards of ethical behaviour to comply with the Commonwealth's Guidelines on Official Conduct for Commonwealth Public Servants, the Public Service Act 1999 and the APS Values and Code of Conduct

• inform the Attorney-General of all relevant fraud control initiatives undertaken by the OAIC

• on an annual basis certify to the Attorney-General that he or she is satisfied that:
   a) fraud risk assessments and fraud control plans have been prepared that comply with the Guidelines
   b) appropriate fraud prevention, detection, investigation and reporting procedures and processes are in place.

Key risk areas

Under the principles of responsible management practices, the OAIC seeks to identify, and remain abreast of, the key areas of risk it faces and to develop an on-going strategy to minimise these risks. This plan has been developed as part of the strategy to implement corrective and preventative action for key risk areas.

Strategic & High Level Business Risks

The OAIC maintains an enterprise level Strategic & High Level Business Risk Assessment with the following categories:

• Strategic risks - associated with the OAIC’s ability to achieve the goals identified in its 2017-2019 Corporate Plan.

• Operational risks - associated with the execution of the OAIC’s business functions and involves the level of guidance provided to staff on consistent and acceptable decisions and effective processes.
• **Corporate support risks** - The Australian Human Rights Commission (AHRC) provides corporate support services to the OAIC. The OAIC’s corporate support risk is associated with the level of service provision in accordance with the Memorandum of Understanding between the AHRC and the OAIC. The Corporate Support Risk Register contains a summarised ‘fraud and corruption risk’ which aggregates all the potential sources of this type of risks to reflect at the enterprise level.

**Fraud Risk Assessment**

The OAIC performs a business level discrete Fraud Risk Assessment on a two yearly basis. This Fraud Risk Assessment is comprehensive and assesses fraud and corruption risks at a more granular level for typical risk types and sources. The Fraud Risk Assessment is organised under the following categories:

1. Travel allowance and other common allowances
2. Purchasing and accounts payable
3. Use of the Corporate Credit Card(s)
4. Information security (non IT)
5. Information security (IT)
6. Salaries and personnel
7. Property and other assets
8. Cash and advances

Due to the operation of the MOU certain fraud risks and/or associated controls are managed by the AHRC. However there is often a mix of control responsibilities between OAIC and AHRC – for instance OAIC operational management have delegations for cost approvals however AHRC is responsible for processing financial transactions in line with approved Policies.

The consequence and likelihood of potential fraud and corruption risks are assessed in a manner consistent with the OAIC’s overall Risk Management Policy utilising the same criteria and factors in Appendix E of the Risk Management Framework & Procedures. The main consequence factors for consideration is assessing potential fraud and corruption risks are:

• financial loss

• reputation and image impacts, and

• management effort to resolve instances of fraud.

The Fraud Risk Assessment is maintained by the Risk Coordinator and is available to Executive Team on request. Due to the nature of the Assessment the document is confidentially controlled.

**General fraud control strategies**

The exercise of the OAIC’s responsibilities and functions shall fully comply with the:

• Public Governance, Performance and Accountability (PGPA) Act 2013, PGPA Rule 2014 (section 10), Commonwealth Fraud Control Policy and Resource Management Guide No 201 – Preventing, detecting and dealing with fraud

• Public Service Act 1999 including the APS Values and Code of Conduct


• Director of Public Prosecutions Act 1983, Auditor-General Act 1997

• the OAIC’s Enterprise Agreement

• Accountable Authority Instructions and other OAIC policies, in particular the Risk Management Policy

• Other relevant Commonwealth legislation.

High standards of professionalism, competence and efficiency will be fostered among staff through a participative management style, resource planning, and focussed human resource development. Adequate privacy and security of information and security of assets will be planned and managed by complying with the provisions contained in the Privacy Act 1988 and Commonwealth Protective Security Policy Framework.¹

All aspects of the OAIC's activities will be accessible to the OAIC’s internal and external auditors. The Internal Audit Program will incorporate audit techniques to test computer and manual systems for potential fraud, within the specific reviews Terms of Reference where appropriate to do so.

A Fraud Risk Assessment of the OAIC's operations shall be conducted every two years or at other times as determined by the Commissioner, and the Fraud Control Plan revised to incorporate any changes to risk exposure.

Specific control strategies

Planning and evaluation

The OAIC’s program, functions, and activities are articulated in the Strategic Plan and Branch plans and flow through to individual Performance Agreements. The Executive, Directors and staff will review and evaluate performance against plans on a regular basis.

The OAIC will report on its performance measures and its level of achievement in the Portfolio Budget Statements and its Annual Report.

Organisational responsibilities

A schedule of delegations authorised by the Minister for Finance and the Commissioner, shall designate a responsibility structure to approve and authorise:

• Human resources administrative matters

• financial matters

• commitment of and payment for, or write-off of, goods and services and other expenditure.

The Commissioner shall have overall responsibility for the OAIC’s promotion and co-ordination of fraud control, statistical records, and investigation and prosecution of fraud.

