Good Work Lab

FREE EMPLOYER GUIDE / NOVEMBER 2026

Collective Agreements: 18 Employer FAQs

Negotiating, drafting, enforcing, varying and ending collective agreements - without overlooking individual contractual rights.

THE ESSENTIAL DISTINCTION

A collective agreement can be non-enforceable between a union and an employer while some of its provisions remain enforceable by individual employees through their employment contracts. Always assess both layers.

PRACTICAL INDUSTRIAL RELATIONS GOVERNANCE

An employer-facing guide to how collective agreements operate, who they cover and what happens when circumstances change.

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01 / UNDERSTANDING THE AGREEMENT

What employers are actually agreeing

01 What is a collective agreement?

A **collective agreement** is an agreement or arrangement between one or more trade unions and an employer or employers' association relating to matters within section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992. It might deal with pay, hours, working conditions, union facilities or the machinery for consultation and negotiation. Its title is not decisive: a pay agreement, procedural agreement or recognition agreement may all fall within the statutory definition.

TULRCA 1992, section 178(1)-(2).

02 Is a collective agreement the same as trade union recognition?

Not necessarily. A **recognition agreement** establishes the union's right to bargain for a defined workforce and usually sets out how the relationship operates. A **substantive collective agreement** may record a specific pay settlement, working arrangement or negotiated policy. Many organisations have a procedural recognition agreement alongside annual pay agreements and other collective instruments. A statutory workplace access agreement is a different legal mechanism; it does not by itself confer collective bargaining recognition.

TULRCA 1992, sections 178-179; Schedule A1 and Chapter 5ZA.

03 Which matters can be covered by collective bargaining?

Section 178(2) covers a broad range of matters, including terms and conditions, the physical conditions of work, engagement and termination, allocation of duties, discipline, trade union membership, facilities for officials and procedures for negotiation or consultation. Parties to **voluntary** bargaining can negotiate an agreed scope. Under the **statutory recognition** route, the prescribed core collective bargaining subjects are pay, hours and holidays. Employers should distinguish the bargaining subjects from issues on which the union is merely informed or consulted.

TULRCA 1992, section 178(2); Schedule A1, paragraph 3.

02 / COVERAGE AND WORKFORCE RIGHTS

Who is covered - and by what?

04 Does an agreement cover only trade union members?

Not necessarily. Collective bargaining usually concerns a defined **bargaining unit**, which can include workers who are not union members. A negotiated pay award may be implemented for all eligible workers in that unit. But whether any particular term is enforceable by an individual depends on the terms of their employment contract, the wording and scope of the collective agreement, and the rules on incorporation. Union membership is not, by itself, the test for whether an employment term is contractually binding.

TULRCA 1992, section 178; principles of contractual incorporation.

05 What about employees who join after the agreement was signed?

Check the agreement's stated coverage and the new employee's contract. Future joiners can be within the relevant workforce category, and contracts may refer expressly to terms negotiated collectively or updated from time to time. The fact that an earlier collective agreement is generally non-binding between its signatories does not automatically settle the position for new employees. Equally, do not assume every historic benefit applies to new recruits without checking the contractual documents and subsequent practice.

Employment contracts: incorporation principles; TULRCA 1992, section 179.

06 Can an employer have different agreements with different unions?

Yes. Employers may recognise different unions for separate bargaining units, or negotiate jointly with several unions representing the same unit. The documents should specify which union represents whom, how a joint union side reaches a position, and whether agreement with one union is sufficient to conclude a deal. Overlapping or inconsistent terms can create disputes about workforce coverage, pay relativities and authority. Keep a master agreement register rather than relying on historic meeting minutes to establish scope.

TULRCA 1992, section 178; collective bargaining and recognition agreements.

03 / THE LEGAL EFFECT OF WHAT IS AGREED

Three different forms of enforceability

07 Are collective agreements legally enforceable between the employer and union?

Usually not. Section 179 creates a presumption that a collective agreement is not intended to be a legally enforceable contract between the parties. That presumption is displaced where the agreement is in writing and expressly states that it is intended to be legally enforceable; the parties can also make only part enforceable. This general rule is distinct from the special legal status of a bargaining **method imposed by the CAC** under Schedule A1. Do not assume that a signature alone makes the whole agreement legally binding.

TULRCA 1992, section 179; Schedule A1, paragraphs 31 and 63.

08 Can employees enforce terms arising from a collective agreement?

Yes, where the relevant terms have become part of their individual contracts. Incorporation may occur through express wording, implied terms or other recognised contractual mechanisms, depending on the facts. A pay rate or entitlement suitable for individual contractual enforcement may be enforceable even where the employer and union cannot sue each other on the collective agreement itself. Employers should examine the contract, agreement, staff communications and established practice before changing or withdrawing a collectively negotiated benefit.

