OIK home > People Management> Human Resources Policies and Employment Legislation

Contents

[HR Policies and Procedures 2](#_Toc443034430)

[Conflict and Dispute Resolution 2](#_Toc443034431)

[Preventing Staff Conflict 2](#_Toc443034432)

[What is a Grievance? 2](#_Toc443034433)

[Responsibility for Grievances 3](#_Toc443034434)

[Resolving Grievances 3](#_Toc443034435)

[Conflict Resolution Service 3](#_Toc443034436)

[Employment Conditions and Remuneration 5](#_Toc443034437)

[Employment Contract and Types of Employment 5](#_Toc443034438)

[Industrial Awards 5](#_Toc443034439)

[Enterprise Bargaining Agreements 7](#_Toc443034440)

[Portable Long Service Leave 7](#_Toc443034441)

[Employment Assistance Program 8](#_Toc443034442)

# HR Policies and Procedures

## Conflict and Dispute Resolution

### Preventing Staff Conflict

Effective, regular supervision and good cross-organisational communication are the best 'immunisation' against grievances developing in the workplace. Ideally, problems should be flagged and discussed as part of supervision and management meetings before they develop into large-scale problems.

Remember that most disputes can be resolved effectively through informal processes (i.e. at the level of the employee and his or her immediate concern). A successful dispute resolution can actually build trust and better relationships.

### What is a Grievance?

A grievance is a clear statement by an employee of a work-related problem, concern or complaint.

An employee may be aggrieved about:

* allocation of work, job design, performance management, promotion, selection or recruitment;
* a workplace communication or interpersonal conflict;
* an occupational health and safety issue;
* an allegation of discrimination, including harassment;
* a question, dispute or difficulty concerning the interpretation, application, or operation of an award or agreement; or
* another matter.

Grievances that are not dealt with quickly and effectively can lead to major problems. These include:

* lost productivity and working time of everyone involved;
* low staff morale, increased absenteeism and increased staff turnover;
* loss of reputation for the organisation;
* loss of reputation to the employee; and
* legal action and orders for compensation.

It is important that your organisation has a clear grievance handling policy and procedure to ensure quick, effective resolution of any grievance. If you are covered by a federal or state award, check whether it includes a dispute or grievance procedure. This may be sufficient for your organisation's needs.

If you receive a grievance from a staff member and have no grievance policy, consider seeking the aggrieved employee's agreement to approach a similar organisation for their grievance policy and use it as an interim guideline until your new policy is developed and approved in full consultation with staff. It is best not to try to create a policy while you are in the middle of a crisis. All policies should be subject to consultation before being ratified by your board or committee.

### Responsibility for Grievances

The responsibility for handling grievances rests with Executive Officers, supervisors, and boards or management committees, and should be made explicit in the job descriptions and performance agreements. The division of responsibilities will vary according to the size of your organisation and its structure. The board or management committee and Executive Officer have:

* a leadership role in demonstrating a commitment to the resolution of employee's workplace concerns and grievances; and
* accountability for ensuring there is an effective, timely, impartial and just system for dealing with employee's work-related concerns and grievances; and
* must be aware of confidentiality and privacy concerns.

Before you receive a grievance managers need to encourage employees to understand the agency's procedures for resolving work-related concerns and grievances.

### Resolving Grievances

Where possible and appropriate, a manager receiving a grievance should attempt to resolve the issue at through an informal procedure while not preventing the use of other avenues to the employee. The supervisor should also provide timely and confidential assistance to employees, including advice on available options. The manager should also be mindful of their responsibility for the safety of staff and ensure no-one is victimised.

Ensure you keep accurate records of the process, such as notes of meetings and the topics covered. Record concerns if they are raised by staff, and also any action taken to resolve the issue.

Employees have the responsibility to take prompt action on work-related concerns or grievances in accordance with the agency's procedures. It is important for the employee to state exactly what the problem is in order for it to be dealt with most effectively, and to be clear about the type of resolution they require.

An employee can seek advice from a union, or their union representative, or the equal employment opportunity officer, in following through on a grievance. If they are not satisfied with the resolution they may seek to continue the matter through agencies like the [Australian Industrial Relations Commission](http://www.airc.gov.au) or the [Human Rights and Equal Opportunity Commission](http://www.hreoc.gov.au).

### Conflict Resolution Service

[Conflict Resolution Service (CRS)](http://www.crs.org.au/) was established in 1988 as a not for profit community organisation which provides dispute advice, mediation, facilitation and community education to assist in the prevention, management and resolution of conflict within the wider ACT community.

The service is confidential, impartial, and mediation is free in most cases. The service is suitable for multi-party disputes such as workplace disagreements and is accessible to those individuals with disabilities and from non-English speaking backgrounds. CRS can also provide Training and Professional Development courses for any size company, organisation or government department. Course content can be tailored to suit the individual needs of the business including role plays and activities which allow participants to relate the theory of the course to their everyday workplaces and situations.

# Employment Conditions and Remuneration

## Employment Contract and Types of Employment

The paid staff members of your organisation agree to work on certain tasks in exchange for money. This is a legal contract, even if it is not written down. In order to be clear with staff about what their status in the organisation is, it is best to ensure every staff member has a written letter of appointment or contract.

When someone is hired under a verbal agreement, there is always a strong possibility that the terms of the position are understood differently by each party. Verbal contracts (e.g. verbal agreements about what the staff member is going to do) are legally enforceable, but written ones help minimise confusion and disputes.

Having an employment contract is different from being a “contract” employee – meaning having a fixed term contract that will expire on a certain date. A fixed-term contract means that a person is employed for a fixed period with no guarantee of ongoing work in that position at the end of the contract.

A staff contract should specify the type of employment a staff member is entitled to, such as:

* **permanent employment**, where the organisation commits to employing a staff member on an ongoing basis;
* **fixed-term employment**, where the staff member has a specified period of employment and a pre-determined end date
* **casual employment**, where employment can be terminated at any time

Different employment arrangements attract different conditions. For example, casual employment will generally attract a “casual loading”: additional wages in lieu of sick leave and holiday pay.

It is important to check and understand the type of employment arrangements and the entitlements that they attract under the relevant Award or your organisation's Enterprise Bargaining Agreement.

An employment contract must contain the following elements:

* An 'intention' between the parties to create a legal relationship;
* An offer made by one party and accepted by the other;
* An intention to reimburse or pay the employee in some way;
* Both parties must be legally capable of making a contract, and genuinely consent to it; and
* The contract mustn't be for illegal purposes.

Two further important points

* The offer of the job has to be met by an unconditional acceptance. Don't think you can fix up the terms later on.
* New employees should sign the written contract before they commence duties.

## Industrial Awards

**Note:** Industrial Law is a highly politicised issue in Australia, and Governments frequently make changes to industrial law. For this reason, it is useful to check the latest rules before making decisions about employment conditions.

An industrial award is a legal document that sets out wages and conditions of employment for an industry. Awards are usual made by the [Australian Industrial Relations Commission](http://www.airc.gov.au/) (AIRC), a special court for industrial law. In some states, there are also Awards made by state-based courts.

Awards contain minimum conditions of employment, including rules about pay levels, leave entitlements, penalty rates, and hours of work.

The idea behind the award system is to ensure a basic set of conditions for all workers. Awards ensure that all people employed in a specific field are entitled to the same minimum wages and conditions even though their places of employment may vary in size, location, and funding source.

Modern Award: In January 2010 the AIRC handed down its decision on the final form of the social and community services award, the Social, Community, Home Care and Disability Services Industry Award 2010. This new Award covers employees who were previously employed under the Social and Community Services ACT Award (the SACS Award). It does not cover workers who are covered by an enterprise bargaining agreement (EBA) or a [multi-enterprise agreement (MEA)](http://www.asumembers.org.au/downloads/SACS/ACT/ACT-MEA-2009-Final.pdf).

