

BULDIG

EFFECTIVE BARGAINING

A brief guide for UCU representatives



Introduction

It is collective bargaining that sets us apart from other organisations like pressure groups and think tanks

The vast majority of our terms and conditions of employment have been won by creating enough collective power to negotiate agreements

WHY WE NEED STRONG BRANCHES

The secret of union power is having strong and active branches. Building the strength and activity of branches is the most important task facing UCU; everything else flows from this. Not only do local members benefit directly when their branches are strong and active and capable of making their employer take note, the whole union benefits when it is made-up of strong, well-organised branches. Our ability to bargain collectively, to make either an individual employer or group of employers engage in meaningful collective bargaining, is primarily dependent on our branch organisation.

It is collective bargaining that sets us apart from other organisations like pressure groups and think tanks. We know that the way people get power at work is to act collectively. The conditions that UCU members work under are not usually given freely by generous governments or enlightened employers. The vast majority of our terms and conditions of employment have been won by creating enough collective power to negotiate agreements. Even when we win agreements or improvements to the law, we still need collective power to enforce our rights.

To improve our members' paya nd conditions of employment; to tackle the inequality in our workplaces, we need to look to build our own power, seeing the active involvement of members as essential in determining our goals. We need to build our capability to translate generalised support for our campaigns into concrete actions in support of our bargaining objectives.

This requires us to think about what we do to deliver meaningful collective bargaining. We need to consider how each decision we take, how we spend our time, either builds or diminishes our capacity to bring about change.

THIS SUMMARY GUIDE AND OTHER RESOURCES

This guide furthers that approach. It is linked to two other publications on the theme of Building UCU. These are intended as foundation resources for members, workplace representatives, and branch officers. They are:

Building effective bargaining: a brief guide for workplace representatives (this publication). This is the shortest summary of UCU's approach to collective bargaining, organising, and the development of our workplace base.



Introduction

Few people join UCU out of gratitude for a good pay deal in the past or for protecting a colleague from unfair dismissal

Most people join a trade union and get active because they are concerned about what is happening to them today **Building power in the workplace:** an introductory guide for members and workplace representatives. This is a guide that indicates the kind of union UCU wants to be, focussing on how to bring about deeper levels of organising to produce the power necessary to win significant victories.

Branch handbook and code of good practice: This is a more extensive document. It is pitched at senior branch officers but it is open to all as an online resource. A hard copy will be sent to each branch. It will be a core resource for UCU's training courses.

All of these documents conform to the following key principles.

KEY PRINCIPLES

1. The workplace is the foundation of UCU

The workplace is where the union is best able to protect its members and improve their working conditions. Top-down campaigning, media work, legal work and political work focussed on Westminster, Holyrood, Cardiff, Belfast and elsewhere are helpful but they can't deliver for members if the union is weak and ineffective in the workplace. That's why branches are the building blocks of a strong union.

2. Your interests are not the same as your employer's

As a union we will sometimes make common cause with an employer or employers (eg to get more funding from government for public services), but on most matters we have a conflict of interest. Employers cause most of our members' problems and people join us to resolve those problems. Time and time again, the employers' agenda is at odds with what staff consider most appropriate to their educational or research priorities and their needs as workers.

3. It is the process of engaging in collective bargaining that will build the union – not the result

Few people join UCU out of gratitude for a good pay deal in the past or for protecting a colleague from unfair dismissal. Most people join a trade union and get active because they are concerned about what is happening to them today and in the hope that we can win something better through our union tomorrow.



Introduction

There are many ways to put pressure on employers

The ultimate threat which a union poses to employers is the threat that its members will withdraw their labour by going on strike

4. You are strongest when you organise yourselves

Unions are about workers coming together to take control of their own livelihoods. As a rep you will sometimes need expert professional advice on strategy and tactics, your legal options, financial issues and other matters; technical support; training; and help with member representation, organising and negotiations activities which branches aren't (yet) ready to do on their own. Your union can help you access those things, but UCU staff shouldn't do anything for you which you are able to do yourself.

