

Seeking recognition and achieving the best terms

UNISON Bargaining Support Group

Bargaining guidance including model recognition agreement, checklists of key actions and template letters



Introduction

When an employer “recognises” a trade union they are recognising the right of that union to collectively bargain over the terms and conditions of a specified group of workers (the bargaining unit).

Those workers can then cease to constitute a group of scattered individuals having terms dictated to them by their employer and form a collective position that establishes them in a position of far greater strength to influence an organisation’s policies.

The Information and Consultation of Employees Regulations offer a means for achieving the right of staff to be consulted over employer actions, to express their views and to receive information, but this is not the same as the right to bargain over the issues that shape the working life of staff.

The scope of collective bargaining can vary quite widely from one workplace to another. For example, having trade unions “recognised” for collective bargaining at an individual family run care home will often look very different to that for a national care chain operating in multiple locations.

However, section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992 defines the minimum matters for collective bargaining as including:

- Terms and conditions of employment and physical conditions of work;
- Engagement or non-engagement or termination or suspension of employment or the duties of employment of one or more worker;
- Allocation of work duties of employment as between workers or groups of workers;
- Matters of discipline;
- A worker’s membership or non-membership of a trade union;
- Facilities for trade union representatives;
- Machinery for consultation and negotiation and other procedures (including grievance procedures), including recognition of the right of a trade union to represent workers in such negotiation or consultation.

The importance of gaining recognition acquired even greater prominence over the Covid-19 pandemic, which exposed the acute difference in the protections that unions have been able to win for staff in workplaces where recognition has allowed negotiations to take place, as opposed to those where the absence of recognition has enabled employers to set staff concerns aside with much greater ease.

Therefore, this guide is intended to assist negotiators in their work to achieve recognition with an employer, to establish the best possible terms for a recognition agreement and to defend an agreement against any attempt at derecognition.

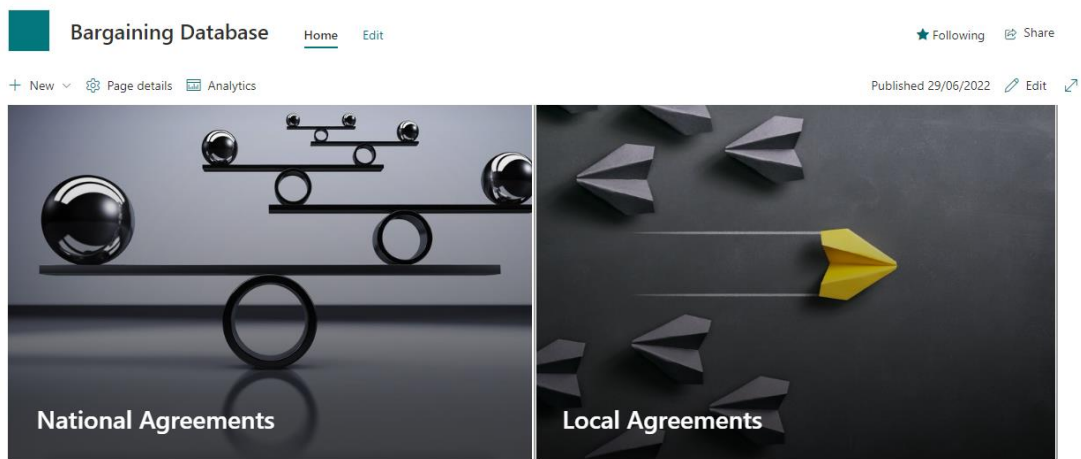
The guide is structured as set out on the following page, with checklists of major bargaining steps at the end of each section and a set of model documents available for local adaptation in the appendices.

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Seeking recognition

Checking existing arrangements

In some cases, it may be immediately apparent that there is no recognition deal in place with an employer. However, where there is uncertainty the [UNISON national bargaining database](#) can be checked for any national or local recognition agreement. The database can be searched by service group, UNISON region and employer name. UNISON staff can check this source directly, while branches can contact Bargaining Support on bsg@unison.co.uk with any enquiry.



In addition, it may be worth checking with relevant regional or local contacts who may have knowledge of agreements not listed on the national database. This may be particularly valuable in uncovering where there is a single union deal with another union. If this is the case the union's strategy in seeking recognition for UNISON should be reviewed to establish whether recognition is achievable.

Making a case for voluntary recognition

Where it is confirmed that there is no recognition agreement in place between the target employer and any trade union, the first option is always to seek a voluntary agreement with the employer and this is the method through which the great majority of recognition agreements are achieved.

Establishing a position of strength

Targeting of membership density in excess of 50% will put the employer in a very weak position to resist a request for voluntary recognition and the closer the union gets to that figure the more constrained the employer will be in its decision about how to respond.

The intention to pursue voluntary recognition should be signalled across appropriate parts of UNISON's regional and national structures. Particularly where dealing with a nationally operating large private contractor / smaller private company or community / voluntary organisation, the highlighting of a recognition drive to UNISON's Bargaining Support Group (through bsg@unison.co.uk) and the Private Contractors Unit (through private.contractors@unison.co.uk) can enable the appropriate checks to take place about any national engagement with the employer and feedback to be gathered that may help shape the strategy for achieving recognition.

Achieving voluntary recognition is likely to be greatly assisted by a well-planned strategic organising campaign to develop union strength and identify potential workplace activists before the approach to the employer takes place:

- In developing a campaign, be mindful of the bargaining unit i.e. the group of staff for which you are seeking recognition. The precision of this definition becomes crucial if achieving UNISON recognition moves to the statutory procedure. Reference should be made to the way the unit is defined later in this guide.
- Establish density levels, i.e. the number of members as a proportion of the number of employees in the bargaining unit. UNISON's Bargaining Support Group may be able to assist in identifying the total number of employees in an organisation, as they are normally published within accounts, however the figures are usually very broad and local investigation will be necessary to gain a more accurate figure relevant for recognition purposes. Density data needs to be based on accurate and up-to-date data. Therefore, checking and cleaning up membership records should form the background to developing figures that can be quoted confidently.
- Clear mapping of the workplace should form the basis for developing a plan for targeted recruitment and organising. General advice on recruitment and organising techniques is available through the [UNISON Organising Space](#) and UNISON's Organising to Win strategy is set out in Appendix 5 to this guide.

However, the principal points to be considered will be:

- Utilising existing members and activists to play a leading role to engage with colleagues and build support. In order to assist in the development of activists to assume this role, consider the training available through UNISON's Learning and Organising Services (LAOS). Contact LAOS on learningandorganising@unison.co.uk or speak to your regional education organiser for more information.
- Gathering the views of staff about the issues of importance to them to spearhead the reasons for gaining recognition.
- Promoting the union, highlighting relevant past successes and explaining what recognition can achieve for staff.
- Establishing a clear picture of membership levels. Map out areas (in terms of location and staff groups) where UNISON membership is concentrated within the employer where the union is seeking recognition. Broad figures can be found through UNISON's [employer mapping tool](#) and branches and regions can obtain greater detail through UNISON's RMS system. However, these may need to be supplemented by drawing on local knowledge and investigation with UNISON's national officers that support private contractors and community employers.

Presenting the benefits

When this groundwork has been done, negotiators may find it beneficial to frame their case in terms of the benefits to the employer. These arguments overlap greatly with research conducted by the independent analysts NatCen Social Research on the value of trade union facility time¹. This research found that the principal benefits were as follows:

- Provision of a ready-made structure for meaningful consultation and negotiation saving organisations money and providing reassurance to staff that their views are valued in decision-making;
- Facilitation of partnership working with trade unions that improved workplace relations and the reputation of an employer as “a good place to work.”
- Earlier intervention in relation to complaints, grievances and disciplinaries, preventing escalation into more serious problems, thereby saving organisations money by reducing the impact on staff time and possible legal costs;
- Better communication to manage change during restructuring and redundancy processes; thereby improving understanding of decisions, minimising negative impacts and reducing the number of working days lost through industrial action.

¹ NatCen Social Research, The Value of Trade Union Facility Time, 2012 at <https://www.unison.org.uk/bargaining-guides/>

Deploying other pressures

Some national private contractors will identify the bargaining unit as a particular contract e.g. catering at a specific NHS Trust and will enter into a recognition agreement when it can be established that UNISON has more than 50% density in that contract – but will refuse recognition where membership levels are below 50%.

It is therefore important to check any existing recognition agreements with larger private contractors through the Private Contractors Unit. If the employer recognises UNISON in another part of their operations, this can offer a further means to put pressure on the employer in the interests of treating all staff fairly.

As referenced in the preparatory work of gathering members' views, the issues that they highlight of greatest concern can be emphasised as potential areas of dispute which require formal bargaining procedures for resolution.

A model letter seeking a discussion with the employer on recognition and drawing on all these points is set out in Appendix 1 of this guide.

Escalating the voluntary request

Discussions on recognition will often proceed well on an informal basis. Where it is necessary to force the issue more strongly, a formal request for voluntary recognition can be made under Schedule A1 of the Trade Union and Labour Relations (Consolidation) Act 1992 (in Northern Ireland, the equivalent is Schedule 1A of the Trade Union and Labour Relations (Northern Ireland) Order 1995). This step serves the purpose of setting the clock ticking on a required response from the employer, which can then enable the union to take further action if necessary.

In order to make a legally valid request for recognition, the following criteria must be fulfilled:

- The request is made in writing to the employer, it identifies the union(s) and the proposed bargaining unit, it states that the request is made under Schedule A1 (Schedule 1A in Northern Ireland);
- The union(s) have a certificate of independence;
- The employer employs in excess of 20 staff.

A model letter requesting recognition can be found in Appendix 2 of this guidance. As this letter is being sent in the name of UNISON's General Secretary, branches should obtain authorisation from both the regional secretary and UNISON's Assistant General Secretary for Bargaining **before** the letter is sent.

Escalating to statutory recognition

The employer then has three options:

- 1) To accept the request;
- 2) To refuse the request, but agree to enter into negotiations;
- 3) To refuse the request.

The employer has 10 working days to respond to the request, including the day they receive the union's request. Refusal allows the union to then escalate the process to a statutory request through the Central Arbitration Committee (CAC) in the case of England, Scotland and Wales, or the Industrial Court of Northern Ireland (ICNI). Rejection, but alongside an agreement to enter into negotiations, gives the parties 20 days to reach agreement. However, if no agreement is reached at the conclusion of that period, the union can again turn to a statutory request to the CAC (or ICNI).

The application form to the CAC is set out here:

<https://www.gov.uk/government/publications/trade-union-recognition-make-an-application>

The application form to the ICNI is set out here:

<https://www.industrialcourt.gov.uk/statutory-recognition>

However, before making this step, a careful assessment should be made in consultation with all appropriate parts of the union including UNISON's Legal Services Team (as set out in the procedure below) about proceeding to gain a realistic judgement of the likelihood of success against the criteria set out on the following pages. Where there is significant doubt, consideration should be given to holding back any application with a view to building a longer-term strategy that puts an application in a stronger position to succeed at a later date.

Alarm bells for moving to a statutory strategy are liable to be particularly acute where there is less than 50% membership and concerns about the ability of the union to counter a potentially aggressive employer case that the majority of staff do not support collective bargaining.

The union can withdraw its application without penalty at any time up to the point that the CAC (or ICNI) has accepted it. **It is important to remember that once an application has been formally accepted by the CAC (or ICNI), the union is barred from re-applying for statutory recognition for the same or substantially the same bargaining unit for three years. If the union withdraws its application after it has been formally accepted by the CAC (or ICNI), it is still barred from reapplying for three years.**

After the procedure for statutory recognition has been triggered, the parties still have various opportunities to settle voluntarily and exit the process. The CAC (and ICNI) class this as semi-voluntary recognition. It may be that the employer can see at any stage that they have a weak case and the CAC (or ICNI) will rule against them, in which case they may be open to a voluntary agreement, which goes beyond the scope of a statutory agreement.

Following UNISON's internal procedure

Therefore, branches and regions are asked to follow the following internal escalation procedure to maximise the chances of success at the CAC (or ICNI) by ensuring that regulatory conditions have been met and there are strong grounds for an application:

The branch should liaise with their regional organiser to assess the case for using the statutory recognition procedure and outline the steps that have already been taken in seeking voluntary recognition.



Where there is support for using the statutory voluntary recognition procedure, the regional secretary's agreement should be obtained.



The region should then contact the relevant national officer at UNISON Centre, who will involve the National Secretary, UNISON Legal Services and other appropriate officers. It will normally be desirable for a meeting to be held between local, regional and national officials to agree a strategy.



If agreement is to proceed with an application, this will be submitted to the CAC (or ICNI) in the name of the General Secretary, with the assistance of UNISON Legal Services.

Maximising chances of a successful application

Once an application has been lodged, the CAC (or ICNI) has 20 working days to decide if it accepts the application and in making that assessment the CAC (or ICNI) will apply the following tests:

- ***Is the application on the proper form?***

Only the official CAC (or ICNI) form set out on the link above will be accepted.

- ***Has the employer received the application?***

The CAC (or ICNI) cannot accept any application unless the union has copied it to the employer, together with any supporting documents. Therefore, copies of the relevant correspondence with the employer should be included with the application to the CAC (or ICNI).

- ***Does the union have a Certificate of Independence from the Certification Officer?***

The CAC (or ICNI) cannot accept applications from trade unions that do not hold a current Certificate of Independence. The Certification Officer's [latest report](#) lists UNISON as holding a certificate in appendix 1.

- ***Is there an existing recognition agreement?***

The CAC (or ICNI) cannot accept an application if there is an existing agreement entitling a union to conduct collective bargaining on behalf of any of the workers in the bargaining unit. The existing recognition agreement will disqualify the application, even if it is with a non-independent union or staff association. The existing collective agreement does not have to cover hours, pay or holidays to invalidate the application, as long as it covers one or more of these categories. The important exception to this rule is where there is an existing agreement with the union that is making the application, which does not cover all three statutory categories (pay, hours and holidays), the application can be accepted.

Therefore, a thorough check of the national Bargaining Agreements database as well as local sources should be made to ensure the application does not fall foul of this rule.

- ***Are there competing applications and can unions making a joint application show that they will co-operate?***

If the application is made by more than one union, they will need to show that they will cooperate with each other to achieve stable collective bargaining arrangements. The unions must also show that they will conduct single table bargaining arrangements if the employer wishes.

Care should also be taken that conflicting separate applications are not being made by unions at the same time. The CAC (or ICNI) cannot consider applications from two separate unions with 10% membership for recognition if there are overlaps in members and bargaining units.

If only one of the unions making an application has at least 10% membership in the bargaining unit, the CAC (or ICNI) will only consider that application and is required to reject all others until that application is concluded.

- ***Does the employer employ at least 21 workers?***

If the employer, together with any associated employer(s), employs fewer than 21 workers, the statutory recognition procedure does not apply. This limitation applies to all workers employed, not just those in the bargaining unit. In determining the numbers of *workers*, part-time workers count as whole numbers. Temporary workers are counted if they are directly employed by the employer; those employed by agencies generally do not count.

This is an example of the CAC accepting an application where the employer had 380 staff, but only five in the bargaining unit - [Parkingeye 2021](#).

If you are unsure of the organisation's size, Bargaining Support may be able to assist in checking accounts, which generally provide employment data.

- ***Has an application already been made to the CAC in the last three years?***

If a previous application from the union covering the same bargaining unit has been unsuccessful, the CAC (or ICNI) will not accept another application until the three-year deadline has passed.

The CAC holds a record of all its application outcomes on this link

<https://www.gov.uk/government/organisations/central-arbitration-committee>

The ICNI holds a record of all its application outcomes on this link

<https://www.industrialcourt.gov.uk/decisions-and-declarations>

Contact the Bargaining Support Group via bsg@unison.co.uk for help in searching these sources.

- ***Are at least 10% of the staff in the bargaining unit union members?***

The CAC (or ICNI) cannot accept an application where less than 10% of the staff in the bargaining unit are members of the applying union(s). This threshold can be met by the combined membership of applying unions where they are applying jointly.

- ***Are there reasonable grounds to believe that the majority of staff in the bargaining unit would support recognition?***

Of course, the best way to show that the majority of staff in the bargaining unit would support recognition is to be able to point to union membership amounting to more than half of the bargaining unit. If this is the case, the CAC (or ICNI) can award recognition without a ballot.

Even if this figure cannot be reached, the greater the level of membership that can be achieved as a baseline, the easier it is to argue that the majority would support recognition.

Where the union falls short of 50% membership, the most common ways to display that there are reasonable grounds to believe that the majority would support recognition is through a petition or asking members to sign a pledge card. An example of such a petition is shown in Appendix 3.

The CAC (and ICNI) states the following:

“Where it is intended to rely on a petition, pledge cards or some other form of signed statements as evidence of support, it will be helpful if the parties make clear the period within which the signatures were given, for example by the inclusion of a column for indicating the date of signature. If this information does not appear on the petition/pledge statement, then the party submitting the evidence may be asked to provide written verification of the date or dates.”

Defining an “appropriate bargaining unit”

In making its application to the CAC (or ICNI), the union **must** set out a clearly defined bargaining unit, along with a justification for why that unit is appropriate for bargaining.

If the bargaining unit proposed by the union has not been agreed with the employer, there is a period of 20 days where an agreement can be sought. Such discussions will normally be conducted by a senior UNISON official. However, if there is no agreement at the conclusion of the 20 days, the bargaining unit will be determined by the CAC (or ICNI) at the hearing.

The bargaining unit can be a central point of contention in any application to the CAC (or ICNI) and may have a decisive effect on whether the membership / support criteria set out above are met.

In deciding whether any union proposal for a bargaining unit is appropriate, the CAC (or ICNI) will consider:

- The need for the unit to be compatible with effective management;
- The views of the employer and union;
- Any existing national and local bargaining arrangements;
- The desirability of avoiding small, fragmented bargaining units;
- The characteristics of workers in the proposed bargaining unit and any other employees the CAC considers relevant;
- The location of workers.

One of the most prominent features of these criteria is how the terms and conditions of staff are determined. If there is little variation between parts of an organisation and all indicators suggest that terms are determined centrally then the bargaining unit is more likely to cover the whole organisation. If there is significant variation between parts of an organisation and all indicators suggest that there is considerable local autonomy in determining terms, it is more likely that a part of the organisation can be defined as an appropriate bargaining unit.

These issues may require an investment in time to research arrangements. Unison's Bargaining Support Group (bsg@unison.co.uk) may be able to assist by providing accounts that usually carry data on employment numbers. It is rare for accounts to break down employment by location, however where an employer splits their operations into separate registered organisations more detail can often be found and the existence of a separate legal entity can in itself assist in suggesting that terms are determined locally.

In addition, all UNISON organising staff will have access to the UNISON employer mapping tool, which will identify how many members work for the employer and where they are located.

The following examples are illustrative of important points in determining the bargaining unit.

- In an application made for workers at Craegmoor Group, UNISON argued that the bargaining unit should consist of workers in a single care home in Wales, despite the fact that the home was part of a chain of 277 institutions across the UK. The union successfully argued that there was sufficient local variation in pay and conditions for collective bargaining to apply to one site only.
- An application made for workers at Kwik Fit resulted in a ruling that established the precedent that the CAC does not have to decide that the definition of the bargaining unit proposed by the union is the "best possible" arrangement, only that it is "appropriate." The employer may propose what it considers a better arrangement, but the CAC does not have to accept it if the union's proposal meets the statutory requirements.

The Kwik-Fit decision has been quoted in subsequent CAC decisions where the employer has argued for a different bargaining unit than that proposed by the union. In each case the CAC has made a decision based first and foremost on the merits of the union's proposal, testing whether it meets the criteria for "appropriateness" rather than judging whether the proposed bargaining unit is the best possible arrangement.

