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**Sent:** Wednesday, 20 July 2016 4:44 PM  
**To:** Chambers - Johns C  
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**Subject:** AM2015/6 - Education Group Awards [CU-Legal.FID1793353]

Dear Commissioner,

We refer to the Directions dated 18 July 2016 requiring the parties jointly file in the Commission a schedule regarding the outstanding objections to evidence for the purposes of the conference scheduled for 9:30am tomorrow.

Please find **attached** a document which identifies the objections of the Go8 and AHEIA to the NTEU evidence, together with the NTEU's response to those objections. The attachment reflects the present discussions between the parties. We confirm that the general issues identified at the commencement of the document, as well as some of the outstanding objections in the tables will need to be discussed before the Commission tomorrow. The employers will further consider the NTEU response on the non-expert witnesses and be in a position to advise at 9:30am tomorrow which of those outstanding objections they intend to press.

Please contact us if you any queries.

Regards,

**Allison Shannon, Senior Associate  
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**FIRM OF THE YEAR  
AUSTRALIA**  
2016 IFLR ASIA AWARDS



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## TABLES OF OBJECTIONS and NTEU Response

### General Comments / Issues with NTEU Evidence

1. Do the NTEU seek to rely upon all the material filed in the proceedings including material that is not part of witness statements or attachments such as the literature review articles and the survey raw data. If so, to what extent and for what purpose do the NTEU rely upon such material? [*We note that the raw data is in excess of 2000 pages and the literature review articles total approximately 13,000 pages*]

#### NTEU comments:

The literature review articles are provided by way of disclosure, as identification of the material underlying the literature review. The raw data is provided by way of disclosure, underlying the propositions expressed in McAlpine Attachments H-K.

2. In relation to Anne Junor, Robyn May and Glenda Strachan, does the NTEU seek to present them as expert witnesses within the meaning of the Federal Court Rules? If so, in respect of what sections of their statements are sought to be lead as expert evidence as clearly several matters (such as personal experiences) are not given in that capacity.

#### NTEU comments:

In each case, the sections entitled 'personal experience' are not sought to be received as expert opinion.

3. In relation to the literature reviews attached to the statements of **Anne** Junor, Robyn May and Glenda Strachan, these appear to be unattributed hearsay - who are the authors of each of those literature reviews as it is not apparent nor referred to and are they sought to be submitted as evidence or in the nature of a submission.

#### NTEU comments

The literature review attachments to the statements of Strachan and May are in the nature of instructions, upon which those witnesses express their opinions.

The literature review referred to by Junor was prepared by Junor and forms part of her expert statement.

4. In relation to evidence across a number of witnesses that goes to increases in casual academic employee numbers, reasons for that, lack of job security, and lack of career paths for casual/sessional academic staff - there does not appear to be any relevance of such material to any of the claims currently pursued by the NTEU. Is it intended to rely upon that material and seek to tender it as evidence and how is it said to be relevant to the claims?

#### NTEU comments

Yes. The extent and nature of insecure employment - both casual and fixed-term - is relevant to several issues in contest: claims are made by the employers about the cost impact of NTEU proposals for additional payments for casual staff; the existence of "career casuals" is directly

relevant to the merits of our claim for discipline currency; employers' claims about the need for increased employment flexibility through the use of a new category of fixed term employment.

5. In relation to the witness statement of Ken McAlpine (particularly the first witness statement), it attaches various documents, surveys, data, etc. in respect of which he is not the author - there is no commentary or explanation as to the relevance of these documents to the NTEU's claims in the statement or the submissions and in some cases it is not apparent on the face of the material. These attachments are also extremely lengthy and voluminous. Does the NTEU seek to rely upon everything contained in those attachments and have it admitted as evidence? If so, to what extent and for what relevant purpose?

NTEU comments

Yes, it is proposed that the statements be tendered together with each of their attachments. The material annexed is a set of government publications, university publications and reports of surveys conducted. The provenance of each of these documents is apparent on their face or otherwise explained in the statement. Relevance is addressed below.

