

**AUT** learning  
**2004**

**Representing the union**  
**PERSONAL CASES**



THE HIGHER EDUCATION UNION

# AUT MEMBERSHIP EDUCATION

*We aim to offer a systematic programme of support from induction for new representatives to advanced training for more experienced local association officers and committee members.*

*The programme aims include*

- *Improving the performance of reps in the workplace and in the union*
- *Promoting an understanding and commitment to trade union priorities including equal opportunities*

*Starting from their appointment all representatives should be encouraged to take part in education and training to develop skills as a rep emphasising organisation and recruitment.*

## **Core training**

Modules in this part of the programme aim to substantially widen AUT's existing activist base and produce highly motivated empowered campaigners to achieve union objectives. Specific objectives include

- Providing agreed minimum national standards of core training for all activists
- Promoting confidence of active members in dealing with organisation, personal case work and local negotiations
- Developing and expanding current materials based on feedback from members
- Supporting those who deliver the service through establishing clear objectives, recognising the quality and experience that is contributed and promoting equality of opportunity throughout

### **Induction**

- To equip departmental representatives (and other active members) with an introduction to the knowledge and skills needed
- In particular, the distribution of material to support their role and identification of contacts to help their union activity
- To provide an opportunity to explore their role and develop ideas for future action including arrangements for training

### **Campaigning and organising**

- To gain confidence in recruitment and union organising
- To develop core skills needed to build the union
- To build knowledge in identifying and planning campaign opportunities

### **Handling personal cases**

- To consider how to handle different problems
- To develop a systematic approach
- Practice skills in identifying information, preparing and presenting a case

### **Local negotiations**

- To gain knowledge and understanding of influence on collective issues affecting AUT members
- To practice skills in preparing for and conducting negotiations at local level
- To consider possible routes for further action

## OUTLINE PROGRAMMES

### Day

1	9.30	Introduction Representing people	
			Introductions
			Checklist
2	10.30	Do they have a case?	
3	11.30	Handling problems	Introduction
			Interviewing
	1.00	Break	
4	1.30	Framework for support	Local contacts
5	2.00	Handling problems	Introduction - analysis and presentation
			Developing skills
6	3.30	Employment and law	
7	4.15	Evaluation and review	
	4.30		

### Half day 9.30 – 12.30 (also 11.30 (+lunch)- 3.00 or 2.00 –5.00)

1	9.30	Introduction	
2	10.00	Do they have a case?	
3	10.30	Handling problems	Introduction
			Interviewing
4	11.15	Support contacts	
5	11.30	Handling problems	Introduction
			Checklist
6	12.00	Impact of law	
7	12.20	Evaluation and review	
8	12.30	Close	

## **INTRODUCTION**

Tutor to briefly outline

- Domestic/administration
- Ground rules
- The core programme and how this session fit in
- Check receipt of AUT material for the course

### **Who's here? Introducing each other**

Talk to another course member – possibly the person sitting next to you (and preferably somebody you don't already know) to prepare to introduce them to the rest of the group

Your introduction should cover

- Name / institution / department
- What experience they have of representing some else in the union or any other context, in particular,
- What they did
- What was the outcome
- How did they feel – one good thing and one bad thing
- What they hope to get out of the session

Remember to swap halfway through the allocated preparation time!

### **Developing a checklist**

What are the challenging things about representing other people?

What are the potential rewards in representing other people?

For AUT work, how can we gain confidence and increase effectiveness in representing fellow members of the union?

## DO THEY HAVE A CASE?

Looking at the following problems, and based on what you know, consider

- What is the key problem
- What information do you need?
- What will your objective(s) be?

1. Dr A has a long standing feud with her head of department over differing views on ways the subject should be taught. Today the two had a long argument and Dr A has come to see you. She is 58 and has been thinking about taking early retirement but cannot afford to do this. Further, she would not want to give her head of department the satisfaction of seeing her leave.

2. Professor B's work involves testing drugs on animals. The current edition of a national magazine accuses the Professor of enjoying torturing animals. The Professor is outraged and wants help from the union.

3. Dr C tells you that the head of department has announced at a staff meeting that it has become necessary to ask 10 out of 40 staff to take early retirement. It has been said that in the absence of enough volunteers there will be compulsory redundancies.

