

Unite the Union



Accredited Representatives' Handbook

**An Introduction to being a Unite Representative
in the Community, Youth Workers and Not for Profit Sector**

April 2016 (2nd Edition).



Siobhan Endean is our National Officer. She is our main link with the wider union.

A Message from Siobhan Endean

The Faith Workers Branch of Unite has continued to grow from strength to strength since it was founded in 1993 by members recognising that all 'ministers of religion' and staff working for faith bodies needed the same securities and protections throughout the course of their working lives as anyone else.

At the heart of the Branch are the Accredited Unite Representatives. Whilst this role has evolved, and will continue to do so, the representatives are trained by the union to support individuals no matter the circumstances our members find themselves in; to take issues to their 'employer' to seek resolution; to campaign for change; and to grow the membership base to strengthen all in their ministries.

The Faith Workers Branch has written this handbook as a guide for all representatives, new and old, to find their way around Unite, now the largest union in the UK and Ireland. The handbook is packed with useful resources and advice to help you go about your work as a representative. It also shows you how you can get involved in the wider work of your union and contribute to its future.

I value all that you do for your colleagues across the faith sector and trust that you will gain so much from being able to help your brothers and sisters in their hour of need.

Siobhan Endean

Unite National Officer
Community, Youth Workers and Not for Profit Sector

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Editor's Introduction.

This Handbook is designed to be read alongside the Unite Sector Handbook 'Dignity at Work' which is available from our National Officer or the Unite website.

Every effort has been made to ensure the accuracy of the information in this Accredited Representatives' Handbook. But this handbook does **not** constitute legal advice which should be sought from a Regional Officer or Trade Union Solicitor.

The role of being an Accredited Representative is the most important in the union, and should be held with pride. Our union is a collective organisation whose purpose is the representation of the men and women who make up our membership.

Being an Accredited Representative is a privilege and a challenge. It is not easy in our society to be a minister of religion. Respect for faith workers is at an all-time low, and the legal frameworks that they work within are at an all-time high. Reps need to understand employment law well enough to know when to seek further support, which will be provided in the first instance through the helpline coordinators from other more experienced reps. They need an ability to listen and to recognize bullying and harassment. They need to be able to recognize when a member may need to see their doctor.

Reps need to be able to give an explanation for the hope that is within them; they need to be resilient and to be able to teach other faith workers to be resilient. Most reps already have many of these skills, and they can learn those that they don't have. Faith workers are more likely than most to have skills in pastoral care, active listening, and a passionate sense of justice. You can make a difference to other faith workers.

While the job can be difficult at times, it is also challenging and rewarding. To do the job well, you will need to win the confidence and respect of your colleagues and the members you represent. You can take pride in knowing that you are helping to build a strong and effective union organisation. You are there to protect and improve the conditions of all the members you represent and to ensure that each member is treated fairly and with dignity. Accredited representatives are the bedrock on which union organisation is built.

Adrian Judd

Branch Training Officer
Faith Workers Branch

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For advice and representation call the helpline on 0333 123021



There are lots of people to support you as you support members: those who run the helpline and other experienced reps, as well as Regional Officers.



If you are busy why not study online?

Unite organises specialist online courses for Faith Workers Branch reps.



Have you read the Sector Handbook 'Dignity at Work'? Download it from the Unite website today.

Accredited Representatives' Handbook

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1. The Faith Workers Branch in Context

The Faith Workers Branch.

Unite is the largest trade union, in Britain and Ireland. Unite rose out of a merger of Amicus and the Transport and General Workers' Union (TGWU). Amicus was formed from 4 unions - GPMU (print), Unifi (banking and insurance), AEEU (Amalgamated Engineering and Electrical Union) and MSF.

The Faith Workers Branch was part of Amicus (and its predecessors), and so now is part of Unite. Anyone can join Unite. So you will find unskilled, semi-skilled and professional people alongside each other. This brings strength in numbers, economies of scale, and the most wonderful diversity of skill and backgrounds you could imagine.

Unite is affiliated to the Trades Union Congress and the Labour Party (though members have the right to opt-out of paying into the political fund, if they so choose).

It is a modern, forward-thinking and dynamic union. It is campaigning and 'member-led'. Because of its size it sets the agenda that others follow. So, when you join the Faith Workers Branch - you are part the most influential union in the movement.

All you have to do is play your part, have your say, and always remember that the union is the members, and what we do together for the good of others. Welcome aboard!

Our Members.

A union is nothing without its members as they are the reason for its existence. Unite is the largest union in the UK and Ireland. The Faith Workers Branch of Unite has members among all the main Christian denominations and a growing membership among Rabbis. We are keen to welcome workers and ministers of religion from all faiths into membership.

Workers of faith organisations all too often suffer as a result of the strains of working life, which can easily impact upon the family. Long hours, difficult relationships with people, organisational restructuring and a host of other issues are as real for faith workers as anyone in the working world. This goes for ministers and lay workers alike. New approaches to managing people and theories of 'human resource management' can have dramatic consequences. Organisations are restructured and new lines of accountability introduced. Without advice and good representation, we can be in trouble.



When did you join Unite? What was it called then?



Members may be office holders but not employees, or office holders and employees, or just employees. All deserve to be treated with dignity and respect at work.



Are you an employee or an office holder? Some are both.

Where do our members work?

Our members rarely have traditional workplaces. They may have religious buildings to work from e.g. a Sikh Gurdwara, or Islamic Mosque. Christian members commonly have local faith congregations to look after, as well as responsibility to minister to a wider group of people. In the Church of England this is the parish, as also in the Methodist Church - hence Wesley's saying 'the world is my parish'.

Are members employees?

Each member may be: an office-holder and an employee; an employee but not an office-holder; or an office-holder but not an employee.

Most faith bodies believe that ministers of religion are office holders, but each case must be taken on its own merits. Their terms may try to mitigate against employment rights, but the structure of their work, rights and responsibilities, and relationships increasingly mirror those of employees or at the very least workers. A "Worker" is similar to an employee, with slightly more restricted employment rights.

Why do people join the Union?

People join Unite the Union for a number of reasons: because a friend is in the union; for mutual support; for legal help; for solidarity; to help others; for protection when they feel vulnerable and at risk; to work for justice nationally or internationally; because someone asked them; because of fear of redundancy; because of the membership benefits; and for theological reasons.

Why do some people not join?

'Nobody asked me' is the most common reason people give for not joining. Members of faith bodies may also be uncomfortable with the language of rights, and entitlement, and more comfortable with language and theology of self-sacrifice which faith organizations are more used to. Others feel that they have no need for protection, and they have had solely positive experiences of their faith organizations.

Recruitment.

All Accredited Representatives share responsibility for recruiting members, and for helping to identify potential new Accredited Representatives. The Union needs more members, the more members, the greater the impact when you raise issues that you want other to respond to. Our aim is to have 100% membership in every region in every faith body.



Unite has a 100% Campaign and aims to recruit 100% of all workers in each organisation. Every rep has a role as a recruiter of new members.

The Faith Workers Branch in Context.

The Faith Workers Branch is part of Unite the Union. The Union is made up of regions and federated sectors. The Faith Workers Branch is part of the Community, Youth Workers and Not for Profit Sector. The Branch has a web site which can be freely accessed: <http://www.unitetheunion.org/faithworkers>

The Three Pillars of Unite the Union:

1. Organising
2. International solidarity
3. Politics

Reference to these three fundamental principles of Unite reminds us of the roots of our Union, the wider political and international contexts of the Faith Workers Branch, and the need to organize as members to meet the challenges which face us as individuals, and which we face together as members of Unite.

The Branch Structure:

The Faith Workers Branch has an Executive Committee who are elected for three years by the members at every third Annual General Meeting. As a branch we campaign on issues selected by our members. The Executive Committee supports campaigns and enables the voice of faith workers to shape the agenda of the wider trade union movement. A range of backgrounds is represented by the current members of the executive as they seek to serve all members of the branch.

The branch is supported by Sally Kosky, National Officer of Unite and Nicole Charlett, Regional Officer, based at Moreland Street, London.

There are approximately 100 Accredited Representatives, elected every three years by the members at the Annual General Meeting. The Faith Workers Branch benefits from reps with professional skills in listening, pastoral care, advocacy, and public speaking.

The Faith Workers Branch is hoping to have more regional meetings to become more local to our members. It is actively seeking to recruit more reps from all faith organisations.



What region do you live in? Who are your Regional Officers?



Reps should

- Gain credibility
- Listen
- Motivate members



Can you think of anyone who would make a good rep?

What is it about them that would make them a good rep?



Reps should know and follow procedures. They should also make sure that management do not break their own procedures, as this can be experienced as bullying by our members.

What makes a good Accredited Representative?

- Reps need time to represent members, and to learn how to do it better
- Reps need to be confident and willing to challenge injustice
- Reps need to be able to recognise Bullying, Discrimination & Harassment
- Reps need various personal qualities including: openness, note-taking skills, listening-skills, assertiveness.
- Reps need to understand the values of the Union and act in accordance with them.
- Reps need to be able to work unsupervised, but still be accountable to the Union.
- Reps need to know how to represent members at Grievance & Disciplinary Proceedings.
- Reps need to be familiar with various Grievance & Disciplinary Procedures.
- Reps need to be willing to learn about Employment Law, so they know when it is being breached.
- Reps need to build relationships with people inside and outside the union.
- Reps need to be resilient and to have a sense of humour.

For advice and representation call the helpline 0333 123021

Contact the Branch at www.unitetheunion.org/faithworkers
or the Church of England Clergy Advocates at www.ceca.org.uk

To contact the branch on administrative matters email:
faithworkers@unitetheunion.org or write to:

Faith Workers Branch
Unite the union
Unite House,
128 Theobald's Road,
Holborn,
London,
WC1X 8TN.

2. The Right to Join Trade Unions



The right to join a trade union is mentioned in Article 23, subsection 4 of the Universal Declaration of Human Rights: 'Everyone has the right to form and to join trade unions for the protection of his interests.' There is no artificial distinction between office-holder and employee in the Universal Declaration of Human Rights. The only justification that is needed for joining a trade union is the belief that we have interests which need protecting. It is a universal human right.

Under European Law it is illegal for an employer to prevent or to deter a worker from seeking to join a trade union. In England, Northern Ireland, Wales and Scotland this is amplified in the Trade Union and Labour Relations (Consolidation) Act 1992, (C.52) Section 146.*

This is enforced through employment tribunals. This protection may be just for workers who have an employer, but who else but an employer would seek to prevent unionization? Who else but an employer has motive to do so? Who else would think that their own interests are at risk if the interests of workers are protected? To seek to deter someone from joining a trade union is an abuse of positional power, which may be challenged as a form of bullying under an organisation's grievance procedure.

Where faith workers feel undermined and bullied by their faith organization they look for support. Their need is genuine. Their distress is genuine. Responding to a genuine need is an act of solidarity. There would be no need to protect their interests if they already felt that they were cared for. The only justification that is needed for joining a trade union is the belief that we have interests which need protecting. It is a universal human right.

No-one can predict the twists and turns in a life situation from a new colleague arriving which makes work difficult, a vexatious accusation against them, to a sudden illness, when suddenly one finds that they need the support of someone to guide them through their difficult situation.

Faith Workers look to their faith organization to exercise a duty of care. That duty may be exercised by an overseer (eg a bishop, and his surrogates) or by a congregation, and their representatives. Where that duty is exercised with consideration and sensitivity faith workers may not feel that their interests need any protection. We can ask with Juvenal: 'Quis custodiet ipsos custodes?' or 'Who will watch the guards?' Our answer is the Faith Workers Branch of Unite the union.

The Tolpuddle Martyrs were Methodists, and were transported in 1834 for forming a union. Unions challenge vested interests and so will always be unwelcome by some.



* Not all sections of this Act apply to Northern Ireland. Check with your Regional Officer if a member's right to join a Trade Union is infringed in Northern Ireland.



*C.29 Schedule 9 paras. 14 and 15 apply the Act to Scotland and Northern Ireland respectively.



Jargon Busting

This is called a 'subject access request.' The letter should be sent recorded delivery.

3. The Right to Discover Information

In England, Scotland* and Northern Ireland*, the Law gives everyone the right to discover what information is held about them. A Subject Access Request can be made under the Data Protection Act., 1998. This is a very useful way of discovering what has been written about our members, but they must write the letter or email themselves.

Subject Access Request (Data Protection Act):

'Under the Data Protection Act, individuals can ask to see the information about themselves that is held on computer and in some paper records. If an individual wants to exercise this subject access right, they should write to the person or organisation that they believe is processing the data.'

'A subject access request must be made in writing and must be accompanied by the appropriate fee. In most cases, the maximum fee will be £10, but this can vary, particularly if the information requested is for health or educational records. If a subject access request is made to a credit reference agency for financial information (ie a credit file), then the fee is £2, and the information must be provided within seven working days. A request must include enough information to enable the person or organisation to whom the subject is writing to satisfy itself as to their identity and to find the information.'

'A reply must be received within 40 days as long as the necessary fee has been paid. A data controller should act promptly in requesting the fee or any further information necessary to fulfil the request. If a data controller is not processing personal information of which this individual is the data subject, the data controller must reply saying so.'

http://www.ico.gov.uk/tools_and_resources/glossary.aspx

What should be written?

Their full address

The date

Dear Sir or Madam

(Their full name and address and any other details to help identify them and the information they want.)

Please supply the information about me I am entitled to under the Data Protection Act 1998 relating to (give details of the information they want). (Please would you also tell me

the logic involved in any automated decisions you have made about me.)

If you need any more information from me, or a fee, please let me know as soon as possible.

If you do not normally deal with these requests, please pass this letter to your Data Protection Officer or another appropriate officer.

Yours faithfully

Signature

Points to Note:

- The member must put the request in writing
- Identifying the data protection officer may not be easy, the diocesan bishop or diocesan secretary in the Church of England, Church in Wales, Church of Ireland or Scottish Episcopal Church may fulfil that duty.
- The Treasurer of Church of Scotland dioceses is usually the Data Protection Officer for the diocese.
- Proper identification of the officer is not a requirement of the act.
- Letters, emails, and reports should be disclosed.
- Failure to disclose information can delay a disciplinary hearing if the information requested is necessary for the case.
- Files held by Child Protection Officers will not be disclosed without a court order.
- You can get copies of references via the prospective employer, though not your existing one.

A Red Herring

Faith Organisations are not normally 'public bodies' within the meaning of the Law so the Freedom of Information Act probably does not apply to them.

This is despite the fact that some faith leaders are appointed by the Crown, e.g. Church of England diocesan bishops, and Church of England diocesan boards of education have responsibility for schools which are themselves public authorities. This seems anomalous.



Details of many dioceses and personnel are available online via their websites.



Don't confuse the Data Protection Act with the Freedom of Information Act.



There are different sorts of chaplains and all are welcome as members of Unite. Health Care Chaplains have their own branch.

4. Organising

An old phrase to describe workers getting together to change things is a 'combination of workers'. The earliest trades unionists were criminalized by the 'Combination Acts' but they carried on working for what they believed was right. It is that 'activism' which made trades unions what they are today, and all members of Unite have the responsibility to work together with others to make the world a better place. Eventually the 'Combination Acts' were repealed, and Unite campaigns to remove today's injustices.

There are lots of different ways that you can play your part in the Unite Faith Workers Branch. It is worth remembering that the members *are* the union and the Officers and staff are there to serve us in our endeavours. Representatives and members should therefore ask what their contribution is to the union, rather than what they have gained from membership.

Organising is about involving members through contributing to Unite. Building the organisation through recruiting new members, developing activists and each making their unique contribution with the skills, gifts and abilities they have is what truly causes a union to flourish. Here are three simple steps to organising:

1) Talk about Unite

Raise the profile of our Branch with colleagues and friends. Remind them that joining Unite is an expression of the desire to support friends and colleagues in times of difficulty. Unite offers first-class support, a help line, free legal advice and a wonderful network of friends and colleagues, and even to have fun! Our Branch is determined to secure employment rights for all workers. Talk about our Union; celebrate its successes!

2) Carry membership forms

This is not a hard thing to do. If the conversation comes up, and someone says, 'Well, I wouldn't mind joining'; then you can say 'Great, here's a form – fill it in now, and I'll send it off for you'. You should also ensure that you have a supply of forms and leaflets about the branch which you can get from Unite by emailing faithworkers@unitetheunion.org

3) Send an email.

We live in an electronic age. For membership as dispersed as ours, email is often the way we communicate. Please talk about/introduce the Faith Workers Branch over email. The branch has examples of emails that you could send, with links to the Faith Workers Branch website, membership forms, and subscriptions rates. You know best how our chosen audience would want to be communicated with.



