

MEETING:	SCHOOLS FORUM
DATE:	31 JANUARY 2011
TITLE OF REPORT:	TRADE UNION FACILITIES
OFFICER:	HR MANAGER

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

The purpose of this report is to provide an update on the Trade Union facilities.

Recommendation

That Schools Forum note the report.

Key Points Summary

- The review of Teacher Trade Union Facilities time has determined that the current arrangements are inadequate to 'reasonable' time off for trade union activity and are inadequate in terms of supporting meaningful consultation and negotiation with teaching unions.

Alternative Options

1. Not applicable

Reasons for Recommendations

2. Not applicable

Introduction and Background

3. Under statute it is a requirement of employers to ensure that they have appropriate arrangements in place in respect of allowing reasonable time off during working hours for trade union representatives to undertake certain trade union duties. For this purpose a Trade Union Facilities Agreement is paramount to ensure that there are clear guidelines on the allowances for paid time off between the employer and recognised trade unions.
4. Herefordshire Council recognise NASUWT, NUT, NAHT, ASCL, ATL, Voice, Unison and GMB for consultation and negotiation purposes. The Teacher Trade Union Facilities Agreement for

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teaching staff was agreed in 1998, and outlines an allocation of vouchers to each teaching union for the purpose of trade union activities. Each voucher is equivalent to one day (6 hours), and is worth £150. The allocation of vouchers is based on trade union membership numbers is shown in Table 1. In addition, the agreement provides an allocation of 150 Union Learning Representative (ULR) vouchers. Currently, 126 vouchers are currently divided across three teacher trade unions (NUT, NASUWT, ATL) for the specific purposes of Union Learning Representative activity.

Teaching Union	Trade Union Activity Voucher Allocation	ULR Activity Voucher Allocation	TOTAL
NUT	41	42	83
NASUWT	41	42	83
ATL	35	42	77
VOICE	11		11
NAHT	11		11
ASCL	11		11

Table 1: Teacher Trade Union Voucher Allocation

5. As this agreement was negotiated in 1998, and had not been reviewed since this time it must be recognised that the current arrangements do not meet statutory requirements for trade union facilities. The statutory provision is that trade union officials are entitled to paid time off where *'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, and any other function on behalf of employees which are related to matters falling with section 178(2) TUL(C)A and which the employer has agreed the union may perform'*. The ACAS Code of Practice for Time off for Trade Union Duties and Activities states that 'subject to the recognition or other agreement, trade union officials should be allowed to take reasonable time off for duties concerned with negotiations or, where their employer has agreed, for duties concerned with other functions related to or connected with:
- terms and conditions of employment, or the physical conditions in which workers are required to work;
 - engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers;
 - allocation of work or the duties of employment as between workers or groups of workers;
 - matters of discipline;
 - trade union membership or non-membership;
 - facilities for officials of trade unions;
 - machinery for negotiations or consultation and other procedures'

Trade Union Facilities Budget

6. The trade union facilities budget for the last 3 years (08 / 09, 09 /10 and 10 /11) has been set at £32k. The budget level does not cover existing arrangements for the teacher trade union agreement of an agreed 300 days facilities time, which equates to £45k not £32k. This means that the budget has been set incorrectly, and is inadequate to cover current pre agreed arrangements. The actual current cost of the agreement is £58k including salary on costs. In

09 / 10 there was a significant overspend against budget, which has highlighted the current issues. The total expenditure against the Teacher Trade Union Budget for 09 / 10 was £65,814. This equates to an overspend of £33,814. The overspend can be attributable to a number of factors:

- Incorrect setting of budget
- TU reps presenting vouchers from 08 / 09 to be paid in 09 / 10
- No allowance for on costs
- Increase in activity union activity

7. Even to maintain the existing arrangement that have been previously negotiated with all teaching unions requires a budget increase of £26k to £58k.

Membership Levels

8. The existing Teacher Trade Union membership can be observed in Table 2. Based on the current allocation of vouchers across teaching unions, it is possible to indicate the current level of trade union representation in terms of FTE. The allocation covers all trade union activity.

Union	Membership	Current Allocation of TU representation (FTE)
NASUWT	850	0.40
NUT	656	0.40
ATL	326	0.36
VOICE	49	0.05
NAHT	10	0.05
ASCL	10	0.05
TOTAL	1725	1.31 (FTE)

Table 2: Teacher Trade Union Membership

9. This further supports the view that the current facilities agreement is not sufficient to cover trade union activity. A figure of 1.31 FTE is significantly low to cover all required trade union activity for Herefordshire schools.

Teacher Trade Union Activity Review

10. In order to substantiate the view that the current arrangements do not meet statutory requirements for trade union facilities, a review of trade union activity was undertaken in July/ August 2010. The review was undertaken in conjunction with Teachers unions, to ascertain whether the current agreement is fit for purpose in terms of meeting all statutory requirements under 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992. This review examined the current level of activity and evaluated the type of activity to ensure that it was appropriate trade union activity.

