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# The Value of Trade Union Facility Time

## Insight, Challenges and Solutions



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# Executive summary

## The study

This report presents the findings of research conducted by NatCen Social Research on trade union facility time between April and June 2012. The research was commissioned by UNISON to provide qualitative insight into the value, challenges and issues arising from facility time; solutions to the challenges and issues identified were also discussed.

The research comprised 129 written submissions in response to five research questions and three deliberative focus groups with branch reps and human resources professionals in the public sector. The sample was contacted through UNISON branch secretaries.

## Benefits arising from the use of facility time

The use of facility time in workplaces where UNISON organises reflected Acas guidance on time off for union duties and activities. Four main benefits that arose from the use of facility time were identified:

- Provision of a **ready-made structure for meaningful consultation and negotiation** saving organisations money and providing reassurance to members that their views are valued in decision-making.
- Facilitation of partnership working with trade unions that **improved workplace relations** and the reputation of an employer as ‘a good place to work’.
- **Earlier intervention** in relation to complaints, grievances and disciplinaries preventing escalation into more serious problems; thereby saving organisations and taxpayers money by reducing the impact on staff time and possible legal costs.
- **Better communication** to manage change during restructuring and redundancy processes; thereby improving understanding of decisions, minimising negative impacts and reducing the number of working days lost through industrial action.

## The value of facility time in itself

In addition to benefits arising from the use of facility time, the time also had value in itself. The value of facility time in this respect came from better representation of members’ views and improved availability of representatives to work with employers on areas of common interest.

Where reps were released or seconded from their substantive posts the quality of representation and availability of reps was further improved because reps were able to: (a) focus further on their duties; (b) prepare better for discussions with managers and (c) build up relationships of respect trust with managers over time.

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## Issues, challenges and possible solutions

There is a need for UNISON to continue to develop its strategy for supporting reps in their use of facility time. The union should:

- Continue to address misleading and one-sided information about facility time; and
- Ensure branch structures and practices are adequate to address the challenges created by outsourcing and 'localisation'.

There was a significant need for practical information on the most effective ways to manage facility time. Key ways to make facility time more effective included:

- Promoting a **flexible and tailored approach** to facility time to account for varying workloads within the organisation and that adequately reflected the size of branch membership and the substantive roles reps performed alongside their union duties;
- Putting in place **effective systems for allocating work within branches** so work could be fairly distributed between reps, ensuring that enough lay reps were trained to take on non-complex case work;
- Promoting the **benefits of released or seconded reps for employers and trade unions** (provided the terms and conditions and career development needs of such reps were also properly considered).

The ability of reps to access facility time was a significant challenge. Practical information and guidance that UNISON could provide to assist reps in doing so was:

- Information to improve manager and colleague awareness of facility time;
- Good practice in relation to providing cover or backfill for reps (e.g. pooled central budgets, a 'bank' of staff to cover reps, supporting arguments for released or seconded reps);
- Reduction of management and rep concerns about potential misuse of facility time through more transparent systems for allocation and monitoring of work.

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# 1 Introduction and Methodology

## 1.1 Introduction and aims

This report presents the findings of research conducted by NatCen Social Research on trade union facility time. This research was commissioned by UNISON, with the aim of providing qualitative insight into the value and challenges related to facility time. Where challenges were identified, examples of good practice and possible solutions were also discussed. Although this research is primarily focussed on facility time in public sector organisations outside of the civil service, many of the conclusions are applicable to the use of facility time in other sectors. Participants in the research mainly came from public sector organisations, but also included participants from private sector organisations in which UNISON organises.

### 1.1.1 Facility time – definition and context

#### Definition of facility time

UNISON guidance defines facility time as *'time off from an individual's job, granted by the employer, to enable a rep to carry out their trade union role'*. Union representatives have had a statutory right to reasonable paid time off from employment to carry out trade union duties and to undertake union training since the Employment Protection Act (1975). Union representatives and members also have a statutory right to reasonable unpaid time off when taking part in union activities with the exception of industrial action. The Acas guide, *Time off trade union duties and activities*<sup>1</sup>, gives further information about facility time and the various pieces of legislation that have consolidated or extended provision (e.g. in relation to redundancies). In the interests of partnership working some employers have put in place facility time arrangements which go beyond the statutory minimum.

#### Context of the study and previous research

In recent months facility time has gained increasing attention by government and in the media, culminating in the coalition government announcing a review of the 'funding of trade union facility time' in the public sector. Much of this attention was initially brought about by the Taxpayers Alliance (TPA) report *Taxpayer funding of trade unions in 2011*<sup>2</sup>, which claimed that taxpayers money was being used to subsidise trade union activities. Despite raising some important concerns about monitoring facility time and the most effective ways to organise it, the report did not consider any possible benefits of facility time and did not provide the reader with contextual information such as the number of people trade union reps represented. Previous analyses has been conducted by the Department of Business, Enterprise and Regulatory Reform (BERR, now BIS), and reported by the TUC, that suggested the economic benefits of facility time outweighed costs<sup>3</sup>

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<sup>1</sup> <http://www.acas.org.uk/CHttpHandler.ashx?id=274>

<sup>2</sup> <http://www.taxpayersalliance.com/unionfunding.pdf>

<sup>3</sup> <http://www.tuc.org.uk/tucfiles/108/TheFactsAboutFacilityTime.pdf>

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Previous analyses remain largely quantitative. Qualitative studies such as *The Union Advantage: The positive impact of trade unions on the economy and British Society*<sup>4</sup> do not specifically address the use of facility time. This study aims to fill in these gaps by providing a rounded and constructive picture of the benefits and challenges arising from the use of facility time, and exploring potential *solutions* to issues and concerns from the point of view of employees, employers and the taxpayer.

## 1.1.2 Aims of the study

The aims of the study were to:

- Provide qualitative insight into the value of union facility time in public sector organisations from the perspective of trade union representatives, human resources departments, managers and employers
- Map issues related to the organisation of union facility time within workplaces, including what works well, challenges, solutions and examples of best practice
- Provide illustrative case examples of the value and challenges arising from facility time to help inform and compliment UNISON branch guidance on facility time and the forthcoming government review.

## 1.2 Methodology and sample

This section gives a brief overview of the methodology and sample. Further information is available in Appendix A.

The research adopted a deliberative approach that combined focus groups with individual written submissions made through a secure website<sup>5</sup>. The deliberative method consisted of four phases:

**Recruitment:** All UNISON branch secretaries were emailed and invited to take part in the study. They were also asked to forward the email and an information leaflet to anyone else with an interest in facility time, particularly HR personnel or managers they worked with. UNISON also sent a small number of invitations to contacts that they were aware of on NHS and Local Government employers' forums. The email contained information about the study and a link to a secure website where they could find out more information, give their contact details if they wanted to take part in a deliberative focus group, and/or make a written submission.

**Sample:** A total of 129 written submissions were received representing a range of viewpoints. Focus group participants were purposively sampled from those who volunteered and were selected as far as possible to represent a diverse range of characteristics (full details of achieved samples are set out in the appendix A). There were also a smaller number of contributions from employers, managers and HR personnel who were not UNISON members, although their views and concerns were represented and specifically discussed in the focus groups. Three focus groups took place, two in London and one in Manchester.

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<sup>4</sup> <http://www.tuc.org.uk/extras/unionadvantage.pdf>

<sup>5</sup> To see the extensive methodology please see Appendix A.

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**Data collection:** Written submissions were collected via the secure website and were based on responses to five questions related to the value of facility time; issues, challenges and concerns rising from it; and possible solutions where challenges arose. The full questions can be found in Appendix E. The submissions were downloaded daily to a secure sever. Three deliberative focus groups were also conducted, one with trade unionists who were not managers, one with trade unionists who were managers and/ or who managed people using facility time, and one mixed group of trade unionists and HR representatives. The groups were conducted using a topic guide and workshop-style activities agreed with UNISON and a TUC representative (see Appendix C and D). The groups were digitally recorded and transcribed verbatim.

**Analysis:** Written submissions were downloaded into a matrix with the row representing the case and column indicating the response to specific questions. Data from the focus groups was summarised following the *Framework* approach to data management and analysed thematically in relation to the uses, value and challenges of facility time. Where possible, the analysis also identified possible solutions to challenges and identified information needs.

## 1.3 Structure of the report

The next chapter describes the range of ways in which facility time is used. Chapter 3 looks and the perceived value of facility time in terms of benefits arising from it and value in itself. The issues, challenges and concerns of participants, relating to facility time are discussed in Chapter 4, as are suggested solutions to the challenges identified.