Telling people about the union is our job.

Advocacy and Representation.

Try not to think of the Union as 'them'. Instead think of the Union as 'us'. We are the Union, we make it what it is, so we don't expect them to sort out our problems for us. We are responsible and proactive, trying to make a difference to the working lives of other people. We are particularly concerned for ministers of religion and other faith workers who are bullied, harassed and discriminated against. We recognise that when people are subjected to dehumanising and abusive treatment they need an advocate to speak on their behalf. Representing others, and advocacy is at the heart of the values of our branch.

There is no hierarchy within the branch with anyone being thought of as better than anyone else. The branch does have committees and officials, according to its standing orders, or the union rulebook, but the strength of the branch is in its reps - even if some are more experienced than others all are equal.

Reps from the Faith Workers Branch represent all members of the branch, not just colleagues from our own faith organisations. Some are employees, some are office holders, and a few are both. No matter what their employment status the branch is here to support them. This is a big strength of our branch. It also means that we need fewer reps to service the whole of the British Isles as we do not have to have separate reps for Methodists, Church of England clergy, Church of England bishops, Presbyterians, United Synagogues, Sikhs, Hindus or Muslims.

Know your Procedures.

When representing members awareness of their own organisation's rules and procedures is important. In addition to specific training that you can attend, additional guidebooks are available via the helpline:

1. A Reps Guide to Discipline in the Church of England
2. A Reps Guide to Safeguarding Risk Assessments in the Church of England
3. A Members Guide to Safeguarding Risk Assessments.



Some people think that there are three groups: Managers; the Workers and the Union.

This is incorrect.



The correct model of Trade Unionism: the workers ARE the union. The Union is you and me, US, together.



Who do you represent? You represent the Faith Workers Branch of Unite the Union. Be proud of that.

5. Unite the Union's Values

Unite the Union was formed on 1 May 2007. The Instrument of Amalgamation included fundamental objectives on equality for the rules of our new union:

- Promotion of equal opportunities eg through equal pay for work of equal value, collective bargaining, organisation, education, provision of representation, services and benefits
- Active opposition to all forms of prejudice and discrimination e.g. on grounds of sex, race, age, ethnic or national origin, colour, class, disability, caring responsibilities, religion/belief, marital status, sexuality, trans status.
- Fair and effective representation of women and black, Asian & ethnic minority members through minimum proportionality at union committees & conferences.
- Regional and National Women's Committees, Race Equality Committees, Disabled Members' and LGBTI Committees & Conferences and for Young Members.
- Promoting union equality reps at the workplace and campaigning for their rights; including union women's reps, disability champions, black members' reps, young members' reps, LGBTI reps and Listening Support Network members



All organisations need rules to help them function better. Unite is anti-fascist and anti-racist according to its rulebook. This is available from the

The Unite Rulebook, 2011 details the rules that govern membership of the union, and can be a useful document to refer members to if they have any questions about their membership.

Membership of far-right and fascist or racist organisations is against the rules of our union because Unite cares passionately about equalities issues. We offer many training courses and materials to support your work on equalities. Our National Officer for equalities ensures a continuous flow of quality information on this subject through our journals and newsletters to members. We run regular seminars and courses on matters such as equal pay, family friendly issues, tackling racism at work, working for diversity, dealing with disability issues and so on. Structures exist within the union from the national level to region and then to the workplace, so that everyone who wants to engage with the union is encouraged to do so, particularly from under-represented groups. Committees and working groups within the union deal with every dimension of equality including women, race, disability and youth.

The Values of the Faith Workers Branch.

The following core values have been agreed by the Faith Workers Branch:

- Fairness and dignity
- Recognition and support for all
- Obtaining best practice

Members of all faiths bring their faith with them to the branch. There is a shortage of vocabulary which is non-specific to any religion, and which is not already loaded with meaning. The branch has had long discussions about its values, but has struggled to find words to express the distinctive ethos of the Faith Workers Branch within Unite the Union.

The Executive of the Faith Workers Branch has had long discussions about the values of the Faith Workers' Branch, and these additional values have also been agreed:

- We believe imperatives should govern our actions, so we seek justice for our members having regard to Unite's Equalities Agenda.
- We believe all members are important and deserve equal respect and dignity, regardless of what may be alleged they have done.
- We believe the best outcomes are achieved through reconciliation and mediation, rather than confrontation.
- We believe in being supportive and collaborative in the ways we work and lead.
- We believe in the promotion of best practice in all areas of the work place and throughout working life.
- We believe we will be sensitive to change in the working environment.
- We believe our wide experience and expertise will ensure the most satisfactory mediated solutions for our members.

Each workplace may have their own values which reflect the faith tradition that they are part of.

Accredited Representatives are invited to contribute to the discussion about the values of the Faith Workers Branch which are reflected in its campaigns which include: employee status; fair treatment in grievance and disciplinary cases; dignity at work; stress busting; housing pension issues.



Where the values of the union and the branch appear to differ the values of the union as described in the Rulebook or Executive Council Guidance take precedence.



Not everyone feels at ease with campaigning.

Do you?

6. International Links and Social Justice.

Unite Faith Workers Branch also works on an international level. As a union we have formed links with trade unions specializing in matters appertaining to ministers of religion across the globe, most notably in Canada and across Europe, but have also had links with unions in the USA and Australia. From these relationships we have come to a better understanding of the social dialogue and the roles of the union in representing its members from various countries, and have drawn on best practice from these, adjusting our modus operandi accordingly. We have also built links with other nations, most notably in Africa, South America and with the Zimbabwe Christian Alliance and are supporting trade unionists who face daily challenges in these nations.



International Solidarity

This is one of the three pillars of Unite. It is basic to the union and how it operates.



<http://unifaith.ca/>

Unite is an established union and has a role to play in the support and development of other workers' organisations, and in campaigning for justice around the globe, and in our communities and encourages reps and members to play an active role in this. There is a new category of community membership which will allow more people to get involved. For enquiries about this please email faithworkers@unitetheunion.org

Trade Union activists have an international role in challenging the exploitation of men, women and children through the International Centre for Trade Union Rights (ICTUR) which is accredited to both the United Nations and the ILO (International Labour Organisation).

Further Reading: 'The Global Workplace – Challenging the Race to the Bottom, a manual for Trade Union Activists' published by War on Want.

7. The Faith Workers Branch Helpline.

The helpline received an average of six calls each week in 2015. It is the back-bone of the branch, and the network of Accredited Representatives provides the muscle and sinews. Cases are allocated to accredited representatives by the reps running the helpline. The rep will be told something about the problem by them.

Case Study - Stress

Anthony approached the Unite helpline in a state of distress. Anthony had moved three years previously to his first incumbency post in a rural village and had tried to put toilets in the church, and to get people to take their responsibility to undertake fire risk assessments and take health and safety seriously. This was not popular and people started to bully him. He mentioned this to the diocese and asked for help, but none was offered either formal diocesan structures or from deanery colleagues. Eventually he was signed off work by his doctor with work related stress. By the time the matter came to the union Anthony had become emotionally exhausted, and had been off-work for three months. He could not consider a transfer to another parish even if one were to be offered. The union negotiated early retirement with an additional ex-gratia payment. The union was able not only to maximise Anthony's financial settlement but ensure the factors of the case were seriously considered at the highest levels within the diocese.

Faith organisations are usually very diverse. Common causes of conflict include the timing or style of worship, or finance and fundraising. Ministers of religion very often find themselves caught in the middle between the different groups, and when people fall out they are the first to suffer. The minister can get caught in the cross fire and blamed. This then builds into a personal campaign against the minister, and sometimes the minister's family.

Cases, like reps, are unevenly spread geographically. Cases vary in initial perceived difficulty as reps vary in training and strengths. Reps may be allocated a steady stream of cases, or receive none for a prolonged period of time. Neither a surfeit nor a paucity of cases constitutes a judgement upon the rep. The branch needs reps country-wide. Even if you do not receive many cases it is possible to work to strengthen membership locally through organizing, or to work for the cause by campaigning. New reps will initially be given simpler cases, when available locally, and support and any rep can contact the helpline for advice with running cases and to get the support of more experienced reps.



Jargon Busting

The helpline coordinators are the main support for new reps, and can put them in touch with experienced reps for support.



Are there many members near where you live?

Who is your nearest rep?



The helpline coordinators are volunteers, and they may have day jobs and family responsibilities. Please respond quickly if they ask you to help with a case. Thank you

Helpline issues include, but are not limited to:

- Needing someone to talk to
- grievance and disciplinary procedures,
- conflict resolution
- capability issues
- bullying and harassment,
- stress management, working conditions,
- pay, pensions,
- health and safety,
- equal opportunities,
- discrimination, especially on grounds of sexuality or disability
- employment law issues such as maternity leave, paternity leave, parental leave, redundancy, termination of contract / not having contracts renewed
- membership enquiries

Points to Note:

- Reps should contact the member as soon as possible. A visit is often not necessary. Phone or email support from a distance is often all that is needed and avoids unnecessary expense.
- Reps should gather the information they need before they reach conclusions or express an opinion about a case
- Members may, or may not, have unrealistic expectations about the role of a rep, and about the possible resolutions to their problems.
- The member is entitled to legal support once they have been members for four weeks and as long as it is not a pre-existing problem from before they joined Unite.
- The Legal Support of a Regional Officer or the union appointed solicitors may be less helpful than the member expects due to unrealistic expectations of the chances of winning a case.
- The details of the case are confidential to the coordinator, the rep appointed and occasionally Union Officials who's advice or help may be sought. The details are not divulged beyond the Union without the member's explicit permission.



'Winning equality for all members is a major priority for Unite.' (Tony Woodley ex-Joint General Secretary).

Helpline Procedures.

1) A member contacts the union.

The helpline coordinator takes phone call or email. S/he:

- i) checks they are a member and how long for
- iii) The coordinator checks that answer phones and email addresses are secure
- iv) listens to the problem
- v) completes the spreadsheet to keep a record
- vii) sometimes no further action is needed

2) The helpline coordinator may seek advice.

The helpline coordinator may phone or email reps for suggestions if it is a complex case, or a denominational expert if it requires specialist knowledge of structures or procedures.

N.B. only the vaguest of details are shared.

3a) A rep is allocated

If appropriate the coordinator contacts a suitable rep; briefing them about the case and sharing any specialist information received from other reps. S/he contacts the member to tell them who their rep will be.

3b) A regional officer is asked to take over.

The case is sent straight to a regional office so that a regional officer can be allocated to run the case.

4) If appropriate someone is offered as a listener.

A member of the Listening Support Network may be asked to contact the member to offer support by listening to them, though not by running their case or getting involved with it.

5) The rep contacts the member.

The rep contacts the member and takes over the case. The rep instructs the member to rearrange any immediately pending (e.g. less than 7 working days) disciplinary or grievance meeting. The rep suggests alternative dates when s/he can manage that meeting.

6a) When appropriate the rep tells the helpline that the case has been closed.

6b) The rep may ask the helpline for support.

The rep may contact the helpline for support, and a more experienced rep may be contacted for advice, or the case may be referred to a regional officer.



Some enquiries arrive at the desk of a paid union official, not the branch helpline. These Regional Officers may deal with the member themselves or inform the branch helpline.



Jargon Busting
A 'Regional Officer' works for the Union and gives legal advice. They are also the link with the Union's solicitors. Remember the deadline for an Employment Tribunal is 3 months less one day.



Jargon Busting
Shop Stewards
are Reps by
another name.

'Workplace reps'
only makes sense
if members share
a clearly defined
workplace.



What makes a
contract of
employment?
Look at the
advert, interview,
job description,
personnel
specification,
appointment
letter, statement
of particulars.

8. Accredited Representatives.

What are 'Reps' called?

Reps are also called shop stewards, or workplace representatives within the Trade Union Movement and the terms are interchangeable. Most members of the Faith Workers Branch do not have clearly identifiable work-places with other workers so the phrase 'workplace representative' is not used in the branch, apart from in the Church of Scotland whose office workers do have 'workplace representatives.'

Who do we represent?

Accredited Representatives represent the members of the Faith Workers Branch of Unite the Union. They represent all members whatever their tradition.

Reps should: respect the member that they are representing; accept them as they are; be genuine, open and honest; and should not judge the member.

Points to Note:

- Accredited Representatives represent the members of the branch – all the members of the branch – or 'the Faith Workers Branch' for short.
- Not all members of the Branch are accepted as being employees by their faith organisation, but what the courts say is what ultimately matters
- Not all members have written contracts of employment
- Not all members have identifiable work-places
- Not all members have employment rights
- Workers still have some employment rights even if they are not employees

The Role of a 'Rep.'

The most important thing to remember about being a Unite representative is that the measure of your success is not what you know, it is what you do when you do not know.

Reps lead by example and may fulfill the following roles:

- An advocate, friend, support and pastor
- Motivate and build an active membership
- A public face for the union, increasing its public profile
- A listening ear, learning about members problems and concerns
- A voice for equality and dignity
- A negotiator and campaigner

Becoming a Rep.

Members are invited to taster days, where they are introduced to the role of a rep and given a flavour of the work by existing representatives. This invitation is without obligation on either side.

Accreditation

Reps are *usually* accredited after the 1 day taster day. They are accredited by the Branch Executive at its meetings with the delegated authority of the Annual General Meeting of the Faith Workers Branch. The accreditation of reps is then confirmed at the next AGM. Once they are accredited representatives are sent an accreditation card.

Initial Training

New reps should endeavour to complete a full reps training course as soon after completing the taster day as possible. These include branch residential courses which are tailored specifically to faith workers and the issues that representing faith workers can raise, and also specialist online courses for faith workers and other reps.

Travel expenses are paid at agreed rates, in accordance with the union's education department expenses policy.

When members are elected as representatives they will be able to access the Reps Zone on the Unite website. They will also be sent an Accreditation Card. This branch is the only branch to accredit retired members as reps.

Unite believes that if its members are well trained and educated, they will be better able to cope with change, will be more employable, more successful and will get more out of life. For these reasons Unite offers a range of training courses for members. Unite's Education Department owns and uses a number of national training centres which offer a stimulating and relaxing environment in which to attend courses. In addition Unite offers a range of courses regionally.

!!



Please reply to phone messages or emails from the helpline coordinator as soon as possible. Delays can cost jobs.

9. Key Skills for Accredited Representatives.

Communicating with a member.

In the Faith Workers Branch because of the distances involved and the complexity of cases it is recommended by our National Officer to have a brief initial phone call, then ask the member to send you relevant documents - policies, correspondence, an overview, and a list of who's who. You would then get the crux of the issues under your belt before speaking with them at length to fill in the gaps. Try to discover:

- i) the urgency of the problem
- ii) the nature of the problem
- iii) the duration of the problem

Listening

Members in work-based branches tend to have different problems from our national branch and are able to contact their union shop steward at an earlier stage. Our members can phone the helpline as a last resort and are often very emotional, and understandably so. Accredited Representatives need to be patient and supportive as they identify the presenting issue, the emotional impact, and underlying symptoms, problems or causes.

Note taking

Have you ever promised to do something and then forgotten? Have you ever agreed something with a supervisor, a manager, or a member and then forgotten exactly what had been agreed? Have you ever made a report and later realised that you missed out important points? Have you ever been unable to prove that management had been told something or that they agreed to something? If you answered yes to one or all of the above, don't panic! It happens to us all. Doing your normal job and the union job can be demanding. A lot of information comes your way and no one can remember everything.

The way to avoid problems is to always carry a notebook and pen and to take regular notes whenever you:

- Interview or report back to a member
- Promise to do something
- Agree something with management
- Make a telephone call
- Go to a meeting
- Take notes from documents or articles you read.



Listening is important, but the member may be too upset to tell you the information you need to know. Ask for a written summary in response to specific questions.

A Checklist When Meeting Members.

Are they a member? When did they join?

Make sure that the person you are asked to help is a member by checking their membership card, and ask when they joined. Be aware of the member's eligibility to take a legal claim, and of time limits on legal cases.

Has the member talked to management about the issue?

Make sure that the member has already discussed the issue with management, unless it is a case of bullying and harassment, before involving the union. Not doing so escalates the issue.

Does this break union rules?

Think if this is something the union should be involved in, or if it breaks union rules or policy.

Get them to summarise their case.

Try to get members to be clear on what they want from their case. If it is a complicated case you could suggest they write down what the problem is, what they want to achieve by your involvement, and why they should be supported. This should include a time-line and a list of who's who, and should be no more than 2 pages of A4.

