

Consultation	Time to Train Consultation - DIUS Consultation on a new right to request time off for training
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Introduction

UCU welcomes the proposed new legal right for employees in England to request time to train from their employer. For many years we have drawn attention to the failure of many employers to provide the levels and type of training that they, their employees, and the country needs. Some eight million employees received no training whatsoever in 2007, for example.

We agree with Ministers when they state that for the UK “competing on the basis of low wage costs is not an option” (1). That is part why UCU’s approach to training is focussed not simply on the quality and access to training but on the structure of the labour market which currently excessively dependent on casual and in secure employment in too many sectors (including that of lecturers in FE). It is our belief that the flexible markets the Government favours encourages a low wage and low skill labour market and discourages long term investments especially in people skills. There is a real risk that the current economic downturn will see the necessity for developing the skills of the UK workforce undermined as employers seek to cut overheads and take a short term view of their own and the wider economy’s needs.

We further note that Leitch Review’s findings that the UK lies below midpoint in the OECD ranking of 30 countries on skills; that five million UK adults lack functional literacy, that seventeen million adults have difficulty with numeracy; and that one in six school leavers are unable to read, write or add up properly.

We further note that at present, despite the efforts of trade unions, only a small minority (less than one in six) of workplaces bargain or even consult with trade unions over training.

We therefore welcome the role the proposed new right gives to trade unions, notably union learning representatives, to influence the nature and level of such training requests. UCU has already sought to pioneer the role of Union Learning Representatives (ULR). We would be in favour of expanding the scope of the ULR role to include job redesign and skill utilisation.

UCU has particularly strong views about training. Our members in their professional role as lecturers in further, adult, and higher education understand better than anyone else both the benefits of education and training and the shortcomings of the current reliance on employers alone to drive the skilling of the workforce. Employers have repeatedly demonstrated their inability to provide either strategic direction to training or provide sufficient access to it.

A very limited right

Unfortunately, as with other employment “rights” such as the right to request “flexible working” this is a very limited right. It is a right to request training not a right to receive it. UCU’s experience of similar “right to request” entitlements is not encouraging. Those employers who value their workforce already are more likely to agree to such requests than the very employers whose provision is poor. Without any serious expectation in many employers that a request will be agreed, UCU’s view is that we would have much preferred a statutory entitlement to paid educational leave.

The grounds for 'reasonable' rejection of requests to train are far too broadly drawn. The model is that developed around the right to flexible working but we have no doubt that it will be precisely those employers with the worst training and staff development track record who will rely on use the 'burden of additional costs' to refuse such requests. Such employers will all too quickly draw attention to the “detrimental effect” on meeting customer demand, or their inability to reorganise work among existing staff, and an inability to recruit additional staff as being legitimate reasons to refuse such requests.

UCU welcomes the right for staff to be accompanied when making the request. This will encourage employees to make requests, make it more difficult for employers to simply fob employees off and provide a specific role for Union Learning Reps

However the right of appeal is very limited and if confined to whether the employer has been procedurally wrong is unlikely to be widely exercised or effective.

Even if the right to train is granted, the employer doesn't have to pay. The generally poor, and often abysmal, track record of British employers on training means that training budgets are often the first to be cut at the first sign of any economic turbulence. In further education we are regularly confronted by employers’ refusal to pay even where there are mandatory training requirements.

An employment right or an education right?

We regret that the government’s nervousness about being seen to extend employment rights has resulted in this being regarded primarily as an “education right” rather than an employment right. One consequence of this will be to make it easier for employers to reject union requests that the right for training be considered as a core collective bargaining issue – never mind any attempt to enforce such a right through the courts.

UCU believes that the right to request training should be linked to training being part of collective bargaining.

Atypical workers excluded?

Atypical workers are excluded from the provisions. This is highly regrettable for two reasons. Firstly very large numbers of employees are in part-time, fixed term or hourly paid employment and these employees in particular are excluded from their employer's normal training provision. Secondly, amongst those providing training, there is a disproportionate number of atypical workers especially working as fixed term, hourly paid, part-time and increasingly as agency workers. Notwithstanding recent improvements in statutory rights, we expect the number of such staff to increase as a result of the growing influence of market forces, including the role of private contractors in teaching and teaching support.

A right to request ESOL training

We believe there should be a specific right to request ESOL training. It meets the criteria as training that "will help (employees) to be more productive and affective at work and that helps their employer to improve productivity and business performance." Since non accredited courses and accredited training will be covered, and given the wider benefits of such training, then we believe there is a very strong case for a specific right to request ESOL training

Sources of funding

We have a particular concern about the emphasis on Train to Gain and Skills Accounts as being sources of funding for the training requested. There is a real need to develop and update the skills of staff who themselves are teachers and these two sources are still aimed at people with low level skills. The sections on higher education go a little further in that if a request for HE training is agreed then there is a right to access a full Government funding package but bizarrely this appears to be only if it is a full time course not a part time one

Valuing staff in adult, further and higher education

The Government at national and local levels should be an exemplar for these proposals. Unfortunately both across the sectors our members who carry out training have continuing problems with part time staff access to initial and CPD even in FE where the training is mandatory and in effect a licence to practice. We believe it is in the interests of both staff and students that the right to train is extended as robustly as possibly to all such staff

We would expect that in FE that a college as the guarantor of quality should surely have some responsibilities in relation to any 'staff' as opposed to 'employee' being properly trained.

Why would private sector employers, many of who will be resistant to this right, give a lead when those responsible for much of the country's training are not exemplars?

Devolved administrations

There seems to be considerable doubt whether these proposals will apply in the devolved administrations and whether those administrations will pick it up on their own. We will be approaching these administrations to seek, at the very minimum, equivalent rights.

Equality

We are unclear what equality considerations have informed these proposals. Government policy has repeatedly stressed the importance of widening participation and of ensuring that education and training provision and staffing treats equality as a central consideration in its policies and implementation strategies.

There is no consideration in these proposals as to whether the model proposed – including its exclusions and model of accessing provision – is likely to disproportionately exclude black and ethnic minority, female and disabled employees from accessing this new right, never mind being paid for it. Equality is not mentioned when it ought to be central to any proposals given both the more general DIUS emphasis on equality and the statutory duties to consider such issues. It would appear unlikely that any equality impact assessment has been attempted.