



Australian Government

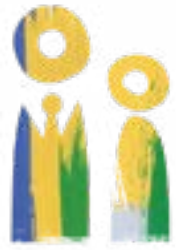
Fair Work OMBUDSMAN

A guide to fixing workplace problems with your boss



This guide provides Aboriginal and Torres Strait Islander workers with step by step advice on how to fix a problem at work with their boss. You can find more tips and hints on fixing problems at work at www.fairwork.gov.au/help. You can also call **13 13 94** to talk to an Infoline adviser.





Why should you use this guide?

This guide helps workers to fix problems at work

The Fair Work Ombudsman helps workers and bosses to work together and sort out workplace problems. We want to make sure everyone is following workplace laws and can sort out problems as easily as possible, without too much money, time and stress. If you ask for our help, we will help you to sort the problem out with your boss.

Most problems at work happen because people don't know what the law is, or because workers and bosses don't talk about what's bothering them.

Problems can be about:

- the amount you are being paid and talking about getting more pay
- getting regular pay slips
- changing your roster
- asking for time off from work for leave, Sorry Business, family problems or cultural events
- your training or apprenticeship
- the behaviour or actions of workmates
- feeling bullied or discriminated at work.

The best way for you to fix a problem at work is to find out what the law is and then yarn to your boss.

This guide will take you through a simple four-step process to help you.

Step 1: Check the law

Step 2: Yarn to your boss

Step 3: Put it in writing

Step 4: Take further action



Step 1: Check the law

If you think you're not getting the right pay or entitlements (the things you should be getting as part of your job) the first thing you need to do is to find out what the law is - or the rules for your job.

\$ The right pay for your job

The right pay for your job comes from your registered agreement, award, contract of employment or the national minimum wage.

If there is an award for your job, use our [Pay and Conditions Tool](#) (PACT) to work out your pay, penalties and allowances.

You must get a pay slip within 1 working day of your pay day, even if you are on leave. They can be given to you electronically or on paper. If you don't get a pay slip or if the information on your pay slip is wrong, you should talk to your boss. It's also a good idea to write down when you work and how much you are paid until you start getting pay slips. Find out more at www.fairwork.gov.au/payslips.

! Rules for your job

The National Employment Standards (NES) are rules about minimum entitlements for your job. They include rules about working hours, taking leave and ending a job. All workers get the NES. Find out more at www.fairwork.gov.au/nas.

Other rules about minimum pay and conditions for your job might be written in a registered agreement.

If there's no registered agreement, there might be an award which sets out the other rules for your job. Your award depends on what sort of business your boss has and what sort of work you do.

If your job doesn't have a registered agreement or an award you still get the NES and national minimum wage.

You can also make rules with your boss about minimum pay and conditions for your job - this is called an employment contract and can be made in writing or by talking with your boss. An employment contract cannot give you less than the rules set out in the NES, your registered agreement or your award.

Ask your boss or go to the [Fair Work Commission's website](#) to find out if there is a registered agreement or award for your job.

✈ Taking leave from your job

Workers can take leave for lots of reasons, including to take a holiday, because they are sick, for Sorry Business or to do something to deal with family and domestic violence.

Rules about leave for all workers are in the NES. Your award, registered agreement or contract of employment might have rules about leave but they can't be less than what is in the NES.

Use our [Leave Calculator](#) to work out how much leave you have got.



Discrimination

Discrimination in the workplace is illegal.

Discrimination happens when a boss sacks, injures or changes a worker's job in a bad way because of things like the worker's race, age, family or carer's responsibilities.

If you think you have been discriminated against in the workplace, more information to help you deal with this problem is available at www.fairwork.gov.au/discrimination



Get ready to talk to your boss

It can be hard to keep track of the rules for your job, but you will need this information when you talk to your boss.

To get ready to talk to your boss, it's a good idea to register for an [online account](#) with us so you'll be able to:

- ask questions about your job and save the answers we give you online
- save information from our calculators about your pay and leave
- save your favourite pages from www.fairwork.gov.au to read with your boss.

You can also call **13 13 94** to talk to an Infoline advisor about the rules for your job.



Gather as much information as you can

There are other documents and pieces of information that can help you to get ready to talk to your boss about a problem. Giving your boss as much information as you can makes it easier for them to understand and work with you to fix the problem.

