

Directions to return to work and the workplace

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Employers can direct employees to work their normal hours (except if they're on approved leave) if the direction is reasonable.

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Health and safety

Creating a safe work environment is a legal requirement for employers. Employees and other workers also need to take care of their own and others' safety.

Employees shouldn't go to work if they have coronavirus symptoms and should notify their employer as soon as possible.

If an employee has [symptoms \(https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert#symptoms\)](https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert#symptoms) of coronavirus, employers should:

- direct the employee not to work, or to work from home if the job can be done safely from home and the employee is well enough to work
- ask the employee to get urgent medical advice as recommended by the [Department of Health \(https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert\)](https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert).

Employees also can't be dismissed or injured in their employment because they have a responsibility under a workplace health and safety law to quarantine or self-isolate. Go to [Protections at work \(http://www.fairwork.gov.au/employee-entitlements/protections-at-work\)](http://www.fairwork.gov.au/employee-entitlements/protections-at-work) to learn more.

More information:

- [Safe Work Australia – COVID-19 information for workplaces \(https://www.safeworkaustralia.gov.au/covid-19-information-workplaces\)](https://www.safeworkaustralia.gov.au/covid-19-information-workplaces) 
- [Department of Health – COVID-19 fact sheet for employers \(https://www.health.gov.au/sites/default/files/documents/2020/04/coronavirus-covid-19-information-for-employers_2.pdf\)](https://www.health.gov.au/sites/default/files/documents/2020/04/coronavirus-covid-19-information-for-employers_2.pdf) 
- [Department of Health – Guidance for people tested for COVID-19 \(https://www.health.gov.au/resources/publications/coronavirus-covid-19-guidance-for-people-tested-for-covid-19\)](https://www.health.gov.au/resources/publications/coronavirus-covid-19-guidance-for-people-tested-for-covid-19) 
- [Health and safety in the workplace \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/health-and-safety-in-the-workplace/default\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/health-and-safety-in-the-workplace/default)
- [Going to work during coronavirus \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/health-and-safety-in-the-workplace/going-to-work-during-coronavirus/going-to-work-during-coronavirus\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/health-and-safety-in-the-workplace/going-to-work-during-coronavirus/going-to-work-during-coronavirus)
- [Quarantine and self-isolation: pay and leave options \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-leave-and-stand-downs/quarantine-self-isolation\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-leave-and-stand-downs/quarantine-self-isolation)
(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-leave-and-stand-downs/quarantine-self-isolation)
- (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-leave-and-stand-downs/quarantine-self-isolation) [Protections at work \(http://www.fairwork.gov.au/employee-entitlements/protections-at-work\)](http://www.fairwork.gov.au/employee-entitlements/protections-at-work)

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Directing employees to return to work or their workplace

Many states and territories continue to have rules about people working from home, if they can. Employers need to check and stay up to date with any [enforceable government directions \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/tools-and-help-during-coronavirus/other-government-information-and-assistance/list-of-enforceable-government-directions-during-coronavirus\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/tools-and-help-during-coronavirus/other-government-information-and-assistance/list-of-enforceable-government-directions-during-coronavirus) in their relevant state or territory. Employers need to follow any rules in their state or territory that say employees should be working from home, or should be allowed to work from home if it is practical.

Employers can give directions for employees to work their normal hours (except if they're on approved leave) if the direction is reasonable. Employers need to comply with their work health and safety and other legal obligations, as well as employees' usual employment conditions.

Employers should continue exploring alternative working arrangements in their workplace, particularly while social distancing rules apply, such as supporting different types of work from home arrangements where possible.

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Directing employees in the JobKeeper scheme to perform work



The JobKeeper scheme finished from 29 March 2021. The information in this section stopped applying from this date. Find out more at [Temporary JobKeeper provisions finishing \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/temporary-jobkeeper-provisions-finishing/default\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/temporary-jobkeeper-provisions-finishing/default).

If an employee has been given a JobKeeper enabling stand down direction, their employer can lift it so that the employee can return to working their usual hours, or replace it with different stand down arrangements.

The normal rules about following directions to work apply, even when an employer is receiving JobKeeper payments for an employee. This means employers can continue to direct their employees to work their normal hours of work (if they aren't on authorised leave or absence). When directing employees to work, employers have to comply with work health and safety obligations and any applicable [enforceable government directions \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/tools-and-help-during-coronavirus/other-government-information-and-assistance/list-of-enforceable-government-directions-during-coronavirus\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/tools-and-help-during-coronavirus/other-government-information-and-assistance/list-of-enforceable-government-directions-during-coronavirus), as well as the employee's terms and conditions of employment.

