



FairWork
Commission

OUR FUTURE DIRECTION



ANNUAL REPORT 2012–13

AUSTRALIA'S NATIONAL WORKPLACE RELATIONS TRIBUNAL

FAIR WORK COMMISSION
ANNUAL REPORT 2012–13

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Visit **www.fwc.gov.au** for more information about the Fair Work Commission or go to www.fwc.gov.au/index.cfm?pagename=aboutannual.

A full list of Fair Work Commission offices is included at Appendix A of this report.

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The document must be attributed as the Fair Work Commission Annual Report 2012–13.



Australia's National Workplace
Relations Tribunal

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

The Honourable
Justice Iain Ross AO
President

23 October 2013

Dear Minister,

I am pleased to present to you the Annual Report of the Fair Work Commission for the year ended 30 June 2013.

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
President
Fair Work Commission

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ACRONYMS AND ABBREVIATIONS

AIRC	Australian Industrial Relations Commission
ANAO	Australian National Audit Office
APS	Australian Public Service
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
NAPSAs	Notional Agreements Preserving State Awards
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>
Registered Organisations Act	<i>Fair Work (Registered Organisations) Act 2009</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	workplace health and safety
Work Choices Act	<i>Workplace Relations Amendment (Work Choices) Act 2005</i>
Workplace Relations Act	<i>Workplace Relations Act 1996</i>



OVERVIEW OF THE COMMISSION

1.1

PRESIDENT'S INTRODUCTION

I am pleased to introduce the Fair Work Commission's annual report for the 2012–13 financial year. This annual report covers the third full year of the operation of the new national workplace relations system introduced by the *Fair Work Act 2009* (Fair Work Act).

During the reporting period the Commission's workload was much the same as in the previous year. The number of applications decreased slightly, but the number of hearings and conferences conducted by Members increased slightly. The Commission's timeliness performance improved in some key areas—half of all single employer agreements were finalised within 16 days of lodgment (compared to 17 days last year) and the median time from the lodgment of an unfair dismissal matter to finalising conciliation fell from 28 days to 25 days.

In last year's annual report I noted the findings of the review into the Fair Work Act, which recommended that the tribunal's name (then Fair Work Australia) be changed. Parliament responded to this recommendation and on 1 January 2013, we became known as the Fair Work Commission (the Commission).

Australia has had a national workplace relations tribunal for over a century. The Commission has endured by successfully adapting to changes in its legislative environment and because it is seen as providing an independent, competent and professional dispute resolution service. But, as I observed in last year's annual report, past success does not guarantee future survival and continued innovation is indispensable to an institution's ongoing success. As part of the process of innovation the Commission launched *Future Directions* in October

2012. *Future Directions* contains 25 initiatives aimed at improving performance and the quality of the services provided by the Commission. The initiatives are directed at ensuring that the Commission fulfils its role as an accessible, fair, efficient and accountable national institution. The 25 initiatives are grouped under the following themes:

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

Like any justice institution the Commission is accountable to the community it serves. As part of that accountability we are committed to providing regular reports on our progress in implementing *Future Directions*. The Commission released progress reports in March and May 2013. In the eight months since *Future Directions* was released, 20 of the 25 initiatives have been implemented and work on the remaining five initiatives is well underway. The implementation of these initiatives has been a collective effort. It has required the commitment and support of Members, staff and our key stakeholders.

While the implementation of these initiatives is a major achievement, it marks a beginning rather than an end. We are intent on monitoring and improving our performance across the range of our statutory functions. To this end, the Commission will commence a much more comprehensive monitoring of its performance next financial year, as well as pursuing further improvements and innovations.

This financial year has also been a year of significant change in the composition of the Commission. We have welcomed the appointment of two new Vice Presidents, two Deputy Presidents and four Commissioners. I wish to congratulate all of the new appointees and thank all of the Members who have worked with me over the past financial year.



I acknowledge and thank retiring Members Senior Deputy President Kaufman, Deputy President Leary and Commissioners Harrison, Gay and Raffaelli for their service to the Commission. I also acknowledge and thank Commissioner Jones who resigned to take up a new role as Judge of the Federal Circuit Court and Deputy Presidents Harrison and Swan who resigned as dual appointees of the Commission.

I also wish to acknowledge and thank our key stakeholders for their contribution to the work of the Commission. In particular, the feedback and advice received from our key stakeholders has made a very important contribution to the successful introduction of the *Future Directions* initiatives.

Finally, I wish to thank all of the staff of the Commission for their dedication to ensuring that the Commission continues to perform its statutory functions with distinction.

Justice Iain Ross AO

1.2

GENERAL MANAGER'S OVERVIEW

After a productive and challenging 12 months, I am happy to present the 2012–13 annual report of the Fair Work Commission. This year was an important one for the Commission. In addition to the launch of the *Future Directions* initiatives in October, the past 12 months have seen the passage and implementation of a range of legislative changes which are significant to the agency. These legislative changes include:

- the renaming of Fair Work Australia to the Fair Work Commission
- strengthened investigatory powers available to the General Manager when conducting inquiries and investigations into registered organisations, and increased penalties for contraventions
- new mandated levels of training and accountability for office holders in registered organisations, and
- the introduction of new jurisdictions for the Commission commencing in early 2014.

Aside from the changes to our statutory functions, the administrative side of the Commission has also undergone significant change. We implemented a new organisational structure, with four branches rather than six, and introduced many changes to improve the services provided by the Commission whilst ensuring that we continue to operate within budget.

These changes included the departure of a large number of staff through voluntary redundancy. I would like to thank the staff who left last year for their contribution to the work of the Commission and its predecessor organisations over an extended period.

For the current staff, I would like to thank them for all of their efforts. It is to the great credit of Commission staff that they have been able to adjust to these changes whilst maintaining exceptional service to the community we serve.

Any discussion about the past 12 months of the Commission's operations must include mention of our role as the regulator of registered organisations. Following the completion of the investigations into the Health Services Union (HSU) nationally and in Victoria, for the first time civil proceedings have been commenced in the Federal Court of Australia.

The investigations and subsequent litigation in relation to the HSU brought our role in relation to registered organisations to the fore and demonstrated not only the complexity but the importance of this regulatory work. The Regulatory Compliance branch has taken account of the challenges and issues arising from the HSU matter and has initiated an unprecedented number of inquiries and investigations into registered organisations. Substantial cultural change has also taken place for the Commission to become a more proactive and effective regulator. I am confident that if another agency takes on this regulatory function, it will be able to build on the good work that has been done over the past year.

The year ahead presents many new challenges, including implementing the anti-bullying jurisdiction from January 2014. I have great confidence in the staff of the Commission to successfully support the Commission and the broader community we serve.

Bernadette O'Neill

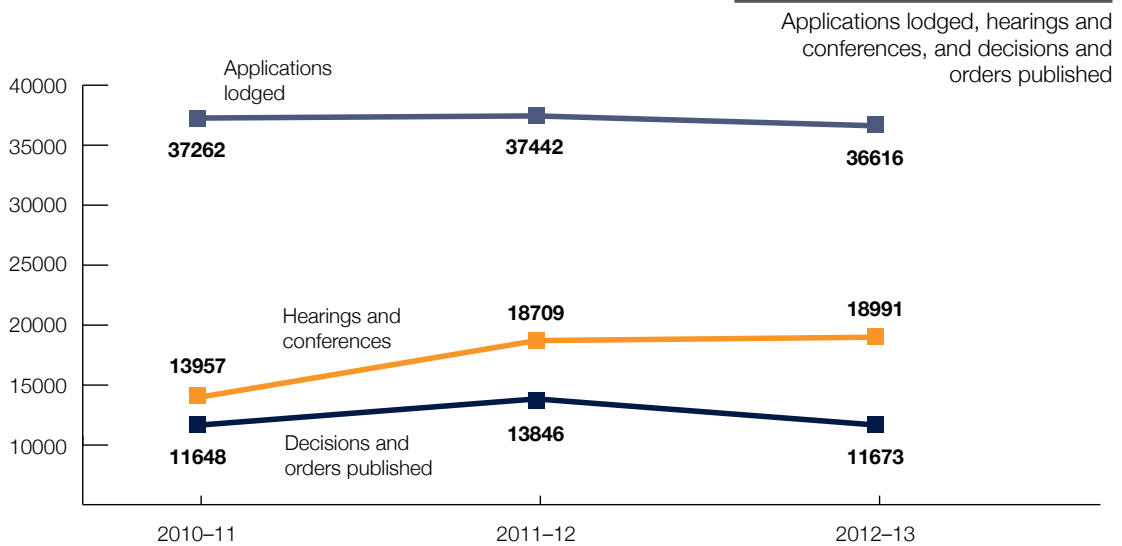
1.3 MAJOR ACHIEVEMENTS—2012–13

In addition to carrying out its general functions, the Commission highlights the following as its major achievements for 2012–13:

- the implementation of changes under the *Future Directions* initiatives including:
 - SMS notifications for hearings
 - trialling a duty lawyer service for self-represented parties
 - producing a range of new information resources to assist clients
 - introducing timeliness benchmarks for Commission hearings and decisions
 - introducing the Commission Member Code of Conduct
 - engaging with stakeholders through the creation of reference groups
 - hosting international delegations from Indonesia, China, Singapore and Cambodia
- the first live streaming of the handing down of the Annual Wage Review 2012–13 decision
- maintaining a very high settlement rate (81 per cent) in unfair dismissal conciliations while achieving high client satisfaction levels
- introducing decision summaries of key decisions
- undergoing a significant shift to a more proactive role in relation to registered organisations
- the commencement of the first civil proceedings under the *Fair Work (Registered Organisations) Act 2009* (Registered Organisations Act), and
- the successful restructure of the administrative arm of the Commission.

1.4 YEAR AT A GLANCE

CHART 1



1.4.1 Work of the Commission

This year the Commission received 36 616 applications. This marks a decrease of 2.2 per cent from last financial year. The Commission dealt with these applications in 18 991 hearings and conferences. This resulted in the publication of 11 673 decisions, orders and determinations.

1.4.2 Performance

The Portfolio Budget Statements provide information on the funds allocated to the Commission to achieve 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.

Program 1: Dispute resolution, minimum wages, orders and approval of agreements.

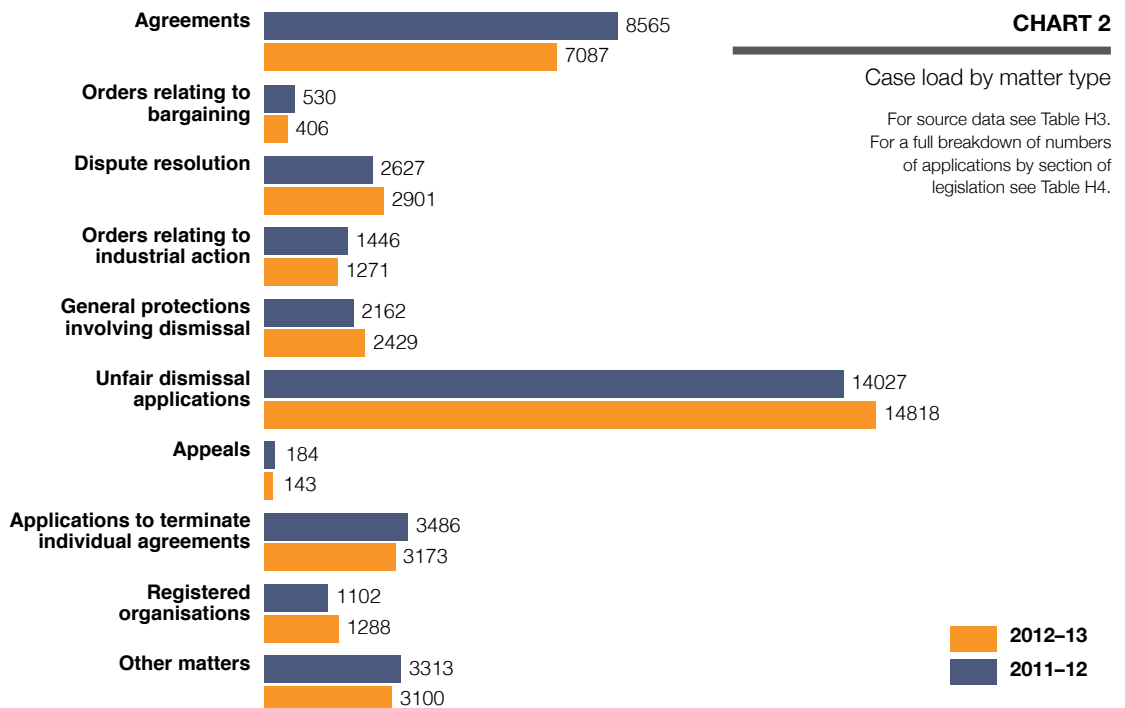
1.4.3 Historic performance against key performance indicators

Table 1 shows that the Commission has, for 2012-13, achieved or exceeded all of the key performance indicators (KPIs) set out in the Portfolio Budget Statements.

TABLE 1: KEY PERFORMANCE INDICATORS

Key performance indicators	Target	2010-11	2011-12	2012-13
Improve or maintain the time elapsed from lodging applications to finalising conciliations in unfair dismissal applications	Median time of 34 days	28 days	28 days	25 days
Improve or maintain time taken to list applications relating to industrial action	Median time of 3 days	3 days	3 days	3 days
Improve or maintain the agreement approval time	Median time of 32 days	21 days	17 days	16 days
Issuing permits	28 days	-	-	17 days*
Completion of Annual Wage Review	By June 2013	3 June 2011	1 June 2012	3 June 2013

*Measured as median number of days



1.4.4 Trends in case load

This year the Commission's case load remained steady across most applications, with the only significant drop in numbers being a 17 per cent reduction in the number of applications to approve enterprise agreements. Consistent with this drop was a reduction in the number of applications for good faith bargaining orders (-23 per cent) and for orders relating to industrial action (-12 per cent). The number of applications for unfair dismissal increased by 5 per cent. The number of applications for general protections involving dismissal increased by 12 per cent.

These numbers 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. For detail about the way the Commission is evolving to meet this shift see 2.7—Our future direction.

Some of the major processes that the Commission completes are not reflected in the case load statistics.

CHART 3

Hearings by location



These processes, such as the modern awards review and the annual wage review, commence in accordance with statutory requirements and the workload may not be reflected in the number of applications made. For more detail on the work of the Commission see Chapter 3.

1.4.5 Hearings and conferences

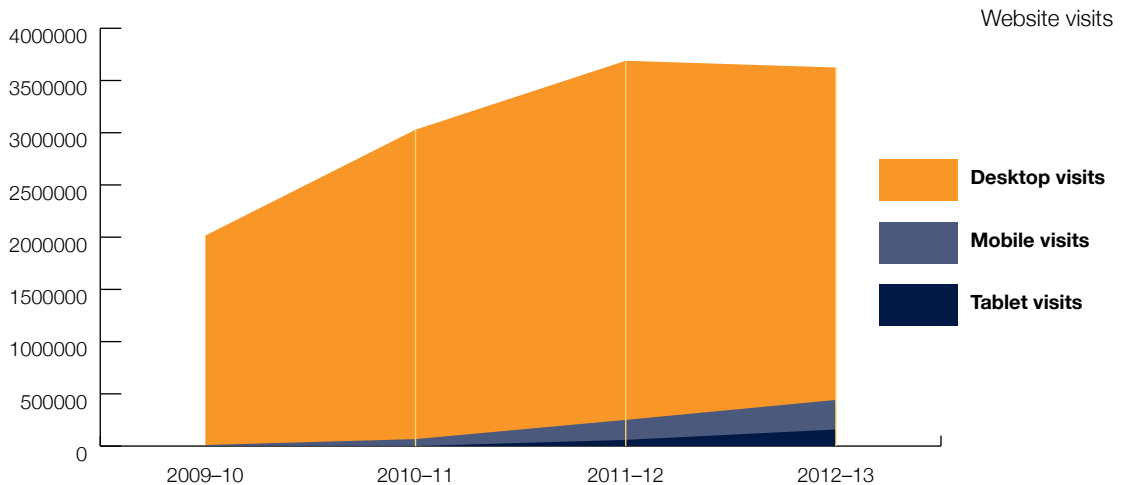
This year the Commission held 18 991 hearings and conferences. Most hearings are held in the offices of the Commission, which are located in each capital city. In addition, the Commission regularly conducts hearings and conferences in regional locations. Chart 3 shows all of the locations where the Commission has held hearings this financial year.

TABLE 2: HEARINGS AND CONFERENCES BY LOCATION

Location	Number
Adelaide	309
Brisbane	1555
Canberra	193
Darwin	55
Hobart	98
Melbourne	3658
Newcastle	163
Perth	543
Sydney	2673
Wollongong	21
Other locations	248
In chambers	5917
Telephone*	2462
Video	1096
Total	18 991

* does not include telephone conferences conducted by administrative staff.

CHART 4



1.4.6 Website visitors

The number of visitors to the Commission's website in 2012-13 was 3 624 414, a reduction of 1.75 per cent when compared to visitors for 2011-12. While overall website traffic has reduced slightly this year, there were significant increases in visits by mobile and tablet users (up by 48 per cent and 167 per cent respectively) when compared to last year's visits. The Commission responded to this change by developing a service for smartphone and tablet users. This service provides quick and easy access to the Commission's daily hearings lists in real time.

1.4.7 Conciliation satisfaction rating

A survey completed by over 700 participants in unfair dismissal conciliations revealed that over 85 per cent of survey respondents either agreed or strongly agreed that they were satisfied with the service provided by the Commission.

1.4.8 General Manager's reporting requirements

In 2012 the General Manager, assisted by the Workplace and Economic Research Section produced the following four reports:

- *General Manager's report into enterprise agreement-making in Australia under the Fair Work Act 2009 (Cth): 2009-2012*
- *General Manager's report into the extent to which individual flexibility arrangements are agreed to and the content of those arrangements: 2009-2012*
- *General Manager's report into the operation of the provisions of the NES relating to requests for flexible working arrangements and extensions of unpaid parental leave: 2009-2012, and*
- *General Manager's report into the operation of the first three years of the Fair Work Act 2009 (Cth) unfair dismissal system.*

These reports were tabled in the House of Representatives on 13 February 2013 and are available on the Commission's website: <http://www.fwc.gov.au/index.cfm?pagename=adminmgreporting&page=reports>

ABOUT THE COMMISSION

2.1 WHO WE ARE

The Fair Work Commission is Australia's national workplace relations tribunal. The Commission is required by section 577 of the Fair Work Act to 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.

In line with these objectives, the Commission has released a series of new initiatives called *Future Directions*. The initiatives have been developed around the following themes:

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

2.2 WHAT WE DO

Under the Fair Work Act, the Commission has the power to:

- resolve unfair dismissal claims
- assist with the resolution of industrial disputes
- assist in the bargaining process for enterprise agreements
- approve enterprise agreements
- set the minimum wage
- review, vary and create modern awards, and
- conciliate general protections claims.

Under the Registered Organisations Act the General Manager is responsible for ensuring registered organisations comply with regulations. The General Manager is also required to investigate and, where appropriate, prosecute non-complying organisations and individuals.

Although separate from the Commission, the administrative staff of the Commission also provide assistance and support to the Road Safety Remuneration Tribunal (RSRT).

2.3 OUR STRUCTURE

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

2.3.1 Members

Headed by the President, Justice Iain Ross AO, the Members of the Commission are responsible for fulfilling the functions of the Commission in accordance with the Fair Work Act. Commission Members may serve in a full-time capacity, as dual appointees of both the Commission and other tribunals, or as Minimum Wage Panel Members (all of whom serve part-time). For a full list of the Members of the Commission refer to Appendix E.

2.3.2 The panel system

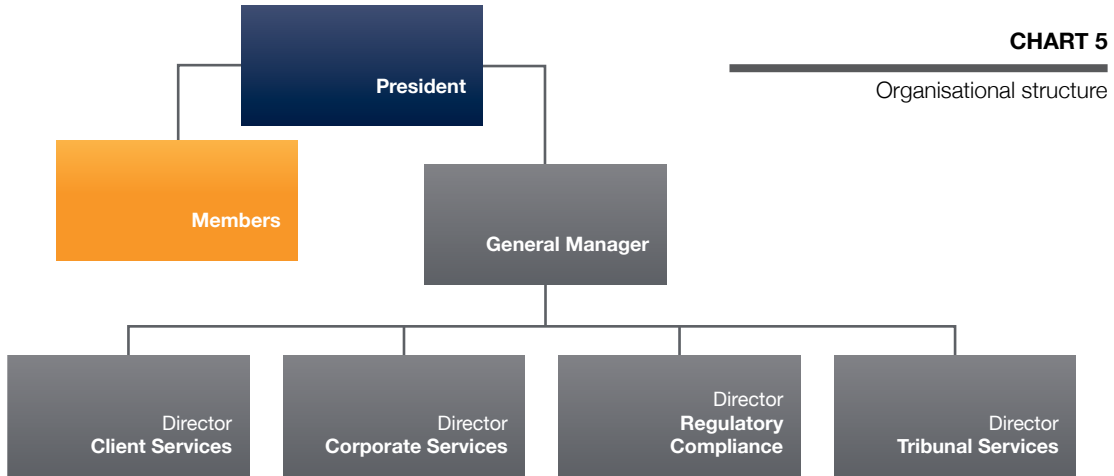
The work of the Commission is divided into panels to ensure matters are dealt with efficiently and with the required expertise. There are six industry panels and a number of specialist panels such as major projects and termination of employment.

Each panel is overseen by a Member of the Commission who is responsible for allocating the work of the panel. For a list of panels refer to Appendix F.

2.3.3 Administrative staff

Headed by the General Manager, Bernadette O'Neill, the administrative staff of the Commission are organised into four branches. The shift from a six-branch to a four-branch structure was a key part of an administrative restructure of the Commission in 2012. The following provides an outline of each branch and the tasks they perform:

- Client Services—provides assistance to clients, processes applications, maintains the case management system and publishes documents.



- Corporate Services—provides support to Members and staff regarding human resources, finance and budget, technical requirements and the reporting requirements of the Commission.
- Regulatory Compliance—oversees the compliance of registered organisations, processes Right of Entry permits and conducts investigations into non-compliance.
- Tribunal Services—provides assistance to Members and conducts research for the minimum wages panel.

In order to fulfil its legislative requirements, the Commission’s administrative staff are guided by an annual strategic plan to:

- provide effective service delivery and support to the Members of the Commission and the RSRT
- provide effective service delivery and assistance to the clients of the Commission and the RSRT
- provide effective support to the General Manager to meet the General Manager’s functions under the Fair Work Act, *Road Safety Remuneration Act 2012* (RSR Act) and Registered Organisations Act, and
- be an effective, high performing, accountable Australian Public Service (APS) agency.

2.4 OUR CLIENTS AND STAKEHOLDERS

The work of the Commission directly or indirectly affects a significant portion of the Australian workforce. The national system, over which the Commission has jurisdiction, covers all private businesses in Australia (with the exception of some businesses in Western Australia). It also covers public sector and local government employment in some states and territories.

Our clients and stakeholders include:

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

2.5

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 15 business days.

This year saw the introduction of the Member Code of Conduct, which sets out guiding principles for the conduct of Members of the Commission. The Member Code of Conduct also sets out how complaints against Members may be dealt with by the President.

2.5.1 Complaints

During 2012–13 the Commission received 105 written complaints. A breakdown of the types of complaints is set out at Table 3.

The majority of complaints received about administrative staff related to unfair dismissal conciliations. However, in proportion to the number of conciliations the number of related complaints is quite low, with 25 complaints from 10 866 conciliations conducted, which represents a rate of 0.2 per cent.

To improve services to clients in the unfair dismissal jurisdiction, the Commission introduced a feedback survey. The survey revealed an overall high level of satisfaction with the process but identified areas where we could improve our service. This year we have taken steps towards improving information available to parties to unfair dismissal matters. We have also implemented a three day cooling-off period for self-represented parties in conciliations. For more information about these initiatives see chapter 4.1.

Complaints relating to timeliness have generally related to the approval of enterprise agreements or the issuing of reserved decisions. This financial year the Commission introduced timeliness benchmarks aimed at improving how quickly these matters are dealt with.

Parties can also email the President for a status update if they have not received an outcome from their agreement approval application within 12 weeks of lodgment.

TABLE 3: COMPLAINTS

Subject	Number
Member conduct	10
Unfair dismissal conciliation	25
Outcome of a matter ¹	9
Timeliness	9
Administration	15
Pay and entitlements ²	7
Complaint relating to modern award or enterprise agreement ³	1
Adjournment request refusal	6
Process	7
Other	16
Total	105

(1) 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.

(2) Complaints relating to pay and entitlements must usually be resolved through the Fair Work Ombudsman.

(3) 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.

2.6 OUR HISTORY

The Commission and its predecessors have played a central role in the development of workplace and industrial relations law in Australia since 1904, making many decisions that have affected the working lives of Australians. Some of the key moments in our history have been captured in documents and items that are displayed in the Sir Richard Kirby Archives in the Commission's Melbourne library.

The Sir Richard Kirby Archives celebrated its 10th anniversary in October 2012 with an exhibition showcasing the treasures of the archives. A website showcasing the 10 treasures is available at: <http://ww2.fwa.gov.au/10treasures>. The 10 treasures of the archives include:

1. Professor Joseph Isaac AO, living treasure—Appointed as Deputy President to the Australian Conciliation and Arbitration Commission in 1973, Professor Isaac was the first academic and economist appointed to the Commission.
2. Register of organisations from 1946 to 1961.
3. Letter exchange between Chief Justice Raymond Kelly and Professor Mark Perlman from 1952.
4. Sir Richard Kirby AC, photograph—Appointed President of the Australian Conciliation and Arbitration Commission in 1956, Sir Richard Kirby was the longest serving president of the Commission. A popular item in the exhibition was an episode of 'This is Your Life' featuring Sir Richard Kirby. This is available on the Commission's YouTube channel.
5. Oral History Program—A collection of interviews of past Members of the Commission and senior staff. Excerpts of the interviews are available on the Treasures of the Archives webpage.
6. Australian Industrial Relations Commission sign.
7. National wage decisions folder—A donation from former Senior Deputy President Jan Marsh, this folder was maintained by the Australian Council of Trade Unions and contains the national minimum wage decisions from 1949 to 1974.
8. Centenary exhibition display—A display that chronicles the history of the Commission since its establishment in 1904.
9. Women and the Commission exhibition poster—Promoting a 2003 exhibition which detailed the women's equal pay cases of 1969 and 1972, the maternity leave case of 1979, the family and carer's leave case of 1994–95 and the reasonable hours test case of 2002.
10. Letter exchange between Justice Richard Kirby and Professor Joseph Isaac.

2.6.1 Documentary film launch

In August 2012 the Commission launched the documentary film 'Waltzing Matilda and the Sunshine Harvester Factory' developed by the Honourable Deputy President Reg Hamilton and based on a book of the same name. The film and book are resources for secondary and tertiary students as well as anyone with an interest in the history of the role of the Commission and its predecessors in the development of the Australian industrial relations system. The website created for the resources has received 189 293 visits since its launch in February 2011. Copies of the film and book are available for download:

- <http://ww2.fwa.gov.au/education/>.



2.7 OUR FUTURE DIRECTION

Australia has had a national workplace relations tribunal for over a century. It has endured by successfully adapting to changes in its legislative environment and because it provides an independent, competent and professional dispute resolution service. But past performance does not guarantee future survival. Even successful institutions have a tendency to decline unless they continue to innovate and adapt to changes in their environment.

One of the key changes in the Commission’s operating environment has been in the nature of its work. In recent years the composition of the Commission’s work has fundamentally changed—from collective to individual dispute resolution. Two things flow from this. The first concerns the nature of the parties.

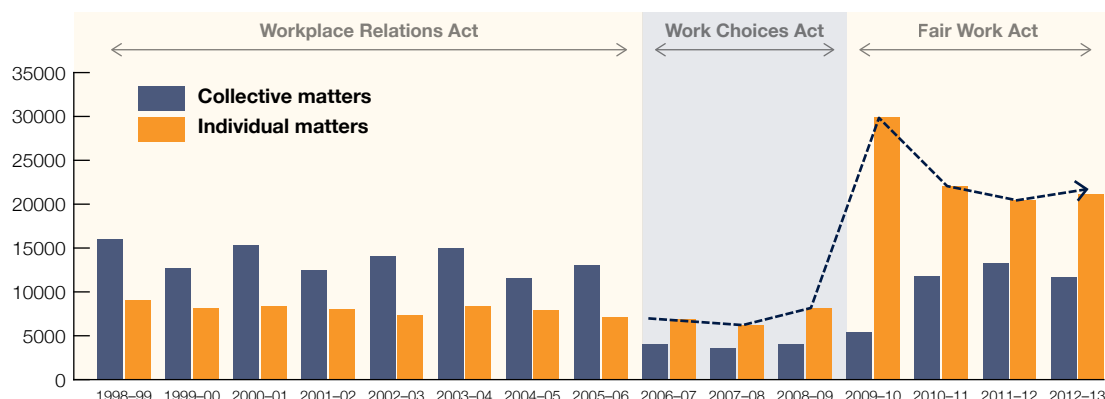
The parties to collective disputes are usually familiar with the legislative environment and the Commission’s procedures. The parties to individual disputes are quite different. They are usually unfamiliar with the Commission’s procedures and the relevant legislative provisions, and are often self-represented. We have an obligation to explain these matters to self-represented parties.

Secondly, the shift in the nature of our work has implications for our stakeholder base. We need to engage with the community more broadly.

In October 2012 the Commission launched a change program—called *Future Directions* to address these challenges.

CHART 6

Matters dealt with by the Commission and its predecessors, 1998–99 to 2012–13



The large spike in individual matters in the 2009–10 financial year primarily reflects a large number of applications to terminate Individual Transitional Employment Agreements (16 089 applications). The number of applications in this category fell to zero by the 2011–12 financial year.

Methodology is at Appendix O.

2.7.1 Future Directions initiatives

The *Future Directions* report outlines a set of 25 initiatives aimed at improving the delivery and quality of the Commission's services into the future. The 25 initiatives are grouped under the themes of:

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

Work has commenced on all 25 of the *Future Directions* initiatives with a number of new resources launched and available on the Commission's website. Many programs have also been implemented or partially implemented. The remainder of the initiatives are due to be fully implemented in the latter half of 2013.

