

## Appendix C

# Facilities for Representatives of Recognised Unions in Schools

## 1. Introduction

- 1.1. It is recognised that trade unions and professional associations, governing bodies and the Council have joint responsibility for ensuring a well-ordered system of trade union organisation and employee relations.
- 1.2. This document will provide managers, headteachers and trade union representatives with clear guidelines under which requests for time off and facilities will be determined.
- 1.3. The Council exists to fulfil its aims and objectives, which are detailed on the internet, and the Trade Unions and Professional Associations recognise the fundamental right of the Council to be responsible for its management, organisation and policy to achieve these aims and objectives.
- 1.4. Central Bedfordshire Council and trade unions and professional associations have common objectives to:
  - maintain good employment practices and industrial relations
  - encourage communication with the Council's/ School's workers;
  - ensure that all workers are treated fairly and equally;
  - contribute to the smooth running and raising of standards in schools in Central Bedfordshire.
- 1.5. This agreement commences on 1<sup>st</sup> April 2013 and will be reviewed annually.
- 1.6. The Trade Union and Labour Relations (Consolidation) Act 1992 (S168(1) and (2)) makes provision for employees to be given the right to time off under various circumstances. The provisions of this agreement comply with the legislation the Teachers Conditions of Service (Burgundy Book), NJC Conditions of Service (Green Book) and the ACAS Code of Practice. The following sets out the detail as agreed by the Council and its recognised trade unions and professional associations.
- 1.7. A definition of the term trade union representative is provided in Appendix 2.
- 1.8. It is recognised that it is not possible to be prescriptive about all duties, activities and time to carry these out. However it is expected that all parties will act reasonably at all times.

## 2. Scope of the Agreement

- 2.1. This document applies to all employees. This includes: -
  - Employees who are directly employed by Central Bedfordshire Council
  - Employees working in community and voluntary controlled schools regardless of the Human Resources Provider.

- 2.2. Governing bodies of foundation and voluntary aided schools are strongly advised to adopt this document.
- 2.3. This document does not apply to employees working for an Academy, Free or Independent School who are directly employed by the governing body of that institution.
- 2.4. For clarification, this means that the governing body of the academy is responsible for collective bargaining with recognised trade unions and professional associations without recourse to facilities funding provided by the Council.
- 2.5. The relevant unions at present recognised by Central Bedfordshire Council, which are covered by the facilities set out here, are as follows:

<b>Name of unions</b>	<b>Recognised (yes/no)</b>	<b>Receive Facilities Time Funding</b>
NUT	Yes	Yes
NASUWT	Yes	Yes
NAHT	Yes	Yes
ATL	Yes	Yes
UNISON	Yes	Yes
GMB	Yes	Yes
ASCL	Yes	Yes
VOICE	Yes	Yes
UNITE	Yes	No
UCU	Yes	No
AEP	No	No

- 2.6. As detailed above some unions are recognised by the Council but not currently granted facilities because of their membership level.
- 2.7. Governing Bodies should not recognise other unions without first discussing the matter with the Head of HR Policy and Development and seeking agreement from the Director of Children's Services. Approaches for recognition will normally be handled in accordance with current legislation.

### **3. Consultation and Negotiation Framework**

- 3.1. Consultation with trade unions and professional associations takes place at both a national and local level.
- 3.2. A copy of the constitution of the JCNC and EJC for Health and Safety is available at: *(insert link when added to internet)*
- 3.3. The following table highlights the different activities at a local level:

<b>Group</b>	<b>Purpose</b>	<b>Frequency of Meetings</b>
Joint Consultative and Negotiating Committee (JCNC) meetings	Member and trade union negotiation and consultation forum in respect of school based staff, including workforce monitoring	up to 6 times a year and at least once a term
Education Joint Committee for Health & Safety at Work (EJC)	To establish workable and effective arrangements to promote, stimulate high standards of health and safety at	Once per term

	work	
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#### **4. Confidentiality**

- 4.1. Union representatives must respect and maintain the confidentiality of information they are given access to where, the disclosure would seriously harm the functioning of, or would be prejudicial to, the Council's/ School's interests.
- 4.2. The Council/ School will respect the confidential and sensitive nature of communications between union representatives and their members and trade union.
- 4.3. When using the Council's or schools ICT systems union representatives must agree to adhere to the ICT code of conduct of that organisation.
- 4.4. Unions and Professional Associations will ensure that the principals of the Data Protection Act will be adhered to. For example, the redaction of third party information in 'bundle' information e.g. client names.

