



President's statement

Enterprise agreements – timeliness and online forms

Justice Ross, President

Melbourne, 20 October 2022

- [1] This Statement provides information about the Fair Work Commission's (Commission) performance against its internal timeliness benchmarks. It also provides an update on the Commission's improved online lodgment service and new online agreement forms and proposes the next steps for this initiative.

Enterprise agreement approval applications

- [2] The Commission deals with a large volume of applications to approve enterprise agreements. In the 2021-22 financial year, more than 4,500 agreement applications were finalised by the Commission. Of these, approximately 2.3 per cent of applications were withdrawn and approximately 0.4 per cent of applications were not approved or were dismissed. The overwhelming majority of applications are for single-enterprise agreements.

Internal timeliness benchmarks

- [3] From 1 May 2021, the Commission has been working towards the following timeliness benchmarks:
- (a) For compliant agreements that are supported by complete applications at lodgment¹ and can be approved without undertakings or any follow up ('simple applications'):
 - 50 per cent are to be approved in 10 working days
 - 95 per cent are to be approved in 20 working days
 - (b) For applications that require undertakings or cannot be approved based on the material provided at lodgment, contested applications, and applications requiring a hearing ('complex applications'):
 - 50 per cent are to be approved in 20 working days
 - 95 per cent are to be approved in 45 working days

¹ A complete application is an application that is accompanied by all documents required under the *Fair Work Act 2009* and the Fair Work Commission Rules. A compliant agreement is one that satisfies the approval requirements under the *Fair Work Act 2009* without undertakings.

- [4] From 1 July 2021 to 30 June 2022, compliant agreements that were supported by complete applications at lodgment were approved within a median of 12 calendar days. All applications were determined in a median of 15 days.
- [5] There has been a significant improvement in timeliness of approving enterprise agreements in recent years. As shown in Table 1, the improvement has occurred across all categories of agreement applications since 2017–18.

Table 1: Median calendar days to approve agreements

Median calendar days from lodgment to approval	PBS KPI*	2017-18	2018-19	2019-20	2020-21	2021-22
Agreement approved without undertakings	32 days	32 days	30 days	17 days	14 days	12 days
All agreements approved (with & without undertakings)	-	76 days	79 days	33 days	20 days	15 days

*This is the Portfolio Budget Statement Key Performance Indicator set in the 2019–20 Budget Papers at p.127

- [6] The Commission’s performance against its internal benchmarks in the most recent financial year is set out in Table 2 below.

Table 2: Timeliness Benchmarks

Enterprise agreements timeliness	Internal benchmark	1 July 2021 – 30 June 2022
Simple applications:		
approved in 10 working days	50%	87%
approved in 20 working days	95%	95%
Complex applications:		
approved in 20 working days	50%	75%
approved in 45 working days	95%	98%

Online lodgment service and online agreement forms

- [7] In April 2021 I outlined the Commission’s intention to implement a range of administrative and digital strategies to further improve agreement timeliness.²
- [8] Since then, as part of the Commission’s commitment to ongoing digital transformation, we have developed an improved online lodgment service which allows users to lodge single-enterprise and multi-enterprise agreement applications electronically via an online *Form F16 – Application for approval of an enterprise agreement (other than a greenfields agreement)* (Form F16).
- [9] The Commission has also completed development of an online *Form F17 – Employer’s declaration in support of an application for approval of an enterprise agreement (other than a greenfields agreement)* (Form F17). The online Form F16 and Form F17 are designed to be submitted together.
- [10] The online agreement forms assist parties to provide the Commission with complete and compliant agreement approval applications and provide the Commission with efficiencies in processing these applications.
- [11] Below I have outlined the history of the online agreement forms project, including engagement with stakeholders, and the features of the online forms. I have also set out the next steps for the project. It is my intention that the online agreement forms will be the standard method of lodgment for all single and multi-enterprise agreement approval applications from 1 March 2023. Further information is outlined under ‘Next Steps’.

History of online agreement forms

Late 2020 – early 2021: development phase

- [12] The Commission commenced work on the online agreement forms project in late 2020. The project aimed to take a phased approach, with an initial launch of an online Form F16, which was then followed by the more detailed online Form F17.

March 2021: Form F16 soft launch

- [13] In March 2021, the online Form F16 was released for a soft launch. This involved the Commission directly contacting members of the Commission’s Agreements User Group³ and parties who frequently lodge agreement approval applications to encourage them to try the online form.

