



Rights at work - trade unions and representation

What is this leaflet for?

This leaflet gives a brief outline of rights to trade union membership and representation. It includes basic information:

- **Who is entitled to the rights**
- **How people complain if they are denied a right they believe they are entitled to.**

For detailed information about a particular right, visit www.acas.org.uk.

Rights covered

- **To be accompanied at a disciplinary or grievance hearing**
- **Time off to accompany a worker at a disciplinary or grievance hearing**
- **Time off for employee representatives Time off for European Works Councils**
- **Time off to accompany an employee at a flexible working hearing**
- **Information and consultation over proposed redundancies**
- **Time off for safety representatives.**

Visit the Acas website at www.acas.org.uk for further information on all the rights with links to detailed guidance on the Department of Trade and Industry (DTI) website. Printed versions of Acas publications are available from **Acas Publications** telephone 08702 42 90 90.

If you do not have easy access to the internet (world wide web) at home or at work try:

– your local library. Most medium-sized or large public libraries provide Internet access including a limited period free of charge. In some areas other sources of free access are available.

– Internet cafes, which provide access to the internet for a fee.

– UK online centres. These were set up by the Department for Education and Skills to help people with no computer skills to access the internet. There are around 6,000 UK online centres. Call the free UK online helpline **0800 77 1234** to find your nearest centre.

This leaflet is one of a series which outlines individual employment rights – other titles include ***Discipline, grievances and dismissals, Equality and discrimination, Information and consultation, Parents at work, Pay and Time off***. Information on the law is for guidance only – you may need to seek legal advice on your particular circumstances.

Advisers on **Acas' national helpline 08457 47 47 47 can answer questions on most employment relations matters** including rights and duties, but cannot provide legal advice. Acas also offers a wide range of products and services for organisations of all sizes and the people who work in them. Our aim is to improve organisations and working life through better employment relations.

Rights to representation and trade union membership

To be accompanied at a discipline or grievance hearing

Workers are entitled to be accompanied at most disciplinary and grievance hearings by a fellow worker or a trade union official of their choice, provided they make a reasonable request to be accompanied. They also have the right to a reasonable postponement of the hearing if their chosen companion is unavailable at the time the employer proposes. These rights apply to most workers, including agency workers and home workers.

Time off to accompany a worker at a disciplinary or grievance hearing

Workers have the right to take paid time off during working hours to accompany fellow workers employed by the same employer to most disciplinary and grievance hearings.

Time off for employee representatives

Employees who act as representatives for consultation about redundancies or business transfers, or are candidates to be representatives of this kind, are entitled to reasonable time off with pay during working hours to perform these functions and to receive appropriate training.

Time off for European Works Councils

Employees are allowed reasonable time off with pay to perform their functions as a member of a special negotiating body or a European Works Council, as an information and consultation representative or as a candidate in an election to be such a member or representative.

Time off to accompany an employee at a flexible working hearing

Parents of children under the age of six or disabled children under the age of eighteen have the right to apply to their employer to work more flexibly. The employer has a statutory duty to consider the request seriously and to refuse it only if there are clear business grounds for doing so. If the employer and employee meet to discuss the request at a flexible working hearing then the employee can be accompanied by a colleague – who has the right to paid time off during working hours to attend.

Information on proposed redundancies

To ensure employee representatives can play a useful part in the consultation process over proposed redundancies the employer must disclose certain information *in writing* including:

- **reasons for the proposed redundancies**
- **numbers and descriptions of employees affected**
- **proposed method of selecting the employees who may be dismissed**
- **proposed method of carrying out the dismissals, taking account of any agreed procedure, including the period over which the dismissals are to take effect**
- **how redundancy payments, other than the legal minimum, will be calculated.**

Consultation over proposed redundancies

An employer must consult with trade union or employee representatives when it is proposed to dismiss 20 or more employees at one place of work over a period of 90 days or less.

This consultation must take place with a view to reaching agreement with the appropriate representatives and must include discussion about:

- **ways of avoiding redundancies**
- **reducing the numbers to be dismissed**
- **mitigating the consequences of any redundancies.**

Employers also have a duty to act fairly and reasonably in handling redundancies and informing and consulting affected employees individually, regardless of the number of dismissals.

Time off for safety representatives

Safety representatives are entitled, under certain conditions, to time off with pay to carry out their functions and to undergo training.

Time off work for trade union duties and activities

An employee who is an official of an independent trade union which is recognised by the employer must be allowed reasonable time off with pay during working hours to:

- **carry out union duties**
- **consult with the employer, or receive information from the employer, about mass redundancies or business transfers; or**
- **undergo training for union duties (as approved by the union or by the Trades Union Congress).**

An employee who is a member of an independent trade union which is recognised by the employer is also entitled to reasonable time off for certain trade union activities – for example, attending a union conference. The employer is not obliged to pay the employee for time off for these activities.

