

# Facility time

Guidance for UNISON branches  
(Revised December 2017)



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## This guide seeks to provide:

- An explanation of the legal entitlement to time off for the various types of trade union rep
- Advice on organising effectively to ensure adequate facility time in representing both “core” and “non-core” employers
- Advice on how to present the case for facility time to employers
- An outline of the steps to take if facility time arrangements come under attack and the options available to branches if facility time is withdrawn
- The key clauses to establish in a facility time agreement, including a model agreement
- Advice on how to respond to demands for the collection of information arising from the facility time publication regulations

Facility time is one of the most important issues faced by UNISON reps. Securing, maintaining and improving facility time means we can continue to effectively recruit, represent and organise UNISON members across the UK.

## What is facility time?

Facility time is time off from an individual's job, granted by the employer, to enable a rep to carry out their trade union role. In some cases, this can mean that the rep is fully seconded from their regular job, enabling them to work full time on trade union tasks. It can also mean an employer allows a rep to carry out trade union duties and activities, instead of their substantive job, for a certain amount of time per week or month.

### The right to time off

In workplaces where the trade union is recognised, trade union workplace representatives have a right to paid time off for the purpose of carrying out their trade union duties or to take part in union training.

This right applies to:

- workplace reps
- health and safety reps
- union learning reps
- information and consultation reps.

Workplace reps are entitled to paid time off to cover the following duties:

- trade union duties related to collective bargaining, on issues like: terms and conditions of employment; redundancies; job evaluation; family friendly policies; discipline; trade union facilities; and negotiating machinery
- Individual representation
- meetings with management and preparation for these meetings
- keeping members informed about negotiations.

Unions are required to train workplace reps to ensure that they are certified under the Employment Relations Act, including attending refresher training

Learning reps are entitled to paid time off to cover the following duties:

- analysing training needs
- arranging, promoting and advising on learning or training
- consulting with the employer and undergoing relevant training.

Learning reps are required to attend training within six months of the employer being notified of their appointment. Safety reps and information and consultation reps are entitled to paid time off to fulfil their activities in these roles. The activities covered are:

- to represent workers in talks with the employer or the Health and Safety Executive (HSE) or other safety or environmental enforcement agencies
- to investigate complaints, possible hazards and dangerous incidents
- to carry out regular inspections of the workplace
- to take part in workplace risk assessments and to be consulted upon the arrangements for health and safety

Safety reps are required to attend training, for which the employer has to give paid time off. UNISON, the TUC and other trade unions are campaigning for environment reps to also be recognised by the law. For more information see here: [www.tuc.org.uk/research-analysis/reports/greening-workplace-%E2%80%93-environmental-rights-work](http://www.tuc.org.uk/research-analysis/reports/greening-workplace-%E2%80%93-environmental-rights-work)

Also, although not a statutory role, many equality reps make an important contribution to promoting fairness and equality at work, and ensuring that employers comply with equality legislation. It is important to get employers to agree to recognise equality representatives and afford them the adequate facility time to carry out their roles.

### Attacks on facility time

In recent years trade union facility time has been systematically attacked by politicians and pressure groups hostile to trade unions. In particular, facility time in the public sector has been wilfully misrepresented by coalition ministers and the right-wing press as “taxpayer funding” of trade unions. Newspaper stories fed by dodgy research has created an intimidating atmosphere for some trade unionists. The government has taken direct steps to reduce facility time in the civil service and issued guidance to local authorities urging them to do the same. In the face of these ideological attacks UNISON has continued to produce the evidence that facility time improves the running of organisations where it is available. (See section entitled “Negotiating with employers – making the case”)

The government guidance to local authorities, entitled “Taxpayer funding of trade unions: Delivering savings in local government” can be seen here: [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/136079/Taxpayer\\_funding\\_of\\_Trade\\_Unions\\_-\\_Sensible\\_Savings.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/136079/Taxpayer_funding_of_Trade_Unions_-_Sensible_Savings.pdf)

## National public sector agreements on facility time

UNISON and our partner trade unions have negotiated national agreements covering facility time in particular parts of the public sector.

### NHS

In the NHS, facility issues are covered by section 25 of the NHS Terms and Conditions of Service Handbook. Under the agreement employers and unions must agree arrangements and procedures at a local level, but these must be consistent with principles set out in the handbook. You can see the relevant section here: [www.nhsemployers.org/tchandbook/part-4-employee-relations/section-25-time-off-and-facilities-for-trades-union-representatives](http://www.nhsemployers.org/tchandbook/part-4-employee-relations/section-25-time-off-and-facilities-for-trades-union-representatives)

### Local government

The Local Government “Green Book”, which is a national agreement applying to most local authorities in England, Wales and Northern Ireland, contains a short section on “Trade Union Facilities”. Section 18.1 states “Authorities shall provide the recognised trade unions with facilities necessary to carry out their functions, including paid leave of absence to attend meetings concerned with the work of the NJC and Provincial Councils and the operation of a check off system whereby, with the consent of the individual, trade union dues are deducted from pay.” The details of facility time arrangements are negotiated at local level.

In Scotland, the single status agreement has a similar wording: “Authorities shall provide the recognised trade unions with facilities necessary to carry out their functions in accordance with the ACAS Code of Practice. This will include paid leave of absence to attend relevant meetings concerned with the work of the Scottish Joint Council including its relationship with the UK National Joint Council...”  
[www.unison-scotland.org.uk/localgovt/single3.html#facility](http://www.unison-scotland.org.uk/localgovt/single3.html#facility)

### Police staff

From the National Agreement for Police Staff Council (England and Wales):

“The Council endorses that facilities to allow trade unions to organise effectively for individual and collective representation should be provided by Police & Crime Commissioners or Chief Constables at local level. Local machinery should be established with recognised trade union representatives of staff to discuss the application of the provisions of this Handbook, consider other conditions of service issues and, where possible, resolve any differences through local collective machinery.”

## Recognition

Clearly, the rights mentioned above are reliant on a recognition agreement existing between the union and the employer. Recognition can be achieved either through negotiation with employers or by using the statutory recognition procedure. The statutory procedure can lead to an employer being forced to recognise a trade union where a majority of workers vote for it. Some employers will agree to voluntary recognition once the statutory procedure has commenced.

The UNISON guide to negotiating recognition can be found here:  
[www.unison.org.uk/content/uploads/2016/03/Negotiators-Guide-to-Recognition-Agreements.pdf](http://www.unison.org.uk/content/uploads/2016/03/Negotiators-Guide-to-Recognition-Agreements.pdf)

The UNISON guide to statutory recognition can be found here:  
[www.unison.org.uk/content/uploads/2016/07/Guide-to-Statutory-Recognition.pdf](http://www.unison.org.uk/content/uploads/2016/07/Guide-to-Statutory-Recognition.pdf)

All of the rights listed above are guaranteed to accredited reps who are covered by a recognition agreement. However, some UNISON members work for employers who do not recognise a trade union for collective bargaining purposes.

Facility time is therefore strongly related to the issue of trade union recognition. If the employer doesn't recognise a union, then there is no automatic right to facility time. Recognition is extremely important – not just so that the union can negotiate on pay and conditions, but also because it's a way of making sure reps get time to carry out their trade union role.

However, if your employer doesn't recognise a union, it doesn't mean facility time won't be possible. Reps in recognised employers will want to focus on maximising what's in the facility time agreement – going beyond the legal minimum, getting as many union tasks as possible covered by the agreement.

Reps in employers where there is no recognition will need to argue for a facility time agreement 'from scratch' – relying not on any legal rights, but on the arguments they can make about the

benefits of facility time. To make this case, the collective strength of the union in the workplace is crucial. The more members the union has in a particular workplace, the stronger the case will be for time to be given to represent them.

Safety reps do have some statutory rights with employers where there is no recognition agreement. These reps are sometimes called "representatives of employee safety" in non-recognised workplaces.

The law requires employers to permit them such time off to:

1. performing their functions (which are much more limited when compared to a recognised safety rep) and undergoing training for these functions.
2. reasonable time off with pay for standing for election, and carrying out functions as a candidate for the role.

## Transfers

Some UNISON members will, at one time or another, have had their jobs transferred to a new employer, often as a result of the contracting out of public services or the transfer of a service contract to a new organisation. When this happens, existing employees have their terms and conditions of employment transferred to the new employer under TUPE regulations (Transfer of Undertakings, Protection of Employment Regulations).

