



# Trade Union Recognition and Facilities Agreement

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Human Resources  
Employment Policies



# CONTENTS

SECTION	TITLE	PAGE
1.	INTRODUCTION.....	3.
2.	DEFINITION.....	3.
3.	TRADE UNION RECOGNITION.....	3.-4.
4.	NOTIFICATION OF APPOINTMENTS.....	4
5.	TIME OFF FOR TRADE UNION DUTIES.....	4.-5.
6.	TIME OFF FOR TRADE UNION ACTIVITIES.....	5.-6.
7.	PAYMENT FOR TIME OFF FOR TRADE UNION DUTIES.....	6.-7.
8.	TRAINING OF OFFICIALS.....	7.
9.	PROCEDURE FOR REQUESTING TIME OFF.....	7.-8.
10.	COVER.....	8.
11.	GENERAL CONSIDERATIONS.....	9.
12.	TRADE UNION CONVENERS.....	10.
13.	FACILITIES .....	10.
14.	COMPLAINTS.....	10.
15.	AMENDMENT OR REVIEW OF AGREEMENT.....	11.
	APPENDIX 1 - Descriptions.....	12 -14.
	APPENDIX 2 - Definition of Terms.....	15.
	APPENDIX 3 - Request Form.....	16 -17.



## **TRADE UNION RECOGNITION AND FACILITIES AGREEMENT**

### **1.0 INTRODUCTION**

- 1.1 The Council is committed to working in partnership with the recognised Trades Unions to promote and develop good employee relations and health and safety practices.
- 1.2 The Council also recognises that Trade Union Officials, Safety Representatives and Learning Representatives are entitled to reasonable time off to fulfill their functions and to undertake approved training relevant to those functions. The purpose of this Facilities Agreement is to establish recognised and mutually agreed practice for:
- Trade Union Recognition
  - Time Off for Trade Union Duties, Activities and Training

### **2.0 DEFINITIONS**

- 2.1 A trade union official is an employee who has been elected in accordance with the rules of a trade union recognised by the Council, to be a representative of all or some of the union's members in a particular department or workplace.
- 2.2 A safety representative is defined as an employee elected in accordance with the rules of a trade union recognised by the Council, to represent a group or groups of employees in accordance with the Safety Representatives and Safety Committee Regulations 1977)
- 2.3 A trade union learning representative is an employee elected in accordance with the rules of a trade union recognised by the Council and their main function is to advise union members about their training, educational and development needs.

### **3.0 TRADE UNION RECOGNITION**

- 3.1 The Council believes in the principle of collective bargaining at local level and formally recognises the following Trades Unions:-
- EIS
  - GMB Scotland (*General Municipal and Boilermakers Union*)
  - NASUWT (*National Association of Schoolteachers/Union of Women Teachers*)

- SSTA (*Scottish Secondary Teacher's Association*)
- UCATT (*Union of Construction, Allied Trades and Technicians*)
- UNISON
- UNITE

3.2 The Recognition Agreement underpins the legislative framework which provides Trades Unions with statutory rights which include the following:-

- Entitlement to receive information for collective bargaining purposes
- The right to be consulted on the handling of redundancies and transfer of undertakings
- The right of officials to request reasonable time off work to carry out trade union duties, and undertake trade union training
- The right of ordinary members to have time off for union activities.
- The right to appoint Safety Representatives
- The right to appoint Union Learning Representatives

#### **4.0 NOTIFICATION OF APPOINTMENTS**

4.1 A list of accredited trade union officials, safety representatives and union learning representatives will be maintained by the Trade Union and notified to the Head of People & Transformation annually, identifying the individual, role, and the workplace or occupational group they are representing. Any changes to the list during the year should be notified by the Trade Union in the same manner.

#### **5.0 TIME OFF FOR TRADE UNION DUTIES**

5.1 In accordance with the ACAS Code of Practice on "Time Off for Trade Union Duties" employees who are officials of a recognised trade union are permitted reasonable time off during working hours to carry out trade union duties.

5.2 Officials are entitled to time off where the duties are concerned with:

- negotiations with the Council about matters which fall within section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A and for which the union is recognised for the purposes of collective bargaining, or
- any other function on behalf of employees of the Council who are members of the union, which are related to matters falling within section 178(2) TULR(C)A and which the Council has agreed the union may perform.

Matters falling within this section are outlined in Appendix 1.

- 5.2 Trades Unions recognise the responsibility on management to maintain levels of service and the requirement to make organisational and operational arrangements to cover time off. Whilst time off requests shall normally be supported, each request for time off must be considered in the light of the operational requirements of the service, and will not unreasonably be refused.
- 5.3 Any dispute which may arise concerning the level of Trade Union representation will be discussed with the Head of People & Transformation, the departmental Director/Head of Service and the full-time official of the union involved with a view to resolving the matter.

## **6.0 TIME OFF FOR TRADE UNION ACTIVITIES**

6.1 Where the member is acting as a representative of a recognised union time off with pay will be granted for trade union activities including taking part in:-

- 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 officials to discuss issues relevant to the workplace.
- official meetings with management
- Representing/accompanying their union members at meetings/hearings as appropriate e.g. disciplinary/grievance, absence review meeting
- JCC Forums
- approved training courses relevant to the duties as a trade union representative
- Induction courses for recruitment purposes

6.2 Time off relating to the following activities will be without pay:-

- There is no right to time off for trade union activities which consist of any form of industrial action

## **.7.0 PAYMENT FOR TIME OFF FOR TRADE UNION DUTIES**

7.1 Payment will be made for time off for trade union duties undertaken when the official would have been at work. Payment will be the amount that the individual would have earned had they worked during the time off taken. This will include all contractual elements.

- 7.2 There is no statutory requirement to pay for time off where the duty is carried out at a time when the official would not otherwise have been at work unless the official works flexible hours, such as night shift, but needs to attend. Employees who work part-time will be entitled to be paid if employees who work full-time would be entitled to be paid. In such cases the employee will receive additional hours at plain time, however this will not exceed the daily full-time equivalent hours for the post.
- 7.3 Trade Union officials who are requested by management to attend meetings or carry out other duties during a period of authorised annual or flexi leave will do so effectively in their own time, unless they have obtained specific authorisation to attend in advance by management in exceptional circumstances.
- 7.4 In accordance with the legislation paid time off with pay will be granted to safety representatives to perform their functions as undernoted:-
- To investigate potential hazards and dangerous occurrences at the workplace and to examine the causes of accidents at the workplace.
  - To investigate complaints by an employee represented relating to health, safety or welfare at work.
  - To make representations to management on both specific and general matters affecting the health, safety or welfare of employees at work.
  - To carry out inspections of the workplace and of documents to which access is entitled under relevant statutory provisions.
  - To represent relevant employees in consultation at the workplace with Inspectors of the Health and Safety Executive and any other enforcing authority.
  - To receive information from inspectors on matters affecting the health, safety and welfare of employees.
  - To attend meetings of Safety Committees as appropriate in the capacity of safety representative in connection with any of the above functions.
  - To undergo relevant training to carry out their duties and responsibilities.
- 7.5 Trade Union Learning Representatives will be granted reasonable time off to undertake the duties of a Union Learning Representative. To qualify for paid time off the member must be sufficiently trained to carry out duties as a Learning Representative. Duties include:
- Analysing learning or training needs
  - Providing information and advice about learning or training matters

- Arranging learning and training
- Promoting the value of learning and training
- Consulting the employer about carrying out any such activities
- Preparation to carry out any of the above activities
- Undergoing relevant training to carry out their duties and responsibilities

## **8.0 TRAINING OF OFFICIALS**

8.1 Trade Union officials are permitted reasonable time off with pay during working hours to undergo training relevant to the carrying out of their trade union duties. These duties must be concerned with:

- Negotiations with the employer about matters which fall within section 178(2) TULR(C)A and for which the union is recognised to any extent for the purposes of collective bargaining by the employer; or
- Any other function on behalf of employees of the employer which are related to matters falling within section 178(2) TULR(C)A and which the employer has agreed the union may perform.

