

TUC Disputes Principles and Procedures 2016 Edition





UNIONS

GUIDANCE

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Introduction

by Frances O'Grady

It is testament to the hard work of tens of thousands of workplace reps and union officers that we have managed to hold union membership steady, despite the pressures heaped upon us in recent years.

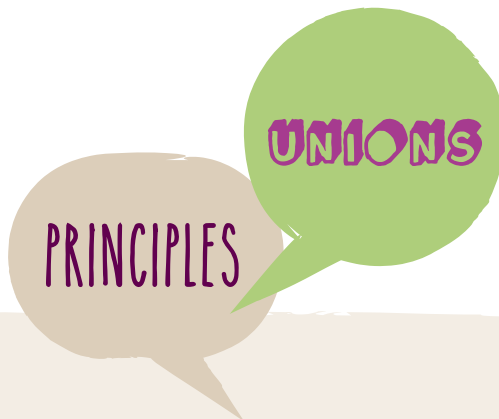
A hostile government, legislation designed to weaken the rights of working people and unions, savage public spending cuts, an economic recovery that is in danger of leaving far too many people behind and workplaces fragmented by outsourcing and new forms of insecure employment have all combined to create a very difficult organising environment for unions.

Despite this our membership in the private sector has risen for

four consecutive years, and in the public sector unions have proved remarkably resilient.

I am absolutely convinced that a united trade union movement is a strong trade union movement. That's why this code is so important. It sets out a framework for unions to work together, and to avoid damaging and resource-consuming disputes.

Following a recent consultation exercise, the code has been revised to place a greater emphasis on unions working together at a sectoral and workplace level. We have strengthened the provisions regarding union conduct towards sister organisations, and reinforced the responsibility of unions to positively engage when members



transfer their employment. All these changes are aimed at ensuring we have a practical, effective, enforceable code that supports our shared ambition to build a stronger trade union movement.

The trade union movement has been built on traditions of solidarity and common purpose. As a condition of affiliating to the TUC unions accept that they must not bring the movement into disrepute. This includes a commitment not to take into membership the members, or recent members, of another affiliated union without the agreement of that union. The only way to re-build the movement is to recruit new members, not to re-cycle existing ones, and to impress

workers, especially young workers, with our ability to be a strong voice for them in the workplace.

I urge you to read this code, and to abide by the Principles set out in it. If every union officer and representative has a copy and respects the code, we can avoid unnecessary and time wasting conflict and get on with the job of rebuilding the union movement which working people and their families need to help them face the challenges in today's rapidly changing world of work.



Frances O'Grady
TUC General Secretary



NEGOTIATE

AGREEMENT



SETTLEMENT

GUIDANCE

Section 1

TUC code of practice, incorporating the principles governing relations between unions

Preface

These principles, procedures and accompanying paragraphs together form a TUC code of practice that is accepted by all affiliated organisations as a binding commitment for their continued affiliation to the TUC. This is not intended by such organisations or by the TUC to be a legally enforceable contract. The principles, the notes and the regulations should be read together as having equal status and validity.

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Principle 1

Co-operation and the prevention of disputes

All affiliates have a responsibility to build positive inter-union relations and unions are actively encouraged to work together at a sectoral, organisational and/or workplace level.

Unions should make every effort to establish joint working arrangements that prevent and, where necessary, resolve by agreement problems that arise between themselves.

Joint working arrangements would include for example: procedures for resolving particular difficulties; spheres of influence arrangements; agreed transfers of members and benefit rights; recognition of cards; and demarcation of work.

Members and officials should be fully aware of the terms of existing joint working arrangements/agreements and the importance of following agreed procedures for the avoidance and settlement of disputes.

Each affiliate is required to nominate a senior union official to take responsibility for inter-union relations issues and to join a TUC network of national officers who will be concerned to encourage closer working between affiliates on issues of common concern including inter-union arrangements for the avoidance of disputes. The TUC will ask unions to update this contact point annually, and will share this information across all TUC affiliates.

While the TUC is always available to support unions with regard to issues that may arise between them or to provide general advice on these issues, unions are encouraged to prevent and, if necessary, resolve such issues bilaterally and as early as possible.

CODE OF PRACTICE

RESOLUTION

Notes on Principle 1

(a) Joint working arrangements

Joint working arrangements are usually between two unions and cover all the members but they can involve more unions – for example, all the signatory unions of a particular negotiating body. Such arrangements normally provide for an unresolved issue to be processed through the district, regional and national levels of the procedure. They may also provide for arbitration by a third party (for example, by a respected person nominated by the TUC) if the final stage of the procedure is exhausted without agreement being reached. Joint working arrangements may also incorporate joint standing committees to review relations between the unions and to promote closer working arrangements. By agreement, unions may wish to ‘register’ such agreements with the TUC, and the TUC may also, with agreement, help monitor and implement such agreements. Breaches of ‘registered’ agreements will be considered a de facto breach of Principle 1.

(b) Advice and support

The TUC will assist unions in drawing up such joint working arrangements and procedures, and also wider understandings affecting trade union structure and, if requested, can arrange meetings between unions. The TUC is also available to assist unions in developing effective working relationships at a sectoral, organisational and workplace level.

(c) Mergers

The TUC will be glad to provide advice and assistance to unions considering mergers, which can help strengthen the movement’s organisation. If an affiliate is considering a merger with a non-affiliated organisation, it should consult with other affiliates with an interest. In the event of a disagreement it is open to any affiliated union involved to refer the matter to the TUC for advice and conciliation, but not adjudication by a Disputes Committee, unless by agreement between all the affiliated unions concerned. Unions should not intervene in any way in a ballot being conducted by other unions about a merger.

Principle 2

Membership

It is in the interests of all affiliates and the movement to build trade union membership, and the movement to develop and maintain stable trade union structures. Members moving from union to union, without agreed regulation and procedure, can undermine collective bargaining structures and may even threaten the existence of trade union organisation within a particular company or group of workers.

