



Delegates' rights

Background

1. Clause 10 of the *Commonwealth Members of Parliament Staff Enterprise Agreement 2024-27* (the Enterprise Agreement) codifies the rights set out in the *Fair Work Act 2009* (FW Act) of *Members of Parliament (Staff) Act 1984* (MOP(S) Act) employees who are workplace delegates.
2. Workplace delegates are MOP(S) Act employees who are elected or appointed as representatives of union members in their workplace to represent the workplace interests of union members and potential members in matters including:
 - a. consultation about major workplace changes, rosters, or hours of work;
 - b. resolution of disputes;
 - c. disciplinary processes;
 - d. enterprise bargaining; and
 - e. any other process or procedure under the Enterprise Agreement or policy in which eligible employees are entitled to be represented and which concerns their industrial actions.
3. Workplace delegates are entitled to reasonable:
 - a. communication with union members and potential members about their workplace interests; and
 - b. access to the workplace and facilities for the purposes of representing the workplace interests of their union members or potential members.
4. Communication may include, but is not limited to:
 - a. face-to-face meetings or discussions;
 - b. posting information on certain notice boards; and
 - c. using their work email system.
5. Workplace facilities may include, but are not limited to:
 - a. a room or area to hold discussions with union members or eligible members that is fit-for-purpose, private and accessible;
 - b. access to reasonable printing, scanning and photocopying facilities for the purposes of representing the workplace interests of their union members or potential members; and

- c. the use of work-related and/or Commonwealth provided communication systems such as email, network access and physical or electronic noticeboards.
- 6. The Department of Finance (Finance) represents the Commonwealth as the 'employer' of the workplace delegate in relation to the delegates rights term in the Enterprise Agreement and is responsible for determining whether providing facilities and resources to a workplace delegate in accordance with the delegates' rights clause is practical and/or within operational requirements.

Responsibilities of a workplace delegate

- 7. Finance does not have a role in the election or appointment of workplace delegates. MOP(S) Act employees who would like to become workplace delegates should contact their relevant union to discuss arrangements.
- 8. To access their entitlements, a workplace delegate is required to advise Finance in writing that they are an appointed workplace delegate and attach evidence of their appointment.
- 9. Workplace delegates are required to advise Finance in writing when they cease to be an appointed workplace delegate within 2 weeks of cessation of their delegate role.
- 10. Workplace delegates are required to adhere to existing codes of conduct and all Commonwealth workplace policies, including any acceptable use of information communication technology (ICT) resources.
- 11. Workplace delegates must not disrupt the normal performance of work and must not prevent eligible employees from exercising their rights to freedom of association.

Responding to a delegate's request

Reasonable communication and access to the workplace and workplace facilities

- 12. Requests relating to reasonable communication and/or access to the workplace and workplace facilities should be directed to Finance as the representative of the Commonwealth. Finance will consult with the workplace delegate and employing parliamentarian in relation to requested arrangements.
- 13. Where relevant, Finance will also liaise with the appropriate parliamentary department responsible for the workplace and workplace facilities the workplace delegate is seeking to access to determine whether providing facilities and resources to a workplace delegate in accordance with the delegates' rights clause is practical and/or within operational requirements.
- 14. There are circumstances where it will not be reasonable for the Commonwealth to provide access to a workplace facility, for example, where there are security or access restrictions in place, or where it is not practical to provide access due to operational requirements, parliamentary privilege, or security reasons.

Paid time for training

15. Workplace delegates are entitled to reasonable access to paid time during normal working hours for training related to their role as a delegate.
16. Delegates who want to attend paid training time to attend related training during normal working hours are encouraged to discuss their training arrangements with their employing parliamentarian and/or manager in the first instance. They must also:
 - a. be an appointed workplace delegate, in accordance with clause 8 of this guideline; and
 - b. provide Finance and their employing parliamentarian at least 5 weeks' notice of the training in writing and may be requested to include details of the training topic, dates and start and finish times.
17. Finance will provide the delegate with notification of the outcome of their request to access paid training time at least 2 weeks prior to the proposed training commencing.

Further information

18. Guidance has also been published by the Fair Work Ombudsman and Fair Work Commission and is accessible via the following links:
Workplace delegates' rights - Fair Work Ombudsman Fact Sheet
Delegates' rights terms in enterprise Agreements – Fair Work Commission
19. A Fact Sheet on Delegates' Rights provided to parliamentarians and MOP(S) Act employees during enterprise bargaining for the Enterprise Agreement) is provided at [Attachment A](#).

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Fact sheet – Delegates' Rights

Delegates' Rights – Information for Parliamentarians and staff

The EA includes a delegates' rights term that codifies the new rights of workplace delegates provided under recent changes to the Fair Work Act 2009 (FW Act).

General information on delegates' rights is provided below and further guidance has also been published by the Fair Work Ombudsman and Fair Work Commission and is accessible via the following links:

- [Workplace delegates' rights - Fair Work Ombudsman Fact Sheet](#)
- [Delegates' rights terms in enterprise Agreements – Fair Work Commission](#)
- [FWC Statement: Variation of modern awards to include a delegates' rights term](#)

These rights are different to the 'right of entry' for union officials. Further information on right of entry is available in the [Right of entry – Fair Work Ombudsman Fact Sheet](#).

The Delegates' Rights term in the EA

Key definitions used in the delegates' rights term include:

- **'Workplace delegate'** *a person elected in accordance with the rules of an employee organisation (i.e., a union) to represent members of the union who work at a particular enterprise.*
- **'Enterprise'** *a business, activity, project or undertaking.*
- **'Eligible employee'** *an employee of the Commonwealth, who are either members of the union or are entitled to be members of the union in accordance with the union's rules.*

The term in the EA provides that a *workplace delegate*:

- **may represent eligible employees in relation to:**
 - consultation about a major workplace change or changes to rosters or hours of work;
 - resolution of individual or collective grievances or disputes;
 - performance management and disciplinary processes;
 - enterprise bargaining (where the delegate is an appointed bargaining representative); and
 - any process or procedure under the EA or a policy in which employees are entitled to be represented and concerns the employees' industrial interests.
- **is entitled to 'reasonable communication' with 'eligible employees':**
 - for the purpose of representing their industrial interests (as outlined above) (including discussing membership with the delegate's union); and
 - can occur during working hours or work breaks, or before the start or after the end of work.
- **must be afforded reasonable access to the workplace (being a private, accessible room to hold discussions that is fit for purpose) and workplace facilities unless:**
 - the workplace does not have the facility;
 - the Commonwealth does not have access to the facility or enterprise; or
 - it is impractical to provide access to or use of the facility at the time or in the manner it is sought due to operational requirements.
- **has access of paid time during normal working hours for delegate training.**