

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 general information on unions in the workplace. This information is 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 work health and safety (WHS) laws, union officials have rights to enter workplaces in certain circumstances.

Right of entry under the Fair Work Act

Requirements of entry	<p>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.</p> <p>A union official must comply with certain rules before and during their entry to the workplace. Union officials must give at least 24 hours, but not more than 14 days, notice of entry before entering the workplace and must not hinder or obstruct any person or otherwise act in an improper manner. Union officials may not disclose unauthorised information or documents obtained in any investigations, nor misrepresent their reason for entry.</p> <p>Where a union official is entitled to enter premises, an employer (or another person) must not refuse or unduly delay their entry onto the premises and must not intentionally hinder or obstruct them in the exercise of their rights.</p> <p>Under WHS laws, a union official with an entry permit under relevant WHS legislation may enter the premises if they are exercising their rights under the relevant WHS law. Union officials must also comply with the relevant conditions of entry. Under all state or territory WHS laws, WHS representatives may request assistance from a union official. In such instances, the union official will not be required to have a Fair Work entry permit.</p>
Purpose of entry	<p>A union official can enter the workplace for the purposes of:</p> <ul style="list-style-type: none">• investigating a suspected contravention of the Fair Work Act, a modern award, enterprise agreement, or workplace determination or order made by the Fair Work Commission, impacting a member of their union (the union official must reasonably suspect that the contravention has occurred or is occurring)• investigating a suspected contravention relating to textile, clothing and footwear industry award workers• exercising rights under state or territory WHS/ occupational health and safety laws, including investigating suspected breaches, or• holding discussions with employees whose interests the union is entitled to represent <p>While on the premises, the union official can exercise certain rights such as interviewing employees or inspecting documents, work, process or objects relevant to a suspected contravention.</p>



See the [Fair Work Ombudsman webpage 'Role of unions'](#) for more information on unions in 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 WHS/ occupational health and safety laws.



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.



State and territory work health and safety authorities

- [WorkSafe Victoria](#)
- [SafeWork NSW](#)
- [WorkSafe Queensland](#)
- [WorkSafe Western Australia](#)
- [WorkSafe ACT](#)
- [NT WorkSafe](#)
- [WorkSafe Tasmania](#)
- [SafeWork SA](#)