



FairWork
Commission

ANNUAL REPORT

2015 – 2016

*continuing
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ANNUAL REPORT

2015 – 2016

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momentum*

Fair Work Commission

Australia's national workplace relations tribunal

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Australia's National Workplace
Relations Tribunal

22 September 2016

Senator the Hon Michaelia Cash
Minister for Employment
Minister for Women
Minister Assisting the Prime Minister for the Public Service

Parliament House
Canberra ACT 2600

Letter of transmittal

Dear Minister

We are pleased to present to you the Annual Report of the Fair Work Commission for the financial year ended 30 June 2016.

This report is provided pursuant to section 652 of the *Fair Work Act 2009* and s.70 of the *Public Service Act 1999*. The report has been prepared in accordance with s.46 of the *Public Governance, Performance and Accountability Act 2013* and the guidelines approved on behalf of the parliament by the Joint Committee of Public Accounts and Audit.

Yours sincerely

Justice Ian Ross AO
President
Fair Work Commission

Bernadette O'Neill
General Manager
Fair Work Commission

The Honourable
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Readers' guide

This annual report informs the Australian Parliament and the public about the Fair Work Commission's (the Commission) performance and compliance with its obligations during the 2015–16 financial year.

This guide will help you quickly locate information within the report.

Overview

The overview includes the President's and General Manager's reports.

About the Commission

This section contains information about the Commission, including its organisational structure, Members, history and the Future Directions change program.

Performance

This section begins with a summary of the Commission's work and performance during 2015–16. The summary is followed by the annual performance statements. These statements report outcomes, key activities and performance criteria (including the key performance indicators set out in the Portfolio Budget Statements 2015–16) against the Commission's purposes. This section also includes detailed information on the Commission's operational performance. This is where you will find information about the work of the Commission.

Management and accountability

The management and accountability section reports on the Commission's internal operations such as corporate governance, human resources, financial management and external scrutiny and reports against compliance with relevant legislative requirements

Other Mandatory Information

This section contains information on other mandatory annual reporting requirements including advertising campaigns, grants, freedom of information, the previous omissions and material errors in previous the 2014–15 annual report.

Appendices

There are twelve appendices to the report, which cover Members, lodgment and case load statistics, registered organisations data, financial statements, the Commission's subscription services, and the Commission's Service Charter.

Within Appendix A you will find information on Commission Members, the Commission's Panel system, and Member activities over the financial year.

Appendix F is an Annual Performance Statement for the Road Safety Remuneration Tribunal from 1 July 2015 to 21 April 2016.

At the very back of the Annual Report you will also find information on the Commission's compliance with requirements set out under the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule), a glossary, acronyms and abbreviations, an index, a list of tables and page numbers and contact details.

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Overview

President's report



I am pleased to introduce the Fair Work Commission's annual report for 2015–16.

It has been another busy year for the Commission, as

it continued the 4 yearly review of modern awards, implemented the final initiatives of the *Future Directions* program, and also dealt with more than 34,000 new applications lodged in 2015–16.

Future Directions

In 2015–16 the Commission continued its *Future Directions* program, substantially implementing the final 30 initiatives announced in May 2014 and integrating programs it had piloted earlier into business as usual. The Commission launched *Future Directions* in October 2012 to achieve better and more efficient services to the community and greater transparency and accountability of the Commission.

Initiatives implemented in 2015–16 included developing and publishing new benchbooks, providing parties with access to audio recordings of Commission hearings at no cost, delivering a new website, providing virtual tours of hearing rooms and extending a program to provide pro bono legal help to unrepresented unfair dismissal and general protections parties.

4 yearly modern award review

The *Fair Work Act 2009* requires the Commission to review all modern awards four years after they commenced operating. The Commission began the 4 yearly review in 2014 and expects to complete it in 2017. The 4 yearly review is a large and significant body of work for both the Commission and the parties involved. In 2015–16, more than 20 decisions and 58 statements were issued and more than 5,000 documents were posted on the website.

Among the matters progressed during the 12 months were applications to vary penalty rates in a range of hospitality and retail awards. By the end of the reporting period, the Full Bench had largely dealt with the evidence, having received evidence from more than 130 witnesses and more than 6,000 submissions.

During the year the Commission also consulted with interested parties and finalised terms to be inserted into most modern awards to give effect to a June 2015 decision increasing flexibility in annual leave provisions. The Commission also commenced hearings in March 2016 on applications to vary the entitlements of casual and part-time employees, which will continue through the remainder of 2016.

Through the 4 yearly review, the Commission is taking steps to make the structure and language used in modern awards easier for employees and employers, especially small business employers, to understand and apply. Making rights and obligations clearer helps to promote compliance with these legal obligations. The structure of awards has been reviewed by small business operators, and in

2015–16 a pilot was undertaken to create a plain language draft of the *Pharmacy Industry Award 2010*. A number of other awards have been selected for plain language drafting, based on the high levels of award reliance, particularly among small businesses, in the industries covered.

Improvements in service delivery

In last year's annual report I outlined three pilot programs the Commission had introduced – the general protections, enterprise agreements and permission to appeal pilots.

- **General protections pilot**

The general protections pilot involved trained staff conciliators, rather than Members, conducting telephone conferences for general protections applications involving dismissal. The Commission progressively extended this program in 2015–16 to all general protections applications involving dismissal, after an independent review in 2014–15 identified improvements in a number of key client satisfaction measures, timeliness and settlement rates.

The improvement in performance has continued since the program has been extended, with further improvements in participant satisfaction with the process (72 per cent satisfied or very satisfied compared to 63 per cent during the pilot) and the settlement rate of 71 per cent compares favourably to the 73 per cent during the pilot and 60 per cent settlement rate for conferences convened by Commission Members during the pilot.

For the first time this Annual Report includes data on the outcomes of conferences in general protections disputes involving dismissal. Whilst we have previously collected and published this data for unfair dismissals, we are now in a position to collect and report outcomes of general protections matters. This information will give applicants an appreciation of the outcomes of these applications, so that they are better informed in deciding whether to lodge and pursue an application. It also provides greater transparency to the broader community about the functioning of this relatively new jurisdiction.

- **Agreements pilot**

The agreements pilot involved introducing a triage process for approving enterprise agreements. A team of administrative staff conducts a preliminary review of whether agreements lodged meet the statutory requirements, including assessment against a checklist developed by senior Commission Members. The decision on whether to approve an agreement or not continues to be made by Commission Members. An external review identified that the pilot led to improvements in approval timeliness as well as opportunities flowing from the centralised process to identify trends and common errors in agreement approval applications. The new process was progressively extended in 2015–16 to cover 90 per cent of lodgments by the end of the reporting period. Overall, timeliness in agreement approvals improved in 2015-16, with 50 per cent of applications finalised in 18 days (down from 21 days) and 90 per cent of applications finalised within 49 days (down from 56 days). The process also promotes greater rigour and consistency in the approach to agreement approval applications,

contributing to a greater number of applications being withdrawn when issues are identified. In addition to the *Notice of Employee Representational Rights Guide* published in May 2015, a comprehensive step by step guide to making a single enterprise agreement has been added to the Commission's website

- **Permission to appeal pilot**

In January 2016, the Commission made the permission to appeal pilot the standard practice for unfair dismissal and certain other appeals, after a positive internal review. Under the process, a Full Bench determines whether to grant permission to appeal as a threshold issue, so parties do not have to incur the costs of preparing and filing submissions on the merits of the appeal if permission is refused. The pilot applies to appeals that data suggested had a higher likelihood of being refused permission to appeal, which included unfair dismissals (which have a higher statutory threshold for permission to appeal). The result has led to significant reductions in the time between lodgment and hearing of an appeal. In 2015–16, 94.8 per cent of appeals were listed within 12 weeks compared to 75.7 per cent reported in last year's annual report, and 98.3 per cent were listed within 16 weeks compared to 92.7 per cent the previous year.

Performance improvements

It is encouraging to report the improvement in our performance in 2015–16 in these key areas. Following the successful pilots, we have now embedded new ways of delivering services that are more efficient and improve timeliness and consistency. In this way we deliver greater value to the Australian community by using our resources more effectively.

These changes not only improve outcomes and reduce transaction costs for parties, they also enable the Commission to more effectively manage within the resources provided by government. This is important as the

Commission's funding is significantly reduced in the forward years following the abolition of the Road Safety Remuneration Tribunal in early 2016 and the potential further reduction in funding if functions relating to registered organisations are transferred to a Registered Organisations Commission.

New Approaches

The Commission developed its *New Approaches* pilot in 2013 to give effect to its statutory function to 'promote cooperative and productive workplace relations and prevent disputes'. The program aims to assist parties at the enterprise level to resolve issues before they become formal disputes. Parties participate on a voluntary basis and the Commission works with them in an informal manner to identify common ground and facilitate constructive discussions and collaborative problem-solving. Based on positive outcomes from the pilot, the Commission this year made the program an ongoing service and took the first steps towards its formalisation.

Engagement

The Commission has long had committees of Members and senior staff who have oversight of various activities and responsibilities within the Commission. During 2015–16, following consultation with Members, the committees were reconstituted and revamped. Committees are now in place with oversight of: Commission Rules and Benchbooks; *New Approaches*; *Future Directions*; Access, Engagement and Communications; Internal Engagement; Professional Development; and International Engagement. For the first time, we have invited external stakeholders to join the Rules and Benchbooks Committee. In doing so, these stakeholders are able to have direct input into formal changes to the Commission's Rules, which govern our processes, and the development and review of benchbooks.

Looking ahead

Completing the *Future Directions* program does not mean the end of our efforts to improve our services. *Future Directions* has been instrumental in reshaping the Commission's culture to be more externally-focused and user-centred. Nearly four years on from when *Future Directions* began, this approach is now integral to how we view ourselves and the services we deliver. In the year ahead, we will be particularly focusing on the needs of small business and on improving the way we deal with unfair dismissal applications. Unfair dismissals comprise more than 40 per cent of the applications lodged with the Commission, and we will be trialling different approaches to case management for matters that do not settle at the conciliation stage with a view to further improving our timeliness, national consistency and service standards.

Departing Members

This year has seen the departure of long-serving Members of the Commission and I would like to take this opportunity to acknowledge their contribution and to thank them for their service.

Thank you

I would also like to acknowledge our stakeholders, including the peak employer and union bodies and small business representatives who work collaboratively with us in pursuit of a shared objective of improving how the Commission discharges its statutory functions. Their feedback is welcome and valued.

Finally, all that has been achieved by the Commission over the past year was only possible because of the hard work and commitment of all Members and staff across the country. I thank them for their ongoing dedication to serving the Commission and, through it, the Australian community.



Justice Iain Ross AO

General Manager's report



The past year has seen the completion of the *Future Directions* change initiatives. Many of these initiatives respond to the shift in the work of the tribunal towards

individual matters, with a greater number of employees and employers who are unfamiliar with the tribunal's jurisdiction and processes. Their need for information and assistance is often different and greater than parties who are more familiar with the tribunal.

We have continued over the last year to find ways to better meet these diverse needs, including from our new website, improved information and tools, and by providing consistent, targeted information – whether enquiries are made online, through telephone calls or visits to our offices, or through our administrative processes, including conciliation. Whilst we cannot provide legal advice, we equip our frontline staff so they can provide consistent and useful information to help parties navigate through the process they have either commenced or are responding to. By investing in new technology, such as our new website and the recent introduction of a new capacity to lodge electronically, staff are freed up to provide more valuable assistance.

The new financial year begins with some uncertainty, with the prospect of legislative reform affecting the functions regulating federally registered unions and employer organisations. It may be that current functions are transferred to a new entity – the proposed Registered Organisations Commission. Whether the Commission maintains these regulatory functions or they are taken on by a new agency, I am confident that the work that has been undertaken to transform the regulation of organisations provides a very sound foundation to build upon.

It has been four years since the investigation involving the Health Services Union and Mr Thomson concluded. Only one investigation, in 1998, had ever been undertaken prior to that. I have previously acknowledged that, in my view, that investigation took too long and that we were not as effective a regulator as we could have been.

We have come a long way since 2012. Managing largely with the same resources, we have adopted a risk-based approach to compliance and have commenced and completed 29 formal inquiries and investigations. We have commenced several proceedings in the Federal Court of Australia, and been successful on each occasion with significant penalties and compensation imposed. We have worked to build our internal capability, provided better tools and information to make compliance easier,

and worked with organisations and auditors to improve compliance. These reforms have all borne significant fruit with greatly improved compliance levels. Of course, there always remains more to be done.

In the past year we also received the bulk of the referrals relating to civil matters from the Royal Commission into Trade Union Governance and Corruption (Trade Union Royal Commission). This work is being dealt with as efficiently as possible within the Commission's existing budgetary resources.

In financial terms, the year ahead is likely to be particularly challenging. The Commission's funding and average staffing levels have been reduced as a result of the abolition of the Road Safety Remuneration Tribunal. At the same time, other work, such as that associated with the referrals from the Trade Union Royal Commission, has required additional staffing resources. To manage the impact of these factors in the year ahead, a number of staff accepted voluntary redundancies at the end of the year. Consequently, in 2015–16 the Commission ran a funded loss of \$211,000, or less than 0.3 per cent of our revenue from government.

The work of the Commission touches the lives of most Australian employees and employers. I am very proud of the work of our staff across the tribunal – from dealing with enquiries, conciliating applications, supporting the four yearly review of modern awards, the annual wage review and other matters before the Commission, performing regulatory functions, supporting Commission Members, processing and case managing applications, maintaining systems, support services and our offices, and coordinating our engagement with the community. Commission staff are committed to improving the services the Commission delivers to the Australian community, and I sincerely thank them for their hard work and commitment throughout the year.



Bernadette O'Neill



About the Commission

2

About the Commission

The Commission is Australia's national workplace relations tribunal. The Commission was established by the *Fair Work Act 2009* (the Fair Work Act) and is responsible for administering provisions of the Fair Work Act.

These powers and functions include:

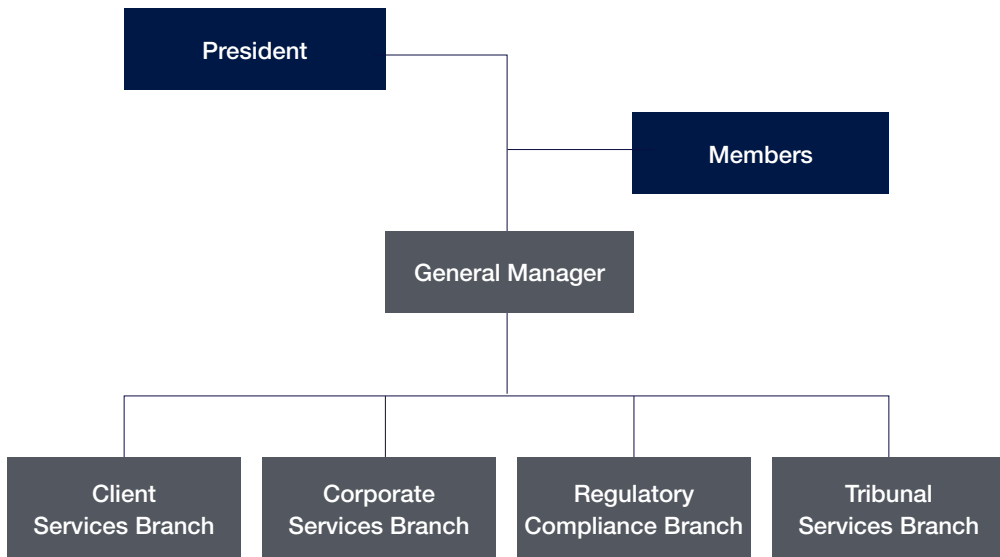
- resolving unfair dismissal claims
- dealing with anti-bullying claims
- dealing with general protections and unlawful termination claims
- setting the national minimum wage and minimum wages in modern awards
- making, reviewing and varying modern awards
- assisting the bargaining process for enterprise agreements
- approving, varying and terminating enterprise agreements
- making orders to stop or suspend industrial action
- dealing with disputes brought to the Commission under the dispute resolution procedures of modern awards and enterprise agreements
- determining applications for right of entry permits
- promoting cooperative and productive workplace relations and preventing disputes

The Commission and its General Manager also have responsibilities in relation to the registration, recognition and accountability of unions and employer organisations under the *Fair Work (Registered Organisations) Act 2009* (Registered Organisations Act).

The Road Safety Remuneration Tribunal was an independent national tribunal with functions relating to the road transport industry and was supported by staff of the Commission. On 19 April 2016, the *Road Safety Remuneration Repeal Act 2016* received royal assent. As a result, on 21 April 2016 the Road Safety Remuneration Tribunal ceased to operate. The Commission's Annual Report includes performance reporting of the Road Safety Remuneration Tribunal which can be found at Appendix F.

Commission structure

The Commission consists of a President, two Vice Presidents, Deputy Presidents, Commissioners and Expert Panel Members, supported by the General Manager and administrative staff.

Figure 1: Organisational structure

Members

The Commission is headed by the President, the Honourable Justice Iain Ross AO, who is also a Judge of the Federal Court of Australia. Commission Members perform quasi-judicial functions under the Fair Work Act, including conducting public hearings and private conferences for both individual and collective matters. They also perform certain functions under the Registered Organisations Act, including determining applications for registration and cancellation of registration and for alterations to eligibility rules of employee and employer organisations.

Commission Members are independent statutory office holders appointed by the Governor-General on the recommendation of the Australian Government of the day. They are appointed until the age of 65 on a

full-time basis, although they may perform duties on a part-time basis with the President's approval. Members of state industrial tribunals may also hold a dual appointment to the Commission. Expert Panel Members are appointed on a part-time basis for a specified period of not more than five years.

Commission Members come from a diverse range of backgrounds including the law, unions and employer associations, human resources and management and the public service. Expert Panel Members must have knowledge or experience in one or more fields specific to their panel.

Members often share their expertise and engage with the community by participating in a range of presentations, speeches and events in Australia and internationally. For a list of Member activities see Appendix C.

Appointments and departures

During 2015–16 the following Members were appointed to the Commission (in order of appointment): Commissioner T Saunders, Commissioner T Cirkovic, Commissioner C Platt, Deputy President M Binet, Deputy President WR Clancy, Commissioner K Harper-Greenwell, Commissioner J Hunt and Deputy President LE Dean. Commissioner GE Bull was appointed as a Deputy President.

During 2015–16 the following Members retired or resigned from the Commission: Vice President M Lawler, Justice AJ Boulton AO, Senior Deputy President AM Harrison, Deputy President GR Smith AM, Deputy President TJ Abey (dual appointee), Commissioner JCW Lewin, Commissioner WD Blair, Commissioner HM Cargill, Commissioner MG Roberts and Commissioner JD Stanton (dual appointee).

The panel system

The Commission allocates some of its work through a panel system overseen by the President. The system seeks to ensure that matters are dealt with efficiently by Members with experience and expertise in the area.

On 16 November 2015 the Commission announced changes to its panels, including the merger of the Transport and logistics panel with the Mining, agriculture and electric power panel to form the new Services and mining panel, with Senior Deputy President Hamberger as Panel head.

In addition, Vice President Watson became head of the Major resources/infrastructure projects panel, and Health and related industries was moved from the Media, ports, oils and gas panel to the Government services panel, with Vice President Catanzariti as Panel head.

The Commission also moved to a model of regional industry allocation in South Australia and Western Australia. All industry panel matters in these states are allocated to local Members by Senior Deputy President O'Callaghan.

The Commission's current panels are:

- Major resource/infrastructure projects panel
- Industry panels
 - Manufacturing and building panel
 - Media, ports, oil and gas panel
 - Services and mining panel
 - Government services panel
- Organisations panel
- Termination of employment panel
- Anti-bullying panel

There are also panels for the annual wage review and default superannuation funds.

Looking ahead, the panel arrangements will continue to be reviewed in light of the ongoing reduction in collective matters in many industries.

For more information on the panel system and Panel heads, see Appendices A and B.

Administrative staff

The Commission's General Manager is Bernadette O'Neill. Commission staff members are employed under the *Public Service Act (1999)* (Public Service Act). Their role is to support and facilitate the Commission's work.

Staff are organised into four branches, with the head of each branch, together with the General Manager, forming the Executive team:

- **Client Services** is headed by Louise Clarke. It handles the majority of the Commission's public enquiries, both by

telephone and at offices in each state and territory. Staff members receive and process applications, prepare files, coordinate hearing and conference rooms, maintain the case management system, arrange and conduct conciliations and mediations, and publish documents including decisions and orders.

- **Corporate Services** is headed by Ailsa Carruthers. It is responsible for corporate governance and reporting, legal services, financial management and resources, payroll, media and communications, human resources and information technology.
- **Regulatory Compliance** is headed by Chris Enright. It assists in administering the functions of the Registered Organisations Act. Staff members oversee compliance by federally registered employee and employer organisations with legislative obligations, conduct inquiries and investigations into the compliance of organisations and individuals, and process applications for right of entry permits by officials of federally registered employee organisations.
- **Tribunal Services** is headed by Murray Furlong. It provides research, project management and administrative support to Commission Members. Staff members coordinate the day-to-day support in Members' Chambers, undertake specialist workplace relations and economic research and assist with managing large statutory reviews, such as of modern awards and the minimum wage. In addition, they perform analysis of draft enterprise agreements, coordinate arbitration hearings for unfair dismissal matters, provide research for individual Members, maintain a workplace relations library and oversee national and international engagement activities.

History

Australia has had a national workplace relations tribunal for more than a century and it is one of the country's oldest institutions. Over time the tribunal has undergone many changes in jurisdiction, name, functions and structure. Throughout its history, it has made many decisions that have affected the lives of working Australians and their employers. The Commission recognises the importance of capturing and preserving its history for display and research.

Sir Richard Kirby Archives

The Commission established the Sir Richard Kirby Archives in 2002 as a means of preserving its history. Named in honour of the longest serving president of the Commission, the archives contain a range of historical material including documents, photographs, and a collection of oral interviews with past Members and senior staff of the Commission.

On 1 March 2016, the Hon. Senator Michaelia Cash, Minister for Employment, Minister for Women, and Minister Assisting the Prime Minister for the Public Service, launched the Sir Richard Kirby Archives' latest exhibition, 'The History of the Australian Minimum Wage,' via video. The exhibition explores the Great Strikes of the 19th century, which led to the introduction of the first minimum wage, and the major milestones in the evolution of the minimum wage through to the modern era. The launch was held in conjunction with the Industrial Relations Society of Victoria at a 'Meet the Commission' function. Along with the Minister, Justice Ross and Deputy President Hamilton spoke at the event.

Visitors can view the exhibition at Level 8, 11 Exhibition Street, Melbourne. For more information visit www.fwc.gov.au/sir-richard-kirby-archives.

Clients and stakeholders

The Commission's work affects most of Australia's employees and employers and, as a consequence, the Commission has a diverse group of clients and stakeholders. In broad terms, the Commission has jurisdiction over a national system that covers all private sector employers and employees in all States and Territories except Western Australia (where private sector coverage is limited to constitutional corporations); the Commonwealth public sector; all employers and employees in the Territories and in Victoria (with limited exceptions in relation to some State public sector employees); and some public sector and local government employment in other States. The Commission's anti-bullying jurisdiction extends to a broader range of workers (in addition to employees) when at work in constitutionally covered businesses.

Future Directions

The Commission, like other Australian courts and tribunals, must continue to deliver quality services, effectively and efficiently, within the resources allocated to it. In order for the Commission to meet the changing needs of the Australian community, it commenced the first phase of its change program, *Future Directions* in 2012, and the second phase *Future Directions—Continuing the Change Program* in 2014. Developed in consultation with Members, staff and key stakeholders, the programs sought to improve the Commission's public value through the delivery of a large number of initiatives focused on the following four themes:

- promoting fairness and improving access
- efficiency and innovation
- increasing accountability
- productivity and engaging with industry

Almost four years following its launch, *Future Directions* has substantially delivered over 50 initiatives that have impacted on the vast majority of activities of the Commission – both in relation to the experiences of parties directly involved in applications, and the broader Australian community that relies on the national workplace relations system every day.

During 2015–16, *Future Directions* resulted in the bedding down of new processes for several major matter types, including enterprise agreements, general protections, appeals and the *New Approaches* program.

In addition, parties can now draw on a much wider range of support and information materials, such as new publicly-available benchbooks and eligibility quizzes for major matter types, a broader pro bono lawyer program covering unfair dismissal and general protection applications, digitised forms, an improved search function on the website, online virtual tours and case studies, and improved access to audio recordings of proceedings.

As part of the *Future Directions* program, the Commission introduced performance benchmarks for the timeliness of issuing reserved decisions and agreement approvals. An additional benchmark was introduced for the issuing of reserved decisions in appeal matters. The Commission's performance against these benchmarks continues to be published on the website. The benchmarks are intended to be challenging, and to that extent they are aspirational. The Commission expects that there will be individual instances where it does not meet its own high standards, for a variety of reasons. However, the setting of performance benchmarks and then publicly reporting the Commission's performance are important accountability measures.

Throughout 2015–16, *Future Directions* has also seen the Commission broaden its proactive engagement with the community, including undertaking research activities aimed at improving the services provided to small business employers.

For more information about *Future Directions* see the Annual Performance Statements on page 20. A separate report card on the final stage of the *Future Directions* program will be published on the Commission's website.



About the Commission



Performance

3

Performance Summary



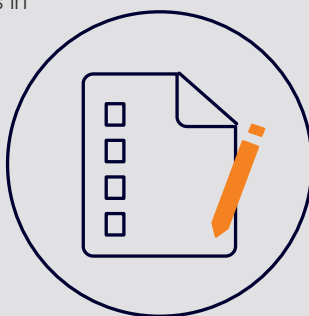
34 days

Median time elapsed from lodging applications to finalising conciliations in unfair dismissal applications



Completed annual wage review

31 May 2016



18 days

Median time for agreement approval



3 days

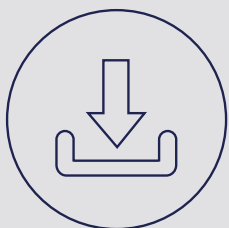
Median time taken to list applications relating to industrial action



100 per cent

Of financial reports lodged under the Registered Organisations Act assessed for compliance within 40 working days

Operational performance



34,215

Applications lodged



16,683

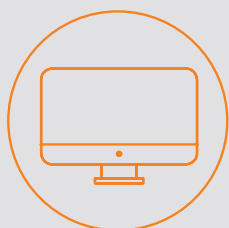
Hearings and conferences held



12,140

Decisions and orders published

Engagement



4.72 million

Website visits, a 25.3 per cent increase



203,796

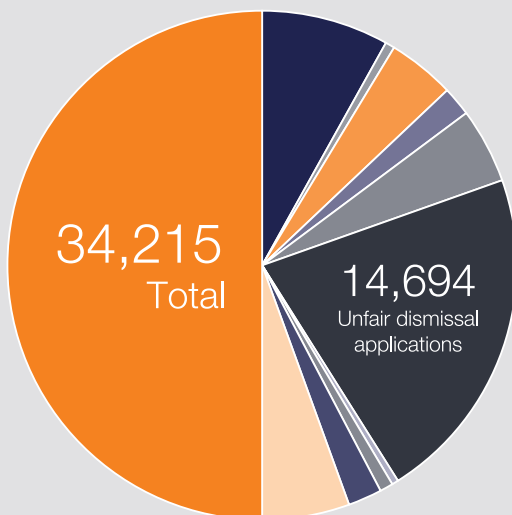
Phone calls made to the Information line



3 minutes
30 seconds

Average call wait time

Figure 2: Type of applications lodged



- Agreements
- Orders relating to good faith bargaining
- Dispute resolution
- Orders relating to industrial action
- General protections involving dismissal
- Unfair dismissal applications
- Appeals
- Applications to terminate individual agreement-based transitional instrument
- Registered organisations
- Other matters
- Total

Data for the above chart can be found in [Table 6](#).

Annual performance statements 2015–16

Introduction

I, Bernadette O'Neill, as the accountable authority of the Fair Work Commission, present the 2015–16 annual performance statements of the Fair Work Commission, as required under paragraph 39(1)(a) of the *Public Governance, Performance and Accountability Act 2013*.

In my opinion, these annual performance statements are based on properly maintained records, accurately reflect the performance of the entity, and comply with subsection 39(2) of the *Public Governance, Performance and Accountability Act 2013*.



22 September 2016

Bernadette O'Neill

General Manager
Fair Work Commission

Purpose

The Commission is Australia's national workplace relations tribunal responsible for administering provisions of the Fair Work Act and the Registered Organisations Act.

As set out in the Corporate Plan 2015–16, the Commission has two purposes:

- to perform its functions in accordance with the Fair Work Act
- to exercise its powers and functions in accordance with the Registered Organisations Act

Outcome and Programme Structure

The Commission had a single planned outcome and programme, as set out in the 2015–16 Portfolio Budget Statements:

③ *Simple, fair and flexible workplace relations for employees and employers through the exercise of powers to set and vary minimum wages and modern awards, facilitate collective bargaining, approve agreements and deal with disputes.*

The Commission delivered the following programme:

③ *Dispute resolution, minimum wage setting, orders and approval of agreements.*

The Commission's programme objective is to exercise powers under the Fair Work Act:

- in accordance with the objects of the Fair Work Act
- in a manner that is fair and just; is quick, informal and avoids unnecessary technicalities; is open and transparent; and promotes harmonious and cooperative workplace relations

The Commission's programme objective for 2015–16 included exercising powers under the *Road Safety Remuneration Act 2012* in accordance with the objects of that Act. On 19 April 2016, the *Road Safety Remuneration Repeal Act 2016* received royal assent, causing the repeal of the *Road Safety Remuneration Act 2012* on 21 April 2016. Please refer to Appendix F for all reporting on the Road Safety Remuneration Tribunal.

The following annual performance statements provide measures of progress against the Portfolio Budget Statements and the key performance indicators (KPIs) set out in the Commission's Corporate Plan 2015–16.

Results

Purpose: To perform functions in accordance with the Fair Work Act

Performance criterion: Improve or maintain the time elapsed from lodging applications to finalising conciliations in unfair dismissal applications

Source: Portfolio Budget Statements 2015–16, Budget Related Paper No. 1.6, page 133

Result against performance criterion

The Commission has met the performance criterion set out in the Portfolio Budget Statements in 2015–16 by maintaining the time from lodging an unfair dismissal application to finalising conciliation at 34 days. In 2015–16, there were 14,694 unfair dismissal applications lodged, and staff of the Commission conducted 10,850 conciliation conferences.

Table 1: KPI unfair dismissal application time

Target	2015–16	2014–15	2013–14	2012–13
Median time of 34 days	34 days	28 days	46 days	25 days

Performance criterion: Annual wage review to be completed to enable an operative date of 1 July

Source: Portfolio Budget Statements 2015–16, Budget Related Paper No. 1.6, page 133

Result against performance criterion

In 2015–16, the Commission comfortably met the annual wage review operative date target, with the annual wage review completed on 31 May 2016.

Table 2: KPI annual wage review completed

Target	2015–16	2014–15	2013–14	2012–13
By 30 June	31 May 2016	2 June 2015	4 June 2014	3 June 2013

Performance criterion: Improve or maintain the agreement approval time

Source: Portfolio Budget Statements 2015–16, Budget Related Paper No. 1.6, page 133

Result against performance criterion

The Commission has met the performance criterion set out in the Portfolio Budget Statements in 2015–16 by improving the time from lodgment to finalisation of applications for approval of an enterprise agreement. In 2015–16, the Commission dealt with 5,449 applications for approval of an enterprise agreement, with a median time between lodgment and finalisation of 18 days, an improvement of three days from the previous year.

Table 3: KPI agreement finalisation time

Target	2015–16	2014–15	2013–14	2012–13
Median time of 32 days	18 days	21 days	17 days	16 days

Performance criterion: Improve or maintain the time taken to list applications relating to industrial action

Source: Portfolio Budget Statements 2015–16, Budget Related Paper No. 1.6, page 133

Result against performance criteria

In 2015–16, the Commission listed industrial action matters for hearing in a median time of three days. By maintaining the time taken to list these applications, this performance criterion was met.

Table 4: KPI industrial action application listing

Target	2015–16	2014–15	2013–14	2012–13
Median time of 3 days	3 days	3 days	2 days	3 days

Performance criterion: Implement a Fair Work Commission communications strategy

Source: Corporate Plan 2015–16, page 14

Result against performance criterion

The Commission's communications strategy in 2015–16 focused on delivering an improved website, as the primary mechanism for providing information to the public and tools for parties to assist them in making or responding to an application to the Commission.

Performance criterion: Engaging with users, organisations, practitioners, the research community and small business to disseminate information about the role of the Fair Work Commission and to obtain feedback

Source: Corporate Plan 2015–16, page 14

Result against performance criterion

The Commission has developed a broad stakeholder engagement strategy that aims to engage with our community and deliver services that meet their requirements. The Commission recognises that the needs of the community it serves are changing and so it regularly consults with clients, stakeholders, research groups and the broader community to ensure that services delivered meet the demands of a contemporary workplace relations system.

Commission Members regularly engage with the workplace relations community by providing formal and informal presentations on the Commission's work. More information on the activities of Commission Members is provided in Appendix C.

The Commission's Workplace Relations Education series continues to be a popular feature of the engagement program, providing opportunities for interaction with the community through lectures and mock hearings. This year, a lecture and a number of mock hearings were held in Melbourne as part of Law Week 2016 and a mock hearing was held in Canberra. The lecture, delivered by the Commission's panel head for anti-bullying, provided attendees with background on the development of the jurisdiction and a first-hand perspective on the experiences and challenges faced by the tribunal in the first years of the jurisdiction. The mock hearings were very well attended and received positive feedback from attendees.

The Commission also conducted a range of engagement activities focused on registered organisations, including webinars and targeted activities to promote compliance.

Performance criterion: Appropriate engagement and collaboration with external stakeholders, including APS agencies, as appropriate for an independent tribunal

Source: Corporate Plan 2015–16, page 14

Result against performance criterion

In March 2016, the Commission hosted a forum in collaboration with the Centre for Workplace Leadership and the Australian Industry Group, the Australian Council of Trade Unions and the Australian Chamber of Commerce and Industry. The event featured a range of speakers and focused on the *Future of Work* in manufacturing.

In 2015–16 the Commission continued to work cooperatively and share information with the Fair Work Ombudsman, Fair Work Building and Construction, Federal Court of Australia and Fair Work Division of the Federal Circuit Court of Australia.

The Commission has joined with JobWatch and the Springvale Monash Legal Service to establish the Workplace Advice Clinic, a pilot program to provide an hour's free legal assistance to unrepresented applicants in unfair dismissal and general protections matters in Melbourne. The Workplace Advice Clinic is an extension of an earlier, more limited pro bono program. While the Commission facilitates the appointments for the clinic, all advice provided is independent of the tribunal.

Performance criterion: Implementation of the *Future Directions* change program

Source: *Corporate Plan 2015–16*, page 15

Result against performance criterion

The *Future Directions* change program has been substantially implemented. The program is directed at improving service delivery and reducing transaction costs for parties, with a view to enhancing public value. The change program involves delivery of more than 50 initiatives around four key themes:

- promoting fairness and improving access
- efficiency and innovation
- increasing accountability
- productivity and engaging with industry

As part of developing each stage of the *Future Directions* program, the Commission consulted widely with stakeholders, staff and Members across the country through forums, events, presentations and conferences.

This year sees the substantial completion of that program of work and integration of pilot projects into business as usual.

During 2015–16, the Commission developed and published new benchbooks, improved access to audio files of Commission hearings, provided virtual tours of court rooms for the public, extended a pro-bono lawyer program and moved further towards complete digitisation of the Commission's forms.

A separate report card on the final stage of the *Future Directions* program will be published on the Commission's website.

Performance criterion: Activities to promote productive and cooperative workplace relationships, including the *New Approaches* program

Source: *Corporate Plan 2015–16*, page 15

Result against performance criterion

The *New Approaches* program complements the Commission's existing dispute resolution and bargaining functions by providing a formal process to assist parties to work together to develop new ways of resolving conflict at the workplace using interest-based problem-solving.

Following a successful pilot led by Deputy President Booth, *New Approaches* was formalised as a standard Commission service in 2015–16.

The Commission facilitated a number of workshops across the country with stakeholders as part of its engagement strategy for *New Approaches* in 2015–16. Commission Members delivered a number of sessions on the *New Approaches* program generally, as well as on more specific topics such as interest-based bargaining and dispute resolution.

As at 30 June 2016, there were 17 active files in the *New Approaches* program.

The Commission continues to provide a range of facilitation services, advice and support to parties in those matters.

Performance criterion: Availability of improved and current information for users

Source: Corporate Plan 2015–16, page 15

Result against performance criterion

In 2015–16, the availability of information for users has improved and the Commission launched its new website on 8 July 2016.

The new website's design and features are based on feedback received during a website usability review of the former website in the first part of 2015.

The enhancements will assist people to more easily locate information about the Commission and its services. The Commission will continue to review and update the new website and welcomes ongoing feedback about potential improvements.

The Commission has developed a number of tools and resources for users including benchbooks and the Quarterly Practitioner Update. The Fair Work Commission Bulletin, containing summaries of selected recent decisions, is published weekly.

Performance criterion: Demonstrated improvements to service delivery models

Source: Corporate Plan 2015–16, page 15

Result against performance criterion

In 2015–16 all conciliation conferences in general protections applications involving dismissal were conducted by specialist staff. This change followed a pilot program which was independently reviewed and which is available on the Commission's website. The review identified improvements in timeliness and parties' satisfaction from the changed service delivery model.

In 2015–16, 71 per cent of all matters referred to specialist staff were resolved by the parties agreeing to settle the dispute at conciliation. Parties to matters were surveyed at the conclusion of their conference and 72 per cent were satisfied or very satisfied with the conciliation process.

In relation to enterprise agreement approvals, the introduction of the agreements triage process has enabled the Commission to reduce the time from lodgment of an application to approve an enterprise agreement to its finalisation. Having been extended to include 90 per cent of enterprise agreement approval applications in 2015–16, the triage process has resulted in 50 per cent of applications being finalised in 18 days (down from 21 days) and 90 per cent of applications being finalised within 49 days (down from 56 days).

Performance criterion: Development of a digital strategy to deliver user-focused service improvements and efficiencies

Source: Corporate Plan 2015–16, page 15

Result against performance criterion

User-focused digital service improvements and efficiencies have been delivered, with the introduction of a new online lodgment facility in August 2016. Development of a digital strategy is ongoing.

Performance criterion: Development of an improved case management system

Source: Corporate Plan 2015–16, page 15

Result against performance criterion

The Commission made substantial progress in developing a case management system, including a Request for Information approach to market in 2015–16.

Performance criterion: Public reporting against performance benchmarks

Source: Corporate Plan 2015–16, page 17

Result against performance criterion

Performance against timeliness benchmarks are published for:

- agreement approval times
- reserved decisions
- appeal reserved decisions

These results are published on the Commission's website, together with information on the outcomes of unfair dismissal applications. Additional performance reporting is contained in the Annual Report.

Performance criterion: Strategies to gain and respond to feedback from users

Source: Corporate Plan 2015–16, page 17

Result against performance criterion

The Commission developed two client satisfaction surveys in 2015–16 to obtain feedback on satisfaction levels from parties to general protections and anti-bullying matters. The Commission continued to survey parties following conciliation in unfair dismissal matters.

The Commission welcomes feedback and complaints by providing clear information on the website on how to make complaints and by providing various avenues to provide feedback or make a complaint. The information received is used to review and improve processes.

Analysis of performance against purpose

The Commission's purpose of exercising its functions in accordance with the Fair Work Act has been facilitated in 2015–16 by the achievement of the performance criteria reported above. This has been achieved through the actions committed to in the Corporate Plan around seeking, listening and responding to feedback to improve delivery against the Commission's purpose.

Purpose: The General Manager's powers and functions are exercised in accordance with the Registered Organisations Act

Performance criterion: 95 per cent of financial reports required to be lodged under the Registered Organisations Act are assessed for compliance within 40 working days

Source: Portfolio Budget Statements 2015–16, Budget Related Paper No. 1.6, page 133

Result against performance criterion

The performance criterion was exceeded in 2015–16, with 100 per cent of financial reports assessed within 40 working days.

Table 5: KPI financial reports lodged

Target	2015–16	2014–15	2013–14
95% within 40 days	100	96.2	37.8
Number of reports	391	377	161

Analysis of performance against purpose

The achievement of the performance criterion reported above, in support of the purpose, is attributable to the actions committed to in the Corporate Plan. A combination of increased internal capability, extensive engagement with the regulated community and provision of tools, resources and education to aid voluntary compliance, together with dealing with non-compliance appropriately, has enabled the standard to which the purpose is met, to be improved.

Operational performance

A significant proportion of the work of the Commission is initiated by employers, employees and their representatives when they make applications to the Commission to deal with workplace relations matters.

Applications are initiated by the lodgment of a form and there are over a 100 such forms available on the Commission's website. Forms correspond to the particular sections of the Fair Work Act where the Commission has a role in assisting with or determining disputes and issues.

