Responding to a general protections application

Overview
This guide explains the steps an employer must take when responding to a general protections application, including how to complete and lodge the relevant forms with the Fair Work Commission (the Commission).

Receiving notification of an application
When a general protections application (Form F8 – Application for the Commission to Deal with a General Protections Dispute) is lodged with the Commission, the Commission will send the contact person for the respondent (usually the employer) listed in the application:

- a copy of the application
- a copy of the Form F8A – Employer’s Response to Application for the Commission to Deal with a General Protections Dispute
- a written notification, called a notice of listing, detailing the date and time of the conference that will be held.

Action required by the employer
After the employer receives a copy of the general protections application, they must respond to the application by completing and lodging Form F8A.

If you have received an application, it is likely that you have been identified by the applicant as the contact person for the employer or as the respondent to the application.

Form F8A will provide you with the opportunity to respond to the information the applicant has provided in the application.

Timeframe for the employer’s response
Employers must lodge Form F8A with the Commission within seven calendar days of receiving a copy of the employee’s application from the Commission.

Completing the form
The employer should attempt to complete as much of Form F8A as they can. However, they are not required to provide a response to questions 1 and 3 in the form if they are concerned that their response may be self-incriminating.

The employer may attach any relevant supporting documents, such as correspondence, to their response. Copies of any documents the employer attaches to their response should also be sent to the applicant.
Lodging and serving
The employer must lodge the Form F8A with the Commission within seven calendar days of receiving a copy of the employee’s application.

This can be done by email, fax, post or in person at a Commission office.


The employer must also deliver a copy of the Form F8A (including all supporting documents) to the employee within seven days of receiving a copy of the application from the Commission to address they identified for service. This can be done by:

- Express Post (be sure to keep the identifying barcode sticker on the envelope)
- registered post
- email to the email address the employee specified in their application
- handing it to the applicant
- handing it to a person over 15 who is
  - at the applicant’s residence, or
  - at the address specified by the applicant as the place for service.

Fees
There are no fees for lodging a response to a general protections application.

Objecting to a general protections dismissal application that is lodged out of time
General protections applications about a dismissal must be lodged by the employee within 21 calendar days after the day the dismissal took effect.

An employer may object to the Commission dealing with a general protections dismissal application if the employee has filed the application after the 21 calendar day time limit has expired.

The time period will only be extended if, after hearing formally from the parties, a Commission Member is satisfied that there were exceptional circumstances for not lodging the application on time.

Note: general protections applications that aren’t about a dismissal are not subject to the 21 calendar day time limit. Applications where the employee has not been dismissed can be lodged up to six years from the day of the alleged contravention.

Next steps
Once a general protections application has been received by the Commission, the application will be scheduled for a conference. All those involved will receive a notice of listing which will contain the date, time and location of the conference.

Attending a conference
If the general protections matter involves a dismissal, the Commission will organise a private conference and those involved must attend.
If the general protections matter involves action other than dismissal, the Commission will organise a private conference to deal with the dispute only if both parties agree to participate. The employer may indicate on Form F8A whether they agree to participate in a conference.

See Guide 4 – The conference process for more information about conferences.

**Legal advice**

The Commission cannot provide legal advice. The Commission is only able to provide general information about the application process.


**Further information**


You can also refer to the full set of general protections guides on the Fair Work Commission’s website:

- Guide 1 – General protections overview
- Guide 2 – Making a general protections application
- Guide 3 – Responding to a general protections application
- Guide 4 – The conference process
- Guide 5 – The consent arbitration process
- Guide 6 – General protections applications not resolved at the Commission
- Guide 7 – Frequently asked questions
- Guide 8 – Glossary of common terms.

The General Protections Benchbook can also assist parties lodging or responding to general protections applications ([www.fwc.gov.au/resources/benchbooks/general-protections-benchbook](http://www.fwc.gov.au/resources/benchbooks/general-protections-benchbook)).

If you require further information or help, please refer to the Enquiries page on the Commission’s website ([www.fwc.gov.au/about-us/contact-us](http://www.fwc.gov.au/about-us/contact-us)).

**Responding to a general protections application checklist**

Have you:

- completed Form F8A?
- signed Form F8A?
- lodged Form F8A (and any supporting documents) with the Commission?
- delivered a copy of Form F8A (and any supporting documents) to the employee?

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This fact sheet is not intended to be comprehensive. It is designed to assist in gaining an understanding of the Fair Work Commission and its work. The Fair Work Commission does not provide legal advice.