

**Agenda Item  
9**



**Report Status**

For information/note   
For consultation & views   
For decision

**Report to Haringey Schools Forum – 3<sup>rd</sup> December 2015.**

**Report Title: Contract for Trade Union Facilities Time.**

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**Purpose:**

**To present the draft contract for Trade Union Facilities Time for Forum comments and endorsement.**

**Recommendations:**

**That members endorse the proposed contract for Trade Union Facilities Time with academy schools in Haringey.**

## **1. Introduction.**

- 1.1. The national changes to school funding formula introduced in April 2013 required Local Authorities (LAs) to delegate funding for Trade Union facilities time to schools. It was permitted for LAs to recommend subsequent 'de-delegation' to create a central funding pot for this but this has to be agreed by school members of the local schools forum on a phase by phase basis.
- 1.2. De-delegation can only be from maintained schools and not academies or free schools. The de-delegation can only be through one of the locally agreed schools formula funding factors; in Haringey this is the basic per pupil element, also known as the Age Weighted Pupil Unit (AWPU).
- 1.3. Schools Forum at its meeting on 15 January 2015 agreed to de-delegate facilities time for both the primary and secondary sectors.
- 1.4. At the meeting the Forum was advised that a draft Service Level Agreement (SLA) would shortly be prepared and it was hoped that it would be attractive enough to encourage academies to buy into. Unfortunately the preparation of the SLA was delayed. It should be noted that an agreement between the Council and an academy would take the form of a contract rather than an SLA and a draft contract is now put before Forum for comment. It was also agreed that Forum should receive a report in due course on its effectiveness. For maintained schools it was noted that although there would not be a SLA the principles and standards would equally apply.
- 1.5. The draft contract and the supporting Employment Relations Protocol are attached.
- 1.6. At Schools Forum on 6<sup>th</sup> December 2012 the LA proposed that where de-delegation is approved by maintained schools, academies are also invited to buy into these services, at that time and on the same basis as the delegation i.e. all schools would be charged identically. Academies that decide to use the service at a later date would be charged a different rate reflecting both the actual costs of the service requested but also recognising that at times other than the point of de-delegation additional costs will have to be incurred to meet the additional demand. This approach is carried through to the costing methodology set out in Annex 1 on the assumption that academies and free school that accept by an agreed date will pay the de-delegation rate. Later joiners will be charged at a higher rate.

## **Annex 1.**

### **Draft contract – with x academy school and TUs**

#### **1. Description of the Service**

1.1 The service is provided to academies to pay for the provision of Trades Union representation for employees in their school.

1.2 By entering into the contract

- Accredited trade union representatives will provide trade union representation for staff on an individual and collective basis for a single charge to the school.
- The school will have access to experienced and skilled representatives who will work with the school to promote good employee relations.

#### **2. The terms governing the contract are as follows:**

2.1 The school will recognise Haringey trade union representatives for trade union duties as specified in the relevant legislation and ACAS Codes of Practice including Health & Safety duties.

The trades unions concerned are as follows:

| <b>Teaching</b> | <b>Support Staff</b> |
|-----------------|----------------------|
| NUT             | Unison               |
| NASUWT          | GMB                  |
| NAHT            | Unite                |
| ASCL            |                      |
| ATL             |                      |

**2.2 Trade union representatives will focus the use of their time, where possible, on statutory consultation and representation requirements that benefit both the employer and unions.**

#### **3. Agreed Protocols**

3.1 From time to time the school/Local Authority and trades unions may take differing stances on particular issues; the disagreements will be dealt with professionally, focusing on the issue under discussion. An agreed Protocol (Annex 2) guides practice.

Accredited trade union representatives will have appropriate access to facilities in order to conduct their duties.

#### **4. Costs.**

4.1 Those academies and free schools that sign the contract within three weeks of its issue will be charged at the de-delegation rate of £4.69 (based on October 2014 census numbers) for the LA's financial year April 2015 to March 2016 and at the same rate as for maintained schools for the LA's financial year 2016-17.

4.2 Where an academy or free school has not agreed to make the necessary contribution to the Central Fund, it will be for the academy or free school to make its own arrangements as centrally funded representatives will not be funded by the Council to provide these services. Academies that decide to use the service at a later date would be charged a different rate reflecting both the actual costs of the service requested but also recognising that at times other than the point of de-delegation additional costs will have to be incurred to meet the additional demand.

## **5. Arrangements.**

5.1 Full time facilities time arrangements will continue for existing representatives. However, newly elected representatives will not normally be released on a whole time basis for trade union duties. This will ensure that there is a balance between work and trade union duties and those representatives understand the workplace they are representing.

5.2 In the event that a trade union official granted seconded time off regularly fails to attend meetings or engage with managers or HR staff as required, the seconded time off will be reviewed and may be withdrawn at the discretion of the Council, following discussion with the relevant regional officer;

5.3 Time off arrangements will be reviewed on an annual basis, or more frequently if necessary depending upon available funding, operational experience, etc.

## **Annex 2.**

### **Employment Relations Protocol for Teaching Associations/ Unions and Support staff unions**

#### **Introduction**

Good employment relations are the cornerstone of managing change and people successfully in any organisation. This protocol sets out the principles for communications and engagement between stakeholders involved in running our schools. The aim is to secure a good education for our children and young people and to provide good working conditions for staff.

This protocol is not designed to replace the industrial relations frameworks and time off agreements that are already in place but they do supplement them.

#### **Principles for engagement**

Relevant stakeholders to this protocol recognise that effective employment relations takes place in an atmosphere of mutual respect for the professional expertise and a recognition and understanding of the various responsibilities, of those involved.

It is important for managers to have positive working relationships with employees, based on good communications. It is at this basic level that many issues are raised and resolved informally, without the need to invoke formal procedures. Employee representatives provide an additional channel for employees to communicate with managers, and vice versa.

Employee representatives should improve understanding, lead to better decision making and improve employment relations. Representatives should help to develop trust and cooperation, improve the quality of decisions and encourage employees to feel more responsible for the performance of a school, helping to understand and manage change.

To this end all stakeholders agree that any level of communication and engagement must be conducted in a way that is relevant and necessary, accurate and factual, fair and balanced, and not offensive in any way.

Communication and engagement should be conducted using appropriate communication lines and recognise the relevant hierarchies involved before considering escalation of an issue to a different stakeholder.

#### **Stakeholder roles**

In adhering to the principles it is important for each stakeholder to this protocol to understand the respective roles and accountabilities that each

party plays. More information is provided in the appendix to this protocol but the key roles of head teachers and unions are summarised below.

Trade unions are independent bodies certified by a statutory independent committee. Unions have a number of legal rights under statute/ employment law as follows:

- disclosure of information by the employer for collective bargaining purposes, including hours, pay and benefits information; policies on recruitment, redeployment, training, equalities, appraisal, health & safety; numbers employed by grade, department, location, age; financial cost structures.
- reasonable time off, with pay, for union officials to carry out union duties concerned with negotiations on terms and conditions of employment; engagement, non engagement, termination, suspension of workers; allocation of work or duties; matters of discipline or grievance.
- reasonable time off, with pay, for union reps to undergo training in aspects of industrial relations relevant to carrying out their trade union duties.
- consultation prior to redundancy
- consultation prior to business transfers (TUPE)

Note – the law provides workers with the right to be accompanied at disciplinary related hearings or grievance hearings. The worker may choose a companion or a trade union official to accompany him/her. The worker chooses the companion and the union chooses its officials. The employer has no right to choose who the particular companion or union rep is.

Head teachers have responsibility for managing the school including developing policy, goals and objectives for the adoption by the school governors. Head teachers are also responsible for providing detailed plans, procedures, schedules and specifications for daily operations in the school and actions to be taken by school staff.

### **Resolving Issues and Concerns**

Where a stakeholder to this protocol considers that another party has breached the principles of this protocol, they will first raise this with the offending party and seek to resolve the issue informally.

If this does not result in a moderation/ alteration of the offending practice then the issue may be raised more formally with the Assistant Director for School Improvement or the Head of Human Resources of the Local Authority, as appropriate – see below.

### **Formal process – Level 1**

The Assistant Director School Improvement or Head of Human Resources will investigate the issues raised with relevant parties and seek appropriate remedies/ changes to behaviour/ actions.

A failure to resolve the issues/ concerns at this level may result in raising the issue with the appropriate body the person is accountable to.

## Level 2

The issue will be raised with the appropriate body the person is accountable to and they will seek appropriate remedies/ changes to behaviour/ actions to resolve the issue. The parties will receive written confirmation of any investigation and its subsequent recommendations.

## Appendix

### Stakeholders – roles and accountabilities

| Stakeholder  | Role   | Accountability  |
|--|--|---|
| Teacher Association/<br>Unions reps<br><br>Support staff union<br>reps | Trade unions are independent bodies certified by a statutory independent committee. Unions have a number of legal rights under statute/ employment law as follows: <ul style="list-style-type: none"> <li>• disclosure of information by the employer for collective bargaining purposes, including hours, pay and benefits information; policies on recruitment, redeployment, training, equalities, appraisal, health &amp; safety; numbers employed by grade, department, location, age; financial cost structures.</li> <li>• reasonable time off, with pay, for union representatives to carry out union duties concerned with negotiations on terms and conditions of employment or the physical conditions in which workers are required to work; the engagement, non engagement, termination, suspension of workers; allocation of work or duties; matters of discipline or grievance.</li> <li>• reasonable time off, with pay, for union reps to undergo training in aspects of industrial relations relevant to carrying out their trade union duties.</li> <li>• consultation prior to redundancy</li> <li>• consultation and negotiation prior to business transfers (TUPE)</li> <li>• trade union membership – recruiting and organising.</li> </ul> | To their union members/ regional/ national bodies.<br><br>For issues of misconduct to their employer. |

| <b>Stakeholder</b>               | <b>Role</b>  | <b>Accountability</b>  |
|----------------------------------|--|------------------------|
| Head Teachers/<br>School leaders | <p>Developing policy, goals and objectives for the adoption by the school governors. Providing detailed plans, procedures, schedules and specifications for daily operations in the school and actions to be taken by school staff.</p> <p>More specifically the school teachers pay and conditions document provides that Head teachers should:</p> <ul style="list-style-type: none"> <li>• Provide overall strategic leadership and, with others, lead, develop and support the strategic direction, vision, values and priorities of the school.</li> <li>• Develop, implement and evaluate the school's policies, practices and procedures.</li> <li>• Lead and manage teaching and learning throughout the school.</li> <li>• Promote the safety and well-being of pupils and staff.</li> <li>• Ensure good order and discipline amongst pupils and staff.</li> <li>• Lead, manage and develop the school workforce, including appraising and managing performance.</li> <li>• Organise and deploy resources within the school.</li> <li>• Promote harmonious working relationships within the school.</li> <li>• Maintain relationships with organisations representing teachers and other members of the school's workforce.</li> <li>• Lead and manage the school's workforce with a proper regard for their well-being and legitimate expectations, including the expectation of a healthy balance between work and other commitments.</li> <li>• Promote the participation of staff in relevant continuing professional development.</li> <li>• Participate in arrangements for the appraisal and review of other teachers and support staff.</li> <li>• Decide whether a teacher at the school who applies for a post-threshold teacher assessment meets the relevant standards.</li> <li>• Consult and communicate with the governing body, staff, pupils, parents and carers.</li> </ul> | To the Governing body. |



| <b>Stakeholder</b>   | <b>Role</b>   | <b>Accountability</b>   |
|--|---|---|
| School Governors   | <p>Provide a strategic view for the school by establishing a vision, purpose and aims. Agree school improvement strategy, including statutory targets and appropriate budget/ staffing structures. Monitor and evaluate school performance.</p> <ul style="list-style-type: none"> <li>The role is NOT to get involved in the day to day operations/ running of the school.</li> </ul>  | <p>To the LA/DfE for the way the school is run.<br/>And acting in the best interests of all the pupils in the school</p>              |
| Councillors and the Lead Member for Children's Services (a statutory role)           | <p>Responsible for the Local Authority vision for schools within the borough. Deal with policy matters for the local authority.</p> <p>The Lead Member for Children's Services has responsibility for children and young people receiving education or children's social care services in their area and all children looked after by the local authority or in custody (regardless of where they are placed).</p> <ul style="list-style-type: none"> <li>No councillor should get involved in operational matters related to the running of the school.</li> </ul>   | <p>All members act on behalf of the Local Authority</p> <p>The Lead Member holds political responsibility for children's services</p> |
| Director of Children's Services (DCS) [a statutory role] and other DCS lead managers | <p>The DCS is appointed for the purposes of discharging the education and children's social services functions of the local authority. This includes (but is not limited to) responsibility for children and young people receiving education or children's social care services in their area and all children looked after by the local authority or in custody (regardless of where they are placed). This includes ensuring that the safety and the educational, social and emotional needs of children and young people are central to the local vision.</p> <p>Other relevant managers (usually reports to the DCS) also hold the above responsibilities.</p> | <p>Accountable for operational matters within Children's services to the council and Chief Executive.</p>                             |
| Human Resources  | <p>HR advisors advise managers within the service how to conduct people management interventions and follow best practice in relation to people management.</p>   | <p>HR advisors take professional responsibility for advice given but decision making needs to be held by relevant school leaders</p>  |