#### **5. Responsibilities of the Council, Governing Bodies and Trade Unions and Professional Associations**

- 5.1. A table providing an overview of the practical responsibilities of the Council, governing bodies and trade unions/ professional associations can be found in Appendix 1.
- 5.2. Reimbursement in respect of facilities times will only be made to maintained schools by the Council where a member of staff is being release for trade union duties or directly to a union. Payments directly to union representatives will not continue beyond 1<sup>st</sup> April 2013 except for centrally employed representatives of UNISON or GMB who are covered by the Central agreement.
- 5.3. Recompense will be made to maintained schools, academy schools and regional trade union offices through an agreed payment arrangement. The arrangement will be reviewed on an annual basis.
- 5.4. Trade union/ professional association representatives employed at an academy will be recognised from 1<sup>st</sup> April 2013 subject to the agreement of the academy trust (employer) and agreement to the recompense arrangements as set out in paragraph 5.3.
- 5.5. In accordance with paragraph 6.2 below membership numbers should be provided by the trade unions and professional associations regional offices and these will be used to determine the facilities time available to each union on annual basis commencing on 1<sup>st</sup> April each year. The Council reserves the right to validate these numbers through the use of an external body.
- 5.6. Each trade union/ professional association is required to notify the Council in writing, of stewards and representatives appointed. This notification should include:
  - the name of the steward or representative
  - the employees that they represent
  - the position for which they are appointed
  - the Directorate/ School in which they are based.
- 5.7. The Head of HR Policy and Development will, having consulted the appropriate Service Director or Headteacher, respond in writing to confirm whether or not the

steward or representative has been granted recognition. In coming to a decision the Head of Policy and Development will consider factors such as the number of stewards or representatives based in a particular Directorate/ School or specific areas of responsibility (i.e. Health & Safety) etc.

If there is any reason for withholding recognition the Head of HR Policy and Development will fully discuss this with the Branch Secretary and Regional Full Time Officer. If there is disagreement the matter will be dealt with in accordance with paragraph 8.2.

- 5.8. The Branch Secretary or Regional Officer will inform the Head of Policy and Development of any changes in the status of the stewards or representatives including advising if any steward or representative reduces or increases their commitment or ceases to undertake the role.
- 5.9. Governing Bodies are encouraged to provide facilities for the deduction of trade unions'/ professional association subscriptions from the payroll at no charge. Trade unions/ professional associations are responsible for advising members of any changes as and when necessary.
- 5.10 All requests for time off (including training) should be in writing and referred to the appropriate Service Director or Headteacher in advance and **as early as possible**, together with the purpose for which time off is sought, the location where it is to be conducted, the time and the expected duration. (For practical purposes schools will find it easier to agree specific days each week when staff can undertake trade union duties and activities). The Service Director or Headteacher should seek advice from their HR provider before any request is declined.

## 6. Facilities Time for Teacher Unions

- 6.1. A central budget provides for cover and for the release of teacher officers on the basis set out below to allow them to carry out county-wide union responsibilities in maintained schools. These arrangements cover all the normal union duties of those with county-wide responsibilities, including casework officers, union learning representatives, participation in training courses for union representatives, attendance at meetings of the JCNC, EJC for Health and Safety, participation in all union duties, rather than activities, examples are provided in Appendix 2.
- 6.2. A fixed rate per day will be used to reimburse claims for cover for staff absent on agreed union duties. This will be based on point M6 of the payscale for classroom teachers (irrespective of the actual salary of the member of staff released to undertake trade union duties).
- 6.3. An annual statement of membership of teachers employed in CBC maintained schools, either on contract, as at 1<sup>st</sup> January each year must be sent by each organisation to the Head of HR Policy and Development by 31<sup>st</sup> January each year. Union members employed in Academy/ Free or Independent Schools cannot be included.
- 6.4. A total number of working days' absence with pay is then calculated and allocated to each recognised teachers' organisation on the basis 1 day per 100 members (1.5 for NAHT) for each member of that organisation employed as a teacher or member of support staff (where the Professional Association admits non teaching staff membership) in Central Bedfordshire Council schools.
- 6.5. Each organisation can then allocate the days to its officials as appropriate.
- 6.6. Re-imburement to a school will not be made where the claim is over 3 months old.
- 6.7. Claims on the central budget will only be agreed where replacement cover costs are actually incurred by the school.