All affiliates of the TUC accept as a binding commitment to their continued affiliation to the TUC that they will not knowingly and actively seek to take into

membership existing or 'recent' members of another union by making recruitment approaches, either directly or indirectly, without the agreement of that organisation.

All officials of trade unions should refrain from speaking or acting adversely to the interests of any other union whose members are participating in an industrial dispute. Unions about to participate in an industrial dispute are strongly advised to inform other unions whose members would be likely to be affected (see Congress Rule 12, page 30).



Notes on Principle 2

Each union will include in its membership application form questions along the lines of the following:

'Are you, or have you been, a member of a trade union previously? Please give the name of your present or former union, together with the name of the branch. If you are/were a recent member of a different union, we may use this information to contact them about your membership application. Please indicate your consent to the use of your data for this purpose [INSERT TICK BOX TO CAPTURE THE INDIVIDUAL'S CONSENT].'

In all cases where present or past trade union membership is indicated, the union to which the application has been made will immediately inform the present or former union in writing, giving names, grades and location, so that it may discuss the matter with the individual(s) concerned. Where unions are in frequent contact, they should exchange appropriate contact details for dealing with membership issues.

The term 'recent' in the third paragraph of Principle 2 will normally refer to applicants who have contributed to an affiliated union during the preceding 52 weeks. However, unions should aim to notify the relevant present or former union in all cases where previous trade union membership is known.

A number of affiliated unions have rules excluding members who have been in arrears for a specified time from participating in the affairs of the union. However, the union may still have a legitimate concern, if that individual was knowingly and actively recruited by another organisation without consultation and agreement.

If at any time, for any reason, a union has cause to object to the recruitment of its present or former members, it should request a meeting(s) with the other union to discuss the matter, in accord with the disputes regulations and the time limits for meetings between unions (see page 23).

At the meeting between the unions concerned, every effort will be made to resolve the matter by agreement. The respondent union has a moral obligation to offer compensation to the complainant union for any loss of income that it has suffered as a consequence of any knowing and active recruitment of its members. If there is a continuing disagreement between the unions the issue will be referred to the TUC.

Unions and their representatives should always refer respectfully to sister unions, verbally and in any media. Unions should work actively to ensure that this principle is respected at every level within their organisation.

Principle 3

Organisation and recognition

No union will commence organising activities at any company or undertaking, in respect of any group of workers, where another union has the majority of workers employed in membership, and/or is recognised to negotiate terms and conditions, and/or is actively engaged in significant organising activity, unless by arrangement with that union. Neither, in such circumstances, will a union make approaches to an employer or respond to an employer initiative, which would have the effect of, directly or indirectly, undermining the position of the established union, or the union currently engaged in that organising activity.

Where a union considers that another affiliate has low levels of membership, and no agreement or a moribund agreement, within any organisation in respect of any group of workers, the union will consult with the other affiliate before commencing organising activities (or as soon as it is informed of the interests of another affiliate).

If agreement cannot be reached, then either union should refer the matter to the TUC.

In the event of a change of ownership, merger, acquisition or any other form of employment transfer all TUC affiliated unions with significant membership, and/or recognised to negotiate terms and conditions, and/or actively engaged in organising in the company or organisation will meet as soon as is practically possible to establish joint working arrangements with a view to agreeing appropriate union representation arrangements at the company or organisation. The TUC can assist in this process as provided for in Principle 1.



Notes on Principle 3

When making sole negotiating rights or union membership agreements or arrangements affiliated unions should have regard to the interests of other unions that may be affected and should consider, and be able to provide evidence of this consideration, their position in the drafting of such agreements.

No union will enter into or extend a sole negotiating agreement, union membership agreement or any other form of agreement in any circumstances, including a takeover or change of ownership, or some other reason where another union(s) would be deprived of their existing rights of recognition or negotiation except by prior consultation and agreement of the other union(s) concerned. If agreement cannot be reached the matter should be referred to the TUC.

If a union considers that because of the organisational weakness of another union(s), its continuing recognition and negotiating arrangements are threatened then it should engage in consultation with that organisation without delay. If agreement cannot be reached the matter should be referred to the TUC.

Prior notification - single union agreements

Unions seeking to secure single union agreements should do so within the framework of these principles and procedures. A union in the process of making a single union agreement should, at the initial stage of discussion, notify the TUC general secretary of that fact with as many of the details as possible, as set out in disputes regulation A (see page 17). This provision applies to agreements sought under the recognition provisions of the Employment Relations Act 1999 (see page 16).

No-strike clauses and arbitration

Unions must not make any agreements that remove, or are designed to remove, the basic democratic lawful rights of a trade union to take industrial action in advance of recruiting members and without consulting them. This is not meant to deter unions from using arbitration at the request of one or both parties. If faced by circumstances where procedures are insisted on that remove the basic democratic right to take industrial action, the union should consult the TUC at the earliest opportunity.

Inward investment

Unions are expected to co-operate with any procedures that have been approved by the General Council of the TUC and that are operated by the TUC, STUC, Wales TUC, or TUC Regional Councils in relation to inward investment authorities.

Terms and conditions

When negotiating recognition agreements, unions should have regard to the general level of terms and conditions of employment that are already the subject of agreement with the company concerned, or that have been set through recognised arrangements, for example at sectoral and company level, and take all possible steps to avoid undermining them.

Existing organising activity

Where a union does not have the majority of workers employed in membership, is not recognised and not yet established but nonetheless has a significant membership and/or is actively engaged in significant organising activity, no other union will commence organising activities or enter into an agreement with the employer or respond to employer approaches unless by arrangement with that union. If the unions concerned are unable to agree the matter should be referred to the TUC.

