
Agenda Item No. Dudley Schools Forum – 3rd October 2023

Report of the Director of Children’s Services

Trade Union Facility Time – Pooled Funding Arrangement

Purpose

1. To provide an annual report relating to the Trade Union Facility Time Pooled Funding Arrangement in schools, as requested by Schools’ Forum in January 2020.
2. To highlight current funding and spend and request approval for the carry forward of any surplus.

Recommendations

It is recommended that Schools’ Forum:-

3. Continue to observe the “in-principle” agreement (reached in 2020) to de-delegation and buy back, recognising that an annual vote is required.
4. Note the comparison, when viewed against statistical neighbours, of the percentage of pay spent on Dudley’s trade union facility time, as set out in paragraph 24.
5. Approve a request to roll-forward any surplus from the current financial year, to the financial year 2023/2024, in order to mitigate a forecasted deficit.

6. Note the content of the Joint Union (NAHT/ASCL/NEU) letter (Appendix 4), requesting that the Council maintains its pooled funding arrangement, that provides access for academies.

Background

7. In January 2020, a new charging model was approved at Schools’ Forum relating to the provision of Trade Union Facility Time through Dudley’s Pooled Funding Arrangement. The new model was introduced with effect from 1st April 2020 and saw a return to the simplified facility time arrangements afforded under the Council’s Trade Union Recognition Agreement (extract provided in Appendix 2).

8. The model was developed in response to feedback from Budget Working Group and a request from schools that had not previously bought back, to see a reduction in cost and a comparison with statistical neighbours. This comparison evidenced that Dudley was within the mid-range of prices charged by those neighbours, although reporting differs between local authorities, which impedes direct comparison.

9. In January 2020, Schools’ Forum also provided an “in-principle” agreement to de-delegation and buy back for an extended period of up to 3 years, subject to an annual vote. This decision relates to extending this agreement.

Table 1:

Union	Pre April 2020	Pre April 2020 price per pupil	Post April 2020	Post April 2020 price per pupil
NAHT	0.25 FTE	Primary £4.24 Secondary £6.28	0.1 FTE	All School Types £4.17
ASCL	0.25 FTE		0.1 FTE	
NASUWT	1.1 FTE		1.0 FTE	
NEU	1.1 FTE		1.0 FTE	
GMB	1.1 FTE		0.7 FTE	



10. With the reduction in charges, there has been a slight increase in academy buy back in the current financial year this stands at £56,495.

Financial Position - current financial year (2023/2024)

11. At the end of the **current financial year**, the fund would have been in a deficit position, had all unions had representatives in place, largely due to the loss of buy-back from academies and reducing pupil numbers.
12. However, current vacancies (NEU/ASCL/NAHT) provide a monthly saving of £1,900 plus oncosts and therefore in year savings will cover the shortfall for the current year.

Forecasted Position - financial year 2024/2025 and beyond

13. All three unions are seeking to appoint a replacement as soon as possible. If successful, this will present a forecasted deficit of up to £16,000, which could increase if any elected representative is in receipt of additional allowances.
14. It is therefore requested that any surplus (of between £5,000 and £35,000) be rolled forward to address the majority of the forecasted 2023/2024 deficit, subject to Schools' Forum approval.
15. It should be noted that if there is a reduction in academy buyback and/or a further decline in pupil numbers, then the forecasted deficit will increase further for the year 2023/2024. In this event, there will be a direct impact on Schools' ability to access union facility time, leading to potential delays in the ability to progress with (particularly) HR matters.
16. There are multiple fluctuating factors that determine the financial viability of the Pooled Funding Arrangement, for example, union vacancies and membership numbers, de-delegation, academy buy back and pupil numbers.

17. The fund will be subject to regular monitoring, in consultation with unions. In the event that the request to carry forward any surplus is not approved, or of any indication that operation of the fund is unsustainable, a further report will be submitted for consideration.

Joint Union Business Plan

18. Following political direction in 2015, unions submit an annual Joint Business Plan and a year-end activity report. The 2023/24 Business Plan with 2022/2023 year-end activity reports is provided in Appendix 1.

Union Activity

19. In the financial year 2022/23, the HR Traded Services Team advised on 208 cases. Advice related to a range of subjects including, for example, attendance, disciplinary, grievance, performance management, restructuring and redundancy. The breakdown of these cases can be seen in Appendix 2. Union involvement is estimated to have been present in 80% to 90% of this casework.
20. There will be additional cases that have required union involvement where the Council's Traded Service is not the HR provider. The provision of early support from unions to their members can often prevent cases escalating, therefore preventing the need for management or HR involvement.
21. In addition, unions represented their members through various meetings including the Children's Services Directorate Joint Consultative Committee and the Council's Consultation and Negotiating Group. The remit of this group is to consult and negotiate on staffing matters, including locally agreed policy and terms and conditions of employment.

