

Workplaces FOR Women

Work that works for everyone.

Bargaining for equality

UNION RESOURCES



Australian Government



Acknowledgment of Country

We acknowledge the Wurundjeri people of the mighty Kulin nation; the traditional owners of the land on which VTHC stands. We pay our respects to their elders past and present. This land was stolen and never ceded. This always was and always will be Aboriginal land.

Diversity and Inclusion

Our diversity is our strength.

We include and welcome all women and non-binary folks who share our experience of being harmed by the patriarchy, regardless of age, size, colour, race, sexuality, identity, ability, religion and culture.

Solidarity Statement

We are union. We stand united as part of a great movement of workers.

Our diversity is our strength. Our solidarity is our power. We respect and take care of each other.

Prejudice and discrimination - including misogyny, racism, homophobia, and all other hatreds have no place in our movement.

We rise together. Today and every day we commit ourselves to achieving justice, fairness, equality, and dignity for all workers.

Solidarity forever.

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This project received grant funding from the Australian Government.

Australian workplaces can be equal. Victorian Trades Hall Council is empowering working women to change workplaces from within.

About the Workplaces for Women Project

Victorian Trades Hall Council (VTHC) is committed to advancing workplace gender equality. VTHC amplifies women's voices by informing, educating and empowering them to take targeted action to combat gender inequality.

Workplaces for Women leverages recent legislative change to support the creation of workplaces that are safe, respectful, equal and inclusive for all workers.

Workplaces for Women is supporting working women, unions, delegates and workplace leaders to advance gender equality in historically male-dominated industries and occupations. To do this, the WFW Project has:

- Surveyed over 600 workers
- Published a series of five in-depth gender equality reports drawn from the experiences of workers in male dominated industries
- Developed Equality Resources and factsheets to help workers better understand and enforce their rights at work
- Developed Equal Workplace Advocates training for women in male dominated industries

This resource shares model language, resources and bargaining strategies for unions to use in negotiations to tackle gender inequality and gendered harm through collective power. It is informed by workers' voices, underpinning legislation and best practice.

While this guide predominantly uses terms like 'women' and 'men', it does not exclude the experiences of workers with diverse gender identities. Nor does it reduce individual experiences to a simple women-men binary without considering personal attributes.

By addressing barriers to gender equality, we believe that we can create workplaces that are accessible, fair and safe for everyone.

This is a new resource and we welcome your feedback.

Contact the Victorian Trades Hall Council Women's Team at women@vthc.org.au

Training, gender equality reports and factsheets are available from:



weareunion.org.au/w4w_resources

Why are we bargaining for change

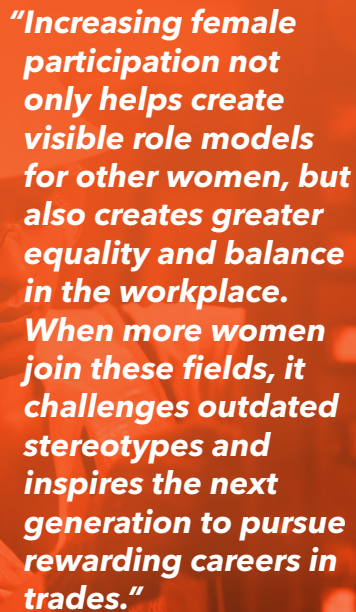
Women and gender diverse workers experience systemic and persistent workplace inequality. Australia has one of the most gender-segregated workforces in the world and women deserve access to good, well paid, secure work in every industry.

Women in male dominated industries experience sexual harassment, discrimination and gendered violence, pay inequity, barriers to career progression, underrepresentation in leadership and decision-making positions, and stigma trying to access carer's leave and flexible work entitlements.

We know that many of these concerns, including violence and harassment are underreported. This is because of: fear of retaliation, job insecurity, lack of trust in management, isolation, powerlessness, not knowing how or who to report issues to, a belief that nothing will change or a culture where speaking up isn't encouraged.

Male workers are also harmed by gendered norms which limit their ability to access entitlements like paid parental leave and harmful attitudes that make workplaces unsafe.

