

**Senate Finance and Public Administration Legislation Committee  
—Supplementary Budget Estimates Hearing—October 2016**

**Answers to Questions on Notice**

**Parliamentary departments, Department of Parliamentary Services**

Topic: **Enterprise agreement negotiations**

Question: **15**

Hansard Reference **p 25; 17 October 2016**

**Date set by the committee for the return of answer: 2 December 2016**

**Senator WONG:** The clause-by-clause comparison table released to the bargaining group—are you able to provide that to the committee?

**Ms Croke:** I can take that on notice. I also point out that that clause-by-clause table is something that has been modified as a working document through the negotiation process.

**Senator WONG:** I understand that.

**Ms Croke:** It is not a definitive document and it is not the proposal.

**Senator WONG:** I understand that. It is a snapshot of where things are at.

**Ms Croke:** It is a working document.

**Answer**

The attached table was last updated on 6 October 2016. As noted during the hearing, this schedule served as a working document for use at the nine meetings of approximately 43 hours duration where the proposed new Enterprise Agreement was discussed clause by clause.

As it has not been updated since then, it is not current and may not reflect the current negotiated position in every respect.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
1	1	Retain with name change		Agreed	All parties agreed
Removed	3-5	Remove – no requirement, not related to terms and conditions		Not agreed	DPS does not agree to change.
Removed	6	Remove as unlawful – see Fed court Toyota case		Not agreed	DPS does not agree to change.
2.1	7	Retain and amend	Further amendment recommended by the APSC	Agreed	All parties agreed
Removed	8	Remove – no requirement		Not agreed	DPS does not agree to change.
2.2	9	Retain and amend	Further amendment recommended by the APSC	Agreed	DPS does not agree to change.
3	10	Amend to three year term from commencement date	To be discussed later Note CPSU position is for the NED to be 30 June 2017	Not agreed	DPS does not agree to change..
4	11-12	Remove – not consistent with Bargaining Policy	CPSU stated that all policies should be enforceable under the agreement - MBT noted.	Not agreed	DPS Does not agree to change. Reference to other legislation in the EA is not necessary. Employee's rights are enshrined in the other legislation and referred to in relevant policies.
Removed	13	Remove		Not agreed	DPS does not agree to change.
5	14-15	Retain current clauses		Agreed	All parties agreed.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Section B	2	Definitions modify to reflect any new terms of replacement EA	Would like the following reinstated: consultation, emergency, meal break. Requested aunt/uncle be included as immediate family.	Not agreed	DPS does not agree to change. Aunt/uncle are not members of immediate family as per NES unless they are members of the employee's household. Emergency dictionary definitions not required to be in EA. meal break definition not required as meaning is well understood. DPS proposal is to mandate 1/2 hour break after 5 hours work with the only exception for away committees.
6.1	33	Retain existing clause 33 as proposed clause 6.1.		Agreed	All parties agreed.
6.2-6.3	39-41	Retain with amendments	CF objectives removed as recommended by the APSC. DPS stated Terms of reference for consultative forum to be developed by that body when it is formed. CPSU want general role of CF and high level TOR to be outlined in the agreement and CF objectives retained. SBU also concerned regarding 'Division' as not all branches belong to a division.	Not agreed	Draft includes the corection requested by SBU re Division/Branches.DPS position not changed. CF members will develop Terms of reference which include membership. DPS does not object to union representatives being members of CF if this is part of TOR.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
7.1	42	Remove		Agreed	DPS will consider the Dept of Environment clauses per CPSU information in 27 Sep meeting. Bargaining Policy is inclusion of these clauses are inconsistent with Bargaining Policy and favour one group of employees over another. Union delegate rights are protected by various provisions of the the Fair Work Act including freedom of association.
7.2	43	Remove	Use same wording as 7.1 re 'delegates accredited by their respective unions'.	Agreed once wording amended	Inclusion of these clauses are inconsistent with Bargaining Policy and favour one group of employees over another. Union delegate rights are protected by various provisions of the the Fair Work Act including freedom of association.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
7.3	44	Remove		Agreed	Inclusion of these clauses are inconsistent with Bargaining Policy and favour one group of employees over another. Union delegate rights are protected by various provisions of the the Fair Work Act including freedom of association.
7.4	45	Remove	Use same wording as 7.1 re 'delegates accredited by their respective unions' and amend to include 'ICT equipment and meeting rooms'.	Not agreed	Inclusion of these clauses are inconsistent with Bargaining Policy and favour one group of employees over another. Union delegate rights are protected by various provisions of the the Fair Work Act including freedom of association.
Removed	46	Remove	Object to removal of noticeboards; WHS issue	Not agreed	DPS does not agree to change. WHS matters are covered under its own legislation.
Removed	47	Amend to be up to 5 days paid leave.	Further amendment recommended by the APSC - will be in discretionary leave policy CPSU/SBU object to removal from agreement - this is an entitlement	Not agreed	DPS proposal to remove remains. Can be dealt with in leave policy.
8.1	48	Remove		Agreed	DPS does not agree to change.
8.2	49	Remove	What is 'a timely manner'?	Agreed	DPS does not agree to change.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	50	Remove - repetition of existing legislative protections	DPS stated that Fair Work Principles are no longer current.	Agreed	All parties agreed.
Removed	51	Remove - aspirational statement	CPSU/SBU: should be rephrased to provide an entitlement.	Not agreed	DPS proposal to remove remains. WHS obligations set out in legislation and relevant DPS policies. No need to try and replicate in EA.
Removed	52	Remove as repetition of existing legislative protections and out of date	CPSU said update and retain.	Not agreed	DPS does not agree to change. DPS proposal to remove remains. WHS obligations set out in legislation and relevant DPS policies. No need to replicate in EA.
7.1-7.9	34-38	Retain but amend to incorporate model clause from FW Act Regulations.	Major vs significant SBU want cl 34-35 retained to maintain consultation outside of major change and before a decision is made. SBU also want reference to 'union' in cl 9.3 and automatic obligation to consult with representatives retained rather than ability to appoint a representative.	Not agreed	DPS proposal to retain FW Regulations model clause remains. A representative can be a union. No need to replicate an existing legal protections from Fair Work Act and other legislation.
7.10 -7.16	No equivalent		cl 9.16 'relevant employees or their representative'	Not agreed	DPS does not agree to change.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
8.1-8.7	18	Retain but amend with Fair work Act model clause	How do we know we are in a dispute? Want PS Act disputes retained. One bargaining representative would like option of mediation put in policy/guidelines but CPSU supports removal of reference to alternative dispute resolution in the agreement.	Not agreed	Further amendment recommended by the APSC and accepted by DPS see clause 8.3, 8.5 and 8.8. DPS does not agree to change.
Removed	24	Removed		Agreed	
8.5	25	Retained	Note the addition that specifies a determination by the Fair Work Commission when arbitrating a dispute is able to be appealed.	Agreed	
note' after 8.5	26	Retained		Agreed	
10.1-10.7	20	As above	Words re 'status quo' should be retained.	Not agreed	DPS does not agree to change. Fair Work Act model clause meets requirements.
Removed	27	Remove. Use Model clause		Not agreed	DPS does not agree to change.
Removed	28	Remove as any legal rights will continue to be available. Repetition of an existing legal right.	CPSU: proposed EA should have a clause stating that disputes arising under previous agreements can be dealt with under this process.	Not agreed	DPS does not agree to change. Fair Work Act model clause meets requirements.
Removed	29	Amend to clarify that there is up to 2 days leave available for this purpose.	Removed and will be in Discretionary leave policy. Bargaining reps object to removal - this is an entitlement.	Not agreed	DPS does not agree to change.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	30	Remove - repetition of existing legislative protections		Not agreed	DPS does not agreed to change. Obligations are set out in legislation and relevant DPS policies. No need to replicate in EA.
Removed	31	As above		Not agreed	DPS does not agreed to change. Obligations are set out in legislation and relevant DPS policies. No need to replicate in EA.
Removed	32	No requirement for this clause – issues relating to leave may be dealt with in leave provisions. Section 65 of FW Act will apply.	PSS representatives would like this clause retained with respect to leave.	Not agreed	DPS does not agreed to change. Obligations are set out in legislation and relevant DPS policies. No need to replicate in EA.
11	56-60	Retain – minor amendment required.	Rename to Individual flexibility arrangement, use model clause in Fair Work Act Regulations. Current clause 56(a)(vii) is about reasons why employees may wish to ask for a change in hours. Inclusion has the effect of limiting the flexibility in 56(a)(i) which deals with arrangements about when work is performed. Further amendment recommended by the APSC to avoid conflict with notice periods are set out later in clause 11.5	Agreed	



DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	61-62	Remove	Aspirational	Agreed as relates to productivity under the 2011 EA	
Removed	63-64	Remove	Aspirational statements	Agreed as relates to productivity under the 2011 EA	
Removed	65-67	Remove - DPS proposes to remove broadbands from within agreement and put in place transitional arrangements so that current broadbands are reviewed within 18 months of commencements of EA. - this does not affect Secretary's ability to create new broadbands.		Agreed as relates to productivity under the 2011 EA	
10.4 to 10.5	16-17	Retain and modify consistent w/FW Act		Agreed	
10	311	Retain with amendment		Agreed	
Removed	312	Remove		Not agreed	DPS does not agree to change.
12	53-54	Retain gym and eye wear reimbursement	SBU/CPSU want vaccinations and health monitoring/QUIT programs retained and cost of eye wear reimbursement increased.	Not agreed	Vaccinations and eye wear reimbursement retained as per SBU request.
13	221	Retain with amendment		Agreed	
14.2	224	Retain with amendment	Would like 'relevant' skills etc. Would like it made clear this also applies to long term TAD on promotion	<del>Not agreed</del> Agreed	SBU suggested clause agreed by DPS.
15	225	Retain		Agreed	
Removed	229	Remove not required	DPS confirmed that removal of this clause would not allow salary to be reduced in any other circumstances.	Agreed	

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
16	230	Retain with amendment	Want consultation back in.	Not agreed	DPS does not agree to change.
16.3	231	Retain		Not agreed	Existing broadbands may be retained after review. Transitional arrangements to maintain broadbands for 18 months while reviews are undertaken.
Removed	232	Remove		Agreed	
16.3-4	No equivalent	Proposed new clause	Don't like mention of work availability test. Uncomfortable with PSS PSL1/2 duty statement as it is currently.	Not agreed	DPS does not agree to change. Broadband rules should be consistent.
17.1-3	226-227	Retain with amendments	Suggest 6 mths (current policy). CPSU suggest 3 months. SBU disagree with amount of increase between increments (Maintain 3.5% gap)	Not agreed	DPS does not agree to change. If 3.5% salary advancement retained, pay rise quantum will be lower.
17	No equivalent	Currently in policy	Discussion regarding delay between performance assessment and salary advancement.	Not agreed	1 July now salary advancement date which means eligible employee will get early access to salary advancement in first year of replacement EA.
17.5	228	Retain with amendment		Not agreed	DPS does not agree to change.
18	233	Conditional 3/2/1 pay rise currently offered.	Words agreed. Percentage not agreed.	Not agreed	DPS does not agree to change.
19.1	No equivalent	Proposed new clause	CPSU want to retain	Agreed	
19.2-3	234	Retain with amendments		Agreed	
19.4	236	Amended clause		Agreed	
19.5	235	Retain with amendments		Agreed	
20.1	237-238	Retain		Agreed	
20.2	239-240	Retain		Agreed	

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
22	No equivalent - overpayments	Proposed new clause	Before agreeing, the SBU would like to view the Accountable Authority Instruction. SBU would like to ensure repayment does not create hardship (for example, requiring payment in full of an incremental overpayment made over several years). MBT noted FWA protections about withdrawal of funds (ie. section 324). CPSU noted other agreements that limit deductions to 20% of pay.	Parked	AAI provided to SBU. SBU/CPSU were to respond.
23	55	Retain, define better, specify who the payments will be made to.	Duplication as also mentioned in annual leave. SBU discussed application of this clause on 26/2.	Agreed	
23.2	151	Retain with amendment	As above.	Agreed	
24	241	Retain		Agreed	
25	No equivalent	Proposed new clause	EA Team to provide information about classification rules.	Agreed	
26	242-8	Retain with amendments	MBT to redraft clauses for clarity.	Parked	New clauses with rates.
<del>Removed 26.7-26.9</del>	249-52	<del>Remove as not required</del> Retained with amendment	CFMEU want clauses 249-252 retained.	Agreed?	Retained with amendments as per CFMEU request.
27	253	Retain		Agreed	
28	254	Retain - supported wage clause	No apparent issues - SBU to consider content of Attachment C out of session and respond.	Agreed?	SBU/CPSU were to respond, but FWC has since issued new model clause which is included in revised draft.
29.1 - 29.2	75	Establishes ordinary hours of work for full time employees	SBU opposes increase to ordinary hours. SBU opposes changes to hours clauses as a whole, particularly the introduction of 'rostered employees' and the lack of certainty about when an employee is rostered/shiftworker/flex employee	Not agreed	DPS does not agree to change.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
29.3	100	Establishes ordinary hours of work for part time employees		Agreed?	DPS does not agree to change.
<del>29.4</del> Removed	New clause	New clause setting out requirement for reasonable additional hours.	If NES requirement to work reasonable additional hours is included, the NES right to refuse should also be included.	Not agreed	DPS has removed this clause.
29.4	New clause	Outlines how reasonable additional hours will be recognised, i.e flex, overtime or TOIL	Discussion of this is tied up with general opposition to other changes.	Agreed	
Removed	70	Remove. Right of review under PS Act or dispute resolution under the EA. To be covered in policy.		Not agreed	DPS does not agree to change.
29.5	76	Retain and expand - 5 hours – 30 mins plus overtime rate (1.5) defined; minimum break	(b) SBU disagrees with 6 hours before break. (c) SBU dissatisfied with wording, it should be based on employee's agreement not on approval for the manager.	Not agreed	DPS position modified following SBU comments.
32	71	Retain with amendments. Sets out general attendance recording requirements. Previous clause described flextime scheme participation requirements	SBU object to removal of flex principles	Not agreed	DPS does not agree to change.
31	69	Amended – clause split into 2 parts: - to reflect reference to the arrangements underpinning the establishment of ordinary hours of work; and - to reflect the Secretary's ability to direct an employee or a group of employees to work other specified hours	SBU opposed the absolute discretion on the Secretary to direct employees to work rostered hours. Current agreement limits this to when operational or other arrangements exist.  SBU opposed to reversion to standard hours when no agreement can be reached.	Not agreed	DPS does not agree to change. Current EA gives Secretary same rights to - see clause 69 of current EA.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
30	No equivalent	Proposed new stand-alone clause – previously the bandwidth was only mentioned in reference to flextime	SBU would like further information about savings through increased bandwidth.  SBU oppose increase in span of bandwidth. Feel power to direct employees to work other specified hours is too broad and undermines flex.	Not agreed	DPS does not agree to change
33.2	68	Retain		Agreed	
33.1	72	Retain with amendments	CPSU: exclusions are too broad, especially employees working a standard day.	Not agreed	DPS does not agree to change.
33.4	No equivalent	Proposed new clause - clarifies exclusion of paid overtime from flex scheme		Agreed	
33.5	No equivalent	Proposed new clause – establishes conditions required to accrue flex	CPSU: this clause would prohibit flex from being used to provide employee flexibility or in other situations where there is no increase in workloads.	Not agreed	DPS does not agree to change.
33.5	71/85	Retain with amendments. Sets out general attendance recording requirements. Previous clause described flextime scheme participation requirements and requirements for PEL1 to record their working hours.	SBU oppose requirement for approval by management for small changes.	Not agreed	DPS does not agree to change.
33.6	77	Amended - Defines proposed new settlement period		Agreed	
33.7	No equivalent	Proposed new clause – defines flex as being on an hour for hour basis	SBU oppose the requirement for additional hours to be approved.	Agreed	
33.8	77	Amended - defines maximum credit(38 hours)	SBU oppose reduction in maximum flex carry over from 75 to 38 hours	<del>Parked</del> Agreed?	DPS agrees to new maximum credit of 75 hours.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
33.9	New clause	Introduces ability to direct employee to use excess credit	SBU claim is for use of excess flex credits to be at an agreed time.	Not Agreed	DPS does not agree to change.
33.11	80	Retained and amend – addition of pro rata for part-time employees	CPSU would like to see what other APS agencies have as their debit limit.	Parked	SBU/CPSU were to respond but DPS does not agree to change as its own research found most APS agencies have 10 hour flex debit.
33.12	80	Ability to recover debt and conditions underpinning liability declaration	33.12 - CPSU concerned about how this would be reconciled. Would like to consider a better solution. Want flexibility re case by case.	Parked	DPS wants clarity for employees about debts to the Commonwealth. SBU/CPSU to respond
33.13	73	Amend - additional circumstances	SBU no issue with insufficient work but would like to see need for employee to be effectively supervised removed.	Not agreed	DPS does not agree to change.
33.14	73	Amend - additional circumstances - clarifies and describes the reasons why flextime may be withdrawn	SBU comment - remove reference to group of employees. SBU consider a, b and especially d too broad.	Agreed	DPS has amended clause to remove group of employees, DPS does not agree to any further changes.
33.15	74	Retain and amend		Not agreed	DPS does not agree to change.
Removed	78	No equivalent. To be dealt with in policy.	SBU want to retain.	Not agreed	Addressed in DPS does not agree to change.
Removed retain	79	No equivalent	SBU want to retain.	Not agreed	DPS will add to clause 23.
34	382, 384	Retain with amendment	SBU want to retain current clauses.	Not agreed	

