

**DERBYSHIRE
UNISON
HERE TO
HELP YOU**

A SPECIAL

NEWS
UPDATE



We're taking the unusual step of mailing all members at home with this publication. Postal costs are too high for us to do this on a regular basis and with 90% of UK adults now classed as 'recent internet users' (and a higher percentage for working age people), it is far quicker and greener to use email and our website for news.

However, there are a few issues where we want to make an extra effort to reach you, as they may require your action. (In fact, we've highlighted these articles with a small 'responses needed' indicator). So, we've put together this publication which I do hope is of interest to all members, even if only to show what is happening elsewhere.

Finally, another plea for you to regularly visit our website derbyshireunison.com. It has been designed as a simple site where you can access the latest news items, UNISON factsheets and where you can also seek help. It can be a valuable resource when you have a problem or a question. Thanks!



Jeanette Lloyd
Branch Secretary



*We hope you're able to read all this update but if you are pushed for time, this article is primarily aimed at those who received the **LIVING WAGE***

Derbyshire County Council – and, possibly, some other employers – last year attacked the pay of low paid staff by withdrawing the Living Wage Allowance. By them bringing the hourly rate down to £8.50, you could be losing out by almost £500 a year.

UNISON is challenging this attack wherever we know it has occurred. We are taking legal action against the council and are prepared to do the same against other employers who followed the council's actions.

We believe this was a contractual entitlement withdrawn without proper notice, or consultation. We think it is an unlawful deduction of wages. We are also arguing for members to receive back pay to autumn 2017 when an annual rise in the Living Wage was not implemented.

Responses needed!

The vast majority of those affected will be Derbyshire County Council employees. Many of you have supplied us with your details ... but if you have yet to do so, please correct that urgently.

(If your circumstances have changed since you submitted your details, particularly if you change or leave your job, please let us know immediately. New claimants also need to let us know if circumstances subsequently change).

Some members who are directly employed by their schools or academy trusts may also have suffered this injustice. We want to help - so please let us know immediately if this affects you.

If you have been transferred out of Derbyshire County Council (a TUPE transfer), and have lost the Living Wage, there may also be a potential claim; so call us now.

You can leave a message on our website if you need assistance



Visit our website for the latest news, resources, help and find out how to get more involved

derbyshireunison.com

HAVE YOU BEEN CHEATED OUT OF THE LIVING WAGE?

Finally, there may be a few members for whom the job they received the Living Wage for was not their main job. Maybe you do some midday supervision at a school or some cleaning whilst your primary work is elsewhere. Again, we need to assess whether you have a claim.

Without your details being included on UNISON's claim, you will not be entitled to compensation should the claim be successful ... so contact us immediately if you haven't already done so!

And if you're reading this and know some of your friends may be in this position, even if you're not, please let them know!

You can also use the opportunity to show what we are doing in response to employer attacks



and sign up friends, family and workmates to UNISON. They can join by visiting joinunison.org or calling the branch office on 01629 582266 for an application form.

Email us your details (name, current employer, payroll number and, if known, UNISON membership number to branch@unisondc.co.uk or call 01629 582266

TO JOIN THE CLAIM ➔

Make sure we can reach you!

Responses needed!

It's vital we have your email address to update you on negotiations and campaigns. We also need to accurately record your employer - something members sometimes forget when they move jobs!

There are two ways you can update your details:

- (1) Via the national website unison.org.uk; when you reach the home page, hit My UNISON at the top. You will need your membership number for this; or
- (2) Email ben.harrison@unisondc.co.uk and he will let you have an electronic version of the details we hold; you can then amend these if necessary. (For data protection purposes, we can only send this to the email address you have provided previously).

SCHOOL WORKERS TO BE BALLOTTED IN JANUARY

Thousands of school support staff posts have been cut in recent years. Workloads have spiraled, with support staff working unpaid overtime just to keep schools running. More than 25% of UNISON members work nearly an extra day each week for no extra pay – just to get the job done. Terms and conditions are under attack as schools look for ways to save money.

The government have broken what were already woefully inadequate promises over funding; they promised “every school” would get a cash increase yet December 2018’s figures show that 25% of

primary schools and 17% of secondary schools have not received any ‘increase’, and some suffered further cuts.

Schools and sixth form colleges have been systematically underfunded with £2bn a year taken away from them since 2015.

Schools are increasing class sizes, reducing teachers and support staff, cutting subjects from the curriculum and leaving building repairs undone. Begging letters for financial support are now commonplace.

We can’t go on like this. Our schools are too important to be put at risk by failing government policies, increasing workloads, funding and staffing cuts, which hurt support staff, teachers, and of course, children.

UNISON will be running a consultative ballot of schools members on the employment issues that have arisen as a result of underfunding by the Westminster government.

