



**Modern Awards Review 2023-24
(AM2023/21)**

Submission cover sheet

Name

(Please provide the name of the person lodging the submission)

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Organisation

(If this submission is completed on behalf of an organisation or group of individuals, please provide details)

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Modern Award Review Stream:

Arts and Culture:

Job Security:

Work and Care:

Usability of awards:

How to prepare a submission

Submissions should be emailed to awards@fwc.gov.au. Directions set out the due dates for submissions. Directions are issued by a Member of the Commission and will be published on the [Commission website](#).

Make sure you use numbered paragraphs and sign and date your submission.

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Your submission. Provide a summary of your experience and any relevant issues. You may wish to refer to one or more of the issues outlined in the relevant discussion paper.

Issues

1. [Using numbered paragraphs, outline the main issues you want the Fair Work Commission to consider as part of the Modern Award Review 2023-34 including your responses to any questions set out in Commission discussion papers. Include, if possible, references to any relevant sections of the *Fair Work Act 2009*, or other legislation or specific clauses in modern awards that apply].

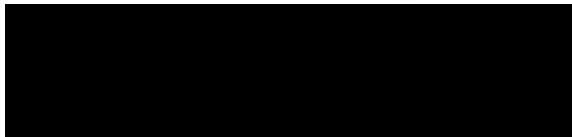
Please see attached document setting out issues, discussion and responses to specific questions raised by the Commission.

Proposals

2. [Tell us your proposals to the address the issues you have raised in the submission. If you are proposing that the Commission should consider varying an award, you should include draft wording for the proposed variation]

AHEIA proposes that no changes are necessarily required to existing standard award provisions to meet the amended modern awards objective at Section 124 of the Fair Work Act 2009 (FW Act).

Signature:



Name:

Craig Laughton

Date:

5 February 2024

**AHEIA Submission
to the Fair Work Commission
Modern Awards Review 2023-2024 – Job Security**
5 February 2024

Discussion

The Australian Higher Education Industrial Association (AHEIA) welcomes the opportunity to provide a submission to the Fair Work Commission's Modern Awards Review 2023-24 – Job Security Stream.

1. As the only employer association registered representing the higher education sector (the sector) under the *Fair Work (Registered Organisation) Act 2009* we work with our 33 university members, governments, and other industry groups to influence policy and provide advice and representation on workplace relations to the sector.
2. With “wall to wall” Enterprise Agreements (EA) covering the vast majority of university staff, the sector has some of the most generous industrial conditions in Australia. The sector is not award dependent with its two main modern awards: The *Higher Education Industry Academic Staff Award 2020* and the *Higher Education General Staff Award 2020* (sector awards), serving as a base comparator for the Better Off Overall Test (BOOT) in EA bargaining only. When compared to other sectors, universities pay significantly more than their reference sector awards.
3. The sector's generous conditions include 17% superannuation, transferable long service leave, generous paid parental leave, flexible work arrangements, professional development/scholarships and other forms of paid leave above the National Employment Standards (NES), most of which are applicable to permanent and fixed term staff alike.
4. There are three categories of staff in universities: permanent or continuing employment, fixed term employment and casual employment. Staff employed in these categories typically either comprise the academic staff cohort or the professional / general staff cohort.
5. Permanent employment makes up the majority of staff FTE in both academic and professional staff cohorts.
6. The bulk of staff employed in either fixed term or casual employment belongs to the academic staff cohort. The incidence and context of academic fixed term and casual employment are discussed below.
7. Permanent academics typically have their workload divided according to sector EA workload allocation models that significantly inhibit the capacity of universities to offer casual academics conversion to permanent academic roles. This is because while casual academics are engaged in undertaking teaching and teaching-related activities (e.g., marking, tutorials), permanent academics must also take on other components of academic work in addition to teaching, including: research, administration, service, and leadership. Accordingly, significant changes to casual academic roles would be required.
8. In addition, many casual academics do not have a research profile or experience in the other

components of the academic role. The lack of experience and skills in key areas such as research and administration in some instances will undermine the “merit principle” and set up individuals for failure.

9. Most fixed term academics are engaged to perform research only activities, and this research is funded by precarious grants that are time-limited and which may not be renewed by the external funding body e.g. NHMRC, CSIRO, Industry bodies etc.

Fixed term employment context

10. Fixed-term employment in the sector has been regulated and restricted since 1998 with the *Higher Education Contract of Employment (HECE) Award*. Since its inception, the sector has experienced a decline in the use of fixed term contracts to a level that has remained relatively stable. Most notably, fixed term contracts have remained steady at approximately 30% across the sector for at least the last decade, which AHEIA believes can be directly contributed to the continued restrictions covering the use of fixed term contracts in university EA's and the way in which research is currently funded.
11. The HECE provisions, now included in the sector Awards, stipulate that the use of fixed term contracts can only occur in limited circumstances including:
 - *Specific task or project.*
 - *Research.*
 - *Replacement employee (to fill a vacancy being advertised or where incumbent is on leave or higher duties).*
 - *Recent professional practice required – (Where a professional or vocational education curriculum requires recent practical or commercial experience).*
 - *Pre-retirement contract - Where an employee declares their intention to retire.*
 - *Fixed-term contract employment subsidiary to studentship.*
12. The fixed term employment category is mostly used to staff research projects funded by precarious government and other grants.
13. Under the Academic Award, fixed term employment is prohibited for teaching roles.
14. The Australian Universities Accord noted that precarious university funding leads to precarious employment:

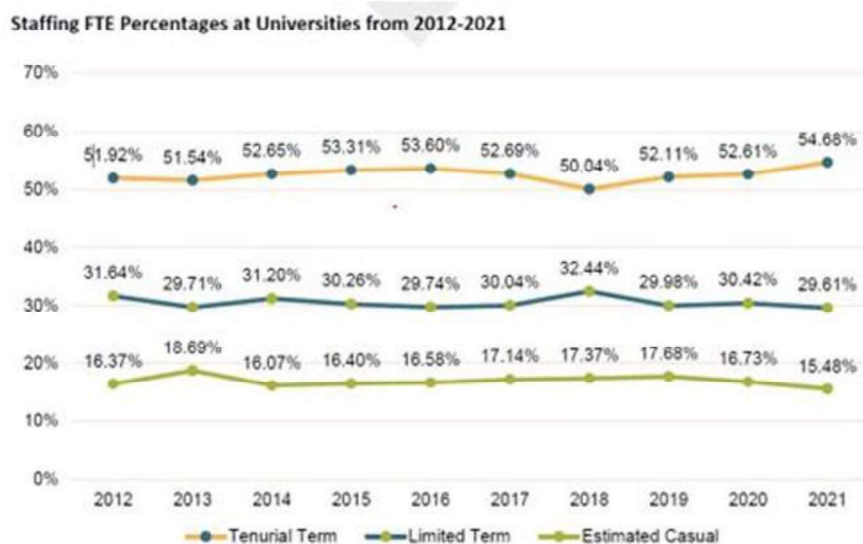
*“.. some higher education providers rely too heavily on short term contracts and a highly casualised workforce, in part because their funding security from year to year is unpredictable or at best subject to cyclic volatility... **The funding of higher education and its workforce structure are inextricably linked.** (emphasis added, page 32, Australian Universities Accord – Interim Report – 19 July 2023)*
15. University employees engaged as fixed term under industry specific provisions of the Academic Award and sector EA's are entitled to the following:

- Written notice (or payment in lieu of notice) of renewal or non-renewal prior to the cessation of their fixed term contract.
 - Severance payment equivalent to at least NES redundancy levels, provided that they are not engaged for a third fixed term contract where the employee has been previously engaged to perform a specific task or project or engaged to perform research activity.
 - Continuity of service if re-employed within a designated time period.
16. Fixed-term employees are afforded the same pay and other entitlements as permanent employees in the sector.
 17. Eligible fixed term employees in the sector have comparable job security to permanent employees in other sectors in terms of termination notice provisions and redundancy like severance payments (i.e. equivalent to the redundancy paid to permanent employees employed in other sectors under the NES entitlement).
 18. For permanent academics, the industry-specific provisions in the Academic Award provide redundancy and notice entitlements that significantly exceed the NES.
 19. The historical rationale for these generous industry specific provisions being put in pre-reform awards in the 1980s was the supposed “giving up of tenure” – where tenure statutes had provided a very high degree of protection from termination, requiring a vote to remove an academic staff member.
 20. Currently, the 6 months’ notice, together with payments for voluntary redundancy of up to 52 weeks, can lead to a maximum redundancy of 78 weeks (i.e., 26 weeks of notice or payment in lieu plus up to 52 weeks redundancy). This is reflected, with institutional variation (and often at a premium on these quanta) in enterprise agreements.

Casual Context

21. Like casual employment in the rest of the economy, the casual employment rate in higher educational institutions has remained steady or even declined over the last decade (See Figure 1 below). In fact, sector casual employment as a proportion of total employment FTE is lower than the average density seen in the wider labour market.

Figure 1.



Source: Department of Education, Skills and Employment – various reports.

22. The higher education sector predominately engages casual staff to provide or support the delivery of teaching. Casual staff are an important and valued cohort for universities.
23. Casual academic employees are entitled to minimum engagement periods and casual loading. They are also entitled to penalties/loadings for out of hours and weekend engagements.
24. Casual academic employees under the NES and EAs are entitled to be considered for conversion to more secure roles.
25. However, Universities are generally constrained from offering more secure academic positions (either fixed term or ongoing) to their casual staff. This is due to either the Academic Award provisions which prohibit fixed term teaching only roles and/or complex/restrictive EA workload allocation provisions that act to limit conversion of casual staff to permanent employment opportunities.
26. Over the past two decades, the education sector has experienced fluctuating student demand which has made it necessary to engage a steady level of casual academic teaching and teaching support staff. Workload allocation models have proven to be inflexible, further contributing to the need for casual staff.
27. AHEIA notes the research cited in the FWC discussion paper that confirms the mutual benefits employers and employees gain from arrangements such as casual employment and flexible work arrangements which are particularly beneficial in enhancing job market access for women, young people, and those entering the labor market.

28. Research undertaken by Melbourne University for AHEIA highlights a number of important Casual Academic Staff Characteristics:

- *The majority of casuals worked less than one full day a fortnight, and over half of the casual academics worked less than three weeks (full-time equivalent) in 2021.*
- *There are clear cohorts of casual academics who are working large numbers of hours (roughly full-time for both semesters in 2021) in the sample universities.*
- *The sample data suggests that on average those who have been employed for a longer period work a higher number of casual hours for all activities.*
- *Differentiation in patterns of employment and activity type likely comes from differences in discipline/faculty practice. For example, a detailed analysis shows longer-term teaching academics are in BusEco and Arts, while shorter tenure staff were elsewhere.*
- *The data suggests that the often-repeated statement that a large proportion of casual academic work is related to clinical training in medicine and nursing is not accurate.*
- *The majority of casuals fit the stereotype of short-tenure, low-hour employment during study for their PhD or coming in from industry for the occasional lecture/tutorial.*
- *The key differentiator appears to be the number of years employed at a university as well as the discipline in which academics undertake casual work.*
- *Age grouping and whether or not a PhD is held are less significant factors explaining differences in employment patterns.*
- *On average the casual employees in the sample worked 189 hours over the year or roughly one full day a fortnight (0.1 FTE).*

(See Attachment 1 - AHEIA CSHE-REPORT -CHARACTERISTICS OF CASUAL ACADEMIC STAFF IN SELECTED UNIVERSITIES DECEMBER 2023)

29. Academic provisions in sector EA's typically specify a 'balanced' profile of teaching, research, and service/administration with respect to permanent academic roles. 'Teaching focused' permanent academic roles, though available in limited circumstances, still often require 20-30% engagement in non-teaching duties.
30. There are often significant financial implications associated with the conversion of casual academics to permanent academic roles. This is because casual academics can allocate up to 100% of their time to teaching tasks, including marking. However, in permanent roles, teaching is limited to a 10%-70% allocation. The limitation of teaching allocations, results in universities incurring higher costs to realise the same teaching output (see example of this in Priest v Flinders University of South Australia [2022] FWC 478 case (3)).
31. In spite of the fact that some sector EA's have been approved with targets to convert some casual academic teaching staff into permanent teaching roles, the enterprise bargaining rounds that followed have not been able to provide a platform for changing the workload models, which would allow more casual employees to be permanently employed. Bargaining has also failed to build a necessary consensus between the unions and universities as to the appropriate level of casual employment in the higher education sector.
32. For these reasons, AHEIA has repeatedly called for the establishment of a tripartite committee comprising Universities (AHEIA), Unions (the Community and Public Sector Union, the National

Tertiary Education Union), and government representatives from both the education and employment portfolios. Such discussions would enable the consideration of new and proposed job security measures to be considered against a backdrop of limited/uncertain university funding, together with the current complex/restrictive provisions in the sector's many enterprise agreements and Academic Awards.