2.7.2 Promoting fairness and improving access

Fair Hearings Practice Note

The provision of a fair hearing is at the very heart of the Commission's obligations to the parties who appear before it.

The Fair Hearings Practice Note sets out the obligations of Members, parties and their representatives in relation to the conduct of a fair hearing. The practice note gives those appearing before the Commission an understanding of and some certainty around how their matter will proceed.

A draft of the Fair Hearings Practice Note was published on the Commission's website on 21 June 2013 for comment. The final version of the practice note was published on the Commission's website on 23 July 2013:

- <http://www.fwc.gov.au/index.cfm?pagename=practicefairhearings>

Unfair dismissal information for self-represented parties

An extensive range of information has been published on the Commission's website to assist self-represented parties. This new material includes updated information guides and an interactive checklist to assist parties to prepare for hearings before the Commission.

The Commission also implemented a three-day cooling-off period for self-represented parties in unfair dismissal conciliations. This cooling-off period was designed to enable parties to seek advice about the in principle settlement reached at conciliation. A trial of the cooling-off period was assessed by RMIT's Centre for Innovative Justice (CIJ) which recommended adopting the practice. A copy of the evaluation is available on the Commission's website:

- <http://www.fwc.gov.au/index.cfm?pagename=adminresearch>

A video is also being developed about the process for unfair dismissal conciliations, as a part of the virtual tour project.

Virtual tour of the Commission

For many self-represented parties who come to the Commission it is likely that it will be their first and only experience of the Commission. A virtual tour of each of the Commission's sites is being developed to assist first-time users. This tour will also show hearing rooms so parties can familiarise themselves with the Commission's facilities before they arrive for a hearing or conference. The virtual tour will be completed in the latter half of 2013.

General protections information to assist self-represented parties

Materials are being developed to assist self-represented parties in what can be a complicated area of law.

Unfair Dismissals Benchbook

The Unfair Dismissals Benchbook, which summarises key unfair dismissal cases, was published on the Commission's website on 3 July 2013:

- <http://benchbooks.fwc.gov.au/unfair/>

The benchbook provides in-depth information for both self-represented parties and practitioners. It is an accessible resource that will assist parties, both prior to making an application and when preparing for a hearing.

Other benchbooks

A benchbook on general protections cases is being developed to assist the high number of self-represented parties to this type of application. The General Protections Benchbook will be available in the latter half of 2013. Benchbooks on other areas dealt with by the Commission, such as agreement making, are planned for the future.

Review of application forms

A review is underway to improve the accessibility of the Commission's application forms, in part by considering a reduction in the number of forms. This review will be completed in the first half of 2014.

General protections pilot program

In conjunction with the Employment Law Centre of Western Australia (ELCWA), the Commission ran a pilot program for self-represented applicants making general protections claims. Eligible applicants are given free legal assistance from the ELCWA, with a view to providing early advice to help applicants determine whether or not the Commission is the appropriate jurisdiction to pursue their dispute. The program has been assessed by the CIJ with their report expected to be published in the latter half of 2013.

Duty lawyer service

A pilot program was established in Melbourne to assist self-represented parties (both employers and employees) in unfair dismissal jurisdiction proceedings by providing access to free legal assistance. The aim of the service is to facilitate more efficient hearings before

the Commission on complex jurisdictional points.

The pilot was launched on 17 May 2013 and will be reviewed at the end of 2013.

Website upgrade

The Commission has chosen a service provider to begin work on upgrading its web platform to improve accessibility. The upgrade will also make it more efficient for staff to create and update website information. This work will be completed in the latter half of 2013.

2.7.3 Efficiency and innovation

An efficient dispute resolution service resolves disputes in a timely and appropriate way that minimises the costs incurred by the parties.

A key indicator of an efficient dispute resolution service is determining matters in a timely way.

Timeliness benchmarks for reserved decisions

In July 2012, the Commission introduced the following benchmarks for reserved decisions:

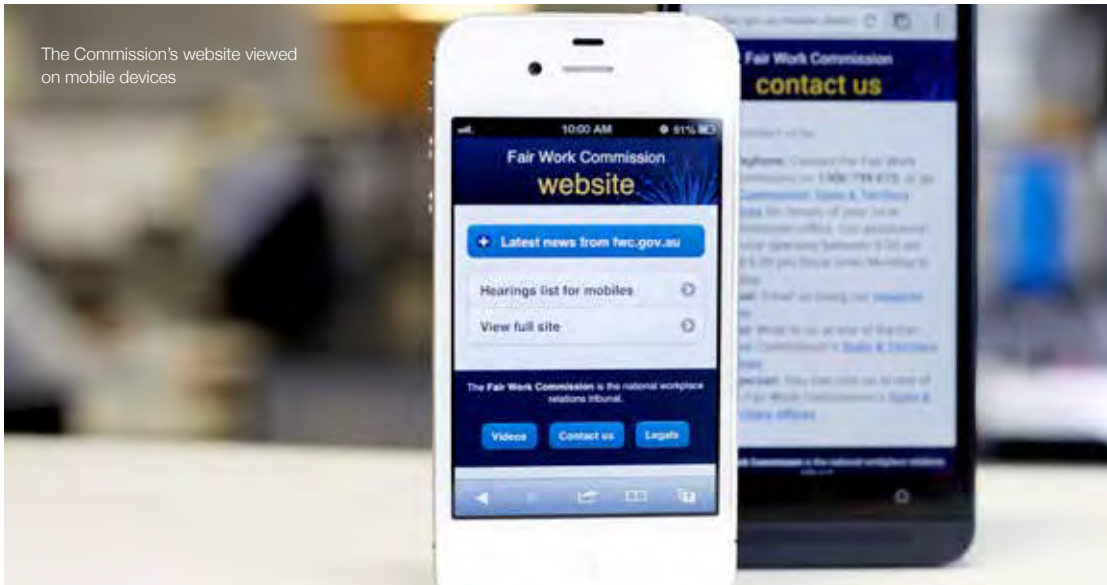
- 90 per cent of all reserved decisions are to be delivered within eight weeks, and
- 100 per cent of all reserved decisions are to be delivered within 12 weeks.

Timeliness benchmarks for the finalisation of agreement applications

In July 2012, the Commission introduced the following benchmarks for the approval of enterprise agreements:

- 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.

The Commission's performance against these benchmarks is published on the Commission's website.



Online applications

A tool is being developed which will allow applicants to make their application online. This will be finalised in the latter half of 2013.

Daily hearings lists for smartphones and tablets

The Commission has developed a searchable hearings list for use on smartphones and tablet devices. This assists all parties appearing at the Commission to access hearing details, wherever they are. The hearings list, which is searchable by matter number, name or matter type, contains details of hearings scheduled for the next seven days.

SMS alerts for hearings and conferences

A trial of sending SMS alerts to participants in unfair dismissal conciliations began in April 2013. The purpose of this trial is to determine whether SMS alerts will increase the attendance rate of parties involved in conciliations. If attendance does improve, less time will

be lost due to the rescheduling of conciliations. The results of that trial will be reviewed in the latter half of 2013.

Matter allocation trial

In South Australia the Commission is trialling a different way of allocating agreement approval, unfair dismissal and general protections applications.

The objective of the trial is to decrease processing times from lodgment to allocation and from allocation to finalisation. The results of the trial will be reviewed in the latter half of 2013.

Upgrade of videoconferencing facilities

An upgrade has been completed in Adelaide and Perth and service providers are being appointed to upgrade the rest of the Commission's sites nationally. Upgraded videoconferencing facilities will assist the Commission to improve the quality and frequency with which videoconferencing can be used, both internally and for Commission matters.

Appeals Practice Note

After an extensive consultation process an Appeals Practice Note was launched on 13 May 2013. The practice note provides procedural guidance on appeal proceedings and this is available on the Commission's website:

- <http://www.fwc.gov.au/index.cfm?pagename=practiceappeal>

This practice note will assist parties in appeals before the Commission, by setting a consistent approach to appeal proceedings.

2.7.4 Increasing accountability

Member Code of Conduct

The Commission published a Member conduct guide on its website in July 2012. Following a review and consultation process, an updated guide, renamed the Member Code of Conduct, was published in March 2013 on the Commission's website:

- <http://www.fwc.gov.au/documents/resources/MemberCodeConduct.pdf>

Unfair dismissal outcomes

Information on unfair dismissal outcomes at conciliation and arbitration is now published on the Commission's website. Further information about outcomes in other areas of the Commission's work will be available in the latter half of 2013.

This outcome information assists all parties to unfair dismissal matters to gain an understanding of the most common outcomes at unfair dismissal conciliations and arbitrations. Parties can use this information to consider their options going into a conciliation and/or arbitration.

Future Directions updates

The Commission published report cards on 15 March 2013 and 6 May 2013 detailing the implementation of each of the *Future Directions* initiatives. The next report card will be published in the latter half of 2013.

User groups

A Legal Profession Reference Group and the Termination of Employment Panel User Group have been established this year. These groups are made up of representatives from the legal sector and from peak employer associations and unions. The groups have met regularly and have provided valuable feedback on a number of the Commission's initiatives, including the Fair Hearings and Appeals Practice Notes and the Unfair Dismissals Benchbook.

2.7.5 Productivity and engaging with industry

Searching enterprise agreements

The Commission launched a search tool in December 2012 to make productivity-enhancing provisions in enterprise agreements more easily identifiable, and to increase awareness of these provisions among employers and unions. This tool was developed in response to a Fair Work Act Review Panel suggestion.

Engagement strategy

The Commission's engagement strategy was developed to encourage more productive workplaces by promoting harmonious and cooperative workplace relations.

The Commission's engagement strategy comprises a number of elements, including:

- public engagement
- stakeholder engagement, and
- workplace engagement.

Public engagement

The Commission is committed to increasing public awareness about our role, as knowledge of our functions is essential in facilitating access to justice. This financial year the Commission has demonstrated its commitment to this by:



- publishing a range of fact sheets and guides that provide plain-English information for self-represented parties
- hosting information sessions and briefings for school students, workplace relations professionals and other interested parties
- holding mock hearings of an unfair dismissal matter during Law Week in May 2013. One of the hearings was filmed and is available on the Commission's YouTube channel: www.youtube.com/user/FairWorkAu, and
- introducing a feedback form for parties to unfair dismissal telephone conciliations to provide feedback about our services and information.

In 2013–14 the Commission will launch a virtual tour on our website that will familiarise parties with the Commission's environment and demystify the process of coming to the Commission.

Stakeholder engagement

This financial year the Commission established two user groups, providing a forum to discuss changes at the Commission with legal and industry professionals. The two groups that have been established are the Legal Profession Reference Group and the

Employment Termination User Group. These groups have met on a regular basis.

The Commission also commenced a duty lawyer service in Melbourne to assist self-represented parties to gain access to legal advice for unfair dismissal matters.

Workplace engagement

The Commission will launch its workplace engagement strategy in the next financial year. This will include facilitating discussions at an industry and enterprise level to gain a deeper understanding of the challenges and opportunities in each sector of the Australian economy.

The launch of the strategy will include a pilot workplace engagement project with a number of Commission Members and staff who will be available to facilitate industry and enterprise level discussion upon request.

Research community

This financial year the Commission co-sponsored a series of lectures with the University of Melbourne about workplace relations issues. The lectures included:



- ‘The 2011 Workplace Employment Relations Study—First findings and implications for Australia’ delivered by Dr Brigid Van Wanrooy in February 2013, and
- ‘The Ambiguities of workplace cooperation: Bargaining engagement versus consultative management’ by Professor Mark Bray in May 2013.

These lectures are available on the Commission’s YouTube channel: www.youtube.com/user/FairWorkAu.

Upcoming lectures will include a further two lectures in Melbourne, with a view to expanding lecture events to other capital cities.

International engagement

This financial year the Commission entered into a Memorandum of Understanding (MOU) with the International Labour Organization (ILO). The MOU was signed by the President of the Commission and ILO Deputy Director General, Greg Vines, on 15 April 2013. The MOU formalised the strong and longstanding relationship between the ILO and the Commission and offers greater scope for engagement and professional

development opportunities for those involved in dispute prevention and resolution.

The Commission continues to engage with countries around the world who are interested in learning about Australia’s workplace relations system. In the reporting period the Commission hosted delegations from Indonesia, Cambodia, China, Singapore and Nepal.

Working cooperatively with other organisations

The Commission will work with other organisations to minimise the potential for duplication of effort in implementing the Commission’s engagement strategy.

The Commission signed a Memorandum of Understanding with the Fair Work Ombudsman and Fair Work Building and Construction in October 2012, formalising its commitment to work together on the issue of productivity in Australian workplaces.



WORK OF THE COMMISSION

3.1 OVERVIEW

3.1.1 Members

The Commission's work is primarily conducted by its Members, who are assisted in their functions by the administrative staff. Members are appointed to carry out quasi-judicial functions contained in the Fair Work Act. The head of the Commission is the President, who is also a judge of the Federal Court of Australia.

This reporting year saw amendments to the Fair Work Act and the creation of two Vice President positions at the Commission. Other Members of the Commission are appointed to the position of either Deputy President or Commissioner.

3.1.2 Appointments

- Vice President Hatcher
- Vice President Catanzariti
- Deputy President Lawrence
- Deputy President Gostencnik
- Commissioner Johns
- Commissioner Wilson, and in addition
- Commissioners Gooley and Asbury were appointed as Deputy Presidents.

3.1.3 Resignations and retirements

- Senior Deputy President Kaufman
- Deputy President Leary
- Deputy President Harrison
- Deputy President Swan
- Commissioner Harrison
- Commissioner Gay
- Commissioner Raffaelli, and
- Commissioner Jones.



3.2 FAIR WORK ACT AMENDMENTS

During 2012–13 there were a number of legislative changes affecting the Commission. Many of the changes introduced by the *Fair Work Amendment Act 2012* commenced on 1 January 2013, with others taking effect from 1 July 2013 and 1 January 2014. The *Fair Work Amendment Act 2013* received royal assent on 28 June 2013 with many of the changes to commence on 1 January 2014.

3.2.1 Changes that came into effect this financial year

Changes arising out of the *Fair Work Amendment Act 2012* include:

Institutional

- renaming of Fair Work Australia as the Fair Work Commission
- future General Manager appointments are to be made upon the nomination of the President, and

- Commission Members are required to disclose potential conflicts in a matter to a person who has made, or is likely to make, submissions in the matter.

Modern awards

- organisations with modern award coverage were given standing to apply to remove an ambiguity or uncertainty, or correct errors in an award, and
- the Commission was given the power to dismiss an application to make, vary or revoke a modern award.

Enterprise agreements

- employers are prevented from making an enterprise agreement with a single employee, and
- opt out clauses in enterprise agreements were made unlawful and are consequently of no effect.

General protections

- the timeframe for lodging general protections applications was reduced from 60 to 21 days.

Unfair dismissals

- the timeframe for lodging unfair dismissal applications was increased from 14 to 21 days
- the Commission was granted additional power to dismiss applications for unreasonable non-attendance at hearings or failing to comply with directions, and
- the Commission was granted additional power to order costs for unreasonable acts or omissions in the conduct or continuation of a matter.

Industrial action

- methods of voting for protected action ballots including attendance voting, postal voting and electronic voting were clarified.

3.2.2 Changes coming into effect next financial year

Changes arising out of the *Fair Work Amendment Act 2012* include:

- a review of default superannuation funds at four yearly intervals, with the first review commencing on 1 January 2014, by an Expert Panel comprising:
 - a Chair (the President of the Commission or a Presidential Member appointed by the President)
 - three full-time Members of the Commission, and
 - three part-time Members.
- from 1 July 2013, an Expert Panel will replace the Minimum Wages Panel and will be comprised of:
 - four Members of the Commission (including the President), and
 - three expert panel Members from the fields of workplace relations, economics, social policy, or business, industry or commerce.

Changes arising out of the *Fair Work Amendment Act 2013* include:

- an anti-bullying jurisdiction will be conferred on the Commission, commencing on 1 January 2014, allowing eligible workers to apply to the Commission for an order to stop bullying in the workplace
- the Commission's role in resolving general protections disputes and unlawful terminations will be expanded from 1 January 2014 to include consent arbitration, and
- the timeframe for lodging unlawful termination applications will reduce from 60 days to 21 days from 1 January 2014.

3.3 AGREEMENTS

One of the Fair Work Act's aims is to achieve productivity and fairness through an emphasis on enterprise-level collective bargaining.

The Commission plays an important role in the agreement approval process. Upon application the Commission is required to assess the agreement against the better off overall test (sometimes called the 'BOOT'). This test involves assessing the terms of an agreement against the relevant reference instrument such as the modern award and ensuring that anyone covered by the agreement would be better off than under the reference instrument. Agreements are also

checked to ensure they contain mandatory terms and that they do not contain any unlawful terms.

This financial year the Commission received 7087 applications to approve enterprise agreements. This is about 1500 fewer than last financial year. As Table 4 shows, the majority of agreements lodged are approved.

3.3.1 Agreement approval times

The introduction of the timeliness benchmarks has been a major development in finalising applications to approve enterprise agreements. These were

TABLE 4: ENTERPRISE AGREEMENT APPROVAL APPLICATIONS

Type of application	Lodged		Approved		Not approved		Withdrawn		Total finalised	
	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13
s.185— Single-enterprise	7812	6333	7440	6051	79	59	264	281	7783	6391
s.185— Greenfields	705	712	665	685	3	3	27	29	695	717
s.185— Multi-enterprise	48	42	44	36	1	1	3	4	48	41
Total	8565	7087	8149	6772	83	63	294	314	8526	7149

TABLE 5: ENTERPRISE AGREEMENTS—TIMELINESS

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

introduced as part of the *Future Directions* initiatives and deliberately set a high benchmark.

Table 5 shows the median number of days taken to finalise 50 per cent and 90 per cent of applications. This year the Commission improved the speed with which it finalised 50 per cent of applications across all three application types. The time taken by the Commission to finalise 90 per cent of single enterprise agreements fell slightly, by one day, but markedly improved for finalising both greenfields and multi-enterprise agreements.

**TABLE 6: BARGAINING APPLICATIONS—
LODGMENTS**

Type of application	2011–12	2012–13
s.229—Application for a bargaining order	99	78
s.236—Application for a majority support determination	62	74
s.238—Application for a scope order	30	15
s.240—Application to deal with a bargaining dispute	307	231
s.243—Application for a low-paid authorisation	1	0
s.248—Application for a single interest employer authorisation	31	8
Total	530	406

3.4 ASSISTANCE WITH AGREEMENT MAKING

Bargaining for agreements usually occurs without the assistance of the Commission. However, the Commission does have various powers to assist the bargaining process when parties are unable to reach agreement by themselves.

The Commission can deal with a bargaining dispute if requested to do so under section 240 of the Fair Work Act. A bargaining dispute may arise when negotiations for an agreement become deadlocked or when parties are otherwise unable to resolve issues during the bargaining process.

This financial year the Commission assisted with 406 bargaining disputes. Assisting in resolving bargaining disputes is an important part of the Commission's work as this type of dispute has the potential to affect productivity and relationships in the workplace.

Members of the Commission come from varied backgrounds and employ many different skills in resolving bargaining disputes. This year three of our case studies focus on the different techniques that have been employed by Commission Members to assist parties who are in dispute.

Case study

SYDNEY WATER

Sydney Water faced significant challenges in keeping water costs low for consumers and had to make changes. A workplace relations dynamic of ‘persistence and resistance’ had become entrenched over several years, the employer persisted in seeking changes and the unions resisted with equal force. There was a very low level of trust and the parties were trapped in a quagmire of hostility. At its peak in 2012 there were a dozen disputes before the Fair Work Commission.

Bargaining commenced for a new enterprise agreement in March 2012 based on competing logs of claims. It was combative, with protected industrial action and campaign material posted on Sydney Water trucks.

The Fair Work Commission became involved in protected action ballots and an application to stop industrial action. It became clear that the business and unions were stuck in their respective positions and the relationship was poor. Deputy President Booth convened an informal meeting of Australian Services Union Branch Secretary, Sally McManus and Sydney Water’s CEO, Kevin Young. She asked whether they would be prepared to invest the time and energy they were spending in endless disputes on a new approach.

She proposed they ‘get back to basics’ and identify what kind of workplace and relationship they wanted. Both parties were supportive and were prepared to give it a go—the relationship needed to change.

Using interest-based negotiation methods, the senior leaders of the company and the union worked on these guiding principles. They identified that they both wanted: a competitive business; an enjoyable, safe workplace where people felt valued and respected; an efficient, successful workforce able to meet its full potential; genuine and cooperative consultation; and workplace relationships based on openness, trust and respect. Both sides acknowledged their contributions to the problems of the past and committed to changing the culture. These principles were signed off in a memorandum of understanding in November 2012.

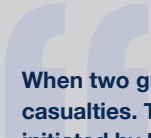
With the aid of this new cooperative approach, a new enterprise agreement was reached by October 2012 and approved by the Fair Work Commission in December 2012.

Having identified where they wanted to get to, they developed pragmatic, realistic actions to help them get there. With the Deputy President’s intensive support, Sydney Water and the Australian Services Union held a two-day leadership conference in March 2013. As

a result, a joint working group on safety is working cooperatively to achieve a safe workplace. New consultation processes are providing for input from the workforce on driving efficiency and productivity, including through the use of technology. Other ongoing projects include the joint development of satisfaction surveys, and workplace culture training. High level strategic dialogue is continuing, with union leaders attending Sydney Water's quarterly management meetings and Sydney Water's CEO attending union committee of management meetings.

The first leadership conference was so successful that a second leaders' workshop for the civil delivery area of the business was held in May 2013, again facilitated by Deputy President Booth. This conference was similarly successful in achieving a fundamental change in workplace culture and relationships.

There hasn't been a dispute notified to the Fair Work Commission concerning Sydney Water for eight months.




When two groups are at war, there are always casualties. The two leadership conferences initiated by Deputy President Booth have led to major improvements in relationships between Sydney Water, our workforce and the union. Previously we'd all go off to the Fair Work Commission at the first sign of change or opposition. Now, with much better relationships and a shared set of goals for the business, we can deal with these things ourselves. This will mean much less work for the Commission in the long run. Best of all, our workforce and the union are now genuine partners in improving our productivity and it's a better place to work.

Kevin Young, CEO, Sydney Water.

The leaders' conference has totally transformed the workplace relationships. The outcomes for our members (and the business too) are so much better when we approach each other with respect, share information and work genuinely together on solutions. Before, we were both in our bunkers, treating every announcement with suspicion. Now, there are no surprises, the employees have a real say, responses are constructive and we share our thinking. I was at Sydney Water's head office this week and morale is now amazing, all I could see were people smiling.

Taking the new approach was a big leap of faith, Kevin and I both had to take risks and had to work hard to bring all our people along with us. We took the chance and I am so glad we did. Deputy President Booth gained everyone's trust and worked so hard to make this work. She has given us a whole new way of resolving things. Now I know how different it can be, I would never go back.

Sally McManus, Branch Secretary, Australian Services Union of New South Wales and ACT (Services) Branch.





Case study
ENDEAVOUR ENERGY

Endeavour Energy supplies electricity to 2.1 million people across Sydney’s west and south and employs over 2500 people. Relationships between management and unions had been strained and adversarial for some years. When negotiations for a new enterprise agreement started in July 2012, the atmosphere was volatile. The company asked the Fair Work Commission to help resolve the bargaining dispute.

Senior Deputy President Hamberger suggested the parties try ‘interest-based’ bargaining, a fresh approach where participants explore each other’s underlying interests and needs, as well as the challenges they face, seeking to understand each other’s perspectives. The parties work together to generate options for resolution, aiming to find mutually satisfactory outcomes that satisfy everyone’s interests. Interest-based bargaining contrasts with traditional ‘positional’ bargaining, where the parties exchange logs of claims and counter-claims, often making demands without exploring why they want them. Positional bargaining at its extreme results in an adversarial ‘us versus them’ style of negotiation.

The parties agreed to try the new approach. Union organisers, employee delegates and Endeavour

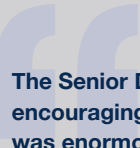
Energy’s management representatives undertook a two-day training course on interest-based bargaining. Doing the course as a group was vital in building trust and a shared understanding of the new method and each other’s roles within it. The negotiations were facilitated by Senior Deputy President Hamberger and consultants.

A key interest identified by the employees was having secure employment in a time of industry uncertainty and previous staff cut-backs. For the company, it was meeting the state price regulator’s demands to keep electricity costs down and being able to make the business more efficient. By openly exploring these interests and exchanging information and ideas, the parties were able to reach agreement on a raft of previously contentious matters, such as redundancy and workplace change clauses.

The parties discovered they also had shared interests, such as the desire to provide a safe and supportive working environment for employees experiencing domestic violence. The unions and the company are both proud to be leading the way in Australia with an innovative and progressive agreement clause which provides employees affected by domestic violence with special leave arrangements, safe and flexible work and support from specially trained human resources staff.

The issue of wage rises saw the return of a more traditional bargaining approach, but ultimately, an enterprise agreement was reached and approved by the Commission in May 2013.

The employer and the unions all felt interest-based bargaining had worked so well that they enshrined it into their consultation processes for the future, and are now training workplace delegates and line managers in the technique. Endeavour Energy had experienced a period of frequent visits to the Commission to deal with disputes. With their new-found skills and commitment to an interest-based bargaining method, and the emergence of more cooperative and trusting industrial relationships, the unions and employer feel better placed to resolve any issues which arise in the future at the workplace level.



The Senior Deputy President's role in encouraging us to use interest-based bargaining was enormously significant. It took a lot to convince delegates at the start because trust had broken down. But by the end, not a single person involved thought it was anything other than a success. I would recommend interest-based bargaining as the most successful mode of negotiation for clauses such as domestic violence. All negotiating parties are able to express their interests in the well-being of their employees/members and it's surprising to then realise your views are more aligned than you might have first thought. That is not an outcome you often see in traditional, positional style negotiations.

Natalie Falvey, United Services Union.

Interest-based bargaining was extremely useful and starkly better than any of our previous bargaining experiences. We not only re-shaped the agreement, we re-shaped our industrial relationships in a way that was not only positive but likely to be enduring. Interest-based bargaining is a very important tool and one that should be embraced more in Australia.

Mark Greenhill, Endeavour Energy.

Interest-based bargaining works really well if all parties are committed to it. The traditional adversarial head-butting and personality-based conflicts all go away. You can actually enjoy the process. Senior Deputy President Hamberger was extremely helpful, keeping the parties on track by chairing each meeting.

Brad Currey, Electrical Trades Union.



Case study

SMIT MARINE AUSTRALIA

SMIT Marine Australia Pty Ltd (SMIT), a large international marine company, provides harbour towage services in the Port of Gladstone. SMIT began negotiating for enterprise agreements with three maritime unions: The Maritime Union of Australia, The Australian Maritime Officers' Union and The Australian Institute of Marine and Power Engineers.

Negotiations did not progress successfully and the three unions sought and obtained protected action ballot orders. Taking protected industrial action potentially would have closed Australia's third largest port, with significant economic consequences.

The Minister for Employment and Workplace Relations proposed that the matter be referred to the Commission and that a Member of the Commission be made available to conciliate the matter.

In response, SMIT applied to the Commission to deal with the bargaining dispute. The unions indicated they were prepared to participate in negotiations and agreed not to take protected industrial action for three weeks. Commissioner Booth conducted the negotiations.

Although both SMIT and the unions were prepared to participate in negotiations, there were significant outstanding matters on both sides and a large number of issues in dispute.

Commissioner Booth conducted urgent telephone conferences and arranged for the first of what would be six lengthy private conferences in Gladstone.

After many months of stalled negotiations preceding the conciliation, initial progress was limited. The

Commissioner adopted a 'building block' approach, first working with the parties to reach agreement on less complex issues and then moving on to more difficult issues.

While there was some agreement in the initial stages, more challenging matters that were unable to be resolved were set aside for later, allowing officials and the delegates to seek feedback from their members and to report back at the next conference.

Conferences were held during July and August 2012 on site in Gladstone, in addition to a large number of telephone conferences.

The combination of early success, the preparedness of both the unions and SMIT to keep working through issues, and the independent assistance of the Commissioner resulted in a gradual building of trust. This enabled the parties to deal with and reach agreement on the more challenging issues, including pay, conditions and work practices.

Ultimately, the three unions and SMIT reached agreement on matters to be put to employees by ballot. All three ballots returned a positive vote and an agreement was reached without recourse to industrial action.





3.5 INDUSTRIAL ACTION

In certain circumstances employees can take protected industrial action for the purpose of supporting or advancing claims in relation to an enterprise agreement. Industrial action will be 'protected' (attracting immunity from being sued) if it is authorised by a protected action ballot issued by the Commission. The employees' bargaining representative must apply to the Commission for an order requiring a ballot to be conducted. This is known as a 'protected action ballot order'.

The Commission is required, as far as practicable, to determine an application for a ballot order within two working days after the application is made.

The Commission received 915 applications for protected action ballot orders in 2012–13. In 2011–12 the Commission received 1011 applications.

Where industrial action (or threatened action) is not protected, an application can be made to the Commission to order that the industrial action stop,

or not occur under sections 418 or 419 of the Fair Work Act. The Commission is required to determine an application within two days of it being made, or make an interim order stopping the action.

The case study of Harbour City Ferries demonstrates how the Commission can quickly respond to this kind of application.

Where protected industrial action is causing, or is threatening to cause, significant economic harm to the parties or has been engaged in for a protracted period of time, the Commission can, under section 423 of the Fair Work Act, suspend or terminate the action on its own initiative, or on application by certain interested parties.

The case study of Schweppes provides an example of the Commission issuing an order to terminate employer response action.

Similarly, if 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, under section 424 of the Fair Work Act, suspend or terminate the action. The Commission must, as far as practicable, determine an application under this section within five days of it being made, or make an interim order suspending the action if this is not possible.

