



A Guide To Managing Collective Agreements as a Non-Union Member

It is an important legal requirement that you have your terms and conditions of service / employment agreed in a written contract between yourself and your employer.

Nurses working for large organisations or employers organised in a collective group, often have their employment conditions agreed following a ‘collective bargaining’ process between their union and employer representatives – these are known as Collective Agreements. For nurses working in the public sector in DHBs this collective bargaining process leads to a Multi-Employer Collective Agreement (MECA). Other large employer groups such as General Practices also engage in collective bargaining; in this case resulting in a Primary Health Care MECA. The content of these MECAs, and Collective Agreements in other organisations, is used to provide union members with their contracts.

In the first 30 days of your employment you are automatically covered by the terms of a Collective Agreement if there is one in place in your workplace that includes the role you are working in.

Within the first 10 days of your employment **your employer** must provide you with an ‘Active Choice Form’ on which you can indicate whether you want to join a union or not. If you indicate union membership as a preference the employer will forward the form to the union(s) that negotiated the MECA for your workplace. If you indicate that you do not wish to join a union the employer will still forward your information to the union unless you indicate in the space provided that you don’t want your information passed on. You do not have to complete this form, although if you choose not to your details will automatically be passed onto the union.

If you choose not to be represented by the union that has negotiated a Collective Agreement with your employer, you are entitled to ask to have your terms of service / conditions of employment reflected in an Individual Employment Agreement (IEA). Even if you commenced employment and joined the union it is still possible to transfer to an IEA having left that union.

There are some steps to be aware of when setting out to negotiate an IEA. First and foremost is to consider whether you wish to pay a bargaining fee.

Bargaining Fees

When seeking to negotiate a Collective Agreement, unions generally include, as one of the conditions they put forward to employers, a concept known as a Bargaining Fee clause. Here the union is trying to ensure that any employee who might benefit from their negotiating efforts on behalf of members, as part of a Collective Agreement, contribute toward the costs involved. In some cases, the bargaining fee is exactly the same as the full cost of an annual membership to the union.

This may all seem very reasonable, but in fact you are going to be negotiating your own IEA irrespective of the Collective Agreement.

In the case of an employer with whom a Collective Agreement has been agreed, a secret ballot has to be held after the agreement is reached involving all employees in similar roles to those covered by the agreement. This ballot is to gain consensus that a bargaining fee being levied on non-union employees.

If the ballot is in favour of a bargaining fee, then affected non-union employees are able to give notice to the employer of their wish to be excluded from the levy. This has to be done within a notified and specific period of time (usually 14 days) from the date the vote is taken. You can of course elect to pay the bargaining fee by doing nothing.

An employer is not authorised to deduct a bargaining fee from your salary unless such a levy has been agreed by ballot and you have not informed your employer that you want to opt out.

IF A COLLECTIVE AGREEMENT HAS BEEN AGREED IN YOUR WORKPLACE AND YOU WANT TO NEGOTIATE AN IEA, IT IS IMPERATIVE THAT YOU INFORM YOUR EMPLOYER SHOULD YOU WISH TO OPT OUT FROM BEING CHARGED A BARGAINING FEE IF ONE IS BEING LEVIED.

This guide includes changes to the Employment Relations Act 2000 (ERA) which came into force on 6 May 2019 and replaces all previously issued versions.