



# LEGAL SECTION



The establishment of a fully-fledged NATU Legal Section will assist NATU to fight for its members against all forms of unfair labour practices, problems of unpaid or inappropriate salaries - as well as disputes related to staff transfers, promotions, discrimination and favouritism. The newly formed Legal Section will also reinforce NATU's determination to support members who may face difficulty in the workplace as this is a fundamental benefit of union membership.

The NATU Legal Section will be used to expedite resolutions of members' problems, thereby alleviating the great financial and emotional burden that would otherwise befall members. This is one of the ways in which NATU endeavours to improve its services for its members and secure them adequate protection against all sorts of hazards and any unanticipated eventualities that may come their way.

In the process, it is envisaged that membership benefits, such as this one, would encourage and entice non-NATU members to join the NATU family of professionals. Certainly, every educator would yearn for equality of treatment for all workers and legal services. For such people, NATU could easily be the Union of choice. Indeed, this could be one of the Union's foremost competitive advantages. Thus, from now onwards all labour-related decisions of the Education Department will fall under very close scrutiny.

For a long time, NATU has relied heavily on the voluntary support and commitment of its many branch representatives to deliver this key benefit to both the Union as a whole as well as to individual members. Thus, although the NATU Legal Section is not designed to take away this very important collaborative and participatory ethos in the relationship of the Union and its members, it is nonetheless, envisaged that this service will come with great relief, effectiveness and efficiency.

## **NATU INTERNAL PROCEDURES ON CASE MANAGEMENT**

It is very important for NATU members to acquaint themselves with the following NATU internal procedures on Case Management as they shall be utilised by the NATU Legal Section to avoid unnecessary distress and displeasure while enjoying these benefits as NATU members:

- Within two days or less of the occurrence of the problem at school or any workplace, the School Building Representative or Shop Stewart should intervene and assist the affected member.
- Every year a team of Case Managers consisting of about 3 members shall be established in each branch. This Team shall be able to meet at short notice immediately after a member's problem has been reported to discuss and resolve the matter.
- If the problem is not resolved after this intervention, the problem shall immediately be referred to the Secretary of the branch or any other branch-elected official in terms of the branch arrangements.

- The problem at the branch shall be recorded in the grievance record book. Please note that all problems must be recorded by the branch leadership regardless of the degree of seriousness.
- If the problem is not resolved by the Branch Executive Committee, the matter must be referred to the Region. All the records of the case must be sent to the Regional Executive Committee for the attention of the Chairperson and the Regional Secretary. The Regional Executive Committee shall move swiftly and resolve the case with immediate effect.
- If the member's problem persists, the matter must be referred to the NATU Legal Section. Correspondence shall be marked for the urgent attention of the National Case Manager accompanied by a list of all relevant documents.
- The National Case Manager refers the case to the Assistant Case Manager who prioritises it, records it like he does with individual cases, follows his normal process through and immediately refers it back to the National Case Manager for the approval of the strategy.
- Immediately the case gets resolved, all levels i.e. Region and Branch shall be informed in writing by the National Case Management Team.
- Cases or grievances lodged directly with the NATU Headquarters or NATU Legal Section by an individual member can still be dealt with by a Branch or Regional Case Manager or National Case Manager, depending upon the type of case and its complexity.
- Regional and Branch Case Managers shall be indemnified in writing by the Union to undertake casework if and only if they have participated in the union's training courses and have the required expertise to assist a member.
- NATU Headquarters shall ensure that all appointed staff members in the Legal Section are sufficiently competent to deal with the wide-ranging circumstances which may threaten members' continued employment. NATU Headquarters shall guarantee that all staff members have specialist knowledge of pertinent educational matters and employment laws to be capable of dealing with all aspects of members' cases.
- The NATU Legal Section shall deal with matters arising from employment in the education sector of bona fide NATU members - be they retirees, former educators, educators on career break and associate members who were members of NATU and paying a subscription at the time the issue arose, and, in the case of former members, provided they have not joined another trade union.
- Members who are in arrears with their subscriptions at the time the issue arose shall not be entitled to representation by the Case Manager at any level, and cannot establish entitlement to representation by retrospectively paying arrears.

- NATU members for whom subscription has been waived by the Union, such as newly qualified educators, are entitled to representation by NATU Legal Section or Case Manager at any level. Student teacher members are entitled to assistance for relevant matters arising out of school placement, provided that they were in membership at the time the issue arose.
- The Executive Director shall retain the right to withdraw representation or any form of assistance by NATU Case Manager at any level at any time.
- It should be noted that the Union shall not provide dual representation. The Member must not instruct or seek advice from his/her own friends or legal adviser, alternative representative or any other third party in connection with the case. In this eventuality, the Union shall withdraw from any further involvement in the case and the member shall be liable for any costs associated with the instruction of any legal adviser.
- A member shall not enter into any correspondence with any party whom s/he believes to be associated with the case unless and until s/he has agreed to the contents of the communication with the NATU Legal Section or Case Manager at the relevant level.
- A member seeking representation or any form of assistance shall:
  - Write down a detailed account of the problem.
  - Simplify or summarize the problem by putting it in point form.
  - Express a view of what should have happened to avoid the problem from occurring and complicating.
  - Express a view on the relief sought.
  - Enclose copies of previous correspondence with any office.
  - Suggest the date for personal appearance / interview if necessary. There should be at least five days allowed for the case to be studied before an appointment date unless there is a crisis.
  - Arrive at the time suggested.
  - Preferably phone to get confirmation of his or her approved time to minimize unnecessary queues.
  - Check with the relevant officer when he or she could phone or come back to check on progress. (It will however remain the responsibility of the NATU Legal Section to inform a member of the developments at intervals of at least a week).

- Insist on getting his or her case number and keep it in a safe place.
- Quote his or her case number whenever making an enquiry.
- Tell the NATU Legal Section why she or he chose the route of lodging grievance directly with the office. (This is optional but could prove to be very helpful in trying to assist ineffective structures; it will be kept secret).
- Supply the Case Manager dealing with the case with all the information which may be required and co-operate fully in the investigation, preparation and prosecution of any case, including requests in connection with medical evidence and documentation.
- The information given to the NATU Legal Section regarding NATU membership shall at all times be required to be honest and accurate.
- Members shall not act against the Case Manager's advice, notwithstanding that members shall not be obliged to accept the Union's advice and, by the same token, the Union shall not be obliged to support members who reject considered advice given to them.
- Breach of the terms and conditions set out herein may jeopardise the case and may result in the withdrawal of representation or any form of assistance.
- Casework assistance granted by the NATU Legal Section shall be limited to the costs and expenses incurred by the Union officers and officials in the conduct of their enquiries and proceedings.
- Members shall have the right to a copy of information held on them by the Union, except where the information relates to a third party or is legally privileged.
- Members are advised to take note that the Union has a policy of destroying files upon which there has been no action after a period of five years.
- If at any time, the Case Manager exercises the right to withdraw or revoke representation, or any form of assistance, the member shall have the right to seek a review of the decision. In this event, members shall be required to write to the Executive Director, giving their reasons for believing the Case Manager's decision to be unfair.
- These terms and conditions shall at all times be read in conjunction with, and are subject to, the NATU CONSTITUTION except to the extent of any ambiguity between the NATU Constitution and these terms in which event the NATU Constitution shall prevail.