

# Dream Believe Achieve

## EMPLOYEE RELATIONS POLICY

### VERSION 2

DATE OF ORIGINAL RATIFICATION: Historic

DATE OF MOST RECENT REVIEW: January 2021

#### SUMMARY OF CHANGES AT LAST REVIEW

- Removal of Unite as a recognised union

**RECORD OF CONSULTATION**

| <b>DATE</b> | <b>CONSULTATION DETAILS</b> |
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## EMPLOYEE RELATIONS

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### TIME OFF FOR TRADE UNION DUTIES AND ACTIVITIES

#### 1. Introduction

- 1.1 Absence from duty for reasons connected with trade union duties and activities is governed by statute, codes of practice and collective agreements. The issue of payment for such time off, together with travelling expenses and time, form an integral part of the following guidance which is based on statutory obligations and the observance of good practice. It is important that particular note is taken of these requirements as failure to comply could result in action being taken against a Governing Body through an Employment Tribunal.

#### 2. Time Off with Pay for Union Officials

- 2.1 An employer is required by law to permit employees who are lay trade union officials to take *reasonable time off with pay* during the employees' working hours to carry out his/her duties concerned with industrial relations between the **employer and the employer's employees** for whom the union is recognised. There is no legal entitlement to paid time off for employees who wish to become a trade union official representing members of the union who are not employed by his/her employer. Where an employee of an academy or foundation or free school wishes to represent the employees of another

employer eg staff in community schools, then the academy or foundation or free school employer would have to agree to employee taking on such a role. See Annex 1 below.

- 2.2 A *lay official* of a recognised trade union is an employee of the school/academy or LA who has been elected or appointed in accordance with the rules of the union to be a representative of the union's members employed at the school/academy, or a group of educational establishments, the 'constituencies' to be agreed between the unions and the employer, e.g. the LA or multi academy trust.
- 2.3 The only unions to elect or appoint officials are those independent unions *recognised* by the employer, i.e. the LA, Governing Body or Trust for collective bargaining purposes.
- 2.4 A trade union official's recognised activities are defined in the [ACAS Code of Practice 3 "Time Off for Trade Union Duties and Activities - Including Guidance on Time Off for Learning Representatives"](#) Subject to the recognition or other agreement, trade union officials should be allowed to take reasonable time off for the duties listed in the Code of Practice

### 3. Time Off with Pay for Training in Industrial Relations

- 3.1 An employer is also required by law to permit an employee who is a lay trade union official to take reasonable time off with pay to undergo training in aspects of industrial relations, relevant to his/her duties, and approved by the TUC or his/her union.
- 3.2 The law does not require other costs, e.g. course fees, travelling and subsistence allowances, to be met, and the school might reasonably require these costs to be met by the employee's union where the course is organised by the union or the TUC.

### 4. Pay for Time Off for Trade Union Duties

- 4.1 Pay for time off for trade union officials, whether for industrial relations duties or for training for such, is determined by the ACAS Code of Practice as follows:  
**"An employer who permits officials time off for trade union duties must pay them for the time off taken. The employer must pay either the amount that the officials would have earned had they worked during the time off taken 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, but staff who work part time will be entitled to be paid if staff who work full time would be entitled to be paid. In all cases the amount of time off must be reasonable."**
- 4.2 The Code refers only to time off during normal working hours. On occasions, however, trade union officials may meet with management about employment matters at times outside the official's normal working hours. In such circumstances, officials may be granted time off in lieu or appropriate payment, subject to the normal qualifications and rules, e.g. for overtime.

### 5. Travelling Expenses and Time

- 5.1 Where the Trade union official has an agreed role to represent employees of a Local Authority and is required to travel in the course of performing their industrial relations

duties with the LA s/he may be eligible for reimbursement of reasonable travelling expenses, provided his/her journey is authorised by an appropriate LA officer.