Respect confidences UNLESS the member has clearly acted illegally.

Rarely members share information with a representative that is should be taken to the police. A representative should make it clear that if there is a matter of criminality, that the member should take this matter to the police themselves, if not, the representative legally cannot withhold such information and would have to share this with the authorities.

Get advice when you need it.

If you don't know something, tell the member you will come back to them and *take advice from the more experienced reps first*, and then from a Regional Officer if you still need to.

Don't make promises.

Do not make promises that you can't keep. Be honest with the member. Tell them if, in your opinion, there is little or no chance of winning a case. Explain why. Tell members if they are being unrealistic.

Ask about Discrimination.

Check if the member has been subjected to any discrimination as this could form a separate claim – race, sex, marital status, disability, age, sexual orientation or religion and belief; or for their trade union activities. Always ask the member about these issues just in case.



Do you need to practise taking notes? It gets easier with practice.

Remembering everything a member tells us is impossible.

Keep a separate file for each member.

Ask open questions - it will allow you to focus on taking notes.



Try not to interrupt the member more than you can help.

If you have only 10 minutes to speak tell them, and let them know when you will contact them again.



Has the member instructed their own solicitor? If they have done so Unite cannot proceed with their case and the rep should withdraw.



Take advice if you need to, for example if the member admits criminal activities. The seal of the confessional does not apply to reps.

Knowing when not to give advice.

When members call the helpline they are usually under stress and are not able to think as clearly as they might normally do. Reps can help discuss the options available to members in a more objective manner, and the possible consequences of those actions. Members under stress may find it more difficult than usual to evaluate decisions. Reps need to be careful in giving advice not to recommend particular courses of action – the member is key – it's their life and their choice. The rep's role is to be alongside the member and to allow them to make mistakes.

Knowing when to say no.

Members may have unrealistic expectations of the role of representative. When in doubt ask for advice before committing yourself. accredited representatives are not expected to say 'yes' to every request which comes in either from members or from the case management officers. They will try to ensure that you do not have more cases than you can handle, nor of types which are beyond their ability to cope with. Accredited representatives need to know when to say 'no'. They need to be responsible for monitoring their own work-life balance.

All Unite representatives have a 'day job' to do, as well as their representative's role. Talk to other representatives, to your case management officers, or to your regional officer, to discuss how they manage to do both jobs whilst surviving and thriving! The workloads of Unite members have increased dramatically in recent years. It is not possible to take unlimited time off work to be an activist. All our workers have other commitments, families, hobbies and need time to relax.

As well as meeting and negotiating with management, you may need to be assertive with members. We do not want representatives to turn away members who have legitimate concerns. We do want representatives to see what the members themselves can do, with the support of their representative. Only rarely should a representative say "leave it to me, I'll sort it out". You can only do what you feel comfortable doing, and have the time and energy to do!

If you feel overwhelmed by the pressure of being a representative, talk to other reps, or to the regional officer. Don't feel guilty! The representative's job can be fantastically satisfying, develop your personal skills and give you real insight into how our sector works. The more you can delegate, and encourage members to be active themselves, the better. The more you can build a team of Unite representatives to work with, the more moral and actual support you will get in return.

If a member involves alternative independent legal advice with regards to their case, the union will withdraw from the case, since this could create a conflict. A member should be advised of this.

Sometimes a member will put unreasonable demands on a representative, expect immediate representation or support of a solicitor. As a representative you can say no. It is usually best to check with another representative if you are unsure that it is reasonable to say no to a member. Finally, if a member refuses to take the advice of the union, and then wants the representative to go down a path that they believe would be inappropriate, you can withdraw your support as your advice, i.e. the advice of the union has been rejected. You are not the puppet of the member.

Knowing when to ask for help, and where to find it.

Never be afraid to say you do not know, but you will find out. You are not expected to be an expert in employment law. What you are expected to do as a representative is know how to find out the answer, or who to find out the answer from. Your first port of call should be the helpline co-ordinator or perhaps the TUC's Union Reps bulletin board.

The role of health professionals.

Encourage members who may be unwell or suffering from work-related stress to see their GP and get a sick-note (or perhaps a fit-note saying what they are able to do and what help they need to do it).

Make sure that they keep copies of sick-notes, and that they do not let them run out.

Many faith organisations and doctor's surgeries have access to counsellors and members can find this tremendously helpful. On rare occasions a member may need pointing to their GP for psychiatric help.

Responsible faith organisations have Occupational Health departments, and perhaps surprisingly they can be allies in understanding the management's role in creating and perpetuating illness. Often members are reluctant to seek medical help and they feel they have failed if they need to get signed off - but their employer has failed them, not the other way round. Faith organisations have the same legal duty of care as all employers.

Knowing how to access other specialist support.

Unite offers its core resources to each workplace or organization group to support the work they are doing. Training, legal advice and information, research and comparative information on pay



The member should make the decisions as it is the member's life.

What would you do in that situation and why?



Members are allowed to say no, though we may not be used to it or like it.



When a member involves their own solicitor the union must withdraw.



Jargon Busting

Being resilient means being more able to deal with life's troubles without them upsetting us.

and conditions, advice on health and safety matters, on equal opportunities, and in communicating with members and working as a team, are available through the union, its website and its specialist officers.

The Ability to Build Resilience in Others.

Accredited Representatives bring with them their own stories e.g. of being on the receiving end of bullying, discrimination and harassment. Their life experiences, rather than amateur psychology, help them represent and to empathise with their members.

Having a rep on their case helps members cope with difficult situations; builds resilience; and helps them deal with stress and anxiety.

The support that reps routinely offer can be compared with the following '10 Ways to Build Resilience' from the American Psychological Association:

- Maintaining good relationships with close family members, friends and others;
- Avoiding seeing crises or stressful events as unbearable problems;
- Accepting circumstances that cannot be changed;
- Developing realistic goals and move towards them;
- Taking decisive actions in adverse situations;
- Looking for opportunities of self-discovery after a struggle with loss;
- Developing self-confidence;
- Keeping a long-term perspective and considering the stressful event in a broader context;
- Maintaining a hopeful outlook, expecting good things and visualizing what is wished;
- Taking care of one's mind and body, exercising regularly, paying attention to one's own needs and feelings and engaging in relaxing enjoyable activities.

10. The Structure of Unite the union

Unite is a democratic trade union. Strongly industrially based, our structure means we can represent your interests effectively in your workplace, no matter whether you work in a factory or in finance. Each industrial sector in Unite has its own policy-making mechanism and its own conference - so there are many opportunities for you to have a real influence on what Unite says and campaigns for nationally. The decisions of the industrial conferences go forward for debate to the Unite national conference, which is held every two years.

Getting involved and getting active in Unite means not only that you can help your workmates but also allows you to attend, vote and speak at these important conferences and help shape what we do as Britain's leading union. Do you want to get involved in Unite? To help us organise in the workplace and have a say in how your union works as well? If so, you should contact your nearest regional office

Unite in your region.

Unite is the biggest union in the UK and Ireland. It has one and a half million members. Unite's structure is based around the industries members work in and the regions where they live. This ensures every member gets the best representation at local and national level. The Faith Workers Branch and its members are in the London and Eastern region, but when seeking support for a member it is that member's workplace postcode that defines which region will provide a regional officer as support. To contact a Regional Officer, click on your region on the website, choose the nearest office and phone them and ask if the member's postcode for their workplace address is in their region.

Unite and Equalities.

The Equalities Department of Unite works tirelessly to promote equality of opportunity within society and within the union. Separate structures enable members to participate democratically in the union, and specific training and conferences enable voices to be heard that would otherwise not be. The equalities section on the Unite website gives information about their work.



Unite is organised into Regions and Sectors. The Faith Workers Branch is placed administratively in the London and Eastern Region. All National Branches are placed in that region. The Faith Workers Branch is in the Community, Youth Workers and Not for Profit Sector.



The reps zone allows the union to operate a kind of intranet and to make private information available to reps.



Are members proactive or reactive?

Are reps 'from the union' parachuted in when members need the union?



Education is central to the Organising Model. Why not go on another training course to improve your skills and network with other reps?

The Organising Model vs the Servicing Model

Unite encourages its members and reps to learn about the organising model of trade unionism, and to try to move away from the servicing model where a rep is parachuted in 'from the union' to sort out members problems, but the union is otherwise out of sight and out of mind.

A strong active union needs active members and reps who actively campaign to recruit members ('the 100% campaign'). In our branch we aim to have: bottom-up decision-making, not top-down; decentralized structure with regional groupings; open communication about what reps are doing on our behalf; an active membership involved in decision-making at all levels; a proactive rather than reactive team of reps and members; independence from management rather than reliance on it; opportunities for member development especially through learning and training, rather than a focus on dealing with disciplinary and grievances.

The Faith Workers Branch aims to have an active membership who are involved with the union, rather than a small team of specialists who react to the demands of members to be represented when they are in trouble.

Equality of Opportunity and Unite the Union.

Unite the Union has clearly defined and separate structures to ensure adequate representation of minority groups. The Faith Workers Branch is especially keen to recruit new reps and members who are more representative of our society.

Who could you recruit?

According to the rulebook all branches have an Equalities Officer, whose role is to promote equality of opportunity within the union and to whom enquiries about equalities issues may be addressed.

Member services

Unite strives to ensure that we serve our members as completely and successfully as possible at all times and in a variety of situations. Individual benefits at very reasonable prices include road rescue, home insurance, travel insurance, hospital savings scheme, personal accident, well woman advice, airport car parking, personal motoring service, discounts on electrical goods and mobile phones, unsecured loans, protection for your dependants, planning for retirement, advice on savings and investment, and buying a home. We offer a wide range of services to members, from representation through representatives in the workplace and free legal advice to consumer benefits such as reduced rates on mortgages and insurance.

- Member services
- Education
- Member benefits
- The lottery
- Legal help
- Health and safety
- Representation at work
- Equal rights
- Esher Place
- Eastbourne Centre
- Unite the union benevolent fund
- Family activity breaks



There is a free will writing service for members and their partners.



Unite also helps with personal injury claims, employment matters, and many other legal issues.

11. ACAS Code of Practice on Grievance and Disciplinary Procedures.

The ACAS Code of Practice 2015 describes the purpose of discipline and grievance procedures.

They are there to:

- help and encourage employees to improve rather than just as a way of imposing punishment
- inform the employees of the complaint against them, and provide an opportunity for them to state their case before decisions are reached
- allow employees to be accompanied before disciplinary hearings
- allow employers to establish the facts and take action that is reasonable in the circumstances
- ensure that dismissal does not take place for a first offence unless gross misconduct has been established
- provide a written explanation of any disciplinary action and make sure employees know
- what improvement is expected
- give the employee an opportunity to appeal
- deal with issues as thoroughly and promptly as possible
- encourage consistency of action

Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.

Employers and employees should act consistently.

Employers should carry out any necessary investigations, to establish the facts of the case.

Employers should inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.

Employers should allow employees to be accompanied at any formal disciplinary or grievance meeting.

Employers should allow an employee to appeal against any formal decision made.

ACAS Code of Practice

Disciplinary procedures can be used to deal with two key problems. They are both potentially fair reasons for dismissal.

Misconduct

Here the employer believes the employee's behaviour falls below acceptable standards. Poor timekeeping, for example.



The ACAS Code of Practice sets the standards by which disciplinary and grievance procedures are measured. Have you read it?

Capability

This refers to an employee's performance, and their ability to do their job to the required standard. It could cover inability to perform functions and tasks as a result of sickness and disability. The issue of capability ought generally to be treated more sympathetically by management than misconduct especially if it involves genuine illness. Please refer to the section on Performance Management.

What to Look for in Disciplinary Procedures

Good disciplinary procedures need to take into account the requirement for natural justice and should:

- be put in writing
- say to whom they apply
- be non-discriminatory
- allow for the matter to be dealt with without delay
- allow for information to be kept confidential
- tell employees what disciplinary action might be taken
- say what levels of management have the authority to take disciplinary action
- require employees to be informed of the complaint against them and supporting evidence before the meeting
- give employees a chance to have their say before management reaches a decision
- provide employees with the right to be accompanied
- provide that no employee is dismissed for the first breach of discipline, except in cases of gross misconduct
- require management to investigate fully before any disciplinary action is taken
- ensure that employees are given an explanation for any sanction
- allow employees to appeal against a decision

From the ACAS Code of Practice on Grievances and Disciplinary Procedures.

Gross Misconduct

ACAS lists examples as:

- theft and fraud
- physical violence and bullying
- Using work computers to access pornographic, offensive or obscene material
- unlawful discrimination or harassment
- bringing the organisation into disrepute
- serious incapacity at work brought on by alcohol or illegal drugs
- a serious breach of health and safety rules



It is quite common for managers in faith organisations not to know or follow their own grievance and disciplinary procedures.



Gross Misconduct is usually a sackable offence.



What outcome does the member want? Is it realistic? If not enquire about any mitigating factors:

Physical or mental ill-health;
Domestic worries;
Money worries;
Personality clashes;
Harassment;
Boredom or inactivity at work;
Incompatibility;
Problems with pay, pension, housing, holidays;
Poor supervision or training;
Inconsistent application of rules.



Don't make promises that you can't keep!

Union Rep Involvement

Union members should be represented at every stage of the disciplinary procedures. ACAS emphasises the need to resolve issues informally but it is important that reps, even at this informal stage, request involvement if the member feels support and guidance is needed.

The same can be said for investigatory meetings. These meetings are to enable management to investigate the facts and allow the member to express their own explanation of events. It is not unknown for these meetings to turn into disciplinary hearings and for the member to come under some strong interrogation. To avoid this, employees who are under investigation should be clearly informed *in writing* of the nature and status of any meeting with management they are asked to attend.

See Sections 10-15 of the Employment Relations Act 1999 which gives workers a new right to be accompanied in disciplinary & grievance hearings by a trade union official or a fellow worker of their choice.

See also the ACAS Code of Practice 1 on Disciplinary & Grievance Procedures (2015)

12. Tips for Disciplinary and Grievances

- Allegations should be supported by fact – but the employer can act on reasonable suspicion.
- Has there been a breach of procedures, perhaps breach of natural justice?
- Are there mitigating circumstances (e.g. relationship problems or illness)
- Are there underlying circumstances? (e.g. work pressure or insufficient supervision and training)
- Was the person made aware of management concerns and given opportunity to improve?
- Was support to help the person improve made available?
- Loyalty – length of service; previous good record?
- Good character. Has the employer previously expressed trust and confidence?
- Do precedents exist? Was a similar case dealt with without the need for disciplinary action?
- Is the proposed punishment reasonable?
- Is there an element of victimisation? Might another person have been treated differently?
- Could the member's actions be explained as normal behaviour e.g. custom and practice that has never been questioned previously by management?

Handling a Disciplinary Case.

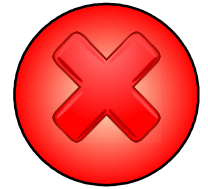
Before the Hearing

- Understand the disciplinary procedure thoroughly.
 - Make sure union members understand the need to inform you of any allegation against them as soon they have been put in writing at the latest.
 - Think about the advantages/disadvantages of an informal approach outside the formal procedure.
 - Ensure that your member knows about the status or nature of an investigatory meeting and the need to agree accompaniment.
 - Arrange time off to work on the case
 - Interview the member and agree achievable outcomes. Plan the way you will co-operate during the meeting.
 - Develop a representation plan identifying the strengths and weaknesses of your case. Try to anticipate management's case and think about how you might respond to it.
 - Acquire good documentary evidence. Written evidence is usually the most credible evidence. Request any evidence or documents from management you think you need. Do this in writing so you have evidence of your request, that may prove to be important.
 - Obtain statements from witnesses to support your case.
- Remember that evidence will be questioned so must be robust.
- know what questions you want to put to management

During the Hearing

- Make sure your member turns up and you are punctual.
- Ensure that you take notes, and challenge inaccuracies.
- The employer's representative should explain the status of the meeting the nature of the specific allegation against your member they will present their arguments first.
- If unexpected evidence or information is put forward seek a short adjournment to allow you and your member to discuss these and get advice if necessary.
- Management should be able to substantiate accusations or allegations. If they cannot they should be asked to withdraw them.
- Ask the hearing officer to make a note of any objections or procedural concerns you may have raised during the proceedings. For example, if you have not received documents you have requested. It is advisable to write to confirm these objections in writing.
- You or the member must work together throughout the hearing. Never disagree with your member in front of management.
- Be polite; avoid a confrontational attitude.

If there are problems that put you at a disadvantage seek a short adjournment. This allows you to ask your member to tell you anything that they always needed to but which they have somehow forgotten to tell you.



