



# DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**Berry Street Victoria Incorporated**  
(AG2020/1655)

## **BERRY STREET ENTERPRISE AGREEMENT 2020**

Social, community, home care and disability services

DEPUTY PRESIDENT CLANCY

MELBOURNE, 22 JULY 2020

*Application for approval of the Berry Street Enterprise Agreement 2020.*

[1] An application has been made for the approval of an enterprise agreement known as the *Berry Street Enterprise Agreement 2020* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Berry Street Victoria Incorporated. The Agreement is a single enterprise agreement.

[2] The Agreement does not cover all of the employees of Berry Street Victoria Incorporated, however, taking into account the factors in s.186(3) and s.186(3A) I am satisfied that the group of employees was fairly chosen.

[3] I observe that certain provisions within the Agreement (Clause 47.2 pertaining to accrual of personal/carer's leave and Clause 47.5 pertaining to notice and evidence requirements for the taking of compassionate leave) appear to be inconsistent with the National Employment Standards (NES). However, noting Clause 7 of the Agreement, I am satisfied the more favourable entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[4] Berry Street Victoria Incorporated has provided written undertakings. A copy of the undertakings is attached in Annexure A. I sought the views of the bargaining representatives and am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in a substantial change to the Agreement. The undertakings are taken to be terms of the Agreement.

[5] Subject to the undertakings referred to above, and on the basis of the material contained in the application and accompanying statutory declaration, I am satisfied that each of the requirements of ss 186, 187, 188 and 190 as are relevant to this application for approval have been met.

[6] The Australian Municipal, Administrative, Clerical and Services Union (ASU), Independent Education Union of Australia (IEU) and the Health Services Union of Australia

(HSU), being bargaining representatives for the Agreement, have given notice under s. 183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) and based on the statutory declaration provided by the ASU, IEU and HSU, I note that the Agreement covers them.

[7] The Agreement is approved and, in accordance with s.54, will operate from 29 July 2020. The nominal expiry date of the Agreement is 31 May 2024.



DEPUTY PRESIDENT

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:  
AG2020/1655

Applicant:  
Berry Street Victoria Inc.

**Undertaking- section 190**

I, Georgie Dwyer, Executive Director People and Culture for Berry Street Victoria Inc. give the following undertakings with respect to the Berry Street Enterprise Agreement 2020 ("the Agreement"):

1. I have the authority given to me by Berry Street Victoria Inc. to provide this undertaking in relation to the application before the Fair Work Commission.
2. An employee completing training outside of ordinary hours of work, as per Clause 16.1(e)(iii), will be paid the higher of their ordinary hourly rate or the applicable overtime rate that would be payable under the relevant Award.
3. Clause 43.1 of the Agreement to include the following:

(d) Shifts are to be worked in one continuous block of hours that may include meals breaks and sleepover.
4. Any employee entitled to the sleepover allowance payable under Clause 39.11(d) will be paid for that sleepover at a rate that is better off overall than the provision in the Social, Community, Home Care and Disability Services Industry Award.
5. Clause 51 of the Agreement to include the following:

*In addition to the above, an Employee who is legitimately required by Indigenous tradition to be absent from work for Aboriginal or Torres Strait Islander ceremonial purposes will be entitled to up to a further 5 working days unpaid leave in any one year, with approval of Berry Street.*
6. The rates of pay set out as applicable from the FFPPOA 1/7/2020 in Schedule A of the Agreement, apply to the following classifications from 12 June 2020:
  - Stream 1 Residential Services Level 1 Year 1
  - Stream 1 Berry Street Services and Practice Level 2 Years 1-4
  - Stream 1 Berry Street Services and Practice Level 3 Years 3-4

Employer name: Berry Street Victoria Inc.

Authority to sign: Executive Director, People and Culture

Signature:



Date: 15 July 2020

**Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.**



## BERRY STREET ENTERPRISE AGREEMENT 2020

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## Part 1—Application and Operation

### 1. Title

This enterprise agreement will be known as the *Berry Street Enterprise Agreement 2020*.

### 2. Coverage and parties bound

This Agreement shall apply to:

- (a) Berry Street; and,
- (b) Employees of Berry Street who are covered by the classifications of this Agreement; and
- (c) Any other party noted as being covered by the Agreement in the decision of the Fair Work Commission to approve the Agreement.

### 3. Purpose, interpretation and definitions

#### 3.1 Purpose

- (a) Berry Street believe that children, young people and families should be safe, thriving and hopeful. Berry Street have held this belief for more than 140 years and live by it every day.
- (b) The parties to this Agreement recognise the challenging environment in which Berry Street operates. The future of Berry Street depends on its ability to respond flexibly to the changing needs of clients. This places a premium on the skills, expertise, goodwill and commitment of Berry Street employees, which the Board of Directors and the Executive Management Team acknowledges and appreciates.
- (c) The parties to this Agreement share a commitment to work and management practices which are socially and environmentally responsible, in terms of both balancing of work and family responsibilities and minimizing resource use. Berry Street is also committed to respecting traditional, cultural and religious affiliations and the provision of flexible working conditions to accommodate this.
- (d) The type of work undertaken by the employees of Berry Street is of great value and has many rewards. It also has inherent challenges, so all parties to this agreement recognise that part of creating a safe working environment includes access to appropriate regular supervision, debriefing and other reflective mechanisms when required.
- (e) The parties to this Agreement are further committed to an orderly and consensual implementation of its provisions, in a way that promotes the effectiveness of Berry Street, widens the professional opportunities available to employees, and recognises the rights and responsibilities of Berry Street and employees.

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3.2 In this Agreement, unless the contrary intention appears:

**Act or FW Act** means the *Fair Work Act 2009* (Cth).

**Actual Hours** means the contracted hours plus any additional hours worked within the pay period.

**Agreement** means this agreement.

**Anniversary Year** means a period of 12 months continuous employment, initially commencing from the date of appointment.

**Base Rate of Pay** means the rate of pay applicable to the contracted hours, exclusive of any penalties, loadings or allowances.

**Berry Street 24/7 Programs** means the programs that operate seven days a week and generally 24 hours a day. These currently include: Residential Services, Children Contact Centre, The Foyer, Targeted Care Package Support Employees (TCP) and the State Wide On Call Service (SWOCS).

**Commission or FWC** means the Fair Work Commission.

**Contracted/Standard Hours** means the hours of work the employee is contracted to perform.

**Day** means for the purposes of leave, the actual rostered hours for the employee in a 24-hour period.

**Employee** a person employed by Berry Street whose employment is at any time subject to the Agreement.

**Household** means household as defined and provided for in the NES.

**Immediate Family** means immediate family as defined and provided for in the NES and includes foster children and children in an employee's permanent care.

**NES** means the National Employment Standards as contained in the *Fair Work Act 2009* (Cth)

**Non Term Time** means the weeks or part thereof, in the school year other than term time and includes periods designated as school holidays for students.

**Regular Hours** means the regular hours worked by an employee. These may be the hours recorded on the roster or the agreed start and finish times in an office.

**Teacher** means a person who is registered by the Victorian Institute of Teaching pursuant to the *Education and Training Reform Act 2006* (Vic) and is employed to teach at a Berry Street School.

**Union/s** means the Australian Services Union, the Independent Education Union and the Health Workers Union.

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**3.3** Where this Agreement refers to a condition of employment provided for in the NES, the NES definition applies.

### **4. Period of operation**

The Agreement will commence (in accordance with section 54 of the FW Act), seven days after it is approved by the FWC and has a nominal expiry date of 31 May 2024.

### **5. No extra claims**

It is a term of this Agreement that the parties will not pursue any extra claims for the life of this Agreement.

### **6. Access to the agreement and the National Employment Standards**

Berry Street will ensure that copies of this agreement and the NES are available to all Employees to whom they apply. A copy of this Agreement and the NES will be available to Employees on the intranet and a hard copy of these documents can be requested through the Human Resources team.

### **7. The Awards and the National Employment Standards and this Agreement**

The NES and this Agreement contain the minimum conditions of employment for Employees covered by this Agreement. This Agreement replaces the operation of any Award unless a specific provision of this Agreement states otherwise.

This Agreement will be read and interpreted in conjunction with the NES. Where there is an inconsistency between this Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

### **8. Individual flexibility agreement**

**8.1** Notwithstanding any other provision of this Agreement, Berry Street and an individual employee may agree to vary the application of certain terms of this Agreement to meet the genuine individual needs of Berry Street and the individual employee. The terms Berry Street and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

**8.2** Berry Street will ensure that the terms of the IFA:

- (a) are about permitted matters under section 172 of the FW Act; and



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(b) are not unlawful terms under section 194 of the FW Act.

**8.3** Berry Street and the individual employee must have genuinely made the agreement without coercion or duress. An agreement under this clause can only be entered into after the individual employee has commenced employment with Berry Street. An employee may nominate a representative including the Union to assist in negotiations of an individual flexibility agreement.

**8.4** The agreement between Berry Street and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in clause 8.1; and
- (b) result in the employee being better off overall at the time the agreement is made than the employee would have been if no individual flexibility agreement had been agreed to.

**8.5** The agreement between Berry Street and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by Berry Street and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this agreement that Berry Street and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between Berry Street and the individual employee;
- (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

Berry Street must give the individual employee a copy of the agreement within 14 days after it is agreed to and keep the agreement as a time and wages record.

Except as provided in clause 8.5(a) the agreement must not require the approval or consent of a person other than Berry Street and the individual employee.

Berry Street seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited Berry Street must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.

**8.6** The agreement may be terminated:

- (a) by Berry Street or the individual employee giving 28 days' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
- (b) at any time, by written agreement between Berry Street and the individual employee.

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- 8.7** The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between Berry Street and an individual employee contained in any other term of this Agreement.

## Part 2—Consultation, Dispute Resolution and Related Matters

### 9. Consultation

9.1 This clause applies if Berry Street:

- (a) has made a definite decision to introduce a major change in a program, the organisation, structure or technology that is likely to have a significant impact on Employees; or
- (b) proposes to introduce a change to the regular roster or ordinary hours of work of Employees.

9.2 In this clause:

- (a) **relevant Employees** means the Employees who may be affected by a change referred to in clause 9.1.
- (b) **relevant union/s** means any other party noted as being covered by the Agreement in the decision of the Fair Work Commission to approve the Agreement.
- (c) **significant impact** includes:
  - (i) termination of employment;
  - (ii) major changes in the size, composition or operation of Berry Street's workforce or skills required of Employees;
  - (iii) the elimination or diminution of a job;
  - (iv) the alteration of hours of work for the program;
  - (v) the need for retraining or relocation to another site or to another workplace; or
  - (vi) the restructuring of jobs.

At any stage during the consultation process the relevant Employees may be assisted by a relevant union or representative of the Employee's choice. Berry Street will recognise the relevant union or representative as part of the consultation process.

9.3 Berry Street shall:

- (a) notify relevant Employees and their representative or relevant union if any, and provide all relevant information including how the changes are expected to impact relevant Employees;
- (b) where a major change has a direct impact on Berry Street clients/students, the relevant Employees will be notified, where reasonably possible, a reasonable amount of time prior to the impacted Berry Street clients/students.
- (c) discuss with the relevant Employees:
  - (i) the effects the changes are likely to have on the Employees; and
  - (ii) measures Berry Street is taking to avert or mitigate the adverse effect of the change on the Employees;

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- (d) give prompt consideration to matters raised by the relevant Employees in relation to the changes; and
- (e) invite the relevant Employees to provide their views about the impact of the change (including any impact in relation to family or caring responsibilities).

Discussions shall commence as early as practicable prior to a final decision being made by Berry Street to make the changes.

For the purposes of discussions, Berry Street shall provide in writing to the relevant Employees information about the changes including the nature of the changes proposed, the expected effects of the changes on the relevant Employees and any other matters likely to affect the relevant Employees.

Berry Street is not required to disclose confidential or commercially sensitive information to the relevant Employees.

Berry Street will give prompt and genuine consideration to matters raised during consultation.

Berry Street will notify Employees of a final decision as soon as possible after it is made.

### **10. Dispute resolution**

- 10.1** It is expected that good communication processes will minimise the need to instigate formal dispute settling and grievance procedures. However, if a dispute or grievance does occur, it is expected that every endeavour will be made to resolve this dispute or grievance by direct discussion, consultation and negotiation between the relevant parties.

Where a dispute requires further action, the appropriate process in this clause should be followed either verbally or in written form.

During the following processes, Berry Street or the Employee is entitled to involve an advocate, union or other representative.

- 10.2** If a dispute relates to:

- (a) a matter arising under the Agreement; or
- (b) the NES.

this clause sets out procedures to settle the dispute.

An Employee shall try and resolve the dispute directly by holding discussions with the relevant parties.

If the dispute is still not resolved, the Employee may raise the matter with the relevant Senior Manager.

Berry Street or the Employee can refer the dispute to the FWC following the processes above being followed.

**10.3** The FWC may deal with the dispute in 2 stages:

- (a)** The first stage will be mediation, conciliation, expressing an opinion, making a recommendation or any other type of dispute resolution method that is not binding on the parties;
- (b)** If the dispute is not resolved after the first stage, the Commission may arbitrate the dispute and make a determination that is binding on the parties. In arbitrating the dispute the Commission may exercise all powers available to it under the FW Act.
- (c)** The parties agree to be bound by any decision and/or determination of the Commission made in accordance with this clause.

While the parties are trying to resolve the dispute work will continue in accordance with the custom and practice, unless the Employee has a reasonable concern about an imminent risk to their health and safety or requirements in relation to client care.

## **11. Grievance resolution**

A grievance is a complaint by an Employee against another Employee, relating to work practices, the working environment or working relationship (excluding allegations of unsatisfactory work performance or misconduct which are dealt with under Clause 55).

Where a grievance requires further action, the appropriate process in this clause should be followed either verbally or in written form.

During the following processes, Berry Street or the Employee is entitled to involve an advocate, union or other representative.

An Employee shall try and resolve the dispute directly by holding discussions with the other Employee.

If the grievance is unable to be resolved, the Employee should raise the matter with the relevant Senior Manager.

It is appropriate that the above should take place within seven (7) days.

At any stage of the process, the parties may, by mutual agreement, elect to attend a formal mediation conducted by an external mediator.

The parties must cooperate to expediate the procedures.

## **12. Employee representation**

**12.1** Berry Street, Unions and Employees covered by this Agreement are committed to representation of Employees to maintain harmonious relationships at the workplace level.

**12.2** Berry Street will release an elected delegate of a union on paid time to:

- (a)** undertake training conducted by a union, provided the total number of days Berry Street has released the delegate for training will not exceed 5 days in a calendar year or an aggregate of 10 days over 2 calendar years; and

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- (b) Attend bargaining meetings where the delegate is representing a member or group of members.

Berry Street will give union delegates reasonable access to their IT facilities to perform the representative functions including email, telephone, photocopying, scanning and computer facilities.

Berry Street will provide a notice board at a workplace as requested, where the union/s may post notices about union activities.

**12.3** Berry Street will allow an Employee to attend a meeting of an elected union representative body provided that:

- (a) the Employee can only be released for a maximum of 5 occasions per year;
- (b) each occasion is no greater than a day; and
- (c) the union notifies Berry Street that the Employee has been elected to the representative body before the Employee is released; and
- (d) the Employee has taken annual leave or unpaid leave from Berry Street for the time; and
- (e) the number of Employees is limited to one per union.

**13. Occupational health and safety**

The parties to this Agreement agree that occupational health and safety is a priority to reduce the incidence of workplace injury and illness.

During the life of this Agreement, the Berry Street will:

- (a) Take all necessary and practical steps to provide and maintain a safe work environment which is free from the risk of harm (including psychological harm);
- (b) Comply with the *Occupational Health and Safety Act 2004* and relevant Regulations and Codes of Practice;
- (c) Where required facilitate processes to call for or elect OHS representatives for each designated work group;
- (d) Consult with Employees and Health and Safety Representatives on all proposed changes to the workplace with the aim of eliminating risks or reducing hazards at the workplace;
- (e) Create a Work Health and Safety Program which includes promoting positive health and wellbeing as a protective factor against work-related stress;
- (f) Provide training and support on how to effectively manage organisational factors in the workplace for Leaders and how to lead with a positive mental health and wellbeing lens;

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- (g)** Provide access for all Health and Safety Representatives to a WorkSafe approved Health and Safety Representative 5-day course to assist them to fulfil their roles, and refresher training as required;
- (h)** The costs and time required for these courses will be at Berry Street's expense but not will exceed 5 days for the initial training and 1 day per year thereafter;
- (i)** Maintain occupational health and safety training programs aimed at maximising employee input to the identification, assessment and control of risks and hazards;
- (j)** Provide an effective rehabilitation and early return to work program for injured workers; and
- (k)** Provide such other facilities as is necessary to Health and Safety Representatives to enable their performance of functions and duties.

**Part 3—Minimum Wages and Related Matters**

**14. Berry Street roles**

Employees at Berry Street work in programs across a number of work streams.

