



FairWork  
Commission

# The Fair Work Commission *Future Directions*

## Vice President Catanzariti

29 August 2014

# Outline

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- What is Future Directions?
- Improving our performance
- Promoting fairness
- Innovation
- The next phase
- Anti-Bullying
- General Protections
- Significant FWC Decisions

# Future Directions

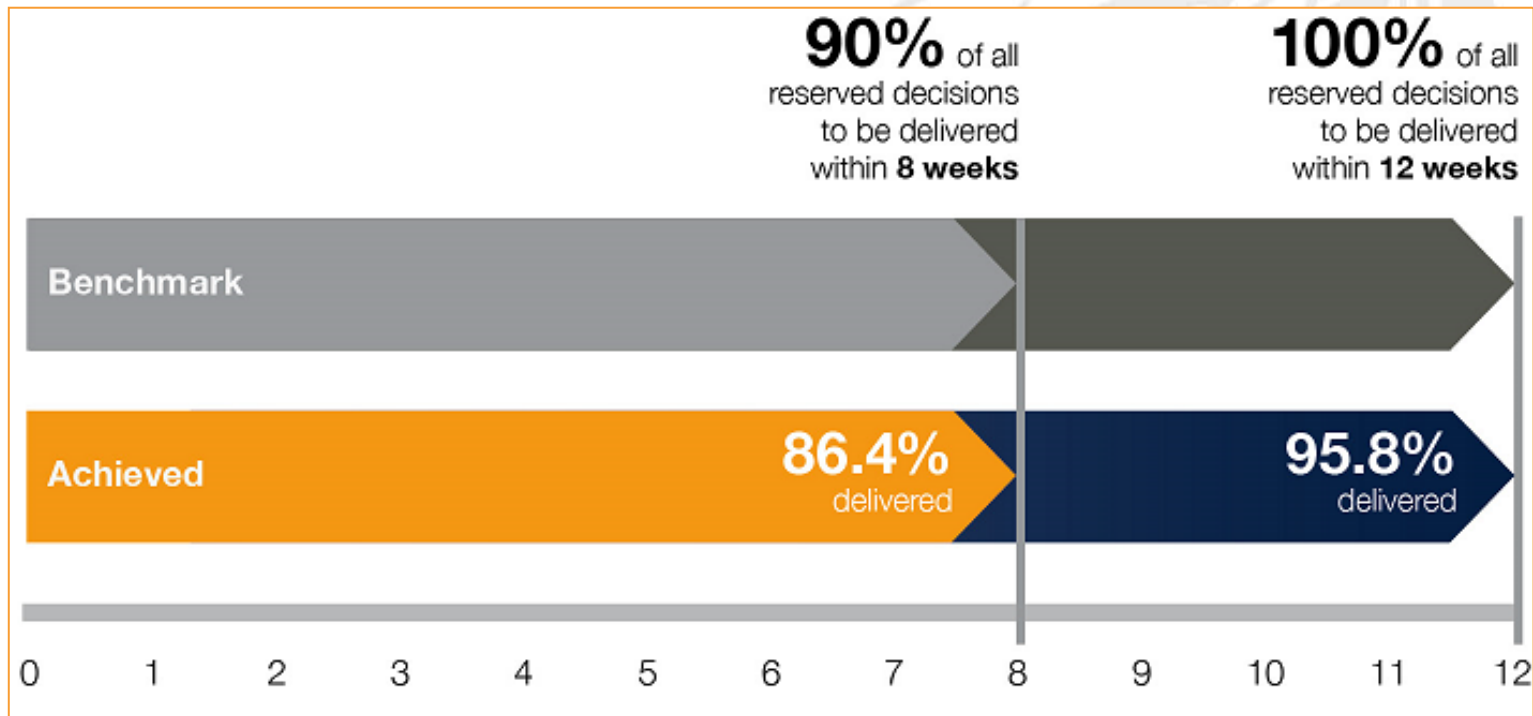
for Australia's National Workplace Relations Tribunal

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- Promoting fairness and improving access
- Efficiency and innovation
- Accountability
- Productivity and Engagement

# Improving our performance

## Reserved decisions benchmark November 2013 – April 2014



Time will run from the final day of the hearing or the date of receipt of the last written submission, whichever is later.

