

IN THE FAIR WORK COMMISSION

Matter No: AG2021/9160

Applicant: Diocese of Sale Catholic Education Limited

STATUTORY DECLARATION OF JOHN ANTHONY JORDAN

I, John Anthony Jordan of 6 Witton Street, Warragul, Victoria, 3820, Executive Manager: Industrial Relations/Human Resources, make the following declaration under the *Statutory Declarations Act 1959*:

Background

1. I am employed by Diocese of Sale Catholic Education Limited (**DOSCEL**) in the role of Executive Manager: Industrial Relations/Human Resources. I have held this role since 10 January 2018. I make this statutory declaration further to my first statutory declaration made on 20 December 2021 (**First Declaration**) in support of an application to amend the long service leave (**LSL**) provisions of the *Victorian Catholic Education Multi-Enterprise Agreement 2018* (**VCEMEA18**).
2. For the purpose of making this declaration, I have reviewed the business records kept by DOSCEL that relate to bargaining for the VCEMEA18 and any documentation that relates to the LSL provisions found in Appendix 3. On the basis of my review, and my personal experience being involved in the bargaining process, I declare as follows.
3. Bargaining for the VCEMEA18 commenced in 2016, however it was disrupted when uncertainty arose as to the level of funding that the federal government was to provide to the Catholic education sector. As a result of this uncertainty, in 2017 the employer entities and the Independent Education Union entered into a memorandum of understanding where it was agreed that negotiations would be suspended for a 12-month period until government funding was clarified.

Intention

4. Bargaining recommenced in 2018, by which time the *Long Service Leave Act 2018* (Vic) (**LSL Act**) had come into effect. Given the length of time that elapsed in the bargaining process, the LSL provisions were not a particular focus in the negotiations for the VCEMEA18. They were negotiated very late in the bargaining process without any deep thought given as to how they would work in practice. The LSL provisions were negotiated with two key objectives in mind:
 - (a) ensuring that they were compliant with the new LSL Act;
 - (b) removing the administrative burden on employers that was being felt from the old “*two bucket*” system.
5. As to the first of these issues, one of the major changes introduced by the LSL Act was that it allowed employees to take LSL of not less than one day, whereas under the previous arrangement employees were required to take their leave in a certain number of periods.
6. As to the second of these issues, in my First Declaration, I gave evidence at paragraphs 9 and 10 as to the old “*two bucket*” system that was in place under the previous enterprise agreement (and its predecessors). In essence, how this worked was that employees who worked a mixture of part-time and full-time throughout their employment would accrue LSL entitlements through two separate “*buckets*” – one part-time bucket and one full-time bucket.
7. The administrative burden that was felt by employers was that they were required to maintain on their books these two separate “*buckets*” for every employee who worked a mixed time fraction – no matter how long ago (or how minor) the employee’s part-time service occurred. The new LSL provisions in the VCEMEA18 sought to address this by creating a weighted average of an employee’s service, such that only a single entitlement was required to be maintained by each employer.
8. It was never discussed with DOSCEL, nor was it ever DOSCEL’s intention, that the removal of the bucket system would result in employees receiving less pay when they took LSL compared to the two bucket system.

9. Under the two bucket system, when an employee who had worked a mixed time fraction throughout their employment took LSL, they were entitled to nominate which “*bucket*” of accrued LSL the LSL was taken from and therefore what rate of pay they would receive. In practice, this meant that almost every employee elected to take LSL from the full-time “*bucket*” because it meant that they would receive a full-time rate of pay while they were taking LSL. The LSL entitlement accrued in the part-time “*bucket*” was often treated by employees as an additional payment that they would receive on termination.
10. Although the introduction of the weighted payment in the VCEMEA18 was intended to achieve an administrative fix, in practice it has had a significant and unforeseen impact on employees. That is, under the “*two bucket*” system, an employee who had a mixed time fraction throughout their employment always had the option to be paid a full-time rate, whereas under the VCEMEA18 employees can never be paid a full-time rate.

Communications prior to voting

11. From the documents I have reviewed, the only communication to employees about proposed changes to the LSL provisions is contained in a document entitled: “*Agreed Explanation of the VCEMEA*” (annexed to this declaration and marked ‘**JAJ 8**’).
12. At page 1 of that document, it lists an overview of the key features of the proposed enterprise agreement, including a dot point that says, “*Amendments to long service leave provisions including access in smaller blocks.*” I understand this to be a reference to the ability to take LSL under the LSL Act for a period of not less than one day.
13. At page 4 of that document, in a table that summarises proposed changes, it says that the summary of key changes to LSL includes:
 - *Align entitlements in the agreement with the entitlements under the Long Service Leave Act 2018 (LSL Act).*
 - *Employees will be able to apply for periods of LSL of not less than one day.*
 - *A period of unpaid leave (including parental leave) up to 12 months to count as service for the purposes of LSL accrual.*

Changes to how ordinary rate of pay determined where mixed full-time and part-time service – creation of an average FTE (no longer separate part-

time and full-time 'buckets' of leave). If the average FTE results in the Employee's leave entitlement being less than the LSL Act, then the entitlement to LSL will be calculated as provided for under the Act."

Communications after approval

14. From the documents I have reviewed, I have found two communications that relate to the changes to LSL provisions under the VCEMEA18.
15. The first is dated December 2018 and is entitled "*VCEMEA 2018 - Summary of changes, Implementation Guide for Schools*" (annexed to this declaration and marked '**JAJ 9**').
16. At page 8 of that document, it says:

"A number of changes to Appendix 3 of the VCEMEA 2018 have been introduced, compared to the VCEMEA 2013. The majority of these changes are a result of the new the Long Service Leave Act 2018 (Vic) (LSL Act 2018) which introduces a number of changes compared to the Long Service Leave Act 1992 (Vic).

Appendix 3 is required to meet the minimum standards provided within the relevant Long Service Leave legislation in Victoria"

17. At page 9, it refers to clause 3 of Appendix 3 to the VCEMEA18 and says:

"Calculation of leave entitlements (Appendix 3, (3))

The way in which the ordinary rate of pay is determined when an Employee has a mix of full-time and part-time service has been amended within the VCEMEA 2018.

The VCEMEA 2018 has amended how an Employee with both part-time and full-time service will have their ordinary rate of pay calculated, with a new calculation of a weighted average FTE applying consistently over the period of long service leave. This will create an overall average FTE instead of the current practice of two separate buckets of long service leave of full-time and part-time long service leave.

This change is intended to simplify the administrative framework that is currently burdensome and complex for both Employees and Employers to interpret. This change is not intended to result in an Employee being worse

off as compared to the current practice of two separate ‘buckets’ of full-time and part-time long service leave.”

18. The second document is dated February 2019 and is entitled “*Implementation Guide for Schools: Guidelines for changes relevant to Long Service Leave under the Victorian Catholic Multi-Enterprise Agreement 2018*” (annexed to this declaration and marked ‘**JAJ 10**’).

19. At page 2 of that document, it says:

*“The majority of the changes that have been made to long service leave provisions within the VCMEA, have been made in light of new long service leave conditions introduced in the Long Service Leave Act 2018 (Vic) (**LSL Act**) which came into effect on 1 November 2018. The LSL Act replaced the Long Service Leave Act 1992 (Vic).*

*Outlined below, in summary, are the **key changes** to long service leave as contained in the VCMEA:*

(a) Any period of unpaid absence from work on account of illness or injury, irrespective of duration is continuous and accruable for the purposes of calculating long service entitlements.

(b) Any other period of unpaid absence from work (including unpaid parental leave) up to a period of one year, taken with the Employer’s consent, is continuous and accruable for the purposes of calculating long service leave entitlements.

(c) Any other period of unpaid absence in excess of one year, taken with the employer’s consent, will be continuous and accruable for the purposes of calculating long service leave entitlements, if the employer and employee agreed in writing before the leave was taken that such leave longer than one year will be accruable for the purposes of calculating long service leave entitlements.

(d) An employee can request long service leave in periods of not less than one day at a time.

(e) Mixed part-time and full time service has been simplified by removing the full-time and part-time “buckets” by creating an overall average FTE.

Employees will be paid an average FTE rate during their long service leave.”

20. On page 6, being the final part of the guide, it says:

“4. Calculation of leave entitlements

The way in which the ordinary rate of pay is determined when an employee has a mix of full-time and part-time service has been amended under the VCMEA. If an employee has both part-time and full-time service, the ordinary rate of pay is now calculated as a weighted average FTE applying consistently over the period of long service leave. This will create an overall FTE instead of the current practice of two separate buckets of full-time and part-time long service leave. This change is intended to simplify the administrative framework that is currently burdensome and complex for both employees and employers.”

21. Consistent with what I declare above to be the intention of the parties in negotiating the VCMEA18, these documents highlight that the LSL provisions were directed toward complying with the LSL Act and removing an administrative burden on employees.
22. In my experience, if a new clause being inserted into an enterprise agreement would result in many employees being paid less, this is something that would be stated upfront and with absolute clarity. This does not appear on the communications that I have seen.