DO:
Make sure you know the purpose of meetings before agreeing to attend them.

DON'T
Let members go on their own.



Gross Misconduct is defined in the organisation's disciplinary policy. It has a wide range of interpretation.

Reps need to see the disciplinary policy relevant to the member they are representing.



Jargon Busting

An investigatory meeting is when the facts of the case are investigated by management. It is different from a disciplinary meeting, and one must never turn into the other. A member and their rep can withdraw from such a meeting.



Procedures for disciplinary and grievances in faith organisations can be very slow.

Remember the time limits for an employment tribunal (3 months less one day) and speak to a Regional Officer in good time.

After the Hearing

- Meet with your member to review the hearing. This can often be done immediately afterwards.
- After the hearing, sometimes the member will identify that they were in the wrong - was the penalty appropriate though?
- Sometimes there is a need before or after a hearing to do a deal and agree for a compromise agreement
- If the outcome wasn't acceptable are there grounds for appeal? What does your member want? What is the likelihood of an appeal being successful? Be realistic with your member, do not raise false hopes.
- Check the procedures time limits.
- Who will take the appeal? Take advice from senior union reps and your full-time official. Keep in contact with the union member. Advise them to keep any additional evidence that might help in an appeal.

Points to Note:

- Do not discard your notes. File them securely for subsequent use. Notes on cases should be kept for 6 years - so do not shred!!!
- Do you have a lockable filing cabinet? If you need one ask the branch secretary for authorisation to buy one.
- If requested to do so, or if the case has implications for other members, prepare a report that can be used by others.

The Role of Occupational Health.

Occupational Health have a role to play in determining the fitness of a worker to return to work. They can be allies as they exercise the employer's duty of care from a different perspective than management.

The member's own GP and an Occupational Health doctor may however not agree. This can cause difficulties.

Phased return, where the member returns to work part-time is very helpful for some people as a way of returning to work. But the Union believes that the member should not take leave if on a phased return, but the employer should grant these days as it is part of someone's rehabilitation plan, medically advised.

Reps need to discuss occupational Health with their members who are off work with illness, especially work related stress.

The TUC guide to the Fit Note is available online

<http://www.tuc.org.uk/extras/fitnote.pdf>

13. Negotiation & Collective Bargaining.

Traditionally trades unions have represented members in negotiations with management to improve pay, pensions, terms and conditions of work, facilities, holidays, equipment, and procedural matters.

Accredited Representatives in the Faith Workers Branch meet with representatives of faith bodies to discuss matters on concern, to give and receive information, and to promote good industrial relations. Faith bodies have different attitudes towards Unite. Relationships vary from good to bad.

Trade Unions aim for recognition by their employers as this gives the union legal rights and more influence. The Faith Workers Branch is capable of functioning, and developing strong relationships without it but has recognition as its aim.

Time off for Trade Union Duties.

Employees who are Accredited Representatives of a Recognised Union are entitled by law to *reasonable* (paid) time off for trade union duties such as representing members, and training,

Time off for Trade Union Activities.

Paid time off for trade union activities may be negotiated with the faith body, otherwise time off for trade union activities will be unpaid.

Church of England clergy with Common tenure can undertake Trade Union duties *and activities* as part of their public duties.

Union meetings are activities, reps training is a duty. Representing members at disciplinary and grievance procedures is a duty as long as you share the same employer, or an activity if you don't. Meeting a Regional Officer to discuss workplace issues is an activity.

Faith bodies rely on members being represented to ensure that procedures are seen to be fair, so it is in their own interests to allow members of the branch to have time off to represent members who have a different employer.

Reps should download and read the ACAS Code of Practice 3 on Time off For Trade Union Duties and Activities.



Jargon Busting

An adjournment is when you stop the meeting, saying that you can not continue until you have conferred with your member. If you need to talk to your member or can see that they are becoming distressed take an adjournment. It is usual to arrange when the meeting will continue, for example in 30 minutes.



DO:

- keep calm
- Be reasoned
- Say if it is a gripe not a grievance
- stick to the point
- take notes
- adjourn to talk to the member

**DON'T:**

- lose your cool
- bluff or threaten
- get side-tracked
- argue with the member
- discuss personalities

14. Identifying Members' Problems

Members may not make clear what their problem is. Accredited Representatives will be given a summary of the case when they agree to manage it, by the helpline co-ordinators. Problems may be simple and easily identifiable or complex and multi-layered. Simple problems do not equate to easily remedied problems, though complex problems are likely to be long-standing and far from easy to unravel.

In an ideal world members will trust their rep, and openly share with them their problem and the cause of the problem. We do not live in an ideal world and it may take some time for members to be candid with their rep, and the problem as they perceive it may be a long way from the problem as management sees it. Accredited Representatives can ask: 'is there anything else I need to know about?'

Case Study Sexual Harassment

Stewart contacted the union to say that he had been accused of sexual harassment and that he had an investigatory meeting he had to attend the next day. Could the union represent him? A rep agreed to do so, interviewed him briefly over the phone, and met him the next day 45 minutes before the investigatory meeting. Stewart insisted that all he had done was ask the secretary if she wanted his phone number. When asked how he said this, he repeated what he said, which was accompanied by a leering manner. This was the third time he had asked. Stewart the previous week had to give evidence in a grievance against the employer taken by the secretary. The rep made clear to Stewart and the management that the union has a zero tolerance attitude to bullying, discrimination, and harassment. At the start of the investigatory meeting the rep ascertained that the grievance had been upheld, and that company procedures had been followed to the letter. At the meeting it became clear that Stewart had prevented the secretary from exiting a room by standing in the doorway. This was an invasion of her personal space and she found his manner and demeanour threatening. The rep was somewhat surprised that Stewart had concealed this fact from him, but was able to say that Stewart had offered a written apology and had promised not to do it again. Stewart was given a three month verbal warning. The rep was able to recover the situation by asking management to grade different types of sexual harassment on a 1-10 scale and suggesting the outcome should reflect the seriousness of the case. Stewart was pleased with the outcome, perhaps because the rep had told him that according to company procedures sexual harassment amounted to gross misconduct and was a sackable offence.



Reps should be aware of the 'Fit Note' and the role that this can play in assisting a member to return to work.

Points to note:

- The member withheld vital evidence from the rep.
- The member had not said that he had had to give evidence for a grievance.
- The rep only found out that the grievance had been upheld at the investigatory meeting.
- The rep had very short notice of the meeting and could have asked for it to be delayed so that he had time to prepare.
- The member gave the appearance to the rep of being genuinely unaware that his conduct amounted to sexual harassment. The Sex Discrimination Act, 1975 forbids Sexual harassment - this is now incorporated into the Equalities Act, 2010.
- Unite the Union has clear rules forbidding sexual harassment.



Getting to know management may make negotiating with them easier.

Handling Members' Problems Checklist (PIP)

Problem

What are the facts?

Is it a grievance?

Is it an individual case or a broader problem?

Check that member is not subject to direct or indirect discrimination

Can I settle it locally?

Information

What does the contract of employment say? (*If any)

What do my agreements say? (*If any)

What does employment law - statute or case law say?

What does union policy say?

Who should I ask for advice?

Plan

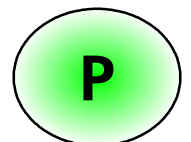
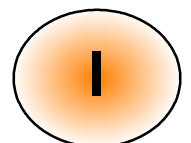
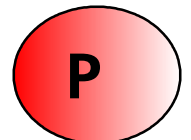
How should I involve members?

What are the union's aims?

How should I take up the issues?

What pressure and arguments should I use?

What tactics and arguments should I use, or external pressures should I bring on the organisation?





'Some problems can not be solved, only outgrown.'
Carl Jung.

Reps can not solve all a members problems for them.

Members can be reluctant to share information due to issues of trust. Members may prevaricate over their problems for months then join the union, and phone the helpline the day before a disciplinary hearing.



How good are your organisation's grievance procedures? Do they follow ACAS guidelines?

15. Examples of Members' Problems

Pensions.

A rep cannot give financial advice, and pensions are deferred pay. If the enquiry is about a pension scheme reps should refer the matter to Unite's pensions officer via a Regional Officer. Unite's pension courses are for employee trustees of pension schemes to help them fulfil their legal responsibilities, not to create pensions experts to give advice to members.

Personal injury claims against the employer.

Unite works with a panel of specialist personal injury law firms to provide free legal assistance to any Unite member who wants to bring a personal injury claim against an employer or third party.

Failure to be short listed for a job.

This may involve complex equal opportunities issues. Get the member to ask in writing why they were not short listed. Probing questions should be asked and the rep must check for discrimination. Did the application form ask information about any protected characteristic? Requesting to see the reference from the members current faith organisation can help check for problems from them.

Changes to contracts of employment.

Changes in contracts are usually incremental. Over time a typist becomes used to a PC, scanner, DTP software, email and online calendars. Incremental changes are far less of a problem than sudden dramatic changes.

Ask management to put in writing what is proposed and the time frame for implementation of the decision. Ask if this has been decided or is being consulted on.

When a member is faced with a sudden unwelcome change of contract it is important to assess whether the changes are so fundamental as to be a breach of contract, and an attempt to form a new contract. If that is the case continuing to work under the new conditions is considered to be tacit agreement to those conditions.

The member must be careful not to have worked under new conditions, and if there is any doubt, should write to the employer and tell them that they will not be working to new terms and conditions.

When organisations merge the rights of workers are protected, at the point of the merger, by the TUPE regulations.

Disciplinary action:

Faith bodies tend to have very complex disciplinary procedures, and there is no guarantee that the process will be transparent, and just. Accredited Representatives need to become familiar with the disciplinary procedures for their member's faith body. Support is available from the helpline coordinators.

Ask the member to write down why they think the allegations are unfounded and/or what mitigating circumstances there are and if they have been subjected to bullying, discrimination or harassment.

Health and Safety

Problems to do with health and safety are dealt with later in this handbook.

Excessive workloads and stress:

Under the HSE's Stress Management Guidelines an employer has a legal duty to carry out a risk assessment.

Pensions

Changes to pension funds, increasing the number of years which need to be worked and reducing the % of final salary paid, are all too common to members of our branch.

Time-off.

Faith Workers can find it impossible to have uninterrupted time-off as there is rarely a system of cover provided to enable phone calls to be answered by someone else. Accredited Representatives should be familiar with the Working Time Regulations, 2008, and the requirements for rest breaks and time between shifts.

Redundancy.

Fixed term appointments which come to an end are experienced by faith workers with the same emotions as redundancy for employees.

Accusations of Poor Performance

Accusations of poor performance and capability can be very stressful.

Complaints and conflict

Sadly the need to work towards conflict-resolution is all too common for faith workers, as they are often caught up in the middle of things, and can become targeted by either side of disputes.

Friendships and Relationships.

Issues surrounding friendship and relationship are more likely to be hovering in the background than the presenting issue. Reps should be aware of this as a source of tension for faith workers.



Reps need to practice not looking surprised.

They also need to expect the unexpected.



Reps can ask: 'is there anything that you haven't told me that I need to know about and which would be a nasty surprise?'

Members understandably want to put their best foot forward and also may think that some things are not relevant.



Most organisations will give helpful feedback on appointment processes. Some even volunteer it.



Whistle-blowing

Members can become party to information which they feel that for reasons of conscience they have to share. This can lead to disciplinary proceedings against them for gross misconduct.

16. Bullying Discrimination and Harassment

Bullying:

Bullying and harassment is the main issue facing our members. Accredited Representatives have a significant role in supporting members.

What is important in any definition of harassment is the complainant's *perception* of the behaviour. If she or he finds the behaviour unwelcome, then that members' case must be treated seriously. Any behaviour that could potentially undermine someone's dignity and respect should be regarded as unacceptable. If it is not challenged it is likely to escalate into bullying and harassment and lead to significant difficulties and costs for all concerned. In establishing the links between unacceptable behaviour, 'bullying' and 'harassment' as well as drawing together the common themes and issues, the following, broader definition may be helpful: "Any behaviour, always involving a misuse of power, which an individual or group knows, or ought reasonably to know, could have the potential effect of offending, humiliating, intimidating or isolating an individual or group should be regarded as unacceptable in the workplace.

Bullying can happen when an unequal balance of power exists between two individuals in a conflict situation. Sources of power include:

- Positional power – the power of a role or position
- Relationship power – the power of a group
- Resources power – the power to withhold scarce resources essential to one's role
- Psychological power – the power of recognising an individual's vulnerabilities and exploiting this knowledge to the person's detriment
- Knowledge power – the power to withhold information.
- Delegated power – the power to use your relationship with someone to undermine and/or threaten others.

Spiritual bullying is a specialist type of positional power where the 'senior' faith worker uses his greater understanding of theology, or experience of being a minister, to point out the failings of the junior faith worker. It internalises the guilt into the junior minister's conscience by shaping their theology into a guilt-inducing complex.

All Accredited Representatives should be familiar with the Unite guide to bullying, discrimination and harassment. The information in this handbook is no substitute:

Discrimination and Harassment:

The Equality Act, 2010 identifies prohibited conduct towards people with relevant protected characteristics. The behaviours may be unacceptable and immoral, but they may only be illegal if targeted towards people sharing 'relevant' protected characteristics. Everyone has at least five protected characteristics: age, gender, sexual orientation, marital status and race.

Prohibited conduct:

- Direct discrimination (where the member is affected directly by an action)
- Indirect discrimination (where a person is affected more than others who do not share their protected characteristic)
- Associative discrimination (where a member is affected because they associate with someone who has a protected characteristic)
- Victimisation (discrimination subsequent to a complaint about unlawful discrimination)
- Failure to make 'reasonable adjustments to accommodate a person's disability'

Protected characteristics:

- Age
- Gender
- Gender Reassignment
- Marriage & Civil Partnership
- Pregnancy & Maternity
- Race
- Religion or belief
- Disability
- Sexual orientation

For more information contact the dedicated EHRC telephone helpline 0845 6046610 (8am – 6pm) from www.equalityhumanrights.com

Victimisation for Trade Union Activities.

Victimisation of members of a Trade Union by their employer is an offence under Section 146 of the *Trade Union and Labour Relations (Consolidation) Act 1992* (c 52). Employment tribunals are likely to take a very dim view of victimising a trade unionist because of action taken in the course of their duties.



Stress at Work is a significant problem for many faith workers. Being bullied is very stressful.



Questionable performance and sickness can lead to Capability Proceedings. Absence due to disability should be excluded from sickness absence.



Victimisation is when a member is treated less favourably because they have brought a complaint for discrimination.

Case Study – Victimisation of Trade Unionists by an Employer.

Jason works in industry, and is a new shop steward. The previous shop steward was sacked by the company. This is part of Jason's story:

"I used to be respected and asked my opinion about things; after working for them for 10 years the firm had to make 20 redundancies and offered a good package to volunteer, so I did and got turned down as I was very flexible knew 3 jobs and learnt very quickly. After the redundancies I got nominated and elected as the new unite union rep, that's when the management's attitude towards me changed, ranging from treating me different (no longer asking/respecting my opinion) to bullying and harassment from team leaders. After having time off for stress I then got accused of planting a defamatory letter in a box for a customer to find. After proving it was not me I got the cold shoulder, then 3 months later got a warning for making a mistake (a mistake that many have made that has been overlooked). I also have struggled to get time off for union duties and even struggled to get holidays granted. The last few months have been better after my direct manager has been off sick himself. But the last few weeks the management is having a crackdown on people abusing the rules, they started this after the union has had a few good wins."

Points to Note:

- Faith Workers may find that standing up to management is difficult and fear victimisation
- Having members from different religious traditions is a huge strength of the Branch as those reps need not be scared of victimisation

The Equality Act, 2010 gathers together and co-ordinates the legal position with regard to unlawful discrimination, bullying and harassment.

Disability Discrimination

Harassment of disabled workers and unwanted behaviour based on a person's impairment or condition is disability discrimination. Harassment may be directed at an individual or a group. It can be patronising or offensive comments, inappropriate reference to a person's disability, unwelcome discussion of the impact of disability, communicating with a disabled person via a third party, prejudging a disabled person's capabilities, unwelcome interference with personal aids or equipment, uninvited physical contact, staring, or refusing to work with or exclusion of people with disabilities from social events or meetings.