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
34	383	Retain with amendment	SBU want to retain current rates of accrual.	Agreed?	DPS has amended clause to retain current EA provisions
34.2	75	Proposed new clause but narrows the arrangement to one group who will be paid overtime at 150%. All other employees must be give 30 minute break after 5 hours of continuous duty.		Agreed??	Access to overtime retained.
35.3	385	Retain with amendment - to be called travel		Agreed	DPS has retained current EA
Removed 35.1 to 35.3	381	<del>Remove</del> Retain with amendments including no limit to amount o travel time that can be credited, but must be used during non-sitting	SBU want to retain.	Not agreed	DPS has amended based on SBU feedback.
35.4	No equivalent	provides for recognition of time spent travelling if paid travelling allowance on an hour for hour basis.	to be discussed.	????	SBU to advise
Removed	386	Remove	SBU want to retain.	Not agreed	DPS does not agree to change.
36	No equivalent	Proposed new clause – provides clarity	CPSU want to know/have specified who makes the determination in clause 37.1 and on what basis.	Not agreed	DPS does not agree to change.
36.2	No equivalent	Proposed new clause – provides clarity	CPSU expressed similar concerns as with clause 22 about repayment.	Not agreed	DPS does not agree to change.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
37	81-87	Retain with amendments – PEL1 TOIL no longer hour for hour single clause	CPSU raised concerns that clause implies additional hours are no longer reasonable. CPSU want hour-for-hour TOIL after 40 hours retained for PEL1s. Also want 83 and 86 retained. Ms Tomaras proposed hour for hour for employees with 'relevant disability' as per Disability Discrimination Act. Also hour for hour after 40 hours worked.	Not agreed	DPS does not agree to change as it will be addressed in policy.
Removed	88	Remove	MBT to redraft clauses for clarity.	Not agreed	DPS does not agree to change.
Removed	89	Remove	CPSU want retained.	Not agreed	DPS does not agree to change.
Removed	90	Remove – never used	Parked until CPSU has discussed with members - unused under life of current EA.	Parked	SBU/CPSU to respond
38	No equivalent	Proposed new clauses- separation of shift employees and rostered employees	DPS considering SBU suggestion to merge clauses 39 and 40. Comments against clause 40 below reflect comparison between 39 and 40.	Agreed	DPS agreed to merge shiftwork and rostered work clauses.
38	401-15	Covered in general clauses		Not agreed	DPS does not agree to change.
38	91	Retain and update.	SBU comment: current words imply flextime/rostered/other arrangements can change without notice - SBU want guidance on rostered structure v rostered workers and where and how long the arrangements would apply for. CPSU want clause 92(a) included. SBU comment: could this be moved into definitions. DPS to revisit definition.	Parked	Clauses on rostered and shift arrangements merged to 'rostered workers' as requested by SBU. Alternative draft clauses with 37.5 hours retained. DPS does not agreed to other changes.



DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
38.2	92(d)	Retain	SBU do not agree to 38 hours, want to retain 37.5. Broadcasting want to retain different hours of work arrangements for each workgroup as per part 6 of current EA. Broadcasting reps want their work group's conditions to remain the same ie weekends excluded from ordinary hours and averaging.	Not agreed	37.5 hours retained. Current clause 92(d) substantially retained.
38.3 to 38.6	Part 6	New clauses as a result of SBU feedback to describe the differences between 24 hour or 7 day week rostered workers and rostered workers who work Monday to Friday.		Parked awaiting SBU feedback	
38.7	no equivalent	Employees employed as casuals who are required to work to a roster will be paid rates set out in a separate clause.	SBU do not agree to separate arrangements for casuals.	Not agreed	DPS does not agree to change.
38.8	93-4	Retain with amendments, including change to night shift and public holiday penalty	SBU want shift penalties treated same way for rostered/shift workers. Not happy with span of hours increase. Security reps don't agree to reduction to night shift penalty.	Not agreed	DPS agrees to pay the same shift penalty rates except for night shift penalties. DPS has proposed a graduated reduction in night shift penalties over 3 years. DPS does not agree to change.
38.9	No equivalent	New clause - describing when penalty payments are included and for what purpose.		Parked	

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
38.10 - 38.13	No equivalent	Proposed new clause - provide clarity		Parked	
38.11	93(d)	Retain with amendments, including change to night shift and public holiday penalty		Not agreed	
38.12	92(k)		SBU want 28 day notice period for all employees (currently varies between workgroups from 1 - 28 days).	Not agreed	DPS does not agree to change, noting that has DPS consultation obligations to individual employees and groups under proposed clause 7 when changes to regular roster or regular ordinary hours are proposed
38.13	No equivalent	Proposed new clause - provide clarity	Broadcasting reps disagree with no longer receiving overtime on top of their shift penalties (as 4% currently counts for overtime).	Not agreed	DPS does not agree to change.
38.14-38.15	`	Proposed new clause	SBU wants employees to be able to choose whether they work 12 hour shifts. CPSU want 92(b), 92(g), 92(j) and 92(i) included. CPSU would like to negotiate an allowance to compensate for split shifts 40.9(e).	Not agreed	
38.16	No equivalent	Proposed new clause - provide clarity	CPSU want consultation provision worked into this clause. Broadcasting want consultation in line with 375(b). Security: can we be more specific about inclusion of breaks ie. paid breaks.	Not agreed	DPS does not agree to changes as new rosters must be developed in consultation with employees as per proposed clause 7.
38.17	No equivalent	proposed new clause - paid breaks		Not agreed	DPS does not agree to change.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
38.18	92(k) and 406	Seven days notice	SBU wants requirement for employees to agree to change to ordinary hours or shift length, especially an increase. SBU want more clarity about consequence when 40.12 not met (ie. feel 40.13 is limited only to roster changes).	Not agreed	
38.19	411	Now retained.	Security representatives asked for shift swaps to be retained.		DPS has retained this ability.
38.20	92(c) and 402(c)	Flexibility to make adhoc changes to roster to meet an employee's needs.			
38.21	92(k) and 413	rosters can be changed by mutual consent otherwise overtime will be paid until 7 days notice is given.	SBU want clause replicated for rostered workers (or retained if merged)	Agreed	Retained.
38.22	408		SBU concerned this covers all possible circumstances making notice period irrelevant.	Not agreed	DPS does not agree to change as the clause as proposed is narrower than the current clause 408.
38.23	No equivalent	Proposed new clause	CPSU/CFMEU: no issue with not granting a financial reward as result of circumstances, but don't want penalty unless authorised, especially for parties affected by COC but not responsible (ie. complainant).	Not agreed	Proposal reflects practice, an employee who is the complainant will not lose pay if he/she is moved to ensure their safety at work because of a COC matter. More likely employee who is respondent will be moved/suspended. If suspended on pay, ordinary time earnings (i.e. shift penalties continue to be paid).

