

# LGRCEU

( INCEPTION – 1903 )

*Western Australian Shire Councils, Municipal Road Boards,  
Health Boards, Parks, Cemeteries and Racecourses,  
Public Authorities Water Boards Union*



## MEMBERS RESOURCE HANDBOOK

FORMERLY THE **MEL**  
FOR OVER 108 YEARS



PO BOX 183 LEEDERVILLE WA 6007

Email: [lgrceu@tpg.com.au](mailto:lgrceu@tpg.com.au)

TEL: (08) 9328 5854

(08) 9328 7159

FAX: (08) 9328 4792

Country Callers 1800 199 945

[www.lgrceu.org](http://www.lgrceu.org)

**Authorised by: Committee of Management**

**L** – Local and loyal  
**G** - Good Governance  
**R** - Responsible  
**C** - Community Based  
**E** - Empathy with members  
**U** – Unity of purpose

- Representation on the Local Government Industry Training Reference Group
- Access to member to MEMBERS EQUITY BANK MEMBER SERVICES
- Decision making is always determined by members and where requested by members, by secret ballot

Most importantly we have excellent standing and relationships with the majority of Employers in your industry and their supporting employer associations.

We invite you to participate.

Andrew Johnson, SECRETARY

### TO ALL NEW MEMBERS

The organisation forwards this information to you with the intention of advising you of the existence of a responsible, pragmatic and dedicated employee services organisation that exists within the industries of Local Government, Cemeteries and Racing in Western Australia.

The organisation, commonly known these days as the LGRCEU, has been operating in the industries of Local Government, Cemeteries and Racing in Western Australia since 1903.

The organisation has gone through a positive restructure and will continue its proud history of representation and negotiation on behalf of employees in Local Government.

The LGRCEU offers the following benefits:

- Industrial Relations Advocacy
- Negotiation of Collective Agreements
- Negotiation of Common Law and individual contracts where members so direct
- Representation on the Local Government Superannuation Plan
- Access to Workers Compensation, Motor Vehicle Accident, and Personal Injuries Lawyers
- Access to mediation services in the area of Family Law
- Use of Holiday Homes in Denmark \$ 300.00 per week or \$ 60.00per night
- Access to various discounts through the union discount service Shop Rite

### ADVERSE ACTIONS BY YOUR EMPLOYER

Under the Fair Work Act 2009 there are provisions in the Act that provide for what are called “General Protections” against “Adverse Actions” by your employer.

The legislation is set up particularly to protect employees who engage actively in Union activities lawfully and who participate strongly in Enterprise Bargaining.

The laws also allow employees to protect themselves against deliberate behaviours by employers and their representatives that cause “injury” including psychological injury to employees by behaviours such as

- verbal abuse



- using vague and unspecified threats
- sarcastic and demeaning remarks made to an employee or in front of other employees
- unfair or unjustified use of disciplinary processes
- setting unrealistic work targets for employees
- singling out employees for different treatment without just cause

As this is a relatively new area of industrial relation law we encourage you to contact the Union immediately if you ever experience the above behaviours from management representatives.

It should be noted however that the above does not preclude any employer from using adopted performance management or disciplinary procedures where justified or where the evidence points in that direction.

## BUILDING COMPLAINTS

The Western Australian Department of Commerce, Building Commission Division can provide advice to consumers who have disputes regarding Workmanship and Building Contracts

In addition to advice, there is a Statutory Tribunal which can handle disputes regarding Workmanship. It can also handle disputes regarding Home Building Contracts that have values between \$ 7,500.00 and \$ 500,000.00, but can only award compensation or remedial work be performed up to a maximum amount of \$ 100,000.00.

The Building Commission can make rapid adjudication on disputes regarding payments relating to building contracts and can provide good free advice to consumers on issues regarding Plumbing and Dividing fences.

The Building Commission is located at:

Level 1, 31 Troode Street,  
WEST PERTH WA 6005  
Phone: 1300 489 099  
Email: [info@building.commission.wa.gov.au](mailto:info@building.commission.wa.gov.au)



## CENTRELINK

Centrelink provides a extensive range of payments and allowances covering critical areas of Social Security support to individual and families.

The areas of most significance to working Australians are as follows:

1. **FAMILY TAX BENEFITS - PARTS A AND B**
2. **PAID PARENTAL LEAVE SCHEME ENTITLEMENT**
3. **BABY BONUS**
4. **MATERNITY IMMUNISATION SCHEME**
5. **CHILD CARE BENEFIT**
6. **HEALTH CARD BENEFIT**
7. **SICKNESS ALLOWANCE**
8. **RENTAL SUPPORT**
9. **CARER PAYMENT AND ALLOWANCE**

The majority of the above benefits are subject to Income and Assets tests and provide varying levels of payments to couples and individuals who qualify.

Centrelink also has an extensive range of advisory services for workers intending to or who have retired; including Seminars held at various locations in Western Australia whereby substantial independent and not for profit advice is provided to Pensioners and/or Allowance beneficiaries on how to maximise their income and benefits and entitlements in retirement and or when receiving other allowance benefits.