Workers in union make workplaces safer, fairer, more consultative and more equitable. Collective bargaining provides the opportunity to achieve sustained and targeted improvements across workplaces and industries. We can reshape workplaces and make them equal and inclusive for all workers.



“Increasing female participation not only helps create visible role models for other women, but also creates greater equality and balance in the workplace. When more women join these fields, it challenges outdated stereotypes and inspires the next generation to pursue rewarding careers in trades.”

- Apprentice Electrician

Combating inequality with collective action.

How to use this resource

Inequality is not a problem of individual behaviours; it is built into our systems of work and underpinned by rigid gender norms.

With strong union campaigning, we have recently seen important legislative changes designed to improve gender equality. These include laws aimed to reduce sexual harassment and discrimination, pay inequality and improve flexibility. Many new rights, like family and domestic violence leave started at the workplace level through enterprise bargaining.

Workplaces that are historically male dominated know that when we embed new rights into workplace culture workers in union are better able to understand and enforce them. Including new rights in enterprise agreements, including workplace flexibilities, leave, safety and consultation, is how we make these new rights real, accessible and tailored to the workplace.

This bargaining guide has been prepared for unions, women's and equal workplace advocates, delegates and includes:

- Bargaining for Equality - Log of Claims
- Online access to customisable model clauses and language, bargaining arguments and resources to support negotiations.

No model language is perfect; this resource is intended as a guide which can be adapted, customised and tailored to the needs of members, workplaces and your industry.

Eliminating inequality is good for everyone. Diversity is our strength. When workplaces are fairer, safer and more flexible for women, they are better for all workers.

"It used to be a boys' club and women were always overlooked for promotion. Now due to the diligence of the union and a points system when it comes to promotion we can no longer be overlooked."

- Maritime Worker

Bargaining for Equality

Terms to Know

ACCESS PERIOD

Is the period of time that allows workers to review the proposed enterprise agreement before they cast their vote. The access period must be at least 7 days.

APPROVAL AND VOTING

An enterprise agreement is made when the majority of workers who cast a vote approve the agreement.

BOOT (BETTER OFF OVERALL TEST)

Before an enterprise agreement can be approved by the Fair Work Commission, it must be assessed and meet the Better Offer Overall Test. This ensures that workers are better off employed under the agreement than the relevant modern award. The assessment also ensures that there are no errors in terms and conditions.

ENTERPRISE AGREEMENT

Enterprise agreements are negotiated by workers in union and their employer and set terms and conditions of employment at the workplace. These often include terms and conditions of employment (like hours of work, rostering, wages, leave, consultation and much more). Enterprise agreements must leave workers 'better off overall' when compared with the relevant modern award. Enterprise agreements are legally binding.

ENTERPRISE BARGAINING

The process of the union and employer negotiating and creating a new enterprise agreement is called Enterprise Bargaining. There are rules about the process including when bargaining starts, what can and cannot be negotiated, taking industrial action, and how an agreement can be voted on and approved. These rules are included in the Fair Work Act 2009.

LOG OF CLAIMS

A log of claims is the list of key issues that union members want addressed during bargaining. The log of claims is developed in consultation with union members and delegates and includes the changes workers want made to terms and conditions of employment in the enterprise agreement.

MODERN AWARD

A modern award is a document that sets out the minimum terms and conditions of employment provided on top of the National Employment Standards (NES). Where the NES applies to everyone, a modern award is tailored to an industry or occupation, and includes minimum entitlements like pay, allowances, classifications, hours of work and penalty rates for that industry.

NATIONAL EMPLOYMENT STANDARDS (NES)

The National Employment Standards (NES) are 12 minimum entitlements for workers in Australia. An enterprise agreement or modern award cannot provide conditions that are less beneficial than the NES. The NES is in the Fair Work Act 2009.

NOTICE OF EMPLOYEE REPRESENTATIONAL RIGHTS (NERR)

Informs workers of their representational rights. The NERR informs workers of their rights during the bargaining process, including their right to have the union represent them in bargaining. Your employer must provide workers with the NERR, in accordance with the Fair Work Act.