4. Mr D was recently appointed and has now come to see you to re-new his membership. He tells you that he may shortly need help as he is being investigated because of a student's allegation (which he denies) that he gave another member of the class advance notice of an examination question.

5. Dr E has taught evening classes at the local FE college for some time. She complains that a new lecturer at the college is harassing her and making comments about her appearance.

6. A colleague who is not a member tells you there is a safety risk in the laboratory where she works. She doesn't want you to tell anybody in case her head of department finds out and her fixed term contract is not renewed.

7. Dr G mails you to say she has suffered a broken leg from a fall at work. She tripped over an uneven paving outside her building on the campus.

8. Mr H (age 24) has been accused of sexually assaulting a third year undergraduate of 21. The student was attending a tutorial in his room when the alleged assault took place. While denying sexual assault Mr H acknowledges he put his arm round the student while asking them to the cinema. Would your approach be different if Mr H was 54? Does it make any difference if the student is male or female?

## **DO THEY HAVE A CASE?**

### **Checklist: general points to consider**

- Have you checked current membership?
- How do you deal with problems involving conflicts between members?
- Is the problem one that the union can take up?
- Is it primarily an individual problem or is it a collective issue?
- What does the member want to achieve?
- Are there any professional issues?
- Will the local committee or any other AUT reps be involved? What about the Assistant general secretary?
- Where else can you get advice on the issue?
- Is there a relevant agreement and what does it say?
- What is the management position?
- Do you have a clear view of the facts? Are there any witnesses? Could there be any different interpretations of the situation?
- What are the wider considerations?
- Does the problem concern other unions?

# HANDLING MEMBER'S PROBLEMS

## Introduction

One of the main jobs of the union is dealing with individual members. The problems they may have include:

- Discipline – complaints about unfair treatment
- Changes at work – new systems, equipment or other changes imposed by management
- Pay and hours – incorrect pay, allowances, expenses, hours
- Working conditions – health and safety, noise, fumes, pollution, stress, harassment etc

In many cases your members will bring problems to you. You may also need to look out for problems which members are not fully aware of. For example, threats to jobs or health. Members may not raise issues because they are not aware of their rights.

This note aims to look at the main stages of dealing with members' problems. These are:

- Interviewing members: getting the facts and proposing action
- Deciding how to deal with the problem. What information will be useful? What are your aims?
- Meeting management: putting the case, getting a fair decision
- Reporting back: explaining what has happened, identifying further steps, keeping a record

## INTERVIEWING MEMBERS

Interviewing skills will help make sure you get the facts from members when taking up a case.

- Putting the member at ease
- Get the facts
- Propose action
- Arrange to report back

### Putting the member at ease

The member(s) may be upset or angry because of the situation and you may need to calm them down before you can sort out the facts.

- Find a quiet place for the discussion where you can sit and talk confidentially and without interruption
- Be sympathetic – avoid giving the impression you are cross-examining them. While being business-like try and be relaxed and informal.

### Get the facts

Most situations can be explored by using a few key questions:

- When – date and time of event(s)
- Who – name(s) and positions of those involved
- Where – places
- What – the nature of the problem

- Why – the member’s view of the cause
- Witnesses – who else can provide information
- Written evidence – such as letter of appointment
- What the member want to achieve

The ‘why’ is often the most difficult. Bear in mind that members will want to give a favourable view. However, if you take up the case you need to know the weak points as well so be prepared to probe the answers you get. Acting as ‘devil’s advocate’ can help prepare the member for apparently hostile questions from management if there is a hearing.

Take notes and make sure you check them. One technique in managing the discussion is to ask the member to initially outline their concern and then go back through the situation checking points and asking for clarification. It can be useful to have a checklist of basic information, including contact details. If it turns out that someone else acts on behalf of the member it will be useful to have your notes in a form that can be handed over.

### **Propose action and arrangement**

You need to review the problem with the member. You must be honest about this while remaining sympathetic

- Make it clear you will do your best without making extravagant promises or raising false hopes
- Be clear about what you are going to do, who you will approach (with the member’s agreement) and how long it will take
- Identify if there is any information you want the member to find
- Arrange a further meeting and way of keeping in touch

## INTERVIEWING THE MEMBER

### ACTIVITY

In pairs you will interview each other about the detail of a case. The purpose of the activity is to practice the basic approach to conducting an interview.

