

# Protected Industrial Action explained

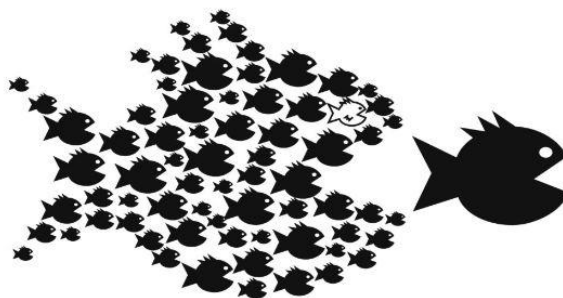
As part of our campaign to get a better enterprise bargaining deal at Maurice Blackburn, we are considering having a protected action ballot. Before we do this we are going to conduct a confidential survey of staff about what they are prepared to do to get a better deal. Here is some information about industrial action, and protected action ballots under the Fair Work Act and what employees can do. We urge you to think about what you would do to make sure you and your colleagues get an EBA that is fair.

## What is industrial action?

Industrial action is activity undertaken by employees to encourage an employer to settle a workplace dispute, usually about working conditions.

Types of industrial action employees may take:

- Performing work in a manner different to how it is normally performed (e.g. a "go slow" or adding a signature block to your emails saying you are taking industrial action)
- Refusing to turn up to work (i.e. striking);
- Stopping work for a period of time;
- Adopting a practice that restricts, limits or delays the performance of work (e.g. refusing to work outside of an employees contracted hours or refusing to work overtime)



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## What is "protected" industrial action?

"Protected" industrial action refers to industrial action that is protected under Australian law. An employer cannot discipline or discriminate against an employee who undertakes protected industrial action.

In order for industrial action to be "protected", the industrial action must comply with certain requirements under the *Fair Work Act* 2009. One such requirement is for a Union to apply to the Fair Work Commission for a Protected Action Ballot, before any industrial action takes place.

## What is a Protected Action Ballot?

A Protected Action Ballot is a ballot conducted of the Union members at a particular workplace.

If the Fair Work Commission allows a ballot, the Australian Electoral Commission will take a vote from members. Voting is anonymous, as is union membership. The employer is not advised who voted or how they voted.

The purpose of a Protected Action Ballot is to determine how many members support taking industrial action during an industrial dispute.

For a ballot to be successful, at least 50% of members must vote in the ballot and at least 50% of members must vote in favour of industrial action, then the members have the right to take protected industrial action, should they choose to do so.



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## What are we going to do

Your ASU delegates are surveying staff at Maurice Blackburn to determine how many people would vote in favour of taking industrial action (that is, vote “yes”) to support the Union’s efforts in negotiating the enterprise bargaining agreement. Our survey will suggest different types of action tasks and if you would be prepared to vote in favour of such action in a ballot.

## Is our survey a Protected Action Ballot?

No. This is an informal survey to determine how many members would vote in favour of taking protected industrial action if the Union were to apply for a Protected Action Ballot.

The Union will not apply for a Protected Action Ballot unless we are sure that a majority of members will vote in favour of industrial action. This is because a failed ballot could weaken the Union’s position during the negotiations of the Enterprise Bargaining Agreement.

We are also giving non-members an opportunity to tell us what they would be prepared to do.

Non-members will not be able to vote in a protected action ballot.

## If a Protected Action Ballot were to be successful, does this mean that I have to participate in protected industrial action?

No. Even if the ballot is successful, the Union will not immediately call for members to take part in industrial action. At every stage we will consult members about what we will do.

It is important to note that by voting “yes” in a Protected Action Ballot, you are not committing to taking industrial action. Rather, you are agreeing that employees should have the right to take industrial action if it becomes necessary

If industrial action is eventually undertaken, individual members will not be forced to participate. However should industrial action take place, then we strongly encourage all members to participate, as the more members that participate, the stronger the message sent to management.

## Want to Join the ASU

To vote in a protected action ballot or take protected industrial action you **MUST** be a member of the ASU. If you are not a member you cannot take action.

Now more than ever it is time to join the ASU – you can join the ASU on line at [www.asu.asn.au/asujoin](http://www.asu.asn.au/asujoin).

## Need more information?

If you have queries contact your local ASU delegate/NNT member or organisers.

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