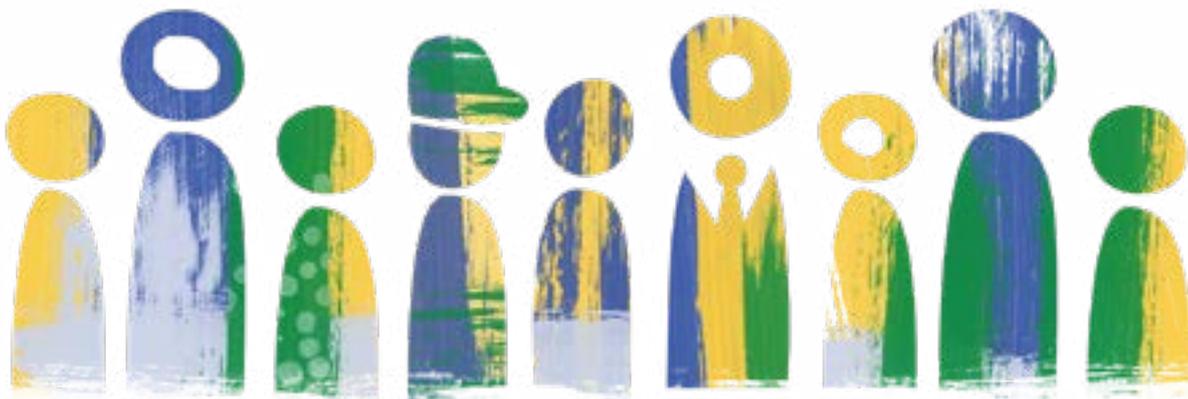




Australian Government

Fair Work
OMBUDSMAN

A guide to hiring new **Aboriginal** and **Torres Strait** **Islander** employees



Hiring a new employee is an important decision for your business. This guide will help you find the right employee for your workplace and provides practical advice and information to help ensure Aboriginal and Torres Strait Islander workers feel valued and supported at work. It will also help you better understand some of the issues Aboriginal and Torres Strait Islander peoples face in the workplace.*

You can also access our [Hiring employees](#) online learning course which has interactive activities, templates and checklists to help you through the process.





The hiring process

Hiring a new employee is not a single event - it's a process.

Understanding each step in the process will help you get the best outcome for your business.

Step 1: Know the law

There are workplace laws that apply to all employees in the national workplace relations system. Before hiring a new employee make sure that you know about your responsibilities under the Fair Work Act 2009.



The National Employment Standards

There are 10 National Employment Standards (NES) that apply to all employees in the national system. They cover:

- 1. Maximum weekly hours** – 38 hours per week, plus reasonable additional hours
- 2. Requests for flexible working arrangements** – certain employees can ask for a change in their working arrangements
- 3. Parental leave** – up to 12 months unpaid leave per employee, as well as the right to request an additional 12 months leave
- 4. Annual leave** – four weeks paid leave per year, plus an additional week for some shift workers
- 5. Personal/carer's leave, compassionate leave and family and domestic violence leave** – 10 days paid personal/carer's leave per year, two days unpaid carer's leave as required and five days unpaid family and domestic violence leave (in a 12 month period)
- 6. Community service leave** – unpaid leave for voluntary emergency management activities and leave for jury service
- 7. Long service leave** – paid leave for employees who have been with the same employer for a long time
- 8. Public holidays** – a paid day off on a public holiday, unless reasonably requested to work
- 9. Notice of termination and redundancy pay** – up to five weeks notice of termination and up to 16 weeks redundancy pay
- 10. Fair Work Information Statement** – must be provided to all new employees.



Find out more

For more information about the NES go to www.fairwork.gov.au/nas.



Awards and agreements

Modern Awards

A modern award is a document that sets out the minimum wages and conditions for an industry or occupation. They apply on top of the NES.

Modern awards cover things like pay, hours of work, rosters, breaks, allowances, penalty rates and overtime.

To search for the modern award that applies to your business use our [award finder](#).

Registered Agreements

A registered agreement is a document that sets out the minimum wages and conditions for a workplace. When an agreement is in place, it will usually apply instead of the modern award.

The agreement is negotiated between the employer and a group of employees or their representatives. The agreement is then lodged with the Fair Work Commission for approval.

You can search for registered agreements or find out more about agreement making on the [Fair Work Commission's website](#).

Award/Agreement free employees

Some employees will not be covered by a modern award or registered agreement.

These employees are considered to be award/agreement free. These employees are still entitled to the national minimum wage and the NES.



Wages

Employees must be paid at least the minimum wage provided in their award or agreement. If they aren't covered by an award or agreement, they must be paid at least the national minimum wage.

Pay rates are based on an employee's duties and other factors like their age and qualifications. If an employee's duties change, their wage may also change.