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## 2 Use of facility time

### 2.1.1 The use of facility time – duties and activities

The Acas guide *Time off for trade union duties and activities* (Acas, 2010)<sup>6</sup> provides detailed guidance on reasonable time off in relation to union duties and activities, including examples of what would be included under each term. Duties include collective bargaining, working with management, communicating with union members, liaising with their trade union and handling individual disciplinary and grievance matters on behalf of employees. “Activities” relate more to the running of the union necessary to facilitate duties, such as recruiting members and stewards, holding elections of officials and holding union meetings. The possible greater direct benefit to employers of union duties is recognised in that time off for duties is a statutory entitlement and must be paid for. A union representative is also permitted reasonable time off during working hours to undertake activities but there is no statutory requirement that this should be paid. Duties and activities described by participants in the focus groups were in line with those outlined in the Acas guidance.

Three key points about duties and activities emerge from the data. Firstly, the distinction between duties and activities was thought to be useful when representatives found it difficult to get time off to undertake duties because they could assert that they were *‘entitled to something under legislation’* (FG1, School, Non-management TU).

Human resources (HR) representatives also made a distinction between duties and activities but would not support a seconded branch secretary using paid time to undertake activities. An alternative perspective was not to see a distinction between duties and activities because activities were regarded as necessary to recruit members and elect officials and therefore needed in order to carry out the duties. At the same time, allowing some union activities within work time was seen as a fair recompense in that reps carried out a lot of work to support union duties in their own time: *‘If you’re from a good organisation then you don’t really want to make too great a distinction between duties and activities...because you’ll do what you can,’* (FG3, Higher Education Institute, Non-management TU).

Finally, participants also described employers that paid little attention to activities undertaken in paid facility time because they recognised that they generally made organisational concerns and work a priority. The fact that some work related to duties and activities were carried out in representatives’ own time was also seen by them as a *‘fair compromise’* (FG4, Private Sector Organisation, Non-management TU) or *‘trade off’* (FG3, Higher Education Institute, Non-management TU) for the receipt of facility time, provided such work did not become dominant in their lives. For example, they discussed writing-up notes related to meetings and case work when they finished work, attending meetings and training on days off or annual leave and travelling between different work sites before work or during lunch breaks.

Union representatives and their employers therefore described fair-minded ways in which they approached facility time in order to achieve a balance between time for

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<sup>6</sup> <http://www.acas.org.uk/CHttpHandler.ashx?id=274>

UNISON members and for their employers with considerable work commitment and work in their own time.

'...you're also doing it to help the people that you work with and that you know. In very much the way like, like a local councillor or an MP would; they will put time out of their day to help their constituents. We are the same' (FG4, Private Sector Organisation, Non-management TU).

## 2.1.2 Models of facility time

Participants described two broad approaches to organising facility time, described below, and some key factors that determined which model was adopted.

**Full-time release or secondment** – larger branches, usually with thousands of members, had one or more representatives on full-time release or secondment from their substantive post(s) and exclusively or primarily paid for from facility time. These officials, usually in the role of branch secretary, could also be supported by administrators also in receipt of facility time. This could sometimes be partly funded by the branch because of the extensive duties related to representing a large membership. Smaller branches also adopted this model but with fewer seconded staff. Facility time in both instances was represented as a number of days per month for the branch that was translated into secondments and/ or release for other representatives on an ad hoc basis. Branch secretaries tended to deal with negotiations with managers and complex casework while stewards dealt with more day-to-day casework.

**Use of facility time alongside substantive posts** - smaller branches, with hundreds of members or fewer, described the difficulties they faced trying to carry out union duties alongside substantive posts. They worked with a number of hours per month for facility time with this being divided between branch secretary, other officials and stewards as necessary. These branches were far more reliant on stewards for dealing with meetings with management *and* individual case work.

**Factors affecting choice of model** - the size of branch was important in terms of the number of secondments or hours of facility time available to the branch per month but this relationship was not straightforward. Participants described branches struggling with fewer seconded posts that required greater support from stewards or lay reps, but also branches with more generous arrangements in place. The number of secondments or hours available for facility time was also linked to the perceived value of facility time by the employer and the ability of the union to negotiate a suitable facility time agreement, which is discussed in the next chapter.

### SUMMARY

- The use of facility described by participants reflected Acas guidance on reasonable time off for trade union duties and activities
- It was useful to make a distinction between union duties and activities, especially where reps had found it difficult to use facility time for duties involving statutory entitlement to time off.
- Employers allowed some activities to be conducted using facility time as they recognised the wider importance of them and because they recognised that it was a fair compromise given that work associated with duties that benefitted the organisation was often done in reps' own time.

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- Reps were either on full-time release or secondment or conducted work alongside their substantive posts. Secondment or release was found in larger organisations and some smaller ones, for roles such as branch secretary, although size of organisation was not the only determining factor.

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## 3 Benefits of facility time

This chapter addresses the benefits *arising from* facility time for employers and union members and the *value of facility time* in the way that it allows union representatives and employers the means and capacity to achieve such benefits.

### 3.1 Key benefits arising from facility time

Four main benefits of facility time were identified. These are discussed in turn and illustrated with examples of how this benefit manifested in practice.

#### 3.1.1 Meaningful consultation and representation

The first benefit arising from facility time was enabling employers to consult their employees about changes in policies or practices in a ‘meaningful’ and efficient way. There were two key dimensions to this. Firstly, an important aspect of facility time was that it was thought to provide, as one focus group participant put it, a ‘*ready-made-made framework for consultation*’ (FG10, Local Authority, Manager in TU). This helped larger employers fulfil their statutory obligation<sup>7</sup> to consult on matters affecting their employees, which also avoided them having to find other ways of communicating with them individually that could be more labour intensive: ‘*If they don’t talk to us they have to talk to every individual employee; if you want to quantify the amount of time that would take*’ (FG9, Local Authority, Manager in TU)

Secondly, the fact that there was a two-way process of communication between employers and union members was felt to provide reassurance to union members that their views were valued and included that could also serve to maintain employee morale and confidence in their employer. As one non-management TU member stated in their written submission, consultation through the union using facility time ‘*helps provide reassurance to members that appropriate policies are followed*’ (WS24, Non-management TU).

#### Case example – consultation using facility time

‘During a period of staff shortages the front line staff were asked to look at changes to their shift patterns in order to accommodate a change in business needs. Staff were worried they would lose their allowances and could face job losses in future. Because I was able to attend the meeting with staff and consult with members and the employer, I was able to reassure staff and maintain a shift pattern that meant they did not lose any allowances. This also helped the employer as the consultation managed to keep the front office open longer than the employer had anticipated, thus improving the service to the public whilst the staff got to keep their allowances’ (WS35, Police Authority, Non-management TU).

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<sup>7</sup> The Information and Consultation Regulations (2004) impose duties of employers to consult employees about various business issues and matters. Since 2008 this has applied to employers with 50 employees or more. <http://www.bis.gov.uk/files/file25934.pdf>

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### 3.1.2 Partnership working leading to good workplace relations

A second benefit of facility time identified by participants was the encouragement of a collaborative workplace culture. By providing an opportunity for union members and employers to work together, participants thought that this helped to create an ‘ethos’ of working together as partners, where union members and employers embarked on joint ventures and solved problems together:

*‘It’s not just the trade union side, it’s actually the management side as well and if the management side are willing to go the extra mile the trade union will go the extra mile’ (FG15, Local Authority, Human Resources).*

Focus group participants and written submissions felt that views of unions as obstructive were ‘archaic’ and that, in fact, facility time had helped to create good workplace relations within their organisations. There were several areas of partnership working identified that were thought to have fostered such relationships:

**Joint development and review of policies** – this was thought to build good workplace relations by providing a ‘formal’ way in which union members could be involved in the work of the organisation while ensuring that policies were appropriate, consistent and applicable from the point of view of employees who would be likely to implement or be affected by them.

**Supporting HR** – by combining HR and union expertise in relation to policy development and review participants said that mistakes were less likely to be made. Union members particularly felt that facility time allowed HR to draw on their knowledge and experience to reduce their workload. For instance, in one written submission a participant described one of the key benefits of facility time as; *‘Casework – having a number of senior stewards we are able to reduce the workload of HR and the management team’ (WS85, Local Authority, Non-management TU).*

**Joint working to address health and safety** – organisations drew on the facility used by union healthy and safety representatives to help them meet statutory obligations on health and safety where they were unable to do so among managers and non-union employees. For example, one participant described how using facility time they had assisted their employer in conducting health and ‘safety walkarounds’.

More broadly, such partnership working was thought to encourage a perception of the employer as a ‘good employer’ that employees wanted to work for and help present a positive image to the outside world. For example, a participant described the way in which their organisation that had been given a gold *Investors in People Award*<sup>8</sup> because of good partnership working between the organisation and the union.

