

1 November 2021

Associate to Vice President Hatcher  
Fair Work Commission

By Email: chambers.hatcher.vp@fwc.gov.au

Dear Associate,

**Re. AM2018/9 - Application to vary Education Services (Teachers) Award 2020 on work value grounds – submissions re terms of draft determination**

The Vice President convened a conference of the parties on 29 October 2021.

The Vice President noted correspondence sent to the Fair Work Commission by Dr Wright of the IEU earlier that day concerning the Draft Determination published at the same time as the implementation decision [2021] FWCFB 6021 on 11 October 2021. In that correspondence Dr Wright drew attention to the fact that the classification criteria in the Draft Determination in proposed clause 14.1 (at [8]) were different to that contained in the salary rate table at clause 17.1 [at 9].

The classification criteria adopted by the Full Bench in the Draft Determination at clause 14.1 reflected the joint position put by the IEU and ACA to the Full Bench (which ABI supports). It contained changes in text for each Level as compared to the classification descriptors contained in the principal decision [2021] FWCFB 2051 at [657].

The Vice President raised with the parties a concern that the change to the criteria that had been successfully sought by the joint parties for Levels 3 and 4 may have an unintended effect, namely that it would require a longer period of satisfactory service.

The Vice President asked the parties to consider this issue, including whether it would be better to revert to the language used in the principal Decision at [657] to define Levels 3 and 4, but add a transitional provision to ensure that teachers' past service would be fully recognised (to address the issue of teachers otherwise being required to serve a full further three years before they can move to the next level).

Before turning to that issue, it is noted that the issue identified by the Vice President does not affect the classification criteria for Levels 1, 2 and 5. The descriptors in Clause 14.1 of the Draft Determination (which reflect the joint position) for Levels 1, 2 and 5 are different to those contained in clause 17.1. It would be appropriate to amend clause 17.1 in respect of Levels 1, 2 and 5 to replicate the criteria in clause 14.1 for those three classifications.

The IEU and ACA have considered the issue and submit it would be appropriate to:

1. Alter the classification descriptions for Levels 3 and 4 in a manner that is closer to the language in the principal decision at [657]; and
2. Amend the transitional provisions to ensure that past service is nevertheless fully recognised; and
3. As noted above, otherwise alter clause 17.1 so that the criteria for Levels 1, 2 and 5 are the same as set out in clause 14.1 for those Levels.

That could be achieved as follows. This is the jointly agreed position of the IEU and ACA.

**Clause 14.1** (and the corresponding text in **Clause 17.1**) would be amended to read as follows (mark-up shows changes to text from current 14.1):

<b>Classification</b>	<b>Criteria</b>
Level 1	Graduate teacher and all other teachers (as defined) including those holding provisional or conditional accreditation /registration
Level 2	Teacher with proficient accreditation/registration or equivalent
Level 3	Teacher with proficient accreditation/registration or equivalent after three years' satisfactory teaching service at a proficient <del>a proficient level</del> Level 2
Level 4	Teacher with proficient accreditation/registration or equivalent after <del>six</del> three years' satisfactory teaching service at a <del>proficient level</del> Level 3
Level 5	Teacher with Highly Accomplished / Lead Teacher accreditation / registration or equivalent

**H.3 at Schedule H** would be amended as follows:

**H.3** For the purpose of progression under the new classification structure:

(a) an employee classified at Level 2 pursuant to the table in clause H.2 shall be deemed to have reached 3 years' teaching service at Level 2 when the employee has:

- (i) 5 years of teaching service in total; ~~and~~ or
  - (ii) 3 years' teaching service at a proficient level;
- whichever comes earlier.

(b) an employee classified at Level 3 pursuant to the table in clause H.2 shall be deemed to have reached 3 years' teaching service at Level 3 if the employee has:

- (i) 8 years of teaching service in total; or
  - (ii) 6 years' teaching service at a proficient level;
- whichever comes earlier.

*This Schedule remains subject to the requirements in clause 14.3 concerning satisfactory teaching service.*

This correspondence has been emailed to the other parties in this matter.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'M Wright', with a stylized flourish underneath.

Dr. Michael Wright  
**Senior Industrial Officer**