Flowchart on the process

This guide outlines what generally happens during the Fair Work Commission's unfair dismissal process.

The process

The employee sends an unfair dismissal application to the Fair Work Commission.

The Fair Work Commission sends a copy of the application to the employer.

The Fair Work Commission sends the employee and employer a written notice with the date and time of their conciliation. This is called a Notice of Listing.

The employer is required to write a response to the application, and submit any jurisdictional objections. The employer sends their response and their jurisdictional objection (if they have one) to the employee and the Fair Work Commission.

Has the employer lodged a jurisdictional objection to the application?

YES

Has the employer requested to have their objection heard prior to conciliation?

YES—Option 2*

No jurisdiction conference or hearing is held before a Fair Work Commission member to determine whether the jurisdictional objection is valid. The Commission member makes a binding decision.

NO—Option 1*

Did conciliation resolve the matter?

YES

A jurisdiction and arbitration conference or hearing is held before a Fair Work Commission member to determine whether the jurisdictional objection is valid, and if not, determine then whether the dismissal was unfair. The Commission member makes a binding decision.

NO—Option 2*

The conciliation takes place with a Fair Work Commission conciliator. This usually happens by telephone.

NO—Option 1*

Application dismissed.

The matter is finalised then closed.

*Note: There are two possible processes to deal with objections, which path is followed will be determined by the type of objection.
Legal advice

The Commission cannot provide legal advice.

As part of the unfair dismissal application process, parties may choose to obtain their own independent legal advice.

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 unfair dismissal guides available on the Dismissal, termination and redundancy page (www.fwc.gov.au/termination-of-employment/unfair-dismissal) of our website.

1. Overview of the unfair dismissal laws
2. Flowchart on the process
3. Making an application
4. Responding to an application
5. Objecting to an application
6. Preparing for conciliation
7. Preparing for a conference or hearing
8. Frequently asked questions
9. Glossary of common terms

The Unfair Dismissals Benchbook can also assist parties lodging or responding to unfair dismissal applications (benchbooks.fwc.gov.au/unfair/).

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

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This guide is not intended to be comprehensive, but is designed to help employers and employees gain an understanding of the Fair Work Commission and its work. The Fair Work Commission does not provide legal advice.