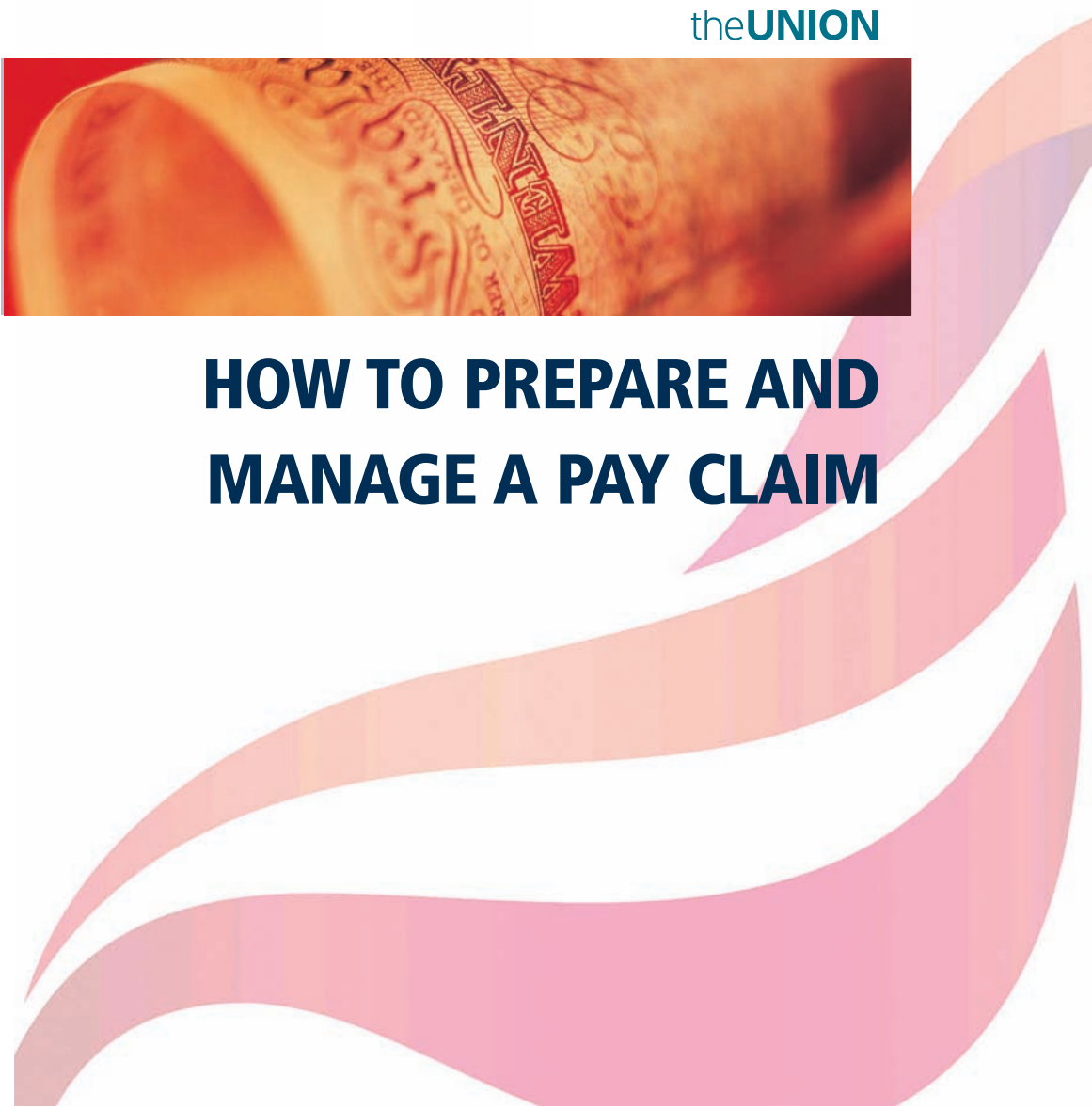




HOW TO PREPARE AND MANAGE A PAY CLAIM



Company accounts & how to use them

Unite Research Department 2010

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■ INTRODUCTION

Assisting in pay negotiations and achieving an up-lift in pay is one of the fundamental reasons for becoming a representative at a workplace. The process is a learning experience and as such is very rewarding, offering the opportunity to supply management with all the information they need to agree an increase in pay for the workforce.

A clear, concise and well thought out pay campaign allows for communication and consultation with members, demonstrating the significance of the union and ensuring the involvement of the membership in the decision making process. It is also a training and development opportunity for representatives.

The production of the pay claim and the communication involved with members and management highlights to non-members how important it is to be a part of the process to influence management and ultimately produce a positive negotiating outcome. It also shows that terms and conditions and workplace benefits are things to be negotiated and discussed and it is the union representative that undertakes these tasks on behalf of the membership.

Every time a claim is presented circumstances will be different. In this brief guide it is impossible to address every potential situation so the content focuses upon the decisions which determine the content and shape of the claim, the information needed to inform the claim; some of the special pay related issues which commonly arise, how to cost the claim and how to engage the membership.

■ STRATEGY AND CONTENT

The approach to any pay claim will be dependent upon the organisation, the collective agreement and the economic circumstances affecting the employer and members. Whether your employer is in the private or public sector will also impact on the strategic approach as will the involvement of other unions where joint negotiations take place.

It is important to understand the approach of management as well. It is clear that management within a company often have a different set of criteria or agenda to determine pay structures than the workers in the company. These criteria can include:

- Recruiting and retaining the best employees
- Motivating the workforce
- Achieving company objectives
- Taking advantage of economic downturns to reduce the pay bill
- Giving high pay awards to favoured individuals
- Act in a confrontational way to reduce collective bargaining and the role of trade unions

For unions it is the members who set the agenda and communicate what they would like to see in the pay negotiations. It is the role of the workplace representative to ensure that members are consulted and feel involved in the pay claim process.

The criteria trade unions adopt would typically include:

- Maintaining and where possible improving the value of earnings
- Comparing pay with other similar companies to benchmark pay rates in their company
- To encourage fair internal relativities and range of earnings
- To promote the equal treatment of all employees in pay and grading
- To ensure people doing the same job are getting the same pay
- To promote a link between the national minimum wage and apprentice pay if there are no current pay rates for apprentices that are linked to existing pay in the company

Content of the claim

This will vary considerably by sector and by company and will reflect the members' wishes and aspirations. For workplace representatives this is an opportunity to demonstrate leadership and provide guidance and advice to the members on the arguments to support the claim and the contents.

Contents may well include conditions of employment other than pay but this guide will focus on pay and some specific pay related issues.

In determining the level of pay demand some of the key arguments which can be used by negotiators are:

- Increases on cost of living/inflation;
- Proper reward for contributions to productivity improvements and efficiency /cost reductions;
- An employer's ability to pay;
- Comparison or narrowing the gap with other grades of worker;
- Reward differential between workers' and executive pay; and
- Establishing equality of pay

The guide will examine these issues in the following pages and provide links from which further information can be obtained.

■ COLLECTING INFORMATION

In order to produce a credible pay claim, negotiators need to be able to access information which will help inform the content. Set out below is a brief guide as to where key information can be obtained.

Company/organisation

Central to this is understanding the company/organisation that you work for and much of the information you need can be found from the members in the bargaining group. However, more detailed information about the employer's finances and business is crucial in building the arguments to support the claim.

It is very important that the accounts of the company concerned are analysed and any relevant information such as, turnover, operating profit, profit before tax and interest, net profit, net assets, the number of people employed and what the directors or chief executive are paying themselves including any bonuses or share options. Unite has published a guide to company accounts and how to use them which can be found at:

http://www.unitetheunion.org/pdf/Company_Accounts-How_to_Use_Them.pdf.

This information and analysis can also be supplied by the Unite Research Department – as long as adequate notice is provided. For further information contact Alex Ryan at alex.ryan@unitetheunion.org. For larger organisations some information will be available from its own website and press/media sources.

Labour Market

Comparisons with the labour market and pay rates in similar organisations or professions can be useful weapons. Access to such information is available in part through the Unite Pay and Conditions Database which has hundreds of the latest pay settlements and details from other organisations represented by Unite and other unions.

Access to this database is either through the Unite website or by going to the LRD website at www.lrd.org.uk. The generic username for Unite members is unite and the password opal961.

Cost of living

The rate of inflation describes the level at which prices are rising year on year and is published each month by the Office of National Statistics. It reflects the difference in prices now as compared with the same time 12 months ago. If pay were to rise simply in line with inflation the value of wages would always remain the same. For this reason the rate of inflation provides a base line which most negotiators use as starting point upon which to calculate the demand for an increase.

The issue is further complicated by two facts. Firstly, the government uses two different rates of inflation and secondly, an individual's rate of inflation varies according to their personal circumstances. Below is information and advice on how to address these issues.