All allegations of fraud are to be reported to the Deputy Commissioner or delegate the Risk Coordinator.

**Internal audit**

Internal audit services are provided to the OAIC by the AHRC through a contract with Oakton Services Pty Ltd. The OAIC will seek regular assurance from the AHRC that:

• the planning and implementation of comprehensive internal audit programs and audit techniques ensure appropriate and adequate coverage of all the OAIC’s functions, procedures, systems and organisational arrangements over a three year cycle

• working papers resulting from internal audits are kept

• audit techniques to assess the effectiveness of fraud control measures are integrated into the audit test program.

**Information technology**

Information Communications Technology services are provided to the OAIC by the AHRC. The OAIC will seek regular assurance from the AHRC that:

• arrangements, facilities, software and hardware comply with relevant industry standards

• systems development methodologies, electronic communications security, change control procedures, and project management techniques are responsibly used in all new systems development, enhancement and modification

• ICT management functions are regularly monitored and evaluated

• ICT systems, controls and operations are periodically reviewed by IT management or Internal Audit

• specific aspects of IT functions are identified for extensive technical review by IT management or specialist external consultants from time to time.

**Security**

Security services are provided to the OAIC by the AHRC. The OAIC will seek regular assurance from the AHRC that:

• appropriate security requirements, outlined in the Commonwealth Protective Security Policy Framework and IT Security Policy are implemented and periodically evaluated for:

  a) accommodation, buildings and perimeters to prevent the entry, exit and movement of unauthorised personnel, visitors and property

  b) security classified material to ensure appropriate storage, destruction and disposal of personnel and finance records

  c) recruitment of staff into designated security positions.
Human resources services

Human resources services are provided to the OAIC by the AHRC under the MOU. The OAIC will seek regular assurance from the AHRC that:

Recruitment
- Recruitment policies and procedures ensure valid, fair, competitive recruitment actions in accordance with APS guidelines on merit recruitment.
- The classification, duties, responsibilities, authorities, lines of control and accountability, and any security clearances required for each position, are clearly specified for all positions, and included in duty statements, position profiles and organisational charts.

Induction
- Staff have been inducted upon commencement, and supported throughout their probationary period with provision of information and advice.
- Induction refers to OAIC policies on fraud and corruption prevention

Payroll
- Payroll processes ensure timely, accurate, complete and efficient processing of salary variations, allowances, entitlements and terminations in full compliance the OAIC’s Enterprise Agreement, Public Service Act 1999 and Public Service Regulations and related Commonwealth legislation.
- Payroll processes including adequate controls to minimise the risk of potential payroll related fraud events.
- Statistical reports for managerial monitoring of staffing levels, staff-related payments, attendances, leave and absenteeism are available upon request.

Leave and attendance
- The operation of leave systems are subject to regular scrutiny by relevant personnel to ensure compliance, recording and reporting.

Work health and safety
- Health and Safety Representatives (in accordance with established WHS practices) actively monitor and disseminate information through the OAIC’s Health and Safety Representative to avoid problems of fraud which can be associated with poor morale, exposure to unnecessary stress and unsatisfactory work methods.

Human resources practice
- Human resources staffing procedures and practices, and delegations, are subject to periodic review to ensure staff are competently trained and internal controls are working effectively and efficiently.

Financial management

Certain financial management services are provided to the OAIC by the AHRC under an MOU arrangement.
The financial management practices that help prevent and detect fraud and corruption are effectively provided by actions of both OAIC and AHRC. OAIC only seeks assurance from AHRC on financial management practices provided by AHRC.

The OAIC will seek regular assurance from the AHRC, in respect of Financial Management MOU Services that assist in minimising the risk of fraud and corruption, and preventing and detecting actual fraud, such as:

- The adequacy of AHRC financial management and reporting systems in respect of fraud prevention and detection, including:
  - a) adequate segregation of duties and effective internal controls
  - b) adequate processing of all financial transactions
  - c) adequate recording of asset purchases
  - d) adequate reporting of budgetary and financial decisions.

- Financial services delivered to the OAIC fully comply with the Public Governance, Performance and Accountability (PGPA) Act 2013 and PGPA Rule 2014, associated Commonwealth Policies, Department of Finance advice and Estimates Memoranda, generally accepted public administration and government accounting principles and practices, Australian Equivalents to International Financial Reporting Standards and relevant management reporting requirements.

The OAIC will periodically review Financial delegations and authorisations to ensure adequate segregation of duties.

Financial management will be monitored through the following key measures:

- monthly reconciliation between the OAIC’s bank accounts and the financial management information system (FMIS), and between the payroll and FMIS
- monthly examination by OAIC managers of budgeted revenue and expenditure against actual
- internal and external audit.

