

## ABERDEEN CITY COUNCIL

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COMMITTEE	Finance Policy and Resources Committee
DATE	6 May 2014
DIRECTOR	Angela Scott
TITLE OF REPORT	Trade Union Facility Time
REPORT NUMBER:	CG/14/048
CHECKLIST RECEIVED:	Yes

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### 1. PURPOSE OF REPORT

This report updates Committee on the changes to the criteria for the allocation of devoted trade union facility time.

### 2. RECOMMENDATION(S)

It is recommended that Committee approves the proposed amendments to element 2 of Framework Agreement for Industrial Relations (FAIR) which changes the criteria for the allocation of devoted trade union facility time.

### 3. FINANCIAL IMPLICATIONS

The financial implication of allocating devoted trade union facility time is the cost of salaries of those allocated such time off.

### 4. OTHER IMPLICATIONS

Trade unions are allocated time off to undertake defined statutory duties. In order to accommodate this and to avoid disruption to working arrangements the Council, as the employer, has provided arrangements for defined Trade Union officials to be released to undertake the work of representing their members and provided backfill arrangements. This is provided with a view to make the arrangements efficient for both the employer and the trade unions.

### 5. BACKGROUND/MAIN ISSUES

Trade Union facility time has been an outstanding item of business for some time. The current situation in relation to trade union membership is shown below:

Trade Union	Membership	FTE Allocated
UNISON	1241*	2 (only use 1.6)
GMB	503*	1
UNITE	725*	1.5
UCATT	189*	1
EIS	1933	2
SSTA	Not Available	0.2

\*Membership taken from payroll data in March 2014. These figures will under represent the actual membership as some members will choose to pay union subscription by direct debit, not through the payroll. Teaching unions advise members to pay subscriptions by direct debit.

The payroll statistics show a steady decline of trade union membership over the previous 12 months - this is reflective of a general trend in the recent decline in trade union membership across industry. This is evidenced below:

Month	Mar13	Apr13	May13	Jun13	Jul-13	Aug13	Sep13	Oc-13	Nov13	Dec13	Jan14	Feb14	Mar14
GMB	606	604	602	600	598	512	515	514	511	510	511	507	503
UCATT	193	190	186	184	180	178	179	180	179	191	191	191	189
Unison	1522	1505	1501	1494	1485	1303	1284	1282	1268	1259	1257	1242	1241
Unite	832	822	816	811	806	753	751	750	744	744	734	732	725

It should be noted the fall in membership numbers in August 2013 was largely to do with the transferring of employees to Bon Accord Care who are no longer employees of Aberdeen City Council.

### **Devoted Trade Union Facility Time (DTUFT)**

The current arrangements provide for Devoted Trade Union Facility Time (DTUFT) to be determined on an annual basis in accordance with the terms outlined in Element 2 of the Framework Agreement for Industrial Relations (FAIR). However, the current level of DTUFT has remained constant for a number of years, although it should be recognised that the Teachers allocation was reduced to its current level a couple of years ago.

Previously, concerns have been expressed about the amount of Devoted Trade Union Facility Time allocated and this matter has been subject of discussion at the JCC. The revisions to the Time off provisions criteria have been fully consulted with the Trade Unions who have agreed with the proposal

The trade unions are understandably concerned to changes in the rules and entitlement for facility time, however, the proposed changes set a minimum threshold of membership where a trade union is normally awarded devoted facility time.

In order to ensure the proposal recognises the extent of the role undertaken by each Trade Union Official within the membership

calculation will include membership for ALEO's and for Agency Workers where it can be evidenced the Agency Worker in question is working for the Council.

The proposal is for the revised criteria detailed in Element 2 - Time off for Trade Union Duties as detailed in Appendix 1, to be approved and for the current Devoted Trade Union Facility Time to be assessed by Officers and following this assessment, for this exercise to be undertaken on an annual basis.

6. IMPACT

The clarification of the criteria to be applied in allocating DTUFT should assist all parties.

7. MANAGEMENT OF RISK

The risks associated with this report are only present when should it be decided that trade union facility time reduces for a Trade Union when the revised criteria are applied. There are appeal provisions within 'Element 2 – Time off for Trade Union facility time' to decisions which should mitigate any risk of industrial unrest.

