



LEGAL SCHEME REGULATIONS

These Regulations come into force on 12 April 2021.

1 Interpretation

1.1. In these Regulations the following words and phrases have these meanings:

1.1.1. “we”, “us”, “our”, “ourselves” and “the Union” means UCU or, where the context requires, the NEC, the Legal Panel, a UCU Union Official or Union Officer;

1.1.2. “you” or “your” means the Union member, or, in the case of a deceased member, representatives of the deceased member’s estate who have applied under the Scheme for legal services, or, in, the case of regulation 5.4, where support is offered to the Union member’s partner or a child for whom you have caring responsibilities, the family member themselves;

1.1.3. “Union Officer” means—

(a) any member of the governing body of the union, and

(b) any trustee of any fund applicable for the purposes of the union;

“Union Official” means—

(a) an officer of the union or of a branch or section of the union, or

(b) a person elected or appointed in accordance with the rules of the union to be a representative of its members or of some of them, and both “Union Officer” and “Union Official” include any employee of the Union;

1.1.4. “trade union duties and activities” has the same meaning as is found in the Trade Union and Labour Relations (Consolidation) Act 1992;

1.1.5. “legal services” means any legal advice or representation supplied to you by the Union after the date of legal services;

1.1.6. “the date of legal services” means the date of commencement of legal services under the Agreement;

1.1.7. “the date of termination of legal services” means the date when we notify you that legal services have been ended under the Agreement;

1.1.8. “the period of legal services” means the period between the date of legal services and the date of termination of legal services;

1.1.9. “qualifying member” means anyone who meets the criteria in regulation 3;

1.1.10. “employment” means employment under a contract of service or a contract personally to execute any work or labour, and related expressions shall be construed accordingly;

1.1.11. "Scheme" means UCU's Legal Scheme as provided for in these Regulations as amended from time to time;

1.1.12. "Rules" means the Rules of the Union as amended from time to time;

1.1.13 "Agreement" means the Agreement for the supply of legal services you enter into in order to receive legal services under the Scheme, an example of which appears at Appendix 1;

1.1.14. "claim" means any claim which may be brought in law and which you pursue or which is pursued against you whether or not any formal legal proceedings are issued either on your behalf or against you;

1.1.15. "complaint" means any expression of dissatisfaction whether oral or in writing; for the avoidance of doubt this includes but is not restricted to a claim as defined at regulation 1.1.14;

1.1.16. "conflict of interest" means any situation in which the Union's interests and your interests differ or diverge;

1.1.17. "costs and charges" means all costs, fees (including First-tier Tribunal (Immigration and Asylum Chamber) fees), charges, deposits, disbursements, interest payments, and any other sums of money payable as a result of your claim, but excluding any employment tribunal deposit that you may be ordered to pay, third party costs, or any fines or penalties which a court or tribunal orders you to pay;

1.1.18. "third party" means your opponent(s) in your claim;

1.1.19. “third party costs” means the third party’s costs, fees, charges, deposits, disbursements, interest payments, and any other sums of money payable by you to a third party arising from your claim;

1.1.20. “Legal Panel” means those members of the National Executive Committee (NEC) of the Union who have been delegated with responsibility for the running of the Scheme;

1.1.21. “employment tribunal deposit” means any deposit which an employment tribunal orders you to pay as a condition of continuing to advance any specific allegation or argument in your claim.

1.1.22 “our lawyers” means professional legal advisers whom we may engage as agents, and the UCU Head of Legal Services.

2 Introduction

2.1 These Regulations govern the Union’s provision of legal services under the Legal Scheme. The Rules of the Union set out your other rights and entitlements.

2.2 If you do not understand your rights and obligations under the Scheme, you must let the Union know before you accept any offer of legal services. Otherwise, the Union will act on the basis that you fully understand how the Scheme operates.

2.3 The scope of the Scheme is limited to those matters arising out of or in connection with your employment or trade union duties and activities, and as determined by the NEC from time to time.

2.4 The Union has decided that the most important criterion is that expenditure of both money and staff time on legal casework must be proportionate to the objectives sought. To achieve this the

Union will apply the following criteria in deciding whether to offer you legal services, and if it does so, what legal services to supply:

- 2.4.1 the objectives you seek to achieve and the suitability of legal processes to achieve them;
- 2.4.2 the complexity and importance of the issues;
- 2.4.3 the legal merits of your case;
- 2.4.4 the costs to the union of providing you with legal services;
- 2.4.5 the aims, objectives and policies of the Union;
- 2.4.6 the significance of your case both to you and other Union members;
- 2.4.7 the resource implications for the Union;
- 2.4.8 whether alternative means of resolving your case are available, for example negotiation;
- 2.4.9 our lawyers' advice and recommendations;
- 2.4.10 whether the member has displayed seriously unacceptable behaviour towards staff handling the case, such as serious abuse, harassment, intimidation, a threat of violence or persistent unreasonable demands. Examples are given in Appendix 2.

2.5 The interpretation of the criteria set out in regulation 2.4 is entirely in the discretion of the Legal Panel. However, in exercising its discretion and balancing each of the criteria set out at regulation 2.4, the Legal Panel must give particular weight to the Union's objective of promoting equality for all and the opposition of all forms of harassment, prejudice and unlawful discrimination because of a person's protected characteristic(s).

3 Qualifying Member

3.1 You may only apply under the Scheme if you are a qualifying member. A qualifying member is a member of the Union in accordance with the Rules whose membership was registered at least 3 months before the events giving rise to the claim took place, or a member who was still in their first three months of a post but already a member of the union when the events giving rise to the claim took place.

4 Origins of Claim and Payment of Subscriptions

4.1 If you are not a qualifying member we will only consider your application under the Scheme where:

- (i) your case meets the criteria for support set out in regulation 2.4 having regard to regulation 2.5, ('the usual criteria for support') AND
- (ii) in our opinion there are exceptional circumstances which justify doing so.

4.2 If the events giving rise to your claim took place less than three months after the date of registration of your membership under the Rules and your case meets the usual criteria for support but there are no exceptional circumstances, as a condition of offering legal services we may ask you for an upfront payment of the equivalent of 12 months' union subscription, starting from the date of registration of membership under the Rules or, if your membership lapsed for any reason, from the date of the restoration of your membership under the Rules.

4.3 Your Union subscription must not be in arrears. If your subscriptions fall into arrears your entitlements under the Scheme, including the entitlement to apply for and receive legal services, are suspended until the arrears are paid in full.

5 Applying for Legal Services

5.1 Personal Injury Claims

5.1.1 Details of our personal injury service are on the Union's website at <http://www.ucu.org.uk/>. To make a claim you should apply online at https://my.ucu.org.uk/app/utis/login_form

5.1.2 In personal injury claims our lawyers will inform you whether there is a basis on which they are able to undertake your claim and any obligations you may have to comply with. It is your responsibility to comply with these obligations. Failure to do so may result in you becoming liable to meet our lawyer's fees and disbursements.

5.1.3 In all cases, you will always receive 100% of any damages or compensation recovered on your behalf.

5.2 Criminal Matters

5.2.1 If you are requested to attend a police interview and you want to be accompanied by a lawyer you must contact us and explain why the police want to interview you. If appropriate we will refer you to Thompsons LLP Criminal Law Unit who will be able to advise and accompany you to a police interview.

5.2.2 In an emergency and outside our normal office hours, you may approach Thompsons LLP solicitors directly.

5.2.3 If you are charged with a criminal offence, and you want us to arrange representation for you in either the Magistrates Court or the Crown Court, you must contact UCU's Legal Services Department without delay, who will refer your request to the Legal Panel. In considering your request, in addition to applying the criteria set out in regulation 2.4 and 2.5, the Legal Panel will take into account the following considerations:

- (i) whether you would, if any matter arising in the proceedings is decided against you, be likely to lose your liberty or livelihood or suffer serious damage to your reputation;
- (ii) whether the determination of any matter arising in the proceedings may involve consideration of a substantial question of law;
- (iii) whether you may be unable to understand the proceedings or to state your own case;
- (iv) whether the proceedings may involve the tracing, interviewing or expert cross examination of witnesses on your behalf, and
- (v) whether it is in the interests of another person that you be represented.

5.2.4 If your application is approved we will instruct Thompsons LLP to assist you to make an application for a Legal Aid Representation Order. We retain an absolute discretion on whether to pay any Crown Court contribution you are ordered to pay. If we agree to pay the sum of money specified in the Contribution Order, this is contingent upon you signing an undertaking in the form we specify.

5.3 Employment Claims

5.3.1 You must contact your Regional Office as soon as you consider you need legal advice. A delay in contacting us may mean we are not able to provide you with legal advice timeously. You will be asked to provide a narrative of the facts, relevant documents and the questions on which you would like advice.

5.3.2 At our discretion we may ask our lawyers to provide us with an initial assessment of your claim based on the material you have provided. Where we ask our lawyers for an initial assessment, in some cases, they may want to interview you before preparing that assessment. We will not ask our lawyers for an initial assessment in cases where we feel that there is very unlikely to be any prospect of a viable claim. This will normally be on the basis of the time limits applicable to the claim, or where a claim does not raise a legal point which a Court or Tribunal can decide.

5.3.3 Following our consideration of the initial assessment we will inform you whether your claim will be put before the Legal Panel for a decision on whether to provide further legal services and, if so, the extent of the legal services which will be provided. In arriving at its decision, the Legal Panel will apply the criteria in regulations 2.4 and 2.5.

5.3.4 Where the Legal Panel agree to legal services being supplied, you will be notified in writing and of any conditions or limitations imposed in the offer. It is a condition of assistance under the Scheme

that you sign an Agreement for the supply of legal services. For the avoidance of doubt, in any case where the Agreement is not signed the recipient of legal services is still deemed to be bound by these Regulations.

5.3.5 In accepting the offer and signing the Agreement you authorise our lawyers to take such action on your behalf as has been agreed and authorised by us; our lawyers shall be instructed by us accordingly. Should you not be willing to accept the advice of our lawyers on how to progress your claim we may terminate legal services. The date of the Agreement is the date of commencement of legal services.

5.3.6 In any claim where you were assisted by us and/or our lawyers under the Scheme, and your opponent is either (a) ordered to pay your costs and charges (or any part thereof), or (b) agrees as part of any settlement of your claim to meet such cost, you agree that those costs recovered from your opponent shall belong to us or our lawyers in consideration of us having supplied you with the legal services concerned.

5.3.7 In the event that the Tribunal makes an order of costs against you because it deemed your behaviour to be unreasonable, we will not indemnify you against those costs.

5.3.8 At any time we may vary the legal services being supplied to you or terminate them. If we terminate legal services we will write to you; the date of such letter being the date of termination of legal services. After the date of termination of legal services, save as provided for in the Agreement, we are discharged from our obligations under the Agreement and any specific commitment for the supply of legal services made thereunder.

5.4 Immigration

5.4.1 If you are a qualifying member and require assistance with a matter concerning your ability to live (or continue to live) and work in employment in the United Kingdom, or the ability of your partner or a child for whom you have caring responsibility to live with you in the UK, you must contact UCU's Legal Services Department who may refer you to specialist immigration lawyers.

5.4.2 In the event that you are advised to exercise your right to an administrative review to the First-tier Tribunal (Immigration and Asylum Chamber) where the Home Office has made a decision adverse to you, we may agree to provide you with legal representation to pursue an administrative review and pay the associated Home Office fees or the fees of the First-tier Tribunal (Immigration and Asylum Chamber). However, in the event that a fee award is made in your favour, you agree to repay our fee outlay back to us.

5.4.3 In the event that the Tribunal makes an order of costs against you because it deemed your behaviour to be unreasonable, we will not indemnify you against those costs.