Other Commission statutory functions, such as the 4 yearly review of modern awards and the regulation of registered organisations, are not initiated by an application.

Applications are referred to Members of the Commission who make decisions about issues or who assist parties to resolve disputes via conciliation. Senior staff also assist with conciliation in unfair dismissal, general protections (involving dismissal) and anti-bullying matters and a limited number of senior staff, make decisions about right of entry permits.

Hearings and conferences are convened to bring the parties together to hear both sides of the dispute, to assist to resolve informally via conciliation or to resolve more formally through the testing of evidence, witnesses and the application of the law.

Decisions, orders and statements made on applications are typically published on the Commission's website at the time the decision is issued to the parties or shortly thereafter.

Applications lodged

In 2015–16, 34,215 applications were made to the Commission, which was very similar to the 34,152 total for 2014–15. Of these, 36.7 per cent were lodged in Melbourne and 26.1 per cent in Sydney. Applications lodged in a particular location may be dealt with by staff or Members in another location.

In 2015–16 the Commission continued to explore different ways of receiving applications and conducting matters to improve services to the parties and the community generally. The Commission developed the first version of a new online lodgment system for a number of its forms with a view to developing further digital services for information exchange. The Commission developed a smart form for unfair dismissal applications, specifically designed to assist the majority of applicants who are unrepresented and are unfamiliar with the workings of a tribunal.

Trends in applications

The Commission's overall caseload for 2015–16 remained steady at 34,215, a slight increase on 2014–15 of 63 cases overall. Unfair dismissal applications make up over 40 per cent of applications to the Commission consistent with the previous three years. General protections applications involving dismissal had been increasing but in 2015–16 plateaued at a level similar to the previous reporting period.

There continued to be a trend of decreasing numbers of certain application types. For example, there were again fewer applications to terminate individual agreements and a slight decline in enterprise agreement approval applications in this financial year compared with the previous year. Overall there were fewer applications when compared with lodgments in 2013–14.

Table 6: Case load by matter type

Matter Type	2015–16	2014–15	2013–14	2012–13
Unfair dismissal	14,694	14,624	14,796	14,818
Agreement approvals	5,529	5,922	6,754	7,087
Agreements – other ¹	1,335	1,469	3,448	3,643
General protections involving dismissal	3,270	3,382	2,879	2,429
General protections – other	940	993	909	683
Order to stop bullying	734	694	343	-
Dispute resolution ²	2,194	2,331	2,657	2,427
Industrial action ³	1,272	957	989	1,272
Bargaining ⁴	408	479	423	414
Appeals	283	336	214	143
Registered organisations	1,472	1,120	1,381	1,288
Other matters	2,084	1,845	2,273	2,412
Total	34,215	34,152	37,066	36,616

1 Includes applications to vary and terminate enterprise agreements and transitional individual agreements.

2 Applications made under ss. 120, 526, 533, 699 and 739.

3 Applications made under ss. 266, 418, 419, 423, 424, 425, 426, 437, 447, 448, 459 and 472.

4 Applications made under ss. 229, 236, 238, 240, 242 and 248.

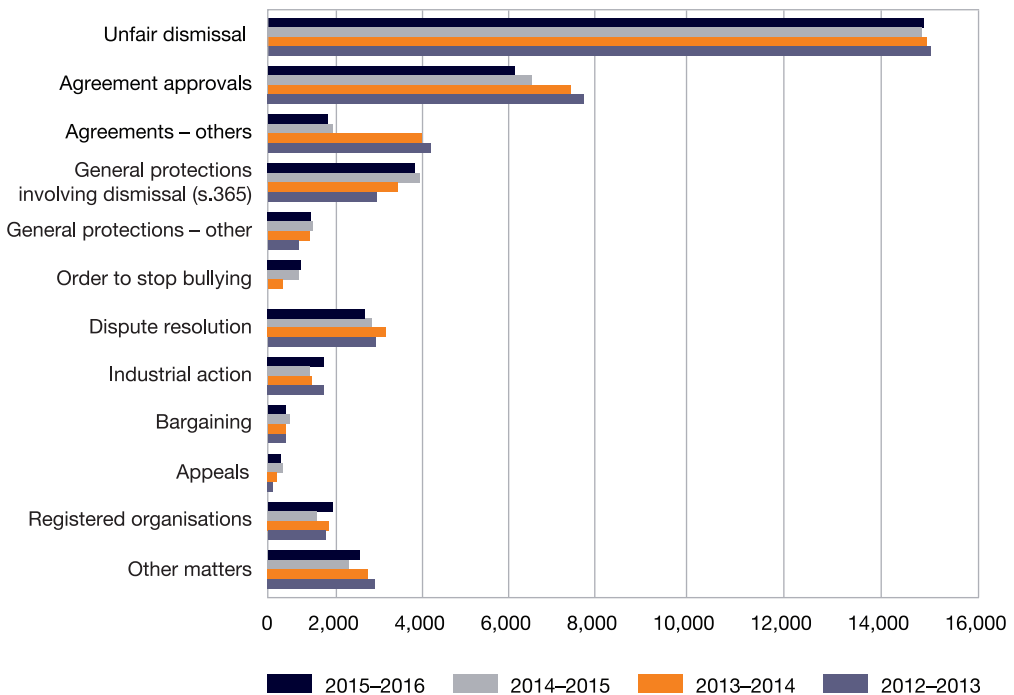
Figure 3: Case load by matter type

Figure 3 represents data from Table 6

Hearings and conferences

In 2015–16, Commission Members held 16,683 hearings and conferences, which is fewer than the previous year.

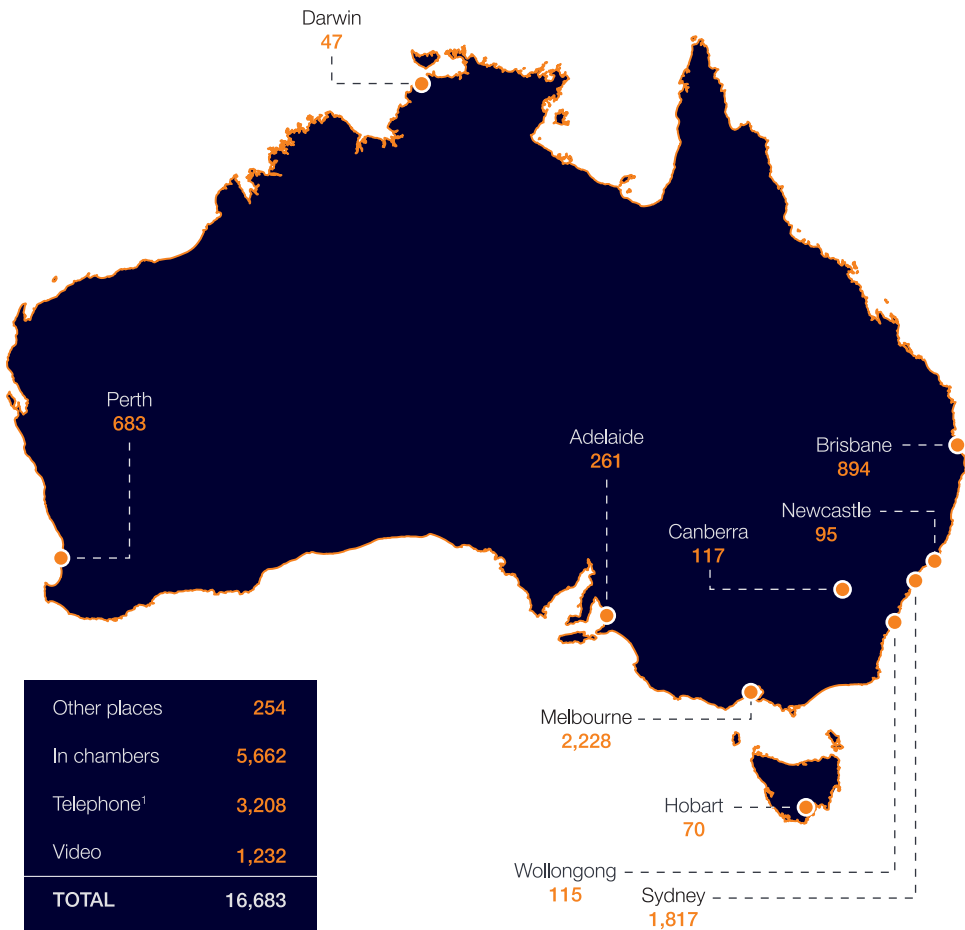
Hearings and conferences are held around Australia, including in the Commission's capital city offices, in regional locations, and by telephone and video conference. In some cases Members can also make decisions by requesting parties to submit their materials in writing so a decision can be made 'on the papers'.

Commission Members are increasingly holding hearings and conferences by telephone and video conference. This means that the parties

often do not have to leave their home or workplace in order to participate, reducing their costs. In 2015–16 there were 4,440 telephone and video conferences and hearings, an increase of 25.8 per cent over four years.

This work is supplemented by conferences conducted by staff conciliators. Staff conciliators assist the parties to attempt to resolve the dispute by agreement and do not have the power to make a formal decision on the application. Such conferences are generally held by telephone for the convenience of parties. In 2015–16 staff conducted over 12,500 such conferences.

Figure 4: Map of Australia showing the number of hearings and conferences by location



¹ Does not include telephone conferences conducted by administration staff.

Table 7: Hearings and conferences by location

City/Town	2015–16	2014–15	2013–14	2012–13
Adelaide	261	312	284	309
Brisbane	894	1,145	1,359	1,555
Canberra	117	124	214	193
Darwin	47	38	41	55
Hobart	70	103	70	98
Melbourne	2,228	3,479	3,653	3,658
Newcastle	95	154	230	163
Perth	683	627	727	543
Sydney	1,817	2,650	2,572	2,673
Wollongong	115	216	133	21
Other places	254	244	356	248
In chambers	5,662	5,690	6,028	5,917
Telephone ¹	3,208	3,809	3,198	2,462
Video	1,232	1,331	755	1,096
Total	16,683	19,922	19,620	18,991

¹ Does not include telephone conferences conducted by administration staff.

Information and assistance

A significant part of the Commission's resources are dedicated to dealing with enquiries from the public, which come via its website, telephone enquiry line, emails and visits to offices in each capital city.

Website visits

The Commission's website is the primary source of information about the Commission and the central portal for accessing the Commission's services, application forms and information resources. In 2015–16, the website received 4.72 million visitors, roughly one million, or 25.3 per cent, more than the 3.77 million visitors received in 2014–15.

The Commission's benchbooks are popular resources, providing parties with information to assist them with their matter and to prepare for matters before the Commission. The Enterprise Agreement Benchbook was viewed 33,065 times during 2015–16; the General Protections Benchbook was viewed 35,192 times; the Unfair Dismissal Benchbook 34,738 times and the Anti-Bullying Benchbook 11,806 times.

The Commission also provides online quizzes for people enquiring about an issue and seeking information on whether they are eligible to make an application to the Commission. The unfair dismissal eligibility quiz was viewed 131,099 times during the 12 months, the anti-bullying eligibility quiz was viewed 50,225 times and the general protections eligibility quiz 27,968 times.

On 8 July 2016, the Commission launched its new website to make it easier for clients to access the information they need. It includes search, navigation, content and layout enhancements. The launch of the new website followed an extensive usability review of the Commission's former website in early 2015. The changes reflected the feedback provided by the Commission's stakeholders during the usability review and offered improved functionality, particularly in relation to the search function

33 *Our aim was to make the site easier to use, particularly for unrepresented parties and first time users who may have more limited knowledge of the Commission.*

Justice Ross

Some of the new website features include:

- dedicated quick links for different users groups, such as small and large businesses, registered organisations, practitioners, researchers and the media
- easier access to decisions, orders, awards, hearing lists and commonly used forms from the homepage
- a more intuitive interface to help users locate information more quickly

The Commission is committed to continually improving its website and welcomes feedback via the dedicated feedback section.

In 2016–17 the Commission expects to see further growth in website traffic.

Table 8: Website visits

	2015–16	2014–15	2013–14	2012–13
Tablet	262,050	228,590	192,234	159,674
Mobile	920,801	542,734	328,958	282,284
Desktop	3,535,521	2,995,074	2,738,747	3,182,782
Total	4,718,372	3,766,398	3,259,939	3,624,414

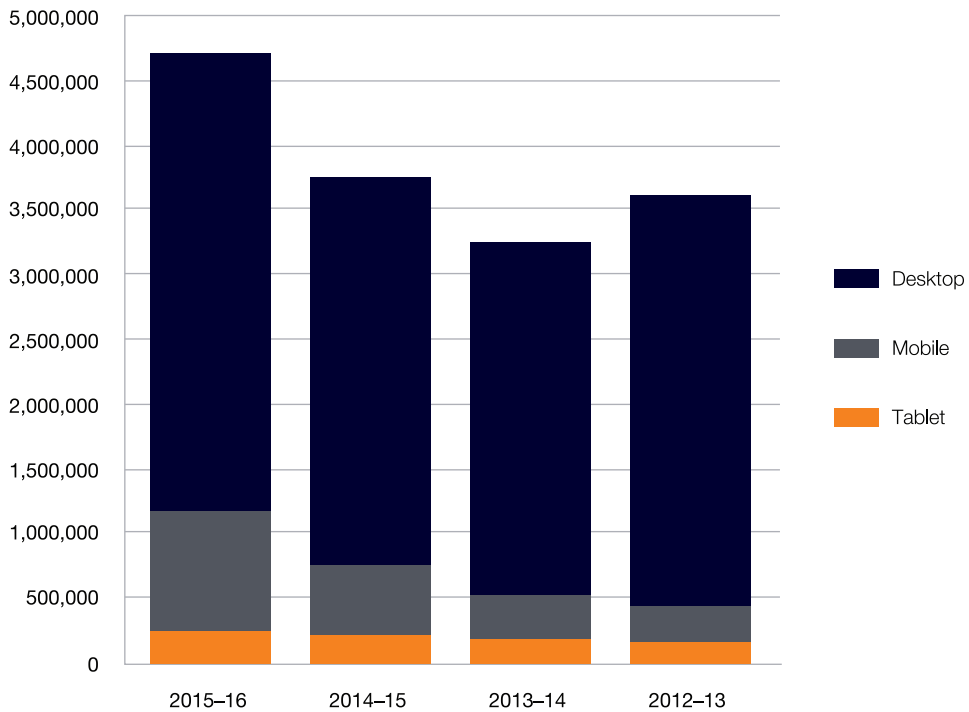
Figure 5: Website visits

Figure 5 represents data from Table 8

Telephone enquiries

The Commission provides a telephone enquiry line and Registry staff are available to answer queries about the Commission's functions, activities, processes and procedures. Calls can be made via a national telephone enquiry number with different options available to help callers find information or access services quickly. Calls are also made directly to Commission offices and to various staff support teams such as the unfair dismissal conciliation support team or directly to the chambers of a Member dealing with a matter.

Calls to the Commission's national telephone enquiry number and Registry offices around the country remained stable during 2015-16 at 203,796 slightly down from 207,749 in 2014-15.

Reflecting the Commission's service charter objective of providing seamless service delivery, 46.5 per cent of all calls made to the Commission in 2015-16 were referred to a more appropriate agency. Of these calls, the Commission referred 76.6 per cent to the Fair Work Ombudsman, 19.7 per cent to various work health and safety regulators and 3.7 per cent to the Australian Tax Office.

The average wait time for a call to the Commission to be answered was three minutes and 30 seconds, consistent with the timeframes in 2014–15.

Commission staff reviewed the Commission's telephone services in 2015–16 and developed a training and services improvement plan focusing on communication excellence. This included developing and building online learning materials.

Major application types

Unfair dismissals

Under the Fair Work Act a person has been unfairly dismissed if the Commission is satisfied that an employee (who is protected from unfair dismissal) has been dismissed and the dismissal:

- was harsh, unjust or unreasonable
- was not consistent with the Small Business Fair Dismissal Code (in the case of employees of a small business)
- was not a case of genuine redundancy

Unfair dismissal matters are a substantial part of the Commission's workload, representing more than 40 per cent of applications made to it in 2015–16.

For the past five years, unfair dismissal application numbers have been steady at about 14,700 annually.

For many applicants and employers, their unfair dismissal matter is their first interaction with the Commission. If they want to be legally represented, the Commission's permission must be sought and granted.

To help resolve matters as quickly as possible and without the need for formal proceedings, unfair dismissal applications are generally referred to conciliation by a specialist staff member as a first step.

Conciliation is a highly effective process, with close to four out of five referred applications resolved at this stage.

In 2015–16, the median time from lodgment to a conciliation conference being held was 34 days.

In total, nearly 90 per cent of unfair dismissal applications were finalised in 2015–16 without requiring a decision or order of the Commission, which is consistent with previous years.

As a result, while unfair dismissals comprised 40 per cent of applications to the Commission, they represented just 12 per cent of matters concluded by a decision or order during the year.

For self-represented parties whose applications proceed to a conference or hearing before a Commission Member, the Commission has developed tools to assist in navigating unfair dismissal laws, including short videos, an eligibility quiz and a comprehensive benchbook.

Unfair dismissal process

Unfair dismissal applications follow a standard process:

1. an applicant lodges an application with the Commission, to which the employer must respond
2. staff manage the application up to the point of conciliation, answering queries and providing information to prepare for conferences
3. the matter is listed for a voluntary telephone conciliation conducted by specialist conciliators
4. if a matter is not resolved with the conciliator's assistance, it is listed before a Commission Member

Performance

In 2015–16 the Commission:

- processed 14,694 unfair dismissal applications
- conducted 10,850 unfair dismissal conciliations
- received 131,099 visits to the online eligibility quiz
- received 34,738 website visits to the Unfair Dismissal Benchbook

Figure 6: Unfair dismissal applications lodged — monthly comparison

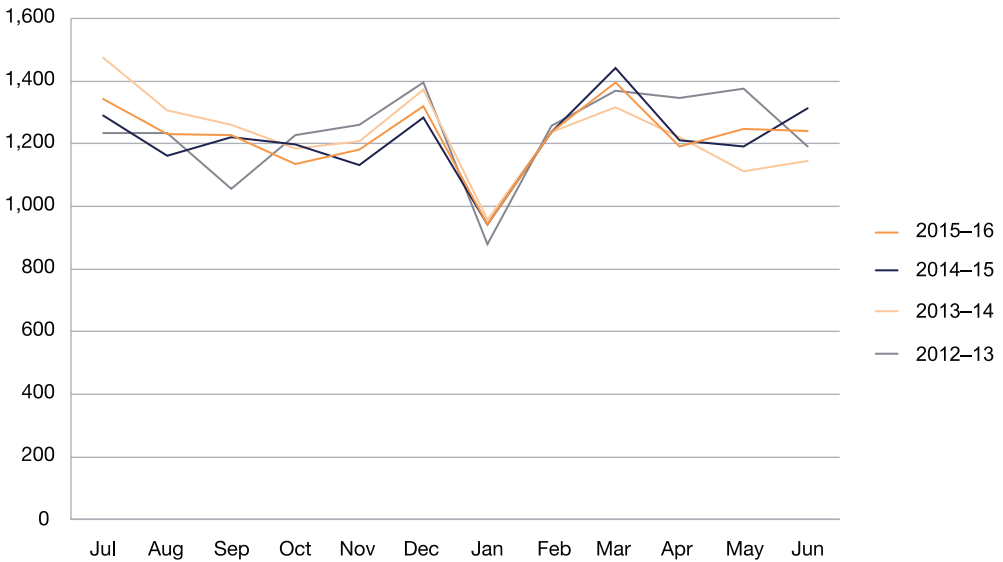


Figure 6 represents data from Appendix D, Table 61.

Matters finalised prior to conciliation

A total of 2,130 unfair dismissal applications were resolved or discontinued while still in the early stage of the case management process, prior to conciliation. This represents 14 per cent of all unfair dismissal applications finalised in the year.

Figure 7: How matters were finalised

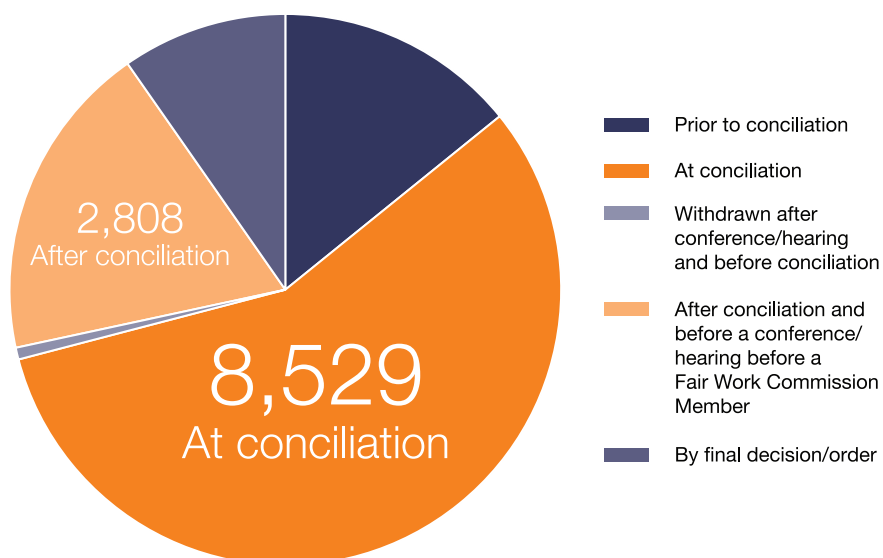


Figure 7 shows how unfair dismissal matters were finalised in 2015–16. It represents data that can be found in Appendix D, *Table 57*.

Table 9: Unfair dismissal — conciliation settlement rate

Result type	Year to date total				Per cent			
	2015–16	2014–15	2013–14	2012–13	2015–16	2014–15	2013–14	2012–13
Total settled matters	8,529	8,788	8,659	8,843	79	79	79	81
Total NOT settled matters	2,321	2,337	2,313	2,043	21	21	21	19
Total resulted conciliations	10,850	11,125	10,972	10,886	100	100	100	100

Conciliation

During 2015–16, 10,850 applications were conciliated by a specialist staff member and 8,529 (79 per cent) were resolved at this stage.

The conciliation settlement rate of close to four out of five was consistent with previous years, with 79 per cent of referred matters settled in both 2014–15 and 2013–14, and 81 per cent in 2012–13. Ninety eight per cent of 2015–16 conciliations were by telephone.

Conciliation outcomes are generally negotiated by the parties with the help of the conciliator, and can include reinstatement, payment of money, other terms, or a combination of these.

In 2015–16, 6,834 (63 per cent) of conciliation settlements resulted in both payment of money and non-monetary terms, 1,624 (15 per cent) were settled with non-monetary terms and 71 (0.7 per cent) resulted in reinstatement.

The Commission publishes data on conciliation outcomes so parties preparing for conferences have as much information as possible on how previous matters have been finalised.

A further 2,808 matters were withdrawn after conciliation but ahead of a conference or hearing before a Commission Member.

Table 10: Unfair dismissal, conciliation — Outcomes

Result type	Year to date total			
	2015-16	2014-15	2013-14	2012-13
Settled: Monetary	1,712	1,750	1,846	1,669
Settled: Monetary + non-monetary	5,122	5,147	4,740	4,609
Settled: Non-monetary	1,624	1,820	2,008	2,136
Settled: Reinstatement	35	47	30	79
Settled: Reinstatement + monetary	17	15	15	26
Settled: Reinstatement + non-monetary	11	4	14	19
Settled: Reinstatement, monetary + non-monetary	8	5	6	8
Total Settled matters	8,529	8,788	8,659	8,843
Not Settled at Conciliation	2,286	2,301	2,252	1,963
Not Settled: Settlement collapsed	35	36	61	80
Total NOT Settled matters	2,321	2,337	2,313	2,043
Total resulted conciliations	10,850	11,125	10,972	10,886

In 2015–16 where a monetary payment formed part of a settlement at conciliation, in 30 per cent of cases the amount was less than \$4,000 and in 60 per cent of cases it was less than \$8,000. This is consistent with previous years.

Table 11: Range of outcomes where a settlement involved monetary payment 2015–16

Range	Number	Percent of settlements involving monetary payment
\$0 to \$999	539	8
\$1,000 to \$1,999	922	13
\$2,000 to \$3,999	608	9
\$4,000 to \$5,999	236	3
\$6,000 to \$7,999	1,866	27
\$8,000 to \$9,999	153	2
\$10,000 to \$14,999	57	1
\$15,000 to \$19,999	1,288	19
\$20,000 to \$29,999	19	0
\$30,000 to \$39,999	717	10
\$40,000 – maximum amount	454	7

Matters dealt with by Commission Members

Jurisdictional objections to unfair dismissal applications and those matters not resolved in conciliation are dealt with by Commission Members.

Jurisdictional issues

Commission Members can hear a jurisdictional objection before conciliation while also determining the merits of the application. During the year the Commission determined 1,034 jurisdictional challenges to unfair dismissal applications, upholding 769 (74 per cent). The objection number has been higher in the past two years due to a 2014–15 administrative change in which all matters filed outside the statutory 21 day limit are referred directly to a Commission Member to determine whether to grant an extension of time. See [Table 12](#) for a full breakdown of jurisdictional hearing results.

Table 12: Unfair dismissal — hearing/conference results — jurisdiction

	2015–16	2014–15	2013–14	2012–13
Objection upheld	769	890	374	258
Applicant not dismissed	52	46	45	36
Employer not national system employer	8	13	5	2
Frivolous, vexatious	0	0	0	2
Genuine redundancy	49	83	34	22
Irregular and/or casual employee	0	3	1	0
Minimum period of employment not served	99	109	50	44
Multiple applications	0	2	0	1
No award, agreement or high income employee	18	34	27	13
No employment relationship	13	19	25	10
No extension of time—Up to and including 7 days late	153	180	51	17
No extension of time—More than 7 days late	342	368	127	82
No reasonable prospect of success	6	5	9	23
Termination consistent with Small Business Fair Dismissal Code	16	12	8	8
Unknown	24	33	6	11
Objection dismissed	265	266	159	120
Applicant dismissed	13	25	19	15
Application within time	30	20	N/A	N/A
Award, agreement and/or not high income employee	13	10	3	5
Employment relationship	5	8	28	15
Extension of time—up to and including 7 days	106	82	34	30

	2015-16	2014-15	2013-14	2012-13
Extension of time—more than 7 days	50	72	29	20
Minimum period of employment served	33	28	17	8
National system employer	0	3	0	1
No genuine redundancy	8	15	18	13
No multiple applications	0	0	3	0
Not frivolous, vexatious	2	0	0	5
Not irregular casual employee	3	2	5	5
Reasonable prospect of success	1	5	3	1
Termination inconsistent with Small Business Fair Dismissal Code	5	5	4	3
Unknown	6	7	12	4
Total objection results Australia-wide¹	1,034	1,156	533	378

1 An application may be found in or out of jurisdiction on numerous grounds. Accordingly, the reasons for jurisdictional results are not cumulative.

Other reasons for dismissing applications

In addition to upholding jurisdictional objections, Commission Members dismissed 125 unfair dismissal applications under s.587 of the Fair

Work Act and the Termination of Employment Panel Head dismissed 112 applications during the case management process. A further 125 applications were dismissed under s.399A of the Fair Work Act.

Table 13: Other reasons for dismissing unfair dismissal applications

	2015–16	2014–15	2013–14
Application dismissed (s.587)	125	77	96
Application dismissed: (s.587) dismissed by Panel Head	112	107	265
Failure to attend	1	0	4
Incomplete application	21	12	12
Minimum employment period not met	40	52	166
No notice of discontinuance filed after settlement	8	0	6
No reasonable prospect of success	12	7	14
Non-compliance with directions	3	4	5
Premature application	0	0	6
Unpaid application	42	38	54
Valid reason for non-attendance	0	0	N/A
Verbal or written advice of discontinuance	0	0	14
Application to dismiss (s.399A): granted	125	104	98
Total	362	288	459

Merits of applications

The Commission made decisions on the merits of 326 unfair dismissal applications in 2015–16, or two per cent of all applications finalised in the year. Of these, it found in 130 cases (40 per cent) that the dismissal was fair and in 196 (60 per cent) that the dismissal was unfair.

The remedies it awarded for dismissals found to be unfair were:

- compensation (135 matters)
- reinstatement (12 matters)
- reinstatement and lost remuneration (18 matters)
- remedy to be determined (24 matters)
- no remedy granted (7 matters)

Table 14: Unfair dismissal arbitration — hearing/conference results — outcomes

	2015–16	2014–15	2013–14	2012–13
Application dismissed: dismissal was fair	130	161	175	256
Application granted: Compensation	135	141	150	112
\$0–\$999	5	3	7	8
\$1,000–\$1,999	10	15	9	12
\$2,000–\$3,999	18	17	20	15
\$4,000–\$5,999	16	21	18	13
\$6,000–\$7,999	14	15	12	8
\$8,000–\$9,999	11	10	17	8
\$10,000–\$14,999	21	20	18	14
\$15,000–\$19,999	13	14	8	7
\$20,000–\$29,999	15	15	13	8
\$30,000–\$39,999	6	5	8	8
\$40,000–maximum amount	4	2	10	3
No loss of wages	0	1	4	2
Unknown ¹	2	3	6	6
Application granted: no remedy granted	7	10	8	14
Application granted: reinstatement	12	12	9	8

	2015–16	2014–15	2013–14	2012–13
Application granted: reinstatement and lost remuneration	18	15	25	12
\$0–\$999	0	0	0	1
\$1,000–\$1,999	0	1	1	0
\$2,000–\$3,999	2	1	2	1
\$4,000–\$5,999	1	1	1	0
\$6,000–\$7,999	2	1	2	0
\$8,000–\$9,999	1	0	1	1
\$10,000–\$14,999	0	2	1	1
\$15,000–\$19,999	2	1	3	0
\$20,000–\$29,999	1	2	1	0
\$30,000–\$39,999	2	1	1	1
\$40,000–maximum amount	1	0	4	0
No loss of wages	1	2	4	5
Unknown ²	2	3	4	2
Application granted: remedy to be determined	24	10	N/A	N/A
Total arbitration results Australia-wide	326	349	367	402

1 An application may be found in or out of jurisdiction on numerous grounds. Accordingly, jurisdictional results are not cumulative.

2 Unknown as activity incomplete.

Timeliness KPI

The Commission's KPI for unfair dismissals is to maintain or improve the time from lodging an application to conducting a conciliation conference, with a target time of 34 days. In 2015–16, the median time from lodgment to a conciliation conference increased from 28 days in 2014–15 to 34 days (see Table 15).

Table 15: Unfair dismissal — timeliness

s.394 applications	Percentage of matters								
	KPI	50%				90%			
		2015–16	2014–15	2013–14	2012–13	2015–16	2014–15	2013–14	2012–13
Lodgment to first conciliation (days)	34	34	28	46	25	53	42	61	40
Lodgment to finalisation (days) ¹	None	42	35	51	30	123	133	146	114

¹ Finalisation relates to a matter that has had a final result recorded and includes conciliations, arbitrations and matters withdrawn, and is based on all matters finalised.

The year ahead

The Commission surveys conciliation participants to determine their level of satisfaction with the process and will continue to do so. In the year ahead the focus will be on: maintaining or improving overall satisfaction rates; measuring and improving satisfaction with information materials and resources available and how well these prepared participants for a conference; and measuring satisfaction with conciliator impartiality. In 2015–16, more than 75 per cent of those who responded indicated the process met or exceeded their expectations and more than 82 per cent that they were satisfied with the service they received.

In 2016–17 the Commission will also evaluate the Workplace Advice Clinic, a pilot program providing free legal assistance to unrepresented applicants in unfair dismissal and general protections matters in Melbourne, with a view to extending it to other regions.

Work is also underway to establish additional timeliness benchmarks to both provide greater accountability and better equip parties with realistic expectations of how long their matters are likely to take. As there are already established conciliation timelines, the focus is on benchmarks for the time taken from lodgment to finalisation by way of a substantive or jurisdictional hearing.

General protections and unlawful termination disputes

The general protections provisions of the Fair Work Act, set out in Part 3–1, aim to protect workplace rights and freedom of association, and to provide protection from workplace discrimination.

The Commission's role under the Fair Work Act is to assist parties, in private conference, to resolve a dispute arising from general protections claims. In limited cases it can make a determination if both parties agree to it doing so.

General protections claims are sometimes referred to as adverse action claims.

Adverse actions can include:

- dismissing a person
- not giving a person his or her legal entitlements
- changing a person's job to his or her disadvantage
- treating a person differently than others
- not hiring a person
- offering a person different (and unfair) terms and conditions, compared to other employees

General protections disputes involving dismissal

A person who believes he or she has been dismissed in contravention of the general protections provisions may apply to the Commission to deal with the dispute under s.365 of the Fair Work Act. The application must be made within 21 days of the dismissal taking effect. The Commission must then deal with the dispute, by mediation or conciliation, or by making a recommendation or expressing a view, in private conference. Under the Act, if resolution is unsuccessful, the Commission must issue a certificate to this effect, which allows the applicant to apply within 14 days

to the Federal Court of Australia or the Federal Circuit Court of Australia to have the matter determined. Alternatively, the parties can, within the same timeframe, consent to the Commission arbitrating the dispute. The Commission must advise the parties if it considers such a court or arbitration application would have no reasonable prospects of success.

Delivery

In 2015–16, the Commission extended the staff conciliation model that it had successfully piloted in 2014–15 to all general protections applications involving dismissal. The model is based on the Commission's approach to unfair dismissal matters, and involves applications being managed by a central case management team and referred to specialist staff for private telephone conferences.

The staff conciliation model assists the Commission to deal with the volume of applications while at the same time freeing up Commission Members to deal with more complex matters.

Last year's pilot involved applications from Western Australia, Queensland and the Australian Capital Territory. From July to September 2015, the Commission progressively rolled the model out to applications lodged in all states.

The Commission also established a dedicated case management team during the year.

In 2015–16, 71 per cent of all matters referred to specialist staff were resolved during conciliation. This closely matches the 73 per cent resolution rate in last year's pilot. This rate was higher than the 60 per cent resolution rate for conferences convened by Commission Members during the pilot period.

The Commission established a participant satisfaction survey during the pilot and continued these surveys during 2015–16. Satisfaction levels with the process, information materials and conduct of the conciliation conference remained high during the year, on par with or better than the pilot results. A total of 72 per cent of participants were either satisfied or very satisfied with the entire general protections conciliation process, including conferences conducted by Members and staff conciliators. This compared with 63 per cent of participants surveyed during the pilot.

The extension of the pilot also enabled more information to be gathered about the outcomes agreed to by parties as a result of conciliation and the Commission is now able to publish this information (see [Table 16](#)).

The Commission's focus in 2016–2017 is on continuing to improve both its service model and data collection on the parties' conciliation experiences and outcomes.

Performance

In 2015–16 the Commission:

- received 3,270 applications to deal with general protections disputes involving dismissal
- resolved 71 per cent of general protections applications referred to specialist staff for conciliation
- hosted 27,968 participants in its online eligibility quiz for general protections applications
- received 35,192 website visits to the General Protections Benchbook

Applications made

In 2015–16, the Commission received 3,270 applications to deal with general protections disputes involving dismissal. This was slightly fewer than the 3,382 received in the previous year. Until this reporting period, annual application numbers had been trending upwards since the provisions took effect. The month-by-month statistics on lodgments for 2015–16 show they peaked in December then dipped in January, reflecting an expected drop in activity over the Christmas/New Year period (see [Figure 8](#)).

Table 16: General protections disputes involving dismissal — lodgments

Matter type	No. of applications lodged			Total finalised			Manner finalised	Number of matters		
	2015-16	2014-15	2013-14	2015-16	2014-15	2013-14		2015-16	2014-15	2013-14
s.365 — General protections	3,270	3,382	2,879	3,060	3,475	2,778	Certificate issued	755	1,073	967
							Without certificate issued	2,305	2,402	1,811

Figure 8: General protections disputes involving dismissal — lodgments — monthly comparison

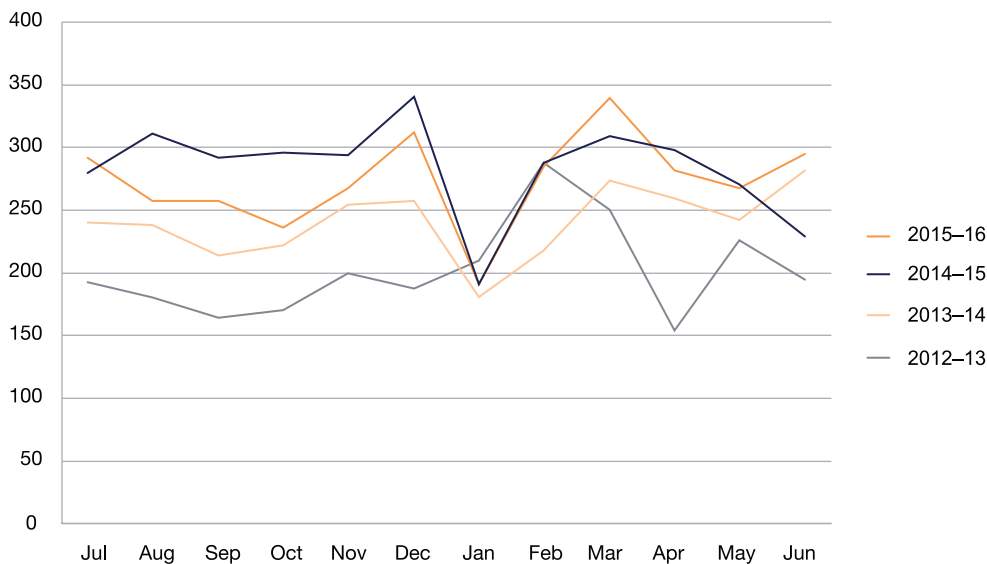


Figure 8 provides a month-by-month comparison of the number of applications lodged relating to general protections disputes involving dismissal from 2012-13 to 2015-16. It represents data that can be found in Appendix D, Table 62.

Timeliness

The median time from an application being lodged to the first conference being conducted increased slightly in 2015–16 compared to the previous year, from 45 to 50 days.

This was largely the result of issues relating to implementing the new staff conciliation model, which have been addressed.

In 2015–16, 90 per cent of matters were finalised in 103 days compared with 97 days in 2014–15.

Table 17: General protections disputes involving dismissal — timeliness

Type of application	Percentage of matters							
	50%				90%			
	2015–16	2014–15	2013–14	2012–13	2015–16	2014–15	2013–14	2012–13
General protections disputes involving dismissal s.365 – lodgment to first conciliation (days)	45	31	29	29	68	62	59	56
General protections disputes involving dismissal s.365 – lodgment to finalisation (days)	50	37	41	41	103	97	106	111

Outcomes

In 2015–16, the Commission is for the first time publishing data on the outcomes of general protections applications involving dismissal. The information is similar to that which it provides on unfair dismissal applications. The Commission does this to

provide parties preparing for conferences with as much information as possible on how previous applications have been finalised. Whilst parties are not legally required to provide this information, in 2015–16 the Commission was able to collect enough data to publish this indicative information.

Table 18: Outcomes of applications 2015–16

Stage of proceeding	Number	Percent of total
Withdrawn prior to a conference	433	15%
Withdrawn prior to or after a conference or hearing to deal with extension of time	30	<1%
Extension of time (to apply) refused	99	3%
Application dismissed	29	<1%
Dispute resolved at conciliation	1,631	53%
Withdrawn after conciliation	83	3%
Dispute not resolved: certificate issued	755	25%
Total	3,060	100% (rounded)

The 2015–16 data shows that 53 per cent of general protections applications involving dismissal were resolved in conciliation. A certificate issued that the dispute remained unresolved for 25 per cent of matters.

For matters settled in conciliation, 63 per cent included a monetary payment. Of these, 60 per cent were for amounts of less than \$6,000 and 82 per cent were settled for less than

\$15,000. Unlike the unfair dismissal jurisdiction, the amount of compensation a court or the Commission can order is uncapped for general protections applications.

Table 19: Outcomes of disputes settled 2015–16

Result type	Number	Percent of total disputes resolved
Dispute resolved: monetary	576	35%
Dispute resolved: monetary and non-monetary	614	28%
Dispute resolved: non-monetary	344	21%
Dispute resolved: details unknown	97	6%

Table 20: Range of outcomes where a settlement involved monetary payment 2015–16

Range	Number	Percent of settlements involving monetary payment
\$0–\$999	117	10
\$1,000–\$1,999	178	15
\$2,000–\$3,999	224	19
\$4,000–\$5,999	180	16
\$6,000–\$7,999	91	8
\$8,000–\$9,999	52	4
\$10,000–\$14,999	108	9
\$15,000–\$19,999	54	5
\$20,000–\$29,999	45	4
\$30,000–\$39,999	26	2
\$40,000–\$49,999	16	1
\$50,000–\$59,999	7	1
\$60,000–\$69,999	7	1
\$70,000–\$79,999	6	1
\$80,000–\$89,999	4	0
\$90,000–\$99,999	6	1
\$90,000–\$99,999	6	1
\$100,000+	13	1
Unknown	56	5

Arbitration

Very few parties have opted to use the consent arbitration pathway since its introduction in 1 January 2014, and this low take up rate continued in 2015–16. Of the 755 disputes in which a certificate was issued during the year, only 18 (2.4 per cent) were submitted for consent arbitration by the Commission.

