



Brent Teachers Unions – de-delegation of funding 2013/14

What do the Teachers Unions Officers do for Brent Schools?

- **Casework:** representing members (capability, disciplinary, sickness absence etc:) resolving issues at an early stage, saving schools time and money and maintaining good relationships. Avoids compulsory redundancies and Employment tribunals and associated expense.

****A well represented teacher = a happy teacher who will stay in post**

2004 Workplace and Employment Relations survey found savings of between £372 - £977 in terms of recruitment and ET costs. For every £1 spent on trade union facility time, between £3 - £9 is saved – invest to save and have a good return on your investment.

- **Training:** Regular training and updating of school Reps so that they are enabled to deal with issues themselves in the first instance. Also signposting Reps and members to local and national training and professional development opportunities. Regular meetings with members in schools.
- **Health and Safety:** Local Officers have helped Brent to develop a high profile as a leader in H&S. They have developed national guidelines on school trips with DfE and asbestos management. Pool of expertise for school Reps to call on.
- **Assisting with school re-structuring/re-organisation** i.e. Hay Lane/Grove Park to The Village, numerous expansions in schools, current restructuring of BETS/PRUs, School Improvement restructuring

- **Contributing to Brent Forums** – Schools Forum,, SEN sub group, Schools Policy Review group, Overview and Scrutiny, Schools and Corporate Health and Safety committees, Teachers Panel, JCC
- **School policies** – since September 2012 Officers have worked in partnership with Brent to produce the following policies for schools to consider adopting – Pay Policy, Performance Management/Appraisal, Safer Recruitment, Physical Intervention, Disciplinary, Capability, Managing Alcohol, Drugs, and Substance Misuse at Work, Collective Grievance and Disputes, Exit Interviews, Leave of Absence, Managing Organisational Change, Whistleblowing, Conflict of Interests, DBS, Code of Conduct

Every London Borough in Greater London, except Bexley and Waltham Forest, de-delegated last year

What happens if we don't de-delegate?

Lose economies of scale and costs could fall disproportionately on schools undergoing change/expansion etc. Because trade union Officers have a statutory right to paid time off for duties and training if this didn't come from a central pot it would have to be paid for by the individual school. This could be very expensive and disruptive to students education unlike planned Officer time.

Where the greatest expertise of local Officers was needed this would have to take place outside normal working hours and into the evening, for example – inconvenient/expensive for school managers and governors.



Dear Director

We are writing on behalf of all employees working in your local authority area who are members of ATL, NAHT, NASUWT and NUT.

You will recall that, from April 2013, local schools decided through your Schools Forum to delegate funding for supply cover costs, which included trade union facilities time. We were disappointed with this decision – it is at odds with the overwhelming majority of local authorities in England. Discussions are now taking place in your authority on funding arrangements for supply cover costs from April 2014 and we are asking you to support the view taken by the vast majority of other Schools Forums that these funds should be retained at local authority level through de-delegation.

Successive governments have recognised the importance of good industrial relations and have legislated to provide a statutory basis for facilities time as follows:

- Paid time off for union representatives to accompany a worker to a disciplinary or grievance hearing
- Paid time off for union representatives to carry out trade union duties
- Paid time off for union representatives to attend union training
- Paid time off for union 'learning reps' to carry out relevant learning activities
- Paid time for union health and safety reps paid time during working hours to carry out health and safety functions.

These provisions are contained within the Employment Relations Act 1999, the Trade Union Labour Relations (Consolidation) Act 1992, and the Safety Representatives and Safety Committees Regulations 1997.

But most importantly, de-delegation will help maintain a coherent industrial relations environment where issues and concerns whether individual or collective can be dealt with more effectively. In other local authorities, de-delegation of the fund has allowed trade union representatives who understand the local context to continue to deal with issues arising within schools, without necessarily being a member of staff of the particular school. It has also allowed experienced trade union representatives to seek to resolve problems at an early stage, often informally. Well organised trade union representation has helped to support morale, reduce staff turnover and lower recruitment costs. We believe that co-operation and co-ordination between schools on these matters assists school leaders and governors in arranging the trade union representation to which staff are entitled.

Irrespective of the funding arrangement, our chosen representatives are still entitled to be released to represent our members. Without a central pool, each employer is required to consult and negotiate separately with trade unions on employment procedures. Each employer is required to negotiate, fund and manage separate arrangements for trade union facilities and time off with pay for each trade union with membership at the school. And without a central pool all schools face higher costs by having to release trade union representatives from each union at the school to undertake their trade union duties and attend relevant union training in order to perform the role effectively.

Further, even having delegated the funding to schools, the local authority retains the statutory duty to allow paid release for trade union officers to carry out their trade union duties in respect of its employees. We expect our officers to be released from maintained schools as and when necessary to exercise their statutory rights. The funding delegated to a single school is not sufficient to meet the cost of releasing a local officer for their trade union duties, for example to allow them to negotiate with the local authority on the terms and conditions of teachers in the maintained schools within the authority. The local authority is therefore required to refund the school the release time or it will need to explain to the school that it must release our officers whether it is reimbursed or not.

