[2016] FWCA 2305

DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Ballarat and Queen’s Anglican Grammar School T/A Ballarat Grammar
(AG2016/2592)

BALLARAT AND QUEEN’S ANGLICAN GRAMMAR SCHOOL
(TEACHERS) AGREEMENT NOVEMBER 2015 - OCTOBER 2019

Educational services

COMMISSIONER ROE

MELBOURNE, 13 APRIL 2016

Application for approval of the Ballarat and Queen’s Anglican Grammar School (Teachers) Agreement November 2015 - October 2019.

[1] An application has been made for approval of an enterprise agreement known as the Ballarat and Queen’s Anglican Grammar School (Teachers) Agreement November 2015 - October 2019 (the Agreement). The application was made pursuant to s.185 of the Fair Work Act 2009 (the Act). It has been made by Ballarat and Queen’s Anglican Grammar School T/A Ballarat Grammar. 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. The Agreement does not cover all of the employees of the employer, however, taking into account the factors in Section 186(3) and (3A) I am satisfied that the group of employees was fairly chosen.

[3] The Independent Education Union of Australia 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.
The Agreement was approved on 13 April 2016 and, in accordance with s.54, will operate from 20 April 2016. The nominal expiry date of the Agreement is 31 October 2019.

COMMISSIONER

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Part 1 - Application and Operation

1. Title

   This Agreement is to be known as the Ballarat and Queen’s Anglican Grammar School (Teachers) Agreement November 2015 – October 2019 (the “Agreement”) and is a Single Enterprise Agreement made pursuant to section 172 (2) of the Fair Work Act 2009 (Cth) (the Act).

2. Commencement and period of operation

   2.1 Where the Agreement passes the Better Off Overall Test, the Agreement will come into operation seven days after being approved by the Fair Work Commission (FWC) in accordance with S. 54 of the Act.

   2.2 The nominal expiry date of the Agreement is 31 October 2019.
3. Definitions and interpretation

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act</td>
<td>means the <em>Fair Work Act 2009</em> (Cth) or its successor(s).</td>
</tr>
<tr>
<td>Award</td>
<td>means the <em>Educational Services (Teachers) Award 2010</em> or its successor(s).</td>
</tr>
<tr>
<td>Casual Employment</td>
<td>means employment on a day-to-day basis for a period of not more than four consecutive term weeks. This may be extended by agreement provided the total period does not exceed one school term.</td>
</tr>
<tr>
<td>Continuous Service</td>
<td>means service under an unbroken contract of employment and includes:</td>
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<td></td>
<td>any period of part-time and full-time employment where the Teacher provides service by working at the School,</td>
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<tr>
<td></td>
<td>any period during which the Teacher is in receipt of accident pay whilst entitled to workers' compensation payments, and</td>
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<td></td>
<td>any period during which paid leave is applicable,</td>
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<tr>
<td></td>
<td>but does not include:</td>
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<tr>
<td></td>
<td>any period of employment on a casual basis (other than for the purposes of long service leave), and</td>
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<tr>
<td></td>
<td>any period of unpaid leave whether approved or otherwise, except at the discretion of the Employer.</td>
</tr>
<tr>
<td>Early Childhood Program</td>
<td>means the core curriculum provided to children under school age (three, four and five year old children) during term weeks.</td>
</tr>
<tr>
<td>Early Childhood Teacher</td>
<td>means an employee, including an employee employed as a Director or Co-ordinator of an Early Childhood Program, who is employed to teach children enrolled in the Early Childhood Program of the School.</td>
</tr>
<tr>
<td>Employee</td>
<td>means a person employed as a Teacher (a School Teacher or an Early Childhood Teacher) covered by this Agreement.</td>
</tr>
<tr>
<td>Employer</td>
<td>means Ballarat and Queen’s Anglican Grammar School (ABN 93 005 091 805).</td>
</tr>
<tr>
<td>Face-to-Face</td>
<td>means teaching where the teacher is responsible for timetabled classes of 5 or more students that involve lesson preparation, assessment and reporting, and does not include “extras” (classroom coverage of absent staff). In circumstances where a class will have 5 or less students, discussions will be held with the Teacher/s involved.</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
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<td>-----------------------------</td>
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</tr>
<tr>
<td>Fixed-term Employment</td>
<td>means employment for a fixed period of time for a period of up to 12 months on either a full-time or part-time basis, which can be extended for a further period.</td>
</tr>
<tr>
<td>FTE</td>
<td>means full-time equivalent in the context of a Teacher’s workload. Except where varied by individual agreement with a Teacher, a full-time workload for Teachers at the School is: in Early Childhood teaching – 24 hours face-to-face; in Years Prep to 6 – 20 hours face-to-face; in Years 7 to 12 – 19 hours face-to-face. These hours are supplemented by pastoral, supervisory and co-curricular duties, for Junior and Senior Schools averaging a minimum of seven contact hours per week, for the Early Childhood Program a minimum of 2.5 hours supervision per week, and for all staff, including an average of half an hour’s community service per week. For teaching duties other than face-to-face, full-time loads will be determined with reference to the 38 hour week. The FTE for part-time teachers will be calculated on a pro-rata basis from the full-time teaching hours and pastoral, supervisory and co-curricular responsibilities, with teaching hours given double weighting.</td>
</tr>
<tr>
<td>Full-time Employment</td>
<td>means employment for an average of 38 ordinary hours per week over a 12 month period.</td>
</tr>
<tr>
<td>FWC</td>
<td>means Fair Work Commission.</td>
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<tr>
<td>Headmaster</td>
<td>means the Headmaster of Ballarat and Queen’s Anglican Grammar School.</td>
</tr>
<tr>
<td>Immediate Family</td>
<td>means: a spouse, former spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Teacher, and a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Teacher. A de facto partner means a person who, although not legally married to the Teacher, lives with the Teacher in a relationship as a couple on a genuine domestic basis (whether the Teacher and the person are of the same sex or different sexes), and includes a former de facto partner of the Teacher.</td>
</tr>
<tr>
<td>LSL Act</td>
<td>means the Long Service Leave Act 1992 (Vic) or its successor(s).</td>
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<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>-------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>NES</strong></td>
<td>means the National Employment Standards as contained in Part 2-2 of the <em>Fair Work Act 2009</em> (Cth.).</td>
</tr>
<tr>
<td><strong>Non-term Weeks</strong></td>
<td>means weeks in the School year other than term weeks and includes periods designated as school holidays for students.</td>
</tr>
<tr>
<td><strong>Paid Parental Leave Scheme</strong></td>
<td>means the scheme included in the <em>Paid Parental Leave Act 2010</em> (Cth.).</td>
</tr>
<tr>
<td><strong>Part-time Employment</strong></td>
<td>means employment for less than an average of 38 hours per week.</td>
</tr>
<tr>
<td><strong>Permission to Teach Teacher</strong></td>
<td>means a person who is granted Permission to Teach by the Victorian Institute of Teaching pursuant to Division 3 of Part 2.6 of Chapter 2 of the <em>Education and Training Reform Act 2006</em> (Vic) and is engaged to undertake the duties of a teacher, which includes the delivery of the School's educational program and the assessment of student participation in the education program.</td>
</tr>
<tr>
<td><strong>School</strong></td>
<td>means Ballarat and Queen's Anglican Grammar School.</td>
</tr>
<tr>
<td><strong>School Teacher</strong></td>
<td>means a person who holds Full or Provisional Registration granted by the Victorian Institute of Teaching pursuant to Division 3 of Part 2.6 of Chapter 2 of the <em>Education and Training Reform Act 2006</em> (Vic) and is employed to teach. This definition includes a Permission to Teach Teacher (unless otherwise specified in this Agreement) and a qualified Teacher Librarian, but does not include a person employed as a Principal or a Deputy Principal, by whatever name called.</td>
</tr>
<tr>
<td><strong>School Year</strong></td>
<td>means the period of 12 months commencing from the day the Teachers are required to attend the School for the new educational year or the calendar year, as determined by the School, and includes term weeks and non-term weeks.</td>
</tr>
<tr>
<td><strong>Teacher</strong></td>
<td>means a School Teacher and an Early Childhood Teacher, unless separately specified.</td>
</tr>
<tr>
<td><strong>Term Weeks</strong></td>
<td>means weeks in the school year other than non-term weeks and includes periods when students are required to attend school as set out in the school calendar as well as student free days; in the Early Childhood Program, this includes periods when the regular Kindergarten and Reception programs are conducted.</td>
</tr>
<tr>
<td><strong>Victorian Institute of Teaching</strong></td>
<td>means the statutory authority for the registration of Teachers established pursuant to the <em>Education and Training Reform Act 2006</em> (Vic).</td>
</tr>
</tbody>
</table>
4. **Coverage**

4.1 This Agreement covers:

(a) the Employer,

(b) School Teachers, and

(c) Early Childhood Teachers.

