Glossary of common terms

This glossary describes some common terms used throughout the general protections process. These terms may have different meanings when used in other circumstances; the definitions below apply only in the context of the general protections guides.

**Adjournment**
To suspend or reschedule a conference or hearing to a different date.

**Applicant**
A person who lodges an application with the Commission.

**Application**
The way of starting a case before the Commission. An application can only be made using an approved form.

**Arbitration**
The process where a member of the Commission will hear evidence, consider submissions and then make a decision in a matter. Arbitration generally occurs in a formal hearing and usually involves the examination and cross-examination of witnesses.

**Award**
A document made by the Commission which sets out minimum terms and conditions of employment within a particular industry, occupation or enterprise. It contains information such as wages, hours of work, overtime rates and allowances.

**Certificate**
A document provided by a Commission Member at the end of a conference process if a dispute was not resolved.

**Commission**
See Fair Work Commission, below.

**Compensation**
A requirement to pay money to an applicant as reimbursement for loss suffered as a consequence of a breach of the general protections.

**Conference**
A private proceeding conducted by a Commission Member. A conference is usually the first step taken in the resolution of a general protections application.
Constitutional corporation
A trading, financial or foreign corporation formed or registered under the terms of the Corporations Act 2001. A Proprietary Limited (Pty Ltd) company is an example of a constitutional corporation.

Contractor
A person who is self-employed, and provides services to clients. Also known as a sub-contractor or an independent contractor.

Contravention
When a term of a Commonwealth workplace law or workplace instrument has not been complied with.

Discrimination
The infringement of a person’s rights because of their race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer’s responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

Enterprise agreement
A legally enforceable document that sets out the employment conditions of a group of employees and their employer. An enterprise agreement is created through negotiations between that group of employees (or their union or other representative) and their employer. An enterprise agreement sets out the duties and obligations of the employees and the employer covered by the agreement. An enterprise agreement must meet a number of requirements before it can be approved by the Commission.

Extension of time
To accept an application lodged after the 21 calendar day period set out by the Fair Work Act.

Form F8
This form is used by the employee (the applicant) to lodge a general protections application. The form is required by the Commission before a matter can be dealt with in a conference. A copy of Form F8 can be found on the Commission’s website (www.fwc.gov.au/resources/forms).

Form F8A
This form is used by the employer (the respondent) to respond to a general protections application. It must be lodged with the Commission and served on the applicant within 7 calendar days of the respondent receiving the F8. A copy of Form F8A can be found on the Commission’s website (www.fwc.gov.au/resources/forms).

Form F8B
This form must be used to notify the Commission if the parties consent to have their dispute arbitrated by the Commission. Both parties to the dispute must sign the form to confirm their consent. A copy of Form F8B can be found on the Commission’s website (www.fwc.gov.au/resources/forms).

Form F50
This form is used by the applicant to inform the Commission that they wish to discontinue their application. A copy of Form F50 can be found on the Commission’s website (www.fwc.gov.au/resources/forms).
Fair Work Act


Fair Work Commission (the Commission)

The independent, national workplace relations tribunal established under the *Fair Work Act 2009*. Established as Fair Work Australia in 2009, it was renamed the Fair Work Commission on 1 January 2013 following enactment of the *Fair Work Amendment Act 2012*.

Frivolous or vexatious

An application which has little or no weight, worth, or importance that has been instituted without sufficient grounds, and serving only to cause annoyance.

Hearing

A public proceeding or arbitration conducted before a Commission Member.

Hearings list

A list prepared daily by the Commission which sets out the matters which are listed for attention and published online, as well as in some daily newspapers.

Injunction

An order of a court stopping a party from performing a particular action and/or requiring it to perform a particular action. Whether an injunction is granted will depend upon the general fairness of the circumstances and whether there is any particular urgency in stopping the action. An injunction may be interlocutory (to stop the action while the court hears the matter) or final.

Lodge

To make a formal application, response or submission to the Commission.

Matter

Cases at the Commission are referred to as Matters.

Member

A Member of the Commission, such as the President, a Vice President, a Deputy President or a Commissioner.

National system employee

An employee covered by the national workplace relations system because they are employed by a constitutional corporation, the Commonwealth or a state reference employer, in certain designated industries or in a territory.

Notice of listing

A formal notification sent by the Commission setting out the time, date and location for a matter to be heard. A notice of listing can also include specific directions or requirements.

Party/parties

A party is a person or organisation involved in a matter before the Commission, such as an applicant and a respondent.
Reinstatement
To return an employee to the job they previously held before they were dismissed. If the original position is not available the employee should be returned to a position as close as possible in remuneration and status to the original position.

Respondent
A party responding to an application make to the Commission.

Rules (the)
The Fair Work Commission Rules 2013. The Rules outline practices and procedures to be followed in the work of the Commission about things like lodgment of forms and service of documents.

Serious hardship
When a person is in such a difficult financial situation that paying the application fee for a general protections matter would have unintended consequences such as an inability to pay for food, rent or utilities.

Serve/service
A requirement to send a copy of a document (and all supporting documents) to another party or their representative, usually within a specified number of days. Parts 7 and 8 of the Rules deal with Service.

Settlement
An agreed resolution of a dispute. Generally, a negotiated outcome which both parties are satisfied with and bound by.

Submissions
Written documents provided to the Commission and other parties to the matter which set out information or evidence being used in support of a claim.

Support person
A person who attends a proceeding before the Commission to provide support to one of the parties. A support person is not involved in a proceeding, and does not act on behalf of the party they are supporting.

Unfair dismissal
Where an employee makes an unfair dismissal remedy application and the Commission finds that:

- the employee was dismissed
- the dismissal was harsh, unjust or unreasonable
- the dismissal was not a case of genuine redundancy, and
- where the employee was employed by a small business (a business employing fewer than 15 employees), the dismissal was not consistent with the Small Business Fair Dismissal Code.
Unlawful termination
When an employee who is not a national system employee has their employment ended by their employer for a reason or reasons that are discriminatory or otherwise against the law.

Workplace instrument
A generic term for a legally binding industrial document which details the duties and obligations of the parties bound by the document, such as an agreement or award. Also called an instrument or an industrial instrument.

Legal advice
- The Commission cannot provide legal advice. The Commission is only able to provide general information about the application process.
- There are community legal centres in each state and territory. The National Association of Community Legal Centres Inc (NACLC) legal help page (www.naclc.org.au/need_legal_help.php) can assist with finding the nearest community legal centre. Please note that the NACLC does not itself offer legal advice.

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).

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

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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.