

Policy and Sustainability Committee

10.00am, Tuesday 17 January 2023

Time off for Trade Union Representatives Policy

Item number
Executive/routine
Wards
Council Commitments

1. Recommendations

1.1 To approve the new Time Off for Trade Union Representatives policy.

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Time off for Trade Union Representatives Policy

2. Executive Summary

- 2.1 Trade Unions play an important role in the Council and the Council recognises that there are significant benefits to both employers and employees when we work together effectively.
- 2.2 To this end, the Council has an Agreement on Time Off and Provision of Facilities for Trade Union Representatives, which supports a partnership approach to working with our recognised trade unions and provides support for them in the form of reasonable time off and the provision of a reasonable number of facilities. This policy was last updated in 2015 and through discussions with trade unions, it is apparent the policy is out of date and needs reviewed.
- 2.3 Through engagement and consultation with Trade Unions and management, we have refreshed the policy and renamed it the Time off for Trade Union Representatives and this paper highlights the changes for review and approval.

3. Background

- 3.1 Recommendations from the Independent Inquiry and Whistleblowing Culture Review stated that a review should be undertaken on a number of employment policies to ensure they were fit for purpose and incorporated a number of specific requirements cited in the report.
- 3.2 Each of these policies will be the subject of collective bargaining with our Trade Unions. To ensure that employee relations within the Council were fully supported during this period of policy development, we undertook to refresh the existing facility time agreement.
- 3.3 In addition to this, earlier in 2022, it was agreed to include teaching unions within funded facility time for representatives which is not reflected in the current agreement.

4. Main report

Key Changes

- 4.1 As the Agreement was last reviewed in 2015, we have taken the opportunity to update the style, tone and language so that it aligns with current Council voice as well as bringing consistency across other employment policies.
- 4.2 The previous Agreement was lengthy at 24 pages. We have streamlined the policy document to focus on the key principles underpinning the agreement, partnership working and what this means within the Council as well as highlighting what time off will be permitted. We have removed the Working Together Protocol from the policy, and this is currently under review as a standalone document.
- 4.3 Based on feedback, we have taken the opportunity to create a supporting user guide for the first time which provides more detail and clarity on the expectations and requirements for all those involved e.g., Trade Unions, Representatives and their line managers as well as HR. This includes the requirement to notify management and HR of new representatives, as well as monitoring data for statutory reporting.
- 4.4 The new Agreement and user guides also take into consideration the decision from CLT in June following submission of a paper on Facility Time. This covered two areas:
 - 4.4.1 Firstly, to incorporate teaching unions into funded facility time to balance the funding offering to non-teaching unions, which was approved and commenced from 15 August.
 - 4.4.2 Secondly, to change how funded facility time was calculated within the Council based on membership numbers. This was not approved for 2022-23 however noted that it should be reviewed on an annual basis to ensure fitness for purpose. To support this, we have moved the calculation from the policy into the supporting user guide to provide the Council with more flexibility when updating it.
- 4.5 Based on the wider recommendations from the Independent Inquiry and Whistleblowing Culture Review, which focussed on declarations of interest, we have taken the opportunity to include a section on Conflicts of Interest and what steps representatives should take to mitigate this.
- 4.6 Finally, it has been identified that the administrative process that supports the recording, monitoring and reporting of facility time for statutory purposes does not meet the requirements set out in the Trade Union (Facility Time Publication Requirements) Regulations. Therefore, we have introduced into the user guide clear dates for reporting as well as agreeing locally with our TU colleagues how they should be recording their facility time.

5. Next Steps

- 5.1 An implementation plan, including communications, will be put into effect to launch the revised policy.

6. Financial impact

- 6.1 There is no material impact arising from this report.

7. Stakeholder/Community Impact

- 7.1 This policy meets our legal obligations in relation to formal consultation. The trade unions have been engaged on the new policy and are content with the proposed changes.
- 7.2 In addition to formal consultation, these policies have been assessed for possible impacts on vulnerable groups, people with protected characteristics, equality and human rights and economic factors as part of our integrated impact assessment. As a result, no negative impacts were identified as no substantive changes were being made to the processes

8. Background reading/external references

- 8.1 Not applicable.

9. Appendices

- 9.1 Policy and User Guide

Time off for Trade Union Representatives

The Council (we) understand that it is to the mutual benefit of the Council and its employees to recognise Trade Unions for the purpose of collective bargaining and consultation. This also includes the conduct of industrial relations in general, health and safety matters and the support that can be given to employees by Trade Union Representatives.

It is also recognised that it is of mutual benefit for the Council and Trade Unions to be committed to the principle of working in partnership at local, regional and national levels.

The Council and the Trade Unions are committed to working together to achieve shared aims, objectives, and outcomes. This will be carried out in the spirit of respect, integrity and flexibility as partners in employee matters.