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
38.24	92(h), 402(e)		SBU want clause replicated for rostered workers (or retained if merged)	Not agreed	Retained as per SBU request.
38.25	92(f), 402(g)	Proposed new clause	SBU want clause replicated for rostered workers (or retained if merged)	Not agreed	Clause retained. DPS does not agree to change.
38.26	92(k) 411	employees not to be rostered for more than one shift in 24 hours		Agreed	
38.27	76, 99, 427		PSS want 40.19(a) overtime rate increased to create larger disincentive for no 5 hour break. CPSU want word 'generally' removed.	Not agreed	DPS has mandated that no employee, except for those listed in clause 34 will be required to perform duty for more than 5 hours without a minimum 30 minute break. The word generally is need to because of clause 34.
39.1	95	Retain with amendments	CPSU disagree with exclusion of casuals.	Not agreed	DPS does not agree to change.
39.2	95	Retain with amendments		Agreed	
39.3	95	Retain with amendments		Not agreed	DPS does not agree to change
39.4	95, 107-9	Retain with amendments		Not agreed	DPS does not agree to change.
39.5	No equivalent	New clause		Agreed	
39.6	107-9, 115	Rostered/shift worker amendment	SBU disagree with 38 hours - want 37.5 retained and concerns about averaging. Disagree with 41.6(b) - 12 hours - want 7.5 hours retained.	Not agreed	37.5 hours retained. Proposed clause amended to 10 hours. DPS does not agree to change.
39.8	96	Retain with amendments	SBU disagree to changed double time/phol rates.	Not agreed	Rates of overtime are retained except that 1.5 times will be paid for the first four hours Monday to Saturday.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
39.9	97	Retain with amendments	Broadcasting reps disagree with no longer receiving overtime on top of their shift penalties (as 4% + base rate of pay currently counts for overtime).	Not agreed	DPS does not agree to change.
39.10	95	Retain with amendments	Not agreed - want 4 hour minimum retained.	Not agreed	Three hour minimum in lieu of proposed two hour minimum.
41.10	No equivalent	Proposed new clause		Agreed	
<del>41.11</del>	<del>No equivalent</del>	<del>Proposed new clause</del> Removed from draft proposal	<del>SBU want higher rate to be paid as with shift penalties.</del>	<del>Not agreed</del>	
39.12	98, 399-398	Amend - with Secretary's prior approval - payment is default	SBU want employee choice for TOIL without prior approval and do not want three month period to take TOIL (Broadcasting reps in particular noted this was unworkable for them).	Not agreed	DPS does not agree to change.
39.13	98, 399-399	Retain - no change		Not agreed	DPS does not agree to change.
39.14	98, 399-400	New clause	SBU concerned about blurring boundaries between types of leave.	Not agreed	DPS does not agree to change.
39.15	No equivalent	Proposed new clause – provide clarity		Not agreed	DPS does not agree to change
39.16	431-432	Retain with amendment. 432 removed.	Security want retention of 39 minute break	Not agreed	DPS does not agree to change.
40	99, 92(i)	Retain and improve - no loss of pay		Agreed	

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
40.2	99, 427	Rate of payment reduced from 200% to 175%	SBU not happy with 25% rate reduction. SBU: reword to state between periods of overtime and ordinary duty not between periods of ordinary duty.	Not agreed	double time rate retained.
40.3 to 40.4	99	New clause - exceptions for restriction duty recall		Not agreed	DPS does not agree to change.
41	No equivalent	Proposed new clause	SBU want to retain term 'non-ongoing' and specify maximum period of length for such engagements.	Not agreed	DPS does not agree to change.
43.1 and Section B	121	Retain in definitions	As above.	Not agreed	DPS does not agree to change.
42.1	101	Retain		Agreed?	
42.2	102	Retain with amendments - 6 months	SBU want longer maximum part time agreement length.	Not agreed	12 months retained.
42.3	104	Retain with amendments	SBU want agreed "with" not "by" the Secretary.	Not agreed	Clause says Secretary and employee will agree. DPS does not agree to change.
42.4	103	Retain with amendments		Not agreed	DPS does not agree to change
Removed	113-14	Remove – 42.4 applies		Not agreed	DPS does not agree to change
42.5	No equivalent	Proposed new clause – provides clarity		Not agreed	DPS does not agree to change.
42.6	103	Retain with amendments	SBU want clause to state minimum three hours is consecutive	Not agreed	DPS agree to SBU amendment.
42.7	105, 110, 119	Retain with amendments incorporating cl 105 and 110		Not agreed	DPS does not agree to change.
Removed	106	Remove		Agreed	
Removed	111	Remove		Agreed	
Removed	116	Remove		Not agreed	DPS does not agree to change
Removed	117	Remove – overtime entitlement as per part time arrangements		Not agreed	DPS does not agree to change
Removed	118	Remove		Not agreed	DPS does not agree to change.
42.8	112	Retain with amendments		Not agreed	DPS does not agree to change.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
42.9-42.10	112, 428		SBU want to reword to state "the employee" (singular not plural)	Not agreed	Plural used in current EA. Singular employee used in proposed clause 42.10.
Removed	429	Remove		Not agreed	DPS does not agree to change.
Removed	430	Remove		Not agreed	DPS does not agree to change
42.11	117	Retain with amendments	SBU want overtime rate paid.	Not agreed	DPS does not agree to change
42.12	120	Retain	SBU okay with concept but want clearer words.	Not agreed	DPS does not agree to change.
43.1	122	Casual employment - Retain with amendments	Note - as stated on 11 March 2016, DPS to revise.	Parked	rates revised by DPS
43.1	123	Retain with amendments	Note - as stated on 11 March 2016, DPS to revise.	Parked	rates revised by DPS with 25% loading retained.
43.2	No equivalent	Proposed new clause	Note - as stated on 11 March 2016, DPS to revise.	Parked	rates revised by DPS
43.3	No equivalent	Proposed new clause – provides clarity	Note - as stated on 1 March 2016, DPS to revise.	Parked	rates revised by DPS
43.4	No equivalent	Proposed new clause - overtime rates		Parked	rates revised by DPS
43.5	no equivalent	proposed new clause - overtime for rostered employees		Parked	rates revised by DPS
43.6	No equivalent	overtime rates for casuals		Parked	rates revised by DPS
43.7	No equivalent	unpaid leave entitlements for casuals		Parked	rates revised by DPS
43.8	No equivalent	Proposed new clause - includes minimum payment	Note - as stated on 11 March 2016, DPS to revise.	Parked	rates revised by DPS
44.1	189	No change		Agreed	
44.2	No equivalent	Proposed new clause	SBU wants definition of timeframe.	Parked	DPS clause amended - timeframe will be dependent on nature of call out and will be pre-determined and advised to employee via policy.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
44.3	No equivalent	Proposed new clause clarifying current practice	SBU want clarity about what 'contactable' means.	Not agreed	Will be covered in policy.
44.4, 44.5	190	Rate of payment increased	SBU want higher rate to increase incentive.	Not agreed	DPS has increased rate.
44.6	191	No change		Agreed	
44.7	192	No change		Agreed	
44.8	193	Retain with amendment - return to 2008/11 minimum payment rates		Not agreed	minimum period three hours plus one hour travel.
44.9	No equivalent	Proposed new clause provides clarity		Not agreed	DPS does not agree to change.
44.10	No equivalent	reference to policy		???	
45.1	194	Higher duties - No change		Agreed	
45.2	195	Retain with amendment. Improved clarity re HDA above minimum pay point.	PSS want higher duties of shifts of 1 day. CPSU want five day threshold for HDA.	Not agreed	DPS does not agree to change.
45.3	200	No change		Agreed	
45.4	201	Retain with clarification re delegation.	CEPU want to retain as provides a protection. SBU want clause to state "will" instead of "may". SBU raised individual matter related to HDA to be addressed outside of negotiations.	Not agreed	DPS does not agree to change.
45.5	202, 416	No change	CPSU want one week HDA payment threshold.	Not agreed	DPS does not agree to change as the ability to waiver the two week exists.
Removed	416	Removed	Security representatives (with support of CPSU) want to retain as acting up to one shift common in Security Branch.	Not agreed	DPS does not agree to change as the ability to waiver the two week exists.
45.6	195	Amended	CPSU oppose 18 month requirement and want it removed.	Not agreed	DPS does not agree to change.
45.7	197	No change	SBU want word "consecutive" added to two weeks. MBT Agree.	Agreed	change made.
45.8	196	No change		Agreed	
Removed	198	Remove. Principles apply regardless	CPSU oppose removal - want retained.	Not agreed	DPS does agree to change.



DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	199	Remove as not required.	SBU agreed as provided for by other legislation.	Agreed	
46.1	203	Retain with amendment	CPSU: agreed if 'a departmental vehicle' retained.	Agreed	Agreed
46.2	204	Retain with amendments	Parked until policy is available to discuss.	Parked	
47	205	Retain with amendments - simpler and clearer	CPSU/SBU: not agreed - want stronger link to ATO ruling in 47.4. MBT: will move up 49.4 to sit under this clause.	Not agreed	DPS has moved domestic travel clause. Otherwise DPS does not agree to change.
47	205	Retain with amendments - simpler and clearer		Agreed	
47	206	Retain with amendments to same effect	SBU: agreed if "use of DPS credit card issued for travel".	Agreed	Agreed
47.4	207, 209	Retain with amendments to same effect	MBT: will move up to sit under 49.1. SBU want wording from 209 inserted.	Not agreed	DPS does not agree to change.
47.5	208	Retain with amendments to same effect		Agreed	
47.6	210	Retain with amendments to same effect		Agreed	
48	211	Retain		Agreed	
Removed	212	Remove and place in policy	Broadcasting want option indicated even if not guaranteed.	Not agreed	DPS does not agree to change.
49	213	Retain with amendments - rate in policy.	CEPU: want reference to WHS Act and DPS policy to ensure DPS meets requirements. Some concerns raised by other reps unrelated to drafting.	Parked	DPS has included a rate for employees who are not located within Parliament House - re Minter Ellison building
Removed	214	Remove. IFA used instead of this clause.	CPSU want to retain - particularly the last sentence as it provides accountability/transparency.	Not agreed	????
50	342, 326, 418	Footwear allowance retained - rate reduced.			

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
51	330, 345, 420	Drying cleaning - retain with amendment			
52	362	Retain and amend	CEPU want to retain current wording, that is the payment be a component of salary at current rates with additional allowances paid as per current EA. They object to making payment an allowance and want implementation details.	Not agreed	Rate increased. CEPU to provide costs of plumbing licences. DPS does not agree to change.
53.1	215	Retain - remove examples as unnecessary	CPSU want to retain appendix C, want reference to the policy and to see policy content.	Not agreed	DPS does not agree to change
53.2	216	Retain		Agreed	
53.3-4	125	Retain with amendment	Agreed following discussion of reasonableness.	Agreed	
Removed	217	Remove and place in policy.	CPSU want retained as it gives commitment for DPS to provide clothing (as opposed to employees providing their own). Security want clear statement if a uniform is required, DPS will provide it.	Not agreed	
<del>Removed</del> 53.5 to	218-19	<del>Remove</del> Retained	SBU want to retain.	Agreed	Retained as per SBU request.
Removed	220	Remove – no longer relevant	MBT: Strong position is to remove due to lack of control over parking and because DPS will fund the FBT liability for all DPS employees incurred as a consequence of the introduction of pay parking through to at least 30 June 2019. SBU: want free parking guaranteed over life of agreement - will provide proposed words.	Not agreed	CPSU was to provide a proposed clause.
Removed	222-223	Remove covered by Parliamentary Service Act 1999		Agreed	
54/Attachment F	No equivalent	how allowances interact with salary			

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	124	Remove – covered in other clauses.	MBT/SBU agreed to return to after discussion of leave.	Parked	
Leave	-		MBT agreed to realign leave clauses from 54 onwards in a more logical manner.		
Removed	143	Removed	MBT: key change is to no longer recognise state gov and some other LSL Act coverage. CPSU want to look at in more detail.	Parked	SBU/CPSU to respond.
55	177	Retain with amendments. Further amendments made.	CPSU want to look at in more detail.	Parked	SBU/CPSU to respond.
Removed	176	Removed as unnecessary	SBU: want to retain to ensure one day's leave credit retained after transition (ie. due to increase to working hours).	Not agreed	No longer any increase in working hours
Removed	178	Remove-retained		Not agreed	Retained
56	126, 375(f)	Retain with amendment	SBU: agreed if current daily hours. MBT: will fix reference to shift/rostered workers when 39/40 revised.	Parked	No longer any increase in working hours
Removed	127	Amend - remove ability to receive 38 days P/L in first year. Proposed standard arrangement is all fulltime employees receive 18 days per		Not agreed	
Removed	128	Remove as no longer required - proposal is for daily accrual of personal leave from commencement		Not agreed	
57.1-57.2	No equivalent	New clauses outlining confidentiality and other obligations.			
57.3	129-30	Retain with amendments - 18 days	SBU: want 19 days retained.	Not agreed	
57.4	136	Retain with amendments - daily accrual		Agreed	

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
57.5 and note.	132	Retain with amendments	Want 132(c) 'other significant personal circumstances' retained.	Not agreed	DPS has amended to retain some elements but only available for exceptional personal circumstances.
57.6	133	Retain with amendments - see also 57.13 for unpaid PL	Broadcasting/Mr Geary want shift penalties paid on personal leave as with current 4% loading.	Not agreed	DPS does not agree to change.
57.7	131	30 day threshold removed		Agreed	
57.8	135	Retain with amendments in line with NES	SBU disagreed with use of word 'must' in reference to expected period of leave and would prefer to retain 135.	Not agreed	DPS does not agree to change as the 'must' conditions are qualified when the whole clause is read.
57.9	134	Retain with amendments - introduce 3/8 day rule i.e. more than 3 consecutive or 8 days in a year without evidence allowed.	SBU disagree - want to retain current clause as they believe sufficient arrangements exist to manage misuse of personal leave.	Not agreed	DPS has amended the clause to provide for more than 3 or more than 8 days. DPS does not any further changes.
57.10	134	Retain with amendments	SBU do not agree - key issue is the ability to request evidence retrospectively.	Not agreed	There are legitimate, albeit rare, circumstances when it is appropriate to ask for retrospective evidence including when there is a reasonable suspicion or evidence that an employee may have made a false claim for personal leave. DPS does not agree to change.

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
57.11	No equivalent	New clause - clarity		Not agreed	DPS does not agree to change as this clause clearly explains to employees the consequences for not supplying the required evidence. DPS does not agree to change.
57.12 - 57.13	No equivalent	proposed new clauses	SBU/CPSU agree with (a) and (b) but do not agree with (c) - would like to see <i>Carer Recognition Act 2010</i> references.	Parked	Further amendments made to clause following SBU feedback. DPS does not agree to change.
57.14	137	Retain with amendments	Agreed with correction of typo - should reference 57.11 not 59.11.	Agreed	
17.15	138	Retain without amendment		Agreed	
57.16	133	Proposed new clause	CPSU/SBU want discretion for Secretary to grant paid personal leave in this clause. MBT: this would be granted under discretionary leave (cl. 61).	Not agreed	DPS does not agree to change.
57.17	No equivalent	Proposed new clause	MBT: this is a new clause that addresses a gap in the current agreement. CPSU: FWC will require this clause.	Agreed	
57.18	No equivalent	Proposed new clause	SBU asked if this clause was necessary. MBT: examples exist of employees trying to use unpaid PL to minimise their income.	Agreed	
57.19	144	Retain - clearer wording		Agreed	
58.1	139	Retain		Agreed	

