

FAIR WORK COMMISSION

Commission Matter No.:
AM2015/6

4 yearly review of modern awards – Education group *Higher Education Industry - Academic Staff - Award 2010*

REPLY STATEMENT OF KEN McALPINE

I, Ken McAlpine, care of 120 Clarendon Street South Melbourne in the State of Victoria, Union Education Officer, state as follows:

1. I have made a previous statement in these proceedings regarding Bond University dated 9 August 2016 (**my First Statement**).
2. I have read the Statement of Christopher Andrews dated 30 August 2016 filed on behalf of Bond University in these proceedings (**the Andrews statement**).
3. I was one of the two main advocates who appeared for the NTEU in the proceedings which led to the making of the *Higher Education Contract of Employment Award 1998* ("the HECE Award"). Because of my role in those proceedings, and because I had a central role on behalf of the NTEU in the implementation of the HECE Award across the higher education sector, I have been closely involved in the public debates about both the merits and the effects of the HECE Award. For example, I have spoken as an invited guest at a Conference of the Australian Higher Education Industrial Association in about 2002, and at a Conference of Deputy Vice Chancellors in Melbourne about 7 years ago, including on the effect of the introduction of the restrictions on fixed term employment on the level of both ongoing and casual employment within the industry.
4. In the course of my experience in the higher education sector I have heard the assertion that restrictions on fixed term employment in the HECE Award have led to increases in casual employment. This claim is referred to in the Andrews statement at paragraph 36 (by reference to page 12 of Attachment CA-3). I have followed this issue closely in the literature and the available data. However, I have never seen any sectoral or institutional data or analysis that has demonstrated the truth of this claim.
5. In the year or so following the implementation of the HECE Award, the NTEU was involved in overseeing consultations at most universities about what was to happen to fixed term positions. I viewed documents at the time from a number of universities providing statistical summaries of what had happened to those positions. In particular, I recall seeing a document for Monash University, prepared in 1999 or 2000 which showed what had happened to fixed term contracts which had come to an end and which, under the terms of the Award, could not be further offered on a fixed term basis. That document showed that about ninety percent of about two hundred positions had been converted from fixed term to continuing positions.
6. Furthermore, I have sorted data contained in the Excel spreadsheets at annexure KM3 to my First Statement. Annexure KM3 sets out, in Excel format, statistics on employment within the higher education sector from the Commonwealth Department of Education. In particular, tables 1.1 and 1.4 (at pages 12 and 15 of my First Statement) set out the estimated total number of (full-time equivalent) casual employees, permanent employees and fixed term employees within the industry for the period 1996 to 2015. Using the Excel program I applied

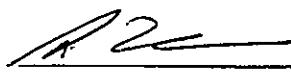
the "trend line" function to this data. It is a line that passes through the data with the least amount of distance between the line and all of the relevant data points. This is determined by taking into account the squared distances between the data points and the line, and is commonly known as the "line of least squares". The result of the application of the "trend line" to this data is annexed and marked 'KMA'.

7. In the period 1996 to 2015 captured by the data referred to in the preceding paragraph, the Higher Education Contract of Employment Award was made in 1998. In addition, in May 2005 the Commonwealth Government imposed the "Higher Education Workplace Relations Requirements", which linked a portion of government funding for universities to, amongst other things, a requirement that restrictions on the use of fixed term or casual employment, including of the type imposed by the HECE Award, be removed from enterprise agreements covering universities over the period from 2005 to 2006. The Higher Education Workplace Relations Requirements were repealed in 2008, but the effect of that repeal was not immediately to reinstate the restrictions found in the HECE Award, as this required enterprise agreements then in place to run their course.
8. I am aware that the Australian Council of Trade Unions has made an application to this Commission in the context of the Commission's Award Review proceedings (AM2014/197) for the institution of a procedure for converting casual employment to permanent employment. The NTEU has also made an application in these proceedings for some restrictions on casual employment in the higher education industry.
9. As to the issue of revenue addressed in paragraph 36 of the Andrews statement and paragraphs 10-13 of the statement of Kenneth Richardson filed these proceedings on 30 August 2016, I am aware that universities that receive Commonwealth Government funding are also subject to unpredictable fluctuations in funding. For instance, the Commonwealth Government has recently announced in the Commonwealth budget statements in 2016 a \$2.5 billion cut in university funding over the four year forward estimates period, as compared to what had been projected over that period. I also recall that the substantive proceedings in 1996 which led to the making of the HECE Award were commenced in the context of funding cuts to the higher education sector announced by the then Federal Minister responsible for higher education.
10. The Australian Higher Education Industrial Association has a HR Benchmarking Program which was initiated by Queensland University of Technology in early 2004. This program has collected data from 38 universities in Australia to date. This data is in part reproduced in Attachments L and M to my Statement filed on 3 June 2016 and marked as **Exhibit H** in these proceedings. The data shows, amongst other things, that across the higher education sector, annual turnover of non-casual staff consistently runs in the range of 13-18%, including in those institutions which have the provisions of the HECE Award substantially incorporated into their enterprise agreements. The data also shows fairly consistently across the sector that about one-third of all staff turnover – around 6% of non casual employees each year – is constituted by fixed term contract expiry.
11. This statement is, to the best of my knowledge and belief, true and correct.

Dated: 28 September 2016.