Table 21: Applications for consent arbitration of general protections disputes involving dismissal

Type of application	No. of applications		
	2015–16	2014–15	2013–14
s.365 – Application to deal with contraventions involving dismissal (consent arbitration)	18	16	8

General protections disputes not involving dismissal

An employee who believes he or she has been subjected to adverse action for a prohibited reason but who remains employed may also make a general protections application to the Commission, under s.372 of the Fair Work Act.

As with general protections disputes involving dismissal, if attempts to resolve disputes not involving dismissal are unsuccessful at the Commission, the applicant may apply to

either the Federal Court of Australia or the Federal Circuit Court of Australia to have them determined. Again, the Commission is obliged to advise the parties if it believes such an application would have no reasonable prospect of success.

In 2015–16, the Commission received 859 applications under s.372 of the Fair Work Act, down slightly from 879 in the previous year. This compares with 504 five years ago, in 2010–11. The number of general protections applications not involving dismissal, as with those involving dismissal, had until this year trended upwards since the provisions took effect.

General protections disputes not involving dismissals are not part of the staff conciliation model, and continue to be dealt with by Commission Members.

Table 22: General protections disputes not involving dismissal — lodgments

Type of application	No. of applications			
	2015–16	2014–15	2013–14	2012–13
General protections – other contraventions s.372	859	879	779	555

Timeliness

In 2015–16, the Commission conducted the first conference for 90 per cent of applications within 54 days of lodgment. This was similar to last year's timeliness result (see [Table 23](#)).

Table 23: General protections disputes not involving dismissal — timeliness

Type of application	Percentage of matters							
	50%				90%			
	2015–16	2014–15	2013–14	2012–13	2015–16	2014–15	2013–14	2012–13
General protections— other contraventions s.372— lodgment to first conference (days)	27	29	26	25	54	55	50	49

Unlawful termination disputes

Employees who fall outside the coverage of the Fair Work Act's general protection provisions (Part 3–1) are able to bring unlawful termination claims under Part 6–4 of the legislation.

The broad application of the general protections scheme means that not many applicants rely on the unlawful termination provisions, which apply mainly to non-national system employees. This is reflected in the

considerably lower number of unlawful termination lodgments than general protections disputes of either kind in 2015–16, as in previous years (see [Table 24](#)).

This year, the Commission received 81 unlawful termination applications. As with general protections applications both involving and not involving dismissal, this was down on the previous year's total, which was 114.

The Commission finalised 72 matters without a certificate being issued, and 10 with a certificate issued.

Table 24: Unlawful termination disputes — lodgments

Matter type	No. of applications lodged			Total finalised			Manner finalised	Number of matters		
	2015–16	2014–15	2013–14	2015–16	2014–15	2013–14		2015–16	2014–15	2013–14
s.773— Unlawful termination	81	114	130	82	120	128	Certificate issued	10	15	9
							Without certificate issued	72	105	119

Timeliness

In 2015–16, 90 per cent of matters were finalised in 87 days compared with 131 days in 2014–15.

Table 25: Unlawful termination disputes — timeliness

Type of application	Percentage of matters							
	50%				90%			
	2015–16	2014–15	2013–14	2012–13	2015–16	2014–15	2013–14	2012–13
Unlawful terminations s.773 – lodgment to first conference (days)	30	39	37	27	63	67	57	71
Unlawful terminations s.773 – lodgment to finalisation (days)	20	35	25	32	87	131	75	102

Anti-bullying

The Commission's anti-bullying jurisdiction, which commenced on 1 January 2014, enables a worker who believes he or she has been bullied at work to apply for an order to stop the bullying.

Under the Fair Work Act, a worker is bullied if:

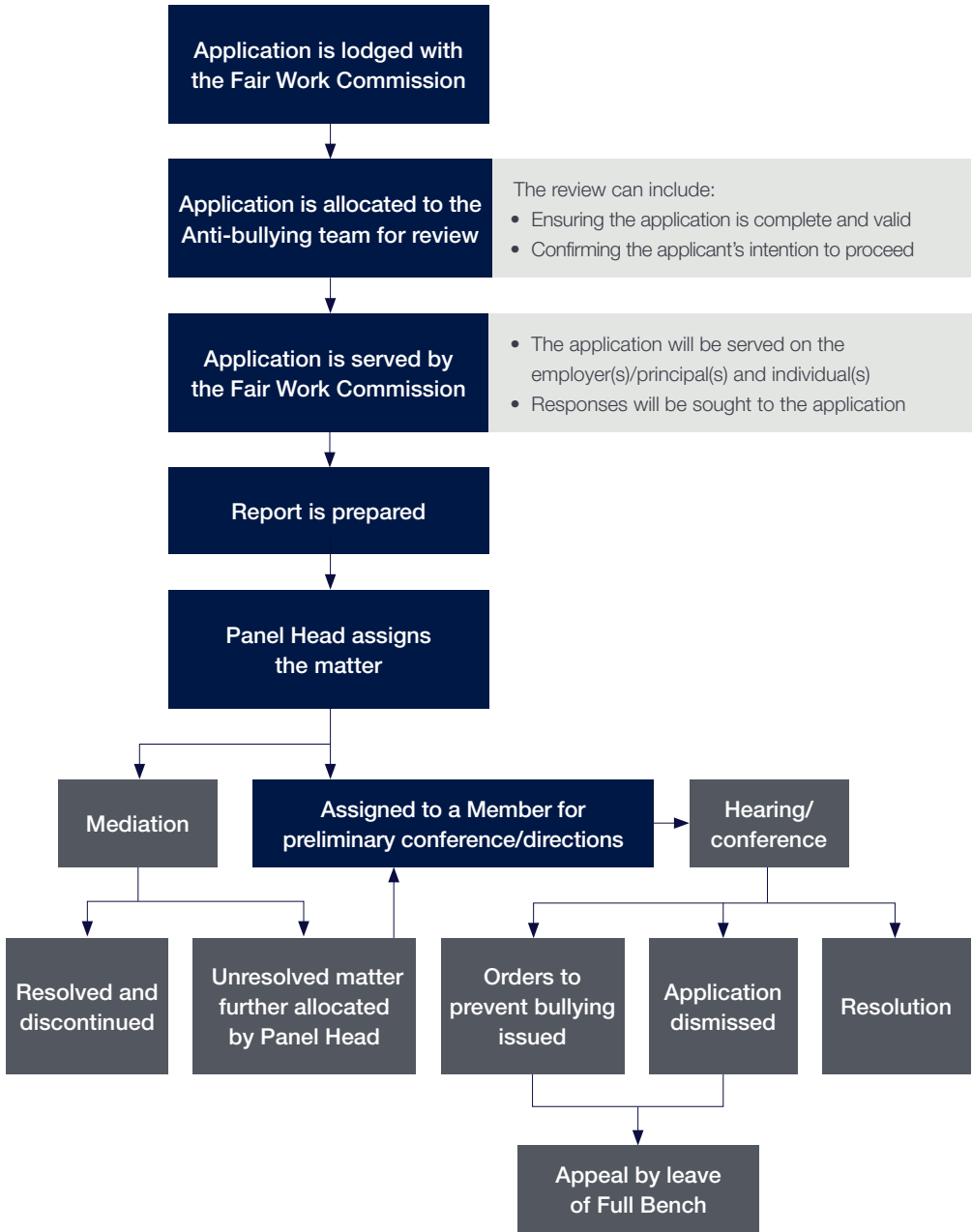
- ③ *An individual or a group of individuals repeatedly behaves unreasonably towards the worker, or a group of workers of which the worker is a member, and that behaviour creates a risk to health and safety.*

To be able to apply for an order, a worker must work in a constitutionally-covered business.

The Commission is empowered to make any order it considers appropriate to prevent a worker from being bullied, other than an order requiring payment of money or financial penalty.

The Commission deals with anti-bullying applications differently from other types of applications, recognising the sensitivity and personal nature of the matters at hand, the ongoing working relationships and the potential for one or more of the parties to a matter to be experiencing mental health issues.

Figure 9: Anti-bullying — flowchart of the process



This flowchart outlines the process followed by the Commission in dealing with anti-bullying matters.

Significant decisions

Theme: Risk that the worker will continue to be bullied at work

For the Commission to issue a stop-bullying order, it must be satisfied the unreasonable behaviour will continue. These decisions looked at the concept of ongoing risks from a number of different perspectives.

When an employer had taken steps to address workplace bullying but had not eradicated the workplace culture that enabled it

Sharon Bowker, Annette Coombe and Stephen Zwartz v DP World Melbourne Limited T/A DP World; Maritime Union of Australia, The, Victorian Branch and Others [2015] FWC 7312 – Deputy President Gostencnik – 16 November 2015

This case examined the risk of future bullying faced by employees where the Commission had found the culture of their workplace had enabled bullying conduct.

Deputy President Gostencnik found three DP World stevedores had been bullied at work over a two year period. The three stevedores had given evidence of 212 complaints and concerns they had raised with their employer and alleged 37 largely uncontested incidents of bullying by co-workers and Maritime Union of Australia (MUA) members and representatives.

The Deputy President found the bullying had been carried out by 'those persons who subscribe to, or support, the existence of a system of authority and control at the West Swanson Terminal which stands apart from DP World, the employer which stevedores are paid to serve, and a breach of norms of behaviour established and enforced through such a system.'

The three applicants, who at the time of the hearing had been absent from the workplace

for significant periods, all maintained there was a risk they would be bullied if they returned to work. They submitted that the terminal's 'code of silence' and workplace culture, inadequate and incomplete workplace investigations, and inadequate return to work plans and risk assessments had not been dealt with and continued to manifest at the workplace.

The Deputy President accepted DP World had taken steps to address workplace bullying and 'other unacceptable workplace behaviour', and this had contributed to a 'diminution of the risk of the occurrence of bullying at work, both generally and specifically in relation to the applicants. He also agreed it had not been established that any of the three faced an imminent risk to their health and safety upon a return to work.

However, he said the question for the Commission was whether it was satisfied that when they returned there was a risk – which had to be 'real, but 'need not be imminent' – that any of them would be bullied by the individual or group of individuals found to have engaged in bullying behaviour.

In finding that risk existed for all three applicants, the Deputy President said he did not accept that 'the steps taken by DP World have had the effect of eradicating the system of authority and control at WS Terminal which stands apart from DP World, as earlier described. Moreover, whilst some individuals who subscribe to the system and who engaged in bullying conduct were identified and dealt with by DP World, other individuals within the group were unknown and remain so.'

He found the risk of future bullying was 'a real risk that is founded on the evidence of the Applicants' past experiences and recognition that the culture endemic in the system, though changing, will take more time and effort to shift, change and ultimately eradicate'.

Deputy President Gostencnik issued orders against DP World but conditionally accepted undertakings in lieu of orders against the MUA.

Where a worker's employment has been terminated

Garth Atkinson v Killarney Properties Pty Ltd T/A Perm-A-Pleat Schoolwear and Adrian Palm; Garth Atkinson v Killarney Properties Pty Ltd T/A Perm-A-Pleat Schoolwear and Michael Palm [2015] FWCFB 6503 – Full Bench – 14 October 2015

This case looked at whether the Commission can deal with an application for an order to stop bullying where the worker's employment has been terminated. While the decision in this case to dismiss the application on the basis that the worker was no longer 'at risk' was upheld, a Full Bench considered this would not always necessarily be appropriate and that there may be other relevant considerations, including the prospect of reinstatement through other proceedings.

At the time the worker's employment was terminated, the Commission had conducted conferences and hearings on his anti-bullying applications but had not issued a decision or orders. In dismissing the applications, Commissioner Williams said he was not satisfied there was a risk the worker would be bullied 'at work' given his employment had been terminated.

In his application to appeal, the worker submitted among other things that the Commission erred in deciding it could not exercise its discretion under s789FF of the Fair Work Act to make an order, particularly given his employment had been terminated after he applied for orders.

The Full Bench refused leave to appeal, finding no error in the decision that the applications had no reasonable prospects of success. The Full Bench also concluded that the

Commissioner's exercise of his discretion to dismiss the applications was reasonably open to him, 'notwithstanding [the applicant's] submissions, which the Commissioner recognised, about other forms of relief in respect of his s.789FC applications, including a recommendation and so on, instead of an order to stop bullying.'

The Full Bench held the fact the worker had lodged a general protections application before a court that had the power to make a reinstatement order did not preclude the Commissioner finding that the risk of bullying 'at work' was not satisfied.

The Full Bench concluded that it was 'not suggesting that it will always be appropriate for the FWC to dismiss a s.789FC application where an employee is dismissed from their employment. Depending on the circumstances in each case there may be a number of relevant considerations, including the prospect of reinstatement through other proceedings, which could warrant the FWC dealing with a s.789FC application notwithstanding the dismissal of the employee.'

Whether to issue an order – satisfied that there was unreasonable behaviour but steps taken to mitigate the risk of the behaviour continuing L.P. [2015] FWC 6602 and L.P. [2016] FWC 763 – Commissioner Hampton – 4 November 2015, 12 February 2016

This case looked at whether the Commission should issue an order in a situation where it found 'on fine balance' that bullying conduct had occurred.

In Commissioner Hampton's first decision on the matter, he found there had been 'potentially relevant unreasonable conduct', including conduct engaged in by other workers at the workplace and a lack of management practices to set and enforce appropriate standards of behaviour. However, the Commissioner was not

initially persuaded that he could or should make orders as, among other things, the persons who engaged in the unreasonable behaviour were no longer in the workplace and the employer had put into place steps that 'might well otherwise have formed part of an order and which will have the effect of reducing whatever risk was otherwise present'.

The Commissioner therefore considered it appropriate to hear further from the parties on this point, and the applicant subsequently confirmed that she did seek orders from the Commission.

On hearing further from the parties and addressing in turn each of the considerations for issuing an order, the Commissioner did not consider that the 'making of orders... would be conducive to the constructive resumption of working relationships'. In making this decision, the Commissioner noted the extent of the positive measures the employer had put in place and the changes that had occurred at the workplace as a result of dealing with the matter.

Test for risk of bullying continuing where persons named have changed roles

Keiko Adachi [2016] FWC 1498 – Commissioner Gregory – 16 March 2016

This case found that the test for determining whether there was a risk that a worker would continue to be bullied at work was a 'more substantial one' than the 'objectively and discernibly identifiable' risk of not coming into immediate contact with the person who was alleged to have engaged in the unreasonable behaviour.

Qantas submitted there was no risk the flight attendant who had made the application would be bullied at work if she returned because she would not be 'at work' with any of three individuals she named in her anti-bullying application. This was because the circumstances that caused her to be in contact

with each of them had changed. Qantas submitted the test the Commission should apply to the risk of bullying continuing was that it was 'objectively and discernibly identifiable'.

Commissioner Gregory, however, said the test was a 'more substantial one'. He said he was satisfied that one of the three individuals the flight attendant named – the airline's head of cabin crew and international lounges, who had overall responsibility for about 2,500 flight attendants – was 'in a position where he could through various means potentially be involved in bullying [the worker] "at work." This could occur primarily because of his management responsibilities in regard to her position.'

Commissioner Gregory emphasised that no findings about bullying at work by any of the three named individuals had been made at that point.

Theme: Expanding on the definition of when a worker is bullied at work

The following cases looked at different elements of the definition under the Act of when a worker is bullied at work.

Reasonable management action

Mohamed Aly [2015] FWC 4419 – Commissioner Bissett – 10 August 2015

Mr Mohamed Aly v Commonwealth Securities Limited and others [2015] FWC 6895 – 30 October 2015

This case looked at what behaviour may be considered 'reasonable management action carried out in a reasonable manner', which is not included in the definition of bullying at work under s.789FD of the Fair Work Act.

The applicant, a Commonwealth Securities Limited (CommSec) Customer Assist Officer (CAO), had sought orders against the organisation and his two managers, submitting he had been bullied during a performance management process by being held to a higher

standard than other CAOs and was being micro managed.

In dismissing his application for orders, Commissioner Bissett found there were reasonable grounds to twice place him on performance plans, and to extend the second plan. She was also satisfied he was not held to a higher standard than any other CAO.

The Commissioner said she was not convinced that the number of, or conduct of, meetings about the worker's performance indicated that he was being 'micro-managed' and that they were not 'unreasonable, considered overall and did not constitute bullying', though she did consider more generally that 'a sense of being over managed is a matter to be aware of in dealing with performance issues for all staff'.

A Full Bench in October 2015 declined to grant the worker permission to appeal the decision.

*Definition of bullying –
repeated unreasonable behaviour*

*Harpreet Singh [2015] FWC 5850 –
Commissioner Hampton – 28 August 2015*

This case confirmed that the unreasonable behaviour that is the subject of an anti-bullying application must have happened more than once to fit within the definition of bullying at work under s. 789FD of the Fair Work Act.

The worker alleged that he had been physically and verbally assaulted while at work. The respondent employers denied this occurred and submitted that even on the applicant's account the conduct he complained of occurred only once and some six months previously.

Citing S.B ([2014] FWC 2104) and Amie Mac ([2015] FWC 774), Commissioner Hampton said it was clear that "for the behaviour to be "repeated unreasonable behaviour" it cannot be a single occurrence. The definition implies the existence of persistent unreasonable behaviour but might refer to a range of behaviours over

time. That behaviour may also be undertaken by an individual or a group of individuals and be directed towards the applicant worker or a group of workers to which the applicant belongs. The unreasonable behaviour must however be repeated.'

Commissioner Hampton said that while the alleged verbal and physical conduct would, if ultimately found to have occurred, have the 'requisite real possibility of danger to health and safety and would not be reasonable behaviour in a workplace of the nature conducted by CCA', the worker had not alleged that there had been any other incident or form of unreasonable conduct by the CCA employee, or any other individual, towards him capable of constituting repeated unreasonable behaviour. In that case, the Commissioner said it was important to note that the application relied on the alleged conduct of one employee, and on a single occurrence.

Performance

In 2015–16 the Commission:

- received 71,736 website hits regarding anti-bullying
- received 50,225 visits to the online eligibility quiz for anti-bullying applications
- dealt with more than 6,300 telephone inquiries
- received 11,806 website visits to the anti-bullying benchbook
- received on average 61 applications per month
- processed 734 applications

The number of anti-bullying applications and outcomes has been consistent since the jurisdiction commenced on 1 January 2014. In 2015–16, the Commission received 734 applications for orders to stop bullying. This compares with 694 in 2014–15 and 343 in the first six months of 2014. Three hundred and fifty two applications were withdrawn prior to proceedings, 191 were resolved during the course of proceedings and a further 108 were withdrawn after a conference or hearing and before a decision. Like the two previous reporting periods, less than eight per cent of applications (52) were finalised with a decision and seven applications were granted, compared with one in each of the two previous reporting periods.

Delivery

In 2015 the Commission conducted a review of the first 12 months of the operation of the anti-bullying case management process and identified a number of areas for further development and improvement. Throughout 2015–16 the Commission has commenced or completed work on each of those areas that were identified, including: improving the collection of data in relation to results and

demographic information; undertaking some preliminary research into the relationship between anti-bullying applications and other applications to the Commission; improving the information available about the practical operation of the jurisdiction, by reviewing and updating information materials and developing a Virtual Tour; updating forms, and; considering how the Commission can further improve the support for parties suffering from mental health issues, including training options for both Members and staff.

Work in relation to these and other areas is ongoing as a key feature of the Commission's anti-bullying process is to monitor and improve the operation of the jurisdiction based upon experience.

Steps to dealing with matters

Under the Fair Work Act, the Commission has to start dealing with an anti-bullying application within 14 days of it being made. This year the Commission met the requirement for 100 per cent of applications, with the process usually beginning within the first 24 hours (see [Table 26](#)).

Table 26: Timeliness

Time taken to start to deal with matter (days)	
Median	1
100th percentile ¹	5

¹ 100th percentile is the longest time (days) taken to deal with a matter.

Anti-bullying applications are assessed on lodgment by the Case Management Team, taking into consideration issues such as whether they fall within the Commission's jurisdiction and the nature of the alleged bullying, with the Panel Head then deciding how to progress them. The Commission also contacts the parties and sends a copy of the application to the employer and the person/s

named in the application as having allegedly engaged in bullying behaviour. This provides an opportunity for them to respond.

Early withdrawal of applications

This year 32.3 per cent of applications were withdrawn while still with the Case Management team or the Panel Head. Another 15.7 per cent were withdrawn before any proceedings commenced. Factors that can lead to early withdrawal include identifying jurisdictional barriers to the application, the preventative

focus of the potential orders and decisions to follow alternative ways to resolve the issues arising at the workplace.

Matters can also be resolved during these early stages. The response of the employer or the person/s named in the application as having allegedly engaged in bullying behaviour can be enough to satisfy the applicant. In this way, service of the application by the Commission can itself result in prompt resolution of the issues arising at the workplace.

Table 27: Anti-bullying application finalisation table

Finalisation of matters	2015–16	2014–15	2013–14 ¹
Application withdrawn early in case management process ²	237	185	59
Application withdrawn prior to proceedings ³	115	122	34
Application resolved during the course of proceedings ⁴	191	191	63
Application withdrawn after a conference or hearing and before decision	110	118	20
Application finalised by decision	52	60	21
Total	705	676	197

1 The anti-bullying jurisdiction commenced on 1 January 2014, therefore this data relates to the date range 1 January 2014 to 30 June 2014.

2 Applications withdrawn prior to substantive proceedings — while the matter is with the Case Management team or Panel Head.

3 Includes matters that are withdrawn prior to a proceeding being listed; before a listed conference, hearing, mention or mediation before a Commission Member is conducted; and before a listed mediation by a staff member is conducted. This also includes matters where an applicant considers the response provided by the other parties to satisfactorily deal with the application.

4 Includes matters that are resolved as a result of a listed conference, hearing, mention or mediation before a Commission Member or listed mediation by a staff member.

Mediation

When appropriate the Panel Head will refer an anti-bullying application for mediation by a staff conciliator. This year 37 such mediations were conducted, mostly by telephone.

Matters dealt with by Members

The great majority of matters that are not either resolved or withdrawn early in the process are dealt with by Members, either by conference or hearing. In most cases, Members will start with a preliminary conference to gain an understanding of the issues and stabilise relationships, and if necessary make directions for a hearing.

Of the matters resolved by Members, common outcomes included:

- undertakings about future behaviour
- clarification of roles, responsibilities and reporting relationships
- commitment by the employer to establish or review anti-bullying policies
- provision of information, additional support and training to workers
- the worker returning to work on agreed conditions
- agreed relocation of named individual and/or the applicant worker

Orders

Members must formally determine applications that are not withdrawn or resolved. If a finding of bullying behaviour is made and the Commission is satisfied that the behaviours will continue, a Member may make any order it considers appropriate to prevent the applicant from being bullied at work, other than an order requiring payment of a pecuniary amount. This year saw an increase in the number of matters where such findings, and subsequent orders, were made. The nature of these orders are

necessarily specific to each particular matter but requirements have included:

- obliging certain behaviour to stop
- controlling communication at the workplace
- establishing new reporting arrangements
- establishing and monitoring proper standards of conduct
- establishing proper complaints procedures
- provision of relevant workplace bullying training and professional development
- creation of return to work plans
- reviewing internal anti-workplace bullying resources

Enterprise agreements

Enterprise agreements constitute a significant part of the Commission's work. As well as assessing and approving enterprise agreements, the Commission assists parties with the process of making them and with resolving disputes arising from bargaining and disputes arising under enterprise agreements.

An enterprise agreement is a binding instrument made between an employer and employees (or in the case of a greenfields agreement between the employer and relevant union/s) that governs terms and conditions of employment.

Before approving an enterprise agreement, the Commission must be satisfied it meets the legislative criteria set out in the Fair Work Act, including that it passes the 'better off overall test' (BOOT). This test requires that each employee to be covered by the agreement is better off overall than under the relevant modern award. Other requirements the Commission must be satisfied have been met include that the agreement:

- has been made with the genuine agreement of those involved
- does not include unlawful terms or designated outworker terms

- covers a group of employees that was fairly chosen
- specifies a nominal expiry date (not more than four years after the approval date)
- provides a dispute settlement procedure
- includes a flexibility clause and a consultation clause

Applications dealt with

In 2015–16, 5,529 applications to approve enterprise agreements were made to the Commission. Of these, 4,801 were approved, 53 not approved, and 595 withdrawn.

The number of applications to make an enterprise agreement received during the reporting cycle was lower than in previous years, in line with a general decline in application rates since 2011–12, which

coincided with the bargaining round for the building, metal and civil construction industries.

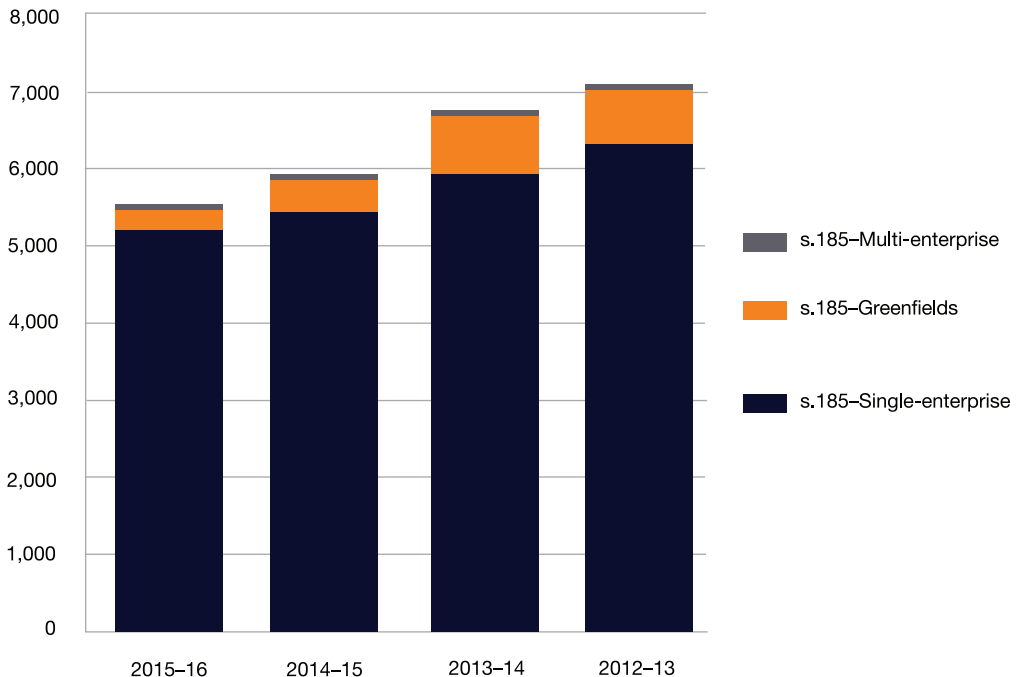
The overwhelming majority of agreement approval applications made to the Commission during the reporting cycle were for single enterprise agreements.

Performance

During 2015–16, the Commission:

- received 5,529 enterprise agreement applications
- finalised 5,449 enterprise agreement applications
- received 33,065 visits to the Enterprise Agreement Benchbook
- since March 2016, the 'Making a Single-Enterprise Agreement: step by step guide' has been downloaded 2,758 times

Figure 10: Applications for approval lodged



Agreement approvals

The Commission improved the timeliness of approving agreements for all types of applications (single enterprise, greenfields and multi-enterprise) lodged against each benchmark measured.

The benchmarks for agreement approval finalisations are:

- 50 per cent of all agreements finalised within 3 weeks
- 90 per cent of all agreements finalised within 8 weeks
- 100 per cent of all agreements finalised within 12 weeks

In 2015–16, 56.8 per cent of applications were finalised in 3 weeks, compared to 49.6 per cent in the previous year. In addition, 99.2 per cent of all agreement applications were finalised within 12 weeks, of which 95 per cent were finalised within 8 weeks.

The average number of days taken to finalise 50 per cent of single enterprise agreement applications in 2015–16 was reduced by 3 days (from 21 days to 18 days) and by 7 days (from 56 days to 49 days) for 90 per cent of applications from the previous year.

The improvements in timeliness are largely a result of the agreement triage process the Commission has progressively adopted in 2015–16, following an earlier successful pilot.

Under the process, a team of administrative staff analyse agreements to form a preliminary view of whether they meet the statutory requirements required by the Fair Work Act. The analysis includes completing a checklist that was developed by senior Commission Members. The team's analysis assists Commission Members, who continue to make the decisions on whether or not to approve agreements.

In addition to the improvements in timeliness, other benefits of the centralised process include a greater capacity to identify and respond to trends and systemic issues. Agreement approval applications in particular industries are generally allocated to the same Member to consider. This is one of the ways the process promotes greater consistency and rigour in the approach to agreement approval applications, which has contributed to a greater number of applications being withdrawn. When issues that may lead to an agreement not being approved are drawn to the parties' attention, the application is often withdrawn. In 2015–16, 595 applications were withdrawn, compared to 407 in 2014–15 and 294 in 2013–14, despite similar numbers of applications for approval being made.

By the end of the reporting period, the new process applied to 90 per cent of applications for approval of agreements.

During 2015–16, the Federal Parliament amended the Fair Work Act to extend good faith bargaining obligations to greenfields agreement negotiations and to enable an employer to apply to the Commission for approval of a greenfields agreement if no agreement had been reached with the relevant employee organisation/s within a six month 'negotiation period'. In addition to the standard approvals test, the Commission is required to ensure these agreements are consistent with prevailing industry standards. The Commission did not receive any applications to approve such greenfields agreements, made under s.182(4) of the Fair Work Act, during 2015–16.

Figure 11: Agreements benchmarks

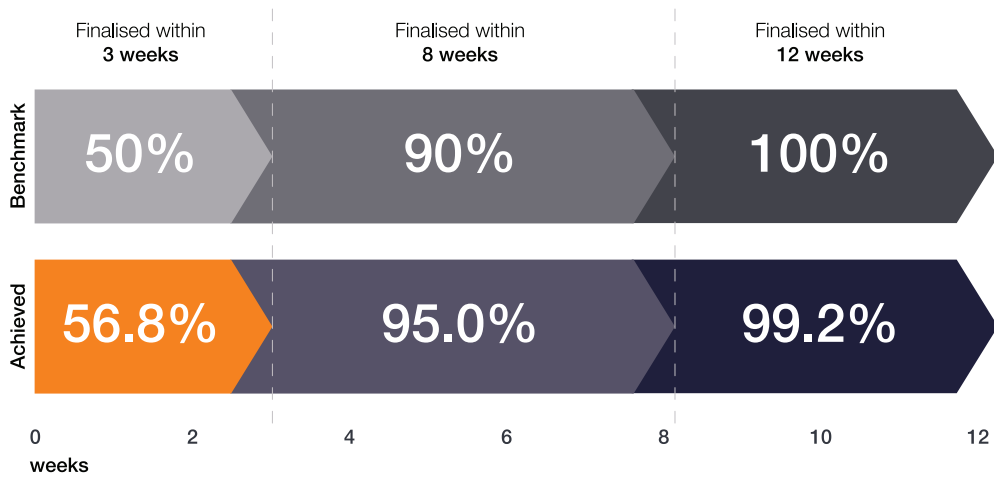


Table 28: Enterprise agreement approval applications — timeliness benchmarks

Finalised within	3 weeks	8 weeks	12 weeks	Number of Agreements finalised beyond 12 weeks
Benchmark	50%	90%	100%	0
2014–15	49.6%	90.5%	97%	167
2015–16	56.8%	95%	99.2%	41

Table 29: Enterprise agreements — timeliness, lodgment to finalisation (median days)

Type of application	KPI	Percentage of matters							
		50%				90%			
		2015-16	2014-15	2013-14	2012-13	2015-16	2014-15	2013-14	2012-13
s.185-Single-enterprise — lodgment to finalisation (days)	32 days	18	21	17	16	49	56	50	54
s.185-Greenfields — lodgment to finalisation (days)	32 days	12	14	14	14	35	46	41	38
s.185-Multi-enterprise — lodgment to finalisation (days)	32 days	28	34	26	22	85	90	54	64

Table 30: Enterprise agreement approval — lodgments

Type of application	Lodged				Approved			
	2015-16	2014-15	2013-14	2012-13	2015-16	2014-15	2013-14	2012-13
s.185 — Single-enterprise	5,238	5,449	5,945	6,333	4,523	5,027	5,602	6,051
s.185 — Greenfield	258	407	749	712	252	399	745	685
s.185 — Multi-enterprise	33	66	60	42	26	55	56	36
Total	5,529	5,922	6,754	7,087	4,801	5,481	6,403	6,772

¹ Results are not confined to applications lodged in this period.

	Not approved				Application withdrawn				Total finalised ¹			
	2015-16	2014-15	2013-14	2012-13	2015-16	2014-15	2013-14	2012-13	2015-16	2014-15	2013-14	2012-13
	48	114	99	59	582	382	269	281	5,153	5,523	5,970	6,391
	1	2	3	3	9	17	20	29	262	418	768	717
	4	1	1	1	4	8	5	4	34	64	62	41
	53	117	103	63	595	407	294	314	5,449	6,005	6,800	7,149



Case Study

Case Study: Enterprise Agreements pilot rolled out to 90 per cent of applications

‘The triage model has been extremely helpful to me as a new Commissioner,’ Commissioner Saunders.

Following the successful piloting of an agreement triage process in 2014–15, the triage process was extended to a broader group of agreement approval applications in 2015–16. Under the process, a team of administrative staff analyse the agreements on lodgment to review whether they meet the statutory requirements. This analysis assists Commission Members, who continue to decide whether to approve agreements.



We have high quality information and data that is put together by the Agreements Triage team. It's not a matter for them to make the decision about whether an agreement's approved or not, that's a decision for Commission Members, but it makes our decisions a lot easier if we have ready access to good quality information and good quality data in order to base that decision.

Commissioner Lee

The 2014–15 pilot was in specific industries and states, under the supervision of Deputy President Gostencnik, Deputy President Kovacic and Commissioner Lee. Its aim was to determine if the timeliness, cost effectiveness and consistency of the approvals process could be improved, while at the same time providing Commission Members with more time to focus on more complex matters. In May 2015, the pilot was independently reviewed by Inca Consulting in association with Dr George Argyrous, Senior Lecturer in Evidence-Based Decision-Making, University of NSW. The review reported:

It was noted that the centralised triage approach provided for 'a simpler, more consistent process for assessing agreements.' In particular, it was noted that greater consistency could be achieved through using a small and dedicated team rather than the work being performed in a more dispersed way through Members' chambers.

Importantly, the pilot approach has allowed for the detection of some trends in the lodgment of new enterprise agreements. For example, common errors made by applicants have been detected that delay the approval of agreements (or result in them being withdrawn). Observing these trends and identifying the types of employers or industries where 'mistakes' commonly occur has allowed FWC to embark on some 'early intervention' or 'outreach' work. For example, the Notice of Employee Representational Rights Guide has been developed to hopefully see fewer agreements withdrawn on a technicality.

Commission Members have begun delivering some industry briefings to assist employers and industry groups to prepare better agreements and to avoid common pitfalls.

These initiatives should be considered particularly good outcomes of the pilot that, in time, should result in even more efficient assessment and timely approval of enterprise agreements. It is likely that the education materials will lead to an overall long term improvement in the proportion of s. 186 enterprise agreement approvals.

The full review is available on the Commission's website.

Based on the pilot's success, from July to August 2015 the Commission extended the process to cover 60 per cent of all agreement approval applications.

In December 2015, another 24 industries were added to the pilot, with Deputy President Bull replacing Deputy President Kovacic and Commissioners Roe, Gregory and Saunders also joining the group of supervising Members. In February 2016 the Commission rolled the process out to a further group of industries, with 90 per cent of applications dealt with by this new process by the end of the reporting period.



I've found that when the agreement team in Melbourne assists me doing that work, the end result is a more thorough analysis and a quicker analysis than if I get the agreement myself, and do it from scratch myself.

Commissioner Saunders

Other improvements

The centralised triage process has also resulted in opportunities to improve service, identify trends and improve consistency.

For example, two industries account for almost 40 per cent of all agreement approval applications lodged with the Commission – building, metal and civil construction industries and manufacturing

and associated industries. As shown in [Table 31](#), in 2015–16 a significantly higher proportion of applications in these two industries were processed through the agreement triage process than in the previous year, resulting in substantial improvements in the time taken from application lodgment to finalisation.

During the year, Deputy President Gostencnik held information sessions in Victoria and Western Australia with parties in the building and construction industry that regularly deal with the Commission. This facilitated open communication on issues including common mistakes in agreement making, recent case law and changes to forms.

Under the direction of Members, the agreements team also made changes to its processes to ensure applicants are reminded of the requirement to serve agreement applications on all identified bargaining representatives. The agreements process assisted the Commission to implement this change to more than 90 per cent of approval applications within a very short time.

In addition to the *Notice of Employee Representational Rights Guide* published in May 2015, the Commission has also added a step by step guide to making a single enterprise agreement to the materials available on its website. It is a comprehensive guide, covering from the moment an employer considers making an agreement, through to finalising the agreement and having it considered by the Commission.



One of the benefits of having the agreements triage process is that because the group operate as a collective, they see and share information about common issues that are arising. That means that we are in a better position to more quickly go out and educate, through the use of online materials, and we have some very good plain English guides that we have created for parties who are putting together agreements and seeking to have them approved. We can also go directly to some of the frequent users of the Fair Work Commission, the employer associations and unions as an example, and say "these are some of the common errors that are happening from your membership. Let's work on this together to correct them and stop them happening on a repeated basis."

Commissioner Lee



So when I compare those two systems, the direct model that I still get agreements under, and the triage model, the triage model is no doubt better in my view and should be extended into the future.

Commissioner Saunders

For the full video case study, visit the Fair Work Commission's website www.fwc.gov.au.

Table 31: Triage process allocations and finalisations, selected industries

Industry	Percentage of applications processed via triage	Percentage finalised within 3 weeks (Benchmark 50%)	Percentage finalised within 8 weeks (Benchmark 90%)	Percentage finalised within 12 weeks (Benchmark 100%)	Number of agreements finalised beyond 12 weeks
Building, metal and civil construction industries					
2014–15	26%	58.4%	91%	97%	40
2015–16	91%	68.5%	96%	98.8%	15
Manufacturing and associated industries					
2014–15	6%	53.5%	94.8%	98.1%	16
2015–16	88%	61.5%	96.5%	99.4%	5

Assistance with agreement making

The Commission has powers under a number of sections of the Fair Work Act to assist the bargaining process if requested to do so.

In 2015–16, 404 bargaining applications were made to the Commission. Of these, 184 were applications to deal with a bargaining dispute.

Table 32: Bargaining applications — lodgments

Type of application	2015–16	2014–15	2013–14	2012–13
s.229 — Application for a bargaining order	111	87	96	78
s.236 — Application for a majority support determination	71	96	77	74
s.238 — Application for a scope order	28	12	24	15
s.240 — Application to deal with a bargaining dispute	184	270	208	231
s.242 — Application for a low-paid authorisation	0	0	1	0
s.248 — Application for a single interest employer authorisation	10	11	16	8
Total	404	476	422	406

The year ahead

The Commission expects, and is planning for, applications for agreement approval to rise significantly in 2016–17, largely due to a spike from the building, metal and civil construction industries.

In 2016-17 the Commission will continue to add to its agreement making education material to assist parties with agreement making and the lodging of compliant applications. It will also see the final stage of the agreements triage process implemented resulting in all agreement applications for approval being processed in this way.

Resolving Disputes

Commission Members can assist parties to resolve disputes in a number of ways, including by conciliation, mediation, expressing an opinion or making a recommendation. Some agreement terms also empower the Commission to arbitrate a dispute with a binding determination.

The vast majority (98 per cent) of applications to deal with disputes in relation to awards, agreements and contracts were made under s.739 of the Fair Work Act in 2015–16. During the reporting period, 2,033 applications were made to deal with disputes under this section, including 32 applications about flexible working arrangements. This outcome signifies a slight reduction in applications from 2014–15, where 2,119 applications were made under s.739.

A small number of applications (17) were lodged under s.526 of the Fair Work Act about disputes where employees have been stood down due to industrial action, a breakdown of machinery or equipment or any other stoppage of work where the employer cannot reasonably be held responsible. Section 709 applications relating to dispute resolution under the repealed *Work Relations Act 1996* as amended by the *Workplace Relations Amendment (Work Choices) Act 2005* (WR Act) continued to decline markedly.

Table 33: Dispute applications — lodgments

	2015–16	2014–15	2013–14	2012–13
s.526 — Application to deal with a dispute involving stand down	17	17	18	19
s.699 of repealed WR Act — Application to Fair Work Australia to have an alternative dispute resolution process conducted	1	2	13	4
s.709 of repealed WR Act — Application to Fair Work Australia to have a dispute resolution process conducted under a workplace agreement	11	37	69	162
s.739 — Application to deal with a dispute	2,001	2,078	2,366	2,124
s.739 — Application to deal with a dispute in relation to flexible working arrangements	32	41	50	37
Total	2,062	2,175	2,516	2,346

Applications of this type can be made by an individual covered by the award, agreement or contract, by a representative of employees or by an employer. Compared to 2014–15, the

median number of days between lodgment of a dispute application and its resolution increased by 4 days for 50 per cent of matters, and 2 days for 90 per cent of matters (see Table 34).