The Union has published the most current **GUIDE TO AUSTRALIAN GOVERNMENT PAYMENTS** on its Website.

In the alternative Centrelink can be contacted as follows:

<b>AGE PENSION AND RETIREMENT</b>	<b>132 300</b>
<b>DISABILITY, SICKNESS ,CARING</b>	<b>132 717</b>
<b>EMPLOYMENT</b>	<b>132 850</b>
<b>FAMILY AND PARENTS</b>	<b>136 150</b>

Centrelink can also be accessed on line on through a self service basis when making application for benefits and entitlements through the following websites:

- [centrelink.gov.au](http://centrelink.gov.au)
- [humanservices.gov.au](http://humanservices.gov.au)

**CITIZENS ADVICE BUREAU**

The Western Australian Citizens Advice Bureau provides a wide range of extensive **Legal and Dispute Resolution Services** to members of the public.

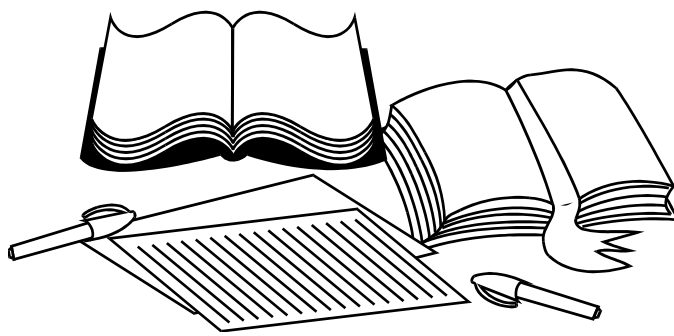
The Legal Services provided allow for any person to attain 20 minutes with a qualified Solicitor for a cost of \$ **30.00** to get legal advice on any of the following matters

- |  |                                      |
|--|--------------------------------------|
| <i>Debt</i>                                    | <i>Land sale</i>                     |
| <i>Family Law</i>                              | <i>Traffic Offences</i>              |
| <i>Dividing Fences</i>                         | <i>Defamation and Libel</i>          |
| <i>Motor Vehicle Accidents</i>                 | <i>Insurance Claims and Disputes</i> |
| <i>General and Enduring Powers of Attorney</i> | <i>Wills and Probate</i>             |
| <i>Consumer Complaints</i>                     | <i>Criminal Law</i>                  |
| <i>Personal Injury</i>                         |                                      |

Additionally the qualified lawyers can issue letters of communication in relation to any parties in relation to the above mentioned areas for a fixed cost of \$ **30.00**.

The Mediation Services that can be provided by registered and qualified mediators. They are as follows:

- **Family and Child Mediation**
- **Commercial Mediation**
- **Community Mediation**



Each of the above Mediation services are designed to give advice and or provide anon adversarial setting for clients to try and resolve disputes, grievances and/or claims that exist within the area of law referred to.

Please note that in Court or Administrative Tribunal formal Conferences and Hearings, that the Citizens Advice Bureau does not provide representation.

The Citizens Advice Bureau has Offices at the following location:

<b>BRANCH</b>	<b>ADDRESS</b>	<b>PHONE</b>	<b>OPENING HOURS</b>
<b>ALBANY</b>	Cnr. Stirling Tce. & York Street	9841 4711	Mon- Fri 10.00am-1.00pm
<b>ARMADALE</b>	2 Hobbs Drive	9497 5311	Mon-Fri 9.30am-3.30pm
<b>BUSSELTON</b>	Cnr Bussell Hwy. & High Street	9751 1199	Mon-Fri 10.00am-2.00pm
<b>BUNBURY</b>	7 Oakley Street	9721 6008	Tues & Wed 10.00am-2.00pm
<b>ESPERANCE</b>	Po Box 546	9071 1011	Telephone only
<b>FREMANTLE</b>	15A Queen Street	9335 4522	Mon-Thurs 9.30am-3.30pm Fri 9.30am-12.30pm

<b>JOONDALUP</b>	Suite 5, 70 Davidson Tce.	9301 2833	Mon-Fri 9.00am-3.30pm
<b>MANDURAH</b>	Mewburn Centre, Sholl Street	9535 3101	Mon-Fri 9.00am-2.00pm
<b>MIDLAND</b>	Suite 3, 12 Stafford Street	9274 3000	Mon-Fri 9.30am-3.00pm
<b>ROCKINGHAM</b>	Room 4, St. Nicholas Centre 14 Council Ave.	9527 6671	Mon-Thurs 9.30am- .30pm Fri 9.30am-1.00pm

## CODES OF CONDUCT ISSUED BY COUNCILS TO EMPLOYEES

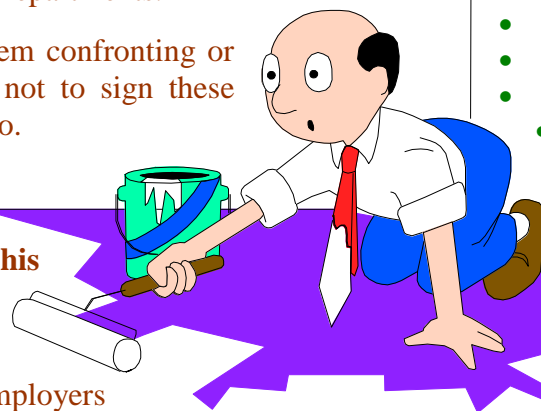
The Union has assisted numerous employees in regard to handling and responding to copies of Codes of Conduct given to them by their Managers for acknowledgement and signature.

