



ENTERPRISE AGREEMENT

approved Employee Meeting 24 November 2005

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PART I - OPERATION OF THE AGREEMENT

1 Title

1.1 This document is to be known as the NACLC Enterprise Agreement.

2 Parties bound

2.1 This Agreement will be between the National Association of Community Legal Centres Inc (NACLC) and the Australian Services Union (ASU)

3 Life of Conditions & review process

3.1 This Agreement will operate on and from the date of certification by the Commission and continue in force for a period of three years.

3.2 Three months prior to the expiration of the period, a review will be conducted jointly by employees, the NACLC Employment Subcommittee and in consultation with the ASU.

4 Access to this Agreement

4. A copy of this Agreement will be provided to all existing and new employees and a copy will be kept in a place accessible to all employees.

5 Aim, interpretation and definitions

5.1 These conditions apply to a community organisation that encourages co-operative work practices between employees and NACLC.

5.2 Within the spirit of co-operative work practices, the aim of this Agreement is to facilitate and support employees in carrying out the functions of NACLC.

5.3 As a result, this Agreement should not be interpreted restrictively. It has been written in plain English. If the meaning of a clause or condition is unclear the interpretation to be used is the one which best gives effect to the spirit of the clause and to the overall Agreement.

5.4 There are several references in this Agreement to employees also being entitled to the provisions of Acts of Parliament or awards. Wherever there is a conflict between this Agreement and any legislation or award, whether or not there is specific reference to the latter, the provision most favorable to the employees will apply.

5.5 In this agreement the following definitions apply:

“Agreement” means the NACLC Employment Agreement.

“Award” means the Social and Community Services (ACT) Award 2001 or its replacement award.

“Commission”	means the Industrial Relations Commission of NSW
“Convenor”	means the Convenor of NACLCL
“NACLCL”	means the National Association of Community Legal Centres Inc.
“Employment Subcommittee”	means the appointed Employment Subcommittee of NACLCL;
“Employee”	means an employee of National Association of Community Legal Centres Inc.;
“Significant bond”	Significant bond means and includes but is not limited to spouse, including a de facto or same sex partner, child including a step or foster-child, sibling including a step-sibling, grandparent, parent including step-parents, and any other person that the employer designates as having a significant bond with the employee.
“Union”	means the Australian Services Union.

PART II - ENGAGEMENT OF EMPLOYEES

6 Terms of engagement

- 6.1 NACLC will inform each employee in writing of the terms of their engagement and in particular whether they are a full-time, part-time, term, replacement or casual employee.
- 6.2 Casuals shall receive details in writing only on their initial engagement.
- 6.3 NACLC will provide each employee with a job description and/or duty statement and/or Terms & Conditions document outlining specific duties to be performed, hours of work and rate of pay, upon engagement or in the case of existing employees, within one month of the effective date of this Agreement.
- 6.4 All employees other than term, replacement or casual employees shall be deemed to be permanent employees.

7 Full-time employees

7. An employee not specifically engaged on a part-time or casual, term or replacement basis will defined as a full-time employee.

8 Part-time employees

- 8.1 A part-time employee is a person who is engaged to work on a permanent, set and regular basis less than 37.5 hours per week
- 8.2 Part-time employees shall be entitled to work regular hours and days but may work other than regular hours by agreement with the employer
- 8.3 Unless stated otherwise, part-time employees will be entitled to all benefits under this Agreement proportionate to their total hours compared to that of a full-time employee.
- 8.4 If a part time employee is consistently requested to work in excess of their nominated hours, a review will be conducted with a view to extending the nominated hours or reducing the workload. This review may be initiated by either NACLC or the employee.

9 Casual employees

- 9.1 A casual employee is not a permanent employee and will mean an employee specifically employed as such for an average of less than 15 hours a week.
- 9.2 A casual employee will be paid at an hourly rate as defined plus a loading of 25%
- 9.3 A casual employee will be engaged for a minimum of three hours for each engagement.

10 Term & Replacement employees

- 10.1 A term employee may be engaged to work on a full-time or a part-time basis:
- (i) for the completion of a specifically funded task(s) or project; or
 - (ii) in a position which is temporary in nature for a specified period of no more than twelve months; or
 - (iii) to relieve in a vacant position arising from an employee taking approved leave.
- 10.2 A term employee shall not be employed to fill a position previously held by a permanent employee.
- 10.3 Unless stated otherwise, term employees will be entitled to all benefits under this Agreement.
- 10.4 When offering employment on a term basis, NACLC will advise the employee in writing of the temporary nature of the employment, the actual or expected duration of the employment, and that employment beyond the period is not expected.
- 10.5 NACLC and the employee may agree to one extension of the term (provided that the total employment period does not exceed twelve months). On extension, the employee will be advised of the terms of employment, in accordance with clause 10.4.
- 10.6 If a term employee is appointed to a permanent position with NACLC immediately after completing the term contract, any period of the term contract completed immediately prior to the commencement of the permanent position will be considered as service with the employer for calculating leave entitlements, provided that the employee has not taken or received payment in lieu of those entitlements.
- 10.7 A replacement employee means an employee engaged for a specific period of time to replace a designated person
- 10.8 The period of time for which the employee is engaged together with any other special conditions of employment shall be confirmed in writing at the time of appointment
- 10.9 A replacement employee shall be engaged and paid as either a full-time, part-time or casual employee

PART III - HOURS & PLACE OF WORK

11 Hours of work

- 11.1 For the purposes of this Agreement ordinary full time working hours are 75 hours per fortnight based on a 37.5 hour week.
- 11.2 The standard hours for start and finish of work shall be between 7.30 am and 6.30 pm Monday to Friday, normally worked as 7.5 hours per day, with 30 minutes off for lunch without pay.
- 11.3 Employees may select their start, lunch and finish times from day to day provided that such arrangements are approved by the Director, or in the case of the Director, by the Convenor and that the office is staffed from 9am to 5pm Monday to Friday as far as possible.
- 11.4 When an employee travels from home to a different work location, any time additional to the time an employee normally travels to reach work will be considered work time.
- 11.5 No employee will be required to work in excess of 4 hours without a meal break.
- 11.6 Employees may take morning and afternoon tea breaks of 10 minutes on paid time.

