



## **Birmingham Joint Trade Unions Newsletter – 19<sup>th</sup> October 2007**

# **New Contracts of Employment Just Say No**

The Council have chosen a pay structure that will never deliver equal pay.

Instead of putting in the money needed to level up the pay of women they have chosen to take from some to give to others.

The Council want to introduce Performance Related Pay which means your manager could decide to cut your pay in the future.

They want us all to be super flexible about our hours and where and when we work - anytime, anyplace, anywhere!

They want to introduce a working week of any 5 in 7 days and anytime between 7am-7pm.

**This mailing is intended to give you the facts about how to say no to your new contract and what can happen when you do.**

# **What does it mean if I refuse to sign my new contract ?**

## **What is a contract of employment?**

**ACAS say:**

- "A contract is an agreement between two parties enforceable by law. A contract of employment is a contract of service and comes into being when an employee agrees to work for an employer in return for pay."

## **How can contracts be varied/changed?**

**ACAS say:**

- "An existing contract of employment can be varied only with the agreement of both parties. Changes may be agreed on an individual basis or through a collective agreement (ie: agreement between employer and employee or their representatives)."

**The joint trade unions have not agreed to the new contract so the Council will want individual employees to accept it.**

**ACAS say:**

- "An employer who is proposing to change an employee's contract of employment should fully consult with that employee or his or her representative(s) and explain and discuss any reasons for change."

**Although the Council has held many meetings with your trade union reps they have not agreed to reconsider any of the major concerns that we have about the new contracts. We also do not believe that the Council has consulted properly with individual employees as the Mori poll is the only way they have asked your opinions.**

**ACAS say:**

- "Variations of contract can be agreed verbally or in writing. It is preferable for any agreed changes to be recorded in writing."

**As a contract can be agreed verbally it is important that you make sure that the Council knows you are not accepting your new contract which is why the trade unions have a letter that you can send with your refusal slip. The letter is included in this mailing.**

**ACAS say:**

- “Where a variation in the contract has been agreed and the changes concern particulars which must be included in the written statement of terms and conditions, the employer should give written notification of the change to the employee, within a month of the change taking effect.”

**The Council intends to issue you with a new contract. They will then give you 1 month to decide if you will agree to sign it. If you don't sign then the Council will then issue you with another letter giving you 90 days notice that they are going to impose the new contract on you.**

**If you don't make it clear to the Council that you are not accepting your new contract then they will assume that you have accepted it.**

**Is there an alternative method of making contractual changes if agreement on a variation cannot be reached?**

**ACAS say:**

- “Yes. If, after negotiation, agreement on a variation of contract has proved to be impossible, an employer can – having followed the statutory dispute resolution procedures, where they apply, and observed any relevant procedural agreements - terminate the original contract, with proper notice, and offer a new contract to the employee, including the revised terms. There will be no breach of contract as a result of taking such action.”

**So if you accept your new contract you have no means of complaining about the terms in it.**

- “Under the law the termination will be regarded as a dismissal and it will be open to all eligible employees to claim unfair dismissal before an employment tribunal – whether they refuse to accept the new contract and leave, or are dismissed under the old contract and re-engaged.”

**The key here is dismissed under the old contract and re-engaged on the new one. The Council are not intending to permanently dismiss any employee. If you refuse to sign your new contract the Council will terminate current contract and re-engage you on the new one, as long as you continue to work.**

**Even Councillor Rudge has made this clear in his letter when he states “...if you choose not to accept the new contract of employment offered, the Council is required to give you a maximum of 12 weeks notice on your existing contract of employment and then re-offer the new contract of employment. This legal process is known as a dismissal and re-engagement process and will not impact on your continuity of service.”**

## **What happens after that?**

**We hope that once the Council realise how unhappy we all are about parts of the new contract they will come back to the table and discuss improvements.**

**If they refuse to do this then all the unions will be carrying out industrial action ballots.**

**The Joint Trade Unions are exploring legal advice about taking mass Unfair Dismissal claims on behalf of members if the Council go ahead and try to impose the new contracts on members, however if you sign your contract this option will not be open to you.**

**So Just Say  
No**

**and send the council the attached  
letter**

### **Trade Union Contact details :**

**UNISON – Single Status – 0121-622-8740/41/42**

**TGWU (UNITE) – 0121 303-2867**

**AMICUS (UNITE) – 0121 464-5789 07766924474**

**GMB – 0121 303-4123**

**UCATT – 0121 464-5791**



H. R Director  
Birmingham City Council  
3<sup>rd</sup> Floor, Norfolk House  
Smallbrook Queensway  
Birmingham  
B5 4LJ

Dear Mr Albon,

I am informing you that I will not be signing the Contract of Employment/ Written Statement of Employment particulars, as I do not wish to accept the contract and conditions that you are currently proposing.

I note your intention to dismiss me and re-employ me on your new proposed contract. I will continue to attend work under these circumstances, but would prefer you to enter into proper negotiations with my Trade Union and not seek to impose this contract upon me.

Any clarification you require please contact my UNISON branch.

Name: .....

Address:.....

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Workplace:.....

Date:.....

\* Attach to 'reject' slip