

Clinical Academics Employed in the NSW Health Service

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Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

TERMS & CONDITIONS OF EMPLOYMENT OF CLINICAL ACADEMICS EMPLOYED IN THE NSW HEALTH SERVICE

This Policy Directive replaces Policy Directive PD2005_425 'Remuneration Arrangements for Senior Medical Practitioners (Academics)' (which was originally published as Circular 2000/3).

Introduction

- A. This Policy Directive is issued to facilitate the work of Clinical Academics in the NSW public health system and define the arrangements under which the duties and functions involved in such work are to be performed.
- B. The *Health Services Act 1997* establishes the NSW Health Service which consists of persons employed by the Government of New South Wales in the service of the Crown.
- C. The *Health Services Act* provides that the Director-General of the Department of Health may exercise on behalf of the Government of New South Wales the employer functions of the Government in relation to the staff employed by the NSW Health Service, subject to requirements of the *Health Services Act* or any other Act relating to such staff. The Director-General has delegated most employer functions to the Chief Executives of public health organisations.
- D. In addition to the primary employment of a Clinical Academic by a university within the university's faculty of medicine, a Clinical Academic is also able to be employed by the NSW Health Service to perform duties within a specified Division of the NSW Health Service under separate terms and conditions of employment, consistent with the terms of this Policy Directive.
- E. For the avoidance of doubt, nothing in this Policy Directive should be read as applying to or varying the terms and conditions of employment of a Clinical Academic by a university.
- F. Equally, the terms and conditions of employment that apply to a Clinical Academic as part of his or her contract of employment with a university do not apply to the Clinical Academic's employment with the NSW Health Service. No rights arising under a Clinical Academic's contract of employment with the relevant university apply to his or her contract of employment as a Clinical Academic with the NSW Health Service.
- G. For the avoidance of doubt, nothing in this Policy Directive should be read as applying to or varying the terms and conditions of employment of a medical practitioner who holds a conjoint academic title but who is primarily employed by the NSW Health Service.

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Date of Effect

1. The arrangements set out in this Policy Directive take effect from the first full pay period commencing on or after 1 July 2009.

Terminology

2. The following terminology is used in this Policy Directive:

‘employer’ means the Director General, or the Chief Executive to whom has been delegated the employer functions in respect of the relevant division of the NSW Health Service where a Clinical Academic works, or a delegate of a Chief Executive in respect of such functions;

‘Clinical Academic’ means a person who:

- (a) is a medical practitioner holding general or conditional specialist registration who is employed as a member of staff of a NSW university’s school of medicine; and
- (b) who accepts an offer of employment under the arrangements set out in this Policy Directive.

‘Director-General’ means the Director-General of the Department of Health

(The term ‘Senior Medical Practitioner (Academic)’ will no longer be used.)

Offer of Employment to a Clinical Academic

3. A medical practitioner who is employed as a member of staff of a NSW university’s school of medicine and provides clinical, and associated administrative services for public patients in public hospitals for more than 8 hours a week on average (except when on approved leave) may be offered secondary employment as a Clinical Academic with the NSW Health Service in addition to his or her primary employment with a university.
4. The services to be included in the calculation of the period of more than 8 hours a week for the purposes of determining whether a person may be offered employment as a Clinical Academic with the NSW Health Service do **not** include:
 - (i) research and teaching activities which are undertaken as part of a Clinical Academic’s employment with the relevant university; or

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- (ii) any clinical services provided to private patients in public hospitals.
- 5. Persons who were Senior Medical Practitioners (Academic) under the terms of Policy Directive PD2005_425 at the date of commencement of this Policy Directive will be deemed to be covered by the new arrangements in this Policy Directive, with their health employment deemed to have commenced from 1 July 1998 or the time of their appointment as a Senior Medical Practitioner (Academic), whichever is the later. A copy of this Policy Directive should be provided by public health organisations to all Clinical Academics.
- 6. Where a former Senior Medical Practitioner (Academic) does not accept employment, or where any medical practitioner who is employed as a member of staff of a NSW university's school of medicine provides services in public hospitals other than as an employee of the NSW Health Service, any medical practice undertaken in public hospitals will require the individual to have an appointment as a Visiting Practitioner and in such circumstances the individual will have no rights as an employee or other rights or claims under this Policy Directive.
- 7. All future offers of employment in the NSW Health Service as a Clinical Academic must be initiated by the employer sending a letter to the Clinical Academic that makes an offer of employment as a Clinical Academic in the attached template form. The letter should specify the Division of the NSW Health Service for which the Clinical Academic will provide services.
- 8. If an offer of employment made in accordance with the above provisions is made and is accepted, the primary employment of a Clinical Academic will be with the relevant university and concurrently there will be secondary employment with the NSW Health Service .