*Matters falling within the above section are detailed in Appendix 1.*

8.2 Trade Union Learning Representatives and Safety Representatives are also permitted reasonable time off during working hours to undergo training relevant to the functions of their role.

8.3 Training should be in aspects of employment relations relevant to the duties of an official, and the training must be approved by the Trades Union Congress (TUC) or by the independent trade union of which the employee is an official.

8.4 The Trade Union must provide the Council with as much notice as possible that the employee will be undergoing training, date of training and details of the training.

## **9.0 PROCEDURE FOR REQUESTING TIME OFF**

9.1 The Council and Trades Unions agree that established procedures relating to how time off requests are submitted will assist the proper consideration of all such requests. In particular the provision of adequate information will ensure fairness, avoid misunderstandings and facilitate a speedy response to requests. The Council recognises the statutory entitlement to time off for trade union duties and activities and will support requests where possible in line with the exigencies of the service.

- 9.2 All requests for time off should be made using the request pro-forma PERS/TU/1 (Appendix 3) and submitted to the Trade Union Representative's Line Manager on each occasion:-
- Giving as much notice as possible
  - Stating the purpose of the time off
  - Stating the intended location of the duties and
  - Indicating the timing and expected duration of the time off required
- 9.3 Where a time off request is submitted in accordance with the above the Line Manager shall consider the request and whether service delivery standards can be met. No request will be unreasonably refused.
- 9.4 Where the request is for time off to attend an approved training course the representative must provide confirmation from their Union supporting their attendance at the course and providing supporting details of the training programme if available.
- 9.5 Where permission to take time off is withheld, an explanation for the reason(s) will be provided by the Line Manager. Where the trade union representative is dissatisfied with the reasons provided they will have the right to raise a complaint against the decision. Every effort shall be made to resolve the complaint speedily, either through informal discussions or through the Council's formal Grievance Procedure.

## **10.0 COVER**

- 10.1 When considering whether requests for time off can be granted consideration will be given as to the reasonableness of the request, for example to ensure adequate cover within a section, safety reasons or service delivery.
- 10.2 Where workplace meetings are requested Managers and Unions should seek to agree a mutually convenient time which minimises the effect on service delivery, for example:
- Towards the end of a shift or the working week
  - Before or after a meal break
  - Consideration of holding mass/larger meetings outwith normal working hours, if appropriate

## **11.0 GENERAL CONSIDERATIONS**

- 11.1 The Council recognises the importance of an effective time off agreement and the amount and frequency of time off should be reasonable in all the circumstances. No request will be unreasonably refused.



- 11.2 For time off arrangements to work satisfactorily trade unions should ensure that officials are aware of their role, responsibilities and functions, and ensure that officials receive any appropriate written credentials promptly.
- 11.3 All parties recognise the importance of working together, building effective working relationships and treating each other with mutual respect. Where the conduct or behaviour of an individual, in a representative capacity of the Trade Union, is viewed as inappropriate the matter will be reported to the appropriate Convenor by the appropriate Director/Head of Service. Concerns regarding the Convenor will be reported to the Regional or National Officer of the appropriate union.
- 11.4 The Trade Union will acknowledge receipt of the complaint, within 5 working days and notify the Director/Head of Service and will follow their recognised internal procedure for dealing with complaints. The Complaints Procedure can be found on the HR and OD Knowledge Portal ([here](#)).
- 11.5 It will be for the Trade Union to take any action it deems appropriate on the issue reported, following notification of the complaint. The Trade Union will contact and advise the Director/Head of Service raising the complaint once any investigation has been completed and action, if appropriate has been taken. There is no obligation on the Trade Union to detail the outcome or action taken as a result of the investigatory process.
- 11.6 Where a Trade Union representative considers an employee or manager has acted unreasonably to them in their Trade Union role then this matter should be reported to the appropriate Director/Head of Service through the appropriate Convenor.
- 11.7 The Director/Head of Service will acknowledge receipt of the complaint, within 5 working days and follow Council procedure in dealing with complaints.
- 11.8 It will be for the Director/Head of Service to take any action it deems appropriate on the issue reported, following receipt of the complaint. The Director/Head of Service will contact the appropriate Convenor once any investigation has been completed and action, if appropriate has been taken. There is no obligation on the Director/Head of Service to detail the outcome or action taken as a result of the investigatory process.

## **12 TRADE UNION CONVENORS**

- 12.1 The Council recognises the importance of partnership working and will provide facilities for 3 full-time Convenors, who will represent: local government employees, craft workers and teachers. The Convenor will receive payment at the rate of their substantive post, or can be matched across to an appropriate minimum grade, which will be no lower than the grade of the substantive post, as approved at appointment to role of Convenor. The number of Convenors will be kept under review.
- 12.2 At the end of the term the Convenor will have the right to return to their substantive post or, where this does not exist, to a post at the equivalent substantive grade.
- 12.3 In the event of the long term absence of the Convenor consideration may be given to the temporary appointment of a Vice-Convenor. This issue should be raised with the Head of People & Transformation in the first instance, and approval will be sought from the Chief Executive for the temporary appointment.

### **13.0 FACILITIES**

- 13.1 The Council recognises that providing facilities will enable the Trades Unions to perform their duties more efficiently and communicate more effectively with their members, and full-time officers. Where resources permit Trades Unions will be provided with:
- (a) office accommodation
  - (b) office equipment, including desk(s), filing cabinets, telephone line, computer
  - (c) the use of notice boards, and other forms of electronic communications such as email and intranet/internet
- 13.2 The agreement in relation to trade union officials/representatives and learning or safety representatives within Education will be maintained.

### **14.0 COMPLAINTS**

- 14.1 Trade Unions officials, health and safety representatives and learning representatives have the right to complain to an employment tribunal for an alleged breach of time off provisions. However, all parties agree that every effort should be made to resolve any points at issue internally and as quickly as possible, either informally or through the Council's Grievance Procedure

### **15.0 AMENDMENT OR REVIEW OF AGREEMENT**

- 15.1 Either side may submit proposals in order to amend this agreement. Such proposals will be in writing to the sides concerned, and will be the subject of joint negotiations.
- 15.2 The policy will be updated to incorporate any relevant change to legislation or best practice as required.

## Time Off for Trade Union Duties and Activities

### Section 1 - Trade Union Duties

Trade Union officials will be entitled to reasonable paid time off for duties concerned with negotiations, or other functions related to or connected with:-

- (a) Terms and conditions of employment, or the physical conditions in which workers are required to work. Examples could include:
  - Pay
  - Hours of work
  - Holidays and holiday pay
  - Sick pay arrangements
  - Pensions
  - Learning and training needs
  - Equal opportunities
  - Notice periods
  - The working environment
  - Operation of digital equipment and other machinery
- (b) Engagement or non-engagement, or termination or suspension of employment or other duties of employment, of one or more workers. Examples could include:-
  - Recruitment and selection policies
  - Human resource planning
  - Redundancy and dismissal arrangements
- (c) Allocation of work or the duties of employment as between workers or groups of workers. Examples could include:
  - Job grading
  - Job evaluation
  - Job descriptions
  - Flexible working practices
  - Family friendly policies
- (d) Matters of discipline. Examples could include:
  - Disciplinary procedure
  - Arrangements for representing trade union members at internal interviews

- Arrangements for appearing on behalf of trade union members, or as witnesses, before agreed outside appeal bodies or employment tribunals.
- (e) Trade Union membership or non-membership. Examples could include:-
- Representational arrangements
  - Any union involvement in the induction of new workers
- (f) Facilities for trade union officials. Examples could include arrangements for the provision of:
- Accommodation
  - Equipment
  - Names of new workers to the union
- (g) Machinery for negotiations or consultation and other procedures. Examples could include arrangements for:
- Collective bargaining
  - Grievance procedures
  - Joint consultation
  - Communicating with members
  - Communicating with other union officials also concerned with collective bargaining with the employer

The duties of an official of a recognised trade union must be connected with or related to negotiations or the performance of functions both in time and subject matter. Reasonable paid time off may be sought, for example to: -

- Prepare for negotiations with the Council on relevant matters
- Inform members of progress
- Explain outcomes to members
- Prepare for meetings with the employer about matters for which the trade union has only representational rights.

