

Strategies to
inspire, organise
and represent
workers.

The Negotiator's Guide

LRS Labour
Research
Service



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An introduction to negotiations

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The bargaining process



1 PREPARATION

Research and information

Mandating

General meeting

Communication

Elect the negotiating team

Timing

Pre-bargaining meeting

The agenda

The timeframe

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Communicate

Negotiating an agreement

Three golden rules of negotiation:



Never negotiate alone



Maintain unity while negotiating



Never make a deal without the agreement of members



Collective bargaining is the process of a negotiation between employers and workers, aimed at reaching agreement on issues that affect them in the workplace

Collective bargaining is the process of a negotiation between employers and workers, aimed at reaching agreement on issues that affect them in the workplace. This happens in both the formal and informal economy. Trade unions or workers' organisations represent the interest of workers in the collective bargaining process.

Workers join these organisations so that the organisations can raise the workers' issues and protect them from exploitation. Without a strong collective bargaining function, organisations won't be able to meet their goals of representing workers.

The process of negotiations forms the central part of collective bargaining. A union enters negotiations with an employer in the hope of winning a collective

agreement that favours its members. The two parties negotiate until they find a compromise that they both agree on. Behind the talking, there is a power struggle. The workers put whatever pressure they can on management to agree to their demands, and management uses its tactics to try and get the workers to agree to their offer. Sometimes there is an agreement, sometimes there is not. When no agreement is reached, it is called a dispute and the parties involved can then call on a third party to mediate or arbitrate.

Bargaining levels

1) Plant or company level bargaining

Collective bargaining may take place at the plant level, involving one or more workplaces that are part of a larger enterprise.

Bargaining may also take place at company level and may cover more than one workplace. Either way, bargaining can involve one or more trade unions or worker organisations, but only one employer.

2) Centralised sector-level bargaining (bargaining councils)

Section 27 of the Labour Relations Act No 66 of 1995 states that one or more trade union and one or more registered employers' organisation may form a bargaining council in a sector. Some bargaining councils are national, while others are regional.



Often, many of the conditions that exist for bargaining in the more formal workplace do not yet exist in more informal settings.

The purpose of the bargaining council is to regulate (control) wages and conditions of employment in a sector. Agreements reached in these negotiations are called settlements and can be extended by the Minister of Labour to non-parties (workers and employers not registered with the council).

3) Administered wages and conditions at sector level (Sectoral determinations)

This level regulates wages and conditions of employment for vulnerable workers in sectors where they are likely to be exploited or where workers' organisations or trade unions are absent.¹ These sectors include farm workers, domestic workers, the wholesale and retail trade, the hospitality sector, and the taxi industry. A commission established in law conducts research and convenes public hearings in order to collect proposals from workers and employers. This commission then makes recommendations to the Minister of Labour. Once the Minister approves the recommendations, a sectoral determination containing wage rates and conditions of employment is published and applies to all employers and all workers in the sector. Since 2019, this function falls under the National Minimum Wage Act.

4) Informal economy forums

In this instance, the sector itself is informalised (for example street traders and waste reclaimers) or the

1. Haroon Bhorat, Ravi Kanbur, Natasha Mayet, and University Of Cape Town. School Of Economics. Development Policy Research Unit. 2011. Minimum Wage Violation in South Africa. Cape Town: Development Policy Research Unit, University Of Cape Town.

What can we do?

- The agreement should be very tightly worded and signed by the highest authority, plus those responsible for its implementation.
- Ensure that the agreement binds future political parties, policymakers and bureaucrats.
- Insist that the agreement is made known widely throughout the public authority. Ask for proof that this has been done.
- Work towards formalising the negotiating forum so that it is recognised and respected.
- Carry out your side of the bargain! Don't give the other side a chance to say that you have broken the agreement!

employment relationship is informalised (for example, community health workers).

Often, many of the conditions that exist for bargaining in the more formal workplace do not yet exist in more informal settings. The direct employment relationship does not always exist and the bargaining partner is yet to be established. There is no recognition of the worker representatives by employers or those who regulate their workplace. The bargaining unit is not defined. Bargaining levels may range from very localised levels to bargaining with municipalities and with national government.