Contract Terms

- 9. Employment as a Clinical Academic within the NSW Health Service will be on the basis set out at clauses 10 to 13 below.
- 10. The employment:
 - (a) will be for the same term as the university appointment (whether permanent or fixed term) or such shorter period as may be agreed between the parties;
 - (b) if fixed term, will terminate at the end of its specified term unless renewed by the parties in writing consistent with subclause (a) above or terminated under clauses 11 and 12 below.

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11. A Clinical Academic's contract of employment with the NSW Health Service may be terminated in the following circumstances:
 - (a) by the Clinical Academic at any time by 4 weeks' notice in writing to the Chief Executive of the relevant Division of the NSW Health Service (or where resignation from both university and NSW Health Service employment are involved, any longer period of notice required under university employment conditions); or
 - (b) by the NSW Health employer for reasons of poor conduct or poor performance, or if the Clinical Academic becomes permanently mentally or physically incapable of rendering services under the contract of employment, by 4 weeks notice in writing to the Clinical Academic; or
 - (c) by the NSW Health employer without notice for reasons of a Clinical Academic's serious and wilful misconduct; or
 - (d) by the NSW Health employer when the performance by the Clinical Academic of the functions which constitute his or her employment with a public health organisation fall on average to 8 hours a week or less, and can reasonably be expected to remain at such a level on a continuing basis; or
 - (e) where a position occupied by a Clinical Academic is deleted by either the NSW Health employer or a University.

12. A Clinical Academic's employment with the NSW Health Service is terminated with automatic and immediate effect in the following circumstances:
 - (a) when a Clinical Academic's employment with a university terminates; or
 - (b) when a Clinical Academic ceases to be registered as a medical practitioner or if a condition is placed on the Clinical Academic's registration as a medical practitioner which substantially precludes him or her from providing services to the employer.

13. The provisions set out at clauses 11 and 12 above do not affect any additional rights to terminate the employment of a Clinical Academic that the NSW Health Service might have at law, and do not affect the requirement that an employer initiated termination of employment of any member of staff of the NSW Health Service must be personally approved by the relevant Chief Executive.

Deletion of Positions

14. The NSW Health Managing Displaced Employees Policy Directive, as amended from time to time, does **not** apply to Clinical Academics, in

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circumstances where a position occupied by a Clinical Academic is deleted by a University. However if it meets the operational or service delivery needs of the employer, the employer in these circumstances may offer the Clinical Academic employment as a full time or part-time staff specialist. Unless otherwise agreed by the Clinical Academic, the offer of employment shall be no less than a 40% appointment, must be paid at an equivalent level of seniority, and, must be in the specialty in which the Clinical Academic is currently working.

15. If a Clinical Academic refuses such an offer of alternative employment where it would necessitate a relocation of residence, or where there are no redeployment opportunities available, a Clinical Academic who has been employed by the employer on a permanent basis in a position which has been deleted is eligible for a redundancy payment of an amount that is consistent (having regard to the fractional nature of the employment with the employer) with the provisions for payment of voluntary redundancy packages under the NSW Health Managing Displaced Employees Policy Directive (as amended from time to time).

General terms and conditions

Remuneration

16. The salary for Clinical Academics employed by the NSW Health Service has been fixed at 40% of the award salary of a staff specialist employed under the *Staff Specialists (State) Award*, plus the 17.4% special allowance. The applicable step on the staff specialist award remuneration scale that will apply for a Clinical Academic is to be determined solely by reference to their academic grade and length of service, as set out at Attachment A to this Policy Directive.

