



Bargaining fees

A bargaining fee is an amount paid by a non-union employee to a union under a bargaining fee clause. This is paid on a periodical basis from the non-union employee's pay.

A bargaining fee clause in the case of MERAS means a provision in the MECA that:

- (a) applies to midwives who are not members of either MERAS or NZNO and who perform work that comes within the coverage clause of the MECA; and
- (b) specifies the amount of the bargaining fee; and
- (c) requires those midwives to pay a bargaining fee; and
- (d) provides that those midwives' terms and conditions of employment are the same as the MERAS MECA terms and conditions.

The bargaining fee clause won't come into force unless agreed to first by the DHB and MERAS and then by secret ballot

(1) The bargaining fee clause has been agreed to by the DHBs and MERAS in the MECA; and then been agreed to in a secret ballot held in accordance with this section.

(2) The secret ballot must be—

- (a) held after the MERAS MECA has been ratified by MERAS members; and
- (b) conducted jointly by the DHB and MERAS at each DHB.

(3) An midwife is entitled to vote in a secret ballot if—

- (a) the work of the midwife comes within the coverage clause in the collective agreement; and
- (b) the midwife is—
 - (i) not a member of any union; or
 - (ii) a member only of the union that is a party to the collective agreement with the employer (i.e. MERAS).

(4) For the purposes of a secret ballot, a ballot paper must contain, or have attached to it, a copy of the bargaining fee clause.

(5) A bargaining fee clause is agreed to in a secret ballot if a majority of the DHB's midwives who vote, vote in favour of the clause.

Employer must notify employees if bargaining fee clause agreed to

(1) If a bargaining fee clause is agreed to in a secret ballot, the DHB must provide the non-union midwives with a copy of the MECA and notify them in writing that—

- (a) their terms and conditions of employment will be the same as the terms and conditions of employment specified in the MECA (including the obligation to pay a bargaining fee) on and from the later of the following:
 - (i) the expiry of the period referred to in paragraph (c); or
 - (ii) the date on which the collective agreement comes into force; and
 - (b) the bargaining fee will be deducted from their wages, specifying the amount of the bargaining fee; and
 - (c) if a non-union midwife does not wish to pay the bargaining fee, the midwife must notify the employer in writing within the period specified in the MECA (usually 14 days) that the midwife does not agree to pay the bargaining fee.
- (2) If a non-union midwife notifies the DHB that she does not agree to pay the bargaining fee,—
- (a) the bargaining fee clause does not apply to the midwife; and
 - (b) the midwife's terms and conditions of employment remain the same until such time as varied by agreement with the DHB (i.e. they usually don't get a pay rise).

While a bargaining fee clause applies to the non-union midwife

- (a) the clause is binding on the midwife and the DHB; and
- (b) the DHB must deduct the bargaining fee from the midwife's wages and pay it MERAS.
- (c) the bargaining fee will expire when the MECA expires (i.e. 12 February 2023)¹.