



SOUTH
AUSTRALIAN
EMPLOYMENT
TRIBUNAL

LERWIN NURSING HOME AND ANMF ENTERPRISE AGREEMENT 2018

File No. 138 of 2019

This Agreement shall come into force on and from 1 July 2018 and have a life extending for a period of 36 months therefrom.

SAET HEREBY APPROVES THIS ENTERPRISE AGREEMENT PURSUANT TO SECTION 79 OF THE FAIR WORK ACT 1994.



DATED 20 FEBRUARY 2019.

COMMISSIONER



Lerwin Nursing Home and ANMF Enterprise Agreement 2018

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PART 1: APPLICATION AND OPERATION OF AGREEMENT

1.1 TITLE

This Enterprise Agreement shall be known as the Lerwin Nursing Home and ANMF Enterprise Agreement 2018.

1.2 PARTIES BOUND

This Agreement shall be binding on:

- Lerwin Nursing Home;
- Australian Nursing and Midwifery Federation South Australian Branch; and
- All employees who are employed pursuant to 4.1 – Classifications of this Agreement and the Award.

1.3 PERIOD OF OPERATION

This Agreement comes into operation following certification from the South Australian Industrial Relations Commission. The period of operation will be from that date to 30 June 2021. This does not impact on the operation of clause 4.5 which provides for salary increases to apply from 1 July 2018.

1.4 EXTRA CLAIMS

For the life of this Agreement the Employer, Employees and the Union may not pursue any further claims relating to wages or conditions of employment whether dealt with in this Agreement or not.

1.5 RELATIONSHIP TO PARENT AWARD

This Agreement shall be read and interpreted wholly in conjunction with Nurses (South Australia Local Government Sector) Award ('the Award') as it applies at the time of signing of this Agreement, provided that where there is any inconsistency, this Agreement shall take precedence to the extent of the inconsistency.

1.6 DEFINITIONS

1.6.1 'Agreement' means the Lerwin Nursing Home and ANMF Enterprise Agreement 2018.

1.6.2 'Association' means the Australian Nursing and Midwifery Federation South Australian Branch

1.6.3 'Act' means the Fair Work Act 1994.

1.6.4 'Award' means the Nurses (South Australian Local Government Sector) Award.

1.6.5 'Commission' means the South Australian Industrial Relations Commission.

1.6.6 'Consultation' means the process that will have regard to employee's interests in the formulation of plans that may have an impact upon them. It provides the opportunity to have their viewpoints heard, acknowledged and considered prior to decisions being implemented.

1.6.7 'Employee' means an employee engaged as a nurse as defined in the Award whose employment is subject to this Agreement.

- 1.6.8 ‘Employer’** means Lerwin Nursing Home, a wholly owned and operated entity of the Rural City of Murray Bridge, located at Murray Bridge.
- 1.6.9 ‘Grossed Up’** means as identified by the Australian Tax Office Rulings in relation to Fringe Benefits Tax Legislation and Salary Packaging Arrangements.
- 1.6.10 ‘Mutual Agreement’** means an agreement between the Employer and an employee as provided for in this Agreement.
- 1.6.11 ‘Programmed day off’** means the accrued entitlement to a paid day off duty.
- 1.6.12 ‘Rostered day off’** means the normal unpaid days off duty provided for in accordance with a roster.
- 1.6.13 ‘Union’** means the Australian Nursing and Midwifery Federation South Australian Branch known as the ANMF, an organisation of employees registered pursuant to the Act.
- 1.6.14 ‘ANMF Representative’** means a Worksite Representative and/or ANMF Official.

1.7 OBJECTIVES

The objectives of the parties to this Agreement are:

- 1.7.1** Commitment to the provision of Quality Service Care to residents in accord with provisions of the Aged Care Act 1997 as amended from time to time and the Charter of Residents Rights.
- 1.7.2** The Agreement commits the Employer and its employees to achieve best practice standards in all aspects of the operations of the business, in meeting the Requirements of the Aged Care Act 1997, as amended in particular the Accreditation process and Care Standards.
- 1.7.3** The Agreement aims at continually improving communication, consultation in relation to major change and cooperation at the workplace level between management and staff. The agreement recognises the important contribution of staff members to ensuring the Employer’s future.
- 1.7.4** The Agreement will enable the parties to develop and implement strategies that are designed to recognise and achieve productivity improvements at the workplace, without impairing quality of service, to further improve productivity and enhance job satisfaction, security and remuneration in a stable employee relations environment.

1.8 ENTERPRISE AGREEMENT CONSULTATIVE COMMITTEE

1.8.1 The Enterprise Agreement Consultative Committee (EACC) comprises:

- (i) up to four Employer representatives nominated by the Employer;
- (ii) up to four Employee representatives elected by Employees by ballot with the majority deciding the outcome; and
- (iii) external parties, as applicable or invited from time to time.

1.8.2 EACC shall have the responsibility to:

- (i) reach decisions through consensus that shall operate as recommendations to the parties they represent;
- (ii) meet at least six monthly, or earlier as required, to formally review and monitor the outcomes of the initiatives and changes arising from this Agreement;
- (iii) assist with the resolution of disputes arising out of the operation of this Agreement; and
- (iv) initiate negotiations for a subsequent Enterprise Agreement within three months prior to the expiry of this Agreement;

1.9 ACCESS TO AGREEMENT

The Employer shall provide a copy of this Agreement in the Lerwin Nursing Home staff room which is accessible to all employees.

PART 2: - CONSULTATION AND DISPUTE RESOLUTION

2.1 CONSULTATION AND COMMUNICATION

- 2.1.1** It is an accepted principle that effective workplace relationships can only be achieved if appropriate consultation between the parties occurs on a regular basis.
- 2.1.2** The Employer recognises the Union as the representative of its members in the consultation process. It is acknowledged that Employee involvement in any decision making process that may impact on their employment is critical to the success of the organisation. The Employer is therefore committed to engage in timely and constructive consultative practices with all employees and the Union in accordance with the following guiding principles.

Consultation shall occur with Employees in a variety of ways which may include:

- 1) Workplace meetings;
- 2) Direct discussion with the relevant Manager.

Information will be distributed to Employees in a variety of ways which may include:

- 1) Staff newsletters;
- 2) Memos ;
- 3) Electronic communication;
- 4) Noticeboards;
- 5) Presentations and handouts from meetings and focus groups.

Should agreement around change about which there has been consultation not be reached, the parties agree that it may then be appropriate to utilise Clause 2.2 – Dispute Settlement Procedure of this agreement.

2.2 DISPUTE SETTLEMENT PROCEDURE

- 2.2.1** In the event of a dispute in relation to a matter arising under this Agreement, in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor and, if such discussions do not resolve the dispute, by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 2.2.2** A party to the dispute may appoint another person, organisation or Association to accompany or represent them in relation to the dispute.
- 2.2.3** If a dispute in relation to a matter arising under this Agreement is unable to be resolved at the workplace, and all agreed steps for resolving it have been taken, the dispute may be referred to the South Australian Industrial Relations Commission (the Commission) for resolution by mediation and/or conciliation and, where the matter in dispute remains unresolved, arbitration. If arbitration is necessary the Commission may exercise the procedural powers in relation to hearings, witnesses, evidence and submissions which are necessary to make the arbitration effective.
- 2.2.4** It is a term of this Agreement that while the dispute resolution procedure is being conducted work shall continue normally unless an employee has a reasonable concern about an imminent risk to his or her health or safety.

- 2.2.5** The Decision of the Commission will bind the parties, subject to either party exercising a right of appeal against the Decision.

2.3 EMPLOYEE REPRESENTATION

- 2.3.1** Each employee shall be accorded by the Employer with a right to the representation of their choice in connection with performance and disciplinary procedures, resolution of workplace disputes and grievances and under the Dispute Settlement Procedure provided in this Agreement.
- 2.3.2** Representation by the ANMF on behalf of a relevant employee is not limited to representation by an elected Worksite Representative.
- 2.3.3** The Employer will make provision for elected Worksite Representatives to devote reasonable working time for:
- 2.3.3.1** involvement in the representation at the workplace level of relevant employees in respect of performance and disciplinary procedures, workplace disputes and grievances; and
 - 2.3.3.2** participation in external dispute settlement procedures on behalf of relevant employees.
- 2.3.4** For the purpose of this clause 'relevant employees' means those employees who have chosen the ANMF or an elected Worksite Representative to represent them.

2.4 NOTICE BOARD

- 2.4.1** The employer shall provide room on a notice board for the purpose of the Union to post formal notices about matters pertaining to the employment relationship, including incidental, ancillary or machinery provisions and matters in connection with the operation and application of this Agreement.
- 2.4.2** All such notices shall be authorised by the ANMF.
- 2.4.3** Any notice deemed offensive by the employer may be removed.

PART 3: EMPLOYMENT RELATIONSHIP

3.1 EMPLOYMENT CATEGORIES

The following definitions refer to the employment categories to apply at Lerwin Nursing Home.

- 3.1.1** 'Full-time employee' is an employee who works an average of 38 hours per week and has an agreed roster pertaining to those hours.
- 3.1.2** 'Part-time employee' is an employee who works an agreed regular roster which average less than 38 hours per week.
- 3.1.3** 'Casual employee' is an employee who is not a 'full-time' or 'part-time' casual' employee (as defined herein) who is engaged on an irregular basis.
- 3.1.4** 'Replacement employee' means one engaged on a written appointment for a specific period of time to replace a designated person.

3.2 CASUAL EMPLOYEES

- 3.2.1** Casual employees will be employed as required for supplementary labour force needs.
- 3.2.2** A casual employee will be paid the hourly rate as defined for the work performed plus a loading in lieu of annual leave and sick leave.
- 3.2.3** Casual employees are not entitled to payment for public holidays not worked.
- 3.2.4** Casual employees will not, unless temporarily replacing a full-time employee, work more than 76 hours in any one fortnight.

3.3 CASUAL CONVERSION

- 3.3.1** Where a casual employee who is regularly rostered, and would otherwise be regarded under Clause 3.4 as a permanent part time employee, Lerwin will request the Employee consider conversion to permanent part time.
- 3.3.2** In providing this offer in writing, Lerwin will detail the entitlements that apply to being a permanent part time employee, which will include the rate of pay to apply (minus the casual loading), annual and personal leave entitlements, and any other relevant information. Information will also be provided about conditions that will not apply if they remain a Casual employee (e.g. non retention of regular rostered hours, redundancy payments etc). The casual employee has up to 4 weeks to make a decision to accept the permanent part time employment status from the date of receiving the written offer of permanent part time status by responding to the employer in writing. There will be a 'grace' period of a further 2 months (up to 3 months in total from the original date of receiving the written offer) for the casual employee to maintain their current rostered hours. Should the casual employee not accept permanent part time status, the employee is required to reject the offer in writing.