General

In all organisational matters covered directly or indirectly by this principle, where a difference has arisen or may arise, a union(s) that is involved will not unilaterally decide, or act in such a manner, that the other union(s) does not have the grounds of a case to be considered. In such circumstances, a union will not enter into an agreement or some other arrangement with an employer until the TUC has considered the matter.

Where a union has been de-recognised at any company or undertaking, no other affiliated union will attempt to recruit, organise or seek recognition at that company without prior consultation with the union that has been de-recognised. If agreement cannot be reached between the unions, the matter may be referred to the TUC under the terms of this code.

Principle 4

Inter-union disputes and industrial action

In cases of inter-union dispute (including concerning trade union membership, trade union recognition and/or negotiating rights demarcation of work or any other difficulty), no official or unauthorised stoppage of work or action short of a strike will take place before the TUC has had time to examine the issue. The union or unions concerned are under an obligation to take immediate and active steps to get their members to resume normal working.



UNIONS

GUIDANCE

Employment Relations Act 1999

Any inter-union differences arising under the Employment Relations Act 1999 may be dealt with under the provisions of the TUC disputes Principles and Procedures.

Application for recognition under Schedule 1

The TUC will provide assistance to unions applying to the Central Arbitration Committee for recognition under Schedule 1 of the Employment Relations Act 1999 and will try to minimise any inter-union problems and where appropriate can facilitate joint applications. A union preparing an application to the Central Arbitration Committee for recognition under the terms of Schedule 1 of the Employment Relations Act 1999 should notify the TUC general secretary, enclosing a copy of their proposed application to the CAC and any other relevant information, as early as possible and at least two weeks before submitting the application.

The TUC may provide advice and guidance at this stage and throughout the application process on the CAC procedures as they apply to each application and will ensure that all applications notified are dealt with as soon as possible and at least within two weeks. The TUC will not circulate the details it receives to other unions but it may, in its guidance, suggest that the union making the application to the CAC discusses the matter with another union or unions.

The right to accompany workers under s.10-15

The Employment Relations Act 1999, s.10-15, gives workers a statutory right to be accompanied by a fellow worker, a trade union official or a trade union representative, at a disciplinary or grievance hearing. This right applies in all workplaces and provides opportunities for unions to represent workers where there are no recognition arrangements.

These provisions should not, however, be used in any way that would undermine existing recognition arrangements. Where a union is recognised it would be expected that an accompanying representative would normally be provided by the recognised union.

However, a member of a non-recognised union may wish to exercise their right to be accompanied by their own union. In this case, the recognised union should be notified of the intention of the non-recognised union to take up a case under these provisions. Similarly, if a non-recognised union takes up the case of an individual who is not in any union, it should notify the recognised union.

TUC regulations governing procedure in regard to disputes between affiliated organisations

A. Prior notification – single union agreements (see notes on Principle 3, page 13):

In cases where a union is in the process of making a single union agreement, it should, at the initial stage of discussion, notify the TUC general secretary of that fact with as many of the following details as possible:

- (i) name and address of company and site
- (ii) nature of business
- (iii) number of employees currently, and prospectively, within the scope of the agreement;
- (iv) the extent of union membership, if any
- (v) whether and to what extent any other union has membership
- (vi) whether other unions were involved in making presentations claiming recognition to the company
- (vii) whether contact has been made with other unions and, if so, which

(viii) whether the employer is party to any national or other collective agreement and, if so, which, and with what unions.

B. On receipt of the details set out in A (i) to (viii), the TUC will aim to tender advice within two weeks. The TUC would not normally circulate the details it receives to any other union but it is possible that it would, in its guidance, suggest that the union making the single union agreement discusses the matter with another union or unions. In providing guidance, the TUC would take into account factors such as:

- (i) whether another union has a significant membership at the site
 - (ii) whether another union is recognised by the employer and for similar groups workers elsewhere.
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C. Dispute procedure

In the event of a dispute arising between affiliated unions, there should be a normal maximum period of eight weeks in which the unions concerned should have made efforts to resolve the issues between them, including a meeting at national level (see note on time limits, page 22).

D. On receiving a complaint the general secretary, or any person to whom they delegate authority, will ascertain whether the complainant union has taken the matter up with the head office of the respondent union, and no dispute between unions will be heard by a Disputes Committee (see regulation G below) until the general secretary, or any person to whom they delegate authority, is assured that the unions have made an effort to settle the dispute between themselves, including holding a meeting between national officials, although in exceptional circumstances this requirement may be waived.

E. If there is machinery within the industry for the settlement of disputes, no dispute between unions will be heard by a Disputes Committee unless the general secretary or any person to whom they delegate authority is assured that such machinery has been tried and has failed to settle the dispute, although in exceptional circumstances this requirement may be waived.

F. Where it appears to the general secretary or any person to whom they delegate authority that agreement might be reached by conciliation at an informal conference chaired by a member of the General Council or the general secretary or any person appointed by the general secretary, efforts will be made to persuade the disputants to follow this method. If the unions concerned agree to attend an informal conference, they will be expected to agree within 14 days on a day for the conference that is convenient to the TUC and the unions.

G. Where they consider it appropriate, the general secretary may refer a dispute between affiliated organisations to a Disputes Committee. A Disputes Committee will consist of no fewer than three persons appointed by or under the authority of the general secretary, being members of a panel comprising current and former General Council members, general secretaries and senior union officials of affiliated organisations and other respected persons. The general secretary may appoint a legally qualified person to chair the Disputes Committee. No person who has an interest in the dispute, or whose union has an interest in the dispute, will be appointed as a member of a Disputes Committee and the affiliated organisations party to a Disputes Committee hearing will be notified of the members of the committee prior to the date of the hearing.

H. There will be a Secretary to the Disputes Committees of the Congress ('the Secretary'), appointed by the general secretary. The Secretary may delegate any of their duties or functions under these regulations to such persons as they see fit, provided always that the Secretary remains responsible to the general secretary.

