

Scheme of Time off for Trade Union Duties and Activities

1.0 Introduction

- 1.1 Within the Trust, arrangements for time off for trade union duties are covered by the Joint Consultative Committee (JCC) and its “Time off and facilities for trade unions” agreement. This Policy lists the types of functions and activities deemed to be trade union duties. This document provides guidance to Academy Heads and Managers which employ staff who are trade union representatives.
- 1.2.1 Schools and establishments are required to grant time off during working hours to employees who are members of recognised trade unions, for the purposes of taking part in trade union **activities** and to employees who are officials of recognised trade unions, for the purposes of carrying out such **duties** as are concerned with industrial relations between the employer and his employees and/or carrying out the functions of a safety representative. In this context the term employer includes not only the Trust but also the Locality Committee of any school with delegated powers under the terms of the Education Reform Act, and acting in good faith in the discharge of its delegated responsibilities, as outlined in the Trust’s Scheme of Delegation.
- 1.2.2 The term 'official' in this scheme refers to an employee of the Trust appointed or elected as a representative in accordance with his/her union's rules. It does not refer to employees of the trade union.
- 1.2.3 The Employment Protection (Consolidation) Act 1978 provides that reasonable time off with pay shall be granted for approved trade union **duties**. The Safety Representatives and Safety Committees Regulations 1978 make a similar provision in respect of safety representatives. There is no requirement to provide 'time off' with pay for trade union activities and no additional cost for the provision of cover need fall on schools as a result of such activities. All time off requested must be of a reasonable amount with regard to the duties or activities concerned and at a time when the school is able to cover the absence without detriment to its efficient operation.
- In the operation of the provisions of this scheme, the Trust should have regard to Sections 27 and 28 of the Employment Protection (Consolidation) Act 1978, the Safety Representatives and Safety Committees Regulations 1978 (Appendix A) and the ACAS Code of Practice "Time off for Trade Union Duties and Activities". It is expected that both the Trust Board and recognised trade unions will co-operate with each other in ensuring the flexible operation of this scheme. The regulations provide for any complaints by employees that their statutory rights have not been respected to be directed to the Trust and, therefore **any local disputes concerning refusals to allow time off, whether paid or unpaid must be reported to the Chief Executive Officer.**
- 1.2.4 Trade union officials qualifying for time off with pay must be accredited officials (see Appendix B) of an independent trade union recognised by the Trust.
- 1.2.5 An employee's allowances of time off for all reasons, be they trade union duties and activities or public duties (as set out in the Trust's scheme) is subject to an overall limit, having regard to operational requirements, the maintenance of the service and to Section 29/(4) of the Employment Protection (Consolidation) Act 1978. An Academy Head or Manager which feels that any individual employee is exceeding reasonable limits is strongly advised to consult the Chief Executive Officer before initiating any action.

2.0 Time off with Pay for Trade Union Duties

This scheme distinguishes between those trade union representatives appointed to carry out duties within their own schools and those whose duties involve them extensively beyond their own school or establishment (See Appendix B). Representatives acting for employees within their own school must be allowed reasonable time off with pay to carry out those duties which qualify. When a trade union official is appointed and recognised in respect of an individual school or establishment, it is expected that his/her school or establishment related trade union duties will be carried out at times which are convenient to the school. The number of representatives acting on behalf of employees at any one school or establishment must be reasonable in relation to the trade union's membership at that school or establishment. In matters of common interest e.g. health and safety inspections it is expected that the representatives of the various trade unions concerned will co-ordinate their activities to avoid unnecessary duplication of effort. If cover is necessary to allow representatives to carry out their duties it must be arranged with the Academy Head or Manager and will be funded from the budget.

3.0 Time off with Pay for Trade Union Duties Beyond School Level and for Trade Union Training

In order to enable schools or establishments to grant appropriate time off with pay to employees who are officials of recognised trade unions, and whose duties necessarily involve them in matters which extend beyond the school or establishment at which they are employed (see Appendix B) funding allocated in the manner described in Section 4 of this scheme will be held centrally to enable schools or establishments to provide cover for absence. Such funding will be made available for the situations listed at 3.2 below. Absence in this case includes time when the official concerned may be on Trust premises but temporarily and necessarily occupied with industrial relations matters which also affect other schools or establishments. Guidance on the management of time off is given in Appendix C.

3.1 Funding for cover will be made available for the following:

- (i) Certain recognised trade union officials regularly undertaking duties extending beyond the Trust in which they are employed (see Appendix B).
- (ii) Members of approved committees forming part of the Trust's consultative structures to attend meetings and preparatory trade union side meetings -See Appendix D. Such meetings will be arranged to cause the minimum disruption to the pupil day.
- (iii) Recognised trade union officials undergoing training to enable them to carry out those duties which involve industrial relations between employees and the Trust /Locality Committees or acting as safety representatives. Training courses must be approved by the trade union concerned, relevant to the duties of the official and take place at a time which is reasonably convenient to the efficient operation of the school. Reasonable notice of any proposal must be given to the Academy Head or Manager.
- (iv) Officials who are elected as members of National or Provincial joint consultative bodies to attend appropriate meetings of those bodies. Subject to the specific approval of the Chief Executive Officer, any official representing his/her trade union at the union's national conference or the Trade Union Congress will receive time off with pay. It is anticipated in this that the national conferences of teachers' associations will continue to meet during school holiday periods. The maximum possible notice of any such meeting held in school term must be given to the Academy Head or Manager.

Funding for these purposes will be allocated as set out in Section 4.

As a general principle, the Trust will also seek to make available time off with pay to trade union officials who are elected to serve as members of their national executive body or as national or regional officers. The precise arrangements must be agreed in advance with Chief Executive Officer, the Academy Head and Locality Committee of the school concerned.

4.0 The Allocation of Funding: teacher unions only

By 28th February of each year the appropriate official of each recognised trade union will inform the Chief Executive Officer of the total membership of his/her trade union in Trust schools.

By 31st March of each year, the Chief Executive Officer will allocate to each recognised trade union a number of days of 'cover' time available in respect of those duties (including training) listed at 3.2. Such an allocation will take account of:

- > relative size of membership of the trade unions and whether membership is predominantly full or part time;
- > consultative structures and the frequency of meetings;
- > County agreements (where those exist) and customary allocations to trade union officials.

3.2 The trade unions concerned will inform the Chief Executive Officer of those appropriate nominated officials (see Appendix B) to whom they wish to allocate a block of cover from within their allocation for the coming financial year, and the amount of such allocation. In these cases the employing school will be credited with the standard cost (see 4.6) of the cover required for the coming financial year. The practical arrangements for the timing of release must be agreed between the Academy Head of the school and the official concerned. For officials whose duties involve regular patterns of absence, schools may choose to provide cover by means of a regular contract arrangement. Any changes during the financial year will be notified immediately to the school concerned and the Chief Executive Officer.

3.3 Trade unions must also retain a reserve of cover time for the purposes listed in 3.2.(ii) - 3.2.(iv) where it is not possible to stipulate all likely requirements in advance of the financial year. Subject to a sufficient cover time allocation being available, the trade union concerned will normally make arrangements with the individual school(s) concerned via the Academy Head to release officials for training or consultative meetings etc. There will be a requirement for the trade union to notify the Trust, so that the budget of the school concerned may then be credited as appropriate. An appropriate officer of each trade union will maintain a current record of cover allocated from the union's reserve.

3.4 Arrangements for members of national executive bodies (as 3.3) are excluded from the arrangements for an annual allocation and will be dealt with individually.

3.5 The budgetary allowance for temporary cover is currently:

- > £160 per day for teachers; £200 per day for Academy Heads or above ;
- > Actual salary rate for support staff, in accordance with paragraph 10 of the JCC "Time off and facilities for trade unions" agreement.

3.6 In respect of employees who work less than the full normal working week, funding for cover will only be provided for absence which falls at times when they are normally at work.

3.7 The arrangements for Unison representatives are as set out in the Staff Partnership Board "Time off and facilities for trade unions" agreement.

Time Off without Pay for Trade Union Activities

Members of recognised trade unions have a right to reasonable time off without pay to take part in trade union activities. Such activities could include taking part in meetings of official policy making bodies of the union, or representing the union or union movement on external bodies. Union members should also be permitted to take reasonable time off to take part in meetings of members which for urgent reasons may be held in normal working time. The right to time off does not extend to any activity which consists of industrial action or which is in contemplation or furtherance of a trade dispute including any dispute with the Trust and/or Locality Committee.

The activities covered by this section must be arranged so as to cause the minimum disruption to the Trust's normal operation and with the knowledge and agreement of the Academy Head or Manager.

4.0 Arrangements for Time Off

It is for the Trust and/or Locality Committee and the Academy Head or Manager to determine the practical arrangements for releasing trade union officials to undertake their duties and to arrange appropriate cover for such absence, in consultation with the employee concerned as necessary. All arrangements will be made within the framework of this scheme. Academy Heads and Managers should consult Appendix C for guidance on the management of time off.

5.0 Records of Time Off

The Academy Head and Managers must maintain a current record for the purposes of control and audit of all time off, whether the time off is paid or unpaid. The ACAS Code of Practice states that trade union officials should indicate the nature of the business for which time off is required, the location and the expected period of absence.

6.0 Complaints

Any complaints about refusal to grant reasonable time off for trade union duties or activities should be addressed to the Chief Executive Officer.

If there are any unresolved disagreements between the Chief Executive Officer and individual trade unions they may be referred to the JCC collective disputes procedure for resolution.

7.0 Review

The operation of this scheme will be reviewed periodically in consultation with the appropriate recognised trade unions.

APPENDIX A

Statutory Entitlements to Time Off for Trade Union Duties and Activities

Extracts from the Employment Protection (Consolidation) Act 1978:

27. (1) An employer shall permit an employee of his who is an official of an independent trade union recognised by him to take time off, -Subject to and in accordance with subsection (2) during the employee's working hours for the purpose of enabling him:

- (a) to carry out those duties of his as such an official which are concerned with industrial relations between his employer and any associated employer, and their employees; or
- (b) to undergo training in aspects of industrial relations which is:
 - (i) relevant to the carrying out of those duties; and
 - (ii) approved by the Trades Union Congress or by the independent trade union of which he is an official.

(2) The amount of time off which an employee is to be permitted to take under this section and the purposes for which, the occasions on which and any conditions subject to which time off may be taken are those that are reasonable in all the circumstances having regard to any relevant provisions of a Code of Practice issued by the Advisory, Conciliation and Arbitration Service under section 6 of the Employment Protection Act 1975.

28. (1) An employer shall permit an employee of his who is a member of an appropriate trade union to take time off, subject to and in accordance with subsection (3), during the employee's working hours for the purpose of taking part in any trade union activity to which this section applies.

(2) In this section "appropriate trade union", in relation to an employee of any description, means an independent trade union which is recognised by his employer in respect of that description of employee, and the trade union activities to which this section applies are:

- (a) any activities of an appropriate trade union of which the employee is a member;
- (b) any activities, whether or not falling within paragraph (a), in relation to which the employee is acting as a representative of such a union, excluding activities which themselves consist of industrial action whether or not in contemplation of furtherance of a trade dispute.

(3) The amount of time off which an employee is to be permitted to take under this section and the purposes for which, the occasions on which and any conditions subject to which time off may be so taken are those that are reasonable in all the circumstances having regard to any relevant provisions of a Code of Practice issued by the Advisory, Conciliation and Arbitration Service under section 6 of the Employment Protection Act 1975.

Extracts from the Safety Representatives and Safety Committees Regulations 1978:

4 (1) In addition to his function under section 2 (4) of the 1974 Act to represent the employees in consultation with the employer under section 2 (6) of the 1974 Act (which requires every employer to consult safety representatives with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees and in checking the effectiveness of such measures), each safety representative shall have the following functions:

- (a) to investigate potential hazards and dangerous occurrences at the workplace (whether or not they are drawn to his attention by the employees he represents) and to examine the causes of accidents at the workplace;
- (b) to investigate complaints by any employee he represents relating to that employee's health, safety or welfare at work;
- (c) to make representations to the employer on matters arising out of sub-paragraphs (a) and (b) above;
- (d) to make representations to the employer on general matters affecting the health, safety or welfare at work of the employees at the workplace;
- (e) to carry out inspections in accordance with Regulation 5,6 and 7 below;
- (f) to represent the employees he was appointed to represent in consultations at the workplace with inspectors of the Health and Safety Executive and any other enforcing authority;
- (g) to receive information from inspectors in accordance with section 28(8) of the 1974 Act; and
- (h) to attend meetings of safety committees where he attends in his capacity as a safety representative in connection with any of the above functions;

but without prejudice to sections 7 and 8 of the 1974 Act, no function given to a safety representative by this paragraph shall be construed as imposing any duty on him.

(2) An employer shall permit a safety representative to take such time off with pay during the employee's working hours as shall be necessary for the purposes of:

- (a) performing his functions under section 2 (4) of the 1974 Act and paragraph (1) (a) to (h) above;
- (b) undergoing such training in aspects of those functions as may be reasonable in all the circumstances having regard to any relevant provisions of a code of practice relating to time off for training approved for the time being by the Health and Safety Commission under section 16 of the 1974 Act.

In this paragraph 'with pay' means with pay in accordance with the Schedule to these Regulations.



APPENDIX B

Recognised Representatives of Trade Unions/Professional Associations

Individual School Level:

School Representatives/ Stewards Teacher Associations/ Unison

Safety Representatives All Unions

County/ District Level:

NEU Divisional, Assistant Divisional and Association Secretaries

NASUWT Federation, Assistant Federation and Local Association Secretaries

Voice County Secretary

ASCL County Secretary

NAHT County Secretary

UNISON Branch Secretary, Service Conditions Officers and Area Convenor

GMB Branch Secretary

APPENDIX C

The Management of Time Off for Trade Union Duties and Activities

The Employment Protection (Consolidation) Act 1978 and Safety Representatives and Safety Committees Regulations 1978 establish a right in certain circumstances to 'time off during the employee's working hours'. The purpose of the statutory provisions is to aid and improve the conduct of industrial relations and/or to improve co-operation in health and safety arrangements. It is essential for the proper operation of 'time off provisions for all parties to recognise why the time off provisions are available and to operate both the statutory provisions and the provisions of this scheme with reasonable flexibility. It is also important that trade union representatives and the extent of their duties are clearly identified to Academy Head's by their trade union.

In the context of this scheme 'time off refers to authorised absence of the employee concerned from- his/her normal duties. Normally 'time off will be readily identifiable, especially where the employee concerned is away from school premises e.g. for a full or half day or in other circumstances where the employee's work has to be covered e.g. teaching a class.

Where employees such as teaching staff have a degree of flexibility in their normal work arrangements, it has been customary for that flexibility, which enables certain types of work to be carried out at alternative times, to be used to facilitate 'time off. In situations where an employee wishes to carry out trade union duties or activities partly or wholly in his/her own time by a reasonable and acceptable change to his/her working arrangements (e.g. a change of shift or temporary adjustment of working hours) it is expected that schools will accommodate this where the proposed change will not affect their operation adversely. It is open to a Local Governing Body to decide that a trade union member may be allowed time off for trade union activities without loss of pay; for example, in circumstances where the employee's absence is covered by colleagues and no additional cost falls on the school's budget.

Although the Chief Executive Officer will mediate in cases where there is complaint from either side, it is expected that Local Governing Bodies, Academy Heads and the trade unions concerned will ensure that reasonable flexibility is not abused and that an individual representative's work is not neglected.



APPENDIX D

Joint Consultative Groups attracting Time Off

Joint Consultative Committee (JCC)

Staff Forum

School Staff Forum (SSF)

Workforce Agreement Monitoring Group (WAMG)

Health, Safety and Wellbeing Forum

Corporate Change Forum

Document Control

Changes History

Version	Date	Amended By	Details of Change
V2	02/04/2020	Principal/CEO	Routine review and updating terminology

Approval

Name	Job Title	Signed	Date
Andrew Aalders-Dunthorne	Principal/CEO	Electronic signature	06/01/2017
Dawn Carman-Jones	On behalf of the Trust Board	Electronic signature	09/01/2017

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