

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Additional Estimates 2016 - 2017

Agency - Fair Work Commission

Department of Employment Question No. EMSQ17-001470

Senator Cameron asked on 02 March 2017 on proof Hansard page 12

Question

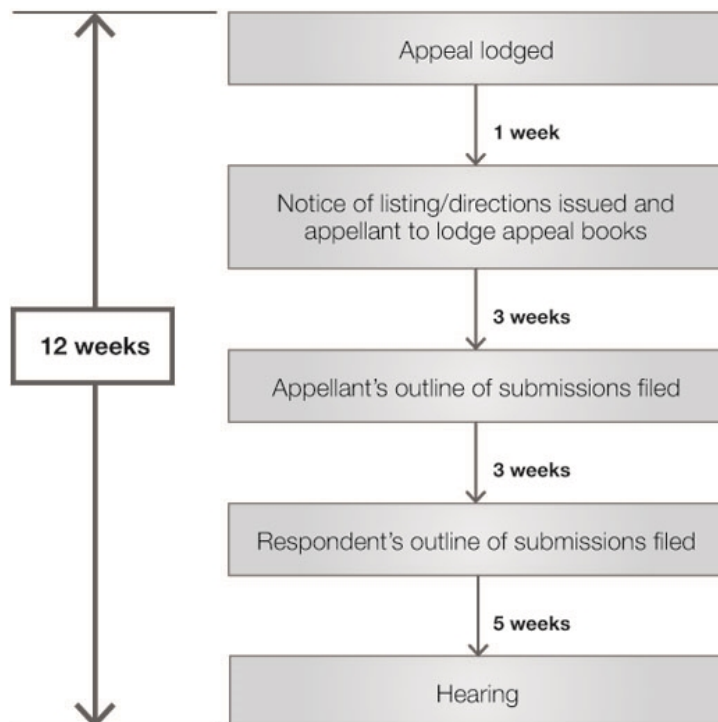
FWC - Full bench appeals process

Senator CAMERON: What is the normal period for a full bench to convene, sit and hear an application from when it is made to the full bench?

Ms O'Neill: I cannot answer that; I am happy to take it on notice. But certainly—

Answer

The majority of Full Bench matters are appeals from single Member decisions. The appeal proceedings practice note published on the Fair Work Commission's (Commission) website states that appeals will generally be listed for hearing within 12 weeks. The following chart provides a general outline of the common timing of the appeal process:



Unfair dismissal matters represent the majority of appeal matters. A substantial proportion of these are refused permission to appeal. The statutory test for being granted permission to appeal in an unfair dismissal matter has a higher threshold than other appeal matters.

Following a successful pilot in 2015, a separate process was introduced in 2016 for dealing with permission to appeal in unfair dismissal matters. Permission to appeal hearings are now heard over two consecutive days in the month following lodgment of the appeal applications.

The Commission publishes data in its annual report concerning performance against timeliness benchmarks. In 2015-16, 94.8% of appeals were listed within 12 weeks of lodgment and 98.3% of appeals were listed within 16 weeks of lodgment (see page 110 of the Commission's Annual Report 2015-16, which can be viewed on the Commission's website at: www.fwc.gov.au/documents/documents/annual_reports/ar2016/fwc-annual-report-2015-16.pdf).