BERRY STREET LEVEL	STREAM 1		STREAM 2	STREAM 3	STREAM 4	STREAM 5
	RESIDENTIAL SERVICES	BERRY STREET SERVICES AND PRACTICE	TAKE TWO / CLINICAL ROLES	BERRY STREET SCHOOLS AND CIRC WORKERS		CENTRAL OFFICE FUNCTIONS
				TEACHERS	EDUCATION SUPPORT AND WELLBEING CIRC WORKERS	
8	Manager					Manager Project Manager Admin Manager Internal Consultant
7	Team Leader		Clinical Team Leader	Lead Teacher	CIRC Lead	Project Worker A Advisor Team Leader
6	Coordinator	Senior Case Worker Coordinator	Senior Clinician	Expert Teacher Appointed or Years 8 +	Coordinator/Lead of Student Support and Wellbeing CIRC Worker A	Project Worker B Senior Trainer Coordinator
5		Case Manager (qualified)	Clinician Research Officer	Accomplished Teacher Years 3-7	Wellbeing Worker (qualified) Senior Education Worker CIRC Worker B	Project Worker C Finance Officer A HR Officer
4	House Supervisor TFM Practice Lead	Case Manager (unqualified)	Graduate Clinician Research Assistant	Graduate Teacher Years 1 and 2	Education Support Worker (qualified) CIRC Worker C	Senior Admin Officer Finance Officer B Trainer
3	Senior Residential Care Worker Residential Care Worker (qualified) TFM Practitioner (qualified)	Case Support Worker (qualified)			Education Support Worker (unqualified)	Admin Officer A
2	Residential Care Worker (unqualified) TFM Practitioner (unqualified)	Case Support Worker (unqualified)				Admin Officer B
1	Shadow Shifts					Admin Entry



**15. Classifications**

The definitions for the classification levels are contained in Schedule B.

Berry Street will advise their Employees in writing of their classification upon commencement of employment and of any subsequent changes to their classification.

**15.1 Progression**

- (a) At the end of each defined period of continuous employment (refer to Schedule A - Minimum Wages), an Employee will be eligible for progression from one pay point to the next within a level (where such pay points are provided for) if the Employee has demonstrated competency and satisfactory performance.
- (b) Stream 3 Teachers will progress from Berry Street Levels 4 to 6 in accordance with Schedule B
- (c) For all other employees, movement to a higher classification will only occur by way of promotion or reclassification.

**16. Professional development**

**16.1** The parties to this Agreement are committed to the achievement of continuous improvement throughout the organisation and encouraging Employees to further develop their potential and enhance their career opportunities.

The following components will be offered to all permanent Employees:

- (a) Comprehensive induction training, including:
  - (i) an organisational orientation session; and
  - (ii) an induction program developed by the Employee's supervisor which is relevant to the individual role.
- (b) A current position description;
- (c) Regular appraisal of work including an annual review;
- (d) Ongoing relevant professional learning opportunities;
- (e) Time during normal working hours to attend relevant training to meet Continuing Professional Development (CPD) requirements:
  - (i) where an Employee attends mandatory training other than during the course of their rostered work period, the minimum payment shall be for one hour or the length of the training if greater than one hour where the training is scheduled at the start or finish of the Employee's shift,
  - (ii) where an Employee attends mandatory training other than during the course of their rostered work period, the minimum payment shall be for three hours or where the training is not scheduled at the start or finish of the Employee's shift,
  - (iii) the payment for such training time shall be at the Employee's ordinary rate of pay;

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- (f) The costs of required/mandatory training will be made by Berry Street, unless agreed to otherwise e.g. First Aid;
- (g) Where an Employee identifies additional training they would like to undertake they may seek Berry Street's support for time to attend or payment of this course; and
- (h) Where a qualification is not required to fulfill a role but is relevant to the workplace, all efforts will be made to support an Employee in their CPD endeavours. An Employee will have the right to request time to attend the required training.

Where mandatory training cannot be provided to Employees locally, Berry Street will provide accommodation for an Employee whose workplace is located more than 2 hours from the training venue. Where training is not mandatory an Employee may request that accommodation costs be met. Berry Street will endeavour to schedule training so that it can fit in to a normal 7.6 hours business day including reasonable travel, but this is not always possible.

Berry Street aims to provide casuals with access to high quality training as required for the role. Where training is not mandatory, there may be times where preference will first be given to permanent employees.

### 16.2 E-Learning

- (a) Mandatory training that is online will normally be completed within ordinary hours at an Employee's worksite, however modules may be completed outside of an Employee's working hours and from an alternative location.
- (b) Berry Street allocates an amount of time for the completion of any mandatory online training and an Employee completing the online training outside of their ordinary hours will be paid at their ordinary rate of pay for the allocated time and such time shall not be counted as 'time worked' for the purposes of determining any overtime payments.

### 16.3 Study Leave

- (a) All permanent Employees may apply to have access to up to five (5) hours paid study leave per week (pro rata for part time Employees) at the Employee's base rate of pay, where the study is essential for the Employee's role and where there are not issues of performance.
- (b) Study leave can only be accessed during the course period, e.g. during a semester and not during the holiday/break periods, and a maximum of 150 hours can be accessed each year
- (c) Where it is deemed that study would address the performance issue, leave may be granted.
- (d) Where the study is not relevant to an Employee's role but would still be of benefit to Berry Street, study leave applications will be considered after 12 months of service.

### 16.4 Practice Supervision

- (a) Practice Supervision is the tool that Berry Street uses to build a reflective culture, where learning through reflection is encouraged and supported. Berry Street has a strong commitment to practice supervision because they believe it is critical to the

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health, wellbeing and development of each Employee and the quality of our services to Berry Street clients. All relevant Berry Street Employees are required to attend and actively participate in practice supervision.

- (b) All relevant Employees will have access to regular Practice Supervision. This is dependent on the requirements of the role but will not be less than monthly (pro rata for part time and casual Employees).
- (c) Where specific forms of practice supervision are required to meet professional registration standards Berry Street will make arrangements for a suitably qualified person, considering the advice of the registering body, to provide this service provided that the Employee gives notification at the time of employment or where the registration is relevant to the role.

### 17. Salary packaging

All eligible Employees covered by this Agreement will have access to salary packaging arrangements as follows:

- (a) By agreement with the Employee, the current rate of pay specified in the Agreement may be salary packaged consistent with the guidelines published by the Australian Tax Office. The terms and conditions of such a package must not, when viewed objectively, be less favourable than the entitlements otherwise available under this Agreement.
- (b) In the event that changes in legislation, determinations or rulings, particularly in respect of Fringe Benefits Tax exempt status or legislation, remove Berry Street's capacity to maintain the salary packaging arrangements offered to Employees under this Agreement, Berry Street shall be entitled to withdraw from the remuneration packaging arrangements by giving reasonable notice practicable to each affected Employee.
- (c) Berry Street will not provide compensation to Employees as a result of any changes in legislation etc. unless additional funding is made available to them.
- (d) Superannuation contributions paid by Berry Street into an approved superannuation fund will be calculated on the basis of the rates of pay specified in this Agreement and not on the salary remaining after a component is sacrificed.

### 18. Minimum weekly wages

18.1 Schedule A sets out the minimum wage rates that apply at the beginning of the Agreement.

#### 18.2 Stream 1 (Residential Care, Berry Street Services and Practice)

All Employees pay rates will be increased as follows, from the first full pay period commencing on or after:

- (a) 1 July 2020 – the % increase provided for by the FWC;
- (b) 1 Dec 2020 – the final ERO adjustment;
- (c) 1 July 2021 – the % increase provided for by the FWC;

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- (d) 1 July 2022 – the greater of the % increase provided by the FWC or 2.1 %; and
- (e) 1 July 2023 – the greater of the % increase provided by the FWC or 2.1 %.

**18.3 Stream 2 (Take Two/Clinical Roles)**

All Employees pay rates will be increased as follows, from the first full pay period commencing on or after:

- (a) 1 July 2020 – 2.1%;
- (b) 1 July 2021 – 2.1%
- (c) 1 July 2022 – 2.1 %; and
- (d) 1 July 2023 – 2.1 %.

**18.4 Stream 3 (Teachers)**

All Employees pay rates will be increased as follows, from the first full pay period commencing on or after:

- (a) 1 July 2020 – 2.1 %;
- (b) 1 July 2021 – 2.1%
- (c) 1 July 2022 – 2.1 %; and
- (d) 1 July 2023 – 2.1 %.

**18.5 Stream 4 (Education Support and Wellbeing, and CIRC Workers)**

All Employees pay rates will be increased as follows, from the first full pay period commencing on or after:

- (a) 1 July 2020 – the % increase provided for by the FWC;
- (b) 1 July 2021 – 2.1%
- (c) 1 July 2022 – 2.1 %; and
- (d) 1 July 2023 – 2.1 %.

**18.6 Stream 5 (Central Office Functions)**

All Employees pay rates will be increased as follows, from the first full pay period commencing on or after:

- (a) 1 July 2020 – the % increase provided for by the FWC;
- (b) 1 July 2021 – 2.1%
- (c) 1 July 2022 – 2.1 %; and
- (d) 1 July 2023 – 2.1 %.

**18.7** Allowances (other than expense related allowances) will be adjusted in accordance with the percentage increase applied by the Fair Work Commission in the Annual Wage Review in

the first full pay period on or after July 1 each year during the nominal term of the Agreement.

**19. Accident make up pay**

Entitlement

- (a) Berry Street shall pay an Employee accident makeup pay where the Employee sustains an injury for which weekly payment of workers' compensation is payable by or on behalf of Berry Street pursuant to the provisions of the applicable workers' compensation legislation, as amended from time to time.
- (b) Accident make-up pay means a weekly payment of an amount being the difference between the weekly amount of compensation paid to the Employee pursuant to the relevant workers' compensation legislation and the Employee's base rate of pay (pro rata if compensation is for less than 1 week's compensation payment).
- (c) The maximum period of accident make-up pay to be made by Berry Street in respect of any single injury shall be a total of 39 weeks from the date of the injury.
- (d) Berry Street is not liable to pay accident make-up pay as prescribed in this clause if the Employee is terminated for any reason.
- (e) In the event that the Employee receives a lump sum in redemption of weekly payments under the relevant legislation, the liability of Berry Street to pay accident make-up pay shall cease from the date of such redemption.

**20. Allowances and vehicles**

**20.1 Adjustment of expense related allowances**

- (a) As of the first full pay period on or after July 1<sup>st</sup> in each year, each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

<i>Allowance</i>	<i>Applicable Consumer Price Index figure</i>
Clothing and equipment allowance	Clothing and footwear group
Meal allowances	Take away and fast foods sub-group
Travel allowance	Private motoring sub-group

**20.2 Clothing and equipment**

- (a) Employees are generally not required by Berry Street to wear uniforms.
- (b) If an Employee was required by Berry Street to wear a uniform they would be provided with the required uniform.
- (c) Berry Street will provide gloves, masks, protective clothing and safety equipment as required by an Employee to properly and safely perform their role. Where an Employee is required (or permitted) to purchase specialist safety clothing or equipment, Berry Street will reimburse the Employee for the cost of purchasing such special clothing or safety equipment.

**20.3 Meal allowances**

- (a) An Employee will be supplied with an adequate meal or be paid a meal allowance of \$13.29 in addition to any overtime payment as follows:
  - (i) when required to work more than one hour after the usual finishing hour of work or, in the case of shiftworkers, when the overtime work on any shift exceeds one hour; and
  - (ii) provided that where such overtime work exceeds four hours a further meal allowance of \$13.29 will be paid.
- (b) Clause 20.3(a) will not apply when an Employee could reasonably return home for a meal within the meal break.

**20.4 First aid for Stream 1 (Residential Care) working in roles in Levels 1, 2, 3 and 4**

First aid training

- (a) Berry Street will provide Employees, with appropriate first aid training.

First aid allowance

- (b) A first aid allowance of \$0.43 per hour worked will be paid to an Employee where:
  - (i) the Employee holds a current first aid certificate; and
  - (ii) the Employee is required by Berry Street to perform first aid at their workplace.

**20.5 First aid for all other Employees other than Stream 3 (Teachers)**

First aid training

- (a) Berry Street will provide Employees, other than as per clause 20.4, with appropriate first aid training.

First aid allowance—full-time Employees

- (b) A weekly first aid allowance of \$16.51 per week will be paid to a full-time Employee where:
  - (i) an Employee is required by Berry Street to hold a current first aid certificate; and

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- (ii) an Employee is required by Berry Street to perform first aid at their workplace.

First aid allowance—casual and part-time Employees

- (c) The first aid allowance in this clause will apply to eligible part time and casual Employees on a pro rata basis on the basis that the ordinary weekly hours of work for full-time Employees are 38.

### 20.6 Vehicles and Travel allowance

- (a) Berry Street vehicles are available for authorised use and should be used at all times for work related purposes unless otherwise explicitly agreed.
- (b) An Employee required to use a Berry Street vehicle will not suffer any financial disadvantage, however so incurred, other than fines and penalties incurred by the Employee while using a Berry Street vehicle.
- (c) Where an Employee is authorised by Berry Street to use their motor vehicle in the course of their duties, the Employee is entitled to be reimbursed at the rate of \$0.78 per kilometre.
- (d) When an Employee is involved in travelling on duty, if Berry Street cannot provide the appropriate transport, all reasonably incurred expenses in respect to fares and meals will be met by Berry Street on production of receipted account(s) or other evidence acceptable to Berry Street.
- (e) Provided that the Employee will not be entitled to reimbursement for expenses referred to in this clause which exceed the mode of transport or meals agreed with Berry Street for these purposes.
- (f) An Employee required to stay away from home overnight will be provided reasonable accommodation and meals.

### 20.7 Telephones

Where Berry Street requires an Employee to maintain a telephone for work purposes Berry Street will provide a telephone.

### 20.8 Heat allowance for Employees in Streams 1, 2 and 6 (Residential Care, Take Two, Berry Street Services and Practice, Central Office Functions)

- (a) Where work continues for more than two hours in temperatures exceeding 46 degrees Celsius Employees will be entitled to 20 minutes rest after every two hours' work without deduction of pay.
- (b) It will be the responsibility of Berry Street to ascertain the temperature.
- (c) The following amounts will be paid to Employees employed at their current place of work prior to 8 August 1991, in the prescribed circumstances in addition to any other amounts specified elsewhere in this Agreement. Where an Employee works for more than one hour in the shade in places where the temperature is raised by artificial means and:
  - (i) exceeds 40 degrees Celsius but does not exceed 46 degrees Celsius—\$0.49 per hour or part thereof; or

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- (ii) exceeds 46 degrees Celsius— \$0.59 per hour or part thereof.

### 20.9 On call allowance

Berry Street provide an on call service with their Statewide On Call Service (SWOCS) program and it is therefore rare that an Employee is rostered 'on call'.

However, if an Employee was required by Berry Street to be 'on call' the Employee will be paid an allowance.

- (a) An Employee required by Berry Street to be on call (i.e. available for recall to duty) will be paid an allowance of \$19.78 in respect to any 24 hour period or part thereof during the period from the time of finishing ordinary duty on Monday to the time of finishing ordinary duty on Friday.
- (b) The allowance will be \$39.16 in respect of any other 24 hour period or part thereof, or any public holiday or part thereof.

### 21. Criminal record checks

Berry Street will conduct and bear the cost of, criminal record checks.

### 22. Superannuation

#### 22.1 Superannuation legislation

- (a) Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act 1992* (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of Berry Street and Employees. Under superannuation legislation individual Employees generally have the opportunity to choose their own superannuation fund. If an Employee does not choose a superannuation fund, any superannuation fund nominated in the agreement covering the Employee applies.
- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

#### 22.2 Voluntary Employee contributions

- (a) Subject to the governing rules of the relevant superannuation fund, an Employee may, in writing, authorise Berry Street to pay on behalf of the Employee a specified amount from the post-taxation wages of the Employee into the same superannuation fund as Berry Street makes the superannuation contributions provided for in clause 22.1.
- (b) An Employee may adjust the amount the Employee has authorised Berry Street to pay from the wages of the Employee from fortnightly pays following the giving of four weeks' written notice to Berry Street.
- (c) Berry Street must pay the amount authorised under clauses 22.2(a) no later than 28 days after the end of the month in which the deduction authorised under clause 23.3(a) was made.



**22.3 Superannuation fund**

Unless, to comply with superannuation legislation, Berry Street is required to make the superannuation contributions provided for in clause 22.1 to another superannuation fund that is chosen by the Employee as notified within 28 days of commencing employment, Berry Street must make the superannuation contributions provided for in clause 22.1 and pay the amount authorised under clause 22.2(a) to the HESTA Super Fund or its successor.

**22.4 Absence from work**

Subject to the governing rules of the relevant superannuation fund, Berry Street must also make the superannuation contributions provided for in clause 22.1 and pay the amount authorised under clause 22.2(a):

- (a) **Paid leave**—while the Employee is on any paid leave;
- (b) **Work-related injury or illness**—for the period of absence from work (subject to a maximum of 52 weeks) of the Employee due to work-related injury or work-related illness provided that:
  - (i) the Employee is receiving workers compensation payments or is receiving regular payments directly from Berry Street in accordance with the statutory requirements; and
  - (ii) the Employee remains employed by the Berry Street.

**23. Payment of wages**

Wages will be paid fortnightly by electronic funds transfer into the bank or financial institution account nominated by the Employee unless other arrangements are agreed to by both Berry Street and the Employee.

## Part 4—Types of Employment

### 24. Employment categories

- (a) Employees under this Agreement will be employed in one of the following categories:
  - (i) full-time employment;
  - (ii) part-time employment;
  - (iii) time limited or project employment; or
  - (iv) casual employment.
- (b) At the time of engagement, Berry Street will inform each Employee the basis of their employment. Berry Street may direct an Employee to carry out such duties as are within the limits of the Employee's skill, competence and training, consistent with the respective classification.
- (c) Berry Street is committed to maximising permanent employment. Permanent part-time Employees will be given first right of refusal for any additional hours, taking into account existing operating rosters, urgency of need and the part time Employee's roster, before those additional hours are offered to casual Employees or Agency staff.

### 25. Probation period for Employees other than Stream 3 Teachers

- (a) New Employees will be engaged with Berry Street subject to a probationary period of six months from the date employment starts. The purpose of the probationary period is to allow Berry Street to assess an employee's suitability for a position and for an Employee to decide whether they wish to work for Berry Street.
- (b) Either Berry Street or a permanent Employee can terminate employment during the probationary period by giving one week's notice in writing. Berry Street can choose to pay an Employee instead of the Employee working some or all of the notice period.

### 26. Probation period for Stream 3 Teachers

- (a) New Employees will be engaged with Berry Street subject to a probationary period of six months from the date employment starts. The purpose of the probationary period is to allow Berry Street to assess an employee's suitability for a position and for an Employee to decide whether they wish to work for Berry Street.
- (b) Either Berry Street or a permanent Teacher can terminate employment during the probationary period by giving seven weeks' notice in writing. Berry Street can choose to pay a Teacher instead of the Employee working some or all of the notice period.

### 27. Full time employment

A full-time Employee is one who is engaged to work 38 hours per week or an average of 38 hours per week or 76 hours per fortnight.

**28. Part time employment for Employees other than Stream 3 Teachers**

- (a) A part-time Employee is one who is engaged to work less than 38 hours per week or an average of less than 38 hours per week or 76 per fortnight and who has reasonably predictable hours of work.
- (b) The terms of this Agreement will apply to part-time Employees on a pro rata basis on the basis that the ordinary weekly hours of work for full-time Employees are 38.
- (c) Before commencing employment, Berry Street and the Employee will agree in writing on a regular pattern of work including the number of hours to be worked each week, the days of the week the Employee will work and the starting and finishing times each day. Any agreed variation to the regular pattern of work will be recorded in writing.
- (d) A part-time Employee will be paid a minimum of 3 hours at the appropriate rate for each engagement.
- (e) Three hour shifts will only be rostered when the funding related to the work is for a period of 3 hours or less.

**29. Part time employment for Stream 3 Teachers**

- (a) A part-time Employee is one who is engaged to work less than 34.2 hours per week or an average of less than 34.2 hours per week (an average of 4.5 days or less per week) or 68.4 per fortnight and who has reasonably predictable hours of work.
- (b) The terms of this Agreement will apply to part-time Employees on a pro rata basis on the basis that the ordinary weekly hours of work for full-time Employees are 38.
- (c) Berry Street cannot vary a part-time Teacher's teaching load or days of attendance unless:
  - (i) the Teacher consents; or
  - (ii) where such a variation is required as a result of a change in funding, enrolment or curriculum, Berry Street provides seven weeks' notice in writing or where the change would result in a reduction in salary, the salary of the Teacher is maintained for a period of seven weeks.
- (d) A part-time Employee will be paid a minimum of 3 hours at the appropriate rate for each engagement.
- (e) Three hour shifts will only be rostered when the funding related to the work is for a period of 3 hours or less.

**30. Right to request review of part time hours**

- (a) On Employee request, each twelve months Berry Street and the Employee will review the Employee's hours of work.
- (b) If an Employee has regularly worked above their contracted hours, they will be offered a new contract with hours that reflect their regular hours of work in the previous

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twelve months. To avoid doubt, regular hours of work do not need to have been performed on the same day or at the same time.

- (c) Berry Street does not need to make an offer under this clause if it is known at the time of the request that it would not be reasonable to expect the hours will continue to be available (for example, if the hours have been to cover leave of another Employee or reflect a temporary work demand with no reasonable expectation of being ongoing).
- (d) The outcome of this review is to be recorded in writing.

### **31. Time limited or project employment**

- (a) A time-limited or project Employee is one who is engaged to on either a full time or part time basis for a specified period of time, generally not exceeding 12 months, or on specified project, in a position which is temporary in nature for the completion of a specified task or project or to relieve an Employee taking leave in accordance with this Agreement.
- (b) Time limited or project employment can only be offered for true fixed term arrangements, including but not limited to special projects, parental leave, annual leave and long service leave relief and services with fixed term funding. The reason a role is being offered as fixed term will be included in the contract.
- (c) The period of the time limited or project employment may be altered with four weeks written notice.
- (d) At the conclusion of the fixed term, the Employee will not be entitled to any severance payment.
- (e) If a time limited or project Employee is subsequently appointed to a permanent ongoing position with Berry Street, any period of the fixed term completed immediately prior to the commencement of the ongoing position shall be recognised as service with Berry Street.

### **32. Casual employment**

- (a) A casual Employee is one who is engaged and paid as such but will not include a part-time or full-time Employee.
- (b) A casual Employee will be paid per hour calculated at the rate of 1/38th of the weekly rate appropriate to the Employee's classification. In addition, a loading of 25% of that rate will be paid instead of the paid leave entitlements accrued by permanent Employees.
- (c) Casual Employees will be paid a minimum number of 3 hours, at the appropriate rate, for each engagement.
- (d) Three hour shifts will only be rostered when the funding related to the work is for a period of 3 hours or less.

**33. Right to request casual conversion**

- (a) A person engaged by Berry Street as a casual Employee, other than an irregular casual Employee, after a sequence of periods of employment during a period of 6 months may request that their employment be converted to ongoing full-time or part-time employment.
- (b) An **irregular casual Employee** is one who has been engaged to perform work on an occasional, non-systematic or irregular basis.
- (c) A casual Employee who has worked an average of 38 or more regular and systematic hours a week in the period of 6 months' casual employment may request to have their employment converted to ongoing full-time employment.
- (d) A casual Employee who has worked at the rate of an average of less than 38 regular and systematic hours a week in the period of 6 months' casual employment may request to have their employment converted to ongoing part-time employment consistent with the pattern of hours worked during that period.
- (e) Any request under this clause must be in writing and provided to Berry Street.
- (f) Where a casual Employee seeks to convert to ongoing full-time or part-time employment, Berry Street may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the Employee.
- (g) Reasonable grounds for refusal include that:
  - (i) it would require a significant adjustment to the casual Employee's hours of work in order for the Employee to be engaged as a full-time or part-time Employee in accordance with the provisions of this Agreement;
  - (ii) it is known at the time of Berry Street responding to the request that the casual Employee's position will cease to exist within the next 6 months;
  - (iii) it is known at the time of Berry Street responding to the request that the hours of work which the casual Employee is required to perform will be reduced in the future.
  - (iv) it is known at the time of Berry Street responding to the request that there will be a significant change in the days and/or times at which the Employee's hours of work are required to be performed in the future which cannot be accommodated within the days and/or hours during which the Employee is available to work; or
  - (v) the Employee is an irregular casual.
- (h) Where Berry Street refuses a casual Employee's request to convert (other than where the Employee is an irregular casual), Berry Street must provide the casual Employee with Berry Street's reasons for refusal in writing within 21 days of the request being made. If the Employee does not accept Berry Street's refusal, this will constitute a dispute that will be dealt with under clause 10 (Dispute Resolution Procedure) of this Agreement.

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- (i) Where it is agreed that a casual Employee will have their employment converted to full-time or part-time employment as provided for in this clause, Berry Street and Employee must discuss and record in writing:
  - (i) the form of employment to which the Employee will convert – that is, ongoing full-time or part-time employment; and
  - (ii) if it is agreed that the Employee will become a part-time Employee (and is not employed as a Teacher), the matters referred to in clause 28(c).
- (j) The date from which the conversion will take effect is the commencement of the next pay cycle following such agreement being reached unless otherwise agreed.
- (k) Once a casual Employee has converted to full-time or part-time employment, the Employee may only revert to casual employment with the written agreement of Berry Street.
- (l) A casual Employee must not be engaged and/or re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.
- (m) Nothing in this clause obliges a casual Employee to convert to full-time or part-time employment, nor permits Berry Street to require a casual Employee to so convert.
- (n) Nothing in this clause requires Berry Street to increase the hours of a casual Employee seeking conversion to full-time or part-time employment.

### **34. Flexible work arrangements**

Berry Street recognises that work life balance is important if we are to attract, retain and assist our existing Employees to reach their full potential. We are therefore committed to ensuring that we provide Employees with many different options that create flexibility.

- (a) All staff have the right to request Flexible Work Arrangements. This includes options such as (but not limited to):
  - (i) changing start and finish times e.g. compressed hours arrangements,;
  - (ii) purchasing leave e.g. working around school holidays;
  - (iii) arranging work hours to create a 19 day month, e.g. an 'accrued day off';
  - (iv) Job share arrangements; and
  - (v) working remotely.
- (b) Berry Street shall consider the request having regard to the employee's circumstances; requests made by others in the team and, will only refuse the request on reasonable grounds related to the effect on the workplace. Such grounds may include, but are not limited to; cost, lack of adequate replacement, loss of efficiency and the impact on service provision, or equity for others in the team.

**35. Lactation arrangements**

- (a) Berry Street is committed to fostering a supportive work environment for employees who choose to breastfeed by:
  - (i) providing suitable and reasonable workplace facilities for employees who choose to express breast milk or breastfeed their child; and
  - (ii) providing lactation breaks during work hours.
- (b) Workplace facilities will be provided, where practicable, for employees who choose to express breast milk or breastfeed their child during work hours.

The appropriate workplace facility includes, where practicable:

- (i) a private, clean and hygienic space which is suitably signed and lockable;
  - (ii) appropriate seating and a table or bench to support breastfeeding equipment;
  - (iii) access to a refrigerator, sink and a microwave; and
  - (iv) an appropriate receptacle for rubbish.
- (c) Where suitable workplace facilities are not available on-site, the Employee and Berry Street should discuss suitable alternatives and agree on the most appropriate arrangement.

**36. Multiple appointments**

An Employee may be engaged in two or more positions, on the proviso that:

- (a) any casual appointment is not regular and systematic;
- (b) the Employee works no more than 38 ordinary hours per week (or on average 38 ordinary hours per week); and
- (c) where overtime is worked in accordance with the provisions of this Agreement, the Employee is paid at the rate applicable to the classification of the position being performed at the time at which the overtime is worked.

**37. Vacancies**

- (a) Where a vacancy arises, Berry Street will as soon as practicable, initiate action to advertise the vacant position or available hours.
- (b) Unless there are exceptional circumstances a vacancy must be advertised internally.
- (c) Exceptional circumstances include where Berry Street has an obligation to an existing Employee e.g. redeployment due to redundancy, accommodations for family responsibilities, facilitating a return to work or addressing a health and safety concern etc.

## Part 5—Hours of Work and Related Matters

### 38. Workload

Berry Street recognises that the allocation of work must include consideration of employee's hours of work, and their health, safety and wellbeing.

Berry Street will ensure that an Employee's workload (including caseloads and case mix complexity) is reasonable and that an Employee is able to perform all aspects of their job during their ordinary hours, take breaks provided by this Agreement and take leave provided by this Agreement and the NES, and to this end will ensure that it is sufficiently staffed and resourced to enable this to happen.

Where an Employee is required to meet any targets or Key Performance Indicators set by Berry Street these must be reasonable, take into account all the work an Employee performs and not be inconsistent with any relevant clinical/professional guidelines for the profession/discipline.

Berry Street will operate its schools with a staff to student ratio of 1:6.

An Employee may request a review of their workload and any party to this Agreement may refer the matter to be dealt with under clause 10 (Dispute Resolution) of this Agreement.

### 39. Ordinary hours of work and rostering

#### 39.1 Ordinary hours of work for Employees in Stream 1 (Residential Care, Berry Street Services and Practice), Stream 2 (Take Two/Clinical Roles) and Stream 5 (Central Office Functions)

- (a) The ordinary hours of work will be 38 hours per week or an average of 38 hours per week and will be worked either:
  - (i) in shifts not exceeding 8 hours per shift; and
  - (ii) as 38 hours per week, an average of 76 over two weeks or an average 152 hours over four weeks.
- (b) By agreement, the ordinary hours in clause 39.1(a) may be worked up to 10 hours per shift.
- (c) The hours of work in a particular week will not be less than 19 hours for a full time Employee, and pro rata of 19 hours based on the weekly contracted hours set by clause 28 for a part-time Employee.

#### 39.2 Ordinary hours of work for Employees in Stream 3 (Teachers)

- (a) The ordinary hours of work will be 38 hours per week averaged over a period of 12 months.
- (b) The ordinary hours of work during term weeks are variable and in return a Teacher is not required to attend during non-term time, but may be required to attend up to an additional 5 days during non-term time focused on Professional Development or coordination of multiple campuses



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- (c) The maximum number of days a Teacher will be required to attend during term weeks and non-term weeks will be 205 in each school year. The following circumstances are not included when calculating the 205 Employee attendance days:
  - (i) conferences and similar activities undertaken by mutual consent during non-term weeks;
  - (ii) when the Employee appointed to a leadership position is performing duties in non-term weeks that are directly associated with the leadership position; and
  - (iii) exceptional circumstances, such as the requirement to provide pastoral care to students in the event of a tragic event, in which an Employee may be recalled to perform duties relating to their position.
- (d) Berry Street will provide a calendar of term dates and professional development dates by the end of October each year for the following school year and will endeavour to complete this earlier whenever possible.
- (e) A Teachers absence from school during non-term weeks is deemed to include their entitlement to annual leave.

### **39.3 Ordinary hours of work for Employees in Stream 4 (Education Support and Wellbeing; and CIRC Workers)**

- (a) The ordinary hours of work will be 38 hours per week or an average of 38 hours per week and will be worked either:
  - (iii) in shifts not exceeding 8 hours per shift; and
  - (iv) as 38 hours per week, an average of 76 over two weeks or an average 152 hours over four weeks.
- (b) By agreement, the ordinary hours in clause 39.3(a) may be worked up to 10 hours per shift.
- (f) Employees will be not be required to attend school/work for 1 week of each non-term time after Terms 1, 2 and 3; and Education Support and Wellbeing will be not be required to attend school/work for the non-term time at the start of the school year.
- (g) CIRC Workers are required to return to work one week prior to the school year commencing at the beginning of the school year. CIRC Workers are able to negotiate extra time off during school term time at a time agreed by Berry Street and the employee in lieu of this week of work.
- (h) For the week of non-term time an Employee is required to attend school/work in accordance with clause 39.3(f), Berry Street may agree for the Employee to complete any required work remotely. The Employee will not be required to attend work if no reasonable and meaningful work is required to be completed, however the Employee must remain available for work during that time, unless otherwise agreed in writing one school term prior with the Berry Street School Principal/the employee's Manager.

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- (i) Berry Street will provide a calendar of term dates by the end of October each year for the following school year and will endeavour to complete this earlier whenever possible.
- (j) An Employee's absence from school during non-term weeks is deemed to include their entitlement to annual leave

**39.4 Span of ordinary hours for Employees in Stream 1 (Residential Care, Berry Street Services and Practice), Stream 2 (Take Two/Clinical Roles) and Stream 5 (Central Office Functions)**

**(a) Day worker**

The ordinary hours of work for a day worker will be worked between 6.00 am and 8.00 pm Monday to Sunday.

**(b) Shiftworker**

A shiftworker is an Employee who works shifts in accordance with clause 43.1—Shiftwork and is identified as a shiftworker

**39.5 Span of ordinary hours for Employees in Stream 4 (Education Support and Wellbeing, and CIRC Workers)**

The ordinary hours of work for a day worker will be worked between 7.00 am and 6.00 pm Monday to Friday.

**39.6 Rostered days off Stream 1 (Residential Care, Berry Street Services and Practice), Stream 2 (Take Two/Clinical Roles) and Stream 5 (Central Office Functions)**

Employees, other than a casual Employee, will be free from duty for not less than two days in each week or four days in each fortnight or eight days in each 28 day cycle. Where practicable, days off will be consecutive. Full time employees are entitled to two consecutive days off each fortnight.

**39.7 Rostered days off Stream 4 (Education Support and Wellbeing, and CIRC Workers)**

Employees will be free from duty for not less than two days in each week.

**39.8 Rest breaks between rostered work in Stream 1 (Residential Care, Berry Street Services and Practice), Stream 2 (Take Two/Clinical Roles) and Stream 5 (Central Office Functions)**

- (a) An Employee will be allowed a break of not less than 10 hours between the end of one shift or period of work and the start of another
- (b) Notwithstanding the provisions of clause 39.8(a), the break between:
  - (i) the end of a shift and the commencement of a shift continuous with the start of a sleepover; or
  - (ii) a shift commencing after the end of a shift continuous with a sleepover,

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may not be less than 8 hours, on the basis that an Employee rostered for sleepover can generally expect to sleep during the sleepover shift and resume duty rested. Where there are multiple disturbances or a lengthy disturbance during a sleepover shift, consultation to ensure fatigue is managed is required.

### **39.9 Rest breaks between rostered work in Stream 4 (Education Support and Wellbeing, and CIRC Workers)**

- (a)** An Employee will be allowed a break of not less than 10 hours between the end of one shift or period of work and the start of another.
- (b)** The entitlements in clause 39.9(a) do not apply the periods of duty are concurrent with a sleepover; on the basis that an Employee rostered for sleepover can generally expect to sleep during the sleepover shift and resume duty rested. Where there are multiple disturbances or a lengthy disturbance during a sleepover shift, consultation to ensure fatigue is managed is required.