- An application for workers at Woodbridge practice, resulted in the CAC panel proposing an independent check of the level of membership within the proposed bargaining unit. It found the membership level to be 44.19% and as the union needed a mere three new members to put the membership density over the 50% threshold for statutory recognition, the panel were satisfied that a majority of workers in the bargaining unit would be likely to support recognition of the union and on those grounds accepted the application.
- An application on behalf of workers at Parkwood Leisure made a case for a bargaining unit across five leisure centres in Bexley, South London. It was originally estimated that there were 250 workers in the proposed bargaining unit, but in fact there were 310. The union had 55 members (15.8%) in the proposed bargaining unit, satisfying the requirement for at least 10% membership, but an indicative ballot showed just 30.38% support for the recognition. In its decision the CAC said, "The panel is not satisfied that the level of union membership...when considered with the level of support indicated by the results of the union's ballot provides sufficient evidence that the majority of workers constituting the proposed bargaining unit would be likely to favour recognition of the union as entitled to conduct collective bargaining on behalf of the bargaining unit." The panel also rejected the union's attempt to break down the ballot results by location or employment status. It noted that the union had

made the application for a bargaining unit consisting of all five sites, and it was against this unit that the statutory tests had to be applied

Where the bargaining unit has not been agreed, the employer must provide the following information to both the CAC (or ICNI) and the union within five working days:

- A list of the categories of worker in the proposed bargaining unit;
- A list of the workplaces at which they work;
- The number of workers the employer reasonably believes are in each of the categories at each of the workplaces.

If the employer fails to provide the required information, the union can request that the CAC (or ICNI) moves straight to bargaining unit determination. The CAC (or ICNI) must then decide the appropriate bargaining unit within 10 working days starting with the day after the day on which the request was made. This period can be extended by the CAC (or ICNI).

Where the CAC (or ICNI) changes the bargaining unit, they will reapply validity tests in terms of assessing membership levels and the scale of likely support within the revised unit.

Process following acceptance

The process following acceptance of an application has to abide by strict CAC (or ICNI) defined rules and regional (and where necessary national) staff will usually be involved in supporting a branch through that process.

Following acceptance of an application, the union has the right to communicate with workers who are in the proposed or agreed bargaining unit. The union does not do this directly, but through a “suitable independent person” (SIP). The union applies in writing to the CAC (or ICNI) asking it to appoint a SIP. The CAC (or ICNI) will make the appointment as soon as possible, notifying the name and appointment date of the appointed person to the parties. The union is responsible for paying the expenses of the SIP.

The union can send information to workers through the SIP throughout the “initial period.” The initial period starts with the day the CAC (or ICNI) notifies the parties of the name and date of appointment of the SIP and ends when one of the following occurs:

- The union withdraws the application;
- The CAC (or ICNI) finds the application is invalid;
- The union is declared recognised without a ballot;
- The CAC (or ICNI) informs the union of the name of the person appointed to conduct a ballot.

Within 10 working days of being notified of the appointment of a SIP, the employer must provide the CAC (or ICNI) with the names and home addresses of the “relevant workers” - that is those within the proposed or agreed bargaining unit. Lists must be updated if the definition of the bargaining unit changes or workers join or leave the bargaining unit after the list has been supplied. The CAC (or ICNI) will pass this information to the SIP as soon as possible. If the employer fails to provide the required information, the CAC (or ICNI) will take steps to ensure compliance and may declare the union recognised under certain circumstances.

If the CAC (or ICNI) moves toward instructing a ballot, this can take place in the workplace or by post and has to be conducted by an independent agency. The CAC (or ICNI) will consult with both parties and decide on the method of the ballot and the cost of the ballot will be split between the union and the employer. There are strict guidelines around unfair practises in the workplace during the balloting period. There is a process for complaints if either party feels the other has acted unfairly.

The CAC (or ICNI) will notify the parties in writing that it intends to arrange a secret ballot. The receipt of this notification begins the “notification period.”

The union has 10 days from the date it receives the CAC (or ICNI) notice to tell the CAC (or ICNI) if it does not wish the ballot to go ahead. The union and employer can jointly notify the CAC (or ICNI) of this (for example, if they reach a semi-voluntary agreement).

The notification period should be used to agree access arrangements for the union during the ballot period. If there are problems in agreeing access then the parties may seek the help of ACAS to conciliate as soon as possible.

The CAC (or ICNI) will appoint a qualified independent person (QIP) to conduct the ballot, decide how the ballot will run and set a timetable. It will decide whether to have a ballot at the workplace or by post, or by a combination of the two, taking account of costs and fairness. The ballot must be held within 20 working days of the appointment of the QIP. This period can be extended by the CAC (or ICNI).

New provisions have been added to the procedures to prohibit unfair practices during the ballot and set penalties when unfair practices take place.

Once the employer has been notified of the QIP’s appointment they have five duties:

- To co-operate generally with the union and the QIP in connection with the ballot;
- To give the union reasonable access to the workers in the bargaining unit to enable it to inform those workers of the object of the ballot and to seek their support and their opinions on the issues involved;
- To pass names and addresses of workers in the bargaining unit to the CAC (or ICNI) within 10 working days from the day after the employer was informed of the QIP’s name and ballot arrangements. The employer must also give the CAC (or ICNI) details of any workers joining or leaving the bargaining unit;
- To refrain from making any offer to workers, or any individual worker, that induces them not to attend a relevant meeting between the union and the workers unless it is reasonable in the circumstances;
- To refrain from taking or threatening any action against a worker because they attended or took part in a relevant meeting or they indicated their intention to do so.

The union can use the QIP to distribute information from the union to the workers in the bargaining unit at their home but neither the CAC (or ICNI) nor the QIP can give the information on names and home addresses to the union, nor can the CAC (or ICNI) or the QIP pass names of union members to the employer.

Any complaint that the employer has not complied with any of the five duties must be sent to the CAC (or ICNI) case manager before the ballot has been held. The CAC (or ICNI) panel will investigate the complaint, seeking advice from the QIP. The CAC (or ICNI) panel can extend the timetable for the ballot in these circumstances.

If the CAC (or ICNI) panel decides that the employer has failed to perform any of the duties above, they can order the employer to remedy the failure within a set timescale. If the employer fails to do so the CAC (or ICNI) can issue a declaration of recognition.

Unfair practices

Once they have been informed by the CAC (or ICNI) of the name and appointment date of the QIP and the balloting, both the union and employer must refrain from using any unfair practice. Either of the union and employer can complain to the CAC (or ICNI) if they believe the other has used an unfair practice that changed a relevant worker's voting intentions. The CAC (or ICNI) must decide whether the complaint is 'well founded'.

The following acts by the employer and the union are considered unfair practices if they are used with a view to influencing the result of the ballot:

- Offers to pay, with money or to give money's worth, for a relevant worker to vote in a particular way or to abstain;
- Offers to pay, with money or a non-cash offer, as long as a particular outcome is achieved. For example, an offer to pay a worker £100 if the ballot does (or does not) result in recognition would be considered unfair practice;
- The coercion or attempted coercion of relevant workers to discover whether he or she intends to vote or abstain or how they intend to vote or have voted;
- Dismissal, or threats of dismissal, of a worker – and this is not confined to just those workers entitled to vote in the ballot;
- Taking or threatening disciplinary action against a worker – again this is not confined to workers entitled to vote in the ballot;
- Subjecting, or threatening to subject, a worker to any other detriment – again this is not confined to workers entitled to vote in the ballot;
- The use or attempts to use undue influence on a relevant worker.

If a complaint made to the CAC (or ICNI) of unfair practice is found to be valid, it may result in the ballot being rerun or, in extreme cases, abandoned and a declaration on recognition made by the CAC (or ICNI).

Organising to win the ballot

Negotiators should expect that the employer will run a hostile vote No campaign and not underestimate the potential effectiveness of that campaign on staff.

Evidence of UNISON's successes in winning ballots suggests that establishment of a workplace organising committee is vital to the union's ability to counter the employer's campaign.

To deliver a pro-union vote Yes campaign, such committees should build on the organising work carried out earlier in the process and aim to:

- Mobilise the membership to hold one-to-one conversations with every worker;
- Map voting intentions;
- Identify key leaders and influencers who can drive the campaign forward.

Drawing on the techniques of UNISON's Organising to Win strategy set out in Appendix 5 will again offer a strong basis for achieving success.

Results of the ballot

To succeed in the ballot, the union needs to have won the support of a majority of those voting and 40% percent of all workers in the bargaining unit eligible to vote. When statutory recognition is awarded, the issues on which the employer is compelled to negotiate are limited to pay, hours and holiday.

If the union fails to win the level of support needed to obtain recognition, it is barred from making another application in respect of the same or substantially the same bargaining unit for a period of three years.

Statutory recognition will normally last for a minimum of three years and cannot be ended unilaterally by the employer, even at the end of the three-year period, except through one of the de-recognition procedures in the Act.

If recognition is granted, or if it is voluntary, the union and employer must agree a "method of collective bargaining." There are 30 days for agreement (with the possibility of an extension of time). If no agreement is reached either party can ask for CAC (or ICNI) assistance. An extendable 20-day period is allowed for the parties to agree, failing which the CAC (or ICNI) will specify a procedure.

In contrast to the general position relating to collective agreements, the document setting out the method of collective bargaining will be legally enforceable. Either party will be able to go to court for an order of specific performance.

Consolidating the recognition agreement

A note of caution should be considered that even after statutory recognition has been formally achieved, the union can still be faced with a reluctant and disgruntled employer who wants to limit engagement to a minimal form of consultation.

In dealing with this situation, there is perhaps nothing new for the union's strategy in the approach taken from the start of seeking recognition, but in order to force the employer into treating recognition seriously and engaging in proper bargaining, it may well be necessary to maintain a continued focus on recruitment and organising that builds strength in terms of both membership and activist density.

In order to provide time for activists to set about these goals, a strong facilities agreement should be an early target for the content of a recognition agreement (facilities are incorporated in the model recognition agreement that forms appendix 4 to this document, but fuller facilities guidance and an expanded model agreement are available on the [UNISON bargaining guides page](#)).

