



FAQS



Contract
cleaning

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The Fair Work Ombudsman is committed to providing you with advice that you can rely on. The information contained in this resource 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.

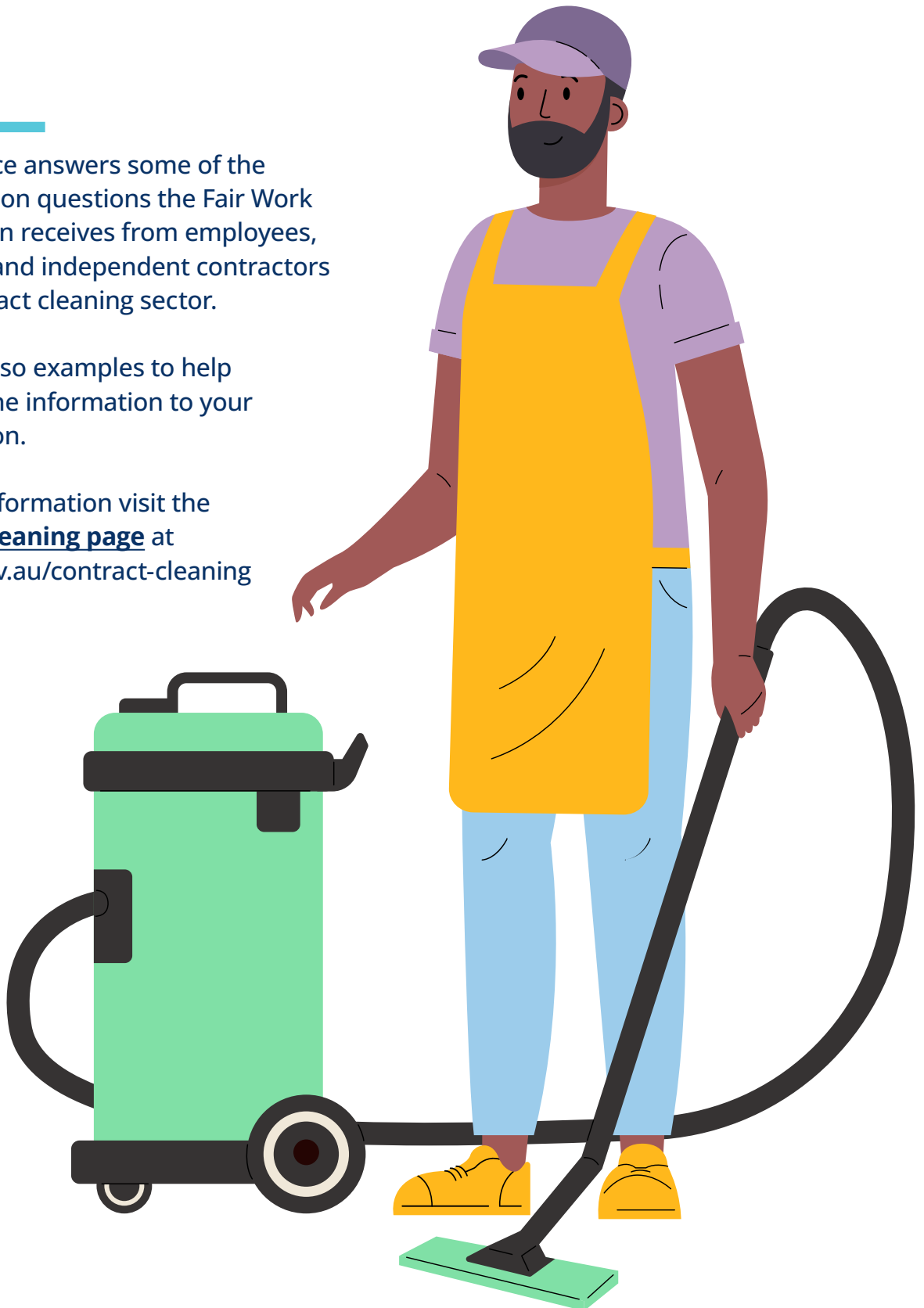
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This resource answers some of the most common questions the Fair Work Ombudsman receives from employees, employers and independent contractors in the contract cleaning sector.