4.2 This Agreement does not cover:

(a) a Principal,

(b) a Deputy Principal by whatever name called, and

(c) an employee covered by the Educational Services (Schools) General Staff Award 2010.

5. **Relationship to Awards**

This Agreement operates to the complete exclusion of the Award which would otherwise apply to Teachers covered by this Agreement.

6. **No extra claims**

The Employer and Teachers agree that the salary increase and other improvements in conditions of employment provided for by this Agreement are in settlement of all existing claims made by the Employer and the Teachers, and that no further claims will be made during the currency of this Agreement.

7. **The National Employment Standards**

7.1 The National Employment Standards (NES) as contained in Part 2-2 of the Act are the minimum entitlements of a Teacher covered by this Agreement.

7.2 This Agreement provides ancillary or supplementary terms in respect of the NES.

7.3 This Agreement provides enterprise specific detail where it deals with a matter provided for in the NES.

8. **Agreement flexibility**

8.1 The Employer and Teacher covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

(a) the arrangement deals with one or more of the following matters:

   (i) arrangements about when work is performed;

   (ii) allowances;
(iii) leave loading;
(iv) workload; and

(b) the arrangement meets the genuine needs of the Employer and the Teacher in relation to one or more of the matters mentioned in paragraph (a); and

(c) the arrangement is genuinely agreed to by the Employer and the Teacher.

8.2 The Employer must ensure that the terms of the individual flexibility arrangement:

(a) are about permitted matters under section 172 of the Act; and

(b) are not unlawful terms under section 194 of the Act; and

(c) result in the Teacher being better off overall than the Teacher would be if no arrangement was made.

8.3 The Employer must ensure that the individual flexibility arrangement:

(a) is in writing; and

(b) includes the name of the Employer and the Teacher; and

(c) is signed by the Employer and the Teacher; and

(d) includes details of:

(i) the terms of the Agreement that will be varied by the arrangement; and

(ii) how the arrangement will vary the effect of the terms; and

(iii) how the Teacher will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and

(e) states the day on which the arrangement commences.

8.4 The Employer must give the Teacher a copy of the individual flexibility arrangement within 14 days after it is agreed to.

8.5 The Employer or the Teacher may terminate the individual flexibility arrangement:

(a) by giving no more than 28 days written notice to the other party to the arrangement; or

(b) if the Employer and the Teacher agree in writing at any time.
Part 2 - Consultation and Dispute Resolution

9. Consultation regarding major workplace change

9.1 Employer to notify

(a) If the Employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to the School; or

(b) proposes to introduce a change to the regular roster or ordinary hours of work of Teachers; and

(c) the change is likely to have a significant effect on the Teachers;

(d) the Employer must notify the relevant Teachers of the decision to introduce the major change.

9.2 Employee representative

(a) The relevant Teachers may appoint a representative for the purposes of the procedures in this term.

(b) If a relevant Teacher appoints, or relevant Teachers appoint, a representative for the purposes of consultation; and

(c) the Teacher or Teachers advise the Employer of the identity of the representative;

(d) the Employer must recognise the representative.

9.3 Employer to discuss change

(a) As soon as practicable after making its decision, the Employer must discuss with the relevant Teachers:

(i) the introduction of the change;

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

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

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

(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 Teachers; and

(iii) any other matters likely to affect the Teachers.
(c) However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Teachers.

(d) The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Teachers.

(e) If a term in the Agreement provides for a major change to production, program, organisation, structure or technology in relation to the School, the requirements set out in subclauses 9.1 (d), 9.2 and 9.3 (a) and (b) are taken not to apply.

9.4 Major change

(a) A major change is likely to have a significant effect on Teachers if it results in:
   (i) the termination of the employment of Teachers; or
   (ii) major change to the composition, operation or size of the School, or to the skills required of Teachers; or
   (iii) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
   (iv) the alteration of hours of work; or
   (v) the need to retrain Teachers; or
   (vi) the need to relocate Teachers to another campus; or
   (vii) the restructuring of jobs.

(b) Relevant Teachers means the Teachers who may be affected by the major change.

10. Consultation about changes to regular roster or hours of work

10.1 For a change referred to in subclause 9.1 (b),

(a) the Employer must notify the relevant Teachers of the proposed change; and

(b) subclauses 10.2 to 10.5 will apply.

10.2 The relevant Teachers may appoint a representative for the purposes of the procedures in this subclause, if

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

(b) the Teacher or Teachers advise the Employer of the identity of the representative, the Employer must recognise the representative.

10.3 The Employer must:

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

(i) information about the proposed change (for example, information about the nature of the change to the Teacher’s regular roster or ordinary hours of work, and when that change is proposed to commence); and

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

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

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

10.4 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Teachers.

10.5 The Employer must give genuine consideration to matters raised about the change by the relevant Teachers.

10.6 For the purposes of subclauses 10.1 to 10.5, the Employer’s educational timetable in respect of academic classes and student activities, which:

(a) may operate on a term, semester of a school year basis; and

(b) ordinarily changes between one period of operation and the next; and

(c) may change during the period of operation;

is not a regular roster.

10.7 However, where a change to the Employer’s educational timetable directly results in a change:

(a) to the number of ordinary hours of work of a Teacher; or

(b) to the spread of hours over which the Teacher’s ordinary hours are required to be worked; or

(c) to the days over which the Teacher is required to work;

subclauses 10.1 to 10.5 will apply.

11. Dispute resolution

11.1 In the event of a dispute about a matter under this Agreement, or a dispute in relation to the NES, the following procedures apply:

(a) A Teacher who is a party to the dispute may appoint a representative for the purposes of the procedures in this clause.
(b) In the first instance, the parties to the dispute must try to resolve the dispute by discussions between the Teacher or Teachers and the Employer.

(c) If the dispute remains unresolved, the parties will seek to agree on an independent external arbiter to assist with resolution.

11.2 If discussions do not resolve the dispute, a party to the dispute may refer the matter to the FWC. The FWC may deal with the dispute in two stages:

(a) The FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and

(b) If the FWC is unable to resolve the dispute at the first stage, the FWC may then:

(i) arbitrate the dispute; and

(ii) make a determination that is binding on the parties.

(c) If the FWC arbitrates the dispute, it may also use the powers that are available to it under the Act. An appeal may be made against the decision.

11.3 While the parties are trying to resolve the dispute using the procedures in this clause:

(a) A Teacher 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

(b) A Teacher must comply with a direction given by the Employer to perform other available work at the same workplace, or at another workplace, unless:

(i) the work is not safe; or

(ii) applicable occupational health and safety legislation would not permit the work to be performed; or

(iii) the work is not appropriate for the Teacher to perform; or

(iv) there are other reasonable grounds for the Teacher to refuse to comply with the direction.

11.4 The parties to the dispute agree to be bound by a decision made by the FWC in accordance with this clause.
Part 3 - Types of Employment and Termination of Employment

12. Types of employment

12.1 Teachers will be employed in one of the following categories:

(a) full-time employment;
(b) part-time employment;
(c) casual employment; or
(d) fixed-term employment.

12.2 Terms of engagement

(a) On appointment, the Employer will provide the Teacher (other than a casual Teacher) with a letter of appointment providing:

(i) the classification and rate of salary applicable on commencement;
(ii) the Teacher’s face-to-face teaching load;
(iii) details of the extracurricular commitment;
(iv) details of the expectations of the role; and
(v) details of how the annual leave loading will be paid.

(b) In the case of a part-time Teacher, the letter of appointment will include the Teacher’s face-to-face teaching load and pastoral, supervisory, and co-curricular responsibilities expressed as a percentage of a full-time face-to-face teaching load and pastoral, supervisory, and co-curricular responsibilities in the School, and that their extracurricular commitment will generally be, on balance, in the same proportion to their teaching load as that of a full-time Teacher.

(c) In the case of a graduate teacher, the full-time face-to-face teaching load, in the first year of employment, will not be more than 85% of the face-to-face teaching load of a full-time Teacher.

(d) Where the Employer engages the Teacher on a fixed-term basis, the letter of appointment will inform the Teacher of the reason the employment is fixed-term, the date of commencement and the period of employment.

(e) Upon appointment, a Teacher, other than a casual Teacher, will undergo a formalised orientation process outlined in the Staff Handbook, which is not incorporated into this Agreement, as varied from time to time.

