

Working with you to resolve workplace issues

Changes to our services due to coronavirus (COVID-19)

The coronavirus outbreak has affected our services. Find out what it means for you and what you can expect from us. Visit [How coronavirus \(COVID-19\) has affected our services \(www.fairwork.gov.au/about-us/news-and-media-releases/website-news/how-coronavirus-covid-19-has-affected-our-services\)](https://www.fairwork.gov.au/about-us/news-and-media-releases/website-news/how-coronavirus-covid-19-has-affected-our-services) .

We work with you to resolve workplace issues by offering dispute resolution services, information about workplace laws and tools to help you follow the laws.

We're here to help both employees and employers and we don't advocate for either party. We want to make sure everyone is following workplace laws, can resolve any issues quickly and get on with the job as soon as possible.

Step 1: Finding out what the issues are

We contact the employer and the employee to discuss the workplace issues that have been raised. We will help you to sort out exactly what issues are in dispute.

We will help you to:

- learn about the laws relating to the issues in dispute
- use our tools to calculate what the entitlement should be
- try to fix any problems before mediation.

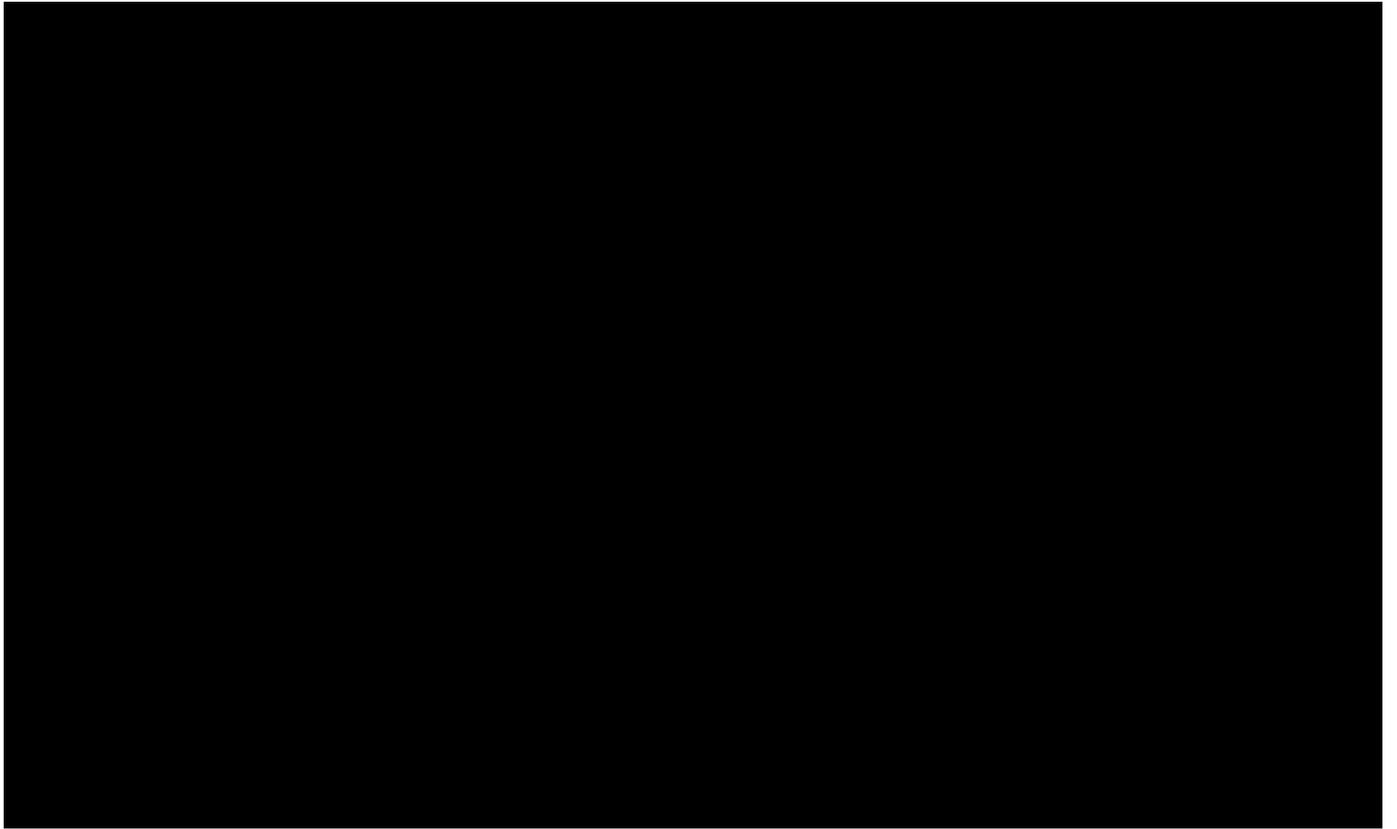
If all the issues can be voluntarily resolved at this stage, there is no need to go through to the next step which is our mediation process.

Step 2: Mediation

Find out about mediation, including:

- [what is mediation](#)
- [mediation outcomes](#)
- [what happens during a mediation](#)
- [what happens after a mediation.](#)

You can also watch our 2 part video series to find out what mediation is, what happens, how to prepare and possible outcomes.



What is mediation?