# Promoting fairness

## Online information tools

### Have you been dismissed?



Check if you're eligible to lodge an application for **unfair dismissal**

#### Checklists for applicants

The following checklist applies if you are the applicant (employee) in an unfair dismissal matter:

- Interactive applicant's merits checklist
- Printable applicant's merits checklist

The following checklist applies if you are the applicant (employee) in an unfair dismissal matter where the respondent (the employer) has objected to your unfair dismissal application and raised an objection, you do not need to use this checklist:

- Interactive applicant's objections checklist
- Printable applicant's objections checklist

#### Checklists for respondents

The following checklist applies if you are the respondent (the employer) in an unfair dismissal matter:

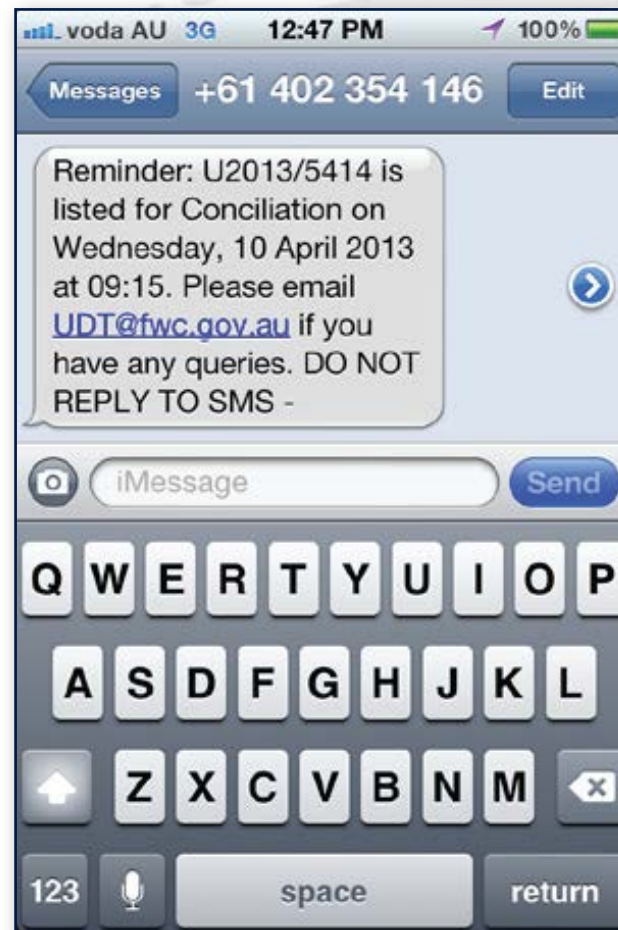
- Interactive respondent's merits checklist
- Printable respondent's merits checklist

The following checklist applies if you have objected to the unfair dismissal application and raised an objection, you do not need to use this checklist:

# Innovation

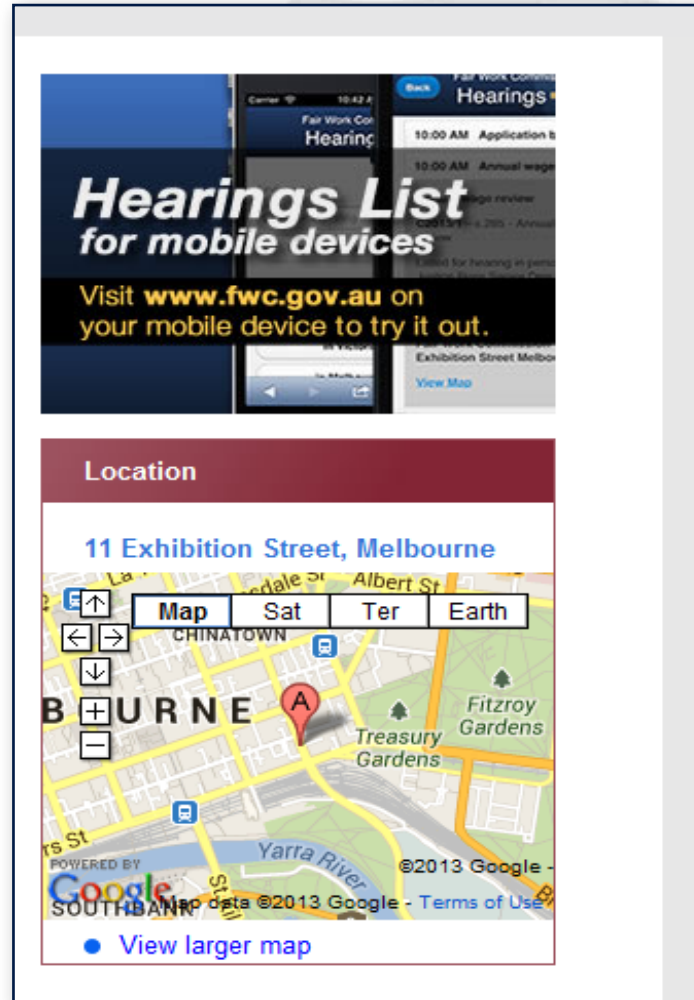
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## SMS notifications



