

WORKERS' RIGHTS NEGOTIATING WITH YOUR EMPLOYER



The idea of negotiating with your employer can be intimidating but you will be more confident about getting a satisfactory agreement if you know and understand your rights. There should be genuine negotiation between employer and employee to work out what is best for the worker and the workplace.

Hints and tips for negotiating

- Be clear about what you want to achieve before you start discussions;
- Do some research and get advice about the situation before you negotiate;
- Find a good time to talk to your employer/manager. Make sure that he or she is not too busy and that you won't be interrupted. Make sure that neither of you is exhausted after a long shift;
- Take the time to be calm. If you are angry or upset, it's important that you calm down so you are able to confidently negotiate;
- Bring along evidence or examples to negotiation meetings. If you are asking for something, it's going to be more persuasive if you take along examples to back up your arguments or evidence of why you think you should get what you're seeking;
- Ask for a time frame for a decision. If your employer/manager says they will think about your request and get back to you, ask them to tell you when you can expect an answer. If they do not reply to your request within this time, you may need to ask again;
- Make a written record of the discussion and, if possible, get your employer to sign the record. As part of the negotiations, you may reach agreement with your employer to enter into a new contract of employment or to formally vary your existing contract. You should record the new contract or variation in writing.

My boss wants to talk about an agreement. What is involved?

The idea of negotiating with your employer can be intimidating but you will be more confident about getting a satisfactory agreement if you know and understand your rights. There should be genuine negotiation between employer and employee to work out what is best for the worker and the workplace.

An enterprise agreement will replace the conditions in your award, but the National Employment Standards (NES) will continue to apply. The NES are minimum standards for entitlements such as leave, holidays, maximum working hours and notice periods. Further information on the NES is available from the Fair Work Ombudsman (www.fairwork.gov.au).

An enterprise agreement must be genuinely agreed to by the majority of employees at the workplace, and must leave employees better off overall than they would be if the award applied.

There are specific rules relating to the way in which enterprise agreements are made. These rules include:

- Your right to be represented
- Negotiations or bargaining must be conducted in good faith
- Rules for taking industrial action
- Employees under the age of 18 require the co-signature of a parent or guardian when making an enterprise agreement.

Help and specialist advice is available free of charge. Contact your union if you are a member, the Working Women's Centre, the Young Workers' Legal Service or the Fair Work Ombudsman. Your union can act on your behalf in negotiations if you wish. (The Where to go for more help section of this fact sheet provides contact details for these organisations.)

Should a consultative committee be formed?

Forming a negotiation group or 'consultative committee' is a good way to make sure that all of the employees in your workplace get a chance to be represented in negotiations with management. Members are elected from among the employees to represent the interests of the work group.

What can I negotiate for?

There is no limit to the types of beneficial changes you and your employer can negotiate. However, the agreement should be fair for all employees, including you. Some changes (for example, longer shifts) might suit one group of employees but could be a problem for others. An enterprise agreement must not disadvantage any group of employees, even if they are in the minority.

Some conditions that could be negotiated are:

- Changes to the way work is done so that it is more efficient
- Flexible arrangements for taking leave (for example, taking leave during school holiday periods)
- Changes to your work environment (for example, better lighting, exhaust fans, ergonomic chairs)
- Extra paid carer's leave to care for a family member
- Paid parental leave that builds on the government entitlement
- Paid leave to attend to personal issues (for example, arising from experiencing domestic violence)
- Performance bonuses
- Employee share ownership plans
- Salary packaging
- Increased availability of permanent part-time work
- Assistance with child-care (for example, work-based child care or help in finding appropriate childcare)
- Flexibility of working hours (for example, working the same number of hours currently worked but in a more suitable pattern)
- Including casuals and part-timers in training and access to career paths
- Job-sharing and job rotation.

Your union (if you are a member) and other agencies can advise you on other possible conditions. (The Where to go for more help section of this fact sheet provides contact details for these organisations.)

You have the right to be consulted

- Before the agreement becomes binding by law, your employer and your union (if involved), must inform you and consult with you about the agreement and its effect on you.
- Usually a vote is held to decide whether to accept the agreement or not. Once approved by Fair Work Australia, your enterprise agreement is enforceable.
- You should not accept the agreement unless you are sure you know what is contained within it and you agree with it. Ask to see a copy if you are not sure.
- You should be provided with a copy of the proposed agreement. Read it carefully and seek clarification and/or ask for time to think about it and talk to others if you need to.

Remember:

- You have the right to be represented
- Conditions such as your penalty rates or leave loading cannot be reduced without compensatory benefits or trade-offs. The agreement must leave employees better off overall than they would be if the award applied
- People who work on a part-time or casual basis need to be invited to be included in the agreement and to vote on it.

Workplace grievances

Your union, if you are a member, or staff association may be able to advise you on the best way to resolve a workplace grievance. Before taking action, you should check the dispute resolution procedures contained in your award, agreement or policies, as certain procedures may be required and some types of industrial action may be unlawful.

Where can I get more help?

Your union

SA Unions
Ph: (08) 8279 2222
www.saunions.org.au

Working Women's Centre

Ph: 1800 652 697
www.wwc.org.au

1st Floor, Station Arcade
52 Hindley Street
Adelaide, SA, 5000

Young Workers Legal Service

Ph: (08) 8279 2233
www.ywls.org.au

Fair Work Australia (FWA)

Ph: 1300 799 675
www.fwa.gov.au

Level 6, Riverside Centre,
Nth Terrace, Adelaide, 5000

PO Box 8072
Station Arcade, Adelaide, 5000

Fair Work Ombudsman (FWO)

Ph: 13 13 94
www.fairwork.gov.au

Level 2, 148 Frome St.
Adelaide SA, 5000

Telephone Interpreter Service

Ph: 13 14 50



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