

# How your employer should inform and consult you about workplace matters

It's useful for employers to discuss any important workplace matters with their employees.

These discussions often take place through a workplace group ('forum') where the employer and employees (or representatives) can discuss important matters.

A workplace forum should be used for:

- employees or representatives to raise ideas and questions with management
- management to present their ideas to employees, and listen to their views and any concerns

A workplace forum is a good way for:

- you to be informed of and respond to matters that affect you
- workplace decisions to be made quickly with everyone's involvement
- workplace decisions to be made in a way that reduces the risk of disagreements about them later on

A workplace forum works best when:

- it includes representatives from all parts of the business or organisation
- the employer and employees feel confident about expressing their views and listening to each other
- it deals with issues that affect the wider workforce instead of individual employees
- it looks at all possible options to resolve a problem, rather than just one or two

## Example

The managers of a textiles factory plan to buy new equipment, to improve productivity. They could use the forum to get feedback from employees who will use the equipment, such as what issues they experience with the current equipment and any suggestions for improvements.

For the employer, this would reduce the risk of spending money on equipment that's wrong or does not improve productivity.

For employees, this means they can feel involved in the decision-making. It's also more likely they'll be confident that any decision will not have a negative affect on their workload or morale.

## 1. The law

You have a legal right to be 'informed' and 'consulted' by your employer about:

- any possible [redundancies](#)
- [changes to your contract](#)
- a [business transfer \(TUPE\)](#)
- changes to your pension arrangements

In terms of the law:

- 'informed' means the employer is communicating with staff to ensure they're updated about workplace matters
- 'consulted' means the employer actively seeks and considers employees' views before making a decision

## **If there are 50 or more employees in your workplace**

If there are 50 or more employees, you have the right to request a formal agreement to be informed and consulted.

This is known as:

- an ICE agreement (as it's part of the 'Information and Consultation of Employees' regulations)
- an information and consultation agreement

This agreement covers significant workplace matters and decisions. It often includes:

- working conditions
- new ways of working
- the output and quality of the business's goods or services
- training
- health and safety
- new equipment
- staffing levels
- physical and mental wellbeing

You can also request this agreement [if there's already an agreement](#) but you feel it does not meet employees' current needs.

Even with an agreement, your employer has the right not to change any business decisions they plan to take. But it does mean:

- employees will be able to give their feedback and raise any concerns
- the employer will be able to make a more informed decision

## **If your employer requests a formal agreement**

Your employer can start setting up an information and consultation agreement without a request from employees. This is called 'giving notice'.

When they give notice:

- the information must be in writing, dated, and provided so that as many employees as possible will see it, for example in an email to all staff
- they must tell you this is a 'requirement of the Information and Consultation of Employees Regulations'

## **Eligibility**

To make a request for an information and consultation agreement, your business or organisation must have at least 50 employees and:

- for businesses with 750 or more employees – at least 2% of employees make the request
- for businesses with fewer than 750 employees – at least 15 people make the request

## Individual requests from employees

Individual requests from employees are counted together towards the total, if they're all within a 6-month period.

## Individual requests made before 6 April 2020

The eligibility requirements changed on 6 April 2020, so it's easier to make a valid request.

If an employee made an individual request before that date, it's still counted towards the total as long as all the following apply:

- 1 or more of the individual requests was made on or after 6 April 2020
- all individual requests were made within a 6-month period

### Example

A company has 750 employees. Before 6 April 2020, 4% of the company's employees had made individual requests for an information and consultation agreement.

Before 6 April this number would not have been enough for the requests to be valid. This is because the law required 10% of the company's employees to have made requests.

Since 6 April this number is enough for the requests to be valid, as long as at least 1 request is made from 6 April onwards.

## Finding out how many employees are in your workplace

You can write to your employer to ask how many people they employ.

You can complain to the Central Arbitration Committee (CAC) if:

- your employer refuses to provide the number of employees
- you think the number they've given you is wrong

[Download the complaint form on GOV.UK.](#)

## How to make your request

It's best to make your request in writing to your employer.

If you do not want to do this (for example, you do not want your employer to know you're making the request), you can make your request in writing to the CAC.

The CAC can handle your request in an anonymous way, if you prefer.

Your employer can start informing and consulting with you without an agreement, or a request for one.

## If you're making a request directly to your employer

Include the following:

- the date you're making the request
- your name and the names of any other employees included in your request

- that you're making a request to 'negotiate an information and consultation agreement'

## If you're making a request through the CAC

Email [enquiries@cac.gov.uk](mailto:enquiries@cac.gov.uk) with the following:

- the date you're making the request
- the names and signatures of all employees making the request, including any eligible individual employee requests
- an employee point of contact
- your employer's name
- your employer's address – this should be their head or registered office, or the main place they do business

The CAC will tell you and the employer how many requests have been made, without revealing the names of the employees.

