

Your responses suggest that the statutory protection against adverse action does not apply in your circumstances, so it depends on the wording of your contract what remedies may be available to you.

(Fair Work Act 2009)

341 Meaning of *workplace right*

*Meaning of **workplace right***

- (1) A person has a **workplace right** if the person:
- (a) is entitled to the benefit of, or has a role or responsibility under, a workplace law, workplace instrument or order made by an industrial body; or
 - (b) is able to initiate, or participate in, a process or proceedings under a workplace law or workplace instrument; or
 - (c) is able to make a complaint or inquiry:
 - (i) to a person or body having the capacity under a workplace law to seek compliance with that law or a workplace instrument; or
 - (ii) if the person is an employee—in relation to his or her employment.

*Meaning of **process or proceedings under a workplace law or workplace instrument***

- (2) Each of the following is a **process or proceedings under a workplace law or workplace instrument**:
- (a) a conference conducted or hearing held by the FWC;
 - (b) court proceedings under a workplace law or workplace instrument;
 - (c) protected industrial action;
 - (d) a protected action ballot;
 - (e) making, varying or terminating an enterprise agreement;
 - (f) appointing, or terminating the appointment of, a bargaining representative;
 - (g) making or terminating an individual flexibility arrangement under a modern award or enterprise agreement;
 - (h) agreeing to cash out paid annual leave or paid personal/carer's leave;
 - (i) making a request under Division 4 of Part 2-2 (which deals with requests for flexible working arrangements);
 - (j) dispute settlement for which provision is made by, or under, a workplace law or workplace instrument;
 - (k) any other process or proceedings under a workplace law or workplace instrument.

Prospective employees taken to have workplace rights

- (3) A prospective employee is taken to have the workplace rights he or she would have if he or she were employed in the prospective employment by the prospective employer.

Note: Among other things, the effect of this subsection would be to prevent a prospective employer making an offer of employment conditional on entering an individual flexibility arrangement.

Exceptions relating to prospective employees

- (4) Despite subsection (3), a prospective employer does not contravene subsection 340(1) if the prospective employer makes an offer of employment conditional on the prospective employee accepting a guarantee of annual earnings.
- (5) Despite paragraph (1)(a), a prospective employer does not contravene subsection 340(1) if the prospective employer refuses to employ a prospective employee because the prospective employee would be entitled to the benefit of Part 2-8 or 6-3A (which deal with transfer of business).