More information:

- (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/jobkeeper-scheme-overview/default) [JobKeeper scheme - overview \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/jobkeeper-scheme-overview/default\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/jobkeeper-scheme-overview/default)
- (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/jobkeeper-scheme-overview/jobkeeper-enabling-stand-down-directions/default) (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/jobkeeper-scheme-overview/jobkeeper-enabling-directions-and-agreements-for-legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers) [JobKeeper enabling stand down direc](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/jobkeeper-scheme-overview/jobkeeper-enabling-directions-and-agreements-for-legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers)

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- (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/jobkeeper-scheme-overview/jobkeeper-enabling-directions-and-agreements-for-legacy-employers) JobKeeper enabling directions and agreements for legacy employers (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/jobkeeper-scheme-overview/jobkeeper-enabling-directions-and-agreements-for-legacy-employers/jobkeeper-enabling-directions-and-agreements-for-legacy-employers)
- (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/jobkeeper-scheme-overview/pay-and-the-jobkeeper-scheme) Pay and the JobKeeper scheme (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/jobkeeper-scheme-overview/pay-and-the-jobkeeper-scheme/default) e.

Example: Employee required to work

Steve is a full-time employee at a mechanic. His employer is receiving JobKeeper payments for him.

Although there hasn't been as much work, Steve's workplace has continued to operate during coronavirus. They still need to service and repair cars and can continue to work safely, and there hasn't been an enforceable government direction to close.

During this time, Steve's employer still requires him to continue with his usual work duties across his regular rostered hours of work. The employer can do this under Steve's existing work arrangements as long as it is safe and reasonable.

To ensure workplace health and safety requirements are met, the employer has introduced a number of changes at the workplace. This includes adopting physical distancing, extra cleaning and hygiene practices, and the use of personal protective equipment (PPE). This ensures that Steve's work continues to be safe for him to do.

Steve is paid his usual wage, while his employer receives the applicable JobKeeper payment amount each fortnight through the JobKeeper scheme.

Example: Getting a JobKeeper employee back to work by lifting a JobKeeper enabling stand down

Sophie is a part-time employee at a gym. Her duties include selling memberships, supervising the gym floor and providing general customer service. The gym has been temporarily closed due to an enforceable government direction closing non-essential businesses.

Sophie's employer is receiving JobKeeper payments for Sophie, and has given Sophie a JobKeeper enabling stand down direction to work no hours while the gym was closed. They have been paying Sophie the applicable JobKeeper payment per fortnight while she hasn't been working.

The enforceable government direction to close the gym is lifted and Sophie's employer follows new updated health and safety guidelines for the gym. Sophie's employer sends her a letter, lifting the JobKeeper enabling stand down direction, and asking Sophie to go back to work for her usual hours of work.

As the gym has reopened and it is safe to perform work there, the employer can ask Sophie to return and resume her usual work arrangements.

Sophie returns to her usual part-time hours of work. Her pay for these hours is below the applicable JobKeeper payment, so Sophie continues to receive the amount of the JobKeeper payment instead of her usual pay.

Example: Directing a JobKeeper employee to work where the direction is unreasonable

Colleen is a part-time employee at a nail salon. Her employer is receiving JobKeeper payments for her.

Colleen's salon reopens after an enforceable government direction is lifted. The employer asks her to return to the salon and resume her usual rostered hours.

Colleen has concerns about the health and safety arrangements at the salon. Because of the nature of the work, she is concerned that there is not adequate personal protective equipment (PPE), such as masks and gloves, available to ensure

the workplace helps stop the spread of coronavirus. The employer says masks will be optional for employees. As Colleen sometimes suffers from breathing difficulties, she is also worried that these workplace health and safety measures may compromise her health.

Colleen's employer has indicated they will be resuming normal nail bookings when they reopen and won't be able to physically distance. Colleen's employer says they won't follow the new safety rules about physical distancing and surface cleaning, because it will take too much time and they don't think it's worth it.

Colleen raises these concerns with her employer, but they say they won't change their mind. Colleen says she will not return to the salon until these health and safety issues are fixed.

Colleen's refusal to return to work is reasonable because her employer is not meeting legal workplace health and safety obligations to provide a safe workplace to employees. If Colleen's employer takes disciplinary action against her or ends her employment on the basis of her refusal to return to work, they may be breaching the unfair dismissal or general protections provisions in the Fair Work Act, and Colleen may be able to make an unfair dismissal or a general protections claim.

Colleen's employer must continue to pay her the JobKeeper payment as long as it is receiving it for her.