5. A well-organised branch is always ready to bring its power to bear on the employer – including through strike action

There are many ways to put pressure on employers. The ultimate threat which a union poses to employers is the threat that its members will withdraw their labour by going on strike. That doesn't mean strikes are always necessary or the best way to get what you want, however. The threat of strike action can be as powerful as the strike itself. That threat on its own can achieve real victories, as can other tactics.

The rest of this guide provides a high level overview of key principles and practical points for workplace reps to consider in three sections:

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At the heart of trade-unionism is the recognition that individual workers are in an unequal power relationship with their employer

Branches should consider how to work with members to bring our collective power to the negotiating table This section is about helping you think about how to approach negotiations with your employer(s) but also how collective strength comes from members working together to get the best deal we possibly can in the short and long term.

Typical issues on a bargaining agenda are conditions of employment such as working time, annual leave, equal treatment, training, occupational health, health and safety, the organisation of work and, of course, pay and/or grading matters. However, a bargaining agenda can and should also cover other issues as well: from how our work is organised, what and how we teach, to race and gender equality or making our employers address climate change, for example.

WHAT IS COLLECTIVE BARGAINING?

Sometimes there is a tendency to focus on legal definitions or on the process of negotiation between union representatives and employer(s) but collective bargaining is about more than that; it is about workers working collectively to build leverage to get the best deal possible.

At the heart of trade-unionism is the recognition that individual workers are in an unequal power relationship with their employer. At the outset of any campaign to improve or defend terms and conditions there should be a discussion about shifting the balance of power. Branches should consider how to work with members to bring our collective power (leverage) to the negotiating table. Often it can seem that the employer holds all the best cards but we always have options.

This section provides a few practical tips for you to consider.

Basics

- Make sure you have a copy of your recognition agreement.
- Check if the formal arrangements for negotiation and consultation are clear.
- Be aware of any informal arrangements that have developed over time and consider if these are still appropriate.

Taking the initiative

Don't let senior management control the bargaining agenda. Use the bargaining machinery to take forward members' demands, not only respond to the employer's agenda.



Consider carefully the power you believe you have before meeting the other side

This has a crucial bearing on how you approach the planning and conduct of negotiations and how you link it to your organising work

- Don't assume you know what members want. Branch meetings are an important way of getting members views but there are other ways such as: departmental meetings or surveys. Most of all, don't forget the simple but powerful act of workplace representatives talking to people.
- Put your claims in writing and use this as the basis to track progress in the negotiations.
- When responding to management initiatives, ask for their proposals in writing and consider if it is possible to widen the issue under discussion for negotiation by inserting one of our issues into the discussion.
- Get the finally agreed position in writing. Don't rely on minutes or notes of discussions as the sole means of recording the agreement. This can make communicating the proposals to members difficult and can make it hard to find what was agreed in the future.

The role of power at the bargaining table

- Negotiating skill is no substitute for lack of leverage. Skill can only offer short-lived advantages. Bargaining strength has to be built up over time from a combination of sound workplace organisation, high membership density, meaningful engagement of members, building relationships with allies and key actors, and finding the right tool to lever a set of negotiations.
- Consider carefully the power you believe you have before meeting the other side. This has a crucial bearing on how you approach the planning and conduct of negotiations and how you link it to your organising work.
- It is possible to reach agreement without the need to bring leverage into play but, more often, you have to leverage the power of your members to put pressure on the employer to achieve your bargaining objectives.
- Leverage needs to have the potential to either hurt the employer economically or create sufficient reputational damage or political pain to induce concessions. Part of the knack is working out what matters to the other side at a given point in time.

Consider what tactics are necessary to achieve the desired change in the employer's approach. This requires thinking strategically about



As a rule of thumb, anything your employer suggests that you would be embarrassed to tell your members about should be refused institutional timelines and the key stages, events and processes involved in the business of the organisation.

You are never powerless.