17. Employment Tribunals.

Accredited Representatives should get support from a Regional Officer at an early stage when they are representing a member whose case may go to an employment tribunal. Such issues may be, but are not limited to: redundancy, dismissal, equal opportunities or cases of discrimination. For most Tribunal claims the time limit for the issue of proceedings is 3 months less 1 day from the date of the act complained of. In light of this, it is very important to deal with matters promptly and seek guidance from a regional officer at an early stage if tribunal proceedings might be appropriate, even if internal proceedings have not been exhausted first. The Regional Officer is the link with the union solicitor. Regional Officers and solicitors may give different opinions about a case. As long as a case is not vexatious or frivolous it is okay to ask for a second opinion.

Points to Note:

- Since May 2014 mediation from ACAS is a compulsory precursor to lodging an ET claim.
- Strict time limits and procedures must be adhered to
- Failing to do so will disqualify the claim
- Advice from a Regional Officer should be sought at the earliest opportunity
- Contact a Regional Officer through the Regional Office, you will need the member's workplace postcode, and membership number.
- Regional Officers liaise with union solicitors concerning Employment Tribunals, but not all members have a right to go to a tribunal as they are not regarded in law as employees, even if they are treated as employees.

Since the introduction of compulsory mediation and tribunal fee increases it has been harder for members to complain about unfair dismissal to an employment tribunal. Unite stands by its members and if the solicitor believes that there is a 51% chance of winning Unite will back the case.



New to the Equality Act, 2010 is the notion of Associative Discrimination. The Act prohibits discrimination against anyone because of their association with someone who has a protected characteristic.



Procedures like this help ensure that victims of discrimination, bullying and harassment get proper support as well as representation. Phone your regional office to find out who this officer is.



Members may find it hard to stick to the facts. You may need to remind them what information you need to run their case.



Members may have unrealistic hopes about what might happen.

18. Interviewing a Member

Interviewing skills help make sure you get all the facts from members.

Before the interview:

- Check the person is a member
- Find out what the problem is about in outline
- Arrange a suitable place to meet
- Arrange release for you and the interviewee
- Get relevant documents – agreements, local procedures etc.
- Take a notebook and pen
- Prepare your questions
- Ask the member for a brief outline of their case in advance of the meeting (no more than 2 sides of A4)

At interview:

- Put the member at ease
- Get the facts
- Ask the member what outcome they want
- Plan with the member what you will do next
- The member can be upset or angry because of what has happened and may need calming down
- Arrange somewhere you can talk in private
- Explain how you will conduct the interview
- Be sympathetic and try to avoid giving the impression you are cross-examining them
- Establish a relaxed tone
- Ask the member to tell you the whole story as they see it. Give them the chance to say their piece.
- Make careful notes
- Use active listening and limit your own talking
- Concentrate by making appropriate eye contact.

Getting the facts

Use the six open questions to expand understanding of the problem

- Who – names of people involved
- What – nature of the problem
- Where – exact locations
- When – time and dates
- Why – reasons why the problem occurred
- How – the problem came about

Members will want to give you a favourable view of their case but if you are to take up the case you will need to know the weak points as well. You may need some background information. Ask about mitigating factors. You may have to probe the answers you get asking for more information and confirmation of your understanding of what is being said. Avoid giving the impression you don't believe the member. Use phrases like "I have to get this quite clear so I can help you ..."

Take notes of the main points of the interview. Go through your notes after the interview to ensure they are accurate.

Ask the member what outcome they are expecting

Make an agreement as to what the rep will do and what the member will do. Agree time scales and a realistic plan of action including how you will involve other members if appropriate. Be honest as to what you think you can and can't achieve.

What can members expect of you?

- Members have a right to expect reps not to break confidences
- Members have the right to expect that Unite reps will keep them informed both about ongoing cases and wider union matters. Members should know how to contact their rep and be treated with courtesy.

Ideas for members to play a part in tackling issue:s

- Involve the member in planning. For instance, if you are asked "what happens next" explain that this might depend on what you agree each of you will do.
- Explore the options – explain what you know about their rights in the matter
- Think about how you give advice – avoid setting yourself up as a source of knowledge
- Use the word "we" to emphasise that they are not doing this alone and neither are you
- Be realistic about what outcomes can be achieved
- Explore how to use other members, reps and colleagues
- Summarise and agree – who does what and when
- Encourage the member to practice with you what to say to develop their confidence
- Think about what the member can realistically do
- Have in mind practical things you can ask the member to do – e.g. talking to colleagues, checking agreements, gathering information, making a diary of incidents
- Propose action and report back
- Be sympathetic but honest.
- Don't raise false hopes
- If the case is a "loser", not genuine, against Unite policy explain this factually. If in doubt contact other reps or branch officials.
- Make arrangements to meet again.
- Say what you will do next, with their agreement.

After the interview:

Check through your notes. Record any agreed action and dates when this will be progressed. Ask the member to keep a diary of on going developments of the case.



Try to remain emotionally detached without seeming either uncaring or unsympathetic



Members should take the advice offered by their rep if they want their rep to carry on representing them.

19. Case Studies

Case Study - Unfair Dismissal

Julie contacted the branch helpline the day before a second disciplinary meeting. She had joined Unite a few days previously after her manager had asked for her resignation completely out of the blue at an informal meeting. She had a good disciplinary record with no warnings. A rep was appointed who advised Julie not to attend the meeting. She went to the meeting against the union advice, broke down in tears and never returned to work. Julie failed to contact the union at an early stage, ignored union advice, and thought that she could cope with the second meeting. Her organisation had a disciplinary and grievance procedure which they ignored.

Points to note:

- Members can be really silly and can ignore their rep's advice
- People usually exaggerate their ability to cope in difficult situations and underestimate how upset they will be and how the stress will affect them.
- Reps need time to prepare for disciplinary meetings
- Members should provide reps with a summary of their case on no more than 2 sides of A4
- People may join a union months after they really need to do so.

Case Study - Whistle blowing.

Michelle worked in adult residential social care. She joined the union because she was unhappy at the care provided for the residents. She contacted management to inform them about the unsafe working practices e.g. hoists that did not work and leaving clients overnight strapped into wheel chairs. Michelle contacted the union because she was identified as a whistle blower by her organisation after she spoke to a friend who was a journalist.

Her union rep took advice from a Regional Officer, and although she was sacked she took them to a tribunal, and before it went to court she reached a compromise agreement with them. The substantial settlement gave her financial security.

Points to Note:

- Michelle should have followed her organisation's whistle blowing policy.
- Michelle failed to contact senior management and spoke to the press. Speaking to the press meant she was vulnerable to dismissal for gross misconduct.
- Settlement agreements usually include confidentiality clauses.



Members should take advice from a Regional Officer before doing anything drastic like resigning or whistle blowing.

Case Study - Capability.

Jenna was an assistant minister in a church. She was well liked by most people in the place where she served, but had a habit of forgetting where she was supposed to be and what she was supposed to be doing. Unfortunately her line manager left, and was replaced with a new one who was less tolerant. Jenna soon found it impossible to work with the new boss, who challenged her inability to organise weddings and funerals, and rotas for church duties and events. Jenna also tended to be late on occasions.

Jenna soon decided to look for another post as a probationer. This proved to be very difficult and she did not accept the positions that were offered to her. She was not able to evidence that she was competent in the key skills needed to have the responsibility of running a church of her own and found it difficult to learn. She interrupted the moderator, disagreed with his recollection of events and won no friends with her argumentative nature. Jenna was now without a job and did not agree to any of the jobs offered to her. Her rep met with her and managed to agree the basis of a settlement agreement to be checked by an independent solicitor. That agreement enabled her to move on with her life. An agreed reference enabled her to look for other positions, but her failed probationary post meant that she was unable to get a post.

Points to note:

- Members do not always take reps advice
- Jenna was a black woman and there had been a history of black ministers being discriminated against.
- Jenna would have been dismissed on grounds of poor performance if she had not resigned first.
- Jenna was either incapable of listening or unprepared to work with those who were willing to help her.

Case Study - Clergy Discipline.

Thomas was unaware there was a problem till the bishop wrote to him to tell him that there has been a complaint and that this would now be looked at. He was not told what the complaint was, but was told not to discuss it with anyone. He later received a letter saying that it was found that there was a case to answer and requiring him to reply on the correct form. He had been complained about by a group of bell ringers who accused him of being nasty to them and making them stop practising ringing the Church bells. The case was eventually dismissed, but not before he had been anxious for months.

Point to note:

- Thomas's right to free speech was not affected by this.
- Thomas's health was seriously affected by this complaint which should have been dismissed at the preliminary scrutiny stage
- Vexatious complaints should be discounted.



Legal Support is now available from the end of the first month of membership, though not for pre-existing problems.



Faith organisations follow trends in secular ones and managing workers' performance is more important now than it has ever been.



False allegations of child abuse or neglect can prevent members getting employment.

The inability to get a reference can make getting a new post impossible.

Case Study - DBS Clearance.

Joy had resigned one job and was about to start another. Between finishing one job and starting the other she was waiting for clearance from the Disclosure and Barring Service. Her appointment was delayed because of delays in getting the DBS clearance, and because a child protection issue was raised at a very late stage of the appointment process. Her new employer had received a 'Safe to Appoint' letter from her current employer, but this new child protection issue brought her new appointment into doubt.

Joy was eventually cleared to start her new job, but she was very anxious in the time between finishing one job and starting the other.

Points to Note:

- In the Church of England a separate 'Safe to Receive' letter is required from the sending bishop in addition to a reference and DBS clearance.
- The time between finishing one job and starting another is a time of vulnerability.
- Court action may be needed to access child protection records relating to an individual and their employment.
- If representing a member who has had a 'Risk Assessment' requested please contact the helpline for advice without delay as a Guide to safeguarding Risk Assessment is available.

Case Study - Performance Management.

Edward was an experienced teacher. He did not like the headteacher and ignored her. Edward liked to do things his own way, rather than anyone else's. He made no secret that he thought the head teacher and deputy head were fools. He was a competent teacher, but unimaginative and rarely performed to his best.

Edward was taken through the Capability procedure for failing to come up to the mark. He found it very stressful, and went off work with work related stress. He tried to return to work but lasted less than a day before having a panic attack. His union rep negotiated an agreement with the school that he would resign in return for three month's pay.

Points to Note:

- Capability and Performance Management in faith organisations borrow much from performance management in education, as does the capability procedure in the Church of England.
- Details of these are available from the helpline coordinators.
- Edward's rep could have negotiated a better deal, or negotiated it more slowly.



Performance Management is new to most members of our branch. The closest parallel is with performance management in the teaching profession.

Case Study - A Vexatious CDM Complaint.

George was an organist in a Church of England Parish Church. He had been organist there for 26 years. A new vicar came to the parish who decided that he wanted to choose hymns himself. For the previous 26 years the vicars had always allowed George to choose the hymns. George started a campaign to oust the new vicar who wanted to remove the pews and install chairs, and who wanted to move the harvest supper from a Friday to a Sunday lunchtime. George was taken through a disciplinary procedure and removed from office. Subsequently he wrote to the bishop a letter complaining about the vicar. The bishop wrote back inviting him to put the complaints on the relevant form under the Clergy Discipline Measure. When Unite got involved the complaint was recognised as vexatious because George just wanted to get his own back at the vicar. George could have appealed against his dismissal using the grievance procedure and could have subsequently taken the vicar and church council to an employment tribunal.

Points to note:

- tit-for-tat complaints are sadly far too common.
- members should carefully assess whether their actions could have led to a CDM complaint.
- bishops invite complaints to be put on the proper forms and may solicit complaints.
- this case should have been dismissed at the preliminary scrutiny stage.

Case Study - Reorganisation of Parishes.

Richard was vicar of an inner city parish in the North of England. He had been vicar there for some time, but rarely attended meetings of clergy. He was not present when a discussion took place about the future of his parish. It was decided that his parish would, on his retirement, become part of a wider Team of Parishes. After his retirement the bishop considered filling the vacancy, but did not do so as it had been decided to amalgamate the parish with another. Strangely, the living was not suspended, although it should have been, if pastoral reorganisation was being considered. The Team Vicar of the neighbouring Team Parish was announced as the new vicar, and the members of the parish were a little surprised, as no one had remembered to consult them as to this new arrangement.

There was an associate vicar in Richard's parish, and the bishop decided that this associate vicar - who was a member of Unite - was surplus to requirements. Deirdre was called to a meeting and told that she couldn't continue to work there, as the new Team Vicar didn't want her there. She had a good disciplinary record with no black marks against her, and she had not been given notice. Deirdre appealed to the Archbishop and was reinstated as associate vicar.



If George had been a member of Unite he would have a different rep appointed to rep for him.



Procedures exist to ensure fairness, openness and transparency. Ignoring procedures is unfair, underhand and lacks transparency.



Common Tenure offers some limited employment rights to Church of England clergy for example after being dismissed due to capability they can appeal to an Employment Tribunal.



Good appointment procedures are transparent, open, and include the right to reply. Reappointment procedures should be doubly careful to be these things as a minister or religion's livelihood is at stake. They should be treated fairly, as all workers

Points to note:

- Pastoral reorganisation is complex, and details are available from the helpline coordinators.
- In this instance the archdeacon explained that the rules did not apply.
- The church members were surprised to hear that they would not have a new vicar, and would be losing their associate vicar.
- The bishop, archdeacon and rural dean, together with the deanery pastoral committee and the diocesan pastoral committee all neglected to consult them.
- This took place before the introduction of Common Tenure.

Case Study - 'The Island Parish.'

If you watched the TV Programme 'the Island Parish' you will remember how upset the Methodist Minister Rev David Easton was not reinvited to serve additional time as minister on the Scilly Isles. The Methodist reinvitation process is dealt with in Part Two of this handbook, but this is what the helpline coordinator at the time had to say:

We receive calls every year about this process and the pain caused is quite widespread. The Island Parish episode has highlighted the issue to a much wider audience. I would say that nearly every Methodist minister, at some time, has been hurt by this process. We certainly know of ministers who will not seek re-appointment simply because they fear being wounded by the process. One of the problems is that in small circuits, such as the Isles of Scilly, a handful of discontented people can get themselves elected to the circuit meeting and flout the will of the vast majority. They are able to do this without giving any reason and so the minister is left feeling bewildered and betrayed. Even the church admits error in the 'invitation' process, little is done to compensate the loss to the minister.

Points to note:

- Unite has proposed transparency and accountability in the 'invitation' process, making it easier for the minister to remain in post, should that be his calling
- the voting procedure needs to be reviewed
- those who vote against a minister should state their reasons for doing so and the minister should be given a right of reply
- the minister should have a right of appeal.
- these proposals would make an unjust system fairer and more open in line with the values of Methodism.

20. Health and Safety

Health and Safety at Home

Faith Workers may live in tied accommodation such as a vicarage, manse or presbytery. They may live next to a place of worship. They rely on their faith organisation to provide suitable and safe housing for them and their family, friends and visitors. There is discrepancy over time and between regions and organisations about the quality of the accommodation and its maintenance from a health and safety point of view. Sometimes the housing provided is very different from other housing locally and this makes the minister seem different, or even rich, making them a target for crime.

Health and Safety issues in the home include:

- Gas & Electrical safety checks
- Asbestos
- Damp, and mold caused by poor ventilation or poor insulation
- Rats, mice, wasps and other vermin
- Personal safety due to callers at the door, intruders and harassment
- Installation and maintenance of burglar alarms, fire alarms and smoke detectors, and carbon monoxide detectors
- Burglary or robbery.

Health and Safety in the Workplace

The Faith Workers Branch of Unite has campaigned for the application of health and safety and welfare at work to faith workers. Historic buildings have health and safety hazards as all other buildings. These issues may include:

- Lack of toilet facilities or hand washing facilities
- Lack of phone for use in emergency
- Cold and damp
- Poor lighting with associated personal risk
- Unsafe electrical installations
- Asbestos & Legionella
- Personal safety risk due to being there alone with no phone or alarm
- Personal safety risk due to people with mental illness, or anger issues
- Working at height issues when ancient steps or ladders are involved
- Risk to health from incense which is carcinogenic, and should only be used in well ventilated buildings.
- Uneven or slippery floors
- Risk of false accusations of misconduct from minors or adults



Case Study:
Carbon Monoxide Poisoning.
One member of the clergy was living in a house with noxious gases, and made the diocese aware saying that they believed that it was Carbon Monoxide. A year and a half later they were hospitalised with Carbon Monoxide poisoning.



Predictability is an important factor in health and safety law.



Health and Safety issues in the community can have a devastating effect on the lives of faith workers.