33. Accordingly, AHEIA agrees with the Senate Select Committee during its Job Security Inquiry 2021-22 (referenced at Annexure A of the Commission's Discussion Paper) in its recommendation:

"...that the Committee recommends that the Australian Government Department of Education Skills and Employment works closely with universities, workers, experts, the National Tertiary Education Union and relevant sector bodies to design a system of casual and fixed term conversion that would be appropriate for the higher education sector. This system should include sector-appropriate definitions of casual and fixed term work, and limit the use of casual and fixed term employment to genuinely non ongoing work."

Responses to questions raised in the discussion paper

Introduction

1. Responses are limited to those questions raised in respect of the listed standard provisions (standard across all Modern Awards) and a discussion of sector specific provisions in Higher Education Awards specifically with respect to:
 - a. the regulation of fixed term employment,
 - b. notice provisions for fixed term employees and
 - c. severance payments for fixed term employees *and*
 - d. *sector provisions with respect to redundancy for permanent academic staff.*
2. In undertaking this review it is noted that the Fair Work Commission must consider the amendments to Section 3 Objects of the Act which now includes the new object "*promote job security*" and the amendment to section 134 – Modern Award Objective (MAO) which now includes "*to improve access to secure work across the economy*".
3. AHEIA notes that to vary, make or revoke a modern award in accordance with Section 157 of the Act the Commission must be satisfied that it is necessary to achieve the MAO as amended.
4. Further, section 138 of the Act states:

"Section 138 Achieving the modern award objective

*A modern award may include terms that is permitted to include, and must include terms that is required to include, **only to the extent necessary to achieve the modern awards objective** and (to the extent necessary) the minimum wages objective"* emphasis added.

5. AHEIA notes that each of the matters set out in the MAO is a ‘*relevant consideration*’¹
6. Furthermore, “[n]o particular primacy is attached to any individual section 134 consideration, and not all of the considerations will necessarily be relevant in the context of a particular matter. Further, the matters which the Commission may take into account are not confined to the section 134 considerations”.²
7. AHEIA notes the importance of balancing the MAO consideration of “... need to improve access to secure work across the economy”, with other and potentially relevant and competing MAO considerations including, “the need to improve social inclusion through increased workforce participation”, “the need to promote flexible modern work practices and the efficient and productive performance of work”, “the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden” and the “likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy”.

AHEIA responses to specific questions raised

1. Are there specific provisions in the seven modern awards the subject of this review that parties consider are necessary to improve access to secure work across the economy? Parties are asked to specifically consider provisions dealing with:
 - a. Types or modes of employment
 - b. Rostering arrangements, including roosting restrictions
 - c. Payment of wages, in particular pay cycles
 - d. Agreed regular patterns of work or guaranteed hours for part-time employees; and
 - e. Minimum engagement/payment periods

AHEIA notes these seven modern awards are not applicable to our Sector and makes no comment.

2. Are there any additional specific award provisions that are consistent with the new modern awards objective? If so, parties are asked to consider and address whether it is relevant and necessary to vary any awards to include that or those specific award provision(s).

As above.

3. Are there specific award provisions that are not consistent with the new modern awards objective? If so, parties are asked to address whether it is relevant and necessary to vary any awards to amend or remove that specific award provision.

¹ Page 12, Fair Work Commission - Modern Awards Review 2023-24 Discussion Paper – Job Security, citing (Minister for Aboriginal Affairs and Another v Peko-Wallsend Limited and Others [1986] HCA 40, (1986) 162 CLR 24).

² Page 12, Fair Work Commission - Modern Awards Review 2023-24 Discussion Paper – Job Security, citing Shop, Distributive and Allied Employees Association v The Australian Industry Group [2017] FCAFC 161).

As above.

4. *Having regard to the new modern awards objective, should the exclusion of casual employees from accessing certain NES entitlements (such as paid personal leave) continue?*
- i. Yes, AHEIA recommends that the exclusions should continue. Our reasons are set out immediately below.
 - ii. The NES currently excludes casuals from having access to:
 - Annual leave.
 - Paid personal/carers leave.
 - Paid compassionate leave.
 - Payment for absence on a public holiday.
 - Notice of termination and redundancy pay.
 - Being able to make a request for flexible working arrangement.
 - Unpaid parental leave unless they are a regular casual employee employed on a regular and systematic basis with reasonable expectations of continuing employment.
 - Unfair dismissal.
 - iii. The casual loading offset mechanism introduced into the Act at section 545A by the *Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2021* (Cth), requires courts to *'reduce any amounts payable by the employer for relevant entitlements against casual loading amounts paid to the person.'*
 - iv. *'Relevant entitlements'* assumed to be offset by the casual loading are set out at section 545A(4) as:
 - Annual leave
 - Paid personal/carers leave
 - Paid compassionate leave
 - Payment for absence on a public holiday
 - Notice of termination and
 - Redundancy pay
 - v. AHEIA agrees that casual employees are entitled to overtime/weekend penalties in addition to the casual loading payable. These provisions should remain.
 - vi. AHEIA notes that eligible casuals may seek to be converted to permanent positions. Casual conversion mechanisms under the NES and EA's are the appropriate safeguards to ensure

access to NES entitlements for casual employees whose engagement meets the characteristics of permanent employees.

- vii. AHEIA notes that under NES/ long service leave legislation, eligible casuals have access to paid long service leave.
- viii. Consistent with the MAO consideration “...*the need to encourage collective bargaining*”, it is AHEIA’s position that any further paid entitlements above a minimum safety net for casuals should be determined through enterprise bargaining and not through variations to the modern award. To do so would also impact other equally valid modern award objectives such as “*productivity, employment costs and the regulatory burden*”. Such an approach may, in fact, dampen “*employment growth*” at a time when employment offers are falling across the economy (see ANZ-Indeed Australian Job Ads: a flat December- 15 January 2024) and may fuel “*inflation*” and on a macro level, impact adversely on the “*sustainability, performance and competitiveness of the national economy*”.
- ix. Further, it is unlikely in any event to meet the MAO consideration of “*improving access to secure work*”. AHEIA has not seen any evidence that increasing the cost of casual employment is likely to result in a transference to more secure forms of employment. In fact, over the past two decades, casual employment has remained steady in both the sector and the economy at large. During this time, casual employees have gained a number of entitlements/benefits including:
 - a. Increased access to long service leave,
 - b. Pathway to conversion to permanent employment; and
 - c. Superannuation for every dollar of ordinary time earnings.
- x. Any increase in minimum entitlements payable to higher education sector casuals will undoubtedly place further cost pressures on the sector’s already stretched capacity to deliver course offerings to students. More significantly, for reasons set out above, it is likely that further increasing the cost of employing casuals will result in fewer overall casual employment opportunities being offered in the sector, without any corresponding gains being made to the number of permanent employees in the sector.

5. ***Should any of the awards be varied to supplement these NES entitlement gaps for casual employees?***

- i. No, please refer to reasons set out above at 4.

6. ***Is there evidence that use of individual flexibility arrangements undermines job security?***

- i. AHEIA does not see any evidence that this is the case.

7. Having regard to the following modern award standard clauses

- *Individual flexibility arrangements*
- *Consultation about major workplace change*
- *Consultation about changes to rosters or hours of work*
- *Dispute resolution*
- *Termination of employment and*
- *Redundancy*

a. *Are provisions of the standard clauses consistent with the new modern awards objective?*

b. *Do any of the standard clauses negatively impact job security? If so, how?*

c. *Do any or any part of the standard clauses:*

i. prevent or limit access to secure work?

ii. enhance access to secure work?

- i. AHEIA is of the view that the provisions of the standard clauses listed are consistent with the MAO set out in section 134 of the Act (as amended).
- ii. In addition, it should be noted that the Sector Awards contain sector specific provisions with respect to the regulation of fixed term employment:
 - a. fixed term employment may only be offered in a limited number of defined circumstances e.g., specific task or project, to undertake research or to replace an employee who is on leave;
 - b. an NES equivalent notice of termination for cessation or renewal of a fixed term employee is provided in all sector fixed term contracts; and
 - c. severance payments equivalent to an NES redundancy payment are provided to eligible fixed term employees whose contracts are not renewed for a third successive contract.
- iii. AHEIA asserts that these provisions meet or exceed the MAO as amended, as many fixed term employees in the higher education sector have the same job security as permanent employees in other sectors, given their eligibility to notice and a community standard NES redundancy payment on cessation.

8. *Are there variations to the standard clauses that could improve access to, or remove barriers to accessing, the standard clauses by employees who are vulnerable to job insecurity?*

- i. No, please refer to responses at 4 and 5 above.



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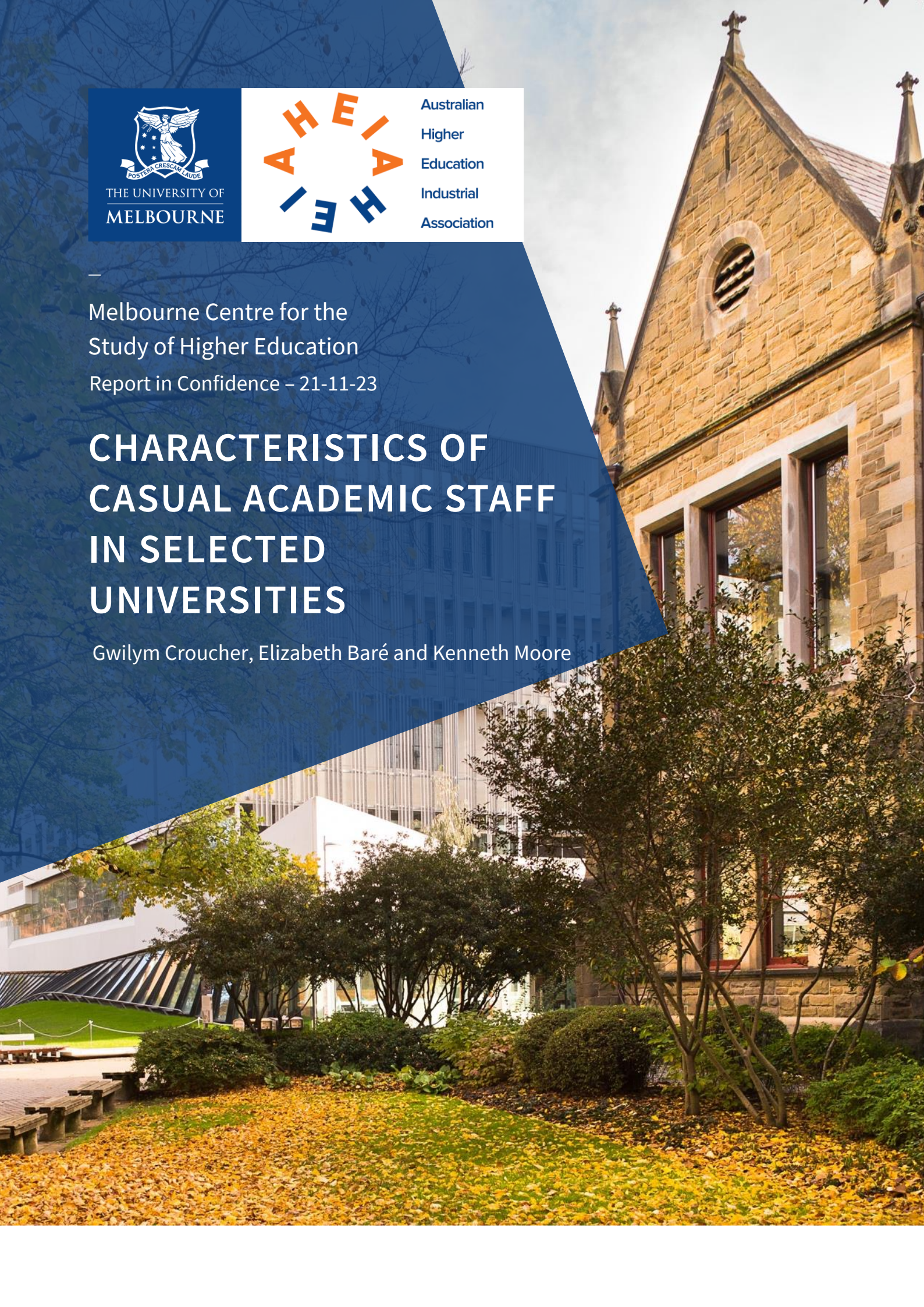
Australian
Higher
Education
Industrial
Association

