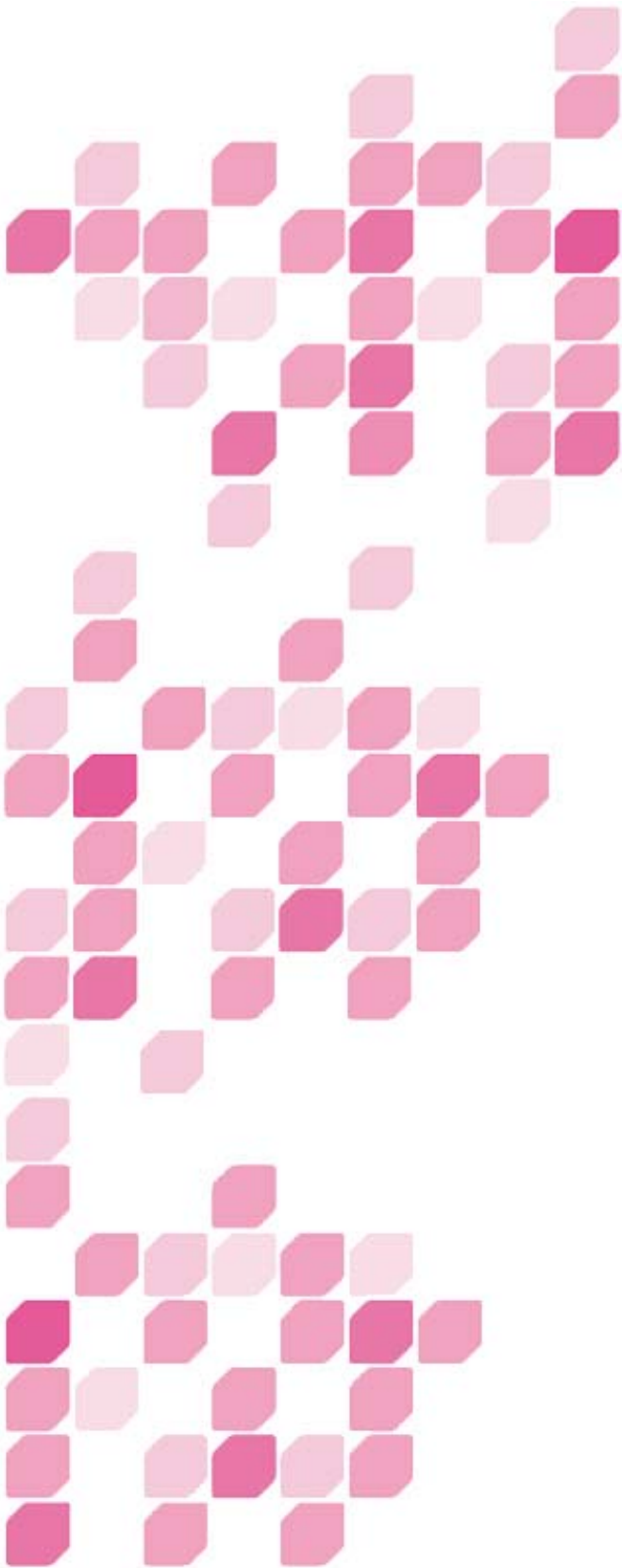




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A RESEARCH REPORT

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Executive summary

The Australian Fair Pay Commission is an independent body responsible for adjusting federal minimum and classification wages to promote the economic prosperity of the people of Australia. The Commission makes decisions based on research, meetings with stakeholders, public consultations and written submissions.

Consultation with national peak bodies is a key component of the Commission's activities. As representatives of significant segments of the employee and employer populations most affected by the Commission's decisions, these stakeholders are key contributors to the Commission's minimum wage review process.

Regular feedback from these stakeholders is an important means of improving the Commission's processes. This report outlines the key findings from the stakeholder research conducted over May-June 2008. This research was undertaken with the nominated representatives of eight national peak bodies involved in the Commission's 2008 Minimum Wage Review. The research focused in particular on the process leading up to the 2008 wage-setting decision, and follows a similar stakeholder study conducted in early 2007.

Key Findings

- The experience of key stakeholders throughout the Commission's 2008 Minimum Wage Review was generally very positive. Stakeholders expressed satisfaction with processes employed by the Commission. Several stakeholders reported very high satisfaction, and strongly endorsed both the overall architecture and approach, and/ or specific elements of the process. All stakeholders interviewed reported that they were satisfactorily engaged in the process, had an opportunity to contribute and felt that they were heard.
- There was evidence of a high level of awareness and understanding of the Commission's role and the minimum wage review process among national peak stakeholders. While in the 2007 study there was uncertainty among some stakeholders about exactly how processes would evolve, in 2008 stakeholders were clear and confident they understand how the review process works, including the key dates and activities, and the Commission's principles of operating.
- Compared to 2007 study, stakeholders were generally more positive, indicating refinement of the Commission's minimum wage review process and improved communication practices. Researchers observed more prominent positive feedback and several stakeholders themselves also highlighted this changed perception. Along with

higher levels of endorsement for the process, there was a feeling of greater stakeholder engagement and less uncertainty about how to engage with the process.

- Evolving flexibility and openness of the Commission's minimum wage review process was highly valued by some stakeholders. All stakeholders stressed the importance of both formal and informal components of consultation, and recognised the different roles these elements of the process play.
- While the Commission's minimum wage review process is better understood and accepted by stakeholders, there are still some 'grey areas'. The area requiring greatest clarity is around the research agenda and how stakeholders can be informed of and/ or contribute further to this.
- Considerable value was placed on commissioned research, with many stakeholders strongly endorsing this aspect of the Commission's minimum wage review process. Research was a high profile topic among all stakeholders, more so than in the 2007 study. The evidenced-based, decision making of the Commission was recognised and supported. Commissioning independent research was considered a key part of the minimum wage review process.
- Stakeholders acknowledged and welcomed the notion that the Commission's minimum wage review process and associated body of knowledge evolves and grows over time. There was an understanding that it is a continuous, cumulative process of information-gathering leading to a growing understanding of minimum wage issues over time.
- Feedback endorsing the operating principles and the conduct of the Commission was positive, particularly compared to the more tentative or qualified endorsement observed in the 2007 study when stakeholders were still forming an understanding about how the Commission operated.
- The operating principle around which there was greatest diversity of views was that of transparency. Transparency was seen as a highly important feature of the Commission's operating approach and it was generally accepted that this had increased over time as processes had evolved.
- There was however diversity of views around how transparency is manifested, and stakeholders drew different conclusions on this. Not all stakeholders were completely satisfied with the transparency of the Commission's minimum wage review processes to date.

