

Protections at work

All employees have protected rights at work. These protected rights include:

- [workplace rights](#)
- taking or not taking part in [industrial activities](#) or belonging or not belonging to an industrial association
- being free from [discrimination](#).

Employees can't be treated differently or worse because they possess or have exercised a right, or for a discriminatory reason.

Employees are protected from:

- [adverse action](#)
- [coercion](#)
- [undue influence or pressure](#)
- [misrepresentation](#).

What rights are protected?

Workplace rights

A person has a workplace right if they:

- have a benefit, role or responsibility under a workplace law (eg. The Fair Work Act 2009 or state/territory workers' compensation legislation), instrument (eg. an award or [registered agreement \(www.fairwork.gov.au/Dictionary.aspx?TermID=2034\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034)) or an order made by an industrial body (eg. the Fair Work Commission)
- can start or take part in a process or proceeding under a workplace law or instrument
- can make a complaint or inquiry about their employment to a body
- are an employee and can make a complaint or inquiry about their employment. eg. an employee making an enquiry about their pay to their employer.

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Industrial activities

A person has the right to belong or not belong to an industrial association (eg. a trade union or employer association). A person also has the right to take part or not take part in industrial activity.

Industrial activities include doing or not doing the following:

- being involved in establishing a union or employer association
- organising, promoting, encouraging or participating in lawful activities for a union or employer association
- representing the views, claims or interests of a union or employer association
- complying with lawful requests made by a union or employer association
- paying a fee to a union or employer association
- asking to be represented by a union or employer association.

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Discrimination

An employee or prospective employee has the right to be free from discrimination at work.

To find out more visit [Protection from discrimination at work \(www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work\)](http://www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work) .

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What am I protected from?

Adverse action

Adverse action is action that's unlawful if it's taken for particular reasons.

Adverse action includes doing or threatening to do any of the following:

- firing an employee
- injuring the employee in their employment, eg. not giving an employee legal entitlements such as pay or leave
- changing an employee's job to their disadvantage
- discriminating between employees
- not hiring someone
- offering a potential employee different (and unfair) terms and conditions for the job, compared to other employees
- ending a contract, or refusing to enter into a contract with an independent contractor, discriminating against them in the terms and conditions offered, altering their position to their detriment, refusing to make use of their services, or refusing to supply goods or services to them
- an employee or independent contractor taking industrial action against their employer or principal.

It's unlawful for a person to take adverse action against another person for:

- having or using a workplace right
- belonging or not belonging to a union
- taking or not taking part in industrial activity
- having a protected attribute.

Example: Adverse action

Greg has lodged a request for assistance with the Fair Work Ombudsman because he doesn't think he's getting the correct pay. Once his employer finds out about the request for assistance, Greg is demoted and has his duties substantially changed. This is adverse action against Greg because he used his right to ask about his pay. It is unlawful.

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Coercion

Coercion means forcing someone to do something against their will, for example, through fear, intimidation or threats.

A person can't be forced to use (or not use) a workplace right. For example, if an employee refuses to vote for an enterprise agreement, the employer can't:

- threaten to sack the employee
- threaten to demote the employee
- change their roster.

The coercive behaviour may still be unlawful even if it wasn't successful in forcing someone to do something against their will.

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Undue influence or pressure

Undue influence or pressure is when an employer uses their power to try to influence or pressure an employee to change their conditions of employment.

It's unlawful for an employer to place undue influence or pressure on an employee to:

- enter or not enter into an agreement under the [National Employment Standards \(www.fairwork.gov.au/Dictionary.aspx?TermID=2027\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2027) or an award or [registered agreement \(www.fairwork.gov.au/Dictionary.aspx?TermID=2034\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034)
- agree to, or terminate an individual flexibility arrangement
- accept a guarantee of annual earnings or
- agree or not agree to a deduction.

The undue influence or pressure or coercive behaviour can be unlawful even if it doesn't succeed.

Example: Undue influence or pressure

David is covered by a registered agreement which allows for an agreement to be made to cash out annual leave.

David's manager Jenny approaches him about cashing out his annual leave.

Jenny says that because they are a small business, if David takes leave they would have to close temporarily to cover his absence. David feels obliged to agree with the manager's request.

Depending on the way Jenny raised the issue with David this might be considered undue influence or pressure. However, if the manager made it clear to David that he was in no way obliged to cash out his leave and that Jenny was just exploring all possible business options, her request is unlikely to be considered undue influence or pressure.

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Misrepresentation

Misrepresentation is when someone knowingly or recklessly makes a false or misleading representation to a person who would be expected to rely on that representation.

Example: Misrepresentation

Kath is a long-term casual employee. She is pregnant with her first child and asks her manager about her parental leave entitlement. Kath's manager tells her that only full-time employees are entitled to parental leave - even though he knows that isn't true. This is a misrepresentation and is unlawful.

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Source reference: [Fair Work Act 2009 s.334-378](http://www.comlaw.gov.au/Series/C2009A00028) (http://www.comlaw.gov.au/Series/C2009A00028)

Need help resolving general protections issues?

For employees:

If you've lost your job, contact the Fair Work Commission (the Commission) first if you think you were sacked because of:

- (www.fairwork.gov.au/Employee-entitlements/Protections-at-work/protections-from-discrimination-at-work) discrimination (www.fairwork.gov.au/Employee-entitlements/Protections-at-work/protections-from-discrimination-at-work)
- a reason that is harsh, unjust or unreasonable
- another protected right.

You have 21 days starting from the day after you were dismissed to lodge an application with the Commission. Check the information at the [Commission website](https://www.fwc.gov.au/) (https://www.fwc.gov.au/) to find out if you can apply for:

- [unfair dismissal](https://www.fwc.gov.au/termination-of-employment/unfair-dismissal) (https://www.fwc.gov.au/termination-of-employment/unfair-dismissal) (not available if you lost your job because of a genuine Redundancy (www.fairwork.gov.au/Ending-employment/Redundancy/default))
- a general protections dismissal
- unlawful termination.

For other general protections issues:

- consider whether the action taken against you was unlawful after reading the information on this page
- see our [Help resolving workplace issues](http://www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/default) (www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/default) section for practical advice on:
 - talking to your employer about fixing the problem
 - getting help from us if you still can't resolve it.

For employers:

Take general protections issues seriously. Speak with your employee to address the problem after reading the information on this page.

We have resources to help you:

- Take our [Difficult conversations in the workplace - manager course](http://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/difficult-conversations-in-the-workplace-manager-course) (www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/difficult-conversations-in-the-workplace-manager-course) to learn how to handle the conversation well and deal

with the problem.

- Download our [Managing underperformance best practice guide \(www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/managing-underperformance\)](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/managing-underperformance) for information about how to take reasonable management action to make sure employees are doing their job properly. Disciplinary action should be carried out by a manager in a reasonable, lawful way.

Help for small business

- Find tools, resources and information you might need on our [Small business page \(www.fairwork.gov.au/Find-help-for/Small-business/default\)](http://www.fairwork.gov.au/Find-help-for/Small-business/default) .

You might also be interested in

- [Protections at work fact sheet \(www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/protections-at-work\)](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/protections-at-work)
- [Protections from discrimination at work \(www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work\)](http://www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work)
- [Industrial action \(www.fairwork.gov.au/Employee-entitlements/industrial-action-and-union-membership/Industrial-action/default\)](http://www.fairwork.gov.au/Employee-entitlements/industrial-action-and-union-membership/Industrial-action/default)

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Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.