

Resolving workplace issues during coronavirus

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We help employers and employees understand and follow Australian workplace laws. We do this by:

- providing information and education
- providing tools, templates and guides
- helping you resolve workplace issues.

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What you can do to help resolve workplace issues

We encourage employers and employees to work together to find workable solutions that suit their individual workplaces and staff.

From time to time, issues and conflicts can arise. Resolving workplace issues on your own can be quick and easy with the right tools. In our experience, most workplace issues can be resolved at the workplace.

Our guides to difficult conversations will help you find the information you need, have an effective conversation in the workplace and fix any underpayments.

Even if an employee has left employment with the employer, we encourage you to try to work out issues between yourselves before making a formal request to us for help.

Download our guides to difficult conversations:

- [An employee's guide to difficult conversations in the workplace \(DOCX\) \(https://www.fairwork.gov.au/ArticleDocuments/712/employees-guide-to-difficult-conversations-in-the-workplace.docx.aspx\)](https://www.fairwork.gov.au/ArticleDocuments/712/employees-guide-to-difficult-conversations-in-the-workplace.docx.aspx)
- [A manager's guide to difficult conversations in the workplace \(DOCX\) \(https://www.fairwork.gov.au/ArticleDocuments/712/managers-guide-to-difficult-conversations-in-the-workplace.docx.aspx\)](https://www.fairwork.gov.au/ArticleDocuments/712/managers-guide-to-difficult-conversations-in-the-workplace.docx.aspx) .

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Eligibility for the JobKeeper scheme

We can give you general information about the JobKeeper wage subsidy scheme, and how it interacts with your workplace obligations and entitlements under the Fair Work Act, a relevant award or an agreement.

The Australian Tax Office (ATO) administers the JobKeeper scheme and will take action to ensure the integrity of the program. Visit the ATO website for information about:

- how the [JobKeeper scheme works \(https://www.ato.gov.au/General/JobKeeper-Payment/\)](https://www.ato.gov.au/General/JobKeeper-Payment/) 
- eligibility requirements, including employer eligibility (<https://www.ato.gov.au/general/jobkeeper-payment/employers/eligible-em->

- employers/ <https://www.ato.gov.au/general/jobkeeper-payment/employees/eligible-employees/> [↗]
- steps to enrol for the JobKeeper payment (<https://www.ato.gov.au/General/JobKeeper-Payment/Employers/Enrol-for-the-Job-Keeper-payment/>) [↗]
- JobKeeper guides (<https://www.ato.gov.au/General/JobKeeper-Payment/JobKeeper-guides/>) [↗] for employers and sole traders
- make a tip-off (<https://www.ato.gov.au/General/Gen/Making-a-tip-off/>) [↗] about illegal activity relating to JobKeeper

We can give you general information about the JobKeeper scheme and how it works. This includes information about the extension of the scheme and how JobKeeper interacts with workplace obligations and entitlements under:

- the Fair Work Act
- the [National Employment Standards](https://www.fairwork.gov.au/employee-entitlements/national-employment-standards) (<https://www.fairwork.gov.au/employee-entitlements/national-employment-standards>)
- a relevant award or an agreement.

We can also give information on the differences between a qualifying employer or legacy employer under the extended JobKeeper scheme. Different rules apply for each employer type so it's important to understand the differences. Learn more about each at:

- [JobKeeper scheme - overview](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme) (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme) (qualifying employers)
- [Legacy employers](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers) (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers) .

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Disputes about directions, requests or certificates under the JobKeeper scheme

The Fair Work Commission (the Commission) has the power to deal with disputes and make orders about the JobKeeper provisions under the Fair Work Act. This includes JobKeeper provisions used by:

- qualifying employers and their eligible employees who are enrolled in the JobKeeper scheme
- legacy employers and their eligible employees who were enrolled in the JobKeeper scheme prior to 28 September 2020, but who don't qualify for (or choose not to participate in) the scheme from 28 September 2020.

Qualifying employers receive JobKeeper payments for their eligible employees while legacy employers don't. Find out more at [Legacy employers](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers) (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers) .

The Commission can deal with disputes and make orders relating to JobKeeper directions or requests about:

- reducing or changing hours, times or days of work
- changing the place of work
- changing duties
- taking annual leave (including at half pay)
- secondary employment, training or professional development.

In relation to requests to take annual leave (including at half pay), while these provisions will be repealed from 28 September 2020, the Commission can continue to deal with disputes about these requests before and after 28 September 2020.

