

## DERBYSHIRE COUNTY COUNCIL

### APPOINTMENTS AND CONDITIONS OF SERVICE COMMITTEE

8 November 2019

#### Report of the Director of Organisation Development and Policy

##### Proposed Trade Union Time Off Agreement

### 1. Purpose

To seek approval for implementation of revised Trade Union Time Off Agreement with effect from 1 April 2020.

### 2. Information and analysis

#### 2.1 Background

The current Trade Union Time Off agreement was implemented in 2009. Since then, the organisation has been through a period of significant change, and it is therefore timely to review the provisions of that agreement, to ensure that it continues to meet the needs of the organisation. In addition, as identified within the Revenue and Budget Report 2019-28 presented to Cabinet on 24<sup>th</sup> January 2019, a budget saving of £50,000 was proposed as detailed below with regards to trade union facilities time:

*The Council is looking to reduce its expenditure on TU Facilities Time by 50% which will reduce annual costs from £274,604 (0.08% of pay bill) to £137,302 (0.04% of pay bill). For comparative purposes this will bring the Council in line with similar county councils who have the lowest percentage of TU Facility Time as a proportion of their pay bill. Not all of these cost reductions can be realised as a saving but it is expected that it will generate a proposed saving of £50,000 per annum from 2020-21 onwards.*

When considering the above aligned to the proposed future HR Delivery model and the current strategic priorities within the Council, negotiations have been underway to review the current Trade Union Time Off Agreement. Discussions have centred on the Council's desire for greater parity across Trade Unions and the need to simplify where possible to avoid inaccurate interpretation of the provisions contained within the agreement.

Extensions were agreed within the negotiation process in an attempt to ensure agreement could be reached to enable further discussions, as opposed to the reversion to the ACAS code of practice. Unison have notified the Council of its intended agreement to the proposal, with notification pending from Unite and GMB.

The revised agreement is detailed within Appendix 1.

#### 2.2 Key Changes within the Proposal

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- Guiding Principles – key expectations and commitments have been discussed and agreed to outline the spirit and purpose of the revised agreement.
- Trade Union Duties – An allocation of paid ‘block time’ has been incorporated for trade union duties as outlined in the agreement. Defined ratios have been agreed as to the number of FTE that can be allocated based on membership numbers. This is also in conjunction with reasonable levels of paid time off for individual representation.
- Trade Union Activities – Whilst previously provision has been made for paid time off for activities, this is not a requirement within the ACAS code of practice. Time off for trade union activities will be unpaid with the exception of the following:
  - o Each recognised trade union may send representatives to one national conference per annum based on membership numbers.
  - o Each recognised trade union will be permitted paid time off for accredited trade union representatives to attend up to five Stewards meetings per year for a maximum of 2 hours per meeting.
- Reporting Time Off – There are numerous challenges within the current coding structure for reporting of time off. A joint review of codes is currently underway to ensure accurate and unambiguous reporting.
- Review of the revised agreement - A review of the operation of the revised agreement will commence 6 months after its initial implementation to ensure the views of all parties are considered in assessing the effectiveness of the revised agreement.
- Manager guidance is also being developed to support managers who have direct line management responsibility for Trade Union Representatives.

### **3. Financial Considerations**

The total expenditure on salaries for trade union time off, for 2018/19, as reported in July 2019 was £283,357 (0.08% of the total pay bill).

The revised agreement has a projected cost equating to circa £189,000. This consists of estimated costs for the provision of paid block time, paid time off for the activities outlined in this report and paid time off for training and union learning representative duties. Whilst this initially suggests a projected annual saving of circa £94,000, on 2018/19 spend, this does not account for the potential costs of ad hoc requests (relating to paid time off for individual representation). A further factor to consider is the number of changes to staffing structures across the Council, which may necessitate additional trade union time off requests.