12.3 Full-time employment

(a) A full-time Teacher is engaged to work an average of 38 ordinary hours per week, averaged over a 12 month period.
Ballarat and Queen’s Anglican Grammar School (Teachers) Agreement November 2015 – October 2019

(b) Light load provision:

A full-time Teacher may request a light load, whereby the Teacher would teach less than the normal full load, and be remunerated on a pro-rata basis. If the light load is permitted, pastoral, supervisory and co-curricular duties would normally continue as for a full-time Teacher.

The Teacher would continue to accrue long service leave at the full-time rate, and have the right to return to full-time teaching with one term’s notice.

12.4 Part-time employment

(a) A part-time Teacher is engaged to work on a regular basis for less than 1.0 FTE.

(b) A part-time Teacher is entitled to the benefits under this Agreement on a pro-rata basis. The pro-rata basis will be calculated by dividing the number of average hours per week by the full-time average hours per week (38). Teaching load and days of attendance may be varied by mutual consent between the Employer and the Teacher at any time.

(c) The Employer may vary the teaching load or days of attendance, where such a variation is required as a result of a change in funding, enrolment or curriculum, by providing seven weeks’ notice in writing or where the change would result in a reduction in salary, the salary is maintained for a period of seven weeks.

12.5 Casual employment

(a) Casual employment means employment on a day-to-day basis for a period of not more than four consecutive term weeks.

(b) A casual engagement may be extended by agreement between the Employer and the casual Teacher provided the total period of the engagement does not exceed one school term.

(c) The rates of pay for a casual Teacher are contained in clause 19-Salaries.

(d) A casual Teacher is not entitled to any of the following benefits under this Agreement:

(i) notice of termination of employment

(ii) redundancy

(iii) remuneration packaging

(iv) annual leave

(v) leave loading

(vi) public holidays

(vii) paid personal/carer’s leave
(viii) paid compassionate leave
(ix) paid parental leave
(x) infectious diseases leave
(xi) examination leave
(xii) qualification conferral leave
(xiii) pro-rata payment of salary inclusive of annual leave

12.6 Fixed-term employment

A Teacher may be employed for a fixed period of time for a period of at least four weeks but no more than up to 12 months on either a full-time or part-time basis which include, but are not limited to, the following purposes:

(a) to undertake a specified project for which funding has been made available;
(b) to undertake a specified task which has a limited period of operation; or
(c) to replace a Teacher who is on leave, performing other duties temporarily, or whose employment has terminated after the commencement of the school year.

The fixed-term employment may be extended for a further period, by mutual agreement.

13. Minimum employment period

13.1 A Teacher’s employment is contingent upon the satisfactory completion of a minimum employment period of six months.

13.2 If the Employer is to terminate the employment of a Teacher during the first six months of the Teacher’s employment, the Employer does not need to comply with any due process, performance or conduct management policies or procedures in this Agreement or in place from time to time.

13.3 If the Employer is to terminate the employment of a Teacher within the first six months of the Teacher’s employment commencing, the Teacher is entitled to seven term weeks’ notice or payment in lieu of notice.

13.4 If the Teacher is to resign within the first six months of the Teacher’s employment commencing, then the Teacher is required to give the same notice required of the Employer in 12.3 above.

14. Termination of employment

14.1 Notice of termination is provided for in the NES. This clause provides enterprise specific detail and supplements the NES.

14.2 Notice of termination by the Employer
Subject to clause 16.6, the employment of a Teacher (other than a casual Teacher and a Teacher serving the minimum period of employment pursuant to clause 13 – Minimum employment period and a Teacher employed to replace a Teacher on parental leave) will not be terminated without at least 10 term weeks’ notice in writing (inclusive of the notice required under the NES), the payment of 10 weeks’ salary instead of notice or part notice and part payment instead of notice provided that the total weeks’ notice and weeks’ payment instead equal 10.

14.3 Notice of termination by a Teacher

(a) The notice of termination required to be given by a Teacher is the same as that required of an Employer.

(b) If a Teacher fails to give the notice specified in clause 14.3(a) the Employer may withhold from any monies due to the Teacher on termination under this Agreement or the NES, an amount not exceeding the amount the Teacher would have been paid under this Agreement in respect of the period of notice required by this clause less any period of notice actually given by the Teacher.

(c) An exception to 14.3(b) is that the Employer may waive part or all of the notice period where the Teacher has, within the notice period, given informal indication of possible resignation.

14.4 Job search entitlement

Where the Employer has given notice of termination to a Teacher, a Teacher must be allowed up to one day’s time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the Teacher after consultation with the Employer.

14.5 Statement of service

Upon the termination of employment of a Teacher (other than a casual Teacher) the Employer will provide, upon the request of the Teacher, a statement of service setting out the commencement and cessation dates of employment.

14.6 Termination of casual employment

On termination of casual employment, the Employer will indicate on the Teacher’s service card the length of service with the Employer. Upon request a casual Teacher will also be given a statement setting out the number of days of duty worked by the Teacher during the period of the engagement.

15. Performance and conduct management

15.1 Application

The Employer will not be required to commence a performance or conduct management procedure, as detailed in this clause:

(a) where a Teacher’s employment is terminated during the minimum employment
period pursuant to clause 12.2

(b) for a casual Teacher; or

(c) in the case of serious misconduct.

15.2 Performance Management

(a) Where the Employer is considering termination of employment for reasons related to the Teacher’s performance, the Employer will implement the procedure in this clause.

(b) An Employer who has concerns with the conduct or performance of a Teacher shall in the first instance hold informal discussions with the Teacher. Should the employer still hold concerns regarding the Teacher’s performance, following the discussions outlined above, the employer may initiate Performance Management as outlined below.

(c) A formal performance management procedure will commence with the Employer advising the Teacher in writing of:

(i) the Employer’s concern(s) with the Teacher’s performance;

(ii) the time, date and place of the first formal meeting to discuss the Teacher’s performance;

(iii) the Teacher’s right to be accompanied by a nominee of the Teacher’s choice at all meetings scheduled to discuss the Teacher’s performance;

(iv) the Employer’s right to terminate the employment should the procedure not resolve the Employer’s concern(s).

(d) Formal performance management meetings will:

(i) be the subject of a documented record, a copy of which will be given to the Teacher;

(ii) include discussion of the Employer’s concern(s) with the Teacher’s performance and any progress being made to address these concerns;

(iii) give the Teacher an opportunity to respond to the Employer’s concern(s);

(iv) include discussion of any counselling or assistance, where appropriate, available to the Teacher;

(v) set periods of review, as appropriate.

(e) If, following this process, the Employer’s concerns have been satisfactorily addressed, the Employer will advise the Teacher in writing to this effect.

(f) If, after following the procedure in this clause, the Employer’s decision is to terminate the employment of the Teacher, then the Employer will give the required period of notice or payment in lieu of notice.
15.3 Conduct Management

(a) Where the Employer is considering termination of employment for reasons related to a Teacher’s conduct, the Employer will implement the procedure in this clause.

(b) The Employer will advise the Teacher in writing of:

(i) the Employer’s concern(s) with the Teacher’s conduct;

(ii) the time, date and place of the meeting to discuss the Teacher’s conduct;

(iii) the Teacher’s right to be accompanied by a nominee of the Teacher’s choice at any meeting scheduled to discuss the Teacher’s conduct;

(iv) the Employer’s right to terminate the Teacher’s employment should the Employer’s concern(s) not be resolved.

(c) The formal conduct management meeting(s) will:

(i) include discussion of the Employer’s concern(s) with the Teacher’s conduct;

(ii) give the Teacher an opportunity to respond to the Employer’s concern(s).

(d) Concerns with a Teacher’s conduct may be resolved by:

(i) summary dismissal, where the Teacher is guilty of serious misconduct of a kind such that it would be unreasonable to require the Employer to continue the employment during the notice period;

(ii) issuing the Teacher with a warning or a final warning in writing;

(iii) terminating the employment of the Teacher in accordance with the relevant notice provision;

(iv) positive resolution of the issue;

(v) other action appropriate to the situation.

15.4 Suspension

Notwithstanding any of the provisions in this Agreement, the School may suspend a Teacher with pay while considering any matter which in the view of the School could lead to the summary dismissal of the Teacher. Suspension without pay will not be implemented by the School without prior discussion with the Teacher and will not, except with the Teacher's consent, exceed a period of four weeks.

16. Redundancy

16.1 Redundancy pay is provided for in the NES. This clause provides enterprise specific details and supplements the NES.

