

CHARTER FOR BLACKLISTED TRADE UNIONISTS

- 1 Everyone should have the right not to be blacklisted (i) because of his or her trade union activities, or (ii) because of his or her activities as a workers' representative.
- 2 Anyone whose right not to be blacklisted has been violated should be entitled to compensation: (i) a basic award for being blacklisted, (ii) a compensatory award for losses incurred as a result, and (iii) an aggravated award relating to the nature of the information supplied, stored, or used.
- 3 Any award of compensation should be recoverable from (i) the blacklister, (ii) any employer who uses or supplies information to the blacklister, and/or (iii) any director or employee of a company responsible for compiling, keeping, supplying or using the blacklist, or supplying information to a blacklister.
- 4 In order to improve the protection of workers' representatives against blacklisting, it should be unlawful to dismiss **for any reason** anyone who is or has ever been a workplace representative, without the prior approval of an employment tribunal. Any such dismissal should be void.
- 5 Anyone who compiles, keeps, supplies or uses a blacklist or supplies information for use in a blacklist should be regarded as having committed an offence. Criminal liability should attach to both the company and responsible individuals, punishable in the latter case by a fine and/or imprisonment.
- 6 It should be unlawful for any public authority or public authority contractor to enter into a contract with another contractor who has been found in legal proceedings (whether civil or criminal) to have compiled, kept, supplied or used a blacklist, or to have supplied information to a blacklister.
- 7 It should be unlawful for any public authority or public authority contractor to enter into a contract with another contractor who employs anyone who has been found in any

legal proceedings to have compiled, kept, supplied or used a blacklist, or to have supplied information to a blacklister.

8 It should be unlawful for a contractor (A) to terminate a contract with another contractor (B) on the ground that the latter has engaged the services of a person who was blacklisted (C). Any such termination should be void, and a financial penalty should be recoverable by both B and C from A.

9 It should be a criminal offence for any public authority or the employees or agents of any public authority to share information with an employer or any other private person (natural or legal) about an individual's trade union activity, activity as a workplace representative, or political activity.

10 In any legal proceedings relating to allegations of blacklisting, the onus should always lie on the respondent to prove that (i) any adverse action was unrelated to blacklisting, and (ii) in the event of a complaint of blacklisting being upheld the complainant did not suffer any losses alleged.

Professor Keith D Ewing

29 March 2013

For more information and updates, visit: <http://www.ier.org.uk/resources/blacklisting>