(As each interview is to be completed within 15 minutes it will mean that the facts have to be simplified)

Either

- using a case with which you are sufficiently familiar to provide good practice
- or by using a case provided by the tutor (*"Ashley" or "Billie"*)

The **brief for the union representative** is to interview a member who is looking for union assistance. You need to establish the basic facts and consider what to do next. You have limited time available with the interview lasting no more than 15 minutes. You can use the example 'Case Record' sheet towards the back of the booklet.

While the prospective **interviewee is preparing** himself or herself, you can review the notes on the approach to adopt in conducting an interview.

### Initial review

When you have both had a chance to act as interviewer assess effectiveness in

- finding out key facts
  - establishing rapport with the member
  - working out an appropriate course of action agreed with the member
- (if using prepared case studies you can swap the briefing sheets, otherwise comment on how you thought the person got on and if there were any major areas that had not been explored)

### Group review

Based on your paired discussions, the group will identify key points arising from the activity

- things that went well
- and things that could be improved
- any other key lessons

## INTERVIEWING THE MEMBER

### Alternative Activity

The purpose of the activity is to practice the skills of interviewing a member.

In groups of three you will take it in turns to be

- a union rep interviewing
- a member with a problem
- an observer for learning points from the activity

### Representative

With a maximum of ten minutes for each interview the representative will not be able to pursue a very detailed case in any depth but should have the opportunity to

- find out key facts
- establish rapport with the member
- work out an appropriate course of action

Try and follow the advice on interviewing in the notes. You can use the example 'Case Record' sheet towards the back of the booklet.

### Member

Based on a situation with which you are familiar your task is to provide the rep with an opportunity of investigating a problem and start working towards an agreed plan of action. Be as realistic as possible.

### Observer

Keep an eye out for learning points from the interview. What goes well and what could be improved? Please act as timekeeper for this section of the activity.

### Review

After each person has had a chance of practising the role we will spend a few minutes reviewing what has been learnt.

What are the key points you would stress?

## FRAMEWORK FOR SUPPORT

Before coming to the course you were asked to review the section on 'members benefits' in the AUT membership handbook, together with guidance on the legal advice available through the Legal Protection at Work Scheme and the unions Legal Aid scheme.

We can now review **any questions** you may regarding access to these member benefits and identify key contacts for you in the local association, the regional office and at national level. You may find it useful to keep a note of **important contacts** in the 'Contact List' also reproduced towards the back of this booklet.

- Local arrangements for dealing with casework / providing liaison with regional office
- Information directly available to members as in the membership handbook
- Stress and legal helplines
- Financial services
- Regional Office contacts and use of Consultants
- Specialist advice (eg pensions, health and safety, equal opportunities)

# HANDLING MEMBER'S PROBLEMS

## DECIDING HOW TO HANDLE A PROBLEM

Firstly, what sort of problem is it? What information will be helpful to help you plan your action?

### **Problem**

Is it a grievance? There may be some instances when there is no case for the union to take up and you should tell the member(s) so and explain your reasons. The AUT has no obligation to support an individual's position or their action. But the AUT does have an interest in making sure that the case is put and is decided fairly. Making sure a member is properly treated does not need or imply support for their views, attitudes or actions.

Most problems that a union rep deals with involve the employer. For example, unfair treatment, health and safety, equal opportunities etc Others may be to do with giving advice (on tax, for instance) or to do with the administration of the union itself (eg how the subs are calculated).

Some things which at first may appear to be 'personal' problems turn out to be issues to pursue with management – problems with childcare may reveal a need for more flexible / family friendly working. Illness may be as a result of stress caused by working arrangements and show a problem for the union to tackle.

**Check the facts** – after talking to those involved it's useful to check the facts and evidence you've gathered. People may be genuinely trying to help you by presenting a version which helps a particular interpretation. You need to know if there are other ways of looking at it.

### **Is it a one-off complaint?**

Most cases have two angles

- the immediate problem
- and underlying causes

You need to decide how to tackle these. For example, if several women are complaining about lack of promotion the union needs to review the equal opportunities policy and its operation. Similarly, an example of the disciplinary procedure being applied too severely may reveal the need for look at the agreement.