It is understood that the role of the Trade Union Representative is complex and includes roles which are varied and in some cases role specific. This policy provides reasonable time off for Trade Union Representatives which can include, but not limited to, supporting members, consultation, training and attendance at National Delegate Conferences.

Author	Scope
Employee Relations & Policy, Human Resources, Corporate Services Directorate.	This policy applies to all Trade Union Representatives and their line managers.
Purpose	Review
The purpose of this policy is for the Council and Trade Unions to have a common objective of ensuring the health, safety and wellbeing of employees and working in partnership to deliver positive workplace relations.	The policy will be reviewed as and when a change to the existing policy deems this necessary, primarily as a result of operational experience; changes to legislation; or changes agreed through Trade Union Consultation.

Local Agreement

This policy is a local collective agreement between the Council and our recognised Trade Unions. We will make every effort to ensure that it is maintained as a local collective agreement. Any changes will be made by agreement. If we cannot agree, either party can end the local collective agreement by giving four months' notice in writing, with the policy ceasing to apply to staff at the end of that period.

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1. Policy Aims

The aim of this policy is to support a partnership approach which promotes and encourages the effective involvement of employees, by engaging with their Trade Unions at the earliest possible stage in processes that involve influencing decisions, information sharing, problem solving and learning and development. Partnership working within the Council ensures regular and meaningful engagement with the Trade Unions in a variety of forums.

To ensure a common objective the Council will:

- Promote and encourage Trade Union membership;
- Recognise the Trade Unions as the employee representatives within the Council for the purposes of collective bargaining, consultation and health and safety matters;
- Allow reasonable time off to undertake trade union duties and/or activities; and
- Support the training and development of Trade Union representatives within their roles.
- Maintain positive industrial relations.

To ensure a common objective the Trade Unions will:

- Where differences are raised by individual unions, or where unions raise matters of mutual concern, aim to resolve them using the Council's relevant procedures before taking any form of industrial action;
- Work together to present a common Staff Side position where matters involve all unions and work collectively to resolve them using the Council's relevant procedures before taking any form of industrial action; and
- Where differences cannot be resolved, ensure balloting for industrial action is conducted in accordance with the law.
- Maintain positive industrial relations.

The support offered will include the provision of reasonable time off and a reasonable provision of facilities. This policy provides a baseline level of Trade Union facilities. Specific arrangements to deal with expectations of increased trade union involvement in change, review or other initiatives are also set out in the Policy.

2. Legislative and Statutory Rights

Our Policy is underpinned by a legislative framework which applies equally to all recognised Trade Unions and provides statutory rights including:

- an entitlement to receive certain information for collective bargaining purposes

- the right to be consulted on certain processes, e.g., transfer of undertakings, potential redundancies
- the right to request reasonable time off to undertake trade union duties and activities
- the right to request reasonable time off to undertake appropriate workplace related trade union training
- the right to appoint Health and Safety Representatives
- the right to appoint Trade Union Learning Representatives

Relevant legislation: -

- Trade Union and Labour Relations (Consolidation) Act 1992 – TULR(C)A
- Employment Act 2002
- Employment Act 2008
- Employment Relations Act 1999
- Employment Rights Act 1996
- Trade Union Recognition (Method of Collective Bargaining) Order 2000 (SI 2000/1300)
- The Safety Representatives and Safety Committees Regulations 1977 (SI 1977/500), as amended by the Employment Rights (Dispute Resolution) Act 1998
- The Management of Health and Safety at Work Regulations 1992 (SI 1992/2051)
- The Equality Act 2010

3. Working Together

We are committed to working in partnership with our recognised trades unions. They provide an invaluable contribution to the work we do in developing Council policy and resolving employee relations issues. We ask all our managers to support them in the work they do.

Our working together protocol sets out how we work with the trades unions when we set about achieving our shared goals together. It covers the behaviours we expect from each other and applies to all managers and trade union representatives in all their dealings with each other. Our working together protocol is available on the Orb, please take the time to familiarise yourself with it.

One of the main ways we support trade union activity is by allowing trade union representatives time off for trade union work. We recognise that it can be difficult at times to let colleagues who are trade union representatives away from the workplace when things are busy. However, we would stress that where a reasonable request for time off is made, it should only be turned down in exceptional circumstances. The

rules around time off for trade union representatives and how they should ask for time off are detailed in the user guide.

Partnership working

Partnership working within the Council ensures regular and meaningful engagement with the Trade Unions in a variety of forums involving, discussions with:

- the political administration;
- the Chief Executive, Directors and corporate level managers;
- human resources;
- service managers; and
- the Council's Health and Safety Officers.

The above list is illustrative and not exhaustive

Appointment 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.

The accompanying user guide outlines the information required and process that should be used to notify HR.

If you are thinking of becoming a Trade Union Representative, you must discuss this with your line manager in the first instance to ensure they are provided with sufficient notice to allow them to undertake service planning. Once elected as a Trade Union Representative, it could take some time until you are fully accredited so you should speak to your union to fully understand the process of becoming a representative and keep your line manager updated.

