Responding to an application

Employers who receive an unfair dismissal application (Form F2 – Unfair Dismissal Application) are required to lodge a response (Form F3 – Employer response to unfair dismissal application) with the Fair Work Commission (the Commission).

Notifying employer of an application

When a completed application for unfair dismissal has been lodged with the Commission the following occurs:

- the Commission sends a copy of the Form F2 to the employer, and
- the Commission sends the employee and the employer a written notification of the date and time of conciliation.

Which form does the employer complete?

The employer must respond using Form F3 – Employer response to unfair dismissal application.

The form can be obtained from any Fair Work Commission office public counter or downloaded from the Commission’s website at www.fwc.gov.au.

Completing the Form F3 response

Complete ALL sections

The employer MUST complete all sections on the Form F3 and attach any supporting documents (e.g. letter of dismissal, written warnings).

Lodging and serving

The employer MUST lodge the response (Form F3) with the Commission within seven days of being served with the Form F2 application (or in accordance with any instruction given by the Fair Work Commission).

This can be done by email, fax, post or in person at a Commission office. The Commission’s contact details are on the Commission’s website.

The employer also must send a copy of the response (Form F3 – Employer response to unfair dismissal application), including all supporting documents, to the employee within seven days by:

- sending the document by express post to the address specified for the employee (applicant) in the Form F2 application (keeping the sender’s copy of the identifying barcode)
- sending the document by registered post to the address specified for the employee (applicant) in the Form F2 application, or
- emailing the document to the employee (applicant) using the email address specified in the Form F2 application.
Objecting to an application

An employer can object to an application based on jurisdictional or eligibility grounds.

For further information, see Guide 5 – Objecting to an application, guides available on the Dismissal, termination and redundancy page (www.fwc.gov.au/termination-of-employment/unfair-dismissal) of our website.

How do I prepare for the next step?

Keep a note of the conciliation date, which was sent to you in a Notice of Listing by the Commission at the same time as the application.


Fees

There are no fees for lodging a response to an unfair dismissal application.

Do I need to be represented at conciliation?

Employers do not need to have a representative such as a lawyer or paid agent at conciliation. Employers can choose to have a representative (or a support person if they prefer).

You do not need to seek permission from the Commission to be represented at conciliation.

Checklist ✓

Have you:

- Completed all sections of Form F3 – Employer response to unfair dismissal application?
- Signed the response?
- Any objections to the Form F2 application? If so, have you completed question 2 on the Form F3 and read the information in Guide 5 – Objecting to an application?
- Lodged the response with the Fair Work Commission?
- Sent a copy of the response to the employee?
- Read Guide 6 – Preparing for conciliation?

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 (www.fwc.gov.au/resources/benchbooks/unfair-dismissals-benchbook).

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