# Innovation

## Hearings lists for mobile devices



# Continual improvement – the next phase

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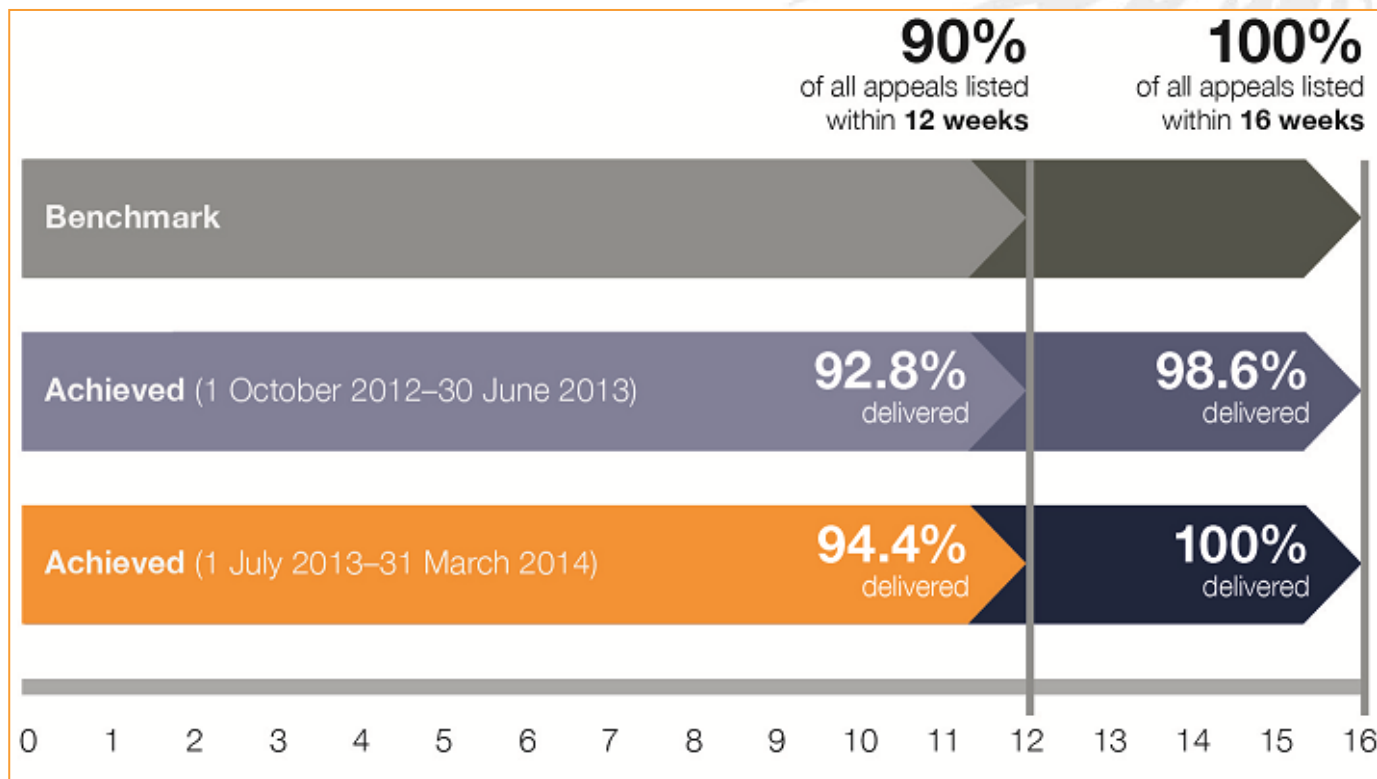
## Some of the new initiatives include:

- The introduction of an electronic case management system to improve processing times, and reduce costs for parties
- A review of the process for determining enterprise agreement approval applications to ensure the most timely and efficient resolution of these matters
- A qualitative research project to identify clauses in enterprise agreements that enhance productivity or innovation
- In conjunction with key stakeholders, the development and implementation of a strategy for the promotion of cooperative and productive workplace relations that facilitate change and foster innovation.