16.2 The following redundancy pay scale will apply instead of the provisions provided for by Part 2-2 Division 11 of the Act:
<table>
<thead>
<tr>
<th>Period of Continuous Service</th>
<th>Redundancy Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1 year</td>
<td>Nil</td>
</tr>
<tr>
<td>1 year and less than 2 years</td>
<td>4 weeks’ pay</td>
</tr>
<tr>
<td>2 years but less than 3 years</td>
<td>6 weeks’ pay</td>
</tr>
<tr>
<td>3 years but less than 4 years</td>
<td>7 weeks’ pay</td>
</tr>
<tr>
<td>4 years but less than 5 years</td>
<td>8 weeks’ pay</td>
</tr>
<tr>
<td>5 years but less than 6 years</td>
<td>10 weeks’ pay</td>
</tr>
<tr>
<td>6 years but less than 7 years</td>
<td>11 weeks’ pay</td>
</tr>
<tr>
<td>7 years but less than 8 years</td>
<td>13 weeks’ pay</td>
</tr>
<tr>
<td>8 years but less than 9 years</td>
<td>14 weeks’ pay</td>
</tr>
<tr>
<td>9 years but less than 10 years</td>
<td>16 weeks’ pay</td>
</tr>
<tr>
<td>10 years but less than 11 years</td>
<td>17 weeks’ pay</td>
</tr>
<tr>
<td>11 years but less than 12 years</td>
<td>18 weeks’ pay</td>
</tr>
<tr>
<td>12 years but less than 13 years</td>
<td>19 weeks’ pay</td>
</tr>
<tr>
<td>13 years but less than 14 years</td>
<td>20 weeks’ pay</td>
</tr>
<tr>
<td>14 years but less than 15 years</td>
<td>21 weeks’ pay</td>
</tr>
<tr>
<td>15 years but less than 16 years</td>
<td>22 weeks’ pay</td>
</tr>
<tr>
<td>16 years but less than 17 years</td>
<td>23 weeks’ pay</td>
</tr>
<tr>
<td>17 years but less than 18 years</td>
<td>24 weeks’ pay</td>
</tr>
<tr>
<td>18 years but less than 19 years</td>
<td>25 weeks’ pay</td>
</tr>
<tr>
<td>19 years but less than 20 years</td>
<td>26 weeks’ pay</td>
</tr>
<tr>
<td>20 years and over</td>
<td>27 weeks’ pay</td>
</tr>
</tbody>
</table>

16.3 Transfer to lower paid duties

Where a Teacher is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the Teacher would have been entitled to under this agreement if the employment had been terminated and the Employer may, at the Employer’s option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.
16.4 Teacher leaving during notice period

A Teacher given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The Teacher is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.

16.5 Job search entitlement

(a) A Teacher given notice of termination in circumstances of redundancy must be allowed up to one day’s time off without loss of pay during each week of notice for the purpose of seeking other employment.

(b) If the Teacher has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the Teacher must, at the request of the Employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.

(c) This entitlement applies instead of clause 13.4.

16.6 Interaction of this clause with clause 13-Termination of employment

Where the Teacher’s employment is terminated on the grounds of redundancy, the Teacher will be entitled only to the greater of:

(a) notice of termination under clause 13, or

(b) notice of termination and severance payments under this agreement.

16.7 Part-time Teachers

If a part-time Teacher’s hours are reduced, without their consent, by more than 25% in any one year, they will be entitled to the provisions of this clause.

17. Breakage and loss

A Teacher who takes reasonable care will not suffer loss of income for any accidental breakages or loss of property which occurs in the normal course of the Teacher’s duties.

Part 4 - Classifications, Salaries and Related Matters

18. Classifications

18.1 Duties of a Teacher

The duties of a Teacher may include in addition to teaching, activities associated with administration, review, development and delivery of educational programs and co-curricular activities.
18.2 Recognition of previous service

(a) On appointment, a Teacher will be classified and placed on the appropriate level on the salary scale in clause 19-Salaries, according to qualifications and teaching experience. Teaching experience does not include employment as a Teacher in a TAFE program (unless the Teacher is employed to teach a Vocational and Educational Training (VET) program) or in an English Language School.

(b) Service as a part-time Teacher above 0.4 FTE will normally accrue on a pro-rata basis according to the percentage of a full-time teaching load undertaken in any year. A Teacher at 0.4 FTE or less is required to complete two years of service to be counted as a full-time year.

(c) In the case of a casual Teacher, the equivalent of a full-time year of teaching service is 200 full casual days in Australian schools.

(d) In the case of an Early Childhood Teacher, the following will count as service:

(i) teaching experience in preschools, kindergartens, multi-purpose centres, early intervention services, long day care centres and other similar services;

(ii) teaching experience of children from four to eight years (or in the infants department) of a school registered and/or accredited under the relevant authority in each state or territory;

(iii) service as a lecturer in early childhood education or child development, as a child development officer or equivalent; and

(iv) service as a diploma qualified childcare worker, at the rate of one year for every three years’ service up to a maximum of four years.

18.3 Evidence of qualifications

(a) The Employer may require that a Teacher provide documentary evidence of qualifications and teaching experience. If the Employer considers that the Teacher has not provided satisfactory evidence, and advises the Teacher in writing to this effect, then the Employer may decline to recognise the relevant qualification or experience until such evidence is provided, provided that the Employer will not unreasonably refuse to recognise the qualifications or teaching experience of a Teacher.

(b) Where a Teacher has completed further teaching experience with another Employer (for example during unpaid leave) or additional qualifications after commencement of employment they will be entitled to be classified accordingly and back paid from the date of completion of the experience or qualifications, provided the Teacher provided satisfactory evidence to the Employer within three months of completion. In all other cases the Teacher will be classified and paid from the date satisfactory evidence is provided.
18.4 Progression

(a) Incremental progression through the scale to Level 10 will be automatic annually, after the completion of twelve months’ service, except that a Teacher at 0.4 FTE or less is required to complete two years of service at the Level before progressing to the next Level.

(b) Progression to Senior Teacher will be automatic after completing one year of service at Level 10 at the School, except that a Teacher at 0.4 FTE or less is required to complete two years of service at Level 10 before progressing to Senior Teacher.

(c) Progression to Highly Accomplished Teacher is open to entry after completing one year of service as a Senior Teacher, and is subject to the selection criteria published in School Policy documents, which are not incorporated into this Agreement, except that a Teacher at 0.4 FTE or less is required to have completed two years of service as a Senior Teacher before being eligible to apply for Highly Accomplished Teacher.

(d) Progression to Classroom Leading Teacher is open to entry after completing one year of service as a Senior Teacher, and is subject to the selection criteria published in School Policy documents, which are not incorporated into this Agreement, except that a Teacher at 0.4 FTE or less is required to have completed two years of service as a Senior Teacher before being eligible to apply for Classroom Leading Teacher. Classroom Leading Teacher has three-year tenure.

19. Salaries

19.1 Full-Time Teacher

(a) From the first pay period commencing on or after the dates specified below, the Employer will pay not less than the following rates of pay to a full-time Teacher. A graduate Teacher will commence at Level 1.

<table>
<thead>
<tr>
<th>Level</th>
<th>1/11/2015</th>
<th>1/8/2016</th>
<th>1/2/2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$64,500</td>
<td>$65,790</td>
<td>$66,448</td>
</tr>
<tr>
<td>2</td>
<td>$66,900</td>
<td>$68,238</td>
<td>$68,920</td>
</tr>
<tr>
<td>3</td>
<td>$69,300</td>
<td>$70,686</td>
<td>$71,393</td>
</tr>
<tr>
<td>4</td>
<td>$71,700</td>
<td>$73,134</td>
<td>$73,865</td>
</tr>
<tr>
<td>5</td>
<td>$74,100</td>
<td>$75,582</td>
<td>$76,338</td>
</tr>
<tr>
<td>6</td>
<td>$76,500</td>
<td>$78,030</td>
<td>$78,810</td>
</tr>
</tbody>
</table>
Ballarat and Queen’s Anglican Grammar School (Teachers) Agreement November 2015 – October 2019

<table>
<thead>
<tr>
<th>Level</th>
<th>1/11/2015</th>
<th>1/8/2016</th>
<th>1/2/2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>$79,000</td>
<td>$80,580</td>
<td>$81,386</td>
</tr>
<tr>
<td>8</td>
<td>$82,000</td>
<td>$83,640</td>
<td>$84,476</td>
</tr>
<tr>
<td>9</td>
<td>$85,000</td>
<td>$86,700</td>
<td>$87,567</td>
</tr>
<tr>
<td>10</td>
<td>$88,000</td>
<td>$89,760</td>
<td>$90,658</td>
</tr>
<tr>
<td>11 – Senior Teacher</td>
<td>$91,000</td>
<td>$92,820</td>
<td>$95,000</td>
</tr>
</tbody>
</table>

(a) The tenure of all existing Exemplary Teacher appointments concludes 30 November 2015. From 1 December 2015, Exemplary Teachers will be categorised as Highly Accomplished Teachers.

