

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Supplementary Budget Estimates 2015 - 2016

Agency - Fair Work Commission

Department of Employment Question No. EMSQ15-000449

Senator McKenzie provided in writing.

Question

FWC - Conciliation process – General Protections and Unfair Dismissal

Regarding the general protections conciliation program which allows for Commission staff, rather than appointed members, to conduct general protections conciliations:

1. Is this a trial or is this now permanent?
2. How many general protections conciliations have been conducted by staff under the trial since it started?
 - a) What is this as a proportion of general protections conciliations of the trial in each trial-site?

Answer

The general protections conciliation program commenced as a pilot study and has been extended to all general protections applications involving dismissals made under section 365 of *Fair Work Act 2009* (the Act). Conciliators perform limited functions in accordance with a delegation of powers and directions issued by the President of the Fair Work Commission (the Commission) and the program is overseen by a Member of the Commission.

A pilot program to test the feasibility of staff conducting conferences to assist resolve these disputes commenced on 1 September 2014 and ran until 30 June 2015. The program was reviewed in April 2015 by Inca Consulting in association with Dr George Argyrous, Senior Lecturer in Evidence-based Decision Making, University of NSW. A review was published on the Commission's website in June 2015 and interested parties were invited to provide comments about the program including the review.

A copy of the review is at [Attachment A](#) and also published on the Commission's website.

Following this review and receipt of feedback, including a survey of parties conducted during the pilot study, the President of the Commission announced a staged extension of the program throughout 2015.

In the period from 1 September to 31 October 2015, 1,395 applications were referred to the programs and staff conducted 1 137 conferences.

The trial commenced with all applications made under section 365 of the Act lodged in the Australian Capital Territory, Western Australia and a proportion lodged in Queensland. The trial expanded in stages as per the table provided.

The table also shows the numbers of applications referred from each State and the average number of applications per month for the time in the trial.

TABLE: General protection pilot program referral by State of lodgment: 1 September 2014 to 31 October 2015

State	Referral date	Total referred	Average per month
Western Australia	1 September 2014	379	29
ACT	1 September 2014	81	6
Queensland*	1 September 2014	419	42
South Australia	7 March 2015	59	8
Victoria	6 July 2015	305	76
Tasmania	1 August 2015	11	3
Northern Territory	1 August 2015	11	3
New South Wales	17 August 2015	130	52

* One third of applications lodged in Queensland were referred in the period 1 Sep 2014 to 28 Feb 2015: All applications referred from 7 March 2015.