

Paid Agent Code of Conduct

A paid agent must comply with this Code of Conduct. A paid agent who does not comply may be refused permission to participate in conferences and hearings before the Fair Work Commission or, if prior permission has been granted, may have such permission revoked.

A paid agent is someone who charges a fee to represent a person in a case, for example, a workplace relations adviser or advocate.

Bargaining representatives, legal representatives, employees of a registered organisation or employer association that is representing the person, and employees of the person, are not paid agents for the purposes of this Code of Conduct.

Permission

A paid agent must have permission from the Commission before they can participate in a hearing or conference.

Before entering into any contract or costs arrangement with a prospective client, a paid agent must inform the prospective client:

- of the need to seek permission to participate in hearings and conferences
- that permission is not automatically granted, and may not be granted in their case
- that the client will have to represent themselves at the hearing or conference if permission is not granted, and
- of what fees remain payable if the Commission **does not** grant permission for the paid agent to participate in the hearing or conference.

Fees and scope of services

A paid agent must give their client a written costs agreement.

This costs agreement must specify the scope of services to be provided by the paid agent, including:

- whether the paid agent will continue to represent their client if the case does not settle at conciliation or in conference
- an itemised list of services included in the estimated cost (for example preparing witness statements, drafting an outline of submissions, virtual or in-person attendance at the Commission proceedings), and
- any exclusions from the services to be provided and additional fees the client may incur for additional services.

The costs agreement must also specify the paid agent's fee structure, including:

- the fee payable if the Commission **does not** grant the paid agent permission to participate in the hearing or conference
- the fee payable if the case settles at conciliation or in conference, and
- the estimated fee payable should the case proceed to a hearing.

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Settlements

Amounts payable as part of an agreed settlement (settlement payments) must be paid directly to the client, rather than to the paid agent.

A paid agent must not require their client to get the paid agent's permission before the client can settle or discontinue their own case.

A paid agent must not hinder or prevent a client engaging in settlement discussions or agreeing to terms of settlement.

Professional conduct and ethics

A paid agent must conduct themselves in a professional and ethical manner.

A paid agent must:

- act in their client's best interests
- deliver services competently, diligently and promptly
- provide realistic and appropriate advice about likely outcomes and risks of the case
- consult their client prior to conciliation or a conference and act on their client's instructions, and
- avoid conduct that may unnecessarily delay or interrupt the Commission's processes.

Communication and disclosure

A paid agent must be honest, respectful and transparent in their communications with the Commission, their client, and other parties.

A paid agent must:

- before entering into any contract or costs arrangement with a prospective client, give the prospective client a copy of the Representation by a paid agent fact sheet
- complete the Paid agent pre-conciliation disclosure and give a copy to their client and the Commission before attending a conciliation or conference
- be timely in responding to communications from their client, the Commission and other parties
- inform their client of all settlement offers and clearly explain any proposed terms of the settlement
- give their client a copy of any emails, letters or documents sent or received on their behalf, including all correspondence with the Commission and other parties
- give the other parties a copy of all correspondence with the Commission (except for confidential documents such as the Paid agent pre-conciliation disclosure and Fee waiver forms).