These documents are usually quite lengthy and highly technical in their content as they are usually prepared by Human Resources Departments.

The Union is finding that many members find them confronting or difficult to understand. We encourage members not to sign these documents as there is no legal compunction to do so.

We are also finding that in recent times these documents are demanding the employee seek permission for secondary employment. **This demand is not legal or enforceable in every circumstance.**

Advice on whether you need to satisfy the Employers demand for declaration of secondary employment should first be sought from the Union before responding to Council.



## CONSUMER COMPLAINTS

The Western Australian Department of Commerce Consumer Protection Division can provide advice, assistance and guidance to consumers who buy or contract to buy goods or services for their personal use.

The Department always encourages you to at least attempt to negotiate your dispute, claim or grievance with the supplier in the first instance.



Depending on the type of dispute, copies of the following documents should always be kept:

- Records of sale or purchase including receipts, bank, eftpos or credit card transactions
- Copies of quotes
- Copies of warranties
- Copies of Tenancy Agreement(if applicable)
- Copies of Contracts of Sale, Purchase or Lease
- Copies of independent reports
- Copies of vehicle inspection reports
- Other written record including notes taken or facsimiles, letters, and emails.

If you cannot resolve your concern directly with the supplier the Department will deal with your complaint formally on your behalf in an attempt to conciliate a resolution.

The Department can be reached on **1300 30 40 54**

Email: [consumer@commerce.wa.gov.au](mailto:consumer@commerce.wa.gov.au)

Address: **Forrest Centre, 218 St. Georges Terrace, PERTH WA 6000**

## DEBT ISSUES

For varying reasons people can find themselves with serious debt issue with creditors such as Banks and Financial Institutions ( eg Car Loans, House Loans, Overdrafts ,Personal loans); Suppliers of Goods and Services, (such as Electrical and other Household Goods, Trades Work , Motor Vehicle Purchases) ; Medical Fees and Charges; Legal fees and Charges; Utilities Payments and Insurances.

The reason for debt issues varies significantly but is usually consequent of a sudden or unexpected loss of income.

As soon as there is such a change which immediately impairs your ability to meet existing fixed or variable debt, in every instance you should notify or contact your creditor to advise and negotiate changes to repayment obligations where possible.

In many instances your creditors may negotiate with you unless there is a prior history with them of bad debt.

We would encourage you also to talk to your employer about any debt situation as it may be that they have assistance services and or you can access by “cashing out” existing accrued leave entitlements to meet the debt situation in certain circumstances.

In the case of banks and financial institutions it is not uncommon for loan arrangements to be varied depending on your ability to make repayments.

We also encourage you to seek proper independent, and qualified advice.

***The worst position to take is to ignore or deny the problem.***

Notwithstanding the above, you can get good advice from the Citizens Advice Bureau (refer to that section of this booklet) or from the **Western Australian Consumer Credit Legal Service Inc., Level 1,231 Adelaide Tce., PERTH, WA 6000, phone (08) 9221 7088**. In addition there is a national body called the **Australian Financial Counselling and Credit Reform Association** which can be contacted by toll free phone on **1800 007 007**. Their website has list of counselling organisations in each state, the website is **[www.afccra.org](http://www.afccra.org)**

Further the **Australian Competition and Consumer Commission** has published an excellent guidance book on the most common sorts of debt issues called **“Dealing with Debt”**. (A pdf version of this booklet can be downloaded from the union website)

## ENERGY OMBUDSMAN

In Western Australia there is a specific Ombudsman’s Office to deal with grievances and complaints related to utilities whether public, private or jointly owned who provide Gas and or Electricity supplies to your household, business or farm.

The Ombudsman can cover arrange of complaints which cover issues such as but are not limited to the following:

- supply
- connection and disconnection
- incorrect billing
- payment requirements

In the first instance you should raise in writing your grievance with the energy supplier.