**Table 1: Go8 and AHEIA Objections**

Witness	Reference	Evidence	Objection	Response
Glenda Strachan (see general comments above)	Attachment 2	<i>Literature Review Academic Working Hours Claim</i>	relevance, hearsay <ul style="list-style-type: none"> <li>• She is not the author of the literature review. The author is not identified.</li> <li>• Many of the studies referred to within the literature review are very outdated.</li> <li>• No explanation as to the relevance of this literature review to the issues in dispute regarding academic hours of work</li> <li>• "Evidence" cannot properly be tested</li> </ul>	See response to comment 2
	Attachment 3	<i>Literature Review General Staff Working Hours and Overtime Claim</i>	relevance, hearsay, opinion (lacks specialised knowledge) <ul style="list-style-type: none"> <li>• She is not the author of the literature review. The author is not</li> </ul>	See response to comment 2

Witness	Reference	Evidence	Objection	Response
			<p>identified.</p> <ul style="list-style-type: none"> <li>• Many of the studies referred to within the literature review are outdated.</li> <li>• She acknowledges she does "not have any direct experience of working as a general staff employee".</li> <li>• No explanation as to the relevance of this literature review "Evidence" cannot properly be tested</li> </ul>	
	Section 2 (Her summary of literature reviews)	Whole section, including, for example "Both of these literature reviews <u>reflect clearly</u> the research on the matters which they cover in Australia, and other English speaking countries..."	Overall admissibility of this Section will depend largely on the objections above.	See response to comment 2. Expression of opinion within relevant expertise.
		"It is <u>clear</u> from a range of studies that a large proportion of university staff, including general staff, work beyond their ordinary hours of work.... we have <u>specific studies with good sample sizes</u> which show that this is the case for university general staff."	<p>opinion (incl. lack of specialised knowledge, which is in gender and employment equity), submission not evidence</p> <ul style="list-style-type: none"> <li>• issues regarding general staff are not within her direct experience/knowledge</li> </ul>	Expression of opinion within relevant expertise.
		"Several other studies have explored hours and employment issues for general staff... These studies... add to our understanding of the impact of hours worked and employment conditions"	<p>opinion (incl. lack of specialised knowledge), relevance, submission</p> <ul style="list-style-type: none"> <li>• issues regarding general staff are not within her direct experience/knowledge</li> <li>• no apparent relevance of studies which explore "employment issues" for general staff - too broad</li> </ul>	Expression of opinion within relevant expertise.

Witness	Reference	Evidence	Objection	Response
		"The copious literature on long hours of work in the Australian workforce generally and the impact on the health of workers is well represented in the literature reviews."	submission not evidence	Expression of opinion within relevant expertise.
	Section 3 (Her own research)	<p>Whole section - Provides details of the Work and Careers in Australian University Survey.</p> <p>"the overall aim of the project was to advance understanding of existing gender inequalities in Australia which remain, despite increasing gender equity policy and attention to work and family policy".</p> <p>See also "Specific Aims of the Project", page 6.</p>	<p>Relevance</p> <ul style="list-style-type: none"> <li>• survey relates to gender inequalities</li> <li>• no apparent relevance to the claims in this proceeding</li> </ul>	The research describes incidence of casual employment and fixed term employment among university workers. The first is relevant to the number of people who might benefit from, and the potential cost impact of, the NTEU claims for additional payments for academic casuals. The second is relevant to the merits of the employer proposal for a new category of fixed term employment. Further, the findings concerning general staff working hours are relevant to the NTEU claim for employers to take steps to prevent the working of uncompensated overtime.
	Section 4	<p>Personal Experience working as an academic -</p> <p>"My personal experience is representative of the overwhelming majority of academic staff as seen in the survey results of our Work and Careers in Australian Universities and other, copious research on academic staff."</p>	conclusion and/or opinion, it is also vague and ambiguous	Objection conceded.
<b>Anne Junor</b> (see general	Section 1 (Personal	Whole paragraph 4, - "The conclusion I draw from this experience is that	opinion, conclusion, speculative	Objection conceded

