

West Northamptonshire Schools forum: 19 October 2021

Agenda Item 5b

Trade Union Duties de-delegation 2022-23

Appendix C – Trade Union Duties

1 Background

- 1.1 The structure of trade union facility time in West Northamptonshire Council's (WNC) maintained schools (and academies who are part of the shared arrangements) is as follows:
- Each school may provide some facility time to employee trade union representative(s) from within their workforce for matters specific to that school.
 - Through de-delegation of budget for facility time, schools collectively fund senior employee representatives who operate across all schools within the shared arrangement. These representatives may also participate in centralised Education and Schools engagement and consultation (JCNF, DCF, H&S Forums etc.).
- 1.2 It is Schools forum that decides whether shared facility time arrangements operate across schools and they set funding levels annually. Maintained primary and secondary schools forum representatives vote on behalf of their phase to transfer funding from delegated budgets to a central budget (held by the local authority) for trade union facility time. This is known as de-delegation.
- 1.3 Funding of facility time is paid for by the school at the same 'per pupil' rate. This has remained at £2.10 per pupil for a number of years.
- 1.4 The arrangements for 2022-23 needs to be agreed at schools forum on 14 December 2021 and this report sets out further information to assist schools forum in making that decision.

2 Trade Union Representatives and Facility Time in Schools

- 2.1 The ACAS Code of Practice 3 uses the term 'union representative' to mean an employee who has been elected or appointed in accordance with the rules of the independent union, to be a representative of all or some of the union's members in the school(s) where the union is recognised for collective bargaining purposes. This is intended to equate with the legal term 'trade union official'.
- 2.2 The recognised trade unions for the school workforce are as follows:

Teachers: ASCL, NAHT, NASUWT, NEU, Voice
Local Government Employees: GMB, Unison

- 2.3 The legislation relating to time off for trade union duties and activities applies to all employers, including those responsible for maintained schools, academies and free schools. There is significant flexibility for all schools to determine their own approaches to facility time to ensure positive workplace relations. Further information can be found in the non-statutory advice produced by the DfE '[Advice on trade union facility time in schools](#)'

3 Options for West Northamptonshire Schools

- 3.1 Option 1: Access centrally organised facility time arrangements by contributing a proportion of the school's delegated budget back to a central budget (in the case of Academy schools, purchasing a Trade Union Facility Time SLA). This money is then used to reimburse schools who employ the recognised trade union representatives who undertake trade union duties across all contributing schools.
- 3.2 The continuation of the de-delegation:
- Ensures Schools and the Council meet their legal obligations
 - Enables WNC to undertake the management and operation of the statutory consultation framework on behalf of maintained schools via the Education & Schools Employee Consultative / Health, Safety & Wellbeing Forum
 - Enables consultation on school transfer to Academy status
 - Ensures representation on employee relation issues (e.g. disciplinary, grievance)
- 3.3 Option 2: Make provision for the arrangement for facility time to operate just within the school (refer to risks of this option under section 9.1)
- 3.4 The impact of no de-delegation on schools would mean that each individual school would be required to:
- Consult with all recognised TUs on all employment and health and safety matters
 - Develop own agreement with TUs and any collective approach
 - Make own arrangements for access to TU representatives to represent employees and to manage facility time within the school
 - Have a potentially longer timeframe for resolution of employment relation issues
- 3.5 The trade unions see the benefits of de-delegation funding as follows:
- Understanding of local context
 - Ability to deal with casework (which continues to increase across Northamptonshire)
 - Fast, efficient and informal resolution
 - Reduced staff turnover & recruitment costs
 - Cost effective TU representation
 - Local knowledge to support local members
 - Enables consistency of practice
 - Least disruptive to education and cost effective means of organising facilities time; ensures no single school faces a disproportionate cost
-

4 Draft Budget Information

4.1 The forecast outturn for trade union activities in the current year is a surplus of £43k. The forecast financial requirement for 2021-22 is £108k. If the rate is kept at £2.10 per pupil, then this gives an estimated budget of £28k from maintained schools and £37k from academies. This will leave a small estimated surplus of £23k. Any surplus at year end will be ring fenced to TU facility time in 2023-24.

	2020-21	2021-22	2022-23
	NCC £	WNC £	WNC £
Income from academies	-32,149	-37,268	-37,268
West maintained	-54,000	-29,000	-28,000
Carry forward from 2020-21	-112,207	-43,139	-43,165
Late invoicing for 2020-21	0	-18,759	0
SUBTOTAL	-198,356	-128,165	-108,433
Forecast spend West	119,323	85,000	85,000
Outturn Forecast Underspend	-79,033	-43,165	-23,433

4.2 This currently operates at a price per pupil rate of £2.10 per pupil. Benchmarking of East Midlands local authorities (2019) found per-pupil de-delegation rates between £1.51 - £6.00 (mean £3.56).

5 Trade Union Duties – days / week

5.1

Schools Trade Union duties days/week		
Union	2021-22 Current	Proposed 2022-23
NEU	4	4
NASUWT	5.5	5.5
GMB	2	2
UNISON	2	2
Schools forum de-delegated budget for TU facility time in schools 10.5 days per week		
UNISON - 1.5 day/week		
GMB - 1.5 day/week		
NEU - 3 day/week		

NASUWT – 4.5 day/week

WNC funded facility time (senior education/schools TU representatives) 3 days per week

UNISON - 0.5 day/week

GMB - 0.5 day/week

NEU - 1 day/week

NASUWT - 1 day/week

5 Recommendations for Schools forum

5.1 To support this report and the officer suggested de-delegation rate for redundancy funding for inclusion in the Schools Funding Consultation and to be aware that a vote will be required by Maintained School Members in December's forum meeting.

6 Next steps

6.1 Information on the redundancy de-delegation will be included in the schools consultation document for the 2022-23 budget setting process.

6.2 School Forum members will be asked to vote in December 2021 on whether the trade union duties de-delegation should be continued with the suggested scheme and rate of £2.10 per pupil, as outline above.

7 Financial implications

7.1 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 Legal implications

8.1 The legislation on time off for trade union duties and activities applies to all employers, including those responsible for maintained schools, academies and free schools (Section 2.3). The continuation of de-delegation enables schools to meet these requirements.

9.1 Risks

9.1 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)

9.2 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 Author:

Officer name: Alison Golding

Officer title: Assistant Director, HR

Email address: alison.golding@westnorthants.gov.uk

Telephone number: 07540 919433