Rules

23. In addition to the communications, the employer bodies to the VCMEA18 maintain an intranet that contains further documents as to how the LSL provisions are to be applied. This intranet is accessible to all employers and employees. The documents maintained there relevantly include the “*Rules Of The Catholic Education Long Service Leave Scheme (Victoria)*” and an accompanying Explanatory Memorandum (EM).
24. The EM notes at paragraph 2 that the LSL provisions in the VCMEA18 were “*necessitated*” by the LSL Act.
25. The EM addresses the calculation of LSL entitlements as follows:

“Clause 6 - Calculation of Leave Entitlements

- 12. Clause 6 contains the calculation of long service entitlements depending on the full time, part time or combined nature of service of an employee. This clause reflects clause 3 of Appendix 3 in its entirety.*

13. *The calculation of long service leave entitlements for employees whose period of service includes both full-time and part-time service has been adjusted to no longer result in the long service leave being effectively taken on a full-time and part-time basis corresponding to the periods of full-time and part-time service. The changes to clause 6.2(b) provide for a calculation of a weighted average FTE that will apply consistently over the period of long service leave.*
 14. *This change is intended to simplify the administrative framework that is currently burdensome and complex for both employees and Participant Employers, however it is in no event intended to result in an outcome that will place an employee in a position that is worse off than that preserved by the statutory long service leave scheme.*
 15. *Accordingly, a new clause 6.3 provides that the calculation of long service leave entitlements under clause 6.2 will be benchmarked against the calculation of entitlements under the Act to ensure that the calculation that results in a better outcome for an employee will apply.*
 16. *For the avoidance of doubt, the change in the proposed calculation of leave entitlements by reference to a weighted average FTE is not intended to result in any reduction of long service leave entitlements for employees.”*
26. Consistent with what I have declared above, and with the contents of the communications, the EM makes clear that the intent behind the changes was to comply with the LSL Act and remove an administrative burden from employees. It was never the intention of the parties that employees would actually receive less money when taking LSL.
 27. Despite this intention and these communications, as I declared in my First Declaration, employees have been unaware that the practical impact of a literal reading of cl.3.2 of Appendix 3 of the VCMEA18 has resulted in employees being uncertain as to what rate of pay they would receive if they took LSL.
 28. This has led to employees being confused, with some having to cancel their leave as they could not afford to take leave because they would be financially disadvantaged by doing so. This is often as a result of an employee having performed some part-time work many, many years earlier. In most cases, this part-time work has been performed by female employees returning from maternity leave on a part-time basis for a short period of time before returning to full-time employment.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

.....

Declared at Melbourne on 10 February 2022

Before me,

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 , Solicitor
 Lvl 11, 456 Lonsdale St
 Melbourne VIC 3000

Witnessed via audio visual link pursuant to s12 of the <i>Electronic Transactions (Victoria) Act 2000</i> (VIC)
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- Note 1: A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years—see section 11 of the *Statutory Declarations Act 1959*.
- Note 2: Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959*—see section 5A of the *Statutory Declarations Act 1959*.

IN THE FAIR WORK COMMISSION

Matter No: AG2021/9160

Applicant: Diocese of Sale Catholic Education Limited

ANNEXURE ‘JAJ 8’

This is Annexure JAJ 8 to the statutory declaration of John Anthony Jordan dated 10 February 2022.

Agreed Explanation for Employees

Catholic Education Commission of Victoria Ltd (CECV)

Independent Education Union Victoria Tasmania (IEU)

Proposed Victorian Catholic Education Multi-Enterprise Agreement 2018 (VCEMEA)

Overview

The Catholic Education Commission of Victoria Ltd (CECV) and the Independent Education Union Victoria Tasmania (IEU) have reached agreement on the proposed terms of the *Victorian Catholic Education Multi-Enterprise Agreement 2018 (VCEMEA)*.

The key features of the proposed enterprise agreement include:

- Salary increases paid in six monthly instalments for all classifications of employees of:

First full pay period on or after	Primary Principals	Teachers, Deputy Principals, ESS, SSO and CEO staff
1 April 2019	2.0%	1.50%
1 October 2019	2.0%	1.75%
1 April 2020	2.0%	1.50%
1 October 2020	2.0%	1.75%

- By the start of 2021, a graduate teacher will earn \$72,058, a teacher at the top of the scale \$108,003 and the entry rate for a primary principal in the smallest school will be \$140,568.
- A new Level 1-6 and Level 2-6 for Education Support employees and an \$800 lump sum (pro rata for part-timers) for Education Support employees at current subdivision 1-5 and 2-5.
- Rounding up of part-time employees' FTE (full-time equivalent) to two decimal places.
- Clarity around Category B employees' recall and end of year arrangements, as well as recess breaks for Education Support employees and School Services Officers (SSOs).
- Amendments to long service leave provisions including access in smaller blocks.
- Introduction of a transition to retirement provision for full-time employees.
- Professional Practice time (PPT) for teachers.
- Paid family and domestic violence leave and access to carer's leave to support someone experiencing family violence.
- Entitlement to maternity and adoption leave at half pay.

Summary of proposed changes

From VCMEA 2013 to VCMEA 2018

Salary and related issues

Issue	Clause (C) Appendix (A) or Schedule (S)	Summary of key changes																		
Salary increases	S 1-9	<ul style="list-style-type: none"> Salary increases paid in six monthly instalments for all classifications of employees of: <table> <tr> <th>First full pay period on or after</th><th>Primary Principals</th><th>Teachers, Deputy Principals, ESS, SSO and CEO staff</th></tr> <tr> <td>1 April 2019</td><td>2.0%</td><td>1.50%</td></tr> <tr> <td>1 October 2019</td><td>2.0%</td><td>1.75%</td></tr> <tr> <td>1 April 2020</td><td>2.0%</td><td>1.50%</td></tr> <tr> <td>1 October 2020</td><td>2.0%</td><td>1.75%</td></tr> </table>	First full pay period on or after	Primary Principals	Teachers, Deputy Principals, ESS, SSO and CEO staff	1 April 2019	2.0%	1.50%	1 October 2019	2.0%	1.75%	1 April 2020	2.0%	1.50%	1 October 2020	2.0%	1.75%			
First full pay period on or after	Primary Principals	Teachers, Deputy Principals, ESS, SSO and CEO staff																		
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1 April 2020	2.0%	1.50%																		
1 October 2020	2.0%	1.75%																		
Teachers	C 53,55 S1 A5	<ul style="list-style-type: none"> Same wage increases as teachers in government schools. No changes to classification structure. By the start of 2021, a graduate teacher will earn \$72,058 and a teacher at the top of the scale will earn \$108,003. <p>Increase in the graduate teacher payment (aligned with government schools).</p>																		
Teachers	C 53,55 S1 A5	<ul style="list-style-type: none"> Same wage increases as teachers in government schools. No changes to classification structure. By the start of 2021, a graduate teacher will earn \$72,058 and a teacher at the top of the scale will earn \$108,003. Increase in the graduate teacher payment (aligned with government schools). 																		
Education Support Employees	C 44.3 C 52 C 44.2	<ul style="list-style-type: none"> A new top level for ES 1 and ES 2, payable from 29 January 2019. An additional \$800 lump sum payable for ES1-5 and ES2-5 employees (pro rata for part-timers) employed on 29 January 2019. The 'barrier' at Level 3 will be removed by 1 May 2019, and employers must review any employees who are at existing Levels 3-1 to 3-5. If their position is deemed to meet Level 3 criteria, they will transfer to the new 3-1. If their position is deemed to meet Level 2 criteria, they will be transferred to Level 3-0. If the employer does not review their classification, they will be deemed to be Level 3-1. 																		
Primary Principals	S 3	<ul style="list-style-type: none"> A new structure at Levels 1 and 2 for primary principals. Enrolment band at 10-149 collapses, and 150-274 amended. New enrolment bands of 1-199 and 200-399. By 1 May 2019 – entry rate of \$132,460. 																		
Emergency Teachers (ET)	C 61	<ul style="list-style-type: none"> Same ET rate in Catholic schools as in government schools with salary increases aligned with other employees. <table> <tr> <th>Effective date</th><th>Hourly Rate</th><th>Maximum Daily rate</th></tr> <tr> <td>1 October 2018</td><td>\$59.87</td><td>\$359.21</td></tr> <tr> <td>1 April 2019</td><td>\$60.77</td><td>\$364.60</td></tr> <tr> <td>1 October 2019</td><td>\$61.83</td><td>\$370.98</td></tr> <tr> <td>1 April 2020</td><td>\$62.76</td><td>\$376.54</td></tr> <tr> <td>1 October 2020</td><td>\$63.86</td><td>\$383.13</td></tr> </table> <ul style="list-style-type: none"> The right to paid recess for emergency teachers and a 30-minute unpaid lunch break free from duties. This break can be split into two separate periods. 	Effective date	Hourly Rate	Maximum Daily rate	1 October 2018	\$59.87	\$359.21	1 April 2019	\$60.77	\$364.60	1 October 2019	\$61.83	\$370.98	1 April 2020	\$62.76	\$376.54	1 October 2020	\$63.86	\$383.13
Effective date	Hourly Rate	Maximum Daily rate																		
1 October 2018	\$59.87	\$359.21																		
1 April 2019	\$60.77	\$364.60																		
1 October 2019	\$61.83	\$370.98																		
1 April 2020	\$62.76	\$376.54																		
1 October 2020	\$63.86	\$383.13																		

Salary and related issues -continued

Issue	Clause (C) Appendix (A) or Schedule (S)	Summary of key changes
Catholic Education Office (CEO) employees	S 9 A 9	<ul style="list-style-type: none"> All wage increases to apply, i.e. 3.25% a year for clerical and administrative staff, Education Officers, Speech Pathologists and Psychologists. Removal of Levels 1-1, 2-1, 2-2 and 3-1 in CEO Clerical Structure Introduction of a new Level 1-5 in CEO Clerical Structure which is same as Education Support 1-5. CEO Clerical Structure to be re-named CEO Administrative Structure.
Positions of Leadership (POL)	C 62 S 10.1	<ul style="list-style-type: none"> Increased POL allowance in line with salary increases. Funding for the POL 'pool' to be increased consistent with POL increases.
Notice of non-renewal of POL or Deputy Position	C 58.5 C 62.4	<ul style="list-style-type: none"> The notice period of non-renewal of a deputy principal or POL shall be seven (7) weeks in term time.

