

## Notice & medical certificates

An employee has to let their employer know that they are going to take sick or carer's leave. This has to be done as soon as possible, and can be after the leave has started. They should also specify how long they will be off or expect to be off work.

### When evidence has to be given

An employer can ask an employee to give evidence that shows the employee took the leave because they:

- weren't able to work because of an illness or injury, or
- needed to provide care or support to an immediate family or household member (because of an illness, injury, or unexpected emergency affecting the member).

Employers can ask employees to provide evidence for as little as 1 day or less off work.

An employee who doesn't give their employer evidence when asked may not be entitled to be paid for their sick or carer's leave.

An award or registered agreement ([www.fairwork.gov.au/Dictionary.aspx?TermID=2034](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034)) can specify when an employee has to give evidence to their employer and what type of evidence they have to give. The type of evidence requested must always be reasonable in the circumstances.

#### Example: Type of evidence

Anna is a full-time employee at a retail store. When she started, her employer said if an employee is sick on a Monday, they need to provide a medical certificate as evidence that they were sick. Anna was sick with a cold over the weekend and had to take the Monday off. Anna gave her employer a statutory declaration when she came back to work on Tuesday because she couldn't get an appointment to see a doctor to ask for a medical certificate. She was paid for her day off.

### Attending medical appointments and elective surgery

Medical appointments and elective surgeries that are pre-arranged can only be covered by sick leave if an employee is not able to work because of a personal illness or injury. It will depend on each individual circumstance.

An employer can ask for evidence from an employee to confirm that they were unfit for work. This can help decide if an employee should be paid sick leave or be paid a different type of leave or entitlement.

### Types of evidence needed for sick / carer's leave

Medical certificates or statutory declarations are examples of acceptable forms of evidence. While there are no strict rules on what type of evidence needs to be given, the evidence has to convince a reasonable person that the employee was genuinely entitled to the sick or carer's leave.

### Employers attending medical appointments

We don't consider it reasonable for an employer to go to a medical appointment with an employee unless an employee requests this.

We also don't consider it reasonable for an employer to contact the employee's doctor for further information.

Source reference: Fair Work Act 2009 s.107 [↗](http://www.comlaw.gov.au/Series/C2009A00028) (<http://www.comlaw.gov.au/Series/C2009A00028>)

## Think a mistake might have been made?

Mistakes can happen. The best way to fix them usually starts with talking.

Check out our Help resolving workplace issues ([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)) section for practical advice on:

- figuring out if a mistake has been made
- talking to your employer or employee about fixing it
- getting help from us if you can't resolve it.

### What to do next

- Search the Fair Work Commission website [🔗 \(https://www.fwc.gov.au/awards-and-agreements/agreements\)](https://www.fwc.gov.au/awards-and-agreements/agreements) for a registered agreement
- Use our [Leave Calculator \(http://calculate.fairwork.gov.au/Leave\)](http://calculate.fairwork.gov.au/Leave) to calculate sick and carer's leave entitlements

### 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

- [Paid sick and carer's leave \(www.fairwork.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave/default\)](http://www.fairwork.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave/default)
- [Payment for sick and carer's leave \(www.fairwork.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave/payment-for-sick-and-carers-leave\)](http://www.fairwork.gov.au/leave/sick-and-carers-leave/paid-sick-and-carers-leave/payment-for-sick-and-carers-leave)

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### Contact us

Fair Work Online: [www.fairwork.gov.au](http://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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