Under these regulations recognition of the union by the employer also transfers. However, it is important to get a formal agreement from the new employer that recognition will continue, and adequate facility time will remain as part of those arrangements. It is important that we get agreement for newly-recruited reps in the outsourced employer to use facility time, but also for reps in the 'core' employer, eg the local authority or NHS Trust, to continue to be able to engage in UNISON duties within the outsourced area – for example to represent members who have been transferred out, and to negotiate on their behalf.

UNISON's guide to transfers can be found here:  
[www.unison.org.uk/content/uploads/2014/04/On-line-Catalogue223172.pdf](http://www.unison.org.uk/content/uploads/2014/04/On-line-Catalogue223172.pdf)

## Facility time – a key part of workplace organising

Facility time agreements are the written documents, agreed between the union and the employer, which specify the arrangements for taking facility time.

The main point of a facility time agreement is to secure for reps the time and resources to enable them to represent members in the workplaces that make up the employer. Some members may work in a contracted-out service and not directly for a large public sector organisation. However, their UNISON branch may primarily deal with a local authority or NHS trust.

The main employer that the branch deals with will often be unwilling to allow facility time to be used in supporting members who work for contractors. Equally, the contractors providing the services will often not allow reps from outside their organisation to come into the employer to represent members. And even when they do, this will tend to be limited to individual representation in disciplinarys and grievances.

Supporting contracted out members is part of the wider issue facing branches of ensuring adequate facility time for representing the interests of members who work in the “core” set of large employers that the branch deals with alongside the more difficult task of ensuring adequate facility time to represent the interests of members who can work in a wide variety of “non-core” employers (for example private contractors and academies).

It is vital that branches seek to persuade core employers to allow flexibility in using facility time to represent members in non-core employers.

However, as part of such discussions with core employers it may be necessary for branches to consider the option of funding a part of their representatives’ time to assist members in non-core employers. Branches needing additional resources to achieve this solution should consider applying for funding through the procedure set out later in this guide under ‘What to do if you lose facility time’.

However, in the long-term, representation of non-core members is most effectively addressed by taking an ‘organising approach’ to the issue. This means building the network of active reps among non-core employers that are able to push for adequate facility time directly from their employer and build the union’s strength within the employer. Key steps in this approach are:

- Giving priority to identifying at least one workplace contact in each non-core employer
- Negotiating time off for training for the contact or any reps where possible
- Supporting the contact or rep with a buddy or named contact using the trained and active approach set out at [www.unison.org.uk/get-involved/in-your-workplace/mentor-buddy/](http://www.unison.org.uk/get-involved/in-your-workplace/mentor-buddy/)

If we want to organise and recruit actively in a particular workplace, facility time for the reps who actually work for that employer is essential. The branch’s task is to help the reps in each employer to obtain facility time. This is a massive task. But UNISON’s organising strategy is very much based on having local UNISON representation in as many workplaces as possible. The more reps we have, the more widely spread they are, and the more facility time they have, the greater and wider will be our influence, and the stronger we will be.

Taken from the 2013 UNISON branch survey on facility time:

### 5. Do you have a facility time workplace agreement?

	Response Percent	Response Count
<b>YES</b>	88%	234
<b>NO</b>	12%	32

Answered question 266

## Negotiating with employers – making the case

Some employers can be reluctant to grant facility time, and others may seek to reduce existing arrangements. Even those which are relatively supportive of trade unions may be wary. Some employers are using the situation as an excuse to make cuts that they had long been looking for the chance to implement. Reps need to be aware of this when making the case for facility time, and address the employers' likely concerns. We must make clear the link between facility time (giving reps the chance to become fully trained and then carry out their roles) and workplace performance and greater efficiency.

Reps provide industrial relations expertise that can be vital to the employer. Paid time off allows reps to access union training in equal opportunities, job evaluation, health and safety and many other areas, acquiring skills and knowledge which the employer may lack themselves. This knowledge may prevent the employer from making costly mistakes in industrial relations practice and ensure the smoother running of the workplace. Smaller employers often struggle to maintain adequately staffed human resources departments; this makes the expertise that trained reps can contribute even more valuable. Reps also provide valuable input to the development or updating of workforce policies.

### An employer's view – Leicestershire County Council

"Leicestershire County Council is fully committed to working in partnership with UNISON to support the learning and development of all employees. Through this partnership the Learning Agreement has been developed, giving member's access to a learning coordinator and union learning representatives, as well as access to the council's full range of learning and development opportunities.

This partnership also presents exciting opportunities for the future, to support all learners as we move forward in challenging times."

Jennifer Penfold, Corporate Learning & Development Manager, Leicestershire County Council

Local reps help to sort out problems before they become serious. Reps with sufficient time will be able to tackle grievances or disputes at a local level before they mushroom. This will often save time and money by preventing the need for cases to go to a higher level of management or Employment Tribunal. Although not a statutory role, many Equality reps make an important contribution to promoting fairness and equality at work, and ensuring that employers comply with equality legislation.

Union reps make a big contribution to the management of change. Large scale reorganisation, major new agreements or changes to legislation put big burdens on HR departments.

Working with a team of skilled union reps can ease the workload and improve the results. Union reps can facilitate change by explaining

the procedure, supporting members and ensuring that the process is carried out correctly. Facility time assists the employer in fulfilling their legal responsibilities towards employees; providing support and representation to individuals and as a mechanism for formal consultation on a collective basis.

Reps are aware of best practice in other workplaces. Allowing reps time off to attend regional and national meetings helps them acquire knowledge about developments in other sectors and workplaces which can be of advantage to the employer. UNISON reps have access to a huge pool of resources that may be beyond the capacity of any one employer (particularly in small workplaces). The union at both regional and UK level provides information on industrial relations practices, national legislation, public service standards, equal opportunities, health and safety, learning

opportunities, policy trends, pensions and occupationally specific issues.

Independent research backs up the case for facility time. Nat Cen Social Research have produced a report entitled 'The Value of Trade Union Facility Time' based on research carried out through focus groups and written submissions from both trade unionists and employers. The report shows the huge benefits to employers as a result of granting trade union facility time. These included:

- 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.

You can see the full report here:  
[www.unison.org.uk/content/uploads/2013/06/Briefings-and-CircularsBG-Value-of-Union-Facility-Time-FULL-REPORT-\\_FINAL\\_2.pdf](http://www.unison.org.uk/content/uploads/2013/06/Briefings-and-CircularsBG-Value-of-Union-Facility-Time-FULL-REPORT-_FINAL_2.pdf)

In addition the TUC have found that reps with facility time contribute the following benefits to the UK economy:

- Workplace representatives mean 13,000 to 25,000 fewer dismissals each year across the UK, creating a benefit of £107m to £213m for employers.
- 17,000 to 34,000 fewer voluntary 'exits', worth a saving of £72m to £143m to employers
- 3,600 to 7,300 fewer Employment Tribunal cases, worth £22m to £43m to business and exchequer.

- 8,000 to 13,000 fewer injuries, equivalent to 161,000 to 241,000 fewer working days lost. Benefits range from £136m to £371m to society.
- 3,000 to 8,000 fewer cases of work related illness equivalent to 125,000 to 375,000 fewer working days lost. Benefits range from £45m to £207m to society.

The TUC research can be seen here:  
[www.tuc.org.uk/sites/default/files/tucfiles/facilitytimeseparatingfactfromfiction.pdf](http://www.tuc.org.uk/sites/default/files/tucfiles/facilitytimeseparatingfactfromfiction.pdf)

These facts and figures demonstrate clearly how employers benefit from facility time. The costs of poor employee relations; lack of effective employee engagement, and the length, and cost of the processes needed to resolve problems should all be of major concern to Employers. Reps with facility time can make a massive difference to these problems, and so they can contribute to significant savings in the organisation.

It is also important that reps can demonstrate the successes of facility time. Practical examples often work best, and you should get hold of examples of how facility time has helped similar employers. If you're talking to a local authority, make sure your example of good practice comes from another local council. Your regional service group reps and your UNISON Regional Organiser should be able to assist you in identifying and using the best examples.

Finally, it may be worth reminding the employer of the various statutory responsibilities regarding consulting and informing employees. Recognised trade unions with adequate facility time can assist the employer in meeting these responsibilities. For example, the Information and Consultation of Employees (ICE) Regulations were introduced in 2005 and apply to organisations with 50 or more employees. These employers must have in place an information and consultation agreement which sets out how they intend to keep the workforce informed about issues which affect them. If an agreement cannot be reached your employer is obliged, at the very least, to inform and consult employees:

- about the business's economic situation
- about employment prospects

- about decisions likely to lead to substantial changes in work organisation or contractual relations.

If the employer fails to abide by the terms of a negotiated information and consultation agreement or the fall-back provisions, employees can raise a complaint with the Central Arbitration Committee.

### **An employer's view – how facility time can improve outcomes**

The report by Nat Cen Social Research “The Value of Trade Union Facility Time” contains numerous examples of how facility time improves services and facilitates change. Here is just one quote from a public sector manager describing how facility time helped with the implementation of a new data entry system:

“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”

## Defending facility time – what to do when you come under attack

In recent years trade union facility time and the principles of partnership working have come under attack. Right-wing lobby groups and their allies in the media and Parliament have made it their business to criticise facility time agreements and seek to undermine their legitimacy.

Taken from the 2013 UNISON branch survey on facility time:

### 9. Has facility time in your workplace come under pressure or been reduced in the last few years?

	Response Percent	Response Count
<b>YES</b>	59.6%	158
<b>NO</b>	40.4%	107

Answered question 265

As a result, some employers are seeking to renegotiate or terminate previously agreed facility time, often on the basis that it is no longer “affordable” or is unsustainable following a re-organisation.

Often these moves take place as part of a move to derecognise the union entirely. As noted above in the “making the case” section, such arguments are spurious and are usually a cover for a desire to weaken staff influence over workplace decisions.

The checklist below may help if your branch is contacted by the employer about a reduction in facility time.

1. Contact your regional organising staff to talk over what has happened and keep them informed. This is particularly important if there are moves to derecognise the union. If you require assistance in negotiations, ask for it.
2. Find out what has prompted the employer to take this action. Challenging assumptions about “wasting money” is crucial.
3. Check your current recognition agreement for cooling off clauses and/or process if either side wish to terminate.

4. Request a meeting with the employer to make the case for maintaining existing arrangements.
5. Make sure the employer knows that UNISON reps have statutory rights to take paid time off.
6. If your employer is subject to a national agreement (such as the Green Book or Agenda for Change) ensure that the employer is aware of the terms of those agreements.
7. Organise, organise, organise! It is no coincidence that branches with higher levels of organisation and density are less likely to have their facility time attacked. Where the employer knows the union is strong, they are less likely to consider taking a confrontational attitude towards facility time.
8. Throughout this process you should ensure that members are kept informed about developments and take on board their views.

Remember, the key point to be made to the employer is the huge positive contribution that trade unions make to the running of an organisation.

It’s also worth noting that if an employer does derecognise the union they would then be legally required to consult either directly with all their

employees on health and safety (an onerous task), or through elected representatives of employee safety (a position which the former safety reps could stand for).

It's also important to challenge public attacks on the union. Our opponents will often push these attacks as far as they are allowed to. An early, robust and factual response from the local union can go a long way to rebutting inaccurate information about how the union operates. This can take the form of a press release, letter or a rebuttal article. If the response is put online, make sure local activists and members link to the story from their Facebook and Twitter accounts. The more people who get our positive, evidence based messages on facility time, the better.

Irrespective of any external attacks, branches should also take the time to review their current arrangements for facility time. Is there enough to cover the current workload? Is the facility time distributed fairly between reps – are there enough women/part-timers/low-paid/Black reps receiving facility time? If not, what can you do to encourage more reps from these groups to get involved and use some facility time to represent their colleagues? Is the facility time split adequately between representing members in core and non-core employers? These are important questions and the branch should always make sure that it is able to answer them satisfactorily.

Another measure which your branch could consider taking involves monitoring the free time reps are allocating to benefit employers. If employers start laboriously questioning each hour of facility time, the union could respond by getting together the figures on how much free time our reps give to employers. This may help concentrate employers' minds on benefitting the organisation as a whole instead of unfairly targeting trade unions with unwieldy bureaucracy.

See the section above, "Negotiating with employers – making the case" for the research which shows the positive impact that trade union facility time has for the organisations which grant it.

### Facility time: protecting services

From the Nat Cen Report : "the Value of Trade Union Facility Time": A description of how facility time helped staff and a local authority employer through a difficult process of cuts to 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"

### What to do if you lose facility time

If an employer insists on taking away trade union facility time, and the branch is unable to resist this attack, then this will clearly leave you in a difficult position. Branches will need to consider how you can best continue to negotiate, represent, organise and recruit with less facility time. There are a series of actions you may want to consider:

1. It is vital that part of the branch's response to a loss of facility time is an organising one. For example, if the employer removes some or all of the branch's entitlement to reps on full-time release, it is vital the branch is able to call on more reps who can share the load, using some facility time to carry out UNISON duties, alongside their 'day jobs'.
2. Similarly, it may be worth reviewing the allocation of the facility time which is left to ensure it is being used as efficiently as possible. For example, in situations where an employer hasn't reduced overall facility time but has limited the amount that any one individual can take: do you have reps who aren't using much facility time, but could be persuaded to do more? This might take the

pressure off those activists whose time has been cut.

3. Branches should also be in touch with regions through campaigns to defend facility time. And after any loss of facility time is confirmed, the branch should discuss with the region what needs to be done – whether any additional resources are available from the region, and what the priorities should be, as the branch seeks to make do with less facility time. The branch could refuse to attend certain meetings that the employer wants to have. Remember, facility time brings benefits to the whole organisation. It may act as an effective reminder to the employer if they are suddenly unable to access the expertise of UNISON reps because of their attack on facility time.
4. Particularly for local government branches, it may be worth engaging with the opposition political group. There are several examples of branches running joint campaigns with opposition Labour Groups for the return of facility time. When the political stripe of the council changes, this can then be put into action.
5. Following a cut in facility time, there are some sources of extra funding which branches should consider applying for, to help you get round these problems.

### **Section C of the Branch Funding Formula**

Branches facing short term financial problems or continuing exceptional needs can seek assistance and request special funding under Section C of UNISON's Branch Funding Formula. It would be beneficial in such circumstances for branches to work more actively with regions, as in creating targeted initiatives.

For more information, branches should speak to your Regional Organiser.

### **Regional Pool**

Each region has a Regional Pool of funds available to assist branches in delivering planned actions from their annual joint branch assessment.

Requests for funds can be made by branches or groups of branches in the form of a detailed plan identifying intended actions, objectives, budgeted expenditure and how success is to be measured.

The approval of bids and general management of the fund is overseen by an appropriate regional lay body.

Bids should be focused on recruitment and organising and tend to be for discrete resources to support a specific initiative or campaign.

The Regional Pool cannot be used to fund UNISON staff posts, but it can be used to fund branch-based staff – providing this is time-limited and is not used to cover administrative tasks.

For further information and assistance in putting forward a bid to the Regional Pool please contact your Regional Organiser.

### **Fighting Fund**

The Fighting Fund was established in 2010 to assist branches and regions to meet the challenges of increasing cuts and fragmentation.

Branches or groups of branches can bid for organisers to work on dedicated recruitment and organising projects in areas where there is an identified need through the joint branch assessment and regional planning processes.

Organisers are recruited on fixed term contracts via UNISON's standard recruitment and selection processes and line managed by the appropriate region. Project performance is monitored by a UNISON wide monitoring and evaluation scheme as appropriate to ensure that projects are effectively assessed and best practice can be identified and shared.

Bidding bodies will be expected to make a suitable financial contribution to the fund in order to sustain the fund and enable other bodies to benefit from this resource in the future.

This opportunity is also available to regions and UNISON Centre departments.

Requests to the Fighting Fund are made in the form of a detailed plan identifying intended actions, objectives and budgeted expenditure to the appropriate region in the first instance with approval overseen by the Presidential Team.

For further information and assistance in putting forward a bid to the Fighting Fund please contact your Regional Organiser.

## What should be in your facility time agreement?

### What can facility time be used for? Trade union duties vs. trade union activities

The right to paid time off is there so reps can carry out trade union duties. ‘Trade union duties’ refers to all matters relating to collective bargaining and individual representation, such as pay negotiations, consultation meetings, disciplinary hearings and staff inductions. It should be kept in mind that these are rights, enforceable by law, not optional extras which the employer can pick and choose.

