

BUILDING TO WIN

LOCAL BARGAINING OBJECTIVE: BUILDING BRANCH CAPACITY – FACILITIES TIME REVIEW & CLAIM

A brief guide for UCU representatives

ABOUT THIS GUIDE

In this document you will find:

FACILITIES TIME REVIEW & CLAIM

This advice sets out steps for local branches to consider taking as part of reviewing or updating their branch's facilities time. We recommend speaking to your Regional Office as part of any review and prior to submitting a local claim.

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FOR TRAINING TO SUPPORT THE ISSUES IN THIS BARGAINING ADVICE:

Each UCU devolved nation and region should have a scheduled Rep 1: Induction course. On this course you will learn more about your rights as a rep to facility time. For upcoming courses in your area please visit the training home page here www.ucu.org.uk/training and search courses in your locality.

If you cannot find a course in your devolved nation/region, please contact training@ucu.org.uk and we can direct you to the nearest course.

The training team can also provide short bespoke sessions for branches. If you wish to explore this further, please contact your regional office in the first instance. A list of devolved nation and regional offices can be found here www.ucu.org.uk/yourcontacts

BACKGROUND

Facilities time is the key to unlocking our ability to negotiate and win better terms and conditions for our members. Without sufficient time we will always be in a position of defending, rather than proactively improving our members' working lives.

Facilities time agreements are part of a series of agreements that govern industrial relations in our workplaces. Fundamentally, facilities agreements cover time off for the union's reps. But they also include other aspects of the union's rights to represent its members, such as information and access to physical resources like rooms and means of communication.

Sometimes they are written down, sometimes they are encoded in written agreements. In every case, their value and their existence are dependent on the commitment of branch officers and members. Being able to successfully defend management attacks on facilities time or being able to extend and improve existing agreements are critical steps in any successful branch. The time taken by union reps to fulfil their roles is pivotal to the work of your colleges and universities. Be proud of that work because it helps to improve your colleagues' working lives.

FACILITIES TIME: WHY WE SHOULD FIGHT FOR MORE

Union reps have had the right to carry out union duties and activities, and take time off for training since 1975. Separate regulations for health & safety reps have enshrined their right to time off to carry out functions since 1977. Along with rights for Union learning reps introduced in the Employment Act 2002.

It is important to remember that facility time benefits both UCU and the employer. Our reps provide advice and collective support to thousands of members across the UK each and every day. Reps help resolve individual issues and negotiate with employers to improve members working lives, which in turn ensure the successes our employers are happy to promote. Workplaces with recognised unions are safer, with 50% less injuries; have better family friendly policies; and save employers between £32 and £64 million a year in recruitment costs

Facilities time is the key to unlocking our ability to improving the terms and conditions of our members in workplaces. Without sufficient time we will always be in a position of defending, rather than proactively improving our workplaces.

ORGANISE YOUR BRANCH

STEP ONE: REVIEW

Facilities time is usually allocated to a branch on an annual basis. In some cases the time off may be in the form of a block of time allocated to the branch officers, or it may be specific to the role, such as casework or health and safety, or the "facility" may even be financial so that management can make alternative arrangements to cover a UCU representative's teaching and other duties or in the case of casual or PGR branch officers in the form of 'paid time on' (See below). It's important to note that facility time is sought on an equal basis for all UCU representatives and that this is done without reference to an individual's employment status, full-time, part-time or hourly paid.

The way in which your recognition agreement and time off/ facilities agreement work together is particularly important. In the strictest sense a number of your legal rights rely upon recognition. Such dependant rights include; paid time off for union duties, paid time off for training, right to appoint health and safety representatives to inspect and negotiate on health and safety issues, right to disclosure of information from your employer for negotiation purposes.

- ✓ Review the Recognition & Procedure Agreement including Facilities Time against the model agreement and checklist
- ✓ Does your existing agreement include paid time on for part-time or PGRs?

STEP TWO: USE IT OR LOSE IT

It is vitally important to use any facility time your branch has already negotiated. Many of our reps don't use the time they are entitled to and this undervalues the work they do and the time it actually takes. We have found that when reps show their employers the amount of time they actually spend on union duties/activities/functions, then employers will extend their entitlements, even if this is for a short period to cover a specific need.

- ✓ Use the facility time your branch has already negotiated
- ✓ Review current facilities time allocation and how this is distributed between reps.

BUILDING THE CLAIM

STEP THREE: CALCULATE WHAT TIME IS NEEDED

The Trade Union Act 2016, Reporting Requirements (England & Scotland) introduced regulations on the recording of union facility time in March 2017, which required employers in England and Scotland to calculate annual spending on facility time during a twelve-month period from 1 April each year (which the regulations call "the relevant period"), and to report it on their websites and in any annual reports. Branch officers should have a system in place to record the number of hours spent per year on carrying out their trade union roles.

