

# About the F73 employer/principal response

## Order to stop bullying

### What is bullying?

Workplace bullying occurs when:

- An individual or group of individuals **repeatedly** behaves **unreasonably** towards a worker or group of workers **at work**; **and**
- The behavior creates a **risk to health and safety**.

Reasonable management action carried out in a reasonable manner is **not** bullying, for example reasonable performance management.

Workers are only covered by the national anti-bullying laws if they work in certain kinds of businesses or organisations. These include:

- a business that is a constitutional corporation—for example, a Pty Ltd company or an incorporated association conducting trading or financial operations. (This includes foreign corporations formed within the limits of the Commonwealth.)
- the Commonwealth
- a Commonwealth authority
- a body corporate incorporated in a Territory
- a business or organisation conducted principally in a Territory or Commonwealth place.

For more information please see the Commission's anti-bullying guide.

The Fair Work Commission (the Commission) has the power to make an order to stop bullying. The Commission can only make an order if there is a risk that the worker will continue to be bullied at work by the particular individual or group. Accordingly, where the worker is no longer engaged at the workplace where they allege the bullying occurred, and in other circumstances where there is no risk of the bullying conduct continuing, orders cannot be made. The Commission does not have the power to award compensation or reinstatement.

For more information about anti-bullying, please see the Commission's Anti-Bullying Information Guide.

### Who can use this form

Use this form if you are an employer or principal and have been served with a form F72—Application for an order to stop bullying.

### Lodging your completed form

**1. Lodge your response** along with any accompanying documents with the Commission. You can lodge your response in person, by post, by fax or by email with your [State or Territory office](#). You can also lodge online using the Commission's [eFiling service](#) at [www.fwc.gov.au](http://www.fwc.gov.au).

2. Unless directed by the Commission otherwise, **you must serve** a copy of this response on the other parties to this matter within **7 calendar days** after being served with the application for an order to stop bullying. The relevant parties are:

- the worker who has made the application (the applicant) **and**
- each person named in the application as an employer or principal **and**
- each individual person named in the application as allegedly engaging in bullying behavior.

The Commission **may issue** a direction that requires you to serve a copy of this response on **some but not all** of the relevant parties outlined above. It is **very important**, therefore, that you carefully read all of the information sent to you by the Commission before serving this response.

## Where to get help

### Commission staff & resources

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

- processes in the Commission
- 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 answer the question following.

### Legal or other representation

Representation is where another person (such as a lawyer, union official or family member) speaks or acts on your behalf in relation to your matter. There is no requirement for you to be represented when you appear at the Commission. You will need the permission of the Commission member dealing with your case if you wish to be represented by a lawyer or paid agent unless that person is:

- employed by a union or employer organisation, a peak union or peak employer body, or
- one of your employees or officers (if you are an employer).

If you decide to represent yourself in proceedings you will need to make sure you are well prepared.

## Glossary of common terms

**Applicant**—This is the person 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.

**Parties**—A party is a person or organisation involved in a matter or case that is brought to the Commission.

**Service**—Serving a document means giving a copy of the document to a person or organisation, usually to the other party to the matter. Where required, you can serve a document in a number of ways, including by email, fax, express or registered post, or in person.



**Remove the cover sheets** and keep for future reference—they contain useful information

## Form F73—Response from an employer/principal to an application for an order to stop bullying

*Fair Work Act 2009, s. 789FC, Fair Work Commission Rules 2013, rule 38A*

This is a response to an application to the Fair Work Commission for an order to stop bullying in accordance with Part 6-4B of the *Fair Work Act 2009*.

### The Worker



These are the details of the person who is making the application. You can find this information on the application form F72.

<b>First name(s)</b>	
<b>Surname</b>	
<b>Commission matter number</b>	

### Employer/principal



An **employer or principal** is:

- the person or business who employs or engages the person who made the application; and/or
- the person or business that employs the people who have allegedly engaged in bullying behaviour.