Other documents and information that can help with a problem are:

- pay slips
- payment summaries, bank statements or other financial records showing what you've been paid
- diary entries about hours you worked, significant events, conversations with your boss or other workers and meetings
- rosters, timesheets, and leave requests and approvals
- other information such as position descriptions or employment contracts
- printed information to give to your boss from www.fairwork.gov.au
- details of what you've been paid and calculations of what you think is owed.



Tip to remember

Your boss must give you at least the minimum pay rates and conditions in the NES, your award or registered agreement.

If you need information about other things like superannuation, tax, workplace health and safety or bullying and harassment, see the 'Links and resources' section in the back of this guide for a list of contacts that can help you.



Dawn's part-time job

Dawn got a part-time job at a local restaurant. Her friend Tracey also works at a restaurant on the same street.

Dawn finds out that she is being paid less than Tracey. She doesn't understand why, because they're doing the same work.

Rather than going straight to her boss to complain, Dawn decides to check her pay using the [Pay and Conditions Tool](#).

It's a good thing Dawn checked the law, because she found out that her boss is paying her the right amount.

It turns out Tracey gets more money because she's a casual employee. Casuals get paid more because they don't get entitlements like annual leave and paid sick leave.



Step 2: Yarn to your boss

The best way to fix a problem at work is to talk with your boss. This might be hard, but talking about problems when they come up will help you to:

- keep a good relationship with your boss
- understand rules about your job
- get the right pay and entitlements
- share ideas with your boss about how the problem can be sorted out
- avoid bigger problems later
- show others in your workplace how they can do the same thing.

Some people avoid talking about problems because it makes them feel shame or discomfort, but most problems at work won't go away by themselves.

If there is a problem at work, talk about it straight away. Remember, your boss might not know that there is a problem and sorting it out quickly means both of you can get on with the job. Be clear about what the problem is and give your boss the information you have collected (see Step 1 on previous page).



Do you need help having a difficult conversation with your boss?

Our [Online Learning Centre](#) has a free course to prepare you for a difficult talk with your boss. The course will show you how to yarn to your boss about getting the right pay, taking leave for things like Sorry Business and changing your hours at work.

You might feel shame or discomfort speaking to your boss because you're not sure how they'll respond, or because you feel your boss is part of the problem. It's a good idea to think about who else you can yarn to at work, such as a workmate, another senior person, a human resources officer, or an Indigenous liaison or employment officer.

If you and your boss are both trying to fix a problem, but you can't agree on what to do next, you might want to ask them if they would consider doing a 'voluntary mediation'. You can find out more about mediation at Step 4.



Tip to remember

Find a good time to yarn to your boss about a problem at work and get some help if you're worried or feel shame about talking.



Trisha's annual leave

Trisha is planning to visit her community and asks her boss how much annual leave she has. Her boss Wendy says that Trisha has two weeks annual leave.

This is one week less annual leave than Trisha thought. But, before saying there's a problem, Trisha double checks on the [leave calculator](#).

The calculator says that Trisha has three weeks annual leave, just like she thought. Trisha prints the results from the leave calculator, and has a yarn with Wendy about her leave.

During their yarn, Trisha shows Wendy the results from the leave calculator. This helps Wendy to see that the leave records kept by the business are wrong – they show that Trisha took 3 weeks leave earlier this year, when in fact she only took 2 weeks.

Wendy says she is sorry for the mistake and agrees to fix Trisha's leave balance. By talking to her boss in a polite and professional way, Trisha sorted the problem out quickly.



Billy's difficult conversation

Billy is a truck driver who has recently started work with a mining company. Billy is worried because he needs to ask for some time off for Sorry Business, but he's not sure if he's allowed to take leave and what his boss will say.

Billy is nervous about speaking to his boss, so he does the '[Difficult Conversations in the Workplace – employee course](#)'. The course helps him practise what to say to his boss and makes him feel more confident about yarning to him.

Billy also talks to his cousin Jimmy, who has worked at the same company for a longer time and is mates with the boss.

The next day Billy meets with his boss and explains why he needs some time off for Sorry Business. Billy's boss listens to his request and agrees to give Billy some time away from work.

Step 3: Put it in writing

If you've tried talking to your boss and you haven't been able to solve the problem, the next step is to write down what you are worried about.

Writing the problem down can make it easier for everyone to understand what needs to be fixed.

Be calm and careful not to blame your boss for something, as this can make things worse. You should write down your ideas about how the problem can be sorted out.

It's okay to use email to write to your boss. You can also give a letter to your boss at work, but make sure you keep a copy.

Need help writing to your boss?

If you need help writing to your boss, use the example letter attached to this guide (Attachment 1).

