



## My employer has introduced unattainable KPIs. What options do I have?

Author: [Joseph Kennedy](#)

Email: [joek@hallpayne.com.au](mailto:joek@hallpayne.com.au)

Phone: 02 8280 4100

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Key performance indicators (KPIs) are a common method used by employers for measuring and guiding employee performance. Sometimes, however, KPIs are unreasonable and used by employers who seek to subject their staff to unrealistic workloads or to create an artificial reason to take disciplinary action.

### What you can do if my KPIs are unreasonable?

Your right to complain and inquire about your employment is protected by the General Protections provisions of the *Fair Work Act 2009*.

If you think your targets are unachievable, your first step should be to raise this with your immediate supervisor, preferably in writing.

You should discuss whether they meet the SMART guidelines:

- Specific
- Measurable
- Attainable
- Relevant

- Time-bound

This means your KPIs should:

- be clear on what they require you to do;
- be easily quantified with respect to whether they have been achieved or how well they have been achieved;
- be achievable and not demoralising;
- be linked to the goals of the business; and
- have clear and reasonable timeframes.

Note that these are general guidelines only and are not considered to be legally binding.

Your contract of employment may well create rights in relation to the content of KPIs and how they can be changed. If an employer breaches such a right you may be able to take action for breach of contract.

If your employment is governed by a Modern Award or an Enterprise Agreement, there may be a relevant change management and consultation clause. In this case, your employer may be required to consult with you before they change your KPIs. If your employer has breached that clause, you may be able to initiate a dispute or take legal action regarding the breach.

## Can I be sacked for not achieving unreasonable KPIs?

Contingent on your salary and award or agreement coverage, your employment may be protected by the [unfair dismissal provisions](#) of the *Fair Work Act*.

One of the elements of an unfair dismissal is whether there was a valid reason for dismissal relating to capacity or conduct.

The definition of 'capacity' in this context includes your work performance.

If you are protected by unfair dismissal laws, it is generally not enough to have done your personal best. Rather, you must have performed satisfactorily according to objective standards. You must have also been appropriately warned regarding any concerns about your performance in specific terms, and provided with a reasonable opportunity to improve.

## Get help from an employment lawyer

If you have been sacked or disciplined because you have not met your KPIs, you should immediately speak with your union or seek independent legal advice from a lawyer experienced in [employment law](#).

You can contact us by phone or email to arrange your consultation; either face-to-face at one of our offices, by telephone or by videoconference consultation.

Phone: [1800 659 114](tel:1800659114)

Email: [general@hallpayne.com.au](mailto:general@hallpayne.com.au)

*Today's article was drafted by Research Clerk, Pedram Mohseni and settled by Principal in Employment Law, Joseph Kennedy.*

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