Schools Forum – 10 December 2024

Title of paper:	De-delegation of funding for Trade Union time off for Senior Representatives for 2025/26
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Summary

The purpose of this report is to outline the proposed funding arrangements for trade union facility time for senior trade union representatives from schools to attend negotiations and consultation meetings and to represent their members in schools from 1 April 2025 to 31 March 2026.

Under the Schools and Early Years Finance Regulations 2023, maintained schools can agree to de-delegate funding for trade union facility time. This has been done by maintained schools since the financial year 2013/14. To reduce the cost on maintained schools, the arrangement is also offered to academies. The income generated pays for the salaries of the trade union representatives whilst carrying out trade union facility time duties. Maintained schools and academies are reimbursed the salaries of the representatives who are employed by them. This is done so that no school loses out as a consequence of a member of their staff carrying out trade union duties.

Recommendation(s):

1	For maintained mainstream primary schools to approve the de-delegation of funding for senior trade union representatives at a rate of £2.35 per pupil and a lump sum of £2,188 per school. These charges will generate a projected income of £0.225m based upon 72 maintained schools and academies opting into the scheme. The projected income from maintained primary schools, buy-back income of £0.225m should generate sufficient income to achieve a breakeven position.
2	Maintained mainstream primary schools to note that the total funding requested to be de-delegated by maintained mainstream primary schools is £86,957.

1. Reasons for recommendations

1.1 Under the school funding arrangements, costs which relate to teachers and non-teaching support staff who are employed by schools and are engaged as Senior Trade Union Representatives can be centrally retained on the behalf of maintained

primary schools if de-delegation is approved. Funding for facility time forms a part of the school formula. However, funding can also be retained centrally by Nottingham City Council on behalf of maintained mainstream primary schools if de-delegation is approved.

1.2 The decision made by primary maintained schools at Schools Forum on 5 December 2023 to de-delegate from 1 April 2024 to 31 March 2025 related to that year only, so a new approval is required for de-delegation to continue from 1 April 2025 to March 2026. Schools Forum members of maintained mainstream primary schools must decide whether this service should be provided centrally, and the decision will apply to all maintained mainstream primary schools in that phase. Funding for this service will then be removed from the individual school budgets of maintained mainstream primary schools before their school budgets are issued.

In October 2013 Schools Forum agreed 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. We are yet to write to Academies asking them to buy into the service from April 2025 and this will be based on the costing decision taken at Schools forum on 10 December 2024.

1.3 **Table 1** shows the number of schools participating in the trade union arrangement from 2016/17 to 2023/24.

Table 1: Number of maintained schools and academies in the trade union cover arrangement and trade union allowance for each financial year

	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Maintained primary schools	39	36	30	29	29	**29**	**29**	**29**	**29**
Academies, maintained special schools and pupil referral units	34	20	34	36	37	**40**	**41**	**43**	**43**
Total	**73**	**56**	**64**	**65**	**66**	**69**	**70**	**72**	**72**

It is anticipated that the same number schools and academies (72) will take part in the arrangement in the 2025/26 de-delegation period.

1.4 The allowance allocated for 2025/26 to schools Trade Unions, which has remained the same for the last two years, will be increased by one day to 3.9 which equates to 19.5 days per week.

Table 2 shows the rates applied over the last six financial years to schools and academies.

	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Per Pupil rate	£1.52	£1.52	£1.55	£1.45	£1.52	£1.64	£1.63	£1.75	£1.77
Lump sum per school	£1,587	£1,590	£1,622	£1,368	£1,538	£1,693	£1,653	£1,766	£1,746

2. Background (including outcomes of consultation)

2.1 Time off for local 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:

- National Association of School Masters and Union of Women Teachers **(NASUWT)**
- National Association of Head Teachers **(NAHT)**
- **UNISON**
- **UNITE**
- **GMB**
- National Education Union **(NEU)** from 1 September 2017 (Previously National Union of Teachers and Association of Teachers and Lecturers)

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 as well as representing their members on a range of employment matters. 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 current 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 maintained schools and academies from contributing to the LA's arrangements for trade union consultation. They do not have to duplicate effort when negotiating policies and procedures. Schools can then use such policies, 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 Schools and academies that 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 to represent their employees.

3. Other options considered in making recommendations

3.1 If de-delegation is not supported, schools and academies will have to the delegated budget 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 Senior 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 are not agreed, individual schools and academies would have to bear the cost of the time off for the senior TU reps nominated by their union to participate in these discussions. TU's may also decide that they each wish to appoint reps in individual

schools and, therefore, schools may also have to pay additional costs for the training and CPD of each TU rep.

4. Outcomes/deliverables

4.1 The money requested is based on average salaries of the senior TU representatives (in UPS grades 1, 2 and 3) 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 and the actual cost of the senior TU reps' salaries.