Newly elected Trade Union Representatives from the recognised Trade Unions will be granted release from any work responsibilities for a period of up to four half days over a one-month period following their election to allow them to shadow a Branch Officer or Senior Representative in their duties

Disciplinary action against a Trade Union Representative

When disciplinary action is contemplated against a colleague who is a trade union representative or a senior representative, the Council will seek that colleague's permission to discuss the case with the relevant official at the trade union in advance of any formal disciplinary process commencing. Before taking any action, the manager must discuss this with their HR Case Consultant, who will contact and liaise with the relevant trade union.

4. Dedicated Facility Time

The Council will provide an agreed level of dedicated facility time as a Full Time Equivalent (FTE) value to each Trade Union. The level of dedicated facility time will be reviewed annually prior to the

commencement of the financial year, and this will be based on membership numbers supplied by each Trade Union.

The Service Director of HR will confirm the FTE allocations to each Trade Union on an annual basis at the commencement of the financial year. It will be at the discretion of each Trade Union to determine how the FTE allocation is disbursed. However, when it is established who will receive this dedicated facility time, each Trade Union must confirm this to the Service Director of HR along with any changes to allocations throughout the year.

When a Branch Official or Trade Union Representative is in receipt of part dedicated facility time, agreement on the distribution on time off and the provision of facilities will be the subject of approval between individual Representatives and their senior manager. Any further requests for time off either for trade union duties or trade union activities can be requested through myHR. Further details on how to request additional time off can be found in the user guide.

Details of the calculation used to determine dedicated facility time is detailed in the user guide and will be reviewed annually by the Council Leadership Team.

Exceptional increase in Trade Union duties

Where increases in trade union activity are necessitated by the initiation of activity involving organisational reviews, change management or other management initiatives, the Trade Unions can request that the Service Director of HR authorise an interim increase in dedicated facility time for the named Trade Union/Trade Union Representatives. Where interim increases are approved for specific circumstances, a return to normal levels of facility time will be automatic when the specific circumstances end.

Returning to work following full time dedicated facility time

Following the end of a period of dedicated facility time, the Branch Official or Trade Union Representative will return to their former post on their existing terms and conditions of service. Where the post has been affected by any restructuring or reorganisation leading to redeployment and/or redundancy, the Branch Official or Trade Union Representative will be treated the same as any other employee whose substantive post is similarly affected.

5. Time off for Trade Union Duties and Activities

Trade Union representatives are entitled to reasonable time off to undertake their functions and to attend approved training opportunities relevant to those functions.

The Council and Trade Unions agree as a fundamental principle that each request for time off must be reasonable and will be balanced against the operational requirements of the 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.

Where the requested time off is in relation to supporting members for any conduct related issues and the time is requested at short notice, managers should be flexible in allowing the Trade Union Representative the requested time off. Only in very exceptional circumstances should this time off be refused.

It is jointly recognised that where representatives are undertaking trade union **duties** that reasonable time off with pay will be granted. Trade Union Representatives who are shift workers are able to claim compensatory time off when they are required by the union to attend meetings in their rest time.

Where Trade Union Representatives are undertaking trade union **activities** reasonable time off without pay will be granted.

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.

Approval of time off should be agreed between the individual representative and their line manager wherever possible.

Time off for Trade Union duties and activities for representatives in Teaching unions need to be planned and scheduled into their working week. There are more details of this in the user guide.

The accompanying user guide illustrates examples of trade union **duties** and **activities**.

6. Time off for Trade Union Training

It is the responsibility of the Trade Unions to ensure that their Representatives are sufficiently trained to carry out their duties. At the point of accreditation, the Trade Union will be required to confirm details of the training received or provide notice to the Council of the date by which the Representative will complete training. This training should ideally be completed within the six months following their date of election. Where training is not available within this timescale, the Trade Union will be responsible for advising the line manager and confirming the first date of available training.

Further information can be found in the User Guide.

7. Trade Union Facilities

The Council will make available to Representatives reasonable facilities necessary for them to carry out their duties efficiently and communicate effectively with their members.

Facilities can only be taken up by Representatives who have received official confirmation of their accreditation by their Trade Union, and this has been confirmed to the Council.

As a minimum, the Council will ensure that Representatives have reasonable access to the following facilities, without charge, in the performance of their trade union duties:

- accommodation for meetings;
- internal telephone calls and reasonable external calls;

- a PC and other office equipment;
- reasonable use of photocopying/print facilities;
- reasonable secure filing space;
- notice boards; and
- use of internal communication systems, including internal mail, courier, e-mail and intranet services.

Any information created or held on Council ICT systems is the property of the Council and there is no official provision for individual data privacy. Representatives should not consider any electronic information to be private if it has been created or stored on Council ICT systems.

In addition, suitable IT equipment to enable remote access to the Council's intranet will be provided to unions (until provision is enabled to access the Council's intranet without the need for a dedicated laptop and a VPN).