- 3.3.3 The parties agree that as a condition of this Agreement, an existing casual employee may elect not to be appointed as a permanent part time employee and may retain their existing casual arrangements in terms of rate of pay and regularity of actual rostered hours for a minimum of 3 months from the date of offer as per sub clause 3.3.2 above. It is acknowledged these employees will have access to notice of termination as provided by Termination clause 19 but not to redundancy (severance) benefits under Redundancy clause 20. However, post 3 months all parties agree that Lerwin may reduce or change the employee's rostered hours by providing 4 weeks written notice.
- 3.3.4 Should an employee choose to retain their casual employment status (as per sub clause 3.3.2 above), Lerwin will formally advise them of their conditions, e.g.; retain regular rostered hours for a minimum of 3 months, retain the casual loading, continuity of service and Long Service Leave, no 'paid' annual or personal leave entitlements and the difference between that of a casual and a part-time employee.

3.4 PART-TIME EMPLOYEES

- 3.4.1 Part-time employees are employees who work a regular pattern of hours which average less than 76 hours per fortnight.
- 3.4.2 Before commencing part-time employment, the employee and the Employer must agree upon the hours to be worked by the employee and the rostering arrangements which will apply to those hours.
- 3.4.3 Any hours worked by an employee to replace another employee on a temporary basis and such hours are in addition to those for which the employee is normally rostered will not be taken into account.
- 3.4.4 Employees may work additional hours in excess to their minimum contracted hours by mutual agreement with the Employer, however, these additional hours will not be considered as a permanent allocation.
- 3.4.5 Calculation of wage related entitlements such as annual leave, sick leave, carers leave, redundancy, etc. will be based on the part time employee's actual hours worked over the previous 12 months, or from commencement of employment for those employees that have worked less than twelve (12) months.
- 3.4.6 All authorised additional time worked in excess of fixed part time hours-will accrue additional leave entitlements for those hours.

3.5 SECONDARY EMPLOYMENT

- 3.5.1 At any time where an employee wishes to engage in alternative or supplementary employment, they must complete an Application to Engage in Secondary Employment Form and gain approval from the Employer to undertake such engagements.
- 3.5.2 New employees are required to notify the Employer of their work commitments to an alternative employer at the time of an offer of employment with the Employer. The provisions of 3.5.1 herein shall apply.

- 3.5.3** Employees are responsible to keep the Employer informed of any changes to their secondary employment arrangements.

3.6 ADDITIONAL SHIFTS/RECRUITMENT

- 3.6.1** Where permanent or relief shifts become available expressions of interest will be called for in the first instance to provide an opportunity for existing employees to apply.
- 3.6.2** This clause does not restrict the Employer from employing a new employee or allocating an available shift to any employee, if in the opinion of the Employer, the decision is in the best interests of Lerwin Nursing Home.

3.7 REDUNDANCY

- 3.7.1** In the event of a redundancy payment being required a Separation Package will comprise of the following:
- 3.7.2** 8 weeks' notice of termination or payment of salary in lieu thereof;
- 3.7.3** Severance payment of 3 weeks for every year of continuous service with the Employer to a maximum payment of 104 weeks which includes the period of notice payment pursuant to 3.1.3.1 herein.
- 3.7.4** An amount of up to 10% of the employee's annual salary may be reimbursed by the Employer, on the production of a receipt, for expenses incurred by the Employee for professional services to assist an employee who is genuinely seeking other employment.
- 3.7.5** All of the above VSP components, together with any other accrued entitlements, will be made by the one overall payment upon the employee leaving the employ of the Council and be taxed in accordance with the Australian Taxation Office requirements.

PART 4 – CLASSIFICATIONS, RATES OF PAY AND RELATED MATTERS

4.1 CLASSIFICATIONS

4.1.1 The following classifications are as defined in the Award.

- 1) Enrolled Nurse (EN)
- 2) Registered Nurse (RN)
- 3) Registered Nurse level 1 (RN1)
- 4) Registered Nurse level 2 (RN2)
- 5) Registered Nurse level 3 (RN3)
- 6) Registered Nurse level 4 (RN4)
- 7) Registered Nurse level 5 (RN5)

4.1.2 Additional classifications as set out below relate to the achievement of further formal qualifications as approved and required by the Employer.

4.1.2.1 Enrolled Nurse (Certificate) (ENC)

An Enrolled Nurse who holds a relevant Certificate qualification will be paid at the relevant pay point as prescribed in the seven (7) pay points for Enrolled Nurse (Certificate) shown at Appendix 1 herein.

4.1.2.2 Enrolled Nurse (Diploma) (END)

An Enrolled Nurse whose training or education is deemed satisfactory for the purposes of enrolment on a register or roll as a nurse other than as a RN, as regulated by the Australian Health Practitioners Regulation Authority (or successor registration authority) and holds a current Diploma will be paid at the relevant pay point as prescribed in the seven (7) pay points for Enrolled Nurse (Diploma) shown at Appendix 1 herein.

4.1.2.3 The pay points that apply to an END shall be based on the pay points that apply to an EN in accordance with the classification criteria prescribed in the Award and includes holding a Diploma qualification.

4.1.2.4 Care Coordinator

A classification of Care Coordinator applies to an Enrolled Nurse employed to supervise an area of the Home on weekday, early shifts.

4.2 ALLOWANCES FOR ADDITIONAL QUALIFICATIONS

4.2.1 Allowances for Additional Qualifications

4.2.1.1 An allowance shall be paid at the rate of 3.5% calculated on Registered Nurse Level 1 Year 10 and Enrolled Nurse with Diploma Year 7 on the achievement of specific qualifications. Specific rates and eligibility criteria are set out in Appendix 2.

4.2.1.2 An Enrolled Nurse (Advanced Diploma) (ENAD) is an employee whose training or education is deemed satisfactory for the purposes of enrolment on a register or roll as a nurse other than as a RN, as regulated by the Australian Health Practitioners Regulation Authority (or successor registration authority) and holds a current Advanced

Diploma. An allowance shall be paid to an ENAD in accordance with the relevant qualification achieved as specified at Appendix 2.

4.2.2 Nurse In Charge

A Registered Nurse Level 1 or Level 2 directed by the employer to take charge of a health unit on a Saturday, Sunday, Public Holiday or between the hours of 6:00pm and 8:00am on any day will be paid an allowance to bring the employee's substantive rate of pay per hour to that of a Registered Nurse Level 2, second year of service.

Should the nurse be an Enrolled Nurse due to no Registered Nurse being available, an allowance of \$20 per shift shall be paid.

4.3 TRANSITION FROM PERSONAL CARE ASSISTANT (PCA)

- 4.3.1** A PCA who has attained registration with AHPRA will be granted a period of not more than three months from the time they attain their registration as EN or RN to remain on the PCA roster. During this time, they may apply for a position as an Enrolled Nurse or Registered Nurse however such placement shall be entirely at the discretion of the Employer in accordance with operational needs.
- 4.3.2** All Award conditions specifically related to employment as a PCA shall cease from the date of registration as an END with AHPRA.

4.4 PAYMENT OF SALARIES

- 4.4.1** Salaries will be paid fortnightly.
- 4.4.2** Upon termination of the employment, salaries due to an employee will be paid to the employee in the next payroll cycle.
- 4.4.3** The Employer will provide each employee in a written form at the time when salaries are paid, particulars as required by legislation.

4.5 SALARY INCREASES

- 4.5.1** Upon approval of the Agreement by the Commission, the Employer agrees to award the following salary increases:
 - (a) First Pay Increase
3% effective from the first full pay period after 1 July 2018.
 - (b) Second Pay Increase
3% effective from the first full pay period after 1 July 2019
 - (c) Third Pay Increase
3% effective from the first full pay period after 1 July 2020
- 4.5.2** A salary schedule containing the rates of pay that apply under this Agreement is attached at Schedule 1.

4.6 INCOME PROTECTION

- 4.6.1** The Employer provides and will continue to hold for the term of this Agreement a policy of insurance to cover employees covered by this Agreement for personal accident and illness.
- 4.6.2** The cover will be for 24 hours a day and will cover illnesses and accidents that occur outside working hours, including travel to and from work.
- 4.6.3** The benefits relate only to weekly earnings in accordance with the insurer's Income Protection Insurance Policy.
- 4.6.4** The employer will continue to make Superannuation contributions on behalf of an employee who is accessing Income Protection for the period that they are absent. Contributions will be made at the same rate as the last pay period prior to the employee entering Income Protection.
- 4.6.5** Accruals of leave entitlements shall not apply to Employees who are absent from work and receive payments via income protection insurance. The period of time absent on Income protection will not break service, but shall not count towards service.
- 4.6.6** The Employer shall provide employees with an insurance policy to top up salaries when a decrease is experienced under the workers compensation scheme. This will ensure all employees injured at work receive full pay for the duration of the injury.

4.7 SUPERANNUATION

- 4.7.1** Occupational Superannuation contributions will be paid by the Employer on behalf of the employee into a fund nominated by the employee. If the employee does not nominate their choice, the default fund shall be HESTA (Health Employees Superannuation Trust Australia) which complies with the Australian Government's Operational Standards for Occupational Superannuation Funds.

4.8 SALARY PACKAGING

- 4.8.1** By agreement between the Employer and the employee, the employee can elect to package his/her gross salary.
- 4.8.2** The parties agree that packaging arrangements will be implemented on the following basis.
 - 4.8.2.1** The parties shall agree to the items capable of being included in the salary package in accordance with the Australian Taxation Rules and the Employer's Policy.
 - 4.8.2.2** The employee's substantive gross salary for all purposes including, but not limited to, Employer contribution superannuation, annual leave, annual leave loading, enterprise bargaining payments and increases, and long service leave, shall be the pre-sacrificing salary.
 - 4.8.2.3** The parties shall agree that the introduction of salary packaging will not result in additional cost to the Employer, including Fringe Benefits Tax.

4.9 INCREMENTAL PROGRESSION

The parties to the Agreement agree that the provisions for Incremental progression for employees who work less than full-time are set out below:

- 4.9.1** Employees shall be entitled to increments for service in their respective Classification Level following the completion of 1820 actual ordinary hours of work.
- 4.9.2** Progression to the next applicable increment can not occur earlier than twelve (12) months at the previous or existing increment.

PART 5 - HOURS OF WORK, SHIFT WORK, MEAL BREAKS AND OVERTIME

5.1 ORDINARY HOURS OF WORK

- 5.1.1** The maximum ordinary hours of work will be 8 hours per day (10 hours by agreement) and an average of 38 per week, to be worked according to a roster.

5.2 HOURS OF WORK AND SHIFT PROVISIONS

- 5.2.1** The parties accept that critical requirements for effective service provision by the organisation are flexible work conditions and hours of work to meet its needs, particularly considering resident care levels and funding which is commensurate with the level of resident care to be provided.
- 5.2.2** The maximum daily ordinary rostered 8 hours may, by mutual agreement between the Employer and an employee be up to a total of 10 hours per shift at the ordinary rate of pay.
- 5.2.3** The minimum engagement for employees working a rostered shift will be three (3) hours.
- 5.2.4** The minimum engagement for employees attending compulsory meetings and compulsory education meetings will be a minimum of two (2) hours paid at the ordinary rate except where a period of training is continuous with a rostered shift.
- 5.2.5** Payment to attend non-compulsory meetings and education activities shall be paid for the period of attendance, ie no minimum payment shall apply.
- 5.2.6** Payment to attend meetings and education activities as prescribed herein shall not include payment for travel time.