Other awards used in the sector include:

* the Community Employment, Training and Support Services Award 1999;
* the Clerks Award 1998;
* the Community Services (Home Care) Award 2002;
* the Child Care Industry Award 1998; and
* the Community and Aged Care Services Award 2002.

Awards are enforceable. If you are an employer you should be conforming to the award unless you have in place an Enterprise Bargaining Agreement: a workplace-negotiated agreement about wages and conditions.

Awards can be varied from time to time. Changes to the award are negotiated by the relevant union and certified in the Industrial Relations Commission. When checking your award entitlements make sure you have the latest version of the award.

The [About Awards and Agreements section](http://www.airc.gov.au/awards/about.htm) of the [AIRC](http://www.airc.gov.au/) website has useful information on awards and their operation.

## Enterprise Bargaining Agreements

**Note:** Industrial Law is a highly politicised issue in Australia, and Governments frequently make changes to industrial law. For this reason, it is useful to check the latest rules before making decisions about employment conditions.

Organisation-level agreements made between staff, unions and management are called enterprise bargaining agreements (EBAs), or certified agreements (CAs).

An organisation may decide to negotiate an EBA with its staff. This might be, for example, to provide better wages and conditions for their staff, or to change some work practices restricted by the Award to make your organisation more productive, attractive or flexible. Offering employees wages or conditions that are improvements on the Award may provide staff with a better work environment, helping to retain them and attracting better-skilled workers to fill vacancies.

Agreements do not have to be big, wordy, complex documents. An agreement can retain many of the elements of the existing Award, and simply state any above-Award conditions. Writing an agreement in clear and simple English will help avoid disputes and ensure everyone is aware of their responsibilities and entitlements.

You can negotiate an enterprise bargaining agreement with or without the relevant trade union. Union involvement may assist the process as they have experience and skills in negotiating many previous agreements and may bring those ideas and experience to your organisation. You may also make an agreement without union involvement, by negotiating directly with staff. Be aware, however, that staff members have an entitlement to involve the union if they wish.

The process of creating a bargain is set out in law under the *Workplace Relations Act*. It can often be a complex and lengthy process, due to the time taken to consult with all staff members affected by proposed changes, and to undertake a vote to confirm the agreement of staff. There are also a range of required conditions as well as prohibited content. It can be useful to consult a lawyer before registering your agreement.

For more information go to the [Fairwork Australia Ombudsman](http://www.fairwork.gov.au/employment/agreements/Pages/default.aspx) website

## Portable Long Service Leave

The Portable Long Service Leave scheme (PLSL) provides a transferable long service leave entitlement to employees undertaking relevant work across the community sector for any employer within the industry. Long service leave is additional leave given to an employee who has worked in the same industry for ten or more years. The Long Services Leave Authority is responsible for running the scheme and recording employees’ service with each employer they work for within the industry. When 10 years of service have been accumulated, the employee is entitled to 3 months paid long service leave.

Information and the relevant legislation can be found at the [ACT Long Service Leave Authority](http://www.actlslb.act.gov.au/).

## Employment Assistance Program

Having healthy and happy staff can make a big difference to the way an organisation runs. You might want to think about incorporating an Employee Assistance Program (EAP) into your organisation as one mechanism in supporting your staff.

An EAP is a work-based intervention program designed to support the emotional, mental and general psychological wellbeing of all employees. It provides a number of sessions with professional counsellors every year and includes services for immediate family members. EAPs are confidential and employees are able to access support for any number of problems, including (but not limited to): relationships, health, trauma, substance abuse, gambling and other addictions, financial problems, depression, anxiety disorders, psychiatric disorders, communication problems, legal and coping with change.

The aim of an EAP is to provide preventive and proactive interventions for the early detection, identification and/or resolution of both work and personal problems that may adversely affect performance and wellbeing in employees.

There are a number of providers which offer services to organisations who want to establish an EAP for their employees. These can be found by following the link to [Employee Assistance Professional Association of Australasia Inc.](http://www.eapaa.org.au/)