Melbourne Centre for the
Study of Higher Education

Report in Confidence – 21-11-23

CHARACTERISTICS OF CASUAL ACADEMIC STAFF IN SELECTED UNIVERSITIES

Gwilym Croucher, Elizabeth Baré and Kenneth Moore



1. INTRODUCTION AND SUMMARY OF KEY INSIGHTS

This report examines patterns of casual employment in Australia derived from payrolls of selected universities, chosen to provide a snapshot of institutions of different sizes and compositions located around the country. The sample captures around 2.3 million recorded casual hours in 2021 from five universities.

- University A with 2,516 individual casuals working 688,782 hours,
- University B with 1,928 individual casuals working 202,048 hours,
- University C with 3,273* individual casuals working 670,263 hours,
- University D with 1,882 individual casuals working 440,181 hours, and
- University E with 2,439 individual casuals working 320,876 hours.

(*) The data from University C shows some anomalies so caution needs to be taken in analysing this figure.

The key insights from the 2021 sample data are as follows:

- There is no dominant stereotype for a casual academic in the sample, but some patterns differentiate *several* different types of academic staff members based on their characteristics.
- The key differentiator appears to be the number of years employed at a university as well as the discipline in which academics undertake casual work. Age grouping and whether or not the casual employee has a PhD are less significant factors explaining differences in employment patterns in the sample.
- On average the casual employees in the sample were paid for 189 hours over the year or roughly one full day a fortnight (0.1 FTE).
- The majority of casuals were paid for fewer hours than this, and for the three universities where more granular data was analysed, it revealed that over half of the casual academics were paid for less than three weeks (full-time equivalent) in 2021.
- The sample data cannot reveal whether casual academics work at multiple universities, so significant hours worked by an individual may be more common than the sample suggests.
- At one university casuals have engagements working for more than one department
- The sample data suggests that on average those who have been employed for a longer period work a higher number of casual hours for all activities.
- Institutions with higher number of younger casuals also had larger numbers of research higher degree students suggesting that many casuals are also students.
- There are small cohorts of casual academics who are working large numbers of hours (roughly full-time for both semesters in 2021) in the sample universities. At least 5 per cent of the casual academic workforce at University A were engaged in teaching and teaching related duties, which is more than the maximum teaching load prescribed by the enterprise bargaining agreement (EBA) for Teaching Only staff.
- Although the numbers are small, casual staff in Business and Economics and Arts are more likely to work the equivalent or greater hours than the maximum teaching load,
- Differentiation in employment patterns and activity type likely comes from differences in discipline/faculty practice. For example, a detailed analysis shows longer-term teaching academics are in BusEco and Arts, while shorter tenure staff were elsewhere. The cluster analysis in the final section provides useful examples of this.

2. OVERALL PATTERNS

The majority of casual work in the sample is for marking and tutoring, as shown in Figure 1. Lecturing is a much smaller percentage of the work than is commonly portrayed in the narrative around casualisation. A third of academic casuals are undertaking “other academic duties”, which is a combination of demonstrating and other work classified as related to teaching and education, including attending meetings, training, course coordination and related administration although not usually research.

The data suggests that the often-repeated statement that a significant proportion of casual academic work is related to clinical training in medicine and nursing may not be accurate. Two of the sample Universities have medical/health sciences schools, and several have nursing schools, and the percentage of hours is lower than has been portrayed in the public debate.

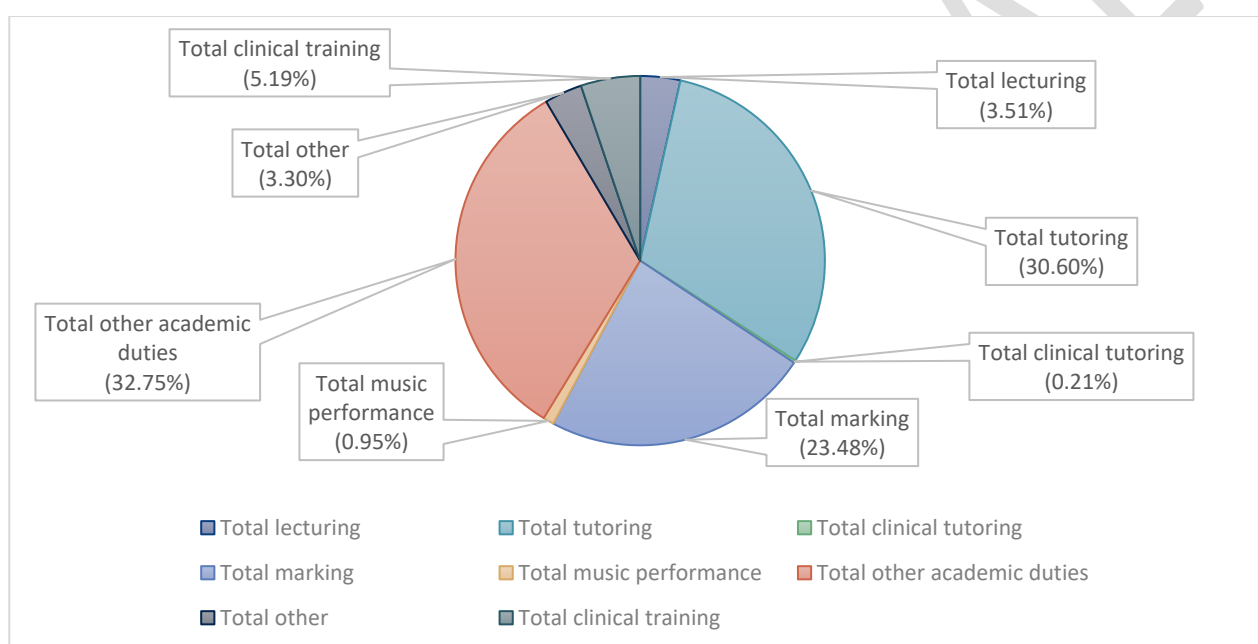


Figure 1: Activities by hours and proportion in the sample

Prima facie, the length of service data indicates that casuals work in the University is mainly for four years or less, with roughly 70 per cent of casuals serving less than four years at four of the five universities sampled. This could suggest that many casuals are PhD students. At the same time, a more detailed analysis needs to be completed for this to be confirmed, as Appendix 2 shows for Ph.D. enrolments in 2021, those areas with high numbers of casuals who were employed on a short-term basis have high numbers of PhD students, such as for marking in natural and physical sciences at University A. In contrast, in BusEco at University A where there is a larger number of long-term employees, there is a small number of PhD students.

Examining the three universities (A, B and D) where more granular data was available shows a notable difference across Broad Fields of Education for the mean number of equivalent full days worked in different activities (see Table 1).

Table 1: Casual Academics by Activity and Broadfield of Education at Universities A, B and D.

Broad Field of Education	Headcount at Universities A, B and D	Mean Number of Full Days Equivalent (7.5 hrs) Paid
LECTURES – DELIVERY AND PREPARATION		
ARCHITECTURE AND BUILDING	-	-
ARTS	127	5.5
CREATIVE ARTS	46	12.0
Cross Faculty and DVC PVC	10	11.8
EDUCATION	13	1.7
ENGINEERING AND RELATED TECHNOLOGIES	13	5.5
HEALTH	112	4.4
INFORMATION TECHNOLOGY	17	15.5
LAW	100	8.8
MANAGEMENT AND COMMERCE	213	17.9
NATURAL AND PHYSICAL SCIENCES	124	6.1
MARKING		
ARCHITECTURE AND BUILDING	640	8.8
ARTS	462	16.6
CREATIVE ARTS	77	9.6
Cross Faculty and DVC PVC	26	13.8
EDUCATION	223	12.2
ENGINEERING AND RELATED TECHNOLOGIES	54	7.5
HEALTH	575	9.1
INFORMATION TECHNOLOGY	82	10.5
LAW	239	14.7
MANAGEMENT AND COMMERCE	508	20.7
NATURAL AND PHYSICAL SCIENCES	753	9.3
TUTORIALS – DELIVERY AND PREPARATION		
ARCHITECTURE AND BUILDING	-	-
ARTS	273	20.4

CREATIVE ARTS	156	21.0
Cross Faculty and DVC PVC	29	11.6
EDUCATION	187	18.1
ENGINEERING AND RELATED TECHNOLOGIES	29	8.0
HEALTH	435	19.3
INFORMATION TECHNOLOGY	29	12.1
LAW	188	19.5
MANAGEMENT AND COMMERCE	407	31.0
NATURAL AND PHYSICAL SCIENCES	257	10.6

As Figure 2 shows, around 14 per cent have served more than ten years.

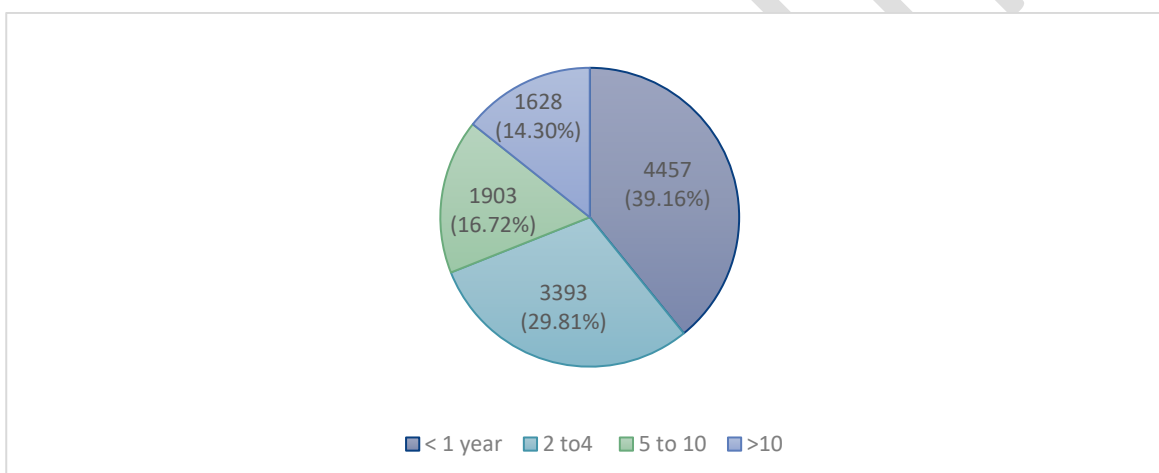


Figure 2: Length of engagement for four universities (A, B, C, D)

As Figure 3 shows, there is some notable variation between four of the sample universities in terms of the proportion in each length of service category, which suggests that for at least two institutions there is a large number of longer-serving casual employees, even though they are the minority.