12 Overtime and absences on time-in-lieu

- 12.1 Overtime means work performed at the direction of NACLC or due to the agreed demands of the employee's position, either outside the hours of 7:30 am to 6:30 pm Monday to Friday or during meal breaks or in excess of 75 hours in a pay fortnight. An employee will receive a meal allowance as per rate in table 1 when applicable.
- 12.2 By mutual agreement hours worked "overtime" may be recompensed through the time in lieu system except for casuals who will be paid single time plus loading.

For full-time employees, time in lieu will accumulate as follows:

- (a) in excess of 37.5 hours a week, the first 3 hours at time and a half
- (b) after 3 hours at double time
- (c) on a Sunday at double time
- (d) on a Saturday, Sunday or public holiday, a minimum of 3 hours

Part-time employees are entitled to time in lieu on a pro rata basis

- 12.3 Employees will be entitled to accumulate time in lieu from one pay period to the next up to a maximum of 37.5 hours for a full-time employee, pro-rata for part-time employees.

- 12.4 Absences on time-in-lieu will normally be arranged with the Director, or in the case of the Director, with the Convenor. Absences will be at times consistent with the needs of an employee's position and of NACLCL, and at times suitable to the personal needs of the employee.
- 12.5 No employee will be entitled to take off more than 5 days time in lieu in one block.
- 12.6 An employee is expected to reduce their accumulated time in lieu to zero by the end of their employment, and to assist in this NACLCL may, in some cases, direct an employee to be absent on time in lieu.
- 12.7 During the notice period, where exceptional or unforeseen circumstances have not made it possible for an employee to reduce their time in lieu to zero the credits may be paid out at a single time rate to a maximum of 37.5 hours upon ending employment, but otherwise credits will not be paid out. This must be agreed to prior to the termination of employment.
- 12.8 Employees will be required by NACLCL to perform overtime only after being given reasonable notice or in emergency situations.
- 12.9 NACLCL's ordinary working hours are as set out in this agreement. Overtime is not a normal practice and employees are encouraged to prioritise their work to complete it within the hours. Strategic planning will take into account staff resourcing.

13 Place of work

- 13.1 As NACLCL is a national association, employees may work in different States and Territories from time to time. In addition to this agreement and the award, the relevant laws of the State or Territory apply to their employment. Subject to the approval of the NACLCL some part time, casual, project or term employees may work from the office of another organisation or from home.

14 Working from home

- 14.1 The purpose of working at home is to enhance the capacity of individual employees to perform their work efficiently. While it is recognised that working at home may also facilitate greater flexibility in relation to work and family responsibilities, this is not the primary objective of this agreement. Working at home should not, for example, be seen as a regular alternative to childcare.
- 14.2 Where an employee requests it, and the work of other employees and the functioning of the workplace would not be unreasonably affected, NACLCL and the employee may agree that part of his or her working hours be worked at home.

- 14.3 No employee will be required by NACLC to work from home. Some employees, whose work requires their presence in the office during working hours, will not be able to work from home. This applies to those employees whose position requires them to be available in the office for a substantial part of the week to answer telephones, to maintain databases, or to assist other employees in the performance of their work.
- 14.4 A working from home arrangement may be agreed between the employee and the Director, or in the case of the Director, the Convenor, in the case of a once-off arrangement; but must be agreed in writing between the employee and NACLC in the case of a regular arrangement.
- 14.5 The hours involved in once-off working at home arrangements will be negotiated in each case by the employee and the Director, or in the case of the Director, the Convenor. The conditions for approval and implementation of working from home arrangements are set out below. Where an application meets the requirements set out in this agreement, it will not be unreasonably refused.

Prior to entering into a working from home arrangement, NACLC and the employee will make all reasonable efforts to discuss the proposal with any other employees who may be affected.

- 14.6 A decision by NACLC to approve a working at home arrangement will be based upon the following criteria:
- (i) the nature of the work is such that it can be performed at home;
 - (ii) the work can be done in an efficient and effective manner;
 - (iii) the home environment accords with occupational health and safety standards;
 - (iv) the employee is available to take urgent phone calls and these can be redirected from the office;
 - (v) the security and confidentiality of information and files can be reasonably assured;
 - (vi) the employee agrees to meet the conditions specified in clause 14.7.
- 14.7 Work at home should generally be done within the band of hours for the employee's position specified in the award. Work outside these hours will not be counted as overtime unless approved in advance as required by the award.
- The employee is expected to:
- (i) complete a time sheet and provide, if requested by the Director, or in the case of the Director, the Convenor, provide details of the work that was carried out;
 - (ii) attend regular staff meetings and other meetings or activities of direct relevance to their position (unless otherwise agreed);
 - (iii) be available for telephone contact during the hours worked at home;

- (iv) take reasonable steps to ensure that the security and confidentiality of information and files is protected;
- (v) in the case of a regular working at home arrangement, to allow NACLC access to the home workplace where this is requested on reasonable grounds (e.g. to ensure compliance with occupational health and safety requirements) and at least one day's notice is given.