**Case example –facility time contributing to good workplace relations.** ‘So we actually assisted the university in achieving a gold Investors in People Award because of good practices or because of the good working relationship that we have... We were interviewed as a union and we were asked questions about how we were involved in decision-making processes; how we were involved with policies and procedures; what our relationship was like with the university... we could report back positively because we were given this time to negotiate; we were given this time to go to these joint forums’ (FG3, Higher Education Institute, Non-management TU).

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<sup>8</sup> <http://www.investorsinpeople.co.uk/Pages/Home.aspx>

### 3.1.3 Preventing problems escalating

A third benefit of arising from the use of facility time and partnership working was that problems such as potential disciplinaries, grievances or industrial disputes could be addressed earlier and resolved more amicably. Avoiding the need for a more formal stage was thought to lead to savings in terms of time and resources both to the organisation and, in relation to public services, to the taxpayer. Facility time was thought to prevent problems escalating in two ways:

**Earlier and informal intervention** – by using facility time union representatives were able to deal with problems as they arose before they reached a more formal stage such as a grievance or industrial unrest; described as a form of *'damage limitation'* (FG7, Local Authority, Manager in TU). This type of early intervention in relation to proposed grievance by a member of staff could be resolved by a meeting between the employee, management and the union rather than through more expensive formal processes.

**Case example – using facility time to intervene early and resolve a grievance before in reached a formal stage.** 'The member came to me basically and said, "I'm having grief" and she outlined what the problem was. And I actually spent some time talking to the senior manager about them.. to get a full picture of what was going on... And so in the end we had a tripartite meeting; me, my member and the senior manager and we had a bit of a, basically bash out of all the problems, sort of session and it was over, over in an hour... at the end of it everyone was clear.. where they were in terms of how they thought, what everyone, each other's expectations, you know? ... And that the benefit in using facility time, because at the end of it, everyone was in a much better position and they could move forward for the benefit of both the company and the member of staff' (FG4, Private Sector Organisation, Non-management TU).

**Preventing small problems escalating into bigger problems** – *'stopping small issues getting out of hand'* (WS76, Local Authority, Non-management TU) by using facility time was a theme that emerged from the focus groups and written submissions. Two specific areas of were identified where union representatives had used facility time to intervene to prevent small problems turn into bigger ones. Firstly, representatives had worked with employers to identify patterns of work-related stress within their organisation, seeing where it was located and putting in place policies and/ or training to prevent possible sickness absence arising from it. Secondly, disciplinaries or sickness absence had been prevented by ensuring that reasonable adjustments were made to work or working environments to make it possible for employees to stay at work or return to work after a sickness absence more quickly.

Participants were very aware of the potential costs in time and resources if grievances or disciplinaries reached a formal stage or an Employment Tribunal and believed that any costs involved in granting facility time would be outweighed by the costs of involving senior managers and legal representatives down the line: *'if it goes from the manager to the line manager and then through to Head of Service, then through to the Director and through to elected members, look how many people are you are starting to suck into that equation'* (FG15, Local Authority, Human Resources).

**Case Illustration - facility time as a way to avoid legal costs associated with Employment Tribunals**

'I was just going to say in those sort of cases as well, they don't often end, though, do they? They might end, you know, there's a dismissal, but then there's an Employment Tribunal... The cost for the defence, just for the solicitors to prepare the case alone, you know? And when I think all those things are really pertinent... the reason we're talking about what we're talking about is [because] they're questioning our costs. If we weren't there it would cost them a hell of a lot more' (FG9, Local Authority, Manager in TU).

### 3.1.4 Better management of change

Good employer-employee relations and cost savings arising from them we also seen to come from the use of facility time to make the management of change within an organisation smoother by being better communicated and ultimately seen as fairer. This had been particularly important in relation to recent or proposed financial cuts in the public services and public sector employment.

#### Better communication and consideration of changes providing reassurance

Facility time was used was to assist employers in explaining the rationale for changes to employees. Union representatives thought that they were sometimes better at explaining the reasons for changes. HR departments in some organisations were described as lacking '*people skills*' because they delivered messages about changes '*in black and white*' (FG1, School, Non-management TU) - for example without explaining the reasons or changes or addressing likely employee concerns. Involving union members in consideration of changes could also offer reassurance that the changes were balanced and fair, smoothing the way for their introduction in a way that could benefit staff, the organisation and service users.

**Case example – smoother management of change through the use of facility time.** 'After the introduction of a new IT system management wanted to introduce action plans to help increase input figures and improve accuracy. They needed our support to implement this. The action plans could lead to a disciplinary if targets were consistently missed... Facility time was granted for reps to attend meetings with management (which also required a lot of travel). Facility time was also granted for the branch to hold workplace meetings with members to discuss the changes and balloted members on accepting changes. Without facility time none of this would have been possible. This process has resulted in a massive improvement in accuracy and throughput for the [organisation] with minimum impact on staff' (WS101, Manager in TU).

#### Minimising the impact of cuts and redundancies

The use of facility to smooth management of change in the context of public sector funding cuts, restructuring and redundancies was a particularly important theme in terms of reaching possible compromises. For instance, participants described the way in which negotiated compromise agreements had prevented more severe changes that may have lead to industrial action (e.g. dismissing all staff and re-engaging them on new contracts). A particularly important theme was utilising facility time to provide encouragement to members to think through changes and identify possible ways of minimising them for staff and service users: '*In recent re-structures we have been able to discuss the implications of these with people who deal with the consequences and suggest tweaks and changes and alternatives*' (WS100, Higher Education Institute, Non-management TU). The result was avoidance of industrial action, which also

prevented possible loss of money, and helped maintain morale in difficult circumstances.

**Case example – the use of facility time to minimise the impact of cuts in local authority library services.** ‘The council had to reduce its staffing numbers due to central government finance settlements. The trade union worked with management to avoid compulsory redundancies, put support packages in to enable redesign of services to protect the frontline; exercised council’s legal requirements without any challenge saving money and upset. Worked with staff to move people into different careers that benefitted the Council and the local community. The trade unions had local knowledge and was responsive to ensure the Council met its requirements without industrial unrest in a very difficult situation’ (WS75, Anonymous written submission).

## 3.2 The value of facility time itself

In addition to the benefits arising directly from facility time, participants also discussed how being able to access facility time was valuable *in itself*. This is discussed first in general terms for all representatives using facility time, and then in relation to the particular value of released or seconded representatives, paid for wholly or in the main part by their employer.

### 3.2.1 Value - in general for union reps and organisations

#### Better ability to provide adequate representation

Union representatives stressed that the complexity and time consuming nature of representing their members and engaging with managers would be impossible without facility time. For example, a focus group participant described facility time as the *‘tools to do the job’*, saying, *‘you cannot do the job that we do unless you are given a reasonable chunk of time to do it’* (FG9, Local Authority, Manager in TU). One view that emerged from this was that there needed to be a robust strategy to encourage employers to recognise unions and negotiate facility time agreements, *‘because a facility time agreement was the foundation that facilitates the individual reps to do the job they’re required to do’* (FG8, Police Authority, Manager in TU).

There were also a number of other advantages to having facility time for organisations and union members:

**Clearer framework and structure for joint working** – there were three aspects to this:

- *A clear and convenient structure of contacts* - working with trade unions using facility time provided a ready-made structure for employers to engage with their employees: *‘It gives a kind of structure to what would otherwise be a very difficult sum to answer’* (FG10, Local Authority, Manager in TU).
- *Better points of contact and availability of representatives* – the union branch structure, particularly providing facility time to the branch secretary and other officials, gave clear points of contact when issues arose in the workplace.
- *Transparent systems for monitoring the use of FT* – having a negotiated amount of facility time per month across one or more roles allowed facility time to be monitored through sharing of diaries between HR and the union or through

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systems of timesheet reporting. This allowed the use of facility time to be monitored by union members and the organisation: *'It's important to have someone monitor the time to make sure it's transparent and used fairly'* (WS86, Higher Education Institute, Non-management TU).

**Degree of local knowledge about the organisation** – having facility time was seen by some participants as preferable to the alternative of having union officials external to the organisation because of their local availability and knowledge of local circumstances, conditions and rationale for practices and procedures within their organisation: *'having local officials on facility time makes them more responsive than having remote figures who are employed by the union'* (WS103, Local Authority, Manager in TU).

**Efficiency of responses to issues arising** – three factors enabled responses to be more efficient:

- *Ability to meet demanding timetables for HR meetings and reviews* – union reps, particularly those who were not seconded full-time, were required to meet timetables for meetings and reviews with HR personnel who worked full-time. Facility time was able, *'to make sure TU reps can be available to meet the HR timetable'* (WS72, Anonymous written submission).
- *Being able to deal with individual cases and provide support when needed* – individual complaints, grievances and disciplinaries were often demanding of the time of representatives with participants feeling that they *'could not support members without facility time'* (WS66, Higher Education Institute, Non-management TU).
- *Preventing problems festering* – without an appropriate amount of facility time it was said that relationships between employer and employees would fester. Having facility time allowed one branch to *'fast track'* investigations and cases (FG12, NHS Trust, Non-management TU). By dealing with problems quickly relationships were not allowed to get worse than they needed to be.