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
58.2 to 58.3	140	Retain and amend	SBU raised issue of whether two days is sufficient. MBT: personal/annual leave can be drawn on when necessary based on circumstances.	Agreed	DPS has reconsidered and made three days available in cases of bereavement. This additional day is taken from the current EA 19 day personal leave credit.
58.4	141	Retain	Agreed with clearer wording: singular reference instead of plural, circumstances instead of provisions and specific clause references.	Agreed	
Removed	142	Removed	MBT: evidence requirement removed.	Agreed	
Removed	145	Remove	CPSU: want to retain	Not Agreed	DPS does not agree to change
59.1 to 59.3	32/146	Amended	SBU position to retain with addition of FWA requirement not to unreasonably refuse A/L.	Not agreed	DPS has amended taking account of CPSU model clauses.
59.4	147	Retain with amendment		Agreed	
59.5	148	Retain	MBT: entitlement for VSOs/Shop retained. Insert "ordinary hours" for clarity.	Agreed	
Removed	149	Remove	SBU agree on basis of no loss of entitlement.	Agreed	
59.6	No equivalent	Proposed new clause – provides clarity	Security representatives consider superfluous. MBT will look at whether reflection of 'part-shift' more appropriate.	Agreed	
59.7	147	a) daily instead of fortnightly accrual - b and d provide clarity.		Agreed	
59.8	150	Any leave without pay will not count for service for leave accrual purposes	CPSU want to retain 30 day limit.	Not Agreed	DPS does not agree to change
59.9	433	Now covered in general clauses - applies to all employees not just Security Branch employees.		Agreed	

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
59.1 to 59.11	153	Retain with amendment - change threshold to 2 years' credit (8 weeks for FT or 10 weeks FT shiftworker)	CFMEU: would prefer leave plan to a direction to take leave. CPSU: want to retain 3 years. Security: concerns about how clause would be implemented - whether the clause could be used to deny leave except for when suits management. AMWU: consider this a loss of entitlement. MBT: rationale is to bring forward conversation on additional leave and encourages employees to take leave while retaining protections. As with the current clause, this does not create a forfeit arrangement or accrual cap, and there is no deeming of leave.	Not agreed	DPS has added a new subclause to provide for transitional arrangements for employees with excess credits to take account of CFMEU comments - these transitional arrangements allow sufficient time for a leave plan to be developed without the need for a direction. DPS does not agree to change.
59.12	No equivalent	Proposed new clause	CFMEU: want to see areas clearly defined. CPSU: unpopular with members - want to remain on case-by-case basis. Broadcasting: committees meet outside of sitting weeks.	Not agreed	DPS does not agree to change.
59.13	152	Retain with amendment		Agreed	
59.14	157	Retain with amendment	Not available if employee has already purchased leave in that calendar year. Mr Geary: some situations half pay may not be preferable to use purchased leave. Ms Swadling: how will periods of less than one week be treated given cl. 60.4 and 60.7.	Not Agreed	Purchased leave clause amended. DPS does not agree to change.
59.15	151	Retain with amendment, see clause 25 for payment on death		Agreed	
59.16	154-6	Retain with amendment		Agreed	
59.17	154-6	Retain with amendment	Agreed on basis clause clarified to state compassionate leave evidence not required.	Agreed	

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
59.18 to 59.20	No equivalent	Proposed new clause – in accordance with Fair Work Act and other protections	CPSU/CFMEU/AMWU do not support cash out of annual leave as consider it is not a solution for dealing with excess leave - would prefer employees took as time off. MBT: this clause is optional and included as employees have requested under life of current EA - contains FWA protections as well as DPS WHS requirement for three weeks off in that year.	Not agreed	DPS does not agree to change as employees have requested this provision.
60.1	158-9	Retain with amendments	SBU: (a) not agreed. MBT to consider alternative.	Parked	DPS has amended clause.
60.2	No equivalent	Proposed new clause – provides clarity	SBU: agreed with insertion of 'relevant period'.	Agreed	DPS has amended
60.3	160	Retain - no change	SBU: want maximum of one year, but ability to average over shorter period. MBT to consider alternative.	Parked	DPS has amended
60.4	159	Retain with amendments		Agreed	
60.5	No equivalent	Proposed new clause – provides clarity		Agreed	
60.6	161	Retain with amendment - clarify		Agreed	
60.7	No equivalent	Proposed new clause – provides clarity	SBU: same concerns as 59.10.	Not agreed	Clarified the interaction with half pay so that if an employee has not paid for the purchased leave (no available purchased leave) then the employee can apply for half pay annual leave. Unlikely to be an issue. DPS will explain in policy.
60.8	No equivalent	Proposed new clause – provides clarity		Agreed	



DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
60.9	No equivalent	Proposed new clause – provides clarity		Agreed	
61	171	Retain with amendment	SBU want retention of Appendix B outlining examples of circumstances when discretionary leave may be granted. Also want to see D/L policy.	Parked	
Removed	172	Remove	As above.	Parked	
62.1	168	No change to existing entitlement under Mat Leave Act		Agreed	
62.2	169	Retain with amendments	Amend to take at the same time as 12 weeks. SBU: want to retain ability to take before child's second birthday.	Not agreed	DPS does not agree to change.
Removed	162	Remove	SBU: do not want reduction to guaranteed 66 week entitlement reduced to 52 weeks.	Not Agreed	Explanation of 66 weeks provided as no longer relevant - clause has been modernised to reflect current situation. No loss of entitlement. DPS does not agree to change.
62.3	No equivalent	Proposed new clause		Agreed	
62.4	163	Retain with amendment	Discussed 'permanent' foster care - MBT: permanent fostering has legal status different to short-term.	Agreed	
Removed	165	Remove		Agreed	
Removed	166	Remove		Parked	
62.5	No equivalent	Proposed new clause	CPSU/SBU to consider whether age in 62.5(a) should be 18 years and get back to MBT. MBT: reflects Section 68 of the Fair Work Act.	Parked	
62.6	No equivalent	Proposed new clause	MBT: currently in policy.	Agreed	

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
62.7	170	Retain with amendments so that only 14 weeks counts for service and leave accruals.	SBU: want whole period to count as service.	Not agreed	
62.8	164			Agreed	
62.9	No equivalent	Proposed new clause		Parked	
62.10	No equivalent	Proposed new clause		Agreed	
63.1	167	Retain with amended wording		Agreed	
63.2	No equivalent	Proposed new clause	CPSU: date of leave taken should be in reference to needs of child - want to consider further. MBT: 18 week period allows flexibility.	Parked	DPS has amended following CPSU concerns. Now leave available to use for up to 6 months after birth/placement of child. DPS does not agree to change.
63.3	No equivalent	Proposed new clause	Agreed if reworded to make clear that, if leave applied for prior to birth, evidence other than birth certificate is acceptable	Agreed	
63.4	No equivalent	Proposed new clause	SBU: as with 62.7 - want whole period to count as service.	Not agreed	SBU feedback accepted. Changes made.
64.1-4	No equivalent	Proposed new clause		Agreed	
65.1-5	No equivalent	Proposed new clause		Agreed	
66.1	173	Retain with amendment		Agreed	
66.2	174	Retain with amendment		Agreed	

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	175	Removed	SBU want to retain - perhaps with other recrediting clause.	Not agreed	DPS does not agree to change as this clauses matches that of maternity leave which can only be split with other leave under the relevant legislation. This will be explained in policy.
66.3	No equivalent	Proposed new clause - provides clarity	SBU: want clause removed - CFMEU concerned about term 'some payments'. SBU support MBT inclusion of matrix setting out what payments count for what purposes.	Not agreed	Clause removed as per feedback. Recognition of other payments will be in accordance with LSL legislation. DPS reconsidered and is of the view there is no need to replicate existing legislative provisions.
67.1-2	183	Retain with amendments	SBU: 62(i) difficult to read - prefer current words.	Parked	DPS has amended clause to provide for references to ACT legislation re public holidays.
67.3	184	Retain with amendments		Parked	
67.4	No equivalent	Proposed new clause		Parked	
67.5	188	Expanded to provide clarity		Parked	
67.6	185	Retain with amendments		Parked	Clauses amended to clarify payment arrangements.
67.3	186	Remove		Agreed	