For more information about general protections or unfair dismissal, see [Protections at work \(https://www.fairwork.gov.au/employee-entitlements/protections-at-work\)](https://www.fairwork.gov.au/employee-entitlements/protections-at-work) .

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When employees refuse to return to work or their workplace

An employee can't refuse an employer's direction to perform work if the direction is reasonable and in line with their employer's legal obligations.

In some circumstances, employees may be able to refuse to return to work because of a reasonable concern about their health and safety or another legitimate reason.

If an employee doesn't comply with their employer's reasonable direction to return to work or their usual workplace, their employer may take disciplinary action against them, which in some circumstances could include termination of employment. Employers need to make sure they comply with the general protections and unfair dismissal obligations in the Fair Work Act.

Employers and employees are encouraged to work together to manage the return to the workplace. If an employee has concerns about the safety of the workplace, they should raise their concerns with their employer as soon as possible. Employers should consider sharing information about any steps they've taken to ensure a safe workplace, to help manage employee concerns.

More information:

- [Managing performance – online course \(https://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/managing-performance\)](https://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/managing-performance)
- [Difficult conversations in the workplace \(https://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/difficult-conversations-in-the-workplace-manager-course\)](https://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/difficult-conversations-in-the-workplace-manager-course) – online manager course
- [Protections at work \(https://www.fairwork.gov.au/employee-entitlements/protections-at-work\)](https://www.fairwork.gov.au/employee-entitlements/protections-at-work) .

Example: Reasonable direction to return to workplace

Lottie is a full-time employee working at a small accounting firm based in the Adelaide city centre.

For the past few months, Lottie's employer has directed her to work from home because of coronavirus. When restrictions start easing in South Australia, Lottie's employer creates a return to work transition plan to gradually, and safely, return all employees to the workplace.

The firm has 10 employees in total and initially requires each of its employees to return to the workplace 2 days a week on a roster basis.

Lottie refuses the direction, saying she prefers working from home and doesn't want to go back to the workplace. She says she is more productive working from home because of the time saved on the long commute to work.

The direction to return to work is reasonable and in line with the employer's legal obligations, including under Lottie's employment contract, workplace health and safety laws, and any enforceable government directions. If Lottie continues to

refuse to return to the workplace 2 days a week, her employer could take disciplinary action. This could include a formal warning or in some circumstances termination of employment.

Example: Employee reasonably refuses to return to workplace

Marcus is a full-time employee working for a small architecture firm in suburban Perth. The firm's workplace is a small office at the back of the employer's home.

For several months, Marcus has been directed to work from home because of coronavirus. When some restrictions ease, his employer asks him to return to the office and perform his work there.

Marcus says the request is unreasonable and refuses to return to the office because he has health and safety concerns, including the difficulty of physical distancing at the employer's house.

Marcus' refusal is likely to be reasonable.

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Changes to duties when returning to work

As employees return to work, employers may need to make changes to their usual duties because the business is operating differently. Before making any changes, employers should check whether there are any rules about doing this in any applicable:

- award
- agreement
- employment contract.

Learn the rules that apply at [Changes in working hours and duties \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/alternative-work-arrangements/changes-in-working-hours-and-duties\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/alternative-work-arrangements/changes-in-working-hours-and-duties) .

Recent changes to some awards allow employers to direct employees to perform duties that are within their skill and competency. This includes if the duties aren't part of an employee's usual classification. See [Changes to workplace laws during coronavirus \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/default\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/changes-to-workplace-laws-during-coronavirus/default) .

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Alternative work arrangements when caring for a child

If an employee can't return to the workplace because they need to care for a child whose school or childcare centre has closed, they should come to an arrangement with their employer.

This could include requesting to work from home or taking some form of leave, such as annual leave or long service leave. Normal leave application processes still apply.

Employees also have the option to request flexible work arrangements under certain circumstances. For more information, see [Flexible working arrangements \(https://www.fairwork.gov.au/employee-entitlements/flexibility-in-the-workplace/flexible-working-arrangements\)](https://www.fairwork.gov.au/employee-entitlements/flexibility-in-the-workplace/flexible-working-arrangements) .

If an employee doesn't come to an arrangement to work from home with their employer, or doesn't use paid leave, then they aren't entitled to be paid.

Employees who need to care for a sick child can take carer's leave (paid or unpaid). If a full-time or part-time employee has no paid carer's leave left they can request to take unpaid carer's leave. Unpaid carer's leave is also available to casual employees, who are entitled to 2 days of leave per occasion.

More information:

- [Alternative work arrangements \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/alternative-work-arrangements/default\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/alternative-work-arrangements/default)
- [Pay, leave and stand downs \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-leave-and-stand-downs/default\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-leave-and-stand-downs/default)

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