



## DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**Tillys Play & Development Pty Limited T/A Tillys Play & Development  
Centre**  
(AG2013/2859)

### **TILLYS PLAY AND DEVELOPMENT ENTERPRISE AGREEMENT 2013.**

Children's services

COMMISSIONER DEEGAN

CANBERRA, 24 OCTOBER 2013

*Application for approval of the Tillys Play and Development Enterprise Agreement 2013.*

[1] An application has been made for approval of an enterprise agreement known as the Tillys Play and Development Enterprise Agreement 2013 (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act) by Tillys Play & Development Pty Limited trading as Tillys Play & Development Centre. The Agreement is a single-enterprise agreement.

[2] I have accepted an undertaking from the employer pursuant to s.190 of the Act which concerns a number of clauses in the Agreement. A copy of the undertaking is attached to this decision at Annexure A.

[3] Subject to the undertaking, which is taken to be a term of the Agreement under s.201(3) of the Act, I am satisfied that each of the requirements of ss.186, 187 and 188 of the Act, as are relevant to this application for approval, have been met.

[4] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 31 October 2013. The nominal expiry date of the Agreement is 24 October 2017.



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**ANNEXURE A**



The Fair Work Commission

RE: AG2013/2859 - Application by Tillys Play & Development Pty Limited - Tillys Play and Development Enterprise Agreement 2013

The employer makes the following undertakings:

1. The employer is Tillys Play & Development Pty Limited ABN: 72 097 257 237
2. The nominal expiry date of the agreement will be 4 years from the date of approval of the agreement.
3. The correct cross reference at clause 10.6 is a reference to clause 28.1
4. The time that any employee spends in attendance at training or professional development courses organised by the employer will not be credited against a bank of unpaid time the employee is required to donate back to the employer.
5. In the event that any employee wishes to cash out a component of their annual leave in accordance with the agreement, the application must be made in writing. The services records detail the balance of leave available before and after the leave is cashed out and the date that the cash out occurs.
6. There will be no deductions from an employees final pay on termination of employment unless with the express written consent of the employee.
7. For the purposes of accruing the additional week of annual leave under the National Employment Standards, the definition of 'shift worker' is taken to be the same as the definition provided in the Children's Services Award 2010 [MA000120]

Sincerely

A handwritten signature in black ink that reads 'Tanio'.

Tanio Brown

Director - Tillys Play & Development Pty Limited

# **Tillys Play and Development Enterprise Agreement 2013**

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of this agreement.

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## Part 1—Application and Operation of Agreement

### 1. Title

This enterprise agreement is the **Tillys Play and Development Enterprise Agreement 2013**.

### 2. Application and Period of Operation

2.1 This Agreement is made under s172 of the **Fair Work Act 2009** and binds and applies to:

(a) **Tillys Play and Development Centre Pty. Ltd.**

(b) any employee of **Tillys Play and Development Centre Pty. Ltd.** who are working in a classification under this agreement.

2.2 The Agreement will come into operation 7 days after it is approved by Fair Work Australia and will remain in effect for 4 years.

### 3. Commitment to the National Quality Framework

The National Quality Framework (NQF) raises quality and drives continuous improvement and consistency in Australian education and care services.

Both the employer and there employees are committed to supporting the implementation of the NQF as it may be varied from time to time, for the duration of this agreement.

### 4. The National Employment Standards (NES) and this EA

4.1 The employer will ensure that copies of this EA and the NES are available to all employees to whom they apply.

4.2 In the event of any discrepancy between a provision of this agreement and the NES, the provisions of the NES will prevail.

### 5. Flexibility Arrangements

5.1 An employer and employee covered by this EA may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:

(a) the agreement deals with 1 or more of the following matters:

(i) arrangements about when work is performed;

(ii) overtime rates;

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- (iii) penalty rates;
    - (iv) allowances;
    - (v) leave loading; and
  - (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
  - (c) the employer and employee genuinely agree to the arrangement.
- 5.2 The employer must ensure that the terms of the individual flexibility arrangement:
- (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
  - (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
  - (c) result in the employee being better off overall than the employee would be if no arrangement were made.
- 5.3 The employer must ensure that the individual flexibility arrangement:
- (a) is in writing; and
  - (b) includes the name of the employer and employee; and
  - (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
  - (d) includes details of:
    - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
    - (ii) how the arrangement will vary the effect of the terms; and
    - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
  - (e) states the day on which the arrangement commences.
- 5.4 The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 5.5 The employer or employee 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 employee agree in writing — at any time.

## Part 2—Consultation and Dispute Resolution

### 6. Consultation Regarding Major Workplace Change

6.1 This term applies if:

- (a) the employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and
- (b) the change is likely to have a significant effect on employees of the enterprise.

6.2 The employer must notify the relevant employees of the decision to introduce the major change.

6.3 The relevant employees may appoint a representative for the purposes of the procedures in this term.

6.4 If:

- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- (b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

6.5 As soon as practicable after making its decision, the employer must:

- (a) discuss with the relevant employees:
  - (i) the introduction of the change; and
  - (ii) the effect the change is likely to have on the employees; and
  - (iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
- (b) for the purposes of the discussion — provide, in writing, to the relevant employees:
  - (i) all relevant information about the change including the nature of the change proposed; and
  - (ii) information about the expected effects of the change on the employees; and
  - (iii) any other matters likely to affect the employees.

6.6 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

6.7 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

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- 6.8 If a term in the enterprise agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in subclauses (2), (3) and (5) are taken not to apply.
- 6.9 In this term, a major change is *likely to have a significant effect on employees* if it results in:
- (a) the termination of the employment of employees; or
  - (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
  - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
  - (d) the alteration of hours of work; or
  - (e) the need to retrain employees; or
  - (f) the need to relocate employees to another workplace; or
  - (g) the restructuring of jobs.
- 6.10 In this term, *relevant employees* means the employees who may be affected by the major change.

**7. Dispute resolution**

- 7.1 If a dispute relates to:
- (a) a matter arising under the agreement; or
  - (b) the National Employment Standards;
- this term sets out procedures to settle the dispute.
- 7.2 An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.
- 7.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.
- 7.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Australia.
- 7.5 Fair Work Australia may deal with the dispute in 2 stages:
- (a) Fair Work Australia 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 Fair Work Australia is unable to resolve the dispute at the first stage, Fair Work Australia may then:
    - (i) arbitrate the dispute; and

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

Note: If Fair Work Australia arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that Fair Work Australia makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

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

- (a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
- (b) an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
- (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 employee to perform; or
- (iv) there are other reasonable grounds for the employee to refuse to comply with the direction.

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

## **Part 3—Contract, Types of Employment and Termination**

### **8. The Contract of Employment**

- 8.1** Employees under this award will be employed on a full-time, part-time, temporary or casual basis.
- 8.2** When the Employee commences employment, the Employer must provide the Employee with a written statement of the terms of engagement, including the Employee's employment status and classification. Any subsequent variation to these terms of engagement must also be recorded in writing, with copies provided to the Employee.

### **9. Full-time employment**

A full-time employee is an employee who is engaged to work an average of 38 Ordinary hours per week.

### **10. Part-time employment – Children's Services Employees**

- 10.1** An employer may employ a part-time employee in any classification in this enterprise agreement.
- 10.2** A part-time employee is an employee who:
- (a) works less than full-time hours of 38 per week;
  - (b) has reasonably predictable hours of work; and
  - (c) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- 10.3** At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work, specifying at least the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day.
- (a) Changes in the agreed regular pattern of work may only be made by agreement in writing between the employer and employee. Changes in the days to be worked or in starting and/or finishing times (whether on-going or ad hoc) may also be made by agreement in writing.
  - (b) Where agreement cannot be reached, the employer may change the days the employee is to work by giving seven days' notice in advance of the change in accordance with clause 42.
  - (c) The employer is relieved of the obligation to provide the full seven days' notice of change of the days an employee is to work where an emergency outside of the employer's control causes the employer to make the change. In this clause, emergency means any situation or event that poses an imminent or severe risk to the persons at an education and care service premises, or a

situation that requires the education and care service premises to be locked-down.