Contractual incorporation principles; TULRCA 1992, section 179.

09 Is every clause in a collective agreement automatically contractual?

No. Clauses about joint meetings, dispute escalation or representation machinery are typically procedural; clauses setting individual pay, allowances or holiday entitlements may be capable of incorporation. The classification depends on wording, context and the parties' intentions, rather than the heading under which the clause appears. A contract that refers to a collective agreement does not necessarily incorporate every provision. Employers should distinguish **procedural commitments** from **personal employment entitlements** when drafting or reviewing the agreement.

TULRCA 1992, section 179; established contractual incorporation principles.

04 / NEGOTIATING WITHOUT LOSING CONTROL

Authority, evidence and decision-making

10 What should a well-drafted collective agreement contain?

At a minimum, identify the parties, covered workforce, recognition and bargaining scope, negotiating forum, meeting and information-sharing arrangements, representatives' authority, escalation process, how outcomes are recorded, and the arrangements for review, variation and termination. State whether any provisions are intended to be legally enforceable. Distinguish information, consultation and negotiation. For employers operating across multiple sites, specify how shift patterns, remote working, deadlines and exceptional decisions will be managed. The document should operate as a usable governance instrument, not a declaration of intent.

TULRCA 1992, sections 178-179; recognised bargaining practice.

11 Who has authority to negotiate and commit the employer?

The agreement should identify who leads negotiations, what decisions the employer side may make, and which proposals need additional approval. A manager's willingness to discuss a figure is not necessarily authority to conclude a pay agreement. Adopt written internal negotiating parameters, escalation rules and a clear ratification process, and confirm the union side's decision-making arrangements as well. Otherwise an apparently agreed position can later become a dispute over whether it was a recommendation, provisional settlement or binding implementation decision.

Good Work Lab employer governance practice; collective bargaining procedure.

12 What if the employer wants to make offers directly to employees?

Proceed carefully. **Section 145B** prohibits direct offers where acceptance would have the prohibited result of employment terms not being determined by collective agreement and the employer's sole or main purpose is to secure that result. The Supreme Court in *Kostal UK Ltd v Dunkley* emphasised the significance of whether the agreed collective bargaining procedure had been exhausted. An impasse is not automatically the end of the procedure. Document the negotiating stages and obtain specific advice before a direct offer or unilateral pay implementation.

TULRCA 1992, section 145B; Kostal UK Ltd v Dunkley [2021] UKSC 47.

05 / OPERATING THE AGREEMENT

From pay settlements to disputes

13 How should a negotiated pay award be recorded?

Record the exact amount or percentage, effective date, eligibility rules, grade or role coverage, treatment of allowances, back pay, part-year joiners and implementation timetable. State whether the deal settles a particular pay round and whether any issues remain open. Obtain approval from authorised representatives, circulate an agreed written record, and align payroll and contractual communications with it. A bare note saying “3% agreed” can conceal substantial differences over who qualifies and when the increase takes effect.

Collective bargaining practice; contractual incorporation principles.

14 Must employers disclose information to recognised unions?

Where the statutory conditions apply, **sections 181 and 182** of TULRCA 1992 require disclosure of certain information needed for collective bargaining and consistent with good Industrial Relations practice, subject to statutory exceptions and limits. This is not an unrestricted entitlement to all internal documents. Establish the bargaining purpose, what information is held, whether disclosure is appropriate and whether confidentiality or other limits apply. Provide a reasoned response rather than ignoring requests or promising data that cannot lawfully be shared.

TULRCA 1992, sections 181-182; relevant Acas disclosure guidance.

15 What happens if collective negotiations reach an impasse?

Apply the agreed **failure-to-agree** procedure, including any senior-level escalation, further meetings or agreed conciliation. Document proposals, reasons and the point at which the procedure is considered exhausted. Where statutory recognition has resulted in a CAC-imposed bargaining method, that method can have a particular enforceable status; it is not simply a voluntary timetable that either party may disregard. Neither party is automatically required to accept the other’s preferred settlement, but procedural obligations and the risks of direct offers remain important.

TULRCA 1992, Schedule A1, paragraphs 31 and 63; section 145B.

06 / CHANGING OR ENDING AGREEMENTS

Keep the collective and contractual layers separate

16 Can the employer change a collective agreement unilaterally?

It depends on the particular instrument and its legal status. Most voluntary agreements provide for **variation by agreement** and a review process. A legally binding clause or a CAC-specified bargaining method may impose additional obligations. Even where the collective document is not enforceable between the parties, changing a term that has become part of individual contracts may require lawful contractual variation. Check the agreement, individual contracts, bargaining procedure and any statutory consultation obligations before announcing a change.

TULRCA 1992, sections 179 and 145B; Schedule A1; contract law.