(b) Highly Accomplished Level is criterion-based and without tenure. Teachers on Highly Accomplished Level may undertake Positions of Responsibility that have both financial and time allowances attached to them, in addition to their base salary. If a Teacher on Highly Accomplished Level does not maintain the standards required, the Teacher would return to Senior Teacher Level and remuneration.

<table>
<thead>
<tr>
<th>Level</th>
<th>1/11/2015</th>
<th>1/8/2016</th>
<th>1/2/2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly Accomplished</td>
<td>$95,000</td>
<td>$96,900</td>
<td>$97,869</td>
</tr>
</tbody>
</table>

(c) Classroom Leading Level is criterion-based and has three-year tenure. At the end of the three-year tenure, the Teacher will return to the Senior Teacher Level, unless the Teacher is re-appointed to the Classroom Leading Level. Teachers on Classroom Leading Level may undertake Positions of Responsibility that have a financial allowance only, of up to a maximum of $3,000, and their total FTE will be their classroom teaching load.

<table>
<thead>
<tr>
<th>Level</th>
<th>1/11/2015</th>
<th>1/8/2016</th>
<th>1/2/2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Classroom Leading</td>
<td>$97,000</td>
<td>$98,940</td>
<td>$99,929</td>
</tr>
</tbody>
</table>

(d) The ordinary weekly rate of pay for a Teacher will be determined by dividing the annual rate by 52.18.

(e) The rates of pay in clause 19.1 do not include annual leave loading.

(f) With consultation, subsequent increases will be as approved by the Board from time to time.
19.2 Part-time Teacher

A part-time Teacher will be paid pro-rata, at the same rate as a full-time Teacher in the same classification, in accordance with the provisions of clause 12.4.

19.3 Casual Teacher

(a) The rate of pay payable to a casual Teacher will be not less than the relevant Award rate from the first pay period commencing on or after the specified date:

(b) Provided that:

(i) a casual Teacher will be paid for a minimum of half a day, where a day is the usual required attendance time for a Teacher and a half day is half the usual required attendance time; and

(ii) a casual Teacher may be required to undertake the full teaching responsibilities and extracurricular duties of the Teacher who is being replaced.

20. Allowances

20.1 Leadership allowance

(a) Eligibility

(i) A leadership allowance will be paid to a Teacher where the Employer requires the performance of designated administrative, pastoral care and/or educational leadership duties additional to those usually required of Teachers by the Employer.

(ii) An allowance is linked to a position of leadership rather than tied to an individual Teacher.

(iii) The Headmaster determines who holds a position that is eligible for a leadership allowance.

(iv) A Teacher required by the Employer to take on a Position of Responsibility for at least 10 consecutive working days will be paid at the rate applicable to that position for the time they are in the position.

(b) Notification

(i) The Headmaster will provide written advice to a Teacher in receipt of an allowance of the position, its tenure, the duties required and the allowance to be paid.

(ii) The Headmaster will advise the Teacher of the level to which the position equates.

(iii) The assignment of a position to a particular level in this clause will reflect the graduation of responsibilities exercised, whether administrative, pastoral care or educational leadership.
(c) Amount

(i) The Employer will pay not less than the following annual allowances to holders of tenured positions of positions of responsibility.

(ii) With consultation, subsequent increases will be as approved by the Board from time to time.

<table>
<thead>
<tr>
<th>Allowances</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small Department</td>
<td>$1,775</td>
<td>$1,800</td>
<td>$1,825</td>
</tr>
<tr>
<td>Medium Department</td>
<td>$3,550</td>
<td>$3,600</td>
<td>$3,650</td>
</tr>
<tr>
<td>Large Department</td>
<td>$5,325</td>
<td>$5,400</td>
<td>$5,475</td>
</tr>
<tr>
<td>Very Large Department</td>
<td>$7,100</td>
<td>$7,200</td>
<td>$7,300</td>
</tr>
<tr>
<td>Head of Day House</td>
<td>$5,325</td>
<td>$5,400</td>
<td>$5,475</td>
</tr>
<tr>
<td>Year Level Co-ordinator</td>
<td>$5,325</td>
<td>$5,400</td>
<td>$5,475</td>
</tr>
<tr>
<td>Non-Resident Boarding</td>
<td>$8,875</td>
<td>$9,000</td>
<td>$9,125</td>
</tr>
<tr>
<td>Non-Resident Boarding (1st year non-teacher)</td>
<td>$5,325</td>
<td>$5,400</td>
<td>$5,475</td>
</tr>
<tr>
<td>Assistant Head of Boarding House</td>
<td>$7,100</td>
<td>$7,200</td>
<td>$7,300</td>
</tr>
<tr>
<td>Head of Boarding House</td>
<td>$10,650</td>
<td>$10,800</td>
<td>$10,950</td>
</tr>
</tbody>
</table>

(iii) Where the position of leadership is shared, the payments may also be shared.

20.2 Vehicle allowance

(a) A Teacher required by the Employer to use the Teacher’s motor vehicle in the performance of duties must be paid the following allowances:

(i) Motor car

$0.78 per kilometre with a maximum payment up to 400 kilometres per week.

(ii) Motorcycle

$0.26 per kilometre with a maximum payment up to 400 kilometres per week.

(b) The Employer must pay all expenses including registration, running and maintenance where an Employer provides a motor vehicle which is used by a Teacher in the performance of the Teacher’s duties.

21. Accident pay

21.1 Definitions
For the purposes of this clause:

(a) relevant Act means in respect of an injury occurring prior to 4 p.m. on 31 August 1985, the Workers’ Compensation Act 1958 or, in any other case, the Workplace Injury Rehabilitation and Compensation Act 2013 (Vic) as amended from time to time;

(b) injury has the same meaning as applies under the Relevant Act;

(c) incapacity has the same meaning as applies under the Relevant Act.

21.2 Entitlement to accident make-up pay

(a) Subject to 21.3, 21.4 and 21.5, the Employer will pay a Teacher accident make-up pay if the Teacher suffers an injury compensated under the Relevant Act.

(b) Accident make-up pay will be calculated as follows:

(i) for each day that the Teacher is or is deemed to be totally incapacitated, the Teacher will be paid an amount representing the difference between the Teacher’s remuneration, including the total weekly award rate and any weekly over award payments at the date of the injury, together with any variation in award rates, and the amount of compensation payable under the Relevant Act for the day in question;

(ii) for each day that the Teacher is partially incapacitated, the Teacher will be paid an amount representing the difference between the Teacher’s remuneration, including the total weekly award rate and any weekly over award payments at the date of the injury, together with any variation in award rates, and the amount of compensation payable under the Relevant Act for the day in question together with the amount the Teacher is earning or is able to earn in some suitable employment (as defined by the Relevant Act or as agreed between the parties).

21.3 Eligibility for accident make-up pay

In order for a Teacher to be eligible for accident make-up pay in accordance with 21.2:

(a) the Teacher, or a representative of the Teacher, must give notice in writing of the injury to the Employer as soon as reasonably practicable;

(b) the Teacher must furnish evidence of the injury from time to time as required by the Employer during the period of payment;

(c) the Teacher must advise the Employer of any civil action or claim for damages the Teacher may make;

(d) the Teacher must attend medical examinations by a legally qualified medical practitioner, provided and paid for by the Employer, as required by the Employer in accordance with the Relevant Act; and

(e) the Teacher must authorise the Employer to obtain any information concerning
the injury or compensation payable with respect to the injury from the insurance company that is liable to pay such compensation.

21.4 When entitlement ceases

A Teacher will cease to be entitled to accident make-up pay if any of the following occur:

(a) the Teacher ceases to be compensated under the Relevant Act;

(b) the Teacher obtains a judgment or settlement for damages in respect of the injury from a third party;

(c) there is redemption of weekly compensation payments by the payment of a lump sum benefit under the Relevant Act;

(d) the partially incapacitated Teacher fails to take reasonable steps to find alternative employment;

(e) accident make-up pay has been paid for 39 weeks in respect of the same injury;

(f) the Teacher dies.