The contact for the **Energy Ombudsman** is as follows:

**Energy Ombudsman Western  
Australia**

**12<sup>th</sup> Floor, St Martins Tower  
44 St. Georges Tce. PERTH  
6000**

**Phone (08) 9220 7588**

**Freecall (country and interstate  
only) 18000 754 004**



## EQUAL OPPORTUNITY COMMISSION COMPLAINTS

The Western Australian Equal Opportunity Commission is able to provide advice, conciliation and in some extended cases, legal representation to employees who experience discrimination in their workplace in relation to the following areas:

- family status
- race
- sex
- racial harassment
- sexual harassment
- pregnancy
- marital status
- political conviction
- impairment or disability
- family responsibility
- age
- religious conviction
- spent conviction
- family status
- sexual orientation

In the first instance we encourage you to raise your concerns in writing with your employer. If the employer does not acknowledge or deal with your concerns satisfactorily then we encourage you to contact the **Commission on (08) 9216 3900 or 1800 198 149. to get advice on how to go about making a formal complaint.**

## INCLEMENT WEATHER ADVISORY

With arrival of summer yet again, the summer months are a critical period in relation to your health and safety in the workplace during periods of extreme heat, humidity, high winds and summer storms where you may be exposed to lightning and/or extreme hail.

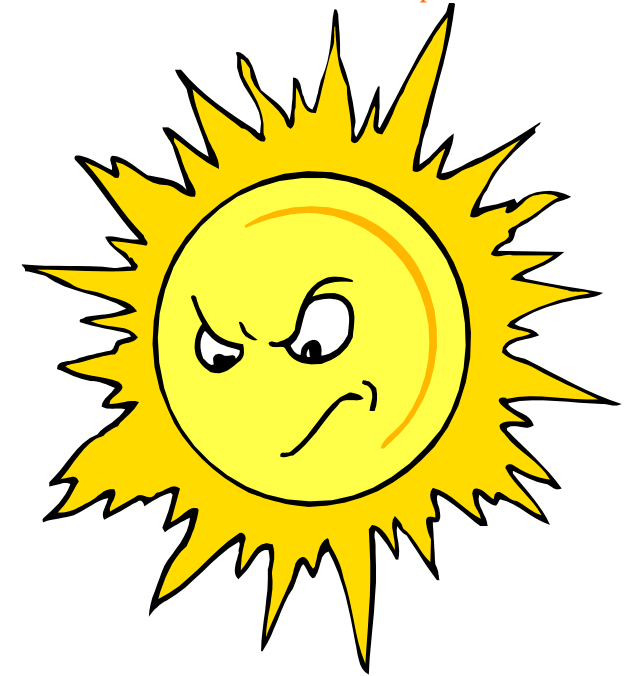
Your employer has an absolute Duty of Care under the Western Australian Occupational Health and Safety Laws to take appropriate and proper measures to protect you from extremes of heat and cold.

We would encourage you go to the following websites (if you have a computer) and download the Fact Sheets on those sites for your understanding:

1. **ACTU Website( [actu.com.au](http://actu.com.au)):**
2. **UnionsWA Website ( [unionswa.com.au](http://unionswa.com.au) )**

**CLICK ON SEARCH / TYPE IN FACT SHEETS/  
THEN GO TO THE FACT SHEET CALLED “*WORKING IN HEAT*”**

Remember that you are entitled to stop work if you have a genuine belief that your health and safety are at risk, and to be reassigned to other work and to be provided adequate and regular rest breaks and sufficient water (up to 8 litres) to deal with extreme conditions of heat and /or humidity.



## LEGAL PROFESSION COMPLAINTS COMMITTEE

Po Box Z5293 St. Georges Terrace, PERTH WA 6831

Level 2, 55 St. Georges Terrace, PERTH WA 6000

Phone: (08) 9461 2299



You should also note the following:

- before instructing a legal practitioner to undertake representation ask for a schedule of fees and charges that will apply to the work undertaken on your behalf
- before agreeing to instructing or reaching agreement for representation ask for a “worst case scenario” estimate of the cost of your representation
- before agreeing to representation ask for

a fair assessment of the likelihood of success of your case

After receiving an account for service rendered make sure the account is itemised and if you disagree with fees charged discuss it with the practitioner and outline in writing your concerns.

Be aware that legal costs, fees and charges are set according to a set scale under the *LEGAL PROFESSION ACT 2008* and the *SOLICITORS COSTS DETERMINATION 2009* which you can **obtain online (free of charges) from the WA State Law Publisher( just type those word on your search engine and follow the links).**

## WORKSAFE

### Customer Help Centre / General Enquiries

Phone: 1300 307877

Email: [safety@commerce.wa.gov.au](mailto:safety@commerce.wa.gov.au)

Fax: 9321 8973

### Accident Reporting (24hour)

Phone: 1800 678198

### Publications Orders

Ordering of publications issued by WorkSafe and the Commission for OSH

Phone: 1300 307877

### Safety and Health representatives

Email: [shreps@commerce.wa.gov.au](mailto:shreps@commerce.wa.gov.au)

### Locations

WorkSafe has one main office and five regional offices.

