

**Confidential and legally privileged advice to UNISON branches.
Please do not summarise or comment upon this advice in writing.**

Legal advice to branches on requests for representation where the member has an external representative

Introduction

This legal advice note gives guidance to branches handling requests for representation from members who already have a representative from outside the union. It is designed to assist branches where for example the member may be using external representatives for an employment tribunal claim but wishes the union to represent them at the related grievance hearing.

Rulebook provisions

Rule K 1.1. states that all representation is provided at the absolute discretion of the NEC.

Representation Guide

UNISON's Representation Guide published in July 2005 aims to set the standards for union representation. The Guide is a reference point for branches and UNISON representatives. The Guide outlines union policy on a range of issues including members who choose to act independently. Section 1.4 of the Guide states as follows:-

“Having discussed the case with you, a member may reject your advice and decide to pursue a separate course of action independently, or seek help elsewhere. That is their right but in these circumstances, the member should be advised of the relevant time limits, that you were prepared to act for them and that their independent action forfeits any further right to UNISON support.”

Section 4 of the Guide deals at more length with cases where the union cannot provide representation. The Guide states at paragraph 4.1 that union representation cannot be provided “where the member has also asked someone else to make representations to the employer”.

Grievance hearings

In the light of existing union policy, branches should not agree to represent members at grievance level in relation to an employment tribunal claim or any similar matter where the member is using an external representative. A model letter – appendix A – has been prepared for branches to use in replying to any such queries from members. If you have any queries, please contact your regional officer in the first instance.

APPENDIX A

Dear

Re: Request for UNISON to represent you at grievance hearing

I understand that you would like the union to represent you in an internal grievance in connection with (specify type of employment tribunal claim) against your employer. I am aware that you have not to date applied for union representation in relation to this (specify type of employment tribunal claim) and instead are represented by an external solicitor or other representative.

You may not be aware that UNISON's Representation Guide states that the union cannot represent "where the member has also asked someone else to make representations to the employer". This means that we cannot act for you at the same time as another outside representative. Unfortunately we will not therefore be able to accompany you to any grievance meeting with your employer. If your solicitor is not willing or permitted to attend by your employer, you will have to attend this meeting on your own and answer any questions your employer wishes to ask you on your claim.

However I should point out that you may be entitled to union legal representation: paragraph 4.1 of the UNISON Representation Guide. Your solicitor is required to advise you that you may be covered by UNISON legal services in relation to this claim. If you would like to make an application for union legal assistance, please complete the attached coupon and return it to Helen Philips, Employment Rights Unit, UNISON, Freepost (WC5652), London WC1H 9BR.

Yours sincerely

Branch Secretary



FORM OF AUTHORITY

I,[INSERT FULL NAME]
OF [INSERT FULL ADDRESS]

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.....
.....

AUTHORISE
[INSERT EXTRENAL REPRESENTATIVE'S DETAILS]

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.....

TO RELEASE MY FILE OF PAPERS TO UNISON, 1 MABLEDON PLACE, LONDON,
WC1H 9AJ.

SIGNED.....

DATED.....



**REQUEST FOR REPRESENTATION WHERE MEMBER HAS
CONSULTED AN EXTERNAL REPRESENTATIVE**

NAME:

ADDRESS:

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MEMBERSHIP NO:

BRANCH:

EXTERNAL REPRESENTATIVE'S DETAILS:

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I CONFIRM I WISH TO MAKE AN APPLICATION FOR UNION LEGAL ASSISTANCE.

SIGNED

DATED