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Passenger News

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One of the most challenging opportunities for debate at the recent national education course for the Passenger Transport Sector held at Eastbourne was a question and answer session with Maria Eagle, Labour's front bench spokesperson for Transport, who impressed with her sense of Labour needing to do what is right for working people.

Maria has had set up a website that is part of the most fundamental review of Labour's policies for a generation; she tells Passenger News all:

"We want to hear what you think we got right and wrong during our time in government and which of the Tory-led government's policies you think we should support or oppose. Most importantly, we want to hear your fresh ideas for the future." The outcome of the review will be guided by the following principles:

- **Affordability.** Labour believes that transport should be affordable and fairly priced to enable services to be accessed by the many, not just the few.
- **Sustainability.** Labour believes that transport should be sustainable and part of the solution to tackling climate change, not part the problem.
- **Community.** Labour believes that transport decisions should be taken as close as possible to the people; with local communities engaged in the delivery of local services.



You can use the email form on our website to submit your views or you can tweet your ideas to [@BetterTrip](https://twitter.com/BetterTrip). If you prefer, you can write to me at the House of Commons, London, SW1A 0AA or email to: ideas@BritainBetterConnected.org.uk. I really look forward to hearing your fresh ideas so that together we can work to get Britain better connected."

**Maria Eagle MP -
Shadow Secretary of State for Transport**



First Manchester Ltd -v- Kennedy

It is well established in law that tribunals must consider

whether an employer acted within the band of responses of a reasonable employer when deciding whether a dismissal is unfair.

In *First Manchester Ltd v Kennedy*, the employment appeal tribunal (EAT) has confirmed that, in capability dismissals, the question is whether the employer acted reasonably in relying on the medical evidence.

What were the facts?

Mr Kennedy was a bus driver for First Manchester Ltd. He was seen by the occupational health doctor (Dr Farrand) in December 2001, who discovered that he had just had an operation for a serious heart condition. Mr Kennedy had not disclosed any of this to his employer, despite the obvious safety implications. He was given a final warning and returned to work in April 2002.

In January 2003, he suffered chest pains at work. He was taken to hospital but discharged himself before he was given a diagnosis, saying that a doctor had told him it was probably indigestion. Dr Farrand thought he might have had a minor heart attack and recommended that the DVLA be informed.

Mr Kennedy was then referred to an independent cardiologist for an assessment, who confirmed that he had a serious heart condition, but that he thought he was fit to work and that the DVLA would pass him as fit.

Dr Farrand then wrote a risk assessment based on this report and other medical evidence he had obtained, but concluded that Mr Kennedy should not be allowed to return to work because of the risks involved. He specifically referred to Mr Kennedy's reluctance to disclose all the available medical evidence to him. The company dismissed him.

What did the tribunal decide?

Mr Kennedy claimed unfair dismissal and the tribunal agreed, saying that the employer's actions fell short of what a reasonable employer would be expected to do. It specifically criticised First Manchester Ltd for not getting a third, medical opinion and for not consulting the DVLA's medical advisors. It felt this would have been reasonable "in view of the applicant's twenty years' service".

The central aspect of its decision, however, was its conclusion that Dr Farrand was biased against Mr Kennedy. As a result he had been "hostile" to Mr Kennedy's specialist and his judgement had been affected.

What did the EAT decide?

Relying on the lead cases of *East Lindsey District Council v G E Daubney* (1977, IRLR 181) and *Liverpool Area Health Authority (Teaching) Central & Southern District v Edwards* (1979, IRLR 471), the EAT said that the bus company was entitled to rely on the OHD's opinion.

It was particularly critical of the tribunal's accusation that Dr Farrand was "biased" against Mr Kennedy. It said that although he was not a cardiologist, he was entitled to come to a different conclusion to that of the independent consultant, not least because he had to consider different factors to compile a risk assessment for the company.