There are also examples to help you apply the information to your own situation.

For more information visit the [Contract Cleaning page](https://www.fairwork.gov.au/contract-cleaning) at [fairwork.gov.au/contract-cleaning](https://www.fairwork.gov.au/contract-cleaning)



About the contract cleaning industry

? What is the contract cleaning industry?

✓ The contract cleaning industry refers to, among other things, businesses that provide cleaning services to another business or a consumer on a contractual basis. Workers in the contract cleaning industry can be employees or independent contractors.

Workers in the contract cleaning industry may be working for:

- ▶ the business that holds the cleaning contract
- ▶ another business that has been subcontracted by the business that holds the contract (known as a subcontractor)
- ▶ a third-party labour hire service provider
- ▶ a private household
- ▶ a contract trolley collection business.



Did you know...

Not all employees working as cleaners are in the contract cleaning industry.



Employee vs independent contractor

? What's the difference between an employee and an independent contractor?

✓ Workers in the contract cleaning industry will have different rights and obligations, depending on whether they are hired as independent contractors or employees. An employee is a person that's employed to work for a company on either a full-time, part-time or casual basis in exchange for payment. Independent contractors provide agreed services under a contract for those services - they usually negotiate their own fees and working arrangements and can work for more than one client at a time.

? What makes someone an employee or an independent contractor?

✓ Whether someone is an independent contractor or an employee depends on a number of indicators, including:

- ▶ the amount of control over how work is performed
- ▶ financial responsibility and risk
- ▶ who supplies the tools and equipment
- ▶ ability to delegate or subcontract work
- ▶ hours of work
- ▶ expectation of work continuing.

? What is sham contracting?

✓ If a business (or individual) tells or represents to a worker that they are an independent contractor when in fact they are an employee of the business – and the business knew (or should have known) that the worker was an employee – this may be an illegal sham contracting arrangement.

We can help employees who think they've been incorrectly engaged as an independent contractor, including if they think they're in a sham contracting arrangement. You can [contact us](#) for further information or assistance at [fairwork.gov.au/contact-us](https://www.fairwork.gov.au/contact-us)

💡 Example: Cleaning employee misclassified as a contractor

Peter has worked for a cleaning business for 7 months. His contract requires him to work 3 shifts a week and provides him with a fixed hourly pay rate. Peter is required under his contract to wear a shirt with the business logo while working, to keep a record of his start and finish times and fill out a timesheet at the end of each shift.

The contract also provides that Peter's boss, Alfred, will give him all the cleaning supplies he needs, and requires Peter to perform his cleaning duties the way Alfred tells him the cleaning should be done. Alfred pays Peter's tax, insurance and superannuation contributions, as set out in Peter's contract.

Peter has an ABN, and his contract requires him to submit invoices in order to be paid for his work each month. However, Peter hasn't been paid for the 60 hours he invoiced last month.

Peter looks at the information on the [independent contractors page](#) on [fairwork.gov.au/contractors](https://www.fairwork.gov.au/contractors) and notices that most indicators point towards him being an employee.

Peter isn't sure how to raise the issue with Alfred, so he completes the [Difficult conversations in the workplace](#) online course at [fairwork.gov.au/learning](https://www.fairwork.gov.au/learning). Peter arranges a meeting with Alfred to discuss the issue. Alfred apologises and pays Peter what he's owed as an employee. Alfred corrects his records and ensures Peter receives his employment entitlements going forward.

Learn more about sham contracting, and the difference between employees and independent contractors, on our [Independent contractors page](#) at [fairwork.gov.au/contractors](https://www.fairwork.gov.au/contractors)

Minimum entitlements

? Where do pay rates and entitlements for contract cleaning employees come from?

✔ Contract cleaning employees' minimum pay rates and entitlements come from:

- ▶ the **National Employment Standards** (NES)
- ▶ the **Cleaning Services Award** (Cleaning Award).

An employment contract can't provide for less than the legal minimum entitlements set out in the Cleaning Award and the NES.

? What are the National Employment Standards?

