

Formal ICE agreements

1 . Informing and consulting at work

By law, employers must 'inform and consult' their employees about:

- any possible [redundancies](#)
- [changes to their contract](#)
- a [TUPE transfer](#)
- changes to employees' pension arrangements

In terms of the law:

- 'inform' means the employer is communicating with staff to make sure they're updated about workplace matters
- 'consult' means the employer actively seeks and considers employees' views before making a decision

If there are 50 or more employees

If there are 50 or more employees in the organisation, they have the right to request a formal agreement to be informed and consulted.

This is known as:

- an ICE agreement (as it's part of the 'Information and Consultation of Employees' regulations)
- an information and consultation agreement

This agreement covers significant workplace matters and decisions. It often includes:

- working conditions
- new ways of working
- the output and quality of the business's goods or services
- training
- health and safety
- new equipment
- staffing levels
- physical and mental wellbeing

Employees can also request this agreement [if there's already an agreement](#) but they feel it does not meet their current needs.

Even with an agreement, the employer has the right not to change any business decisions they plan to take. But it does mean:

- employees will be able to give their feedback and raise any concerns
- the employer will be able to make a more informed decision

[Find out more about requesting a formal agreement](#)

If an employer wants to set up a formal agreement

An employer can start setting up an information and consultation agreement without a request from their employees. This is called 'giving notice'.

When the employer gives notice:

- the information must be in writing, dated, and provided so that as many employees as possible will see it, for example in an email to all staff
- they must tell their employees this is a 'requirement of the Information and Consultation of Employees Regulations'

Informing and consulting informally

It's useful for employers to discuss any important workplace matters with their employees. Workplace forums are a good way to get together and resolve issues.

Whether they choose to use a workplace forum or something else, employers should get the employees' views on the best way to inform and consult them.

[Find out more about using workplace forums to discuss important matters at work](#)

2. Requesting a formal agreement

Employees have the right to request a formal information and consultation agreement.

Eligibility

By law, employees can request an information and consultation agreement, as long as their organisation has at least 50 employees.

For the request to be valid:

- for businesses with 750 or more employees – at least 2% of employees must make the request
- for businesses with fewer than 750 employees – at least 15 people must make the request

Individual requests from employees

Individual requests from employees are counted together towards the total, if they're all within a 6-month period.

Individual requests made before 6 April 2020

The eligibility requirements changed on 6 April 2020, so it's easier to make a valid request.

If an employee made an individual request before that date, it's still counted towards the total as long as:

- one or more of the individual requests was made on or after 6 April 2020
- all individual requests were made within a 6-month period

Example of a valid request

A company has 750 employees. Before 6 April 2020, 4% of the company's employees had made individual requests for an information and consultation agreement.

Before 6 April this number would not have been enough for the requests to be valid. This is because the law required 10% of the company's employees to have made requests.

Since 6 April this number is enough for the requests to be valid, as long as at least one request is made from 6 April onwards.

Finding out how many employees are in the organisation

Employees can write to their employer to ask how many people they employ.

Employees can complain to the Central Arbitration Committee (CAC) if:

- their employer refuses to provide the number of employees
- they think the number they're given is wrong

[Download the complaint form on GOV.UK](#)

How to make a request

It's best for employees to make a request in writing to their employer. This could be in a letter or email.

Making a request directly to the employer

When making a request directly to their employer, employees should include:

- the date they're making the request
- their name and the names of any other employees included in the request
- that they're making a request to 'negotiate an information and consultation agreement'

Employers can start informing and consulting with employees without an agreement, or a request for one.

Making a request through the Central Arbitration Committee

Employees might not want to make a request to their employer directly. For example, if they do not want their employer to know who has made the request.

In these circumstances, they can make a request in writing to the Central Arbitration Committee.

The Central Arbitration Committee will tell the employer how many requests have been made, without revealing the names of the employees.

If employees are making a request to the Central Arbitration Committee, they should include:

- the date they're making the request
- an employee point of contact
- the names of all employees making the request, including any eligible individual employee requests
- their employer's name
- their employer's address – this should be their head or registered office, or the main place they do business
- whether the request should be anonymous

An employer could also ask the Central Arbitration Committee to decide whether:

- requests are valid
- any valid agreements already exist

How to contact the Central Arbitration Committee

Central Arbitration Committee
PO Box 78137
London
SW1P 9XE

Email: enquiries@cac.gov.uk

Telephone: 0330 109 3610

3. If an agreement already exists

There might already be an existing agreement about keeping employees informed and consulted on workplace matters. If this is the case, they might not need a new information and consultation agreement.

For the existing agreement to be valid, it must:

- be in writing
- cover all employees
- set out how and when the employer will inform and consult employees or their representatives
- have been agreed by employees or their representatives

If the employer believes there's already a valid agreement, they could ask for an employee ballot (vote) to decide whether a new agreement is still needed.