TABLE 7: INDUSTRIAL ACTION—LODGMENTS

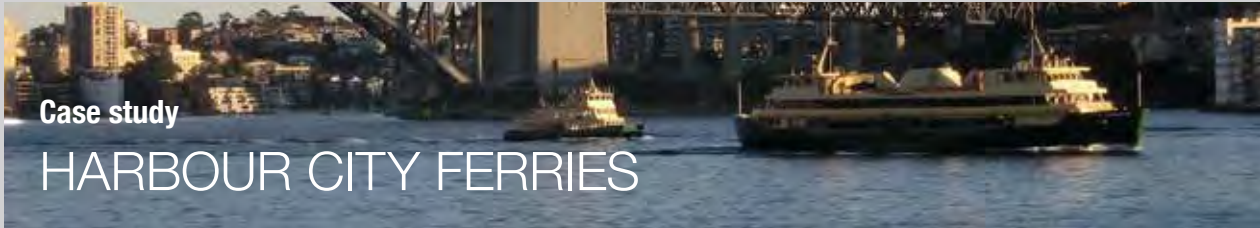
Type of application	No. of applications	
	2011–12	2012–13
s.418—Application for an order that industrial action by employees or employers stop etc.	138	168
s.419—Application for an order that industrial action by non-national system employees or employers stop etc.	2	2
s.423—Application to suspend or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

TABLE 8: INDUSTRIAL ACTION—TIMELINESS

Applications	KPI (days)	Median time (days)			
		50% of matters		90% of matters	
		2011–12	2012–13	2011–12	2012–13
Industrial action under ss.418, 423, 424, 425, 426, 437, 447, 459 and 472—lodgment to first listing	3	3	3	7	5

TABLE 9: INDUSTRIAL ACTION APPLICATIONS, PROTECTED ACTION BALLOT ORDERS AND ORDERS TO STOP ACTION—TIMELINESS

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



Harbour City Ferries Pty Ltd, trading as Sydney Ferries, operates the ferry service on Sydney Harbour. Sydney Ferries applied for an urgent hearing under section 418 of the Fair Work Act to order employees to stop unprotected industrial action. Employees of Sydney Ferries had begun the industrial action at 9.00 am on 27 May 2013, forcing the cancellation of all ferry services from that time.

A section 418 application seeks an order from the Commission to stop industrial action. Due to the potential economic and social impact of industrial action, these applications must be dealt with urgently.

The following timeline shows the steps which were taken to resolve this matter in just a few hours:

- 9.00 am** Employees of Sydney Ferries commenced industrial action causing the cancellation of ferry services.
- 10.14 am** Application lodged by Sydney Ferries requesting an urgent hearing under section 418 of the Fair Work Act.
- 10.24 am** Application received by panel head Vice President Watson for allocation to an appropriate Member.
- 10.48 am** Matter allocated to Deputy President Booth for hearing.
- 11.03 am** Notice of Listing sent to the parties advising of a hearing at 12.15 pm.
- 12.15 pm** Hearing before Deputy President Booth commenced.

1.48 pm Order issued for all employees and their union (The Maritime Union of Australia) to cease industrial action and return to work by 2.00 pm.

2.00 pm All employees returned to work in compliance with the order to cease industrial action. The parties were also advised to meet to discuss the issues which resulted in the industrial action, with an offer from the Commission to be involved in these discussions.

Less than four hours after the Commission received the application, and five hours after the dispute commenced, the employees had returned to work.

This matter demonstrates how quickly the Commission can respond to urgent requests, and how that speedy response can have immediate effects on workplaces and the broader community.



Case study

SCHWEPPES AUSTRALIA

Schweppes Australia Pty Ltd employs 150 people to make soft drinks and juices at its plant in Tullamarine, Victoria.

Schweppes sought to introduce new shift arrangements for compulsory 12 hour shifts worked over five, six or seven day rosters. The relevant union, United Voice, argued that workers should keep their nine day fortnight and penalty rates, working morning, afternoon or night shifts of just under eight hours.

On 15 December 2011, after work stoppages and six months of unsuccessful talks, Schweppes took the step of locking out its workforce. A few days later, Schweppes applied to the Commission to end its own lockout, arguing the company and its employees were threatened with 'significant economic harm' and therefore, under section 423 of the Fair Work Act, the industrial action must be terminated. This first application was refused, but when the lockout continued for a further 58 days, the Commission again heard the matter in February 2012. After hearing from the parties, the Commission decided the industrial action did now threaten significant economic harm and ordered that it cease.

After three more months of talks, Schweppes and United Voice had failed to agree on six key issues, including the main sticking point of shift arrangements. As required by the Fair Work Act, these issues were referred for merit-based arbitration. Over six days, between April and July 2012, a Full Bench heard extensive evidence and arguments about how the proposed shift changes would affect Schweppes and its workers. The evidence covered the competitive pressures Schweppes faced, operational challenges,

such as fluctuations in demand, and the savings Schweppes would make by reducing penalty rate costs, as well as the impacts of the proposed shift changes on the workers' take-home pay, health, safety and family commitments.

After balancing these competing interests and considering other factors as required by the Fair Work Act, the Full Bench made a workplace determination on 12 September 2012, allowing Schweppes limited use of longer shifts on a trial basis, with workers following a six day shift roster, in 12 hour shift patterns. This shift pattern involves a day shift and a night shift of 12 hours on a roster of three days on, three days off.

The Commission included requirements to reduce the potential impact on employees, directing that Schweppes must first call for volunteers for the new shifts and fully plan for safety impacts, including fatigue. The Commission suggested that once the parties gained some joint experience of the new shift arrangements on this trial basis, they would have a better basis for bargaining in the future for longer term shiftwork arrangements.



Case study

PACIFIC NATIONAL (NSW)

Pacific National (NSW) Pty Ltd carries 70 per cent of New South Wales' coal freight hauled by rail. Negotiations with the Australian Rail, Tram and Bus Industry Union for a new enterprise agreement for New South Wales coal train drivers started in early 2012. The parties held many meetings, but could not agree on wage increases or a range of agreement provisions, including drug and alcohol testing and rostering practices.

The union sought a 9 per cent wage increase in the first year (including a catch-up component) and 7 per cent each year thereafter, later reducing its claim by 2 per cent. The company imposed a deadline for acceptance of its 4 per cent per annum offer, reducing the offer to 3 per cent in January and 2.5 per cent in March 2013. The company offered a guaranteed 4 per cent per year to any employee who agreed not to take industrial action.

With negotiations deadlocked, the union commenced industrial action. Each day of the two-day February 2013 strike affected the operation of 40 trains, carrying 300 000 tonnes of coal, worth \$25 million. It was clear that extended industrial action would have significant economic consequences for ports and mines that have limited coal stockpiling capacity; idle trains could bring the entire coal freight network to a standstill. Two coal companies announced they would apply to suspend industrial action under the *third-party harm* provisions of section 426 of the Fair Work Act.

Senior Deputy President Harrison contacted the union and the company to ask if they would participate in conciliation in an effort to resolve their bargaining dispute. After four conciliation conferences an

agreement was reached. The union accepted a 4 per cent per annum increase, while the company agreed to a four year (rather than three year) agreement and to additional annual lump sum payments. The agreement was approved by Senior Deputy President Harrison on 20 June 2013.

The independence of the Commission was beyond doubt and this was very important in resolving the dispute. The Commission provided a much-needed circuit-breaker, helping to take some of the heat out of the dispute.

Bob Hayden, Australian Rail, Tram and Bus Industry Union.

Senior Deputy President Harrison was impartial and pragmatic. She was able to provide both parties with frank feedback during the conciliation process based on her extensive knowledge of the industry as well as precedents from other agreements and arbitrations. Understanding this context helped the company and the union to find a realistic resolution to the agreement negotiation.

David Irwin, Director, Pacific National Coal.

3.6 DISPUTE RESOLUTION

The Commission has a dispute resolution role under section 739 of the Fair Work Act to deal with disputes arising from provisions in modern awards, agreements, employment contracts and public service determinations.

The Commission’s dispute resolution role also arises under instruments continued from repealed legislation, the most common being provisions under former workplace agreements.

Most dispute resolution procedures in agreements allow the Commission to finally determine (or arbitrate) the dispute if it hasn’t been resolved using more informal methods. *The Fair Work Regulations 2009* (Fair Work Regulations) contain a model dispute resolution term for agreements, which provides for the Commission to first attempt to resolve a dispute through mediation, conciliation, expressing an opinion or making a recommendation. If the Commission is unable to resolve the dispute through those measures, the model term provides that it may arbitrate the dispute and make a determination that is binding on the parties.

The Commission also has a specific role under section 526 of the Fair Work Act to resolve disputes relating to employees who have been stood down due to industrial action, a breakdown of machinery or equipment, or any other stoppage of work for which the employer cannot reasonably be held responsible.

This year the number of applications lodged under section 739 of the Fair Work Act has increased by around 30 per cent. The number of applications to deal with *Workplace Relations Act 1996* instruments has decreased by around 50 per cent. Overall there has been a moderate increase in the number of dispute applications lodged.

TABLE 10: DISPUTE APPLICATIONS—LODGMENTS

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

TABLE 11: DISPUTE APPLICATIONS—TIMELINESS

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

Timeliness

Table 11 sets out the time taken for a conference to be convened in relation to a dispute resolution application under section 739 of the Fair Work Act. Despite the increase in the number of disputes lodged, the time taken to deal with this type of application has remained steady.

3.7 GENERAL PROTECTIONS AND UNLAWFUL TERMINATIONS

The Commission has a dispute resolution role in relation to general protections claims and unlawful termination applications. Currently the Commission can conciliate a dispute but cannot arbitrate or determine the matter. From 1 January 2014, the Commission’s jurisdiction will be expanded to include arbitration with the consent of the parties. From 1 January 2013, the timeframe for lodging a general protections application involving a dismissal was changed from 60 days to 21 days. The timeframe for lodging an unlawful termination application remained unchanged during this financial year at 60 days but will change to 21 days commencing on 1 January 2014.

3.7.1 General protections

The general protections provisions in Part 3-1 of the Fair Work Act are intended to protect people from adverse treatment because: of their workplace rights; they are exercising freedom of association rights; or

are, or are not, engaging in industrial activity. They also provide protection to employees, and prospective employees, from workplace discrimination based on race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer’s responsibilities, pregnancy, religion, political opinion, national extraction or social origin. General protections claims are sometimes called adverse action claims.

The Commission may resolve the dispute by private conference, by making a recommendation or by expressing an opinion.

3.7.2 General protections claims involving dismissal

Where a person has a general protections claim involving dismissal, he or she may apply to the Commission to conduct a conference to deal with the dispute under section 365 of the Fair Work Act. The conference must be conducted in private. If the Commission is unable to resolve the dispute the

CHART 7

Applications for general protections involving dismissal

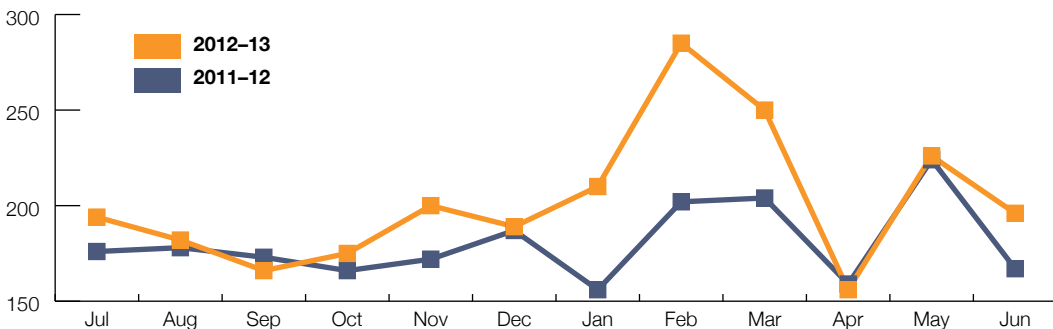


TABLE 12: GENERAL PROTECTIONS INVOLVING DISMISSAL—LODGMENTS

Matter type	No. of applications lodged	Total finalised	Manner finalised	Number of matters
s.365—General protections	2429	2349	Certificate issued	832
			Without certificate issued	1517

Commission must issue a certificate. The person may then apply to the Federal Court of Australia or the Federal Circuit Court of Australia to have the matter determined.

The reduction in the timeframe for lodging this type of application does not appear to have reduced the number of applications received. Chart 7 shows the number of general protections claims lodged by month as compared to the same period last year.

The number of applications increased from the same time in the previous year immediately following the 1 January 2013 change. By April, however, the number of applications appeared to become consistent with the previous year.

3.7.3 General protections not involving dismissal

An employee alleging adverse action (not involving dismissal) by an employer for a prohibited reason can lodge an application with the Commission. The Commission can conduct a private conference to resolve the dispute, but only if all parties to the dispute agree to participate. The Commission can advise the parties if a court application is unlikely to succeed but is not required to issue a certificate that the matter cannot be resolved.

Table 14 sets out the number of applications made under this category, and Table 15 shows how quickly the applications proceeded to first conference.

TABLE 13: GENERAL PROTECTIONS INVOLVING DISMISSAL—TIMELINESS

Type of application	Median time (days)	
	50% of matters	90% of matters
s.365—General protections disputes involving dismissal—lodgment to first conference	29	56
s.365—General protections disputes involving dismissal—lodgment to finalisation	41	111

TABLE 14: GENERAL PROTECTIONS OTHER CONTRAVENTIONS—LODGMENTS

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

TABLE 15: GENERAL PROTECTIONS OTHER CONTRAVENTIONS—TIMELINESS

Type of application	Median time (days)	
	50% of matters	90% of matters
s.372—General protections—other contraventions—lodgment to first conference	25	49

TABLE 16: UNLAWFUL TERMINATION—LODGMENTS

Matter type	No. of applications lodged	Total finalised ¹	Manner finalised	Number of matters
s.773—Unlawful terminations	128	132	Certificate issued	19
			Without certificate issued	113

(1) This includes applications lodged in the previous financial year that were finalised in 2012–13.

TABLE 17: UNLAWFUL TERMINATION—TIMELINESS

Type of application	Median time (days)	
	50% of matters	90% of matters
s.773—Unlawful terminations lodgment to first conference	27	71
s.773—Unlawful terminations lodgment to finalisation	32	102

3.7.4 Unlawful terminations

The unlawful termination provisions in section 772 of the Fair Work Act are intended to give effect to International Labour Organization instruments. Section 723 of the Fair Work Act prevents a person from making an unlawful termination application if they are entitled to make a general protections application. As a result of the broad coverage of the national system, the Commission receives a relatively small number of applications (128 for 2012–13).

3.8 UNFAIR DISMISSAL

From 1 January 2013, the timeframe for lodging unfair dismissal applications increased from 14 days to 21 days. In addition, the Commission gained new powers to dismiss applications and broader powers to award costs.

Chart 8 provides a monthly breakdown of the number of applications received. There is no discernible impact on the number of applications received after the 1 January 2013 legislation change.

Section 399A of the Fair Work Act granted the Commission new powers to dismiss applications for unfair dismissal. The Commission can dismiss applications lodged after 1 January 2013 for failure to attend a conference or hearing, for failure to comply with a direction of the Commission, or for failure to discontinue an application after the conclusion of a settlement agreement.

Section 400A broadened the scope of the Commission’s power to make costs orders in unfair dismissal matters to include when a party causes costs to be incurred because of an unreasonable act or omission in the conduct or continuation of a matter. This amendment applies only to applications lodged after 1 January 2013. Due to the time period between

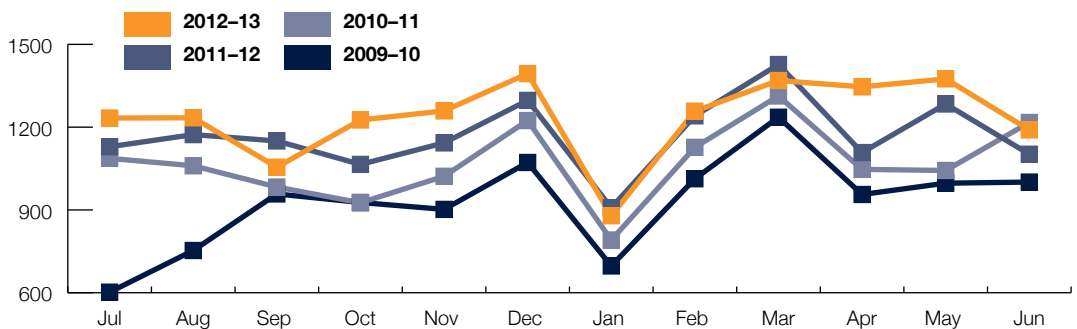
lodging an application and the matter reaching a formal proceeding the full impact of this amendment cannot yet be assessed.

TABLE 18: UNFAIR DISMISSAL—LODGMENTS

Location	2011–12	2012–13	Annual variation %
Adelaide	906	1037	14
Brisbane	2639	2747	4
Canberra	250	256	2
Darwin	168	170	1
Hobart	292	275	-6
Melbourne	4713	5018	6
Newcastle	49	196	300
Perth	1233	1346	9
Sydney	3752	3743	0
Wollongong	25	30	20
Total	14 027	14 818	6

CHART 8

Unfair dismissal applications by month



3.8.1 Unfair dismissal—how matters were finalised

As Chart 9 demonstrates, the majority of unfair dismissal applications were finalised at the conciliation stage. Conciliations are conducted by staff of the Commission. They are voluntary and are usually conducted by telephone. Parties are assisted by a conciliator to resolve the dispute on their own terms.

Of the matters that were conciliated, 81 per cent were settled. This year, as part of the commitment to increase accountability and improve information, the Commission published a summary of the outcomes of conciliation on the Commission website (see also Table H6). For a breakdown of the number of applications received by size of employer see Table H7.

For more information about the conciliation process see 4.1.2.

Prior to hearing an application for unfair dismissal, the Commission must decide whether the application was made within the required timeframe, whether the applicant was a person protected from unfair dismissal, whether the dismissal was consistent with the Small Business Fair Dismissal Code and whether the dismissal was a case of genuine redundancy. These matters are dealt with in either a separate jurisdictional hearing or concurrently with the merits of the matter. This year, the Commission determined 378 jurisdictional objections. Of these, 258 applications were dismissed for want of jurisdiction and 120 were found to be within jurisdiction (see Table H9).

This year, 660 matters were determined by decision, usually following a hearing to determine whether the dismissal was harsh, unjust or unreasonable. This represents about 5 per cent of all applications. Table 20 provides a breakdown of the results of hearings for unfair dismissal. For a full breakdown of arbitration results see Table H10.

CHART 9

How matters were finalised

For source data see Table H5.

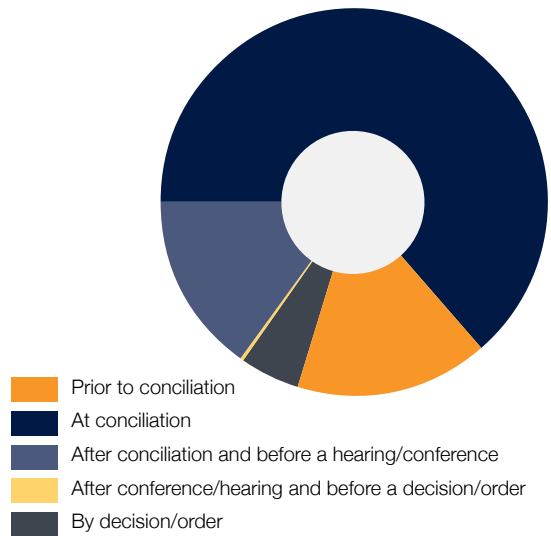


TABLE 19: UNFAIR DISMISSAL—CONCILIATION SETTLEMENT RATE

Result type	Matters	%
Settled matters	8843	81
NOT settled matters	2043	19
Total	10886	100

TABLE 20: UNFAIR DISMISSAL HEARINGS—OUTCOMES

Outcome	No. of decisions
Objection upheld—application dismissed	258
Application dismissed—dismissal was fair	256
Application granted—compensation	112
Application granted—reinstatement	8
Application granted—reinstatement and lost remuneration	12
Application granted—no remedy granted	14
Total	660

TABLE 21: UNFAIR DISMISSAL—TIMELINESS

s.394 applications	KPI	Median time (days)			
		50% of matters		90% of matters	
		2011–12	2012–13	2011–12	2012–13
Lodgment to first conciliation ¹	34	28	25	36	40
Lodgment to finalisation ²	None	49	30	108	114

(1) This measure is the number of days between lodgment and the first conciliation.

(2) Finalisation relates to a matter that has had a final result recorded and includes conciliations, arbitrations and matters withdrawn.

TABLE 22: UNFAIR DISMISSAL—APPEALS

Basis of appeal	Upheld	Dismissed	Total
Jurisdiction or merit	10	33	43
Remedy	3	3	6
Practice and procedure	0	9	9
Total	13	45	58

3.8.2 Timeliness

Table 21 sets out the time taken from the lodgment of an unfair dismissal application to conciliation and then finalisation. This financial year the Commission has improved the time it took from lodgment to conciliation and from lodgment to finalisation in 50 per cent of matters. There was a slight decrease in the speed of processing 90 per cent of applications.

3.8.3 Appeals

This financial year there were 58 appeals against unfair dismissal decisions. The number of appeals is the same as last year.

This year the Commission introduced an Appeals Practice Note that provides a general explanation of appeal rights and sets out the procedures followed by the Commission in the listing, hearing and determination of appeals. This is to facilitate consistent administrative processes when dealing with appeals, including the option of determining an appeal 'on the papers' without the need for a hearing.

3.9 MODERN AWARDS

Modern awards, together with the National Employment Standards, provide a minimum safety net of terms and conditions for the employees they cover. The 122 modern awards, which are generally industry or occupation-based, all came into effect on 1 January 2010. The *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (the Transitional Act)* established a review of modern awards and a separate process relating to other instruments.

3.9.1 Modern awards review

The Transitional Act requires the Commission to conduct a review of modern awards, other than modern enterprise awards and State reference public sector modern awards (discussed below), as soon as practicable after 1 January 2012. Preliminary work on this review commenced in 2011, and has continued throughout 2012–13. The modern awards review case study sets out the process that the review has followed and provides an update on the progress of the review.

3.9.2 Modernisation and termination of enterprise instruments and State reference public sector transitional awards

The Transitional Act requires the Commission to notify all employers and organisations covered by enterprise instruments that they must make an application to modernise their instrument by 31 December 2013, or the instrument will terminate on that date. An ‘enterprise instrument’ is a former federal or state award that covers employees in a single enterprise, or a group of related enterprises.

The Transitional Act also requires the Commission to notify all parties to a State reference public sector transitional award that they must make an application

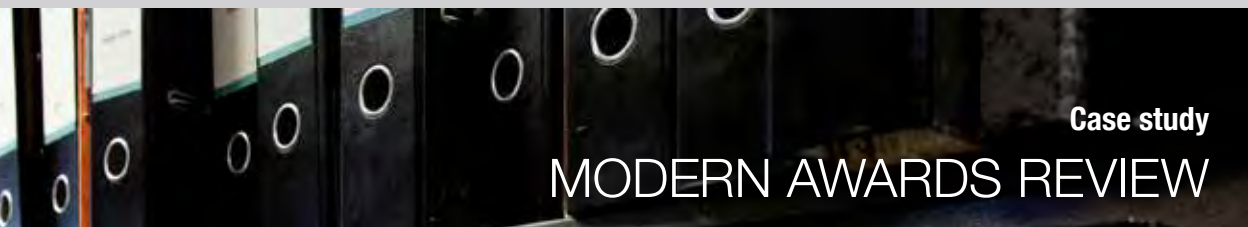
to modernise their instrument by 31 December 2013. If no application is made by that date, the Commission must make, or vary the coverage of, one or more State reference public sector modern awards. A ‘State reference public sector transitional award’ applies only to State reference public sector employees.

The Commission has identified 1735 instruments (comprising 972 former federal awards and 763 former state awards) that may be operating as enterprise instruments and will need to be either modernised or terminated by the Commission. Of these, 51 awards have been identified as operating as State reference public sector transitional awards which will need to be modernised by the Commission.

On 22 May 2013, the Commission issued a statement [[2013] FWC 2790] outlining the process for dealing with enterprise instruments that remain in force in the national workplace relations system.

The statement also outlined a process for dealing with the modernisation of State reference public sector transitional awards.

In June 2013, correspondence was sent to all employers and registered organisations named in the enterprise instruments and State reference public sector transitional awards to advise them of the 31 December 2013 deadline. Subscribers to the award modernisation announcements service, the Commission announcements service and to all pre-reform award announcements were sent a general notice outlining the process. A corresponding item was published in the weekly FWC Bulletin and placed on the Latest News page of the Commission’s website.



Case study

MODERN AWARDS REVIEW

The Transitional Act requires the Commission to commence a review of all modern awards as soon as practicable after 1 January 2012. The review's purpose is to ensure that, two years into their operation, modern awards are meeting the Fair Work Act's modern awards objective and are operating effectively.

The review is narrower in scope than the four yearly reviews provided for in the Fair Work Act, the first of which will commence as soon as practicable after 1 January 2014. The review was not intended to revisit issues considered as part of the award modernisation process, unless there were cogent reasons for doing so, such as a significant change in circumstances that warrants a different outcome than was implemented.

The review has been primarily driven through applications from interested parties to vary modern awards. In some cases, the Commission has proposed its own variations, mostly regarding technical and drafting matters. Over the course of the review, the Commission dealt with around 300 applications.

Applications lodged have included a number of common issues, including issues specific to a particular industry. Full Benches were constituted to deal with applications about:

- penalty rates in the *General Retail Industry Award 2010*, *Hospitality Industry (General) Award 2010*, *Fast Food Industry Award 2010*, and the *Hair and Beauty Industry Award 2010*
 - public holidays
 - superannuation
 - transitional provisions, and
 - occupational health and safety.
- By 30 June 2013, five of those matters had been determined. Decisions on annual leave, outworkers, superannuation, transitional provisions and apprentices, trainees and juniors remain outstanding.
- Decisions, statements, submissions and transcripts for the review are available on the Commission's website:
- <http://www.fwc.gov.au/index.cfm?pagename=awardReview2012>.
- apprentices, trainees and junior rates
 - award flexibility
 - annual leave (including annual leave loading)
 - coverage in the *Joinery and Building Trades Award 2010*
 - outworkers



Justice Ross handing down the *Annual Wage Review 2012–13* decision

3.10 MINIMUM WAGES

The Fair Work Act requires the Commission to conduct an annual review of the national minimum wage and rates of pay in modern awards. During the reporting period, the annual wage review was conducted by the Commission’s Minimum Wage Panel, comprised of the President, three other full-time Members and three part-time Members who are external appointments. The Panel is required to review the level of the national minimum wage, and the wage rates contained in modern awards, and to publish the national minimum wage order. Under the Transitional Act, the Panel also reviews minimum wages in some transitional instruments.

3.10.1 Annual Wage Review 2012–13

More than 1.5 million Australian employees (around 16 per cent of all employees) are directly affected by the Commission’s annual review of minimum wages.

The specialist Minimum Wage Panel is responsible for reviewing minimum wages each year. In September 2012, the Panel held a public hearing to consult on the research agenda and timetable. The Panel released its research agenda and timetable in October 2012. This led to a meeting of the Minimum Wages Research Group in November 2012, which included staff of the Commission and representatives of government, employers, employees and the community sector.

This meeting centred on scoping research projects to inform the Panel's research agenda.

In February 2013, the Commission published five research papers and an economic and workforce statistical report on its website, and called for interested parties to make submissions on matters contained in the papers and report.

The Panel's timetable allowed any interested organisation or person to make submissions, reply to submissions made by others, and respond to issues arising from the May 2013 Budget. A number of parties took up this opportunity by lodging one or more written submissions and participating in consultations on 21 and 22 May 2013.

On 3 June 2013, the Panel handed down its decision, which was to:

- increase all modern award minimum weekly wages and most transitional instrument wages by 2.6 per cent
- set the national minimum wage for award/agreement-free employees in the national minimum wage order at \$622.20 per week, or \$16.37 per hour (based on a 38-hour week for a full-time employee)
- set a number of special national minimum wages for employees with a disability, junior employees, trainees and apprentices, and
- set the casual loading for award/agreement-free employees at 24 per cent.

In accordance with the Fair Work Act, the decision came into operation on 1 July 2013 and took effect from the first full pay period falling on or after that date. The national minimum wage order and determinations varying modern awards were published before 1 July 2013. All submissions, research, responses to questions for consultations, additional information and transcripts were published on the Commission's website.

TABLE 23: MATERIAL CONSIDERED IN ANNUAL WAGE REVIEW 2012–13

The Panel considered:	Date
6 Research and statistical reports	February 2013
33 Submissions	28 March 2013
6 Submissions in reply	19 April 2013
8 Post-Budget submissions	17 May 2013
8 Responses to questions	17 May 2013
2 Days of consultation hearings	21 and 22 May 2013

Research published for the Annual Wage Review 2012–13

- Higher classification/professional employee award reliance qualitative research: consolidated report
- Labour supply responses to increases in minimum wages: An overview of the literature
- Industry profiles for the Manufacturing, Retail trade and Accommodation and food services industries
- Analysing modern award coverage using the Australian and New Zealand Standard Industrial Classification 2006, and
- Statistical report—Annual Wage Review 2012–13.

3.11 REGISTERED ORGANISATIONS

3.11.1 Powers and functions

The *Fair Work (Registered Organisations) Act 2009* confers certain powers on Members of the Commission including:

- the registration of new organisations
- cancellation of registration of organisations
- in limited circumstances, approval of amalgamation and withdrawal from amalgamation ballots
- representation orders in demarcation disputes or for workplace groups
- approval of alterations to the name or eligibility rules of organisations
- the making of orders for inspection of financial records, and
- approval of membership agreements between organisations and state registered unions.

Particular matters under the Registered Organisations Act are handled by the Commission's Organisations Panel. Table 24 sets out the number of matters by type finalised this financial year.

Powers under the Registered Organisations Act which are conferred on the General Manager include:

- certification of rule alterations (other than eligibility rules)
- arranging elections for office within organisations, and
- conducting investigations into compliance with accounting and reporting obligations.

