

Time Off for Trade Union Representatives User Guide

Introduction

This user guide is designed to support colleagues and managers when using the Time Off for Trade Union Representatives Policy. It provides practical guidance and support in applying the policy and accompanying processes.

We recognise and work in partnership with a number of trade unions who represent both non-teaching and teaching colleagues across our organisation.

Our trade union partners carry out a range of important roles including workplace representation, supporting health and safety issues and workplace learning initiatives.

The Policy is available on the Orb under **Human Resources > Trade Unions > Time off for Trade Union Representatives**

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1. Support and Guidance

To make sure our trade union representatives can raise issues and support colleagues within the Council, it's equally important that we support them to perform their roles. If you're a line manager and a member of your team is a trade union representative, then you should be aware of the arrangements for time off that are in place to allow them to carry out their duties.

If you are a manager and need advice you should contact AskHR in the first instance.

2. Definitions

A trade union is a membership-based organisation made up of workers of a certain employer, workplace or occupation, whose principal purpose is to protect and advance the interests of its members by representing them at work and leveraging their collective power.

For the purposes of this guide the following definitions will apply:

Recognised Trade Union is a trade union that an employer chooses to work with formally to regulate relations between workers and negotiate on matters such as pay and terms and conditions.

The Council recognises that different titles may be adopted by the Trade Unions to describe the different trade union roles. For the purposes of this user guide the term "**Representative**" covers all of the following roles.

Branch Official is an employee of the Council who has been elected or appointed in accordance with the rules of their union to be a representative of all or some of the union's members. As a senior representative within the union, a Branch Official will normally be granted dedicated facility time, either on a full or part time basis, by the Council.

Trade Union Representative (formerly shop steward) is an employee who has been elected in accordance with the rules of a recognised Trade Union to be a representative and has been duly notified as such to the Council in writing. An accredited trade union representative will be able to represent members throughout the Council in relation to employment matters.

Learning Representative is an employee elected in accordance with the rules of a recognised Trade Union and whose function is to advise union members about training, educational and development needs and has been duly notified as such to the Council in writing.

Health and Safety Representative is an employee of the Council who has been elected or appointed in accordance with the rules of their union to represent all or some of the union's members and has been duly notified as such to the Council in writing. A health and safety representative will be able to represent members throughout the Council in relation to health and safety matters. The Council and the Trade Unions representing employees have agreed that Health and Safety Representatives appointed by a Trade Union will represent the interests of all employees, within the locations they cover i.e., including non-union members.

Equality Representative is an employee of the Council who has been elected or appointed in accordance with the rules of their union to represent all or some of the union's members and has been duly notified as such to the Council in writing. This representative will help raise awareness of equality issues and ensure they are dealt with effectively in the workplace through collective policies and practices and they will also represent

members throughout the Council who may face discrimination or harassment. It should be noted the title of this representative may vary by union however their purpose remains the same.

Full Time Equivalent (FTE) is the amount of working time available to one full time employee in one week e.g., 36 hours (or 35 hours for teachers).

3. Recognised Trade Unions

Trade Unions recognised by the Council for collective bargaining purposes are listed below. It is the Council's practice to reflect national collective bargaining arrangements and therefore the list will be reviewed as required to ensure this position is maintained:

Unison

Recognised for collective bargaining purposes in respect of employees covered by the following Scottish Joint Negotiating Committee (SJNC) Chief Officials/Scottish Joint Committee (SJC) for Local Government Employees:

- Chief Officials and their Deputies
- Local Government Employees (Red Book)

Unite

Recognised for collective bargaining purposes in respect of employees covered by the following SJC for Local Government Employees:

- Local Government Employees (Red Book)
- Building & Civil Engineering Operatives
- Engineering Craft Operatives
- Craft Operatives

GMB

Recognised for collective bargaining purposes in respect of employees covered by the following SJC for Local Government Employees:

- Local Government Employees (Red Book)
- Building & Civil Engineering Operatives
- Engineering Craft Operatives
- Craft Operatives
- Chief Officials and their Deputies

EIS (Educational Institute of Scotland)

Recognised for collective bargaining purposes for employees covered by the SNCT Scheme of Salaries and Conditions of Service for Teaching Staff in School Education. Recognised for negotiation purposes at the LNCT

SSTA (Scottish Secondary Teachers Association)

Recognised for collective bargaining purposes for employees covered by the SNCT Scheme of Salaries and Conditions of Service for Teaching Staff in School Education. Recognised for negotiation purposes at the LNCT

NASUWT

Recognised for collective bargaining purposes for employees covered by the SNCT Scheme of Salaries and Conditions of Service for Teaching Staff in School Education. Recognised for negotiation purposes at the LNCT

Community (formerly Voice: The Union for Education Professionals)

Recognised for negotiation purposes at the LNCT

AHDS (Association of Headteachers and Deputies in Scotland)

Recognised for negotiation purposes at the LNCT

SLS (School Leaders Scotland)

Recognised for negotiation purposes at the LNCT.