Usually, your negotiating counterpart is responsible for implementing the agreement. Still, members and the organisation may have responsibilities too – sometimes agreements are not implemented, or only partially so. Other times agreements are manipulated or deliberately misinterpreted.

In the informal economy many of the agreements are with government and public authorities. This creates an unstable situation as they are often disregarded or changed when new parties, people and policies come in.



The four phases of collective bargaining

No matter in which sector you work, or in which part of the economy, there will be some aspects of the four stages of bargaining that can be translated into your experience. Every negotiation, whether in the informal or formal sector, in a small organisation or a multinational corporation, will go through these stages to a greater or lesser degree.

The four phases of collective bargaining

1 PREPARATION

2 NEGOTIATION

3 AGREEMENT

4 IMPLEMENTATION

1 PREPARATION

Preparing for bargaining is key to success, and a vital part of the collective bargaining process. The difference between being reactive and proactive is preparation. The advantage of preparation is that you can manage the problems and challenges that arise better. You will already have the information you need at hand and have thought through various solutions as a team. This is a substantial phase of the collective bargaining process – be warned: it takes a lot of time and energy.

Checklist

Preparing for bargaining:

- ✓ Put together the bargaining team
- ✓ **Gather information and conduct research**
- ✓ Convene a general meeting – the process of collecting demands
- ✓ **Prepare members, allies and the public**
- ✓ Determine your positions
- ✓ **Establish priorities**
- ✓ Clarify mandate
- ✓ **Agree to timing**
- ✓ Hold a pre-bargaining meeting
- ✓ **Set the agenda**
- ✓ Agree to timeframes
- ✓ **Choose a venue**
- ✓ Agree to rules

1. Put together the bargaining team

A bargaining team is elected at the outset of the bargaining process and roles can be assigned to each member of the negotiating team. There are a number of possible roles, including:



The spokesperson (lead the negotiations)



The scribe (minute taker)



The observer (scan the environment)



The interrupter (disturber)



Don't accept 'No' from a bargaining partner that does not have the authority to say 'Yes'.

The spokesperson will lead the negotiations. They will do the opening and the closing of the negotiations. Strong leadership is important in this role for ensuring compliance and productivity. It is also very important that the spokesperson on each side has the backing of their constituents, and is a representative of the group. This means that an elected leader in a union that is representative of a certain type of worker holds a stronger position in negotiations than someone who does not have this kind of backing.

The scribe will take the minutes for the team.

The observer will read the body language of management, analyse the atmosphere at the bargaining table and call for a caucus when need be.

The interrupter will be the person that steps in to confuse management by saying things that are not relevant to the negotiations. Develop signals to be used by your team when communicating to each other in front of management.

Another member of the union negotiation team can be elected to take accurate notes and keep a record of all decisions and agreements made in the negotiation. You may need this if management later tries to deny that a certain agreement was made.

The union should also plan who will present the argument and motivation for which demand. It is best for as many shop stewards as possible to get direct experience with negotiating. However, the organiser should always be there to give support to the arguments put forward by the shop stewards. Make sure the bargaining team is representative of the workers, especially taking gender representation into account.

2. Gather information and conduct research

It is important that organisations have a clear vision and objective for collective bargaining.

Preparation is a key to successful negotiations and as a negotiator you are required to gather information that will help you understand the members you represent and assist you in representing your collective interests.

Information gathering: what information can I get myself?

This process of gathering information starts with understanding ourselves. Much of what we do in the workplace and in our organisations or groups is informed by the power we hold – and key to this power is our gender identity and roles. Think about the following.

- What linkages can we see between our gender, our position and what we do?
- Is it something you are involved in in any way? How are you involved?
- Is bargaining something that happens over there, something that is done by other people? Who are those people?
- Is what gets onto the bargaining agenda shaped in any way by gender and power relations in the workplace and in the union?
- Is what stays on the bargaining table shaped in any way by gender and power relations in the workplace and in the union?

Information gathering:

What information do I need from others?

Organisations should put mechanisms in place to manage information (like collective agreements, membership, reports and other issues that relate to collective bargaining). This assists the organisations to assess their performance and be able to implement new strategies when facing challenges. It is the duty of the organisation to assess and develop the skills of the workers that could be trained as negotiators.

