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**Right to Request Time to Train**  
TUC Organisation & Services Department  
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## **Right to Request Time to Train**

### Introduction

The Government has announced that it will be introducing a new legal right for employees in England to request time to train from their employer and that this will be modelled on the existing right to request flexible working. The Prime Minister made the announcement on 14<sup>th</sup> May in a statement to the House of Commons setting out the Government's draft legislative programme for 2008/09.

The TUC welcomed the announcement, saying that it could help millions improve their skills and boost productivity but that it will pose a real challenge to those employers who neglect training. In addition, the TUC highlighted that it would give unions – and in particular union learning representatives (ULRs) - an important role in helping individuals to shape their requests to learn new skills.

The Government has said that it 'will shortly be consulting on the right to request time to train' and that the new right will be enshrined in a new Education and Skills Bill that will be introduced in the 2008/09 Parliamentary session. It is anticipated that if the Bill receives Royal Assent sometime in 2009 as planned, that the new right should be implemented at some stage in 2010.

As a result of this announcement the Government has now decided to delay the 2010 review of whether a statutory right to workplace training should be introduced for employees without a level 2 qualification until 2014/2015.

### The new right

More detail on the proposed right is available in a press release issued by the Department for Innovation, Universities and Skills<sup>1</sup> (DIUS) and also in the Green Paper<sup>2</sup> setting out the draft legislative programme for 2008/09. According to the

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<sup>1</sup> *Legislative Programme Promises a Better Trained Workforce, Greater Opportunity for Young People and Adults*, DIUS press release, 14 May ([www.dius.gov.uk](http://www.dius.gov.uk))

<sup>2</sup> *Preparing Britain for the Future: the Government's draft legislative programme 2008/09*, Office of the Leader of the House of Commons ([www.CommonsLeader.gov.uk/draftprogramme](http://www.CommonsLeader.gov.uk/draftprogramme))

DIUS press release, the 'Government will consult on how workers can be legally empowered to request time to undertake training that will benefit them and their employer [and the] practical arrangements which employers would follow would be modelled on the existing right to request flexible working'. On this basis 'employers will be legally obliged to seriously consider requests for training they receive but could refuse a request where there was a good business case to do so.'

Unlike the right to request flexible working, the right to request time to train will only apply to employees in England and it is anticipated that the majority of measures in the forthcoming Education and Skills Bill will only apply in England (however, the Green Paper does state that some measures in the Bill will extend to the whole of the UK). This means that the right to request training will be different to the right to request flexible working, which is an employment right that is available across the whole of the UK.

According to the DIUS press release, the proposed legislation would work so that:

- employees can ask their employer for time to train, where the training will benefit both them and the employer;
- requests do not have to be about accredited programmes, but might simply be for short, unaccredited, training;
- the employer must consider a request carefully, but could decline it for a good business reason; and there will be no requirements on employers where an employee was recruited less than 26 weeks previously;
- employers agreeing a request can agree to meet the employee's salary during training if they wish, but are not obliged to do so if it is 'off the job' training; employers agreeing a request can organise the training if they wish, and indeed pay for it, but there is no obligation to do so. Work-based training would naturally count as 'time to train';
- alternatively the employee may need to arrange their own training, perhaps through a local college, but will benefit from being released from work. The employer would not be expected to pay towards this if they did not wish to do so; and
- the practical arrangements which employers would follow would be modelled on the existing right to request flexible working, with which many employers are by now familiar. Appeals to employers, and tribunal arrangements, would also follow that system.

The press release also states that the intention is that the new right 'will allow millions of employees to start a conversation with their employer about how they can become a more productive member of staff and in turn will encourage employers to better tap into some of the major Government supported training programmes available to them.'

### Role of union learning representatives and union negotiators

Reference is made in the press release to the important role of 'the established network of 19,000 union learning representatives' in helping 'people to maximise the benefits of the new right for them.' The TUC and unionlearn are already carefully considering the implications of the new right for the role of ULRs, especially on the basis that it is anticipated that employees will be given the right to be accompanied at meetings to discuss their request for time to train (in line with the model in place for the right to request flexible working).

The new right will enable ULRs to build on the significant role that they have forged in engaging and supporting employees that face barriers in accessing workplace training. From this perspective the new right chimes with the role of ULRs in tackling inequality at work by empowering employees to access learning or training opportunities at work, especially those employees who lack confidence due to a bad experience at school and/or who are often unfairly excluded from training by their employer on the basis of their occupational status.

The fact that the new right will be open to all employees regardless of their existing skill level also means that it will resonate with all ULRs in all unions and it will support progression in the workplace. For example, it offers the opportunity for individual employees (supported by ULRs) to make the case for greater access to higher level skills and continuing professional development as well as supporting those with few or no qualifications to climb the skills ladder.

However, the new right potentially also has wider ramifications for the negotiation of training in unionised workplaces, including the role of ULRs in coordinating union-led learning initiatives via Learning Agreements and the role of those union reps involved in negotiating other collective agreements on training. Unions will also need to consider how the new right can be maximised at the sectoral level and union representatives on Sector Skills Councils will play a key role in supporting such strategies. Whilst it is too soon to gauge the potential impact of the new right on different kinds of agreements, the TUC and unionlearn will be looking at the potential linkages and how the individual right can be utilised to strengthen collective action on skills in the workplace.

In addition to considering how the new right can build union engagement in major government skills initiatives (see following section), another priority will be to consider how it can be used by unions to support union-led learning that promotes broad workforce development and also learning focused on personal development. In this context the TUC and unionlearn will be looking at how the new right can be best placed to support initiatives such as the Collective Learning Funds project that the TUC and unionlearn, in collaboration with DIUS, are currently trialling.