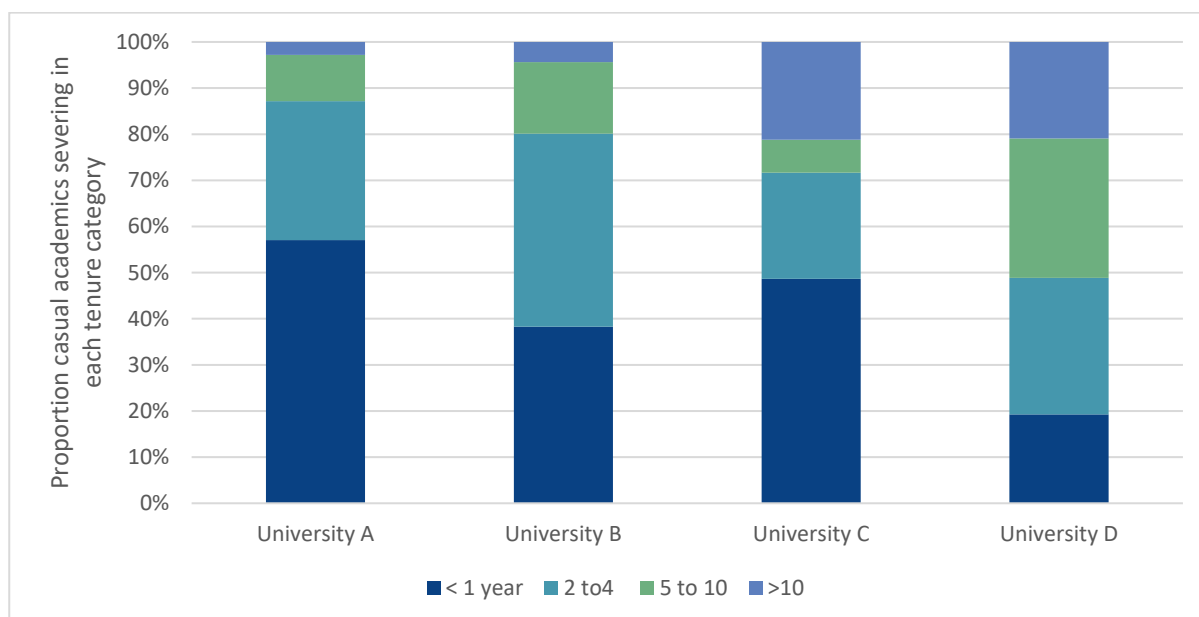


Figure 3: Length of service by tenure category

Looking at the average number of hours worked in detail for Universities A and B suggests that the majority of casual academics only work for the equivalent of a few weeks each year. At two of the universities in 2021, roughly half of the academic casuals were paid for less than the equivalent of three full-time weeks (112.5 hours).

For example, looking in greater detail at University B suggests that in 2021:

- More than half of casual who delivered lectures were paid for twelve hours or less,
- Half of the casuals who were paid for marking did so for less than the equivalent of four days, and,
- A quarter of casual delivering tutorials did were paid for less than 14.5 hours, and half less than the hours in a full week.

University A was analysed for different types of academic casuals that shared similar characteristics (cluster analysis). This showed some distinct patterns, with other faculties and schools employing casuals in different ways. Some, such as the equivalent of the Business faculty, had large numbers of long-term teaching casuals. In contrast, others, such as in the Science faculty, had large numbers of casual undertaking marking who had shorter periods of engagement.

The cluster analysis of University A suggests that the age category is less of a useful indicator of patterns of employment and work, neither was whether or not the casual employee held a PhD. The following sections provide some detail on specific aspects.

3. ACTIVITIES BY TENURE LENGTH

The average length of engagement with the university appears to vary between activities. Universities A, B and D provide a good example of this. Figure 4 shows that the majority of those lecturing have been at University D for at least five years and a fifth for over ten years. A similar pattern existed for tutoring. However, for marking and other duties, casuals, on average, had been employed for a shorter period.

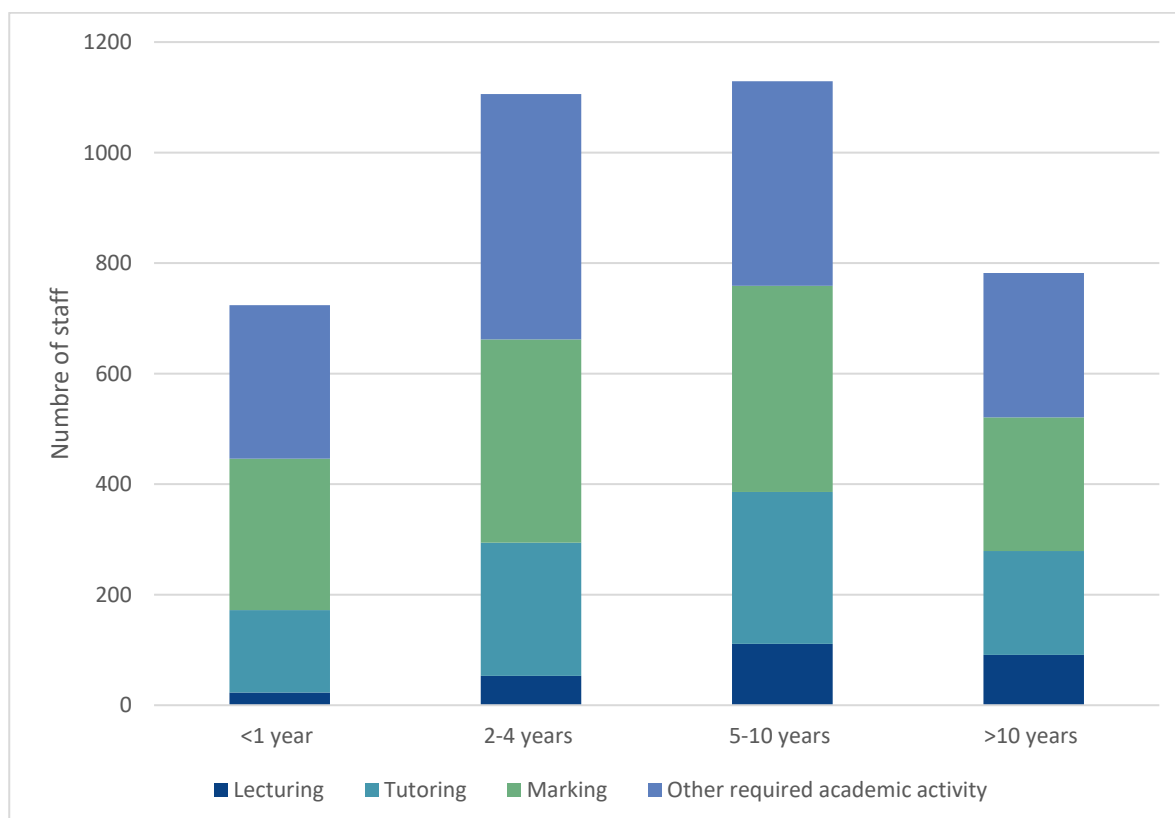


Figure 4: Activities by staff by engagement length at University D (note staff can be in more than one column)

Figures 5 and 6 show that for Universities D and B, those with longer engagement worked more hours on average during 2021.

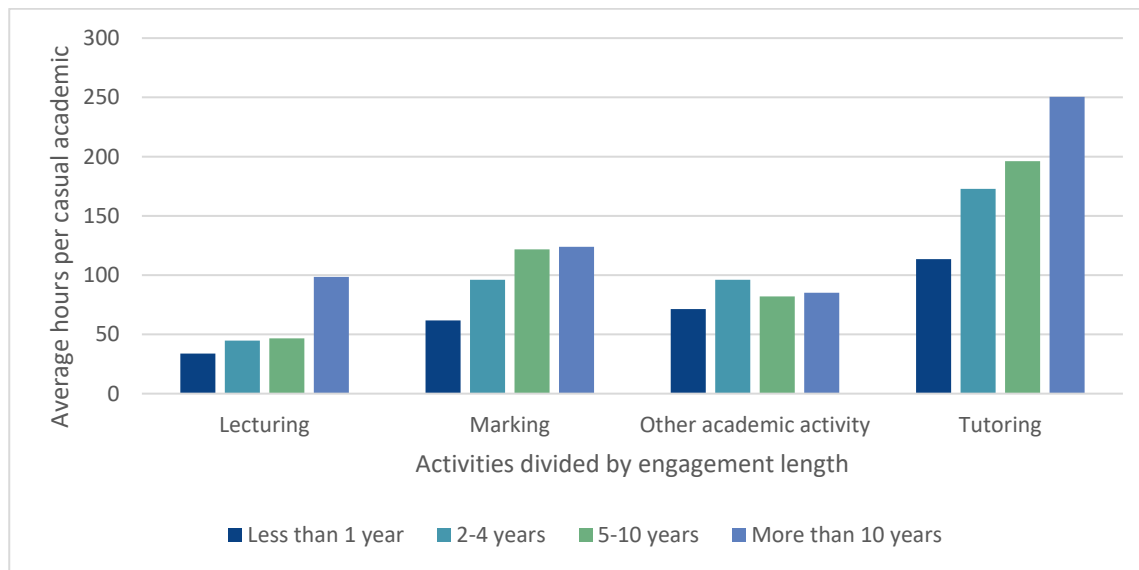


Figure 5: Average hours per casual employee University D

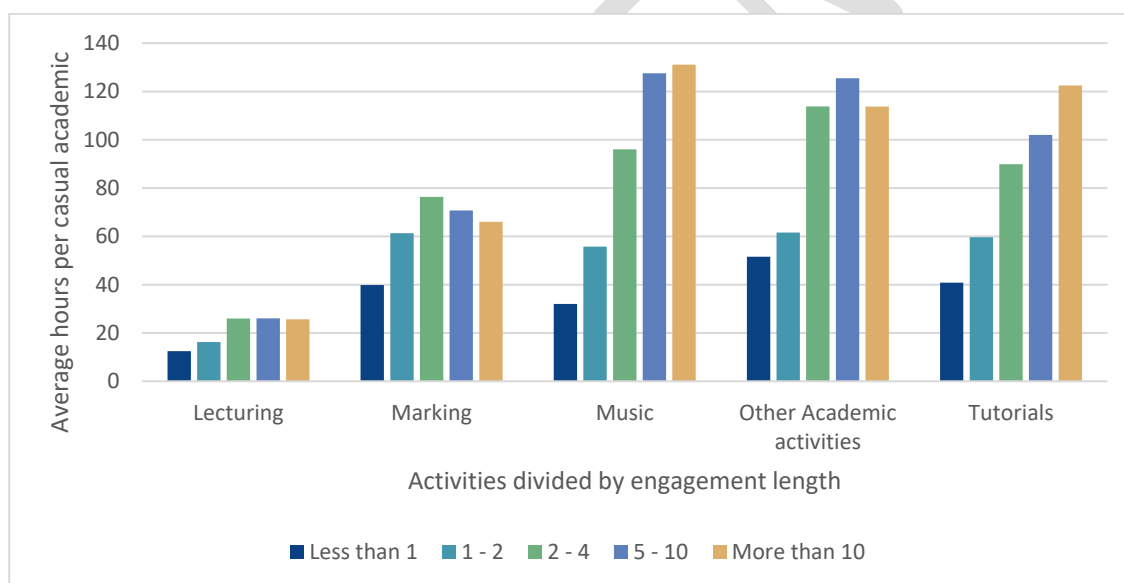


Figure 6: Average hours per casual employee University B

Figure 7 demonstrates a consistent distribution between the activities that are in proportion to the total hours for each engagement category.