5.5 Conflicts Between Members

Applications under the Scheme are considered without regard to the fact that you may be asking us to bring a claim against another Union member.

6 Exclusions and Limitations

6.1. Claims of defamation (whether by or against you) are excluded from the scope of the Scheme.

6.2. Claims relating to intellectual property rights (save initial advice in a claim involving your primary employer asserting rights against you) are excluded from the scope of the Scheme.

6.3. The Scheme cannot be used to pay any of:

- (a) costs or charges which we have not authorised;
- (b) your own professional adviser's fees; or
- (c) the funding of your claim through professional advisers not of our choosing.

6.4. We will not offer legal services to you whilst your own professional adviser is acting for you (although we retain the discretion to obtain an initial assessment in such circumstances), and we will terminate legal services if you instruct your own professional adviser to act for you without our prior agreement.

6.5. The Scheme cannot be used by you for the purpose of pursuing a complaint against us (including a Union Official or Union Officer acting in that capacity), or our lawyers, regardless of whether there is an actual or likely conflict of interest and regardless of whether such complaint is your principal purpose.

6.6. The Scheme cannot be used by you for the purpose of pursuing a complaint against a third party where the Union reasonably believes that there may be a conflict of interest.

6.7. We will not supply, or continue to supply, as the case may be, legal services under the Scheme where we reasonably believe that the relationship of mutual trust and confidence between you and us (including a Union Official or Union Officer acting in that capacity), or you and our lawyers, has broken down.

7 Your Right of Review

7.1 You have the right to ask for a review by the Legal Panel of any decision made by Union Officials under the Scheme. If you wish to exercise this right you must write to the Legal Services Department

within 14 days of the date of the decision that you are asking us to review. Your submission must not exceed 1000 words and may not be accompanied by more than 25 single-sided pages of documents. You must set out the decision you seek to have reviewed and your reasons for the review. The right of review does not extend to challenge a legal assessment of the merits of your claim, or to obtain a second legal or other expert opinion.

7.2 The right of review does not extend to inviting the Legal Panel to dis-apply the exclusions and limitations in regulation 6.

7.3 It is a matter for the Legal Panel to decide whether there is a right of review, and to carry out the review in those cases where a right of review is granted.

7.4 The Legal Panel may delegate its powers of review to Union Officials or Union Officers. When this occurs, the decision of those Union Officials or Union Officers is final. In all other cases, the decision of the Legal Panel is final.

8 Data Processing

8.1 By applying under the Scheme you agree to the disclosure to us and our lawyers of information and documents relating to your claim. To the extent that such disclosure involves the processing of personal data and/or sensitive personal data within the definition of the Data Protection Act 1998 (as amended from time to time), and the transfer of such data outside the EEA, you give your explicit consent to the processing/transfer of those data for the purposes of considering your application under the Scheme and the provision of legal services. We may communicate with you using email. Email is not a secure means of communication but, whilst we shall take reasonable steps to protect your data, you agree to our using email communications and accept the attendant risks of us doing so.

9 Indemnity

9.1 You are under a duty to act in good faith and to make full disclosure to us and our lawyers of all material facts and documents which bear upon your claim.

9.2 Provided that you discharge your duty to act in good faith we will indemnify you in relation to the costs and charges relating to your claim as set out above and in the Agreement at Appendix 1.

9.3 The indemnity does not, however, extend to any costs or charges which we incur as a result of your failure to act in accordance with professional and legal advice, or because, in the reasonable opinion of the Legal Panel, you failed to discharge the obligations imposed on you by the Scheme or Agreement. You agree to indemnify us in relation to any costs or charges which we are obliged to pay (whether to our own lawyers or a third party) as a result of your failure (such costs and charges being a debt recoverable on demand).

10 Confidentiality

10.1 We will always try to maintain confidentiality but by applying under the Scheme you agree that we are entitled to share information about your application under the Scheme between ourselves, our lawyers and any other person engaged to advise us on your case.

