

Form F17—Employer’s Declaration in Support of Application for Approval of Enterprise Agreement

IN FAIR WORK AUSTRALIA

FWA MATTER NO:

Applicant (Employee):

Respondent (Employer):

EMPLOYER’S DECLARATION IN SUPPORT OF APPLICATION FOR APPROVAL OF ENTERPRISE AGREEMENT

Fair Work Act 2009—s.185

I, Professor Alan Pettigrew, of The University of New England, Armidale NSW 2351, Vice-Chancellor and CEO, on whose behalf this statutory declaration is made, do solemnly and sincerely declare as follows:

Part 1: About the agreement
1.1 What is the name of the agreement?
UNE General Staff and ELC Teachers Collective Agreement 2009 - 2012
1.2 Is the agreement a single enterprise agreement or multi-enterprise agreement?
Single enterprise agreement
1.3 What is the name of the employer or employers to be covered by the agreement?
University of New England
1.4 What is the name and address of the business or businesses of the employer or employers covered by the agreement?
University of New England Armidale NSW 2351
1.5 What is the kind of work that is to be done by employees under the agreement?
Administrative and professional work and English Language Centre teaching, within the University, a higher education provider

Part 2: Requirements for approval

2.1 Please specify the date on which the agreement was made (s.182).

18 September 2009

2.2 If the date specified in question 2.1 is more than 14 days before this application for approval of the agreement was lodged, please provide details of the circumstances which Fair Work Australia should take into account in deciding if it is fair to extend the time for lodging this application (s.185(3)(b))

N/A

2.3 Please specify the steps taken by the employer (at least 7 days before the start of the voting process) to ensure that the relevant employees were given, or had access to, the written text of the agreement and any other material incorporated by reference in the agreement (s.180(2)(a)).

All employees were sent emails on 10 and 16 September 2009 by the Vice-Chancellor and CEO and Deputy Vice-Chancellor respectively with a hyperlink to the University website that contained the full text of the proposed agreement and a 'plain English' summary document that specified the main changes compared to the existing Workplace Agreement. These two documents, all University employment related policies and procedures, and other emails sent to all employees about enterprise bargaining remain on the University website accessible by all employees. The emails sent to all employees on 10 and 16 September 2009 also contained the email and phone number of employees who were a part of the University enterprise bargaining team that could answer any questions that employees may have had in relation to the proposed agreement.

2.4 Please specify the steps taken by the employer (at least 7 days before the start of the voting process) to notify all relevant employees of the time and place at which the vote was to occur and the voting method to be used. (s.180(3))

All employees were sent emails on 10 and 16 September 2009 by the Vice Chancellor and CEO and Deputy Vice-Chancellor respectively explaining that the voting method would be by an electronic ballot that was open on 18 September 2009. All employees have access to a computer on campus. Employees can access emails sent by the University from any computer. Any employees who were expected not to be on campus and therefore could potentially not utilise the electronic voting method on 18 September 2009, or who preferred not to vote electronically, were advised that they could request a paper ballot and therefore vote by paper ballot.

2.5 Please specify the steps taken by the employer to explain the terms of the agreement, and the effect of those terms, to relevant employees (s.180(5)).

Note: your answer must include information on the manner in which the explanation took account of particular circumstances and needs of the relevant employees (For example, where the employees were from a non-English speaking background, were young employees or did not have a bargaining representative)

<p>The University explained the terms of the Agreement via emails to all employees from the Vice-Chancellor and CEO and Deputy Vice-Chancellor. Such emails explained new pay and significant conditions offered by the University, provided the full text of the proposed agreement and a 'plain English' summary document that specified the main changes compared to the existing Workplace Agreement. All such documents and emails are available on the University website at http://www.une.edu.au/hrs/eb/ebindex.php which can be accessed by all employees. The University has repeatedly advised employees that they could contact via email and telephone University employees who were a part of the University enterprise bargaining team if they had any questions regarding the proposed Agreement.</p>
<p>2.6 Please indicate the date on which the employer first requested that the employees approve the agreement by voting for it (s.181).</p>
<p>All employees were advised via email on 10 September 2009 that a ballot would be held on 18 September 2009 allowing employees to vote for or against the agreement by voting for it. The 7 day access period was therefore from 11 to 17 September 2009 inclusive.</p>
<p>2.7 Please indicate the date on which the employer provided the last notice to employees under s 173(1) (which deals with giving notice of employee representational rights).</p>
<p>An email was sent by Professor Graham Webb Acting Vice Chancellor and CEO to all employees on 1 July 2009 containing the Notice of Employee Representational Rights.</p>
<p>2.8 Please provide details of the total number of employees to be covered by the agreement</p>
<p>732</p>
<p>2.9 Please provide details of the total number of employees who cast a valid vote in relation to the proposed agreement</p>
<p>440</p>
<p>2.10 Please provide details of the number of employees who voted in support of the proposed agreement</p>
<p>364</p>
<p>2.11 If the agreement is a multi-enterprise agreement, please state whether each employer genuinely agreed to the making of the agreement and that no employer was coerced or threatened with coercion to make the agreement. (s.186(2)(b))</p>
<p>N/A</p>
<p>2.12 Please identify any terms of the agreement that deal with the matters contained in the National Employment Standards</p>

