

Negotiating a new agreement

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