We believe that co-operation and co-ordination between schools on these matters assists school leaders and governors to cost-effectively arrange the trade union representation to which staff are entitled. We hope that you will now reflect that your local authority should establish a central pool to cover staffing costs for trade union facility time and other civic responsibilities (including service as a magistrate and jury service), and accordingly that you will pass this information on to Schools Forum members advising them to vote for de-delegation.

Yours sincerely

Mary Bousted

Russell Hobby

Chris Keates

Christine Blower

Appendix 1

Case Study 1

Costs for a discrimination case

Discrimination claims can include not only race discrimination but also discrimination on the grounds of faith or belief which can be quite wide ranging. The legislation also allows claims for alleged discrimination on grounds of sex, disability, sexuality and age, all of which may also be pursued as separately identified cases against a school. Employees can also pursue claims for victimisation where they have made a complaint of discrimination (whether internally or externally) and feel they received treatment that victimised them in response to that complaint.

Other key pieces of legislation that teachers have been known to pursue claims under include the Fixed Term Employee Regulations, the Part Time Worker Regulations, the Agency Worker Regulations, Unfair Dismissal and Unfair Selection for Redundancy. These are the commonest claims the trade unions generally handle for teachers, although there are other heads of law that could be relied upon.

This case study demonstrates the costs associated with a case where a teacher believed that he was being discriminated against on grounds of race and disability. This teacher raised the issue of race discrimination with the school but was not satisfied with the way in which his complaint was handled or resolved. This led to extreme stress and anxiety which after a period of time manifested itself in physical illness diagnosed as severe and chronic irritable bowel syndrome and severe migraines. This teacher was then off sick for a considerable length of time resulting in the school commencing procedures to dismiss the teacher on grounds of ill health. This teacher was convinced that his illness was caused by the racial discrimination he experienced in his workplace and intended to take a claim for unfair dismissal and discrimination on the grounds of race and disability to employment tribunal. There was medical evidence to support this view for legal purposes.

The case was eventually settled by way of a compromise agreement after more than 18 months of meetings and negotiation.

The NUT rep spent in the region of 168 hours or approximately 24 days over 18 months on this case. The associated cost of release from normal duties is £3,216.

Had the member not had NUT representation, he would undoubtedly have taken the case to tribunal. The NUT would have covered the member's legal costs but the school would have had to prepare and defend themselves in an employment tribunal which would have been listed as a 5 day hearing. The legal costs for the school would have been solicitor's fees of approximately £20,000 plus VAT. Since the case involved two

strands of discrimination, the school would have considered using a barrister. Barristers' fees are at least £1,500 per day (and may be much more) so including preparation time this could easily have been in the region of a further £10,000 plus VAT.

The potential costs of this case had it not been resolved by the intervention and support of the trade union concerned have been assessed as follows:

NUT rep	24 days @ £134 per day supply rate	£ 3,216
Solicitor's fees		£ 24,000
Barrister's fees		£ 12,000
TOTAL		£ 39,216

Further associated costs for the school would have been the time for staff in the school in preparing for the case and being witnesses at the hearing. If we take conservative figures of:

Headteacher	12 days @ annual salary of £90,000	£ 2,959
Admin support	12 days	£ 657
Witnesses x 8	2 days per person @ supply rate	£ 2,144
TOTAL COST		£ 44,976

By settling via a compromise agreement rather than having to represent themselves at employment tribunal, **the school saved at least £41,759** before consideration is given to any award that would have been made if the member won his claim. The teacher would not have signed a compromise agreement without NUT support and would certainly have continued to pursue his intended course through the employment tribunal if not given timely and competent advice regarding case prospects and settlement terms by his trade union. The employment tribunal service is well-known for being inundated with claims from unrepresented claimants with little understanding of legal processes and ultimately poor case prospects, whereas none of the teacher trade unions would ever support a member in pursuing a claim without reasonable prospects of success being clearly assessed and identified. The trade union rep's input into this at an early stage is a key element that needs to be supported properly by schools.

Paying into the facilities budget saved this academy school at least £42,935 after taking into consideration their contribution to the facilities budget.

Case Study 2

The Cost Of An Employment Tribunal Case

The likely costs of any hearing will depend on the complexity of the case and the length of the hearing. However, ATL recently had costs awarded against them for a failure to consult case that was only listed for half a day. These costs, set by the employment tribunal, were £4371.

The School's solicitor's hourly rates were:-

Partner: £ 260.00

Solicitor: £ 155.00

Trainee: £ 98.00

A standard unfair dismissal case could easily take 40 hours to prepare so at £155 per hour that would be **£6,200** (or, for the services of a partner, the cost would be **£10,400**.) Some claims involve a solicitor and a partner working together so those costs would turn out to be quite considerable for a school.

A two day hearing on top (which is fairly standard for unfair dismissal) is £2,480 (a barrister would probably charge around £5,000 for a two day case).

Therefore a straight forward unfair dismissal case could cost £8,000 to £10,000 in fees alone, using a standard level solicitor to prepare and present the case for the school. There would be additional costs if the school were to lose the case and/or have separate costs awarded against them. The average award for unfair dismissal in 2010/11 was £8,924.

Discrimination cases are usually more complex, which means greater solicitor costs, the likely involvement of a barrister to prepare or present a case and a longer Employment Tribunal hearing. In addition, awards in discrimination cases are typically far higher, for example the average award for age discrimination claims in 2010/11 was **£30,289**.

