



FairWork
Commission

The background of the central banner is a complex, abstract blue graphic. It features a grid of glowing lines and points, resembling a data network or a digital landscape. Overlaid on this are various instances of the words 'PUBLIC VALUE' and 'DELIVERING' in different sizes and orientations, some appearing as faint, semi-transparent text. A bright light source on the right side creates a lens flare effect, illuminating the scene.

DELIVERING PUBLIC VALUE

ANNUAL REPORT 2013–14

AUSTRALIA'S NATIONAL WORKPLACE RELATIONS TRIBUNAL

ANNUAL REPORT 2013–14

FAIR WORK COMMISSION

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Visit www.fwc.gov.au for more information about the Fair Work Commission or go to www.fwc.gov.au/about-us/reports-and-publications/annual-reports.

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This document must be attributed as the Fair Work Commission Annual Report 2013–14.

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Australia's National Workplace
Relations Tribunal

15 October 2014

Senator the Hon. Eric Abetz
Minister for Employment
Minister Assisting the Prime Minister for the Public Service
Parliament House
Canberra ACT 2600

The Honourable
Justice Iain Ross AO
President

Dear Minister

I am pleased to present to you the Annual Report of the Fair Work Commission for the year ended 30 June 2014.

This report is provided pursuant to section 652 of the *Fair Work Act 2009* and section 70 of the *Public Service Act 1999*. The report has been prepared in accordance with section 70 of the *Public Service Act 1999*.

Yours sincerely

Justice Iain Ross AO

President
Fair Work Commission

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READER'S GUIDE

This annual report informs Parliament and the Australian public about the performance of the Fair Work Commission (the Commission) during the 2013–14 financial year. It has been prepared in accordance with the Annual Report Requirements approved by the Joint Committee of Public Accounts and Audit.

The primary purpose of the report is to demonstrate the Commission's performance to Parliament. It also plays an important role in informing stakeholders, educational institutions, the media and the general public about the services provided by the Commission, and the Commission's performance in relation to those services.

This guide will assist you to locate information within the report. More detailed information is also available on the table of contents on page iv or through the Index beginning on page 216.

Where a quick response code (QR code) appears within the report, further information can be found by scanning the QR code with your smartphone. Alternatively, where the QR code relates to a video please visit the Commission's YouTube channel, or where the code relates to a website visit the address provided in the text.

The report is divided into five parts.

Part 1 – Overview

This part provides an overview of the Commission's activities over the year. It highlights the Commission's achievements and challenges, with commentary from the President and the General Manager, a summary of the Commission's performance and discussion of major achievements.

Part 2 – About the Commission

This part explains who we are, what we do and the important role we play in the Australian economy and society. It includes information on the Commission's organisational structure, outcome and program structure set out in the 2013–14 Portfolio Budget Statements, stakeholders, history and changes we are making for the future.

Part 3 – Performance reporting

This part discusses the work we do in detail and reports on the Commission's performance against the deliverables and key performance indicators as set out in the 2013–14 Portfolio Budget Statements.

Part 4 – Management and accountability

This part discusses how we manage the operations of the Commission, including our corporate governance framework, human resources, financial management and external scrutiny.

Part 5 – Appendices

The appendices are a source of detailed data about the Commission. For a full list of the contents of the appendices refer to the table of contents on page iv.

OVERVIEW



PRESIDENT'S INTRODUCTION

I am pleased to introduce the Fair Work Commission's annual report for 2013–14. The past reporting period has been busy, with the introduction of the new anti-bullying jurisdiction, a significant change to the Commission's functions, as well as our ongoing focus on our *Future Directions* change program.

The new anti-bullying jurisdiction commenced on 1 January 2014. The Commission published a Case Management Model and benchbook prior to this to assist employers and workers to understand the new jurisdiction. The Case Management Model was developed having regard to the particular nature of the new jurisdiction and followed consultation with the peak industrial organisations (ACCI, the ACTU and Ai Group), Work Health and Safety regulators and professionals working in the field.

Our approach aims to deliver a practical, efficient and fair process, and has enabled us to meet our statutory requirements regarding timeliness, as well as assist parties to resolve matters through more informal processes where appropriate. We will, of course, continue to review and refine the process over time.

The *Fair Work Amendment Act 2013* also conferred a new statutory function on the Commission, 'to promote cooperative and productive workplace relations and prevent disputes' (section 576(2)(aa)). To give effect to this we have been working on significant workplace engagement projects to assist parties at the enterprise level to resolve issues *before* they become formal disputes. The Sydney Water and Orora Fibre Packaging case studies in this annual report provide examples of this work.

Last year we launched our comprehensive change program, *Future Directions*. The objective of this is to enhance the public value provided by the Commission through a focus on four key objectives:

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

The first stage of *Future Directions* was launched in October 2012 and contained 25 initiatives, all of which have been successfully implemented, including:

- the introduction of new plain English resources explaining key provisions relating to individual disputes, such as unfair dismissals and unlawful terminations
- the launch of a series of videos providing a virtual tour of the Tribunal
- running a pilot program with providers of pro bono legal services in unfair dismissal jurisdictional hearings, to provide greater access to legal advice for self-represented parties
- updating application forms to provide more detail about the types of information to include and how to lodge and serve the documents
- allowing all application forms to be lodged electronically
- trialling SMS alerts for upcoming hearing and conference dates, and
- upgrading video conferencing facilities to allow greater accessibility to the Tribunal and decrease costs for parties and the Commission.

The implementation of the first stage of *Future Directions* has significantly improved the services we provide to the community. There is, of course, always more that can be done. Accordingly, in May 2014, the Commission launched *Future Directions II* which sets out 30 initiatives we intend to implement throughout 2014 and 2015. These include:

- exploring ways to provide better services to small businesses
- piloting a program to provide clients with selected application benchmark information as a guide to how long their application may take to be dealt with
- providing access to audio files of most Commission hearings
- conducting the Commission's first paperless annual wage review, and
- conducting and publishing qualitative research to identify clauses in enterprise agreements that enhance productivity or innovation.

These new initiatives are directed at ensuring that the Commission fulfils its role as an accessible, fair, efficient and accountable national institution.

Like any court or tribunal, the Commission depends on community support for its legitimacy. Accountability and transparency are fundamental to that support. To support this, we currently report against a range of timeliness benchmarks including the determination of agreement approval applications, listing of appeals and delivery of reserved decisions. In 2014 we will develop an enhanced performance indicator framework to provide greater accountability across a broader range of matters and will have that performance framework externally reviewed. We intend to introduce a new range of performance measures from 1 July 2015.

All of the *Future Directions* initiatives aim to respond to the changing nature of our work, from a tribunal dealing predominantly with collective disputes between represented parties, to an increasing number of self-represented citizens pursuing individual rights-based disputes. The initiatives also recognise the continuing importance of the Commission's role in promoting cooperative and productive workplace relations.

I wish to acknowledge and thank our key stakeholders for their contribution to the work of the Commission, in particular, in relation to the *Future Directions* program.

I would also like to welcome Deputy President Kovacic who joined the Commission in September last year and to thank and acknowledge those Members who retired or resigned their appointments during the reporting period: Commissioner Macdonald; Deputy President Parsons and Expert Panel Member Allen.

Finally, the Commission's commitment to serving the Australian community would not be possible without the ongoing hard work and dedication of our Members and staff. I would like to take this opportunity to extend my thanks to them for their commitment and ongoing efforts to support the work of the Commission.

Justice Iain Ross AO

SCAN FOR VIDEO



GENERAL MANAGER'S OVERVIEW

Through its work as the national workplace relations tribunal the Fair Work Commission touches the lives of most Australians by:

- setting the minimum wage and award safety net provisions
- dealing with workplace bargaining and disputation, and
- dealing with individual matters including unfair dismissal and anti-bullying applications.

The challenge we face, along with most public organisations, is to efficiently deliver quality services within the resources provided by Government. This challenge is likely to increase in coming years.

It is against this backdrop that I am pleased to provide an update on some of the significant achievements of the Commission's administration this year and our focus for next year and beyond.

Anti-bullying jurisdiction

The new anti-bullying jurisdiction commenced in January 2014. Creating the processes to support this new work was challenging as there was no similar jurisdiction in Australia, or internationally, for us to look to for guidance on how to proceed.

In developing the processes to deal with anti-bullying matters we consulted extensively with stakeholders. We also invested considerable time in developing information materials that clearly explain the jurisdiction and how we deal with applications. We are continuing to review and refine our processes as the jurisdiction develops.

Given the unique nature of the jurisdiction it was impossible to predict the number of applications that might be received once the jurisdiction commenced. Over the first

six months we received more than 100 000 website inquiries and more than 3500 telephone inquiries related to anti-bullying. This resulted in around 350 applications being received, with a gradual increase in applications lodged each month. However it is still too early in the life of the jurisdiction for us to come to firm conclusions about the future workloads we may face in this area.

Registered organisations

I am pleased to report significant achievements in our role as the regulator for nationally registered organisations.

A little over two years ago we made a conscious change in our approach to our regulatory compliance, which I commented on in last year's annual report. The essence of the change was to become more proactive, which has already achieved significant results. For example, in 2009–10 only 63 per cent of registered organisations lodged annual reports on time, whereas in 2013–14 that figure has risen dramatically to 95 per cent.

Results like these have been achieved through measures including:

- providing tools to make voluntary compliance easier for organisations
- supplying model financial reports
- raising awareness among organisations, and
- more quickly following up and addressing non-compliance.

An unprecedented number of formal inquiries and investigations have been undertaken including four investigations into the Musicians' Union of Australia, which are likely to result in Federal Court proceedings being commenced in the next financial year.

SCAN FOR VIDEO



Future Directions

As the President has reported, our *Future Directions* change program has had a significant impact on how we deliver our services and I am extremely proud of the work our staff has done in delivering all 25 initiatives in the first phase of the program.

Another 30 initiatives are to be delivered over the next two years in the second phase of this important change program. These will further improve the Commission's accessibility, efficiency and accountability while extending its role in the national conversation on productivity and engagement.

Budget challenges

Looking forward we know that we must be ever mindful of our ongoing budgetary constraints.

We understand that there is an expectation that we will continue to deliver great service that meets community expectations and delivers genuine public value.

We know that the trend toward a greater number of individual matters is likely to continue. We are also aware of likely changes to our functions and any associated budgetary impact.

With this in mind we are now setting up processes to ensure we are on a sustainable budgetary footing into the future. We understand that this means we must find innovative ways to become more efficient, including reducing manual processes and improving productivity by making greater use of technology.

One of the projects we are undertaking toward this goal is a comprehensive review and upgrade of our case management system to enable parties, and us, to better lodge and access information relating to matters before the Commission. This upgrade will be substantially progressed in the year ahead.



Delivering public value

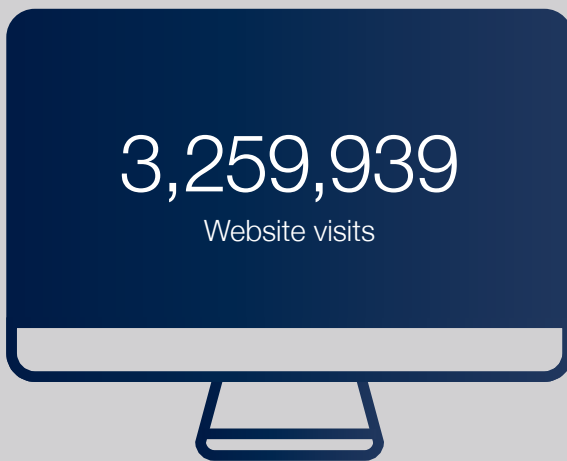
The past year has been one of change, innovation and improvement—none of which would have been possible without the remarkable efforts of our staff. I thank them for their commitment and service to the Commission and the Australian community.

Our challenges will continue over the next year. But we have the plans—and people—in place to ensure that we continue to meet them.

Bernadette O'Neill

PERFORMANCE SUMMARY

PUBLIC INQUIRIES



1,495,934
unique visits

120,015
unfair dismissal
eligibility quiz views

11,702
general protections
eligibility quiz views
since launch in
November 2013

OVERVIEW



37,066
applications
received



19,620
hearings &
conferences held



13,302
decisions, orders &
determinations published

Jan Feb Mar

KEY PERFORMANCE INDICATORS MET



208,102

telephone calls received



annual wage review completed 4 June 2014

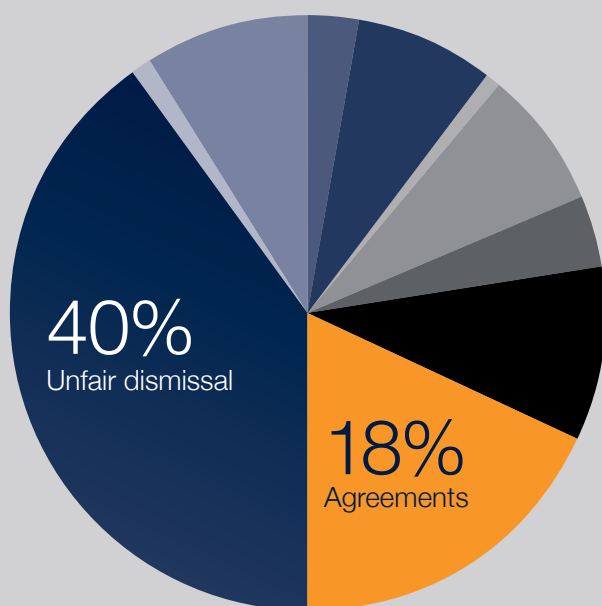


33% reduction in time taken to list applications relating to industrial action



agreement approval time median time of 17 days

TYPE OF APPLICATIONS LODGED



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

MAJOR ACHIEVEMENTS 2013–14

In addition to carrying out our general functions, the Commission highlights the following major achievements for 2013–14:

- successfully implementing the new anti-bullying jurisdiction from January 2014 and actioning applications in a median time of one day, well below the 14-day benchmark
- successfully implementing all 25 initiatives in the first phase of the *Future Directions* change program, including:
 - upgrading the web platform
 - developing a virtual tour of the Commission
 - upgrading the video conferencing system
 - developing and updating benchbooks including for anti-bullying, general protections and unfair dismissals
- developing and launching the second phase of *Future Directions*, containing 30 new initiatives
- introducing timeliness benchmarks for appeal matters and publishing more information about appeals, including appeal outcomes, on the Commission's website
- continuing to improve compliance by registered organisations with reporting obligations—including achieving a lodgment rate of 95 per cent for annual returns and 89 per cent for financial returns. Those figures rose to 99 per cent and 98 per cent respectively following the Commission's proactive intervention
- concluding litigation against the National Office of the Health Services Union (HSU), resulting in penalties and a declaration against the HSU's contravening conduct
- following successful pilots in 2013, providing independent legal representation to employers and employees involved in jurisdictional objections to unfair dismissal applications in Melbourne and Sydney
- delivering value to the public by meeting the Commission's obligations within budget.



ABOUT THE COMMISSION

WHO WE ARE AND WHAT WE DO

The Fair Work Commission (the Commission) is Australia's national workplace relations tribunal.

The Commission is responsible for administering the provisions of the *Fair Work Act 2009* (Fair Work Act) and the *Fair Work (Registered Organisations) Act 2009* (Registered Organisations Act).

The Fair Work Act empowers the Commission to:

- resolve unfair dismissal claims
- make orders to stop or prevent bullying at work
- deal with general protections claims
- set the national minimum wage and minimum wages in modern awards
- create, review and vary modern awards
- approve enterprise agreements
- assist the bargaining process for enterprise agreements
- assist with the resolution of industrial disputes, and
- determine applications for right of entry permits.

The knowledge and experience of Commission Members is also available to Australian workplaces to resolve disputes and support workplace bargaining.

From 1 July 2013 the Commission's statutory function was amended to include the function to promote cooperative and productive workplace relations and prevent disputes.

The Registered Organisations Act confers functions upon the Commission and the General Manager in relation to registered organisations of employers and employees.

The Commission's staff also provide assistance and support to the Road Safety Remuneration Tribunal (RSRT), which is an independent tribunal established under the *Road Safety Remuneration Act 2012* (RSR Act).

The Commission is required by legislation to perform its functions and exercise its powers 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 is committed to an ongoing change program called *Future Directions* to improve our performance and the quality of services provided. This program includes initiatives grouped under four key themes:

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

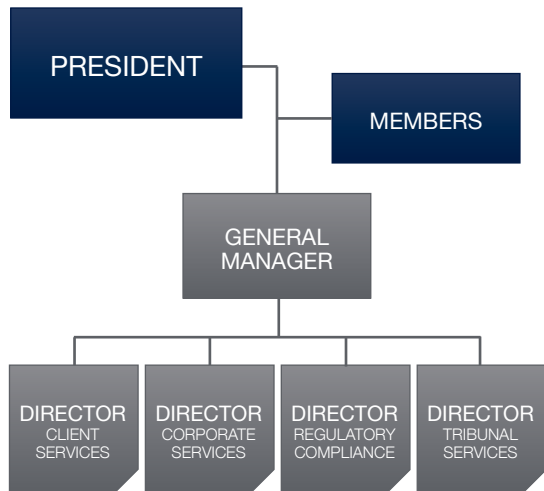
The initiatives are directed at ensuring that the Commission fulfils its role as an accessible, fair, efficient and accountable national institution that responds appropriately to change and continually improves the services delivered to the community. For more information on the successful completion of the first phase of our *Future Directions* program and the subsequent implementation of the second phase of *Future Directions* see page 17.

OUR STRUCTURE

The Commission comprises the President, General Manager, Members and administrative staff across four branches.

CHART 1

ORGANISATIONAL STRUCTURE



Members

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

Members may serve the Commission on a full-time basis, as dual appointees of the Commission and other tribunals, or as Expert Panel Members.

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 full list of Member activities see Appendix A.

During the reporting period Deputy President Kovacic was appointed to the Commission. Deputy President Parsons, a dual appointee, resigned, Commissioner Macdonald retired and Expert Panel Member Allen resigned from the Commission. Shortly after the close of the reporting period Commissioner Deegan resigned her appointment. A full list of Members is contained in Appendix B.

The panel system

The work of the Commission is administered by a panel system overseen by the President. This system seeks to ensure that matters are dealt with efficiently and expertly. There are five industry panels and specialist panels dealing with Anti-Bullying, Termination of Employment, Organisations, and Major Resources/Infrastructure projects. There are also two Expert Panels which have particular functions in relation to annual wage reviews and assessing superannuation default funds. Except for the Expert Panels, the Panel Head is responsible for allocating the work of the panel to other Members in the panel. The Expert Panels, in addition to Commission Members, also include part-time Members from industry. A full list of panel assignments is contained in Appendix C.

Administrative staff

Headed by the General Manager, Bernadette O'Neill, Commission staff are public servants who

administratively support and facilitate the work of the Commission.

The staff are organised into four branches:

- Client Services—staff in this branch deal with public inquiries by telephone and at Commission offices in each state and territory. They receive and process applications, prepare files, coordinate hearing and conference rooms and lists, maintain the case management system, arrange and conduct conciliations and mediations and publish documents including decisions and orders
- Corporate Services—staff in this branch are responsible for human resources, information technology, media and communications, legal support, corporate governance and reporting, financial management and resources and payroll
- Regulatory Compliance—staff in this branch assist in administering the functions of the Registered Organisations Act, process right of entry permits, oversee compliance of unions and employer organisations with legislative obligations and conduct inquiries and investigations into non-compliant organisations and individuals, and
- Tribunal Services—staff in this branch provide specialist research, project management and administrative support to Members of the Commission. They coordinate the day-to-day support in the Members' chambers, undertake high-level research activities and assist the Commission with the management of large statutory reviews, such as those associated with modern awards, default superannuation funds and the minimum wage. In addition, they oversee national and international engagement activities, coordinate arbitration hearings for unfair dismissal matters, provide research for individual Members, undertake the work of the Pay Equity Unit and maintain a workplace relations library.

OUTCOME AND PROGRAM STRUCTURE

The 2013–14 Portfolio Budget Statements for the Education, Employment and Workplace Relations portfolio set out one planned outcome and program for the Commission.

Outcome

The Portfolio Budget Statements provide information on the funds allocated to the Commission to achieve specified outcomes. Government outcomes are the intended results, impacts or consequences of actions by the Government on the Australian community.

The Commission is mandated to achieve a single planned outcome:

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.

Program

Commonwealth programs are the primary vehicle by which government agencies achieve the intended results of their outcome statements. The Commission works towards achieving our outcome through the delivery of the following program:

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

Our program objective is to exercise powers under the Fair Work Act:

- in accordance with the objects of the Fair Work Act, and
- 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.

Deliverables

The deliverables for the Commission are:

- dispute resolution
- determining unfair dismissal applications
- minimum wage decisions
- orders relating to industrial action
- processes relating to modern awards
- approval of agreements
- regulation of registered organisations, and
- determining anti-bullying applications.

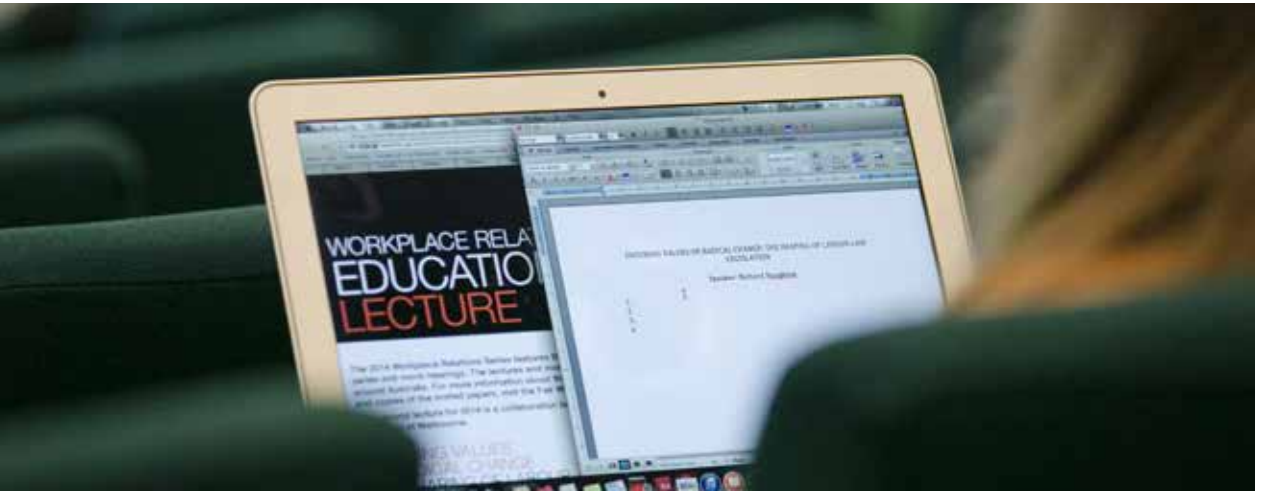
Key performance indicators

The key performance indicators for the Commission are:

- improve or maintain the time elapsed from lodging applications to finalising conciliations in unfair dismissal applications
- annual wage review to be completed to enable an operative date of 1 July
- improve or maintain the time taken to list applications relating to industrial action
- improve or maintain the agreement approval time, and
- 95 per cent of financial reports required to be lodged under the Registered Organisations Act are assessed for compliance within 40 working days.

The Commission's performance against these deliverables and key performance indicators is discussed in *Part 3—Performance Reporting* of this report.

The Portfolio Budget Statements also contain performance targets for the RSRT. Performance of the RSRT is discussed within the *Road Safety Remuneration Tribunal Annual Report 2013–14*.



OUR CLIENTS AND STAKEHOLDERS

The Commission has a diverse group of clients and stakeholders as our work affects a large number of Australia's employees and employers.

The Commission has jurisdiction over a national system which covers all employees of private businesses (with the exception of some businesses in Western Australia) and public sector and local government employment in some states and territories.

Our clients and stakeholders include:

- employees and employers
- unions and employer organisations
- the public
- legal practitioners, human resources professionals and other workplace relations advisors
- federal, state, territory and local governments, and
- international organisations.

Engagement strategy

The Commission recognises that the requirements of the community we serve are changing and evolving. We regularly consult with clients, stakeholders and the community to ensure the services we provide meet the demands of a modern workplace relations system.

The Commission has developed a broad engagement strategy in consultation with the major peak employer and union bodies. The Commission's engagement strategy comprises a number of elements, including:

- public engagement—including through our mock hearings, briefings and information sessions as well as the Workplace Relations Education Series
- stakeholder engagement—including through our user groups such as the Legal Profession Reference Group and Employment Termination User Group
- workplace engagement—further announcements regarding this will be made during the next reporting period

- research community—including supporting academic projects and undertaking our own research such as the Australian Workplace Relations Study, and
- international engagement—as detailed below.

While the Commission recognises the importance of engaging with all of our stakeholders, during the reporting period we implemented a range of targeted measures to improve engagement with the small business sector. For more information on these initiatives see *In focus—Small Business Outreach* on page 15.

International engagement

The Commission continues to engage with countries around the world who are interested in learning about Australia's workplace relations system.

In accordance with the Memorandum of Understanding (MOU) that the Commission entered into with the International Labour Organization (ILO), two requests were received from the ILO for a Member of the Commission to provide training and technical assistance.

The Commission also hosted nine international delegations. In particular, the Commission's activities included:

- a visit by a delegation from the Ministry of Manpower, Singapore
- a visit by a delegation from the Botswana Public Service Bargaining Council
- a visit by a delegation from the Indonesian Ministry of Manpower, and
- a proposed MOU with the Supreme Court of Indonesia.

These activities have been supported by funding from AusAid and the ILO.

In addition, the Commission hosted an informal reception for the 2014 Association of Industrial Relations Academics of Australia and New Zealand Conference on behalf of the President and the Sir Richard Kirby Archive Committee. More than 120 academics from around the world attended. The General Manager attended a meeting of international dispute resolution agencies in Dublin in July 2013.

The International Development Committee also continues to be invited to attend the International Labour Affairs Committee chaired by the Department of Employment on an ad hoc basis. The Committee met on 5 October 2013 and 5 March 2014.

Refer to Appendix A for additional international and national events participated in by Commission Members.



IN FOCUS

SMALL BUSINESS OUTREACH

SCAN FOR VIDEO



Small business employers make up a large portion of employers in Australia. Many of these businesses have a limited knowledge of workplace laws or the role of the Commission as an independent tribunal and its processes.

Small business tends to interact with the Commission the most in relation to unfair dismissal claims made against them, and with general protections and anti-bullying applications. They are also more likely than larger employers to be directly affected by modern awards, with more employees of small businesses having their conditions set by these awards.

Many of the changes introduced over the last year will assist small business. For example, the new website has a dedicated entry point for small business employers to help them find the information they need quickly and efficiently. The virtual tour explains in short videos how to respond to unfair dismissal claims, what happens at conciliation and how to prepare for formal proceedings. We have also simplified our forms and developed tools and checklists to make it easier for small business employers to represent themselves at the Commission.

The conduct of conciliations in unfair dismissal applications by telephone is convenient and efficient, especially for small business employers outside capital cities. The pro bono legal scheme provides independent legal representation for employers when dealing with jurisdictional objections in unfair dismissal applications.

Administrative procedures are also in place to identify unfair dismissal applications that are clearly outside the Commission's jurisdiction and where possible these are dealt with by an applicant withdrawing their application, and the employer not having to participate in any proceeding.

“We know for small business owners there are many calls on their time. They want clear information and to have minimal time away from their business. With this in mind we are working hard to ensure any interactions they have with the Commission are as quick and efficient as possible.”

Bernadette O'Neill, General Manager

We will continue to work with the small business community to provide relevant information in useful ways. In addition to user forums that include small business representatives, in March 2014 we collaborated with the Fair Work Ombudsman and Fair Work Building and Construction to convene a Small Business Roundtable which provided a valuable opportunity to hear from small business representatives.

We have also undertaken a research project to gain insight into the needs of small business and will use this to further develop our processes next year and beyond.

OUR FUTURE DIRECTION

The Commission operates in an economic, social and industrial environment that is constantly changing. These environmental factors and legislative changes have resulted in significant changes in the nature of the Commission's work.

The most significant change is a shift from collective dispute resolution to individual dispute resolution as illustrated by Chart 2.

This change poses two immediate challenges for the Commission. The first challenge concerns the nature of the parties coming before the Commission. Parties to collective disputes such as unions, employer organisations and employers are often 'repeat players' and are generally familiar with the legislative environment and our procedures. This is in contrast to parties to individual disputes, who are

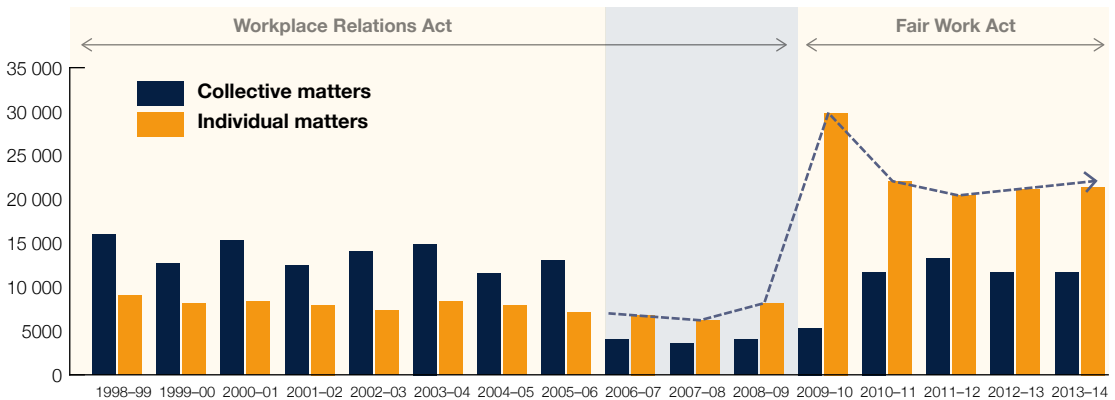
often unrepresented and may be unfamiliar with the provisions of the Fair Work Act and the Commission's procedures. As a consequence we have an obligation to explain these matters to self-represented parties.

The shift in the nature of our work also has implications for our stakeholder base. We have an increasing obligation to engage more broadly with the wider community.

The changing nature of the Commission's work obliges us to adapt as an organisation to reflect the evolving needs of the parties who appear before us. The ongoing *Future Directions* change program is one way we are responding to this obligation.

CHART 2

MATTERS DEALT WITH BY THE COMMISSION AND ITS PREDECESSORS, 1998-99 TO 2013-14



The large spike in individual matters in the 2009-10 financial year primarily reflects a large number of applications to terminate individual agreement-based transitional instruments (16 089 applications).

Methodology is at Appendix D.

Future Directions change program

Future Directions is a change program launched by the President in October 2012 to improve our performance and the quality of the services we provide. It delivers initiatives under four key themes:

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

When the Commission launched *Future Directions* we set ourselves the ambitious target of delivering 25 initiatives by December 2013. By 6 December 2013, all 25 initiatives had been successfully delivered, including several additional initiatives. The implementation of *Future Directions* has already significantly improved the services we provide the community.

After a period of review and reflection, the Commission commenced the next phase of our change program in May 2014, identifying 30 further initiatives to be delivered in the next two years.

The initiatives are a result of consultation with Commission Members, staff and key stakeholders. While these initiatives will help guide the Commission's activities over the coming two years, the change program is flexible enough to adapt to the changing needs of the community to include additional initiatives.

Completion of phase one

The first phase of *Future Directions* was launched in October 2012. The implementation of phase one spanned two reporting periods and a number of initiatives were completed in time to be reported in the 2012–13 annual report. By December 2013 all 25 initiatives were completed.

Promoting fairness and improving access

A wide variety of materials were developed and improved to help parties who appear before the Commission, including improved unfair dismissal and general protections information for self-represented parties, simplified application forms, a virtual tour of the Commission, an upgraded website, a series of benchbooks, a fair hearings practice note, a pro bono lawyer program and general protections pilot program.

Information on these and other initiatives can be found in Appendix E.

Efficiency and innovation

The Commission implemented a number of innovations and initiatives directed at improving the efficient delivery of our services, including by developing an online application tool and daily hearings lists for smartphones and tablets. The Commission trialled SMS alerts for hearings and conferences and regional matter allocation, and upgraded our video conferencing facilities. Timeliness benchmarks for reserved decisions and for finalising applications to approve agreements continued to be monitored and published and an appeals practice note was introduced.

Information on these and other initiatives can be found in Appendix F.

Increasing accountability

Like any justice institution the Commission is accountable to the community it serves. To support our aim of increasing accountability, a Member Code of Conduct, information on unfair dismissal outcomes and updates on the *Future Directions* initiatives have all been made public. Further, user groups have been established to facilitate an exchange of views.

Information on these and other initiatives can be found in Appendix G.

Productivity and engaging with industry

We improved the Commission's enterprise agreement search tool, continued to work cooperatively with other organisations and developed a broad engagement strategy in consultation with the major peak employer and union bodies.

Information on these and other initiatives can be found in Appendix H.

Commencement of phase two

The second phase of *Future Directions* was launched in May 2014. It builds on the foundation of the first phase and includes an evaluation of some of the work already undertaken and the introduction of several new pilot projects. The change program was developed through an extensive consultation process with Commission Members, staff, key stakeholders and the community generally.

The second phase of *Future Directions* contains 30 initiatives to be implemented over a two-year period.

Promoting fairness and improving access

The Commission will continue to improve access to information and examine more effective ways of using technology in order to promote fairness and improve access. Virtual tours covering appeals, general protections and anti-bullying will be produced, and an information kiosk will be piloted in the Sydney Registry. Processes for Commission staff to identify issues where self-represented applicants may benefit from seeking legal advice will be introduced, and the Commission will continue reviewing and updating its forms.

Information on these and other initiatives can be found in Appendix E.

Efficiency and innovation

To improve efficiency and innovation, the Commission will conduct its first paperless annual wage review. Free WiFi access for visitors to the Commission and SMS alerts for parties to unfair dismissal matters will be

introduced. An improved electronic case management system and a review of processes for the approval of enterprise agreements will ensure timely and efficient resolution of matters.

Information on these and other initiatives can be found in Appendix F.

Increasing accountability

In order to increase our accountability, the Commission will develop additional timeliness benchmarks for unfair dismissal matters and run a pilot program to provide clients with selected application benchmark information as a guide to how long their application may take to be dealt with through to finalisation.

The Commission will facilitate a review of our performance indicator framework and options will be investigated for research into measures to improve the Commission's public value. A snapshot of a day in the life of the Commission will be captured to better understand and improve how our clients use Commission information and services. During the next two years we will evaluate ourselves against the *International Framework for Tribunal Excellence* to assist us to identify new ways to improve our performance.

Information on these and other initiatives can be found in Appendix G.

Productivity and engaging with industry

The current program of mock hearings will be expanded, new user groups will be developed, and existing services for small businesses will be reviewed and further developed. An extensive communications strategy will be developed. The Commission will also continue to promote cooperative and productive workplace relations, and to engage with the research community. In addition to the extensive Australian Workplace Relations Study, research to map the location and business needs of parties and research into productivity-enhancing clauses in enterprise agreements will be undertaken.

Information on these and other initiatives can be found in Appendix H.

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Awards and
Agreements

IN FOCUS

NEW WEBSITE

SCAN FOR VIDEO



In March 2014, the Commission launched a new and improved website. Over the years, the nature of the people visiting the website had changed, and we recognised that the site needed to better serve the needs of this changing audience.

The upgraded website was one of the initiatives of the *Future Directions* change program. The new site is easier for people without a legal or workplace relations background to use. Users are able to find the information they need more easily and the upgraded website is accessible on all devices, from smartphones to desktop computers. It also has a modern structure that is intuitive for our users who expect that our website will be as clever and creative as other websites they interact with on a day-to-day basis.

A changing audience

Over the years, there has been a shift in the kinds of matters coming before the Commission. In the past, the most common matters were collective disputes, which were brought by knowledgeable and experienced participants. Now, there are more individual matters where one or more of the parties are not familiar with the Commission and are self-represented.

“The old site was very much focused toward experienced practitioners—people who already knew quite a lot about the Fair Work Commission and the way it worked,” Chief Information Officer Kathryn Green said. “We’ve sought to make sure the new

“Our goal is to make a website that helps people get the right information at the right time. When people are in stressful situations, they need to feel confident that they are on the right path.”

Kathryn Green, Chief Information Officer

website better meets the needs of first-time users, the infrequent users—the people who aren’t necessarily familiar with the Commission and its processes.”

New technologies

The site uses responsive technology, which means that the pages adapt depending on what type of device—smartphone, laptop, desktop computer, tablet—a person is using. It has been built using an open-source product called Drupal which offers the flexibility required to structure the site to meet the varied needs of its users.

The challenges

“There were some challenges along the way—there always are,” Ms Green said.

Creating the new website was a large project. More than 200 000 documents needed to be migrated from the old site to the new. Writing new, easy to understand content and rewriting existing content into plain English was a significant undertaking. This work is ongoing.

The launch of the new website was delayed for just over two months to make sure that the stakeholder feedback obtained during the test phase was actioned.

Where to next?

There has been positive feedback on the new site, however it is very much a work in progress.

The Commission continues to encourage feedback on the website and through this process we have identified further improvements to be made, particularly relating to how legal practitioners and other professionals access the various search functions. We will be undertaking further consultation as we continue to refine and improve the new site. We will also continue to update content in plain English style.



IN FOCUS

VIRTUAL TOUR

The video virtual tour is a major initiative of the *Future Directions* change program. It responds to the dramatic increase in self-represented and infrequent users who are appearing before the Commission in unfair dismissal matters. Frequently these parties have limited knowledge of the Fair Work Act or the processes of the Commission.

“It really gives those users a step-by-step guide to the entire process for an unfair dismissal matter from the very start where you might be determining whether to put in an application or not, to putting in the application, responding to an application, going through the conciliation process and then if you do end up going into a hearing exactly what that process will be like,” Manager Media and Communications Di Lloyd, who was responsible for developing the virtual tour, said.

The tour has been structured around the key questions these parties may have when dealing with the Commission. It is made up of short instructional videos on:

1. What is the Fair Work Commission?
2. How do unfair dismissal claims operate?
3. How do employees make unfair dismissal claims?
4. How do employers respond to unfair dismissal claims?
5. What happens at a conciliation?
6. Who’s inside the hearing room?
7. What happens at hearings and conferences?
8. What are jurisdictional hearings?
9. A series of location guides.

“The response has been very positive, particularly for the conciliation section of the virtual tour. Seventy nine per cent of our matters are resolved at conciliation, so for parties to be able to have a look at that video before they go into that process and understand how to get the best out of that process has been extremely valuable,” Ms Lloyd said.

“One of the challenges was taking very complex information and very complex legislation and turning it into a simple process and something that is easily understood by a broad audience.”

Di Lloyd, Manager Media and Communications

The videos strip out much of the legal terminology and complexity to provide a plain English description of the people, processes and procedures a client will encounter on their journey through an unfair dismissal matter.

“One of the things we’ve been looking at is our language and how we explain what we do to parties. It’s an extension of a lot of the work we’ve been doing over the last 12 to 18 months through our *Future Directions* program where we’ve been looking a lot at accessibility and access to justice,” Ms Lloyd said.

The tour also incorporates location guide videos of the Commission’s offices in Sydney, Melbourne, Canberra, Brisbane, Perth and Adelaide. These guides show clients how to reach our offices by car or public transport, which floors to go to for inquiries, hearings or conferences, and what the hearing rooms and public areas look like. There are photo guides for the Commission’s offices in the Darwin and Hobart.

“We’re very happy and proud of what we’ve done with the virtual tour. It really is making it easy for parties who aren’t used to coming to the Commission to really understand exactly what will happen,” Ms Lloyd said.

The virtual tour will expand beyond unfair dismissals in the second phase of *Future Directions* with additional videos covering areas such as appeals, general protections, agreement-making and anti-bullying.

IN FOCUS

MOCK HEARINGS



SCAN FOR VIDEO



Mock hearings of unfair dismissal matters have now been staged by the Commission for two years and have been a successful means of engaging with the community. They provide a snapshot of what happens during a hearing, and have been very popular: there has been a full house for every event and views of the YouTube videos continue to climb.

The mock hearings are a great opportunity for the public to look behind the scenes of a Commission hearing. By focusing on unfair dismissal, which are the prime area of the Commission's work for self-represented parties, the hearings have become a valuable learning tool and continue to be a widely attended event.

What happens during the mock hearings?

Members of the Commission preside over the mock hearings. They hear the merits of the case and carry out the roles they would play in a real hearing.

There is a question and answer session at the conclusion of the hearings in which the audience can ask questions of the presiding Member. Advocates also answer questions about the way they conducted their case and how it might have been run differently.

Who participates in the mock hearings?

Advocates in the mock hearings are all skilled practitioners who volunteer to participate. The actors in the proceedings are Commission staff who also volunteer their time, and prepare for their role accordingly. These two factors ensure the proceedings are as true to life as possible.

The Commission has been privileged to have the involvement of some highly skilled and recognised practitioners and barristers who have enhanced the learning opportunities for the audience.

“As Australia’s national workplace relations tribunal we have an obligation to be as efficient and accessible as possible. Our mock hearing process allows the community, including students and new practitioners, to get an insight into the work of the Commission and gain a greater understanding of what to expect if they come before the Tribunal.”

Justice Ross, President

About the mock hearings

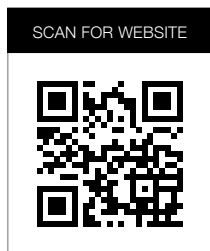
The mock hearings have been widely attended, attracting:

- members of the public
- law students
- workplace relations practitioners, and
- others with an interest in workplace relations.

The mock hearing series began in 2013 with events staged for Law Week in Melbourne. Based on the exceptional attendance and positive feedback, the program of mock hearings was expanded in 2014, with mock hearings conducted in Sydney, Melbourne, Brisbane, Perth, Canberra and Hobart as part of the second phase of the *Future Directions* change program.

OUR HISTORY

Australia has had a national workplace relations tribunal for over a century. It is one of our key national institutions. Over time the tribunal, currently known as the Fair Work Commission, has undergone many changes in jurisdiction, name, functions and structure, and has made many decisions that have affected the lives of working Australians and their employers. We recognise the importance of promoting public understanding of the role of the tribunal and of capturing and preserving this record for display and research.



Sir Richard Kirby Archives

Launched in October 2002, the Sir Richard Kirby Archives was established as a means of preserving the history of Australia's national workplace relations tribunal.

During the reporting period the Honourable Professor Joseph Isaac AO donated a significant collection of personal papers to the Sir Richard Kirby Archives. Professor Isaac served as Deputy President of the Australian Conciliation and Arbitration Commission from 1973 to 1987. His personal papers are a rich and generous contribution to our archive. They include speeches, letters, lecture notes, journal articles and newspaper clippings. Further information about the archives can be found by scanning the QR code or at www.fwc.gov.au/sir-richard-kirby-archives/the-archives.

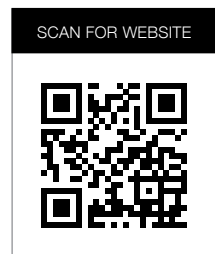
An important part of the Sir Richard Kirby archives is the Oral History Program, a collection of interviews with past Members and senior staff of the Commission. The purpose of the program is to capture information and experiences that might not appear in formal documents and would otherwise be lost.

During the reporting year six new oral history films were completed and added to the archive: Senior Deputy President Kaufman; Commissioner Merriman; Commissioner Harrison; Senior Deputy President Marsh; Senior Deputy President Cartright and Commissioner Jones.

Waltzing Matilda and the Sunshine Harvester Factory

The *Waltzing Matilda and the Sunshine Harvester Factory* website, book and film are a significant resource for students and others with an interest in the history of the Australian industrial relations system.

They were developed by Deputy President Hamilton. The website received almost 54 000 visits in the reporting year and has now had 237 809 visits since its launch in February 2011. During the reporting period the book was downloaded from the iBooks store 471 times and a number of printed copies of the book were also sold. The website can be found by scanning the QR code or at www.fwc.gov.au/waltzing-matilda-and-the-sunshine-harvester-factory.





PERFORMANCE REPORTING

OVERVIEW

The Commission seeks to undertake our functions in an effective and efficient manner, and to respond flexibly to changes in the number and nature of applications, and the nature of parties coming before the Commission.

During 2013–14 a number of legislative changes affecting the Commission took effect, such as the new anti-bullying jurisdiction which began on 1 January 2014. Overall, however, the Commission’s case load remained relatively steady.

LEGISLATIVE AMENDMENTS

During 2013–14 a number of legislative changes affected the Commission.

Fair Work Amendment Act 2012

- From 1 July 2013 an Expert Panel replaced the Minimum Wage Panel.
- A review of default superannuation funds in awards commenced on 1 January 2014 to be repeated at four yearly intervals.

Fair Work Amendment Act 2013

- From 1 July 2013 the Commission’s statutory functions were expanded to include the function to promote cooperative workplace relations and prevent disputes.
- An anti-bullying jurisdiction was conferred on the Commission, commencing on 1 January 2014, allowing eligible workers to apply to the Commission for an order to stop bullying at work.

- From 1 January 2014 the Commission's role in resolving general protections disputes and unlawful terminations was expanded to include consent arbitration.
- The timeframe for lodging unlawful termination applications reduced from 60 days to 21 days from 1 January 2014.

Fair Work (Registered Organisations) Amendment Act 2012

- From 1 January 2014 the rules of registered organisations were required to provide for:
 - specified financial disclosures
 - the development and implementation of financial policies, and
 - that certain officers undertake financial management training.

For a list of other major documents relating to the work of the Commission see Appendix I.

WORKLOAD

Inquiries from the public

A significant part of the Commission's resources are dedicated to dealing with inquiries from the public, which come via the Commission's website, telephone inquiry line, through email or visits to our offices in each capital city. For a full list of Commission offices see Appendix J.

Website visits

The Commission's website is a major point of contact between the Commission and the community we serve. During the year the Commission launched a new website. The Commission's website was visited 3 259 939 times in 2013–14. While this represents a slight reduction in web traffic compared to visitors for 2012–13 (10 per cent), visits increased on mobile phone and tablet devices (up by 14.5 per cent and 19.3 per cent respectively). This change reflects broad technological shifts towards these devices. In keeping with these developments, the new website uses responsive technology to ensure it is accessible on all devices. For further information on the Commission's new website see *In focus—New website* on page 19.

The Commission has this year significantly increased the video content available on our website and through our YouTube channel. Over the year the videos were viewed more than 18 000 times.

Further resources dedicated to the Commission's online presence this year included the launch of a video-based virtual tour of unfair dismissal matters, in addition to the ongoing maintenance and publishing of information materials. For further information on the virtual tour initiative see *In focus—Virtual tour* on page 20.

Telephone inquiries

The Commission provides a central information service to assist the general public with information about the processes and procedures of the Commission. Telephone inquiries are also made directly to each Registry. The Commission received 208 102 telephone calls during the year. Fifty five per cent of these callers self-selected to end the call through messages that referred them to other agencies or the Commission’s website. 93 312 callers selected a Commission call queue, of which 71 839 inquiries were answered.

These calls are answered by Registry staff, with the workload spread around the country to accommodate different time zones and peaks and troughs in the flow

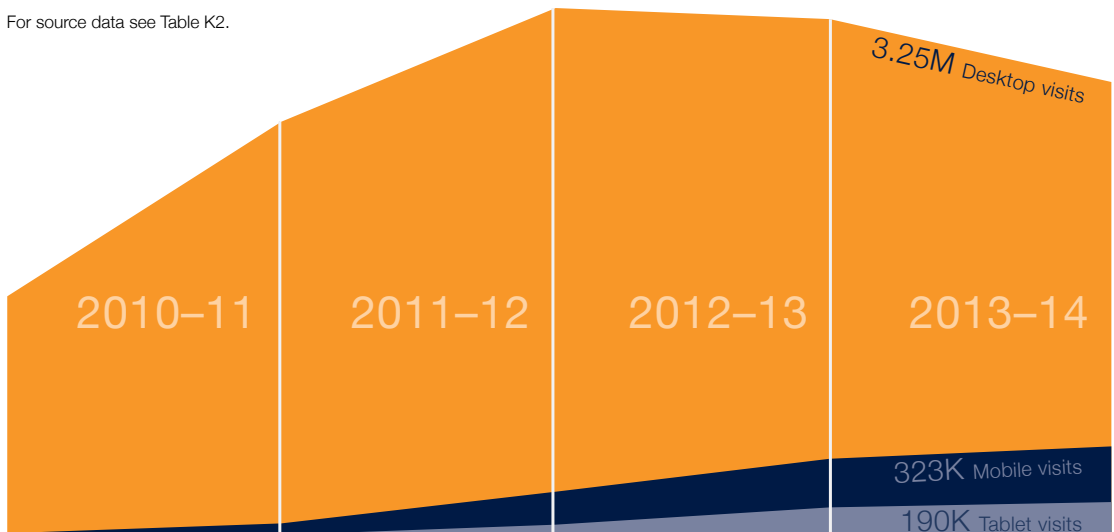
of incoming calls. Call wait times during the reporting period have been consistently around one minute and 44 seconds. This is a significant improvement compared to previous years, for instance in 2012 call wait times were up to 20 minutes.

Efficiencies were also achieved through functionality which allowed clients to provide us with information such as a contact telephone number for conciliation, without needing to speak with a team member.

CHART 3

WEBSITE VISITS

For source data see Table K2.



Applications lodged

In 2013–14 the Commission received 37 066 applications. This marks an increase of 1 per cent from last financial year. The Commission dealt with these applications in 19 620 hearings and conferences, resulting in 13 302 decisions, orders and determinations. This marks an increase of 3.3 per cent and 14 per cent respectively.

The timeframe between lodgment and allocation has decreased. Ninety seven per cent of applications were processed within two business days of receipt. The Registry has continued the initiative of distributing application processing across Registry locations nationally. This load sharing approach assists to better manage the peaks and troughs of lodgments in larger Registries. There has been a consistent increase in applications being processed in locations other than the place of lodgment (3 per cent in 2011–12, 10 per cent in 2012–13 and 17 per cent in 2013–14). See Table 1 for lodgment of all matters by location.

Promoting fairness and improving access

In the latter half of 2014 the Commission plans to pilot an information kiosk in the Sydney Registry. This will enable visitors to the office to complete and lodge forms electronically rather than in hardcopy, and access the full suite of information and tools available on the Commission’s website. Commission staff will also be available to provide assistance if required.

The national distribution of application processing has resulted in a more effective use of staff resources, particularly in locations with lower numbers of applications. The flow on effect of this is that the timeframe within which applications are processed has continued to decrease.

CHART 4

APPLICATIONS LODGED, HEARINGS AND CONFERENCES, AND DECISIONS AND ORDERS PUBLISHED

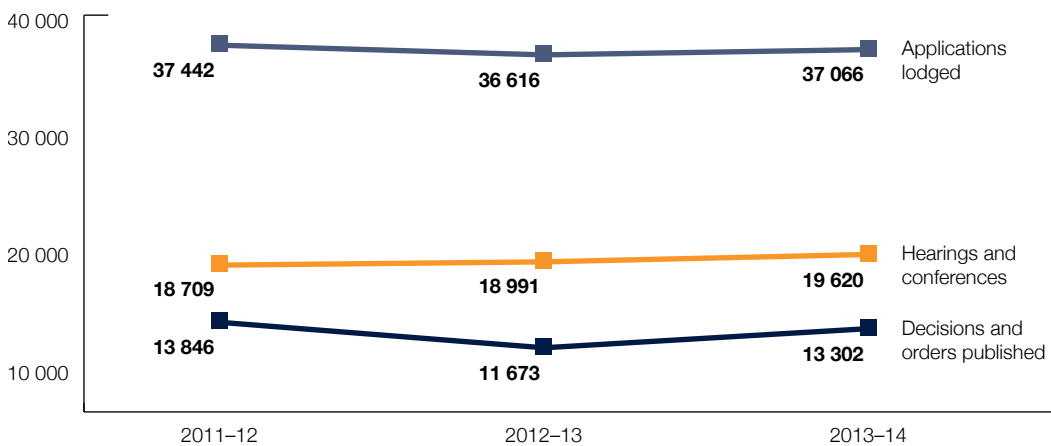


TABLE 1

LODGMENT OF ALL MATTERS BY LOCATION

Location	2011-12	2012-13	2013-14	Annual variation %
Adelaide	2378	2225	2174	-2.3
Brisbane	5894	5963	5692	-4.5
Canberra	819	754	625	-17.1
Darwin	314	390	409	4.9
Hobart	614	633	658	3.9
Melbourne	14 826	13 608	13 857	1.8
Newcastle	81	314	266	-15.3
Perth	3169	3675	3614	-1.7
Sydney	9323	9014	9716	7.8
Wollongong	26	40	55	37.5
Total	37 444	36 616	37 066	1.2

Trends in case load type

This year the Commission’s overall case load remained relatively steady. The numbers do, however, reflect the general trend of a decrease in collective dispute matters dealt with by the Commission and an increase in the number of individual disputes.

Individual matters continue to make up a significant proportion of the Commission’s workload. Consistent with previous years the greatest numbers of applications are for unfair dismissal. Whilst this year there was a slight decline in the number of unfair dismissal applications received there was also an increase of 18.5 per cent in the number of applications for general protections involving dismissal. In recognition of this the Commission continues to develop materials to assist unrepresented parties who may be appearing before the Commission for the first time.

CHART 5

CASE LOAD BY MATTER TYPE

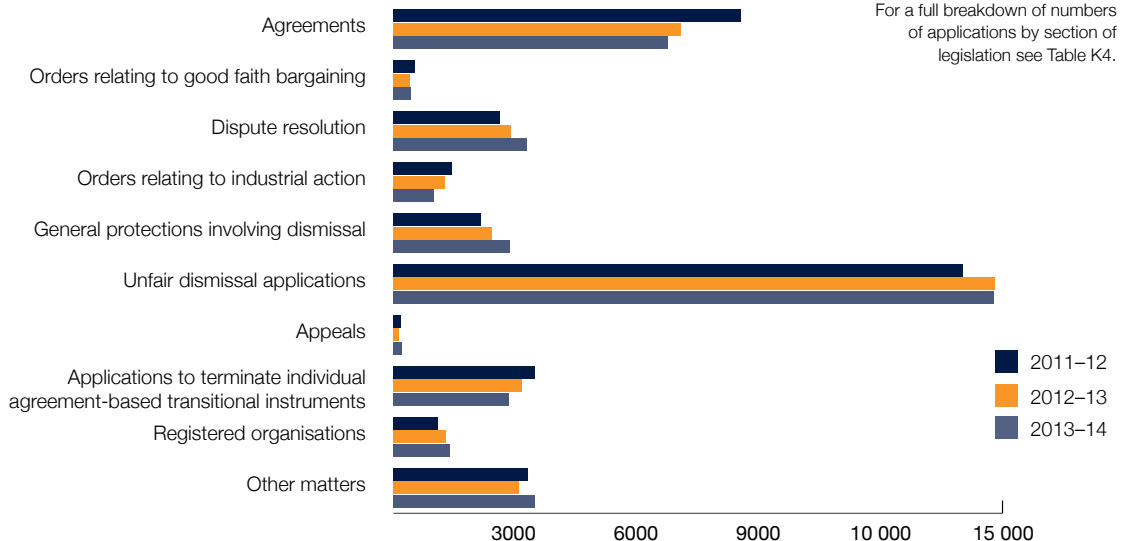


TABLE 2

OUTCOMES OF APPEALS DETERMINED FROM
1 JULY 2013 TO 30 JUNE 2014

Matter type	Appeals upheld	Appeals dismissed	Total appeals determined
Unfair dismissals	23	50	73
Agreement approvals	6	5	11
s.739 disputes	6	8	14
Industrial action	5	3	8
Modern awards	6	2	8
Bargaining disputes	3	3	6
Miscellaneous	5	12	17
Organisation	2	0	2
Total	56	83	139

Collective disputes have also remained relatively stable this year. Whilst there has been a 13.6 per cent increase in dispute resolution applications, the numbers of applications for orders relating to industrial action has continued to decline, decreasing by over 22 per cent this financial year.

There has also been an increase in the number of appeals dealt with by the Commission (an increase of 71 matters for 2013–14, representing an increase of 49.7 per cent). Due to the small number of appeal matters, even minor fluctuations will appear as a large percentage change. Despite the increase in appeals lodged, appeals represent only 1 per cent of all hearings and conferences, and only 1.6 per cent

TABLE 3

HEARINGS AND CONFERENCES BY LOCATION

City/Town	Number
Adelaide	284
Brisbane	1359
Canberra	214
Darwin	41
Hobart	70
Melbourne	3653
Newcastle	230
Perth	727
Sydney	2572
Wollongong	133
Other places	356
In chambers	6028
Telephone*	3198
Video	755
Total	19 620

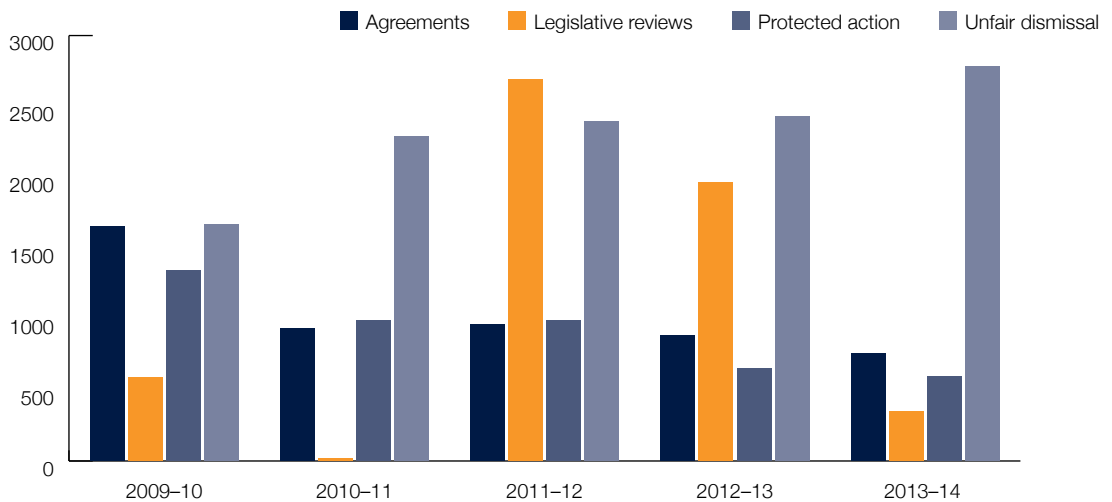
* Does not include telephone conferences conducted by administrative staff.

of all orders and decisions published. Of the appeals determined from 1 July 2013 to 30 June 2014, 60 per cent were dismissed, while 40 per cent were upheld. Refer to Table 2 for full details. This financial year the Commission commenced reporting on appeal outcomes on our website at www.fwc.gov.au/cases-decisions-and-orders/appeal-decision-or-order/appeals-outcomes.

CHART 6

NUMBER OF SITTINGS FOR VARIOUS TYPES OF APPLICATIONS, 2009–10 TO 2013–14

Methodology is at Appendix L.



Hearings and conferences

This year the Commission held 19 620 hearings and conferences, an increase of 3.3 per cent. Hearings and conferences are held around Australia, including in our offices located in each capital city, in regional locations and by video and telephone conference. See Table 3 for a breakdown of hearings and conferences by location.

Trends in Commission sittings

A number of factors drive which proceedings and activities the Commission undertakes, including the needs of our clients and stakeholders and our requirements under the Fair Work Act.

Chart 6 provides an overview of four significant case types and their associated sittings for matters at the Commission between 1 July 2009 and 30 June 2014. Sittings refer to conferences and court usage for hearings, directions and mentions.

Increasing accessibility

During the reporting period the Commission significantly upgraded our video conferencing facilities and increased our capacity for simultaneous video conferences across Australia resulting in superior quality and reliability.

The Commission has plans to implement new features to the video conferencing system such as the use of Skype and the ability to connect from personal computers or mobile devices, which will provide greater accessibility for clients of the Commission.

Many of the major processes that the Commission undertakes, such as the modern awards review and the annual wage review, commence in accordance with statutory requirements and the work associated with these major functions may not be reflected in the number of applications made. These matters are referred to as legislative reviews. The chart therefore demonstrates the impact that particular matters may have on the Commission's workload which is not reflected in applications data.

General trends over the past five years include an increase in sittings for unfair dismissal matters and a decline in the number of sittings for matters relating to agreements and industrial action. This generally corresponds with observed shifts in applications to the Commission during this time.

The peaks and troughs over the years for sittings relating to legislative reviews correspond with the timetable established under the Fair Work Act. In 2009–10, legislative reviews almost entirely comprised award modernisation matters under sections 576E and 576H of the *Workplace Relations Act 1996* (WR Act). The number of sittings increased from 19 in 2010–11 to 2691 in 2011–12 when the Part 10A modern award process (variation and termination of certain transitional instruments) took place. This process involved 2181 hearing dates across Australia. The remaining 499 sittings that year were allocated for the Transitional Review of all modern awards pursuant to Schedule 5, Item 6 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

A similar peak is expected during the 2014–15 financial year as these legislative reviews progress to conference, mention, directions and hearings.

TIMELINESS BENCHMARKS

On 1 July 2012 the Commission introduced timeliness benchmarks for the delivery of reserved decisions, and for dealing with applications for the approval of agreements. The benchmarks apply to all hearings that commenced after 1 July 2012 and all applications to approve agreements received after this date.

The Commission introduced timeliness benchmarks for appeal matters in the second half of 2013. The benchmarks measure the length of time it takes to process an appeal from lodgment to first hearing, and to deliver reserved decisions in these matters. The benchmarks apply to all appeals lodged after 1 July 2013.

These benchmarks are intended to set tight performance standards; to that extent they are aspirational. We expect that there will be individual instances where the Commission does not meet its own high standards, for a variety of reasons. But setting performance benchmarks and publicly reporting on our performance are important accountability measures.

Performance against each of the benchmarks follows. Performance against the benchmarks is also published on the Commission’s website and is regularly updated.

Reserved decisions

Reserved decisions benchmarks:

- 90 per cent of all reserved decisions are to be delivered within 8 weeks
- 100 per cent of all reserved decisions are to be delivered within 12 weeks.

The measure begins from the final day of the last hearing or the date of receipt of the last written submission, whichever is later.

Chart 7 shows the Commission’s performance against the reserved decision finalisation benchmarks. The results achieved for July 2013 to June 2014 were:

- 83.9 per cent of reserved decisions were delivered within 8 weeks, and
- 93.4 per cent of reserved decisions were delivered within 12 weeks.

CHART 7

PERFORMANCE—RESERVED DECISIONS BENCHMARKS

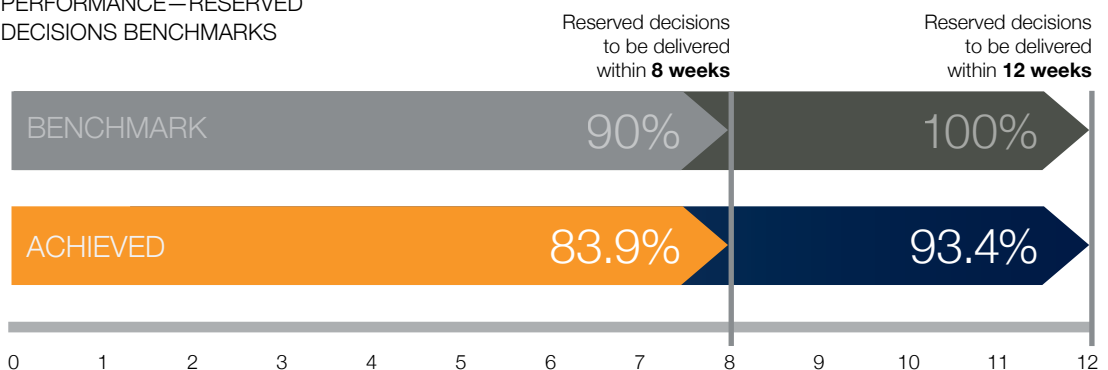
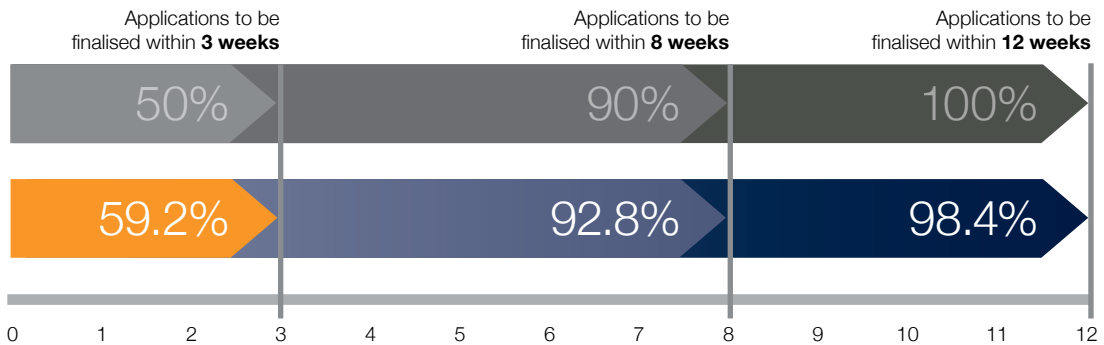


CHART 8

PERFORMANCE—AGREEMENTS BENCHMARKS

**Agreements**

Section 185 applications to approve agreements benchmarks:

- 50 per cent of all applications to be finalised within 3 weeks
- 90 per cent of all applications to be finalised within 8 weeks
- 100 per cent of all applications to be finalised within 12 weeks.

The measure begins from the date of lodgment.

Chart 8 shows the Commission's performance against the agreement applications finalisation benchmark. The results achieved for July 2013 to June 2014 were:

- 59.2 per cent of agreements were finalised within 3 weeks
- 92.8 per cent of agreements were finalised within 8 weeks, and
- 98.4 per cent of agreements were finalised within 12 weeks.

Appeals**Lodgment to first hearing benchmarks**

- 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.

Chart 9 shows the Commission's performance against the lodgment to first listing benchmark.

The results achieved for July 2013 to June 2014 were:

- 94.6 per cent of appeals were listed within 12 weeks, and
- 100 per cent of appeals were listed within 16 weeks.

Hearings dealing with applications for a stay order and other procedural matters are not counted as a hearing when measuring timeliness performance unless heard concurrent with a substantive hearing.

CHART 9

APPEALS—LODGMET TO FIRST HEARING BENCHMARKS

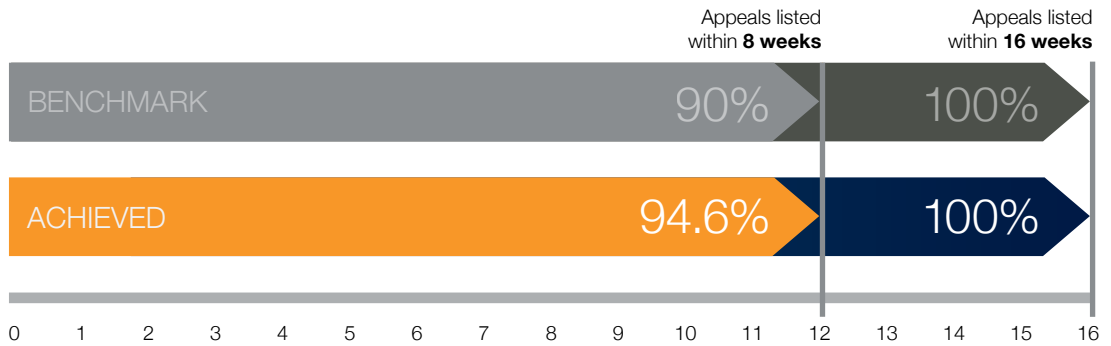
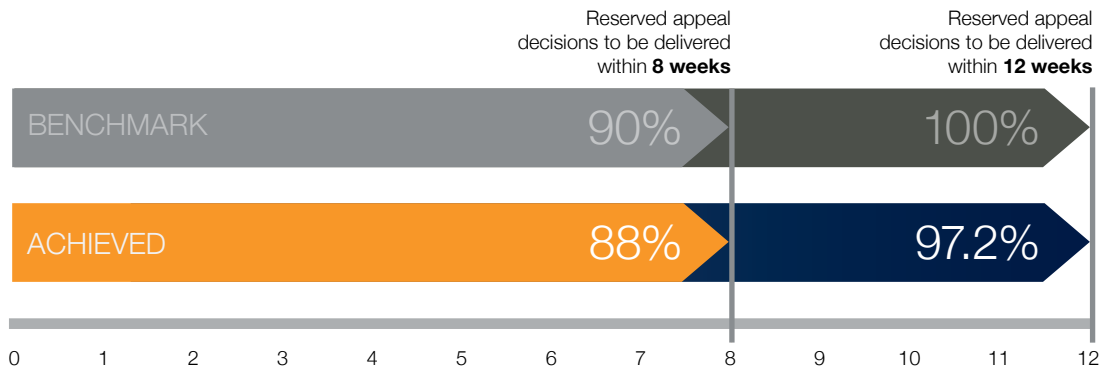


CHART 10

APPEALS—APPEAL RESERVED DECISIONS BENCHMARKS



Appeal reserved decisions benchmarks

- 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 measure commences from the final day of the hearing or the date of receipt of the last written submission, whichever is later.

Chart 10 shows the Commission’s performance against the appeal reserved decision benchmark.

The results achieved for July 2013 to June 2014 were:

- 88 per cent of appeal reserved decisions were delivered within 8 weeks, and
- 97.2 per cent of appeal reserved decisions were delivered within 12 weeks.

RESOLVING DISPUTES

The Commission's dispute resolution role under the Fair Work Act encompasses two key areas:

- disputes arising from provisions in modern awards, agreements, employment contracts and public determinations, and disputes arising from instruments continued under repealed legislation such as workplace agreements, and
- disputes arising from general protections claims and unlawful termination applications.

Disputes arising from awards, agreements and contracts

Section 739 applications—applications to deal with a dispute—comprised 94 per cent of total dispute applications lodged. This year these applications rose by 11 per cent over the previous reporting period.

A small number of applications (18) were lodged under section 526 of the Fair Work Act. These are 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 of the repealed WR Act as amended by the *Workplace Relations Amendment (Work Choices) Act 2005* continue to decline markedly. These are applications under repealed legislation for dispute resolution conducted under a workplace agreement.

Many agreements contain dispute resolution procedures that allow the Commission to arbitrate an outcome if the dispute has not been resolved using

TABLE 4

DISPUTE APPLICATIONS—LODGMENTS

Type of application	No. of applications		
	2011–12	2012–13	2013–14
s.526—Application to deal with a dispute involving stand down	29	19	18
s.699 of repealed WR Act—Application to the Fair Work Commission to have an alternative dispute resolution process conducted	11	4	13
s.709 of repealed WR Act—Application to the Fair Work Commission to have a dispute resolution process conducted under a workplace agreement	319	162	69
s.739—Application to deal with a dispute	1643	2124	2366
s.739—Application to deal with a dispute in relation to flexible working arrangements	27	37	50
Total	2029	2346	2516

TABLE 5

DISPUTE APPLICATIONS—TIMELINESS

Type of application	Median time (days)					
	50% of matters			90% of matters		
	2011–12	2012–13	2013–14	2011–12	2012–13	2013–14
s.739—Application to deal with a dispute—lodgment to first conference	15	15	17	38	38	46

more informal methods. The process of resolving disputes by Commission Members includes through mediation, conciliation, expressing an opinion or making a recommendation. If the procedures allow and these measures fail to produce a resolution the process proceeds to arbitration of the dispute with a determination that is binding on the parties.

The time taken for a section 739 dispute to reach its first conference has increased slightly. This corresponds with the 11 per cent increase in the number of applications of this type during the reporting period.

General protections disputes and unlawful terminations

The general protections provisions of the Fair Work Act are intended to protect people from their employer taking adverse action for prescribed reasons including because of:

- having or exercising a workplace right
- freedom of association
- engaging in industrial activity, and
- workplace discrimination.

General protections claims are sometimes referred to as adverse action claims. Adverse actions taken against an employee or potential employee might include:

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

Increasing accessibility

Due to the significant number of applicants seeking to bring a claim without legal or other representation, in July 2012 the Commission initiated a pilot program in Western Australia in which eligible self-represented general protections applicants were referred to the Employment Law Centre of Western Australia for advice on the merits of their application and assistance in the drafting of the relevant form.

The pilot was highly successful. Of the applicants eligible for assistance, 76 per cent took a different course of action upon receipt of advice, either by discontinuing (27 per cent) or amending (49 per cent) their application.

The Commission engaged the RMIT's Centre for Innovative Justice (the CIJ) to provide an assessment of the program. The CIJ found that there were significant benefits—both to parties and the wider legal process (including respondents)—in self-represented applicants receiving advice on the merits and structure of their claim at an early point in proceedings.

For this reason, the CIJ has recommended that, with certain refinements, the Commission's program should be continued and expanded to other states and territories.

The Commission is currently considering these recommendations with a view to establishing an ongoing program to assist self-represented applicants.

TABLE 6

GENERAL PROTECTIONS INVOLVING DISMISSAL—LODGMENTS, 2013–14

Matter type	No. of applications lodged	Total finalised	Manner finalised	Number of matters
s.365—General protections	2879 ⁽¹⁾	2778	Certificate issued	967
			Without certificate issued	1811

(1) 2429 applications were lodged in 2012–13. 2162 applications were lodged in 2011–12.

CHART 11

GENERAL PROTECTIONS DISPUTE INVOLVING DISMISSAL—MONTHLY COMPARISON

For source data see Table K5

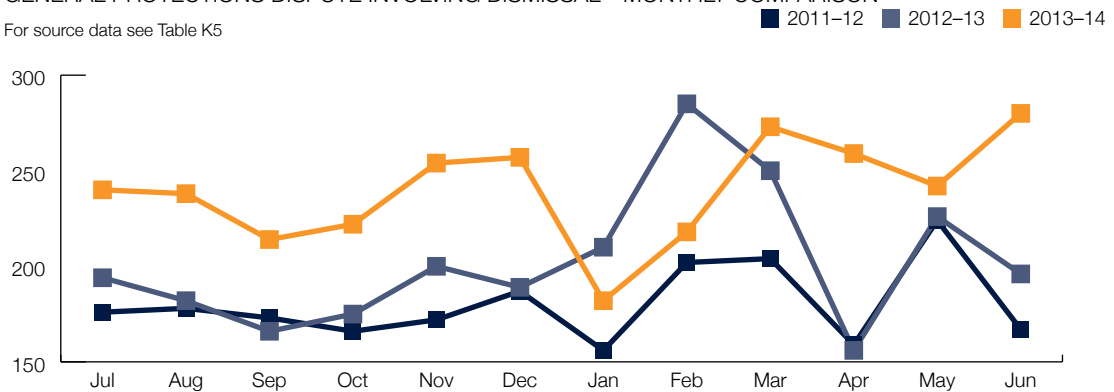


TABLE 7

GENERAL PROTECTIONS INVOLVING DISMISSAL—TIMELINESS

Type of application	Median time (days)					
	50% of matters			90% of matters		
	2011-12	2012-13	2013-14	2011-12	2012-13	2013-14
General protections disputes involving dismissal s.365—lodgment to first conference	26	29	29	48	56	59
General protections disputes involving dismissal s.365—lodgment to finalisation	35	41	41	97	111	106

General protections claims involving dismissal

The bulk of the Commission’s work in the general protections area relates to applications involving dismissal. From 1 January 2014 the Commission’s jurisdiction was expanded to allow arbitration with the parties’ consent of general protections claims involving a dismissal that took effect after that date. Prior to that date the Commission could conciliate a dispute but lacked arbitration powers.

Applications are first dealt with in a private conference. If a resolution cannot be reached the Commission must issue a certificate. The parties can then agree to have the dispute arbitrated by the Commission in a consent arbitration. There were eight applications for consent arbitrations in 2013–14. Table 7 shows how quickly the applications proceeded to first conference and how quickly the matters were finalised. While there are slight variances, the timeframe remained relatively steady.

If the parties do not consent to the Commission arbitrating the dispute, the applicant may apply to the Federal Circuit Court or the Federal Court of Australia to have the matter determined.

TABLE 8

GENERAL PROTECTIONS OTHER CONTRAVENTIONS—LODGMENTS

Type of application	No. of applications		
	2011–12	2012–13	2013–14
General protections—other contraventions s.372	598	555	779

General protections not involving dismissal

Applications alleging adverse action not involving dismissal are also dealt with, in the first instance, by private conference—but only if all parties to the dispute agree to participate. If they are not resolved in this process they can only be determined by the Federal Circuit Court or the Federal Court of Australia.

Tables 8 and 9 show that there was a 40 per cent increase from the previous year in applications made under this category, while there was an increase of only one day in relation to the time taken from lodgment to first conference.

TABLE 9

GENERAL PROTECTIONS OTHER—TIMELINESS

Type of application	Median time (days)					
	50% of matters			90% of matters		
	2011–12	2012–13	2013–14	2011–12	2012–13	2013–14
General protections—other contraventions s.372—lodgment to first conference	23	25	26	51	49	50

TABLE 10

UNLAWFUL TERMINATION—LODGMENTS, 2013–14

Matter type	No. of applications lodged	Total finalised	Manner finalised	Number of matters
s.773—unlawful termination	130 ¹	128	Certificate issued	9
			Without certificate issued	119

(1) 128 applications were lodged in 2012–13. 141 applications were lodged 2011–12.

TABLE 11

GENERAL PROTECTIONS INVOLVING UNLAWFUL TERMINATION APPLICATIONS—TIMELINESS

Type of application	Median time (days)					
	50% of matters			90% of matters		
	2011–12	2012–13	2013–14	2011–12	2012–13	2013–14
Unlawful terminations s.773—lodgment to first conference (days)	26	27	37	51	71	57
Unlawful terminations s.773—lodgment to finalisation (days)	34	32	25	87	102	75

Unlawful terminations

An application can only be made under section 773 of the Fair Work Act if the person is not entitled to make a general protections application. As a result of the broad coverage of the national system, the

Commission generally receives a relatively small number of applications (128 for 2012–13 and 130 for 2013–14). The timeliness within which the Commission dealt with 90 per cent of these matters improved markedly in 2013–14, as demonstrated in Table 11.

DETERMINING UNFAIR DISMISSAL APPLICATIONS

Unfair dismissal matters are a substantial part of the Commission's annual workload. Unfair dismissal applications represent almost 40 per cent of applications made to the Commission.

These can be challenging matters for the Commission because parties are often infrequent or 'one-time' users of the Commission who may be self-represented and may have limited knowledge of our powers and processes or the provisions of the Fair Work Act.

Mitigating these factors has been a major focus of the *Future Directions* change program. Measures implemented include:

- creation of a video virtual tour of the processes and procedures of an unfair dismissal matter (see *In focus—Virtual tour* on page 20)
- provision of additional information materials for self-represented parties
- creation of an online unfair dismissal benchbook
- inclusion of a dedicated small business portal on the Commission's website, with a specific page on unfair dismissal and small business
- reviewing online forms for lodging applications and responses
- a pro bono pilot program for jurisdictional matters, and
- holding mock unfair dismissal hearings (see *In focus—Mock Hearings* on page 21).

TABLE 12

UNFAIR DISMISSAL — LODGMENTS

Location	2011–12	2012–13	2013–14
Adelaide	906	1037	999
Brisbane	2639	2747	2695
Canberra	250	256	245
Darwin	168	170	153
Hobart	292	275	267
Melbourne	4713	5018	4913
Newcastle	49	196	193
Perth	1233	1346	1458
Sydney	3752	3743	3831
Wollongong	25	30	43
Total lodgments	14 027	14 818	14 797

Unfair dismissal process

Unfair dismissal claims follow a standard process:

- employee lodges an application through the Registry, to which the employer can respond
- the parties are invited to participate in a voluntary conciliation conducted by expert senior staff, usually by telephone
- if the matter is unresolved at conciliation or if there is an objection, the matter is listed for a conference or hearing before a Commission Member.

The lodging of applications through the Registry did not follow the previous year's patterns, with a spike of around 20 per cent in the period from July to September 2013 and a slump around April and May 2014.

This spike made managing the flow of referrals to conciliation problematic, a problem which was compounded by staffing shortages in the conciliator area over the year. During the year, five positions became vacant, and Australian Public Service Recruitment Guidelines led to longer than usual delays in replacing these roles.

The combination of these two factors created a backlog of cases which was not cleared until May 2014. As a result, the Commission did not meet the KPI of finalising conciliations in a median time of 34 days. For the 2013–14 year the median time from the lodgment of an application to the finalisation of conciliation was 46 days.

Measures have been taken to address the issue, and the KPI is considered achievable in 2014–15.

Conciliation remained a highly effective resolution process for unfair dismissal applications, with a settlement rate of 79 per cent. See Table 13 for a summary of settlement results, or refer to Table K6 for a full breakdown of settlement results.

The conciliation process is a major success. Its high resolution rate meant only 3716 matters were required to proceed past conciliation, with only 8 per cent of matters requiring to be resolved by a decision or order at a conference or hearing.

For a breakdown of conciliations by size of employer see Table K7.

CHART 12

UNFAIR DISMISSAL APPLICATIONS LODGED—MONTHLY COMPARISON

For source data see Table K8.

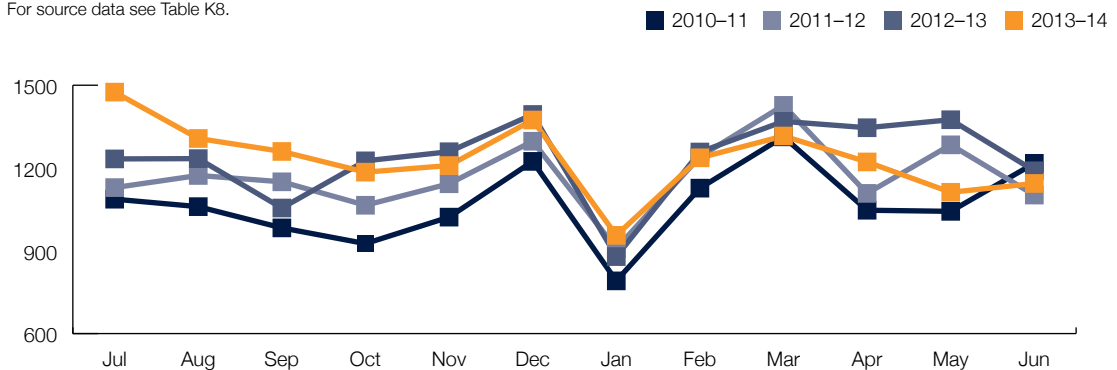
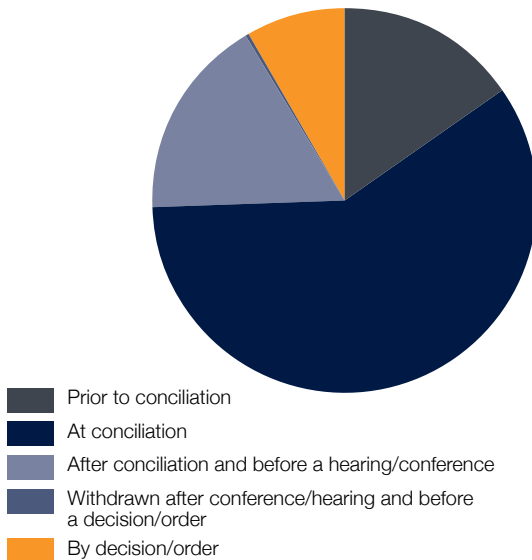


CHART 13

HOW MATTERS WERE FINALISED

For source data see Table K9.



The Commission gained new powers from 1 January 2013 to administratively dismiss applications lodged after that date if a party failed to attend a conference or hearing, comply with a direction or discontinue an application after the conclusion of a settlement agreement.

Overall, in the 2013–14 year, 459 matters were administratively dismissed. Of those matters dismissed, 98 were dismissed under the new provision. Of the matters remaining after administrative dismissal, 374 were finalised at jurisdiction hearings and 367 were finalised at arbitration.

TABLE 13

UNFAIR DISMISSAL CONCILIATION SETTLEMENT RATE

Result type	2012–13	2013–14	%	
			2012–13	2013–14
Total settled matters	8843	8659	81	79
Total NOT settled matters	2043	2313	19	21
Total resulted conciliations	10 886	10 972	100	100

TABLE 14

UNFAIR DISMISSAL — FINALISED AFTER CONCILIATION

Stage of proceeding	2012–13	2013–14
Matters finalised after conciliation and before a formal proceeding before a Commission Member	2093	2475
Matters withdrawn after conference/hearing and before decision/order	49	41
Matters finalised by administrative dismissal	N/A	459
Matters finalised at jurisdiction	258	374
Matters finalised at arbitration	402	367
Total matters finalised after conciliation	2802	3716

TABLE 15UNFAIR DISMISSAL ARBITRATION—
HEARING/CONFERENCE RESULTS—OUTCOMES

Tribunal decision	No. of decisions	
	2012–13	2013–14
Objection upheld—application dismissed	258	374
Application dismissed (s.587)*	-	96
Application dismissed (s.587)—dismissal by Panel Head*	-	265
Application to dismiss (s.399A)—granted*	-	98
Application dismissed—dismissal was fair	256	175
Application granted—compensation	112	150
Application granted—reinstatement	8	9
Application granted—reinstatement and lost remuneration	12	25
Application granted—no remedy granted	14	8
Total arbitration results Australia-wide	660	1200

* The administrative framework to capture data under these parts commenced operation in July 2013. Earlier data is not available.

Outcomes

In jurisdiction hearings, the objection was upheld in 70 per cent of matters. For a full breakdown of jurisdictional hearing results, refer to Table K10. In 48 per cent (175) of the 367 matters finalised at arbitration, the dismissal was found to be fair. In the remaining 192 matters the remedies were:

- compensation (150 matters)
- reinstatement (9 matters)
- reinstatement and lost remuneration (25 matters), and
- no remedy granted (8 matters).

See Table 15 for a summary of arbitration outcomes. For a full breakdown of remedies see Table K11.

Timeliness

Table 16 sets out the time taken from lodgment of an unfair dismissal application to conciliation and then finalisation. This year there was an increase in the time taken from lodgment to conciliation and from lodgment to finalisation. As part of the second phase of *Future Directions*, the Commission will implement benchmarks for unfair dismissal matters aimed at improving our timeliness.

Appeals

This year there were 79 appeals against unfair dismissal decisions, representing a 36 per cent increase (21 matters) from 2012–13.

The appeal was dismissed in 62 per cent of matters. See Table 17 for further information.

TABLE 16

UNFAIR DISMISSAL—TIMELINESS

Type of application	KPI	Median time (days)					
		50% of matters			90% of matters		
		2011–12	2012–13	2013–14	2011–12	2012–13	2013–14
Lodgment to first conciliation ¹	34	28	25	46	36	40	61
Lodgment to finalisation ²	None	49	30	51	108	114	146

(1) This measure is the number of days between lodgment and the first conciliation and includes applications under s.394 of the Fair Work Act and s.643 of the WR Act by virtue of items 11 and 12, Schedule 2 to the Transitional Provisions Act.

(2) 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, as defined in the Commission's quarterly reports to the Minister, for the reporting period.

TABLE 17

UNFAIR DISMISSAL—APPEALS

Decisions appealed	Upheld		Dismissed		Total	
	2012–13	2013–14	2012–13	2013–14	2012–13	2013–14
Total	13 (22%)	30 (38%)	45 (78%)	49 (62%)	58	79

SETTING THE MINIMUM WAGE

The Commission conducts an annual review of the national minimum wage and rates of pay in modern awards, as required by the Fair Work Act. More than 1.5 million employees—around 16 per cent of the workforce—are directly affected by this review.



The Expert Panel for annual wage reviews comprises the President, three other full-time Members and three part-time Members with knowledge or experience relevant to minimum wage setting. The Panel handed down its decision on 4 June 2014, which was to:

- increase all modern award minimum wages and most transitional instrument wages by 3 per cent
- set the national minimum wage for award and agreement-free employees at \$640.90 per 38-hour week, or \$16.87 per hour
- set a number of special national minimum wages for award and agreement-free employees with a disability and award and agreement-free junior employees, trainees and apprentices, and
- set the casual loading for award and agreement-free employees at 25 per cent.

In accordance with the Act, determinations varying modern award minimum wages and the national minimum wage order came into operation on 1 July 2014 and took effect from the first full pay period on or after that date.

Submissions

All persons and organisations are given the opportunity to make written submissions for consideration in the review. In conducting the 2013–14 annual wage review the Expert Panel received a range of submissions from:

- the Australian Government
- state governments
- peak employer and employee representative bodies
- social interest and community-based organisations, and
- individuals and/or individual employers

The Panel considered submissions from these parties through a series of consultative processes conducted across the review including:

- preliminary consultation submissions and conference hearing (February 2014)
- initial submissions (March and April 2014)
- submissions in reply (April and May 2014)
- post-budget responses (May 2014)
- questions for parties provided to parties at various terms during the review, and
- final consultation hearings (May 2014).

Research

In addition to a statistical report prepared by Commission staff, the Panel considered two major research reports:

- *Award Reliance*—this report explored the extent and composition of the award-reliant sector. It was prepared for the Commission by the Workplace Research Centre, University of Sydney in collaboration with ORC International.

- *Minimum wages and their role in the process and incentives to bargain*—this report explored the relationship between minimum rates of pay and over-award/agreement rates of pay. It was prepared for the Commission by the Workplace Research Centre, University of Sydney.

These reports responded to the need for new quantitative and qualitative research about the characteristics of the award reliant workforce and the relationship between minimum wages and the incentive to bargain. This issue was initially identified during the 2009–10 annual wage review as requiring further research. The research reports were discussed with the Minimum Wages Research Group (a group comprised of representatives from Commonwealth and state governments and peak employer and employee representative bodies) prior to publication.

Further research is anticipated to flow from a review initiated by the Expert Panel to set a medium-term research program for annual wage reviews. Involving a consultation process with external parties, the review will ensure that the Panel's research program remains appropriately focused and addresses gaps in existing research which are of particular relevance to the Panel and parties to annual wage reviews.

Future reviews will also be informed by the Australian Workplace Relations Study (AWRS) being undertaken by the Commission. The AWRS will be an information-rich resource for the Expert Panel that provides linked employee and employer data not presently available from any other sources.

Challenges

The conduct of the annual wage review is a major challenge. The Panel is required to balance a number of legislative objectives in making its decision, and there is often a degree of tension between the economic, social and other considerations which the Panel must take into account.

Efficiency and innovation

In 2014–15 the Commission is piloting a paperless annual wage review process, as part of our *Future Directions* initiatives and our commitment to efficiency and innovation. This pilot will be reviewed and evaluated to assist in rolling out paperless procedures to other Commission functions and processes.

The need to take into account developments arising out of the Federal Budget also presents a challenge, as the time between the Budget in May and publication of the Panel's decision in early June is limited and the Expert Panel is required to provide the parties with an opportunity to file supplementary submissions in relation to the Budget, hold consultations and finalise the decision.

The Commission has consistently delivered decisions in time to meet the 1 July operative date required by the Fair Work Act and its Agency KPI. Factors contributing to this success include:

- immediately after the conclusion of an annual wage review, planning for the next review begins, including setting of timetables and the research program
- comprehensive consultation to ensure the Expert Panel receives the views of stakeholders on relevant issues
- management of workflow and resources by Members and Commission staff to meet deadlines including consultation on draft determinations and orders as well as the availability of submissions and correspondence on the Commission's website, and
- provision of high quality research to inform the Panel's work.

IN FOCUS

PAY EQUITY UNIT

The Pay Equity Unit undertakes specialist research and data collection to inform matters related to pay equity under the Fair Work Act. The Pay Equity Unit commenced operation on 1 July 2013.

The main activities of the Pay Equity Unit throughout 2013–14 included:

- data collection through the Australian Workplace Relations Study (AWRS)
- commissioning a research report into equal remuneration under the Fair Work Act, and
- undertaking research and providing assistance to Commission Members in equal remuneration proceedings.

Australian Workplace Relations Study

Understanding current workplace practices and outcomes plays an important role in informing the work of the Commission as well as our stakeholders, policymakers and researchers.

As part of our *Future Directions* program the Commission has funded and coordinated the AWRS. The AWRS is the first major study in Australia to link employee and employer characteristics and experiences since the 1995 Australian Workplace Industrial Relations Survey. In similar studies overseas, linking employer-employee data has enabled researchers in other countries to generate new insights into labour market and firm dynamics.

As well as informing the broader community, the AWRS will provide the Commission with contemporary data to inform pay equity research and assist in our statutory functions, including wage-setting and the General Manager's section 653 Fair Work Act reports.

The themes covered in the study include:

- workforce management, wage-setting and employee engagement practices
- use of Individual Flexibility Arrangements and requests made under the National Employment Standards
- ownership structure, market competitiveness, labour productivity measurement and how enterprises respond to changes to the marketplace
- performance, profitability, income sources and key expense items
- workforce characteristics, including union density, and
- employee demographics, remuneration and engagement.

The study was designed after extensive consultation with business groups, unions and government agencies. These groups sat on a steering committee to guide the design. Academic experts reviewed the questionnaires that were developed and provided feedback to the Pay Equity Unit. Testing of the data collection tools and processes was undertaken in the first half of the 2013–14 year.

Data collection for the AWRS began in February 2014 and continued into the 2014–15 year. The AWRS has collected information from over 3000 employers and almost 8000 employees. In the 2014–15 year the Pay Equity Unit will:

- prepare survey data for each component of the study and create a linked dataset
- publish a report of the findings
- release non-identifiable data files via secure transfer methods, and
- prepare resources to assist data users to perform their own analysis.



Equal remuneration research report

Equal pay (remuneration) is an important issue for the Commission. The Fair Work Act empowers the Commission to make orders to ensure there will be equal remuneration for male and female workers for work of equal or comparable value.

The Pay Equity Unit commissioned an independent research report into equal remuneration during the 2013–14 year. The *Equal Remuneration under the Fair Work Act 2009* report was developed by three independent expert academics and published in December 2013.

The report explains key constructs, identifies the usefulness of material parties may bring to equal remuneration proceedings, and directs parties to key resources which may be relevant to an equal remuneration case. The report also examines the operation of equal remuneration legislation and practice in international jurisdictions.

Ongoing research and assistance in pay equity matters

The Pay Equity Unit provided ongoing research and support services to the Full Bench in the Equal Remuneration Case 2013–14 as part of a wider role of delivering information to inform matters relating to pay equity.

As part of that role, the Pay Equity Unit consulted with parties to the Equal Remuneration Case to prepare a data report providing information on the long day care sector and the pre-school sector.

“Over the course of the design and administration of the Australian Workplace Relations Study, the Pay Equity Unit has benefited from guidance and support from a steering committee comprised of employee and employer representative bodies and government organisations with expertise in workplace relations and quantitative survey research.”

Murray Furlong, Director, Tribunal Services

ORDERS RELATING TO INDUSTRIAL ACTION

Industrial action can be taken by employees or employers:

- Employees may go on strike (refuse to attend or perform work) or impose work bans (refuse to perform one or more of their normal duties).
- Employers may lock out their employees (refuse to allow them to work).

The Commission received a total of 989 applications in relation to industrial action in 2013–14. This represents a decrease of 22 per cent from the 2012–13 year, and a decrease of 30 per cent from the 2011–12 year.

Protected industrial action

Protected industrial action can occur after a list of proposed actions has been authorised by the Commission, then approved by a majority of respondents in a workplace ballot process. This is done as part of bargaining for a new workplace agreement.

The employee bargaining representative must apply to the Commission for an order requiring the ballot to take place. The Commission is required, as far as practicable, to determine the application within two days of it being made.

The Commission received 627 applications for protected ballot orders in the past year, a decrease of 31 per cent on the previous reporting period.

Where protected industrial action 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 suspend or terminate the action. The Commission must, as far as practicable, determine an application of this nature within five days of it being made, or make an interim order suspending action if this is not possible.

Unprotected industrial action

Industrial action is only protected if it is in relation to bargaining for an agreement.

Where industrial action (or threatened action) is unprotected, an application can be made to the Commission to stop or prevent that industrial action. The Commission is required to determine the application within two days of lodgment or make an interim order stopping the action within two working days.

Dealing with industrial action

The short timeframes for dealing with industrial action applications require the Commission to have processes in place to rapidly consider these matters—particularly in the case of unprotected actions or where protected industrial action is causing or threatening to cause significant economic harm to the parties.

When an urgent application related to industrial action is lodged the Registry contacts the Panel Head's chambers to alert them of the application so that it can be quickly allocated to a Member. Panel Heads and Members may be contacted out of hours if required to facilitate the rapid handling of a matter.

To further assist with the timely resolution of matters, they may be listed outside of normal business hours, including on weekends. If a matter cannot be resolved within the legislative timeframe, the presiding Member will generally issue an interim order so that the matter can be partly resolved until a final order is issued.

TABLE 18

INDUSTRIAL ACTION—LODGMENTS

Type of application	No. of applications		
	2011-12	2012-13	2013-14
s.418—Application for an order that industrial action by employees or employers stop etc.	138	168	145
s.419—Application for an order that industrial action by non-national system employees or employers stop etc.	2	2	3
s.423—Application to suspend or terminate protected industrial action—significant economic harm etc.	7	5	1
s.424—Application to suspend or terminate protected industrial action—endangering life etc.	16	11	11
s.425—Application to suspend protected industrial action—cooling off	4	2	6
s.426—Application to suspend protected industrial action—significant harm to third party	0	1	3
s.437—Application for a protected action ballot order	1011	915	627
s.447—Application for variation of protected action ballot order	17	12	12
s.448—Application for revocation of protected action ballot order	57	38	54
s.459—Application to extend the 30-day period in which industrial action is authorised by protected action ballot	156	115	124
s.472—Application for an order relating to certain partial work bans	9	2	3
Total	1417	1271	989

TABLE 19

INDUSTRIAL ACTION—ALL APPLICATIONS, TIMELINESS

Applications	KPI	Median time (days)					
		50% of matters			90% of matters		
		2011-12	2012-13	2013-14	2011-12	2012-13	2013-14
Applications made under ss.418, 419, 423, 424, 425, 426, 437, 447, 448, 459 and 472—lodgment to first listing	3 days	3	3	2	7	5	6

TABLE 20

INDUSTRIAL ACTION APPLICATIONS—PROTECTED ACTION BALLOT ORDERS AND ORDERS TO STOP ACTION—TIMELINESS, 2013–14

Type of application	Median time (days)					
	50% of matters			90% of matters		
	2011–12	2012–13	2013–14	2011–12	2012–13	2013–14
s.418—Application for an order that industrial action by employees or employers stop etc.—lodgment to first hearing	1	1	1	3	2	2
s.437—Application for a protected action ballot order—lodgment to first hearing	3	3	3	7	5	7
s.437—Application for a protected action ballot order—lodgment to determination	4	3	3	7	6	7

These processes have been a key factor in the Commission consistently meeting our KPI (a median listing time of three days) related to this deliverable. This year the Commission took a median time of two days to list applications relating to industrial action.

For further information on timeliness in relation to applications regarding industrial action see Tables 19 and 20.

CASE STUDY

EMERGENCY SERVICES TELECOMMUNICATIONS AUTHORITY

It is just after midnight, but a hearing room at the Fair Work Commission's Melbourne office is still brightly lit and filled with people. They are waiting on a decision regarding an urgent section 424 application to suspend industrial action being taken by Emergency Services Telecommunication Authority (ESTA) staff, as part of bargaining over an enterprise agreement. While ESTA's application was unsuccessful in this instance, the Commission did ultimately play an integral role in resolving the issues in dispute, and helped the parties negotiate a new enterprise agreement.

ESTA receives Victoria's triple-zero emergency calls and dispatches emergency services in response. Lives depend on this vital service. In July 2013 ESTA claimed that five months of protected industrial action was compromising the safety of the Victorian public. ESTA asked the Commission to suspend the action under section 424 of the Fair Work Act. This section gives the Commission power to suspend or terminate action if it endangers the life, safety, health or welfare of the population.

Unions representing ESTA call takers, dispatchers and team leaders, including United Voice, the United Firefighters' Union of Australia and the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, had implemented protected industrial action as part of negotiations over a new enterprise agreement. The action involved operators using a generic computer login, which meant they could not be easily identified. There was a ban on training, which meant a new computer system could not be deployed, and a ban had been placed on participating in audits and performance reviews.

ESTA claimed these bans were a threat to public health and safety and asked the Commission to issue an order that all action be suspended for 90 days. The unions rejected the claim that public health and safety was at risk. It is essential for all parties involved that section 424 applications are resolved as quickly and efficiently as possible which is why Commission

Members regularly schedule these hearings out of hours. In this instance, to avoid unnecessary delay to this matter, or others that were already listed before Commissioner Johns in coming days, it was determined to hear the matter into the night, to ensure a timely decision could be made.

Commissioner Johns found that while the bans might have caused degradation in the quality of ESTA's service they did not constitute a sufficient threat to safety to overcome the high evidentiary standards required by section 424. In part, this was due to three important undertakings given by the unions:

- data would be collected to permit identification of operators who were not following proper procedures
- training would be permitted to allow the new computer system to be implemented, and
- union members would read bulletins from ESTA.

Following a ten-hour hearing that finished at 12.15 am, the application for the protected action to be suspended or terminated was dismissed.

When he issued his decision Commissioner Johns noted that none of the parties had availed themselves of the Commission's assistance in relation to their bargaining dispute. Commissioner Johns noted that the parties had been in negotiations for more than 12 months without an outcome having been reached.

Following the suggestion made by Commissioner Johns the unions initiated a bargaining dispute process under section 240 of the Fair Work Act. Over the next six months Commissioner Johns facilitated eight meetings between the parties and programmed directions for the drafting of various versions of a proposed agreement. Using an interest-based bargaining approach Commissioner Johns assisted the parties to reach an agreement.

In late March 2014 the agreement was voted up by 96 per cent of ESTA employees. The application for approval was lodged with the Commission and approved by Commissioner Johns in early April 2014.

CASE STUDY

SYDNEY WATER

An extraordinary turnaround in industrial relations has been achieved at Sydney Water. As touched on in last year's annual report, the relationship between the company and the union could have been described as hostile, with up to a dozen different disputes before the Fair Work Commission. Now, not a single dispute has been notified to the Commission in almost two and a half years.

It is morning at a water treatment plant in Sydney, where staff are in a meeting to discuss the challenges facing the business and ways to overcome them. In a scene that would have been unimaginable three years ago, Sydney Water Chief Executive Kevin Young and Australian Services Union Branch Secretary Sally McManus are standing side by side answering questions.

"It's a remarkable thing considering the past, because I don't think that ever occurred before. But it's something we're doing more and more," Mr Young said. Ms McManus agreed, saying "There's no way whatsoever that would have happened three years ago—no way. It would have been me addressing the members and they would have been passing resolutions probably condemning the Managing Director and probably in another few hours be out on strike."

A new working relationship

The relationship has changed from one of distrust to openness. "The way it works now, it's very different," Ms McManus said. "Management will come to us with changes that they want to make and they'll be open and honest about why they want to do it, what's driving it, what they're trying to achieve. And we'll be open and honest about what our interests are and what we would like to see out of that."

Kevin Young describes the new relationship as consultative and honest. "It's very transparent," Mr Young said. "If we've got major issues with any

part of the business we sit down and we talk and we understand why we need to make some reform. We put some proposals together and we talk to people early and then we nut out the best way forward."

Water under the bridge

The turnaround occurred after both parties sought the assistance of the Fair Work Commission to develop a new working relationship. Deputy President Booth instituted a year-long process that helped the parties 'let go' of their long-held hostilities and find common ground.

Ms McManus said, "It involved a lot of work by the Commission for us to put aside, not ignore but put aside, our previous grievances which in some circumstances would go back 50 years on both sides, to work from a position of 'Okay, what do we agree on?' rather than what are we against."

Deputy President Booth convened a two-day workshop involving management and the union that proved to be a turning point in the relationship.

"It was one of the most honest two days that I've ever had," Mr Young said.

Improvements to the business

The new relationship has allowed new conversations to occur about how to improve the business and become more efficient.

"So in our civil area we went depot by depot for the first time," Mr Young said, "and we said look, we've done benchmarking of how we're going against what the typical costs are in the market and there's a gap. We're not sure what the answers are but we want to work with you and we want to close this gap and I think a fair time would be three years."

There are now regular meetings between management, staff and the union where progress is discussed.

SCAN FOR VIDEO



“We measure customer service and safety and environmental issues and our productivity,” Mr Young said, “and you can see the charts where we are two-thirds of the way into the timeframe—two years in—and we’ve got two-thirds of the savings we need. And you can just see the change in the workforce. They’re actually very proud of the work that they’re doing and you can see morale improve.”

Ms McManus said, “People don’t actually like going to work and fighting all the time—they don’t. They wanted to go to work and feel happy and proud about their job. They wanted to trust their managers and they do want to work on the common good for the people of Sydney rather than every single day having to battle managers over sometimes minor things.”

The Commission’s future role

Sydney Water has had no industrial disputes before the Commission for almost two and half years. But the Commission is still playing an important role.

Mr Young said, “From time to time we get into really difficult circumstances—there was one recently in IT that we had to deal with—and on occasions, it’s rare, we say to Deputy President Booth ‘can you come in and just help facilitate a discussion between us?’. I think we will always want the Commission’s involvement at times of new EBAs, every three or four years, but I’m hoping that will be a light touch. I’m hoping that what we’re doing working with the Commission is that we’re learning more and more how to work these problems out ourselves.”

“We basically now use the Commission as, if I can call it, like a guardian of the relationship,” Ms McManus said. “So we will touch base with the Commissioner now and again—you know, sometimes we’ll seek her opinion about how to go forward on issues. So for example, this [EBA] agreement is something that we’ll be discussing with her.”

“I think in the past the Fair Work Commission comes in when it’s the time of hopeless causes—when the parties are so far apart that you think ‘Gee, how are you going to solve this one?’. And I know they do some magic there. But I do see the magic they’re doing now is actually bringing the parties together to prevent disputations. And boy in terms of safety, customer service and morale of people in the business it’s just a lot more powerful model.”

Kevin Young, CEO, Sydney Water

Both the business and the union credit the work of Deputy President Booth as instrumental to the changes that have occurred. But they also recognise the hard work done by the employees of both organisations.

“Sally and I kicked off a bit of a dream of the future,” Mr Young said. “But it wouldn’t have been anything without both sides knuckling in and saying ‘look, we’ll make it a reality’. And in the beginning, people as I said, said ‘This will never work’. But it has worked and it’s been highly successful—it’s been one of the greatest things I think we’ve done as a business”.

PROCESSES RELATING TO MODERN AWARDS

The Commission has commenced the first 4 yearly review of modern awards, after these instruments came into effect on 1 January 2010. Modern awards, together with National Employment Standards, provide a minimum safety net of terms and conditions for the employees they cover. There are 122 modern awards, which are generally based around an industry or occupation.

4 yearly review

The 4 yearly review commenced in February 2014 and is expected to run until late 2015. This review is broader than the Transitional Review that commenced in 2012 and concluded at the end of 2013. See *In focus—4 yearly review of awards* on page 56 for further details.

Transitional Review

The *Fair Work (Transitional and Consequential Amendments) Act 2009* required the Commission to conduct a review of modern awards, other than modern enterprise awards and State reference public sector modern awards, as soon as practicable after 1 January 2012. The Transitional Review commenced in 2012 and was completed in late 2013, with more than 250 applications to vary modern awards dealt with by the Commission.

Modernisation and termination of enterprise instruments

On 31 December 2013 all enterprise instruments in operation terminated unless an application was made to modernise the instrument. Enterprise instruments were former federal or state awards that covered employees in a single enterprise or a group of related enterprises. The Commission estimated there were 1735 enterprise instruments still in operation prior to 31 December 2013.

In addition to the seven made previously, 134 applications were made to modernise enterprise instruments during the reporting period.

By 30 June 2014, 36 had been withdrawn and two had been dismissed. The instruments that were the subject of these applications were consequently terminated. The Commission will deal with the remaining applications during the 2014–15 reporting period.

Modernisation and termination of 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. If no application was made to terminate or modernise one of these awards prior to 31 December 2013 the Commission must modernise the award.

The Commission is currently modernising 51 of these awards.

Default superannuation fund terms

As required by the Fair Work Act the Commission reviewed the superannuation clauses in all modern awards prior to 31 December 2013. A new provision was inserted in every modern award to permit employers to make superannuation contributions for a default fund employee to a superannuation fund or scheme of which the employee is a defined benefit member from 1 January 2014. The Commission also removed any superannuation funds that did not offer a MySuper product, or were not an exempt public sector superannuation scheme, from modern awards.

The Commission is required to conduct 4 yearly reviews of modern award default superannuation fund terms. The default fund applies to payments for employees who are covered by the award but have

not chosen a fund to receive their superannuation contributions.

As part of the review the Commission must make a Default Superannuation List which will contain funds that offer a MySuper product. The Expert Panel will then select products from the list to be included in modern awards. A separate Schedule of Approved Employer MySuper Products will be created.

Superannuation funds were invited to make applications to be included on the list or schedule by 28 April 2014. Ninety five applications were received and a further 450 submissions were received in relation to the applications.

Constitution of an Expert Panel

On 6 January 2014 the President of the Commission constituted an Expert Panel for the purposes of the 4 yearly review of default superannuation fund terms in modern awards. The panel comprised Senior Deputy President Acton, Senior Deputy President Drake, Commissioner Bull, Commissioner Johns and Expert Panel Members Allen, Apted and Gibbs.

Due to potential conflicts of interest, on 7 March 2014 the President issued a direction that Expert Panel Members Allen and Gibbs no longer continue to deal with AM2014/6. This direction also appointed Expert Panel Member Harcourt to the Panel. On 17 April the President joined the Expert Panel as pursuant to section 622(3) of the Fair Work Act.

On 6 June 2014 the Federal Court in *Financial Services Council Ltd v Industry Super Australia Pty Ltd and Anor* NSD447/2014 by Order declared invalid the President's direction that he would form part of the Expert Panel. The Federal Court declared that the Panel as purportedly reconstituted was not reconstituted as required under the Fair Work Act. As a consequence, the Expert Panel as reconstituted will not deal further with matter AM2014/6.

At the end of the reporting period the Commission was awaiting appointment of an Expert Panel Member

Increasing accessibility

Many of the documents and information materials on the Commission's website are available free of charge through subscription services.

Subscribers are notified by email as updates are published. Each email notification contains links to downloadable documents accessible through the Commission's website. The Commission offers two types of subscription services in relation to awards:

- My awards—updates: subscribers receive an email 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), and
- My awards—all matters: subscribers receive an email 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.

During the reporting period there were 7379 subscribers to award services. More than 700 subscriber emails were sent out in relation to awards. For a full list of the subscription services offered by the Commission see Appendix M.

before proceeding further with the review of default superannuation fund terms in modern awards.

IN FOCUS

4 YEARLY REVIEW OF AWARDS

The Fair Work Act provides that the Commission must review all modern awards every four years. The first 4 yearly review commenced in February 2014 and is expected to run until late 2015. This review is broader than the Transitional Review that commenced in 2012 and concluded at the end of 2013. The 4 yearly review will deal with some applications that were considered outside the scope of the Transitional Review.

The review has three stages:

- an Initial stage (dealing with jurisdictional issues)
- a Common Issues stage, and
- an Award stage.

The Initial stage is complete. The Common Issues stage commenced in April 2014 and is ongoing, dealing with:

- annual leave
- award flexibility/facilitative provisions
- casual employment
- part-time employment
- public holidays
- transitional/sunset provisions relating to accident pay, redundancy and district allowances, and
- any additional common issues added over the course of the review.

The Award stage commenced in May 2014 with a series of conferences. This stage will see each of the 122 modern awards reviewed in its own right in accordance with the objectives of section 134 of the Fair Work Act.

Extensive consultation will occur, during which interested persons may suggest amendments to one or more awards. It is also expected that the Commission will propose a number of technical and drafting changes.

“The modern awards objective provides that the Commission must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions.”

Justice Ross, President

Following a consultation period, a guide to the Award stage was published on the Commission’s website, together with an exemplar award prepared by Commission staff which seeks to address some of the structural issues identified in modern awards.

Special efforts are being made to capture the views of users of awards from the small business sector who are not, traditionally, active participants in the workplace relations system. Research was undertaken to elicit their views on the usability of current modern awards and the exemplar award. The findings of this research will assist the Commission to develop modern awards that are more accessible to those who are not familiar with the current awards system.

All submissions, correspondence, transcripts, decisions and determinations relating to the review will be published on the Commission’s website.

APPROVING AGREEMENTS

Enterprise agreements are an important area of the Commission's work. The Commission can help with the process of making enterprise agreements, and is required to assess and approve agreements.

Enterprise agreements are made between an employer and their employees about the terms and conditions of employment. Before approving an enterprise agreement, the Commission must ensure the agreement or variation passes the better off overall test (BOOT). This test requires that each of the employees to be covered by the agreement are better off overall than under the relevant modern award.

Approval of agreements

Applications to approve enterprise agreements declined by 4.7 per cent in 2013–14. This was the second consecutive year of decline following a 17.3 per cent fall in 2012–13.

Approval of agreements is not automatic. The Commission must be satisfied that:

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

- the group of employees covered by the agreement was fairly chosen
- the agreement specifies a date as its nominal expiry date (not more than four years after the date of Commission approval)
- the agreement provides a dispute settlement procedure, and
- the agreement includes a flexibility clause and a consultation clause.

Agreement approval times

The Commission strives to approve agreements in a timely manner. To this end, the Commission introduced timeliness benchmarks for dealing with applications for the approval of agreements in July 2012.

Table 22 shows the median number of days taken to finalise 50 per cent and 90 per cent of applications. This year the time to approve 90 per cent of single enterprise agreements improved to 50 days from 54 days in 2012–13. The time to approve 90 per cent of multi-enterprise agreements also improved by 10 days from 2012–13. The time taken by the Commission to finalise 90 per cent of greenfields agreements rose by three days.

TABLE 21

ENTERPRISE AGREEMENT APPROVAL APPLICATIONS

Type of application	Lodged			Approved		
	2011–12	2012–13	2013–14	2011–12	2012–13	2013–14
s.185—Single-enterprise	7812	6333	5945	7440	6051	5602
s.185—Greenfields	705	712	749	665	685	745
s.185—Multi-enterprise	48	42	60	44	36	56
Total	8565	7087	6754	8149	6772	6403

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

Assistance with agreement making

Employers and employees usually complete enterprise agreement negotiations (or bargaining) themselves. But these negotiations can break down or become deadlocked, meaning an agreement between the parties cannot be reached.

In these situations the Commission has a variety of powers to assist the bargaining process if requested to do so under the terms of a number of sections of the Fair Work Act.

The number of bargaining applications rose by 3.8 per cent in 2013–14 after falling 19.3 per cent the previous year.

Providing assistance with bargaining can see some innovative techniques employed by Commission Members and lead to positive outcomes for all parties, as demonstrated by *Case study—Catholic Education Victoria* on page 60.

Promoting productive enterprise agreements

In support of the recommendation contained in *Towards more productive and equitable workplaces—an evaluation of the Fair Work legislation*, the Commission will conduct and publish qualitative research to identify clauses in enterprise agreements that enhance productivity or innovation. The purpose of the project is to help enterprises to become more productive by informing them about productivity enhancing measures other enterprises have introduced through their enterprise agreements.

Not approved			Application withdrawn			Total finalised*		
2011-12	2012-13	2013-14	2011-12	2012-13	2013-14	2011-12	2012-13	2013-14
79	59	99	264	281	269	7783	6391	5970
3	3	3	27	29	20	695	717	768
1	1	1	3	4	5	48	41	62
83	63	103	294	314	294	8526	7149	6800

TABLE 22

ENTERPRISE AGREEMENTS—TIMELINESS

Type of application	KPI	Median time (days)					
		50% of matters			90% of matters		
		2011-12	2012-13	2013-14	2011-12	2012-13	2013-14
s.185—Single-enterprise—lodgment to finalisation	32 days	17	16	17	53	54	50
s.185—Greenfields—lodgment to finalisation	32 days	21	14	14	58	38	41
s.185—Multi-enterprise—lodgment to finalisation	32 days	35	22	26	91	64	54

TABLE 23

BARGAINING APPLICATIONS—LODGMENTS

Type of application	2011-12	2012-13	2013-14
s.229—Application for a bargaining order	99	78	96
s.236—Application for a majority support determination	62	74	77
s.238—Application for a scope order	30	15	24
s.240—Application to deal with a bargaining dispute	307	231	208
s.242—Application for a low-paid authorisation	1	0	1
s.248—Application for a single interest employer authorisation	31	8	16
Total	503	406	422

CASE STUDY

CATHOLIC EDUCATION VICTORIA

When bargaining for an enterprise agreement stalled, the one thing that both the Catholic Education Commission of Victoria Limited and the Independent Education Union could agree on was that they needed the Fair Work Commission's help to overcome the impasse. The assistance they received from Commissioner Bissett was the key factor in renewing negotiations, which ultimately led to a new enterprise agreement being approved.

After many months of negotiation for a new enterprise agreement for Catholic schools in Victoria, the bargaining process had ground to a halt. Both parties had found themselves in positions that were seemingly closed to negotiation.

"We both came to the conclusion at the same time that going to Fair Work was going to be the way that we were going to best move forward," Denis Matson from the Independent Education Union said.

John Jordan from the Catholic Education Commission of Victoria Limited agreed, saying, "We'd got to a point where neither party was prepared to give much ground and things weren't progressing very well. We had the start of the next school year looming so both parties agreed that we needed someone else to step in and give us a hand so we could get an agreement settled."

Enterprise bargaining stalls

The Catholic education system in Victoria has nearly 24 000 staff and an annual salary bill exceeding \$1.5 billion. But its employees are employed by more than 320 employers and spread across 488 different schools. In many cases, the employer is a parish priest who may have a limited knowledge of the intricacies of the Australian workplace relations system. The Catholic Education Office has responsibility for negotiating the enterprise agreement on behalf of all of those employers.

Salaries for teachers are not a sticking point, as they are matched to teacher salaries in the state education system. But there were other points in this negotiation that had become real obstacles. These included:

- salaries for support staff in schools including office staff, maintenance staff, technical staff, principals and deputy principals, and
- issues such as performance management and conduct, changes to personal leave, breaks and management of hours.

How the Commission helped

The parties worked with Commissioner Bissett to focus on the matters that were preventing an agreement.

"There are 70 clauses and eight appendices and 10 salary schedules so the Commissioner didn't work through every one of those. But she did help us to work through the key issues which then gave us the way forward to us sitting down and resolving all those other matters," Mr Jordan said.

Mr Matson said Commissioner Bissett's knowledge of the industry was an advantage. "She was quite creative and had good suggestions to make us think about how to try to break deadlocks and how to creatively think about our positions and always came back testing us about positions that were entrenched," he said.

"We both came to the conclusion at the same time that going to Fair Work was going to be the way that we were going to best move forward and I have no doubt whatsoever that that'll be an element of bargaining into the future."

Denis Matson, Independent Education Union

SCAN FOR VIDEO



The parties met with Commissioner Bissett on many occasions at the neutral ground of the Commission. The Commissioner helped the parties to identify six key issues to talk about in negotiations.

For each issue the education office and the union would provide their viewpoint and the Commissioner would talk to both parties jointly. Then each party would talk separately with the Commissioner before coming back together to agree on what was common ground and which of the disputed matters could be resolved.

“Because we get a limited time with the Commissioner, it focused us on the key issues that we needed to resolve,” Mr Jordan said. “If it was left to us, we could possibly just keep meeting and meeting and meeting and not making any progress.”

The resolution

Both sides agreed that Commissioner Bissett’s help broke the deadlocks in bargaining and allowed a new enterprise agreement to be struck.

“Without Commissioner Bissett’s assistance—and she was pretty firm with both of us and wouldn’t take much nonsense—we probably wouldn’t have been able to get to an agreement,” Mr Jordan said.

The union’s Denis Matson agreed saying, “I think it’s quite possible we’d still be there. There’s absolutely no chance that we would have got the outcome that we did get without the intervention of the Commission at that time, in that timeframe. We may have eventually got there, although I have to say I even doubt that.”

“We have close to 24 000 employees covered by this agreement and we got a 99 per cent yes vote for our agreement—so I suppose that gives some endorsement that the agreement is a fair agreement and the process was good.”

John Jordan, Catholic Education Office

Another benefit of Commissioner Bissett’s involvement was that it allowed the approval of the final enterprise agreement to be completed within seven days of it being lodged.

Both sides are very happy with the agreement that was reached. Mr Matson described the agreement as a “really good outcome—it was a difficult bargaining environment”. While Mr Jordan said, “We have close to 24 000 employees covered by this agreement and we got a 99 per cent yes vote so I suppose that gives some endorsement that the agreement is a fair agreement and the process was good.”

CASE STUDY

ORORA FIBRE PACKAGING

Collaborative problem solving, supported by the Commission, has helped turn around a business and keep manufacturing and jobs in Australia.

Orora Fibre Packaging supplies a range of corrugated cardboard boxes, packaging and displays to brands across Australia. But it was facing a crisis. The business was facing financial challenges which had the potential to significantly impact its workforce in Australia.

Drastic changes were needed to keep local manufacturing and jobs. But the company and union did not have the relationship or processes in place to constructively discuss options. Their relationship was adversarial and combative, reflecting the many years where neither side had trusted the other. This was evidenced by the number of disputes that had been referred to the Commission.

Today things are very different. There has not been an industrial dispute referred to the Commission in over 18 months. With some timely assistance from the Commission and expert facilitation by a consultant, the company, workforce and their union, the Australian Manufacturing Workers' Union (AMWU), have adopted a new approach based on collaborative problem solving. They found the common ground of wanting to keep manufacturing and jobs in Australia, which helped them develop a relationship based around goodwill.

The Commission's role was informal. There was no ongoing file and no formal matter was ever lodged. Instead, the company was aware of the Commission's New Approaches initiatives promoting cooperative and productive workplaces. They worked with President Ross, Deputy President Booth and Commissioner Roe to support their new relationship.

On a number of occasions Commission Members facilitated a candid dialogue between the union, the company and its consultants where the situation of the business was laid bare. The parties met in joint conferences with the Members, but also used the individual Members as sounding boards during difficult moments. This latter role was particularly useful during the finalisation of an enterprise agreement and during a tricky period when there was the possibility of industrial action over an issue that was external to the company.

Assisted by this informal process a new approach has been developed based on openness, trust and collaboration. It is still a work in progress that depends heavily on the goodwill of the parties. But industrial disputes are now part of the parties' history, while the business has moved onto a more sound financial footing. The business has been turned around and there has been a significant improvement in productive performance.

AMWU Print Division National Secretary Lorraine Cassin agrees with Group General Manager of Orora Fibre Packaging Rick Woods when he describes the change as one of the most rewarding initiatives he has been involved in, calling it a victory for collaboration. They both say that it could not have been achieved without the assistance of the Commission, which they say acted impartially as conscience for both sides.

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. The Registered Organisations Act outlines the standards to be met by registered organisations in relation to rules, financial reporting, elections, the conduct of officers and other matters.

The Commission achieved a number of milestones in our regulation of registered organisations in 2013–14 by:

- meeting the challenge of steep increases in the number of matters lodged with the Regulatory Compliance Branch, including mandatory amendments to organisations' rules to increase governance and financial training requirements by 1 January 2014 as mandated by the *Fair Work (Registered Organisations) Amendment Act 2012* (the RO Amendment Act)
- dramatically increasing clearance rates of financial returns and annual returns lodged with the Commission
- proactively and successfully enforcing lodgment deadlines for financial returns and annual returns
- developing a range of compliance tools, including model financial reports, and
- continuing to address an unprecedented number of inquiries and investigations any of which have the potential to result in Federal Court proceedings.

Amendments to rules

The number of notifications of alterations to rules and requests for advice lodged with the Commission has steadily increased over the past five years. The number increased from 123 lodged in 2009–10 to 366 in 2013–14, representing an increase of 198 per cent. The Commission has been able to respond to the challenge, finalising 366 matters in 2013–14, compared to finalising 130 matters in 2009–10. This represents a 182 per cent increase in the number of notifications of rule alterations and requests for advice finalised over this five-year period.

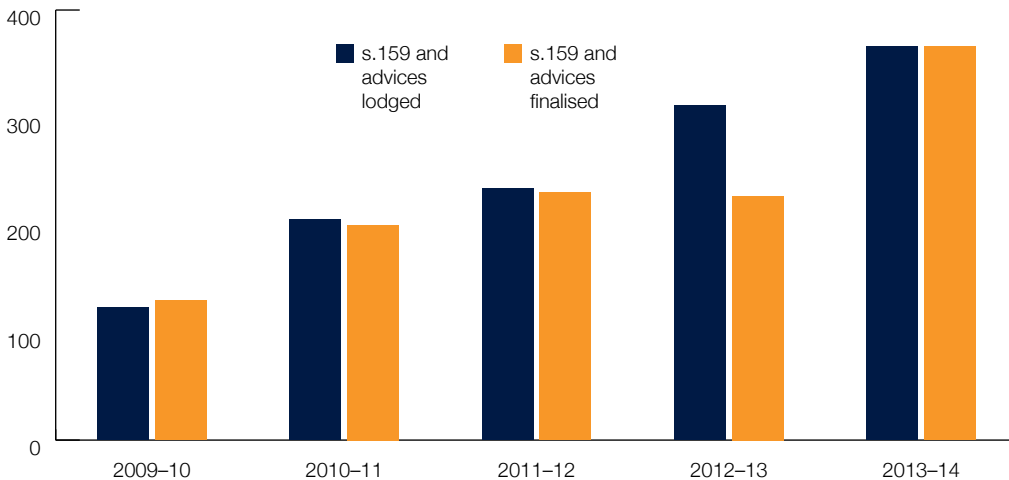
The mandatory amendments to rules were, of themselves, a major commitment with more than 120 organisations requiring advice and guidance. However the workload was compounded as many organisations took the opportunity while reviewing their rules to amend and update obsolete provisions. Some organisations took the opportunity to substantially restructure their rules and sought further advice and guidance from the Commission to achieve this.

Ninety two per cent of registered organisations incorporated the mandatory amendments in their rules. Of these, 85 per cent were certified. The Commission contributed to this high compliance rate by providing up-to-date information on its website, question and answer sessions, a subscription service as well as one-to-one advice and assistance.

These mandatory amendments required considerable resources which had to be redirected from other activities. This was a major contributor to the Commission not meeting the KPI set out in the Portfolio Budget Statements and our internal KPIs. While the residual impact of this unprecedented event is ongoing, response planning will ensure it is more likely that performance targets will be achieved in the 2014–15 year.

CHART 14**CLEARANCE RATE OF RULES AND ADVICES**

For source data see Table K12.

**Clearance rate of financial and annual returns**

The Commission finalised 572 financial returns in 2013-14 which represents a 94 per cent increase compared to the previous financial year. Further, the Commission finalised 261 annual returns in 2013-14 which represented a 25 per cent increase compared to the previous financial year. In the previous financial year, the Commission had adopted a strategy of postponing the assessment of financial and annual returns in order to deal with the RO Amendment Act mandatory rules amendments and other priorities. This resulted in an inevitable reduction in the number of financial returns and annual returns finalised in that period. As Charts 15 and 16 demonstrate, this reduction was reversed during 2013-14.

Proactive enforcement of lodgment deadlines

By proactively enforcing lodgment deadlines for financial returns and annual returns the Commission

has achieved a dramatic improvement in compliance. In 2009-10 only 63 per cent of registered organisations lodged annual reports on time, whereas in 2013-14 that figure rose dramatically to 95 per cent. In 2009-10 only 60 per cent of registered organisations lodged financial returns on time and by 2013-14 that voluntary compliance rate had increased to 89 per cent. Taking into account the Commission's proactive intervention, the lodgment rates in 2013-14 rose to 99 per cent for annual returns and 98 per cent for financial returns.

Development of compliance tools

The Commission has moved to a proactive compliance approach by utilising a range of strategies, including conducting audits across the activities of registered organisations, to confirm compliance with reporting requirements. This proactive approach has required the deployment of additional resources. In addition, the Commission is moving toward a risk-based systemic approach to the analysis of documents lodged with the Commission. For example, the Commission developed primary and advanced checklists for

CHART 15

CLEARANCE RATE OF FINANCIAL RETURNS

For source data see Table K13.

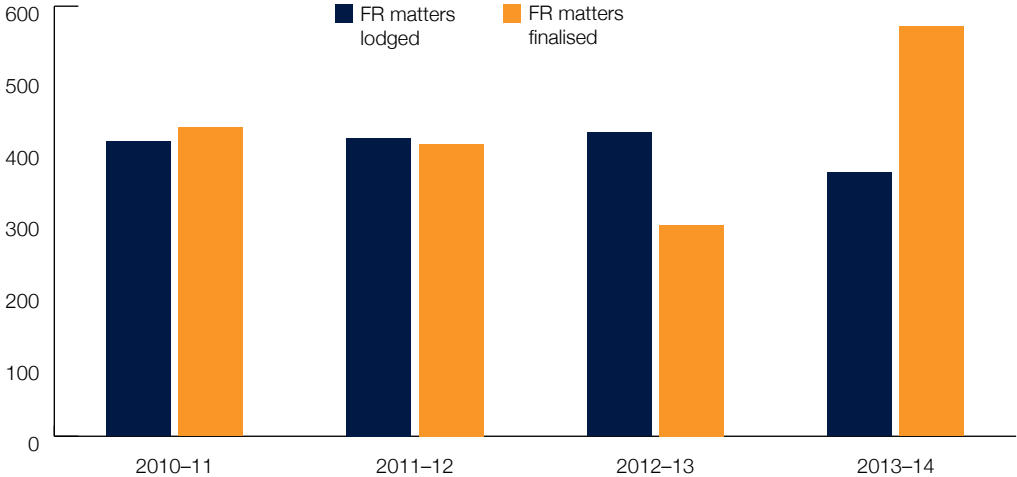


CHART 16

CLEARANCE RATE OF ANNUAL RETURNS

For source data see Table K14.

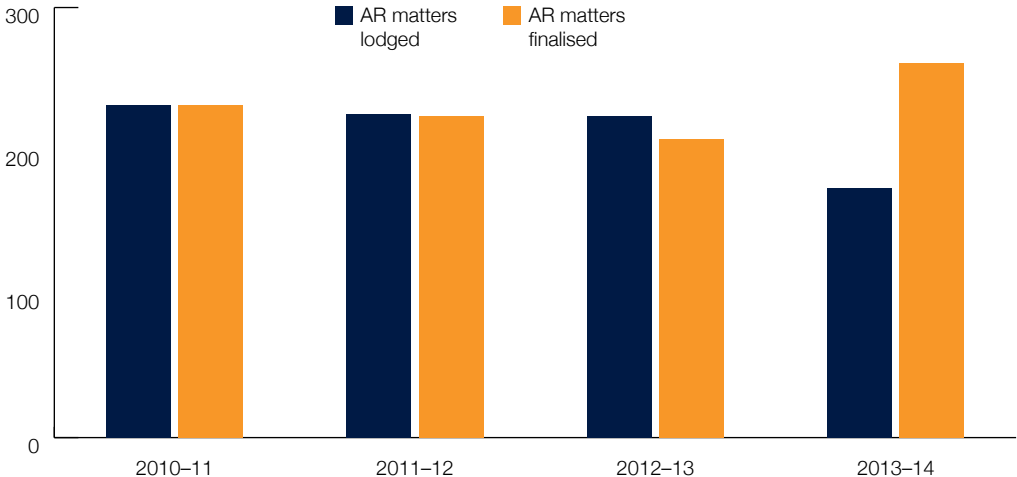


CHART 17

FINANCIAL REPORTING COMPLIANCE

For source data see Table K15.

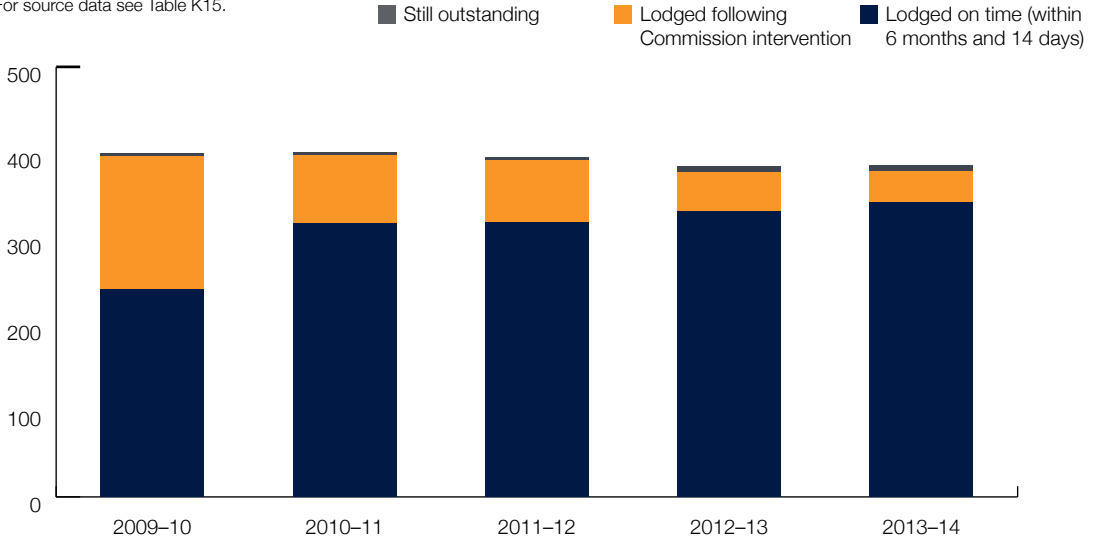
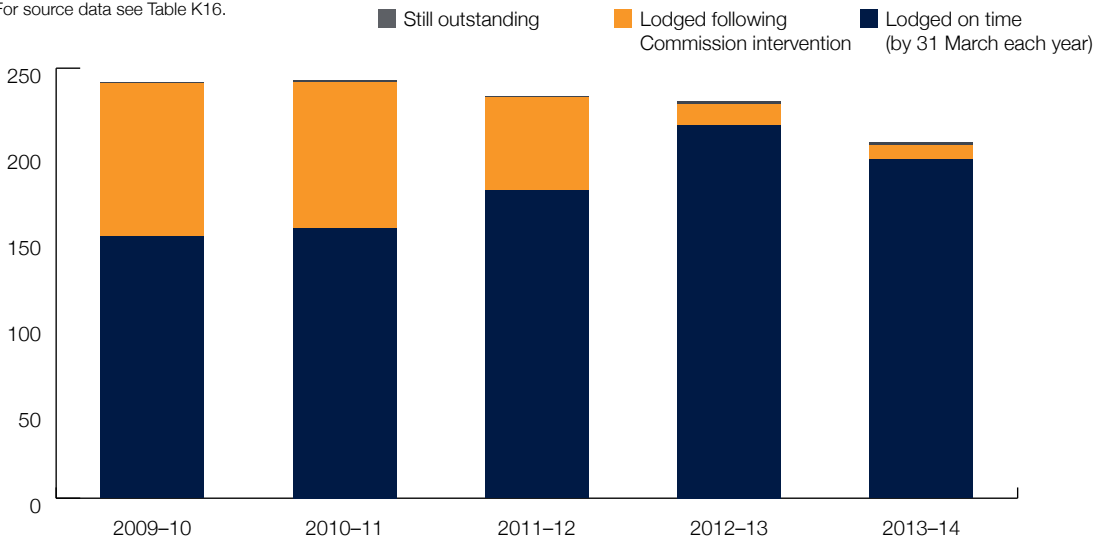


CHART 18

ANNUAL RETURNS COMPLIANCE

For source data see Table K16.



selective assessment of financial reports on the basis of identifiable risk. In order to develop the financial analysis capability of the Commission, all Regulatory Compliance Branch staff undertook in-house financial reporting training.

Compliance was further enhanced by the implementation of financial reporting guidelines and associated model financial statements. The model financial statements are designed to make reporting easier, cheaper and faster for registered organisations. The Commission is also developing a registered organisations Picture of Compliance in Australia (POCA) to identify national trends and patterns across registered organisations’ structures, financial performance and reporting. This information will increase the Commission’s knowledge and understanding of registered organisations and will inform future strategies to maximise voluntary compliance.

Further education tools have been delivered in 2013–14, including presentations and webinars addressing permit applications, reporting guidelines and governance training. Webinars have proved a highly successful communications tool with exceptionally high approval rates in satisfaction surveys.

A primary objective of the Registered Organisations Act is that registered organisations are representative and democratic. To meet this objective, the Commission has developed an election alert system which provides notification in advance of impending elections and allows the Commission to proactively enforce election deadlines to ensure that these are conducted.

As a result of the Commission’s proactive and strategic approach to non-compliance, during the year the Commission cancelled the registration of eight organisations, bringing the total number of cancellations since July 2012 to 11. The majority of these registered organisations were not meeting their obligations under the Registered Organisations Act. Cancellation of registration matters are dealt with by the Commission’s Registered Organisations Panel. For further information on the number and type of applications that were finalised by the Commission’s Organisations Panel this financial year see Table 24.

Also during the year the Commission implemented a significant project to recover a large number of expired entry permits through a proactive audit. The Commission wrote to most unions regarding 334 outstanding permits. Of these, more than 65 per cent of outstanding permits have now been accounted for and further recovery work is ongoing.

TABLE 24

REGISTERED ORGANISATIONS—FINALISATIONS

Application	Section of the Registered Organisations Act	Number finalised 2013–14
Registration of association of employers	s.18(a)	3
Registration of association of employees	s.18(b)	4
Change of name	s.158(1)(a)	5
Changes to eligibility rules	s.158(1)(b)	18
Cancellation of registration	s.30	7
Membership Agreement with State Registered Union	s.151(1)	1
Submission of amalgamation to ballot	s.44(1)	1
Total		39

Action against the Health Services Union (HSU)

In 2012 the Commission commenced proceedings against the National Office of the HSU and against its former National Secretary Mr Craig Thomson. Separate proceedings were also commenced against the HSU and three former officials of the Victoria No.1 Branch.

HSU National Office

On 4 December 2013 the Health Services Union was ordered to pay an agreed penalty of \$22 500 for failing to meet financial reporting obligations under the WR Act. Declarations were also made by Justice Middleton that ‘...registers the Court’s disapproval of the contravening conduct’. This is the first concluded litigation of this nature and the first imposition of civil penalties relating to investigations of the HSU National Office during the period in which Mr Thomson was National Secretary.

Reference: *General Manager of Fair Work Commission v Health Services Union* [2013] FCA 1306.

Mr Craig Thomson

This proceeding substantially reflects findings of the investigation into the HSU that Mr Thomson misused HSU funds during his term as National Secretary. At the end of the reporting period, mediation was continuing.

Reference: *General Manager of the Fair Work Commission v Craig Thomson* [Federal Court] VID 798/2012.

HSU Victoria No.1 Branch

This proceeding arose from an investigation conducted into the HSU Victoria No.1 Branch and three former officials and reflects findings against the HSU for contraventions of financial reporting requirements and against the officials for breaches of their officeholder duties. The respondents did not contest the contraventions alleged against them. On 10 September 2014 a decision was handed down on penalty and the following civil penalties were imposed on each respondent: the HSU—\$38 500; Ms Fegan—\$4505; Mr Jackson—\$18 262.50 and Mr Hudson—\$6720. In addition to the imposition of a civil penalty, Mr Jackson was also ordered to pay compensation to the HSU to the amount of \$16 569.88 plus interest of \$10 229.52.

Reference: *General Manager of Fair Work Australia v Health Services Union* [2014] FCA 970.

Inquiries and investigations

In the previous financial year, the Commission commenced an unprecedented number of formal inquiries and investigations, many of which were necessarily continued in 2013–14 including four investigations into the Musicians’ Union of Australia, which will likely result in Federal Court proceedings being commenced in the coming financial year.

In addition, the Commission concluded three inquiries into registered organisations and commenced one new inquiry and three new investigations into registered organisations during the 2013–14 financial year. As at 30 June 2014 the Commission had six investigations and five inquiries on foot. The Commission had a further investigation into a registered organisation suspended pending the outcome of a cancellation of

TABLE 25

REGULATORY COMPLIANCE BRANCH PERFORMANCE TARGETS FOR 2013–14

Performance targets	Target	Result	Number
95% of financial reports required to be lodged under the Registered Organisations Act are assessed for compliance within 40 working days	95% within 40 working days	37.7%	161
95% of entry permits to be finalised within 40 working days	95% within 40 working days	91.8%	1169
95% of work, health and safety permits to be finalised within 100 working days	95% within 100 working days	67.9%	57
95% of elections to be finalised within 40 working days	95% within 40 working days	94.2%	195
95% of annual returns to be finalised within 80 working days	95% within 80 working days	62.1%	170

registration proceeding under section 30(1)(c) of the Registered Organisations Act. Further, the Commission undertook preliminary examination of six complaints relating to the actions of officers of a number of registered organisations in order to ascertain if the Commission had jurisdiction in relation to the complaints.

Timeliness

The Commission’s timeliness in assessing financial returns and finalising entry permits, work health and safety permits, elections and annual returns are set out in Table 25.

Requirements in the RO Amendment Act created a substantial one-off increase in workload due to:

- each registered organisation being required to amend its rules by 1 January 2014 to include increased governance and financial training requirements
- the Commission seeking to ensure maximum compliance with the RO Amendment Act which required the redirection of resources usually dedicated to assessing financial and annual returns
- resources being redirected toward the development and implementation of new compliance tools, and

- a substantive increase in the resource allocation to inquiries, investigations and Federal Court proceedings.

As these increases were mostly of a one-off nature they are likely to be self-correcting in the subsequent year. However, further measures implemented to mitigate the problem include strategies such as implementing a risk-based approach to the assessment of financial returns.

Future timeliness targets

In future financial years the Commission intends to change the following performance measures in order to be consistent with other measures:

- annual returns performance measure—95 percent to be finalised within 40 working days, and
- notifications of alterations to rules lodged under section 159 of the Registered Organisations Act performance measure—95 per cent to be assessed within 40 working days.

DETERMINING ANTI-BULLYING APPLICATIONS

The anti-bullying jurisdiction, which commenced on 1 January 2014, allows someone who believes they have been bullied at work to apply to the Commission for an order to stop the bullying.

To be eligible the worker must be in a constitutionally-covered business and the actions must meet the definition of bullying in the Fair Work Act, which states a worker is bullied if:

“...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”.

The Commission is empowered to make any order it considers appropriate to prevent a worker being bullied, other than ordering payment of a pecuniary amount.

The first six months

In the first six months of the jurisdiction the Commission:

- received more than 100 000 unique website hits regarding anti-bullying
- dealt with more than 3500 telephone inquiries, and
- processed 343 applications.

The Commission must start dealing with an application within 14 days of lodgment. Matters are considered dealt with when the anti-bullying case management team, acting under delegation from the President, commences making inquiries for the purposes of gathering information for the Panel Head to assess how a matter should be progressed through the

TABLE 26

ANTI-BULLYING MATTERS—TIMELINESS

Time taken to start to deal with matter (days)

Median	1
100th percentile*	7

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

Commission; for example, whether the matter is dealt with by a Commission Member or a staff mediator. This target has been achieved in 100 per cent of matters. See Table 26 for further information on timeliness.

More than 270 anti-bullying conferences and hearings occurred from 1 January to 30 June 2014.

Twenty one anti-bullying matters have been finalised by a decision; of those, 20 were dismissed and one was granted. See Table 28 for a full breakdown of decisions.

The Commission's focus is to resolve the matter and enable normal working relationships to continue. We can only make an order where there is a risk that bullying behaviour could continue.

To date around 60 applications per month have been received. However, trends are still emerging in application lodgments and it is too early in the jurisdiction to accurately predict how it might mature.

Commencing the jurisdiction

Commencing the jurisdiction was challenging for the Commission as it was the first of its kind, with no

comparable jurisdiction in Australia or internationally we could look to for guidance.

It was, therefore, impossible to accurately predict the number of applications that might be received. This required the Commission to put contingencies in place to deal with a potentially fluctuating workload including:

- the flexibility to increase or decrease staffing levels
- flexibility around case management, and
- flexibility in the work required of the Panel Head.

Prior to commencement, the Commission developed and launched a Case Management Model after extensive consultation with stakeholder groups and experts working in the field. This model reflects the unique nature of the anti-bullying jurisdiction including the scope of parties, workplaces and issues to be dealt with.

Members and staff participated in an extensive number of community presentations to assist in developing an understanding of the Commission’s role and powers in relation to anti-bullying. Considerable resources were also made available on the Commission’s website including an eligibility checklist.

The Case Management Model has been successful to date and, while subject to refinement, the processes have not altered significantly since commencement. Forms, information materials and the anti-bullying benchbook have been adjusted to reflect lessons learnt from the initial matters handled by the Commission.

TABLE 27

FINALISATION OF MATTERS

Application withdrawn early in case management process ¹	59
Application withdrawn prior to proceedings ²	34
Application resolved during the course of proceedings ³	63
Application withdrawn after a conference or hearing and before decision	20
Application finalised by decision	21
Total	197

- (1) Applications withdrawn with case management team or with Panel Head prior to substantive proceedings.
- (2) 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; 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.
- (3) 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.

TABLE 28

FINALISATION BY DECISION

Applications dismissed	Number
Jurisdictional objection upheld	3
Bullying not found or no risk of bullying continuing	4
s.587—includes matters not pursued by applicant or not made in accordance with the Act	13
Total applications dismissed	20
Applications granted	
Worker at risk of continued bullying—order issued	1
Worker at risk of continued bullying—order yet to be issued	0
Worker at risk of continued bullying—further decision and order issued	0
Total applications granted	1
Total decisions	21

Anti-bullying process

The Commission deals with anti-bullying applications in quite a different way to other types of applications, recognising the potentially intense emotional and psychological issues that may accompany these matters.

Each application is assessed at an early stage to determine if it falls within the Commission's jurisdiction, the nature of the alleged bullying and how the application should be dealt with. Parties are also contacted to discuss how their matter will proceed—usually within 24 hours of the application being lodged.

When appropriate, matters may be referred to mediation with a qualified staff member. During the year staff conducted 13 mediations, mostly by phone. The great majority of matters have been dealt with directly by Members, by conference or hearing. In most cases an informal conference is conducted by a Member in order to gain an appreciation of the issues, stabilise the relationships and make future arrangements. For more information about the process see *In focus—Setting up the anti-bullying jurisdiction* on page 73.

IN FOCUS

SETTING UP THE ANTI-BULLYING JURISDICTION

SCAN FOR VIDEO



The commencement of the new anti-bullying jurisdiction posed procedural and administrative challenges for the Commission. However, in its first six months the processes established for dealing with anti-bullying matters have been well-received and effective.

The anti-bullying jurisdiction required a new way of thinking for the Commission. Anti-bullying Panel Head Commissioner Hampton said, “We’re applying different concepts here, because this is all about preventive maintenance of employment and personal relationships—it is not about picking up the pieces after the event. So in that context it’s a different skill set.”

The jurisdiction is designed to prevent further bullying at work from occurring. It confers no powers on the Commission to order compensation or declare parties to be guilty. This jurisdiction is in addition to and does not replace other mechanisms that can deal with bullying, such as work health and safety, anti-discrimination or even the general protections or general dispute resolution provisions of the Fair Work Act.

“The statutory purpose of the jurisdiction is to create a way of quickly and directly dealing with bullying behaviour prior to it escalating and leading to consequences for both the individual who’s the subject of it, the organisation where it occurs, and the person who is alleged to have conducted the bullying behaviour,” Commissioner Hampton said.

International research has shown that dealing with bullying at work early and informally produces better outcomes in terms of maintaining constructive and workable ongoing workplace relationships. The Commission’s processes for dealing with anti-bullying matters reflect these priorities and are quite different to how we deal with matters such as unfair dismissals.

“We have an initial conversation with the applicant and then we have that same conversation with the employer. We usually do that on the same day that the application has been lodged so we deal with them very quickly,” Jennifer Anderson, who manages the anti-bullying team and was extensively involved in the consultations with stakeholders on the processes for dealing with these matters, said.

When an application is received the anti-bullying case management team contacts the applicant—usually within 24 hours. Ms Anderson said, “We talk to them about the application that they’ve made and raise any issues of concern if they have indicated that there is some sort of imminent risk at the workplace or if they’ve indicated that they’ve got risks around self-harm or other serious issues.” The anti-bullying case management team deals with the application until it is allocated to a staff mediator or Commission Member.

So far, many matters have resolved without going to formal proceedings. Commissioner Hampton said, “What we often try to do is have them resolved rather than determined because obviously you can do that more quickly and more inclusively and less judgementally, and in the context of an ongoing employment or contractual relationship all of those are positives.”

Commissioner Hampton is content with the first six months operation of the jurisdiction. He said, “We were well prepared for the nature of the parties and the nature of the issues and the challenges that would arise, and we put a lot of time into designing a system and providing resources and training for Members and staff.”

Importantly, many of the applications that fall within the jurisdiction have been resolved in a manner that has dealt with the underlying issues and strengthened the workplace relationships.



CASE STUDY

ANTI-BULLYING

The following anti-bullying matter was dealt with at a conference before a Member of the Commission. Conferences are conducted in private, unless the person responsible for conducting the conference directs that it be conducted in public. Accordingly, parties have been de-identified.

The applicant worked at a business in the hospitality industry for over a year. The applicant alleged that a co-worker was engaging in behaviour characterised by raising her voice and making offensive statements. It wasn't clear from the application whether or not this was the sole incident as the applicant suggested it had occurred over the period of a year.

The applicant applied to the Commission for an order to stop bullying in March 2014. The application did not appear to have any threshold jurisdiction issues and so proceeded through the usual case management process. The case manager spoke with the applicant the day after their application was lodged. The case manager discussed with the applicant what the role of the Commission was in dealing with anti-bullying matters and confirmed that the applicant understood that their employer and the person named in the application would receive a copy of their application. The applicant confirmed that they wished to continue with their application.

That same day, the case manager also contacted the employer of the applicant. The case manager explained the role of the Commission in dealing with anti-bullying matters and asked whether the employer would be able to handle any issues that may arise as a result of the person named receiving the application. The employer confirmed that they knew there were issues between the two individuals and had tried to address them. The employer had concerns about the person named being served but understood that they

were also a party to the application and needed to be involved. The employer was advised that the person named would be contacted the following day so that they had the opportunity to take any action they thought might be necessary to manage the matter.

Both the employer and the person named were given an opportunity to respond. The employer provided a detailed response indicating that they believed the matter to be an isolated incident and set out the steps they had taken to resolve the issue, including interviewing the staff who were involved. The person named also responded to the application, indicating that the behaviour was out of character.

The matter was subject to a conference with a Member of the Commission and the parties were able to resolve the matter. It transpired through the conference that there was a pattern of behaviour that the employer had not initially been aware of that necessitated more intervention. The matter was also the more challenging as they worked in a remote location and were living in the same small community.

The parties agreed that:

- a formal warning would be issued to the person named
- mediation between the co-workers would take place, and
- until that time, the co-workers would not be rostered on together where possible.

KEY PERFORMANCE INDICATORS

TABLE 29

KEY PERFORMANCE INDICATORS

Key performance indicators	Budget target	Actual results				
		2013–14	2010–11	2011–12	2012–13	2013–14
Improve or maintain the time elapsed from lodging applications to finalising conciliations in unfair dismissal applications	Median time of 34 days		28	28	25	46
Improve or maintain time taken to list applications relating to industrial action	Median time of 3 days		3	3	3	2
Improve or maintain the agreement approval time	Median time of 32 days		21	17	16	17
Annual wage review to be completed	By June 2014	3 June 2011	1 June 2012	3 June 2013	4 June 2014	
95% of financial reports required to be lodged under the Registered Organisations Act are assessed for compliance*	95% within 40 working days	-	-	-		37.7%

* This KPI was a new addition to the Portfolio Budget Statements in 2013–14.

This year the Commission met three of the five KPIs relating to the Commission set out in the Portfolio Budget Statements.

Performance and trends

Time elapsed from lodging applications to finalising conciliations in unfair dismissal applications

The Commission has generally met or exceeded our target of improving or maintaining the time elapsed from lodging applications to finalising conciliations in unfair dismissal applications—a median time of 34 days. However, this KPI was not met in the 2013–14 year, where it took a median time of 46 days to finalise conciliations after lodgment.

Between August 2013 and March 2014, five conciliator positions became vacant. This, coupled with monthly peaks in lodgments which did not follow the same

pattern as previous years, created a backlog leading to the failure to meet this KPI.

The quality of service delivery at conciliation was not impacted, evidenced by a high settlement rate of 79 per cent.

Measures taken to correct the problem include rostering leave for conciliators, limiting the purchase of additional leave, restrictions on study leave, increases in conciliator case load and training of Commission staff as relief conciliators. As a result of these measures the KPI is considered achievable in 2014–15.

Further information about the Commission’s performance against this KPI can be found in *Determining unfair dismissal applications* on pages 39–43.

Time taken to list applications relating to industrial action

Performance against this KPI has generally been steady, with a median time of three days taken to list applications relating to industrial action. This year, however, the Commission improved our performance in relation to these matters by one day.

The Commission understands the importance of resolving matters relating to industrial action in a timely manner. In order to ensure this KPI is reached and matters are resolved efficiently, the Commission may list matters outside of normal business hours when all parties are available.

For further information on these matters see *Orders relating to industrial action* on pages 48–50.

Agreement approval time

The Commission has consistently exceeded our KPI in relation to agreement approval—a median time of 32 days. In 2010–11 the median time taken to approve agreements was 21 days. For the last three years it has consistently been around 16–17 days.

A factor which has contributed to the Commission's success in meeting this KPI is the introduction of timeliness benchmarks in relation to all applications to approve agreements received after 1 July 2012.

By mid-2015 the Commission aims to review the process for determining applications for the approval of enterprise agreements to ensure the most timely and efficient resolution of these matters, which may impact positively on the Commission's future performance against this KPI.

For further information in relation to approval of agreements see *Approving agreements* on pages 57–59.

Annual wage review to be completed

The Commission has consistently met our KPI of completing the annual wage review to enable an operative date of 1 July. Over the past four years there has only been three days difference in the date the decision was handed down.

The Commission has implemented a number of measures to ensure this KPI is met, including immediately after the conclusion of an annual wage review, starting the planning process for the next annual wage review and the provision of high quality internal and external research to inform the Expert Panel's work.

For further information see *Setting the minimum wage* on pages 44–45.

Financial reports lodged under the Registered Organisations Act assessed

The KPI to assess 95 per cent of financial reports lodged under the Registered Organisations Act for compliance within 40 working days was a new addition to the Portfolio Budget Statements in 2013–14. Accordingly, trend information cannot be discussed.

In 2013–14 the Commission did not meet this KPI. The performance result in relation to this KPI was a consequence of the unique but very large additional workload arising from the requirement in the RO Amendment Act that each registered organisation amend its rules by 1 January 2014. To maximise compliance by registered organisations with the RO Amendment Act, resources had to be diverted to this work.

A further contributing factor was that the Commission experienced an unprecedented increase in the number of inquiries and investigations commenced following the HSU investigation and subsequent Federal Court proceedings.

As these increases were mostly of a one-off nature they are likely to be self-correcting in the subsequent year. However, further measures have been introduced to mitigate the problem including strategies such as implementing a risk-based approach to the assessment of financial reports.

For further information see *Regulating registered organisations* on pages 63–69.



MANAGEMENT AND ACCOUNTABILITY

CORPORATE GOVERNANCE

In 2013–14, the Commission was able to achieve high standards of accountability and a clearly defined performance management framework through a range of corporate governance strategies. To this end, one of the core objectives for the administrative staff of the Commission in our business plan was to be an effective, high performing, accountable Australian Public Service (APS) agency. These practices were overseen by the Executive with the support of a number of committees.

The Executive

The Executive comprises the most senior managers in the Commission's administration. It is chaired by the General Manager and meets weekly to discuss key planning and operational issues.

The Executive is made up of:

- General Manager—Bernadette O'Neill
- Director, Client Services—Louise Clarke

- Director, Corporate Services—Miranda Pointon
- Director, Regulatory Compliance—Chris Enright, and
- Director, Tribunal Services—Murray Furlong.

Fair Work Commission committees

Procurement Committee

The Procurement Committee is managed by the Manager, Reporting Planning and Legal and includes other senior managers in the organisation. It has a pivotal role in ensuring that procurements made by the Commission are consistent with Commonwealth Government procurement rules and that procurement is actively managed by the Commission. All procurements over \$50 000 are approved by the Procurement Committee.

Audit Committee

The Audit Committee currently consists of two senior managers appointed by the General Manager (a third senior manager withdrew from the committee in May 2014) and is chaired by an external independent committee member. The objective of the Committee is to provide independent assurance and assistance to the General Manager on the Commission's risk control and compliance framework and its external accountability responsibilities. The committee meets at least four times each year.

Staff Consultative Committee

The Commission has a well-established and functioning consultative and communication forum with a charter to consider matters affecting the workplace.

The Staff Consultative Committee was established and is maintained by its inclusion in the Commission's enterprise agreement. The committee includes:

- the General Manager
- management representatives
- employee representatives, and
- a union official.

The committee endeavours to meet at least three times each year.

PLANNING AND DEVELOPMENT

Business planning

The Commission's staff operates under a Business Plan Framework and aims to provide independent, highly regarded, efficient workplace relations services.

The 2013–14 Business Plan sets out four key goals:

- to provide outstanding service delivery and support to Members of the Commission and the RSRT
- to provide outstanding service and assistance to clients of the Commission and the RSRT
- to provide outstanding service delivery and support to the General Manager so that she can perform her functions under the Fair Work and Registered Organisations legislation, and
- to be an effective, high performing and accountable APS agency.

These four goals continue to underpin the activities of the Commission in the performance of our functions.

Performance and Development Framework

The Performance and Development Framework is designed to provide stronger links between individual performance and development and the organisation's goals. 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
- recognise staff contributions beyond their immediate work area
- enable the development of goals common to a group of employees
- ensure that employee behaviour is consistent with the Commission's values

- enable individual performance and development plans to be completed and monitored electronically, and
- apply performance ratings consistently.

The *Fair Work Australia Enterprise Agreement 2011–14* (FWAEA) provided for a review of the Performance and Development Framework by the Commission and employee representatives to be undertaken during the life of the agreement. The findings of the review were reported to the Executive which resulted in minor changes to the framework.

The Commission is committed to developing a high performing workplace. All staff are required to have an individual Performance and Development Plan. At 1 June 2014, 97.1 per cent of staff had an approved plan in place, a significant improvement on 87 per cent at the same time last year. The Commission will continue to focus on this in 2014–15.

Learning and development

The learning and development component of the Performance and Development Framework aims to create a more capable workforce and is supported by a range of initiatives. Highlights of the training and development activities offered in 2013–14 include:

- a national training calendar that provided details of learning activities related to defined critical skills sets (People Management and Leadership, Legislation, Technology and Communication)
- a coaching program for senior staff: five senior staff members participated in the program in 2013–14
- an online induction program
- change leadership training and 360 degree feedback reporting for all of the Senior Executive Service (SES) and Senior Management Group, and

- in-house training to facilitate group learning including:
 - project management
 - a conciliator forum
 - an associate forum
 - personal safety
 - dealing with difficult clients and customers, and
 - a suite of specifically designed training for staff working within the anti-bullying jurisdiction.

Health and safety outcomes

The Commission is committed to maintaining and improving the health and wellbeing of our workforce.

In 2013–14 there were three new compensation claims and 19 accidents/incidents reported by employees. The Commission closely monitors our compensation exposure and internal rehabilitation programs against broader APS considerations of compensation costs, the increasing incidence of longer-term injuries and more problematic claims, including those of a psychological nature. The Commission's forecast workers compensation premium rate has increased from 0.47 per cent in 2013–14 to 0.68 per cent in 2014–15. The forecast premium rate is well below the 2014–15 forecast premiums for all agencies which is 2.12 per cent.

Initiatives

In 2013–14 the Commission continued to promote a proactive approach to work health and safety (WHS). During the year the most significant WHS initiatives were associated with:

- strengthening quarterly reporting by managers through the provision of details of WHS matters raised, implemented and/or resolved

- delivering organisational awareness *Mental Health in the Workplace* presentations in Melbourne, Sydney and Brisbane and made available to other locations via video conferencing facilities
- delivering *Resilience and Mental Health in Customer Relations* workshops to frontline staff
- 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 for all staff
- providing healthy lifestyle initiatives for the workforce, including pilates and yoga, and
- participating in *R U OK?* Day which aims to promote the building of a more connected community and reduce the country's high suicide rate.

Business continuity

Extensive work was undertaken by the Commission in 2013–14 in reviewing and updating our business continuity plan. The primary focus of that work was in the development of information and communication technology (ICT) disaster recovery capabilities. The Commission's ICT operations are centralised in Melbourne. To ensure ongoing availability of systems across the organisation, a mirrored site is close to completion in the Commission's Sydney premises. This will ensure that systems continue to be available Australia-wide in the event of a system failure in either Sydney or Melbourne.

ETHICAL STANDARDS

The Commission's ethical standards are governed by a legislative framework common to most Commonwealth Government agencies and includes the:

- *Public Service Act 1999*
- *Public Service Regulations 1999*
- *Public Service Amendment Act 2013*
- *Australian Public Service Commissioner's Directions 2013*, and
- *Financial Management and Accountability Act 1997*.

From 1 July 2014 the *Public Governance, Performance and Accountability Act 2013* came into effect.

Information on ecologically sustainable development and environmental performance can be found at Appendix N. Information on freedom of information and the Information Publication Scheme can also be found at Appendix N.

Fair Work Commission Values

The Fair Work Commission Values guide the activities of staff and were designed to operate alongside the APS Values.

The Commission's values are:

- commitment to service
- integrity
- independence
- leadership, and
- respect.

These values are intended to guide staff in their daily work and in their interactions with colleagues and the community. They are embedded in the recruitment processes, the reward and recognition program, and the performance management process followed by the Commission.

ACCOUNTABILITY

A range of audit activities are undertaken by internal and external auditors to provide assurance to the General Manager, the Audit Committee and managers within the Commission about risk-related activities.

External scrutiny

The Auditor-General issued an unqualified independent audit report on the Commission's 2013–14 financial statements. There were no other reports issued by the Auditor-General relating to the Commission in 2013–14.

There were no reports on the operation of the Commission by a Parliamentary Committee or the Commonwealth Ombudsman, and there were no agency capability reviews.

The President, General Manager and the Executive attended Senate Estimates hearings on 21 November 2013, 27 February 2014 and 2 June 2014.

Internal audit arrangements

BDO Australia Ltd was contracted to undertake an annual program of independent internal audits. The following internal audits were considered by the Audit Committee and finalised in 2013–14:

- *2012–13 Certificate of Compliance review*
- Fair Work Commission's *Corporate Credit Card report*
- *Review of CMS Financial Transactions*
- *Risk Management Plan*
- *Review of Financial Controls—Payroll*, and
- *2013–14 Certificate of Compliance review*.

2012–13 Certificate of Compliance Audit

The status of corporate credit cards, usage and credit limits was reviewed. A number of issues regarding corporate credit card usage had been highlighted in BDO's 2012–13 report. In response the Commission limited and significantly reduced the number of cards issued.

Audit of the Commission's Case Management System (CMS) Financial Transactions

The findings of BDO's *Review of CMS Financial Transactions*, which reviewed the way in which the Commission deals with matters requiring handling of fees from applicants, identified low level risks that were actively managed by the Commission.

Audit of Financial Controls—Payroll

The BDO *Review of Financial Controls—Payroll* identified a number of risks, including in terms of formal segregation of duties and continuity of function in a very small team environment. The Committee discussed progress on actioning the Commission's management response to the audit's recommendations to mitigate the risks through the extension of externally provided payroll services.

2013–14 Certificate of Compliance Audit

The findings of the BDO *2013–14 Certificate of Compliance review* identified four issues, two where the Commission was partially compliant (Corporate Card Register and documentation to support Corporate Card purchases) and two where the Commission was compliant with opportunities for improvement (regularity of review and completeness of procedures). These issues have been responded to by the Commission to the satisfaction of the Audit Committee and the Executive.

Judicial decisions and administrative review

There were no judicial decisions, decisions of administrative tribunals or decisions by the Australian Information Commissioner that have had or may have a significant impact on the Commission's operations during 2013–14.

Corporate reporting

In 2013–14, the Commission undertook corporate reporting through:

- the prescribed annual report and State of the Service reporting requirements
- other external reports such as the Portfolio Budget Statements and central agency surveys, and
- responses to parliamentary questions.

See Appendix N for corrections to the *Fair Work Commission Annual Report 2012–13*.

Fraud control

In accordance with guideline 5.7 of the *Commonwealth Fraud Control Guidelines 2011*, the Commission:

- has prepared fraud risk assessments and has in place a fraud control plan which was updated during 2012–13
- has appropriate fraud prevention, detection and investigation, and reporting procedures and processes in place, and
- has collected annual fraud data and reported that these comply with the guidelines.

The Fraud Control Guidelines are issued by the Minister for Justice and Customs pursuant to Regulation 19 of the *Financial Management and Accountability Regulations 1997*.

In accordance with guideline 5.8 of the *Commonwealth Fraud Control Guidelines 2011* the General Manager's certification in respect of fraud control is at Appendix O.

OUR WORKFORCE

Following on from a significant restructure during 2012–13, the 2013–14 year was in many ways a year of consolidation.

Two new functions of pay equity and anti-bullying were introduced and all 25 *Future Directions* initiatives that were launched in October 2012 were successfully delivered by December 2013. In May 2014 we announced our intention to implement a further 30 initiatives over a two year period as a second stage of the *Future Directions* change program, with existing staff within the Commission being utilised to support these initiatives.

The announcement in October 2013 in relation to *Interim Arrangements for recruitment in the APS* has required a more strategic and considered approach to managing staff. While minimal negative impacts were experienced during the course of the year, there is the potential for skill gaps and a lack of agility in the overall workforce to develop in time. Implementation of a workforce planning process, including more work on the identification of existing and required skill sets has been delayed and is a priority for the 2014–15 year.

Commission staffing

As at 30 June 2014 the Fair Work Commission employed a total of 306 staff (ongoing and non-ongoing), an increase of six staff from 2012–13.

TABLE 30

GEOGRAPHIC DEPLOYMENT OF STAFF

Location	30 June 2013	30 June 2014
Victoria	204	208
New South Wales	51	55
Queensland	17	16
Western Australia	9	11
South Australia	8	8
Tasmania	4	3
Australian Capital Territory	4	3
Northern Territory	3	2
Total	300¹	306²

(1) Includes the General Manager (a statutory appointment under the Fair Work Act), 11 employees on long-term leave with or without pay.

(2) Includes the General Manager (a statutory appointment under the Fair Work Act), 14 employees on long-term leave with or without pay and one employee on a temporary movement to another APS agency.

Staff recruitment and turnover

Forty five new employees (ongoing or non-ongoing) commenced employment and 39 employees (ongoing or non-ongoing) departed the Commission during 2013–14.

Of the new employees, five were ongoing engagements, two were ongoing movements from other APS agencies, three were temporary movements of ongoing employees from other APS agencies and 35 were non-ongoing engagements.

Recruitment activity during 2013–14 was in the locations set out in Table 31.

Additionally, there were a number of extensions of non-ongoing engagements consistent with the provisions of the *Public Service Act 1999* (Public Service Act), *Public Service Regulations 1999* and *Interim Arrangements for recruitment in the APS*.

Separations

During 2013–14 a total of 39 employees left the Fair Work Commission—24 ongoing employees and 15 non-ongoing employees. The reasons for separation are set out in Table 32.

TABLE 31

RECRUITMENT ACTIVITY BY TYPE OF EMPLOYMENT AND LOCATION

Type	Number	State	Number
Ongoing (including ongoing movements from other APS agencies)	7	VIC	5
		NSW	1
		WA	1
Temporary moves from other APS agencies	3	VIC	1
		QLD	1
		SA	1
Non-ongoing	35	VIC	19
		NSW	10
		QLD	4
		WA	1
		SA	1
Total	45		45

TABLE 32

REASONS FOR SEPARATION

Reason for separation	Ongoing	Non-ongoing	Total	%
Resignation	16	5	21	53.9
Move to an ongoing position at another APS agency	3	-	3	7.7
Return to other APS agency after completion of a temporary move	5	-	5	12.8
Cessation of non-ongoing engagement	N/A	10	10	25.6
Total	24	15	39	100

TABLE 33

EMPLOYMENT STATUS AND GENDER BY APS LEVEL

Classification	Salary range (as applicable from FWAEA) \$	Ongoing full-time		Ongoing part-time		Non-ongoing ¹		Total ²
		Male	Female	Male	Female	Male	Female	
SES Band 1	Individual	2	2	0	0	0	0	4
Executive Level 2	116 094–135 869	17	13	2	7	2	1	42
Executive Level 1	100 688–108 694	2	9	0	3	2	1	17
APS Level 6	79 094–90 983	34	63	2	8	3	0	110
APS Level 5	73 029–77 397	14	19	0	5	7	11	56
APS Level 4	65 508–71 089	19	26	1	5	2	9	62
APS Level 3	58 836–63 446	1	7	0	0	0	2	10
APS Level 2	52 284–57 259	2	2	0	0	0	0	4
Total		90	141	5	28	16	24	305

(1) Two non-ongoing employees work part-time.

(2) Does not include General Manager (a statutory appointment under the Fair Work Act).

Flexible working arrangements

The Commission provides flexible working arrangements to help employees balance work and other responsibilities including part-time work and home-based work.

Part-time work

As at 30 June, 33 ongoing employees and two non-ongoing (11.4 per cent) were part-time. This was an increase from 7.3 per cent the previous year.

Home-based work

During 2013–14, six employees had home-based work agreements to combine ongoing work commitments with parental responsibilities or personal circumstances.

Staff demographics

Tables 33, 34 and 35 outline employee status and gender by classification, and employee location and gender by classification.

TABLE 34

SENIOR EXECUTIVE AND EXECUTIVE LEVEL EMPLOYEES BY CLASSIFICATION AND GENDER

Classification	Female	Male	Total
EL 1	13	4	17
EL 2	21	21	42
SES Band 1	2	2	4
Total	36	27	63

TABLE 35

LOCATION AND GENDER BY CLASSIFICATION

		VIC	NSW	QLD	WA	SA	TAS	ACT	NT	Total ¹
SES Band 1	Female	2	0	0	0	0	0	0	0	2
	Male	2	0	0	0	0	0	0	0	2
Executive Level 2	Female	12	5	1	1	1	1	0	0	21
	Male	13	5	1	1	1	0	0	0	21
Executive Level 1	Female	11	0	2	0	0	0	0	0	13
	Male	2	2	0	0	0	0	0	0	4
APS Level 6	Female	48	11	5	2	1	1	2	1	71
	Male	33	5	0	0	1	0	0	0	39
APS Level 5	Female	19	9	3	3	1	0	0	0	35
	Male	13	7	0	1	0	0	0	0	21
APS Level 4	Female	32	3	1	1	1	1	0	1	40
	Male	15	5	1	0	1	0	0	0	22
APS Level 3	Female	2	2	1	2	1	0	1	0	9
	Male	0	0	1	0	0	0	0	0	1
APS Level 2	Female	1	1	0	0	0	0	0	0	2
	Male	2	0	0	0	0	0	0	0	2
Total	Female	127	31	13	9	5	3	3	2	193
	Male	80	24	3	2	3	0	0	0	112
Total		207	55	16	11	8	3	3	2	305

(1) Does not include General Manager (a statutory appointment under the Fair Work Act).

EMPLOYEE PAY AND ENTITLEMENTS

Collective and individual agreements

All non-SES employees are covered by the FWAEA.

Each SES employee is covered by an individual Public Service Act section 24(1) determination.

Fair Work Australia Enterprise Agreement 2011–14

The FWAEA passed its nominal expiry date of 30 June 2014. The Minister Assisting the Prime Minister for the Public Service, Senator the Hon. Eric Abetz, announced new workplace bargaining arrangements for the Commonwealth public sector in March 2014. The bargaining policy applies to the Commission's negotiations in this round of bargaining. The Commission will comply in negotiating its new enterprise agreement.

Senior Executive Service remuneration

The Commission has four SES employees. Conditions related to the employment of the SES employees, including remuneration, are contained in individual determinations made under section 24(1) of the Public Service Act. These determinations are comprehensive documents covering each employee's terms and conditions.

Non-salary benefits

Non-salary benefits are available to employees through the FWAEA, individual arrangements and other initiatives and include:

- time off in lieu of overtime
- 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, and
- healthy lifestyle initiatives—such as subsidised fitness classes.

Performance pay

An employee's paypoint progression through the broadbanded classification arrangements is contingent upon satisfactory performance through a performance assessment process against an agreed individual performance and development plan.

SERVICE CHARTER, COMPLAINTS AND CODE OF CONDUCT

The Commission's Service Charter provides details of the nature and level of services our clients can expect from administrative staff. It provides information on how to make a complaint or to provide feedback. The Commission seeks to investigate and respond to complaints about staff of the Commission within 20 working days. The full Service Charter can be found at Appendix P.

The Member Code of Conduct sets out how complaints against Members are dealt with by the President.

Complaints

During 2013–14 the Commission received 104 written complaints. This is one less than the previous year, where 105 written complaints were received.

The majority of complaints received about administrative staff related to unfair dismissal conciliations. However, in proportion to the number of conciliations conducted each year the number of related complaints is quite low, with 20 complaints from 10 972 conciliations conducted, which represents a rate of 0.18 per cent.

There was an increase in the number of complaints received in relation to the Commission's processes. This is attributed to changes associated with our new website, changes to the way the Commission published decisions and requests for information in decisions to be suppressed. Information about how to make complaints was also refreshed during 2013–14.

Written complaints were responded to and finalised in an average of eight working days in the 2013–14 period. This is below the Commission's target timeframe of 20 working days.

TABLE 36

BREAKDOWN OF COMPLAINTS

Subject	2012–13	2013–14
Member conduct	10	8
Unfair dismissal conciliation ¹	25	20
Outcome of a matter ²	9	12
Timeliness	9	2
Administration	15	13
Pay and entitlements ³	7	1
Complaint relating to modern award or enterprise agreement ⁴	1	4
Adjournment request refusal	6	3
Process ⁵	7	24
Other ⁶	16	17
Total	105	104

- (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 cannot usually be dealt with through the complaints process and usually require a formal appeal of the decision to be lodged.
- (3) Complaints received by the Commission that are directed to the Fair Work Ombudsman for pay and entitlements are not counted.
- (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 a general 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 the new Find Commission decisions and orders web page and the updated website.

FINANCIAL MANAGEMENT

The Commission is a prescribed agency under the *Financial Management and Accountability Act 1997*. The Commission's audited financial statements for 2013–14 are at Appendix Q.

The Commission's appropriated funding at the beginning of the 2013–14 financial year was \$79.996 million. Government decisions to delay the implementation of the anti-bullying jurisdiction until 1 January 2014 and other targeted savings reduced the Commission's available operating funding by \$2.613 million during the 2013–14 financial year. The Commission reduced its operating budget in line with these reductions to funding, and as a result had a revised operating budget of \$77.383 million.

While the Commission's available funding was reduced and quarantined, no formal reduction of 2013–14 appropriation was made. As a result the audited financial statements for the 2013–14 financial year at Appendix Q reflect the original funding of \$79.996 million as appropriated, rather than the available funding of \$77.383 million. The \$2.613 million reduction is expected to be formally reduced in July 2016.

Using the adjusted funding which takes into account the delay in the anti-bullying jurisdiction to 1 January 2014, the Commission recorded a funded surplus excluding depreciation and amortisation of \$167 000. This compares to a funded surplus in 2012–13 of \$1.198 million.

Per the financial statements on a comprehensive basis, which reflect the unadjusted funding, the Commission recorded a funded surplus of \$2.780 million compared to a \$1.198 million surplus in 2012–13. Including depreciation and amortisation the Commission recorded a surplus of \$170 000 compared to a deficit of \$907 000 in 2012–13.

Operating expenses increased in 2013–14 to \$80.8 million (compared with \$79.407 million in 2012–13). The major expenses in 2013–14 were \$50.8 million in respect of employee expenses, \$27.3 million relating to supplier payments, and \$2.6 million in asset depreciation, amortisation and related expenses.

The Commission has undertaken a number of initiatives to improve the efficiency of the organisation, and reduce our cost base. Revenue increased during the 2013–14 financial year due to the introduction of the anti-bullying legislation and pay equity research function. 2013–14 was also the first full year of an increase in the Member profile, with the appointments of two Vice Presidents in March of 2013. The Commission is proactively developing contingencies and reviewing operations through a budget working group to ensure the Commission is able to meet its operating budgets into the future.

An agency resource statement table providing information about funding sources drawn upon by the agency is at Appendix R.

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 Appendix S.

Information on advertising, market research, legal services expenditure and grant programs can be found at Appendix N.

Assets

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

Major accommodation projects

During the 2013–14 financial year the Commission completed its national refurbishment projects and consolidation of tenancies in Melbourne.

The Sydney tenancy is one of the Commission's major tenancies accommodating in excess of 35 per cent of the Commission's Members. This tenancy had not seen a major refurbishment since 1987, and the refurbishment of the leasehold allowed for a significant reduction in floor space, a more efficient working environment, and an amenities upgrade suiting the operations of a modern tribunal.

Per the 2013–14 Budget, the Commission saw the establishment of two new functions; under Part 6–4B—Workers Bullied at Work and establishment of the Pay Equity Unit under the Child Care Workforce—Early years quality fund. To accommodate expected additional staff, by completing refurbishments to our existing 11 Exhibition Street tenancy in Melbourne, the Commission was able to substantially increase its capacity further enabling the Commission to relinquish the 1 Collins Street, Melbourne tenancy at 31 December 2013.

Purchasing

The Commission's purchasing policies are outlined in the Chief Executive's Instructions, resource management policies and the Procurement and Contract Management Practical Guide, which reflect the principles of the *Commonwealth Procurement Rules*.

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

- value for money
- efficiency and effectiveness
- contestability and competitive neutrality
- accountability and transparent reporting, and
- ethics.

All open approaches are advertised on both the Commission website and the AusTender website (www.tenders.gov.au).

Outcomes of all major procurements are referred to the Procurement Committee for approval. Details are recorded in the Financial Management Information System and the Contracts Register. All purchases with a value of \$10 000 or more are reported in the Commonwealth Gazette Publishing System. Information about the Procurement Committee can be found on page 77.

Procurement plan

The Commission published an annual procurement plan outlining expected procurement activities during 2013–14. The plan is available on the AusTender website.

Contracts

List of contracts

The Commission website lists all contracts valued at \$100 000 and over that have not been fully performed or which have been entered into during the previous 12 months. Information on expenditure on contracts and consultancies is also available on the AusTender website.

Significant contracts approved by the Procurement Committee during 2013–14 included:

- procurement of multi-function devices, and
- ESX host server.

Consultants

The services of consultants are engaged 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 policy on the selection and engagement of consultants is in accordance with the *Financial Management and Accountability Act 1997* and related regulations including the *Commonwealth Procurement Rules*. The methods of selection used for consultancies are open tender, select tender, direct sourcing and panel arrangements (initially selected through either an open tender or select tender process).

During 2013–14, three new consultancy contracts were entered into involving actual expenditure of \$65 267 (GST inclusive). In addition, one ongoing consultancy contract was active during 2013–14, involving total actual expenditure of \$56 522 (GST inclusive). The total expenditure on consultancies was \$121 790 (GST inclusive).

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 www.tenders.gov.au.

Competitive tendering and contracting

At 30 June 2013 there were no active contracts relating to the outsourcing of government activities under the Commonwealth's competitive tendering and contracting policy.

Australian National Audit Office clauses

The Commission had no contracts let during the year that did not provide for the Auditor-General to have access to the contractor's premises.

Exempt contracts

The Commission had no contracts valued in excess of \$10 000 that were exempt from reporting on AusTender.

APPENDICES

A | MEMBER ACTIVITIES

External appointments and positions held by Members

Justice Ross was the Chair of the Council of Australasian Tribunals (COAT) from June 2010 to April 2014. Justice Ross is also 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 member of the Law Admissions Consultative Committee, a General Editor of *Workplace Law—Fair Work* and a member of the Editorial Board, LexisNexis, *Employment Law Bulletin*. Vice President Catanzariti is an Adjunct Associate Professor of Work and Organisational studies in the Business School of the University of Sydney.

Vice President Watson is a consultant to Thomson Reuters regarding the publication of the *Industrial Reports*, which contain Commission decisions.

Justice Boulton is a member of the Advisory Board of the Centre for Employment and Labour Relations Law at the University of Melbourne. Justice Boulton

is a Senior Fellow of the Faculty of Law at Monash University and has been teaching a course on International Labour Law.

Senior Deputy President Watson is the Chair of the Pharmaceutical Benefits Remuneration Tribunal.

Senior Deputy President Harrison is the President of the Defence Force Remuneration Tribunal.

Senior Deputy President Acton is President of the Road Safety Remuneration Tribunal, 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 Drake is the Chairperson of the Conduct and Judiciary Panels of the South Sydney Junior Rugby League Club, and the Grievance Officer for the New South Wales Surf Lifesaving Association.



Deputy President Hamilton is a member of the CCH Australia Honorary Editorial Board for Industrial Relations.

Deputy President Booth is the Chair of the Advisory Board for the Work and Organisational Studies Discipline within the Business School at the University of Sydney.

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 Kovacic was Chair of the Department of Education, Employment and Workplace Relations Audit Committee from 12 August 2013 until 2 October 2013.

Commissioner Lewin is an Adjunct Professor, School of Management and Marketing, Faculty of Business and Law at Deakin University, Chairman of the Deakin University Human Resources Management Advisory Board and Chairman of the Royal Melbourne Institute of Technology (RMIT) University School of Management Advisory Committee. Commissioner Lewin sits on the RMIT Advisory Committee for the RMIT Indigenous Specialisation.

Commissioner Cribb is Chair of the Mediator Standards Board, a Vice President of the Industrial Relations Society of Victoria (IRSV), a member of the National Mediation Committee and a member of the CPD/EPD Committee of the Victorian Chapter of the Institute of Arbitrators and Mediators.

Commissioner Cargill is co-convenor of the 'Advocacy in the Tribunals' course run by the Workplace Research Centre at the University of Sydney.

Commissioner Spencer is the Chairperson of the Northern Territory Prison Officers Arbitral Tribunal and Deputy Chairperson of the Northern Territory Police Arbitral Tribunal.

Commissioner Hampton is a committee member of the Australian Labour and Employment Relations Association Inc and the Industrial Relations Society of South Australia Inc (IRSSA). Commissioner Hampton is also a member of the Australian Labour Law Association and the Council of Australian Tribunals (SA Branch) and an accredited member of the Australian Institute of Arbitrators and Mediators.

Commissioner Bissett is a member of the Advisory Board for the Australian Centre for Research in Employment and Work at Monash University.

Commissioner Johns is the Chairman of the Australian Ballet School and member of the Deakin University School of Law Academic Advisory Board.

Commissioner Stanton is a member of the Industrial Relations Society of New South Wales, Newcastle Branch.

Presentations and speeches

Justice Ross gave a talk to the Swinburne University Chancellor's Lecture on 25 September 2013. Justice Ross gave a speech at the Industrial Relations Society of Western Australia–State Conference on 22 November 2013. Justice Ross gave a presentation to Lander & Rogers in Melbourne on 13 November 2013. Justice Ross addressed the IRIQ in Brisbane on 11 December 2013. Justice Ross gave a speech at the IRSNSW Annual Convention 2014 on 24 May 2014.

Vice President Catanzariti gave a speech on diversity at the LexisNexis ALPMA National Summit on 19 October 2013. Vice President Catanzariti gave a number of speeches and presentations regarding anti-bullying, including Anti-Bullying and Consent Arbitration at the Telesis Employment Law 2014 event on 17 February 2014 and at Leading Age Services Australia NSW-ACT on 19 February 2014. Vice President Catanzariti also presented 'Workplace Bullying: New Developments' at the Law Society Northern Territory on 26 March 2014, and on bullying at Sydney University on 17 March 2014.

Vice President Watson gave a speech at the launch of AustLII's publication of Coal Industry Tribunal Decisions, CFMEU, Sydney, in September 2013. Vice President Watson gave a presentation at the Fair Work Commission/Australian Human Rights Commission workshop in August 2013. He also gave a presentation at the Law Institute of Victoria Seminar on general protections provisions of the Fair Work Act in Melbourne in July 2013 and gave a presentation at the Anti-Bullying Laws Seminar at Herbert Smith Freehills in November 2013.

Senior Deputy President Hamberger gave presentations to TressCox Lawyers, Maddocks

Lawyers, Legalwise seminars, the New South Wales Industrial Relations Society, staff from the Commonwealth Bank of Australia and Networks NSW.

Deputy President Hamilton gave a lecture to Monash University law students on 29 July 2013 on Australian awards and gave a presentation on the Commission's unfair dismissal jurisdiction at a Legalwise seminar for lawyers in Melbourne on 5 September 2013. Deputy President Hamilton also provided a historical overview of Waltzing Matilda and the Sunshine Harvester Factory to the Ministry of Manpower Singapore delegation on 26 August 2013, and answered questions on Australian appeal laws. On 19 September 2013, Deputy President Hamilton made a presentation to the Australian National University on the study of law at university and career paths for graduates, and on 6 February 2014 he made a presentation to academics attending the AIRAANZ conference on Waltzing Matilda and the Sunshine Harvester Factory and current issues. On 18 February 2014 Deputy President Hamilton gave a presentation on the anti-bullying jurisdiction and other amendments at an Employment Law 2014 seminar. Deputy President Hamilton also made a presentation to students from Charles Sturt University on 22 May 2014.

Deputy President Sams gave presentations on 'Unfair Dismissals—Do's and Don'ts' at the Australian Hotels Association Conference in August 2013 and at a Legalwise seminar on 5 September 2013. He also gave a presentation on the 'New Anti-Bullying Jurisdiction' at HWL Ebsworth in February 2014. Deputy President Sams gave a speech on 'Tips for Advocates' to the Sydney Law School Masters Programme in May 2014.

Deputy President Kovacic gave three presentations on the topic of 'The New Anti-bullying Jurisdiction' at the Law Institute of Victoria Legal Symposium 2014 and at Legal Wise Seminars in March 2014 and at the second Annual Workplace Bullying Conference in May 2014.

Deputy President Wells gave a number of presentations/briefings regarding the new anti-bullying jurisdiction that commenced on 1 January 2014 to directors of WorkSafe Tasmania, various union

groups and the Safety Institute of Australia, Tasmanian chapters.

Commissioner Lewin gave a Monash University lecture to Masters students of Employment Relations on Enterprise Bargaining Under the Fair Work Act 2009, a Deakin University presentation to MBA alumni on Enterprise Bargaining under the Fair Work Act 2009, a Thomsons Lawyers presentation to partners, associates and clients on the anti-bullying jurisdiction of the Fair Work Commission, a Victorian Transport Association presentation to member firms on the anti-bullying jurisdiction of the Fair Work Commission and a Deakin University presentation to MBA alumni on the anti-bullying jurisdiction of the Fair Work Commission.

Commissioner Spencer facilitated the Industrial Relations Society of Queensland Moot and the Queensland Hotels Association Moot in August 2013. Commissioner Spencer made a number of speeches and presentations including to the Chamber of Commerce and Industry Queensland in February 2014, as part of the New IR Laws for HR Managers Conference in March 2014, Wesfarmers in April 2014, and the National Retail Association in June 2014.

Commissioner Hampton gave a number of presentations/briefings regarding the new anti-bullying jurisdiction that commenced on 1 January 2014 to various law firms, employer and union groups, universities, industrial relations societies and government agencies.

Commissioner Simpson gave a presentation at a seminar in Brisbane on 13 May 2014 at the invitation of Cooper Grace Ward Lawyers on the subjects of anti-bullying, general protections and unfair dismissal provisions of the Fair Work Act. He also gave a presentation at a conference on 26 May 2013 on the Sunshine Coast for members of the Queensland Hotels Association on the subject of the anti-bullying laws. Commissioner Simpson gave a presentation at the request of the CEPU electrical division on 17 June 2014 to representatives of the CEPU on appearing in matters before the Commission.

Commissioner Bull gave a presentation to the Industrial Relations Society of New South Wales in October 2013 regarding 'Employee Conduct Involving Social Media—Challenges for Tribunals and Practitioners.'

Commissioner Johns had speaking engagements at the HR Network Forum in Morwell on 30 September 2013 and Victorian TAFE Association on 5 February 2014. Commissioner Johns also attended the Ashurst Social Media Round Table on 24 March 2014 in Sydney and 26 March 2014 in Melbourne, and the Government Lawyers Conference on 2 April 2014.

Commissioner Johns also presented at a number of other events on the new anti-bullying jurisdiction and other issues concerning workplace bullying, including at Baker and McKenzie on 29 October 2013 in Melbourne and 18 November 2013 in Sydney; Herbert Smith Freehills on 15 November 2013; Leading Age Services Australia on 2 December 2013; AiGroup on 5 December 2013; TWU on 21 March 2014; Corrs Chambers Westgarth on 25 March 2014 in Melbourne and 10 June 2014 in Brisbane; and the University of Melbourne on 23 June 2014.

Commissioner Stanton addressed a University of Newcastle Faculty of Law Forum concerning the role of a Commission Member on June 2014.

Attendance and participation in international events and programs

Vice President Hatcher attended and participated in the Confederation of Swedish Enterprise on 6 August 2013, regarding the Australian economy, business and labour market functions.

Vice President Watson gave two half-day presentations to the International Labour Organisation course on Effective Labour Dispute Prevention and Resolution Systems in Turin, Italy in September 2013. He also gave a presentation on the general protections laws in Australia to the 21st annual meeting of European Labour Court Judges in Vienna, Austria in September 2013.

On 1 July 2013, Deputy President Hamilton gave a presentation on Australian enterprise agreements to a delegation from Botswana.

Commissioner Hampton attended and presented a paper on behalf of the Commission at the 9th International Conference on Workplace Bullying and Harassment, Milan Italy in June 2014.

On behalf of the International Labour Organisation (ILO) Commissioner Roe provided training to the members of the Employment Tribunal and separate training for Registry staff in the Maldives over 12 days in March 2014. Commissioner Roe also prepared a report for the ILO, the Employment Tribunal and the Government of the Maldives on options to improve the functioning of the Employment Tribunal including access for those in the atolls outside of the capital.

Attendance and participation in events in Australia

Vice President Hatcher presented at the NSW Law Society's event concerning the Commission's unfair dismissal benchbook on 30 October 2013. Vice President Hatcher also attended and participated in a number of events concerning the anti-bullying jurisdiction, including the Newcastle Industrial Relations Society Annual Conference on 25 October 2013; Unions NSW on 31 October and 16 December 2013; the Informa Workplace Bullying Conference on 11 December 2013; and the Workplace Health Promotion Network hosted by Ernst and Young on 14 February 2014.

Vice President Catanzariti attended and participated in the United Voice Delegate Conference in the Northern Territory regarding the anti-bullying jurisdiction and recent developments on 28 March 2014.

Deputy President Sams participated in moots for the Advocacy in the Tribunals course run by the Workplace Research Centre at the University of Sydney in 2013. He also attended the Clubs NSW mock arbitration in March 2014. Deputy President Sams also attended the New South Wales Industrial Relations Society Annual Conference in May 2014.

Commissioner Lewin attended the Australian Senior Human Resources Roundtable – RMIT, report by the Secretary of the ICFTU. Commissioner Lewin also attended the Isaac Memorial Symposium on Enterprise Bargaining at Melbourne University.

Commissioner Hampton attended as a speaker at the Western Australian Industrial Relations Society annual conference, the Chamber of Commerce and Industry of Western Australia annual conference, and the Australian Industry Group PIR Group Conference. He also chaired a session for the South Australian Law Society Legal Forum on the topic of 'Workplace Bullying Legislation (Fair Work Act)'. Commissioner Hampton attended and participated in a number of other events concerning the new anti-bullying jurisdiction and other issues concerning workplace bullying, including at a Norton Rose Fulbright Boardroom briefing in September 2013, at Melbourne University and at a South Australia Industrial Relations Society twilight session in October 2013, at an Equal Opportunity Commission staff meeting, a Minter Ellison Lawyers twilight seminar and at a Western Australian Industrial Relations Society Conference in November 2013, at a Finlaysons lawyers breakfast seminar, at the University of South Australia to industrial relations students, and at a Kelly and Co Lawyers client briefing evening session in December 2013.

In 2014 Commissioner Hampton attended and participated in a number of events concerning the anti-bullying jurisdiction, including the South Australian Law Society Legal Forum, Leading Age Services Australia (Adelaide) in February 2014, an Employment and Safety Briefing to clients at Thomson Lawyers, the Industrial Relations Conference at the Chamber of Commerce and Industry of Western Australia and the Queensland Industrial Relations Society twilight seminar in March 2014, and at the South Australian Industrial Relations Society afternoon seminar in April 2014. Commissioner Hampton also attended the Australian Industry Group Canberra National PIR Group Conference in May 2014.

Commissioner Johns attended the Australasian Institute of Judicial Administration 'Assisting Unrepresented Litigants Conference' in April 2014.

B | LIST OF MEMBERS

List of Members as at 30 June 2014

PRESIDENT

Justice IJK Ross AO (M)

VICE PRESIDENTS

Vice President A Hatcher (S)

Vice President J Catanzariti (S)

DEPUTY PRESIDENTS

Vice President MJ Lawler (S)

Deputy President RS Hamilton (M)

Vice President GR Watson (M)

Deputy President BP McCarthy (P)

Justice AJ Boulton AO, Senior Deputy President (S)

Deputy President PJ Sams AM (S)

Senior Deputy President IR Watson (M)

Deputy President GR Smith AM (M)

Senior Deputy President AM Harrison (S)

Deputy President A Booth (S)

Senior Deputy President JM Acton (M)

Deputy President IC Asbury (B)

Senior Deputy President LEC Drake (S)

Deputy President A Gooley (M)

Senior Deputy President MG O'Callaghan (A)

Deputy President JP Lawrence (S)

Senior Deputy President JM Hamberger (S)

Deputy President VP Gostencnik (M)

Senior Deputy President PJ Richards (B)

Deputy President J Kovacic (M)

COMMISSIONERS

Commissioner JCW Lewin (M)

Commissioner PJ Hampton (A)

Commissioner WD Blair (M)

Commissioner J Roe (M)

Commissioner AL Cribb (M)

Commissioner MP Bissett (M)

Commissioner HM Cargill (S)

Commissioner CF Simpson (B)

Commissioner B Deegan (C)

Commissioner T Lee (M)

Commissioner PJ Spencer (B)

Commissioner S Booth (B)

Commissioner MG Roberts (S)

Commissioner B Riordan (S)

Commissioner BD Williams (P)

Commissioner G Bull (S)

Commissioner DS McKenna (S)

Commissioner D Gregory (M)

Commissioner IW Cambridge (S)

Commissioner LAH Johns (M)

Commissioner DJ Cloghan (P)

Commission NP Wilson (M)

Commissioner JF Ryan (M)

ADDITIONAL MEMBERS

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 TJ Abey (H)	President, TIC
Justice JP McCusker (A)	Deputy President, SAIRC
Deputy President NM Wells (H)	Deputy President, TIC
Commissioner D Steel (A)	Commissioner, SAIRC
Commissioner JD Stanton (N)	Commissioner, IRCNSW
Commissioner P McMahon (A)	Commissioner, SAIRC
Mr A Cole	Expert Panel Member
Mr T Harcourt	Expert Panel Member
Professor S Richardson	Expert Panel Member
Mr A Apted	Expert Panel Member
Mr S Gibbs	Expert Panel Member

Based in: (A) Adelaide, (B) Brisbane, (C) Canberra, (H) Hobart, (M) Melbourne, (N) Newcastle, (P) Perth, (S) Sydney.

Additional appointments: (IRCNSW) Industrial Relations Commission of New South Wales; (QIRC) Queensland Industrial Relations Commission; (SAIRC) South Australian Industrial Relations Commission; (TIC) Tasmanian Industrial Commission.

C | PANEL ASSIGNMENTS

List of panel heads and assignments current at 30 June 2014.

PRESIDENT

JUSTICE ROSS

The President was responsible for allocating all panel assignments during the reporting period.

MAJOR RESOURCES/INFRASTRUCTURE PROJECTS PANEL

JUSTICE BOULTON

Panel Members

Watson SDP
Harrison SDP
O'Callaghan SDP
Richards SDP
McCarthy DP
Sams DP
Gooley DP
Deegan C
Spencer C
Williams C
Cloghan C
Hampton C
Roe C
Bissett C
Simpson C

Industries

This panel works on engagement between the Commission and the industrial parties involved in major projects.



Panel heads from left: Justice Ross, Justice Boulton and Vice President Catanzariti

GOVERNMENT SERVICES PANEL

VICE PRESIDENT CATANZARITI

Panel Members

Lawler VP
Smith DP
Deegan C
Williams C*
McKenna C
Bissett C
Booth C
Wilson C
Steel C

Industries

Cemetery operations
Children's services
Christmas Island
Cocos (Keeling) Islands
Commonwealth employment
Corrections and detentions
Educational services
Federal police operations
Fire fighting services
Indigenous organisations and services
Local government administration
Northern Territory
State and Territory government administration
Water, sewerage and drainage services

* Indicates the Member is on more than one industry panel.



Panel heads from left: Vice President Watson, Senior Deputy President Watson, Senior Deputy President Harrison, Senior Deputy President Acton, Deputy President Gooley and Commissioner Hampton

MEDIA, PORTS, OIL AND GAS PANEL

VICE PRESIDENT WATSON

Members	Industries
Hamilton DP	Aged care
Booth DP	Airline operations
Cribb C	Airport operations
Cambridge C	Ambulance and patient transport
Cloghan C*	Amusement, events and recreation
Hampton C*	Broadcasting and recorded entertainment
Simpson C	Coal export terminals
Johns C	Diving services
	Dredging
	Grain handling
	Graphic arts
	Health and welfare services
	Journalism
	Live performance
	Mannequins and modelling
	Maritime
	Oil and gas
	Port authorities
	Publishing
	Racing
	Social, community, home care and disability services
	Sporting organisations
	Stevedoring
	Technical services
	Telecommunications services

MANUFACTURING AND BUILDING PANEL

SENIOR DEPUTY PRESIDENT WATSON

Members	Industries
Drake SDP	Asphalt industry
O’Callaghan SDP	Building, metal and civil construction
Richards SDP	Cement and concrete products
McCarthy DP	Clothing
Gooley DP	Electrical contracting
Lawrence DP	Food, beverages and tobacco manufacturing
Gostencnik DP	Manufacturing and associated industries
Kovacic DP	Pet food manufacturing
Blair C	Pharmaceutical industry
Ryan C	Plumbing industry
Riordan C*	Poultry processing
	Rubber, plastic and cable making industry
	Scientific services
	Seafood processing
	Textile industry
	Timber and paper products industry
	Vehicle industry

* Indicates the Member is on more than one industry panel.

MINING, AGRICULTURE AND ELECTRIC POWER PANEL

SENIOR DEPUTY PRESIDENT HARRISON

Members	Industries
Hamberger SDP	Agricultural
Asbury DP	Aluminium
Bartel DP	Animal care and veterinary services
Lewin C	Aquaculture
Williams C*	Coal
	Electrical power
	Meat
	Mining
	Quarrying
	Salt
	Sugar
	Uranium mining (including construction)
	Wine
	Wool storage, sampling and testing

TRANSPORT, LOGISTICS AND SERVICES PANEL

SENIOR DEPUTY PRESIDENT ACTON

Members	Industries
Sams DP	Banking, finance and insurance
Cargill C	Building services
Spencer C	Business equipment
Roberts C	Cleaning services
Williams C*	Clerical
Cloghan C*	Commercial sales
Hampton C*	Contract call centre
Roe C	Dry cleaning and laundry services
Lee C	Fast food
Riordan C*	Funeral directing
Bull C	Gardening services
Gregory C	Hair and beauty
	Hospitality
	Licensed and registered clubs
	Marine tourism and charter vessels
	Market and business consultancy services
	Miscellaneous
	Nursery
	Passenger vehicle transport (non rail)
	Pharmacy operations
	Postal services
	Rail industry
	Real estate
	Restaurants
	Retail
	Road transport
	Security services
	Storage services
	Tasmania
	Tourism
	Waste management

* Indicates the Member is on more than one industry panel.

TERMINATION OF EMPLOYMENT PANEL

DEPUTY PRESIDENT GOOLEY

Most Members of the Commission deal with termination of employment applications under arrangements administered by the head of the Termination of Employment Panel, Deputy President Gooley. Deputy President Gooley is supported by a panel deputy, Commissioner Wilson.

ANTI-BULLYING PANEL

COMMISSIONER HAMPTON

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. The panel head is Commissioner Hampton.

ORGANISATIONS PANEL

VICE PRESIDENT WATSON

This panel has responsibility for matters relating to registered organisations. The panel head is Vice President Watson. The other Members of the panel are:

Panel Members

Hatcher VP
Hamberger SDP
Richards SDP
Lawrence DP

EXPERT PANEL FOR ANNUAL WAGE REVIEWS

JUSTICE ROSS

The Fair Work Act provides for an annual wage review conducted by an Expert Panel for annual wage reviews. The panel head is Justice Ross. The other panel Members are:

Panel Members

Watson SDP
Spencer C
Hampton C
Professor Richardson
Mr Cole
Mr Harcourt

EXPERT PANEL FOR ASSESSING DEFAULT SUPERANNUATION FUNDS

The Fair Work Act provides for an Expert Panel for assessing default superannuation funds.

Panel Members

Acton SDP
Drake SDP
Bull C
Johns C
Mr Apted
Mr Harcourt

The above panel was the last valid panel appointed as at 17 April 2014. Any changes to the panel after this date were declared invalid due to a Federal Court decision.

D | METHODOLOGY FOR CHART 2— MATTERS DEALT WITH BY THE COMMISSION AND ITS PREDECESSORS 1998–99 TO 2013–14

This note provides a brief summary of the methods used to produce the analysis of the nature of applications to the Commission between 1998–99 and 2013–14 (Chart 2).

The analysis is based on time-series data. Time-series data is a collection of observations for the same entity (in this case, the national workplace relations tribunal) for multiple time periods. Time-series data can provide information on historical trends and be used to predict future values of variables.

The main data source used for this preliminary analysis is data from the Commission's annual reports. From 1998–99 to 2010–11 the annual reports summarised the work of the Commission in a table entitled 'Historical table of case load categories'. A similar table was produced for the 2011–12 annual report entitled 'Fair Work Australia cases'. The most comparable data in the 2012–13 annual report is provided at Table H3, entitled 'Cases by Matter Type', and at Table K3 for the 2013–14 Annual Report.

Problems can arise in time-series analysis when it is difficult to achieve time series consistency. One situation where this may occur is when there is a change in data availability or gaps in data. This is an important consideration in the analysis of matters before the Commission. The annual reports contain different classifications of matter types and different levels of aggregation due to:

- changes in the reporting practices and format of the Commission's annual reports, and
- changes to the national workplace relations legislation, which result in new case categories.

For this reason, the analysis undertaken is with the intention of showing general trends over time only. Caution should be exercised in relying on the estimates provided of 'individual' and 'collective' matters due to the stated matters above concerning the differences

in underlying data captured from the Commission's annual reports over time.

It is important to recognise that the individual/collective classification is not based on categories defined in the Fair Work Act or the WR Act. The classification of particular types of matters as 'collective' or 'individual' is based on an objective assessment by the Commission's staff. The analysis is based on available data and does not capture the full workload of the Commission. Matters were included in the analysis based on whether a clear link could be established between a particular matter type and the exercise of collective (or association) rights or the exercise of individual (employee) rights.

The methodology for calculating the total number of agreements for Chart 2 has changed to take account of the Commission's changed reporting of a broader range of enterprise agreement applications other than applications for approval of enterprise agreements under section 185 of the Act. Agreements data for this chart have therefore been recalculated for the years between 2011–12 and 2013–14 using data from Table H4: Nature of proceedings (Appendix H). This has not led to a noticeable change in the trends presented in Chart 6 of the *Annual Report 2012–13*.

Further information on the history of changes in the methodology for Chart 2 is presented in Appendix O of the *Annual Report 2012–13*.

Table D1 provides an overview of the case load categories included in the analysis of the Commission's work between 2007–2008 and 2013–14.

Technical points to note in relation to this table are:

- the case load category Appeals (or, Full Bench matters including Appeals) is divided into Unfair Dismissal Appeals (individual) and Other Appeals (collective)

TABLE D1

MATTERS INCLUDED IN THE TOTAL CASE LOAD CATEGORIES

Individual matters		Collective matters	
Matter type	Section of the Fair Work Act (or other legislation)	Matter type	Section of the Fair Work Act (or other legislation)
Unfair dismissal appeals	FW Act, s.604	Full Bench matters and Appeals ^a	FW Act, s.604 and WR Act s.120
Applications to terminate individual agreement-based transitional instruments	Transitional Act, Sched 3 Item 17, Sched 3 Item 18, and Sched 3 Item 19.	Notification under dispute settling procedure of pre-reform certified agreement	WR Act s.170LW
Other contraventions applications to deal with dispute	FW Act, s.372	Applications to deal with a dispute ^b	FW Act, s.240, s.505 and s.739
Termination of employment	FW Act, s.394 and s.643	Award variation	FW Act s.157, s.158 and s.160
Referral of AWAs to Commission	WR Act, s.170VPF	Agreements ^c	FW Act, s.185, s.210, ss.217–217A and ss.222–225
General protections disputes notification	FW Act, s.365 and s.773	Suspension or termination of industrial action	FW Act, Div 6.
		Protected action ballot order	FW Act s.437 applications, s.447 applications to vary, and s.448 to revoke
		Orders relating to industrial action ^d	WR Act, s.496
		Good faith bargaining order	FW Act, s.229

(a) Excludes unfair dismissal or termination of employment. (b) From 2009–10, excl s.372 general protections notifications. (c) From 2009–10, excl applications to terminate individual agreement-based transitional instruments. (d) Only under WR Act.

Source:

2013–14 data taken from *Fair Work Commission Annual Report 2013–14*, Table K3 and Table K4. For unfair dismissal appeals, see Table 17, p. 43, 2012–13 data taken from *Fair Work Commission Annual Report 2012–13*, Table H3 and Table H4. For unfair dismissal appeals, see Table 22, p. 41. 2011–12 data taken from *Fair Work Australia Annual Report 2011–12*, Table 3, p.10 and Table H4, pp. 86–89. For unfair dismissal appeals, see Table 22, p. 29. 2010–11 data taken from *Fair Work Australia Annual Report 2010–11*, Table 2, p. 10 and Table G5, pp. 80–83. For unfair dismissal appeals, see Table 8, p. 14.

2009–10 data taken from *Fair Work Australia Annual Report 2009–10*, Table 2, p. 10, and Table H5, pp. 73–77. For unfair dismissal appeals, see Table 9, p. 15. 2008–09 data taken from *AIRC Annual Report 2008–09*, Table 1, p. 7. For unfair dismissal appeals, see Table 6, p. 12. *2007–08 data taken from *AIRC Annual Report 2008–09*, Table 1, p. 7. This is due to amended Full Bench case load analysis. For unfair dismissal appeals, see Table 7, p.1.

- the case load category Dispute notifications is divided into General protections notifications under the Fair Work Act section 365 and section 773 (individual) and Other dispute notifications (collective)
 - the case load category Agreements is divided into Applications to terminate Individual agreement-based transitional instruments (individual) and Other Agreements matters (collective), and
 - a number of matter types have not been included in the analysis, including matters pursuant to the Registered Organisations Act.
- Understanding these underlying assumptions, and how they relate to the estimates of ‘collective’ and ‘individual’ matters, should be part of assessing the dynamics of workplace relations at the national level.

E | PROMOTING FAIRNESS AND IMPROVING ACCESS

Future Directions is a change program launched by the Commission to improve the performance and quality of the services it provides. It delivers initiatives under four key themes, including promoting fairness and improving access.

Phase one—completed

Fair Hearings Practice Note

The Fair Hearings Practice Note sets out the obligations of Members, parties and their representatives in relation to the provision of a fair hearing. It gives those appearing before the Commission an understanding of, and some certainty around, how their matter will proceed. The Practice Note was published on the Commission's website on 23 July 2013:

- www.fwc.gov.au/at-the-commission/how-the-commission-works/fair-hearings

Unfair dismissal information for self-represented parties

Information was made available in a variety of forms such as booklets and multi-media, including improved information guides about unfair dismissal and an eligibility checklist. During the reporting period a series of videos have also been developed about the process for unfair dismissal matters as part of the virtual tour project.

Virtual tour of the Commission

The virtual tour explains the practicalities of accessing the Commission's offices and details the processes and procedures followed in unfair dismissal proceedings. It is a significant resource for self-represented parties and first-time users.

General protections information to assist self-represented parties

Improved information materials have been developed to assist self-represented parties (both applicants and employers) in general protections matters, an area of law that is often found to be complicated.

Unfair dismissal benchbook

The unfair dismissal benchbook was published on 3 July 2013. The benchbook contains plain English summaries of the key principles of unfair dismissal case law and how these have been applied in Commission decisions. Since publication it has been updated to include any legislative amendments. It can be accessed on the Commission's website:

- benchbooks.fwc.gov.au/unfair

Other benchbooks

Benchbooks were developed for both general protections and the new anti-bullying jurisdiction and were made available on the Commission's website for public consultation. After extensive feedback the benchbooks were published in their final form on 3 January and 6 January 2014 respectively. These benchbooks are updated to include any legislative amendments and new relevant decisions, and will assist the high number of self-represented parties in these types of applications. They can be accessed on the Commission's website:

- benchbooks.fwc.gov.au/generalProtections
- benchbooks.fwc.gov.au/anti-bullying

Review of application forms

The Commission has completed a review of its application forms to improve accessibility and reduce the number of forms. Twenty six forms were revised and a new format developed. Further forms are being considered as a part of the next phase of *Future Directions*.

General protections pilot program

In conjunction with the Employment Law Centre of Western Australia, the Commission ran a pilot program for the provision of independent legal advice to self-represented parties which continued until 30 June 2013. Following the pilot program the RMIT Centre for Innovative Justice conducted an assessment of the first 10 months of its operation, in particular examining participants' responses to the pilot and the impact the pilot program had on their applications. The report was published in July 2013. The Commission is considering these recommendations with a view to establishing an ongoing program to assist self-represented applicants.

Pro bono service

In December 2013 the Commission concluded a pilot program based in Melbourne which assisted self-represented parties in unfair dismissal jurisdiction proceedings by providing access to free legal assistance. A review of the program was conducted by the RMIT Centre for Innovative Justice. Following the review, some changes were made to the process to ensure the service continued to meet the Commission's aim of providing fairness and access to justice. The review also recommended that the program should be implemented on an ongoing basis. Accordingly, a new program was launched as part of the second phase of *Future Directions*. The Commission now has a pro bono lawyer program to support parties in unfair dismissal matters in both Melbourne and Sydney.

Website upgrade

The Commission's website has been completely redesigned and upgraded, with the aim to make it easier for users to select the sections relevant to them and to search for the specific information they require. Further work is being undertaken to support this aim.

Phase two—commenced

Development of further benchbooks and making them available online

Following on from the creation of the unfair dismissal, anti-bullying and general protections benchbooks delivered as part of the first phase of *Future Directions*, a further benchbook will be developed about agreement making.

Access to audio files of Commission hearings

By the end of 2015 the Commission aims to provide access to audio files of most hearings from the Commission's website. This will provide greater accessibility to parties and the public while also ensuring appropriate security is in place for sensitive matters.

Broadening the scope of the current pro bono lawyer program

Following the success of last year's pilot program, planning commenced in the first half of 2014 to recommence the service as a permanent initiative in Melbourne. The pro bono service provides unrepresented parties with free legal assistance in unfair dismissal jurisdictional hearings before the Commission in Melbourne. The recommendations from the RMIT report of the pilot scheme were used as a basis for changing this service to better meet the needs of the parties. The service recommenced on 1 July 2014. A pro bono lawyer program is also running in Sydney.

Pilot information kiosk in Sydney

By the end of 2014 we aim to pilot an information kiosk in the Sydney Registry in order to assess how it is used by clients attending at the Registry and whether it should be rolled out to other offices. An information kiosk will enable applicants to complete and lodge forms electronically and access information about both the Commission and other relevant agencies.

Produce virtual tours covering general protections and anti-bullying

In the first phase of *Future Directions*, the Commission prepared a set of videos which were intended for first-time unrepresented users of the Commission, largely focused on location assistance, jurisdictional objections and unfair dismissal. The second phase will focus on providing information to enhance unrepresented parties' knowledge and ability to utilise the Commission in the areas of general protections, anti-bullying and agreement making.

Processes for Commission staff to identify issues where self-represented applicants may wish to seek legal advice

By the end of 2014 the Commission aims to introduce a system where upon lodgment staff assess applications and identify particular issues which may require the applicant to seek legal advice prior to the matter progressing to a Commission Member, for instance, unfair dismissal matters that have been made outside of the legislative timeframe. This will enable clients an opportunity to address obvious problems with applications early in the process.

Review and update all forms

The forms review project will continue the work delivered as part of the first phase of *Future Directions* to simplify access to the Commission by improving accessibility and readability of forms, particularly for self-represented parties, and increasing the level of guidance we currently provide on how to make and respond to applications. The project will also deliver a simplified fee waiver form to reduce the administrative burden on applicants experiencing financial hardship.

Improve access to information and advice

During 2014 and 2015 we will improve access to, and presentation of, information and advice through:

- continued improvement of the materials provided on our website
- enhancing the Commission website's capacity to search and collate content of collective agreements, and
- conducting education webinars that enable clients to obtain detailed, targeted information.

Examine effective use of technology

During 2014 and 2015 the Commission will examine how we can more effectively use technology, including live streaming of significant matters and improved access from remote areas.

F | EFFICIENCY AND INNOVATION

Future Directions is a change program launched by the Commission to improve the performance and quality of the services it provides. It delivers initiatives under four key themes, including efficiency and innovation.

Phase one—completed

Timeliness benchmarks for reserved decisions

The Commission continues to strive towards meeting its timeliness benchmarks for reserved decisions, including:

- 90 per cent of all reserved decisions are to be delivered within eight weeks, and
- 100 per cent of all reserved decisions are to be delivered within 12 weeks.

Timeliness benchmarks for finalising applications to approve agreements

The Commission aims to meet its timeliness benchmarks for the approval of enterprise agreements, including:

- 50 per cent of all applications to be finalised within three weeks
- 90 per cent of all applications to be finalised within eight weeks, and
- 100 per cent of all applications to be finalised within 12 weeks.

Online applications

During the reporting period the Commission developed a tool to enable all applications to be made online, via the Commission's website. This has resulted in greater convenience for applicants.

Daily hearings lists for smartphones and tablets

The Commission developed a searchable hearings list application which was suitable for all smart phones and tablets, and users to view and search hearing lists up to seven days in advance of a hearing. The technology used has been incorporated in the Commission's new website, which is device responsive.

SMS alerts for hearings and conferences

The Commission completed a trial of sending SMS alerts to participants in unfair dismissal conciliations in order to determine whether they increase the attendance rate of parties involved in the proceedings. Due to the success of the trial, further uses of SMS alerts has been included as an initiative in the second phase of *Future Directions*.

Matter allocation trial

The Commission piloted the regional allocation of some types of applications to improve service delivery.

Upgrade of video conferencing facilities

Video conferencing systems have been upgraded in all Commission offices, improving the quality and frequency with which these resources can be used.

Appeals Practice Note

In May 2013 the Commission introduced an Appeals Practice Note which incorporates standard directions for appeals, promoting a consistent approach to appeal proceedings.

Phase two—commenced

First paperless annual wage review

In 2014 we will begin preparation for conducting the Commission's first paperless annual wage review in 2015.

WiFi access

All visitors to Commission premises now have WiFi access, including in hearing rooms. Accessing information via WiFi reduces the need to bring printed material into Commission offices and enables on the spot research as required. The Commission is working to develop information materials to assist the general public in relation to WiFi use.

SMS alerts

Following the successful pilot program for unfair dismissal conciliation conferences, in 2014 and 2015 the Commission will explore further uses of SMS alerts for Commission matters.

Efficiency

The Commission will examine ways in which Commission staff can work more efficiently, such as introducing a facility enabling lodgment of multiple related applications as a single bulk lodgment and by examining the cost-effectiveness of 'smart forms' for our most popular forms.

Electronic case management system

In 2014 and 2015 the Commission will improve its electronic case management system which will significantly reduce costs for parties and for the Commission, assist in improving processing times and enhance access to information.

Review processes for approval of enterprise agreements

The Commission is reviewing the processes for determining applications for the approval of enterprise agreements to ensure the most timely and efficient resolution of these matters.

G | INCREASING ACCOUNTABILITY

Future Directions is a change program launched by the Commission to improve the performance and quality of the services it provides. It delivers initiatives under four key themes, including increasing accountability.

Phase one—completed

Member Code of Conduct

The Commission introduced a Member Conduct Guide and made it publicly available on its website in July 2012. An updated Member Code of Conduct was released on 1 March 2013.

Unfair dismissal outcomes

Statistical information on unfair dismissal outcomes at conciliation and arbitration is now published on the Commission's website.

Future Directions updates

The Commission published regular updates detailing the progress made in implementing the initiatives set out in *Future Directions*. A final progress report in relation to the successful implementation of all 25 *Future Directions* initiatives was released on 6 December 2013.

User groups

The Commission established user groups to facilitate an exchange of views. The groups have provided valuable feedback on a number of the Commission's initiatives.

Phase two—commenced

The Commission's performance against the International Framework for Tribunal Excellence

During the next two years the Commission will evaluate our performance against the International Framework

for Tribunal Excellence to identify further measures to improve our performance against this Framework.

'Day in the life' of the Commission

The Commission will capture a snapshot of a 'day in the life' of the Commission. This will involve conducting a survey of all clients who have contact with the Commission during a particular period. This will enable the Commission to gain a better understanding of how clients use information and services available and whether we are providing services that meet their needs. This feedback may be used to better tailor information and service provision to suit the needs of clients and to improve client satisfaction.

Application benchmark information

In mid-2015 the Commission will run a pilot program to provide clients with selected application benchmark information as a guide to how long their application may take to be dealt with through to finalisation. Clients will benefit by being better informed of how long an average matter takes to be dealt with.

Performance indicator framework

The Commission will develop a performance indicator framework to provide greater reporting across a broader range of matters.

Research

We will take steps to enhance transparency and accountability through investigating options for research to improve our public value and facilitating an external review of our performance indicator framework.

Additional timeliness benchmarks

By late 2014 the Commission will develop additional timeliness benchmarks for unfair dismissal matters.

H | PRODUCTIVITY AND ENGAGING WITH INDUSTRY

Future Directions is a change program launched by the Commission to improve the performance and quality of the services it provides. It delivers initiatives under four key themes, including productivity and engaging with industry.

Phase one—completed

Searching enterprise agreements

The Commission launched a search tool in December 2012 to enable clients to search the content of collective agreements approved by the Tribunal through the our website.

Working cooperatively with other organisations

The Commission worked cooperatively with other organisations to minimise the potential for duplication of effort in implementing the Commission's engagement strategy.

Engagement strategy

The Commission developed a broad engagement strategy, in consultation with the major peak employer and union bodies. The Commission's engagement strategy comprises a number of elements, including:

- Invited Paper Series
- Australian Workplace Relations Study
- Workplace Relations Lecture Series, and
- Fair Work Commission Public Value research.

Invited Paper Series

Invited papers are written by external workplace relations academics, researchers and practitioners and cover a range of relevant workplace relations issues.

Australian Workplace Relations Study

Part of the Commission's engagement strategy includes the Australian Workplace Relations Study (AWRS). It has been included as an initiative as part of phase two of *Future Directions*.

Workplace Relations Lecture Series

In 2013 the Fair Work Commission co-sponsored with the University of Melbourne a series of lectures by prominent researchers to facilitate the discussion about workplace relations issues. Attendance ranged from 140 to 160 people per lecture. Speakers included Associate Professors John Howe and Anthony Forsyth and Mr Dean Parham.

Fair Work Commission public value research

As part of the engagement strategy the Commission commenced an investigation of options for research to improve its public value. This work is continuing as part of phase two of *Future Directions*.

Phase two—commenced

Mock hearings

Following the success of its mock hearings in Melbourne, the Commission committed to expanding its mock hearings program in 2014. The Commission held mock hearings in Sydney, Melbourne, Brisbane and Canberra during the first half of 2014, and in Perth on 12 August 2014. These were modelled on the 2013 mock hearings in Melbourne, with a new unfair dismissal scenario developed to provide an opportunity for ongoing learning for 2013 participants.

Communications strategy

The Commission will consult with a broad range of clients in developing a communications strategy which improves the public's understanding of our services and role. This will enable us to establish programs to better meet community needs and expectations.

Establishment of new user groups

The Commission will further facilitate the exchange of views with our key stakeholders by establishing new user groups, including a pilot program with community legal centres. During the reporting period we commenced working with the Footscray Legal Centre to explore ways the Commission can provide assistance to the Centre with its Employment Law pilot program. To this end the Commission gave the Centre's volunteer lawyers the opportunity to participate in the recent pro bono training sessions which gave them access to free advocacy training and information about the unfair dismissal jurisdiction. Work on the initiative will progress through the 2014–15 period.

Better services to small business

The Commission will work to better promote the materials and resources we have for the small business sector. We will also review our materials and engagement with small business to ensure that we meet the needs and expectations of this important sector in the Australian economy.

Australian Workplace Relations Study

In 2014 the Commission will continue the Australian Workplace Relations Study (AWRS) which will capture the views of both employers and employees, resulting in the production of the first Australia-wide statistical dataset linking employer data and employee data. Data collection through the AWRS has been one of the main activities of the Commission's Pay Equity Unit.

Promoting cooperative and productive workplace relations

In consultation with key stakeholders, in 2014 and 2015 the Commission will develop and implement a strategy for the promotion of cooperative and productive workplace relations that facilitate change and foster innovation.

Research community

In 2014 the Commission will continue to engage with the research community by co-sponsoring a series of papers and lectures delivered in Sydney, Melbourne, Brisbane, Perth and Hobart.

Qualitative research

In support of the recommendation contained in *Towards more productive and equitable workplaces, an evaluation of the Fair Work legislation*, the Commission will conduct and publish qualitative research to identify clauses in enterprise agreements that enhance productivity or innovation. The purpose of the project is to help enterprises to become more productive by informing them about productivity-enhancing measures that other enterprises have introduced through their enterprise agreements.

Research

By mid 2015 the Commission will conduct research to map the location and business needs of parties to determine how the Commission can provide services that more effectively and efficiently meet their needs.

I | DOCUMENTS RELATING TO THE WORK OF THE COMMISSION

Major documents contributing to an understanding of the work of the Commission are:

- *Education, Employment and Workplace Relations Portfolio Budget Statements 2013–14*
- *Fair Work Act 2009*
- *Fair Work Amendment Act 2012*
- *Fair Work Amendment Act 2013*
- *Fair Work Amendment (Transfer of Business) Act 2012*
- Fair Work Commission fact sheets and guides
- *Fair Work Commission Rules 2013*
- Fair Work Commission service charter
- *Fair Work (Registered Organisations) Act 2009*
- *Fair Work (Registered Organisations) Amendment Act 2012*
- *Fair Work (Registered Organisations) Regulations 2009*
- *Fair Work Regulations 2009*
- *Fair Work (State Declarations—employers not to be national system employers) Endorsement 2009*
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2010 (No. 1)*
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2010 (No. 2)*
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2011 (No. 1)*
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2012 (No. 1)*
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2012 (No. 2)*
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2012 (No. 3)*
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2013 (No. 2)*
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2013 (No. 3)*
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2014 (No. 1)*
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2014 (No. 2)*
- *Fair Work (State Referral and Consequential and Other Amendments) Act 2009*
- *Fair Work (State Referral and Consequential and Other Amendments) Regulations 2009*
- *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*
- *Fair Work (Transitional Provisions and Consequential Amendments) Regulations 2009*

- Finance Minister's Orders
- *Financial Management and Accountability Act 1997*
- *Financial Management and Accountability Regulations 1997*
- *Freedom of Information Act 1982*
- *Future Directions 2012–13*
- *Future Directions 2014–15*
- *Independent Contractors Act 2006*
- *Privacy Act 1988*
- *Public Governance, Performance and Accountability Act 2013*
- *Public Service Act 1999*
- *Public Service Amendment Act 2013*
- *Public Service Regulations 1999*
- *Australian Public Service Commissioner's Directions 2013*
- Small Business Fair Dismissal Code
- *Work Health and Safety Act 2011*
- *Workplace Relations Act 1996* (as amended)
- *Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008*
- *Workplace Relations Regulations 2006* (as amended)
- *Workplace Relations (Registration and Accountability of Organisations) Amendment Regulations 2009* (No. 1)

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K | LODGMENT AND CASE LOAD STATISTICS

TABLE K1

APPLICATIONS LODGED, HEARINGS AND CONFERENCES, AND DECISIONS AND ORDERS PUBLISHED

	Applications lodged	Hearings and conferences	Decisions and orders published
2011–12	37 442	18 709	13 846
2012–13	36 616	18 991	11 673
2013–14	37 066	19 620	13 302

TABLE K2

WEBSITE VISITS

Year	Visits	Desktop visits	Mobile visits	Tablet visits
2011–12	3 688 946	3 438 393	191 246	59 354
2012–13	3 624 414	3 182 782	282 284	159 674
2013–14	3 259 939	2 745 871	323 181	190 561

TABLE K3

CASES BY MATTER TYPE

Matter type	Section of Fair Work Act (or other legislation in brackets)	Cases lodged				Timeliness ¹	
		2011–12	2012–13	2013–14	% change	Median	90th Percentile
Agreements	s.185	8565	7087	6754	-4.7	17	50
Orders relating to good faith bargaining	ss.229, 236, 238, 240, 242 and 248	530	406	422	3.9	10	26
Dispute resolution	ss.372, 526, and 739 (ss.699, 709 of the <i>Workplace Relations Act 1996</i>)	2627	2901	3295	13.6	20	48
Orders relating to industrial action	ss.418, 419, 423, 424, 425, 426, 437, 447, 448, 459 and 472.	1446	1271	989	-22.2	2	6
General protections involving dismissal	s.365	2162	2429	2879	18.5	29	59
Unfair dismissal applications	s.394	14 027	14 818	14 796	-0.1	46	61

TABLE K3 (CONTINUED)

CASES BY MATTER TYPE

Matter type	Section of Fair Work Act (or other legislation in brackets)	Cases lodged			Timeliness ¹		
		2011–12	2012–13	2013–14	% change	Median	90th Percentile
Appeals	s.604 (s.120 of the <i>Workplace Relations Act 1996</i>)	184	143	214	49.7	78	166
Applications to terminate individual agreement-based transitional instruments	(Sch. 3, Item 17, Sch 3, Item 18 and Sch 3, Item 19 of the <i>Transitional Provisions Act</i>)	3486	3173	2841	-10.5	35	67
Registered organisations	(Chapt 11, pt 4, ss.13, 18, 30, 43, 44, 137, 151, 158, 159, 180, 189, 233, 235, 268, 273, Sch 2, Cl 1 of the <i>Registered Organisations Act</i>)	1102	1288	1381	7.2	–	–
Other matters	All other applications that have been lodged with the Commission during this reporting period	3313	3100	3495	12.7	–	–
Total		37 442	36 616	37 066	1.2	–	–

(1) Timeliness is measured as lodgment to first hearing for all matters except agreements, appeals and applications to terminate individual agreement-based transitional instruments which are measured as median days from lodgment to finalisation.

TABLE K4

NATURE OF PROCEEDINGS

Matter	No.
<i>Fair Work Act 2009</i>	32 245
s.113(6)—Application for an order that terms of prior long service leave instrument are applicable	1
s.120—Application to vary redundancy pay for other employment or incapacity to pay	139
s.122—Transfer of employment situations that affect the obligation to pay redundancy pay	1
s.149A—Superannuation contributions for defined benefit members	1
s.156—4 yearly review of modern awards	34
s.156A—4 yearly review of default fund terms	1
s.156C—Application to list a standard MySuper product	67
s.156N—Application to include employer MySuper products on schedule	28
s.157—FWC may vary etc. modern awards if necessary to achieve modern awards objective	6
s.158—Application to make a modern award	1
s.158—Application to vary or revoke a modern award	17
s.160—Application to vary a modern award to remove ambiguity or uncertainty or correct error	13
s.185—Application for approval of a greenfields agreement	749
s.185—Application for approval of a multi-enterprise agreement	60
s.185—Application for approval of a single-enterprise agreement	5945
s.210—Application for approval of a variation of an enterprise agreement	219
s.217—Application to vary an agreement to remove an ambiguity or uncertainty	171
s.222—Application for approval of a termination of an enterprise agreement	91
s.225—Application for termination of an enterprise agreement after its nominal expiry date	99
s.229—Application for a bargaining order	96
s.236—Application for a majority support determination	77
s.238—Application for a scope order	24
s.240—Application to deal with a bargaining dispute	208
s.242—Application for a low-paid authorisation	1
s.248—Application for a single interest employer authorisation	16
s.252—Application to extend single interest employer authorisation	1
s.285—Annual wage review	1
s.302—Application for an equal remuneration order	2
s.318—Application for an order relating to instruments covering new employer and transferring employees	1

TABLE K4 (CONTINUED)

NATURE OF PROCEEDINGS	
Matter	No.
s.318—Application for an order relating to instruments covering new employer and transferring employees in agreements	92
s.318—Application for an order relating to instruments covering new employer and transferring employees in awards	1
s.319—Application for an order re instruments covering new employer and non-transferring employees in agreements	52
s.320—Application to vary a transferable instrument—agreement	9
s.357—Misrepresenting employment as independent contracting arrangement	1
s.365—Application to deal with contraventions involving dismissal	2879
s.365—Application to deal with contraventions involving dismissal (consent arbitration)	8
s.372—Application to deal with other contravention disputes	779
s.394—Application for unfair dismissal remedy	14 796
s.402—Application for costs orders against lawyers and paid agents under s.401	5
s.418—Application for an order that industrial action by employees or employers stop etc.	145
s.419—Application for an order that industrial action by non-national system employees or employers stop etc.	3
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.	11
s.425—Application to suspend protected industrial action, cooling off	6
s.426—Application to suspend protected industrial action, significant harm to a third party	3
s.437—Application for a protected action ballot order	627
s.447—Application for variation of protected action ballot order	12
s.448—Application for revocation of protected action ballot order	54
s.459—Application to extend the 30 day period in which industrial action is authorised by protected action ballot	124
s.472—Application for an order relating to certain partial work bans	3
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.508—Application to restrict rights if organisation or official has misused permit rights	1
s.512—Application for a right of entry permit	1325
s.516—Application to extend entry permit	3
s.520—Application for an affected member certificate	1
s.526—Application to deal with a dispute involving stand down	18

TABLE K4 (CONTINUED)

NATURE OF PROCEEDINGS	
Matter	No.
s.531—Application for an order where failure to notify or consult registered employee associations about dismissals	3
s.533—Application for an FWC Order	2
s.576(2)(ca)—Proceeding referred to FWC for mediation	8
s.587(1)(c)—Application to dismiss an application on the grounds that it has no reasonable prospects of success	1
s.590 application	1
s.602—Application to correct obvious error(s) etc. in relation to FWC's decision	5
s.603—Application to vary or revoke a FWC decision	3
s.604—Appeal of decisions	214
s.739—Application to deal with a dispute	2366
s.739—Application to deal with a dispute in relation to flexible working arrangements	50
s.768AX—Application to vary copied State instruments	6
s.768BA—Application for an order about coverage for transferring employees under a state instrument	3
s.768BG—Application to consolidate orders in relation to non-transferring employees	6
s.773—Application to deal with an unlawful termination dispute	130
s.786—Application for an order re failure to notify or consult registered employee associations about terminations	1
s.789FC—Application for an order to stop bullying	343
Fair Work (Registered Organisations) Act 2009	1382
Chapt. 11 Pt 4—Inquiries and investigations	5
Sch. 1, Cl. 2—Application for transitional recognition	3
Sch. 1, Cl. 5(6)—Cancellation of recognition of a transitionally recognised association by the General Manager	5
Sch. 2, Cl. 1—Application for recognition of state registered association	1
s.13(1)(b)—Advice and assistance to organisations	178
s.144(6)(b)—Application by General Manager on own motion to revoke postal ballot exemption	2
s.154C—Approved training	10
s.158(1)—Application for alteration of eligibility rules	14
s.158(1)—Application for change of name of organisation	2
s.158A—Application to General Manager for alteration of eligibility rules	4
s.159(1)—Notification of alterations of other rules	100
s.159(1)—Notification of alterations required under RO Amendment Act	31

TABLE K4 (CONTINUED)

NATURE OF PROCEEDINGS	
Matter	No.
s.18(a)—Application for registration by an association of employers	3
s.18(b)—Application for registration by an association of employees	2
s.180—Conscientious objection to membership of organisations	1
s.186(2)(b)—application by General Manager on own motion to revoke exemption to conduct elections	10
s.189(1)—Notification of elections for office	165
s.189(1)—Notification of elections for office—Casual vacancy or insufficient nominations	54
s.233(1)—Annual obligation to lodge information	174
s.235(1)—Authority to access certain records	3
s.236—Register of Members—request by member to inspect	1
s.268—Financial return	608
s.30(1)(a)—Application by organisation for cancellation of registration	2
s.30(1)(c)—Cancellation of registration on FWC's own motion	1
s.330—General Manager makes inquiries	1
s.331—General Manager conducts investigation	1
<i>Fair Work (Registered Organisations) Amendment Act 2012</i>	1
Sch. 1, Item 39—Alteration of rules (exemption from section 148C)	1
<i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>	3180
Sch. 3, Item 10—Application to vary transitional instrument to remove ambiguity—agreement	3
Sch. 3, Item 12—Application to vary pre-reform or transitional award	23
Sch. 3, Item 15—Application by agreement to terminate collective agreement-based transitional instrument	12
Sch. 3, Item 16—Application to terminate collective agreement-based transitional instrument	75
Sch. 3, Item 17—Application by agreement to terminate individual agreement-based transitional instrument	1739
Sch. 3, Item 19—Declaration for unilateral termination with FWC approval to terminate individual agreement	1102
Sch. 5, Item 13B—Orders remedying reductions in take-home pay	2
Sch. 5, Item 3—Variation and term. certain transitional instruments etc. to take account of Part 10A award modernisation process	1
Sch. 5, Item 6—Review of all modern awards (other than modern enterprise and State PS awards) after first 2 years	2
Sch. 5, Item 9—Application for an order remedying reduction in take-home pay resulting from a modern award	7

TABLE K4 (CONTINUED)

NATURE OF PROCEEDINGS	
Matter	No.
Sch. 6, Item 4—Application to make a modern award to replace an enterprise instrument.	137
Sch. 6, Item 5—Application to terminate an enterprise instrument	21
Sch. 6, Item 5—Application to terminate an enterprise instrument—award	1
Sch. 6A, Item 4—Application to make a State reference public sector modern award	9
Sch. 6A, Item 5—Application to terminate a State reference public sector transitional award	9
Sch. 6A, Item 6—Modernisation of State reference public sector transitional awards	37
<i>Work Health and Safety Act 2011</i>	72
s.131—Application for a WHS entry permit	71
s.142—Application to deal with a WHS right of entry dispute	1
<i>Workplace Relations Act 1996</i>	135
s.170LW—pre-reform Act—Application for settlement of dispute (certified agreement)	35
s.268 RAO Schedule—Financial return	11
s.280—Financial reports	5
s.643—Application for relief re (harsh, unjust or unreasonable) termination of employment	2
s.699—Application to FWC to have a dispute resolution process conducted (Div 3)	13
s.709—Application to FWC to have a dispute resolution process conducted (Div 5)	69
Administrative	52
Award grievance procedure	1
OH&S Review Authority	4
Request for a Board of Reference	47
Total	37 066

TABLE K5

GENERAL PROTECTIONS DISPUTES INVOLVING DISMISSAL—MONTHLY COMPARISON

Reporting period	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
2013–14	240	238	214	222	254	257	182	218	273	259	242	280	2879
2012–13	194	182	166	175	200	189	210	285	250	156	226	196	2429
2011–12	176	178	173	166	172	187	156	202	204	159	224	167	2164

TABLE K6

UNFAIR DISMISSAL, CONCILIATION—RESULTS

Result type	Total		%	
	2012–13	2013–14	2012–13	2013–14
Settled				
Settled: Monetary	1669	1846	15.3	16.8
Settled: Non-monetary	2136	2008	19.6	18.3
Settled: Monetary + non-monetary	4906	4740	45.1	43.2
Settled: Reinstatement	79	30	0.7	0.3
Settled: Reinstatement + monetary	26	15	0.2	0.1
Settled: Reinstatement + non-monetary	19	14	0.2	0.1
Settled: Reinstatement, monetary + non-monetary	8	6	0.1	0.1
Not settled				
Not settled at conciliation	1963	2252	18.1	20.5
Not settled: Settlement collapsed	80	61	0.7	0.6
Total settled matters	8843	8659	81.2	78.9
Total NOT settled matters	2043	2313	18.8	21.1
Total resulted conciliations	10 886	10 972	100	100

TABLE K7

UNFAIR DISMISSAL APPLICATIONS—SIZE OF EMPLOYER

Number of employees	Total		% of conciliations	
	2012–13	2013–14	2012–13	2013–14
1–14	2131	2006	19.6	18.3
15–99	3057	3020	28.0	27.5
>100	4741	5145	43.6	46.9
Unknown	7	5	0.1	0.0
Number of employees in dispute	950	796	8.7	7.3
Total Australia-wide	10 886	10 972	100	100

TABLE K8

UNFAIR DISMISSAL APPLICATIONS LODGED—MONTHLY COMPARISON

Year	Total	Avg	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
2013–14	14 797	1233	1475	1307	1260	1185	1209	1374	956	1237	1316	1222	1112	1144
2012–13	14 818	1235	1233	1234	1055	1226	1259	1394	879	1258	1369	1346	1375	1190
2011–12	14 027	1169	1129	1173	1150	1065	1143	1297	908	1241	1427	1108	1284	1102
2010–11	12 840	1070	1087	1060	983	926	1022	1224	791	1127	1313	1047	1043	1217
2009–10	11 114	926	602	753	958	927	902	1072	697	1013	1236	956	997	1001

TABLE K9

UNFAIR DISMISSAL—FINALISATION

Claims settled, withdrawn or determined	Number of matters	
	2012–13	2013–14
Prior to conciliation	2300	2273
At conciliation	8843	8659
After conciliation and before a conference/hearing before a Commission Member	2093	2475
Withdrawn after conference/hearing and before decision/order	49	41
By final decision/order	660	1200
Total	13 945	14 648

TABLE K10

UNFAIR DISMISSAL JURISDICTIONAL HEARING/CONFERENCE—RESULTS

	2012–13	2013–14
Objection upheld	258	374
Applicant not dismissed	36	45
Employer not national system employer	2	5
Frivolous, vexatious	2	0
Genuine redundancy	22	34
Irregular and/or casual employee	0	1
Minimum period of employment not served	44	50
Multiple applications	1	0
No award, agreement or high income employee	13	27
No employment relationship	10	25
No extension of time—Up to and including 7 days late	17	51
No extension of time—More than 7 days late	82	127
No reasonable prospect of success	23	9
Termination consistent with Small Business Fair Dismissal Code	8	8
Unknown	11	6
Objection dismissed	120	159
Applicant dismissed	15	19
Award, agreement and/or not high income employee	5	3
Employment relationship	15	28
Extension of time—Up to and including 7 days	30	34
Extension of time—More than 7 days	20	29
Minimum period of employment served	8	17
National system employer	1	0
No genuine redundancy	13	18
No multiple applications	0	3
Not frivolous, vexatious	5	0
Not irregular casual employee	5	5
Reasonable prospect of success	1	3

TABLE K10 (CONTINUED)

UNFAIR DISMISSAL JURISDICTIONAL HEARING/CONFERENCE—RESULTS

	2012–13	2013–14
Termination inconsistent with Small Business Fair Dismissal Code	3	4
Unknown	4	12
Total objections	378	533

Please note that an application may be found in or out of jurisdiction on numerous grounds. Accordingly, jurisdictional results are not cumulative.

TABLE K11

UNFAIR DISMISSAL ARBITRATION—HEARING/CONFERENCE RESULTS

	2012–13	2013–14
Application dismissed (s.587)	N/A	96
Application dismissed: (s.587) dismissed by Panel Head¹	N/A	265
Failure to attend	N/A	4
Incomplete application	N/A	12
Minimum employment period not met	N/A	166
No notice of discontinuance filed after settlement	N/A	6
No reasonable prospect of success	N/A	14
Non-compliance with directions	N/A	5
Premature application	N/A	6
Unpaid application	N/A	54
Verbal or written advice of discontinuance	N/A	14
Application to dismiss (s.399A): granted	N/A	98
Application dismissed: dismissal was fair	256	175
Application granted: compensation	112	150
\$0–\$999	8	7
\$1000–\$1999	12	9
\$2000–\$3999	15	20
\$4000–\$5999	13	18
\$6000–\$7999	8	12
\$8000–\$9999	8	17

TABLE K11 (CONTINUED)

UNFAIR DISMISSAL ARBITRATION—HEARING/CONFERENCE RESULTS

	2012–13	2013–14
\$10 000–\$14 999	14	18
\$15 000–\$19 999	7	8
\$20 000–\$29 999	8	13
\$30 000–\$39 999	8	8
\$40 000–maximum amount	3	10
No loss of wages	2	4
Unknown	6	6
Application granted: Reinstatement	8	9
Application granted: Reinstatement and lost remuneration	12	25
\$0–\$999	1	0
\$1000–\$1999	0	1
\$2000–\$3999	1	2
\$4000–\$5999	0	1
\$6000–\$7999	0	2
\$8000–\$9999	1	1
\$10 000–\$14 999	1	1
\$15 000–\$19 999	0	3
\$20 000–\$29 999	0	1
\$30 000–\$39 999	1	1
\$40 000–maximum amount	0	4
No loss of wages	5	4
Unknown	2	4
Application granted: no remedy granted	14	8
Total Arbitration results Australia-wide	402	826

(1) Please note that an application may be dismissed by Panel Head on numerous grounds. Accordingly, results are not cumulative.

TABLE K12

REGISTERED ORGANISATIONS—CLEARANCE RATE OF RULES AND ADVICES

Matter type	2009–10		2010–11		2011–12		2012–13		2013–14	
	Lodged	Finalised	Lodged	Finalised	Lodged	Finalised	Lodged	Finalised	Lodged	Finalised
s.13(1)(b)	52	49	116	117	166	161	188	163	178	168
s.159	71	81	89	83	68	69	70	59	100	91
RO Amendment Act	0	0	0	0	0	0	53	5	88	107
Total	123	130	205	200	234	230	311	227	366	366

TABLE K13

REGISTERED ORGANISATIONS— CLEARANCE RATE OF FINANCIAL RETURNS

	2010–11	2011–12	2012–13	2013–14
Lodged	411	416	424	368
Finalised	431	408	295	572

TABLE K14

REGISTERED ORGANISATIONS— CLEARANCE RATE OF ANNUAL RETURNS

	2010–11	2011–12	2012–13	2013–14
Lodged	232	226	224	174
Finalised	232	224	208	261

TABLE K15

REGISTERED ORGANISATIONS— FINANCIAL REPORTING COMPLIANCE

	2009–10	2010–11	2011–12	2012–13	2013–14
Lodged on time	241	318	319	332	342
Lodged following Commission intervention	155	80	73	46	37
Still outstanding	4	3	3	6	6

TABLE K16

REGISTERED ORGANISATIONS – ANNUAL RETURNS COMPLIANCE

	2009–10	2010–11	2011–12	2012–13	2013–14
Lodged on time	152	157	179	217	197
Lodged following Commission intervention	89	85	54	12	8
Still outstanding	1	1	1	2	2

L | METHODOLOGY FOR CHART 6— NUMBER OF COMMISSION SITTINGS, VARIOUS

The following summarises the methods used to analyse the sittings of the Commission between 1 July 2009 and 30 June 2014 (Chart 6).

Sittings refer to conferences and court usage for hearings, directions and mentions. The majority of sittings are conducted by Members of the Commission. However, a small number of sittings overseen by conciliators are included in the analysis (these are limited to unfair dismissal dispute resolution proceedings that require the Commission's video conferencing facilities). Unfair dismissal conciliations

that take place by phone are not included in the count of sittings.

Table L1 provides an overview of the number of hearings, conferences and other sittings required to process the four case types shown in Chart 6: agreements, legislative reviews, matters related to industrial action, and unfair dismissal matters.*

Table L2 on the following page shows the types of matters that are included under the four case categories.

TABLE L1

NUMBER OF SITTINGS BY MATTER TYPE, 2009–10 TO 2013–14

Matter type	2009–10	2010–11	2011–12	2012–13	2013–14	Total
Agreements	1655	935	966	886	756	5198
Legislative reviews	586	19	2691	1962	349	5607
Industrial action	1343	993	988	655	595	4574
Unfair dismissal	1668	2288	2391	2432	2779	11 558

Source: Fair Work Commission, Case Management System Plus (CMS plus), unpublished data.

Notes: The spike in legislative reviews in the 2011–12 financial year can be attributed to the large number of listings that year for the variation and termination of certain transitional instruments to take account of Part10A award modernisation process pursuant to Sched. 5, Item 3 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*. In 2012–13, the number of listing under this provision had dropped to zero.

* A quantitative profile of the Commission's listings requires a calculation of all sitting dates across all locations. For example, the annual wage review is listed for decision and the Commission's offices in Melbourne. However, the decision may also be listed for decision via videolink at other locations across Australia. In these circumstances, the number of sitting dates includes a count for both the Melbourne hearing and the hearings at each videolink location.

TABLE L2

TYPES OF MATTERS INCLUDED IN EACH CASE LOAD CATEGORY

Matter type	Legislation
Agreements	
Application for approval of a greenfields agreement	s.185, Fair Work Act
Application for approval of a single-enterprise agreement	s.185, Fair Work Act
Application for approval of a variation of an enterprise agreement	s.210, Fair Work Act
Application to vary an agreement to remove an ambiguity or uncertainty	s.217, Fair Work Act
Application to deal with a dispute about variations	s.217A, Fair Work Act
Application for approval of a termination of an enterprise agreement	s.222, Fair Work Act
Application for termination of an enterprise agreement after its nominal expiry date	s.225, Fair Work Act
Application by agreement to terminate collective agreement-based transitional instrument	Sched. 3, Item 15, <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>
Application to terminate collective agreement-based transitional instrument	Sched. 3, Item 16, <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>
Application by agreement to terminate individual agreement-based transitional instrument	Sched. 3, Item 17, <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>
Legislative reviews	
Review of modern awards to give effect to s.149A provisions regarding superannuation contributions for defined benefit members (2013 review)	s.149A, Fair Work Act
4 yearly review of modern awards	s.156, Fair Work Act
4 yearly review of default fund terms	s.156A, Fair Work Act
Annual wage review	s.285, Fair Work Act
Variation and termination of certain transitional instruments etc. to take account of Part10A award modern process	Sched. 5, Item 3, <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>
Review of all modern awards (other than modern enterprise and State PS awards) after first 2 years (Transitional Review)	Sched. 5, Item 6, <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>
FWC must make or vary State reference public sector modern awards at the end of the application period	Sched. 6A, Item 6, <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>
Award modernisation	s.576E Workplace Relations Act
Award modernisation	s.576H Workplace Relations Act

TABLE L2 (CONTINUED)

TYPES OF MATTERS INCLUDED IN EACH CASE LOAD CATEGORY

Matter type	Legislation
Industrial action	
Application for an order that industrial action by employees or employers stop etc.	s.418, Fair Work Act
Application for an order that industrial action by non-national system employees or employers stop etc	s.419, Fair Work Act
Application to suspend or terminate protected industrial action—significant economic harm etc	s.423, Fair Work Act
Notice of initiation of bargaining period	s.423(3), Fair Work Act
Application to suspend or terminate protected industrial action—endangering life etc.	s.424, Fair Work Act
Application to suspend protected industrial action—cooling off	s.425, Fair Work Act
Application to suspend protected industrial action—significant harm to a third party	s.426, Fair Work Act
Application for a protected action ballot order	s.437, Fair Work Act
Application for variation of protected action ballot order	s.447, Fair Work Act
Application for variation of protected action ballot order	s.448, Fair Work Act
Report about conduct of protected action ballot	s.458, Fair Work Act
Application to extend the 30-day period in which industrial action is authorised by protected action ballot	s.459, Fair Work Act
Application for an order relating to certain partial work bans	s.472, Fair Work Act
Application for an order relating to certain partial work bans	s.496(1), Fair Work Act
Unfair dismissal	
Application for unfair dismissal remedy	s.394, Fair Work Act

M | SUBSCRIPTION SERVICES

The Commission offers free electronic subscriptions for many of the documents and information materials on its website. Subscribers are notified by email as updates are published. Each email notification contains links to downloadable documents accessible through this website.