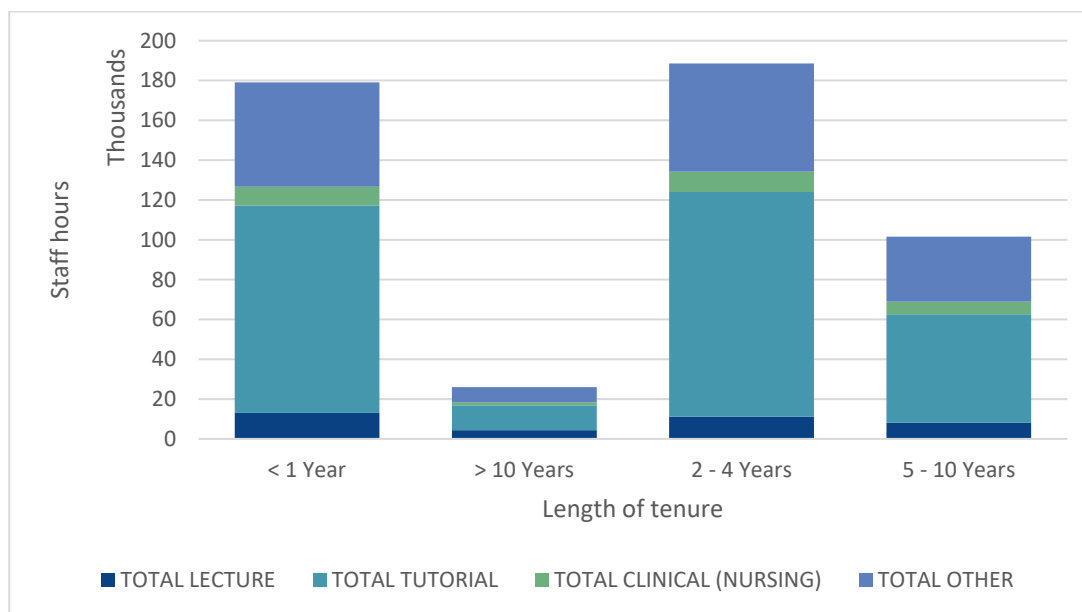


Figure 7 Activities by hours by engagement length at University A

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4. MEAN HOURS

Examining universities A, B and D in further detail shows that in 2021 around half of casual employees were paid for the equivalent of three weeks of work or less. Figure 8 to 11 shows this distribution in more detail.

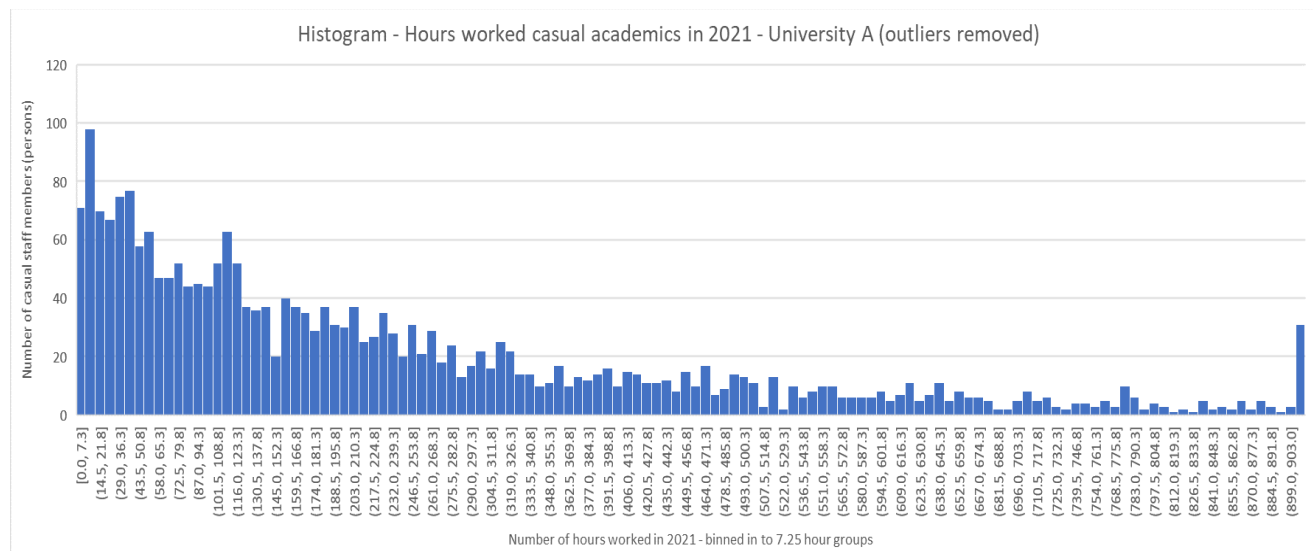


Figure 8: Average hours per casual employee University A

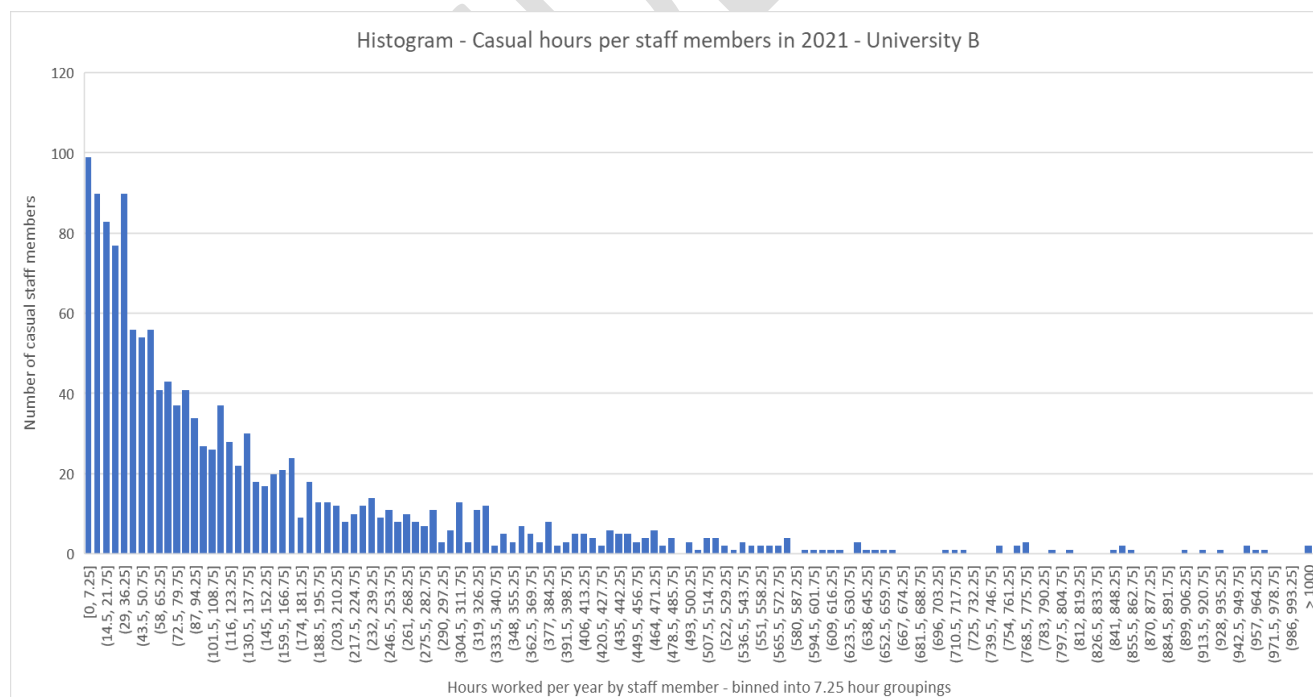


Figure 9: Average hours per casual employee at University B

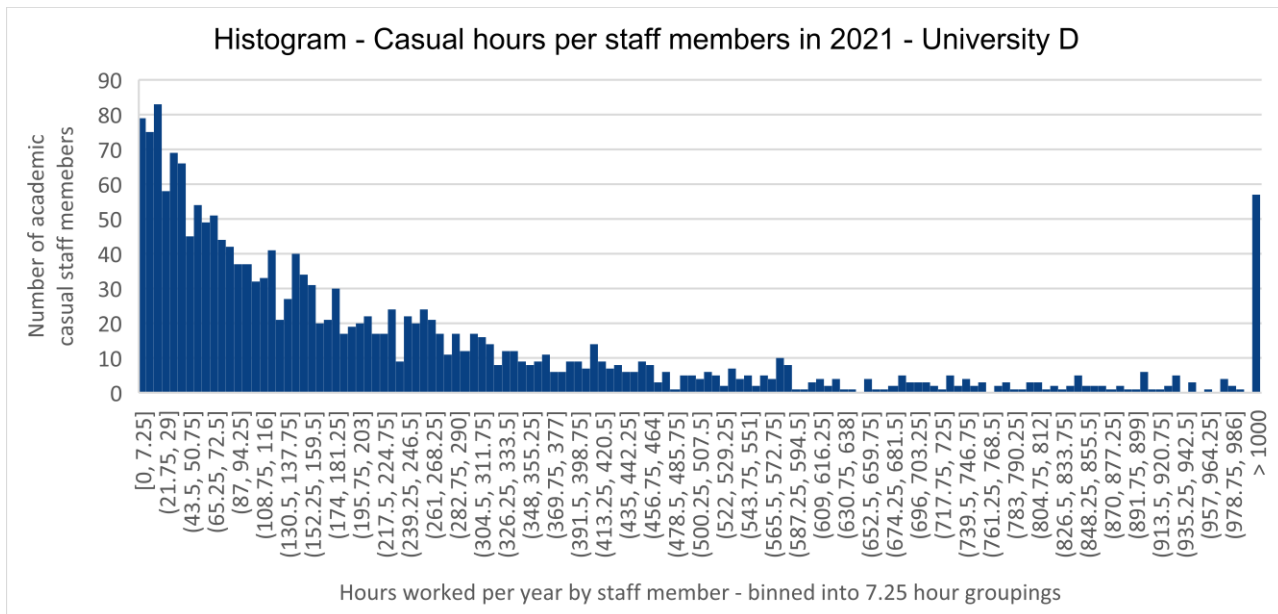


Figure 10: Average hours per casual employee at University D

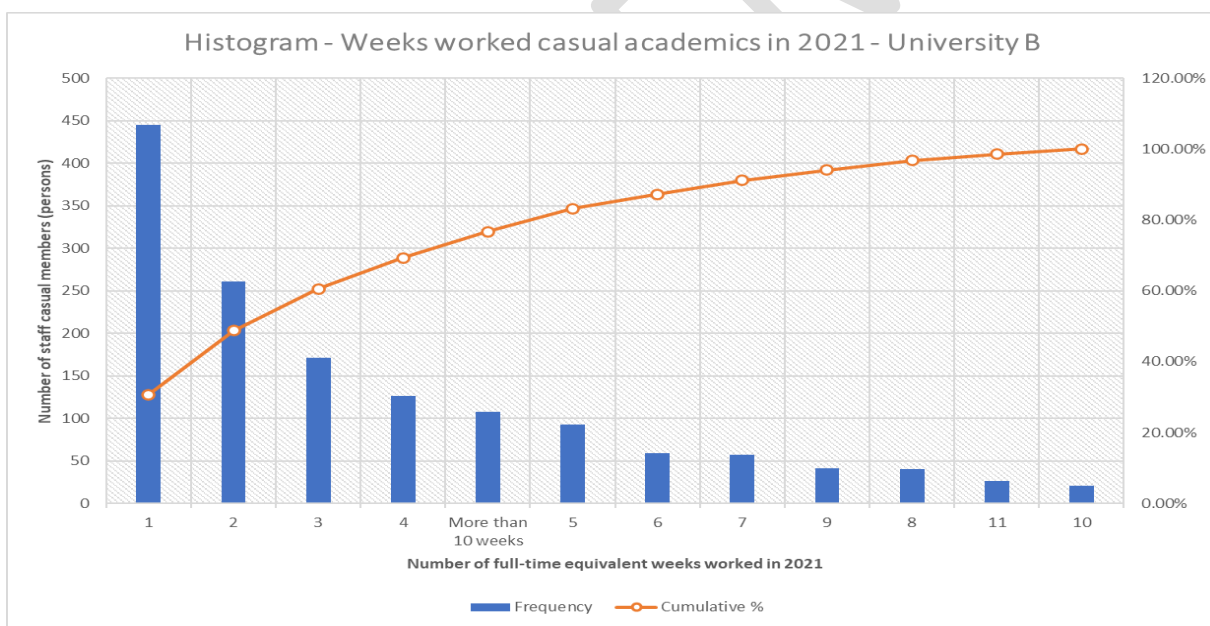


Figure 11: Casual weeks worked at University B

University B provides a useful example of how these hours per employee are divided between different activities.