More information about other functions involving registered organisations, carried out by Commission staff, is at chapter 4.4.

TABLE 24: REGISTERED ORGANISATIONS—FINALISATIONS

Application	Section of the Registered Organisations Act	Number finalised
Registration of association of employers	s.18(a)	1
Changes to eligibility rules	s.158(1)(a)	1
Change of name	s.158(1)(b)	6
Cancellation of registration under s.30 of the Registered Organisations Act	s.30	4
Cancellation of transitional registration under Sch 1 cl.5(5) of the Registered Organisations Act	Sch 1 cl.5(5)	1
Community of interest application	s.43(1)	1
Total		14

Note: Table 24 sets out the applications that were finalised this financial year. For details of the number of applications lodged see Table H4.



ADMINISTRATIVE STAFF

4.1 CLIENT SERVICES

The Client Services branch assists people using the Commission's services by providing administrative support, namely the front-counter services, answering telephone inquiries and processing applications lodged at Registry offices located in each state and territory. The branch also provides administrative support to the RSRT through processing applications, answering inquiries and publishing documents to the RSRT website.

The branch is also responsible for assisting parties to resolve unfair dismissal matters by conciliation. Staff in the branch publish the Commission's decisions, awards, agreements and hearings list, and manage the case management system used for administering applications and producing statistics and reports.

4.1.1 Registry

Achievements

The Registry's main achievements for the reporting period include:

- receipt and processing of 36 616 applications—35 per cent processed on the day of receipt, 82 per cent within one day of receipt and 93 per cent within two days of receipt
- a reduction in the average time from lodgment of an unfair dismissal application to the scheduling of a conciliation conference
- provision of support to local and travelling Members
- decentralisation of the Commission's general information telephone service to Registry staff in all locations

- improving the Interactive Voice Response system, and implementing a better system for referring callers to the information they need, and
- development of a set of online, print and telephone tools and guides to help clients access information from the Commission and other relevant institutions and assess eligibility for some applications.

Improving efficiency

As a result of the agency's restructure, the Registry took over the role that was previously conducted by a separate centralised helpline. Prior to the restructure it was noted that a high volume of calls to the helpline were in fact calling for information about matters not dealt with by the Commission, such as entitlements, superannuation or occupational health and safety issues. Changes were made to the Interactive Voice Response system to direct callers to the appropriate agency based on the option selected.

The revised Interactive Voice Response message, along with improved information on the website, has assisted in reducing call wait times and improved referrals to other agencies. Figures relating to call wait times demonstrated marked improvement since the changes were introduced in December 2012 (see Table 25).

Future plans

Next financial year the Registry intends to:

- implement a new online lodgment system
- conduct an efficiency trial involving paperless files
- gather more data about our clients to tailor our services and information
- manage inquiries about bullying, and
- review the Client Service Charter.

TABLE 25: CALL WAIT TIMES BY QUARTER

Quarter	Average wait time (minutes)
Jul—Sep 2012	11:27
Oct—Dec 2012	5:53
Jan—Mar 2013	3:59
Apr—Jun 2013	2:41

Improving access

Staff in the Registry have developed tools and guides to give clients better access to information. These tools and guides include:

- an interactive questionnaire, to assist clients to determine preliminary eligibility to make an unfair dismissal application, which has received over 52 500 visits since it was launched in November 2012
- additional materials to provide clients with more in-depth information about the unfair dismissal process, including:
 - nine new guides about different aspects of the unfair dismissal process
 - samples of completed unfair dismissal applications and response forms to assist clients to fill in their own forms, and
 - fact sheets about hearings and conferences
- an improved 'Contact Us' page on the website
- a new guide about general protections applications, and
- an enhanced Interactive Voice Response system with more options to assist clients in accessing information from the Commission and providing appropriate referrals to other agencies, including the Fair Work Ombudsman, state work health and safety agencies and the Australian Taxation Office.



Increasing efficiency

2012–13 also saw the Registry place more emphasis on the distribution of application processing across the eight Registry locations. This load sharing approach assisted to better manage the peaks and troughs of lodgments across the country.

There has been a 10 per cent increase in applications being processed in locations other than the place of lodgment. This has resulted in a more effective use of staff resources, particularly in locations with lower numbers of applications.

4.1.2 Conciliators

In order to meet the Fair Work Act requirement for an unfair dismissal system that is quick, flexible, informal and addresses the needs of employers and employees, the Commission has a team of conciliators in offices in Melbourne, Sydney, Brisbane, Adelaide, Perth and Hobart.

The conciliators are unfair dismissal dispute resolution specialists engaged as APS employees under the *Public Service Act 1999*. Similar to mediators, they assist the parties to reach their own solution to the dispute.

An unfair dismissal application that can be settled at the conciliation stage avoids the need for the matter to proceed to a formal hearing or conference before a Commission Member. It also allows the parties to determine a mutually acceptable outcome.

Process

Conciliations usually take place by phone. They are informal, private and generally confidential. At the commencement of the conciliation the applicant, respondent and any representatives or support people are brought into a conference call.

The conciliator gives an opening statement setting out the purpose and process of conciliation. The parties are each invited to give a short opening statement setting out a summary of their case.

After a discussion between the parties and the conciliator, the conciliator moves into private sessions

with each party. This involves a confidential discussion between the conciliator and the individual parties. During this session the conciliator works with the parties to explore the issues in dispute, settlement opportunities and will convey any offers of settlement from one party to the other.

If parties reach agreement there is no need to progress to a conference or hearing. If settlement cannot be reached, the matter goes on to be listed for a conference or hearing before a Member.

Achievements

The conciliators' main achievements for this year were:

- of the 10 886 conciliations that took place 8843 were successfully resolved by the parties agreeing on terms to resolve the application during conciliation. This equates to a settlement rate of 81 per cent
- the implementation of a feedback system about the Commission's unfair dismissal administrative process to better serve clients and improve efficiency
- the implementation of a cooling-off period pilot project to increase fairness to the growing number of self-represented parties presenting to the Commission. This has received positive evaluation from independent assessors and has been adopted as practice, and
- conducting relief conciliator training. This program enables staff within the Commission to develop skills in conciliation and reduces the number of conciliations required to be rescheduled due to staff absences. This is the second year the program has run. This year 11 staff completed the program and over 90 conciliations were conducted by relief conciliators.

Future plans

For the next reporting period, the conciliators aim to:

- ensure consistency in the conciliation process through conciliator peer observation programs and through regular professional development, and
- improve or maintain the time taken from lodgment to finalising conciliations.

Promoting fairness

A feedback system was introduced in 2012–13 so that participants in unfair dismissal conciliations could provide comments on their experience of the process.

- We received over 700 responses to the online survey. The survey participants included applicants, respondents and representatives.
- Of those who participated, around 80 per cent involved matters that were resolved at the conciliation stage. This is consistent with the overall settlement rate and suggests that the survey provides a fair sample.
- Over 85 per cent of participants agreed or strongly agreed that they were satisfied with the service provided by the Commission up to the conclusion of the conciliation.

Promoting fairness and improving access

A pilot began in October 2012 to trial a three-day cooling-off period for self-represented parties. The cooling-off period allows parties to take time after their conciliation to consider the proposed settlement agreement.

The trial was evaluated by the Centre for Innovative Justice at the Royal Melbourne Institute of Technology. The evaluation recommended that the Commission formalise the cooling-off period and continue to monitor the initiative to ensure it meets the needs of self-represented parties. The three-day cooling-off period became available to all self-represented parties in March 2013.



CONCILIATION EXAMPLE

Conciliations are confidential and as such the following case study is fictional but is provided as an example of a typical conciliation

Applicant's opening statement

The applicant, John, was employed as a forklift driver by the respondent for over 20 years and is 56 years old. While working night shift he hit a pallet of boxes which tumbled to the floor narrowly missing a co-worker.

The company dismissed John because he was using his mobile phone when the accident happened—mobile phone use is against company policy. John denied that he was using his mobile phone.

The conciliator asked John if he was aware of the policy in relation to mobile phones. He said he was. He said that he had his phone on him because his daughter was in hospital and he was anxious about her, but that he did not use the phone while driving the forklift.

Respondent's opening statement

The respondent stated that John's dismissal was not unfair because his use of a mobile phone while driving the forklift was a breach of workplace health and safety policy.

The respondent said that John's supervisor asked John what happened and that John had replied that he didn't see the other employee because he was behind the pallet.

The respondent reviewed the CCTV footage and believed he could see an object in John's hand. The object looked like a mobile phone and the respondent believed he saw John looking down at it when the accident happened.

The respondent interviewed the other staff present at the time of the incident. Only one of them said he could see John at the time and she agreed that it appeared that he had a mobile phone in his hand. She said she also heard a phone ring just before the incident.

A meeting was set up to discuss the incident. John was told he could bring a support person. In the meeting, he was given an opportunity to respond to the claim that he was on the phone at the time of the accident.

The company was not satisfied with John's response and he was dismissed without notice for serious misconduct.

Discussion

The conciliator asked John whether he wanted to say anything about the respondent's position, in particular in relation to the claim that his mobile phone rang. John said that his phone may have rung but he did not answer it.

The respondent agreed that there was no evidence that John answered the phone, but stated that John should not have had the phone with him. The conciliator also asked both parties whether there were any previous warnings for similar misconduct, and they both agreed that there were none.

Private session with the applicant

The conciliator outlined the strengths and weaknesses of John's case and what some likely outcomes might be. He asked John whether he had considered what he wanted to achieve out of bringing the application. He said that he did not want to go back but he was concerned about his future and getting a new job as a forklift driver with this hanging over him, and he was also concerned about what the company would say to a prospective employer.

The conciliator discussed options with him, including options other people sometimes took, such as asking for a resignation to replace the dismissal, getting a statement of service and obtaining an agreement of mutual non-disparagement.

John said if he got those things he would feel much better, and that he would prefer to settle the matter than to go to a hearing. He also said he had not had any income since he was dismissed four weeks earlier. He had been advised by his union to seek 16 weeks' pay but to settle for less. He said if the respondent agreed to the other things he would probably agree to four weeks' pay, but could not afford much less than that.

Private session with the respondent

The conciliator outlined the strengths and weaknesses of the employer's case and what some likely outcomes might be. Due to John's length of service, the conciliator explained that, if John was successful in a hearing, reinstatement may be a likely outcome. The conciliator also mentioned that the Commission may consider it harsh to terminate a long-standing employee with a previously good record without notice for this incident.

The respondent conceded that the employer understood that there may be difficulties if the matter proceeded further. The employer wanted to settle the matter and asked what John was seeking.

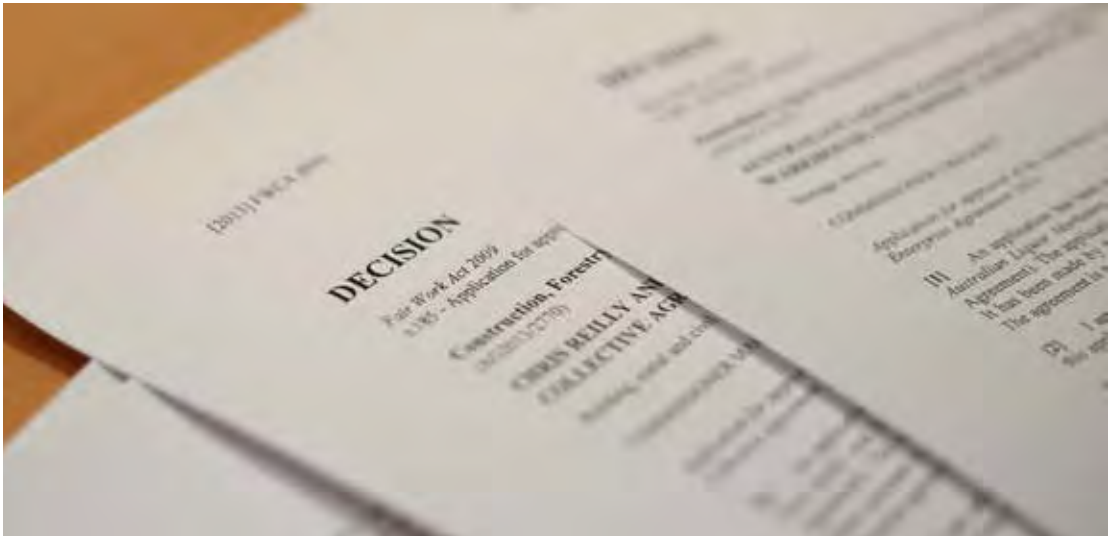
The conciliator conveyed the offer. The employer was prepared to agree to all of the non-financial aspects of the claim but thought 16 weeks' pay was unreasonable. The respondent said that it was prepared to pay five weeks' pay plus superannuation instead of notice in recognition of the applicant's long service.

Second private session with the applicant

The conciliator conveyed the respondent's offer to John, who was happy with this outcome and agreed to the terms of settlement.

Closing session

The conciliator brought the parties back together and confirmed the agreed settlement. The parties agreed that the conciliator would draft, and provide to the parties, the standard Commission terms of settlement.



4.1.3 CMS+ and Corporate Systems

The CMS+ and Corporate Systems team is a support team that administers the Commission's case management system (CMS+) and draws on its data to produce reports on the activities of the Commission.

Achievements

This year, the key achievements of the team were:

- collecting and publishing data on the outcomes of unfair dismissal claims
- collecting and publishing data on timeliness benchmarks
- implementing system requirements for the RSRT
- providing data to the General Manager for the General Manager's reports published in 2012, and
- reviewing the Commission's electronic case management administration system to ensure the accuracy and relevance of data.

Future plans

Next financial year the CMS+ and Corporate Systems team will:

- conduct a system-wide review of CMS+
- further develop the online lodgment system and develop a system which allows clients to access material relevant to their matter, and
- conduct a review of the outcomes recorded in CMS+ to ensure the accuracy of data.

4.1.4 Publications

The Publications team is responsible for publishing decisions, orders, determinations, awards, agreements, transcripts of hearings and ballot results on the Commission and RSRT websites. The team also coordinates various subscription notification services provided by the Commission and provides training and assistance to staff and Members in the preparation of documents for publication.

Achievements

The Publications team achieved the following in the past financial year:

- automation of the publishing process of a range of data and documents

- development of a web search tool to enable website users to find decisions and other documents more easily
- publication of approximately 21 900 documents on the website, and
- sending out more than 1400 subscription notification messages.

Future plans

The Publications team intends to focus on the following initiatives in the coming financial year:

- further automation of the publication of documents
- review of the publication of awards, agreements and related information on the Commission's website, and
- completion of internal guides for the preparation of documents for publication.

Increasing efficiency

In 2012–13 the Publications team completed a major project that automated publishing processes by accessing documents and data directly from the Commission's case management system to publish on the website. The new process has improved the timeliness of publishing documents to the Commission's website, with documents now being available as soon as they are issued by the Commission.

Improving access

The Publications team built a new web search tool to make it easier to find decisions and other published documents. The new search features allow searches by criteria including document type, Member name, matter number and by related award or agreement. This search function replaces the previous system where documents were accessible from numerous lists providing limited information.

4.2 CORPORATE SERVICES

The Corporate Services branch provides support to Members and staff regarding human resources, finance and budget, technical requirements, media and communications and the reporting requirements of the Commission and the RSRT.

4.2.1 Workforce

The Workforce team provides human resources services to the Commission and to the RSRT.

Achievements

The main achievements for the Workforce team included:

- implementing a significant restructure of the administrative staff of the Commission, with the voluntary departure of 42 staff and the introduction of new branch and team structures and national processes
- conducting national discussions during March 2013 to seek feedback from staff on the results of the 2012 State of the Service Employee Census. These sessions sought views from staff on leadership, resourcing and communication issues with the aim of establishing which practices worked well, did not work well and areas where further development was needed. Over 40 sessions were held, with about 150 staff attending. The Commission has committed to implementing a number of corporate and communications changes arising from this feedback
- developing an online induction program for new Commission Members covering key information about the Commission and its operations, corporate support and resources for Members to assist them with their casework, and

- implementing a number of workplace health and safety initiatives including new workplace health and safety advice and arrangements following commencement of the *Work Health and Safety Act 2011* on 1 January 2012.

Future plans

The Workforce team intends to focus on implementing a workforce planning process to ensure the Commission takes advantage of staff skills and addresses any skills gaps.

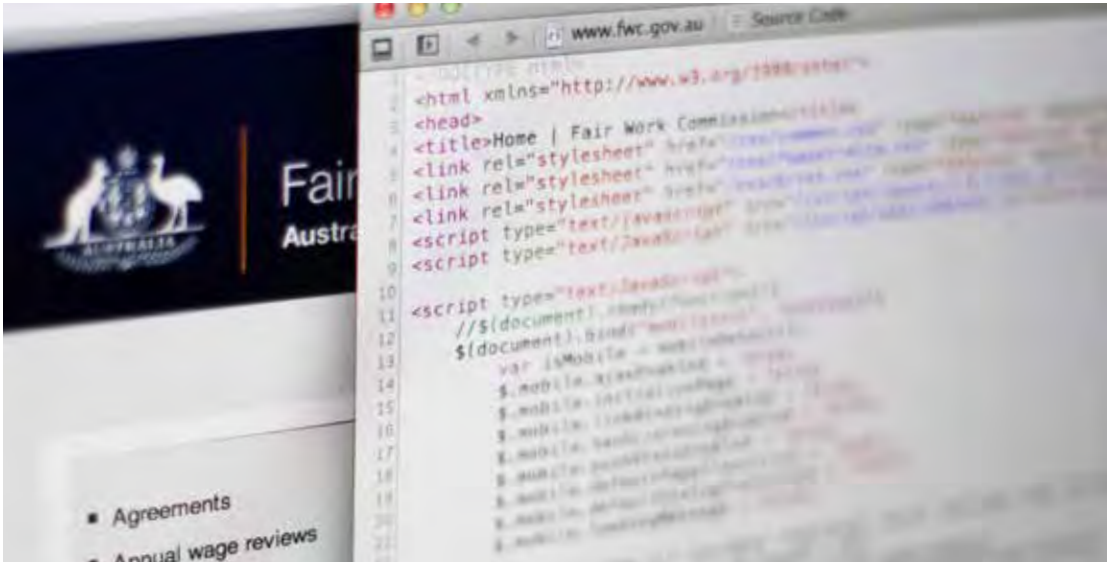
4.2.2 Media and Communications

Media and Communications is responsible for internal and external communications, to inform staff, Members, journalists, stakeholders and the public about the work of the Commission and the RSRT. The Media and Communications Manager also manages media relations, branding and provides direction and oversight for web-based communication services.

Achievements

The Media and Communications Manager's main achievements this year were:

- taking an active approach to media relations by drafting and circulating regular media releases and briefing documents. In 2012–13 the Commission more than doubled the number of media releases it issued in 2011–12
- coordinating the introduction of decision summaries to assist the media and public to access and understand key decisions of the Commission
- coordinating a review of external information materials, such as fact sheets, to provide greater accessibility to information, particularly for self-represented parties



- coordinating the change of the Commission’s brand, including the introduction of a new logo and corporate colours
- developing and producing new materials in line with the new brand including business cards, letterhead, signage and website design
- broadening the internal communications strategy to provide assistance to managers and teams undertaking change management processes, and
- supporting the Workforce team in staff engagement initiatives.

Future plans

For the 2013–14 year, Media and Communications will:

- focus on providing best practice and high quality external communications support
- develop the Commission’s web-based virtual tour, which is planned for launch in late 2013, and
- further develop internal communications at the Commission.

4.2.3 Information & Communications Technology

The Information & Communications Technology (ICT) team is responsible for all information management and information technology services at the Commission including managing the digital and multi-media content for the Commission’s online services.

Achievements

The ICT team’s key achievements for the past financial year were:

- upgrading the computer network including switch replacement and network reconfiguration to support upcoming technology projects for videoconferencing, telephone system replacement and the enabling of WiFi in the Commission’s offices
- installation of a dual data storage platform to improve reliability and access to the Commission’s digital information

- consolidating a number of antivirus and content filtering security systems into a single integrated solution
- developing an expanded range of online resources for website users (frequently asked questions, sample forms and interactive checklists to assist parties preparing for hearings and conferences)
- developing new search functions to make agreement searching more accessible
- launching a mobile website via a beta (test) version that allows smartphone and tablet users to access hearings lists in real time
- creating a YouTube channel to allow access to the Commission's multimedia resources. This year the handing down of the Annual Wage Review 2012–13 decision was made available on YouTube as well as being streamed live, and
- commencing a project to replace the technology underpinning the Commission's current website. The key objectives of the new web platform are:
 - to better support the broad groups of website visitors so they can easily find information and materials that they are seeking, and
 - to provide a system that recognises a user's device when visiting the website (then displays the content to suit that device—whether a desktop, mobile or tablet).

Future plans

For 2013–14 the ICT team plans to:

- conduct a study of best practice use of court technologies and formulate a strategy to update information and communications technology in hearing and conference rooms
- develop disaster recovery systems and business continuity plans to protect the work of the Commission and enable it to function in extraordinary circumstances
- develop an Information and Communications Technology Monitoring and Incident Management

System to ensure accurate supervision of the Commission's resources and timely management of ICT-related incidents

- launch a live version of the mobile website, and
- launch the new website platform.

4.2.4 Reporting, Planning and Legal

The Reporting, Planning and Legal team was created in late 2012 to ensure good corporate governance practices in the Commission. The team's key functions are coordinating responses to freedom of information (FOI) requests, coordinating the Commission's appearances at Senate Estimates hearings, coordinating responses to questions on notice arising out of the Senate Estimates process, providing advice and assistance on corporate governance issues and providing and coordinating corporate legal advice to the Commission.

Achievements

The Reporting, Planning and Legal team views its key achievements of the past financial year as:

- processing all of the 35 FOI requests within the timeframe required by legislation. FOI requests increased this financial year, up from 23 last financial year
- coordinating the Commission's response to over 120 questions on notice
- coordinating the production of the annual report
- progressing the Business Continuity Plan
- developing a strategy to achieve compliance with the Protective Security Policy Framework
- ensuring compliance with privacy obligations, and
- providing advice on a wide range of legal matters including complex legislative interpretation; corporate legal issues; and consultation with the Department of Education, Employment and Workplace Relations about proposed legislative changes.

Future plans

In 2013–14 the Reporting, Planning and Legal team plans to:

- improve the timeliness of responses to questions on notice
- finalise the Commission's Business Continuity Plan
- finalise compliance with the Protective Security Policy Framework, and
- increase the Institute of Public Administration Annual Report Awards rating.

4.2.5 Finance and Resources

The Finance and Resources team manages the financial activities of the Commission including payroll, preparation of financial reports, procurement, risk management, contracts, auditing and financial policy. The team also looks after building management, security, building access and a range of resources activities including fleet management.

Achievements

The key achievements of the Finance and Resources team were:

- coordinating refurbishments of the Commission's offices in Adelaide, Perth, Sydney and Melbourne
- implementing electronic cash receipting, and
- conducting a comprehensive and ongoing review of financial management processes and documentation including:
 - the Audit Committee Charter and Chief Executive Instructions, and
 - the Fraud Control Plan and Fraud Risk Management Register.

Future plans

In 2013–14 the Finance and Resources team plan to:

- conduct a review of procurement procedures including:
 - the Procurement Committee Charter
 - template requests for tender
 - template contracts
 - forms (for example purchase orders and invoice approvals)
- identify system enhancements for good governance for example:
 - contract management
 - travel expenditure approval
- continue the refurbishment of the Commission's office in Sydney, and
- achieve further savings through relocating all Melbourne staff to one office location.

4.3 TRIBUNAL SERVICES

The Tribunal Services branch provides assistance and support to Members of the Commission and the RSRT.

4.3.1 Member Support

The Member Support team assists Members of the Commission and their associates by conducting research, carrying out administrative duties in relation to matters before the Commission, managing unfair dismissal files, assisting with modern award matters, researching and analysing enterprise agreements and summarising decisions. The team also provides support for external engagement programs at the domestic and international level.

Achievements

This year the Member Support team managed a range of activities including:

- assisting with the Modern Awards Review 2012
- summarising over 1500 Commission decisions for the weekly FWC Bulletin
- managing the General Protections Pilot Program
- organising two lectures in February and May 2013 for the 2013 Workplace Relations Lecture Series
- organising mock unfair dismissal hearings for Law Week 2013, with over 250 attendees
- hosting international delegations from Cambodia, Indonesia, Nepal, China and Singapore
- conducting information briefings and tours of the Commission for school groups and Members of the public, and
- developing the Unfair Dismissals Benchbook.

Future plans

In 2013–14 Member Support will focus on:

- further development of the General Protections Pilot Program
- creating forms to direct email inquiries that do not relate to the Commission's services to appropriate agencies
- developing and maintaining further benchbooks for general protections and enterprise agreements, and
- undertaking research and supporting Commission Members as they conduct the four yearly review into modern awards and modern award superannuation default fund terms (both commencing as soon as practicable after 1 January 2014).

TABLE 26: MEMBER SUPPORT SNAPSHOT

Event	2011–12	2012–13
Briefings (national and international)	28	48 (34 domestic, 14 international)
Advice sent to Members about agreements (including BOOT analysis)	857	462
Documents loaded to modern awards review website	276	3059
Subscriber emails sent out	553	533
Subscribers to award services	12 403	13 270
Award variations	372	548
Email inquiries	15 457	15 471

Promoting fairness and improving access

General Protections Pilot Program

The Member Support team has been involved in implementing and administering the General Protections Pilot Program in Western Australia. The team were the contact point for participants in the program and liaised with participants and the Employment Law Centre of Western Australia to ensure its effective administration. The program is being assessed by the Centre for Innovative Justice. Results will be made available at the conclusion of the review.

Publication of new information

The Member Support team assisted in the development of several new resources, including the:

- Appeal Proceedings Practice Note
- Fair Hearings Practice Note, and
- Unfair Dismissals Benchbook.

This information is directed at increasing parties' access to the Commission and has been developed with a particular focus on assisting self-represented parties.

4.3.2 Unfair Dismissal Case Management team

The Unfair Dismissal Case Management team handles unfair dismissal matters that do not settle at conciliation until they are allocated to a Member for determination. This constitutes about 20 per cent of all unfair dismissal applications made to the Commission. The team operates under the direction of the Panel Head for Termination of Employment.

Achievements

This year, the team had a number of key achievements, including:

- managing 2043 files post conciliation and prior to hearing or conference
- listing 709 hearings and conferences for finalising unfair dismissal matters, and
- launching and managing the duty lawyer service.

Future plans

In 2013–14 the team seeks to:

- streamline the process for listing matters and improve the speed with which matters are listed for hearing, and
- expand the duty lawyer service to Sydney.

Promoting fairness and improving access

The duty lawyer service

This year, the Unfair Dismissal Case Management team developed and implemented the duty lawyer service, a *Future Directions* initiative. The Commission has engaged with 13 private law firms to provide a pro bono service to self-represented applicants and respondents for unfair dismissal jurisdictional hearings.

The Unfair Dismissal Case Management team arranged advocacy training sessions for the lawyers involved and are responsible for the ongoing coordination of the program.

The program is currently available in Melbourne, with plans to extend the pilot to Sydney in the next financial year.



4.3.3 National Associates team

The National Associates team provides direct support to Commission Members and the RSRT. Associates are responsible for legal research and file management, in addition to the daily running of Members' offices. This may include scheduling hearings and conferences, booking travel and organising regional hearing facilities, and responding to inquiries from parties. Relief associates assist in Members' offices when associates are unavailable and also assist other areas across the Commission experiencing peaks in workloads.

Achievements

This year, the National Associates team undertook a number of activities to increase efficiency including:

- creating a new Associate Handbook to streamline procedures and provide a reference guide for associates, particularly those new to the position

- implementing new procedures following changes to the publication process of Commission documents
- undergoing legal research training to increase the efficiency of research, and
- commencing a project to review monitoring and transcription services.

Future plans

- develop the Associate Handbook to an online guide, and
- review monitoring and transcription services.

4.3.4 Library and Records Management

The Library and Records Management team oversees the library, records and archives of the Commission. The library also provides a range of customised services that support the Commission's research requirements. The team aims to continually develop new and improved ways to support Members, staff and the public.

Achievements

The Library and Records Management team's key achievements this year were:

- handling an increase in the number of inquiries of almost 20 per cent
- providing individual online legal research training within the organisation and to members of the public on request, enabling greater access to the digital content held by the Commission
- implementing a new system of registering files to decrease the retrieval times for historical records, allowing the team to answer all records inquiries within 24 hours, and
- hosting 160 electronic document management system and records training sessions for staff.

Future plans

In the 2013–14 reporting year, the Library and Records Management team plans to:

- continue to provide online legal research training to Members, staff and the public
- produce 12 oral history films of past Members for the Sir Richard Kirby Archives
- continue to transfer records of national significance to National Archives Australia for permanent retention
- improve the timeliness of responses to library and records requests, and
- continue to provide training in the use of the Commission's electronic document management system nationally.

TABLE 27: LIBRARY AND RECORDS MANAGEMENT SNAPSHOT

Event	2012–13
Inquiries	4600
Percentage of library collection available electronically	50
Records training sessions	160
Transfers to National Archives	300 boxes

4.3.5 Workplace Anti-bullying Implementation

The *Fair Work Amendment Act 2013* received Royal Assent on 28 June 2013, and confers a new jurisdiction on the Commission to hear applications from workers alleging bullying and, where appropriate, to make orders that the bullying stop. The legislation requires the Commission to start to deal with a matter within 14 days of an application being made.

In response to the changes the Commission established the Workplace Anti-bullying Implementation team to ensure that the Commission is prepared to deal with the new requirements.

This jurisdiction will commence on 1 January 2014.

Achievements

The Workplace Anti-bullying Implementation team's key achievements this year were:

- consulting with major industry stakeholders to create procedures that will ensure that making an application will be fast and accessible for parties, and
- preparing information in clear, simple language across a range of formats for publication on 1 January 2014. These materials will help workers and employers understand the new jurisdiction and the Commission's processes for dealing with allegations of workplace bullying.

4.3.6 Pay Equity Unit

On 19 March 2013, the Minister for Employment and Workplace Relations announced that a Pay Equity Unit would be established within the Commission to provide specialist information and research for the Commission and other interested parties to inform matters related to pay equity under the Fair Work Act.