Wages usually increase on 1 July every year. For help with pay rates go to www.fairwork.gov.au/pay.



Record-keeping and pay slips

You need to keep written time and wage records for each employee. This includes records about:

- their employment including:
 - the employee's name
 - the employer's name and ABN
 - whether the employee is full-time or part-time, permanent, fixed term or casual
 - the date on which the employee began employment
- pay
- overtime
- hours of work
- leave
- super contributions
- termination of employment
- agreements relating to an individual's employment including individual flexibility agreements and guarantees of annual earnings.

These records must be kept for at least seven years. For more information about record-keeping, go to www.fairwork.gov.au/recordkeeping.

You also need to give all employees a pay slip within one day of paying their wages.

For a template pay slip, go to www.fairwork.gov.au/templates

Discrimination

Discrimination in the workplace is illegal. Employees (or potential employees) cannot be discriminated against because of their race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

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

Taxation and super

Employers need to meet tax obligations for all workers. This includes PAYG withholding and super on behalf of their employees.

Some employers will also have to pay payroll tax when their total wages exceed a certain level called the 'exemption threshold'.

The [Australian Taxation Office](http://www.ato.gov.au) (ATO) can give you advice about your tax and super obligations.

Workplace health and safety and worker's compensation

As an employer, you are responsible for providing a healthy and safe working environment for your employees. You also need to pay worker's compensation insurance for your employees.

Go to www.fairwork.gov.au/links for more information about contacting the relevant work health and safety body in your state or territory.

Step 2: Think about hiring

The next step in the hiring process is to assess your business' current and future needs and define the role you want to fill. Decide whether hiring is the best option or whether you could consider alternatives, like training existing staff.

If you decide to hire, think about what you need from the person and develop a job description to match. Consider the tasks you need the person to do and the skills/qualifications they will need to do this work.

Consider how you can promote diversity and inclusion in your business when hiring. Diverse and inclusive workplaces are usually more productive and better places to work for you and your staff. Workplace diversity means creating an environment that accepts an individual's differences, embraces their strengths and provides opportunities for all staff to achieve their full potential. When defining the role, think about the type of employee you need.

| Employment Type | About |
|-------------------|--|
| Full-time | Work 38 hours per week and have ongoing employment. They have a regular pattern of hours and can be asked to work reasonable additional hours. |
| Part-time | Work less than 38 hours per week and have ongoing employment. They have a regular pattern of hours and can be asked to work reasonable additional hours. |
| Casual | Are not guaranteed a certain amount of hours of work each week. They are usually paid an additional amount called a 'casual loading' because they don't get other entitlements like paid sick leave or annual leave. |
| Fixed Term | A full-time or part-time worker engaged for a specified period of time, task or season, e.g. a fixed term employee may be used to cover a parental leave absence or to work on a particular project. |



Step 3: Attract the right people

Once you have a clear idea of the role you want to fill, you can then advertise the position. This means making sure that suitable Aboriginal and Torres Strait Islander applicants hear about the opportunity, find the job appealing and match it with their expectations, skills and experience.

The best way to advertise will depend on the type of job and the industry your business is in. Consider options such as:

- online job sites
- social media
- notice boards or shop windows
- newspapers and industry publications
- business or industry contacts
- recruitment agencies.

However, there are also specific ways to promote the opportunity among Aboriginal and Torres Strait Islanders workers. These include:

- conversations with Aboriginal and Torres Strait Islander business, industry or community contacts
- community notice boards
- Indigenous media
- Indigenous job networks.

Remember that there are a growing number of specialised Indigenous recruitment agencies that can help you find the right Aboriginal and Torres Strait Islander staff for your business. A good place to start is through [Supply Nation](#), where you can search for Indigenous recruitment services.

There are also a range of industry-related Vocational Training and Employment Centres (VTECs) that connect Indigenous job seekers with jobs and bring together the support services necessary to prepare job seekers for long term employment. Find out more at <http://generationone.org.au/vtec>.

When preparing your job ad, list the skills and experience you are looking for. Remember to let applicants know what's in it for them by including information about the location, salary and benefits of the job.



Step 4: Choose the right person

Depending on the number of applications you get, it might help to create a shortlist of people to interview. The shortlisting process can help you choose the person whose skills and experience best match the role.

Once you have your shortlist, you can then prepare for your interviews. The interview process can be as formal or informal as you like. Ensure that you ask questions that focus on the skills and abilities which relate to the position.

Avoid asking questions that are personal, intrusive or irrelevant to the role as they may be seen as inappropriate or discriminatory. Visit our '[Hiring employees](#)' online learning course for practical information about interviewing skills.