Mediation is a confidential and voluntary process conducted by a mediator to help employees and employers find solutions to disputes about workplace issues.

An impartial, accredited mediator assists the disputing parties to:

- identify the disputed issues
- develop options

- consider alternatives
- try to reach an agreement.

Agreements may include:

- monetary settlements
- written apologies
- changes to working hours
- the return of goods or documents.

Our mediation service is fast, confidential and free.

An experienced mediator will work with both parties to come to an agreement to resolve the dispute during a scheduled telephone conference call of up to 2 hours.

Our mediations:

- are quick and efficient
 - 1-2 hours over the telephone instead of a day in court
 - high success rate in resolving disputes
- are conducted in a controlled environment
 - everyone gets to have their say and be heard
 - discussion is led by a trained, neutral mediator
- allow parties to create their own solutions to disputes, instead of having a decision made by someone else.

Mediation is a voluntary process. If either party doesn't agree to attend mediation, you will be advised of alternative options. Often this will be a referral to take legal action in the small claims court.

What happens during mediation?

Preparation

The key to a successful mediation is good preparation.

Before mediation:

- know the issues you want to resolve
- check what the entitlements are under Australian workplace law
- think about solutions which everyone can agree to
- get your paperwork together – the award, pay slips, time sheets, letters, emails and other relevant correspondence
- seek advice if you need it, from us or:
 - a union
 - an employer organisation
 - an accountant
 - a lawyer
- contact your support person if you would like to have them supporting you during the mediation.

On the day of the mediation

The mediator will call and connect both parties in a telephone conference call so that everyone can be heard. The mediator will explain the guidelines for mediation and what will happen.

It's important to remember:

- the mediator won't decide the outcome. Their role is to help the parties talk about the issues and agree to a resolution
- keep an open mind about what the outcome could be
- mediation is confidential.

Mediation outcomes

Mediation outcomes are flexible and decided by the parties.

Agreements reached during mediation often include payment of money or agreement that no money is owed, but can also involve:

- crediting or debiting hours of leave
- giving a work reference
- making an apology
- returning property

- anything else the parties agree to in order to resolve the dispute.

Mediation provides an opportunity for employers to identify compliance risks and performance management issues in their business, and generate ideas to address them.

It's possible no agreement will be made at mediation. If this happens we'll let you know what your options are. Often this will be a referral to take legal action in the small claims court.

Example: Paying the employee for wages owed

Lisa said she hadn't been paid penalty rates for weekend work.

Her former employer, Deanne, said she hadn't returned all the company's equipment when she resigned.

During the mediation it was explained what penalty rates should have been paid under the relevant modern award.

The parties agreed that:

- Deanne pay Lisa \$250 for weekend penalty rates (an estimate based on the number of weekends Lisa worked), to be paid in two equal instalments.
- Lisa had to return all the company's equipment to Deanne before the first payment was made.

Deanne decided to:

- check her other employees' wages to make sure they were getting the right pay
- write a checklist for employees who resigned, including returning equipment.

Example: Withdrawal of request for assistance during mediation

John said that his former employer didn't provide him with enough notice when they ended his employment. John said he only got 1 week of notice, instead of 2 weeks.

The mediator read out information on [fairwork.gov.au](http://www.fairwork.gov.au/ending-employment/notice-and-final-pay/dismissal-how-much-notice) about Dismissal - how much notice? (www.fairwork.gov.au/ending-employment/notice-and-final-pay/dismissal-how-much-notice)

John learned that because he had worked at the business for less than a year, his former employer had to give him 1 week notice, not 2 weeks.

John agreed he'd received his minimum entitlements to notice and decided to withdraw his request for assistance.

Chen, John's former employer, agreed to include information about notice periods in all letters of offer for future employees.

What happens after a mediation?

An agreement reached during mediation can be informal or formal.

Informal agreement

An informal agreement can take any form, including a simple verbal agreement to take certain steps to resolve the issues.

Formal written agreement between the parties

A formal agreement is a written agreement between the parties outlining what has been agreed to, what actions must be taken and when.

If there is no agreement

If the issues are not resolved during mediation another resolution option is [Taking legal action in the small claims court \(www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/taking-legal-action-in-the-small-claims-court\)](http://www.fairwork.gov.au/how-we-will-help/how-we-help-you/help-resolving-workplace-issues/taking-legal-action-in-the-small-claims-court) .

[Back to top](#)

What to do next

- Find out how to ask for our help on our [Help resolving workplace issues page \(www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/default\)](http://www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/default)
- Develop the skills to approach difficult workplace conversations at our [Online learning centre \(https://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/default\)](https://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/default)

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

- [Consultation and cooperation in the workplace best practice guide \(www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/consultation-and-cooperation-in-the-workplace\)](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/consultation-and-cooperation-in-the-workplace)
- [Effective dispute resolution best practice guide \(www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/effective-dispute-resolution\)](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/effective-dispute-resolution)
- [Our role \(www.fairwork.gov.au/About-us/Our-role/default\)](http://www.fairwork.gov.au/About-us/Our-role/default)
- [Helping the community \(www.fairwork.gov.au/How-we-will-help/Helping-the-community/default\)](http://www.fairwork.gov.au/How-we-will-help/Helping-the-community/default)

Page reference No: 2331

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

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