



About the F8A response form

Response to a general protections application involving dismissal

About general protections disputes

The general protections provisions in Part 3-1 of the [Fair Work Act 2009](#) aim to protect workplace rights and freedom of association, and to provide protection from workplace discrimination.

In general protections disputes involving dismissal, the Fair Work Commission (Commission) must hold a conference to deal with the dispute. If the Respondent raises a jurisdictional objection to the application, the Commission must hear and determine the objection before any conference can occur. If the objection is dismissed, the Commission will then hold a conference to deal with the dispute.

If the dispute remains unresolved after the conference, the Commission will issue a certificate. The Applicant may then choose to make a general protections court application within 14 calendar days of the date the certificate is issued, or such further time as the court allows. Alternatively, if both parties to the dispute consent, the Applicant can apply for the Commission to conduct a consent arbitration which will determine the matter, subject to any appeal. An application for consent arbitration needs to be lodged with the Commission within 14 calendar days of the date the certificate is issued.

If the parties have notified the Commission that they consent to arbitration, the Applicant cannot also make a general protections court application. If the Applicant is pursuing a general protections court application, the parties cannot also seek to have the Commission arbitrate the matter.

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

Who can use this form?

Use this form if you are the Respondent or are responding for the Respondent and the Commission has served the Respondent with a Form F8 – General protections application involving dismissal.

If the Respondent has been served with two or more applications concerning the same general protections dispute (such as multiple employees making general protections applications), you can lodge one response for all of the applications if your response is the same for each application. If necessary, you can attach details of each individual applicant to whom your response relates (including name, date of commencement and entitlements) in a separate sheet.

Lodgment and service of your completed form

1. **Lodge this response form and any supporting documents** with the Commission within **7 calendar days** after the Respondent was served with the Form F8 application. You can lodge your response by email, post or in person at the [Commission office](#) in your state or territory.

2. **Serve a copy of your response and any supporting documents** on the Applicant within **7 calendar days** after the Respondent was served with the Form F8 application. You can serve this response and supporting documents on the Applicant in a number of ways, including by email or by express or registered post. Make sure you send the documents to the email or postal address specified in the Form F8 application.

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 a response 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 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 section 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, a 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 application Form F8. The information will be included on the case file and the Commission may disclose the 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 F8A – Response to a general protections application involving dismissal

[Fair Work Act 2009](#), s.365; Fair Work Commission Rules 2013, rules 21 and 23

This is a response to an application for the Fair Work Commission (Commission) to deal with a general protections dispute involving dismissal under Part 3-1 of the [Fair Work Act 2009](#).

The Applicant



These are the details of the person who made the application. You can find this information on the general protections application Form F8 and correspondence from the Commission.

Name	
Commission matter number	

The Respondent



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

Legal name of Respondent			
Respondent's ACN/ABN (if a company)			
Respondent's trading name or registered business name			
Name of person we can contact			
Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			
What industry is the Respondent in?			

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

Has the Applicant given the Respondent’s correct legal name in the Form F8?

Yes

No – please make sure the Respondent’s correct legal name is set out above.

How should the Commission contact the Respondent?

Email (make sure you check your email regularly)

Post

How many employees (if any) does the Respondent have?

Does the Respondent need an interpreter?



If the Respondent 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 Respondent need any special assistance at a hearing or conference (eg do you have hearing difficulties)?



If you answer yes, we will contact you before a hearing or conference to see if there is anything we can reasonably do to assist you.

Yes – Please tell us what you need

No

Does the Respondent have a representative?



A representative is a person or organisation who is representing the Respondent. This might be a lawyer or paid agent, an employer organisation, or a family member or friend. The Respondent does not need to have a representative.

Yes – tell us about the Respondent’s representative below

No – go to question 1

Respondent’s representative



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

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

Is the Respondent’s representative a lawyer or paid agent?



A lawyer is a person who is admitted to the legal profession by a Supreme Court of a State or Territory. A paid agent is an agent who charges or receives a fee to represent you in this case.

Yes

No

1. Jurisdictional and other objection(s)

1.1 Does the Respondent have any jurisdictional objection(s) to the application?



Not all objections are jurisdictional objections. Jurisdictional objections relate to why an Applicant is not eligible to make an application to the Commission. **If the Respondent has a jurisdictional objection it must be identified in this form.**

If the Respondent raises a jurisdictional objection, the Commission must hear and determine the objection first. Only if the objection is dismissed can the Commission deal with the matter by conducting a conference to help the parties resolve the dispute.

The Commission’s [General Protections Benchbook](#) has more information on jurisdictional objections.

Yes

No

1.2 If you answered yes to question 1.1 – On what basis does the Respondent object? If the Respondent objects on multiple grounds, you can select more than one from the list below:

The application is out of time (ie lodged more than 21 days after the dismissal took effect)

- The person was not dismissed within the meaning of s.386 of the Fair Work Act 2009 because:
- The person was not an employee
 - The person was not dismissed
 - The Respondent is not a national system employer
- The person has made another application dealing with the dismissal (such as an unfair dismissal application)

Explain why the Respondent objects on these grounds

1.3 Does the Respondent agree with the information given in question 1 (if answered) on the Applicant's Form F8?

- Yes – Go to question 2
- No – Go to question 1.4

1.4 If you answered no to question 1.3 – What is the Respondent's response?



Using numbered paragraphs, set out the reasons why the Respondent does not agree with the information provided by the Applicant in question 1 of their application.

2. Remedy

2.1 What is the Respondent's response to the outcome the Applicant is seeking?



At question 2.1 of the Form F8, the Applicant set out the outcome that they are seeking. Using numbered paragraphs, set out the Respondent's response.

3. Alleged contravention

3.1 What is the Respondent’s response to the alleged contravention(s) set out in the application?



In the Form F8, the Applicant sets out the alleged actions that led them to apply to the Commission, including which sections of the [Fair Work Act 2009](#) were allegedly contravened by the Respondent and how.

Using numbered paragraphs, set out the Respondent’s response to the information that the Applicant has provided. If the Respondent thinks that there was no contravention of the general protections provisions in Part 3-1 of the [Fair Work Act 2009](#), this can be explained here. You can attach extra pages if there is not enough space.

Disclosure of information

The Commission may provide a copy of this response and any attachments to the other parties to this matter. This includes:

- the Applicant
- 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 can use an electronic signature, please insert it below beside 'Signature'. If you do not have an electronic signature, you can type your name beside 'Signature'. You will also need to fill in your name again beside 'Name' and fill in the date.

You can leave the 'Capacity/Position' blank if you are the Respondent. If you are signing on behalf of the Respondent, include your role in the **Capacity/Position** section.

Signature	
Name	
Capacity/ Position	
Date	

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS