

## **The Case for Facilities Buy-in**

**May 2016**

### **Executive Summary**

This report provides detailed information about facilities time for representatives from the teaching unions which we hope will persuade academy schools to sign up to the relevant Local Authority Facility Time Pot (LAFTP).

It outlines case studies on the costs associated with employment relations and how signing up to the LAFTP will help to save schools significant amounts of time and money over the longer term. This is supported by a 2007 study carried out by the Department for Business, Enterprise and Regulatory Reform which found that:

- Dismissal rates are lower in unionised workplaces with union reps – this resulted in savings for employers related to recruitment costs of at least £107m per annum
- Voluntary exits are lower in unionised workplaces with union reps, resulting in lower staff turnover and savings of £72m per annum for employers related to recruitment costs.
- Workplace-related injuries are lower in unionised workplaces with union reps resulting in savings to employers of £126m-371m per annum.
- Employment tribunal cases are lower in unionised workplaces with union reps resulting in savings to government of £22m-£43m per annum.

This does not take into account the cost to an employer of preparing for a tribunal which has been demonstrated in the case studies we have put together below. The cost of preparing for a straightforward unfair dismissal case could easily run to £10,000 before any consideration is given to compensation that may be awarded to claimants. The HR provision bought in by academies often does not include legal mediation services, all of which would mean additional cost implications in cases involving employment tribunals. Even if the case does not proceed to a full hearing, employers inevitably have to organise and pay for preparatory legal advice and support and there are further costs to the employer if the case is settled instead of proceeding through the hearing procedure. The involvement of local reps at an early stage makes this significantly less likely and therefore makes good business sense.

Although the perception of employers is often that the trade union exists to support employees who are under threat of a disciplinary procedure, many employees raise concerns in relation to whether their treatment by the employer is just and equitable.

This is an area of employment relations over which the employer has significantly less control and if good employer / employee relations are not established and maintained, the employer can be surprised when the workforce expresses their discontent.

Employees who are discontented with actions taken by their employer have the right under employment law to raise their concerns and this may be done individually or collectively, sometimes it may be both. These concerns often relate to bullying and harassment, objections raised about restructuring proposals, claims of discrimination or that the employer has been negligent in their duty of care. This report includes recently experienced case studies detailing an individual case of alleged discrimination, a collective dispute case together with details of the costs that an employment tribunal awarded against one of the parties involved in another case.

The case studies show clearly that in addition to the generally damaging issues for schools around the public arena that being taken to an employment tribunal represents, these situations can cost employers a great deal in time and money. The trade union representative has a vital role in working with the employer to achieve the best outcome and resolve issues as locally as possible. That undoubtedly reduces the risks of litigation and is a benefit that assists schools. The teacher trade unions in The North West therefore believe that the benefits of funding the LAFTP proposal far outweigh the costs involved and are urging academies to make this commitment in recognition of that universal business principle.

Although the unions employ regionally based staff to deal with high level cases, resolutions being found at the earliest opportunity are always the most beneficial to all parties. This is why supporting paid time off for local union representatives makes so much business sense. There would be no advantage to the employer in waiting for a full time officer to become available every time a low level negotiation needs to be carried out; indeed, it is often a significant disadvantage because nothing can happen locally in the meantime and involving a full time officer of a union prematurely has a tendency to escalate any situation somewhat precipitously by definition.

Further to this, under the Trade Union and Labour Relations Act, employees are entitled to reasonable time off in respect of union duties. This is a principle that has been universally recognised and actively supported by schools across The North West. Paying into a joint budget for trade union facilities time enables adequate representation and ensures that costs are more predictable. The service received is also much more reliable than waiting for a Division or Association Secretary to be available outside of the working day or waiting until a member of regional staff becomes available would ever be. Dealing with concerns swiftly and locally is the key to effective employment relations.

In order for reps in schools to be skilled to discharge their duties, they are entitled to time off for training. Our minimum anticipated requirements for training of trade union reps on a school basis are covered in appendix 1. All school reps are entitled to time off for training but if they do not have the support of working within the collective provided by the facilities arrangements, the level of training required will be higher.

We trust that you will give this document your most thorough attention. Please do come back to us if you have further queries or would like further discussion.

## **Case study 1**

### **Costs for a discrimination case in a North West School**

The North West may be thought of as an area with few black and minority ethnic teachers and a relatively low level of equality issues on a more general level. However, experience has shown that the frequency of cases where these teachers feel that they suffer from discrimination is actually relatively high, particularly when assessed against the local demographics. Discrimination claims can include not only race discrimination but also discrimination on the grounds of faith or belief which can be quite wide ranging. The legislation also allows claims for alleged discrimination on grounds of sex, disability, sexuality and age, all of which may also be pursued as separately identified cases against a school. Employees can also pursue claims for victimisation where they have made a complaint of discrimination (whether internally or externally) and feel they received treatment that victimised them in response to that complaint.

Other key pieces of legislation that teachers have been known to pursue claims under include the Fixed Term Employee Regulations, the Part Time Worker Regulations, the Agency Worker Regulations, Unfair Dismissal and Unfair Selection for Redundancy. These are the commonest claims the trade unions generally handle for teachers, although there are other heads of law that could be relied upon.

This case study demonstrates the costs associated with a case where a teacher in a North West school believed that he was being discriminated against on grounds of race and disability. This teacher raised the issue of race discrimination with the school but was not satisfied with the way in which his complaint was handled or resolved. This led to extreme stress and anxiety which after a period of time manifested itself in physical illness diagnosed as severe and chronic irritable bowel syndrome and severe migraines. This teacher was then off sick for a considerable length of time resulting in the school commencing procedures to dismiss the teacher on grounds of ill health. This teacher was convinced that his illness was caused by the racial discrimination he experienced in his workplace and intended to take a claim for unfair dismissal and discrimination on the grounds of race and disability to

employment tribunal. There was medical evidence to support this view for legal purposes.

The case was eventually settled by way of a compromise agreement after more than 18 months of meetings and negotiation.

The NUT rep spent in the region of 168 hours or approximately 24 days over 18 months on this case. The associated cost of release from normal duties at the respective supply rate is £2,340.

Had the member not had NUT representation, he would undoubtedly have taken the case to tribunal. The NUT would have covered the member's legal costs but the school would have had to prepare and defend themselves in an employment tribunal which would have been listed as a 5 day hearing. The legal costs for the school would have been solicitor's fees of approximately £20,000 plus VAT. Since the case involved two strands of discrimination, the school would have considered using a barrister. Barristers' fees are at least £1,500 per day (and may be much more) so including preparation time this could easily have been in the region of a further £10,000 plus VAT.

The potential costs of this case had it not been resolved by the intervention and support of the trade union concerned have been assessed as follows:

NUT rep	24 days @ £130 per day supply rate	<b>£ 3,120</b>
Solicitor's fees		<b>£ 24,000</b>
Barrister's fees		<b>£ 12,000</b>
<b>TOTAL</b>		<b>£ 39,120</b>

Further associated costs for the school would have been the time for staff in the school in preparing for the case and being witnesses at the hearing. If we take conservative figures of:

Headteacher	12 days @ annual salary of £90,000	<b>£ 2,959</b>
Admin support	12 days	<b>£ 657</b>
Witnesses x 8	2 days per person @ supply rate	<b>£ 2,080</b>
<b>TOTAL COST</b>		<b>£ 5,696</b>

If the school in question had been an academy paying into the facilities budget, their annual rate for this would have been **£2,040**.

If the academy were releasing their school rep to support this member at an hourly rate the cost would have been **£4,244**. This represents a saving of **£1,452** even with no additional costs as indicated above. However, a School Representative can neither advise on nor represent a member in an employment tribunal claim.

By settling via a compromise agreement rather than having to represent themselves at employment tribunal, **the school saved at least £39,120** before consideration is given to any award that would have been made if the member won his claim. The teacher would not have signed a compromise agreement without NUT support and would certainly have continued to pursue his intended course through the employment tribunal if not given timely and competent advice regarding case prospects and settlement terms by his trade union. The employment tribunal service is well-known for being inundated with claims from unrepresented claimants with little understanding of legal processes and ultimately poor case prospects, whereas none of the teacher trade unions would ever support a member in pursuing a claim without reasonable prospects of success being clearly assessed and identified. The trade union rep's input into this at an early stage is a key element that needs to be supported properly by schools.

**Paying into the facilities budget saved this academy school at least £40,572 after taking into consideration their contribution to the facilities budget.**

## **Case Study 2**

### **The cost of an Employment Tribunal case**

The likely costs of any hearing will depend on the complexity of the case and the length of the hearing. However, ATL recently had costs awarded against them for a failure to consult case that was only listed for half a day. These costs, set by the employment tribunal, were £4371.

