



Russell Kennedy
Lawyers

Workplace Relations Checklist

Right of Entry to Hold Discussions

May 2017

There are strict rules under the *Fair Work Act 2009* (Cth) which apply to union officials seeking to enter a workplace. It is important that managers understand these rules and are prepared for union visits. As the rules vary depending on the official's reason for seeking entry, we are releasing two separate checklists to deal with the rules which apply to right of entry to hold discussions, and (next month) right of entry to investigate a suspected contravention.

If a union official is seeking to enter your workplace to hold discussions with your employees, you should consider the following questions before allowing entry:

- Does the official have a valid permit?
- Has the official provided an entry notice at least 24 hours in advance?
- Is the official entering the workplace during working hours?
- Has the official completed (or are they willing to complete) any necessary safety induction for your workplace?
- Is the official only seeking to hold discussions during meal times or other breaks?
- Is the official only seeking to hold discussions with actual or potential union members?

If the answer to all of these questions is “**Yes**”, then you will likely have an obligation to allow the official into your workplace.

Once a union official is on site, you should consider the following questions:

- Is the official only having discussions with employees who agree to participate?
- Is the official complying with any safety requirements at your workplace?
- Is the official conducting the discussions in a location which you have approved, or alternatively in an area where employees ordinarily take meal or other breaks?
- Is the official complying with your directions as to the route they must take through the workplace to the room in which any discussions are to be held?

If the answer to any of these questions is “**No**”, then the official may be in breach of their entry rights, and it may be lawful for you to evict them from the workplace.

Obviously, any decision to refuse a union official's entry rights, or require an official to leave after they have been allowed to enter a workplace, is likely to be contentious. You should always seek legal advice before proceeding with any such decisions.

Please contact the Russell Kennedy [Workplace Relations, Employment and Safety team](#) if you would like advice on a union's rights in your workplace.