Research questions

- ✓ What facts and figures can help you motivate your demands?
- ✓ **What experiences can you quote that will support your case?**
- ✓ Are there laws, regulations, agreements or precedents that might assist?
- ✓ **What other factors in the environment might affect your case?**
- ✓ What are the likely reactions of your negotiating counterpart?
- ✓ **Where is your opponent weak and where are they strong?**
- ✓ Where are you weak and where are you strong?
- ✓ **Where are your opponent's decisions taken?**
- ✓ Who are your potential allies and supporters?



Before negotiations can begin it is necessary to put together the demands of all workers from the different departments into one set of common demands.

3. Convene a general meeting – process of collecting demands

When you have all the information, (information that you would like to test with the workers) the next step is to convene a general meeting to hear and collect demands from workers. The purpose of this general meeting is to assist in analysing and quantifying workers' demands using the information collected to build your case. The demands may then be forwarded to the company or management in writing together with the proposed date and time for the meeting.

Facilitate approaches that allow all workers to be heard

At plant level, each shop steward represents a different department or group of workers. Before negotiations can begin it is necessary to put together the demands of all workers from the different departments into one set of common demands.

At plant level, coordination can take place in shop steward committee meetings. Some demands should be coordinated with the advice of an organiser.

At company level, it is very important that the demands of all the different factories are taken into account. Often one factory is in a weaker position than others, and this problem should be corrected

in the company negotiations. At company level, coordination should take place through a company shop steward and council meeting, where all shop stewards from the different factories meet to discuss their problems and formulate their demands and plan their strategy.

At national bargaining council level, there are many differences among the different factories and workplaces represented. Some are small and some are big; some are weak and some are well organised; some are in major industrial areas and some are located in rural areas. These differences have to be considered when a final common set of demands is put together for negotiations. Coordination of national negotiations can be done through national meetings where shop stewards from different regions and companies put forward their region's proposals and develop a national set of demands.

4. Prepare members, allies and the public

Make sure members know when negotiations will take place and when and how they will get a report. Keep them interested and excited. Part of your strategy could include a supportive demonstration by members and/or regular negotiation bulletins.

Inform other workers' organisations and potential allies about the negotiations. Set up channels for technical support.

Highlight the issues within the community and, where appropriate, to the public at large.

5. Determine your positions

Contract zone

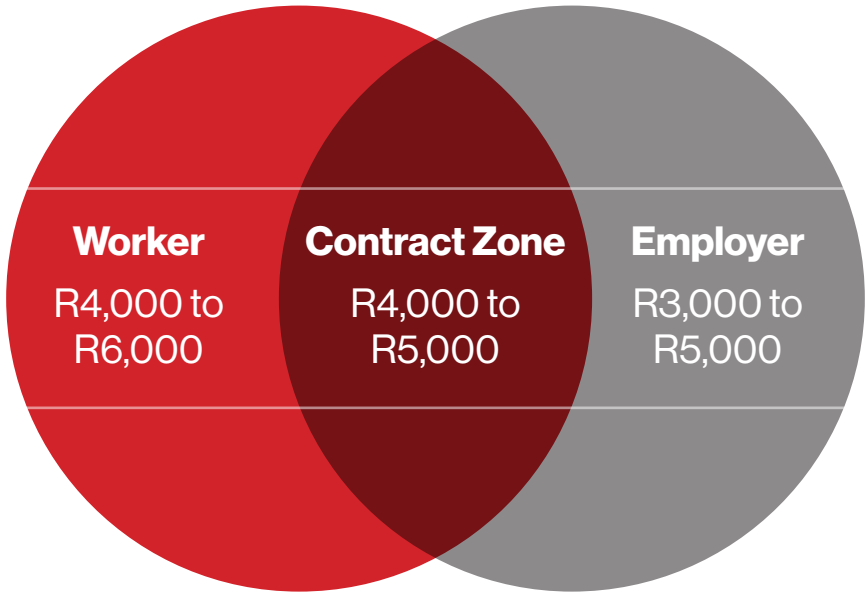
Before going into negotiations, the negotiating team must determine these parameters: what is the ideal settlement, what is a reasonably expected outcome (or reasonable settlement), and what is the least you will be happy with (fall-back position). This provides your team with a framework for negotiations. It is not for sharing with your bargaining partner.

The **fall-back position** is the least favourable outcome – beyond this outcome, some form of conflict would be preferred (e.g. a strike). This position represents the last resort of the parties involved. Johnson (1993:22)² refers to this as the 'worst acceptable deal'. Fall-back positions are made on instructions from constituents and also on principles of fairness.

One of the most important pre-conditions to successful negotiations is the existence of a **contract zone**. This means that some kind of middle ground, or common ground, exists where both parties are satisfied with the outcome. This is the space where the negotiating parties' interests overlap.³ If there were no difference in interests, there would be no point in bargaining:

2. Johnson, Ralph A. 1993. *Negotiation Basics : Concepts, Skills, and Exercises*. Newbury Park: Sage Publications, 22.

3. Atkinson, Gerald Gordon. 1977. *The effective negotiator: a practical guide to the strategies and tactics of conflict bargaining*. London: Quest, 43.



An example

If the employer wants to pay the workers **R5,000** per month, and the workers want **R5,000** per month, there is no point in bargaining.

However, if the workers will accept a range between **R4,000** (fall-back position) per month and **R6,000** (ideal settlement) per month, and the employer wants to pay between **R3,000** (ideal settlement) and **R5,000** (fall-back position) per month, there is an overlap. This overlap is what is called the 'contract zone'. So, in this example, we know the contract zone is between **R4,000** and **R5,000** per month. In order for negotiations to begin, both parties must believe that a solution exists.⁴

4. Zartman, I. William, and Maureen R. Berman. 1982. *The practical negotiator*. New Haven: Yale University Press, 45.

6. Establish your priorities

When shop stewards meet to discuss which demands to put forward for negotiation, they have to consider which demands are the most important and urgent and which demands are less important and urgent. Once the prioritised demands are agreed upon, the union can unite, mobilise, and campaign around them. When workers choose which demands to put forward and what they are going to fight for, they need to consider their organised strength. It would be no use putting forward a long list of strong demands around major issues if the union is very weak. On the other hand, if the union has a lot of active worker support and there is a militant mood, then it would be a waste for the union just to put forward small demands.

In addition to a set of common demands, workers from a particular company or workplace might have a certain problem that needs to be brought into negotiations, and these specific demands must then be added to the common demands.

7. Clarify your mandates

According to the tradition of democratic worker control that we have built into our trade unions, elected worker leaders and union officials must represent the interests of the worker members. Every union will have its own structures for making sure that whatever the representative takes into

a meeting with employers comes directly from workers, and that whatever is discussed in meetings with employers gets taken back to workers.

For negotiations, a shop steward represents a constituency of workers. What that constituency is depends on the level of negotiations. In preparation for negotiations, shop stewards will collect demands from workers. Once a single list of common demands has been drawn up in shop stewards' meetings, the shop stewards should take these back to workers to make sure that this set of common demands has their support. The union cannot expect to win demands that do not have the support of workers.

8. Agree to timing

The timing of negotiations is very important. While it is difficult to determine the 'perfect' timing, forcing issues too early may weaken the party's negotiating position. The best time to bring up issues is when parties are more equal: when neither party is able to solve the conflict on its own, and each party is necessary to create a solution.

An example of this is when an employer (e.g. a retailer) can't keep its doors open without workers, and that the workers won't have an income without the employer. This means that both parties need the other to come to a solution. Each party holds some of the cards, but no party has the upper hand.

5. Zartman, I. William, and Maureen R. Berman, *The practical negotiator*, 82.

6. Harris, Peter, and Ben Reilly, 1998. *Democracy and deep-rooted conflict: options for negotiators*. Stockholm, Sweden: *International IDEA*, 86 – 87.

7. Rubin, Jeffrey Z., and Bert R. Brown, 1975. *The social psychology of bargaining and negotiation*. New York: *Academic Press*, 121.

8. Harris, Peter, and Ben Reilly, *Democracy and deep-rooted conflict*, 89.

9. Rubin, Jeffrey Z., and Bert R. Brown, *The social psychology of bargaining and negotiation*, 82.

10. Rubin, Jeffrey Z., and Bert R. Brown, *The social psychology of bargaining and negotiation*, 83.

A good tactic here is to make sure the other party (the employer) understands that the situation will only get worse if negotiations don't move forward.⁵

9. Set up a pre-bargaining meeting

Before you begin negotiating you must decide on the topics that you want to explore with the other party at the negotiation table. For example, early settlement, opening offer issues to be negotiated, ground rules, venue, and size of the negotiating teams.

