

 Brent	<p style="text-align: center;">Schools Forum 4th December 2013</p> <p style="text-align: center;">Report from the Director of Children & Families</p>
For Information	
De-Delegation: Trade Union Funding	

1.0 Background

- 1.1 A report was submitted to the Schools Forum on 23rd October 2013 regarding de-delegated budgets. In response to teacher trade union facilities the Schools Forum requested a further report be presented with recommendations for managing trade union facilities in the future. The Schools Forum asked for more detailed information to be prepared including benchmarking with other local authorities and the need to establish operational arrangements for the management of facilities time.
- 1.2 This report reviews the time off facilities for teacher trade unions for 2013/14 and makes proposals for 2014/15. Currently the facilities arrangements are provided to all maintained schools within the Borough and are managed centrally by the Children and Families Department. Academies have the option to 'buy in' to the facilities provision. Nurseries and special schools are currently included in the de-delegation funding arrangement. However, in the future this will no longer be allowed and it will be necessary to establish a similar arrangement for them to buy in to the trade union facilities provision. This will also apply to PRUs who now have delegated budgets.

2.0 Legal Requirements

- 2.1 The purpose of the statutory provisions is to aid and improve the effectiveness of relationships between employers and trade unions. Employers and unions have a joint responsibility to ensure that agreed arrangements work to mutual advantage by specifying how reasonable time off for union duties and activities and for training will work.
- 2.2 Trade unions recognised by employers for collective bargaining purposes have a statutory right to reasonable paid time off from employment to carry out trade union duties and undertake trade union related training. This requirement is set out in the Trade Union and Labour Relations Consolidation Act 1992 and the ACAS Code of Practice for Time Off for Trade Union Duties and Activities. Additionally an

employee who is a member of an independent trade union recognised by the employer should be permitted reasonable time off during working hours to take part in any trade union activity.

- 2.3 Where a trade union is not recognised by an employer, employees have no statutory right to time off to undertake any duties, except that of accompanying a worker at a disciplinary or grievance hearing.
- 2.4 A union representative is 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 particular company or workplace, or agreed group of workplaces where the union is recognised for collective bargaining purposes.

3.0 Current Arrangements

- 3.1 The current facilities arrangements for time off for teacher trade union representatives have evolved over time. The arrangements cover the need for trade unions to be involved and consulted on overarching school issues as well duties across all maintained schools. The current facilities time equates to 3.52 FTE. This arrangement is managed by the Council on behalf of schools. In addition to the full time equivalent there are local trade union representatives and health and safety representatives in schools dealing with local issues.
- 3.2 The trade union facilities arrangement is allocated across the teacher unions proportional to their membership. Currently there are 2908 teachers in schools within the borough, of which there are 1944 teachers within Council maintained schools. Information regarding trade union membership is not held within the Council. The trade unions have indicated there are 3336 members within the teacher unions which includes teaching assistants and technicians (ATL members) as well members in academies. In the past the allocation of the facilities time has been allocated by the Teachers Panel in consultation with the trade unions using trade union membership data. The trade unions covered by this arrangement are NASUWT, NUT, NAHT and ATL.
- 3.3 The trade union facilities arrangements do not cover academies. In respect of academies there is a buy back service. Currently nurseries and special schools are included in the trade union time off arrangements. However this will change in 2014/15. This is discussed in the section on funding below. It is proposed to develop a new buy back service for nurseries, special schools and PRU's for 2014/15.
- 3.4 In addition to the teacher trade union time off arrangements the Council recognises GMB and UNISON for staff employed across the council's services and they also cover support staff in schools. There are separate facilities arrangements in place which are managed corporately by the Council.

4.0 Trade Union Facilities Funding

- 4.1 The funding required to provide supply cover for the time off is managed by the Council. The funding for trade union facilities is currently de-delegated. This means that a proportion of the schools budget is held centrally to cover the cost of trade union facilities. The Teachers Panel submit an annual claim each year detailing the FTE time spent on trade union duties which is converted into a salary cost for an M6 grade and paid to those schools where staff were absent on trade union duties. Set out in the table below is a summary of the actual amount spent on trade union facilities for 2011/12, 2012/13 and 2013/14. The actual spend for 2013/14 is not available at this stage.

Year	Allocated FTE	Allocated Budget	Cost per pupil	Actual FTE	Actual Cost	Cost per pupil
2011/12	3.52	£153,000	£3.52	2.99	£132,832	£3.05
2012/13	3.52	£155,000	£3.50	2.80	£124,260	£2.80
2013/14	3.52	£159,457	£3.59	tbc	tbc	tbc

Based on previous year's claims it is evident from the claims submitted that the actual facility time claimed is less than the full allowance of 3.52.