Witness	Reference	Evidence	Objection	Response
comments above)	Experience as an academic)	casual academics are accountable for following a range of policies and procedures, of which those governing use of ICT are only some. It seems that in order to function in a professionally accountable way, academic casuals are likely to need to be need considerable orientation and guidance to gain an understanding of the policy and procedural contexts of their work"		
		Page 4, last paragraph and page 5 first paragraph - "From 2011 to 2014 my research focus was on the tacit professional skills of IT and other non-academic technical and professional staff...."	<p>relevance</p> <ul style="list-style-type: none"> <li>evidence goes to research into skills required for non-academic staff. It does not go to the NTEU claims in respect of discipline currency or policy familiarisation.</li> </ul>	Research findings, as described, not relied upon. This material relied upon solely to supplement statement of expert witness experience and background.
	Section 2 (Claim for discipline currency materials)	Part paragraph 1 - "It is highly probably that a majority of academic staff employed under this Award are casual hourly paid staff, and that around half of teaching contact hours are worked by casual employees."	<p>opinion, conclusion, speculative</p> <ul style="list-style-type: none"> <li>no proper basis for such opinion/conclusion</li> <li>such an assertion is not founded on her research or experience</li> </ul>	Objection conceded.
		Part paragraph 5 - "It has been accepted by the industrial parties that this principle is appropriate to this work"	<p>opinion, conclusion, speculative, hearsay</p> <ul style="list-style-type: none"> <li>no proper basis for such opinion/conclusion</li> <li>such an assertion cannot be founded on her research or experience</li> </ul>	Objection conceded.
		Part paragraph 6 - "However, the casualisation of great areas of normal ongoing teaching work is mainly used to reduce costs"	<p>opinion, conclusion, speculative</p> <ul style="list-style-type: none"> <li>no proper basis for such opinion/conclusion</li> </ul>	Objection conceded

Witness	Reference	Evidence	Objection	Response
			<ul style="list-style-type: none"> <li>such an assertion cannot be founded on her research or experience</li> </ul>	
		Part paragraph 8 - "Such employees are not instructed to refrain from such familiarisation as part of their work"	<p>opinion, conclusion, speculative, hearsay</p> <ul style="list-style-type: none"> <li>no proper basis for such opinion/conclusion</li> <li>how can she give evidence about whether such employees have been instructed to refrain or otherwise?</li> </ul>	Objection conceded.
		Part paragraph 11 - "Such employees are not instructed to refrain from such work" and "To not maintain adequately up-to-date knowledge of the academic discipline or disciplines relevant to their teaching work is unsatisfactory performance"	<p>opinion, conclusion, speculative, hearsay</p> <ul style="list-style-type: none"> <li>no proper basis for such opinion/conclusion particularly around unsatisfactory performance</li> <li>how can she give evidence about whether such employees have been instructed to refrain or otherwise?</li> </ul>	Objection conceded
	Section 3	<p>Her own research, with focus on:</p> <ol style="list-style-type: none"> <li>A survey of casual academics conducted initially in 2001 but mainly in 2002 with the final element conducted in early 2003 with findings published in 2004 and 2005</li> <li>Coding analysis done in 2008 on data generated by a 2007 NTEU survey focusing here on the 2012 publication of a selection of qualitative findings - (actually generally from 2002).</li> </ol>	<p>Relevance</p> <ul style="list-style-type: none"> <li>both (1) and (2) are outdated;</li> <li>(2) the data is in respect of open ended questions related to job security - question its relevance to the claims.</li> </ul>	The subject matter relevant to NTEU claims for new payments for casual academic staff for policy familiarisation and discipline currency, and to general claim (not just for casuals) for ICT allowance. Observations about data currency is a matter for submissions.
	Section 4.2	Literature review re demands of work	relevance, hearsay, opinion (of who?):	Relevant to NTEU claim for casual academic staff.