LEGISLATION INFORMING THIS GUIDE:

- *Fair Work Act 2009*
- *Workplace Gender Equality Act 2012*
- *Sex Discrimination Act 1984*
- *Equal Opportunity Act 2010*
- *Occupational Health and Safety Act 2004*

Gender Equality

Terms to Know

EQUAL PAY

This is where two employees are paid the same for performing the same work or different work of equal and/or comparable value. This is different to the gender pay gap.

GENDER EQUITY

The provision of fairness and justice in the distribution of benefits and responsibilities on the basis of gender. The concept recognises that people may have different needs and power related to their gender and that these differences should be identified and addressed in a manner that rectifies gendered imbalances.

GENDER EQUALITY INDICATORS

To improve transparency and equality, the Workplace Gender Equality Act 2012 requires employers with 100 or more workers to report annually against six Gender Equality Indicators. They represent the key areas where workplace gender inequality persists.

GENDER IDENTITY

Describes how a person thinks about themselves; it is psychological and not physical because unlike biological sex, it cannot be seen or measured.

GENDER PAY GAP

This is the difference between the average earnings of men and women. It can be measured as either a percentage or in dollars. It is different to equal pay.

GENDER NORMS & STRUCTURES

Ideas about how people should be and act according to the gender they are assigned or identify with. We internalise and learn these 'rules' early in life. This sets up a life-cycle of gender socialisation and stereotyping.

GENDER STEREOTYPES

Gender stereotypes teach us about 'rules' about how boys, girls, women and men 'should' behave. Examples are teaching girls and women that they are soft and nurturing and teaching boys and men that they are strong and competitive.

Bargaining for equality

LOG OF CLAIMS

GENDERED VIOLENCE

Gendered violence is physical, sexual, psychological or economic harm directed at a person because of their gender, gender identity, sexual orientation or because they do not adhere to dominant gender stereotypes or socially prescribed gender roles.

INTERSECTIONALITY

The recognition and study of overlapping or intersecting social identities and related systems of oppression, domination, or discrimination.

The Bargaining for Equality log of claims groups claims into the following themes:

- Flexibility
- Respect at Work
- Safety at Work
- Fairness and Equality
- Secure Work




Log of Claims

How to use

Workers know the issues impacting them in their workplace and are best placed to craft tailored solutions in union. The Bargaining for Equality - Log of Claims is a customisable guide. Unions and members can use the Log of Claims to:

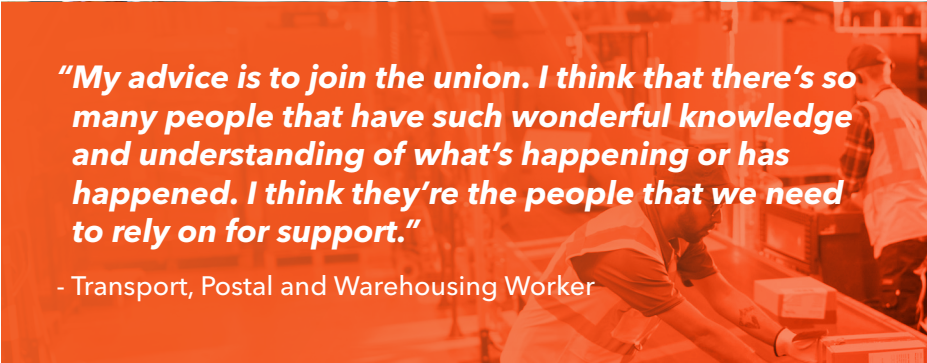
- Start a conversation with or among members
- Review existing enterprise agreement provisions
- Generate equality proposals using the list as a guide
- Add claims to the unions existing priorities
- Adapt and tailor the claims to the needs of members and the workplace.

Workplaces for Women developed the Bargaining for Equality: Log of Claims by listening to workers' experiences ([see the WFW Research Reports](#)), reviewing existing enterprise agreements in both male and female dominated industries, adopting new legislation intended to improve workplace gender equality and considering international best practice.



“The [union] focus specifically on women’s issues as well; I feel like I’ll always have someone in my corner in this job. I don’t feel alone.”

