



FairWork
Commission

Council of Small Business of Australia

Justice Iain Ross AO
President

Summary

‘One of the great concerns for the small business community is the cost of employing people, not just in time and money but also in increased levels of personal stress for the employer....

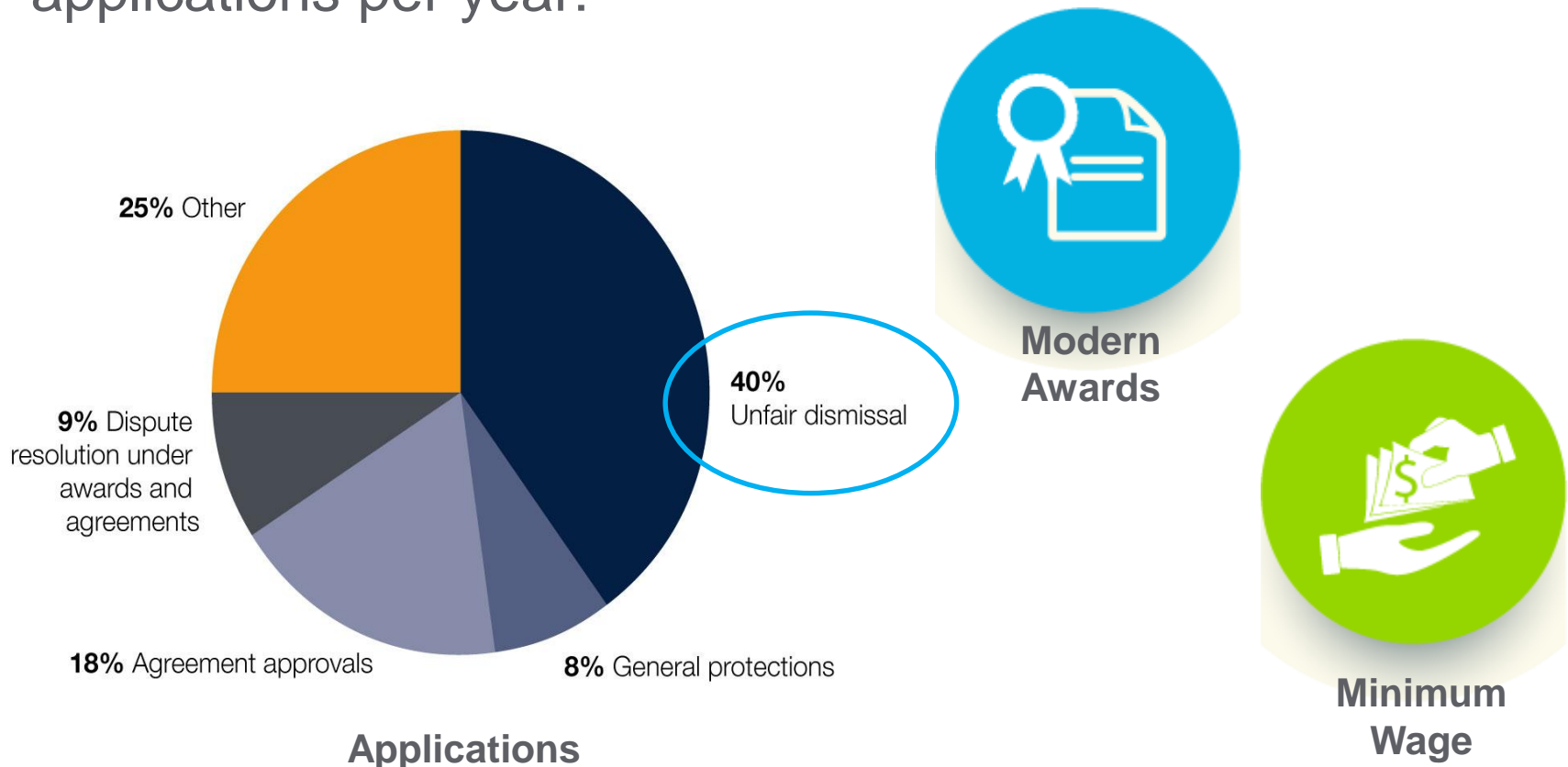
...In small business the employer is very rarely an expert on workplace relations. Yet they are expected to be an expert in this area as well as an expert on workplace health and safety, insurance, workers compensation, leasing requirements, competition law and the list goes on’