5. Consideration of Risk

5.1 None

6. Finance colleague comments (including implications and value for money/VAT)

6.1 In 2025-26 local authorities will continue to be funded based on the schools national funding formula. Included within this approach is for local authorities to be able to continue to request approval from maintained primary and secondary school representatives on Schools Forum for de-delegated services.

6.2 New decisions are required annually before the start of each financial year for any service to be de-delegated.

6.3 As stated in 4.1 the cost of trade union facility time is reimbursed to their place of employment. The de delegation of funding for Union duties is for the school where the union rep is employed is so that the school where the union rep is employed can use this funding to provide cover for when the rep is undertaking union duties. The reimbursements will be actioned by the Local Authority at the end of each financial year (March) once the actual costs have been confirmed they have been incurred. Based on the estimated 2025/26 salary projections and forecast income from maintained schools, academies and maintained special schools, and PRU's who buy into the service based on a provisional rate of £2.35 per pupil and a lump sum of £2,188, would generate funding of £225,055 to cover the costs of the salaries in the financial year 2025/26.

6.4 It is estimated that this approach should enable the facility time to be funded for 2025/26 to a breakeven position.

Table 3 shows the forecast projection for 2024/25.

Table 3: Forecast projection for the financial year 2025/26		
Forecast income from maintained primary schools	£86,957	
Forecast income from academies and maintained special schools, Hospital and Home Education PRU	£138,098	
Forecast income		£225,055

Less Forecast expenditure		-£225,055
Net Surplus/(Deficit)		**£0**

6.5 Due to the additional work required at both a school and authority level to obtain salary details, it is proposed for 2025-26 that an average salary for a M6, UPS1, UPS2 and UPS 3 are used. Table 1 shows the calculation for this.

Scale	**Annual Salary 2024-25 including the 5.5% pay award** *(excl. on costs)*	**Annual salary 2025-26 including a contingency for another 5.5% pay award** *(excl. oncosts)*
M6	£43,606	£46,004
UPS 1	£45,646	£48,157
UPS 2	£47,338	£49,942
UPS 3	£49,084	£51,784
Average	**£46,419**	**£48,972**

It is hoped that this will simplify the process and speed up the payments to schools. In obtaining information and the funding being given to the schools.

Susan Woodland
Senior Commercial Business Partner

28 November 2024

7. Legal colleague comments

7.1 The schools' forum's powers here derive from the School and Early Years Finance (England) Regulations 2023 ("SEYFR"), made by the Secretary of State for Education in exercise of powers under the School Standards and Framework Act 1998 and the Education Act 2002.

7.2 Chapter 2 of Part 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 6 (Items That May Be Removed From Maintained Schools' Budget Shares-Primary and Secondary Schools) of Schedule 2 [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(5) (SEYFR, regulation 12(1)(d)). Part 6 of Schedule 2 to the SEYFR contains paragraph 43, which states, amongst other things: -

Expenditure on making payments to, or in providing a temporary replacement for, any person who is –

(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;

7.3 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.

7.4 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.

Helen Varey
Solicitor (Employment & Dispute Resolution)
10 December 2024

8. HR comments

8.1 The relevant HR issues are included in the above report.

8.2 The existing 'pot' set up by the LA for academies to pay into, continues to be supported by a number of academies having previously recognised the value of the expertise provided by TU officials via effective JCNC mechanisms.

8.3 Our ambition for City schools to be less atomised by encouraging and supporting joined up working between organisations is supported by having organisations that 'join them up' and the TUs are a primary example of this in practice.

9. Crime and Disorder Implications (If Applicable)

9.1 Not applicable

10. Social value considerations (If Applicable)

10.1 Not applicable

11. Equality Impact Assessment (EIA)

11.1 Has the equality impact of the proposals in this report been assessed?

No ☒

An EIA is not required because these proposals have a very broad scope across many schools and academies and are focussed on financial matters. It is not possible to accurately assess how this directly impacts on individuals employed within schools.

12. Data Protection Impact Assessment (DPIA)

12.1 Has the data protection impact of the proposals in this report been assessed?

No ☒

A DPIA is not required because there are no data protection risks associated with this proposal.

13. **Carbon Impact Assessment (CIA)**

13.1 Has the Carbon impact of the proposals in this report been assessed?

No ☒
The Carbon impact assessment is not required because it is not applicable.

14. **List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)**

14.1 None

15. **Published documents referred to in this report**

15.1 Schools and Early Years Finance Regulations 2022

15.2 The national funding formulae for schools and high needs 2023-24 Policy document – July 2022

15.3 Schools Forum report 6 December 2022: De-delegation of funding for Trade Union time off for senior representatives