

PIVOT



Findings Report

Fair Work Commission

Unfair dismissal Correspondence User Testing



Welcome

This document reports on the Fair Work Commission's *Unfair Dismissal Correspondence User-Testing* project.

The testing project has been commissioned by the Fair Work Commission.

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Executive Summary

Unfair dismissal user testing correspondence

The Commission recently launched the “What’s Next” plan to improve access and reduce complexity for tribunal users. As part of this broad focus, the Commission engaged independent consultants to explore the experiences of unfair dismissal users.

The resulting report identified several opportunities for the Commission to enhance users’ experiences. One opportunity was refining the Commission’s unfair dismissal correspondence to be more user friendly.

In-line with the report recommendations, the Commission has been refining its correspondence. Its completed initial refinements and is moving towards formal usage of the refined documents. But before the refined documents are finalised and publicly released, it is timely and appropriate to ensure the refinements are meeting their intended objectives.

The Commission engaged Pivot Management Consulting to critically test the user friendliness of the refined documents with both applicants and respondents of the unfair dismissal process.

Specifically, the project has sought to identify how effective the correspondence refinements have been in enhancing user friendliness. Pivot has sought to identify to what extent refinements have addressed identified issues. This includes assessments of:

- How effectively the document achieves its intended purpose.
- Document readability.
- Tone.
- Emotional impact of the correspondence.
- Comparison to previous experience(s) of correspondence.

Overall, the Commission’s refinements appear to have resulted in considerably more user-friendly correspondence. Although users provided some limited recommendations for improvement, they universally considered the refined documents significant improvements on previous versions.

Most users also felt the refined documents effectively balanced formality, professionalism and impartiality with a friendlier, warmer and less confronting tone. Documents were considered less formal than original versions but remained official and appropriately formal. Users felt documents were more pleasant and less cold/intimidating. Some users appreciated the way the letters acknowledged users’ efforts to resolve their dispute and the conveyed an understanding that it can be a confronting process.

The wording was considered simpler, clearer and less legalistic. This was considered a valuable change, and it made documents more accessible for less experienced users.

The refined documents appear to achieve their primary objectives, providing relevant information & instructions. They also effectively signaled how serious each stage of the process was. Most users also felt the documents clearly conveyed when the process was becoming more serious and rigorous. Importantly, users felt the documents achieve this without invoking unnecessarily high levels of stress.

Users also felt the documents positioned the Commission as independent and impartial. The documents portrayed the Commission as an impartial provider of information and guidance on the process. Many respondents pointed to (and praised) the Commission’s desire to hear their side of the story, in addition to the applicants’.

Most users commented positively on the inclusion of direct links to further material. They noted a preference for links to digital material, versus receiving several attachments.

However, users did recommend some enhancements. Most of these recommendations were highly granular, detailed edits to specific documents. However, consistent themes across several documents included:

- More clearly explaining what the consequences of actions or omissions would be.
- Visual representation(s) of processes in addition to written explanations.
- Provide additional information/explanation on anxiety-inducing & confusing topics (e.g. witnesses, evidence, seeking/not-seeking representation, hearings versus conferences, etc.)
- Enhance/refine the grammar and wording and make other detailed refinements to optimise user friendliness.
- Remove requests for survey responses or feedback.

In summary, the Commission’s refinements have been well-received by the interviewed users. Despite receiving suggestions for some minor edits the documents appear to be considerably more user friendly than their original versions.

1. User Testing Notes

1.1. Tone

Overall, users believed the tone of documents was greatly improved. Both applicants and respondents felt the tone was less intimidating, cold and impersonal. Instead, they felt the tone was friendlier and more informal. The Commission came across as less “authoritarian” and more consultative than in previous experiences.

Even in more formal and serious documents (e.g. listing directions), users felt the Commission was not being unnecessarily intense or assertive. Instead, the Commission was merely providing necessary information. Some users noted the tone was more positive or pleasant, pointing to phrases like “thank you for taking part” as examples. Some users even noted the inclusion of a less intense, all-black logo, noting the lighter logo has generates a less intimidating impression.

However, most users also felt the tone was still sufficiently formal and professional. They considered it to be calibrated appropriately: official but also pleasant (or not unpleasant). Additionally, many users noted the documents still clearly conveyed when a user should take the process more seriously and that they’d reached a part of the process where outcomes were becoming serious. For example, one user explained, ‘...I read it [the letter] better than letters we received in the past. It’s still formal but less formal.’

Respondents were particularly impressed by improvements in the Commission’s communications with them. Use of phrases like ‘we need to hear your side of the story’ were well-received. They considered this a simple but effective way of showing the FWC is interested in hearing what respondents have to say and displacing perceptions the FWC may favour employees. Additionally, users appreciated comments like ‘thank you for trying to settle’, which acknowledges a user is not doing the wrong thing by not settling.

As a result of the tone enhancements, many users found the documents less threatening and daunting. They believed the documents don’t lead you to overthink as much as you may previously have done so.

1.2. Comprehension

All users believe the refined documents were more readable and easier to comprehend than original versions. Many of the legalistic, bureaucratic and confusing phrases, words and references to documents were identified as removed or re-worded for greater readability. Users also considered the wording clear, simple and direct. One user noted it was sufficiently simple and clear to understand as a foreign language user.