5.3 SHIFT WORK

5.3.1 Definitions

In this Agreement:

- 5.3.1(a)** **Afternoon shift** means a complete rostered shift commencing not earlier than 12.00 noon and finishing after 6.00 p.m. on the day of the shift.
- 5.3.1(b)** **Night shift** means a complete rostered shift worked between the hours of 6.00 p.m. and 7.30 a.m.

5.3.2 Penalty rates

All employees, with the exception of RN4 and RN5, are to be paid the following penalty rates when working on shifts:

- 5.3.2(a)** For all ordinary time worked on an afternoon shift Monday to Friday inclusive: 12.5%.

- 5.3.2(b)** For all ordinary time worked on night shift Monday to Friday inclusive: 20%:
- 5.3.2(c)** For all ordinary time worked between midnight Friday and midnight Saturday: 50%.
- 5.3.2(d)** For all ordinary time worked between midnight Saturday and midnight Sunday: 75%.

5.3.3 The additional payments specified above will not form part of an employee's ordinary pay for the purposes of this Agreement. The rates in 5.3.2 (c) and 5.3.2 (d) are in substitution of and not cumulative upon the rates prescribed in 5.3.2 (a) and 5.3.2 (b)

5.3.4 Transport

If an employee is required to work overtime and finishes work at a time when normal means of transport are not available, the Employer will provide such employee with the cost of a conveyance to the employee's home. This will not apply where a conveyance is provided by the Employer at the Employer's cost.

5.3.5 Daylight saving

5.3.5.1 Despite anything contained elsewhere in this Agreement, in any area where by reason of the *Daylight Saving Act, 1971*, South Australian Summer Time is prescribed as being in advance of South Australian Standard Time, the length of any shift:

5.3.5.1 (a) commencing before the time prescribed by the said Act for the commencement of a South Australian Summer Time period; and

5.3.5.1 (b) commencing on or before the time prescribed by the said Act for the termination of a South Australian Summer Time period:

will be deemed to be the number of hours represented by the difference between the time recorded by the clock at the beginning of the shift and the time so recorded at the end thereof, the time of the clock in each case to be set to the time fixed pursuant to the said Act.

5.3.5.2 The expression South Australian Summer Time and South Australian Standard Time will bear the same meaning as are prescribed by the said Act.

5.4 RECALLS AND CALLOUTS

5.4.1 Recalls/Extension to shift

- 5.4.1 (a)** An employee who is recalled to work after leaving the place of employment will be paid for a minimum of three hours work at the applicable overtime rate, provided that an employee is not required to work the full three hours if the work is completed in a shorter period.
- 5.4.1 (b)** Clause 5.4.1 (a) does not apply when a shift is extended and is continuous (subject to a reasonable meal break) with either commencement or completion of ordinary working time, ie called into work earlier than the rostered shift or requested to extend the shift to a maximum of ten hours.
- 5.4.1 (c)** Time worked in the circumstances of this sub-clause is not regarded as overtime for the purpose of the eight hour break provisions in the Award unless the actual time worked is more than the minimum of three hours on such recall or extended shift.

5.4.2 Callouts

- 5.4.2 (a)** An employee called to work without notice on the employees programmed day off will be paid overtime in accordance with this clause and is not entitled to substitute another day for the programmed day off.
- 5.4.2 (b)** Where a full-time employee has been given prior notice (such notice to be given as soon as practicable) that the employee will be required to work on a programmed day off due to an emergency, the employee will be paid at ordinary time for that day and a substitute day off will be granted.
- 5.4.2 (c)** Time worked in the circumstances of this sub-clause is not regarded as overtime for the purpose of the eight hour break provisions in the Award unless the actual time worked is more than a minimum of three hours on such callouts.

5.5 OVERTIME

- 5.5.1** All employees, with the exception of RN4 and RN5, are paid at overtime rates for any authorised work in excess of eight (or ten by agreement) ordinary working hours of a full-time employee or rostered hours set out in clause 5.1 - Ordinary hours of work. The overtime rates are as follows:

- 5.5.1(a)** Monday to Friday inclusive, is paid at the rate of 150% for the first three hours, and 200% thereafter until the completion of the overtime worked.
- 5.5.1(b)** Saturday and Sunday, is paid at the rate of 200% for all time worked.

- 5.5.2** Each day shall stand alone when calculating overtime.

5.6 MEAL BREAKS

- 5.6.1** On a shift of 5 hours or more, employees will have an unpaid meal break of not less than 30 minutes, free of all duty. Meal breaks are not regarded as working time.
- 5.6.2** One tea break of not less than ten minutes per four hour shift which will be counted as time worked. For shifts of 8 hours or more, two ten minute tea breaks shall be taken. By agreement, the two ten minute tea breaks may be taken as 1 twenty minute tea break.
- 5.6.3** When an employee is interrupted during a meal break by a call to duty, the extent of the interruption will be counted as time worked and the employee will be allowed to continue such meal break as soon as practicable. Should it be impracticable for the employee to complete such meal break during the remainder of the ordinary working hours, the employee will receive the appropriate overtime pay for the time so worked.

PART 6: LEAVE AND PUBLIC HOLIDAYS

6.1 ANNUAL LEAVE

6.1.1 Entitlement to annual leave

Annual leave shall accrue at the rate of five weeks per year. The entitlement will apply subject to the following provisions:

6.1.1 (a) No variations to existing shifts will occur unless a vacancy becomes available;

6.1.1 (b) The current practice of the Employer regarding a Nurse working no more than six (6) straight days (shifts) will continue; and

6.1.1 (c) The current practice of the Employer of only rostering Nurses over six (6) days of the week with one identified day accepted as never to be worked, will continue.

6.1.2 No more than 1.5 years (7.5 weeks) Annual Leave should be accrued at any time. Variations may occur by mutual agreement between the Employer and the employee where special circumstances exist.

6.1.3 Up to five single days of leave may be taken in a year of service. The balance of accrued leave is to be taken in blocks of at least of one week duration unless there is mutual agreement between the Employer and the employee and special circumstances exist.

6.1.4 Payment for annual leave

6.1.4 (a) Before going on annual leave an employee may request to be paid in advance the amount of wages they would have received in respect of ordinary time worked had they not been on leave during that period.

6.1.4 (b) Annual Leave will be paid at the relevant rate of pay provided by this Agreement.

6.1.5 Public Holidays on annual leave

6.1.5.1 Where a public holiday falls during an employee's period of annual leave, the period of leave will be increased by one day for each public holiday, if:

(a) the holiday is observed on a day which the employee would have normally been working; and

(b) the employee commences work at the employee's ordinary starting time on the employee's working day immediately following the last day of the employee's annual leave, or provides proof of reasonable cause for absence on that day.

6.1.5.2 Annual Leave shall not be approved for a single day on a Public Holiday.

6.1.6 Annual leave Loading

An employee is entitled to payment of a loading as follows:

A loading of 17.5% computed on the normal rate of pay for the classification of the employee at the commencement of such leave; or the weekend and shift penalties the employee would have received had the employee not been on leave during the relevant period; whichever is the greater.

Annual leave loading payment is payable on leave accrued in accordance with this clause.

6.2 PERSONAL LEAVE (SICK LEAVE AND CARERS LEAVE)

6.2.1 The provisions of this clause apply to full-time and regular part-time employees (on a pro rata basis) but do not apply to casual employees. Leave entitlements of casual employees are as provided for in the Award.

6.2.2 For the purposes of this Agreement, the following definitions shall apply:

6.2.2.1 'Immediate family' means the following:

- (a) a spouse or domestic partner;
- (b) a child;
- (c) a parent;
- (d) any other member of the person's household;
- (e) any other person who is dependent on the person's care;

6.2.2.2 'Domestic partner' means a person who is a domestic partner within the meaning of the Family Relationships Act 1975, whether declared as such under that Act or not.

6.2.3 An employee must as soon as is reasonably practicable, in advance of the next rostered shift and during the ordinary hours of the first day or shift of such absence, inform the Employer of their inability to attend for duty.

6.2.4 When taking leave for personal illness or injury, the employee must, if required by the Employer, establish by production of a medical certificate or statutory declaration that the employee was unable to work because of injury or personal illness.

6.2.5 However, unless required by the Employer, up to two days of sick leave absence may be allowed without the production of a medical certificate, or other reasonable evidence;

6.3 PARENTAL LEAVE

6.3.1 Twelve weeks paid parental leave shall be available to eligible employees. This leave may be taken at half pay for 24 weeks. All other provisions shall be in accordance with the Award.

6.3.2 The Employer shall administer parental leave payments made to employees in accordance with federal legislation.

6.4 OTHER LEAVE

6.4.1 Managers may authorise any reasonable request for paid or unpaid leave including maternity, special leave and other leave in addition to personal leave allocations, subject to being satisfied that any request is legitimate prior to granting approval and any potential impact on the activities of the Employer.

6.4.2 In particular, staff members are eligible for up to 2 days per incident of paid Bereavement Leave on the occasion of the loss of a family member. For the purposes of this clause, a Family Member is defined as being a spouse/partner, child or step-child, brother/sister, parent or step-parent.

6.5 FAMILY VIOLENCE LEAVE

6.5.1 General Principle

This employer recognizes that employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, the Employer is committed to providing support to staff that experience family violence.

6.5.2 Definition of Family Violence

Family violence includes physical, sexual, financial, verbal or emotional abuse by a family member.

6.5.3 General Matters

6.5.3.1 Proof of family violence may be required and can be in the form an agreed document issued by the Police Service, a Court, a Doctor, District Nurse, Maternal Health Care Nurse and a Family Violence Support Service or Lawyer.

6.5.3.2 All personal information concerning family violence will be kept confidential in line with Employer Policy and relevant legislation. No information will be kept on an employee's personnel file without their express written permission.

6.5.3.3 No adverse action will be taken against an employee if their attendance or performance at work suffers as a result of being a victim of family violence.

6.5.3.4 The employer will identify contact/s in Human Resources and across the organisation who will be trained in family violence and privacy issues, for example training in family violence risk assessment and risk management.

6.5.3.5 The employer will advertise the name of the contact within the organization.

6.5.3.6 An employee experiencing family violence may raise the issue with their immediate supervisor or the Human Resources contact. The supervisor may seek advice from Human Resources if the employee chooses not to see the Human Resources contact.

Where requested by an employee, the Human Resources contact will liaise with the employee's supervisor on the employee's behalf, and will make a

recommendation on the most appropriate form of support to provide in accordance with sub clauses 4 and 5.

- 6.5.3.7 The Employer will develop guidelines to supplement this clause and which details the appropriate action to be taken in the event that an employee reports family violence.

6.5.4 Leave

- 6.5.4.1 An employee experiencing family violence will have access to their bereavement leave entitlement (up to 2 days paid leave per incident) for medical appointments, legal proceedings and other activities related to family violence.
- 6.5.4.2 This leave may be taken as consecutive or single days or as a fraction of a day.
- 6.5.4.3 Under this clause, an incident includes but is not necessarily limited to time required for:
1. Seeking emergency shelter or alternative housing
 2. Attending court, legal or police proceedings
 3. Seeking or accessing support for affected children
 4. Counselling or accessing associated support services
- 6.5.4.4 An employee who supports another staff member experiencing family violence may take carer's leave to accompany them to court, to hospital, or to mind children.