For music tuition at University B, Figure 12 shows that around half of the casual employees were paid for less than a full-time equivalent week of music tuition.

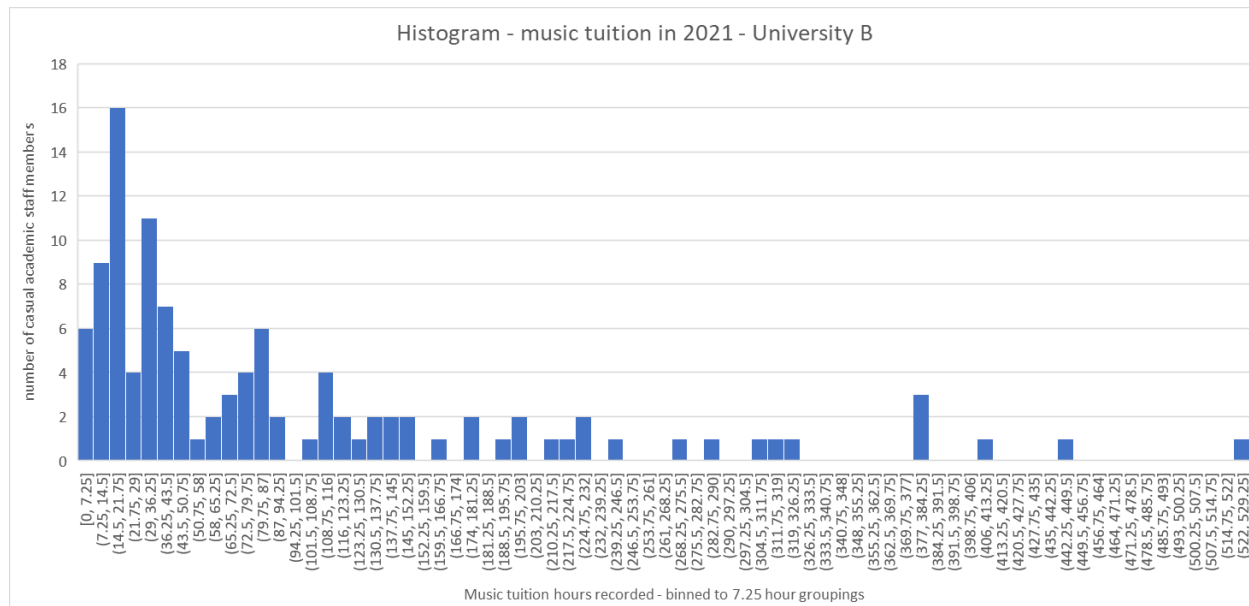


Figure 12: Music tuition/acompaniment at University B

Half of the casual academics at University B worked for less than a full-time equivalent week of tutorial delivery and preparation in 2021.

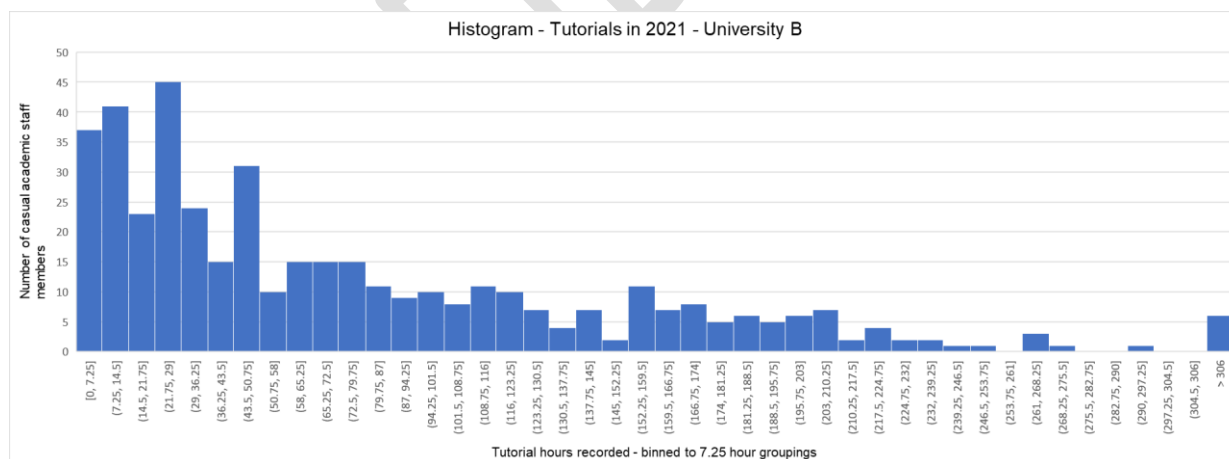


Figure 13: Tutorials at University B

For marking, around half of casuals undertook less than a full-time equivalent week of marking.

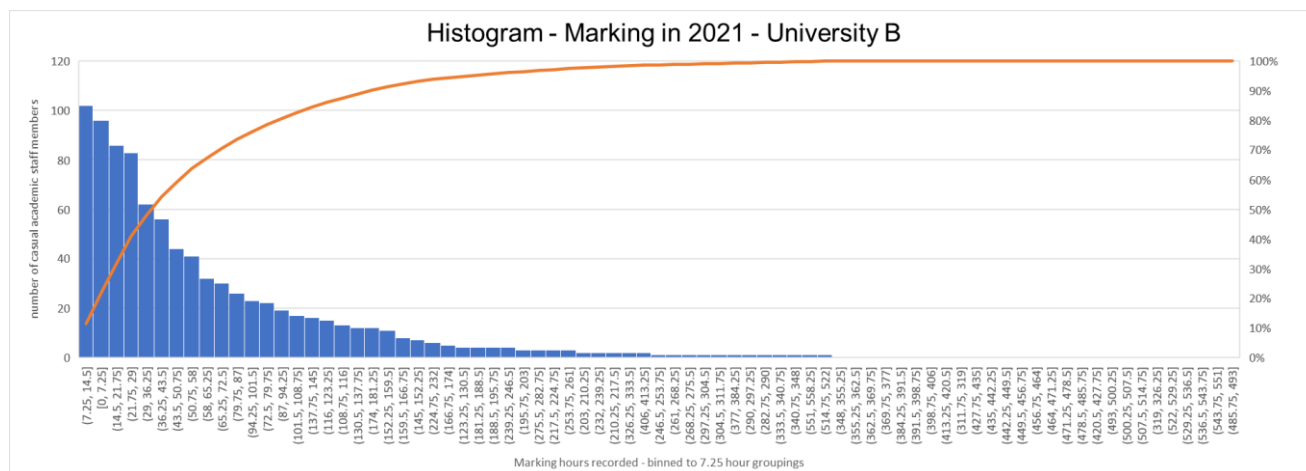


Figure 14: Marking at University B

For lecture hours recorded in University B, about half the casual academics were paid for small numbers of lectures. Only three per cent of casual academics were paid for more hours than the equivalent of delivering a 2 hour lecture each week for the 12 teaching weeks in each semester. That is were paid for more than the lectures for two subjects per year.

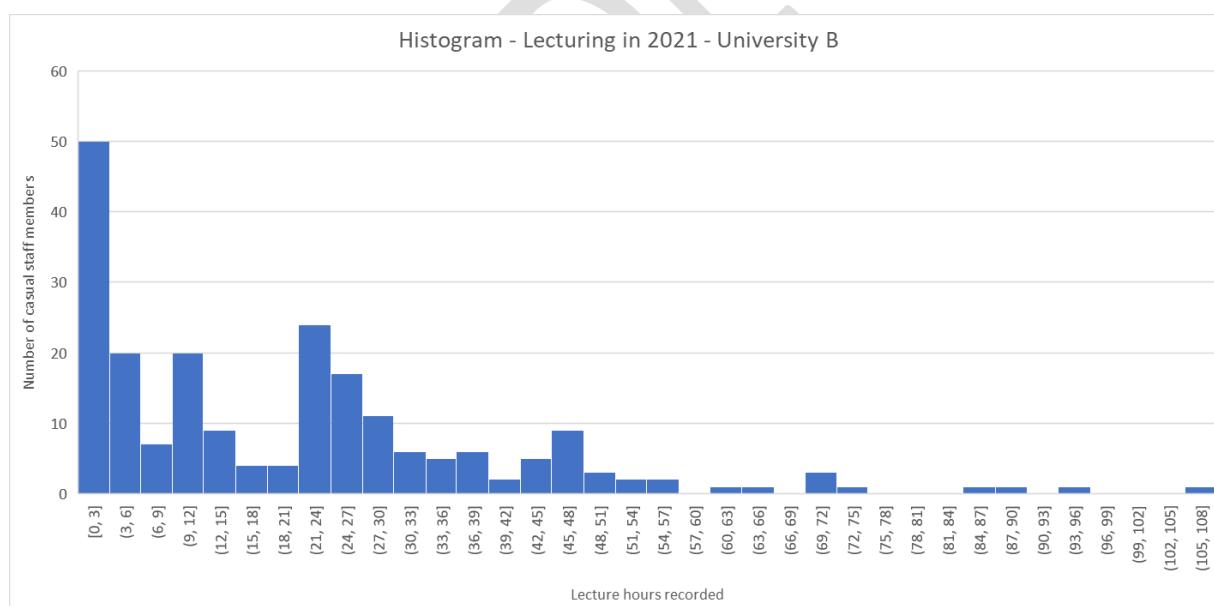


Figure 15: Lecturing at University B

5. CLUSTER ANALYSIS - UNIVERSITY A, B AND UNIVERSITY D

To produce insight into patterns of casual academic employment in Australian higher education, led data from three universities was analysed using an Agglomerative Hierarchical Clustering (AHC) approach. This technique can show distinct patterns of casual employment at the sample universities.

Method

Using granular data capturing variables listed in Appendix 1, an analysis was undertaken of the relationship between hours worked/FTE for different academic casual duties (tutoring, lecturing, marking etc.) as they relate to specific characteristics of the employee carrying out the work (age grouping, time employed at the university, faculty location and whether or not they have a doctorate).

The data was analysed using an Agglomerative Hierarchical Clustering (AHC) method to establish classifications (clusters) of related characteristics in the sample. This is a robust method to statistically group characteristics and show common themes across institutions for which types of casual staff are contracted to perform what type of work. In effect, this is a means to get insight into the profile of different types of casual employees at Universities A, B and D in 2021. The results of the cluster analysis are described below, with the specific steps used to undertake the analysis as follows:

1. Sample universities provided granular data from the payroll system on hours worked by all casual academic staff during 2021: The key variables provided were (1) staff member age group, (2) length of service at the institution, (3) owning department of contract, (4) type of work done, and (5) hours billed for that work activity.
2. To complete the cluster analysis, hierarchical clustering analysis on the data was used as most of the variables in the data were of categorical type. This was performed in R, using the "cluster" library (<https://cran.r-project.org/web/packages/cluster/index.html>)
3. An Agglomerative Clustering approach was used on the data to build clusters from all individual observations.
4. Before performing the analysis, tests were run on the data to find the agglomerative coefficient for four different types of clustering algorithms. The agglomerative coefficient measures the strength of the clustering structure of the data concerning the clustering algorithm. The tests run were for the *unweighted pair-group arithmetic mean* method (UPGMA), the single linkage method, the complete linkage method, and Ward's method. Ward's method scored a coefficient of 0.99, which is nearly the maximum possible score, so this was chosen.
5. The clustering data was further tested using both the within-cluster sums of squares and average silhouette methods to determine the statistically optimal number of clusters. Both methods indicated that either three or four clusters would likely be most appropriate.
6. Ward's method was used to produce a visual representation of the clusters (a cluster dendrogram) and after examining the results, the researchers' judgement aligned with the statistical results, and clusters were chosen to represent the major different groups of casual employees.