The negotiating team

- Think about who to involve in the negotiations, don't select the team by default. Think about the advantages of expanding involvement in the process; make sure you have members with expert knowledge of the matter under consideration in attendance.
- Collective responsibility is vital; showing division within the negotiating team only benefits the employer's side. Team members should not produce their own individualised public briefings and dissent from the collectively agreed approach.
- Always meet before and after the meeting with management; pre-meetings to agree the approach, after the meeting to agree the message to members, what happens next, and how to maintain momentum.

Accountability to the members

Be as open as possible. The more information your negotiators can convey to the rest of the membership about what happens in negotiations, the better. The more representative your negotiating team is of the workforce which it is negotiating on behalf of, the better. The more opportunities members have to feed into the negotiating process while it is ongoing, the better.

Avoid treating information or offers provided by the employer as confidential, whenever possible. It can be an employer tactic to privilege union negotiators with information that they later use to create a division between the negotiators and those they represent. Be wary of attempts to divide and rule.

As a rule of thumb, anything your employer suggests that you would be embarrassed to tell your members about should be refused.

Decision making

If you have been transparent with the members during the negotiations, the final draft agreement should not come as a shock. Best practice would be for negotiators (through the branch) to:



It is important for branches to ensure that they do not 'stand down' until the agreement is implemented

- arrange a meeting or meetings of affected members to discuss the progress made in negotiations (making sure that members have access to the agreement)
- providing members with a summary report of the negotiations, perhaps in the form of a table tracking progress against the issues
- put the final position to a ballot of members, normally with a recommendation from the negotiators/branch committee.

Implementation

It is not unknown for agreements to be signed only for real difficulties in implementation to be encountered. It is important for branches to ensure that they do not 'stand down' until the agreement is implemented.

Organising for bargaining power



Low density and low participation can undermine our credibility and ability to influence employers Organising is not an end in itself. It is not an abstract exercise or a chore focussed on an annual appraisal. Throughout the history of trade unions, it is the organising done by members, supported by officials that has made a difference. We might remember the great speech in a meeting or conference hall but it is the quieter work behind the scenes that makes the real difference. It is a continuous process. It is a social process.

There is a direct link between bargaining strength on the one hand, and membership density (the proportion of workers who are UCU members) and participation in the work of the union on the other. Low density and low participation can undermine our credibility and ability to influence employers when we make claims to speak for the workforce. Working on issues that do not directly involve and engage members will always be less successful than when the membership takes ownership of an issue.

A successful organising approach is one that:

- involves members in identifying issues, finding solutions and dealing with problems
- recruits, trains, and supports more active and confident representatives from among every work group and workplace
- takes a 'what can we do about it ' approach, rather than 'a leave it with me to sort it out' one
- builds confidence among members about what they can do themselves
- leaves members feeling good about their union and ready to recruit others
- Reaches out to non-members and attracts them through activity
- promotes a model of trade unionism that has a political consciousness and is grounded in collective action, rather than one focussed on individual remedies
- ensures a legacy of an organised workplace.

Ten points to keep in mind

1. Organising is not the same as servicing and needs to be more than mobilising members for 'events'. It requires members to grow and strengthen the union on a lasting basis, from the ground up. It lays

Organising for bargaining power

Listen to people in your workplace

Don't assume you know what motivates them the groundwork for truly effective mobilisation to happen. Organising differs from servicing in that more of the work is done by members for themselves, not done for them by senior elected members or staff.