10.2 We may agree not to share information about your application under the Scheme with particular individuals. Until we make that agreement with you, you agree that we can share information with whomsoever we consider appropriate.

10.3 You agree that you will not enter into any agreement to compromise your claim which includes a clause preventing you from telling us the terms of the settlement.

10.4 Since publicity of cases may serve the interests of the Union membership at large you may be asked to agree to publicise your case.

10.5 You owe us a duty of confidentiality in relation to our assistance to you under the Scheme and all legally privileged advice we obtain on your behalf.

11 Code of Practice

11.1 Nothing in the Scheme is intended to detract from the six key principles contained in the Code of Practice For The Provision Of Regulated Claims Management Services By Trade Unions (November 2006). In the event that you wish to pursue a complaint about the service that you have received directly from the union (and not the service which has been provided by the external professional adviser in respect of whom a separate complaints procedure applies), you must write to us and we will advise you of our complaints procedure. However, we are not obliged to consider a complaint about our refusal to pursue or continue a claim on your behalf under the Scheme.

APPENDIX 1

AGREEMENT FOR THE SUPPLY OF LEGAL SERVICES BY THE UNIVERSITY & COLLEGE UNION

This Agreement is made on [DATE] between

[name] (“you”) of

[Insert address]

and the University & College Union of Carlow Street, London, NW1 7LH.

As part of the benefits of Union membership, and in consideration of the payment of membership subscriptions, the Union offers legal services to its members in accordance with the Rules and the Legal Scheme Regulations (the Scheme), as amended from time to time. The Union has agreed to supply you with the legal services detailed in schedule 1 below in accordance with the Scheme (and, for the avoidance of doubt, the Scheme Regulations are incorporated into this Agreement) during the period of legal services:

1. In this Agreement any reference to “Regulations” is a reference to the UCU Legal Scheme Regulations; any words or phrases in this Agreement that are defined in Regulation 1 have the same meaning as the words and phrases in Regulation 1. If, after the making of this Agreement either the Rules or the Scheme is amended, this Agreement is automatically varied in accordance with the amendment.

2. The Union has agreed to supply you with legal services in accordance with the Scheme. We have the absolute discretion to determine to what extent and in what form legal services are to be supplied to you. We will take into account your wishes but we are not bound to meet them. Legal services supplied under this Agreement, and any terms and conditions upon which they are

supplied, may be unilaterally varied by us at any time. If we decide to vary the legal services supplied or terminate them, we will notify you in writing.

3. You agree that you are under a duty to act in good faith at all times in your dealings with us and the lawyer we appoint to act for you (the “appointed lawyer”). You agree that you will always give us full and honest disclosure of all material facts and documents relating to your claim.

4. You agree to cooperate with us and the appointed lawyer. This may include attending interviews with the appointed lawyer, collating and providing documents (at your own expense), contacting potential witnesses, drafting statements and attending court or tribunal hearings.

5. You agree that you will act in accordance with legal and professional advice given to you by us and the appointed lawyer.

6. You agree to maintain your membership of the Union and to pay your subscriptions on time whether demanded by us or not. If your subscriptions fall into arrears at any time during the period of legal services, the supply of legal services will be suspended, and may be terminated if the arrears remain unpaid. If your membership of the Union ends, legal assistance under this Agreement ends automatically on the date of cessation of membership.

7. We will endeavour to take reasonable steps to bring about a successful conclusion to your case. However, we are not obliged to take each and every step available to you in the course of your claim. We will take into account the criteria specified in Regulations 2.4 and 2.5 in determining what, in our opinion, is reasonable.

8. We will tell you if we consider that you may be in breach of your obligations and commitment to us, and give you an opportunity to explain your actions. If, in our opinion, you fail to do so satisfactorily or at all, legal services will be terminated, and we may apply the provision of clause 19 of this Agreement.

9. In some cases the advice may be that your claim should be resolved by seeking a settlement. We will ask for your consent to negotiate on your behalf. If, in our opinion, you unreasonably withhold your consent, we will terminate legal services.