### **39.10 Rosters for Employees in Stream 1 (Residential Care, Berry Street Services and Practice), Stream 2 (Take Two/Clinical Roles), Stream 5 (Central Office Functions) and Stream 4 (Education Support and Wellbeing, and CIRC Workers)**

- (a)** The ordinary hours of work for each Employee will be displayed on a fortnightly roster in a place conveniently accessible to Employees. The roster will be posted at least two weeks before the commencement of the roster period.
- (b)** Rostering arrangements and changes to rosters may be communicated by telephone, direct contact, mail, email or other electronic means.
- (c)** It is not obligatory for Berry Street to display any roster of the ordinary hours of work of casual staff.
- (d)** *Change in roster*
  - (i)** Seven days' notice will be given of a change in a roster.
  - (ii)** However, a roster may be altered at any time:
    - a)** by agreement between Berry Street and an Employee, provided there is an electronic or paper record of the agreement, or
    - b)** to enable the service of the organisation to be carried on where another Employee is absent from duty on account of illness, or in an emergency; or
    - c)** where the only change to the roster of a part-time Employee is the mutually agreed addition of extra hours to be worked in such a way that the part-time Employee still has four rostered days off in that fortnight.
- (e)** *Client cancellation*
  - (i)** Where a client cancels or changes the rostered service for Employees in 'out of home care' programs, an Employee will be provided with notice of a change in roster by 5.00 pm the day prior and in such circumstances no payment will be made to the employee. If a full-time or part-time Employee does not receive such notice, the Employee will be entitled to receive payment for their minimum specified hours on that day.

- (ii) Berry Street may direct the Employee to make-up time equivalent to the cancelled time, in that or the subsequent fortnightly period. This time may be made up working with other clients or in other areas of Berry Street, providing the Employee has the skill and competence to perform the work.

**39.11 Sleepovers for Employees in Stream 1 (Residential Care, Berry Street Services and Practice), Stream 2 (Take Two/Clinical Roles), Stream 5 (Central Office Functions) and Stream 4 (Education Support and Wellbeing, and CIRC Workers when on camps)**

- (a) A sleepover means when Berry Street requires an Employee to sleep overnight at premises where young people for whom the Employee is responsible reside.
- (b) The provisions of clause 39.10 apply for a sleepover. An Employee may refuse a sleepover in the circumstances contemplated in clause 39.10(d)(i) but only with reasonable cause.
- (c) The span for a sleepover will be a continuous period of eight hours. Employees will be provided with a separate room with a bed, use of appropriate facilities (including staff facilities where these exist) and free board and lodging for each night when the Employee sleeps over.
- (d) The Employee will be entitled to a sleepover allowance of \$70.00 (note the rate will increase in line with allowance increases in clause 18.7) for each night on which they sleep over. This payment shall be deemed to provide compensation for the sleepover and also includes compensation for all work necessarily undertaken by an Employee up to a total of one hour's duration.
- (e) Where work is required to be undertaken during a sleepover period exceeds one hour, payment will be made at the prescribed overtime rate for the duration of the work.
- (f) Berry Street may roster an Employee to perform work immediately before and/or immediately after the sleepover period, but must roster the Employee or pay the Employee for at least four hours' work for at least one of these periods of work.
- (g) The dispute resolution procedure in clause 10 of this Agreement applies to the sleepover provisions.

**39.12 Excursions/Berry Street Contingencies/Camps for Employees in Stream 1 (Residential Care, Berry Street Services and Practice), and Stream 4 (Education Support and Wellbeing, and CIRC Workers)**

Where an Employee agrees to supervise clients/students in excursion activities/Berry Street contingencies/Camps involving overnight stays from home, the following provisions will apply:

- (a) **Monday to Friday excursions**
  - (i) Payment at the ordinary rate of pay for time worked between the hours of 8.00 am to 6.00 pm Monday to Friday, up to a maximum of 10 hours per day.
  - (ii) Accrual of time instead of overtime payment for all other hours on a time for time basis.

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- (iii) Payment of sleepover allowance in accordance with the provision of clause 39.11.

EXAMPLE: An Employee on an excursion from 8:00am Wednesday to 6:00pm Friday would be entitled to: 30 hours of ordinary pay (*for the hours worked from 08:00-18:00 on Wed, Thurs and Fri*), 12 hours of time off in lieu (*for the hours worked from 18:00-22:00 on Wed and Thurs; and 06:00-08:00 on Thurs and Fri*) and 2 sleepover allowances (*for the hours asleep from 22:00-06:00 on Wed and Thurs nights*).

### (b) Weekend excursions

Where an Employee involved in overnight excursion activities is required to work on a Saturday and/or Sunday, the days worked in the two week cycle, including that weekend, will not exceed 10 days.

EXAMPLE: A permanent Employee on an excursion from 8:00am Friday to 6:00pm Monday would be entitled to: 55 hours of equivalent ordinary hourly pay (*for the hours worked from 08:00-18:00 on Fri, Sat (10 x 140%), Sun (10 x 200%) and Mon*), 18 hours of time off in lieu (*for the hours worked from 18:00-22:00 on Fri, Sat and Sun; and 06:00-08:00 on Sat, Sun and Mon*) and 3 sleepover allowances (*for the hours asleep from 22:00-06:00 on Fri, Sat and Sun nights*). However if by working the 2 days on the weekend the Employee's working days in that fortnight would be more than 10 days, the Employee would be entitled to either time off without loss of pay for those days above the first 10 days or payment of overtime for the remaining days/hours.

## 40. Saturday and Sunday work

### 40.1 Stream 1 (Residential Care, Berry Street Services and Practice), Stream 2 (Take Two/Clinical Roles), Stream 5 (Central Office Functions) and Stream 4 (Education Support and Wellbeing, and CIRC Workers)

- (a) Permanent employees whose ordinary working hours include work on a Saturday and/or Sunday will be paid for ordinary hours worked between midnight on Friday and midnight on Saturday at the rate of time and a half (150%), and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of double time (200%).
- (b) Casual employees whose ordinary working hours include work on a Saturday and/or Sunday will be paid for ordinary hours worked between midnight on Friday and midnight on Saturday at the rate of time and three quarters (175%), and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of double time and a quarter (225%).
- (c) These extra rates will be in substitution for and not cumulative upon the shift premiums prescribed in clauses 43.1 and 43.2—Shiftwork and the casual loading prescribed in clause 32, and are not applicable to overtime hours worked on a Saturday or a Sunday.

**41. Breaks**

Meal breaks

- (a) Each Employee who works in excess of five hours will be entitled to an unpaid meal break of 30 minutes, to be taken at a mutually agreed time after commencing work.
- (b) Where an Employee is required to work during a meal break and continuously thereafter, they will be paid overtime for all time worked until the meal break is taken.
- (c) Where an Employee is required by Berry Street to have a meal with a client(s)/student(s) as part of the normal work routine or school program, they will be paid for the duration of the meal period at the ordinary rate of pay, and subclause (a) does not apply. This paid meal period is to be counted as time worked.

Tea breaks

- (d) Every Employee will be entitled to a paid 10 minute tea break in each four hours worked at a time to be agreed between Berry Street and Employee.
- (e) Tea breaks will count as time worked.

**42. Overtime and penalty rates**

**42.1** Overtime is work performed in addition to an Employee's roster, or regular/agreed work pattern, and must be authorised in advance and directed by Berry Street. Written authorisation is required unless circumstances make this impractical, where verbal approval will be sufficient.

Variations to hours which occur at the initiative of the Employee, or additional hours of work performed to accrue a day off work, or as part of a mutually agreed flexible hours arrangement as per clause 34, is not defined as overtime for the purposes of this Agreement.

An Employee may refuse to work overtime in the circumstances where working of such overtime would result in the employee working hours which are unreasonable having regard to:

- (a) Any risk to the Employee's health and safety;
- (b) The Employees personal circumstances including family responsibilities;
- (c) The need of Berry Street's workplace
- (d) The notice (if any) given by Berry Street of the overtime and by the Employee if their intention is to refuse it; and
- (e) Any other relevant matter.

**42.2 Overtime rates**

**(a) Full-time Employees**

A full-time Employee will be paid the following payments for all work done in addition to their rostered ordinary hours on any day:

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- (i) for all authorised overtime on Monday to Saturday, payment will be made at the rate of time and a half for the first three hours and double time thereafter;
- (ii) for all authorised overtime on a Sunday, payment will be made at the rate of double time;
- (iii) for all authorised overtime on a public holiday, payment will be made at the rate of double time and a half; and
- (iv) overtime rates under this clause will be in substitution for, and not cumulative upon, the shift premiums prescribed in clauses 43.1 and 43.2 - Shiftwork and Saturday and Sunday work premiums prescribed in clause 40 - Saturday and Sunday work.

### **(b) Part-time Employees**

- (i) All time worked by part-time Employees in excess of 38 hours per week or 76 hours per fortnight will be paid for at the rate of time and a half for the first two hours and double time thereafter, except that on Sundays such overtime will be paid for at the rate of double time and on public holidays at the rate of double time and a half.
- (ii) All time worked by part-time Employees which exceeds 10 hours per day, will be paid at the rate of time and a half for the first two hours and double time thereafter, except on Sundays when overtime will be paid for at the rate of double time, and on public holidays at the rate of double time and a half.
- (iii) Time worked up to the hours prescribed in clause 42.2(b)(i) will, subject to clause 42.2 (b)(ii), not be regarded as overtime and will be paid for at the ordinary rate of pay.
- (iv) Overtime rates payable under this clause will be in substitution for and not cumulative upon the shift premiums prescribed in clause 43—Shiftwork; and are not applicable to ordinary hours worked on a Saturday or a Sunday.

### **(c) Casual Employees**

- (i) All time worked by casual Employees in excess of 38 hours per week or 76 hours per fortnight will be paid for at the rate of time and three quarters for the first two hours and double time and a quarter thereafter, except that on Sundays such overtime will be paid for at the rate of double time and a quarter and on public holidays at the rate of double time and three quarters.
- (ii) All time worked by casual Employees which exceeds 10 hours per day, will be paid at the rate of time and three quarters for the first two hours and double time and a quarter thereafter, except on Sundays when overtime will be paid for at the rate of double time and a quarter, and on public holidays at the rate of double time and three quarters.
- (iii) Time worked up to the hours prescribed in clause 42.2(c)(i) will, subject to clause 42.2(b)(b)(ii), not be regarded as overtime and will be paid for at the ordinary rate of pay (including the casual loading).

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Overtime rates payable under this clause will be in substitution for and not cumulative upon the shift premiums prescribed in clause 43 —Shiftwork; and the casual loading prescribed in clause 32, and are not applicable to ordinary hours worked on a Saturday or a Sunday.

### 42.3 Time off instead of payment for overtime

- (a) An Employee and Berry Street may agree to the Employee taking time off instead of being paid for a particular amount of overtime that has been worked by the Employee.
- (b) Any amount of overtime that has been worked by an Employee in a particular pay period and that is to be taken as time off instead of the Employee being paid for it must be the subject of a separate agreement under clause 42.3.
- (c) The period of time off that an Employee is entitled to take is the same as the benefit provided by the overtime payment, other than specifically provided for in clause 39.12(a)(i).

EXAMPLE: By making an agreement under clause 42.3 an Employee who worked 2 overtime hours is entitled to 3 hours' time off as the overtime would have been paid at 150%.
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- (d) Time off must be taken:
  - (i) within the period of 3 months after the overtime is worked; and
  - (ii) at a time or times within that period of 3 months agreed by the Employee and Berry Street.
- (e) If the Employee requests at any time, to be paid for overtime covered by an agreement under clause 42.3 but not taken as time off, Berry Street must pay the Employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked, based on the rates of pay applying at the time payment is made.
- (f) If time off for overtime that has been worked is not taken within the period of 3 months mentioned in clause 42.3, Berry Street must pay the Employee for the overtime, in the next pay period following those 3 months, at the overtime rate applicable to the overtime when worked, based on the rates of pay applying at the time payment is made.
- (g) If, on the termination of the Employee's employment, time off for overtime worked by the Employee to which clause 42.3 applies has not been taken, Berry Street must pay the Employee for the overtime at the overtime rate applicable to the overtime when worked, based on the rates of pay applying at the time payment is made.

### 42.4 Rest period after overtime

- (a) An Employee, other than a casual, who works so much overtime between the termination of their ordinary work on any day or shift and the commencement of their ordinary work on the next day or shift that they have not had at least 10 consecutive hours off duty between those times, will be released after completion of such overtime until they have had 10 consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.



- (b) If, on the instructions of Berry Street, such an Employee resumes or continues work without having had 10 consecutive hours off duty, they will be paid at the rate of double time until they are released from duty for such rest period and they will then be entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for rostered ordinary hours occurring during such absence.

**42.5 Recall to work overtime**

An Employee recalled to work overtime after leaving Berry Street's premises will be paid for a minimum of two hours' work at the appropriate rate for each time so recalled. If the work required is completed in less than two hours the Employee will be released from duty.

**42.6 Rest break during overtime**

- (a) An Employee recalled to work overtime after leaving Berry Street's premises and who is required to work for more than four hours will be allowed 20 minutes for the partaking of a meal and a further 20 minutes after each subsequent four hours' overtime; all such time will be counted as time worked.
- (b) The meals referred to above will be allowed to the Employee free of charge. Where Berry Street is unable to provide such meals, a meal allowance, as prescribed in clause 20.3, will be paid to the Employee concerned.

**43. Shiftwork**

**43.1 Stream 1 (Residential Care, Berry Street Services and Practice), Stream 2 (Take Two/Clinical Roles) and Stream 5 (Central Office Functions)**

- (a) Engagement in shiftwork

Where Berry Street wishes to engage an Employee in shiftwork, Berry Street will advise the Employee in writing, specifying the period over which the shift is ordinarily worked.

Employees in Stream 2 (Take Two/Clinical Roles) and Stream 5 (Central Office Functions) are rarely required to work shift work.

- (b) Shift Definitions
  - (i) Evening shift means any shift which finishes after 8.00 pm and at or before 12 midnight Monday to Friday.
  - (ii) Night shift means any shift which finishes after 12 midnight or commences before 6.00 am Monday to Friday.
  - (iii) A public holiday shift means any time worked between midnight on the night prior to the public holiday and midnight of the public holiday.
- (c) Loadings for shiftwork
  - (i) An Employee who works an evening shift will be paid a loading of 12.5% of their base rate of pay for the whole of such shift.
  - (ii) An Employee who works a night shift will be paid a loading of 15% of their base rate of pay for the whole of such shift.

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- (iii) An Employee who works a public holiday shift will be paid a loading of 150% of their base rate of pay for that part of such shift which is on the public holiday.

### 43.2 Stream 4 (Education Support and Wellbeing, and CIRC Workers)

- (a) Education Support, Wellbeing and CIRC Employees are rarely required to work shift work.
- (b) Shiftwork means any shift that finishes after 6:00pm Monday to Friday.
- (c) An Employee working shiftwork will be paid a penalty of 15% of their ordinary rate for the whole of such shift.

### 44. Higher duties

An Employee required by Berry Street to assume the duties of another Employee (absent Employee) on a higher classification (Level) under this Agreement who is absent for a period of five (5) or more working days will receive a higher duties allowance not less than the minimum rate prescribed for the classification (Level) applying to the absent Employee, even where the period the Employee is required to assume the duties of the absent Employee is less than five (5) days.

Example: A Level 3 Employee is absent for five (5) days. Two Level 2 Employees are required to perform the duties of the absent Level 3 Employee, Employee one for three (3) days and Employee two for two (2) days. Employee one will be entitled to the higher duties allowance for three (3) days and Employee two will be entitled to the higher duties allowance for two (2) days.

## Part 6—Leave and Public Holidays

### 45. Annual leave for Employees other than those at Berry Street Schools

Annual leave is provided for in the NES. This clause contains additional provisions.

This clause applies to the Berry Street streams contained in clause 15 Classifications other than Streams 3 and 4 i.e. Employees employed to work at Berry Street Schools.

#### 45.1 Quantum of leave

For the purpose of the NES, a shiftworker is an Employee who works more than 4 hours on 10 or more weekends during the yearly period in respect of which their annual leave accrues and is entitled to an additional week's annual leave on the same terms and conditions.

#### 45.2 Annual leave loading

- (a) In addition to their ordinary pay, an Employee, other than a shiftworker, will be paid an annual leave loading of 17.5% of their ordinary rate of pay.
- (b) Shiftworkers, in addition to their ordinary pay, will be paid the higher of:
  - (i) an annual leave loading of 17.5% of their ordinary rate of pay; or
  - (ii) the weekend, and shift penalties the Employee would have received had they not been on leave during the relevant period.

#### 45.3 Annual leave in advance

- (a) Berry Street and Employee may agree in writing to the Employee taking a period of paid annual leave before the Employee has accrued an entitlement to the leave.
- (b) An agreement must:
  - (i) state the amount of leave to be taken in advance and the date on which leave is to commence; and
  - (ii) be signed by Berry Street and the Employee and, if the Employee is under 18 years of age, by the Employee's parent or guardian.
- (c) Berry Street must keep a copy of any agreement under this clause as an Employee record.