# Improving our performance

## Lodgement to first hearing performance



# Continual improvement – the next phase

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- Develop further benchbooks and make them available on-line.
- By the end of 2015 we will provide access to the audio files of most Commission hearings.
- In 2014-15 we will review the scope of the current pro-bono lawyer program to provide these services on a broader geographical and jurisdictional basis.
- Evaluate our performance against the Tribunal Excellence Framework.

# Anti-bullying jurisdiction: Experience to date

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- High level of inquiries to FWC website and AB calls to the FWC Help Line
- 348 AB applications by end June 2014
- Triage working effectively to confirm applications and facilitate effective responses
- 100% of matters commenced within 14 day period
- A proportion of applications were withdrawn when nature of remedy/jurisdictional requirements confirmed (some not served)

# Anti-bullying jurisdiction (cont)

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- Most applications involve alleged bullying by fellow employees or managers/supervisors and the issue of reasonable management action is regularly raised by employers
- Early matters have been assigned to Members (90%) or staff mediators
- Of those assigned matters that have been finalised – 46% resolved, 39% withdrawn, 14% dismissed (incomplete applications, jurisdiction or merit)
- Other applications being considered by the Commission – most via preliminary conferences – some decisions pending

# General Protections Matters

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## Disputes Involving Dismissal (s. 365)

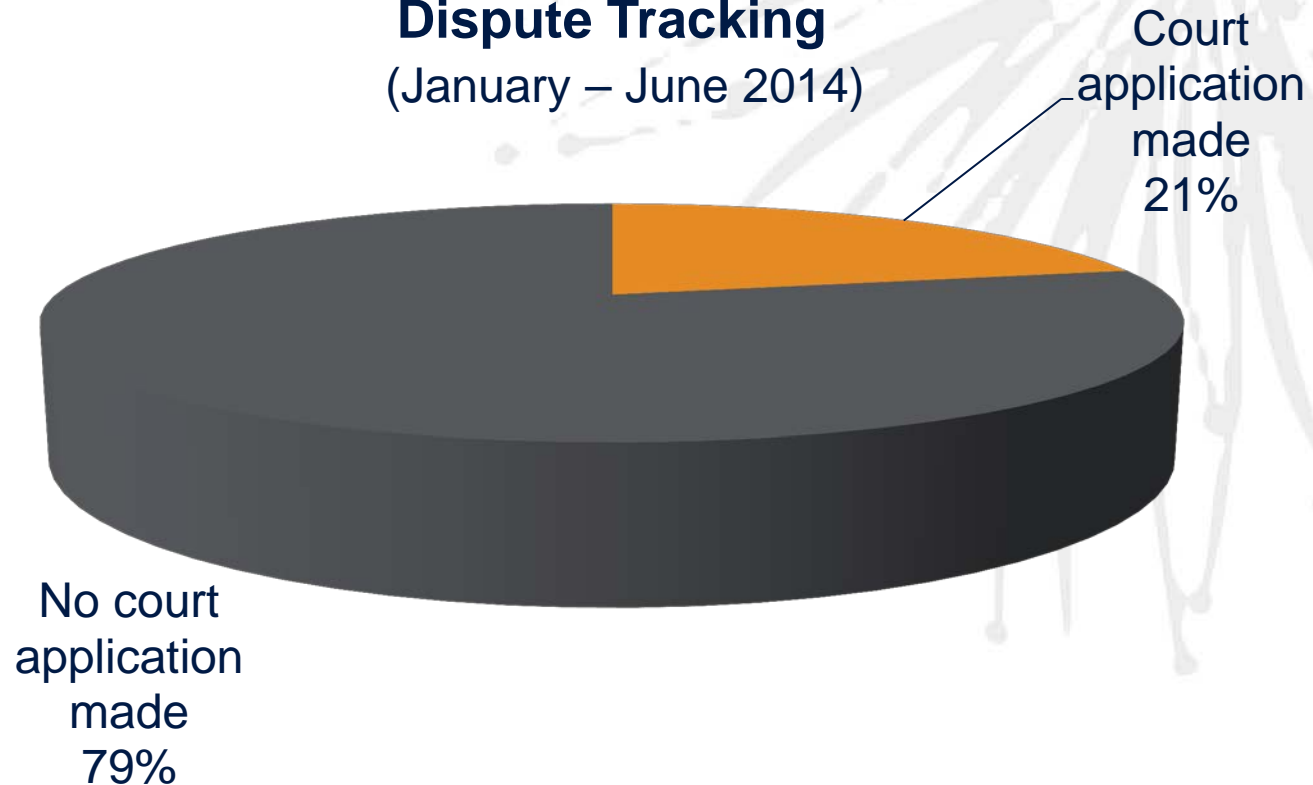
(January – June 2014)