6.8. Time off granted under these provisions must not be used for attendance at normal union/organisation meetings.

## **7. Facilities Time for School Support Staff Unions**

- 7.1. A central budget provides for cover and for the release of support staff teacher union officers on the basis set out below to allow them to carry out county-wide union responsibilities in maintained schools. These arrangements cover all the normal union duties of those with county-wide responsibilities, including casework officers, union learning representatives, participation in relevant approved training courses for union representatives, attendance at meetings of the JCNC, attendance at the EJC for health and safety, participation in all union duties, rather than activities, examples are provided in Appendix 2.
- 7.2. Reimbursement will be based on the current salary grade of the individual in their substantive role up to a maximum of point 36 (CBG10).
- 7.3. An annual statement of membership of non teaching staff employed in CBC maintained schools, on contract, as at 1<sup>st</sup> January each year must be sent by each organisation to the Head of HR Policy and Development by 31<sup>st</sup> January each year. Union members employed in Academy/ Free or Independent Schools can not be included.
- 7.4. The facilities time available for all support staff unions will be contained within the corporate allocation of facility time.
- 7.5. Each organisation can then allocate the days to its officials as appropriate and must inform the Head of HR Policy and Development of any specific allocation by 1 April each year.
- 7.6. Claims on the central budget will only be agreed where replacement cover costs are actually incurred by the school with the exception of centrally employed representatives.
- 7.7. Time off granted under these provisions must not be used for attendance at normal union/organisation meetings.
- 7.8. Paid attendance at the Union's annual national conference for up to two elected representatives of the Branch (within the Branch's facilities entitlement): their names to be forwarded to the Head of HR Policy and Development or Headteacher as far in advance of the conference as is practicable.
- 7.9. Attendance at additional union conferences will be regarded as an 'activity' in accordance with the ACAS code and will be unpaid, and no claim for reimbursement can be made by the school in respect of this time.

## **8. Disputes**

- 8.1. Disputes concerning this agreement will be dealt with as follows:
- 8.2. The Governing Body is regarded as the employer in cases when employees at a school are in dispute with the Governing Body, in the exercise of its powers.
  - Disagreements with decisions which are the responsibility of the Governing Body, may be referred to the Governing Body's Disciplinary or Grievance Sub-Committee. If no agreement is reached the remaining Governors will make a final decision.
  - Disputes with the Council under the other paragraphs of this agreement will be referred to the Head of HR Policy and Development and an Assistant Director of

Children's Services. If the matter cannot be resolved at this level it will be referred to the JCNC.

8.3. In the case of a dispute with a Governing Body the Governors are strongly recommended to seek advice from their HR Provider and are required to notify the Head of HR Policy and Development.

## **9. Teachers' and Support Staff Unions Collective Disputes Procedure (School based matters)**

9.1. Two stages are possible in the resolution of local not national collective disputes. Where there has been no resolution through informal discussions the process will be started by writing to the Head of HR Policy and Development, the matter will dealt with as a priority:

- Stage 1 The matter will be referred to the Head of HR Policy and Development or their representative and an Assistant Director of Children's Services.
- Stage 2 Failing settlement, either side may record a failure to agree at Stage 1 and refer the matter to the JCNC Forum. The Head of HR Policy and Development or her representative will be present for purposes of presenting the Council's position.
- Stage 3 Failing settlement either side may record a failure to agree at Stage 2 and will present their case to the General Purposes Committee. The Head of HR Policy and Development or her representative will be present for purposes of presenting the Council's position. The General Purposes Committee will consider the matter and the determination.

13. However, up to Stage 3 of the process to resolve issues both parties may agree to Mediation. An independent third party will be appointed by the council with a view to defusing the conflict by encouraging both sides to discuss the issues and find common ground. This process would involve the parties at the proceeding Stage and it should be noted that a decision on how to resolve the dispute is agreed by the parties, not imposed by the mediator.

14. The decision of the General Purposes Committee is the final stage in the internal disputes procedure.

## Appendix 1

### A table providing an overview of the practical responsibilities of the Council, governing bodies and trade unions/ professional associations

Central Bedfordshire Council has agreed the following with the teacher's professional associations and support staff unions and would expect Governing bodies, where it is within their power, to adhere to these agreements. Those areas of responsibility of the Council and those with the responsibility of the governing body have been clearly marked.