If, on the termination of the Employee's employment, the Employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under this clause Berry Street may deduct from any money due to the Employee on termination an amount equal to the amount that was paid to the Employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

#### 45.4 Cashing out of annual leave

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under this clause.

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- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under this clause.
- (c) Berry Street and an Employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the Employee.
- (d) An agreement under this clause must state:
  - (i) the amount of leave to be cashed out and the payment to be made to the Employee for it; and
  - (ii) the date on which the payment is to be made.
- (e) An agreement under this clause must be signed by Berry Street and the Employee and, if the Employee is under 18 years of age, by the Employee's parent or guardian.
- (f) The payment must not be less than the amount that would have been payable had the Employee taken the leave at the time the payment is made.
- (g) An agreement must not result in the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i) Berry Street must keep a copy of any agreement under this clause as an Employee record.

### 45.5 Excessive leave accruals: general provision

- (a) An Employee has an **excessive leave accrual** if the Employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 45.1).
- (b) If an Employee has an excessive leave accrual, Berry Street or the Employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 45.6 sets out how Berry Street may direct an Employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 45.7 sets out how an Employee who has an excessive leave accrual may require Berry Street to grant paid annual leave requested by the Employee.

### 45.6 Excessive leave accruals: direction by Berry Street that leave be taken

- (a) If Berry Street has genuinely tried to reach agreement with an Employee under clause 45.5(b) but agreement is not reached (including because the Employee refuses to confer), Berry Street may direct the Employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by Berry Street under paragraph (a):

is of no effect if it would result at any time in the Employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual

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leave arrangements (whether made under clause 45.5, 45.6 or 45.7 or otherwise agreed by Berry Street and Employee) are taken into account; and

- (i) must not require the Employee to take any period of paid annual leave of less than one week; and
  - (ii) must not require the Employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
  - (iii) must not be inconsistent with any leave arrangement agreed by Berry Street and Employee.
- (c) The Employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.
- (d) An Employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

Note: Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect.

### **45.7 Excessive leave accruals: request by Employee for leave**

- (a) If an Employee has genuinely tried to reach agreement with Berry Street under clause 45.5(b) but agreement is not reached (including because Berry Street refuses to confer), the Employee may give a written notice to Berry Street requesting to take one or more periods of paid annual leave.
- (b) However, an Employee may only give a notice to Berry Street under paragraph (a) if:
- (i) the Employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
  - (ii) the Employee has not been given a direction under clause 45.6(a) that, when any other paid annual leave arrangements (whether made under clause 45.5, 45.6 or 45.7 or otherwise agreed by Berry Street and Employee) are taken into account, would eliminate the Employee's excessive leave accrual.
- (c) A notice given by an Employee under paragraph (a) must not:
- (i) if granted, result in the Employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 45.5, 45.6 or 45.7 or otherwise agreed by Berry Street and Employee) are taken into account; or
  - (ii) provide for the Employee to take any period of paid annual leave of less than one week; or
  - (iii) provide for the Employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
  - (iv) be inconsistent with any leave arrangement agreed by Berry Street and Employee.

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- (d) An Employee is not entitled to request by a notice under paragraph (a) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 45.1) in any period of 12 months.
- (e) Berry Street must grant paid annual leave requested by a notice under paragraph (a).

### 45.8 Notice of taking annual leave

A minimum of 4 weeks' notice, where practicable, is required prior to the taking of annual leave.

### 45.9 Personal leave during annual leave

- (a) Where an Employee is ill while on annual leave, the Employee may request that personal leave is substituted for the period of annual leave for which the Employee was ill. The Employee must provide a medical certificate or statutory declaration for the period that they were ill. An adjustment will be made for any annual leave loading already paid in consultation with the Employee in a manner designed to minimise any financial hardship to the Employee.
- (b) Where an Employee is required to care for a member of their immediate family or member of their household while on annual leave, the Employee may request that personal leave is substituted for the period of annual leave for which the Employee was providing care. The Employee must provide a medical certificate or statutory declaration for the period that they were providing care. An adjustment will be made for any annual leave loading already paid in consultation with the Employee in a manner designed to minimise any financial hardship to the Employee.

## 46. Annual leave for Employees at Berry Street Schools and CIRC Workers

Annual leave is provided for in the NES. This clause contains additional Berry Street School specific provisions.

This clause applies to the Berry Street Streams 3 and 4 contained in clause 14. Classifications i.e. Employees employed to work at Berry Street Schools and CIRC Workers.

### 46.1 Annual leave to be taken

Employees in a Berry Street School or CIRC Workers must take annual leave during non-term weeks. Leave must generally be taken, in the case of an Employee whose employment with Berry Street is continuing into the next school year, in the four week period immediately following the final term week of the current school year.

### 46.2 Pro rata payment of salary inclusive of annual leave

The provisions of this clause will apply:

- (a) in the calculation of payment in regard to pro rata salary where an Employee's employment ceases; or
- (b) in the calculation of payment in regard to pro rata salary if:
  - (i) an Employee commenced employment after the start of a Berry Street School year;

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- (ii) an Employee has taken leave without pay of more than two term weeks since the start of the Berry Street School year; or
- (iii) the hours which an Employee has worked at a Berry Street School have varied since the start of the school year.

(c) Calculation of payments

$$P = \frac{S \times C - d}{b}$$

P is the payment due

S is the total salary paid in respect of term weeks, or part thereof, since the start of the Berry Street School year or the date of employment where the Employee has been employed after the start of the school year.

b is the number of term weeks, or part thereof

C is the number of non-term weeks, or part thereof

d is the salary paid in respect of non-term weeks, or part thereof

The formula above is intended to be used to calculate the pro rata salary inclusive of annual leave owing to an Employee in respect of the school year in which the formula is applied.

### 46.3 Employees who commence employment after the commencement of the school year

An Employee who commences employment after the usual date of commencement at a Berry Street School, or as a CIRC Worker, in any school year, will be paid from the date the Employee commences, provided that at the end of the last school term in that year, the Employee will be paid an amount calculated as per the above formula and will receive no salary or other payment other than payment under this clause until the resumption of Term 1 in the following school year.

### 46.4 Employees who take approved leave without pay

Where an Employee takes leave without pay with the approval of Berry Street for a period which (in total) exceeds more than two term weeks in any year, the Employee will be paid a salary calculated in accordance with this clause as follows:

- (a) if the leave without pay commences and concludes in the same school year, the payment will be calculated and made at the conclusion of the last school term in that year; and
- (b) if the leave without pay is to conclude in a school year following the school year in which the leave commenced:
  - (i) at the commencement of the leave, a payment will be calculated and made in respect of the school year in which the leave commences; or
  - (ii) at the end of the last school term in that year in which the leave concludes, a payment will be calculated and made in respect of that school year.

If the Employee returns early from leave any payment will be taken into account in calculating the amount owed to the Employee at the end of the last school term in that year.

**46.5 Annual leave loading**

An Employee who has served throughout the school year is entitled to a leave loading of 17.5% on four weeks' annual leave. The loading will normally be paid:

- (a) at the time that the Employee is paid annual leave or pro rata annual leave; or
- (b) on the termination of employment.

Leave loading is to be calculated using the following formula:

$$\frac{[\text{Weekly salary} \times 4 \times 17.5\%] \times \text{term weeks worked by the Employee in that school year}}{\text{Total term weeks in that school year}}$$

For example, in the case of an Employee with a weekly salary of \$1000 on termination of employment (or at the end of the final term week in the school year) who was employed at a Berry Street School for 20 of the 38 term weeks in that school year, the calculation will be as follows:

$$\$1000 \times 4 \times 17.5\% = \$700$$

$$\$700 \times 20/38 = \$368.42.$$

**47. Personal/carer's leave and compassionate leave**

**47.1** Personal/carer's leave and compassionate leave are provided for in the NES. This clause contains additional provisions.

**47.2** Full time Employees will accrue paid personal/carer's leave of 12 days per year in the first year of service, 14 days per year in the second, third and fourth year of service, and 21 days per year thereafter. Part time Employees receive this benefit on a pro-rata basis.

**47.3 Personal leave to attend medical appointments**

An Employee may use personal leave to attend a Registered Health Practitioner where the Employee is fit for work, and would therefore not otherwise be eligible to access personal/carer's leave.

EXAMPLE: An Employee has a medical appointment for 2 hours on a work day and is absent from work for 3 hours. The Employee is entitled to use personal leave for those 3 hours and be paid ordinary hours for the remainder of the day.

**47.4 Payment for personal leave**

This clause only applies to Employees employed in Berry Street 24/7 Programs who work in roles in Levels 1, 2, 3 and 4.

Employees have 5 days (pro rata for part time Employees) of personal leave in each year of service paid at their rostered rate of pay. All other personal leave is paid at the base rate of pay. All other Employees are paid personal leave at their base rate of pay.



**47.5 Notice and evidence requirements**

- (a) An Employee must as soon as practicable, before taking personal leave, provide their Supervisor notification of their nonattendance at work due to illness or injury. It is preferred that 4 hours of notice be given wherever possible to allow for arrangements to be made regarding essential work to be completed in the absent work period. The notice must include how long the Employee expects to be away from work. If it is not practicable for the Employee to give prior notice of absence, the Employee must notify their Supervisor by telephone as soon as practicable.
- (b) Berry Street may require that personal leave be supported by the production of a medical certificate, or in the absence of such a certificate, other evidence satisfactory to Berry Street (which may include an affidavit or statutory declaration). Berry Street may request a certificate on short notice, but will give advance notice of a requirement to provide a certificate.
- (c) Notwithstanding clause 47.5(b), where an Employee is absent for more than three consecutive days, a medical certificate will be required by Berry Street.

**47.6 Additional carer's leave**

A full time Employee is entitled to 5 additional days of paid Carer's leave per annum. Part time Employees receive this additional carer's leave benefit on a pro-rata basis. This additional Carer's leave does not accumulate from year to year.

In addition to the evidence requirements in clause 47.5, Berry Street requires Employee's accessing additional carer's leave to name the person requiring care, their relationship to the Employee, the reasons for taking such leave and the estimated length of absence.

Where an Employee has exhausted their entitlement to additional carer's leave, they may access personal leave but must retain a balance of 2 days personal leave.

**47.7 Compassionate leave**

Employees are entitled to 5 paid days of compassionate leave, which can be taken as single days or in multiple days. Casual Employees are entitled to this as unpaid leave.

Leave to attend a funeral of a person other than immediate family or member of a household shall be negotiated with the Employee's direct supervisor and can be taken as annual leave. In this case an Employee is not obliged to provide four weeks' notice of annual leave. Employees at Berry Street Schools, casual employees and Employees without a sufficient annual leave accrual may take unpaid leave.

**48. Family violence leave**

- 48.1** Berry Street considers that all forms of violence are a violation of fundamental human rights. Violence threatens the victim's physical health, housing security and mental wellbeing. People exposed to violence are at greater risk of developing a range of health

problems, and are more likely to report poorer physical health overall and engage in practices that are harmful to their health.

**48.2 General Principle**

- (a) Berry Street recognises that Employees sometimes face situations of violence or abuse in their personal lives that may affect their attendance or performance at work. Therefore, Berry Street is committed to providing support to staff that experience family violence.
- (b) Leave for family violence purposes is available to Employees who are experiencing family violence to allow them to be absent from the workplace to attend counselling appointments, legal proceedings and other activities related to, and as a consequence of, family violence.

**48.3 Definition of Family Violence**

Family violence includes physical, sexual, financial, verbal or emotional abuse by a family member as defined by the *Family Violence Protection Act 2008* (Vic).

Eligibility

- (a) Paid leave for family violence purposes is available to all Employees with the exception of casual Employees.
- (b) Casual Employees are entitled to access leave without pay for family violence purposes.

**48.4 General measures**

- (a) All personal information concerning family violence will be kept confidential in line with Berry Street's policies and relevant legislation. No information will be kept on an Employee's personnel file without their express written permission.
- (b) No adverse action will be taken against an Employee for a period of 12 months following the last reported incident, if their attendance or performance at work suffers as a result of experiencing family violence. At the expiration of the 12 month period, if required, performance will be monitored through the performance management system.
- (c) An Employee that discloses that they are experiencing family violence will be given information regarding any available current support services.
- (d) An Employee experiencing family violence may raise the issue with their immediate supervisor, senior member of the People and Culture team, union delegate or other person identified by Berry Street as a Family Violence Contact.
- (e) Berry Street may develop guidelines to supplement this clause that details the appropriate action to be taken if an Employee reports family violence.

**48.5 Leave**

- (a) An Employee experiencing family violence will have access to 152 hours (pro rata) per year of paid special leave for medical appointments, legal proceedings and other activities related to family violence (this leave is not cumulative). This leave will be:
  - (i) in addition to existing leave entitlements;

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- (ii) may be taken as consecutive or single days or as a fraction of a day; and
  - (iii) can be taken without prior approval, provided that the Employee will take reasonable steps to advise Berry Street as soon as practicable.
- (b) An Employee may request additional leave and Berry Street must consider that request and may, at its discretion, grant additional leave.
- (c) An Employee who supports a person experiencing family violence may utilise their personal leave entitlement to accompany them to court, to hospital, or to assist with care for children or accommodation matters. Berry Street may require evidence from an Employee seeking to utilise their personal leave entitlement.

### 48.6 Individual support

- (a) In order to provide support to an Employee experiencing family violence and to provide a safe work environment to all Employees, Berry Street will consider any request for flexible working arrangements and may only refuse a request from an Employee experiencing family violence on reasonable business grounds. Flexible working arrangements may include:
- (i) temporary or ongoing changes to their span of hours or pattern of hours and/or shift patterns;
  - (ii) temporary or ongoing job redesign or changes to duties;
  - (iii) temporary or ongoing relocation to suitable employment;
  - (iv) a change to their telephone number or email address to avoid harassing contact; and/or
  - (v) any other appropriate measure.
- (b) Any temporary changes to an Employee's role should be reviewed at agreed periods. When an Employee is no longer experiencing family violence, the terms and conditions of employment may revert back to the terms and conditions applicable to the Employee's substantive position.
- (c) An Employee experiencing family violence will be offered access to the Employee Assistance Program (EAP), where Berry Street has an EAP service, and/or other available local Employee support resources. Where possible, the EAP will include professionals trained specifically in family violence.

### 49. Community service leave

Community service leave is provided for in the NES. This clause contains additional provisions.

#### 49.1 Blood donor's leave

An Employee who requires time off work to donate to the Red Cross Blood Bank shall be provided with leave, without loss of pay for each visit, on the basis of one visit per three

month period. Additional leave can be taken by agreement. Evidence of attendance may be required.

**49.2 Voluntary emergency management activities leave**

In addition to the provisions in the NES, an Employee other than a casual is entitled to paid leave on their base rate of pay.

**50. Public holidays**

Public holidays are provided for in the NES. This clause contains additional provisions.

**50.1 Public holidays for Level 4 and below Employees in Berry Street 24/7 Programs**

**(a) Public holidays not substituted**

- (i) Public holidays are observed on the day on which they fall and not on another day observed by the public in lieu of the day.

EXAMPLE: If Christmas Day fell on a Saturday and Boxing Day fell on a Sunday, Berry Street would recognise Saturday 25<sup>th</sup> December and Sunday 26<sup>th</sup> of December to be the public holidays. Any Employee working on these days would be paid 250% for all time worked.

- (ii) An Employee's roster cannot be changed to avoid payment for working on a public holiday.

**(b) Payment for working on a public holiday**

- (i) A permanent Employee required to work on a public holiday will be paid double time and a half of their ordinary rate of pay for all time worked.
- (ii) A casual Employee required to work on a public holiday will be paid double time and three quarters of their ordinary rate of pay for all time worked.
- (iii) An Employee not ordinarily required to work on a day on which a public holiday is observed shall not be entitled to any benefit for such a public holiday.
- (iv) Payments under this clause are instead of any additional rate for shift, weekend work, or casual loading which would otherwise be payable had the shift not been a public holiday.

**(c) Payment for working on a substitute day**

- (i) An Employee required to work on a day gazetted as a substitute day will be paid time and a half of their ordinary rate of pay for all time worked.
- (ii) An Employee not ordinarily required to work on a day on which a substitute days falls shall not be entitled to any benefit.

## Berry Street Enterprise Agreement 2020

- (iii) Payments under this clause are instead of any additional rate for shift which would otherwise be payable had the shift not been a substitute day.

### 50.2 Public holidays for Employees not working in a Berry Street 24/7 Program in a Level 4 or below roles

EXAMPLE: If Christmas Day fell on a Saturday and Boxing Day fell on a Sunday, Berry Street would recognise Saturday 25<sup>th</sup> December and Sunday 26<sup>th</sup> of December to be the public holidays; and Monday 27<sup>th</sup> and Tuesday 28<sup>th</sup> to be substitute days. Any Employee working on the 25<sup>th</sup> and 26<sup>th</sup> of December would be paid 250% for all time worked and any Employee working on the 27<sup>th</sup> and 28<sup>th</sup> of December would be paid 150% for all time worked.

#### (a) Public holidays substituted

- (i) Where a public holiday is gazetted on a substitute day, the substitute day is recognised as the public holiday in lieu of the day on which the public holiday fell.

EXAMPLE: If Christmas Day fell on a Saturday and Boxing Day fell on a Sunday, Berry Street would recognise Monday 27<sup>th</sup> December and Tuesday 28<sup>th</sup> of December to be the public holidays. Any Employee working on these days would be paid 250% for all time worked.