- Transport Worker



“My advice is to join the union. I think that there’s so many people that have such wonderful knowledge and understanding of what’s happening or has happened. I think they’re the people that we need to rely on for support.”

- Transport, Postal and Warehousing Worker

Why are these claims needed?

Inclusive representation when developing union claim


Every union has a different process to develop, endorse and finalise their log of claims. In historically male dominated workplaces, there are issues that disproportionately impact women.

In developing log of claims, it's important to consider how current processes may inadvertently impact upon or overlook diverse perspectives. This can occur in different ways:

- **Gendered norms:**
Issues impacting women (such as career progression or safety concerns) can be unintentionally minimised or normalised.
- **Limited consensus:**
Union discussions can prioritise broad agreement; this can unintentionally exclude issues that do not impact most members directly (like access to gender appropriate PPE and toilets).
- **Majority framing:**
Minority concerns can be seen as niche or secondary issues. Issues raised by the majority are more likely to be seen as core and therefore prioritised.
- **Lack of repetition:**
When similar views are expressed by multiple people, they carry more weight.

Inclusive representation strengthens our unions and bargaining position.

We demonstrate that we genuinely speak on behalf of all members, the workforce and we embrace our core values of solidarity and collective representation.



"I like to speak up about issues but feel like because we only have four women [in] our workplace, our wants aren't included."

- Construction Worker

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Log of claims

FLEXIBILITY

Claim 1: Flexible Working Arrangements

- i. Insert a comprehensive flexible working arrangement clause into the Agreement, detailing workers' NES rights
- ii. Remove any service requirement to access flexible working arrangements

Claim 2: Personal Leave

- i. Increase the amount of paid sick and carer's leave
- ii. Improve (or remove) requirement to provide evidence to access sick and carer's leave

Claim 3: Other Paid Leave

- i. Increase the amount of paid annual leave provided
- ii. Provide access to purchased leave
- iii. Provide access to accrued days off (ADOs)

Claim 4: Transition to Retirement

Insert a transition to retirement clause which protects accrued leave in the Agreement

RESPECT AND DIGNITY AT WORK

Claim 5: Gender inclusive Personal Protective Equipment and Uniforms

- i. Provide PPE and uniforms that are gender inclusive, including being specifically designed for and safe for women
- ii. Consult workers on PPE/uniform inclusivity needs

Claim 6: Right to Disconnect

Insert a right to disconnect clause in the Agreement

Claim 7: Reproductive Health

- i. Provide 12 days paid Reproductive Health Leave
- ii. Include reproductive health and wellbeing as a reason to access flexible work
- iii. Clarify that if reproductive health leave is exhausted, personal leave can be used

Claim 8: Gender Neutral Language

- i. Update the language used in the Enterprise Agreement to be gender neutral
- ii. Update all clauses and entitlements in the Enterprise Agreement to be gender neutral

SAFETY AT WORK

Claim 9: Women's Advocates

- i. Appoint Women's Advocates with the same rights as workplace delegates
- ii. Provide rights to delegate training

Claim 10: Implement the Positive Duty

- i. Insert a comprehensive positive duty clause
- ii. Include a commitment to Equal Employment Opportunity (EEO)
- iii. Include a commitment to eradicate the gender pay gap, gender inequality and discrimination across the workplace
- iv. Include a commitment to consult workers about gender inequality
- v. Provide workforce data to support gender equity activities

Claim 11: Workplace Implementation and Compliance Committee

Establish a Workplace Implementation and Compliance Committee (WICC) with

representation from Union (including women) and the Employer. Include in the terms of reference, that the parties will consult about:

- i. On-going monitoring and assessment of Agreement implementation
- ii. Deal with any local disputes that may arise
- iii. Proactive steps to be taken to prevent and eliminate gender-based violence and sexual harassment, discrimination and victimisation under OHS Act, Fair Work Act, Equal Opportunity Act and Sex Discrimination Act
- iv. Gender equity activities, including understanding the gender pay gap and putting an action plan in place to address the Workplace Gender Equality Act gender equality indicators

