

LEGALEYE

Let's Talk Prospect! Welcome to Union Week 2017

In 'union week' we ask all reps and members to talk about Prospect to colleagues in their workplace. This year's union week runs from 16-20 October 2017.

There will be Prospect events throughout the UK to celebrate the value of being a union member. Members of the legal team will be meeting branches from Belfast to Edinburgh and Watford to Wakefield. If there is an event near you, do drop by to see us for advice or just to say hello.

There are social media competitions, activities and recruitment incentives. So let's all [#TalkProspect](#) and grow our union!

For more about union week see bit.ly/TalkProspect

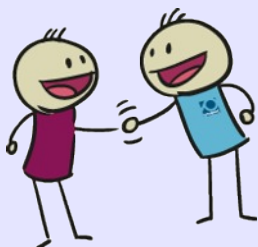


Helen Hall & Paula Mitchell from Prospect Legal at a Union Week 2016 event

Recruit a colleague today!

Members who recruit a colleague can choose a £10 shopping voucher or make a donation to charity. To find out more visit:

www.prospect.org.uk/be-involved/mrm



Forecast for equal pay at the Met Office



The Prospect negotiating team L-R Tony Bell, national secretary, Gordon Hutchinson, branch secretary, Ayoe Buus Hansen, branch councillor, Helen Stevens, negotiations officer & Marion Scovell, head of legal

Prospect is balloting members at the Met Office on a new pay arrangement to promote equality and fairness, which will lead to significant increases in pay for most staff.

The offer is the culmination of a long running campaign to eradicate the gender pay gap. Over the last few years the branch has produced a manifesto for pay, taken industrial action, lobbied government and pursued strategic litigation.

The Met Office's pay audit in 2015 showed the pay gap between men and women was 10.7% and this meant that many senior women meteorologists earned about £7,000 less than male colleagues.

A claim for equal pay was presented to the employment tribunal on behalf of 77 women members in March 2016. There has been an extensive amount of work done on the claims, including three preliminary hearings. Ben Cooper QC, a leading expert on equal pay, was instructed by Prospect to represent our members.

Prospect was successful at a key hearing at the Exeter tribunal in January 2017. The Judge rejected the Met Office's attempts to limit the scope of the claims and ruled in favour of the

claimants, allowing the full case to proceed.

"The legal action proved to be the pressure that moved things forward", said Helen Stevens, Prospect negotiator.

The Met Office entered into negotiations early in 2017. On 2 October a new pay system was put to staff. The value of the offer far exceeds the government pay cap.

Gordon Hutchinson, Prospect branch secretary at the Met Office said: "Strength of feeling and also a willingness to back it up with action when needed has resulted in clear improvement for the professionals working at the Met Office."

Dr Ayoe Buus Hansen, a Prospect rep on the negotiating team, said: "This shows that by working together in a trade union we can achieve real change for women at work".

"In 2017 equal pay shouldn't be optional, but in too many places the gender pay gap still persists, so it is important that the Met Office will now be closing the gap" continued Ayoe. "This result shows why, now more than ever, people should join a trade union like Prospect"

Member reinstated following disability claim

Roger Hancock has worked for the Ministry of Defence for over 40 years. In 2008 he was diagnosed as having an extremely debilitating and recurring form of cancer, which has greatly impaired his mobility. Roger has mostly worked from home since then and during this time had been promoted and awarded special bonuses.

Roger was off work from October 2015 while having further treatment. He was certified by his doctor as fit to return in April 2016. He returned to work, but a week and a half later his line manager told him he should not be working and his fit note was rejected. MOD's occupational health service (OH) then declared he was not fit to work. Roger continued to challenge this as he was keen to return, however his managers refused to allow him back to work.

His sick pay ran out by September 2016. A further OH review in November supported Roger's request for part time hours and working from home and advised he could return to work with these adjustments. But still management refused.