8. BACKGROUND PAPERS

None

9. REPORT AUTHOR DETAILS

Jeff Capstick  
Human Resources Manager  
Tel: (52)2106  
E-mail [jcapstick@aberdeencity.gov.uk](mailto:jcapstick@aberdeencity.gov.uk)

## **ELEMENT 2 – TIME OFF FOR TRADE UNIONS DUTIES AND ACTIVITIES**

This document must be read in the context of the FAIR Agreement and when interpreting its provisions, consideration must be given to the other five elements of the agreement.

This document details the reasons for which trades unions officials and shop stewards will be granted time off. It is emphasised that all activities within Aberdeen City Council are made within its statutory obligations and the rights of trade union officials to time away from their normal duties to undertake trade union duties or activities.

### **(1) Introduction**

This document is one of the six key elements of Aberdeen City Council's Framework Agreement for Industrial Relations or **FAIR**.

It provides definition as to the trade unions statutory right to time off for trade union duties and activities. It has been developed in accordance with the ACAS Code of Practice 3 and statutory obligations identified in the Trade union & Labour Relations (Consolidation) Act 1992. To avoid any ambiguity, time off for trade union duties and activities will only be granted for issues which directly relate to the City Council. For the purpose of clarification time off for duties is provided where an issue relates directly to matters identified in Element 1 and activities are undertaken in support of those duties. Where the classification is unclear, it should be raised with the appropriate manager for clarification, who should seek advice and guidance from the Head of Human Resources & Organisational Development.

This element covers:

- **the duties for which time off shall be given with pay**
- **the activities for which time-off shall be given with and without-pay**
- **responsibility and reasonableness**
- **the criteria and process for determining devoted facility time**
- **the arrangements for requesting and recording time off**
- **how disputes within the application of this process will be dealt with**

## **(2) Time off for trade union duties**

The following list is neither exclusive nor exhaustive but illustrates the nature of the **duties** for which time-off **with pay** shall be granted:

- Discussions with Council officers on terms and conditions of service and employment policies, processes and procedures
- Representing members in disciplinary, grievance and within other Council procedures
- Discussions on physical conditions and working environment including health and safety matters
- For purposes of statutory consultation, including redundancy, TUPE, health & safety etc.
- Informing members of their trade union on the progress of discussions, where prior agreement for such a meeting has been given
- Meeting with full-time officials of the union on matters relating to discussions which are ongoing with the Council.
- Attending meetings with Council officers or members (e.g. JCC, UMF, Health & Safety Sub-Committee, Appeals Sub-Committee etc)
- Reasonable time to prepare for the above meetings, including pre-meetings with other trade union representatives before such meetings.
- Attendance at Council/Committee Meetings where a legitimate trade union issue is to be considered/discussed, or where speaking rights have been granted to the trade union representative in question. Prior approval from the relevant Corporate Director must be given before time-off for this purpose will be granted.
- For the recruitment of new members that are employees of the City Council.

*NB There is no right to time off for trade union duties which themselves consist of industrial action*

## **Payment for time off for trade union duties**

The Authority will pay either the amount that the official would have earned had they worked during the time off or, where earnings vary with the work done, an amount calculated by reference to the average hourly earnings for the work they are employed to do. **There is no statutory requirement to pay for time off where the duty is carried out at a time when the official would not otherwise have been at work.**

### (3) Time off for trade union activities

#### Time-off for Activities with Pay

There are circumstances where trade union officials will undertake trade union **activities** where time-off **with pay** will be granted. The following list is neither exclusive nor exhaustive but illustrates the nature of the **activities** for which time-off **with pay** shall be granted:

- The number of trade union officials, employed by the Council, permitted to attend the trade union's National Conference will be determined by the national rules of that Trade Union. Where there is no stipulation within the national rules of the Trade Union then the numbers permitted to attend will be agreed by the Head of Human Resources and Organisational Development.
- Attendance at National/Regional meetings related to Pay & Conditions
- Meetings with full time trade union officials to discuss relevant issues to the workplace

It is likely that the majority of activities will be undertaken without pay. The following list is neither exclusive nor exhaustive but illustrates the nature of the **activities** for which time-off **without pay** shall be granted:

- Local branch meetings where non-Council trade union business under discussion.
- National meetings that do not relate to Local Government Pay & Conditions
- Area / Regional meetings that do not relate to Local Government Pay & Conditions
- Attendance by nominated trade union delegates at the Annual Conference of the TUC or STUC. The number of trade union officials, employed by the Council, permitted to attend the TUC or STUC will be agreed by the Corporate Director for Corporate Governance.
- Activities/ appointments, where the official is acting in a trade union capacity on a body external to the Council.

