



Amicus response to DTI Consultation on Workplace Representatives - A Review of their Facilities and Facility Time

1. Overview

1.1. Amicus is the UK's second largest trade union with 1.2 million members across the private and public sectors. Our members work in a range of industries including manufacturing, financial services, print, media, construction and not for profit sectors, local government, education and the health service.

1.2. Throughout this submission references to workplace representatives refer to trade union workplace representatives unless otherwise stated.

1.3. Amicus currently has almost 40,000 workplace representatives. Of these 27,000 are workplace representatives (80/20% male/female), 10,600 health & safety representatives, (90/10% male/female), and 1,273 union learning representatives (83/17% male/female). The role of the union representative has developed over the years as a result of the changing face of the workplace and corporate structures. Increasingly in the private sector members and representatives find themselves working for trans-national organisations and differing employment relation cultures. It is a mark of their flexibility and adaptability that workplace representatives have adjusted to these changes and continue to make a positive contribution to the improvement of workplace performance and employment relations. Recent results from a TUC/Personnel Today survey found that the majority of HR Managers found union representatives easy to deal with, professional in their approach, good negotiators and open and constructive¹.

1.4. Amicus has been to the fore in the development of new workplace representatives with specific functions such as union learning representatives and equality representatives. The union has also helped representatives take on new roles provided by the Information and Consultation Regulations and has a significant number of representatives sitting on European Works Councils. Similarly the union has encouraged union nominees to stand for election on to Pension Trustee Boards and play a full role in that capacity.

1.5. Amicus has two residential training colleges and delivers a full programme of training to over 4,000 representatives each year.

¹ Personnel Today/TUC survey January 2007.

Courses range from basic workplace representative training to specialist courses in a range of topics such as health & safety, employment law, company finance, equalities and pensions. Training programmes are accredited by the National Open College Network (NOCN). Successful completion of a course leads to the award of a certificate of unit credit. These nationally recognised credits can be used as a means of entry to gain further and higher education qualifications. Included with the hard copy of this response is a copy of the Union's Education & Training prospectus for 2007/08. (Also available on the union website).²

1.6. Amicus is in favour of formal agreements being negotiated in the workplace to enable workplace representatives to carry out their functions and to be provided with adequate time to do so and to have their work commitments adjusted accordingly. An example of this can be found in the agreement reached between Amicus and the British Printing Industries Federation, (BPIF)³, which summarises the position as follows:

Summary

- Defines legal entitlements to time off for union representatives in relation to training and duties and for union members in relation to union activities.
- Stipulates facilities to be provided to trade union representatives in order that they can carry out their duties effectively
- Refers to relevant sections of the ACAS Code of Practice 3 (*Time off for trade union duties and activities*) from which these entitlements derive.

Objective(s) addressed

- Enabling employee representatives to represent their members effectively and to acquire the skills they need to work in partnership with employers

Benefits

- Clarifies legal entitlements to time off in the context of the printing industry and circumstances in which such time must be given with pay.
- Promotes good employment relations by ensuring union representatives are adequately trained to act in a representative capacity in relation to their members and have appropriate facilities, time and opportunity to meet with them in order that they can be aware of their views and concerns and articulate these in discussions with the company
- Enables employers to build partnerships with specific individuals which can work with them in securing the support of employees as whole for changes and improvements necessary to maintain or improve the performance of the company

1.7. Amicus believes that workplace representatives make a valuable contribution to the efficiency and effectiveness of the workplace. This view has been supported by research undertaken as part of the 2004 WERS and more recently by findings of a joint survey undertaken by the TUC and Personnel Today⁴. Our own evidence in the pages that follow provides examples of the value added by well trained, professional trade union representatives.

² <http://www.amicustheunion.org/pdf/Education%20Prospectus%20200708a.pdf>

³ BPIF/Amicus GPM Sector Partnership Agreement and Code of Practice 2005/2006, http://www.amicustheunion.org/pdf/PAW_FINALDOC1.pdf

⁴ Personnel Today/TUC Research, December 2006

1.8. There is no doubt that the pressures placed upon workplace representatives in both the private and public sectors are increasing as a result of changes in working arrangements and increased responsibility. Amicus believes that changes to the current statutory provision for workplace representatives need to be made to ensure that adequate time and recognition is afforded to all workplace representatives to enable them to carry out their functions and duties in a changing workplace environment. Amicus also expresses concern at the potential impact on careers that carrying out the duties of a workplace representative may have, (92% of union reps believe their career prospects are hampered by their personal involvement with unions)⁵, and would seek to have stronger protection against potential discrimination towards workplace representatives.

1.9. Whilst Amicus would support the consolidation and strengthening of the existing body of law and the legal framework covering the wide variety of workplace representatives, it would be anxious to ensure that there was no watering down of the special legal rights currently enjoyed by health and safety representatives which have served both employers and employees well since their introduction from 1st October 1978.

1.10. Amicus summarises the key issues arising from this consultation on the following page and then sets out in the subsequent pages our detailed responses to the questions posed in the consultation document.

⁵ Personnel Today/TUC Research, December 2006

Executive Summary

- a) In recognition of the changing structure of employment in the UK and the basis upon which facilities are granted to union workplace representatives, Amicus calls for the extension of trade union statutory recognition rights to all employers regardless of the numbers employed.**
- b) Amicus believes that the facilities for reasonable paid time off for training should be extended to all categories of union workplace representatives. Amicus welcomes the opportunity for workplace representatives to be designated to undertake specific functions such as learning, equalities and the environment and believes that the same rights and facilities should be afforded regardless of function.**
- c) Amicus also calls for the inclusion of member nominated trustees in the list of workplace representatives covered by legislation and codes of practice.**
- d) In recognising the increasing pressures placed upon workplace representatives and the positive economic contribution made by their activities, Amicus believes that employers should be under a statutory duty to adjust the workload of representatives to facilitate their trade union responsibilities.**
- e) Amicus believes that there should be further improvements to the rights for trade union health and safety representatives, with the right to issue provisional improvement notices, the right of access to establishments and the right to represent workers' interests, the right for workers and union safety reps to refuse to work in dangerous workplaces without the fear of victimisation or dismissal, and where an employer has been found guilty of unfair dismissal, the employment tribunal should have the right to enforce reinstatement.**
- f) Amicus would propose that reference to facility time be included in the ACAS Code of Practice, in the section that is specific to ULRs.**
- g) The facilities and time off provided for in the ACAS Code of Practice needs to be amended to include the right to paid time off for organising in the workplace.**
- h) Amicus is concerned that all workplaces should be covered by legislation providing rights and facilities to workplace representatives. To this end Amicus seeks changes to existing legislation to include workers based on offshore installations.**
- i) The added value that trade union training contributes to the workplace is well recorded. However, the knowledge of middle line management of such benefits appears limited and there is an**

argument for the introduction of management training courses which address this lack of understanding.

- j) Amicus would seek a statutory requirement for all workplace representatives to undergo initial training within 6 months of appointment and that consideration be given to extending the existing statutory right to reasonable time off for training to include a minimum of 10 days per annum.**
- k) Amicus would further seek a strengthening of the Code of Practice by providing a statutory right to paid time off for training in skills and other relevant issues beyond the initial representatives training course.**
- l) Amicus is calling for amendments to be made to the ACAS code of practice to take account of the above issues.**

2. What is the future of workplace representation and the expression of employee voice on unchanged policies?

- 2.1 Underpinning the role of all workplace representatives is the need to have in place collective bargaining processes. Whilst this may be achieved through voluntary processes in the main there needs to be statutory support where employers refuse to recognise the wishes of their employees. This support currently exists only for workplaces where there are more than 20 employees and this means that elected union representatives in many small enterprises are denied any statutory rights to carry out their duties. Consequently they are unable to provide a voice for their members. Given the high proportion of smaller workplaces, particularly in the private sector, and the evidence gathered by a DTI funded partnership scheme⁶ between Amicus and small businesses which demonstrated the advantages of trade union recognition, Amicus believes that the current statutory recognition provisions should be extended to cover all workplaces regardless of size.
- 2.2 The WERS survey⁷ demonstrates the relative value of the union representative compared to the non-union representative. Amicus believes that government should legislate to provide easier access to employees in non-union companies to educate employees about the benefits and opportunities of forming and organising a union.
- 2.3 Amicus would argue that the government needs to promote the benefits to employers of setting up effective workplace representative structures. Amicus would suggest using ACAS, in conjunction with the TUC, to undertake this – with a brief to promote and educate regarding the function and benefits of unions.
- 2.4 Amicus supports the extension of roles for workplace representatives and believes that all should have the same statutory protection and facilities. Amicus also believes that the most effective use of representatives is achieved when there is a clear relationship between the “specialist” representatives and the collective bargaining structures.

3. Is workplace representation sufficiently diverse and, if not, how can the under-representation of women, ethnic minorities and younger workers be addressed?

- 3.1 The evidence presented from the 2004 WERS and our own internal surveys of our representative data-base shows that there are deficiencies in the diversity of workplace representatives. This is despite very positive efforts made by the trade unions to encourage greater participation in representative duties of members from under-represented groups. Amicus believes that its own equalities strategy

⁶ Trade Union Recognition in Small Enterprises by K D Ewing and Anne Hock 2003

⁷ Workplace Employment Relations Survey 2004

and the structures within the union will improve the diversity of representation.

- 3.2 Trade unions are addressing the obstacles to wider diversity of workplace representatives. In particular being aware of work/life balance issues, and choosing venue for meetings which are accessible to all. Also it needs to be recognised that the work environment itself may not be conducive to encouraging diversity amongst representatives, for example where managers are predominantly white and male it proves more difficult to get women to come forward as representatives.
- 3.3 Amicus policy is to develop trained equality representatives who are workplace representatives and part of the Amicus negotiating committee in the workplace.
- 3.4 The union's Disability Champions project has led to over 300 activists who are now registered as champions and in the process of receiving training on negotiating disability access to work.
- 3.5 Amicus is also working to develop its recruitment and organising campaigns in universities and colleges through engagement with the national union of students and our activists who work in higher education. This organising agenda could be expanded upon by sectors and regions to develop relationships between the union and schools, further education colleges and job centre plus to reach out to young people in education and apprenticeships to recruit them to the union. By this and other means Amicus hopes to encourage younger workers to become workplace representatives.
- 3.6 **In order to achieve the objectives of wider diversity the facilities and time off provided for in the ACAS Code of Practice needs to be amended to include the right to paid time off for organising in the workplace.**

4. What benefits do workplace representation bring, and how can those benefits be realised more fully?

- 4.1 Amicus is dedicated to improving the standard of living and the quality of workers' lives through effective relationships with employers and government. Effective and well supported trade union representation in the workplace delivers positive outcomes for people's working experiences and this can lead to improved organisational performance.
- 4.2 The benefits derived from workplace representation should be examined by both qualitative as well as quantitative measures. Amicus accepts that the estimates in Annex B of the consultation document provide a broadly acceptable basis for the latter with two reservations. The basis is restricted to senior representatives only and the "cost" to employers in many cases is not real since the work load of the representative is often not adjusted and they have to complete their normal workload regardless of time off for union duties.

- 4.3 Amicus has drawn on the experiences of its own representatives in formulating its response to this consultation. Their comments and observations indicate a mix of experiences not all of which are positive. However, the ability of workplace representatives to present a collective view to management based not only on what members say, but their own experiences as employees, provides a balanced and informed response to management initiatives. Workplace representatives are also able to contribute ideas to the development of workplace practices and employee attitudes. Acting as a buffer between employees and the management hierarchy, the workplace representative can provide an honest feedback on a range of workplace issues which frequently differs from the direct feedback that management receive from workers.
- 4.4 In May 2006 Amicus published an 'Agenda for Better Jobs' as part of its 'Good Work' campaign⁸. It outlines the key elements that we think need to be considered in the pursuit of improving the quality of people's working lives. They are: a safe and healthy workplace, control over the work environment, secure and interesting work, fairness and dignity at work, and a trade union voice in the workplace.
- 4.5 As part of the campaign we also conducted an on-line survey asking people to identify how their jobs matched up against these criteria. The findings of that survey were published in September 2006⁹.
- 4.6 It finds that the areas where people's working lives are most lacking are job security, control over the working environment, and being treated with fairness and dignity at work.
- 4.7 There is a strong correlation between people having a trade union voice in the workplace and reporting positive experiences in respect of being treated fairly at work, and feeling in control of their working environment. 63% of those with a trade union voice in the workplace said that they were treated with fairness and dignity at work compared to 44% of those without. 48% of those with a union voice in the workplace said they feel in control of their working environment compared to 39% of those without.
- 4.8 Worker voice and engagement are instrumental in improving people's working experiences and organisational performance. But, there is also an ethical argument for effective worker voice as a key component of democracy, citizenship and justice.
- 4.9 As representatives gain experience and confidence in the role, they are able to present a considered, intelligent voice on behalf of the workforce. This is further enhanced by the levels of training provided

⁸ *Good Work : An Amicus Agenda for Better Jobs* (2006) available at <http://www.amicustheunion.org/pdf/Good%20work.pdf>

⁹ *Unions and Good Work : Results of an Amicus survey on the quality of people's work experiences* (2006) available at <http://www.amicustheunion.org/pdf/UnionsandGoodWorkReport2006.pdf>

by trade unions and the TUC which, in our experience, can benefit employers who do not always have the same resources available.

An example of this is evidenced below in a joint initiative undertaken by Amicus in the construction sector.

Case study: training initiative, Amicus and Balfour Kilpatrick

During the first half of this decade, Amicus ran an initiative with Balfour Kilpatrick to encourage new trade union safety representatives to come forward, and to give them quality health and safety training relating to their sector (Construction).

Training included giving the reps knowledge of their rights and the scope of their role, their rights were fully endorsed by Balfour. The programme included Generic training surrounding the construction industry, risk assessment, accident investigation and site inspections.

The initiative was implemented first in the North of England and Scotland and courses were run at Amicus offices in Glasgow. The second phase moved South and training was arranged at the most convenient union offices geographically.

The initiative was supported by union and company officials at the highest level, the important factor being that following this programme incident rates fell significantly. All parties realised the significance of training, and Balfours recognised the excellent facilities and professional support the union could offer, as was meaningful consultation following the training programme.

4.10 The Construction sector has specific problems when it comes to workplace representatives and particularly for safety representatives. Amicus believes that improvements to safety representatives' rights would be beneficial for the construction industry where industrial relations are less positive. These would include:

- Roving Reps who can cover a small group of sites and also workers of contractors on same site.
- Right to issue improvement notices, supported by the principal contractor
- Right to have a response from employers when raising issues.

4.11 The contribution that Health & Safety Trade Union Representatives is best summed up by The Health and Safety Commission, (HSC):

“ Trade union safety representatives, through their empowered role for purposes of consultation, often lead to higher levels of compliance and better health and safety performance than in non trade union systems. We recognise this, and support the invaluable contribution they continue to make to health and safety and want dialog between us to continue and where possible expand into new areas”.

4.12 As the new roles and functions for specialist workplace representatives develop it is important that recognition of the specific needs of specialist representatives is included in both statutory provision and codes of practice. This submission addresses some of those needs in respect of union learning representatives elsewhere in this submission but at this point would wish to draw attention to the role of equality representatives and also member nominated trustees on occupational pension schemes.

4.13 Amicus is currently promoting the election and training of equality representatives across the country which we see as an essential contribution to further raising the profile of equality issues in the workplace and integrating such issues into mainstream collective bargaining. **Amicus would wish to see the same statutory rights afforded to equality representatives as to all other workplace representatives.**

4.14 Amicus also draws attention to the status of member nominated pension trustees, (MNT). The work entailed for such representatives is highly detailed and involves considerable reading of papers for meetings. The Amicus experience is that this frequently creates difficulties for MNTs in accessing sufficient time off for preparation of trustee meetings. An example of this is set out below:

“I am a member nominated trustee and an Amicus workplace representative. I have no problem in getting time off to attend residential courses for improving my knowledge in employment law etc. However, I do have a problem with local management in the understanding of my responsibilities as a MNT. I have a great deal of material to read just to prepare for a meeting with the board of trustees. I find that I am reading this mass of material in my own time at my home. Also with the new legal requirements involved with the structure of a board of trustees makes it even harder to be a representative of the shop floor as a MNT. Because of this pressure I find it very difficult to balance my work with my duties as a MNT.”

4.15 **Amicus calls for the inclusion of member nominated trustees in the list of workplace representatives covered by legislation and codes of practice.**

5. Time off for workplace representatives

- 5.1 The experience of Amicus representatives is that increasing pressures are placed upon workplace representatives in regard to the amount of time that they are able to take off at work to carry out their duties.
- 5.2 Amicus agrees that each of the five issues identified in the consultation paper contribute to the pressures under which workplace representative are placed.
- 5.3 The role of Safety Representatives is particularly under pressure in that management are not willing to recognise that safety reps need time at work to deal with health and safety issues. Despite the provisions of regulation 4(2)(a) SRSC 1977 to carry out functions there is evidence that management often refuse to acknowledge this fact.
- 5.4 Similarly for Union Learning Representatives Amicus has evidence that in some instances, ULRs are finding it difficult to be accepted as mainstream workplace reps - this means that sometimes Companies only recognise a certain number of representatives, so the lead steward or health & safety representative have to take on the additional role themselves. ULRs still find it hard to gain the time off they are legally entitled to. **Amicus would propose that reference to facility time be included in the ACAS Code of Practice, in the section that is specific to ULRs.**

5.5 Pressures of the job

- 5.5.1 This is probably the most frequently quoted problem faced by trade union workplace representatives. Tightening of budgetary constraints by employers in both the public and private sectors have resulted in reductions in the numbers employed or expansion of the job responsibilities. Included below are two recent and typical examples of the impact of pressure at work on the workplace representative:

a) "I am a new workplace rep and am currently doing stage 1 TUC course. My problem is I work for an NHS Trust who have clear facilities agreements but these are not passed down to section managers who are generally anti union. When I announced to my department I had become a rep my managers comments were "...now you are a thorn in my side" !!. I was told that the course was inconvenient and that I should do it open learning. This would have been difficult as I have 2 small children and night study is no good for me, also we are supposed to have time off in work time for open learning. I pointed this out and the managers were adamant, if it was not for my course leader telling me my rights and that he would speak with them, I showed them the email, they would not have backed down. I have been allowed to go on my course but my workload has not decreased and so am now struggling to get the extra days work done during my normal working week. I am

a part time worker, because of childcare, and do now worry that they will try and penalise me for not reaching their targets due to my one day out of the trust. I know I will be able to count on Amicus but it doesn't make the working environment a good place to be and feel that it will affect new membership as the young ones do not like conflict.”

b)“I've given this a lot of thought and I'd like to stand down from Union rep duties. To be honest, I am totally fed up with this Trust's lack of support for union reps. I'm sorry that it's coming to this but I feel that in this Trust, Union reps are not taken seriously and some of that is because we don't have the time to publicise, recruit, look at paperwork that is sent to us etc and do our own jobs at the same time. A lot of things are expected to be done in our own time at home and unfortunately, given that I have other commitments including starting a college course in April I have lost the enthusiasm to do battle with this Trust.”

- 5.5.2 These comments vividly illustrate the problems faced by representatives from work pressures. Both point to a lack of understanding from middle line managers which Amicus believes is repeated across all types of workplaces. Our membership in the Not for Profit sector face similar problems added to which are the pressures brought to bear through funding difficulties and the commitment that our members have to the services which their organisations deliver. An example of this is found in the Law Society where our representatives explain:

“The problem that some of us have here at the Law Society is that whilst many managers are very sympathetic to our Union commitments, and allow us plenty of time off to attend meetings etc, there is no reduction in our normal workload, and we still have to complete a full-time job on top of the Union work.”

- 5.5.3 Amicus would wish to see a new statutory right introduced for all union workplace representatives to be able to negotiate an adjusted workload to take account of union duties.**

- 5.5.4 Amicus would also want to see the introduction of training for all managers on the objectives and benefits derived from employee engagement and the positive role that trade union representatives contribute to that.**

5.6 Complexities of the role

- 5.6.1 Amicus has recognised the extended range of responsibilities and knowledge required from workplace representatives. In the section of this submission relating to time off for training we point to some of the additional courses introduced in to our training prospectus.

5.6.2 If workplace representatives are to fulfil the requirements of both members and employers in being able to engage in constructive discussion and negotiation on the wide range of workplace issues which is expected of them this has to be built into the arrangements for time off. This includes recognising the need for preparatory work and research and reading into areas covered by employment law and understanding business strategies and workplace practices.

5.7 Off site representation

5.7.1 Amicus has referred to this issue above (para 4.4) in connection with the needs of the construction sector and there are other circumstances where the need to travel to different locations is an essential part of the workplace representatives duties. Amicus also believes that with the increasing number of smaller workplaces, (particularly in the Community and Not for profit Sector,) creates a need for the facility for workplace representatives to cover more than one workplace.

5.8 Implication for work-life balance

5.8.1 Amicus accepts that for a variety of reasons workplace representatives are either forced or choose to carry out much of their work at home. This has a detrimental impact on the ability to develop a diversity mix across representatives with those carrying caring responsibilities less able to balance the responsibilities of work plus representative duties plus caring and the most effective way in which this can be addressed is through greater flexibility in the workplace.

5.8.2 Amicus is not convinced that a statutory minimum paid time off provision for trade union duties would resolve the problems currently faced in achieving the necessary time off for workplace representatives. Amicus believes that reasonable time off is a concept which trade unions should negotiate in each workplace to suit the needs and requirements of both the workplace representative and the employer. Amicus has secured a large number of such agreements varying from specific amounts of time to a more flexible approach. Two examples are given below:

Aerospace sector:

"The Reps in our workplace book a "reasonable" number of hours to Union duties - I.e. as many as is necessary to go about and perform our duties. This could effectively be the whole week.

Our individual managers have been given an average figure (number of hours/per week individual reps have booked to union duties over a 6 month period) - this figure is purely a guide for

our managers to help them plan their workload and we can at any time exceed this figure.

If this figure is consistently exceeded then the "figure" is increased."

NHS Trust agreement

"It is recognised that time commitments of accredited representatives will vary from one individual to another. Some will be engaged in Trust wide representative groups such as JSCC and will therefore be expected to devote more time to trade union related activities than others. Nevertheless it is anticipated that weekly commitment would not ordinarily exceed 15 to 20% of contracted hours on average throughout the year and for most would be considerably less than that. However, it is also recognised that there will on occasion be circumstances where more time commitment is required which should be notified to line managers and should not be unreasonably withheld."

5.8.3 However, Amicus is concerned that experiences in workplaces vary considerably, and that in some circumstances employers do not act reasonably. Amicus would therefore seek a strengthening of the ACAS code of practice to address the basis upon which the term "reasonable time off" is determined. In particular, Amicus has identified the following matters which need to be addressed:

- a) Getting time off in unrecognised workplaces
- b) Downside of appraisals for reps so rep roles should be incorporated and the value and skills required to be reps included in their objectives. Career issues as well as earnings issues.
- c) Amount of knowledge required – keeping up to date with employment legislation is very time consuming and as pension trustees too
- d) Facilities for recruitment and organisation, and time off for such activities. This is not covered in the list of items under section 11 of the ACAS Code.
- e) Preparation for negotiations, grievance and disciplinary cases etc. There is less of a problem in obtaining paid release for meetings with the employer but paid release for preparation not involving the employer is more problematic, despite being covered by section 12 of the ACAS Code. This has become exacerbated as responsibility for HR is devolved/transferred from HR departments to line managers, who are very often unfamiliar with legislation, regulation and resent losing the time of people in their area.
- f) Time off for wider trade union activities (e.g. Amicus sector committees). This has always been an issue, and the distinction drawn between activities concerning relations with the employer and wider activities. For unions to be representative and democratic, they must be participatory.

- g) Although the ACAS Code covers the issue of loss of pay, it does not cover either issues relating to performance assessment of reps nor performance related pay. This is a serious issue for many Amicus reps which lacks visibility. If reps are spending 20, 30 or 50% of their time on trade union duties, how is this accounted for in performance assessment, usually carried out by the line manager who again may resent their absence, or simply themselves be put under pressure because instead of having 100% of a team they have something less than this due to the absence of the rep on trade union duties. In addition Amicus has evidence of reps being marked down and thus receiving lower PRP awards.
- h) Amicus would also propose changes are made to statutory provisions to increase the opportunities for employees of small firms, especially within the manufacturing sector, to have access to a Union Learning Representative. In order to gain a legal right to paid time off to undertake their duties, Union Learning Representatives must belong to an “independent trade union recognised by their employer” (ACAS Code on Time Off 2003). As small firms are less likely to recognise a trade union, employees within these firms are often excluded from the services of a Union Learning Representative. Yet, as research carried out by the Sector Skills Development Agency last year demonstrates, small firms are less likely than larger ones to invest in training for their staff. Therefore small firms could potentially gain the most benefit from the support and expertise of Union Learning Representatives and their union and the ACAS code should be strengthened to facilitate this.

5.9 Amicus is calling for amendments to be made to the ACAS code of practice to take account of the above issues.

5.10 Do estimates in Annex B provide a broadly acceptable basis for estimating costs and benefits?

5.10.1 Amicus accepts this subject to the qualifications referred to in para 4.1 above.

6. Trade union training

To what extent do problems with securing time for time off for training exist and how best should they be addressed to ensure that the needs of both the representative and the employer are met?

6.1 Time off

- 6.1.1 Achieving the balance between ensuring that workplace representatives are properly equipped to carry out the wide range of duties expected of them and delivering the training necessary to achieve that is hampered by the limited rights to time off for training. Paid time off for training is linked to trade union duties and therefore the onus is upon the workplace representative to demonstrate the relevance and benefits to the employer of each course attended.
- 6.1.2 There is a general acceptance that the Stage 1 representatives course and the Health & Safety courses are valid. However, subsequent follow up courses and specialist courses are less easy to obtain release for. There is a need to recognise the wider knowledge required by reps e.g. employment law, economics and financial issues, pensions etc. by employers and this needs to be reflected in a strengthening of the Code of Practice.
- 6.1.3 Time off for training also suffers from the same problems as those face for other trade union duties, in particular cover for the individual when they are away from work. This influences decisions by workplace representatives as to whether they seek training or not. Amicus has received evidence of employers who do not recognise the requirement to provide time off for in-house course work. For example in the TUC Health & Safety Courses 2/3rds of the course is undertaken in house time off to do course work in-house.
- 6.1.4 Similarly there is a need for employers to ensure that all levels of management understand the requirements and rights for time off for trade union training. Line management often provide the biggest obstacle to paid release for training regardless of company agreements and statutory rights.
- 6.1.5 Amicus would challenge the reliability of the data referred to in the consultation document, (para 4.8), which suggests that compliance with the statutory requirements appears high as there are very few complaints to employment tribunals. Amicus would argue that workplace representatives are unlikely to take such complaints as they are dependent upon the goodwill of employers to carry out their duties and pursuing legal remedies is not necessarily the best way to maintain that goodwill overall.

6.1.6 Amicus would seek a statutory requirement for all workplace representatives to undergo initial training within 6 months of appointment and that consideration be given to extending the existing statutory right to reasonable time off for training to include a minimum of 10 days per annum.

6.1.7 Amicus would further seek a strengthening of the Code of Practice by providing a statutory right to paid time off for training in skills and other relevant issues beyond the initial representatives training course.

6.2 On line training

6.2.1 Whilst recognising the benefits of having the option of on line training, Amicus has a number of reservations about how this facility is used and to what extent. Amicus would be against the expansion of online training if it is at the expense of crucial face to face training which delivers the benefits of interaction with other workplace representatives in a training environment.

6.2.2 Amicus is also concerned that employers will back online self-study programmes at home to offset the need for paid release from work. Amicus agrees with the consultation document that this facility is not available to all and therefore believes that the option to use this form of study must rest with the individual. Amicus further believes that the Code of Practice would need to emphasise the right to time off regardless of method of training undertaken.

6.2.3 Amicus is looking at extending its own training facilities to incorporate on line facilities and this will form part of it's the next round bid from the Union Modernisation Fund.

6.3 Course Content

6.3.1 Amicus has developed a comprehensive range of courses which are delivered through its residential training colleges and locally at the union's regional offices. Each of the broad areas identified in the consultation document (para 4.22) are incorporated into the full range of course offered. (Included with the hard copy of this submission is a copy of the Union's training prospectus for 2007/08).

6.3.2 Amicus already provides three IT Skills courses and also utilises IT in the delivery of other courses within its own training colleges where the facilities exist to do so. It will continue to develop delivery of these skills both through direct IT courses but also through using IT in the delivery of other training.

6.3.3 However, Amicus would caution the over emphasis of this media given the wide variety of backgrounds and work experiences from which workplace representatives may come. Not all

representatives have access to a PC at home or at work and there is a danger of assumptions being made about the image of workplace representatives.

- 6.3.4 Amicus is also addressing new areas such as management of the environment as part of its course development to recognise the changing issues in the workplace. Amicus has recently started trialling a new Higher Education Level Union Learning Representatives course. It has been developed in response to experienced ULRs asking for further training, at a more challenging level. At their request it is aimed at giving them the skills to place LLL in its context; and to be able to analyse, and compare and contrast other models of addressing LLL issues on a National, European and Global level.

6.4 Evaluating the impact of training

- 6.4.1 Amicus accepts that there is a need to assess the value of the training delivered and the contribution this makes to the workplace both from the union members' perspective as well as the employers. Different methods of achieving this have been considered including the NVQ process which includes self assessment as well as an NVQ Assessor. This has proven to be difficult to manage and requires significant resources.
- 6.4.2 Amicus training is accredited through the Open College Network as is the TUC. Quality assurance is undertaken through an internal moderator, (in the case of Amicus from Ruskin and Northern Colleges.) Students also keep a learning diary.
- 6.4.3 Amicus believes that the value of the training in the workplace is already assessed through informal methods. Employers would be the first to advise the union if the skills and knowledge given to workplace representatives did not enhance their performance as representatives. Similarly representatives who attend our courses would be quick to advise their union if the standards and content of courses were not addressing the needs of their workplaces and the skills that they require to carry out their duties. In both cases the feedback provided has been extremely positive.
- 6.4.4 Amicus would not be in favour of the introduction of a formal impact assessment system which it believes would be costly to administer and unlikely to bring added value to existing trade union training provision.

6.5 Training provision for non-union representatives

- 6.5.1 Amicus does not believe that trade unions have an obligation to provide training to non-union representatives. In workplaces where trade unions are organised Amicus would favour employers doing more to encourage employees to join the

appropriate trade union. In workplaces where there are areas which are not organised by the trade union Amicus has, in certain circumstances, agreed to include non-union representatives in training programmes subject to the employer meeting the cost.

6.5.2 In workplaces where no union is organised it is clear from a number of evidential sources the absence of training for workplace representatives undermines the ability of employers to undertake meaningful consultation. This provides yet further evidence of the value of trade union organisation and training to good industrial relations.

6.5.3 Amicus believes that in the first instance this problem should be addressed by the employer improving access to trade unions to extend their organisational base both in mixed workplaces as well as non-union workplaces. In part this would be addressed by extending the current statutory recognition procedures to all workplaces regardless of size.

7. Facilities for Representatives

- 7.1 The consultation document focuses on the access to use of electronic facilities for representatives. Amicus agrees that this increased access reported from the WERS 2004 survey and from our own experience is to be welcomed. However, Amicus has significant numbers of workplace representatives who do not have workplace access to IT equipment and therefore access to other means of communication and research remains an essential part of the facilities needed to carry out their duties.
- 7.2 There is some evidence that representatives from different parts of the same organisation have access to different facilities. Amicus believes that this is unhelpful and that provision should be made within the Code of Practice to ensure that all workplace representatives in a company are entitled to access the same facilities regardless of where they work.
- 7.3 Many of the existing provisions predate the computer era, and there are more difficulties in manual/production areas as compared to offices. A recent example of a problem which Amicus was asked to resolve was where IT equipment had been provided for use by the convenor, it was located in the HR Department.
- 7.4 Amicus accepts that there is a need to revisit existing workplace agreements to ensure that they address modern facility needs and practices. The issue of privacy and confidentiality is a real one. Amicus encourages the use of private email addresses wherever possible which do not utilise the employer's server. This can be done through web mail and whilst it does not totally eradicate the privacy issue it does provide greater security.
- 7.5 The absence of any statutory provision of facilities for representatives other than Health & Safety representatives needs to be addressed. **The statutory right to facilities laid down in regulation 4A of the 1977 Regulations should be extended to all workplace representatives.**
- 7.6 The next section of the consultation document addresses the issue of updating the Code of Practice. **Amicus fully supports the need for such a review and would specifically add to para 11 of the Code the need to provide facilities for recruitment and organising as part of the duties of a workplace representative.**
- 7.7 **This should be supported by a general updating of the Code of Practice identifying the range of facilities to which workplace representatives should be entitled.**

8. Revision of ACAS Code of Practice

- 8.1 Amicus supports the need for the Code to be revisited and updated to reflect current work circumstances and furthermore advocates the Code being given the same regulatory status as the Safety Representatives Regulations 1977.
- 8.2 Amicus has already identified in this submission the need to include within the duties of a workplace representative, facilities to assist with the recruitment and organising of trade union members. (See para 7.6).
- 8.3 Amicus has made separate submissions on the updating of the HSC approved Codes of Practice and within that have argued for the inclusion of the right of an accredited safety representative to be able to issue provisional improvement notices, the right of access to establishments and the right to represent workers' interests, and the right for workers and union safety reps to refuse to work in dangerous workplaces without the fear of victimisation or dismissal. We reiterate those demands here for the sake of completeness.
- 8.4 Whilst there may be an argument for some rationalisation of guidance and codes of practice, Amicus remains of the view that the HSC and ACAS should retain primary responsibility for production of such guidance and codes. The introduction of a central web portal which contains details of all guidance would be helpful, particularly in identifying common links between the different sets of guidance. However, Amicus would be concerned that under no circumstances should rationalisation of existing guidance lead to any diminution of existing rights.
- 8.5 With regard to the adequacy of training for line managers in the management of workplace representative, Amicus has addressed this issue in para 6.1.4 of this submission and we include a clear recommendation in the executive summary.

9. Revision of legislation on Workplace Representatives

- 9.1 Amicus has made some specific points in this submission about changes to the standing of workplace representatives and the scope of rights and facilities needed in a modern workplace environment and a modern employee relations structure.
- 9.2 Although the current legislation has evolved over a period of time and therefore is covered by a variety of statutes, Amicus is not convinced of the need for a wholesale consolidation of the statutory rights into a single piece of legislation at this time.

- 9.3 However we would refer to our recommendation in para 6.1.6 above which calls for a statutory right to initial training for workplace representatives within their first 6 months in post. This would bring workplace representatives into line with the rights of health and safety representatives. Amicus would also point out that the absence of formal complaints regarding this facility may not give a true indication of problems faced in many workplaces. (See para 6.1.5 above).
- 9.4 On the issue of defining duties and activities we have set out our position in para 5.8.3 above and would argue that these be reflected in revisions to the ACAS Code of Practice.

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