Allowances

Issue	Clause (C) Appendix (A) or Schedule (S)	Summary of key changes
Medical Support Visiting Teacher Placed Teacher School Adviser Education Officer Deputy Principal	C 50.4 S 10.2-10.7	All work-related allowances to be increased by same percentage increases as the salary increases, i.e. 1.5% in April and 1.75% in October.
Tool Allowance	C 50.3	<ul style="list-style-type: none"> \$20 per week for a Non-Carpenter or Joiner. \$36 per week for Carpenters and Joiners. Same rates for apprentices. <p>No change to rates during agreement.</p>
Meal Allowance	C 50.2	<ul style="list-style-type: none"> \$22 for all employees where applicable. <p>No change to rates during agreement.</p>
Category B recall allowance	C 25.9 S 10.8	<ul style="list-style-type: none"> Notice of recall must be no later than four (4) weeks into the preceding term. An ES Employee may only be recalled to perform duties consistent with his or her role and ES Employees at Level 1 or 2 cannot be required to work in isolated circumstances or to attend for duty unless a responsible manager is present. <p>Recall allowance is only payable for recall days worked during the gazetted school holidays.</p>

Leave

Issue	Clause (C) Appendix (A) or Schedule (S)	Summary of key changes
Parental Leave	A1	<ul style="list-style-type: none"> An employee may access their paid maternity and adoption leave at half pay (employees receive the same paid entitlement as employees taking leave at full pay). An employee must confirm their intention to return to work in writing as soon as practicable, but not less than one school term prior to intended date of return. Keeping in touch days will be paid with an 18% loading and will not count as service. If a fixed-term employee's due date is within six (6) weeks of the end of their contract, they are entitled to the full 14-week payment as a lump sum at the end of their contract. <p>Reasonable arrangements to be made to facilitate breast feeding on return to work from parental leave.</p>
Long Service Leave	A3	<ul style="list-style-type: none"> Align entitlements in the agreement with the entitlements under the <i>Long Service Leave Act 2018</i> (LSL Act). Employees will be able to apply for periods of LSL of not less than one day. A period of unpaid leave (including parental leave) up to 12 months to count as service for the purposes of LSL accrual. <p>Changes to how ordinary rate of pay determined where mixed full-time and part-time service – creation of an average FTE (no longer separate part-time and full-time 'buckets' of leave). If the average FTE results in the Employee's leave entitlement being less than the LSL Act, then the entitlement to LSL will be calculated as provided for under the Act.</p>
Family and Domestic Violence leave	C 33	<ul style="list-style-type: none"> Inclusion of entitlement to paid family and domestic violence leave of: <ul style="list-style-type: none"> 10 days for teachers and Cat B staff 13 days for Cat C staff 15 days for Cat A staff. <p>Employee who supports a person experiencing family violence may use their personal/carer's leave entitlement to accompany them to court, to hospital, or to care for children.</p>
Personal Leave – Teachers	C 30.2	Inclusion of the current guidance material formula for deduction of personal leave for teachers, i.e. deductions will be based on the hours absent during school's instruction time divided by hours of instructional time in a day, multiplied by 7.6.
Sabbatical leave	N/A	Removal of Sabbatical leave (Clause 35).
Union Committee of Management (COM) leave	C 40	An employee elected to the Committee of Management of the Union will be entitled to paid leave to attend COM meetings (normally eight times per year and one day's training).
Cultural and ceremonial leave	C 32	<ul style="list-style-type: none"> Inclusion of paid cultural and ceremonial leave of three (3) days for the purposes of attending community meetings. <p>Entitlement to unpaid leave of three (3) days for ceremonial purposes upon the death of a member of their immediate family or extended family (this is in addition to the entitlement to compassionate leave).</p>
Annual leave accrual	C 25.2	Amendment to confirm that annual leave accrues progressively.

Other Matters

Issue	Clause (C) Appendix (A) or Schedule (S)	Summary of key changes
Part-time employees FTE	C 42.2	All part-time employees' FTE to be rounded up to two (2) decimal places, for example 0.642, becomes 0.65 FTE.
Part-time teachers	C 59.2	<ul style="list-style-type: none"> Re-insertion of the 2008 clause: <p>'A part-time teacher shall be expected to undertake a proportional number of duties normally expected of a full-time teacher in that school, e.g. yard supervision, staff meetings, etc.'</p>
Significant reduction in part-time Employees hours	C 15.2	<ul style="list-style-type: none"> Where a significant reduction in a part-time employee's hours are proposed by the employer as a result of a change in enrolment curriculum, program, organisation, structure, technology or funding, the employee will be provided with 21 days to consider whether to elect a severance payment or accept the reduction. Where an employee does not advise in writing within 21 days of their decision, it will be assumed that the employee has accepted the reduction in hours. <p>Where an employee elects a severance payment the employee will be provided with written notice in accordance with clause 19.</p>
Professional Practice Time	C 60.9	A full-time teacher will be entitled to 20 hours of release (pro rata for part-time teachers) from scheduled class time over the school year for the purposes of additional time to focus on improved delivery of high quality teaching and learning. In the year 2021, employees are entitled to 10 hours in Term 1 and 2.
Transition to retirement	C 41	<ul style="list-style-type: none"> A right to request a secure move from full-time to part-time work for ordinarily one to two years. No variation to time fraction unless agreed. Employee will give notice of resignation effective from the end of transition to retirement agreement. <p>Arrangement can only be refused on reasonable business grounds.</p>
Notice of termination	C 19	Notice of termination for teachers with less than five (5) years in their current school and less than 10 years in Catholic education will be eight (8) working weeks (formerly seven (7) weeks, wholly within one term).
Fixed-term employees	C 11.2	<ul style="list-style-type: none"> Removal of placed teachers and school advisors. <p>Seven (7) term weeks' notice of non renewal of contract to only be provided to employees with contracts of at least 12 months.</p>
Consultative Committee	C 16.2 C 60.2	<ul style="list-style-type: none"> Consultative Committee meetings will be held within or adjacent to the school day and in multi-campus schools, it may include representatives for each campus. Committee to make recommendations regarding email and other communications including, with parents out-of-hours and must make special recommendations where class sizes exceed 26 for Years P-2 and 28 for Years 3-10. Amendment of practical class policy considerations. <p>Committee to meet in Term 4 to discuss schedule of meetings for following year.</p>

Issue	Clause (C) Appendix (A) or Schedule (S)	Summary of key changes
Principals	C 63 C 66	Inclusion of provision relating to advertising principal vacancies and alternative leadership structures – IEU to be consulted.
Education Support and School Service Officers breaks	C 71.3 C 74.9	Amendment of recess provision, clarifying employees are entitled to recess without deduction of pay. However, where recess is longer than 20 minutes, the employee may be required to perform duties relevant to the employee's role.
Category B – end of year arrangement's	C 25.10	<ul style="list-style-type: none"> A Category B employee who is required to work beyond the last day of attendance of teachers Term 4, can only be required to perform meaningful tasks which are commensurate with the employee's skill and experience. <p>No change to time off in lieu provisions.</p>
School nurses	C 70.7	<ul style="list-style-type: none"> Inclusion of school nurses. <p>An employee employed as an enrolled nurse will be paid at ES Level 2. An employee employed as a registered nurse will be paid at ES Level 3.</p>

Further Employee Information

Further Employee information includes:

- [Proposed VCEMEA 2018](#)
- [Proposed salary and allowances](#)
- [Frequently asked questions about voting.](#)

The Approval Process - Summary

Your principal has been provided with voting guidelines. The broad outline of the stages and the timeline is as follows:

Step	Employer/Principal's obligation	Timeline
1	Agreement information forwarded to all employees to be covered by the proposed enterprise agreement	By Friday 19 October 2018
2	Notice of Employee Meeting distributed	By Friday 19 October 2018
3	Staff meeting – Employees will have an opportunity to review the proposed enterprise agreement and ask questions	Between Monday 22 October 2018 and Friday 26 October 2018
4	Employee meeting where those present vote to approve or not approve the proposed enterprise agreement	Between 9.00 am on Tuesday 30 October 2018 and 1.00 pm on Friday 2 November 2018
5	Principal and union representative count the vote	After: 1.00pm Friday 2 November 2018
6	Principal and union representative forward ballot result to the Industrial Relations Unit at Catholic Education Melbourne	By 5.00pm Friday 2 November 2018
7	Application for Fair Work Commission approval of endorsed agreement	Within 14 days of the closing of the ballot
8	Agreement takes effect	Seven days after the Fair Work Commission approves the Agreement

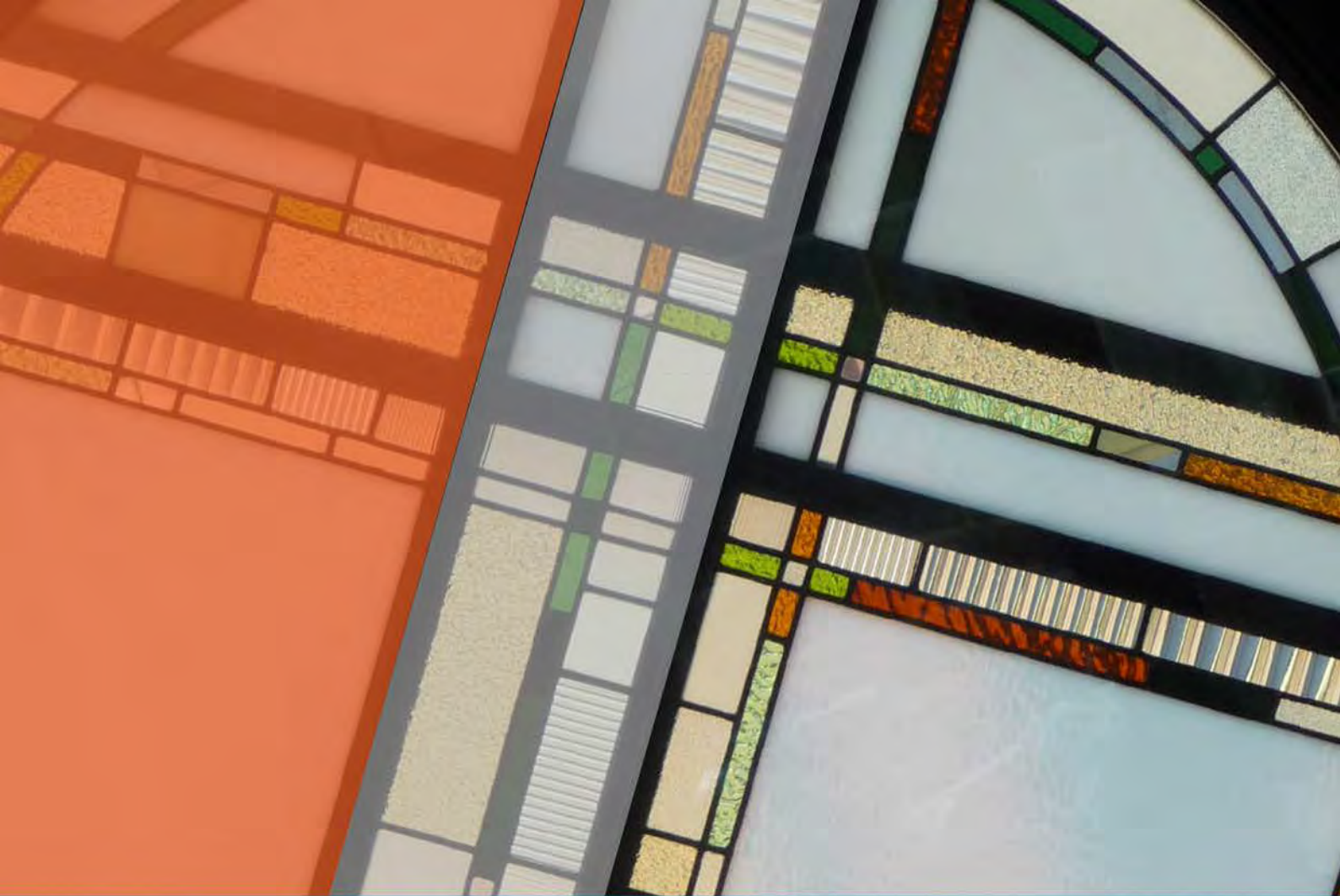
IN THE FAIR WORK COMMISSION

Matter No: AG2021/9160

Applicant: Diocese of Sale Catholic Education Limited

ANNEXURE ‘JAJ 9’

This is Annexure JAJ 8 to the statutory declaration of John Anthony Jordan dated 10 February 2022



VICTORIAN CATHOLIC EDUCATION MULTI-ENTERPRISE AGREEMENT 2018

VCEMEA 2018 - Summary of changes

Implementation Guide for Schools

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1. Background

The purpose of this guide is to outline the changes in the [Victorian Catholic Education Multi-Enterprise Agreement 2018](#) (VCCEMA 2018).

The VCCEMA 2018 will commence 7 days after the Agreement has been approved by the Fair Work Commission, however the parties have agreed to apply the VCCEMA 2018 from the start of the 2019 school year, being 29 January 2019.

The VCCEMA 2018 was overwhelmingly approved by the majority of employees and will replace the [Victorian Catholic Education Multi Enterprise Agreement 2013](#) (VCCEMA 2013).

This guide aims to provide information relating to the changes from the VCCEMA 2013 to VCCEMA 2018. Principals and school leaders can refer to this guide to help understand the nature of the changes.

A number of the changes which have occurred from the VCCEMA 2013 to the VCCEMA 2018 were included in the [2017 Memorandum of Understanding](#) and have now been incorporated into the VCCEMA 2018.

With the exception of the key matters set out in this guide, existing arrangements continue to apply.

2. Salary, allowances, translations and related matters

Salary increases

Salary increases will be paid to all classifications of employees in six monthly instalments as outlined below:

First full pay period on or after	Primary Principals	Teachers, Deputy Principals, ESS, SSO and CEO staff
1 April 2019	2.0%	1.50%
1 October 2019	2.0%	1.75%
1 April 2020	2.0%	1.50%
1 October 2020	2.0%	1.75%

2019 and 2020 Salary guides

The [Salary guide](#) covering 2019 and 2020 school years is available for schools.

Primary Principals

The Primary Principal structure will be adjusted with changes to the bottom three Levels of the structure. From 1 May 2019 the structure will comprise of five Levels instead of six.

From 1 May 2019, Level 1 will be removed and the enrolment band for Level 2 will become 1-199 students. The enrolment band for Level 3 will become 200-399.

On 1 May 2019, Primary Principals at Level 1-3 will translate in accordance with [clause 44.4](#) of the VCCEMA 2018.

Note: the CECV will assist with the translation for principals on the OSR and will be assisting ICON schools. See the CECV [Salary Guide](#) for more detailed information regarding the translations of Primary Principals.

Education Support Employees

Education Support staff Level 1 and 2

On 29 January 2019, the Education Support classification structure will be amended with the introduction of two new subdivisions at the top of ES Level 1 and ES Level 2. The new subdivisions will be ES Level 1-6 and ES Level 2-6.

Education support employees employed as an ES Level 1-5 and ES Level 2-5 on 29 January 2019 will be entitled to translate to the new ES Level 1-6 and ES Level 2-6 in accordance with the translation tables set out in [clause 44.3](#) of the VCMEA 2018.

Note: Normal incremental progression rules do not apply for this translation. However any fixed term staff who are employed at the start of the school year and are incrementing from 1-4 or 2-4 to 1-5 and 2-5 at the start of the 2019 school year, do **not** translate to the new subdivisions.

OSR will automate the movement of current ongoing ES1-5 and ES2-5 employees to ES1-6 and ES2-6, but schools will need to double check the record, and make the changes for fixed term and new employees who will be eligible to translate.

ICON SCHOOLS: For ES Grade 1 - Level 5 and ES Grade 2 - Level 5 translating to ES Grade 1 - Level 6 and ES Grade 2 - Level 6, schools should copy and modify the Employment Record and matching Entitlement Record. This can be completed in advance of the effective date being, 29 January 2019. OSR will be updated overnight once these records are generated.

Schools should note the change in part time employees FTE discussed below (clause 42.2).

Lump sum payment

Education Support employees employed on 29 January 2019 at the new ES Level 1-6 and ES Level 2-6, will also be entitled to a lump sum payment of \$800 (pro-rata for part-timers), which is subject to the payment of superannuation.

ICON SCHOOLS: Process lump sum payment in a Correction Pay (to annualise tax) on or after 29 January 2019 using the Pay Component code: 1341 Lump Sum Payment (Superable).

Employees not eligible

Casual employees, including casual relieving employees are not eligible to receive the payment. Where an employee ceased employment on or before 29 January 2019, they will not be eligible to receive the payment. Education Support employees at Level 1 and 2 who are at other subdivisions are not eligible for the payment i.e. Level 1-4 or 2-3 are not eligible.

Payment amount

The \$800 lump sum is based on an employee's FTE on 29 January 2019. For part time employees, that payment is made on a pro rata basis. For example, an employee with a 0.5 FTE will be entitled to receive a lump sum bonus payment of \$400.

Schools should also note the change in part-time employees FTE discussed below (clause 42.2), as the rounding will affect the lump sum payment. For example, an ES1-6 employee with a 0.439 FTE will

be rounded up to 0.44 (as per clause 44.2) and will be entitled to receive a lump sum bonus payment of \$352.

When to make payment

The lump sum is payable as soon as practicable, but no later than 5 April 2019.

Employees on unpaid leave

Employees on leave without pay on 29 January 2019, will be eligible to receive the lump sum payment if they return to work on or before 30 April 2021.

In these instances, the lump sum payment will be based on the FTE of the Employee *prior* to the commencement of leave without pay.

Employees receiving WorkCover payments

Employees in receipt of WorkCover payments who have not returned to duty are not eligible to receive the lump sum payment until a return to duty has taken place.

The payment is calculated on the time fraction that applied immediately before the commencement of the workcover claim.

Education Support staff Level 3

The VCCEMA 2018, also provides for a change to ES Level 3.

Clause 41.2 of the VCCEMA 2013 has been removed and there will be no further 'barrier' at ES Level 3 in the VCCEMA 2018.

ES Level 3-1 to 3-5 Review

ES Employees at Level 3-1 to 3-5 at the commencement of the VCCEMA 2018 will need to have their classification reviewed by their Employer by 30 April 2019.

The purpose of the review is to determine if the position meets the descriptors of ES Level 3 or ES Level 2.

In accordance with clause 44.2 of the VCCEMA 2018, employees will translate to Level 3-0 on 1 May 2019 if the position meets the Level 2 descriptors. If the position meets the Level 3 descriptors, then the employee will translate to Level 3-1.

In 2019, the CECV will be issuing separate information, resources and advice in relation to clause 44.2 and the Education Support review, and will be assisting schools through the process. See the CECV [Salary Guide](#) for more detailed information regarding this matter.

Level 3 changes

On 1 May 2019 the ES Level 3 will be revised to take into account the above changes. ES Level 3 will be revised to six subdivisions only, ES 3-1 to ES 3-6. This is only a translation change and will not result in an Employee's salary being reduced.

The translation tables set out in [clause 44.3](#) of the VCCEMA 2018 will assist schools implement the change.

Part-time employees FTE (Clause 42.2)

From 29 January 2019, all part-time employees' FTE is to be rounded up to two (2) decimal places. Normal rounding rules do not apply. For example:

- An employee with an FTE of 0.525 will be 0.53 FTE from 29 January 2019.
- A employee with an FTE of 0.733 will be 0.74 FTE from 29 January 2019.

Note: OSR will automatically round staff FTE's to 2 decimal places, but schools will need to double check the record, and make the changes for part-time fixed term and new employees

ICON SCHOOLS: To apply a change to the FTE of a current employee, copy and modify the Employment Record and matching Entitlement Record. This can be completed in advance of the effective date being, 29 January 2019. OSR will be updated overnight once these records are generated.