- 4.2 The Education Funding Agency 2014/15 Revenue Funding Arrangements amend the de-delegation arrangements. In future a local authority can only de-delegate for maintained primary and secondary schools. This means that nurseries and special schools that are currently included in the time off trade union facilities arrangements in future will have to buy back trade union facilities support if they wish to continue to be part of this arrangement. This will be a decision for the school/nursery. Additionally PRUs now also have delegated budgets and will need to decide whether they wish to buy in to the facilities arrangement.
- 4.3 Academies currently have the option to buy into the trade union facility arrangements. The fee is currently £3.50 per pupil. Currently 3 academies out of 13 buy into the trade union facilities arrangement.
- 4.4 The 3.52 FTE trade union facilities time has remained the same for the last 4 years. However, there has been an increase in the number of schools becoming academies which as discussed above are outside the scope of the trade union facilities arrangements. The relationship between the trade union facilities funding and the number of schools establishments eligible to participate has not decreased to reflect this change in the number of maintained schools. Going forward it will be necessary to reduce the de-delegated trade union funding to reflect the reduction in the number of maintained schools. Currently the 3.52 FTE is based on all schools, including academies, nurseries, special schools and PRU's. If an adjustment is not made then there is a disproportionate burden on the remaining maintained schools. Any additional buy in can supplement the facilities allocation.

5.0 Benefits of De-Delegation

- 5.1 If the trade union facilities arrangements were not to be managed by the local authority it would mean that schools would need to make local plans to cover the cost of trade union facilities directly from their budgets. There are strong arguments in favour of maintaining a central facilities arrangement. Schools are able to pool the resources to cover the cost in a way that avoids costs falling unpredictably or unevenly across the schools. For example, schools undergoing change and expansion programmes are likely to place greater demands on trade union facilities. Overall the current approach is a more efficient and cost effective way of managing facilities time.
- 5.2 The benefits of this arrangement include:
- Enabling the school to plan for the absence of the teacher from the class room;
 - Schools are aware of representatives' availability;
 - Greater flexibility and capacity to respond to issues;
 - More effective way of responding to local authority wide school issues;
 - Provides a fair system in respect of both time and costs for all school.
- 5.3 It is therefore proposed that the Schools Forum agree to continue the de-delegation arrangement in 2014/15 and that this arrangement is reviewed annually in light of changes in the number of maintained schools and schools outside the scope of the agreement buying into the facilities arrangement.

6.0 Benchmarking

- 6.1 To enable the Schools Forum to consider what would be reasonable facilities time off for the teacher trade unions in the future a survey of London boroughs has been undertaken. The survey information has been difficult to compile as authorities contacted hold the information in a number of different forms.
- 6.2 The information is set out in the table below:

London Borough	No of Teachers/ Teacher union members if data available	Facilities Time FTE	Allocated Budget
Brent	1944 (teachers in maintained schools) * 3336 (members in teaching unions) **	3.52	£159,457
Camden	1099 (teachers in maintained schools) 1000 (members in teaching unions –estimated)	1.40	£65,800
Ealing	2350 (teachers)	2.40 (teaching & support staff)	£150,000 (approximately)
Greenwich	2116 (members in teaching unions)	2.00	£90,124
Harrow	unknown	1.08	unknown
Havering	2200 (teachers) 2600 (members in teaching unions)	3.0	£175,000
Hillingdon	3132 (members in teaching unions)	1.82	£63,720

* from annual staffing return to Teachers' Pensions on 31st March 2013.

