

Report to Hartlepool Schools' Forum 18th June 2014

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Update on Trade Union Facility Time

1. Background

1.1 Following ongoing discussions regarding Trade Union facility time in Schools, the forum requested that discussions be opened up with Regional Trade Union Representatives of the NASUWT and NUT and a report be prepared which would allow the Forum to consider the following;

- Background to Trade Union Duties and Activities
- Protocol for Trade Union Facility time in Schools (Appendix 1)
- Outcome of discussions with Regional Trade Unions Representatives
- Other matters for consideration

2. Trade Union Facility time

2.1 Legal background and provision of paid and unpaid time

Since the Employment Protection Act 1975, union representatives of an independent trade union which is recognised by the employer have had a statutory right to paid time off from employment to carry out trade union duties.

Union representatives and members of an independent trade union which is recognised by the employer have also had a statutory right to reasonable unpaid time off when taking part in trade union activities.

The relevant rights are now contained in the trade union and Labour Relations (Consolidation) Act 1992 (TULRA), Employment Relations Act 1999; and The Safety Representatives and Safety Committees Regulations 1977; and are supported by the ACAS Code of Practice on 'Time off for trade union duties and activities'; and the HSE Code of Practice on 'Consulting employees on health and safety.'

2.1.2 There is a statutory duty for employers to provide paid time off for elected officials of Trades Unions to undertake trades Union duties. In law, the Council is the employer for all staff in Community and Voluntary Controlled Schools, although the Governing Body is the employer in Voluntary Aided and Foundation Schools and Academies.

Currently, elected representatives from the Professional Association or Trades Union are provided with an agreed amount of time the school at which they work releases them and is then reimbursed from the central budget of £32k or the TU Representative, in the case of the NASUWT and NUT is paid directly from the central budget as they are not employed within a School in Hartlepool.

2.1.3 This time is used for the benefit of all employers, all schools and their staff across the whole of Borough.

2.2 What is facility time and what facilities are currently allowed?

Facility time is paid time off during working hours for trade union representatives to carry out trade union duties and time off for representatives and members to undertake trade union activities.

Hartlepool Borough Council and Schools have a facility time agreement in place (Appendix A) between themselves and their recognised trade unions which specify the arrangements for the taking of facility time.

The duties that facility time can be granted for include matters such as representing individuals e.g. at grievance hearings; collective bargaining and representing the views of staff to management e.g. terms and conditions, redundancies; training e.g. examining, promoting and arranging training; and the undertaking of functions related to Health and Safety.

2.3 Trade Union Duties

Section 10 Employment Relations Act 1999 and sections 168 and 169 TULRA provide the right to reasonable paid time off during working hours for the purpose of carrying out trade union duties.

Facility time may include pre-approved paid time off to complete a range of trade union duties and relevant training as set out in legislation

- negotiating terms and conditions of employment;
- accompanying or representing a trade union member at a disciplinary or grievance hearing;
- accompanying trade union members to meetings to discuss flexible working requests;
- negotiating issues about trade union membership; or
- discussing issues that affect trade union members such as redundancies and policy changes.

Trade union duties are employee relations duties that are carried out by trade union representatives on behalf of their members. These duties are generally employee facing;

Examples of duties include:

- **General Representative Duties** such as preparation for and engaging in annual pay negotiations; discussing issues that affect members such as redundancies and policy changes; and representing a staff member at a disciplinary or grievance hearing.
- **Learning representative duties** such as identifying and promoting learning opportunities, supporting members on learning programmes and working with other learning providers and sources of advice and support, for example, local further education colleges, charities.

- **Health and safety representative duties** such as examining with employers the causes of accidents to reduce future risks and dangers, investigating complaints and making representation to the employer on behalf of staff.

2.4 Trade Union Activities

As indicated earlier, Trade Union representatives and members of an independent trade union which is recognised by the employer have also had a statutory right to reasonable unpaid time off when taking part in trade union activities.

Trade Union Activities would include

- attending workplace meetings to discuss and vote on the outcome of negotiations with the employer.
- meeting full time officers to discuss issues relevant to the workplace
- voting in union elections
- having access to services provided by a Union Learning representative.
- branch, area or regional meetings of the union where the business of the union is under discussion
- meetings of official policy making bodies such as the executive committee or annual conference
- meetings with full time officers to discuss issues relevant to the workplace.

3. Outcome of discussions with Regional TU Reps

- 3.1 NUT and NASUWT regional officer recognise that guidance and regulations on trade unions representatives and facility time leans toward the representatives being employees and thus, representatives of the workforce.
- 3.2 NUT and NASUWT regional officers have recognised that the current arrangements are unable to continue unless the representatives become an employee of a School (with hours) within Hartlepool.
- 3.3 During the autumn term when the School Forum discuss de-delegation the NUT and NASUWT regional officers recognise that there will be an end to the current arrangements with the local NUT and NASUWT representatives not being employed by Schools and that the transition to employed representatives will be agreed by the Schools Forum and put into place.
- 3.4 NUT and NASUWT regional officers are keen for a meeting, consisting of Assistant Director (Education), HR Rep, NUT and NASUWT TU Reps, 2/3 Headteachers, to take place as soon as practicable to discuss the transition arrangements between the current representatives and the new employee representatives along with the new facility time arrangements

4. Other issues requiring clarification

- 4.1 Whilst not discussed directly with the trade unions it is recommended that paid time off be limited to trade union duties only.

5. Recommendations

- 5.1 Note the progress to date as detailed in the report.
5.2 Nominations for 2/3 Headteachers to meet with the Trade Unions

Hartlepool Schools Trade Union/ Professional Association Facility Time Protocol

Principles

The provision of teaching and non-teaching Trade Union/Professional Association facility time for Schools in Hartlepool is managed annually through the direction of the Schools Forum. Schools buying into this agreement contribute a designated amount from their individual School budget.

Accredited representatives of recognised Trades Unions/Professional Associations will be afforded facility time to allow effective employee representation in order to promote good industrial relations. Any unnecessary cost should be avoided and facility time granted within the resources available.

Each Trade Union/Professional Association on an annual basis will be required to nominate/name designated School based Trade Union/Professional Association Representatives (who are direct employees of a School within Hartlepool) who are to be afforded TU Facility Time in accordance with this agreement. Only those nominated officials will be able to claim re-funded time for trade union duties in accordance with this agreement.

It is expected that in accordance with good employee relations practice that Schools will operate and allocate time in addition to this agreement for School based Trade Union/Professional Association officials conducting/participating in normal school based matters.

Requests for Trade Union/Professional Association facility time made against this agreement will commonly fall within 2 types of release:

1. Ad Hoc – this is categorised as occasional time which will occur on an irregular basis. The time may equate to hours or days but would not have a regular pattern to the time requested.
2. Regular – this is categorised as planned time which occurs at a set time each week or month. The time may equate to hours or days but would have a regular pattern to the time requested.

For both categories of time the initial request for time should be dealt with at a School level.

It is an expectation that individuals will give reasonable notice for any requests for release from their role. Approval for initial release rests at a School level, and will be based on the School being able to provide appropriate cover for the individual. Individuals should request leave of absence through the recognised School procedure. Advice will be given to Schools directly regarding how this might operate.

Where a more regular pattern of release needs to be agreed both to support the smooth running of the School and provision of time then these discussions will be

supported by the HR Business Partner or their designate. Any agreements reached should be reviewed on at least an annual basis.

The Schools Human Resources Advisory service will work with Trades Unions/Professional Associations on an annual basis to determine the nature and extent of the facilities required, and will present recommendations to Schools Forum for approval.

All Schools within Hartlepool will be invited to be included in these arrangements. A list of Schools where this protocol applies is available from the Assistant Director (Education) and will be updated annually.

The provision of facility time for trade unions will be reviewed annually to take effect from April each year.

Authorisation

In order to make a claim for the reimbursement of trade union facility time the relevant form (Appendix A) must be fully completed by the accredited Trade Union/Professional Association representative, including any relevant authorisation. It should then be forwarded to Assistant Director (Education). All forms must be countersigned by the Headteacher before being processed.

Reimbursement

Schools who release staff for accredited Trade Union/Professional Association duties will be reimbursed on the basis on the appropriate salary of the individual (including on costs). Reimbursement will not be made for any allowances. Any variances to this arrangement must be agreed with the Assistant Director (Education) and will be based on the principles outlined above.

Schools will be reimbursed for costs on a termly basis. In some cases where regular release has been agreed Schools may be reimbursed directly, this arrangement must be agreed in advance by the Assistant Director (Education). In such cases individuals are still expected to complete a claim form to provide an audit trail of how time is being utilised.

Reporting

Annual reports will be provided to the Schools Forum regarding trade union facility time.

Appendix A

Hartlepool Borough Council CLAIM FORM FOR REIMBURSEMENT OF TRADE UNION FACILITY TIME

This Claim Form should be used by Union/Association Secretary/Officer and should relate to trade union duties (and not trade union activities) concerned with Education Provision in Hartlepool.

Name of Union/Association: _____

Name of Officer _____

Payroll Number _____ Term: _____

School: _____

Area of Trade Union Duties:

	Time Spent On Duty (Hours/Days)	Dates and Location of Duty*
Regular e.g. meetings*		
<i>Ad Hoc</i> e.g. case work**		

* please provide detail of meeting/forum attended

** please provide details of the type of ad hoc case work eg. discipline, capability

To Be Completed By Nominated Trade Union Officer

*Local

*Regional

*National

*Delete as appropriate

Signature: _____

Name (in capitals) _____

Schools will be reimbursed accordingly to the time spent on trade union duties. This will exclude any other provision made to pay for regional and national work, which relates to the work of the Authority.

Please return this form to:

Assistant Director (Education) Hartlepool Borough Council. Civic Centre, Level 4. TS24 8AY