### **Key points to remember**

- there will often be deeper issues as well as the immediate problem
- negotiations on an individual case can affect other staff or future negotiations by setting a precedent
- it's often easier to get a settlement on an individual case without drawing attention to broader issues

### **Can I settle this locally?**

Generally speaking it's better to try and resolve problems at the lowest possible level. However, deals in private with a particular manager may not be as firm as more generally agreed terms.

### **Information**

Relevant information can come from a number of sources

- University statutes/ staff handbooks – policy documents and agreements
- Guidance on pensions
- Custom and practice – how similar cases have been dealt with. Other trade unions reps may be able to help the LA should have someone to co-ordinate work on personal cases.
- Union policy – local or national advice for example, on casualisation or equal opportunities
- Legal rights for individuals or in support of union organisation
- Advice from the union – through the regional office. Early notification of a case to the regional office may save time later. This is vital if there is any possibility of dismissal or other serious consequences of a situation.

### **Plan**

Working out your strategy for dealing with the problem

- Your aims – what you want to achieve
- A fall-back position the minimum acceptable solution that solves the problem
- How to tackle the issue using the grievance/disputes procedure to keep timescales short
- What support is available from members? You must keep them informed but do not bluff about the strength of members feelings.

### **REPORTING BACK TO MEMBERS**

Where a group is involved you need to explain what has happened and what happens next. If there has been no progress so far explain how it can be dealt with and what support and help is available from the union.

Make sure you keep a record

### **MEETING MANAGEMENT**

Dealing with members' problems means you will have to take them up with management. You need to plan before a meeting so that you and the member

- Keep your aims in mind
- Put your case – describe the problem simply and clearly and state your aims. Try to get management talking, so when you have outlined the problems wait for a reply
- Put supporting arguments and information. Use the strong points of the case and use the agreement and law if it applies. Make sure you question any interpretation by management that runs against you and stress the points of agreement
- Get a decision – hoping for one which meets your aims look for offers that may not be all you wanted but will solve the problem.

- In an investigation there should be a clear procedure which management sticks to.
- Before attending a hearing with a member make sure you know its purpose and the procedure to be followed.
  - Whether evidence will be available in advance
  - will there be enough time for a full examination
  - what witnesses will be used and what opportunities will there be to question them
  - what rights of representation exist
  - who is hearing the case
  - what is the appeal process
- It may be advisable for the member to write a statement in to give as evidence. This can be checked in advance.
- Prepare relevant documents you want to use in chronological and numbered order and make them available to the panel
- Any witnesses should be properly organised
- Have prepared questions and an agreed strategy of the points to put to the panel
- Appeals may be based on abuse of the procedure, severity of a penalty, misinterpretation of evidence or new evidence.

## HANDLING MEMBER'S PROBLEMS

### ACTIVITY: Developing representation skills

1. In small groups, look at one of the problems you used in the interviewing exercise and prepare a **brief report** for the rest of the group which explains:

- What the **problem** is
- What additional **information** might be needed
- The outline of your **plan**, including
  - Your aims, as well as
  - Any 'fall back' position
  - Where you will take the case next
- Any **wider implications** you have identified

2. Working in pairs

(a) Each select a different one of the cases used during the day to prepare a brief (no more than 3-4 minutes) opening statement to formally present the case to management.

In the presentation, you will need to

- describe the problem and
- set out your aims.
- identify the key arguments you will use  
(but you don't have time to develop these)

(b) Make the presentation to the other person who will act as 'management'.

When listening to the presentation the 'manager' will need to try and evaluate the points from management's perspective

- do you understand the case and
- why you need to do something?
- what are the questions you would want to raise

(c) After each person has had a turn, **review the exercise**.

From your experience, what are the key points about preparing and presenting a case?

## **HANDLING MEMBER'S PROBLEMS**

### **Developing skills (alternative)**

Based on your experience and discussion during the course, what are the key 'do's and 'don'ts' of preparing and presenting a case as a union representative.

