

SCHOOLS FORUM – 16 OCTOBER 2014

Title of paper:	De-delegation of funding for Trade Union time off for senior representatives
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Summary

The purpose of this report is to outline the proposed funding arrangements for trade union (TU) facility time for senior trade union representatives from schools to attend negotiation and consultation meetings and to represent their members in schools in 2015/16.

In 2014/15 maintained primary and secondary schools approved the de-delegation of funding to cover the costs of trade union facility time. As well as maintained schools contributing towards the cost of the trade union representatives some academies bought back this service in 2014/15. As a result of this the rate that is used needs to be re-aligned to take account of the additional academies that are contributing towards the cost of the service. This report outlines two options for delegating this funding and makes recommendations as to which option should be approved.

Recommendation(s):

1	For maintained mainstream primary and secondary schools to approve the de-delegation of funding totalling £0.072m for TU facility time for senior TU representatives to attend negotiation and consultation meetings and represent their members in schools in 2015/16: (a) maintained mainstream primary schools - £0.069m; (b) maintained mainstream secondary schools - £0.003m.
2	For maintained mainstream primary and secondary schools to approve the recommended approach of Option 1 set out in Table 1 section 5 for the calculation of the funding to be de-delegated in 2015/16. The cost of this proposal is estimated at £0.022m in 2015/16.
3	For Academies to agree in principle to continue to contribute towards the cost as well as maintained mainstream schools and note that the basis for recharging academies will be the same as for maintained mainstream primary and secondary schools.
4	To note the total cost of the TU de-delegation is £0.163m as per paragraph 5.2.

1. REASONS FOR RECOMMENDATIONS

- 1.1 Under the school funding arrangements staff supply cover costs must form part of the school formula. However, funding can be retained centrally on behalf of maintained mainstream primary and secondary schools if de-delegation is approved.
- 1.2 The decision made to de-delegate in 2014/15 related to that year only, so a new approval is required for this service to be de-delegated in 2015/16. Schools Forum members of maintained mainstream primary and secondary schools for each phase

must decide separately whether this service should be provided for centrally and the decision will apply to all maintained schools in that phase. Funding for this service will then be removed from the formula before the school budgets are issued.

- 1.3 Schools Forum agreed in October 2013 that Academies could be approached to ascertain whether they would like to be part of the Local Authority's (LA) arrangements in relation to the funding of senior trade union representatives. All Academies were contacted with twenty-five agreeing to participate in the arrangements. The numbers of academies buying back the service has driven the requirement to recalculate the amount that is needed to be delegated out to schools.

2. BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 Time off for workplace representatives is currently funded by the schools in which they work, but there is central funding for senior TU representatives from the main unions that represent teachers and support staff in schools namely:

NUT
NASUWT
ASCL
ATL
NAHT
UNISON
GMB
UNITE

These senior representatives meet with officers of the LA to participate in the schools collective bargaining machinery; negotiating and engaging in consultation on terms and conditions of service and HR policies and procedures. If this funding were not available, senior TU representatives would be asking for time off to attend meetings with the Council and this would have to be funded by the school in which they work as there is an entitlement under the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) for reasonable time off for trade union officials to represent their members.

- 2.2 Academies are in a similar position; some of their employees are senior TU reps and are asking for release to represent employees in maintained schools and other academies. The proposed funding method means that academies will be reimbursed for time spent away from school on TU duties.
- 2.3 There are benefits and economies of scale for academies from contributing to the LA's arrangements for trade union consultation. They do not have to duplicate effort when negotiating policies and procedures such as the recent Teachers Pay Policy which academies can use if they buy back HR services in the knowledge that the senior trade union representatives have been consulted and any issues resolved. Senior TU representatives are also more experienced in policies and procedures when representing their members which can be helpful.
- 2.4 Academies who do not contribute to the TU costs will have to have their own arrangements for negotiating and consulting trade unions on terms and conditions of service and will have to release TU representatives from their own school to undertake collective bargaining and represent their employees.

