



work trials

a briefing for union reps

Introduction

Work Trials are helping more and more unemployed people to move into jobs. As they become more common workers will want to know what Work Trials are and what their implications are for their workplace. This report, written for shop stewards and other union representatives, gives you some of the facts about Work Trials and suggests some of the issues you may want to keep an eye on.

What are Work Trials?

Work Trials are an employment programme run by Jobcentre Plus (JCP). They encourage employers to consider taking on people who are often thought to have difficulties getting jobs. This includes lone parents, long-term unemployed and disabled people. Work Trials help people looking for a job and to test whether a particular job is suitable. At the same time Work Trials help them to overcome any misconceptions or concerns that the employer may have.

Work Trials are available to people claiming Income Support, Incapacity Benefit (or, from October 2008, Employment and Support Allowance) from the beginning of their claim. Most people on Jobseeker's Allowance cannot usually have a Work Trial until they have been claiming for six months (but people from some disadvantaged groups, like ex-offenders and refugees, have immediate access). Participation is entirely voluntary and people on a Work Trial continue to receive their usual benefit: they can leave at any time without risk to their benefit. Participants receive a daily allowance and travel expenses from Jobcentre Plus, but the employer does not pay a wage during the trial period.

Work Trials can last for up to 30 working days, but Work Trials that last this long are expected to be the exception rather than the rule and the numbers are expected to be minimal. There are specific National Minimum Wage Regulations that exclude work in a Work Trial from N.M.W. coverage.

To qualify for a Work Trial, a job must be a genuine vacancy (one that the employer would have been trying to fill even if there were no Work Trials available), for at least 16 hours a week and for at least three months. Employers are expected to run Work Trials in a positive way – with the expectation that they will offer the job unless the claimant proves not to be suitable.

Sometimes people on the New Deal may be told that a work experience option is a Work Trial. This can be confusing, because the two sound similar, but they have different rules:

- For people who get Jobseeker's Allowance New Deal work experience placements are usually compulsory.
- Work experience with a voluntary sector or environmental organisation
 - can last for up to 26 weeks,
 - will not normally lead to a permanent job, and
 - participants are normally paid their benefits plus an extra £15 a week.

Reg. 12 (7) National Minimum Wage Regulations 1999, as amended by the National Minimum Wage Regulations 1999 (Amendment) Regulations 2008.

Subsidised jobs offered through the New Deal are not strictly work experience, but they may sometimes be confused with work experience or Work Trials. From the first day in the job they should normally offer the same terms and conditions as would be offered to other workers and the job should continue after the subsidy ends.

What has been the response to Work Trials?

Work Trials were first introduced in 1989, and have operated on a fairly small scale - until recently the number of people taking part each year has usually been below five thousand. Although Work Trials are a small-scale programme they do have a good record of helping some of the most disadvantaged people to get jobs: official evaluation exercises undertaken by DWP consistently report job outcome rates in excess of 50%.

That is why the TUC has accepted Work Trials. We are sympathetic to the plight of long-term unemployed people, unemployment is a threat to all workers and the people who need to be helped are our friends, neighbours and relatives.

But do not under-estimate the difficulty of this issue for us. Unions will always be worried when anyone has to do work without being paid a wage:

- We think it is unfair to the individual when they do the same work as others but, unlike them, do not get paid for it.
- There is a risk of exploitation. Some unscrupulous businesses will be attracted by the opportunity of getting unpaid workers, and will recruit people through Work Trials but with no intention of eventually hiring them.
- There is a risk that workers who are paid the rate for the job will lose their jobs to unpaid workers.
- There is also a risk that businesses that do not use unpaid workers will be at a competitive disadvantage, and their workers' jobs will become insecure. (This also seems unfair to the business owners.)

The views of people who have taken part in Work Trials seem to reflect these stresses as well. A study of employment support for people on Incapacity Benefit found that most disabled people who have taken part in a Work Trial think that it has been advantageous for them in the long-term. At the same time, however, most are also concerned about the fact that employers are getting work done without having to pay a wage.

Work Trials are going to be more common

The TUC expects the number of people taking part in Work Trials to rise steeply in the next two years. Firstly, trades unionists in Jobcentre Plus tell us that officers who advise benefit claimants are being encouraged to make much more use of Work Trials. Secondly, from October 2008, many lone parents will be transferred to Jobseeker's Allowance, and will have to look for jobs to get their benefit; JCP plans to use Work Trials to help them.

Finally, Work Trials are also a major component of Local Employment Partnerships, which the Government hopes will help a quarter of a million people

into jobs. LEPs are individual agreements with large businesses to work with JCP to help long-term unemployed people. JCP helps the businesses to recruit job-ready workers; in return, the employers review their recruitment processes and work with JCP to give extra opportunities to disadvantaged jobseekers. One of the ways they are encouraged to do this is by offering to use Work Trials more frequently. A separate TUC briefing on *Local Employment Partnerships* is also being published this summer, and the appendix presents a list of companies that have committed to recruitment through Local Employment Partnerships.

Concerns for the future

So it is going to be much more likely in the future that trades unionists could find themselves working alongside someone on a Work Trial. As Work Trials become more common it is more important that union representatives are fully briefed on the subject, and ready to deal with abuses.

At the same time, unions want to help make Local Employment Partnerships a success, and we want to help long-term unemployed people to get jobs. It makes sense for us to encourage businesses that recognise unions to take part, because the more that Work Trials are being offered by good employers, the less likely it is that Jobcentre Plus will have to rely on less attractive employers. Offering Work Trials in unionised workplaces also gives us a better chance to influence how they are run, by bringing problems to our collective discussions with the employer.

But we also need to think about safeguards, and to make sure that Work Trials are not abused by a minority of unscrupulous businesses. This will help us to represent individuals on Work Trials as well as we can.

Minimum standards

The TUC has discussed this issue with Jobcentre Plus, who have assured us that a number of safeguards have been established. Firstly, employers have to discuss the use of a Work Trial with Jobcentre Plus, and in that discussion Jobcentre Plus confirms that:

- A genuine vacancy exists
- The vacancy is expected to last at least 13 weeks
- The proposed participant is the only person being considered
- The Trial reflects the conditions of the actual job, including duties to be performed and hours to be worked.

During the Work Trial the JCP Personal Adviser stays in touch with the participant and the employer. If it is found that the employer has abused a Trial, JCP will withdraw from the agreement to operate Work Trials. Jobcentre Plus has also agreed to provide the TUC with periodic data on the number of employers who have been cut off in this way, so that we can monitor any trends.

Jobcentre Plus's current internal guidance says that officers working on Work Trials must check that the employer has an actual job vacancy and then do all they can to avoid abuse of the Trial. The guidance points out that employer will

have had to sign a Work Trial Agreement. This is a twelve-page document that sets out the business's obligations, including:

- a. You must give the candidate the opportunity to do tasks that will give him or her appropriate experience and prepare them for work.*
- b. If you do not offer the candidate a permanent position, you must tell us why if we ask for the reason.*
- c. You must not employ someone to fill a vacancy a candidate is currently filling.*
- d. On the first day of the candidate's Work Trial you must:*
 - give the candidate appropriate health and safety information and training*
 - introduce the candidate to the person responsible for their welfare and the work trial, and*
 - tell the candidate about any arrangements you have with trade unions and make sure that the candidate can join or stay a member of an appropriate trade union.*

Action points: representing workers on Work Trials

People taking part in Work Trials are not yet employed by the company, but most union representatives will want to make sure that they have access to union representation. Union reps in companies running Work Trials should make sure that the employer knows that the union is aware of the clause in the Employer Agreement about allowing access to the union. Building on that, employers could be encouraged to guarantee that people on Work Trial will be introduced to their union representative.

Unions have a lot to offer people on Work Trials and their employers, especially in workplaces where there is a Union Learning Representative. ULRs have a very good record of helping 'hard to reach' people to get into work and then progress through access to skills training (especially English for Speakers of Other Languages and skills for life).

It will be difficult for unions to negotiate for Work Trial workers to be paid the normal rate for the job because the Work Trial Agreement says that the employer must not pay a wage for the period of the Trial. Instead, unions will be better placed to urge employers to make the decision about taking on the individual as quickly as possible. This will cut the wait before they start earning a wage; after a long time on benefits they are likely to be very short of money.

Union reps can also monitor whether Work Trials are being abused in their workplace. Are people being brought in to deal with a temporary surge in demand? Or substituting for workers being paid the rate for the job? Have workers been moved or made redundant to recruit workers on Work Trial?

Union representatives may find it useful to negotiate an agreement on Work Trials with the employer. Any agreement should cover some basic points:

- It should provide that Work Trials will not usually last any longer than three weeks or six weeks maximum.

- It should provide that Work Trials will not be used to substitute for work that would otherwise be done by a worker on a standard employment contract.
- It should provide that the employer will liaise with Jobcentre Plus to make sure that Work Trial workers receive the expenses and allowances they are entitled to.
- It should guarantee Work Trial workers the right to raise any problems they face through their shop steward or other representative.
- It should guarantee the shop steward or other representative's right to meet Work Trial workers and talk to them about the advantages of union membership.

Action points: when an employer abuses Work Trials

The first thing to do is to raise this with management as a trade union issue, working if possible with the worker(s) on Work Trials. Use the grievance procedure or regular meetings with management to raise the issue; if necessary, bring in a full-time official.

If this does not work, report the problem to Jobcentre Plus – the number for the local office should be in the telephone directory, ask for the office manager. Explain the problem as you see it, ask them to investigate and to report back to you. If this does not work, report the issue to the nearest office of your union, who may need to raise the issue with JCP at national level.

This is important trade union work. Fighting abuse of Work Trials is an important objective, but, at the same time, every union activist wants to help unemployed people to get back to work. We want to help make sure that people on Work Trials move into proper paid jobs as quickly as they can – and become active members of the union.

Acknowledgement

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