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 emailed as 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 Australian Workplace Relations Study (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 State or Territory. Emails are sent when relevant events or activities are launched, and as additional information becomes available.

Subscribing

To subscribe to any of the services, sign up on the [Subscribe to updates](#) page on the Commission's website, then login and select any services required. There is no cost and publications and services can be added or removed at any time.

N | INFORMATION ON SPECIFIC STATUTORY REQUIREMENTS

Workplace health and safety

Management arrangements

The Commission has made Health and Safety Management Arrangements (HSMA) consistent with the *Work Health and Safety Act 2011* (WHS Act).

Under the HSMA there is a statement of commitment, a Workplace Health and Safety (WHS) policy, consultation arrangements, agreed employer/employee responsibilities and WHS structures and arrangements. There are also provisions relating to workplace inspections, training and information and emergency procedures. There are six Designated Work Groups (DWGs) in the Commission, six Health and Safety Representatives (HSRs), and a national Health and Safety Committee, which met twice in 2013–14.

Initiatives taken during the year

In 2013–14 the Commission continued to promote a proactive approach to work health and safety. During the year the most significant WHS initiatives were associated with:

- strengthening quarterly reporting by managers through the provision of details of WHS matters raised, implemented and/or resolved
- delivering organisational awareness *Mental Health in the Workplace* presentations in Melbourne, Sydney and Brisbane and made available to other locations via video conferencing facilities
- delivering *Resilience and Mental Health in Customer Relations* workshops to frontline staff
- 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 for all staff

- healthy lifestyle initiatives for the workforce, including Pilates and Yoga, and
- participating in *R U OK?* Day which aims to promote the building of a more connected community and reducing the suicide rate.

Health and safety outcomes

The Commission is committed to maintaining and improving the health and wellbeing of its workforce. In 2013–14 there were three new compensation claims and 19 accidents/incidents reported by employees. The Commission closely monitors its compensation exposure and internal rehabilitation programs against broader APS considerations of compensation costs, the increasing incidence of longer-term injuries and more problematic claims, including those of a psychological nature. The Commission's forecasted workers compensation premium rate has increased for 2014–15 to 0.68 per cent, from 0.47 per cent for 2013–14. The forecast premium rate is well below the 2014–15 forecast premiums for all agencies which is 2.12 per cent.

Reportable accidents and occurrences

Under section 38 of the WHS Act, the Commission is required to notify Comcare of any notifiable accidents or dangerous occurrences arising out of work undertaken by any of its employees. There were no occurrences in 2013–14.

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 2013–14.

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 such notices were issued in 2013–14.

Freedom of information

Information publication

The Commission is subject to the *Freedom of Information Act 1982* (FOI Act). As such it is required to publish information to the public as part of the Information Publications Scheme (IPS). This requirement is in Part II of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report.

Each agency must display a plan on its website showing what information it publishes in accordance with the IPS requirements. The Commission's plan can be found at www.fwc.gov.au/about-us/legal/freedom-information.

FOI requests

This financial year the Commission received 29 FOI requests, down from 35 the previous year. This number includes requests which may have subsequently been transferred to another agency or withdrawn. FOI requests were managed by a dedicated FOI Officer.

Timeliness

The FOI Act requires the Commission to notify an FOI applicant that their request has been received no later than 14 days after the day on which the request is received. The Commission provided notification in accordance with this timeframe in 100 per cent of FOI requests received.

The FOI Act requires the Commission to notify the FOI applicant of a decision on their request no later than 30 days after the day on which the request was received. Where third-party consultation is required to process an FOI request, this timeframe is extended for a further period of 30-days under the FOI Act. The Commission issued decisions on FOI requests within the 30 day timeframe or the extended timeframe (where applicable) for 100 per cent of the FOI requests received, which were not withdrawn or transferred to another agency.

Further extensions of processing time are allowed under the FOI Act by agreement with the FOI applicant, or by application to the Information Commissioner where FOI requests are complex or voluminous. The Commission did not seek extensions of processing time in either of these circumstances.

Advertising and market research

In accordance with section 311A of the *Commonwealth Electoral Act 1918*, the principal officer of every Commonwealth agency is required to include a statement in their annual report setting out particulars of all amounts paid by, or on behalf of, the agency during the reporting period to:

- advertising agencies
- market research organisations
- direct mail organisations, and
- media advertising agencies.

The Commission did not conduct any advertising campaigns, engage polling organisations, or engage in direct mail activities, during 2013–14.

Where the total amount paid to an organisation is less than \$12 400, details have not been included.

Expenditure exceeding \$12 400 is detailed in Table N1.

Legal services expenditure

In compliance with the requirements of the *Legal Services Directions 2005*, the Commission reports that the total legal services expenditure for 2013–14 was \$1 286 034.13 (GST exclusive). The amount relates solely to external legal services. Details are available on

the Commission's website www.fwc.gov.au/about-us/operations/budgets-expenditure.

Ecologically sustainable development

Australian Government agencies are required to report on their performance regarding the environment and ecologically sustainable development in line with section 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.

The Commission's procurement decisions have regard to environmental management requirements including purchasing locally produced recycled paper and energy efficient lighting.

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.

The Commission formed a new relationship with Close the Loop, an organisation affiliated with Planet Ark, for toner replacement. Close the Loop reuses the plastics from toner cartridges for other purposes, such as manufacturing eWood which can be used in retaining

TABLE N1

ADVERTISING AND MARKET RESEARCH EXPENDITURE IN 2013–14 (OVER \$12 400)

Supplier	Amount \$ ¹	Purpose
Media advertising agencies		
Sensis	\$19 832	Directory listings
Market research organisations		
Empirica Research	\$18 920	A joint-agency branding recognition project undertaken with the Fair Work Ombudsman to gain an understanding of the general public's, small business and HR Managers' knowledge and understanding of the role and work of the two organisations.

(1) GST inclusive.

walls and landscaping materials—and creates pens using ink leftover in the discarded cartridges.

Kitchens in a number of offices have separate bins to manage waste including organic, recycling and general waste.

The Melbourne and Sydney offices have sensor lighting installed in hearing, conference, meeting rooms and offices which have a timer mechanism to automatically switch lighting off when the rooms are not occupied. Energy efficiency T5 lighting has also been installed. Shower timers have been installed in all showers.

The Commission has reduced its carbon footprint by implementing a new video conferencing system that provides superior quality and reliability, thus providing a viable alternative to travel. The Commission has also reduced its travel significantly since the previous reporting period.

The Commission ensures that new leases over a certain size have a green rating. The Commission actively encourages its landlords to increase their NABERS rating, a national rating system that measures the environmental performance of Australian buildings, tenancies and homes.

The Commission participated in and supported Earth Hour 2014, a campaign to create awareness of global warming and encouraging people to take on better energy conservation habits, by turning off lights, appliances and desktop computers in all offices for Earth Hour on 29 March 2014.

Discretionary grants and grant programs

The Commission did not administer any discretionary or other grant programs during the reporting period, and no discretionary or other grants were made.

No research partnerships were awarded in 2013–14. Information on research partnerships that were awarded in other years is available on the Commission's website www.fwc.gov.au/about-us/reports-publications/general-managers-reports/research.

Corrections to previous annual report

Page 48, Table 24: Registered Organisations—finalisations

The heading 'Changes to eligibility rules' is incorrect and should be 'Change of name'. The heading 'Change of name' and the corresponding number '6' are incorrect and the heading should be 'Changes to eligibility rules' and the corresponding number '9'. The number '4' of cancellation of registration under section 30 of the Registered Organisations Act is incorrect and should be '7'. The number '14' of total finalisations is incorrect and should be '20'.

Commonwealth Disability Strategy

Since 1994, Commonwealth departments and agencies 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 Report and the APS Statistical Bulletin. These reports are available at www.apsc.gov.au. From 2010–11, departments and agencies have no longer been required to report on these functions.

The Commonwealth Disability Strategy has been replaced by the National Disability Strategy 2010–2020, which sets out a ten 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. The first of these reports will be available in late 2014, and can be found at www.dss.gov.au.

O | FRAUD CONTROL CERTIFICATE



24 September 2014

Annual report 2013–14 Fraud Control Certification

In accordance with the *Commonwealth Fraud Control Guidelines 2011*, I hereby certify that I am satisfied that the Fair Work Commission has:

- prepared fraud risk assessments and fraud control plans
- in place appropriate fraud prevention, detection, investigation, reporting and data collection procedures and processes that meet the specific needs of the Commission, and
- taken all reasonable measures to minimise the incidence of fraud against the Commission and to investigate and recover the proceeds of fraud against the Commission.



Bernadette O'Neill
General Manager

P | FAIR WORK COMMISSION SERVICE CHARTER

[Extracted from the Commission's website]

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 an independent, national workplace relations tribunal established under section 575 of the *Fair Work Act 2009* (the 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 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 and Minimum Wage Panel Members. The Commission has a General Manager, supported by administrative staff, whose function is to assist the President in ensuring that the Commission performs its functions and exercises its powers under the Act. The staff of the Commission are engaged under the *Public Service Act 1999*.

Our services

The Commission staff is committed to providing fair, efficient and excellent levels of service to users of the workplace relations system.

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—via our website at www.fwc.gov.au, or 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, and
- 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 seven 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 inquiry promptly. If we are unable to respond to your inquiry immediately, we will advise you when you can expect a response. If your inquiry 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 inquiry, including the Fair Work Ombudsman. If we need to transfer your inquiry to the Fair Work Ombudsman, we will ensure that this is clearly explained and that the transfer occurs smoothly.

Fairness

The Commission staff is 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 online Inquiries 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 Speech Relay through the National Relay Service on 133 677.

Email: Inquiries can be emailed through our online Inquiries and feedback page.

Telephone: The national Fair Work Commission phone number is 1300 799 675.

Post: You can write to us at: Fair Work Commission, PO Box 1994, Melbourne VIC 3001.

In person: Visit the Fair Work Commission office in your capital city—details are on the Commission offices web 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 online Inquiries 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 Human Rights and Equal Opportunities Commission (HREOC), especially if you think you have been discriminated against or disadvantaged because of a complaint you have made. Information is available at the HREOC website www.hreoc.gov.au or by telephoning 1300 656 419, or if you use TTY telephone 1800 620 241.

Q | FINANCIAL STATEMENTS

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INDEPENDENT AUDITOR'S REPORT

To the Minister for Employment

I have audited the accompanying financial statements of the Fair Work Commission for the year ended 30 June 2014, which comprise: a Statement by the General Manager and Chief Financial Officer; Statement of Comprehensive Income; Statement of Financial Position; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Administered Schedule of Comprehensive Income; Administered Schedule of Assets and Liabilities; Administered Reconciliation Schedule; Administered Cash Flow Statement; and Notes comprising a Summary of Significant Accounting Policies and other explanatory information.

General Manager's Responsibility for the Financial Statements

The General Manager of the Fair Work Commission is responsible for the preparation of financial statements that give a true and fair view in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards, and for such internal control as is necessary to enable the preparation of financial statements that give a true and fair view and 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.

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 Fair Work Commission's preparation of the financial statements that give a true and fair view 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 Fair Work Commission's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of

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accounting estimates made by the General Manager of the Fair Work Commission, 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.

Opinion

In my opinion, the financial statements of the Fair Work Commission:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders, including the Fair Work Commission's financial position as at 30 June 2014 and its financial performance and cash flows for the year then ended.

Australian National Audit Office



John Jones

Executive Director

Delegate of the Auditor-General


Canberra


9 September 2014

FAIR WORK COMMISSION

STATEMENT BY THE GENERAL MANAGER AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2014 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.

Signed 
Bernadette O'Neill
General Manager
9 September 2014

Signed 
Jack Lambalk
Chief Financial Officer
9 September 2014

Statement of Comprehensive Income for Fair Work Commission
for the period ended 30 June 2014

	Notes	2014 S'000	2013 S'000
NET COST OF SERVICES			
Expenses			
Employee benefits	3A	50,828	48,867
Suppliers	3B	27,372	27,799
Depreciation and amortisation	3C	2,610	2,105
Finance costs	3D	3	5
Losses from asset sales	3E	75	631
Total expenses		80,888	79,407
Own-Source Income			
Own-source revenue			
Sale of goods and rendering of services	4A	370	274
Rental income	4B	596	1,149
Other revenue	4C	38	38
Total own-source revenue		1,004	1,461
Gains			
Other gains	4D	58	2,745
Total gains		58	2,745
Total own-source income		1,062	4,206
Net cost of services		(79,826)	(75,201)
Revenue from Government	4E	79,996	74,294
Surplus / (deficit) attributable to the Australian Government		170	(907)
OTHER COMPREHENSIVE INCOME			
Other comprehensive income		-	-
Total comprehensive surplus / (loss) attributable to the Australian Government		170	(907)

The above statement should be read in conjunction with the accompanying notes.

Statement of Financial Position for Fair Work Commission
as at 30 June 2014

	Notes	2014 \$'000	2013 \$'000
ASSETS			
Financial assets			
Cash and cash equivalents	6A	433	421
Trade and other receivables	6B	37,747	61,380
Total financial assets		38,180	61,801
Non-financial assets			
Leasehold improvements	7A,C	22,309	9,554
Property, plant and equipment	7B,C	7,510	4,083
Intangibles	7D,E	1,077	1,050
Other non-financial assets	7F	4,588	5,052
Total non-financial assets		35,484	19,739
Total assets		73,664	81,540
LIABILITIES			
Payables			
Suppliers	8A	3,867	3,518
Other payables	8B	8,478	9,145
Total payables		12,345	12,663
Provisions			
Employee provisions	9A	17,457	16,125
Other provisions	9B	96	89
Total provisions		17,553	16,214
Total liabilities		29,898	28,877
Net assets		43,766	52,663
EQUITY			
Contributed equity		38,724	47,791
Retained surplus		5,042	4,872
Total equity		43,766	52,663

The above statement should be read in conjunction with the accompanying notes.

Statement of Changes in Equity for Fair Work Commission
for the period ended 30 June 2014

	Retained earnings		Contributed equity		Total equity	
	2014	2013	2014	2013	2014	2013
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Opening balance						
Balance carried forward from previous period	4,872	5,779	47,791	46,670	52,663	52,449
Adjusted opening balance	4,872	5,779	47,791	46,670	52,663	52,449
Comprehensive income						
Surplus / (deficit) for the period	170	(907)	-	-	170	(907)
Total comprehensive income	170	(907)	-	-	170	(907)
Transactions with owners						
Contributions by owners						
Departmental capital budget	-	-	349	1,121	349	1,121
Repeal of unspent appropriations	-	-	(9,416)	-	(9,416)	-
Sub-total transactions with owners	-	-	(9,067)	1,121	(9,067)	1,121
Closing balance as at 30 June	5,042	4,872	38,724	47,791	43,766	52,663

The above statement should be read in conjunction with the accompanying notes.

Cash Flow Statement for Fair Work Commission
for the period ended 30 June 2014

	Notes	2014 S'000	2013 S'000
OPERATING ACTIVITIES			
Cash received			
Appropriations		93,949	81,654
Sale of goods and rendering of services (inclusive of GST)		1,125	1,592
Grant revenue		-	139
Net GST received		4,465	3,241
Total cash received		99,539	86,626
Cash used			
Employees		(49,293)	(50,997)
Suppliers (inclusive of GST)		(32,483)	(30,290)
Total cash used		(81,776)	(81,287)
Net cash from operating activities	10	17,763	5,339
INVESTING ACTIVITIES			
Cash used			
Purchase of leasehold improvements		(13,912)	(3,883)
Purchase of property, plant and equipment		(4,648)	(2,427)
Purchase of intangibles		(328)	(577)
Total cash used		(18,888)	(6,887)
Net cash used by investing activities		(18,888)	(6,887)
FINANCING ACTIVITIES			
Cash received			
Departmental capital budget		349	1,483
Equity Injection		788	-
Total cash received		1,137	1,483
Net cash from financing activities		1,137	1,483
Net increase (decrease) in cash held		12	(65)
Cash and cash equivalents at the beginning of the reporting period		421	486
Cash and cash equivalents at the end of the reporting period	6A	433	421

The above statement should be read in conjunction with the accompanying notes.

Schedule of Commitments
as at 30 June 2014

	2014	2013
BY TYPE	\$'000	\$'000
Commitments receivable		
Sublease rental income	(10,411)	(5,299)
Net GST recoverable on commitments	(6,580)	(7,961)
Total commitments receivable	(16,991)	(13,260)
Commitments payable		
Operating leases	72,179	88,437
Other	1,962	4,399
Total commitments payable	74,141	92,836
Net commitments by type	57,150	79,576
BY MATURITY		
Commitments receivable		
Operating lease income		
Within 1 year	(1,706)	(1,184)
Between 1 to 5 years	(6,025)	(4,115)
More than 5 years	(2,680)	-
Total operating lease income	(10,411)	(5,299)
Other commitments receivable		
Within 1 year	(1,478)	(1,684)
Between 1 to 5 years	(3,701)	(4,396)
More than 5 years	(1,401)	(1,881)
Total other commitments receivable	(6,580)	(7,961)
Total commitments receivable	(16,991)	(13,260)
Commitments payable		
Operating lease commitments		
Within 1 year	14,945	15,534
Between 1 to 5 years	41,888	52,246
More than 5 years	15,346	20,657
Total operating lease commitments	72,179	88,437
Other commitments payable		
Within 1 year	1,684	4,173
Between 1 to 5 years	278	226
Total other commitments payable	1,962	4,399
Total commitments payable	74,141	92,836
Net commitments by maturity	57,150	79,576

Note: Commitments were GST inclusive where relevant.

The above schedule should be read in conjunction with the accompanying notes.

Schedule of Commitments (continued)*as at 30 June 2014*

Nature of lease	General description of leasing arrangement
Leases for office accommodation	<p>Lease payments are subject to either increase in accordance with fixed amounts in the lease agreement or market rental reviews.</p> <p>Fair Work Commission may exercise option clauses in accordance with the terms of the leases.</p>
Sub-lease of office accommodation	<p>Fair Work Commission has agreed to sub-let part of the Melbourne premises (11 Exhibition Street) to Calliden Group Ltd until the 31st of October 2017.</p> <p>Fair Work Commission has agreed to sub-let part of the Sydney premises (80 William Street) to the Federal Circuit Court for the remainder of the term of our Sydney Leasehold.</p>
Agreements for the provision of motor vehicles to senior executive officers and members of Fair Work Commission	Leases are part of an operating lease and there are no purchase options available to Fair Work Commission.

The above schedule should be read in conjunction with the accompanying notes.

Administered Schedule of Comprehensive Income for Fair Work Commission
for the period ended 30 June 2014

	Notes	2014 \$'000	2013 \$'000
NET COST OF SERVICES			
Income			
Revenue			
Non-taxation revenue			
Termination of employment application fees		1,078	988
Less refunds of termination of employment application fees		(500)	(384)
Total non-taxation revenue	16	578	604
Total revenue		578	604
Total income		578	604
Net contribution by services		578	604

Administered Schedule of Assets and Liabilities for Fair Work Commission
as at 30 June 2014

LIABILITIES			
Payables			
Other payables - refund of termination of employment application fees		-	(8)
Total payables	17	-	(8)
Total liabilities administered on behalf of Government		-	(8)
Net liabilities		-	(8)

Administered Reconciliation Schedule for Fair Work Commission

Opening assets less liabilities as at 1 July		(8)	(11)
Surplus (deficit) items:			
Plus: Administered income		578	604
Administered transfers to/from Australian Government			
Appropriation transfers from OPA		508	387
Transfers to OPA		(1,078)	(988)
Closing assets less liabilities as at 30 June		-	(8)

No expenses or assets were administered on behalf of the Government for 2013-14 and 2012-13.

The above schedule should be read in conjunction with the accompanying notes.

Administered Cash Flow Statement for Fair Work Commission*for the period ended 30 June 2014*

	Notes	2014 \$'000	2013 \$'000
OPERATING ACTIVITIES			
Cash received			
Termination of employment application fees		1,078	988
Total cash received		1,078	988
Cash used			
Refunds to termination of employment application fees		(508)	(387)
Total cash used		(508)	(387)
Net cash flows from operating activities		570	601
Net increase in cash held		570	601
Cash and cash equivalents at the beginning of the reporting period		-	-
Cash from Official Public Account			
Special Appropriations		508	387
Total cash from official public account		508	387
Cash to Official Public Account			
Termination of employment application fees		(1,078)	(988)
Total cash to official public account		(1,078)	(988)
Cash and cash equivalents at the end of the reporting period		-	-

The administered activity that Fair Work Commission performs on behalf of the Australian Government is the collection of fees for termination of employment applications.

The above schedule should be read in conjunction with the accompanying notes.

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The above schedule should be read in conjunction with the accompanying notes.

Note 1: Summary of Significant Accounting Policies

1.1 Objectives of the Fair Work Commission

The Fair Work Commission (previously Fair Work Australia) was established by the *Fair Work Act 2009* and commenced operations on 1 July 2009. The Fair Work Commission was one of two institutions established to administer the provisions of the *Fair Work Act 2009* and to provide a balanced framework for cooperative and productive workplace relations that promote economic prosperity and social inclusion.

The Fair Work Commission is an Australian Government controlled entity.

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 lodgement of termination of employment 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 supports the functions of the Road Safety Remuneration Tribunal, and the cost and activities of the Tribunal are represented in the accounts of the Fair Work Commission.

The Fair Work Commission consists of a President, Vice Presidents, Senior Deputy 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 are to make road safety remuneration orders, provide dispute resolution to the road transport industry, approval of road transport collective agreements and to provide research into pay and conditions that could affect safety in the road transport industry.

1.2 Basis of Preparation of the Financial Statements

The Financial Statements are general purpose financial statements and are required by section 49 of the *Financial Management and Accountability Act 1997*.

The Financial Statements have been prepared in accordance with:

- a) Finance Minister's Orders (FMO's) for reporting periods ending on or after 1 July 2011; 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 and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless an alternative treatment is specifically required by an accounting standard or the FMOs, assets and liabilities are recognised in the Statement of Financial Position when and only when it is probable that future economic benefits will flow to the entity or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under executory contracts are not recognised unless required by an accounting standard. Liabilities and assets that are unrecognised are reported in the schedule of commitments or the schedule of contingencies.

Unless alternative treatment is specifically required by an accounting standard, income and expenses are recognised in the Statement of Comprehensive Income when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

Administered revenues, expenses, assets and liabilities and cash flows reported in the Schedule of Administered Items and related notes are accounted for on the same basis and using the same policies as for departmental items, except where otherwise stated at Note 1.20.

1.3 Significant Accounting Judgements and Estimates

In the process of applying the accounting policies listed in this note, the Fair Work Commission has made a judgement that has the most significant impact on the amounts recorded in the financial statements: the fair value of leasehold improvements has been taken to be the market value of similar leasehold improvements as determined by an independent valuer.

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next reporting period.

1.4 New Australian Accounting Standards

Adoption of New Australian Accounting Standard Requirements

No accounting standard has been adopted earlier than the application date stated in the standard.

New standards, amendments to standards or interpretations that were issued prior to the sign-off date and are applicable to the current reporting period did not have a financial impact, and are not expected to have a future financial impact on the Fair Work Commission.

Future Australian Accounting Standards Requirements

New standards, amendments to standards or interpretations that were issued prior to the sign-off date and are applicable to the future reporting period are not expected to have a future financial impact on the Fair Work Commission, with the exception of AASB 1055 *Budgetary Reporting*, which is expected to affect disclosure requirements in future reporting periods.

1.5 Revenue

Revenue from the sale of goods is recognised when:

- a) the risks and rewards of ownership have been transferred to the buyer;
- b) Fair Work Commission retains no managerial involvement or effective control over the goods;
- c) the revenue and transaction costs incurred can be reliably measured; and
- d) it is probable that the economic benefits associated with the transaction will flow to Fair Work Commission.

Fair Work Commission received rental income from the sub-leasing of space within the Sydney office and Level 9 Melbourne office during the 2013/14 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:

- a) the amount of revenue, stage of completion and transaction costs incurred can be reliably measured; and
- b) the probable economic benefits associated with the transaction will flow to Fair Work Commission.

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 account. Collectability of debts is reviewed at end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

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 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.

1.6 Gains

Resources Received Free of Charge

Resources received free of charge are recognised as gains 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.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government entity as a consequence of a restructuring of administrative arrangements. (refer to Note 1.7)

Sale of Assets

Gains from disposal of assets are recognised when control of the asset has passed to the buyer.

1.7 Transactions with the Government as Owner

Equity 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.

Restructuring of Administrative Arrangements

Net assets received from or relinquished to another Government entity under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

1.8 Employee Benefits

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of the end of reporting period are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

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 and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of Fair Work Commission is estimated to be less than the annual entitlement for sick 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 6 months long leave after 5 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 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 Redundancies

Provision is made for separation and redundancy benefit payments. 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 Fair Work Commission are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS Accumulation Plan (PSSap).

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. The liability is reported in the Department of Finance's administered schedules and notes.

Fair Work Commission makes employer contributions to the employee's superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. 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 2014 represents outstanding contributions for the final fortnight of the year.

Judges' Pension

Members of the Fair Work Commission who were 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's financial statements. The Department of Finance has given the Fair Work Commission drawing rights for this 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 20 Table E).

1.9 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

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.

1.10 Borrowing Costs

All borrowing costs are expensed as incurred.

1.11 Fair Value Measurement

Fair Work Commission reviewed all fair value methodologies in light of the new principles in AASB 13. No adjustments were made to methodologies to take into account the more exit-oriented approach to fair value under AASB 13, as well as the availability of more observable data for certain assets (e.g. plant and equipment). Such adjustments – in themselves – did not result in a material impact on the values for the affected Property Plant and Equipment classes.

Determination of Fair Value Hierarchy Level sets out the process for identifying the fair value inputs and corresponding fair value hierarchy levels.

- To calculate a fair value pursuant to AASB 13, information must be obtained, and/or assumptions made, about a range of factors, including but not limited to:
- the characteristics e.g. the condition and location of the asset;
- which market a sale of that asset would take place in;
- who would buy the asset and what they would take into account;
- what is the highest and best use for the asset; and
- which costs are to be taken into account (e.g. transaction costs are not to be included, as per AASB 13).

The data used for the fair value calculation must reflect the information and assumptions that market participants would use when pricing the asset, not necessarily how an agency currently uses, or intends to use, the asset.

All assets and liabilities for which fair value is measured or disclosed in the financial statements are categorised within the following fair value hierarchy, based on the data and assumptions used in the most recent specific appraisals:

- level 1 – represents fair value measurements that reflect unadjusted quoted market prices in active markets for identical assets and liabilities;
- level 2 – represents fair value measurements that are substantially derived from inputs (other than quoted prices included within level 1) that are observable, either directly or indirectly; and
- level 3 – represents fair value measurements that are substantially derived from unobservable inputs .

Changes in level 2 and 3 fair values are analysed at the end of each reporting period in conjunction with an independent valuer. As part of this discussion the team presents a report that explains the reason for the fair value movements. As this is the first reporting period no transfers were recorded.

1.12 Cash

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;
- c) cash held by outsiders; and
- d) cash in special accounts.

1.13 Financial Assets

Fair Work Commission classifies its financial assets in the following categories:

- a) financial assets at fair value through profit or loss;
- b) held-to-maturity investments;
- c) available-for-sale financial assets; and
- d) 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. Fair Work Commission currently only holds financial assets classified as loans and receivables.

Effective interest method

The effective interest method is a method of calculating the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset, or, when appropriate, a shorter period.

Income is recognised on an effective interest rate basis except for financial assets that are recognised at fair value through profit or loss.

Loan and receivables

Trade receivables, loans and other receivables that have fixed or determinable payments 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. Interest is recognised by applying the effective interest rate.

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 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.

1.14 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.

Fair Work Commission currently only holds financial assets classified as other financial liabilities in the form of suppliers and other payables.

Other Financial Liabilities

Suppliers 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).

1.15 Contingent Liabilities and Contingent Assets

Contingent liabilities and contingent assets are not recognised in the Statement of Financial Position but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset or represent an existing liability or asset 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 (refer to Note 11 and Note 19).

1.16 Acquisition of Assets

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.

1.17 Property, Plant and Equipment

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 leases taken up by Fair Work Commission where there exists an obligation to restore the property to its original condition. These costs are included in the value of Fair Work Commission's leasehold improvements with a corresponding provision for the 'make good' recognised.

Revaluations

Fair values for each class of asset are determined as shown below:

<i>Asset Class</i>	<i>Fair value measurement</i>
Leasehold improvement	Depreciated replacement cost
Property, plant and equipment	Market selling price

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 amount 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 were made on a class basis. Any revaluation increment was 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 or deficit. Revaluation decrements for a class of assets were 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 was eliminated against the gross carrying amount of the asset and the asset was restated to the revalued amount.

The Last independent revaluation was undertaken as at 30 June 2012

Depreciation

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful life to 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:

	2014	2013
Leasehold improvements	Lease term	Lease term
Property, plant and equipment	3 to 10 years	3 to 10 years

Impairment

All assets were assessed for impairment at 30 June 2014. 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 to sell 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 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.

1.18 Intangibles

Fair Work Commission's intangibles comprise internally developed and externally purchased computer 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 Fair Work Commission's software are 3 to 10 years (2012/13: 3 to 10 years).

All software assets were assessed for indications of impairment as at 30 June 2014.

1.19 Taxation

Fair Work Commission is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Revenues, expenses and assets are recognised net of GST except:

- where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- for receivables and payables.

1.20 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 below, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards.

Fair Work Commission has been granted authority and drawing rights by the Department of Finance to make pension payments pursuant to the *Judges' Pensions Act 1968* (refer Note 20 Table E).

Administered Cash Transfers to and from Official Public Account

Revenue collected by Fair Work Commission for use by the Government rather than 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 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.

Revenue

All administered revenues are revenues relating to course of ordinary activities performed by Fair Work Commission on behalf of the Australian Government. As such, administered appropriations are not revenues of individual entity that oversees distribution or expenditure of funds as directed.

Fair Work Commission receives revenue from fees charged for lodgement of unfair dismissals applications. Administered revenue is recognised when the application fee is processed.

1.21 Commonwealth Expenditure

The Australian Government continues to have regard to developments in case law, including the High Court's most recent decision on Commonwealth expenditure in *Williams v Commonwealth (2014)* HCA23, as they contribute to the larger body of law relevant to the development of Commonwealth programs. In accordance with its general practice, the Government will continue to monitor and assess risk and decide on any appropriate actions to respond to risks of expenditure not being consistent with constitutional or other legal requirements.

Note 2: Events after the Reporting Period**Departmental**

No significant events have occurred after the reporting date that are likely to affect either the ongoing structure or financial activities of the Agency.

Administered

No significant events have occurred after the reporting date that are likely to affect either the ongoing structure or financial activities of the Agency.

Note 3: Expenses

	2014 \$'000	2013 \$'000
Note 3A: Employee benefits		
Wages and salaries	39,977	39,059
Superannuation:		
Defined contribution plans	3,669	3,314
Defined benefit plans	2,548	2,527
Leave and other entitlements	4,226	3,478
Separation and redundancies	-	14
Other employee expenses	408	475
Total employee benefits	50,828	48,867
Note 3B: Suppliers		
Goods and services supplied or rendered		
Court/member services	4,188	4,943
Information Communications Technology	2,672	2,913
Property expenses	3,229	2,703
Office expense	1,103	1,335
Contractors	3,695	3,826
Other	321	326
Total goods and services supplied or rendered	15,208	16,046
Goods supplied in connection with		
External parties	1,026	1,224
Total goods supplied	1,026	1,224
Services rendered in connection with		
Related parties	2,675	1,730
External parties	11,507	13,092
Total services rendered	14,182	14,822
Total goods and services supplied or rendered	15,208	16,046
Other suppliers		
Operating lease rentals in connection with		
External parties		
Minimum lease payments	11,892	11,439
Workers compensation expenses	272	314
Total other suppliers	12,164	11,753
Total suppliers	27,372	27,799
Note 3C: Depreciation and amortisation		
Depreciation:		
Leaschold improvements	1,151	770
Property, plant and equipment	1,161	874
Total depreciation	2,312	1,644
Amortisation:		
Intangibles	298	461
Total amortisation	298	461
Total depreciation and amortisation	2,610	2,105

	2014 S'000	2013 S'000
Note 3D: Finance costs		
Unwinding of discount	3	5
Total finance costs	<u>3</u>	<u>5</u>
Note 3E: Losses from asset sales		
Leasehold and improvements		
Carrying value of asset disposed	13	620
Plant and equipment		
Carrying value of asset disposed	59	11
Intangibles		
Carrying value of asset disposed	3	-
Total losses from asset sales	<u>75</u>	<u>631</u>

Note 4: Income

	2014	2013
	\$'000	\$'000
Own-Source Revenue		
Note 4A: Sale of goods and rendering of services		
Rendering of services in connection with		
Related entities		
External parties	344	156
Total rendering of services	<u>26</u>	<u>118</u>
Total sale of goods and rendering of services	<u>370</u>	<u>274</u>
Note 4B: Rental income		
Operating lease		
Sub-lease of property	596	1,149
Total rental income	<u>596</u>	<u>1,149</u>
Note 4C: Other revenues		
Other - vehicle contributions	38	38
Total other revenue	<u>38</u>	<u>38</u>
Gains		
Note 4D: Other gains		
Grant revenue	-	139
Resources received free of charge	58	58
Write-back of make-good	-	2,548
Total other gains	<u>58</u>	<u>2,745</u>
Note 4E: Revenue from Government		
Appropriations		
Departmental appropriations	79,996	74,294
Total revenue from Government	<u>79,996</u>	<u>74,294</u>

An amount of \$2.613m of Fair Work Commission's direct appropriations has been quarantined and as such is unable to be utilised for Fair Work Commission purposes. It is expected to be formally reduced in July 2016. As there has been no formal reduction of the appropriation to comply with the Finance Ministers Orders, Fair Work Commission is required to recognise the full amount of available appropriation as Revenue from Government for 2013-14.

Note 5: Fair Value Measurements

The following tables provide an analysis of assets and liabilities that are measured at fair value. 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.

Note 5A: Fair Value Measurements

Fair value measurements at the end of the reporting period by hierarchy for assets and liabilities in 2014

	Fair value measurements at the end of the reporting period using			
	Fair value \$'000	Level 1 inputs \$'000	Level 2 inputs \$'000	Level 3 inputs \$'000
Non-financial assets				
Leasehold improvements	22,309	-	1,319	20,991
Property, plant and equipment	7,510	-	6,029	1,481
Total non-financial assets	29,819	-	7,347	22,472
Assets not measured at fair value in the statement of financial position:				
Non-financial assets ¹	-	-	-	-

1. Fair Work Commission did not measure any non-financial assets at fair value on a non-recurring basis as at 30 June 2014.

The highest and best use of all non-financial assets are the same as their current use.

Fair value Measurement - Highest & Best Use

Fair Work Commission's assets are held for operational purposes and not held for the purposes of deriving a profit. The current use of all controlled assets is considered their highest and best use.

Note 5B: Level 1 and Level 2 transfers for recurring fair value measurements
Recurring fair value measurements transferred between Level 1 and Level 2 for assets and liabilities

There have been no transfers between levels of the hierarchy during the year.

Fair Work Commission's policy for determining when transfers between levels are deemed to have occurred can be found in Note 1.

Note 5C: Valuation technique and inputs for Level 2 and Level 3 fair value measurements

Level 2 and 3 fair value measurements - valuation technique and the inputs used for assets in 2014

	Category (Level 2 or Level 3)	Fair value	Valuation technique(s) ¹	Inputs used	Range (weighted average) ²
Non-financial assets:					
Leasehold improvements (WIP)	2	1,319	Cost	Replacement Cost New	N/A
Leasehold improvements	3	20,991	Depreciated Replacement Cost (DRC)	Replacement Cost New (price per square metre) Consumed economic benefit / Obsolescence of asset	N/A 5.0% - 50.0% (6.4%) per annum
Property, plant and equipment (WIP)	2	2,108	Cost	Replacement Cost New	N/A
Property, plant and equipment	2	3,921	Market Approach	Adjusted market transactions	N/A
Property, plant and equipment	3	1,481	Depreciated Replacement Cost (DRC)	Replacement Cost New Consumed economic benefit / Obsolescence of asset	N/A 33.3% per annum

1. There have been no changes to valuation techniques.

2. Significant unobservable inputs only. Not applicable for assets or liabilities in the Level 2 category.

There were no significant inter-relationships between unobservable inputs that materially affect fair value.

Recurring and non-recurring Level 3 fair value measurements - valuation processes

Fair Work Commission procured the service of the Australian Valuation Office (AVO) to undertake a comprehensive valuation of all leasehold, plant and equipment assets and RHAS to undertake a comprehensive valuation of all artwork at 30 June 2012. Fair Work Commission tests the procedures of the valuation model as an internal management review at least once every 12 months (with a formal revaluation undertaken once every three years). If a particular asset class experiences significant and volatile changes in fair value (i.e. where indicators suggest that the value of the class has changed materially since the previous reporting period), that class is subject to specific valuation in the reporting period, where practicable, regardless of the timing of the last specific valuation.

There is no change in the valuation technique since the prior year.

Significant Level 3 inputs utilised by the entity are derived and evaluated as follows:

Leasehold Improvements, Property, Plant and Equipment - Consumed economic benefit / Obsolescence of asset

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 cost (Depreciated Replacement Cost or DRC) approach. Under the DRC approach the estimated cost to replace the asset is calculated and then adjusted to take into account its consumed economic benefit / asset obsolescence (accumulated Depreciation). Consumed economic benefit / asset obsolescence has been determined based on professional judgment regarding physical, economic and external obsolescence factors relevant to the asset under consideration.

The weighted average is determined by assessing the fair value measurement as a proportion of the total fair value for the class against the total useful life of each asset.

Recurring Level 3 fair value measurements - sensitivity of inputs

Leasehold Improvements & Property, Plant and Equipment - Consumed economic benefit / Obsolescence of asset

The significant unobservable inputs used in the fair value measurement of Fair Work Commission's leasehold improvements, property, plant and equipment asset classes relate to the consumed economic benefit / asset obsolescence. A significant increase (decrease) in this input would result in a significantly lower (higher) fair value measurement.

Note 5D: Reconciliation for recurring Level 3 fair value measurements

Recurring Level 3 fair value measurements - reconciliation for assets

	Non-financial assets		
	Leasehold improvements	Property, plant and equipment	Total 2014
	2014	2014	2014
	\$'000	\$'000	\$'000
Open balance¹	9,095	1,026	10,121
Total gains/(losses) in accumulated depreciation ²	(1,025)	(473)	(1,497)
Purchases	12,921	928	13,849
Sales	-	-	-
Issues	-	-	-
Settlements	-	-	-
Transfers into Level 3 ³	-	-	-
Transfers out of Level 3 ³	-	-	-
Closing balance	20,991	1,481	22,472
Changes in unrealised gains/(losses) recognised ⁴	-	-	-

1. Open balance as determined in accordance with AASB 13

2. The presentation of these gains/(losses) in the Statement of Comprehensive Income will depend on Fair Work Commission.

3. There have been no transfers between levels of the hierarchy during the year.

4. The presentation of unrealised gains/(losses) in the Statement of Comprehensive Income will depend on Fair Work Commission.

Fair Work Commission's policy for determining when transfers between levels are deemed to have occurred can be found in Note 1.

Note 6: Financial Assets

	2014 \$'000	2013 \$'000
Note 6A: Cash and Cash Equivalents		
Cash on hand or on deposit	433	421
Total cash and cash equivalents	433	421
Note 6B: Trade and Other Receivables		
Goods and services receivables in connection with		
Related parties	66	9
External parties	588	1
Total goods and services receivables	654	10
Appropriations receivables		
Existing outputs	36,693	60,850
Total appropriations receivables	36,693	60,850
Other receivables		
GST receivables from the Australian Taxation Office	400	520
Total other receivables	400	520
Total trade and other receivables (gross)	37,747	61,380
Trade and other receivables (net) expected to be recovered		
No more than 12 months	37,747	61,380
More than 12 months	-	-
Total trade and other receivables (net)	37,747	61,380
Trade and other receivables are aged as follows		
Not overdue	37,692	61,380
Overdue by		
0 to 30 days	55	-
31 to 60 days	-	-
61 to 90 days	-	-
More than 90 days	-	-
Total trade and other receivables (gross)	37,747	61,380

No indicators of impairment were noted for receivables.

Credit terms for goods and services are usually within 30 days (2013: 30 days).

Note 7: Non-financial Assets

	2014	2013
	\$'000	\$'000
Note 7A: Leasehold improvements		
Leasehold improvements		
Fair value	26,027	19,919
Accumulated depreciation	(3,718)	(10,365)
Total leasehold improvements	<u>22,309</u>	<u>9,554</u>

Fair Work Commission at 30 June 2014 has completed its nationwide refurbishment projects, which were undertaken to update leaseholds to support the operations of a modern tribunal, and consolidate tenancies in our Melbourne Offices.

No adjustments were made as the carrying value did not substantially vary from the assets' fair value at reporting date.

No indicators of impairment were found for leasehold improvements.

No leasehold improvements with a carrying value are expected to be sold or disposed of within the next 12 months.