On reviewing the costs for ad hoc requests in 2018/19, (approximately £40,000), this potentially reduces the projected annual savings to circa £54,000 per annum. However

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on implementation, regular monitoring, aligned to the implementation of the new codes, will be required to monitor this projection.

A final consideration is that the current provision of paid release for CJC roles has not been incorporated into this agreement. This is pending further discussions regarding the overall consultative framework, for which discussions have commenced with Trade Union representatives. A further report will be presented to ACOS in due course, however it is estimated that should current arrangements continue, this could result in a further reduction to the projected annual savings of circa £22,500.

#### **4. Legal Considerations**

Trade union representatives have a statutory right to reasonable paid time off to carry out trade union duties, to undergo training, and to accompany a worker to a grievance or disciplinary hearing. Union learning representatives have a right to reasonable paid time off to perform their duties and undergo training. The revised agreement complies with the ACAS Code of Practice.

#### **5. HR Considerations**

As contained within the report.

#### **6. Officer Recommendation**

That ACOS approves the implementation of the revised Trade Union Time Off Agreement with effect from 1 April 2020.

**Emma Crapper**  
**Director of Organisation Development and Policy**

# **Derbyshire County Council**

## **Trade Union Time Off and Facilities Agreement**

<b>Version History</b>			
<b>Version</b>	<b>Date</b>	<b>Detail</b>	<b>Author</b>
1.0	23/04/2009	Agreed with Trade Unions	Nigel Hughes
2.0	10/05/2019	Initial draft	Sharon Minshall
3.0	20/05/2019	2 <sup>nd</sup> draft	Sharon Minshall
4.0	01/07/2019	3 <sup>rd</sup> draft	Tracey Wall
5.0	15/08/2019	4 <sup>th</sup> draft	Jen Skila
6.0	11/09/2019	5 <sup>th</sup> draft	Sharon Minshall
7.0	18/09/2019	6 <sup>th</sup> draft	Sharon Minshall
8.0	24/10/2019	7 <sup>th</sup> draft	Tracey Wall

<b>Links and Dependencies</b>

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## **Trade Union Time Off and Facilities Agreement**

### **1. Scope**

This Agreement applies to the following recognised trade unions:  
Unison, GMB, Unite, AEP, UCU, Aspect

It sets out the jointly agreed procedures for trade union time off and use of facilities and applies to trade union representatives who are members of those trade unions.

It does not apply to employees who are trade union representatives employed directly by schools as they are subject to a separate agreement.

The Director Organisation Development & Policy should be consulted for any clarification of the operation of the Agreement.

This Agreement does not provide time off to carry out roles in organisations other than Derbyshire County Council unless specifically agreed by the council.

### **2. Guiding Principles**

Derbyshire County Council is committed to:

- Recognising and valuing our unions for their role in managing change and their fundamental right to represent their members.
- Providing a reasonable amount of time off to enable the unions to effectively undertake their role.
- Ensuring that in facilitating trade union time off, the operational needs of the service can continue to be met in the employee's absence.

We expect our unions to:

- Recognise the need for Derbyshire County Council to be a sustainable and successful council that is accountable to our residents, our employees and our partner organisations.
- Be committed to working jointly to ensure decisions are made efficiently and in a timely way.
- Ensure that their representatives are equipped with the skills needed to effectively carry out their role.

Jointly we will endeavour to:

- Work together to deliver the Councils aims and objectives.

- Support the consultative and negotiation framework to ensure change is implemented fairly, at pace and to develop our employment policies and practices.
- Build positive working relationships and promote effective industrial relations.
- Ensure that trade union time off is used effectively and to avoid unnecessary costs in the provision and use of time and facilities.
- Operate within the provisions of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C) A 1992), the Employment Act 2002 and the ACAS Code of Practice on time off for trade unions duties and activities (including Guidance on Time Off for Union Learning Representatives) April 2003 and the Trade Union Act 2016.