#### Main offices

WorkSafe

5<sup>th</sup> Floor, Westcentre

1260 Hay Street

WEST PERTH WA 6005

#### South West Regional office

Bunbury Tower, 8<sup>th</sup> Floor

61 Victoria Street

BUNBURY WA 6230

PO Box 1747

Bunbury WA 6231

08 9722 2888

#### North West Regional office

Unit 9 Karratha Village Shopping Centre

Sharpe Avenue

KARRATHA WA 6714

PO Box 5

Karratha WA 6714

08 9185 0900



Mid West Regional Office  
50-52 Durlacher Street  
Geraldton WA 6530

PO Box 1447  
Geraldton WA 6531  
08 9964 5644

Great Southern Regional Office  
Unit 2  
129 Aberdeen Street  
ALBANY WA 6330

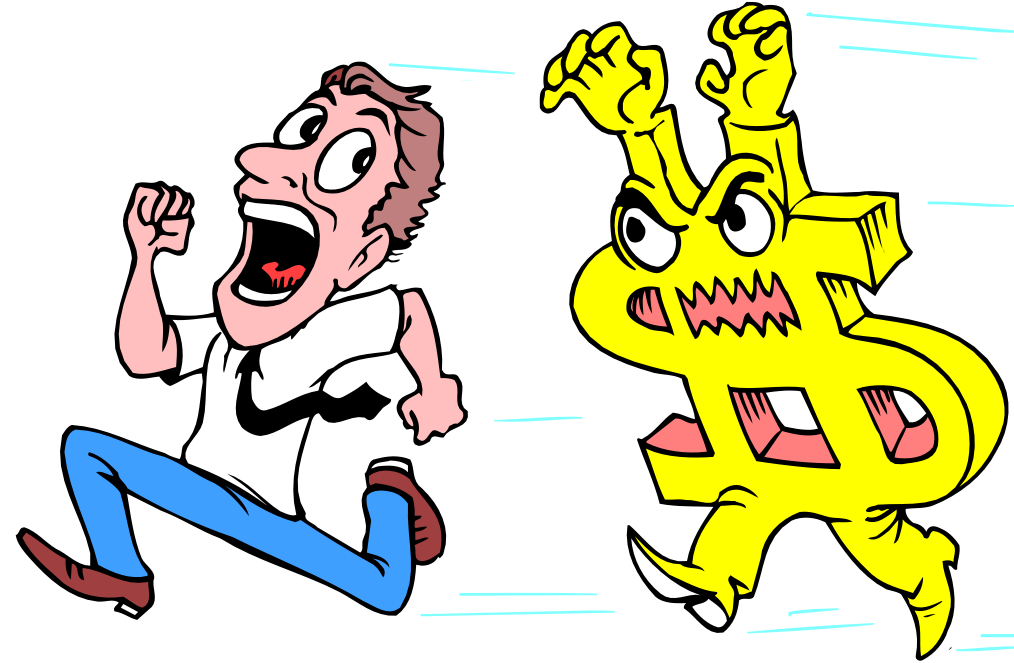
PO Box 832  
Albany WA 6331  
08 9842 8366

Kimberley  
Woody's Arcade, Office 7  
15 Dampier Terrace  
BROOME WA 6725

PO Box 1449  
Broome WA 6725  
08 9191 8400

**Work Safe Western Australia** can be contacted on either **(08) 932 8973**  
or on **1300 307 877**  
or by email on [wscallcentre@commerce.wa.gov.au](mailto:wscallcentre@commerce.wa.gov.au)

**FINANCIAL OMBUDSMAN AND  
CREDIT OMBUDSMAN SERVICES**



If you have a dispute regarding credit , finance or financial services related debts you can (prior to being involved in formal legal proceedings) lodge a complaint with the following independent bodies:

**FINANCIAL OMBUDSMAN SERVICE LIMITED**  
website: [www.fos.org.au](http://www.fos.org.au) or phone 1300 780 808

**CREDIT OMBUDSMAN SERVICE LIMITED**  
website: [www.cosl.com.au](http://www.cosl.com.au) or phone toll free 1800 138 422

The purpose of these bodies is to assist in finding low cost conciliated agreements with your creditors.

## HARASSMENT & BULLYING IN THE WORKPLACE

Harassment and Bullying in the workplace can be both an occupational health and safety matter and a general employment matter.

In most workplaces (particularly Councils) the employer will have written policies dealing with Harassment and Bullying in the Workplace. Additionally many of these

employers will have Codes of Conduct covering expected behaviours of all employees in the organisation from top to bottom.

Harassment and bullying can occur between employees and between management representatives and employees and also with contractors working with employees.

Harassment and bullying can be both verbal and/or physical and can be direct or indirect.

Examples of bullying and harassment will usually be spelt out in your employer's policies to which you are entitled to request and receive a copy of.

Additionally, Work Safe Western Australia produce information and guidance Notes on harassment and bullying.

As such behaviour can also constitute an Occupational Health and Safety Risk you are entitled to lodge an "Incident Report" under your employer's Safety Policies and Procedures. If your employer does not adequately or properly deal with your complaint then you are entitled to make a confidential complaint to Work Safe Western Australia.



## HEALTH SERVICES COMPLAINTS

There exist a range of bodies both Federal and Western Australian which can deal with complaints or grievances concerning the provision of health services.