In response to the announcement, the Commission established a working group to ensure the Pay Equity Unit would be ready to provide independent research to the Commission and parties about equal remuneration applications and award matters from 1 July 2013.

Future plans

In the 2013–14 reporting year, the priorities of the Commission's Pay Equity Unit will be to:

- commission research into equal remuneration under the Fair Work Act
- collect data on pay equity matters, and
- review current pay equity research and catalogue available data for use in research.

4.3.7 Workplace and Economic Research Section

The Workplace and Economic Research Section supports the Minimum Wage Panel of the Commission and the RSRT by providing independent research and analysis. For the Minimum Wage Panel the team conducts research and analysis on current and emerging labour market issues, particularly those affecting minimum wage-reliant employees, and supports the Panel throughout the annual wage review process.

Achievements

The Workplace and Economic Research Section's main achievements in the 2012–13 year included:

- publication of research for the Minimum Wage Panel's research agenda, and
- publication of the General Manager's reporting requirements into enterprise agreement-making, the extent and content of individual flexibility arrangements, the operation and provisions of the National Employment Standards and the operation of the unfair dismissal system.

Future plans

In the 2013–14 reporting year, the Workplace and Economic Research Section will focus on:

- providing research and support to the Commission, the RSRT and Expert Panel
- assisting with the development of a research agenda for the 2013–14 annual wage review
- publishing research for the 2013–14 annual wage review
- assisting with the research objectives of the Pay Equity Unit, and
- assisting with the four yearly modern awards review.

Engaging with industry

At the direction of the Minimum Wage Panel, the Workplace and Economic Research Section actively consults a Minimum Wage Research Group which consists of representatives nominated by:

- Australian Chamber of Commerce and Industry
- Australian Industry Group
- Australian Council of Social Service
- Australian Council of Trade Unions
- the federal government, and
- state and territory governments.

Two meetings were held with the Research Group in the reporting period. The first meeting finalised matters arising from the Minimum Wage Panel's research program decision [[2012] FWAFB 9095] and the second meeting provided preliminary findings from the team's published research.



4.3.8 RSRT team

The RSRT team provides support to the RSRT President and its Members through administration, stakeholder engagement, and specialist transport policy advice and analysis.

Achievements

The RSRT team's main achievements in the 2012–13 year included:

- providing support to Members through extensive consultation processes during the progress of its Annual Work Program, and
- establishing key policies and procedures for the RSRT, including those for the receipt of submissions, website management, internal communication and industry monitoring.

Future plans

In the 2013–14 reporting year, the team will be focused on:

- assisting with consultation for the draft Road Safety Remuneration Order
- supporting the RSRT President and Members with the formation of its second Annual Work Program, and
- further developing the RSRT's communication channels and administrative processes.

4.4 REGULATORY COMPLIANCE

The Regulatory Compliance branch is responsible for administering the provisions of the Registered Organisations Act, which regulates the activities of employer and employee organisations. These statutory obligations cover elections, record keeping, financial reporting and alterations of the rules of organisations. The branch is also responsible for Right of Entry permits and Work Health and Safety permits for trade union officials. In addition, the branch conducts inquiries and investigations into organisations and their officers to ensure they comply with their statutory obligations.

This year, the branch began a major project assisting registered organisations and their branches with mandatory rule alterations. These alterations are required following amendments to the Registered Organisations Act. The amendments require the rules of organisations to, among other things:

- increase disclosure of payments to officers and related parties, and
- provide for all officers with financial management duties to undertake financial management training.

The rule changes were originally required by 1 July 2013. This has been extended by legislative amendment to 1 January 2014.

Note:

A number of factors contributed to this increase including:

- heightened public awareness of the investigatory role and capacity of the Commission emerging from the widely reported HSU investigation which directly led to increased complaints, and
- the significant shift from reactive to proactive regulation by the branch.

Achievements

This year the Regulatory Compliance branch underwent a fundamental shift towards becoming a more proactive regulator. This is evidenced by:

- the commencement of 17 investigations and inquiries into organisations for potential regulatory breaches—a 1600 per cent increase from the previous financial year (see note)
- the deregistration of four previously registered organisations on the Commission's own motion (a 100 per cent increase from the previous financial year)
- delivering education and compliance strategies resulting in a 96.2 per cent lodgment rate of annual returns
- conducting a comprehensive audit of compliance levels by registered organisations over the past 10 years
- launch of the Regulatory Compliance Policy and the Litigation Policy at public information sessions in Melbourne and Sydney in August 2012, as well as publication on the Commission's website of information regarding current inquiries, investigations and current litigation
- conducting public information sessions in Melbourne and Sydney in August 2012 and March 2013 about amendments to the Registered Organisations Act

- publication of the Offences Policy in March 2013 and publication of a Protection for Whistleblowers fact sheet in May 2013
- publication and gazettal of updated Reporting Guidelines which supplement the financial reporting provisions of the Registered Organisations Act, together with a new Model Set of Accounts to help organisations to understand and comply with financial reporting requirements
- publication of information about amendments to the Registered Organisations Act, including fact sheets, frequently asked questions, model rules and links to published decisions. Information was also published on approved governance training packages, and
- developing staff investigative capability by training all Regulatory Compliance staff in Certificate IV in Government (Investigations).

Concluded inquiries

In addition the branch conducted and concluded inquiries into:

- the Tasmanian Branch of United Voice (formerly known as the Liquor, Hospitality and Miscellaneous Union)—inquiry commenced 23 July 2012 and concluded 25 March 2013
- the Local Government Association of New South Wales—inquiry commenced 13 June 2012 and concluded 9 August 2012, and
- the Community and Public Sector Union, SPSF Group, Queensland Branch—inquiry commenced 6 July 2012 and concluded 27 July 2012⁽¹⁾

(1) This inquiry was separate to the current investigation in relation to this organisation.

TABLE 28: REGULATORY COMPLIANCE BRANCH SNAPSHOT

Event	Number of applications	Achievement
Permit applications under Fair Work Act (s.512)	1724	95.6% processed within 40 days
Permit applications under the <i>Work Health and Safety Act 2011</i> (s.131)	184	97.3% processed within 100 days

Workload

Allocation of branch resources in 2012–13 has been affected by a number of significant factors including:

- a statutory requirement to deliver project milestones during the financial year relating to mandatory amendments to rules of all registered organisations
- the 1600 per cent increase in investigations and/or inquiries concerning significant non-compliance with legislative and reporting requirements of organisations under the Registered Organisations Act, and
- significant change management adjustment required to embed a cultural shift from reactive to proactive regulation.

Although the deadline for mandatory amendments to rules has been extended to 1 January 2014, it is anticipated that at least some of these factors will continue to impact the workload of the branch.

Benchmarks

During the course of the reporting period the Regulatory Compliance branch has undertaken a fundamental change in its approach to regulating registered organisations, moving towards the role of proactive regulator. This change necessitated a review of the manner in which the branch's activities were undertaken. The review led to the new approach which emphasises qualitative analysis of documentation lodged by registered organisations and identifies a further shift towards analysis of risk as a key driver of the branch's activities.

This new approach is a departure from the previous emphasis on timeliness and quantity. The analysis and evaluation approach now being undertaken has required revision of the branch's internal benchmarks in order to reflect the complexity of the particular area of work. See Table 29 for the new benchmarks for each application type.

TABLE 29: BENCHMARKS FOR THE REGULATORY COMPLIANCE BRANCH

Application type	Benchmark
Right of entry permits	95% to be finalised in 40 working days
Workplace health and safety permits	95% to be finalised in 100 working days
Elections	95% to be finalised in 40 working days
Annual returns	95% to be finalised in 80 working days
Financial returns	95% to be finalised in 40 working days.

The figures in Table H11 for the 2012–13 period do not reflect current benchmarks. The columns referring to the percentage of matters finalised within '28 days' has been included this year for historical purposes but will not appear in future annual reports in its current format.

Future plans

The Regulatory Compliance branch will be focusing on several areas in 2013–14 including:

- developing an efficient risk-based audit approach to regulating the financial reports of registered organisations
- finalising an election audit of all registered organisations and developing an election alert and notification system for organisations
- reviewing the efficiency of the Right of Entry permit system
- seeking to improve interaction and communication with registered organisations, and
- further development of internal investigatory and inquiry capability.

Action against the HSU

The Commission has commenced proceedings against the National Office of the HSU and against its former National Secretary, Mr Craig Thomson, arising from an investigation that concluded in March 2012. These court proceedings are continuing.

Separate proceedings have also been commenced against the HSU and three former officials of the Victoria No 1 Branch. These proceedings arise from a separate investigation that concluded in December 2011. A hearing on appropriate penalties relating to those proceedings was held in the Federal Court on 12 July 2013.



MANAGEMENT AND ACCOUNTABILITY

5.1 CORPORATE GOVERNANCE

In 2012–13, the Commission had the important objective of continuing to improve its standard of accountability, and to achieve this by focusing on improving its corporate governance strategies. To this end, one of the core objectives for the Commission in its strategic plan was for the Commission to be ‘an effective, high performing, accountable APS agency’.

In 2012–13, the Executive also initiated regular reporting across a range of important items to ensure that the Commission adopted a proactive approach to its corporate governance.

The Executive also delegated two areas of corporate governance to two committees comprised of senior managers from across the Commission. These committees provide support in the areas of procurement and auditing to assist with accountability and best practice governance.

5.1.1 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 the Commission’s strategic direction 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 (from 3 June 2013) and Ailsa Carruthers (1 July 2012 to 31 May 2013), and
- Director, Tribunal Services—Murray Furlong.



5.1.2 Fair Work Commission committees

Procurement Committee

The Procurement Committee includes the Director, Corporate Services and a number of senior managers. It has a pivotal role in assuring that procurements made by the Commission are consistent with Commonwealth Government procurement guidelines, and that contracts and procurement are actively managed by the Commission. All contracts and procurement actions over \$50 000 are referred to the Procurement Committee.

Audit Committee

The Audit Committee consists of three senior managers appointed by the General Manager 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 Audit 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 Consultative Committee was established and is maintained by its inclusion in the Commission's enterprise agreement. The Staff Consultative Committee includes:

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

The Committee meets at least three times each year.

5.2 PLANNING AND DEVELOPMENT

5.2.1 Strategic planning

The 2012–13 Strategic Plan has four key objectives:

- to provide effective service delivery and support to Members of the Commission and the RSRT
- to provide effective service delivery and assistance to the clients of the Commission and the RSRT
- to provide effective 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 objectives continue to underpin the activities of the Commission in the performance of its functions.

5.2.2 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.

At 1 June 2013, 87 per cent of staff had an approved individual performance and development plan.

5.2.3 Learning and development

The learning and development component of the Performance and Development Framework is aimed at creating a more capable workforce, and is supported by a range of initiatives including:

- a national training calendar: as a result of this 62 per cent of staff across all states and territories undertook learning activities
- a coaching program that was undertaken by four senior staff
- a national online induction program completed by 92 per cent of new starters, compared with 60 per cent in 2011–12
- peer learning sessions for senior staff to learn about and discuss topics such as transitioning into change and work health and safety responsibilities for managers, and
- eight in-house courses to facilitate group learning.



5.2.4 Health and safety outcomes

In 2012–13 there was one new compensation claim and eight accidents/incidents. 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, including those of a psychological nature.

The Commission's forecasted workers' compensation premium rate has fallen for 2013–14 to 0.52 per cent, from 0.85 per cent for 2012–13. The forecast premium rate is well below the 2013–14 forecast premium for all agencies, which is 1.82 per cent.

Initiatives

The most significant work health and safety (WHS) initiatives this year were associated with:

- continued implementation of new WHS advices and arrangements following commencement of the *Work Health and Safety Act 2011*
- training of 11 Health and Safety Representatives (HSRs) and Deputy HSRs
- workplace inspections by HSRs and Deputy HSRs

- ergonomic advice and assessments for employees
- office refurbishments in Adelaide, Perth and Sydney
- healthy lifestyle initiatives for staff, including pilates, yoga and a volleyball team, and
- an annual influenza vaccination program.

5.2.5 Business continuity

Business continuity planning

In 2012–13, the Executive placed an increased emphasis on business continuity planning. While there was an existing plan in place, the agency wanted to ensure that the Commission would be in a stronger position should a crisis arise.

Extensive work was undertaken by the Commission to assist in the creation of a new business continuity plan. Drafts were prepared in 2012–13, with a final plan due to be operational in early 2013–14.

5.3 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 Commissioner's Directions 1999, and*
- *Financial Management and Accountability Act 1997.*

Information on ecologically sustainable development and environmental performance can be found at Appendix M.5. Information on FOI and the Information Publication Scheme can also be found at Appendix M.2.

5.3.1 Fair Work Commission Values

The Fair Work Commission Values guide the activities of staff and were designed to operate alongside the Australian Public Service 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 public. They are embedded in the recruitment processes, the reward and recognition program, and the performance management processes followed by the Commission.



5.4 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.

5.4.1 External scrutiny

The Auditor-General issued an unqualified independent audit report on the Commission's 2012–13 financial statements. There were no other reports issued by the Auditor-General relating to the Commission in 2012–13.

The President, General Manager and the Executive attended Senate Estimates hearings on 17 October 2012, 13 February 2013 and 3 June 2013.

5.4.2 Internal audit arrangements

In 2012–13, BDO Australia Ltd was contracted to undertake an annual program of independent internal audits including:

- a fraud risk assessment
- audits to inform the Commission Certificate of Compliance
- a business risk assessment, and
- an audit of the Commission's case management system's financial transactions.

5.4.3 Judicial decisions and administrative review

There were no judicial or administrative decisions or findings that affected the Commission's operation during 2012–13.

5.4.4 Corporate reporting

In 2012–13, the Commission undertook corporate reporting through:

- 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.

Corrections to the *Fair Work Australia Annual Report 2011–12* can be found in Appendix M.7.

5.4.5 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 C.

5.5 OUR WORKFORCE

5.5.1 Management of human resources

During 2012–13, the Commission undertook a restructure of the administrative arm of the organisation following extensive consultation across the Commission. The most significant impact involved the voluntary departure of 42 staff, as well as the creation of new team structures and a flatter management structure.

The new structure was necessary for the Commission to meet budget requirements and also changes that arose due to:

- legislative amendment resulting in enhanced regulatory functions and powers
- the *Future Directions* initiatives aimed at improving the Commission's accountability and performance, and
- the announcement of two new functions: pay equity and anti-bullying.

Work is continuing in the Commission to create a flexible workforce through initiatives such as the relief conciliator programs. Further progress in this area will be made following the implementation of a workforce planning process, including more work on the identification of existing and required skill sets.



5.5.2 Commission staffing

As at 30 June 2013, the Fair Work Commission employed 300 administrative staff, a decrease of 13 staff over the course of the year.

TABLE 30: GEOGRAPHIC DEPLOYMENT OF STAFF

Location	30 June 2012	30 June 2013
Victoria	220	204
New South Wales	52	51
Other Locations ¹	41	45
Total²	313	300

(1) Includes Queensland, South Australia, Western Australia, Tasmania, Northern Territory and Australian Capital Territory.

(2) Includes the General Manager (a statutory appointment under the Fair Work Act) and 12 employees on long-term leave with or without pay.

TABLE 31: RECRUITMENT ACTIVITY BY TYPE OF EMPLOYMENT AND LOCATION

Type	Number
Ongoing	25
VIC	17
QLD	2
WA	2
NSW	2
ACT	1
SA	1
Temporary moves from other agencies	3
Non-ongoing	31
Total	59

5.5.3 Staff recruitment and turnover

Overall, 59 new employees (ongoing and non-ongoing) commenced employment and 72 employees (ongoing and non-ongoing) departed the Fair Work Commission during 2012–13.

Of the new employees, 25 were ongoing, an increase of 38 per cent from the previous year. Of the employees that departed, 56 were ongoing employees. This represents an exit rate of 19 per cent.

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

5.5.4 Separations

During 2012–13, a total of 72 employees left the Commission (56 ongoing employees and 16 non-ongoing employees). The reasons for separation are outlined in Table 32.

5.5.5 Flexible working arrangements

The Commission provides a range of flexible working arrangements to staff.

Part-time work

As at 30 June 2013, 22 ongoing employees were undertaking part-time work—two males and 20 females (7.3 per cent of total staff).

Home-based work

During 2012–13, five employees had home-based work agreements—arrangements seek to combine ongoing work commitments with parental responsibilities or personal circumstances. The agreements were made consistent with the provisions, and complied with all of the requirements, of a related Commission policy and procedural advice, particularly in relation to WHS and security requirements.

Long-term leave

Twelve ongoing employees who were on long-term leave with or without pay as at 30 June 2013 (4 per cent of total employees) were either attending to parental or family responsibilities or were on leave due to temporary incapacity or for personal reasons.

TABLE 32: REASONS FOR SEPARATION

	Ongoing employee	Non-ongoing employees	Total	Percentage %
Voluntary redundancy	42	-	42	58.3
Resignation	9	6	15	20.8
Age retirement	1	-	1	1.4
Move to an ongoing position at another APS agency	1	-	1	1.4
Return to other APS agency after completion of a temporary move	1	-	1	1.4
Invalidity retirement	1	-	1	1.4
Termination of employment	1	-	1	1.4
Cessation of non-ongoing engagement	-	10	10	13.9
Total	56	16	72	100

5.5.6 Staff demographics

The following tables outline employee status and gender by APS level, and employee location and gender by APS level.

TABLE 33: EMPLOYMENT STATUS AND GENDER BY APS LEVEL AS AT 30 JUNE 2013

Classification	Salary range (\$) (as applicable from FWAEA)	Ongoing full-time		Ongoing part-time		Non-ongoing ¹		Total ²
		Men	Women	Men	Women	Men	Women	
SES Band 1	Individual	2	2	0	0	0	0	4
Executive Level 2	113,262–132,555	17	19	0	6	0	0	42
Executive Level 1	98,232–106,043	4	9	0	2	0	0	15
APS Level 6	77,165–88,764	32	60	1	8	0	2	103
APS Level 5	71,248–75,509	14	25	1	0	4	16	60
APS Level 4	63,910–69,355	24	25	0	4	3	6	62
APS Level 3	57,401–61,899	1	6	0	0	0	2	9
APS Level 2	51,009–55,862	1	3	0	0	0	0	4
Total		95	149	2	20	7	26	299

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

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

TABLE 34: LOCATION AND GENDER BY APS LEVEL AS AT 30 JUNE 2013

Classification	Victoria		NSW		Other Locations ¹		Total Employees ²		
	Men	Women	Men	Women	Men	Women	Men	Women	Total
SES Band 1	2	2	0	0	0	0	2	2	4
Executive Level 2	10	14	5	5	2	6	17	25	42
Executive Level 1	3	11	1	0	0	0	4	11	15
APS Level 6	28	47	4	12	1	11	33	70	103
APS Level 5	12	23	6	9	1	9	19	41	60
APS Level 4	19	26	5	3	3	6	27	35	62
APS Level 3	1	3	0	0	0	5	1	8	9
APS Level 2	1	1	0	1	0	1	1	3	4
Total	76	127	21	30	7	38	104	195	299
		(203)		(51)		(45)		(299)	

(1) Includes Queensland, South Australia, Western Australia, Tasmania, Northern Territory and Australian Capital Territory.

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

5.6

EMPLOYEE PAY AND ENTITLEMENTS

5.6.1 Collective and individual agreements

All non-senior executive service (SES) employees are covered by the *Fair Work Australia Enterprise Agreement 2011–14* (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 commenced on 16 December 2011 and has a nominal expiry date of 30 June 2014. The provisions of the FWAEA set the pay and conditions for the non-SES administrative staff of the Commission. The FWAEA is complemented by the Performance and Development Framework which sets out the expectations of staff at a branch, team and individual level.

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.

5.6.2 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.

5.6.3 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.

5.7 FINANCIAL MANAGEMENT

The Commission is a prescribed agency under the *Financial Management and Accountability Act 1997*. The Commission's audited financial statements for 2012–13 are at Appendix J.

In 2012–13 the Commission recorded a deficit of \$0.907 million on a comprehensive income basis, compared to an operating deficit of \$3.921 million in 2011–12.

Contributing to the operating deficit is a depreciation charge of \$2.105 million for which the Commission is not funded. Operating revenue from Government increased by \$1.347 million to \$74 294 million in 2012–13.

An agency resource statement table providing information about funding sources drawn upon by the agency is at Appendix K of this report.

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 L.

Information on advertising and market research can be found at Appendix M.3. Information on legal services expenditure and information on grant programs can be found at Appendix M.4.

5.7.1 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.

5.7.2 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 Guidelines (CPGs).

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 in section 5.1.2.

Procurement plan

The Commission published an annual procurement plan outlining expected procurement activities during 2012–13. The plan is available on the AusTender website.

5.7.3 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 2012–13 included:

- procurement of new workstations and minor refurbishment for the Melbourne office
- an enterprise videoconferencing project
- accounting assistance in relation to financial reporting by registered organisations
- business case for Pay Equity Unit linked employee-employer survey research, and
- the web platform upgrade.

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 Guidelines. 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 2012–13, one new consultancy contract was entered into involving actual expenditure of \$82 197. In addition, three ongoing consultancy contracts were active during 2012–13, involving total actual expenditure of \$137 533. The total expenditure on consultancies was \$219 730.

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.



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APPENDIX A

FAIR WORK COMMISSION ADDRESSES

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Fax: (08) 9464 5171

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APPENDIX B

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 2012–13
- *Fair Work Act 2009*
- *Fair Work Amendment Act 2012*
- *Fair Work Amendment Act 2013*
- *Fair Work Australia Rules 2009* (as amended)
- *Fair Work Australia Annual Report 2011–12*
- Fair Work Commission fact sheets and guides
- 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 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*
- *Independent Contractors Act 2006*
- *Privacy Act 1988*
- *Public Service Act 1999*
- *Public Service Regulations 1999*
- *Public Service Commissioner's Directions 1999*
- 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)*

APPENDIX C

FRAUD CONTROL CERTIFICATE



13 September 2013

Annual report 2012-13 - Fraud Control Certification

In accordance with guideline 5.8 of the *Commonwealth Fraud Control Guidelines 2011* (the Guidelines), issued pursuant to Regulation 15A of the *Financial Management and Accountability Regulations 1997*, I hereby certify that I am satisfied that the Fair Work Commission has:

- prepared risk assessment and fraud control plans
- in place appropriate fraud prevention, detection and investigation and reporting and data collection procedures and processes that meet the specific needs of the Commission and comply with the Guidelines, and
- taken all reasonable measures to minimise the incidence of fraud in the Commission and to investigate and recover the proceeds of fraud against the Commission.


Bernadette O'Neill
General Manager



APPENDIX D

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 s.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

Fair Work Commission staff are committed to providing fair, efficient and excellent levels of service to users

of the workplace relations system. 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.

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 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.

Client focus

We will strive to ensure that our service is:

- informative, accurate and timely
- prompt, courteous and respectful
- professional and helpful.

If you are lodging an application or document with the Commission and need assistance 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 matter).

If you visit our offices, you can expect ease of access, clear sign-posting to facilitate movement within the premises and staffed service counters where Commission employees will assist with your needs.

If you write to us, we will acknowledge receipt of your correspondence within 7 days, and provide you with an employee name and contact details for any further follow-up.

Service excellence

Commission staff will strive 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 assist you in contacting 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

Commission staff are committed to providing a service that is ethical, fair and free from discrimination.

Comments, suggestions or complaints about our services can be made through any of the contact methods in the How you can contact us section of this service charter, or through the Feedback form on the website.

Value

Commission staff will seek to continuously improve services in response to client 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 to inquiries@fwc.gov.au

Telephone: The national contact number for assistance is 1300 799 675

Post: You can write to us at: Fair Work Commission, GPO Box 1994, Melbourne VIC 3001

In person: Visit the Commission office in your capital city—details are on the Contact the Commission page of our website.

Tell us what you think

Any comments, suggestions or complaints about the services of Commission staff or 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 through the Feedback form of our website.

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 Commission. Information about the Ombudsman is available at www.ombudsman.gov.au or by telephoning 1300 362 072, or
- 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 www.hreoc.gov.au or by telephoning 1300 656 419, or if you use TTY telephone 1800 620 241.

APPENDIX E

LIST OF MEMBERS

External appointments

President

Justice IJK Ross AO (M) Judge, Federal Court of Australia

Vice Presidents

Vice President A Hatcher (S)

Vice President J Catanzariti (S)

Deputy Presidents

Vice President MJ Lawler (M)

Vice President GR Watson (S)

Justice AJ Boulton AO, Senior Deputy President (S)

Senior Deputy President IR Watson (M)

Senior Deputy President AM Harrison (S) Deputy President, SAIRC

Senior Deputy President JM Acton (M) President, RSRT

Senior Deputy President LEC Drake (S) Senior Deputy President, RSRT

Senior Deputy President MG O'Callaghan (A)

Senior Deputy President JM Hamberger (S)

Senior Deputy President PJ Richards (B) Senior Deputy President, QIRC

Deputy President RS Hamilton (M)

Deputy President BP McCarthy (P)

Deputy President PD Hannon (A) President, SAIRC

Deputy President RW Harrison (N) Deputy President, IRCNSW

Deputy President PJ Sams AM (S) Deputy President, IRCNSW

Deputy President KM Bartel (A) Deputy President, SAIRC

Deputy President GR Smith AM (M)

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, and (RSRT) Road Safety Remuneration Tribunal.

External appointments

Deputy President A Booth (S)

Deputy President IC Asbury (B)

Deputy President, RSRT

Deputy President A Gooley (M)

Deputy President JP Lawrence (S)

Deputy President VP Gostencnik (M)

Commissioners

Commissioner JCW Lewin (M)

Commissioner, SAIRC

Commissioner WD Blair (M)

Commissioner AL Cribb (M)

Commissioner HM Cargill (S)

Commissioner B Deegan (C)

Commissioner, TIC and a tribunal member of the tribunal established under the *Parliamentary Salaries, Superannuation and Allowances Act (Tas) 2012*

Commissioner PJ Spencer (B)

Commissioner, QIRC

Commissioner MG Roberts (S)

Commissioner BD Williams (P)

Commissioner D Steel (A)

Commissioner, SAIRC

Commissioner DS McKenna (S)

Commissioner, IRCNSW

Commissioner IW Cambridge (S)

Commissioner AW Macdonald (S)

Commissioner, IRCNSW

Commissioner JD Stanton (N)

Commissioner, IRCNSW

Commissioner DJ Cloghan (P)

Commissioner JF Ryan (M)

Commissioner PJ Hampton (A)

Commissioner, RSRT

Commissioner J Roe (M)

Commissioner MP Bissett (M)

Commissioner CF Simpson (B)

Commissioner T Lee (M)

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, and (RSRT) Road Safety Remuneration Tribunal.

External appointments

Commissioner S Booth (B)

Commissioner B Riordan (S)

Commissioner G Bull (S)

Commissioner D Gregory (M)

Commissioner LAH Johns (M)

Commission NP Wilson (M)

Minimum Wage Panel Members

Mr J Vines

Professor S Richardson

Mr P Dwyer

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, and (RSRT) Road Safety Remuneration Tribunal.

APPENDIX F

PANEL ASSIGNMENTS

List of panel assignments as at 30 June 2013.

President, Justice Ross

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

Major resources/infrastructure projects panel—Justice Ross

This panel will facilitate engagement between the Commission and the industrial parties involved in major projects. The panel head is Justice Ross. The other Members of the panel are:

PANEL MEMBERS

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

Vice President Lawler

PANEL MEMBERS

Smith DP	Bissett C*
Deegan C	Simpson C*
Roberts C*	Riordan C*
Cloghan C*	Steel C
Roe C	

INDUSTRIES

Banking finance and insurance industry
Commonwealth employment
Corrections and detentions
Educational services
Federal Police operations
Fire fighting services
Local government administration
Meat industry
Pharmaceutical industry
Postal services
Scientific services
State and Territory government administration
Technical services
Telecommunications services

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

Vice President Watson

PANEL MEMBERS

Hamilton DP	Hampton C*
Booth DP	Booth C
McKenna C	Gregory C
Cloghan C*	

INDUSTRIES

Airline operations
Airport operations
Ambulance and patient transport
Children's services
Clerical industry
Commercial sales
Contract call centre industry
Dredging industry
Dry cleaning and laundry services
Food, beverages and tobacco manufacturing industry
Grain handling industry
Health and welfare services
Maritime industry
Market and business consultancy services
Oil and gas industry
Pet food manufacturing
Port authorities
Poultry processing
Seafood processing
Social, community, home care and disability services
Stevedoring industry
Water, sewerage and drainage services
Wine industry

Justice Boulton

PANEL MEMBERS

O'Callaghan SDP*	Williams C*
Hamberger SDP*	Lee C*
Spencer C	Riordan C*
Roberts C*	

INDUSTRIES

Agriculture industry
Animal care and veterinary services
Aquaculture
Broadcasting and recorded entertainment industry
Cleaning services
Clothing industry
Coal export terminals
Coal industry
Graphic arts
Journalism
Live performance industry
Nursery industry
Pharmacy operations
Publishing
Retail industry
Storage services
Sugar industry
Textile industry
Wool storage, sampling and testing industry

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

Senior Deputy President Watson

PANEL MEMBERS

O'Callaghan SDP*	Cargill C
Richards SDP	Ryan C
McCarthy DP*	Simpson C*
Gooley DP*	Bull C
Blair C	Macdonald C

INDUSTRIES

Asphalt industry
Building, metal and civil construction industries
Cement and concrete products
Electrical contracting industry
Manufacturing and associated industries
Plumbing industry
Rubber, plastic and cable making industry
Timber and paper products industry
Vehicle industry

Senior Deputy President Harrison

PANEL MEMBERS

Hamberger SDP*	Cambridge C
Bartel DP	Bissett C*
Lewin C	Lee C*
Williams C*	

INDUSTRIES

Aluminium industry
Building services
Business equipment industry
Cemetery operations
Christmas Island
Cocos (Keeling) Islands
Diving services
Electrical power industry
Funeral directing
Gardening services
Hair and beauty
Indigenous organisations and services
Mannequins and modelling industry
Mining industry
Miscellaneous
Northern Territory
Passenger vehicle transport (non rail) industry
Quarrying industry
Racing industry
Rail industry
Real estate industry
Salt industry
Security services
Sporting organisations
Uranium mining (including construction)

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

Senior Deputy President Acton

PANEL MEMBERS

Drake SDP	Gooley DP* ²
McCarthy DP*	Cribb C
Sams DP	Hampton C*
Asbury DP* ¹	

INDUSTRIES

Aged care industry
Amusement, events and recreation industry
Fast food industry
Hospitality industry
Licensed and registered clubs
Marine tourism and charter vessels
Restaurants
Road transport
Tourism industry
Waste management

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

(1) Road transport and Waste management industries only.