Health and Safety in the Community

Ministers of religion can be at risk when they are in the community. Their uniform identifies them as different. The main risks to faith workers in the community include:

- Risk of violence against their person when visiting alone or at night in some areas
- Personal safety when entering someone's house by themselves - of malicious allegations.
- Risk of vandalism to their car
- Risk to self and family from being known to cooperate with the police or social services

Health and Safety Resolution from a Branch AGM:

1. That faith workers are entitled to safe workplaces and methods of working, consistent with the rights of all workers in ordinary employment, and wherever there is ambiguity or uncertainty over this principle it should be challenged using all available means at the disposal of the Union.
2. That we as Union members commit ourselves to working for the promotion of the health, safety and well being of all our fellow members and colleagues, through the adoption and promotion of policies and practices which are consistent with the best in industry and commerce.
3. That we call upon the leaders of all our churches and faith bodies to adopt systems for the management of health and safety for all clergy and church workers, consistent with at least the legal requirements laid down on other organisations in respect of their workforces.



The HSE Stress Management Standards help organisations assess the risk to health from stress in the workplace, and to minimize that risk.

Points to Note:

- Health and Safety is everyone's responsibility.
- Owners and controllers of buildings have responsibility for everyone who accesses those buildings
- Case law in areas of health and safety is developing
- Members should recognise health and safety risks and be proactive in persuading faith organisations to take these issues seriously.
- Where members are employees the full weight of health and safety law can be brought to bear.
- Specialist training in Occupational health and Safety is available from the branch.

21. Key Facts about Redundancy

Office-holders may be entitled to compensatory payments if the office they hold is subject to pastoral reorganisation. This is NOT redundancy. Employees are covered by the statutory provisions concerning redundancy payments. Employees of two years continuous service or more are the exceptions. There is a requirement on the employer to consult with a recognised trade union in the event of redundancies. Employees are entitled to their statutory notice or contractual notice which ever is the greater. The statutory requirement is: one week if you've been continuously employed for between one month and two years; one week for each complete year of service (up to a maximum of 12) if you've been continuously employed for two years or more. Members who are consulted about redundancy should contact their full time officer for advice.

Points to Note:

- A redundancy dismissal due to pregnancy, maternity or a related reason is automatically unfair, please consult your full time official if this happens to you.
- An employee who has been employed for two years is entitled to reasonable time off during the notice period to look for other work or access training opportunities.
- Sometimes a settlement agreement is an alternative to redundancy.

22. Settlement Agreements.

What is a Settlement Agreement?

A Settlement Agreement is a special type of legally binding agreement, or contract, between an employer and an employee, and they are predominantly used in cases of redundancy, unfair dismissal or unlawful discrimination. A Settlement Agreement is an agreement which enables the employer to break the terms of the employees contract of employment, with their agreement, and to pay a some of money, a reward, to the employee for doing so. In doing this, the employee gives up their right to take a case to an employment tribunal, on most issues, although it is important that some exceptions are made, i.e. so you can take a claim for an industrial disease like mesothelioma. Agreements usually contain a confidentiality clause.



Rely on a Regional Officer when cases may go to a tribunal. Don't always expect to win cases. Even the best cases can have unexpected twists and turns.



The Faith Workers Branch aims to solve problems in a co-operative and reconciling way.



The member has to tell you what you need to know in order to be able to represent them.

Settlement Agreements as an alternative to redundancy.

Reps should involve a Regional Officer at the earliest possible stage. A Rep can help negotiate the early stages of a settlement agreement if a regional officer asks them to. This can include discussion of the amount the member is to be paid, and terms like payment for unused holidays. Unite's regional officers will make sure that they do not prevent the member making future claims against an employer for work related injuries. The agreement should bring maximum benefit to the member, should not compromise the member's future rights on key issues, must be legally compliant and the confidentiality clause should be proportionate - i.e. they normally need to be able to tell their spouse of the terms of the agreement.'

In the Faith Workers Branch a Settlement Agreement may also be between a member who is an office-holder [and who may or may not be an employee] and the organization which is, allegedly, in some kind of employment relationship to the member. Reps normally have little role in settlement agreement negotiations.

Once a member has signed a Settlement Agreement can they change their mind?

No. To do so puts them in breach of contract and in a world of pain. They would have to return the money given them in the agreement and there may be other penalties.



Who?
What?
When?
Why?
Where?
How?

When is a Compromise Agreement not a Compromise Agreement?

TURER 1993 Schedule 6 – 'Compromise Contracts.'

Section 1b & 2b.

'The conditions regulating compromise contracts under this Act are that—(a) the contract must be in writing;

(b) the contract must relate to the particular complaint;

(c) the complainant must have received independent legal advice from a qualified lawyer as to the terms and effect of the proposed contract and in particular its effect on his ability to pursue his complaint before an employment tribunal;

(d) there must be in force, when the adviser gives the advice, a policy of insurance covering the risk of a claim by the complainant in respect of loss arising in consequence of the advice;

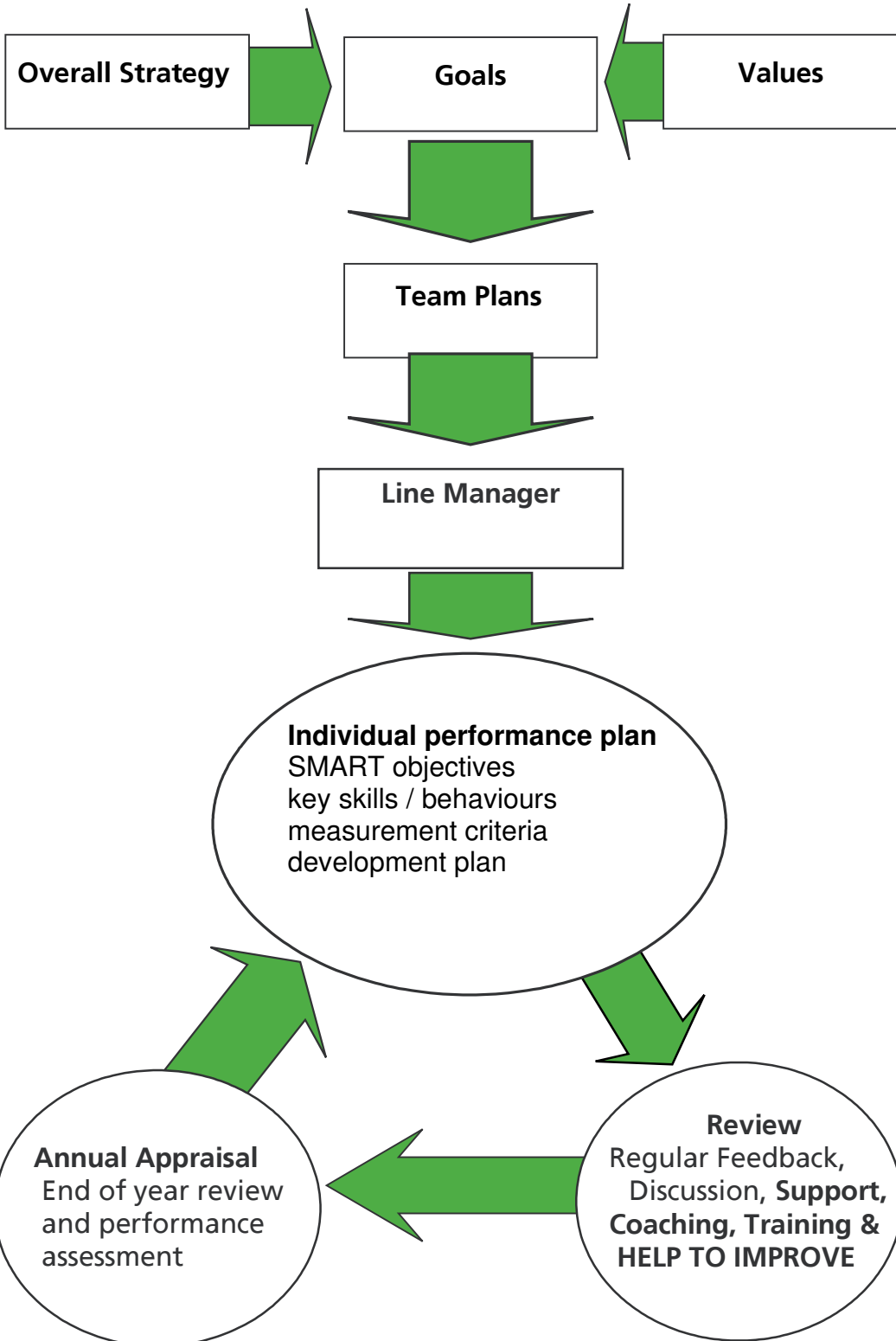
(e) the contract must identify the adviser; and

(f) the contract must state that the conditions regulating compromise contracts under this Act are satisfied.'

23. Performance Management.



When managers seek to manage the performance of workers through day to day management or supervision, annual assessment and in service training faith workers may feel that they are in an employer - employee relationship.



Management techniques may be new to faith organisations, and failure to follow these guidelines can be experienced by members as bullying.

Good performance management helps everyone in the organisation to know:

- what the business is trying to achieve
- their role in helping the business achieve its goals
- the skills and competencies they need to fulfil their role
- the standards of performance required
- how they can develop their performance and contribute to the development of the organisation
- how they are doing
- when there are performance problems and what to do about them.

How to manage performance, ACAS Page 1

Managing performance throughout the year involves an ongoing dialogue between employees and their managers about how well they are doing and how they can improve. This can help employees to become more engaged with the organisation and their work.

How to manage performance, ACAS Page 4

Line managers and Performance Management.

Line managers:

- agree objectives, competencies and development needs with individuals so that they contribute to business goals
- review individual performance against objectives and competencies throughout the year
- give feedback and discuss amendments to individual objectives as circumstances change
- agree the most important skills and behaviours necessary to do the job well and agree a personal development plan
- help staff to achieve objectives through coaching and provide access to training or other development opportunities
- manage under-performance
- hold an annual appraisal review with the job holder and, in collaboration with the employee, write an appraisal report. This is often supplemented by interim reviews held quarterly or half yearly.

How to manage performance, ACAS Page 9

Points to Note:

- Unite the Union is against Performance Management.
- In most faith organisations the stick for poor performance is kept, but the carrot for good performance is lost.
- Supervision and line management are pre-requisites of performance management.



When was the last time you were told that you had done well?

Do you get regular feedback on your performance?

What supervision or management do you or your members receive?

The importance of regular feedback

A performance management system will help managers regularly review performance and identify problems early on. In most cases action can be agreed between the manager and employee to remedy any problems at the earliest opportunity.

Support and coaching

Support and coaching by managers will help employees understand possible options for improving performance and take the necessary action. Under-performance may have a variety of causes and some of them may be outside the individual employee's control. It is therefore important to discuss any problems carefully with employees so that practical solutions can be agreed.

How to Manage Performance, ACAS, Page 23

How to Manage performance - a Model Flowchart.

The flowchart on the next page is an amplified version of the ACAS guidelines on Performance Management. It does not vary from ACAS guidelines in any significant way, though some stages are clarified and the link to Performance Related Pay is removed.

Clarified:

- The role of day to day supervision or management in highlighting potential problems
- The role of coaching and training to improve performance day by day
- The responsibility of the organisation to exercise their duty of care to their workers
- The role of annual review or appraisal in highlighting issues
- The role of suitable training to improve performance

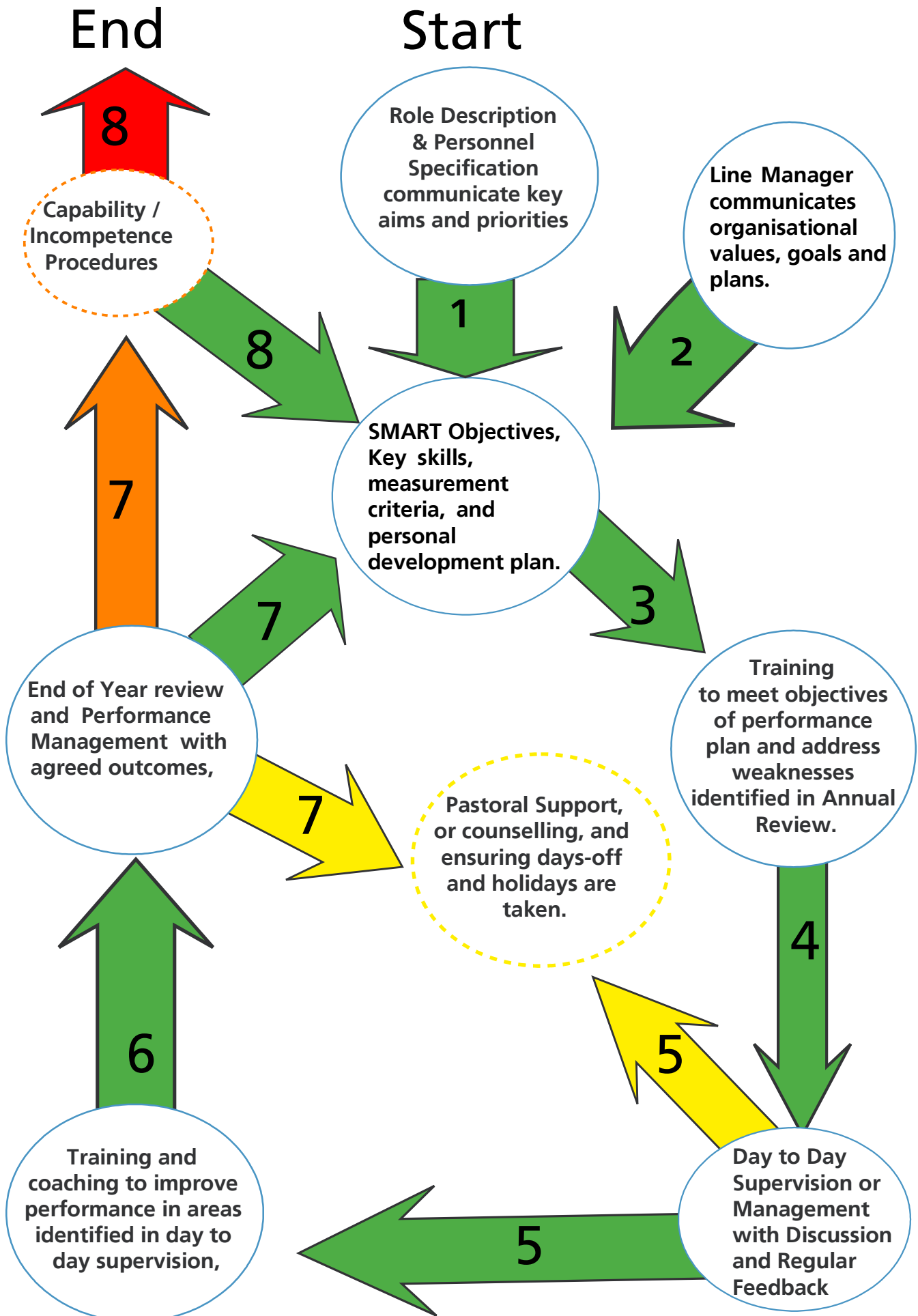


Day to day support is an effective way of improving performance.

Immediate help when it is needed is much more useful than help up to a year later.



Immediate feedback improves performance. Storing issues up till annual review breeds resentment.



Stages in the Performance Management Process.

Before Appointment

Management produce a personnel specification and statement of particulars with role description after consultation. This is the information given to candidates before appointment. The personnel specification lists essential and desirable personal qualities. The role description is in essence a job description.

At Appointment

1 The worker is given the statement of particulars and role description.

The written Statement of Particulars identifies time-off and holiday entitlement, with details of paternity, adoption, maternity, and other employment rights.

After Appointment

The line manager explains key aims and priorities to them along with policies and procedures and any professional code of conduct.

2 Organisational Goals, values and Planning

The line manager communicates the organisational goals, values and planning. Where the worker is an office-holder they should have an input into the role description both at the beginning of starting work and at annual review.

The member is provided with clear objectives as they start work.

These should be SMART objectives: Specific, Measurable, Achievable, Realistic and Time Limited.

The member begins work with a clear notion of what is expected of them as their line manager / supervisor provides them with information about wider organisational goals, values and strategic planning. There should also be clarity on who is to provide day to day line management and/or supervision, and pastoral support.

3 Training and Coaching

Training and coaching to help meet objectives of performance plan and address weaknesses identified in Annual Review.

4 Day to day supervision or management.

Regular feedback does not store up problems for review or annual performance assessment but communicates problems to the worker at an early stage so that they can be addressed.

5 Pastoral Support

Pastoral Support *may* be given at this stage, or referral for counselling or to Occupational Health or to the worker's own doctor.



Good practice begins before appointment.

An unrealistic role description, or a failure to understand the expectations of the faith community can and will lead to problems later.