- (ii) An Employee's roster cannot be changed to avoid payment for working on a public holiday or a substitute day.

#### (b) Payment for working on a public holiday

- (iii) A permanent Employee required to work on a public holiday will be paid double time and a half of their ordinary rate of pay for all time worked.
- (iv) A casual Employee required to work on a public holiday will be paid double time and three quarters of their ordinary rate of pay for all time worked.
- (v) An Employee not ordinarily required to work on a day on which a public holiday is observed shall not be entitled to any benefit for such a public holiday.
- (vi) Payments under this clause are instead of any additional rate for shift, weekend work or casual loading which would otherwise be payable had the shift not been a public holiday.

### 50.3 Regional areas

In regional areas, the relevant State Manager may elect, after consultation with Employees to replace a public holiday, e.g. Melbourne Cup Day, with another day. This arrangement will be managed by the relevant Senior Manager.

## 51. Cultural/ceremonial leave

An Employee who is required to observe days of cultural and/or religious significance shall be able to access up to 5 days of leave per year for this purpose. The Employee is able to use annual leave, unpaid leave (subject to operational requirements) or time in lieu, subject to the provision of reasonable notice.

**52. Parental leave**

**52.1 Parental leave is provided for in the NES. This clause contains additional provisions.**

Where there is an inconsistency between this clause and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

**(a) Definitions:**

- (i)** For the purpose of this clause an eligible casual means a casual Employee employed by the employer on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least 12 months and who has, but for the pregnancy or the decision to adopt, a reasonable expectation of ongoing employment.
- (ii)** For the purposes of this clause, continuous service is work for Berry Street on a regular and systematic basis (including any period of authorised leave or absence).

**52.2 Paid parental leave: primary care giver**

An Employee who is:

- (a)** a full-time or part time Employee who has been employed by Berry Street on a regular and systematic basis for a minimum of 12 months immediately before taking parental leave; and
- (b)** taking parental leave in connection with the birth or adoption/permanent care of a child; and
- (c)** the primary care giver of the child (regardless of whether the Employee is single, married, in a de facto or same-sex couple, former spouse or former de facto spouse)

Shall be entitled to:

- (d)** be paid at the Employee's base rate (not including penalty rates, allowances etc.) of pay during 10 weeks of their parental leave ("Paid Parental Leave"); and
- (e)** a combined total of 52 weeks paid and unpaid parental leave on a shared basis in relation to the birth or adoption of their child.

**52.3 Paid parental leave: secondary care giver**

An Employee who is the non-primary care giver of a newly born or adopted (providing permanent care of a) child shall be entitled to take up to 3 weeks paid leave at the Employee's base rate of pay (not including penalty rates, allowances etc.) and up to 10 weeks unpaid leave, commencing two weeks either side of the birth or adoption.

**52.4 Adoption/permanent care leave**

In addition to the provisions in clause 52.2, an Employee seeking to take paid parental leave for the purposes of adoption or providing permanent care to a child:

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- (a) shall be required to provide Berry Street with written notice of their intention to apply for adoption/permanent care leave as soon as is reasonably practicable after receiving a placement approval notice from an adoption agency or other appropriate body;
- (b) must give written notice of the day when the placement with the Employee is expected to start as soon as possible after receiving a placement notice indicating the expected placement day; and
- (c) is entitled to use personal leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption/permanent care procedure.

**52.5 Salary packaging on parental leave**

Employee's eligible for paid parental leave will continue to receive salary packaging where applicable for the period of paid leave.

**52.6 Pre-natal carer's leave**

Where an Employee requests to attend pre-natal appointments or parenting classes that can only be attended during the Employee's ordinary hours of work then the Employee on production of satisfactory evidence may take personal leave for this purpose.

**52.7 Parental leave and other entitlements**

An Employee may in lieu of, or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks or 156 weeks if agreed.

An Employee will not engage in any conduct inconsistent with their terms of employment without express permission.

Berry Street will pay superannuation on paid parental leave.

**53. Long service leave**

Long service leave is provided for by the NES. The NES provides that where long service leave was provided by a pre-reform award prior to the commencement of the *Fair Work Act*, those award-derived long service leave entitlements form part of the NES. Nothing in this clause is intended to reduce or exclude an entitlement to long service in the NES.

In the case of a permanent Employee the long service leave entitlements will be as follows

- (a) The entitlement for the following for periods of continuous service with Berry Street will be:

<b>Period of service</b>	<b>Entitlement</b>	
First 7 years	1.4 months	
First 10 years	4 months	(this entitlement will be reduced by any LSL taken (or paid) from the 1.4 months entitlement at 7 years)
Each additional 5 years	2 months	

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- (b) Where employment is terminated (including resignation), after an Employee (other than a Teacher) completes more than 7 years' service, for reasons other than death, the Employee will be entitled to be paid an amount equal to 1/60th of pay for the period of service. If the Employee has taken all or some of the long service leave accrued under clause 53(a), Berry Street will make a payment for the period of the long service leave that has not been taken.
- (c) Where employment is terminated (including resignation), after a Teacher completes more than 7 years' service, for reasons other than death, the Employee will be entitled to be paid an amount equal to 1/40th of pay for the period of service. If the Employee has taken all or some of the long service leave accrued under clause 53(a), Berry Street will make a payment of 1/40th of pay for the period of service minus the value of the long service leave that has been taken.
- (d) Where employment is terminated (including resignation), after an Employee completes more than 10 years' service, for reasons other than death, the Employee will be entitled to be paid an amount equal to 1/30th of pay for the period of service. If the Employee has taken all or some of the long service leave accrued under clause 53(a), Berry Street will make a payment for the period of the long service leave that has not been taken.
- (e) If employment is terminated after 2 years' of service because the Employee dies whilst still employed, Berry Street will make a payment to the Employee's personal representative equal to 1/60<sup>th</sup> of pay for the period of service of the Employee. Berry Street is not required to make payment for periods of long service leave already taken or paid to the Employee.
- (f) If employment is terminated after 7 years' of service because the Employee (other than an Employee employed as a Teacher) dies whilst still employed, Berry Street will make a payment to the Employee's personal representative equal to 1/60<sup>th</sup> of pay for the period of service of the Employee. Berry Street is not required to make payment for periods of long service leave already taken or paid to the Employee.
- (g) If employment is terminated after 7 years' of service because a Teacher dies whilst still employed, Berry Street will make a payment to the Employee's personal representative equal to 1/40<sup>th</sup> of pay for the period of service of the Employee. Berry Street is not required to make payment for periods of long service leave already taken or paid to the Employee.
- (h) If employment is terminated after 10 years' of service because the Employee dies whilst still employed, Berry Street will make a payment to the Employee's personal representative equal to 1/30<sup>th</sup> of pay for the period of service of the Employee. Berry Street is not required to make payment for periods of long service leave already taken or paid to the Employee.
- (i) When long service leave is taken by an Employee:

  - (i) the Employee must take all TIL entitlements prior to long service leave being granted
  - (ii) a minimum of 2 weeks long service leave must be taken at any one time, unless otherwise agreed in accordance with clause 53.2(h)(iii); and
  - (iii) an employee and Berry Street may agree to allow the accrual to be taken in such a way as to preserve for as long as possible an Employee's contracted hours of



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work (e.g. an Employee may agree with Berry Street to take one day a week for an extended period before reducing their contracted hours accordingly); and

- (iv) the period of long service leave used by the Employee includes any public holidays or accrued days off that fall within the period of leave.
- (j) Berry Street and Employee may agree for the long service leave to be taken:
  - (i) half the pay over double the time; provided that
  - (ii) the request is in writing and is at the initiative of the Employee.
- (k) **Pay** for the purpose of this clause means the remuneration for an Employee's normal weekly hours of work calculated at the Employee's ordinary time rate of pay (without penalties or allowances etc.) at the time the leave is taken or paid.
- (l) Where an Employee is ill while on long service leave, the Employee may request that personal leave is substituted for the period of long service leave for which the Employee was ill. The Employee must provide a medical certificate for the period that they were ill.

A casual Employee is entitled to long service leave in accordance with the *Victorian Long Service Leave Act (2018)*. Casual Employees are able to take long service leave at half the pay over double the time in line with clause 53(i).

### **Notice to be given**

A minimum of 2 months' notice is required prior to the taking of long service leave.

In addition, for Employees in Streams 2, 3 and 4, if the period of leave is greater than 2 weeks, a minimum of 1 school terms' notice is required prior to the taking of long service leave.

Notice in this clause may be shortened by mutual agreement.

## **54. Other leave**

Berry Street may grant leave without pay or other leave in exceptional circumstances.

## Part 7—Performance and Disciplinary Procedure

### 55. Performance management and disciplinary procedure

#### 55.1 Purpose

- (a) Berry Street expects all Employees to undertake their work in compliance with Berry Street’s policies and procedures, the Code of Conduct and Berry Street’s Values. The parties recognise that Berry Street must be able to manage and correct poor performance in the workplace.
- (b) Performance management and the disciplinary procedure are primarily directed towards correcting and/or improving an Employee’s performance or conduct in the workplace and assisting Employees to perform to an optimum level.
- (c) The rules of natural justice and procedural fairness apply.
- (d) Where concerns about alleged performance or conduct are identified, in the first instance a Supervisor or Manager will discuss the concerns with the Employee and seek an informal resolution to the concerns.
- (e) Berry Street must take into account the Employee’s response and any mitigating circumstances in determining an outcome including whether or not the Employee knew the conduct was below acceptable standards.
- (f) In managing the performance or behaviour of an Employee, and assessing any disciplinary action that may be appropriate, the seriousness of the unacceptable performance or behaviour must be considered. As a result the levels of discipline in this procedure may not be sequential.
- (g) In cases of serious misconduct, as per the definition set out in the FW Act, termination of employment may be considered to be the appropriate disciplinary action, without the Employee having been given formal or other warnings and/or without prior counselling or coaching.

#### 55.2 Performance management

- (a) In the event that alleged poor or unacceptable performance is not resolved in accordance with clause 55.1(d), the relevant Manager or Supervisor will identify the specific concerns to the Employee and develop with the Employee a performance plan over a specified period, with the maximum period of six (6) months, to assist them meet the required standards of performance.
- (b) The Manager or Supervisor will provide the Employee with such assistance as is appropriate and the Employee shall be provided with the opportunity to have input into any performance improvement plan.
- (c) If the performance of the Employee does not meet Berry Street’s expectations at the conclusion of the performance plan, Berry Street may convert the performance process to discipline.

**55.3 Disciplinary Procedures**

- (a) In all cases of alleged unsatisfactory performance or conduct of an Employee that may constitute misconduct or serious misconduct, Berry Street shall be required to substantiate the allegations.
- (b) Berry Street shall provide to the Employee and/or their representative, a copy of the allegations and relevant information available in writing.
- (c) A reasonable opportunity is to be provided for a representative or support person of the Employee's choice to attend all interviews or meetings conducted with the Employee.
- (d) Where an investigation into an allegation regarding an Employee's conduct needs to be carried out, management may direct any Employee to participate in the investigation and may direct the Employee, against who the allegation has been made, for the period of the investigation to:
  - (i) stand down a permanent Employee with full pay during the period of investigation; or
  - (ii) offer no shifts to a casual Employee during the period of investigation; or
  - (iii) relocate or redeploy to a reasonable alternate location and/or task on the same full rate of pay they would have received except for the stand aside direction.
- (e) The Employee shall be given reasonable time to respond to all of the allegations.
- (f) Berry Street must provide written reasons for any decision and take into account the response(s) provided by the Employee.

**55.4 Disciplinary outcomes**

- (a) In the event that unsatisfactory performance or inappropriate conduct is substantiated, the relevant Manager or Supervisor will identify the specific concerns to the Employee, and may initiate a disciplinary process, that may include;
  - (i) informal counselling (in all circumstances, other than serious misconduct, counselling is the preferred first step in addressing performance or conduct issues);
  - (ii) formal counselling;
  - (iii) increased supervision;
  - (iv) training and support to enable an employee to meet the required performance;
  - (v) transfer to a different team, location and/or supervisor;
  - (vi) demotion (where it is justified);
  - (vii) a first warning, and should the conduct or performance issue be repeated within a 12 month period, a second warning, and should the conduct or performance issue be repeated within a 12 month period, a final warning;

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- (viii)** a first and final warning if the conduct is serious but does not warrant summary dismissal; and/or
  - (ix)** termination of employment.
- (b)** If after any formal disciplinary outcome a period of 12 months elapses all adverse reports relating to the conduct will cease to be relevant and relied on.

## Part 8—Termination of Employment

### 56. Termination of employment

Notice of termination is provided for in the NES. This clause contains additional provisions.

#### 56.1 Notice of termination (or payment in lieu) by Berry Street (other than to a Teacher in a school)

The notice of termination required to be given by Berry Street to an Employee is four weeks. In addition, an Employee over 45 years of age at the time the notice is given with at least two years continuous service, shall be entitled to an additional weeks' notice.

#### 56.2 Notice of termination (or payment in lieu) by Berry Street to a Teacher in a school

The notice of termination required to be given by Berry Street to a Teacher in a school is seven school term weeks.

#### 56.3 Notice does not apply

The period of notice of termination in this clause does not apply:

- (a) In the case of dismissal for serious misconduct;
- (b) To an Employee other than a Teacher, still within their probationary period (see clause 25(b));
- (c) To an Employee engaged for a fixed term as per clause 31; and
- (d) To a casual Employee.

#### 56.4 Notice of termination by an Employee

The notice of termination required to be given by an Employee is the same as that required of Berry Street in clauses 56.1 and 56.2, except that there is no requirement on the Employee to give additional notice based on the age of the Employee concerned. If an Employee fails to give the required notice Berry Street may withhold from any monies due to the Employee on termination under this Agreement or the NES, an amount not exceeding the amount the Employee would have been paid under this Agreement in respect of the period of notice required by this clause less any period of notice actually given by the Employee.

The maximum amount that Berry Street may withhold from a Teacher in a Berry Street School is two weeks.

#### 56.5 Job search entitlement

Where Berry Street has given notice of termination to an Employee, an Employee will be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at a time agreed with Berry Street.

#### 56.6 Payment on termination

Payment on termination will generally occur on the first pay day after the final date of employment. Alternatively, an Employee may request in writing to have their termination

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payment issued on the next working day after termination, or by another arrangement as mutually agreed.

Berry Street may withhold, where lawful under the FW Act, from the final payment of an employee an amount equal to any outstanding monies owed to Berry Street by the Employee such as annual leave taken in advance of accrual etc.

### 56.7 Statement of employment

Berry Street will, if requested, provide a written statement specifying the period of employment and the classification and type of work performed by the employee.

### 56.8 Return of equipment

Upon termination of employment (however so occasioned) the employee will immediately deliver up all Berry Street documents, data and other material, which were prepared by or on behalf of Berry Street and which are in the employee's care, custody or control. All keys and other property belonging to Berry Street will also be handed back to Berry Street.

## 57. Redundancy

Redundancy is provided for in the NES. This clause contains additional provisions.

### 57.1 Severance pay

An Employee whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service to be paid at the Employee's base rate of pay:

Period of continuous service on termination	Severance pay
Less than 6 months	Nil
6 months and less than 1 year	2 weeks
1 year and less than 2 years	6 weeks
2 year and less than 3 years	9 weeks
3 year and less than 4 years	10 weeks
4 year and less than 7 years	12 weeks
7 year and less than 8 years	13 weeks
8 year and less than 9 years	15 weeks
9 year and over	16 weeks

### 57.2 Redeployment

- (a) If Berry Street deems that an Employee's position is redundant, it may appoint the Employee to an alternative role for which the Employee is suitably qualified and experienced, where such a role is available. Berry Street may provide an Employee with the necessary training that provides them with the required skills and competencies that allows them to accept and perform the particular role.
- (b) An Employee redeployed to an alternative position under this clause will be entitled to, in respect of the alternative position, the greater of:
  - (i) The applicable salary for the alternative position; or

## **Berry Street Enterprise Agreement 2020**

- (ii) Their current base salary maintained until such time as the alternative positions' applicable salary overtakes that amount.

The Employee will not be entitled to a severance payment.

### **57.3 Reduction of part time hours Stream 3 (Teachers)**

Where an Employee is a Teacher at a Berry Street School; and their part time hours are reduced by more than 25%; and they do not accept the reduction in hours, the position will be made redundant and the Employee will be entitled to severance pay in line with clause 57.1.

### **57.4 Transfer of business**

The parties agree that no redundancy or severance entitlement arises under this Agreement or otherwise in respect of an Employee, if Berry Street's operations (or part of them) are taken over by another organisation and an offer of employment is made by the organisation where that offer is on terms directly comparable with this Agreement.

## Part 9—Signatures

### For and on behalf of Berry Street:

Full Name: Michael Perusco

Title: Chief Executive Officer

Address: 1 Salisbury Street, Richmond VIC 3121

Signature: 

Date: 10/06/2020

Witness Name

Witness Signature

Date:



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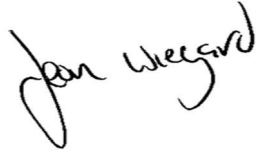
**For and on behalf of Australian Services Union:**

Full Name: Leon Wiegard

Title: Assistant Branch Secretary

Address: 116 Queensberry Street, Carlton South VIC 3053

Signature:

A handwritten signature in black ink that reads "Leon Wiegard". The signature is written in a cursive style with a large initial 'L' and a long, sweeping underline.