A pre-bargaining meeting is needed to decide on the above-mentioned information. Identifying potential difficulties before the negotiation begins can help boost your confidence, and knowing when to introduce or avoid these difficulties can provide a useful tactical advantage.

10. Set the agenda

Negotiators should be aware ahead of time what issues will be discussed during the negotiations so that they can prepare. Should an issue come up that was not on the agenda, the negotiations may be undermined. It is very important to determine the agenda ahead of time: list and define the issues which are important to both parties.⁶ List demands in order of priority, as it will help all parties to remain focused during the negotiations.

Timeframe options:



1. No time limits – remain in the negotiation stage until everything is resolved.



2. Pre-arrange a time limit.



3. Set a goal-based time frame.

Share the issues to be negotiated among the team members. This is very important as it allows you and your team to be on the same page, preventing a team member from diverting from the objective or goals.

11. Agree to timeframes

Time is very important in most bargaining exchanges.⁷ There are lots of arguments for and against imposing timeframes for negotiations, but the prevailing argument is that timelines and deadlines are necessary in order to ‘push’ bargainers to agreements and to create a sense of urgency. Giving an endless amount of time might lead to bargainers using ‘delaying tactics’.⁸

12. Choose a venue

The choice of venue for the negotiations has an effect on the psychological climate of the negotiations. If the negotiations are held on one party’s territory, that party has power over the physical arrangements, which in turn affects all the parties attending.⁹ This gives the host party an advantage, much like ‘home ground advantage’ in sport. Guests to the site may view themselves as inferior and this might affect their behaviour.¹⁰ A neutral site is often more appropriate.

13. Agree to the rules

11. Atkinson,
Gerald Gordon,
*The effective
negotiator*, 47

It's really important to have a set of rules for the negotiations. Rules provide stability during what can be seen as an unstable situation.¹¹

Here follows a list of basic rules for negotiations:

- ✓ Only the issues on the agenda may be bargained for.
- ✓ All standing agreements must be upheld during negotiations.
- ✓ Determine a time limit, if any, and stick to it.
- ✓ Negotiators should show a willingness to move from their ideal settlement.
- ✓ Bargaining should be fair to all parties.
- ✓ Once an offer is made it should not be withdrawn without sufficient warning or significant changes in circumstances.
- ✓ Only in the case of a failed direct negotiation will parties be allowed to appeal to actors outside of the negotiations (e.g. the opponent's followers).
- ✓ The final settlement should be free of dishonesty and deceit.
- ✓ Once the settlement has been formally agreed upon, it must be implemented as is.

As part of the rules for the above mentioned negotiations, it is important to determine how the decisions would be agreed upon during the negotiations. The parties present must accept the decisions made as being binding once an agreement has been reached. This could be by means of numerical majority, in a system of voting. Regardless, these details need to be clearly stated in the rules.

Preparation checklist



1. Revisit demands

Before you enter the negotiations or bargaining table, always make sure that you have gone over and are familiar with your demands, management offers, trade-offs, your alternatives for each demand/offer. Check in with your team to ensure they are ready for negotiations. to start.



2. Update and consult members

A consultation process with members can also be initiated to update them regarding the outcome of the pre-bargaining meeting. This helps members to feel involved in the whole process and own it. As a negotiator, you enter the negotiations on their behalf, meaning it is their mandate that counts, not yours.

During preparation, a negotiator must get to know and understand their constituency (for example, their workplace, age, gender and challenges).

The negotiator must also be able to forecast the outcome of the negotiation as this will assist in preparing for a dispute if it arises. Make sure members know when the negotiations will be taking place and when and how they will get a report about the outcome.¹²



3. Strategise

Formulate a strategy (a plan to achieve your goals or objectives) and tactics (the methods employed to achieve a strategy) for all stages of the negotiations to assist in marshalling your arguments.



4. Determine the structure of negotiations

The structural components of negotiations are very important and greatly affect the behaviour of bargainers.¹³

The process involved in getting to know each other will consist of negotiators from both sides introducing themselves and their teams. State the objective of the meeting and put down the ground rules that will guide the proceedings.