Consideration should also be given to picking up on an issue of importance to the workforce (which perhaps has emerged during early work on engaging with staff over recognition) soon after recognition and pursuing it through the bargaining structures that have been established in order to make clear to the workforce the value of recognition and build support early in the life of recognition.

In order to develop activists to take on the work that the recognition agreements brings and deal with it effectively, it may be useful to once again draw on the training available through UNISON's Learning and Organising Services (LAOS) through such key courses as negotiating skills, handling representation, and recruitment and organising. Contact LAOS on learningandorganising@unison.co.uk or speak to your regional education organiser for more information.

Checklist 1

1) If in doubt, check whether there is an existing recognition agreement through the UNISON Bargaining Agreements Database or local sources
2) Consider whether a programme of preparatory recruitment and organisation work is needed to put the union in a strong position before approaching the employer
3) Seek discussions with the employer, highlighting the benefits of recognition to the employer and membership density
4) Where necessary move to a formal request for voluntary recognition in line with Schedule A1 of the Trade Union and Labour Relations (Consolidation) Act 1992 or Schedule 1A of the Trade Union and Labour Relations (Northern Ireland) Order 1995
5) If request rejected consider whether the union's position is sufficiently strong to apply for statutory recognition, following the internal UNISON procedure
6) Where an application is made, ensure the union meets the CAC (or ICNI) validity tests

7) Investigate organisational structure and practices for determining terms and conditions in specifying an appropriate bargaining unit
8) Where membership is less than half the bargaining unit, develop a programme of recruitment and support for recognition through a petition or pledge card
9) Consider at all stages whether the employer can be persuaded to move toward a voluntary agreement encompassing wider issues than those required under a statutory agreement.
10) Establish a workplace organising committee to counter a potentially aggressive No campaign from employers and achieve success in any ballot held.
11) Following recognition, examine options for building strength further to force the employer into treating their duty to engage in bargaining seriously.

Achieving the best terms for recognition

What a recognition agreement should cover

A formal recognition agreement provides a framework for industrial relations within an organisation. It sets out the rules and procedures to be used by the union and the employer in carrying out consultation, collective bargaining and representation.

It is in the interests of both parties to have a clear and comprehensive recognition agreement. A good agreement will contribute to:

- positive employment relations between unions and management;
- high levels of employee participation;
- effective procedures when dealing with problems and organisational change.

The purpose of the agreement

Most recognition agreements begin with a clause outlining the goals the parties wish to achieve. While this section does not lay down any specific rules or procedures, it does set the tone for the rest of the document.

It will often include a commitment to:

- co-operate in achieving positive industrial relations;
- use a joint approach to training in industrial relations procedures;
- engage in effective communications with employees;
- achieve greater participation and involvement of all members of staff;
- work towards a high-quality service.

Good Practice Example:

Good recognition agreements should set out a clear purpose and the aims and advantages to working with the union collaboratively.

For example, the recognition agreement between UNISON and Choice Support Group states:

“The purpose of this agreement is to ensure that employment practices in the Group are conducted to the highest possible standards within the resources available, and that equal opportunities are offered to employees or prospective employees and that the treatment of staff will be fair and equitable in all matters of dispute”.

The general principles

The agreement will outline the basic principles shared by the union and the employer and their understanding of their respective roles and responsibilities.

These will include:

- a joint commitment to working together in delivering the organisation's services effectively and to a high standard;
- recognition of the importance of good industrial relations;
- acceptance of the need for joint consultation and collective bargaining;
- the need for both formal and informal channels of communication and problem solving;
- the need to make information available on issues affecting employees or the business of the organisation;
- recognition that it is the union's responsibility to represent the interests of its members and work to improve their conditions of employment;
- commitment to protect the right of employees to join trade unions and encourage trade union membership;
- commitment to adhere to and develop policies on equal opportunities.

The unions recognised

A recognition agreement names the union or unions who have rights to represent and negotiate on behalf of employees in that workplace. It will make clear whether a particular union has sole negotiating rights for a bargaining group, or whether the employer recognises two or more unions jointly.

The agreement may also specify what the bargaining unit entails, defining the location and/or category of workers in relation to collective bargaining.

As [Acas](#) describes:

"If there is a written recognition and negotiating agreement the agreement will normally define the bargaining unit. Such a description should describe the occupation and location of the workers covered by the agreement. So, for example, a negotiating agreement may describe the bargaining unit as 'Assembly workers, up to (but not including) the level of supervisor at the Fulchester site'."

Facilities available

The agreement should detail the facilities made available to the union and to union representatives in order to carry out their duties.

1) Time off for trade union duties and activities

Trade union workplace representatives in recognised workplaces have a right to time off with pay to carry out their trade union duties or take part in union training, often referred to as “facility time.”

In some cases, this can mean that the rep is fully seconded from their regular job, enabling them to work full time on trade union tasks. It can also mean that an employer allows a rep to carry out trade union duties and activities, instead of their substantive job, for a certain amount of time per week or month.

It applies to union representatives appointed for collective bargaining purposes, TUPE representatives, union learning representatives and health and safety representatives.

Workplace reps are entitled to paid time off to cover the following duties:

- Trade union duties related to collective bargaining, on issues like: terms and conditions of employment; redundancies; job evaluation; family friendly policies; discipline; trade union facilities; and the negotiating machinery itself;
- Individual representation;
- Meetings with management and preparation for these meetings;
- Keeping members informed about negotiations;
- Training.

In addition, employees elected as information and consultation representatives, whether union or non-union, have a right to paid time off to carry out their duties.

Good Practice Example – training for lay representatives:

A good recognition agreement should have a section setting out clearly the rights of trade union representatives to receive paid time off when carrying out union duties.

For example, in the recognition agreement between UNISON and Veolia Environmental Services (City of Westminster), it states: “The parties recognise the need for lay representatives of the union to properly understand their duties, and both their rights and the rights of their constituents. To this end, it is agreed that all lay representatives be afforded the opportunity of paid release to undergo appropriate training as approved by the union”.

There’s been some negative publicity about facility time in recent years – much generated by Conservative lobby groups – but the truth is that good employment relations increase productivity and efficiency.

In a 2016 UNISON survey on facility time (across all service groups), two-thirds of respondents identified that as UNISON reps they had supported individual cases (including disciplinary and grievances) in their facility time, which would have escalated and become a more serious problem if they had not been involved.

Problems can arise where employers do not adequately fund facility time to cover the absence of representatives on trade union duties. The resulting conflict between the needs of the service and the need for adequate time off, can lead to disputes with management. Tensions may also arise amongst staff, as colleagues are left to cover the work of absent trade union reps.

It is therefore important that sufficient funds be made available to support staff representatives' roles.

More detailed advice on negotiating time off for trade union duties is available in:

'Facility time – guidance for UNISON branches'

https://www.unison.org.uk/24744_facilitytimeguidance/

and a **'Model time off and facilities agreement'**

<https://www.unison.org.uk/model-time-off-and-facilities-agreement/>

2) Trade union facilities

Facilities and resources should be available to allow the union to represent and negotiate on behalf of its members effectively. These should be specified in the agreement and could include some or all of the following:

- Use of a designated area or secure office space, including the facility for stewards to meet with full-time officers by arrangement;
- Use of a lockable filing cabinet;
- Access to a confidential telephone, fax, internal mail and email;
- Access to notice boards in all work sites;
- Assistance in conveying information to employees, including newsletters, information concerning consultation, representation or bargaining;
- Access to the employer's intranet;
- Reasonable access to photocopying;
- The use of PCs;
- Reasonable accommodation for meetings and trade union education;
- Reasonable access to administrative support and secretarial services;
- For outsourced members, it would be advantageous to obtain use of teleconferencing and video conferencing (as the employer may be national, with offices across the country)
- For employers covering a substantial geographic area, travel and expenses for reps for individual representation;
- Facilities to enable recognised trade unions to conduct a ballot where this is required by law or otherwise mutually agreed.

Good Practice Example – facilities for trade union representatives

To assist trade union representatives with their roles, recognition agreements often will set out what facilities trade union reps can access.

For example, in the recognition agreement between UNISON and Oasis Learning Academies it states: “Oasis Academies will provide the following facilities to trade union representatives – reasonable accommodation to hold meetings and to interview members in a confidential manner, confidential access to and reasonable free use of telephones, fax and email facilities and computing and photocopying facilities, reasonable access to administrative and secretarial services, secure office/storage space and notice board space in staff rooms.”

Depending on the size of the employer it is important to make sure the recognition agreement covers the resources which are needed and the cost of travel.

In smaller workplaces it is important to be flexible and imaginative when negotiating trade union facilities. Small employers may not be able to offer the same level of resources or technical support that a larger employer could provide. If it is not possible to have office space, look for an agreement on meeting facilities. The branch may need to consider offering a loan of equipment (laptop, mobile phone) in order to meet needs that cannot be met by the employer.

3) Access to information

This includes:

- Access for stewards to all documents relating to agreements that affect members represented;
- Access to information for collective bargaining as specified by the ACAS code of practice [‘Disclosure of information to Trade Unions for Collective Bargaining Purpose’](#) and the [LRA code](#) in Northern Ireland

4) Encouragement and support for trade union membership

This could include:

- Facilities for the deduction of trade union subscriptions from payroll (DOCAS or Deduction of Contributions at Source also commonly known as check-off) in the form requested by the union;
- Opportunity to talk to new starters and participate in induction sessions;
- The right to run recruitment road shows at the employers’ worksites;
- Sharing of new starter details to enable the union to develop communications with them further (advice on obtaining new starter lists is available on this link <https://www.unison.org.uk/content/uploads/2018/12/Using-New-Starters-List-Guidance.docx>)

Some smaller workplaces may not have the capacity to run a DOCAS facility. Therefore, UNISON members can pay subscriptions via direct debit (direct from their bank account to the union).

NB: *The Trade Union (Deduction of Union Subscriptions from Wages in the Public Sector) Regulations 2017* are still yet to be implemented but if they come into force expectations of the content suggest that check-off arrangements included within agreements would only be able to continue if the trade union meets the administrative cost of making the deductions and other means for payment must be available for workers. However, this would not apply to devolved public services in Wales or Northern Ireland.