<b>Things to encourage</b>	<b>Things to try and avoid</b>
<ul style="list-style-type: none"><li>•</li><li>•</li><li>•</li><li>•</li><li>•</li></ul>	<ul style="list-style-type: none"><li>•</li><li>•</li><li>•</li><li>•</li><li>•</li></ul>

## **EMPLOYMENT AND LAW**

Everyone at work has basic legal rights and new ones are being introduced as a result of European developments and new laws from the government. This general advice is taken from 'Your Rights at work' published by the TUC (2002) and from material on the TUC web site ([www.TUC.org.uk](http://www.TUC.org.uk)) and provides an introduction to those rights, and shows how a union can help.

However, you cannot rely on guidance like this as a detailed guide to an individual's position – always seek advice through the union so that up to date and expert opinion is available. And remember that there are deadlines for submitting claims.

Good employers normally provide far more than your minimum rights. They realise that a workforce that is treated well and with respect is more likely to be loyal and productive. But many are not lucky enough to work for a good employer, and things can go wrong even in the best workplaces. That's why everyone at work should have a basic knowledge of their legal rights.

The TUC also has more detailed information on rights at work in a series of leaflets and pamphlets. Other sources of further advice include your local Citizen's Advice Bureau, a local Law Centre or ACAS - a government funded service for employees and employers. You can find contact details by clicking on the links to the websites for these organisations, or by looking them up in your local phone book, or at your local library. There are a number of websites containing free information on UK employment law – for a summary go the AUT web site.

### **YOUR CONTRACT OF EMPLOYMENT**

Most employers will give you a written contract of employment as soon as you have accepted a job or on your first day of a new job.

Sometimes you may be given a contract of employment without realising it. It could be contained in your letter of appointment. It might be called something different such as a staff handbook. It is not unusual to find a note at the front of a staff handbook saying which sections are part of the legal contract of employment and which bits simply supply useful information.

#### **Are you an employee or a worker?**

Even if your employer does not give you a written contract, some kind of basic contract exists in law as soon as you are paid. But although many people think this is a contract of employment it may not be so. This is because you can work for somebody or an organisation in two ways. Most people are employees, and should have a contract of employment. It may be for a fixed term, but while an employee you get the legal rights set out on this page.

The alternative is a "contract for services". This is where you are paid to carry out a particular task in return for a fee of some kind. In this situation you are self-employed and do not have rights as an employee. Confusingly the Inland Revenue use a

different definition of self-employed, so it is perfectly possible to end up with no employee rights but to be treated as an employee by the tax office.

Of course many people are genuinely self-employed and happy to be so, but some employers abuse this and use bogus self-employment as a way round providing proper rights. If this applies to you in legal jargon you are a worker but not an employee.

The law is getting tougher on this abuse. Already the minimum wage applies to workers whether or not they are employees.

## **TWO KINDS OF EMPLOYMENT RIGHT**

The contract of employment is a very important document.

This is because everyone at work will have two kinds of rights at work. The first are those given to you by the law most of which are covered in this note. These are called **statutory rights**.

The second are those provided by your contract of employment. They will be different for every job. Normally they will be better than the legal minimum or cover areas where there are no statutory rights. These are called **contractual rights**. Both types of employment rights can be enforced in law. Usually this will be done in an Employment Tribunal.

Because contractual rights vary from job to job we cannot describe them here, but if you think your employer is acting against your contractual rights, take further advice from the union

## **YOUR RIGHTS TIMETABLE**

Not all employment rights start from your first day at work. Your contract of employment may set out how you get extra or better rights once you have been in your job for a period of time. For example, holiday rights often increase with length of service. The same is true of your statutory rights. This section both provides an introduction to your employment rights and tells you how long you have to wait before you enjoy them.

### **When you apply for a job**

You should not be discriminated against in a job selection process because of your sex, race, disability or because you are a trade union member.

