

Collective Bargaining In 2022



While truly an understatement, over the last two years society has undergone significant change. We have rising inflation. We have seen COVID-19's transformational effects on public health, the economy and the workplace. We have a growing understanding of mental well-being and the impact it has, not only on ourselves, our family, friends and colleagues, but on an organization's success. And society is becoming increasingly aware of injustices and systemic barriers that have impacted marginalized and racialized members of our community. What does all this mean for employers at the bargaining table? Bargaining will be challenging, but will also likely involve significant areas of common interest.

In sectors where wage increases have been outpaced by rising inflation, unions will be looking to close the gap. Given absenteeism rates during the pandemic, it is likely that unions will also be seeking paid sick days. From the employer's perspective, COVID-19 has demonstrated the value of workplace flexibility and the ability to pivot operations quickly. Employers will be reviewing their collective agreements and workplace practices, and considering bargaining proposals which increase their ability to respond to changing demands. While proposals for relaxation of seniority based posting and job assignment requirements, for example, may increase flexibility, unions will have concerns. Needless to say, bargaining over these issues will be tough.

But there should be significant areas of common interest. The union-management relationship has evolved over the last two years. While unions, quite properly, have still sought to protect and advance their members' interests, management and union leaders have worked together more closely than they ever have before. Employees have been redeployed to different roles, health and safety measures have implemented, enhanced and enforced, and systemic barriers are being analysed and addressed. Unions and management have different objectives, but there is a growing recognition of areas of common interest.

What are some areas of common interest employers should be focusing on? Cross-training programs and modification of workplace infrastructure and policies to allow for working elsewhere, increase flexibility. However, they are also topics that will likely be of interest to union negotiators.

In addition, unions will be pursuing mental health enhancements such as, for example, increases in medical and paramedical benefits for mental health practitioners and better access to effective counselling services. Before going to the table, employers should research options for enhancing mental wellness, review their mental

health benefits' claims history, and cost out possible improvements either for responses to union proposals or, depending on the circumstances, proposals of their own. Employers should also be asking whether their Employee Assistance Programs are sufficient. And most fundamentally, employers should learn about the real impact mental well-being has on their employees and their operations. If fully understood and discussed openly, promotion of mental health is an area of mutual benefit for unions, employers and, most importantly, employees.

Finally, the last two years has seen a growing recognition of systemic barriers. While policies and practices, and even terms of a collective agreement, can seem neutral on their face, they can perpetuate disadvantage when they are applied. All employers, unionized and non-unionized, should already be reviewing their policies, hiring and promotion practices, and workplace expectations, through a diversity and inclusion lens, and should be seeking out professional guidance in the process. When they go to the table, employers should be prepared to discuss not only inclusive language, but systemic barriers created by, amongst other things, job posting and qualification requirements, discrimination and harassment procedures, dress codes, health and safety measures, travel and hours of work requirements, and remote work expectations.

Compensation in an age of rising inflation will be a fundamental and challenging issue at the bargaining table, but the changes that we have witnessed over the past two years provide opportunities for achieving mutually beneficial objectives if unions and employers are willing to work together and be creative.

Please reach out to a member of Miller Thomson's [Labour & Employment Group](#) if you have any questions about collective bargaining in your workplace.

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