Structure of representation

The agreement should set out the union/management structures that will be used to represent union members in the workplace and negotiate on their behalf. This should include a joint negotiating committee (JNC). If the agreement is to fulfil a role under the Information of Consultation of Employees (ICE) Regulations, you may wish to instead include details of a joint negotiating and consultation committee (JNCC) – further information below. It may also include details of other union/management forums such as a joint health and safety committee.

The agreement should set out the number of representatives who sit on each body from each side and the constituencies from which they are drawn. The agreement should acknowledge that union representatives will be elected in accordance with their union rules to act as spokespersons in representing their members' interests.

There should ideally be only one forum within the representative structures. In agreeing to recognition, employers may claim to be concerned that non-union employees will be excluded from workplace consultation.

As a result, unions may be faced with proposals to maintain a non-union consultative forum alongside the formal negotiating body used by the recognised trade union. However, the union should try to resist this, as it may weaken the union's role as the voice of the workplace. In addition, decisions could be taken in the non-union forum which undermine the position UNISON members have taken on workplace issues. The need to provide representatives to both forums may also tax the union's ability to find members willing to be active.

Recognised unions are legally required to negotiate on behalf of all workers in a bargaining unit. They could offer to be responsible for canvassing the opinions of non-union, as well as union members and so provide the one forum for workplace consultation and negotiation.

As well as a main staff forum (the JNC or JNCC if fulfilling ICE agreement requirements) depending on the size of the employer and issues within the workplace, there may be other forums set up to consult with the unions on particular areas. For example, as mentioned above, there should be a specific health and safety forum and if job evaluation is an issue, a specific forum could be set up to work through job re-profiling.

The JNCC should have sufficient trade union members to be representative of the various sites and sectors of the workforce. Ensure that shift workers and those working part-time have representation on the JNCC.

Management side should include those with power to make real decisions on behalf of the employer, on the JNCC.

Information and consultation

Recognition agreements should be clear on what can be subject to negotiation, and what to consultation.

Negotiation commits both parties to reaching agreement, whereas consultation is merely a commitment to seek views.

Some employers confuse consultation with the conveying of information. It is much more than this, as recognition agreements are supported by legislation that require employers to undertake “meaningful” consultation on certain issues. In practice, this is more likely to mean the consultation process must be closer to negotiation than a mere information-giving exercise. There should be evidence that the employer has attempted to reach agreement, even if agreement proves impossible.

Union recognition agreements cover aspects of information and consultation with employees, as do existing joint consultative committees. This may mean that the recognition agreement could qualify as a pre-existing agreement under the Information and Consultation of Employees (ICE) Regulations.

In order to qualify and therefore preclude any watering down of arrangements through ICE it is important that recognition agreements fulfil the requirements under the regulations and “set out how the employer is to give information to the employees or their representatives and seek their views on such information.”

They must also:

- 1) Be in writing, and have been agreed before any ICE request (a request made by at least 10% of the employees for negotiations to be opened on a new ICE agreement) is submitted;
- 2) Cover all the employees of the ‘undertaking’ (although there may be more than one agreement in place);
- 3) Have been formally approved by the employees such as through the agreement of representatives of employees (usually trade unions) if they represent a majority of the workforce or through a simple majority of those voting in a ballot of the workforce or other mechanism.

Further information can be found in the [bargaining support](#) guide ‘[Negotiating on Information and Consultation of Employees \(ICE\) Arrangements](#)’

TUPE and collective redundancies

The recognition agreement should also reflect the fact that under other legislation the employer is legally obliged to consult on other matters, in particular on business transfers and collective redundancies. In these circumstances, the employer must consult with a view to seeking an agreement.

The duty to consult arises 30 days before dismissal where the employer is proposing to make redundant between 20 and 99 employees at one establishment or 45 days where the employer is proposing to make redundant 100 or more employees at one establishment (In Northern Ireland, the requirement is for 90 days where 100 or more staff are affected).

For example, in the recognition agreement between UNISON and The Norse Group it states:

“In relation to any group of workers in respect of which the Union is recognised for bargaining purposes, the employer will consult with the local union representatives as the ‘employee representatives’ wherever required in law for example in relation to TUPE transfers or collective redundancies”.

For more information on collective redundancies please see the **bargaining support** guide at <https://www.unison.org.uk/content/uploads/2020/12/Bargaining-Over-Collective-Redundancy-v7.pdf>

Normally health and safety issues should be progressed through the health and safety committee where one exists. A joint health and safety committee should also be set up if two or more safety representatives request it. For more details on health and safety committees click on this link <https://www.unison.org.uk/content/uploads/2015/05/On-line-Catalogue23188.pdf>

Scope of the agreement

The range of agreed topics covered by collective bargaining and negotiation can vary from organisation to organisation, but it is strongly advised that these are set out in the recognition agreement, as well as a standard frequency of meetings where these issues will be discussed.

This information will help if an employer challenges the definition of 'reasonable' time off for trade union representatives.

Areas which should be covered in the agreement
Terms and conditions of employment
Pay awards
Job descriptions
Job grading and job evaluation (including equal pay audits)
Hours of work
Holiday and sickness arrangements
Pensions
Overall salary structure
Health and safety
Equality and diversity policies
New technology, IT and surveillance policies
Working practices, new equipment and techniques
Training and recruitment
Staff amenities
Redundancy and redeployment
Disciplinary, grievance, capability, performance management and procedures
Contracting out
Reorganisation of staff and relocation of offices
Any other item which both parties agree to refer

A recognition agreement should give the union the right to collectively bargain on the widest possible range of pay and conditions. As a minimum, the agreement should cover pay, hours and holiday as areas for collective bargaining. These are the areas on which a statutory recognition agreement awarded by the Central Arbitration Committee (CAC) or Industrial Court of Northern Ireland (ICNI) would provide a right to collectively bargain. It would be clearly important to extend these to at least include pensions, redundancy and training.

There may be circumstances where the union is able to secure recognition for some groups of staff in an organisation, but not others. The union may not be recognised, for example, for staff on certain types of contracts or for new staff after transfer to the private sector.

Unless you have a good reason to exclude certain categories of staff, try to ensure that all employees are covered under the recognition agreement.

Good Practice Example – coverage of the agreement:

The recognition agreement should always specify which staff groups are covered by the agreement.

For example: “all staff employed by the [named] NHS Trust

Or

“all employees who are directly employed by the Trust, whether full time or part time, permanent or temporary”

Or

“This agreement applies in respect of employees in the following categories:

- teaching staff (ASCL, ATL, NAHT, NASUWT and NUT);
- support and other professional school staff (GMB, UNISON and Unite).”

Disputes and dispute resolution

As well as highlighting how a union has a right to represent the interests of individual members through grievance and disciplinary procedures, a recognition agreement should include a mechanism for dealing with collective disputes between the union and management through a dispute resolution procedure.

It will be for issues concerning two or more people that are the subject of collective negotiation or consultation. This procedure would aim to settle differences between the union and management which cannot be resolved through normal negotiations.

Dispute resolution procedures generally involve several stages, beginning at the informal discussion level and may rise through reference to local and central negotiating forums. Some agreements will include access to an external third party, such as ACAS or the Labour Relations Agency in Northern Ireland, for conciliation and ultimately for arbitration if the issue is not resolved at a lower level.

Acas www.acas.org.uk or the **Labour Relations Agency** www.lra.org.uk in Northern Ireland can “act as an independent impartial third party to help parties discuss, consider and reflect on their respective positions with a view to reaching an agreement...”

...Acas **conciliation** is most commonly used in disputes over pay, terms and conditions, resourcing levels or long-term business restructuring...

...Collective **arbitration** takes place when parties (an employer and its employees, usually represented by a trade union) have exhausted their negotiating procedures on a particular dispute and are unable to agree a settlement.

Acas can help the two parties to agree terms of reference for the arbitration and what it is they want a decision on; and will explain the process. Parties will also agree to accept the arbitrator's decision... The process is at its most effective when the issues in dispute are quite clear cut. For example, in disputes over pay, grading and disciplinary matters...

...**Mediation** is a completely voluntary and confidential, where the mediator talks to both parties to uncover underlying problems, assists them to understand the issues and helps them to clarify the options for resolving the dispute... It can be used at any stage in a dispute but is most effective before positions become entrenched.”

More information from **Acas** at www.acas.org.uk/index.aspx?articleid=2012 and from the **Labour Relations Agency** at www.lra.org.uk/conciliation-arbitration-services .

Procedures for resolving individual grievances should be set out in a separate agreement such as UNISON's **model grievance procedure** <https://www.unison.org.uk/model-grievance-procedure-agreement/>

Review and termination of the agreement

Recognition agreements should make provision for periodic review.

A clause will normally allow for termination of the agreement to be sought after a considerable period of notice in writing and preferably by mutual consent.

Checklist 2

1) In line with the model agreement, ensure that recognition specifies:

- The purpose of the agreement and its general principles;
- The time off arrangements and facilities that will be available to union reps;
- The structure of representation, including arrangements for a joint negotiating committee;
- Adaptations to meet regulations covering information and consultation rights, TUPE and collective redundancies;
- The full range of issues that will be covered by collective bargaining;
- Procedure for dealing with collective disputes;
- Arrangements for review of the agreement and conditionality of termination on mutual consent;

2) To develop the strongest position for the union, particular attention may be needed to ensure that:

- A single negotiating body enables the union to act on behalf of the interests of all staff in the bargaining unit;
- The structure of representation ensures that the views of all groups of workers influence bargaining;
- Recognition specifies negotiation between employer and union rather than mere consultation.

Responding to employer attempts at derecognition

An employer can decide to terminate a voluntary recognition agreement at any time, though as set out in the model agreement, negotiators should seek to limit their freedom of action by specifying that termination will only take place with the agreement of both parties or at least after an extensive notice period.