- 10.4 An employer is required to roster a part-time employee for a minimum of two consecutive hours on any shift.
- 10.5 A part-time employee who agrees to work in excess of their normal hours will be paid at ordinary time for up to eight hours provided that the additional time worked is during the ordinary hours of operation of the early childhood service. No part-time employee may work in excess of eight hours in any day without the payment of overtime paid for at the rates prescribed in clause 47.
- 10.6 A part-time employee employed under the provisions of this clause must be paid for the ordinary hours worked at the rate of 1/38th of the weekly rate prescribed in clause **Error! Reference source not found.**

## 11. Part-time employment - Teachers

- 11.1 A part-time employee is an employee who is engaged to work on a regular basis for less than, but not more than 90% of, the hours of a full-time employee in the school, children's service or early childhood education service. If the hours of a part-time employee rise above 90%, the employee will be considered to be full-time.
- 11.2 A part-time employee is entitled to the benefits under this award on a pro rata basis. The pro rata basis will be calculated by dividing the number of face-to-face teaching hours prescribed for the part-time employee from time to time by the usual number of face-to-face teaching hours prescribed for a full-time employee in the school, children's service or early childhood education service.
- 11.3 An employee (full-time or part-time) who requests to work above 90% of full-time hours, but less than full-time, will not be considered to be full-time and will be remunerated for the actual hours worked.
- 11.4 An employer cannot vary a part-time employee's teaching load or days of attendance unless:
- (a) the employee consents; or
  - (b) where such a variation is required as a result of a change in funding, enrolment or curriculum, the employer provides seven weeks' notice in writing in the case of a school teacher or four weeks' notice in the case of an early childhood teacher, or where the change would result in a reduction in salary, the salary of the teacher is maintained for a period of seven weeks in the case of a school teacher or four weeks in the case of an early childhood teacher.

## 12. Casual employment – Children's Services Employees

- 12.1 A casual employee is an employee engaged as such and must be paid the hourly rate payable for a full-time employee for the relevant classification plus a casual loading as follows:
- (a) From the date this agreement comes into effect:

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(i) For staff employed before 27 March 2006 - 24.92%

(ii) For staff employed from 27 March 2006 - 23%

(b) From 1 June 2014 - 25% after 1 June 2014.

12.2 A casual employee is one engaged for temporary and relief purposes.

12.3 A casual employee will be paid a minimum of two hours pay for each engagement.

12.4 A casual employee may, by mutual agreement, be paid weekly or at the termination of each engagement.

12.5 For work in excess of eight hours on any one day or shift or 38 hours in any one week, a casual employee will be paid in accordance with the penalties specified in clause 47.

### **13. Casual employment - Teachers**

13.1 Casual employment means employment on a day-to-day basis for a period of not more than four consecutive weeks, or four consecutive term weeks in the case of a teacher in a school or preschool.

13.2 A casual engagement may be extended by agreement between the teacher and the employer provided the total period of the engagement does not exceed one school term in the case of teachers in a school or preschool or a total of 10 weeks in any other case.

13.3 A casual Teacher must be paid the hourly rate payable for a full-time employee for the relevant classification plus a casual loading plus a casual loading as follows:

(a) From the date this agreement comes into effect:

(i) For staff employed before 27 March 2006 - 24%

(ii) For staff employed from 27 March 2006 - 24%

(b) From 1 June 2014 - 25% after 1 June 2014.

### **14. Abandonment of employment**

14.1 The absence of an employee from work for a continuous period exceeding three working days without the consent of the employer and without notification to the employer is prima facie evidence that the employee has abandoned their employment.

14.2 If within a period of 14 days from their last attendance at work or the date of their last absence in respect of which notification has been given or consent has been granted an employee has not established to the satisfaction of their employer that they were absent for reasonable cause, the employee is deemed to have abandoned their employment.

14.3 Abandonment of employment operates from the date of the last attendance at work or the last day's absence in respect of which consent was granted, or the date of the last

absence in respect of which notification was given to the employer, whichever is the later.

**15. Termination of employment**

**15.1 Effect of Termination of Employment**

- (a) On termination of employment, the Employee will immediately deliver to the Company all property and information belonging to the Employer at the date of termination. This includes all works created by the Employee in the course of their employment with the Employer.
- (b) If the Employer has reason to believe that items described in this clause have not been returned prior the completion of work on the last day, the Employer may withhold any and all outstanding remuneration or entitlements until the items are returned or suitable alternative arrangements are made for the items return or replacement.
- (c) Monies advance to an Employee by the Employer (whether by way of salary, loans or otherwise) and any other amounts owed by the Employee to the Employer (for example mistaken overpayment or childcare fees) may be off-set against any accrued entitlements owing at the date of termination. The Employer may deduct such amounts and the Employee acknowledges that the deduction is reasonable by virtue of the fact that the Employee owed the Employer monies.

**15.2 Ending Employment With Notice**

- (a) We may end your employment by giving you notice, and in the same way you may resign from your employment by giving us notice.
- (b) The notice required for either of us to terminate the employment is as follows:

For Children's Services Employees	
Length of continuous service with the Employer	Period of notice
Not more than 1 year	1 week
More than 1 year but less than 3 years	2 weeks
More than 3 years but less than 5 years	3 weeks
More than 5 years	4 weeks
For Teachers	
From Commencement	4 weeks

- (c) If we give notice of termination and you are over the age of 45 and have completed at least 2 years of continuous service with us, you are entitled to 1 extra weeks notice.

- (d) We may, instead of giving notice, pay you the wages equivalent to the required notice period.
- (e) If you do not make yourself available to work during the notice period, we may withhold from your final payment an amount equal to the remuneration you would have received had you been available to work during the notice period.

### **15.3 Ending Employment Without Notice**

- (a) Nothing in this clause limits the Employer's right to terminate the employment without notice in circumstances warranting immediate dismissal. These circumstances include, but are not limited to:
  - (i) dishonesty, fraud or gross misconduct;
  - (ii) a serious breach of duty or policy;
  - (iii) serious neglect in the performance of duties;
  - (iv) breach of duty of care;
  - (v) conviction of a felony for any offense committed while employed by the centre;
  - (vi) ceasing to hold a clearance of Working with Children's Check;
  - (vii) possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the work place, while on duty, or while operating employer-owned vehicles or equipment;
  - (viii) a serious breach of the relevant Acts and / or Regulations;
  - (ix) falsification of centre records (e.g. employment application, attendance records).
- (b) Under the National Employment Standards, if serious misconduct occurs, the employer can terminate your employment without notice.

## **16. Redundancy**

### **16.1 Definition**

Redundancy occurs when the employer decides that they no longer wishes the job the employee has been doing to be done by anyone and this is not due to the ordinary and customary turnover of labour.

### **16.2 Transfer to lower paid duties**

Where an employee is transferred to lower paid duties by reason of redundancy the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

**16.3 Severance pay**

- (a) In addition to the period of notice prescribed for ordinary termination in clause 15, an employee whose employment is terminated by reason of redundancy must be paid, subject to further order of the Commission, the following amount of severance pay in respect of a continuous period of service

Employee's period of continuous service with the employer on termination		Redundancy pay period
At least	But less than	
1 year	2 years	4 weeks
2 years	3 years	6 weeks
3 years	4 years	7 weeks
4 years	5 years	8 weeks
5 years	6 years	10 weeks
6 years	7 years	11 weeks
7 years	8 years	13 weeks
8 years	9 years	14 weeks
9 years	10 years	16 weeks
10 years	-	12 weeks

- (b) Week's pay means the ordinary time rate of pay for the employees concerned.
- (c) Provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date.

**16.4 Employee leaving during notice period**

An employee whose employment is terminated by reason of redundancy may terminate his/her employment during the period of notice and, if so, will be entitled to the same benefits and payments under this clause had they remained with the employer until the expiry of such notice. However, in this circumstance the employee will not be entitled to payment in lieu of notice.

**16.5 Alternative employment**

An employer, in a particular redundancy case, may make application to the Commission to have the general severance pay prescription varied if the employer obtains acceptable alternative employment for an employee.

**16.6 Time off during notice period**

- (a) During the period of notice of termination given by the employer an employee shall 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 employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or he or she shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

**16.7 Superannuation benefits**

- (a) Subject to further order of the Commission where an employee who is terminated receives a benefit from a superannuation scheme, he or she shall only receive under clause 16.3, the difference between the severance pay specified in that clause and the amount of the superannuation benefit he or she receives which is attributable to employer contributions only
- (b) If this superannuation benefit is greater than the amount due under clause 16.3 then he or she shall receive no payment under that clause.

**16.8 Employees exempted**

- (a) This clause shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal and in the case of casual employees, apprentices or employees engaged for a specific period of time or for a specific task or tasks.
- (b) Notwithstanding the foregoing provisions trainees who are engaged for a specific period of time shall, once the traineeship is completed and provided that the trainee services are retained, have all service including the training period counted in determining entitlements. In the event that a trainee is terminated at the end of his or her traineeship and is re-engaged by the same employer within six months of such termination the period of traineeship shall be counted as service in determining any future redundancy entitlements.

**16.9 Employers exempted**

Subject to an order of the Commission, in a particular redundancy case, this clause shall not apply to employers who employ less than fifteen employees.

**16.10 Incapacity to pay**

An employer, in a particular redundancy case, may make application to the Commission to have the general severance pay prescription varied on the basis of the employer's incapacity to pay.

## Part 4—Wages, Allowances and Related Matters

### 17. Classification of employees and evidence of qualifications

- 17.1 All employees will be classified by the employer into one of the levels detailed below in accordance with the employee's agreed skills, responsibilities and training.
- 17.2 On engagement, the employer may require that the employee provide documentary evidence of qualifications and teaching experience. If an employer considers that the employee has not provided satisfactory evidence, and advises the employee 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 an employee.

### 18. Children's Services Employees Level 1

This is an employee who has no formal qualifications but is able to perform work within the scope of this level. The employee will work under direct supervision in a team environment and will receive guidance and direction at all times. The employee will receive structured and regular on-the-job training to perform the duties expected at this level. Normally an employee at this level will not be left alone with a group of children.

#### (a) Indicative duties

- Learning and implementing the policies, procedures and routines of the service.
- Learning how to establish relationships and interact with children.
- Learning the basic skills required to work in this environment with children.
- Giving each child individual attention and comfort as required.
- Basic duties including food preparation, cleaning and gardening.

#### (b) Progression

A Level 1 employee will progress to the next level after a period of one year or earlier if the employer considers the employee capable of performing the work at the next level or if the employee actually performs work at the next level.

### 19. Children's Services Employees Level 2

This is an employee who has completed 12 months in Level 1, or a relevant AQF Certificate II, or in the opinion of the employer has sufficient knowledge and experience to perform the work within the scope of this level. An employee at this level has limited knowledge and experience in children's services and is expected to take limited responsibility for their own work.

**Indicative duties**

- Assist in the implementation of the children's program under supervision.
- Assist in the implementation of daily care routines.
- Develop awareness of and assist in maintenance of the health and safety of the children in care.
- Give each child individual attention and comfort as required.
- Understand and work according to the centre or service's policies and procedures.
- Demonstrate knowledge of hygienic handling of food and equipment.

**20. Children's Services Employees Level 3**

This is an employee who has completed AQF Certificate III in Children's Services or an equivalent qualification or, alternatively, this employee will possess, in the opinion of the employer, sufficient knowledge or experience to perform the duties at this level. An employee appointed at this level will also undertake the same duties and perform the same tasks as a CSE Level 2.

**(c) Indicative duties**

- Assist in the preparation, implementation and evaluation of developmentally appropriate programs for individual children or groups.
- Record observations of individual children or groups for program planning purposes for qualified staff.
- Under direction, work with individual children with particular needs.
- Assist in the direction of untrained staff.
- Undertake and implement the requirements of quality assurance.
- Work in accordance with food safety regulations.

**(d) Progression**

Subject to this award, an employee at this level is entitled to progression to Level 3.3. An employee at this level who has completed an AQF Diploma in Children's Services or equivalent, and who demonstrates the application of skills and knowledge acquired beyond the competencies required for AQF Certificate III in the ongoing performance of their work, must be paid no less than the rate prescribed for Level 3.4. Such an employee would also include an 'E' Worker as previously classified under the *Child Care (Long Day Care) WA Award 2005* as a CSE Level 3.

Any dispute concerning an employee's entitlement to be paid at Level 3.4 may be dealt with in accordance with clause 7—Dispute resolution, which may require the employee to demonstrate that they utilise skills and knowledge above those prescribed for Level 3 but below those prescribed for Level 4.

## 21. Children's Services Employees Level 4

This is an employee who has completed a Diploma in Children's Services or equivalent (e.g. Certificate IV in Out of School Hours Care) as recognised by licensing authorities and is appointed as the person in charge of a group of children in the age range from birth to 12 years or an employee who is appointed as an Authorised Supervisor (as defined in the *Children and Young Persons (Care and Protection) Act 1998* (NSW)).

An employee at this level will also take on the same duties and perform the same tasks as a CSE Level 3.

### Indicative duties

- Responsible, in consultation with the Assistant Director/Director for the preparation, implementation and evaluation of a developmentally appropriate program for individual children or groups.
- Responsible to the Assistant Director/Director for the supervision of students on placement.
- Responsible for ensuring a safe environment is maintained for both staff and children.
- Responsible for ensuring that records are maintained accurately for each child in their care.
- Develop, implement and evaluate daily care routines.
- Ensure that the centre or service's policies and procedures are adhered to.
- Liaise with families.

## 22. Children's Services Employees Level 5

This is an employee who has completed an AQF Level V Diploma in Children's Services or equivalent and is appointed as an Assistant Director of a service;

An **Assistant Director** will also take on the same duties and perform the same tasks as a CSE Level 4.

### Indicative duties

- Co-ordinate and direct the activities of employees engaged in the implementation and evaluation of developmentally appropriate programs.
- Contribute, through the Director, to the development of the centre or service's policies.
- Co-ordinate centre or service operations including Occupational Health and Safety, program planning, staff training.

- Responsible for the day-to-day management of the centre or service in the temporary absence of the Director and for management and compliance with licensing and all statutory and quality assurance issues.
- Generally supervise all employees within the service.

### **23. Children's Services Employees Level 6 (Director)**

A Director is an employee who holds a relevant Degree or a 3 or 4 year Early Childhood Education qualification, or an AQF Advanced Diploma, or a Diploma in Children's Services, or a Diploma in Out-of-Hours Care; or is otherwise a person possessing such experience, or holding such qualifications deemed by the employer or the relevant legislation to be appropriate or required for the position, and who is appointed as the director of a service.

#### **(e) Indicative duties**

- Responsible for the overall management and administration of the service.
- Supervise the implementation of developmentally appropriate programs for children.
- Recruit staff in accordance with relevant regulations.
- Maintain day-to-day accounts and handle all administrative matters.
- Ensure that the centre or service adheres to all relevant regulations and statutory requirements.
- Ensure that the centre or service meets or exceeds quality assurance requirements.
- Liaise with families and outside agencies.
- Formulate and evaluate annual budgets.
- Liaise with management committees as appropriate.
- Provide professional leadership and development to staff.
- Develop and maintain policies and procedures for the centre or service.

#### **(f) Director Level 1**

A Director Level 1 is an employee appointed as the Director of a service licensed for up to 39 children or a Family Day Care service of no more than 30 family based childcare workers and is paid at the Level 6.1 to 6.3 salary range.

#### **(g) Director Level 2**

A Director Level 2 is an employee appointed as the Director of a service licensed for between 40 and 59 children or a Family Day Care service with between 31 and 60 family based childcare workers and is paid at the Level 6.4 to 6.6 salary range.

**(h) Director Level 3**

A Director Level 3 is an employee appointed as the Director of a service licensed for 60 or more children or a Family Day Care service with more 60 family based childcare workers and is paid at the Level 6.7 to 6.9 salary range.

**24. Children's Services Support Worker Level 1**

This is an untrained, unqualified employee. Employees at this level will work under supervision with guidance and direction.

**(i) Indicative duties**

- Assisting a qualified cook and/or basic food preparation and/or duties of a kitchen hand.
- Laundry work.
- Cleaning.
- Gardening.
- Driving.
- Maintenance (non-trade).
- Administrative duties.

**(j) Progression**

An employee will progress to Children's Services Support Employee (CSSE) Level 2 after 12 months, or earlier if the employee is performing the duties of a children's Services support employee Level 2.

**25. Children's Services Support Worker Level 2**

An employee at this level will possess skills, training and experience above that of a CSSE Level 1 and below that of a CSSE level 3. An employee at this level works under routine supervision and exercises discretion consistent with their skills and experience.

**Indicative duties**

- Assisting a qualified cook and/or basic food preparation and/or duties of a kitchen hand.
- Laundry work.
- Cleaning.
- Gardening.
- Driving.

- Maintenance (non-trade).
- Administrative duties.

## **26. Children's Services Support Worker Level 3**

An employee at this level possesses an AQF Certificate III or equivalent skills and performs work at that level as required by the employer.

## **27. Teachers**

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.

### **27.1 Evidence of qualifications**

- (a) On engagement, the employer may require that the employee provide documentary evidence of qualifications and teaching experience. If an employer considers that the employee has not provided satisfactory evidence, and advises the employee 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 an employee.
- (b) Where an employee 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 employee provided satisfactory evidence to the employer within three months of completion. In all other cases the employee will be classified and paid from the date satisfactory evidence is provided.

## **28. Wage Rates Under This Agreement**

The service is committed to creating a workplace where efforts and achievements are recognised and rewarded. As such, an incentive-based Performance Program shall be maintained during the life of this Agreement for all staff. The Program will measure the success of our service against our vision, goals, strategic initiatives and the quality of the service we provide.

Minimum rates of pay for each classification of employment under this agreement are listed at Schedule A of this agreement

### **28.1 Minimum Wage Rates When The Agreement Comes Into Effect**

The minimum wage rate for each classification of work on the day this agreement comes into effect is the applicable transitional rate of pay in NSW under the:

- (a) Children's Services Award 2010 [MA000120]
- (b) Educational Services (Teachers) Award 2010 [MA000077]

**28.2 Application of the Early Years Quality Fund (EYQF)**

From the date that the employer receives the EYQF subsidy, the subsidy will be paid to employees in addition to each employee's usual rate of pay. In the event that the employer ceases to be eligible for the subsidy, or the subsidy is no longer available, the benefit will cease to be payable.

The amount of subsidy for each classification level is listed on the below table.

**Early Years Quality Fund Hourly Subsidy**

Award	Classification	Level	Progression	Relativities	Hourly Subsidy
Children's Services Employee	Unqualified Support Worker	1.1	Commencement	83.00%	2.49
		2.1	Commencement	87.90%	2.64
		2.2	After 1 year	92.40%	2.77
		3.1	Commencement	100.00%	3.00
Children's Services Employee	Unqualified	1.1	Commencement	83.00%	2.49
		2.1	Commencement	87.90%	2.64
		2.2	After 1 year	92.40%	2.77
Children's Services Employee		3A.1	Commencement	98.33%	2.95
		3A.2	After 1 year	100.00%	3.00
	Certificate III	3.1	Commencement	100.00%	3.00
		3.2	After 1 year	105.00%	3.15
		3.3	After 2 years	110.00%	3.30
		3.4	Has Diploma	120.00%	3.60
Children's Services Employee		4A.1	Commencement	106.67%	3.20
		4A.2	After 1 year	108.33%	3.25
		4A.3	After 2 years	109.67%	3.29
		4A.4	After 3 years	111.33%	3.34
		4A.5	After 2 years	112.67%	3.38
	Diploma (supervisor)	4.1	Commencement	130.00%	3.90
		4.2	After 1 year	132.00%	3.96
		4.3	After 2 years	134.00%	4.02

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Award	Classification	Level	Progression	Relativities	Hourly Subsidy
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Children's Services Employee		5A.1	Commencement	136.00%	4.08
		5A.2	After 1 year	138.00%	4.14
		5A.3	After 2 years	140.00%	4.20
	Assistant Director	5.1	Commencement	136.00%	4.08
		5.2	After 1 year	138.00%	4.14
		5.3	After 2 years	140.10%	4.20
		5.4	With Adv Dip	142.06%	4.28

Children's Services Employee		6A.1	Commencement	148.75%	4.76
		6A.2	After 1 year	148.31%	4.82
		6A.3	After 2 years	148.33%	4.88
	Director (to 39 places)	6.1	Commencement	158.60%	4.76
		6.2	After 1 year	160.60%	4.82
		6.3	After 2 years	162.60%	4.88
	Director (40-59 places)	6.4	Commencement	168.70%	5.06
		6.5	After 1 year	170.30%	5.11
		6.6	After 2 years	172.30%	5.17
Director (60 or more places)	6.7	Commencement	174.30%	5.23	
	6.8	After 1 year	176.30%	5.29	
	6.9	After 2 years	178.30%	5.35	

Educational Services Employee	Teacher 3 Year Trained	1	3 yr trained entry	136.00%	4.08
		2		138.00%	4.14
		3		140.10%	4.20
		4		142.10%	4.26
		5		144.00%	4.32
		6		146.00%	4.38
		7		148.00%	4.44
		8		150.00%	4.50
		9		152.00%	4.56
		10		154.00%	4.62
		11		156.00%	4.68
		12		158.00%	4.74

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Award	Classification	Level	Progression	Relativities	Hourly Subsidy
Educational Services Employee	Teacher 4 Year Trained	3	4 yr trained entry	140.10%	4.20
		4		142.10%	4.26
		5		144.00%	4.32
		6		146.00%	4.38
		7		148.00%	4.44
		8		150.00%	4.50
		9		152.00%	4.56
		10		154.00%	4.62
		11		156.00%	4.68
		12		158.00%	4.74
Educational Services Employee	Teacher 5 Year Trained	4	5 yr trained entry	142.10%	4.26
		5		144.00%	4.32
		6		146.00%	4.38
		7		148.00%	4.44
		8		150.00%	4.50
		9		152.00%	4.56
		10		154.00%	4.62
		11		156.00%	4.68
		12		158.00%	4.74
Highest year of schooling year 10	Trainee	School Leaver		48.33%	1.45
		Plus 1 year out of school		53.33%	1.60
		Plus 2 year out of school		63.33%	1.90
		Plus 3 year out of school		73.67%	2.21
		Plus 4 year out of school		85.67%	2.57
		Plus 5 year out of school		98.00%	2.94
Highest year of schooling year 11	Trainee	School Leaver		53.33%	1.60
		Plus 1 year out of school		63.33%	1.90
		Plus 2 year out of school		73.67%	2.21
		Plus 3 year out of school		85.67%	2.57
		Plus 4 year out of school		98.00%	2.94
Highest year of schooling year 12	Trainee	School Leaver		63.33%	1.90
		Plus 1 year out of school		73.67%	2.21
		Plus 2 year out of school		85.67%	2.57
		Plus 3 year out of school		98.00%	2.94

**28.3 Wage Rates post 30 June 2014**

From 1 July 2014, the transitional rates of wage will no longer apply with the following effect:

**Employees who commenced employment before 1 July 2014**

- will continue to receive the transitional rate of pay applicable to their classification of work. This rate will remain fixed until such time as the modern award rate, through Fair Work Commission Annual Wage Rate Reviews, exceeds the transitional rate.
- In addition, these employees will receive the EYQF subsidy in accordance with clause 28.2.

**Employees who commence employment after 30 June 2014**

- will be entitled to the applicable modern award rate of pay applicable to their classification of work.
- In addition, these employees will receive the EYQF subsidy in accordance with clause 28.2.

**29. Incremental Progression for Childcare Workers**

**29.1** Progression from one level to the next within a classification is subject to an employee meeting the following criteria:

- (a) competency at the existing level;
- (b) 12 months experience at that level (or in the case of employees employed for 19 hours or less per week, 24 months) and in-service training as required; and
- (c) demonstrated ability to acquire the skills necessary for advancement to the next pay point.

**29.2** Where an employee is deemed not to have met the requisite competency at their existing level at the time of the appraisal, progression may be deferred for a period of three months provided that:

- (a) the employee is notified in writing of the reasons for the deferral;
- (b) the employee has, in the previous 12 months, been provided with the in-service training required to attain a higher pay point; and
- (c) following any deferral, the employee is provided with the training necessary to advance to the next level.

**29.3** Where an appraisal has been deferred for operational reasons beyond the control of either party and the appraisal subsequently deems the employee to have met the requirements of clause 29.1, any increase in wages will be back paid to the 12 (or 24) month anniversary date of the previous progression.

**29.4** An employee whose progression has been refused or deferred may invoke the provisions of clause 7. If the resolution results in the advancement being granted, any increase in wages will be backdated to the relevant anniversary date.

- 29.5 An employee employed as a Children's Services Employee Level 2 on completion of an accredited introductory childcare course will immediately progress by one additional level beyond that determined in accordance with clause 29.1. Any additional steps will be subject to meeting the requirements of clause 29.1.

### **30. Incremental Progression for Teachers**

- 30.1 An employee who is three year trained will commence on Level 1 of the Teachers salary scale and progress according to normal years of service to Level 12 of the scale.
- 30.2 An employee who is four year trained will commence on Level 3 of the Teachers salary scale and progress according to normal years of service to Level 12.
- 30.3 An employee who is five year trained will commence on Level 4 of the Teachers salary scale and progress according to normal years of service to Level 12 of the scale.
- 30.4 All other teachers and two year trained teachers as defined in the Educational Services (Teachers) Award 2010 will commence on Level 1 of the salary scale and progress according to normal years of service to a maximum of Level 5.

### **31. Supported wage system**

Terms and conditions of employment applying to employees who are eligible for a supported wage will be the same as those available under the Children's Services Award 2010 except that the rates of pay applicable under this Agreement will apply.

### **32. Superannuation**

#### **32.1 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) The rights and obligations in these clauses supplement those in superannuation legislation.

#### **32.2 Employer contributions**

- (a) An employer must make such superannuation contributions to a compliant superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.
- (b) All contributions will be paid to a compliant fund chosen by the employee or to the HESTA no selection is made.in the absence of any fund being selected.

**33. Broken shift allowance**

Where an employee works two separate shifts in a day, they will be paid an allowance of 1.91% of the minimum weekly rate for a Children's Services Employee Level 3.1.

**34. Clothing and equipment allowance**

- (a) Where the employer requires an employee to wear any special clothing or articles of clothing the employer must reimburse the employee for the cost of purchasing such clothing. The provisions of this clause do not apply where the employer pays for the clothing required to be worn by the employee.
- (b) Where an employee is required to launder any clothing referred to in clause 15.2(a) the employee will be paid an allowance of \$9.49 per week or \$1.90 per day, or where the uniform does not require ironing, \$5.98 per week or \$1.20 per day. The allowance is not payable if adequate facilities are provided at the Service for employees to wash and iron their uniforms.
- (c) Where an employee is required to wear protective clothing or equipment such as goggles, aprons or gloves, the employer will either supply such clothing or equipment or reimburse the employee for the cost of their purchase.