The primary body for handling complaints in Western Australia is called the:

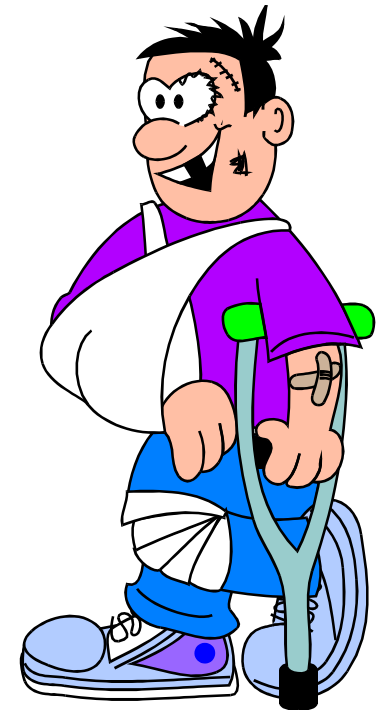
**HEALTH AND DISABILITY SERVICES COMPLAINTS OFFICE**  
**PO BOX B61, PERTH WA 6838**  
**Phone: (08) 9323 0600**  
**Country Free: 1800 813 583**

The office has a Dispute Resolution and Complaints process set up to deal with complaints after you have attempted to deal directly with the health service providers and provided the matter is not more than 2 years old or has been subject of court order, registration board or tribunal.

The types of complaints that can be dealt with are as follows:

- Health service complaints
- Disability service complaints
- Cosmetic treatment complaints
- Carer complaints

Complaints about Medicare Service can be directed to the **COMMONWEALTH OMBUDSMAN** on 1300 362 0123.



## OMBUDSMAN WESTERN AUSTRALIA

If you think that you have been treated unfairly by any of the following Governmental Bodies:

- WA State Government Agency, Department, Board or Corporation
- Statutory Authority
- Local Government Authority
- Public University or Educational Institution
- Other public sector bodies and office holders

then you can make a complaint to the Ombudsman.

The **Ombudsman Western Australia** is located at

**Level 12, 44 St. Georges Tce. PERTH WA 6000**

**Telephone (080 922220 7555**

**Freecall (country and interstate only) 1800 117 000**

**Postal address : Ombudsman Western Australia**

**PO Box Z5386**

**St. Georges Tce.**

**PERTH 6000**

In the first instance any grievance, complaints or concerns should be raised with the agency or authority with which you have the grievance, and preferably in writing so that you get a written response.

You cannot raise complaints with the Ombudsman in relation to the following bodies or persons:

- Private individuals or businesses
- Electricity and Gas providers (they have a separate Ombudsman)
- Parliament, its committees ,members of and staff
- Judges, magistrates and coroners
- Courts or Tribunals
- Commissioner of any court
- The Governor and members of the Governors establishment
- Decision made by cabinet or Ministers of the Crown
- or any bodies listed in Schedule 1 of the Parliamentary Commissioner Act 1971

**Excepting in special circumstances, the Ombudsman cannot investigate;**

- **a complaint more than 12 months; or**
- **complaint which you can take to a court or tribunal**

## PRIVACY RIGHTS

There exist a range of bodies both Federal and Western Australian which can deal with privacy issues regarding you personal and private information.

The two primary bodies that can assist and protect your rights to privacy are:

- **OFFICE OF THE AUSTRALIAN INFORMATION COMMISSIONER  
1300 363 992**
- **OFFICE OF THE INFORMATION COMMISSIONER (WA) (08) 9220 7888  
OR COUNTRY WA 1800 621 244**

## RESIDENTIAL TENANCY

Residential Tenancy in Western Australia is governed by the Residential Tenancies Act 1987 which is administered by the Consumer Protection Division of the Western Australian Department of Commerce.

There are many and various that can rise when you enter into either verbal or written tenancy agreement with private and or public landlords such as the Housing Department of Western Australia or a Local Government Authority.

The types of issues that can arise under a tenancy agreement are as follows:

- Bond payments and repayments
- Rent and rent arrears
- Landlords Right of Entry and Notice obligations
- Renovations, fixtures and fitting
- Property inspections
- Subletting
- Urgent repairs
- Locks
- Rent increase
- Agreement terms and conditions

Whilst the above is not comprehensive of the issues that can affect tenants and landlords they give you some idea of the issue that need to be considered before, during and after a tenancy agreement is mad.

Advice on these matters can be attained from:

- **Consumer Protection Division of the Western Australian Department of Commerce**  
**219 St. Georges Tce. PERTH WA 6000 phone 1300 30 40 54**
- **Tenants Advice Service PO Box 6057, EAST PERTH 6892 phone (08) 9221 9499**
- **Citizens Advice Bureau(refer elsewhere in this handbook)**

## **SUPERANNUATION**

Your employer by law in most instances(excepting where you earn less than \$450.00 per month) must pay you a minimum amount over and above your ordinary time weekly earnings (exclusive of overtime, shift penalties, allowances, bonuses, service payments and loadings) an additional minimum of 9% of that weekly earning.

This requirement is prescribed by the Superannuation Guarantee Legislation which is administered by the Australian Taxation Office.