NACLC is expected to:

- (i) provide or meet the costs of consumable items (e.g. telephone calls, facsimile costs, paper) where these costs are reasonably incurred in the performance of work at home and receipts are presented;
- (ii) meet all workers compensation obligations (including "make up pay" as specified in this agreement) in respect of hours worked at home in accordance with this clause
- (iii) take steps to ensure that the employee has reasonable opportunities to participate in the workplace, including fair access to training and promotional opportunities.

This clause does not require NACLC to provide or maintain equipment such as computers, facsimile machines desks or chairs used for home-based work, unless these are owned by NACLC

- 14.8 Where the conditions in clause 14.7 above are consistently not being met, and after reasonable warning has been given, NACLC or the employee may cancel a regular working at home arrangement. Otherwise, once a regular working at home arrangement is in place, at least 3 week's notice must be given by either NACLC or the employee before the arrangement may be substantially changed, except by agreement or in an emergency.

PART IV - CLASSIFICATIONS, TRAINING, WAGES AND SUPERANNUATION

15 Rates of pay

- 15.1 The minimum rates of pay for employees will be in accordance with the Award.
- 15.2 The starting salary for a new employee is dependent on qualifications for the job and relevant voluntary and paid work experience.
- 15.3 Individual salary reviews may be conducted in conjunction with individual staff reviews held annually at about the anniversary of appointment. All salaries not paid in accordance with an incremental salary structure will be reviewed on Anniversary of appointment and increased in accordance with movement in the Consumer Price Index (Sydney all groups for the year ending September 30), or be increased by 1%, whichever is the higher. Salary rates will be confirmed in appointment letters and/or annual review decisions.
- 15.4 Full time, part time, term or replacement employees shall be eligible for incremental progression after each 12 months continuous service.

16 Payment of wages and time sheets

- 16.1 Wages will be paid fortnightly by electronic funds transfer to a bank, building society or credit union account nominated by the employee, or by other means as agreed between NACLCL and the employee.
- 16.2 Wages will be paid in arrears on a Friday for the fortnight ending on that Friday.
- 16.3 The fortnightly rate of salary is equivalent to the annual gross salary divided by 26.07
- 16.4 NACLCL will deduct from salary, income tax required to be paid to the Australian Taxation Office and such other amounts as are authorised in writing by the employee.
- 16.5 Each employee will be entitled to view their own pay records and receive a printed extract or report on request.
- 16.6 When taking annual leave, employees may either have their wages paid in the usual fashion (e.g. fortnightly) or have it paid in a lump sum, along with leave loading, prior to departure on leave.
- 16.7 Upon ending employment, wages due to an employee will be paid on the last day of work or, by arrangement with the employee, either forwarded by post or deposited into the employee's bank account on the next working day.
- 16.8 Employees will be required to complete and submit time-sheets on a fortnightly basis.

16.9 Time records and pay records will be maintained by NACLC for six years.

17 Superannuation

17.1 Superannuation contributions shall be paid according to the Superannuation Guarantee (Administration) Act 1992

18 Staff training and development

18.1 NACLC is committed to ensuring that employees maintain and develop their skills and knowledge, particularly through access to training. NACLC regards training and staff development as being inherent in an employee's employment.

18.2 NACLC will encourage employees to undertake training. Training may be to enhance an employee's skills or knowledge in relation to their current position but may also be to assist them in their career development.

18.3 In general, and subject to prior approval, attendance at training courses, workshops and conferences will be on paid time and the costs associated with such attendance will be paid by NACLC. Attendance at tertiary education courses is addressed by Study leave clauses.

18.4 An employee, with the approval of the Director, may temporarily transfer to other duties to gain experience or undertake on-the-job training as part of an agreed staff development system.

19 Higher Duties

Higher duties allowance

19.1 An employee who is directed to perform all the duties of a higher classification will be paid an allowance equal to the difference between the employee's own salary and the salary the employee would receive if promoted to the higher classification.

Partial higher duties allowance

19.2 Where an employee is directed to temporarily perform part of the duties of a higher classification the Director may determine the amount of higher duties allowance payable, with the allowance calculated according to the percentage of the duties performed at the higher level.

Minimum period

19.3 An employee who performs higher duties at a classification above their normal classification for a period of less than 5 days will not be paid an allowance, unless the Director considers special circumstances exist which justify payment of the allowance during that period. Where an employee is required to perform at a higher classification for a period of 5 days or more, higher duties allowance will be payable for the entire period.

Maximum Period

19.4 Where a position is or becomes vacant for a period of three months or more and the vacancy is to be filled by an employee performing higher duties, that employee will be selected on the basis of merit according to the NACLC policy on Employment and Selection Procedure (to be finalised within a year of the Agreement being certified).

Continuous higher duties - increments

19.5 Where an employee has performed higher duties for a continuous period of 12 months, or non-continuously for a period which aggregates in total a period of 12 months, within 24 months at a particular pay point (or higher), an increment will be payable, subject to the normal requirements to obtain an increment.

Retention of higher duties increments

19.6 After an increment has been attained according to 14.6, it will be retained for future higher duties at that classification level provided that an employee who has not been paid higher duties at that classification level (or higher) for 2 consecutive years, will revert to the minimum of the range for any subsequent higher duties.

Higher duties allowance on leave

19.7 An employee who is performing higher duties and is granted paid leave or who observes a public holiday will continue to receive higher duties allowance during that absence. Higher duties allowance will not be paid beyond the date on which the employee would have ceased performing higher duties, had the employee not been absent.

Where the leave with pay is less than leave on full pay, payment of the allowance will be made on a pro rata basis.

