

Freedom of association & collective bargaining



Principle:

All workers, regardless of rank or job grade, have the right to form and join trade unions of their choice, and to bargain collectively. Where the right to freedom of association and collective bargaining are restricted under law, parallel means of independent and free association and bargaining are made available to all workers.



Key message:

Collaborating with workers' representatives provides broader views and can help increase motivation and morale at sites.

Definition of freedom of association

“Freedom of association is the right of workers ... to freely form and join workers organisations such as trade unions, worker associations and worker councils or committees for the promotion and defence of occupational interests.”¹

Definition of collective bargaining

“Negotiation of wages and other conditions of employment by an organized body of employees”²

What is freedom of association?

- It is the right of people to be able to come together, to form or join informal or formal groups, for the purpose of collective action.
- It is widely regarded as fundamental to a free and fair society, which permits groups to act together towards a common cause or interest.
- All workers have the right to form or join groups that represent their interests. They also have the right to elect their own representatives.
- These groups can be trade unions, workers' committees, or other bodies, although their legal status varies.

What is collective bargaining?

- Collective bargaining is facilitated by freedom of association.
- Collective bargaining is where workers collectively negotiate with employers over terms of employment, grievances, or other matters.
- These negotiations can lead to agreements that reflect both workers'

Facts

- Freedom of association and collective bargaining is a fundamental human right.³
- Many countries still restrict individuals from forming workers' unions.⁴
- Trade union membership is increasing in many countries outside Europe and North America.⁵

What if there are legal barriers to unions?

In some countries, there are restrictions on the unionisation of some groups of workers. These restrictions include preventing certain groups from forming unison or selecting their own representatives, or only permitting state-managed unions.

In these cases, whilst adhering to national laws, it is important that companies provide alternative means of workers' dialogue.

- This should include:
 - allowing workers to form their own workers' committees and elect their own representatives.
 - not discriminating against workers because of their committee membership.

Continued...

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and employers' interests.

Why is freedom of association and collective bargaining important?

- Freedom of association and collective bargaining allows workers to protect the wellbeing of themselves and their families.
- This limits the capacity of companies to exploit individuals or groups of workers.
- It allows workers and employers to come to agreements that reflect the interests of both parties.
- Sites that allow and facilitate workers to collectively bargain generally have higher morale, greater productivity and are more able to work together to solve challenges.

What is expected at sites?

- Mechanisms that allow workers to express their views about working conditions and terms of employment. This can include regular meetings between workers' representatives and site management, and should be more than a suggestions box or hotline.
- Subject to legal requirements, all workers have the right to join, form and collectively bargain within trade unions or workers' committees.
- Workers are not discriminated against for being union or workers' committee members.
- Workers are able to freely select their own representatives - their representatives should not be appointed by the site management.
- Workers are made aware of their rights to freedom of association and collective bargaining.
- Workers' rights are written in appropriate languages, and posted in a public place.

What if unions are restricted by law?

Where unions are restricted by law, or individuals are restricted from joining unions, other means of organisation and communication with management should be available.

- This can include:
 - elected workers' representatives and committees, who can meet and negotiate with site management
 - meetings between workers and site management for collective discussion



Workers' committees may be informal, but their meetings and decisions should be documented

Non-discrimination of union members

- Discrimination against individuals based on any factor not related to their job performance is illegal in many countries.
- This includes discrimination against individuals based on union or committee membership.
- Workers that are part of unions or workers' committees cannot be treated differently to non-members.
- This must be reflected in sites' non-discrimination policies and training.
- Union or committee members should receive the same terms of employment, pay and working conditions as non-members.
- Any worker who feels discriminated against should be allowed to lodge a grievance, which is dealt with through the grievance procedure.

Additional information and resources

- [ILO Freedom of Association and Protection of the Right to Organise Convention](#)
- [ILO Right to Organise and Collective Bargaining Convention](#)
- [Respect for diversity factsheet](#)
- [Sample - grievance procedure](#)
- [Sample - grievance record](#)

1. Responsible Jewellery Council, 2013. (COP 19) Freedom of Association and Collective Bargaining. www.responsiblejewellery.com/

2. Concise Oxford English Dictionary, 2011. Collective bargaining. Oxford Dictionaries.

3. United Nations, 1948. The Universal Declaration of Human Rights. www.un.org.

4. International Labour Organization, 2008. Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. www.ilo.org

5. The Federation of International Employers, 2016. Trade Union Trends Across The World. www.fedee.com