✔ The NES are minimum employment entitlements that have to be provided to all employees. For more information visit our **National Employment Standards page** at [fairwork.gov.au/nes](https://www.fairwork.gov.au/nes)

? What is the Cleaning Award?

✔ An award is a legal document that sets out minimum pay rates and conditions of employment. If you're an employee or employer in the contract cleaning industry, you're most likely covered by the **Cleaning Award**. You can find the **Cleaning Award** at [fairwork.gov.au/listofawards](https://www.fairwork.gov.au/listofawards)



Example: Understanding where minimum entitlements come from

Morgan wants to start a new home cleaning business. Before she starts hiring employees, she needs to find out about minimum pay rates and entitlements.

Morgan visits [fairwork.gov.au](https://www.fairwork.gov.au) and learns that minimum pay rates and conditions of employment come from both the National Employment Standards and a document called an award. The award that she needs to use depends on the industry of her business, and the type of work her employees do.

She uses the Fair Work Ombudsman's Find my award tool and finds out that the Cleaning Services Award 2020 (Cleaning Award) applies to her employees. This is because her business provides cleaning services under a contract, and the type of work the employees will do is covered by the definition in the Cleaning Award of a Cleaning Services Employee Level 1.

The Cleaning Award has rules about rights and obligations, including:

- ▶ minimum pay rates
- ▶ whether an employee is casual, part-time or full-time
- ▶ penalty rates (for example, for working weekends or after hours)
- ▶ allowances (for example, for toilet cleaning or an employee using their own vehicle)
- ▶ breaks.

Morgan reads through the Cleaning Award carefully, to make sure she understands the pay rates, entitlements, and other conditions she must provide to her employees.

? Are all cleaners covered by the Cleaning Award?

✓ No, not all workers who perform cleaning duties work are covered by the Cleaning Award. The Cleaning Award covers employers in the contract cleaning services industry and their employees who fit within the classifications of the award.

Where a worker is employed by a business that provides cleaning services to other businesses under contract, this kind of business and the kind of work the worker does are covered by the Cleaning Award.

Where a worker is directly employed by a business that is not part of the contract cleaning industry, the worker is covered by the award that covers the business and the kind of work the worker does.

Let us explain the difference with an example...



Example: Cleaning employee not part of the contract cleaning industry

Joe and Sam are friends who both work as cleaners at two different supermarkets in a coastal town. They both do similar duties at work, including cleaning common areas, polishing and garbage disposal.

Joe works directly for Supermarket A as part of their staff and must wear their uniform. Joe receives instructions from the store manager. Because Joe works directly for Supermarket A, Joe will be covered by the General Retail Industry Award.

Sam works for a contract cleaning business that provides cleaning services to Supermarket B, as well as other businesses. Sam is paid directly by the cleaning company and wears their uniform. Sam is told by the cleaning business when to work and what tasks should be done in what order. Sam is covered by the Cleaning Award.



For more information on who is and isn't covered by the Cleaning Award, visit our **[Cleaning Award summary](https://www.fairwork.gov.au/cleaning-award-summary)** at [fairwork.gov.au/cleaning-award-summary](https://www.fairwork.gov.au/cleaning-award-summary)

Employment Types

? What are the different types of employment?

✔ There are 3 main types of employment covered by the Cleaning Award:

- ▶ full-time
- ▶ part-time
- ▶ casual.

? What is a full-time employee?

✔ Full-time employees under the Cleaning Award have to get an average of 38 ordinary hours a week. These hours can vary week to week and can be averaged over several weeks, so long as it equals 38 hours on average in that period.

? What is a part-time employee?

✔ Part-time employees are engaged to work less than 38 ordinary hours a week. They must agree on how many hours they will work each week before starting their job. Part-time employees are also entitled to an additional 15% loading on top of their normal hourly rate for hours they work.

? What is a casual employee?

✔ Casual employees have no guaranteed hours of work and their hours can be irregular or sporadic. Casual employees are also entitled to a 25% casual loading on all hours they work.

? When can an employee be engaged as a casual?

✔ Under the Cleaning Award an employer can only engage a casual employee for one of 3 reasons:

- ▶ to work on an intermittent or irregular basis
- ▶ to work uncertain hours, or
- ▶ to replace a full-time or part-time employee who is rostered off or absent.