Work Patterns are effective in the pay fortnight processing. Therefore schools should modify the Work Patterns in the Fortnight 1 - 8 February 2019 or Fortnight 2 – 15th February 2019.

Note: For Category A (Annual Leave) employees manual adjustments may be required where leave has been taken on or after 29 January 2019. In these instances manual adjustments can be made when the leave is taken.

Allowances and other payments

The VCCEMA 2018 provides for increases to the following allowances:

- Positions of Leadership ([clause 62](#)) will increase in line with salary increases. Funding provided for the POL pool to be increased consistent with the POL increases.
- Deputy Principal Allowances will increase for Deputy Principals in primary schools who have not reached level T2-6 on the teacher incremental scale. The rates are set out in [schedule 10.7](#).
- Medical support allowance rates are set out in [clause 50.4](#).
- A tool allowance payable to employees required to provide their own tools of \$20 per week for a tradesperson (non-carpenter or joiner) or \$36 per week tradesperson (carpenter or joiner) as set out in [clause 50.3](#).
- Meal allowance has been increased in the VCCEMA 2018 to \$22 as set out in [clause 50.2](#).
- Graduate teacher payments have increase and are set out in [clause 55](#).

ICON SCHOOLS: Due to the increases to the Tool Allowances and Meal Allowances as from 29 January 2019, Schools should review the entitlement record (if recurring), copy existing Employment Record and modify matching Entitlement Record. This can be completed in advance of the effective date being, 29 January 2019.

3. Leave improvements

Parental Leave (Appendix 1)

Half Pay Parental Leave (Appendix 1, clause 4, paragraph 9-11)

An Employee who is eligible for paid maternity leave or paid adoption leave may choose to take their paid parental leave at the weekly rate of pay for half the Employee's ordinary hours of work over double the time (half pay leave).

If an employee elects to take half pay leave, they will receive the same pay entitlements as an Employee who did not elect to observe Half Pay Leave. For example, an Employee who is eligible for 14 weeks paid maternity leave and combines that with two weeks of paid school holidays, has a total of 16 weeks of paid leave, and may elect to observe that entitlement at full pay for 16 weeks or at half pay for 32 weeks.

The half pay parental leave calculator is available [here](#).

When an Employee elects to receive Half Pay Leave it should be noted that:

- The Employee will not be entitled to pay increases or increments beyond the initial period of paid maternity leave or the initial period of paid adoption leave. For example, for an Employee

who has a total of 16 weeks of paid leave (14 weeks of paid parental leave and two weeks of paid school holidays) and is observing that leave as Half Pay Leave over 32 weeks, the Employee would be entitled to a pay rise that is scheduled in the first 16 weeks, but would not be entitled to a pay rise that is scheduled in the second 16 weeks;

- The period of Half Pay Leave observed beyond the initial period of paid maternity leave or the initial period of paid adoption leave, shall be inclusive of, any public holidays or school holiday periods for which the Employee would otherwise receive school holiday pay. This means the Employee will not receive additional pay (other than payment for the Half Pay Leave) or have the period of paid leave extended by any public holidays or school holidays that fall within the second half of the period of Half Pay Leave;
- Pursuant to clause 25.7(b), the period of Half Pay Leave will result in proportional adjustments to school holiday pay and leave loading using the formula under clauses 25.6 and 25.8 of the VCMEA 2018, as if the employee had taken parental leave at full pay;

NOTE: When calculating pro-rata school holiday pay using the online [pro – rata school holiday calculator](#), schools should be entering the employee's pay as if the employee had taken parental leave at full pay.

- Keeping in touch days will not apply during half pay parental leave;
- Fixed term employees may elect to receive half pay leave but only if the employee's half pay parental leave payments fall within the term of their fixed term contract;
- An employee cannot access any form of other paid leave whilst on half pay leave;
- During half pay leave, school holiday pay and public holidays which the employee is entitled to continue to be paid at the half pay rate.
- An employee who elects to receive half pay leave will accrue entitlements for the full period of the half pay leave, at a rate equivalent to half their FTE.

ICON SCHOOLS: Should follow the following process:

1. Enter **Leave Request** for the full period of Paid Parental Leave at Half Pay.
2. Change Job Details (to take off autopay) effective first day of Parental Leave at Half Pay. Change Pay Basis to 'Hourly', Holiday Category to 'No Public Holidays' and Time Sheet Usage to 'Use Timesheets'.
3. Add new **Entitlement Record** to remove any allowances and/or deductions not applicable during Parental Leave at Half Pay.
4. Enter **Timesheet Payment** each fortnight for Paid Parental Leave at Half Pay using amount calculated using the online [Half Pay Parental Leave Calculator](#). Where Entitlement includes an allowance that is reported on OSR, this is to remain on entitlement record and each fortnight after calculating pay; review via Input Employee Adjustment (non timesheet) and where allowance is displayed, enter allowance amount as a negative to exclude this being paid again as this is already included in Paid Parental Leave at Half Pay calculation.

Keeping in Touch Days (Appendix 1, clause 15, paragraph 9)

Employees who perform a keeping in touch day will now be entitled to be paid the Employee's ordinary rate of pay plus an 18% loading, and the work does not count as service for the purpose of leave accruals.

This change will mean that a school will not be required to calculate pro-rata school holiday pay, annual leave loading or personal leave entitlements for an employee who only completes keeping in touch days during their period of unpaid parental leave in any one year.

All other work for the first employer during a period of unpaid parental leave remains unchanged under clause 15.

Note: At this stage, Keeping in Touch days still need to be recorded on the OSR.

ICON SCHOOLS: Keeping in Touch Days that occur on or after 29 January 2019 should only be entered into ICON after 29 January 2019 to ensure the 18% loading is applied.

Notice of return to work (Appendix 1, clause 22 paragraph 2)

An Employee must now confirm their intention to return to work from parental leave in writing as soon as practicable, but not less than one school term prior to the Employee's intended return to work date. This has changed from the previous provision that required an Employee to provide 8 weeks' notice wholly within one term, of their intention to return to work.

Return to work arrangements and breastfeeding (Appendix 1, clause 23, paragraph 1)

Where an Employee returns to work from parental leave, and requests arrangements for facilitating and accommodating breast feeding, an Employer must make reasonable arrangements. For example, reasonable arrangements may include the use of a private room or office for 30 minutes to breastfeed.

Fixed term payment (Appendix 1, clause 4 paragraph 16)

If a fixed-term Employee would otherwise be eligible for paid parental leave but the expected date of birth of the child is no more than six weeks after the end of the Employee's fixed-term contract, the Employer must, at the end of the contract, pay the Employee a lump sum amount equivalent to 14 weeks of paid parental leave.

For example, if an Employee is on a fixed-term contract that ends on 28 January and the Employee is due to give birth on 6 February, the Employee will be entitled to a 14 week lump sum payment at the end of the contract.

Long Service Leave (Appendix 3)

A number of changes to Appendix 3 of the VCMEA 2018 have been introduced, compared to the VCMEA 2013. The majority of these changes are a result of the new the *Long Service Leave Act 2018* (Vic) (LSL Act 2018) which introduces a number of changes compared to the *Long Service Leave Act 1992* (Vic).

Appendix 3 is required to meet the minimum standards provided within the relevant Long Service Leave legislation in Victoria and the key changes are outlined below.

Further information in relation to the LSL changes, will be available shortly.

Leave period may be spilt (Appendix 3, 8.3)

An Employee is now entitled to request LSL for a minimum period of one day. An Employer must grant such a request, unless there are reasonable business grounds for refusing. Reasonable business grounds can include but are not limited to:

- There is no capacity to change the working arrangements of other employees to accommodate the employee taking long service leave at the requested time;
- It is impractical to change the working arrangements of other employees, or recruit new employees to accommodate the employee taking long service leave at the requested time;
- The long service leave requested by the employee is likely to result in a significant loss in efficiency or productivity; and
- The long service leave requested by the employee is likely to have a significant negative impact on customer service.

This not an exhaustive list of reasons. In a school environment, specific periods of the year will also determine the Employer's ability to approve long service leave requests. For example, it will be difficult for a secondary school to approve requests for long service leave from teachers who are employed in VCE subjects, without significant prior notification.

Accrual of Entitlements (Appendix 3)

A number of changes have been made to the accrual of LSL as outlined below:

- Any period of unpaid leave on account of illness or injury, irrespective of duration is continuous and accruable for the purposes of calculating long service entitlements.
- Any other period of unpaid leave (including unpaid parental leave) up to a period of one year is continuous and accruable for the purposes of calculating long service leave entitlements.
- Any other period of unpaid leave in excess of one year will be continuous and accruable for the purposes of calculating long service leave entitlements if the employer and employee agreed in writing before the leave was taken that such leave longer than one year will be accruable for long service leave purposes.

Calculation of leave entitlements (Appendix 3, (3))

The way in which the ordinary rate of pay is determined when an Employee has a mix of full-time and part-time service has been amended within the VCMEA 2018.

The VCMEA 2018 has amended how an Employee with both part-time and full-time service will have their ordinary rate of pay calculated, with a new calculation of a weighted average FTE applying consistently over the period of long service leave. This will create an overall average FTE instead of the current practice of two separate buckets of long service leave of full-time and part-time long service leave.

This change is intended to simplify the administrative framework that is currently burdensome and complex for both Employees and Employers to interpret. This change is not intended to result in an Employee being worse off as compared to the current practice of two separate 'buckets' of full-time and part-time long service leave.

NOTE: Schools should note that the effective date of this change is the start of the school year, 29 January 2019 and that this change will not be reflected on PRS until 29 January 2019. As such, payments to employees may need to be updated next year.