### Train to Gain and Skills Accounts

#### **Train to Gain**

The DIUS press release emphasises that the new right will be designed to 'encourage employers to better tap into some of the major Government supported training programmes available to them.' A top priority will be Train to Gain especially as the latest evaluation of the programme has highlighted that 'there is little strong evidence to suggest that Train to Gain is successfully targeting employers who have not trained recently.'<sup>3</sup> The new right should strengthen the hand of ULRs to enable more employees to access Train to Gain provision, whether in a workplace that is already involved in the programme or in a workplace where the employer has simply completely refrained from accessing subsidised training from this source.

This should build on a previous commitment by Government to support unions, and ULRs especially, to play a key role in Train to Gain. The Leitch Review implementation plan<sup>4</sup> published last year gave a commitment that trade unions, in particular via the role of ULRs, would be encouraged to work with employers to draw up action plans for delivering the Skills Pledge and to help more employers and employees to access Train to Gain provision.

#### **Skills Accounts**

Skills Accounts are the other major skills initiative that the Government hopes the new right will be successfully dovetailed with and it is anticipated that they will both be rolled out across England in 2010. It was significant that the Prime Minister emphasised the link between the right to request time to train and Skills Accounts when he announced the new right in his statement to the House of Commons, as follows:

*'So my Rt Hon Friend the Secretary of State for Skills is proposing today for the first time a major new change in workplace rights that will benefit both employees and employers – giving every worker the right to request time to train. And we will offer every adult a personal skills account so that they can access the training they need, with resources tailored to the individual.'*

The DIUS press release also emphasises the link with Skills Accounts, but importantly, puts this in the context of the role of ULRs and the new adult careers and advancement service, as follows:

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<sup>3</sup> *Train to Gain Employer Evaluation: sweep 1 research report*, LSC, May 2008

<sup>4</sup> *World Class Skills: implementing the Leitch Review of Skills in England*, DIUS, 2007

*'Equally, the established network of over 19,000 union learning representatives, skills accounts, with resources tailored to the individual, and the new adult careers and advancement service - both of which will begin operating across the country from 2010 - will help people to maximise the benefits of the new right for them.'*

The press release also highlights that from 2010 Skills Accounts will be available nationally and as a result individuals will have:

- A virtual 'voucher' of state funding, representing their entitlement, to purchase learning at a quality assured provider of their choice;
- Access to a portal of comprehensive and up to date information through the adult advancement and careers service, signposting the learner to the choices and learner support available;
- A clear and inspiring record of their future goals, skills and career achievements, accessible online, providing clear evidence of a commitment to training and progression that can be shared; and
- Ongoing targeted advice triggered towards the end of each phase of learning, enabling individuals to unlock the provision available.

### Potential impact on investment in training

The DIUS press release says quite clearly that 'employers will not be obliged to meet the salary costs or training costs to enable a request for time to train but [the Government] would expect many to choose to do so, recognising the opportunity to invest in their business.' The TUC and unionlearn will be looking at how trade unions can use the new right to increase employer investment in training, for example, through innovative linkages between the new right, Skills Accounts and initiatives such as the Collective Learning Funds model.

Initial thoughts by the Government about how the right will operate in practice (see page 2) as set out in the DIUS press release highlights different scenarios in relation to how the right could trigger paid time off and/or additional investment by employers. Trade unions will also need to consider how they can build on this by modifying learning agreements and other collective agreements on training to maximise employer investment as a result of the introduction of the new right.

The right will also prove a useful lever to persuade employers not engaged in Train to Gain to access the service and this will hopefully channel more Government investment in training to the 37% of employees who are currently receiving no training at all from their employer.<sup>5</sup>

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<sup>5</sup> The LSC's *National Employers Skills Survey 2007* has highlighted that over the latest 12-month period a third of employers in England provided no training at all and that 37% of employees did not receive any training. A TUC briefing on NESS07 is available at: [www.tuc.org.uk/skills](http://www.tuc.org.uk/skills)

### 2010 statutory review

A footnote in the DIUS press release sets out the case for delaying the 2010 review of whether a statutory right to workplace training should be introduced for employees without a level 2 qualification until 2014/15. The full text in the footnote is as follows:

*'In World Class Skills: Implementing the Leitch Review, we stated that the UK Commission for Employment and Skills (UKCES) would report to Government in 2010 on whether a statutory entitlement on training is appropriate, and whether further institutional change is required to deliver a better integrated employment and skills service. We have decided that the 2010 review should not now consider the issue of compulsion in terms of whether the Government should introduce a statutory entitlement for training for those with skills below level 2. That review will now be completed in 2014/2015. The review would still be of fundamental importance in considering the efficacy of the skills and employment policies and systems and progress towards meeting our skills ambition. It would be making vital recommendations for Government to consider and act upon. The 2014/2015 review will have the same terms of reference as for the 2010 review' (DIUS press release, footnote 4).*

Whilst the TUC has welcomed the new right to request time to train, it remains committed to achieving a statutory right to workplace training, especially for those employees who face the greatest barriers to accessing training at work. In effect the 2010 review is being delayed to allow time for the UKCES to consider the impact of the new right to request training on employer investment in training (it is anticipated that the legislative timetable means that the new right will not be rolled out until 2010 at the earliest). The TUC and the trade union commissioners on the UKCES will continue to press the case for a statutory right to be introduced as early as possible in the context of the new policy approach.

### Conclusion

The Government has announced that it will be consulting on the framework of the new right and an early priority for the TUC and unionlearn will be to influence the policy framework that will be enshrined in the forthcoming Education and Skills Bill. Unionlearn will also be developing a strategy to equip trade unions and union learning representatives with the necessary tools to prepare for the introduction of the new right following the passage of the legislation.