- While transparency was clearly an issue of importance to all stakeholders, several tempered their comments with equal support for the accessibility and flexibility of the consultation process.
- The Secretariat was recognised by stakeholders as a highly important component of the Commission's minimum wage review process. Stakeholders reflected a positive relationship with the Secretariat and conveyed a high level of satisfaction with the logistical support provided during the consultation process, and the quality of interactions and communications with the Secretariat.
- Stakeholders were observed to be more engaged with the Commission's minimum wage review process and better informed when compared to the 2007 study, although the level of engagement differed among stakeholders. The information and relationship needs of stakeholders have evolved beyond the basic provision of information. It appears that the increased levels of understanding and confidence in the Commission's minimum wage review process is the result of higher levels of engagement.
- When asked to suggest improvements to the Commission's minimum wage review process stakeholders endorsed 'more of the same' with regards to written submissions, and both informal and formal consultations. There are some specific considerations for improvement however, as listed below.
 - *Research Advisory Committee:* There is opportunity to improve clarity on the role of the advisory group and the setting of the research agenda. Stakeholders (including those on the committee and those who are not) expressed a need to be better informed of the Commission's research agenda. A greater level of engagement, including increased frequency of meetings, would be welcomed by stakeholders. Review of membership is also a consideration as some saw value in a smaller group being consulted more intensively on specific issues.
 - *Transparency regarding consultation:* Some concerns were expressed over transparency with regard to consultations. These concerns include a lack of opportunity to comment on issues discussed at post-submission consultations. There was some concern expressed over informal meetings being held with stakeholders that are not documented in publications produced by the Commission. There was also a perceived lack of transparency in relation to information considered by the Commission in making some decisions. An example of this is the 2007 exemption for drought-affected farmers. The suggestion was made that the Commission publish more information or communicate more widely on the consultations that are carried out and how these will contribute to information-gathering, and have contributed to decision-making. For

example, some stakeholders suggested publishing a list of all consultations and providing some written summary of issues discussed during these meetings.

- *Formal and informal engagement:* While transparency was raised as a concern by some, generally stakeholders were eager to retain both formal and informal discussion opportunities. It was seen as important that the Commission remain accessible, and stakeholders valued the quality discussions that result from the opportunity for consultation with the Commissioners.
- *Decision Document:* There was some criticism that the Decision Document draws on some research that is unavailable to stakeholders prior to the wage-setting decision. It was felt this does not afford stakeholders the opportunity to review or critique this research. Some stakeholders suggested the Document would benefit from the inclusion of an index or reference tool.

1. Introduction and context

1.1. Background

The Australian Fair Pay Commission is an independent body responsible for adjusting federal minimum and classification wages to promote the economic prosperity of the people of Australia. The Commission was established under the *Workplace Relations Amendment (Work Choices) Act, 2005*. It replaces the wage-setting and adjusting functions of the Australian Industrial Relations Commission, which retains its role as a national tribunal dealing with employment disputes.

In adjusting pay rates for around one and a quarter million workers in Australia (or about twelve percent of the workforce), the Commission's decisions have a significant influence on the Australian economy. In a similar fashion to other key bodies such as the Reserve Bank of Australia, the Commission is established as independent from government. The Commission makes decisions of major social and economic importance, based on research, consultation with stakeholders, public consultations and written submissions.

During its first full meeting in March 2006, the Commission discussed its research program and endorsed a process that would result in the Commission being guided by the principles of:

- Independence
- Openness
- Honesty
- Transparency
- Fairness¹.

Building community understanding and developing a solid reputation (founded on these principles) are two important facilitators for effective information-gathering and decision-making. Consultation with national peak bodies is a key component of the Commission's activities. As representatives of significant segments of the employee and employer populations most impacted by the Commission's decisions, these stakeholders provide considerable input to the Commission's minimum wage review each year. Seeking regular feedback on the Commission's process from these stakeholders is an important means of improving the Commission's minimum wage review process.

¹ Australian Fair Pay Commission Annual Report 2005-06.

1.2. Evolution of stakeholder consultation

The Commission's minimum wage review process was first established in 2006 and since this time the Commission has made three minimum wage-setting decisions. The minimum wage review process with stakeholders (person, body or organisation) is specified in the Commission's statement of functions as outlined in this extract:

"2.5 Research and consultation

For the purposes of performing its wage-setting function, the Commission is authorised, by s. 24 (2) of the WR Act to inform itself in any way it thinks appropriate, including by:

- *undertaking or commissioning research; or*
- *consulting with any other person, body or organisation; or*
- *monitoring and evaluating the impact of its wage-setting decisions."*

The process used to engage stakeholders has involved written submissions and face-to-face consultations. The nature and timings of these have evolved over time to meet the needs of stakeholders and the Commission.

1.3. Nature and scope of this review

This research was undertaken with the nominated representatives of national peak stakeholders included in the Commission's 2008 Minimum Wage Review. The discussion with stakeholders focused in particular on the process leading up to the 2008 wage-setting decision and interviews were conducted in June. Many stakeholders' comments are based on reflection over the previous two minimum wage review processes and the changes observed during this time.