*NB There is no right to time off for trade union activities which themselves consist of industrial action*

### (4) Responsibility and reasonableness

There is a responsibility on all parties to ensure that the amount and frequency of time off is reasonable in all the circumstances. It is vital that from the trade union side there is an awareness of the effects that time off may have on operational requirements, and accordingly, recognition that there may be circumstances where approval for time off cannot be given by line

management because of sound operational reasons. Equally, management should make every attempt to release lay officials to undertake their trade union duties and activities on request.

It is of paramount importance that the need to maintain services to the public at all times is considered along with every trade union request for time off. The reasonable level will be determined in accordance with this principle, taking all the circumstances of the request into account, including the operational requirements of the employee's workplace and the Service to be provided.

## **(5) Devoted Trade Union Facility Time**

### **5.1 Critical mass of membership**

Devoted Trade Union Facility Time (DTUFT) to undertake defined duties and activities will be granted where this is considered to be in the best interests of the Council. Not all trade unions will qualify for DTUFT as it is viewed that a trade union will need to have a minimum critical mass of membership to qualify.

### **5.2 Criteria for allocation of devoted trade union facility time (DTUFT)**

- A trade union with less than 300 members will **not** normally qualify for DTUFT. The trade union branch must be able to provide the Council with evidence that it has over 300 members who are current employees of the Council, employees of Arms-Length Organisations of the Council where local Trade Unions are recognised and/or agency workers that are regularly working for the Council. The Trade Unions will be required to provide evidential proof of the number of members otherwise the Council will rely on the numbers of trade union members who pay subscription through payroll deductions. For the sake of clarity the Council recognises the trade union must comply with Data Protection Act and as in evidencing membership the personal details of members will not be requested, except in the case of Agency Workers where confirmation will be required that the worker concerned is regularly working for the Council.
- For any trade union with over 300 members DTUFT will normally apply but the amount of DTUFT will be assessed on an individual Trade Union basis. Time off will be granted for trade union duties and recognised paid activities. The Council in return for granting this time expects other time off whether for duties or activities for stewards, learning representatives or health and safety purposes to be kept to a minimum. In particular for regular corporate meetings this will ALWAYS to be covered by trade union Officials who are granted DTUFT only for reasons for sickness, holidays or other valid reason shall an official without DTUFT attend.
- The basis for granting DTUFT is that it will deliver either (or both) financial or service efficiency to the Council.

- DTUFT will be reviewed on a regular (annual) basis.

Where DTUFT, following any review, has reduced the trade union have the right to appeal the allocation. Such an appeal must be made via the Council's grievance procedure (this will commence at Stage 2 – being heard by the Director for Corporate Governance or a Director not involved with the original decision)

## (6) Arrangements for requesting and recording time-off

An appropriate comprehensive administrative process for requesting, recording and monitoring time spent on trade union duties and activities must be developed. Not only will this make all who take time-off for trade union duties accountable for time taken, it will demonstrate whether the Devoted Trade Union Facility Time allocated by the Council is sufficient.

Where the arrangement is not covered by DTUFT, the following key steps have been identified and must inform any procedure:

Step One	Request	TU official must ask line manager for time off work, using the Time Off for Trade Union Activities/ Duties/Training Request sheet at the earliest opportunity
Step Two	Decision	Line manager must provide a decision at the earliest opportunity to the TU Official /shop steward
Step Three	Accounting	Steps 1 & 2 need to be accounted for and an 'Audit Trail' of request and approval. In addition a time recording arrangement needs to be in place to detail the time taken and reason <b>every time</b> facility time is approved.
Step Four	Monitoring	An arrangement for monitoring on a regular basis the amount of facility time used and the reasons for which it was taken. This should be accounted for within each Service and reported to the Head of Human Resources & Organisational Development.  This information will be used to inform the regular review with Trade Unions regarding facility time.



## **(7) Disputes regarding requests for time-off**

Every effort should be made to resolve a dispute in relation to time off for trade union duties or activities within the Service where the lay official is employed. Where a satisfactory resolution cannot be reached within the Service concerned the matter should be referred to the Head of Human Resources & Organisational Development by the trade union's nominated trade union official. The Head of Human Resources & Organisational Development following receipt of information from both sides will make a final decision on the request.

There will be no appeal against the decision of the Head of Human Resources & Organisational Development. However, where the issue is viewed as a 'matter of principle' – not a matter of fact, by the trade union, the issue can be progressed through the grievance procedure commencing at Stage 2 to be heard by a Corporate Director not involved in the original decision.