

Right of Entry



Under the Fair Work Act 2009 (Cth), rights of entry are accorded to union officials for three purposes:

- 1. to investigate breaches of the Fair Work Act 2009 (Cth) (FW Act), or a term of a fair work instrument***
- 2. to have discussions with employees, and***
- 3. for OHS purposes under state legislation.***

Permits

In order to exercise a right of entry to premises of an employer for any of these three purposes, an official must have a current permit granted by the Fair Work Commission (FWC).

The permit should be checked to see that it is current (i.e. it may have expired) and to determine what conditions apply to the permit. If a person refuses to produce a permit upon request by the employer, entry may be denied.

A permit holder may not enter premises for the purpose of holding discussions with employees or to investigate a breach of the FW Act or a term of the *Victorian Catholic Education Multi Enterprise Agreement 2013* (VCEMEA) unless he/she has given to the employer an entry notice at least 24 hours but no more than 14 days before the entry.

Discussions

A permit holder may enter premises to hold discussions with employees who:

- wish to participate in those discussions
- who perform work on the premises, and
- whose industrial interests the permit holder's union is entitled to represent.

Times and locations of discussions

Entry must occur during working hours and discussions may only be held during meal time or other breaks.

A permit holder must comply with an employer's reasonable request that the permit holder hold discussions with employees in a particular room or area of the premises or to follow a particular route to a particular room or area of the premises. A request by an employer will be unreasonable if:

- the room or area is not fit for the purpose of holding discussions, or
- it was made with the intention of intimidating or discouraging potential participants, or making it difficult for people to participate in the discussions.



Records

The employer must allow the permit holder to inspect and make copies of any records or documents (other than a non-member record or document) that are directly relevant to the suspected breach and are kept on the premises or accessible from a computer on the premises.

The union does not have an automatic right to access a non-member record or document, which is a record relating to the employment of a person (or persons) who is not a member of the relevant union.

References

- Entry permits

Legislation

- *Fair Work Act 2009* (Cth)