There is also a broader category of trade union tasks – known as ‘trade union activities’. If your employer recognises a union, you are also entitled to unpaid time off to take part in any other trade union activity – for example attending branch committee meetings, or a UNISON conference.

So, if you are covered by a recognition agreement, a key task for you in negotiating a facility time agreement will be to get as many activities as possible covered by your paid facility time allowance. In other words, although you’re entitled to unpaid time off to attend conference, branch meetings, etc., why not try to get those activities covered by your paid time off?

If you’re not covered by a recognition agreement, your task is obviously much harder. But the same principle applies: when trying to get a facility time agreement, try to get trade union activities, as well as trade union duties, included. And, of course, ideally you should push for it all to be paid facility time. But if that isn’t possible, then some unpaid facility time for union activities is a good start. If your branch is looking for further guidance on this issue, you may want to contact your Area Organiser.

### How much facility time?

Even where the union is recognised, and so facility time is a right, there is no legal minimum – employers just have to grant “reasonable” facility time. This flexibility could work either way. On the plus side, it avoids reps facing a strict ceiling on how much time they can take, but on the other hand, employers may have a strict interpretation of what is “reasonable”, and you may find

yourself in repeated discussions about whether a particular request for facility time is reasonable.

Reps should use their judgement to assess whether it would be better to leave it open, settling for “reasonable” time, or whether it would be better to pin them down to a specific number of hours per week or month.

### How should facility time be split between members within core and non-core employers?

Try to get ‘core’ employers to recognise that facility time can be utilised in supporting members working for non-core employers.

Again, the degree to which an agreement pins down the amount of facility time allocated to core and non-core members is a judgement call for reps.

### An employer’s view – Vertex

Numerous employers work with UNISON for the benefit of their organisation and the services they deliver. For example, Vertex, a business process outsourcing company have a strong record of partnership working with the union. A spokesperson for Vertex has said:

“We’ve learned to respect trade unionists.”

“Where unions have significant support, business change is better achieved in Partnership rather than in conflict”

“Transitions in Ealing, Glasgow, Birmingham, Bedford, Bury, Rayleigh, Westminster and Toronto and others were all made easier by the trade union relationship”

### To whom will time off be paid?

Full-time secondments deliver some very definite benefits for trade union reps, providing they are not granted at the expense of a larger number of reps having some facility time. In some of UNISON’s larger service groups, branches often have one or more reps who are seconded full time – in effect, their facility time is full time. In other service groups, such as Community, very few employers have such arrangements, and would prefer to spread paid facility time around, so that no individual (or their workplace) takes on

too much. If full-time (or half-time) secondments are available, then they can be of immense value, but this should hopefully be in addition to facility time that is shared between a number of reps.

### **Procedure for requesting time off**

It is very important that there is a clear process in place. Many UNISON members are extremely busy at work, and as a result rotas need to be carefully drawn up, and cover provided. So there needs to be a procedure which ensures that reps can take the time off they are entitled to, without managers blocking it. A common problem arises when the union and human resources department reach agreement on facility time, but local managers fail to grant individual requests from reps to take the time entitled to them.

### **Procedure for resolving disagreements about time off**

Disagreements will inevitably occur, and reps need to think about the best way to resolve them – and who to involve? Many employers prefer to resolve issues informally, without recourse to formal procedures, but proper processes are vital for trade union reps, so that disagreements can be resolved fairly.

### **Time off for training**

Trade union reps who are covered by a recognition agreement also have the right to paid time off during working hours to receive training which is “relevant to their duties”. The ACAS code of practice stresses the importance of employers giving paid time off for reps to be trained as soon as possible after they have been elected, for further updating training in specialist areas, and where legislative change may affect industrial relations. Training must be approved by UNISON or the TUC to ensure that it meets accredited standards.

Many employers claim to be very supportive of training opportunities, so reps should push employers to make sure that there is good provision for time off for training in any facility time agreement.

### **Workload reductions for trade union reps**

In 2009, ACAS issued a revised code of practice and guidance on time off for trade union duties.

The purpose of the code is to give advice to employers and trade unions on the implementation of the Trade Union and Labour

Relations (Consolidation) Act 1992 and its subsequent amendments. You can see the code here: <http://www.acas.org.uk/index.aspx?articleid=2391>

The code contains provision for work and/or workload reductions for reps when time off for trade union duties/activities is required. The code states: “Employers should ensure that, where necessary, work cover and/or workload reductions are provided when time off is required. This can include the allocation of duties to other employees, rearranging work to a different time or a reduction in workloads.”

Many UNISON members work in education, health and social care settings, where work cannot just be left until another day. If reps take facility time, their care shifts will need covering. It is very important that employees given facility time to carry out trade union duties are not simply expected to carry out their other role in a compressed period of time. This can lead to unmanageable workloads and increased stress for the individuals concerned. It is vital that a proper process is put in place to ensure this does not happen.

### **Use of email, office and IT facilities**

The new code also states that, where resources permit, the employer should grant access “to a telephone and other communication media used or permitted in the workplace such as email, intranet and internet”. Some of UNISON’s potential members work in small, geographically dispersed workplaces, which are often difficult to access. So it is vital that reps make the most of whatever electronic facilities they can get – for example using facility time and electronic resources to e-mail colleagues, setting up discussion groups or blogs, and using the employer’s intranet site to promote the work of the union.

For health and safety reps the law states that employers shall provide such facilities and assistance as safety reps may reasonably require for carrying out their functions. This includes facilities for private discussion with employees.

You should also prioritise negotiating for the use of a dedicated office which can be locked. This is important because the union will have to deal with confidential information provided by both the

employer and members. A dedicated office will provide a secure place where this information can be appropriately discussed and stored.

For more information on this see the UNISON guide to negotiating recognition here: [www.unison.org.uk/content/uploads/2016/03/Negotiators-Guide-to-Recognition-Agreements.pdf](http://www.unison.org.uk/content/uploads/2016/03/Negotiators-Guide-to-Recognition-Agreements.pdf)

### **The confidentiality of electronic communications**

The new code clearly states that communications between union reps and members must remain confidential. It states: “Employers must respect the confidential and sensitive nature of communications between union representatives and their members and trade union. They should not normally carry out regular or monitoring of union emails.

Only in exceptional circumstances employers require access to communications but such access is subject to the general rules set out in statute and the Employment Practices Code issued by the Information Commissioner’s Office.”

### **Model agreements and examples**

A model agreement is set out as an appendix to this guide, to provide a starting point for negotiations on facility time or as a reference point for revising an existing agreement.

The TUC’s model recognition agreement for Academy Schools: [www.tuc.org.uk/research-analysis/reports/tuc-academies-model-agreement-%E2%80%93updated-july-2015](http://www.tuc.org.uk/research-analysis/reports/tuc-academies-model-agreement-%E2%80%93updated-july-2015)

For links to the Environmental reps TUC model agreement go to: [www.tuc.org.uk/sites/default/files/extras/greener\\_deals.pdf](http://www.tuc.org.uk/sites/default/files/extras/greener_deals.pdf)

If you would like to see examples of facility or recognition agreements from your sector, email the address below and UNISON Bargaining Support will send them to you  
[bsg@unison.co.uk](mailto:bsg@unison.co.uk)

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## How to respond to facility time reporting requirements

### What the regulations state

Under the Trade Union (Facility Time Publication Requirements) Regulations 2017, public sector employers (except those in Northern Ireland and any devolved public authorities in Wales) are now required to publish the information set out below on an annual basis. [These regulations do not apply to community or private sector organisations that are providing public services via a contract from a public authority]

**Table 1 - Relevant union officials**

What was the total number of your employees who were relevant union officials during the relevant period?

<i>Number of employees who were relevant union officials during the relevant period</i>	<i>Full-time equivalent employee number</i>

**Table 2 - Percentage of time spent on facility time**

How many of your employees who were relevant union officials employed during the relevant period spent a) 0%, b) 1%-50%, c) 51%-99% or d) 100% of their working hours on facility time?

<i>Percentage of time</i>	<i>Number of employees</i>
0%	
1-50%	
51-99%	
100%	

**Table 3 - Percentage of pay bill spent on facility time**

Provide the figures requested in the first column of the table below to determine the percentage of your total pay bill spent on paying employees who were relevant union officials for facility time during the relevant period.

<i>First column</i>	<i>Figures</i>
Provide the total cost of facility time	
Provide the total pay bill	
Provide the percentage of the total pay bill spent on facility time, calculated as (total cost of facility time ÷ total pay bill) X 100	

**Table 4 - Paid trade union activities**

As a percentage of total paid facility time hours, how many hours were spent by employees who were relevant union officials during the relevant period on paid trade union activities?