<p>The professional associations are to be provided with the facilities' to communicate/ canvass for new members (subject to cost).</p> <p>This could involve assisting with the electronic distribution of recruitment material.</p>	Council
<p>Trade unions and professional associations are to have reasonable use of accommodation for organisation meetings both locally and at Council level. The Council would be prepared to bear responsibility for area and county wide meetings and governing bodies would be responsible for local meetings. The use of such accommodation shall be regarded as a concessionary (free) letting.</p>	Council/Governing Bodies
<p>Head teachers are to be notified of the names of accredited representatives in their schools.</p>	Council/ Unions
<p>Notice boards are to be provided for professional associations.</p>	Governing Bodies
<p>Representatives are to be given use of a telephone with reasonable privacy (if available); outgoing calls being paid for by the organisation concerned.</p>	Governing Bodies
<p>Representatives are to be given use of appropriate IT and copying equipment (where available) materials being paid for by the organisation concerned at the internal school rate.</p>	Governing Bodies
<p>Local officers of the associations are to be provided with documents setting out pay, conditions of service and terms of employment.</p>	NJC salary scales will be forwarded by the Council or School. The other documents are available on the internet.
<p>Accredited representatives are to be allowed reasonable time to carry out their duties.</p>	Governing Bodies

## Appendix 2 - Reference the ACAS Code of Practice

### DEFINITION OF A TRADE UNION REPRESENTATIVE

An employee who has been elected or appointed in accordance with the rules of the independent union to be a representative of all or some of the union's members in the particular company or workplace or agreed group of workplaces where the union is recognised for collective bargaining purposes.

### TIME OFF FOR TRADE UNION DUTIES AND ACTIVITIES

Employees who are union representatives of an independent trade union recognised by their employer are to be permitted reasonable time off during working hours to carry out certain trade union duties.

**This appendix should be used as a guide to inform those duties and activities which do/ do not attract time off with pay.**

Union representatives are entitled to time off where the duties are concerned with:

- negotiations with the employer about matters which fall within section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) and for which the union is recognised for the purposes of collective bargaining by the employer
- any other functions on behalf of employees of the employer which are related to matters falling within section 178(2) TULR(C)A and which the employer has agreed the union may perform
- the receipt of information from the employer and consultation by the employer under section 188 TULR(C)A, related to redundancy or under the Transfer of Undertakings (Protection of Employment) Regulations 2006 that applies to employees of the employer
- negotiations with a view to entering into an agreement under regulation 9 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 that applies to employees of the employer; or
- the performance on behalf of employees of the employer of functions related to or connected with the making of an agreement under regulation 9 of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

An independent trade union is recognised by an employer when it is recognised to any extent for the purposes of collective bargaining. Where a trade union is not so recognised by an employer, employees have no statutory right to time off to undertake any duties except that of accompanying a worker at a disciplinary or grievance hearing.

### Examples of trade union duties (not specific to CBC)

The subjects connected with collective bargaining may include one or more of the following:

**(a) terms and conditions of employment, or the physical conditions in which workers are required to work.** Examples could include:

- pay
- hours of work



- holidays and holiday pay
- sick pay arrangements
- pensions
- learning and training
- equality and diversity
- notice periods
- the working environment
- operation of digital equipment and other machinery.

**(b) engagement or non engagement, or termination or suspension of employment or the duties of employment, of one or more workers.** Examples could include:

- recruitment and selection policies
- management of change
- redundancy and dismissal arrangements.

**(c) allocation of work or the duties of employment as between workers or groups of workers.** Examples could include:

- job grading
- job evaluation
- job descriptions
- flexible working practices
- work-life balance.

**(d) matters of discipline.** Examples could include:

- disciplinary procedures
- arrangements for representing or accompanying employees at internal interviews
- arrangements for appearing on behalf of trade union members, or as witnesses, before agreed outside appeal bodies or employment tribunals.

**(e) trade union membership or non membership.** Examples could include:

- representational arrangements
- any union involvement in the induction of new workers.

**(f) facilities for trade union representatives.** Examples could include any agreed arrangements for the provision of:

- accommodation
- equipment
- names of new workers to the union.

**(g) machinery for negotiation or consultation and other procedures.** Examples could include arrangements for:

- collective bargaining at the employer and/or multi-employer level
- grievance procedures
- joint consultation
- communicating with members
- communicating with other union representatives and union full-time officers concerned with collective bargaining with the employer.

The duties of a representative of a recognised trade union must be connected with or related to negotiations or the performance of functions both in time and subject matter. Reasonable time off may be sought, for example, to:

- prepare for negotiations, including attending relevant meetings
- inform members of progress and outcomes
- prepare for meetings with the employer about matters for which the trade union has only representational rights.

Trade union duties will also be related to the receipt of information and consultation related to the handling of collective redundancies where an employer is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days, and where the Transfer of Undertakings (Protection of Employees) Regulations apply but also including the negotiations with a view to entering an agreement under regulation 9 of the Regulations (variation of contract in insolvency).