PART V - REIMBURSEMENT, ALLOWANCES AND AMENITIES

20 Travelling, motor vehicle, reimbursement and other allowances

- 20.1 If an employee and NACLCL agreed that the employee should use their own vehicle for work, i.e. where there is no reasonable alternative, they are entitled to a vehicle allowance in accordance with the rate shown in Table 1.
- 20.2 If an employee and NACLCL agreed that the employee should use their own vehicle for work, i.e. where there is no reasonable alternative, and if the employee has an accident, NACLCL will cover the cost of any insurance excess to a maximum amount shown in Table 1.
- 20.3 Clauses 19.1 - 19.2 apply only to registered vehicles and employees with a current driver's licence using the vehicle in accordance with applicable laws. An employee will not be allowed to use their own vehicle unless it is comprehensively insured.
- 20.4 NACLCL will reimburse all reasonable expenses, including telephone calls, transport costs, and parking fees incurred by an employee in the course of carrying out their work, provided that proof of expenses is provided.
- 20.5 NACLCL will meet the cost of a taxi or other secure transport from work to home where an employee is required to finish work after 8.00pm.
- 20.6 Where an employee is required to travel by air for the purposes of work, the NACLCL will pay either directly or reimburse the employee at the standard economy rate or the actual cost incurred, whichever is the lower.
- 20.7 Taxi charges will be reimbursed or Cab Charge dockets provided for trips to and from the airport, hotels and venues while attending approved events.
- 20.8 An employee required to stay away from home overnight due to work commitments will be entitled to an allowance for meals at the rates set out at Table 1 (except where meals have been otherwise provided).
- 20.9 Where an employee is required to stay away from home overnight due to work commitments, the NACLCL will pay either directly or reimburse the employee up to a maximum specified in Table 1. In the event that the maximum amounts specified in Table 1 are insufficient to cover expenses reasonably incurred, at its discretion, the NACLCL may approve an amount necessary to meet the expenses.

21 Childcare

- 21.1 Where unforeseen circumstances arise which make alternative child care arrangements impractical, an employee responsible for the care of a child may, with the approval of the employer, bring the child to work if it does not substantially conflict with the performance of the employee's or other employees' duties.

- 21.2 NACLC will reimburse child care costs up to a maximum of \$50 per day where the employee is required by NACLC to work hours outside standard hours, where no alternative arrangements are possible, and where the Director, and in the case of the Director, the Convenor, has agreed to reimburse the child care costs prior to the date on which the child care is required.

22 Occupational Health and Safety

- 22.1 NACLC will take all reasonable action to ensure the health and safety of employees and implement appropriate health and safety policies and practices.
- 22.2 NACLC will maintain a first aid kit to the standard recommended by the St John's Ambulance Society.
- 22.3 NACLC will not permit smoking on its premises.
- 22.4 When employees are unable to work because a hazard within the working environment presents a real, or reasonably perceived, immediate risk of injury or detriment to their health, and no alternative work arrangement can be made, the resulting absence from work will be on paid time.
- 22.5 The preceding clause does not apply to an employee who is involved in a rehabilitation program, whether or not it is the subject of a worker's compensation claim, nor to an employee whose work environment has been modified to accommodate a physical or intellectual limitation; in each of these cases the relevant employees compensation or anti-discrimination legislation will continue to apply.
- 22.6 Employees will not be required to use a keyboard for a continuous period longer than 60 minutes without taking a 10 minute break.

PART VI - LEAVE

23 Leave - general provisions

- 23.1 Unless it is stated to the contrary, all paid leave counts as service for all purposes.
- 23.2 Unless it is stated to the contrary, in exceptional circumstances and where it is fair and equitable to do so, NACLC may grant an employee additional periods of any leave under this Agreement. Any leave granted in advance of entitlement will be recovered on termination of employment.
- 23.3 Unless otherwise stated, all types of leave will be subject to approval by the Director. In the case of the Director's leave, it will be subject to approval by the Convenor.

24 Personal, Sick, Bereavement & Carer's Leave

- 24.1 All employees, except casual employees, are entitled to personal leave. Paid personal leave is available to an employee when they are absent due to personal illness or injury (sick leave); for the purpose of caring for a person with whom the employee has a significant bond, who is sick and requires the employee's care and support (carer's leave) or because of bereavement on the death of a person with whom the employee has a significant bond.
- 24.2 The amount of personal leave to which an employee is entitled depends on how long he or she has worked for NACLC and accrues as follows:
- (i) 18 days in the first year of service
 - (ii) in any year unused personal leave accrues by the lesser of:
 - (a) 15 days less the amount of sick leave and carer's leave taken during the year; or
 - (b) the balance of that year's unused personal leave

Sick Leave

- 24.4 An employee is entitled to use up to 15 of the current year's personal leave entitlement as sick leave in the each year of service. If sick leave exceeds 3 consecutive days, the employee must provide a medical certificate from a qualified medical practitioner.
- 24.5 An employee should make all reasonable efforts to give NACLC early notice of their absence from work.
- 24.6 Where a worker is entitled to workers' compensation payments for an illness or injury arising out of the workers employment with NACLC, and those payments are less than the worker's ordinary weekly earnings, NACLC will make up the difference by additional payments to the worker, for up to a maximum of 26 weeks. The worker may elect to use their sick leave credits to make up the shortfall in workers compensation payments after make-up payments by the employer cease.

- 24.7 Where an employee would have been entitled to sick leave but for being absent on paid leave, sick leave will be paid for the relevant period and the equivalent period of paid leave will be re-credited.
- 24.8 Sick leave not taken shall be cumulative from year to year. There shall be no payment of portions of leave not taken, on retirement or termination.

