

Negotiating a new agreement

The employer and employee representatives must start negotiating an information and consultation agreement, if there's not a valid agreement already and either:

- [the employees have made a valid request](#)
- [the employer has 'given notice' correctly](#)

In terms of the law, 'negotiating' means that employees, 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

Electing employee representatives

For negotiations to start, the employer must arrange for employees to choose their employee representatives as soon as possible.

Representatives can be either:

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

An employer must not:

- appoint employee representatives themselves
- assume any existing trade union representatives will automatically represent employees

It's a good idea for employers to consult their employees or any existing representatives before finalising the arrangements for electing or appointing negotiating representatives. This is so they have the chance to share their views.

How to choose employee representatives

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 of representatives is suitable based on the number of employees – too few may mean employees are 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 the role.

For example, a business's marketing team may have several people interested in becoming a representative, so a ballot may be needed. But the accounts team may have only one person interested, so no ballot is needed.

How to run an election

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

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

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

After employees have chosen their representatives

After employees have chosen their representatives, the employer:

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

If the employer wants to set up an agreement without an employee request

Employers might want to set up a [workplace forum](#) to discuss any important workplace matters with their employees. They can do this without receiving a request from their employees.

Setting up a formal agreement

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

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

If their employer does not inform them in writing about what's happening, employees can [complain to the Central Arbitration Committee on GOV.UK](#).

Things to remember when negotiating

When negotiating, employers, employees and their representatives should take time to:

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

Representatives need to be able to make an informed decision. They should know what happens if [an agreement cannot be reached within 6 months of being chosen](#).

What should be negotiated

To make sure the agreement meets the needs of the organisation, it's important to consider:

- who'll be covered by the agreement
- how to inform and consult
- how often and when to consult
- what matters to consult on
- how to handle confidential business information

- the law on redundancies and contract changes
- when to review an agreement

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 to inform and consult

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

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

If you decide a workplace forum is a good way of informing and consulting, 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:

- the number of employee representatives needed
- how to elect or appoint them
- how to train them
- how long they'll stay in the role

How often and when to consult

The employer and their employees should agree:

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

What matters to consult 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.

An agreement could include:

- 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 to handle confidential business information

By law, the 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.

The employer should agree:

- how to keep such information confidential and if it needs to be shared with certain people, such as employee representatives
- what happens 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 an employment contract](#)
- a [TUPE transfer](#)
- changes to pension arrangements

This means the employer and their employees could decide to deal with those separately to the other matters they're discussing.

When to review an agreement

Organisations are constantly changing. Employers and employees should decide whether they need to review the agreement after a certain amount of time.

How much time to reach an agreement

Once employee representatives have been agreed, the employer and their employees have 6 months to negotiate an information and consultation agreement.

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

- both sides must agree
- they must have agreed to extend the period 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 the employer must inform and consult employees
- require that where the 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

It must be approved by either:

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