Table 34: Dispute applications — timeliness

Type of application	50 percent of matters				90 percent of matters			
	2015–16	2014–15	2013–14	2012–13	2015–16	2014–15	2013–14	2012–13
s.739 — Application to deal with a dispute — lodgment to first conference (days)	20	16	17	15	47	45	46	38

Industrial Action

The Fair Work Act defines industrial action by employees as:

- performing their work differently to the way it is normally performed
- a ban, limitation or restriction on the performance of work
- a failure or refusal to attend or perform work

It defines industrial action by employers as the locking out of employees from their employment.

The Fair Work Act distinguishes between ‘protected’ (lawful) industrial action taken during bargaining for a new agreement and ‘unprotected’ (unlawful) industrial action.

Certain legislative requirements must be met before industrial action is protected. A majority of employees must approve a list of proposed actions in a workplace ballot process, called a protected action ballot. The Commission can order a protected action ballot if satisfied that the employees’ bargaining representative has been and is genuinely trying to reach agreement with the employer.

The Commission may make orders to stop or prevent industrial action in specified circumstances.

The Commission received a total of 1,272 applications in relation to industrial action in 2015–16, which was 33.2 per cent higher than in 2014–15. These include applications for protection action ballots, applications to extend, vary or revoke ballot orders, applications to suspend or terminate protected industrial action, and applications for orders to stop industrial action.

The increase can be explained by a rise in the number of applications for protected action ballot orders, from 641 in 2014–15 to 960 in 2015–16, as a result of a bargaining round in the education sector. The Queensland and Northern Territory branch of the Independent Education Union of Australia (IEU), representing teachers and support staff at Queensland’s 298 Catholic schools, filed applications for protected action ballot orders for 272 schools during agreement negotiations with the Queensland Catholic Education Commission (QCEC).

The Commission granted the applications in August 2015.

Industrial action occurred following the granting of the ballot orders. In May 2016 IEU and QCEC agreed to participate in the Commission's *New Approaches* program after formally beginning bargaining in March 2016. In July 2016 they reached an in-principle agreement, placing on record their appreciation of the Commission's assistance in resolving outstanding matters. Employees overwhelmingly approved the in-principle agreement the following month in workplace ballots.

Terminating or suspending protected action

The Commission must suspend or terminate protected industrial action where it is endangering the life, personal safety, health or welfare of the population, or part of it, or causing significant damage to the Australian economy. The Commission must, as far as practicable, determine these applications within five days of lodgment, or make an interim order suspending the action if this timeframe cannot be met.

In 2015–16, the Commission received 14 applications to suspend or terminate protected industrial action, and 3 applications to suspend it for a cooling off period.

Unprotected industrial action

Where industrial action, or threatened industrial action, is unprotected, an application can be made to the Commission to stop or prevent it. The Commission is required to determine these applications within two days of lodgment, or make an interim order stopping the action within two working days. In 2015–16, the Commission received 67 applications under s.418 of the Fair Work Act for an order to stop or prevent industrial action, compared with 107 in 2014–15.

Dealing with industrial action

The Commission has processes in place to meet the short timeframe for dealing with industrial action applications, particularly those relating to unprotected action or protected industrial action causing or threatening to cause significant economic harm to the parties. When an urgent application is made, Commission staff alert the relevant Panel Head's chambers, ensuring that the matter can be quickly allocated to a Member. Panel Heads and Members are contacted outside of normal business hours if necessary. To help resolve them quickly, Members may then hear urgent matters out of hours, including on weekends.

If a matter cannot be resolved within the legislative timeframe, the presiding Member is able to issue an interim order until a final order is issued.

Table 35: Industrial action — lodgments

Type of application	Number of applications			
	2015–16	2014–15	2013–14	2012–13
s.418 — Application for an order that industrial action by employees or employers stop etc.	67	107	145	168
s.419 — Application for an order that industrial action by non-national system employees or employers stop etc.	0	0	3	2
s.423 — Application to suspend or terminate protected industrial action-significant economic harm etc	1	0	1	5
s.424 — Application to suspend or terminate protected industrial action-endangering life etc.	14	16	11	11
s.425-Application to suspend protected industrial action-cooling off	3	0	6	2
s.426 — Application to suspend protected industrial action-significant harm to third party	0	1	3	1
s.437 — Application for a protected action ballot order	960	641	627	915
s.447 — Application for variation of protected action ballot order	21	6	12	12
s.448 — Application for revocation of protected action ballot order	48	44	54	38
s.459 — Application to extend the 30-day period in which industrial action is authorised by protected action ballot	154	133	124	115
s.472 — Application for an order relating to certain partial work bans	4	7	3	2
Total	1,272	955	989	1,271

Timeliness

In 2015–16, the Commission achieved its internal KPI of dealing with all applications relating to industrial action within three days for 50 per cent of applications. It dealt with 90 per cent of applications within eight days.

Table 36: Industrial action-all applications — timeliness

Applications	KPI	Percentage of matters							
		50%				90%			
		2015–16	2014–15	2013–14	2012–13	2015–16	2014–15	2013–14	2012–13
Applications made under ss.418, 419, 423, 424, 425, 426, 437, 447, 448, 459 and 472	3 days	3	3	2	3	8	7	6	5

Table 37: Industrial action applications — protected action ballot orders and orders to stop action — timeliness

Type of application	Percentage of matters							
	50%				90%			
	2015-16	2014-15	2013-14	2012-13	2015-16	2014-15	2013-14	2012-13
s.418 — Application for an order that industrial action by employees or employers stop etc.-lodgment to first hearing (days)	1	1	1	1	3	3	2	2
s.437 — Application for a protected action ballot order-lodgment to first hearing (days)	4	3	3	3	8	9	7	5
s.437 — Application for a protected action ballot order-lodgment to determination (days)	6	3	3	3	8	7	7	6

New Approaches

Background

In 2013, the Fair Work Act was amended to provide the Commission with a new function: 'Promoting cooperative and productive workplace relations and preventing disputes' (s.576(2)(aa)). The *New Approaches* strategy was developed by Members of the Commission in consultation with peak employer and employee organisations.

New Approaches involves Commission Members assisting employers, employees and their representatives achieve cooperative and productive workplaces.

Case management and implementation

Throughout 2015–16 the Commission developed administrative and case management processes to manage the pilot phase of the program, including the introduction of an application form (F79), processes for lodgment and allocation of files, and publication of content about *New Approaches* on the Commission's website. The pilot program concluded with the approval of the application form in April 2016. *New Approaches* is now established as an ongoing part of the Commission's functions.

Training and workshops

The Commission has developed educational materials and conducted professional development training for Commission Members in conjunction with a leading international academic. These Members have subsequently conducted a large number of workshops in most states and territories with employers, employees and their representatives. These workshops are interactive and have a practical focus with an emphasis on providing participants with tools to improve their effectiveness in enterprise bargaining and to resolve conflict and disputes at the workplace level. Further workshops are planned in 2016–17 across Australia.

As part of the *New Approaches* program, a number of new services have been developed and are now available to parties, including:

- training in interest-based bargaining
- facilitation of interest-based bargaining
- facilitation of joint processes to implement enterprise agreements
- training in interest-based dispute resolution in the bargaining context
- training and facilitation in collaborative workplace change, including training for consultative committees

New Approaches cases and materials

As at 30 June 2016 there were 17 active files in the *New Approaches* program and the Commission continues to provide a range of training, facilitation, advice and support to parties in those matters.

Video case studies involving a number of *New Approaches* matters have been produced and are available on the Commission's website.



Case Study

New Approaches – Patrick and the Maritime Union of Australia

The relationship between national stevedoring business Patrick and the Maritime Union of Australia (MUA) has historically been an adversarial one, with disputes often heated and at times high-profile.

It was against this background that Deputy President Booth began working with the parties as part of the Commission's *New Approaches* initiative, when they were in dispute over negotiations for an enterprise agreement for the company's bulk and general division in Newcastle, New South Wales (NSW).

Rather than positional bargaining, where each side starts with putting its claims on the table, Deputy President Booth fostered an interest-based bargaining approach, where the first focus is on 'needs and concerns, the things that really matter to people.'

That bargaining framework, according to Patrick's General Manager, East Coast, Anthony Jones, opened up a 'true conversation about what's the heart of the issues that you're trying to solve.'

Following the resolution of the initial bargaining dispute in Newcastle, a *New Approaches* file was opened to cover the whole of Patrick Bulk Port Services (BPS).

Given the history between the parties, MUA Southern NSW Branch Secretary Gary Keane said the process would not have 'got off the ground' without the Commission steering it and 'would have fallen over, probably half-a-dozen times' without Deputy President Booth's assistance and guidance.

Deputy President Booth says there were two main streams of outcomes from the *New Approaches* process in Patrick BPS. The first was an enterprise bargaining round 'conducted in the fastest possible time they've ever experienced' with an outcome acceptable to employees and the employer, and achieved without any industrial action – 'not unimportant in the MUA-Patrick world.'

Second, and 'perhaps more importantly', were port-by-port discussions about changes to workplace practices that were 'utterly critical to the economic viability of those ports.'

Deputy President Booth has recognised that, often the level of trust is low at the start of a *New Approaches* process but there needs to be a desire to build trust — something both the MUA and Patrick also acknowledge.

MUA Deputy National Secretary, Will Tracey, notes that the parties ‘have to have the ability to talk about issues that arise. Our interests over time will change. Without an honest relationship, this won’t work.’

Patrick’s General Manager, Customer, Warwick Sommer notes that it was only a couple of years ago that the parties had 50 matters before the Commission, at a cost to both that was ‘quite crazy in hindsight’ and describes *New Approaches* as ‘one of the most fulfilling processes I’ve had in my professional career in terms of an idea being transformed into a reality. Though we’re still in the early stages, I’m a big advocate.’

The MUA similarly found *New Approaches* to be a useful and rewarding experience with Gary Keane, Southern NSW Branch Secretary, stating that he would ‘recommend it as a process.’

For the full case study of Patrick and the MUA’s experiences of the *New Approaches* initiative please visit the Commission’s website at www.fwc.gov.au

Setting the minimum wage

The Fair Work Act requires the Commission to each year conduct a review to set the national minimum wage and adjust pay rates in modern awards.

The Annual Wage Review 2015–16 decision (2015–16 decision) directly affected more than 1.86 million employees in Australia who rely on minimum rates of pay (about 18.8 per cent of employees).

Annual wage reviews are conducted by a seven-member Expert Panel for annual wage reviews (the Panel) comprising of:

- the President of the Commission
- three other full-time Members of the Commission
- three part-time Expert Panel Members with knowledge or experience relevant to minimum wage setting

The Fair Work Act's minimum wages objective and modern awards objective require the Panel to take into account specific economic, social and collective bargaining considerations in setting the national minimum wage and reviewing modern award minimum wages.

Performance

The Panel issued the 2015–16 decision on 31 May 2016.

The decision:

- increased the national minimum wage by 2.4 per cent to \$672.70 per week, or \$17.70 per hour based on a 38-hour week
- increased all modern award minimum wages and most transitional instrument wages by 2.4 per cent
- set a number of special national minimum wages for award and agreement-free juniors, trainees and apprentices and for employees with disability and increased the casual loading in the *Business Equipment Award 2010* to 21 per cent

The Panel's determinations varying modern award pay rates and its national minimum wage order came into operation on 1 July 2016 and took effect from the first full pay period on or after that date.

In its 2015–16 decision, the Panel held that:



The general economic climate is robust, with some continued improvement in productivity and historically low levels of inflation and wages growth. The prevailing economic circumstances provide an opportunity to improve the relative living standards of the low paid and to enable them to better meet their needs. The level of increase we have decided upon will not lead to inflationary pressure and is highly unlikely to have any measurable negative impact on employment. It will, however, mean a modest improvement in the real wages for those employees who are reliant on the NMW and modern award minimum wages.¹

¹ (2016) FWCFB 3500 at paragraph 101.

The Panel noted that, despite some recent improvement in the relative living standards of national minimum wage and award-reliant employees, the relative position of low-paid workers had deteriorated over the past decade and many lived in households with low or very low disposable incomes.

Further, the Panel noted:

63 Women continue to be over-represented among the award reliant and low paid. Increases in the NMW (national minimum wage) and modern award wages can provide some assistance in addressing the gender pay gap.²

Consultation

Any organisation or person may make written submissions for the Panel to consider in the annual wage review. This year, the Panel received submissions from 28 parties, including:

- the Australian Government
- several state governments
- peak employer and employee representative bodies
- social interest and community-based organisations

As part of the consultation process, the Panel:

- held a preliminary hearing on the casual loading in the *Business Equipment Award 2010* (February 2016) and received three submissions regarding this matter (February and April 2016)

- received 27 initial submissions (March and April 2016)
- received six submissions in reply (April 2016)
- received six post-Budget submissions (May 2016)
- published questions for consultations (April 2016)
- received a total of 13 responses to questions for consultations and regarding additional material published (May 2016)
- conducted hearings in Melbourne and Sydney (by video) on 10 May 2016 and in Sydney and Melbourne (by video) on 11 May 2016

Research reports

The Commission published a study on an international comparison of minimum wages and labour market outcomes by the National Institute of Labour Studies, Flinders University. It commissioned the comparison as part of its medium-term research program, outlined in September 2014. The Commission also published a statistical report and research reference list of data and literature relevant to the minimum wages and modern awards objectives.

Two research reports commissioned by the Commission's Pay Equity Unit also informed the 2015–16 decision. The reports examined:

- the earnings and characteristics of employees, focusing on comparisons by industrial arrangements
- the effects of low-paid women's workforce participation decision and how they differ from higher-paid women and low-paid men

The Commission has previously considered research on the employment effects of minimum wages, however this was unable to be progressed due to limitations in data and methodology.

² (2016) FWCFB 3500 at paragraph 99.

Meeting KPIs

The Commission has consistently delivered annual wage review decisions in time to meet the 1 July operative date required by the Fair Work Act and its agency KPI. It has done this by:

- evaluating its consultation process and beginning planning for the next year's annual wage review immediately after a review is concluded
- consulting widely with stakeholders to ensure their views are taken into account by the Panel
- members and Commission staff managing workflow and resources to meet statutory timeframes

Engagement

The 2015–16 decision and consultations were live streamed on the Commission's website. This allowed a wider range of stakeholders to engage with the process, including interested people from remote regions of Australia and overseas. The website registered 615 total views of the live stream of the consultations. There were 862 total views of the live stream of the decision announcement.

The year ahead

Although noting that it will be for the Panel constituted for the 2016–17 Review to consider, the Panel in its 2015–16 decision:

- Proposed that next year's annual wage review include reviews of the transitional instruments the Commission has to deal with in annual wage reviews, including whether it had terminated them or could do so; and the existing arrangements for employees with disability
- Noted United Voice's submission that it conduct a preliminary hearing into whether it should adopt a medium-term target for the national minimum wage

With its medium-term research program nearing completion, the Panel invited interested parties to lodge future research proposals by 31 July 2016. In doing so, it noted that budgetary constraints were likely to limit its short to medium term capacity for additional commissioned or internal research. The two projects remaining from the medium research program are an analysis of the youth labour market, and the extent and characteristics of underemployment and its relationship with unemployment.

Modern awards

Modern awards, together with the National Employment Standards (NES), provide a minimum safety net of terms and conditions for national system employees. There are 122 industry and occupation modern awards operating across Australia.

As at 30 June 2016, there were also 21 modern awards covering specific enterprises or state public sector bodies that are part of the national workplace relations system.

4 yearly review

The Fair Work Act requires the Commission to review all modern awards four years after they commenced operating, which was on 1 January 2010. The first 4 yearly review of modern awards (the Review) began in February 2014 and is expected to conclude during the second half of 2017.

Performance

The Review is a significant and complex body of work. During 2015–16 the Commission:

- held 180 mentions, hearings and conferences
- issued 20 decisions and 58 statements
- posted 5,353 documents to its website
- sent 657 emails to subscribers
- had 5,365 registered subscribers to its **My awards—all matters** service at 30 June 2016

The Commission is reviewing individual awards in four groups in the Award stage of the Review process. It is also reviewing common issues that apply across multiple, if not all, awards in the Common issues stage. It dealt with jurisdictional issues in the Review's initial stage.

Throughout the Review, the Commission has welcomed and encouraged input from those with an interest in and knowledge of how award provisions are applied in the workplace. In dealing with submissions, the Commission must balance the need for a stable award system against the need to address the difficulties that some employees and employers, particularly small businesses, have when trying to interpret provisions.

Award stage

The Commission made significant progress in 2015–16 in reviewing the more than 90 awards in Groups 1, 2 and 3. It also issued two decisions on a range of technical and drafting issues³, which will flow on across all four modern award groups.

The Commission develops and publishes exposure drafts for each modern award as part of the Award stage, and in 2015–16 it added 51 exposure drafts to the 49 it published the previous year. These documents are updated and republished as issues are dealt with and agreed between those with an interest in the award. The exposure drafts will continue to be refined throughout 2016–17 as the common issues are determined and outstanding issues resolved.

Plain language pilot

In line with its commitment to make modern awards more accessible, in particular to small business and individuals, the Commission conducted a pilot, which involved creating a plain language draft of the *Pharmacy Industry Award 2010*.

Plain language drafting expert, Eamonn Moran PSM QC, prepared the draft, which was informed by Commission research. The draft was then refined based on feedback from industrial parties and user testing. The Commission also prepared plain language drafting guidelines as part of the process. It published a report on the pilot in April 2016.

In May 2016, the Commission proposed preparing plain language drafts of award-specific clauses in a number of other modern awards, starting with the *Clerks – Private Sector Award 2010*, *General Retail Industry Award 2010*, *Hospitality Industry (General) Award 2010*, and *Restaurant Industry Award 2010*. It selected these awards based on the high levels of award reliance in the industry or occupations they cover, particularly among small businesses.

The Commission will also apply plain language drafting principles to new award provisions developed as part of the Review.

Common issues stage

The matters the Commission has identified as common issues across modern awards are:

- annual leave ([AM2014/47](#))
- annualised salaries ([AM2016/13](#))
- award flexibility/facilitative provisions ([AM2014/300](#))
- casual employment ([AM2014/197](#))
- family and domestic violence clause ([AM2015/1](#))
- family friendly work arrangements ([AM2015/2](#))
- micro business schedule ([AM2014/306](#))
- part-time employment ([AM2014/196](#))
- payment of wages ([AM2016/8](#))
- plain language re-drafting ([AM2016/15](#))
- public holidays ([AM2014/301](#))

3 [2015] FWCFB 4658 13 July 2015; and [2015] FWCFB 6656 30 September 2015

- training costs (AM2016/14)
- provisions relating to accident pay, redundancy and district allowances (AM2014/190)

The Commission issued a number of significant decisions on common issues in 2015–16.

These included:

Award flexibility – Time off instead of payment for overtime (2015) FWCFB 4466 and (2016) FWCFB 2602

These two decisions increased the number of awards that provide the option for employees to take time off instead of receiving payment for overtime. In drafting the model term, the Full Bench ensured sufficient safeguards were in place to protect employees from being pressured into taking time off rather than being paid for overtime worked.

Accident make-up pay (2015) FWCFB 3523

The Full Bench determined it was appropriate to retain accident pay provisions in a modified form in a number of modern awards.

These provisions provide a level of income protection for injured workers no matter where they might live or which workers' compensation scheme might apply to them.

Family and domestic violence common issue – family friendly work arrangements common issue – preliminary and jurisdictional issues (2015) FWCFB 5585

A Full Bench considering an application by the Australian Council of Trade Unions (ACTU) to insert provisions in relation to the family and domestic violence common issue and family friendly work arrangements in all modern awards determined that it was appropriate that the amended claims proceed to final hearing.

Annual leave

In June 2015, the Commission issued a decision that granted employees an entitlement to cash out part of their accrued annual leave and varied terms relating to taking annual leave in advance and dealing with excessive leave accruals. The Full Bench also considered an application by employer parties to vary modern awards that required the employer to pay an employee for annual leave prior to the employee taking leave. The Full Bench decided that it was appropriate to insert a model term that contemplates payment for annual leave in the usual pay cycle whilst an employee is on paid annual leave. During the reporting period, the Commission consulted with interested parties and finalised the model terms to be inserted into most modern awards to effect these changes.⁴

Casual and part-time employment

As part of the Review there have been a number of applications to the Commission to vary the entitlements of casual and part-time employees, including to minimum engagement periods, rostering arrangements, overtime and the conversion of casual employees to permanent employment. Hearings commenced in March 2016 and will continue through the remainder of 2016.

Penalty rates

A Full Bench is dealing with applications to vary certain penalty rates in a range of hospitality and retail awards, as part of the Review process. The awards are the: *Hospitality Industry (General) Award 2010*, *Registered and Licensed Clubs Award 2010*, *Restaurant Industry Award 2010*, *Fast Food Industry Award 2010*, *General Retail Industry Award 2010*, *Hair and Beauty Industry Award 2010* and *Pharmacy Industry Award 2010*.

⁴ [2016] FWCFB 3953 24 June 2016.

During the year, the Commission heard evidence from more than 130 witnesses who appeared either in person or from regional Australia via video link. More than 300 witness statements were given by a broad range of interested parties, including employees, unions, employers and employer organisations, as well as academics with expertise in economics and workplace relations.

During 2015–16 the Commission also received 6,167 submissions, including 5,980 contributions from members of the public. Of the 656 emails it sent subscribers during the year, 216 related to the penalty rates matter.

Enterprise instruments

Enterprise instruments are former federal or state awards that covered employees in a single enterprise or a group of related enterprises. On 31 December 2013, all these instruments terminated unless an application was made to modernise them. The Commission estimated there were 1,735 enterprise instruments still operating at the termination date.

The Commission received 141 applications to modernise enterprise instruments and at 30 June 2016, 12 were yet to be determined. During the reporting period, the Commission made 10 modern enterprise awards and approved applications to modernise a further seven, with their terms still to be finalised. The Commission is dealing with a number of applications to modernise instruments operating in the Australian public sector together, with a view to making one modern award to cover a number of Commonwealth entities.

State reference public sector transitional awards

State reference public sector transitional awards applied to public sector employees in Victoria and some local government employees in Tasmania. The Fair Work Act requires the Commission to modernise them

if no application was made to terminate or modernise them by 31 December 2013.

The Commission made three state reference public sector modern awards during the reporting period, and was close to finalising a further twelve.

Regulating registered organisations

The regulation of registered organisations involves administering the provisions of the Registered Organisations Act that deal with registration and accountability of unions and employer associations. In particular, it involves regulating the finances, financial affairs, rules, elections and the conduct of officers of Australia's 110 federally registered organisations. Reports lodged with the Commission indicate that there are more than 2 million members of federally registered organisations. They also indicate control of more than \$2.5 billion in total assets and combined annual revenue in the order of \$1.5 billion (see [Table 63 in Appendix E](#)).

The Regulatory Compliance Branch (Regulatory Compliance) of the Commission assists the General Manager to administer the Registered Organisations Act and regulate organisations registered under it. Regulatory Compliance also administers the entry permit provisions of the Fair Work Act on behalf of the President of the Commission. This task involves ensuring that the Act's fit and proper person test is appropriately applied to the trade union employees and officials on whose behalf applications are made. The Commission receives between 1,500 and 1,700 applications for entry permits annually.

The Commission's achievements in its regulation of registered organisations during 2015–2016 included:

- Commencing, conducting and completing a complex investigation involving multiple parties in less than three months
- Maintaining or improving compliance levels of organisations in key reporting areas compared to last year's record levels (see [Table 40, 41](#), [Figure 12](#) and [Figure 13](#))
- Embedding a risk-based approach to its regulatory functions
- Rolling out a comprehensive, automated election advisory system, resulting in increased compliance with legislative requirements to lodge prescribed information
- Contributing to the Australian Government's policy of regulatory reform by reviewing all election-related exemptions issued since the 1980s and considering whether to revoke exemptions either no longer being used or not being used in accordance with legislative requirements
- Enhancing stakeholder engagement by forming a stakeholder-based Regulatory Compliance Advisory Group and targeted engagement with auditors and training providers
- Reviewing the membership data reported by all federally registered unions using a range of different methods, from data analysis to site visits
- Improving transparency through prompt publication of annual returns, financial returns and decisions in relation to elections and rules
- Making significant progress in responding to work referred to the General Manager by the Trade Union Royal Commission
- Issuing and publishing an average of 6.1 entry permits and 1.2 formal decisions each working day (see [Table 64 and 65](#))

Building capabilities

Historically, the Commission operated more as a registry than a regulator in relation to registered organisations. Prior to the commencement of the Thomson/Health Services Union (HSU) matter in 2009, only one investigation had been conducted by the Commission and its predecessors. This investigation concluded in 1998 with no action taken.

The length of time taken to complete Thomson/HSU investigation (three years in total) led to a fundamental shift of the Commission's regulatory approach towards that of a proactive and strategic regulator. The Commission also began work to develop its organisational capabilities.

The regulatory strategy the Commission has developed and implemented since 2012 is based on:

- educating registered organisations in order to promote high levels of voluntary compliance
- auditing registered organisations so as to track compliance levels
- enforcing compliance obligations where appropriate

This strategy is underpinned by:

- engaging with registered organisations to better understand inhibitors to and motivators for their compliance, to increase compliance; and
- adopting a risk-based approach to regulation in order to ensure the Commission focuses on organisations and areas where the risks of non-compliance are greatest

Building staff capability

To deliver its regulatory function, Regulatory Compliance has also focused on increasing its staff capabilities. During 2015–16, the branch built on and consolidated training undertaken since 2012. Several members of Regulatory Compliance undertook an advanced best-practice investigation interviewing course conducted by an RMIT University academic with extensive experience in interviewing techniques.

Training initiatives since 2012 have included the completion by Regulatory Compliance branch members of a Certificate IV in Government (Investigations); and further training in contemporary investigative and interview techniques; and a tertiary-level forensic interviewing master class by a respected academic.

Demonstrating organisational capability

The measures undertaken to increase organisational and staff capabilities are proving effective. Since 2012, the Commission has commenced and completed 29 formal investigations and inquiries.

The following example demonstrates the increased organisational capability of Regulatory Compliance. In the three months from April 2016, Regulatory Compliance:

- commenced a formal investigation that had been referred from the Trade Union Royal Commission
- analysed more than 6000 pages of complex, supporting material, including assessing which material, if any, was admissible in civil proceedings
- interviewed a range of witnesses and completed the investigation
- made formal findings concerning multiple contraventions

- obtained legal advice about the prospects of the case being successful in the Federal Court
- provided a detailed report, following which the General Manager made formal findings leading to the commencement of civil penalty proceedings in the Federal Court against a number of former trade union officials

Building networks

In 2015–16, the Commission continued to build its external networks to further enhance its effectiveness as a regulator.

Since participating in an investigations forum hosted by the Australian Federal Police (AFP) in 2013, Regulatory Compliance staff have continued to build relationships with the AFP and state-based law enforcement agencies in addition to Commonwealth agencies, such as the Fair Work Ombudsman, Fair Work Building and Construction, the Australian Electoral Commission and the Australian Taxation Office. Staff participate in a regulators' 'Community of Practice', a forum in which Commonwealth and state regulators share ideas and promote whole of government approaches.

In addition, Regulatory Compliance engaged with and seconded staff from the Australian Bureau of Statistics and specialist lawyers from a variety of firms to develop in-house legal capability in its niche regulatory field.

Engagement

As noted, engagement with stakeholders underpins the Commission's regulatory strategy. One of the measures undertaken in 2015–16 to enhance stakeholder engagement was establishing a Regulatory Compliance Advisory Group. The group comprises representatives from peak employer and employee organisations as well as regulators, the Fair Work Ombudsman and Fair Work Building and Construction. The Commission

has sought feedback from the group on the recommendations of an external review of right of entry training courses. The group's responses will inform steps the Commission takes to enhance training packages.

The Commission regularly engages on a one-to-one basis with registered organisations about compliance requirements.

In 2015–2016 the Commission consulted in relation to proposed alterations to rules, financial reporting requirements and election obligations. Staff regularly communicate with registered organisations on the need to safeguard entry permits, ensure the timely return of such permits and provide for appropriate right of entry training. Regulatory Compliance conducted webinars in 2015–2016 on financial reporting and auditing, elections and website changes, thereby providing participants with the opportunity to hear the regulator's perspectives on compliance and provide feedback. Further webinars are planned for 2016–17.

Trade Union Royal Commission referrals

The Trade Union Royal Commission resulted in an unprecedented body of work being referred to the General Manager in 2015–16. There were 30 referrals in total, concerning 16 current and former officials from eight separate trade unions, dealing with matters covering a 10-year period. Trade Union Royal Commission referrals to the Commission represented approximately 60 per cent of all civil referrals from the Trade Union Royal Commission, with the remaining 40 per cent divided among nine other agencies.

The referrals were accompanied by more than 200,000 pages of supporting material, none of which were admissible, on receipt, in any civil or other proceedings the General Manager may initiate.

To assist in its response, Regulatory Compliance recruited specialist legal staff. Due to both this external assistance and improving internal capability, significant progress on this body of work has been made by Regulatory Compliance while simultaneously matching or exceeding performance benchmarks for its other regulatory functions.

Inquiries and investigations

Sections 330 and 331 of the Registered Organisations Act empower the General Manager to conduct inquiries and investigations.

Under s.330, the General Manager may initiate a formal inquiry in relation to Part 3 of Chapter 8 of the Registered Organisations Act (which deals with records, accounts and audit), the associated regulations and reporting guidelines, and the rules of a reporting unit relating to finances or financial administration. The General Manager may also conduct inquiries as to whether a civil penalty provision in the Act has been breached (for example, in relation to the duties of office-bearers).

Under s.331, the General Manager may conduct an investigation into such matters if satisfied that there are reasonable grounds for doing so. An investigation brings with it additional powers to require information to be provided.

In addition to the work referred from the Trade Union Royal Commission, in 2015–16, the Commission initiated four inquiries and three investigations. It concluded a further seven inquiries and three investigations. As at 30 June 2016, three inquiries and four investigations were ongoing.

Table 38: Inquiries and investigations (Chapter 11, Part 4, Registered Organisations Act initiated and closed 2015–2016)

	No. as at 30 June 2015	No. initiated in 2015–16	No. closed 2015–16	No. as at 30 June 2016
Inquiries	6	4	7	3
Investigations	4	3	3	4

Each inquiry or investigation is considered on its merits, in accordance with publicly available compliance and litigation policies. The seriousness and risks associated with the alleged contraventions are taken into account, along with the organisation's response, including any remedial action taken, and the public interest. Table 39 details formal inquiries and investigations undertaken since December 2011, and the issues and the outcomes of each. Matters that were the subject of both an investigation and an inquiry are listed only once.

At the conclusion of a formal investigation under s.331 of the Registered Organisations Act the General Manager, if satisfied that there have been contraventions of the Registered Organisations Act, assesses the appropriate action to take from the options available under the legislation, weighing up the public interest in each case. The options available to the General Manager are to commence proceedings in the Federal Court of Australia, issue a notice to the organisation to take specified steps to rectify the contraventions, or refer possible criminal offences to the appropriate authority. The General Manager may make findings that contraventions have occurred but may decide that it is not in the public interest to take any further action. For example, where the nature of the breach would be outweighed by the time and resources required to pursue litigation and/or where the steps that the organisation has taken have adequately addressed the issue.

As noted, the Commission determines each inquiry or investigation on its merits. For example, court action taken against the Transport Workers Union of Australia (TWU) over its membership data contrasts with the Commission's response to concerns raised about membership data reported by the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU). Upon being advised of the Commission's concerns, the CEPU voluntarily implemented a range of compliance measures. The Commission continues to assess the implementation of those measures and associated risks. The CEPU's ongoing voluntary measures include appointing a former Commission Member to review its data, appointing a national compliance officer, and changing its rules allowing the CEPU national office to require branches and divisions to lodge audited data with the national office.

Table 39: Completed inquiries and investigations (Chapter 11, Part 4, Registered Organisations Act) undertaken since December 2011

Concluded	Name	Issue/s	Outcome
Dec 2011	Health Services Union-Victoria No. 1 Branch	Unauthorised use of organisation funds	Commission court action — fines imposed
Mar 2012	Health Services Union & Thomson	Unauthorised use of organisation funds	Commission court action — fines imposed
Aug 2012	Local Government and Shires Association of New South Wales	Allegations of improper expenditure and inaccurate reporting of expenditure	Insufficient evidence. No further action.
Mar 2013	United Voice (Tasmanian Branch)	Unauthorised use of organisation funds	Findings of contravention but not in public interest to pursue court proceedings
Oct 2013	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia; Electrical, Energy and Services Division New South Wales Divisional Branch	Failure to comply with provisions of Part 3 Chapter 8 of the Registered Organisations Act	Insufficient evidence. No further action
Feb 2014	Musicians' Union of Australia (separate investigations concerning each of the Federal Office, the Sydney Branch, the Melbourne Branch and the Hobart Branch)	Failure to comply with provisions of Part 3 Chapter 8 of the Registered Organisations Act	Commission court action — fines imposed
Feb 2014	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, Communications Division	Allegations of unauthorised expenditure	Insufficient evidence. No further action

Concluded	Name	Issue/s	Outcome
Oct 2014	Australian Salaried Medical Officers Federation, Queensland Branch	Failure to comply with provisions of Parts 2 and 3 Chapter 8 of the Registered Organisations Act	Findings of contravention but not in public interest to pursue court proceedings
Nov 2014	Australian Salaried Medical Officers Federation, National Office	Failure to comply with provisions of Part 2, Chapter 8 of the Act*	Findings of contravention but not in public interest to pursue court proceedings
Nov 2014	Australian Nursing Federation, Western Australian Branch	Failure to comply with provisions of Part 3 Chapter 8 of the Registered Organisations Act	Commission court action — ongoing
Dec 2014	The Pastoralists' and Graziers' Association of Western Australia (Incorporated)	Failure to comply with provisions of Part 3 Chapter 8 of the Registered Organisations Act	Organisation deregistered
Feb 2015	Australian Rail, Tram and Bus Industry Union, Queensland Branch (Tram and Bus Division)	Allegations of unauthorised expenditure	Insufficient evidence. No further action
Mar 2015	Australian Childcare Centres Association	Failure to comply with provisions of Part 3 Chapter 8 and Part 2, Chapter 7 of the Registered Organisations Act	Organisation deregistered
Nov 2015	CPSU, the Community and Public Sector Union, SPSF Group, Queensland Branch	Failure to comply with provisions of Part 3 Chapter 8 of the Act*; failure by former Secretary to comply with the General Duties set out in Part 2, Chapter 9 of the Registered Organisations Act	Findings of contravention but not in public interest to pursue to pursue court proceedings

Concluded	Name	Issue/s	Outcome
Feb 2016	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia; Communications Division, Tasmanian Divisional Branch	Unauthorised use of organisation funds including unauthorised engagement of employees	Inquiry concluded and formal investigation commenced.
May 2016	Flight Attendants' Association of Australia, International Division	Allegations of unauthorised expenditure	Rectification notice issued and Commission court action – ongoing
June 2016	Transport Workers' Union of Australia	Failure to comply with provisions of Part 2, Chapter 8 and Part 3, Chapter 6 of the Registered Organisations Act	Commission court action – ongoing
July 2016	Transport Workers' Union of Australia Western Australian Branch	Unauthorised use of organisation funds	Commission court action — ongoing

Court matters

During the 12 months, the General Manager notified the relevant organisations of its intention to commence four separate Federal Court proceedings.

The first matter deals with a formal investigation into two former officers of the Western Australian Branch of the TWU. In its statement of claim, the General Manager alleged the two former officers breached the Registered Organisations Act by arranging for the purchase with union funds of two customised \$150,000 Ford F-350 utility vehicles for their personal benefit as opposed to standard issue motor vehicles; and by their involvement in the Branch Committee of Management's adoption of a redundancy policy, the result of which one former officer ultimately benefited on his departure from the TWU.

The second matter also involved the TWU. The General Manager alleged the TWU breached the Registered Organisations Act in several ways: by failing to remove from its register the names and postal addresses of more than 20,000 New South Wales (NSW) Branch members; failing to keep a register of NSW Branch members between 2009 and 2012 and Western Australian Branch members in 2013; and failing to keep a copy of the register of members for a Queensland Branch election.

The third matter pertains to the Flight Attendants' Association of Australia (FAAA). In this case, the General Manager notified the FAAA of its intention to commence Federal Court proceedings against the former secretary of its International Division. The former secretary is alleged to have breached the Registered Organisations Act by failing to discharge his duties with care and diligence; failing to provide annual budgets as required under the FAAA's rules; and improperly using his position to gain advantage in approving more than 12 weeks back-pay for himself in 2011. (The FAAA was issued with a rectification notice in relation to its records but no court action was taken against it).

The fourth Federal Court matter involves the Australian Nursing and Midwifery Federation and its Western Australian Branch secretary. The Commission is alleging that the Branch failed to comply with its financial reporting obligations for the 2009–10, 2010–11 and 2011–12 financial years.

In other relevant developments in 2015–16, the Federal Court:

- handed down its penalty decision in the Craig Thomson matter in December 2015, ordering Mr Thompson to pay \$231,234 compensation and \$146,937 interest to the HSU, and imposing a minimum of \$80,050 in penalties to the Commission
- handed down its decision on Commission proceedings in March 2016 against the Musicians' Union of Australia (MUA) and its former secretary for failing to prepare, lodge and provide to members the MUA's financial reports over a number of financial years. The Court imposed penalties of \$76,500 on the MUA and \$17,000 on the former secretary

Membership data integrity

The Commission initiated a comprehensive review of membership data reported by all federally registered unions in 2014–15, and continued this work in 2015–16. The review involved surveying unions on their membership record-keeping systems and data collection methodologies; conducting site visits; interviewing key staff; and analysing data lodged in annual returns and financial reports in order to identify relevant trends and patterns.

This work has informed the assessment of reported membership data, and increased the Regulatory Compliance's capacity to detect any potential irregularities. It has also facilitated a working relationship with organisations to enhance membership reporting. For example, it was this initiative that enabled the Commission to identify irregularities in the CEPU's data, as detailed above.

Registered organisations' timeliness compliance rates

In 2015–16, for the second year in a row, and for the second time since reporting against this measure, registered organisations achieved 100 per cent voluntary compliance in lodging

their annual returns on time. These returns provide information on officials, requirements for elections and membership. This is a significant improvement from four years ago, when only 76 per cent of registered organisations lodged their annual returns on time. (see [Figure 12](#) and [Table 40](#)).

Figure 12: Annual returns lodged within statutory timelines

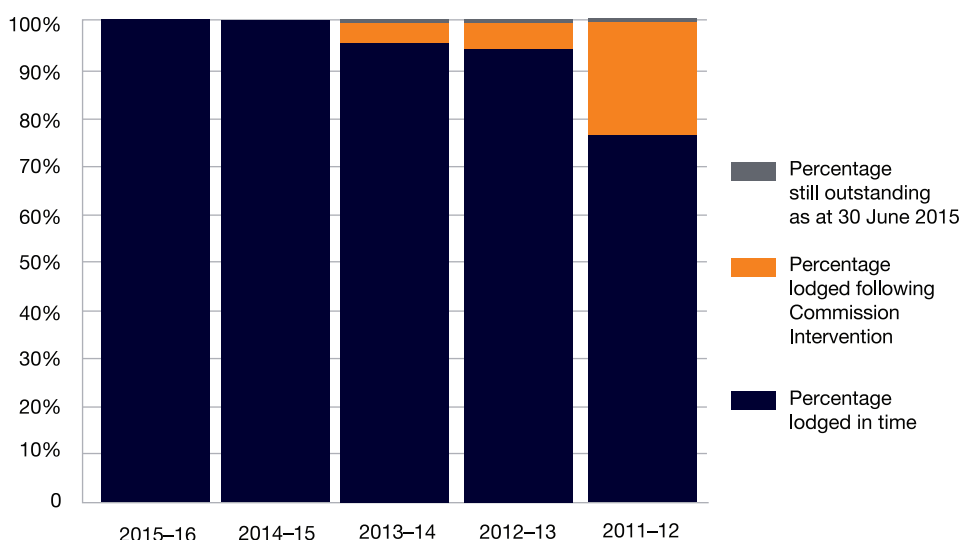


Figure 12 shows data in [Table 40](#).