### **3. Definition of Roles**

#### **Trade union regional officers**

An officer employed by the trade union, based at union regional office

#### **Trade union representatives**

An employee of the Council who has been elected or appointed to represent the members of one of the recognised trade unions within Derbyshire County Council

#### **Union learning representative**

A trade union representative with specific responsibility to promote and enable training and learning for employees of Derbyshire County Council.

#### **Health and safety representative**

A trade union representative with specific responsibility for health and safety issues within Derbyshire County Council.

### **4. Trade Union Duties**

Trade union representatives are permitted reasonable time off with pay to carry out trade union duties. These duties are summarised in the ACAS Code and in relation to Derbyshire County Council include but are not limited to:

- Duties arising from membership of joint consultative committees including CJC, DJC and approved sub-committee.
- Individual representation of employees in employment processes; for example, disciplinary, grievance, performance/attendance capability, individual representation in organisational reviews/restructures.
- Joint consultation on organisational reviews/restructures.
- Health and Safety inspections.
- Participation in job evaluation panels.
- Trade union observation of recruitment panels.

## 5. Time off Provision

### a. Time off for Individual Representation

A reasonable level of paid time off will be granted to trade union representatives to individually represent their members. This time off must be with prior management approval but this will not be unreasonably withheld.

Requests will normally need to be submitted at least 7 days in advance using the request form. It is recognised that there may be occasions when it is not possible to provide that amount of notice. In those circumstances, the trade union representative should contact their manager at the earliest opportunity to ascertain whether the time off may be taken and consideration of the needs of the service must be taken into account.

### b. Time off for Joint and Other Representative Duties

An allocation of 'block time' for trade union duties will be granted to each recognised trade union, for duties including but not limited to:

- Corporate and Departmental Consultative framework (framework to be reviewed by December 2019)
- Attendance at job evaluation panels
- Health and Safety Inspections
- Formal Consultation
- Individual Representation

This provision will be allocated on the following basis (1 FTE equates to 1685 working hours per annum):

<b>TU membership numbers</b>	<b>Block time allocation of up to:</b>
Up to 100	1 day release per week
100 - 500	1 FTE
501 - 1000	1.5 FTE
1500 - 1999	2 FTE
2000 - 2499	2.5 FTE
2500 - 2999	3 FTE
3000 - 3499	3.5 FTE
3500 - 3999	4 FTE
4000 - 4499	4.5 FTE
4500 - 4999	5 FTE
5000 - 5499	5.5 FTE
5500 - 5999	6 FTE

The allocation of the above 'block time' will be calculated in respect of employees paying trade union subscriptions via payroll and those paying by other means where these are verified and notified to the Director Organisation Development & Policy. The allocation will only take account of current employees.

The calculation will take place annually on 1 January each year. No adjustments will be made for membership fluctuations within the intervening 12 month periods unless there is a significant reduction/increase in membership, subject to consultation between the Director Organisation Development & Policy and the respective Trade Union Regional Officer.

Each Trade Union will apportion its allocation to one or more of its representatives. The resulting names, roles and time allocations will be notified to the Director Organisation Development & Policy on an annual basis.

The responsibilities to be undertaken in the block time set out above are detailed in Appendix 1.

In order to retain flexibility and to facilitate organisational change, there may be occasions when there is a need for additional 'block time' off, for example, larger organisational reviews which involve in excess of 100 employees. In these circumstances, additional time off may be granted by the Director Organisation Development & Policy.

#### **c. Time off for Trade Union Activities**

Examples of these activities are summarised in the ACAS Code and include branch, area or regional meetings of the union at which the business of the union is under discussion, meetings of official policy making bodies such as executive committees or annual conference and meetings with regional officers to discuss issues relevant to the workplace. Time off for trade union activities will be unpaid with the exception of the provisions set out in paragraphs f. and g. below

Requests for unpaid time off should be submitted, using the request form, to the trade union representative's line manager at least fourteen days in advance.

Employees who are members of a trade union recognised by the Council are permitted reasonable time off without pay during working hours to take part in trade union activity subject to the same approval process set out above.