Remember, you'll need to change the letter so that it's right for your type of problem.

Tips for writing to your boss

Remember to:

- be calm and polite - being angry or rude won't help you sort out the problem
- clearly say what the problem is and your idea for fixing the problem
- refer to the conversation you had in Step 2 and any other time you have tried to sort out the problem
- include the information you gathered in Step 1, such as copies of pay slips, leave records or information from www.fairwork.gov.au
- get some help from a trusted friend, family member or workmate if you need some help writing the letter or want some advice on what to write
- give your boss a fair amount of time to respond (usually 7 – 14 days)
- keep a copy of the letter or email.

Tip to remember

A clear, respectful letter to your boss saying what the problem is can help to sort things out.

Jack's pay

Jack has been working as an apprentice mechanic for 2 years. He recently completed the assessments to move onto the third year of his apprenticeship.

Jack spoke to his boss to let him know that he is now in his third year and that his pay rate should go up. His boss told him that he will check the rate and get back to him. After two weeks, Jack checks his pay slip and notices his pay rate hasn't changed. When he yawns to his boss about it, his boss says he is too busy to sort the problem out right now.

Since Jack has already tried to talk with his boss and the problem has not been fixed, he puts his problem in writing. Jack writes a simple, clear letter that says he is worried about the delay in updating his pay. He also includes information from www.fairwork.gov.au/pay about what his new pay rate should be.

A few days after Jack gave his boss the letter he is called into his boss's office. His boss tells him that he realises this problem is important to Jack and that he will fix it.

Jack's next pay slip shows the new pay rate and some extra money to pay Jack back for the money he didn't get because of the delay.



Step 4: Take further action

Dealing directly with your boss is the best way for you to sort out a problem. But if you have taken the steps in this guide and you haven't been able to fix the problem, you will need to think about what to do next.

If you still want to sort the problem out, the next step will be asking someone else to help. This might be a mediator, a union, a lawyer or a court. Who you choose will depend on the problem you are trying to fix.

Gathering evidence to take further action

When you ask someone else to help with a problem at work, it's a good idea to give them any information (or records) you need to help sort the problem out - include the information you gathered in Step 1.

Your boss must keep records of things about your employment, including how much you've been paid, the hours you've worked and any leave that you've taken.

You can ask your boss for a copy of these records

If you need help asking your boss for these records, use the example 'request for records' attached to this guide (Attachment 2). Remember to change the request to suit your own problem and the records you need.

Tips for asking your boss for records

Remember to:

- ask for the records you need in writing

(with a letter or email) and keep a copy

- be clear about what you are asking for (e.g. pay slips, timesheets) and the dates you need them for (e.g. for the last three months)
- keep the request simple and be respectful
- provide a reasonable time for your boss to respond (usually 14 days)
- if you don't hear back, follow up by talking to them at work or with a phone call or email.

Mediation (help to sort out a problem)

If you haven't been able to fix a problem at work, you could try mediation. A trained mediator may be able to help you and your boss to sort it out. Mediation is a voluntary process and can only happen if you and your boss agree to it.

Mediators are people who help sort out all kinds of problems. They don't take sides, give advice or make a decision about who's right or wrong. They help you to work through the issues and reach a solution that is fair and acceptable to everyone.

Some organisations offer free or low cost mediation services. To find information about mediation providers in your State or Territory, go to www.msb.org.au/mediators.

You can also use our [mediation service](#). It's a fast, confidential and free way to help workers and bosses find solutions to workplace problems. It generally happens over the phone and takes up to 2 hours.



Felix and Kerry's mediation

Felix worked in an electronic store for 2 years as a full-time employee. Last month, the owner, Kerry, had to let Felix go because business sales were down and he was no longer needed.

Kerry gave Felix two weeks 'notice' that his job would finish.

Felix and Kerry had a problem. Kerry wanted Felix to keep working in the notice period, but Felix thought he would be paid for the notice period and finished work straight away so that he could get a new job somewhere else.

Felix and Kerry agreed to go to mediation.

The mediator explained to both Felix and Kerry that they were there to help them fix the problem. During the mediation, Felix talked about what he thought happened. Kerry also talked about what she thought happened.

The mediator was there, and helped both Felix and Kerry to talk about the problem calmly and in a way that tried to find a solution that worked for both of them. After about an hour of yarning, Felix and Kerry agreed on how they wanted to fix the problem and finished the conversation.