Witness	Reference	Evidence	Objection	Response
		required of casual academics.	<ul style="list-style-type: none"> <li>• Much of the literature referred to within the review is outdated and largely irrelevant - for example, in section 4.2.2 - references to literature from 1933, 1957, 1970s, the 1990s and early 2000s.</li> <li>• characteristics of casual academic work (and the history behind it) as well as the casualisation of the workforce and alleged "insecurity" associated with that is not relevant to the claims currently before the Commission (see 4.2.3 and 4.2.4)</li> <li>• the key area of research that appears to provide the basis for her literature review is in the area of "insecure employment, with a particular focus on the education industry" - the insecure nature of casual employment is not currently a claim before the Commission.</li> </ul>	Observations about currency of the material is a matter for submissions.
<b>Robyn May</b> (see general comments above)	Section 2 and Attachment 1	Literature review - Academic Casuals	relevance, hearsay <ul style="list-style-type: none"> <li>• She is not the author of the literature review. The author is not identified.</li> <li>• Many of the studies referred to within the literature review are outdated.</li> <li>• No explanation as to the relevance of this literature review to the claims here regarding casual academics</li> </ul>	See response to comment 2, above.
	Section 4 (Her Own Research)	Pages 11 - 21	Relevance <ul style="list-style-type: none"> <li>• the material goes to: age and gender demographics; income, use</li> </ul>	Relevant to NTEU claims for policy familiarisation and discipline currency.



Witness	Reference	Evidence	Objection	Response
			<ul style="list-style-type: none"> <li>of "permanent casual" workforce.</li> <li>relevance to the NTEU claims for policy familiarisation and discipline currency?</li> </ul>	
	Section 5 (Personal Experience)	Part paragraph page 25 second paragraph - "As I often taught out of hours (evening classes) access to stationary and other provisions was not possible"	relevance - no claim for payment for stationary or other office supplies.	Objection conceded.
		Part paragraph, page 25 third paragraph - all the words after "university policies and procedures"	relevance - this part of the statement deals with student marking and feedback, which is not relevant to the claims in respect of casual payment for discipline currency or policy familiarisation.	Objection conceded
<b>Ken McAlpine (Statement 1)</b>  See general comments above	Para 16(a), Attachment H	2015 State of Uni Survey by NTEU (Questionnaire) - Academic Staff.  Statement notes the following "important biases" - "union members are over-represented, the lower classifications of general staff are not well represented as they are in the actual population, and fixed term (and consequently research-only) staff are somewhat unrepresented. Moreover little direct reliance could be had on the figures for some institutions considered in isolation, where the sample sizes were low".	Didn't conduct the survey Relevance (and limited probative value)	Section referred to is pressed. Conduct of the survey is explained. Relevant to claims concerning academic working hours, uncompensated overtime for general staff.
	Para 16(a), Attachment I	2015 State of Uni Survey by NTEU (Questionnaire) - General Staff.	relevance - as above	Relevance as above (concerning Attachment H)

<b>Witness</b>	<b>Reference</b>	<b>Evidence</b>	<b>Objection</b>	<b>Response</b>
		See above regarding biases.		
	Para 16(a), Attachment J	2015 State of Uni Survey by NTEU - analysis of the data in relation to workloads prepared by Dr Paul Kniest (Policy and Research Coordinator).  Statement notes that "To the extent the analysis makes claims of fact, these are drawn directly from the data or from sources indicated in the report".	Hearsay, relevance, potentially submission not evidence	Relevance as above (concerning Attachment H)
	Para 16(b), Attachment K	NTEU Academic Workload Survey 2015 conducted by Dr John Kenny of University of Tasmania (who has also given a statement in the proceeding).	Hearsay, relevance - (and limited probative value)	Relevant to claims concerning academic workload.
<b>Ken McAlpine (Statement 2)</b>	Para 3 and 5, Attachment L	UQ Annual Staff Profile Report 2015 - Said to show important staff data for 2015 for UQ and across most of the sector	Relevance	Document produced by employers. Relevant background to workforce composition including length of service. Relevant to most claims.
	Para 4 and 5, Attachment M	A statistical report - HR Performance Indicators for Edith Cowan University compared with Australian Universities for the period 2008-2012 - Said to show important staff data for 2008-2012 for ECU and across most of the sector	Relevance	Relevant background to workforce composition. Relevant to most claims.
	Paras 9 to 12	"9. Since about 24 May 2016, I have made enquiries of experienced	hearsay, relevance, conclusion (without proper	The objection is more properly a matter of weight and

Witness	Reference	Evidence	Objection	Response
		<p>industrial and organising staff to ascertain the practices of universities about their knowledge, one way or the other, as to whether university employers pay out leave to employees upon the expiry of a fixed-term contract, in circumstances where the employment is to continue by way of another fixed-term contract.</p> <p>10. I have received responses in respect of the direct knowledge of those union staff about the University of Western Australia, Murdoch University, Curtin University, Edith Cowan University, Flinders University, University of Queensland, RMIT University, Australian National University, Federation University, Monash University and James Cook University.</p> <p>11. These confirmed my own anecdotal knowledge that there is a widespread if not universal practice of carrying over leave credits from one fixed-term contract to the next fixed-term contract.</p> <p>12. Each of these staff could confirm this practice, and while no-one ruled out the possibility that staff may be “paid-out” for any unpaid leave in these circumstances, none of these experienced union staff had any knowledge of this having occurred in the circumstances described above. I received no report that any university pays out annual leave, as a question of practice or policy when employment continues from one contract to the</p>	<p>basis)</p> <ul style="list-style-type: none"> <li>the evidence is vague and ambiguous and is therefore unhelpful and of no probative value</li> </ul>	<p>submissions.</p>

Witness	Reference	Evidence	Objection	Response
		next."		
<b>Ken McAlpine (Statement 3)</b>	Para 5	<p>"As it happens, I was advised by another union staff member in recent days about a payment made to an NTEU member at the Australian Catholic University. Following representations made by the NTEU at that University, the management has agreed to pay an NTEU member additional money pursuant to the terms of the Australian Catholic University Staff Enterprise Agreement, 2013-2017, for performing a workload in excess of the 1595 hours per annum prescribed by that Agreement."</p> <p>A "relevant email" confirming the payment is then extracted.</p>	Hearsay, relevance	Objection conceded.
	Para 8	"there are a number of universities where management pays extra money for certain classes of work which are considered over and above a normal or standard workload - for example overseas teaching."	<p>relevance</p> <ul style="list-style-type: none"> <li>vague and ambiguous - these universities and the particular practices being referred to are not identified and cannot therefore be responded to, denying natural justice if admitted as evidence.</li> </ul>	Objection conceded
	Para 9, Attachment T	reference to "typical" agreement	<ul style="list-style-type: none"> <li>Relevance, hearsay, opinion attachment speaks for itself (no objection to attachment)</li> </ul>	Objection to use of word "typical", conceded

**Table 2: Go8 Objections to Go8/NTEU witnesses**

<b>Witness</b>	<b>Reference</b>	<b>Evidence</b>	<b>Objection</b>	<b>Response</b>
<b>Steve Adams (UoM)</b>	Para 7	Whole paragraph - "When I started in Engineering my supervisors were academics. This is no longer the case and has not been the case for approximately 10 years. I am now supervised by staff classified as general/professional staff."	relevance <ul style="list-style-type: none"> <li>• first part of the evidence relates to his work situation more than 10 years ago;</li> <li>• no apparent relevance of who is supervisors were/are</li> </ul>	Objection conceded.
	Para 8	Whole paragraph - "In the early years of my work at the University, I worked overtime when I was instructed to do so. The overtime was authorised and paid as there was a specific job or task required to complete."	relevance <ul style="list-style-type: none"> <li>• evidence appears to relate to his work situation approximately 30 years ago when he first started working</li> </ul>	Relevant to NTEU claim re general staff uncompensated hours of work.
	Para 9	Whole paragraph and specifically "there was still a reluctance to pay it [overtime]"	relevance, opinion, hearsay <ul style="list-style-type: none"> <li>• evidence appears to relate to payment of overtime, etc. approximately 30 years ago;</li> <li>• no basis for him to make such assertion about there being a reluctance;</li> </ul>	Relevant to NTEU claim re general staff uncompensated hours of work.  Evidence as to the experience of an employee seeking payment for overtime.
	Para 10	Whole paragraph - "Still there was little overtime worked at this time, perhaps an average of 10 hours per year. Where formal overtime was not arranged..."	relevance <ul style="list-style-type: none"> <li>• evidence appears to relate to his work situation approximately 30 years ago when he first started working</li> </ul>	Relevant to NTEU claim re general staff uncompensated hours of work. Provides context.
	Para 12	Part paragraph - "I now personally characterise overtime as a 'black market' in labour which benefits the	opinion	Explained and substantiated in paragraph 20.

Witness	Reference	Evidence	Objection	Response
		University and for which few staff can be adequately compensated."		
	Para 14	Part paragraph - "It is not just considered part of the normal workload" and "it is just expected"	opinion, hearsay	Maintained
	Para 15	Whole paragraph - "Back between 1986 and 1996... academic managers were reluctant to pay it.... this reluctance was on the part of Mechanical Engineering supervisors from this period, including senior technical staff supervisors Allen Douglas and Bob McDonald."	relevance, hearsay, opinion <ul style="list-style-type: none"> <li>evidence relates to his work situation 20 to 30 years ago - how is this relevant to the claims today</li> <li>conclusion how does he know the supervisors were "reluctant"</li> </ul>	Objection conceded.
	Para 16	Whole paragraph - "An example of what occurred between when I started in 1986 and up until approximately 2000..."	Relevance <ul style="list-style-type: none"> <li>evidence relates to his work situation 15 to 30 years ago - how is this relevant to the claims today</li> </ul>	Relevant to NTEU claim re general staff uncompensated hours of work.
	Para 18	Whole paragraph - "I had a slightly different approach to time off 15-20 years ago... In my view, they [academic supervisors] did not have the same understanding of the work Technical Officers perform as do professional and technical staff..."	relevance, opinion <ul style="list-style-type: none"> <li>evidence relates to his work situation 15 to 20 years ago - how is this relevant to the claims today</li> <li>no apparent relevance of who is supervisors were/are</li> <li>the issue of academic supervisors not having same understanding is opinion evidence, without any proper basis/foundation</li> </ul>	The objection is more properly a matter of weight and submissions.
	Para 19	Part paragraph - "Ten years ago, when we were still supervised by academics, we were asked to keep a log of time worked"	relevance <ul style="list-style-type: none"> <li>evidence goes to 10 years ago</li> <li>again no apparent relevance of who</li> </ul>	Relevant to show change over time.

Witness	Reference	Evidence	Objection	Response
			is supervisors were	
	Para 20	Whole paragraph - "This 'informal' approach to unpaid overtime is what led me to label the many hours of unpaid overtime as a "labour black market". In my view..."	relevance, opinion	Summarises effect of preceding paragraphs. The objection is more properly a matter of weight and submissions.
	Para 21	Whole paragraph - "The University records, quantifies, and measures every aspect of our work life, but somehow chooses to ignore the uncompensated overtime being worked"	opinion, vague and ambiguous, conclusion	Objection conceded with respect to words from "but somehow..."
	Para 24	Part paragraph - "In my experience, the ledger is very much working in management's favour" "nor do the three staff working under me. We would all have many hours owed to us in uncompensated overtime"	opinion, hearsay, speculation •	The objection is more properly a matter of weight and submissions.
	Para 27	Part paragraph - "However they tend to be worried about being 'visible' at work as this is so entrenched in the culture."	opinion, hearsay	Matter of weight, having regard to witnesses' extensive experience as Branch President of union.
	Para 32	Part paragraph - "The way timetabling works at the University is that it is managed centrally - <u>in my view without there often being an understanding of the intricacies of the work required</u> , particularly in laboratory work"	opinion	The objection is more properly a matter of weight and submissions.
	Paras 37-39	Whole paragraphs regarding his health and safety work and health and safety at the University including "In my view the University	relevance	Relevant as example of work performed, as part of total working hours.