The research included canvassing feedback on the information-gathering processes used to inform decision-making. The 2008 Minimum Wage Decision itself was not in scope for review. Stakeholders involved in this research are high involvement organisations. They provide input via written submissions to wage reviews, supplementary post budget submissions to wage reviews, and participate in consultations with the Commission. Some of these stakeholders are also involved in other forms of consultation with the Commission such as the Research Advisory Committee and the Disability Roundtable. Face-to-face interviews were conducted with senior representatives from eight key stakeholder organisations and in many cases more than one participant provided feedback. The stakeholder organisations included:

- Australian Industry Group
- Australian Chamber of Commerce and Industry
- Australian Council of Trade Unions
- National Farmers' Federation

- Australian Council of Social Services
- Australian Hotels Association
- Australian National Retailers Association
- Australian Catholic Commission for Employment Relations

Semi-structured interviews were conducted with the nominated senior representatives of national peak stakeholders. The discussion focused on the following topics:

1. The written submission process
2. Consultation processes including:
 - formal and informal interactions with the Commission and Secretariat
 - the disability roundtable
 - the research advisory committee
3. Public information and supporting documents including:
 - information services
 - documents, papers and research reports
 - the website
 - the decision document
4. General views on process improvement – what works well and what could be enhanced.

A similar study was conducted in early 2007 involving face-to-face interviews with key stakeholders. This report provides an overall summary of the key issues raised by stakeholders in 2008, as well as the areas of specific feedback sought by the Commission. Where appropriate comparisons are made to feedback received in the 2007 study. The key outcomes from the report will be used by the Commission to further improve its processes for the 2009 Minimum Wage Review.

KEY FINDINGS

2. Overall experience

The experience of key stakeholders throughout the Commission's 2008 Minimum Wage Review was generally very positive. Stakeholders expressed satisfaction with processes employed by the Commission. Several stakeholders reported very high satisfaction, and were strongly endorsing both the overall architecture and approach, and/ or specific elements of the process. All stakeholders interviewed reported that they were satisfactorily engaged in the process, had an opportunity to contribute and felt that they were heard.

"I think the process is working very well, I can't fault it."

"We welcome the informal nature and exchange of views."

"I think they are doing it well."

Compared to the 2007 study, stakeholders were generally more positive, indicating refinement of the Commission's minimum wage review process and improved communication practices. Researchers observed more prominent positive feedback and several stakeholders themselves also highlighted this changed perception. Along with higher levels of endorsement for the process, there was a feeling of greater stakeholder engagement and less uncertainty about how to engage with the process.

"It's a very productive process. It's good because it's driven by outcomes and not dominated by process."

Other factors related to these positive perceptions included the professional nature of communications and general dealings both with the Secretariat and the Commission. The openness of the process was also frequently mentioned. The demonstrated focus on evidence and research in decision-making was seen as a key strength of the process that highlighted the independence of the Commission.

"I have been impressed by the robustness of process, the search for evidence."

"You can see economic rigour being applied to the process."

"It is expert driven, research driven decision making."

The collaborative nature of the process and the opportunity for dialogue and exchange of ideas was highly valued by stakeholders. Others made particular note of the level of engagement of the Commission – the Commission actively seeking input from stakeholders to better

understand issues in order to make better decisions. All stakeholders interviewed reported that they were satisfactorily engaged in the process, had an opportunity to contribute and felt that they had been heard.

"They are proactive, looking for a way to resolve issues, looking to understand our point of view."

"The process is essential to the integrity of the Commission and maintaining public support. It's about transparency and dialogue."

"I view it as very open, the Commission is very engaged"

"Gives us a fair opportunity to have our say, we also get the opportunity to inform them on issues that are at the front of their mind."

"The Commission listens and understands."

"I feel we have been heard"

3. Stakeholder awareness and understanding

There was evidence of a high level of awareness and understanding of the Commission's role and the minimum wage review process among national peak stakeholders. While in the 2007 study there was uncertainty among some stakeholders about exactly how processes would evolve, in 2008 stakeholders were clear and confident they understand how the review process works, including the key dates and activities, and the Commission's principles of operating.

When prompted on sources of this increased awareness, stakeholders appeared to have gained this understanding through informal and formal communication over time – stakeholders were not familiar with the published schedule of events but rather 'just knew' what was required.

There was acknowledgement that in its first year of operation there was limited lead time and that many of the problems experienced in the first round of consultation were now resolved. Many specific features of the Commission's process and principles were mentioned by stakeholders without prompting from interviewers, indicating a greater depth of awareness and understanding as well as a 'bedding down' of the processes and engagement over time.

There appeared to be wide-spread appreciation of the sensitivities that Commissioners deal with when making decisions via a more open consultative process. Several stakeholders commented on the balance required to maintain integrity and fairness while being open to engagement that enhances understanding:

"I think they walk the line well."

Participants in 2008 spoke with greater levels of confidence and surety about the process and reported being very clear on how they would be engaged or how they needed to respond in order to best contribute. The cyclical and now familiar and predictable nature of the yearly process was a positive feature, something which aided stakeholders in planning and responding as required.

"Timing is better than it has ever been. There are known dates...the process is fixed ..."

While the Commission's minimum wage review process is better understood and accepted by stakeholders, there are still some 'grey areas'. The area requiring greatest clarity is around the research agenda and how stakeholders can be informed of and/ or contribute further to this (see section 4.3 and section 5.3 for further detail on research). Related to this was the need for greater clarity around membership of the Research Advisory Committee. Not all stakeholders were clear about the level of involvement or membership their organisation held in such consultations. Few stakeholders spoke with confidence about the terms of reference, frequency

of meetings or purpose of these consultations, indicating lower levels of awareness and understanding relative to other stakeholder engagement practices.

Stakeholders were observed to be more engaged with the Commission's minimum wage review process and better informed when compared to the 2007 study, although the level of engagement differed among stakeholders. The information and relationship needs of stakeholders have evolved beyond the basic provision of information. It appears that the increased levels of understanding and confidence in the Commission's minimum wage review process are the result of higher levels of engagement. This may not be the position for stakeholders who have not been engaged in this same manner however, and should not be taken as a representative measure of the awareness and comfort levels of all stakeholders.