- 2. Increase participation to build power Recruit more members and increase levels of activity amongst the whole membership.
- **3.** Listen to people in your workplace Don't assume you know what motivates them.
- **4. Think strategically** What are the long term, structural issues facing your branch and the union as a whole?
- 5. **Map the workplace** Know more about each area of your workplace and the people in it than your boss.
- 6. Identify leaders Every workplace has people whom colleagues trust and respect. You need those individuals on your side to recruit more people to your cause and build a majority.
- 7. **Have conversations** The most important form of communication between members or potential members is the one-on-one conversation. The more conversations you can hold, the better. The more your other communications resemble conversations, the better.
- 8. **Test your structures** Track members' participation in different campaign actions (petitions, mass meetings, ballots, etc.) to determine how ready your branch is for collective action and which areas need more of your attention.
- **9. Use the communities your members are part of** Every worker has connections they can draw on to enhance our collective struggle and improve things for everyone in our institutions: students, parents, alumni, political organisations, other community groups, etc.
- Be proactive Dedicate as much of your branch's time as possible to the issues which members want to take action over - not just the issues which your employer forces on to the agenda.

We know that within our membership is a vast array of experience and creativity that branches could

tap into

While it is important to mobilise members for an event or activity, when members are really clear that their voice counts it starts to signal that they are part of something deeper, an organisation, a movement that exists because of and for them.

To keep members engaged for the long-term, it is necessary to build an ongoing relationship.

Members perceive the UCU much more positively when there is a local representative present within their workplace. They are more likely to:

- feel positive about the union
- engage with union campaigns
- contribute to internal union democracy.

Creating different routes into activity

Taking on formal positions should not be the only way members can participate and contribute to their union. Not everybody has the capacity or means to stand for election and attend regular committees for years at a time. And yet we know that within our membership is a vast array of experience and creativity that branches could tap into.

Some ideas to try are:

- Survey/speak to members about their areas of interest.
- Make campaigning events as accessible as possible.
- Invite members to get involved in task groups, from helping develop admin and communication systems to working on a claim to address a specific issue, providing input from their areas of expertise.
- Convene social events.

Identifying workplace leaders

When you map the workplace you need to identify not only the 'activists' but also the 'leaders' in different parts of the workforce. You need both to organise properly. Sometimes they are the same people, but often they are not.

Bear in mind:

- These leaders may not be union members.
- They may not be the highest-ranking or most powerful worker in their department.
- They won't necessarily be the loudest person in meetings.
- The people you need to identify are the ones who can persuade their fellow workers to take action because their fellow workers trust them.
- Their ability to command the trust and respect of colleagues and get things done on their own steam is immensely valuable.

The best way to find out who the leaders are in a workplace is to have one-on-one conversations with workers and ask them about their colleagues. In particular, ask them: 'If you were asked to do a task at work and you weren't sure how to do it, who would you ask for help?'

Another principle to bear in mind is that 'like recruits like'. Young people are better at persuading other young people to join the union, women are better at persuading women, and so on. Try to make sure that organising conversations are taking place between workers who have things in common.

Supporting and training our people

Having recruited workplace contacts or fully-fledged representatives, it is important that the branches consider ways of nurturing their development.

- Ask for your branch committees to have an agenda item on representative development as a clear point for discussion on their agenda.
- Ask if you want someone to coach or mentor you.
- Make yourself aware of the comprehensive training programme provided by UCU centrally and via regions and nations.
- Discuss with others in your branch if there would be benefit in asking for customised courses and briefings.

Get your branch committee to agree to discuss training needs with the regional official.

The people you need to identify are the ones who can persuade their fellow workers to take action because their fellow workers trust them

Facility time

It is not easy to do sustained organising and proactive bargaining while coping with the extreme workloads which we encounter in the sectors we cover. Facilities agreements are often part of a union's recognition agreement with the employer. Such agreements should include time off or cover for the union's representatives.

Facilities time is a key resource and it is good practice that branches use the allocation of any 'blocks' of time in a strategic way. For example, if the branch has agreed a range of objectives that it wishes to work on over the next 12 months then it makes sense to allocate facilities time to achieve these. Your branch should think carefully about the allocation of time, rather than fall back on previous custom and practice.

Branch and workplace meetings

Bringing members together is vital for formulating branch policy and democratic decision-making. Whether a formal branch meeting, a meeting in the workplace and for a small group of members, it is important that members who make the effort to attend find the experience rewarding.