** from Lesley Gouldbourne's report on facilities time.

7.0 Analysis and Options

- 7.1 It is evident from the information on schools trade union facilities that the current allocation no longer reflects the actual time needed to provide trade union support in schools.
- 7.2 The actual time spent on trade union duties in 2011/12 and 2012/13 was less than the allocated 3.52 FTE, at 2.99 and 2.80 respectively.
- 7.3 The allocated 3.52 was based on all the schools in the borough with the exception of non-recoupment academies. This is therefore 80 schools. Given the changes that have occurred in the status of schools the formula for calculating time off should have taken this into account and reflected that a number of schools had become academies. Going forward the formula should also take account of nurseries, special schools and PRUs which also now have delegated budgets. Currently there are 61 maintained schools (excluding academies, nurseries, special schools and PRUs) which should be used as the basis for calculating the allocation of time off for teacher trade unions.
- 7.4 The trade unions in their submission have suggested a 10% reduction in trade union facilities time reflecting a change in circumstances from their perspective. Their request is for 3.16 FTE. The teacher trades unions have engaged with the local authority in a positive debate on this issue and have submitted a range of papers which are attached as Appendix A.
- 7.5 There is a financial requirement to allocate budget provision to schools on the basis of the pupil head count. However it is suggested to use the teacher headcount to determine the time off facility is more appropriate. It is therefore suggested that, in future, teacher headcount is used for calculating the facility time and the cost can then be converted to pupil head count for purposes of allocating the budget to schools in accordance with the financial guidelines.
- 7.6 In the past not all trade union representatives have been serving teachers who spend part of their time on borough-wide union duties and the remainder teaching in school. It is acknowledged that there has been a reasonable explanation for this situation. However, as raised by head teachers at the last meeting of the Schools Forum, in the future it is proposed that it be made clear in the facilities agreement that borough-wide trade union representatives should be serving teachers who are practising in local schools and are familiar with current local circumstances to inform consultation and negotiations. It would also distinguish them from regional level full-time union officials. It is usual practice for trade union representatives to be serving teachers.
- 7.7 Based on the foregoing, a number of options are set out below for the Schools Forum consideration.

7.7.1 Option 1

Reduce the time off facility to 3.16, which would be consistent with the trade union proposal. This translates to a de-delegated budget of £142,600 (£5.45 per pupil), and would give a small reduction on the facility time compared to previous years. However, this does not reflect the actual reduction in the

number of maintained schools, as the trade union proposal is based on all schools they represent not just the maintained schools. This option does not fully address the issue of there being a disproportionate burden on the remaining maintained schools and should be dependent on an element of those schools out of scope buying into the facilities arrangement. Steps should be taken to agree to enable nurseries, special schools, PRUs as well as academies to access the facilities on a fee paying basis. It is proposed that this arrangement would be reviewed on an annual basis.

7.7.2 Option 2

Calculate the facilities time using the number of teachers in maintained schools and reviewing the arrangement on an annual basis. Using the current maintained school's teacher head count of 1944 this would equate to 2.35 FTE facilities time, and translates to a de-delegated budget of £106,100 (£4.05 per pupil). This approach recognises the actual number of maintained schools within the borough and any buy back would be used to supplement the amount of time off. As in option 1 above, steps would be taken to agree to enable nurseries, special schools, PRUs, as well as academies, to access the facilities on a fee paying basis at £4 per pupil.

7.7.3 Option 3

From benchmarking data it can be seen that other London boroughs are not as generous with the time given for trade union facilities. The Schools Forum may wish to consider a more significant reduction, in light of these findings, to 2.0 FTE. This would translate to a de-delegated budget of £90,300 (£3.45 per pupil). As in option 1 and 2 above, steps would be taken to agree to enable nurseries, special schools, PRUs, as well as academies, to access the facilities on a fee paying basis at £3.50 per pupil. This is a more accessible option for buy-in from academies than options 1 or 2. It would also be reasonable to review any arrangement concluded under this option on an annual basis.

7.7.4 Option 4

Decide not to de-delegate the budget and leave schools to make their own arrangements for trade union representation. The report sets out disadvantages that would come with this approach.

8.0 Conclusion

- 8.1 In considering each of the options and all of the factors that are impacting on the time off facilities for teacher trade unions the Council is minded to recommend Option 2 on the basis that it reflects the current numbers of teachers and schools. It provides a fair way to manage the arrangement on behalf of schools, whilst at the same time allowing for the time off to be supplemented dependent on the number of schools that buy into the arrangement. The Council would approach schools at the end of each year to determine the level of buy in for the following year in order to calculate any additional facilities time resulting from the buy back.
- 8.2 Whichever of the options are decided the Council would, in consultation with the trade unions and schools, seek to develop a formal trade union facilities agreement

to support the agreed time off facilities, including the allocation of the time between the teacher unions.

9.0 Recommendations and Consultation points

9.1 The Schools Forum is requested:

- a. To decide whether to de-delegate for the trade union facilities budget for 2014/15;
- b. To agree on an option from paragraph 7.7 in the report for the provision of trade union facilities time off in the future – the LA is recommending Option 2;
- c. To agree to enable nurseries, special schools and PRUs, as well as academies, to have access to the facilities arrangements on a fee paying basis;
- d. To agree to review the arrangements annually and adjust the time off arrangements to reflect any changes in the status of schools;
- e. That officers, in consultation with the trade unions and schools, should develop a formal trade union facilities agreement to support the agreed time off facilities, including the allocation of the time between the teacher unions
- f. To agree that the facilities arrangements would require representatives funded through this route to be serving teachers in Brent schools.

Appendix

A. Trade Union Facilities report

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