



**North Northamptonshire Schools Forum: 4 November 2021**

**Agenda Item 10**

**2022-23 De-delegation : Trade Union Facilities Time for Maintained Schools**

**Appendix H**

**1 Background**

- 1.1 North Northamptonshire Council (NNC) implemented a new Recognition Agreement with trade unions in April 2021 and this recognition agreement automatically covers schools where the local authority is the employer.
- 1.2 For trade unions recognised to represent employee groups based within local authority maintained schools, time off for trade union duties and activities is determined on an annual basis. Prior to the disaggregation of Northamptonshire County Council (NCC), Schools Forum members representing maintained schools voted to de-delegate a sum of their 2021-22 Post MFG Budget into a pooled trade union facility time arrangement for financial year 2021/22. Academy schools also joined the 21/22 pooled arrangements, contributing funding via service level agreements.
- 1.3 When NCC disaggregated, the arrangements and funds were split between WNC and NNC unitary councils. The NNC pooled facility time arrangements for the current financial year (21/22) are summarised in **Appendix 1**.

**2 Facility time – legal context**

- 2.1 Employees who are union representatives of an independent trade union recognised by their employer will be permitted reasonable time off during working hours to carry out certain trade union duties. Although there is no absolute right to take time off work, an employer should not refuse a reasonable request to do so.
- 2.2 Union representatives are entitled to request time off where the duties are concerned with:
  - negotiations with the employer 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 by the employer.
  - any other functions 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.
  - the receipt of information from the employer and consultation by the employer under section 188 TULR(C)A, related to redundancy or under the Transfer of Undertakings (Protection of Employment) Regulations 2006 that applies to employees of the employer.

- negotiations with a view to entering into an agreement under regulation 9 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 that applies to employees of the employer; or
- the performance on behalf of employees of the employer of functions related to or connected with the making of an agreement under regulation 9 of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

### **3 Department for Education non-statutory guidance**

3.1 The DfE [published guidance](#) on facility time for schools and stresses the importance of ensuring spending on facility time is as efficient as possible as well as transparent and accountable.

### **4 Benefits of a pooled arrangement**

4.1 It ensures schools & the Council meet their legal obligations:

- NNC will undertake the management and operation of the statutory consultation framework on behalf of maintained schools via the Children’s Services Directorate Consultative Forum (DCF) and Health, Safety & Wellbeing Forum (HSWF).
- Consultation on school transfer to Academy status.

4.2 Representation on employee relation issues (e.g. disciplinary, grievance):

- TU members are employees and value local representation.
- Local knowledge and understanding of local context to support local members.
- Cost effective TU representation.
- Enables consistency of local practice.
- Supports fast, efficient and informal resolution.

4.3 Least disruptive to education and cost-effective means of organising facilities time; ensures no single school faces a disproportionate cost.

4.4 The majority of schools/academies do not currently employ internal, accredited TU officials.

### **5 Impact on schools of no de-delegation for a pooled arrangement**

5.1 Each individual school would be required to:

- Consult with all recognised trade unions on all employment and health and safety matters.
- Develop their own recognition agreement with trade unions and any collective approach to reaching agreements.
- Make their own arrangements for access to trade union representatives to represent employees and to manage facility time within the school
- Experience potentially longer timeframes for resolution of employment relation issues

5.2 Benefits to schools provided from a trade union perspective are contained in **Appendix 2**.

### **6 Recommendations for Schools Forum**

6.1 Schools Forum are recommended to vote to pool facility time arrangements in 2022/2023 between the schools that fall in North Northamptonshire.

6.2 Maintained (Primary and then Secondary) School Forum members are asked to vote as to whether the trade union de-delegation should be continued in 2021-22 at the same rate of £2.10 per pupil. The final amount will be determined by the pupil numbers in the October 2021 Schools Census at the rate of £2.10 per pupil.

## 7 Next steps

7.1 If Schools Forum vote to de-delegate budget to fund shared arrangements for facility time, then time off will be allocated based on the funds made available from schools delegating budget for facility time. This will be managed by NNC in consultation with the relevant recognised trade unions.

## 8 Financial implications

8.1 The de-delegation of £2.10 per pupil will generate the following budget using October 2020 Census as an example. This de-delegated budget will be updated with the October 2021 Census for 2022-23.

	Rate	Oct 2020 Census Primary NOR	Primary Budget	Oct 2020 Census Secondary NOR	Secondary Budget	Total Budget
De-delegation of Trade Union Facilities Time	£2.10	8958	£18,811.80	1005	£2,110.50	£20,922.30

8.2 Without the Trade Union de-delegation, schools and academies will have to employ and fully fund their own facility union rep for the time they need. It is likely to be more expensive purchasing directly than through the de-delegation.

8.3 Academies and Free Schools, Nursery Schools and Special Schools are welcomed to join the pooled arrangements via separate service level agreements.