There is no right to time off for trade union activities involving industrial action

#### **d. Time off for Training**

Trade union representatives are permitted reasonable paid time off to undertake training relevant to their trade union role subject to the needs of the service, as detailed in Appendix 1.

Applications for paid time off to attend should include the course details and be submitted on the request form to the trade union representative's line manager at least 28 days in advance of the dates requested. The opportunity to shadow more experienced representatives can also form a valuable part of trade union training. Requests for shadowing should be submitted to the line manager as set out in the paragraph above.

Applications for time off to attend training courses not covered by Appendix 1 should be approved by the trade union branch who will, where courses are considered appropriate, submit them to the line manager who should consult with HR before any approval is given. These will be considered on the grounds of course relevance and subject to the needs of the service.

**e. Time off for Union Learning Representatives (ULRs)**

Provided the trade union has given the employer appropriate notice in writing that the employee is a learning representative of the trade union and the appropriate training has been undertaken, representatives will be granted reasonable paid time off to undertake the duties of a Union Learning Representative; that will not normally exceed one day per month.

The scope of the duties will be as outlined in the ACAS Code of Practice on Time Off and the Council's Lifelong Learning Agreement on ULRs.

ULRs will also be permitted reasonable paid time off during working hours to undertake ongoing training relevant to their function, as outlined in the ACAS Code of Practice. Requests to attend training must be submitted to their line managers at least 28 days in advance of the dates requested.

**f. Time off to attend Trade Union Conferences**

Each recognised trade union may send representatives to one national conference per annum on the following basis:

0 – 2500 members	2 delegates
2502 – 5000 members	4 delegates
5001 – 7500 members	6 delegates

Approval will be subject to the request for time off being submitted a minimum of 28 days in advance of the date. Only the applicable time off that falls during the representative's normal working hours will be paid up to a maximum of 5 days.

**g. Time off to attend Stewards Meetings**

Each recognised trade union will be permitted paid time off for accredited trade union representatives to attend up to five Stewards meetings per year for a maximum of 2 hours per meeting.

**6. Recording of Trade Union Time Off**

All time off taken, paid and unpaid, within this agreement must be recorded via the trade union representative's usual time recording process using the appropriate codes. Codes will be jointly reviewed to ensure accurate and unambiguous reporting and agreed by October 2019.

The Council is required to publish information in relation to trade union time off to comply with the Transparency Code and the Trade Union (Facility Time Publication Requirement) regulations 2017

## **7. Accreditation and Constituencies**

Employees considering becoming a trade union representative are advised to discuss this with their manager at the earliest opportunity. The trade unions should advise the Shared Service Centre (SSC) when a trade union representative has been appointed to enable the approval process to be implemented. This notification should include:

- Name
- Workplace
- Date of appointment
- Constituency by reference to either employee group, establishment or section
- Name of any trade union representative replaced.

The Shared Service Centre (SSC) will consult HR and the line manager for approval. The number of trade union representatives requested and their constituencies should be taken into account.

Following approval from the employing department, the Shared Service Centre (SSC) will issue recognition together with a copy of this Agreement to the representative.

In the event that the employing department does not wish to approve the accreditation, the matter will be referred to HR.

A representative is accredited to represent those employees in the constituency to which he/she was elected.

The Council will only recognise trade union representatives who have been accredited in accordance with this procedure.

No trade union time off should be taken until accreditation has been formally confirmed by the County Council

Accreditation will cease when the appointment is terminated or the employee moves to another post or occupational group outside the agreed constituency.

The trade unions must provide an updated list of trade union representatives and their roles to the Director Organisation Development & Policy on an annual basis. Any changes that occur during the course of the year must also be notified to the Director Organisation Development & Policy.

## **8. Pay/Pension/Travel**

### **a. Pay**

An employee permitted to take time off for trade union duties is entitled to be paid for the time taken off at the appropriate hourly rate.