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	187	Remove as already covered elsewhere	MBT: already dealt with in overtime and shift penalty clauses.	Agreed	
68.1	179	Amend to 3 days closedown only and describe better	SBU: can we substitute 'rostered' for 'directed'?	Agreed	
68.2	No equivalent	Proposed new clause		Agreed	
68.3	No equivalent	Proposed new clause – provides clarity	MBT confirmed no loss of condition. CPSU to look at similar clauses to confirm whether they agree.	Parked	SBU/CPSU to respond
68.4	180	Retain	Move underneath 68.2.	Agreed	
68.5	181	Retain	Move underneath 68.3.	Agreed	
Removed	182	Remove	MBT: This changes the treatment of one day of the closedown for shift penalty and overtime purposes.	Not agreed	DPS does not agree to change.
69	256	Retain with amendments	SBU like commitment contained in agreement. MBT to provide studies assistance policy to SBU.	Parked	
70.1	258-259, 264	Retain with amendments	SBU agreed to proposed alignment of 12 month performance cycle review to financial year.	Agreed	
70.2	264		As above.	Agreed	
70.3	264-265	Retain with amendments - four point scale		Agreed	
70.4	266		Agreed if "may" changed to "will".	Agreed	
Removed	255	Remove - aspirational and out of date		Parked	
Removed	257	Removed	SBU do not agree to removal of PMS clauses.	Not agreed	DPS does not agree to change
Removed	260-263	Removed	SBU do not agree to removal of PMS clauses.	Not agreed	DPS does not agree to change
Removed	267	Remove	SBU do not agree to removal of PMS clauses.	Not agreed	DPS does not agree to change

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	268-269	Remove not required	SBU want to retain ability to seek recourse from an agreed third party when rating not agreed.	Not agreed	DPS does not agree to change
Removed	270-274	Remove – put in policy	SBU do not agree to removal of PMS clauses.	Not agreed	DPS does not agree to change
Removed	275-276	Removed on APSC advice – move to policy	SBU do not agree to removal of PMS clauses.	Not agreed	DPS does not agree to change
Removed	277	Remove not required	SBU discussed whether this clause is useful for employees; MBT argued it adds no value because it does not provide an entitlement.	Agreed	
73	278	Retain with amendment		Agreed	
74	279	Retain with amendment	SBU agree - but want to check whether "class" is an appropriate term consistent with other terms used in the document. AMWU want to add "by anyone" to end of clause 72.1(c).	Agreed	
74.1	280-281	Retain with amendment	SBU want ability to have representative including relative of friend retained.	Not agreed	DPS does not agree to change
Removed	282-283	Removed	MBT: FWA provides this for 15 employees. SBU: want to retain; employees negotiated lower threshold due to size of DPS.	Not Agreed	DPS does not agree to change as there is no need to repeat a legislative provision.
75.1	284-285		CPSU want link between another employee taking a VR and a potentially excess employee being offered a redeployment opportunity as a result.	Not agreed	DPS does not agree to change.
75.3			SBU would prefer use of term "will" instead of "may". MBT cannot state "will" as multiple employees could be potentially excess as per clause 72.1(a) with a smaller number or only one employee being formally excess under 73.3.	Agreed	

DRAFT DPS Replacement Agreement Clause by Clause List

Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
75.4	286		SBU: concern use of word "may" implies involuntary redundancy could be an alternative option. MBT: this is not the intent - can look at wording.	Parked	DPS has amended draft to use 'will' as per SBU feedback.
Removed	287	Removed	SBU want 287 reflected in proposed clause 73.1.	Not agreed	DPS does not agree to change.
75.5	289, 291		CPSU/SBU want \$1000 increased. MBT: has been sufficient in recent cases - will consider increase.	Not agreed	Amount increased to \$1060.
Removed	290	Removed	SBU: this clause has been useful in the past including 2009 redundancies of Security employees.	Not agreed	DPS does not agree to change.
75.6	288		SBU: concern that termination notice period and VR acceptance period may be confused - want clarity.	Not agreed	DPS does not agree to change.
75.7	292		SBU: concerns as per proposed clause 77.	Not agreed	DPS does not agree to change.
76.1 - 76.2	300	Retain with amendment	SBU: agreed with heading and subsequent use of term "Redundancy Payment"	Agreed	
76.3	301	Retain	SBU: agreed with term as above.	Agreed	
76.4	293-295		MBT to revise wording.	Parked	
76.5	300	Retain with amendment		Agreed	
77.1	296	Retain		Agreed	
77.2	297	Retain		Agreed	
77.3	298	Retain with amendments	MBT to provide further information about reasoning behind 75.3(b) to SBU.	Parked	Information provided. DPS does not agree to change.
77.4	299	Retain with clearer wording		Agreed	
78.1-78.2	302-303	Retain with amendment	SBU concerned about whether this implies involuntary redundancy is an option.	Not agreed	clauses amended to clarify. DPS does not agree to further changes.

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
78.3	302		SBU want clearer wording.	Not agreed	DPS does not agree to change.
78.4	306	Retain with amendment	SBU: want to remove second sentence or reword to state DPS and employee will both take reasonable steps to find alternative employment.	Not agreed	SBU feedback accepted. Changes made.
78.5	306	Retain with amendment	SBU: want to insert clause stating that where an employee's classification is reduced, they will be paid at the top pay point.	Not agreed	Draft not changed but DPS agrees that affected employees will be paid at the maximum pay point of the reduced classification.
78.6	307-8	Retain with amendment	SBU want to retain employee agreement.	Not agreed	DPS does not agree to change.
78.7	309			Agreed	
79.1	292, 310	Retain with amendment - FW Act provision	Fix typo - section "J" not "I". SBU do not agree to additional requirement for five years' continuous service if over 45. MBT: confirm FWA requirement under s.117(3)(b) is 2 years' continuous service.	Not agreed	amended made as per SBU feedback.
79.2-3	No equivalent	Retain with amendment	SBU concerned about concurrence of termination notice with retention period - want to ensure they are distinct and that the termination period is paid out where not taken.	Not agreed	Notice is provided to employees of their termination date in the when the retention period commences so the periods are concurrent, but if this does not occur clause 79.2 has been inserted.
Removed	282	Remove	SBU want to retain. MBT: note FWA s.530 requires employer to notify Centrelink for dismissals of 15 or more employees. Consultation requirements exist in clause 9 and 73.1.	Not agreed	DPS does not agree to change.

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	283	Remove – see clause 9	SBU want to retain.	Not agreed	DPS does not agree to change.
Removed	304	Remove	SBU want to retain.	Not agreed	DPS does not agree to change.
Removed	305	Remove	SBU want to retain.	Not agreed	DPS does not agree to change.
Removed	313	Removed - covered in general clauses	CPSU to discuss with members	Parked	SBU/CPSU to respond
Removed	314-321	Annualised shift penalties - removed - general rostered work provisions (cl. 39) apply.	CPSU to discuss with members	Parked	SBU/CPSU to respond
59.2	322-323	Additional annual leave - general provisions apply - no loss of entitlement.	CPSU to discuss with members	Parked	SBU/CPSU to respond
41.8	324	General clause applies - all VSO OT paid on base rate of pay in current and proposed agreement - no loss of entitlement	CPSU to discuss with members	Parked	SBU/CPSU to respond
Removed	325	No loss of entitlement as employees will receive same entitlement under clause 68.5 of proposed agreement	CPSU to discuss with members	Parked	SBU/CPSU to respond
Removed	326-328	Consistent approach to footwear allowance across all work groups.	CPSU to discuss with members	Parked	SBU/CPSU to respond
Removed	329	Removed - never paid in past and current EA - no loss of entitlement	CPSU to discuss with members	Parked	SBU/CPSU to respond
Removed	330-331	Uniforms will be still be provided	CPSU to discuss with members	Parked	SBU/CPSU to respond
Removed	332-338	Annualised shift penalties - removed - general rostered work provisions (cl. 39) apply.	CPSU to discuss with members	Parked	SBU/CPSU to respond
59.2	339-340	Additional annual leave - general provisions apply - no loss of entitlement	CPSU to discuss with members	Parked	SBU/CPSU to respond
41.8	341	General clause applies - all shop OT paid on base rate of pay in current and proposed agreement - no loss of entitlement	CPSU to discuss with members	Parked	SBU/CPSU to respond
Removed	342-344	Consistent approach to footwear allowance across all work groups.	CPSU to discuss with members	Parked	SBU/CPSU to respond
Removed	345-346	Uniforms will be still be provided	CPSU to discuss with members	Parked	SBU/CPSU to respond