Plainly, the higher the union's membership, the more difficult it is for employers to justify derecognition, which emphasises the importance of monitoring union strength as an ongoing process after recognition is established and establishing recruitment drives to maintain strength.

Where recognition has been established through the statutory process, the CAC (or ICNI) has a roughly mirror-image procedure on derecognition to that applied for recognition.

The CAC (or ICNI) will only consider an application for derecognition after more than three years has elapsed following the granting of recognition.

The employer may seek derecognition on the basis that:

- Its total number of employees has dropped below 21, making the organisation ineligible for statutory recognition;
- Recognition was awarded without a ballot on the basis that over 50% of the bargaining unit were union members and that figure has now dropped below the threshold;
- Recognition was awarded on the basis of a ballot and the employer believes that they now have evidence that at least 10% of the workers in the bargaining unit want the union to be derecognised and a majority of workers in the bargaining unit are likely to vote for derecognition.

The crucial changes that may enable an employer to argue that majority support no longer applies are:

- Increases in the number of staff within the bargaining unit, which reduces the proportion who are members;
- The appropriate bargaining unit has changed because of changes to organisational structure and practices;
- The number of union members has dropped or support for recognition has dropped, which may draw on some factual data such as a staff survey.

In order to guard against the danger of an employer seeking derecognition and to counter any application to the CAC (or ICNI), negotiators should consider:

- Keeping up to date with membership figures as a proportion of the bargaining unit;
- Developing recruitment activity where union density is dropping;
- Maintaining support for recognition among all staff by promoting the union’s activities, regularly seeking staff views and highlighting union successes.
- Stay up to date with changes to arrangements for determining terms of conditions that may have an impact on the “appropriate” bargaining unit;
- Where the employer goes to the CAC (or ICNI) alleging falling support, organising a counter survey of staff support for recognition through a petition or pledge cards.

Checklist 3

1) Seek recognition agreements that specify that the consent of both employer and union is needed for termination of the agreement
2) Minimise opportunities for the employer to make the case for derecognition by maintaining membership levels in the bargaining unit and promoting the role of the union to all staff in the bargaining unit
3) Challenge any attempts to change the bargaining unit where there is insufficient justification
4) Challenge employer claims of failing support with factually based material reflecting staff views

Appendix 1 - Model letter seeking discussions on recognition

[Name of appropriate manager/name of organisation/ address]

[Date]

Dear

I am writing on behalf of the members of the trade union UNISON [add other unions if the request is being made jointly] within [the proposed bargaining unit] to request a meeting with appropriate senior managers to discuss how staff and managers may work more effectively together through an appropriately worded recognition agreement.

The advantages of putting in place a structure for reaching agreement on the key issues that affect the organisation and its staff are well documented.

Research has found that found that:

- The provision of a ready-made structure for meaningful consultation and negotiation saves organisations money and reassures staff that their views are valued in decision-making;
- Partnership working with trade unions improves workplace relations and the reputation of an employer as “a good place to work;”
- Earlier intervention in relation to complaints, grievances and disciplinaries prevents escalation into more serious problems, thereby saving organisations money by reducing the impact on staff time and possible legal costs;
- Better communication to manage change during restructuring and redundancy processes improves understanding of decisions, minimises negative impacts and reduces the number of working days lost through industrial action.

Our calculations suggest that membership is already running at approximately [x%] within [specify the proposed bargaining unit], reflecting a strong desire within the workforce for unions to work with you in navigating through the issues facing [organisation name].

And feedback from our members suggest that they have particular concerns about [summarise issues highlighted by members] and feel that a recognition agreement is vital for putting in place the mechanisms through which these issues can be discussed and resolved.

We look forward to hearing from you.

Yours sincerely,

Appendix 2 - Model letter making formal request for recognition

[Name of appropriate manager/name of organisation/ address]

[Date]

Dear

This is a formal request that you recognise UNISON for collective bargaining purposes in respect of the bargaining unit consisting of [all staff/the following staff groups] working for [employer's name and full address].

UNISON has in membership [a majority/significant proportion of the workforce] within the bargaining unit.

This request is being made under Schedule A1 of the Trade Union and Labour Relations (Consolidation Act) 1992 [in Northern Ireland replace with Schedule 1A of the Trade Union and Labour Relations (Northern Ireland) Order 1995]. Under that procedure you have ten working days starting with the date after you received this letter to do one of the following: agree our request for recognition; agree the bargaining unit; or agree to negotiate over recognition.

If you do none of these things, I confirm that we will take the next step under the procedure, namely to apply to the Central Arbitration Committee [or Industrial Court of Northern Ireland] for an order that you recognise UNISON in respect of the bargaining unit.

However, I hope that recourse to the statutory procedure will not prove necessary.

We look forward to working with you in a spirit of co-operation on behalf of the workforce in [organisation name].

Yours sincerely

UNISON General Secretary

Appendix 3 - Guidance on a petition for statutory recognition

Writing on UNISON headed notepaper, the template for a petition may be set out as below:

The undersigned support recognition of UNISON for collective bargaining on pay, hours and holidays.

<i>Name</i>	<i>Signature</i>	<i>Job title</i>	<i>Workplace</i>	<i>Date</i>

It would probably be useful to produce a leaflet or letter to accompany the petition explaining that:

- Under the Trade Union and Labour Relations (Consolidation) Act 1992 (in Northern Ireland, the Trade Union and Labour Relations (Northern Ireland) Order 1995), workers have a right to vote for union recognition and that if a majority do so, the employer will be obliged to recognise the union;
- The purpose of the petition is to demonstrate to the Central Arbitration Committee (or Industrial Court of Northern Ireland) that a majority would support recognition;
- Workers would benefit from recognition by laying out the issues over which the employer would be required to negotiate and bring out any particular local issues that have caused anger among the workforce because of lack of recognition.

To address issues around confidentiality, wording along the following lines has been used to accompany previous UNISON petitions:

“This data is being collected and held by UNISON for the purposes of promoting union recognition and membership. It may be used to support an application to the CAC (Central Arbitration Committee) for statutory recognition. This may result in personal data such as your name and job title being shared with ACAS (Advisory, Conciliation and Arbitration Service). UNISON will not share personal data with your employer. Contact detail information will only be used to update our membership records and to contact you about this campaign.”

In some cases, branches have judged that they would gain a greater response by using individual pledge cards or tear off slips for each worker with a self-addressed, stamped envelope.

When sharing material with the CAC, branches have stated that they are “willing to provide the petition on a confidential basis for verification by the CAC” to preclude employer access.

Section 3.9 of [CAC guidance](#) states:

If it is desired that names and addresses should not be disclosed, they should not be supplied to the CAC without seeking prior clarification from the CAC. The CAC may in certain circumstances be able to receive such information or relevant parts of it on the basis of confidentiality: this will normally be achieved by an agreement between the parties that they will each supply information to the CAC case manager on the basis that such information supplied by one party is not disclosed to the other/s.

CAC decisions have stated that arrangements such as that below have been implemented:

The parties agreed that the Employer would supply to the Case Manager a list of the names, dates of birth and job titles of workers within the proposed bargaining unit, and the Union would supply to the Case Manager a list of its paid-up members within that unit including their full names, dates of birth and job titles (where available), and a copy of the petition. It was explicitly agreed with both parties that, to preserve confidentiality, the respective lists would not be copied to the other party and that agreement was confirmed in a letter ... from the Case Manager to both parties.

Care should be taken over checking petitions as some have fallen foul of duplicate signatures, as per this decision by the CAC - [Acceptance Decision - GOV.UK \(www.gov.uk\)](#)

Appendix 4 - Model recognition agreement

The following model provides a framework for drafting a comprehensive recognition agreement. It can be adapted to reflect the size and nature of the organisation.

This model is based on 'best practice'. It assumes the employer has granted the union full recognition for representation, consultation and collective bargaining on behalf of all appropriate staff groups. This is obviously the goal that branches should aim for, but it is understood that this may not always be achievable in the first instance.

Therefore, this model can be adjusted to take account of more restricted levels of recognition.

The model also aims to qualify as a 'pre-existing agreement' under the Information and Consultation of Employees (ICE) Regulations (should your workplace not have an ICE agreement in place). In the event of an ICE request being made or an employer initiating the negotiations on an ICE agreement, the pre-existing agreement would have to be taken into account.

However, for a pre-existing agreement to qualify it must also be approved by the workforce - either by the Union (if membership is over 50%) or a ballot or petition by 50% of employees.

The changes to the recognition agreement that aim to reflect the requirements of an ICE pre-existing agreement are in **bold**.

The text in square brackets [...] in the model agreement indicates where you need to complete information specific to your workplace, or else are notes for you to consider in relation to your negotiations.

For further help in drafting and negotiating recognition agreements, contact your **Regional Officer** www.unison.org.uk/regions.

Also contact your **regional education teams and / or LAOS** to find out what training and resources are available to assist you with negotiating with your employer or promoting the issues in this guide with your members <https://learning.unison.org.uk/>

The **TUC model recognition agreement for branches to use in local academy trusts** is available on this link <https://www.tuc.org.uk/research-analysis/reports/tuc-academies-model-agreement-updated-july-2015>.

Further model agreements and guides, covering such areas as annual leave, maternity rights, apprenticeships, facility time and fit notes are available from the bargaining support unit www.unison.org.uk/bargaining-guides.

Recognition and Procedural Agreement

between

[Name of Employer]

[Address]

and

UNISON, UNISON Centre, 130 Euston Road, London NW1 2AY

1. DEFINITION OF TERMS

In this Agreement:-

Employer refers to ***[Name of Employer]***

The Union refers to the ***[named]*** Branch of UNISON
[It may be a joint recognition agreement with other unions representing the workforce.]

Staff refers to all employees of the Employer whether full time or part time, permanent or temporary ***[or as specific to your bargaining unit]***

2. COMMENCEMENT DATE

This Agreement commences on ***[date]***.

3. OBJECTIVES AND GENERAL PRINCIPLES

- 3.1 The purpose of this agreement is to determine trade union recognition and representation within the organisation and establish a framework for consultation and collective bargaining.