Family and Domestic Violence Leave

[A guide to supporting staff](#) is available for schools to help with supporting staff who may be experiencing family and domestic violence and understand the new entitlement which is summarised briefly below. Please note the guide will be further updated for the start of the 2019 School year to include the additional entitlement to supporting a person experiencing family or domestic violence (see below).

Paid Family and Domestic Violence Leave (Clause 33)

An employee other than a casual Employee, experiencing family and domestic violence is entitled to paid family and domestic violence leave for the purposes of attending medical appointments, legal proceedings and other activities related to family violence.

Paid family and domestic violence leave is non-cumulative and is available per school year as follows:

- 10 days for Primary School Principals, Deputy Principals, Teachers, Category B Education Support Employees, Category B School Services Officers, School Advisers, Visiting Teachers and Category B Placed Teachers;
- 13 days for Category C Employees;
- 15 days for all other Employees.

Upon exhaustion of the paid leave entitlements in [clause 33.1\(b\)](#), an Employer may provide additional leave.

Supporting someone experiencing Family and Domestic Violence Leave (Clause 33.3)

An Employee who supports a person experiencing family violence may utilise their personal/carers leave entitlement to accompany them to court, to hospital, or to care for children. An Employer may require evidence from an Employee seeking to utilise their personal/carer's leave entitlement that the leave is being taken for the support of someone experiencing family and domestic violence leave.

Personal Leave for Teachers

Deduction of personal leave for teachers (Clause 30.2)

The VCEMEA includes the current guidance material formula for deduction of personal leave for teachers:

$\text{Personal leave deduction} = \frac{\text{Hours absent during instruction time}}{\text{Hours of Instructional Time in a day}} \times 7.6$
--

The Agreement confirms that deductions will be based upon the hours absent during a school's instruction time divided by the hours of instructional time in a day, multiplied by 7.6.

Hours absent during instruction time means the number of hours that the teacher is absent during the school's instruction time. In the case of a part time teacher, the hours absent during the instruction time is up to a maximum of the time the part time teacher would otherwise have been in attendance.

Hours of instructional time in a day means the number of hours that the school has for student instruction during the school day subject to the following:

- Includes scheduled home room duties for secondary schools; and
- Commences when students are required to be in attendance in their classroom for the start of the school day for primary schools.

The implementation guide continues to operate and provides a number of examples of how to manage these situations. The guide can be found here [Personal Leave Deductions \(Teachers\) Implementation Guide](#). Please note the guide will be further updated for the start of the 2019 School year.

Other leave changes

Union Committee of Management Leave (Clause 40)

An Employee elected to the Committee of Management of the Union will be entitled to paid leave to attend Committee of Management meetings (normally eight times per year and one day's training).

Where a school is required to engage an emergency teacher to replace the Employee on Union Committee of Management leave the Union will, on presentation of invoice, reimburse the school for the cost of engaging the emergency teacher for the day.

Cultural and ceremonial leave (clause 32)

An Employee (other than a Casual Employee) of Aboriginal or Torres Strait Islander descent is entitled to three days' paid cultural and ceremonial leave per school year (non-cumulative), for the purpose of attending Aboriginal or Torres Strait Islander community meetings.

An Employee (other than a Casual Employee) of Aboriginal or Torres Strait Islander descent is also entitled to three days' unpaid leave per school year (non-cumulative), upon the death of a member of

their immediate family or extended family for the purpose of other ceremonial obligations. This entitlement is in addition to the entitlement to compassionate leave under the VCCEMA 2018.

Annual Leave accrual (Clause 25.2)

Amendment to wording in the VCCEMA 2013, to clarify that annual leave accrues progressively not weekly.

Sabbatical Leave

Sabbatical leave has been removed from the VCCEMA 2018.

4. Teacher matters

Part-time Teacher duties (Clause 59.2)

Confirmation of current practice which is that, a part-time teacher shall be expected to undertake proportional number of duties normally expected of a full-time teacher in that school, e.g. yard supervision, staff meetings, etc. This clause has been re-inserted into the VCCEMA 2018 after being inadvertently left out of the VCCEMA 2013.

Professional Practice Time (Clause 60.9)

Professional Practice Time (PPT) has been included into the VCCEMA 2018. The [guidance material](#) in relation to professional practice time can assist schools with this provision.

Schools should note that for the 2021 school year, a full-time Teacher will be entitled to 10 hours of release in Term 1 and Term 2 (pro-rata for part-time Teachers).

This clause will cease to operate or have any effect from 28 June 2021.

Please note the [guide](#) will be updated for the start of the 2019 school year to reflect the entitlement contained in the VCCEMA 2018.

5. Consultative Committee

Consultative Committee meetings (Clause 16.3)

Inclusion of a clause which confirms that Consultative Committee meetings will be held within or adjacent to the school day.

Multi-Campus Structure (Clause 16.2)

In a multi-campus school the composition of the Consultative Committee may include representatives from each campus, provided the total composition retains the same balance of representatives as a single campus school.

Schedule of meetings (Clause 16.3(e))

The consultative committee will meet in Term 4 to discuss and make recommendations to the Principal in relation to the arrangements and schedule of meetings for teachers for the following school year, with a focus on maximising the efficient use of meeting times.

Email and other communication protocols (Clause 16.3(d))

An inclusion that the Consultative Committee shall provide recommendations to the Principal on staff email and other communication protocols, including with parents and after hours. This clause has been included as part of the four matters that the Consultative Committee has previously provided recommendations to the Principal on.

Support and resourcing for a classroom Teacher (60.2(c))

There has been a slight change to the wording regarding the special recommendations the consultative committee make with regard to support and resourcing for a classroom Teacher. The Consultative Committee *must* make special recommendations with regard to support and resourcing for a classroom Teacher where a P-2 class exceeds 26 and a 3-10 class exceeds 28.

Practical Classes (Clause 60.2(f))

Wording of what a practical class includes has been included into the practical class's clause. The amended clause now states that a practical class includes a subject or course where the use of equipment and/or material of a potentially dangerous nature is involved and/or a class in which students are undertaking manual tasks requiring greater individual supervision of the classroom activity.

6. Breaks

Recess Breaks (Clauses 71.3 and 74.9)

There has been an amendment to the recess provisions for Education Support Employees and School Services Officers. Employees will still be entitled to recess without deduction of pay, however where recess is longer than 20 minutes, the Employee may be required to perform duties relevant to the Employees role for the remainder of that recess period.

This change will mean that an Employee will still receive a significant paid rest break free from duties, but if the recess is longer than 20 minutes that the Employee can be required to perform duties. The timing of the recess breaks can still be varied by mutual agreement.

This change will not result in an Employees FTE being reduced.

This change will not have an effect on schools which do not have a recess break which is longer than 20 minutes. In those situations the employee will still be entitled to the full recess period as a paid break free from duties.

The meal break provisions remain unchanged, with employees receiving a minimum break of 30 minutes. Meals breaks are unpaid and can be varied by mutual agreement.

Emergency Teacher Breaks

An Emergency Teacher is entitled to a 30 minute unpaid lunch break free from duties. A school is able to split that break into two separate periods if required.

7. School staffing

Significant reduction in part-time Employees hours (Clause 15.2)

There has been a small technical change to the way in which Clause 15 applies. In the VCMEA 2018, when a significant reduction in a part-time employee's hours of work are proposed by the Employer as a result of a change in enrolment, curriculum, program, organisation, structure, technology or funding, the Employee will be provided with 21 days to consider whether to elect a severance payment or accept the reduction.

Where an Employee does not advise of a decision in writing within 21 days, it will be taken that the Employee has accepted the proposed reduction in hours.

This change is to ensure that the process can be finalised in a timely manner while still providing the Employee with a reasonable amount of time to consider their situation.

A school will be required to provide an Employee who elects to receive a severance payment written notice in accordance with clause 19 of the VCMEA 2018.

Transition to retirement (Clause 41)

A new transition to retirement clause has been included into the VCMEA 2018. A full-time Employee will be eligible to make a request in writing to the Employer to permanently reduce their working hours as part of a genuine transition to retirement. The key aspects of the new clause is outlined below:

- The length of transition to retirement period is generally 1-2 school years. A school is able to approve a longer transition to retirement period of an Employee if that is possible based upon the School's needs.
- The Employee's new time fraction will be locked in for the full period of the transition to retirement and may only be varied by mutual agreement. So if an Employer approves a request, an Employee will have their FTE maintained for the length of the agreed period and will not be subject to clause 15, variation of part-time Employee's hours of work.
- By requesting a transition to retirement the Employee is agreeing to forego their full-time position and permanently reduce their FTE as a transition to retirement. An Employer who is able to accept a request for a transition to retirement, will be able to permanently replace the Employee's hours. The Employee must also provide in writing their notice of retirement at the end of the agreement.
- Where the Employer approves the request and a transition to retirement arrangement is agreed, the agreement must be in writing and be signed by both the Employee and the Employer. The agreement must include:
 - The Employee's new part-time fraction;
 - The start and end date of the transition to retirement (usually one-two school years);
 - A letter from the Employee providing notice of retirement at the end of the agreement.

A transition to retirement agreement may be beneficial for both the Employee and the Employer. For the Employee it provides stability in their FTE for the transition and for the Employer it provides an agreed end date of the employment which can help with planning purposes.

The CECV will shortly be issuing separate information, resources and advice in relation to clause 44.1 and the new transition to retirement provisions.

Category B Employees

End of Year Arrangements (Clause 25.10)

The VCMEA 2018, confirms that Category B non-teaching staff members can be required to work until the end of the gazetted school year, which includes working days after the Teachers have finished in Term 4.

Clause 25.10 of the VCMEA 2018 states that Category B non-teaching staff members who are required to work beyond the last day of attendance for Teachers in Term 4 can only be required to perform meaningful tasks which are commensurate with the Employee's skills and experience.