4. Consultation architecture and management

4.1. Evolution of consultation and engagement

As outlined previously, there was general endorsement of the Commission's wage review process. There were however, some exceptions in regard to specific elements where improvements were suggested (see section 5 and 6). The process was observed to have evolved since the first round of consultations when time pressures impacted the process and both the Commission and stakeholders were learning how to work under the new system. In the main, stakeholders reported that there was an appropriate mix of informal and formal modes of interaction to adequately engage their organisation in the process.

"Processes have been good (compared to the past)...given the circumstances of their establishment and the speed of establishment (in early days)."

It was observed by stakeholders that the processes have not changed markedly, but are more clearly articulated and accepted, providing enhanced engagement opportunities and open communication.

"The processes have not changed dramatically...there is the right balance between procedure, fairness and informality."

"The process has become more informal and there has been more engagement...more contact...more discussion."

"We have built up a relationship through working with them. It was evident from the outset that there was an openness to this (from the Commission and Secretariat)."

Stakeholders acknowledged and welcomed the notion that the Commission's minimum wage review process and associated body of knowledge evolves and grows over time. There was an understanding that it is a continuous, cumulative process of information-gathering leading to a growing understanding of minimum wage issues over time.

"Decisions are based on accumulated knowledge and consultation"

Stakeholder: *You can see the development of the argument building...of consultation back and forth, ongoing discussion.*

Interviewer: *For example?*

Stakeholder: *The Commission calls to follow-up or get more information or discuss things they have an issue with.*

The sense that the Commission's minimum wage review process involves an ongoing program over the year rather than a 'one-off wage case' was evident, although this was more clearly recognised by some stakeholders than others. Some stakeholders were particularly focused on the submissions and formal meeting process over other opportunities to contribute to the Commission's thinking or body of knowledge.

Several stakeholders noted the opportunity to discuss special cases and / or detailed issues affecting their industry or key membership group. Others spoke positively about opportunities to educate the Commission on key issues of interest and relevance from their perspective.

While the evolving flexibility and openness of the process was highly valued by some stakeholders, all stakeholders stressed the importance of both formal and informal consultations and recognised the different roles these elements of the process play.

"They are structured without being overly formal"

"Propriety and flexibility are both important."

"They have been very practiced in their approach."

It was noted by several stakeholders, however, that the balance between this formal and transparent process (which gives the Commission integrity) is the opportunity to engage at other levels and in an informal way (which gives the Commission a connection to and understanding of the issues).

"The consultative process has allowed for productive and grass-roots discussion."

Within this environment of less formal communication the foundations of information gathering, based on open debate of evidence, was well recognised and highly valued for ensuring sound decision making.

"I think the process has been more demanding [than the previous system]. There is more reliance on evidence...It's made clear, submissions require evidence...they are exposed."

4.2. Role of the Secretariat

The Secretariat was recognised by stakeholders as a highly important component in the overall functioning of the current system. The Secretariat was seen to have a separate and distinct role to the Commissioners and this was emphasised by some stakeholders as a particularly important feature for their confidence in the system. Some stakeholders specifically noted the support role that the Secretariat plays in coordinating practicalities and logistics of consultation. Many also highlighted the important activities the Secretariat undertakes, particularly in reference to research, that ensures the independence of the Commission.

Stakeholders reflected a positive relationship with the Secretariat and conveyed high satisfaction with the logistical support provided and the quality of interactions and communications with the Secretariat. In particular comments were made regarding the professional nature of their work and the smoothness with which events and meetings were organised and conducted.

The Secretariat was reported to pro-actively support processes by providing good notice of events, mailing out information or publications directly when required, and not relying on the website to ensure stakeholders were engaged or across information as needed. The Secretariat was seen to be considerate of the time of senior individuals within organisations and the contribution these key stakeholders make. Stakeholders also appreciated what may appear to be ‘the small things’ – that meetings start on time, agendas are set, papers are sent in advance so members can be consulted etc. – which all contribute to the professional image of the Commission.

All stakeholders felt that the Secretariat was available and most commented that they would feel comfortable calling the Secretariat, although some exhibited a higher level of comfort with this informal contact than others. Regardless of the frequency of contact, stakeholders reflected a higher level relationship than was described in the 2007 review. Many attributed the success of this relationship to the individual people and the skills they possess for the role.

“I know the Secretariat well and have had a lot of involvement...I find them very approachable.”

“They (the Secretariat) seem easier to deal with than other agencies...It’s their people and their practical level headedness...They are good bureaucrats with an openness to trying to resolve issues and resolve with practical outcomes. There is an openness at all levels of the organisation. They focus on the issues and not playing the blame game.”

Familiarity was welcomed but it was also noted that this should not (and does not) compromise the professionalism and propriety of the Secretariat given the role they play.

"I see Jennifer and her team doing a fantastic job. They have to walk a tricky line between vested interests and do it very well in a heated environment."

4.3. Role of research

Endorsement of the Commission's research role

Considerable value was placed on commissioned research, with many stakeholders strongly endorsing this aspect of the Commission's minimum wage review process.

"Research is something they (the Commission) will be remembered and recognised for."

Research was a high profile topic among all stakeholders, more so than in the 2007 study. The research commissioned and conducted by the Secretariat was often raised by stakeholders unprompted by researchers early in the interviews. As discussed earlier, the evidenced-based decision making of the Commission was recognised and supported, and referring to independent research was considered a key part of this decision-making process.

Stakeholders described the emerging role for the Commission in not only considering evidence presented through stakeholder submissions, but also in contributing to the evidence base and body of knowledge. The commissioning and conduct of research by the Secretariat was felt to be of considerable benefit for a number of reasons, including:

- Some stakeholders reported being unable to finance their own research projects and therefore relied on the research conducted or commissioned by other bodies. Knowing that the Commission is looking for evidence and that the Secretariat has a research group which could investigate issues and commission research, gave stakeholders confidence and provided an important research resource not previously available.