### **From your first day at work**

- You should be given a statement showing how much you earn and any deductions that will be made from your pay. (This is not the same as a contract of employment, although a contract of employment can contain this information.)
- 18 weeks maternity leave even if you were pregnant when you started the job.
- Emergency leave.
- Time off for antenatal care

- Protection from dismissal on some limited grounds including pregnancy, whistle-blowing and trade union activity.
- Working time rights.
- You have the right not to be discriminated against for reasons of your sex including being pregnant, your race or any disability, or for being a member of a trade union.
- You have a right to equal pay with members of the opposite sex doing the same or a comparable job to you.
- A minimum wage - more information on the minimum wage can be obtained from the government's minimum wage helpline 0845 845 0360, which can also be used to make an official complaint or provide a tip-off that an employer is breaking the law.
- You are entitled to work in a place which is safe and does not cause you to injure yourself or become ill. For health and safety rights see the health page.
- You have a right to time off to study if you are 16 or 17 years old.
- You have a right not to have deductions made from your pay unless you have agreed to them.
- You have a right to time off for public or trade union duties.
- You can claim breach of contract if your employer sacks you without giving you the agreed notice, or breaks some other term in your contract of employment.
- If you are paying National Insurance contributions, you can claim Statutory Sick Pay after you have been off sick for four days in a row.
- You have a right to be accompanied by your trade union or a workplace colleague in a disciplinary or grievance procedure.
- 

#### **After a month**

- One week's notice of dismissal
- Payment if you are suspended on medical grounds
- Wages if you are laid off

#### **After two months**

A written statement of your terms of employment which must include your pay, hours, where you are expected to work, holidays and other benefits such as pension entitlement. While the written statement is not a contract of employment, it is very important that you have one as it can be used if necessary in a court or tribunal if problems do arise.

#### **After one year**

- After one year, you are entitled to claim unfair dismissal if your employer sacks you without good reason, or without allowing you to go through a proper dismissal procedure at work. You are also entitled to written reasons for dismissal from your employer. You cannot be made to "waive" your right to claim unfair dismissal, even if you are on a short term contract.
- You can take an additional period of 29 weeks of unpaid maternity leave, as well as the 18 week period of paid leave
- You can take up to 13 weeks unpaid parental leave to care for a child during its first five years. Rights also apply to adopted children and are better if the child is disabled.

### **After two years**

You can claim statutory redundancy pay if your job has ended and no-one has been taken on to do it. The amount depends on your age, your pay and your length of service. You may get more if your contract provides for it.

## **TAKE A BREAK! - YOUR WORKING TIME RIGHTS**

People in Britain work longer hours than anywhere else in Europe. Many, particularly parents, say balancing work and home is their biggest problem.

But you can now say no to some of the worst excesses thanks to Europe's working time directive. Although some groups are not covered, most workers are entitled to:

- four weeks' paid holiday a year;
- a break when the working day is more than six hours;
- a rest period of 11 hours every working day;
- a rest period of 24 hours once every seven days;
- a ceiling of 48 hours on the maximum average working week;
- a ceiling of an average of eight hours night work in every 24;
- free health assessment for night workers.

And young people's rights are better.

But working time rights are complicated. You can get two helpful free pamphlets from the TUC's know your rights line The Department of Trade and Industry's offer copies of free government literature on the working time directive.

The Health and Safety Executive or the environmental health department of your local council can help with queries on the 48 hour week and night work.

## **FAMILY FRIENDLY? - RIGHTS FOR PARENTS**

New rights for all new parents and better maternity rights are beginning to help make work more family friendly.

### **Maternity leave**

From April 2000 all women are able to take 18 weeks maternity leave - and it can start any time from the 11th week before the baby is due. There are strict rules about giving your employer notice - but the main thing you will have to do is give 21 days written notice of when the baby is due and when you intend to start maternity leave. If you have worked for your employer for one year, you can take extra maternity leave - up to 29 weeks after the birth.

After the shorter period of leave you can go back to your old job. After the longer leave you can go back to your old job or, if that's not practical, a suitable alternative. You can't be dismissed just because you are pregnant or on maternity leave.

### **Maternity pay**

If you earn more than £72 a week and have worked for your current employer for more than 26 weeks by the 15th week before your baby is due you can get statutory maternity pay (SMP). For 6 weeks this will be 90% of your normal earnings and

£62.50 for the remaining 12 weeks Additional maternity leave is unpaid (unless your employer chooses to pay it).

If you don't qualify for SMP you might be able to get maternity allowance - ask your local DSS about this allowance and other benefits.

### **Parental leave**

For every child including adopted children mums and dads are entitled to take up to 13 weeks unpaid parental leave before the child's fifth birthday (or the fifth anniversary of the adoption). But it must be taken in blocks of at least a week, and no more than 4 weeks can be taken in any one year. You must give 21 days notice, and an employer can make you postpone it for up to six months except when you are asking for leave when your child is born or adopted. Many employers will probably be more flexible about some of these conditions. Parents of disabled children can take single days off and the leave can be taken up to the child's 18th birthday.