10. Unless we agree otherwise, and apart from members of your immediate family (upon whom we would expect you to place a similar duty of confidence) you agree to keep confidential the fact that we are supplying you with legal services and all legally privileged advice obtained on your behalf.

11. During the period of legal services, save as provided for in clause 19, we will not charge you for the costs and charges of the appointed lawyer, or any barristers, medical or other experts which we or our appointed lawyer have engaged on your behalf.

12. We will pay any fees to any court payable by you to bring (or resist) a claim. Where you are entitled to a remission of any fees payable, we will not meet the fee (irrespective of whether you have applied for or been granted such fee remission).

13. You are solely responsible for third party costs arising from your claim. In exceptional cases we may agree to indemnify you against third party costs. We will inform you if we are willing to offer this indemnity (and any additional terms and conditions upon which this offer is being made).

14. If the circumstances of regulation 5.3.6 or 5.4.2 apply you agree you will pay over to us such monies as are recovered.

15. If assistance in a criminal matter is agreed, this will be subject to you signing an undertaking to pay to us any repayment of any financial contribution which the court orders.

16. We will not reimburse travelling expenses or lost earnings, or pay subsistence to you or your witnesses. Nor will we reimburse any other costs you may incur such as postage, and photocopying costs.

17. We will not reimburse any costs and charges which you incur either before the date of legal services or after the date of termination of legal services. We will not be responsible for any costs or charges which you have incurred without our prior agreement.

18. We may charge you for some or all of the costs and charges we incur in the period of legal services if we are of the opinion that regulation 9.3 of the Scheme applies. If we impose such a charge you agree that you will pay us the sum demanded and that if you do not do so we are entitled to recover the sum claimed as if it were a debt which you owe us.

19. We may unilaterally vary the terms of this Agreement at any time upon giving you reasonable notice. However, if we vary the terms we will always inform you in writing.

20. Either party may terminate this Agreement by giving written notice to the other party to have immediate effect. Termination will not affect any accrued rights or liabilities. After the date of termination of legal services we are discharged from our obligations under this Agreement and any specific commitment for the supply of legal services made hereunder. However, you agree that we

remain entitled to enforce clauses 14, 15 and 19. Further, for the avoidance of doubt, any indemnity which we agreed to give you under clause 13 will not extend to any third party costs incurred after the date of the termination of legal services.

21. This Agreement, which incorporates the Rules and the Regulations, sets out the entire agreement between the parties and supersedes all prior discussions between you and us about the provision of legal services by us. This Agreement can only be varied as set out in this Agreement.

22. We will not accept or send communications from or to anyone purporting to act on your behalf unless we have agreed this with you.

23. A person who is not party to this Agreement has no rights under the Contract (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement, but this does not affect any right or remedy of a third party which exists or is available by virtue of this Act.

24. All notices under this Agreement from us shall be in writing and sent to the postal address or the email address which you last provided to us.

25. This Agreement is made in England and the parties agree to submit any dispute to the exclusive jurisdiction of the courts of England and Wales.

SCHEDULE 1

[Insert here a detailed statement of the legal services offered]

Dated this day of

Signed by You

Signed for and on behalf of UCU

APPENDIX 2: Rule 2.4.10

For the purposes of Rule 2.4.10, examples of intimidation and persistent unreasonable demands are:

- Intimidation: Harassing, seriously abusing or otherwise seeking to intimidate staff dealing with their case, in relation to their case, by the use of abusive or foul language or unlawfully discriminatory language.
- Persistent unreasonable demands: Where a member insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls, emails or other electronic communications after the unreasonableness of this has been explained to the member.

For the avoidance of doubt, raising legitimate queries or criticisms of the procedure as a case progresses, for example if agreed timescales are not met, does not constitute seriously unacceptable behaviour. Similarly, the fact that a member is unhappy with the outcome of a stage in preparing an application for legal support, for example the need to obtain particular evidence or opinion, and seeks to challenge it once, or more than once, is not of itself seriously unacceptable behaviour.