



Right of Entry to Inspect Contraventions

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Following on from our last checklist, this checklist deals with a union official's right to enter a workplace to investigate a suspected contravention of the Fair Work Act 2009 (Cth) or an award or enterprise agreement.

Union officials may only exercise their right of entry powers if they comply with the requirements set out in the Act. If a union official seeks to enter your workplace to conduct an investigation, 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?
- Has the official provided details of the suspected contravention?
- Is there a reasonable basis for the suspected contravention?
- Does the suspected contravention affect the union's members in the workplace?
- 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?

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

Depending on the suspected contravention, once on site the union official may seek to inspect records, work processes and objects, and interview staff. The official must still comply with the requirements in the Act. For example:

- Is the official only requesting documents that directly relate to the suspected contravention, and which substantially relate to the union's members?
- Is the official only seeking to interview members or potential members of that union?

People that can help



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- Does the person agree to be interviewed?
- 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. 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.

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