Where your employer falls more than 3 months behind in contributions or is not complying with this obligation you can contact the Taxation Office on **13 28 65**.

**If you are a member of the Western Australian Local Government Superannuation Plan (WALGSP) you can also deal with them on any matter relating to your superannuation contributions to the Plan by contacting them on (08) 9480 3500 or for country members on 1300 99 85 22.**

**Their address is Level 11, 105 St. Georges Tce. PERTH WA 6000**

Where you have any grievance, complaint or issue with WALGSP or whatever Fund your contributions are made to, you should write or speak to that Fund to attempt to resolve your concern.

Where your Superannuation Fund does not properly deal with or resolve your concern, complaint or grievance you can contact the:

**SUPERANNUATION COMPLAINTS TRIBUNAL ON 1300 884 114**  
**Level 15, 31 Queen Street,**  
**MELBOURNE VIC. 3000**

## **DISCIPLINARY PROCEDURE AND UNFAIR DISMISSAL – MEMBER FACT SHEET**

### **PART A: WHEN YOU ARE DISCIPLINED OR ISSUED A WARNING BY AN EMPLOYER**

1. When a disciplinary action occurs against you, you are entitled to ask of your Supervisor and Manager the reasons.
2. Having been given the reasons if you do not agree with them ask that they be put in writing and then request a further meeting to discuss your objections. Such meeting are usually held with a Manager or human resources personnel (if the employer has them).
3. At the meeting you should, as a union member have a person with you to assist or represent you. Preferably at this level your job delegate should be present.
4. Ask that there be a record of the meeting and that you be supplied with any record taken.
5. Your employer is not permitted to tape or otherwise record proceedings unless you specifically consent to it. Again you are entitled to any transcript of any such recording upon written request to your employer.
6. Then put your case clearly, and preferably without emotion if possible by identifying where the facts (the reasons for the discipline) are wrong. Having put your reasons. Listen carefully to the employer's response- this is most vital.
7. If the employer agrees to review the disciplinary action, ask them to give you a time frame for response and ask that that response be in writing.
8. Try not to aggressively counter attack or counter accuse Management as this will only be viewed as trying to deflect from the issue, and will not help your case.
9. If you were spoken to initially by the employer's representative, in a harsh or derogatory manner when the disciplinary action first occurred then tell your employer – but calmly.
10. If the employer retracts then it will usually be in writing.
11. Make sure copies of all records relating to the matter are kept by you and additional copies are sent to the Union.
12. If the employer does not retract the claim and you continue to dispute the action, ask your job delegate to contact the Union to take up the matter. If you do not have a Job Delegate contact the Union directly.

## **PART B. IF YOU HAPPEN TO BE TERMINATED IN EMPLOYMENT AT YOUR EMPLOYER'S INITIATIVE**

If in the unfortunate event you are terminated in employment by your employer you should be aware of the following obligations and rights.

1. The employer must provide you with written reasons for termination.
2. Usually you will be called to a meeting prior to such an event and you should always ensure that as union member you have representation present.
3. Termination of employment can be either with notice, meaning the employer pays you a set amount of wages which is based on service and/or age; or it can be instantaneous dismissal which occurs there and then and for which no notice payment is made.
4. The same principles apply here as in the disciplinary process above, and should be followed.
5. Whilst very distressing it is vitally important that if you believe that the termination is harsh, unfair and unreasonable to get representation and assistance.
6. In putting a case for reinstatement back to your employer you must address the employer's reasons and demonstrate that the reasons are mistaken or cannot be substantiated.
7. Termination of employment is a complex area of law and your union will provide representation to assist you including representation in the industrial tribunals in the event that you believe that you have been harshly and unfairly dismissed.
8. In the event that the employer does not agree to reinstate you, you have 21 days in which to lodge a claim for alleged unfair termination of employment with Fairwork Australia.
9. Claims will usually be dealt with by conciliation and mediation initially and if necessary by arbitration.
10. The Commission can through arbitration either grant or dismiss your claim. If it grants the claim it can determine that you either be reinstated to your old job or reemployed in a new job or if neither of those two options are practical, issue a compensation order up to a maximum of 6 months wages.

**\*Finally be warned that vexatious unfair termination claims can lead to costs orders against you. Vexatious claims can be assessed as such by the Commission during the mediation phase and you are likely to be warned that**

**your claim may be vexatious by the Commission. Your union would also alert you to this area if the matters are obvious (e.g if you were clearly responsible for some sort of serious misconduct like an assault on the job, or wilful damage to the employer's property and equipment)**

**In circumstances where you elect to proceed to arbitration and you do not succeed in making your claim then the issue of costs may be raised by the respondent employer if there is a view that the claim is without merit and vexatious.**

## **UNDERPAYMENT OF WAGES AND OTHER ENTITLEMENTS**

By law your contract of employment is made up of various components that provide for your entitlements, benefits and wages.