- 2.5 On 24 July 2014 all Head Teachers of primary and secondary schools received a consultation document at the end summer term on the local funding formula and contained within the document were the following questions:

Question 1

As a representative of either a maintained primary or secondary school, do you agree to the principle to de-delegate the funding to allow the costs of senior TU representatives cover time to be spread equitably across all maintained schools and academies who agree to participate in the arrangement?

Question 2

As a representative of either a primary or secondary academy, do you agree to the principle to contribute towards the cost of senior TU representatives cover time to be spread equitably across all maintained schools and academies who agree to participate in the arrangement?

- 2.6 As no responses were received it has been assumed that no issues exist with regard to the proposal to spread the cost of all of the maintained schools and the academies who agreed to participate in the arranged in 2014/15. As a result of this, the recommendation of the Schools Forum Finance Sub-group detailed in paragraph 5.1 has been included within this report.

3. OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 If this is not supported the budget will be delegated and schools will have to make their own arrangements for negotiating and consulting with the trade unions on changes to HR policies and procedures which will lead to duplication of effort and inconsistencies across schools.
- 3.2 TU reps have a legal right to time off to participate in the collective bargaining arrangements of their employer and to represent their members. If the de-delegations were not agreed individual schools would have to bear the cost of the time off for the senior TU reps nominated by their union to participate in these discussions.

4. OUTCOMES/DELIVERABLES

- 4.1 The money requested is based on actual salary of those employees who have time off therefore those schools including academies who have senior TU representatives with time off will receive the actual cost of the absence of that employee. The amount of time off per union is based on the per capita membership per union based on the actual cost of the TU reps salary.

5. FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY/VAT)

- 5.1 The Schools Forum Finance Sub-group recommended that the basis for calculating the amount to be delegated in 2015/16 should be based upon total cost of the TU representatives spread across the total number of pupils in maintained mainstream schools plus the pupils in the academies who bought back the service in 2014/15. The total estimated cost for 2015/16 is £0.113m.

This methodology supports the aim of achieving greater value for money as the costs are spread over a greater number of schools and if more academies buy back into the service each year the cost would reduce even further. One of the criticisms raised last year by academies was that the service was too expensive. The cost of the service is driven by the actual salary costs of the TU representatives therefore we have no control over that, however, as more academies agree to buy back the service the cost will reduce.

5.2 A review of the most cost effective way to delegate the funding has been carried out and the options are appraised below:

Table 1: Delegation of Trade Union Cover			
Option	Proposal	Impact on the Minimum Funding Guarantee	Estimated (Loss)/Gain
1	To reduce the lump sum per school from £1,650 to £1,298 and to reduce the amount per pupil from £2.00 to £1.35.	The level of protection required would increase by £0.022m	<p>School budgets that were not previously protected would see a reduction in funding equivalent to £352 in the lump sum plus a reduction of £0.65 in the Age Weighted Pupil Unit. The majority of schools budgets that were previously protected would continue to be protected from the reduction in funding. However, there are some schools that were previously protected that would see a slight reduction in their funding due to this proposal, on average the loss would be (£40).</p> <p><u>Overall Impact</u> Primaries (£738) to £83 Secondaries (£1832) to £2</p>
2	To remove the lump sum of £1650 and increase the amount per pupil from £2 to £4.49 per pupil.	The level of protection required would increase by £0.034m	<p>School budgets that were not previously protected would see a reduction in funding equivalent to £1650 in their lump sum but they would see an increase of an additional £2.49 per pupil in the Age Weighted Pupil Unit. The majority of schools budgets that were previously protected would continue to be protected</p>

			<p>from the reduction in funding. However, there are some schools that were previously protected that would see a slight reduction in their funding due to this proposal, on average the loss would be (£63).</p> <p><u>Overall Impact</u> Primaries (£1247)-£387 Secondaries £(592)-£4017</p>
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5.3 Table 1 demonstrates that Option 1 is the most cost effective way of delegating the funding to maintained schools and academies. This is because Option 2 would require an additional £0.012m from the Dedicated Schools Grant (DSG) to implement this change.