Prospect submitted a claim of unlawful disability discrimination to the employment tribunal on Roger's behalf, claiming a failure to make reasonable adjustments and for full reinstatement of pay. Disappointingly, MOD failed to engage with the conciliation process through ACAS.

The employer continued capability proceedings against Roger due to the prolonged absence from work and dismissed him in March 2017.

Prospect prepared a further claim to the tribunal.

Roger had been supported by his local union representative, Mark Reynolds, throughout. Mark represented him at the appeal hearing. The decision to dismiss was overturned and Roger was offered a new job, which he was happy to accept.

Mark said: "Once again union membership has secured a positive outcome".

Roger has since been paid the full arrears of pay, outstanding holiday pay, and been re-entered in the pension scheme with continuous service. The tribunal claim was finally settled in September for additional compensation.

Roger said; "I am extremely pleased with the final outcome. Without the significant help provided by Prospect, particularly from Mark and from Marion Scovell in the legal team, I do not think this result would have occurred."

"I have been a union member throughout my working life although not expecting to need their services, but this case just goes to show that you can never tell when you will need their help", continued Roger. "After a process that went on for more than a year I can now try to relax and put it all behind me."



Success at Judicial Mediation

Employment tribunals can offer mediation by a Judge in appropriate claims. This is often particularly helpful where the employment is continuing and the employee does not want to jeopardise the working relationship.

A Prospect member, with chronic fatigue syndrome, presented a claim to the tribunal when his employer tried to reduce his hours of work. He argued that the employer had failed to make reasonable adjustments and was subjecting him to discrimination arising from his disability.

Linda Sohawon, legal officer, said: "This was an ideal case for judicial mediation. Through the mediation process a plan was agreed to facilitate full-time working, including daily rest breaks, time off for medical appointments and working from home on scheduled days. I was delighted that we were able to negotiate a satisfactory outcome."



Linda Sohawon

Southend United reaches settlement with Prospect member

Prospect has reached a mutually acceptable agreement for Southend United's groundsman, Ken Hare, whose employment was terminated in January.

Ken was dismissed on 21 January after Southend's home match against Bolton was postponed because the pitch was frozen.

He contacted his professional body, the Institute of Groundsmanship (IoG), and his trade union Prospect.

Prospect national secretary, Alan Leighton, represented Ken in the negotiations with Southend chair, Ron Martin.

Alan said: "The negotiations were tough, but conducted in a good and fair spirit with each side acknowledging the other's position in order to reach a mutually satisfactory agreement.

"The nature of the negotiations was typified by the kind offer of two season tickets for Ken as part of the arrangement. Ken gratefully accepted the offer and hopes to see Southend promoted in 2017/18."

The terms of the agreement are confidential, but Ken said: "I am delighted with the outcome and would like to express my thanks to Prospect, the IoG and Southend's chair, Ron Martin, for helping reach a mutually satisfactory agreement. Without the support of my union, I would have had difficulty resolving this. I would encourage all my grounds staff colleagues to join Prospect and the IoG."

Alan added: "This was a hugely important issue for Ken and for grounds staff more generally. Employees in football clubs need the support of an independent friend in the workplace because problems can arise at any time."



Roots Hall, the home of Southend United

Accidents can happen...but you are better off with Prospect

Prospect's personal injury scheme provides members with expert advice and representation. By using the union's legal scheme you will receive a high quality, responsive and effective service.

To find out more visit bit.ly/2i2YJek to read our new PI scheme special, full of top tips and success stories.



Follow ProspectLegal on Twitter: [@LegalProspect](https://twitter.com/LegalProspect)

Successful injury claim following asbestos exposure

Trevor Nevin is a retired Prospect member. He worked as an engineer in power stations for many years and this had brought him into contact with asbestos. Sadly he was diagnosed with mesothelioma in his retirement.

He consulted Prospect and was referred to the union's solicitors Pattinson & Brewer. A medical report was requested immediately and a claim was made. They quickly obtained an admission of liability and a substantial interim payment whilst the value of the claim was being finalised. After some negotiation, a final settlement was agreed without the necessity of court proceedings.

Trevor said: "I am very grateful to Prospect and their lawyers. Never did I think when I joined the EPEA (the forerunner to the Engineering Managers' Association and then Prospect) in 1960 that I would need such assistance. This was the first time I had used the Union's legal services and it was very reassuring to have Prospect behind me even though I had retired."



Frances McCarthy, Head of PI, Pattinson & Brewer

Prospect asbestos register

Prospect maintains a register of members who have been exposed to asbestos. This information can make the difference between a claim being successful or unsuccessful.

Holding this information on a database enables Prospect and their solicitors to search for witnesses who worked for the same employer or in the same workplace and so provide evidence in support of members' claims – now and in the future.

If you have been exposed to asbestos at work call 020 7902 6624. Or visit <http://bit.ly/1FQZWGO>

Terms and conditions for legal assistance

You must:

- ✓ Be in membership at the time the problem arises
- ✓ Continue to be in membership for the duration of the case
- ✓ Not take independent legal advice before approaching Prospect
- ✓ Not commence litigation before approaching Prospect



See our legal advice guide for details (bit.ly/ProspectLegalGuide)

Legal Word Search

N D X A Q Z A U N N N W L S P
 L N I Y T C Z O Y O C I Z R E
 X A J S T Y I K I P T I D O N
 K T N I A T P T E I P N J T S
 K V O O A B I I G A G D O C I
 G N C I I N I A C E O U D A O
 B K D L G S T L T A N S D R N
 J E Y O Q I S F I V L T E T S
 M H C M O D T E Q T N R S N C
 W E M N U F X K F Z Y I I O V
 R E Q U A L P A Y O W A N C H
 C O L L E C T I V E R L O G R
 K E E W N O I N U Q H P I N G
 U N Z M P X Q O O X J D N R E
 D S O Q J H K R S D I V U A D

Words To Find:

- | | |
|-------------|--------------|
| Action | Litigation |
| Atypical | Mediation |
| Collective | Pensions |
| Contractors | Professional |
| Disability | Recognition |
| EqualPay | Unionised |
| Industrial | UnionWeek |

Workers' Rights Quiz

All the answers can be found in this edition of LegalEye

1) The Trade Union (Wales) Act....

- a) Makes it lawful to go on strike without a ballot
- b) Dis-applies parts of the TU Act to devolved public services in Wales
- c) Gives everyone in Wales the right to join a union

2) What is the Prospect asbestos register?

- a) A record of members who have been exposed to asbestos at work
- b) A list of successful legal claims
- c) Information on how to trace insurers

3) Who acts as the mediator in Judicial Mediation?

- a) The industrial relations officer
- b) The ACAS conciliation officer
- c) An employment tribunal judge

4) Contractors will have many statutory rights, including:

- a) Redundancy pay
- b) Right to claim unfair dismissal
- c) Working time protections

5) An employer is under a duty to make reasonable adjustments:

- a) For workers with a disability
- b) For women bringing an equal pay claim
- c) When they are ordered to do so by the Equality Commission

6) The Supreme Court ruled that fees for employment tribunals...

- a) Should be reduced
- b) Were a fair cost to users
- c) Were unlawful and should be ended

Answers

(1) b, (2) a, (3) c, (4) c, (5) a, (6) c

Wales rejects the Trade Union Act!

The Welsh Assembly has successfully challenged some aspects of the Trade Union Act in Wales.

The TU Act introduced appalling restrictions on unions generally. And imposed additional rules on public sector workers, including limits on union facility time, deduction of union subs and the imposition of higher thresholds for industrial action ballots.

However, the Trade Union (Wales) Act, which has now received Royal Assent, will dis-apply parts of the Act that relate to devolved public services in Wales such as; the NHS, education, local government and the fire service.



Gareth Howells

Gareth Howells, Prospect's negotiator in Wales said: "I am proud of the Assembly for standing up for workers in Wales and limiting some of the worst excesses introduced by the

draconian TU Act. This is a great example of partnership working between the Welsh government, public sector employers and trade unions in Wales."

Do you need a will?

Prospect's solicitors will provide a straightforward will, at no charge, for members and their partners. In other, more complex cases, the solicitors will prepare the will at a significantly discounted rate.

Pattinson & Brewer have now introduced an online service to start your application for a will. Members in England & Wales can now start their will online by visiting bit.ly/2wNAK5u

Members in Scotland, Northern Ireland, the Channel Islands and Isle of Man should contact their local Prospect officer or Prospect Legal for details of the service in their area. Members in the Bectu sector, except for C&D division, should check for details on their website.

Know your rights

Prospect produces a range of guides to help members better understand their rights at work, these include fact cards, members' guides and other specialist publications. To download updates, briefings and guides visit: bit.ly/Emp_Legal

A round up from Prospect blogs

A union victory is a win for all

Frances Cusack, assistant legal officer, reports the Supreme Court judgement to end tribunal fees.



Fairness and equality have prevailed due to the persistence of a union supporting its members. As Frances says: "This change benefits everyone, not just union members – because unions campaign for what is fair and right. It's what we do."

bit.ly/2kzPW4x

Strength of the collective voice

Marion Scovell, head of Prospect Legal, looks at the value of collective bargaining. Where workplaces are unionised, workers are likely to have higher pay, better safety records and greater equality at work. But we need to watch for attempts by employers to erode collective bargaining rights. A recent case has demonstrated how effectively we can use the law to resist weakening these rights. bit.ly/2hXbTt9



Pension equality for same sex couples?

Neil Walsh, Prospect pensions officer, explores the impact of the recent Supreme



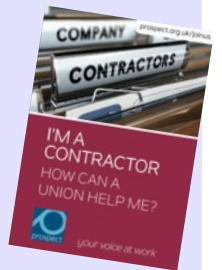
Court decision awarding equal pensions rights. Neil explains the background to the case and looks at what is needed for a future change in the law. "The Supreme Court should be applauded for stepping in to resolve an injustice that successive governments refused to address", says Neil. bit.ly/2ya8pcn

Contractors - come together in Prospect

Working as a contractor can sometimes feel like you are isolated in the workplace. But it doesn't have to be like that. You still have a lot in common with your colleagues who are employed by the organisation you are carrying out work for.

Whether it be looking for career development and training opportunities, health and safety advice or seeking representation when you need it, these are just some of the things Prospect can offer you.

Contractors, along with many other atypical workers, have many statutory employment rights. These will include; working time protections, minimum wage, equality rights and to be represented at grievance or disciplinary hearings. See our new leaflet at: bit.ly/2q6dFro



New Briefings & Updates from Prospect legal

Briefings:

- ✓ 019 - Union recognition (bit.ly/2tLHH7O)
- ✓ 052 - The Trade Union Act 2016 (bit.ly/2if7Ym3)
- ✓ 056 - Brexit and workers' rights (bit.ly/2ti60eR)
- ✓ 058 - Recording Disciplinary and Grievance Meetings (bit.ly/2yaEeCb)

Updates:

- ✓ 0435 - Multiple tribunal claims (bit.ly/2eK2Hha)
- ✓ 0436 - Calculation of Holiday pay (bit.ly/2yax2WP)
- ✓ 0437 - The name on the EC and ET1 must be the same (bit.ly/2y5a6sm)
- ✓ 0438 - Employer's right to monitor emails (bit.ly/2ySNB6K)
- ✓ 0439 - Whistleblowing & the public interest (bit.ly/2yz830l)
- ✓ 0440 - Industrial action - expected period of action (bit.ly/2i1csm0)