Time spent on trade union activities as a percentage of total paid facility time hours calculated as:	
Total hours spent on paid trade union activities by relevant union officials during the relevant period ÷ total paid facility time hours) X 100	

**Explanation of calculations**

1) Relevant union officials

The number of “relevant union officials” refers to the number of reps elected in accordance with the rules of the union, where the union is recognised by the employer for collective bargaining. Therefore the reps covered will include stewards, union learning reps and health and safety reps. Such workforce representatives as those appointed under the Information and Consultation Regulations only count if they fulfil the role as a rep elected by the union.

The “relevant period” refers to the financial year that the public authority is reporting on. Therefore, the number of officials can reasonably be interpreted as the average over that time period.

The number of full time employees means the organisation’s total number of full-time staff plus the full-time equivalent of part time staff.

2) Percentage of time spent on facility time

This requirement is seeking to capture the total amount of paid time that officials spend on facility time, which encompasses time off permitted by the Trade Union and Labour Relations (Consolidation) Act (1992) for trade union duties, activities and relevant training.

The Act defines trade union duties in terms of time permitted for union officials to conduct collective bargaining, engage in consultation requirements for redundancy proposals and engage in consultation requirements for TUPE transfers.

ACAS fleshes out this broad guidance to define trade union duties as follows:

Legislative category	ACAS examples
Terms and conditions of employment, or the physical conditions in which workers are required to work	Pay / hours of work / holidays and holiday pay / sick pay arrangements / pensions / learning and training / equality and diversity / notice periods / the working environment
Engagement or non engagement, or termination or suspension of employment or the duties of employment, of one or more workers	Recruitment and selection policies / human resource planning / redundancy and dismissal arrangements
Allocation of work or the duties of employment as between workers or groups of workers	Job grading / job evaluation / job descriptions / flexible working practices / work-life balance

Matters of discipline	Disciplinary procedures / arrangements for representing or accompanying employees at internal interviews / arrangements for appearing on behalf of trade union members, or as witnesses, before agreed outside appeal bodies or employment tribunals
Trade union membership or non membership	Representational arrangements / any union involvement in the induction of new workers
Facilities for trade union representatives	Arrangements for the provision of accommodation, equipment, names of new workers to the union
Machinery for negotiation or consultation and other procedures.	Collective bargaining at the employer and/or multi-employer level / grievance procedures / joint consultation / communicating with members / communicating with other union representatives and union full-time officers concerned with collective bargaining with the employer.

ACAS also makes it clear that in addition to time absorbed in directly negotiating on these issues, duties include time for preparation and informing members in relation to these issues. The right to time off for training relates to any form of training on issues relevant to the carrying out of trade union duties and approved by the TUC or UNISON.

The Trade Union and Labour Relations (Consolidation) Act (1992) sets out further specifics in defining time off for the trade union duties of Union Learning Representative as follows:

- Analysing learning or training needs;
- Providing information and advice about learning or training matters;
- Arranging learning or training;
- Promoting the value of learning or training;
- Consulting the employer about carrying on any such activities;
- Preparation to carry out any of the above activities;
- Undergoing relevant training.

The Health and Safety Act 1974 (or Order 1978 for Northern Ireland) defines duties broadly for health and safety reps in terms of the time off for engaging with employers over the requirement to “consult any such representatives with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.”

More specifically, the Safety Representative and Safety Committee 1977 Regulations identify legitimate time off for health and safety reps as including the requirement to:

- Investigate potential hazards and dangerous occurrences at the workplace (whether or not they are drawn to his / her attention by the employees represented) and to examine the causes of accidents at the workplace;
- Investigate complaints by any employee he represents relating to that employee’s health, safety or welfare at work;
- Make representations to the employer on matters arising from either of the above;
- Make representations to the employer on general matters affecting the health, safety or welfare at work of the employees at the workplace;
- Carry out inspections in accordance with

the regulations (these inspections can cover the workplace, following incidents, or of specified documents / other information);

- Represent the employees he / she was appointed to represent in consultations at the workplace with inspectors of the Health and Safety Executive and of any other enforcing authority;
- Receive information from inspectors in accordance with the 1974 Act;
- Attend meetings of safety committees where he /she attends in his / her capacity as a safety representative in connection with any of the above functions.

The Trade Union and Labour Relations (Consolidation) Act (1992) defines trade union activities very broadly as time engaged in “any activities of the union” but ACAS fleshes this out for union reps in terms of time spent on:

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

### 3) Percentage of paybill spent on facility time

The paybill refers to total wages, employer pension contributions and employer National Insurance contributions.

The regulations seek to protect confidentiality by stating that individual reps should not be named as part of the reporting process. If it is possible to identify any individual rep and their salary from the figures, the employer must instead use a “notional hourly rate” in the paybill calculation, which reflects the work ordinarily done by the rep.

### 4) Paid trade union activities

The time spent on trade union activities is as defined in the explanation of total facility time above.

#### Timescale of the regulations

The regulations first came into force for the 2017/18 financial year and the deadline for publication of facility time figures for that year was 31 July 2018. The end of July is set to remain the deadline for all subsequent years.

On the basis of the information published, the Trade Union Act allows ministers a reserve power to impose a cap on facility time for an organisation. However, a number of procedures and tests will first have to be met before this can happen:

- Ministers will first need to take into account a range of factors before deciding to cap facilities, including the cost of facilities in the particular authorities and the type of the services provided or whether major reorganisations led to a rise in facilities spending;
- Ministers must then write to the employer setting out their concerns;
- Employers must be given at least 12 months to adjust their practices before any cap is imposed;
- Regulations imposing a cap on a particular employer must be debated and voted on in Parliament.

Ministers have indicated that they will wait for three years of data reporting before imposing any caps. If that holds true, the earliest any cap could be imposed on any employer is summer 2021.

#### Scope of the regulations

The regulations only cover public sector employers. Private contractors, and community and voluntary sector organisations providing public services (including housing associations), are not covered.

The organisations that come within the definition of public sector include:

- Government departments and local authorities, including fire and rescue authorities;
- NHS employers;
- Schools, academies, FE colleges and universities;
- Police staff;
- More than 140 government agencies and other named organisations, including Ofsted, the National Probation Service, the Environment Agency and the Food Standards Agency. To check the full list click on this link [www.legislation.gov.uk/uksi/2017/328/pdfs/uksi\\_20170328\\_en.pdf](http://www.legislation.gov.uk/ukxi/2017/328/pdfs/uksi_20170328_en.pdf)

The regulations were established to cover Great Britain and therefore Northern Ireland has never been part of their scope. In September 2017, the Welsh Assembly also passed the Trade Union Wales Act, which disapplied the facility time publication requirements from the devolved Welsh Authorities, which are defined in this section of the Wales Act [www.legislation.gov.uk/ukpga/2017/4/schedule/3/paragraph/wrapper133n2](http://www.legislation.gov.uk/ukpga/2017/4/schedule/3/paragraph/wrapper133n2)

Any employer with fewer than 50 employees is also also exempt.

### Checklist of branch actions

- Check that the employer falls within the scope of the regulations, in terms of both geographic and sector coverage set out above.
- If the organisation does fall within its scope, an agreement may already be in place that defines the paid time taken off for facility time for all reps. It will be a matter for branch judgement whether any such agreement represents a fair estimate of time taken or whether a revision should be agreed.
- If a data gathering exercise is necessary to gain a fair estimate of time taken, the information collected should be strictly limited to the information required under the regulations to minimise the time and cost burden on all parties.

Some employers have sought to collect extreme detail, such as:

- The facility time broken down by type of union rep eg stewards, ULRs, health and safety reps;
- Specification of the exact type duty or activity conducted;
- The names of members that the union rep dealt with;
- The costs of facilities such as offices, internet, telephone lines.

However, none of this is required under the regulations, which only demand aggregate figures for all unions, across all types of union rep, for total paid time spent on trade union duties and activities. So if employers try to collect information that they do not need to report under the regulations, they should be asked why they are asking for it.

- If a data gathering exercise is necessary, put forward a simple template along the lines of the model opposite, which would enable the employer to fulfil the legal requirements at the minimum administrative burden.

