

## Personal details

**First name**

John

**Last name**

Lamb

**Organisation**

John Lamb Workplace Relations Consulting

## Options that could be implemented internally

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

**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**  
Neutral

**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**  
Support

**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.**

Support

**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)**

Neutral

**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**

Support

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

It is time to act against Paid Agents that focus more on their own revenue, than on their client's benefit. Where I am in agreement with the majority of the proposed changes, I think that where it appears patently obviously that a Paid Agent, or a lawyer, for that matter, is seen to put their own, or their company's financial interests, ahead of their clients, a criminal prosecution should follow. A lot has been done in relation to "wage theft" in relation to vulnerable employees, unprincipled Paid Agents or Lawyers are no different. It is clear by the Options Paper that the Commission is well aware of the Paid Agents whose behaviour has brought about a need for this review. This being the case, all Paid Agents should be put on notice that any continued unprincipled behaviour may result in them being suspended from representing any client before the FWC for a stated period of time.

However, my biggest concern is not the proposed changes, it is with the behaviour of the Conciliators. I have been representing my clients before the Qld IR Commission and the FWC (and its predecessors) for in excess of 25 years. Since the federal conciliation system changed in 2010, there have been many occasions where if I was not present the Conciliator would have led my client to resolve a matter by putting an offer forward in the thousands of dollars, seemingly to resolve the matter. Employers, caught in this system, expect an unbiased Conciliator, however, that is not the case.

## **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**

Support

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

Support

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

{Empty}

## Options involving proposals for legislative change

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

Support

**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**

{Empty}

## Final thoughts

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

{Empty}

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

{Empty}

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

{Empty}