Table 40: Annual returns lodged within statutory timelines

	2015-16	2014-15	2013-14	2012-13	2011-12
Lodged on time	109	111	197	217	179
Lodged following Commission intervention	0	0	8	12	54
Still outstanding as at 30 June	0	0	2	2	1
Percentage lodged on time	100%	100%	95%	94%	76%
Percentage lodged following Commission intervention	0%	0%	4%	5%	23%
Percentage still outstanding as at 30 June	0%	0%	1%	1%	0.4%

Also in 2015–16, the previous year’s record 95 per cent compliance rate for lodgment of financial returns within the statutory timeframe was further exceeded, with 96 per cent lodged on time. This increased to 99 per cent following Commission’s intervention (up from 98 per cent in 2014–15). Four years ago, the on-time lodgment rate for financial returns was 80 per cent per cent (see [Figure 13](#) and [Table 41](#)).

Separate reporting units within registered organisations (such as Branches or Divisions) are required to lodge financial reports with the Commission, unless they successfully apply for an exemption. Financial returns of registered

organisations include both financial reports lodged as well as applications for exemptions from financial reporting.

Regulatory Compliance proactively reminds every reporting unit of its obligation before its report is due.

A risk-based approach to the regulation of registered organisations’ financial reporting was introduced in 2013. Each financial year, about 20 to 25 per cent of financial reports lodged by reporting units are subject to advanced assessment. All reporting units are subject to an advanced assessment at least once every five years.

Figure 13: Financial returns lodged within the statutory timeframe

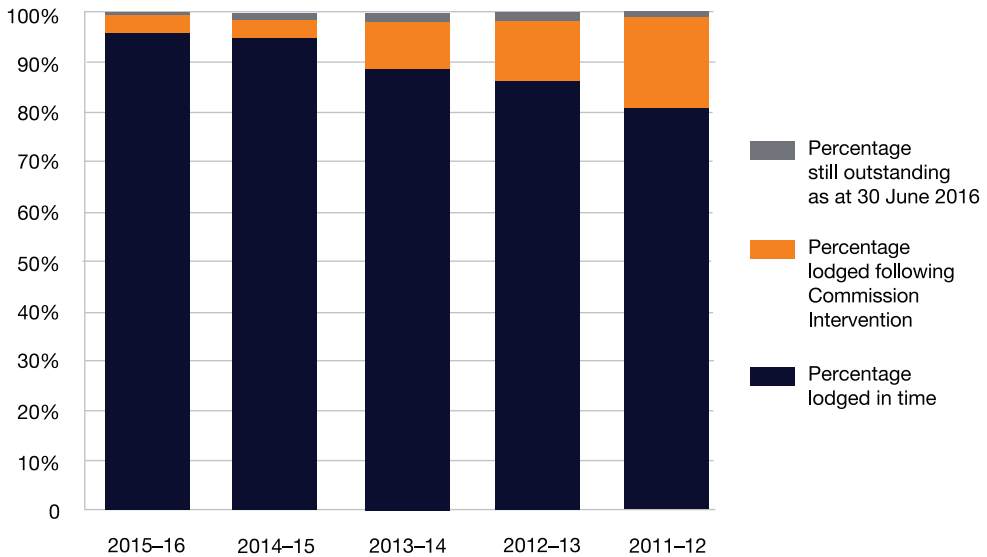


Figure 13 shows data in [Table 41](#).

Table 41: Financial returns lodged within the statutory timeframe

	2015–16	2014–15	2013–14	2012–13	2011–12
Lodged on time	364	380	342	332	319
Commission intervention	13	15	37	46	73
Still outstanding as at 30 June	1	5	6	6	3
Percentage lodged on time	96.30%	95.00%	88.83%	86.46%	80.76%
Percentage lodged following Commission intervention	3.44%	3.75%	9.61%	11.98%	18.48%
Percentage still outstanding as at 30 June	0.26%	1.25%	1.56%	1.56%	0.76%

Improving the quality of financial reporting

In 2014–2015 Regulatory Compliance commenced a program aimed at improving the quality of content of financial reports. It began an education campaign in the current reporting period focusing on improving identified areas of weakness. The campaign commenced with an information session and webinar for auditors of financial reports (see the case study on p.106). Measures of quality include whether the reporting unit has appropriately disclosed if it is a going concern; whether all statutory timeframes have been met; whether required documents have been lodged; and whether appropriate notes regarding the preparation of the accounts have been made.

Timeliness benchmarks

In addition to matching or exceeding benchmarks for external compliance, Regulatory Compliance in 2015–16 met or exceeded its own benchmarks for timeliness. For the first time since reporting against this target, Regulatory compliance assessed

100 per cent of financial reports for compliance within 40 working days of lodgment.

This compares with 96 per cent last year, and exceeds the KPI benchmark of 95 per cent of reports assessed within 40 days (see [Figure 14](#) and [Table 42](#)).

The Commission also exceeded its benchmark of 95 per cent in 40 days in relation to:

- finalising routine entry permit applications
- finalising registered organisation elections
- assessing annual returns
- assessing rule alterations under s.159 of the Registered Organisations Act

It did not meet its internal KPI of finalising 95 per cent of work, health and safety (WHS) permit applications within 40 days, with 91 per cent finalised within that timeframe.

These timeliness measures demonstrate the considerable improvements Regulatory Compliance has made over the last three years, moving from a position of not being able to

meet any of the timeliness measures to meeting or exceeding all but one measure.

Finalisation of a matter occurs when the matter is finalised with the relevant external

parties. This is distinguished from clearance rate measures which measure the time taken to close a matter, that is when it is finalised with external parties and the various internal procedures are concluded.

Figure 14: Regulatory Compliance Branch performance against timeliness benchmark targets

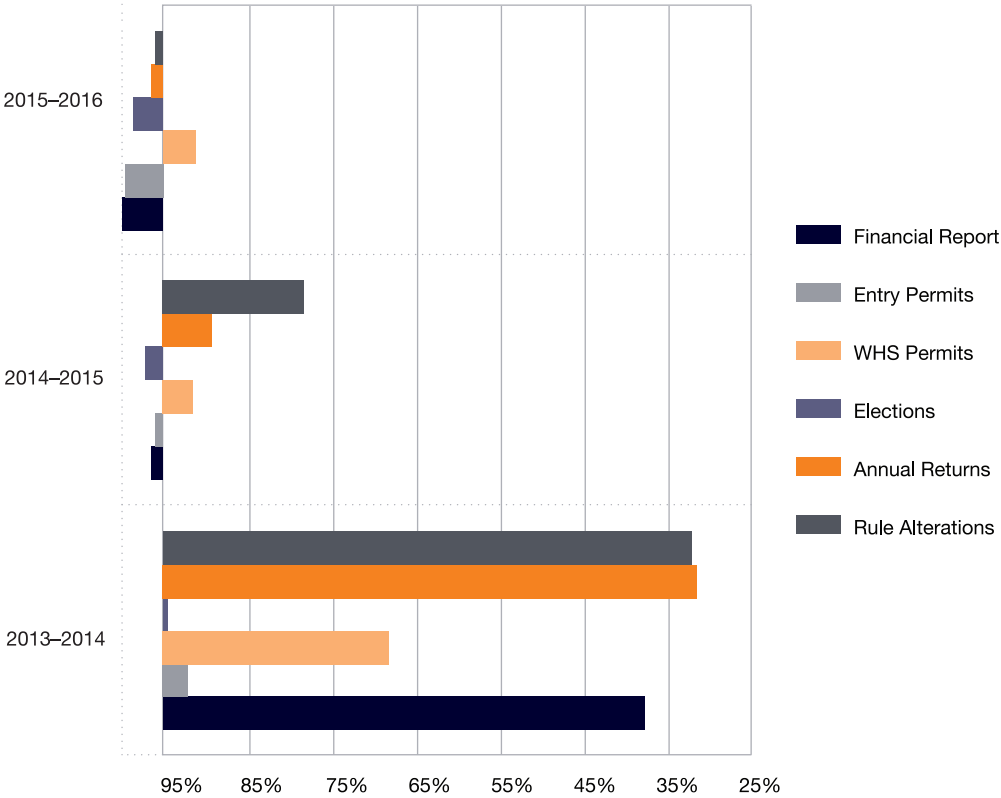


Figure 14 shows data in Table 42.

Table 42: Regulatory Compliance Branch performance against timeliness benchmarks targets

Performance targets	2015–2016			2014–2015			2013–2014		
	Number lodged	Number within KPI	Result	Number lodged	Number within KPI	Result	Number lodged	Number within KPI	Result
95 per cent of financial reports required to be lodged under the Registered Organisations Act are assessed for compliance within 40 working days	391	391	100.0%	392	377	96.2%	426	161	37.8%
95 per cent of routine entry permits to be finalised within 40 working days	1549	1543	99.6%	1468	1407	95.8%	1169	1073	91.8%
2015–2016: 95 per cent of WHS permits to be finalised within 40 working days; 2013–2014 & 2014–2015: 95 per cent within 100 working days	46	42	91.3%	47	43	91.5%	57	39	68.4%
95 per cent of elections to be finalised within 40 working days	214	211	98.6%	234	227	97.0%	195	184	94.4%

Performance targets	2015–2016			2014–2015			2013–2014		
95 per cent of annual returns to be assessed within 40 working days	113	109	96.5%	101	90	89.1%	230	73	31.7%
95 per cent of s.159 rule alterations to be assessed within 40 working days	99	95	96.0%	101	79	78.2%	182	59	32.4%

Regulator Performance Framework benchmarks

This year, the Commission measured its performance as a regulator as required under the Australian Government's Regulator Performance Framework, released in October 2014.

The framework aims to reduce unnecessary or inefficient regulation, including of registered organisations. The government set six KPIs against which regulators had to develop their own performance benchmarks, for implementation from 1 July 2015. The framework's KPIs deal with reducing regulatory burden, communications, risk-based and proportionate approaches, efficient and coordinated monitoring, transparency, and continuous improvement.

The Commission developed 13 performance measures which are detailed on the Commission's website. It will publish its results against those measures on its website by December 31 2016, as required under the framework.

Entry permits

During 2015–16 the Commission continued to improve its administration of entry permits. Specifically, the Commission:

- increased the frequency of training required and the requirement for it to be recent as part of the 'fit and proper person' test
- commissioned an external review of all previously approved entry permit training course
- increased the accountability of entry permit holders by requiring broadened disclosure concerning the 'fit and proper person' test in the application process
- required organisations to develop enhanced systems designed to increase compliance with the Fair Work Act

In 2015–16, the Commission received 1,628 applications for entry permits, compared with 1,481 in 2014–15. It issued 1,518, and refused nine, taking an average of 17 days to issue a permit. A total of 63 applications were withdrawn for various reasons, most commonly after the applicant was informed that additional disclosure or further information was required. (See [Table 43](#) and [Figure 15](#)).

Table 43: Entry permit applications¹

	Number	Average time to issue a permit
Applications for entry permits	1,628	
Entry permits issued	1,518	17 days
Entry permits refused	9	
Applications withdrawn	63	

¹ The number of permits issued and refused does not equal the number of applications received in the reporting period because some applications were not finalised until after the reporting period.

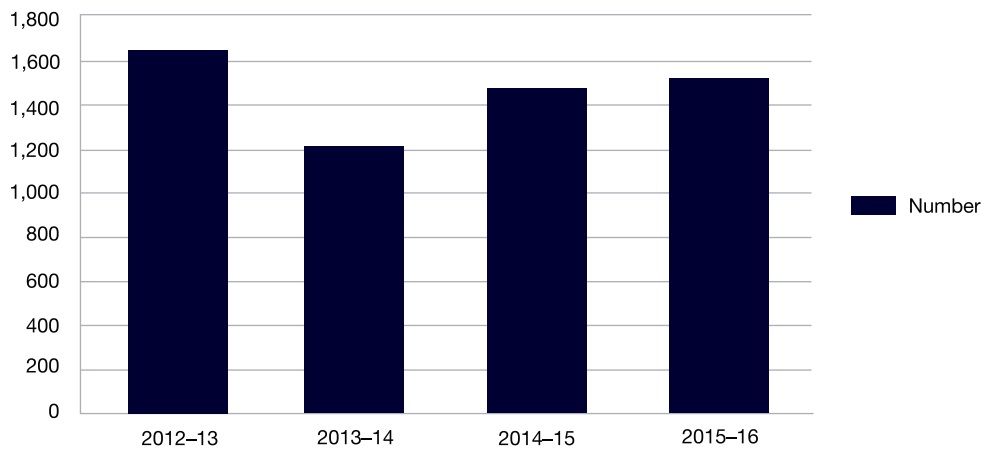
Figure 15: Entry permits issued

Figure 15 shows data in Table 64, Appendix E.

Organisations Panel's jurisdiction

The Commission's Organisations Panel deals with various types of applications made by registered organisations, including applications for registration, changes to eligibility rules and cancellation of registration. The Panel

also considers non-routine applications for entry permits.

During the year the Panel finalised 13 matters. Six of these related to changes to eligibility rules, and three related to the cancellation of registered organisations' registration.

Table 44: Registered organisations — finalisation of matters in the jurisdiction of the Organisations Panel

Application type	Section of the Registered Organisations Act	Number finalised 2015–16	Number finalised 2014–15	Number finalised 2013–14
Orders about representation rights of organisations of employees	s.137A	0	1	0
Membership agreement with State Registered Union	s.151(1)	0	1	1
Assets and liabilities agreement with State Registered Union	s.152(2)	1	0	0
Change of name	s.158(1)(a)	1	1	5
Changes to eligibility rules	s.158(1)(b)	6	11	18
Registration of association of employers	s.18(a)	2	4	3
Registration of association of employees	s.18(b)	0	3	4
Cancellation of registration	s.30	3	5	7
Submission of amalgamation to ballot	s.44(1)	0	0	1
General Manager directed to enter particulars	s.152(2)	0	0	0
TOTAL		13	26	39

Total matters dealt with

Regulatory Compliance continued to deliver high clearance rates across 2015–16. It closed 3,232 matters, which exceeded the 3,143 matters lodged with it in the same period (see [Table 45](#) and [Figure 16](#)). A matter is closed when it is finalised with the relevant parties and when various internal procedures have been concluded. This is distinguished from timeliness measures (see [Figure 14](#) and [Table 42](#)). Timeliness is measured as time taken to finalise with relevant parties.

The data in [Table 45](#) summarises Regulatory Compliance’s clearance rate of all registered organisations’ matters. In last year’s annual report the Commission reported clearance rates for three specific matters – annual returns, financial returns (including exemptions from financial reporting), and requests for advice and alterations to rules. This data is included in [Table 66](#) in [Appendix E](#).

Table 45: Regulatory Compliance matters lodged, closed and clearance rates

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	TOTAL
LODGED	274	292	417	275	210	263	173	289	355	144	214	237	3,143
CLOSED	308	333	362	300	228	269	186	298	272	242	214	213	3,235
CLEARANCE RATE	112%	114%	87%	109%	109%	102%	108%	103%	77%	168%	105%	90%	103%

Figure 16: Regulatory Compliance matters lodged and closed 1 July 2015 – 30 June 2016

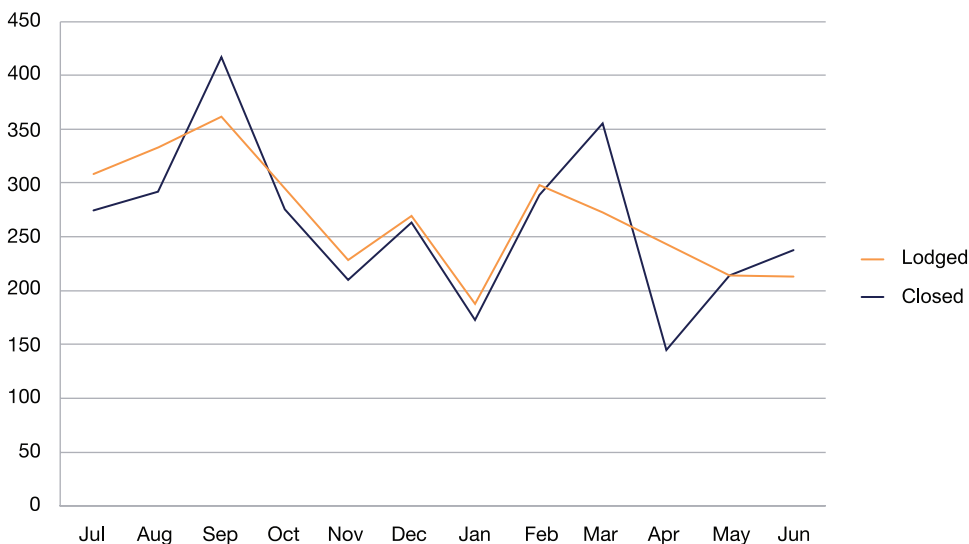


Figure 16 represents data in [Table 45](#).

Case Study

Encouraging voluntary compliance by Registered Organisations

Assisting registered organisations to become more voluntarily compliant in their financial and legal obligations is an important aspect of the day-to-day work undertaken by the Commission's Regulatory Compliance Branch.

Proactively providing advice and help to reporting units and their auditors has been a considerable driver in the way the Branch now approaches its dealings with registered organisations, and has proven to be particularly effective.

The Commission's Financial Reporting Specialist in the Regulatory Compliance Branch, confirms this often means that 'by the time our clients lodge, there are no surprises' or unexpected issues with their documentation. Clients concerns can be addressed early in the process to enable them to 'get it right the first time' with the financial reports they submit.

Graeme Kent, Director from MGI Audit, whose clients include both private companies and registered organisations, confirms the assistance and collaboration from the Branch's expert staff helps ensure that the organisations he assists are complying.

This year the Commission launched an upgraded website redesigned for industry, stakeholders and members of the community to more easily access the latest information, with a refined layout and improved navigation, and interactive webinars for registered organisations on becoming more compliant.



*A new initiative absolutely is the webinar series and there has also been the opportunity to meet with key people in the finance regulatory arm, **Graeme Kent**.*

The introduction of the webinar series, along with guidance documents such as model financial statements has provided valuable tools for industry and individuals to help them navigate the financial reporting process and better understand their obligations.

Another way the Regulatory Compliance Branch is proactively engaging with their audience is hosting meet and greet sessions for stakeholders. Mr Kent says 'it was a great experience to meet the people I'm calling on the phone and being able to pick their brains to make sure I am delivering the best service to my clients.'

Visit the website www.fwc.gov.au for the full case study and to view the extensive resources of fact sheets, templates and webinars for Registered Organisations.

Appeals

A person who is aggrieved by a decision or order made by a Member of the Commission or the General Manager can apply to appeal that decision or order.

Appeals are heard by a Full Bench of the Commission, which is generally made up of three Members, including at least one Presidential Member.

The Full Bench will usually determine two issues:

- whether permission to appeal should be granted
- whether there has been an error in the original decision

If permission to appeal is granted, the Full Bench may:

- confirm, quash or vary the decision
- make a further decision in relation to the matter that is the subject of the appeal
- refer the matter that is the subject of the appeal to a Commission Member for further action

Permission to appeal process

In January 2016, the Commission's earlier permission to appeal pilot process was embedded as standard practice for unfair dismissal appeals, which represent the majority of appeal matters and general protections consent arbitration dismissal appeals.

This followed an internal review of the pilot in December 2015 (available on the Commission's website), which found the process reduced costs for parties while maintaining access to procedural fairness; significantly improved the time between permission to appeal hearings and a decision being handed down; and reduced the appeals workload for Commission Members.

The permission to appeal process has led to significant improvement in 2015–16 in the timeliness with which appeals are heard, as reported below.

Under the process, a Full Bench determines whether to grant permission to appeal as a threshold issue, so parties do not incur the costs of preparing and filing submissions on the merits of the appeal if permission is refused.

In 2015–16, the Commission heard 137 applications for permission to appeal. Of these, 107 (78.1 per cent) were refused. This was a similar outcome to that of the first six months of the pilot, when 70 applications were made and 52 (74.3 per cent) refused.

Framework for permission to appeal pilot

- When an appeal was allocated to the pilot, all parties were informed that the issue of permission to appeal was to be determined as a threshold matter. The appellant was required to file a short written submission in support of the application for permission to appeal but did not need to file witness statements, evidentiary material or lengthy submissions addressing the merits of the case. The respondent was not required to file any written submissions in response
- All appeals included in the pilot in a particular month were heard across two days, at a specified time, in the month following lodgment (usually the third week of the following month)

Table 46: Permission to appeal statistics

Year	Total	Permission not granted	Permission granted	Percentage not granted	Percentage granted
2015–16	137 ¹	107	26	78.1	18.9
2014–15 ²	70	52	18	74.3	25.7

1 Four matters still pending at the time of compilation. Matters counted based on listing dates within the period.

2 1 January–30 June 2015.

Total appeal numbers and outcomes

In 2015–16, Commission Full Benches determined 268 appeals, including permission to appeal matters. This was an increase on the 234 appeals determined in 2014–15. Of the 268 total, 190 were dismissed and 78 upheld.

Unfair dismissal matters accounted for the largest number of appeals made to the Commission, reflecting the high number of unfair dismissal applications lodged.

In 2015–16, 139 unfair dismissal appeals

were determined, including permission to appeal matters. Of the total, the Commission dismissed 110 and upheld 29.

The Commission determined 43 appeals of decisions issued on applications made under s.739 of the Fair Work Act to deal with disputes, dismissing 29 and upholding 14. It determined 39 appeals of decisions on applications to approve agreements, dismissing 21 and upholding 18.

The Commission dismissed all four appeals of anti-bullying decisions (or orders).

Table 47: Outcomes of appeal matters

Matter Type	Appeals upheld			Appeals dismissed			Total appeal decisions		
	2015–16	2014–15	2013–14	2015–16	2014–15	2013–14	2015–16	2014–15	2013–14
Unfair dismissals	29	32	23	110	102	50	139	134	73
General protections ¹	2	-	-	10	-	-	12	-	-
Agreement approvals	18	8	6	21	11	5	39	19	11
s.739 disputes	14	11	6	29	22	8	43	33	14
Industrial action	6	1	5	2	5	3	8	6	8
Modern Awards	0	1	6	0	0	2	0	1	8
Bargaining disputes	3	3	3	8	5	3	11	8	6
Right of entry	3	4	2	5	5	0	8	9	2

Matter Type	Appeals upheld			Appeals dismissed			Total appeal decisions		
Anti-bullying ²	0	-	-	4	-	-	4	-	-
Miscellaneous	3	6	5	1	18	12	4	24	17
Total	78	66	56	190	168	83	268	234	139

1 Categories added since last reporting period.

2 Categories added since last reporting period.

Appeals

In 2013 the Commission expanded its performance benchmarking to include appeal applications made under s.604 of the Fair Work Act. The benchmarks applied to applications made on or after 1 July 2013. The benchmarks, part of the *Future Directions* program, are intended to be challenging, and to that extent they are aspirational.

Appeal listing times

The benchmark for appeal listing times is:

- 90 per cent of all appeals listed within 12 weeks

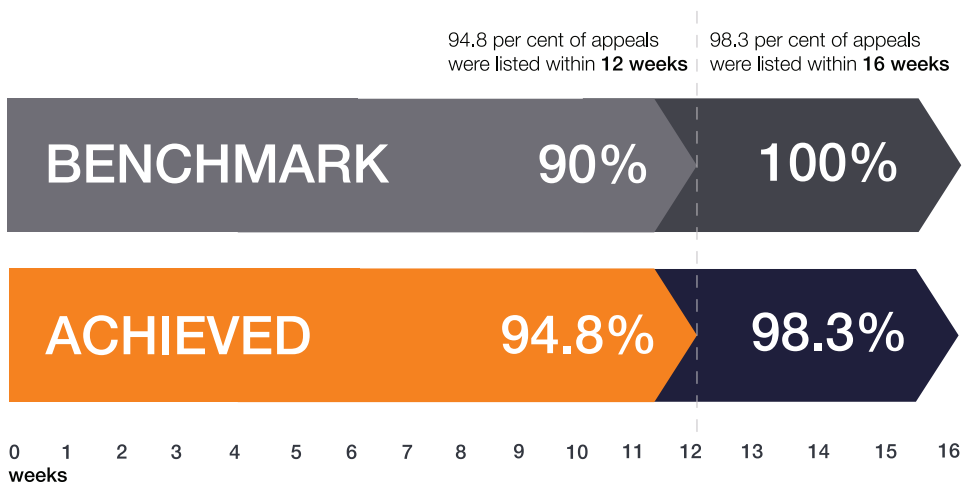
- 100 per cent of all appeals listed within 16 weeks

The measure commences from the day the application is lodged and measures the time between lodgment and the first appeal hearing. Matters are included in the measurements after the appeal is decided.

The results achieved for July 2015 to June 2016 were:

- 94.8 per cent of appeals were listed within 12 weeks
- 98.3 per cent of appeals were listed within 16 weeks

Figure 17: Appeal Listings 2015–16



This is a significant improvement in performance from the previous year, where 75.7 per cent of applications were listed within 12 weeks and 92.7 per cent were listed within 16 weeks. This can be attributed to the introduction of the permission to appeal pilot, where permission is dealt with early and as a threshold issue.

In 2015-16, there was one matter listed outside the benchmark times at the request of the parties.

Appeal reserved decisions

The benchmarks for appeal reserved decisions are:

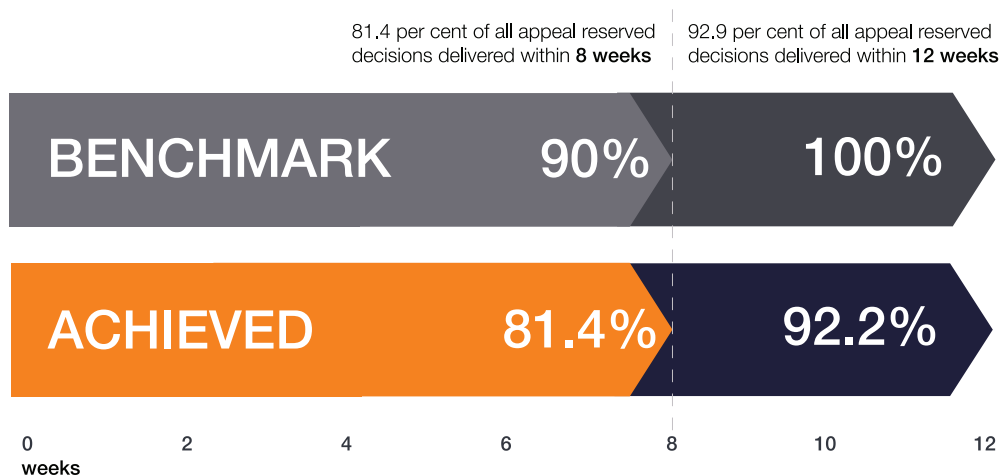
- 90 per cent of all appeal reserved decisions delivered within 8 weeks
- 100 per cent of all appeal reserved decisions delivered within 12 weeks

The results achieved for July 2015 to June 2016 were:

- 81.4 per cent of all appeal reserved decisions delivered within 8 weeks
- 92.9 per cent of all appeal reserved decisions delivered within 12 weeks

There were 70 appeal decisions reserved in 2015-16, with four delivered outside the benchmark.

Figure 18: Appeal Reserved Decisions 2015-16





Management and Accountability

4

Corporate governance

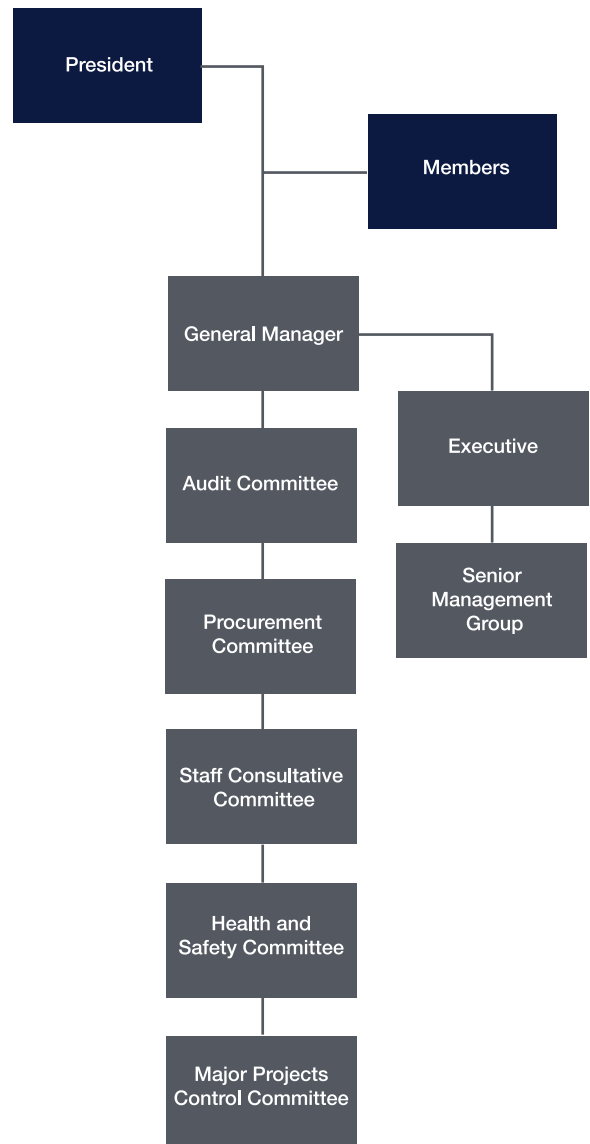
The General Manager is the statutory head of Australian Public Service (APS) staff employed by the Commission. The General Manager is responsible under s.657(1) of the Fair Work Act for assisting the President in ensuring that the Commission performs its functions and exercises its powers. In addition, the General Manager has functions as a statutory officeholder concerning federally registered organisations under the Registered Organisations Act.

As the head of the Commission's administrative arm, the General Manager is responsible for the Commission's performance, financial management and compliance with regulatory requirements under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the Public Service Act.

The General Manager is supported by an Executive team which meets fortnightly to discuss key planning and operational issues. The Executive team is, in turn, supported by a Senior Management Group and a range of management, oversight and staff committees.

Governance structure

Figure 19: Governance structure



Fraud management

The Commission has a fraud control plan and conducts fraud risk assessments regularly, including when there is a substantial change in its structure, functions or activities. The fraud control plan establishes mechanisms for preventing, detecting, investigating and reporting on fraud and suspected fraud within the Commission.

During 2015–16 the Commission updated its fraud risk policies to better align with the Commonwealth Fraud Control Framework, in addition to updating its fraud risk assessment framework. The Commission's approach to fraud management was independently reviewed by its internal auditors during 2015-16.

Fraud control plan

Annual Report 2015–16 Fraud Control Certification

In accordance with s.10 of the *Public Governance, Performance and Accountability Rule 2014*, I hereby certify that I am satisfied that the Fair Work Commission:

- has prepared fraud risk assessments and fraud control plans
- has in place appropriate fraud prevention, detection, investigation and reporting mechanisms that meet the specific needs of the commission
- has taken all reasonable measures to appropriately deal with fraud relating to the commission



22 September 2016

Bernadette O'Neill

General Manager

Significant finance law issues reported

The Commission has made no reports of significant non-compliance with the finance law as it relates to the Commission for the 2015–16 year. Finance law incorporates the PGPA Act, including rules and instruments created under the PGPA Act, and any appropriation Acts.

Risk management

Over the next four years the Commission's Corporate Plan prioritises embedding a contemporary risk management culture and practices across the organisation, in line with the risk management framework introduced by the PGPA Act.

The Commission's aim is to establish a high-quality organisation-wide risk management system with an emphasis on:

- reviewing the current risk management framework, policy and practices in line with the following principles:
 - governance arrangements provide sufficient delegation, accountability and oversight appropriate to the scope and significance of activities
 - communication about risk is clear, wide-reaching and effective
 - risks can be effectively escalated where necessary
 - risk is embedded as an integral part of day-to-day activities
 - all staff are responsible for actively managing risk
 - risk management is applied on a consistent and systematic basis across the organisation
 - staff and managers have appropriate risk management training, skills and assistance to undertake effective risk management across the organisation
 - risk management is aligned with the Commission's strategic objectives

- reviewing the organisational structure and project governance arrangements to fill operational and capability gaps
- reviewing corporate and procedural policies and arrangements to ensure that staff are appropriately informed about the scope of their role, their responsibilities and accountability so that they can perform their day-to-day activities to a high standard
- as part of workforce planning, review induction and training programs to provide training and development for staff concerning risk

The Commission updated its Risk Management Policy in June 2015 and ensured its alignment with the Commonwealth Risk Management Policy. The Commission's policy establishes a system of risk management and oversight.

Business continuity

During 2015–16 the Commission reviewed and subsequently improved its business continuity with further development of information and communication technology disaster recovery capabilities.

Having previously established a mirrored disaster recovery site, data networks, storage and server virtualisation were reconfigured and implemented across two environments located in different states. This resulted in improved service continuity and restoration times.

The new capability established in 2015–16 will allow for further improvements for applications and software in the next phase of the disaster recovery program.

Audit committee

The role of the Audit Committee is to provide independent assurance to the General Manager on the Commission's financial and performance reporting responsibilities, risk oversight and management, systems of internal control and internal audit.

The General Manager appoints Audit Committee members. Three of the four Committee members are independent, satisfying the requirement that the majority of committee members be persons who are not officials of the Commission.

During 2015–16 the Audit Committee met four times. The Committee approved an updated internal audit plan and provided oversight of the Commission's risk management and internal control frameworks.

Internal audit activities

Ernst & Young were appointed as the Commission's internal auditors. The following internal audits were considered by the Audit Committee and finalised in 2015–16:

- Protective Security Policy Framework Review
- PGPA Act and Commonwealth Procurement Rules – Compliance Review
- Fraud Control Plan and Fraud Risk Assessment
- High level process review of the management of payment cards and management of cash

Planning

The Commission has a four year Corporate Plan 2016–2020 (Corporate Plan) with the following goals:

- The community understands the role of the Fair Work Commission and recognises it as an independent, expert tribunal
- The Fair Work Commission is accessible to all Australians, recognising the community's diverse needs and expectations
- The Fair Work Commission is accountable and transparent
- High levels of compliance with legislative obligations

Each year, the Corporate Plan is reassessed against operational and environmental factors, updated and published online by 31 August. The Corporate Plan is supported by business plans across all branches and aligned with staff performance plans.

Projects

Major Projects Control Committee

The Major Projects Control Committee is comprised of the Executive team and senior managers. The Committee is responsible for high-level strategic governance of major organisational and capital expenditure projects. Projects considered by the Committee in 2015–16 include development of the Commission's new website and replacement of the telephone system.

Performance and development framework

The *Fair Work Australia Enterprise Agreement 2011–14* is supported by a performance and development framework.

The framework provides strong links between individual performance and development and

the organisation's goals. All staff employed by the Commission for at least three months are required to have an individual Performance and Development Plan.

The framework is designed to encourage productivity by defining work and behavioural goals and aims to:

- identify professional development opportunities aligned with the Commission's core skills requirements
- recognise employee contributions beyond their immediate work area
- enable the development of goals common to a group of employees
- ensure that employee behaviour is consistent with APS values
- enable individual performance and development plans to be completed and monitored
- apply performance ratings consistently

Ethical standards

The Commission's ethical standards are governed by a legislative framework common to all non-corporate Australian Government agencies, including:

- Public Service Act
- Public Service Regulations 1999
- Australian Public Service Commissioner's Directions 2013
- PGPA Act

Values

All Commission staff are expected to uphold and act in accordance with the following APS Values:

- impartial
- committed to service
- accountable
- respectful
- ethical

The Values guide staff in their daily work and in their interactions with colleagues and the community. They are also embedded in the Commission's recruitment and performance management processes.

In addition to the APS Values, the Commission has developed the following cultural principles:

- **Innovation** – being innovative, agile and responsive. Using technology and innovation to replace manual tasks with more value-added activities. Encouraging and rewarding innovation and creating an environment that cultivates new ideas
- **Collaboration** – working collaboratively across the organisation to share collective knowledge, fostering a shared sense of purpose, achieving corporate goals and striving to meet community expectations
- **Service excellence** – being user-focused, making users' needs central to organisational processes and service delivery. Ensuring services are accessible, efficient, reliable and of the highest possible standard

Each year the Commission participates in the APS State of the Service census, which provides important information on employee engagement, leadership, workplace culture and capability and capacity. The results provide valuable insight into the Commission's culture and values.

Member and staff committees

For many years the Commission has had a number of committees constituted by both Members and senior staff which have had oversight of various activities.

Following consultation with Members, during 2015–16 the Commission revamped and reconstituted its committees.

Commission Rules and Benchbooks

For the first time, the newly constituted Rules and Benchbooks Committee includes external stakeholders with representatives from the Law Council, Australian Chamber of Commerce and Industry, AiGroup and the ACTU. The Committee's role is to consider changes to the Commission's Rules and forms and to develop and maintain benchbooks and practice notes. By providing direct input from the perspective of the Commission's users, external stakeholders play a key role in the operation of the new Committee.

New Approaches

As well as overseeing the capability and development of Members and staff involved in delivering the program, the *New Approaches* Committee coordinates, oversees and reports on the Commission's *New Approaches* activities.

International Engagement

Members often share their expertise by engaging with dispute resolution agencies from various countries and with international agencies which impact on labour relations, such as the International Labour Organization.

The International Committee coordinates visits to the Commission by international delegations.

Access, Engagement and Communications

The Access, Engagement and Communications Committee oversees the Commission's engagement with external stakeholders and the community, including through the popular Workplace Relations Education Series of lectures, mock hearings and papers. As well as overseeing the production and maintenance of the Commission's information materials, the Committee identifies and harnesses opportunities for broader engagement with the Australian community, including through Member speaking engagements and participation in relevant forums.

Future Directions

Having overseen initiatives from the second phase of the *Future Directions* program in 2015–16, the Committee considers further initiatives to improve fairness and access, efficiency and accountability. This includes monitoring developments in other courts and tribunals in order to identify ways to continuously improve performance across the Commission.

Internal Engagement

The Committee aims to strengthen organisational cohesion and collegiality by identifying opportunities to increase interaction between Members and staff. This includes coordinating induction processes for new Members and developing internal engagement initiatives such as the 'walk in my shoes' program. This new initiative in 2015–16 allows staff to build an understanding of work across the Commission by experiencing a working day in another team, branch or location.

Service charter and complaints

The Commission's Service Charter outlines the nature and level of services the public can expect from Commission staff (see [Appendix I](#)).

The charter also provides information on how to make a complaint or to provide feedback on the Commission's administrative activities.

The Commission relies on feedback and complaints received to better inform potential business improvements and service issues.

The Commission has a separate process for dealing with complaints about Members in accordance with the provisions outlined in the Fair Work Act. Implemented in March 2013, the Member Code of Conduct sets out the process for making a complaint about a Member of the Commission. This code is published on the Commission's website.

Complaints

During 2015–16 the Commission received 144 written complaints. This is a decrease from the previous year, when 162 complaints were received.

Written complaints were responded to and finalised in an average of seven working days in 2015–16, with some taking longer to resolve than others, depending on the complexity of the complaint. This was within the Commission's service promise to respond to written complaints within 20 working days.

The majority of complaints received were in relation to the Commission's processes. A substantial number of these complaints involved issues that were outside its jurisdiction or arose from a fundamental misunderstanding of the process or authority of the Commission.

There was an increase in the number of complaints received in relation to unfair dismissal conciliations. A number of these complaints were from parties who did not fully understand limitations on the role of a conciliator in facilitating agreement between parties.

The Commission has sought to address these issues by providing simplified and accessible information on its new website.

Table 48: Breakdown of complaints

Subject	2015–16	2014–15
Member conduct	8	10
Unfair dismissal conciliation ¹	30	18
Outcome of a matter ²	6	23
Timeliness	4	1
Administration ³	20	26
Pay and entitlements	0	2
Complaint relating to modern award or enterprise agreements ⁴	12	10
Adjournment request refusal	4	3
Process ⁵	45	59
Other ⁶	15	10
Total	144	162

1 Unfair dismissal conciliation includes conciliation processes and conciliator conduct.

2 Complaints relating to the outcome of a matter include decisions of the Commission. These matters generally cannot be dealt with through the complaints process and usually require a formal appeal of the decision to be lodged.

3 Administration includes administrative errors, staff conduct, errors with the website and lodgment system.

4 Complaints relating to the content of modern awards or enterprise agreements usually cannot be resolved through the complaints process and usually require a formal application to be lodged to amend or vary these instruments.

5 Process relates to either dissatisfaction with one of the Commission's processes or a fundamental misunderstanding of the process or the authority of the Commission.

6 Other includes complaints about not being able to find documents on the Commission's website.

External scrutiny

The Auditor-General issued an unqualified independent audit report on the Commission's 2015–16 financial statements. There were no other reports issued by the Auditor-General relating to the Commission in 2015–16.

There were no judicial decisions or decisions of administrative tribunals or the Australian Information Commissioner in 2015–16 that had, or may have had, a significant effect on the operation of the Commission. There were no reports on the operation of the Commission by a parliamentary committee or by the Commonwealth Ombudsman in 2015–16 and no agency capability reviews were released during the period.

Other reviews

There were two reviews into Australia's workplace relations framework in 2015–16. On 30 November 2015 the Productivity Commission delivered a report on its inquiry into the national workplace relations framework. The report was tabled in Parliament on 21 December 2015. The final report of the Royal Commission into Trade Union Governance and Corruption was released on 30 December 2016.

