

Understanding the role of bargaining representatives



Bargaining representatives have a formal role in bargaining under the Fair Work Act 2009 with special rights and obligations.

What is a bargaining representative?

A bargaining representative is a person or organisation that represents employers or employees during bargaining for an enterprise agreement.

What is their main role?

A bargaining representative's main role is to participate in discussions and negotiate the terms of an enterprise agreement.

They must bargain in 'good faith', which is an obligation under the Fair Work Act.

What is good faith bargaining?

Bargaining in good faith includes things like:

- attending and participating in meetings at reasonable times
- disclosing relevant information (other than confidential or commercially sensitive information) in a timely manner
- responding to proposals made by other bargaining representatives in a timely manner
- giving genuine consideration to proposals and providing reasons for responses
- not engaging in capricious or unfair conduct that undermines freedom of association or bargaining
- recognising and bargaining with other bargaining representatives.

What do bargaining representatives do?

Bargaining representatives:

- consult with people they represent by speaking to them and listening to their views
- develop a list of topics for bargaining with the people they represent, such as a log of claims or list of issues or interests
- gather relevant information to support their positions and interests
- negotiate and agree on how, when and where bargaining will happen
- advocate and negotiate for the best achievable outcome for the people they represent
- update people they represent on the progress of bargaining and ask for their views
- help ensure all timeframes for bargaining set by the Fair Work Act are met
- help prepare a draft agreement
- help complete and lodge the application for approval, once the agreement has been made.

Bargaining representatives



How are bargaining representatives chosen?

Bargaining representatives may be automatically selected (default bargaining representative) or appointed in writing in a document called an 'instrument of appointment'.

Bargaining representatives for an enterprise agreement can be:

- the employer(s) who will be covered by the agreement (by default)
- anyone the employer appoints (for example an employer association, accountant or HR advisor)
- a union with members who will be covered by the agreement (by default)
- anyone an employee appoints (employees can appoint themselves if they will be covered by the agreement, or another person or organisation).

Who does a union represent?

A union is the default bargaining representative for employees who are members of that union. If an employee does not want their union to represent them, they must put this in writing. An employee can also appoint themselves or someone else as their bargaining representative, this must also be in writing.

The information contained in this document is general in nature and accurate at the time of preparation. If you are unsure about how it applies to your situation, please refer to the Commission's website or speak with a union, industry association or a workplace relations professional. Last updated: September 2025.

How do the good faith bargaining obligations apply to unions?

When bargaining, a union will usually send one (or more) officials or delegates to participate in the bargaining process. However, it is the union as a whole that must comply with the good faith bargaining requirements, not just the individual people that represent the union during bargaining.

When can a bargaining representative be appointed?

Any time. There is no limit in the Fair Work Act on when a person may appoint, change or cancel the appointment of a bargaining representative.



Fair Work
Commission

For more information about bargaining for an enterprise agreement, visit: www.fwc.gov.au



For videos and other resources about bargaining, visit the Commission's [Online Learning Portal](http://learn.fwc.gov.au) at learn.fwc.gov.au.