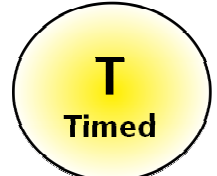
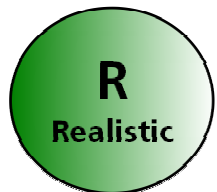
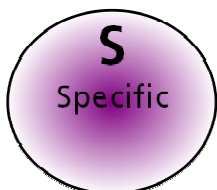
Rights impose a corresponding obligation on others.

Reps should be familiar with the Working Time Directive even if it does not apply to many of our members.



Management have a responsibility to work with workers to improve their performance.

SMART Objectives



5 Training and Coaching.

Day to day supervision or management will have raised any problems at an early stage and discussion should take place to see whether training or coaching is needed.

6 End of Year Review

Annual review of performance helps identify strengths, weaknesses and areas for development.

7 Pastoral Support

Pastoral Support is offered if appropriate, and time is taken to ensure that the worker is able to take their time-off each week without interruptions, and that they are taking the holiday that they are entitled to.

7 Capability Procedures

Where an annual review leads to an assessment of performance as unsatisfactory, and where day to day supervision has taken place, and pastoral support offered, and where clear objectives have been communicated the previous annual review, but which have failed to be reached despite them being SMART objectives a Capability Procedure may be started.

7 SMART Objectives are agreed for the coming year.

SMART objectives are agreed, together with measurement criteria, and a personal development plan is agreed. This personal performance plan has specific training identified to match each and any area of poor performance which has been identified in the end of year review.

The role description may be altered by mutual agreement, and the Annual Review is probably the best time to do this. This is needed where the worker has had no input into the original role description.

(The cycle continues with 3)

3 Training and Coaching

Training and coaching are given to help meet the objectives of the individual performance plan and address weaknesses identified in Annual Review.

Points to Note:

- Capability / Incompetence Procedures should be fair, reasonable and utterly predictable
- Questions about Performance and Capability / Competence should not be a surprise.
- They should be issues raised first of all informally in day to day management and review .
- Help should be given to address those issues - coaching or suitable training.

- If issues are not raised in day to day management or supervision meetings, they should not be brought to an annual appraisal.
- Unless issues are raised at an annual appraisal and a performance plan worked out for the individual with specific objectives and help given to meet these, then they can not be reasonably brought as issues of alleged incapability / poor performance or incompetence.

Accredited Representative should ask a member who is facing capability / performance management issues to answer all these questions.

Questions to ask members at risk of capability/ procedures:

Q1 Was the worker provided with a role description? Were they allowed any input into it on starting, or subsequently? Was the description of the work and work environment which was given to them accurate?

Did the manager appointing them provide information about the way the organisation works with its mission statement, and the key values, goals and priorities of the organisation along with policies, procedures and any professional code of conduct?

Q2 What day to day feedback has the member had? Was it consistent?

Was there clarity on who the line manager /supervisor was to be?

Q3 What support and training or coaching was offered?

Did it include practical coaching, and training courses?

Did this relate to the alleged under-performance?

Q4 If issues are raised an annual appraisal have they been raised with the member previously in day to day management or supervision sessions? (Answer this about each issue)

Q5 Did the supervisor / line manager communicate the improvement in skills, behaviour that was required? List each.

Q6 Does the organisation seek to improve something vague and immeasurable like 'attitude' or 'cheerfulness'? Are these listed on the personnel specification which was given to the member?

Q7 Was an individual performance plan drawn up?

Q8 Was the member given objectives which fit all these descriptions? (answer for each required objective if specific, measurable, achievable, realistic and timed)

Q9 What other support was offered to the member? E.g. pastoral, occupational health, holidays.

Q10 Are any of these 'issues' surprises to the worker?

Q11 Is there any evidence of vexatious, persistent or tit-for-tat complaints?

Q12 what evidence of bullying, discrimination or harassment is there?

Q13 has there been sufficient time given for improvement and has the worker been off work sick during that time?



Preparing a defence for a member against an allegation of incapability requires thorough preparation.

This list of questions supplements the usual questions to ask members.



Do not allow vague complaints about attitude or disposition.



Was bullying, discrimination and harassment the root cause of poor performance?

What steps did the faith organisation take to address it?

Q14 Has there been a sudden drop in performance? Are there mitigating factors? Were these known to management?

Q15 Ask about the member's health and if they need to see their GP or Occupational Health, particularly if there has been bullying, discrimination and harassment or other evidence of 'work related stress.'

Q16 Enquire about any illness, or disability which may be covered by the 2010 Equality Act.

24. Mediation.

Mediation is a voluntary, informal and confidential dispute resolution procedure between individuals. It is facilitated by a qualified and impartial intermediary.

Stages in the Mediation Process:

Stage 1 Before Mediation.

Terms of reference are agreed. Formal grievance or disciplinary procedures are placed on hold while mediation is attempted.

Stage 2 Initial Meetings.

The mediator meets with the participants in turn. The nature of the reasons for needing mediation are discussed and communicated to the third party.

Members may be represented by a representative at this stage.

Stage 3 Main Meeting.

Where the possibility of agreement exists the mediator facilitates a meeting between both parties. Members who feel the need to be represented by the Union at this stage are unlikely to reach agreement.

Points to Note:

- Mediators should be trained and impartial.
- Participation in mediation is voluntary.
- Members who have not been bullied should not be accompanied, unless they need an interpreter or their carer to be present.
- Members who have been bullied should not be expected to meet those who have bullied them alone.



Reps may challenge the impartiality or training of mediators.

Writing letters on behalf of members

Letter or Email.

Emails can be written in a hurry and sent without due care and attention. Letters can be changed between writing them and posting them – you can't recall an email. Especially in discipline and grievance procedures the best advice is not to send an email.

Using Headed notepaper.

Letters from Unite representatives should be on Unite headed notepaper. A MS Word letterhead is included for you to customize with your details. An alternative version with the Unite flag as a watermark is also available.

Before you send a letter to management.

When you have written a draft email or letter please check with the helpline co-ordinator that it is okay to send it by sending a draft copy by email with 'Is it okay to send this?' in the subject line.

When should you write a letter?

The key uses of letters in representation include:

- to seek information
- to put concerns in writing
- to seek a meeting; formal or informal
- to clarify the purpose/status of a meeting
- to respond to management's action and/or correspondence
- to be a record of a meeting
- to provide evidence in support of a member

The letters in the following appendix are examples of these headings. It is increasingly important to ensure that anything put in writing by management which you are unhappy about is challenged in writing. Do not rely on phone calls or one-to-one conversations. There is no record of agreements made over the phone.

Unchallenged management letters/documents/minutes may be regarded at a later date as an authoritative record of events. It is good practice for Accredited Representatives and management to agree minutes as a true record of a meeting or conversation.

Who should it go to?

The letter/email should go to the manager who has written to you or the members, or whoever has created the problem. The only exception is when lodging an appeal against a disciplinary decision or an unsuccessful grievance when it goes to the level of manager indicated in the grievance procedure.



Accredited Representatives normally have no role in making Settlement Agreements.



Settlement Agreements are a Regional Officer's job.



Headed paper looks professional and helps identify you as an Accredited Representative of Unite the Union Faith Workers Branch.

Ensure that your choice of font is professional and suitable for the letter. The name of the font can communicate as well as its shape and legibility.

- **THIS FONT IS NOT SUITABLE.**
- This font may not be suitable (Comic Sans Serif)
- This font is suitable. (Times New Roman)
- This font is suitable. (Frutiger Linotype)
- This font is suitable. (Arial)

Stick to the Facts:

Do not over-egg the pudding.

Remember, a letter may be an important piece of evidence later; at an appeal, a grievance hearing, in a campaign or at an employment tribunal. Do not overstate your case unless you are quite sure of your facts and use phrases such as "I am informed that" when necessary.

Letters/emails seeking information

There are many sorts of information which are useful to Unite representatives. The information you need may be:

- background information from management about the action, they intend to take
- clarification about the interpretation of an agreement or policy
- information you need to prepare a disciplinary or grievance
- information you are legally entitled to— for example in pay bargaining, redundancy, transfer of employment, health and safety, or discrimination claims
- information about changes in the service

Some of this information may be available to you as a result of your own employer's procedures, for example, a report on equal opportunities, or annual report and balance sheet.

Legal rights to information

Where workers are office-holders and not employees, where there is no identifiable 'employer' or where the union is not recognised these rights may not apply. This should not prevent faith workers from trying to get access to this 'right' through agreement with management.

Collective bargaining.

This includes pay, terms and conditions, reorganisation, payments systems etc. The information rights derive from the Trade Union and Labour Relations (Consolidation) Act 1992 and in the ACAS Code of Practice No. 2 on Disclosure of Information. More detail on seeking



Most letters to management should be sent by the member.

information in pay bargaining is contained in the Unite guides on local pay bargaining which are available on the union's website. Further rights to information arise where a redundancy is declared. These are summarised in Unite's guide to tackling redundancies which is also available on the website.

Transfer of employment.

This would include any mergers, transfer or contracting out of services/staff. The information rights derive from the Transfer of Undertakings (Protection of Employment) Regulations 2006 and a Unite booklet on TUPE is available on the website.

Discrimination.

There is statutory protection against discrimination (including harassment) on the grounds of race, disability, sex, pregnancy, age, religious belief or sexual orientation. Gender based pay disparity is covered by the Equal Pay Act 1970. There are Regulations to protect part-time workers and fixed term employees. Advice should be taken from a Regional Officer via the National Officer on these issues.

Health and safety.

Health and safety representatives have substantial rights to information contained in various acts and regulations, most notably in the Management of Health and Safety at Work Regulations (1999) and its approved Code of Practice. More information is contained in the Unite Safety Representatives Handbook available on the union's website.



Copying letters to others using the bcc. option lets you keep secret who you have copied it to.

Letters responding to management proposals.

Whatever the issue, when management proposals are made, or rumoured, putting your concerns in writing at every stage can help you and the members challenge unacceptable proposals. The extent to which this is done will depend on:

- the nature of the proposals
- how good your relationships are with management
- whether the proposals are likely to be the subject of formal grievance or even legal action

You should bear in mind, however, that:

- one to one informal conversations are poor evidence
- good written letters (and replies) are excellent evidence
- the standard letters in this section address stages of negotiations with management
- trying to establish what management are doing
- placing your concerns about the issues on record
- seeking to influence the procedure and timetable of negotiations
- preparing for meetings
- following meetings up
- taking an issue through procedure

Points to Note:

A letter is often better than an email:

- It will be taken more seriously
- It will be harder to ignore
- It looks professional and considered
- A letter can be changed between writing and sending

A letter should have a copy taken and kept in a lockable filing cabinet.

Letters should be delivered by hand or sent by registered or recorded post so that a signature is required on delivery.

I.1. Seeking information following management action

Address
 Telephone
 Email
 Date
 Manager's Name
 Address

Dear.....

Re:

I write on behalf of (Unite members) following management's decision to (take a course of action)

Could you please let me know the following:

The reason for such action

Who is affected?

Whether a policy decision has been taken and, if so, by whom?

Which section of which agreement/policy/procedure gives management the authority to take such action?

I would appreciate an early reply. In the meantime, I would ask for your immediate confirmation that no further steps to implement this decision be taken pending the completion of discussions on this matter.

Yours sincerely,

(Name)
 (Status)

Cc (Members)



These sample letters can be cut and pasted onto your branch headed notepaper then edited.

They are designed to save time and effort.



Members and reps need to be properly prepared for disciplinary hearings.



'Custom & Practice' is part of the contract between management and employees. The usual phrase used describes something that has been done 'man and boy'.

I.2 Seeking information for a disciplinary case

Address
Telephone
Email
Date
Manager's Name
Address

Dear (Manager or Director of HR)

Re: (name) – proposed disciplinary action

I write as the Unite representative of (name) who is facing disciplinary proceedings at a formal hearing on (date).

In order to represent this member effectively, and ensure that a fair hearing takes place, I need the following information at least five working days before the date of the hearing in order that I may prepare our case:

1

2

Should there be any problem in providing me with this information, I would appreciate your informing me so immediately, together with the reasons why.

The information is requested in line with the Trust's disciplinary procedure and the ACAS Code of Practice on Disciplinary Practice and Procedures in Employment.

Any failure to provide this information may prevent me preparing a comprehensive response to the charges made, and may therefore form the subject of a separate grievance hearing and/or an appeal.

Yours sincerely,

(Name)
(Status)

Cc (Member)

1.3 Seeking information based on a 'tip off'

Dear (Manager or Director of HR)

Re: (Issue) – request for information

A number of staff have recently enquired whether management have any proposals to (summarise information given in confidence by management or other source/accidentally).

In order to clarify the matter could you please state whether there are indeed any such plans. If there are, could you please:

Give details of the planned action together with any background documentation

Clarify the consultation/negotiation arrangements to be made

Confirm that no steps to implement the planned action will be taken prior to such consultation.

Clarify the status of these plans at the moment. If no such actions are planned, please say so.

I would appreciate an early reply in order to allay the concerns of staff.

Yours sincerely,
(Name)

1.4 Where a Grievance Procedure is refused to the member

Dear [*NAME*]

GRIEVANCE - [*MEMBER'S NAME*]

I write further to our recent conversation about the above. As you will be aware, I believe that the statutory grievance procedures apply to this matter and as a result, I have advised [*member's name*] to submit a statement of their grievance to you.

I would also advise you that [*member's name*] is willing to attend any meeting organised at a reasonable time and location, and is also willing generally to comply with the obligations which an employee must comply with under the statutory grievance procedures.

I understand from our conversation that you will not apply the statutory grievance procedures to this matter. If this is not correct please contact me as soon as possible to agree a hearing date to take this matter forward.

Yours sincerely
(Name)



Reps should adjourn meetings if they do not have the information they need to represent their members properly.

If this material was available to the member, but the member failed to provide it to the rep, a hard decision needs to be made about the choice to represent the member or not.

Reps in that situation can take advice.



Common sense and professionalism help us think about fonts.

The name as well as the shape matters.



Putting things in writing makes sure that there is a record of what was decided, or of the help you gave the member

Members are not unknown to complain about their reps. Written records help in these cases.

I.5 Where a meeting is at an unsuitable time and / or location.

Dear [NAME],

[DISCIPLINARY] [GRIEVANCE] PROCEDURE * – [MEMBER'S NAME]

I write in connection with the application of the [disciplinary] [grievance] procedure * to [member's name].

Use this paragraph if employer has unreasonably delayed procedure

[I believe that you have acted in breach of the statutory disciplinary and grievance procedure rules as you have unreasonably delayed the progress of the [disciplinary] [grievance] procedure *. I believe that you have delayed the procedure by [put in details of delay].]

Use this paragraph if a meeting has been arranged at an unreasonable time or location

[I believe that you acted in breach of the statutory disciplinary and grievance procedure rules by arranging a meeting at an unreasonable [time] [location]*. This is because I believe that the meeting that you arranged on [put in date] at [put in location] was arranged at an unreasonable [time] [location]* in that [put in details of why time or location was unreasonable. If the time has been set without an attempt to find a time convenient to the employee or his/her nominated trade union representative this should be stated as part of the unreasonableness, but also add details of why the employee/TU rep is not available at the particular time].

[Member's name]'s rights in relation to this breach are reserved, and the details of your breach may well be raised in any subsequent Tribunal claim relating to this matter.

Yours sincerely,

* please delete one

(Name)

Cc (Member)

I.6 Disability and Meetings

Dear [NAME],

[DISCIPLINARY] [GRIEVANCE]* HEARING – [MEMBER'S NAME]

I write in connection with the meeting that is due to take place on [put in date] with the above individual.

I write to inform you that [member's name] will require [the assistance of an interpreter/translator] [additional time/assistance to read statements/documents because of difficulties in reading] *[put in details of what required if a member's disability will cause difficulty in understanding or communicating at meetings].

Please could you confirm to me by no later than a week before the meeting [change time scale if there is insufficient time] if you anticipate that there will be any difficulties in relation to this? If I do not hearing from you within this timescale, I shall assume that facilities will be made available for [member's name]'s use at the hearing. As you will be aware, the new statutory dispute resolution procedures require an employee to be able to explain his/her case at a meeting. I believe that a failure by yourself to comply with the above request would therefore constitute a breach of this procedure.

Yours sincerely,

* please delete one

I.7 Follow up to letter seeking information (1)

Dear (Manager or Director of HR)

Re: (Issue) – request for information

I wrote to you one week (or different duration) ago regarding (issue). I do not appear to have received a reply as yet.

