

# TRADE UNION DUTIES AND ACTIVITIES

This document applies to all Council employees except:

- All school based employees

*This document may not be applicable to employees who transferred into LCC under TUPE legislation and remain on the terms and conditions of their previous organisation.*

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# **TRADE UNION DUTIES AND ACTIVITIES**

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## **INTRODUCTION**

A recognised trade union is an independent trade union recognised by the County Council for collective bargaining purposes.

This policy ensures that the County Council has proper and effective arrangements for the recognition of trade unions and the accreditation of trade union officials.

## **DEFINITIONS**

- a “recognised trade union” is an independent trade union recognised by the County Council for collective bargaining purposes
- an “accredited official” is an employee of the County Council elected or appointed by his/her trade union to represent other trade union members who are employees of the County Council
- “other facilities” includes payroll deduction of subscriptions, printing and the use of telephones, meeting rooms, notice-boards and internal post/courier services
- A TULR is an accredited Trade Union Learning Representative appropriately trained

## **OBJECTIVES**

To:

- ensure effective industrial relations between the County Council and its recognised trade unions
- ensure effective and efficient arrangements for the accreditation of trade union officials
- ensure the responsible application for time off etc for trade union duties and activities
- provide, where practicable a common core of facilities and arrangements to a consistent standard
- outline the recording system to be able to monitor the effectiveness of the arrangements made.

## **RESPONSIBILITIES**

### **DIRECTORS AND ASSISTANT DIRECTOR LEVEL**

Approving accreditation of officials where constituency falls within his/her director Area including the time off and budget for part time representatives.

Ensuring mechanisms are in place for recording and monitoring time off.

### **MANAGERS**

Taking decisions in respect of specific applications for time off or other facilities taking into account the provisions of the agreement.

Reporting to their Director on a regular basis the amount of time off approved.

### **HEAD OF SERVICE - PEOPLE**

Recommending recognition of trade unions to the Council’s Executive.

Reviewing, revising and monitoring of the agreement as appropriate.

Approving accreditation of officials where constituency is wider than one directorate.

## **AGREEMENT ON TRADE UNION FACILITIES**

This agreement is between Lincolnshire County Council and the recognised trade unions as listed in the policy document 'Trade union List' and their properly accredited officials, including Trade Union Learning Representative (TULR), Safety Representatives and members of safety committees. See [G6 Consulting employees on Health and Safety](#).

The agreement also applies to (lay) members of recognised trade unions who may exercise their right to take time off work [normally unpaid] to participate in trade union activities.

It also sits within a wider framework of Employee Relations within the County Council and should be operated with regard to any other agreements or arrangements in existence at the time.

## **PRINCIPLES**

Both parties agree that there are common benefits in a consistent approach to the application for and granting of paid or unpaid time-off for trade union facilities within directorates and establishments.

### **The County Council Recognise:**

- their statutory responsibility to permit an accredited official time-off to carry out certain trade union duties
- the value of providing other reasonable time-off and other trade union facilities to promote meaningful consultation and good industrial relations generally

### **The Trade Unions Recognise:**

- their responsibility for requesting use of facilities in the most effective and efficient way possible
- their obligation not to unduly or unnecessarily prolong the time that they are absent from work on union duties or activities

## **ACCREDITATION**

Elections for the post of trade union representatives will happen annually within the Unions. Where a new representative is nominated during the election cycle the same procedure will apply. Employees should inform their line manager of their intention to stand as a candidate for the post of a trade union representative. Early notification of intention to stand can help the council to plan for accommodating this arrangement and should therefore, in most cases, avoid objection to accreditation once the person has been elected.

Following the election or appointment of an official, TULR or safety representative, the trade union will write to the Head of Service - People with names of newly elected workplace representatives.

The Head of Service - People forwards the list of accreditations to HR Admin to record it on the employee's personal file for the appropriate term.

Should, in exceptional circumstances, there be an objection to accreditation, a meeting of the parties will be arranged by the Head of Service - People and involve the Director of Children's Services and an officer of the trade union concerned. The purpose of this

meeting will be to explain the refusal of accreditation and to find a way forward to the satisfaction of both parties. If agreement is not reached, the matter may be dealt with through the County Council's Grievance procedure, or in the case of schools, the procedure adopted by the governing body.

