

## Personal details

**First name**

Rory

**Last name**

Somes

**Organisation**

IR2000

## Options that could be implemented internally

**The Commission could provide parties with a fact sheet about representation in the Commission**  
Neutral

**Members and conciliators (where applicable under the GP delegation) could determine applications under s. 596 prior to any conciliation, conference or hearing involving a paid agent**  
Support

**Members and conciliators collaborate and share information about their experiences in proceedings with paid agents to promote a consistent and predictable response to issues such as permission to appear**  
Support

**At the beginning of any conciliation, conference or hearing involving a paid agent, the Member or conciliator would provide information about representation and settlements at the Commission**  
Neutral

**At the beginning of any conciliation, conference or hearing involving a paid agent, the Member or conciliator would: ask the paid agent to confirm, to the client and the Commission only, for their client's benefit what their payment arrangement with the client is, including fees incurred to date and the anticipated costs of the next stage of the proceedings (if a paid agent would continue to act), and to confirm if the fee structures will change should permission to appear not be granted**  
Oppose

**A dedicated group of experienced conciliators could take on all conciliations involving paid agents that have repeatedly been the subject of complaints about challenging behaviour to ensure consistency in approach**  
Support

**Update current pages on the Commission's website about representation by paid agents to add: what happens if a matter does not resolve and proceeds to court (i.e. no representation by paid agents in the FCA or FCFA as of right), and further examples of paid agent conduct the Commission receives complaints about**  
Support

**Invite paid agents to voluntarily agree to a code of conduct, and publish the details of agents who have done so on the website.**  
Neutral

**Identify an appropriate test case to consider costs orders under s.376 where the paid agent has submitted a GP or UD application where it should have been reasonably apparent that the applicant had no reasonable prospect of success in the dispute (noting that this would require an application to be made by the other party – the Commission could not make such orders on its own motion)**

Support

**Align the Commission's usual terms of settlement to provide only for payment of settlement funds into a bank account belonging to the Applicant**

Support

**Amend the Fair Work Commission Rules to stipulate that Notices of Discontinuance may only be filed by Applicants or their legal representatives**

Oppose

**Use the field below to make written submissions about internal options**

South Australia has had a Registered Agents scheme in place for at least 30 years which works well from personal experience having been such a registered agent there for nearly that long. It is understood WA has a similar scheme but I am not familiar with it. There is a cost for such registration which continues to escalate and I would not want to have to pay an additional fee for any federal scheme. My submission is that Registered Agents from SA and any other State jurisdiction where there is an effective code of conduct in place should be specifically recognised as such and required to stipulate in permission or notice to appear that their State based registration is current. Personally I do not use a trust fund and only represent employees very occasionally, mainly employers. I am a trained /qualified industrial advocate. I do not appear often in the FWC because my work is largely focused on keeping clients out of proceedings. It may be necessary to appear from time to time, including in Conciliator driven UFD matters and I would resent being prevented from doing so due to the apparent unethical practices of some operators, who I would be more than happy to see banned from the jurisdiction.

## **Options involving other agencies or organisations**

**Establish a referral arrangement with Community Legal Centres or other pro bono legal services to provide advice to applicants that claim they have not received settlement monies**

Neutral

**Refresh arrangements to refer complaints to the ACCC**

Neutral

**Use the field below to make written submissions about options involving other agencies or organisations**

I suspect ACCC referral would be of no use in relation to Sole Traders

## **Options involving proposals for legislative change**

**Amend the Act to provide a system for the Commission to register paid agents**

Oppose

**Amend s.596 of the Act to make clear that the Commission can take into consideration the**

**capacity of the particular lawyer or paid agent to represent the person concerned**

Support

**Use the field below to make written submissions about options involving legislative change**

As per earlier comments duplication for Registered agents from State jurisdictions would be an unfair imposition. Lawyers operate under State -based arrangements.

## **Final thoughts**

**Do you have any further suggestions you would like to put forward in response to the issues posed in the options paper?**

No

**What has been your experience with paid agents and the Commission?**

Appearance as a Paid Agent. I have not experienced any problems because I consider myself to be competent and make a practice of treating Members with respect.

**Are there any other issues or considerations related to paid agents and the Commission you would like to raise?**

In short I support the removal of bad apples; however I would not like to be disadvantaged against lawyers. Employees of Registered Organisations already have an advantaged and there should also be a process to take them to task if their competency or behaviour before the Commission is inadequate.