**Better trained and knowledgeable reps** – this was achieved in two ways. Facility time made it more likely that a group of people could undertake the training needed to be a union representative and that there would be a consistency of representation so that reps built up knowledge and experience. It also allowed representatives time to do research and investigate issues (e.g. employment law): *'It allows me to be more knowledgeable about issues because I get the time to consider issues instead of reacting off the hoof'* (WS51, Local Authority, Non-management TU).

**Ability to recruit union members to perform representative roles** – having facility time was also thought to be an acknowledgement of the level of work that union reps did, mainly on a voluntary basis. Without it the role would be less desirable and would make recruitment of new reps very difficult, thereby jeopardising good employee-employer relations; with facility time union members were represented better.

### 3.2.2 The value of released or seconded representatives

In some, particularly larger, organisations a decision had been taken to release members of staff from their substantive posts to carry out union duties, either as a secondment for a fixed period to work on particularly challenging issues or on an almost permanent basis because of the size of the staff body represented. However, a number of other ways in which such posts were valuable were discussed.

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**Better availability of representatives working in specific settings** - having released or seconded reps meant there was 'ring fenced' time so that union representatives had greater availability to attend meetings with managers and could respond more quickly to members who were in distress because of complaints, grievances or disciplinaries.

Given that UNISON's membership reflects many people working in public services, there were distinct advantages to this approach; the type of work that UNISON members did could affect their availability in a number of ways.

- *'Unsocial' hours* - many UNISON reps would normally work at nights and/ or at weekends in their substantive posts while managers and HR personnel tended to work more 'social' hours. By releasing a person from their substantive post it was easier for them to meet with managers.
- *Arranging cover or backfill* - in some cases where facility had been spread across a number of representatives, and staff were only removed from their substantive posts for a few hours, it had been difficult to arrange cover or backfill for such short periods of time. Some reps had also found it difficult to stick to 'blocks' or 'surgeries' of facility time (e.g. doing all work on a single day) because meetings and the needs of individual members could not always be accommodated in that time. Instead it proved better to have one or two fully released members of staff.
- *Care, clinical, school and public facing settings* - the issue of providing cover was especially significant in certain sectors. The issue was clearly set out by a focus group participant: *'In the care sector you physically need someone to replace their job at that time' (FG14, Local Authority, Manager in TU)*; trying to get the time was a *'logistical nightmare causing inconsistency with the service users' (FG14, Local Authority, Manager in TU)*. The same applied in schools and other public-facing roles: *'working in a school you are expected to be there when the kids are there; otherwise it defeats the object' (FG1, School, Non-management TU)*.

Finally, by having full or almost full-time 'paid' reps part of the voluntary nature of the role was removed, meaning that union reps therefore felt more able and willing to be available: *'The management see the benefit of having someone available on an ongoing basis to attend meetings, etc. as the rest of the reps are volunteers and have substantive posts' (WS36, Local Authority, Manager in TU)*.

**Focus on employer-employee issues** - participants who were released or seconded felt more able to focus on the complex work they had to do. These posts also allowed reps to concentrate their efforts more effectively as release or secondment gave them more thinking time to address employer-employees issues more fully.

**Ability to better prepare for organisational meetings** - reps union members were often asked to comment on development or review of policies and practices. Having facility meant that reps felt they had time to read documents carefully, consult members and carry out research and to prepare better for such discussions.

**Ability to build trust with key individuals** - having released or seconded reps meant that the same reps were more likely to interact with the same managers on an ongoing basis. There was the potential, therefore, to build relationships of mutual respect and trust; which was confirmed by an HR representative in one of the focus groups: *'You end up with a very trusting relationship.. and to be honest that trust is critical' (FG15, Local Authority, Human Resources)*.

## SUMMARY

### Key benefits arising from facility time were:

- The ability to use facility time to achieve meaningful consultation and negotiation through a ready made structure of union organisation, saving organisations time and money. Two-way communication provided reassurance to union members that their views were valued in decision-making.
- The use of facility time for partnership working between the employer and the union leading to better workplace relations and an improved image for an organisation.
- The use facility time for early intervention preventing grievances and disciplinaries escalating to become costly and time consuming legal disputes or Employment Tribunals, saving the organisation and – in public sector organisations the taxpayer – money.
- Better management of change of change through involvement of people involved in the delivery of the changes, including minimising the negative impacts of changes relating to restructuring and redundancies so that there was better workplace relations and industrial action was avoided.

### Key benefits from the provision of facility time itself included:

- The ability of reps to provide better representation within their organisation through (a) a clear structure of joint working; (b) local knowledge of the workplace and workplace relations; (c) better availability and efficiency in dealing with member and organisational concerns; (d) being able to conduct local recruitment of new member.
- The value of released or seconded reps in terms of greater availability than would otherwise be possible where reps had to arrange cover or back or they would normally work 'unsocial' hours.
- The ability of released or seconded reps to have greater focus on their duties, to better preparation for discussions with managers and to build up relationships of respect and trust with managers over time.

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## 4 Issues, Challenges and Solutions

This chapter addresses the issues and challenges that participants raised in relation to facility time. In particular, it addresses what participants thought needed to be done to maintain support for facility time in changing political and economic circumstances; the most effective ways of organising and allocating facility time; and issues that reps faced in terms of accessing facility time. Examples of good practice and suggested solutions to the issues and challenges raised are also discussed.

### 4.1.1 Maintaining and supporting facility time

There were three issues that participants thought needed to be addressed to maintain support for facility time among decision-makers, the public and among UNISON's membership.

#### Dealing with the effects of one-sided views of FT

Participants were concerned that recent political campaigns and media interest in facility time had presented a one-sided view that was undermining their ability to work with employers and to maintain the benefits arising from facility time. In particular, the information presented in political debates and in the media was thought to:

- focus only on the 'costs' of facility time without balancing this with potential benefits;
- fail to provide important contextual information about the reasons why organisations had decided to release or second union representatives;
- fail to identify the alternative view that facility time could save money by supporting good workplace relations.

There were examples where presentation of information in a one-sided way was having negative impacts on the availability of facility time, such as cuts in employer funding of released or seconded posts and greater difficulties reps were experiencing it obtaining time off from their substantive posts to carry out union duties. For example, one focus group participant described the way in which the facility time budget in her local authority had been cut by 50% with very little warning or rationale.

#### Recommendations: providing a balanced view of facility time

- Highlight the benefits of facility time to decision-makers and the public through evidence, particularly that it can be seen, as a written submission put it, '*an investment in organisations...not a drain on resources as it is sometimes viewed in this environment of public sector cuts*' (WS33, NHS Trust, Manager in TU).
- Reassert the statutory basis for facility time in workplaces where unions are recognised and the importance of trade union representation for '*fairness and justice*' (FG8, Police Authority, Manager in TU) in employment.
- Use research like this study on facility time to '*educate the electorate [and] the general public on what we [TU reps] actually do*' (FG3, Higher Education Institute, Non-management TU).

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## Contracted out services and localised governance

A significant concern raised during the focus groups and written submissions was the danger that support from some employers for facility time could be undermined if facility time agreements or other arrangements were not transferred in some way to the increasing number of services which are ‘outsourced’ (e.g. contracting out of services from public authorities to other private or voluntary sector providers) or controlled outside of traditional public sector structures (e.g. school academies). Concentration of the availability of facility time within larger public sector and some private organisations meant that in the past it had been possible to agree an amount of facility time with a single employer. Outsourcing and localised governance means that UNISON representatives now had to deal with multiple new employers, sometimes on many different sites, in which their members were based.

In some organisations the facility time agreement did not appear to have been a consideration in the transfer of employees’ collective terms and conditions from one employer to another under TUPE<sup>9</sup> regulations. In other cases transferring conditions had become very complex because multiple employers were involved. Several issues arose from this:

- A tension or gap between the need for facility time among the same number of union members within a branch and the willingness of the original employer in which representatives were based to continue to fund facility time for employees based with other employers under new contracts.
- Difficulty releasing stewards or lay reps from some organisations because managers were less sympathetic to union organisation.
- The potential for employers with inferior terms and conditions to undercut those with better conditions. The implication was that they were able to cut costs of representation in their own organisations by relying on union representatives in other organisations. As a branch secretary put it, ‘*riding on the backs of good employers who are providing time of for people to carry out this work*’ (FG10, Local Authority, Manager in TU).