Comparison with Statistical Neighbours

22. Since 2017/18, there has been a statutory requirement for Councils to report on and publish trade union facility time. The latest published figures available relate to the financial year



2021/22 and provide the percentage of time spent on facility time against the total pay bill. These and figures for the previous 2 years are set out in Appendix 3.

23. For 2021/22, Appendix 3 shows that of Dudley's 12 statistical neighbours, 2 have not published figures, 3 report only on the Central Function so that there is no separate figure for trade union facility time in the Education Function.
24. Of the remaining 7, Dudley ranks joint 3rd highest at 0.10 %. The mid-point of the range (0.03% to 0.32%) sits at 0.12% and Dudley sits below this at 0.10%.
25. It should be noted that the whilst providing a broad comparison, figures are impacted by changes in the total pay bill, changes in pupil numbers and possible differences the way that reporting is undertaking.

Finance

26. From 1st April 2006, the Schools Budget has been funded by a direct grant; Dedicated School Grant (DSG).

Law

27. Trade Union activity is largely governed by the Employment Protection Act 1975 and the Trade Union and Labour Relations (Consolidation Act) 1992 which afford recognised trade unions reasonable time off with pay. This time off is locally negotiated and managed in Dudley through a pooled funding arrangement available for purchase via de-delegation or buy-back for schools.
28. The Schools Forum is a statutory decision making and consultative body constituted in line with the School Standards and Framework Act 1998, and its associated regulations, including the Schools Forums (England) Regulations 2012, to enable members of the local school community to work in partnership with Dudley



Metropolitan Borough Council when making decisions about school funding and finances.

29. The funding of schools is prescribed by the Department for Education (DfE) through the School and Early Years Finance (England) Regulations 2023.

Risk Management

30. There are no implications to the Council's Risk Management Framework that result from the proposals contained within this report. However, in the event that buy back reduces to the point that the pooled funding arrangement becomes no longer viable, then the collective cost of trade union facility time, as funded by individual schools, may exceed the current cost as unions will make local school appointments, all of which would attract an entitlement to time off for training and reasonable time off with pay.

Equality Impact

31. Trade union representatives are nominated by unions and are democratically elected. Neither the Council nor Schools have any influence or control over who is elected and therefore, this report has no direct implications for the Council's commitment to Equality, Diversity and Inclusion.
32. The effect on children and young people is that through supporting an efficient model of trade union facility time, staff are provided with access to union representation with the aim of resolving disputes at the earliest possible stage, minimising any potential disruption to educational provision.

Human Resources/Organisational Development

33. It is in the interests of the Council and Schools to maintain good employee relations through the provision of access to union representation and a charging/operating model that is comparable and efficient (i.e. the pooled funding arrangement).



Commercial/Procurement

34. Paid time off for Trade Union Facility Time is a statutory requirement for representatives of recognised unions. The value to the Council and schools is in maintaining good employee relations, the early resolution of disputes and support to staff who may be facing (usually) HR Procedures. Charges to schools fund the salaries of union representatives who are elected and released/engaged. No additional charges are applied and any underspend is returned to schools at the end of the financial year, notwithstanding the request contained in this report to roll forward vacancy savings. It is therefore concluded that there are no commercial opportunities within this provision.
35. There are no procurement implications associated with this report.

Environment / Climate Change

36. This report has no direct implications on the environment or the Council's work in addressing Climate and achieving Net Zero target by 2030.

Council Priorities and Projects

37. The 2022/2025 Council Plan is clear in its ambitions for educational outcomes including raising skills, educational and work potential, increasing good or better schools and closing the gap for disadvantaged pupils. This report relates to the use of the Dedicated Schools Grant funding to support the educational outcomes of children and young people in the borough.



Catherine Driscoll

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Appendices

- Appendix 1 – Joint Union Business Plan 2022/23 with year end activity reports for 2021/22.
- Appendix 2 – Casework Analysis
Excerpt from Trade Union Recognition Agreement
- Appendix 3 - Statistical Neighbour Analysis
- Appendix 4 - Joint Union Letter.

APPENDIX 2

Casework Analysis

Financial Years 2020/2021, 2021/2022 & 2022/2023

ANALYSIS OF CASEWORK	2020/2021	2021/22	2022/23
Absence 20 days+	87	92	48
Settlement Agreements	1	8	6
Child Protection	2	10	3
DBS Results	8	7	0
Grievances	11	11	11
Gross Misconduct	10	12	9
Health At Work	14	113	56
Misconduct	6	20	5
Panel	12	8	16
Performance/Capability	19	16	3
Service Review/ Restructure	17	10	5
Redundancy	11	2	0
Terms & Conditions	9	16	17
Other	14	5	29
Total	223	330	208

Trade Union Recognition Agreement – 2011/2012 – Excerpt

The Council agrees to recognise the number of accredited representatives based on the following:

Up to 800 members	-	subject to negotiation*
801 – 2000 members representative	-	1 FTE accredited
2001 – 3200 members representatives	-	2 FTE accredited
3201 and above representatives	-	3 FTE accredited

* Negotiations will take account of the number of meetings where attendance is required and the number of members.