Users described the documents in the following ways:

- “Not confusing and [no] legal jargon”
- ‘Very user friendly but also professional’
- ‘Just the right length’
- ‘Took out unnecessary words”
- ‘Straight-forward and easy-to-understand’
- ‘Quick and easy to read’
- ‘Nothing stands-out as hard to understand’
- ‘Words: nothing complex or hard to understand’

However, some users identified some words and phrases that could be more user friendly. Detailed examples are captured in in-session notes. Some examples include:

- Defining or re-wording “adjournment”
- Defining “remedy”
- Explaining what “substantial grounds” means
- Explaining what “determinative conference/hearing merits” means

However, many users were comfortable with these terms. Overall, comprehension appears to have significantly improved from a user-perspective.

1.3. Impartiality

Although the Commission aspires to be as user friendly and accessible as possible, it also has a critical duty to impartiality. Its important correspondence doesn’t misrepresent the Commission as favoring one party or another.

Overall, users identified no impartiality issues within the tested correspondence, and several felt the refined documents presented the Commission as more impartial than original versions.

Users explained the tone ‘...seems fair...We are both getting the same document, both sides can see what is expected of the other. It doesn’t feel weighted to one party.’ Similarly, another user explained within these documents the Commission ‘...is Switzerland’. Another explained the documents frames the Commission as ‘...in the middle; not on anyone’s side...Feels impartial.

1.4. Clarity

Overall, the refined documents appear to provide greater clarity, direction and certainty than previous versions.

Users found instructions clear and easy to understand. The documents provided users clear summaries of when they did and didn’t need to take actions. For example, one user noted the Listings document is ‘very clear... [you] know exactly what you need to bring. Fantastic, so clear.’ Another noted, ‘what you can take and bring is very clear. Info on witnesses is very clear.’

Respondents noted the “unfair dismissal application received” letter in which the Commission informs respondents the Commission has received an incomplete application was also noted for its clarity. Users were clear about what had happened and that they didn’t need to do anything. One user noted, ‘[it] comes across clearly you don’t need to do anything yet.’ Another explained,

Users also found dates (e.g. hearing/conciliation) and deadlines clearly defined. They commented positively on the introduction of bolding and use of tables to clearly summarise key information, like dates.

Users also found it reasonably clear which stage of the process they had reached. Although some users suggested adding visual diagrams to simply summarise what stage of the process had been reached, most users felt the documents clearly explained where they had progressed to within the process.

Additionally, most users found it clear how serious each stage was. For example, users felt the conciliation documents clearly explained conciliation was serious but not obligatory. In contrast, users felt documents about hearings clearly conveyed an enhanced level of seriousness.

Some users suggested more clearly explaining the consequences of certain actions/omissions. For example, they requested additional information on what happens if a matter doesn't settle at conciliation, prior to attending the conciliation. Additionally, they requested information about what happens if deadlines are missed.

1.5. Comprehensiveness

Overall, it appears the documents provide sufficiently comprehensive information. Most users felt the document contained all the information necessary. For example, several users made comments like 'clear and straight to the point without legal stuff...Gave all content needed. Tells me an application has been made, [and that it might be] time to get legal advice or review dismissal... I know they'll send more info later.'

Some users felt there could be greater explanation of what to expect in stages, such as conciliation or hearings. However, almost all users acknowledged the documents included links to further information and considered this the appropriate approach (as opposed to creating detailed documents). Use of links was heavily preferred to attaching additional documents.

2. User Testing Recommendations

Most recommendations are highly detailed and contained within the detailed user testing notes included in the appendix and on documents users edited. Recommendations in this report are limited to higher-level, strategic improvements.

Refinement	Explanation
Increased explanation of the consequences of actions/omissions	<p>Users request slightly more explanation of the potential consequences of their decisions and process outcomes. Among other things, they want to better understand what will/will not happen if:</p> <ul style="list-style-type: none"> • Deadlines are missed • Settlement isn't achieved at conciliation • Settlement is achieved at conciliation • A case proceeds to hearing • If they choose to use a law/if the other party uses a lawyer • What will happen if there are false claims made <p>Importantly, users want this information prior to making their decisions or experiencing a part of the process (e.g. conciliation).</p>
Visual representation of content	<p>Some users requested more visual representation of information. For example, users requested inclusion of a visual summary of the entire UD process be included in initial letters than referenced again in later documents. This would enable them to understand 'their location' in the process.</p> <p>Use of summary boxes is another example of the type of visual representation users requested.</p>

<p>Additional information on anxiety-inducing & confusing topics</p>	<p>Some users requested additional information on topics that can be daunting. Despite understanding there are links to further information, users recommended including slightly more information in the letter, to prevent initial fear, panic or confusion.</p> <p>For example, users suggested providing some limited explanation of who might be able to be a witness and what being a witness involves. Similarly, they suggested including a brief explanation of what may/may not be viable evidence.</p>
<p>Reference the ability to use representation more frequently</p>	<p>Some users noted a perceived absence of references to having the right to use representation or choose not to. Users suggested referencing this. Additionally, they suggested noting what users can expect if they do/do not choose to use representation.</p> <p>Users felt this would help unrepresented users feel comfortable representing themselves.</p>
<p>Grammar, wording and other detailed edits</p>	<p>Users identified several opportunities to slightly refine the way sentences were structured and worded. These were highly detailed grammatical edits or refinements to words so that sentences were simpler, clearer and friendlier.</p> <p>The suggestions are captured in detailed interview notes (see appendix) and on documents edited by participants.</p>
<p>Removal of request for survey responses</p>	<p>Users recommended removing requests for feedback or survey responses from any documents. Although surveying was considered important, it was not considered the right method or communication channel to seek this information through.</p>