## **6. Administration of Time Off**

- 6.1 When a trade union official requests time off, e.g. for training, s/he should be required to notify the Headteacher/Principal of the purpose or nature of the business, the location, the date and the expected period of time off. Time off on a regular basis, e.g. attendance at programmed meetings where it is agreed that the trade union official has a county wide role,, should be listed and presented to the Headteacher/Principal before the cycle of meetings begins. Trade union officials should be asked to ensure that time off is kept to a reasonable minimum.
- 6.2 Officers of the LA organising meetings will also be responsible for ensuring that a Headteacher of a school, where a union official who it is agreed has a LA wide remit, works, is informed and that time off for these meetings will be required. The cost of supply teaching for cover for a teacher union official will normally be paid from the LA fund.
- 6.3 Where necessary, the Headteacher/Principal should try to make arrangements for other employees to cover the work of officials taking time off. Officials should not normally be required to complete work left undone in their absence.
- 6.4 The Headteacher/Principal has the right to assess the reasonableness of the amount of time off and to ask the union official to alter his/her proposed arrangements if his/her absence at a particular time would cause excessive operational difficulty. The parties should attempt to seek a solution acceptable to both.

## **7. Accreditation of Union Officials**

- 7.1 In accordance with the ACAS Code of Practice, the unions will inform the management of the employer, in writing, as soon as possible after officials have been appointed, and which categories of employees, at which location are represented by the particular official. Management of the LA will inform maintained schools where appropriate and will include the official on the list of 'constituencies'. Newly appointed officials are eligible to receive copies of various employer documents connected with their duties.
- 7.2 The employer has no right to refuse to accept the appointment of a particular official who is appointed to represent employees of the employer, but may make representations to the union if there are reasons for concern about the appointment or the official's continuation in office.

## **8. Time Off without Pay for Union Officials and Members**

- 8.1 Union officials and members have a statutory right to reasonable unpaid time off when taking part in trade union activities. The range of issues for which paid time off for trade union duties could be claimed is limited to those covered by agreements between employers and trade unions. Additionally union duties must relate to the official's own employer and not, for example, to any associated employer. All the time off provisions were brought together in sections 168 - 170 of the Trade Union and Labour Relations (Consolidation) Act 1992. Section 43 of the Employment Act 2002 added a new right for

Union Learning representatives to take paid time off during working hours to undertake their duties and to undertake relevant training.

## 9. Time Off with Pay for Union Members

- 9.1 Although there is no statutory right for union members to have time off with pay, most LAs accept that their employees who are union members are allowed reasonable time off with pay, subject to the operational requirements at the time, to consult their union official about, e.g. an individual grievance or a disciplinary matter.
- 9.2 Other employers of school/academy staff, e.g. the Governing Body or Trust,, may entirely at their discretion, allow employees, including union members, reasonable time off with pay to confer with their union about employment, working arrangements, etc.

## 10. Office and Related Facilities for Union Officials

- 10.1 Use of offices and rooms  
Union officials and union members, may be allowed to make use of offices and rooms provided the reason for using the accommodation is stated and permission is given by the employer. Permission should not be unreasonably withheld.
- 10.2 Storage space  
Union officials requiring storage space should discuss their needs with the representative of the employer, e.g. headteacher/principal.
- 10.3 Ready access to the telephone  
There will normally be ready access to the telephone. The employer, may agree to pay for calls in connection with industrial relations duties, but the employer may wish to make a charge to the union if the cost becomes considerable.
- 10.4 Reasonable access to typing and duplicating facilities  
Again, reasonable access to typing and duplicating facilities for industrial relations duties will be provided, but the employer may wish to make a charge to the union if the cost becomes considerable. If the employer agrees to allow the reproduction of union literature on the employer's facilities it is reasonable for it to be charged to the union at normal rates.
- 10.5 Notice boards  
Notice boards may be used with the permission of the employer who will have no right of veto on union sponsored notices provided they relate to matters concerning employment relations between the employer and its employees and recreational activities. The provision of separate notice boards will depend on the availability of money and space.
- 10.6 Mail  
The internal mailing system may be used for correspondence and literature. External mail must be sent at the union's expense.
- 10.7 New employees  
The union may request a list of new employees in each department, or in the individual school, on request. If the employer agrees EPM will provide this information on behalf of schools/academies who are customers of EPM.

## 11. Teachers' Unions (Schools)

- 11.1 There is a national agreement made between the Council of Local Education Authorities (as it then was) and Teachers' Unions in 1975, before the Employment Protection Act 1975 and the ACAS Code 1978 came into force.
- 11.2 The provisions of the national agreement are very similar to those listed in the guidance above. There are differences, and it is advised that reference is made to the Conditions of Service for Schoolteachers in England and Wales (the Burgundy Book) Appendix III, page 40.
- 11.3 Particular note should be made of the definition of accredited representatives at paragraph 3(a) to (d), and of their responsibilities set out in paragraph 5(a) to (d). Attendance at, e.g. national conference, is a trade union **activity**, not an employment relations duty and does not therefore qualify for reasonable time off with pay by law.

## II TRADE UNIONS

### 1. Recognition

- 1.1 An employer can decide to recognise a trade union for collective bargaining purposes. In the case of academies the recognition of trade unions previously recognised by the LA transfers to the academy under the TUPE regulations. This means that a recognised trade union, in addition to entering into negotiations about pay, conditions of employment and other employment issues, the union acquires certain statutory rights:
- (a) **Disclosure by the employer of information related to collective bargaining.**
  - (b) **Time off with pay during working hours for trade union officials to carry out employment relation duties related to the employer.**
  - (c) **Consultation on proposals to introduce redundancy.**
  - (d) **Time off with pay for safety representatives.**
  - (e) **Require the employer to establish a safety committee.**
- 1.2 The following trade unions are recognised by the LA and have membership in schools: (as indicated above this recognition will apply to an academy under the TUPE regulations).

#### Local Government Workers

UNISON  
GMB  
UNITE

#### Teachers

NUT  
NAS/UWT  
ATL  
VOICE  
ASCL  
NAHT

1.3 Under the Education Reform Act 1988, governors of maintained schools are obliged to recognise the unions recognised by the LA. Governors may decide to recognise other unions as well, but that does not mean that the LA will recognise them.

- 1.4 Governors are strongly recommended to seek advice from the Personnel Adviser for the school/academy if they are considering recognising additional unions, in order that the industrial relations implications can be fully examined.
- 1.5 Representation of individuals in the disciplinary procedure or the grievance procedure is a statutory right of individual employees and is not dependent on recognition, nor does such representation signify recognition of the union providing the representation.
- 1.6 It is strongly recommended that the Governors seek advice from the school/academy's Personnel Adviser in any situation where there is a dispute, or likely to be a dispute, involving a trade union.

### 2. Trade Union Representatives

- 2.1 It is recommended that schools/academies have up-to-date lists of the trade union representatives (including safety representatives) with whom it has to deal.
- 2.2 It should be remembered that some representatives may be entitled by agreement between the employer and his/her union to operate also outside the school/academy, and conversely Governors/Heads may meet representatives from outside their own school/academy.



### 2.3 Union Learning Representatives

Employees who are members of an independent trade union recognised by the employer can take reasonable time off to undertake the duties of a Union Learning Representative, provided that the union has given the employer notice in writing that the employee is a learning representative of the trade union and the training condition is met.

### 2.4 The functions for which time off as a Union Learning Representative is allowed are:

- Analysing learning or training needs
- Providing information and advice about learning or training matters
- Arranging learning or training
- Promoting the value of learning or training
- Consulting the employer about carrying on any such activities
- Preparation to carry out any of the above activities
- Undergoing relevant training

### 2.5 As indicated above if the employer allows time off for trade union duties the employee is entitled to be paid. Further information on union learning representatives can be found in the [ACAS Code of Practice 3 “Time Off for Trade Union Duties and Activities - Including Guidance on Time Off for Learning Representatives”](#)

## 3. Trade Disputes

3.1 It is possible for a trade dispute to arise between one or more unions and a employer in relation to matters within the purview of that employer, i.e. governing body or Trust.

3.2 A dispute may, of course, affect more than one school simultaneously in the case of maintained schools or multi academy trusts.

## 4. Industrial Action

4.1 Industrial action is collective action by a number of employees, usually organised by the relevant trade union, to influence or force the employer to change, or not change, particular factors affecting their employment.

4.2 Strike action, the most common form of industrial action, is a refusal to work at all for a particular period, even for one hour. The employee is not entitled to pay for this period. Strike action should not take place until a ballot has been conducted by the trade union amongst members of the trade union affected by the dispute.

4.3 “Action short of a strike” occurs when the employees refuse to work normally, (for example, refusal to carry out certain duties, non-co-operation, work-to-rule, or an overtime ban). This type of action causes disruption to the employer’s business, at little or no cost to the employees. Prior to any action short of a strike where trade union members are in contravention of the contract of employment should be subject to a ballot of affected members of the trade union.