Results for University A

The data provided by University A was for the year 2021, where 2,516 individual casual academics worked a combined 688,830 hours or the equivalent of around 382 FTE based on a 37.5-hour week for 48 weeks. On average each employee worked around 0.1 FTE over the year, although the actual number of hours varies considerably.

Around 30 per cent of academic casual employees at University A had a doctorate, which was broadly consistent across faculties.

The AHC analysis suggests that the casual academic employees at University A in 2021 can be grouped into four distinct clusters (see Figure 16 below) based on the variables outlined in Appendix 1.

An employee's age did not relate in a significant way to any of the other variables in the clusters. That is, all clusters showed a spread of age groups and being older was not necessarily associated with a longer time of employment as a casual staff member, especially as the majority of casual employees had been employed less than 5 years as per Table 2.

Table 2: 2021 Casual academic staff length of service at University A

Length of Service	Unique Headcount
< 1 Year	1435
> 10 Years	71
2 - 4 Years	758
5 - 10 Years and more than 10	252
Grand Total:	2516

The academic casual staff at University A can be grouped into four significant clusters of individuals who had similar characteristics, which were as follows:

- Cluster 1 – ‘Short tenure casual academics’
 - Academics in STEM, BusEco, Law and Legal Studies, almost all with less than 1 year of employment years at the University, mainly undertaking marking and tutoring.
 - FTE in the cluster = 106.
- Cluster 2 – ‘Casual markers employed less than 4 years’.
 - Academics who mainly undertook marking, spread across the faculties. The vast majority of this cluster has been employed for less than four years at the University.
 - FTE in the cluster = 86.
- Cluster 3 – ‘Architecture, Building and Planning Tutors employed less than four years’.
 - Academics in Building, Design, Architecture, and some in Social Sciences related areas who had been at the University for 0-4 years and were mainly tutoring, though also undertook some marking and RA work.
 - FTE in the cluster = 100.

- Cluster 4 – ‘Long tenure casuals in BusEco and Arts’
 - Academics Bus Eco and the Social Sciences longer tenure.
 - FTE in the cluster = 62.

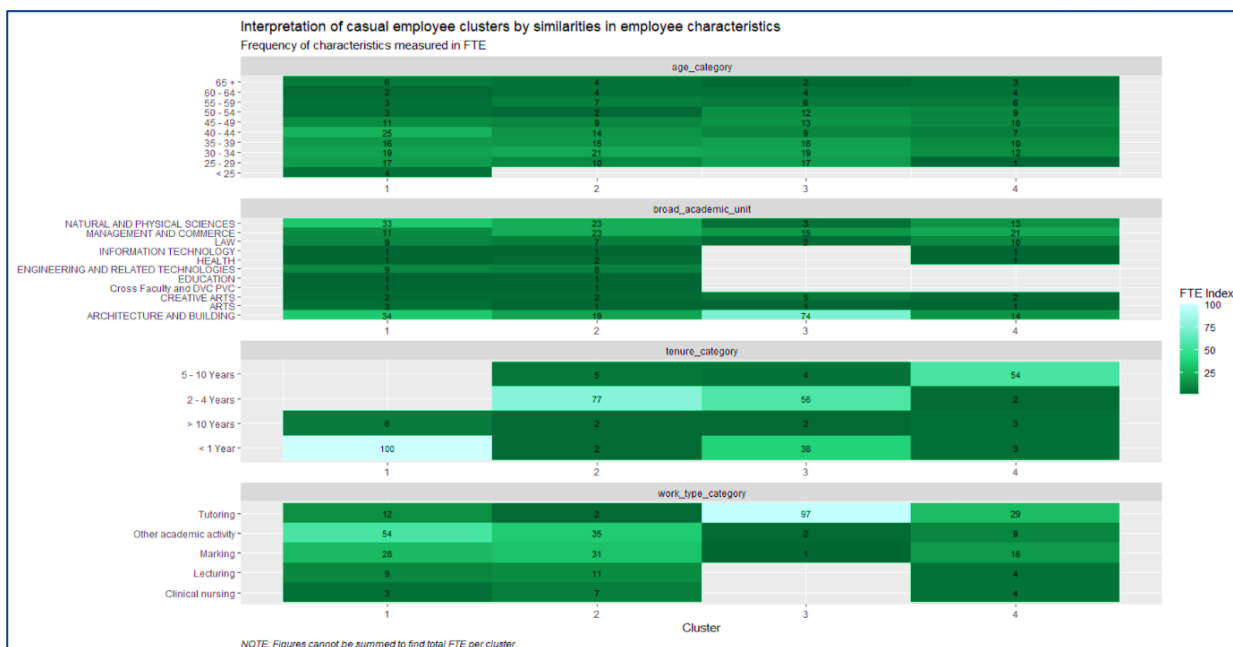


Figure 16: Visual summary of AHC analysis for University A

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Results for University B

The data provided by university B was for the year 2021, where 1,928 individual casual academics worked a combined 202,048 hours or the equivalent of around 112 FTE based on a 37.5-hour week for 48 weeks. On average each employee worked around 0.1 FTE over the year, although the actual number of hours varies considerably.

The AHC analysis suggests that the casual academic employees at University B in 2021 can be grouped into these distinct clusters (see Figure 17 below) based on the variables outlined in Appendix 1 for individuals who had similar characteristics, which were as follows:

- **Cluster 1 – ‘Education and Creative Arts tutors and ‘other’ activities less than four years’**
 - Academics mainly in Education, Creative Arts and Engineering most employed between 1 and 4 years.
 - FTE in the cluster = 62
- **Cluster 2 – ‘Marking and tutoring less than four years mainly in Health’**
 - Academics in Health, with some in Arts who mainly undertook tutoring with some associated tutoring, all employed less than four years.
 - FTE in the cluster = 28
- **Cluster 3 – ‘Longer tenure Arts and BusEco academics’**
 - Academics in Arts and BusEco who are undertaking tutoring, lecturing and other academic activities are almost all employed between 5 and 10 years.
 - FTE in the cluster = 19



Figure 17: Visual summary of AHC analysis for University B

Results for University D

The data provided by University D was for the year 2021, where 1,882 individual casual academics worked a combined 440,181 hours or the equivalent of around 233 FTE based on a 37.5-hour week for 48 weeks. On average, each employee worked around 0.1 FTE over the year, although the actual number of hours varies considerably.

The AHC analysis suggests that the casual academic employees at University D in 2021 can be grouped into distinct clusters (see Figure 18 below) based on the variables outlined in Appendix 1 of individuals who had similar characteristics, which were as follows:

- Cluster 1 – ‘Marking in Health, Arts and BusEco less than ten years’
 - Academics undertaking marking in Health, Arts and BusEco who were employed between 1 and 10 years, with a roughly equal distribution for length of tenure.
 - FTE in the cluster = 50
- Cluster 2 – ‘STEM and IT RAs and other academic work, less than ten years’
 - Academics, almost all in STEM and IT, undertaking Research Assistant work and other academic activities, employed from 1 to 10 years, with a roughly equal distribution for length of tenure.
 - FTE in the cluster = 51
- Cluster 3 – ‘Very long tenure BusEco, Arts and Health academics’
 - Academics mainly in BusEco, Arts and Health doing all academic activities and almost all employed for over ten years.
 - FTE in the cluster = 49
- Cluster 4 – ‘Longer tenure tutors in BusEco, Arts and Health’
 - Academics tutoring in BusEco, Arts and Health, employed for less than ten years with an even spread of tenure.
 - FTE in the cluster = 46

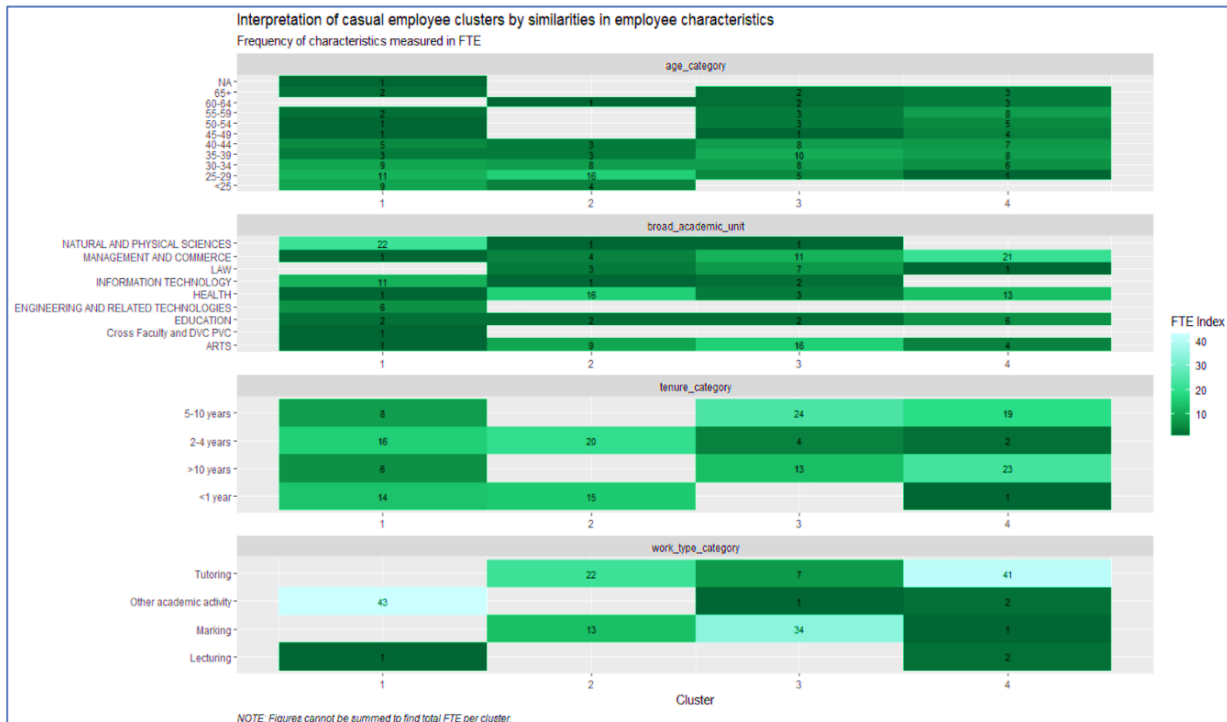


Figure 18: Visual summary of AHC analysis for University D

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6. ANALYSIS OF CASUALS WITH A VERY HIGH TEACHING LOAD AND RELATED ACADEMIC DUTIES

This section explores instances of casuals that nominally had a very high teaching and teaching related load in 2021. It looks in detail at two universities, A and D, examining the frequency of academic casuals where the number of paid hours was at least at or above the maximum number of hours which may be allocated for teaching and teaching related duties to Teaching Only academics in the workload clauses of their EBA. The analysis may have some limitations as we have assumed that much of the work done under “other academic activity” is teaching related as specified in the enterprise agreements. Nonetheless, it is a helpful indicator to examine recent patterns of casual employment as it provides a conservative baseline.

University A

Based on the EBA in force in 2021 for University A, the maximum number of hours that work can be allocated for a full-time academic employee is 1656 per annum. For academic staff at University A, there is a mandate that 30 per cent of time must be allocated to the following activities:

- Engagement
- Research and/or
- Student support and development, scholarly teaching and the scholarship of teaching, design and development of learning and assessment.