"We raise issues in our submission...and we are comfortable these things will be considered by the Commission, they will look into it...it will be tested by their researchers."

- Stakeholders commented on the nature of the research community in Australia being small, and that individual researchers are well known for previous studies. Within this context the Commission is seen to provide independent resources for collating statistics and exploring issues in an open and accessible manner for all stakeholders.

“(The Commission is developing an) independent body of knowledge that people can access.”

“(The Commission) should be a repository of economic and social information and research.”

- The Commission’s research was seen to contribute constructively to a growing knowledge base and evolving understanding of minimum wage issues, both within the Commission and the stakeholder community generally. Examples of key issues were provided, including the impact of wage rate changes and the role of research in helping to focus future discussions around evidence. The research was seen to influence the quality of submissions and shape discussion agendas between stakeholders and the Commission. The use of research was seen to provide transparency around the Commission’s thinking and decision making.

Use of research by stakeholders

All stakeholders commented that commissioned research was helpful for preparation of their submission. Most stakeholders actively used research provided by the Commission to expand their knowledge. In particular, the profiling of minimum wage earners was cited by several stakeholders as a useful update of old material they had previously relied on.

“We have used the research on who are the low paid, characteristics of low paid and the effects of wage changes, impact on different groups...we found this very helpful.”

Several stakeholders specifically commented on the usefulness of the *Economic and Social Indicators Monitoring Report*, noting it was helpful to have access to this information in a single consolidated document. Others felt that the *Economic and Social Indicators Monitoring Report* also served to highlight areas of focus for the Commission. Several stakeholders commented that they responded to issues raised in the report through submissions or consultations and, although they may not have agreed with all figures or interpretations of figures, the production of the report successfully fostered debate on the relevant issues.

“It’s objective, well researched, reflecting the current state of play.”

“It (the monitoring report) also sends a signal of the major data that the Commission is likely to reply upon in making their decision.”

The international comparisons research was also raised as a valuable exercise contributing to an expanding knowledge base.

Given the high level of interest in the research and the desire to use and/ or respond to it as part of the submission process, it is not surprising that the most commonly expressed criticism of commissioned research reports and papers was in relation to the timing of release. In particular, where research that informs the Commission's decision is not made available to stakeholders prior to the decision being made.

"If the [research] is not available until it is published in the decision, then parties don't have time to consider it or respond."

"Parties have not had the opportunity to comment on them [research findings], or to draw on them as part of the submission."

"Research should be released as soon as it is provided to the Commission, but generally it is held back until the next round of decisions is made."

"New research could be highlighted in a 'what's new' section on the website...then everyone would know what is available...no one would be disadvantaged...Ideally all research would be available well in advance of the submission process."

The research agenda

While there was overwhelming support for the conduct of research in practice, there was however, debate over whether the research agenda was being appropriately set and how stakeholders can be informed of and/ or contribute further to this (including a range of feedback received around the Research Committee – see also section 5.3).

Some stakeholders were seeking greater opportunity to have input into the topics and scope of the research program. The issue of research into poverty, the cost of living and other related concepts was raised by several stakeholders. There were mixed views however on whether these particular topics were in or out of scope for the Commission.

Some stakeholders felt it would be beneficial to be involved in discussions around the scope and focus of research prior to its commissioning, that is, to be involved in formulating the research design or approach. This for example could assist in providing guidance and advice to pre-empt later criticisms or restrictions in end use:

"They could hear in advance what the potential criticism could be, for example, it could be viewed negatively...and they could deal with that up front."

Most stakeholders expressed opinions about the interpretation of research findings and welcomed the opportunity for increased dialogue and debate. Many felt that fostering discussion

of research findings and allowing for the contesting of results is an important feature of a transparent process. Some stakeholders cited the Research Advisory Committee as “a good first step” while others thought this could go further to include increased discussion, peer review and published comments on research by others in the field.

4.4. Principles and mode of operating

Stakeholders’ participation in the study provided opportunity for participants to comment and reflect on what they feel is important to facilitate their ongoing contributions to the information-gathering process. As outlined earlier, during its first full meeting in March 2006, the Commission discussed its research program and endorsed a process that would result in the Commission being guided by the principles of:

- Independence
- Openness
- Honesty
- Transparency
- Fairness²

This is further reiterated in the Commission’s publication outlining its functions (found on the website www.fairpay.gov.au):

“The Commission’s decisions will be based on the best available evidence and information, gathered through research, consultation and submissions from interested individuals and organisations. Access to the Commission is facilitated through a range of strategies to enable provision of information and individual views. The values of independence, openness, honesty, transparency and fairness will underpin the Commission’s conduct.”

In 2007 the Commission published Charter documents which outline the overarching approach to the three key elements of the minimum wage review process – submissions, consultations and research³. These Charters articulate the Commission’s commitment to these processes and include for example, reference to principles such as:

- Continuity
- Targeting and relevance
- Responsiveness and timeliness
- Accessibility
- Transparency and review

² Australian Fair Pay Commission Annual Report 2005-06.

³ See <http://www.fairpay.gov.au/fairpay/newspublications/plansandcharters/processesandcharters>

- Consistency and flexibility
- Evaluation and review
- Ethics and integrity
- Accuracy and objectivity

Stakeholders were not asked directly to assess the Commission on these principles; however, many issues were raised when discussing stakeholder satisfaction with submission, consultation and research processes. The concepts most frequently discussed related to independent, evidence-based decision-making; flexibility, openness and accessibility; and transparency. Each of these concepts is discussed in detail below.

Feedback endorsing the operating principles and the conduct of the Commission was positive, particularly compared to the more tentative or qualified endorsement observed in the 2007 study when stakeholders were still forming an understanding about how the Commission operated. The principle around which there was greatest diversity of views was that of transparency.

i) Independent, evidence-based decision making

Much has been written elsewhere in this report on the positive feedback provided by stakeholders with regard to the Commission's research agenda, and the overt reliance on evidence in the Commission's decision making. Stakeholders felt that this was a key strength of the Commission's process.