## 9 Legal implications

9.1 The legal basis of facility time as set out in section 2 of the report applies to all employers, including those responsible for maintained schools, academies and free schools. The continuation of de-delegation enables schools to meet these requirements.

9.1 The regulations on decision making by Schools Forum are contained within the [Schools Forum Powers and Responsibilities Guide](#).

Function	Local authority	Schools forum	DfE role
De-delegation for mainstream maintained schools for: <ul style="list-style-type: none"> <li>contingencies</li> <li>administration of free school meals</li> <li>insurance</li> <li>licences/subscriptions</li> <li>staff costs – supply cover</li> <li>support for minority ethnic pupils/underachieving groups</li> <li>behaviour support services</li> <li>library and museum services</li> <li>School improvement</li> </ul>	Proposes	Maintained primary and secondary school member representatives will decide for their phase. Middle schools are treated according to their deemed status	Will adjudicate where schools forum does not agree LA proposal

## **10 Risks**

- 10.1 If facility time is not organised centrally, each trade union can press for the release of a union representative at each individual school. The training requirement for these representatives could be significant, given the new role they would be expected to fulfil (e.g. employee, Health and Safety and Learning representative duties; attend training or learning activities; consultation and negotiation on employment related matters and the schools own HR policies).
- 10.2 There would be a risk of increased disruption in the school, for example, releasing a teacher from the classroom to accompany a member in a formal disciplinary/grievance/performance/individual consultation meeting.

### **Report Authors:**

Your name: Helen Hudson  
Your title HR Policy & Projects Officer  
Email address [helen.hudson@northnorthants.gov.uk](mailto:helen.hudson@northnorthants.gov.uk)

Your name: Yoke O'Brien  
Your title Strategic Finance Business Partner – Children Services  
Email address [yoke.obrien@northnorthants.gov.uk](mailto:yoke.obrien@northnorthants.gov.uk)

## Appendix 1

### NNC pooled facility time arrangements 1 April 2021 – 31 March 2022

- Currently operated on a per-pupil rate cost to schools of £2.10
- Benchmarking East Midlands local authorities (2019) found per-pupil de-delegation rates between £1.51 - £6.00 (mean £3.56)
- 13 academies and 2 Academy Trusts are also currently contributing, charged at the same per pupil rate of £2.10
- the combined funds for operating the 2021/22 pooled arrangements (which included a carry forward from 2020/21) total £66k and this is used to reimburse those schools who employ one of the trade union representatives who undertakes trade union duties across all the schools and academies within the pooled arrangement. The reimbursement is for the salary costs.
- 11 days per week of funded facility time, distributed as follows:
  - GMB – 2 days/week
  - Unison – 2 days/week
  - NEU – 4 days/week
  - NASUWT – 3 days/week
- **NNC schools – trade union employee representatives during 21/22**

Union	Name	Contact	Employer	Days /week
GMB	tbc	tbc	tbc	2
Unison	Richard Poole*	<a href="mailto:Richard.poole@northantsunison.co.uk">Richard.poole@northantsunison.co.uk</a>	Northamptonshire Children's Trust	2
NEU	Hayley Ansell	<a href="mailto:HAYLEY.ANSELL@neu.org.uk">HAYLEY.ANSELL@neu.org.uk</a>	Oundle CE Primary	2
	Simon Rielly	<a href="mailto:SIMON.RIELLY@neu.org.uk">SIMON.RIELLY@neu.org.uk</a>	Kettering Buccleuch Academy	2
NASUWT	Richard Kempa	<a href="mailto:Richard.Kempa@northnorthants.gov.uk">Richard.Kempa@northnorthants.gov.uk</a>	NNC	1
	Mike Molloy	tbc	Havelock School	1
	Bruce Choto	tbc	Prince William School	1

*\*Transitional arrangement for 2021/22 for continuity, whilst UNISON undergo a reorganisation of their branch structures*

## Appendix 2

### **Joint statement from the recognised trade unions – benefits of pooling facility time:**

- Positive and supportive informal communications with head teachers and HR departments.
- Continued support for members that have been affected adversely by COVID-19.
- The ability to resolve issues promptly and informally (avoiding lengthy formal processes).
- Offer a balanced opinion as to what is reasonable for the employer and what is reasonable for our members to accept.
- Trade unions retain local knowledge of agreements and bring regional and national comparisons to the table.
- Consistently working with senior leaders and governors to support them in achieving their aims within their education settings (effective and happy staff offer children and young people more opportunities to achieve).
- Benchmarking East Midlands local authority de -delegation rates: these are between £1.51 and £6 (mean £3.56). The current Northamptonshire rate is £2.10. Given increased employment costs in the next financial year, the trade unions propose that the rate of £2.10 for the 2022/2023 financial year is maintained. This offers good value for money whilst recovering from the continued impact of COVID-19.