- (a) *Maximum weekly hours* – clause 44, Ordinary Hours of Work and Schedule 5 – Shift Work – General Staff.
- (b) *Requests for flexible working arrangements* - clause 15, Flexible and Family Working Arrangements and clause 29, Parental Leave.
- (c) *Parental leave and related entitlements* – clause 29, Parental Leave.
- (d) *Annual Leave* – clause 26, Annual Leave.
- (e) *Personal/carer's leave and compassionate leave* – clause 28, Sick Leave and clause 30, Family and Personal Leave.
- (f) *Community Leave* – clause 31, Jury and Witness Leave in relation to Jury and Witness leave only (Emergency Services Leave is a University policy).
- (g) *Long Service Leave* – clause 27, Long Service Leave.
- (h) *Public Holidays* – clause 23, Public Holidays and clause 24, Christmas Break.
- (i) *Notice of Termination and redundancy pay* – clause 36, Redundancy and clause 58, Termination of Employment.
- (j) *Fair Work Information Statement* – Not dealt with in the agreement.

2.13 Please identify any terms of the agreement that exclude in whole, or in part, the National Employment Standards

None

2.14 Please identify any terms of the agreement that are detrimental to an employee in any respect when compared to the National Employment Standard

None

2.15 Does the agreement cover all employees of the employer or employers?

YES

NO

2.16 If the answer to question 2.15 is no, please provide details of the geographical, operational or organisational basis for the choosing the group of employees to be covered by the agreement (s.186(3) and (3A))

A separate agreement is being negotiated with the NTEU to cover all academic employees as they are a distinctly separate category of employees to administrative (that is general) employees and English Language Centre teachers who predominantly share conditions of employment and who are subject of this agreement. The University has historically had separate agreements for its 3 different categories of staff with the exception of the current Workplace Agreement.

2.17 Does the agreement contain any discriminatory terms? (s.194(a))

YES

NO

If the answer is yes, please identify the relevant terms of the agreement.

2.18 Does the agreement contain any objectionable terms? (s.194(b))

YES

NO

If the answer is yes, please identify the relevant terms of the agreement.

2.19 Does the agreement contain any terms that deal with the rights of employees in relation to unfair dismissal? (s.194(c) and (d))

YES

NO

If the answer is yes, please identify the relevant terms of the agreement.

2.20 Does the agreement contain any terms that deal with the taking of industrial action and that are inconsistent with Part 3 – 3 of Chapter 3 of the Act? (s.194(e))

YES

NO

If the answer is yes, please identify the relevant terms of the agreement.

2.21 Does the agreement contain any terms that deal with the rights of officials of employee organisations to enter the employer's premises? (s.194(f) and (g))

YES

NO

If the answer is yes, please identify the relevant terms of the agreement.

2.22 Does the agreement contain any designated outworker terms? (s.186(4A))

YES

NO

If the answer is yes, please identify the relevant terms of the agreement.

2.23 Please identify the term of the agreement which specifies the nominal expiry date of the agreement (s.186(5))

Clause 4 states "The Agreement will take effect seven days after its approval by Fair Work Australia and shall have a nominal term of three years from that date."

2.24 Please identify the term of the agreement which specifies a procedure for FWA, or another independent person, to settle disputes about any matter arising under the agreement, and, from 1 January 2010, to settle disputes in relation to the National Employment Standards (s.186(6)(a)).

Clause 62, Dispute Resolution Procedures.

2.25 Does the term identified in question 2.24 allow for the representation of employees covered by the agreement for the purposes of the dispute settling procedure? (s.186(6)(b))

YES

NO

2.26 Has a scope order been issued in relation to the agreement? (s.187(2))

YES

NO

If the answer is yes, please provide the unique print number and date of the order.

PR _____

Date __/__/__

2.27 If the agreement is a multi-enterprise agreement, do the provisions of s.184 of the Act apply?

YES

NO

N/A

2.28 If the answer to question 2.27 is yes, has a bargaining representative to the agreement varied the agreement as required by s.184(2)?

YES

NO

N/A

2.29 If the answer to question 2.28 is yes, has a bargaining representative to the agreement provided the relevant notices to the other bargaining representatives as required by s.184(3)?