17 Does terminating an agreement or derecognising a union remove existing employee rights?

No, not automatically. Termination or derecognition can affect future bargaining arrangements, but collectively agreed terms already incorporated into individual contracts may continue to bind the employer. The route for ending recognition also depends on whether it arose voluntarily or through the statutory process, and on any relevant terms or statutory restrictions. A strategic withdrawal from union relations is therefore not a shortcut to removing pay, holiday or other contractual entitlements. Assess the procedural and individual-contract consequences separately.

TULRCA 1992, sections 178-179 and Schedule A1; contractual incorporation.

18 What happens to collective agreements on a TUPE transfer or major restructuring?

TUPE can carry across rights connected with collective agreements existing at the transfer date, and union recognition may transfer where the transferred undertaking retains a distinct identity. There are specific rules on later collective changes and on variation of certain collectively derived terms. Do not assume that a change of employer, outsourcing or merger erases existing negotiated conditions, or that every future award negotiated by the old employer automatically applies to the new one. Map recognition, bargaining instruments and incorporated employee terms before decisions are finalised.

TUPE Regulations 2006, regulations 4, 4A, 5 and 6.

QUICK REFERENCE / LEGAL EFFECT

What can be enforced - and by whom?

Do not treat the words “collective agreement” as a single legal status. Different obligations can arise from the same negotiating relationship.

Collective agreement between union and employer	Usually presumed non-enforceable unless section 179 conditions are satisfied.	Review the written intention clause and whether any part has expressly been made binding.
Term incorporated into an employee contract	May be enforced by the individual employee as a contractual right.	Identify the precise term, incorporation route and affected employees before varying it.
CAC-specified bargaining method	Can have statutory contract-like force, enforceable by specific performance.	Follow the specified negotiation machinery unless validly replaced or varied.

ILLUSTRATIVE EMPLOYER SCENARIO

A 3% pay settlement - but who gets it?

An employer and a recognised union conclude a pay negotiation by recording: “3% increase agreed from 1 July.” Before implementation, payroll asks whether new starters, agency workers, workers on family leave and employees outside the bargaining unit are included. The union considers the agreement settled; the employer says that some eligibility questions remain.

THE GOVERNANCE LESSON

Settle the effective date, eligible population, treatment of allowances and exceptions **before** announcing the award. Confirm whether the negotiating record creates terms intended for individual contractual implementation and whether any procedural approvals are outstanding. A short agreement is not necessarily a clear one.

Illustrative scenario only; not a reported case or a Good Work Lab client outcome.

GOOD WORK LAB / EMPLOYER ACTION CHECKLIST

Control the life cycle of the agreement

Use **Compliance, Control and Collaboration** as the governing disciplines: know which rules apply, establish authority, and maintain credible relationships.

- **Inventory agreements.** List every recognition, procedural, pay and local agreement, including side letters and implementation notes.
- **Map coverage.** Identify the employing entity, union, bargaining unit, locations, workforce categories and non-member coverage.
- **Classify legal effect.** Assess section 179 wording, incorporated contractual rights and any CAC-imposed bargaining machinery.
- **Secure negotiating authority.** Identify who may propose, approve, sign and implement commitments on behalf of the employer.
- **Define process.** Record meeting cadence, exchange of information, escalation, conciliation, impasse and review routes.
- **Protect the bargain.** Do not assume direct offers or unilateral implementation are safe while agreed collective bargaining remains live.
- **Manage implementation.** Verify award dates, pay populations, payroll rules and communication to affected workers.
- **Control change.** Examine termination clauses, contractual incorporation and TUPE consequences before withdrawing or rewriting terms.

GOOD WORK LAB / COLLECTIVE BARGAINING ADVISORY

We support employers with collective agreement reviews, negotiations, bargaining procedures, trade union relationships, dispute resolution and organisational change. Our focus is lawful, workable agreements with clear governance and negotiating authority. **Discuss Your Industrial Relations Challenge** at goodworklab.co.uk.

PRIMARY LEGAL FRAMEWORK

Trade Union and Labour Relations (Consolidation) Act 1992: sections 145B, 178, 179, 181 and 182; Schedule A1 (including the statutory bargaining method).

Transfer of Undertakings (Protection of Employment) Regulations 2006: regulations 4, 4A, 5 and 6. **Method of collective bargaining:** Trade Union Recognition (Method of Collective Bargaining) Order 2000.

Editorial basis: Good Work Lab's working legal library, including materials on voluntary trade union recognition, collective bargaining practice, statutory bargaining arrangements, and TUPE. This is an original synthesis; it does not reproduce proprietary practice notes.

Important: General information for employers, not advice on a particular agreement or dispute. Legal effects depend on the wording, contractual documents, relevant history and legislation in force at the time. Obtain case-specific advice before changing or ending collective arrangements.