Gross annual wage of rep:		
	Paid time spent on trade union duties to nearest hour	Paid time spent on trade union activities to nearest hour
Month 1		
Month 2		
Month 3		
Month 4		
Month 5		
Month 6		
Month 7		
Month 8		
Month 9		
Month 10		
Month 11		
Month 12		

– The suggested format is for completion of the form on a monthly basis, though it may be useful to seek agreement that collection of data for a part of the year provides a reasonable basis for estimating the annual figures.

– Recording time spent to the nearest hour may be the most appropriate and clearest basis for obtaining a reasonably accurate estimate: ie any periods of less than half an hour are not included but any periods of more than half hour are rounded up eg two hours and twenty minutes is recorded as two hours, but two hours and 40 minutes is recorded as three hours. Recording to the nearest half day or day are alternatives but the basis for rounding becomes less clear and without rounding such a system is in danger of exaggerating facility time.

– The form should make clear that time spent on trade union activities should only include paid trade union activities and should be in line with ACAS guidelines, ie:

- Branch, area or regional meetings of the union where the business of the union is under discussion;

- Meetings of official policy making bodies such as the executive committee or annual conference;

- Meetings with full time officers to discuss issues relevant to the workplace.

- All other paid time off should be classified as trade union duties.

– Where there is any uncertainty about classification of any paid time off, agree that the union branch and employer will discuss to resolve the appropriate recording.

- Ensure that the percentage of the paybill spent on facility time is comparing like for like, ie the paybill for reps has to be based on total wages along with employer National Insurance and pensions contributions, so the total workforce paybill also has to include these factors. If there is any danger of these figures allowing the identity of the rep(s) to be deduced, ensure the employer applies the confidentiality protections and applies the “notional hourly rate” set out above. [Consult your regional officer over seeking early legal advice if the employer pushes ahead with any publication that breaks confidentiality rules.]

- Any reps on full-time release should have holiday, sickness absence or any other time when not engaged in paid trade union duties / activities deducted from the calculation of facility time.
- On publication of the figures, emphasise to the employer that by solely focusing on the costs of facility time, the regulations present a one-sided and distorted picture. Therefore, the employer should state their support for facility time and highlight its cost benefits by publishing a statement alongside the regulation figures as below:
- Seek to enshrine the basis for data collection and publication by establishing or amending a facilities agreement in line with section 21 of the model agreement in the appendix to this guide.
- Beware of data collection for publication being used as an excuse for cutting facility time and follow the steps set out in the “defending facility time” section of this guide. Attacks may become particularly acute after publication, when an employer or an external organisation with an anti-union agenda may try to seize on differences in facility time between organisations. Some employers may have imposed excessively low facility time on union reps and so using such organisations as a benchmark creates the danger of initiating a race to the bottom. Equally, there are many valid reasons why facility time varies across organisations, including the scale of union membership, how dispersed they are across locations and departments, and the frequency of events that demand facility time, such as organisational restructures and employment relations conflict. Where an attack is coming from outside the organisation, the employer may be persuaded to enter a joint public defence of facility time arrangements.

[Organisation] believes that facility time is a vital part of ensuring good employment relations. Independent studies have found facility time to play a key role in resolving conflict before issues escalate into more serious and costly problems, as well as ensuring necessary changes to operations are managed efficiently<sup>1</sup>.

Research has shown that for every £1 spent on trade union facility time taxpayers receive £2.31 back in savings<sup>2</sup> and employee representatives in the workplace result in<sup>3</sup>:

- 13,000 to 25,000 fewer dismissals each year across the UK, creating a benefit of £107m to £213m for employers.
- 17,000 to 34,000 fewer voluntary ‘exits’, worth a saving of £72m to £143m to employers.
- 8,000 to 13,000 fewer injuries, equivalent to 161,000 to 241,000 fewer working days lost. Benefits to society range from £136m to £371m.
- 3,000 to 8,000 fewer cases of work related illness equivalent to 125,000 to 375,000 fewer working days lost. Benefits to society range from £45m to £207m.

### Dealing with an FOI request about facility time arrangements

As noted earlier, it has become increasingly common for right-wing “think tanks” and lobbying organisations to put in Freedom of Information (FOI) requests to public sector employers, which they then use to present a misleading picture of facility time to the press and public.

The introduction of the Trade Union (Facilities Time Publication Requirements) Regulations may put a break on the frequency of these requests. However, in the event of your organisation receiving any such request, consider the following key points:

- Codes of practice on dealing with requests state that it is good practice for a public sector organisation to consult with third parties who will be affected by the disclosure of information. It also states that it is courteous to advise that third party that a

1 NatGen, The Value of Trade Union Facility Time, June 2012

2 Professor Gregor Gall, University of Bradford, The Benefits of Paid Time Off for Trade Union Representatives, February 2016

3 TUC, Facility Time for Union Reps - Separating Fact from Fiction, June 2012

request has been received and then to consult that third party on any response.

- Clearly, UNISON would consider itself to be a third party in any FOI request about facility time. The code goes on to state that the consultation may enable the third party to give the public sector organisation more context or explanatory material. However, the legal requirement to respond to the request is firmly on the employer and responding to it cannot be delegated to a third party.
- It would be sensible to speak to the employer and ask to be notified, as the code suggests, should any FOI request of this nature be received. It is important that UNISON branches are properly consulted on what is to be disclosed and, where necessary, ensure not only that the information is correct, but that the context is properly set out.
- Where the employer is not co-operative, please make sure that your Regional Organiser is made aware of the situation and they will provide further advice.

The code of practice referred to above can be found here: <https://ico.org.uk/media/for-organisations/documents/1624144/section-45-code-of-practice-request-handling-foia.pdf>

## Examples of good practice and campaigning on facility time

### **Department of Education, Northern Ireland -**

The Department of Education in Northern Ireland has recently extended facility time for the trade unions, with additional reps granted facility time. One of those is a UNISON rep. The purpose of this is because the role of the unions is recognised as key in the transition to a single education authority. This move comes on the back of an 18 month fight fending off an attack on facility time.

**Sefton** - Sefton Council had been 'hung' for years, with the Lib Dems in control in semi coalition with Tory Councillors. A 50% cut in facility time was proposed, and ultimately a 25% cut in facility was voted through. The UNISON branch got agreement with council officers to use schools facility funding to cover the savings associated with it rather than lose any branch officers. The branch made a decision in 2010 to actively seek more control/influence within the local Labour Party and began gaining positions on wards and CLPs. Regular meetings were set up with the Labour leader and a walking group set up at lunchtimes to deliver Labour Party literature. The Labour leader spoke at Sefton UNISON AGM for first time ever. Councillors were reminded of their 'obligation' to be in a trade union and join UNISON, and asked to revoke the facility time cut if Labour gained control of the council.

Labour won a landslide in 2012 and took control of the council. Contact was made immediately to ensure security of facility time, and this was agreed with the leader and Labour Group. A report was then agreed by the council, protecting facility time. The branch secretary now has weekly meetings with the leader of the council, and the budget report for the next two years secures all facility time.

**Birmingham** - In Birmingham, new principles for facility time have been agreed between the council and the unions. These principles: make clear the need for "a limited pool of full time trades union representatives"; ensure that every full-time TU post is matched by a substantive post; ensure ongoing training for full-time TU reps; and make clear the importance of health

and safety issues for TU reps.

**Eastern region** - The East of England Joint Regional Council recently re-affirmed all parties' belief in the importance of facility time for trade union reps in local government. They published a statement which makes reference to NatCen and TUC evidence on the value and benefits of facility time, and concludes "It is therefore recommended that appropriate levels of facility time are provided to the Trades unions and their representatives to enable the proper conduct of employee relations with the employer. Where difficulties arise at Employer level the JRC offers the support of the Joint Secretaries to conciliate with the parties to resolve the issues."

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## Additional resources

The 2010 ACAS code on time off for trade union duties: [www.acas.org.uk/media/pdf/n/k/Acas\\_Code\\_of\\_Practice\\_Part-3-accessible-version-July-2011.pdf](http://www.acas.org.uk/media/pdf/n/k/Acas_Code_of_Practice_Part-3-accessible-version-July-2011.pdf)

ACAS 2014 guidance on Trade Union representation in the workplace: [www.acas.org.uk/media/pdf/k/k/Trade-Union-Representation-in-the-Workplace.pdf](http://www.acas.org.uk/media/pdf/k/k/Trade-Union-Representation-in-the-Workplace.pdf)

TUC Report, Facility Time: Separating fact from fiction: [www.tuc.org.uk/sites/default/files/tucfiles/facilitytimeseparatingfactfromfiction.pdf](http://www.tuc.org.uk/sites/default/files/tucfiles/facilitytimeseparatingfactfromfiction.pdf)

UNISON's Health and Safety Representatives Guide: [www.unison.org.uk/content/uploads/2015/08/23355.pdf](http://www.unison.org.uk/content/uploads/2015/08/23355.pdf)

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## Model time off and facilities agreement

The following model provides a framework for drafting a comprehensive agreement on time off for trade union duties and activities. It can be adapted to reflect the size and nature of the organisation.