There was a strong view among participants that UNISON and other unions had a lot of work to do to catch up with these changes.

### Recommendations: supporting and maintaining facility time in the context of outsourcing and localised governance

- Make branch representatives more aware of UNISON’s strategy for supporting facility time agreements when services are contracted out or jobs are transferred to other employers, particularly ensuring that arrangements are transferred under TUPE regulations.
- Develop a strategy and guidance on the best way to respond to the ‘localism’ agenda regarding facility time. Suggestions included: (1) service level agreements where, for example, school academies might pay a local authority seconded rep to continue to support union members in their schools; (2) one employer could re-charge another for the time of their staff when representing the second employer’s employees in terms of statutory union duties.

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<sup>9</sup> TUPE refers to the Transfer of Undertakings (Protection of Employment) Regulations (2006). Under these regulations recognition of the union by an employer also transfers, although UNISON’s guidance on facility time notes that it is important to get a formal agreement from the new employer that recognition will continue, including adequate facility time.

- UNISON to develop a template to assist union representatives and employers to consider the best ways to support union representation and facility time in the context of contracted out services and localised governance.

## Local branch structures, membership and employer-based FT agreements

In some branches circumstances had arisen where branch secretaries and other reps had to use facility time granted by one employer to support members based with other employers in their locality. In addition to the issues of outsourcing and localised governance discussed above, this arose because:

- Branches were organised *geographically* rather than on an employer by employer basis as had been possible in relation to employers with larger union membership: *'we get people shoved in our branch... just because geographically they're an area but they're not.. the key employer, which is who the facility time is based with'* (FG respondent, details withheld to protect anonymity).
- Reps in larger employers with more members had to support other organisations with very few members that could not independently support a facility time agreement of their own.

A concern expressed was how to support UNISON members adequately who were not working for a main employer without alienating that employer and without branch secretaries and other reps having to do more work in their own time to fill the gap.

### Recommendations: supporting members not covered by a facility time agreement with a branch

- Organise a separate branch for members not based with a key employer in a specific locality (e.g. a voluntary and/ or private sector branch for contracted out services).
- Where it was not possible to have a service level agreement with the key employer for union reps to provide support for members based with other employers, employ more regional officials with a specific remit to support members in a defined locality.
- Create a dedicated version of 'UNISON direct' or helpdesk at national level for members who work in an employer where UNISON does not currently have a negotiated facility time agreement.

## 4.1.2 Effective organisation of facility time

This section address the issues that participants thought needed to be addressed in terms of making facility time more effective for UNISON members.

### Tailored facility time arrangements

Participants felt that there was no 'one size fits all approach' in trying to develop a model of the most effective way to organise facility time at branch level. Nonetheless, there were certain factors that should be considered when working out the best arrangement for the branch. Three issues stood out:

**Flexibility in the amount of facility time needed** - Some degree of flexibility in the amount of time permitted was important when negotiating a 'properly worked out'

facility time agreement in order to cope with various different levels of organisational and members' needs at different times (e.g. when redundancies occurred). Nonetheless, working out a minimum number of hours per week or month for all reps was also vital to ensure core roles and activities could be undertaken.

**Size of branch membership** – this affected decision on the amount of facility time and whether or not released or seconded officials were required. Union membership of the branch and number of sites across which reps worked (to account for additional time travelling) should also be accounted for. For example, a representative said the main issue for their branch based in an NHS trust was that *'they feel they are doing all they need to do in releasing one FTE [full time equivalent]...but our membership is 3,000, so you can imagine the difficulties this raises'* (WS108, NHS Trust, Manager in TU).

**Type of substantive work that reps perform** – some reps found it difficult to be released despite facility time arrangements because of the type of work they did. In section 3.2.2 we discussed that it was difficult to release people from social care, clinical, school and other public-facing settings because of the need for cover and possible impact on patients, pupils or service users. Consequently, it made more sense in these contexts to have full-time released reps.

#### **Recommendations: negotiating more effective facility time arrangements and roles**

- Clearer definition of what UNISON considers 'reasonable time off'
- Approximate definitions of '*ratios of members to stewards*' (WS104, Anonymous written submission).
- Information on '*different levels of facility time in different authorities* (FG10, Local Authority, Manager in TU) in order to provide a benchmark or rule of thumb.

## **Managing and balancing workloads**

Participants felt that union representatives almost always had too much work to do and so getting the level of work right in the way it was divided up between branch secretaries (and other officials) and lay reps or stewards was crucial if facility was to be effective and reps were not to suffer. Two main concerns emerged.

**Stress and burnout** – participants described the difficulties experienced in terms of managing the expectations of their employer, the union and members alongside sometimes demanding substantive posts (e.g. social work). They already did a large amount of work in their own time and employers and regional or national officials sometimes forgot they were 'volunteers'. Consequently, some reps had experienced problems with stress or they stopped being a union rep leading to negative impacts for the individual, employer and union. These issues were particularly bad for reps where facility time agreements did not allow for a released branch secretary or where it was difficult for branch secretaries and/ or lay reps to get time off because they could not provide cover in (e.g. social care and schools).

**Finding time to train reps** – one way in which some branches had managed to share workload was to recruit and train more lay reps who took some case work away from branch officials so that they could concentrate on meetings with managers, negotiations and more complex casework (e.g. gross misconducts). It was more difficult to shift the balance of work in this way where lay reps found it difficult to get the time they needed to become accredited as a rep. (Reasons for difficulties getting time off in line with facilities agreements are discussed more in section 4.1.3). The

result in some cases was that branch secretaries or a small number of reps within the branch were overloaded.

### Recommendations: managing workloads

- Where possible organise substantive work and union facility time into 'slots' (e.g. agreeing that joint meetings with HR will take place on certain days, having 'surgeries' for members' non-urgent concerns).
- Consider negotiating administrative support from facility time budgets to assist branch officials and lay reps.
- Prioritise ways to ensure cover where reps have less flexibility when they use facility time. Where appropriate ask employers consider ways of working that allow reps to continue working off site (e.g. providing a mobile phone or Internet access).
- Regional branches to examine ways to further support the recruitment and training of reps and to help branches develop 'networks' of reps to support branch officials and each other.
- Find better ways to provide training to lay reps that require less time away from the workplace and that improve their confidence to take on non-complex casework.
- Where possible released or seconded reps deal with negotiations, meetings with HR and complex case work; lay reps/ stewards deal with less complex case work after training and support.

### Distributing and allocating facility time

Participants identified a number of ways of addressing the distribution of work between reps and their teams or departments.

- **Creating constituencies of representation** – this was particularly important where there was imbalance of representation across departments or teams so that some were disproportionately affected by reps accessing facility time compared to others. Participants suggested that teams or departments needed to be treated as '*proper constituencies*' (FG15, Local Authority, Human Resources), so that a union representative was required in each and that teams or departments should not have more representatives than appropriate for the number of staff. Where there was no representation within a constituency the union and employer needed to make greater efforts to ensure '*effective representation*' (FG14, Local Authority, Manager in TU).
- **Clear system for apportioning work between reps** – branches where reps said they were happier with their workloads attributed this to having clear branch structures and system for apportioning casework: '*It's totally about structure, we've developed a structure in our branch about how we do things*' (FG8, Police Authority, Manager in TU).

### Case example – a system for allocating work within a branch

'What we have [is] a system that, whereby any new case, we have a duty rota system. So all new cases come to a duty rota and then we allocate them based on who in the branch we think has got, you know, the skills to deal with it dependent on whether it's a high-end misconduct case... so having the time that we, we have enables us to sort of allocate what we've got far more, you know, usefully' (FG9, Local Authority, Manager in TU).

- **A clear system of monitoring the purpose of time used by reps** – having such a system not only helped decrease possible criticism about the use (or potential

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misuse) of facility time from managers but also helped branch officials demonstrate work done and its impacts. For example, one branch had monitored case work undertaken by reps: *'monitoring cases taken and resolved makes our facility time much better, well-used and by default sort of tells us how we're doing with facility time'* (FG4, Private Sector Organisation, Non-management TU).

Such systems for allocating and monitoring the distribution of work and use of facility time were especially important in branches without released or seconded branch officials in order to manage already difficult workloads alongside substantive posts.

## Effectiveness of released or seconded reps

A clear view emerged among participants that it was more effective and desirable to have at least some branch reps (especially branch secretaries) released from their substantive post or on secondment. A proviso, however, was that such posts should still be supported by a network of lay reps ready to take on some casework and that work did not become seen as solely the responsibility of these reps within the branch. Participants gave examples of one or more full-time reps of this kind, sometimes sharing released or seconded roles such as branch secretary and/ or assistant branch secretary as a job share. Larger branches also included administrative support paid for by facility time with smaller contributions from branch funds (e.g. one-fifth).