Where an accredited official leaves office or their employment with the County Council, the trade union needs to inform the Head of Service - People and the accreditation will cease. It may also cease in cases where an official transfers to a different post within the organisation, as accreditation is not automatically transferable and will be reviewed in line with the test of reasonableness.

See [Appendix 2 for flowchart of process](#).

## **LEVEL OF FACILITIES**

The level of facilities must be "reasonable in all of the circumstances" and must take into account the operational needs of the organisation and any other time taken by the employee, for example for public duties. This "test of reasonableness" is detailed below.

At least annually, managers need to reach agreement with each accredited official within their responsibility on the amount of time-off that can reasonably be expected taking into account:

- the official's duties
- the operational needs of the organisation
- the amount of time-off taken in the previous year
- the minimum amount of notice for specific types of absence

A similar approach will be taken by managers regarding the provision of other facilities.

## **APPROVAL MECHANISMS FOR TIME OFF**

Accredited officials are required to request permission for time-off during working time and the use of other facilities from their manager. Normally and where possible 7 days notice should be given and the form in Business World On! – Trade Union Application for time off should be completed. For those without access to Business World On!, [Appendix 1](#) should be used.

Once approved, individuals should log time off in Business World On! using the Absence Entry screen and selecting either Trade Union paid or Trade Union unpaid.

In cases where a series of absences relate to the same duty, a standing arrangement can be agreed providing that proper notice can be given.

Lay members of a recognised trade union may request time-off without pay in accordance with the same principles as above i.e. with 7 days' notice using the Trade Union Application for time off within Business World On!

In the case of time-off for training purposes the respective trade union should write to the appropriate line manager in the first instance with the day/dates of the training. Where the time-off request is significant it should be done with at least 28 days notice. Where there are any issues in relation to the training request this should be forwarded to the Head of Service - People.

In considering requests for trade union training and education, managers should take into account:

- 1) the benefit to the county council as well as the union of having properly trained representatives
- 2) time off for training should be considered separately from and additional to time off for other duties and activities
- 3) part time employees who attend a full day of training will be paid on their normal grade for the full time working day.

Facility time may be agreed for specific trade union posts such as Branch Secretary of Unison, and will be funded from Corporate or Director Area budgets as appropriate.

Where a request is not approved then the reason for the refusal must be given in writing to the official or member within 3 days of the decision and confirmed in writing if so requested. If the official or member does not agree with this decision the matter can be dealt with through the Councils Grievance Procedure.

## **TIME-OFF WITH OR WITHOUT PAY**

Where trade union officials and lay members face difficulties in achieving effective representation or communication it is not unreasonable for trade unions to request that meetings be held (in part) within normal working hours.

The County Council recognises that there will be occasions when time-off will be requested at times when matters cannot be dealt with effectively outside of normal working hours and that there is a direct benefit to both parties in dealing with specific issues in this way.

Time-off is given for either a trade union duty or activity. See 'Statutory provision' section below for definitions regarding trade union duties and activities.

Accredited officials will receive normal or average earnings for approved absences to undertake a **duty** relating to their role.

Approved time-off for a trade union **activity** will be without pay. This will also apply to lay members who have time-off to enable them to participate during normal working hours in an activity properly authorised by that trade union.

## **STATUTORY PROVISIONS FOR TIME OFF FOR DUTIES**

The Trade Union and Labour Relations (Consolidation) Act 1992 and the Employment Relations Act 2002, provides for employees who are officials of an independent trade union have the right to be permitted a reasonable amount of paid time off work to enable them to carry out their duties. Paid time off will normally be given to trade union officials for **duties** relating to both those within and outside of the County Council and these are detailed below:

### **For Duties Outside the County Council**

- representing the trade union at established joint meetings of employers and trade unions to recommend terms and conditions of employees of local authorities
- attendance at conferences which are considered to have value in relation to the County Council's services

- initial basic and then further training relevant to carrying out the duties providing that the training has been approved by either the Trade Union Congress or the official's own union
- carrying out the duties of an appointed/elected member of a National Executive or National/Regional Governing Body of a union. (This particular duty is normally limited to an aggregate total of 9 whole days or 18 half days in any 12 month period although officials may apply for further time off with or without pay in exceptional circumstances.)

### **For Duties Inside the County Council**

- participation in collective bargaining as appropriate
- to inform members of negotiations/consultations with the County Council in relation to statutory provisions
- attendance with members at grievance and disciplinary hearings and interviews
- attendance with members at other meetings held under appropriate council procedures (eg capability and attendance), and preparation for those meetings
- discussions with new employees as regards the union's role in respect of the industrial relations framework (check protocol)
- carrying out the functions of a Trade Union Learning Representative.