# General Protections Matters

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## Disputes Involving Dismissal (s. 365) – Dispute Tracking (January – June 2014)

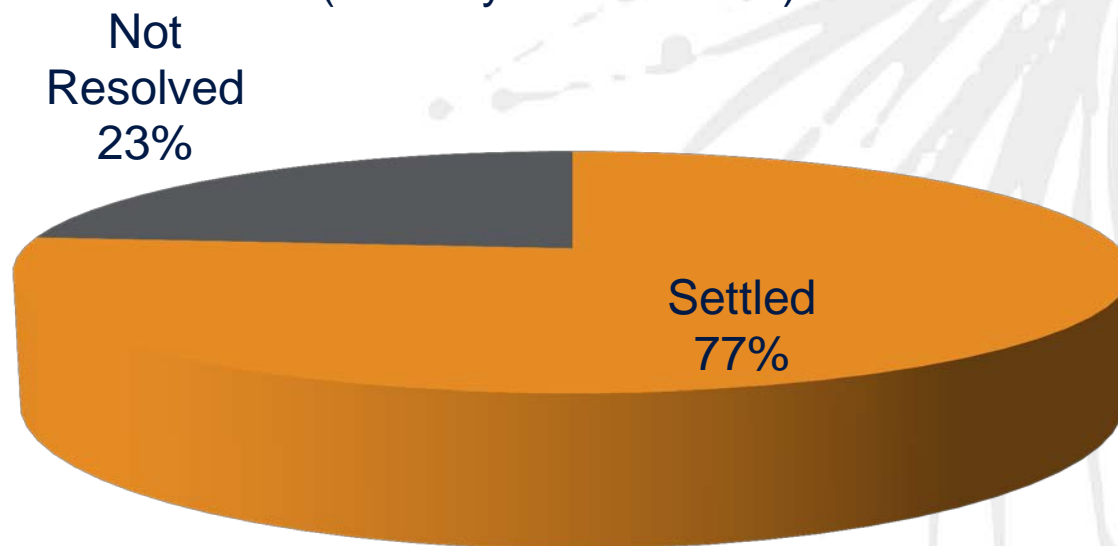


# General Protections Matters

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## Disputes Not Involving Dismissal (s. 372)

(January – June 2014)

