



## About the F8C application form

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### General protections application not involving dismissal

#### About general protections applications not involving dismissal

The general protections provisions of the [Fair Work Act 2009](#) aim to protect workplace rights and freedom of association and to provide protection from workplace discrimination. The general protections provisions apply to current and prospective employees, employers and independent contractors.

In general protections disputes not involving dismissal, if the parties to the dispute agree to participate, the Fair Work Commission (Commission) must hold a private conference to deal with the dispute. In a conference, the Commission will try to resolve the dispute including by mediation or conciliation. If the dispute does not settle, if the Commission considers that, taking into account all the materials before it, a general protections court application would not have a reasonable prospect of success, it must advise the parties of this.

If the Respondent does not agree to participate in a conference by the Commission, or the dispute remains unresolved after a conference, the Applicant may choose to make an application to a court to deal with the matter. The Applicant does not need a certificate from the Commission before making an application to court.

For more information about general protections, please see the Commission's [General Protections Guides](#) and the [General Protections Benchbook](#).

#### Who can use this form

This form is used to lodge an application with the Commission to deal with a general protections dispute **not** involving dismissal under s.372 of the [Fair Work Act 2009](#).

Use this form if:

- you believe that there has been a breach of the general protections that apply to you and
- you have been adversely affected, as a result of the breach.

If you were an employee and your general protections dispute relates to your dismissal from employment, you should lodge an application using the Form F8 – General protections application involving dismissal.

**Note:** If you are an employee and you are dismissed after you have lodged a Form F8C application, and you believe that your dismissal relates to a breach of the general protections provisions that apply to you, you should contact the [Commission's office](#) in your state or territory **as soon as possible** after the dismissal to discuss your application.

## Lodging your completed form

1. **Lodge your application and any supporting documents** with the Commission. You can lodge your application online using the Commission's [Online Lodgment Service \(OLS\)](#) or by email, post or in person at the [Commission's office](#) in your state or territory.

**Note:** The Commission will provide a copy of your application and any other documents you lodge with the application (except the Fee Waiver form, where relevant) to the Respondent.

A general protections application involving dismissal needs to be lodged within 21 calendar days after the dismissal took effect, using the Form F8. If you are not sure if you've been dismissed, see the 'Where to get help' section, below.

2. **Pay your application fee** at the same time as you lodge your application. The current application fee is available on the [Lodge an application](#) page on the Commission's website.

If paying the fee would cause you to suffer serious hardship, you can apply to have the fee waived. You must apply to have the fee waived at the same time as you lodge your application. Download a copy of the [Fee Waiver form](#) from the Commission's website.

## Where to get help

### Commission staff & resources

Commission staff cannot provide legal advice. However, staff can give you information on:

- Commission processes
- how to make an application to the Commission
- how to fill out forms
- where to find useful documents such as legislation and decisions
- other organisations that may be able to assist you.

The Commission's website [www.fwc.gov.au](http://www.fwc.gov.au) also contains a range of information that may assist.

### Throughout this form



This icon appears throughout the form. It indicates information to help you complete the form.

### Legal or other representation

Representation is where another person (such as a family member or friend, lawyer or paid agent, or an employee of a union or employer organisation) speaks or acts on a person's behalf, or assists a person in certain other ways in relation to a matter before the Commission. There is no requirement to be represented at the Commission.

There are some restrictions on representation by a lawyer or paid agent.

Generally, a person must give notice to the Commission (by lodging a Form F53 – Notice that a person: (a) has a lawyer or paid agent; or (b) will seek permission for lawyer or paid agent to participate in a conference or hearing) and seek permission from the Commission Member dealing

with the matter if they wish to have a lawyer or paid agent represent them by participating in a conference or a hearing.

Apart from participating in a conference or hearing, a person's lawyer or paid agent can represent them without permission, unless the Commission decides otherwise. For example, the lawyer or paid agent can prepare and lodge written applications, responses and submissions with the Commission, and communicate in writing with the Commission and other parties to the matter on the person's behalf.

The requirement to give notice and seek permission for a lawyer or paid agent to participate in a conference or hearing, does not apply if the lawyer or paid agent is:

- an employee or officer of the person **or**
- a bargaining representative that is representing the person **or**
- an employee or officer of an employee or employer organisation, or an association of employers or a peak council, that is representing the person.

Rule 12(2) of the [Fair Work Commission Rules 2013](#) sets out further exceptions to the requirement to give notice and seek permission.