6.5.5 Individual Support

- 6.5.5.1 In order to provide support to an employee experiencing family violence and to provide a safe work environment to all employees, the Employer may approve any reasonable request from an employee experiencing family violence for:
1. changes to their span of hours or pattern or hours and/or shift patterns;
 2. job redesign or changes to duties;
 3. relocation to suitable employment within the Employer;
 4. a change to their telephone number or email address to avoid harassing contact;
 5. any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.
- 6.5.5.2 An employee experiencing family violence will be offered a referral to the Employee Assistance Program (EAP) and/or other local resources. The EAP shall include professionals trained specifically in family violence.
- 6.5.5.3 An employee that discloses to HR or their supervisor that they are experience family violence will be given a resource pack of information regarding support services.

6.6 PUBLIC HOLIDAYS

- 6.6.1 Public holidays shall be as prescribed by the Public Holidays Act and any other day which by proclamation or Act of Parliament may be declared a public holiday or any other day which may be substituted for any such day.

6.6.2 Payment and entitlements

- 6.6.2(a) Employees (other than casual employees) are entitled to public holidays as provided for in 6.5.1 without loss of pay.

- 6.6.2(b)** Employees (other than casual employees) who would normally work on the day of the public holiday and are not required to work on such day will be paid at ordinary rates of pay as if they had worked their normal number of hours on that day.
- 6.6.2(c)** Employees (other than casual employees) will be paid an additional 150% of the appropriate rate based on the ordinary hourly rate as defined, for actual hours worked, on the public holidays as prescribed in 6.5.1.
- 6.6.2(d) Casual employees**
- 6.6.2(d) (i)** Ordinary time worked on any public holiday will be paid at the rate (inclusive of casual loading) of 250% of their ordinary hourly rate of pay
- 6.6.2(d)(ii)** All time worked on any public holiday in excess of the ordinary daily hours as prescribed in Clause 5.1 - Ordinary hours will be paid at the rate (inclusive of casual loading) of 275% of their ordinary hourly rate of pay.
- 6.6.2(e) Payment for work performed by full-time or part-time employees on 25 December when Christmas Day falls on a Saturday or Sunday.**
- 6.6.2(e) (i)** This clause applies when Christmas Day falls on a Saturday or Sunday and a substitute public holiday has been proclaimed.
- 6.6.2(e) (ii)** An employee who works on 25 December shall be paid an additional 150% of the ordinary rate for the actual hours worked on that date. This payment is in substitution of other penalties that would usually apply to Saturday or Sunday work.
- 6.6.2(e) (iii)** The provisions of clause 6.5.2 - Payment and entitlements - will apply in relation to a substitute public holiday.
- 6.6.2(e) (iv)** An employee who is rostered to work on both 25 December and the substitute public holiday shall be paid in accordance with sub-clause (ii) and (iii) of this clause provided that such an employee may elect to be paid at ordinary time rates for work on that substitute public holiday and take an additional day off work at a time convenient to the Employer.

PART 7 – MISCELLANEOUS

7.1 WORK HEALTH & SAFETY

The parties agree that adherence to work health and safety legislation, aged care legislation and standards, work health and safety policies, guidelines and procedures is critical for the Employer, all employees and the residents of the Lerwin Nursing Home. The following principles shall apply:

- The Employer is committed to ensuring that the workplace protects employees and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work; and
- Employees are committed to working safely and to share the responsibility of maintaining a safe working environment that protects themselves and others in the workplace.

7.2 SAFE STAFFING LEVELS & SKILL MIX

7.2.1 Staffing levels and skills mix should be driven primarily by the need to achieve optimal health and quality of life outcomes for, and meet the needs of, people requiring or in receipt of aged care services.

7.2.2 In determining staffing levels and skills mix, the following variables need to be taken into consideration:

- the resident or client profile and their nursing/health care needs;
- palliative care;
- the complexity of care required, including factors such as: frailty or dementia;
- the location of the facility or service, whether metropolitan rural or remote; and
- the nature of the care provided, whether short or long term, rehabilitative or the type and design of the facility or the focus of the service.

7.2.3 The level of staffing and the skills mix of staff must enable Lerwin Nursing Home and staff to meet their duty of care responsibilities in providing quality care to people requiring or in receipt of aged care services, especially special needs groups such as those requiring dementia care, palliative care or complex nursing care.

7.2.4 The level of staffing and the skills mix of staff must also enable Lerwin Nursing Home to meet their responsibilities under occupational health and safety legislation and must aim for the promotion of a safe and healthy workplace.

7.2.5 To meet optimal health and quality of life outcomes at an individual and service level, Lerwin Nursing Home will establish a process for determining staffing levels and skills mix, which provides flexibility at the local level to respond in a timely manner to changes in the care needs of residents in the facilities and clients in the community; and which also takes into consideration work and life balance for staff and gives priority to permanent employment.

7.2.6 The level of staffing and the skills mix of staff should be regularly reviewed and adjusted at the local level with staff allocated/rostered according to the resident or

client profile and any other changing service variable. Consultation with staff and the Unions must occur when changes to the level of staffing and the skills mix of staff have an impact on staff working conditions or to their work and family balance.

- 7.2.7** Lerwin Nursing Home will ensure that all staff have the necessary skills for them to be able to perform the role required of them or facilitate access to suitable training for the acquisition of such skills. All staff should have, or undertake, a basic qualification or equivalent experience for entry to work in the sector and be provided with opportunities for further education and professional development. This is an essential component of continuous quality improvement and the provision of quality care.¹

7.3 WORKLOAD MANAGEMENT

7.3.1 The parties to this agreement acknowledge that employees and management have a responsibility to maintain a balanced workload and recognize the adverse effects that excessive workloads may have on employee/s and the quality of resident/client care.

7.3.2 To ensure that employee concerns involving excessive workloads are effectively dealt with by Management the following procedures should be applied:

- (a) In the first instance, employee/s should discuss the issue with their immediate supervisor and where appropriate, explore solutions.
- (b) If a solution cannot be identified and implemented, the matter should be referred to an appropriate senior manager for further discussion.
- (c) If a solution still cannot be identified and implemented, the matter should be referred to the Facility Manager for further discussion.
- (d) The outcome of the discussions at each level and any proposed solutions should be recorded in writing and fed back to the effected employees.

7.3.3 Workload management must be an agenda item at staff meetings on at least a quarterly basis. Items in relation to workloads must be recorded in the minutes of the staff meeting, as well as actions to be taken to resolve the workloads issue/s. Resolution of workload issues should be based on the following criteria including but not limited to:

- (a) Clinical assessment of residents' needs;
- (b) The demand of the environment, such as facility layout;
- (c) Statutory obligation, including but not limited to, workplace health and safety legislation;
- (d) The requirements of nurse regulatory legislation;
- (e) Reasonable workloads;
- (f) Accreditation standards; and
- (g) Budgetary considerations.

7.3.4 If the issue is still unresolved, the employee/s may advance the matter through Dispute Resolution.

¹ Certain work systems require RN's and EN's to delegate work eg. PCA's

7.4 PERFORMANCE MANAGEMENT

The Employer shall follow the principles and process of managing employee performance and disciplinary matters as outlined in the Employer's Performance Management Policy and Procedure and Code of Conduct for Employees.

7.5 STAFF DEVELOPMENT

- 7.5.1** Full time RNs and ENs will be able to seek approval for two (2) days paid leave to complete Education / Development relevant to the nature of their role and activities of The Rural City of Murray Bridge.
- 7.5.2** Part time RNs and ENs working an average of greater than twenty (20) hours per week will be able to seek approval of leave pro rata, paid to complete Education / Development relevant to the nature of their role and activities of The Rural City of Murray Bridge.
- 7.5.3** Professional Education leave is non-cumulative.
- 7.5.4** For staff required to attend the worksite for compulsory training or staff meetings, a minimum engagement of two hours shall apply. Staff undertaking "on-line" training will be paid a minimum of one hour (or the time actually taken, whichever is greater) for completion of each unit/module required.

PART 8 – WORKSITE REPRESENTATIVES RECOGNITION AND TRAINING

8.1 RECOGNITION OF WORKSITE REPRESENTATIVES

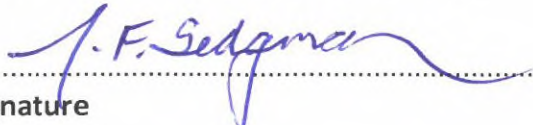
- 8.1.1** An employee elected as an ANMF Worksite Representative will, upon notification to the employer, be recognised as an accredited representative of the Union. An accredited Worksite Representative is allowed reasonable time during working hours to interview and/or meet with the employer or the employers' representative on industrial matters affecting employees whom they represent.
- 8.1.2** Subject to the prior approval of the employer, a worksite representative shall be allowed at a place designated by the employer a reasonable period of time during working hours to interview a duly accredited official from the ANMF.

8.2 TRADE UNION TRAINING LEAVE

- 8.2.1** A maximum of five full days per year shall be allowed for employees who are members of the Australian Nursing and Midwifery Federation (SA Branch) and elected as a Worksite Representative to attend Trade Union Training,. A minimum of fourteen (14) days notice will be given to the employer.
- 8.2.2** All applications for leave must be made in writing detailing:
- the name of the employee seeking leave
 - period of time for which leave is sought
 - title and description
 - the place or places where the said course will be held
- 8.2.3** Should a programmed day off fall during an employee's attendance at a course, a day off in lieu of that day will be granted.
- 8.2.4** Leave of Absence granted pursuant to this clause, shall count as service for all purposes of this Agreement.
- 8.2.5** Each employee on leave approved in accordance with this clause, shall be paid the rate they would otherwise have received in attendance at work.
- 8.2.6** All expenses (such as travel, accommodation and meals) associated with or incurred by the employee attending a training course as provided in this clause shall be the responsibility of the employee or the Union.
- 8.2.7** An employee may be required to satisfy the employer of attendance at the course to qualify for payment of leave.
- 8.2.8** In the event of a disagreement arising from the outcome of this clause, the matter may be settled using the Dispute Settlement Procedures of the Agreement.

