

## Personal details

**First name**

Jason

**Last name**

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**Organisation**

{Empty}

## Options that could be implemented internally

**The Commission could provide parties with a fact sheet about representation in the Commission**  
Neutral

**Members and conciliators (where applicable under the GP delegation) could determine applications under s. 596 prior to any conciliation, conference or hearing involving a paid agent**  
Support

**Members and conciliators collaborate and share information about their experiences in proceedings with paid agents to promote a consistent and predictable response to issues such as permission to appear**  
Support

**At the beginning of any conciliation, conference or hearing involving a paid agent, the Member or conciliator would provide information about representation and settlements at the Commission**  
Neutral

**At the beginning of any conciliation, conference or hearing involving a paid agent, the Member or conciliator would: ask the paid agent to confirm, to the client and the Commission only, for their client's benefit what their payment arrangement with the client is, including fees incurred to date and the anticipated costs of the next stage of the proceedings (if a paid agent would continue to act), and to confirm if the fee structures will change should permission to appear not be granted**  
Support

**A dedicated group of experienced conciliators could take on all conciliations involving paid agents that have repeatedly been the subject of complaints about challenging behaviour to ensure consistency in approach**  
Support

**Update current pages on the Commission's website about representation by paid agents to add: what happens if a matter does not resolve and proceeds to court (i.e. no representation by paid agents in the FCA or FCFA as of right), and further examples of paid agent conduct the Commission receives complaints about**  
Neutral

**Invite paid agents to voluntarily agree to a code of conduct, and publish the details of agents who have done so on the website.**  
Neutral

**Identify an appropriate test case to consider costs orders under s.376 where the paid agent has submitted a GP or UD application where it should have been reasonably apparent that the applicant had no reasonable prospect of success in the dispute (noting that this would require an application to be made by the other party – the Commission could not make such orders on its own motion)**

Support

**Align the Commission's usual terms of settlement to provide only for payment of settlement funds into a bank account belonging to the Applicant**

Support

**Amend the Fair Work Commission Rules to stipulate that Notices of Discontinuance may only be filed by Applicants or their legal representatives**

Support

**Use the field below to make written submissions about internal options**

the real issue is the misleading advertising, confusing one sided terms of engagement and excessive fees being charged. the workers are also in a particularly vulnerable situation, being out of work, and often with a lack of knowledge about the unfair dismissal process.

most consumers sign up because of internet advertising, and are unlikely to spend much time on the fair work commission website. terms such as "no win no fee" are like honey to a bee for a dismissed worker. but the devil is always in the detail, and the terms of engagement are a lot more complex than simply "no win no fee"

at the moment it is "no win no fee no risk" for paid agents. there is no penalty for lodging speculative general protections claims, or for charging excessive fees or for failing to explain things properly to a consumer or act in their best interests. contrast this to lawyers, who do have these obligations placed on them and can be penalised for poor conduct. if a lawyer behaved in the way some of these paid agents behaved, they would be disciplined, ordered to pay costs or even lose their licence to practice law.

there needs to be some "risk" shifted onto the paid agents for poor conduct.

the fair work commission, of itself, has limited powers to control or regulate paid agents. changing internal procedures at the fair work commission is well intentioned, but will have a limited effect on paid agents and their business practices.

the industry needs to be regulated, like the legal profession, to protect consumers. legislation is probably required. a voluntary code of conduct is unlikely to work

i applaud the fair work commission for setting up the paid agents working group and putting the business practices of paid agents in the spotlight

## **Options involving other agencies or organisations**

**Establish a referral arrangement with Community Legal Centres or other pro bono legal services to provide advice to applicants that claim they have not received settlement monies**

Neutral

## **Refresh arrangements to refer complaints to the ACCC**

Support

### **Use the field below to make written submissions about options involving other agencies or organisations**

i can't understand why the ACCC aren't taking action against some of these paid agents

## **Options involving proposals for legislative change**

### **Amend the Act to provide a system for the Commission to register paid agents**

Support

### **Amend s.596 of the Act to make clear that the Commission can take into consideration the capacity of the particular lawyer or paid agent to represent the person concerned**

Support

### **Use the field below to make written submissions about options involving legislative change**

a register for paid agents is not a bad idea

the general principle is to try and shift some of the risk for poor conduct onto the paid agent

perhaps the fair work commission conciliators could have the power to order costs against a paid agent, at the conciliation stage, if it believes the claim had no reasonable prospect of success, with the paid agent having a right of appeal.

perhaps a notice of discontinuance can only be filed with the agreement of the other party, and the other sides costs have to be paid (some sort of scale costs could be implemented) - unless the other party agrees to waive their entitlement to scale costs. in a legal proceeding, a party can only discontinue the legal proceeding by the consent of the other party, who will usually require their reasonable costs to be paid. the requirement to pay the other sides reasonable costs, if a discontinuance is filed, shifts some of the risk onto the paid agent for lodging weak or speculative claims.

also note that corporate structures etc can be changed fairly easily and care needs to be taken to ensure that operators don't simply change their corporate structure every so often, to circumvent the regulations or requirement to register

## **Final thoughts**

### **Do you have any further suggestions you would like to put forward in response to the issues posed in the options paper?**

i support the idea of lawyers and paid agents being placed on an equal footing in terms of regulation

### **What has been your experience with paid agents and the Commission?**

they are unethical, incompetent sharks who are only interested in making money. the vulnerable customers are used up and spit out, with no care or concern for their best interests

### **Are there any other issues or considerations related to paid agents and the Commission you would like to raise?**

regulation is very needed. probably via legislation, to place them on an equal footing with lawyers

who appear before the fair work commission. changing the internal procedures of the fair work commission is well meaning, but unlikely to change things much

at the moment it is "no win no fee no risk" for these paid agents. there needs to be some risk for paid agents who engage in poor conduct (ie having to pay costs if an application is discontinued, or the risk of being fined or losing their licence).