This recommendation provides minimal disruption to the 2015/16 school budgets with the impact ranging from a reduction of (£738) to a gain of £83 for primary schools and a decrease of (£1832) to an increase of £2 for secondary schools. See Appendix A for a breakdown of the impact of the change on each school.

5.4 Based on the latest available Department for Education indicator data and known academy conversions the proposal would result in mainstream maintained primary schools de-delegating £0.069m and mainstream maintained secondary schools de-delegating £0.003m.

5.5 Assuming that the academies that bought back into the service in 2014/15 continue to do so in 2015/16, this would generate additional funding of £0.041m. Therefore, an estimated £0.113m would be available to cover the cost.

5.6 The total DSG requirement for this proposal is estimated at £0.163m (£0.072m of which would be de-delegated if approved plus £0.091m to be delegated to academy schools).

5.7 If approval were given to de-delegate this funding in 2015/16 the actual impact on maintained schools and academies who buy back into the service would be zero as the funding delegated would then be de-delegated/or invoiced at the amount delegated to the schools. However, academies that do not buy back into the service will see a reduction in funding the equivalent of £0.65 per pupil plus £352.

5.8 The proposal is based on 70% of the costs being delegated/de-delegated on a per school basis and 30% on pupil numbers.

6. RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)

6.1 The schools forum's powers here derive from the School and Early Years Finance (England) Regulations 2013 ("SEYFR"), made by the Secretary of State in exercise of powers under the School Standards and Framework Act 1998 and the Education Act 2002. The SEYFR came into force on 1 January 2014.

6.2 Chapter 2 of the SEYFR is entitled “Further Deductions and Variations to Limits Authorised by School Forums or the Secretary of State” and it contains regulation 12 of the SEYFR. Under regulation 12 of the SEYFR, on the application of a local authority the schools forum may authorise the redetermination of schools' budget shares by removal of any of the expenditure referred to in Part 5 of Schedule 2 (Items That May Be Removed From Maintained Schools' Budget Shares) [of the SEYFR] from schools' budget shares where it is instead to be treated by the authority as if it were part of central expenditure, under regulation 11(4) (SEYFR, regulation 12(1)(d)). Part 5 of Schedule 2 of the SEYFR contains paragraph 30, which states, amongst other things:

Expenditure on making payment to, or in providing a temporary replacement for, any person:

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- (a) carrying out trade union duties or undergoing training under sections 168 and 168A of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (b) taking part in trade union activities under section 170 of the Trade Union and Labour Relations (Consolidation) Act 1992

Therefore, provided the proposals fall within the above legislation, Nottingham City Schools Forum has the power to approve the recommendations in this report. This power should be exercised lawfully. Provided the amounts sought through use of this power have been correctly and lawfully calculated, the exercise of this power will be lawful.

6.3 Presumably, it is a requirement of the funding agreements of the Academies that are a party to Nottingham City Schools Forum that they abide by the decisions of the schools forum. Moreover, it should be noted that any decision taken by the Schools Forum here does not obviate an employer's requirement to consult with staff via their trade union representatives. As employers of their own staff, Academies (and the governing bodies of voluntary aided schools) will still have substantive legal obligations to consult, even if their proposals align with those of Nottingham City Council in relation to the authority's own staff in maintained schools.

6.4 Since this report does propose policy changes and financial decisions, it is advisable that an Equality Impact Assessment is conducted on the proposals.

7. HR ISSUES

7.1 The report seeks to address the need to consult and negotiate with the TUs as required by employment legislation in the most cost effective manner.