### **Payment for time off for trade union duties**

An employer who permits union representatives time off for trade union duties must pay them for the time off taken. The employer must pay either the amount that the union representative would have earned had they worked during the time off taken or, where earnings vary with the work done, an amount calculated by reference to the average hourly earnings for the work they are employed to do.

The calculation of pay for the time taken for trade union duties should be undertaken with due regard to the type of payment system applying to the union representative including, as appropriate, shift premia, performance related pay, bonuses and commission earnings. Where pay is linked to the achievement of performance targets it may be necessary to adjust such targets to take account of the reduced time the representative has to achieve the desired performance.

There is no statutory requirement to pay for time off where the duty is carried out at a time when the union representative would not otherwise have been at work unless the union representative works flexible hours, such as night shift, but needs to perform representative duties during normal hours. Staff who work part time will be entitled to be paid if staff who work full time would be entitled to be paid. In all cases the amount of time off must be reasonable.

### **Time off to accompany Workers at disciplinary or Grievance Hearings**

Trade union representatives are statutorily entitled to take a reasonable amount of paid time off to accompany a worker at a disciplinary or grievance hearing so long as they have been certified by their union as being capable of acting as a worker's companion. The right to time off in these situations applies regardless of whether the certified person belongs to a recognised union or not although the worker being accompanied must be employed by the same employer. Time off for a union representative or a certified person to accompany a worker of another employer is a matter for voluntary agreement between the parties concerned.

## **Union Learning Representatives**

A Union Learning Representative is an employee who is a member of an independent trade union recognised by the employer who has been appointed in accordance with the rules of the union to be a learning representative of the union at the workplace.

Employees who are members of an independent trade union recognised by the employer can take reasonable time off to undertake the duties of a Union Learning Representative, provided that the union has given the employer notice in writing that the employee is a learning representative of the trade union and the training condition is met. The functions for which time off as a Union Learning Representative is allowed are:

- analysing learning or training needs
- providing information and advice about learning or training matters
- arranging learning or training
- promoting the value of learning or training
- consulting the employer about carrying on any such activities
- preparation to carry out any of the above activities
- undergoing relevant training.

In practice, the roles and responsibilities of Union Learning Representatives will often vary by union and by workplace but must include one or more of these functions. In some cases it may be helpful if Union Learning Representatives attend meetings concerned with agreeing and promoting learning agreements. Employers may also see it in their interests to grant paid time off for these representatives to attend meetings with external partners concerned with the development and provision of workforce training.

Recognition needs to be given to the varying roles of Union Learning Representatives where the post holder also undertakes additional duties as a union representative.

Many employers have in place well established training and development programmes for their employees. Union Learning Representatives should liaise with their employers to ensure that their respective training activities complement one another and that the scope for duplication is minimised.

## **Time off for trade union activities**

### **Entitlement**

An employee who is a member of an independent trade union recognised by the employer in respect of that description of employee is to be permitted reasonable time off during working hours to take part in any trade union activity. An employee who is a member of an independent and recognised trade union is also permitted to take reasonable time off during working hours for the purposes of accessing the services of a Union Learning Representative (provided those services are services for which the Union Learning Representative is entitled to time off).

**There is no statutory requirement that union members or representatives be paid for time off taken on trade union activities.**

### **Examples of trade union activities – Trade Union Members (not specific to CBC)**

The activities of a trade union member can be, for example:

- attending workplace meetings to discuss and vote on the outcome of negotiations with the employer. Where relevant, and with the employer's agreement, this can include attending such workplace meetings at the employer's neighbouring locations
- meeting full time officers to discuss issues relevant to the workplace
- voting in union elections
- Attendance at conferences
- having access to services provided by a Union Learning representative.

### **Examples of trade union activities – Trade Union Representatives (not specific to CBC)**

Where the member is acting as a representative of a recognised union, activities can be, for example, taking part in:

- branch, area or regional meetings of the union where the business of the union is under discussion
- meetings of official policy making bodies such as the executive committee or annual conference
- Attendance at conferences
- meetings with full time officers to discuss issues relevant to the workplace.

**There is no right to time off for trade union activities which themselves consist of industrial action.**

### **Appendix 3**

The figures set out below represent the maximum time allocated to the teacher representatives (not being paid officials) of recognised professional associations, to be used as days of paid leave of absence and distributed at the discretion of each organisation for carrying out their duties as Council Officers of these organisations.

These figures are based on the formula of 14 days per year for meetings plus 1 day for every 100 members and are reviewed every year and will be next due for review in 2013 for the 2014/2015 Facilities Agreement.

**Table of Volumes & Eligibility to be detailed when finalised**