SOURCE: COSBOA submission to Productivity Commission

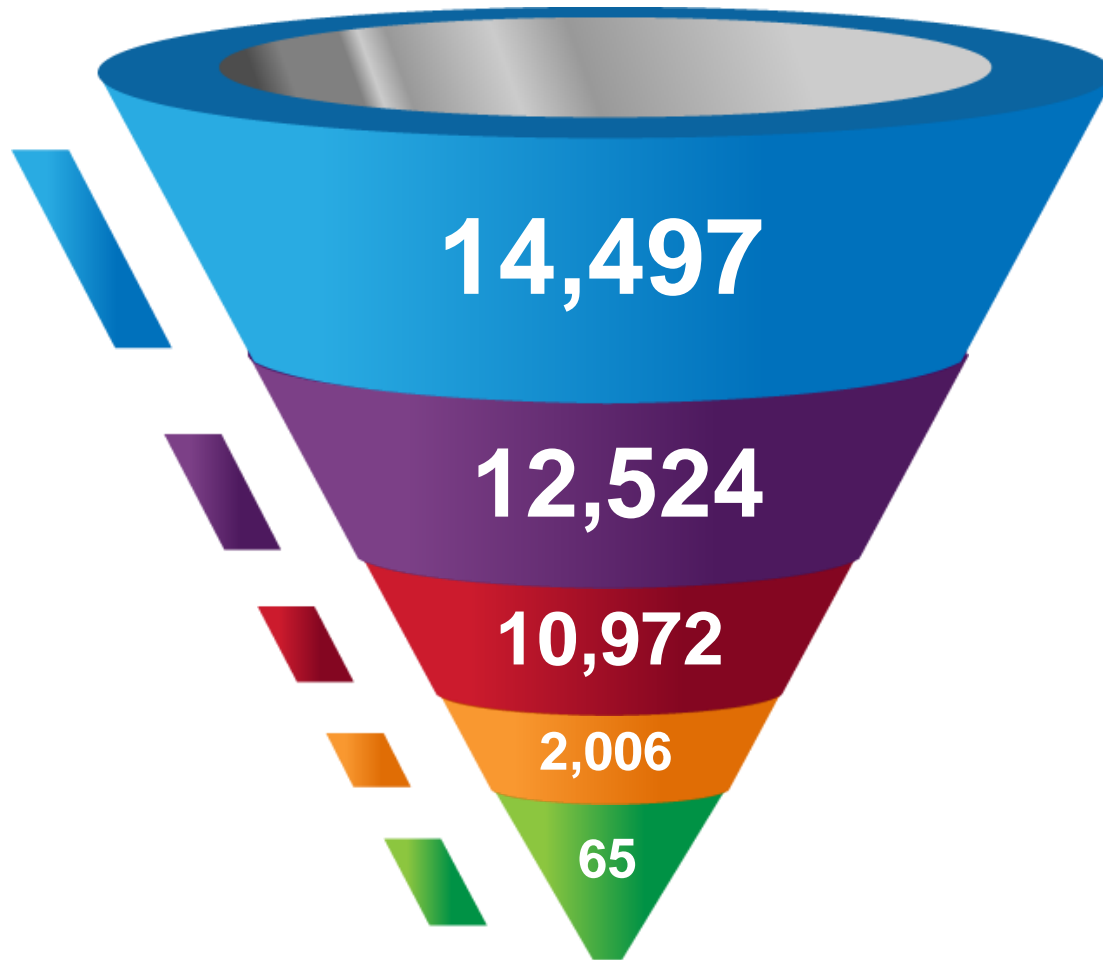


Overview

The Commission deals with approximately 37,000 applications per year:

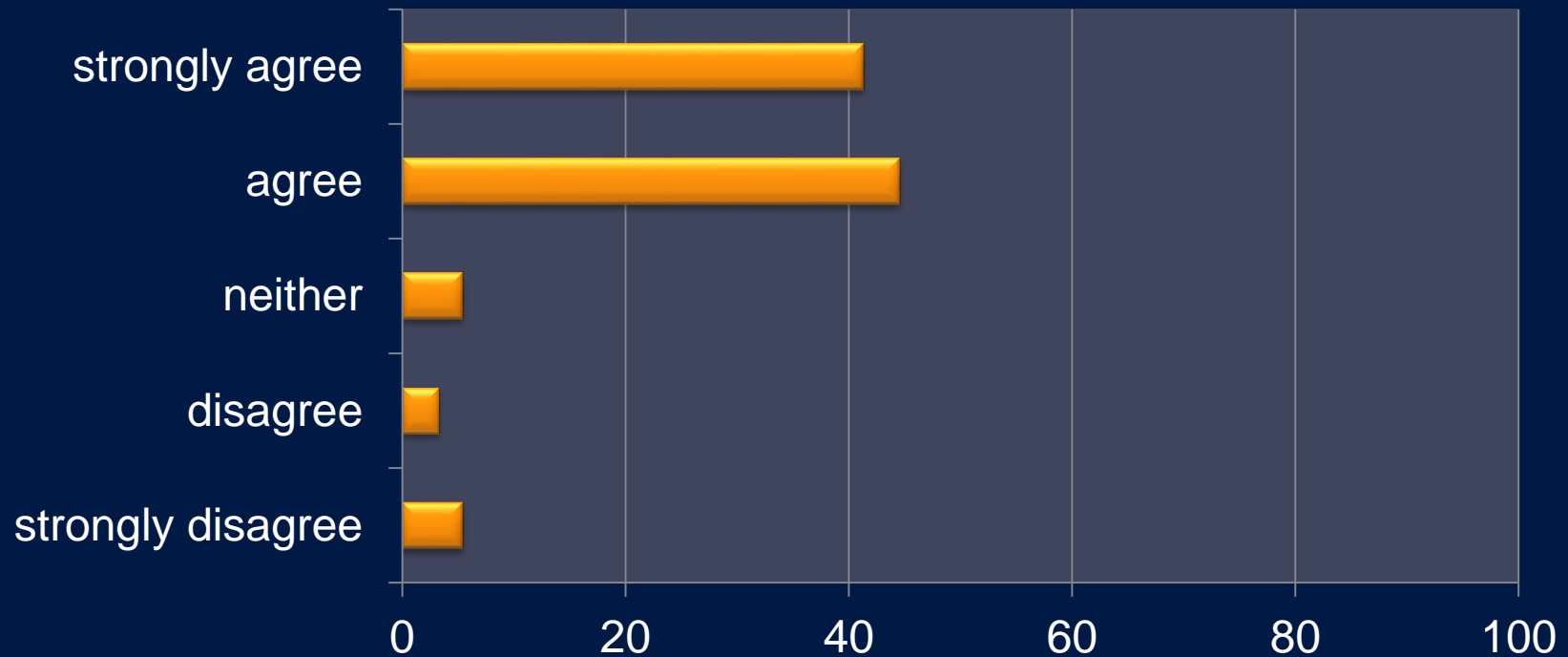


Unfair dismissal



Unfair dismissal

Overall I was satisfied by the service received from the FWC up to the conclusion of conciliation (% of responses)