I. The Secretary will require the complainant union to furnish (if they have not already done so) explicit particulars of the complaint.

(1) In a case of alleged knowingly and active non-agreed recruitment of members, the circumstances about which a union wishes to complain, the following particulars will be provided, so far as they are particular to the case:

- (a) the names of the persons concerned, their places of work, and their grade or occupation
- (b) the date of joining the complainant union

- (c) the date up to which contributions have been paid
- (d) arrears, if any
- (e) letters of resignation, if any
- (f) evidence, if any, of the knowingly and active recruitment complained of (letters, leaflets etc).

In ordinary circumstances, there will be no hearing by a Disputes Committee until all these particulars are in the hands of the Secretary.

- (2) In cases concerning organising activities (seeking or accepting recognition and/or negotiating rights), demarcation, or wages and conditions of employment the complainant union will provide the following particulars, so far as they are relevant to the case:
 - (g) its agreement(s) with the employer or federation of employers concerned
 - (h) the extent of membership among the grade of workers concerned
 - (i) its agreement(s) with the union(s) with whom it is in dispute
 - (j) a description of the work in dispute.

J. Subject to regulations C, D, E, F, and 1 above, the complaint with full particulars will be conveyed by the TUC to the respondent union with a request for their comments. The respondent union will send a considered reply to the TUC within 14 days.

- (1) In a complaint of knowingly and active non-agreed recruitment, the respondent union will be asked definitely whether the workers concerned are members of their union and if so, will be required to provide the following particulars:
 - (a) original application forms
 - (b) the date of acceptance into the union (if not included above)
- (2) In cases concerning organising activities (seeking or accepting recognition and/or negotiating rights), demarcation of work, or wages and conditions of employment the respondent union will provide the following particulars, so far as they are relevant to the case:
 - (c) its agreement(s) with the employer or federation of employers concerned
 - (d) the extent of its membership among the grades of workers concerned

- (e) its agreement(s) with the union(s) with whom it is in dispute
 - (f) a description of the work in dispute.
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K. The reply of the respondent union will be sent by the TUC to the complainant union, which will inform the TUC within 14 working days whether it wishes to pursue the complaint.

L. Where a union wishes to pursue the complaint the TUC will inform the respondent union, and both unions will be expected to agree within 14 days on a date for a Disputes Committee hearing that is convenient to the TUC and the unions.

M. The general secretary will be empowered in the case of unnecessary or wilful delay on the part of either union at any stage in the procedure to fix a date for a Disputes Committee hearing.

N. In addition to the information provided under the preceding regulations, unions will as soon as possible submit a written statement of their case to the Secretary but in any event at least seven days before the date of the hearing.

O. At the hearing of the complaint before the Disputes Committee no new complaint may be raised without the consent of the Disputes Committee. In the event of such a consent being granted the disputants will be given a fair opportunity to prepare and present their cases on the new matters.

P. At the hearing, corroborative evidence may be produced. Originals or copies of all documents read or quoted by the disputants will be handed to the Secretary and copies of such documents supplied to the other disputants and the Disputes Committee.

Q. A Disputes Committee will investigate the causes and circumstances of the dispute and will give to the disputants a full opportunity to submit factual information and to present their views to the Disputes Committee. With the agreement of the disputants the Disputes Committee may discuss the dispute with such local union representatives and management representatives as it considers appropriate. The Disputes Committee will otherwise conduct its proceedings in such manner as it sees fit.

- R.** The basic approach of the Disputes Committee will be to seek to obtain an agreed settlement, whether of a permanent or an interim character, which is acceptable to all the disputants; and the Disputes Committee may at any time make such recommendations as it sees fit. But whenever the Disputes Committee considers it to be necessary, it will make an award. In deciding the dispute, the Disputes Committee will have general regard to the interests of the trade union movement and to the declared principles or declared policy of Congress but will in particular be guided by the Code of Practice that includes the Principles Governing Relations Between Unions, as amended by the General Council and adopted by the Congress from time to time (see also pages 24 to 25 'The role of TUC Disputes Committees In Disputes Between Affiliated Organisations'.)
- S.** The general secretary will send copies of the award of the Disputes Committee to all the disputants and to the General Council. Also, see Section 3, page 29 'Compliance with Decisions' and 'Advice'. Any issues arising from an Award of a Disputes Committee must be communicated to the general secretary, which may, in appropriate circumstances, be referred back to the Disputes Committee.
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Time limits

This note summarises the time limits to which reference is made in the above regulations.

The 1979 Congress decided that time limits should be introduced at each stage of the Disputes Procedures. The time limits are not to be regarded as fixed times for carrying out the various stages of the procedure; rather unions must aim to complete the various stages in less than the maximum time that is laid down. Indeed, every effort must be made by unions to resolve inter-union disputes without delay. Delays in this regard bring disrepute to the unions concerned and to the movement. Unions are urged to respect the time limits set out in these regulations and are reminded that any prospective Dispute Committee will take into account the manner in which the parties to a dispute have acted within the letter and spirit of these regulations and wider dispute principles and procedures.

The time limits are as follows:

- A maximum period of eight weeks in which the unions concerned should have made efforts to resolve the issues between them, including a meeting at national level. (Even where unions deal with disputes at, say, three levels – district, regional and national – it does not seem unreasonable that a local meeting should be held within two weeks and any subsequent meetings within two weeks at each stage) (regulation C).
- If the matter is reported to the TUC, and the TUC is satisfied that it has obtained the information from the complainant union as required under regulation 1, it will send it to the respondent union, which will send a considered reply to the TUC within 14 days (regulation J).
- The TUC will send the reply of the respondent union to the complainant union, which will, within 14 working days, inform the TUC whether it wishes to pursue the complaint (regulation K).
- Where a union wishes to pursue the complaint the TUC will inform the respondent union and both unions will be expected to agree within 14 working days on a date for a conciliation meeting or a Disputes Committee hearing that is convenient to the TUC and the unions (regulations F and L).