Inflation Figures

The two measures most commonly referred to are the Retail Price Index (RPI) and the Consumer Price index (CPI). The CPI is a target measure for inflation and is the basis for the Government's inflation target that the Bank of England's Monetary Policy Committee is required to achieve. It is important to note that the CPI excludes housing costs:

- o Council Tax
- o mortgage interest payments
- o house depreciation
- o buildings insurance

and includes items such as:

- o university accommodation fees,
- o foreign students university tuition fees, and
- o unit trust and stockbrokers charges none of which are included in the RPI.

The RPI is the most familiar general purpose measure of inflation in the United Kingdom. The index represents the average measure of change in the prices of goods and services bought by the vast majority of households in the UK.

The RPI is used for a variety of purposes including the uprating of state benefits, pensions, and index linked gilts. It has been the favoured measure of inflation for the purposes of pay bargaining by both employers and trade unions for many years.

The RPI is based on a 'shopping basket' of goods and services bought by a typical household, the content of which is fixed but as prices of individual items change so does its total cost. The RPI is based on the prices of 650 items in 14 categories. The categories are

Food	Household services
Catering	Clothing and footwear
Alcoholic drink	Personal goods and services
Tobacco	Motoring expenditures
Housing	Fares and other travel costs
Fuel and light	Leisure goods
Household goods	Leisure services

During each month price collectors record around 110,000 prices for over 650 specified goods and services, using a variety of shops around the country while information on some charges e.g. TV licenses and utility costs are obtained centrally. Housing costs are a very significant part of our members' expenditure and therefore a measure of inflation which includes these, the RPI, is the appropriate measure. As far as Unite and its negotiators are concerned it is the increase in the RPI not the CPI that provides the best picture of an overall rise in the cost of living for Unite members.

Negotiators also need to bear in mind that the national UK inflation figure is an average and for individuals the real rate of inflation will often vary as the essential items for living may increase at a faster rate than non essentials. Full details of the Retail Price index and inflation measurements are available at:

<http://www.statistics.gov.uk/statbase/Product.asp?vlnk=868>. Unite publishes the latest figures each month in the Bargaining Brief and on the Unite web site http://www.unitetheunion.org/resources/unite_the_rpi_guide.aspx.

Executive pay

Whilst it is quite common to make comparisons across similar organisations or even within your own organisation, it is equally important to look at the rewards given to executive officers and senior management compared to the rest of the workforce. Recent evidence ⁽¹⁾ has identified that top pay rates have been increasing at such a rate that top executives in the FTSE 100 companies are earning on average over 200 times the average wage. Whilst this differential will not be repeated in every organisation or company, it is worthwhile looking at the rate of increases of senior management and comparing this with recent increases for the workforce.

(1) *Compass*, 17th August 2009.

Details of executive pay in your organisation will be found in the company's annual report, if it is a public limited company and Unite research department can assist in providing details of the company accounts.

Corporate Governance

The financial structure and ownership of companies is increasingly complex and is often a factor when employers come to the bargaining table. Corporate debt is now a fact of life in many companies and in many instances the company that negotiators face across a table is no longer the same. Many companies have far more debt on their books and this can influence the behaviour of management in negotiations. Debt incurs costs for the company and the money to fund the debt is often derived from holding down wages.

This short guide cannot provide all the detailed information about corporate debt but the Unite Research Department can assist where negotiators believe this to be an issue. For further information and advice contact Researcher, Jane Barker at: jane.barker@unitetheunion.com.

Just because a company is laden with debt negotiators should not accept that this a reason for holding back on pay claims. Employers frequently use the burden of debt to argue that the company must cut costs, to increase cash flow and that therefore a significant increase in pay is unaffordable. What is not normally pointed out is that high levels of debt are often taken on in order to fund payments to shareholders through special dividend and share buybacks or to fund takeovers. In preparing your claim you need to seek out information to establish:

- What the company has borrowed;
- What is the purpose of the debt;
- How much money has been taken out of the company and given to shareholders;
- What is the source of finance to pay back and service the debt; and
- Is value being created or are workers expected to pay by bearing cost cutting measures.

Some of this information will be available in the Notes to the Company's Annual Report and Accounts. As with other enquiries concerning company accounts assistance is available from the research department.

■ DISCLOSURE OF INFORMATION

There is a legal requirement to provide information to recognised trade unions. The Trade Union and Labour Relations (Consolidation) Act 1992 states that every employer who negotiates with independent trade unions must provide information to them:

- without which unions would be materially handicapped in conducting collective bargaining with the employer; and.
- which is related to matters the union is recognised to negotiate on for that group of employees.

The Act does not specify exactly what this information should be but the ACAS Code of Practice on 'Disclosure of Information to Trade Unions for Collective Bargaining' sets out some of the relevant items. These include:

(i) Pay and benefits: principles and structure of payment systems; job evaluation systems and grading criteria; earnings and hours analysed according to work-group, grade, plant, sex, out-workers and home workers, department or division, giving, where appropriate, distributions and make-up of pay showing any additions to basic rate or salary; total pay bill; details of fringe benefits and non-wage labour costs.

(ii) Conditions of service: policies on recruitment, redeployment, redundancy, training, equal opportunity, and promotion; appraisal systems; health, welfare and safety matters.

(iii) Manpower: numbers employed analysed according to grade, department, location, age and sex; labour turnover; absenteeism; overtime and short-time; manning standards; planned changes in work methods, materials, equipment or organisation; available manpower plans; investment plans.

(iv) Performance: productivity and efficiency data; savings from increased productivity and output, return on capital invested; sales and state of order book.

(v) Financial: cost structures; gross and net profits; sources of earnings; assets; liabilities; allocation of profits; details of government financial assistance; transfer prices; loans to parent or subsidiary companies and interest charged.

In addition, public sector employees may be able to rely upon the Freedom of Information Act 2000, (the FOIA), which came into force on 1st January 2005 and imposed huge new responsibilities on government.

The FOIA provides a right for any individual or organisation to access all recorded information held by a public authority in the course of carrying out its public duties, subject to various conditions and exemptions. It is not necessary for the person making the request to provide a justification or explanation for the request. Nor is there a formal procedure for making requests. Any written request, (via letter, email or fax), is sufficient. Any request made should contain a description of the information sought. It is not necessary to state formally that a request is made under the FOIA although it is advisable to do so.

Once received, the authority is required to respond to the request within 20 days. It is not permitted to charge for the information, although where the cost of providing the information would exceed £600, (over 3 days' work at £25 per hour), in the case of central government, or £450, in the case of local government, the authority may refuse to provide the information. If an authority intends to refuse access to information under one of the FOIA's exemptions, it must identify the exemption. (So, for example, there is an exemption relating to the disclosure of information about the security and intelligence services, and in relation to disclosing information contained in court documents. In addition, a request may be legitimately refused if the public interest in maintaining secrecy outweighs the public interest in disclosure). An applicant can then challenge the decision to withhold the information, first with the authority and, ultimately, with the Information Commissioner and the Information Tribunal, (which has been set up to adjudicate upon and enforce the new access rights). In its early decisions, the Tribunal has shown itself perfectly willing to go against the advice of the Commissioner and the Department of Constitutional Affairs.

The provisions of the FOIA may therefore be a useful tool if you are seeking certain types of information about a public sector employer. However, you may want to speak to your full time officer before making a request under the FOIA to ensure that the information being requested does in fact fall within the remit of the FOIA – remember that the duty to disclose only applies to information held by public authorities in the course of carrying out their public duties.

■ SPECIAL ISSUES

Whilst basic pay increases will normally be at the heart of any pay claim, it may be that pay related issues also form part of a claim. This part of the guide draws attention to the most common of these and points to where more detailed guidance on each issue can be found.

■ EQUAL PAY

One of the fundamental objectives for the union in pay bargaining is to establish pay levels that are fair and non-discriminatory. Our objective is supported by equal pay legislation which has been in existence for over 30 years.

When preparing a pay claim, if there are concerns about the fairness of the pay levels and the pay system then these will need to be addressed. If it is a matter of correcting past discrimination on grounds of gender or age negotiators will need to gather the required evidence as part of their case.

Sex discrimination can operate at different levels of a pay system. Without an equal pay audit no company can know if their pay system is discriminatory. It is important to regularly review each element of a pay system, such as performance ratings, appraisals, ratings, bonuses, job evaluation, benefits, grading, as well as employment practices relating to recruitment and promotion. This information should be broken down according to relevant criteria such as sex, age, ethnicity, length of service, full-time or reduced hours, and parental status.

A step-by-step approach

The Code of Practice on Equal Pay recommends the following step-by-step approach to conducting a review:

STEP 1:	Deciding the scope of the review and identifying the data required
STEP 2:	Identifying where men and women are doing equal work
STEP 3:	Collecting and comparing pay data to identify any significant equal pay gaps
STEP 4:	Establishing the causes of any significant pay gaps and deciding whether these are free from discrimination
STEP 5:	Developing an Equal Pay Action Plan or reviewing and monitoring

It is recommended that a review considers 'like work', 'work rated as equivalent', and 'work of equal value'. The EHRC suggests that any audit must include all employees, whether they are full-time, part-time, a casual employee, a temporary worker, a contractor or are self-employed. An audit should also look at factors where discrimination might affect pay.

A workplace policy on equal pay

Many employers have equal opportunities policies in relation to employment issues. The EHRC recommends that employers introduce an equivalent Equal Pay Policy, stating their commitment to equal pay for all employees, and setting out clear objectives and priorities for action. The policy should include a commitment to training for managers and staff involved in decisions about pay and provision for monitoring of new pay systems to ensure continuing effectiveness.

■ PAY SYSTEMS

Most members, when asked, would say that negotiating pay and conditions is the main role of their trade union. However, the development of pay systems which replace all or part of a general pay increase with one linked to an individual's performance, or their market rate or their competence to do the job, has reduced unions' influence over the pay increase that each individual receives. Such pay systems are now used in many companies where Unite members work. As a result, general increases and incremental systems are now much less common. However, such trends far from reducing Unite's role and relevance place the union in a central position in terms of influencing employer's decisions, insisting on transparent, fair and equitable pay systems and negotiating the best outcomes for our members.

For many employers, pay systems are a question of following fashion. It is often the case that a particular form of pay system will sweep across industry with little actual evidence of its effectiveness or applicability. Performance-related pay is a good example of this.

Pay systems are more complex than in the past and therefore rarely belong to one category or another. It is more helpful to think of pay systems as being made up of many interchangeable elements which allow for a wide range of practices. Pay systems are also much more sophisticated than in the past. They may now be based upon an employer's view of two things, inputs and outputs.

Inputs are the skills and abilities which an individual brings to the job. Outputs are the results in quality or quantity which the individual achieves. A focus on inputs has created the ideas of 'performance management', 'competency based pay' and 'skills based pay', which are examined below. Employers are giving greater emphasis to the attributes individuals possess and less attention is paid to length of service or to the job that is being done.

The Unite Research Department has produced a guide to pay systems which includes job evaluation, performance management, competency based pay and flexible benefits packages. This can be downloaded from the union's web site at <http://www.unitetheunion.org/pdf/BargainingPaySystemsGuide.pdf> or ordered in the normal way through your local union office.

■ COSTING YOUR CLAIM

It is important that negotiators have a clear idea of the cost to the employer if the claim is met in full. This provides negotiators with the ability to understand how the claim might be adjusted during the negotiations in order to secure an acceptable agreement and enables them to counter any wild claims from management of the costs and the affordability of the claim.

In order to calculate the cost some basic information is essential. This would include:

- Current pay bill
- Number of employees covered by the claim
- Costs of pay related items which are affected by any increase in basic pay, such as sick pay, pensions, shift pay and overtime
- Proportion of pay bill to total operational costs
- Turnover figures for previous year and projections for the coming year
- For public authorities and not for profit organisations details of funding both past and future should be obtained.

Whilst you may not wish to disclose your costing calculations in the claim itself it is certainly essential information to have to hand during the negotiating process.

■ PRESENTING THE CLAIM

The timetable for preparing and presenting the claim is important. You do not want to be rushed at the last minute and not have time to gather the information necessary to support the claim. Equally you want the most up to date statistics for inflation and company

For annual pay negotiations it is not unusual to start gathering information and consulting the membership 3 months in advance of the review date. The final figure for inflation can be added at the end of the preparation process.

The style of a written claim is a matter for each negotiating team. It may be a simple letter which sets out the demands of the claim or it could be a detailed document which puts the claim in to the context of the industry and the company and sets out the economic arguments for the claim. Presenting the written document to management can either be done in advance of the meeting or at the meeting itself. The advantage of the former is that gives management an opportunity to study the claim in depth and come to the first meeting with an initial response. Presenting the document at the meeting itself gives the negotiators the opportunity to elaborate on the arguments in the claim document before management arrives at a response.

The course of negotiations may take place over a number of days and require a number of meetings. Alternatively it may all conclude within a day. The process and procedures to be followed will be contained in the union's agreement with the employer. During any session, negotiators from either side may choose to adjourn to consider the points raised by the other side and it is sometimes better to use this facility rather than respond immediately.

Throughout the negotiating process it is important to keep the members informed of progress or otherwise. In some cases it may be necessary to seek a revise mandate from the members due to information that the negotiating team has received. This should be done as quickly as possible and by whatever method is most appropriate.

■ ENGAGING THE MEMBERS

It is vital that all of the items included in the claim are discussed fully with the members prior to preparing and developing the claim. It is essential that members have an involvement in the process and development of the pay claim. This will encourage ownership and increase involvement. It will also raise the profile of the union across the business streams. The issue of pay is also a highly effective issue to use as an organising tool and increase membership and improve organisational structures within the sector. It is the responsibility of the negotiating team to ensure there are opportunities for the specific groups and committees within the organisation to meet and discuss the priority of the issues and add to the debate other relevant factors that may influence the outcome of the claim. In all cases it is essential to secure a clear mandate from the members for all elements of the pay claim.

While it is always good to have a well researched, professional looking claim, the most important thing is to use pay negotiations as an organising and recruitment opportunity. Make sure that you involve as many of your members as possible in preparing for negotiations. Use the issues raised in your negotiations to recruit new members. You will be most effective if your employer knows that the membership is fully involved and solidly behind their negotiators. One of the most important items to prepare for is to ensure the membership system for the organisation/company is completely up to date and accurate. This needs to be completed prior to any pay claim being lodged. If it is decided that there needs to be a ballot of the members as a result of a breakdown in the negotiations it is essential that this can be achieved in an efficient and accurate way.

The background to pay negotiations consists of existing terms and conditions and members' expectations. In some organisations national agreements, links to external pay scales or phased implementation of earlier agreements will be factors that influence the claim. However, the general factors that influence all members' expectations and which will form an important part of negotiators' arguments for a particular size of increase are:

- the cost of living;
- pay elsewhere, particularly in comparable companies or organisations; and
- profitability or financial background of your company or organisation.

Above all keep the members informed and on board – this strengthens your position.

Once the negotiating team have met with management it is crucial that they report back to the members to keep them informed of any progress, amendments to matters of substance or settlement. Once negotiations have reached completion there will be either an agreement to recommend the company offer to the membership or, if there is a failure to agree, then there may be a ballot of the membership with no recommendation from the union. It is a matter for the negotiating team to determine how best and in what form to present the offer to membership for decision.

Final Checklist

- Ensure the membership database is accurate
- Gather background information on pay trends within the sector and on a wider basis if needs be
- Assess bargaining strength within the company
- Define a clear timeline for the process and give a framework to the claim
- Collate relevant information from various sources to support the claim including information about the company itself
- Involve the membership throughout the pay claim process
- Develop and present the claim, ensuring there is a solid evidence base
- Consult on the outcome of negotiations

■ USING ACCOUNTS IN PREPARING THE WAGE CLAIM

Trade union negotiators need to get the fullest picture possible of the overall position of the company in which they work.

It is important that you do not rely solely on the accounts for your company, often the best information comes from union members. With their knowledge and observations of the company's behaviour, it is important to utilise this valuable and often over looked source.

Once you feel that you have all of the information you need/gathered then this information must be communicated to the workforce prior to any negotiations.

If you are employed by a subsidiary you will need to gain access to the accounts not only for the company you work for but for those of the group as a whole. As we mentioned earlier in this guide you must read all of the information contained in the accounts, and obtain accounts for previous years to make comparisons. You should try and get these either from the company or, if that is not possible, then from the Unite research department (see page 4 for contacts). When it comes to pay bargaining there are number of areas you will need to pay particular attention to:

- sales and profits
- wages costs
- productivity
- the contrast between directors pay and benefits, shareholder payment and the position of workers wages.

■ USEFUL WEB SITES

www.unitetheunion.org

Unite's own website with a range of information and resources on sectors and the economy

www.worksmart.org.uk

TUC web site providing up to date developments and changes in bargaining information

www.acas.org.uk

Access to useful guides on disclosure of information and other bargaining information

www.statistics.gov.uk

Government site which provides monthly updates on labour market, average earnings and inflation

<http://www.equalityhumanrights.com/>

The Equality & Human Rights Commission (EHRC) which provides access to codes of practice on equal pay and discrimination issues

<http://www.lrd.org.uk>

The Labour research department which provides the portal to the pay online database



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