The Commission also has the power to deal with disputes about JobKeeper directions and requests given by legacy employers. The Commission can't deal with disputes about whether a legacy employer has satisfied the 10% decline in turnover test (see [Federal Court – 10% decline in turnover applications](#)), but it can deal with a dispute about whether the legacy employer has a 10% decline in turnover certificate and whether the certificate was issued by an [eligible financial service provider](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/information-for-eligible-financial-service-providers) (www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers/information-for-eligible-financial-service-providers) .

Employees, employers and employee and employer organisations can apply to the Commission to deal with a dispute. For more information, see [Fair Work Commission - JobKeeper disputes](https://www.fwc.gov.au/about-us/coronavirus-covid-19-updates-advice/jobkeeper-disputes) (<https://www.fwc.gov.au/about-us/coronavirus-covid-19-updates-advice/jobkeeper-disputes>) [↗].

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Enforcement of the JobKeeper scheme: what we can help with

The Fair Work Ombudsman has an enforcement role under the JobKeeper scheme. We can enforce a number of the JobKeeper provisions if they relate to:

- qualifying employers and their eligible employees who are enrolled in the JobKeeper scheme
- legacy employers and their eligible employees who were previously enrolled in the JobKeeper scheme prior to 28 September

2020, but who don't qualify for (or choose not to participate in) the scheme from 28 September 2020.

Qualifying employers receive JobKeeper payments for their eligible employees while legacy employers don't. Find out more at [Legacy employers \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/pay-and-leave-during-coronavirus/jobkeeper-wage-subsidy-scheme/legacy-employers) .

Things we can help with include:

- ensuring minimum wages and conditions under the Fair Work Act are met
- misuse of JobKeeper enabling directions under the new Fair Work Act JobKeeper provisions by employers (including legacy employers).

We can also enforce general protections relating to the provisions, such as the right to refuse or exercise a workplace right. For more information about workplace rights, including how to get help, go to [Protections at work \(https://www.fairwork.gov.au/employee-entitlements/protections-at-work\)](https://www.fairwork.gov.au/employee-entitlements/protections-at-work) .

Civil penalties can apply to employers that don't follow the rules that apply for the use of JobKeeper provisions.

Examples of when we can help

Examples of when we can help include if you believe an employer has:

- failed to pay an amount that is at least equal to the applicable JobKeeper payment to an eligible employee (if the employer is a qualifying employer)
- failed to pay an eligible employee for work they performed or leave they have taken
- asked an eligible employee to give all or part of a payment made to them under the JobKeeper scheme back to their employer
- failed to follow the rules that apply to a JobKeeper direction to perform duties at different days or times
- contravened an order made by the Commission (for example, an order made in response to a dispute about JobKeeper directions).

Find out what to do if you have a dispute about:

- [directions or requests under the JobKeeper scheme](#)
- [eligibility for the JobKeeper scheme](#).

How to ask for our help

To ask for our help, please [contact us \(www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-information/\)](http://www.fairwork.gov.au/coronavirus-and-australian-workplace-laws/contact-information/) .

What happens when you ask for our help

We'll ask you for information about the workplace issues you're trying to resolve. We may refer you to another government agency or department where appropriate.

If your workplace issue relates to minimum pay and conditions, including pay while under the JobKeeper scheme, we'll ask you questions so we can:

- understand and assess your situation
- give you accurate advice
- determine the best way to help you resolve the issue.

In our experience, discussing issues directly in the workplace is the most effective way to promote harmonious workplaces.

Referrals to other government agencies or departments

If it's more appropriate for another government agency or department to help you with an issue, we'll give you information about how to get the right help. For example, this may include a referral to the ATO or the Commission.

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Federal Court – 10% decline in turnover applications

The Federal Court has the power to deal with some applications lodged about the 10% decline in turnover test for legacy employers. The Federal Court can terminate:

- a JobKeeper enabling direction for a legacy employer if the employer doesn't satisfy the 10% decline in turnover test for a specific quarter, or
- a JobKeeper agreement to perform work at different days or times if the employer doesn't satisfy the 10% decline in turnover test for a specific quarter.

The following parties can make an application to the Federal Court to terminate a JobKeeper enabling direction or agreement:

- an employee
- a union
- a Fair Work Inspector.

As well as making an order terminating the direction or agreement, the Federal Court can make any other order it considers appropriate.

Find out more including how to apply at [Federal Court of Australia \(https://www.fedcourt.gov.au/\)](https://www.fedcourt.gov.au/) .

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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.

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