12. De Silva, Sriyan. 1996. *Collective bargaining negotiations*. International Labour Organisation, 5.

13. Rubin, Jeffrey Z., and Bert R. Brown, *The social psychology of bargaining and negotiation*, 42.

2 NEGOTIATION

The second phase in the collective bargaining process is where you actually engage with the other party face-to-face, across the bargaining table, in order to negotiate the best possible outcomes for your members. Everything you've done in the first phase – all the hours of consultation and preparation – finally pays off. You have the information you need, you are well equipped, and so are your other team members.

This phase calls on another skill set – you are required to:



The process of negotiations

Each side will be given an opportunity to state and make arguments for their proposal (demands and offers). You need to state your case simply and clearly. Show the other party that you know what you are talking about and have confidence while stating your case. Your team members will motivate demands allocated to them to strengthen your case.

There will be agreements and disagreements.

Negotiators' emotions will be tested which can lead to anger, frustration and personal attacks. Stay calm and focus on the issues or offers put forward by management. Do not shy away from asking the opposite negotiating team for clarity or an explanation regarding their position, offer or response.

If you agree with some of the demands from the other party, get agreement 'in principle' to avoid confusion when there's a dispute.

Listen actively to the opposition's comments or responses and watch their body language (little nods of agreement for example) while you are stating your case. This will assist in predicting whether an agreement can be reached without hiccups.

It is very important to keep an open mind when it comes to the kind of agreement you would like to reach. For example, the agreement must



Trade-offs

Identify issues/ demands that can be traded to get something in return from management.

But take note not to give away too much too soon as this can jeopardise your overall plan.

offer an acceptable solution to both parties (workers and management). The agreement must be inclusive (cover all workers in the workplace/sector, including workers in vulnerable sectors). It is worth giving some thought to how you might get movement and agreement.

Caucus

What happens if you feel that you are losing the arguments, or there's disagreement in your team regarding some issues? Shop stewards should never disagree with one another in front of management. You stop the negotiations and request a caucus to allow you to think, get more information or to manage your emotions. This means that you take a break away from the main group to speak among your negotiating team. This mechanism (caucus) will also allow you to touch base with your constituency regarding the progress of the negotiations. Before you take the caucus, summarise what you have discussed so far and where in the process you find yourselves. This will help both parties to resume without hold-ups after the interval.

During negotiations, negotiators may feel the need to alter their position, changing what the workers have mandated. They

need to discuss this in a caucus away from the negotiating table. Even if the negotiator agrees to a new position, they can only take this as a recommendation to workers. The negotiator is not at liberty to make an agreement which has not been approved by the people they represent.

Trust and good faith

Bargaining in good faith means that ‘once a negotiator makes an offer it cannot be retracted, and an agreement, once reached, is enforceable’.¹⁴

In simpler terms, this means that when bargaining in good faith, neither party can withdraw an offer, and once an agreement is made, it has to be put into effect.

Successful processes focus not only on the issues at hand, but also on creating an effective working relationship between parties in order for them to negotiate in good faith.¹⁵ When negotiators trust each other, there is more cooperation.

This is sometimes called the ‘dilemma of trust’.¹⁶ While the parties involved should show their integrity, they should not appear weak or give too much information. Do not make a promise you do not intend to keep, as this shows ‘bad faith’.

14. *Bacharach, Samuel B., and Edward J. Lawler. 1981. Bargaining: power, tactics, and outcomes. San Francisco: Jossey-Bass, 9.*

15. *Harris, Peter, and Ben Reilly, Democracy and deep-rooted conflict, 64.*

16. *Rubin, Jeffrey Z., and Bert R. Brown, The social psychology of bargaining and negotiation, 15.*



After every round of negotiation, the negotiating team must report back to the workers who will be affected by the outcome of the negotiations.

Feedback to members

Always keep in mind that you represent workers and therefore keep them informed about progress in the bargaining table. Identify issues where there's no agreement and request a fresh mandate from members. Make sure that members understand all the processes leading to the dispute mechanism if there's no agreement reached.

After every round of negotiation, the negotiating team must report back to the workers who will be affected by the outcome of the negotiations. In giving a report back it is important to present accurately how management has responded to workers' demands and what offers it is making. The negotiators should also give workers their assessment of how things are going and they should give recommendations about how to move forward. After a full discussion the negotiators should get a new mandate. Sometimes workers will give negotiators a fall-back position that they will accept if they cannot win their first demand.