² [President’s statement: Enterprise agreements – Timeliness benchmarks \(fwc.gov.au\)](#) (12 April 2021)

³ The Agreements User Group comprises of representatives from employee and employer organisations, as well as representatives of employers in a range of industries.

- [14] Following the soft launch, approximately 2% of single and multi-enterprise agreement approval applications were lodged using the online form. This increased to 6% by the end of May 2021.

June 2021 – March 2022: Form F16 public announcement and increased uptake

- [15] The online Form F16 was publicly announced on 28 June 2021. By the end of July 2021, approximately 7% of single and multi-enterprise agreement approval applications were lodged using the online form.
- [16] On 20 August 2021 the paper-based Form F16 was made available to parties on request, via email or by calling the Commission. By the end of August 2021, approximately 15% of applications were made using the online form.
- [17] On 10 March 2022 the online Form F16 was integrated into the Commission's case management system, meaning the information a user inputs into the online form automatically comes across into the system. At this time, approximately 50% of applications were made using the online form.

May 2022 – present: Form F17 soft launch and public announcement

- [18] On 12 May 2022 the online Form F17 was released for a soft launch.
- [19] The online Form F17 was publicly announced on 3 August 2022. On this date, the paper-based Form F17 was made available to parties on request.
- [20] On 6 October 2022 the online forms were updated to include a number of enhancements, including sharing functionality into the Form F16 which allows users to share the form with other organisations or people within their organisation.
- [21] During this time, the proportion of online applications remained consistent with approximately 51% of all single and multi-enterprise agreement approval applications being lodged using the online forms.

Engagement with stakeholders and ongoing improvement

- [22] Throughout the development and release of the online forms the Commission continuously engaged with external stakeholders, including employers and employee and employer organisations on the design and functionality of the forms.
- [23] The Commission gathered feedback from consultation sessions and where possible, incorporated this feedback into the design of the forms.
- [24] Since the public announcements of the online forms, the Commission has continued to engage with external stakeholders on the functionality of the forms, including running over 20 demonstrations. The Commission has continuously sought and


considered feedback from external stakeholders and a number of changes have been incorporated into the forms in response.

Features of the online agreement forms

- [25] The online Form F16 and Form F17 can be accessed in the Commission's new online lodgment service (OLS). The OLS allows users to create an account, save partially completed forms and view the history and status of their submitted applications.
- [26] The online agreement forms allow parties to complete the forms online and upload all supporting documents directly. Importantly, the forms provide a number of features to assist parties to submit timely, complete and compliant agreement approval applications including:
- The forms prompt users for mandatory information and alerts users to incomplete or inaccurate information.
 - Sharing functionality across both forms allows parties to share draft forms with other organisations or people within their organisation.
 - Users are able to progressively work on the forms and save partially completed forms and users can create a draft PDF version of the forms at any time.
 - The online Form F16 pre-fills information from the user's profile directly into the relevant section of the form and users are able to link their completed Form F17 to their online Form F16, so they are submitted together.
 - Users can access all of their submitted forms and any attached documentation from the History section of the OLS at any time.
- [27] As mentioned in [17], the online Form F16 has been integrated into the Commission's case management system. This provides processing efficiencies for the Commission as it reduces manual handling, enabling the Commission to deal with the application in a more timely manner. Initial measures indicate that since the form has been integrated into the case management system, the time taken to administratively process online lodgments has reduced by 70%. Prior to integration, the time taken to process applications was an average of 20 minutes, however this has improved to an average of 6 minutes per application.

Next steps

- [28] The Commission is transitioning from paper-based applications to online applications as the standard method of lodgment for single and multi-enterprise agreements. The 'History of online agreement forms' outlines the steps we have taken over the last two years towards this.

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- [29] It is my *provisional* view that the online agreement forms will be the standard method of lodgment for all single and multi-enterprise agreement approval applications from 1 March 2023.
- [30] Parties will be required to lodge all single and multi-enterprise agreement approval applications (s.185 applications) using the online Form F16 and Form F17, unless there are exceptional circumstances. To effect this change, the Commission will consult with stakeholders on a change to the *Fair Work Commission Rules 2013*.
- [31] It is noted that if there is legislative change which would require either the Form F16 or Form F17 to change, this date may be subject to change.
- [32] The Commission seeks feedback on the *provisional* view by no later than **5pm Thursday, 10 November 2022**. Any feedback should be sent to member.assist@fwc.gov.au.

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