Tip to remember

Gather all the information you need so that you can get someone to help you to sort out a problem with your boss or your workplace.



Unions

Unions represent workers and can provide their members with information, advice and support. If you're a member of a union you might want to contact them for help.

For information about union membership and how your union could help you, contact [Australian Unions](#).



Legal advice

You can seek legal advice from a lawyer or community legal centre at any time. There may also be a community legal service in your State or Territory dedicated specifically for Aboriginal and Torres Strait Islanders. To find a community legal centre go to the [www.naccl.org.au](#).

To find a lawyer, visit the law institute or law society within your State or Territory.



Small claims action

A small claim is where you ask a court to recover any money owed to you.

A small claim is faster, cheaper and more informal than a normal court case. You don't need to be an expert and lawyers aren't usually involved.

You can use the small claims process if you're trying to get back \$20,000 or less (if you believe you're owed more than this, you should seek legal advice about other options).

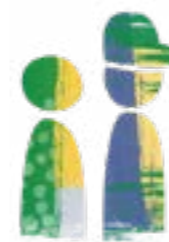
Before making a small claim application, it's a good idea to write to your boss again to remind them of the problem and let them know that you still want to fix it. You should also let them know that you might make a small claim application.

For more information on small claims, see [www.fairwork.gov.au/smallclaims](#).



Tip to remember

If you've tried yarning with and writing to your boss but the problem still isn't fixed, you might need to get some more help. You can call **13 13 94** to talk to an Infoline adviser.



Checklist

Here are some simple steps to help you sort out problems at work.

Look through this list and make sure you have completed each step that fits your problem.



Check your rights

I have:

- checked my pay and conditions (see [www.fairwork.gov.au/pay](#))
- signed up for [My account](#)
- printed or saved the information I need from [www.fairwork.gov.au](#)
- worked out what I have been paid and what I think I'm owed
- got support from someone in the community if I have problems with any of these steps.



Yarn to your boss

I have:

- done the online course '[Difficult conversations in the workplace - employee course](#)'
- worked out a good time to discuss the problems with my boss
- got all the information I need to help explain the problem to my boss
- got ideas for how to fix the problem with my boss
- got support from someone to help me if I'm having problems yarning with my boss or are worried about it.



Put it in writing

I have:

- used clear and respectful language
- clearly told my boss what the problem is and how I think it can be fixed
- kept a copy of the letter or email
- found someone to help me (if I need help) to put my problems in writing.



Take further action

I have (some may not apply):

- gathered the information I need to take further action
- read the information and thought about a [voluntary mediation](#)
- read the information at [www.fairwork.gov.au/smallclaims](#) and thought about taking a small claims action
- written to my boss again telling them I'm thinking about taking legal action if the problem is not sorted out
- got some help from a union or a lawyer
- got some help from a trusted local community member or organisation.

Links and resources to help you out:

Registered agreements

These are agreements between bosses and workers about terms and conditions of jobs in their workplace. The Fair Work Commission (FWC) can help you deal with disputes about a registered agreement.

You can check if you are covered by a registered agreement by visiting the Fair Work Commission's [website](http://www.fairwork.gov.au)

Workplace health and safety

Each State and Territory has a local workplace health and safety organisation which makes sure laws about workplace health and safety are followed, including helping with problems such as bullying and harassment. You can find the contact details for these organisations at www.fairwork.gov.au/links

Tax and superannuation

In most cases, your boss must take tax from your wages. They also must pay superannuation for you if you earn over a certain amount each month.

The [Australian Taxation Office](http://www.ato.gov.au) (ATO) can provide you with information about tax and superannuation.

Bullying

Everyone has the right not to be bullied at work.

If you are dealing with a bullying problem at work, the [Fair Work Commission](http://www.fairwork.gov.au) can help.

Discrimination

Discrimination in the workplace is illegal.

For more information about discrimination in the workplace, go to www.fairwork.gov.au/discrimination

The Australian Human Rights Commission can also help resolve discrimination issues in the workplace. For more information, go to www.humanrights.gov.au

Personal support

Dealing with problems at work can cause stress. If you're having trouble dealing with problems at work and are feeling down, support is available from www.beyondblue.org.au and www.lifeline.org.au



Attachment 1

Example of a letter to send your boss

You can use this example letter to help you write to your boss about a problem at work. You may want to get someone you trust to help you or check the final letter before you send it. If you need more information visit www.fairwork.gov.au or contact the Fair Work Infoline on **13 13 94**.

