

Trade Union Facility Time

This document has been put together to summarise the concerns that NASUWT have regarding the proposed reduction of the facility arrangements for Trade Unions.

What is facility time?

Facility time is a mechanism which allows elected (lay) trade union representatives paid leave of absence for union duties. The main duties involved are representing individuals in disciplinary, capability and grievance cases, resolution of collective disputes and meaningful consultation in the development of policies, terms and conditions of employment and in the instance of redundancies and reorganisations. Union representatives also carry out specialist roles in relation to health and safety at work, improving access to learning and skills, supporting equality and diversity in the workplace and working with employers to make workplaces environmentally friendly.

Legal Requirements

Employers are legally required to provide time off for trade union duties under the Trade Union and Labour Relations (Consolidation) Act 1992 legislation and statutory guidance is given in the ACAS code of practice, which can be used as evidence in Employment Tribunals. Teachers' entitlement to facility time is set out in the Burgundy Book, Appendix III. Legislation states that if an employee is not afforded representation during Disciplinary, Capability and Grievance procedures this could be used against an employer at an Employment Tribunal.

The benefits of facility time

Recent research about facility time highlights many benefits:

1. Union representation creates a low cost mechanism for meaningful consultation which usually leads to early dispute resolution.
2. Union representation creates a low cost mechanism for meaningful consultation regarding changes in the way that the local authority interacts with schools and what the schools are responsible for, for example they attend meetings regarding; Policies and Procedures, Child Protection and Safeguarding, Complex Care Needs, Performance Management, Early Years, various statutory Joint Consultative Committees (JCC), Strategic Directorate Forums and Education and Skills Infrastructure meetings.

Currently there is a difference between the cost for Secondary and Primary but a potential way to meet the existing cost of Facility funding would be to consider a flat rate per pupil. In an equalised figure of £6 was used (46 000 pupils x £6 = 276 000) then the full cost could easily be recouped from schools.

Consequences of not allocating a sufficient amount of facility time funding

- Representatives in each school will need time off from their normal duties, for extensive training and to represent members when casework arises. If the school has a large membership, more than one representative may be necessary due to conflicts of interest, situations where more than one member of the same union is involved or indeed simply because of the workload involved.

An example of casework would normally include 1 day for preparation, a second day for the formal meeting and potentially a third for a follow up meeting. Based on a simple piece of casework we could easily foresee a school having to potentially pay £300 – 600 for cover each time a case is referred. In addition an elected representative is entitled to 10 days of training which could see a further £2000 per school per representative needing to be available from the school budget. If there were no appropriately accredited representatives in a particular school, another local trade union officer would have to be released from their duties at work, which would be logistically complicated and disruptive to their workplace. Normally this would be organised through the local secretary or NEM and I am sure we would agree that the Earls should not cover the cost for any other school if the Facility funds were unable to cover these meetings. I would imagine that the cost would exceed the financial cost of a normal school representative.

The TUC recommends that a 'reasonable' amount of time required for a union representative to carry out their initial training and ongoing development would be deemed as **10 days per annum**. It is also important to remember that individual schools would have to bear the cost of the cover for this training and any subsequent time required for them to carry out their duties within their establishment.

1. 10 days Training / Development = 10 Days cover at c.200 = £2000

Schools could see themselves having to fund the following roles

- School Representative
- Health and Safety Representative
- Union Learning Representative

30 Days Training / Development = 30 Days of Cover at c.200 = £6000

For further clarity NASUWT has put together a detailed response against the proposed cut to our facility time but the following points will give you a brief indication of our concerns.

- During 2013/14 NASUWT did not use its full allocation and it has been proposed that NASUWT will be losing 4 days as opposed to 1 day for other unions this could potentially lead to claims of unfair treatment. Has a Quality Impact Assessment been carried out or discussed by the authority?
- There has been a question raised around the value of the role of NEM. In a recent dispute my role as NEM lead to a potential increase of funds to the Facility Budget and is being followed up by HR.
- With the proposed reduction in days and the potential increase in workload has a Work Impact Assessment been carried out by the authority?
- Although three days has been allocated to fund the role of NEM, the majority of this time has been used within Dudley for collective and individual casework.
- The pay grade that could be associated with NEM could equal that of the Head teacher Colleagues. However the cost of three days for NEM is c.£26 000 but the cost for 1 day for head teacher is c.£18 000. This is an area I am keen to discuss with members of the forum.
- Reduction in the amount of ULR time – no real justification given for this decision from HTWBG. Schools will be asked to identify the difference between CPD for the individual teacher and Whole School training and be aware of the difference for Ofsted.
- Schools Scrutiny Committee – With the recent events in Birmingham I would have thought that having the Education Unions present is more crucial than ever. Again no real justification given by HTWBG
- Health and Safety – A real focus by NASUWT will be placed on Mental Health, Well-being. School Inspections and Asbestos removal from School Buildings this year so additional time should be allocated to Trade unions for this purpose. Failing this individual school may have to pay for the cover for school release for NASUWT officer to carry out inspections on a termly basis. A school inspection would be made up of Preparation time looking at Policies, 1/2 to 1 day for the inspection and the same again to write a report. This would normally be followed up by a meeting with the Chair of Governors and Head teacher. Not only would it incur a potential charge for £300 – 600 for school release, office facilities would have to be made available for the administration of the report. As a rough estimate this could cost individual schools c. £1800 per calendar year.
- Membership numbers indicate that NASUWT will be placed in the upper category and require a further 5 days of facility time under the current agreement.
- Membership Numbers – NASUWT has the largest membership of the teaching unions in Dudley but are being allocated the same amount of time with other unions being 700 – 800 lighter in membership numbers. Again this suggests the need for a Work Impact and Stress Impact Assessment to be carried out for the Local officers and Caseworkers.

I am still awaiting 2 freedom of Information requests (Asbestos Removal and Local Authority HSW statistics) and a report from the Head teachers Budget Working Group with the reasons stated for the removal of Facility time for the Scrutiny Committee, Removal of the allocation for NEM and the reduction in the allocation of Union Learning Representative time.

I am also aware that the authority have recently put forward a new proposal for Facility funding which we need to have time to negotiate on but this could have a real impact on any decision that is made in December. However as we are still awaiting further information from HR and the authority I think it would be a reasonable request for members of the forum to hold back on its decision until the next meeting in January.

Paul Nesbitt