The General Manager and the Executive team attended Senate Estimates hearings on 22 October 2015, 11 February 2016 and 6 May 2016. The President attended the Senate Estimates hearing on 22 October 2015.

The General Manager assisted with the Post Implementation Review of the *Fair Work Amendment Act 2013* into the anti-bullying provisions of the Fair Work Act.

Management of human resources

Statistics

At 30 June 2016, the Commission employed a headcount total of 306 staff (251 ongoing

and 55 non-ongoing). This does not include Members of the Commission and is a decrease in headcount of 22 from the total number of ongoing and non-ongoing staff at 30 June 2015. The Commission did not have any casual employees as at 30 June 2014 or 30 June 2015.

Table 49: Ongoing employees by employment status (by headcount), 30 June 2015 and 30 June 2016

	30 June 2016			30 June 2015		
	Female	Male	Total	Female	Male	Total
Full time	135	82	217	137	89	226
Part time	30	4	34	29	5	34
Total	165	86	251	166	94	260

Note: As at 30 June 2016 the Commission did not have any employees who identified as Aboriginal or Torres Strait Islander.

Table 50: Non-ongoing employees by employment status (by headcount), 30 June 2015 and 30 June 2016

	30 June 2016			30 June 2015		
	Female	Male	Total	Female	Male	Total
Full time	38	16	54	45	23	68
Part time	1	0	1	0	0	0
Total	39	16	55	45	23	68

Table 51: Ongoing and non-ongoing employees by location (by headcount), 30 June 2015 and 30 June 2016

	30 June 2016			30 June 2015		
	Female	Male	Total	Female	Male	Total
Victoria	129	71	200	141	85	226
New South Wales	32	21	53	31	23	54
Queensland	14	4	18	14	4	18
Western Australia	11	1	12	10	1	11
South Australia	9	3	12	7	3	10
Tasmania	3	0	3	3	0	3
Australian Capital Territory	4	2	6	3	1	4
Northern Territory	2	0	2	2	0	2
Total	204	102	306	211	117	328

Table 52: Ongoing and non-ongoing employees by substantive classification (by headcount): 30 June 2015 and 30 June 2016

	30 June 2016			30 June 2015		
	Female	Male	Total	Female	Male	Total
APS Level 2	5	3	8	2	2	4
APS Level 3	7	0	7	9	2	11
APS Level 4	32	21	53	49	27	76
APS Level 5	41	15	56	35	14	49
APS Level 6	84	33	117	75	44	119
Executive Level 1 ¹	13	6	19	14	4	18
Executive Level 2 ²	19	22	41	24	22	46
SES Band 1	2	2	4	2	2	4
General Manager	1	0	1	1	0	1
Total	204	102	306	211	117	328

¹ Total ongoing and non-ongoing employment numbers are for substantively held roles.

² As at 30 June 2016 the Commission employed 31 conciliators at EL2 and EL1 levels with specialist skills whose roles are not managerial.

Diversity and inclusion

The Commission is committed to creating a working environment that values and utilises the contribution of its employees from diverse backgrounds and experiences.

The Commission's Workplace Diversity Strategy 2013–2015, which will be reviewed in 2016–17, provides a basis to strengthen relationships between the Commission and its employees by supporting an inclusive environment which looks beyond perceived differences. The strategy includes:

- Increasing the recruitment and retention of employees from culturally and linguistically diverse backgrounds
- Providing flexible working arrangements including part-time work, flex leave, home based work agreements and time off instead of payment for overtime worked. The Commission also offers access to purchased leave and provides assistance to parents returning to work
- Four weeks' paid parental leave for non-primary caregivers and an additional four weeks' paid maternity leave (taking paid maternity leave to a total of 16 weeks)
- A 'Keeping in Touch' program to assist primary carers to stay connected with the workplace

In 2015-16, the Commission amended all forms and policies to meet the Australian Government Guidelines on Recognition of Sex and Gender.

Recruitment and Separations

During 2015–16, 50 new employees (ongoing or non-ongoing) commenced employment and 72 employees (ongoing or non-ongoing) departed the Commission.

New employees in 2015–16 commenced across all branches, with the largest number of new employees being recruited by the Member Support Team, the Unfair Dismissals Case Management Team, Victoria Associates Team and Registry Teams.

Conditions of employment

Fair Work Australia Enterprise Agreement 2011–14

The *Fair Work Australia Enterprise Agreement 2011–14* continued in force during the year while negotiations for a new enterprise agreement continued between staff and management bargaining representatives.

Flexible work

The Commission provides flexible working arrangements to help employees balance work and other responsibilities including:

- Part-time work — at 30 June 2016, 34 ongoing employees and one non-ongoing employee worked part-time. This is an increase of one compared with the number of part-time employees as at 30 June 2015
- Home-based work — as at 30 June 2016, three ongoing employees had a home based work agreement to combine ongoing work commitments with parental responsibilities and/or personal circumstances. This is a decrease of three compared with home based work arrangements as at 30 June 2015

Collective and individual agreements

All employees, excluding Senior Executive Service (SES) employees, are covered by the *Fair Work Australia Enterprise Agreement 2011–14*. As at 30 June 2016, the total headcount of employees covered by the enterprise agreement was 301. In 2015–16 the Commission had nine employees covered by an individual flexibility arrangement.

The Commission has four SES employees. Employment conditions for SES employees are set out in individual determinations made

under s.24(1) of the Public Service Act. These determinations are comprehensive documents covering each SES employee's terms and conditions, with many conditions being aligned with the Commission's enterprise agreement.

Salary Ranges

The table below shows salary ranges available to APS employees by classification level. Salary ranges are unchanged between 2014–15 and 2015–16.

Table 53: Salary ranges by classification, 2014–15 and 2015–16

	2015–16		2014–15	
	Minimum (\$)	Maximum (\$)	Minimum (\$)	Maximum (\$)
APS Level 2	52,284	57,529	52,284	57,529
APS Level 3	58,836	63,446	58,836	63,446
APS Level 4	65,508	71,089	65,508	71,089
APS Level 5	73,029	77,397	73,029	77,397
APS Level 6	79,094	90,983	79,094	90,983
Executive Level 1	100,688	108,694	100,688	108,694
Executive Level 2	116,094	135,869	116,094	135,869
SES Band 1	140,000*	N/A**	140,000*	N/A**

Note: The General Manager is not included in this table. The General Manager is an independent statutory officer holder whose remuneration arrangements are determined by the Remuneration Tribunal.

* The figures reflect base salary only and excludes superannuation and other benefits.

** The General Manager determines the salaries of all SES staff.

Non-salary benefits

Non-salary benefits are available to employees through the *Fair Work Australia Enterprise Agreement 2011–14*, individual arrangements and other initiatives and include:

- time off instead of payment for overtime worked
- where available through the local metropolitan public transport authority, access to annual train, tram, bus and ferry tickets – the Commission pays the up-front cost and the employee then repays the amount fortnightly over a 12-month period
- healthy lifestyle initiatives such as subsidised yoga and pilates classes, annual flu vaccinations and an Employee Assistance Program

Performance pay

The Commission does not provide performance pay.

Learning and development

Individual professional development is directly linked to the Commission's performance and development framework and aims to create a more capable workforce to meet current and future needs.

The Commission continues to offer learning and development opportunities through a range of learning options, in line with the 70:20:10 model of learning and development which is widely used across the APS. The model consists of 70 per cent of learning from on the job experiences (experiential learning), 20 per cent from social/informal learning (particularly from a role model or coaching) and 10 per cent from training courses and reading (formal learning). Learning opportunities for staff includes short courses, a variety of eLearning modules, support for staff undertaking formal study, attendance at conferences and coaching/mentoring opportunities.

The Commission has implemented a number of successful learning and development projects during 2015–16, including a new Learning Management System. This system provides access to a suite of quality eLearning programs and other premium learning technology solutions that will improve flexibility, access and reporting across the agency. Work also commenced on the review and revision of the Commission's induction program, to ensure it meets the needs of the Commission's newest employees whilst providing essential legislative and local information.

A Learning and Development Strategy 2016 — 18 will be developed in the coming year to enable the Commission to develop targeted and timely learning and development that is aligned with the Commission's objectives.

In 2015–16 the Commission spent \$483,217 (excluding GST) on learning and development for APS staff. This covered all staff training across the Commission, including studies assistance and core skills training in areas such as people management and leadership, administration, legislation, technology, project/program management and communication.

In 2015–16 the Commission delivered a formal leadership program for the Executive team and Senior Management Group. The program built on a range of previous initiatives and consisted of workshops, individual leadership profiles, leadership insight group sessions and executive coaching. As a result of the program, the Commission has:

- an agile leadership team, capable of working strategically to position the Commission for the future
- a formed leadership cohort able to work cross functionally to shape the organisational agenda

- Executive team members who can engage and enable staff and stakeholders to adapt to future needs
- Executive team members who have developed the capabilities appropriate for their career development

Staff Consultative Committee

The Staff Consultative Committee is established and maintained under the Commission's enterprise agreement. The Committee, which is a well-established consultative and communication forum that considers matters affecting the workplace, includes:

- the General Manager
- management representatives
- employee representatives
- a union official

Workplace health and safety

The Commission has work health and safety management arrangements (HSMA) consistent with the *Work Health and Safety Act 2011* (WHS Act).

The HSMA set out a statement of commitment, a workplace health and safety policy, consultation arrangements, agreed employer/employee responsibilities and WHS structures and arrangements. The HSMA also set out arrangements for workplace inspections, training and information and emergency procedures.

Health and Safety Committee

The Commission has five working groups, nine health and safety representatives (HSRs) and a national Work Health and Safety Committee. The Committee met on three occasions in 2015–16.

Improvements

In 2015–16 the Commission continued to promote a proactive approach to work health and safety. During the year the most significant workplace health and safety initiatives were:

- strengthening quarterly reporting by managers through the provision of details of workplace health and safety matters raised, implemented and/or resolved
- providing workstation assessments and, where needed, rehabilitation case management services to meet the health, safety and rehabilitation needs of the workforce
- making the flu vaccination program available to all staff
- providing healthy lifestyle initiatives, including Yoga and Pilates programs at lunchtime
- participating in R U OK? Day, as part of a broader initiative promoting a more connected community
- conducting regular campaigns encouraging staff to use the Commission's Employee Assistance Program

Health and safety outcomes

The Commission is committed to maintaining and improving the health and wellbeing of its workforce. In 2015–16 there were no new compensation claims and 14 accidents/incidents involving employees were reported. The increase in the number of reported accidents/incidents as compared with the previous year reflects the Commission's proactive measures in 2015-16 to raise awareness of WHS across all of the Commission's offices.

The Commission closely monitors its compensation exposure and internal rehabilitation programs against broader APS consideration of compensation costs, the increasing incidence of longer-term injuries

and more complex claims, including those of a psychological nature. The forecast workers' compensation premium rate has reduced for 2016–17, to 0.65 per cent. The forecast premium rate is well below the 2015–16 forecast premium for all agencies, which is 2.04 per cent.

Reportable accidents and occurrences

Under s.38 of the WHS Act, the Commission is required to notify Comcare of any notifiable accidents or dangerous incidents arising out of work undertaken by any of its employees. There was one reportable dangerous incident in 2015–16.

Investigations

Under Part 4 of the WHS Act, the Commission is required to report any investigations conducted during the year into any of its undertakings. No investigations were conducted in 2015–16.

Other matters

Under Division 7, Part 5 of the WHS Act, HSRs are entitled to issue provisional improvement notices to address immediate risks to improve health and safety performance. No notices were issued in 2015–16.

Disability reporting mechanism

Since 1994, non-corporate Commonwealth entities have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007–08, reporting on the employer role was transferred to the Australian Public Service Commission's State of the Service reports and the *APS Statistical Bulletin*.

These reports are available at apsc.gov.au. From 2010–11, entities have no longer been required to report on these functions.

The Commonwealth Disability Strategy has been overtaken by the National Disability Strategy 2010–20, which sets out a 10-year national policy framework to improve the lives of people with disability, promote participation and create a more inclusive society. A high level, two-yearly report will track progress against each of the six outcome areas of the strategy and present a picture of how people with disability are faring. Reports are available at dss.gov.au.

Financial management

Asset management

The Commission's main asset types are leasehold improvements and computer equipment. Asset management is not considered to be a significant aspect of the strategic business of the Commission and so an assessment of the effectiveness of the Commission's asset management processes is not reported.

Procurement

The Commission's approach to procuring goods and services, including consultancies, is consistent with, and reflects the principles of, the Commonwealth Procurement Rules. These Rules are applied to activities through the Accountable Authority Instructions and procurement policies.

The following criteria are applied to all of the Commission's procurement activities:

- value for money
- encouraging competition
- efficient, effective and ethical procurement and
- accountability and transparency

All open approaches to market are advertised at tenders.gov.au.

Contracts

No contracts in excess of \$10,000 (including GST) or standing offers were exempted by the General Manager from being published on AusTender on the basis that they would disclose exempt matters under the *Freedom of Information Act 1982* (FOI Act).

No contracts of \$100,000 or more (including GST) were let during 2015-16 that did not provide for the Auditor-General to have access to the contractor's premises.

Procurement Committee

The Procurement Committee is managed by the Manager, Reporting, Planning and Legal and includes two other Commission employees. It has a role in ensuring that procurements made by the Commission are consistent with the Commonwealth Procurement Rules and Commission policies.

Outcomes of proposed procurements at or above \$80,000 are referred to the Procurement Committee for approval.

Procurement initiatives to support small business

The Commission supports small business participation in the Commonwealth Government procurement market. Small and medium-sized enterprise (SME) and small enterprise participation statistics are available on the Department of Finance's website at <http://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/>.

The Commission's procurement practices support SMEs, including by the use of the Commonwealth Contracting Suite for low-risk procurements valued under \$200,000, and communicate clear, simple language presented in an accessible format throughout the procurement process.

Consultants

The Commission engages external consultants where the necessary specialised or professional skills are unavailable within the Commission or where there is a need for independent research or assessment.

The Commission's practices on the selection and engagement of consultants are in accordance with the PGPA Act and related regulations including the Commonwealth Procurement Rules and relevant internal policies. The methods of selection used for consultancies include open tender, select

tender, direct sourcing and panel arrangements (initially selected through either an open tender or select tender process).

During 2015–16 thirteen new consultancy contracts were entered into involving total actual expenditure of \$251,142. In addition, four ongoing consultancy contracts were active during the period, involving total actual expenditure of \$348,552.

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website at tenders.gov.au.

Other mandatory information

Advertising campaigns

During 2015-16, the Commission did not conduct any advertising campaigns.

The Commission is required to disclose payments to advertising, market research, polling, media advertising and direct mail organisations. Payments of less than \$12,700 (including GST) are excluded, consistent with s.311A of the *Commonwealth Electoral Act 1918*.

During 2015–16, the Commission did not make any payments to advertising organisations, market research organisations, polling organisations or direct mail organisations.

During 2015-16, the Commission paid a total of \$103,372 (including GST) to media advertising organisations. Payments were for recruitment advertising, media releases, media advertising and Commission reviews and decisions.

The Commission paid one organisation, Dentsu Mitchell Media Australia Pty Ltd, a total

of \$99,071 (including GST) for advertising services relating to:

- invitations for submissions on penalty rates as part of the Commission's 4 yearly review of modern awards
- publication of information for the Road Safety Remuneration Tribunal's *Contractor Driver Minimum Payments RSRO 2016*

Grants

The Commission did not administer any discretionary or other grant programs in 2015–16 and no discretionary or other grants were made.

Freedom of information

The Commission is subject to the FOI Act and is required to publish information to the public as part of the Information Publications Scheme (IPS). Under Part II of the FOI Act, the Commission must display on its website a plan showing what information it publishes

in accordance with the IPS requirements. The Commission's information publication plan is available at www.fwc.gov.au.

Omissions and material errors

Page 171; Domestic presentation, speeches and events; Appendix C; Annual Report 2014-15

This section should have included that Deputy President Hamilton presented on 4 August 2014 at 'The History of Australian Awards' to the Monash University postgraduate diploma course, 8 September 2014 at 'The Fair Work Commission Current Developments' to Employment Law Fundamentals seminar, 15 November 2014 at 'The Australian Minimum Wage 1907-2011' to the Australian Labour Law Association Annual Conference 2014, 27 March 2015 at 'One-on-One with the Fair Work Commission' to Akolade's Workplace Law Fundamentals 2015.

Page 184; Cases by matter type; Lodgment and case load statistics; Appendix G; Annual Report 2014-15

The table reference labelled G3 incorrectly indicated that there were 14,796 unfair dismissal applications in 2013-2014. The correct number was 14,797.

Ecologically sustainable development and environmental performance

Australian Government agencies are required to report on their performance regarding the environment and ecologically sustainable development in line with s. 516A of the *Environment Protection and Biodiversity Conservation Act 1999*.

The Commission operates to ensure energy resources are utilised as efficiently as practicable in the context of a working

tribunal and that it maintains a healthy working environment for both the staff and the public.

Programs are in place for the recycling of paper, packaging, batteries, equipment, toner and other materials where possible to reduce the carbon footprint generated by the Commission.

Kitchens in a number of offices have separate bins to manage waste including organic, recycling and general waste.

Sensor lighting is installed in hearing rooms, conference rooms, meeting rooms and offices. A timer mechanism automatically switches lighting off when rooms are not occupied. All showers continue to be fitted with energy efficient T5 lighting and shower timers.

The Commission has continued to reduce its carbon footprint by utilising video conferencing as a viable alternative to travel.

The Commission ensures that new leases over a certain size have a green rating. The Commission actively encourages its landlords to increase their National Australian Built Environment Rating System rating, a national rating system that measures the environmental performance of Australian buildings, tenancies and homes.

The Commission's Melbourne office participated in Earth Hour 2016, a campaign to create awareness of global warming by encouraging people to adopt better energy conservation habits. On 19 March 2016 the Commission's Melbourne premises turned off all lights, appliances and desktop computers.



Image: Deputy President Clancy and Associate, Lauren Thomas, listen to submissions during a mock hearing





Image: Commissioner Lee reviews evidence during a mock hearing, one of the public sessions which the Commission ran for Law Week 2016





Appendices

5

Appendix A: List of Members

Table 54: List of Fair Work Commission Members as at 30 June 2016

President	
Justice IJK Ross AO (M)	
Vice Presidents	
Vice President A Hatcher (S)	
Vice President J Catanzariti AM (S)	
Deputy Presidents	
Vice President GR Watson (M)	Deputy President IC Asbury (B)
Senior Deputy President IR Watson (M)	Deputy President A Gooley (M)
Senior Deputy President JM Acton (M)	Deputy President JP Lawrence (S)
Senior Deputy President LEC Drake (S)	Deputy President VP Gostencnik (M)
Senior Deputy President MG O'Callaghan (A)	Deputy President J Kovacic (M)
Senior Deputy President JM Hamberger (S)	Deputy President GE Bull (S)
Senior Deputy President PJ Richards (B)	Deputy President M Binet (P)
Deputy President RS Hamilton (M)	Deputy President WR Clancy (M)
Deputy President PJ Sams AM (S)	Deputy President LE Dean (S)
Deputy President A Booth (S)	
Commissioners	
Commissioner AL Cribb (M)	Commissioner T Lee (M)
Commissioner PJ Spencer (B)	Commissioner S Booth (B)
Commissioner BD Williams (P)	Commissioner B Riordan (S)
Commissioner DS McKenna (S)	Commissioner D Gregory (M)
Commissioner IW Cambridge (S)	Commissioner LAT Johns (S)
Acting Commissioner DJ Cloghan (P)	Commissioner NP Wilson (M)
Commissioner JF Ryan (M)	Commissioner T Saunders (S/N)
Commissioner PJ Hampton (A)	Commissioner T Cirkovic (M)
Commissioner J Roe (M)	Commissioner C Platt (A)
Commissioner MP Bissett (M)	Commissioner K Harper-Greenwell (M)
Commissioner CF Simpson (B)	Commissioner J Hunt (B)

Table 55: Members of state tribunals who also hold an appointment with the Commission and Expert Panel Members

Fair Work Commission title	State title/Expert Panel details
Deputy President PD Hannon (A)	President, SAIRC
Deputy President KM Bartel (A)	Deputy President, SAIRC
Deputy President NM Wells (H)	Deputy President, TIC
Commissioner P McMahon (A)	Commissioner, SAIRC
Professor S Richardson	Expert Panel Member
Mr A Cole	Expert Panel Member
Mr T Harcourt	Expert Panel Member
Mr A Apted	Expert Panel Member
Mr S Gibbs	Expert Panel Member

Based in: (A) Adelaide, (B) Brisbane, (H) Hobart, (M) Melbourne, (N) Newcastle, (P) Perth, (S) Sydney.

Additional appointments: (SAIRC) South Australian Industrial Relations Commission, (TIC) Tasmanian Industrial Commission.

Appendix B: Panel Assignments

Panel Heads



Justice IJK Ross AO



Vice President J Catanzariti AM

Government services panel



Vice President GR Watson

Major resources/infrastructure projects panel, Media, ports, oil & gas panel, Organisations panel



Senior Deputy President LEC Drake

Manufacturing & building panel



Senior Deputy President JM Hamberger

Services & mining panel



Deputy President A Gooley

Termination of employment panel



Deputy President VP Gostencnik

Manufacturing & building panel



Commissioner PJ Hampton

Anti-bullying panel

Lists of Fair Work Commission Panel Heads and assignments current at 30 June 2016

President

Justice Ross

The President was responsible for allocating all Panel assignments during the reporting period.

Major Resources/Infrastructure Projects panel

This panel works on engagement between the Commission and the industrial parties involved in major projects.

Generally speaking, a major project is a project with a capital value of at least \$1 billion. However, projects of a particular regional significance may be allocated to the panel despite falling below the \$1 billion threshold.

To date, 5 projects have been allocated to the panel:

1. Chevron Gorgon Gas Project: Member allocated is Acting Commissioner Cloghan.
2. INPEX Timor Sea Oil and Gas Project: Members allocated are Senior Deputy President Watson, Acting Commissioner Cloghan and Commissioner Simpson.
3. Wheatstone Gas Project: Member allocated is Commissioner Williams.
4. BHP Billiton Mitsubishi Alliance (BMA) Projects: Member allocated is Commissioner Spencer.
5. Barangaroo South Development Project: Member allocated is Deputy President Sams

Panel Head

Vice President Watson

Members

Watson SDP

O'Callaghan SDP

Richards SDP

Sams DP

Gooley DP

Spencer C

Williams C

Cloghan C (Acting)

Hampton C

Roe C

Bissett C

Simpson C

Industry panels

The following lists identify the industries in each industry panel, the head/s of the panel and the other members of the Commission to whom panel work is allocated.

All panel matters in South Australia and Western Australia moved to a direct allocation system through Senior Deputy President O'Callaghan in 2015–16.

Commissioner Saunders was available to all panels with matters in the Newcastle/Hunter region.

Government Services panel

Panel head

Vice President Catanzariti

Members	Industries
Kovacic DP	Aged care industry
Cribb C	Ambulance and patient transport
McKenna C	Australian Capital Territory
Bissett C	Cemetery operations
Booth C	Children's services
Johns C	Christmas Island
Wilson C	Cocos (Keeling) Islands
Harper-Greenwell C	Commonwealth employment
	Corrections and detentions
	Educational services
	Federal police operations
	Fire fighting services
	Health and welfare services
	Indigenous organisations and services
	Local government administration
	Northern Territory
	Social, community, home care and disability services
	State and Territory government administration
	Water, sewerage and drainage services

Manufacturing and Building panel	
Panel head	
Senior Deputy President Drake	
Deputy President Gostencnik	
Members	Industries
Hatcher VP ¹	Asphalt industry
Watson SDP	Building, metal and civil construction industries
Richards SDP	Cement and concrete products
Gooley DP	Clothing industry
Lawrence DP	Electrical contracting industry
Ryan C	Food, beverages and tobacco manufacturing industry
Riordan C	Manufacturing and associated industries
Hunt C	Pet food manufacturing
	Pharmaceutical industry
	Plumbing industry
	Poultry processing
	Rubber, plastic and cable making industry
	Scientific services
	Seafood processing
	Textile industry
	Timber and paper products industry
	Vehicle industry

¹ Vice President Hatcher is allocated to this panel to deal with matters in relation to the steel industry only.

Media, ports, oil & gas panel

Panel head

Vice President Watson

Members	Industries
Hamilton DP	Airline operations
Booth DP	Airport operations
Cambridge C	Amusement, events and recreation industry
Simpson C	Broadcasting and recorded entertainment industry
	Coal export terminals
	Diving services
	Dredging industry
	Grain handling industry
	Graphic arts
	Journalism
	Live performance industry
	Mannequins and modelling industry
	Maritime industry
	Oil and gas industry
	Port authorities
	Publishing industry
	Racing industry
	Sporting organisations
	Stevedoring industry
	Technical services
	Telecommunications services

Services & Mining panel

Panel head

Senior Deputy President Hamberger

Members	Industries
Acton SDP	Agricultural industry
Sams DP	Aluminium industry
Asbury DP	Animal care and veterinary services
Bull DP	Aquaculture
Clancy DP	Banking, finance and insurance industry
Dean DP	Building services
Spencer C	Business equipment industry
Roe C	Cleaning services
Lee C	Clerical industry
Gregory C	Coal industry
Cirkovic C	Commercial sales
	Contract call centre industry
	Dry cleaning and laundry services
	Electrical power industry
	Fast food industry
	Funeral directing
	Gardening services
	Hair and beauty
	Hospitality industry
	Licensed and registered clubs
	Marine tourism and charter vessels
	Market and business consultancy services
	Meat industry
	Mining industry
	Miscellaneous
	Nursery industry
	Passenger vehicle transport (non-rail) industry

Services & Mining panel

Pharmacy operations
 Postal services
 Quarrying industry
 Rail industry
 Real estate industry
 Restaurants
 Retail industry
 Road transport industry
 Salt industry
 Security services
 Storage services
 Sugar industry
 Tasmania
 Tourism industry
 Uranium mining (including construction)
 Waste management industry
 Wine industry
 Wool storage, sampling and testing industry

Termination of Employment panel

Most members of the Commission deal with termination of employment applications under arrangements administered by the termination of employment panel head.

Panel head

Deputy President Gooley

Panel deputy

Commissioner Wilson

Anti-bullying panel

This panel has responsibility for anti-bullying matters, which are dealt with by Members of the Commission under arrangements administered by the anti-bullying panel head.

Panel head

Commissioner Hampton

Organisations panel

This panel has responsibility for matters relating to registered organisations.

Panel head

Vice President Watson

Members

Hatcher VP

Richards SDP

O'Callaghan SDP

Lawrence DP

Hamberger SDP

Gostencnik DP

Expert Panel for Annual Wage Reviews

The Fair Work Act provides for an annual wage review conducted by an Expert panel for annual wage reviews.

The Expert panel comprises the President, three other full-time Members (appointed by the President) and three part-time Members.

Panel head

Justice Ross

Members

Watson SDP

Mr Cole

Asbury DP

Professor Richardson

Hampton C

Mr Gibbs

Expert Panel for Assessing Default Superannuation Funds¹

The Fair Work Act provides for an Expert panel for assessing default superannuation funds.

The Expert Panel consists of full-time Members (Presidential Members or Commissioners) and part-time Members who have knowledge of or experience in finance, investment management or superannuation. The Chair is either the President of the Commission, or a Presidential Member appointed by the President.

Panel head	
Justice Ross	
Members	
Acton SDP	Johns C
Drake SDP	Mr Harcourt
Bull DP	Mr Apted

¹ On 10 June 2014, Justice Ross issued a Statement [2014] FWC 3840 that the Expert Panel as currently constituted will not deal further with the Superannuation fund reviews.

Appendix C: Member activities

Justice Ross is an Adjunct Professor, Discipline of Work and Organisational Studies, at the University of Sydney Business School.

Vice President Catanzariti is the Chair of the College of Law, a general editor of *Workplace Law-Fair Work* and a member of the Editorial Board, LexisNexis, *Employment Law Bulletin*. He is also an Adjunct Associate Professor of Work and Organisational studies in the Business School of the University of Sydney and a Visiting Professorial Fellow of the School of Law and Faculty of Law at the University of New South Wales.

Vice President Watson is a consultant to Thomson Reuter regarding the publication of the Industrial Reports, which contain Commission decisions.

Senior Deputy President Acton was President of the Road Safety Remuneration Tribunal, was a member of the Advisory Board to the Centre for Employment and Labour Relations Law at the University of Melbourne and a member of the editorial committee of the *Australian Journal of Labour Law*. Senior Deputy President Acton is a non-Executive Director of the Port of Hastings Development Authority, non-Executive Director of the Westport Water Corporation, Chair and non-Executive Director of State Trustees Limited and non-Executive Director of STL Financial Services Limited.

Senior Deputy President Drake is the Chairperson of the Conduct and Judiciary Panels of the South Sydney Junior Rugby League Club, a Grievance Officer for the New South Wales (NSW) Surf Lifesaving Association and was a member of the Road Safety Remuneration Tribunal.

Senior Deputy President Hamberger is the Chair of the Pharmaceutical Benefits Remuneration Tribunal, a member of the Committee of the Industrial Relations Society of NSW and an Honorary research Fellow in the Faculty of Law at the University of Sydney.

Deputy President Hamilton is a member of the CCH Australia Honorary Editorial Board for Industrial Relations.

Deputy President Sams is Co-convenor of the Advocacy in the Tribunals Course, run in conjunction with the UTS Centre for Management and Organisation Studies and the NSW Industrial Relations Society between 23 September and 25 November 2015 and again between 1 June and 3 August 2016 (ongoing).

Deputy President Booth is a member of the Advisory Board for the Work and Organisational Studies Discipline within the Business School at the University of Sydney.

Deputy President Asbury is the Chairperson of the Northern Territory Police Arbitral Tribunal and President of the Defence Force Remuneration Tribunal. Deputy President Asbury was Patron of the Industrial Relations Society of Queensland and was a member of the Road Safety Remuneration Tribunal.

Deputy President Gostencnik is a member of the Board of The Conversation, a member of the Advisory Board of the Centre for Employment and Labour Relations at the University of Melbourne and a consultant with LexisNexis.

Deputy President Binet is the immediate past President of the Industrial Relations Society of Western Australia, Secretary of the Australian Labour and Employment Relations Association and Asia representative on the 16 member

World Governing Committee of the International Labour and Employment Relations Association.

Deputy President Clancy is an Honorary, Non-Executive Director of the Sisters of Joseph Health Care Services (Vic).

Commissioner Cribb is Chair of the Mediator Standards Board and a Vice President of the Industrial Relations Society of Victoria.

Commissioner Hampton is a committee member of the Australian Labour and Employment Relations Association Inc and the Industrial Relations Society of South Australia Inc. Commissioner Hampton is also a member of the Australian Labour Law Association and the Council of Australian Tribunals (South Australia branch) and an accredited member of Resolution Australia (formally known as LEADR/IAMA) and was a member of the Road Safety Remuneration Tribunal.

Commissioner Spencer is the Chairperson of the Northern Territory Correctional Officers Arbitral Tribunal and Deputy Chairperson of the Northern Territory Police Arbitral Tribunal.

Commissioner Lee continued to be a member of the Tasmanian Industrial Commission (TIC).

Commissioner Johns is the Chairman of the Australian Ballet School, a member of the Deakin University School of Law Academic Advisory Board and an executive member of both the Industrial Relations Society of Victoria and the Industrial Relations Society.

Commissioner Wilson was appointed as a Commissioner of the TIC for a three-year term commencing on 1 June 2015.

Commissioner Saunders is a committee member of the Industrial Relations Society of New South Wales (Newcastle Branch) and a member of the Industry Advisory Committee to the Employment Relations and HRM Disciplinary Group at the University of Newcastle.

Commissioner Platt is a Member of the South Australian Industrial Relations Society.

Appendix D: Lodgment and Case Load Statistics

Table 56: Nature of proceedings

Matter	No.
Fair Work Act 2009	31,901
Rule 7 (FWC) — Directions on procedure	1
s.120 — Application to vary redundancy pay for other employment or incapacity to pay	129
s.156 — 4 yearly review of modern awards	12
s.157 — FWC may vary etc. modern awards if necessary to achieve modern awards objective	3
s.158 — Application to vary or revoke a modern award	5
s.160 — Application to vary a modern award to remove ambiguity or uncertainty or correct error	5
s.185 — Application for approval of a greenfields agreement	258
s.185 — Application for approval of a multi-enterprise agreement	33
s.185 — Application for approval of a single-enterprise agreement	5,238
s.210 — Application for approval of a variation of an enterprise agreement	187
s.217 — Application to vary an agreement to remove an ambiguity or uncertainty	32
s.222 — Application for approval of a termination of an enterprise agreement	92
s.225 — Application for termination of an enterprise agreement after its nominal expiry date	311
s.229 — Application for a bargaining order	111
s.236 — Application for a majority support determination	71
s.238 — Application for a scope order	28
s.240 — Application to deal with a bargaining dispute	184
s.248 — Application for a single interest employer authorisation	10
s.251 — Application for a variation of a single interest employer authorisation	3
s.252 — Application to extend single interest employer authorisation	4

Matter	No.
s.285 — Annual wage review	1
s.318 — Application for an order relating to instruments covering new employer and transferring employees	93
s.319 — Application for an order relating to instruments covering new employer and non-transferring employees	53
s.320 — Application to vary a transferable instrument – agreement	1
s.365 — Application to deal with contraventions involving dismissal	3,270
s.365 — Application to deal with contraventions involving dismissal (consent arbitration)	18
s.372 — Application to deal with other contravention disputes	859
s.376 — Application for costs orders against lawyers and paid agents	1
s.394 — Application for unfair dismissal remedy	14,694
s.400A — Application for a costs order against a party	1
s.401 — Application for costs orders against lawyers and paid agents	4
s.418 — Application for an order that industrial action by employees or employers stop etc.	67
s.423 — Application to suspend or terminate protected industrial action – significant economic harm etc	1
s.424 — Application to suspend or terminate protected industrial action – endangering life etc.	14
s.425 — Application to suspend protected industrial action, cooling off	3
s.437 — Application for a protected action ballot order	960
s.447 — Application for variation of protected action ballot order	21
s.448 — Application for revocation of protected action ballot order	48
s.459 — Application to extend the 30 day period in which industrial action is authorised by protected action ballot	154
s.472 — Application for an order relating to certain partial work bans	4
s.483AA — Application for an order to access non-member records	6
s.505 — Application to deal with a right of entry dispute	68
s.507 — Application for action to be taken against permit holder	2
s.508 — Application to restrict rights if organisation or official has misused permit rights	1

Matter	No.
s.510 — Upon referral, revoke or suspend an entry permit	10
s.512 — Application for a right of entry permit	1,628
s.516 — Application to extend entry permit	6
s.526 — Application to deal with a dispute involving stand down	17
s.531 — Application for an order where failure to notify or consult registered employee associations about dismissals	6
s.533 — Application for an FWC Order	3
s.576(2)(aa) — Promoting cooperative and productive workplace relations and preventing disputes	14
s.576(2)(ca) — Proceeding referred to FWC for mediation	1
s.589 — Application for procedural and interim decision	5
s.590 — Application	1
s.602 — Application to correct obvious error(s) etc. in relation to FWC's decision	3
s.603 — Application to vary or revoke a FWC decision	5
s.604 — Appeal of decisions	283
s.739 — Application to deal with a dispute	2,001
s.739 — Application to deal with a dispute in relation to flexible working arrangements	32
s.768AX — Application to vary copied State instruments	1
s.768BA — Application for an order about coverage for transferring employees under a state instrument	8
s.768BG — Application to consolidate orders in relation to non-transferring employees	1
s.773 — Application to deal with an unlawful termination dispute	81
s.789FC — Application for an order to stop bullying	734
Fair Work (Registered Organisations) Act 2009	1,472
Query — Registered Organisations	22
Query — Compliance	15
Query — Referral from Royal Commission into Trade Union Governance and Corruption	10
Query – Registered Organisations	133
Reg. 125H — RO Regulations — Correction of eligibility rules — typographical, clerical or formal error	1
Sch. 2, Cl. 1 RO Act – Application for recognition of state registered association	2

Matter	No.
s.13(1)(b) RO Act — Advice and assistance to Organisations	141
s.137F RO Act — Orders reflecting State representation orders	1
s.144(2) RO Act — Application for exemption from postal ballot requirements	1
s.144(2) RO Act — Assets and liabilities Agreement with State Reg'd Union	1
s.158(1) RO Ac — Application for alteration of eligibility rules	6
s.158(1) RO Act — Application for change of name of organisation	1
s.158A RO Act — Application to GM for alteration of eligibility rules	6
s.159(1) RO Act — Notification of alterations of other rules	102
s.18(a) RO Act — Application for registration by an association of employers	1
s.18(b) RO Act — Application for registration by an association of employees	1
s.180 RO Act — Conscientious Objection to Membership of Organisations	1
s.189(1) RO Act – Notification of elections for office	145
s.189(1) RO Act — Notification of elections for office — Casual vacancy or insufficient nominations	70
s.207 RO Act — Election arrangements made under Court Order	2
s.233(1) RO Act — Annual obligation to lodge information	109
s.235(1) RO Act — Authority to access certain records	4
s.236 RO Act — Reg. of Members — request by member to inspect	1
s.237 RO Act — LGD statement	284
s.246(1) RO Act — Application for determination of reporting units	1
s.26(6) RO Act — Application to issue a copy of or certificate replacing the certificate of registration	2
s.268 RO Act — Financial return	401
s.30(1)(a) RO Act — Application by organisation for cancellation of registration	1
s.330 RO Act — GM makes inquiries	1
s.331 RO Act — GM conducts investigation	3
s.336(1A) RO Act — 12 month review	3
Fair Work (Transitional Provisions and Consequential Amendments) Act 2009	752
Sch. 3, Item 10 — Application to vary transitional instrument to remove ambiguity — agreement	1

Matter	No.
Sch. 3, Item 15 — Application by agreement to terminate collective agreement-based transitional instrument	7
Sch. 3, Item 16 — Application to terminate collective agreement-based transitional instrument	161
Sch. 3, Item 17 — Application by agreement to terminate individual agreement-based transitional instrument	483
Sch. 3, Item 19 — Declaration for unilateral termination with FWC approval to terminate individual agreement	93
Sch. 5, Item 13B — Orders remedying reductions in take-home pay	3
Sch. 5, Item 9 — Application for an order remedying reduction in take-home pay resulting from a modern award	4
Work Health and Safety Act 2011	44
s.131 WHS Act – Application for a WHS entry permit	44
Workplace Relations Act 1996	14
s.280 — Financial reports	1
s.643 — Application for relief re (Unlawful) termination of employment	1
s.699 — Application to FWC to have a dispute resolution process conducted (Div 3)	1
s.709 — Application to FWC to have a dispute resolution process conducted (Div 5)	11
Administrative	29
Request for a Board of Reference	29
Coal Mining Industry (Long Service Leave) Administration Act 1992	2
s.39D — FWC may deal with disputes relating to long service leave	2
Offshore Petroleum and Greenhouse Gas Storage Act 2006	1
<i>Rule 58 Application to review other decision</i>	1
Total	34,215

Table 57: Unfair dismissal — finalisation

Claims settled, withdrawn or determined	Number of matters			
	2015–16	2014–15	2013–14	2012–13
Prior to conciliation	2,130	2,156	2,273	2,300
At conciliation	8,529	8,788	8,659	8,843
After conciliation and before a conference/hearing before a Fair Work Commission member	2,808	2,654	2,475	2,093
Withdrawn after conference/hearing and before decision/order	104	52	41	49
By final decision/order	1,457	1,527	1,200	660
Total	15,028	15,177	14,648	13,945

Table 58: Unfair dismissal, conciliation — size of employer

Number of employees	Year to date				Per cent of conciliations			
	2015–16	2014–15	2013–14	2012–13	2015–16	2014–15	2013–14	2012–13
1–14	2,000	2,059	2,006	2,131	18.4	18.5	18.3	19.6
15–99	3,065	3,152	3,020	3,057	28.3	28.3	27.5	28.0
100>	5,204	5,272	5,145	4,741	48.0	47.5	46.9	43.6
Unknown ¹	4	4	5	7	0.0	0.0	0.0	0.1
Number of employees in dispute	577	638	796	950	5.3	5.7	7.3	8.7
Total Australia wide	10,850	11,125	10,972	10,886	100	100	100	100

¹ Information not included

Table 59: Performance summary — Type of application lodged

Type of applications lodged	2015–16
Agreements	5,529
Orders relating to good faith bargaining	404
Dispute resolution	2,921
Orders relating to industrial action	1,272
General protections involving dismissal	3,270
Unfair dismissal applications	14,694
Appeals	283
Applications to terminate individual agreement based transitional instruments	576
Registered organisations	1,472
Other matters	3,794
Total	34,215

Table 60: Application lodged, hearings and conferences, decisions and orders published

Year	Applications lodged	Hearings and conferences	Decisions and orders published
2012–13	36,616	18,991	11,673
2013–14	37,066	19,620	13,302
2014–15	34,152	19,922	12,440
2015–16	34,215	16,683	12,140

Table 61: Unfair dismissal applications lodged — monthly comparison (Figure 6)

REPORTING PERIOD	TOTAL	AVERAGE	Jul	Aug	Sep	Oct
2015/16	14,694	1,225	1,344	1,231	1,227	1,135
2014/15	14,624	1,219	1,291	1,162	1,220	1,197
2013/14	14,797	1,233	1,475	1,307	1,260	1,185
2012/13	14,818	1,235	1,233	1,234	1,055	1,226

Table 62: General protections disputes involving dismissal — lodgments — monthly comparison (Figure 8)

Year	Jul	Aug	Sep	Oct	Nov
2015/2016	290	257	257	236	267
2014/2015	279	309	290	294	292
2013/2014	240	238	214	222	254
2012/2013	194	182	166	175	200

	Nov	Dec	Jan	Feb	Ma	Apr	May	Jun
	1,180	1,321	942	1,239	1,396	1,190	1,248	1,241
	1,131	1,284	942	1,240	1,441	1,211	1,191	1,314
	1,209	1,374	956	1,237	1,316	1,222	1,112	1,144
	1,259	1,394	879	1,258	1,369	1,346	1,375	1,190

	Dec	Jan	Feb	Mar	Apr	May	Jun	Sum
	310	193	283	337	280	267	293	3,270
	338	192	286	307	296	270	229	3,382
	257	182	218	273	259	242	280	2,879
	189	210	285	250	156	226	196	2,429

Appendix E: Registered Organisations Data

Table 63: Total membership, assets and revenue of registered organisations (as reported by registered organisations)

	All	Unions	Employer Associations
MEMBERSHIP NUMBERS			
2015	2,053,962	1,959,152	94,810
2014	2,092,300	1,997,837	94,463
AGGREGATE ASSETS			
2015	\$2,552,543,088	\$1,588,784,861	\$963,758,227
2014	\$2,354,002,427	\$1,433,807,552	\$920,194,875
COMBINED REVENUE			
2015	\$1,531,915,143	\$900,519,982	\$631,395,161
2014	\$1,415,007,653	\$836,860,172	\$578,147,481

Table 64: Entry permits issued under s.512 of the Fair Work Act: 2012–2016

Year	2015–2016	2014–2015	2013–2014	2012–2013
Number	1,518	1,487	1,216	1,656
Average number issued per working day	6.1	6.0	4.9	6.7

Table 65: Decisions issued by the General Manager and the Delegate of the General Manager: 2012–2016

Year	2015–2016	2014–2015	2013–2014	2012–2013
Number	325	375	407	308
Average number issued per working day	1.2	1.4	1.6	1.2

Table 66: Regulatory compliance matters lodged, closed and clearance rates by matter type 2015–2016

Matters	Lodged	Closed	Clearance Rate
Annual Returns	109	119	109%
Organisations Panel Matters ¹	11	16	145%
Arrangement for the conduct of elections	215	215	100%
Financial Returns ²	401	439	109%
Inquiries and Investigations	7	10	143%
Statements of Loans, Grants and Donations	284	373	131%
Queries	180	133	74%
R Matters ³	264	288	109%
Entry Permits ⁴	1,628	1,596	98%
WHS Permits ⁵	44	46	105%
All Registered Organisations' Matters	3,143	3,235	103%

1 Not including non-routine permits.

2 Including exemptions from financial reporting.

3 Including alterations to rules and requests for advice.

4 Including non-routine permits.

5 More applications were closed than were lodged. This is distinguished from [Table 14](#) which is a measure of timeliness.