If more than 40% of employees request a new agreement

If more than 40% of employees make a request for a new information and consultation agreement, the employer must start [negotiating an agreement](#).

If a ballot is needed

If a ballot is needed, the employer must:

- tell their employees in writing (by letter or email), no more than one month after they get a request, that they're going to hold a ballot
- hold the ballot no sooner than 21 days after they tell their employees about it

There might already be agreements in place across different parts of the business. If one part of the business requests a new agreement, the employer might decide to get all their employees to vote on this.

Employers must allow all employees to vote in the ballot.

The voting must be done in private.

If more than half of employees vote for a new agreement

The employer and their employees must start negotiating a new agreement if more than 50% of employees vote for this.

Requesting a new agreement

If the employees are satisfied with the existing agreement, then they cannot make another request for 3 years from the date the request was made.

If employees have a complaint

Employees can complain to the Central Arbitration Committee if they do not believe there's already a valid agreement.

[Get the form to complain about a pre-existing agreement on GOV.UK](#)

Employees can also complain to the Central Arbitration Committee if:

- the employer has not told them that they are holding a ballot within one month of getting their request – use the form for a complaint under regulation 8(7)
- they think the employer is taking too long to hold a ballot after they have said they would and 21 days have passed – use the form for a complaint under regulation 8(8)
- they believe the ballot was not fair – make the complaint within 21 days of the ballot using the form for a complaint under regulation 10(2)

[Find the relevant complaint form on GOV.UK](#)

4. Negotiating a new agreement

The employer and employee representatives must start negotiating an information and consultation agreement, if there's not a valid agreement already and either:

- [the employees have made a valid request](#)
- [the employer has 'given notice' correctly](#)

In terms of the law, 'negotiating' means that employees, employee representatives and the employer discuss things together to agree on:

- how informing and consulting will happen
- when it will happen
- the matters that will require consultation

Electing employee representatives

For negotiations to start, the employer must arrange for employees to choose their employee representatives as soon as possible.

Representatives can be either:

- elected
- appointed, if an employee offers to be a representative and other employees agree

An employer must not:

- appoint employee representatives themselves
- assume any existing trade union representatives will automatically represent employees

It's a good idea for employers to consult their employees or any existing representatives before finalising the arrangements for electing or appointing negotiating representatives. This is so they have the chance to share their views.

How to choose employee representatives

All employees must be represented effectively. For example, the employer must make sure:

- representatives represent all employees and cover all parts of the organisation
- the number of representatives is suitable based on the number of employees – too few may mean employees are not being appropriately represented, too many could make it difficult to reach agreement

How representatives are chosen can depend on how many employees are interested in the role.

For example, a business's marketing team may have several people interested in becoming a representative, so a ballot may be needed. But the accounts team may have only one person interested, so no ballot is needed.

How to run an election

The employer must ensure that any ballot is fair. For example:

- the ballot is open to everyone
- there's no pressure to vote for anyone in particular
- it's a 'secret ballot' – this means voting can be done privately

The employer can choose to appoint an independent person to supervise the ballot

After employees have chosen their representatives

After employees have chosen their representatives, the employer:

- must tell their employees who they are and invite the representatives to start negotiations, as soon as possible
- has 6 months to reach an agreement

If the employer wants to set up an agreement without an employee request

Employers might want to set up a [workplace forum](#) to discuss any important workplace matters with their employees. They can do this without receiving a request from their employees.

Setting up a formal agreement

Employers can also start negotiating a formal information and consultation agreement without receiving a request from their employees.

The employer must still make sure employees choose their representatives as soon as possible.

If their employer does not inform them in writing about what's happening, employees can [complain to the Central Arbitration Committee on GOV.UK](#).

Things to remember when negotiating

When negotiating, employers, employees and their representatives should take time to:

- listen to everyone's views
- make sure everyone gets a say

Representatives need to be able to make an informed decision. They should know what happens if [an agreement cannot be reached within 6 months of being chosen](#).

What should be negotiated

To make sure the agreement meets the needs of the organisation, it's important to consider:

- who'll be covered by the agreement
- how to inform and consult
- how often and when to consult
- what matters to consult on
- how to handle confidential business information
- the law on redundancies and contract changes
- when to review an agreement

Who'll be covered by the agreement

It may not be appropriate to have one agreement covering all employees. It may be better to have separate agreements, for example:

- for people in different job levels or locations
- when collective agreements already cover certain employees

[Find out more about collective agreements on GOV.UK](#)

How to inform and consult

For complex matters or larger organisations, informing and consulting could take place face to face using a group, such as a workplace forum.

