

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Supplementary Budget Estimates 2015 - 2016

Agency - Fair Work Commission

Department of Employment Question No. EMSQ15-000451

Senator McKenzie provided in writing.

Question

FWC - Conciliation process – General Protections and Unfair Dismissal - medium

Are conciliations done in person or over the phone?

a) What proportion is done via phone versus in person?

b) Is this the case for both unfair dismissal and general protections conciliations?

11. Are telephone considerations ever conducted by a conciliator in a different state to the parties?

a) If so, what proportion of telephone conciliations are conducted in this way?

b) Please provide a breakdown of telephone conciliations conducted by a conciliator out of their home state.

Answer

Staff conciliations for unfair dismissal and general protections disputes involving dismissal are generally conducted over the telephone. This is the Fair Work Commission's (the Commission) preferred method for conducting conferences as feedback from parties consistently supports this approach as being convenient and timely.

Requests can be made to conduct in-person conferences and, except in exceptional circumstances, the Commission usually requires the consent of both parties to conduct the conference in this way before approving this request. Such requests are made in writing citing substantial grounds for the request.

There are circumstances where the Commission will arrange an in-person conference on its own motion and in those circumstances the Commission advises the other party of this arrangement. Such circumstances normally arise where reasonable adjustment is required to ensure the party can properly participate in the conciliation.

In the period 1 July 2014 to 30 June 2015, 256 unfair dismissal conciliation conferences were conducted in person, representing 2 per cent of all conferences conducted by staff conciliators. In the same period, in-person conferences conducted by staff conciliators were held in seven cases.

As the majority of conferences are held by telephone, the Commission does not require staff to be located in a particular state or territory to deal with applications lodged in that location. The Commission does have conciliators located in each state and the ACT to conduct in person conferences if required. The Termination of Employment Panel Head considers requests for in-person conferences in the Northern Territory on a case by case basis.

The model allows considerable flexibility when arranging conferences to ensure the timely and appropriate conduct of conferences.

Because of the flexible nature of this model, data is not collected on the proportion of conferences held by conciliators outside the state where they are located.