Central Arbitration Committee  
Fleetbank House  
2-6 Salisbury Square  
London  
EC4Y 8JX  
Telephone: 0330 109 3610

An employer could also ask the CAC to decide whether:

- requests are valid
- any valid agreements already exist

Your employer may say there's already a valid agreement about keeping employees informed and consulted on workplace matters.

For this agreement to be valid, it must:

- be in writing
- cover all employees
- set out how and when your employer will inform and consult employees or their representatives
- have been agreed by employees

If the employer believes there's already a valid agreement, they could ask for an employee ballot (vote) to decide whether a new agreement is still needed.

## If more than 40% of employees request a new agreement

If more than 40% of employees make a request for a new information and consultation agreement, the employer must start negotiations.

'Negotiations' in this context means employees and the employer (or their representatives) work together to agree:

- how informing and consulting will happen
- when it will happen

## If a ballot is needed

If a ballot is needed, your employer must:

- tell you no more than 1 month after they get your request that they're going to hold a ballot
- hold the ballot no sooner than 21 days after they tell you about it

Your employer might decide to hold a combined ballot of all employees if there's already an agreement covering other parts of the business as well as your own.

All employees must be allowed to vote in the ballot.

The voting must be done in private.

### **If more than half of employees vote for a new agreement**

The employer and employees must start negotiating a new agreement if more than 50% of employees vote for this.

## **Requesting a new agreement**

If employees are satisfied with the existing agreement, then another request cannot be made for 3 years from the date the request was made.

### **If you have a complaint**

You can complain to the Central Arbitration Committee (CAC) if you do not believe there's already a valid related agreement. You can [get the form to complain about a pre-existing agreement on GOV.UK](#).

You can also get the relevant [complaint form on GOV.UK](#) and send it to the CAC if:

- the employer has not told you that they're holding a ballot within 1 month of getting your request – use form 8(7)
- you think the employer is taking too long to hold a ballot after they've said they would and 21 days have passed – use form 8(8)
- you believe the ballot was not fair – make the complaint within 21 days of the ballot using form 10(2)

The employer and employee representatives must start negotiating an information and consultation agreement, if both the following apply:

- [employees have made a valid request](#)
- [there is not a valid agreement already](#)

'Negotiating' means that employee representatives and the employer discuss things together to agree on:

- how informing and consulting will happen
- when it will happen
- the matters that will require consultation

## **4. Electing employee representatives**

For negotiations to start, your employer must arrange as soon as possible for you to choose employee representatives. Representatives can be either:

- elected

- appointed, if an employee offers to be a representative and other employees approve

Your employer:

- cannot appoint employee representatives themselves
- must not assume any existing trade union representatives will automatically represent employees

It's a good idea to inform employees or any existing representatives (such as trade union representatives) before finalising the arrangements for electing or appointing negotiating representatives. This is so they have the chance to share their views.

## **How employee representatives are chosen**

All employees must be represented effectively. For example, the employer must make sure:

- representatives represent all employees and cover all parts of the organisation
- the number is suitable based on the number of employees – too few may mean employees are appropriately represented, too many could make it difficult to reach agreement

How representatives are chosen can depend on how many employees are interested in the role. For example, a business's marketing team may have several people interested in becoming a representative, so a ballot (vote) may be needed. But the accounts team may have only one person interested, so no ballot is needed.

## **How an election should be run**

The employer must ensure that any ballot is fair. For example:

- the vote is open to everyone
- there's no pressure to vote for anyone in particular
- voting can be done privately (a 'secret ballot')

The employer can choose to appoint an independent person to supervise the ballot

## **After employees have chosen their representatives**

After representatives are chosen:

- as soon as possible, the employer must tell employees who they are and invite the representatives to start negotiations
- the employer has 6 months to reach an agreement

# **If your employer wants to set up an agreement without an employee request**

Your employer may want to set up a [workplace group](#) ('forum') without receiving a request for employees.

## **Setting up a formal agreement**

They can also start negotiating a formal information and consultation agreement without receiving a request from employees.

If they do this, they must inform all employees in writing about what's happening. If they do not, you can [complain to the CAC](#).

Your employer must still make sure employees choose their representatives as soon as possible.

## Things to remember when negotiating

When negotiating, employee and employer representatives should take time to:

- listen to everyone's views
- make sure everyone gets a say

So that representatives make an informed decision, they should know what happens if there's [no negotiated agreement within 6 months of representatives being chosen](#).

## What should be negotiated

To make sure you get an agreement that meets the needs of your workplace, it's important to consider the following points.

### Who'll be covered by the agreement

It may not be appropriate to have one agreement covering all employees. It may be better to have separate agreements, for example:

- for people in different job levels or locations
- when collective agreements already cover certain employees

[Find out more about collective agreements on GOV.UK.](#)

### How informing and consulting can be done

For complex matters or larger workplaces, informing and consulting could take place face to face using a group, such as a workplace forum.