(2) Aged care industry only.

Note: Stanton C is available to all panels to deal with matters in the Newcastle/Hunter region.

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.

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

Acton SDP	Richards SDP
Hamberger SDP	

Minimum wage panel— President, Justice Ross

The Minimum Wage Panel is constituted by the President and carries out the minimum wage functions in Part 2-6 of the Fair Work Act. The panel head is Justice Ross. Current Members of the panel are:

PANEL MEMBERS

Watson SDP	Mr J Vines
Spencer C	Professor S Richardson
Hampton C	Mr P Dwyer

APPENDIX G

MEMBER ACTIVITIES

G.1 External appointments and positions held by Members

Justice Ross is the Chair of the Council of Australasian Tribunals (COAT).

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 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, the Chairperson of the Conduct Panel of the Combined Sydney City Junior Rugby League Competition, and the Grievance Officer for the New South Wales Surf Lifesaving Association and Maroubra Surf Club.

Deputy President Smith is the Chair of the Council of Camberwell Grammar School.

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 Gooley is the Chair of the Aged Care Strategic Workforce Advisory Group.

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.

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 a Director of the Mediator Standards Board, the 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 a patron of the Industrial Relations Society of Queensland (IRSQ), the Chairperson of the Northern Territory Prison Officers

Arbitral Tribunal and Deputy Chairperson of the Northern Territory Police Arbitral Tribunal.

Commissioner Hampton is the National President of the Australian Labour and Employment Relations Association Inc (ALERA) and is a committee member of the Industrial Relations Society of South Australia (IRSSA). Commissioner Hampton is also a member of the Australian Labour Law Association 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 Macdonald is the Vice President of the Industrial Relations Society of New South Wales (IRSNSW).

G.2 Presentations and speeches

Justice Ross gave a number of presentations on the subject of *Future Directions* to the Employment and Industrial Relations Conference in September 2012, to the IRSNSW in September 2012, at a lunchtime talk with Minter Ellison in April 2013, and the IRSQ Patrons Luncheon in May 2013. He gave a number of presentations on the topic of 'Developments within Fair Work Australia' including to the IRSSA in October 2012 the Law Institute of Victoria in October 2012, the Industrial Relations Society of Victoria (IRSV) in October 2012, the NSW Women Lawyers Association in November 2012 and to the International Labour and Employment Relations Association (ILER) 2013 Asia Region Conference in April 2013.

Justice Ross gave a presentation titled 'The Challenge of Workplace Productivity' at the Macquarie University Future of Work Symposium Series in November 2012. Justice Ross presented 'Encouraging Excellence' to the COAT Leadership Workshop in February 2013 and 'The Challenge of Change' to the 21st Annual Kingsley Laffer Memorial Lecture at the University of Sydney and at an Industrial Relations Society of Tasmania event in Hobart in June 2013.

Vice President Watson gave speeches at the following events: the Workplace Relations and Safety Law Master Class panel discussion on discrimination in October 2012, Thomson Reuters 11th Annual Workforce Conference in November 2012, Akolade's Industrial Relations Summit in November 2012, the Ai Group National PIR Group Conference in May 2013 and the Australian Mines and Metals Association (AMMA) 2013 National Conference in May 2013.

Deputy President Hamilton made a presentation at the launch of the film *Waltzing Matilda and the Sunshine Harvester Factory* which was developed by the Deputy President from his book of the same name in August 2012. Deputy President Hamilton also presented to the National History Teachers' Association National Conference in October 2012. In March 2013, the Deputy President gave a presentation to the Australian Labour Law Association at Monash University for the launch of his book *Industrial Dispute—A President's Term on Australia's National Employment Tribunal, 1997–2012*. In April 2013 the Deputy President gave a lecture on 'The Changing Nature of Industrial Awards' at Monash University.

Deputy President Gooley gave a speech to the Masters of Law, Employment Contract Law class at The University of Melbourne in June 2013.

Deputy President Sams made a number of speeches and presentations including the keynote address to the Workplace Investigations Seminar in August 2012, to the Australian Services Union (ASU) National Conference in November 2012, to the University of New South Wales Continuing Legal Education Seminar in March 2013, to Holding Redlich at the Workplace Relations Safety Group Dinner in March 2013, for the Workplace Research Centre moot at the University of Sydney in May 2013 and a training presentation to Harmers Workplace Lawyers in June 2013.

Deputy President Booth gave a presentation to the Australian Centre for Corporate Responsibility Annual Conference on the 'Challenges of Responsible Leadership' in February 2013.

Deputy President Asbury gave a number of presentations including to the IRSQ Annual Conference in August 2012, to clients of Aitken Legal in November 2012 and February 2013, and to the clients of Livingstones Australia in March 2013. She also addressed advocacy courses conducted by the IRSQ in October 2012 and the Australian Council of Trade Unions in May 2013, and conducted moots for the participants.

Commissioner Lewin gave presentations on the topic of unlawful and unfair dismissal at Deakin University as part of the MBA Professional Development Series in July and December 2012, to the Northern Territory Chamber of Commerce and Industry in March 2013 and to members of United Voice in March 2013. He also gave a presentation on the topic of advocacy to the Northern Territory Working Women's Service in March 2013.

Commissioner Spencer presented speeches to a number of organisations including the Queensland Hotels Association in August and December 2012, the IRSQ Conference in August 2012, the Queensland Bar Association, the Employment Law Conference in September 2012, Bechtel HR All Hands in October 2012 and the Workplace Relations Special Interest Group in February 2013. Commissioner Spencer also conducted moots for the IRSQ advocacy course in October 2012.

Commissioner Deegan gave a presentation to the Australian Public Service Bargaining Forum in April 2013.

Commissioner Hampton conducted mediation mentoring at 'Managing Conflict in the Developing World' at the University of Adelaide in July 2012. Commissioner Hampton gave a number of speeches including for the Industrial Relations Society of Western Australia (IRSWA) in August 2012, the IRSQ in August 2012, the Northern Territory Industrial Relations Law Society in September 2012, the South Australian Industrial Relations Law Society in October 2012

and the IRSV Convention. Commissioner Hampton co-conducted an information session for the IRSSA in November 2012. Commissioner Hampton spoke at the ASU National Conference in November 2012 and addressed the Shop Distributive and Allied Employees Association in May 2013.

Commissioner Booth gave a keynote speech on 'Women, Work and Education' at the Annual Conference of the Australian Federation of Graduate Women in November 2012. She also gave a presentation on the 'Choice of Jurisdiction in Discrimination Cases' at the National Legal Aid Conference—Civil Working Group in June 2013.

Commissioner Bull made a presentation to the AMMA National Conference on '*Future Directions: Initiatives within the Fair Work Commission*' in May 2013. He also presented to the Australian Chamber of Commerce and Industry Productivity Leadership Forum on 'Advocacy in the Fair Work Commission' in June 2013.

Commissioner Johns made a speech at Akolade's 2nd Annual Industrial Relations Summit in June 2013.

G.3 Attendance and participation in international events and programs

In September 2012, Justice Ross, Justice Boulton, Deputy President Asbury and General Manager Bernadette O'Neill visited the Indonesian Supreme Court and Industrial Relations Court in Jakarta as part of an AusAID funded activity of cooperation with those Courts. The visit included discussions with the Chief Justice of the Supreme Court of Indonesia and other judges, and observation of the workings of the labour dispute settlement bodies.

Justice Ross attended the International Agencies Conference in Montreal, Canada in July 2012 and presented a session on Fair Work Australia as part of the conference. He also attended the 'Pursuit of excellence and innovation in Courts and Tribunals

Conference', hosted by the Australasian Institute of Judicial Administration in Auckland, New Zealand in March 2013. Justice Ross gave a presentation entitled 'Engaging the Public and Encouraging Excellence.'

In November 2012 Justice Boulton, at the invitation of the International Labour Organization (ILO), assisted with workshop and planning activities in Myanmar. This included making presentations to a tripartite workshop on freedom of association, particularly on his experience in assisting Indonesia with new legislation and programs to promote freedom of association and collective bargaining after its ratification of ILO Convention No. 87 (Myanmar has recently ratified the Convention) and addressing a workshop for members of the Arbitration Council on dispute resolution practices and training needs.

G.4 Attendance and participation in events in Australia

Justice Ross participated in the COAT conference in June 2013. He attended the IRSV breakfast in May 2013 where he introduced the speaker Professor Ron McCallum. He also attended the 'Road to 2100' Conference in May 2013. Justice Ross also participated in the Committee for Economic Development in Australia Roundtable Lunch in June 2013.

Vice President Lawler attended the Australian Higher Education Industrial Association Annual Conference in May 2013.

Justice Boulton attended the Asian Regional Conference of the ILERA, which was held in Melbourne from 10–12 April 2013. The Congress theme was 'Work and Employment in the Asian Century' and included sessions on labour law developments in several Asian countries.

Deputy President Sams attended the IRSNSW Annual Conference in May 2013.

Deputy President Asbury attended the 'No 2 Bullying Conference' in relation to workplace, school and cyber bullying, in May 2013. She also attended the IRSQ Annual Conference in August 2012 and the Bar Association Conference in September 2012.

Commissioner Hampton attended the 8th Asian ILERA Conference in April 2013 and chaired a session at the conference in his role as Immediate President of ALERA and member of the organising committee.

Commissioner Macdonald attended the IRSNSW Annual Conference in May 2013.

APPENDIX H

LODGMET AND CASELOAD STATISTICS

TABLE H1: APPLICATIONS LODGED, HEARINGS AND CONFERENCES, AND DECISIONS AND ORDERS PUBLISHED

	Applications lodged	Hearings and conferences	Decisions and orders published ¹
2010–11	37262	13957	11648
2011–12	37442 ²	18709	13846
2012–13	36616	18991	11673

(1) Called 'Published documents' in the *Fair Work Australia 2011–12 Annual Report*.

(2) This figure has been revised. See corrections at Appendix M.7.

TABLE H2: LODGMET OF ALL MATTERS BY LOCATION

Location	2011–12*	2012–13	% annual variation
Adelaide	2378	2225	-6.4
Brisbane	5894	5963	1.2
Canberra	819	754	-7.9
Darwin	314	390	24.2
Hobart	614	633	3.1
Melbourne	14824	13608	-8.2
Newcastle	81	314	287.7
Perth	3169	3675	16.0
Sydney	9323	9014	-3.3
Wollongong	26	40	53.8
Total	37442	36616	-2.2

* These figures have been revised. See corrections at Appendix M.7.

TABLE H3: CASES BY MATTER TYPE

Matter	Section of Fair Work Act (or other legislation in brackets)	Cases lodged					Timeliness ¹	
		2011–12	% of all matters	2012–13	% of all matters	% change	Median	90%
Agreements	s.185	8565	22.9	7087	19.4	-17.3	16	52
Orders relating to good faith bargaining	ss.229, 236, 238, 240, 242 and 248	530	1.4	406	1.1	-23.4	10	27
Dispute resolution	ss.372, 526, and 739 (ss.699 and 709 of the <i>Workplace Relations Act 1996</i>)	2627	7.0	2901	7.9	10.4	18	42
Orders relating to industrial action	ss.418, 419, 423, 424, 425, 426, 437, 447, 448, 459 and 472.	1446	3.9	1271	3.5	-12.1	3	5
General protections involving dismissal	s.365	2162	5.8	2429	6.6	12.3	29	56
Unfair dismissal applications	s.394	14027	37.5	14818	40.5	5.6	25	40
Appeals	s.604 (s.120 of the <i>Workplace Relations Act 1996</i>)	184	0.5	143	0.4	-22.3	78	231
Applications to terminate individual agreement-based transitional instruments	(Sch. 3, Item 17, Sch 3, Item 18 and Sch 3, Item 19 of the Transitional Provisions Act)	3486	9.3	3173	8.7	-8.9	8	32
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 Registered Organisations Act)	1102	2.9	1288	3.5	16.9	-	-
Other matters	All other applications that have been lodged with the Commission during this reporting period	3313	8.9	3100	8.5	-6.4	-	-
Total		37442²	100	36616	100	-2.2	-	-

(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.

(2) This figure has been revised. See corrections at Appendix M.7.

TABLE H4: NATURE OF PROCEEDINGS

Nature of proceedings	No.
Fair Work Act	31455
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	80
s.122—Transfer of employment situations that affect the obligation to pay redundancy pay	1
s.157—The Commission may vary etc. modern awards if necessary to achieve modern awards objective	6
s.158—Application to vary or revoke a modern award	14
s.160—Application to vary a modern award to remove ambiguity or uncertainty or correct error	7
s.185—Application for approval of a greenfields agreement	712
s.185—Application for approval of a multi-enterprise agreement	42
s.185—Application for approval of a single-enterprise agreement	6333
s.210—Application for approval of a variation of an enterprise agreement	178
s.217—Application to vary an agreement to remove an ambiguity or uncertainty	52
s.222—Application for approval of a termination of an enterprise agreement	60
s.225—Application for termination of an enterprise agreement after its nominal expiry date	86
s.229—Application for a bargaining order	78
s.236—Application for a majority support determination	74
s.238—Application for a scope order	15
s.240—Application to deal with a bargaining dispute	231
s.244(1)—Variation of low-paid authorisations—remove employer	1
s.248—Application for a single interest employer authorisation	8
s.251—Application for variation of a single interest employer authorisation	1
s.252—Application to extend single interest employer authorisation	6
s.266—Industrial action related workplace determination	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 in agreements	65
s.318—Application for an order relating to instruments covering new employer and transferring employees in awards	4
s.319—Application for an order relating to instruments covering new employer and non-transferring employees in agreements	39
s.320—Application to vary a transferable instrument—agreement	11
s.365—Application to deal with contraventions involving dismissal	2429

TABLE H4: NATURE OF PROCEEDINGS (CONTINUED)

Nature of proceedings	No.
s.372—Application to deal with other contravention disputes	555
s.394—Application for unfair dismissal remedy	14818
s.402—Application for costs orders against lawyers and paid agents	2
s.418—Application for an order that industrial action by employees or employers stop etc.	168
s.419—Application for an order that industrial action by non-national system employees or employers stop etc.	2
s.423—Application to suspend or terminate protected industrial action—significant economic harm etc.	5
s.424—Application to suspend or terminate protected industrial action—endangering life etc.	11
s.425—Application to suspend protected industrial action, cooling off	2
s.426—Application to suspend protected industrial action, significant harm to a third party	1
s.437—Application for a protected action ballot order	915
s.447—Application for variation of a protected action ballot order	12
s.448—Application for revocation of a protected action ballot order	38
s.459—Application to extend the 30 day period in which industrial action is authorised by protected action ballot	115
s.472—Application for an order relating to certain partial work bans	2
s.483AA—Application for an order to access non-member records	5
s.505—Application to deal with a right of entry dispute	53
s.510—Upon referral, revoke or suspend an entry permit	1
s.512—Application for a right of entry permit	1720
s.516—Application to extend entry permit	1
s.519—Application for an exemption certificate	3
s.520—Application for an affected member certificate	2
s.526—Application to deal with a dispute involving stand down	19
s.533—Application for a Commission order for failure to notify or consult registered employee association about dismissals	1
s.576(2)(a)—Proceeding to the Commission for mediation	14
s.587—Application to dismiss an application	3
s.589—Application for procedural and interim decision	2
s.590—Power of the Commission to inform itself	2
s.595—Application to the Commission to have a dispute resolution process conducted	2
s.602—Correcting obvious error(s) etc. in relation to a Commission decision	5
s.603—Varying or revoking a Commission decision	3

TABLE H4: NATURE OF PROCEEDINGS (CONTINUED)

Nature of proceedings	No.
s.604—Appeal of decisions	142
s.739—Application to deal with a dispute	2124
s.739—Application to deal with a dispute in relation to flexible working arrangements	37
s.768AX—Application to vary copied State instruments	1
s.773—Application to deal with an unlawful termination dispute	128
s.786—Application for an order re failure to notify or consult registered employee associations about terminations	3
Registered Organisations Act	1288
Chapt. 11, Pt 4—Inquiries and investigations	22
Sch. 1, Cl. 5(5)—Application to cancel the recognition of a transitionally recognised association	1
Sch. 1, Cl. 5(6)—Cancellation of recognition of a transitionally recognised association by the General Manager	1
s.13(1)(b)—Advice and assistance to organisations	188
s.18(a)—Application for registration by an association of employers	2
s.18(b)—Application for registration by an association of employees	3
s.18(c)—Application for registration by an enterprise union	1
s.30(1)(c)—Cancellation of registration on the Commission's own motion	8
s.43(1)—Community of interest declaration	1
s.44(1)—Application for approval for submission of amalgamation to ballot	3
s.144(2)—Application for exemption from postal ballot requirements	1
s.154C—Approved training	2
s.156—Determination of alterations of rules	2
s.158(1)(a)—Application for change of name of organisation	5
s.158(1)(b)—Application for alteration of eligibility rules	11
s.158A—Application to General Manager for alteration of eligibility rules	2
s.159(1)—Notification of alterations of other rules	68
s.159(1)—Notification of alterations required under Registered Organisations Amendment Act	123
s.180—Conscientious objection to membership of organisations	1
s.183(1)—Application to conduct own elections	1
s.186(2)(b)—Application by General Manager on own motion to revoke exemption to conduct elections	1
s.189(1)—Notification of elections for office	219
s.189(1)—Notification of elections for office—Casual vacancy or insufficient nominations	7

TABLE H4: NATURE OF PROCEEDINGS (CONTINUED)

Nature of proceedings	No.
s.233(1)—Annual obligation to lodge information	219
s.235(1)—Authority to access certain records	6
s.246(1)—Application for determination of reporting units	2
s.268—Financial return	388
Transitional Provisions Act	3400
Sch. 3, Item 10—Application to vary transitional instrument to remove ambiguity—agreement	6
Sch. 3, Item 12—Application to vary pre-reform or transitional award	43
Sch. 3, Item 15—Application by agreement to terminate collective agreement-based transitional instrument	13
Sch. 3, Item 16—Application to terminate collective agreement-based transitional instrument	137
Sch. 3, Item 17—Application by agreement to terminate individual agreement-based transitional instrument	2368
Sch. 3, Item 18—Application for conditional termination of individual agreement-based transitional instrument	5
Sch. 3, Item 19—Declaration for unilateral termination with Commission approval to terminate individual agreement	800
Sch. 3, Item 26—Application to resolve an issue between a transitional instrument and the National Employment Standard	1
Sch. 5, Item 13B—Orders remedying reductions in take-home pay	2
Sch. 5, Item 6—Review of all modern awards (other than modern enterprise and State Reference Public Sector modern awards) after first 2 years	8
Sch. 5, Item 9—Application for an order remedying reduction in take-home pay resulting from a modern award	11
Sch. 6, Item 4—Application to make a modern award to replace an enterprise instrument	2
Sch. 6, Item 5—Application to terminate an enterprise instrument—award	2
Sch. 6, Item 9—Variation and termination of certain instruments due to enterprise instrument modernisation process	1
Sch. 6A, Item 6—Modernisation of State reference public sector transitional awards	1
Workplace Relations Act	252
s.120—Appeal to Full Bench	1
s.170LW—Application for settlement of dispute (certified agreement)	69
s.233(1) RAO Schedule—Annual obligation to lodge information	5
s.268 RAO Schedule—Financial return	9
s.643—Application for relief re (harsh, unjust or unreasonable) termination of employment	1
s.643—Application for relief re (unlawful and harsh, unjust or unreasonable) termination of employment	1
s.699—Application to the Commission to have a dispute resolution process conducted (Div 3)	4

TABLE H4: NATURE OF PROCEEDINGS (CONTINUED)

Nature of proceedings	No.
s.709—Application to the Commission to have a dispute resolution process conducted (Div 5)	162
Administrative	54
OH&S Review Authority	4
Request for a Board of Reference	50
Work Health and Safety Act	167
s.131—Application for a WHS entry permit	167
Total	36616

TABLE H5: UNFAIR DISMISSAL—FINALISATION

Claims settled, withdrawn or determined	No. of matters
Prior to conciliation	2300
At conciliation	8843
After conciliation and before a conference/hearing before a Commission Member	2093
After conference/hearing and before decision/order	49
By final decision/order	660
Total	13945

TABLE H6: UNFAIR DISMISSAL, CONCILIATION—RESULTS

Result type	2012–13 total	%
Settled	8843	81.2
Settled: Monetary	1669	15.3
Settled: Non-monetary	2136	19.6
Settled: Monetary + non-monetary	4906	45.1
Settled: Reinstatement	79	0.7
Settled: Reinstatement + monetary	26	0.2
Settled: Reinstatement + non-monetary	19	0.2
Settled: Reinstatement, monetary + non-monetary	8	0.1
Not settled	2043	18.8
Not settled at conciliation	1963	18.1
Not settled: Settlement collapsed	80	0.7
Total resulted conciliations	10886	100

TABLE H7: UNFAIR DISMISSAL CONCILIATION—SIZE OF EMPLOYER

Number of employees	2012–13	% of conciliations
1–14	2131	19.6
15–99	3057	28.0
>100	4741	43.6
Unknown	7	0.1
Number of employees disputed	950	8.7
Total	10886	100

TABLE H8: UNFAIR DISMISSAL—FINALISED AFTER CONCILIATION

Stage of proceeding	2012–13
Matters finalised after conciliation and before formal proceedings before a Commission Member	2093
Matters withdrawn after conference/hearing and before decision/order	49
Matters finalised at jurisdiction	258
Matters finalised at arbitration	402
Total matters finalised after conciliation	2802

TABLE H9: UNFAIR DISMISSAL JURISDICTIONAL HEARING/CONFERENCE—RESULTS

Objection upheld	258
Applicant not dismissed	36
Employer not national system employer	2
Frivolous or vexatious	2
Genuine redundancy	22
Irregular and/or casual employee	0
Minimum period of employment not served	44
Multiple applications	1
High income employee with no award or agreement coverage	13
No employment relationship	10
No extension of time—up to and including 7 days late	17
No extension of time—more than 7 days late	82
No reasonable prospect of success	23
Termination consistent with Small Business Fair Dismissal Code	8
Unknown	11
Objection dismissed	120
Applicant dismissed	15
Award or agreement covered and/or not high income employee	5
Employment relationship	15
Extension of time—up to and including 7 days	30
Extension of time—more than 7 days	20
Minimum period of employment served	8
National system employer	1
No genuine redundancy	13
No multiple applications	0
Not frivolous or vexatious	5
Not irregular casual employee	5
Reasonable prospect of success	1
Termination inconsistent with Small Business Fair Dismissal Code	3
Unknown	4
Total objections	378

Please note there may be more than one reason that an application is found to be within or outside jurisdiction. In the table above the numbers in bold are the total number of objections upheld and dismissed. The rest of the figures are the reason the objection was upheld or dismissed and there may be more than one reason for each objection.

TABLE H10: UNFAIR DISMISSAL ARBITRATION—HEARING/CONFERENCE RESULTS

Outcome	Number of matters
Application dismissed: Dismissal was fair	256
Application granted: Compensation	112
\$0-\$999	8
\$1000-\$1999	12
\$2000-\$3999	15
\$4000-\$5999	13
\$6000-\$7999	8
\$8000-\$9999	8
\$10000-\$14999	14
\$15000-\$19999	7
\$20000-\$29999	8
\$30000-\$39999	8
\$40000–maximum amount	3
No loss of wages	2
Unknown	6
Application granted: Reinstatement	8
Application granted: Reinstatement and lost remuneration	12
\$0-\$999	1
\$1000-\$1999	0
\$2000-\$3999	1
\$4000-\$5999	0
\$6000-\$7999	0
\$8000-\$9999	1
\$10000-\$14999	1
\$15000-\$19999	0
\$20000-\$29999	0
\$30000-\$39999	1
\$40000–maximum amount	0
No loss of wages	5
Unknown	2
Application granted: No remedy granted	14
Total	402

Table H11 contains time-based case flow measures for selected applications. Each measure indicates the time taken to complete 90 per cent of the applications of that type. It is not an average. For example, the first line of the table shows that 90 per cent of enterprise agreements were finalised within 52 days of lodgment in 2012–13.

TABLE H11: CASE FLOW MEASURES

Nature of proceeding	Section of Fair Work Act (or other legislation in brackets)	Measure	90% – Days from lodgment			
			2009–10	2010–11	2011–12	2012–13
Enterprise agreements	s.185	Finalisation	86	80	54	52
General protections disputes other contraventions	s.372	First hearing (conciliation)	39	41	51	49
Dispute resolution functions within instruments	s.739	First hearing (conciliation)	-	-	38	38
Dispute resolution	ss.372, 526 and 739 (ss.699 and 709 of the Workplace Relations Act)	First hearing (conciliation)	31	36	41	42
Order in relation to industrial action	s.418	First hearing	2	2	3	5
Order for protected action ballot	s.437	First hearing	5	5	7	5
		Determination	7	6	7	6
General protections disputes involving dismissal and unlawful terminations	ss.365 and 773	First conciliation	44	45	48	56
		Finalisation	-	-	97	111
Unfair dismissal remedy	s.394 (s.643 of the Workplace Relations Act)	First conciliation	40	36	38	40
		Finalisation	-	-	108	114

TABLE H12: REGISTERED ORGANISATIONS MATTERS—FINALISED

Matter	Number finalised				% finalised within 28 days			
	2009–10	2010–11	2011–12	2012–13	2009–10	2010–11	2011–12	2012–13
Certification of alterations to rules other than eligibility rules	76	82	68	68	59	59	51	29
Arrangements for the conduct of an election by the Australian Electoral Commission	211	209	197	230	92	88	94	73
Lodgment of annual returns	300	224	224	190	62	80	87	21
Certificate exempting reporting unit from financial reporting requirements	29	65	69	67	100	98	100	87
Lodgment of financial documents	400	345	338	202	43	54	63	20
Right of entry permits	1765	1241	1583	1720	82	91	93	78
Certificate as to membership of an organisation	2	4	2	5	100	100	100	100
Application for transitional recognition	1	4	3	0	0	50	33	-
WHS Permits	-	-	-	158	-	-	-	86

Note: This table has been included for historical purposes. Information regarding new benchmarks for registered organisations matters are at 4.4.

APPENDIX I

SUBSCRIPTION SERVICES

The Commission offers electronic subscriptions for many of its documents, as well as to information published and materials associated with significant cases before the Commission. The services notify subscribers by email as updates to nominated publications become available. Each email contains links to documents on the Commission's website.

Awards – updates only: Covers documents affecting nominated awards (including orders, determinations and decisions) and consolidated versions of awards. Subscribers are notified by email within 48 hours of the document being posted on the website. Awards can be added or removed at any time and there is no limit to the number of subscriptions.

Award matters: Notifies subscribers by email when an application to vary a modern award has been lodged and when any associated material is issued or received, including information about proceedings, submissions, hearing details and decisions. Emails are sent as changes are posted to the 'Modern award variation applications' page of the Commission's website. Modern awards can be added or removed at any time and there is no limit to the number of subscriptions.

Award modernisation general announcements: An email containing brief details of changes or updates to award modernisation information and links to amended and new pages is sent when changes are posted to the Commission's website.

FWC Bulletin: Provides summaries of Commission decisions and industrial judgments of the High Court of Australia, the Federal Court of Australia and federal and state jurisdictions, as well as information about Commission services. A weekly email links to the latest and previous editions of the FWC Bulletin (in PDF and HTML formats).

All decisions: An email containing brief details of all recently issued Commission decisions, with links to the complete decisions, sent up to twice daily.

Significant decisions: An email giving brief details of recently issued Full Bench decisions, and other significant decisions, with links to the complete decisions, is sent when decisions are posted to the website.

Enterprise agreement decisions: An email giving brief details of recently issued enterprise agreement approval, termination and variation decisions, with links to the complete decisions, is sent up to twice daily.

Annual wage review: This provides information about the review process and how to participate in it. As changes are posted to the 'Annual wage review' section of the Commission's website, an email is sent containing links to relevant materials, including statements and decisions, the timetable, research, submissions, the procedure for lodging submissions, and any additional material.

Termination of instruments: Provides information about the process to be undertaken pursuant to Item 3 of Schedule 5 of the Transitional Act. As changes are posted to the website, an email is sent containing links to information about proceedings, including to submissions, statements and decisions, and any additional material.

Gazette notices: Provides details of applications by registered organisations that are published in the Commonwealth of Australia Gazette. When the notice and the application have been posted to the Commission's website, an email is sent containing the name of the organisation or association lodging the application, the type of application lodged, and a link to the 'Gazette notices' page.

Section 653 General Manager's reports: This service provides information in relation to the General Manager's requirements to report under section 653 of the Fair Work Act. When new documents and information have been posted to the Commission's website, an email is sent containing details of the new documents or information, and a link to the 'General Manager reporting requirements' page.

Item 20A General Manager's reports—unfair dismissal: This service provides information in relation to the General Manager's requirements to report under Item 20A, Part 4, Schedule 18 of the Transitional Act. When new documents and information have been posted to the Commission's website, an email is sent containing details of the new documents or information, and a link to the 'General Manager reporting requirements' page.

Registered organisations information: This service provides information about registered organisations, their obligations under relevant legislation and updates from the Regulatory Compliance branch of the Commission. When information is updated on the 'Registered organisations' or 'Right of entry' sections of the Commission's website, an email is sent out notifying subscribers of the update with a link to the relevant page.

Announcements: This low-volume service includes details of administrative and general announcements about changes to Commission practices and procedures, changes to rules and forms, and information about subscriptions.