The ballot will be similar to those currently being run by sister unions

*We hope you’re able to read all this update but if you are pushed for time, this article is primarily aimed at **SCHOOL WORKERS**.*



SPEAK UP for your school

NEU, ASCL and NAHT but UNISON is the only union who will be consulting school support staff at the present time.

The ballot will be run as a

national e-ballot and

will open on 22 January 2019.

Members will receive an email when the ballot opens with a link to vote. Please check we have a current email address for you. **See Page 3 for how to update your details.**

UNISON is asking you to speak up for your school in the consultative ballot:

- We want to know what you think, and what you are prepared to do, to help us defend schools against further cuts and job losses
- It's about stopping workload increases and defending your pay, terms and conditions

- We are consulting all school support staff in England and it is important you have your say.

When the ballot opens we will be asking you three simple questions and your answers will help us in our campaign and negotiations with employers and the government. One of the questions will be around whether members are prepared to take strike action. This could lead to a formal industrial action ballot at a later date, depending on the result and turnout.

(We will ensure that there are mechanisms in place that will ensure that all appropriate members can vote in this consultation. However, members will find it much easier to vote if we have an email address for them as we will be able to send them a direct link to the ballot questions).

It is important we get as high a turnout as possible so make sure

your work colleagues are voting! If they're not in UNISON, sign them up!

More than 25% of UNISON members work nearly an extra day each week for no extra pay - just to get the job done

UNISON represents around 250,000 school support staff. Members do fantastic work to help children learn, keep them safe and healthy and schools running smoothly. But, life is getting harder in our schools. Let's do something about it – before it's too late!

SLEEP-IN SHIFTS:

In July 2018 the Court of Appeal (CA) delivered a ruling that was a hammer blow for thousands of care workers who work sleep-in shifts. The court has denied them the hourly minimum pay that is the very least that they deserve.

In the aftermath of that ruling, UNISON made a commitment to those care workers – and everyone affected by this landmark case – that we would keep fighting for what is right. That includes continuing to fight on in the highest court in the land – the Supreme Court. UNISON has asked the Supreme Court for leave to appeal against the decision.

*We hope you're able to read all this update but if you are pushed for time, this article is primarily aimed at **SOCIAL CARE** workers.*

We should value care staff and the work they do. After this judgment who could blame workers for leaving in their droves?

country's lowest paid must be laid at the government's door.

"Social care is in crisis. This situation wouldn't have arisen if the government had put enough money into the system and enforced minimum wage laws.

"Sleep-in shifts involve significant caring responsibilities, often for very vulnerable people.

"We should value care staff and the work they do. After this judgment who could blame care workers for leaving in their droves?"



UNISON believes the decision not to count sleep-in shifts as working time is wrong and flies in the face of previous legal judgments and a common sense understanding of what counts as work.

If you're not free to come and go from your workplace as you please, indeed you'd be disciplined and

sacked for such actions, then we say you must be considered to be working and paid accordingly.

UNISON general secretary Dave Prentis said:

"This judgment is a mistake, but let's be clear where the fault lies. The blame for this sorry state of affairs hitting some of the

Derbyshire UNISON area organiser Dave Gorton said:

"Yet again, 'the haves' determine what 'the have nots' get and damn the consequences. Unless overturned, this will lead to poorer and more stretched services as care workers leave the sector, disillusioned."

RULING IS A HUGE MISTAKE

“But we must also recognise that if we were stronger in this sector, if more workers were organised in UNISON, we could take our case direct to employers and not have to rely on legal judgments. Our strength, which brought about all the benefits workers have won in the past, lies in unity and solidarity. Where we have high densities of UNISON membership, we gain more – it is a lesson we have to re-learn, starting now!

“Every care worker should set themselves a target – to sign up one or two of their colleagues to UNISON now. You can get recruitment packs from the branch office and if you need some help, get in touch with me.”

We will continue to provide updates on development via the branch website.



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THE JUDGMENT DETAILS

In an unexpected decision, the Court of Appeal (CA) ruled that in general, sleep-in shifts by care workers of vulnerable people do not attract the National Minimum Wage (NMW), unless the care worker is “awake for the purpose of working”. [Royal Mencap Society v Claire Tomlinson-Blake (Mencap). UNISON supported Tomlinson-Blake in the case].

For hourly-paid workers, the NMW is based on “time work”. Under regulation 32(1) of the National Minimum Wage Regulations 2015 (NMWR), time work includes hours when a worker is available (and required to be available) “at or near a place or work” for the purpose of working, unless the worker is at home. However, hours when the worker is “available” for work include only those hours when the worker is “awake for the purposes of working”, even if the worker “by arrangement sleeps at or near a place of work and the employer provides suitable facilities for sleeping”.

Tomlinson-Blake cared for two vulnerable adults in their own home. As well as her day shifts, she worked a sleep-in shift between 10pm and 7am for which she was paid a flat rate of £22.35, plus one hour’s pay at the NMW. She was obliged to remain in the service users’ home all night and to listen out for problems. When not called upon, she could sleep.

Both the Employment Tribunal and the Employment Appeal Tribunal (EAT) ruled that sleep-in shift hours must be included when calculating Tomlinson-Blake’s entitlement to the NMW because she was working while sleeping. She was not simply “available for work” so regulation 32(2), NMWR did not apply. Mencap appealed.

The CA ruled in favour of the employer, deciding that “sleep-in” shifts are not to be included when calculating the NMW, except when a care worker is “awake for the purpose of working”. The CA overruled several important rulings, including Whittlestone v BJP Support Limited (2013).

The basis of the CA ruling is that whether a sleeping night shift worker is “working” and therefore entitled to the NMW depends on the facts of each case and that “the essence” of a care worker’s sleep-in shift in a service user’s home is that they are expected to sleep on the premises, only providing help when required. They are not “working” when asleep, says the CA.

The CA compared the position of care workers to that of *home-based* night shift workers manning a 24-hour emergency booking service for bank nurses, in the leading case, British Nursing Association v HMRC (2002). These call operators were working throughout their shift, even though they were free to sleep or watch TV when not answering the phone, said the CA, because being free to sleep at intervals between tasks was not consistent with “working”.

SCHOOL CATERING CUTS ARE **NOT** ACCEPTABLE!

Derbyshire County Council plans to cut catering staff in primary school kitchens by 8% has been met with incredulity and anger by UNISON members. Members have let UNISON know they are already working to full capacity – and beyond - and any staffing cuts at all would not only make their jobs impossible but could have a serious adverse effect on the council’s duty to provide school students with the necessary hot and nutritional meal at lunchtimes.

UNISON has met with the council to pass on members’ views and wholeheartedly reject their plans which would apply to over 300 schools and affect 870 staff. The implementation process has been paused for further negotiations.

UNISON requested far more details than were initially provided. We believe answers provided back up our original ideas that savings could be made without such an enormous impact on schools and students.

The overall saving the council wishes to make amounts to £210,000. Yet the amount spent on overtime in 2017/18 was £444,779 of which £316,425 was on covering for sickness and a further £91,014 on cover for vacant posts and other service requirements.



We hope you're able to read all this update but if you are pushed for time, this article is primarily aimed at those who work in school catering for
DERBYSHIRE COUNTY COUNCIL

Whilst most sickness absence is unavoidable, there will be a significant amount caused by stressful working conditions. There could be significant savings if these were improved. But further staff cuts are only likely to worsen the situation and could lead to higher sickness levels.

UNISON has proposed alternatives which would achieve savings but prevent already very low-paid workers from losing out:

- The council has £40 million currently in reserves - above the figure they need to be ‘financially sound’. UNISON has

Staffing cuts could have a serious adverse effect on the council’s duty to provide students with the necessary hot and nutritional meal

said the £210,000 savings should be taken from this figure.

- Staff turnover for 2018 is running at 13.32% which is higher than the proposed cuts. UNISON believes one of the first things to be considered should be not replacing staff who leave. We are prepared to work with the council to achieve this and overcome local staffing difficulties which may emerge from time to time. At Ladywood School near Barnsley which has seen midday supervisors and teaching assistants take 36 days of strike action against cuts and redundancies, victory was achieved by UNISON members by getting the school to address budget deficits in the light of such staff turnover.
- UNISON requested the council look at alternative savings within catering itself, including non-kitchen staff. The council are now proposing cutting two Grade 13 management posts

with a saving of at least £88,000. UNISON says this should be deducted from the £210,000.

We are also concerned the plans are flawed for other reasons:

- The proposed cut would affect predominantly low-paid women workers. We are insisting an Equality Impact Assessment needs to be considered by the council (a requirement in its own constitution) before cuts are implemented.
- There is a formal agreement in place that dictates the ratio of catering staff to pupils which this cut would tear up. UNISON is seeking legal advice on this matter.

Our advice to members at the moment is to remain firm. DO NOT sign any 'variation letters' sent out by the council. In fact, a good rule of thumb is never to sign anything to do with your pay, terms and conditions without taking UNISON advice first!

Each school kitchen should also have at least one UNISON Advocate (see Page 10) and, possibly, even a steward.

Responses needed!

Whenever there are any updates we will get the information out to Advocates immediately so they can cascade it to all members.

Finally, if there is anyone in your kitchen who is not in a union, get them to join UNISON today! We can defeat these cuts if the whole workforce is united against them; every non-member means the council have a better chance of forcing through their plans. The best recruiters are not UNISON staff or stewards but workmates; you can convince them why it is important (essential!) they join.

All they need do is either visit joinunison.org or call 0800 171 2194. Alternatively, they can get a paper application form by ringing the branch office on 01629 582266.

**GET HELP
STAYING
WARM THIS
WINTER**

There for You, UNISON's own charity has set up a limited fund to help UNISON members on low income pay the winter fuel bills. To qualify:

- **You must be a UNISON member and have paid four weeks subscriptions before the launch date of this programme (3/12/18)**
- **You must have a total net annual household income of £18,000 or less**
- **You must be responsible for meeting the household fuel bills and are struggling financially**
- **You and your partner (if applicable) must not have combined savings, or rolling bank balance, of more than £800**

Applications are limited to one per household.

To apply download the forms at unison.org.uk/content/uploads/2018/12/Final-Winter-Fuel-Grant-Application-Form-2018-19.pdf

or contact the branch office on 01629 582266.

Applications need to be received by Friday 17 February.

BECOME A UNISON ADVOCATE

Responses needed!



Last year we launched a UNISON Advocate scheme. An advocate is someone (or more than one person) on each team or workplace who is prepared to distribute UNISON material to members where necessary, who can pass on the concerns of their work colleagues to the branch, who can encourage new staff to join UNISON and generally act as our 'eyes and ears'. The scheme

enables members to feel part of a collective, especially in areas where there are no elected stewards.

An advocate isn't an elected position like a steward and we encourage volunteers to step forward. As part of being an advocate you will receive a small pack including membership forms, advice information, other information for your notice board (if you have one) and a metal badge

you can wear at work. You won't be expected to represent members or 'tackle' local management on their behalf (unless you wish to do so following advice from us).

Each workplace, team or group should have an advocate – why not you?! Contact Charlotte Allen, our local organiser, on 07764 775281 or charlotte.allen@unisondc.co.uk to indicate an interest or for more details.



The national joint council pay agreement for 2018-20, which is applicable to most local authority and school workers in Derbyshire, included the introduction of a new pay spine on 1st April 2019, based on:

- **A bottom rate of £9.00 per hour on new Spinal Column Point (SCP) 1 (equivalent to old SCPs 6 and 7)**
- **‘Pairing off’ old SCPs 6-17 to create new SCPs 1-6**
- **Equal steps of 2% between each new SCP 1-22**
- **On new SCPs 23 and above (equivalent to old SCPs 29 and above), 2% increase on 2018 rate.**

The introduction of the new pay spine meant that some organisations would experience assimilation ‘problems’ and that the current number of pay points in a grade may change. UNISON has been busy ensuring that all local authorities are properly prepared so members don’t lose out.

In Derbyshire, there have either been no issues arising or only minor ones for the following authorities:

- **Peak District National Park Authority**
- **Bolsover District Council**
- **Derbyshire Dales District Council**
- **Erewash Borough Council**

We are still awaiting a response from **High Peak Borough Council** (as part of its partnership with Staffordshire Moorlands District Council) but we are aware of issues that may arise.

However, there are some issues with **Derbyshire County Council**. An analysis on the council’s offer by UNISON has identified that at some grades on the DCC pay spine, the local offer does not meet what has been negotiated nationally.

In some cases members will be over £400 per year worse off. This is obviously unacceptable to us and negotiations are continuing.



In a spot of bother?

Occasionally, we can find ourselves in a little difficulty at work, often through little fault of our own. We can find ourselves suspended or called to an investigation. Sometimes, this can even be a more formal disciplinary hearing.

Although no two sets of employers’ procedures are ever identical, there are a number of basic do’s and don’ts concerning issues such as suspension, investigation and disciplinary procedures which are applicable to all. These are also relevant to members as well as the employers.

Derbyshire UNISON have produced three new guidelines for members, explaining what should and shouldn’t be done if you find yourself in such a situation:

- I’ve been suspended from work
- I have to attend an investigation meeting
- I have to attend a disciplinary hearing



You can read or download these on our website at derbyshireunison.com/disciplinary-and-grievance.html or, if you don’t have internet access, by calling the branch office on 01629 582266.



*Sign up a
colleague
to UNISON
and you
could win
an Echo
Dot smart
speaker*



Some of the issues in this Update highlight the importance of increased UNISON membership in every workplace, regardless of employer. But recruitment isn't just the 'job' of branch officers, staff and activists - it's everyone's!

We need your help in boosting membership so we can negotiate better agreements with employers around pay, working hours, job security and health and safety to name but a few.

But to give members a little extra encouragement and incentive, we'll be giving away a smart speaker every month this year in a prize draw. All you have to do to enter is email branch@unisondc.co.uk the name of the new UNISON member you have recruited and your name will be put in the monthly draw.

The easiest way of getting someone to join is to get them to log on to joinunison.org where they can join immediately, but if you want us to send you a membership pack so you can encourage a colleague to join, then just call Lorraine or Ben in the branch office

01629 582266.

Don't waste any time; think who you can sign up now!