**Asset and property management**

Asset and property administration systems are provided to the OAIC by the AHRC. The OAIC will seek regular assurance from the AHRC that:

- asset and property administration systems ensure timely, accurate, complete and efficient recording and processing of asset and property management transactions (in full compliance with the Public Governance, Performance and Accountability (PGPA) Act 2013 and PGPA Rule 2014, associated Commonwealth Policies, and applicable directions of the Department of Finance, and internal management control requirements) relating to:
  - a) contracting and acquisition
  - b) storage, issue, usage and return
  - c) maintenance and repair
  - d) retirement, disposal and write-off of assets and property
  - e) regular stock takes and asset reconciliations.
Information management

The OAIC will ensure that:

- classified and Parliamentary records are managed in accordance with requirements contained in the Commonwealth Protective Security Policy Framework, the Cabinet Handbook, and any other relevant advice, including recording, monitoring and accounting for all movements of such documents and files

- classified material and records are periodically and systematically secured and reviewed for archival storage or disposal as appropriate

- non classified material and other internal records are managed in accordance with the OAIC Records management policy and Records and information management strategy.

Fraud control reporting and investigation

The AHRC will provide assistance to the OAIC on fraud control reporting and investigation.

Any official who becomes aware of, or suspects, fraud against the OAIC, by any person, must report the matter immediately to either the Australian Information Commissioner or the Deputy Commissioner or the Risk Coordinator (upon delegation).

Reports may be given orally, but should be supported in writing wherever possible and should detail the full circumstances upon which the suspicion is based.

The person or persons suspected of fraud should not be alerted. Alerting them is likely to compromise subsequent investigations and any criminal prosecutions or civil proceedings.

The Deputy Commissioner and Risk Coordinator will promptly examine reports of suspected fraud and the information available to determine whether a basis exists for further action.

The OAIC, through the Deputy Commissioner, conducts any fraud investigations in line with the Commonwealth Fraud Policy (sections 3 – 11) including:

- documentation of investigation procedures and criteria;

- investigation and referral processes consistent with the Australian Government Investigations Standards (AGIS);

- documentation of decisions to use civil, administrative or disciplinary procedures or to take no further action in response to suspected fraud;

- referring serious and complex cases of fraud against the Commonwealth/OAIC to the Australian Federal Police (AFP) in line with AGIS and AFP referral processes;

- ensuring all instances of actual or suspected fraud are investigated either internally to appropriate resolution or by referral and acceptance by the AFP or another law enforcement agency.

The Deputy Commissioner is responsible for liaising as required with the AFP, AGIS, Director of Public Prosecutions and other relevant authorities in order to investigate all allegations of fraud against the OAIC.
Further instructions on the collection and reporting of information in relation to suspected fraud can be found in the Managing Risk and Internal Accountability chapter of the OAIC’s Accountable Authority’s Instructions.

Monitoring and evaluation

The OAIC will undertake fraud control monitoring and evaluation activities, and will also seek regular assurance from the AHRC in relation to the corporate services that it provides including:

- the effectiveness of AHRC’s fraud control strategy is monitored, internal controls are regularly reviewed and any instances of fraud relating to the OAIC are brought to the OAIC’s attention
- the Fraud Control Plan has been made available for internal or external audit review and amended as necessary.

Collecting and analysing appropriate performance information is important to sound fraud control arrangements and provides a picture of the effectiveness of fraud control. However, measuring effectiveness is difficult because, for example, increases or decreases in the level of fraud may indicate one or more of the following:

- that prevention and detection strategies are working better
- that the amount of fraud has actually increased or decreased
- that controls have failed.

The OAIC will undertake oversight, and seek regular assurance from the AHRC in relation to the corporate services that it provides, that the fraud control strategies ensure that:

- timeframes for implementation of strategies and controls have been met
- ongoing testing of controls show that they are effective in preventing fraud
- quality assurance reviews on aspects of the fraud control framework show that fraud is being controlled. For example, risk assessments meet the relevant standards, the Fraud Control Plan has been distributed and procedures cover all relevant matters
- all allegations of potential fraud are notified to the OAIC in a timely manner
- results of investigations and remedies have been promulgated to act as a deterrent
- annual reporting and certification obligations have been fully met.

Fraud awareness and training

The Commissioner has overall responsibility for ensuring that there is a high level of communication and information regarding fraud control and that OAIC staff and contractors maintain a high level of awareness regarding fraud issues and responsibilities.

Specific training in fraud and corruption is available as needed to the Deputy Commissioner and Risk Coordinator.
To ensure OAIC staff are well equipped to carry out their duties the OAIC will conduct oversight, and seek regular assurance from the AHRC, that:

- information on OAIC fraud control policies and practice is given upon induction

The OAIC is responsible for publishing the Fraud Control Plan and Fraud Control Policy and Guidelines on the intranet and regularly promoting fraud awareness in staff circulars.
Appendix A

Associated Policy & Procedures

The following associated Policy & Procedure form part of the internal control framework documentation relevant to Risk Management:

- Fraud Control Policy & Guidelines (D2017/003920)
- Risk Management Policy (D2017/002862)
- Risk Management Framework & Procedures (D2017/002866)

The Commonwealth Fraud Control Framework 2017 can be found here.
Appendix B

Fraud Risk Assessment register

[A copy of the Risk Register can be obtained by contacting the Deputy Commissioner or the Risk Coordinator]