GUIDANCE



PRINCIPLES

The role of TUC Disputes Committees in disputes between affiliated organisations

A Disputes Committee's basic approach will be to seek to obtain a settlement, whether of a permanent or an interim character, that is acceptable to all of the parties involved. Depending on the circumstances, terms of a permanent or interim settlement may be accompanied by or embodied in a formal award or recommendation (also see Disputes regulation R).

Where the committee finds, having regard to Principle 4, that there should have been no official or unofficial stoppage of work or action short of a stoppage, they will require the union or unions concerned to take energetic steps to obtain a resumption of work.

In considering a case concerning membership (Principle 2), the committee will have regard to whether the recruitment complained of was knowingly active, and without agreement e.g. taking initiatives and making approaches, whether authorised or not, either directly or indirectly, to members of another union. The complainant union will provide evidence of the activity complained of (regulation 11 (a) to (f)). The views of the members concerned may also be sought.

If in the view of the committee the recruitment complained of was knowingly active, and without agreement and that as a consequence the complainant union suffered a material harm, the committee may adjudicate on the question of the level of financial compensation to the complainant, if agreement cannot be reached between the unions, (that will not exceed two years loss of contributions to the complainant union). In any such adjudication the committee will indicate the factors leading to the particular sum that has been decided on. The committee may also, depending on the circumstances of the case, issue a censure against the respondent union and specifically draw this to the attention of the General Council and/or Congress. The committee may, if it so decides, award that the respondent union prints the terms of the censure in a prominent position in its journal.

The committee may combine any of the foregoing in reaching a decision.

In deciding a case concerning Recognition (Principle 3) the committee will have regard to the following factors:

- (a) the efforts that the union opposing entry of another union or unions has itself made in trying to secure or retain a majority membership, the degree of organisation obtained over this period, the period over which any such efforts have been made, the extent and causes of any difficulties encountered by that union, and the likely prospect of that union securing or regaining a majority membership and/or negotiating rights
- (b) any existing collective bargaining or other representation arrangements in the establishment or undertaking or industry
- (c) the efforts that the union seeking entry is prepared to make in trying to secure a majority membership and negotiating rights and prospects of success in this regard
- (d) in circumstances in which no union has an agreement to negotiate on behalf of workers who are the subject of dispute, the opinion of the workers concerned will be taken into account.

In cases concerning sole negotiating rights or union membership agreements or arrangements (Principle 3, third and fourth paragraphs), in any adjudication the committee will take full account of the existing industry practices and agreements and the opinion of the workers concerned and any other material factors.

In making an award in regard to the issues within the terms of Principle 3, the committee may:

- issue a censure against the respondent union and/or adjudicate on a compensatory settlement against the respondent union that relates to any material harm suffered by the complainant union(s) through loss of recognition/negotiating rights and membership (that will not exceed two years loss of contributions to the complainant union) and/or require the respondent union to cease its organising activities, and/or specifically draw the action complained of to the attention of the General Council and/or Congress. In respect of any compensatory settlement the committee will indicate the factors leading to a particular sum being decided on.

In its decision, the committee may combine any of the foregoing terms.



AGREEMENT



Committee

Section 2

Disputes between employers and unions

Notification of disputes

Apart from the requirements of Principle 4 on unions to avoid stoppages of work arising from inter-union disputes, the union or unions concerned have the obligation to notify the TUC of any dispute, constitutional or unconstitutional, authorised or unauthorised, between a union and an employer, that involves directly or indirectly large bodies of workers, or that, if protracted, may have serious consequences.

Most industrial disputes are of short duration and involve few workers either directly or indirectly, and the General Council recognise the difficulties that may arise in deciding whether a particular dispute is of such a nature that it falls into the category described in the previous paragraph. Moreover, the union or unions concerned will be making every effort to secure a speedy settlement. Therefore, the only general advice that can be given to unions on the question of disputes involving only small numbers of workers is to notify the TUC of any dispute where they themselves cannot be certain that it will be settled speedily and will not have wider repercussions.

Action by the TUC

Even before notification by the union or unions directly concerned, the TUC may take an initiative. In all cases, whatever the source of information, the TUC general secretary will discuss with the union or unions concerned the causes and circumstances of the dispute, and whether the stage has been reached where it would be appropriate for the TUC to give assistance towards the settlement of the dispute.

The TUC will expect the union or unions concerned to ensure that every effort is made to settle the dispute through the normal procedures at local, district, and national level in the industry.

The possibility of assistance being given by the Advisory Conciliation and Arbitration Service will also be considered in cases where this appears to be suitable.

Where it has been decided that the TUC should take action to assist in the settlement of a dispute the general secretary of the TUC will decide on the most appropriate method of resolving the issue. Because of the importance of maintaining a flexible approach this may take various forms, ranging from informal discussions to consideration by a Disputes Committee.

Where a dispute with an employer is considered by a Disputes Committee, the committee will normally make a recommendation and will seek to establish that the parties to the dispute are prepared to act on it without delay. The recommendation may also include suggestions for changes in the negotiating arrangements and/or the disputes procedure to help avoid a similar difficulty occurring in the future.

If it is found in a particular case that there is a strong element of inter-union difficulty, and if the employer indicates that they will be prepared to accept the TUC's findings, the committee may make an award.



**CODE OF
PRACTICE**

RESOLUTION

Section 3

Compliance with decisions and TUC Rules 12, 13 and 14

Compliance with decisions

Affiliated unions are required to act in accordance with the procedure set out in Rule 12 and Rule 13 and to abide by decisions of the General Council and Disputes Committees.

The General Council will require the union or unions concerned to satisfy them that they have done all that they can reasonably be expected to do to secure compliance with such a decision, including taking action within their own rules if necessary.

Any refusal on the part of an affiliated union to give effect to a decision will be dealt with under Rule 12, 13 or 14 as may be appropriate.