21.5 Effect of termination of employment

Termination of the employment of a Teacher otherwise entitled to accident make-up pay does not affect the Teacher’s entitlement except where:

(a) the termination is due to serious misconduct by the Teacher; or

(b) a partially incapacitated Teacher voluntarily terminates the Teacher’s employment in circumstances where the Employer is able and willing to offer the Teacher suitable employment.

21.6 Accident make-up pay not payable

Accident make-up pay will not be payable:

(a) during the first five (5) working days of incapacity;

(b) during the first two (2) weeks of employment;

(c) where the incapacity arises from an industrial disease contracted by a gradual process and, at the time of the incapacity, the Teacher has been employed for less than four (4) weeks; or

(d) if the Teacher is on paid leave.

22. Payment of wages

The pay period will be monthly (12 payments per year) with electronic transfers occurring on the bank business day on or about the 15th day of the month, which will be for half a month
in arrears and half a month in advance of this date.

**Employee rebates**

22.1 A Teacher who is, or is to be, employed for twelve months or longer in a full-time capacity, will be entitled to rebates on tuition fees of 40% for Senior School and 50% for Junior School. A Teacher who is, or is to be, employed for twelve months or longer in a part-time capacity, will be entitled to rebates based upon their teaching load for each semester as a proportion of the full-time rebates. Rebates will not be reduced during the course of a school year, unless the reduced load was at the request of the teacher concerned. The Employer is responsible for any applicable Fringe Benefits Tax. Rebates apply to Junior and Senior School fees only. For example,

<table>
<thead>
<tr>
<th></th>
<th>Senior School</th>
<th>Junior School</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teacher employed at 1.0 FTE</td>
<td>40%</td>
<td>50%</td>
</tr>
<tr>
<td>Teacher employed at 0.5 FTE</td>
<td>20%</td>
<td>25%</td>
</tr>
</tbody>
</table>

22.2 Teachers employed prior to 2016 will retain their previous employee rebate arrangement, except in circumstances where subclause 23.1 would provide a financial advantage.

22.3 To the employee rebates in clause 23.1 are added standard Sibling Rebates as published in the Business Notice of the School.

22.4 If a Teacher’s child is enrolled in Reception or Kindergarten at the Centre for Early Education (CEEd), the following credits will be applied to a current or future School (not CEEd) account. (These payments are intended to support staff children through the Primary years, considering the expense of pre-school education. They are available only as a non-refundable credit towards future Ballarat Grammar schooling, at any level of the School.)

**Termly payment for each day of program (2, 3, 4 or 5) per week taken for the term:**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>First child in family</td>
<td>$200</td>
</tr>
<tr>
<td>Second child</td>
<td>$260</td>
</tr>
<tr>
<td>Third child</td>
<td>$320</td>
</tr>
<tr>
<td>Fourth and each subsequent child</td>
<td>$380</td>
</tr>
</tbody>
</table>

22.5 Subject to clause 23.3, the employee rebates in clause 23.1 will not be reduced for the period the Teacher remains employed by the Employer, unless the Teacher’s FTE status is reduced, or the Teacher takes a significant period of unpaid leave, at the discretion of the Headmaster.
22.6 Employee rebates may be suspended if payments of School Fees are not kept in line with the terms of the Business Notice of the School.

22.7 The children of a Teacher who is attending a school camp (or other overnight expedition) will be entitled to free after-school care at the School during normal operating hours while the Teacher is attending the school camp.

23. Remuneration packaging

23.1 Upon receiving a written election for a remuneration packaging arrangement from a Teacher, and provided there is no additional cost to the Employer, the Employer is prepared to offer the Teacher the opportunity to receive part of the Teacher’s remuneration in the form of non-cash benefits in line with legislation and Australian Taxation Office rulings until otherwise advised. Unless permitted by the Act, the remuneration packaging arrangement does not permit a Teacher to receive a salary that is less than the relevant salary of the Award.

23.2 Any arrangement between the Employer and the Teacher in relation to remuneration packaging will be entered into by way of a subsidiary agreement varying the Teacher’s conditions of employment.

24. Superannuation

24.1 Superannuation legislation

(a) Superannuation legislation, including the Superannuation Guarantee (Administration) Act 1992 (Cth), the Superannuation Guarantee Charge Act 1992 (Cth), the Superannuation Industry (Supervision) Act 1993 (Cth) and the Superannuation (Resolution of Complaints) Act 1993 (Cth), deals with the superannuation rights and obligations of employers and employees.

(b) Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund and the Employer continues to offer extensive choice to all Teachers, provided the fund is a complying superannuation fund. If a Teacher does not choose a superannuation fund, the current School default superannuation fund applies; the nomination of the School’s default superannuation fund would be determined by the School’s Staff Superannuation Policy as required. Currently the School’s default fund is NGS Super. The School also offers other funds in addition to this: Australian Super, BT Lifetime Super – Employer Plan, and Combined Super.

(c) The rights and obligations in these clauses supplement those in superannuation legislation.

24.2 Employer contributions

The Employer must make such superannuation contributions to a superannuation fund for the benefit of a Teacher as will avoid the Employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that Teacher.
24.3 Voluntary employee contributions

(a) Subject to the governing rules of the relevant superannuation fund, a Teacher may, in writing, authorise the Employer to pay on behalf of the Teacher a specified amount from the post-taxation wages of the Teacher into the same superannuation fund as the Employer makes the superannuation contributions provided for in clause 25.2.

(b) A Teacher may adjust the amount the Teacher has authorised the Employer to pay from the wages of the Teacher from the first of the month following the giving of three months' written notice to the Employer.

(c) The Employer must pay the amount authorised under clauses 25.3(a) and 25.3(b) no later than 28 days after the end of the month in which the deduction authorised under these clauses was made.

24.4 Superannuation fund

Unless, to comply with superannuation legislation, the Employer is required to make the superannuation contributions provided for in clause 25.2 to another superannuation fund that is chosen by the Teacher, the Employer must make the superannuation contributions provided for in clause 25.2 and pay the amount authorised under clauses 25.3(a) and 25.3(b) to a Ballarat Grammar Superannuation Plan, or a successor, provided that the Employer is not required to become a participating employer.
Part 5 - Hours of Work and Related Matters

25. Ordinary hours of work

25.1 This clause provides for enterprise specific detail and supplements the NES that deals with maximum weekly hours. Notwithstanding the NES, and due to the operational requirements of the Employer, the ordinary hours of a Teacher may be averaged over a 12 month period.

25.2 The ordinary hours of work for a Teacher during term weeks are variable. In return, a Teacher is not generally required to attend during non-term periods when the students are not present, subject to the needs of the Employer with regard to professional development, student free days and other activities requiring the Teacher’s attendance. A Teacher will be given at least six months’ notice of Staff Days when their attendance is required.

25.3 The following circumstances are not included as attendance days:

(a) co-curricular activities that are conducted on a weekend;

(b) school related overseas and interstate trips, conferences and similar activities undertaken by mutual consent during non-term weeks;

(c) when the Teacher appointed to a leadership position is performing duties in non-term weeks that are directly associated with the leadership position;

(d) when the Teacher has boarding house responsibilities and the Teacher is performing those duties during term weeks and non-term weeks; and

(e) exceptional circumstances, such as the requirement to provide pastoral care to students in the event of a tragedy in the school community, in which a Teacher may be recalled to perform duties relating to their position.

25.4 In usual circumstances, the Employer will provide written notice of the term weeks and days in non-term times on which the Teachers are required to attend, six months in advance of the requirement to attend.

25.5 The annual salary and any applicable allowances payable under this Agreement are paid in full satisfaction of a Teacher’s entitlements for the School year or a proportion of the School year. The Teacher’s absence from school during non-term weeks is deemed to include their entitlement to annual leave.

26. Breaks

26.1 The Employer is required to provide an unpaid meal break of not less than 30 consecutive minutes to a Teacher who is engaged or rostered to work for more than five hours on a day.
Part 6 - Leave and Public Holidays

27. Annual leave

27.1 Annual leave is provided for in the NES. This clause supplements the NES provisions.

27.2 Timing of annual leave

A Teacher must take annual leave during non-term weeks. Leave must generally be taken in the four-week period immediately following the final term week of the current school year, unless otherwise agreed with the Employer.

27.3 Crediting of annual leave

A Teacher may take annual leave re-credited in accordance with the NES only during non-term weeks as directed by the Employer.