Subscribing

To subscribe to any of the services, sign up on the 'Subscribe to updates' page on the Commission's website, then log in and select any services required. There is no cost and publications and services can be added or removed at any time.

APPENDIX J

FINANCIAL STATEMENTS

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INDEPENDENT AUDITOR'S REPORT

To the Minister of Education and Workplace Relations

I have audited the accompanying financial statements of the Fair Work Commission for the year ended 30 June 2013, which comprise: a Statement by the General Manager and Chief Financial Officer; Statement of Comprehensive Income; Balance Sheet; 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 the 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 accounting estimates made by the General Manager of the Fair Work Commission, as well as evaluating the overall presentation of the financial statements.

81/PO (inc 717) CANBERRA, ACT 2611
18 National Circuit BARTON, ACT
Phone (02) 9203 4700 Fax (02) 9203 3271

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 2013 and of 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

13 September 2013

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 2013 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.



Bernadette O'Neill
General Manager

13 September 2013



Jack Lambalk
Chief Financial Officer

13 September 2013

Statement of Comprehensive Income for Fair Work Commission
for the period ended 30 June 2013

	Notes	2013 \$'000	2012 \$'000
EXPENSES			
Employee benefits	3A	48,867	49,606
Supplier	3B	27,799	28,934
Depreciation and amortisation	3C	2,105	1,685
Finance costs	3D	5	78
Write-down and impairment of assets	3E	-	52
Losses from asset sales	3F	631	1
Total expenses		79,407	80,356
LESS:			
OWN-SOURCE INCOME			
Own-source revenue			
Sale of goods and rendering of services	4A	274	1,493
Rental income	4B	1,149	1,597
Other revenue	4C	38	18
Total own-source revenue		1,461	3,108
Gains			
Other gains	4D	2,745	380
Total gains		2,745	380
Total own-source income		4,206	3,488
Net cost of services		75,201	76,868
Revenue from Government	4E	74,294	72,947
Deficit attributable to the Australian Government		(907)	(3,921)
OTHER COMPREHENSIVE INCOME			
Other comprehensive income		-	-
Total comprehensive loss attributable to the Australian Government		(907)	(3,921)

The above statement should be read in conjunction with the accompanying notes.

Balance Sheet for Fair Work Commission
as at 30 June 2013

	Notes	2013 \$'000	2012 \$'000
ASSETS			
Financial Assets			
Cash and cash equivalents	5A	421	486
Trade and other receivables	5B	61,380	70,790
Total financial assets		61,801	71,276
Non-Financial Assets			
Leasehold improvements	6A,C,D	9,554	7,059
Property, plant and equipment	6B,C,D	4,083	2,753
Intangibles	6E,F,G	1,050	934
Other non-financial assets	6H	5,052	1,382
Total non-financial assets		19,739	12,128
Total assets		81,540	83,404
LIABILITIES			
Payables			
Suppliers	7A	3,518	2,958
Other payables	7B	9,145	7,010
Total payables		12,663	9,968
Provisions			
Employee provisions	8A	16,125	18,356
Other provisions	8B	89	2,631
Total provisions		16,214	20,987
Total liabilities		28,877	30,955
Net assets		52,663	52,449
EQUITY			
Contributed equity		47,791	46,670
Retained surplus		4,872	5,779
Total equity		52,663	52,449

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 2013

	Retained earnings		Contributed equity		Total equity	
	2013	2012	2013	2012	2013	2012
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Opening balance						
Balance carried forward from previous period	5,779	9,700	46,670	44,456	52,449	54,156
Adjusted opening balance	5,779	9,700	46,670	44,456	52,449	54,156
Comprehensive income						
Deficit for the period	(907)	(3,921)	-	-	(907)	(3,921)
Total comprehensive income	(907)	(3,921)	-	-	(907)	(3,921)
Transactions with owners						
Contributions by owners						
Departmental capital budget	-	-	1,121	2,214	1,121	2,214
Sub-total transactions with owners	-	-	1,121	2,214	1,121	2,214
Closing balance as at 30 June	4,872	5,779	47,791	46,670	52,663	52,449

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 2013

	Notes	2013 S'000	2012 S'000
OPERATING ACTIVITIES			
Cash received			
Appropriations		81,654	71,982
Sale of goods and rendering of services (inclusive of GST)		1,592	3,427
Grant revenue		139	-
Net GST received		3,241	3,216
Total cash received		86,626	78,625
Cash used			
Employees		(50,997)	(45,290)
Suppliers (inclusive of GST)		(30,290)	(32,736)
Total cash used		(81,287)	(78,026)
Net cash from operating activities	9	5,339	599
INVESTING ACTIVITIES			
Cash used			
Purchase of leasehold improvements		(3,883)	-
Purchase of property, plant and equipment		(2,427)	(5,335)
Purchase of intangibles		(577)	(220)
Total cash used		(6,887)	(5,555)
Net cash used by investing activities		(6,887)	(5,555)
FINANCING ACTIVITIES			
Cash received			
Departmental capital budget		1,483	4,990
Total cash received		1,483	4,990
Net cash from financing activities		1,483	4,990
Net increase (decrease) in cash held		(65)	34
Cash and cash equivalents at the beginning of the reporting period		486	452
Cash and cash equivalents at the end of the reporting period	5A	421	486

The above statement should be read in conjunction with the accompanying notes.

Schedule of Commitments*as at 30 June 2013*

	2013	2012
BY TYPE	\$'000	\$'000
Commitments receivable		
Sublease rental income	(5,299)	(1,045)
Net GST recoverable on commitments	(7,961)	(6,646)
Total commitments receivable	<u>(13,260)</u>	<u>(7,691)</u>
Commitments payable		
Operating leases	88,437	68,797
Other	4,399	5,359
Total commitments payable	<u>92,836</u>	<u>74,156</u>
Net commitments by type	<u>79,576</u>	<u>66,465</u>
BY MATURITY		
Commitments receivable		
Operating lease income		
One year or less	(1,184)	(846)
From one to five years	(4,115)	(199)
Total operating lease income	<u>(5,299)</u>	<u>(1,045)</u>
Other commitments receivable		
One year or less	(1,684)	(1,742)
From one to five years	(4,396)	(4,442)
Over five years	(1,881)	(462)
Total other commitments receivable	<u>(7,961)</u>	<u>(6,646)</u>
Total commitments receivable	<u>(13,260)</u>	<u>(7,691)</u>
Commitments payable		
Operating lease commitments		
One year or less	15,534	15,239
From one to five years	52,246	48,571
Over five years	20,657	4,987
Total operating lease commitments	<u>88,437</u>	<u>68,797</u>
Other commitments		
One year or less	4,173	4,857
From one to five years	226	502
Total other commitments	<u>4,399</u>	<u>5,359</u>
Total commitments payable	<u>92,836</u>	<u>74,156</u>
Net commitments by maturity	<u>79,576</u>	<u>66,465</u>

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 2013*

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.

Schedule of Administered Items for Fair Work Commission

	Notes	2013 \$'000	2012 \$'000
Administered Schedule of Comprehensive Income			
<i>for the period ended 30 June 2013</i>			
OWN-SOURCE INCOME			
Own-source revenue			
Non-taxation revenue			
Termination of employment application fees		988	875
Less refunds of termination of employment application fees		(384)	(405)
Total non-taxation revenue	15	<u>604</u>	<u>470</u>
Total own-source revenues administered on behalf of Government		<u>604</u>	<u>470</u>
Net contribution by services		<u>(604)</u>	<u>(470)</u>
Administered Schedule of Assets and Liabilities			
<i>as at 30 June 2013</i>			
LIABILITIES			
Payables			
Other payables - refund of termination of employment application fees		(8)	(11)
Total payables	16	<u>(8)</u>	<u>(11)</u>
Total liabilities administered on behalf of Government		<u>(8)</u>	<u>(11)</u>
Net liabilities		<u>(8)</u>	<u>(11)</u>

No expenses or assets were administered on behalf of the Government for 2012-13 and 2011-12.

Administered Reconciliation Schedule			
Opening administered assets less administered liabilities as at 1 July		(11)	-
Surplus (deficit) items:			
Plus: Administered income		604	470
Administered transfers to/from Australian Government			
Appropriation transfers from OPA		387	394
Transfers to OPA		(988)	(875)
Closing administered assets less administered liabilities as at 30 June		<u>(8)</u>	<u>(11)</u>

The above schedules should be read in conjunction with the accompanying notes

Schedule of Administered Items for Fair Work Commission (continued)

Administered Cash Flow Statement		
<i>for the period ended 30 June 2013</i>		
OPERATING ACTIVITIES		
Cash received		
Termination of employment application fees	988	875
Total cash received	988	875
Cash used		
Refunds to termination of employment application fees	(387)	(394)
Total cash used	(387)	(394)
Net cash flows from operating activities	601	481
Net increase in cash held	601	481
Cash and cash equivalents at the beginning of the reporting period	-	-
Cash from Official Public Account for:		
Special Appropriations	387	394
Cash to Official Public Account for:		
Termination of employment application fees	(988)	(875)
	(601)	(481)
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.

Notes to and forming part of the financial statements

For the period ended 30 June 2013.

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Note 1: Summary of Significant Accounting Policies

1.1 Objectives of Fair Work Commission

Fair Work Commission (previously Fair Work Australia) was established by the *Fair Work Act 2009* and commenced operations on 1 July 2009. 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.

Fair Work Commission is an Australian Government controlled entity. It is a not-for-profit entity.

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 Fair Work Commission in its present form and with its present programs is dependent on Government policy and on continuing funding by Parliament for Fair Work Commission's administration and programs.

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 Fair Work Commission in its own right. Administered activities involve the management or oversight by Fair Work Commission, on behalf of the Government, of items controlled or incurred by the Government.

Fair Work Commission's departmental activities are identified under one program:

- Program 1: Dispute resolution, minimum wages, orders and approval of agreements.

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
- payment of pensions to former presidential members of Fair Work Commission and its preceding bodies or their spouses under the *Judges Pension Act 1968* drawn down from the Department of Finance and Deregulation.

Fair Work Commission consists of a President, Vice Presidents, Senior Deputy Presidents, Deputy Presidents, Commissioners, Minimum Wage Panel members and Road Safety Remuneration Tribunal industry members. Fair Work Commission also has a General Manager and administrative staff who exercise powers and functions under the *Fair Work Act 2009*.

Fair Work Commission has the power to vary awards, make minimum wage orders, approve agreements, resolve workplace and other disputes, determine unfair dismissal claims and make orders in relation to such things as good faith bargaining and industrial action.

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 balance sheet 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 1.19.

1.3 Significant Accounting Judgements and Estimates

In the process of applying the accounting policies listed in this note, 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 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 Fair Work Commission.

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 2012/13 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 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.

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.

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.

Presidential members 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 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 and Deregulation'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 2013 represents outstanding contributions for the final fortnight of the year.

Judges' Pension

Presidential members of Fair Work Commission are members of the Judges' Pension Scheme under the *Judges' Pensions Act 1968*. The fund, as at the 30 June 2013, was carrying liabilities for member's benefits which exceeded the scheme's assets. The liability and payments are recorded as part of the Department of Finance and Deregulation's financial statements. The Department of Finance and Deregulation has given Fair Work Commission drawing rights for this financial year in relation to the special appropriation made under the *Judges' Pensions Act 1968*. Fair Work Commission makes pension payments directly to former presidential members of Fair Work Commission and its preceding bodies (refer to Note 19 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 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.

1.12 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.

1.13 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).

1.14 Contingent Liabilities and Contingent Assets

Contingent liabilities and contingent assets are not recognised in the Balance Sheet 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 10 and Note 18).

1.15 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.

1.16 Property, Plant and Equipment

Asset Recognition Threshold

Purchases of property, plant and equipment are recognised initially at cost in the Balance Sheet, 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 were conducted with sufficient frequency to ensure that the carrying amount of assets do 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/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.

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:

	2013	2012
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 2013. 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.

1.17 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 (2011/12: 3 to 10 years).

All software assets were assessed for indications of impairment as at 30 June 2013.

1.18 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:

- a) where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- b) for receivables and payables.

1.19 Reporting of Administered Activities

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Schedule of Administered Items 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 and Deregulation to make payments to former presidential members of Fair Work Commission and its preceding bodies under the *Judges' Pensions Act 1968* (refer Note 19 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 and Deregulation. 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.

1.20 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* (2012) 288 ALR 410, 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

As foreshadowed in Budget Paper No. 4, the Government introduced the Statute Stocktake (Appropriations) Bill 2013 (Stocktake Bill 2013) which would repeal all old annual Appropriation Acts from 1 July 1999 to 30 June 2010. The Bill was passed by the Senate on the 20th of June and is expected to take effect during the 2013-14 financial year.

Fair Work Commission's unspent prior year appropriations expected to be repealed are:

	\$'000
Appropriation Act (No. 4) 2005-06	2,125
Appropriation Act (No. 4) 2006-07	6,677
Appropriation Act (No. 2) 2009-10	614
Total	<u>9,416</u>

Note 3: Expenses

	2013	2012
	\$'000	\$'000
Note 3A: Employee benefits		
Wages and salaries	39,059	37,974
Superannuation:		
Defined benefit plans	2,527	2,770
Defined contribution plans	3,314	2,156
Leave and other entitlements	3,478	3,692
Separation and redundancies	14	2,478
Other employee expenses	475	536
Total employee benefits	48,867	49,606
Note 3B: Suppliers		
Goods and services		
Court/member services	4,943	5,181
Information Communications Technology	2,913	2,671
Property expenses	2,703	2,636
Office expense	1,335	1,630
Contractors	3,826	4,489
Other	326	362
Total goods and services	16,046	16,969
Goods and services are made up of:		
Provision of goods – external parties	1,224	1,470
Rendering of services – related entities	1,730	1,794
Rendering of services – external parties	13,092	13,705
Total goods and services	16,046	16,969
Other supplier expenses		
Operating lease rentals – external parties:		
Minimum lease payments	11,439	11,797
Workers compensation expenses	314	168
Total other supplier expenses	11,753	11,965
Total supplier expenses	27,799	28,934
Note 3C: Depreciation and amortisation		
Depreciation:		
Leasehold improvements	770	697
Property, plant and equipment	874	609
Total depreciation	1,644	1,306
Amortisation:		
Intangibles	461	379
Total amortisation	461	379
Total depreciation and amortisation	2,105	1,685

	2013 \$'000	2012 \$'000
Note 3D: Finance costs		
Unwinding of discount	5	78
Total finance costs	5	78
Note 3E: Write-down and impairment of assets		
Revaluation decrement of:		
Property, plant and equipment	-	52
Total write-down and impairment of assets	-	52
Note 3F: Losses from asset sales		
Leasehold and improvements		
Carrying value of asset disposed	620	-
Proceeds from sale	-	-
Total losses from leasehold and improvements	620	-
Plant and equipment		
Carrying value of asset disposed	11	1
Proceeds from sale	-	-
Total losses from plant and equipment	11	1
Total losses from asset sales	631	1

Note 4: Income

	2013	2012
	\$'000	\$'000
OWN-SOURCE REVENUE		
<u>Note 4A: Sale of goods and rendering of services</u>		
Rendering of services - external parties	118	560
Rendering of services - related entities	156	933
Total sale of goods and rendering of services	<u>274</u>	<u>1,493</u>
<u>Note 4B: Rental income</u>		
Operating lease:		
Sub-lease of property	1,149	1,597
Total rental income	<u>1,149</u>	<u>1,597</u>
<u>Note 4C: Other revenues</u>		
Other	38	18
Total other revenue	<u>38</u>	<u>18</u>
GAINS		
<u>Note 4D: Other gains</u>		
Grant revenue	139	-
Resources received free of charge	58	58
Write-back of make-good	2,548	322
Total other gains	<u>2,745</u>	<u>380</u>
REVENUE FROM GOVERNMENT		
<u>Note 4E: Revenue from Government</u>		
Appropriations:		
Departmental appropriations	74,294	72,947
Total revenue from Government	<u>74,294</u>	<u>72,947</u>

Note 5: Financial Assets

	2013 \$'000	2012 \$'000
Note 5A: Cash and Cash Equivalents		
Cash on hand or on deposit	421	486
Total cash and cash equivalents	421	486
Note 5B: Trade and Other Receivables		
Goods and Services:		
Goods and services – external parties	1	1,991
Goods and services - related entities	9	6
Total receivables for goods and services	10	1,997
Appropriations receivable:		
for existing outputs	60,850	68,360
Total appropriations receivable	60,850	68,360
Other receivables:		
GST receivable from the Australian Taxation Office	520	433
Total other receivables	520	433
Total trade and other receivables	61,380	70,790
Receivables are expected to be recovered in:		
No more than 12 months	61,380	70,790
More than 12 months	-	-
Total trade and other receivables	61,380	70,790
Receivables are aged as follows:		
Not overdue	61,380	70,790
Total receivables	61,380	70,790

No indicators of impairment were noted for receivables.

Credit terms for goods and services is usually within 30 days (2012: 30 days).

Note 6: Non-financial Assets

	2013	2012
	\$'000	\$'000
Note 6A: Leasehold improvements		
Leasehold improvements:		
Fair value	19,919	18,542
Accumulated depreciation	<u>(10,365)</u>	<u>(11,483)</u>
Total leasehold improvements	<u>9,554</u>	<u>7,059</u>

Fair Work Commission completed major building projects in Adelaide, Brisbane and Perth as well as minor projects in Melbourne on Level 4 and 5 this financial year.

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 6B: Property, plant and equipment

Property, plant and equipment:		
Fair value	5,012	2,819
Accumulated depreciation	<u>(929)</u>	<u>(65)</u>
Total property, plant and equipment	<u>4,083</u>	<u>2,754</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 6C: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment 2013

	Leasehold Improvements \$'000	Property, Plant and Equipment \$'000	Total \$'000
As at 1 July 2012			
Gross book value	18,542	2,819	21,361
Accumulated depreciation and impairment	(11,483)	(66)	(11,549)
Net book value 1 July 2012	7,059	2,753	9,812
Additions:			
By 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
Net book value 30 June 2013	9,554	4,083	13,637
Net book value as of 30 June 2013 represented by:			
Gross book value	19,919	5,012	24,931
Accumulated depreciation and impairment	(10,365)	(929)	(11,294)
Net book value 30 June 2013	9,554	4,083	13,637

Note 6D: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment 2012

	Leasehold Improvements \$'000	Property, Plant and Equipment \$'000	Total \$'000
As at 1 July 2011			
Gross book value	16,526	3,201	19,727
Accumulated depreciation and impairment	(13,124)	(1,442)	(14,566)
Net book value 1 July 2011	3,402	1,759	5,161
Additions:			
By purchase - department capital budget	4,327	1,679	6,006
Revaluations recognised in the operating result:			
Asset cost	-	(3,205)	(3,205)
Accumulated depreciation	-	1,951	1,951
Fair value as at 30 June 2012	-	1,202	1,202
Depreciation expense	(697)	(609)	(1,306)
Other movement - makegood	27	-	27
Disposals:			
Asset cost	(2,338)	(57)	(2,395)
Accumulated depreciation	2,338	34	2,372
Net book value 30 June 2012	7,059	2,754	9,812
Net book value as of 30 June 2013 represented by:			
Gross book value	18,542	2,819	21,361
Accumulated depreciation and impairment	(11,483)	(66)	(11,549)
Net book value 30 June 2012	7,059	2,753	9,812

	2013	2012
	\$'000	\$'000
Note 6E: Intangibles		
Computer software:		
Internally developed - in progress	195	85
Internally developed - in use	1,059	950
Purchased	1,500	1,142
Accumulated amortisation	(1,704)	(1,243)
Total intangibles	1,050	934

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 6F: Reconciliation of the Opening and Closing Balances of Intangibles 2013

	Intangibles	Total
	\$'000	\$'000
As at 1 July 2012		
Gross book value	2,177	2,177
Accumulated amortisation and impairment	(1,243)	(1,243)
Net book value 1 July 2012	934	934
Additions:		
By purchase or internally developed	577	577
Amortisation	(461)	(461)
Disposals	-	-
Net book value 30 June 2013	1,050	1,050
Net book value as of 30 June 2013 represented by:		
Gross book value	2,754	2,754
Accumulated amortisation and impairment	(1,704)	(1,704)
Net book value 30 June 2013	1,050	1,050

Note 6G: Reconciliation of the opening and closing balances of intangibles 2012

	Intangibles	Total
	\$'000	\$'000
As at 1 July 2011		
Gross book value	1,957	1,957
Accumulated amortisation and impairment	(864)	(864)
Net book value 1 July 2011	1,093	1,093
Additions:		
By purchase or internally developed	220	220
Amortisation	(379)	(379)
Disposals	-	-
Net book value 30 June 2012	934	934
Net book value as of 30 June 2012 represented by:		
Gross book value	2,177	2,177
Accumulated amortisation and impairment	(1,243)	(1,243)
Net book value 30 June 2012	934	934

	2013	2012
	\$'000	\$'000
<u>Note 6H: Other Non-Financial Assets</u>		
Prepayments	1,555	1,341
Lease incentive	<u>3,497</u>	<u>41</u>
Total other non-financial assets	<u>5,052</u>	<u>1,382</u>
Total other non-financial assets are expected to be recovered in:		
No more than 12 months	2,137	1,382
More than 12 months	<u>2,915</u>	<u>-</u>
Total other non-financial assets	<u>5,052</u>	<u>1,382</u>

No indicators of impairment were found for other non-financial assets.

Note 7: Payables

	2013	2012
	\$'000	\$'000
Note 7A: Suppliers		
Trade creditors and accruals	3,518	2,958
Total suppliers payables	3,518	2,958
Supplier payables expected to be settled within 12 months:		
Related entities	78	247
External parties	3,440	2,711
Total suppliers payables	3,518	2,958
Settlement was usually made within 30 days.		
Note 7B: Other payables		
Salaries and Wages	1,048	978
Superannuation	163	128
Lease payable	3,267	3,101
Lease incentives	4,667	2,653
Prepayments received/unearned income	-	150
Total other payables	9,145	7,010
Total other payables are expected to be settled in:		
No more than 12 months	2,621	2,829
More than 12 months	6,524	4,181
Total other payables	9,145	7,010

Note 8: Provisions

	2013 \$'000	2012 \$'000
Note 8A: Employee Provisions		
Leave	16,125	16,070
Separations and redundancies	-	2,286
Total employee provisions	16,125	18,356
Employee provisions are expected to be settled in:		
No more than 12 months	4,223	7,479
More than 12 months	11,902	10,877
Total employee provisions	16,125	18,356
Note 8B: Other Provisions		
Provision for restoration obligations	89	2,631
Total other provisions	89	2,631
Other provisions are expected to be settled in:		
No more than 12 months	89	2,631
Total other provisions	89	2,631
	Provisions for restoration	Total
	\$'000	\$'000
Carrying amount 1 July 2012	2,631	2,631
Additional provisions made	1	1
Provisions no longer required	(2,548)	(2,548)
Unwinding of discount or change in discount rate	5	5
Closing balance 30 June 2013	89	89

Note 9: Cash Flow Reconciliation

	2013 \$'000	2012 \$'000
Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement:		
Cash and cash equivalents as per:		
Cash flow statement	421	486
Balance sheet	421	486
Difference	<u>-</u>	<u>-</u>
Reconciliation of net cost of services to net cash from operating activities:		
Net cost of services	(75,201)	(76,868)
Add revenue from Government	74,294	72,947
Adjustments for non-cash items		
Depreciation/amortisation	2,105	1,684
Net write-down of non-financial assets	(2,550)	(348)
Write-back of make-good	2,548	322
Revaluation decrement	-	52
Loss on disposal of assets	631	-
Changes in assets/liabilities		
(Increase)/decrease in net receivables	9,260	(3,002)
(Increase)/decrease in other non-financial assets	(3,456)	279
(Increase)/decrease in prepayments	(214)	197
Increase/(decrease) in supplier payables	560	1,001
Increase/(decrease) in other payables	2,285	378
Increase/(decrease) in unearned revenue	(150)	150
Increase/(decrease) in employee provisions	(2,232)	4,024
Increase/(decrease) in other provisions	(2,541)	(217)
Net cash from (used by) operating activities	<u>5,339</u>	<u>599</u>

Note 10: Contingent Liabilities and Assets

Quantifiable Contingencies

There were no quantifiable contingent liabilities or assets requiring disclosure for the period ended 30 June 2013 (2012: \$0).

Unquantifiable Contingencies

There were no unquantifiable contingent liabilities or assets requiring disclosure for the period ended 30 June 2013 (2012: \$0).

Significant Remote Contingencies

There were no significant remote contingent liabilities or assets requiring disclosure for the period ended 30 June 2013 (2012: \$0).

Note 11: Senior Executive Remuneration

Note 11A: Senior Executive Remuneration Expenses for the Reporting Period

	2013	2012
	\$	\$
Short-term employee benefits		
Salary	659,369	599,618
Annual leave accrued	50,626	50,734
Total short-term employee benefits	<u>709,995</u>	<u>650,352</u>
Post-employment benefits:		
Superannuation	104,964	95,487
Total post-employment benefits	<u>104,964</u>	<u>95,487</u>
Other long-term employee benefits:		
Long-service leave	16,687	42,221
Total other long-term employee benefits	<u>16,687</u>	<u>42,221</u>
Total senior executive remuneration expenses	<u>831,646</u>	<u>788,060</u>

1. Note 11A is prepared on an accrual basis.

2. Note 11A excludes acting arrangements and part-year service where total remuneration expensed as a senior executive was less than \$180,000.

Note 11B: Average Annual Reportable Remuneration Paid to Substantive Senior Executives during the Reporting Period**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 \$180,000	4	104,184	18,232	-	-	122,416
\$210,000 to \$239,999	1	203,628	32,604	-	-	236,232
\$360,000 to \$389,999	1	321,531	40,455	-	-	361,986
Total number of substantive senior executives	6					

Average annual reportable remuneration paid to substantive senior executives in 2012

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):						
\$180,000 to \$209,999	1	172,952	34,308	-	-	207,260
\$210,000 to \$239,999	1	197,689	20,362	-	-	218,051
\$270,000 to \$299,999	1	259,044	29,627	-	-	288,671
Total number of substantive senior executives	3					

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);
- exempt foreign employment income; and
- salary sacrificed benefits.

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 11C: Average Annual Reportable Remuneration Paid to Other Highly Paid Staff and Members during the Reporting Period

Average annual reportable remuneration paid to other highly paid staff in 2013

Average annual reportable remuneration ¹	Other highly paid staff No.	Reportable salary ² \$	Contributed superannuation ³ \$	Reportable allowances ⁴ \$	Bonus paid ⁵ \$	Total reportable remuneration \$
Total reportable remuneration (including part-time arrangements):						
\$180,000 to \$209,999	1	146,311	35,948	-	-	182,259
Total number of other highly paid staff	1					

Average annual reportable remuneration paid to other highly paid staff in 2012

Average annual reportable remuneration ¹	Other highly paid staff 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	190,947	21,430	-	-	212,377
Total number of other highly paid staff	1					

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					

Average annual reportable remuneration paid to Members in 2012

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):						
\$180,000 to \$209,999	1	170,048	26,811	-	-	196,859
\$210,000 to \$239,999	1	196,048	26,811	-	-	222,859
\$240,000 to \$269,999	1	227,533	31,336	-	-	258,869
\$270,000 to \$299,999	2	249,018	41,573	-	-	290,591
\$300,000 to \$329,999	17	275,579	39,009	78	-	314,666
\$330,000 to \$359,999	1	309,558	31,660	338	-	341,556
\$360,000 to \$389,999	2	386,216	-	-	-	386,216
\$390,000 to \$419,999	8	412,184	-	-	-	412,184
\$420,000 to \$449,999	3	427,856	-	-	-	427,856
\$600,000 to \$629,999	1	609,046	-	-	-	609,046
\$720,000 to \$749,999	1	738,360	-	-	-	738,360
Total number of highly paid members	38					

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 \$180,000 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 12: Remuneration of Auditors

	2013 \$'000	2012 \$'000
Financial statement audit services were provided free of charge to Fair Work Commission by the Australian National Audit Office (ANAO)		
Fair value of the services provided		
Financial statement audit services	58	58
Total	<u>58</u>	<u>58</u>

No other services were provided by the auditors of the financial statements.

Note 13: Financial Instruments

	2013 \$'000	2012 \$'000
Note 13A: Categories of Financial Instruments		
Financial Assets		
Loans and receivables:		
Cash and cash equivalents	421	486
Goods and services receivables	10	1,997
Total	431	2,483
Carrying amount of financial assets	431	2,483
Financial Liabilities		
At amortised cost:		
Suppliers	3,518	2,958
Total	3,518	2,958
Carrying amount of financial liabilities	3,518	2,958

Note 13B: Net income and Expense from Financial Assets

There is no income or expense from financial assets – loans and receivables in the period ending 30 June 2013 (2012: \$0).

Note 13C: Net Income and Expense from Financial Liabilities

There is no income or expense from financial liabilities – payables in the period ending 30 June 2013 (2012: \$0).

Note 13D: Fair Value of Financial Instruments

There are no financial instruments held at 30 June 2013 and 30 June 2012 where the carrying amount is not a reasonable approximation of fair value.

	Notes	Carrying Amount 2013 \$'000	Fair Value 2013 \$'000	Carrying Amount 2012 \$'000	Fair Value 2012 \$'000
Financial assets					
Cash and cash equivalents	5A	421	421	486	486
Goods and services receivables	5B	10	10	1,997	1,997
Total		431	431	2,483	2,483
Financial liabilities					
Suppliers	7A	3,518	3,518	2,958	2,958
Total		3,518	3,518	2,958	2,958

Note 13E: Credit Risk

Fair Work Commission is exposed to minimal credit risk as loans and receivables are goods and services receivables. The maximum exposure to credit risk is the risk that arises from potential default of a debtor. This is equal to the total of goods and services receivables (2013: \$9,774,56; 2012: \$1,997,220). Fair Work Commission's debtors are generally limited to other Commonwealth Government agencies and its employees. Fair Work Commission has policies and procedures that guide the recovery of employee debts.

Fair Work Commission has no significant exposure to any concentrations of credit risk.