This was also evidenced by the satisfaction of stakeholders in regard to consultation processes. That is, stakeholders felt heard, felt that their views were important and that the Commission considered their input appropriately, even when the outcome of the decision was not in line with their recommendation. Stakeholders outlined a process which they felt was under-pinned by openness and integrity, one in which they were listened to and had trust in, for example:

"They ask for our views...they listen....they explain why or why not it's taken into account."

"The publishing of research....gives the opportunity to contest this data if you have any issues with it."

"It is good to know our information is valued."

"We are confident that we will be notified when our input is needed."

ii) Flexibility, openness and accessibility

In describing engagement with the Commission through submissions, and through formal and informal consultations, stakeholders clearly appreciated the combination of flexibility and structure and saw this as demonstrating both accessibility and transparency. Most stakeholders felt comfortable contacting the Commission about issues of relevance and importance to them and generally described the Commission as open, accommodating and responsive to requests.

“They have an open door”

“We know we can contact them anytime...they are very approachable”

The notion that anyone, including the general public, could contact the Commission and/ or provide written submissions was accepted as an important aspect of true accessibility and openness. Some stakeholders however felt that this openness could compromise transparency of the process unless there was some published documentation of both formal and informal consultations.

“How do we know who they have met with?”

“Does being open mean reacting to anything that is raised?”

Further, there appears to be a trade-off for some stakeholders between having Commissioners who are independent yet highly accessible, and responsive to invitations to consult. Stakeholder comments indicated a need for ‘middle ground’ where both objectives could be achieved. Some noted the particular role of the Secretariat in being a contact point separate to the Commissioners themselves.

A few stakeholders also noted that the Commission (and Secretariat) had been pro-active in engaging people, for example, through undertaking outreach activities to ensure they had consulted widely on key issues. The mailing out of published reports and active follow-up with stakeholders was also cited as a means of ensuring engagement and reinforcing the openness and accessibility of the Commission.

Adequate timelines were also cited as evidence of the accessibility and flexibility of the Commission. Stakeholders acknowledged that the Commission had adjusted timelines to provide sufficient time for organisations to be involved and prepare submissions without undue stress or restrictions.

iii) Transparency

There was high awareness of transparency as a key operating principle for the Commission, and general recognition that the Commission is actively striving to achieve this objective.

“They [the Commission] do a good job at ensuring everything is as open and transparent as it can be.”

Transparency was seen as a highly important feature of the Commission’s operating approach and it was generally accepted that this had increased over time as processes had evolved. There was however diversity of views around how transparency is manifested, and stakeholders drew different conclusions on this.

Key elements evidencing transparency included:

- The openness of the Commission in publishing their processes and activities - including for example, letters to peak bodies announcing upcoming activities and details of the consultation process with regard to timing which provided stakeholders with surety.
- The Commission’s website was mentioned unprompted by several stakeholders. It was reported to be helpful in terms of providing details on submission processes and timing.
- The submissions process itself was cited by stakeholders as evidence of transparency and openness.
- The call for submissions being widely published, the process being open for all to contribute to, and the publishing of submissions on the website in particular added to the transparency of the process.
- Post-submission consultations were conducted in such a fashion that stakeholders felt there was transparency around information-gathering and the consideration of this evidence. Stakeholders noted that compared to the previous wage-setting process, Commissioners would engage in debate, allowing stakeholders to ‘see their thinking’. This was described as an open and informal dialogue leading to higher quality engagement and obvious transparency.

Not all stakeholders were completely satisfied with the transparency of processes at present. Some preferred more information to be available about discussions held with other stakeholders, and/ or joint meetings among stakeholders to discuss issues raised in submissions. Stakeholders were concerned that any information which is influencing the

Commission's decisions be made available, and opportunities provided for stakeholders to respond to issues raised by other stakeholders in informal consultations.

Some stakeholders suggested that publishing a list of meetings/ discussions held (with whom, when, and the issues raised) would provide comprehensive transparency. However, other stakeholders reported that, in their view, transparency in decision making could only be achieved with full disclosure of information and dialogue from all parties (e.g. minutes or transcripts) that contributed to decision-making.

While transparency was clearly an issue of importance to all stakeholders, several tempered their comments with equal support for the accessibility and flexibility of the consultation process. Several stakeholders voiced strong opinions about their desire to maintain an informal meeting process. These stakeholders would prefer that consultations not be compromised or overburdened by administrative processes. All stakeholders valued the post-submission consultations with Commissioners and most positively endorsed the nature of these discussions as candid and free flowing. Some felt that a process of producing minutes would restrict this information exchange (and thus impact on decision-making) as well as result in considerable extra workload for the Secretariat.

"The consultation allows for outcomes without the cumbersome formalities."

"I wouldn't like to see the process being overloaded."

"We need to have transparency of meetings but not going to the level of having notes."

5. Components of stakeholder engagement

5.1. Submissions

Stakeholders commented positively on the submission process, feeling that the timings are clearly articulated and widely publicised. Some stakeholders were aware that the Commission's website outlines the submission process, including key dates, and all stakeholders were familiar with the timing and cycle under which the Commission operates.

Stakeholders endorsed the timeframe for submissions, both in relation to the amount of time allowed and the certainty of knowing the key dates well in advance. For many stakeholders the March timing for submissions was considered to be suitable, providing sufficient time for preparation following the Christmas period and not conflicting with other organisational priorities or activities.

"We know the timing for submissions in advance which makes the process easier."

"The process is better than it ever has been, the process is fixed in terms of dates and we have sufficient lead time to prepare."

The processes described by stakeholders in relation to the preparation of their submission varied. The majority described consulting internally with their members/ affiliates and drawing on expertise within the organisation as well as other materials and research, including that published by the Commission. Frequent mention was made of the lack of timely and up to date research and statistics and (within this context) the *Economic and Social Indicators Monitoring Report* was endorsed and seen as a useful resource.