Agreements on time off and facilities vary widely. Some are no more than general statements of principle outlining flexible time off arrangements. Others are highly detailed, laying out exact amounts of time off for named union officers. This model charts a middle course. It covers all of the areas which should be included in a time off agreement and suggests clauses based on 'best practice'. (Almost all of the provisions of the model agreement were drawn from real UNISON agreements.)

However, your branch will need to decide how much of the model to use and how to adapt it to your own circumstance. In some places the model sets out choices of options. Text in square brackets denotes places where the branch will need to 'fill in the blanks' with their own information.

For help in drafting and negotiating time off and facilities agreement, contact your Regional Organiser. For a Word version of this model agreement, contact UNISON Bargaining Support at [bsg@unison.co.uk](mailto:bsg@unison.co.uk)

### 1 DEFINITION OF TERMS

In this Agreement:-

The Organisation refers to (the organisation)

The Union refers to the (named) Branch of UNISON

Staff refers to all employees of the Organisation

### 2 COMMENCEMENT DATE

This Agreement commences on [date]

### 3 INTRODUCTION

3.1 The Organisation supports the system of collective bargaining and the principle of solving employee relations problems by discussion and agreement.

3.2 All parties recognise that it is vital to good employee relations for the workforce to be properly represented by the recognised union. Furthermore all sides believe that a truly representative and effective union will enhance workforce employee relations.

3.3 The Trade Union and Labour Relations (Consolidation) Act 1992 (S168 - 170) makes provision for employees to be given the right to time off under various circumstances. The following sets out these provisions as agreed by the Trade Union and the Organisation in this respect.

### 4 REPRESENTATION

4.1 The provisions of this agreement shall apply to accredited representatives of the Union, who have been duly elected or appointed in accordance with the rules of the Union.

4.2 The Union will determine the appropriate number of representatives they wish to appoint, having regard for the size and location of its membership. [You may want to agree a ratio of reps to union members.] The Union agrees to inform the Organisation in writing of the names of all elected representatives at the earliest possible opportunity and to notify the Organisation of any subsequent changes. Persons whose names have been notified to the Organisation shall be the sole representatives of the UNISON membership.

4.3 The union will issue written credentials and notify the Organisation of the number and location of constituencies for which each representative will be responsible.

### 5 TIME OFF FOR GENERAL TRADE UNION REPRESENTATION

5.1 This agreement seeks to establish a formal policy and procedure on trade union duties and activities in accordance with the legislative framework. It is recognised that it is not possible to be prescriptive about all duties, activities and the time required to carry them out. It is agreed that requests for time off will not be unreasonably refused.

5.2 Accredited representatives will be permitted paid time off during working hours to carry out duties that are concerned with any

aspect of collective bargaining and representation of individual members, including:

- terms and conditions of employment, including physical working conditions;
- engagement, termination, transfer or suspension of employment;
- allocation of work or the duties of employment as between employees or groups of employees;
- discipline and grievance;
- activities associated with trade union membership;
- facilities for officials of the union;
- machinery for negotiation or consultation and other procedures; procedures for collective bargaining, disputes, joint consultation, communicating with members and other trade union branch officers.

## 6 THE FUNCTION OF REPRESENTATIVES AND OFFICIALS

6.1 The Organisation and the Union recognise that the industrial relations functions of representatives and officials are important duties in addition to their duties as employees of the Organisation. Their functions and responsibilities are as follows:

- To be responsible to and for a group of members;
- To undertake industrial relation duties operating within the policies of the Union. Issues may include members' grievances, discipline, learning, health and safety, equal opportunities, service conditions, and any matter listed in [section 5.2] of this Agreement;
- To seek full Trade Union membership amongst all employees of the Organisation;
- To communicate with members and to communicate with Management, the Joint Negotiating bodies and with the relevant Union bodies;
- To represent the Union in the joint negotiating

and joint consultative machinery at local, regional and national level;

- To meet with other representatives, officials or full-time Union officers on matters covered by this Agreement;
- To attend meetings of the Trade Union of which the person is a representative or of which he/she is an official, (such as Branch or Branch Committee Meetings);
- To seek to ensure that agreements are adhered to;
- To organise meetings of members during working hours in accordance with the ACAS Code of Practice and any prevailing local agreements.

## 7 TIME OFF FOR HEALTH AND SAFETY REPRESENTATIVES

7.1 The trade union is responsible for the appointment of health and safety representatives. The organisation has the duty to permit safety representatives such time off with pay as necessary for the purposes of:

- Performing their functions under health and safety legislation;
- Undergoing such training as is reasonable;
- Attending Health and Safety meetings on local, regional and national levels where appropriate.

## 8 TIME OFF FOR UNISON LIFE LONG LEARNING ADVISORS/UNION LEARNING REPRESENTATIVES

8.1 Accredited UNISON Life Long Learning Advisors/Learning Representatives are entitled to take reasonable paid time off for the following specific purposes:

- Analysing learning or training needs;
- Providing information and advice about learning or training matters;
- Arranging learning or training;
- Promoting the value of learning or training;
- Consulting the employer in relation to such activities;

- Preparation in relation to such activities;
- Undergoing relevant training.

## 9 TIME OFF FOR INFORMATION AND CONSULTATION REPRESENTATIVES

9.1 Information and Consultation representatives, where they exist, are entitled to take reasonable paid time off during working hours for the following reasons:

- Performing their functions as such a representative, including preparing for meetings and consulting with their constituency;
- Undergoing relevant training.

9.2 Information and Consultation representatives shall not be subject to detriment or dismissal for actions related to their conduct as a representative.

9.3 These rights also apply to Information and Consultation representatives who are not union members, should they be elected or appointed.

## 10 TIME OFF FOR TRADE UNION ACTIVITIES

10.1 To ensure that workplace meetings are fully representative, paid time off for trade union representatives and members may be considered for:

- Attending workplace meetings to discuss and vote on the outcome of negotiations;
- Meeting full time officials to discuss issues relevant to the workplace;
- Conducting Union elections.

10.2 The Organisation and Union also recognise that it is in the interests of the effective and democratic operation of the Unions that representatives or officials participate in other activities of the Union. Reasonable time off during working hours will be granted for these purposes which may include:

- Participation, as a representative, in meetings of official policy making and consultative bodies of the Union such as annual conferences or regional meetings.

- Representing the Union on external bodies such as committees or working parties within the official union structure.
- Holding office on official bodies of the Union.
- The Union will notify the Organisation at the beginning of each year of the anticipated calendar of such events wherever possible and the likely number of representatives who will be required to attend.

## 11 TIME OFF FOR BRANCH SECRETARIES AND SENIOR REPRESENTATIVES OF UNISON

11.1 The [list senior branch officers] of UNISON will be allowed to spend their whole contractual employment time [or the proportion agreed] on trade union duties.

11.2 Facilities time for other Unison Branch Officers (in addition to existing entitlement to time off where those Branch Officers are also accredited representatives) will be subject to agreement between the Branch Secretary and [the appropriate management representative].

11.3 At the end of a period in office, the Branch Secretaries/Branch Chairperson/Senior Representatives shall:

11.3.1 EITHER return to their substantive posts subject to: some other arrangement agreed either prior to or during a term in office: and the availability of the post, e.g. in circumstances where their work area has been restructured, in which case prior consultation will have taken place.

11.3.2 OR: be redeployed to some other suitable post.

***[Depending on whether you want allocation of time off to be flexible or tightly defined, choose one of the following]***

11.4 (a) Representatives appointed as described in paragraph [4.1] will be given reasonable paid time off during normal working hours to carry out functions related to their representational responsibilities.

OR:

11.4 (b) Representatives appointed as described in paragraph [4.1] will be allowed up to [number of hours] per calendar [week/month/year] time off during normal working hours to carry out functions related to their representational responsibilities.