Step 5: Offer of employment

Once you have chosen someone, contact them to offer them the job. It's a good idea to follow this up in writing with a letter of offer. This will help your new employee understand their conditions of employment. There are template letters of offer available at www.fairwork.gov.au/templates

It's a good idea to also include:

- a copy of the [Fair Work Information Statement](#), (this must be given to every new employee when they start work)
- copies of any relevant company policies such as a code of conduct, uniform or social media policies
- any forms you need completed such as a tax file declaration and super choice, see www.ato.gov.au/business/employers.

Step 6: Start on the right foot

Investing time in a thorough induction will help you get the most from your new employee. It will also help ensure that the employee feels well-informed, welcomed and equipped to do their job. As part of the induction program, you can include:

- a tour of the workplace and introductions to other employees
- a 'buddy' or mentoring system to partner the new worker with someone they may be comfortable asking questions
- an overview of the business
- an explanation of the employee's role and responsibilities
- an explanation of the business' policies and procedures including the hours of operation, the dress code and payroll
- an overview of the workplace health and safety protocols, including fire and evacuation procedures.

Step 7: Have a productive workplace

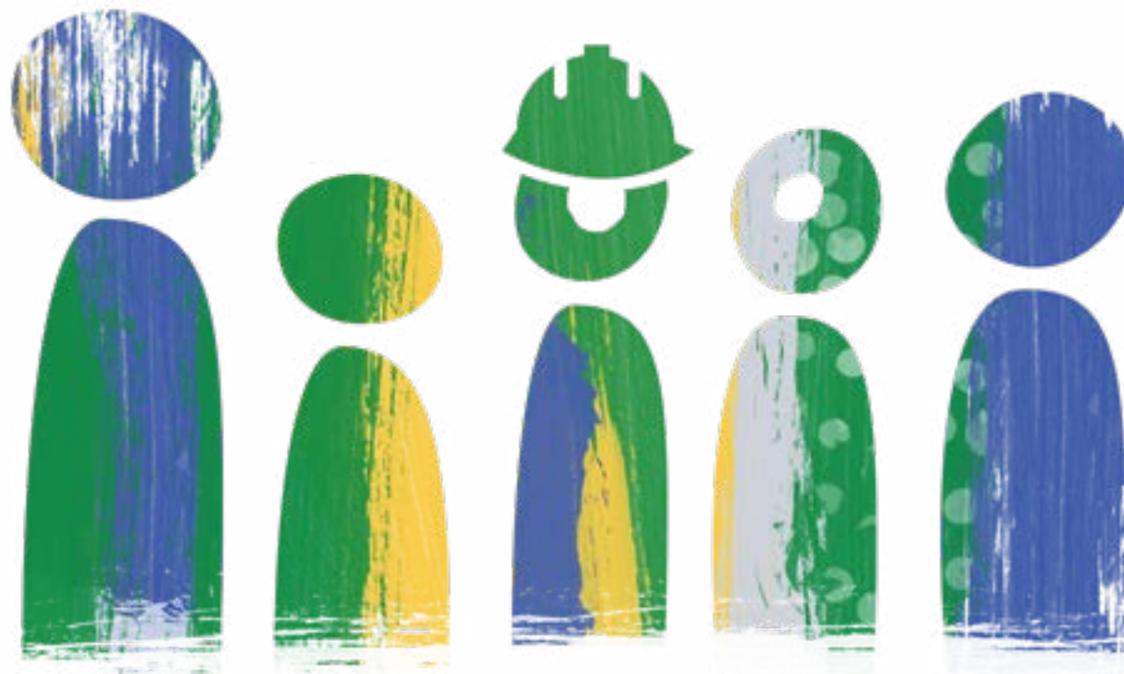
During the first few weeks of employment, meet with your new employee to set goals and expectations. As part of this conversation you can identify any training they need and create a plan to ensure these needs are met.

Regular informal meetings with your new worker are a great way to ensure that they have the chance to raise any issue that may be preventing them from settling in well at work. Depending on the size of the business it's a good idea to appoint an Indigenous liaison officer within your HR Team so that your worker feels more supported and comfortable enough to talk about their workplace problems they are experiencing.

Alternatively, make sure your new worker knows of other ways they can access support outside the workplace such as a community organisation, community legal centre or union representative.

It's a good idea to continue to have regular meetings during the first few months so that you can give the new employee feedback about their performance and monitor their suitability for the role. Developing a performance agreement with your new employee will also help you do this.

If a problem does arise, address it with your new employee promptly. If you need assistance, you can access our ['Difficult conversations in the workplace – manager course'](#).



Step 8: Promote cultural awareness

Why are cultural, family and kinship obligations so important?

Like all workers, Aboriginal and Torres Strait Islander peoples have pressures and responsibilities relating to their home and community life that may need understanding from employers. However, there are some specific cultural issues which employers may need to understand, including the importance of family and kinship ties, cultural obligations, significant dates and cultural events, and the need for time away from work for issues such as Sorry Business.