Appendix F: Performance Reporting for the Road Safety Remuneration Tribunal for 2015–16

The Road Safety Remuneration Tribunal (RSRT), which was established under the *Road Safety Remuneration Act 2012*, was abolished on 21 April 2016 and ceased to perform any of its functions under that Act.

The RSRT was an independent national tribunal which had the objective of promoting safety and fairness in the road transport industry. Its primary functions included:

- developing an annual work program
- making road safety remuneration orders
- dealing with certain disputes between road transport drivers, their employers or hirers, and participants in the supply chain
- approval of road transport collective agreements
- conducting research into pay and conditions that could affect safety in the road transport industry

The RSRT was funded through an appropriation to the Commission and its functions were supported by Commission staff, including in the areas of research, human resources, finance, communications and information technology.

The Commission's Portfolio Budget Statement 2015–16 included key performance indicators (KPIs) for the RSRT. This Appendix reports on performance against the 2015–16 Portfolio Budget Statement KPIs relating to the RSRT.

Performance Results

KPIs for the RSRT were:

- Road safety remuneration orders are reviewed within 12 months of expiry of any preceding order
- An annual work program is developed
- Research developed and submissions obtained or received are published on the website in a timely manner as appropriate

Between 1 July 2015 and 21 April 2016, the RSRT's KPIs were met as illustrated in the table below.

Key performance indicator	Outcome
Road safety remuneration orders are reviewed within 12 months of expiry	Not applicable. No road safety remuneration orders expired between 1 July 2015 and 21 April 2016
An annual work program is developed	Met. The fourth annual work program was developed and issued on 21 December 2015
Research developed and submissions obtained or received are published on the website in a timely manner as appropriate	Met. 87.5 per cent of submissions were published within four days of receipt. All research was published on the website in a timely manner as appropriate.

Appendix G:

Financial statements

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**FINANCIAL STATEMENTS
2015 - 16**

FAIR WORK COMMISSION



INDEPENDENT AUDITOR'S REPORT

To the Minister for Employment

I have audited the accompanying annual financial statements of the Fair Work Commission for the year ended 30 June 2016, which comprise:

- Statement by the Accountable Authority and Chief Financial Officer;
- Statement of Comprehensive Income;
- Statement of Financial Position;
- Statement of Changes in Equity;
- Cash Flow Statement;
- Administered Schedule of Comprehensive Income;
- Administered Schedule of Assets and Liabilities;
- Administered Reconciliation Schedule;
- Administered Cash Flow Statement; and
- Notes to the Financial Statements.

Opinion

In my opinion, the financial statements of the Fair Work Commission:

- (a) comply with Australian Accounting Standards and the *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*; and
- (b) present fairly the financial position of the Fair Work Commission as at 30 June 2016 and its financial performance and cash flows for the year then ended.

Accountable Authority's Responsibility for the Financial Statements

The Accountable Authority of the Fair Work Commission is responsible under the *Public Governance, Performance and Accountability Act 2013* for the preparation and fair presentation of annual financial statements that comply with Australian Accounting Standards and the rules made under that Act and is also responsible for such internal control as the Accountable Authority determines is necessary to enable the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

GPO Box 707 CANBERRA ACT 2601
19 National Circuit BARTON ACT
Phone (02) 6203 7300 Fax (02) 6203 7777

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Accountable Authority of the entity, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting my audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

Australian National Audit Office



John Jones

Executive Director

Delegate of the Auditor-General

Canberra

7 September 2016

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FAIR WORK COMMISSION**STATEMENT BY THE ACCOUNTABLE AUTHORITY AND CHIEF FINANCIAL OFFICER**

In our opinion, the attached financial statements for the year ended 30 June 2016 comply with subsection 42(2) of the Public Governance, Performance and Accountability Act 2013 (PGPA Act), and are based on properly maintained financial records as per subsection 41(2) of the PGPA Act.

In our opinion, at the date of this statement, there are reasonable grounds to believe that the Fair Work Commission will be able to pay its debts as and when they fall due.

Signed



Bernadette O'Neill
Accountable Authority
7 September 2016

Signed



Jack Lambalk
Chief Financial Officer
7 September 2016

Statement of Comprehensive Income*for the period ended 30 June 2016*

	Notes	2016 \$'000	2015 \$'000	Original Budget \$'000
NET COST OF SERVICES				
Expenses				
Employee benefits	1.1A	51,821	52,192	53,037
Suppliers	1.1B	30,804	27,864	29,039
Depreciation and amortisation	3.2A	3,017	4,404	4,486
Write down and impairment of assets	1.1C	3	1,690	-
Other expenses	1.1D	5	-	-
Total expenses		85,650	86,150	86,562
Own-Source Income				
Own-source revenue				
Sale of goods and rendering of services	1.2A	343	110	-
Rental income	1.2B	2,437	2,414	2,429
Other revenue	1.2C	88	95	-
Total own-source revenue		2,868	2,619	2,429
Gains				
Other gains	1.2D	4	4	97
Total gains		4	4	97
Total own-source income		2,872	2,623	2,526
Net cost of services		(82,778)	(83,527)	(84,036)
Revenue from Government	1.2E	79,550	79,887	79,550
Surplus / (Deficit) attributable to the Australian Government		(3,228)	(3,640)	(4,486)
OTHER COMPREHENSIVE INCOME				
Items not subject to subsequent reclassification to net cost of services				
Changes in asset revaluation surplus		-	262	-
Total other comprehensive income/(loss)		-	262	-
Total comprehensive surplus/(loss) attributable to the Australian Government		(3,228)	(3,378)	(4,486)

The above statement should be read in conjunction with the accompanying notes.

Budget Variances Commentary**Statement of Comprehensive Income for Fair Work Commission****Depreciation and amortisation**

During the 2014-2015 financial year, the Fair Work Commission engaged an independent valuer to ensure carrying value of assets did not materially differ from the asset's fair value at reporting date. The revaluation review was finalised post budget preparation, and as such the depreciation charge budgeted was reflective of the pre revaluation depreciation estimate and asset value.

Statement of Financial Position*as at 30 June 2016*

	Notes	2016 \$'000	2015 \$'000	Original Budget \$'000
ASSETS				
Financial assets				
Cash and cash equivalents	3.1A	789	593	433
Trade and other receivables	3.1B	35,135	40,151	35,246
Total financial assets		35,924	40,744	35,679
Non-financial assets				
Leasehold improvements	3.2A	17,646	18,838	18,605
Property, plant and equipment	3.2A	5,468	6,185	6,210
Intangibles	3.2A	1,187	1,120	2,954
Other non-financial assets	3.2B	4,536	4,890	4,588
Total non-financial assets		28,837	31,033	32,357
Total assets		64,761	71,777	68,036
LIABILITIES				
Payables				
Suppliers	3.3A	1,843	1,696	1,819
Other payables	3.3B	6,217	8,355	9,122
Total payables		8,060	10,051	10,941
Provisions				
Employee provisions	6.1A	17,197	18,795	18,864
Other provisions	3.4A	89	93	96
Total provisions		17,286	18,888	18,960
Total liabilities		25,346	28,939	29,901
Net assets		39,415	42,838	38,135
EQUITY				
Contributed equity		40,979	41,174	43,592
Reserves		262	262	-
Retained surplus/(Accumulated deficit)		(1,826)	1,402	(5,457)
Total equity		39,415	42,838	38,135

The above statement should be read in conjunction with the accompanying notes.

Budget Variances Commentary**Statement of Financial Position for Fair Work Commission****Leasehold improvements and Property, plant and equipment**

During the 2014-2015 financial year, the Fair Work Commission engaged an independent valuer to ensure carrying value of assets did not materially differ from the asset's fair value at reporting date. The revaluation review was finalised post budget preparation, and such the leasehold improvements value in our budget statements reflected the pre revaluation adjustments estimate.

Intangibles.

The value of intangibles was lower than had been budgeted as a major project was delayed. The departmental capital budget for this project which remains ongoing was reallocated to the 2016-17 financial year.

Other Payables

The liability for other payables was lower than budget due to the dates of the Commission payroll cycle, where only one day of remuneration expense was accrued.

Employee Provisions.

The reduction of employee provisions is largely due to the retirement of long serving members and staff during the 2015-16 financial year. The liability for these employee entitlements were paid out upon termination and resulted in a reduced provision balance.

Contributed Equity

\$2.613 million was quarantined during the 2013-14 financial year but not formally reduced till the 10th of July in 2015. The quarantined amount was reduced in budget in the 2013-14 financial year but a formal reduction was completed in the current financial year.

Statement of Changes in Equity
for the period ended 30 June 2016

	Notes	2016 \$'000	2015 \$'000	Original Budget \$'000
CONTRIBUTED EQUITY				
Opening balance		41,174	38,724	41,174
Comprehensive income				
Other comprehensive income		-	-	-
Total comprehensive income		-	-	-
Transactions with owners				
Distributions to owners		-	-	-
Returns on appropriation		(2,613)	-	-
Contributions by owners				
Departmental capital budget		2,418	2,450	2,418
Total transactions with owners		(195)	2,450	2,418
Closing balance as at 30 June		40,979	41,174	43,592
RETAINED EARNINGS				
Opening balance		1,402	5,042	(971)
Comprehensive income				
Surplus/(Deficit) for the period		(3,228)	(3,640)	(4,486)
Total comprehensive income		(3,228)	(3,640)	(4,486)
Transfers between equity components		-	-	-
Closing balance as at 30 June		(1,826)	1,402	(5,457)
ASSET REVALUATION RESERVE				
Opening balance		262	-	-
Comprehensive income				
Other comprehensive income		-	262	-
Total comprehensive income		-	262	-
Transfers between equity components		-	-	-
Closing balance as at 30 June		262	262	-

Statement of Changes in Equity*for the period ended 30 June 2016*

	Notes	2016 \$'000	2015 \$'000	Original Budget \$'000
TOTAL EQUITY				
Opening balance		42,838	43,766	40,203
Comprehensive income				
Surplus/(Deficit) for the period		(3,228)	(3,640)	(4,486)
Other comprehensive income		-	262	-
Total comprehensive income		(3,228)	(3,378)	(4,486)
Transactions with owners				
Distributions to owners				
Returns on appropriation ¹		(2,613)	-	-
Contributions by owners				
Departmental capital budget		2,418	2,450	2,418
Total transactions with owners		(195)	2,450	2,418
Transfers between equity components		-	-	-
Closing balance as at 30 June		39,415	42,838	38,135

1. An amount of \$2.613m was quarantined during the 2013-14 financial year and formally reduced on the 10 July 2015. A formal reduction of appropriation complying with the Finance Reporting Rule Orders had been made in the financial year 2015-16.

The above statement should be read in conjunction with the accompanying notes.

Accounting PolicyEquity Injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budget (DCBs) are recognised directly in contributed equity in that year.

Budget Variances Commentary**Statement of Changes in Equity for Fair Work Commission**Contributed Equity - Returns on appropriations

Refer to footnote 1 above.

Cash Flow Statement*for the period ended 30 June 2016*

	Notes	2016 \$'000	2015 \$'000	Original Budget \$'000
OPERATING ACTIVITIES				
Cash received				
Appropriations		85,043	76,872	79,550
Sale of goods and rendering of services		3,089	2,931	2,429
Net GST received		1,927	2,880	-
Total cash received		90,059	82,683	81,979
Cash used				
Employees		(54,650)	(50,623)	(53,037)
Suppliers		(33,841)	(33,272)	(28,942)
Total cash used		(88,491)	(83,895)	(81,979)
Net cash from/(used by) operating activities	5.3A	1,568	(1,212)	-
INVESTING ACTIVITIES				
Cash used				
Purchase of leasehold improvements		(21)	(38)	(178)
Purchase of property, plant and equipment		(832)	(700)	(778)
Purchase of intangibles		(324)	(340)	(1,462)
Total cash used		(1,177)	(1,078)	(2,418)
Net cash used by investing activities		(1,177)	(1,078)	(2,418)
FINANCING ACTIVITIES				
Cash received				
Departmental capital budget		2,418	2,450	2,418
Cash used				
Returns on appropriations		(2,613)	-	-
Total cash received		(195)	2,450	2,418
Net cash from financing activities		(195)	2,450	2,418
Net increase/(decrease) in cash held		196	160	-
Cash and cash equivalents at the beginning of the reporting period		593	433	433
Cash and cash equivalents at the end of the reporting	3.1A	789	593	433

The above statement should be read in conjunction with the accompanying notes.

Budget Variances Commentary**Cash Flow Statement for Fair Work Commission****Appropriations**

The Fair Work Commission had higher than expected appropriation draw down as a consequence of lower than expected liabilities at balance date.

Purchase of Intangibles.

The value of intangibles is lower than what was budgeted, as a major project was delayed. The departmental capital budget for this project which remains ongoing was reallocated to the 2016-17 financial year.

Equity Injection- Returns on appropriations

\$2.613 million was quarantined during the 2013-14 financial year but not formally reduced till the 10th of July in 2015. The quarantined amount was reduced in budget in the 2013-14 financial year but a formal reduction was completed in the current financial year.

Administered Schedule of Comprehensive Income*for the period ended 30 June 2016*

	Notes	2016 \$'000	2015 \$'000	Original Budget \$'000
NET COST OF SERVICES				
Income				
Revenue				
Non-taxation revenue				
Application fees received		1,171	1,153	578
Less refunds of application fees		(490)	(500)	-
Total non-taxation revenue	2.1A	681	653	578
Surplus/(Deficit)		681	653	578

The above schedule should be read in conjunction with the accompanying notes.

Budget Variances Commentary**Schedule of Comprehensive Income for Fair Work Commission**

Administered revenue was higher than expected due to an increase in the number of application fees received. The number of applications received is largely outside the Commission's direct control.

Administered Schedule of Assets and Liabilities*as at 30 June 2016*

Fair Work Commission had no administered assets and liabilities as at 30 June 2016 (2015: nil).

Administered Reconciliation Schedule				
	Notes	2016 \$'000	2015 \$'000	Original Budget \$'000
Opening assets less liabilities as at 1 July		-	-	-
Net (cost of)/contribution by services				
Income		681	653	-
Other comprehensive income		-	-	-
Transfers (to)/from Australian Government				
Appropriation transfers from Official Public Account				
Annual appropriations				
Payments to entities other than corporate Commonwealth entities		490	500	-
Appropriation transfers to OPA				
Transfers to OPA		(1,171)	(1,153)	-
Closing assets less liabilities as at 30 June		-	-	-

The above schedules should be read in conjunction with the accompanying notes.

Accounting Policy

Administered Cash Transfers to and from the Official Public Account

Revenue collected by the Fair Work Commission for use by the Government rather than the Fair Work Commission is administered revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by the Fair Work Commission on behalf of the Government and reported as such in the Schedule of Administered Cash Flows and in the Administered Reconciliation Schedule.

Administered Cash Flow Statement*for the period ended 30 June 2016*

	Notes	2016 \$'000	2015 \$'000	Original Budget \$'000
OPERATING ACTIVITIES				
Cash received				
Application fees received		1,171	1,153	578
Total cash received		1,171	1,153	578
Cash used				
Refunds of application fees		(490)	(500)	-
Total cash used		(490)	(500)	-
Net cash from operating activities		681	653	578
Cash from Official Public Account				
Refunds of application fees		490	500	-
Total cash from official public account		490	500	-
Cash to Official Public Account				
Application fees received		(1,171)	(1,153)	(578)
Total cash to official public account		(1,171)	(1,153)	(578)
Cash and cash equivalents at the end of the reporting period	4.1	-	-	-
The above schedules should be read in conjunction with the accompanying notes.				

Notes to the financial statements

Overview

Objectives of the Fair Work Commission

The Fair Work Commission is an Australian Government controlled entity. It is a not-for-profit entity. The objective of the Fair Work Commission is to exercise powers under the *Fair Work Act 2009* in accordance with the objects of the Act and in a manner that is fair and just; is quick, informal and avoids unnecessary technicalities.

The Fair Work Commission is structured to meet the following outcome:

Outcome 1: Simple, fair and flexible workplace relations for employees and employers through the exercise of powers to set and vary minimum wages and modern awards, facilitate collective bargaining, approve agreements and deal with disputes.

The continued existence of the Fair Work Commission in its present form and with its present programs is dependent on Government policy and on continuing funding by Parliament for the Fair Work Commission's administration and programs.

The Fair Work Commission activities contributing toward the outcome are classified as either departmental or administered. Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by the Fair Work Commission in its own right. Administered activities involve the management or oversight by the Fair Work Commission, on behalf of the Government, of items controlled or incurred by the Government.

The Fair Work Commission's departmental activities are identified under one program:

- Program 1: Dispute resolution, minimum wages, orders and approval of agreements.

The Fair Work Commission conducts the following administered activities on behalf of the Government:

- the collection of fees for the lodgment of Unfair Dismissals applications, Anti-bullying applications and General Protections applications ; and
- direct payment of pensions to beneficiaries of the Judges' Pension Scheme under the *Judges Pension Act 1968* drawn down from the Department of Finance.

The Fair Work Commission also supported the functions of the Road Safety Remuneration Tribunal (RSRT) until the *Road Safety Remuneration Act 2012* was repealed on the 21st of April 2016. The cost and activities of the RSRT are represented in the financial statements of the Fair Work Commission.

The Fair Work Commission consists of a President, Vice Presidents, Deputy Presidents, Commissioners, Expert Panel members and Road Safety Remuneration Tribunal industry members. The Fair Work Commission also has a General Manager and administrative staff who exercise powers and functions under the *Fair Work Act 2009*.

The Fair Work Commission has the power to vary awards, make minimum wage orders, approve agreements, resolve workplace and other disputes, deal with workplace bullying applications, regulate registered organisations, determine unfair dismissal claims and make orders in relation to such things as good faith bargaining and industrial action. The Road Safety Remuneration Tribunal's functions prior to the Act's repeal, were to make road safety remuneration orders, provide dispute resolution to the road transport industry, approve road transport collective

agreements and to provide research into pay and conditions that could affect safety in the road transport industry.

The Basis of Preparation

The Financial Statements are general purpose financial statements and are required by section 42 of the *Public Governance, Performance and Accountability Act 2013*.

The Financial Statements have been prepared in accordance with:

- a) *Public Governance, Performance and Accountability (Financial Reporting) Rule 2015* (FRR) for reporting periods ending on or after 1 July 2015; and
- b) Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The Financial Statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position. The financial statements are presented in Australian dollars.

New Accounting Standards

Adoption of New Australian Accounting Standard Requirements

No accounting standard has been adopted earlier than the application date as stated in the standard.

All new, revised, amending standards and/or interpretations issued prior to the signing of the statement by the accountable authority and chief financial officer, were applicable to the current reporting period did not have a material effect, and are not expected to have a future material effect, on the Fair Work Commission's financial statements.

Taxation

The Fair Work Commission is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Reporting of Administered activities

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the administered schedules and related notes.

Except where otherwise stated, administered items are accounted for on the same basis and using the same polices as for departmental items, including the application of Australian Accounting Standards.

Events after the Reporting Period

Departmental

There were no other significant events that had the potential to significantly affect the ongoing structure and financial activities of the Fair Work Commission.

Administered

There were no significant events that had the potential to significantly affect the ongoing structure and financial activities of the Fair Work Commission.

Financial Performance

This section analyses the financial performance of Fair Work Commission for the year ended 2016.

1.1 Expenses

	2016 \$'000	2015 \$'000
1.1A: Employee benefits		
Wages and salaries	39,786	39,653
Superannuation:		
Defined contribution plans	4,158	3,815
Defined benefit plans	1,817	2,687
Leave and other entitlements	4,523	4,608
Separation and redundancies	1,184	1,061
Other employee expenses	353	368
Total employee benefits	51,821	52,192

Accounting Policy

Accounting policies for employee related expenses is contained in the People and relationship section.

1.1B: Suppliers

Goods and services supplied or rendered

Court/member services	4,753	4,317
Information Communications Technology	3,031	2,813
Property expenses	3,512	3,105
Office expense	1,169	1,054
Contractors	5,114	4,037
Other	416	358
Total goods and services supplied or rendered	17,995	15,684

Goods supplied	1,099	1,003
Services rendered	16,896	14,681
Total goods and services supplied or rendered	17,995	15,684

Other suppliers

Operating lease rentals in connection with Minimum lease payments	12,518	11,901
Workers compensation expenses	291	279
Total other suppliers	12,809	12,180
Total suppliers	30,804	27,864

Leasing commitments

The Fair Work Commission in its capacity as lessee has committed to lease agreements throughout Australia in each capital city. Lease payments are subject to increases in accordance with fixed amounts according to lease agreements or market rental reviews. The Fair Work Commission may exercise option clauses in accordance with the terms of the leases.

The leasing commitments also include non-cancellable operating leases such as vehicles and IT related leases.

	2016 \$'000	2015 \$'000
Commitments for minimum lease payment in relation to non-cancellable operating leases are payable as follows:		
Within 1 year	16,064	15,510
Between 1 to 5 years	32,309	38,714
More than 5 years	12,543	12,402
Total operating lease commitments	60,916	66,626

Accounting Policy

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

1.1C: Write-Down and Impairment of Assets

Impairment of property, plant and equipment	3	-
Revaluation decrements – Leasehold improvements	-	1,690
Total write-down and impairment of assets	3	1,690

1.1D: Other Expenses

Other – Compensation relief	5	-
Total other expenses	5	-

1.2 Own-Source Revenue and Gains

	2016	2015
	\$'000	\$'000

Own-Source Revenue

1.2A: Sale of Goods and Rendering of Services

Rendering of services	343	110
Total sale of goods and rendering of services	343	110

Accounting Policy

Revenue from the sale of goods is recognised when:

- the risks and rewards of ownership have been transferred to the buyer;
- the entity retains no managerial involvement or effective control over the goods.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance. Collectability of debts is reviewed at the end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

1.2B: Rental Income

Operating lease		
Sub-lease of property	2,437	2,414
Total rental income	2,437	2,414

Accounting Policy

Rental Income

Fair Work Commission received rental income from the sub-leasing of space within the Sydney office and Level 9 Melbourne office during the 2015-16 financial year.

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. The revenue is recognised when:

- the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- the probable economic benefits associated with the transaction will flow to Fair Work Commission.

Commitments for sublease rental income receivables are as follows:

Within 1 year	2,509	2,423
Between 1 to 5 years	8,298	8,680
More than 5 years	2,204	4,331
Total sublease rental income commitments	13,011	15,434

1.2C: Other Revenue

Resources received free of charge		
Remuneration of auditors	59	59
Other – vehicle contributions	29	36
Total other revenue	88	95

Accounting Policy

Resources Received Free of Charge

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are recorded as either revenue or gains depending on their nature.

	2016 \$'000	2015 \$'000
Gains		
<u>1.2D: Other Gains</u>		
Write-back of make-good – Darwin office	4	4
Total other gains	4	4
<u>1.2E: Revenue from Government</u>		
Appropriations		
Departmental appropriations	79,550	79,887
Total revenue from Government	79,550	79,887

Accounting Policy*Revenue from Government*

Amounts appropriated for departmental appropriations for the year adjusted for any formal additions and reductions are recognised as Revenue from Government when the Fair Work Commission gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

Income and Expenses Administered on Behalf of Government

This section analyses the activities that Fair Work Commission does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

2.1 Administered – Income		
	2016	2015
	\$'000	\$'000
Revenue		
Non-Taxation Revenue		
<u>2.1A: Fees</u>		
Application fees received	1,171	1,153
Less: Refunds of application fees	<u>(490)</u>	<u>(500)</u>
Total fees	<u>681</u>	<u>653</u>

Accounting Policy

All administered revenues are revenues relating to ordinary activities performed by the Fair Work Commission on behalf of the Australian Government. As such, administered appropriations are not revenues of the Fair Work Commission that oversees distribution or expenditure of the funds as directed.

The Fair Work Commission receives revenue from fees charged for lodgment of Unfair Dismissals applications, Anti-bullying applications and General Protections applications. Administered revenue is recognised when the application fee is processed.

Financial Position

This section analyses the Fair Work Commission's assets used to conduct its operations and the operating liabilities incurred as a result.

Employee related information is disclosed in the People and Relationships section.

3.1 Financial Assets

	2016 \$'000	2015 \$'000
3.1A: Cash and Cash Equivalents		
Cash on hand or on deposit	789	593
Total cash and cash equivalents	789	593

Accounting Policy

Cash is recognised at its nominal amount. Cash and cash equivalents includes:

- a) cash on hand;
- b) demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value; and
- c) cash in special accounts.

3.1B: Trade and Other Receivables

Goods and services receivables

Goods and services	33	180
Total goods and services receivables	33	180

Appropriations receivables

Appropriation receivable	34,215	39,708
Total appropriations receivables	34,215	39,708

Other receivables

Statutory receivables	887	263
Total other receivables	887	263
Total trade and other receivables (gross)	35,135	40,151

Less impairment allowance

	-	-
Total trade and other receivables (net)	35,135	40,151

Trade and other receivables (net) expected to be recovered

No more than 12 months	35,135	40,151
More than 12 months	-	-
Total trade and other receivables (net)	35,135	40,151

Trade and other receivables (gross) aged as follows

Not overdue	35,135	40,151
Overdue by		
0 to 30 days	-	-
31 to 60 days	-	-
61 to 90 days	-	-
More than 90 days	-	-
Total trade and other receivables (net)	35,135	40,151

Credit terms for goods and services are payment within 30 days (2015: 30 days).

Accounting Policy***Loans and Receivables***

Trade receivables, loans and other receivables that have fixed or determinable payments and that are not quoted in an active market are classified as 'loans and receivables'. Loans and receivables are measured at amortised cost using the effective interest method less impairment.

3.2 Non-Financial Assets

3.2A: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment and Intangibles

Reconciliation of the opening and closing balances of property, plant and equipment for 2016

	Leasehold Improvements \$'000	Property, Plant and Equipment \$'000	Computer software ¹ \$'000	Total \$'000
As at 1 July 2015				
Gross book value	18,838	6,225	3,373	28,436
Accumulated amortisation and impairment	-	(40)	(2,253)	(2,293)
Total as at 1 July 2015	18,838	6,185	1,120	26,143
Additions				
Purchase	21	832	244	1,097
Internally developed	-	-	80	80
Depreciation and amortisation	(1,213)	(1,546)	(258)	(3,017)
Disposals				
Asset cost	-	(4)	-	(4)
Accumulated depreciation	-	1	-	1
Total as at 30 June 2016	17,646	5,468	1,186	24,300
Total as at 30 June 2016 represented by				
Gross book value	18,859	7,053	3,697	29,609
Accumulated depreciation, amortisation and impairment	(1,213)	(1,585)	(2,511)	(5,309)
Total as at 30 June 2016	17,646	5,468	1,186	24,300

1. The carrying amount of computer software included \$450,192 purchased software and \$736,355 internally generated software.

No indicators of impairment were found for leasehold improvements, property, plant and equipment and computer software.

No assets from leasehold improvements, property, plant and equipment and computer software are expected to be sold or disposed of within the next 12 months.

Reconciliation of the opening and closing balances of property, plant and equipment for 2015

	Leasehold Improvements \$'000	Property, Plant and Equipment \$'000	Computer software \$'000	Total \$'000
As at 1 July 2014				
Gross book value	26,027	9,437	3,033	38,497
Accumulated amortisation and impairment	(3,718)	(1,927)	(1,956)	(7,601)
Total as at 1 July 2014	22,309	7,510	1,077	30,896
Additions				
Purchase	38	700	78	816
Internally developed	-	-	262	262
Revaluations and impairments recognised in other comprehensive income				
Asset cost	-	(3,849)	-	(3,849)
Accumulated depreciation	-	4,112	-	4,112
Revaluations recognised in net cost of services				
Asset cost	(7,227)	-	-	(7,227)
Accumulated depreciation	5,537	-	-	5,537
Depreciation and amortisation	(1,819)	(2,288)	(297)	(4,404)
Disposals				
Asset cost	-	(63)	-	(63)
Accumulated depreciation	-	63	-	63
Total as at 30 June 2015	18,838	6,185	1,120	26,143
Total as at 30 June 2015 represented by				
Gross book value	18,838	6,225	3,373	28,436
Accumulated depreciation, amortisation and impairment	-	(40)	(2,253)	(2,293)
Total as at 30 June 2015	18,838	6,185	1,120	26,143

Accounting Policy

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor's accounts immediately prior to the restructuring.

Asset Recognition Threshold

Purchases of property, plant and equipment are recognised initially at cost in the statement of financial position, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make good' provisions in property lease taken up by the Fair Work Commission where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Fair Work Commission's leasehold improvements with a corresponding provision for the 'make good' recognised.

Revaluations

Following initial recognition at cost, property, plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets did not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depended upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to the Fair Work Commission using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2016	2015
Leasehold Improvements	Lease term	Lease term
Plant and equipment	3 to 10 years	3 to 10 years

The Fair Work Commission has items of property, plant and equipment that are heritage and cultural assets that have limited useful lives and are depreciated.

Impairment

All assets were assessed for impairment at 30 June 2016. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs of disposal and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the Fair Work Commission were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

Derecognition

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

Intangibles

The Fair Work Commission's intangibles comprise internally developed and purchased software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the Fair Work Commission's software are 3 to 10 years (2015: 3 to 10 years).

All software assets were assessed for indications of impairment as at 30 June 2016.

	2016 \$'000	2015 \$'000
<u>3.2B: Other Non-Financial Assets</u>		
Prepayments	1,694	1,774
Lease incentive	2,528	2,968
Lease receivables	314	148
Total other non-financial assets	4,536	4,890
Other non-financial assets expected to be recovered		
No more than 12 months	2,118	2,203
More than 12 months	2,418	2,687
Total other non-financial assets	4,536	4,890

No indicators of impairment were found for other non-financial assets.

3.3 Payables

	2016 \$'000	2015 \$'000
3.3A: Suppliers		
Trade creditors and accruals	1,843	1,696
Total suppliers	1,843	1,696
Suppliers expected to be settled		
No more than 12 months	1,843	1,696
More than 12 months	-	-
Total suppliers	1,843	1,696
Settlement terms for suppliers are 30 days.		
3.3B: Other payables		
Salaries and wages	408	1,440
Superannuation	20	211
Lease payable	3,280	3,530
Lease incentives	2,507	3,173
Income earned in advance	2	1
Total other payables	6,217	8,355
Other payables expected to be settled		
No more than 12 months	1,780	2,950
More than 12 months	4,437	5,405
Total other payables	6,217	8,355

3.4 Other Provisions

	2016 \$'000	2015 \$'000
3.4A: Other Provisions		
	Provision for restoration \$'000	Total \$'000
As at 1 July 2015	93	93
Additional provisions made	-	-
Amount used	-	-
Amounts reversed	(4)	(4)
Unwinding of discount or change in discount rate	-	-
Total as at 30 June 2016	89	89
Other provisions expected to be settled		
No more than 12 months	-	-
More than 12 months	89	93
Total other provisions	89	93

Assets and Liabilities Administered on Behalf of the Government

This section analyses assets used to conduct operations and the operating liabilities incurred as a result the Fair Work Commission does not control but administers on behalf of the Government. Unless otherwise noted, the accounting policies adopted are consistent with those applied for departmental reporting.

4.1 Administered – Financial Assets

As at 30 June 2016, there were no contingent assets or liabilities that required disclosure (2015:\$0).

Funding

This section identifies the Fair Work Commission funding structure.

5.1 Appropriations

5.1.A: Annual Appropriations ('Recoverable GST exclusive')

Annual Appropriations for 2016	Appropriation Act		PGPA Act		Appropriation applied in 2016 (current and prior years) \$'000	Variance ² \$'000
	Annual Appropriation ¹ \$'000	Advance to the Finance Minister \$'000	Section 74 Receipts \$'000	Section 75 Transfers \$'000		
Departmental						
Ordinary annual services	79,550	-	2,809	-	82,359	(4,205)
Capital Budget ³	2,418	-	-	-	2,418	975
Total departmental	81,968	-	2,809	-	84,777	(3,230)

1. Appropriations reduced under Appropriation Acts (Nos. 1,3&5); sections 10, 11, and 12 and under Appropriation Acts (Nos. 2,4&6) : sections 12, 13, and 14. Departmental appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental appropriation is not required and request the Finance Minister to reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament.

2. The variance between total annual appropriation available and total appropriation applied in 2016 relates to payments funded from unspent prior year appropriation items. 3. Departmental and Administered Capital Budgets are appropriated through Appropriation Acts (No.1,3,5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.

Annual Appropriations for 2015

	Appropriation Act		PGPA Act		Appropriation applied in 2015 (current and prior years) \$'000	Variance ² \$'000
	Annual Appropriation ¹ \$'000	Advance to the Finance Minister \$'000	Section 74 Receipts \$'000	Section 75 Transfers \$'000		
Departmental						
Ordinary annual services	79,887	-	2,559	-	82,446	1,592
Capital Budget ³	2,450	-	-	-	2,450	1,386
Total departmental	82,337	-	2,559	-	84,896	2,978

1. During the year \$11,000 from the 2014-15 Appropriation was quarantined and subsequently formally reduced by the end of the reporting period.

2. The variance between total annual appropriation available and total appropriation applied in 2015 relates to payments funded from unspent prior year appropriation items.

3. Departmental and Administered Capital Budgets are appropriated through Appropriation Acts (No.1.3.5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts.

5.2 Net Cash Appropriation Arrangements

	2016 \$'000	2015 \$'000
Total comprehensive income/(loss) less depreciation/amortisation expenses previously funded through revenue appropriations	(211)	764
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	(3,017)	(4,404)
Total comprehensive income/(loss) - as per the Statement of Comprehensive Income	(3,228)	(3,640)

5.3 Cash Flow Reconciliation

5.3A: Cash Flow Reconciliation

	2016	2015
	\$'000	\$'000
Reconciliation of cash and cash equivalents as per statement of financial position and cash flow statement		
Cash and cash equivalents as per		
Cash flow statement	789	593
Statement of financial position	789	593
Discrepancy	-	-
Reconciliation of net cost of services to net cash from/(used by) operating activities		
Net (cost of)/contribution by services	(82,778)	(83,527)
Revenue from Government	79,550	79,887
Adjustments for non-cash items		
Depreciation/amortisation	3,017	4,404
Revaluation decrement	-	1,690
Write down and impairment of assets	3	-
Movements in assets and liabilities		
Assets		
(Increase)/Decrease in net receivables	5,015	(2,404)
(Increase)/Decrease in other non-financial assets	274	(90)
(Increase)/Decrease in prepayments	80	(213)
Liabilities		
Increase/(Decrease) in employee provisions	(1,598)	1,338
Increase/(Decrease) in suppliers payables	147	(2,171)
Increase/(Decrease) in other payables	(2,139)	(123)
Increase/(Decrease) in other provisions	(4)	(4)
Increase/(Decrease) in unearned revenue	1	1
Net cash from/(used by) operating activities	1,568	(1,212)

5.3B: Administered – Cash Flow Reconciliation		
	2016	2015
	\$'000	\$'000
Reconciliation of cash and cash equivalents as per statement of financial position and cash flow statement		
Cash and equivalents as per		
Schedule of administered cash flows	-	-
Schedule of administered assets and liabilities	-	-
Discrepancy	-	-
Reconciliation of net cost of services to net cash from/(used by) operating activities		
Net contribution by services	681	653
Movements in assets and liabilities		
Liabilities		
Increase / (Decrease) in other payable	-	-
Net cash from/(used by) operating activities	681	653

People and relationships

This section describes a range of employment and post-employment benefits provided to our people and our relationships with other key people.

6.1 Employee Provisions

	2016 \$'000	2015 \$'000
6.1A: Employee Provisions		
Leave	16,115	17,734
Separations and redundancies	1,082	1,061
Total employee provisions	17,197	18,795
Employee provisions expected to be settled		
No more than 12 months	5,397	5,782
More than 12 months	11,800	13,013
Total employee provisions	17,197	18,795

6.1B: Administered – Employee Provisions

No administered employee provisions.

Accounting Policy

Liabilities for short-term employee benefits and termination benefits expected to be settled within twelve months of the end of reporting period are measured at their nominal amounts.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

Leave

The liability for employee benefits includes provision for annual leave, long service leave and Judges Long leave.

Members of the Fair Work Commission, who were Presidential members under the Workplace Relations Act 1996 and the President of the Fair Work Commission, accrue six months long leave after five years of service as a presidential member. In recognition of the nature of presidential members' tenure, a provision is accrued from the first year of service.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will be applied at the time the leave is taken, including the Fair Work Commission's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by use of the Australian Government Actuary's shorthand method using the standard Commonwealth sector probability profile. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Separation and Redundancy

Provision is made for separation and redundancy benefit payments. The Fair Work Commission recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

The majority of staff and members of the Fair Work Commission are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), or the PSS accumulation plan (PSSap), or other superannuation funds held outside the Australian Government.

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported in the Department of Finance's administered schedules and notes.

The Fair Work Commission makes employer contributions to the employees' defined benefit superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. The Fair Work Commission accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June 2016 represents outstanding contributions for the final fortnight of the year.

Judge's Pension

Members of the Fair Work Commission who are Presidential members under the *Workplace Relations Act 1996* and the President of the Fair Work Commission are eligible for pensions under the Judges' Pension Scheme (JPS) pursuant to the *Judges' Pensions Act 1968*. The JPS is an unfunded defined benefit scheme that is governed by the rules set out in the Act.

The Fair Work Commission does not contribute towards the cost of the benefit during such member's term of service. Liability and expenses associated with the JPS are recorded as part of the Department of Finance financial statements. The Department of Finance has given the Fair Work Commission drawing rights for the financial year in relation to the special appropriation made under the *Judges' Pensions Act 1968*. The Fair Work Commission makes pension payments directly to beneficiaries of the scheme (refer to Note 5.1D).