Advice

If, in a particular case, a union is in doubt about its obligations under Rule 12 and Rule 13, about its capacity to give effect to those obligations, or about the course of action it should follow in accordance with this procedure, the TUC's advice should be sought.

TUC Rules 12, 13 and 14

TUC Rules 12, 13 and 14 are set out below in the form agreed at the annual Trades Union Congress in September 1976.

Rule 12 Industrial disputes

- (a) It will be an obligation on the affiliated organisations to keep the general secretary of the Congress informed with regard to matters arising between them and their employers and/or between one organisation and another, including unauthorised and unconstitutional stoppages of work, in particular where such matters may involve directly or indirectly large bodies of workers. The General Council or the general secretary will (if either should consider it necessary) disseminate the information as soon as possible to all organisations that are affiliated to the Congress and that may be either directly or indirectly affected.
- (b) The general policy of the General Council will be that, unless requested to do so by the affiliated organisation or organisations concerned, neither the General Council nor the general secretary will intervene so long as there is a prospect of whatever difference may exist on the matters in question being amicably settled by means of the machinery of negotiations existing in the trades affected.
- (c) If, however, a situation has arisen, or is likely to arise, in which other bodies of workers affiliated to Congress might be involved in a stoppage of work, or their wages, hours and conditions of employment imperilled, the General Council or the general secretary may investigate the matter by calling representatives of the organisation or organisations concerned into consultation, and may use their influence to effect a just settlement of the difference. In this connection the General Council or the general secretary, having given an opportunity to each organisation concerned to present its views on the matter and having ascertained the facts relating to the difference, may tender their considered opinion and advice thereon to the organisation or organisations concerned. Should the organisation or organisations refuse such assistance or advice, the general secretary will duly report thereon to the General Council and/or the General Council will duly report thereon to Congress or deal with the organisation under Clauses (b), (c), (d) and (h) of Rule 13.

- (d) Whenever the General Council intervene in relation to a matter within the provision of clause (c) of this Rule, and the organisation or organisations concerned accept the assistance and advice of the General Council, and where, despite the efforts of the General Council the policy of the employers enforces a stoppage of work by strike or lockout, the General Council will forthwith take steps to organise on behalf of the organisation or organisations concerned all such moral and material support as the circumstances of the dispute may appear to justify.

Rule 13 Disputes between affiliated organisations

- (a) Where disputes arise or threaten to arise between affiliated organisations, the General Council or the general secretary of the Congress will use their influence to promote a settlement.
- (b) It will be an obligation on the affiliated organisation or organisations concerned to notify the general secretary when an official stoppage of work is contemplated in any dispute between affiliated organisations, whether relating to trade union recognition, trade union membership, demarcation of work, or any other difficulty. No affiliated organisation will authorise such a stoppage of work until the dispute has been dealt with under the provisions of Clauses (e) to (h) of this Rule.
- (c) Where a dispute between unions has led to an unauthorised stoppage of work, it will be an obligation of the affiliated organisation or organisations concerned to take immediate and energetic steps to obtain a resumption of work.
- (d) The affiliated organisation or organisations concerned will notify the general secretary as soon as possible of any stoppage of work that involves directly or indirectly large bodies of workers, or that, if protracted, may have serious consequences. In addition to such notification, the affiliated organisation or organisations concerned will inform the general secretary of the causes and circumstances of the dispute and of the steps taken or proposed by it or by them to secure a resumption of work.
- (e) Either on notification from an affiliated organisation as required by Clause (b) or Clause (d) of this Rule, or on the application of an affiliated organisation, or whenever they consider it to be necessary, the general secretary may investigate cases of dispute

or disagreement between affiliated organisations and may decide on the most appropriate method of resolving the issue. Where they consider it appropriate the general secretary may refer any such case to a Disputes Committee of the Congress for resolution in accordance with the regulations governing procedure in regard to disputes between affiliated organisations (as amended by the General Council and adopted by the Congress from time to time). In the event of such a reference, the general secretary may summon affiliated organisations to appear as parties before a Disputes Committee and will require such organisations to submit to that committee any information that they or the committee considers to be essential to enable the committee to adjudicate on the case

- (f) If an affiliated organisation refuses or fails to respond to a summons by the general secretary to appear before a Disputes Committee, the general secretary will investigate the circumstances of such a refusal or failure by calling representatives of the organisation into consultation and inviting the organisation to give reasons for its conduct. If, after such investigation, the general secretary does not withdraw their summons and the organisation persists in its refusal or failure to appear before the Disputes Committee the general secretary will report the matter to the General Council who may deal with the organisation under Clause (h) of this Rule as if it were a case of failure by that organisation to comply with an award of a Disputes Committee.
- (g) If an organisation that is a party to a dispute fails or refuses to submit its case to a Disputes Committee as provided by this Rule, the Disputes Committee may proceed to make an award in the absence of that organisation and in any event it will not be permissible for that organisation to raise the dispute at any Annual Congress.
- (h) Affiliated organisations summoned by the general secretary to appear as parties before a Disputes Committee will be bound by any award of the Disputes Committee and will comply forthwith with such award. Should any such organisation refuse or fail forthwith to carry into effect such an award (in whole or in part) the General Council, having received the award, may report on the matter as they think fit to all affiliated organisations, and/or may either:
 - (i) deal with the organisation under Clauses (b), (c), (d) and (h) of Rule 13; or

- (ii) report the matter to the next Annual Congress to be dealt with as that Congress may decide.

Rule 14 Conduct of affiliated organisations

- (a) If at any time there appears to the General Council to be justification for an investigation into the conduct of any affiliated organisation on the ground that the activities of such organisation may be detrimental to the interests of the trade union movement or contrary to the declared principles or declared policy of the Congress, the General Council will summon such organisation to appear by duly appointed representatives before them or before such committee as the General Council consider appropriate in order that such activities may be investigated. In the event of the organisation failing to attend, the investigation will proceed in its absence.
- (b) If after an investigation under:
 - (i) clause (a) of this Rule or
 - (ii) an investigation under clause (c) of Rule 11 or
 - (iii) an investigation and report to the General Council by the general secretary of the Congress under clause (f) of Rule 12 or
 - (iv) an investigation by a Disputes Committee under clauses (e) and (g) of Rule 12 and a refusal or failure to comply with its award under clause (h) of Rule 12

It appears to the General Council that the activities of the organisation may be detrimental to the interests of the trade union movement or contrary to the declared principles or declared policy of Congress, the General Council will notify the organisation of that fact, specifying the grounds on which that charge is made and inviting the organisation to present its views to the General Council. If, after considering those views, the General Council decide that the said activities are detrimental to the interests of the trade union movement or contrary to the declared principles or declared policy of Congress, the General Council will direct the organisation to discontinue such activities forthwith and undertake not to engage therein in the future.

- (c) Should the organisation disobey such direction, or fail to give such undertaking, the General Council is hereby empowered in its discretion to order that the organisation be forthwith suspended from membership of the Congress until the next Annual Congress.

- (d) The General Council will submit a report on the matter to the next Annual Congress.
- (e) No affiliated organisation will circularise, either in writing or by general oral communication, other affiliated organisations on any matter concerning the business of the Congress, without first securing the General Council's authorisation for such circularisation.
- (f) Should any such unauthorised circularisation take place concerning a motion for the Agenda of the Annual Congress or any Special Congress or Conferences, and the General Council after investigation decides that those responsible for such motion connived at, or were party to, or concerned with such circularisation, the motion will not be included in the Agenda.
- (g) The General Council may investigate any violation of the provisions of Clauses (e) and (f), and if, after such investigation, they decide that any organisation has acted deliberately in such violation they may deal with the organisation by investigation, suspension and report under the terms of Clauses (b), (c) and (d) of this Rule.
- (h) Any affiliated organisation dealt with under this Rule will have the right to appeal to the next Annual Congress and may appoint delegates in accordance with Rules 17 and 18 to represent the organisation on the appeal and at the Annual Congress if the appeal is allowed. Congress will on such appeal have final authority to deal with the matter by way of re-admission, further suspension, or exclusion from membership of the Congress.



GUIDANCE



PRINCIPLES

Section 4

Background

Historical note on the TUC disputes principles and procedures

The amendments made to this version of the disputes principles and procedures are the latest in a long line of amendments made since the establishment of the principles in 1939.

In 1939 the Bridlington Congress adopted a series of recommendations designed to minimise disputes between unions over membership questions. They laid down the procedures by which the TUC dealt with complaints by one organisation against another and considered disputes between unions. They were drawn up because trade unionists recognised that, in situations where more than one union was capable of representing a particular grade of worker, it was necessary to prevent the indiscriminate proliferation of unions if stable and rational trade union structures and collective bargaining machinery were to be developed. Their existence has also prevented the instability that would occur if breakaway unions were formed, or if groups of workers were able to move from one union to another without agreed regulation and procedure.

These procedures, which had come to be known as the Bridlington Principles and that were set out in the booklet *Relations Between Unions*, were supplemented in 1969 by further recommendations adopted by the special Congress held at Croydon. They gave the General Council further responsibilities to intervene under Rule 11 in disputes between employers and workpeople, including unauthorised or unconstitutional stoppages of work. Moreover, amendments to Rule 12 of Congress gave the TUC considerably greater powers in respect of inter-union disputes, whether official or unofficial. In particular it was laid down that no affiliated union should authorise

a stoppage of work in pursuance of an inter-union dispute until the matter had been considered by the TUC. As a result of these changes the TUC was enabled to take action not only in 42 respects of differences over membership, which were covered by the Bridlington Principles, but also about inter-union differences over recognition, demarcation, and wages and conditions of employment.

The Croydon decisions, which had been set out in a separate publication (called *TUC Disputes Procedure*) to the Bridlington Principles, were codified and brought together in 1973 in one publication, called *A Guide to the Avoidance of Disputes between Unions and the Settlement of Disputes with Employers*. The 1973 booklet also contained some minor amendments to the Principles.

In 1976 a new booklet, called *TUC Disputes Principles and Procedures* was published. This was drawn up following the approval by the 1976 Congress of a revision of the TUC's Rules 10, 11, 12 and 13 and the regulations governing procedure with regard to disputes to bring them into line with recent practice. It also included guidance to unions on the recognition procedures of the Employment Protection Act. However, it made no changes to the Principles themselves other than the addition of a preface making clear what had always been understood by affiliates that the Principles include the main text and the notes and both are to be read together as having equal status and validity.

The 1979 Congress approved a new note to Disputes Principle 5 that brought the guidance by the Principle into line with the factors that unions in practice asked disputes committees to take into account. It also included, for the first time, guidance to unions on mergers with non-affiliates and union membership agreements.

The 1979 Congress also decided that a series of time limits should be introduced at each stage of the procedure. Unions would be expected to observe these time limits.

However, they were not to be regarded as fixed times for carrying out the various stages of the procedure; rather unions should aim to complete the various stages in less than the maximum time laid down.

The General Council also drew particular attention to the need to

prevent inter-union disputes arising by the further development of procedures for resolving particular issues and of specific arrangements concerning spheres of influence, transfers of members and benefit rights, recognition of cards, and demarcation of work. Following a resolution adopted by the 1985 Congress concerning single union agreements, the General Council agreed an amendment to Note (e) to Principle 1 that provided that no union should enter into a sole negotiating agreement where another union(s) would be deprived of their existing rights of recognition or negotiation except by prior consultation and agreement of the other union(s) concerned. This change came into effect from 18 December, 1985.