PART 9 – SIGNATORIES

SIGNED ON BEHALF OF THE EMPLOYER


.....
Signature

.....
Date

MICHAEL SEDGMAN
.....
Name in Full

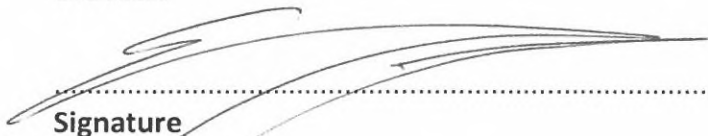
CHIEF EXECUTIVE OFFICER
.....
Position

2 Seventh St, Murray Bridge
.....
Address


.....
Witness

MARTIN SMALLRIDGE
.....
Witness Name in Full

SIGNED ON BEHALF OF THE AUSTRALIAN NURSING AND MIDWIFERY FEDERATION SOUTH AUSTRALIAN BRANCH



.....
Signature

11 Jan 2019
.....
Date

Adj Associate Professor Elizabeth Dabars AM
.....
Name in Full Branch Secretary, ANMF South Australian Branch

Position Australian Nursing & Midwifery Federation - SA
191 Torrens Road
.....
RIDLEYTON SA 5008

Address


.....
Witness

Gabrielle Starr
.....
Witness Name in full

**LERWIN NURSING HOME
SALARY SCHEDULE
2018-2020**

2018 Salary Increase			2019 Salary Increase			2020 Salary Increase		
Classification	3.00% FFPP after 1 July 2018	Hourly Rate	3.00% FFPP after 1 July 2019	Hourly Rate	3.00% FFPP after 1 July 2020	Hourly Rate		
RN LEVEL 1								
Year 1	\$51,877.78	\$26.26	\$53,434.11	\$27.04	\$55,037.14	\$27.86		
Year 2	\$54,372.30	\$27.51	\$56,003.47	\$28.34	\$57,683.57	\$29.19		
Year 3	\$56,956.02	\$28.82	\$58,664.70	\$29.69	\$60,424.65	\$30.58		
Year 4	\$59,519.82	\$30.12	\$61,305.41	\$31.02	\$63,144.57	\$31.95		
Year 5	\$62,067.15	\$31.41	\$63,929.17	\$32.35	\$65,847.04	\$33.32		
Year 6	\$64,615.67	\$32.70	\$66,554.14	\$33.68	\$68,550.76	\$34.69		
Year 7	\$67,165.37	\$34.00	\$69,180.33	\$35.02	\$71,255.74	\$36.07		
Year 8	\$69,709.18	\$35.28	\$71,800.45	\$36.34	\$73,954.47	\$37.43		
Year 9	\$71,114.34	\$35.99	\$73,247.77	\$37.07	\$75,445.20	\$38.18		
Year 10	\$72,536.62	\$36.71	\$74,712.72	\$37.81	\$76,954.10	\$38.94		
RN LEVEL 2								
Year 1	\$72,257.70	\$36.57	\$74,425.44	\$37.67	\$76,658.20	\$38.80		
Year 2	\$73,957.50	\$37.43	\$76,176.23	\$38.55	\$78,461.52	\$39.71		
Year 3	\$75,656.12	\$38.29	\$77,925.81	\$39.44	\$80,263.58	\$40.62		
Year 4	\$77,355.92	\$39.15	\$79,676.60	\$40.32	\$82,066.90	\$41.53		
RN LEVEL 3		\$0.00						
Year 1	\$80,540.68	\$40.76	\$82,956.90	\$41.99	\$85,445.60	\$43.24		
Year 2	\$82,448.25	\$41.72	\$84,921.69	\$42.97	\$87,469.35	\$44.26		
Year 3	\$84,361.70	\$42.69	\$86,892.55	\$43.98	\$89,499.33	\$45.29		
Year 4+	\$86,273.97	\$43.67	\$88,862.19	\$44.98	\$91,528.05	\$46.33		
2018 Salary Increase			2019 Salary Increase			2020 Salary Increase		
Classification	3.00% FFPP after 1 July 2018	Hourly Rate	3.00% FFPP after 1 July 2019	Hourly Rate	3.00% FFPP after 1 July 2020	Hourly Rate		
RN LEVEL 4								
Grade 1	\$91,158.53	\$46.14	\$93,893.29	\$47.52	\$96,710.09	\$48.95		
Grade 2	\$95,405.67	\$48.28	\$98,267.84	\$49.73	\$101,215.87	\$51.22		
Grade 3+	\$103,896.42	\$52.58	\$107,013.31	\$54.15	\$110,223.71	\$55.78		
RN LEVEL 5								
Grade 1	\$96,463.34	\$48.82	\$99,357.24	\$50.28	\$102,337.96	\$51.79		
Grade 2	\$102,832.88	\$52.04	\$105,917.87	\$53.60	\$109,095.40	\$55.21		
Grade 3	\$111,328.32	\$56.35	\$114,668.17	\$58.04	\$118,108.21	\$59.78		
Grade 4	\$119,820.26	\$60.64	\$123,414.86	\$62.46	\$127,117.31	\$64.34		
Grade 5	\$134,681.72	\$68.16	\$138,722.17	\$70.20	\$142,883.84	\$72.31		
Grade 6,	\$149,546.70	\$75.69	\$154,033.10	\$77.96	\$158,654.10	\$80.30		

2018 Salary Increase			2019 Salary Increase			2020 Salary Increase		
Classification	3.00% FFPP after 1 July 2018	Hourly Rate		3.00% FFPP after 1 July 2019	Hourly Rate		3.00% FFPP after 1 July 2020	Hourly Rate
EN WITH CERT								
Student <21	\$31,454.41	\$15.92		\$32,398.05	\$16.40		\$33,369.99	\$16.89
Student >21	\$36,699.36	\$18.57		\$37,800.34	\$19.13		\$38,934.35	\$19.70
Y1	\$47,291.38	\$23.93		\$48,710.12	\$24.65		\$50,171.43	\$25.39
Y2	\$48,309.16	\$24.45		\$49,758.43	\$25.18		\$51,251.18	\$25.94
Y3	\$49,329.26	\$24.97		\$50,809.14	\$25.72		\$52,333.42	\$26.49
Y4	\$50,347.03	\$25.48		\$51,857.44	\$26.24		\$53,413.16	\$27.03
Y5	\$51,364.78	\$25.99		\$52,905.73	\$26.77		\$54,492.90	\$27.58
Y6	\$52,382.56	\$26.51		\$53,954.03	\$27.31		\$55,572.65	\$28.12
Y7+	\$53,401.48	\$27.03		\$55,003.53	\$27.84		\$56,653.63	\$28.67
EN WITH DIPLOMA								
Y1	\$48,946.58	\$24.77		\$50,414.97	\$25.51		\$51,927.42	\$26.28
Y2	\$50,000.73	\$25.31		\$51,500.75	\$26.07		\$53,045.78	\$26.85
Y3	\$51,054.88	\$25.83		\$52,586.52	\$26.61		\$54,164.12	\$27.41
Y4	\$52,107.86	\$26.37		\$53,671.10	\$27.16		\$55,281.23	\$27.98
Y5	\$53,163.19	\$26.90		\$54,758.08	\$27.71		\$56,400.83	\$28.54
Y6	\$54,217.34	\$27.44		\$55,843.86	\$28.26		\$57,519.18	\$29.11
Y7+	\$55,270.33	\$27.97		\$56,928.44	\$28.81		\$58,636.29	\$29.67

Note: The hourly rate is calculated by dividing the annual salary by 26 (fortnights) and then by 76 (hours per fortnight).

QUALIFICATION ALLOWANCES AND CONDITIONS OF ELIGIBILITY

1. ALLOWANCES

1.1 Registered Nurses Levels 1, 2 and 3 Enrolled Nurses with Diploma Year7

	2018	2019	2020
	3.0% increase	3.0% increase	3.0% increase
Hospital or Graduate Certificate	\$2,537.80	\$2,613.93	\$2,692.35
Graduate Diploma	\$2,964.35	\$3,053.28	\$3,144.88
Second Degree, Masters or PhD	\$3,623.10	\$3,731.79	\$3,843.75
Enrolled Nurse with Approved Certificate	\$1,887.23	\$1,943.85	\$2,002.16

The following Hospital Certificates or equivalent qualification such as a Diploma issued by a University or College of Advanced Education prior to the implementation of Graduate Certificates or Graduate Diplomas in relevant nursing practice areas are recognised for the purpose of entitlement to the qualification allowance:

- Gerontic
- Stomal Therapy
- Palliative Care
- Diabetes
- Dementia
- Psychological training
- Wound care
- Other qualification authorised by the Employer.

2. ELIGIBILITY CONDITIONS

- 2.1.** Any additional qualification must be in addition to the basic qualification(s) required for an employee's position and must be directly relevant, ie it must apply to the employee's classification, position description requirements and the employee's current area of practice, position or role.
- (i) A qualification allowance cannot be claimed in respect of an employee's base qualification leading to registration or enrolment;
 - (ii) the approved qualification pertains to a course of a minimum of six months duration;
 - (iii) only one allowance is payable. Where more than one additional, relevant qualification (as determined by the Employer pursuant to 2.1 herein) is held by an employee, only the higher or highest qualification allowance applicable will be paid;
 - (iv) the allowance is available on a pro rata basis for part time employees;
 - (v) the allowance is payable on a fortnightly basis;
 - (vi) the allowance is payable during paid leave; and
 - (vii) an employee claiming entitlement to a qualification allowance must provide the Employer with written evidence of having satisfactorily completed the requirements for the qualification for which the entitlement is claimed.

No 43 of 2018 published in *Gazette* 13.2.2018 p 782

South Australia Local Government (General) (Employee Code of Conduct) Variation Regulations 2018

under the *Local Government Act 1999*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Local Government (General) Regulations 2013*

- 4 Variation of regulation 8A—Code of conduct for employees
- 5 Insertion of Schedule 2A

Schedule 2A—Code of conduct for employees

- 1 Gifts and benefits
- 2 Complaints

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Local Government (General) (Employee Code of Conduct) Variation Regulations 2018*.

2—Commencement

These regulations will come into operation on 2 April 2018.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Local Government (General) Regulations 2013*

4—Variation of regulation 8A—Code of conduct for employees

Regulation 8A—delete "published by the Minister in the Gazette on the day on which this regulation is made (and as in force on that day) is adopted as a code of conduct to be observed by the employees of all councils" and substitute:

set out in Schedule 2A is prescribed

5—Insertion of Schedule 2A

After Schedule 2 insert:

Schedule 2A—Code of conduct for employees

1—Gifts and benefits

- (1) An employee of a council must not seek out or receive a gift or benefit that is, or could reasonably be taken to be, intended or likely to create a sense of obligation on the part of the employee to a person or influence the employee in the performance or discharge of the employee's functions or duties.
- (2) If an employee of a council receives a gift or benefit of an amount greater than the amount determined by the Minister (from time to time), by notice published in the Gazette, the employee must provide details of the gift or benefit to the chief executive officer of the council in accordance with any requirements of the chief executive officer.
- (3) The chief executive officer of a council must maintain a register of gifts and benefits received by employees of the council and must ensure that the details of each gift and benefit provided under this clause are included in the register.
- (4) A register maintained under this clause must be—
 - (a) made available for inspection at the principal office of the council during ordinary office hours without charge; and
 - (b) published on a website determined by the chief executive officer.
- (5) A register maintained under this clause—
 - (a) need not include information available in another register published by, or available for inspection at, the council or otherwise available under the Act; and
 - (b) may include information by reference to another register or document, provided the register or document is published by, or available for inspection at, the council and the register maintained under this clause identifies that other register or document.
- (6) For the purposes of this clause, a gift or benefit received by a person related to an employee of a council will be treated as a gift or benefit (as the case requires) received by the employee.
- (7) Unless the contrary intention appears, terms and expressions used in this clause and in Schedule 3 of the Act have the same respective meanings in this clause as they have in that Schedule, provided that a reference in Schedule 3 to a **member** will be taken, for the purposes of this clause, to be a reference to an **employee**

(8) Note—

The Act requires that certain gifts and benefits must be disclosed by employees and recorded on the Register of Interests relating to employees.