11. The review has been undertaken involving the relevant teaching unions. All current trade union activity has been mapped for 10 / 11. This includes accurate analysis of time spent on all union meetings i.e. Corporate JCF, Directorate JCF, health & safety meetings, TTU meetings, policy development meetings, other corporate meetings etc. Time attributable to these meetings is a matter of fact. The Teacher Trade Union activity projection obtained from Teaching unions can be observed in Appendix 1.

12. For the activity that is less quantifiable due to the sporadic, unplanned nature of the activity, a projection for 10 / 11 has been included. For example school redundancy consultation meetings, where this is dependent on the number of schools initiating a redundancy programme.
13. For the activity that could not be mapped by the Council i.e. trade union casework, all teaching unions were asked to provide information detailing their projection of casework. Other trade union activity has also been included i.e. regional conferences, trade union courses.
14. All trade union activity included in the review is consistent with Trade Union and Labour Relations (Consolidation) Act 1992 and meets the provisions as detailed in the ACAS Code of Practice – Time Off for Trade Union Duties and Activities.
15. The review determined that in order for the LA to support trade union activity at the current level of workload the collective trade union representation would need to increase to 3.1 FTE to represent and support Herefordshire schools. This is a 1.7 FTE increase to the existing arrangements. In monetary terms this equates to approximately to a total cost of £107,740. As this represents a significant increase to the current budget of £32k, and because some of the activity included in the review is a projection which will be variable, a level of £73,500 was determined as an appropriate reasonable level of trade union facilities for Herefordshire schools. In order to support Corporate meetings such as Corporate JCF and policy development this will be covered by the Corporate Facilities budget and a 10K contribution will be made to cover this activity. The negotiations with teaching unions have been lengthy with some unions providing objections to the new arrangements, on the basis that the review determined a much higher level of trade union facilities time.

Key Considerations

16. Schools Forum are asked to:
 - Consider the new arrangements for Trade Union Facilities.
 - Note the financial cost.

Community Impact

17. None

Financial Implications

18. The new arrangements provide an increased cost of £41,500.

Legal Implications

19. Statutory provisions of Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) require employers to have appropriate arrangements in place for trade union facilities.

Risk Management

20. Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) places a statutory

condition on employers to ensure that trade union officials have reasonable paid time off for the purposes of trade union duties. Failure to provide adequate trade union facilities time will potentially impact on meaningful consultation, and could damage positive working relationships with current teacher trade unions. Ultimately if trade union facilities are inadequate the LA could be in breach of the law, and this increases the potential for a formal dispute with teaching unions. The current arrangements are not sustainable and are not sufficient to meet the current level of activity. Moving into a difficult time in terms of the economic downturn, and falling rolls in schools, it is imperative that the Council engages positively with all unions in the spirit of partnership. To achieve this there must be an increase to the teacher trade union facilities time.

Consultees

21 None

Appendices

Appendix – Teacher Trade Union Activity Review

Background Papers

None identified



Teacher Trade Union Facilities Activity Projection 10/11

TU Facilities Activity	Average Annual Hours						TOTAL	Comments
	NUT	NASUWT	ATL	VOICE	NAHT	ASCL		
Redundancy consultation meetings	84	84	84	42			294	Estimate average of 4 hours per school. Projection 14 schools
Restructuring Consultation Meetings	42	42	42	42			168	Estimate 14 schools
Redundancy case advice / appeals	72	72	60	24	10		238	This depends on individual cases
TTU meetings	18	36	18	18	18	18	126	6 meetings per year 3 hours with 1 hour pre meet
Directorate JCF	12	12	12	12	6		54	6 meetings per year 1 hour with 1 hour pre meet
Casework; disciplinary, grievance, capability	96	96	60	20	5		277	This depends on individual cases
Secretary duties		60					60	Current 10 days per year allocated only to NASUWT
Attend trade union courses	60	60	18	12			150	
Regional conferences (Education)	36	36	6	6	5		89	
Branch meetings					5		5	
School policy development meetings	20	20	20	20	20		100	4 meetings per year 3 hours with 2 hours pre meet
TOTAL	440	518	320	196	69	18	1561	
Average Hours Per Week	11.3	13.3	8.2	5.0	1.8	0.5	40.0	
Proportion Per Week	0.35	0.41	0.25	0.15	0.05	0.01	1.2	
Other TU Facilities								

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H&S meetings	24	24	24	24			96	6 meetings per year 3 hours with 1 hour pre meet
H&S activity	400	400	400				1200	Subject to roving reps,
ULR activity	252	252	252	n/a			756	
Corporate JCF	24	24	24	24			96	6 meetings per year 3 hours with 1 hour pre meet
Other corporate meetings	18	18	18	18			72	Average 6 per year estimate 2 hours with 1 hour pre meet
Corporate policy development meetings	24	24	24	24			96	Average 6 per year estimate 2 hours with 2 hour pre meet
TOTAL Other TU Facilities	742	742	742	90	0	0	2316	
Average Hours Per Week	19.0	19.0	19.0	2.3	0.0	0.0	59	
Proportion Per Week	0.59	0.59	0.59	0.07	0.00	0.00	2	
TOTAL	1182	1260	1062	286	69	18	3877	
Average Hours Per Week	30.3	32.3	27.2	7.3	1.8	0.5	99.4	
Proportion Per Week	0.93	0.99	0.84	0.23	0.05	0.01	3.1	