Witness	Reference	Evidence	Objection	Response
		of Melbourne School of Engineering meets its health and safety obligations well..."		
	Para 50-55	All	relevance, speculation, opinion, hearsay <ul style="list-style-type: none"> <li>no basis/foundation for the assertions made;</li> <li>appears to be hypothetical assumptions than fact</li> </ul>	The objection is more properly a matter of weight and submissions.
Caron Dann (Monash)	Para 10, Statement 1	Whole paragraph	relevance <ul style="list-style-type: none"> <li>no direct relevant to the claims relating to academic casuals - e.g. ICT Allowance and Discipline Currency/Policy Familiarisation</li> <li>evidence relates to her struggles as a "casual academic" in terms of finding time to research, being "precluded from the Academy" and being "stuck in a cycle and with little prospect of leaving sessional (casual) teaching."</li> </ul>	Relevant to employer witness evidence that "preparation" time encompasses work done in the nature of discipline currency,
	Para 11, (Statement 2)	Whole paragraph - "In my experience, <u>all academics</u> regularly work beyond the hours for which they are paid. This is the same whether a person is full-time academic, a short-term contract academic or a sessional".	opinion - speculative	Objection conceded.
Phil Andrews (Monash)	Para 13 (Statement 1)	Part paragraph - "everybody perceives the workloads as high"	opinion - speculative, hearsay	Objection conceded
	Para 22	Part paragraph - "and my colleagues"	Opinion, hearsay	Words referred to are pressed. He is in a position to give evidence



Witness	Reference	Evidence	Objection	Response
	(Statement 1)			from his own knowledge about the demands that are placed on his colleagues. This is not evidence of their perceptions of those demands.
	Para 53	Whole paragraph - "I am on medication for high blood pressure. I experience constant tiredness, and this is something which many of my colleagues also report."	Relevance, hearsay	Relevant to merit of regulation sought by NTEU.
	Para 57	Part paragraph - "while management have a strong interest in avoiding regulation so that they can continue to allow uncontrolled workload growth"	opinion - speculative, without proper basis/foundation	Objection conceded.
Anthony Wilkes (Adelaide)	Para 20	Whole paragraph - "Safety was an issue in the first 2 years...."	relevance.	Objection conceded.
	Para 21	Whole paragraph - "There were also health issues in the early years. I saw a psychologist due to being seriously rundown. No clear cause was identified but work pressure and long hours was clearly part of the problem. This occurred in 2012 and has not recurred since (the following year I received casual assistance)."	relevance, opinion - speculative	Evidence of the witness' diagnosis. Relevant to merit of regulation sought by NTEU.

**AHEIA COMMENTS IN RELATION TO NTEU WITNESS EVIDENCE**  
**WITH NTEU RESPONSES**

<b>Witness</b>	<b>Paragraph / Evidence objected to</b>	<b>Nature of Objection</b>	<b>NTEU response</b>
Clark Holloway			
	5 Entire paragraph	Relevance The paragraph deals with the witness's classification level. It is not relevant to the NTEU claim, which relates to payment for working overtime	Objection accepted
	8 – 13 Entire paragraphs	Relevance These paragraphs go to the accuracy of time recording. They do not address the NTEU claim, which relates to payment for working overtime	Accuracy of time recording relevant to employer's responsibility to ensure payments made.
Linda Kirkman			
	20-28 30-31	Relevance	Relevant to employers' claim that discipline