For many Aboriginal and Torres Strait Islander peoples, their responsibilities to their family, community and culture are extremely important. From time to time, these responsibilities may conflict with their workplace responsibilities. These are serious issues, which should be discussed with sensitivity and respect to find a solution that is best for both you and your worker.

Due to family obligations, Aboriginal and Torres Strait Islander workers may take an increased role in the care of children and elderly family members, including financial care, health care and general care. This means that an Aboriginal and Torres Strait Islander worker will likely have more responsibility outside their 'nuclear' family.

To help your employees meet these obligations you may need to consider offering flexible work arrangements. You can find more information about flexibility in the workplace at www.fairwork.gov.au/flexiblearrangements.

It is important to be aware of significant cultural events and/or dates that are important to Aboriginal and Torres Strait Islander workers (including key national events such as NAIDOC Week, Sorry Day and National Reconciliation Week, as well as local and regional events). It is a good idea to discuss these dates with your workers and, where possible, encourage your staff to acknowledge them and support your workers to participate in them.

Tailored advice from your industry association

Your industry or business association can provide you with tailored advice and assistance. For information please visit:

- the [Australian Chamber of Commerce and Industry](#) for a list of industry organisations and chambers
- the [Ai Group](#), who represent employers across a variety of industries
- the [Fair Work Ombudsman](#) for a list of registered organisations.

Hiring Checklist

- ✓ Know the award/agreement**

An employee's minimum terms and conditions of employment will come from their award or agreement if one applies.

Most employees will be entitled to things like annual leave, sick leave and parental leave. They will also be entitled to the allowances and penalty rates set out in their award or agreement.

It's important to find out what your employee should get by reading the award or agreement.

If you need help finding out which award or agreement applies visit www.fairwork.gov.au/awards.
- ✓ Know your pay slips and record-keeping obligations**

You need to keep written time and wages records for your employees for seven years. You also have to give all of your employees a pay slip within one day of paying their wages.

We have [templates](#) that can help. For more information, see www.fairwork.gov.au/recordkeeping.
- ✓ Find out about workplace health and safety and worker's compensation**

You need to provide your employees with a safe workplace. This can include paying insurance to cover workers who are injured or become ill because of work.

Visit your State or Territory's work health and safety body for information about these obligations. You can find their contact details at www.fairwork.gov.au/links.
- ✓ Get the paperwork ready**

You should provide new employees with paperwork including the Fair Work Information Statement and a tax file declaration form.

You may also:

 - get their super and bank account details
 - offer them a letter of engagement. We have [templates](#) that can help.
- ✓ Conduct an induction**

Running an induction for a new employee will help them to settle in quickly to the job and learn about the workplace. It's important that new employees are aware of your expectations, like wearing a uniform or dress codes.

A thorough induction will give you the chance to explain your expectations and go through any workplace policies and procedures that you have. It will also allow new employees to ask questions.
- ✓ Decide on the person's employment status**

To work out the right pay and conditions you'll need to know whether an employee is full-time, part-time or casual.

For help figuring out what employment status suits the position go to www.fairwork.gov.au/employment.
- ✓ Pay the right rates**

There are different minimum rates of pay for different jobs.

For help finding out the minimum rate of pay for your employee, visit www.fairwork.gov.au/pay.
- ✓ Agree to hours and rostering**

Under most awards you'll need to agree with your employees on their hours of work and rostering in advance.

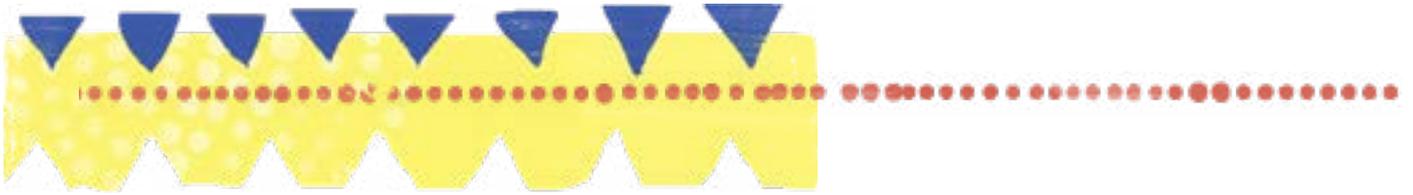
Our [templates](#) will assist you to do this.



i Find out more

For more information about what you need to know when hiring a new employee, as well as recruiting the right people, see our ['Hiring employees'](#) online learning course.

For information about planning, starting and growing your business, visit www.business.gov.au.



*The advice offered in this guide is general in nature and doesn't reflect the diversity of both cultures and individuals across Australia and the Torres Strait Islands. However, some of the core issues and advice explored in this guide may apply to your workplace and could be used to attract and support Aboriginal and Torres Strait Islander workers. We recommend that you work closely with individual workers to better understand their needs at work.



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