

Reducing Employee Numbers due to COVID-19 Impact

Where looking to reduce employee numbers as a result of the current health pandemic, employers need to be mindful of the Fair Work laws which apply in this situation. Here are some general guidelines on what options employers have where they are looking to reduce employee numbers.

- Employees can be stood down in the circumstances where the business has been directed to close by the government, and there is not an option to work from home or any other way, for some or all employees. The Fair Work Act refers to standing down employees due to stoppage of work outside of the employer's control, along with some other reasons. This is mostly what employers are referring to currently. Stoppage of work is considered when all work stops, not just slows down. The other situations in which you can stand down employees are outlined in the [Fair Work](#) website. There are also some further instances where you can't stand down employees if it is addressed in their employment agreement or award in a certain way, Fair work explains that further.

The following applies during a stand down:

- The time is unpaid. Employers do not have to offer, or allow if requested, to pay employees any leave time they may have entitlements for.
 - Leave will accrue during a stand down period.
 - A letter to the employee needs to be provided explaining their stand down and they would initially check online with [Services Australia](#) (incorporates Centrelink) to see what benefits they may be eligible for.
- A slowdown of business, even though it is directly attributed to the Coronavirus does not necessarily qualify an employer to be able to stand down employees. They would have to meet other criteria, such as a distributor not being able to provide a product which in turn means the business can't operate, and this is out of their control. Where stand down does not apply but the workload is minimal or revenue is down, employers can work with their employees in reaching agreement about their employment conditions. Some options might be:
 - Consult with employees to take a period of unpaid leave for an indefinite period (perhaps fortnightly or monthly review)
 - Consult with employees to reduce their work hours for an indefinite period (perhaps fortnightly or monthly review)
 - Redundancies may be considered, consultation process still applies
 - Employees may consult with employees about any other options they can think of, they key here is the consultation and mutual agreement. For example, may see if an employee would like to take paid leave – either at full or half rate.

Note that:

- There are no notice period obligations, however consultation must take place. The timeframe would be very short, e.g. within the day, considering the current situation.
- Employees can refuse to modify their hours or take a period of unpaid leave, however I can't see many employers having issues with this at this time. Employees would be aware of downturn of workload and likely happy to help keep the business afloat for the long term.

Benefits available to employees

With regards what government assistance people can access, this is our understanding as it stands currently:

- If an employee has been 'stood down' on no pay, they are automatically eligible for government assistance. I don't think there are many restrictions on this, they just need a letter from their employer advising they have been stood down due to the health epidemic.
- Where employees are taking unpaid leave or have reduced work hours due to slowdown in business because of Coronavirus I don't believe they are automatically eligible for government assistance as they would be in the case of a stand down. However, they can still apply for government benefits and I believe they would fall under meeting normal criteria for benefits, which may be reviewed. The employer would still issue a letter explaining what the situation is and the modifications made, which employees could take to Centrelink to see what they are eligible for.
- Advice for employees around what government assistance they are eligible for is that it is best to direct them to [Services Australia](#) (which includes Centrelink). We can't really advise exactly what they are entitled to as everyone's situation is different with respect to their own personal situation, e.g. financial and living circumstances, whether they are stood down or on unpaid leave or have reduced hours etc. The government is continuously reviewing and making changes to what people are entitled to as the situation progresses, so directing to their website is best for now.

Helpful Links

Here are relevant links to support the information provided above. It is important to note that the information is being updated regularly.

[Fair Work - Coronavirus and Australian Workplace Laws](#)

[Concerns - Downturn in business](#)

[Stand Down](#)

[Services Australia](#)

[Services Australia - affected by Coronavirus](#)

The information provided in this document is for guidance only & accurate at the time of creation – 25 March 2020. Please seek your own independent advice from a HR professional or lawyer as each business' circumstances will be different.