This may include a school having a Category B, Learning Support Officer, helping with administration tasks in preparation for the following school year after the Teachers and students have finished for the year. Alternatively by agreement, Employers and Employees can enter into a TOIL (time off in lieu) arrangement for the purposes of making the last day of attendance for those Category B non-teaching staff members a day prior to the end of the gazetted school year. It is recommended that the TOIL arrangement is clearly documented to ensure that the time the employee has worked is approved overtime and to ensure that the employee does not accrue more TOIL than they need to use at the end of the year.

The guidance note entitled 'Recall and end of year procedures' will be discontinued by the IEU and CECV from the beginning of the 2019 school year.

Recall Allowance (Clause 25.9 (f))

The VCMEA 2018 clarifies that the Recall allowance payable to Category B non-teaching staff members is only payable for recall days worked during the gazetted school holiday periods. This clarifies that a Category B non-teaching staff member who may be required to work past when the Teachers finish in Term 4 are not considered recall days and an allowance is not payable for those days of work.

Working in isolation (Clause 25.9 (d))

An Education Support Employee at Level 1 or 2 cannot be required to work in isolated circumstances or to attend for duty under the recall provision unless a responsible manager is present.

School Nurses (Clause 70.7)

A clause has been included to provide references for school's employing a person to perform the role of a School Nurse, where the school requires the employee to hold a nursing qualification as a requirement of the role. The VCMEA 2018 provides for the payment of two types of qualified School Nurses as an Education Support employee. The two categories of School Nurse are:

- Enrolled Nurse - An enrolled nurse (diploma qualified) to provide primary nursing care with its associated administrative responsibilities, the Employee will be classified at ES Level 2 and paid in accordance with Schedule 4 – Education Support Salaries.
- Registered Nurse - A registered nurse (degree qualified) to provide health counselling, health education and acting in a resource capacity to the school community, in addition to providing primary care and its associated administrative duties, the Employee will be classified at ES Level 3 and paid in accordance with Schedule 4 – Education Support Salaries.

The inclusion of the reference to School Nurses is not meant to capture schools who employ a First Aid Officer and the employee happens to hold a nursing qualification. In this scenario the School does not require the First Aid Officer to hold a nursing qualification and does not need to refer to the above sections.

If a school currently employs an Enrolled Nurse or Registered Nurse on classifications which are higher than those listed above, those Nurses should continue to be paid in accordance with the contractual terms of their employment.

Other changes

Notice of non-renewal of contracts

Fixed-term employees

Notice of non-renewal of a fixed term contract will only need to be provided where the contract is at least one school year or more. The notice provided needs to be not less than seven weeks in term time prior to the conclusion of the contract.

Deputy Principal and Position of Leadership

Notice for non-renewals of Deputy Principals and Positions of Leadership contracts needs to be not less than seven weeks in term time prior to the conclusion of the contract (for contracts at least one school year or more)

Primary Principals (Clause 63)

Vacancies

All advertised vacancies for Primary Principals shall contain the following information:

- Duration of the proposed appointment;
- Proposed classification; and
- Enrolment (as at the February preceding the advertised vacancy).

Primary Principals- Alternative Leadership Models (Clause 66)

Inclusion of a clause which provides for a process where a Primary school is looking at an alternative leadership model. Ordinarily there shall be one Principal for each Primary School. However if there is a proposal for an alternative structure, such as a single Principal position for more than one Primary School, or an Executive Principal arrangement whereby a number of Principals report to an Executive Principal with oversight of a group of schools, consultation with the Union will need to occur. The consultation will occur as soon as possible and will attempt to reach agreement on the structure, the tenure and the appropriate remuneration for the position.

Notice of termination (Clause 19)

Notice of termination for teachers with less than five years in their current school and less than 10 years in Catholic Education will be eight working weeks. This has been changed from the previous provision in the VCMEA 2013, which required an Employer to provide 7 weeks' notice of termination wholly within one term.

8. Leave Codes

The following leave codes have been created for the new leave entitlements for OSR and PRS. ICON schools will be entering leave codes based on the description.

009PLH	Parental Leave (half pay)
615	Miscellaneous Special Leave (paid)
616	Miscellaneous Special Leave (unpaid)
617	Miscellaneous Special Leave (carers)
620	Cultural and Ceremonial Leave (paid)
621	Cultural and Ceremonial Leave (unpaid)
625	IEU Committee of Management Leave
35	Origin code – Transition to retirement

ICON SCHOOLS will be advised when the Transition to retirement code is available in ICON. The configuration for Origin and Destination codes is currently under review

9. Further queries and information

Any queries in relation to this implementation guide or the VCMEA 2018 should be directed to the Industrial Relations Unit on 03 9267 0431 or ceoir@cem.edu.au.

A full copy of the [Victorian Catholic Education Multi-Enterprise Agreement 2018](#) is available on the CECV website.

IN THE FAIR WORK COMMISSION

Matter No: AG2021/9160

Applicant: Diocese of Sale Catholic Education Limited

ANNEXURE ‘JAJ 10’

This is Annexure JAJ 8 to the statutory declaration of John Anthony Jordan dated 10 February 2022

Implementation Guide for Schools

**Guidelines for changes relevant to Long Service
Leave under the *Victorian Catholic Multi-Enterprise
Agreement 2018***

February 2019

1. Background

The purpose of this guide is to outline the changes to long service leave under the *Victorian Catholic Education Multi-Enterprise Agreement 2018 (VCEMEA)*, as well as to provide additional guidance in relation to these changes.

The majority of the changes that have been made to long service leave provisions within the VCEMEA, have been made in light of new long service leave conditions introduced in the *Long Service Leave Act 2018 (Vic) (LSL Act)* which came into effect on 1 November 2018. The LSL Act replaced the *Long Service Leave Act 1992 (Vic)*.

Long service leave within Victorian Catholic schools is currently governed by the provisions in Appendix 3 of the VCEMEA, which came into effect on 29 January 2019.

2. VCEMEA - Key changes

Outlined below, in summary, are the key changes to long service leave as contained in the VCEMEA:

- (a) Any period of unpaid absence from work on account of illness or injury, irrespective of duration is continuous and accruable for the purposes of calculating long service entitlements.
- (b) Any other period of unpaid absence from work (including unpaid parental leave) up to a period of one year, taken with the Employer's consent, is continuous and accruable for the purposes of calculating long service leave entitlements.
- (c) Any other period of unpaid absence in excess of one year, taken with the employer's consent, will be continuous and accruable for the purposes of calculating long service leave entitlements, if the employer and employee agreed in writing before the leave was taken that such leave longer than one year will be accruable for the purposes of calculating long service leave entitlements.
- (d) An employee can request long service leave in periods of not less than one day at a time.
- (e) Mixed part-time and full time service has been simplified by removing the full-time and part-time "buckets" by creating an overall average FTE. Employees will be paid an average FTE rate during their long service leave.

It should be noted that changes (a) to (d) came into effect by law from 1 November 2018 (prior to the commencement of the VCEMEA), due to the commencement of the LSL Act 2018. These conditions are now also binding by virtue of the VCEMEA.

3. Accrual of LSL

Key changes

Under the VCEMEA, there have been changes to the absences from work which will be treated as service for the purposes of long service leave accruals. These changes are as follows:

Absences on unpaid leave up to one year (e.g. personal leave)

- Any unpaid absence from work (including unpaid parental leave) up to one year taken with the employer's consent, will be accruable for the purposes of calculating long service leave entitlements.

For example, in the case of an employee who works for 4 years, takes three years off (156 weeks) on unpaid parental leave and then returns to work for another 4 years, the employee will have accrued long service leave for 9 years of their continuous employment. This includes one year of service being treated as accruable for long service leave purposes during the period of 156 weeks of unpaid parental leave as provided for under the VCMEA.

Unpaid absences due to illness or injury

- Any period of unpaid absence from work on account of illness or injury, irrespective of length, will be accruable for the purposes of calculating long service leave entitlements. It will mean that an employee on long term unpaid personal leave will be accruing service for the purposes of long service leave entitlements for the entire period, irrespective of the length of the absence.

Unpaid absences – agreement in writing

- Any other period of unpaid absence from work in excess of one year and taken with the employer's consent, will be continuous and accruable for the purposes of calculating long service leave entitlements, if the employer and employee agree in writing before the leave is taken that such leave longer than one year will be accruable for long service leave purposes.

Note: System updates have occurred to ensure that changes to the way in which unpaid leave accrues long service leave will occur automatically. These changes will not require any further action at the school level, other than being aware that periods of unpaid leave will attract long service leave accruals, where previously they did not.

Transitional arrangements from 1 November 2018

As outlined above, the LSL Act 2018 commenced on 1 November 2018. This means that the changes to long service leave accruals occurring whilst a person is on different forms of unpaid leave, came into effect from that date.

In light of these changes to service accrual, transitional arrangements were included in the LSL Act to deal with situations where an employee's leave started prior to the commencement of the LSL Act on 1 November 2018, and finished after that date.

In general terms, the transitional arrangements provide that where the LSL Act commenced during an employee's absence on unpaid parental leave (or other unpaid leave), only that part of the period of unpaid absence which occurred on and from 1 November 2018, will count as service for the purposes of long service leave accruals. Any part of the period of unpaid parental leave occurring before that date will not count.

For example, if an employee commenced 12 months of unpaid parental leave on 1 July 2018, the first four months of that leave would not be counted as service, but the final eight months of leave (that is, the period after 1 November 2018) will count as service for the purposes of long service leave accruals.

3. Periods of leave – Minimum of one day

Employee requests for long service leave

Under the VCMEA (and based on changes in the new LSL Act), an employee may now make a request to their employer to take long service leave for a period **of not less than one day**.

This is a significant change from previous provisions as there is no longer a limit on an employee accessing long service leave in one, two or three separate periods.

This change will enable employees to access single days of long service leave during term time, where previously they may have been required to utilise unpaid leave if they had wanted to take a day off during term (where it did not constitute another form of leave – for example, personal leave).