2—Complaints

- (1) A complaint alleging that an employee of a council has contravened or failed to comply with the code set out in this Schedule must be dealt with in accordance with a policy prepared and maintained by the council relating to complaints against employees.
- (2) The policy referred to in subclause (1) must nominate a person or persons to whom complaints are to be given and, in the case of a complaint against the chief executive officer of the council, must provide for the complaint to be given to the principal member of the council, except in circumstances where it would be inappropriate to do so (for example, if the matter to which the complaint relates must be kept confidential under an Act or law).

Policy Name	Discipline Policy	H501
Originator	Human Resources	
Date approved by SMT	6 October 2009	
Last revision date	26/07/2009	Rev No 4
Applicable legislation	Municipal Officers' Award Local Government Employees' Award Australian Nursing Award Health Services Award Workplace Agreements Local Government Act (1999) Fair Work Act 2004 (SA) Fair Work Act 2009 (Fed)	

1. Introduction

This policy is to ensure that all discipline matters involving staff employed by the Rural City of Murray Bridge are handled in a fair, just and reasonable manner.

2. Definitions

- Employees are all persons paid through the Council payroll system.

3. Purpose of Policy

- The purpose of this policy is to provide a basis for resolving issues associated with inappropriate employee conduct and/or behaviour which breaches Council policies and procedures, legislative provisions, and/or the "Employee Code of Conduct" as applicable within the workplace.
- The policy also provides employees with the opportunity to modify their conduct and/or behaviour to align with expected standards.
- The policy applies to all Council employees (excluding temporary agency staff). It ensures all employees understand their rights and responsibilities with respect to workplace conduct and behaviour and the standards which are expected of them.
- The policy is designed to support the development of mutual trust and respect between managers / supervisors / team leaders and employees whilst enabling managers/supervisors/team leaders to take constructive and required action as necessary.
- Council expects managers and supervisors to exercise discretion and sound judgement when dealing with minor issues, treating employees with dignity and respect and as responsible individuals.
- Where management considers a serious breach has occurred investigative action will be initiated immediately in accordance with the discipline procedure so as to minimise any unnecessary impact to the operation of the Council as well as protecting the rights of the individual concerned.
- In addition, this policy and its associated procedure is aimed at ensuring such issues are dealt with in a fair, consistent and confidential manner within agreed timeframes to achieve the best possible outcome for the employee and the Council, both in a current and future context.

4. Policy Statement

- The Council will provide staff with clear expectations on the standards of behaviour expected of them in the workplace and as set down in Council's "Employee Code of Conduct", policies and procedures
- The information will be provided to employees upon commencement with the Council as part of their organisational and unit induction. These standards and requirements will be further reinforced as part of the Probationary and Annual Performance Review Process.
- The decision to initiate disciplinary action will only be made subject to:
 - 4..1 an investigation being completed to determine the facts;
 - 4..2 the presenting of these facts to the employee concerned
 - 4..3 exploring other potential avenues for dealing with the matter and fully exhausting these
 - 4..4 consultation occurring between the immediate Supervisor/Team Leader, Unit Manager, Human Resources Manager and the Chief Executive Officer.

- Once a decision has been made to initiate the discipline process it will commence as soon as practicable in accordance with the Discipline Procedure.

5. Legislation or Other Relevant Documents

- Employee Code of Conduct
- Fair Work Act [SA] 1994
- Fair Work Act [Fed] 2009
- Council Workplace Agreements
- Relevant Awards

6. Delegations

The Chief Executive Officer is responsible for the implementation of the Discipline Policy and Procedure.

7. Relevant Policies / Procedures

This policy should be read in conjunction with the following Policy and Procedures:

- Grievance Policy and Procedure
- Discipline Procedure

8. Post Implementation Action

The official copy will be held within Council's electronic records system.

An electronic PDF version will be kept on the Rural City of Murray Bridge intranet site.

This policy will be reviewed on an annual basis, or as required.

Procedure Name:	Discipline Procedure	
Originator	Human Resources	
Date approved by SMT	6 October 2009	
Last revision date	Nil	Rev No
Applicable legislation	<ol style="list-style-type: none"> 1. Municipal Officers' Award 2. Local Government Employees' Award 3. Australian Nursing Award 4. Health Services Award 5. Workplace Agreements 6. Local Government Act (1999) 7. Fair Work Act 2004 (SA) 8. Fair Work Act 2009 (Fed) 	

1. Aim

This policy is to ensure that all discipline matters involving staff employed by the Rural City of Murray Bridge are handled in a just, fair and reasonable manner.

2. The Discipline Process

2.1 Minor and Serious Misdemeanours

For the purpose of this procedure, a misdemeanour relates to both poor work performance and inappropriate behaviour. A single misdemeanour can be categorised as either a minor misdemeanour or a serious misdemeanour. A number of minor acts of misdemeanour may be categorised as a serious misdemeanour, for example continual lateness in attendance, inappropriate attire (not Personal Protective Equipment).

2.2 Minor Misdemeanour

A minor misdemeanour need not be dealt with on the basis of a formal disciplinary action but may be dealt with informally by the supervisor / manager, for example lateness in returning from an unpaid lunch break.

Where an employee repeats unacceptable behaviour and / or performance or commits further acts of minor misdemeanour, the supervisor will exercise discretion as to the appropriate course of action. Each situation will be considered on its merits. The supervisor may decide:

- To effect further counselling and/or guidance;
- That the situation justifies a verbal warning. Where a verbal warning is given in response to a misdemeanour, it shall be given in the presence of a third party and shall be appropriately diarised by the manager/supervisor. No record on the personnel file will be kept of these instances unless escalated to a formal disciplinary process at a later date.
- The situation is to be regarded as a serious misdemeanour and the formal disciplinary process needs to be implemented.

2.3 Serious Misdemeanour.

A serious misdemeanour could be an act of harassment, bullying, petty theft or refusal to carry out a legal and reasonable instruction from the employer.

An act of "serious and wilful misconduct" can result in the summary (instant) dismissal of an employee. The serious misdemeanour referred to in this paragraph is not an act of serious and wilful misconduct. Serious and wilful misconduct resulting in instant dismissal is outlined at point 5 below. Summary dismissal is not an appropriate response to poor performance. Poor performance should be dealt with by an appropriate Performance Management Program.

A performance matter and/or behaviour matter may be immediately determined as serious in nature, in which case the formal disciplinary process commences.

3. Formal Disciplinary Process (Serious Misdemeanour)

The formal disciplinary process involves **three** stages.

Stage 1.

Once a disciplinary matter has been brought to the attention of the supervisor, the supervisor must conduct an investigation into the matter. Following the investigation, should there be sufficient evidence to suggest a misdemeanour or inappropriate behaviour/performance, the supervisor will inform the employee of:

The "alleged misdemeanour" against the employee and that if proven, disciplinary action could result.

The time and place for the employee to provide an explanation and their right to representation

The Meeting [Refer 6.1 Give Notice]

At the meeting the employee should be given the opportunity to explain his/her side of the story, "what happened and why" together with any mitigating circumstances.

The supervisor shall record details of what was said and after having collected all the relevant information shall adjourn the meeting to consider the facts of the case. This would usually involve consultation with the Manager in charge of the work area and may involve consultation with the CEO depending upon the nature of the misdemeanour.

The Decision.

After considering all the evidence, should it be established "beyond reasonable doubt" that the employee committed a misdemeanour, (short of serious misconduct justifying summary dismissal), a formal warning shall be given together with any other form of corrective action deemed appropriate, for example, counselling, training, transfer, removal of a privilege. The employee should be informed of this decision as soon as is reasonable given the circumstances. An employee aggrieved by the decision may take the matter before the next level of management providing the manager / supervisor is informed of the employee's concerns and that they wish to pursue this to the next level of authority.

The Warning

A letter of formal warning is to be drafted to the employee detailing the exact nature of the allegations and the findings regarding the investigation. A copy of the letter is to be given to the employee for the employee to sign (if they wish) as an acknowledgment that they have received the warning and understand the ramification of any further acts of misconduct. The employee is also to be given the right of response which will be attached to the letter and placed on the employee's Personnel File, together with any other supporting documentation. If there are no further disciplinary matters, letters of warning can be removed after 12 months on the employee's Personnel File.

Stage 2

In the event of the serious misdemeanour being repeated or further acts of misdemeanour being committed, the supervisor may implement a counselling or guidance session(s) or may decide a second and final warning is necessary. The procedure to be followed is as per 3.1 with the exception that the Manager, Human Resources will be involved in the investigation:

Monitoring Performance.

Where deficiencies in performance have been identified and actions agreed for improvement, it is essential that the action is implemented and performance monitored on a regular basis. Similarly detailed records of any counselling or guidance sessions are to be kept with copies provided to the employee and Manager, Human Resources.

Second Warning.

If the employee's performance does not improve, or there is another occurrence of misdemeanour, then a final written warning may be given to the employee. The process outlined in the first written warning would apply. The final warning should state clearly that this is the final warning and that if the employee's performance or conduct does not improve then the employee will be dismissed. Once again a meeting should be held to allow the employee a chance to respond with any written submission placed on the employee's Personnel File.

Stage 3.

The validity of the allegation needs to be established via an investigation undertaken by the supervisor and a Senior Executive Officer (Departmental Manager and / or Chief Executive Officer) and involving the Manager Human Resources as required. Steps to be taken once all witnesses and facts have been concluded include:

The Meeting [Refer 6.1 Give Notice]

Inform the employee of the alleged misdemeanour/ performance deficiency, the time, place, and purpose of the meeting and their right to representation. At the meeting advise the employee of the facts and seek an explanation. Details of the allegation or performance deficiencies need to be specific with the employee given ample opportunity to respond. Responses should include any mitigating circumstances together with any reasons why the employee feels that he/she should not be dismissed if the allegation(s) / performance deficiency is proven. Again detailed notes should be taken prior to the meeting being terminated.

The Decision.

All the facts, including the employee's explanation and reasons why dismissal should be carried out are to be brought to the CEO for consideration. Where termination of employment or other formal disciplinary action is decided, the employee will be advised that a further meeting is to be held.

Final Meeting

Where termination of employment has been decided as being appropriate, the employee will be advised and given pay in lieu of notice, (generally 2 weeks). A formal letter of termination to the employee will detail the reasons for termination of employment. Similarly, if any other action had been decided upon, (for example transfer, demotion or loss of some privilege), details of the arrangement will be detailed in a formal letter written to the employee.

4. Criminal Conduct

The situation sometimes occurs where an employee is guilty of misconduct which also amounts to criminal conduct. Such Misconduct can occur either during the employee's employment or completely outside of the workplace. Both should be treated separately.

4.1 Criminal Conduct in the Workplace

Should the misconduct occur in the workplace it may also require police investigation particularly when the criminal offence is directed against the employer, (for example, stealing from the employer or acts of fraud). Depending on the severity and nature of the alleged offence, the police may be contacted to undertake investigations into the matter. This does not necessarily remove the requirement to hold an internal investigation into the matter even if the employee is in police custody and the inquiry has to be held in the employee's absence. Procedural process and fairness must still be maintained.