I am sure you will appreciate this is a matter of some urgency, causing (considerable distress, difficulty in preparing our response to the disciplinary charges, difficulty in preparing our appeal against the proposed grading etc)

In case my original letter was mislaid in the post, I enclose a copy. I would appreciate your acknowledgement of its receipt and a reply by next (date).

Yours sincerely,

(Name)

I.8 Follow up to letter seeking information (2)

Address
Telephone
Email
Date
Manager's Name
Address

Dear (Manager or Director of HR)

Re: (Issue) – request for information

I wrote to you on (date) and on (date) regarding (state issue). I have apparently still not received a reply.

In view of the urgency of the matter I must ask for a reply by return of post, together with your assurance that no further action will be taken in this matter pending further discussions.

Should you be unable to do so, then there may be no option but to pursue the matter more formally by [placing the matter in procedure (and considering what our legal rights may be).¹] Lodging a formal grievance.

Yours sincerely,

(Name)
(Status)

Cc (Member)

I.9 Seeking an informal meeting

Address
Telephone
Email
Date
Manager's Name
Address

Dear (Manager or Director of HR)

Re: (Issue) – request for informal meeting

Following our recent exchange of correspondence/telephone conversation, I write to seek an informal meeting with you to discuss (issue).

I would suggest that at the meeting we discuss the following: (list in order of importance).

- 1)
- 2) (etc)

I expect to be accompanied at this meeting by (Member/Rep). It might be helpful if (status) was also present.

It would also be helpful to have the following information before the meeting:

- 1)
- 2) (etc)

I am sure we can find a way to resolve this matter constructively and look forward to your early reply.

Yours sincerely,

(Name)
(Status)

Cc (Member)



Discourage members from going to meetings with managers until they know what the meeting is about.



Where a member is an employee and redundancy is anticipated the rep should contact a regional officer for support.

I.10 Lodging a grievance

Address
 Telephone
 Email
 Date
 Manager's Name
 Address

Dear (Manager or Director of HR)

Re: (Issue) - Formal Grievance

Following our meeting (exchange of correspondence) on (date) regarding (issue), I write to confirm that management have given (Name/s or organisation) no alternative but to lodge a formal grievance under the Grievance Procedure.

The grievance is that (Management action) has had the effect of (list consequences).

This is unacceptable and (Name/s) seek (State action required, eg. Withdrawal, etc).

In accordance with the Grievance Procedure, I note that the status quo will apply, ie. that (state what it was prior to management decision)

Please provide me with the following information prior to the hearing of this grievance:

- 1)
- 2) (etc)

I/we will be accompanied at the meeting by (Name/Status). Please check that any date offered is suitable before confirming a date.

I/we look forward to your early reply.

Yours sincerely,

(Name)
 (Status)

Cc (Member)



It is important to let management know that the member will be accompanied.

I.11 Letter from individual member expressing concerns - lodging a grievance

Address
Telephone
Email
Date
Manager's Name
Address

Dear (Manager or Director of HR)

Re: (Issue)

I write to (lodge a formal grievance over my treatment) in respect of (Summarise what has happened in one paragraph).

1. State what has happened.
2. State when it happened.
3. State who you believe to be responsible for it happening.
4. State what redress you seek (what action you wish management to take).

I would appreciate confirmation of receipt of my letter. (should a meeting be necessary you may wish to ask for one). I would wish to be accompanied by my representative (Name).

I look forward to you early reply.

Yours sincerely,

(Name)
(Status)

Cc (Member)



Think of sending a letter not an email if it is a disciplinary case.

I.12 Stating your concerns about a management proposal

Address
 Telephone
 Email
 Date
 Manager's Name
 Address

Dear (Manager or Director of HR)

Re: (Issue)

I write on behalf of (Member(s)) employed at/as following the recent management proposal to (Action).

I understand that management have (Details of action).

Member(s) are concerned (appalled) at this decision for the following reasons: (Select as appropriate)

Apparent breach ofAgreement, notably Section (quote)
 No formal consultations in breach of Agreement, Section (quote)
 Implications for standard of service (example)
 Implications for security of employment (example)
 Implications for professional accountability (quote)
 Equality implications (example)
 Etc.

In view of the urgency of this issue (if appropriate), I/we would appreciate the following information as soon as possible:

(a)..... (as appropriate)

In addition we ask for your assurance that no further action in respect of this issue will be taken pending discussions between the staff affected, yourself and myself on behalf of Unite.

An early date for such a meeting (preferably following receipt of the information requested) would be appreciated.

Yours sincerely,
 (Name)
 (Status)

Cc (Member)

I.13 Clarifying a possible disciplinary meeting

Address
Telephone
Email
Date
Manager's Name
Address

Dear (Manager or Director of HR)

Re: (Issue) – Proposed meeting

I write to you on behalf of (member) who has been requested to attend a meeting at (place) on (date) with yourself.

I understand that the meeting is to discuss (member's) (name the issue, e.g. Time keeping/record keeping, etc).

(Member) has asked that I be present to represent him/her. I am unclear what the status or purpose of this meeting is. I would therefore request that you:

Clarify whether the meeting is a disciplinary, Investigatory or counselling meeting or simply an informal discussion.

Clarify the issues to be discussed.

Clarify the purpose and possible outcomes of the meeting.

If the meeting is an investigatory meeting could you please let me have the details of any allegations that are to be considered.

If the meeting is a formal disciplinary meeting arising from which disciplinary action may result, please ensure that the precise allegations, together with supporting evidence are provided to me no less than (5) working days in advance of any meeting, together with the names of any witnesses you intend to call.

Please also (in both cases investigatory and disciplinary meetings) inform me who else will be present (e.g., personnel).

In order that I may respond fully, please ensure no date is fixed for the meeting without confirming that (MEMBER), myself and any other witnesses/evidence we may need to produce, will be available.

Should the meeting be an investigatory meeting, then any disciplinary charges will of course have to be heard at a separate meeting.

Please confirm by receipt of this letter/email by return and respond accordingly.

Yours sincerely,
(Name)
(Status)
Cc (Member)



Management may send their own version of the outcome of a meeting.

Agreement in substantive issues is more important than in trivia.



It is good practice to email copies of letters, requesting a read receipt, and to send letters by recorded delivery.

I.14 Commenting on a management document

Address
Telephone
Email
Date
Manager's Name
Address

Dear (Manager or Director of HR)

Re: (Issue)

Further to our receipt of your proposed policy on (subject) tabled at our last meeting, I enclose our comments and amendments for discussion at our next meeting on (Date). I would welcome your written comments on our proposals in advance of that meeting so that we may give them full consideration.

Yours sincerely,

(Name)
(Status)

Cc (Member)

I.15 Request for paid time off to attend a trade union course

Address
Telephone
Email
Date
Manager's Name
Address

Dear (Manager or Director of HR)

Re: (course title) – request for paid time off

I wish to attend the course organised by UNITE/TUC etc) on the subject of (subject) at (venue) on (day and date).

As an accredited representative of a recognised independent trade union, I believe this course meets the requirements of Sections 168-170 of the Trade Union and Labour Relations (Consolidation) Act 1992 and the ACAS Code of Practice on Time Off for Trade Union Duties and Activities (1977),

(or relevant section of trust recognition/time off agreement).

I enclose the summary details of the course and would appreciate your early confirmation of agreement to my attendance, on paid leave.

Yours sincerely,

(Name)
(Status)

Cc (Member)

I.16 Lodging an appeal against a disciplinary action or unsuccessful grievance hearing

Dear (Manager or Director of HR)

Re: (name) – appeal against outcome of disciplinary/grievance hearing

I write to you following the disciplinary/grievance hearing on (date) at (place) which (state outcome).

On behalf of (Member) I wish to lodge a formal appeal against the decision reached at that meeting.

At the next stage of procedure (Member) will be represented by (Name/Status). Please confirm the arrangements for that meeting with me (including exchange of statement of case, if appropriate).

Full details of the reasons for appeal will be provided in the statement of case.

Yours sincerely,



Employees need to know about their acceptance on union courses in good time so they can ask for time off from their employer.

Where members are office-holders not employees this is not an issue, as permission does not need to be sought for the training.

I.17 Confirming the outcome of a meeting

Dear (Manager or Director of HR)

Re: (Issue)

I write to confirm the outcome of the (Status) meeting held on (Date) to discuss (issues).

At that meeting the following points were agreed:

- 1)
- 2) (etc)

(Identify what was agreed who was to implement it, when by, what matters of concern were clarified and whether there is to be a further meeting).

Unless I hear to the contrary, within the next seven days, I assume that you accept the above summary.

Yours sincerely,

I.18 Discovering information held about us.

Dear [Person Responsible for Data Protection in an Organisation]

Re: Subject Access Request - Data Protection Act 1998.

Please supply the information about me I am entitled to under the Data Protection Act 1998 relating to (give details of the information they want).

(Please would you also tell me the logic involved in any automated decisions you have made about me.)

If you need any more information from me, or a fee, please let me know as soon as possible.

If you do not normally deal with these requests, please pass this letter to your Data Protection Officer or another appropriate officer.

Yours faithfully

Signature.

Points to Note:

- The member has to make this request themselves, a rep can't make it for them.
- Faith organisations are complex and have intertwining legal identities. Identifying who to contact is difficult - ask the helpline coordinator for advice if you are unsure.
- Information may be withheld if it is privileged information and communication with a solicitor, or safeguarding information, but that can be challenged,

In the Church of England consider separate applications to:

- The Archbishops of Canterbury and York.
- The diocesan bishop.
- The diocesan secretary.
- The director of the diocesan board of education.

Returning to Work.

1. After Illness

Members who are off work ill may be anxious about their return to work. Written Statements of Particulars may indicate clearly the process involved in notifying the employer of sickness, and of a proposed return to work, but in the absence of contractual obligations it may help to know the advice that the HSE gives to employers concerning what the employee should do when they wish to return to work:

“Less than 3 days of sickness absence

Your employee should tell you why they are absent from work.

When your employee returns to work, welcome them back and have a chat about their absence.

Between 4 and 14 days of sickness absence

Keep in touch with your employee.

When your employee returns to work, conduct a return to work interview. This in many cases will be a simple welcome back but you may need to discuss actions to help your employee's performance at work or underlying issues if short-term absence is frequent.

Between 15 and 28 days of sickness absence

Keep in touch regularly with your employee and identify the barriers that prevent returning to work (many of these will not need a medical solution).

You may need to consider expert advice, e.g. doctors', occupational health and rehabilitation providers'.

Welcome your employee back and conduct a return to work interview.

If it seems your employee is not likely to return to work soon then talk to them about the need to consider a return to work plan.

After 28 days of sickness absence

Continue to keep in touch regularly with your employee about their absence.

Put together a plan of actions and reasonable adjustments to help your employee return to work, including seeking expert advice if necessary, and agree these with your employee and others involved.

Welcome your employee back and implement the plan.

Review your employee's return to work progress until they resume their full duties.”

Where a member is an employee they can expect to be asked to see Occupational Health, and to have a Return to Work interview, unless they have been off work for less than 2 weeks. Members who are not employees may be asked to have an assessment by occupational Health and a Return to Work interview. In either case unless the sickness absence has been very short it is a good idea for the member to notify the employer in writing that they will be returning to work.

The member may be expected to produce a note from their doctor to say that they are fit to return to work.

If your doctor has indicated that you 'may be fit for work', the fit note will give your employer the information needed to begin a discussion on whether you can return to work.

If it is possible for you to return to work, agree:

- how this will happen
- what support you will receive and for how long
- how your pay may be affected if you return to work on different hours or duties

Sometimes it may not be possible for your employer to make the changes required to help you return to work. If this is the case, you will not be able to return to work until you have further recovered. You can use the statement as if your doctor had advised you were 'not fit to work'. You will not need to see your doctor for a new fit note.

If you do not agree with your employer on when and how you will return to work, you should explain to them why you disagree. There may be issues which your employer was not aware of when they made their decision.

If you are a member of a trade union you may want to ask your union representative to help you with this conversation. Alternatively, you might want to seek support from a local advice centre, for example a Citizens Advice Bureau.

http://www.direct.gov.uk/en/Employment/Employees/Sicknessabsence/DG_187161

Where an employer suggests that the member takes an additional period of 'garden leave' or 'compassionate leave' they should be very wary, refuse to agree to this, and consult their rep or professional officer.

2. After Sickness absence due to Disability

The member should usually not hide their disability, but should inform management that their absence has been due to disability as defined by the Equality Act 2010:

The definition of 'disability' under the Equality Act 2010. In the Act, a person has a disability if:

- they have a physical or mental impairment
- the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities

For the purposes of the Act, these words have the following meanings:

- 'substantial' means more than minor or trivial
- 'long-term' means that the effect of the impairment has lasted or is likely to last for at least twelve months (there are special rules covering recurring or fluctuating conditions)
- 'normal day-to-day activities' include everyday things like eating, washing, walking and going shopping

People who have had a disability in the past that meets this definition are also protected by the Act.

Progressive conditions considered to be a disability

There are additional provisions relating to people with progressive conditions. People with HIV, cancer or multiple sclerosis are protected by the Act from the point of diagnosis. People with some visual impairments are automatically deemed to be disabled.

http://www.direct.gov.uk/en/DisabledPeople/RightsAndObligations/DisabilityRights/DG_4001068

Unless the individual notifies the employer about their disability they can not be expected to know about it nor to make reasonable adjustments to accommodate their disability.

However these are cases where a member should consult a union professional officer, not least because of the danger of a capability procedure being instituted against the member because of their disability.

3. After a Sabbatical

A return to Work interview is not normally needed after a sabbatical, and there is usually no need to involve a union professional officer, but the return to work may not be simple where a sabbatical is associated with:

- disciplinary issues,
- pastoral breakdown, or
- family problems,

In this instance the member should ask their rep to consult a Regional Officer on their behalf. It is good practice for the member to then notify their employer, 7 days in advance, that they intend to return to work. They can expect to be invited to a Return to Work interview at which they may be told that they would be better off not returning to work, but taking some compassionate leave or garden leave, for example for a further three months. They should not go to this meeting unaccompanied, but should say that they wish a rep to be present.

It may not be in the member's best interests to take garden leave because not working can lead to depression and anxiety about the return to work. They should be careful not to agree to this without taking advice from union professional officer, who may consult a union solicitor.

4. After Garden Leave

'Garden Leave' is where the employer pays the employee to stay at home and not go to work. This may be because: 'their presence at work is considered counter-productive.'

http://en.wikipedia.org/wiki/Garden_leave

In this case the return to work will not be easy, especially if the member has agreed to take the gardening leave. In any case their rep should consult a professional officer at the earliest opportunity so that they can discuss how to return to work.

Garden leave can all too easily merge into a period of sickness absence as the member realizes that they are not wanted back at work.

5. After Maternity Leave

The return to work after maternity leave is relatively simple.

When returning to work after Ordinary Maternity Leave (the first 26 weeks of your Statutory Maternity Leave), you have a right to the same job and the same terms and conditions as if you hadn't been away.

This also applies when you come back after Additional Maternity Leave (the last 26 weeks of your Statutory Maternity Leave). However, if your employer shows it is not reasonably practical to return to your original job (e.g. because the job no longer exists) you do not have the same right. In that case, you must be offered alternative work with terms and conditions as if you hadn't been away.

Your employer will assume that you will take all 52 weeks of your Statutory Maternity Leave. If you take the full 52 weeks, you don't need to give notice that you are coming back. However, it can be a good idea to do so.

If you wish to return earlier, for example, when your Statutory Maternity Pay ends, you must give at least eight weeks' notice. If you don't, your employer can insist that you don't return until the eight weeks have passed. You must tell your employer that you:

- are returning to work early
- want to change the date of your return

If you decide not to return to work at all, you must give your employer notice in the normal way.

- [Notice periods \(employment section\)](#)

Illness at the end of your Statutory Maternity Leave

If you can't return to work at the end of your Statutory Maternity Leave because of illness tell your employer in the normal way.

http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/WorkAndFamilies/DG_065153

Taking Ordinary Maternity Leave and returning to work is relatively simple. Taking Additional Maternity Leave complicates matters. In this instance a rep would be well advised to consult a union professional officer so that the member is aware of the possible consequences of their actions.

Where a member has taken maternity leave and does not feel up to returning to work a rep should consider the possibility to asking the member to see their G.P. Post natal depression is not uncommon and it is something should be taken into account. The member may feel like returning to work once they are well.

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- And last, but not least, thank you to you - the reps - for making the branch what it is today.

Check the branch website for updates
www.unitetheunion.org/faithworkers



This list illustrates how unions work together for a common purpose.



As reps we know that we can make a difference.

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