<b>Legal name of business</b>			
<b>Trading name of business</b>			
<b>ABN/ACN</b>			
<b>Contact person</b>			
<b>Postal address</b>			
<b>State or territory</b>		<b>Postcode</b>	
<b>Phone number</b>		<b>Fax number</b>	
<b>Email address</b>			

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

### Who do you employ or engage?

- The worker who has made the application
- The person or one or more people against whom bullying is alleged
- I don't know

**Do you need an interpreter?**



If you require an interpreter (other than a friend or family member) in order to participate in conciliation, conference or hearing, the Fair Work Commission will provide an interpreter at no cost.

- Yes—Specify language
- No

**Do you require any special assistance at the conference (eg a hearing loop)?**

- Yes—Please specify the assistance required
- No

**Do you have a representative?**



This might be a lawyer, a union or a family member or friend who will speak on your behalf. There is no requirement to have a representative.

- Yes—Provide representative’s details below
- No

**Employer/Principal’s representative**



These are the details of the person or business who is representing you.

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

**1. The Employment**

**1.1 Is the worker who has made the application still employed or engaged at the place where the alleged bullying took place?**

- Yes
- No
- I don’t know

**1.2 Is the person against whom bullying has been alleged still employed or engaged at the place where the alleged bullying occurred?**

- Yes
- No
- I don’t know

**2. Awareness of the alleged bullying behavior**



You do not have to answer questions 2, 3, 4 and 5 if you believe that your answers may be self-incriminating.

**2.1 Were you aware that the worker believes that they are being bullied at work?**

Yes

No

**2.2 What did you know about how the worker felt?**

**2.3 What is your response to the worker's claims that they are being bullied, including whether you agree that they have experienced bullying at work?**

**3. Complaints made by the worker****3.1 Has the worker made any complaint about the alleged bullying?**

- Yes
- No
- I don't know

**3.2 Please describe the complaint made by the worker and the steps taken by the business in response. Provide details of the outcome of any investigation.****4. Bullying policy or grievance or dispute resolution procedure****4.1 Does the business have a bullying policy or any procedure for handling grievances or disputes?**

- Yes—Go to question 4.2
- No

**4.2 If the worker made a complaint, was it made and managed in accordance with the policy or procedure?**

- Yes
- No

**5. Performance management and/or disciplinary action****5.1 Has the worker been advised that they are not performing their duties to the required standard or that they are facing disciplinary action?**

- Yes
- No

**5.2 Please provide details of any performance issues or conduct requiring disciplinary action, and specify what (if any) has been taken by management in respect of the worker.**

## 6. Jurisdictional objections

**6.1 Do you have any jurisdictional objections to the application?**



Jurisdictional objections relate to why a worker is not eligible to make an application to the Commission. An objection is not simply that you think that the worker was not bullied. The Commission's Anti-Bullying Bench Book has more information on jurisdictional objections.

- Yes  
 No

**6.2 On what basis do you object? If you object on multiple grounds you can select more than one from the list below.**

- The person making the application does not meet the definition of a 'worker'  
 The worker is not working for a 'constitutionally covered business'  
 The worker was not at work when the alleged bullying behavior occurred  
 The application has no reasonable prospects of success  
 The person making the application is a member of the Defence Force  
 The application relates to matters involving Australia's defence or national security, or an existing or future covert or international operation of the Australian Federal Police  
 Other

Explain why you object on these grounds



**Disclosure of information**

Under section 655 of the *Fair Work Act 2009*, the President may disclose, or authorise the disclosure of, this response if he or she reasonably believes that the disclosure would be likely to assist in the administration or enforcement of a Commonwealth or State or Territory law.

The Fair Work Commission undertakes research with participants in anti bullying matters to ensure a high quality process. Some research may be undertaken by external providers on behalf of the Fair Work Commission. **I do not** object to my contact details being provided to an external provider for the purposes of inviting me to participate in this research.

**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 below. You must still complete all the fields below.

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



Where this application form is not being completed and signed by the Employer/Principal, include the name and signature of the person who is completing the form on their behalf in the **Capacity/Position** section. This may be a lawyer, union official, family member or friend.