YES

NO

N/A

2.30 Does the agreement cover any shiftworkers? (s.196)

YES

NO

If the answer is yes, please identify any terms of the agreement that define or describe the employees as a shiftworker for the purposes of the National Employment Standard.

Clause 44.2 and 44.3, Clause 48.10 and Schedule 5 – Shift Work – General Staff

<p>2.31 Does the agreement cover any pieceworkers? (s.197)</p> <p><input type="checkbox"/> YES</p> <p><input checked="" type="checkbox"/> NO</p> <p>If the answer is yes, please identify any terms of the agreement that deal with the entitlements of pieceworkers.</p>
<p>2.32 Does the agreement contain terms providing for school-based apprentices or trainees to receive loadings in lieu of paid leave? (s.199)</p> <p><input type="checkbox"/> YES</p> <p><input checked="" type="checkbox"/> NO</p> <p>If the answer is yes, please identify any terms of the agreement that deal with such loadings.</p>
<p>2.33 Does the proposed agreement cover any outworkers? (s.200)</p> <p><input type="checkbox"/> YES</p> <p><input checked="" type="checkbox"/> NO</p> <p>If the answer is yes, please identify any terms of the agreement that deal with entitlements of outworkers.</p>
<p>2.34 Please identify the flexibility term in the agreement (s.202, 203, 204)</p> <p>Clause 70, Flexibility.</p>
<p>2.35 Please identify the consultation term in the agreement (s.205)</p> <p>Clause 8, Consultation Arrangements</p>
<p>3. Comparison Data</p>
<p>3.1 Please identify all relevant awards or notional agreements preserving State awards to be used for the purposes of the no-disadvantage test.</p> <p>(see clauses 4 and 5 of Part 2 of Schedule 7 of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009)</p> <p>University of New England General Staff Award 2000</p> <p>Teachers (English Language Centres of Australian Universities) Conditions of Employment Award 1998</p>
<p>3.2 Please identify any awards that have been determined by FWA, prior to the lodging of the application for approval of the agreement, to be a designated award in relation to an employee or class of employees.</p>
<p>N/A</p>

3.3 Does the agreement contain any terms or conditions of employment that are less beneficial than any of the terms and conditions contained in the reference instruments identified in questions 3.1 or 3.2?

YES

NO

3.4 If the answer to question 3.3 is yes, please identify the terms and conditions of the reference instrument that are more beneficial than the agreement, the employees affected and the specific terms in the agreement that bring about the reductions.

Note: your answer must indicate whether all or only some of the employees are affected and, if only some employees are affected, identify which ones.

N/A

3.5 If the answer to question 3.3 is yes, please identify the terms in the agreement which may result, on balance, in terms and conditions that are more beneficial to one or more relevant employees than the terms and conditions contained in the reference instruments identified above.

Note: your answer must indicate whether all or only some of the employees are affected and, if only some employees are affected, identify which ones.

N/A

3.6 If the agreement would not pass the no-disadvantage test as set out in Division 2 of Part 2 of Schedule 7 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, please identify any exceptional circumstances that Fair Work Australia should consider when deciding whether approving the agreement would not be contrary to the public interest (s.189).

N/A

4. Statistical Information

4.1 Of the employees to be covered by the agreement, how many employees are in the following demographic groups?

4.1.1 Female - 447

4.1.2 Non-English speaking background - 28

4.1.3 Aboriginal and Torres Strait Islander people - 12

4.1.4 Disabled - 43 (14 requiring workplace adjustment)

4.1.5 Part-time - 164

4.1.6 Casual - 9

4.1.7 Under 21 years of age - 2

4.1.8 Over 45 years of age (mature age) - 406

<p>4.2 In what state/territory will the agreement be in operation? (mark all applicable boxes with an 'X')</p> <p>ACT [] NSW [X] NT [] Qld [] SA [] Tas [] Vic [] WA []</p>
<p>4.3 Please list all agreements, excluding AWAs and ITEAs that operated in relation to the employees prior to the making of this agreement?</p> <p>UNE Workplace Agreement 2006 - 2008</p>
<p>4.4 What is the primary activity of the employer? (e.g. music retailer, plumbing contractor, steel fabricator)</p> <p>Higher Education</p>

I make this solemn declaration by virtue of the *Statutory Declarations Act 1959*, and subject to the penalties provided by that Act for the making of false statements in statutory declarations, conscientiously believing the statements contained in this declaration to be true in every particular.



[signature of person making the declaration]

Declared at Armidale on [date] 21.09.2009



Before me, Mr Frank Strbik 21/9/09

[signature of person before whom the declaration is made]

[Manager Workplace Relations]

Please provide your contact details for any future enquiries related to this declaration.

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