

Unions in the workplace

Legal information for community organisations

This fact sheet covers:

- ▶ what is a union?
- ▶ what is freedom of association?
- ▶ the rights of union officials to enter the workplace



Disclaimer

This fact sheet provides information on unions in the workplace. This information is intended as a guide only and is not legal advice. If you or your organisation has a specific legal issue, you should seek legal advice before deciding what to do.

Please refer to [the full disclaimer](#) that applies to this fact sheet.



What is a union?

A union is a group or association of employees, with at least 50 employee members, registered under the *Fair Work (Registered Organisations) Act 2009* (Cth).

Different unions exist for different industries and types of work.

An employee may become a member of a union if they meet the eligibility rules of the union and pay a union membership fee.

Unions have a role in representing their members' employment rights and bargaining with employers about the wages and conditions of employment of their members. For instance, unions will often be involved in the bargaining process when making an enterprise agreement. Unions may also assist employees in bringing claims against their employer.



What is freedom of association?

The *Fair Work Act 2009* (Cth) (**Fair Work Act**) protects freedom of association in certain circumstances in the workplace. The Fair Work Act recognises the right of employees to join or not join a union. Employees are also protected from being pressured by the union, their employer or any other person to make a decision about joining, not joining or leaving a union.

Rights of union officials to enter the workplace

Under the Fair Work Act and certain health and safety laws, union officials have rights to enter workplaces in certain circumstances.

Right of entry under the Fair Work Act

Requirements of entry

A union official can only enter premises if they hold a valid and current entry permit issued by the Fair Work Commission. Employers can ask to see the entry permit and the union official must show it on request. The union official must abide by the conditions outlined in the entry permit.

A union official must comply with certain rules before and during their entry to the workplace. Union officials must give notice of entry before entering the workplace and must not hinder or obstruct operations of the workplace they enter. Union officials may not disclose unauthorised information nor misrepresent their reason for entry.

Where a union official is entitled to enter premises, an employer (or another person) must not refuse or delay their entry onto the premises and must not intentionally hinder or obstruct them in the exercise of their rights.

Purpose of entry

A union official can enter the workplace for the purposes of:

- investigating a suspected contravention of the Fair Work Act, a modern award or enterprise agreement impacting a member of their union
- investigating a suspected contravention of state or territory occupational health and safety rights, or
- holding discussions with employees whose interests the union is entitled to represent

While on the premises, the union official can exercise certain rights such as interviewing employees or inspecting work or documents relevant to a suspected contravention.



More information

See the [Fair Work Ombudsman website](#) for more information on unions entering the workplace.

Right of entry under state or territory work health and safety laws

In most states and territories, union officials also have rights in certain circumstances to enter workplaces under the relevant state or territory occupational, work health and safety legislation.



Example

In Victoria:

- to enter the workplace, the union official must hold an entry permit issued under the [Occupational Health and Safety Act 2004 \(Vic\)](#) or the Fair Work Act
- the union official may enter the workplace for the purpose of enquiring into a suspected contravention of the [Occupational Health and Safety Act 2004 \(Vic\)](#) or the regulations made under that Act
- the union official will need to comply with certain requirements before they enter the premises and while they are on the premises, including providing written notice of the suspected contravention, and
- it's an offence for a person to:
 - refuse a union official entry to a workplace
 - intentionally hinder, obstruct, intimidate or threaten a union representative, or
 - impersonate a union official

For more information, and to apply for a permit under occupational or work health and safety legislation, see the relevant state or territory authority website.



More information – state and territory work health and safety authorities

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| • <u>WorkSafe Victoria</u> | • <u>WorkSafe ACT</u> |
| • <u>SafeWork NSW</u> | • <u>NT WorkSafe</u> |
| • <u>WorkSafe Queensland</u> | • <u>WorkSafe Tasmania</u> |
| • <u>WorkSafe Western Australia</u> | • <u>SafeWork SA</u> |