For more information about representation by lawyers and paid agents, see s.596 of the [Fair Work Act 2009](#), rules 11, 12 and 12A of the [Fair Work Commission Rules 2013](#) and the Commission's [practice note on representation by lawyers and paid agents](#).

## Glossary of common terms

**Applicant** – This is the person or organisation that is making an application.

**Jurisdictional objection** – This is a type of objection a Respondent can raise to an application. A Respondent can make this kind of objection if they think that the Commission, for a technical or legal reason, cannot hear the matter.

**Lawyer** – This is a person who is admitted to the legal profession by a Supreme Court of a State or Territory.

**Paid agent** – in relation to a matter before the Commission, is an agent (other than a bargaining representative) who charges or receives a fee to represent a person in the matter.

**Party** – A party is an Applicant, Respondent, or another person or organisation involved in a matter or case that is brought to the Commission.

**Respondent** – The person or organisation responding to an application made by an Applicant.

**Service** – Serving a document means giving a copy of the document to a person or organisation, usually to the other party to the matter. You can serve a document in a number of ways, including by email, express or registered post, or in person. Parts 7 and 8 of the [Fair Work Commission Rules 2013](#) deal with service.

## Privacy

The Commission collects the information (including personal information) provided to it in this form in order to deal with the general protections dispute. The information will be included on the case file, and the Commission may disclose this information to the other parties to this matter and to other persons. For more details of the Commission's collection, use and disclosure of this information, please see the [Privacy notice](#) for this form, or ask for a hard copy to be provided to you.



**Remove this cover sheet** and keep it for future reference – it contains useful information.

# Form F8C – General protections application not involving dismissal

[Fair Work Act 2009](#), s.372

This is an application for the Fair Work Commission (Commission) to deal with a general protections dispute not involving dismissal under Part 3-1 of the [Fair Work Act 2009](#).

## The Applicant



These are the details of the person who is making the application.

If the Applicant is an individual under 18 years of age, the Commission encourages them to have a parent or guardian, or a legal representative, involved. We can provide further information about how to find legal services.

<b>Title</b>	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
<b>First name(s)</b>			
<b>Surname</b>			
<b>Postal address</b>			
<b>Suburb</b>			
<b>State or territory</b>		<b>Postcode</b>	
<b>Phone number</b>			
<b>Email address</b>			
<b>Is the Applicant under 18 years of age?</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	

If the Applicant is not an individual, please also provide the following information

<b>Legal name of Applicant</b>	
<b>Applicant's ACN (if a company)</b>	
<b>ABN</b>	

**Note:** If you provide a mobile number the Commission may send reminders to you via SMS.

**How would the Applicant prefer us to send communications?**

Email (you will need to make sure you check your email account regularly)

Post

**Does the Applicant need an interpreter?**



If the Applicant has trouble accessing this information, please contact us. We can arrange to provide it in another format. You can find information about [help for non-English speakers](#) on our website.

Yes – Specify language

No

**Does the Applicant require any special assistance at the hearing or conference (eg a hearing loop)?**

Yes – Please specify the assistance required

No

**Does the Applicant have a representative?**



A representative is a person or organisation who is representing the Applicant. This might be a lawyer or paid agent, a union or employer organisation, or a family member or friend. There is no requirement to have a representative.

Yes – Provide representative's details below

No

**Applicant's representative**



These are the details of the person or organisation who is representing the Applicant (if any).

<b>Name of person</b>			
<b>Firm, organisation or company</b>			
<b>Postal address</b>			
<b>Suburb</b>			
<b>State or territory</b>		<b>Postcode</b>	
<b>Phone number</b>			
<b>Email address</b>			

**Is the Applicant's representative a lawyer or paid agent?**

Yes

No

## About the Applicant

The Applicant is making this application with regard to alleged action taken against them while they were:

- An employee
- A prospective employee
- An independent contractor
- A prospective independent contractor
- An employer
- A prospective employer
- A principal
- A prospective principal

## The Respondent



These are the details of the person or organisation responding to the application.

Note that the Commission will send a copy of this application and any documents you lodge with this application to the contact person you name below.

<b>Legal name of Respondent</b>			
<b>Respondent's ACN (if a company)</b>			
<b>ABN</b>			
<b>Contact person</b>			
<b>Postal address</b>			
<b>Suburb</b>			
<b>State or territory</b>		<b>Postcode</b>	
<b>Phone number</b>			
<b>Email address</b>			

## 1. Background

**1.1 If the Applicant is an employee or contractor – what date did the Applicant’s employment or engagement with the Respondent commence?**

**1.2 Has the Applicant made an application or claim to any other organisation regarding the dispute?**



**Note:** A court cannot consider a general protections application about a non-dismissal related dispute if the Applicant has made an application or complaint under an anti-discrimination law which has not been withdrawn and has not failed for want of jurisdiction.

