

## Personal details

**First name**

Mord

**Last name**

Dreyfus

**Organisation**

{Empty}

## Options that could be implemented internally

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

**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 Neutral**

**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 Support**

**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. Support**

**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**

Without providing any detailed submissions on how the Commission would internally implement the proposal, a simple submission that the Commission consider that a person who has been struck off a roll of Legal Practitioners, or under suspension from practice by way of relevant Legal Practice Board discipline be concurrently deemed unable to provide services as a Paid Agent.

## **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**

Support

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

Support

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

Without providing any detailed submissions on how the Commission would involve itself with other agencies (except by way of sharing/monitoring of relevantly published disciplinary actions and decisions) a simple submission that the Commission consider that a person who has been struck off a roll of Legal Practitioners, or under suspension from practice by way of relevant Legal Practice Board discipline be concurrently deemed unable to provide services as a Paid Agent.

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

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

Neutral

**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**

Without providing any detailed submissions on how the Commission would legislatively implement

the proposal, a simple submission that the Commission consider that a person who has been struck off a roll of Legal Practitioners, or under suspension from practice by way of relevant Legal Practice Board discipline be concurrently deemed unable to provide services as a Paid Agent.

## **Final thoughts**

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

Without providing any detailed submissions on how the Commission would implement the proposal, a simple submission that the Commission consider that a person who has been struck off a roll of Legal Practitioners, or under suspension from practice by way of relevant Legal Practice Board discipline be concurrently deemed unable to provide services as a Paid Agent.

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

There are some Paid Agents, that it is understood the Commission are aware of, who have been struck off a roll of Legal Practitioners, or under suspension from practice by way of relevant Legal Practice Board discipline, who have been seen to repeatedly fail to engage with the Commission, other practitioners and/or other parties to a matter (including their own clients) at the ethical or professional standards expected in dealings with the Commission. They have been previously found to have failed such standards by way of a thorough and formal Legal Practice Board process, but continue these practices as Paid Agents without effective recourse, despite an earlier, thorough and fair process finding them to be unsuitable. The ability for this conduct to continue at a Paid Agent within the Commission process operates in direct conflict with a Legal Practice Board findings, such to diminish perception of Commission to be seen to deliver fair justice, and impedes the Commission at times to deliver such fair justice.

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

Above repeated