Trade union duties undertaken outside a representative's normal working hours will be in the representative's own time.

**b. Pension**

Where time off without pay is authorised, pensionable service may be affected. The representative should contact HR for advice.

**c. Travel**

Representatives are entitled to claim travel expenses at public transport rate to attend trade union meetings with the Council.

**9. Part-Time Employees**

Where part-time employees, who are accredited trade union representatives, attend a course of training and the time spent exceeds the normal working hours, the employees will receive payment for the entirety of the course.

**10. Trade Union Facilities**

The Council recognises that trade union officials require access to certain facilities to carry out their duties efficiently and communicate effectively with their members. These are set out below:-

Facilities for which there is no charge to the trade unions are:

Accommodation for meetings and interviews (except in the case of schools or other buildings where letting fees may apply after 6.00 pm)	Subject to availability
Office accommodation	Subject to availability
Provision of notice boards - multi-union where possible	Subject to availability
Lists of new employees	
Use of telephone – reasonable access in privacy	Council work to take precedence. Executive Directors to keep use under review.
Use of the council's e-mail – where the trade union representative has access as an authorised user and must be on matters of representation and not for canvassing or for promoting or assisting industrial action. Use will be subject to the Council's Policy on the Use of Internet and E-Mail which all representatives should familiarise themselves with.	Council work to take precedence. Executive Directors to keep use under review.

Representatives should note:

- E-mail is not a secure way of exchanging private, confidential, personal or sensitive information.
- Representatives should not encourage persons other than business contacts and associates to send e-mail to their business e-mail address.
- Representatives should not forward e-mails to large groups or lists of people indiscriminately.

The Council reserves the right to impose a charge if, in practice and after consultation with the trade unions, it is considered appropriate.

### **11. Subscriptions**

Deduction of trade union subscriptions on behalf of members is subject to the individual employee's consent and to a percentage recharge to the individual trade unions as determined by the Council.

### **12. Review**

A review of the operation of this Agreement will commence 6 months after its initial implementation. This review will be undertaken jointly. Any revisions to the agreement, sought by either side, should be agreed within 3 months of the commencement of the review. If agreement is not reached within this period (unless agreed otherwise by both parties) the Agreement will cease and trade union time off will be determined in accordance with the ACAS code.

If agreement is reached, this Agreement will remain subject to review at the request of either side. If no request for review is made, then the Agreement will be subject to review on a bi-annual basis. Again, any revisions to the Agreement should be agreed within 3 months of the commencement of the review. If agreement is not reached within this period, (unless agreed by both parties) the Agreement will cease and trade union time off will be determined in accordance with the ACAS code.

### **13. Disputes/Appeals**

All efforts should be made to resolve any disputes on the operation of this agreement at an informal level. In cases where this has not been possible then the matter will be referred by the Executive Director to the Director of Organisation Development & Policy who will consult with the relevant trade union, in accordance with the respective trade union scheme of delegations. Any dispute that cannot be resolved at this level will be referred to the council's Appointments Conditions of Service Committee (ACOS).

## **Appendix 1**

### **Time Off for Trade Union Training**

Derbyshire County Council has given specific approval for paid time off for accredited representatives, subject to consideration of the needs of the service.

## **Unison**

### **Newly accredited representatives**

The Organising Steward	–	5 days
Advanced representatives		
Advanced Representation, Campaigning & Negotiating Skills	–	5 days
Reaccreditation (every 5 years)	–	2 days

### **Health & Safety**

Organising for Safety	-	5 days
Advanced Representation, Campaigning & Negotiation Skills	-	5 days

## **Unite**

### **Newly accredited representatives**

Workplace reps Introductory Certificate	–	Module 1A – 5 days
		Module 1B – 5 days

### **Health & Safety**

Health & Safety Health & Safety representatives certificate	–	Module 1A – 5 days
Health & Safety representatives certificate	–	Module 1B – 5 days

## **GMB**

Newly accredited representatives – 10 days