Timeliness benchmarks

1. In my statement to the Committee in May this year, I said that my task in the months and years ahead was to repair the reputational damage to the Tribunal which has resulted from the sustained criticism about the time taken by Fair Work Australia to complete investigations into the HSU.

2. Despite the fact that these investigations have nothing to do with the Tribunal, it is clear that the criticism made about the process significantly damaged the Tribunal’s reputation.

3. It is for those reasons that I have argued, publicly and in my oral submission to the Review into the Fair Work Act, that some legislative changes are required in order to clarify the Tribunal’s role and its independence. The key legislative changes relate to the name of the Tribunal and the need to make clear the distinction between the adjudicative and administrative bodies which operate under the Fair Work Act.

4. While the legislative changes I have referred to are important, I accept that they are not enough. The Tribunal must become more efficient and accountable.

5. Since I was last before the Committee, I have taken steps to improve the Tribunal’s efficiency and accountability. I wish to draw two particular measures to the Committee’s attention.

6. First, after consultation with the Members of the Tribunal I have introduced a Member Conduct Guide. The Guide is substantially based on the Australian Institute of Judicial Administration’s ‘Guide to Judicial Conduct’ (second edition). I have attached a copy of the Guide to my statement.

7. Second, on 1 July 2012 I introduced timeliness benchmarks for the delivery of reserved decisions and in relation to the time taken to determine applications for the approval of agreements.

**RESERVED DECISIONS BENCHMARK**

<table>
<thead>
<tr>
<th>Number of weeks from the final day of hearing or date of the last written submission</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>11</th>
<th>12</th>
</tr>
</thead>
<tbody>
<tr>
<td>90% of all reserved decisions to be delivered within 8 weeks</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>100% of all reserved decisions to be delivered within 12 weeks</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

90% of all reserved decisions to be delivered within 8 weeks

100% of all reserved decisions to be delivered within 12 weeks
8. The introduction of the timeliness benchmarks has seen a significant improvement in the Tribunal’s performance in these key areas.

9. In the period 1 July to 30 September 2012, 97.4% of all reserved decisions were handed down within 8 weeks, as against the performance benchmark of 90% of all reserved decisions within 8 weeks. This can be compared with the 12 months ending 30 June 2012 during which only 72.2% of reserved decisions were handed down within the 8 week benchmark. In 2011/12 some 14% of reserved decisions were handed down more than 12 weeks after the final day of hearing or the last day of written submissions.
There has been a similar improvement in the time taken to deal with applications for the approval of agreements. In the period 1 July to 30 September 2012, 78.9% of all such applications were determined within 3 weeks of lodgement, as against the performance benchmark of 50% of applications being dealt with within 3 weeks of lodgement. This can be compared with the 12 months ending 30 June 2012 during which only 58% of agreement approval applications were dealt with within 3 weeks of lodgement.

I propose to publish the Tribunal’s performance against these benchmarks on our website in early November 2012. The information will then be updated on a monthly basis.

The timeliness benchmarks are intended to be challenging, to that extent they are aspirational. I expect that there will be individual instances where the Tribunal does not meet its own high standards, for a variety of reasons. But the setting of performance benchmarks and then publicly reporting the Tribunal’s performance are important accountability measures. Such measures are a practical recognition of the fact that justice institutions rely ultimately on public confidence and the consent of the governed.

**JUSTICE ROSS**  
17 OCTOBER 2012