**35. Excess fares allowance**

Where an employee is directed to work away from their normal place of work on any day the employee will be paid an allowance of \$12.67 per day to compensate for excess fares. This provision does not apply if the employer provides or offers to provide suitable transport free of charge to the employee.

**36. Meal allowance**

An employee required to work overtime for more than two hours without being notified on the previous day or earlier that they will be so required to work will either be supplied with a meal by the employer or paid an allowance of \$10.02. No meal allowance is payable where an employee could reasonably return home for a meal within the period allowed.

**37. Qualifications allowance**

A Director or Assistant Director who holds a Graduate Certificate in Childcare Management or equivalent will be paid an all-purpose allowance, calculated at 5% of the weekly rate for an Assistant Director (Children's Services Employee Level 5.4).

**38. Use of vehicle allowance**

Where an employer requests an employee to use their own motor vehicle in the performance of their duties the employee will be paid an allowance of \$0.74 per kilometre in the case of a motor car or \$0.25 per kilometre in the case of a motorcycle.

**39. Adjustment of expense related allowances**

- (a) At the time of any adjustment to the standard rate, each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

<b>Allowance</b>	<b>Applicable Consumer Price Index figure</b>
Clothing and equipment allowance	Clothing and footwear group
Excess fares allowance	Transportation group
Meal allowance	Take away and fast foods sub-group
Vehicle allowance	Private motoring sub-group

**40. Higher duties allowance**

- 40.1 An employee engaged in duties carrying a higher rate than their ordinary classification for two or more consecutive hours within any shift or day will be paid for the time so worked at the higher rate provided that the greater part of the time so worked is spent in performing duties carrying the higher rate.
- 40.2 For the purposes of this clause, the duties of an employee will be determined by reference to this enterprise agreement and the employee's job description.

**41. Payment of wages**

- 41.1 Except on termination of employment all wages including overtime will be paid on any day of the week other than Saturday or Sunday.
- 41.2 Wages may be paid weekly, fortnightly or monthly by agreement between the employer and employee, by one of the following means:
  - (a) cash;
  - (b) cheque; or
  - (c) payment into employee's bank or nominated financial institution account by electronic funds transfer, without cost to the employee.
- 41.3 Where an employee lawfully leaves their employment they will be paid all moneys due at the time of leaving by cash, cheque or electronic funds transfer. Alternatively, the employee may be paid on the next working day where this is reasonable.

## Part 5—Hours of Work and Related Matters

### 42. Ordinary hours of work

- 42.1 The ordinary hours of work of full-time employees will be an average of 38 hours per week over a one, two or four week cycle.
- 42.2 Ordinary hours will be worked in periods not exceeding eight hours, in unbroken periods save for meal breaks, between Monday and Friday. By agreement between an employer and an employee, a full-time or part-time employee may be rostered to work up to a maximum of 10 hours in any one day.
- 42.3 Ordinary hours may be worked between 6.00 am and 7.00 pm. Where broken shifts are worked the spread of hours can be no greater than 12 hours per day.

### 43. Rostered time off for full-time employees

- 43.1 The method of rostering the 38 hour week may be by any of the following:
- (a) by employees working less than eight ordinary hours per day;
  - (b) by employees working less than eight ordinary hours on one or more days each week;
  - (c) by rostering employees off on various days of the week during the work cycle; or
  - (d) by accumulating rostered days off with a maximum of five such days being taken consecutively at times mutually convenient to the employer and the employee.
- 43.2 In the absence of agreement at a workplace in respect to rostering of the 38 hour week the provisions of clause 7—Dispute resolution will apply.

### 44. Rostering

- (a) An employer will post a legible roster at a place readily accessible to employees indicating the rostered hours of work.
- (b) .
  - (i) An employer may change an employee's rostered hours, but only by giving the employee twelve hour's notice. In the absence of such notice overtime will be paid until seven days have elapsed from the date the notice was given.
  - (ii) An employee and employer may agree to waive or shorten this notice period in a particular case. Such agreement must be recorded in writing and form part of the time and wages records.
  - (iii) The employer is also relieved of the obligation to provide the full seven days' notice where an emergency outside of the employer's control

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causes the employer to make the change. In this clause, emergency means:

- any situation or event that poses an imminent or severe risk to the persons at an education and care service premises, or
- a situation that requires the education and care service premises to be locked-down. or
- any situation where the employer must make adjustments to rosters due to unplanned absences.

(iv) However, where an employee is required to stay beyond their rostered

(v) hours because a parent fails to arrive on time to collect a child, this will not be regarded as an emergency. In this circumstance, the employer must pay the employee at overtime rates for the additional time the employee remains at the workplace.

(c) An employee may be transferred from one location to another within their rostered hours at the direction of the employer. An employee transferring from one location to another during a shift will be paid for the time taken to travel from one location to the other.

(d) Where an employee is required to permanently transfer to another location (other than by mutual agreement) they must be given seven days notice of the change or paid overtime until seven days have transpired from the date notice was given.

**45. Non-contact time**

45.1 Any employee responsible for the preparation, implementation and/or evaluation of a developmental program for an individual child or group of children will be entitled to a minimum of two hours per week, during which the employee is not required to supervise children or perform other duties directed by the employer, Such time is allocated for the purpose of planning, preparing, evaluating and programming activities.

45.2 Wherever possible non-contact time should be rostered in advance.

45.3 Any Non-contact time may be split between educators .

**46. Meal Breaks and Rest Pauses**

**46.1 Meal breaks**

(a) An employee will not be required to work in excess of five hours without an unpaid meal break of not less than 30 minutes and not more than one hour. Provided that employees who are engaged for not more than six hours continuously per shift may elect to forego a meal break.

(b) A meal break must be uninterrupted. Where there is an interruption to the meal break and this is occasioned by the employer, overtime will be paid until an uninterrupted break is taken. The minimum overtime payment will be as for

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15 minutes with any time in excess of 15 minutes being paid in minimum blocks of 15 minutes.

- (c) Notwithstanding clause 46.1(a), where an employee is required to remain on the employer's premises, the employee will be entitled to a paid meal break of not less than 20 minutes or more than 30 minutes. This paid meal break is to be counted as time worked. By agreement with the employer an employee may leave the premises during the meal break, however, such time away from the premises will not be counted as time worked and nor will any payment be made for such time.

**46.2 Rest pauses**

- (a) An employee working four hours or more on any engagement will be entitled to a paid rest period of 10 minutes.
- (b) All rest periods must be uninterrupted.

**46.3 Breaks between work periods**

- (a) All employees will be entitled to a 10-hour rest period between the completion of work on one day and the commencement of work on the next. Work includes any reasonable additional hours or overtime.
- (b) Where an employee recommences work without having had 10 hours off work the employee will be paid at overtime rates until such time as they are released from duty for a period of 10 consecutive hours without loss of pay for ordinary time hours occurring during the period of such absence.
- (c) By agreement between an employer and an employee the period of 10 hours may be reduced to not less than eight hours.

**47. Overtime and penalty rates**

**47.1 Entitlement to overtime rates**

- (a) A full-time employee is paid at overtime rates for any work performed outside of their ordinary hours of work.
- (b) A part-time employee is paid at overtime rates in the circumstances specified in clause 10.5.
- (c) A casual employee is paid at overtime rates in the circumstances specified in clause 12.5.

**47.2 Overtime rates**

- (a) Overtime will be paid at the rate of time and a half for the first two hours and double time thereafter. In calculating overtime, each day's work will stand-alone.
- (b) Where, due to a genuine and pressing emergency situation, an employee is required to remain at work after their normal finishing time such time will be paid at the ordinary rate for the employee's classification. Provided that such emergency overtime does not exceed one hour per week. For the purposes of this subclause an **emergency situation** may include a natural disaster affecting

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a parent, another employee or the centre/service, the death of a child or parent, or a child requiring urgent hospitalisation or medical attention.

**47.3 Time off instead of payment for overtime**

An employee and an employer may agree that an employee will be provided with time off instead of being paid an overtime payment for all authorised work performed outside of or in excess of the ordinary or rostered hours subject to the following:

- (a) any periods of time off in ordinary hours will equate to the relevant period of overtime worked;
- (b) an employee must not accumulate more than 20 hours of time off which must be taken within four weeks of its accrual. Where time off is not taken the overtime will be paid for in the next pay period at the appropriate rate of overtime applicable; and
- (c) notwithstanding clause 47.3(b), by agreement between the employee and the employer, time off instead of payment for overtime may be accrued and taken as part of annual leave.

**47.4 Make-up time**

**47.5** An employee may elect, with the consent of their employer, to work make-up time under which the employee takes time off during ordinary hours and works those hours at a later time during the ordinary spread of hours provided for in clause 42.3 at the ordinary rate of pay.