Provision of conditions consistent with the Staff Specialists (State) Award

17. Clinical Academics are not appointed to positions as 'staff specialists' and hence are not covered by the *Staff Specialists (State) Award*. However, except where otherwise specified the provisions of the *Staff Specialists (State) Award*, as amended from time to time, will apply to Clinical Academics. Where there is any inconsistency between the provisions of this Policy Directive and the Award, the Policy Directive shall apply. The provisions of the *Staff Specialists (State) Award* that do not apply to Clinical Academics include:
 - (a) Clause 10 Exclusions;
 - (b) Clause 13 Part Time Employment and Arrangements;
 - (c) Clause 16 Postgraduate Fellow;
 - (d) Clause 25 Specialist Medical Administrators.

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18. While a Clinical Academic may be required by the employer to work at any of the hospitals, institutions or other health services conducted by the relevant public health organisation, consistent with and subject to clause 14 of the Award, the primary place where a Clinical Academic is to provide services to NSW Health is the hospital at which that person provides teaching and related academic services in the course of his or her university employment.

Staff Specialists Determination not applicable

19. Clinical Academics are **not** covered by the *Staff Specialists Determination* (consistent with present practice), and do **not** have an entitlement to the conditions set out in that Determination. (For example, the Training, Education and Study Leave (TESL) arrangements applicable to staff specialists do **not** apply to Clinical Academics.)

Medical Indemnity Cover

20. In respect of services provided to public patients, clinical academics are indemnified through the Treasury Managed Fund against liability for tortious acts or omissions committed in the course of their employment with the employer on the same basis as are staff specialists. (See also clause 24 below about indemnity arrangements for private patient work.)

Private practice arrangements

21. An appointment as a Clinical Academic to the NSW Health Service comes with a right to conduct private practice within a public hospital. The rights of Clinical Academics to undertake private practice activities are coextensive with those of staff specialists (and therefore encompass the provision of services to privately referred non-inpatients). However, subject to paragraph 23 below, the revenue generated from the private practice activities of Clinical Academics will be dealt with on the same basis as prior to the issue of this Policy Directive. As such Clinical Academics will continue to retain their private billings – they will **not** be paid into the No 1 Account, or the General Funds of a public health organisation. No infrastructure fees are payable by Clinical Academics. No private practice allowances are payable to Clinical Academics.
22. Notwithstanding clause 21 above, where there is agreement between a Clinical Academic and the employer, and the relevant staff specialists, a Clinical Academic may join an agreed group of staff specialists (within the meaning of clause 2 of the *Staff Specialists Determination*), and have private practice revenue paid into the relevant sub-ledger of the No 1 Account. It is envisaged that this option would typically occur in hospital units where there are group billing arrangements so that individual billings are difficult to separate, such as pathology. Where this option is utilised,

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the usual arrangements will apply to the funds in the No 1 Account, including the payment of monthly infrastructure fees. The level of drawing rights paid to the Clinical Academic will be as determined by the agreed group. At the end of the financial year, the Clinical Academic may elect to have his/her share of the remaining funds (as determined by the relevant agreed group) paid directly to him/her, or transferred to the No 2 Account as a voluntary donation. (There may be taxation implications in such an election about which a Clinical Academic may wish to seek independent advice.) Where the funds are donated to the No 2 Account, the provisions of the NSW Health Policy Directive PD2005_324, as amended from time to time, shall apply.

23. The exercise by Clinical Academics of rights to conduct private practice must adhere to the provisions of the Australian Health Care Agreement as varied from time to time with regard to status as a public or private patient, and patient election. Private practice work must be consistent with clinical privileges granted to a Clinical Academic.
24. For work undertaken in public hospitals in respect of private patients, public health organisations need to be provided with evidence that a Clinical Academic is covered by current and adequate public liability and professional indemnity insurance from a notified insurer. A Clinical Academic is under a continuing obligation while employed in the NSW Health Service to maintain such adequate insurance cover. A Clinical Academic may be offered a contract of liability coverage for Treasury Managed Fund indemnity cover in respect of services provided to private patients in the circumstances where a staff specialist would be eligible to enter into such a contract (such as for services provided in rural facilities or in respect of paediatric patients).

Managerial allowances

25. Where the employer considers that a Clinical Academic is performing duties that warrant application of the managerial allowances, such allowances are payable in accordance with the criteria for the payment of the allowance set out at clause 11 of the *Staff Specialists (State) Award*. The allowance will be payable at the rate of 40% of the amount applicable to a staff specialist, but it may be paid at 100% of the full staff specialist rate where the managerial responsibilities are commensurate with performing the full responsibilities for which the allowance is payable to a staff specialist.

Performance Agreements

26. Each Clinical Academic is to enter into a written performance agreement with the employer consistent with the provisions of clause 12 of the *Staff Specialists (State) Award* dealing with performance agreements for staff

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specialists. The performance agreement is to include those matters set out in clause 12 as applicable, and the standard format attached to the Award should be used. It is expected that the normal duties undertaken by Clinical Academics would reflect the 40% appointment, and the level of participation in the on call roster should also be taken into account.

Salary Packaging

27. Salary packaging will be available to Clinical Academics on the same basis as for staff specialists.

Superannuation

28. Superannuation contributions for the benefit of a Clinical Academic are payable by the NSW Health Service at the rate set from time to time by the Commonwealth Superannuation Guarantee legislation as are necessary for the NSW Health Service to comply with its obligations under that legislation. Superannuation contributions for the benefit of a Clinical Academic will be calculated on the remuneration payable under the arrangements set out above, comprising the fractional award salary, the 17.4% special allowance and any managerial allowances paid.

Workers Compensation

29. The remuneration paid to Clinical Academics by the employer is to be included in the wages renewal data provided by public health organisations to TMF for workers compensation purposes. Workers compensation insurance coverage will be provided for Clinical Academics with respect to matters arising in the course of their employment with the NSW Health Service, but not otherwise, as is required by applicable legislation from time to time.

Leave arrangements

30. Entitlements to annual leave, long service leave, sick leave, personal/carers' leave and parental leave and any other applicable leave under the *Staff Specialists (State) Award* are to be provided on a 40% pro rata basis reflecting 40% of the entitlements provided under that Award (consistent with the leave arrangements that apply to part time employees of the NSW Health Service). Agreement for the taking of annual leave between a Clinical Academic and the employer should be reached two months prior to the commencement of any period of annual leave, and should otherwise comply with the provisions of the *Annual Holidays Act* and with any other legislation applicable from time to time.

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Sabbatical leave

31. Subject to an appropriate arrangements being made to provide for the ongoing service needs and operational requirements of the employer, the employer may at its discretion approve payment for periods of leave not exceeding two months to coincide with sabbatical leave provided by the employing university. Approval will not be unreasonably withheld. If a period of sabbatical leave provided by a university exceeds two months, the Clinical Academic should be paid by the employer for the first two months, but not for the remainder of the period of approved leave.
32. It is recognised that approved attendance at conferences relevant to their areas of academic interest and specialisation forms part of the role of Clinical Academics in their university employment and that such attendance is regarded by the universities as being on duty. In these circumstances, a Clinical Academic may apply to the employer to have absences from duty approved for the purposes of conference attendance occurring in the course of his or her university employment, without loss of pay. Approval will not be unreasonably withheld, subject to sufficient notice being provided and to the service delivery requirements of the employer. Any issues relating to attendance at conferences can be dealt with as part of the performance agreement process. The employer is not liable to pay any expenses arising from a Clinical Academic's attendance at approved conferences.

Relationships with Universities

33. Subject to any further agreement that may be made from time to time, agreement has been reached with the universities that the arrangements set out at clauses 34 and 35 apply in respect of future appointments as Clinical Academics.

Consultation about the making of Clinical Academic appointments

34. The NSW Health employer is to approve any proposal to create an academic position where appointment as a Clinical Academic working in the NSW public health system is contemplated. The employer should discuss with a university how the clinical skills and non-clinical responsibilities of a proposed Clinical Academic appointment relate to the clinical needs and priorities of the employer. There should be prior written agreement between the employer and the university about the clinical role envisaged for a proposed position utilising a standard position description (acknowledging that there has to be some flexibility to reflect changing circumstances, as well as the skills and interests of particular occupants).

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Recruitment and Selection Processes

35. Recruitment and selection of Clinical Academics should be undertaken in accordance with prevailing Departmental policies. The NSW Health employer should be represented on any selection panel for a position that is likely to involve a Clinical Academic appointment in the NSW Health Service. Information packages for applicants should clearly outline NSW Health interview, reference and other checking requirements for the position, and NSW Health recruitment checklists should be completed prior to any NSW Health employment offer being made.

Clinical Privileges

36. The clinical privileges of Clinical Academics will be as determined from time to time by the Chief Executive or delegate following a recommendation by the Medical and Dental Appointments Advisory Committee in accordance with the procedures which apply under NSW Health policies on credentialing.

Offer of employment

37. (Consistent with the provisions of clause 3), an offer of employment as a Clinical Academic within the NSW Health Service is at the discretion of the NSW Health employer. In deciding whether to offer employment to a particular person, the employer will have regard to such factors as NSW Health clinical requirements, clinical standing, and the capacity of a proposed Clinical Academic to contribute to the good reputation of, and to promote harmonious working relations with the staff of, the NSW public health system, and to any other factors the employer sees as appropriate in the circumstances.
38. All written offers of employment as a Clinical Academic within the NSW Health Service are to include a copy of this Policy Directive and the NSW Health Code of Conduct, together with a statement that the provisions of this Policy Directive and the Code of Conduct, as varied from time to time, are incorporated as terms and conditions of the Clinical Academic's employment within the NSW Health Service. A template letter of offer is attached as Attachment B.

Part time arrangements

39. Where the employment by a university of a Clinical Academic is on a part time basis, he/she will still need to provide services to the employer for more than 8 hours per week in order to be offered employment under the terms of this Policy Directive. Employment will not be offered other than on the basis of a 40% appointment.

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University staff who are not employed in the NSW Health Service

40. University staff who are medical practitioners but who do not become employees of the NSW Health Service (including those who would on average not be in a position to provide more than 8 hours public patient work per week) can only provide services to public or private patients in public hospitals if they hold visiting practitioner appointments and are appointed and credentialed in accordance with NSW Health recruitment and credentialing policies. Treasury Managed Fund indemnity cover is not available to such persons. Public health organisations need to be provided with evidence that a university employed medical practitioner who is a visiting practitioner and not a NSW Health employee is covered by current and adequate public liability and professional indemnity insurance from a notified insurer. A university employed medical practitioner is under a continuing obligation while engaged as a visiting practitioner to maintain such adequate insurance cover.

Enquiries

41. Any enquiries concerning this Policy Directive should be directed to the relevant human resources personnel. Only human resources personnel from public health organisations are to contact the Department of Health directly.

Professor Debora Picone AM
Director-General

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ATTACHMENT A

Academic Grade	Staff Specialists Year
Associate Lecturer	1
Lecturer	
1st year	1
2nd year	2
3rd year +	3
Senior Lecturer	
1st year	4
2nd year	5
3rd year +	Senior
Associate Professor	Senior
Professor	Senior

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ATTACHMENT B

TEMPLATE - LETTER OF OFFER AS A CLINICAL ACADEMIC (Public Health Organisations)

I am writing to offer you a position of Clinical Academic with the [INSERT NAME OF DIVISION] Division of the NSW Health Service.

You will be employed by the Government of New South Wales and the duties of the position offered will be undertaken in connection with [INSERT NAME OF PUBLIC HEALTH ORGANISATION] at such locations as that organisation may determine from time to time.

Please find attached a copy of the Policy Directive which deals with the terms and conditions of Clinical Academics, and the relationship between employment with the NSW Health Service and your university employment. Also attached is a copy of the NSW Health Code of Conduct. The provisions of the Policy Directive and of the Code of Conduct, may be varied from time to time, and as so varied, are incorporated as terms and conditions of your employment contract with the NSW Health Service.

A further term of your contract of employment, to which your acceptance of this offer of employment shall be taken as denoting acceptance, is a requirement that you abide by all lawful and reasonable directions issued by or on behalf of your employer.

[INSERT OTHER INFORMATION AS REQUIRED BY THE CURRENT NSW HEALTH RECRUITMENT AND SELECTION POLICY AND OTHER RELEVANT NSW HEALTH POLICIES.]

Yours sincerely

[NAME]
[POSITION]
for and on behalf of
Director-General
NSW Department of Health