28. Pro-rata payment of salary inclusive of annual leave

28.1 This clause provides enterprise specific detail and incorporates the NES entitlement with respect to annual leave.

28.2 The provisions of this clause will apply:

(a) in the calculation of payment in regard to pro rata salary where a Teacher’s employment ceases; or

(b) in the calculation of payment in regard to pro rata salary if:

(i) a Teacher commenced employment after the school service date;

(ii) a Teacher has taken leave without pay of more than two term weeks since the school service date; or

(iii) the hours that a Teacher has worked at school have varied since the school service date.

28.3 Termination of employment

A Teacher will be entitled on termination of employment to a payment calculated in accordance with this clause.

28.4 Teachers who commence employment after the commencement of the school year

A Teacher who commences employment after the usual date of commencement in any school year, will be paid from the date the Teacher commences, provided the Teacher must be paid an amount calculated pursuant to this clause at the end of the school year and will not receive any salary or other payment until the commencement of the next school year.
28.5 Teachers who take approved leave without pay

Where a Teacher takes approved leave without pay for a period which (in total) exceeds more than two term weeks in any year, the Teacher will be paid an amount calculated in accordance with this clause as follows:

(a) if the leave without pay commences and concludes in the same school year, the payment will be calculated and made at the conclusion of the last school term or final semester in that year; and

(b) if the leave without pay is to conclude in a school year following the school year in which the leave commenced:

(i) at the commencement of the leave, a payment will be calculated and made in respect of the school year in which the leave commences; or

(ii) at the end of the last school term or final semester in that year in which the leave concludes, a payment will be calculated and made in respect of that school year.

If the Teacher returns early from leave any payment under this clause will be taken into account in calculating the amount owed to the Teacher at the end of the last school term in that year.

28.6 Calculation of payments

\[ P = \left( s \times c - d \right) \]

\[ b \]

\[ P \] is the payment due

\[ s \] is the total salary paid in respect of term weeks, or part thereof, since the School service date or the date of employment in circumstances where the Teacher has been employed by the Employer since the School service date.

\[ b \] is the number of term weeks, or part thereof in the School year

\[ c \] is the number of non-term weeks, or part thereof, in the School year

\[ d \] is the salary paid in respect of non-term weeks, or part thereof, that have occurred since the School service date or date of employment in circumstances where the Teacher has been employed by the Employer since the School service date.

28.7 For the purpose of this clause:

(a) School service date means the date from which Teachers are paid at the commencement of the School year in their first year of service with the Employer; and

(b) Teacher means a Teacher other than a casual Teacher.
28.8 The formula in clause 29.6 is intended to be used to calculate the pro rata salary inclusive of annual leave owing to a Teacher in respect of the School year in which the formula is applied.

29. **Annual leave loading**

29.1 This clause provides for enterprise specific detail and supplements the NES that deals with annual leave.

29.2 A Teacher who has served throughout the School year is entitled to a leave loading of 17.5% on four weeks’ annual leave. The loading will normally be paid:

(a) at the time that the Teacher is paid annual leave or pro-rata annual leave; or

(b) on the termination of employment by either party.

29.3 Leave loading is to be calculated using the following formula:

\[ \text{Weekly salary} \times 4 \times 17.5\% \times \text{term weeks worked by the Teacher in that school year} \]

Total term weeks in that school year

30. **Personal/carer’s leave**

30.1 Personal/carer’s leave is as provided for in the NES except where this Agreement provides ancillary or supplementary terms.

30.2 A Teacher other than a casual Teacher is entitled to a paid personal/carer’s leave entitlement, which includes both sick and carer’s leave.

30.3 For a full-time Teacher, the personal/carer’s leave entitlement equates to 15 days per year of service, which accrues progressively during service. A part-time Teacher is entitled to paid personal/carer’s leave on a pro-rata basis based on their ordinary hours of work.

30.4 Where a full-time Teacher requires personal/carer’s leave in excess of the Teacher’s accrued entitlement, the Teacher is entitled to be paid personal/carer’s leave in advance of accrual as follows:

(a) six days during the first term of employment, and a further three days during each of the next three terms, if in the first year of employment with the Employer, or

(b) up to the annual entitlement of 15 days, if in the second or subsequent year of employment, provided that the notice and evidentiary requirements are met.

30.5 Paid personal leave is taken due to a personal illness or injury.

30.6 Paid carer’s leave is taken to provide care or support to a member of the Teacher’s Immediate Family or a member of the Teacher’s household, who requires care or support because of a personal illness, injury, or an unexpected emergency affecting the member.
30.7 Where the Teacher has exhausted the paid personal/carer’s leave entitlement, the Teacher may take up to two days’ unpaid carer’s leave per permissible occasion. Unpaid carer’s leave may be taken as a single, unbroken period of up to two days, or any separate period as agreed by the Employer and the Teacher.

30.8 A casual Teacher may take up to two days’ unpaid carer’s leave per permissible occasion. Unpaid carer’s leave may be taken as a single, unbroken period of up to two days, or any separate period as agreed by the Employer and the Teacher.

30.9 Notice and evidentiary requirements

(a) A Teacher must notify the Employer of the Teacher’s absence as soon as reasonably practicable. The notice must be to the effect that the Teacher requires the leave because of a personal illness or injury or to provide care or support to a member of the Teacher’s Immediate Family or household as the member is suffering either a personal illness or injury or an unexpected emergency.

(b) A Teacher is entitled to personal/carer’s leave provided that:

(i) the Teacher produces a medical certificate from a Registered Health Professional or statutory declaration to the Employer for any absence of more than two consecutive days;

(ii) the Teacher provides a medical certificate from a Registered Health Professional or statutory declaration to the Employer for any absence continuous with a public holiday to which the Teacher is entitled, or continuous with the first or last day of a term which would not otherwise require the provision of evidence;

(iii) the Teacher produces a medical certificate from a Registered Health Professional or a statutory declaration to the Employer where the number of days of paid personal/carer’s leave already taken without the production of a medical certificate or a statutory declaration exceeds five days in the one year.

31. Compassionate leave

31.1 Compassionate leave is as provided for in the NES except where this Agreement provides ancillary or supplementary terms.

31.2 A Teacher may take up to three (3) days’ paid leave per occasion when a member of the Teacher’s Immediate Family or household dies or when the Teacher’s Immediate Family or household member contracts or develops a personal injury or illness that poses a serious threat to life.

31.3 Compassionate leave may be taken in a single unbroken period or in separate periods of one day each or as agreed by the Employer and the Teacher.

31.4 The Teacher is entitled to compassionate leave only if the Teacher gives the Employer any evidence that the Employer reasonably requires of the illness, injury or death.
32. Community service leave

32.1 Community service leave is as provided for in the NES except where this Agreement provides ancillary or supplementary terms.

32.2 A Teacher is entitled to be absent from employment to engage in an eligible community service activity, which includes jury service and emergency management activity.

32.3 The definitions, entitlements and notice and evidence requirements applying to community service leave are prescribed by the NES.

32.4 Payment for jury service

   (a) A Teacher, including a casual Teacher, is entitled to payment at their ordinary rate of pay for an absence due to jury service. The Teacher will be paid for all days of jury service.

   (b) The Teacher must provide written proof of the requirement to attend jury service and an estimate of the duration of such service.

   (c) The Teacher authorises the Employer to deduct the amount of money paid to the Teacher for jury service by the Court Authorities. This deduction will occur in the first pay period following the conclusion of jury service.

   (d) In this clause ordinary rate of pay means the amount the Teacher would reasonably expect to have received from the Employer as earnings for that period had he or she not been performing jury service.

33. Public holidays

   (a) Public holidays are provided for in the NES except where this Agreement provides ancillary or supplementary terms.

   (b) Substitution of public holidays

      (i) By agreement between the Employer and an individual Teacher, an alternative day may be taken as a public holiday in lieu of any of the days specified in the NES.

      (ii) The agreement will be recorded in writing and made available to the affected Teacher.

      (iii) Where substitution is agreed, the substituted day will be the public holiday for all purposes of this Agreement.

      (iv) The School will normally take a designated Monday holiday in lieu of Melbourne Cup Day or any gazetted replacement.

34. Long service leave

34.1 Long service leave is provided for in the NES. This clause supplements the NES provisions.
34.2 A Teacher is entitled to thirteen (13) weeks’ long service leave upon the completion of ten (10) years of continuous employment. A Teacher is entitled to an additional six and a half (6.5) weeks’ long service leave for each additional five (5) years of continuous employment with the Employer. A Teacher may apply to take pro rata accrued long service leave after seven (7) years of continuous service.

34.3 Accrued long service leave will be paid in lieu where a Teacher’s employment is terminated after seven (7) years of continuous employment for any reason.