[You may need to specify what the bargaining unit entails within your organisation for the purpose of collective bargaining]

- 3.2 The parties have identified common objectives they wish to pursue and achieve. These are:
- 3.2.1 to establish a relationship of mutual respect, support and partnership;
 - 3.2.2 to ensure that employment practices at the Employer are conducted to the highest possible standards;
 - 3.2.3 to enhance effective communication with all Staff throughout the organisation;
 - 3.2.4 to achieve greater participation and involvement of all Staff on the issues to be faced in running and developing the Employer;
 - 3.2.5 to provide effective and prompt resolution of issues and disputes;
 - 3.2.6 to ensure that equality of opportunities are offered to all Staff or prospective staff and that the treatment of Staff will be fair and equitable in all matters of dispute.
- 3.3 The Union recognises the Employer's responsibility to plan, organise and manage the work of the Employer in order to achieve the best possible results in pursuing its overall aims and objectives, and in accordance with statutory responsibilities.
- 3.4 The Employer recognises the Union's responsibility to represent and protect the interests of its members, to work for improved terms and conditions of employment for them, and to campaign publicly to further the interests of its members.
- 3.5 The Employer believes that representative trade unions help ensure good employee relations and will encourage employees to become and remain members of an appropriate union in accordance with this agreement.
- 3.6 The Employer and the Union recognise their common interest and joint purpose in delivering effective and high-quality services, and in achieving reasonable solutions to all matters which concern them.
- 3.7 The Employer and the Union declare their commitment to maintain good industrial relations.
- 3.8 The Employer and the Union accept the need for joint consultation and collective bargaining in securing their objectives. They acknowledge the value of up to date information on important changes that affect employees of the Employer.
- 3.9 The Employer and the Union accept that the terms of this agreement are binding in honour upon them but do not constitute a legally enforceable agreement.

4. UNION REPRESENTATION

- 4.1 The Employer recognises the Union as the trade union with which it will consult and negotiate with in all matters set out in Clause 6.4 of this agreement.
- 4.2 The Employer recognises the Union as the body representing Staff for the purposes of informing and consulting the workforce. Informing and consulting employees will take place through UNISON representatives.**
- 4.3 The Employer accepts that the Union's members will elect representatives in accordance with their Union rules to act as their spokespersons in representing their interests.
- 4.4 The Union agrees to inform the Employer of the names of all elected representatives in writing within five working days of their election and to inform the Employer in writing of any subsequent changes, each time within five working days of the change having taken place. Persons whose names have been notified to the Employer shall be the sole representatives of the UNISON membership, **and the representatives of Staff for the purposes of information and consultation.**
- 4.5 The Employer recognises that Union representatives fulfil an important role and that the discharge of their duties as Union representatives will in no way prejudice their career prospects or employment with the Employer.
- 4.6 The Employer will inform all new employees of this agreement and will encourage them to join the union and provide facilities for them to talk to a workplace representative as part of their induction procedure. The Employer will supply union representatives with new starter details to enable them to contact new employees, subject to the requirements of the General Data Protection Regulation and having received consent from the employees.
- 4.7 The Employer will allow UNISON access to the intranet to promote and inform members of staff about the union.
- 4.8 The Employer will undertake the check-off of trade union subscriptions for any employee requesting this facility, whereby the Union subscriptions will be deducted from the wages/salaries of Union members and paid to the Union each month with no charge to the Union.

5. UNION MEETINGS AND OTHER FACILITIES

- 5.1 Meetings of Union members may be held on the Employer's premises outside working hours and there shall be no restriction on the frequency or duration of such meetings. Such meetings will be open to all staff members who are Union members.
- 5.2 Where necessary for the purposes of informing and consulting the workforce, meetings of Staff may be organised by the Union on the Employer's premises and/or online, outside working hours. Such meetings will be open to all employees. The employer will allow UNISON to contact all members of staff, members and non-members of UNISON, via email for the same purpose. Such consent shall not be unreasonably withheld.**

- 5.3 Union meetings may be held on the Employer's premises inside working hours provided that prior consent for such meetings shall be obtained from the Employer by the Union. Such consent shall not be unreasonably withheld. The Union shall provide the Employer with a timetable of regular Union meetings or give at least three working days' notice of the intention to hold a meeting.
- 5.4 **Where necessary for the purposes of informing and consulting the workforce, meetings of Staff may be organised by the Union on the Employer's premises and/or online inside working hours provided that prior consent for such meetings shall be obtained from the Employer by the Union. Such meetings will be open to all employees. The employer will allow UNISON to contact all members of staff, members and non-members of UNISON, via email for the same purpose. Such consent shall not be unreasonably withheld.**
- 5.5 The Employer recognises that the Union has the right to hold confidential meetings with affected members. These meetings and those in 5.1, 5.2, 5.3 and 5.4 above may include officials and/or employees of the Union.
- 5.4 The Employer agrees to provide defined facilities to the Union representatives to enable them to discharge their duties including: provision of secure office space; a notice board; access to confidential telephone, fax, internal mail, electronic communications and e-learning tools; reasonable use of equipment such as telephones, franking machines, photocopiers, teleconferencing, video conferencing and PCs; reasonable accommodation for meetings and trade union education, including confidential space where an employee can meet their representative to discuss confidential matters, and reasonable access to administrative support and secretarial services.
- 5.5 Subject to the agreement of the Employer, Union representatives will be granted special leave without loss of pay to attend training courses run by the Union or other appropriate bodies which are relevant to the discharge of their Union duties.
- 5.6 Union representatives will be permitted to take reasonable paid time off during working hours to enable them to carry out their duties under this agreement. Where such duties include national collective issues, travel and expenses will be paid for by the Employer. If duties cannot be carried out as part of the normal working day, as much notice as possible will be given of the need to take time off. For national employers, travel and expenses for reps for individual representation will be covered by the employer. ***[Amend as appropriate for your workplace.]***
- 5.7 Subject to reasonable prior notice and the consent of the Employer, which shall not unreasonably be withheld, Union representatives will be permitted reasonable time off during working hours for the purpose of taking part in trade union activity, including in particular representing the trade union at external meetings and conferences.

[You may want to negotiate the possibility of this time off for trade union activity to also be with pay, for attendance at conferences in particular.

You could also attach to this agreement as an appendix, a more detailed ‘time off and facilities agreement’ if negotiated within your workplace.

Detailed advice on negotiating time off for trade union duties is available in:

‘Facility time – guidance for UNISON branches’

https://www.unison.org.uk/24744_facilitytimeguidance/

and a ‘Model time off and facilities agreement’ <https://www.unison.org.uk/model-time-off-and-facilities-agreement/>]

6. JOINT NEGOTIATING AND CONSULTATION COMMITTEE

6.1 The Employer and the Union agree to set up a Joint Negotiating **and Consultation** Committee (**JNCC**) consisting of representatives of both sides.

6.2 The **JNCC** shall be governed by a written constitution, a copy of which is attached to this Agreement (Appendix 1).

6.3 The functions of the **JNCC** shall include:-

6.3.1 Information

The Employer undertakes to supply the Union with the necessary information for it to carry out effective consultation and negotiation. This shall include the Employer’s employment policies and procedures and proposed amendments and additions.

The organisation will additionally supply information on recent and probable developments of the organisation and its economic situation.

6.3.2 Consultation

To have proper consultation with Staff to enable feedback and discussion before decisions are taken concerning matters directly affecting the interests of the Staff as set out under Clause 6.4 below.

The organisation will additionally consult on the current situation, structure and probable development of employment in the undertaking, especially any threat to employment, and on changes in work organisation or contractual relations, including collective redundancies and business transfers.

6.3.3 Negotiation

To negotiate and reach agreement on all issues pertaining to the matters set out under Clause 6.4 below.

- 6.4 The following matters shall be the subject of consultation and negotiation:
- Terms and conditions of employment
 - Pay awards
 - Job descriptions
 - Job grading and job evaluation
 - Hours of work
 - Holiday, sickness and other leave arrangements
 - Pensions
 - Overall salary structure
 - Health and safety
 - Equality and diversity, and anti-harassment and anti-bullying policies
 - New technology
 - Working practices, new equipment and techniques
 - Training
 - Recruitment
 - Staff amenities
 - Redundancy and redeployment
 - Disciplinary, grievance and capability procedures
 - Contracting out
 - Reorganisation of staff and relocation of offices
 - Any other item which both sides agree to refer.
- 6.5 The Employer and the Union agree that it is in the interests of all parties that consultation and negotiations are carried out expeditiously and with the aim of reaching an agreed settlement.
- 6.6 The Employer and the Union agree that any dispute on interpretation of this agreement or any other matter will be referred initially to the **JNCC** for resolution.

7. GRIEVANCES AND DISCIPLINE

- 7.1 The Employer recognises the Union's right to represent the interests of all or any of its members at all stages during grievance and disciplinary procedures and to call in Union representatives who are not employees of the Employer wherever this is considered appropriate.
- 7.2 Union representatives will be permitted to spend reasonable paid time inside working hours to discuss grievance or disciplinary matters with affected employees, and to prepare their case, in accordance with **[either]** 5.6 above **[or you could make reference to your 'time off and facilities agreement' if negotiated within your workplace. Detailed advice on negotiating time off for trade union duties is available in:**

'Facility time – guidance for UNISON branches'

https://www.unison.org.uk/24744_facilitytimeguidance/

and a 'Model time off and facilities agreement' <https://www.unison.org.uk/model-time-off-and-facilities-agreement/>

8. DISPUTE RESOLUTION

- 8.1 In order to resolve collective disputes there is a dispute resolution procedure which is set out in Appendix 2.

9. VARIATIONS

- 9.1 The nature and content of this agreement may only be amended with the consent of both parties.

11. SIGNATORIES

This agreement is made between ***[Name of the Employer]*** and UNISON, a registered trade union. This agreement comes into force on:

DATE:.....

This agreement will be reviewed on:

DATE:.....

SIGNED for ***[Name of Employer]***

DATE

SIGNED for UNISON

DATE

APPENDIX 1:

Constitution of the joint negotiating and consultation committee

1. TITLE

The Committee shall be known as the Joint Negotiating **and Consultation** Committee, **known as the JNCC**.

