

# EBA 101: WHAT IS INDUSTRIAL ACTION

**You may have heard or seen VAHPA at times refer to protected industrial action or unprotected industrial action, and wondered what these terms mean.**

The key thing to understand is that industrial action can be part of an EBA bargaining campaign but is not always required. However, VAHPA members have from time to time needed to take industrial action in order to settle an EBA dispute.

## Types of Industrial Action

There are two types of industrial action: **protected** and **unprotected**.

The 'protection' of protected industrial action is that it is legal: it means that members engaging in the action are legally protected from the employer penalising them for participating in the action. To achieve this protection, the action must adhere to specific legal requirements.

Unprotected action is any action that takes place without adhering to these legal requirements.

## What is protected industrial action?

If negotiations reach a point where the employer won't move on VAHPA member claims, and we cannot recommend the negotiated outcome to members, members can either accept the offer – and live with that pay outcome and those conditions for the next three or four years – or exercise your legally protected right to take industrial action.

There are several steps VAHPA and members must legally follow to begin protected industrial action – including a secret ballot (or vote) to ensure that the majority of members support taking the action.

VAHPA must also make an application to the Fair Work Commission (FWC), and supply them with our proposed ballot questions, each of which has to be describing some form of proposed industrial action.

Examples of protected industrial action can include:

- Wearing campaign t-shirts at work
- Talking to patients and the media about the campaign
- Paperwork and admin bans
- Overtime bans

## What is unprotected industrial action?

Unprotected industrial action is any form of action that does not comply with the rules for protected action under the Fair Work Act – and does not come with the legal protections.

This includes if you take action:

- Before an agreement's expiry date
- Without a successful ballot
- To include unlawful terms in an agreement

