

# Disputes, complaints and problems: how to prevent them

## Main topics

- Disputes, complaints and problems
- Prevention - what can you do?
- Templates and tools for dispute prevention
- Contacts for information and support

Get the help you need to resolve your dispute with the online step-by-step guide: **Solving your Dispute, Complaint or Problem.**

Go to [business.vic.gov.au/stepbystep](http://business.vic.gov.au/stepbystep)



## The basics:

- whether it's a dispute, complaint or problem, having clear guidelines to get the issue resolved will save time, money and stress
- there are preventative steps you can take, from having the right clause in a contract, to record keeping which can be used as evidence
- there is also a range of online resources available which means you don't have to start from scratch

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## Disputes, complaints and problems

### So you're having a workplace issue

The term 'dispute resolution' applies to all workplace issues, from an argument over an unpaid bill to disagreements over a retail lease or employment contract. Complaints from customers or problems with another business can lead to huge legal fees with no guarantees of a happy ending. The answer to all these issues is to create clearly understood dispute resolution procedures. Start by keeping track of the issues you're having and how they're affecting your business.

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## Prevention – what can you do?

### What can I do to stop a dispute happening again?

Some disputes are inevitable but there's a lot you can do to reduce the risk of issues developing with customers, employees, other businesses or government departments, and to manage them better if they do arise. No matter what industry you're in, the day-to-day running of your business should involve the development of good risk-management practices, like keeping records which are accurate enough to use as evidence during a dispute resolution process, and improving your management skills, like negotiating positively and listening actively. Think about the following preventative steps and how they can make disputes less likely and resolution easier.

**Get dispute clauses written into contracts:** small business disputes often involve arguments over contract agreements. Whether it's a fairly simple agreement with a supplier or a more complex agreement with a franchisor, they're usually arguments over rights and responsibilities on both sides.

Writing a dispute resolution clause into a contract will help the parties understand the rights and responsibilities on both sides, and what each is required to do if a problem arises. As an example, if one side wants to increase a price, it cannot be done unless it's negotiated, agreed to and signed off by both parties. To develop and write changes to contracts, you'll need professional legal assistance. Use the Business Victoria **Find an Adviser** service to locate a lawyer in your area. See the Contacts section on the last page.

A dispute resolution clause commonly includes:

- an informal discussion of the issue or problem
- an agreed process for one side to raise an issue with the other party. This is usually done in writing and includes a preferred solution

## Are you an employer?

For employers, setting up a clear procedure to deal with workplace disputes is one of your main responsibilities.

Who is **Fair Work Australia**? How do they help employers with disputes? What is the right procedure for your award or agreement?

For answers to these and other questions, go to [fwa.gov.au](http://fwa.gov.au) and click **Dispute resolution** on the homepage.

## Disputes, complaints and problems: how to prevent them

### Retail lease disputes

For a dispute between a tenant and a landlord, your **lease agreement** is the key document in resolving the dispute as it should clearly state the rights and responsibilities of each party.

Whether you're a tenant or a landlord, your first step should be to try to resolve the issue. Speak directly and politely with the other party, and try to negotiate so both parties will be satisfied.

If this fails, contact the **Victorian Small Business Commissioner (VSBC)**. The VSBC will investigate your dispute and if needed, organise a mediation session with both parties. More than 75% of mediations are successfully resolved (see VSBC details on last page).

### Business disputes

Disputes over things like price, quality, payment and delivery often happen with business transactions.

The best way to stop these disputes from escalating is a **dispute resolution clause** written into your business to business **contract**.

For more help, contact the **Victorian Small Business Commissioner** (see VSBC details on last page).

- allowance for a party to bring in an outside negotiator to assist (e.g. from an industry association) if the parties cannot agree
- allowance for the matter to go to an independent third party for mediation if the dispute is not resolved

■ **Establish your own process:** as part of your own business procedures, you should be setting up an internal dispute resolution process. It should have the following general aims:

- dealing with disputes from the very start, including who will manage complaints and how they will be managed
- developing joint decision making and negotiation skills aimed at reaching agreed solutions
- resolving disputes using alternative methods if an agreement cannot be reached e.g. **mediation** or **assisted negotiation**

Your staff will need training to develop these skills. Consider getting outside professional assistance. See **Train up your staff** below for more ideas.