***[If adopting defined hours of time off, as in 10.4(b) you might want to add this paragraph]***

11.5 Meetings called by management where representatives other than those referred to in paragraph [10.1 above] are required to attend, will fall outside of the allocation of representational time.

**12 SPECIAL ARRANGEMENTS FOR TIME OFF**

12.1 In the case of employees who work shifts or unsocial hours, the Organisation will allow reasonable time off for trade union duties and normally will make suitable arrangements when the duties fall outside their on-duty hours.

12.2 Where representatives attend meetings called by management, management will always try to ensure that the meetings take place while the appropriate representatives are on duty, either by adjusting dates of meetings, amending rotas where possible by agreement with the individual concerned.

12.3 When representatives, other than those with full-time secondment, attend meetings called by management during their normal working hours which extend beyond normal finishing time, they will be paid at plain time rates for the additional hours worked, except that, where earnings vary with the work done, the amount will be calculated by reference to the average hourly earnings for the work they are employed to do, including average bonus or contractual overtime payments.

12.4(a) Where representatives attend meetings called by management which occur in their off-duty time, they will be reimbursed for the hours spent at the meetings at plain time rates.

[If you are unable to secure payment for duties performed during off-duty time, an alternative would be the following:]

12.4 (b) If a meeting is to take place on the representative's day off or while the representative is not on duty and [11.2] above is not possible then an equivalent amount of time off in lieu will be given at a time agreeable to both parties, subject to the contingencies of the service. If it is impossible to arrange time in lieu then payment for this time will be made.

12.5 In the case of disabled representatives, the Organisation will allow additional time and facilities, if necessary, and make suitable arrangements to allow them to carry out their responsibilities.

**13 TIME OFF FOLLOWING TRANSFERS OF EMPLOYMENT**

13.1 Where a transfer of staff takes place through contracting out or internally to wholly owned subsidiaries, proportionate time off arrangements will be retained to allow representation of affected staff.

**14 PAYMENT FOR TIME OFF**

14.1 Trade Union representatives engaged on recognised duties as indicated above, will be paid either the amount they would have earned had they worked during the time taken or, where earnings vary with the work done, an amount calculated by reference to the average hourly earnings for the work they are employed to do. This amount will include average bonus or overtime payments where these are contractual.

14.2 Senior branch officers who spend the whole of their contractual time on trade union duties will be entitled to the full package of pay and conditions which they would normally have received had they been working, including all allowances and any rights to professional training or registration.

14.3 Travelling and subsistence costs will be reimbursed to accredited representatives for periods of work approved in accordance with this agreement.

**15 COVER AND BACKFILL**

15.1 During the approved absence of UNISON workplace representatives carrying out their duties under this agreement, the Organisation will endeavour, wherever necessary, to provide alternative cover at the representative's

workplace. In line with the ACAS code on time off for trade union duties, alternatives shall include the allocation of duties to other employees, rearranging work to a different time or a reduction in workloads.

15.2 Where major projects [such as Agenda for Change in the NHS or Single Status in local government] require sustained time off for workplace reps, the project plan will take account of and fully fund backfill for the duration of the project to ensure that representatives can direct the full weight of their expertise throughout the process. The Organisation and the union will jointly agree the numbers of trade union representatives involved in each aspect of work and allow sufficient funds to be made available to facilitate the work as part of the project plan.

## 16 TRAINING

16.1 Reasonable time off with pay will be granted to attend training courses approved by the TUC or UNISON. The Organisation supports the need for newly appointed trade union officials to be granted reasonable time off for initial training in basic representational skills as soon as possible after his or her appointment. Following this further reasonable time should be considered:

- For further training, particularly where the official has special responsibilities;
- To deal with changes in the structure or topics of negotiation, or where significant changes in the organisation of work are contemplated;
- Where legislative changes affect the conduct of employee relations.

16.2 The Trade Unions must give adequate advance notice of course dates in writing to relevant line-mangers and co-operate in making arrangements to cover jobs during the absence of Representatives on courses. Details of the course should be provided, upon request.

16.2 Part-time employees who are required to attend recognised training courses as detailed above will be paid for the whole of their attendance time, even if it exceeds their normal working hours.

## 17 PROCEDURES

17.1 Before taking time off, the accredited representatives must obtain the permission of their manager, informing the manager of the general purpose of the time off, the intended location, the expected timing and duration of time off required.

17.2 Representatives will be required to complete and submit facility time-recording sheets on a regular basis to the relevant Branch Secretary/Senior Representative who will forward the recording sheets to the [appropriate manager].

17.3 The employer will ensure that management at all levels are familiar with agreements and arrangements relating to this agreement.

## 18 TRADE UNION FACILITIES

18.1 The Organisation agrees to provide defined facilities to the Union representatives to enable them to discharge their duties including: provision of secure office space; a notice board; access to confidential telephone, fax, internal mail and email; reasonable use of equipment such as telephones, franking machines, photocopiers, and PCs; reasonable accommodation for meetings and trade union education, and reasonable access to administrative support and secretarial services.

## 19 NO DETRIMENT AND CONFIDENTIALITY

19.1 Individuals will not be discriminated against during the course of their employment for membership of a trade union or activities as a union representative.

19.2 In line with the ACAS code on time off for trade union duties, the Organisation will respect the confidential and sensitive nature of communications between union representatives and unions members. There shall be no monitoring of union emails other than in a highly exceptional circumstance, as defined by the Information Commissioner. If the Organisation believes such exceptional circumstances apply, there reasons shall be set out to union reps for their consideration.

## 20 DISPUTES

20.1 The Organisation and the Union agree to make every effort to resolve disputes in relation to time off for trade union duties and activities.

20.2 Where permission to take time off is withheld, an explanation for the reason(s) will be given by the appropriate representative of management.

20.3 If the UNISON official is dissatisfied with the decision, the matter may be referred to the [appropriate senior manager].

20.4 If agreement cannot be reached, the matter may be referred to the [appropriate negotiating body].

20.5 The Organisation recognises that individual union representatives have the right to take a claim to an Employment Tribunal if internal procedures fail to resolve a dispute related to time off for trade union duties.

## 21 REPORTING

[This section should only be included where the organisation is subject to the Trade Union (Facility Time Publication Requirements) Regulations 2017, as set out in the “How to respond to facility time reporting requirements” section of this guide]

21.1 Reporting and collection of facility time data will be limited solely to those details required under section 13 (3) of the Trade Union Act;

21.2 The Organisation will ensure confidentiality for union reps in publication of paybill information by avoiding the naming of individual reps and applying the provisions of section 4 (3) of the Trade Union (Facility Time Publication Requirements) Regulations 2017 for substituting notional hourly rates for actual hourly rates where an individual might be identified if the actual hourly rates were published.

21.3 Alongside any publication of facility time costs, the Organisation will state its support for facility time and the net cost benefits it generates for taxpayers as follows:

- [Organisation] believes that facility time is a vital part of ensuring good employment relations.
- Independent studies have found facility time to play a key role in resolving conflict before issues escalate into more serious and costly problems, as well as ensuring necessary changes to operations are managed efficiently.<sup>4</sup>
- Research has shown that for every £1 spent on trade union facility time taxpayers receive £2.31 back in savings<sup>5</sup> and employee representatives in the workplace result in<sup>6</sup>:
  - 13,000 to 25,000 fewer dismissals each year across the UK, creating a benefit of £107m to £213m for employers.
  - 17,000 to 34,000 fewer voluntary 'exits', worth a saving of £72m to £143m to employers
  - 8,000 to 13,000 fewer injuries, equivalent to 161,000 to 241,000 fewer working days lost. Benefits range from £136m to £371m to society.
  - 3,000 to 8,000 fewer cases of work related illness equivalent to 125,000 to 375,000 fewer working days lost. Benefits range from £45m to £207m to society.

## 22 AMENDMENT OR TERMINATION OF AGREEMENT

21.1 Either side may submit proposals in order to amend this agreement. Such proposals will be in writing to the sides concerned will be the subject of joint discussions.

21.2 Both sides agree to review this Agreement in twelve months and annually thereafter.

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4 NatCen, The Value of Trade Union Facility Time, June 2012

5 Professor Gregor Gall, University of Bradford, The Benefits of Paid Time Off for Trade Union Representatives, February 2016

6 TUC, Facility Time for Union Reps - Separating Fact from Fiction, June 2012