The employment contract can be broken in general terms in the following way;

### **EXPRESSED TERMS:**

- Collective Bargaining Agreements and Industrial Awards,
- Statutes of law dealing with minimum leave entitlements, hours of work, public holidays, superannuation, occupational health and safety, workers compensation, equal employment opportunity
- employer documented policies, procedures, codes and written contractual arrangements over and above any minimum agreed or legislated standards

### **IMPLIED TERMS:**

- that have arisen out of custom and practise by that employer
- that arise out of the accepted practise in your industry of work
- that have arisen from case precedents established by industrial relation tribunals, and other related courts of record

In the case of the former (the Express Terms your collective bargaining agreements, the statutes of law and your award guarantee minimum standards that your employer must comply with.

The most common issues regarding underpayment of wages and other entitlements are as follows:

- non payment or under payment of overtime
- non payment or under payment of shift penalties

- non payment or under payment of a leave entitlement
- non payment of back pay under a collective agreement
- incorrect classification

Where you suspect that a non payment or under payment has occurred, you should always notify both verbally and in writing what your complaint is and do the following:

1. Outline what you have been underpaid or not paid.
2. Outline in the written complaint what you are claiming in dollar value terms.
3. Outline in the complaint the period during which you allege that under or non payment has occurred.
4. Ask that the complaint be dealt with and responded to in a fixed time period by your employer.
5. Attach any supporting documentation to back up your claim such as time sheets, pay slips and/or leave application forms.
6. Keep your own copies of everything referred to in 1 -5 above and send one further copy of everything including your complaint to the Union.

Where your complaint is not adequately addressed or resolved directly with your employer instruct the union to take over the complaint.

In the case where there are additional benefits over and above the statutes, your collective agreement or the award you can still pursue non payment of these benefits or entitlement with your employer. the process for recovery is the same as above.

## **MEMBER WORKERS COMPENSATION FACT SHEET**

### **PART A: WHEN YOU ARE INJURED**

1. **If able, report matter to your immediate supervisor.**
2. **Request from your Supervisor a copy of a Workers Compensation Claim form and an Incident Report form. If your employer does not have an incident report form write out your own, sign and date it and give it to your employer.**
3. **Complete both forms as soon as possible.**

4. **On the day of injury if possible get to your doctor – if not able to drive request that employer transports you to your doctor.**
5. **The doctor should issue you with a FORM 1 Medical Certificate under the Worker’s Compensation and Rehabilitation Act 1981 (as amended).**
6. **Once you have the Form 1 Medical Certificate and have completed the Workers Compensation Claim Form you should return the originals of these forms to your employer immediately.**
7. **Your claim will be assessed from the date you lodge the FORM 1 AND THE CLAIM.**
  - *Always keep copies of each and every document you present to your employer and if possible send copies to the union*
  - *If your employer or your treating doctor do not have workers compensation claim forms contact the union immediately*

### **PART B: ASSESSMENT OF YOUR CLAIM**

1. **Once you have lodged the forms mentioned above you employer has a maximum of three days to refer those forms to their insurer.**
2. **The insurer must respond to you no later than 14 days from when they receive the forms from the employer.**
3. **The insurer will accept your claim; pend your claim subject to further investigation including possibly referring you to other medical appointments or reject your claim.**
4. **Where an insurer pends or rejects your claim you should contact the union immediately.**
5. **Where the insurer requires you to go to further medical appointments, (unless you have reasonable grounds to refuse), you must attend. The insurer is responsible for the cost of any medical or other related appointment that they send you to. If in doubt ring the insurer direct to clear the situation.**
6. **Where you are required to travel a greater distance than your usual return journey to and from work to get to medical appointments keep a log of the kilometres in writing and fuel receipts and send the original to the insurer and keep copies.**
7. **No later than 27 days after you have the claim if it has not been accepted by that time by the insurer, contact the Union immediately.**

## **PART C: MANAGEMENT OF YOUR CLAIM**

- 1. Where your claim is accepted it is vitally important that you consider rehabilitation to get yourself back to work as soon as practical.**
  - 2. You are entitled if you are off work for more than 10 days to be assisted by a rehabilitation agent. The union can assist in giving you contacts in this area.**
  - 3. All medical appointments should be attended to.**
  - 4. All costs associated with your claim should be documented and bill sent to the insurer by those treating you and/or providing you medication and or medical treatment.**
- Always keep copies of each and every document you present to your employer and if possible send copies to the union*

## **PART D: DOCUMENTATION CHECK LIST**

**HAVE YOU PROVIDED YOUR EMPLOYER WITH THE FOLLOWING DOCUMENTS?**

**(AND DO YOU HAVE COPIES ?)**

- Form 1 Medical Certificate [ ]**
- Workers Compensation Claim Form [ ]**
- Incident Report [ ]**
- Signed and Dated Witness Statement(s) [ ]**

**Please note that in relation to the last 2 documents, they both should provide evidence as to the following:**

- Where the incident occurred**
- Time and Date of Incident**
- Cause of Incident**
- Witnesses to the incident**
- Nature of injuries incurred**

## **FINALLY**

*At any time you can contact the union about your claim and if the claim is disputed you can be referred to the Union's Solicitors whilst you are injured.*