Bereavement Leave

- 24.9 An employee is entitled to use up to 3 days personal leave as bereavement leave on the death of a person with whom the employee has a significant bond.

Carer's Leave

- 24.10 An employee is entitled to use up to 5 days personal leave each year as carer's leave or for special or pressing occasions, including ceremonial or religious days and one moving day per year.
- 24.11 An employee should make all reasonable efforts to give NACLC early notice of their absence from work.
- 24.12 Where an employee would have been entitled to personal leave but for being absent on paid leave, personal leave will be paid for the relevant period and the equivalent period of paid leave will be re accredited.

25 Annual Leave

- 25.1 A full-time employee is entitled to 4 weeks annual leave in each year of service, with any unused credit being carried over to accumulate with following years' credits. Leave will accumulate at the rate of one third of a week per month. Part-time employees accrue leave in proportion to their hours of work.
- 25.2 Annual leave should not be accumulated beyond a maximum of 8 weeks, and NACLC will consult an employee about a suitable time to take leave in advance of the employee exceeding the maximum. An employee will not forfeit any leave above 8 weeks, but NACLC may direct an employee to take leave so as to keep it below the maximum.
- 25.3 An employee may take annual leave on a pro-rata basis after 6 weeks work.
- 25.4 An employee planning annual leave will consult the Director, or in the case of the Director, the Convenor, about a period of leave that is consistent with the needs of the employee's position and of NACLC, and that is suitable to the personal needs of the employee.
- 25.5 Any public holiday during an employee's annual leave will be counted and paid as such, and not as recreation leave, if the employee would otherwise have been entitled to that public holiday.
- 25.6 Except at the end of an employee's employment, annual leave will not be paid unless the employee takes the corresponding period of absence from work.

- 25.7 When an employee finishes employment they will be paid all accrued annual leave plus leave loading
- 25.8 The rate of pay for annual leave is the ordinary rate of salary plus an entitlement to leave loading of 17.5% of the normal gross salary, for the period of leave. Leave loading will not be paid on recreation leave taken in advance, until the date the leave credit would otherwise have accrued. No leave loading is payable until after 12 months of continuous service.
- 25.9 Where an employee would have been entitled to sickness or personal leave but for being on annual leave, sickness or personal leave will be paid for the relevant period and the equivalent period of annual leave will be re-credited.
- 25.10 The Director, or in the case of the Director's leave, the Convenor may, in appropriate circumstances, grant annual leave in advance.
- 25.11 Employees, other than casual employees, can purchase up to an additional 2 weeks annual leave per year by a continuing fortnightly deduction from salary over the year.

26 Public Holidays

- 26.1 Employees will be entitled to paid leave for a public holiday as defined in the Award and/or relevant State or Territory legislation.

27 Leave during Christmas closure

- 27.1 NACLC closes over the Christmas period for the days from Christmas Day to New Years Day inclusive unless otherwise agreed by the Employment Subcommittee. Employees will receive their ordinary weekly pay for this time.
- 27.2 This leave is not annual leave and cannot be deferred to another date nor have the period increased for individual employees.

28 Leave without pay

- 28.1 NACLC may grant an employee with continuous employment of 12 months or more, leave without pay for any purpose.
- 28.2 Leave without pay is not a guaranteed entitlement and would be considered on a case by case basis.
- 28.3 Leave without pay does not count as service for the purpose of accumulating any entitlement which is based on length of service, but does not break continuity of service.

29 Long Service Leave

- 29.1 For the purpose of this agreement permanent employees accrue and are entitled to be paid and take long service leave on the basis of:
- (a) one month (4 and 1/3 weeks) leave after 5 years continuous service;
 - (b) one month leave for each additional 5 years continuous service;
 - (c) permanent employees accrue long service leave on a pro-rata basis.
- 29.2 Long service leave entitlements will be paid out on termination after 5 years continuous service.
- 29.3 Long service leave is paid at the ordinary rate of pay paid to an employee prior to taking the leave or an average of the last five year's ordinary pay earnings, whichever is the higher.
- 29.4 Long service leave shall be taken as soon as practicable by the employee after falling due, but it may be postponed to a mutually convenient date if NACLC and the employee agree.
- 29.5 One month's notice is required of the employee's intention to take Long Service Leave.
- 29.6 Where an employee would have been entitled to sickness or personal leave but for being on long service leave, sickness or personal leave will be paid for the relevant period and the equivalent period of long service leave will be re accredited.
- 29.7 In the event of redundancy, all employees will be paid pro rata long service leave, as well as redundancy entitlements.

30 Parenting Leave (without pay)

- 30.1 An employee with at least twelve months continuous service shall be entitled to up to 52 weeks parental leave without pay upon the birth of the child.
- 30.2 An employee with at least twelve months continuous service whose partner becomes pregnant shall be entitled to up to 52 weeks leave without pay. This leave may be taken upon the birth of the child or to support a partner during her confinement.
- 30.3 An employee with at least twelve months continuous service shall be entitled to up to 52 weeks leave without pay when he/she adopts or fosters a child long term, commencing not more than two weeks before commencement of custody of the child.
- 30.4 An employee returning to work immediately after the completion of parental leave shall be entitled to the position held before taking such leave or to access regular part-time employment for up to 2 years after the birth, adoption or long term fostering of the child.

- 30.5 Persons employed specifically to replace an employee taking parental leave shall be fully informed of the temporary nature of their employment, and of the conditions relating to the leave being taken by the employee who is being replaced, including the possibility of an employee returning within 52 weeks, subject to negotiation.
- 30.6 For the purposes of this clause periods of leave without pay do not break, but are not counted towards, continuous service.