**48. Shiftwork**

- (a) Despite the provisions of clauses 42.1, 42.2 and 42.3, employees may be employed as shift workers.
- (b) The ordinary hours inclusive of meal breaks for shift workers will not, without payment of overtime, exceed an average of 38 hours per week to be worked over a one, two or four week cycle.
- (c) The following allowances will be paid for shiftwork:

<b>Shift</b>	<b>% loading</b>
Early morning	10
Afternoon	15
Night shift, rotating with day or afternoon	17.5
Night shift, non-rotating	30

**(d) Definitions**

- (i) **Early morning shift** means any shift commencing at or after 5.00 am and before 6.00 am.
- (ii) **Afternoon shift** means any shift finishing after 6.30 pm and at or before midnight.

- (iii) **Night shift** means any shift finishing after midnight and at or before 8.00 am or any shift commencing at or before midnight and finishing before 5.00 am.
- (iv) **Night shift, non-rotating** means any night shift system in which night shifts do not rotate or alternate with another shift so as to give the employee at least one third of their working time off night shift in each roster cycle.

**49. Weekend and public holiday work**

- (a) Overtime on a Saturday will be paid at the rate of time and a half for the first two hours and double time thereafter.
- (b) Provided that shift workers required to work ordinary hours on a Saturday will be paid at the rate of time and a half for all hours worked. Overtime worked on a Saturday by shift workers will be paid at time and a half for the first two hours and double time thereafter.
- (c) All time worked on a Sunday will be paid at the rate of double time.
- (d) All time worked on a public holiday will be paid at the rate of double time and a half. Where both a public holiday and a substitute day are worked, public holiday penalties are payable for only one of those days, at the election of the employee.
- (e) Employees working on a Saturday, Sunday or public holiday will receive a minimum payment of four hours pay.

## Part 6—Leave

### 50. Annual leave

#### 50.1 Minimum entitlements to annual leave

- (a) An employee (other than a casual employee) is entitled to four weeks of paid annual leave for each year of service with the employer. An employee's entitlement to annual leave accrues on a continuous basis according to the number of ordinary hours they work.
- (b) An employee classified as a 'shift worker' is entitled to five weeks paid annual leave.
- (c) Unused annual leave accumulates

#### 50.2 When can paid annual leave be taken?

- (a) It is up to the employer and employee to agree on when and for how long paid annual leave may be taken relative to operational needs however, the employer will not unreasonably refuse an employee's request to take paid annual leave.
- (b) There is no maximum or minimum period of annual leave that may be taken.
- (c) Applications for leave must be made at least 8 weeks before the leave is to be taken. Not more than two staff members will be permitted to be on leave at the same time.
- (d) No more than two people at a time will be allowed to be on annual leave unless in the case of an emergency.
- (e) An employee is not on paid annual leave on a day or part-day that is a public holiday or includes a period of any other leave (other than unpaid parental leave), or a period of absence from employment due to community service leave.
- (f) In certain circumstances, the employer can direct an employee to take annual leave provided the direction is reasonable. A requirement to take paid annual leave may be reasonable if, for example:
  - (i) the employee has accrued in excess of 6 weeks paid annual leave without having made arrangements with the employer to extend the period.
  - (ii) the employer's enterprise is being shut down for a period (such as between Christmas and New Year).
- (g) In assessing reasonableness, the following factors are relevant:
  - (i) the needs of the employee and the employer's business
  - (ii) any agreed arrangement with the employee
  - (iii) custom and practice of the business

- (iv) timing of the direction or requirement to take leave
- (v) reasonableness of the period of notice given.

**50.3 Payments for annual leave**

- (a) When annual leave is taken an employee must be paid at their base rate of pay for the ordinary hours they would have worked during the period.
- (b) An employee's base rate of pay is the rate of pay payable to an employee for his or her ordinary hours of work, but not including any of the following:
  - (i) incentive-based payments and bonuses
  - (ii) loadings
  - (iii) monetary allowances
  - (iv) overtime or penalty rates
  - (v) any other separately identifiable amounts.
- (c) On termination of employment, an employer must pay an employee in respect to any period of untaken paid annual leave.

**50.4 Annual leave loading**

In addition to the payment provided for by the NES an employer is required to pay leave loading of 17.5% of that payment when an employee takes annual leave.

**50.5 Paid leave in advance of accrued entitlement**

An employer may allow an employee to take annual leave either wholly or partly in advance before the leave has accrued. Where such leave is paid in advance and the employee leaves the employment before completing the service necessary to account for the leave provided, the employer may deduct the amount of leave paid in advance from any termination payments owing to the employee. No leave loading will be payable in respect of leave taken in advance of accrual.

**50.6 Cashing Out of Accrued Annual Leave**

- (a) An employee may elect to cash out an amount of annual leave in lieu of taking the leave provided that the balance of leave available after the cash out is equal to or greater than 4 weeks leave.
- (b) An election to cash out an amount of leave can only occur once in each 12-month period.

**51. Personal/carer's leave and compassionate leave**

**51.1 Personal/Carers leave**

- (a) All Full time employees are entitled to 10 days personal/carers leave for each year of service. An employee's entitlement to paid personal/carers leave accrues progressively during a year of service according to the employee's ordinary hours of work.

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- (b) Part-time Employees accrue personal/carers leave on a pro rata basis relative to the hours they work compared with full time employment.
- (c) Paid personal/carers leave will be provided to Employees when they are absent from work:
  - (i) due to personal illness or injury;
  - (ii) to provide care or support to a member of the employee's immediate family or household who requires care or support for one of the following reasons:
    - the family or household member is ill or injured; or
    - an unexpected emergency has affected the family or household member.
- (d) Personal/carers leave that is not used each year accrues without limit.
- (e) An Employee is not entitled to paid personal/carers leave for any period in respect of which workers' compensation benefits are paid or payable to him or her.
- (f) Where an Employee obtains workers' compensation benefits for a period during which he or she received paid personal/carers leave, the Employee shall repay the amount paid for that period and the Employer will re-credit that personal leave to the Employee.
- (g) An Employee shall as soon as is practicable advise the Director that he or she will be or is taking a period of personal/carers leave.
- (h) An employee who is absent on personal/carers leave must provide a medical certificate when requested to do so or otherwise in accordance with this clause:
  - (i) the absence is due to the employee being ill or injured:
    - the absence is for more than one day;
    - the employee has already had four days of personal leave in the previous 12 months without providing a medical certificate; or
    - the absence is on the day before or after a public holiday/ RDO/ Annual Leave or a weekend;
  - (ii) the absence is to care for a member of the employee's immediate family or household who is ill or injured and unable to work.
- (i) For the purpose of this clause, immediate family or household means a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of an employee or a child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner.
- (j) A medical certificate stating that an employee or a member of the immediate family or household is suffering a medical condition or a personal illness will not be accepted. The medical certificate must state the nature of the illness or injury suffered. To avoid confusion, an example of the "nature of the illness or injury" would be a back complaint, abdominal complaint, influenza, or any

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other general description that will explain the condition. The level of proof that must be provided must not be less than that usually required for a workers compensation claim.

- (k) Where an employee is unable to provide a medical certificate as required by clause (h), he or she must provide a statutory declaration verifying the reasons for the absence.
- (l) Where an employee is absent on personal/carers leave to provide care or support to an immediate family or household member who is affected by an unexpected emergency, the Director may require the employee to provide a statutory declaration setting out the reasons for the absence.
- (m) If an Employee fails to comply with medical certificate or statutory declaration requirements in this agreement, personal/carers leave will not be granted. If the Employer has already paid the Employee in respect of that period of absence it shall be entitled to withhold the amount paid from money, which is or may become due and payable to the Employee.

**51.2 Infectious diseases**

- (a) The employee must notify the employer in the event that they contract an infectious disease, which would require an exclusion period for a child accessing the service with the same condition as determined by the Australian Government National Health and Medical Research Council.
- (b) In all cases the exclusion period will be the same as those periods recommended by the National Health and Medical Research Council.

**51.3 Unpaid carer's leave**

Employees are entitled to unpaid carer's leave of up to two days per occasion for the same reasons specified in sub-clause 51.1(c) where the Employee has no personal/carers leave credits left.

**52. Compassionate leave**

- (a) An Employee is entitled to up to three days of paid leave on each occasion:
  - (i) to spend time with a member of the Employee's immediate family or household who has a personal illness or injury that poses a serious threat to that person's life; or
  - (ii) after the death of a member of the employee's immediate family or household.
- (b) The Director may require evidence of the illness, injury or death.

**53. Long service leave**

- 53.1 Long Service Leave will be accrued and paid in accordance with the provisions of the applicable Long Service Leave legislation provided that benefits under this agreement may be accessed when an employee has completed 5 years of service with the employer.