Reaching agreement with members can be a difficult step, especially if you have not won everything they demanded.

- ✓ **Plan carefully** how you will report back to workers.
- ✓ **Plan collectively.** Make sure every member of the negotiating team has the same understanding and agrees to the chosen report-back approach.
- ✓ **Prepare support materials** such as pamphlets and charts to help you explain what has been agreed or recommended. This is especially important if you are unable to convene all workers at one meeting.
- ✓ **Explain to workers** what happened and why. Give some life and colour to the explanation.
- ✓ **Be honest** in your explanation.
- ✓ **Be calm.** Use emotion and anger in a controlled way.
- ✓ **Put forward options** for workers to consider.
- ✓ **Listen to all viewpoints**, including those of women, and try not to allow one person or position to dominate.
- ✓ If workers are divided, take time to work through the issues and options. **Be positive about progress made.**
- ✓ **Try to reach consensus** amongst workers – or at least consensus amongst the majority. If not, you may have to use a voting process.

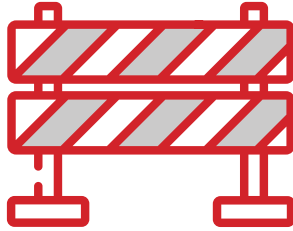
3 AGREEMENT

This is a crucial phase in the collective bargaining process. Before the agreement is signed, make sure to read and understand every clause. Share the agreement with your constituency, leadership and/or legal department to check, amend or give input. File the agreement safely for future referencing. Review the negotiations with your team and address any challenges encountered at the bargaining table.

Checklist

Reaching agreement:

- ✓ The agreement is in writing
- ✓ **The agreement gives clear guidance on what is to be implemented and how it is to be implemented**
- ✓ **The clauses of the agreement worded in a way that lends itself to a single interpretation of what is to be implemented and how it is to be implemented**
- ✓ The clauses of the agreement are not too vague and open to different interpretations of how they should be implemented.
- ✓ **The start and end date of the agreement are clearly stated**
- ✓ It is clear who is covered by the agreement
- ✓ **The agreement is worded in a way that can be understood easily by member**



Reaching deadlock

If no agreement is reached, then negotiators must go back to the workers and discuss what to do. If there is no acceptable compromise that can be seen then the workers need to look at the possibility of declaring a dispute.

If there is a decision to declare a dispute, then it is important to be clear about the courses of action that can be taken legally and which choices there are outside of the law. For this, it is important to know what has already been agreed to in any collective agreement, and to know what the LRA says about dispute procedures and industrial action.

It is also important not to delay taking a course of action. Although there are no longer time limits on cases going to the CCMA (except for unfair dismissals) workers will lose interest and confidence if a dispute is neglected.

4

IMPLEMENTATION

This is a **crucial phase** in the collective bargaining process.

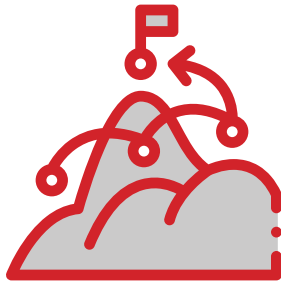


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Once agreement has been reached, what happens? It's not only the process of negotiation that is important, but also what happens after an agreement has been reached. For an agreement to be considered legitimate, it should be successfully implemented. In this sense, the agreement itself is only the beginning of the process.

Do follow up and make sure that what was agreed in the bargaining table is being implemented as per the collective agreement. Share the final agreement(s) with your members or constituency.



Use the agreement as catalyst

You have gained a victory for workers. Their spirits are high and they are positive about what the organisation can do. Build on this!

- ✓ **Use it as an educational tool.** What lessons have we learned? Give yourself time to reflect on the experience of negotiating.
- ✓ **Use it to raise awareness** of issues, about negotiations and about the organisation.
- ✓ **Get workers to go out**, spread the word and bring in new members.
- ✓ **Provide publicity** on the agreement.
- ✓ **Celebrate** the victory!

The structure and process of collective bargaining varies considerably across bargaining levels and sectors in the formal and informal economy. Negotiators need to keep enhancing their skills and abilities to adapt to the collective bargaining environment as the world of work is changing.

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