This fact sheet covers:

- what is a union?
- freedom of association, and
- rights of union officials to enter the workplace.

A union is an association of employees usually registered under legislation such as the Fair Work (Registered Organisations) Act 2009 (Cth) (Fair Work (RO) Act).

Different unions exist for different industries and types of work. An employee may become a member of a union if they come within the eligibility rules of the union and pay a union membership fee.

Unions have a role in representing the employment rights of their members. They also have a role in bargaining with employers about the wages and conditions of employment of their members. For instance, unions will often be involved in the bargaining process when making an enterprise agreement.

Freedom of association

All employees have the right to join or not join a union. They must not be pressured by the union, their employer or any other person to make a decision about joining, not joining or leaving a union.

Rights of union officials to enter the workplace

Officials of unions have rights to enter workplaces in certain circumstances under the Fair Work Act 2009 (Cth) (Fair Work Act) and health and safety laws.

Right of entry under the Fair Work Act

Union officials have the right to enter workplaces covered by the Fair Work Act in certain circumstances.
Requirements of entry

A union official must comply with certain requirements prior to entering the workplace, such as giving an entry notice and while at the workplace.

A union official can only enter premises if they hold an entry permit issued by the Fair Work Commission (Fair Work entry permit). Employers can ask to see the entry permit and the union official must show it on request.

Where a union official is entitled to enter premises, an employer (or other persons) must not refuse or delay their entry onto the premises and must not intentionally hinder or obstruct them in the exercise of their rights.

Purpose of entry

A union official can enter the workplace for the purposes of:

- investigating a suspected contravention of the Fair Work Act, a modern award or enterprise agreement that affects a member of their union. While on the premises, the union official can exercise certain rights such as interviewing employees or inspecting work or documents relevant to the suspected contravention, or
- holding discussions with employees whose interests the union is entitled to represent.

For more information on unions entering the workplace, see the Fair Work Ombudsman website.

Right of entry under state/territory work health and safety laws

In most states and territories, union officials also have rights in certain circumstances to enter workplaces under the relevant Occupational/Work Health and Safety legislation applicable in the state or territory.

For example, in Victoria:

- in order to enter the workplace, the union official will need to hold an entry permit issued under the Occupational Health and Safety Act 2004 (Vic) and Fair Work Act
- the union official may enter the workplace for the purpose of enquiring into a suspected contravention of the Occupational Health and Safety Act 2004 (Vic) or the regulations made under that Act
- the union official will need to comply with certain requirements before they enter the premises and while they are on the premises, including providing written notice of the suspected contravention, and
- it is an offence for a person to refuse a union official entry to a workplace, intentionally hinder, obstruct, intimidate or threaten a union representative or to impersonate a union official.

A union official must hold an entry permit in order to enter premises. Employers can ask to see their entry permit and they must show it on request.

For further information and to apply for a permit under occupational/work health and safety legislation, see information provided by the appropriate authorities in each jurisdiction (see Resources section below).
Related Not-for-profit Law resources

The Not-for-profit Law Information Hub at www.nfplaw.org.au has further related resources on the following topics:

- Employees – www.nfplaw.org.au/employees
  The Employees section of the Information Hub features resources on recruitment and management of employees, employee entitlements, the Fair Work System, termination and resignation, and disputes with employees.

  Not-for-profit Law has published occupational/work health and safety guides for Victoria, NSW and Western Australia.

Fair Work Ombudsman – www.fairwork.gov.au

- Unions entering the workplace
  This page outlines the rules for union officials when entering a workplace, as well as rules for union meetings and discussions.

- Right of entry
  This page explains right of entry provisions under the Fair Work Act 2009 (Cth).

Work health and safety authorities

  Visit WorkSafe Victoria’s website for information on right of entry and a guide to right of entry.

  SafeWork NSW’s website has information on site entry permits for union officials.

  WorkSafe Queensland has information on right of entry provisions.

  Explore WA’s WorkSafe website for information on safety and health topics.

  WorkSafe ACT enforces the territory’s health and safety and workers’ compensation laws through a mixture of education and compliance activities.

- NT WorkSafe – www.worksafe.nt.gov.au
  This website has information on worker rights and responsibilities.

- WorkSafe Tasmania – www.worksafe.tas.gov.au
  Visit the WorkSafe Tasmania website for a list of names of union officials who currently hold a Work Health and Safety entry permit.
Legislation

- *Fair Work (Registered Organisations) Act 2009 (Cth)*
- *Fair Work Act 2009 (Cth)*
- * Occupational Health and Safety Act 2004 (Vic)*
- *Work Health and Safety Act 2011 (NSW)*
- *Work Health and Safety Act 2011 (Qld)*
- *Occupational Safety and Health Act (WA)*
- *Work Health and Safety Act 2011 (ACT)*
- *Work Health and Safety (National Uniform Legislation) Act 2011 (NT)*
- *Work Health and Safety Act 2012 (Tas)*