

Casework Guidance: Update 2018

This document sets out how individual and collective cases will be handled in the Bristol branch of UNISON. The approach helps develop strong union structures in employers and complies with the UNISON representation guide. It is intended to provide clarity to workplace reps (stewards), members and branch staff when dealing with case work.

General Guidance

All cases where representation is required should be allocated through the CASE system and therefore a CASE form will be generated. The branch secretary will allocate cases though this can be delegated to branch staff. Cases will be allocated to new stewards preferentially to ensure that they gain experience with case work once they are trained. Members will only be represented or advised where they comply with UNISON's conditions of representation.

The CASE form guides a steward through the representation process and therefore is a useful tool for representing. Stewards must be familiar with CASE forms and must make note of relevant dates and ensure they have all relevant paperwork.

All stewards will be supported to handle cases, either through their mentor or a branch officer. Stewards should be proactive in seeking support through the branch. Stewards should be accredited under the Employment Rights Act and have the right to time off normal duties to support members in personal cases.

The employer's HR advisor can be a useful ally. Stewards should cultivate a good working relationship with them as many cases can be resolved through informal, offline discussions with the HR advisor.

Once a case has been concluded, it is the stewards responsibility to communicate with the branch to explain the outcome and close the case. It is also important to have a conversation with your member about ongoing membership depending on the outcome of the case. Members can be referred to the branch in these situations but stewards must make it clear to members that their ongoing membership is their responsibility.

Data Protection

Stewards are data processors. Stewards are party to sensitive data about our members and must bear this in mind with all communications. No information about membership can be shared with others and must remain confidential so if you are emailing a group of members, you MUST send the email to yourself and BCC (Blind carbon copy) the members in to protect this information.

All stewards must be aware of Data Protection and the need to follow the rules around GDPR. Stewards are Data Processors. Very careful consideration must be given to the use and storage of information about members and cases, information must be kept secure, out of view of others, stored in a locked cabinet and not used for any purpose other than for assisting with their case. Once a case is complete, all information about it must be returned securely to the Branch Office as

stewards no longer have any need for it. If you aren't sure about any aspects of data protection, you must check with the branch chair or secretary to ensure you are operating correctly.

Organising

Organising means that members "own" their issues and are active in the union. It means that stewards handle cases at all stages and that we always encourage non-members to join, members to become active and seek collective resolution to collective problems.

It is imperative that all workplaces have a steward, otherwise representation may not be possible. Members should be encouraged to elect a steward at every opportunity.

Case work is how we show members where we add value, not by solving their problems for them, but by supporting them to resolve their issues through good advice and representation.

When members have had a good outcome in their case, or even when they have not, but have been represented well, they may be good prospects for a steward or other representative. Stewards should ask members if they want to become more active at appropriate times.

Individual (personal) Cases

Sickness Absence

Return to Work (RTW) meetings and referrals to Occupational Health (OH) do not require or justify representation. RTW's are informal discussions between management and employee, OH meetings are between a doctor and their patient.

Stage 1 attendance review meetings carry a right to be accompanied. If a steward is available and can support the member they can be accompanied. The member can take a work colleague if they wish. There is a right of appeal at stage 1 and UNISON will support a member who wishes to appeal. Members will be represented at stages 2 and 3 of a supporting attendance process.

Ill health retirement under the Local Government Pension Scheme

Members should be supported by a steward in this process and should apply to their manager. There will be a referral to OH and a recommendation of the tier to be granted. There is an appeal right against this and the steward should seek support from the branch on how to run this appeal.

Investigations

Where a steward has been allocated to a case, they may accompany a member at an investigation, however members do not need to be accompanied at an investigation meeting and it may not be possible for the branch to accompany members where there is no steward in the employer or workplace. This applies to members being investigated and witnesses. Stewards cannot answer questions for members, only query and challenge procedure. Members may feel more comfortable being accompanied by a steward but the presence of a steward will not alter the outcome, there will be no formal sanction awarded at an investigation meeting. Stewards can be available to advise members before an investigation meeting if necessary, members should be advised to answer the questions honestly.

Disciplinary

UNISON stewards will represent members at disciplinary hearings. Stewards should ask for support from their mentor or a branch officer before the meeting so that they are clear on the facts of the case and the approach to take.

Professional registration

If the member is registered with a professional regulatory body such as The Nurses and Midwives Council (NMC) or the Health and Care Professionals Council (HCPC) they may be reported during or following a disciplinary investigation. They should be advised not to resign in order to avoid the disciplinary process or they will forfeit their right to UNISON representation. They should also be advised to notify the branch immediately if they receive written notification from their regulatory body. There may be very tight time limits for providing information for some preliminary investigations. All professional registration representation is carried out by a specialist unit at Head Office so cases should be referred to region using the normal case referral process as soon as possible.

Dismissal

If a member is dismissed as a result of disciplinary, sickness, performance or any other reason, the steward should contact the branch for further advice. Strict time limits apply to **appeals** and tribunal cases and UNISON could be liable if members are not duly advised of their rights. At this point, if you think that the case should be referred to the regional office for legal advice, you need to supply all relevant paperwork and the completed and signed CASE form along with your notes on the form about the action taken so far.

Appeals

Members will be supported in appeals by the steward that has been allocated in their case. This ensures continuity of representation. Stewards will be supported by a mentor or branch officer who will review the case and advise the steward.

Grievance

Members need to be advised at initial stages about the importance of resolving informally, and identifying a remedy. They should be encouraged to discuss the grievance with the perpetrator or their manager in the first instance. If the grievance becomes formal, stewards can review the written submission and advise on potential remedies. In grievance cases it is important to manage expectations and help the member understand the importance of maintaining good working relationships while challenging poor behaviour.

Settlement Agreements

Settlement agreements are when the member leaves employment by agreement. These agreements often include payment and a confidentiality clause. They can arise when the working relationship breaks down completely and in some instances of voluntary severance. Stewards should contact the branch if these are sought by either side as the branch have to complete a form. Legal sign off is required and there is often negotiation about the payment.

In no circumstances should a steward send a settlement agreement direct to the regional office without the consulting the branch.

Overpayments and Underpayments

Repayment of overpayments does not require a steward. The policy is clear and payments must be made accordingly. Stewards can provide phone or email support to clarify or challenge re-payments.

When members have been underpaid, the manager should be approached to resolve informally in the first instance. If this does not resolve the matter, a grievance could be raised with support and advice of a steward if necessary. The steward should bear in mind potential legal claims and seek guidance from the branch if required.

Witnesses

Witnesses in investigations and grievance or disciplinary hearings do not require a steward, but members can be accompanied if a steward is available. Members should be advised to tell the truth. If the member is a management witness, it is management's duty to support. If they are our member's witness, the representing steward can defend the witness if procedure is not followed. Managers should avoid leading questions, but this can be challenged when the statement is signed

off. Witnesses who are members can be supported by pre – briefing about the process, not their statement.

Performance

Informal improving performance meetings do not require representation, but members can be accompanied if a steward is available. If a formal improving performance process is invoked, the member should be represented by a steward.

Job Evaluation

Trained stewards may attend job evaluation panels as TU reps. Stewards should contact the branch if they wish to do this. Members may also request jobs to be re – evaluated in some employers covered by the branch and for stewards support to achieve this. Whether jobs are to be re – evaluated is for managers to decide but there is potential for grievance cases to arise if a manager’s decision is perverse.

Collective Representation

Stewards should be involved in all aspects of collective representation. Where many members are affected by workplace change there is often good opportunity for recruitment and organising. Stewards should be mindful of multi – union workplaces and try to work collaboratively with other unions in these situations.

Building good working relationships with managers and HR is necessary to secure good outcomes in collective representation situations. Stewards sometimes need to challenge management decisions but must do so professionally and within the code of conduct for each employer.

Restructures (Managing Change)

Stewards should represent members through restructures and ensure that the employer’s policies are followed. There is often opportunity for creative solutions that can assist members, and stewards can be instrumental in negotiating these. For corporate restructures in large employers a branch officer or regional staff may lead at a strategic level but stewards should be involved in supporting members subject to restructure. Individual case work (e.g. grievance) may arise from restructure where, for example, procedure is not followed.

Disputes and Collective Grievance

Disputes should be a matter of last resort when all other options have failed. An employer should not be threatened with a dispute by any representative as this damages working relationships and is unlikely to result in good outcomes. Where a steward feels that a dispute is the only option to resolve a workplace problem, they must consult with the branch secretary. A dispute should only be lodged with the support of the branch secretary and where a clear majority of affected members is in favour. If a dispute moves to a formal stage it will be led by a branch officer. Industrial action can only be taken following a nationally approved ballot and involving the Branch Secretary and Regional Staff. There is a national ballot process which must be followed in all instances in order to protect members and the union from legal challenge.