	Entire paragraphs	<p>The activities described in these paragraphs do not go to the NTEU claim in relation to maintaining currency in the employee's discipline and relevant pedagogy.</p> <p>They go to an argument that the current casual formulae in the award do not adequately compensate for all the work required in terms of marking, consultation etc. NTEU Submissions Para 50 states that this is not the nature of the current claim</p>	currency work is included in "preparation"
	42 Entire paragraph	<p>Relevance</p> <p>The NTEU claim does not relate to casual academics' access to facilities such as mailing lists and desk space</p>	Objection accepted
	54 Entire paragraph	<p>Relevance</p> <p>Payment for the unpaid work referred to in this paragraph does not form part of the NTEU claim.</p>	Relevant as instance of an academic maintaining discipline currency.
Karen Ford			
	5 Entire paragraph	<p>Relevance</p> <p>Para goes to the employee's desire to be reclassified. Not relevant to the NTEU claim, which relates to payment for overtime</p>	<p>First sentence relevant to overtime entitlements.</p> <p>Objection accepted, as to second sentence.</p>
	19 The words "and others"	<p>Hearsay / cannot be tested</p> <p>The witness can only provide evidence of what was said to her</p>	Objection accepted
Andrew Giles			
	8 Entire paragraph	<p>Relevance</p> <p>The evidence goes to career advancement, not to</p>	Relevant. The evidence is directed to the witness' reason for working overtime.

		compensation for working long hours, or taking steps for staff to avoid working long hours	
	12-13 Entire paragraphs	Hearsay / cannot be tested The staff referred to in these paragraphs have not been called and what is asserted cannot be tested	Objection conceded
	14 Last sentence	Hearsay/cannot be tested  The staff referred to have not been called and what is asserted cannot be tested	Objection conceded
	22 Last sentence	Hearsay/cannot be tested  The manager referred to has not been called and what is asserted cannot be tested	Objection conceded
	23 Entire paragraph	Assertion  Not supported by any evidence	Objection conceded
	24 Last sentence	Assertion  No direct evidence – can't be tested	Objection conceded
	26 Last sentence	Assertion  No direct evidence – can't be tested	It is direct evidence of the witness' observations, and the limits to those observations can be tested. Not an assertion that the university has never paid overtime on departure.
	27 Last sentence	Assertion The assertion can't be tested. The witness can only give evidence as to his personal experience	Objection conceded
Jochen Schroeder			

	25 Entire paragraphs, except for the first sentence	Hearsay/cannot be tested  The paragraph refers to 2 other colleagues, who have not been called as witnesses. This evidence cannot be tested	Objection conceded
	26 Third sentence	Hearsay/cannot be tested  The sentence refers to complaints made by other staff, who have not been called as witnesses. This evidence cannot be tested	Not proposed to be led to prove the truth of the complaints advanced, but only as evidence that the witness heard complaints being made.
Andrea Brown			
	9 Second and third sentences	Hearsay/cannot be tested  The paragraph refers to "common concerns", "many members", and "numerous grievances". No direct evidence of these assertions is provided, and the evidence cannot be tested	Objection conceded.
	18 Entire paragraph	Hearsay/cannot be tested  The paragraph refers to an asserted statement by a manager in a staff meeting, and to feelings experienced by other staff. None of these persons have been called as witnesses, and the evidence cannot be tested	Objection conceded with respect to the fifth sentence ("It was considered..") and following.
	21 Last sentence	Hearsay/cannot be tested  The sentence refers to "staff" feeling "discouraged". There is no direct evidence provided, and no staff member has been called to give evidence	Objection conceded.
Michael Hamel-Green			

	25 Second sentence	Hearsay/cannot be tested  The sentence refers to “colleagues” expressing their “anxiety”. There is no direct evidence provided, and no staff member has been called to give evidence	Objection conceded
John Kenny			
	16 6 and 7	Hearsay/assertion/cannot be tested  The 6 <sup>th</sup> sentence refers to another staff member, Dr Mary O’Dowd, and her workload allocation. There is no evidence provided in support, and Dr O’Dowd has no been called as a witness  The 7 <sup>th</sup> sentence refers to the witness having “interviewed a number of academics” who then raised concerns with management about their workloads. No direct evidence of this has been provided, and none of these staff have been called as a witness	Objection conceded