In any event, the EAT pointed out that the tribunal's job was not to question the veracity or otherwise of the occupational health doctor. Rather, it was to decide whether the company had acted reasonably in relying on Dr Farrand's report. The right question would have been "whether this employer knew that the advice was flawed, or ought reasonably to have known it, and that no reasonable employer would have been entitled to rely upon this report".

The issue was remitted to a new tribunal for a re-hearing.

Source:

<http://www.thompsons.law.co.uk/ltxt/l1500003.htm>



KEN FULLER'S HISTORY OF LONDON BUSWORKERS

An interesting short story reaches us from Tagbilaran City in the Phillipines

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In 1985, Lawrence & Wishart published Ken Fuller's historical account of London bus workers, *Radical Aristocrats: London Busworkers from the 1880s to the 1980s*. Ken was himself a former bus driver and activist and a London bus officer when his book was published. When he retired only a few years ago, he had risen to become T&G Region 1's Regional Organiser, the No. 2 in the region.

Ken now tells us that Ishi Press has agreed to reprint the book, which is available on Amazon UK. Unfortunately, the Amazon product description currently omits the fact that Ken's book now also contains a lengthy

preface to what is the second edition and also his account of the London Forest bus strike of 1991 that was originally published as a 40-odd page booklet in early 1992.

Take care when checking Amazon, since second hand copies of Ken's book are available there, at any price from a couple of quid to over £40!! The second imprint described above can be had at this link, priced £19.95 with free delivery.

http://www.amazon.co.uk/Radical-Aristocrats-London-Busworkers-1880s/dp/4871876756/ref=sr_1_1?s=books&ie=UTF8&qid=1301415471&sr=1-1

Ken is seeking a scale of discounts from the publisher for any bulk purchases which may be made by Unite, so it's possible that this price might come down - watch this space.

UNITE'S PARLIAMENTARY CAMPAIGN GATHERS STRENGTH

Following the recent submission of the 3,400 signature petition against crossborder hiring by UNITE the campaign has continued to gather strength.

The campaign to bring England and Wales into line with Scottish Law on this issue would force private hire vehicles to return to their licensing area to receive the next booking and make it an offence for the driver of a licensed private hire vehicle to wait for a booking outside of the licensing area.

This currently happens across the country as evidenced by the 3,400 signatories to the petition representing over 330 MP's constituencies. It is a major problem within the cab trade as it allows private hire operators to gravitate to those licensing areas with the lowest standards enabling them to bypass licensing authorities that try to maintain high standards.



These operators then use their drivers and vehicles that are licensed at lower standards to do all of their work in neighbouring areas with higher standards greatly undercutting those operators and drivers that are currently working in their own area. A good example of this is in Cambridgeshire and its neighbour South Cambridgeshire. South Cambridgeshire is mostly fields but has 558 private hire vehicles and 8 hackney carriages, whilst Cambridge has 197 private hire vehicles and 302 hackney carriages.

Surprisingly it is unlikely you will see 558 private hire vehicles in South Cambridgeshire as they spend all of their time in Cambridge, undercutting the Cambridge drivers who have far higher standards to conform with.

This takes no account of the fact that the Cambridge enforcement officers have no right to inspect the vehicles or drivers from neighbouring boroughs. The licensing system is a farce when it comes to cross-border hiring, offering no protection to those operators and drivers abiding by the rules.

This is why Unite's campaign has had such an impact throughout the country. Following our handing in of the petition supported by the new General Secretary, Len McClusky, the Transport Select Committee have asked for evidence relating to cross-border hiring problems and issues relating to passenger safety regarding taxis and private hire.

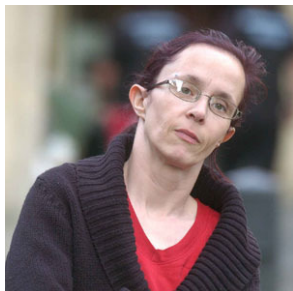
The petition has also received wide spread support from MP's from all the major political

parties offering support to Unite in our fight against cross-border hiring. Bob Ainsworth MP for Coventry South-East has even been asking parliamentary questions following our petition. A selection of the numerous responses we have received are reprinted in this issue.

As well as submitting a report on the cross-border hiring Unite will be highlighting other issues of concern including the need to end the drive towards de-limitation, private hire signage and tinted windows in private hire vehicles. We feel all of these issues affect passenger safety and need to be addressed by the government and we would hope that the select committee will agree with us.

Above all this shows why the Unite Cab Section is the only taxi organisation that can truly represent taxi drivers locally and nationally. No other organisation can achieve what we achieve. To make us even stronger join now!

Resident launches legal challenge over bus cuts



Left: Jo Green

A resident is pursuing a legal challenge against Cambridgeshire County Council over cuts to its bus services. As part of a wide-ranging review of its budget, the council is

cutting the money it pumps into bus services by £2.7 million over four years.

But Jo Green, 42, from Milton, is challenging the council's decision to make the cuts, supported by sustainable transport charity Campaign for Better Transport. She said: "I use the bus to take my son to his hospital appointments, to go to the cinema and to church. If I want to do these things now I'd have to get a taxi into town, which I can't afford on

a low income. There are also lots of elderly and disabled people who rely on the buses and in some rural areas of Cambridgeshire it means people will be totally isolated. What annoys me most is we weren't asked about these cuts or officially notified about them, they made the decision without us."

Campaign for Better Transport said councils have a legal duty to meet the transport needs of residents by providing socially necessary buses and have "due regard" for the equality needs of protected groups. It also believes that the council may also have acted "unlawfully" by failing to conduct an adequate public consultation prior to the decision being made. The challenge against the council is based on a failure to comply with its duties under the Transport Act 1985, the Race Relations Act 1976, the Sex Discrimination Act 1975 and the Disability Discrimination Act 1995.

First Bradford forges ahead

A wages dispute at First Bradford has been settled without the necessity to take strike action.

Currently, all members are on £10.52 per hour. The settlement takes Bradfordians to £11.09 per hour by 1st April 2011, with 4 days additional holidays, taking holiday entitlement to 27 holidays with 10 bank bank holidays.

Also, there's an additional adult bus pass that members can nominate a person to hold, giving members a total of 3 adult passes and

3 children's passes (up to the age 19 providing they are in full-time education).

Mohammad Taj

Taj is an elected member of the Unite EC and NE/9-8 Branch Secretary.



Teamsters Gain National Agreement with First Historic agreement covers 20,000 union members



The Teamsters have overwhelmingly approved the first-ever national agreement with the largest private provider of school bus transportation in North America, First Student Incorporated. This historic agreement improves working conditions and job protections for more than 20,000 Teamsters who work at First Student. The contract was ratified by a vote of members by 91%. .

Founded in 1903, the International Brotherhood of Teamsters represents more than 1.4 million workers in the United States,

Canada and Puerto Rico. Unite and the IBT have worked closely together over some years now on a range of areas of common interest.

"This national agreement is the result of the hard work and dedication of our Local Unions and Teamsters at First Student, and is a testament to the Union's strong commitment to organising workers who deserve fairness on the job," said General President Jim Hoffa. "By banding together as Teamsters, these workers have secured better job protections and working conditions for themselves and their families."

This four-year national agreement improves workplace protections, creates a national grievance procedure and provides strong language to raise standards for Teamster members at First Student.

Visit www.teamster.org for more information.



Mansour Osanloo is Free at Last!

Mansour Osanloo, the Iranian bus union leader, has been set free after almost four years of

imprisonment in jail in Iran. His release is reportedly conditional on his "good behaviour" and the payment of a bond.

Osanloo is the President of the ITF-affiliated Vahed Syndicate, a free trade union representing Tehran's bus workers. In 2007, Osanloo was sentenced to five years' imprisonment on charges of "acting against national security" and "propaganda against the state". In 2010 another year was added to his sentence in a blatant attempt to intimidate free trades unionism.

The ITF led an international campaign demanding Osanloo's release. ITF general secretary David Cockroft commented: "This is a great day for Mansour and his family - and for his fellow Vahed union members and those of us in the international trade union movement who are honoured to call him a friend. It's doubly welcome given the deterioration in his health during his time behind bars. That bail has been set falls short of the full pardon we all wanted, and which the Iranian government promised, but for now we can just take a moment to savour his richly deserved return to his family."

Mansour Osanloo was heavily targeted. As well as being beaten up and having his tongue slit he was imprisoned in 2005 and 2006. Then in 2007 he was arrested. Three months later he was sentenced to five years imprisonment on charges of 'acting against national security' and 'propaganda against the state'; in 2010 another year was added to his sentence. In reality his only offence was to help found a genuinely democratic trade union.

Mansour was made an honorary member of Unite in recognition of the contribution he has made to workers' rights across the world. Unite general secretary, Len McCluskey said: "We are delighted that Mansour has been

released from prison. His bravery is a beacon of hope for the people of Iran. His release shows that international solidarity between workers can make a difference. Trade unions from right across the world demanded his

freedom and on this occasion we commend the Iranian government for its decision to release Mansour, whose only offence was to help build a democratic union."

What's going on at National Express Dundee?

Decades of harmonious industrial relations, based on mutual trust and respect, seem to have come to an end at Travel Dundee recently. Over some

months, the continual refusal of local management to listen to reason, or take into account local knowledge, while adopting an aggressive policy of change both for staff and passengers alike has been unrelenting. In frustration, and in defence of collective bargaining rights, Unite members in Dundee walked out twice on short bursts of unofficial strike action.



Months of frustration at the unreasonable behaviour of local Director, Simon Mathieson, created a reaction that could be construed as having been deliberately manufactured to intimidate and humiliate the trade Union into unprecedented action when he instructed his managers to issue Final Written Warnings to 12 drivers who had fallen foul of the TQM monitoring system. This, despite his clear knowledge that he was in breach of agreements, as well as his obvious understanding that retraining for these drivers was the Group recommended method of dealing with matters. Instead of listening to the representations made by Bob McKelvie in defence of his members and their joint agreements, Mr Mathieson chose to forcefully reiterate that these drivers would be disciplined and ejected the Trade Union representatives from the meeting.

Unrelenting attempts to alter local working practices and impose change while consistently refusing to listen, created huge pressures on the shop stewards' committee and the senior shop stewards in particular. Our members rightly demanded that consultation and agreement would be the only acceptable method of change. This was always going to lead to confrontation with a management culture of trying to ignore or breach agreements.

Bob McKelvie, Chair of the Branch, faced a disciplinary hearing on Friday 3rd June. Bob was left with no place to go on that fateful Thursday morning, his members demanded he protect their agreements and his bosses demanded that he touch his forelock. Bob McKelvie is guilty, guilty of continually trying to find a way forward with a man who treated the elected representative of his workforce with contempt. But the company is equally guilty of forcing Bob into the position he was in. He should not pay the price for blame which runs right across the company, up and down its ladders of managerial responsibility, with sustained unreasonable behaviour towards them and their representatives.

We need answers not recriminations from National Express, did they or their agents manufacture this situation and if so, is it not them that are guilty of inducing their employees to breach their contract through sustained unreasonable behaviour towards Unite members and reps? As we understand it the disciplinary meeting of the 3rd June was a stage 1 meeting. The 2nd stage disciplinary meeting is being held on Monday 20th June and a workplace ballot is taking place with the ballot papers being counted on Monday 20th June.

Let's hope that National Express take the opportunity to put this to bed, get back on track and start to rebuild trust by recognising the mistakes of the past couple of years.