Trade union membership and non-membership of a trade union

Employees have the right to join or not join a trade union of their choice. Their employer may not dismiss them, select them for redundancy or make them suffer detriment ('detriment' can be any action short of dismissal e.g. treating someone unfairly in terms of pay or training) for being or proposing to become a union member, nor for taking part in the union's activities at an appropriate time. They are similarly protected if they choose not to belong to a union or refuse to join one.

Dismissals which infringe these rights may be taken to an employment tribunal regardless of the employee's length of service. Employees who claim to have been unfairly dismissed in this way (except those complaining of unfair selection for redundancy) can also apply to the tribunal for an order of interim relief. This requires the employer to continue their contract of employment or to re-employ them pending the final outcome of the case.

Trade union recognition

Independent trade unions (trade unions certified as independent of employers by the Certification Officer) in organisations employing more than 20 workers have the right to claim recognition for 'collective bargaining'. Collective bargaining takes place when a union is recognised to negotiate agreements with employers on pay and other terms and conditions of employment. Recognised trade unions have all the rights to information, consultation and time off mentioned in this leaflet.

For further information on trade union recognition see the Acas Advisory Booklet *Representation at work* (also on the Acas website at www.acas.org.uk) or visit the Central Arbitration Committee website at www.cac.gov.uk.

Consultation over a transfer of business

Employees have the right to be consulted when a business or undertaking, or part of one, is transferred to a new employer – whether employed by the new or previous employers. An employer must tell a trade union or employee representative:

- **that the transfer is going to take place, approximately when, and why**
- **the legal, economic and social implications of the transfer for the affected employees**
- **whether the employer envisages taking any action (reorganisation for example) in connection with the transfer which will affect the employees, and if so, what action is planned.**

If action is planned which will affect the employees, the employer must consult their representatives. The consultation must be undertaken with a view to seeking agreement.

Time off for union learning representatives

Union learning representatives are entitled to reasonable paid time off for training and for carrying out their duties. Union members will be entitled to unpaid time off to consult their learning representative, as long as they belong to a bargaining unit for which the union is recognised. These rights are limited to independent unions in organisations where they are recognised for collective bargaining purposes.

Who has these rights?

Most people are entitled to the statutory rights listed in this leaflet, although, in many cases, qualifying conditions must be fulfilled before a right may be claimed. Some rights apply to all employees as soon as they start work; others depend on factors such as length of service, continuity of employment and activities in addition to the job (e.g. union work). For certain rights, various groups of people are excluded. Most rights apply only to employees but some apply to wider groups of workers. Always check detailed information on qualifying conditions using the links provided on the Acas website at www.acas.org.uk.

Employers and employees are free to agree better terms than those required by legislation in their contract of employment. A contract of employment is an agreement entered into by an employer and employee under which they have certain mutual obligations – for more information visit the Department of Trade and Industry website at www.dti.gov.uk/er.

Employers must give employees a **written statement of the main particulars of employment within two months** of the beginning of the **employment**. It should include, among other things, details of pay, hours, holidays, notice period and an additional note on disciplinary and grievance procedures.

What happens if there is a dispute about rights at work?

If employers and employees have a dispute about any of the rights

listed in this leaflet they have the following options:

1. **Settle the dispute.** Employees should always try to resolve a problem or dispute with their manager or employer first. This might be through the organisation's own grievance procedure. Both sides can also come to Acas for advice, either from the helpline or an Acas adviser.
2. An employee can make a **complaint to an employment tribunal** if he or she believes an employment right has been denied or infringed. In most cases, people who are treated detrimentally for exercising their rights may also complain to a tribunal. Complaints normally must be made within three months of the date of the alleged infringement – although there are exceptions (follow the links on the Acas website for details). For nearly all types of complaint, once an application is received an Acas conciliator will contact both parties to see if a settlement can be reached before the case reaches a hearing.
3. **Acas Arbitration Scheme.** For cases of alleged unfair dismissal and complaints under the right to request flexible working only, both parties can choose to have their case heard by an independent arbitrator appointed by Acas. The hearing is private, informal, non-legalistic, quick and confidential and the arbitrator's decision final. The remedies are the same as through an employment tribunal.

4. A **tribunal hearing** has various remedies and awards it can make, depending on the type of case. For example, if the tribunal decides an employee has been unfairly dismissed, the remedy could be re-instatement, re-engagement or monetary compensation, depending on the circumstances. Costs can also be awarded. A tribunal hearing is public.

Acas Publications

You can choose from our handbooks offering comprehensive guidance to the modern workplace or our Getting it Right pocket guides, providing vital checklists to help small firms run their business.

View and order online at www.acas.org.uk or call Acas Publications on **08702 42 90 90**. Other Acas material on this subject includes:

Acas Advisory Booklet – Representation at work

Acas Code of Practice –

Time off for trade union duties and activities

Acas Getting it Right guides