Further pilot program update

On 11 June 2015 I issued an update of the progress and results of pilot programs undertaken by the Fair Work Commission aimed at improving our public value. These programs trialled different ways of delivering services to the community in a more cost effective and timely manner whilst maintaining and improving the satisfaction rates of parties who interact with the Commission. The pilot programs involved selected applications made to approve enterprise agreements and for dispute resolution in claims of dismissal of employment (general protections). In both cases, staff of the Commission used their skills and experience to assist Members and parties in finalising these applications, freeing up Members for more complex, determinative matters.

The pilot programs were reviewed by Inca Consulting in association with Dr George Argyrous, Senior Lecturer in Evidence-Based Decision-Making, University of NSW using an evidence-based approach and the findings were published on the Commission’s website. In both cases, the reviews recommended the Commission consider extending the programs.

As with any public service, it is imperative to continually engage with stakeholders and consider how to improve services for users. I sought feedback from the Commission’s stakeholders about these programs and the review recommendations. The overall feedback was positive and encourages the Commission to extend these initiatives to cover a broader selection of applications. I have decided to extend these pilot programs in stages during the remainder of 2015.

General protections pilot

The first stage of the general protections program rollout will commence on 6 July 2015, and will see all general protections applications lodged in Victoria referred to the staff conciliator program, with conferences conducted by telephone. This will be followed by applications made in Tasmania and the Northern Territory on 1 August and finally, all NSW applications by 17 August 2015. This will mean that all applications will be referred to staff conciliators by this date. It is important to note that the program is overseen by a Member of the Commission, Deputy President Kovacic, who will continue to issue certificates where matters cannot be voluntarily resolved by the parties.

Key performance indicators will be used to measure the progress of the program. These will measure the timeliness in conducting conferences and the satisfaction levels of the parties from post-conference surveys about the quality and the service provided. The timeliness benchmark is 28 days from the lodgment of an application to the conduct of a conference. Conciliators are not set settlement rate targets; their performance is measured by observations of and comments about their skills in facilitating dispute resolution.

Enterprise agreement approvals pilot

From 1 July 2015, a greater range of enterprise agreement applications will be progressively referred to the pilot, with staff of the Commission conducting a
preliminary assessment of the application to enable a Member to make the decision to approve the agreement. The roll out will also be conducted in stages and ultimately it is likely that more than 70% of all applications will be assessed under the new model.

The first stage will see agreements from the industries referred to the program in two tranches:

- Building, metal and civil construction industries
- Electrical contracting industry
- Plumbing industry
- Manufacturing and associated industries
- Food, beverages and tobacco manufacturing industry
- Pharmaceutical industry

The first tranche will involve applications made in the above industries in Victoria and South Australia and commences on 6 July 2015. The second tranche, commencing in August 2015, will extend to applications made in New South Wales and Queensland.

Stage two commences in October 2015. At this stage it is proposed that agreements from the industries listed below for agreements lodged in Victoria, South Australia, New South Wales, Queensland and the Northern Territory will be added to the pilot:

- Aged care industry
- Health and welfare services
- Children’s services
- Educational services (except higher education)
- Northern Territory
- Storage services

These industries have been selected on the basis of volume of lodgment and complexity. Some industries have been identified as possible exclusions from the program, due to agreements being generally more complex, high levels of disputation or those which are best dealt with by members with specialist knowledge. Both the processes and industries not triaged or excluded will be reviewed in early 2016.

Stage 2 of the pilot extension will be considered further in September 2015 having regard to the outcome of Stage 1 of the process. The Commission will release new timeliness benchmarks, or targets, for the assessment of enterprise agreements in the coming weeks. A key aim of the new model will be to meet these benchmarks with a more efficient use of resources. Ideally, it will lead to significant reductions in the time taken between the lodgment of a new enterprise agreement and its approval.

Progress on these new ways of delivering services will be recorded and publically reported. I encourage parties to keep providing feedback about ways we can improve our services, either through our feedback address feedback@fwc.gov.au or by responding to topic-specific surveys. I would like to thank everyone who took the time to attend one of our recent stakeholder events and provide me with feedback about these initiatives.

Justice Iain Ross AO
President, Fair Work Commission

3 July 2015