8. EQUALITY IMPACT ASSESSMENT

8.1 Has the equality impact been assessed?

Not needed

No

Yes – Equality Impact Assessment attached

9. LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

9.1 None

10. PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

10.1 Schools Forum report: Funding for Trade Union time off for Senior Representatives,
17 October 2014

Equality Impact Assessment**Funding of time off for senior trade union representatives in schools**

This is an initial desk-based Equality Impact Assessment (EIA) screening of the funding arrangements for Senior Trade Union representatives in maintained schools and Academies.

Information used to analyse the effects on equality

The decision to extend the arrangements will impact on all trade union members in a consistent manner. Data regarding trade union membership in schools and academies is not available so could not be used for this EIA. Indications are that 75% of schools based employees are in a trade union.

	Could particularly benefit (X)	May adversely impact (X)	How different groups could be affected: Summary of impacts	Details of actions to reduce negative or increase positive impact (or why action not possible)
People from different ethnic groups	<input type="checkbox"/>	<input type="checkbox"/>	In undertaking this EIA there is no indication that this scheme will adversely impact on any of the protected groups. In fact it may impact on protected groups positively as the trade union representatives concerned are all experienced.	Not applicable
Men, women (including maternity/pregnancy impact), transgender people	<input type="checkbox"/>	<input type="checkbox"/>		
Disabled people or carers	<input type="checkbox"/>	<input type="checkbox"/>		
People from different faith groups	<input type="checkbox"/>	<input type="checkbox"/>		
Lesbian, gay or bisexual people	<input type="checkbox"/>	<input type="checkbox"/>		
Older or younger people	<input type="checkbox"/>	<input type="checkbox"/>		
Other (e.g. marriage/civil partnership, looked after children, cohesion/good relations, vulnerable children/adults)	Not applicable			

Outcome(s) of equality impact assessment:

No major change needed Adjust the policy/proposal Adverse impact but continue Stop and remove the policy/proposal

Arrangements for future monitoring of equality impact of this proposal / policy / service:

A further EIA will be completed should any further decision to amend the arrangements for the funding arrangements in schools be proposed.

Approved by: Della Sewell, Employee Relations Manager
3 October 2014

Date sent to equality team for publishing: 6 October 2014

APPENDIX A

Budget impact on schools by the reduction in rates

Based on October 2013 School Census data and anticipated academisations prior to 2015/16

School Name	Phase	School Type	Actual variance as a result of Option 1
Berridge Primary School	Primary	Maintained	40
Seely Primary School	Primary	Maintained	3
Bentinck Primary School	Primary	Maintained	-7
Fernwood Junior School	Primary	Maintained	-668
Cantrell Primary	Primary	Maintained	-622
Carrington Primary School	Primary	Maintained	-486
Dunkirk Primary School	Primary	Maintained	83
Melbury Primary School	Primary	Maintained	-506
Middleton Primary School	Primary	Maintained	-616
Burford Primary & Nursery	Primary	Maintained	-476
Robert Shaw Primary School	Primary	Maintained	-600
Heathfield Primary & Nursery School	Primary	Maintained	-532
William Booth Primary And Nursery School	Primary	Maintained	10
Walter Halls Primary School	Primary	Maintained	-599
Southwold Primary	Primary	Maintained	-473
Fernwood Federation 4- 11 (Infant School)	Primary	Maintained	-3
Rise Park Primary School	Primary	Maintained	-620
Crabtree Farm Primary And Nursery School	Primary	Maintained	-595
Scotholme Primary School	Primary	Maintained	62
Welbeck Primary School	Primary	Maintained	-4
Mellers Primary And Nursery	Primary	Maintained	-5
Haydn Primary School	Primary	Maintained	-619
Hempshill Hall Primary School	Primary	Maintained	-608
Stanstead Primary School	Primary	Maintained	-458
Glade Hill Primary School	Primary	Maintained	-483
Claremont Primary School	Primary	Maintained	30
Snape Wood Primary School	Primary	Maintained	30
Springfield Primary	Primary	Maintained	-462
Forest Fields Primary School	Primary	Maintained	44
Whitegate Primary School	Primary	Maintained	-531
Bulwell St. Marys C. Of E.	Primary	Maintained	18
South Wilford Endowed Ce Aided	Primary	Maintained	-460
Dovecote Primary	Primary	Maintained	-4
Greenfields Community Primary	Primary	Maintained	0

