

## INTRODUCTION

The purpose of this briefing is to provide guidance for ULR's as to what they should do if they are refused paid release by their employer.

In order to provide suitable guidance, it is necessary to take account of several factors – accordingly, this briefing is broken down into four sections, the necessary actions needed to appoint a ULR so they are eligible for their legal rights, the entitlements ULR's have under existing employment law, application for Paid Special Leave (including best practice on recording special leave application) and a brief checklist of five steps to take if refusal of release becomes an issue for you.

## APPOINTMENT OF ULRs

For ULR rights to apply a copy of the standard ULR Appointment Pro Forma (which is available as a downloadable resource on the CWU Education & Training Website) should be sent to management upon appointment/election of a ULR. It is advisable that both the Branch and the ULR(s) concerned should keep a copy of the returned pro forma. Once the notification has been sent then the ULR is entitled to their rights however there is also a requirement under the law that the ULR should complete their initial training within 6 months from the notification. If the training is not undertaken then ULR rights would lapse unless the training has been delayed by the management, in which case a tribunal could be pursued. Again it is useful that both the Branch and the ULR keep a copy of the CWU ULR certificate awarded at the end of the ULR course.

## ULR RIGHTS

With effect of the 27th April 2003, under the terms of Section 43 of the Employment Act, employers **must** allow members of independent recognised trade unions who are Union Learning Representatives to take time off during working hours for the purpose of:

- Analysing learning or training needs
- Providing information or advice about learning or training matters
- Arranging learning or training
- Promoting the value of learning or training

In relation to 'qualifying members' (i.e. employees at the workplace where the CWU is recognised and who the CWU represents) learning reps **must** be allowed time off to:

- Consult the employer about carrying on such activities for qualifying members
- Prepare for activities within these purposes
- Undergo training relevant to their function as a learning rep, including training to become a learning rep

The ULR is entitled to be paid either as if they had worked for the relevant period, or according to comparative hourly earnings. There is no entitlement to pay for learning activities undertaken at a time when the employee would not ordinarily have been paid, but staff who work part-time will be entitled to pay if full time staff are.

The amount of time off allowed is what is "reasonable in all the circumstances" taking into account the provisions of the ACAS Code of Practice (e.g. size of organisation, safety and security, need to maintain a public service, etc.). Employers should consider providing accommodation for members and learning reps to meet to discuss relevant training matters.

## **APPLYING FOR RELEASE**

Unless an agreement has been reached for full-time ULR release then ad-hoc release should be applied for using the appropriate employer Paid Special Leave form. It is always advisable to keep a copy of the application and any confirmation received. Your branch will have a local agreement about how much notice is needed to ensure that duties are covered so that employers should have no reason to refuse leave.

## **WHAT SHOULD ULR'S DO IF RELEASE IS REFUSED?**

In general terms, refusal of release needs to be dealt with in a structured and organised fashion – i.e. account must be taken of the over-riding need for reasonable requests for release being made.

For example, asking your manager for release the day before the release is required cannot be considered as reasonable, as this would not allow sufficient time for arrangements to be made in covering your duties, whereas providing your manager with four weeks notice of the need for release from duty is entirely reasonable, as it allows sufficient time for any reasonable manager to make such arrangements.

However, for the purpose of this briefing, we will presume that reasonable notice has been provided to management and the refusal of release is unreasonable – in these circumstances, ULR's should follow the steps set out below.

### **1. CONTACT THE LEAD ULR/ULR COORDINATOR OF YOUR BRANCH**

If your Branch has a Lead ULR/ULR Coordinator it is worth raising the refusal of release with them in the first instance, as this will provide with the support and advice of someone who is possibly more experienced than you in dealing with refusal of release.

### **2. CONTACT THE BRANCH SECRETARY**

The Branch Secretary will be in a position to provide you with support, advice and guidance as to the route you need to follow in order to deal with the refusal of release under the relevant agreement/procedures that apply in dealing with your employer.

### **3. CONTACT YOUR REGIONAL PROJECT WORKER**

Your RPW will be able to provide you with support and advice and guidance in dealing with the refusal of release – our RPW's have a great deal of experience in dealing with the employers where the CWU organises and may well be able to assist you in resolving the issue promptly.

### **4. ALWAYS GET THE REASON FOR REFUSAL OF RELEASE CONFIRMED**

The purpose of this is to provide evidence of the unreasonable nature of the refusal of release, as this will become an important factor if the refusal of release were to be escalated through the formal procedures. Ask the manager why you cannot be released and ask him/her to provide this in writing. This does not involve anything difficult, just a polite request to the manager concerned to provide you with a written response setting out the reasons why you cannot be released from duty.

If your manager is not prepared to provide a written response setting out the reasons for the refusal of release, this can be remedied by simply writing to the manager setting out the reasons you have been given verbally for the refusal – the manager is then left with two options:

- If he/she does not reply to this letter, he/she cannot claim to have disagreed with its contents later
- If he/she does disagree and writes to say so, you have written evidence that can be used in the formal process if required

### **5. CONTACT THE EDUCATION & TRAINING DEPARTMENT**

If you are unable to get advice from any of the other sources listed previously, contact the Education and Training Department at HQ in Wimbledon, as they will be able to provide you with support, advice and guidance as to what you need to do.

For more information visit the CWU Training & Education website: [www.cwueducation.org](http://www.cwueducation.org)

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