A number of stakeholders operating under comparatively low levels of funding described the difficulty of resourcing the submission process and to have several representatives attend meetings where travel was involved.

"At times there is not a full awareness (at the Commission) of how small our resources actually are."

These organisations also commented that there is a strong requirement for submissions to be evidence-based and, as they are not in a position to commission their own research, they are particularly reliant on published research and statistics. In some instances stakeholders stated that, in preparing their submission, they would include a list of issues they felt should be considered by the Commission, though they may not be able to provide evidence to support or

quantify their assertions due to lack of resources. In such cases stakeholders were confident the Commission would give consideration to the issues raised.

Overall stakeholders feel that the submission process is working well and value it as a formal mechanism through which all interested parties have the opportunity to have their views heard. Several stakeholders commented that the open and inclusive nature of the submission process contributes positively to perceptions of transparency. In particular, comments focused on the publication of submissions on the Commission's website and the call for submissions being widely publicised.

"It [the submission process] is an essential part of the system. It wouldn't have the integrity if everyone didn't have the chance to be heard and all submissions were not available on the website...(The benefit is that the) Commission is informed by interested and different views and it ensures a degree of transparency."

5.2. Consultations

All stakeholders taking part in the research had recently been involved in a post-submission meeting that was attended by all five Commissioners. The attendance at this meeting by all Commissioners was considered to be very important by stakeholders, and was seen to reflect the value placed on the consultation.

Positive feedback was received from stakeholders in terms of the logistics and organisation of post-submission meetings. Although a few commented that a greater range of options in terms of timing and location would be welcomed, the organisation of post-submission meetings by the Secretariat was described as professional. Stakeholders were positive about the opportunity for consultation provided by the post-submission meeting, although the load on organisations with 'lean' funding was seen to be significant when considered in combination with the submissions and research process.

Stakeholders felt that the duration of the meeting was adequate to allow them to present their position, and to discuss key issues with the Commissioners. A level of comfort was expressed in relation to the format and style of the meeting, which generally opened with the stakeholder organisation briefly presenting their position and highlighting any key issues, and was followed by an informal discussion whereby Commissioners raised points for clarification or further discussion.

"Gives us the opportunity to have our say, we also get the opportunity to inform them on issues that are at the front of their mind."

“They had obviously read the submission and they expressed their views and issues were debated and discussed.”

Stakeholders commented that the meeting provided adequate opportunity to engage with Commissioners. The majority of stakeholders expected and were confident that Commissioners had fully read their submission and were prepared for the meeting. One stakeholder noted that the Commissioners were *“very engaged with their materials and in fact had moved a step beyond this”* drawing on material from other submissions and research to pose further questions in relation to the stakeholder’s position. However, one stakeholder felt unsure if their full submission had been read, or whether Commissioners had been provided with a summary to read.

Views differed in relation to the opportunity to reference and test the views expressed in the submissions of other stakeholders. While most were clear about the purpose of the meeting there was some discussion about whether the meeting was intended to focus on their submission only or was to include debate of other submissions. Several stakeholders felt the opportunity to reference other submissions existed within the current framework, although they had generally not engaged in this type of discussion. A few indicated that this type of discussion may be better facilitated in a round-table format involving the relevant parties.

The post-submission meeting was typically described as informal in nature. As illustrated in the following comments, many stakeholders felt this approach resulted in a high level of engagement and understanding and, as a result, better quality decisions:

“We welcome the informal nature (of consultations) and the exchange of views – sitting around a table, rather than standing up in Court.”

“There is the right balance between procedure, fairness and informality.”

“The process doesn’t need legality and formality to provide robustness and certainty.”

However, some felt that the informal nature of discussions and the fact that minutes are not publicly available calls into question the transparency of the process and decision making.

“The Commission’s model maximises consultation and flexibility, but may lead to a lack of transparency in decision making.”

Overall, all stakeholders found the consultation process valuable.

5.3. Research Advisory Committee

Discussions of the Research Advisory Committee focused on both the terms of reference and the process. Stakeholders who had participated in the Research Advisory Committee were aware of the terms of reference, although not all were certain of the purpose and role of the group. The following comment evidences this uncertainty:

"I am not sure if we are being consulted or told what will occur."

The role of the Research Advisory Committee was a key area of discussion and varying views were expressed on how the research agenda is and should be formed, and the role the Committee should play in this. As discussed earlier, research was of major importance to stakeholders. There was a keenness to be consulted on this element of the Commission's information gathering activity, particularly as it was felt that research outcomes could have a significant impact on decision making.

The main issues raised by stakeholders were around having adequate opportunity to bring forward ideas or issues and the need for greater clarity about the purpose and role of the Research Advisory Committee. In particular, stakeholders sought greater clarity regarding the context and role of the committee, and the role of the Commission and the Secretariat (in-house researchers) in setting the research agenda. It is noted that commissioned research was also an area of confusion for stakeholders in the 2007 study.

On the whole, stakeholders valued the opportunity to have input to the Research Advisory Committee. In general, stakeholders were seeking to be more informed about and engaged in this element of the Commission's process. Some suggested greater frequency of meetings while others suggested that general information about the research agenda be made available to all stakeholders.

5.4. Disability Round Table

The purpose of the Disability Round Table was clear to participating stakeholders and the results and outcomes achieved by the group were viewed positively. Stakeholders commented on the importance of the issues discussed by the group, and felt that the outcomes which resulted took into account the views and opinions of a diverse range of organisations.

"The Commission has taken our views into account, on one occasion delaying an outcome because there were different views that they wanted to explore further."

Stakeholders welcomed the opportunity to comment and felt that the process was highly consultative. However, differing views were expressed in relation to group membership with one stakeholder feeling membership was too broad resulting in the process being side-tracked by non-core considerations. In contrast, another stakeholder felt the representative nature of the Disability Round Table was a characteristic that contributed positively to the functioning of the group and to the quality of the outcomes achieved.