6.2 Senior Management Personnel Remuneration

	2016 \$'000	2015 \$'000
Short-term employee benefits		
Salary	996	1,030
Motor vehicle and other allowances	41	44
Total short-term employee benefits	<u>1,037</u>	<u>1,074</u>
Post-employment benefits		
Superannuation	140	168
Total post-employment benefits	<u>140</u>	<u>168</u>
Other long-term employee benefits		
Annual Leave	87	89
Long-service leave	27	28
Total other long-term employee benefits	<u>114</u>	<u>117</u>
Termination Benefits		
Voluntary Redundancy Payments	-	167
Total termination benefits	<u>-</u>	<u>167</u>
Total senior executive remuneration expenses	<u>1,291</u>	<u>1,526</u>

The total number of senior management personnel that are included in the above table are 5 individuals (2015: 6 individuals).

6.3 Related Party Disclosures

The Fair Work Commission has no loans to Senior Management Personnel or Senior Management Personnel related entities (2015: Nil).

Managing uncertainties

This section analyses how the Fair Work Commission manages financial risks within its operating environment.

7.1A: Contingent Assets and Liabilities

Quantifiable Contingencies

There were no quantifiable contingent liabilities or assets requiring disclosure for the period ended 30 June 2016 (2015: \$0).

Unquantifiable Contingencies

There were no unquantifiable contingent liabilities or assets requiring disclosure for the period ended 30 June 2016 (2015: \$0).

Accounting Policy

Contingent liabilities and contingent assets are not recognised in the statement of financial position but are reported in the notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

7.1B: Administered – Contingent Assets and Liabilities

As at 30 June 2016 there were no contingent assets or liabilities requiring disclosure (2015: \$0).

7.2: Financial Instruments

	2016 \$'000	2015 \$'000
7.2A: Categories of Financial Instruments		
Financial Assets		
Loans and receivables		
Cash and cash equivalents	789	593
Trade and other receivables	33	180
Total loans and receivables	822	773
Total financial assets	822	773
Financial Liabilities		
Financial liabilities measured at amortised cost		
Trade creditors and accruals	1,843	1,696
Total financial liabilities measured at amortised cost	1,843	1,696
Total financial liabilities	1,843	1,696

Accounting Policy

Financial assets

The Fair Work Commission classifies its financial assets in the following categories:

- a) financial assets at fair value through profit or loss; and
- b) loans and receivables.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition. Financial assets are recognised and derecognised upon trade date.

Effective Interest Method

Income is recognised on an effective interest rate basis except for financial assets that are recognised at fair value through profit or loss.

Financial Assets at Fair Value Through Profit or Loss

Financial assets are classified as financial assets at fair value through profit or loss where the financial assets:

- a) have been acquired principally for the purpose of selling in the near future;
- b) are derivatives that are not designated and effective as a hedging instrument; or
- c) are parts of an identified portfolio of financial instruments that the entity manages together and has a recent actual pattern of short-term profit-taking.

Assets in this category are classified as current assets.

Financial assets at fair value through profit or loss are stated at fair value, with any resultant gain or loss recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest earned on the financial asset.

Available-for-Sale Financial Assets

Available-for-sale financial assets are non-derivatives that are either designated in this category or not classified in any of the other categories.

Available-for-sale financial assets are recorded at fair value.

Gains and losses arising from changes in fair value are recognised directly in reserves (equity) with the exception of impairment losses. Interest is calculated using the effective interest method and foreign exchange gains and losses on monetary assets are recognised directly in profit or loss.

Where the asset is disposed of or is determined to be impaired, part (or all) of the cumulative gain or loss previously recognised in the reserve is included in surplus and deficit for the period.

Impairment of Financial Assets

Financial assets are assessed for impairment at the end of each reporting period.

Financial assets held at amortised cost - if there is objective evidence that an impairment loss has been incurred for loans and receivables or held to maturity investments held at amortised cost, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount is reduced by way of an allowance account. The loss is recognised in the Statement of Comprehensive Income.

Available for sale financial assets - if there is objective evidence that an impairment loss on an available-for-sale financial asset has been incurred, the amount of the difference between its cost, less principal repayments and amortisation, and its current fair value, less any impairment loss previously recognised in expenses, is transferred from equity to the Statement of Comprehensive Income.

Financial assets held at cost - if there is objective evidence that an impairment loss has been incurred, the amount of the impairment loss is the difference between the carrying amount of the asset and the present value of the estimated future cash flows discounted at the current market rate for similar assets.

Financial liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

Financial Liabilities at Fair Value Through Profit or Loss

Financial liabilities at fair value through profit or loss are initially measured at fair value. Subsequent fair value adjustments are recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest paid on the financial liability.

Other Financial Liabilities

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs. These liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective interest basis.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

7.2B: Credit Risk

Fair Work Commission was exposed to minimal credit risk as loans and receivables were cash and trade receivables. The maximum exposure to credit risk was the risk that arises from potential default of a debtor. This amount was equal to the total amount of trade receivables (2016: \$32,637; 2015: \$179,694).

Fair Work Commission's debtors were generally limited to other Commonwealth Government agencies and its employees. In addition, Fair Work Commission had policies and procedures that guided employees on debt recovery techniques that were to be applied.

Fair Work Commission held no collateral to mitigate credit risk.

7.2C: Liquidity Risk

Fair Work Commission's financial liabilities are payables. The exposure to liquidity risk is based on the notion that Fair Work Commission will encounter difficulty in meeting its obligations associated with financial liabilities. This is highly unlikely due to appropriation funding from the Australian Government and Fair Work Commission manages its budgeted funds to ensure it has adequate funds to meet payments as they fall due. In addition, Fair Work Commission has policies and procedures in place to ensure timely payments were made when due and has no past experience of default.

Fair Work Commission has no derivative financial liabilities in either current or prior year.

7.2D: Market Risk

The Fair Work Commission held basic financial instruments that did not expose the Fair Work Commission to certain market risks such as currency risk, other price risk or interest rate risk.

7.2E: Assets Pledged or Held as Collateral

There are no assets pledged or held as collateral in the period ending 30 June 2016 (2015: \$0).

7.3: Administered – Financial Instruments

As at 30 June 2016 there were no administered financial instruments (2015: \$0).

7.4 Fair Value Measurement

The following tables provide an analysis of assets and liabilities that are measured at fair value. The remaining assets and liabilities disclosed in the statement of financial position do not apply the fair value hierarchy.

The different levels of the fair value hierarchy are defined below.

- Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities that the entity can access at measurement date.
- Level 2: Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.
- Level 3: Unobservable inputs for the asset or liability.

Accounting Policy

Fair Work Commission engaged Australian Valuation Solutions (AVS) to conduct a materiality review of all non-financial assets at 30 June 2016 and has relied upon those outcomes to establish carrying amounts. An annual assessment is undertaken to determine whether the carrying amount of the assets is materially different from the fair value. Comprehensive valuations are carried out at least once every three years. AVS has provided written assurance to Fair Work Commission that the models developed are in compliance with AASB 13.

The methods utilised to determine and substantiate the unobservable inputs are derived and evaluated as follows:

Physical Depreciation and Obsolescence - Assets that do not transact with enough frequency or transparency to develop objective opinions of value from observable market evidence have been measured utilising the Depreciated Replacement Cost approach. Under the Depreciated Replacement Cost approach the estimated cost to replace the asset is calculated and then adjusted to take into physical depreciation and obsolescence. Physical depreciation and obsolescence has been determined based on professional judgement regarding physical, economic and external obsolescence factors relevant to the asset under consideration. For all Leasehold Improvement assets, the consumed economic benefit / asset obsolescence deduction is determined based on the term of the associated lease.

Fair Work Commission's policy is to recognise transfers into and transfers out of fair value hierarchy levels as at the end of the reporting period.

7.4A: Fair Value Measurements

	Fair value measurements at the end of the reporting period		Valuation Technique(s) and Inputs Used
	2016	2015	
	\$'000	\$'000	
Non-financial assets ²			
Plant and Equipment ¹	3,561	2,976	Market Approach: This approach seeks to estimate the fair value of an asset with reference to recent market transactions involving identical or comparable assets. Inputs: Prices and other relevant information generated by market transactions involving plant and equipment assets were considered. Depreciated Replacement Cost: The amount a market participant would be prepared to pay to acquire or construct a substitute asset of comparable utility, adjusted for physical depreciation and obsolescence. Inputs: Current prices for substitute assets. Physical depreciation and obsolescence has been determined based on professional judgement regarding physical, economic and external obsolescence factors relevant to the assets under consideration.
Plant and Equipment ¹	1,896	2,643	Depreciated Replacement Cost: The amount a market participant would be prepared to pay to acquire or construct a substitute asset of comparable utility, adjusted for physical depreciation and obsolescence. Inputs: Current prices for substitute assets. Physical depreciation and obsolescence has been determined based on professional judgement regarding physical, economic and external obsolescence factors relevant to the assets under consideration.
Leasehold Improvements ¹	17,646	18,817	Depreciated Replacement Cost: The amount a market participant would be prepared to pay to acquire or construct a substitute asset of comparable utility, adjusted for physical depreciation and obsolescence. Inputs: Current costs per square metre of floor area relevant to the location of the asset. Physical depreciation and obsolescence has been determined based on the term of the associated lease.
Work in Progress (Property, Plant & Equipment)	11	-	Replacement Cost: The amount a market participant would be prepared to pay to acquire or construct a substitute asset of comparable utility without adjustment Inputs: Current prices for substitute assets.
Total Non-financial assets	23,114	24,436	

1. No non-financial assets were measured at fair value on a non-recurring basis as at 30 June 2016 (2015: Nil)

2. Fair Work Commission assets are held for operational purposes and not held for the purposes of deriving a profit. The current use of all non-financial assets is considered their highest and best use.

3. There were no transfers between levels 1 and 2 for recurring fair value measurements during the year.

4. The remaining assets and liabilities reported by Fair Work Commission are not measured at fair value in the Statement of Financial Position.

7.4B: Reconciliation for Recurring Level 3 Fair Value Measurements

	Non-financial assets					
	Leasehold Improvements		Property, Plant and Equipment		Total	
	2016	2015	2016	2015	2016	2015
\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	
As at 1 July	18,817	20,991	2,643	1,481	21,460	22,472
Total gains/(losses) recognised in net cost of services ¹	(1,213)	(2,212)	(963)	(489)	(2,176)	(2,701)
Total gains/(losses) recognised in other comprehensive income ²	-	-	-	-	-	-
Asset Adjustment	22	-	42	1,651	63	1,651
Asset Purchases / Capitalisation	21	38	174	-	195	38
Transfers into Level 3 ³	-	-	-	-	-	-
Transfers out of Level 3 ⁴	-	-	-	-	-	-
Total as at 30 June	17,646	18,817	1,896	2,643	19,542	21,460

1. These gains/(losses) are presented in the Statement of Comprehensive Income under Depreciation and Amortisation and Write Down and Impairment of Assets.

2. These gains/(losses) are presented in the Statement of Comprehensive Income under Other Changes in Asset Revaluation Reserves.

3. There have been no transfers into level 3 during the year.

4. There have been no transfers out of level 3 during the year.

Other information

8.1 Reporting of Outcomes

The Fair Work Commission delivers services under one Outcome. The financial information is recorded against this Outcome.

	Outcome 1 ¹		Total	
	2016 \$'000	2015 \$'000	2016 \$'000	2015 \$'000
Expenses				
Employee benefits	(51,821)	(52,192)	(51,821)	(52,192)
Suppliers	(30,804)	(27,864)	(30,804)	(27,864)
Depreciation and amortisation	(3,017)	(4,404)	(3,017)	(4,404)
Write down and impairment of assets	(3)	(1,690)	(3)	(1,690)
Other expenses	(5)	-	(5)	-
Total expenses	(85,650)	(86,150)	(85,650)	(86,150)
Own-source income				
Sale of goods and rendering of services	343	110	343	110
Rental income	2,437	2,414	2,437	2,414
Other revenue	88	95	88	95
Total own-source income	2,868	2,619	2,868	2,619
Expenses				
Expenses	-	-	-	-
Total expenses	-	-	-	-
Income				
Application fees	681	653	681	653
Total income	681	653	681	653
Net cost/(contribution) of outcome delivery	(82,101)	(82,878)	(82,101)	(82,878)
Assets				
Financial assets	35,924	40,744	35,924	40,744
Non-financial assets	28,837	31,033	28,837	31,033
Total assets	64,761	71,777	64,761	71,777
Liabilities				
Payables	8,060	10,051	8,060	10,051
Provisions	17,286	18,888	17,286	18,888
Total liabilities	25,346	28,939	25,346	28,939

1. Outcome 1 is described in the outcome note. Net costs shown include intra-government costs that were eliminated in calculating the actual Budget Outcome.

Appendix H:

Subscription services

The Commission offers a range of free electronic subscriptions to provide the public with updates about major developments at the tribunal, including significant decisions, information about the various awards and general updates through the Commission Bulletin.

Subscribers are notified by emails containing links to downloadable documents accessible through the website.

The subscription services have proven a valuable tool for the Commission to engage with the public and ensure interested parties are provided with accurate information on the areas relevant to them.

There are two types of subscriptions — announcements and awards. The details for each appear below.

Awards services — My awards

My awards — updates: notifies subscribers when an award has been updated, or when a document has been issued about an award that does not vary the award (such as a decision).

My awards — all matters: notifies subscribers when an application to vary a modern award has been lodged or an award is being reviewed, and when any associated material is issued or received. This includes information about proceedings, submissions, hearing details and decisions. This also includes any emails dispatched through the Awards Updates service for the selected awards.

Announcements services — My subscriptions

Announcements: contains administrative and general announcements about changes to the Commission's practices and procedures, changes to forms and information about subscriptions. This is a low volume email service.

Significant decisions: contains details of recently-issued Full Bench decisions and other significant decisions. Each email contains links to the complete decision and the 'Find Commission decisions and orders' web page. It is emailed when decisions are published.

All decisions: contains details of all recently issued Commission decisions with links to the complete decisions. Each email contains links to the complete decisions and the 'Find Commission decisions and orders' web page. It is emailed up to twice daily.

Enterprise agreement decisions: contains details of enterprise agreement approval, termination and variation decisions, with links to the complete decisions. Each email also contains links to the 'Find Commission decisions and orders' web page. It is emailed up to twice daily.

FWC Bulletin: includes decision summaries of selected Commission decisions and information about our services. This service provides links to the latest and past editions of the FWC Bulletin. It is emailed weekly following the Bulletin's posting on the website.

Award modernisation information:

contains details of significant updates to the award modernisation section of the Commission's website. This service notifies subscribers via email of significant proceedings, statements or decisions which have general application to modern awards or ongoing award modernisation processes. It is a low volume service emailed as significant updates are posted to the 'Award modernisation' section of the website.

Annual wage review information:

contains information about the current review process and how to participate in it. Each email contains links to relevant materials, including the procedure for lodging submissions, statements and decisions, the timetable, research, submissions and any additional material. It is emailed as changes are posted to the 'Annual Wage Review' section of the website.

Equal remuneration case:

contains information about the equal remuneration case currently before the Commission. Each email contains links to relevant materials, including submissions, statements and decisions, the timetable, research, correspondence, and any additional material. It is emailed as changes are posted to the 'Equal Remuneration Case' section of the website.

Superannuation information:

contains information about the review of superannuation funds in modern awards. Each email contains links to relevant materials, including submissions, statements and decisions, the timetable and any additional relevant material. It is emailed as changes are posted to the 'Superannuation' section of the website.

Pay equity research information:

Provides updates about research undertaken by the Pay Equity Unit to assist the Commission and parties with pay equity-related matters. This service provides updates regarding research undertaken by the Pay Equity Unit, including the research priorities of the unit, published research, and other specialist information. Emails are sent when 'Pay Equity Unit' web pages are updated.

Gazette notices — organisations:

contains details of applications by registered organisations that are published in the Commonwealth of Australia Gazette. Each email contains the name of the organisation or association lodging the application, the type of application lodged, and a link to the Gazette notices page. It is emailed when the notice and the application have been posted to the website.

Registered organisations information:

provides information about registered organisations and the Regulatory Compliance Branch of the Commission. Emails contain information regarding obligations of registered organisations under the relevant legislation. Emails are sent to notify subscribers when 'Registered Organisations' web pages are updated.

Australian Workplace Relations Study:

provides updates on the Commission's AWRS. This service notifies subscribers by email about updates regarding the AWRS, including consultation activities, the research design, data collection instruments and the study timetable. Emails are sent as relevant web pages are updated.

Termination of instruments:

contains information about the process being undertaken pursuant to item 3 of Schedule 5 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*. Emails contain links to information about proceedings, including to submissions, statements and decisions, and any additional material, and are sent as changes are published to the website.

Events and engagement:

provides information about upcoming events, activities and opportunities to engage with the Commission, as well as links to further relevant material. Subscribers can elect to receive updates about events in all locations or about events in a particular state or territory. Emails are sent when relevant events or activities are launched, and as additional information becomes available.

Quarterly practitioner update:

Provides quarterly updates for practitioners, including information about significant Commission decisions, resources and initiatives, upcoming events and other general information. The updates are aimed at providing an overview of information relevant to workplace relations practitioners.

Subscribing

To subscribe to any of the services, members of the public may sign up on the **Subscribe to updates** page on the Commission's website, then log in and select any services required. There is no cost and publications and services can be added or removed at any time.

Appendix I: Fair Work Commission Service Charter

(Extracted from the Fair Work Commission website: www.fwc.gov.au)

Introduction

This charter tells you the nature and level of the services you can expect from staff of the Fair Work Commission, and what to do if you are unhappy with the service you receive.

Who we are

The Commission is Australia's independent, national workplace relations tribunal, which was established under s.575 of the *Fair Work Act 2009* (the *Fair Work Act*).

The Commission undertakes functions relating to the provision of simple, fair and flexible workplace relations for employees and employers through the exercise of powers under the *Fair Work Act*. The Commission also has responsibilities relating to the registration of unions and employer associations and their financial accountability pursuant to the *Fair Work (Registered Organisations) Act 2009* (the *RO Act*).

The Commission consists of:

- a President
- Vice Presidents
- Deputy Presidents
- Commissioners Members
- Expert Panel Members

The Commission has a General Manager who, supported by administrative staff, assists the President in ensuring that the Commission performs its functions and exercises its powers under the *Fair Work Act*. The staff of the Commission are engaged under the *Public Service Act 1999*.

Our services

Commission staff are committed to providing excellent levels of fair and efficient service to users of the workplace relations system.

To keep up-to-date with changes to the *Fair Work Act*, the *RO Act*, Commission practices and procedures, or information generated by the Commission, you can:

- visit our website at www.fwc.gov.au
- subscribe to free updates
- Contact us

How we will work with you

Staff of the Commission demonstrate commitment to the following service delivery principles. This is what you can expect when you access our services.

Accessibility

You can access information in the way you choose – through our website at www.fwc.gov.au, by telephone on **1300 799 675**, or in person at one of our office locations.

If you need an interpreter, or assistance owing to disability or impairment, let us know and support will be provided.

If you need help to communicate with us, you can use the Translating and Interpreter Service on **131 450**. If you have a hearing, sight or speech impairment, you can use the Speech to Speech Relay through the National Relay Service on **133 677**.

Our service

We will work to ensure that our service is:

- informative, accurate and timely
- prompt, courteous and respectful
- professional and helpful

The work of Commission staff includes:

- providing administrative support to the President and members of the Commission
- assisting individuals and organisations accessing the jurisdiction of the Commission
- providing conciliation services to support the resolution of unfair dismissal applications
- undertaking research in relation to minimum wage matters
- processing forms and documents lodged with the Commission
- providing support to organisations in relation to their rights and obligations under the RO Act
- publishing decisions, orders, agreements and modern awards issued by members of the Commission

What we can't do

- Staff of the Commission can't give legal advice
- Staff can't advise you about your particular circumstances and whether or not you have a claim

Accessing our services

If you are lodging an application or document with the Commission and need help to complete a form, a Commission employee will be available to help you (but cannot provide legal advice or comment on the merits of your case).

If you visit our offices you can expect ease of access, clear sign-posting to help you find your way within the premises, and staffed service counters where Commission employees will help with your needs.

If you write to us, we will acknowledge receipt of your correspondence within 7 days, and provide you with an employee's name and contact details for any further follow-up.

Service excellence

Commission staff will work to provide high quality service – it will be timely, accurate and consistent.

If you contact us by telephone, email or online, we will respond to your enquiry promptly. If we are unable to respond to your enquiry immediately, we will advise you when you can expect a response. If your enquiry is received outside of our normal office hours, your contact will be logged and attended to the next working day.

Seamless service

Our services will be provided in a way that keeps you informed and up-to-date, regardless of the way you choose to access our services.

We will help you contact other agencies or bodies that can deal with your enquiry, including the Fair Work Ombudsman. If we need to transfer your enquiry to the Fair Work Ombudsman, we will ensure that this is clearly explained and that the transfer occurs smoothly.

Fairness

Commission staff are committed to providing a service that is ethical, fair and free from discrimination.

Comments, suggestions or complaints about our services can be made through any of the contact methods in the How You Can Contact Us section of this service charter, or by using the Enquiries and feedback page.

Value

Commission staff will seek to keep improving our services in response to your needs and expectations. We are accountable for our actions and resource usage.

How you can help us

You can help us to deliver the standard of service we aim for when you:

- provide accurate and complete information
- inform us about any particular needs you may have
- advise us of any changes to your contact details
- respond to our requests for further information in a timely manner
- treat Commission Members and staff with respect

How you can contact us

You can contact us between 9.00 am and 5.00 pm on ordinary working days.

If you need help to communicate with us, you can use the Translating and Interpreter Service on telephone number **131 450**.

If you have a hearing, sight or speech impairment, you can use the Speech to SpeechRelay through the National Relay Service on **133 677**.

- **Email:** Enquiries can be emailed through our Enquiries & feedback page
- **Telephone:** The national Fair Work Commission phone number is **1300 799 675**
- **Post:** You can write to us at: Fair Work Commission, GPO Box 1994, Melbourne VIC 3001
- **In person:** Visit the Fair Work Commission office in your capital city – details are on the Commission offices page.

Tell us what you think

Any comments, suggestions or complaints about the services of Commission staff, or about this service charter, can be made through any of the contact methods in the How you can contact us section of this service charter, or by using the Enquiries and feedback page.

A written record will be taken of any oral feedback or complaint that relates to our services. If you require a formal response, it will be issued within an agreed timeframe.

Alternatively you can contact:

- the Commonwealth Ombudsman, which is independent of the Fair Work Commission. Information about the Ombudsman is available at www.ombudsman.gov.au or by telephoning **1300 362 072**
- the Australian Human Rights Commission (AHRC), especially if you think you have been discriminated against or disadvantaged because of a complaint you have made. Information is available at the AHRC website www.humanrights.gov.au or by telephoning **1300 656 419**, or if you use TTY telephone **1800 620 241**

Appendix J:

List of Requirements

Description	Ref	Requirement
Letter of transmittal	iii	Mandatory
Table of contents	v	Mandatory
Alphabetical index	234	Mandatory
Acronyms and Abbreviations	231	Mandatory
Glossary	225	Mandatory
List of requirements	219	Mandatory
Details of contact officer	ii	Mandatory
Fair Work Commission website address	ii	Mandatory
Annual Report website address	ii	Mandatory
Overview		
Review by the accountable authority	6	Mandatory
Role and functions	10	Mandatory
Organisational structure	11	Mandatory
Outcomes and programmes administered	20	Mandatory
Purposes as included in corporate plan	20	Mandatory
Portfolio structure	N/A	Portfolio Departments Mandatory
Where the outcome and programmes administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, include details of variation and reasons for change.	N/A	If applicable, Mandatory
Report on Performance		
Annual performance statements	20	Mandatory
Discussion and analysis of the entity's financial performance	224	Mandatory
Table summarising total resources and total payments	222	Mandatory

Description	Ref	Requirement
If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results.	223	If applicable, Mandatory
Management and accountability		
Corporate Governance		
Fraud compliance	115	Mandatory
Fraud control certificate	115	Mandatory
Corporate governance structures	114	Mandatory
Significant finance law issues reported to the Minister	N/A	If applicable, Mandatory
External Scrutiny		
External scrutiny	120	Mandatory
Judicial decisions	120	If applicable, Mandatory
Reports on operations by the Auditor-General, Parliamentary Committee or Commonwealth Ombudsman	120	If applicable, Mandatory
Capability reviews	N/A	If applicable, Mandatory
Management of Human Resources		
Assessment of effectiveness in managing human resources to achieve objectives	121	Mandatory
Employee statistics	121	Mandatory
Enterprise agreement coverage	123	Mandatory
APS employee salary ranges	124	Mandatory
Non-salary benefits	125	Mandatory
Information on performance pay	125	If applicable, Mandatory
Assets management		
Assessment of effectiveness of assets management	128	Mandatory
Purchasing		

Description	Ref	Requirement
Assessment of entity performance against the Commonwealth Procurement Rules	128	Mandatory
Consultants		
Consultant summary and statement	129	Mandatory
Australian National Audit Office access clauses		
If an entity entered into a contract with a value of more than \$10,0000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor's premises, the report must include the name of the contractor, purpose and value of the contract, and the reason why a clause allowing access was not included in the contract.	128	Mandatory
Exempt contracts		
If an entity entered into a contract or there is a standing offer with a value greater than \$10 000 (inclusive of GST) which has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters.	128	Mandatory
Small business		
Procurement initiatives to support small business	128	Mandatory
Financial statements		
Inclusion of the annual financial statements in accordance with subsection 43(4) of the Act.	161	Mandatory
Other Mandatory Information		
Advertising campaigns and market research	129	If applicable, Mandatory
Grant programs	129	If applicable, Mandatory
Disability reporting	127	Mandatory
Freedom of information	129	Mandatory
Corrections to previous annual reports	130	If applicable, Mandatory
Information required by other legislation	N/A	Mandatory

Appendix K: Expense and resources outcome, Agency resource statement and financial performance analysis

Table 67: Expenses and resources outcome

Outcome 1: Simple, fair and flexible workplace relations for employees and employers through the exercise of powers to set and vary minimum wages and modern awards, facilitate collective bargaining, approve agreements and deal with disputes.	Budget*	Actual expenses	Variation
	2015–16 \$'000	2015–16 \$'000	2015–16 \$'000
	(a)	(b)	(c)
Programme 1: Dispute resolution, minimum wages, orders and approval of agreements			
Departmental expenses			
Departmental appropriation ¹	81,979	82,574	(595)
Expenses not requiring appropriation in the budget year ²	4,583	3,076	1,507
Total for programme and outcome	86,562	85,650	912
Outcome 1: Totals by Appropriation Type			
Departmental expenses			
Departmental appropriation ¹	81,979	82,574	(595)
Expenses not requiring appropriation in the budget year ²	4,583	3,076	1,507
Total for programme and outcome	86,562	85,650	912
Average staffing level (number)	336	343	(7)

* Full year budget, including any subsequent adjustments made to the 2015-16 Budget

1 Departmental Appropriation combines 'Ordinary annual services (Appropriation Bill No. 1)' and 'Revenue from independent sources.'

2 Expenses not requiring appropriation in the Budget year is made up of Depreciation Expense, Amortisation Expense, Makegood Expense, and Audit Fees.

Table 68: Fair Work Commission resource statement

	Actual available appropriation for	Payments made or repealed	Balance remaining
	2015–16 \$'000 (a)	2015–16 \$'000 (b)	2015–16 \$'000 (c)
Ordinary annual services¹			
Departmental appropriation			
Prior year departmental appropriation ²	40,301	40,301	0
Departmental appropriation ³	81,968	46,964	35,004
s.74 retained revenue receipts ⁴	2,809	2,809	0
Total ordinary annual services	125,078	90,074	35,004
Departmental non operating¹			
Equity injections	0	0	0
Total Departmental non-operating	0	0	0
Total available annual appropriations	125,078	90,074	35,004
Total net resourcing for the Fair Work Commission	125,078	90,074	35,004

1 Appropriation Bill (No. 1) 2015–16. Including the balance of prior year Departmental appropriations.

2 Estimated adjusted balance carried forward from previous year.

3 Includes an amount of \$2.418 m for the Departmental Capital Budget. For accounting purposes this amount has been designated 'contributions by owners.'

4 Retained Revenue receipts under s.74 of the PGPA Act.

Table 68 shows the total resources from all origins. The table summarises how resources will be applied by outcome and by administered and departmental classification.

Financial Performance Analysis

The Commission is a non-corporate entity under the PGPA Act. The Commission's audited financial statements for 2015–16 are at [Appendix G](#).

The Commission's operating revenue from government for the 2015–16 financial year was \$79.550 million. The Commission received own source revenue of \$2.866 million, primarily represented by sub lease rental income.

Operating expenses decreased in 2015–16 to \$85.650 million (\$86.150 million in 2014–15). The major expenses in 2013–14 were \$51.821 million in respect of employee expenses, \$30.804 million relating to supplier payments and \$3 million in asset depreciation, amortisation and related expenses.

The Commission is likely to face some budget pressure in the 2016-17 year with the reduction of funding as a result of the abolition of the Road Safety Remuneration Tribunal on 21 April 2016. At the same time, other work, such as that associated with the referrals from the Trade Union Royal Commission,

has required additional staffing and legal resources. To manage the impact of these factors in the year ahead, a number of staff accepted voluntary redundancies at the end of the 2015–16 financial year. Consequently, in 2015–16 the Commission ran a funded loss excluding depreciation and amortisation of \$211,000, compared with a surplus in 2014–15 of \$764,000.

Performance against budget and comparison to the 2014–15 year is presented for both operating and administered activities in the primary financial statements included in the annual report at [Appendix G](#). Commentary is also provided to explain major variances to budget.

A summary table of resources for outcome, including total administered expenses, revenue from government (appropriations) for outputs and the total price of outputs can be found at page 222 (see [Table 67](#)) of this report. An agency resource statement table providing information about funding sources drawn upon by the Commission is at page 223 (see [Table 68](#)) of this report.

Glossary

Note: definitions in this glossary have been prepared to assist readers in understanding this annual report. They should not be regarded as comprehensive or legally authoritative.

annual performance statements	Statements prepared by the accountable authority of a Commonwealth entity in accordance with s.39 of the PGPA Act and s.16F of the PGPA Rule that acquits actual performance against planned performance described in the entity's corporate plan. The statements may be audited by the Auditor-General, and must be provided to the entity's minister and the Finance Minister.
annual wage review	A review of award minimum wages and the national minimum wage order conducted by the Expert Panel of the Commission each financial year.
applicant	The initiating party to a proceeding before the Commission.
arbitration	A process in which the Commission determines a grievance or dispute by imposing a binding settlement. The Commission has powers of compulsory arbitration as well as offering arbitration by consent.
bargaining representative	An employer or a person appointed by the employer to be their representative; a union with respect to its members who will be covered by the agreement (unless the member appoints another person or revokes the status of the union); or any other person the employee appoints in writing to participate in negotiations on their behalf.
better off overall test (BOOT)	The test that the Commission must apply to a proposed agreement before it can be approved to ensure that employees will be better off overall than under the applicable award. Individual flexibility arrangements under modern awards and enterprise agreements must also satisfy the test.
collective agreement	A legally enforceable agreement made under previous legislation about terms and conditions of employment between an employer and a group of employees, or between an employer and one or more unions. Collective agreements were approved by the Workplace Authority.

conciliation	One of the informal processes used by the Commission to facilitate the resolution of a grievance or a dispute between parties by helping them to reach an agreement. Mediation is another informal technique used.
corporate governance	The process by which agencies are directed and controlled. Corporate governance is generally understood to encompass authority, accountability, stewardship, leadership, direction and control.
corporate plan	The primary strategic planning document of a Commonwealth entity or company, setting out the objectives, capabilities and intended results over a four-year period, in accordance with its stated purposes. The plan should provide a clear line of sight with the relevant annual performance statement, portfolio budget statement and annual report.
dispute resolution	The process conducted by the Commission, arising from the dispute resolution procedure in awards, agreements or the Fair Work Act, for resolving disputes.
dispute resolution procedure	The procedure specified in a modern award or enterprise agreement for the resolution of disputes arising under the award or agreement and in relation to the National Employment Standards. If no procedure is specified a model dispute resolution procedure specified in the Fair Work Act is deemed to apply.
enterprise agreement	A legally enforceable agreement that covers the employment conditions of a group of employees and their employer. Enterprise agreements can be single or multi-enterprise agreements and must meet a number of requirements of the Fair Work Act before they can be approved by the Commission.
<i>Fair Work Act 2009</i>	The principal Commonwealth law governing Australia's workplace relations system.
<i>Fair Work (Registered Organisations) Act 2009</i>	The legislation that covers the registration and accountability of federally registered unions and employer associations.
<i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>	The legislation that governs transitional matters in connection with the Fair Work Act and other related matters.
Federal Court of Australia	The court with jurisdiction over matters arising under the Fair Work Act.

Federal Circuit Court of Australia	The Federal Circuit Court was established to deal with matters which were originally commenced at Fair Work Commission. Appeals from a judgment of the Federal Circuit Court are then made to the Federal Court which sits as an appeal court. The Federal Circuit Court operates as informally as possible in the exercise of judicial powers, and uses streamlined procedures and dispute resolution processes to resolve matters without judicial decisions.
Full Bench	A Full Bench of the Commission is convened by the President of the Commission and comprises at least three Commission Members, one of whom must be either the President, a Vice President or a Deputy President. Full Benches are convened to hear appeals, matters of significant national interest and various other matters specifically provided for in the Fair Work Act.
Future Directions	The Fair Work Commission's change program.
general protections	General workplace protections specified in the Fair Work Act including freedom of association, protection from discrimination and sham contracting, and the ability to exercise, or to not exercise, workplace rights. The general protections provisions provide a right to apply to the Commission if an employee or employer is the subject of adverse action, such as termination of employment, refusal to employ a worker, or different (and unfair) conditions to other employees.
individual flexibility arrangement	An agreement between an employer and an individual employee that modifies the application of a modern award or enterprise agreement. The individual flexibility arrangement must satisfy the better off overall test. There is no requirement to register an individual flexibility arrangement.
key performance indicator	A type of performance measurement (using either qualitative or quantitative data) on the efficiency or effectiveness of activities in achieving purposes. Related terms: evaluation and monitoring.
mediation	One of the informal processes used by the Commission to facilitate the resolution of a grievance or a dispute between parties by helping them to reach an agreement. Conciliation is another informal technique used.

modern award	An award created by the Commission. Modern awards came into effect on 1 January 2010 and include terms that complement the National Employment Standards (NES). The Commission must ensure that, together with the NES, modern awards provide a fair and relevant minimum safety net. Modern awards are expressed to cover entire industries and/or occupations.
National Employment Standards	A set of 10 minimum employment standards that apply to all employees within the federal system from 1 January 2010. The National Employment Standards include maximum weekly hours, requests for flexible working arrangements, parental leave and related entitlements, annual leave, personal/carer's leave and compassionate leave, community service leave, long service leave, public holidays, notice of termination and redundancy pay.
national minimum wage order	The Commission must make a national minimum wage order each year in the annual review undertaken by the Expert Panel. It includes a minimum wage for all national system employees, a casual loading for award and agreement-free employees, and special minimum wages for junior employees, trainees and employees with a disability.
national system employee	An employee covered by the national workplace relations system because they are employed by a constitutional corporation, the Commonwealth or a state reference employer, in certain designated industries or in a territory.
national system employer	An employer covered by the national workplace relations system because they are a constitutional corporation, the Commonwealth or a state reference employer, in certain designated industries or in a territory.
New Approaches	The Fair Work Commission's pilot program to assist it to meet its statutory obligation to 'promote productive and cooperative workplace relations and prevent disputes'.
outcomes	The results, impacts or consequences of a purpose or activity, as defined in the annual Appropriation Acts and the portfolio budget statements, by a Commonwealth entity and company.
party	An applicant or a respondent to a proceeding before the Commission.
permission to appeal	The Fair Work Commission's pilot program to develop a standard practice for unfair dismissal and certain other appeals, after a positive internal review.

portfolio	Refers to an area of responsibility assigned to a Minister under the Administrative Arrangements Order (AAO). A portfolio may encompass more than one Department of State. For example, the Defence Portfolio consists of the Department of Defence and the Department of Veterans' Affairs.
Portfolio Budget Statements	The PB Statements inform parliamentarians and the public of the proposed allocation of resources to government outcomes. They also assist the Senate standing committees with their examination of the government's Budget. PB Statements are tabled in Parliament on Budget night and published as budget-related papers.
programmes	Commonwealth programmes deliver benefits, services or transfer payments to individuals, organisations or the community as a whole, and/or policy advice to inform government decisions. A programme is comprised of activities or groups of activities, as defined in the annual Appropriation Acts and portfolio budget statements, by Commonwealth entity and company. Related term: outcomes.
protected action ballot	A secret ballot allowing employees directly concerned to vote on whether or not they authorise industrial action to advance the claims for their proposed enterprise agreement.
purposes	The objectives, functions or role of the entity or company. In relation to performance management, purposes are the reasons or ideal state or outcomes, for which the entity or company undertakes its activities.
registration	The process by which unions and employer associations formally register as industrial organisations. Registration under the Registered Organisations Act confers certain rights and obligations, including the right to appear before the Commission and the obligation to report to the Commission on certain financial and other matters.
respondent	A party to a matter who is responding to an application initiated by someone else.
right of entry	The legal right of union officials to enter business premises under certain conditions for purposes described in the Fair Work Act.
right of entry permit	A permit issued by the Commission to officials of a union who are found to be 'fit and proper persons' to hold an entry permit. A permit holder is able to utilise specific rights under the Fair Work Act.

rules	<p>Legislative instruments made by the Finance Minister under sections 101 to 105 of the PGPA Act prescribing matters:</p> <ul style="list-style-type: none"> • required or permitted by the PGPA Act or • necessary or convenient to be prescribed for carrying out or giving effect to the PGPA Act. • Rules made under the PGPA Act are disallowable legislative instruments.
Senate Estimates	The review of estimates of government expenditure by Senate committees as part of the annual budget cycle.
Small Business Fair Dismissal Code	The Small Business Fair Dismissal Code came into operation on 1 July 2009. The code applies to small business employers with fewer than 15 employees and provides protection against unfair dismissal claims where an employer follows the code.
unfair dismissal	Unfair dismissal occurs when the employee who is protected by unfair dismissal provisions has been dismissed, the dismissal is harsh, unjust or unreasonable, it is not a genuine redundancy, and the dismissal is not consistent with the Small Business Fair Dismissal Code (if it applies).

Acronyms and abbreviations

ACT	Australian Capital Territory
ACTU	Australian Council of Trade Unions
AFP	Australian Federal Police
AHRC	Australian Human Rights Commission
APS	Australian Public Service
AWRS	Australian Workplace Relations Study
ANAO	Australian National Audit Office
BOOT	Better off overall test
CAO	Customer Assist Officer
Commission	Fair Work Commission
CEPU	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
CPSU	Community and Public Sector Union
DP	Deputy President
FAAA	Flight Attendants' Association of Australia
Fair Work Act	<i>Fair Work Act 2009</i>
FOI	freedom of information
FOI Act	Freedom of Information Act 1982
FWC	Fair Work Commission
FWCFB	Fair Work Commission Full Bench
GST	goods and services tax
HSMA	Health and safety management arrangements
HSRs	Health and safety representatives
HSU	Health Services Union
ICT	information and communications technology
IEU	Independent Education Union of Australia
IPS	Information Publications Scheme
KPIs	key performance indicators

MUA	Maritime Union of Australia
MUA	Musicians' Union of Australia
NES	National Employment Standards
NMW	national minimum wage
NSW	New South Wales
NT	Northern Territory
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
Public Service Act	<i>Public Service Act 1999</i>
Public Service Regulations	Public Service Regulations 1999
QCEC	Queensland Catholic Education Commission
QLD	Queensland
RO	Registered Organisations
Regulatory Compliance	Regulatory Compliance Branch
Registered Organisations Act	<i>Fair Work (Registered Organisations) Act 2009</i>
Review (the)	4 yearly review of modern awards
RMIT	Royal Melbourne Institute of Technology
RSRO	Road Safety Remuneration Order
RSRT	Road Safety Remuneration Tribunal
SA	South Australia
SAIRC	South Australian Industrial Relations Commission
SDP	Senior Deputy President
SES	Senior Executive Service
SME	Small and medium-sized enterprises
TAS	Tasmania
TIC	Tasmanian Industrial Commission
Trade Union Royal Commission	The Royal Commission into Trade Union Governance and Corruption
TWU	Transport Workers Union

UTS	University of Technology Sydney
VIC	Victoria
VP	Vice President
WA	Western Australia
WHS	work health and safety
WHS Act	<i>Work Health and Safety Act 2011</i>
WR Act	<i>Workplace Relations Amendment (Work Choices) Act 2005</i>

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