Your dispute resolution process should be flexible and not take up too much time or create endless paperwork. Make sure the process ends with a 'lessons learnt' evaluation where you look at how well the resolution worked, what the strengths were and what needs to be changed.

■ **Get professional legal help:** while legal advice is costly, it is worth it in terms of preventing disputes and bad publicity. A lawyer can advise you on your rights and responsibilities, and help with the writing of effective business contracts and other agreements. Having this kind of support early on can stop you signing an agreement you later regret. Use the **Find an Adviser** service to locate a lawyer in your area. See the Contacts section on the last page.

■ **Improve your negotiation skills:** whether negotiations are about pricing, employment or a trading agreement, good skills are essential. It takes practice to develop the following skills: how to research and understand other people's points of view; how to see negotiation as an exchange of value; and when to use the right negotiation style for the circumstances. As an example, if you're trying to build a long-term business relationship, you should be using a very different style from when you're just bargaining over a price.

Once you've identified a range of options which the other party may see as valuable, consider how you will offer these in negotiation and what you want in exchange. It is a fact that once a concession made, another is expected, so make small concessions. Preparation time is essential to present your case clearly and confidently. And always be open to suggestions.

Deal with issues quickly so they don't escalate, and postpone or walk away from negotiations when you're being pressured, or the tactics are designed to intimidate. Rather than an outcome which has a winner and a loser, the ideal negotiation should aim for a fair exchange of outcomes.

■ **Train up your staff:** customer service and reception people are often the ones who deal with complaints first. Basic customer relations training will benefit both the business and employees. Inter-personal problems can also occur between individual employees. Training should have these aims:

- explaining staff responsibilities so everyone has a clear understanding
- improving personal, listening and negotiation skills, workplace practices and customer service

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## Did you know?

Some industries have codes of conduct and specific steps which can be taken to reduce the severity of complaints made against you. If you're a member of an industry association, contact them to find out more about guidelines for dealing with complaints in your industry.

- getting staff to talk about and articulate how they like to be treated when they're in the position of the customer
- running a training day or workshop to work through basic inter-personal and complaint handling skills

■ **Start keeping good records:** apart from being good business practice, keeping good records can also be critical to use as evidence when disputes are being resolved. Good record keeping also builds healthy relationships with other businesses and with government departments e.g. the Tax Office.

Records commonly used as evidence in dispute resolution:

- letters, emails, delivery reports, notes from meetings and phone calls
- financial records which detail amounts received, receipts and expenditure, and goods purchased or sold
- changes agreed to and made to contracts
- employment records which include payslips, type of employment, hours worked, leave and superannuation
- names and details of dealings with other businesses and/or government

## Templates and tools for dispute prevention

**Table 1:** preventative options for different types of disputes and resources to help carry them out

Preventative option	Useful for these disputes	Should include	Resources to help
Setting up policies and procedures	Workplace disputes e.g. discrimination, sexual harassment, unfair dismissal	Human resources manual for staff	<a href="#">Building eQuality in the Workplace – Employer guidelines</a> (Victorian Equal Opportunity and Human Rights Commission) <a href="#">Human Resources Manual Template</a> (Business Victoria)
	Franchises Business-to-business trading	Pre-agreed procedures Policy on payment options	<a href="#">Steps to resolving a dispute under the franchising code</a> (Australian Competition and Consumer Commission)
	Customer relations and complaints	Customer complaints procedure	<a href="#">Preventing unfair terms in consumer contracts</a> <a href="#">Customer complaints form</a> (Consumer Affairs Victoria)
Getting legal advice	All	Knowing regulations Getting legal documents drawn up	<a href="#">Find an Adviser</a> (Business Victoria)
Improving negotiating skills	All	Training and practice	<a href="#">Negotiation Skills Kit</a> (Conflict Resolution Network)
Training staff	Customer relations Workplace disputes e.g. occupational health and safety, equal opportunity and discrimination	Training days or workshops	<a href="#">Complaints handling booklet</a> (Consumer Affairs Victoria)
Improving record keeping	Customer relations Government e.g. tax, employment Franchises Retail leases	Letters and emails Financial records, amounts received, receipts, all goods bought or sold Delivery reports Changes in contract agreements Notes from meetings, phone calls	<a href="#">Financial software</a> (Australian Taxation Office) <a href="#">Record keeping – pay slips, times and wages, conducting a self-audit</a> (Fair Work Online)