## **54. Parental Leave**

### **54.1 Eligibility**

- (a) All employees are eligible for unpaid parental leave if they have completed at least 12 months of continuous service and includes casual employees, but only if:
  - (i) they have been employed by the employer on a regular and systematic basis for a sequence of periods over at least 12 months
  - (ii) had it not been for the birth (or expected birth) or adoption (or expected adoption) of a child, they would have a reasonable expectation of continuing employment on a regular and systematic basis.

### **54.2 Entitlement**

- (a) Parental leave provisions in this agreement are subject to any further conditions or entitlements under the NES
- (b) Each eligible member of an employee couple may take a separate period of up to 12 months of unpaid parental leave. However, if only one person is taking leave, or if one member of an employee couple wishes to take more than 12 months leave, the employee may request a further period of up to 12 months, from their employer.
- (c) An 'employee couple' is where two employees (not necessarily of the same employer) are in a spousal or de facto relationship.
- (d) Parental leave is only available to employees who have or will have responsibility for the care of a child.
- (e) The leave must be associated with:
  - (i) the birth of a child to the employee, the employee's spouse, or the employee's de facto partner, or
  - (ii) the placement of a child under 16 with the employee for adoption.
- (f) The 'child of a person' is defined by the Family Law Act 1975 as someone who is a person's biological, adopted or step child.
- (g) An employee's 'de facto partner' is defined as a person who, although not legally married to the employee, lives with them in a relationship as a couple on a genuine domestic basis. Former de facto partners are also included.
- (h) same sex de facto relationships are recognised for unpaid parental leave entitlements. This means that the same sex de facto partner of either a person who gives birth or a biological parent may be eligible to take unpaid birth-related leave.

### **54.3 What are the rules for taking unpaid parental leave?**

- (a) The following rules apply where one employee (or only one member of an employee couple) takes leave:

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- (i) Leave must be taken in a single continuous period (paid leave, such as annual leave, may be taken at the same time),
  - (ii) In the case of a pregnant employee, leave can start up to six weeks before the expected date of birth, or earlier if the employer and employee agree. If the employee is not giving birth to the child, leave starts on the date of birth or placement of the child.
- (b) The following rules apply to an employee couple if both employees take unpaid parental leave:
- (i) The employees are entitled to no more than 24 months of leave between them, which generally must be taken separately in a single continuous period.
  - (ii) If the employee who takes leave first is pregnant or gives birth, they may start their leave up to 6 weeks before the expected date of birth, or earlier if the employer and employee agree.
  - (iii) If the employee who takes leave first is not pregnant, their leave must start on the date of birth or placement of a child.
  - (iv) Both employees of an employee couple may take leave at the same time for a maximum period of 3 weeks. Unless the employer agrees to another arrangement, this concurrent leave must be taken immediately after the birth or placement of a child. However, if the employer agrees, the second employee can commence their leave earlier and/or end their leave up to 6 weeks after the date of birth or placement of the child. The second employee's remaining leave must be taken immediately after the first employee's leave finishes.
  - (v) Paid leave, such as annual leave, may be taken at the same time as unpaid parental leave.
  - (vi) Concurrent leave is unpaid parental leave and is deducted from an employee's unpaid parental leave entitlement of 12 months.

**54.4 Extending Leave**

- (a) An employee taking 12 months parental leave may request an extension of a further 12 months leave (up to 24 months in total), unless they are a member of an employee couple and the other member has already taken 12 months of leave.
- (b) The request must be in writing and given to the employer at least four weeks before the end of the employee's initial period of parental leave. The employer must respond in writing within 21 days, stating whether they grant or refuse the request.

**54.5 Requirement to take leave within six weeks of the birth**

- (a) A pregnant employee wanting to work the six weeks before birth is required to provide a medical certificate containing the following:
  - (i) a statement of whether the employee is fit for work

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- (ii) if the employee is fit for work, a statement of whether it is inadvisable for the employee to continue in her present position because of:
  - illness or risks arising out of the employee's pregnancy or
  - hazards connected with the position.
- (b) The employer may require the employee to take a period of unpaid parental leave as soon as possible if the employee:
  - (i) fails to provide the requested medical certificate within seven days of the request or
  - (ii) provides a certificate within seven days stating that they are not fit for work or
  - (iii) provides a certificate stating they are fit for work, but that it is inadvisable to continue in the present position due to illness, risk to the pregnancy, or job-related hazards, and
  - (iv) is not entitled to transfer to a safe job or to 'no safe job leave' (see below).
- (c) This form of directed leave runs until the end of the pregnancy or until the planned leave was due to start, and is deducted from the employee's unpaid parental leave entitlement. It is exempt from the rules about when the leave must start, that it be taken in a continuous period, and notice requirements.

**54.6 Notice and evidence required**

- (a) An employee is not entitled to take unpaid parental leave unless they:
  - (i) inform their employer of their intention to take unpaid parental leave by giving at least 10 weeks notice (unless it is not possible to do so)
  - (ii) specify the intended start and end dates of the leave
  - (iii) at least four weeks before the intended start date:
    - confirm the intended start and end dates or
    - advise the employer of any changes to the intended start and end dates (unless it is not possible to do so).
- (b) The employer may require evidence that would satisfy a reasonable person of the actual or expected date of birth of a child (e.g. a medical certificate), or the day or expected day of placement of a child under 16.

**54.7 Unpaid special maternity leave**

- (a) An eligible pregnant employee is entitled to take unpaid special maternity leave if the employee is not fit for work because of:
  - (i) a pregnancy-related illness, or
  - (ii) the pregnancy ends, not in the birth of a living child, within 28 weeks of the expected date of birth.

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- (b) An employee must give their employer notice they are taking unpaid special maternity leave as soon as possible (which may be after the leave has started), and the expected period of leave.
- (c) An employer may require evidence that would satisfy a reasonable person (e.g. a medical certificate).
- (d) The entitlement to unpaid parental leave is reduced by the amount of any unpaid special maternity leave taken by the employee while they are pregnant.

**54.8 Return to work guarantee**

- (a) An employee is guaranteed to return to work immediately following a period of unpaid parental leave, entitling them to:
  - (i) their pre-parental leave position, or
  - (ii) if that position no longer exists, an available position for which they are qualified and suited, which is nearest in status and pay to their pre-parental leave position.
- (b) Before engaging an employee to perform the work of the employee on leave, the employer is required to notify the replacement employee:
  - (i) that their engagement is temporary
  - (ii) that the employee on leave has a guarantee to return to work when their unpaid parental leave ends
  - (iii) the rights of the employee on leave in the case of a stillbirth or infant death
  - (iv) the rights of the employee on leave in the case where they cease to have responsibility for the care of the child.

**55. Public holidays**

**55.1** The public holidays applicable under this agreement are:

- (a) 1 January (New Year's Day)
- (b) 26 January (Australia Day)
- (c) Good Friday
- (d) Easter Monday
- (e) 25 April (Anzac Day)
- (f) Queen's birthday holiday (the day on which it is celebrated in a State or Territory or a region of a State or Territory)
- (g) 25 December (Christmas Day)
- (h) 26 December (Boxing Day)

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- (i) any other day or part-day declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory (or a region of the State or Territory) as a public holiday.

55.2 Where a permanent or temporary Employee is not required to work on a public holiday, he or she will be paid for that day where, under his or her regular pattern of employment, the Employee would have worked on the public holiday.

**56. Miscellaneous Leave**

56.1 The Employer may approve either paid or unpaid miscellaneous leave to an Employee for any reason, including personal illness or injury or to care for a family or household member.

56.2 Unpaid miscellaneous leave will not be approved while the Employee has available annual leave credits.

**57. Community service leave**

57.1 Employees, including casual employees, are entitled to be absent from work for the purpose of performing certain community service activities such as:

- (a) a 'voluntary emergency management activity'
- (b) jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory.

57.2 An employee is engages in a voluntary emergency management activity only if they:

- (a) engage in an activity that involves dealing with an emergency or natural disaster
- (b) the employee engages in the activity on a voluntary basis
- (c) the employee is a member of, or has a member-like association with, a 'recognised emergency management body' and either:
  - (i) the employee was requested by or on behalf of the body to engage in the activity or
  - (ii) no such request was made, but it would be reasonable to expect that if the circumstances had permitted the making of such a request, it is likely that such a request would have been made.

57.3 A recognised emergency management body is:

- (a) a body or part of a body, that has a role or function under a plan that:
  - (i) is for coping with emergencies and/or disasters
  - (ii) is prepared by the Commonwealth, a State or a Territory
- (b) a fire-fighting, civil defence or rescue body, or part of such a body
- (c) any other body, or part of a body, which substantially involves:

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- (i) securing the safety of persons or animals in an emergency or natural disaster
- (ii) protecting property in an emergency or natural disaster
- (iii) —otherwise responding to an emergency or natural disaster.

57.4 This would include bodies such as the State Emergency Service (SES), Country Fire Authority (CFA) or the RSPCA (in respect of animal rescue).