Date 11 June 2020

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**For and on behalf of Independent Education Union:**

Full Name: Debra James  
Title: General Secretary  
Address: 120 Clarendon Street South Melbourne 3205  
Signature:

A handwritten signature in blue ink, appearing to read 'Debra James', is written over a light grey rectangular background.

Date 10 June 2020

Witness Name


Witness Signature

Date:

**Berry Street Enterprise Agreement 2020**

**For and on behalf of Health Workers Union:**

Full Name: **Diana Asmar**  
Title: State Secretary  
Address: Level 5, 222 Kings Way South Melbourne  
Signature:



Date: **12 June 2020**

Witness Name: Cameron Granger

Witness Signature:



Date: 12 June 2020

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**Schedule A—Minimum Wages**

Please note: Annually = Weekly x 52

Berry Street Level		STREAM 1 RESIDENTIAL SERVICES	EA Commencement			FFPPOOA	FFPPOOA	FFPPOOA	FFPPOOA	FFPPOOA
			Annually	Weekly	Hourly	1/7/2020	1/12/2020	1/7/2021	1/7/2022	1/7/2023
<b>Level 1</b>	Year 1	Initial Shadow Shifts	\$ 41,891.20	\$ 805.60	\$ 21.2000	% INCREASE PROVIDED BY THE FAIR WORK COMMISSION	ERO ADJUSTMENT	% INCREASE PROVIDED BY THE FAIR WORK COMMISSION	GREATER OF 2.1% OR THE % INCREASE PROVIDED BY THE FAIR WORK COMMISSION	GREATER OF 2.1% OR THE % INCREASE PROVIDED BY THE FAIR WORK COMMISSION
<b>Level 2</b>	Year 1	Residential Care Worker (Unqualified) TFM Practitioner (Unqualified)	\$ 54,023.84	\$ 1,038.92	\$ 27.3400					
	Year 2		\$ 55,703.44	\$ 1,071.22	\$ 28.1900					
	Year 3		\$ 57,402.80	\$ 1,103.90	\$ 29.0500					
	Year 4		\$ 58,944.08	\$ 1,133.54	\$ 29.8300					
<b>Level 3</b>	Year 1	Residential Care Worker (Qualified) TFM Practitioner (Qualified)	\$ 60,445.84	\$ 1,162.42	\$ 30.5900					
	Year 2		\$ 62,046.40	\$ 1,193.20	\$ 31.4000					
	Year 3		\$ 63,291.28	\$ 1,217.14	\$ 32.0300					
	Year 4		\$ 64,595.44	\$ 1,242.22	\$ 32.6900					
	Year 1		Senior Residential Care Worker	\$ 64,654.72	\$ 1,243.36					
Year 2	\$ 64,852.32	\$ 1,247.16		\$ 32.8200						
Year 3	\$ 65,010.40	\$ 1,250.20		\$ 32.9000						
<b>Level 4</b>	Year 1	TFM Practice Lead House Supervisor	\$ 72,835.36	\$ 1,400.68	\$ 36.8600					
	Year 2		\$ 74,455.68	\$ 1,431.84	\$ 37.6800					
	Year 3		\$ 76,689.35	\$ 1,474.80	\$ 38.8104					
<b>Level 6</b>	Year 1	Coordinator	\$ 86,291.92	\$ 1,659.46	\$ 43.6700					
	Year 2		\$ 88,228.40	\$ 1,696.70	\$ 44.6500					
	Year 3		\$ 90,164.88	\$ 1,733.94	\$ 45.6300					
<b>Level 7</b>	Year 1	Team Leader	\$ 93,267.20	\$ 1,793.60	\$ 47.2000					
	Year 2		\$ 95,282.72	\$ 1,832.36	\$ 48.2200					
	Year 3		\$ 97,061.12	\$ 1,866.56	\$ 49.1200					
<b>Level 8</b>	Year 1	Manager	\$ 100,696.96	\$ 1,936.48	\$ 50.9600					
	Year 2		\$ 102,672.96	\$ 1,974.48	\$ 51.9600					
	Year 3		\$ 104,668.72	\$ 2,012.86	\$ 52.9700					

**Berry Street Enterprise Agreement 2020**

Berry Street Level	STREAM 1 BERRY STREET SERVICES AND PRACTICE	EA Commencement			FFPPOOA	FFPPOOA	FFPPOOA	FFPPOOA	FFPPOOA	
		Annually	Weekly	Hourly	1/7/2020	1/12/2020	1/7/2021	1/7/2022	1/7/2023	
Level 2	Year 1	Case Support Worker (Unqualified)	\$ 54,023.84	\$ 1,038.92	\$ 27.3400	% INCREASE PROVIDED BY THE FAIR WORK COMMISSION	ERO ADJUSTMENT	% INCREASE PROVIDED BY THE FAIR WORK COMMISSION	GREATER OF 2.1% OR THE % INCREASE PROVIDED BY THE FAIR WORK COMMISSION	GREATER OF 2.1% OR THE % INCREASE PROVIDED BY THE FAIR WORK COMMISSION
	Year 2		\$ 55,703.44	\$ 1,071.22	\$ 28.1900					
	Year 3		\$ 57,402.80	\$ 1,103.90	\$ 29.0500					
	Year 4		\$ 58,944.08	\$ 1,133.54	\$ 29.8300					
Level 3	Year 1	Case Support Worker (Qualified)	\$ 60,445.84	\$ 1,162.42	\$ 30.5900					
	Year 2		\$ 62,046.40	\$ 1,193.20	\$ 31.4000					
	Year 3		\$ 63,291.28	\$ 1,217.14	\$ 32.0300					
	Year 4		\$ 64,595.44	\$ 1,242.22	\$ 32.6900					
Level 4	Year 1	Case Manager (Unqualified)	\$ 69,199.52	\$ 1,330.76	\$ 35.0200					
	Year 2		\$ 71,017.44	\$ 1,365.72	\$ 35.9400					
	Year 3		\$ 72,835.36	\$ 1,400.68	\$ 36.8600					
	Year 4		\$ 74,455.68	\$ 1,431.84	\$ 37.6800					
Level 5	Year 1	Case Manager (Qualified)	\$ 79,059.76	\$ 1,520.38	\$ 40.0100					
	Year 2		\$ 80,818.40	\$ 1,554.20	\$ 40.9000					
	Year 3		\$ 82,735.12	\$ 1,591.06	\$ 41.8700					
Level 6	Year 1	Senior Case Worker Coordinator	\$ 86,291.92	\$ 1,659.46	\$ 43.6700					
	Year 2		\$ 88,228.40	\$ 1,696.70	\$ 44.6500					
	Year 3		\$ 90,164.88	\$ 1,733.94	\$ 45.6300					
Level 7	Year 1	Team Leader	\$ 93,267.20	\$ 1,793.60	\$ 47.2000					
	Year 2		\$ 95,282.72	\$ 1,832.36	\$ 48.2200					
	Year 3		\$ 97,061.12	\$ 1,866.56	\$ 49.1200					
Level 8	Year 1	Manager	\$ 100,696.96	\$ 1,936.48	\$ 50.9600					
	Year 2		\$ 102,672.96	\$ 1,974.48	\$ 51.9600					
	Year 3		\$ 104,668.72	\$ 2,012.86	\$ 52.9700					

**Berry Street Enterprise Agreement 2020**

Berry Street Level		STREAM 2 TAKE TWO / CLINICAL ROLES	EA Commencement			FFPPOA 1/07/2020 2.1%			FFPPOA 1/07/2021 2.1%			FFPPOA 1/07/2022 2.1%			FFPPOA 1/07/2023 2.1%		
			Annually	Weekly	Hourly	Annually	Weekly	Hourly	Annually	Weekly	Hourly	Annually	Weekly	Hourly	Annually	Weekly	Hourly
			<b>Level 4</b>		Graduate Clinician Research Assistant	\$ 76,768	\$ 1,476.30	\$ 38.8500	\$ 78,380	\$ 1,507.30	\$ 39.6659	\$ 80,026	\$ 1,538.96	\$ 40.4988	\$ 81,706	\$ 1,571.27	\$ 41.3493
<b>Level 5</b>	Years 1-3	Clinician Research Officer	\$ 85,600	\$ 1,646.16	\$ 43.3200	\$ 87,398	\$ 1,680.73	\$ 44.2297	\$ 89,233	\$ 1,716.02	\$ 45.1585	\$ 91,107	\$ 1,752.06	\$ 46.1069	\$ 93,020	\$ 1,788.85	\$ 47.0751
	Years >3		\$ 87,517	\$ 1,683.02	\$ 44.2900	\$ 89,355	\$ 1,718.36	\$ 45.2201	\$ 91,231	\$ 1,754.45	\$ 46.1697	\$ 93,147	\$ 1,791.29	\$ 47.1393	\$ 95,103	\$ 1,828.91	\$ 48.1292
<b>Level 6</b>		Senior Clinician	\$ 95,827	\$ 1,842.84	\$ 48.4957	\$ 97,840	\$ 1,881.54	\$ 49.5141	\$ 99,895	\$ 1,921.05	\$ 50.5539	\$ 101,992	\$ 1,961.39	\$ 51.6155	\$ 104,134	\$ 2,002.58	\$ 52.6995
<b>Level 7</b>		Clinical Team Leader	\$ 102,948	\$ 1,979.77	\$ 52.0993	\$ 105,110	\$ 2,021.35	\$ 53.1933	\$ 107,317	\$ 2,063.80	\$ 54.3104	\$ 109,571	\$ 2,107.13	\$ 55.4509	\$ 111,872	\$ 2,151.38	\$ 56.6154

Berry Street Level		STREAM 3 TEACHERS	EA Commencement			FFPPOA 1/07/2020 2.1%			FFPPOA 1/07/2021 2.1%			FFPPOA 1/07/2022 2.1%			FFPPOA 1/07/2023 2.1%		
			Annually	Weekly	Hourly	Annually	Weekly	Hourly	Annually	Weekly	Hourly	Annually	Weekly	Hourly	Annually	Weekly	Hourly
			<b>Level 4</b>	Year 1	Graduate Teacher	\$ 63,293	\$ 1,217.18	\$ 32.0311	\$ 64,623	\$ 1,242.74	\$ 32.7038	\$ 65,980	\$ 1,268.84	\$ 33.3905	\$ 67,365	\$ 1,295.49	\$ 34.0917
Year 2	\$ 66,080	\$ 1,270.76		\$ 33.4411		\$ 67,467	\$ 1,297.45	\$ 34.1434	\$ 68,884	\$ 1,324.69	\$ 34.8604	\$ 70,331	\$ 1,352.51	\$ 35.5924	\$ 71,808	\$ 1,380.92	\$ 36.3399
<b>Level 5</b>	Year 3	Accomplished Teacher	\$ 68,855	\$ 1,324.14	\$ 34.8459	\$ 70,301	\$ 1,351.95	\$ 35.5777	\$ 71,778	\$ 1,380.34	\$ 36.3248	\$ 73,285	\$ 1,409.33	\$ 37.0876	\$ 74,824	\$ 1,438.93	\$ 37.8665
	Year 4		\$ 71,791	\$ 1,380.60	\$ 36.3315	\$ 73,299	\$ 1,409.59	\$ 37.0945	\$ 74,838	\$ 1,439.19	\$ 37.8734	\$ 76,410	\$ 1,469.41	\$ 38.6688	\$ 78,014	\$ 1,500.27	\$ 39.4808
	Year 5		\$ 74,810	\$ 1,438.65	\$ 37.8593	\$ 76,381	\$ 1,468.87	\$ 38.6543	\$ 77,985	\$ 1,499.71	\$ 39.4661	\$ 79,623	\$ 1,531.21	\$ 40.2949	\$ 81,295	\$ 1,563.36	\$ 41.1411
	Year 6		\$ 77,971	\$ 1,499.44	\$ 39.4590	\$ 79,608	\$ 1,530.93	\$ 40.2876	\$ 81,280	\$ 1,563.08	\$ 41.1337	\$ 82,987	\$ 1,595.90	\$ 41.9975	\$ 84,730	\$ 1,629.42	\$ 42.8794
<b>Level 6</b>	Year 7	Expert Teacher	\$ 81,241	\$ 1,562.33	\$ 41.1140	\$ 82,947	\$ 1,595.14	\$ 41.9774	\$ 84,689	\$ 1,628.64	\$ 42.8589	\$ 86,468	\$ 1,662.84	\$ 43.7590	\$ 88,284	\$ 1,697.76	\$ 44.6779
	Year 8		\$ 87,653	\$ 1,685.63	\$ 44.3588	\$ 89,494	\$ 1,721.03	\$ 45.2903	\$ 91,373	\$ 1,757.17	\$ 46.2414	\$ 93,292	\$ 1,794.08	\$ 47.2125	\$ 95,251	\$ 1,831.75	\$ 48.2040
	Year 9		\$ 91,876	\$ 1,766.85	\$ 46.4960	\$ 93,805	\$ 1,803.95	\$ 47.4724	\$ 95,775	\$ 1,841.83	\$ 48.4693	\$ 97,787	\$ 1,880.51	\$ 49.4872	\$ 99,840	\$ 1,920.00	\$ 50.5264
<b>Level 7</b>		Lead Teacher	\$ 93,730	\$ 1,802.50	\$ 47.4342	\$ 95,698	\$ 1,840.35	\$ 48.4303	\$ 97,708	\$ 1,879.00	\$ 49.4474	\$ 99,760	\$ 1,918.46	\$ 50.4857	\$ 101,855	\$ 1,958.75	\$ 51.5460

**Berry Street Enterprise Agreement 2020**

Berry Street Level		STREAM 4 EDUCATION SUPPORT AND WELLBEING, CIRC WORKERS	EA Commencement			FFPPOA	FFPPOA	FFPPOA	FFPPOA
			Annually	Weekly	Hourly	1/07/2020	1/07/2021	1/07/2022	1/07/2022
Level 3	Year 1	Education Support Worker (Unqualified)	\$ 60,445.84	\$ 1,162.42	\$ 30.5900	% INCREASE PROVIDED BY THE FAIR WORK COMMISSION	2.1%	2.1%	2.1%
	Year 2		\$ 62,046.40	\$ 1,193.20	\$ 31.4000				
	Year 3		\$ 63,291.28	\$ 1,217.14	\$ 32.0300				
	Year 4		\$ 64,595.44	\$ 1,242.22	\$ 32.6900				
Level 4	Year 1	Education Support Worker (Qualified) CIRC Worker C	\$ 69,199.52	\$ 1,330.76	\$ 35.0200				
	Year 2		\$ 71,017.44	\$ 1,365.72	\$ 35.9400				
	Year 3		\$ 72,835.36	\$ 1,400.68	\$ 36.8600				
	Year 4		\$ 74,455.68	\$ 1,431.84	\$ 37.6800				
Level 5	Year 1	Senior Education Worker	\$ 79,059.76	\$ 1,520.38	\$ 40.0100				
	Year 2	Wellbeing Worker (Degree Qualified)	\$ 80,818.40	\$ 1,554.20	\$ 40.9000				
	Year 3	CIRC Worker B	\$ 82,735.12	\$ 1,591.06	\$ 41.8700				
Level 6	Year 1	Coordinator/Lead of Student Support and Wellbeing CIRC Worker A	\$ 86,291.92	\$ 1,659.46	\$ 43.6700				
	Year 2		\$ 88,228.40	\$ 1,696.70	\$ 44.6500				
	Year 3		\$ 90,164.88	\$ 1,733.94	\$ 45.6300				
Level 7	Year 1	CIRC Lead	\$ 93,267.20	\$ 1,793.60	\$ 47.2000				
	Year 2		\$ 95,282.72	\$ 1,832.36	\$ 48.2200				
	Year 3		\$ 97,061.12	\$ 1,866.56	\$ 49.1200				

**Berry Street Enterprise Agreement 2020**

Berry Street Level		STREAM 5 CENTRAL OFFICE	EA Commencement			FFPPOOA 1/7/2020	FFPPOOA 1/7/2021	FFPPOOA 1/7/2022	FFPPOOA 1/7/2023
			Annually	Weekly	Hourly				
Level 1	3 months	Admin Entry	\$ 45,448	\$ 874.00	\$ 23.0000	% INCREASE PROVIDED BY THE FAIR WORK COMMISSION			
Level 2	Year 1	Admin Officer B	\$ 47,651	\$ 916.37	\$ 24.1150				
	Year 2		\$ 49,149	\$ 945.18	\$ 24.8731				
	Year 3		\$ 50,647	\$ 973.99	\$ 25.6312				
	Year 4		\$ 52,003	\$ 1,000.05	\$ 26.3171				
Level 3	Year 1	Admin Officer A	\$ 55,328	\$ 1,064.00	\$ 28.0000				
	Year 2		\$ 57,304	\$ 1,102.00	\$ 29.0000				
	Year 3		\$ 59,280	\$ 1,140.00	\$ 30.0000				
	Year 4		\$ 61,256	\$ 1,178.00	\$ 31.0000				
Level 4	Year 1	Senior Admin Officer Finance Office B Trainer	\$ 63,232	\$ 1,216.00	\$ 32.0000				
	Year 2		\$ 65,208	\$ 1,254.00	\$ 33.0000				
	Year 3		\$ 67,184	\$ 1,292.00	\$ 34.0000				
	Year 4		\$ 69,160	\$ 1,330.00	\$ 35.0000				
Level 5	Year 1	Project Worker C Finance Officer A HR Officer	\$ 71,136	\$ 1,368.00	\$ 36.0000				
	Year 2		\$ 73,112	\$ 1,406.00	\$ 37.0000				
	Year 3		\$ 75,088	\$ 1,444.00	\$ 38.0000				
Level 6	Year 1	Project Worker B Senior Trainer Coordinator	\$ 76,076	\$ 1,463.00	\$ 38.5000				
	Year 2		\$ 78,052	\$ 1,501.00	\$ 39.5000				
	Year 3		\$ 80,028	\$ 1,539.00	\$ 40.5000				
Level 7	Year 1	Project Worker A Advisor Team Leader	\$ 81,016	\$ 1,558.00	\$ 41.0000				
	Year 2		\$ 82,992	\$ 1,596.00	\$ 42.0000				
	Year 3		\$ 84,968	\$ 1,634.00	\$ 43.0000				
Level 8	Year 1	Manager Project Manager Admin Manager Internal Consultant	\$ 87,932	\$ 1,691.00	\$ 44.5000				
	Year 2		\$ 89,908	\$ 1,729.00	\$ 45.5000				
	Year 3		\$ 91,884	\$ 1,767.00	\$ 46.5000				