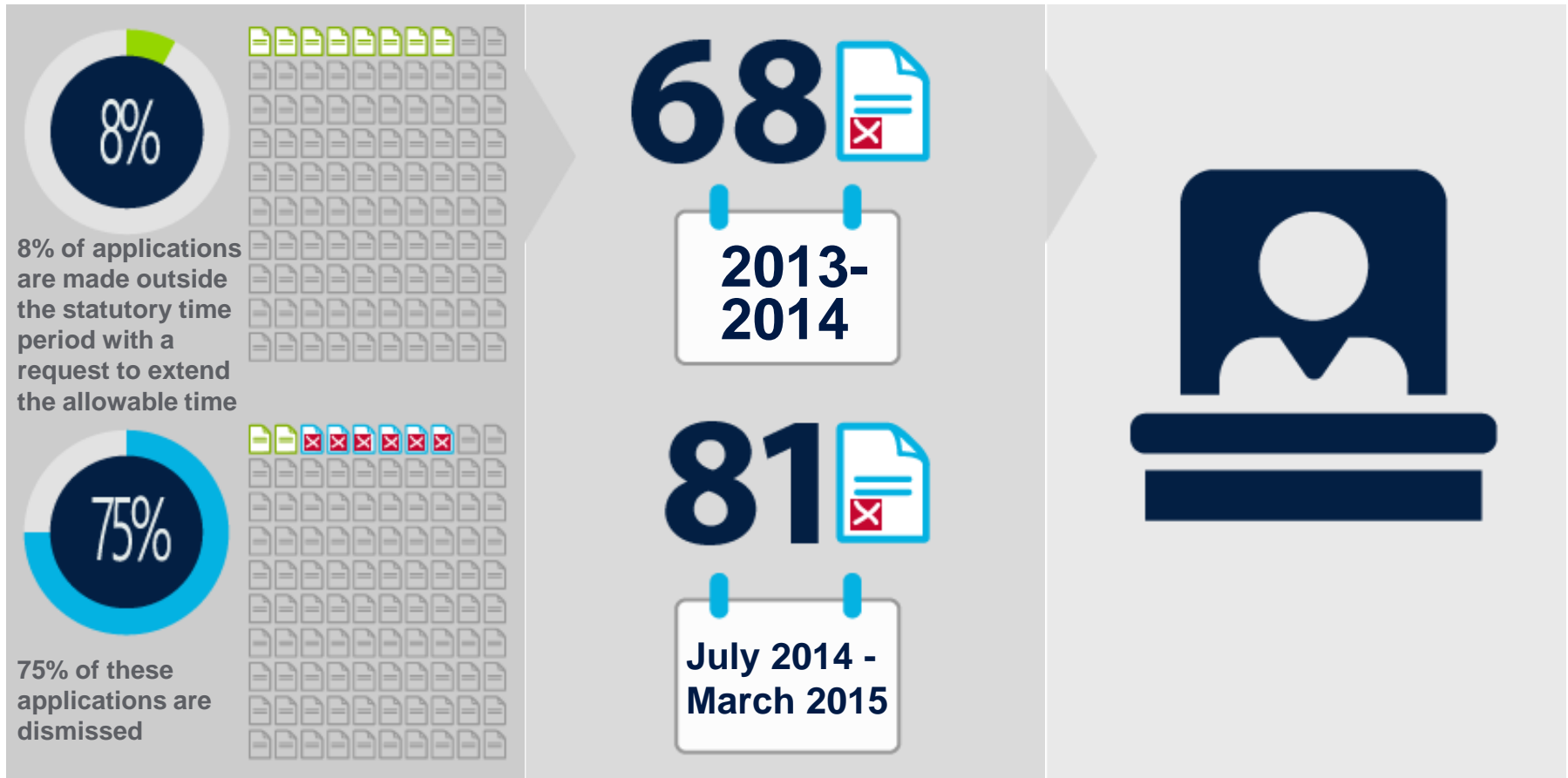


Unfair dismissal

Not all applications
go to conciliation

New powers to
dismiss applications

Simplified Hearing



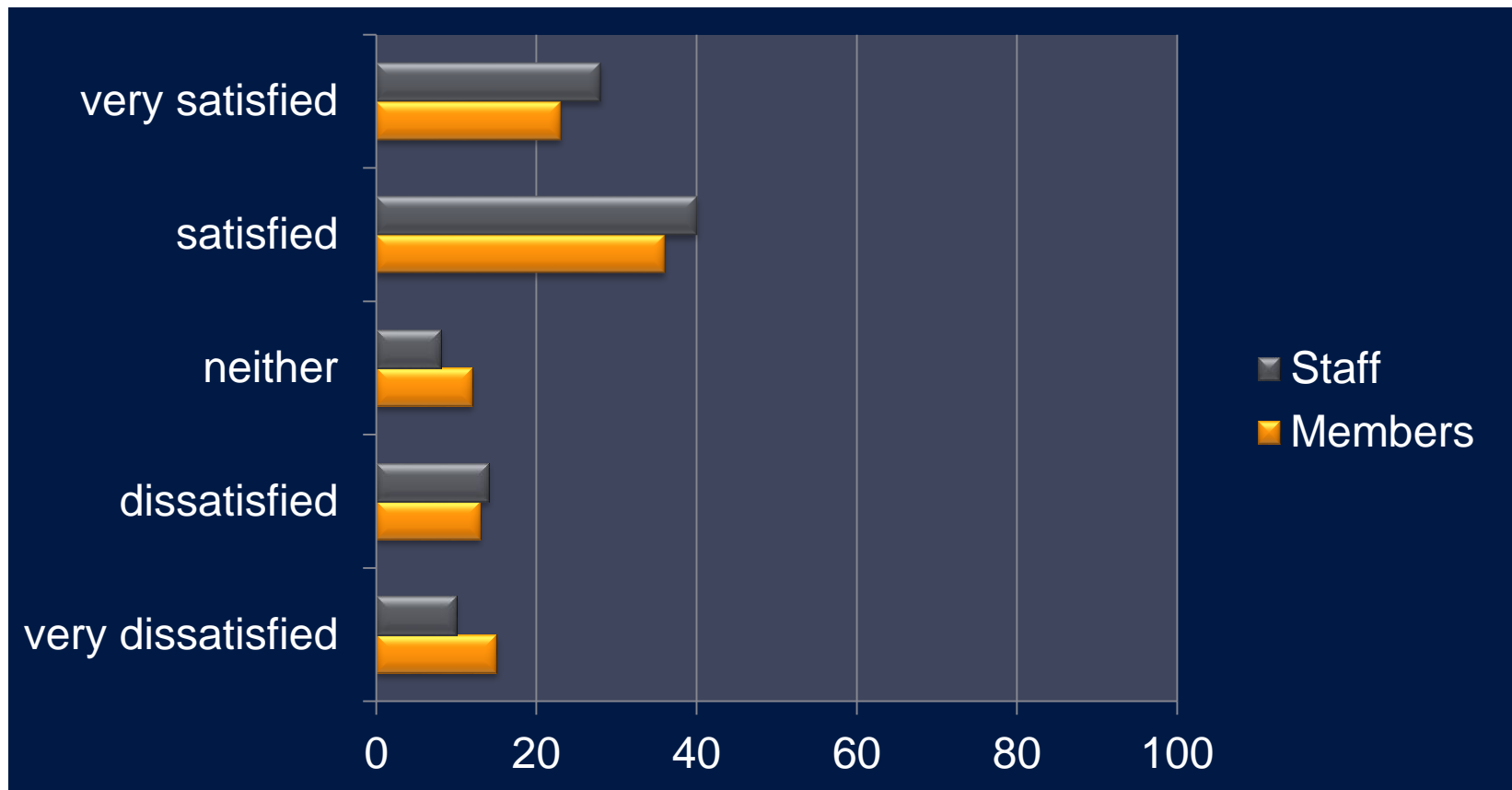
General protections

- Pilot study conducted in 2014-15 to improve services to the community, including small business, to resolve disputes
- Uses the successful telephone conciliation model, with staff conciliators conducting conferences
- More matters resolved more quickly and informally
- Applications made out of time decided before conference
- Surveys conducted to measure satisfaction



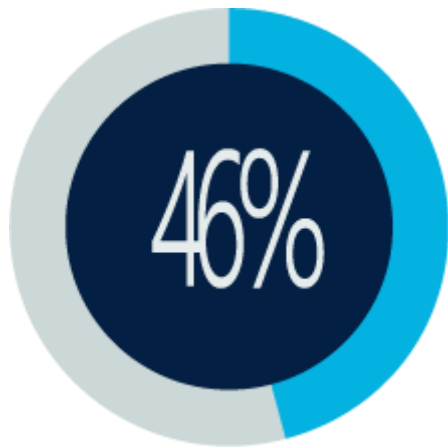
General protections survey results

Satisfaction survey: overall satisfaction with general protections conferences



Anti-bullying

New jurisdiction, opportunity to review service model and adopt active case management :



**Applications
finalised without
a conference or
hearing**



**Involving small
businesses**



**Engagement
with parties**

Modern Awards Review

- Award compliance impacts significantly on small businesses
- Nearly one third of employees in small business are award reliant
- Around 11 per cent of small businesses are covered by more than one award
- Navigating awards should be more straight forward
- Vital that we collaborate with small business to modernise awards



Modern awards

Number of awards used in businesses

Source: Award Reliance Survey.

Business size	Proportion of businesses using one award	Proportion of businesses using more than one award
	(%)	(%)
Small (1–19 employees)	89.0	11.0
Medium (20–99 employees)	74.2	25.8
Large (100 or more employees)	58.1	41.9
All businesses	85.7	14.3

Current modern awards

What did small business operators say?