4. Trade Union Duties and Activities

Trade Union Officials and Representatives are entitled to reasonable time off for duties and activities. Paid time off will be given for Trade Union Duties and unpaid time off will be given for Trade Union activities.

Health and Safety Representatives will be able to represent the interests of all employees, within the locations that they cover i.e. including non-union members, and should be granted paid time, as necessary to perform their duties.

The following list is neither exclusive nor exhaustive but illustrates the nature of **duties** for which time off with pay may be granted:

- support and represent members throughout disciplinary or grievance investigations and hearings. Includes time off for preparatory work associated with hearings i.e., reading papers and meeting with the employee.
- representation in negotiations ('collective bargaining') for pay and terms and conditions of employment.
- supporting union members at meetings with line managers
- take part in employee consultation.
- meetings with full time officers to discuss issues relevant to the workplace.

The following list is neither exclusive nor exhaustive but illustrates the nature of **activities** for which time off without pay may be granted:

- 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 dealing with internal administration of the union – for example, answering union correspondence meetings other than as part of the negotiating or consultation process.

5. Responsibilities

Manager Guidance

Time off for duties & activities

- ✓ Provide union reps reasonable time off for union duties and activities.
- ✓ Trade Union Officials and Representatives can undertake a number of roles within the unions. Line managers should consider this in conjunction with their employee and approve the appropriate paid or unpaid time off as requested.
- ✓ Branch Officials and Representatives who are in receipt of part facility time can also request paid or unpaid time off out with their allocated facility time allowance. Whilst recognising that there is no entitlement to paid time off for trade union activities, line managers will consider sympathetically requests for time off with pay from Representatives, particularly for example where this will help to ensure workplace meetings are fully representative. The timing of such workplace meetings should be arranged to minimise the disruptive effect on the Service as far as possible.
- ✓ Although there is no statutory requirement to pay for time off where the duty or activity is carried out at a time when the union representative would not otherwise have been at work, representatives carrying out duties (section 4) out with normal working hours i.e., where night workers require to meet with a union rep should provide their managers with advanced notice and in agreement get this time back. When deciding whether requests for time off should be granted, consideration would need to be given as to their reasonableness and impact on service delivery, for example to ensure adequate cover for safety or to safeguard the provision of service. Where the operational requirements of the service prevent the undertaking of trade union duties, agreement must be made to ensure any postponed meeting can be quickly rescheduled to mitigate any impact on employees involved.
- ✓ Line managers should be familiar with the rights and duties of union representatives regarding time off. Line managers should be encouraged to take reasonable steps as necessary in the planning and management of representatives' time off and the provision of cover or workload reduction, considering the legitimate needs of such union representatives to discharge their functions and receive training efficiently and effectively.
- ✓ Branch Officials and Representatives will be granted paid time-off to attend Trade Union conferences:

- ✓ annual conferences where Local Government issues are being addressed, including STUC and TUC; and
- ✓ branch or district meetings of the Trade Union dealing with Local Government issues.

Time off for Training

- ✓ Representatives are permitted reasonable paid time off during working hours to undergo initial or refresher training relevant to their trade union duties and they should request and agree this with their line manager.
- ✓ Where initial training is likely to continue for more than 6 months after taking up the role, the Service Director will approve the time off to attend training.
- ✓ Where training requests are not part of initial or refresher training, the Service Director will approve the time off to attend the training.
- ✓ The under noted courses will be approved, subject to the needs of the service.
- ✓ **Time Off for Training for Trade Union Representatives**
 - TUC Introductory Stage 1 and 2 Training Courses or equivalent; and
 - Other relevant Training Courses approved by the TUC or their Trade Union where time off has been agreed by either the Head of Service or the Service Director - HR.
- ✓ **Time Off for Training of Health and Safety Representatives**
 - TUC Health and Safety Stage 1 and 2 Training Courses or equivalent; andOther relevant specialised health and safety training approved by the TUC or their Trade Union where time off has been agreed by either the Head of Service or the Service Director - HR.

Supporting colleagues

- ✓ The service has a duty of care to representatives, as to all colleagues, therefore, it's important to maintain regular contact with your colleague, record any sickness absence or holiday requests through myPeople and continue to ensure that colleagues who are supporting unions are themselves supported and managed from a wellbeing perspective. In particular, bear in mind that union representatives and branch officials may be supporting colleagues who are in extremely difficult and challenging circumstances, and offering appropriate support can take a toll.

Recording time off

- ✓ Representatives that do not have access to myHR must request time off through their line manager. Line managers will record the approved time off through MyPeople

Representative Guidance

Appointed as a representative

- ✓ We would encourage you to speak with your manager to make them aware that you are interested in becoming a union representative
- ✓ It's important that you let your manager know in writing that you have been appointed as a union representative.

Time off for duties & activities

- ✓ Trade union representatives requesting time off to pursue their duties or activities need to give their line manager as much notice as practically possible concerning:
 - the purpose of such time off, while preserving personal confidential information relating to individuals in grievance or disciplinary matters
 - the intended location
 - the timing and duration of time off required.
- ✓ Union representatives should minimise business disruption by being prepared to be as flexible as possible in seeking time off in circumstances where the immediate or unexpected needs of the business make it difficult for colleagues or managers to provide cover for them in their absence. Where any meeting is postponed due to the aforementioned business needs, the manager should be equally as flexible in accommodating the union representative in regard to any rescheduled meeting.
- ✓ When a Branch Official or Trade Union Representative is in receipt of part dedicated facility time, agreement on time off and the provision of facilities will be the subject of approval between individual representatives and their senior manager both for the part dedicated facility time and any further reasonable requests for time off that may be made.

Time off for training

- ✓ When you request paid time off to undergo relevant training you should:
 - give at least a few weeks' notice to management of nominations for training courses
 - provide details of the contents of the training course.
 - request time off via myHR

Recording time off

- ✓ Ensure you record time off for union duties and activities through myHR giving sufficient notice
- ✓ Representatives that do not have access to myHR must request time off through their line manager.

Sickness absence, special leave & annual leave

- ✓ Any Branch Official or Trade Union Representative in receipt of dedicated facility time is responsible for informing their line manager details of annual leave and notification of sickness absence, special leave etc.

Trade Union Guidance

Accredited representatives

- ✓ By 1st March each year Trade Unions will agree with the Service Director – HR, the number of accredited representatives that will have access to time off for trade union duties and activities in the following year. In advance of this, all the Trade Unions will be required to submit the following by the 31st of January:
 - Overall membership numbers
 - Information on elected representatives, including names, payroll number and workplace location. If a payroll number cannot be provided a National Insurance Number or date of birth is required.
 - Dates for all national/regional conferences, training events and all other known scheduled events
- ✓ The allocation of dedicated facility time will be at the discretion of each Trade Union once in receipt of their annual entitlement which will be confirmed prior to the start of the new financial year.
- ✓ The level of representation across service areas should be adequate and proportionate to trade union membership numbers and geographical distribution. In agreeing a reasonable level of representation for each of the Trade Unions the Council will, as a rule, apply a ratio of 1 representative for every 37 members. Reference will also be made to:
 - overall membership numbers
 - the size of the workplace and the number of workplace locations
 - the variety of different occupations
 - the operation of shift systems
 - the national rules of the respective Trade Unions.
- ✓ In schools the Head Teacher will make adequate arrangements to ensure that there is appropriate representation in every school.
- ✓ In determining appropriate numbers of Health and Safety Representatives, reference will be made to the nature of the work and its inherent dangers, in addition to the above factors.
- ✓ Trade Union Learning Representatives will be approved on a case-by-case basis in each department taking account of the number of employees and workplace locations etc.
- ✓ Equality Representatives will be approved on a case-by-case basis in each department taking account of the number of employees, workplace locations,

and demographic makeup of the workplace in relation to protected characteristics.

Notification of new or changes of representatives

- ✓ Throughout the course of the year, each Trade Union will be responsible for informing the Council of changes in their Representatives, including resignations and appointments.
- ✓ In relation to appointments, the Trade Union should forward Employee Relations & Policy confirmation of:
 - the name of the Representative, workplace, and payroll number. If a payroll number cannot be provided a National Insurance Number or date of birth is required
 - role, i.e., Branch Official, TU Representative, Health and Safety Representative, Trade Union Learning Representative, or Equality Representative.
 - work area/employment group represented
 - service area which the Representative has responsibility for
 - confirmation that membership levels support either the provision of a replacement or additional Representative
 - name of Representative replaced.
- ✓ A central database of all Representatives will be maintained for reference purposes.
- ✓ Representative accreditation will also be confirmed in writing by the relevant Trade Union to the line manager of the Representative.
- ✓ No Representative will be entitled to access time off for trade union duties and activities or facilities until confirmation of their accreditation by their Trade Union has been confirmed to their line manager.
- ✓ The Council recognises the rights of Trade Union Members and Local Representatives to have the assistance of full time Trade Union Officers who will be permitted to advise and assist members and Representatives.
- ✓ Except for full-time paid Trade Union Officers, all Representatives must be employees of the Council.