### **Emergency family leave**

People are now entitled to unpaid leave for family emergencies when you have to care for a child or other dependant such as an elderly parent in an emergency.

## **I'VE JUST GOT THE SACK! - YOUR DISMISSAL RIGHTS**

If you have just lost your job your rights will depend on how long you have worked for your current employer and why you have been sacked. Losing your job is about the worst possible thing that can happen to you at work and you should take further advice from your union (who are experts at dealing with this kind of issue) or another advice agency.

There are three basic ways you can lose your job:

- through redundancy (this is when your job is no longer required);
- you have been dismissed fairly - this will be either because of serious misconduct by you, because you cannot do your job properly or because you do not enjoy legal protection from unfair dismissal;
- you have been unfairly dismissed and can take your employer to a Tribunal.

### **What can a tribunal do?**

A Tribunal can order an employer to give you your job back. However this is fairly unusual. Usually they will order your former employer to pay you compensation. The upper limit for compensation has been increased however the average award is much less - at around £3,000.

### **Treated unfairly?**

The law protects everyone at work from being discriminated against because of their race, their sex or a disability. This protection covers pay and conditions, promotion and all treatment at work, including the job interview.

There is no legal protection yet against discrimination on other grounds such as age or because you are gay or lesbian. But if you are sacked on these grounds, and you

have worked for the same employer for more than a year you might be able to claim unfair dismissal.

This is an area where you will need further advice. The union should help or you can contact

- the Equal Opportunities Commission for sex discrimination
- the Commission for Racial Equality
- the Disability Rights Commission
- LAGER (Lesbian and Gay Employment Rights) (020 7704 8066 (women) 020 7704 6066 (men)).

## **HEALTH AND SAFETY**

You have both rights and responsibilities under health and safety law.

- Your employer has a duty to make sure you are not injured or made ill at work.
- You have a duty to work safely by co-operating with your employer, and following safety guidelines.
- Your employer has a duty to train you to deal with health and safety issues.
- All workplaces must have an accident book in which work related injuries must be recorded.
- Your employer must inform and consult you or your union representative on all health and safety issues.
- You have a right to refuse to do something dangerous if you feel you are in 'imminent and serious danger'. If your employer disciplines you, you are entitled to compensation. But you should raise your concerns first work you do. Click on the link to access specific health and safety advice and order a helpful leaflet that answers common health and safety questions at work. Or speak to your manager or union safety rep.
- There are many special regulations about the handling of dangerous substances or processes and the use of machinery. These normally have to be displayed or made available to staff. Read them carefully.

Unions are experts in health and safety. If you are in a union they are likely to be able to give you expert advice about the safety questions.

You can also call the Health and Safety Executive, who enforce and advise on the law.

## **GETTING YOUR RIGHTS**

Employers deny you your rights for a mix of reasons.

Sometimes it is because they are ignorant of their responsibilities. Sometimes it's because they have always managed to get away with it, but will back down if challenged. And sometimes it's because they rely on fear and exploitation to keep down business costs.

There is a legal remedy for all the rights described on this page. But that does not mean it is always an easy process. Bad employers do victimise staff who insist on their legal rights. They may be prepared to sack you and face the consequences of paying compensation to you, although increased maximum awards mean they may

have second thoughts. Of course if you have already been sacked then you have nothing to lose. Sometimes genuine differences of view about what the law really means have to be resolved in a court or Tribunal.

The best way to proceed is to take advice from the union,

## **TAKING A CASE TO AN EMPLOYMENT TRIBUNAL**

Employment Tribunals are a special kind of court that deals with employment issues. They are more informal than courts of law. Sometimes lawyers are involved, but in more straightforward cases people will use a union officer, someone from an advice agency or present their own cases.

Costs cannot normally be recovered in Employment Tribunal cases so if you employ a lawyer you will have to pay their fee out of any damages or compensation you win. Neither is legal aid available for representation so if you do not win, you will have to pay your own legal bills if you are represented by a lawyer. In some cases you may be able to get legal aid for advice on whether you have a good case.