2. PURPOSE

To establish a workable and effective arrangement for good industrial relations, for the avoidance of any misunderstanding and for the promotion of joint participation in all matters of common interest and concern on a genuine consultative and negotiating basis at Employer level, as outlined in Clauses **6.3 and 6.4** of the Recognition and Procedural Agreement.

3. MEETINGS

- 3.1 Meetings of the **JNCC** shall be every *[state how frequently]* months with a prepared agenda which shall be issued fourteen days before each meeting. The agenda shall provide for any other business of an urgent nature to be discussed.
- 3.2 Special meetings may be called by either the Union or the Employer. Such meetings must be convened within fourteen days, unless the side requesting the meeting agrees otherwise, but always within twenty-eight days.

4. SCOPE OF COMMITTEE

The **JNCC** is authorised to consider and negotiate on all matters specified in Clauses **6.3 and 6.4** of the Recognition and Procedural Agreement.

5. CONSTITUTION

- 5.1 There shall be an Employer's side and a Union side.
- 5.2 The Employers' side shall consist of *[state how many]* persons nominated by the Employer's Committee of Management, at least *[state how many]* of whom shall be members of the Senior Management Committee.
- 5.3 The Union side shall consist of *[state how many]* representatives of the Union who shall be members of staff and elected by the UNISON membership within the Employer, as well as *[state how many]* employees of the union.
- 5.4 Each side shall confirm the names of its representatives on an annual basis and inform the other immediately of any changes in the interim period.

- 5.5 Each side shall make every effort to send its confirmed representatives to each meeting but substitution will be permitted on both sides where it cannot be avoided.
- 5.6 Each side is committed to work to the agreed timetable for meetings for negotiation and for consultation. Either side can request an extension to the timetable which will be considered and not unreasonably refused.
- 5.7 Staff and management will be entitled to have advisors in attendance who will have speaking rights. Except in the case of special meetings each side shall give a minimum of seven days' notice to the other side of its intention to invite such advisors to the meeting.
- 5.8 The Chairperson for each meeting of the **JNCC** shall be nominated alternately by the Union side and the Management side.
- 5.9 The two sides shall jointly appoint a secretary who will be responsible for convening meetings, preparing the agenda in consultation with both sides, and taking and circulating minutes. Minutes shall be subject to the agreement of the Committee and will be signed by the Chairperson of the meeting at which they are agreed.
- 5.10 Meetings shall be judged to be quorate if **[state how many]** members of both sides are present.

6. STATUS OF RESOLUTIONS

- 6.1 Resolutions of the **JNCC** shall not be binding on either side but shall be recommendations only to the respective parties (the Employer and the Union) whose ratification shall be required before an agreement is deemed to be reached.
- 6.2 If agreement cannot be reached following meaningful consultation and negotiation, and where a dispute is raised, the dispute resolution procedure will apply.

7. COMMUNICATIONS

- 7.1 Members of both sides shall be afforded reasonable facilities to visit and communicate with all offices and Staff of the Employer.
- 7.2 The Employer will provide the Union in good time with any necessary information and documentation for the purposes of effective negotiation and consultation within the **JNCC** and with their members as outlined in the recognition and procedural agreement.

APPENDIX 2:

Dispute Resolution Procedure

1. PRINCIPLES

The Employer and the Union have jointly committed themselves through the agreed trade union recognition and procedural agreement to encourage harmonious working relationships.

The aim of that agreement is to establish a relationship of mutual respect, understanding and engagement, achieve effective communication and greater participation and involvement of all Staff on the issues to be faced in running and developing the Employer, as well as ensuring that equality of opportunities are offered to all Staff or prospective staff and that the treatment of Staff will be fair and equitable in all matters of dispute.

However in order to resolve collective disputes on a matter concerning a number of employees, which is pursued on their behalf by the Union with the Employer, arising from a failure to agree under the established framework for consultation and collective bargaining, it is agreed that this Dispute Resolution Procedure will be followed.

Such matters would be connected with the employees' work or working environment and would include all matters that might be covered under a legally declared trade dispute.

It would exclude: ***[amend as applicable to your organisation]***

- Matters covered by national level negotiations (except for any disputes arising from local implementation and/or interpretation of national agreements)
- Changes required by legislation (except for disputes arising from local implementation and/or interpretation of legislation changes)
- Matters which have previously been dealt with under this procedure itself (except where there has been a failure to implement agreed outcomes of a dispute, or in the event of a material change warranting the use of the dispute resolution procedure)
- National or regional disputes
- Complaints made by an individual employee or group of people that are not the subject of collective negotiation or consultation and that therefore should be dealt with through the Grievance Procedure.

The purpose of the Dispute Resolution Procedure is to provide a fair, structured and consistent approach for the consideration of collective disputes and should be instigated when all reasonable attempts have been made to resolve the difference, but such attempts have been unsuccessful.

There shall be a timetable of meetings, involving representatives of the Employer and the Union, to seek to resolve any dispute as described within the Stages below. Both the Employer and the Union will be entitled to have advisors at any dispute meeting, subject to the agreement of both sides.

It is expected that both the Employer and the Union will act reasonably throughout the procedure, seeking input from each other before reaching a decision on any action that would be taken. ***[You may feel it is appropriate to replace or add to this paragraph the statement as used within the TUC model recognition agreement for Academies in England <https://www.unison.org.uk/model-time-off-and-facilities-agreement/> : ‘Whilst these procedures are being followed the Employer will honour the status quo ante.’]***

Stage One (Further Discussion)

The nature of the dispute should be raised in a timely manner and described in writing to the other party usually within 30 working days of the failure to agree under the framework for consultation and collective bargaining.

Following receipt of such notification, a Stage One meeting should take place as soon as practical. The parties will agree within five working days on dates for at least two meetings to seek to resolve the dispute. Unless agreed otherwise, these meetings will take place within the following ten working days.

Attendance at these meetings will include representatives of the Union (which may include regional and/or national representatives), together with other appropriate senior managers or HR officers, as deemed necessary by each side.

The focus of these meetings will be on reaching a settlement of the issue(s) in dispute. Such settlement should also seek to include recommendations on how similar disputes might be avoided in the future. Further meetings beyond this initial period may take place where it is agreed between the parties.

Once agreement is reached the outcome or decision should be confirmed in writing to both parties within 14 calendar days and a collective agreement signed and recorded at the next **JNCC**.

If agreement cannot be reached, either party can request that the matter be referred to Stage Two.

Stage Two (Conciliation)

If it has not been possible to resolve the dispute through Stage One meetings, the parties will consider whether third-party assistance or conciliation — normally using Acas — would be helpful.

The conciliator will be a professionally trained person whose function is to explore common ground with both parties with the objective of enabling both parties to reach a settlement themselves.

A decision on moving to Stage Two should be taken only if both parties agree and should be made within the following seven calendar days from the confirmed outcome of Stage One.

Once agreement is reached the outcome or decision should be confirmed in writing to both parties within 14 calendar days and a collective agreement signed and recorded at the next **JNCC**.

If agreement cannot be reached, the matter can be referred to binding arbitration at Stage Three if both parties agree.

Stage Three

If it has not been possible to resolve the dispute through conciliation, the parties may agree to jointly refer the matter to binding arbitration. This will involve the appointment of an accredited arbiter normally under the auspices of Acas, whose function is to consider each parties case and to reach a decision on the disputed issue. This decision is binding on both parties to the dispute.

A decision on moving to Stage Three should be taken only if both parties agree and should be made within the following seven calendar days from the confirmed outcome of Stage Two.

This procedure shall be deemed to be at an end once:

- A resolution has been reached which is acceptable to all parties or
- The results of binding arbitration are implemented, where the matter has been referred by agreement of all parties or
- If the matter is not resolved through one of the three stages.

Any outcome under this procedure will be communicated jointly.

[You may wish to have additional stages, keeping discussion amongst local representatives in Stage One, and moving to the involvement of more senior managers and regional and national Union representatives at later stages, before the involvement of Acas].

Appendix 5 – Organising to Win

The outcome of any negotiation is in large part determined by the relative bargaining power of the parties involved. The most skilled, experienced, and informed UNISON officer, representative or organiser will only get so far without the backing of an organised and engaged membership and a readiness to deploy tactics designed to influence and persuade the employer.

Ultimately bargaining power is the ability to get an employer to do something they would not otherwise do – in this case, reach collective agreement with terms more favourable to UNISON members than would otherwise have been the case.

Bargaining on its own is not organising, until there is active engagement with members as a collective. Every bargaining aim must be seen as an organising opportunity, to build the union and achieve better bargaining outcomes.

The UNISON 5 Phase Plan to Win sets out the 5 phases of successful strategic organising campaigns to support a bargaining aim:

1. Research and development;
2. Union base building;
3. Launch issue-based campaign;
4. Resolve the issue (and go to 5) or escalate and create a crisis (for the employer or ultimate decision maker);
5. Win, celebrate, review and sustain.

A resourced and credible plan to win shifts the balance of power in negotiations in favour of UNISON. It enables the bargaining team to negotiate with confidence and win for members.

Where the plan requires member participation and supports the identification and development of activists, significant organising outcomes can be achieved to build the long-term strength of the Branch.

Ideally, bargaining goals can be achieved without the need to escalate campaigns to dispute. Where there is member support for escalation to deal with employer intransigence, further advice must be sought from the [regional centre](#).

Further detail is outlined in the **5 Phase Plan to Win guide and template**, which is available as one of the resources of the Organising to Win series.

UNISON activists can access the resources via the [Organising Space](#) – UNISON’s online space for activists. Visit the Organising to Win tile at [OrganisingSpace.unison.co.uk](#) or contact your [Regional Organiser](#) for guidance and support.

UNISON staff can access the resources via the Organising to Win page on Pearl and can contact the National Strategic Organising Unit for guidance and support.

Had an organising win? Let’s learn the lessons and celebrate! Send a summary to WIN@unison.org.uk and we’ll be in touch.