31 Paid Parenting Leave

- 31.1 A female employee with at least twelve months' continuous service shall be entitled to 12 consecutive weeks parental leave with full pay upon her confinement. This leave is normally to be taken 6 weeks before the expected date of birth and continues until 6 weeks after the date of birth, but may be taken in another manner. If the birth occurs more than 6 weeks before the expected date, this leave begins from the date of birth.
- 31.2 An employee with at least twelve month's continuous service who is not the primary care giver of a new born child but is the partner in a relationship with a new born child shall be entitled to 6 consecutive weeks parental leave with full pay upon the birth of the child.
- 31.3 An employee with at least twelve month's continuous service who is the primary care-giver of a new born child, but has not given birth to the child, and where another person is not also the primary care-giver for the same new born child, shall be entitled to 6 consecutive weeks parental leave with full pay upon the birth of the child.
- 31.4 An employee with at least twelve months' continuous service who is the primary care giver for an adopted child, or who fosters a child long term, shall be entitled to 8 consecutive weeks parental leave with full pay commencing not more than two weeks before commencement of custody of the child.
- 31.5 An employee with at least twelve months' continuous service who is not the primary care giver but is the partner in a relationship with an adopted or long term fostered child shall be entitled to 6 consecutive weeks parental leave with full pay upon commencement of custody of the child.
- 31.6 The part-time equivalent of the full-time leave entitlement may be taken. However, the manner in which the leave is taken must be approved by the Director, or in the case of the Director by the Convenor prior to the commencement of the leave. After the leave has commenced, alteration to the manner in which the leave is taken may only occur in exceptional circumstances and upon negotiation and agreement between the employee and the Director, or in the case of the Director's leave, the Convenor.
- 31.7 For the purposes of this clause periods of leave without pay do not break but are not counted towards continuous service.

32 Jury Service

- 32.1 Provided an employee gives NACLC adequate notice, evidence of the duration of their attendance and the amount of fees received from the court, NACLC will pay to an employee who was called for jury service the difference between salary and court fees for a period up to 4 weeks.

33 Study Leave

- 33.1 An employee who is enrolled in a course of study approved by NACLC and acknowledged as being relevant to their work, is entitled to 5 hours paid leave per week during term or semester.
- 33.2 Study leave may be accrued throughout the year to be taken prior to exams or other forms of assessment, as a block of no more than 5 days.
- 33.3 An employee is also entitled to paid leave to attend exams in courses approved by NACLC.

34 Trade Union Leave

- 34.1 An employee is entitled to take 5 days paid leave (non-cumulative) a year to attend courses run by the Union or a Trade Union training body.
- 34.2 An employee is entitled to 1 hour paid leave per month to attend Union meetings. Such leave may be accrued to 3 hours per quarter.
- 34.3 The Director, or in the case of the Director's leave, the Convenor is authorised to approve such leave

PART VII - DISPUTE SETTLEMENT, COUNSELLING & DISCIPLINARY PROCEDURES, TERMINATION, INTRODUCTION OF CHANGE, AND REDUNDANCY

35 Dispute Settling Procedures

- 35.1 In the event of a dispute arising in the workplace, including a dispute between the parties to this Agreement or one concerning the meaning or application of any provision of this Agreement, the following procedure shall be used.
- 35.2 The employee and the Director, or in the case of the Director's dispute, the Convenor meet and confer about the matter
- 35.3 If the matter is not resolved at such a meeting, the employee and his or her nominated representative shall discuss the matter with the Employment Subcommittee
- 35.4 If the matter is still not resolved a discussion shall be held between representatives of NACLCL and the Union or other employee representative
- 35.5 If the matter cannot be resolved it may be referred to the Industrial Relations Commission of NSW for conciliation or arbitration or other settlement as determined by the Commission
- 35.6 While the parties attempt to resolve the matter work will continue as normal unless an employee has a reasonable concern about an imminent risk to his or her health or safety

36 Termination of employment

- 36.1 Termination of employment will not be harsh, unfair or unreasonable having regard to all the circumstances.
- 36.2 An employee's employment shall not be terminated by NACLCL unless the counselling and disciplinary procedure has been followed, or in accordance with the redundancy provisions of this agreement.
- 36.3 Sub-clauses 36.1 & 36.2 will not apply in the case of a casual or term employee whose employment ceases when the period they are employed for has ended.
- 36.4 An employee will give a minimum of 2 weeks notice of resignation or retirement.

- 36.5 The employer shall give notice of dismissal, or pay in lieu according to the following schedule:

<u>Years of continuous service</u>	<u>Notice required</u>
Less than 1	2 weeks
1 year but not more than 3	2 weeks
3 years but not more than 5	3 weeks
5 years or more	4 weeks

An employee over the age of 45 shall receive one week's extra notice or pay in lieu, provided that employee has had 2 years continuous service.

37 Counselling and Disciplinary Procedures

- 37.1 Counselling and disciplinary action is aimed at improving the performance of an employee or correcting their behaviour, with a view to maintaining an appropriate standard of service by NACLC. A problem solving approach should be adopted, rather than a punitive one.
- 37.2 Prior to using these counselling and disciplinary procedures the Director, or in the case of the Director, the Convenor, must satisfy themselves that there is a problem with an employee's performance or behaviour.
- 37.3 NACLC will ensure that the principles of natural justice are observed and employed at all stages of the counselling and disciplinary process.
- 37.4 Where the Director, or in the case of the discipline of the Director, the Convenor is satisfied that the employee's performance or behaviour is unsatisfactory the process set out in this section will be followed and the employee may have a Union representative, a legal advisor, a co-employee or another person of their choice assist them at all stages.