4.2 Criminal Conduct Outside the Workplace

Where an employee commits a criminal offence outside the workplace, it can be difficult to establish what detrimental effect the crime would have on the employment relationship. It may be that the crime bears no relevance to the nature of the employee's job and it would be unreasonable to terminate the employment. **(A criminal offence is an offence which appears in the Criminal Consolidations Act as an indictable offence.)**

For example, an employee convicted for Driving Under the Influence (DUI) would not be expected to be dismissed for the offence unless it prevented him/her from carrying out their employment responsibilities. In such instances, holding a current drivers licence is generally stated as an essential qualification for the position and would as such be paid for by the employer. Therefore, losing an essential qualification would usually result in loss of employment as it renders the employee unable to carry out his/her side of the contract and therefore frustrates the employment relationship. Some direct and definite link between the two must be established to result in the termination.

5. Transferring or Suspending an Employee (with pay).

In some circumstances it may be appropriate to transfer an employee to another work group or location, or if necessary, suspend the employee whilst the investigation is being carried out. This may be particularly appropriate where theft or fraud has occurred and the Police are investigating, or when an harassment claim has been lodged by an employee against a fellow employee and it is unlikely that the parties can continue working together whilst the investigation is under-way.

The first option is to transfer or relocate the employee but the circumstances may require the suspension of the employee.

Any decision to suspend with pay, (Section 103, Subsections (1) & (4), Local Government Act 1999) rests with the CEO (or his/her delegate) and shall be made on the best information available at the time, on a case by case basis.

6. Summary (Instant) Dismissal

Summary dismissal is dismissal without notice, which is available where the employee is guilty of serious misconduct. (Conduct which justifies summary dismissal must strike at the very heart of the employment relationship). The following circumstances **may** constitute serious misconduct which would justify summary dismissal. **Each case must be considered on its merits.**

- Theft (as opposed to Petty Theft);
- Assault;
- Fraud;
- Intoxication and/or under the influence of non-prescription drugs at work;
- Conduct causing a serious risk to the reputation, viability or profitability of the employer's business;
- Impersonate anybody else or use pseudonyms, forge e-mail messages, falsely

- represent themselves, others, the Council or any of its policies, services or practices, or otherwise commit forgery or fraud.
- Refusal to carry out a lawful and reasonable instruction of the employer;
- Negligence;
- Incompetence;
- Non compliance with occupational health and safety procedures;
- Discrimination and sexual harassment;
- Intimidation, victimisation and/or harassment;
- Insubordination and insolence; and
- Dishonesty;
- Physical Violence.

Some of these acts of misconduct may also require Police investigation. When an act of serious and wilful misconduct is brought to a manager or supervisor's attention it must be acted upon immediately (as soon as is reasonably practical) and thoroughly investigated. This may involve interviewing employees or members of the public who were witnesses, or establishing whether there were any mitigating circumstances. It may be appropriate to involve the Human Resource Manager in matters believed to be of a serious and wilful nature. Where evidence suggests that an employee has committed an act of serious and wilful misconduct, the employee must be given the opportunity to respond to the allegation/s. The following steps should be followed:

6.1 Give notice

6.1.1 Inform the employee, in writing, that there is to be a meeting with him/her regarding the conduct /event/matter being investigated and the allegation that has been made against them. Ensure there is no doubt what so ever in what instance is being referred to, if possible quote times, places, etc.

6.1.2 Inform the employee, in writing, that the alleged misconduct is considered to be a serious and wilful breach of their employment contract and if found to be true, may result in their dismissal.

6.1.3 Stress to the employee that it is regarded as a serious matter and that they are encouraged to have a representative at the meeting

6.1.4 Advise the employee who will be in attendance at the meeting, i.e. Human Resources Manager, Unit Manager.

6.2 The Meeting [Refer 6.1 Give Notice]

6.2.1 At the meeting restate the alleged complaint / event (describe the facts as are known, stating times, places, aggrieved parties, complainants), and that such behaviour is considered serious and wilful misconduct and that if proven, could result in their dismissal.

6.2.2 Tell the employee that the allegation requires an explanation and that they will be given every opportunity to put their side of the story including any mitigating circumstances and that whatever they say will be given due consideration before any decisions are made.

6.2.3 Record the meeting verbatim (tape record if necessary) or take comprehensive and detailed notes of what was said. Inform those present of your intention to record/take notes.

6.2.4 After the employee has concluded giving his/her account of the events, including any mitigating circumstances, bring the meeting to a close. Tell the employee that consideration would be given to everything that has been said, and that they will be contacted once all the evidence has been examined and decisions made.

OR

6.2.5 Should you **not be** satisfied with the explanation because it contradicts other reports or introduces new evidence, tell the employee that the meeting is adjourned in order to seek more information / advice on the issue and that they will be contacted once completed. Adjourn the meeting, investigate the discrepancy / new evidence and come to a reasonable conclusion, based on all the available evidence and statements.

6.3 The Recommendation

6.3.1 Prepare a report to the CEO, detailing the matter under investigation, witness statements, together with conclusions and recommendation. Give due consideration to the employee's explanation, any mitigating circumstances advanced together with the employee's employment record, performance and the seriousness of the act or omission. Depending upon the conclusions, one of the following actions may be appropriate.

The explanation provided is satisfactory and the matter requires no further action.

The explanation is not satisfactory requiring prolonged adjournment to seek more evidence / advice.

Disciplinary action needs to be taken.

Dismissal is appropriate.

NB Give the matter the priority it deserves and don't have the matter delayed for an unreasonable length of time.
The CEO's Decision

The CEO is to approve any action before it is taken.

6.4.1 **No further action.** Arrange a further meeting with the employee to advise of the outcome and take any other actions to finalise the matter as appropriate. Inform witnesses, complainant, etc.

6.4.2 **Disciplinary Action.** If disciplinary action is considered appropriate, decide whether the offence is sufficient to warrant dismissal. If not, provide a written warning outlining the conduct to which the warning relates; that the conduct is unacceptable and the consequences if conduct is repeated.

6.4.3 **Dismissal is warranted.** Arrange a further meeting with the employee and advise them of their right of representation. At the meeting tell the employee that they are to be dismissed and provide the reason why. The employee is to be asked if there is any reason why the dismissal should not take place. Consider the employee's response together with any plea the employee may provide. (If need be ask the employee and their representative to leave the room whilst the matter is discussed. It may be appropriate to discuss the reasons with the CEO).

6.4.4 Should the decision remain, advise the employee that the dismissal stands and that they are to be summarily dismissed effective immediately.

6.4.5 Letter of dismissal and Certificate of Separation must be prepared immediately and the employee advised to collect their personal belongings, return Council property, (Identification cards, keys etc) and asked to leave the premises, (escorted if need be).

6.4.5 Pay Office to be advised that wages to be paid until close of business and all eligible leave entitlements to be paid out.

6.4.6 All documentation to be sent to Human Resource Manager for filing in the employee's Personnel File.

Advice and assistance is available from the Manager Human Resource, ph: 85391134.

Legal advice may be appropriate in some instances. Please check with the Human Resources Manager prior to seeking legal advice.

Post Implementation Action

The official copy will be held within Council's electronic records system. An electronic PDF version will be kept on the Rural City of Murray Bridge intranet site.

This procedure will be reviewed on an annual basis, or as required.

HUMAN RESOURCE MANAGEMENT POLICY: Fair Treatment in the Workplace

Reference Number	HRP1
Responsible Business Unit	Human Resources
Responsible Officer	General Manager Corporate Services
Legislation	Local Government Act 1999
Relevant Delegations	HRM Delegations 11 - 13
Related Policies Management Guidelines Frameworks	Rural City of Murray Bridge Code of Conduct for Employees Rural City of Murray Bridge Code of Conduct for Volunteers Work Health and Safety Act 2012 Safe Work Australia Code of Practice: 'Preventing and Responding to Workplace Bullying' Sex Discrimination Act 1984 Equal Opportunity Act SA 1984 Racial Discrimination Act 1975 Human Rights and Equal Opportunity Commission Act 1986 Equal Opportunity for Women in the Workplace Act 1999 Age Discrimination Act 2004 Disability Discrimination Act 1992 Racial Vilification Act 1996 Fair Work Act 1994
Link to Strategic Plan	Objective 4.4 - Develop a sustainable organisation
ELT Meeting Reference	Click here to enter text.
Date Adopted	1/10/2009
Review Date	December 2013
Previous Revisions	June 2011

POLICY STATEMENT

The Rural City of Murray Bridge (Council) values and celebrates the diversity of its employees and volunteers and promotes the recognition, acceptance and right of all people to be treated with fairness, equity and natural justice. Council does not condone or tolerate unfair treatment of its employees and volunteers.

OBJECTIVES

In accordance with fair treatment principles and legislative requirements, this policy: informs employees and volunteers of their rights and obligations; sets standards of behaviour in accordance with legal requirements; and addresses the consequences of breaches of this policy within the scope of the Code of Conduct for Employees, Code of Conduct for Volunteers and Code of Conduct for Elected Members.

SCOPE

This Policy applies to employees, volunteers, work experience students and any other person engaged by or undertaking work with Council. The scope of management and investigation extends to that provided for under the relevant Code of Conduct.

PRINCIPLES

All employees and volunteers have a right to work in a safe work environment. At all times while engaged in Council activities or interactions with others (including external parties) employees and volunteers are entitled to be treated with courtesy, fairness and equity.

Council expects all employees and volunteers to abide by the relevant legislation and the applicable Code of Conduct and to adhere to high standards of behaviour that reflect well on

Council.

Where a complaint is made, prompt action will be taken to investigate the matter in accordance with the procedure outlined in the Code of Conduct, ensuring procedural fairness is provided to both the complainant and the respondent.

Council will facilitate the appointment and training of an adequate number of staff located across the organisation to undertake the role of 'Contact Person' to assist a complainant to resolve an unfair treatment complaint.

Where a complaint is substantiated, appropriate disciplinary action will be taken in accordance with the procedure outlined in the Code of Conduct for Employees or in the case of volunteers, the Code of Conduct for Volunteers.

IMPLEMENTATION

Council encourages people who believe they have been treated unfairly to talk directly to the person engaging in such behaviour.

In cases where it is impracticable or ineffective to resolve issues of unfair treatment a procedure supports this policy to ensure that complaints related to allegations of unfair treatment are treated promptly, confidentially and according to the principles of procedural fairness.

The procedure encourages the resolution of complaints through informal discussion, raising awareness, facilitation and mediation wherever possible.

1. Establishing a Fair Treatment Culture

Employees and volunteers are responsible for ensuring a safe working environment for themselves and others. In particular, it is expected that they contribute to a fair treatment culture within Council by:

- openly supporting and promoting this policy;
- treating others with courtesy, dignity and respect;
- participating in training related to fair treatment in the workplace;
- reporting observed behaviour that is unacceptable; and
- supporting employees and volunteers who believe they have been unfairly treated and encouraging them to take action.