Example: The difference between part-time and casual employment

Taylor runs an office cleaning business. She wants to hire a new employee to work 15 hours per week but isn't sure if they should be casual or part-time.

Taylor looks at information about part-time and casual employees on fairwork.gov.au and in the Cleaning Award. She learns that under the Cleaning Award you can only employ a casual employee for one of 3 reasons:

- ▶ to work on an intermittent or irregular basis
- ▶ to work uncertain hours, or
- ▶ to replace a full-time or part-time employee who is rostered off or absent.

Taylor wants her new employee to work regular hours, so she needs to hire them as a part-time employee.



Did you know...

Under the Cleaning Award, part-time employees get paid a 15% part-time loading. Among other requirements, they also have an agreed pattern of work that is less than 38 hours per week, get paid and accrue annual and sick leave, and must give or receive notice to end their employment.

Pay rates

? How do I work out minimum pay rates?

✔ Contract cleaning employees' minimum pay rates are set out in the Cleaning Award. You can use our **Pay and Conditions Tool** at fairwork.gov.au/PACT to find current minimum pay rates.

To find the right pay rate, you need to know an employee's award, employment status (full-time, part-time or casual), their level (or classification) and if they are a junior or adult.

? What is the minimum pay rate under the Cleaning Award?

✔ The current minimum pay rates for Cleaning Services Level 1 employees under the Cleaning Award are:

- ▶ Full-time: \$22.76 per hour
- ▶ Part-time: \$26.17 per hour
- ▶ Casual: \$28.45 per hour

Some employees have a different minimum wage depending on their work capacity and whether they are an adult or junior.

? Can employees be paid per job, rather than per hour?

✔ Contract cleaning employees cannot be paid per job.



💡 Example: Can't be paid per job

Jen works as a casual employee for a contract cleaning business. Jen's supervisor asks her to clean a new office and that her payment will be \$50 for cleaning it. This work is to be done during normal business hours.

Jen doesn't know how long it will take her to clean this new office so asks her supervisor the floor size. Her supervisor tells her the total cleaning area is 4000 square metres.

Jen knows that for this size area she should be paid for at least 3 hours work.

Jen is covered by the Cleaning Award. As a Level 1 employee under the Cleaning Award, Jen is entitled to a minimum rate of \$28.45 per hour. Therefore, she should receive more than \$50.

Jen shows her supervisor the Cleaning Award and her supervisor agrees that she will be paid for the full 3 hours.

? Can employers round down hours?

✔ No. Employees need to be paid the right pay rate for all time worked.

Check out our example in the where to get help section on page 12 to find out more.

? When do minimum pay rates change?

✔ Each year, the Fair Work Commission reviews minimum pay rates under awards (Annual wage review). Most changes begin on the first full pay period on or after 1 July. To stay up to date, **[subscribe to our email updates](https://fairwork.gov.au/emailupdates)** at fairwork.gov.au/emailupdates

Penalty rates and allowances



Did you know...

Depending on the nature and type of work, and the time of that work, employees may be entitled to several different payments on top of their base rate of pay.

? When do contract cleaning employees get penalty rates?

✔ Penalty rates are higher pay rates that can apply when an employee works particular hours or days. Employees who work in the early morning, at night, on weekends and on public holidays may be entitled to penalty rates on the hours they work.

? What types of allowances do contract cleaning employees get?

✔ An allowance is an additional payment made to employees for doing certain tasks, working in certain locations, using a special skill or for expenses incurred for doing their job.

Some examples of common allowances under the Cleaning Award include:

- ▶ refuse collection allowance
- ▶ toilet cleaning allowance
- ▶ uniform allowance
- ▶ travel allowance.

An employee who works on a broken shift, where their hours are split up across a single day, may also be entitled to an allowance.

? How do I work out which penalty rates and allowances are payable?

✔ You can use our [Pay and Conditions Tool](https://www.fairwork.gov.au/PACT) at [fairwork.gov.au/PACT](https://www.fairwork.gov.au/PACT) to see what allowances or penalty rates might apply.