There were a number of reasons why it was considered more effective to negotiate to have released or seconded posts:

- **Complexity of work** - some work, such as gross misconducts or consulting on organisation changes, was considered to be too complex or labour intensive to be accommodated alongside a substantive role. Such posts allowed better focus, preparation and continuity of work.
- **Irregular and ad hoc demands from employers** – such demands required greater availability than could be achieved in areas of work requiring backfill or cover (see also section 3.2.2). It was also easier to arrange cover or backfill for a released post or secondments over a longer time than to accommodate shorter-term requests.
- **More proportionate impact on teams or departments** – for example, this was especially the case in smaller or specialist teams and departments with large numbers or union reps. Disproportionate impact was avoided by being able to concentrate some work within the released post.
- **Greater availability and convenience for employer and union branch** – a view that was expressed among union and HR participants in the study.

### Case illustrations – value of seconded facility time

'If you ask the employer, would you prefer us to have, if you've got five days facility time, would they prefer one person have five days or five people to have one day? No question about it, they would prefer one person to have five days, much, much easier, much easier for them' (FG9, Local Authority, Manager in TU).

'The management see the benefit of having someone available on an ongoing basis to attend meeting, etc. as the rest of the reps are volunteers and have substantive posts' (WS36, Local Authority, Manager in TU).

## Protecting released or seconded reps

Another issue to consider in relation to such posts was that, despite being more effective for employers and trade unions, being seconded to full-time facility could be detrimental to career prospects of the individuals concerned unless carefully managed. The main areas of concern were:

- **Danger of redundancy in substantive post** – some participants in these posts said that their substantive jobs had been made redundant as a result of restructuring within their organisations. If they were not re-elected, they had no specific post to return to and would be made redundant. This was especially the case where people had been on release for a longer time.
- **Loss of substantive skills and line management** – reps on full-time release could also fail to update their skills, which was particularly critical in clinical or social care settings where a certain number of days of work was sometimes required to maintain professional registration. There was also a loss of support from line management with an impact on professional development as it was no longer clear who managed the individual or conducted their appraisals.
- **Static pay and career structure** – the salary of reps tended to be frozen at the rate of the substantive post when the release or secondment started, which could be beneficial to some but disadvantageous for others. Frozen pay could be particularly difficult for people whose substantive post was not highly paid, especially younger and female reps. Where reps had relatively low pay compared to others in the same role this also failed to reflect the level of new skills acquired in posts such as branch secretary.

### Recommendations: Supporting and protecting released and seconded posts

- Putting in place ‘succession planning’ (e.g. a plan to return to work after a fixed period or redeployment where possible).
- Using job-shared roles to avoid deskilling: *‘I’ve got two assistant branch secretaries that are a job share.. which worked out quite well because they weren’t deskilled’ (FG7, Local Authority, Manager in TU)*.
- Having almost full-time posts that allow sufficient time to undertake training or work enough days in a substantive post to maintain professional training or writing training days into the seconded contract.
- UNISON or the branch topping-up the salaries of released/ seconded reps who would be financially disadvantaged by taking on such a role and as a recognition of new skills obtained.
- Considering the issue of line management and career appraisal and whether this should be an employer, union or joint responsibility.

## 4.1.3 The ability of reps to access facility time

Being able to access facility time, or ‘getting time off’, was the single most pressing issue affecting reps on a day-to-day basis. This section addresses this issue for the perspective of reps, although the difficulties they faced often reflected concerns or misunderstanding on the part of managers and colleagues as well. Issues and concerns were grouped around three main areas.

**Views and understanding of managers and colleagues** – in some cases reps said that managers or colleagues were hostile to unions and simply made it difficult for

them to take the time needed to perform their duties. A more prominent theme however was that managers and colleagues were simply unaware of their organisation's facility time agreement or that managers did not understand how requests for time to perform union duties were made or granted. Colleagues sometimes perceived that union reps were taking time off where their absence was not explained by reps or managers.

#### **Recommendations: improving management and colleague understanding of facility time**

- Establish a clear commitment to facility time from the senior management team and ensure that the commitment is publicised.
- Improve line manager awareness of facility by providing short written information on statutory rights and the local facility time agreement.
- Promote better mutual understanding between managers and trade union reps through training where they are asked to 'walk in each other's shoes' and dialogue about how facility time should be used in the organisation
- Where possible publicise the work that trade union reps do and successful outcomes for the members and organisation
- As a last resort lodge a formal complaint or grievance with HR if managers are not adhering to facility time agreements

**Difficulty replacing the time needed for union duties** – it was here that the issue of providing cover emerged again. Concerns were exacerbated where this was not arranged because the rep worked in a specialist field; employers or members required the services of reps at short notice; or the context of cuts in budgets and the need to maintain frontline services had made managers even more reluctant to release staff. Managers of departments or teams with larger numbers of reps also thought that loss of staff to facility time could impact them disproportionately. Similar issues arose when reps worked part-time or where even a short time away from the substantive post impacted a great deal on their work.

#### **Recommendations: ensuring even cover for facility time**

- Establish a pooled or central budget from which the cost of cover or backfill can be claimed
- Where 'bank' of staff cannot be used for cover in specialist areas consider negotiating longer-term release or secondment if that is what the rep and team/ department would prefer

**Misuse of facility time** – participants said they had only heard of a small number of cases of the misuse of facility. Where this was the case there was anger and concern because participants felt it misrepresented the use of facility time, reflected badly on them and made it more difficult to perform legitimate duties and activities. Where misuse was exposed the branch tried to deal with the situation as quickly as possible: *'As a branch we think it is important to ensure we are above reproach. If this [misuse of facility time] occurs we need to deal with it quickly'* (WS31, Local Authority, Manager in TU). As we discussed earlier in this chapter, increasingly branches had established systems for allocating and monitoring facility time that were shared with HR departments within their organisations.

#### **Recommendations: addressing concerns about the potential misuse of facility time**

- Establish a system with the employer of completing timesheets or sharing diaries with HR so that use of facility time is transparent and above board

## **SUMMARY**

### **Maintaining and supporting facility time**

- The importance of evidence to counteract one-sided views of facility time that only emphasise costs without discussing possible benefits and ideas of fairness and justice
- The need for UNISON and government to develop a strategic approach to maintaining and supporting facility time in the context of outsourcing and local governance agenda.
- The need for UNISON and employers to consider how members not covered by a facility agreement with a key employer or employers within in a branch can receive adequate support and representation

### **Effective organisation of facility time**

- Consideration of the type of information branches, regions and national representatives need to negotiate effective facility time arrangements
- A need for practical information on how branch secretaries and lay reps can better manage workloads within facility time (e.g. systems for fairly distributing work within branches and when and how to argue for released or seconded reps).
- Ensuring that released and seconded reps receive equivalent terms, conditions and career opportunities to each other and that their employment and career development opportunities are protected

### **Improving the ability of reps to access facility time**

- The need for UNISON to provide practical advice and information that can be used to improve manager and colleague understanding of facility time
- Disseminate information about ways to achieve cover and backfill for reps (e.g. pooled central budgets, a 'bank' of staff, ways to support arguments for longer-term released or seconded reps in public-facing settings).
- Reduce management concerns about potential misuse and rep concerns about unfair allocation of facility time through more transparent systems of monitoring and allocation of work.

# Appendix A: Methodology

The research consisted of a deliberative approach that combined deliberative focus groups with individual written submissions made through a secure website. A deliberative approach was deemed the best way to collect data for the study for the following reasons:

- It allows the research to be focused so that the research addresses specific issues of concern
- It allows group members to identify issues and concerns as well as developing possible solutions to problems raised through their interaction with others
- Further information can be collected by asking participants to reflect and/or comment on issues raised during the deliberative groups.

The study was approved by NatGen's research ethics committee which includes external experts and specialists in methodology. The study consisted of four phases

## Recruitment

All UNISON branch secretaries were emailed and invited to take part in the study. They were also asked to forward the email to anyone else with an interest in facility time, particularly HR personnel or managers they worked with. UNISON also sent some invitations to contacts that they were aware of on NHS and Local Government employers' forums. The email contained information about the study and a link to a secure website where they could find out more information, give their contact details if they wanted to take part in a deliberative focus group and/ or make a written submission. Written submissions were made by answering questions based on the benefits and challenges of facility time, and possible solutions to these challenges.

## Sample

A total of 129 written submissions were received representing a range of characteristics, such as the employment sector the participant was from, whether they were trade unionists/Unison members, what their relationship with facility time was, and what percentage of paid work they spent on union facility time each month. There were also a smaller number of contributions from employers, managers and HR personnel who were not UNISON members, although their views and concerns were represented and specifically discussed in the focus groups. A break down of participants by employment sector, relationship to facility time, percentage of work time spent on facility time and UNISON region is shown below.