This is easy if:

- meetings are friendly and welcoming (introduce yourself, the purpose of the meeting, and how members can contribute)
- members have had notice of major proposals or positions to be considered
- jargon is avoided or explained
- those who haven't contributed are given an opportunity to speak before those who have
- we ensure that no one member can dominate discussion by virtue of their professional role or employment status in relation to other members present
- debates and differences are aired in a non-aggressive manner
- decisions and actions are clear and understood
- assumptions aren't made that lack of comment means agreement
- members know what will happen next and when the next meeting may be called.

Facilities time is a key resource and it is good practice that branches use the allocation of any 'blocks' of time in a strategic way

FURTHER INFORMATION

This is a summary of the branch handbook and code of good practice. That handbook contains more information, technical advice, and useful checklists.

A hard copy will be sent to your branch, but it is also available online at: www.ucu.org.uk/BuildingUCU

Building power in the workplace, the introductory guide on deeper organising for members and workplace representatives is available online at: *www.ucu.org.uk/BuildingUCU*

CHECKLIST 1: LEVERAGE ACTIVITIES

Reputational	
• Visibly supporting a campaign (wearing badges/displaying posters)	Γ
Signing petitions	Ι
Leafleting students	Ι
 Lobbying key meetings or events 	
Media coverage	
Industrial/work based	
Raising matters at work meetings	
 Action short of a strike 	
Strike action	
Political	
 Obtaining support from elected representatives (councillors, mayors, AMs, MSPs, and MPs) 	
Legal/regulatory	
• Pointing out inconsistencies with statutory provisions or case law	Ι
Health and safety provisions	

Because of the draconian legal position governing the rights of trade union members to take industrial action, it is important that branches keep their regional official apprised of any action that is being considered. They are also able to offer expert advice, ideas, and help arrange for resources to be produced.

UCU's procedures for local industrial action (February 2017) are available at: https://www.ucu.org.uk/media/8473/UCU-local-industrial-actionprocedures/pdf/UCU_LocalIndustrialActionProcedures_Oct17.pdf

CHECKLIST 2: POWER ANALYSIS

There are a number of different ways of conducting a power analysis of the environment you are working in.

The key is thinking about the employer and asking yourself:

- Where does the power to make the change lie with the employer?
- Who do we need to influence, how do we get to them?

We should be thinking imaginatively about UCU's own matrix, for example:

- What resources do we have?
- Who are our allies?
- Who are the influential figures in each workplace?
- What arguments do we need to win them over to our side?

A good way of visualising power and influence is to carry out a power map

CHECKLIST 3: PREPARING FOR COLLECTIVE BARGAINING

Two types of skills are involved: analysing and planning. Identifying the issues – what is the negotiation about? There may be general issues of varying degrees of importance. Some may not be immediately apparent. There may be a hidden agenda which is masked by the presenting issue over which there seems to be conflict, eg. the real issue may be how decisions are made or who by, rather than a squabble apparently about a specific decision.

Decide on your objectives • Which of the issues are important to our side? • How do these fit with our longer-term strategy? • What are the priorities? • What is less important or unimportant? • What is less important or unimportant? • What is less of they perceive as important? • What points will they raise? • What is their longer-term objective(s)? • What strategies might they adopt? Estimate bargaining power • What do they/we stand to lose by rejecting likely proposals? • What do they/we stand to lose by accepting? Therefore, what are the chances of our proposals being accepted?

Remember that the other party may look at losses and gains differently. Try to anticipate that in assessing bargaining power. Bargaining power is in the eye of the beholder, ie it depends on the other side attributing power to UCU (influencing skills will come into play in restructuring their perceptions).



CHECKLIST 3: PREPARING FOR COLLECTIVE BARGAINING (continued)

Tactical considerations (questions for the team to consider before the negotiating meeting)

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How are UCU negotiators going to present the case in such a way as to augment the employer's perception of the advantages of accepting our proposals and the disadvantage of rejecting them?

