



# Union equality reps: promoting equality and preventing discrimination

A TUC Briefing (August 2014)

## Far from equal

Despite 40 years of equality legislation and an increasingly diverse workforce, significant inequalities persist in Britain's workplaces.

There is a 30 per cent gap in the employment rate between working age disabled people and non-disabled people. Disabled people are more likely to be in lower skilled jobs and three in ten earn less than the living wage. People with mental health conditions and learning disabilities are considerably more disadvantaged.<sup>1</sup>

There is still a significant gender pay gap, especially for women working part-time. Pregnancy and maternity discrimination is still rife despite the strengthening of employment protections and improved rights to leave.<sup>2</sup> Many older women find themselves stuck in low paid, part-time work. Nearly half of women over 50 work part time and the majority earn less than £10,000 a year.<sup>3</sup>

Half of young black men are unemployed – double the unemployment rate for young white men. They experienced the sharpest rise in unemployment as a result of the 2008 recession and austerity.<sup>4</sup> There is evidence that race still plays a part in recruitment decisions. Department for Work and Pensions research found that equally qualified candidates with names suggesting a black or ethnic minority background were much less likely to be shortlisted than those suggesting a white background.<sup>5</sup>

We rightly celebrate the legal advances in recognising same-sex relationships but a large minority of public opinion (about a third) are still hostile to equality for lesbian, gay, bisexual and transgender (LGBT) people. LGB adults are more than twice as likely to report being bullied or discriminated against than heterosexual employees.<sup>6</sup> One in four transgender people feel they have been discriminated at work in the past year.<sup>7</sup>

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<sup>1</sup> Coleman, Sykes and Groom, *Barriers to Employment and Unfair Treatment at Work: a quantitative analysis of disabled people's experiences*, (EHRC, 2014)

<sup>2</sup> <http://www.slatergordon.co.uk/media-centre/press-releases/2013/03/no-mothers-day-celebration-for-women-returning-from-maternity-leave/>

<sup>3</sup> *Age Immaterial: Women over 50 in the Workplace* (TUC, 2014)

<sup>4</sup> *Youth unemployment and ethnicity* (TUC, 2012)

<sup>5</sup> Wood, Hales, Purdon, Sejersen and Hayllar, *A test for racial discrimination in recruitment practice in British cities* (DWP, 2009)

<sup>6</sup> Hoel, Lewis and Einarsdottir, *The ups and downs of LGBs' workplace experiences* (Manchester Business School, 2014)

<sup>7</sup> Fundamental Rights Agency, *LGBT Survey 2012*

## Union effect

Many businesses are waking up to the reality of having to effectively recruit, retain and manage an increasingly diverse workforce and many understand the potential benefits of doing so (e.g. a more engaged workforce, improved recruitment and retention, fewer grievances and better dispute resolution, reaching a more diverse customer base and better understanding of diverse service users' needs). Equal opportunities policies have become more widespread in recent years. Three-quarters of workplaces are now covered by a formal equal opportunities policy and such policies are almost universal in large or unionised workplaces.<sup>8</sup> But employers' high level commitments to equality have not become a reality for many in the office or on the shop floor. The vast majority of workplaces do not monitor or review their employment or pay practices to see if they are supporting equality or leading to discrimination. Very few workplaces have measures to attract a diverse range of applicants. Only a quarter provide training to raise awareness of equal opportunities policies among their managers and staff.<sup>9</sup>

Academic research shows that where a union is recognised and that union is able to influence decision-making on equality issues through negotiation or consultation, equal opportunities policies are far less likely to be “empty shells”. In these workplaces, it is more likely that steps are taken to reach out to under-represented groups, procedures are in place to encourage women returners back to work after having children, there are reviews of pay rates to check for discrimination, and a wide range of flexible working and family-friendly arrangements are more likely to be available.<sup>10</sup> The researchers conclude that union equality reps “may well have the potential to have a significant influence over the equal opportunities practices adopted within British workplaces”.<sup>11</sup>

Trained equality reps in the workplace can also help ensure that equality is properly considered as part of all workplace consultation and bargaining activities and proposals on pay, hours, working conditions, redundancies and restructuring do not disadvantage or discriminate against particular groups.

