



About the F8A response form

Response to general protections application

About general protections disputes

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.

In general protections disputes not involving a dismissal (which are lodged with the Commission using a Form F8C), the Commission will hold a private conference to deal with the dispute if both parties agree. If the Respondent does not agree to participate in a conference, or the dispute is unresolved after a conference, the Applicant may choose to apply to a court to deal with the matter.

In general protections disputes involving dismissal (which are lodged with the Commission using a Form F8), the Commission must hold a conference to deal with the dispute. The Commission will issue a certificate if the dispute is not resolved. 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, or
- a Form F8C – General protections application not 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 or F8C application. You can find information about how to post, fax or email your response form to the [Commission's 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 or F8C 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 or F8C 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, fax, 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. 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 general protections application

Fair Work Act 2009, ss.365 and 372; Fair Work Commission Rules 2013, rules 21, 23, 46 and Schedule 1

This is a response to an application for the Fair Work Commission (the Commission) to deal with a general protections dispute 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 or F8C and correspondence from the Commission.

Name	Matelita Taufa
Commission matter number	C1234

The Respondent



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

Legal name of Respondent	Frozen Food Distributions Pty Ltd		
Respondent's ACN/ABN (if a company)	12345678901		
Respondent's trading name or registered business name	Frozen Food		
Name of person we can contact	Adam Matthews, Human Resources Manager		
Postal address	100 Example Road		
Suburb	Sydney		
State or territory	NSW	Postcode	2000
Phone number	02 9000 0000	Fax number	02 9000 0009
Email address	a.matthews@frozenfood.com.au		
What industry is the Respondent in?	Food industry		

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 or F8C?

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?

20

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. Application

1.1 Which form did the Applicant serve on the Respondent?



You are using this form because the Applicant has served the Respondent with either a Form F8 – General protections dismissal application, or a Form F8C – General protections application not involving dismissal. If the Applicant has served the Respondent with:

A Form F8 – General protections application involving dismissal – only **answer question 2** and leave question 3 blank.

A Form F8C – General protections application not involving dismissal – leave question 2 blank and **go to question 3**.

2. If the Respondent is responding to a Form F8 – General protections application involving dismissal (Form F8)

2.1 Does the Respondent have any jurisdictional or other objection(s) to the application?



Jurisdictional objections relate to why an Applicant is not eligible to make an application to the Commission. A jurisdictional objection is not simply that the Respondent thinks that there was not a contravention of the general protections provisions. The Commission's [General Protections Benchbook](#) has more information on jurisdictional objections.

Yes

No

2.2 If you answered yes to question 2.1 – 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

Other

Explain why the Respondent objects on these grounds

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

Yes – Go to question 4

No – Go to question 2.4

2.4 If you answered no to question 2.3 – 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.

Go to question 4.

3. If the Respondent is responding to a Form F8C – General protections application not involving dismissal (Form F8C)

3.1 Does the Respondent have any jurisdictional or other objection(s) to the application?



Jurisdictional objections relate to why an Applicant is not eligible to make an application to the Commission. A jurisdictional objection is not simply that the Respondent thinks that there was not a contravention of the general protections provisions. The Commission’s [General Protections Benchbook](#) has more information on jurisdictional objections.

Yes

No

If you answered yes to question 3.1 – Explain why the Respondent objects

3.2 Does the Respondent agree to take part in a conference convened by the Commission?



The Commission is required to conduct a conference to deal with an application lodged under section 372 of the *Fair Work Act 2009* if both parties to the dispute agree.

See section 374 of the *Fair Work Act 2009*. Only answer this question if you are responding to a Form F8C – General protections application not involving dismissal.

Yes

No

4. Remedy

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



At question 2.1 of the Form F8 or Form F8C, the Applicant set out the outcome that he or she is seeking. Using numbered paragraphs, set out the Respondent's response.

1. I do not agree with reinstatement because we have lost trust and confidence in the Applicant. I do not agree with compensation because following the meeting on 17 January 2023, the Applicant rejected my calls and did not return to work.

5. Alleged contravention

5.1 What is the Respondent's response to the alleged contravention(s) set out in question 3 of the application?



At questions 3.1 to 3.3 of the Form F8 or Form F8C, the Applicant set out the alleged actions that led him or her to apply to the Commission, including which sections of the Fair Work Act were allegedly contravened by the Respondent and how.

Using numbered paragraphs, set out the Respondent's response to the information that the Applicant has set out at questions 3.1 to 3.3 of the Form F8 or Form F8C. You can attach extra pages if there is not enough space.

- 1. On 9 January 2023, Tom Biggs, supervisor, notified me that Matelita Taufu had called in sick and wouldn't be coming to work that day.**
- 2. On 10 January 2023, Tom Biggs, supervisor, notified me that Matelita Taufu had called again and was still sick and wouldn't be returning to work until 17 January 2023.**
- 3. I tried contacting Matelita Taufu several times that day to request that she fax or email me a medical certificate. Matelita Taufu did not return any of my calls or messages.**
- 4. On 17 January 2023 I called a meeting with Tom Biggs, supervisor, and Matelita Taufu. We discussed Matelita's performance, work attendance and complaints made by other staff. Matelita was being very difficult during the meeting, refusing to listen to feedback.**
- 5. Matelita was asked what she wanted to do in relation to the issues raised. She responded by saying "If you want me to leave, just say it." I tried to explain that we were willing to put Matelita on a performance program. Matelita replied "I don't need to be performance managed. You want me to leave – fine." Matelita left the office and Frozen Food's premises.**
- 6. I tried to contact Matelita several times over several days. She did not return any of my calls or messages.**
- 7. Matelita Taufu's staff file shows several entries where she has been given verbal warnings about attendance at work and job performance.**

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 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	<i>A Matthews</i>
Name	Adam Matthews
Capacity/ Position	20 February 2023
Date	Human Resources Manager

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS