

An employee's guide to fixing workplace problems



The Fair Work Ombudsman is committed to providing you with advice that you can rely on.

The information contained in this guide 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 a workplace relations professional.

Who can use this guide?

This guide is for employees dealing with workplace problems.

Most problems at work happen because people don't know what the law is, or because communication has broken down. An effective way for you to fix a workplace problem is to find out what the law is and then work with your boss to find a solution.

This guide will take you through a simple 4-step process to help you fix workplace problems with your boss.

Employers can access their own version of this guide from fairwork.gov.au/employer-guide

Who are we?

The Fair Work Ombudsman's (our) role is to promote harmonious, productive, cooperative and compliant workplace relations in Australia. We want to make sure everyone is following workplace law. We do this by providing education and advice to employers and employees.

We also have responsibilities to monitor compliance, investigate and inquire about alleged breaches of the Fair Work Act and take enforcement action when appropriate.



Step 1: Check the law



Step 2: Talk 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 first thing you need to do is check what your rights are.

In Australia there are rules about minimum pay rates and entitlements like leave. These rules are set out in the National Employment Standards (NES) and in your award or enterprise agreement. If you don't have an award or enterprise agreement, you need to be paid at least the National Minimum Wage (NMW). Your employment contract cannot take away these minimum entitlements.

Minimum pay rates and entitlements are based on the award or enterprise agreement that applies to you, the type of work you do, whether you're permanent or casual and your age.

Our Pay and Conditions Tool (PACT) will help you find the correct award and calculate your pay, penalties, allowances and leave entitlements at fairwork.gov.au/pact

For information about your minimum entitlements visit fairwork.gov.au

If you need information about enterprise agreements, superannuation, tax, workplace health and safety, or bullying and sexual harassment, see the [Where to find more information](#) section at the end of this guide for a list of contacts that can help you.

My account

Register for an online account with us at fairwork.gov.au/register and you'll be able to:

- submit an enquiry about a workplace entitlement or problem
- bookmark your favourite pages, awards and Pay Calculator (PACT) results
- explore personalised resources such as online training, templates and more
- get important updates and tailored workplace information.

Example

Kim got a job as a part-time barista at her local café. Her friend Rachel also works as a barista at a café on the same street. Kim finds out that she is being paid less than Rachel. She doesn't understand why since they're doing the same work.

Rather than going straight to her boss to complain, Kim decides to check her pay rate using the Pay Calculator (PACT) at fairwork.gov.au/pact

It's a good thing she did, because she found out that her boss is paying her the right amount. It turns out Rachel gets more because she's a casual employee. Casuals get paid more because they get an extra loading instead of entitlements like annual leave and paid sick leave.

We have step by step advice on dealing with some of the common problems that employees can experience in the workplace, including:

- My pay doesn't seem right
- I've been fired and I'm not sure what I'm entitled to
- Help with bullying in the workplace
- I'm a migrant worker being treated unfairly
- I think I could be an employee not a contractor
- I'm not getting pay slips

Find information about these common workplace problems and simple steps you can take to fix them at fairwork.gov.au/common-workplace-problems

If you find there is a problem, and you want to raise it with your boss, it's a good idea to gather some supporting information so you can show them why you think there is a problem. Your pay slip is a good place to start.

Pay slips

Pay slips need to be given to you within one working day of pay day, even if you are on leave.

If you don't get a pay slip, you should ask your boss for one. You should also write down when you worked and how much you were paid until you start getting pay slips. You can find more information on pay slips at fairwork.gov.au/payslips

Tips for gathering supporting information

If your problem relates to your pay and entitlements, you may already have most of the information you need from your pay slips. But if you don't get pay slips, or if the information on your pay slips is incorrect, you might also need:

- payment summaries, bank statements or other financial records showing what you've been paid
- diary entries of hours worked, significant events, conversations and meetings
- rosters, timesheets, leave requests and approvals, position descriptions
- printed information to give to your boss
- details of what you've been paid and calculations of what you think is owed.

There may be other problems that you need to raise with your boss. For example, if you have concerns about rostering, workplace facilities or problems with other staff, you may need to provide other information, like details of conversations you have had with other staff or your manager. Providing your boss with this information makes it easier for them to understand and address your concerns.



Step 2: Talk to your boss

The best way to handle a workplace problem is to deal with it directly. Although this can seem hard, talking about problems when they come up will help you to:

- maintain a positive and open relationship with your boss
- understand and receive your full entitlements
- provide suggestions about how the problem can be fixed
- avoid stressful, costly and lengthy disputes later.

Some people avoid difficult conversations because they make them feel uncomfortable, but most workplace problems won't go away by themselves.

If there is a problem at work, raise it promptly. Remember, your boss may not even be aware that there is a problem, and fixing it quickly means both of you can get on with the job. Be specific about the problems and give your boss the information you have gathered.

If you need information about enterprise agreements, superannuation, tax, workplace health and safety, workers compensation, bullying or sexual harassment, see the [Where to find more information](#) section at the end of this guide for a list of contacts that can help you.

Example

Anne is planning a holiday and decides to check how much annual leave she has available. She finds her annual leave balance is less than she thought. Before complaining, she emails her boss to ask for a copy of her leave records. After receiving them, she notices an error. They show that she had taken 3 weeks leave earlier this year when in fact she only took 2 weeks.

Anne organises a time to speak with her boss. She shows him the leave records and her leave request from earlier this year. Her boss apologises for the mistake and agrees to fix her leave balance. By speaking to her boss in a polite and professional manner about the problem, Anne was able to fix the problem quickly.

Need help having a difficult conversation with your boss?

Our Online learning centre has a free online course to help you prepare for a difficult conversation. The course will give you practical advice on how to talk to your boss about things like getting the right pay, taking leave and changing your hours at work. You can access the Difficult conversations in the workplace — employee course at fairwork.gov.au/learning

You might feel uncomfortable speaking to your boss because you're not sure how they'll respond, or because you feel your boss is part of the problem. If so, consider if there is someone else in the business you can talk to, such as another senior person or a human resources officer.

Example

Sam is a hairdresser and has recently started work with a new employer. Sam is enjoying his new job, but he's concerned because he isn't getting regular pay slips. Sam knows that he should get a pay slip within one day of pay day.

Sam is nervous about speaking to his boss, so he does the Difficult conversations in the workplace — employee course at fairwork.gov.au/learning. The course helps him practise what to say to his boss and makes him feel more confident about approaching her.

The next day he meets with his boss and politely explains the pay slip issue. He also shows his boss the pay slip information he found at fairwork.gov.au/payslips. Sam's boss apologises and says she didn't know that pay slips had to be provided after each pay.

Sam now receives his pay slips within one day of being paid.



Step 3: Put it in writing

If you've tried talking to your boss and you haven't been able to fix the problem, the next step is to put your concerns in writing. This is a good way to clearly identify the problems and what type of response you want.

Putting your concerns in writing can clarify the problems that still need to be fixed. Be calm and careful not to accuse your boss of something, as this can often make things worse. Some bosses are also more likely to take a problem seriously if you put it in writing.

It's okay to use email to write to your boss — you should use the email address they use for their business unless they ask you to use a different one. You can also hand a letter to your boss at work if you prefer, but make sure you keep a copy.

Example

Jack has been working as an apprentice panel beater 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 has progressed in his apprenticeship and that his pay rate would need to change. His boss told him that he will check the rate and get back to him. After 2 weeks, Jack checks his pay slip and notices his pay rate hasn't gone up. When he asks his boss about it, his boss says he is too busy right now.

Since Jack has already tried to speak with his boss, without success, he decides to put his concerns in writing. Jack writes a letter clearly outlining that he is concerned about the delay in updating his pay. He also includes pay information about what his new pay rate should be from fairwork.gov.au/pay

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 issue is important to Jack and appreciates the effort Jack went to in getting the pay rates from the Fair Work Ombudsman's website.

Jack's next pay slip shows the new pay rate and some back-pay owed because of the delay.

Need help writing to your boss?

If you need help writing to your boss, use the example letter attached to this guide ([Attachment 1: Example letter to employer](#)). Remember, you'll need to change the letter to reflect your circumstances.

Tips for writing to your boss

Remember to:

- be calm and polite — being aggressive or rude won't help you fix the problem
- clearly outline what the problem is and any entitlements that you believe are owed
- refer to the conversation you had in [Step 2](#) and any other attempts you have made to fix the problem
- include the supporting information you gathered in [Step 1](#), such as copies of pay slips, leave records or information you found at fairwork.gov.au
- give your boss a reasonable amount of time to respond — usually around 14 days
- keep a copy of the letter or email.



Step 4: Take further action

Dealing directly with your employer is often the most effective way for you to fix a workplace problem. However, if you have taken the steps outlined in this guide and you haven't been able to fix the problem, you will need to consider your options.

If you want to take further action, the next step will be asking a third party to help.

A third party might be:

- a union
- the Fair Work Ombudsman (us)
- the Fair Work Commission (the Commission)
- a solicitor
- a court.

The option you choose will depend on the problem you're trying to fix. You might also find that you need to use more than one approach to fix things.

Unions

Unions represent employees in the workplace. Unions can give their members information, advice and support. If you're a member of a union, you may wish to contact them for help.

For information about how to find and join a union, visit Australian Unions at australianunions.org.au

How the Fair Work Ombudsman can help

You can request help from us.

When a workplace problem is reported to us, the action we take will depend on the circumstances and seriousness of the issue. We use a range of criteria to help us make this decision.

The actions we take could include:

- giving information, advice and education on workplace rights and obligations
- offering practical tools and resources such as templates and online courses which can help fix workplace problems
- inquiring about and investigating situations where the law hasn't been followed
- using enforcement tools such as compliance notices, infringement notices, enforceable undertakings or commencing legal proceedings in response to non-compliance.

As part of this process, it's important to remember that we are neutral and impartial. We help employers and employees. We don't act or advocate for either party.

For more information visit our Fixing a workplace problem page at fairwork.gov.au/fixing-workplace-problems

Legal advice

You can seek legal advice from a solicitor or community legal centre at any time. They may be able to help you with a range of actions, including writing a formal letter of demand.

To find a solicitor, visit the law institute or law society within your state or territory.

To find a community legal centre go to clcs.org.au

Small claims action

Small claims is a process where you take your complaint to a court to recover the money owed to you. The small claims process is quicker, cheaper and more informal than a normal court case. You don't need to be an expert and you don't need a lawyer.

You can use the small claims process if you're trying to recover up to \$100,000. If you believe you're owed more than this, you should get legal advice about other court processes. In some cases, the court may allow the successful applicant to recover any court filing fees paid from the respondent. Before putting in a small claims application, it's a good idea to write again to the employer to remind them of your concerns and let them know that you're considering legal action. Read more about taking Legal action in the small claims court at fairwork.gov.au/smallclaims

Gathering evidence

It's a good idea to gather any records you need to support your claim. Your boss is legally required to keep records of things about your employment. This includes records about how much you've been paid, and the hours you've worked.

You can ask your boss for a copy of these records.

If you need help making this request, refer to the example request for records attached to this guide ([Attachment 2: Example request for records](#)).

Remember, you'll need to change the request to reflect your situation and the records you need.

Tips for gathering evidence

Remember to:

- make the request in writing (for example, letter or email) and keep a copy
- be clear about what you are requesting (for example, pay slips, timesheets) and the time period you require
- focus on gathering information — don't raise problems that aren't relevant to the request
- be respectful — being rude or aggressive won't help you get the records or fix the problem
- provide a reasonable time for the response — usually around 14 days
- if you don't hear back, follow up by speaking to them at work or with a phone call or email — your boss may have overlooked your request or need more time.



Where to find more information

Enterprise agreements

An enterprise agreement is a document that sets out employment conditions for a specific business or group of businesses. It's negotiated by the employer, employees and their representatives (typically unions) through a bargaining process. Enterprise agreements are approved by the Fair Work Commission (the Commission). The Commission can also help with disputes about how an agreement applies.

You can check if you are covered by an enterprise agreement by visiting our website at fairwork.gov.au/finding-an-agreement

Workplace health and safety

Each state and territory has its own workplace health and safety body. These bodies regulate and investigate breaches of laws about workplace health and safety, including bullying and sexual harassment.

You can find the contact details for these organisations on our Related government sites page at fairwork.gov.au/links

Tax and superannuation

In most cases, your employer must deduct tax from your wages and pay superannuation (super) for you.

Find out more about tax and super at the Australian Taxation Office website at ato.gov.au

Bullying and sexual harassment

Everyone has the right not to be bullied or sexually harassed at work.

If you are dealing with a workplace problem about bullying or sexual harassment, the Commission can help. For more information, go to the Commission's website at fwc.gov.au/issues-we-help

We can also help with some issues around sexual harassment at work. For more information visit fairwork.gov.au/sexual-harassment

Personal support

Dealing with workplace problems can cause stress. If you're having trouble coping, support is available from Beyond Blue at beyondblue.org.au and Lifeline at lifeline.org.au

Contact us

Fair Work online: fairwork.gov.au

Fair Work Infoline: **13 13 94**

Need language help?

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

Help for people who are deaf or have hearing or speech difficulties

You can contact us through the National
Relay Service (NRS).

Select your [preferred access option](#) and give
our phone number: **13 13 94**

The Fair Work Ombudsman is committed to providing you with advice that you can rely on. The information contained in this fact sheet 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 a workplace relations professional.

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Checklist: Fixing your workplace problem



Check the law

I have:

- ☐ checked my pay, penalties, allowances and leave entitlements at fairwork.gov.au/pay
- ☐ signed up for My account at fairwork.gov.au/register
- ☐ printed or saved relevant information from fairwork.gov.au
- ☐ worked out what I have been paid and what I think I'm owed



Talk to your boss

I have:

- ☐ done the Difficult conversations in the workplace — employee course at fairwork.gov.au/learning
- ☐ arranged a mutually convenient time to talk about the problem
- ☐ got supporting evidence to help explain the problem to my boss



Put it in writing

I have:

- ☐ used professional, respectful and non-threatening language
- ☐ clearly outlined the problem and how I think it can be fixed
- ☐ kept a copy of the letter or email



Take further action

I have (if applicable):

- ☐ found information and tools to help from the Fair Work Ombudsman website at fairwork.gov.au/workplace-problems
- ☐ gathered the records needed to support my claim
- ☐ written to my boss again telling them I'm considering taking legal action if the problem is not fixed in a reasonable timeframe
- ☐ got help from a third party such as a union or a solicitor



Attachment 1: Example letter to employer

You can use this example letter to help you write to your employer about workplace problems.

If you need more information visit fairwork.gov.au or contact our Infoline on 13 13 94.

Business Name Pty Ltd
123 Sample Street
Suburb STATE 0000

9 August 2024

Dear John,

Thank you for meeting with me on 5 August 2024 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](https://www.fairwork.gov.au) and my job is covered by the Storage Services and Wholesale Award (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 \$25.80 per hour. I'm currently receiving only \$24.87 per hour.

As this pay rate applied from 1 July 2024, I have calculated that I am owed \$152.76 in back-pay.

I have attached to this letter 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 got from fairwork.gov.au
- my back-pay calculations.

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

I ask that you please increase my pay rate and 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 jack.frost@myhomeemail.com.au

Yours sincerely,

Jack Frost



Attachment 2: Example request for records

You can use this example letter to help you write to your employer requesting a copy of your employment records.

If you need more information visit fairwork.gov.au or contact our Infoline on 13 13 94.

Business Name Cafe
123 Sample Street
Suburb STATE 0000

1 August 2024

Dear Jane,

I am a former employee of Business Name Cafe. I worked as a chef at your Suburb location between March 2024 and July 2024. I would like to check my employment entitlements.

To do this, I need information from my employment records. Can you please provide me with the following records for the period 1 March 2024 to 31 July 2024:

- the business's legal name and ABN
- my employment start date
- my termination date and the reason for my termination
- 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 August 2024. They can be sent by post to my home address at 456 Sample Street, Suburb STATE 0000 or by email at jill.jackson@myhomeemail.com.au

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

Yours sincerely,

Jill Jackson