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1. **Background** 
   1. The requirement for employers to grant time off for trade union duties is specified in the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A). This states that an employer will grant an employee, who is a recognised trade union official, time off during working hours to carry out official duties including negotiations on collective bargaining, consultation on TUPE and redundancies, etc. It also extends to representation of individual employees. Time off shall also be granted for the purposes of undergoing training on aspects of industrial relations which are relevant and approved by the Trade Union Congress or relevant trade union.
   2. The amount of time off must be ‘reasonable’ in all the circumstances having regard to any relevant provisions of a Code of Practice issued by ACAS. There is no requirement to pay for time off outside the union official’s normal working hours or when the official would otherwise not have been at work.
   3. There is a statutory right to payment for time off to undertake trade union duties but no statutory requirement that union members or representatives be paid for time off taken on trade union activities. Activities might include meetings with other trade union representatives, administrative tasks related to the union, representing the union externally, voting, etc.
   4. The 1992 Act specifies that an employer who permits an employee to take time off must pay them for the time off taken. The Act does not specify the amount of time that a representative is entitled to take off but specifies that it must be ‘reasonable in all of the circumstances’ and have regard to the relevant provisions of the ACAS Code of Practice.
   5. There are five areas where recognised trade unions have a statutory right to be consulted on:
      * Redundancy situations (under the Trade Union and Labour Relations (Consolidation) Act 1992).
      * Transfers (under the Transfer of Undertakings (Protection of Employment) Regulations 2006)
      * Health and Safety (under various provisions including Health and Safety at Work Act 1974; Safety Representative and Safety Committees Regulations 1977 and Management of Health and Safety at Work Regulations 1999).

* Pensions (The Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006; Occupational Pension Schemes (Consultation by Employers) (Modification for Multi-employer Schemes) Regulations 2006 and the Information and Consultation of Employees Regulations 2004 as amended).
* Workplace training and learning (under the Employment Act 2002 where a union has appointed a Union Learning Representative).

Employees also have a statutory right to be accompanied at particular employment meetings (including disciplinary and grievance meetings).

1. **Recognised Trade Unions**
   1. The Authority recognises five RPTAs for the purposes of collective consultation and negotiation on terms and conditions of employment, redundancies, TUPE, and HR policies in schools. Trade union representatives also support employees in employee relations matters such as disciplinary and grievance matters.
   2. Our recognised professional trades union associations are:

a.NUT

b. NASUWT

c. NAHT

d. ASCL

e. ATL

* 1. Our facilities arrangements provide for our local officers to be given a fixed allocation of time off. This would normally be based on membership; however the current allocation was agreed between the unions a number of years ago with NUT the biggest union at the time agreeing that the allocation would be split equally between them and the next two biggest unions ATL and NASUWT. NAHT and ASCL have received smaller allocations based on membership. Under this provision, we pay on a supply basis those union representatives who are not directly employed by the Authority or a maintained school on a full time basis. Other employees are seconded from their normal duties on a casual day to day basis and their service or school is reimbursed accordingly. The current allocation is:
     1. NUT 2 days a week
     2. ATL 2 days a week
     3. NASUWT 2 days a week
     4. NAHT 1 day a week
     5. ASCL 0.5 days a week

*Please note these are maximums and does not imply the unions should always claim this amount. These are the current arrangement and could change subject to negotiation.*

* 1. Since April 2013 the Council has no longer been able to retain funds for this purpose and the RPTA funds were delegated to individual schools/academies budgets. Primary schools and Secondary Schools voted to de-delegate this budget back to the Local Authority.
  2. Academy schools are separate from the Authority and responsibility for union relationship with unions transfers to each Academy Trust. Academy schools take back their contribution to the budget. Through a pooled facility time scheme a number of academies have agreed at this current time to continue to contribute to facility time. RPTAs are advised of those schools for facility purposes.
  3. The existing arrangements cannot be maintained if the current funding is not recovered from schools/academies going forward. Whilst there are definite advantages to all concerned in providing agreed time off, the amount of time off available in the future will be determined by the amount of funding recovered from schools and academies.

1. **Facility Time Duties** 
   1. Agreed facility time duties must be in line with the statutory requirements of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) as well as having regard to:

Acas Time off for Trade Union Duties and Activities

DFE Advice on trade union facility time

Burgundy Book Agreement on Facilities for Representatives of Recognised Teachers’ Organisations.

* 1. The pooled facilities arrangement with schools enables the Authority’s RPTAs to continue to undertake duties supporting schools in the timely and constructive resolution of employee issues. It recognises that school issues affect the whole community of schools. The existing arrangements cannot be maintained if the current funding is not recovered from schools/academies going forward. It is therefore important that these facilities arrangements are open and transparent and seen to be mutually beneficial. Representatives should focus the use of their time, where possible, on statutory consultation and representation requirements that benefit both the employer and unions;
  2. Reasonable paid time off for duties in line with statutory requirements:

1. Negotiations with the employer about matters which fall within section 178(2) of TULR(C)A and for which the union is recognised for the purposes of collective bargaining by the employer i.e.:
2. terms and conditions of employment, or the physical conditions in which workers are required to work.eg pay, hours of work, sick pay arrangements, equality and diversity.
3. engagement or non-engagement, or termination or suspension of employment or the duties of employment of one or more workers. e.g. recruitment and selection policies; redundancy and dismissal arrangements;
4. allocation of work or the duties of employment as between workers or groups of workers e.g. flexible working practices and work-life balance.
5. matters of discipline e.g.: 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.
6. trade union membership e.g. representational arrangements.
7. machinery for negotiation or consultation and other procedures. e.g. collective bargaining; grievance procedures; joint consultation. Through the JCF the Local Authority has consulted with the recognised trade unions on aspects of the strategic direction of the education provision within the Authority particularly its provision and support for schools.
8. The receipt of information from the employer and consultation by the employer under section 188 TULR (C)A related to redundancy . In practice redundancy is dealt with on an individual school basis with the school engaged (with the support of the LA where appropriate) in the consultation process with the unions.
9. The receipt of information, consultation and negotiation in relation to the statutory requirements of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and subsequent amendments that applies to employees of the employer. In practice TUPE is dealt with on an individual school basis with the school engaged (with the support of the LA where appropriate) in the consultation process with the unions.
10. Statutory requirements in terms of health and safety legislation. Through the JCF the RPTAs are also consulted with about issues of health and safety relating to schools and their members
11. In recognition that training is important for union representatives to enable them to carry out their duties effectively then reasonable time off to undergo training in aspects of industrial relations relevant to the carrying out of their trade union duties as mentioned above.
    1. Non statutory paid time off for union duties will be agreed in advance on an adhoc basis. This may include:
12. Consultation with RPTAs on model employment policies and procedures for schools based staff and centrally employed teachers. These policies and procedures define the processes and discretions the employer will exercise. This is not necessarily a statutory obligation but has been undertaken where practicable to assist in maintaining a constructive employee relations climate. These can be adopted by governing bodies without necessity for further consultation at school level other than that required to localise the policies.
13. Attendance at workshops/training provided by LA staff to schools based staff where this could be mutually beneficial.
    1. Facility time will not normally be paid for hours worked outside the normal working day.
    2. Paid facility time must not be used for:
    * Any activities related to lobbying for, planning or carrying out industrial action.
    * Any duties that may be recognised above but take place in schools that are not part of the pooled arrangements including schools in other local authority areas.
    * Trade union activities that might include meetings with other trade union representatives, attendance at regional meetings, administrative tasks related to the union, representing the union externally, voting, etc.
    * National Executive work (that would need to be subject to any separate agreement for time off with the representatives own school/service).
    * Attending as a note taker at a hearing at which another representative (e.g. Regional Representative) is present to support an individual.
    1. In respect of an academy that is part of pooled RPTA arrangements, it is requested that any unions considering industrial action inform the Local Authority in advance through Hester Edmond, Senior HR consultant so that the LA has awareness of the situation. It is of course anticipated that every effort will be made to resolve issues to avoid the need for such action.
    2. In the event that a representative granted agreed time off regularly fails to attend meetings or engage with managers or HR staff as required, the time off will be reviewed and may be withdrawn at the discretion of the Council, following discussion with the relevant regional office. It is of course anticipated that every effort will be made to resolve issues to avoid the need for such action.
    3. Time off arrangements will be reviewed on an annual basis, or more frequently if necessary depending upon available funding, operational experience, etc.
    4. In order to facilitate this, recognised professional teacher associations agree to supply to the Local Authority by the end of the second week in January each year:

1. Membership numbers in Bath and North East Somerset (only relating to maintained schools and those academies that buy into the pooled arrangements. Students and members in Independent Schools and Colleges should not be included in these numbers. In addition the membership numbers must only include teachers and not for example school business managers or teaching assistants.

2. An overview of the number of cases/policies reviewed and to evidence impact on fostering good employment relations with schools in the Authority. This can be in the form of a short report no greater than 2 sides of A4 and it should be submitted by the end of the second week of January each year in order to report to Schools’ Forum.

* 1. Where such detail as outlined above is not provided by the end of the second week in January each year, and a reminder has also been issued then the union may forfeit their entitlement to any funds.

1. **Facility Time Claims**

4.1 Those representatives who claim on a supply form basis must submit time sheets on a monthly basis. Claims cannot be retrospective for more than three months.

4.2 For those unions representatives that are being released from a school or service then that school or service should be submitting an invoice or claim for the hours that need reimbursement. It is important that there is clarity about salary level, hours worked and dates worked. Such claims should be ideally submitted monthly but no more than three months’ worth of claims will be accepted.

4.3 Individual union time off allocations are maximum allocations only and during term time only. Claims should be in line with the expectations clearly laid out above and claims should not be made for any activities outside those agreed above.

4.4 RPTA claims could be subject to audit inspections. It is also important to demonstrate transparency to ensure that schools continue to buy into the facility arrangements. Representatives should focus the use of their time, where possible, on statutory consultation and representation requirements that benefit both the employer and unions.

4.5 Representatives are asked to provide a breakdown of duties for the hours for which are being claimed. Such a breakdown should be either attached to a supply claim or be sent in separately on a monthly basis to Hester Edmond, Senior HR Consultant. It is appreciated that some of your work is of a confidential nature but expectation is that you provide for the hours claimed a general overview/breakdown of what you are claiming for. Examples might include:

* Type of negotiation
* Type of hearing and role
* Overview of nature of support for a member
* Type of consultation meeting
* Type of training attended

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