*“If a new Government enacts only one new piece of equality legislation it should be to require equality representatives at workplaces, who would be involved in drawing up and enforcing employment and pay equity plans. Trade unions were once part of the problem – today, they are an essential part of the solution”<sup>12</sup>*

*Professor Sir Bob Hepple QC*

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<sup>8</sup> Workplace Employment Relations Studies 2011(BIS, 2013) and 2004 (BIS, 2006)

<sup>9</sup> WERS 2011 (BIS 2013)

<sup>10</sup> Bacon and Hoque, *The Role and Impact of Trade Union Equality Representatives in Britain*, British Journal of Industrial Relations, June 2012 (LSE, 2012)

<sup>11</sup> Bacon and Hoque, *Unions and workplace equality: evidence from the 2004 Workplace Employment Relations Study* (report on behalf of TUC Equality reps project, 2010)

<sup>12</sup> Sir Bob Hepple QC, “Meeting the challenges to discrimination law”, EOR (March 2014)

## The missing link

Anyone who has dealt with discrimination at work will know it is rarely a one-off occurrence. It often arises out of a particular workplace culture, policy or practice. They will also know that it is rare to find an individual who is in a minority or a vulnerable position at work who is willing to stand up and challenge the status quo. Few individuals will have the resilience and the financial, legal and emotional support to formally complain and pursue a case all the way to tribunal (especially since the introduction of fees for employment tribunals). Even if they do and they succeed, they will get financial compensation for any loss suffered (that is, if the employer pays the award, and in half of cases they don't)<sup>13</sup>. The worker won't get their job back and it won't necessarily lead to change in the workplace.

The case for union equality reps in preventing discrimination and advocating on behalf of those who are vulnerable to it, has grown stronger since the coalition Government came to power. In 2009, 3 in 5 people faced with a discrimination problem did not know their rights and 2 in 5 did nothing or tried and failed to get advice so abandoned their case.<sup>14</sup> This was before this Government cut £14m of funding for 285 frontline organisations when it removed the Equality and Human Rights Commission's grants budget. It was before they made access to legal aid so difficult. It was before they repealed the statutory discrimination questionnaires that allowed an individual to get information from their employer to establish whether or not they had a case. And it was before individuals were charged £250 to lodge a discrimination claim at tribunal and a further £950 to get a case heard. Since fees, we've seen an 80% fall in sex discrimination cases, a 60% fall in race cases, a 60% fall in sexual orientation cases and a 46% fall in disability cases.<sup>15</sup>

The coalition Government is currently repealing powers enabling employment tribunals to make recommendations that an employer change their policies or practice following a finding of discrimination. The TUC fought for such powers to be included in the Equality Act 2010 as a way of ensuring lessons were learned and others were protected from similar treatment.

Trained union equality reps in the workplace help ensure problems are identified sooner and there is earlier resolution of disputes. They also help ensure action is taken at a collective level to prevent discrimination arising in the first place and to encourage a culture of dignity and respect for all workers. Many have drawn parallels with union health and safety reps who have significantly reduced injury rates and have helped develop a positive safety culture in unionised workplaces.<sup>16</sup>

<sup>13</sup> IFF Research, *Payment of Tribunal Awards – 2013 Survey*, BIS (2013)

<sup>14</sup> Borland et al, *Responding to discrimination: the geography and geometry of advice provision in England, Scotland and Wales*, (EHRC, 2009)

<sup>15</sup> <http://www.tuc.org.uk/workplace-issues/employment-rights/tribunal-fees-have-been-%E2%80%99Chuge-victory%E2%80%99D-britain%E2%80%99s-worst-bosses>

<sup>16</sup> TUC, *The union effect – how unions make a difference to health and safety* (TUC, May 2011)