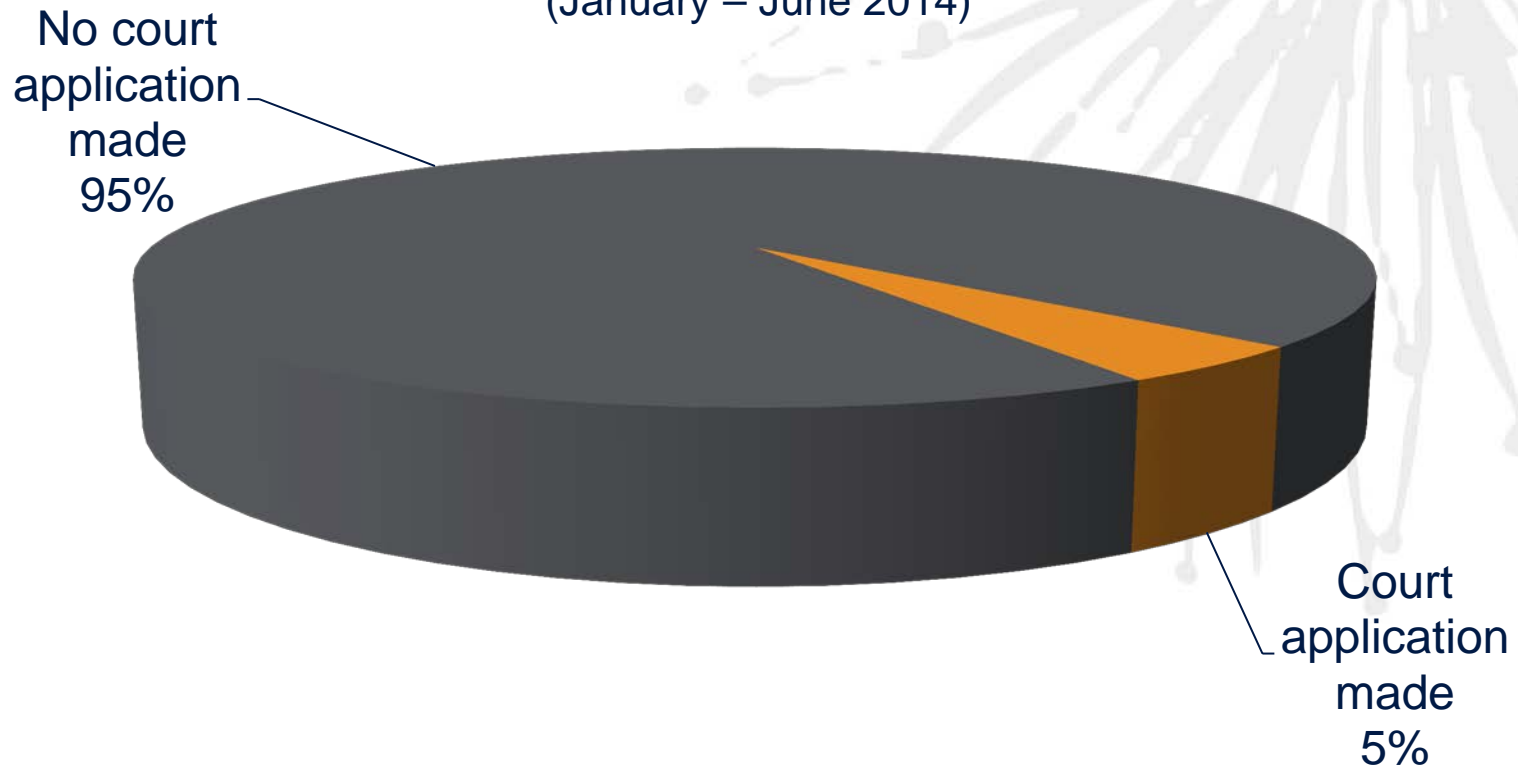


# General Protections Matters

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## Disputes Not Involving Dismissal (s. 372)

**Dispute Tracking**  
(January – June 2014)





# Significant FWC Decisions

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- *Appeal by Restaurant and Catering Association of Victoria* [2014] FWCFB 1996
  - Majority: reduction in Sunday penalty rates for casuals working in restaurants/cafes from 75% to 50%
- *AWU v State of Queensland (Department of Communities, Child Safety and Disability Services)* [2014] FWCFB 5546
  - State of Queensland not covered by FW Act provisions allowing FWC to make orders where an employer intends to terminate more than 15 employees and has not consulted or notified relevant unions

# Significant FWC Decisions (cont.)

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- *Victorian Association for the Teaching of English Inc v de Laps* [2014] FWCFB 613
  - Failure to allow support person to speak on employee's behalf at a meeting or discussion that could lead to dismissal is not, of itself, a basis for finding unfair dismissal based on lack of procedural fairness
- *Peabody Moorvale Pty Ltd v CFMEU* [2014] FWCFB 2042
  - Notice of representational rights must comply strictly with FW Act requirements, or entire bargaining process may be invalid. Employers must not provide additional material with notice of representational rights

# Significant FWC Decisions (cont.)

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- *The Australasian Meat Industry Employees Union v JBS Australia Pty Ltd* [2014] FWC 2254
  - “Stand down” provision in enterprise agreement did not allow the employer to stand down workers who were intending to strike. Further, employer response action will not fall within the FW Act if it is taken prior to the industrial action occurring.



# Questions