Paid time off would be appropriate for trade union officials for:

- Initial basic training
- Training for changes in legislation
- Training for changes in the structure or topics of negotiation

The above list is in accordance with the ACAS Code of Practice.

## **Section 2 - Trade Union Activities**

The following list is neither exclusive or exhaustive but illustrates the nature of the trade union activities for which time off with or without pay may be granted:-

- Attendance at branch, area or regional meetings of the union where the business of the union is under discussion.
- Attendance at meetings of official policy making bodies such as the Executive Committee or Annual Conference
- Attending meetings with full-time officials to discuss issues relevant to the workplace.
- Attending official meetings with management
- Representing/accompanying their union members at meetings/hearings as appropriate e.g. disciplinary/grievance, absence review meeting
- Participate in JCC Forums
- Attend approve training courses relevant to the duties as a trade union representative
- Attending Induction courses for recruitment purposes

Time off relating to the following activities will be without pay:-

- There is no right to time off for trade union activities which consist of any form of industrial action

## DEFINITION OF TERMS

Trade Union Official

Shop Steward  
Union Learning Rep  
Safety Rep  
Branch activist  
Trade Union Representative

Branch Officer

Branch Chair  
Branch Secretary  
Conditions of Service Officer

Convenor

Granted facility time (seconded on  
Full-time basis from substantive post)

Full-Time Official

Regional Officer

**Appendix 3**



**REQUEST FOR TIME OFF TO UNDERTAKE TRADE UNION DUTIES/ACTIVITIES/TRAINING**



**PER-TU-1**

<b>EMPLOYEE DETAILS:</b>			
NAME:			
TRADE UNION ROLE (Tick as appropriate)	Trade Union Representative <input type="checkbox"/>	Safety Representative <input type="checkbox"/>	Learning Representative <input type="checkbox"/>
NAME OF UNION			
EMPLOYEE REF NO:			

I confirm that I am a trade union representative/safety representative/learning representative duly elected to represent members of my trade union and I am requesting time off to undertake duties/activities as outlined below.

<b>REQUEST FOR TIME OFF FOR TRADE UNION DUTIES/ACTIVITIES:</b>			
<b>Reason for Request:</b>			
<input type="checkbox"/> Representing/Accompanying Member <input type="checkbox"/> JCC Meeting <input type="checkbox"/> Branch/Area/Regional Meeting <input type="checkbox"/> Annual Conference <input type="checkbox"/> Meeting Full-time Official <input type="checkbox"/> Management Meeting			
Location (where activity taking place)			
Date (date activity taking place)			
Estimated time/duration of request	a.m. <input type="text"/>	p.m. <input type="text"/>	Full day <input type="checkbox"/>
<b>Signature</b>	..... Trade Union Representative	<b>Date</b>	.....



REQUEST FOR TIME OFF FOR TRAINING EVENT	
<b>Title of Event</b> (Provide full details and attach supporting documentation where appropriate)	
<b>Intended Location:</b>	
<b>Date(s) of training event:</b>	
<b>Timing and Duration of time off:</b>	a.m. <input type="text"/> p.m. <input type="text"/> Full day <input type="checkbox"/>
<b>Signature</b>	<b>Date</b>
..... Trade Union Convener/Branch Secretary/Conditions of Service Officer	.....

LEAVE APPROVED							
DAYS	<input type="text"/>	HOURS	<input type="text"/>	PAID	<input type="checkbox"/>	UNPAID	<input type="checkbox"/>
LEAVE NOT APPROVED (If not approved indicate reason):							
<b>Signature</b>	..... Line Manager			<b>Date</b>	.....		

- NOTES:**
- Reasonable time off for the purpose identified will be granted subject to exigencies of the service, and will not be unreasonably refused.
  - In all circumstances the maximum possible notice should be given .Requests should be submitted to the Line Manager for approval and a copy **returned to HR Connect** for monitoring purposes. Where approval is not given a copy of this form must be passed to the Head of People &Transformation and the Trade Union Convener.
  - \*Payroll must be notified by the Line Manager of any unpaid leave deductions