

15TH JUNE 2009

ALL MEMBERS IN TELEPHONE BANKING

# Telephony Lifestyles: LTU Advice For Members

Over the past week, most PhoneBank Staff will have received a *Variation Letter* from the Bank detailing changes it would like to make to each member of staff's contract as a consequence of Telephony's new Lifestyles Working Patterns.

It is essential that all staff receiving the *Variation Letter* - including those satisfied with the new Working Patterns they have been allocated - check the letter carefully to ensure that they are happy with its content.

In particular, staff should consider:

- **Bank Holidays.** Staff cannot be required to be available to work Bank Holidays if they were not previously contracted to do so. Meanwhile, other staff may have made it a condition of them agreeing to accept one of the new Lifestyles Working Patterns that they would no longer be required to work Bank Holidays.
- **One Hour Flex.** A standard feature of the *Variation Letter* is that the Bank has given itself the right to vary at some later date the start and finish times of staff by up to one hour earlier or later than the original Lifestyles Working Pattern.

So whilst staff might think that the Working Pattern they have been allocated meets their needs, they need also to consider whether a change by an hour earlier or later would also do so. If the answer is NO, staff need to make it clear that they are not accepting this term of the Bank's *Variation Letter*.

**The opportunity available to staff to refuse to be available to Work Bank Holidays, or to allow the Bank to vary their start and finish times, applies only to those four categories of staff described in LTU's three previous Lifestyles Newsletters, who have legal and contractual Working Hours Rights (see page 3).**

## KEY POINTS

**Advice Inside On What To Do If You Do Not Accept The Proposed Change Of Hours**

**Check The Contract Carefully: What It Says Is What It Means!!!**

**If You Are Unhappy, Not Signing The Variation Letter Isn't Enough ... You Must Confirm In Writing That You Do Not Accept The Changes That The Bank Is Proposing**

**Nevertheless, where this does apply and staff are satisfied with the remaining terms of the variation, members should delete the section(s) in the *Variation Letter* that do not apply to them, with an accompanying note addressed to the person who signed the letter to them, stating simply:**

*"Please find attached my Variation Letter, indicating that I accept the new Working Pattern solely on condition that (i) I am not required to work Bank Holidays and/or (ii) the Bank accepts it will not be able to vary my working pattern by up to one hour".*

These letters should be returned to the Bank by 17th June.

**As we explain further inside, it is important that staff submit letters confirming where the changes being proposed are not acceptable, rather than merely refusing to sign and return the *Variation Letter*.**

# Advice For Members Unhappy With The Hours Allocated

LTU is pleased that, as a direct result of the Union's involvement and support, many staff have been able to settle upon Working Patterns that now suit them.

This has followed hundreds of meetings between managers and staff where LTU has successfully accompanied and represented our members.

**In some cases, this resulted in the Bank accepting the selection by staff of just one Lifestyle Working Pattern. At other times, staff have been able to remain on their current Working Patterns or have selected Working Patterns that were not one of those offered originally by the Bank, but nevertheless provide up to a 75% overlap with a Lifestyles Pattern that the Bank believes it can accommodate.**

This all proves that LTU has been right throughout to insist that staff should take full advantage of their Working Hours Rights and not allow themselves to be bullied, harassed or misled by a small number of unscrupulous line managers in some Centres who have shown a willingness to say and do just about anything to get their own way.

## Ongoing Concerns

Despite all of LTU's successes on behalf of members concerned by the introduction of Lifestyles Working Patterns, some ongoing cases remain where there hasn't yet been a resolution of our members' concerns.

Such cases include staff who:

- **Refused to select any Lifestyles Working Patterns because they didn't want or have to, or because doing so would make it difficult for them to balance their work and family responsibilities.**

Whilst the Bank has accepted many such cases, there are a small number of staff who it still wants to persuade to change their minds.

Where staff are resolute that they do not want - or cannot - reach an accommodation with the

Bank, they should insist upon remaining on their existing working arrangements.

- **A very few staff (we believe around 20) who did select just one or more Lifestyles Working Patterns, have been told that the Bank is having difficulty accommodating their preferences.**

**In these circumstances, staff are being asked whether they would reconsider their choices.**

Nevertheless, staff who do fall into this category and who have Working Hours Rights (see page 3), can insist upon either remaining on their existing Working Patterns or being willing to only change to the Lifestyles Pattern or Patterns that they have already expressed an interest in.

- **Some staff had intended to select just one or two Lifestyles Working Patterns but, to meet the needs of the Bank's computer system, their STM's (or staff themselves) had entered further choices to meet the requirement to select three, with the additional choices annotated with the comment 'Ignore'.**

**Despite this, some staff have been allocated to one of the additional Lifestyles Working Patterns that they did not choose.**

In these cases, staff should advise their manager of the error and that they are unwilling to accept the Working Pattern allocated to them.

- **A significant number of Team Leaders who did all that the Bank asked - selecting three Lifestyles Working Patterns irrespective of how inconvenient these might be - have subsequently been told that none suit the Bank.** Some have been told they must choose from as little as two alternative Work Patterns.
- **Finally, there may be some staff who were bullied, harassed or misled into selecting three Lifestyles Working Patterns because they were told they had no option but to do so, but now realise that LTU was right all along.**

Until staff sign and return the *Variation Letters* they have been given by the Bank, they have committed to nothing. **However, it is important that - as we explain on the next page - staff confirm in writing that they do not accept the changes in their Working Patterns being proposed by the Bank.**

All too often Advisers and Team Leaders have left meetings on Lifestyles in tears because of the manner in which they have been treated and the pressures upon them to accept Working Patterns that are not suitable for them.

## Legal & Contractual Working Hours Rights

As LTU has advised our members throughout this process - and as is made clear in the Bank's *Variation Letter* issued to staff last week that refers to changes in Working Patterns as being "proposed changes" from the Bank - whether staff can be forced to change their Working Patterns depends entirely upon their contractual status.

As LTU has explained in considerable detail in previous Newsletters, staff have the right to refuse to accept a change to their existing Working Patterns - or if they choose, set conditions on the changes they are willing to agree - if they:

- **Were employed originally on a Fixed Hours Contract, which specifies the hours they will be required to work (e.g. 9 am to 5 pm, Monday to Friday only).**
- **Were employed originally on Variable Hours Contracts, but for at least six months have neither varied their work patterns nor received letters from the Bank confirming that it intends that they remain on Variable Hours Contracts.**
- **Have working hours that have been fixed through a Work Options arrangement, specifying the precise times that they are required to work.**
- **Have family or domestic circumstances that would make it very difficult - if not impossible - to continue working for the Bank if they were required to move onto one of the new Lifestyles Work Patterns.**

## Termination Of Contracts

In an effort to pressurise staff into moving onto Lifestyles Working Patterns, some line managers have threatened staff that their contracts could be terminated and that they could be forced to move on to the new Working Patterns.

Legally, this is possible - though it is effectively the 'nuclear option' and would undoubtedly lead to a serious deterioration in relations between the Union and Bank, hostile media coverage and widespread legal action on behalf of members.

**Despite these serious consequences, the Bank has refused to rule out this possibility.**

The legal position is that where an employer wants to change the contracts of its employees - such as their contractual working hours - without their agreement, it can give them notice of its intention to terminate their contracts of employment and offer them new contracts.

In these circumstances, staff are presented with four options:

- **Reluctantly accept the new contracts (i.e. working hours) and take no further action.**
- **Refuse to accept the new contracts, leave the Bank and claim Unfair Dismissal.** For staff contemplating leaving the Bank because of Lifestyles, it is worth continuing working for the Bank on their current working hours until the Bank terminates their contracts, in order to claim compensation.
- **Accept the new contracts under protest and then - whilst continuing to work for the Bank under the new, imposed contracts of employment (i.e. working hours) commence legal action against the Bank for breach of contract.**
- **Refuse to accept the new contract, be dismissed, accept re-engagement on the new terms (if re-engagement is offered) and then state they are working under protest' whilst pursuing unfair dismissal and wrongful dismissal claims.**

**LTU will provide its full legal support to any member whose contract is terminated.**

Naturally, this service - engaging top solicitors - would be provided free to members, with members keeping for themselves the full compensation that they may be awarded at Employment Tribunal.

## No Meetings Without LTU Representation

Ever since Lifestyles was first announced, staff at a small number of Centres have been routinely harassed and misled into 'agreeing' to change their Working Patterns, even though legally and contractually they do not have to.

At this late stage in the process, it is essential that members who are asked to have meetings on Lifestyles Working Patterns with any members of their managements teams - whether they be HoCC's, STM's, Team Leaders or HR Representatives

- only do so on insistence that they are accompanied and represented by one of LTU's independent, professional Full Time Officials. That way, LTU can ensure that staff are treated fairly and in accordance with their legal and contractual rights.

Where necessary, this might require a little advance notice to allow us to make necessary arrangements.

Whilst the Bank's senior management team have accepted that meetings should only go ahead on this basis, their instructions have all too frequently been ignored at a local management level. Members should seek and follow our guidance in this regard.

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# Responding To The Bank's Variation Letters

We hope and expect that the vast majority of Telephony Staff have no problem in accepting the change in Working Patterns detailed in the Bank's *Variation Letters* and so should sign and return the letters without delay.

**However, if staff do not accept the Bank's proposed variation to their contracts of employment, it will not suffice to merely refuse to sign and return the letter. In these circumstances, staff should submit a letter explaining that they do not accept the contractual variation being proposed by the Bank.**

In this letter staff should state:

1. That they do not accept the Bank's proposed variation to their contracts of employment.
2. The reasons why they do not believe they can be obliged to alter their working hours, by reference to one or more of the four reasons provided on page 3. They should also ask that, if the Bank disagrees with this legal and contractual position, it should detail in writing why it believes this to be the case.

3. They intend to remain on their existing contractual working hours or, alternatively, would be willing to work to a specific working pattern and provide details of this.
4. They may choose to provide an explanation - perhaps because of family responsibilities - why they are unwilling or unable to accept the Bank's proposed variation (though this is optional).
5. Where applicable, that any variation in contract that they might accept will be entirely conditional upon (i) removal of the requirement to be available to work Bank Holidays and (ii) based upon there being no Bank right to vary their start or finish time by up to one hour.
6. They will only be willing to meet further with representatives from the Bank concerning any proposed changes to their working hours on condition that they are accompanied by an official from LTU.

**LTU recommends that it prepares these letters on behalf of our members. This can be arranged by either speaking to one of LTU's Officials who regularly visit their Centre or by calling LTU's 24 Hour Advice Line on 01234 262868.**

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Assistant General Secretary**