Note 7B: Property, plant and equipment

Property, plant and equipment		
Fair value	9,437	5,012
Accumulated depreciation	(1,927)	(929)
Total property, plant and equipment	<u>7,510</u>	<u>4,083</u>

No indicators of impairment were found for property, plant and equipment.

No property, plant and equipment are expected to be sold or disposed of within the next 12 months.

Note 7C: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment**Reconciliation of the opening and closing balances of property, plant and equipment for 2014**

	Leasehold Improvements	Property, Plant and Equipment	Total
	\$'000	\$'000	\$'000
As at 1 July 2013			
Gross book value	19,919	5,012	24,931
Accumulated depreciation and impairment	(10,365)	(929)	(11,294)
Total as at 1 July 2013	9,554	4,083	13,637
Additions			
Purchase	13,915	4,647	18,562
Depreciation expense	(1,151)	(1,161)	(2,312)
Other movement - makegood	4	-	4
Disposals			
Asset cost	(7,811)	(222)	(8,033)
Accumulated depreciation	7,798	163	7,961
Total as at 30 June 2014	22,309	7,510	29,819
Total as at 30 June 2014 represented by			
Gross book value	26,027	9,437	35,464
Accumulated depreciation and impairment	(3,718)	(1,927)	(5,645)
Total as at 30 June 2014	22,309	7,510	29,819

Reconciliation of the opening and closing balances of property, plant and equipment for 2013

	Leasehold Improvements	Property, Plant and Equipment	Total
	\$'000	\$'000	\$'000
As at 1 July 2012			
Gross book value	18,542	2,819	21,361
Accumulated depreciation and impairment	(11,483)	(66)	(11,549)
Total as at 1 July 2012	7,059	2,753	9,812
Additions			
Purchase	3,883	2,215	6,098
Depreciation expense	(770)	(874)	(1,644)
Other movement - makegood	2	-	2
Disposals			
Asset cost	(2,508)	(22)	(2,530)
Accumulated depreciation	1,888	11	1,899
Total as at 30 June 2013	9,554	4,083	13,637
Total as at 30 June 2013 represented by			
Gross book value	19,919	5,012	24,931
Accumulated depreciation and impairment	(10,365)	(929)	(11,294)
Total as at 30 June 2013	9,554	4,083	13,637

	2014 S'000	2013 S'000
Note 7D: Intangibles		
Computer software		
Internally developed - in progress	308	195
Internally developed - in use	1,212	1,059
Purchased	1,513	1,500
Accumulated amortisation	(1,956)	(1,704)
Total computer software	1,077	1,050
Total intangibles	1,077	1,050

No indicators of impairments were found for intangible assets.

No intangibles are expected to be sold or disposed of within the next 12 months.

Note 7E: Reconciliation of the Opening and Closing Balances of Intangibles**Reconciliation of the opening and closing balances of intangibles for 2014**

	Intangibles S'000	Total S'000
As at 1 July 2013		
Gross book value	2,754	2,754
Accumulated amortisation and impairment	(1,704)	(1,704)
Total as at 1 July 2013	1,050	1,050
Additions		
Purchase or internally developed	328	328
Amortisation	(298)	(298)
Disposals		
Asset cost	(49)	(49)
Accumulated depreciation	46	46
Total as at 30 June 2014	1,077	1,077
Total as at 30 June 2014 represented by		
Gross book value	3,033	3,033
Accumulated amortisation and impairment	(1,956)	(1,956)
Total as at 30 June 2014	1,077	1,077

Reconciliation of the opening and closing balances of intangibles for 2013

	Intangibles S'000	Total S'000
As at 1 July 2012		
Gross book value	2,177	2,177
Accumulated amortisation and impairment	(1,243)	(1,243)
Total as at 1 July 2012	934	934
Additions		
Purchase or internally developed	577	577
Amortisation	(461)	(461)
Disposals	-	-
Total as at 30 June 2013	1,050	1,050
Total as at 30 June 2013 represented by		
Gross book value	2,754	2,754
Accumulated amortisation and impairment	(1,704)	(1,704)
Total as at 30 June 2013	1,050	1,050

	2014 \$'000	2013 \$'000
Note 7F: Other Non-Financial Assets		
Prepayments	1,562	1,555
Lease incentive	2,991	3,497
Lease receivables	35	-
Total other non-financial assets	4,588	5,052
Other non-financial assets expected to be recovered		
No more than 12 months	1,523	2,137
More than 12 months	3,065	2,915
Total other non-financial assets	4,588	5,052

No indicators of impairment were found for other non-financial assets.

Note 8: Payables

	2014 S'000	2013 S'000
Note 8A: Suppliers		
Trade creditors and accruals	3,867	3,518
Total suppliers	<u>3,867</u>	<u>3,518</u>
Suppliers expected to be settled		
No more than 12 months	3,867	3,518
More than 12 months	-	-
Total suppliers	<u>3,867</u>	<u>3,518</u>
Suppliers in connection with		
Related entities	239	78
External parties	3,628	3,440
Total suppliers	<u>3,867</u>	<u>3,518</u>
Note 8B: Other payables		
Wages and salaries	1,229	1,048
Superannuation	178	163
Lease payable	3,452	3,267
Lease incentives	3,619	4,667
Total other payables	<u>8,478</u>	<u>9,145</u>
Other payables expected to be settled		
No more than 12 months	2,951	2,621
More than 12 months	5,527	6,524
Total other payables	<u>8,478</u>	<u>9,145</u>

Note 9: Provisions

	2014 S'000	2013 S'000
Note 9A: Employee Provisions		
Leave	17,457	16,125
Total employee provisions	17,457	16,125
Employee provisions expected to be settled		
No more than 12 months	4,547	4,223
More than 12 months	12,910	11,902
Total employee provisions	17,457	16,125
Note 9B: Other Provisions		
Provision for restoration	96	89
Total other provisions	96	89
Other provisions expected to be settled		
More than 12 months	96	89
Total other provisions	96	89
	Provisions for restoration	Total
	S'000	S'000
As at 1 July 2013	89	89
Additional provisions made	4	4
Provisions no longer required	-	-
Unwinding of discount or change in discount rate	3	3
Total as at 30 June 2014	96	96

Fair Work Commission currently has one agreement (2012-13 one agreement) for the leasing of premises requiring the Commission to restore the premises to their original condition at the conclusion of the lease. The Commission has made a provision to reflect present value of this obligation.

Note 10: Cash Flow Reconciliation

	2014 S'000	2013 S'000
Reconciliation of cash and cash equivalents as per statement of financial position to cash flow statement		
Cash and cash equivalents as per		
Cash flow statement	433	421
Statement of financial position	433	421
Discrepancy	<u>-</u>	<u>-</u>
Reconciliation of net cost of services to net cash from/(used by) operating activities		
Net cost of services	(79,826)	(75,201)
Revenue from Government	79,996	74,294
Adjustments for non-cash items		
Depreciation/amortisation	2,610	2,105
Net write-down of non-financial assets	(7)	(2,550)
Write-back of make-good	-	2,548
Loss on disposal of assets	75	631
Movements in assets and liabilities		
Assets		
(Increase)/decrease in net receivables	13,429	9,260
(Increase)/decrease in other non-financial assets	472	(3,456)
(Increase)/decrease in prepayments	(7)	(214)
Liabilities		
Increase/(decrease) in employee provisions	1,333	(2,232)
Increase/(decrease) in suppliers payables	348	560
Increase/(decrease) in other payables	(667)	2,285
Increase/(decrease) in other provisions	7	(2,541)
Increase/(decrease) in unearned revenue	-	(150)
Net cash from/(used by) operating activities	<u>17,763</u>	<u>5,339</u>

Note 11: Contingent Liabilities and Assets

Quantifiable Contingencies

There were no quantifiable contingent liabilities or assets requiring disclosure for the period ended 30 June 2014 (2013: \$0).

Unquantifiable Contingencies

There were no unquantifiable contingent liabilities or assets requiring disclosure for the period ended 30 June 2014 (2013: \$0).

Significant Remote Contingencies

There were no significant remote contingent liabilities or assets requiring disclosure for the period ended 30 June 2014 (2013: \$0).

Note 12: Senior Executive Remuneration**Note 12A: Senior Executive Remuneration Expenses for the Reporting Period**

	2014	2013
	\$	\$
Short-term employee benefits		
Salary	952,675	659,369
Annual leave accrued	60,442	50,626
Motor vehicle and other allowances	34,445	-
Total short-term employee benefits	<u>1,047,562</u>	<u>709,995</u>
Post-employment benefits		
Superannuation	165,247	104,964
Total post-employment benefits	<u>165,247</u>	<u>104,964</u>
Other long-term employee benefits		
Long-service leave	25,409	16,687
Total other long-term employee benefits	<u>25,409</u>	<u>16,687</u>
Total senior executive remuneration expenses	<u>1,238,218</u>	<u>831,646</u>

1. Note 12A is prepared on an accrual basis.

2. Note 12A excludes acting arrangements and part-year service where total remuneration expensed as a senior executive was less than \$195,000.

3. During the 2012-13 year, three members of the Senior Executive Group were appointed but were not employed by the Commission for the full financial reporting period and did not have remuneration above the threshold for reporting purposes.

Note 12B: Average Annual Reportable Remuneration Paid to Substantive Senior Executives during the Reporting Period

Average annual reportable remuneration paid to substantive senior executives in 2014

Average annual reportable remuneration ¹	Substantive senior executives No.	Reportable salary ² \$	Contributed superannuation ³ \$	Reportable allowances ⁴ \$	Bonus paid ⁵ \$	Total reportable remuneration \$
Total reportable remuneration (including part-time arrangements):						
Less than \$195,000	1	144,308	21,560	-	-	165,868
\$195,000 to \$224,999	3	185,054	29,139	-	-	214,193
\$315,000 to \$344,999	1	340,008	42,129	-	-	382,138
Total number of substantive senior executives	5					

Average annual reportable remuneration paid to substantive senior executives in 2013

Average annual reportable remuneration ¹	Substantive senior executives No.	Reportable salary ² \$	Contributed superannuation ³ \$	Reportable allowances ⁴ \$	Bonus paid ⁵ \$	Total reportable remuneration \$
Total reportable remuneration (including part-time arrangements):						
Less than \$195,000	4	104,184	18,232	-	-	122,416
\$195,000 to \$224,999	1	203,628	32,604	-	-	236,232
\$315,000 to \$344,999	1	321,531	40,455	-	-	361,986
Total number of substantive senior executives	6					

1. This table reports substantive senior executives who received remuneration during the reporting period. Each row is an averaged figure based on headcount for individuals in the band.

2. 'Reportable salary' includes the following:

- gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
- reportable fringe benefits (at the net amount prior to 'grossing up' for tax purposes);
- reportable employer superannuation contributions;
- exempt foreign employment income.

3. The 'contributed superannuation' amount is the average cost to the entity for the provision of superannuation benefits to substantive senior executives in that reportable remuneration band during the reporting period.

4. 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

5. 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving Fair Work Commission during the financial year.

Note 12C: Average Annual Reportable Remuneration Paid to Other Highly Paid Staff and Members during the Reporting Period

Fair Work Commission had no other highly paid staff above the \$195,000 threshold in the financial year 2013-14. (2012-13: Nil)

Average annual reportable remuneration paid to Members in 2014

Average annual reportable remuneration ¹	Highly paid members No.	Reportable salary ² \$	Contributed superannuation ³ \$	Reportable allowances ⁴ \$	Bonus paid ⁵ \$	Total reportable remuneration \$
Total reportable remuneration (including part-time arrangements):						
\$255,000 to \$284,999	1	235,571	25,000	-	-	260,571
\$315,000 to \$344,999	6	278,751	47,785	-	-	326,536
\$345,000 to \$374,999	16	312,587	38,339	558	-	351,484
\$375,000 to \$404,999	2	328,507	58,659	425	-	387,591
\$405,000 to \$434,999	17	406,056	8,529	70	-	414,655
\$435,000 to \$464,999	1	381,141	62,945	632	-	444,718
\$465,000 to \$494,999	1	453,960	-	-	-	453,960
\$495,000 to \$524,999	1	488,482	25,000	735	-	514,217
\$525,000 to \$554,999	1	517,257	17,775	-	-	535,032
Total number of highly paid members	46					

Average annual reportable remuneration paid to Members in 2013

Average annual reportable remuneration ¹	Highly paid members No.	Reportable salary ² \$	Contributed superannuation ³ \$	Reportable allowances ⁴ \$	Bonus paid ⁵ \$	Total reportable remuneration \$
Total reportable remuneration (including part-time arrangements):						
\$210,000 to \$239,999	1	200,018	32,483	-	-	232,501
\$300,000 to \$329,999	7	288,188	34,066	216	-	322,470
\$330,000 to \$359,999	17	304,241	35,083	217	-	339,541
\$360,000 to \$389,999	1	294,920	66,448	-	-	361,368
\$390,000 to \$419,999	5	392,706	10,008	-	-	402,714
\$420,000 to \$449,999	11	420,948	7,753	17	-	428,718
\$450,000 to \$479,999	1	461,545	-	-	-	461,545
\$570,000 to \$599,999	1	595,984	-	-	-	595,984
Total number of highly paid members	44					

1. This table reports staff and members:

- who were employed by or statutorily appointed to Fair Work Commission during the reporting period;
- whose reportable remuneration was \$195,000 or more for the reporting period; and
- were not required to be disclosed in Table B or director disclosures.

Each row is an averaged figure based on headcount for individuals in the band.

2. 'Reportable salary' includes the following:

- gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
- reportable fringe benefits (at the net amount prior to 'grossing up' for tax purposes);
- exempt foreign employment income; and
- salary sacrificed benefits.

3. The 'contributed superannuation' amount is the average cost to Fair Work Commission for the provision of superannuation benefits to other highly paid staff and members in that reportable remuneration band during the reporting period.

4. 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

5. 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving Fair Work Commission during the financial year.

6. Various salary sacrifice arrangements were available to other highly paid staff and members including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

7. Upon resignation / retirement from office, presidential members covered by the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* may be paid up to one year remuneration in accordance with provisions contained within the *JUDGES (LONG LEAVE PAYMENTS) ACT 1979*. The application of these payments in some cases has resulted in higher reportable remuneration than that prescribed by the applicable Remuneration Tribunal determination.

Note 13: Remuneration of Auditors

	2014 \$'000	2013 \$'000
Financial statement audit services were provided free of charge to Fair Work Commission by the Australian National Audit Office (ANAO)		
Fair value of services received		
Financial statement audit services	58	58
Total fair value of services received	<u>58</u>	<u>58</u>

No other services were provided by the auditors of the financial statements.

Note 14: Financial Instruments

	2014 \$'000	2013 \$'000
Note 14A: Categories of Financial Instruments		
Financial Assets		
Loans and receivables		
Cash and cash equivalents	433	421
Trade and other receivables	654	10
Total loans and receivables	1,087	431
Total financial assets	1,087	431
Financial Liabilities		
Financial liabilities measured at amortised cost		
Trade creditors	3,867	3,518
Total financial liabilities measured at amortised cost	3,867	3,518
Total financial liabilities	3,867	3,518

Note 14B: Net Gains or Losses on Financial Assets

There is no gain or loss from financial assets – loans and receivables in the period ending 30 June 2014 (2013: \$0).

Note 14C: Net Gains or Losses on Financial Liabilities

There is no gain or loss from financial liabilities – payables in the period ending 30 June 2014 (2013: \$0).

Note 14D: Fair Value of Financial Instruments

There are no financial instruments held at 30 June 2014 and 30 June 2013 where the carrying amount is not a reasonable approximation of fair value.

	Notes	Carrying Amount 2014 \$'000	Fair Value 2014 \$'000	Carrying Amount 2013 \$'000	Fair Value 2013 \$'000
Financial Assets					
Cash and cash equivalents	6A	433	433	421	421
Trade and other receivables	6B	654	654	10	10
Total financial assets		1,087	1,087	431	431
Financial Liabilities					
Trade creditors	8A	3,867	3,867	3,518	3,518
Total financial liabilities		3,867	3,867	3,518	3,518

Note 14E: 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 (2014: \$653,725.96; 2013: \$9,774.56).

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 debt recovery techniques that were to be applied.

Fair Work Commission held no collateral to mitigate credit risk.

Credit quality of financial assets not past due or individually determined as impaired

	Not Past Due Nor Impaired 2014 \$'000	Not Past Due Nor Impaired 2013 \$'000	Past Due or Impaired 2014 \$'000	Past Due or Impaired 2013 \$'000
Loans and receivables				
Receivables for goods and services	654	10	-	-
Total	654	10	-	-

Ageing of financial assets that were past due but not impaired in 2014

	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Receivables for goods and services	-	55	-	-	55
Total	-	55	-	-	55

Ageing of financial assets that were past due but not impaired in 2013

	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Receivables for goods and services	-	-	-	-	-
Total	-	-	-	-	-

Note 14F 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.

Maturities for non-derivative financial liabilities in 2014

	On demand \$'000	within 1 year \$'000	between 1 to 2 years \$'000	between 2 to 5 years \$'000	more than 5 years \$'000	Total \$'000
Trade creditors	-	3,867	-	-	-	3,867
Total	-	3,867	-	-	-	3,867

Maturities for non-derivative financial liabilities in 2013

	On demand \$'000	within 1 year \$'000	between 1 to 2 years \$'000	between 2 to 5 years \$'000	more than 5 years \$'000	Total \$'000
Trade creditors	-	3,518	-	-	-	3,518
Total	-	3,518	-	-	-	3,518

Fair Work Commission has no derivative financial liabilities in either current or prior year.

Note 14G: Market Risk

Fair Work Commission held basic financial instruments that did not expose Fair Work Commission to certain market risks such as currency risk, other price risk or interest rate risk.

Note 15: Financial Assets Reconciliation

	Notes	2014 S'000	2013 S'000
Total financial assets as per statement of financial position		38,180	61,801
Less: Non-financial instrument components			
Appropriation receivable	6B	36,693	60,850
Other receivables	6B	400	520
Total non-financial instrument components		37,093	61,370
Total financial assets as per financial instruments note		1,087	431

Note 16: Administered Income

	2014	2013
	\$'000	\$'000
Revenue		
Non-Taxation Revenue		
Note 16A: Fees		
Termination of employment application fees	1,078	988
Less: Refunds of termination of employment application fees	(500)	(384)
Total fees	<u>578</u>	<u>604</u>

Note 17: Administered Payables

	2014	2013
	\$'000	\$'000
Other payables		
Refunds of termination of employment application fees	-	(8)
Total other payables	<u>-</u>	<u>(8)</u>
Other payables expected to be settled		
No more than 12 months	-	(8)
Total payables	<u>-</u>	<u>(8)</u>

Note 18: Administered Cash Flow Reconciliation

	2014	2013
	\$'000	\$'000
Reconciliation of cash and cash equivalents as per administered schedule of assets and liabilities to administered cash flow statement		
Cash and equivalents as per		
Schedule of administered cash flows	-	-
Schedule of administered assets and liabilities	-	-
Discrepancy	<u>-</u>	<u>-</u>
Reconciliation of net cost of services to net cash from operating activities		
Net contribution by services	578	604
Movements in assets and liabilities		
Liabilities		
Increase / (decrease) in other payable	(8)	(3)
Net cash from operating activities	<u>570</u>	<u>601</u>

Note 19: Administered Contingent Liabilities and Assets

As at 30 June 2014 there were no unrecognised or contingent assets or liabilities requiring disclosure (2013: \$0).

Note 20: Appropriations

Table 20A: Annual Appropriations ('Recoverable GST exclusive')

Annual Appropriations for 2014

	2014 Appropriations						Total appropriation \$'000	Appropriation applied in 2014 (current and prior years) \$'000	Variance ³ \$'000
	Appropriations Act			FMA Act					
	Annual Appropriation ⁴ \$'000	Appropriations reduced ¹ \$'000	AFM ² \$'000	Section 30 \$'000	Section 31 \$'000	Section 32 \$'000			
DEPARTMENTAL									
Ordinary annual services	80,345	-	-	-	1,004	-	81,349	94,298	(12,949)
Other Services									
Equity	-	-	-	-	-	-	-	788	(788)
Total departmental	80,345	-	-	-	1,004	-	81,349	95,086	(13,737)

Annual Appropriations for 2013

	2013 Appropriations						Total appropriation \$'000	Appropriation applied in 2013 (current and prior years) \$'000	Variance ³ \$'000
	Appropriations Act			FMA Act					
	Annual Appropriation \$'000	Appropriations reduced ¹ \$'000	AFM ² \$'000	Section 30 \$'000	Section 31 \$'000	Section 32 \$'000			
DEPARTMENTAL									
Ordinary annual services	75,670	-	-	-	1,461	-	77,054	83,346	(6,292)
Other Services									
Equity	-	-	-	-	-	-	-	212	(212)
Total departmental	75,670	-	-	-	1,461	-	77,054	83,558	(6,504)

Notes:

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. Advance to the Finance Minister (AFM) - Appropriation Acts (Nos. 1,3&5): section 13 and Appropriation Acts (Nos. 2,4&6): section 15.

3. The variance between total annual appropriation available and total appropriation applied in 2013-14 relates to payments funded from unspent prior year appropriation items.

4. An amount of \$2.613m of Fair Work Commission direct appropriations has been quarantined and as such is unable to be utilised for Fair Work Commission purposes. It is expected to be formally reduced in July 2016. As there has been no formal reduction of the appropriation to comply with the Finance Ministers Orders, Fair Work Commission is required to recognise the full amount of available appropriation as Revenue from Government for 2013-14.

Table 20B: Departmental Capital Budgets ('Recoverable GST exclusive')

	2014 Capital Budget Appropriations				Capital Budgets Appropriations applied in 2014 (current and prior years)				
	Appropriations Act		FMA Act		Total Capital Budget Appropriations \$'000	Payments for non-financial assets ³ \$'000	Payments for other purposes \$'000	Total payments \$'000	Variance ⁴ \$'000
	Annual Capital Budget \$'000	Appropriations reduced ² \$'000	Section 32 \$'000						
DEPARTMENTAL Ordinary annual services - Departmental Capital Budget ¹	349	-	-		349	1,160	-	1,160	(811)

	2013 Capital Budget Appropriations				Capital Budgets Appropriations applied in 2013 (current and prior years)				
	Appropriations Act		FMA Act		Total Capital Budget Appropriations \$'000	Payments for non-financial assets ³ \$'000	Payments for other purposes \$'000	Total payments \$'000	Variance ⁴ \$'000
	Annual Capital Budget \$'000	Appropriations reduced ² \$'000	Section 32 \$'000						
DEPARTMENTAL Ordinary annual services - Departmental Capital Budget ¹	1,121	-	-		1,121	1,271	-	1,271	(150)

Notes:

1. 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. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.
2. Appropriations reduced under Appropriation Acts (No.1,3,5): sections 10, 11, 12 and 15 or via a determination by the Finance Minister.
3. Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.
4. The variance between total annual appropriation available and total appropriation applied in 2013-14 relates to payments funded from unspent prior year appropriation items.

Table 20C: Unspent Annual Appropriations ('Recoverable GST exclusive')

	2014	2013
	\$'000	\$'000
Departmental		
Appropriation Act (No. 4) 2005-06 ^	-	2,125
Appropriation Act (No. 4) 2006-07 ^	-	6,677
Appropriation Act (No. 2) 2009-10 ^	-	614
Appropriation Act (No. 2) 2010-11	-	788
Appropriation Act (No.1) 2011-12	-	34,337
Appropriation Act (No.1) 2012-13	-	16,309
Appropriation Act (No.1) 2013-14 *	36,693	-
Total departmental	36,693	60,850

Notes:

^Per the Statute Stocktake (Appropriations) Bill 2013 (Stocktake Bill 2013) all old annual Appropriation Acts from 1 July 1999 to 30 June 2010 were repealed during the 2013-14 financial year.

* An amount of \$2.613m of Fair Work Commission direct appropriations has been quarantined and as such is unable to be utilised for Fair Work Commission purposes. It is expected to be formally reduced in July 2016. As there has been no formal reduction of the appropriation to comply with the Finance Ministers Orders, Fair Work Commission is required to recognise the full amount of available appropriation as Revenue from Government for 2013-14.

Table 20D: Special Appropriations Applied ('Recoverable GST exclusive')

Authority	Type	Purpose	Appropriation applied	
			2014	2013
			\$'000	\$'000
Financial Management and Accountability Act 1997 s. 28(2), Administered	Refund	To provide an appropriation for the refund of application fees received by the Commonwealth as per the Fair Work Regulations 2009 and apart from this section there is no specific appropriation for the repayment.	(508)	(387)

Table 20E: Disclosure by Agent in Relation to Annual and Special Appropriations ('Recoverable GST exclusive')

During the year the Fair Work Commission was granted authority and drawing rights by the Department of Finance to make payments under the *Judges' Pensions Act 1968*. The Fair Work Commission makes pension payments directly to beneficiaries of the scheme, due to prior service to the Commission or preceding bodies.

Payments are made under agency relationship for Department of Finance.

Department of Finance - to make payments to beneficiaries Judges Pension Scheme.	
2014	\$'000
Total receipts	4,802
Total payments	(4,802)
Department of Finance - to make payments to beneficiaries Judges Pension Scheme	
2013	\$'000
Total receipts	4,515
Total payments	(4,515)

Note 21: Compliance with Statutory Conditions for Payments from the Consolidated Revenue Fund

Section 83 of the Constitution provides that no amount may be paid out of the Consolidated Revenue Fund except under an appropriation made by law. The Department of Finance provided information to all agencies regarding the need for risk assessments in relation to compliance with statutory conditions on payments from special appropriations, including special accounts. The possibility of this being an issue for Fair Work Commission was reported in the notes to the 2012-13 financial statements.

During 2013-14, Fair Work Commission reviewed exposure to risks of not complying with statutory conditions on payments from appropriations. The plan involved:

- identifying each special appropriation and special account;
- determining the risk of non-compliance by assessing the difficulty of administering the statutory conditions and assessing the extent to which existing payment systems and processes satisfy those conditions; and
- determining procedures to confirm risk assessment in medium risk cases and to quantify the extent of non-compliance, if any, in higher risk situations.

Fair Work Commission identified two appropriations involving statutory conditions for payment, comprising:

- *Judges Pension Act 1968* special appropriations; and
- Section 28(2) of *Financial Management and Accountability Act 1997* special appropriation for refund of application fees.

As at 30 June 2014 this work had been completed in respect of both the special appropriation with statutory conditions for payment (representing \$4.802m expenditure in 2013-14 (2012-13: \$4.515m) for *Judges Pension Act 1968* payments and \$0.508m 2013-14 (2012-13: \$0.387m) for refund of application fees).

During 2012-13 additional legal advice was received that indicated there could be breaches of Section 83 under certain circumstances with payments for long service leave, goods and services tax and payments under determinations of the Remuneration Tribunal. Fair Work Commission has again in 2013-14 year reviewed its processes and controls over payments for these items to minimise the possibility for future breaches as a result of these payments. Fair Work Commission has determined that there is a low risk of the certain circumstances mentioned in the legal advice applying to the department.

Work conducted to date has identified no issues of non compliance with Section 83.

Note 22: Compensation and Debt Relief

	2014 \$	2013 \$
Compensation and Debt Relief		
No payments were made under [disclose section, title of legislative and year] during the reporting period (2013: Nil).	-	-
Compensation and Debt Relief - Departmental		
No 'Act of Grace' expenses were expensed during the reporting period (2013: Nil).	-	-
No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the <i>Financial Management and Accountability Act 1997</i> (2013: Nil).	-	-
No payments were provided under the Compensation for Detriment caused by Defective Administration (CDDA) Scheme during the reporting period (2013: Nil).	-	-
No ex-gratia payments were made during the reporting period (2013: Nil).	-	-
No payments were provided in special circumstances relating to APS employment pursuant to section 73 of the <i>Public Service Act 1999</i> (PS Act) during the reporting period (2013: Nil).	-	-
Compensation and Debt Relief - Administered	2014 \$	2013 \$
No 'Act of Grace' expenses were expensed during the reporting period (2013: Nil).	-	-
No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the <i>Financial Management and Accountability Act 1997</i> (2013: Nil).	-	-
808 waivers of amounts owing to the Australian Government were made pursuant to subsections 367(2)(c), 395(2)(c), 373(2)(c), and 775(2)(c) of the <i>Fair Work Act 2009</i> . (2013: 619).	52,788	39,646
No payments were provided under the Compensation for Detriment caused by Defective Administration (CDDA) Scheme during the reporting period (2013: Nil).	-	-
No ex-gratia payments were made during the reporting period (2013: Nil).	-	-
No payments were provided in special circumstances relating to APS employment pursuant to section 73 of the <i>Public Service Act 1999</i> (PS Act) during the reporting period (2013: Nil).	-	-

Note 23: Reporting of Outcomes

The Fair Work Commission delivers services under one Outcome. The financial information is recorded against this Outcome.

Note 23A: Net Cost of Outcome Delivery

	Outcome 1		Total	
	2014	2013	2014	2013
	\$'000	\$'000	\$'000	\$'000
Departmental				
Expenses	(80,888)	(79,407)	(80,888)	(79,407)
Own-source income	1,004	1,461	1,004	1,461
Administered				
Expenses	-	-	-	-
Income	578	604	578	604
Net cost of outcome delivery	(79,306)	(77,342)	(79,306)	(77,342)

Note 24: Net Cash Appropriation Arrangements

	2014 \$'000	2013 \$'000
Total comprehensive income less depreciation/amortisation expenses previously funded through revenue appropriation¹	2,780	1,198
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	(2,610)	(2,105)
Total comprehensive income/ (loss) - as per the Statement of Comprehensive Income	170	(907)

1. From 2010-11, the Government introduced net cash appropriation arrangements, where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.

R | AGENCY RESOURCE STATEMENT

Table R1 shows the total resources from all origins. The table summarises how resources will be applied by outcome and by administered and departmental classification.

TABLE R1

FAIR WORK COMMISSION RESOURCE STATEMENT

	Actual available appropriation	Payments made or repealed	Balance remaining⁷
	2013-14	2013-14	2013-14
	\$'000	\$'000	\$'000
	(a)	(b)	(c)
Ordinary annual services¹			
Departmental appropriation			
Prior year departmental appropriation ²	50 646	50 646	0
Departmental appropriation ³	80 345	43 652	36 693
s.31A relevant agency receipts ⁴	1004	1004	0
Total ordinary annual services	131 995	95 302	36 693
Departmental non operating¹			
Equity injections	10 204	10 204 ⁶	0
Total Departmental non-operating	10 204	10 204	0
Total available annual appropriations	142 199	105 506	36 693
Total net resourcing for the Fair Work Commission	142 199	105 506	36 693

(1) Appropriation Bill (No. 1) 2013–14. Including the balance of prior year departmental appropriations.

(2) Estimated adjusted balance carried forward from previous year.

(3) Includes an amount of \$.349 m for the Departmental Capital Budget. For accounting purposes this amount has been designated 'contributions by owners'.

(5) Appropriations Bill (No. 4) and Appropriations Act Bill (No. 2) relating to previous financial years.

(6) Per the *Statute Stocktake (Appropriations) Bill 2013* (Stocktake Bill 2013) all old annual Appropriation Acts from 1 July 1999 to 30 June 2010 were repealed during the 2013-14 financial year. \$9.146 m of unspent appropriations were repealed during the 2013-14 financial year for the Commission.

(7) An amount of \$2.613 m of Fair Work Commission appropriations receivable was quarantined and is not available to the Commission, due to delay in start date of Bullying Implementation, and targeted savings as a result of Government decisions.

S | EXPENSES AND RESOURCES FOR OUTCOME

TABLE S1
EXPENSES AND RESOURCES FOR OUTCOME

Outcome 1:	Budget*	Actual	Variation
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.	2013–14	2013–14	2013–14
	\$'000	\$'000	\$'000
	(a)	(b)	(c)
Program 1:			
Dispute resolution, minimum wages, orders and approval of agreements			
Departmental expenses			
Departmental appropriation ¹	81 240	78 220	3020
Expenses not requiring appropriation in the budget year ²	2576	2668	(92)
Total for Program 1 and Outcome 1	83 816	80 888	2928
	2012–13	2013–14	
Average Staffing Level (number)[^]	318	336	(18)

* Full-year budget, including any subsequent adjustment made to the 2013-14 Budget.

[^] Average Staffing Level (ASL) Per the 2013-14 Portfolio Budget Statements included full year funding for a new measure, Workplace Bullying-individual right of recourse. Funding for this measure was delayed post budget to begin from the 1st of January 2014. Please note: above ASL number includes Members of the Tribunal.

(1) Departmental Appropriation combines "Ordinary annual services (Appropriation Bill No. 1)" and "Revenue from independent sources (s31)".

(2) Expenses not requiring appropriation in the Budget year is made up of Depreciation Expense, Amortisation Expense, Makegood Expense, Audit Fees.

T | 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 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.
Australian Industrial Relations Commission (AIRC)	Australia's national industrial relations tribunal from 1988 to 2009. Many of the AIRC's functions were assumed by Fair Work Australia on 1 July 2009, which was subsequently renamed the Fair Work Commission on 1 January 2013. The AIRC ceased to exist and transferred the remainder of its functions to Fair Work Australia on 31 December 2009.
award modernisation	A process initiated in April 2008 by the Minister for Education, Employment and Workplace Relations. It is the process of reviewing and rationalising awards in the national workplace relations system to create a system of modern awards.
bargaining order	An order made on application to the Commission by a bargaining representative negotiating for a proposed enterprise agreement to ensure good faith bargaining requirements or to promote fair and efficient bargaining.
bargaining representative	An employer or a person appointed by the employer to be his or her representative; an employee organisation with respect to its members who will be covered by the agreement (unless the member appoints another person or revokes the status of the employee organisation); 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 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.
discrimination—direct and indirect	Direct discrimination occurs when someone is treated unfairly or less favourably in the same or similar circumstances because of particular characteristics, for example, of their gender or race. Indirect discrimination occurs when there is a rule, policy, practice or procedure that is the same for everyone, but has an unequal or disproportionate effect for a specific group of people with those characteristics.
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 Standard. 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.
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.
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.
low-paid authorisation	An authorisation made on application to the Commission by a bargaining representative or union negotiating for a proposed multi-enterprise agreement. A low-paid authorisation is designed to assist employees who have not had effective access to collective bargaining and gives access to an array of rights such as bargaining orders and low-paid workplace determinations.
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 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 ten 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.
party	An applicant or a respondent to a proceeding before the Commission.
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.

registration	The process by which employee and employer organisations 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 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.
Small Business Fair Dismissal Code	A code declared by the Minister for Education, Employment and Workplace Relations for small businesses to follow when dismissing an employee in order to ensure the dismissal is fair.
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).

U | ACRONYMS AND ABBREVIATIONS

AIRC	Australian Industrial Relations Commission
ANAO	Australian National Audit Office
APS	Australian Public Service
AWRS	Australian Workplace Relations Study
CMS+	the case management system used by the Fair Work Commission
Commission	Fair Work Commission
Fair Work Act	<i>Fair Work Act 2009</i>
Fair Work Regulations	<i>Fair Work Regulations 2009</i>
FOI	freedom of information
FOI Act	<i>Freedom of Information Act 1982</i>
FWAEA	<i>Fair Work Australia Enterprise Agreement 2011-14</i>
GST	goods and services tax
HSRs	Health and Safety Representatives
HSU	Health Services Union
ICT	information and communications technology
ILO	International Labour Organization
KPIs	key performance indicators
MOU	Memorandum of Understanding
NES	National Employment Standards
OHS	occupational health and safety
Public Service Act	<i>Public Service Act 1999</i>
Public Service Regulations	<i>Public Service Regulations 1999</i>
QR Code	quick response code
Registered Organisations Act	<i>Fair Work (Registered Organisations) Act 2009</i>
RO Amendment Act	<i>Fair Work (Registered Organisations) Amendment Act 2012</i>
RSRT	Road Safety Remuneration Tribunal
RSR Act	<i>Road Safety Remuneration Act 2012</i>
SES	Senior Executive Service
Transitional Act	<i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>

WHS	work health and safety
Work Choices Act	<i>Workplace Relations Amendment (Work Choices) Act 2005</i>
WR Act	<i>Workplace Relations Act 1996</i>

V | LIST OF REQUIREMENTS

PART OF REPORT	DESCRIPTION	REQUIREMENT	REF
Aids to access	Letter of transmittal	Mandatory	iii
	Table of contents	Mandatory	iv–vi
	Index	Mandatory	216–225
	Glossary	Mandatory	205–208
	Contact officer(s)	Mandatory	ii
	Internet home page address and Internet address for report	Mandatory	ii
Year in review	Review by President of the Fair Work Commission	Mandatory	2–3
	Summary of significant issues and developments	Suggested	2–5, 8
	Overview of department's performance and financial results	Suggested	2–5, 8, 75, 89
	Outlook for following year	Suggested	5, 16–18
Overview	Role and functions	Mandatory	9–10
	Organisational structure	Mandatory	10–11
	Outcome and program structure	Mandatory	12
	Where outcome and program structures differ from PB Statements/PAES or other portfolio statements accompanying any other additional appropriation bills (other portfolio statements), details of variation and reasons for change	Mandatory	N/A
	Portfolio structure	Portfolio departments—mandatory	N/A

PART OF REPORT	DESCRIPTION	REQUIREMENT	REF
Report on performance	Review of performance during the year in relation to programs and contribution to outcomes	Mandatory	Part 3
	Actual performance in relation to deliverables and KPIs set out in PB Statements/PAES or other portfolio statements	Mandatory	Part 3, 75–76
	Where performance targets differ from the PBS/PAES, details of both former and new targets, and reasons for the change	Mandatory	N/A
	Narrative discussion and analysis of performance	Mandatory	Part 3
	Trend information	Mandatory	16, Part 3
	Significant changes in nature of principal functions/ services	Suggested	16–18, 23–24
	Factors, events or trends influencing departmental performance	Suggested	16–18, 23–30
	Performance against service charter customer service standards, complaints data, and the department's response to complaints	If applicable, mandatory	88
	Discussion and analysis of the department's financial performance	Mandatory	89
	Discussion of any significant changes in financial results from the prior year, from budget or anticipated to have a significant impact on future operations.	Mandatory	89
Agency resource statement and summary resource tables by outcomes	Mandatory	Appx R, Appx S	

PART OF REPORT	DESCRIPTION	REQUIREMENT	REF
Management and Accountability			
Corporate governance	Agency heads are required to certify that their agency complies with the Commonwealth Fraud Control Guidelines	Mandatory	82, Appx O
	Statement of the main corporate governance practices in place	Mandatory	77-78
	Names of the senior executive and their responsibilities	Suggested	11, 77
	Senior management committees and their roles	Suggested	77-78
	Corporate and operational plans and associated performance reporting and review	Suggested	78-80
	Internal audit arrangements including approach adopted to identifying areas of significant financial or operational risk and arrangements to manage those risks	Suggested	81
	Policy and practices on the establishment and maintenance of appropriate ethical standards	Suggested	80
	How nature and amount of remuneration for SES officers is determined	Suggested	87
External scrutiny	Significant developments in external scrutiny	Mandatory	81
	Judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner	Mandatory	82
	Reports by the Auditor-General, a Parliamentary Committee, the Commonwealth Ombudsman or an agency capability review	Mandatory	81

PART OF REPORT	DESCRIPTION	REQUIREMENT	REF
Management of human resources	Assessment of effectiveness in managing and developing human resources to achieve departmental objectives	Mandatory	78–79, 83–86
	Workforce planning, staff retention and turnover	Suggested	78–79, 83–84
	Impact and features of enterprise or collective agreements, individual flexibility arrangements (IFAs), determinations, common law contracts and Australian Workplace Agreements (AWAs)	Suggested	87
	Training and development undertaken and its impact	Suggested	78–80
	Work health and safety performance	Suggested	79–80, 136–137
	Statistics on staffing	Mandatory	83–86
	Enterprise or collective agreements, IFAs, determinations, common law contracts and AWAs	Mandatory	87
	Performance pay	Mandatory	87
Assets management	Assessment of effectiveness of assets management	If applicable, mandatory	90, Appx Q
Purchasing	Assessment of purchasing against core policies and principles	Mandatory	90–91
Consultants	A summary statement detailing the number of new consultancy services contracts let during the year; the total actual expenditure on all new consultancy contracts let during the year (inclusive of GST); the number of ongoing consultancy contracts that were active in the reporting year; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	Mandatory	91
	A statement noting that information on contracts and consultancies is available through the AusTender website.	Mandatory	91
Australian National Audit Office access clauses	Absence of provisions in contracts allowing access by the Auditor-General	Mandatory	91
Exempt contracts	Contracts exempted from publication in AusTender	Mandatory	91
Financial statements	Financial statements	Mandatory	Appx Q

PART OF REPORT	DESCRIPTION	REQUIREMENT	REF
Other mandatory information	Work health and safety (Schedule 2, Part 4 of the <i>Work Health and Safety Act 2011</i>)	Mandatory	136–137
	Advertising and Market Research (Section 311A of the <i>Commonwealth Electoral Act 1918</i>) and statement on advertising campaigns	Mandatory	138
	Ecologically sustainable development and environmental performance (Section 516A of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>)	Mandatory	138–139
	Compliance with the agency's obligations under the <i>Carer Recognition Act 2010</i>	If applicable, mandatory	n/a
	Grant programs	Mandatory	139
	Disability reporting—explicit and transparent reference to agency level information available through other reporting mechanisms	Mandatory	139
	Information Publication Scheme statement	Mandatory	137
	Correction of material errors in previous annual report	If applicable, mandatory	139
	Agency Resource Statements and Resources for Outcomes	Mandatory	Appx R, Appx S
	List of requirements	Mandatory	Appx V

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