6. Dedicated Facility Time

Joint Staff Side Secretary/Teachers' Side Secretary

The Council will provide dedicated facility time to the Joint Staff Side Secretary and to the Teachers' Side Secretary. This time will be two FTE i.e., one FTE per post holder. The Joint Staff Side Secretaries are appointed by the unions and notified to the Service Director – HR on appointment.

Branch Officials

The Council will provide an agreed level of dedicated facility time to each Trade Union. The level of dedicated facility time will be reviewed annually prior to the commencement of the financial year. The Service Director – HR will agree a funding level shown as an FTE for each union. This level will take account of the Trade Union membership levels following submission of this information.

Dedicated facility time calculation

In agreeing an equitable and reasonable level of dedicated facility time for each of the Trade Unions the Council will apply a ratio of one FTE for every 1200 City of Edinburgh Council members. (Note: One FTE = 36 hrs / 35 hrs for teachers).

Additional facility time for attendance at National Delegate Conferences or Regional equivalents.

As a general principle the Council will only grant paid time off to attend appropriate Conferences for Officials or, where appropriate, Trade Union nominated Representatives deputising for an official. Requests for other Representatives to be granted paid time off to attend Trade Union Conferences should be submitted to Service Director for consideration. The Service Director – HR will confirm FTE allocations to the Trade Unions on an annual basis at the commencement of the financial year.

It will be at each Trade Union's discretion to determine how the funding is disbursed. However, when it is established who will receive a specific level of dedicated facility time, it will be incumbent on each Trade Union to confirm this to the Service Director – HR. In addition, any changes during the year will be the subject of additional notification.

Teachers' Side

The pre-existing levels of school-based facility time available for Representatives of teaching unions are agreed within the Joint Teachers Side Negotiating Committee. This is to ensure time can be built into the weekly timetable.

For Representatives of the Teaching Trade Unions, the following arrangements apply in respect of paid time off for trade union duties. These scales apply for each school week and are based on one Representative per union per educational establishment. Where there is more than one Representative per union the time off allocation will be apportioned between them:

Number of members represented	Amount of time off:
5 - 50	40 minutes per week
51 - 75	80 minutes per week
76 +	120 minutes per week

Agreement should be reached with the head teacher at school level on how this time allocation should be organised over the school year, considering the requirement for class cover and the need to minimise any disruption for pupils.

Returning to work following full time dedicated facility time

Following the end of a period of dedicated facility time, the Branch Official will return to their former post on their existing terms and conditions of service. In the event of the post being affected by any restructuring or reorganisation leading to redeployment and/ or, redundancy, the Branch Official will be treated the same as any other employee whose substantive posts are similarly affected.

Contractual matters - Branch Officials

The duration of the period of dedicated facility time will be treated as continuous service and the Branch Officials will receive their normal salary and normal incremental progression will apply, as

appropriate. During the period of dedicated facility time the Trade Union will be responsible for the payment of all travelling and subsistence expenses.

Branch Officials can work up to 10 Keeping in Touch Days (KIT days) during their period of dedicated facility time, without bringing their facility time to an end or extending its length.

The days can be used in a single block or separately for any activity that helps keep an employee informed and involved with events happening in the workplace, for example undertaking normal duties or a work project, attending team meetings or training/development events etc.

The use of KIT days is optional; a manager cannot insist that an employee carries out any work during the period of dedicated facility time and an employee cannot insist on being given work to do. Where practicable, both the manager and employee should discuss and agree the activities and timing of KIT days during the period of dedicated facility time.

The calculation of pay for the time taken for trade union duties should be undertaken with due regard to the type of payment system applying to the union representative including, as appropriate, Working Time Payments.

7. Conflicts of Interest

A conflict of interest is a situation that has the potential to undermine your impartiality as a Union Representative. When identifying whether a conflict of interest exists, the individual should ask themselves whether it is likely to interfere, or appear to interfere, with their objective judgement in performing their representative duties.

Such conflicts can pose a significant risk to the Council and could also leave you vulnerable to allegations of impropriety and you must escalate this to your Branch Official who should determine whether it is appropriate to continue supporting the member or whether another representative should be appointed, or other mitigations put in place.

Conflicts of interest may include but are not limited to:

- the Representative has a personal relationship with someone involved in a case they are asked to advise or support with.
- The representative is too close to the issue and cannot be unbiased.

8. Statutory Reporting

As a public sector employer, we must report and publish information on facility time for our employees who are trade union representatives. We need to collect and report facility time information to cover the period from 1 April to 31 March each year.

Trade Unions will be responsible for providing the Council with information requested in relation to statutory reporting in a timely fashion.