*“I believe that equality reps are the missing link. Rather than just responding to individual complaints about discrimination, reps can tackle the structural problems that cause inequalities. They don’t just make a huge difference at work, when we get it right they can have an impact beyond the workplace.”*

*Diana Holland, Assistant General Secretary, Unite*

## Building stronger unions

Unions, like businesses, need to reflect the diversity of the wider workforce to be sustainable. The TUC Equality Audit 2014 shows that three-quarters of unions have made a commitment in their rulebook to advance equality and tackle discrimination in all that they do and a majority have an action plan in place to achieve this objective. However, challenges remain, for example, in the majority of unions women and BME workers are under-represented in shop steward, branch officer and health and safety rep roles. The Audit also suggests that despite recent progress in unions actively reaching out to LGBT and disabled workers, more needs to be done to ensure they are properly represented and involved in union structures and activities.

Equality reps can help make good this gap between unions’ ambition and current reality. They can raise awareness of equality issues, help get them onto the union bargaining agenda and advise those in mainstream roles on measures to make union branch or workplace structures more inclusive. It is also a position that has attracted many women and BME members to play an active role in the union for the first time and many have progressed into other roles.<sup>17</sup>

*“If unions can’t recruit from all sections of the workforce and don’t get equal participation in their bargaining and decision-making then they will struggle to sustain and grow their membership. Without strong unions, the workplace will be a less fair and more unequal place for everyone.”*

*Frances O’Grady, TUC General Secretary*

## The case for statutory rights

The case for statutory rights for equality reps is no different from other union reps: with time off and the necessary facilities to carry out the role, they are more likely to be effective and the benefits of union representation for individuals and workplaces are more likely to be realised.

Other union reps are entitled to paid time off to carry out a defined set of duties including negotiating with employers, representing members, performing the duties of a health and safety rep and performing the duties of a union learning rep. They also get paid time off to attend training relevant to their role. While this is a cost to employers, they reap enormous benefits from union representation. Many union reps also give considerable amounts of their own time to improving the workplace and representing their members. It has been estimated that the work of union reps

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<sup>17</sup> TUC Equality Audit 2014, (TUC 2014)

has saved employers £22m-£43m as a result of reducing the number of tribunal cases, saved £136m-£371m in fewer working days lost to workplace injury, saved between £82-£143m in recruitment costs as a result of reduced early exits, and led to productivity gains of £4bn to £12bn.<sup>18</sup>

*“There are positive benefits for employers, employees and for union members in encouraging the efficient performance of union representatives’ work, for example in aiding the resolution of problems and conflicts at work. The role can be both demanding and complex. In order to perform effectively union representatives need to have reasonable paid time off from their normal job in appropriate circumstances.”*

*Acas code of practice on time off for trade union duties and activities*

As outlined above trained union equality reps could bring specific additional benefits to the workplace. A survey of equality reps found that if managers engaged with equality reps and provided reasonable paid time off, reps were significantly more likely to report that they had improved employer practice.<sup>19</sup>

Some equality reps have other roles within the union which would give them statutory rights to time off and facilities, but it is important to note that if reps take on additional roles, they need additional time to reflect their increased workload.

*“In determining what time off, training and facilities should be agreed, consideration needs to be given to the relationship between these specialists [equality reps] and other union representatives concerned with collective bargaining and ULRs.”<sup>20</sup>*

*Acas, Trade Union Representation in the Workplace Booklet*

## Frequently Asked Questions

### **What are equality reps?**

Trade union equality reps are volunteer workplace or branch reps that have been specially trained on equality issues either by the TUC or their own union. They work as part of the union team in a workplace or branch to advance equality and tackle discrimination and harassment.

Some reps have multiple roles so an equality rep may be a shop steward, health and safety rep or union learning rep too.

Equality reps may have a particular aspect of equality that they specialise in, for example, they may be a women’s rep or disability champion.

<sup>18</sup> TUC, *The facts about facility time* (TUC, October 2011)

<sup>19</sup> Bacon & Hoque, *TUC Union Equality Representatives Survey 2009*

<sup>20</sup> Acas, (Acas, March 2014)

## What kinds of things do equality reps do?

Some of the activities that an equality rep might carry out include:

- Working alongside other union reps such as shop stewards, union learning reps, safety reps and branch officers, to recruit, organise, represent and involve workers from all backgrounds in the union.
- Raising awareness of harassment, discrimination and equality issues in their workplace and community.
- Checking how representative the workplace and union membership is of the community and organise with others to identify and remove barriers to equality.
- Working as part of the union team with employers to put in place measures to secure genuine equality of opportunity (including positive action) and to build a culture of dignity and respect in the workplace.
- Listening to members' equality issues and concerns and linking up with other union reps to help get them addressed.
- Checking workplace policies, practices and agreements and the impact they have on different groups and working with other union colleagues to secure action to tackle discrimination or advance equality.
- Supporting individual members with equality-related problems and advising other union reps dealing with such disputes.
- Participating in joint union-employer equality committees or networks.

*“The Commission welcomes a proposal from the TUC... for a system of trade union equality representatives. These individuals would provide a lens of equality across workplace practices, raise issues related to equality and diversity, tackle discrimination, resolve conflict and seek solutions with management alongside other union colleagues.”*

*Women & Work Commission*

## How many equality reps are there?

The TUC trains about 3,000 union reps a year on its equality courses, including its equality rep training, and this is on top of the thousands of reps, including equality reps, attending courses provided by individual unions. Nineteen unions have a provision or a practice of appointing equality reps at workplace or branch level. These unions account for 87% of union members, demonstrating widespread support for the role. However, this doesn't mean that all members of these unions have access to equality reps in their branch or workplace or that the equality reps have employer support to carry out their role. Equality reps are still a relatively new phenomenon and without the statutory rights to paid time off and facilities that other union reps have, equality reps can be prevented from carrying out their duties as effectively as they would like. Additionally, this can mean some unions struggling to get volunteers to stand for the position as they fear they will lack adequate time to train and perform the role.

## Case studies

### **Promoting equality in a major energy company**

Paul has been an equality rep for the last nine years and works for one of the major energy companies. With employees in a wide variety of jobs ranging from call centre operators to central heating engineers, his employer is keen to promote its corporate social responsibility ethos, part of which is a commitment to equality.

Paul has developed a team of equality reps to work with him, based at each of the company's sites. They provide support for LGBT, black workers' and disabled workers' staff equality networks that their employer sponsors. The expert advice provided by Paul and his team are valued by his employer, not only for their input into things like the company's Dignity at Work policy but for their assistance in avoiding potentially costly legal cases that could occur if a discrimination issue is not properly dealt with under workplace grievance and disciplinary mechanisms.

One of Paul's most recent achievements has been to raise the profile of the problems transgender staff experience. This has led to the drafting of new policy guidelines for managers on how to deal with the discrimination, harassment and bullying that staff undergoing gender reassignment might experience.

### **Preventing discrimination in a higher education establishment**

Sharon has been an equality rep at a university for the last three years and provides valuable support to managers and staff alike. She has played a particular role in ensuring decisions on matters such as redundancies and sickness absence are taken with due regard to potential discrimination issues. Her expertise in equality matters has been gained through her specialist training – most recently through the TUC Equalities diploma, which she is completing on line.

Thanks to Sharon's persuasive negotiating, the university has adopted a Disability Leave policy. This enables employees with a disability to get time off for treatment, therapy, rehabilitation and other matters related to their disability, without this being recorded as sickness absence and potentially triggering disciplinary measures under a sickness absence policy.

Sharon has also played an important part in negotiations with her employer over redundancy proposals, which are a very current issue in the higher education sector and is helping to ensure that staff reductions do not result in a weakening of the gains achieved in recent years in the number of women working in science and technology research.

Sharon's valued contribution to equality practice in her organisation has been recognised by her employer, who has provided her with a day a week of facility time. This enables her to properly carry out her duties as an equality rep and puts her firmly on par with other union reps like health and safety reps.