



Performance commitment regarding new jurisdictions

- [1] *The Fair Work Legislation Amendment (Secure Jobs Better Pay) Act 2022* introduced several new jurisdictions to the Commission and amended the operation of some existing jurisdictions. The next tranche of amendments will commence from 6 June 2023.
- [2] The new and amended jurisdictions include:
- Changes to genuine agreement making and the Better Off Overall Test (BOOT)
 - Automatic sunseting of pre-2010 agreements ('zombie' agreements)
 - Dealing with errors in, and making amendments to, enterprise agreements
 - Prohibiting sexual harassment in connection with work
 - Disputes relating to flexible working arrangements and the extension of unpaid parental leave
 - Changes to multi-enterprise agreements (supported bargaining agreements, single interest employer agreements and cooperative workplace agreements)
 - Bargaining disputes, intractable bargaining declarations and workplace determinations, and
 - Mandatory requirement for a conference between bargaining representatives after issuing a Protected Action Ballot Order.

Open and transparent implementation

- [3] From the outset of the implementation process in December 2022, we made a commitment to place our users' needs at the heart of the design of our services.
- [4] We would like to acknowledge and thank the members of our user groups for their engagement and contributions to date, including the:
- Enterprise Agreement and Bargaining advisory group
 - Registered Organisations Transition advisory group
 - Sexual Harassment working group
 - Small Business Reference Group, and
 - Rules and Benchbooks committee.

Commitment to performance

- [5] We remain focussed on delivering the highest standards of performance across our entire operations. These new and amended jurisdictions will exist within our current performance framework, with some additions.

- [6] We are currently performing strongly against each of our key performance indicators and internal time standards for dealing with cases.

Dealing with cases overall

- [7] We remain fast, efficient, and effective at dealing with cases.
- [8] In over 90% of cases, we process application documents and provide applicants with information about the next steps in the case management process within 3 working days of lodgement.
- [9] Of the 24,220 cases we have dealt with in 2022-23 year to date (at 31 March 2023), 50% of all cases were finalised within 5 weeks of lodgement and 90% were finalised within 14 weeks.
- [10] We are effective at assisting parties to resolve approximately 90% of disputes informally. If a formal decision by a Member is required, we issue 90% of decisions within 12 weeks of the last hearing or written submissions.

Approving enterprise agreements

- [11] We are currently approving enterprise agreements that are complete and compliant at the time of lodgement within a median of 12 calendar days.
- [12] All agreements are being approved within a median of 17 days from lodgement.

Prohibiting sexual harassment in connection with work

- [13] We are required to commence dealing with applications for orders to prevent sexual harassment in connection with work within 14 days of receiving an application.
- [14] In practice, we have a team of dedicated case managers who start dealing with applications relating to sexual harassment and bullying as soon as possible. In more than half of all cases we start dealing with the application within one day of receiving it.

Protected action ballot orders and conferences

- [15] The President has appointed a [National Practice Leader](#) for all applications related to enterprise bargaining and industrial action, to commit support for timely and streamlined management of these cases. The new provisions place more focus on our role in facilitating bargaining. For example, our functions with respect to Protected Action Ballot Orders (PABOs) will change significantly from 6 June 2023,

with the requirement to hold a compulsory conciliation conference with all bargaining representatives for the proposed agreement. We have published [information](#) about the changes to the PABO process.

- [16] PABO applicants can expect to have the receipt of their application acknowledged within hours of lodgement. Insofar as practicable, we will continue to determine the PABO application within 2 working days of lodgement.
- [17] Once a PABO has been issued, we are required to order all bargaining representatives for the proposed enterprise agreement to attend a compulsory conciliation conference. This conference will take place before the ballot period ends. The compulsory conciliation conference represents an opportunity for the Commission to assist parties reach an agreement on some or all of the unresolved issues before any industrial action is taken.
- [18] To provide users with certainty around our processes, we will establish time standards for key case management stages and the compulsory PABO conciliation conferences that will be conducted within weeks of the ballot order being issued. Consistent with other measures in our performance framework, we will look to set targets for conference timeliness at the 50th percentile to encourage early action where appropriate and at the 90th percentile to set the standard for the balance, allowing for exceptions.
- [19] Parties may have the opportunity to seek urgent conferences if required on a case-by-case basis.
- [20] We aim to set PABO conciliation conference time standards after the first three months they have been in operation, using data about service delivery in that initial period, and in consultation with the Enterprise Agreement and Bargaining advisory group to understand user expectations.