Example: Minimum rates of pay

Carlos is an international student who works part-time as a cleaner for a business, cleaning homes and apartments. This is Carlos' first job in Australia and he is paid a flat rate of \$20 per hour every day. Carlos' friend tells him that doesn't sound right, and he should look into it.

Carlos uses the [Pay and Conditions Tool](https://www.fairwork.gov.au/PACT) on [fairwork.gov.au/PACT](https://www.fairwork.gov.au/PACT) to check his pay rate. Carlos learns he is a casual Cleaning Services Employee Level 1 and that his pay rate comes from the Cleaning Award. Under the Cleaning Award some of the minimum rates of pay from 1 July 2022 for a casual Level 1 employee are:

- ▶ \$28.45 per hour on weekdays
- ▶ \$39.83 per hour on Saturdays
- ▶ \$51.21 per hour on Sundays.

Carlos learns that other penalty rates and allowances can apply at other times. Carlos also learns that the minimum pay rates are reviewed every year and any increases usually apply from the first full pay period on or after 1 July each year.

Carlos prints out the pay rates and shows them to his boss. His boss says they are too high, and he can't pay Carlos those rates.

Carlos reports the issue to the Fair Work Ombudsman using [My account](https://www.fairwork.gov.au/register) at [fairwork.gov.au/register](https://www.fairwork.gov.au/register). He attaches evidence of the underpayment, including his pay slips and rosters, and explains that he couldn't resolve the issue with his employer.

A Fair Work Inspector looks at the evidence and finds that the business has broken workplace laws and underpaid Carlos. The Fair Work Inspector issues a compliance notice to Carlos' boss that requires the business to fix the underpayments within 28 days or risk facing legal action.

Two weeks later, the business back pays Carlos all the money he is owed and starts paying him the correct minimum hourly rates, penalty rates and allowances.

Hours and rostering

? Are there minimum shift length requirements?

✓ Yes. Under the Cleaning Award, employees need to be given a minimum amount of hours each shift.

For part-time and casual employees, this amount changes based on the size of the area they need to clean. Even if the employee can finish the job early, they still have to be paid the minimum hours based on the size of the cleaning area.

? What is overtime and when do employees get it?

✓ Overtime is when an employee works extra time and receives overtime rates of pay.

Under the Cleaning Award full-time employees get overtime rates if they work more than their ordinary hours of work (per day or per week).

Part-time and casual employees get overtime rates if they work more than:

- ▶ 7.6 hours in a day
- ▶ 5 days per week, or
- ▶ 38 hours in a week.



You can find out what the **minimum hours are and more about ordinary hours and overtime** under the Cleaning Award at fairwork.gov.au/hoursofwork

Breaks

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? What breaks do contract cleaning employees get?

✓ The Cleaning Award provides for paid and unpaid rest breaks and meal breaks for employees.

A rest break is a 10 minute paid break that counts as time worked.

A meal break is a 30 to 60 minute unpaid break that doesn't count as time worked, except for shiftworkers.

The Cleaning Award also provides that employees have to get a minimum break of 8 hours between finishing ordinary hours of work on one day and starting work the next day. There are rules in the award around what happens when they don't get this break.

For more information about the minimum break requirements, including for shiftworkers, under the Cleaning Award, see our [Breaks page](https://www.fairwork.gov.au/breaks) at [fairwork.gov.au/breaks](https://www.fairwork.gov.au/breaks)



Leave

? What types of leave can employees access?

✔ Employees can take leave for many reasons, including:

- ▶ to go on a holiday (annual leave)
- ▶ because they are sick (sick/personal leave)
- ▶ to take care of sick family members (carer's/personal leave)
- ▶ when an employee's family member is seriously ill or dies (compassionate/bereavement leave)
- ▶ when a child is born or adopted (parental leave)
- ▶ if they are experiencing family and domestic violence (family and domestic violence leave)
- ▶ to engage in certain community service activities (community service leave).

Whether an employee is full-time, part-time or casual will determine whether the leave is paid or unpaid and how much leave they can access.