See also [G6 Consulting Employees on Health and Safety, regarding Safety Representatives](#).

## **ACTIVITIES FOR UNPAID TIME OFF**

The County Council will not pay for an official's activities in relation to an internal/domestic union nature although time off without pay should not be withheld unreasonably.

Unpaid time off for lay members should be considered taking into account the "test of reasonableness" outlined below.

## **TEST OF REASONABLENESS**

Following accreditation the amount of time off taken by a trade union official or time off permitted to a lay member must be reasonable in all the circumstances. The principles of the "test of reasonableness" should therefore be applied. The criteria to be taken into account are set out below.

### **Criteria:**

- Has the employee and/or trade union supplied sufficient information on which to make a decision?
- Has a reasonable amount of notice been given?
- Does the trade union formally support the request made?
- What is the impact on the service? What is the purpose of the time off? If the purpose is a "duty" then the official will normally have the time off with pay. If the purpose is an "activity" then both officials and lay members may have time off approved without pay. See section Time off with or without pay...

Time off will not be allowed to participate in industrial action although recognised officials will be expected to attend meetings to resolve disputes.

## **General Guidance**

Where there is some doubt as to the approval of the application further information can be requested from the trade union.

Consideration of time off may need to take into account factors, which would be applied by an Employment Tribunal in the event of the employer's unreasonably withholding time off, or payments for such time off. Where there are any doubts managers should seek advice from their HR Adviser. Discussions with full time officials from the trade union may also take place.

In requesting information from a representative, managers will have due regards to issues of confidentiality.

It will be recognised that in some emergency circumstances representatives will be required to ask for time off at short notice.

Some representative may hold more than one office within their trade union, in which case the test of reasonableness will be applied separately to each role.

## **RECORDING TIME OFF**

Full records of time off and other facilities granted must be recorded by the manager concerned and reported to their Director on a regular basis.

Individuals should record all authorised absences in Business World On! using the Absence Entry screen and selecting either Trade Union paid or Trade Union unpaid. For those who do not have access to Business World On!, the form in [Appendix 1](#) should be used instead.

Directors are responsible for monitoring the effectiveness of their arrangements and reporting difficulties encountered in their operation to the Head of People Management.

## **FUNDING**

The costs of granting time-off with pay and the use of other facilities will normally be met from Director Area or delegated budget as appropriate.

## **DISCLOSURE OF INFORMATION**

The County Council will disclose to representatives of the trade unions such information, as they may reasonably need in order to conduct negotiations in an informed and responsible manner.

The types of information relating to an employer's undertaking which could be relevant in certain collective bargaining situations are as follows:

- Pay and Benefits
- Conditions of Service
- Number and types of employees
- Performance
- Financial

Trade unions requesting information should do so in writing.

All information disclosed will be dealt with in accordance with Data Protection legislation and must be used only for the purposes for which it was provided.



## REVIEW

The provisions of this agreement will be subject to annual review, or earlier if requested by either side. Reviews will ensure that the principles and objectives of the agreement are being effectively sustained.

## Termination Clause

Whilst confirming the view that this agreement will operate for an indefinite period, both the County Council and the Trade Unions agree that both parties retain the right to end the agreement by giving at least 6 months notice in writing.

SIGNED (ON BEHALF OF LINCOLNSHIRE COUNTY COUNCIL)

.....DATE.....

SIGNED (ON BEHALF OF THE TRADE UNIONS)

..... (Staff Side Chair)

..... (Staff Side Secretary)

DATE.....

## RELEVANT LEGISLATION

Trade Union and Labour Relations (Consolidation) Act 1992

Employment Relations Act 1999 and 2004

Safety Representatives and Safety Committees Regulations 1977 (as amended) and  
Health & Safety (Consultation with employees) Regulations 1996 (as amended)

## FURTHER INFORMATION

Please contact People Management

## ADDITIONAL RELEVANT POLICIES

[List of Unions Recognised by the County Council in relation to employment groups](#)

[G6 Safety Representatives](#)

[Lifelong Learning Agreement](#)

[Appendix 1 Application Form for Time Off](#)

[Appendix 2 Trade Union Accreditation Process](#)