”

“We’re small business people...we can’t afford to pay lawyers and employment people to do all this for us, so I find it very hard with all those words, and then to say ‘unless you both agree to it’. Well, that just doesn’t make any sense.”
(1-8, Vic Metro , More familiar)



”

“It’s a document written for the person who wrote it... lawyers – not the person who will actually use it. Not small business owners like me.”
(11-19, NSW Metro , More familiar)



”

“To get it right you have to read all of this, it’s backwards and forwards and it’s just stupidity.”
(1-8, NSW Regional, More familiar)



Key Insights - Summary

Text heavy

Unwanted information

Difficult to navigate

Times New Roman font

Complex structure

Ambiguous

Constantly changing

Too long

Density of content

Jargon / legalese

Cross over with other docs

Vague

Wrong focus

Complex sentences

Annual leave – key outcomes

- Employers able to direct employees to take leave if more than 8 weeks accrued
- Employees able to ‘cash out’ up to two weeks leave per year
- Employers able to recover monies from employees (on termination) who take leave in advance of accrual
- Employers no longer required to pay wages in *advance* of employees commencing annual leave
- Employees may be able to ‘purchase’ leave



We have listened

Annual leave

Award flexibility

Redrafting awards

- Detailed schedules of hourly rates, including penalties and overtime
- Schedules of allowances expressed as \$ amounts