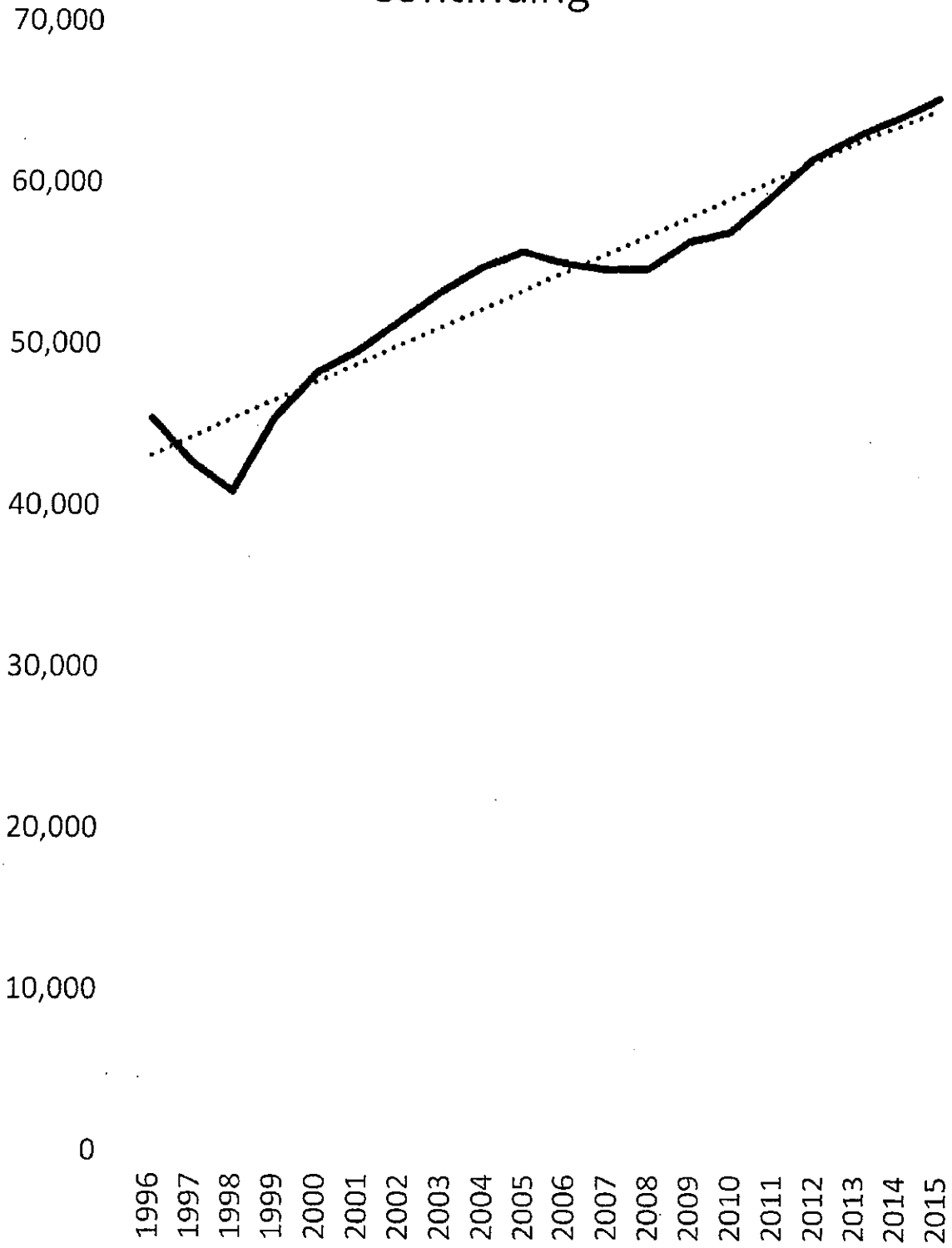
Ken McAlpine



Witness

Year	Estimated Casual		Tenurial Term		Limited term	
	FTE	% change on previous year	FTE	% change on previous year	FTE	% change on previous year
1996	10,185		45,394		26,094	
1997	10,723	5.3%	42,670	-6.0%	26,783	2.6%
1998	10,711	-0.1%	40,893	-4.2%	28,347	5.8%
1999	11,580	8.1%	45,393	11.0%	23,650	-16.6%
2000	12,760	10.2%	48,245	6.3%	21,081	-10.9%
2001	13,162	3.2%	49,643	2.9%	20,769	-1.5%
2002	13,401	1.8%	51,430	3.6%	21,279	2.5%
2003	13,815	3.1%	53,285	3.6%	22,069	3.7%
2004	13,716	-0.7%	54,842	2.9%	23,142	4.9%
2005	14,231	3.8%	55,826	1.8%	24,446	5.6%
2006	14,298	0.5%	55,122	-1.3%	26,446	8.2%
2007	14,661	2.5%	54,715	-0.7%	28,867	9.2%
2008	14,851	1.3%	54,765	0.1%	31,646	9.6%
2009	15,544	4.7%	56,479	3.1%	33,604	6.2%
2010	17,401	11.9%	57,061	1.0%	35,632	6.0%
2011	18,398	5.7%	59,306	3.9%	36,307	1.9%
2012	19,558	6.3%	61,633	3.9%	37,518	3.3%
2013	19,268	-1.5%	62,927	2.1%	37,705	0.5%
2014	19,780	2.7%	64,179	2.0%	38,200	1.3%
2015	20,421	3.2%	65,523	2.1%	37,276	-2.4%

Continuing



casuals

25,000

20,000

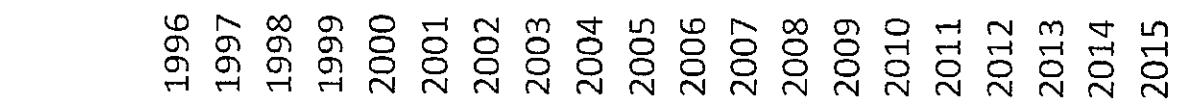
15,000

10,000

5,000

0

1996
1997
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2014
2015



fixed term