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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	347-349	Provisions never applied - loading dock employees are considered flextime workers under current EA - covered in general clauses		Agreed	
Attachment A	Appendix A	Updated to reflect proposed pay rise		Parked	
Attachment B	Appendix E	Retain and update.		Agreed	
Attachment C	Appendix F	Retain with amendments	Agreed provided "on pro-rata basis" removed from clause 2.8.	Agreed	New FWC model clause inserted to meet FW act requirements.
Attachment D: 6.1(a)	354	Transitional provisions of proposed EA.	CFMEU/AMWU/CEPU want to retain current arrangements for the flexibility payment.	Not agreed	Clause amended to expand eligible employee. DPS does not agree to change
38/39	355-356	General provisions apply.	CFMEU/AMWU/CEPU want to retain current arrangements for the flexibility payment.	Not agreed	DPS does not agree to change
Attachment D: 6.1(b)	357(a, c)	Transitional provisions.	CFMEU/AMWU/CEPU want to retain current arrangements for the flexibility payment.	Not agreed	DPS does not agree to change
Removed	357(b)	Removed	CFMEU/AMWU/CEPU want to retain current arrangements for the flexibility payment.	Not agreed	DPS does not agree to change
38	357(d)	General provisions apply.	CFMEU/AMWU/CEPU want to retain current arrangements for the flexibility payment.	Not agreed	DPS does not agree to change
Removed	357 (e), 358	General notice provisions apply.	CFMEU/AMWU/CEPU want to retain current arrangements for the flexibility payment.	Not agreed	DPS does not agree to change
40	359	General overtime provisions apply.	CFMEU/AMWU/CEPU want to retain current arrangements for the flexibility payment.	Not agreed	DPS does not agree to change
Attachment D: 6.1	360	Transitional provisions.	CFMEU/AMWU/CEPU want to retain current arrangements for the flexibility payment.	Not agreed	DPS does not agree to change
Attachment D: 6.2 - 6.3	361	Payment not to count for superannuation, severance, overtime, shift penalties or LSL.	CFMEU/AMWU/CEPU want to retain current arrangements for the flexibility payment.	Not agreed	DPS does not agree to change
Removed	363	Removed - apprentice provisions at proposed cl 26		Not agreed	DPS does not agree to change
Removed	364-374	All broadbanded arrangements are covered by clause 18 of proposed EA.		Not agreed	DPS does not agree to change

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	375(a), 377	Removed	CPSU/Broadcasting do not agree to removal of the 4% evening duty payment or change to span of hours.	Not agreed	DPS has amended to provide for a 1% transitional payment in 1st year of replacement EA.
39	375(b)-(e), 375(g), 376	General rostered work provisions apply	CPSU/Broadcasting do not agree to removal of the 4% evening duty payment or change to span of hours.	Not agreed	DPS does not agree to change
56.1	375(f)	Covered in general PL provisions.	CPSU/Broadcasting do not agree to removal of the 4% evening duty payment or change to span of hours.	Not agreed	There is no change to span of hours for 4% evening duty recipients as their span under the current EA is 6am to 7.30pm. DPS does not agree to change
Attachment E	350-353	All broadbanded arrangements are covered by clause 18 of proposed EA.	CFMEU: want to keep the PSL2/3 broadband in the agreement. Also want to see the broadband policy.	Not agreed	Transitional provisions for broadbanding which maintains broadband for 18 months. During this period all broadbanders will be reviewed and may be maintained subject to compliance with the advancement requirements in proposed clause 16.
Removed	378-379	All broadbanded arrangements are covered by clause 18 of proposed EA.		Not agreed	DPS does not agree to change
Removed	380	All broadbanded arrangements are covered by clause 18 of proposed EA.		Not agreed	DPS does not agree to change
Removed	387	Remove - unnecessary - operational decision not employee entitlement		Not agreed	DPS does not agree to change

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	388-90	All broadbanded arrangements are covered by clause 18 of proposed EA.		Not agreed	DPS does not agree to change
6	391-394	CF & subcommittees provided for in general clauses	Security reps want WCC and terms of reference maintained in agreement as feel is broadens remit for consultation.	Not agreed	DPS does not agree to change
Removed	395	Remove	Security reps oppose removal of part six PSS specific provisions as concerned at loss of detail/entitlements.	Not agreed	Voluntary productivity relates to 2011 EA, not relevant to proposed replacement EA. DPS does not agree to change
Removed	396-398	Remove	As above.	Not agreed	DPS does not agree to change
41.12-41.14	399-400	Covered in general clauses	As above.	Not agreed	DPS does not agree to change
40.1	401, 402(a)(b)(c)	Shiftwork arrangements covered in general clause 40	As above.	Not agreed	DPS does not agree to change
40.2	402(d)	Covered in general clauses - introduction of averaging arrangement	As above.	Not agreed	DPS does not agree to change
40.9	402(e)	Covered in general clauses - introduction of different shift lengths up to 12 hours	As above.	Not agreed	DPS does not agree to change
40.16	402(e/f)	16 hour limit retained in general clauses	As above.	Not agreed	DPS does not agree to change
40.17	402(g)	Covered in general clauses with amendment - blocks of 2 rather than 4 night shifts	As above.	Not agreed	DPS does not agree to change
Removed	402(h)	Removed - various factors determine roster patterns	As above.	Not agreed	DPS does not agree to change

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
Removed	402(i)	Removed - General clause 42 provides 10 hour break without loss of pay for ordinary duty following break	As above.	Not agreed	DPS does not agree to change
29.4	402(j)	General clause 29.431.3 states additional hours worked will be recognised as overtime or TOIL - employees can refuse unreasonable hours as per s. 62 FW Act - much broader test in Act than current EA.	As above.	Not agreed	DPS does not agree to change
38.1, 38.5, 38.6,	403	Covered in general clauses	As above.	Not agreed	DPS does not agree to change
38.8	404-405	Covered in general clauses - changes to night shift/phol penalty proposed	As above.	Not agreed	DPS does not agree to change
38.18, 38.21	406-407	Covered in general clauses	As above.	Not agreed	DPS does not agree to change
38.22	408	Retained in general clauses	As above.	Not agreed	DPS does not agree to change
Removed	409-412	Removed	As above.	Not agreed	DPS does not agree to change
38.26	413	Retained in general clauses	As above.	Not agreed	DPS does not agree to change
38.8	414	Covered in general clauses	As above.	Not agreed	DPS does not agree to change
56	415	Covered in general PL provisions.	As above.	Not agreed	DPS does not agree to change
45.5	416	Higher duties covered in general clause 47. Automatic eligibility removed - Secretary to have discretion to pay HDA for periods less than two weeks.	As above.	Not agreed	DPS does not agree to change
50	417-19	Covered in policy	As above.	Not agreed	allowance inserted.
51	420-22	Covered in policy	As above.	Not agreed	DPS does not agree to change
Removed	423	Removed	As above.	Not agreed	DPS does not agree to change
Removed	424	Removed	As above.	Not agreed	DPS does not agree to change
39.6	425(a)	Covered in general clauses	As above.	Not agreed	DPS does not agree to change
39.8	425(b)	Covered in general clauses (with amendment)	As above.	Not agreed	DPS does not agree to change
Removed	425(c)	Short notice' overtime removed.	As above.	Not agreed	DPS does not agree to change
Removed	425(d)	Short notice' overtime removed.	As above.	Not agreed	DPS does not agree to change
Removed	426	Removed	As above.	Not agreed	DPS does not agree to change
40	427	Covered in general 10 hour break clause	As above.	Not agreed	DPS does not agree to change

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Proposed clause	Current clause	DPS proposal	Comment	SBU position	DPS response and final position
42.9	428	Covered in general clauses (with amendment)	As above.	Not agreed	DPS does not agree to change
39	429-430	Covered in general clauses (with amendment)	As above.	Not agreed	DPS does not agree to change
38.17	431	Covered in general clauses (with amendment)	As above.	Not agreed	DPS does not agree to change
Removed	432	Removed	As above.	Not agreed	DPS does not agree to change
59.5	433	Covered in general clauses - no change	As above.	Not agreed	DPS does not agree to change
Removed	434	Removed	As above.	Not agreed	DPS does not agree to change
Removed	435	Removed	As above.	Not agreed	DPS does not agree to change
Removed	Appendix B	Remove - covered in policy		Not agreed	DPS does not agree to change
Removed	Appendix C	Remove - covered in policy			
Removed	Appendix D	Remove		Not agreed	DPS does not agree to change
Removed	Appendix G	Remove - in policy		Not agreed	DPS does not agree to change