Minimum leave entitlements for employees come from the National Employment Standards (NES). An award, registered agreement or contract of employment can provide for other leave entitlements but they can't be less than what's in the NES.

? What evidence do employees need to provide for paid sick and 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 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.



Example: Type of evidence

Anna is a full-time employee as a cleaner for a business, cleaning homes and apartments. 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.

For more information about leave including who gets what leave, how it accumulates and if it's paid or unpaid go to our [Leave page](https://www.fairwork.gov.au/leave) at [fairwork.gov.au/leave](https://www.fairwork.gov.au/leave)

Where to get help

? What can I do if there's a problem in my workplace?

✓ In most cases, the quickest and easiest way to resolve a problem is by addressing the issue in the workplace as quickly as possible. Employers and employees can use our free resources to help them have difficult conversations in the workplace and resolve issues.

For employees: Our [Employee's guide to resolving workplace issues](#) has detailed steps employees can follow when they're ready to raise an issue with their employer. Download the guide at fairwork.gov.au/employee-guide

For employers: Our [Employer's guide to resolving workplace issues](#) has detailed steps for employers on how to raise and resolve an issue in the workplace. Download the guide at fairwork.gov.au/employer-guide

We also have online learning courses to help employers and employees have difficult conversations in the workplace. Visit our [online learning centre](#) at fairwork.gov.au/learning



Example: Resolving problem of not being paid for all time worked

Sun-Young has just started working for a company that cleans large shopping centres. Before her first shift she is required to attend a training session to learn about their procedures, the cleaning products they use and the tasks she must do each day.

When Sun-Young checks her first pay slip she notices she has not been paid for the training session. She has also not been paid for the time it takes her to collect and load the cleaning cart in the morning, or to return and unload the cleaning cart in the afternoon.

Sun-Young reads about [unpaid work](#) on fairwork.gov.au/unpaidwork. She learns that because she had to attend the training, she must be paid for it. She must also be paid for all hours that the company requires her to work, including the time it takes her to collect and return the cleaning cart.

Sun-Young brings the issue to her employer Michael's attention. She gives him the information that she found and asks him to respond, letting him know that she may request assistance from the Fair Work Ombudsman if he doesn't reply. Michael thanks Sun-Young for letting him know. Michael says that the company will back pay Sun-Young the money she is owed in her next pay.

? How are employees protected to raise issues in the workplace?

✔ It's unlawful for a person to take adverse action against another person because they:

- ▶ have a workplace right
- ▶ have or have not used a workplace right
- ▶ propose or don't propose to use a workplace right.

Adverse action includes firing an employee, changing an employee's job to their disadvantage, and injuring an employee in their employment (for example, not giving an employee their legal entitlements, such as pay or leave).

Let us explain...



Example: Adverse action

Greg's employer finds out that he reported a workplace issue to the Fair Work Ombudsman because he didn't think he was getting paid the minimum wage. Greg is demoted and has his duties substantially changed because he contacted the Fair Work Ombudsman. This is adverse action against Greg because he used his right to ask about his pay. It is unlawful.

? What rights do visa holders and migrant workers have?

✔ Visa holders and migrant workers have the same workplace protections as all other employees in Australia. Employees can't get into trouble or have their visa cancelled for contacting us to ask for information about pay or other workplace rights.

Find out more about workplace rights, adverse action and how to resolve issues about general protections on our **Protections at work page** at fairwork.gov.au/protections

? Who do I contact about work safety issues?

✔ Each state and territory has a local workplace health and safety body, which regulates and investigates breaches of laws about workplace health and safety, including bullying and harassment.

Australian Capital Territory: **Work Safe ACT**

New South Wales: **SafeWork NSW**

Northern Territory: **NT WorkSafe**

Queensland: **Workplace Health and Safety Queensland**

South Australia: **SafeWork SA**

Tasmania: **WorkSafe Tasmania**

Victoria: **WorkSafe Victoria**

Western Australia: **WorkSafe WA**

Safe Work Australia is the statutory agency leading the development of national policy to improve work health and safety and workers' compensation arrangements across Australia.

Comcare (Commonwealth) works with employees and employers to minimise the impact of harm in the workplace.



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**



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