Yes

No

If you answered **Yes** – provide details of the application or claim, including the body the Applicant has made the application or claim to.

## 2. Remedy

**2.1 What outcome is the Applicant seeking by lodging this application?**

## 3. Alleged contravention

**3.1 Describe the actions of the Respondent that have led the Applicant to make this application.**

Using numbered paragraphs, describe the relevant facts and circumstances. Attach any relevant documents. Note that the Commission will send copies of any documents you provide to the Respondent. Attach extra pages if necessary.

**3.2 Which section(s) of the Fair Work Act 2009 does the Applicant allege the Respondent contravened when they took (or threatened or organised) the above actions against the Applicant?**



A general protections application not involving dismissal should only be made if the Respondent took adverse action against the Applicant **because** the Applicant has the protections described in one or more sections of the [Fair Work Act 2009](#) listed below. See the [General Protections Benchbook](#) for information about each of the protections below.

**Division 3 – Workplace rights**

- s.340 Protection
- s.343 Coercion
- s.344 Undue influence or pressure
- s.345 Misrepresentations

**Division 4 – Industrial activities**

- s.346 Protection
- s.348 Coercion
- s.349 Misrepresentations
- s.350 Inducements – membership action
- s.350A Protection for workplace delegates

**Division 5 – Other protections**

- s.351 Discrimination
- Please specify the attribute as set out in s.351(1):
- 
- s.352 Temporary absence – illness or injury
  - s.353 Bargaining services fees
  - s.354 Coverage by a particular instrument
  - s.355 Coercion – allocation of duties etc to a particular person

**Division 6 – Sham arrangements**

- s.357 Misrepresenting employment as an independent contracting arrangement
- s.358 Threatening to dismiss to engage as an independent contractor
- s.359 Misrepresentation to engage as an independent contractor

**3.3 Explain how the actions you have described in question 3.1 have contravened the section(s) of the Fair Work Act 2009 you identified in question 3.2.**

Attach extra pages if necessary.

### Disclosure of information

The Commission will provide a copy of this application and any documents you lodge in support of this application (other than a Fee Waiver form, if lodged) to the other parties to this matter. This includes:

- the Respondent
- any legal representatives.

### Consent to contact by researchers

The Commission undertakes research with participants in general protections matters to ensure a high quality process. Some research may be undertaken by external providers on behalf of the Commission.

Do you consent to the contact details provided on page 1 of this form being provided to an external provider of research services for the sole purpose of inviting you to participate in research?

Yes

No

### Signature



If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

<b>Signature</b>	
<b>Name</b>	
<b>Capacity/Position</b>	
<b>Date</b>	



If you are not the Applicant and are completing and signing this form on the Applicant's behalf, include an explanation of your authority to do so in the Capacity/Position section above.

**PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS**

## Application fee

**Applicant's name:**

The current application fee is available on the [Lodge an application](#) page on the Commission's website [www.fwc.gov.au](http://www.fwc.gov.au).

The [Fair Work Act 2009](#) requires a fee to be paid on lodgment of this application with the Commission. Where applicable, any refund of the application fee will be forwarded by cheque to the Applicant at the address provided on this application form.

## Financial hardship

If paying the fee would cause you to suffer serious hardship, you can apply to have the fee waived. If you are applying to have the fee waived you must complete and lodge the [Form F80 – Waiver of application fee](#) (the Fee Waiver form) at the same time as you lodge your application. Note that the Commission will not forward a copy of the Fee Waiver form to the Respondent. The [Fee Waiver form](#) can be downloaded from the Commission website [www.fwc.gov.au](http://www.fwc.gov.au).

## Payment options

I have completed the Fee Waiver form and have attached it to my application.

I am paying by cash – Cash payments can only be made in person at one of the Commission offices. Payment should be made at the same time as the application is lodged.

I have attached a cheque or money order to this application – Cheques and money orders should be made payable to the Collector of Public Monies, FWC. Please note that the cheque or money order must be for the exact amount of the application fee; if it is not it may cause the processing of your application to be delayed.

I am paying by credit card – Please see below:

**If paying by credit card, please provide the payer's contact details below and a Commission officer will contact the payer by telephone within 3 business days from the date of lodgment.**

## Payer details

Who is making the payment?

The Applicant     The Applicant's representative     Other—Please complete the details

Full name of payer			
Postal address			
Phone number		Email address	

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