Employment sector	Total number of written submissions
Local Authority	49
NHS Trust	32
Higher Education Institution	25

Further Education Institution	1
School	1
Police Authority	8
Other public sector agency	5
Third/ voluntary sector organisation contracted to do work on behalf of a public body	2
Private sector organisation	1
Other (e.g. fire authority, other NHS sectors)	5
<i>Total</i>	<i>129</i>

<b>Relationship with facility time</b>	<b>Total number of written submissions</b>
Non-management TU	78
Manager in TU	31
Manager or employer not in TU	8
Other (e.g. HR)	12
<i>Total</i>	<i>129</i>

<b>Percentage of paid work spent on union facility time each month</b>	<b>Total number of written submissions</b>
Not applicable	18
less than 5%	8
6-10%	21
11-20%	14
21-30%	13
31-40%	7
41-50%	5
51-60%	2
61-70%	3
71-80%	0
81-90%	4
91-100%	34
<i>Total</i>	<i>129</i>

Unison region	Total number of written submissions
Eastern	9
East Midlands	11
Greater London	6
Northern	11
Northern Ireland	0
North West	16
Scotland	14
South East	19
South West	17
Cymru/ Wales	10
West Midlands	10
Yorkshire and Humberside	6
<i>Total</i>	<i>129</i>

## Data collection

The written submissions collected via the secure website and were based on the responses to five questions that related to the value of facility time, issues, challenges and concerns rising from it and possible solution where challenges arose (see Appendix E).

Before making written submission respondents were asked if they wanted to give their submissions anonymously, in a personal capacity or on behalf of their organisation with their organisation's permission. Where permission was not given on behalf of an organisation, submissions were treated as anonymous to avoid any negative repercussions for participants. The submissions were downloaded daily.

Two focus group events were also conducted, one in Manchester and one in London. The London event consisted of two three-hour deliberative focus groups with a break for refreshments at the halfway point. The programme of events can be found in Appendix B. One group included trade unionists who were not managers (FG participants 1-5) and the other one with trade unionists who were managers and/ or who managed people using facility time (FG participants 6-10). The Manchester event followed the same format but consisted of one group of trade unionists and HR representatives (FG participants 11-16). The groups were conducted using a topic guide and workshop-style activities agreed with UNISON and a TUC representative (See Appendix C and D). The groups were digitally sound recorded. Participants were asked to sign a consent that indicated the level of anonymity they wanted in relation to their contributions.

## Analysis

Focus groups and written submissions were analysed thematically in relation to the uses, values and challenges of facility time. Where possible, the analysis also focused on possible solutions to challenges.

Written submissions were downloaded into a matrix form with the row representing the case and column indicating the response to the question. Focus groups were

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digitally recorded and transcribed verbatim. Both focus groups and written submissions were analysed thematically in relation to the uses, value and challenges of facility time. Where possible, the analysis also identified possible solutions to challenges.

## Appendix B: Programme for deliberative event

<b>PROGRAMME FOR THE DAY</b>	
<p><b>REGISTRATION AND BUFFET LUNCH</b></p> <p>Arrival and opportunity for networking, sharing experiences of facility time</p>	12.30 – 1.15
<p><b>Introductory session</b></p> <p>ALL PARTICIPANTS</p> <ul style="list-style-type: none"> <li>• Welcome and introduction by UNISON</li> <li>• Welcome by NatCen Social Research introduction to the event, consent procedures and groups</li> </ul>	1.15 – 1.30
<p><b>First session</b></p> <p>BREAK OUT INTO SMALLER GROUPS</p> <ul style="list-style-type: none"> <li>• Introductions</li> <li>• Experiences and organisation of facility time</li> <li>• Where facility time works well or doesn't work well</li> <li>• Examples of the benefits of facility time</li> </ul>	1.30 – 3.00
<p><b>Break for refreshments and networking</b></p>	3.00 – 3.15
<p><b>Second session</b></p> <p>IN THE SAME SMALLER GROUPS</p> <ul style="list-style-type: none"> <li>• Issues and challenges related to the organisation of facility time</li> <li>• Possible solutions to the issues raised</li> <li>• Ways to improve the use of facility time</li> <li>• Identification of best practice</li> </ul>	3.15 – 4.45
<p><b>Closing session</b></p> <ul style="list-style-type: none"> <li>• Feedback from each group reflecting discussions.</li> <li>• Consent to use case examples discussed</li> </ul> <p><b>THANK YOU AND END</b></p>	4.45 – 5.15

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# Appendix C: Topic guide session one

## USE OF FACILITY TIME AND BENEFITS 1.30-3.00 p.m.

### 1. Introductions (1.30-1.45)

*Aims: (1) to allow participants to get to know each other and provide contextual information about each participant and (2) to find out a little about motivations for taking part in the research.*

- **Introduce yourself and other researcher(s)**
- **Ask each person to introduce themselves, including:**

*Write these headings on a flip chart*

- *Name*
- *Organisation they work for/ represent*
- *Role within organisation*
- *Whether union recognised in their workplace*
- *Main reason for wanting to take part in the research*

### 2. Use of Facility Time (1.45-2.10)

*Aims: to explore with participants how they use facility time within their organisation and their personal experience of facility time.*

- **Ask participants to list the way in which they use facility time (FT). Write this up on a flip chart.** *Note that at this stage we want to explore how FT is used and we will discuss the organisation of facility time in much more detail in the second session.*
- List the duties/ activities they undertake as part of facility time.
  - Ask for examples of the duties/ activities
  - Can a distinction between duties and activities be drawn?
- Explore the main ways FT is used
  - Any differences between participants
  - Are these the most useful duties and activities
    - From their perspective
    - From their organisation's perspective
- **Arrangements for FT within participants' organisations – relationship to their role**
  - How many lay reps in their branch
  - How many members they represent
  - How much facility time provided per rep each month and whether

- Part of role i.e. carried alongside regular work
- Secondment,
- Full-time role
  
- **Division/ distribution of tasks between reps**
  - Whether reps with dedicated roles such as consultation, health and safety reps, union learning reps, equality reps, etc.
- **Actual time spent on performing union activities/duties**
- **Circumstances that demand more or less facility time and**
  - flexibility permitted around this

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**POSSIBLE DUTIES AND ACTIVITIES THAT PARTICIPANTS WILL DISCUSS**

- Some statutory duties for health and safety reps
- **EXAMPLES OF DUTIES AS LISTED BY Acas**
  - Collective bargaining/ negotiations and working with management
    - Terms and conditions of employment
    - Engagement, suspension, termination of employment
    - Job evaluation and grading
    - Work practices and policies (e.g. flexible working)
    - Handling individual grievances and disciplinary hearings
    - Facilities for TU reps
    - Machinery of negotiation – procedures, consultation
    - Addressing redundancies
  - Communicating with union members
  - Information and consultation
  - Attending training related to the role
- **ACTIVITIES**
  - Attending branch meetings
  - Meetings to discuss workplace issues
  - Voting in elections
  - Attending conferences
- **TYPES OF REPS AND ACTIVITIES**
  - Workplace reps
  - Health and safety reps
    - Represents employees on issues of healthy and safety
    - Investigate complaints and hazards
    - Regular inspections
    - Workplace risk assessments
  - Union learning reps
    - Analysing training needs
    - Arranging, promoting, advising on training
    - Undergoing relevant training to perform union duties
  - Information and consultation reps
  - Equality reps

### **3. Benefits of Facility Time (2.10-2.50)**

*Aims: to get group members to start working together, to explore the benefits of facility time and generate case examples that can be used illustrate such benefits. THIS IS ONE OF THE MOST IMPORTANT PARTS OF THE STUDY.*

#### **WORKING IN PAIRS/ THREES**

- **Ask participants to work on pairs or threes and spend 5/10 minutes list what they see as the benefits arising from their use of facility time for their organisation.**

#### **FEEDBACK**

- **Ask each pair or three to feed back to the group what they see as the benefits to their organisations arising from facility time. List them on a flip chart.**
- For each benefit:
  - **Describe what happened/ how was the benefit achieved**
    - Who benefited
    - What was the benefit/ impact?
    - What would happen if FT was not available to do this TU work?
  - **How easy is it to assess the impacts achieved through facility time?**
    - How did they assess the benefit/ impact? (e.g. statistics, staff reviews, feedback from HR, staff)
- *Ensure that examples are given for as many of the benefits as possible.*
- If participants aren't able to list very many benefits, use the possible benefits below as prompts. *ONLY USE THESE PROMPTS IF YOU HAVE EXHAUSTED EXAMPLES GIVEN BY THE GROUP.*
- **Any other benefits of FT not listed so far.**