Jones Self Storage Pty Ltd
10 Summer Circuit
Clifton Hill NSW 2998
24 November 2015

Dear Mr Jones

Thank you for meeting with me on 10 November 2015 to talk about my pay.

As discussed, the pay rate I'm receiving is below the award minimum for my job. I have checked my most recent pay slip and the issues we discussed have not been fixed.

I have checked the Fair Work Ombudsman's website and my job is covered by the Storage Services and Wholesale Award 2010 (the Award). Under the Award, I believe my duties come under the 'Storeworker grade 2' classification. The Award pay rate for a Storeworker grade 2 with my level of experience is \$19.10 per hour. I'm currently receiving only \$18.63 per hour.

As this pay rate applied from July 2015, I have calculated that I am owed \$374.74 in back-pay.

I have attached the following documents that show how I have calculated this:

- a pay slip showing my current pay rate
- the current pay rate for a Storeworker grade 2 that I obtained from www.fairwork.gov.au
- my back-pay calculations.

You can find a copy of the Award and information about pay and other worker entitlements on the Fair Work Ombudsman's website at www.fairwork.gov.au or by calling **13 13 94**.

I ask that you please increase my pay rate and also back-pay the amount owed as soon as possible.

I am happy to discuss this further with you or you can respond by email at bill.johnston@homeemail.com.au

Yours sincerely,

Bill Johnston

Attachment 2

Example of a request for records

You can use this example to help you write to your boss requesting a copy of your records. If you need more information visit www.fairwork.gov.au or contact the Fair Work Infoline on **13 13 94**.

Freshfruit Cafe
10 Plantation Drive
Plantation Point VIC 9112
1 October 2015

Dear Ms Smith

I am a former worker at Freshfruit Cafe. I worked as a chef at your Plantation Point location between March 2015 and September 2015. I would like to check my employment entitlements during that time.

To do this, I need information from my employment records. Can you please provide me with the following records for the period 1 March 2015 to 30 September 2015:

- the businesses legal name and ABN
- my start date
- my termination date and the reason for my termination
- my job description and classification under the award
- my employment status (full-time, part-time or casual)
- records of the hours I worked (including date/day of the week, start and finish times and breaks)
- pay slips or other records of my pay (including loadings, penalty rates, overtime and other amounts)
- any deductions from my pay
- my leave records showing leave accrued and taken (both paid and unpaid).

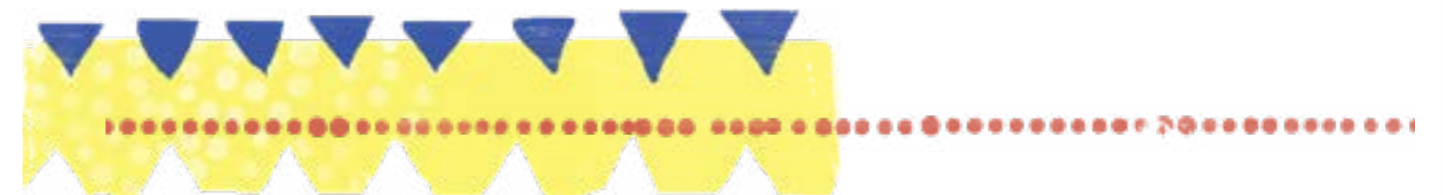
Please note that I am allowed to obtain copies of these records under the Fair Work Regulations 2009.

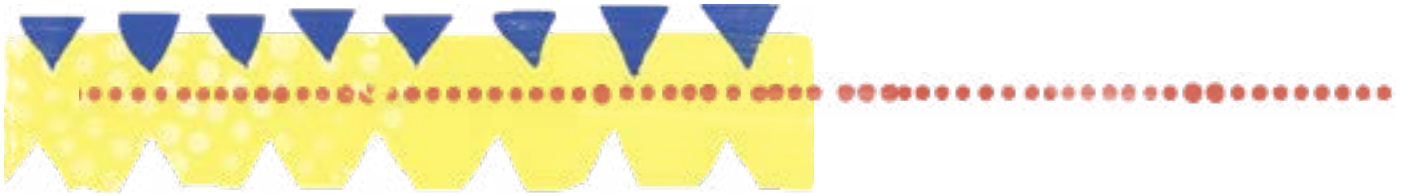
Please provide these records to me by 22 October 2015. They can be sent by post to my address above, or by email at tania.johnson@homeemail.com.au

Please contact me on 0444 123 456 if you would like to discuss this request.

Yours sincerely

Tania Johnson





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