Riverside Primary School	Primary	Maintained	52
Southglade Primary School	Primary	Maintained	41
Westglade Primary School	Primary	Maintained	-475
Henry Whipple Primary School	Primary	Maintained	-11
Robin Hood Primary School	Primary	Maintained	1
Rufford Primary And Nursery	Primary	Maintained	32
Brocklewood Primary And Nursery School	Primary	Recoupment Academy	-657
Jubilee Primary School	Primary	Recoupment Academy	-21
Radford Primary School	Primary	Recoupment Academy	-7
Rosslyn Park Primary School	Primary	Recoupment Academy	-667
Hogarth Primary	Primary	Recoupment Academy	64
Edale Rise Primary And Nursery	Primary	Recoupment Academy	-9
Seagrave Primary	Primary	Recoupment Academy	24
Portland Primary & Nursery School	Primary	Recoupment Academy	41
Glenbrook Primary	Primary	Recoupment Academy	-12
Ambleside Primary School	Primary	Recoupment Academy	-733
St. .Augustines Voluntary Academy	Primary	Recoupment Academy	-551
Windmill L.E.A.D. Academy	Primary	Recoupment Academy	-601
Firbeck Academy	Primary	Recoupment Academy	-480
Highbank Primary School	Primary	Recoupment Academy	-507
Edna G Olds Academy	Primary	Recoupment Academy	-477
Djanogly Northgate Academy	Primary	Recoupment Academy	34
Southwark Primary School	Primary	Recoupment Academy	-738
Whitemoor Academy	Primary	Recoupment Academy	-612
Old Basford School	Primary	Recoupment Academy	2
Blue Bell Hill Primary School	Primary	Recoupment Academy	39
Warren Primary Academy	Primary	Recoupment Academy	-490
Milford Academy	Primary	Recoupment Academy	8
The Glapton Academy	Primary	Recoupment Academy	-523
Huntingdon Academy	Primary	Recoupment Academy	-15
Sneinton St Stephen'S C Of E Aided Primary School	Primary	Recoupment Academy	4
St. Mary'S Catholic Academy	Primary	Recoupment Academy	-490
St Patricks Catholic Primary School	Primary	Recoupment Academy	-486
St. Teresa'S Catholic Voluntary Academy	Primary	Recoupment Academy	-632
Our Lady Of Perpetual Succour	Primary	Recoupment Academy	16
Blessed Robert Widmerpool Catholic Voluntary Academy	Primary	Recoupment Academy	-491
Our Lady & St Edward'S R.C. Pr	Primary	Recoupment Academy	-491
St Margaret Clitherow Voluntary Academy	Primary	Recoupment Academy	29
Sycamore Academy	Primary	Recoupment Academy	-503
St. Ann'S Well Academy	Primary	Recoupment Academy	-480
Ellis Guilford	Secondary	Maintained	-1199
Djanogly City Academy	Secondary	Non Recoupment Academy	0
Farnborough School Technology	Secondary	Recoupment Academy	-868

College			
Big Wood School	Secondary	Recoupment Academy	-829
Hadden Park High School	Secondary	Recoupment Academy	-629
Nottingham Girls' Academy	Secondary	Recoupment Academy	-1
Top Valley Academy	Secondary	Recoupment Academy	-744
The Fernwood School	Secondary	Recoupment Academy	-1010
The Nottingham Emmanuel School	Secondary	Recoupment Academy	-874
Bluecoat Academy	Secondary	Recoupment Academy	2
The Trinity School	Secondary	Recoupment Academy	-921
Nottingham University Samworth Academy	Secondary	Recoupment Academy	-824
Nottingham Academy	Secondary	Recoupment Academy	-1832
The Bulwell Academy	Secondary	Recoupment Academy	-952