



Blacklisting: closing the net

Combatting contemporary blacklisting



Construction workers...

- Are you being refused work that you are qualified to do?
- Are employers or agencies not returning your calls?
- Have you had offers of work suddenly withdrawn?
- Are you repeatedly being finished early before the end of your contract?
- Do you suspect you have been blacklisted?

Scotland

Regional Legal Officer: Tam Connarty (tam.connarty@unitetheunion.org)
Regional Legal & Affiliated Services Coordinator: Lynn Maley (lynn.maley@unitetheunion.org)
Regional Office – Glasgow 01414 045 424

North West

Regional Legal & Affiliated Services Coordinator: Gale Stevenson (gale.stevenson@unitetheunion.org)
Regional Office – Liverpool 01512 031 907

North East, Yorkshire and Humberside

Regional Legal Officer: Martin Wright (martin.wright@unitetheunion.org)
Regional Legal & Affiliated Services Coordinator: Lesley Yule (lesley.yule@unitetheunion.org)
Regional Office – Leeds 01132 364 830

West Midlands

Regional Legal Officer: Stefan Blasczyk (stefan.blasczyk@unitetheunion.org)
Regional Legal & Affiliated Services Coordinator: Ruth Tinley (ruth.tinley@unitetheunion.org)
Regional Office – West Bromwich 01215 536 051

East Midlands

Regional Legal Officer: Kevin Hepworth (kevin.hepworth@unitetheunion.org)
Regional Legal & Affiliated Services Coordinator: Nikki MacDonald (nikki.macdonald@unitetheunion.org)
Regional Office – Derby 01332 548 400

London and Eastern

Regional Legal Officer: Nicky Marcus (nicky.marcus@unitetheunion.org)
Regional Legal & Affiliated Services Coordinator: Liam Kelly
(liam.kelly@unitetheunion.org)
Regional Office – London 02088 004 281

South West

Regional Legal Officer: Stuart Davies (stuart.davies@unitetheunion.org)
Regional Legal & Affiliated Services Coordinator: Kathryn Albanese (kathryne.albanese@unitetheunion.org)
Regional Office – Bristol 01179 230 555

South East

Regional Legal & Affiliated Services Coordinator: Shelley Payne (shelley.payne@unitetheunion.org)
Regional Office – Slough 01753 313 820

Wales

Regional Legal Officer: John Toner (john.toner@unitetheunion.org)
Regional Legal & Affiliated Services Coordinator: Amanda Thornton (amanda.thornton@unitetheunion.org)
Regional Office – Cardiff 02920 394 521

Ireland

Regional Legal Officer: Maurice Cunningham (maurice.cunningham@unitetheunion.org)
Regional Legal & Affiliated Services Coordinator: Patricia Burns (patricia.burns@unitetheunion.org)
Regional Office - Belfast 02890 020 418 (04890 when calling from the ROI)

Foreword: from Len McCluskey



Len McCluskey

In 2009 a conspiracy against construction workers on a breath-taking scale was exposed. This confirmed what many workers in the industry knew to be true, major contractors were systematically denying workers employment because of their association with trade unions. Decent people denied employment for the 'crime' of fighting for safe working conditions and the rate for the job.

The Information Commissioner's Office (ICO) is an independent public body set up to uphold information rights in the UK, including data privacy for individuals. The ICO exposure was of a large-scale surveillance operation run by a company called The Consulting Association (TCA). TCA collated files on thousands of construction workers and sold the information to 44 construction companies, including household names such as Balfour Beatty, Carillion, Laing O'Rourke, Sir Robert McAlpine and Skanska. These companies also supplied information about individual workers back to The Consulting Association.

Unite's response was industrial, political and legal.

Industrial – Unite campaigned and defeated 'BESNA' the 'brainchild' of seven major contractors who clubbed together a £25m fund to undercut the national agreement. On the Crossrail project in London Unite successfully campaigned to return to work a blacklisted member.

Political - We have campaigned for better law and won the support of many politicians in Westminster, Holyrood and the Welsh Assembly.

Legal - In the light of this campaigning major contractors offered to compensate individuals on TCA's blacklist. In May 2016 the legal cases were settled and Unite held out for the best deal possible. Unite's aggressive High Court litigation strategy led to significant levels of compensation being awarded and a public apology from those companies who had used the blacklist.

Yet from our members' experiences we believe blacklisting is a contemporary problem that continues to blight the lives of our members. Bogus self-employment, unscrupulous agencies and payroll companies make a bad situation worse. Our demand that the major contractors directly employ their workforce is linked to our campaign to root out blacklisting and discrimination.

Proving that a worker is being blacklisted is extremely difficult; Unite is therefore campaigning to change the law. However, to do this, we need your help. In order to eradicate all blacklisting across the industry it is vital that Unite challenges the behaviour of any unscrupulous agencies and companies in the sector. To do this we need detailed information about the circumstances in which you have been refused employment. Without this detailed evidence it is very difficult for Unite to challenge these unlawful and despicable practices industrially, politically or legally.

With your agreement the reports you provide will link in with the union's industrial structure to create a collective as well as a possible legal challenge to individuals effected.

Together we will continue our fight for a Unite voice without fear across the construction industry. That means organising Unite on every site and in every workplace to build a strong union voice.

What to do if you suspect you are being blacklisted.

We need as much detail as possible about the circumstances in which you have been refused employment. This is vital for our legal team to help you as proving that you are being blacklisted is extremely difficult under the current legal framework.

Step 1: gather the information.

- Which employers / agencies have you applied to?
- Do you have dates of contacting them?
- How did you contact them?
By phone, in person, in writing, by email?
- What response did you get?
Did they ignore your application? Did they tell you the vacancy was filled?
Did they give you a reason for your application being unsuccessful?

Step 2: contact Unite.

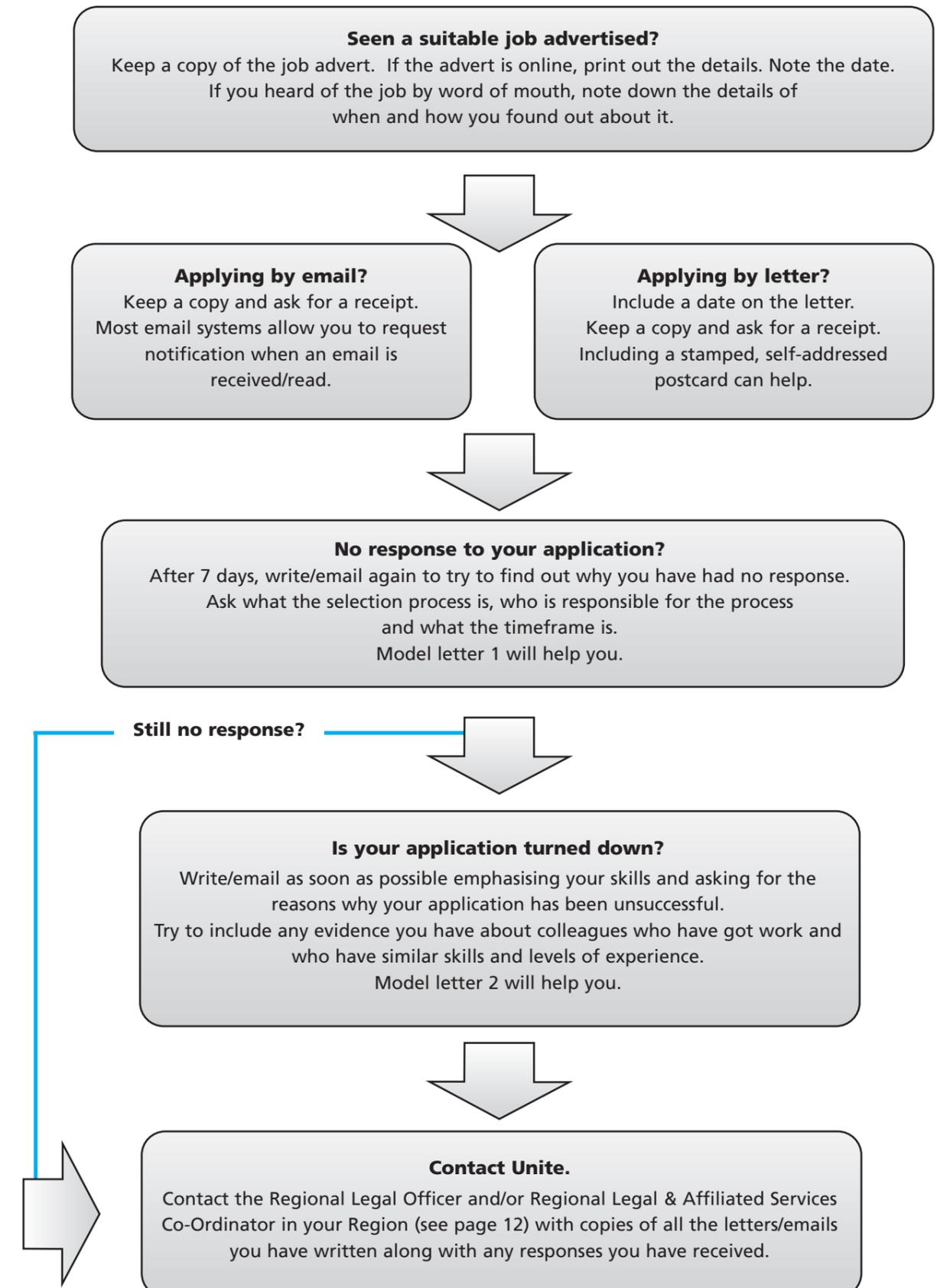
- You should contact the Regional Legal Officer and/or Regional Legal & Affiliated Services Co-Ordinator in your Region.
- The contact details for each Unite Region are on page 12
- Have your details to hand.
- It is vital that we are able to keep records of refusals of work to help you personally and also to establish any trends, for example is a particular agency a problem?

Step 3: contact the Information Commissioner's Office (ICO).

- The ICO is the UK's independent authority for data and information issues. They hold a copy of The Consulting Association blacklist that was seized in 2009.
- To check if you are named on that list, call the ICO on 0303 123 1113 between 9am and 5pm, Monday to Friday.
- Let Unite know the outcome. Just because you are not on that particular list, doesn't mean that you are not being blacklisted.

Tips when applying for work in writing.

It is vital you keep evidence of your job applications. If you are applying to an employer or agency by letter or email, we advise you to follow the steps below.



Tips when applying for work by telephone.

It is vital you keep evidence of your job applications. If you are applying to an employer or agency by telephone, we advise you to follow the steps below.

Seen a suitable job advertised?

Keep a copy of the job advert. If the advert is online, print out the details. Note the date.
If you heard of the job by word of mouth, note down the details of when and how you found out about it.



Initial telephone conversation.

Politely ask for the full name of the person you are speaking to.
Keep a note of when you made the call and what was said during the conversation.
Try to find out the process which will be followed for selecting applicants, who will be conducting the selection process and when you can expect to hear from them.



No response to your application?

After 7 days, ring again to try to find out why you have had no response.
You should also ask for clarification about the process which will be followed for selecting applicants, who will be conducting the selection process and when you can expect to hear from them, if you didn't obtain this information in the initial conversation.
Again, keep a note of who you speak to, when you made the call and what was said during the conversation.

Still no response?



Is your application turned down?

Ring again as soon as possible emphasising your skills and asking for the reasons why your application has been unsuccessful. Try to mention any evidence you have about colleagues who have got work and who have similar skills and levels of experience.
Again, keep a note of who you speak to, when you made the call and what was said during the conversation.
You may prefer to write to the employer/agency. Model letter 2 will help you.



Contact Unite.

Contact the Regional Legal Officer and/or Regional Legal & Affiliated Services Co-Ordinator in your Region (see page 12) with records of all the telephone conversations you have had.

What to do when faced with termination of employment

- If you learn that your employment is going to be terminated before the end of a contract for any reason that you consider to be unfair you should ask for a meeting to be convened and ask if you can bring a trade union representative with you to this hearing. You should then contact your workplace rep or Regional Officer at Unite immediately to arrange such representation.
- If your employment is terminated early following this meeting, you should appeal the decision.
- If the employer is unwilling to convene any sort of meeting and dismisses you from the contract for reasons you consider unfair you should write a letter/email using model letter 3 and then contact Unite.

Action Unite will take.

- Unite will review the correspondence and notes you have collated in relation to the decision to refuse employment.
- Unite, with your permission, may write directly to the relevant agency or construction company asking for specific clarification as to why you have been refused work and reminding them that it is unlawful to refuse employment or services on the grounds of trade union membership under sections 137 and 138 of the Trade Union and Labour Relations (Consolidation) Act 1992 and wrong to operate any form of blacklist pursuant to the Employment Relations Act 1999 (Blacklists) Regulations 2010.
- If your contract has been terminated, Unite, with your permission, may write to the employer/agency asking for specific clarification as to why the decision has been taken and if appropriate challenge the legality of the decision..
- Unite may also advise you to make a data access request and a model letter will be provided to you in order to facilitate that.
- Unite Legal Services will then determine if there is anything they can do on the basis of the information provide to take the matter forward. **Claims to employment tribunals must be made within three months less one day of the date of dismissal or blacklisting complained of. Unless & until you receive confirmation from the Union's solicitors that a claim will be made on your behalf, you must assume that a claim has not and will not be lodged. It therefore remains your responsibility to ensure that any claim you wish to pursue is submitted to the employment tribunal within the time limit.**
- You may already be an active member of Unite however if not Unite will with your agreement link you in to the relevant Unite construction branch where you will meet other activists.
- Unite will raise the issues your case reveals with the employer signatories to the agreements within the industry.

Model letter 1

[Insert Date]

Dear [Insert]

Job Application

I write further to my letter dated [Insert] which was an application for the position of [Insert] at [Insert]. I have not yet received a response from you.

As I stated previously I believe I am suitable for this role [Detail why suitable or simply enclose CV to demonstrate this].

I would be grateful if you could reply to me at [Insert home address or email address] to confirm what selection process will be used for recruitment into the role, who will have conduct of that process and what the timeframe for the process will be.

I would also appreciate it if you could acknowledge receipt of this [letter/email].

I look forward to hearing from you.

Yours sincerely

Model letter 2

[Insert Date]

Dear [Insert]

Job Application

Thank you for your [Insert details of letter/email or call refusing employment].

I would be grateful if you could set out in writing the reasons why my application was unsuccessful.

[If you are aware of anyone who did obtain employment you should detail this along the lines of...
"I am aware that [Insert] has been recruited to work for you and I am aware he does not have any more experience or relevant skills than I do for a job of this nature and therefore I wanted to obtain further information about the decision that was reached".

I look forward to hearing from you.

Yours sincerely

Model letter 3

[Insert Date]

Dear [Insert]

Termination of Employment

I write further to the decision to terminate my employment on [Insert].

Can you please provide me with written reasons for this decision and any information that you have relied upon.

I look forward to hearing from you within 7 days.

Yours sincerely

MEMBERSHIP FORM GB

Mr Mrs
 Ms Miss
 Dr Rev
 Male Female

Surname _____
 Forename _____
 NI No. _____
 House No./Name _____
 Street _____
 City/Town _____
 Postcode _____
 Home Tel. _____
 Mobile _____
 Email _____

About Your Job

Employer/Company Name _____
 Job Title _____
 Work Address _____
 Postcode _____
 Work Tel. _____

Enhanced full time (more than 21 hours per week)
 Enhanced part time (up to 21 hours per week)
 Enhanced low pay
 On certified apprenticeship scheme
 Year 1 Year 2 Year 3 Year 4
 Driver Care (a separate Driver Care application form will be sent to you for completion)

Basic full time (more than 21 hours per week)
 Basic part time (up to 21 hours per week)
 Basic low pay
 Other (eg Unemployed member of the community, under 18, full time student, retired members or permanently disabled members who are not in paid employment)

One of the ways Unite works on your behalf is through political campaigning. We ask all our members to support us in this work by agreeing with the declaration below. Every supporter makes us stronger - and it costs you nothing! I support Unite in campaigning on our policies and members' priorities in the Labour Party (tick, if you agree)

Equal Opportunities

Unite the union is committed to the promotion of equal opportunities for all and it is the union's aim to provide services and support to members that is free of discrimination on the basis of race, gender, religion, sexual orientation or disability. What ethnic group do you belong to?

Please tick Mixed White & Black Caribbean Asian or Asian British Pakistani Black or Black British African
 White British Mixed White & Black African Asian or Asian British Bangladeshi Black or Black British Other
 White Irish Mixed Other Asian or Asian British Other Chinese
 White Other Asian or Asian British Indian Black or Black British Caribbean Mixed White & Asian
 Other/please specify _____

Please tick if you regard yourself as disabled Lesbian Gay Bisexual Trans

For Office use only

Branch No. _____ Job Code _____ Workplace Code _____
 Employer Code _____ Recruitment Code _____ Membership No. _____

Direct Debit Details - Instructions to your Bank or Building Society to pay by Direct Debit



Originators ID Number **9 7 1 4 6 7**

Name of bank/building society _____
 Town of the Bank _____
 Sort Code _____
 Account Number _____
 Name(s) of Account Holder(s) _____

On the selected day of the month:
 7th 14th 21st 28th

Instruction to your Bank or Building Society
 Please pay Unite the union Direct Debit monthly from the account detailed in this instruction subject to the safeguards assured by the Direct Debit Guarantee. I understand that this instruction may remain with Unite the union and, if so, details will be passed electronically to my Bank Building Society.

Authorisation of deduction of your trade union contribution from your pay (check-off)

Note: Not all employers operate check-off. I hereby authorise the deduction of Unite the union subscriptions from my pay of such amounts as shall be notified to my employer on my behalf from time to time by Unite the union. I also authorise my employer to inform Unite the union of any changes of address.

Paid weekly or monthly? Weekly Monthly Payroll No. _____

Please read the Data Protection Notice.

You have the right at any time to stop us using your details for third party marketing purposes. If you do not wish us to communicate with you or share your contact data for these purposes, please tick this box. Please note that this will preclude you from receiving our special offers or promotions.

Unite Legal and Affiliated Benefits

As a member of Unite you have access to a range of specially negotiated benefits and services. Please tick the box below if you would like more information on:

Unite Legal Services Unite Prepaid Debit Card Unite PPI Reclaims Driver Care
 Unite Life Insurance Unite Home Insurance Unite Personal Financial Review Unite Lottery
 Unite Mortgages Unite Motor Insurance Unite Credit Union Service

Insurance Renewals

Please tell us in which month your key insurance policies are due for renewal so that we can send you details of special Unite deals:

Home _____ Motor _____

When you join Unite, you are also authorising the Union to deduct an additional amount for your subscription to your local branch fund.

I agree to abide by the union's rules. I authorise the payment above:

Signature _____ Date _____
 Please tick if you wish to receive the union's magazine