

Informing and consulting your employees about workplace matters

It's useful for an employer to discuss any important workplace matters with employees.

These discussions often take place through a workplace group ('forum') that includes the employer and employees (or representatives).

Whether you choose to use a workplace forum or something else, it's important to get your employees' views on the best way to inform and consult with them.

1. Benefits of a workplace forum

A workplace forum should be used as a way to discuss and try and resolve issues together.

It also provides a way for:

- the employer to present their ideas to employees, and listen to their views and any concerns
- employees or representatives to raise ideas and questions with senior management and get their responses

A workplace forum is a good way to:

- build trust and between you and your employees
- test out ideas and get feedback in a confidential environment
- improve staff performance, engagement and productivity
- improve staff wellbeing – for example, through less stress in the workplace
- get decisions made quickly with everyone's involvement
- get decisions made in a way that reduces the risk of disagreements later on

Having this type of forum may make it easier to consult with staff on [business transfer \(TUPE\)](#) or [redundancy situations](#).

A workplace forum works best when:

- it includes representatives from all parts of the business or organisation
- representatives are trained to understand the role and have the skills required, for example they're able to work constructively with people who have different views
- employers and employee representatives feel confident about speaking and listening to each other
- it deals with issues that matter to or could affect the wider workforce instead of just 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. This feedback could include the issues they currently 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 likely that managers will be more aware of how the decision could affect employees, for example their workload or morale.

The law

You must 'inform' and 'consult' with employees about:

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

In terms of the law:

- 'inform' means management is communicating with staff to ensure they're updated about workplace matters
- 'consult' means management actively seeks and considers employees' views before making a decision

If there are 50 or more employees

If there are 50 or more employees in your workplace, they have the right to [request an formal agreement](#) to be informed and consulted on significant matters and decisions. These commonly include:

- 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

This agreement is also known as:

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

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

If an information and consultation agreement is set up, it does not mean you have to change any business decisions you plan to take. But it does mean:

- employees will be able to give their feedback and raise any concerns
- you'll be able to make a more informed decision

If you want to set up a formal agreement

You can set up a workplace forum without a request from employees.

You can also start setting up an information and consultation agreement if you feel a formal process is needed. Starting this process is known as 'giving notice'.

If you give notice:

- the information must be in writing, dated, and provided so that as many employees as possible will see it, for example by emailing all your employees
- you must tell employees you're doing this because it's a 'requirement of the Information and Consultation of Employees (ICE) Regulations'

If you're already using a workplace forum to inform and consult, you may want to [check you're doing this in the best way](#) for you and your employees.

Your employees have the right to request an information and consultation agreement.

2. Eligibility

By law, employees can request the agreement as long as your workplace has at least 50 employees.

For this request to be valid:

- for businesses with 750 or more employees – at least 2% of employees must have made the request
- for businesses with fewer than 750 employees – at least 15 people have made 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 for employees to make a request. If an employee made an individual request before that date, it's still counted towards the total as long as:

- 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.

How employees can make the request

They can make the request in writing to you or the Central Arbitration Committee (CAC).

If they make the request to you

The employee or employees must include:

- the date they're making the request
- their name and the names of any other employees included in the request
- that they want to 'negotiate an information and consultation agreement'

If they make the request to the Central Arbitration Committee

The CAC will tell you about the request.

The CAC will keep the names of the employees making the request anonymous, if the employees asked for this.

You may not need a new information and consultation agreement if there's already a valid agreement that you believe works effectively.

To be valid, the existing agreement must:

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

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, you must start negotiating it.

'Negotiating' means that employees and the employer (or their representatives) discuss things together to agree on:

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

If a ballot is needed

You must:

- tell employees in writing, no more than 1 month after their request, that you're going to hold a ballot
- make arrangements for the ballot quickly, but give at least 21 days' notice

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

You must start negotiating a new information and consultation 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.

Complaints

Employees can complain to the Central Arbitration Committee (CAC) if they do not agree there's a valid agreement already.

You must start negotiating an information and consultation agreement, if there's not a valid agreement already and either:

- [employees have made a valid request](#)
- [you've 'given notice' correctly](#)

In terms of the law, 'negotiating' means that you and employee representatives 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, you must arrange as soon as possible for employees to choose their representatives. Representatives can be either:

- elected
- appointed, if one of them offers to be a representative and other employees agree

You must not:

- appoint employee representatives yourself
- 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 so they have the chance to share their views.

How employee representatives are chosen

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

- representatives represent all employees and cover all parts of the organisation
- the number of representatives is suitable based on the number of employees – too few would mean a risk of employees not being appropriately represented, too many could make it difficult to reach agreement

How representatives are chosen can depend on how many employees are interested in doing that work. 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

You must ensure 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')

You 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, you must tell employees who they are and invite the representatives to start negotiations
- you have 6 months to reach an agreement

If you want to set up an agreement without an employee request

You can set up a workplace group ('forum') without receiving a request for employees.

Setting up a formal agreement

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

If you do this, you must inform all employees in writing about what's happening.

You 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](#).

How long to reach an agreement

Once employee representatives have been agreed, you 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 you must inform and consult employees
- require that where you provide information on the employment situation, this information must also cover any agency workers you use
- be in writing, dated and signed by you

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

It must be approved by either:

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

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 when negotiating.

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 formal 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 using notice boards or all-staff emails.

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

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

The employer and employee representatives 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 employees 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

An 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 will 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, you 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 of 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 employment contracts](#)

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

This means you could decide to deal with those matters 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.

If there's no negotiated agreement within 6 months of representatives being chosen, by law you must:

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

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

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

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

You're allowed to use separate ballots for different parts of the business.

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

You must inform the employee representatives of 'recent and probable activities and its economic situation'. For example, any changes the business plans to make and its financial performance.

You must also inform and consult with them on:

- 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](#)

You must inform and consult in a way that:

- is 'appropriate in terms of timing, method and content', for example sharing information with employee representatives early enough so they can fully consider and respond to it
- ensures employee representatives work with the appropriate level of management who are able to speak for the business or

organisation and take actions forward

- provides responses with reasons to any questions or views from employee representatives
- seeks to reach agreement on decisions within your business or organisation's powers, relating to a potential TUPE transfer or collective redundancies

Agency workers

You must inform employee representatives of how many agency workers both:

- work temporarily for the business or organisation
- are under your business or organisation's supervision and direction

You must also inform them of:

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

Complaints

Employees can [complain to the CAC](#) if they think you have not handled any part of the negotiations properly.