APPENDIX 3

Comparison with published figures from Statistical Neighbours

Financial Years 2019/20, 2020/21 & 2021/22

STATISTICAL NEIGHBOURS ORGANISATION NAME	% OF PAY SPENT ON FACILITY TIME EDUCATION FUNCTION 2019/2020	% OF PAY SPENT ON FACILITY TIME EDUCATION FUNCTION 2020/21	% OF PAY SPENT ON FACILITY TIME EDUCATION FUNCTION 2021/22
Plymouth City Council	0.01	Only central function reported at 0.13	Only central function reported at 0.13
Doncaster Borough	0.02	0.04	0.03
St Helens Borough Council	Only central function reported at 0.09	No figure published	No figure published
Rotherham Borough Council	Only central function reported at 0.18	Only central function reported at 0.19	Only central function reported at 0.19
Calderdale Borough Council	0.06	0.06	0.07

Kirklees Borough Council	0.14	0.18	0.10
Bury Council	0.08	Only central function reported at 0.09	Only central function reported at 0.06
Wakefield City Council	0.12	0.09	0.07
Dudley Borough Council	0.09	0.11	0.10
Tameside Borough Council	0.04	0.03	No figure published
Derby City Council	0.06	0.07	0.06
Bolton Borough Council	0.17	0.15	0.21
Wigan Borough Council	0.35	0.34	0.32

Appendix 4



Dear Director

We are writing on behalf of all employees working in your local authority area who are members of NAHT, ASCL and the National Education Union (NEU).

Acting in accordance with advice issued by the Local Government Association and the National Employers' Organisation for School Teachers, the vast majority of schools made the right decision last year by agreeing through their Schools Forum to 'de-delegate' funding for supply cover costs, including for trade union facilities time.

We believe that the central retention and distribution of this funding is the most effective and efficient arrangement, and we would like to work with you to ensure that this arrangement continues. Discussions are now taking place in your authority on funding arrangements for supply cover costs from April next year and we are asking you to pass the information in this letter to members in your Schools Forum and to encourage them to vote for de-delegation of funding arrangements for supply cover costs.

Successive governments have recognised the importance of good industrial relations and have legislated to provide a statutory basis for facilities time as follows:

- Paid time off for union representatives to accompany a worker to a disciplinary or grievance hearing.
- Paid time off for union representatives to carry out trade union duties.



- Paid time off for union representatives to attend union training.
- Paid time off for union 'learning representatives' to carry out relevant learning activities.
- Paid time for union health and safety representatives during working hours to carry out health and safety functions.

These provisions are contained within the Employment Relations Act 1999 and the Trade Union Labour Relations (Consolidation) Act 1992 and the Safety Representatives and Safety Committees Regulations 1977.

NAHT, ASCL and NEU have members and union representatives in academies as well as maintained schools within your local authority area and, in addition to seeking your support for de-delegation, we are seeking your agreement for the local trade union funding arrangement to be formally extended to academies within your local authority boundary.

As the DfE Advice on Trade Union Facility Time acknowledges, the trade union recognition agreement between the authority and the recognised unions will have transferred to each academy school as the new employer of the transferred staff as part of the conversion process to academy status under TUPE. We believe that, following conversion, academies should also become parties to local authority trade union facilities arrangements.

The academies within your authority will have received funding for trade union facilities time in their budgets and they are permitted to use that funding to buy-back into local authority arrangements. Indeed, many academies across England have already agreed to buy in to local authority trade union facilities arrangements.

Pooled funding will help the local authority and all schools to meet their statutory obligations on trade union facilities time. Setting up a central funding arrangement will allow academies to pay into a central pool if they wish to. But most importantly it will help maintain a coherent industrial relations environment where issues and concerns whether individual or collective can be dealt with more effectively. All these points are echoed in the advice issued by the LGA and NEOST.



We urge you therefore to support the de-delegation of funding for trade union facilities time and to continue or establish (if you did not do so previously) a mechanism whereby academies within your authority are able to buy into a central fund for trade union facilities time. If you agree to do so, we will write to academy principals to encourage them to buy in to your arrangement.

Yours sincerely

Geoff Barton.



Mary W. Bousted.

**General Secretary
Secretary
ASCL**

**General Secretary
NAHT**

**Joint General
NEU**

Kevin Courtney

**Joint General Secretary
NEU**