#### **POSSIBLE BENEFITS INCLUDE**

- Better consultation and information provision
- Earlier resolution of disputes and grievances
- Employers benefiting from industrial relations expertise preventing costly disputes and tribunals
- Better and clearer policies and procedures
- Better management of workplace changes
- Better provision and use of training where training reps are in place
- Minimising the negative impact of redundancy
- Better workplace relations leading to improved productivity and efficiency

- Fewer dismissals and voluntary exits
- A feeling of employers/ managers and employees working together towards shared goals
- Fewer days lost through injury and ill health (esp. where there are health and safety reps)

#### **4. What works well or doesn't work well (2.50-3.00)**

*Aims: to start participants thinking about the organisation of FT and the best way/s to achieve the benefits already discussed.*

- **What factors limit or facilitate the ability to achieve benefits**

- Ask participants what factors allowed them to:

- *Achieve the benefits described*

*OR*

- *What would have prevented them from achieving them*

***LIST THEM ON A FLIP CHART SO THAT THEY CAN BE REFERRED TO LATER.***

***POSSIBLE FACTORS ARE:***

- Adequate time off for facility time
- Clear understanding and agreement on the use of facility time
- Constructive dialogue between union reps and managers/ employers
- Effective organisation of branch rep roles
- Ability to point to the benefits of facility time

***MAKE SURE THE FLIP CHART FOR THIS PART OF THE SESSION IS DISPLAYED READY FOR THE NEXT SESSION BEFORE THE BREAK.***

***BREAK FOR REFRESHMENTS 3.00-3.15***

***Researchers to make notes for feedback in the plenary session.***

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## Appendix D: Topic guide session two

### **CHALLENGES, SOLUTIONS AND BEST PRACTICE (3.15-4.45)**

#### **4. Issues and Challenges (3.15-4.00)**

*Aims: to explore what issues and challenges arise from facility time in terms of its*

- *effective organisation; and*
- *ability to produce positive benefits/ impacts;*

*To explore these issues from the perspective of branch reps, managers, employers and other employees.*

*THIS SECTION SHOULD ALSO DRAW ON THE FINDINGS FROM THE END OF THE LAST SESSION AND SO KEEP THE FLIP CHART FROM THE FIRST SESSION TO HAND.*

- **Ask participants to spend a five minutes or so jotting down what they see as the main issues and challenges relating to facility time arising in their organisation. Group them under the following headings.**

- 1. Effective organisation of facility time**
- 2. Branch rep issues/ challenges or concerns**
- 3. Management/ employer issues/ challenges or concerns**
- 4. Other issues**

*In relation to branch rep or management/ employer concerns ask participants to consider the perspective of the other group.*

- **Take each heading in turn and ask participants what they see as the main issues related to it. *EXPLORE THE ISSUES AS FULLY AS POSSIBLE.***

**POSSIBLE ISSUES UNDER EACH HEADING ARE SHOWN BELOW**

*Use the issues below as prompts only if necessary to stimulate discussion.*

- **Effective organisation of facility time**
  - Impact of the organisation of facility time on ability to achieve benefits
  - Usefulness of/ reasons for dedicated or seconded union rep roles (*Note Tax Payers Alliance criticisms of such roles BUT alternative view that it is an efficient way of taking forward collective bargaining and other issues*)
  - Whether better to have a team of reps
  - Spreading FT across a number of branch reps – fairest way to do this
  - Deskilling arising from full-time FT (viz. removal from actual role)
  - Level of support from full-time and regional officers

- **Branch rep issues/ challenges or concerns**
  - The best way to organise FT to ensure duties can be carried out effectively
  - Defining/ achieving 'reasonable' time off – unmanageable workloads, work in own time, burnt out
  - Differing perceptions of 'reasonable' time off for union duties
  - Agreements on time off not being respected by managers or HR
  - Insufficient time and/ or training to deal with complex issues
  - Reduced time arising from cuts/ redundancies to carry out union duties
  - Concerns about impact of time off on colleagues (e.g. where there is lack of cover)
- **Management/ employer issues/ challenges or concerns**
  - Culture of workplace issue resolution in an organisation – impact on amount of FT needed
  - Union recognition - perceptions of unions as obstructive/ militant or constructive
  - Wariness/ concerns about misuse of FT by individuals
  - Operational difficulties – e.g. unfair distribution of time off, mainlining a service/ delivery
  - Too many or too few reps in one department
  - Negotiating with one or many TU reps
  - Advantages of fewer reps with specialist knowledge OR “team of reps”
- **Other issues**
  - Responding to media/ public concerns about facility time
  - Impact of misleading or negative campaigns about FT
  - Whether FT seen as resource for trade union or employer OR both
  - Impact of redundancies/ cuts on FT – affordability/ sustainability of FT
  - Gaining use of facilities for union business + confidentiality of communications
  - AS IDENTIFIED BY PARTICIPANTS

**Ask the group to identify two or three top issues/ challenges that they think need resolution or further guidance. Try to achieve a consensus in the group about which to take forward.**

*THESE SHOULD BE THE TOP TWO OR THREE ISSUES/ CHALLENGES FOR THE GROUP. IT IS NOT NECESSARY TO HAVE ONE UNDER EVERY HEADING.*

## **5. Solutions to Challenges and Best Practice (4.00-4.30)**

*Aims: to identify solutions and examples of best practice related to the issues and challenges raised in previous part of the session.*

- **List the two or three issues and challenges prioritised by group members.**

### **TASK**

- **Ask group participants who would like to address each of the issues/ challenges and organise them into groups. *Make sure there are at least two people working on each issue.***
- Give each group a flip chart page and pens and ask them to spend 5-10 minutes noting possible ways of addressing the issue/ challenge, including any existing examples of best practice.
- They should appoint one person to feedback to the group (although they can all provide information if they want)

## **FEEDBACK**

- **Each group in turn should talk through their examples of best practice and proposed solutions to the challenges.**
- ***PROBE TO ENSURE ENOUGH DETAIL ABOUT PRACTICAL WAYS OF DEALING WITH THE ISSUES.***
  - What would need to be done at
    - branch level by the rep/ reps
    - by UNISON
    - by the employer/ manager

### **Examples of solutions to issues/ challenges identified in the literature include**

- Providing examples of the benefits of facility time that can be used with managers/ employer
- Building constructive dialogue and partnership working between employers/ manager, HR and branch reps relating when negotiating
- Providing examples of what duties and activities require reasonable time off
- Reviewing the organisation of facility time to ensure it is effectively and fairly distributed among branch reps
- Putting in place clear agreements and procedures for requesting and monitoring the use of FT
- Central funding of time off for union duties so that costs don't fall on one department

## **6. Improving Guidance on Facility Time (4.30-4.40)**

*Aims: to pull together key messages from the session for the plenary.*

- Ask the group to identify:
  - **Any areas where the current guidance on facility time could be added to or improved**
  - **Key messages about the benefit, use and organisation of facility time**

**ALLOW FIVE MINUTES AT THE END OF THE GROUP TO GIVE COLLECT IN CONSENT FORMS – MAKE WE HAVE THEM BEFORE PARTICIPANTS GO TO THE PLENARY**

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## Appendix E: Written submission questions

- **Q1a. Please list up to three ways in which you think union facility time has been of most value to your organisation?** Please be as specific as possible. If you do not think it has been of value, type 'none' in the box.

*Up to 500 words.*

- **Q1b Thinking about your answer to Q1a please provide an example that illustrates the value of facility time to your organisation.** Provide brief information about the circumstances in which facility time was of value; what happened; what was the outcome; and what tangible benefits could be seen as a result. If you answer 'none' to Q1a, type 'not applicable' in this box.

*Up to 500 words.*

- **Q2a Have any issues, problems or challenges arisen as a result of facility time for your organisation?** For example, this could relate to the organisation or misuse of facility or any other issue. Be as specific as possible in terms of the circumstances, what happened and outcomes. If you do not think any issues, have arisen as a result of facility please type 'none' in the box.

*Up to 500 words*

- **Q2b Taking the main issue, problem or challenge arising from facility time identified in Q2a, was it possible to resolve the issue? OR Do you think there is a way that the issue, problem or challenge could be resolved?** If you typed 'none' as your answer to Q2a, please type 'not applicable' in this box.

*Up to 500 words.*

- **Q3a Is there anything else that you would like to say about union facility time bearing in mind the aims of the study?** That is to say that:
  - Provides insight into the value of facility time in the public sector or that demonstrates best practice
  - What works well or doesn't work well in relation to the organisation of facility time
  - Challenges, problems and possible solutions
  - Any other important information about facility time not covered above

*Up to 500 words*