Claim 12: Eliminate gender-based violence

- i. Insert a comprehensive gender-based violence clause in the Agreement
- ii. Commit to taking proactive steps to prevent gender-based violence and sexual harassment
- iii. Require that all new workers receive at induction training about gender-based violence and sexual harassment
- iv. Provide that non-disclosure agreements will not be used to resolve workplace sexual harassment matters unless requested by a victim-survivor

Claim 13: Family and Domestic Violence

- i. Include a comprehensive family and domestic violence clause in the Agreement
- ii. Increase paid leave from 10 to 20 days
- iii. Improve (or remove) evidence requirements
- iv. Extend access to paid leave to those

supporting people experiencing family and domestic violence

- v. Appoint and train Contact Officers

Claim 14: Amenities

- i. Consult and review access to facilities and gender inclusive amenities
- ii. As a priority, provide access to gender appropriate toilets, washing facilities, sanitary bins, changeroom and any other facilities needed to perform work

FAIRNESS AND EQUALITY

Claim 15: Paid Parental leave

- i. Insert a comprehensive parental leave clause detailing workers' rights
- ii. Provide equal access to paid parental leave for both parents, which either parent can access within 18 months of birth
- iii. Increase amount of employer paid parental leave
- iv. Pay shift loadings, penalties and allowances on parental leave
- v. Remove any service requirement to access parental leave entitlements

Claim 16: Superannuation

- i. Pay superannuation on both paid and unpaid parental leave
- ii. Deposit superannuation on the same day pay is deposited
- iii. Pay super on all earnings (including overtime, oncall and recall, loadings, Workcover and accident pay)

Claim 17: Pre-natal leave

Provide 38 hours paid pre-natal leave to both parents

Claim 18: Lactation Supports

- i. Include reasonable paid time for lactation breaks during work hours to

- breastfeed or express milk
- ii. Provide access to comfortable, private and safe facilities to express milk. Provide suitable storage facilities for expressed milk

Claim 19: Pregnancy loss

- i. Paid compassionate leave for pregnancy loss included in the Agreement
- ii. Increase the amount of paid compassionate leave provided
- iii. Provide paid parental leave if a pregnancy ends after 20 weeks

Claim 20: Keeping in touch days

Entitlement to keeping in touch days included in the Agreement

Claim 21: Training incentive

Pay a training incentive for workers who maintain their [accreditation/licence/registration] when they return from parental leave

Claim 22: Gender affirmation

Provide access to paid gender affirmation leave and support provisions

SECURE WORK

Claim 23: Part-time employment

- i. Insert a comprehensive clause for part-time workers which does not limit use
- ii. When a part-time worker is employed, they need to agree in writing on a regular pattern of work, including:
 - a. The number of hours they will work each week
 - b. The days of the week they will work
 - c. The start and finish time they will work each day
 - d. Any change must be agreed in writing

Claim 24: Casual employment

- i. Limit the use of casual employment
- ii. Include a right to convert to ongoing part-time and full-time employment

Claim 25: Fixed-term employment

- i. Limit the use of fixed-term employment
- ii. Include a right to convert to ongoing employment
- iii. Convert automatically in the event an employee continues working past the expiry of their contract

Claim 26: Fair career progression

Implement a fair, transparent and merit-based progression framework that enables equitable access to advancement for all workers:

- i. Progression pathway clearly defined
- ii. Equal access to acting up opportunities, training, mentoring and higher duty roles
- iii. Collect data, consult and tailor action plans to respond to gender inequality

Claim 27: Equitable classification structure

- i. Provide mechanisms for workers to challenge classifications without disadvantage
- ii. Systemic review of the classification structure to identify and address gender-based inequities, including barriers to entry, gender pay gap, and job insecurity.

Negotiate stronger, fairer workplaces

MODEL CLAUSES & BARGAINING RESOURCES



Ready to negotiate for equality?

Customisable model clauses, bargaining arguments and resources to support your workplaces negotiations.



Contact: Victorian Trades Hall Council
Women's Team women@vthc.org.au
weareunion.org.au/w4w

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