It is important to understand that most complaints must be made within three calendar months of the event happening. This is extended to six months for redundancy and equal pay issues.

## **UNIONS TODAY – YOUR FRIEND AT WORK**

Many of the new rights described have been won by union campaigning. And without union help and assistance many workers won't get the full benefit of the new deal at work.

Everyday unions help thousands of people at work. In 2000 unions won a record £330 million compensation for their members through legal action. They won £1 million in equal pay claims - an average of £15,000 per member.

And of course unions help negotiate better pay and conditions.

But unions are not just there when something goes wrong. Union workplaces are safer, and more likely to help employees get on with better training and development programmes. Unions themselves provide training and services like legal advice. And in the best workplaces employers and unions have put behind them outdated ideas of confrontation and work together in partnership.

Partnership employers recognise that staff morale and commitment are improved when they are treated well, have their views taken into account and enjoy job security. And in return staff take more pride in their work and are more ready to embrace the changes modern firms often need to compete.

Unions take on the bad employers, and work with the good to make them better.



# PERSONAL CASE CHECKLIST

<p><b>NAME</b></p> <p><b>POST</b></p> <p><b>UNIVERSITY ADDRESS</b></p> <p>Telephone (W) _____</p> <p style="padding-left: 40px;">(H) _____</p> <p style="padding-left: 40px;">(M) _____</p> <p><b>e-mail:</b></p>	<p><b>HOME ADDRESS</b></p> <p><b>DATE OF BIRTH</b></p> <p><b>AUT MEMBERSHIP NUMBER:</b> _____</p>
<p><b>CONTRACT DETAILS</b></p> <p>Dates of employment _____</p> <p>Probation? _____</p> <p>Pension scheme? _____</p>	<p>Full time /Part time                      Hours _____</p> <p>Open ended / Fixed term (+ date)</p>
<p><b>MANAGER INVOLVED</b></p> <p>Contact details _____</p> <p>_____</p>	<p><b>LA COMMITTEE MEMBER INVOLVED</b></p> <p>Contact details _____</p> <p>_____</p> <p>_____</p>
<p>Time limits relevant? _____</p> <p>Significant dates in case _____</p> <p>Useful reference documents</p> <ul style="list-style-type: none"> <li>• Letter of appointment</li> <li>• _____</li> </ul>	<p><b>Brief description of problem</b> _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p><b>Dates of meetings and other events</b></p> <p>1. Initial discussion / _____                      3. _____ / _____</p> <p>2. _____ / _____                                      4. _____ / _____</p>	

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# EVALUATION AND REVIEW

AUT Personal Cases    Venue \_\_\_\_\_ Date(s) \_\_\_\_\_

1. Did you find the course beneficial?	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
2. Which was the most useful activity from your point of view and why?				
3. Which was the least useful activity from your point of view and why?				
4. Should anything else have been included?				
Please rate the following aspects of the course:				
5a. Convenience of time and place	Excellent <input type="checkbox"/>	Good <input type="checkbox"/>	Acceptable <input type="checkbox"/>	Poor <input type="checkbox"/>
5b. Organisation	Excellent <input type="checkbox"/>	Good <input type="checkbox"/>	Acceptable <input type="checkbox"/>	Poor <input type="checkbox"/>
5c. Topics covered	Excellent <input type="checkbox"/>	Good <input type="checkbox"/>	Acceptable <input type="checkbox"/>	Poor <input type="checkbox"/>
5d. Course materials	Excellent <input type="checkbox"/>	Good <input type="checkbox"/>	Acceptable <input type="checkbox"/>	Poor <input type="checkbox"/>
5e. Presentation	Excellent <input type="checkbox"/>	Good <input type="checkbox"/>	Acceptable <input type="checkbox"/>	Poor <input type="checkbox"/>
Any other comments about the day				

6. Please comment on any resources, support or training that you would like to receive in the future.

7. Have you any comments and ideas for future training for others

8. Please identify three (or more) things you will do as a result of the training

i.

ii.

iii.

Name \_\_\_\_\_ LA \_\_\_\_\_

**Please complete and hand in at the course.** If not possible please return this form to:

Training officer, Association of University Teachers, Egmont House  
25-31 Tavistock Place, London WC1H 9UT