**57.5 Entitlement**

57.6 There is no set limit on the amount of community service leave an employee is entitled to.

57.7 An employee is entitled to be absent from his or her employment:

- (a) for the time that the employee is engaged in the eligible community service activity, including reasonable travelling time associated with the activity, and reasonable rest time immediately following the activity
- (b) if the absence is reasonable in all the circumstances (jury service is taken to always be reasonable).

**57.8 Notice and Evidence**

57.9 An employee's absence from his or her employment is not covered by community service leave unless the employee complies with the notice and evidence requirements under the Fair Work Act 2009.

57.10 An employee who wants an absence from his or her employment to be covered by community service leave must give his or her employer:

- (a) notice of the absence as soon practicable
- (b) the period or expected period of absence.
- (c) An employer may require an employee, who has given notice of taking community service leave, to provide evidence that would satisfy a reasonable person that the employee is entitled to the leave.

**57.11 Payment while on Community Service Leave**

57.12 Community service leave under the NES is unpaid, except in relation to jury service where an employee (other than a casual) is entitled to 'make-up pay' for the first 10 days that the employee is absent for a period of jury service. Make-up pay is the difference between any jury service pay the employee receives (excluding any expense-related allowances) and the employee's 'base rate of pay' for the ordinary hours they would have worked. Base rate of pay excludes incentive-based payments and bonuses, loadings, monetary allowances, overtime and penalty rates, or any other separately identifiable amounts.

57.13 An employer may require the employee to provide evidence that would satisfy a reasonable person:

- (a) that the employee has taken all necessary steps to obtain any amount of jury service pay to which the employee is entitled and

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- (b) the total amount of jury service pay that has been paid, or is payable, to the employee for the period (even if there was no jury service payment).
- 57.14** If the employer requires evidence, then the employer is only required to pay the employee upon receipt of the evidence.
- 57.15** The Fair Work Act 2009 does not apply to the exclusion of a State or Territory law where it provided a superior benefit or for a casual employee to be paid jury service pay.

## Part 7—Miscellaneous Matters

### 58. Personal Details, Qualifications, Training and Clearances

58.1 Prior to Commencement you must provide us with the following information to be kept on your record in accordance with regulatory requirements.

- (a) Your full name, residential address and date of birth;
- (b) Evidence of —
  - (i) any relevant qualifications held, or if applicable, that you are actively working towards an approved qualification;
  - (ii) any approved training;

NOTE: First aid training must relate to and be appropriate to children and include training in emergency life support, cardio-pulmonary resuscitation, convulsions, poisoning, respiratory difficulties, management of severe bleeding, injury and basic wound care, administration of an auto-immune adrenalin device, current approved anaphylaxis management training and approved emergency asthma management training.

Where an employee classified below Level 3 is required by the employer to administer first aid to children within the employee's care and the employee holds a current recognised first aid qualification such as a certificate from the St John Ambulance, the Australian Red Cross or a similar body they will be paid an allowance of 1.13% of the standard rate per day. Where the employee is employed in out-of-school hour's care, the allowance will be 0.15% of the standard rate per hour.

- (iii) depending on the state or territory of your employment,
  - a criminal history record check issued not more than 6 months before your date of commencement; or
  - a current working with children check; or
  - a working with children card; or
  - working with vulnerable people check,

to verify that you are a fit and proper person to be involved with the provision of an education and care service. Such evidence must also include the date on which any clearance or certification expires or is due for review

58.2 For the purpose of this clause, any qualifications, courses or training must have been approved by the Australian Children's Education and Care Quality Authority (ACECQA) to be recognised.

58.3 It is the responsibility of all employees at Level 3 or higher to maintain all qualifications certification and clearances at their own expense.

**59. Professional Development**

59.1 Internal and external professional development is an essential part of early childhood education.

**59.2 Professional Development/In-Service Training**

(a) Where an employee attends a course or conference relevant to their employment during ordinary working hours, the employee shall not suffer any loss of pay.

(b) All employees are required to attend at least 2 in-services training courses or conferences organised by the employer for the purpose of professional development including in-service training at the employer's premises.

**60. Workplace Health and Safety**

60.1 We take our workplace health and safety obligations very seriously and all Employees are expected to do the same.

60.2 We maintain a strict zero tolerance approach to drugs and alcohol.

60.3 Being under the influence of non-prescribed or illegal drugs or alcohol during work hours is extremely dangerous to the safety of the children in our care and to others, and will result in disciplinary action which may include termination of employment.

60.4 Employees will adhere to the Company's Workplace Health & Safety Policy.

60.5 Smoking on our premises including in the car park or within site of children in our care is strictly prohibited. Breaches will result in disciplinary action, which could include dismissal.

60.6 Employees should only use personal mobile phones in accordance with the Company Code of Conduct and never when responsible or working with children in our care.

**61. Confidentiality**

61.1 Employees:

(a) Will adhere to our policy regarding confidentiality;

(b) Will maintain proper and secure custody of all confidential information;

(c) Will use their best endeavours to prevent the use or disclosure of any Confidential Information by, or to, third parties; and

(d) Will not use confidential information for their own personal gain.

61.2 "Confidential information" means:

(a) any information, which, to a reasonable person, is considered sensitive information of a kind, which, if disclosed to third persons, could or might cause loss or damage (including damage to reputation or loss of business).

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- (b) Such information includes, but is not limited to, information in the operation or business affairs of the Company, its systems or techniques, financial information, marketing material and information, information about children or families, Staff, business contacts, databases, information, documents, procedures and processes relating to the Company's business of any nature in any form (whether printed or in electronic form) and anything that we mark or treat as confidential.

**61.3 Social Media**

- (a) A social networking website can be defined as a website used to socialise or communicate. These include but are not limited to face book, MySpace and Twitter.
- (b) Unless otherwise directed, Social networking is for personal use only and must not be accessed while a staff member is working, Staff members who can access a social networking site via their mobile phones are not to do so during their shifts at the service and are not to use their camera or video phones to take photos/pictures/recordings while at the service. □No information about what happens at the service, can be posted on a social networking website, nor must any photos taken at the service, or on an excursion, be put on a social networking website.
- (c) Staff are not permitted to list there place of work on any social media
- (d) Social networking websites are not a private means of communication but can be accessed by the public, therefore, it is important not to share private information about service families or other staff members on social networking websites. Should you do so, the staff member will face an inquiry and possible termination of employment.

**62. Cleaning Duties**

All Employees will carry out cleaning tasks that are inherent or incidental to the care of children within the Centre (ie, day-to-day activities such as cleaning up after lunch, spot mopping, sweeping, vacuuming etc which includes any necessary cleaning up after children).

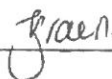
**63. External Work**

- 63.1 Due to the regulated nature of childcare, parental expectations of the services provided and the possibility of a conflict of interest arising, employees cannot provide care in any form to parents who use the services unless with the employers written consent. For the purpose of clarity, care of any form extends to free care, babysitting or travel care.
- 63.2 Due to a possible conflict of interest, employees are not permitted to work for any other service provider without the expressed permission of the employ


### Signature Page

By signing below, <Employer> (the Employer) and the employees of that organisation who will be covered by this enterprise agreement, signify their acceptance to be bound by the terms and conditions of the <Employer> Enterprise Agreement 2013 – 2017

For and on behalf of <Employer>

Full Name	Tania Brown
Title	Operation's manager
Address	14 Arran cct, Largs. NSW 2320
Signature	
Date	31.8.13.

For and on behalf of employees who will be bound by this agreement (bargaining representative)

Full Name	Amy Dolman
Title	Employee Representative
Address	23 Roy st Lorn, nsw, 2320
Signature	
Date	31.8.13.



*The Fair Work Commission*

*RE: AG2013/2859 - Application by Tillys Play & Development Pty Limited - Tillys Play and Development Enterprise Agreement 2013*

*The employer makes the following undertakings:*

- 1. The employer is Tillys Play & Development Pty Limited ABN: 72 097 257 237*
- 2. The nominal expiry date of the agreement will be 4 years from the date of approval of the agreement.*
- 3. The correct cross reference at clause 10.6 is a reference to clause 28.1*
- 4. The time that any employee spends in attendance at training or professional development courses organised by the employer will not be credited against a bank of unpaid time the employee is required to donate back to the employer.*
- 5. In the event that any employee wishes to cash out a component of their annual leave in accordance with the agreement, the application must be made in writing. The services records detail the balance of leave available before and after the leave is cashed out and the date that the cash out occurs.*
- 6. There will be no deductions from an employees final pay on termination of employment unless with the express written consent of the employee.*
- 7. For the purposes of accruing the additional week of annual leave under the National Employment Standards, the definition of 'shift worker' is taken to be the same as the definition provided in the Children's Services Award 2010 [MA000120]*

*Sincerely*

*Tania Brown*

*Director - Tillys Play & Development Pty Limited*