- What are the demands/counter demands they are likely to make? What concessions are we likely to have to give?
- How much bluff are they likely to employ? What should be our response?
- What are the demands/counter demands that we will make?
 What concessions are we likely to gain?
- How much room for manoeuvre is likely in our respective positions?
- Who are the individuals who will negotiate against us? Have they a 'style' which we must counter? Have they weaknesses we can utilise?
- What can we learn from our last set of negotiations?
- What are our own strengths and weaknesses as negotiators?
 How can we exploit the former and minimise the effect of the latter?
- What strategies can we use for pre-negotiation power building? How can we counter theirs?

Teams should also be wary of analysing the situation to the point of paralysis!

CHECKLIST 4: ACCOUNTABILITY AND DECISION MAKING

Checklists

 Decide before a negotiation starts the roles and responsibilities of the various UCU bodies (members, branch committee, negotiating team)

- Be clear about the negotiating mandate and which group can make adjustments if necessary (including the parameters)
- Agree how to deal with sticking points in the negotiations

- Ensure that there are timely progress reports to the members
- Maintain collective responsibility

CHECKLIST 5: BASIC ORGANISING CHECKLIST

Membership	
Do you know how many members you have?	
Is membership density well above 50%?	
Do you know if areas of the workforce are under-represented (location, department, job-type, protected characteristics)?	
Organisation	1
• Are all branch officer posts filled?	
Do you have a departmental representative structure?	
Does every member have a departmental representative?	
Does recruitment and development of representatives appear on your branch committee agenda?	
• Have all representatives attended at least one training course?	
 Are there regularly updated local sources of information (eg. newsletter, website, regular email) for members? 	
• Do members get involved in tasks for the branch?	
Does the branch canvass/survey members and potential members on the issues affecting them?	
Does the branch meet regularly?	
Bargaining	0
Is the branch actively negotiating a claim with the employer?	
• Do members know what issues UCU is currently pursuing?	
• Do potential members know the issues the branch is dealing with?	
• Are members in control of the negotiating position of the branch?	
This is a basic checklist. A longer checklist is attached as Appendix 2.1 in the longe guide - Building UCU, a branch guide/code of good practice at www.ucu.org.uk/BuildingUCU	r

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Mobilising potential	
• Is the issue one that affected members feel strongly about?	
The effect on different groups	V
• Who will gain from the successful resolution of a particular issue?	
Who might be disadvantaged?	
• What is the potential for the issue becoming divisive?	
• Are there particular groups of staff/members that you need to convince of the value of union membership? Could tackling this issue support this?	
• Does the issue affect large groups of staff or a small crucial minority?	
Perception	V
• How is the union likely to be perceived if it does/doesn't tackle this issue?	
Timing	V
• Is the issue time limited/deadline driven?	
• Is the matter likely to get worse if not dealt with immediately?	
• Will there be any consequences if negotiation on the issue is delayed?	
• If negotiations are protracted, how will the workforce be kept interested?	
• Does the issue have broad and strong enough support to keep staff engaged over a period of time?	
• When is the best time to lodge a claim?	
• How will this fit with institutional timescales?	

CHECKLIST 6: POINTS TO CONSIDER WHEN

CONSIDERING 'ORGANISING' ISSUES

continued

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CHECKLIST 6 - POINTS TO CONSIDER WHEN CONSIDERING 'ORGANISING' ISSUES

Timing (continued)	
• What is realistic for you to try and cover in the time available?	
• Are you aiming to discuss one or two issues in detail or are you looking to begin initial work on a number of issues?	
National Scope	V
• Is this issue part of a national campaign/negotiation strategy/policy of UCU?	
Management response	V
• What response is the issue likely to get from management? How much of a challenge will it be to convince them of your arguments?	
• What has their attitude been to similar issues in the past?	
Information/Evidence	V
• Do you have enough information/evidence to support your arguments?	
• If not, will this information be easy to access?	
Other unions and groups	V
• Will other unions and their members/other groups support our case?	
See Checklist 3 when preparing for negotiations	



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