The School's solicitor's hourly rates were:-

<b>Partner:</b>	<b>£ 260.00</b>
<b>Solicitor:</b>	<b>£ 155.00</b>
<b>Trainee:</b>	<b>£ 98.00</b>

These are fairly standard rates in the Manchester area.

A standard unfair dismissal case could easily take 40 hours to prepare so at £155 per hour that would be **£6,200** (or, for the services of a partner, the cost would be **£10,400**.) Some claims involve a solicitor and a partner working together so those costs would turn out to be quite considerable for a school.

A two day hearing on top (which is fairly standard for unfair dismissal) is £2,480 (a barrister would probably charge around £5,000 for a two day case).

**Therefore a straight forward unfair dismissal case could cost £8,000 to £10,000 in fees alone, using a standard level solicitor to prepare and present the case for the school. There would be additional costs if the school were to lose the case and/or have separate costs awarded against them. The average award for unfair dismissal in 2010/11 was £8,924.**

Discrimination cases are usually more complex, which means greater solicitor costs, the likely involvement of a barrister to prepare or present a case and a longer Employment Tribunal hearing. In addition, awards in discrimination cases are typically far higher, for example the average award for age discrimination claims in 2010/11 was **£30,289**

### **Case Study 3**

#### **THE TRUE COSTS OF A FAILURE TO AGREE – DISPUTE RESOLUTION CASE**

Whether they are an employer or a trade union representative, everyone is generally committed to transparent, effective and positive employment relations. This is stipulated under recognition agreements but in any case is a good practice model. Dispute issues do occasionally arise within a school, usually around working conditions or practices or the introduction of new measures, and the maintenance of positive employment relations in that context becomes especially critical.

It is in the interests of all employees and employers to resolve potential dispute issues as near to their point of origin as possible and with the minimum amount of conflict and disruption occurring. Schools want to see matters resolved in a timely and effective manner so that their focus can return to the proper business of teaching and learning and the management of their establishment. It is also the wish of every trade union to work in such a manner.

For these reasons, all parties always work hard to achieve agreement and constructively negotiated outcomes that are mutually beneficial and agreeable. If it is to be achieved successfully, this takes time (and therefore money.) Without that commitment to resources being given, any dispute that came to the attention of the unions, no matter how trivial it may be in its origins, would translate immediately into collective balloting activity and/or collective employment tribunal applications, which we do not see as being in the interests of schools or members. This is particularly relevant in the initial stages as all evidence demonstrates that disputes are most capable of constructive resolution at their early phase.

Below is an outline of a dispute issue that arose in a school which we have analysed for time spent and costs to illustrate how and why we believe the intervention of trade union representatives saves schools considerable time and money.

#### **Context and Progress of Dispute:**

The school wished to change its Directed Time formula to lengthen the school day. In addition, there was a wish to introduce one late finish per week (5pm) for teachers in exchange for leaving earlier (2pm) on a Friday afternoon once a month. Although the members understood the school's rationale and were not totally unhappy about all of the proposals, the effect of the school's proposal overall was to add 35 minutes to each teacher's contact time each week. This they were extremely unhappy about and the view of all three unions involved was that this would breach the relevant teacher conditions if implemented.

There was a mix of locally-based representation, with two out of the three main teacher unions having a School Representative. Joint and separate members' meetings had been held to consult and discuss the issues and, in the case of the represented unions, indicative ballots had been conducted because there was a strong request made for industrial action in response to the proposal from members almost immediately. These meetings had demonstrated virtually unanimous support for action to oppose the proposals being requested and both the local reps were asked to take this up with the Headteacher immediately. There had been one local meeting to discuss the situation but this had not gone well: the reps had essentially refused to discuss the proposals because it was outside of their union defined remit to do so, but had informed the Headteacher that everyone was upset, ballots were being requested and he had no prospect of implementing his proposal. The Headteacher had become extremely defensive and had stated that he intended to complain about the behaviour of both reps to their respective unions.

At this point, the matter was referred to the Local Secretaries, all of whom worked at other schools. There was also consultation with the Regional Officers of the unions, both paid and elected. A joint Secretaries' letter was produced detailing the concerns expressed by members and sent to the Headteacher and Chair or Governors. A meeting was requested as a matter of urgency to discuss the situation and see if it might be resolved. In the case of one union, there was also 'behind the scenes' involvement from their National Officers because of the potential for a formal dispute.

In tandem with this, the Headteacher wrote a letter to each of the unions formally complaining about the attitude of the local reps. This greatly complicated the situation and led to an almost irretrievable break down in relations locally because of the entrenchment of positions. However, it was believed he may have done this in the heat of the moment, so the Headteacher was contacted by telephone by one of the Local Secretaries and was persuaded to withdraw these complaints in favour of assistance towards a dispute resolution process, since no progress could ever have been made otherwise.

An initial dispute meeting was held with the Headteacher, three Governors, a Personnel Officer from the school and a HR Adviser from the relevant Local Authority. At the first meeting, the key issues from each side were explored in a controlled and appropriate manner, agreement was reached regarding how the

negotiating process would be facilitated and barriers to progress each side felt existed were identified. This meeting took 4 hours and included specifications from each side for a joint document to agree how the resolution process would go forwards. This was drafted and shared afterwards, outside of the meeting process and it was used to inform all of the meetings that followed. The document took around 6 hours to produce, consult and come to agreement upon.

There followed a series of six further meetings, all of around 3 hours duration, in which negotiations continued and progress was achieved. The trade union side also held a joint pre-meeting for an hour before each of these to ensure continuity and assist progress of the dispute. Eventually, it was possible to come up with a re-negotiated proposal that met the needs of both the school and its teacher employees and the school was able to implement this positively for the following September after an effective consultation exercise to complete the process.

### **Commentary and Costing**

The involvement of the locally based Association/Branch contacts in this dispute was absolutely crucial to its successful resolution. Without it, there could not have been the same level of commitment to a joint process and partnership to succeed in getting to a satisfactory resolution. The local representatives at the school were under significant pressure from their members and the Headteacher found it very difficult to negotiate on his original proposal because of the way in which it had been introduced and responded to right at the beginning. All of the reps' time was funded via the existing facilities arrangement, which would now not be possible under the BFAT model.

There was also considerable activity involved outside of the meeting schedule, to ensure good liaison and communication at all levels and a continuing commitment to the process. This time also included the drafting and sharing of documents, for both the school and the members the school was under an obligation to consult with. In this case, the three Secretaries met together and undertook those activities jointly, to maximise the best use of their available facilities time.

As travel time also had to be factored in reps were absent from their schools for longer than just their contact time, for several this was a whole day at a time just to attend the meetings in themselves.

Had the local representatives been unable to assist the situation because of the lack of appropriate facilities support, then the situation would have relied on the employed officials of the three unions becoming involved in the alternative. This would have inevitably made the dispute appear much more serious and high-level than it needed to be, particularly at the outset. In the case of at least one union involved, it would also have necessitated the direct involvement of the General Secretary because a dispute was declared and then the procedure outlined in the Burgundy Book would have been invoked, meaning nothing could be changed or negotiated upon until



there had been a National/Local Deputation meeting. That involves a large number of people and can take months to see through to fruition. It is also likely there would be a simultaneous ballot for industrial action if this route were to be taken.

Had it been adopted, that approach would have severely limited capacity for resolution on both sides, it ran the risk of missing locally-based knowledge and intelligence and the whole situation would have taken much longer, become intractable and would have remained extremely difficult to resolve.

In addition, owing to their wider level of functioning and resulting commitments, it is highly probable that all of the employed officials would struggle to find many days and times on which they could all be available which would also suit the school. The school would then have had to meet with each union separately (in the case of at least one union after the National/Local Deputation process had taken place.) In that circumstance, assuming the pattern of meetings above, the Governors, the Headteacher, the Personnel Officer and the HR representative would have to attend three times as many dispute meetings – even if there were only the seven above that were actually needed to resolve this case, this would amount to twenty-one meetings to resolve the issue overall. That has a significant cost implication for the school, even without anything else being accounted for.

As it was, since facilities funding was available to the key local activists of each union, the costs to the school were as follows:

3 x secretaries attending 7 meetings, inc pre-meets Facilities funded – 84 hours total	<b>NIL COST</b>
2 x local reps attending 7 meetings, inc pre-meets Facilities funded – 58 hours total, inc 1 hour for liaison/prep	<b>NIL COST</b>
Secretaries (3) and reps (2) consulting with employees Facilities funded 4 mtgs – 80 hours total	<b>NIL COST</b>
Secretaries drafting reports, agreements, updates etc Facilities funded – 30 hours total	<b>NIL COST</b>
Time spent travelling to/from school (assuming 1 hour each way) for Secretaries x 3 Facilities funded – 66 hours total	<b>NIL COST</b>

Had the school been an academy and therefore no longer qualified for facilities support from the Council and assuming supply cover costs at a figure of £130 per day (approx. £21.66 per hour), these costs would have been:

3 x secretaries attending 7 meetings 84 hours total	£ 1,819
2 x local reps attending 7 meetings 58 hours total	£ 1,256
Secretaries (3) and reps (2) consulting with employees 80 hours total	£ 1,733
Secretaries drafting reports, agreements, updates etc 30 hours total	£ 650
Time spent travelling to/from school 66 hours total (assuming 1 hour each way)	£ 1,429
<b>GRAND TOTAL COST TO SCHOOL</b>	<b>£ 6,887</b>

*(NOTE: Both tables assume that the consultation with employees is a cost that falls to the employer because of the legal obligation to consult where new contractual proposals are being negotiated in recognised workplaces.)*

Had the school been an academy paying into the facilities fund to support the resolution activity by the local trade union reps, their costs for this would have been the schools delegated sums – this would range from £633 for 300 pupils up to £1,899 for 900 pupils in a school.

**On the figures above, this would represent a saving of between £6,254 and £4,988 in a single year after taking into account the school’s contribution to the fund.**

### **Costs Not Included Above**

These figures only represent costs for trade union and/or member consultation time, they do not include any time that was required for school or Local Authority representatives to engage in and seek to resolve the dispute amicably, so the true business costs would have been considerably higher, probably at least twice the amount indicated above. For the purposes of this case study, we have only

assessed the trade union time and costs as these are the figures we would present to any school that decided not to purchase the facilities of the Local Union Representatives as invited.

Further to the costs indicated above, without Local Union Secretarial intervention, it is extremely likely that this dispute would have proceeded into a legal arena at a very early stage, with the possibility of failure to consult claims being lodged by all three unions on behalf of each and every member (almost every teacher working there in this case.) Instead of this, the facilities fund enabled constructive attempts to be made by our Secretaries to resolve it as locally as possible. Had that not been available, the spectre of accumulating legal costs is raised immediately for any school, even before any tribunal process takes place, as in the case study example given above. Had such claims been lodged and won by the three unions involved, the award for failure to consult may have been quite considerable in a dispute case as it is calculated on the basis of amount awarded for each member who is part of the relevant bargaining group.

This case study was costed only on the basis of the real trade union time taken to resolve it. We believe it demonstrates clearly that the benefits to an academy school of purchasing facilities time far outweigh the costs of any significant dispute resolution activity, even where no recourse is taken to legal proceedings by either party. In that context, it represents very good value for money to a school.

## **Conclusion**

In compiling this report, we have attempted to explain what the three trade unions who have worked on it have identified as the key projected costings for any school if we cannot maintain good employment relations in the Bright Futures Academies Trust. To achieve this, both schools and the trade unions need effective and positive support for members and employers that can remain locally based. If your schools do not purchase facilities in the way we are suggesting, this is very much placed in jeopardy and the school runs a strong risk of higher costs arising than would be necessary under this proposal.

We hope that the three case studies described above will provide sufficient detail for Principals, Headteachers and Governors to appreciate the real costs that would arise if we cannot get your agreement to paying into local authority facility time pots. Whilst there are different costs per pupil in the different local authorities the costs per year represents an affordable one for most schools and we believe that it is an investment worth making to secure peace of mind regarding the issues discussed in this report. We very much hope you will be persuaded by this information as well as your stated support for trade unions, which we appreciate. We are now asking you to commit your schools to funding this agreement on an annual basis so the local officers of all unions can work with you in the best interests of the schools, the pupils and our members across BFAT for the future.

Thank you for taking the time to read this report we hope it has been useful to you and your Trust.

## **Appendix 1**

### **Right to time off for training**

Should schools choose not to buy in to collective facilities arrangements, each school will need to be trained to an appropriate level. Reps are entitled to paid time off for training.

The ACAS code for training of trade union reps states, “It is necessary for union representatives to receive training to enable them to carry out their duties .Such training will enable them to undertake their role with greater confidence, efficiency and speed and thus help them work with management, build effective employment relations and represent their members properly.”

The Burgundy Book states that accredited representatives of recognised teachers organisations are entitled time off for functions connected with the training of teacher representatives including attendance at training courses arranged by the recognised teacher organisations at national, regional or authority level for this purpose.

We would anticipate that each school would need a union rep, health and safety rep and union learning rep (ULR) for each union, although it is likely that the head teacher unions will not have a ULR or H&S rep in each school as well as a workplace rep. Whilst the provision of training for an equality rep has not been included it is possible that there would be at least one equality rep from each union within the chain. These reps would need to be released for training as follows and this pattern reflects the costs in the table below:

#### **Year 1**

Union rep                    10 days

Learning rep                5 days

Health and Safety        5 days

#### **Year 2**

Union rep            4 days

Learning rep        2 days

Health and safety   3 days

**Table of associated costs for release of reps for training\*:**

Year 1	Days per rep	Cost of supply @£165/day per rep for teaching unions	Days overall (teaching unions)	Cost of supply
Union rep	10	1,650	40	6,600
ULR	5	825	15	2,475
H&S rep	5	825	15	2,475
<b>Total</b>	<b>20</b>	<b>3,300</b>	<b>70</b>	<b>11,550</b>
Support Staff	Days per rep	Cost of Cover @54/day per rep for support staff unions	Days overall (Support Staff unions)	Cost of Cover
Union rep	10	540	50	2,700
ULR	5	270	10	540
H&S	5	270	10	540
<b>Total</b>	<b>20</b>	<b>1080</b>	<b>70</b>	<b>3,780</b>
<b>Grand</b>	<b>40</b>	<b>4,380</b>	<b>140</b>	<b>15,330</b>

<b>Total</b>				
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Subsequent years † (approx)	Days per rep	Cost of supply @£165/day per teaching union rep	Days overall (4 unions)	Cost of supply
Union rep	4	660	16	2,640
ULR	2	330	6	990
H&S rep	3	495	9	1,485
<b>Total</b>	<b>9</b>	<b>1,485</b>	<b>31</b>	<b>5,115</b>

  

Support Staff Unions	Days per rep	Cost of cover @54per day per rep	Days overall (2unions)	
Union rep	4	216	16	864
ULR	2	108	4	216
H&S rep	3	162	6	324
Total	9	486	26	1,404
<b>Grand Total</b>	<b>18</b>	<b>972</b>	<b>78</b>	<b>6,519</b>

\*These figures represent minimum costs **per school** based on M6 and are subject to variation as the release of representatives of the Heads unions will be substantially more.

† These figures are for representatives who remain in post after year one. Should a new rep be elected each year then year one figure would apply.

## **Appendix 2**

### **a) Appendix III of the Burgundy Book**

#### **AGREEMENT ON FACILITIES FOR REPRESENTATIVES**

#### **OF RECOGNISED TEACHERS' ORGANISATIONS**

##### **Introduction**

1. This agreement between the Council of Local Education Authorities (CLEA), acting on behalf of the Local Government Association, and the teachers' organisations contains the principles and practices which are recommended to local education authorities and governing bodies in respect of the facilities to be made available to those teachers, not being paid officials of any of the recognised teacher organisations, who are representatives of these organisations. Each local education authority is advised to agree jointly with each of its recognised teacher organisations the detailed arrangements for the granting of facilities in accordance with the provisions of this agreement. Disagreements on points of principle and any requests for clarification may be referred to CLEA for discussions with the national teachers' organisations.

##### **General Principles**

2. This agreement is based on a belief that both the teachers' organisations and the employing authorities accept their joint responsibility for ensuring a well ordered system of trade union organisation and industrial relations, and on a recognition of the contribution that can be made by the teachers' organisations and their local representatives to the smooth running of the education service at local and national levels. It is agreed that in jointly determining the nature and extent of the facilities required locally, and in their use, the parties to the local agreement will have regard not only to the value of the agreed facilities for effective employee representation as a means of promoting good industrial relations, but also to the need to avoid unnecessary cost, to maintain the effective running of the schools where the teacher representatives are employed, and to recognise that the provisions of the agreement will have to be introduced within the resources available to the employing authorities.
3. An accredited representative of a recognised teachers' organisation will be a teacher who is:
  - (a) a member of the national executive or other national committee of his organisation, or a representative of his organisation appointed by the national executive to serve on a national body;
  - (b) a local officer of such an organisation whose necessary official organisation duties are effectively at local authority level. The relations and



negotiations with a local education authority shall be the sole responsibility of the main unit of local organisation. The activities in which these local teacher representatives will be jointly involved with the LEA and governing bodies will include both individual and collective issues. In order to act effectively, the teacher representatives will need to put views to the authority concerned as appropriate, to consider proposals, to conduct correspondence and to consult members of their associations individually or collectively;

(c) a local officer whose duties are at the lower level of an association within the area of the main unit of local organisations;

(d) a school representative whose duties will be limited to activities which are a necessary part of his/her duties for his/her organisation and its members within the school in which he/she is employed.

In certain circumstances a representative may have responsibility for more than one of these functional levels. For their part the recognised teachers' organisations undertake to ensure that their accredited representatives locally understand the extent of their authority and responsibility as teachers' representatives.

4. It will be the responsibility of the recognised teachers' organisations to notify the local education authority and individual head teachers of the names of its accredited representatives and it will be to the accredited representatives only that the recommended opportunities and facilities are extended. It is appreciated that in very large or split site schools organisations may wish to appoint more than one representative, while in those areas where there are very small schools organisations may wish to have one representative to service more than one school.
5. The principal matters with which the appropriate accredited representative will deal, in accordance with the responsibilities defined in paragraph 3, are as follows:

(a) matters arising out of the use of grievance and disputes procedures which have been agreed between the teachers' associations at authority level and the local education authority and governing bodies;

(b) responsibilities of the teacher representatives to their unions (e.g. attendances as delegates to their national conferences);

(c) responsibilities of the teacher representatives in connection with the interests of their members in the schools;

(d) functions connected with the training of teacher representatives, including attendance at training courses arranged by the recognised teacher organisations at national, regional or authority level for this purpose. In these respects consultation with the authority will be part of those functions.

6. It is expected that (b) above will include the involvement of members of the local committee of recognised teacher organisations in attendance at the meetings of those committees, which will not be expected to meet earlier than 4:00 p.m. on any school day, other than in exceptional circumstances<sup>6</sup>. Item (c) is likely to include, without interfering with the normal functioning of the school, the convening of meetings of newly appointed teachers for the purpose of meeting them and explaining the advantages of membership of a recognised organisation.

### **Facilities for Accredited Representatives**

7. It is recommended that local agreements on the provision of facilities for the local officer of the recognised teachers' organisations should include:

(a) arrangements for carrying out his or her association's responsibilities within the schools and for obtaining permission to leave the school in which he or she is employed so that he or she can perform his or her functions as an accredited representative;

(b) provision of lists of newly appointed teachers in the authority's area and arrangements for communication direct with the new teachers;

(c) provision annually of a list of the teachers employed in the schools of the LEA by the means most convenient to the authority<sup>8</sup>;

(d) arrangements for use of accommodation in schools or other premises of the authority for association meetings;

(e) arrangements of the use of the local authority's distribution system to schools for the purposes of official union communication with their members, subject, if necessary, to approval by the national union or association concerned;

(f) arrangements for the deduction of membership subscriptions at source where this is requested by any local association of a nationally recognised teachers' organisation. It will be for the individual member to decide whether to opt for deduction at source.

*6 Where meetings called for 4:00pm would adversely affect the school day, as might be the case when committee members in rural areas may have to travel significant distances to attend such meetings, a later starting time should be arranged.*

*7 It is expected that such agreements will be no less favourable than those already applicable in the area concerned or any similar agreements which authorities have made with recognised unions in respect of other groups of their employees, particularly with regard to the terms of sub-paragraphs (d), (e) and (f) of this paragraph.*

*8 The lists referred to may, if any authority so wishes, be provided in the form of copies of School returns.*

8. Absence from teaching duties for the performance of their responsibilities as local officers of the recognised teachers' organisations is to be allowed without reduction in pay. A scale providing for the maximum amount of leave with pay permitted to the local officers should be negotiated locally, and have regard, inter alia, to the number of members of the organisation concerned who are employed by the local authority and serviced by the officers in question.
9. The likely extent of the time required by accredited representative for the performance of their level of responsibilities as representatives of the recognised teacher organisations should be assessed in accordance with an estimate of their local involvement. They should not unreasonably be refused the time necessary for the performance of their responsibilities. The time which these responsibilities is likely to occupy should be taken into account in respect of its effect on their teaching duties.
10. The accredited school representatives of the recognised teachers' organisations should be permitted reasonable opportunities and be given the necessary facilities to discharge their functions as provided for in the ACAS Code, namely:
  - (a) union matters such as recruitment, maintaining membership, collecting contributions and communicating with members;
  - (b) within the responsibilities conferred on them by their respective organisations, industrial relations matters within the individual school such as the handling of members' grievances.
11. The facilities envisaged are as follows:

(a) notice board facilities to be provided by the LEA or governing body without charge and the titles of the organisations to be inscribed on the board or boards. Multi-association boards should be used wherever possible;

(b) use of telephone with reasonable privacy (if available), with payment for outgoing calls;

(c) provision of a room for a meeting with the organisation's members as required, providing reasonable notice is given;

(d) use of school typing, duplicating and photocopying equipment, where available, for essential union work within the school providing this does not interfere with the work of the school and on a basis of repayment by the organisation concerned for the materials used.

12. Local officers should be provided with the documents which set out the pay, conditions of service and the regulations of the local authority which apply to the teachers employed in the authority's area. Accredited school representatives should be provided with access to such documents and also with information as to the structure and allocation of promoted posts applicable to their own schools and with the articles of government. These documents should be supplied without charge.

## **General**

13. Guidance on aspects of this agreement is contained in the accompanying Commentary. Any changes will be notified to those concerned.

**COMMENTARY ON ASPECTS OF THE AGREEMENT ON FACILITIES  
FOR REPRESENTATIVES OF  
RECOGNISED TEACHERS' ORGANISATIONS**

1. Local Authorities have been advised that they should pursue policies designed to fulfil the recommendations of the ACAS Code of Practice with regard to facilities for Union representatives. Employment protection legislation requires employers to allow officials of independent trade unions, including employees who are accredited as representatives of recognised unions (or associations) to act on behalf of union members in the establishments where they themselves are employed, reasonable time off from work with pay for trade union activities which are a necessary part of the official's duties in connection with the employer's own organisation. The legislation provides for such an employee to complain to an Industrial Tribunal that permission has been unreasonably refused to allow him/her time off from work for these purposes.
2. The Agreement arrived at between CLEA and the recognised teachers' organisations seeks to set out in detail the manner in which the recommendations of the ACAS Code on facilities for trade union representatives should be applied within the education service. The purpose of this Commentary is to offer guidance to authorities and teachers' organisations on aspects of that agreement, and the issues which stem from it.
3. It is recognised by CLEA that if the provisions of the agreement are to be given effect without imposing additional burdens on teaching staffs it may be necessary for LEAs to provide additional staffing resources in individual schools and authorities are accordingly recommended to make such provision as far as possible within the resources available to them and subject to the constraints of LMS formulae.
4. It will be noted that the agreement does not specify any limit on the amount of paid leave of absence which shall be granted to national representatives. It is accepted that individual representatives will be willing to inform the employing authority of the reasons for absence if the authority thinks it is necessary to ask.
5. The agreement provides for leave of absence with pay to be permitted for local officers in accordance with a scale to be negotiated locally and related, inter alia, to the number of members of an organisation employed in a LEA area and serviced by the officers in question.

6. With the developments taking place in the field of industrial relations, health and safety at work, and similar matters, the teachers' associations are giving increased attention to training programmes for their accredited representatives and to the needs of the schools. Authorities should therefore give encouragement and support to accredited union representatives wishing to attend courses for this purposes and teachers' organisations should regard to the needs of the school in arranging their training programmes. When arranging them they should consult with the LEA concerned before making any arrangements to hold a training course during term time.
  
7. The recommendations in the agreement are not intended to alter the relations which at present exist between the recognised teachers' organisations and individual local education authorities, particularly so far as negotiations are concerned.

## **Appendix 2**

### **b) Part 2, Section 18 of the Green Book**

#### **18.Trade Union Facilities**

18.1 Authorities shall provide the recognised trade unions with facilities necessary to carry out their functions, including paid leave of absence to attend meetings concerned with the work of the NJC and Provincial Councils and the operation of a check off system whereby, with the consent of the individual, trade union dues are deducted from pay.