The 1987 Congress adopted a statement by the General Council on an understanding that all the issues raised in eight motions and their amendments were worthy of consideration and should be the subject of detailed examination by a Special Review Body (SRB).

Subsequently, the SRB reported to the General Council and the General Council decided that a code of practice could play a useful role in improving inter-union relations in regard to organising and seeking recognition on new sites. The terms of the code of practice would be taken into account by disputes committees when considering cases of dispute or disagreement between affiliated organisations.

The code contained a trial period for prior notification of single union agreements, a provision on non-industrial action clauses in procedure agreements, a requirement in regard to co-operation with inward investment authorities, and a further requirement that unions, when negotiating recognition agreements that have implications for substantive factors, are expected to have regard to the general level of terms and conditions of employment that are already the subject of agreement with the company concerned.

The SRB also considered concerns that Principle 5, as it was currently drafted, had the effect of protecting the position of unions with moribund agreements at the expense of a union that has some membership but no agreement. Although it was accepted that Principle 5 was intended to protect the recognised union's position where it had a majority membership, it was argued that where a union had an agreement but few or no members it should have less

protection. Whilst Principle 5 was actually intended for use in these situations there seemed to be a general belief that it was not. The SRB therefore proposed that Principle 5 and its note be amended to merge the two to remove any doubt about their respective status and to add two clauses (c and d), the provisions of which would be considered by any disputes committee.

The 1988 Congress adopted the proposals of the SRB in relation to the code of practice and Principle 5. These continued until the publication of the revised edition in June 2000.

In November 1993 the General Council approved a series of changes to the disputes principles and procedures and accompanying paragraphs to take account of the provisions of the Trade Union Reform and Employment Rights Act, particularly as they related to trade union membership. These changes enabled the TUC to maintain an effective role in inter-union relations.

In September 2007, Congress agreed changes to Principle 3 recommended by the TUC Executive Committee in the annual report to Congress. These amendments included adding a reference to situations where a union is currently engaged in organising activity. It also added two new paragraphs to the notes on Principle 3 – “Existing organising activity” and “Changes to ownership, mergers, acquisitions and other transfers of employment” – of which the latter has now been incorporated into Principle 3 itself.



Useful resources

Although problems will arise from time to time, the overwhelming majority of inter-union disputes are resolved informally by doing what union officers do best – sensible negotiation, compromise and agreement.

Every union will have its own internal procedures for resolving potential disputes with another union – make sure you know what the procedure is within your own union, to whom you are expected to refer potential disputes and the name of the senior official within your union responsible for inter-union relations.

Whilst they play no role in resolving inter-union disputes the TUC's regional offices and Wales will provide a range of opportunities for you to network with officers, organisers and activists from other unions. Contact your TUC regional secretary (see below) for more information.

The TUC can assist unions to develop positive joint working arrangements, or better ways of working together. Contact the TUC's Head of Organisation and Services, Kevin Rowan, on 020 7467 1383 for more information.



TUC contacts

The TUC has offices in six English regions and Wales. These are part of the organisation and services department.

Wales TUC develops policy on all devoted matters and others specific to Wales. Its General Council also oversees the implementation of UK-wide or international matters agreed by the TUC's General Council. In Scotland the STUC is a separate organisation, while in Northern Ireland the TUC has links with ICTU.

Midlands Region

24 Livery Street
Birmingham B3 2PA
Tel: 0121 236 4454
Web: tuc.org.uk/midlands

REGIONAL SECRETARY

Lee Barron
Email: lbarron@tuc.org.uk

Northern Region

Commercial Union House
39 Pilgrim Street
Newcastle upon Tyne NE1 6QE
Tel: 0191 232 3175
Web: tuc.org.uk/northern

REGIONAL SECRETARY

Beth Farhat
Email: bfarhat@tuc.org.uk

North West Region

Jack Jones House
1 Islington
Liverpool L3 8EG
Tel: 0151 482 2710
Web: tuc.org.uk/north-west

REGIONAL SECRETARY

Lynn Collins
Email: lcollins@tuc.org.uk

Southern & Eastern Region

Congress House
Great Russell Street
London WC1B 3LS
Tel: 020 7467 1220
Web: tuc.org.uk/sertuc

REGIONAL SECRETARY

Megan Dobney
Email: mdobney@tuc.org.uk

South West Region

Church House
Church Road
Filton
Bristol BS34 7BD
Tel: 0117 947 0521
Web: tuc.org.uk/south-west

REGIONAL SECRETARY

Nigel Costley
Email: ncostley@tuc.org.uk

Wales TUC

Transport House
1 Cathedral Road
Cardiff CF11 9SD
Tel: 029 2034 7010
Email: wtuc@tuc.org.uk
Web: wtuc.org.uk
GENERAL SECRETARY
Martin Mansfield
Email: mmansfield@tuc.org.uk

Yorkshire and the Humber Region

West One
114 Wellington Street
Leeds LS1 1BA
Tel: 0113 242 9696
Web: tuc.org.uk/yorkshire-and-humberside
REGIONAL SECRETARY
Bill Adams
Email: badams@tuc.org.uk

Northern Ireland Committee, ICTU

4–6 Donegall Street Place
Belfast BT1 2FN
Tel: 028 9024 7940
Email: info@ictuni.org
Web: ictuni.org
ASSISTANT GENERAL SECRETARY
Peter Bunting
Email: peter.bunting@ictuni.org

Scottish TUC

STUC Centre
333 Woodlands Road
Glasgow G3 6NG
Tel: 0141 337 8100
Email: info@stuc.org.uk
Web: stuc.org.uk
GENERAL SECRETARY
Grahame Smith
Email: gsmith@stuc.org.uk





PRINCIPLES

SETTLEMENT

Published by
Trades Union Congress
Congress House
Great Russell Street
London WC1B 3LS
tuc.org.uk

March 2016

ISBN 978 1 85006 986 7

Design by Chapman Design

Print by College Hill Press



UNIONS

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