2. Specific unacceptable behaviours

Employees and volunteers of Council are prohibited from engaging in specific behaviours while engaged in Council business and activities. These behaviours are:

- bullying
- harassment
- sexual harassment
- racial vilification
- victimisation
- discrimination on the grounds of religion, age, gender, marital status, pregnancy, sexuality, race, family responsibilities, disability/medical condition, political opinion, criminal record (when irrelevant to their employment) or trade union activity.

More broadly, all employees and volunteers are expected to ensure that bias or prejudice on any of the above grounds does not influence or override their objectivity when engaged in Council business and related activities.

3. Defining Workplace Bullying

A Code of Practice 'Preventing and Responding to Workplace Bullying' has been developed by Safe Work Australia pursuant to the Workplace Health and Safety Act 2012. The information provided below is drawn from that publication.

The Code of Practice defines workplace bullying as '**repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety**'. It further defines the following:

'Repeated behaviour' refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

'Unreasonable behaviour' means behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable including behaviour that is victimising, humiliating, intimidating or threatening.

Bullying can occur face-to-face, by telephone or mobile phone, email, instant text messaging and all forms of social media. Bullying can involve many different forms of unreasonable behaviour, which can be obvious (direct) or subtle (indirect).

Examples of bullying include:

- abusive, insulting or offensive language or comments;
- spreading misinformation or malicious rumours;
- unjustified criticism or complaints;
- excessive scrutiny of work outputs;
- continuously and deliberately excluding someone from workplace activities;
- withholding information that is vital for effective work performance;
- setting unreasonable timelines or constantly changing deadlines;
- setting tasks that are unreasonably below or beyond a person's skill level;
- denying access to information, supervision, consultation or resources that is detrimental to the performance of an employee; and/or
- changing work arrangements, such as rosters and leave to deliberately inconvenience an employee or volunteer.

While a single incident of unreasonable behaviour may not meet the definition of workplace bullying it may have the potential to escalate into a pattern of inappropriate behaviour and should not be ignored.

4. Behaviours that are not workplace bullying

There are times where reasonable management action is required to effectively direct and control the way work is carried out. It is reasonable for Managers and Team Leaders to allocate work and to give fair and reasonable feedback on a worker's performance.

The actions are usually not considered to be bullying if they are carried out in a reasonable manner, taking the particular circumstances into account. Examples of reasonable management action include:

- setting reasonable performance goals, standards and deadlines;
- rostering and allocating working hours where the requirements are reasonable transferring a worker for operational reasons;
- deciding not to select a worker for promotion where a reasonable process is followed and documented;
- informing a worker about unsatisfactory work performance when undertaken in accordance with any workplace policies or agreements such as performance management guidelines;
- informing a worker about inappropriate behaviour in an objective and confidential way;
- implementing organisational changes or restructuring; and/or
- termination of employment.

5. Other forms of inappropriate workplace behaviour

Further to workplace bullying there are other forms of behaviour that are unacceptable and these are described below.

- 5.1 **'Discrimination'** generally occurs when someone is treated less favourably than others because they have a particular characteristic or belong to a particular group of people, such as age, race or gender.
- 5.2 **'Workplace harassment'** generally occurs when a person makes a sequence of unwelcome, offensive comments or actions relating to any grounds of discrimination that degrades, threatens, taunts, insults, abuses or offends a person.
- 5.3 **'Sexual Harassment'** generally occurs when a person makes a single or sequence of unwelcome sexual advances or requests for sexual favours and/or engages in any other unwelcome conduct of a sexual nature.
- 5.4 **'Victimisation'** may occur when a person is treated unfairly because they have acted on their rights under this Policy or because they have supported someone else who acted on their rights.

It is possible for a person to be bullied, harassed, discriminated against and victimised at the same time. However unlike bullying, discrimination and harassment may be single incidents and are based on a characteristic (eg age, gender, religion etc) of the affected person).

6. Malicious complaints

Complaints by employees or volunteers that are found to be malicious or intended to intimidate or harass the person complained about can lead to disciplinary action against the complainant on the grounds of misconduct.

RESOLUTION PROCEDURE

There are four options available to a person who believes they have been treated unfairly, ie

- Option 1 - Self Help
- Option 2 - Informal
- Option 3 - Formal
- Option 4 - External

Option 1: Self Help

Self Help is when an employee or volunteer with the complaint feels able to deal with or resolve an unfair treatment matter on their own. An employee or volunteer may also seek advice and support from a Contact Person, Manager, Team Leader or the Manager Human Resources in order to assist in resolving the matter.

Self-Help methods may include:

- telling the person that their behaviour is not welcome and asking them to stop;
- writing to the person outlining the inappropriate behaviour and advising that a complaint may be made if the behaviour does not stop.

The advantages of Self-Help are:

- it allows the person with the complaint to know they can deal with a situation themselves and can be seen as a positive outcome;
- it keeps the matter at a private level;
- it gives the person who has been complained against the opportunity to correct their behaviour, prior to any formal process being initiated;
- it results in minimal disruption to the workplace and to the parties involved.

Self-Help is not an option when:-

- an employee or volunteer is intimidated by the person and cannot tackle the problem themselves;

- the allegation is about a person of authority and the complainant is uncomfortable in approaching the person;
- the seriousness nature of the behaviour may warrant the actioning of other options due to Council's duty of care to provide a safe workplace;
- the seriousness of the behaviour may constitute a criminal offence.

Option 2: Informal Intervention

If an employee or volunteer does not wish to pursue a self help option or to lodge a formal complaint, they may seek the assistance of another person to intervene on their behalf.

The informal intervention process is for the person (the intervener) to informally raise awareness that the respondent's behaviour or actions have been interpreted as inappropriate and a cause for concern. The objective for this process is for the intervener to achieve an appropriate outcome through acknowledgement, where relevant, discussion and closure of the matter, which may or may not involve any further action of the intervener.

The advantages of an Informal process are:

- the issue is resolved without initiating a formal complaint process;
- the resolution assists to maintain the working relationship between the parties involved;
- the resolution is an educative process;
- the number of people involved in the process is limited;
- the issue is confined to the person's immediate workplace in most cases.

Informal Intervention is not an option when:

- the allegations are of a serious nature, and/or
- the allegations, if proven, may constitute a criminal offence.

Option 3: Formal Intervention

The Formal Complaint process is initiated when:

- self help and informal options have not been successful;
- the seriousness of the allegations warrants a formal process;
- evidence of victimisation has been identified as arising out of initiating action under this policy; and/or
- the allegations have been refuted by the respondent.

If this option is chosen, the complaint must be in writing and forwarded as appropriate, ie

- complaints related to employees and volunteers should be referred to the Manager Human Resources
- complaints related to the Manager Human Resources should be referred to the Chief Executive Officer
- complaints related to the Chief Executive Officer should be referred to the Mayor

Option 4: External Complaint Resolution

While Council encourages employees and volunteers to attempt to resolve complaints internally of unfair treatment internally in the first instance, a complaint may be made directly to the South Australian Equal Opportunity Commission, the Commonwealth Human Rights and Equal Opportunity Commission or the Office of the Ombudsman in accordance with their own procedures.

Support and advice

Council acknowledges that an experience of being unfairly treated can have an impact on both the complainant and the respondent involved in a matter of this nature. The assistance of a Contact Person and access to an Employee Assistance Program (EAP) is available to both the complainant and respondent.

1 Appointment of Contact Persons

Contact Persons will be appointed and located across the organisation to provide information on processes that deal with unfair treatment. A Contact person will undertake the following initial steps:

- meet with the complainant in a private environment;
- notify the complainant about the options available for dealing with a complaint;
- explain the procedure dependent on which option selected;
- advise about the importance of confidentiality;
- ascertain what action the complainant has taken up so far;
- come to agreement with the complainant about the next course of action
- record agreed steps;
- encourage complainant to keep notes; and
- report the incident (anonymously) to Manager Human Resources for statistical purposes.

2 Employee Assistance Program

Further to the support that is available through a Contact Person, access is available to both the complainant and respondent to participate in confidential counselling at no cost to the employee through Council's EAP.

Details of Contact Persons and the EAP provider are available on notice boards located in each work location.

Unfair Treatment Investigations

An investigation into an unfair treatment complaint will be conducted by a person nominated by the Chief Executive Officer. In most cases this will be the Manager Human Resources, however where appropriate, an external investigator may be appointed.

Reports of alleged workplace bullying will be investigated in accordance with the Investigation Procedure pertaining to the relevant Code of Conduct and the Code of Practice 'Preventing and Responding to Workplace Bullying' referred to in this Policy.

Investigations into alleged unfair treatment (ie discrimination, harassment, sexual harassment or victimisation) will be conducted in accordance with relevant Code of Conduct Investigation Procedure and the principles of procedural fairness.

DEFINITIONS

Complainant	means the person making an allegation (complaint) about unfair treatment by another employee or volunteer of Council.
Procedural Fairness	(often referred to as natural justice) means the following: <ul style="list-style-type: none">➤ the right to a fair hearing➤ the right to attend hearings with a support person, if required;➤ the opportunity for all parties involved to openly present their case;➤ the subject of the complaint having full knowledge of the nature and substance of all allegations;➤ the right to an independent, unbiased decision-maker; and➤ a decision that is based solely on the relevant evidence.
Respondent or 'alleged offender'	means a person who is alleged to have unfairly treated an employee, volunteer or any other person engaged by Council.

RESPONSIBILITIES

Employees

- take responsibility for ensuring a safe work place for themselves and others;
- treat others in accordance with this policy and the Code of Conduct for Employees; and
- maintain confidentiality when providing information in an investigation.

Volunteers

- take responsibility for ensuring a safe work place for themselves and others;
- treat others in accordance with this policy and the Code of Conduct for Volunteers; and
- maintain confidentiality when providing information in an investigation.

Contact Persons

- provide employees with information about their options for resolving a complaint; and
- provide support to the complainant including attendance at meetings if requested by the complainant; and
- maintain confidentiality when providing information in an investigation.

Managers/ Team Leaders

- take all necessary steps to ensure that complaints are dealt with fairly and promptly using the agreed procedures;
- ensure that all employees receive the training required to understand what unfair treatment is and to meet their obligations under the relevant Code of Conduct and legislation;
- maintain confidentiality when providing information in an investigation; and
- model appropriate behaviour.

Manager Human Resources

- conduct or coordinate investigations into complaints of unfair treatment;
- ensure investigations are conducted with procedural fairness;
- ensure documentation is adequate and details recorded appropriately;
- provide a report to the Chief Executive Officer as to whether a matter can be substantiated;
- recommend appropriate action;
- maintain confidentiality when providing information in an investigation; and
- model appropriate behaviour.

Chief Executive Officer

- review a report incorporating the documented process and recommendation of the investigator (Manager Human Resources or external investigator);
- coordinate an investigation and resolve an allegation where a complaint is lodged against the Manager Human Resources;
- determine and implement appropriate action;
- maintain confidentiality when providing information in an investigation; and
- model appropriate behaviour.

Mayor of Council

- receive a complaint involving the Chief Executive Officer
- appoint an external investigator to investigate the complaint
- review the investigator's report and recommendation
- seek legal advice on, and implement, appropriate action
- maintain confidentiality when providing information in an investigation; and
- model appropriate behaviour.