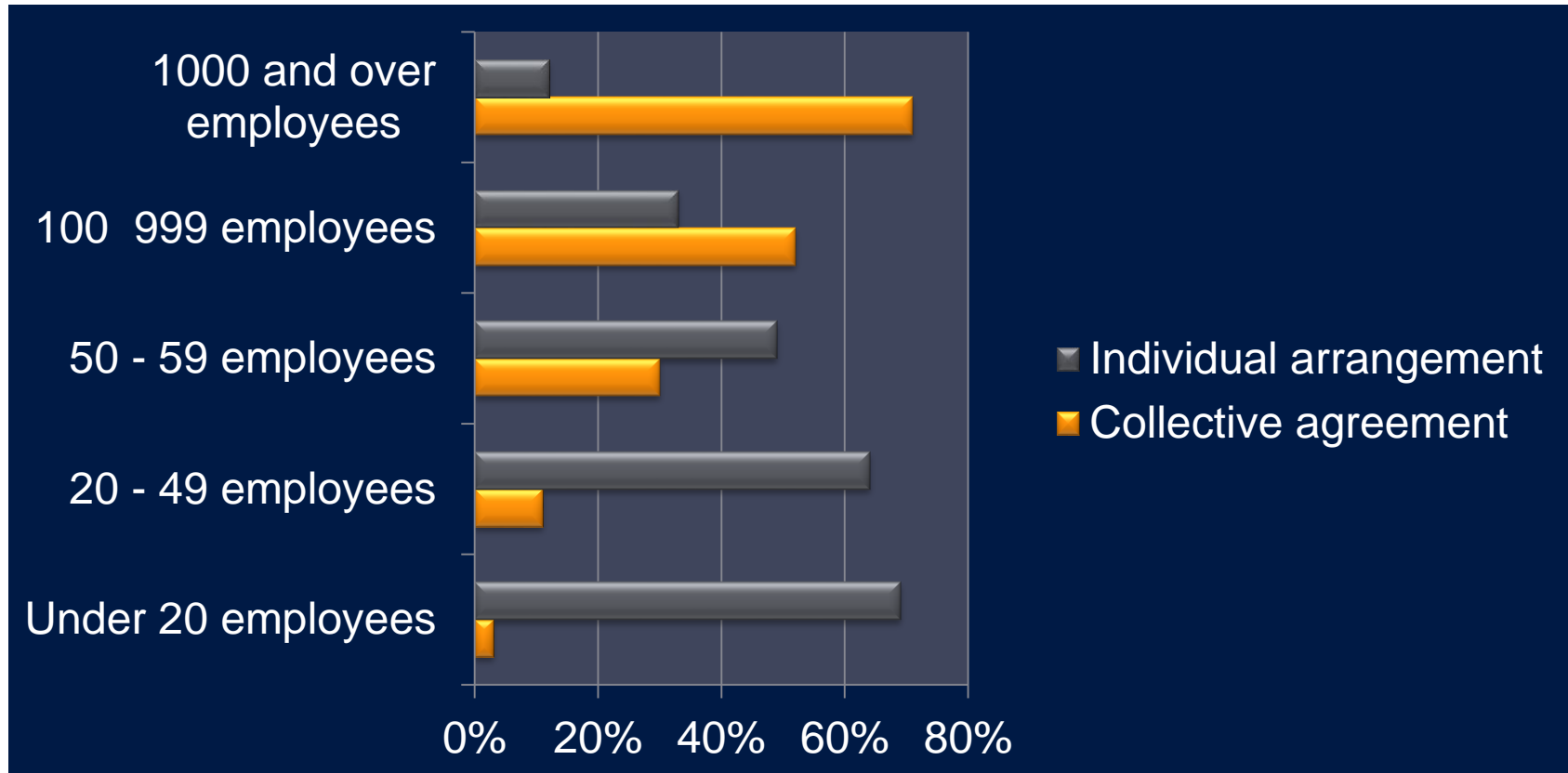
Current matters

- Review of penalty rates
- Minimum engagement of casual employees
- Rostering of part time employees
- Application from Australian Business Industrial and the NSW Business Chamber

Future of Modern Awards



Small business and enterprise agreements



Note: Data on method of setting pay by business size exclude owner managers of incorporated businesses.

Source: ABS, *Employee Earnings and Hours, Australia*, May 2012, Catalogue No. 6306.0.

Small business and the Commission



Information if and when needed

Ask, not assume

**Web survey –
200 small
businesses**

Pilot studies

**What works for
you?**

**Award and
agreement
focus groups**

Tell us

Small business and the Commission

The screenshot displays the Fair Work Commission website. At the top, the logo features two kangaroos flanking a shield with the word 'AUSTRALIA' below it. To the right of the logo, the text reads 'Fair Work Commission' and 'Australia's national workplace relations tribunal'. A search bar on the right contains the text 'Search our website' and a magnifying glass icon. Above the search bar, a link says 'Search Commission documents' with an external link icon. Below the header is a navigation menu with seven items: 'Creating fair workplaces' (with a home icon), 'Awards and agreements', 'Resolving issues, disputes and dismissals', 'At the Commission', 'Cases, decisions and orders', 'Registered organisations', and 'About us'. The main content area has a dark background with the text 'Helping Australians create fair and productive workplaces' and a yellow button labeled 'WHAT'S ON TODAY'. Below this are three interactive cards. The first card, 'EMPLOYEES', features a man's face and a dropdown menu with 'GO'. The second card, 'EMPLOYERS', features a woman's face and a dropdown menu with 'GO'. The third card, 'SMALL BUSINESS EMPLOYERS', features two women's faces and a dropdown menu with 'GO'. A large orange hand icon is pointing at the 'SMALL BUSINESS EMPLOYERS' card. At the bottom, there are links for 'Employer groups', 'Independent', and a button to 'Watch the AWR 2015 decision'.

Fair Work Commission
Australia's national workplace relations tribunal

Search Commission documents

Search our website

Creating fair workplaces | Awards and agreements | Resolving issues, disputes and dismissals | At the Commission | Cases, decisions and orders | Registered organisations | About us

Helping Australians create fair and productive workplaces

WHAT'S ON TODAY

EMPLOYEES →

I want to: ▼ GO

EMPLOYERS →

I want to: ▼ GO

SMALL BUSINESS EMPLOYERS →

I want to: ▼ GO

Employer groups | Independent | Watch the AWR 2015 decision

Small business and the Commission

Small business employers

Learn about workplace dispute resolution.

PROVIDE FEEDBACK ABOUT THE COMMISSION



What are my rights and obligations?

Dealing with unfair dismissal claims

What is workplace bullying?

Creating fair workplaces

What the Commission can do for small business employers

1. Help resolve issues, disputes and dismissals
2. Make or vary enterprise agreements
3. Tell you if a right of entry permit is valid
4. Help you find an agreement or find an award
5. Provide resources in languages other than English

What the Commission cannot do for small business employers

1. Give advice on exercising rights and obligations
2. Tell you which award or agreement applies to your business
3. Tell you what you need to pay your employees

When do I go to the Fair Work Ombudsman?

1. You can call the Fair Work Ombudsman Small Business Helpline for quick and easy access to workplace relations advice. Contact the helpline by calling **13 13 94** and pressing option 2.
2. To find information for small business ☐
3. To check wages and entitlements ☐ for employees
4. For information on payslips and record-keeping ☐

Small business and the Commission

Please provide your feedback and we will respond within 24 hours.


Enter your contact details and feedback

Name *

State Territory *

- Select - ☐

Please provide your feedback here: *



How would you like to be contacted? *

Phone ☒

Please indicate your contact details below so we can reach you.

Phone number

Email address

What time of day suits you to be contacted? *

SUBMIT