Practical considerations / implications

Given that employees can now request single days of long service leave, there may be an increase in long service leave requests.

As a result of this change, outlined below are some practical matters that schools should consider going forward.

Review or introduce LSL Policy

It is important that a school has a policy in place outlining its processes in relation to long service leave requests.

Whilst a policy will **not** enable a school to restrict an employee's right to make requests for long service leave, including for periods of one day, it can outline the school's protocols for considering requests, including preferred timeframes for applications. In specifying in a policy a preferred timeframe by which requests for long service leave are made, schools will need to be flexible in their approach, as there may be particular circumstances which will result in an Employee requesting a period of long service leave outside of the preferred timeframe. These applications will still need to be considered and should not be declined purely on the basis that the application was made outside of the preferred timeframe.

In developing a policy, schools should consider including reference to the following:

- The purpose of LSL;
- Requested timeframes for requests for LSL; and
- Factors that will be taken into account in considering requests for long service leave (see further below).

Many schools will currently have in place a long service leave policy, which will already deal with the above matters.

Schools that currently have a long service leave policy in place can continue to manage long service leave at their school through their policy and procedures. However, they should review their policy and consider whether any amendments are needed to take into account an employee's ability to request periods of long service leave one day at a time.

Note: Many schools will have a practice of seeking staffing intentions for the following year in Term 3 of each school year, which will include asking staff to advise of any intentions to take long service leave in the following year.

This is good practice and can be important for a school to provide the school with the best opportunity to prepare and plan for periods of leave and to assist schools managing requests of leave for one day at a time whilst best ensuring student needs are met.

Consideration of requests

In general terms, each request for long service leave should be separately considered and assessed. A school will need to consider requests individually having regards to balancing the needs of the school and staff.

When considering requests having regard to the needs of the school, some considerations may include:

- The timing of the leave in relation to the school's organisational priorities.
- In relation to classroom based employees, the time of the year and subjects taught (e.g. VCE teachers may have more restrictions on accessing long service leave during a year in which they are teaching VCE classes).
- The notice provided for the request. For example, in a primary school it may be difficult for an Employer to accept a request for long service leave from an administration support employee around the time of census, without reasonable prior notice of the request.
- Whether there is capacity to change the working arrangements of other employees to accommodate the employee taking long service leave at the requested time.
- Whether it is practical to recruit new employees to accommodate the employee taking long service leave at the requested time.


This is not an exhaustive list of considerations to be taken into account as there may be other operational factors that are taken into account when considering a request.

Where an Employer is unable to approve a request for long service leave, the Employer should inform the Employee of the reasons for the refusal. Importantly, an Employer should also discuss with the Employee any mutually acceptable alternatives to the original request.

Balancing multiple requests

When balancing multiple requests for long service leave over the same or similar timeframes (including requests for long service leave of one day on the same day), schools will need to apply a consistent approach. In many cases, this could include:

- prioritising in order of request; and
- taking into account previous periods of long service leave. For example, if an employee has taken a significant period of long service leave in the previous year, they may be less likely to have their



request accommodated in the following year, where there are other employees who have also made a request at the same time and who have not accessed long service leave in recent years.

Considering requests in order of submission and taking into account previous leave, may also assist schools in managing a number of requests from employees for the same day (for example, before a public holiday or after a public holiday).

Requests for single days of LSL on a regular basis

Under the new LSL Act, it is possible for an employee to request one day of long service leave per week for an extended period of time. A school will need to consider these requests on an individual basis and take into account the school's operational needs in considering the request.

In many instances, considering this type of request will be similar to considering a request for part-time work.

As such, similar factors should be taken into account, such as the reasonableness of replacing the staff member for the day or days they will be on leave (for example, challenges replacing a teacher's classes one day a week), for the period of time in which the employee is seeking the leave arrangements.

There will be times when an Employer will be able to accept a request for a period of long service leave at one day a week for an extended period, however there may also be situations when an Employer will not be able to.

Again, where a request is made for this type of arrangement, and a decision is made that the school will not be able to accommodate that request, the Employer will need to inform the Employee the reasons for that decision and consider whether alternative arrangements can be accommodated. For example, can the arrangement be accommodated by taking another day off, or at another time of the year?

Transition to retirement

Under the new LSL Act, it is possible for an employee to request one day of long service leave per week for an extended period, as part of a transition to retirement.

In this instance, the arrangement should be entered into in conjunction with the transition to retirement provisions of the VCMEA, and agreement reached as to the end date of an employee's employment in accordance with Clause 41 of the VCMEA.

Further advice about transition to retirement and resources can be obtained by contacting the Employee Relations Team.

4. Calculation of leave entitlements

The way in which the ordinary rate of pay is determined when an employee has a mix of full-time and part-time service has been amended under the VCMEA. If an employee has both part-time and full-time service, the ordinary rate of pay is now calculated as a weighted average FTE applying consistently over the period of long service leave. This will create an overall FTE instead of the current practice of two separate buckets of full-time and part-time long service leave. This change is intended to simplify the administrative framework that is currently burdensome and complex for both employees and employers.

5. Frequently Asked Questions

<p>How and when can an employee access long service leave?</p>	<p>An employee can make a request to take long service leave at any time after 7 years of continuous employment in Catholic education and may make a request to take a period of long service leave for any period of not less than 1 day at a time.</p>
<p>Can an employee request one day of LSL a week for an extended period?</p>	<p>Yes, an employee can request long service leave on the basis of one day per week, over an extended period.</p> <p>A school will need to consider each request individually and make a decision having regards to the needs of the school, and the reasonableness of replacing the staff member for the day or days they will be on leave (for example, challenges replacing a teacher's classes one day a week).</p> <p>Please refer to section 3 of this guide in relation to the factors that a school may take into account when considering a long service leave request, including when an employee seeks to access one day of long service leave a week for an extended period of time.</p>
<p>Can an employee seek to transition to retirement by taking a period of long service leave, including taking one day of long service leave a week for an extended period, instead of reducing their FTE?</p>	<p>Yes, an employee may request to take a period of long service leave one day at a time to enable a transition to retirement.</p> <p>Again, the school will need to consider the request and make a decision having regards to the needs of the school.</p> <p>In relation to the maintenance of FTE, schools should be aware that where a teacher requests one day off a week of long service leave over an extended period, a school may not be able to guarantee a 0.8 FTE for the other four days, depending on timetabling and scheduled classes available over a 4 day period. Therefore it may not be possible to avoid adjusting the employee's FTE.</p> <p>In this instance, the arrangement should be entered into in conjunction with the transition to retirement provisions of the VCMEA, and agreement reached as to the end date of an employee's employment in accordance with Clause 41 of the VCMEA.</p>

<p>Can an employee take only one day of long service leave at half pay?</p>	<p>No. An employee can only access a minimum of two days of long service leave at half pay.</p> <p>Under clause 8.3 of Appendix 3, long service leave must be taken in periods of not less than one day</p> <p>Further, clause 8.9 of Appendix 3 states that an employee may request their employer to grant an amount of long service leave:</p> <ul style="list-style-type: none"> • Twice as long as the amount to which the employee would otherwise be entitled; • At a rate of pay equal to half the employee's ordinary pay. <p>Because an employee cannot access long service leave for less than a day, and half pay leave means that a person is taking an amount of leave, that is twice as long than they would otherwise be entitled, an employee cannot access long service leave for one day at half pay.</p>
<p>We have a long service leave policy in place that states that an employee can only take long service leave in longer periods of time, can we continue to rely upon this policy?</p>	<p>No, with the changes to the <i>Long Service Leave Act 2018</i> (Vic) and the VCMEA, an employee is entitled to request long service leave one day at a time and a school will not be able to continue to rely upon a policy requiring employees to take long service leave in larger blocks of time.</p> <p>It is recommended that schools update current policies to ensure that they reflect the changes in the new VCMEA.</p> <p>Whilst a school can continue to advocate for long service leave to be taken in longer periods to enable rest periods for recuperation, it will not be able to restrict employees from requesting long service leave one day at a time nor will they be able to reject requests from employees for leave one day at a time due to current wording in school long service leave policies.</p>

<p>What do we do if we receive multiple requests for long service leave for the same period of time, or multiple requests to take a period of long service leave for the same singular day?</p>	<p>To manage these situations, it is advisable for schools to outline in their long service leave policy, how multiple requests for the same period are treated.</p> <p>To ensure that applications are considered fairly, the policy may indicate that multiple applications for the same day will be considered in order of submission, as well as who has or hasn't taken long service leave in recent years.</p> <p>For example, if a school receives requests for a single day of long service leave from multiple employees for a day after a public holiday, the school would need to consider the impact on the school in accepting those requests and it may be appropriate to consider applications for leave based on order of application, and who has taken long service leave in recent years.</p>
<p>Can a school still request employees to provide 12 months' notice of any planned period of long service leave?</p>	<p>Yes, a school can request that employees provide a specified period of notice for planned long service leave.</p> <p>For example, it is recommended that the long service leave policy outline when the school will generally require applications to be made for the following year. The long service leave policy can also include a reference to the basis on which applications will be considered, such as giving priority to applications based on order of submission, therefore encouraging employees to submit their long service leave request as far in advance as possible.</p> <p>Schools will still need to be flexible in its approach, as there may be particular unforeseen circumstances which will result in an employee requesting a period of long service leave at short notice. These applications will still need to be considered and should not be declined purely on the basis that the application was made outside of the preferred timeframe.</p>

6. Contact and Enquiries

For queries regarding entitlements under the VCMEA please contact the Employee Relations Unit on (03) 9267 0431 or via email on ceoir@cem.edu.au.

For advice regarding the processing and payment of LSL reimbursements and terminations please contact the Long Service Leave Officer on (03) 9267 0328 or via email on lslofficer@cem.edu.au.