Step 1 Informal Counselling

- 37.5 The Director, or in the case of the counseling of the Director, the Convenor, will meet with the employee and identify the area of unsatisfactory performance or behaviour. The employee must have outlined to them the standard of performance or behaviour that is expected of them and be given guidance as to how to meet that standard. It may be appropriate to canvass any training needs or support the employee may need. Follow up sessions may be appropriate and a review period could be set. The employee should have explained to them the implications of failing to meet the required standard of performance or behaviour.
- 37.6 Although the Director or Convenor may record that the employee was counselled, no record is to be kept of the discussion during the counselling session.
- 37.7 Step 1 may be missed if the issue of an employee's performance or behaviour is serious and demands formal action to be taken.

Step 2 Formal Counselling

- 37.8 If the employee's performance or behaviour has failed to improve after step 1, or if the Director or Convenor believes that Step 1 is inappropriate, the employee will be formally counselled. The Director or Convenor will consult with the Employment Subcommittee before proceeding with formal counselling.
- 37.9 Formal counselling will follow similar principles to informal counselling, but a record will be made. A copy of the counselling record will be given to the employee and another copy placed on their personnel file. A time period will be set (preferably one the employee agrees to) during which the employee's performance or behaviour should improve and a review conducted at the end of that time. If the employee's performance or behaviour has improved, but not to the required standard, the Director or Convenor may decide to impose a further review period.
- 37.10 The record kept on the employee's personnel file will be destroyed after 6 months if there has been no recurrence of the problem in that time.

Step 3 Written warning

- 37.11 If there is insufficient or no improvement within the review period the Director or Convenor will issue the employee with a written notice which:
- (a) sets out the remainder of the counselling and disciplinary procedure;
 - (b) sets out a further review period;
 - (c) identifies the problem with the employee's performance or behaviour and the standard expected of them; and
 - (d) warns the employee that if the problem persists they may be dismissed, transferred or demoted.

The Director or Convenor will consult with the Employment Subcommittee before issuing a written warning.

- 37.12 A copy of the warning will also be placed on the employee's personnel file and will be destroyed if there is no recurrence of the problem within 6 months.
- 37.13 The employee will be again counselled as to strategies to improve their behaviour or performance.

Step 4 Final written warning

- 37.14 If by the end of the review period the employee's performance or behaviour has not met the required standard, the employee will meet with the Director or Convenor and be given a written notice stating that:
- (a) their performance or behaviour has failed to reach the required standard;

- (b) the Director or Convenor is satisfied that good reasons exist to either:
 - (i) dismiss the employee,
 - (ii) transfer them to another position at the same or lower salary, or
 - (iii) reduce their salary and/or current job responsibility, specifying which one of the options the Director or Convenor intends to take and why; and
- (c) the employee has fourteen (14) days in which to give written cause why the Director or Convenor should not take the action specified at (b), above.

The Director or Convenor will consult with the Employment Subcommittee before issuing the written notice.

Step 5 Dismissal, transfer or salary reduction

37.15 At the end of the fourteen (14) days the Employment Subcommittee will consider any oral and written submissions from the employee and decide whether to proceed with the dismissal, transfer or change in responsibilities and/or salary reduction specified in the final written warning, and will give fourteen days notice of any decision taking effect, except in the case of a decision to dismiss the employee, when the notice periods referred to in clause 35.5 apply with effect from the date of notification of the decision to the employee.

- 37.16 After considering any submission by the employee, the Employment Subcommittee may elect to
- (a) transfer or reduce job responsibilities, and/or reduce salary, rather than dismiss; or
 - (b) reduce job responsibilities rather than transfer the employee; and/or
 - (c) impose a lesser salary reduction.

38 Summary Dismissal

38.1. Nothing in this Agreement limits the power of NACLC to instantly dismiss an employee for serious misconduct, which may include wilful disobedience, dishonesty, fraud, sexual harassment, physical assault, breach of confidentiality or abandonment of employment.

39 Invalidity

39.1 NACLC may decide to terminate an employee's employment where the employee is permanently unfit for work in their current position or, if given appropriate training, would not be fit to perform alternative, available work within NACLC.

39.2 Sub-clause 39.1 applies equally to an employee who is not permanently unfit but is expected to be temporarily unfit for a period of at least 2 years.

- 39.3 NACLC will employ the principles of reasonable adjustment in considering the availability of alternative work for the employee. NACLC must also consider its obligations under the Disability Discrimination Act 1992 (Cth) and any relevant State or Territory legislation.
- 39.4 Where the members of the Employment Subcommittee believe it may be appropriate to terminate an employee's employment under this section, the Director, or in the case of the Director, the Convenor will:
- (i) write to the employee advising them of the possibility of their employment being terminated and their associated rights, severance payments and other entitlements;
 - (ii) invite within 14 days written or oral submissions by them or a representative of their choice;
 - (iii) refer the matter to the members of the Employment Subcommittee for a decision
- 39.5 In deciding whether or not to terminate an employee's employment under this section the members of the Employment Subcommittee must rely on medical evidence supplied by an independent medical practitioner, paid for by NACLC and chosen by mutual agreement by the employer and employee and all other relevant circumstances. Any decision by the employee's superannuation fund to make or not make a payment for disability is relevant but not conclusive.
- 39.6 If a decision is made to terminate employment on the grounds of invalidity, the employee will be given 14 days notice of the decision taking effect and will be entitled to all unused sickness and personal leave plus the severance payments set out at table 2.
- 39.7 Nothing in this section should be taken to make it compulsory for NACLC to terminate on the grounds of invalidity.

