

Briefing

The provision for funding for facility time to be delegated to schools was enacted in 2013, and since then in many authorities, facility time has been de-delegated to form a local authority central pool, which academies can also access.

Schools Forums are likely to revisit this issue on an annual basis, and the continuation or adoption of de-delegated arrangements should be made.

The case for de-delegation

- Good industrial relations and constructive solutions to issues are vital for schools to be happy and productive workplaces and educational standards to be improved.

The NASUWT share the employers' desire for every school to be the best that it can be.

- There is plentiful evidence that where union representatives work collaboratively with employers, significant savings were made in the following areas: lower dismissal rates and voluntary exit rates that reduced recruitment costs, lower rates of employment tribunal cases, lower workplace injuries and lower workplace-related illnesses. In 2007, a government report found that facility time contributed to savings across the economy of up to £1bn.

- Section 168 of the Trade Unions and Labour Relations Act 1992 (TULRA) gives representatives of recognised trade unions the right to claim reasonable paid time off for specified purposes.

- The specified purposes include negotiations over collective bargaining, which is defined in law as relating to terms and conditions of employment, the physical conditions in which workers are required to work, engagement and termination of workers, allocation of duties, matters of discipline, trade union membership, facilities for officers of trade unions, and arrangements for consultation or negotiation.

- Other specified purposes include consultations over redundancies and Transfer of Undertakings (Protection of Employment) Regulations (TUPE) and this continues to be a driver of casework in the Stockton area as maintained school convert to academy trust status and indeed when academy school change trusts. Employers may also agree other functions which

representatives may perform. The amount of 'reasonable' time off is not defined in the statute.

- De-delegated arrangements are the most cost-effective way for schools to meet their legal obligations.

- If funds are delegated, each individual school will need to fund the cover the additional requirements for representatives to be trained, and the supply costs of cover that will be required for the school-based representatives to undertake duties.

Briefing

- The cover costs of training alone will be a minimum of £2000 per year (one representative for NASUWT, NEU, GMB, and UNISON each receiving 2-3 days training). The actual cost is likely to be significantly higher however, as the Employment Tribunal ruled in *Bennett v London Borough of Camden* that up to 36 days paid leave for training was reasonable.
- In addition to the visible work local trade union representatives undertake in schools and with the authority, there is also substantial hidden work primarily advising members and resolving issues before they even come to the attention of school management and HR officers.
- This unseen work saves schools considerable amounts of both time and money. If this facility is removed, it is likely that schools would see a considerable upsurge in cases, and more importantly cases that may have to be resolved using external legal advisors.
- There are substantial benefits of working with local and regional teaching and support staff trade unions in cases involving individual employees, who are entitled to trade union representation.
- Effective employee relations between the authority, Academy Trusts, the school and the trade union helps to ensure that casework is quickly resolved via negotiations or consultation without the necessity for cases to result in an employment tribunal, which is costly for the school and employer or authority.
- Many workforce disputes, exit arrangements and effective solutions to workforce matters in schools are resolved at local level, again preventing the need for employment tribunal or court cases.
- Unions, authorities and academy trusts work in partnership to develop model policies and procedures suitable for schools and are consulted on guidance to schools on many aspects of national and local terms and conditions. These benefits also apply to academies, whether or not they buy HR services from the authority.
- Although many of the unions employ regionally-based staff to deal with high level cases, it is beneficial to all parties to resolve issues at the earliest opportunity. This is why supporting paid time off for local union representatives makes sound business sense.
- Schools within the local authority will be requested to release accredited union representatives appointed in accordance with the facility time agreements, in order to carry out the bargaining and representation functions across the authority.
- These accredited union representatives are normally more highly qualified and experienced than school-based representatives. De-delegated funds allows the release of these authority-wide representatives, which all schools and academies can benefit from.
- Schools benefit from good employee relations across the authority as well as from the model policies, procedures and guidance, specifically for schools published by the authority in consultation with the unions.

Briefing

- The importance of an adequate amount of facilities time cannot be overestimated. Section 1 of the ACAS Code of Practice says “Union representatives undertake a variety of roles in collective bargaining and in working with management, communicating with union members, liaising with their trade union and in handling individual disciplinary and grievance matters on behalf of employees.
- There are positive benefits for employers, employees and union members in encouraging the efficient performance of union representatives’ work, for example in aiding the resolution of problems and conflicts at work. The role can be both demanding and complex. In order to perform effectively union representatives need to have reasonable paid time off from their normal job in appropriate circumstances.”

Abridged from NASUWT Briefing note “Schools Forum & Facility Time”

July 2020

Lester Russell

Stockton-on-Tees

Negotiating Secretary, Caseworker

Stockton-On-Tees,

NASUWT

Reviewed Sept 2025