

Do you need time off for Sorry Business?

This fact sheet provides advice to help First Nations employees understand what time away from work they can take during Sorry Business. It also explains how they can work with their boss to take time off.



About our artwork: **Stepping forward**

Stepping forward represents taking the next step on the journey towards reconciliation and the potential possibilities when everyone is included.

Connecting with diverse people, meeting, listening and sharing together, can build respect and trust. Working in concert for a common purpose and united in the mission to make meaningful change.

It serves as a reminder of the dynamism and vibrancy of First Nations people and the lands from which they come, making the emergence of new ideas and ways of being possible that enables the envisioning of a brighter future.

Artist: **Timothy Buckley**

Do you need time off for Sorry Business?

What is compassionate leave?

- ▶ If you need time off work for Sorry Business, you might be able to take compassionate leave.
- ▶ Australian workplace law says that you're entitled to take compassionate leave in certain situations. It is sometimes called bereavement leave.

When can employees take compassionate leave?

- ▶ All employees can take compassionate leave when someone in their immediate family or household dies or suffers a life-threatening illness or injury.
- ▶ They can also take compassionate leave if:
 - a child who would have been part of their immediate family or household is stillborn
 - they have a miscarriage, or
 - their current spouse or de facto partner has a miscarriage.
- ▶ Immediate family means an employee's:
 - spouse (husband or wife) or former spouse
 - de facto partner (a partner who lives with them) or former de facto partner
 - child
 - parent
 - grandparent
 - grandchild
 - sibling, or
 - a child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner (or former spouse or de facto partner).

- ▶ If your Sorry Business involves someone who is not an immediate family or household member then you can't get compassionate leave. You should still talk to your boss about taking time off work. Your boss might agree to give you paid leave or there might be unpaid types of leave you can get.

How much leave can you take?

- ▶ You can take 2 days of compassionate leave each time you need it. You can take this as:
 - one continuous period of 2 days
 - 2 separate periods of one day each, or
 - any separate periods that you and your boss agree to.
- ▶ If you need more than 2 days off work for Sorry Business, talk to your boss about why you need more time off work and how much time you need. Other options might be available.



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How much pay will you get while on leave?

- ▶ If you are a full-time or part-time employee, you will get your base rate of pay for the hours you would have worked during the leave. This doesn't include overtime, penalty rates, allowances or bonuses.
- ▶ If you are a casual employee, you get unpaid compassionate leave.



Can your boss stop you from taking compassionate leave?

- ▶ The law says that you must tell your boss you're taking leave as soon as you can. This may be after the leave has started. You also need to tell them how much leave you're taking.
- ▶ Your boss can ask you for evidence about the reason for compassionate leave. Evidence could be:
 - a medical certificate, death or funeral notice, or
 - a statutory declaration. This is when you write down a statement, declare it to be true and sign it in front of an authorised witness such as a lawyer or a nurse. The authorised witness also needs to sign the declaration.
- ▶ Your boss must let you take compassionate leave, unless you don't give them notice or any evidence they request about the reason for the leave. If that happens, you might not get compassionate leave.
- ▶ If you want to take other types of leave, like annual leave or unpaid leave, you should talk to your boss.



What can you do to help your boss during Sorry Business?

- ▶ If you need to take time off work for Sorry Business, it's a good idea to let your boss know as soon as you can. This can help them to understand your needs and manage their business. You should:
 - **find out about what leave or time off you can get.** You might get compassionate leave, annual leave, sick or carer's leave, leave in advance, unpaid leave or time off in lieu. You might also be able to take unpaid ceremonial leave for Sorry Business. Check the award or enterprise agreement if one applies. Some might provide unpaid ceremonial leave that gives First Nations employees the right to take unpaid leave for Sorry Business. Visit [fairwork.gov.au/awards](https://www.fairwork.gov.au/awards) and [fairwork.gov.au/agreements](https://www.fairwork.gov.au/agreements)
 - **give your boss as much information as you can** about why you need time off work and be clear about how much time you need
 - **talk to your boss** and agree about what works best for both of you
 - **let your boss know** if anything happens that will change how much time off work you need.

Do you need time off for Sorry Business?

Troy's Sorry Business for his grandfather

Troy is a truck driver. He was on a job when his uncle called him to say that his grandfather had died. Troy immediately called his boss Eric to say that he wants to attend Sorry Business and that he might need 5 days off work.


Troy tells Eric that he doesn't know exactly how much time off he will need, but he will find out when he gets home and finds out about the traditions that will be observed.


Eric knows that Troy was close to his grandfather and that Sorry Business is an important part of Troy's mourning process. Eric tells Troy that he can take 2 days of compassionate leave, and that he can take annual leave or unpaid leave for the other 3 days.

Troy promises to call Eric when he gets home to tell him how much leave he needs and what type of leave he wants to take.

Troy feels supported by his boss. Eric knows how difficult it is to find good drivers and is happy that Troy gave as much notice as he could about his leave. Eric can now plan for somebody else to do Troy's driving jobs while Troy is away.

Kara's Sorry Business for her grandmother

 Kara's grandmother died yesterday. She needs to travel to her community for Sorry Business, but she is not sure when. Kara is very upset and decides not to ask her boss for leave until she knows when she needs to go. Two days later she finds out more details and needs to leave straight away to go home. Kara's boss isn't able to find anyone to cover her shifts at such short notice.

 **What Kara could have done:** Even though she doesn't know when she needs to go, Kara should tell her boss as soon as possible about her grandmother's death. This way her boss can talk to her about the type of leave she wants to take and arrange for someone to cover her shifts.

Find out more

For more information about compassionate leave and other leave go to [fairwork.gov.au/leave](https://www.fairwork.gov.au/leave).

If you need help talking to your boss, you can do our Difficult conversations in the workplace online learning course at [fairwork.gov.au/learning](https://www.fairwork.gov.au/learning).

You can also talk with someone from a community organisation or community legal centre, an HR officer, an Indigenous liaison or employment officer, or a union representative.

Contact us

Fair Work online: [fairwork.gov.au](https://www.fairwork.gov.au)

Fair Work Infoline: **13 13 94**

Need language help?

Contact the Translating and Interpreting Service (TIS) on **13 14 50**

Help for people who are deaf or have hearing or speech difficulties

You can contact us through the National Relay Service (NRS).

Select your **preferred access option** and give our phone number: **13 13 94**



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