“The group works well, because of the representativeness. It goes beyond the key industrial stakeholders.”

Stakeholders also endorsed the process, style and frequency of meetings, feeling the Commission listened to their views and took them into consideration. An example was provided in relation to wage assessment tools, whereby the Commission sought the views of stakeholders regarding the worthiness of particular tools. Overall, stakeholders involved in the Disability Round Table highly valued the opportunity to have input.

5.5. Information products and services

Stakeholders endorsed the current modes of communication with the Commissioners and Secretariat including face-to-face meetings, written correspondence, phone discussions and the website. Stakeholders generally commented positively on the information products and services provided by the Commission, with published research papers, the Commission's website and the decision document having the highest levels of awareness and usage. A number of stakeholders also mentioned **conferences and forums** hosted by the Commission feeling these provide a good opportunity to hear the views of recognised experts in the field.

The **Commission's website** was observed to be the primary means by which stakeholders accessed reports, documents and other news items or schedules of events etc. The majority of stakeholders felt the website was helpful and viewed it as a good reference and source of information. They were aware it contained a range of information, including process documents and charters, although many felt they were already familiar with this information. A few stakeholders suggested a subscription or alert system for the website to automatically notify stakeholders of new documents or recent news added to the website.

“The website is useful in terms of providing details on the submission process and timing.”

“I am already aware of a lot of the material, through meetings.”

Although not all stakeholders agreed with the focus, scope or assumptions of **commissioned research**, they valued the commissioning of independent research which is subsequently made publicly available. The provision of a full set of published research papers and reports in hard copy was also appreciated by stakeholders. It was also suggested that increased and clearer information about the research program itself, such as upcoming topics or information on the nature of future studies, would also be beneficial.

A number of stakeholders commented on the **decision document**, noting improvements in the format, layout and level of detail provided regarding the reasons for the decision. The majority of stakeholders indicated they like the format of the document, with the executive summary and decision placed at the front of the document and the reasons for the decision set out in the second part of the document. However, a few stakeholders felt the layout requires further improvement in relation to navigation and indexing, as well as clearer distinction between the decision and supporting material. Suggestions were also made regarding the inclusion of worked examples and greater subsequent guidance around how the decision translates.

As noted earlier, it was observed that these stakeholders were highly engaged with the Commission's processes in an ongoing way, not only through the submissions and consultation process but also through the Research Advisory Committee or the Disability Round Table and some specific activities such as the Pay Scale review. Therefore the information needs of these stakeholders were observed to be less specific than perhaps was the case in the early establishment phase of the Commission. Due to the ongoing nature of other forms of engagement, stakeholders were less likely for example to have accessed summary documents such as the Charters or forward plan documents. Overall, however, stakeholders reported feeling well informed about the Commission's activities and processes.

6. Future relationship and engagement issues

6.1. Considerations for process improvement

When asked to suggest improvements to the Commission's process, there were few suggestions – the overwhelming response was to request the process continue as now established. Generally stakeholders endorsed 'more of the same' with regards to written submissions and informal and formal consultation. This is unsurprising given the high levels of satisfaction with the process overall. There are however some specific considerations for improvement as outlined below:

- **Research Advisory Committee:** There is opportunity to improve clarity on the setting of the research agenda and the role of the advisory group. Stakeholders expressed a need to be better informed of the research agenda (stakeholders on the committee as well as those who are not) and comments indicated that a greater level of engagement, including increased frequency of meetings, would be welcomed by stakeholders. Review of membership is also a consideration as some saw value in a smaller group being consulted more intensively on specific issues.
- **Transparency regarding consultation:** Some concerns were expressed over transparency with regard to one-on-one consultation, for example in relation to the lack of opportunity to comment on issues discussed at post-submission consultations or informal meetings with other stakeholders. Some stakeholders perceived a lack of transparency of information considered by the Commission in making some decisions, such as the drought relief exemption. The suggestion was made that the Commission publish more information or communicate more widely on how these elements of consultation are carried out and how they may contribute to decision making. For example, some suggested publishing a list of all meetings and providing some written summary of issues discussed during post-submission consultations.
- **Formal and informal engagement:** While transparency was raised as a concern by some, generally stakeholders were eager to maintain the opportunity for both formal and informal discussion. It was seen to be important that the Commission remain accessible, and stakeholders valued the quality discussions that result from the opportunity for one-on-one sessions with the Commissioners.
- **Decision Document:** There was some criticism that the decision document relies on research that is unavailable to stakeholders prior to the decision being made

(and this does not afford stakeholders the opportunity to review or critique this research). Some comments on improved structure were also made in relation to the need for an index or reference tool.

6.2. Transition into future arrangements

Comments provided on improvements to the engagement of stakeholders for the next decision were made in the context of unknown details of future frameworks i.e. beyond the next decision to the formation of Fair Work Australia. It was difficult for some stakeholders to separate their views on the potential future organisation and the immediate improvements for the Commission under the current arrangements.

There was an overt keenness from stakeholders to participate in this stakeholder research study given the foreshadowed transition of the Australian Fair Pay Commission (and other agencies) into Fair Work Australia. Stakeholders were expectant for example that the published outcomes of this study would contribute to thinking on future wage-setting arrangements under Fair Work Australia and should therefore be considered more broadly.

Although not actively sought, this study provided opportunities for stakeholders to state their endorsement of key elements of the Commission's current wage-setting approach. Indeed, they also outlined the aspects of the approach they would welcome being continued into a future organisation. Recommendations for future processes included the submissions process, formal and informal consultation and the commissioning of research, which were all highly valued components.

While stakeholders were aware that Fair Work Australia was yet to be formed and much was unknown at this stage about the new organisation, they anticipated a transitioning or 'hand over' period. Stakeholders stressed the importance in their view of maintaining and building on the body of knowledge and effective processes established by the Commission and Secretariat throughout this transition stage.

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The views expressed in this paper are those of the author(s) and do not necessarily represent the views of the Australian Fair Pay Commission.

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