34.4 A Teacher, whose service has been all full-time or all at the same part-time fraction, is paid during long service leave at the Teacher’s normal salary.

34.5 A Teacher, whose time fraction has varied during service, is paid at a proportionate rate during long service leave. The rate is determined by calculating an average of the Teacher’s time fractions over the period of eligible service.

34.6 Illness during long service leave

Subject to the requirements of 35.8, a Teacher, who becomes ill or suffers an injury during long service leave and has an entitlement to personal/carer’s leave, is entitled to have the period of illness or injury treated as personal/carer’s leave, with long service leave reaccredited to the Teacher. The Headmaster may require the Teacher to be examined by a Registered Health Professional of the Employer’s choice, provided this person is reasonably accessible to the Teacher.

34.7 The Teacher’s application under 35.7:

(a) must be received by the Employer during the period of illness or injury;

(b) must be accompanied by a medical certificate from a Registered Health Professional or a statutory declaration attesting to the illness or injury and the duration of that illness or injury; and

(c) must indicate whether the Teacher wishes to extend the long service leave by the period of the illness or injury or whether the Teacher will return from long service leave as planned with the period of illness or injury increasing the Teacher’s accrued long service leave entitlement.

34.8 Timing and taking of long service leave

(a) A Teacher may apply to take pro rata accrued long service leave after completing seven years of continuous employment.

(b) The taking of leave will be at a time mutually agreed between the Employer and the Teacher. Should a Teacher not have taken long service leave within three years of accruing an entitlement to 13 weeks’ long service leave, the Employer reserves the right to give a year’s notice as to when accrued leave, or part thereof, must be taken.

34.9 The period of long service leave will usually not be for less than a full term. In special circumstances, an application for a shorter period of long service leave will be
considered by the Employer.

34.10 Where a Teacher has not accrued sufficient leave to cover a full term, the Employer may grant a period of leave without pay in conjunction with the period of long service leave. The granting of leave without pay in these circumstances will be at the discretion of the Employer.

34.11 Where a Teacher is taking a term’s leave or more, the School may agree to provide a loan to support professional activities. The terms of the loan would be subject to mutual agreement.

35. Parental leave

35.1 Parental leave is provided for in the NES. This clause supplements the NES provisions.

35.2 Increase in entitlements

(a) Instead of the entitlements in sections 70 and 76 of the NES, a Teacher is entitled to up to 24 months’ unpaid parental leave.

35.3 Variation of period of parental leave

(a) Subject to the relevant provisions of the NES, the period of parental leave may be shortened by written agreement between the Employer and the Teacher.

(b) Subject to the relevant provisions of the NES, where a Teacher has commenced a period of parental leave of up to 52 weeks, the Teacher:

(i) may extend the period of parental leave once by giving the Employer four (4) weeks’ written notice before the end of the period, stating the period by which the leave is extended; and

(ii) may further extend the period of parental leave by agreement with the Employer.

35.4 Where a Teacher elects to take a period of parental leave greater than 52 weeks but less than 104 weeks and wishes to extend this period up to a maximum of 104 weeks the Employer requires the Teacher to notify of his/her intention to extend the period of parental leave at least four (4) weeks prior to the expiration of the initial period leave.

35.5 A Teacher replacing a Teacher granted parental leave will not be entitled to more than four (4) weeks’ notice of termination of employment. The notice of termination provisions will be specified in writing at the time the replacement Teacher is employed.

35.6 A period of unpaid parental leave does not break the Teacher’s continuity of employment but it does not count as employment or service.

36. Paid Parental Leave

36.1 Application
Ballarat and Queen’s Anglican Grammar School (Teachers) Agreement November 2015 – October 2019

(a) This clause does not apply to a casual or fixed-term Teacher.

(b) This clause applies to a full-time or part-time Teacher who is entitled to unpaid parental leave in accordance with the NES and clause 36-Parental Leave.

(c) Entitlement to annual leave, personal/carer’s leave and long service leave accrues during the paid parental leave, but does not accrue based on the payment of the allowance. Entitlement to paid non-term weeks does not accrue during a period of paid parental leave.

(d) The payment in clause 37.2, 37.3 and 37.4

(i) is not payable during a period of paid leave;

(ii) is not payable during a period where the Teacher is entitled to payment pursuant to the Australian Government’s Paid Parental Leave Scheme;

(iii) is payable to only one Employee, where the Employer employs both parents of the child.

36.2 Paid parental leave

(a) A Teacher, who has completed at least 12 months’ continuous service with the Employer as at the date or the expected date of birth of the Teacher’s child, is entitled to be paid for the first six weeks of birth-related leave after the birth of the child at the Teacher’s ordinary rate of pay provided the Teacher is responsible for the care of the child and takes not less than six weeks of birth-related leave.

(b) If the Teacher’s birth-related leave includes a period with less than six weeks during term weeks, the Teacher’s entitlement to the payment will be equal to the number of weeks of leave taken during term weeks.

(c) A Teacher must have completed a minimum of 12 months’ continuous service, if returning from parental leave, before being eligible for paid leave pursuant to this clause for the birth or adoption of a second or subsequent child.

36.3 Paid adoption leave

(a) A Teacher, who has completed at least 12 months’ continuous service with the Employer as at the date or the expected date of placement of a child with the Teacher, is entitled to be paid for the first six weeks of adoption-related leave after the placement of the child with the Teacher at the Teacher’s ordinary rate of pay provided the Teacher is responsible for the care of the child and takes not less than six weeks of adoption-related leave.

(b) If the Teacher’s adoption-related leave includes a period with less than six weeks during term weeks, the Teacher’s entitlement to paid adoption leave will be equal to the number of weeks of leave taken during term weeks.

(c) A Teacher must have completed a minimum of 12 months’ continuous service, if returning from parental leave, before being eligible for paid leave pursuant to this
clause for the adoption or birth of a second or subsequent child.

36.4 Paid partner leave

By agreement, the Employer may grant a payment equal to one week’s ordinary rate of pay to a Teacher who takes concurrent unpaid leave as provided in the NES.

36.5 Parental Allowance

(a) A Teacher who returns to work at the School in their original position, after the period of birth-related leave of at least nine weeks in which the teacher qualified for six weeks’ salary payment, will be entitled to be paid an allowance equal to three (3) weeks’ salary, based upon the time fraction of the Teacher immediately prior to commencing birth-related leave. This allowance may be paid in advance at the discretion of the Employer.

(b) A Teacher who returns to work at the School in their original position, after the period of adoption-related leave of at least nine weeks in which the teacher qualified for six weeks’ salary payment, will be entitled to be paid an allowance equal to three (3) weeks’ salary, based upon the time fraction of the Teacher immediately prior to commencing adoption-related leave. This allowance may be paid in advance at the discretion of the Employer.

37. Leave without pay

37.1 A Teacher may apply for leave without pay which may be granted at the discretion of the Employer. A Teacher agrees that entitlements under this Agreement do not accrue during any period of leave without pay.

38. Infectious diseases leave

38.1 A Teacher who is suffering from one of the following infectious diseases will be granted special leave without deduction of pay provided the Employer is satisfied on medical advice that the Teacher has contracted the disease through a contact at the School and the disease is evident in the School:

(a) German measles
(b) Chickenpox
(c) Measles
(d) Mumps
(e) Scarlet fever
(f) Whooping cough
(g) Rheumatic fever
(h) Hepatitis
39. Examination leave

A Teacher will be granted leave with pay to attend compulsory examinations in an approved relevant course of study.

40. Qualification conferral leave

A Teacher will be granted leave with pay for up to one day for the purpose of having a degree/diploma or other qualification conferred in an approved relevant course of study.
Ballarat and Queen’s Anglican Grammar School (Teachers) Agreement November 2015 – October 2019

Declaration
This Agreement is made at Wendouree, VICTORIA on this

8 March 2016

Signed for and on behalf of:
Ballarat and Queen’s Anglican Grammar School

[Signature]

Mr Adam Peter Heath, Headmaster
11 Rossio Grove, Wendouree Victoria 3355

In the presence of

[Signature]

Mr Peter Gerard Hunt, Business Manager
24 Alexander Avenue, Wendouree Victoria 3355

On behalf of the employees of Ballarat and Queen’s Anglican Grammar School

[Signature]

Mr Alan Thomas Ford, Director of Staff Development
and member of the Consultative Committee
PO Box 50, Miners Rest, Victoria 3352

In the presence of

[Signature]

Mrs Joanne Huntley
Witness
16 Dawson Street South, Ballarat Central Victoria 3350