## Disputes, complaints and problems: how to prevent them

### Contacts for information and support

All small business enquiries Find an Adviser service Contacts for industry associations	Small Business Victoria Visit the Victorian Consumer & Business Centre Ground Floor, 113 Exhibition Street, Melbourne VIC 3000 Ring Business Victoria on 13 22 15 TTY (telephone typewriter) Service (03) 9651 7596	<a href="http://business.vic.gov.au">business.vic.gov.au</a>
Information and advice for retail leasing, business to business trading and owner driver issues Investigation and mediation of disputes	Victorian Small Business Commissioner Visit the Victorian Small Business Commissioner Level 2, 121 Exhibition Street, Melbourne VIC 3000 Ring 13 22 15 or toll free 1800 136 034	<a href="http://sbc.vic.gov.au">sbc.vic.gov.au</a>
Equal opportunity and workplace policies	Victorian Equal Opportunity and Human Rights Commission Level 3, 380 Lonsdale Street, Melbourne VIC 3000 Ring 9281 7111 or toll free 1800 134 142	<a href="http://humanrightscommission.vic.gov.au">humanrightscommission.vic.gov.au</a>
Negotiation skills	Conflict Resolution Network Ring Conflict Resolution Network on (02) 9419 8500	<a href="http://crnhq.org">crnhq.org</a>
Excellent starting point for help with workplace issues and dispute resolution For employers, employees and contractors	Fair Work Online Ring the Fair Work Infoline on 13 13 94 and visit the website	<a href="http://fairwork.gov.au">fairwork.gov.au</a>
Investigates complaints and advises on disputes between employers and employees Assists with disputes over contracting issues	Fair Work Ombudsman Ring the Fair Work Infoline on 13 13 94 or get live online help at the website	<a href="http://fwo.gov.au">fwo.gov.au</a>
Helps employers and employees understand wages, conditions, agreements, awards and employment contracts Assists in resolution of industrial disputes	Fair Work Australia Ring Fair Work Australia on 1300 799 675 or get live online help at the website	<a href="http://fwa.gov.au">fwa.gov.au</a>
Managing customer complaints	Consumer Affairs Victoria (CAV) Visit the Victorian Consumer & Business Centre Ground Floor, 113 Exhibition Street, Melbourne VIC 3000 Ring CAV on 1300 55 81 81	<a href="http://consumer.vic.gov.au">consumer.vic.gov.au</a>
Steps to take to resolve a dispute under the franchising code	Australian Competition and Consumer Commission (ACCC) Level 35, 360 Elizabeth Street, Melbourne VIC 3000 Ring ACCC Infocentre on 1300 302 502	<a href="http://acc.gov.au">acc.gov.au</a>
Record keeping essentials Financial software Free record keeping software tool	Australian Taxation Office (ATO) Visit the ATO Shopfront Casselden Place, 2 Lonsdale Street, Melbourne VIC 3000 For all business tax enquiries ring ATO on 13 28 66	<a href="http://ato.gov.au">ato.gov.au</a>
Find an alternative dispute resolution provider in your area	Yellow Pages Use Yellow Pages Search to locate a provider	<a href="http://yellowpages.com.au">yellowpages.com.au</a>
Help to prevent or resolve most disputes Specific small business disputes information is available at Department of Justice	Dispute Settlement Centre of Victoria Level 4, 456 Lonsdale Street, Melbourne Vic 3000 Ring 9603 8370 or toll free 1800 658 528	<a href="http://justice.vic.gov.au/disputes">justice.vic.gov.au/disputes</a>

### For more information:

- call Business Victoria on 13 22 15
- visit Business Victoria website at [business.vic.gov.au](http://business.vic.gov.au)
- visit a Victorian Business Centre (VBC). For a list of VBC locations, go to [business.vic.gov.au/vbc](http://business.vic.gov.au/vbc)

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