

Your legal rights

Management cannot prevent peaceful picketing; it is our established legitimate right.

Picketing is not a form of industrial action but is the means by which some forms of industrial action, especially strikes, are made more effective. The statutory immunity for picketing is contained in section 220 (1) of the Trade Union and Labour Relations (Consolidation) Act 1992, which states:

“It is lawful for a person in contemplation or furtherance of a trade dispute to attend at or near his own place of work... for the purpose only of peacefully obtaining or communicating information, or peacefully persuading any person not to work or to abstain from working.”

Therefore, picketing is lawful only in these circumstances.

The DTI code of practice PL928, section A, paragraph 2 says: “There is no legal right to picket as such but attendance for the purpose of peaceful picketing has long been recognised as a lawful activity. However the law imposes certain limits on how, where and for what purpose such picketing can be undertaken.” More details are also available on the **Department for Business Innovation & Skills website at: www.berr.gov.uk**

The code of practice also points out that attendance for the purpose of picketing may only:

- Be undertaken in contemplation of furtherance of a trade dispute
- Be carried out by a person attending at or near his own place of work
- A trade union official (or representative), in addition to attending at or near his own place of work, may also attend at or near the place of work of a member of her/his trade union whom he is accompanying on the picket line and whom he represents
- Furthermore the only purpose involved must be peacefully to obtain or communicate information, or peacefully to persuade a person not to work.

Criminal law

Employers rarely use the law but there are circumstances in which the police may instigate a prosecution. This again is rare, but representatives should be aware of the relevant law.

The immunities under employment legislation protect those engaged in lawful picketing from being sued for breach of contract but not against activities such as trespass or other criminal acts. The aspects of criminal law which could apply are obstruction or breach of the peace charges.

These can include unreasonable obstruction of the highway and/or wilful obstruction of a police officer. Under the Public Order Act 1986, individuals may be charged with disorderly conduct, threatening behaviour, riot, violent disorder or affray. But the standard of proof required to convict on these criminal charges would be ‘beyond reasonable doubt’, a much higher requirement than applies in civil law (‘balance of probabilities’).

There are four main offences that may be committed by people involved in picketing: use of violence; persistent following; hiding tools; and picketing a person’s home.

Furthermore, section 15 of the TULR(C) Act 1992 makes it unlawful for the union to pay an individual’s fines for criminal activity or contempt of court.

Conspiracy is another criminal charge, and falls under the Criminal Law Act 1977. Conspiracy involves the agreement by two or more people to pursue a course of action which would necessarily involve the committing of an offence. The penalty for conspiracy cannot be higher than for the offence itself and unlawful civil action in the course of an industrial dispute would not give rise to a conspiracy charge.

General organisation

Our preference is for each picket line to have an appointed picket steward, preferably a CWU representative, who will be in charge of the picket line. Ideally, this person should be contactable by mobile phone. This will help you co-ordinate things locally on the strike day. If you anticipate a big turnout on the picket line, tell your nearest Regional Secretary or Divisional Rep and CWU HQ national press officer so that we can direct the media to you.

All pickets should be aware of the law and understand that picketing must be peaceful and lawful. Members should only picket at or near your place of work. Official pickets should wear some form of identification (i.e. arm band).

There is no legal restriction on the number of people who may picket a workplace entrance or exit except that the number should not be so great that it might cause fear or distress among those seeking to cross. The DTI code of practice suggests that organisers should ensure that, in general, the numbers should not exceed six pickets at each entrance or exit, though this is guidance only and not the law.

Pickets can explain their case to those entering or leaving the picketed premises, and/or ask those within the ballot category not to enter or leave the premises where the dispute is taking place. Pickets are encouraged to be bold and speak to members (and non members) within the ballot, and seek to persuade them to support the strike.

Nevertheless pickets should not physically attempt to stop a person or vehicle from entering an office or site and a person who decided to cross a picket line must be allowed to do so. Courteous but firm communication to people is the means for this, together with the distribution of leaflets or holding banners or placards putting the union's case. Our message to members in the ballot is to support the dispute and not go into work. Our message to non members in the ballot is to join the union (they can sign up on the picket line) and not to go into work.

Always take the opportunity to talk to members of the general public and explain the reasons for the industrial action.

Relationships with the police

The police may well attend or visit a picket line. Always be polite and helpful when they attend – where appropriate introduce them to the picket steward and reassure them that we intend peaceful picketing only. Pickets should co-operate with the police in any requests to keep the street free from obstruction. Doing so helps us respond to any allegations by the employer about unruly pickets.

Demonstrations and/or marches

Any plans to organise a demonstration outside an office and/or a protest march will need to be agreed with the police in advance, and these ideas should be first raised with the appropriate CWU Field Official. The Public Order Act 1986 provides the police with power to impose conditions on public assemblies of 20 or more people.

Members of other trade unions

Whilst we cannot ask members of other trade unions to come out on strike, our representatives on picket lines should seek their support in other ways, such as asking them to any local rallies, write to their MP etc.

On the day, make sure that:

- You arrive early, at least 15 minutes before the first person is due to go into work. Remember some people will try to avoid the picket line by arriving especially early
- Pickets have all the information and materials they need
- Every entrance has a picket line
- Pickets know what time people will be arriving at each entrance (you may be able to predict times when more workers will arrive)

So, what do you do when you have tried everything, but your colleagues still try to cross the picket line to go into work?

- Try to stop the worker, approach them, make eye contact and try to engage them in a conversation. Remember to be polite and inoffensive at all times
- Don't make it personal, always refer back to the issues

Your first contact is important, so choose your questions carefully. Ask open questions to provoke responses, such as:

- How do you feel about what the employer is trying to do
- What do you think we need to do to win our case?

Some people may say they support the union, but will not strike. Explain that going into work means supporting the employer and undermining colleagues and our strike. Show them they will make a difference. The Royal Mail management will want to know how many people took action on the day and every strike will count. The more people that take action, the greater the impact and the better the chance we will have of winning our demands. Some people will say they cannot afford to lose a day's pay. Explain that management never give workers something for nothing. Everything we get has to be fought for and this involves making sacrifices now to prevent having to suffer greater losses in the future

Any problems

In the unlikely event that you have difficulties with local management, the police or the media on the days of the strike contact the CWU HQ Helpline who will put you in touch with the relevant Department.

020 8971 7350 or 020 8971 7380

Play your part in the campaign – make sure everyone supports the strike

www.cwu.org

CWU
The communications union