From this mandate, it might be reasonably assumed that a maximum teaching load is around 1159 hours per annum. However, the EBA also stipulates that no academic should teach more than 24 weeks in a 12-month period. Achieving 1159 hours over 24 weeks implies that an academic at University A would need to teach 48 hours per week. Given the legal upper limit of working hours is 38 hours per week, we can reasonably assume that a maximum teaching load at University A would be around 912 hours.

Table 3: Casuals at University A paid for more than 912 hours of teaching in 2021

Casuals	Number	% of total
Total number of individuals teaching over 912 hrs teaching	122	5.0
Those having a PhD	56	2.2
Those who have worked for more than five years at the university	52	2.0
Those in BusEco	46	1.8
Those in Arts	12	0.4

University D

Based on the EBA in force in 2021 and noting that duties and workloads must be consistent with the Minimum Standards of Academic Levels (MSALs), the default workload allocations for each job family are as follows:

- Teaching and Research Academic Teaching,
 - 40 per cent Teaching,
 - 40 per cent Research
 - 20 per cent Service
- Teaching and Leadership Academic
 - Leadership and Service 30per cent
 - Teaching70 per cent
- Leadership Technical/Industry/Commercial Academic
 - No default allocation but must have at least 40 per cent dedicated to teaching or research duties.
- Scholarly teaching fellows may have an 80 per cent teaching load.

Maximum workload allocation is set at a nominal limit of 1575 hours per annum. Based on this on the different job families, a very high teaching and related duties allocation would be around 70 per cent of a full-time load. This would be about 1100 hours per annum.

Table 4: Casuals at University D paid for more than 1100 hours of teaching in 2021

Casuals	Number	% of total casuals
Total number of individuals over 1100 hours teaching	42	2.2
Those who have worked for more than five years at the university	37	1.9
Those in BusEco	16	0.8
Those in Arts	13	0.6

7. SOME CONCLUDING COMMENTS

While this study provides interesting insight into the age and qualifications of casual academics in Australian universities, as well as the nature and frequency of the hours they work, it has some limitations.

- Firstly, as payrolls pay by the hour, we are unable to tell how many specific tasks are performed when the rate for an activity is paid for in multiples of hours as specified in EBAs, for example, lecturing.
- Secondly, it is likely that in practice, work undertaken under “other required academic activity” covers a very broad range of tasks some of which do not relate to teaching or students.
- All universities in the sample were located in capital cities with a supply of qualified labour and so the outcomes and conclusions may be different for regional universities.

At the same time, it gives rise to further questions,

- Are the indicators of longer serving casuals working longer hours the disciplines of Arts and Business/Economics replicated nation-wide as is likely given the consistency across the five sample universities?
- If so, is there something about the way in which these disciplines are funded, structured or taught that results in the need for an experienced casual workforce. This raises the question of whether different arrangements need to be made for these disciplines.
- This analysis suggests that it is likely, as observed at a local level in many institutions, that PhD or Masters students undertake much of the casual academic work. The cluster analysis suggests that this might vary by discipline. It raises the question of how significant the differences are across the sector.

What the data does show is that the nature of the casual academic workforce in Australia is far more nuanced than a single narrative of long hours, underpayment and exploitation and that a more sophisticated approach to its analysis and hence, improvement is necessary to fully understand the different dimensions of casual work. Hopefully, this is the first of many such attempts.

We would like to thank the hard-working staff in the HR/Payroll departments of universities A, B, C, D and E for their cooperation in providing deidentified data and their patience in responding to our refined requests for data. Their support and contribution have been invaluable.

8. APPENDIX 1: VARIABLES SPECIFICATIONS – CASUAL EMPLOYEES IN AUSTRALIAN UNIVERSITIES

The data relates to the 2021 year, with the following variables:

- 1 TOTAL CASUAL HOURS WORKED
Total casual hours worked by each payroll code for the relevant types of casual academic work - see Appendix A
- 2 TOTAL NUMBER OF INDIVIDUALS PERFORMING EACH TYPE OF CASUAL WORK
The number of individuals (not FTE) paid under each payroll code during 2021.
- 3 TOTAL NUMBER OF CASUALLY EMPLOYED INDIVIDUALS
The total number of individuals who have been paid as academic casuals during 2021.
- 4 AGE COHORT FOR EACH TYPE OF WORK
Data grouped by age of the total individuals who have been paid in the given year sorted according to HES data collection requirements:
 - <25
 - 25-29
 - 30-34
 - 35-39
 - 40-44
 - 45-49
 - 50-54
 - 55-59
 - 60-64
 - 65+
- 5 LENGTH TIME EACH INDIVIDUAL HAS WORKED
The length of time that each individual has been on the payroll grouped by span of years:
 - < 1 year
 - 2- 4 years
 - 5 – 10 years
 - > 10 years
- 7 FACULTY/SCHOOL/DEPARTMENT WHERE CASUAL WORK UNDERTAKEN

List of casual academic work types (taken from *the Higher Education Industry—Academic Staff—Award 2020 - MA000006*)

1	Lecturing
1a	Basic lecture (1 hour of delivery and 2 hours associated working time)
1b	Developed lecture (1 hour of delivery and 3 hours associated working time)
1c	Specialised lecture (1 hour of delivery and 4 hours associated working time)
1d	Repeat lecture (1 hour of delivery and 1 hour associated working time)
2	Tutoring
2a	Tutorial (1 hour of delivery and 2 hours associated working time)
2b	Repeat tutorial (1 hour of delivery and 1 hour associated working time)
2c	Tutorial (1 hour of delivery and 2 hours associated working time) (where academic holds a relevant doctoral qualification)
2d	Repeat tutorial (1 hour of delivery and 1 hour associated working time) (where academic holds a relevant doctoral qualification)

3	Musical accompanying
3a	Musical accompanying (1 hour of delivery and 1 hour preparation time)
3b	Musical accompanying (1 hour of delivery and 1 hour preparation time) (where the academic holds a relevant doctoral qualification)
4	Undergraduate clinical nurse education
4a	Little preparation required (1 hour of delivery and 0.5 hours associated working time)
4b	Normal preparation time (1 hour of delivery and 1 hour associated working time)
4c	Little preparation is required (1 hour of delivery and 0.5 hours associated working time) (where the academic holds a relevant doctoral qualification)
4d	Normal preparation time (1 hour of delivery and 1 hour associated working time) (where academic holds a relevant doctoral qualification)
5	Marking rate
5a	Standard marking
5b	Standard marking (where the academic holds a relevant doctoral qualification)
5c	Marking as a supervising examiner, or marking requiring a significant exercise of academic judgment appropriate to an academic at level B status
6	Other required academic activity
6a	If the academic does not hold a relevant doctoral qualification or perform full subject coordination duties
6b	If the academic holds a relevant doctoral qualification or performs full subject coordination duties

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9. APPENDIX 2: NUMBER OF ENROLLED PHD STUDENTS IN 2021 AT SAMPLE UNIVERSITIES

FOE6	Uni A	Uni B	Uni C	Uni D	Uni E
010000 Natural and Physical Sciences		2			
010100 Mathematical Sciences	28	1			38
010101 Mathematics		1		22	
010103 Statistics				11	
010300 Physics and Astronomy		3			81
010301 Physics	60			56	
010500 Chemical Sciences		3		66	59
010599 Chemical Sciences not elsewhere classified	107				
010700 Earth Sciences				30	30
010799 Earth Sciences not elsewhere classified				33	6
010900 Biological Sciences	66	6		77	167
010913 Human Biology	72				18
010999 Biological Sciences not elsewhere classified	4			10	
019900 Other Natural and Physical Sciences			256		3
019901 Medical Science		53	34	49	
019905 Food Science and Biotechnology	41				
019907 Pharmacology					8
019999 Natural and Physical Sciences not elsewhere classified					9
020100 Computer Science	157			82	113
020199 Computer Science not elsewhere classified		8			
029900 Other Information Technology			60		
029901 Security Science		15			
029999 Information Technology not elsewhere classified		25			
030300 Process and Resources Engineering					114
030301 Chemical Engineering	63	9			4
030305 Materials Engineering		3			
030399 Process and Resources Engineering not elsewhere classified		13			
030701 Mechanical Engineering	173	11			88
030900 Civil Engineering		11	214		54
030901 Construction Engineering	135				
031100 Geomatic Engineering	35				

031300 Electrical and Electronic Engineering and Technology	184	11		66	
031301 Electrical Engineering					52
031303 Electronic Engineering					4
031305 Computer Engineering		3			1
031501 Aerospace Engineering	88				
039901 Environmental Engineering	22	4			
039999 Engineering and Related Technologies not elsewhere classified		3			
040101 Architecture	91				26
040300 Building	50				
050100 Agriculture					97
050300 Horticulture and Viticulture					15
050700 Fisheries Studies					1
050900 Environmental Studies		16	51		17
050999 Environmental Studies not elsewhere classified				19	
060100 Medical Studies			75		323
060101 General Medicine				22	
060103 Surgery					13
060199 Medical Studies not elsewhere classified				27	
060300 Nursing	8	59	45		19
060501 Pharmacy			4		
060700 Dental Studies			5		
060701 Dentistry					21
061101 Veterinary Science					62
061300 Public Health		20		4	39
061301 Occupational Health and Safety		14			
061399 Public Health not elsewhere classified		1			
061501 Radiography	7				
061700 Rehabilitation Therapies				10	
061703 Occupational Therapy		3			
061705 Chiropractic and Osteopathy				4	
061707 Speech Pathology		3			
061799 Rehabilitation Therapies not elsewhere classified		1			
061905 Traditional Chinese Medicine	22				
069901 Nutrition and Dietetics		9			

069903 Human Movement		41	93		
069905 Paramedical Studies		3			
069999 Health not elsewhere classified		5	17		
070000 Education		2			
070100 Teacher Education	51				
070101 Teacher Education: Early Childhood				3	
070300 Curriculum and Education Studies				64	
079900 Other Education			61		34
079999 Education not elsewhere classified		85	12		
080000 Management and Commerce		1			
080100 Accounting					4
080101 Accounting	53			26	
080300 Business and Management	65				51
080301 Business Management	42			62	
080399 Business and Management not elsewhere classified					2
080500 Sales and Marketing			36		9
080505 Marketing				21	
081100 Banking, Finance and Related Fields					13
081101 Banking and Finance	71			50	
089900 Other Management and Commerce			89		
089901 Purchasing, Warehousing and Distribution	25				
089999 Management and Commerce not elsewhere classified		60	51		
090100 Political Science and Policy Studies					16
090300 Studies in Human Society	160			124	2
090301 Sociology					97
090303 Anthropology				2	
090305 History				7	
090311 Indigenous Studies		1		9	
090399 Studies in Human Society not elsewhere classified		2			
090500 Human Welfare Studies and Services			26		
090513 Counselling		1			
090599 Human Welfare Studies and Services not elsewhere classified			4		
090700 Behavioural Science				33	
090701 Psychology	17	19	118	147	71

090900 Law	17		16	28	40
091100 Justice and Law Enforcement			55		
091105 Police Studies				15	
091500 Language and Literature		1		2	33
091501 English Language				2	
091521 Linguistics				75	
091700 Philosophy and Religious Studies					2
091701 Philosophy				22	
091900 Economics and Econometrics					23
091901 Economics				33	1
099900 Other Society and Culture		22	149		
099903 Criminology		9			
099905 Security Services		1			
100100 Performing Arts		28			25
100101 Music				54	
100103 Drama and Theatre Studies		5			
100300 Visual Arts and Crafts		19	36		
100301 Fine Arts	81				
100500 Graphic and Design Studies	39				
100501 Graphic Arts and Design Studies	61				
100700 Communication and Media Studies	161	20		64	18
100701 Audio Visual Studies				13	
100705 Written Communication		6			
109900 Other Creative Arts				36	
109999 Creative Arts not elsewhere classified		4			

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