## Schedule B—Classifications

### B.1 Stream 1: Residential Services

Berry Street Level	Residential Services Role	Classification Descriptor
<b>Level 1</b>	Shadow Shifts	First four (4) initial shifts in a Residential Services Unit
<b>Level 2</b>	Residential Care Worker (Unqualified)	Routine activities in a Residential Services Unit Includes personal care and generic domestic duties Works under close supervision
	TFM Practitioner (Unqualified)	Work towards mastering the 11 key concepts for TFM. Engage with families who are reluctant to participate in the behavioural support plans. Work with families consistent with accepted best practice and the TFM model. Work under close supervision
<b>Level 3</b>	Residential Care Worker (Qualified)	Undertakes range of activities applying established work procedures May exercise limited initiative Includes personal care and generic domestic duties Certificate IV or above qualification Works under general guidance
	TFM Practitioner (Qualified)	Undertakes range of activities applying TFM model May exercise limited initiative Certificate IV or above qualification Works under general guidance
	Senior Residential Care Worker	2IC of Residential Services Unit
<b>Level 4</b>	TFM Practice Lead	Lead Practitioner Provides parent like role model to the young people in Residential Services Unit Exercises initiative
	House Supervisor	Supervises support workers Complex operational work including planning and coordination of day to day operations of a Residential Services Unit Exercises initiative
<b>Level 6</b>	Coordinator	Requires sound knowledge of Residential Services program Sets outcomes, develops work procedures etc. Exercises judgement Responsible for various functions within Residential Services
<b>Level 7</b>	Team Leader TFM Consultant	Involved in establishing Residential Services programs and procedures Provide expert advice to employees below Level 7 Set priorities of Level 6 employees
<b>Level 8</b>	Manager	Operates under limited direction Responsible for range of functions in Residential Services Responsible for decision making in work area Able to work independently and has managerial control

**Berry Street Enterprise Agreement 2020**

**B.2 Stream 1: Berry Street Services and Practice**

<b>Berry Street Level</b>	<b>Berry Street Services and Practice Role</b>	<b>Classification Descriptor</b>
<b>Level 2</b>	Case Support Worker (Unqualified)  Transport Worker	Undertakes activities following procedures May exercise limited initiative Works under general guidance
<b>Level 3</b>	Case Support Worker (Qualified)	Undertakes range of activities applying established work procedures May exercise limited initiative Certificate IV or above qualification Works under general guidance
<b>Level 4</b>	Case Manager (Unqualified)	Supervises case workers Complex operational work including planning and coordination Exercises initiative
<b>Level 5</b>	Case Manager (Degree Qualified)	Requires sound knowledge of Service Program Sets outcomes, develops work procedures etc. Exercises judgement Responsible for various functions within Service Program
<b>Level 6</b>	Senior Case Manger Coordinator	Work may span over more than one discipline Provides expert advice to employees below Level 6
<b>Level 7</b>	Team Leader	Involved in establishing Service programs and procedures Provide expert advice to employees below Level 7 Set priorities of employees below Level 7
<b>Level 8</b>	Manager	Operates under limited direction Responsible for range of functions in Berry Street Services Responsible for decision making in work area Able to work independently and has managerial control

## Berry Street Enterprise Agreement 2020

### B.3 Stream 2: Take Two/Clinical Roles

Berry Street Level	Take Two Roles	Classification Descriptor
<b>Level 4</b>	Graduate Clinician Research Assistant	<p>Recently graduated from tertiary qualifications in Social Work, Psychology, Occupational Therapy or a related area, or a person completing these studies where they already hold relevant practical experience or cultural knowledge that makes them appropriate for the role.</p> <p>This level is the entry level for new graduates or for those in the early stages of their clinical career.</p> <p>This level requires significant levels of supervision including co-work and observation to ensure clinically sound practice and documentation.</p>
<b>Level 5</b>	Clinician Research Officer	<p>Tertiary qualified person in Social Work, Psychology, Occupational Therapy or a related area. They hold specialist expertise in Child and Adolescent Mental Health and relevant practical experience or cultural knowledge that makes them suitable for the role.</p> <p>Not required to hold professional registration with regard to their discipline.</p> <p>They conduct professional mental health assessments; provide counselling and psychotherapeutic services; and perform related activities for clients and their family members as well as providing secondary consultation to other professionals in their area of expertise.</p> <p>Other indicators include:</p> <ul style="list-style-type: none"> <li>▪ Works independently and is required to exercise independent judgement on routine matters.</li> <li>▪ They would seek input from more senior members of the profession when performing novel, complex or critical tasks.</li> <li>▪ They have demonstrated a commitment to continuing professional development.</li> <li>▪ Contributes to the evaluation and analysis guidelines, policies and procedures applicable to their clinical/professional work and may be required to contribute to the supervision of discipline specific students.</li> </ul>
<b>Level 6</b>	Senior Clinician	<p>Has the following indicators in addition to those specified for a Clinician:</p> <ul style="list-style-type: none"> <li>▪ At this level would be experienced and able to independently apply professional knowledge and judgement when performing novel, complex, or critical tasks specific to their discipline.</li> <li>▪ May be involved in significant levels of secondary consultations with organisations, as well as with other professionals and is part of complex external relationships.</li> <li>▪ Actively contributes to the development of professional knowledge and skills of others within their team.</li> </ul>
<b>Level 7</b>	Clinical Team Leader	<p>Has the following indicators in addition to those specified for a Senior Clinician:</p> <ul style="list-style-type: none"> <li>▪ Applies a high level of professional judgement and knowledge when performing a wide range of novel, complex and critical tasks, specific to their discipline.</li> <li>▪ Managing a number of small but different programs and a multidisciplinary team</li> <li>▪ Is accountable for allocation of cases and resources and ensuring targets are met.</li> <li>▪ Is responsible for providing regular supervision and appraisal for staff.</li> <li>▪ Is responsible for the quality of service provided in the team and the compliance of the team within established or new systems and processes.</li> </ul>

## Berry Street Enterprise Agreement 2020

### B.4 Stream 3: Berry Street Schools Teachers

Berry Street Level	Teacher Roles	Classification Descriptor
Level 4	Graduate Teacher	<p>VIT registered teacher with less than two years of teaching experience. Duties may include: teaching, associated administration, development and delivery of educational programs and co-curricular activities.</p> <p>Focus is on classroom management, subject content and teaching practice.</p> <p>New entrants to the teaching profession who must receive structured support, mentoring and guidance from teachers at higher levels.</p> <p>Under guidance, graduate teachers will:</p> <ul style="list-style-type: none"> <li>▪ plan and teach student groups in one or more subjects</li> <li>▪ provide support, guidance and positive reinforcement to their students using Berry Street's Trauma Informed Positive Psychology model</li> <li>▪ Maintain accurate records of student progress and assessment in line with policies and procedures</li> <li>▪ Be responsible for teaching their own classes and may also assist and participate in policy development, project teams and organisation of co-curricular activity.</li> </ul>
Level 5	Accomplished Teacher	<p>VIT registered teacher with more than two years of experience.</p> <p>Focus is on planning, preparation and teaching of programs to achieve specific student outcomes.</p> <p>Accomplished teachers will:</p> <ul style="list-style-type: none"> <li>▪ Teach a range of student's/classes and are accountable for the effective delivery of their programs.</li> <li>▪ Maintain accurate records of student progress and assessment in line with policies and procedures</li> <li>▪ Operate under general direction within clear guidelines following established work practices and documented priorities.</li> <li>▪ Provide support, guidance and positive reinforcement to students in line with the Berry Streets Trauma Informed Positive Psychology model.</li> <li>▪ Participate in the development of school policies and programs and assist in the implementation of school priorities.</li> </ul>
Level 6	Expert Teacher	<p>VIT registered teacher appointed as an Expert Teacher at Berry Street prior to this Agreement coming into operation or with eight or more years of experience.</p> <p>Expert teachers will:</p> <ul style="list-style-type: none"> <li>▪ Play a significant role in assisting the school to improve student performance and educational outcomes by contributing to the development and implementation of school policies and priorities.</li> <li>▪ Focus on increasing the knowledge base of staff within the school about their student learning and high quality instruction to assist their school to define quality teacher practice.</li> <li>▪ Model exemplary classroom practice and mentor or coach other teachers in the school to engage in critical reflection of their practice and to support staff to expand their capacity.</li> </ul> <p>Expert teachers may:</p> <ul style="list-style-type: none"> <li>▪ be responsible for a particular program or area of curriculum at a campus level</li> <li>▪ be responsible for convening and leading groups regarding a particular program or area of curriculum development across campuses (for the whole Berry Street School)</li> <li>▪ provide additional support to graduate teachers or teachers new to Berry Street's school environment.</li> <li>▪ Assist in student management as required.</li> </ul>
Level 7	Lead Teacher	<p>VIT registered teacher appointed as a Lead Teacher</p> <p>In addition to the requirements of an Expert Teacher will:</p> <ul style="list-style-type: none"> <li>▪ Coordinates the campus, including ensuring appropriate timetabling.</li> <li>▪ Oversees student management</li> <li>▪ In partnership with the Senior Manager, undertakes student selection / enrolment / induction</li> <li>▪ Excursion governance</li> <li>▪ Responsibility for convening staff groups and staff supervision</li> <li>▪ Responsible for communication with parents, carers, case managers and other stakeholders</li> </ul>

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**B.5 Stream 4: Berry Street Schools: Education Support and Wellbeing, and CIRC Workers**

<b>Berry Street Level</b>	<b>Role</b>	<b>Classification Descriptor</b>
<b>Level 3</b>	Education Support Worker (Unqualified)	Providing assistance with the educational program where limited discretion and judgment and/or specific skills are involved May supervise students while performing their normal duties but may not be used instead of a Teacher May provide administrative support to Teachers
<b>Level 4</b>	Education Support Worker (Qualified)	Select and deliver appropriate training materials Develop and modify teaching and learning materials Maintain accurate records of student progress and assessment in line with policies and procedures Assist with resource evaluation and moderation leading towards interpretation of course materials and appropriate standards Provide pastoral care for students as required Manage the learning process including student participation Assist in the student selection process as appropriate
	CIRC Worker C	Work with students of school age who have high needs and challenging behaviours and have experienced trauma Provide tutoring to students and engage reluctant learners Promote literacy and numeracy to students in residential care Liaise with schools and other education programs key stakeholders Be an active member of the Care Team for students
<b>Level 5</b>	Wellbeing Worker (Qualified)	Requires sound knowledge of Program Sets outcomes, develops work procedures etc. Exercises initiative and judgement Complex work including planning and coordination
	Senior Education Worker	The skills of an Education Support Worker (Qualified) with the following additions: <ul style="list-style-type: none"> <li>▪ Provide leadership and expertise in specialist areas within the program, or where that specialist expertise is not held elsewhere within the organisation</li> <li>▪ May be the contact point for student issues in the program</li> <li>▪ Develop, trial and report on innovative delivery strategies</li> <li>▪ Actively contributes to the development of professional knowledge and skills of others within their team. This may through a variety of methods including mentoring, and modelling best practice teaching</li> </ul>
	CIRC Worker B	The skills of a CIRC Worker C with the following additions: <ul style="list-style-type: none"> <li>▪ Have a thorough understanding of a range of interventions that promote engagement, rapport building and prosocial behaviours and relationships</li> <li>▪ Provide holistic evidence based direct case work that supports educational, social and emotional development</li> <li>▪ Understanding and utilisation of relevant theories and frameworks such as developmental and attachment theories to inform case decisions and interventions</li> <li>▪ Actively collaborate with key stakeholders to ongoingly develop and review case planning</li> <li>▪ Utilise the DHHS best interests practice model to inform holistic case planning (unsure if this is applicable but it is a great evidence based model that is used within Child Protection/residential care).</li> <li>▪ Take part in referring students to appropriate services and programs</li> <li>▪ Be an advocate for wellbeing for learning</li> </ul>
<b>Level 6</b>	Leader of Student Support and Wellbeing	May coordinate a number of small but different programs or a single program with multiple staff May hold teaching responsibilities or a case load

## Berry Street Enterprise Agreement 2020

		<p>May be responsible for providing regular feedback, supervision and appraisal to a small number of staff</p> <p>Is responsible for the quality of service provided in and the compliance of the team within established or new systems and processes</p> <p>Maintains key relationships with other Agencies</p> <p>May represent the views of the organisation at external meetings</p>
	CIRC Worker A	<p>The skills of a CIRC Worker B with the following additions:</p> <ul style="list-style-type: none"> <li>▪ Develop and oversee the implementation of Individual Education Programs and provide review and evaluation of these</li> <li>▪ Work in diverse environments</li> <li>▪ Consult with the CIRC Lead to prioritise needs and develop a flexible program and timetable to meet demands</li> </ul>
<b>Level 7</b>	CIRC Lead	Coordinates the CIRC program

### B.8 Stream 5 Central Office Functions

Berry Street Level	Central Office Functions Role	Classification Descriptor
<b>Level 1</b>	Admin Entry	First three months for Administration employee with no previous experience. Undertake routine administration duties.
<b>Level 2</b>	Admin Officer B	Undertakes range of activities applying established work procedures May exercise limited initiative Works under general guidance
<b>Level 3</b>	Admin Officer A	Supervises Admin Entry or Admin Officer B Undertakes various Administration functions or a specialist in an Administration area Complex administration work including planning and coordination Exercises initiative
<b>Level 4</b>	Trainer Finance Officer B Senior Admin Officer	Deliver Training Programs Supervises Admin Officers or an Administration function Complex work including planning and coordination Exercises initiative
<b>Level 5</b>	Project Worker C HR Officer Finance Officer A	Responsibility for moderately complex projects including planning, coordination, implementation and administration
<b>Level 6</b>	Senior Trainer Coordinator Project Worker B Administration Coordinator	Requires high level of knowledge and skills Sets outcomes, develops work procedures etc. Exercises judgement Responsible for various functions within work area Develop, plan and supervise training programs
<b>Level 7</b>	Team Leader Project Worker A Advisor	Involved in establishing procedures Provide expert advice Set priorities of team members in area of responsibility Establish outcomes to achieve Berry Street goals
<b>Level 8</b>	Manager Project Manager Administration Manager Internal Consultant	Provide multi-disciplinary advice Operates under limited direction Responsible for range of functions Responsible for decision making in work area Able to work independently and has managerial control Controls and coordinates projects

## IN THE FAIR WORK COMMISSION

### FWC Matter No.:

AG2020/1655

### Applicant:

Berry Street Victoria Inc.

## Undertaking- section 190

I, Georgie Dwyer, Executive Director People and Culture for Berry Street Victoria Inc. give the following undertakings with respect to the Berry Street Enterprise Agreement 2020 ("the Agreement"):

1. I have the authority given to me by Berry Street Victoria Inc. to provide this undertaking in relation to the application before the Fair Work Commission.
2. An employee completing training outside of ordinary hours of work, as per Clause 16.1(e)(iii), will be paid the higher of their ordinary hourly rate or the applicable overtime rate that would be payable under the relevant Award.
3. Clause 43.1 of the Agreement to include the following:

(d) Shifts are to be worked in one continuous block of hours that may include meals breaks and sleepover.

4. Any employee entitled to the sleepover allowance payable under Clause 39.11(d) will be paid for that sleepover at a rate that is better off overall than the provision in the Social, Community, Home Care and Disability Services Industry Award.
5. Clause 51 of the Agreement to include the following:

*In addition to the above, an Employee who is legitimately required by indigenous tradition to be absent from work for Aboriginal or Torres Strait Islander ceremonial purposes will be entitled to up to a further 5 working days unpaid leave in any one year, with approval of Berry Street.*

6. The rates of pay set out as applicable from the FFPPOA 1/7/2020 in Schedule A of the Agreement, apply to the following classifications from 12 June 2020:
  - Stream 1 Residential Services Level 1 Year 1
  - Stream 1 Berry Street Services and Practice Level 2 Years 1-4
  - Stream 1 Berry Street Services and Practice Level 3 Years 3-4

**Employer name:** Berry Street Victoria Inc.

**Authority to sign:** Executive Director, People and Culture

**Signature:**



**Date:** 15 July 2020