Trade Union Recognition and Facilities Time in Academies and Trusts

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Key Facts and Advice

Read our key facts and advice to understand the relationship between Trade Unions, Academies and Trusts. We cover Joint Consultative Committee (JCC), Joint Negotiating and Consultative Committee (JCNC), Trade Union Recognition Agreement and Facilities time.

It is recognised that unions and professional associations, along with Trusts have joint responsibility for ensuring a well-ordered system of trade union organisation and industrial relations.

Unions and professional associations make a significant contribution to the smooth running of the education service, both locally and nationally.

A trade union is recognised when it is:

* independent, and
* recognised by an employer, or two or more associated employers, for the purpose of collective bargaining.
* Trade union recognition can be either be by voluntary agreement between the parties, or an application can be made for statutory recognition.

Schools, Academies and Trusts work closely with Trade Unions and Professional Associations to maintain good working relations. Many Trusts introduce and agree a Trade Union Recognition Agreement with the Trade Unions and Professional Association. The purpose of this document is to outline trade union recognition and representation within the Trust, to establish a framework for consultation, provide clarity on collective bargaining and individual staff representation on behalf of the workplace.

Trade Union Recognition Agreement

This formal agreement sets in place a commitment to working together in a spirit of mutual confidence, partnership and co-operation to achieve fairness and equality in the treatment of staff. It also outlines the agreement for Unions to undertake collective bargaining on behalf of the Academy/Trust’s staff.

Both parties identify within the agreement the common objectives they wish to pursue and achieve such as:

1. to ensure that employment practices in the Academy/Trust are conducted to the highest possible standards;
2. to enhance effective communication with all staff throughout the Academy/Trust;
3. to achieve participation and involvement of all members of staff on the issues faced in running and developing the Academy/Trust
4. to ensure that equal opportunities are offered to staff, or prospective staff and that the treatment of staff will be fair and equitable in all matters of dispute.

Once a trade union recognition agreement is in place there will generally be a requirement for JCC/JCNC meetings to take place between the recognised unions and the Academy/Trust.

Joint Consultative Committee (JCC)

JCCs have long been used as a method of consultation on employee matters. The committees are made up of Trust Management and recognised Trade Union representatives who come together on a regular basis to discuss issues of mutual concern. From our experience this is often on a termly basis.

When setting up a JCC, a constitution should be agreed with employee representatives, including where appropriate recognised trade unions, which lays down the rules and procedures that will govern the committee's operation. Agreeing a constitution at the beginning can help overcome subsequent problems and misunderstandings.

The difference between a JCC and a JCNC

JCNC is a Joint Negotiating and Consultative Committee and includes the element of negotiation therefore, the employee representatives seek to influence decision making through consultation and negotiation, with communication with staff being through their elected representatives. It is normal practice for a medium to larger Trust to have a JCC in place, although it is not a statutory requirement. Recognition and consultation on employee matters can take place without such a forum being in place.

Content of a JCC meeting

There are several issues that need to be considered and agreed between the parties when establishing a JCC; these include:

* size and composition of the committee
* organisation of committee meetings
* subjects to be discussed
* facilities for committee members
* arrangements for reporting back

The above along with other terms can be agreed by all parties engaging in a trade union recognition agreement.

Sample JCC Agenda

A copy is available on the EPM Content Hub under Employee Relations.

When agreement cannot be reached over the trade union recognition

In the event that the Academy/Trust and Trade Unions are unable to reach a voluntary recognition agreement, the union can make an application for statutory recognition, as long as it has fulfilled some basic requirements:

* the union must have already made a formal application for recognition with the employer;
* the organisation must employ at least 21 workers;
* the union must have at least 10 per cent membership and be likely to attract majority support in a ballot;
* if the employer has suggested that ACAS be involved, the union must have consented within ten working days.

Please see <https://www.gov.uk/trade-union-recognition-employers> for further details.

EPM have prepared a Model Trade Union Recognition Agreement that an Academy/Trust can adapt and adopt. To access this document please contact your Lead People Partner. This will enable further discussion to ensure the agreement meets the Trust’s requirements.

Union meetings and other facilities also form part of the trade union recognition agreement, and the next section provides advice specifically in relation to trade union facilities time.

Trade Union Facility Time

Trade union facility time is reasonable time off for trade union duties and activities. This entitlement is set out in the Trade Union and Labour Relations (Consolidation) Act 1992 and the ACAS Code of Practice on time off for trade union duties and activities.

Publishing Facility Time

Under the Trade Union (Facility Publication Requirements) Regulations 2017, public sector employers with more than 49 full time equivalent employees during any seven months of the relevant period are required to publish on an annual basis the amount and cost of facility time. Facility time is when an employee takes time off from their normal role to carry out duties and activities as a trade union representative.

We have updated their guidance which is available on our Content Hub. This also covers off Pooled Facility Time that is often administered by local authorities and is generally open to Trusts to partake in. For further details please see the up-to-date Government guidance:

[Report trade union facility time data - GOV.UK (www.gov.uk)](https://www.gov.uk/guidance/report-trade-union-facility-time-data)

Paid time off for Internal union representatives

Sections 168 and 169 of the Trade Union and Labour Relations (Consolidation) Act 1992 entitle union representatives to reasonable time off, during working hours and without loss of pay, to carry out union duties and undergo relevant training.

Recognised internal union representatives are entitled to reasonable paid time off to undertake duties in line with the Trusts Facility Policy.

Trade union duties include:

* negotiations with the employer, or other functions connected with the subjects of collective bargaining, such as terms and conditions, redundancy and dismissal arrangements.
* preparations for negotiations, including attending relevant meetings.
* informing members of progress and outcomes of negotiations.
* matters of discipline (e.g. accompanying employees to internal hearings).
* attending training in aspects of industrial relations relevant to carrying out their trade union duties. This training must be approved by the Trades Union Congress or by the trade union of which they are an official.

Union members and union representatives may also request reasonable unpaid time off during working hours to take part in union activities. The Department for Education expects time off for trade union activities to be unpaid. Activities could include:

* meetings with full time officials, or branch, area, regional or national meetings of the union where the business of the union is under discussion.
* meetings of official policy making bodies such as the national executive or annual conference.
* workplace meetings to discuss and vote on the outcome of negotiations with the employer.
* voting in union elections.

\* It is not a legal requirement to have a formal facility time agreement and so it may be more appropriate to agree simpler, more flexible arrangements. We recommend that any agreement reached should be in writing and reviewed on a regular basis.

Refusing a request for time off to undertake internal union representative duties

The Academy/Trust needs to consider the needs of the service when considering the request. If it is necessary to refuse the time off the Academy/Trust should provide the employee union representative with the reasons for doing so and in doing so may offer an alternative opportunity for time off to undertake their representation duties.

Providing facilities for employee representatives

There is no statutory right to office facilities for union representatives, except for those engaged in duties related to collective redundancies and the transfer of undertakings, unless a local agreement contains provisions for these. The Academy/Trust can consider making facilities available to representatives, such as a meeting room, access to a telephone and other communication media, and use of a notice board. Office facilities should not be used for union activities which are only union facing and/or which encourage or promote industrial action. The ACAS Code of Practice sets out further advice on use of office facilities.

Time off to undertake union duties

Time off must be agreed in advance with the employee’s line manager.

Union contacts

EPM hold a bank of Union Contacts relevant to Academies/Trusts in a range of areas. Please contact your People Adviser who can provide these if available.