40 Redundancy and the Introduction of Change

Application

- 40.1 This clause shall apply to full-time, part-time, term and replacement employees.

Introduction of change

- 40.2 Where an employer has made a definite decision to introduce changes in production, organisation, structure or technology that are likely to have significant effects on employees, the employer shall notify the employees who may be affected and the Union.
- 40.3 'Significant effects' include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs;

Employer's duty to discuss change

- 40.4 The employer shall provide information to and discuss with the employees affected and the Union the introduction of changes, their likely effect and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the Union in relation to the changes. NACLCL will make all efforts to avert or minimise disadvantage to individual employees.
- 40.5 The discussion shall commence as early as practicable after the decision has been made by the employer.

Notice of termination due to changes in production, programme, organisation or structure

- 40.6 In order to terminate the employment of an employee the employer shall give the following notice, or pay in lieu according to the following schedule:

<u>Years of continuous service</u>	<u>Notice required</u>
Less than 1	2 weeks
1 year but not more than 3	2 weeks
3 years but not more than 5	3 weeks
5 years or more	4 weeks

An employee over the age of 45 shall receive one week's extra notice or pay in lieu, provided that employee has had 2 years continuous service.

The period of notice shall be deemed to be service for the purposes of the Long Services Leave Act 1955, the Annual Holidays Act 1944, or any Act amending or replacing either of these Acts.

Notice of termination due to technological change

- 40.7 In order to terminate the employment of an employee due to technological change, the employer shall give 3 months notice or payment in lieu of notice. The period of notice shall be deemed to be service for the purposes of relevant long service and annual holidays legislation.

Time Off during notice period

- 40.8 During the notice period an employee shall be allowed up to one days' time off per week without loss of pay, to a maximum of five weeks for the purposes of seeking other employment.

Employee leaving during the notice period

- 40.9 An employee may terminate their employment before the end of the notice period and will still receive any severance pay and other entitlements due to them, but will not be paid for the remainder of the notice period.

Transfer to lower paid duties

40.10 Where an employee is transferred to lower paid duties for reasons set out in 39.2 or 39.3, the employee shall be entitled to the same period of notice of transfer as they would have been entitled to if their employment had been terminated. The employer may choose to make payment in lieu of that notice, that payment being equal to the difference between the former ordinary time rate of pay and the new ordinary time rates for the number of weeks of notice still owing.

Severance pay

40.11 Severance Pay will be paid to an employee who is to be terminated, in accordance with Table 2.

Alternative employment

40.12 Subject to an application by the employer and further order of the Industrial Relations Commission of NSW, an employer may pay a lesser amount (or no amount) of severance pay than that contained in Table 2 if the employer obtains acceptable alternative employment for an employee.

Preference in re-employment

40.13 A former employee who was made redundant within the last 6 months will be given preference in employment to any advertised vacancy where they and another applicant are otherwise of equal merit.

41 Union Membership

41.1 NACLCL supports the role of the Union in representing employees and will encourage all existing and new employees to be members of the Union, and will provide all new employees with a Union membership application.

41.2 NACLCL will not obstruct legitimate union activity by employees or a Union official and will not disadvantage or victimise employees involved in legitimate industrial action.

41.3 NACLCL will not refuse an employee access to payroll deductions to the Union.

Table 1 - Miscellaneous allowances and payments

The rates in this table are based on the non-SES travel rates for the Commonwealth Attorney General's Department as at May 2005.

<p><u>Motor vehicle allowance:</u> For a vehicle with engine capacity - above 2600cc - above 1601cc but below 2600cc - 1600cc or less (a vehicle with a rotary engine is taken to have double its engine capacity)</p>	<p>62c per km 61c per km 51c per km</p>
<p>Insurance excess</p>	<p>maximum \$300</p>
<p><u>Accommodation rates vary according to location:</u> Adelaide Brisbane Canberra Darwin Hobart Melbourne Perth Sydney Other locations:</p>	<p>\$115.00 \$120.00 \$110.00 \$110.00 \$100.00 \$135.00 \$115.00 \$145.00 \$110.00</p>
<p><u>Where meals have not otherwise been provided the following meal allowances apply:</u> Breakfast Lunch Dinner <u>Incidentals</u> Incidental work related expenses will be reimbursed by the employer upon the production of a receipt. Incidental expenses that will be reimbursed may include work related telephone calls, internet access, photocopying, faxes. Alcohol will not be paid for</p>	<p>\$18.90 \$21.15 \$36.40</p>

Where the maximum amounts are insufficient to cover expenses reasonably incurred, at its discretion, the Director, or in the case of the Director's expenses, the Convenor, may approve an amount necessary to meet the expenses.

Table 2 - Redundancy and invalidity payments

If the employee is under 45 years of age, the employer shall pay in accordance with the following scale:

Period of service	Severance Pay
Less than 1 year	nil
1 year and up to 2 years	4 weeks
2 years and up to 3 years	6 weeks
3 years and up to 4	7 weeks
4 years and over	8 weeks

If the employee is 45 years old or above, the employer shall pay in accordance with the following scale:

Period of service	Severance Pay
Less than 1 year	nil
1 year and up to 2 years	5 weeks
2 years and up to 3 years	7.5 weeks
3 years and up to 4	9 weeks
4 years and over	10.5 weeks

'Weeks pay' means the all purpose rate of pay for the employee concerned at the date of termination, in addition to the ordinary rate of pay, over award payments, shift penalties and allowances.

**Signed on Behalf of the National Association of Community Legal Centres
(NACLCL)**

Date:

**Liz O'Brien
National Convenor**

Signed on Behalf of the ASU

Date: