

**Schools Forum 9 December 2008**

**Report of the Director of Children's Services**

**Health and Safety Facilities Time for Unions**

**Purpose of Report**

1. The purpose of this report is to seek approval from Schools Forum for a request from the Union Secretaries for additional time to undertake Health and Safety duties as required of them under legislative requirements.
2. The request is for the equivalent of a 0.8 teacher/head teacher post, split between NUT (1 day per week), NASUWT (1 day per week), ATL (1 day per week), NAHT (0.5 days per week) and ASCL (0.5 days per week).

**Budget Working Group Discussed**

3. No.

**Action for Schools Forum**

4. To note the contents of the report.

**Attachments to Report**

5. None.

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**Purpose of Report**

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**Background**

2. Union appointed Safety representatives are covered by the Safety Representatives and Safety Committees Regulations 1977 (SRSCR) as amended by the Management of Health and Safety at Work Regulations and the Health and Safety (Consultation with Employees) Regulations 1996.
3. The Regulations define the appointment and functions of Safety Representatives and Objectives and Functions of Safety Committees. The Regulations also define Employer duties relating to consultation and allowing appointed safety representatives "to take such time off with pay as shall be necessary for the purposes of performing their functions as defined by Section 2(4) of the Health and Safety at Work Act".
4. What constitutes "reasonable time off" would usually be defined by the duties that safety representatives are required to undertake. Accident/ill health investigation and responding to members enquiries will form part of the role with inspection duties, member communication, training and preventative work demanding a more pro-active approach. Associated legislation describes those duties that should attract time off with pay as being:
  - Workplace inspections;
  - Inspection of documents/reports;
  - Consultations with enforcement Officers;
  - Consultation with Employers;
  - Attending meetings associated with Health and Safety issues;
  - Undertaking training to maintain their competences; and
  - Attendance at industrial tribunals
5. Information from neighbouring authorities including Wolverhampton, Sandwell, Walsall and Shropshire has shown a variety of practices which makes benchmarking difficult. Generally, authorities allow a reasonable amount of time off to complete

duties on an “as and when necessary” basis, and there is therefore no consistent allocation for this purpose. Both Walsall and Sandwell reported that their facilities time agreements are under currently under review.

6. Union secretaries contacted their counterparts in the following authorities and have reported the following information:
  - Walsall – two days per week allocated to health and safety for NUT and NASUWT and one day for ATL. Human resources colleagues in Walsall have confirmed that this is the case.
  - Sandwell – no specific time allocation for health and safety, however general facilities time is 80% greater than provided in Dudley.
  - Wolverhampton – no specific time allocation for health and safety, however general facilities time is 70% greater than provided in Dudley more time.
7. Dudley allocates one day per week per union for general facilities time. The current 2008/09 budget in respect of union duties, which is funded from the Dedicated Schools Grant (DSG) is £228,700; this funds the equivalent of 5.03fte posts across NASUWT, NUT, ASCL, ATL, NAHT and Teacher representatives.
8. The Directorate of Children’s Services appointed a Health, Safety and Welfare Officer during December 2006 and a further supporting appointment is to be made early in 2009. This has highlighted much work that is needed in the area of Health and Safety within the Directorate of Children’s Services ranging from policy to inspection, advice, guidance and training. In addition, the Health and Safety Executive, following a recent corporate audit has highlighted a significant number of urgent work areas to be undertaken.
9. Affording additional facilities time to union representatives would enable unions to train and communicate with their members who in turn will contribute to the early identification of issues. These can be raised with the Directorate Health, Safety and Welfare Officer who will work in partnership with unions, wherever possible, to address such issues. This enables a much more pro-active approach but does rely on a partnership approach with unions working closely with the Directorate to ensure that duplication is eliminated and advice is timely and consistent.

### **Dudley Proposal**

10. The proposal is equivalent to a 0.8 fte teacher/head teacher post, split between NUT (1 day per week), NASUWT (1 day per week), ATL (1 day per week), NAHT (0.5 days per week) and ASCL (0.5 days per week) to be appointed to allow Union Secretaries additional time to undertake Health and Safety duties.
11. The cost of agreeing to this request at the 2008/09 prices is estimated to range from £40k to £56k per annual. The variance in estimated cost will depend upon the actual salary of the elected/nominated health and safety union representative.
12. If Schools Forum agree to the Dudley proposal, this would need to be funded from within existing resources by way of a top slice to the DSG; the DSG funds both schools and the central budgets.

## **Finance**

13. The funding of schools is prescribed by the DCSF through the School Finance (England) Regulations 2008.
14. Schools Forums are regulated by the School Forums Regulations 2002 as already amended by the Schools Forums (Amendment) Regulations 2004 the Schools Forums (Amendment) 2005 Regulations and the Schools Forums (England) (Amendment) Regulations 2008.
15. From 1<sup>st</sup> April 2006, the Schools Budget has been funded by a direct DCSF grant: Dedicated School Grant (DSG)

## **Law**

16. Councils' LMS Schemes are made under Section 48 of the School Standards and Framework Act 1998. The Education Acts 1996 and 2002 also have provisions relating to school funding.
17. Allowing the Union Representatives time to perform their duties as identified within the Safety Representatives and Safety Committees Regulations 1977 as amended by the Management of Health and Safety at Work Regulations and the Health and Safety (Consultation with Employees) Regulations 1996, will ensure that the Directorate complies with the Requirements of the Health and Safety at work etc Act 1974.
18. Regulation 4 of the SRSCR states: 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 purpose of:
  - Performing his functions under section 2(4) of the H&S Act;
  - Undergoing such training in aspects of those functions as may be reasonable.

## **Equality Impact**

19. The Council's Equal Opportunities Policy is taken into account when considering the allocation of resources.
20. The likely impact of the proposals on different racial groups, disabled people, both genders and other relevant groups will be improved as it will provide the union secretaries with further time to answer the issues affecting these groups as well as reacting to urgent issues caused by unsafe work areas or practices that may normally go unnoticed
21. The legislation and the request from the union secretaries relate to employed persons and would not have a direct impact on Children and Young people and as they are not employees there has been no consultation with these groups.

## **Recommendation**

22. Schools Forum is requested to consider the request from the unions for additional Health and Safety facilities time, equivalent to 0.8fte, at a cost ranging from £40k to £56k per annum. If approved the funding would need to be found from within existing DSG resources.



**John Freeman**

**Director of Children's Services**

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