For simpler matters or smaller workplaces, it may be easier to inform and consult with the whole workforce. For example, by using noticeboards or all-staff emails.

If a workplace forum is needed, it's important to include:

- elected employee representatives who represent all parts of the business or organisation
- management representatives that include senior management

The employer and employees should agree:

- how many employee representatives will be needed
- how they'll be elected or appointed
- how they'll be trained
- how long they'll stay in the role

### How often and when consulting will happen

You and your employer should agree:

- how often and when consulting happens
- the way it happens, for example through newsletters or an intranet
- how urgent issues can be dealt with

## **What matters will be consulted on**

The agreement should focus on significant issues that the business or organisation faces. It should not be used to deal with minor or day-to-day issues.

Matters that could be included are:

- working conditions
- new ways of working
- the output and quality of the business's goods or services
- training
- health and safety
- important new equipment
- new training needs for staff
- staffing levels
- physical and mental wellbeing

If it's not easy to agree what matters need consulting on, it can be a good idea to start by agreeing those that will not be consulted on.

For example, it's sensible to not cover pay and conditions if they're already negotiated through a union.

## **How confidential business information will be handled**

By law, your employer can keep certain business information confidential.

For example, for a food manufacturer, it's usually legal to decide that sensitive information about the cost of its ingredients will not be shared with anyone outside the business.

You should agree:

- how such information will be kept confidential and if it needs to be shared with certain people, such as employee representatives
- what will happen if confidentiality is broken, for example, whether [disciplinary measures](#) will be used

## **The law on redundancies and contract changes**

The law sets out different consultation requirements for:

- [redundancies](#)
- [changes to your contract](#)
- a [business transfer \(TUPE\)](#)
- changes to your pension arrangements

This means you and your employer could decide to deal with those separately to the other matters you're discussing.

## When an agreement needs to be reviewed

As workplaces are constantly changing, it can be helpful to think about whether the agreement needs to be reviewed after a certain amount of time.

## How long to reach an agreement

Once employee representatives have been agreed, you and your employer have 6 months to negotiate an information and consultation agreement.

If either side wants to extend the 6-month period:

- both sides must agree
- this agreement to extend must be reached before the 6 months is up
- the extension must be for a set time period

## What makes an agreement valid

An information and consultation agreement must:

- cover all employees
- set out the circumstances in which your employer must inform and consult employees
- require that if your employer provides information on the employment situation, this information must also cover any agency workers they use
- be in writing, dated and signed by the employer

The agreement must allow employees to either:

- choose representatives who'll be informed and consulted with on the employees' behalf
- be informed and consulted with directly

The agreement must be approved by either:

- all the employee representatives
- a majority of representatives, and 50% of employees in writing or through an employee ballot

If there is no negotiated information and consultation agreement within 6 months of representatives being chosen, by law your employer must:

1. Set up a group, known as an 'information and consultation committee'. They must do this before the 6 months have passed.
2. Consult with your representatives on matters relating to your employment prospects and any decisions affecting how the business is organised, including redundancies.

## 5. Setting up an information and consultation committee

The committee must have:

- at least 1 employee representative for every 50 employees, for example if there are 51 employees there must be 2 employee representatives
- no more than 25 employee representatives

Representatives must be chosen through an employee ballot (vote). All employees are allowed to vote.

The employer must appoint someone to supervise how the ballot is carried out and make sure it's done fairly.

The employer is allowed to use separate ballots for different parts of the business.

## Consulting on employment prospects and decisions affecting how the business is organised

Your employer must inform your representatives of 'recent and probable activities and its economic situation', such as any changes the business plans to make and its financial performance.

They must also inform and consult with you on:

- your employment prospects, such as potential job losses and how the business uses agency workers
- decisions that might lead to changes in work organisation or in employment contracts, including [TUPE transfers](#) and [collective redundancies](#)

Your employer must inform and consult with you in a way that:

- is 'appropriate in terms of timing, method and content', for example sharing information with your representatives early enough so they can fully consider the matter and respond to it
- ensures your representatives work with the appropriate level of management who are able to speak for the business or organisation and take actions forward
- provides reasoned responses to any questions or views from your representatives
- seeks to reach agreement on decisions within their powers, on matters relating to a potential TUPE transfer or collective redundancies

### Agency workers

Your employer must inform you of how many agency workers both:

- work temporarily for the employer
- are under the employer's supervision and direction

They must also inform you of:

- the parts of the business or organisation the agency workers are employed in
- the types of work the agency workers do

## Complaints

You can [complain to the CAC](#) if you think your employer has not handled any part of the negotiations properly.

You can also complain to the CAC if you believe:

- your [employer has not complied with the terms of an agreement – get the form on GOV.UK](#)
- your [employer has made an unreasonable request that you keep information confidential – get the form on GOV.UK](#)
- that [disclosing particular information would harm your business – get the form on GOV.UK](#)