



Department
for Education

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Respond by 25 October 2013
Ref: Department for Education

Review of trade union facility time in schools

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The Department for Education is carrying out a review of trade union facility time in schools. Trade union representatives are entitled to reasonable paid time off (known as facility time) to take part in trade union duties, such as negotiating with employers and representing members in grievance procedures. This call for evidence is to gather views from employers, school leaders, representative organisations, teachers and members of the public about trade union facility time. We want to know how facility time could be managed more transparently and how we can ensure it makes the most efficient use of taxpayers' money.

To Schools, academies, local authorities, employers in schools, headteachers, teachers, trade unions, representative organisations, governors, parents and other interested members of the public

Issued 19 September 2013

Enquiries to If your enquiry is related to the policy content of the call for views you can contact the Department on 0370 000 2288

e-mail: FacilityTime.CALLFORVIEWS@education.gsi.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the Department's '[Contact Us](#)' page.

1 Introduction

- 1.1 While tough decisions have been taken across Government, spending on schools has been protected, and it is vital that we ensure that every pound spent achieves good value for money. Employers across the public and private sectors are seeking to find efficiencies in every area of spending. Schools are doing the same and trade union funding must be included in this drive for efficiency. In particular this applies to **trade union facility time – paid time off for trade union representatives employed in schools to carry out union work.**
- 1.2 Trained teachers who are trade union representatives are entitled to ‘reasonable’ time off to carry out union duties¹, but interpretation of what is reasonable varies widely, and the practice of representatives spending 100% of their time on union work funded by the taxpayer is too common. There are examples of excellent practice where facility time is managed efficiently and transparently. There are also, however, examples where costs appear very high and there is a lack of accurate information about how this money is being spent.
- 1.3 Elsewhere across Government, efficiencies in spending on facility time are being found. The Civil Service is removing all 100% trade union posts and has introduced a requirement for departments to publish details of facility time annually. The Department for Communities and Local Government has advised councils to save taxpayers’ money by significantly scaling back the cost of facility time, limiting it to a set percentage of an organisation’s pay bill.
- 1.4 We believe that taxpayer subsidy of trade union activity through paid facility time should be more transparent and efficient. We believe that taxpayers expect to fund teachers to teach, and trade union representatives should retain a strong link to the classroom. This call for evidence document sets out our proposals and asks questions about how you think facility time should operate. We want to be clear that this call for evidence does not cover how trade unions spend the funds they generate from membership fees, which is a matter for the trade unions themselves.
- 1.5 The call for evidence will be open between 19 September and 25 October 2013. You can respond electronically through the online response facility available on the Department for Education e-consultation website.

1 - Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) sections 168.s168A and s169, and Advisory, Conciliation and Arbitration Service (Acas) Code of Practice on trade union duties and activities (The Code of Practice).

2 Achieving efficiency at school-level

- 2.1 The government's recent review of efficiency in the schools system found that the most efficient schools maximise their spending on resources and activities which make the greatest difference to pupil outcomes— and are creative in minimising all other costs. We know that many school leaders and employers are already reviewing their facility time budgets in order to invest as much as possible in teaching and learning.
- 2.2 While some excellent progress has been made, spending on facility time in schools and local authorities currently varies widely. In one area there are approximately 10 full time equivalent classroom teacher union representatives who received total taxpayer funding of nearly £400,000 in 2011-12. A larger local authority, with almost 10,000 more school places, spent less than £120,000 in the same year on classroom teacher union representatives².
- 2.3 In order to support schools to achieve efficiencies, we believe that government should set an expected maximum percentage of the pay bill to be spent on facility time in schools, in line with best practice. This approach has been adopted elsewhere across government. Estimates have suggested that facility time costs amount to 0.14% of the annual pay bill in the wider public sector (approximately £240 million last year) and 0.04% in the private sector. The Department for Communities and Local Government has recommended that the private sector benchmark be adopted by local government to maximise savings.
- 2.4 **Q1: We would welcome views on the percentage of a school employer's pay bill that should be used to fund trade union facility time.**
- Q2: More widely, have you any further suggestions about how facility time arrangements in schools could be made more efficient?**

2 - Figures provided by local authorities detailing the costs of facility time broken down by union, from FOI requests submitted by the Taxpayers Alliance in 2012.

3 Paying teachers to teach

- 3.1 Trade union representatives are entitled by law to reasonable paid time off to take part in trade union duties (such as negotiating with employers and representing members in grievance procedures). We are not proposing any change to this legislation. However, we believe that it is reasonable to expect all trained teachers who are trade union representatives to spend the majority of their working hours carrying out their school-based jobs.
- 3.2 The vast majority of school union representatives (representing members in a single school) do not request regular time off during their teaching time. Local and regional union representatives often have more time off as they support many more members across several schools. The Code of Practice recommends that facility time should be flexible to balance the needs of union members and employers. In many cases, employers and unions negotiate facility time agreements based on membership numbers.
- 3.3 There is evidence that taxpayers are funding a large number of union representatives who are trained and paid as teachers but do not spend any of their contracted time teaching. This creates additional work for the very many hardworking teachers across the country. Some of these union representatives have therefore not taught in a school for many years. Some are nominally employed as 'home tutors' by their local authority, while others receive large salaries on the teachers' scale (in some cases up to £70,000 a year) but have no teaching timetable or leadership responsibilities. This represents a significant cost to the taxpayer of many millions of pounds.
- 3.4 We believe that for a union representative to function effectively and represent the views of employees, it is necessary for them to be actively involved in their day to day jobs. Several local authorities and other school employers have already reduced the number of full time representatives working in their areas and focused their spending on a small number of part time representatives, for example one local authority has cut down from full time union representatives to one day a week per representative.
- 3.5 **Q3: How much time do you consider 'reasonable' time off for trade union duties for any union representative working in a school (as a percentage of contracted working hours)? Where possible we would welcome evidence**

and examples to support your views.

4 Accountability and transparency

4.1 Union representatives are entitled to **paid** time off for a clearly defined set of **duties**. These include:

- negotiating with employers
- representing members
- performing the duties of an accredited Health & Safety representative
- performing the duties of an accredited Union Learning representative

Union representatives may also request paid time off for relevant training to enable them to carry out these duties.

4.2 Although there is no obligation on employers to provide paid time off to union representatives or members engaged in **union activities**, employers in schools often do allow paid time off for activities such as:

- attending meetings to discuss internal union business
- attending meetings of union policy making bodies
- attending union conferences
- meeting with union officers to discuss workplace issues
- voting in union elections
- accessing the services of union learning representatives

We believe that these activities should **not** attract paid time off: they should be funded as far as possible by members' subscriptions, not by additional subsidies from the taxpayer.

4.3 We are concerned that the current system makes it difficult for employers and managers to hold teachers who are trade union representatives to account for the work they carry out during taxpayer funded facility time. Better accountability would enable employers and managers to differentiate between paid duties and unpaid activities undertaken during working hours, and to make informed decisions over whether time off is "reasonable".

4.4 We believe that trade union representatives funded by taxpayers should regularly account for how their facility time is spent to the management of their school and/or their employer, as the Code of Practice advises. Some employers have set

up systems to do this, for example a group of schools in one area has formed a co-operative to manage services: their 'facility time calculator' requires union representatives to produce descriptive invoices of facility time taken.

Q4: Do you agree that union representatives in schools should regularly account for the duties and activities carried out during facility time to their manager and/or their employer?

- 4.5** Finally, for the reasons set out above, it is currently difficult for the public and parents to understand how many representatives with agreed release time are in place in schools at any one time, and even more difficult to establish what duties and activities are being carried out during paid facility time. We believe accurate information about facility time, and regular publication of such information, will enable taxpayers to see how their money is being spent. The Department for Education will review the financial reporting arrangements for employers in schools with a view to including and publishing information on trade union facility time spending in future.

Q5a: Do you agree that details of facility time spending should be gathered and published?

Q5b: If yes, how could a system be introduced without placing additional burdens on employers and school leaders (in both maintained schools and academies)?

5 Additional Comments

- 5.1 Q6: Do you have any additional views on trade union facility time that you would like to share? We would be particularly grateful for any examples of good practice, or examples of how facility time is currently managed in your school, academy or local authority.**

6 How to respond

6.1 Responses can be completed online at www.education.gov.uk/consultations

by emailing: FacilityTime.CALLFORVIEWS@education.gsi.gov.uk

or by downloading a response form which should be completed and sent to:

Facility time call for views,
Department for Education,
4th Floor Sanctuary Buildings,
Great Smith Street,
London
SW1P 3BT

7 Additional copies

7.1 Additional copies are available electronically and can be downloaded from the Department for Education e-consultation website at:

www.education.gov.uk/consultations

8 Plans for making results public

8.1 The results of the call for views and the Department's response will be published on the DfE e-consultation website in December 2013.