All figures for credit risk referred to do not take into account the value of any collateral or other security.

Credit quality of financial instruments

	Not Past Due Nor Impaired 2013 \$'000	Not Past Due Nor Impaired 2012 \$'000	Past Due or Impaired 2013 \$'000	Past Due or Impaired 2012 \$'000
Loans and receivables				
Goods and services receivables	431	1,997	-	-
Total	431	1,997	-	-

Note 13F 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 and mechanisms available to Fair Work Commission (e.g. Advance to the Finance Minister) and internal policies and procedures put in place to ensure there are appropriate resources to meet its financial obligations.

Fair Work Commission is appropriated funding from the Australian Government. 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 in place to ensure timely payments are made when due and has no past experience of default.

Maturities for non-derivative financial liabilities 2012-13

	On demand 2012-2013 \$'000	within 1 year 2012-2013 \$'000	1 to 5 years 2012-2013 \$'000	> 5 years 2012-2013 \$'000	Total 2012-2013 \$'000
Other liabilities					
Suppliers	-	3,518	-	-	3,518
Total	-	3,518	-	-	3,518

Maturities for non-derivative financial liabilities 2011-12

	On demand 2011-2012 \$'000	within 1 year 2011-2012 \$'000	1 to 5 years 2011-2012 \$'000	> 5 years 2011-2012 \$'000	Total 2011-2012 \$'000
Other liabilities					
Suppliers	-	2,958	-	-	2,958
Total	-	2,958	-	-	2,958

Fair Work Commission has no derivative financial liabilities in either current or prior year.

Note 13G: Market Risk

Fair Work Commission holds basic financial instruments that do not expose Fair Work Commission to certain market risks.

Fair Work Commission is not exposed to currency risk, other price risk or interest rate risk.

Note 14: Financial Assets Reconciliation

		2013 \$'000	2012 \$'000
Financial Assets	Notes		
Total financial assets as per balance sheet		61,801	71,276
Less: non-financial instrument components			
Appropriation receivable	5B	60,850	68,360
Other receivables	5B	520	433
Total non-financial instrument components		61,370	68,793
Total financial assets as per financial instruments note		431	2,483

Note 15: Administered Income

	2013	2012
	\$'000	\$'000
OWN-SOURCE REVENUE		
Non-Taxation Revenue		
Termination of employment application fees	988	875
Less refunds of termination of employment application fees	(384)	(405)
Total application fees	<u>604</u>	<u>470</u>

Note 16: Administered Payables

	2013	2012
	\$'000	\$'000
Other payables		
Refunds of termination of employment application fees	(8)	(11)
Total other payables	<u>(8)</u>	<u>(11)</u>
Other payables expected to be settled within 12 months:		
External parties	(8)	(11)
Total payables	<u>(8)</u>	<u>(11)</u>

Settlement was usually made within 30 days.

Note 17: Administered Cash Flow Reconciliation

	2013	2012
	\$'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	-	-
Difference	<u>-</u>	<u>-</u>
Reconciliation of net cost of services to net cash from operating activities:		
Net contribution by services	604	470
Changes in assets / liabilities		
Increase / (decrease) in other payable	(3)	11
Net cash from operating activities	<u>601</u>	<u>481</u>

Note 18: Administered Contingent Liabilities and Assets

As at 30 June 2013 there were no unrecognised or contingent assets or liabilities requiring disclosure (2012: \$0).

Note 19: Appropriations

Table A: Annual Appropriations ('Recoverable GST exclusive')

	2013 Appropriations						Total appropriation \$'000	Appropriation applied in 2013 (current and prior years) \$'000	Variance \$'000
	Appropriations Act		FMA Act			Total			
	Annual Appropriation \$'000	Appropriations reduced ¹ \$'000	AFM ² \$'000	Section 30 \$'000	Section 31 \$'000				
DEPARTMENTAL Ordinary annual services	75,670	-	-	-	1,461	-	83,346	(6,292)	
Other Services Equity	-	-	-	-	-	-	212	(212)	
Total departmental	75,670	-	-	-	1,461	-	83,558	(6,504)	

	2012 Appropriations						Total appropriation \$'000	Appropriation applied in 2012 (current and prior years) \$'000	Variance \$'000
	Appropriations Act		FMA Act			Total			
	Annual Appropriation \$'000	Appropriations reduced ¹ \$'000	AFM ² \$'000	Section 30 \$'000	Section 31 \$'000				
DEPARTMENTAL Ordinary annual services	75,161	-	-	-	3,108	-	77,540	729	
Total departmental	75,161	-	-	-	3,108	-	77,540	729	

Notes:

- Appropriations reduced under Appropriation Acts (Nos. 1,3&5) 2012-13: sections 10, 11, and 12 and under Appropriation Acts (Nos. 2,4&6) 2012-13: 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. On the 3th of August 2013, the Finance Minister issued a determination to reduce departmental appropriations following a request by the Minister for Education and Workplace Relations. The amount of the reduction under Appropriation Act 1 2012-13 was: \$254,520. The amount of the reduction in 2013-14 will be \$180,250.
- Advance to the Finance Minister (AFM) - Appropriation Acts (Nos. 1,3&5) 2012-13: section 13 and Appropriation Acts (Nos. 2,4&6) 2012-13: section 15.

Table B: Departmental Capital Budgets ('Recoverable GST exclusive')

	2013 Capital Budget Appropriations			Capital budgets applied in 2013 (current and prior years)		
	<i>Appropriations Act</i>		Total Capital Budget Appropriations \$'000	<i>FMA Act</i>		Total payments \$'000
	Annual Capital Budget \$'000	Appropriations reduced ² \$'000		Section 32 Appropriations \$'000	Payments for non-financial assets ³ other purposes \$'000	
DEPARTMENTAL Ordinary annual services - Departmental Capital Budget ¹	1,121	-	1,121	1,271	-	1,271 (150)
	2012 Capital Budget Appropriations			Capital budgets applied in 2012 (current and prior years)		
	<i>Appropriations Act</i>		Total Capital Budget Appropriations \$'000	<i>FMA Act</i>		Total payments \$'000
	Annual Capital Budget \$'000	Appropriations reduced ² \$'000		Section 32 Appropriations \$'000	Payments for non-financial assets ³ other purposes \$'000	
DEPARTMENTAL Ordinary annual services - Departmental Capital Budget ¹	2,214	-	2,214	4,990	-	4,990 (2,776)

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) 2011-12: 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. Fair Work Commission drew down from prior year capital appropriations as per the capital budget plan. The Capital Budget Plan for 2012-13 was \$8.6 million dollars.

Table C: Unspent Annual Appropriations ('Recoverable GST exclusive')

Authority	2013	2012
	\$'000	\$'000
Appropriation Act (No. 4) 2005-06	2,125	2,125
Appropriation Act (No. 4) 2006-07	6,677	6,677
Appropriation Act (No. 1) 2008-09	-	34,337
Appropriation Act (No. 1) 2009-10	-	2,967
Appropriation Act (No. 2) 2009-10	614	614
Appropriation Act (No.1) 2010-11	-	-
Appropriation Act (No. 2) 2010-11	788	1,000
Appropriation Act (No.1) 2011-12	34,337	21,126
Appropriation Act (No.1) 2012-13 *	16,309	-
Total	60,850	68,846

Notes:

All unspent appropriations included in Appropriations acts prior to 30 June 2010 to be included in the Statute Stocktake (Appropriations) Bill 2013 (refer to Note 2 Events After the Reporting Period).

* includes cash on hand at 30 June 2013

Table D Special Appropriations ('Recoverable GST exclusive')

Authority	Type	Purpose	Appropriation applied	
			2013	2012
			\$'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.	(387)	(394)

Table E: Disclosure by Agent in Relation to Annual and Special Appropriations ('Recoverable GST exclusive')

During the year Fair Work Commission was granted authority and drawing rights by the Department of Finance and Deregulation to make payments under the *Judges' Pensions Act 1968*. Fair Work Commission makes pension payments directly to former presidential members of Fair Work Commission and its preceding bodies.

Payments are made under agency relationship for Department of Finance and Deregulation.

Department of Finance and Deregulation - to make payments to former Presidential Members of Fair Work Commission and its preceding bodies	
2013	\$'000
Total receipts	4,515
Total payments	(4,515)
Department of Finance and Deregulation - to make payments to former Presidential Members of Fair Work Commission and its preceding bodies	
2012	\$'000
Total receipts	4,350
Total payments	(4,350)

Note 20: 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 and Deregulation 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 2011-12 financial statements and Fair Work Commission undertook to investigate the issue during 2012-13.

During 2012-13, 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 2013 this work had been completed in respect of both the special appropriation with statutory conditions for payment (representing \$4.515m expenditure in 2012-13 (2011-12: \$4.35m) for *Judges Pension Act 1968* payments and \$0.387m (2011-12: \$0.394m) 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 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 21: Compensation and Debt Relief

	2013	2012
	\$	\$
Compensation and Debt Relief - Departmental		
No 'Act of Grace' expenses were expensed during the reporting period (2012: 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> (2012: Nil).	-	-
No payments were provided under the Compensation for Detriment caused by 'Defective Administration Scheme' during the reporting period (2012: Nil).	-	-
No ex-gratia payments were made during the reporting period (2012: 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 (2012: nil).	-	-
Compensation and Debt Relief - Administered		
	2013	2012
	\$	\$
No 'Act of Grace' expenses were expensed during the reporting period (2012: 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> (2012: Nil).	-	-
619 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> . (2012: 709).	39,646	44,236
No payments were provided under the Compensation for Detriment caused by 'Defective Administration Scheme' during the reporting period (2012: Nil).	-	-
No ex-gratia payments were made during the reporting period (2012: 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 (2012: nil).	-	-

Note 22: Reporting of Outcomes

Fair Work Commission determines the attribution of its shared items based on a survey of employee time spent on each activity and the salary paid to these employees. The basis of attribution in the table is consistent with the basis used for the 2012-13 Budget.

Note 22A: Net Cost of Outcome Delivery

	Outcome 1	
	2013 \$'000	2012 \$'000
Departmental		
Expenses	(79,407)	(80,356)
Own-source income	1,461	3,108
Administered		
Expenses	-	-
Own-source income	604	470
Net cost of outcome delivery	(77,342)	(76,778)

Note 22B: Major Classes of Departmental Expenses, Income, Assets and Liabilities by Outcome

The Outcome is described in Note 1.1.

Note 22C: Major Classes of Administered Income by Outcome

	2013 \$'000	2012 \$'000
Administered Income		
Other non-taxation revenue	604	470
Total	604	470

Note 23: Net Cash Appropriation Arrangements

	2013	2012
	\$'000	\$'000
Total Comprehensive Income less depreciation/amortisation expenses previously funded through revenue appropriation	1,198	(2,236)
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	(2,105)	(1,685)
Total comprehensive income (loss) - as per the Statement of Comprehensive Income	(907)	(3,921)

* 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.

APPENDIX K

AGENCY RESOURCE STATEMENT

Table K1 shows the total resources from all origins. The table summarises how resources will be applied by outcome and by administered and departmental classification.

TABLE K1: FAIR WORK COMMISSION RESOURCE STATEMENT

	Actual available appropriation	Payments made	Balance remaining
	2012–13	2012–13	2012–13
	\$'000	\$'000	\$'000
	(a)	(b)	(c)
Ordinary annual services¹			
Departmental appropriation ²	135 221	84 575	50 646
s.31A relevant agency receipts	1461	1461	0
Total Ordinary Annual Services	136 682	86 036	50 646
Departmental non-operating			
Equity injections ³	10 416	212	10 204
Total	10 416	212	10 204
Total available annual appropriations			
Total Appropriations excluding Special Accounts	147 098	86 248	60 850
Total net resourcing for the Fair Work Commission	147 098	86 248	60 850

(1) Appropriation Bill (No. 1) 2012–13 and Appropriation Bill (No. 3) 2012–13, including the balance of prior year departmental appropriations.

(2) Includes an amount of \$1.121 million for the Departmental Capital Budget. For accounting purposes this amount has been designated 'contributions by owners'.

(3) Appropriation Bill (No. 2) 2012–13 and Appropriation Bill (No. 4) 2012–13, including prior year appropriations.

APPENDIX L

EXPENSES AND RESOURCES FOR OUTCOME

TABLE L1: EXPENSES AND RESOURCES FOR 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.	Budget¹	Actual expenses	Variation
	2012–13	2012–13	2012–13
	\$'000	\$'000	\$'000
	(a)	(b)	(c)
Program 1: Dispute resolution, minimum wages, orders and approval of agreements			
Departmental expenses	74 549	77 302	(2753)
Ordinary annual services (Appropriation Bill (No.1))	1996	2105	(109)
Revenue from independent sources (section 31)	76 545	79 407	(2862)
Expenses not requiring appropriation in the budget year	76 545	79 407	(2862)
Total for Program 1	74 549	77 302	(2753)
Total expenses for Outcome 1		Actual	
Average Staffing Level (number)		317.67	

(1) Full-year budget, including any subsequent adjustment made to the 2012–13 Budget.

APPENDIX M

INFORMATION ON SPECIFIC STATUTORY REQUIREMENTS

M.1 Workplace health and safety

M.1.1 Management arrangements

The Commission has health and safety management arrangements (HSMAs) made consistent with the *Workplace Health and Safety Act 2011* (WHS Act).

Under these HSMAs 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 in the Commission, six Health and Safety Representatives (HSRs), and a national Health and Safety Committee, which met once in 2012–13.

M.1.2 Initiatives taken during the year

In 2012–13 the most significant WHS initiatives were associated with:

- continued implementation of new WHS advices and arrangements following the commencement of the WHS Act
- training of HSRs and Deputy HSRs
- workplace inspections by HSRs and Deputy HSRs
- ergonomic advice and assessments for employees
- refurbishments to offices in Sydney, Adelaide and Perth
- emergency and evacuation planning across all premises
- incorporation of new codes of practice following the commencement of the WHS Act
- healthy lifestyle initiatives for staff, including pilates, yoga and a volleyball team, and

- the annual influenza vaccination program for all staff.

M.1.3 Health and safety outcomes

In 2012–13, there was one new compensation claim and eight accidents/incidents. 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 worker's compensation premium rate has fallen for 2013–14 to 0.52 per cent, from 0.85 per cent for 2012–13. The forecasted premium is well below the 2013–14 premium for all agencies, which is 1.82 per cent.

M.1.4 Reportable accidents and occurrences

Under section 38 of the WHS Act, the Commission is required to notify Comcare Australia of any notifiable accidents or dangerous occurrences arising out of work undertaken by any of its employees. There were two occurrences in 2012–13.

M.1.5 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 2012–13.

M.1.6 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 2012–13.

M.2 Freedom of information

M.2.1 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 Publication 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 on its website a plan showing what information it publishes in accordance with the IPS requirements. There is an information publication plan on the Commission's website.

The Commission's plan can be found at <http://www.fwc.gov.au/index.cfm?pagename=legalsfoi>

M.2.2 FOI requests

This financial year the number of FOI requests increased to 35, up from 23 last financial year. FOI requests were managed by a dedicated FOI officer.

M.3 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
- media advertising agencies, and
- persons or organisations to whom those amounts were paid.

The Commission did not conduct any advertising campaigns or undertake market research during 2012–13.

The Commission spent \$91 279 on advertising during the 2012–13 reporting period. Expenditure exceeding \$12 100 is detailed in Table M1.

TABLE M1: ADVERTISING AND MARKET RESEARCH EXPENDITURE IN 2012–13 (OVER \$12 100)

Supplier	Amount \$'	Purpose
DEEWR	50 838	Recruitment advertising for Vice Presidents, Deputy Presidents, Commissioners & Expert Panel appointments
	13 811	White Pages listing
Total	64 649	

(1) GST inclusive.

M.4 Legal services expenditure

In compliance with the requirements of the *Legal Services Directions 2005*, the Commission reports that the total legal services expenditure for 2012–13 was \$1 019 137.41 (GST included). The amount relates solely to external legal services. Details are available on the Commission's website: <http://www.fwc.gov.au/index.cfm?pagename=adminbudgets>

M.5 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 assessing energy ratings in the purchasing of equipment, purchasing locally produced recycled paper and other environmentally friendly stationery items.

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.

All copying and printing equipment have duplex capabilities to reduce paper usage.

Kitchens in a number of offices have separate bins to manage waste including organic, recycling and general waste.

The Melbourne office has sensor lighting installed in court, conference, meeting rooms and offices which have a timer mechanism to automatically switch lighting off when the rooms are not occupied. Low energy downlights have also been installed. Shower timers have been installed in all showers.

Green vehicle options are promoted to executive vehicle scheme participants, with a number of hybrid and diesel powered vehicles being leased.

The Commission participated in and supported Earth Hour 2013, 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 23 March 2013.

M.6 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 2012–13.

Information on research partnerships that were awarded in other years is available on the Commission's website: <http://www.fwc.gov.au/index.cfm?pagename=adminingmreporting&page=research>

M.7 Corrections to previous annual report

Page 9, Table 1: Fair Work Australia overview

The number '37 444' given for 'Lodgments' is incorrect and should be '37 442'.

Page 10, Table 2: Fair Work Australia Key Performance Indicators

The number '10 073' given for 'Improve or maintain the time elapsed from lodging applications to finalising conciliations in unfair dismissal applications' is incorrect and should be '11 649'.

Page 72, Table C1: Key performance indicators—Budget target and actual results

The number '10 073' for finalised conciliations should be '11 649'.

Page 85, Table H1: Lodgment of all matters by location

The heading titles listing the number of applications made in each financial year should be transposed. The heading entitled '2010–11' should read '2011–12' and vice versa. The number '37 444' should be '37 442'.

Page 89, Table H4: Nature of proceedings

The numbers given for sections 643(1)(b) and 643(1)(c) of the Workplace Relations Act are incorrect and should be '0' and '2' respectively. The 'Total' figure '37 444' is incorrect and should be '37 442'.

Page 95, Table H11: Unfair dismissal, conciliation—size of employer

The number of applications where the 'Number of employees in dispute' should read '860' and the 'Total Australia-wide' should read '11 188'.

M.8 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 overtaken by a new National Disability Strategy 2010–2020 which sets out a 10 year national policy framework to improve the lives of people with disability, promote participation and create a more inclusive society. A high level two-yearly report will track progress against each of the six outcome areas of the strategy and present a picture of how people with disability are faring. The first of these reports will be available in 2014, and will be available at: www.fahcsia.gov.au.

The Social Inclusion Measurement and Reporting Strategy agreed by the Government in December 2009 will also include some reporting on disability matters in its regular *How Australia is Faring* report and, if appropriate, in strategic change indicators in agency Annual Reports. More detail on social inclusion matters can be found at: www.socialinclusion.gov.au.

APPENDIX N

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.

N.1 Glossary of terms

annual wage review

A review of award minimum wages and the national minimum wage order conducted by the Minimum Wage 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 voluntary arbitration.

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. By December 2009 the AIRC had created 122 modern awards. The award modernisation process is continuing at the Commission. Award modernisation

with respect to enterprise awards is scheduled to be concluded by 31 December 2013.

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

A bargaining representative for a proposed enterprise agreement is: 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 be their bargaining representative.

better off overall test (BOOT)

The test that the Commission must apply to a proposed agreement before it can be approved. Individual flexibility arrangements under modern awards and enterprise agreements must also satisfy the test.

civil remedy provision

A process to obtain penalties and compensation for certain breaches of the Fair Work Act.

collective agreement

A legally enforceable agreement 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, 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.

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.

Division 2B State award

An award that applied to employers who were not constitutional corporations in New South Wales, Queensland, South Australia and/or Tasmania and who are now national system employers.

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.

entry notice

A prescribed written notice provided by a union representative to an employer advising of an intention to visit the employer's premises. The person making the visit must hold a valid right of entry permit and can visit only for certain prescribed reasons, including investigating suspected breaches of the Fair Work Act or a fair work instrument (such as a modern award or an enterprise agreement) and holding discussions with certain employees.

Fair Work Act 2009

The principal Commonwealth law governing Australia's workplace relations system.

fair work instrument

Has the same meaning as in the Fair Work Act: a modern award, an enterprise agreement, a workplace determination or a Commission order.

Fair Work (Registered Organisations) Act 2009

The legislation that covers the registration and accountability of federally registered unions and employer associations.

Fair Work (Transitional Provisions and Consequential Amendments) Act 2009

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 recipient of adverse action.

high income threshold

An amount calculated in accordance with Fair Work Regulation 2.13.

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 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 Minimum Wage 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.

Office of the Fair Work Ombudsman

An inspectorate headed by the Fair Work Ombudsman, a statutory appointee, whose role is to impartially assist in, and enforce compliance with, Commonwealth workplace laws including the Fair Work Act, the *Independent Contractors Act 2006* and associated regulations.

parental leave

A term encompassing maternity leave, paternity leave and adoption leave. Parental leave is regulated by the NES, as of 1 January 2010.

party

An applicant or a respondent to a proceeding before the Commission.

personal/carer's leave

Combines entitlements to sick leave, carer's leave and bereavement leave into one entitlement. Personal/carer's leave is regulated by the NES as of 1 January 2010.

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 make the dismissal fair.

take-home pay order

An order made by the Commission to preserve an employee's take-home pay where it may have been reduced following the introduction of a modern award.

transitionally recognised associations

Organisations that are or were registered in state industrial relations systems and have been recognised by the General Manager of the Commission.

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).

workplace determinations

The Commission can make three types of workplace determinations: low-paid, bargaining-related and industrial action-related. A workplace determination is similar to an enterprise agreement, but is determined by the Commission when the parties cannot reach agreement on their own. The process and content of workplace determinations are regulated by the Fair Work Act.

APPENDIX O

METHODOLOGY FOR CHART 6—MATTERS DEALT WITH BY THE COMMISSION AND ITS PREDECESSORS, 1998–99 TO 2012–13

The following summarises the methods used to analyse of the nature of applications to the Commission between 1998–99 and 2012–13 (Chart 6—Matters dealt with by the Commission and its predecessors, 1998–99 to 2012–13).

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 can 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 caseload 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'.

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 is undertaken with the intention of showing general trends over time only. Caution should be exercised in relying on the data provided for 'individual' and 'collective' matters.

It is important to recognise that the individual/collective classification is not based on categories defined in the Fair Work Act or the Workplace Relations Act. The classification of particular types of matters as individual or collective is based on an objective assessment by the Commission. 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.

An earlier version of this chart appeared in the President's *Future Directions* update of 6 May 2013, 'Breaking Down Barriers to Justice'. More recently the Commission undertook further analysis using a greater disaggregation of caseload categories. The change in methodology provides a more dynamic analysis of possible trends in workplace relations activity. As a result of the change in methodology, a number of matter types were allocated to different sub-categories and the appearance of chart 6 in this annual report differs from the earlier version for the years between 2009–10 and 2012–13.

Table O1 provides an overview of the caseload categories included in the analysis of the Commission's work between 1998–1999 and 2012–13.

Technical points to note in relation to this table are:

- the caseload category Appeals (or, Full Bench matters including appeals) is divided into Unfair dismissal appeals (individual) and Other appeals (collective)
- the caseload category Dispute notifications is divided into General protections notifications under the Fair Work Act ss.365 and 773 (individual) and Other dispute notifications (collective)

- the caseload category Agreements is divided into Applications to terminate individual transitional employment agreements (individual) and Other agreements matters (collective), and
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.
- a number of matter types have not been included in the analysis, including matters pursuant to the Fair Work (Registered Organisations) Act 2009 (Cth).

TABLE O1: MATTERS INCLUDED IN THE TOTAL CASELOAD CATEGORIES

Matter type	Section of the Fair Work Act (or other legislation)
Individual matters	
Unfair dismissal appeals	Fair Work Act, s.604.
Applications to terminate individual transitional employment agreement (ITEA)	Transitional Act, Sch. 3 Items 17, 18 and 19.
Applications to deal with other contravention disputes	Fair Work Act, s.372.
Termination of employment	Fair Work Act, ss.394 and 643.
Referral of AWAs to Commission	Workplace Relations Act, s.170VPF.
General protections disputes notification	Fair Work Act, ss.365 and 773.
Collective matters	
Full Bench matters and Appeals(a)	Fair Work Act, s.604 and Workplace Relations Act s.120.
Notification under dispute settling procedure of pre-reform certified agreement	Workplace Relations Act ss.170LW and 170VG.
Applications to deal with a dispute	Fair Work Act, ss.240, 505 and 739(6).
Award variation	Fair Work Act ss.157, 158 and 160.
Agreements(c)	Fair Work Act, ss.185, 210, 217–217A and 222–225.
Suspension or termination of industrial action	Fair Work Act, Part 3-3, Divs 4-6.
Protected action ballot order	Fair Work Act ss.437, 447, and 448.
Orders relating to industrial action(d)	Workplace Relations Act, s.496.
Good faith bargaining order	Fair Work Act, s.229.

(a) Excludes unfair dismissal or termination of employment. (b) From 2009–10, excludes s.372 general protections notifications. (c) From 2009–10, excludes applications to terminate ITEAs. (d) Only under Workplace Relations Act.

Source: The 2012–13 data was taken from Fair Work Commission Annual Report 2012–13, Table H3 and Table H4. For unfair dismissal appeals, see Table 22, p. 43. The 2011–12 data was 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. The 2010–11 data was 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.

The 2009–10 data was 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. The 2008–09 data was taken from *AIRC Annual Report 2008–09*, Table 1, p. 7. For unfair dismissal appeals, see Table 6, p. 12. The 2007–08 data was taken from *AIRC Annual Report 2008–09* (this is due to amended Full Bench caseload analysis), Table 1, p. 7. For unfair dismissal appeals, see Table 7, p. 1.

Data between 1998–99 and 2006–07 taken from Annual Reports of the AIRC, various.

APPENDIX P

LIST OF REQUIREMENTS

PART OF REPORT	DESCRIPTION	REQUIREMENT	REF
Aids to access	Letter of transmittal	Mandatory	iii
	Table of contents	Mandatory	iv
	Index	Mandatory	183
	Glossary	Mandatory	Appx N
	Contact officer(s)	Mandatory	ii
	Internet home page address and internet address for report	Mandatory	ii
Year in review	Review by the President of the Fair Work Commission	Mandatory	1.1
	Role and functions	Mandatory	2.1, 2.2
	Organisational structure	Mandatory	2.3
	Outcome and program structure	Mandatory	1.4
	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
Overview	Portfolio structure	Mandatory for portfolio departments	N/A
	Review of performance during the year in relation to programs and contribution to outcomes	Mandatory	1.4
	Actual performance in relation to deliverables and KPIs set out in PB Statements/PAES or other portfolio statements	Mandatory	1.4
	Where performance targets differ from the PB Statements/PAES, details of both former and new targets, and reasons for the change	Mandatory	N/A
	Discussion and analysis of performance	Mandatory	2.5, 3.4

PART OF REPORT	DESCRIPTION	REQUIREMENT	REF
Report on performance	Trend information	Mandatory	1.4, 2.7, 3.3-3.11
	Significant changes in nature of principal functions/services	Suggested	2.7, 3.2
	Factors, events or trends influencing agency performance	Suggested	1.1, 2.7, 3.2
	Social inclusion outcomes	If applicable, mandatory	N/A
	Performance against service charter customer service standards, complaints data, and the department's response to complaints	If applicable, mandatory	2.5
	Discussion and analysis of the department's financial performance	Mandatory	5.7
	Discussion of any significant changes from the prior year from budget or anticipated to have significant impact on future operations.	Mandatory	2.7
Management and accountability			
Corporate governance	Agency heads are required to certify that their agency complies with the Commonwealth Fraud Control Guidelines	Mandatory	5.4.5
	Statement of the main corporate governance practices in place	Mandatory	5.1
	Names of the senior executive and their responsibilities	Suggested	5.1.1
	Senior management committees and their roles	Suggested	5.1.2
	Corporate and operational planning and associated performance reporting and review	Suggested	5.2
	Policy and practices on the establishment and maintenance of appropriate ethical standards	Suggested	5.3
	How nature and amount of remuneration for SES officers is determined	Suggested	5.6.1
External scrutiny	External scrutiny	Mandatory	5.4.1
	Judicial decisions and decisions of administrative tribunals	Mandatory	5.4.3
	Reports by the Auditor-General, a Parliamentary Committee or the Commonwealth Ombudsman	Mandatory	5.4.1

PART OF REPORT	DESCRIPTION	REQUIREMENT	REF
Management of human resources	Assessment of effectiveness in managing and developing human resources to achieve departmental objectives	Mandatory	5.5
	Workforce planning, staff turnover and retention	Suggested	5.5
	Impact and features of enterprise or collective agreements, individual flexibility arrangements (IFAs), determinations, common law contracts and AWAs	Suggested	5.5.5
	Training and development undertaken and its impact	Suggested	5.2.3
	Statistics on staffing	Mandatory	5.5
	Enterprise or collective agreements, IFAs, determinations, common law contracts and AWAs	Mandatory	5.6.1
	Performance pay	Mandatory	5.6.3
Assets management	Assessment of effectiveness of assets management	If applicable, mandatory	5.7.1, Appx J
Purchasing	Assessment of purchasing against core policies and principles	Mandatory	5.7.2
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	5.7.3
	Statement noting that information on contracts and consultancies is available through the AusTender website.	Mandatory	5.7.3
Australian National Audit Office Access clauses	Absence of provisions in contracts allowing access by the Auditor-General	Mandatory	5.7.3
Exempt contracts	Contracts exempt from the AusTender	Mandatory	5.7.3
Financial statements	Financial statements	Mandatory	Appx J

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	Appx M.1
	Advertising and Market Research (Section 31 IA of the <i>Commonwealth Electoral Act 1918</i>) and statement on advertising campaigns	Mandatory	Appx M.3
	Ecologically sustainable development and environmental performance (section 516A of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>)	Mandatory	Appx M.5
	Grant programs	Mandatory	Appx M.6
	Disability reporting—explicit and transparent reference to agency-level information available through other reporting mechanisms	Mandatory	Appx M.8
	Information Publication Scheme statement	Mandatory	Appx M.2
	Correction of material errors in previous annual report	Mandatory	Appx M.7
	List of requirements	Mandatory	Appx P

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