For simpler matters or smaller organisations, it may be easier to inform and consult with the whole workforce. For example, by using noticeboards or all-staff emails.

If you decide a workplace forum is a good way of informing and consulting, it's important to include:

- elected employee representatives who represent all parts of the business or organisation
- management representatives that include senior management

The employer and employees should agree:

- the number of employee representatives needed
- how to elect or appoint them
- how to train them

- how long they'll stay in the role

How often and when to consult

The employer and their employees should agree:

- how often and when consulting happens
- the way it happens, for example through newsletters or an intranet
- how to deal with urgent issues

What matters to consult on

The agreement should focus on significant issues that the business or organisation faces. It should not be used to deal with minor or day-to-day issues.

An agreement could include:

- working conditions
- new ways of working
- the output and quality of the business's goods or services
- training
- health and safety
- important new equipment
- new training needs for staff
- staffing levels
- physical and mental wellbeing

If it's not easy to agree what matters need consulting on, it can be a good idea to start by agreeing those that will not be consulted on.

For example, it's sensible to not cover pay and conditions if they're already negotiated through a union.

How to handle confidential business information

By law, the employer can keep certain business information confidential.

For example, for a food manufacturer, it's usually legal to decide that sensitive information about the cost of its ingredients will not be shared with anyone outside the business.

The employer should agree:

- how to keep such information confidential and if it needs to be shared with certain people, such as employee representatives
- what happens if confidentiality is broken, for example whether [disciplinary measures](#) will be used

The law on redundancies and contract changes

The law sets out different consultation requirements for:

- [redundancies](#)
- [changes to an employment contract](#)
- a [TUPE transfer](#)
- changes to pension arrangements

This means the employer and their employees could decide to deal with those separately to the other matters they're discussing.

When to review an agreement

Organisations are constantly changing. Employers and employees should decide whether they need to review the agreement after a certain amount of time.

How much time to reach an agreement

Once employee representatives have been agreed, the employer and their employees have 6 months to negotiate an information and consultation agreement.

If either side wants to extend the 6-month period:

- both sides must agree
- they must have agreed to extend the period before the 6 months is up
- the extension must be for a set time period

What makes an agreement valid

An information and consultation agreement must:

- cover all employees
- set out the circumstances in which the employer must inform and consult employees
- require that where the employer provides information on the employment situation, this information must also cover any agency workers they use
- be in writing, dated and signed by the employer

The agreement must allow employees to either:

- choose representatives who'll be informed and consulted with on the employees' behalf
- be informed and consulted with directly

It must be approved by either:

- all the employee representatives
- a majority of representatives, and 50% of employees in writing or through an employee ballot

5. If you cannot negotiate an agreement

By law, if there is no negotiated information and consultation agreement within 6 months of representatives being chosen, the employer must:

- set up a group, known as an 'information and consultation committee' – they must do this before the 6 months have passed
- consult with employee representatives on matters relating to their employment prospects and any decisions affecting how the business is organised, including redundancies

Setting up an information and consultation committee

The committee must have:

- at least one employee representative for every 50 employees, for example if there are 51 employees there must be 2 employee representatives
- no more than 25 employee representatives

Representatives must be chosen through an employee ballot (vote). All employees are allowed to vote.

The employer must appoint someone to supervise how the ballot is carried out and make sure it's done fairly.

The employer is allowed to use separate ballots for different parts of the business.

Consulting on employment prospects and decisions

The employer must inform the employee representatives of 'recent and probable activities and its economic situation'. For example, any changes the business plans to make and its financial performance.

The employer must also inform and consult with employees on:

- employment prospects, such as potential job losses and how the business uses agency workers
- decisions that might lead to changes in work organisation or in employment contracts, including [TUPE transfers](#) and [collective redundancies](#)

The employer must inform and consult with their employees in a way that:

- is 'appropriate in terms of timing, method and content', for example sharing information with employee representatives early enough so they can fully consider the matter and respond to it
- ensures employee representatives work with the appropriate level of management who are able to speak for the business or organisation and take actions forward
- provides reasoned responses to any questions or views from employee representatives
- tries to reach agreement on decisions within their powers, on matters relating to a potential TUPE transfer or collective redundancies

Agency workers

The employer must inform the employee representatives of how many agency workers both:

- work temporarily for the business or organisation
- are under the employer's supervision and direction

They must also inform employees of:

- the parts of the business or organisation the agency workers are employed in
- the types of work the agency workers do

Complaints

Employees can [complain to the Central Arbitration Committee on GOV.UK](#) if they think their employer has not handled any part of the negotiations properly.

Employees can also complain to the Central Arbitration Committee using the relevant form on GOV.UK if they believe:

- their employer has not complied with the terms of an agreement
- their employer has made an unreasonable request to keep information confidential
- that disclosing particular information would harm the business