Conclusion

- [21] As we continue to implement new jurisdictions and functions, we will review our performance framework in the next financial year to ensure that we have appropriate benchmarks in place that drive high performance in terms of timeliness, quality, and user experience for our stakeholders.
- [22] We intend to publish a statement early in the new financial year detailing performance outcomes for 2022-23 against the measures in our performance reporting framework (Appendix 1).



Fair Work
Commission

2022/23 Performance Measures

Effective from July 2022

Prepared by
Communications, Performance & Engagement
Enabling Services Group



Table 1 – Portfolio Budget Statement performance measures

These measures have not changed compared to previous Portfolio Budget Statements.

Indicator Category	Case Type	2022/23 Measure & Target
Timeliness - Legislated	Annual wage review	Completed by 30 June of each financial year
Timeliness	Unfair dismissal staff conciliations	Improve or maintain the median time elapsed from lodging applications to finalising conciliations in unfair dismissal applications, with a target of 34 days
Timeliness	Enterprise agreement approvals	Improve or maintain the median agreement approval time for agreements approved without undertakings, with a target of 32 days .



Table 2: Other performance measures

The measures in this table are ordered by the performance indicator category.

Indicator Category	Case Type	2022/23 Measure & Target
Timeliness	All	Clearance rate of at least 95%
Timeliness	All	90% of applications processed and information about next steps provided within 3 working days
Timeliness	All	50% of cases finalised within 8 weeks
		90% of cases finalised within 16 weeks
Timeliness	Unfair dismissal staff conciliation	50% of unfair dismissal staff conciliations commence within 5 weeks
		90% of unfair dismissal staff conciliations commence within 7 weeks
Timeliness	General protections (dismissal) staff conference	50% of general protections staff conferences commence within 6 weeks
		90% of general protections staff conferences commence within 10 weeks
Timeliness	Enterprise agreement approvals	50% of simple applications are approved within 10 working days
		95% of simple applications are approved within 20 working days
Timeliness	Enterprise agreement approvals	50% of complex applications are approved within 20 working days
		95% of complex applications are approved within 45 working days



Fair Work
Commission

Indicator Category	Case Type	2022/23 Measure & Target
Timeliness - Legislated	Stop Orders	Commence dealing with 100% of Stop Orders applications within 14 days
Timeliness - Legislated	Industrial Action	100% of s.418 applications are determined, or an interim order issued, within 2 days
		100% of s.424 applications are determined, or an interim order issued, within 5 days
		50% of s.437 applications are determined within 2 working days
Reserved decisions	All, with some exceptions	50% of reserved decisions are handed down within 5 weeks
		90% of reserved decisions are handed down within 12 weeks
Outcome	All appealable decisions	Appeals upheld represent less than 1% of appealable published decisions over the reporting period
Outcome	Disputes about awards and agreements (s.739)	At least 75% of disputes about awards and agreements are resolved informally
Outcome	Unfair dismissal	At least 75% of unfair dismissal (disputes) are resolved informally
Outcome	Unfair dismissal appeals	Less than 10% of published decisions in unfair dismissal cases are appealed
		Less than 20% of appeals against published decisions in unfair dismissal cases are upheld
User Experience	Focus on unfair dismissal & general protections (dismissal)	Positive user experience rating of greater than 75%
Workflow	Appeals	90% of formal hearings take place within 12 weeks



Fair Work
Commission

Indicator Category	Case Type	2022/23 Measure & Target
Workflow	Unfair dismissal hearings	90% of threshold jurisdiction (except extension of time) hearings take place within 35 days
		90% of formal merits hearings take place within 70 days
Workflow	Unfair dismissal extension of time	90% of cases are finalised or extension of time decision issued within 35 days