The figures for the amount of facility time reported by employers in F and HE under the Trade Union Act 2016 are published every year. You can see what your employer has reported here: Education Institutions www.gov.uk/government/statistical-data-sets/public-sector-trade-union-facility-time-data

The reporting requirements in the Trade Union Act say that FE colleges and universities, along with other public sector organisations, must report before 31 July each year on:

- Number of employees who were relevant union officials during the relevant period.
- How many employees who were relevant union officials during the relevant period spent a)0%, b)1 – 50%, c) 51-99% or d)100% of their working hours on facility time.
- Percentage of the total pay bill spent on facility time.
- Time spent on paid trade union activities as a percentage of total paid facility time hours.

This legislation does not apply to Northern Ireland and Wales.

This legislation does not apply to non-public sector employers e.g. private providers

- ✓ If you have a system of recording time, review whether all time is being used and whether this could be distributed more fairly.
- ✓ If you don't have a system, start logging all the time your reps use. **See Appendix V**
- ✓ Use systems that already exist to minimise time spent on recording the information. Contact regional/nation office if you need any help with agreeing the reporting mechanisms.
- ✓ Seek to agree a manageable and reasonable way of recording the time Reps spend on union duties, activities and functions with your employer.
- ✓ Conduct a survey of your reps asking them:
 - how much time they receive as reps in the performance of their trade union duties (as defined in your recognition agreement), per week.
 - how many hours they actually spend on trade union duties (as defined below) per week.

This is essential information. Whether you decide to campaign for more or are fighting off attempts to reduce your facilities time, we need this information to make the case that our reps are performing unpaid labour that benefits the employer.

- ✓ Compare the time and allocation of Facilities Time with other institutions on the reporting list.
- ✓ Ask your Regional Office for facilities time allocations at other branches in the region
 - how does your workplace compare?

STEP FOUR: REVIEW ROLES

Trade union duties are set out in section 168 of the Trade Union Labour Relations (Consolidation) Act 1992, and the employer shall pay for time spent carrying them out. The ACAS Code of Practice explains the minimal legal requirements and terminology surrounding facility time.

Union representatives are entitled to time off where the duties are concerned with:

- negotiations with the employer about matters which fall within section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) and for which the union is recognised for the purposes of collective bargaining by the employer;
- any other functions on behalf of employees of the employer which are related to matters falling within section 178(2) TULR(C)A and which the employer has agreed the union may perform;
- the receipt of information from the employer and consultation by the employer under section 188 TULR(C)A, related to redundancy or under the Transfer of Undertakings (Protection of Employment) Regulations 2006 that applies to employees of the employer;
- negotiations with a view to entering into an agreement under regulation 9 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 that applies to employees of the employer; or
- the performance on behalf of employees of the employer of functions related to or connected with the making of an agreement under regulation 9 of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

Health & Safety Reps are allowed paid time off, as is necessary, during working hours to perform their statutory functions.

There are separate regulations for union health and safety representatives. These are the Safety Representatives and Safety Committee Regulations 1977. **Unlike the situation for most other representatives, safety representatives have functions rather than duties.** According to regulation 4(2)(a), employers are required to allow union health and safety reps paid time, as is necessary, during working hours to perform their functions.

*These functions include investigating potential hazards, incidents or complaints; doing inspections of the workplace; making representations to the employer on any health or safety matter; representing employees, receiving information; and attending meetings of safety committees. There is no limit to the amount of time that can be taken and it is likely that it will vary considerably depending on the workplace. They may also need more time following an incident at work or if new safety procedures are being carried out. Union health and safety representatives are also different from other union representatives in that they can represent all employees in the workplace, not just union members. Further advice on the provisions for health and safety representatives is provided by the Health and Safety Executive in its approved Code and Guidance 'Consulting workers on Health and Safety.'*¹

Ensure that the time taken by health and safety representatives is not included in any facility time agreement, and instead there is a guarantee that they will be given such time as they require. **See Appendix IV**

Union Learning Representatives (ULRs) The Employment Act 2002 gave ULRs the same statutory rights as other union representatives. This includes the right to time off to perform ULR's duties in the workplace; be recognised as a union representative in the same way that health and safety reps and shop stewards are in workplaces where UCU is a recognised union; time off with pay to train as a ULR; protection against unfair dismissal on grounds of their ULR activity and the right to go to tribunal if the employer unreasonably denies access to time off to perform their duties or for training.

¹ (Facility Time: a TUC guide to defending the right to represent members. Page 5)

These rights came into force in April 2003 and are set out in the revised Acas Code of Practice published in February 2003. The Employment Act stipulates that the union must notify employers before ULRs can be given time off to train for the role and take up their duties. The union must then ensure that reps are trained within six months of the employer being notified.

Union members are also entitled to unpaid time off to consult their learning representative, as long as they belong to a bargaining unit for which UCU is recognised.

Equality Representatives can be concerned with a wide range of diversity issues from the promotion of diversity management to helping ensure legal compliance and conducting audits. They can help raise awareness of issues related to equality and diversity; raise the profile of equal treatment of workers on the grounds of gender, age, religion or belief, sexual orientation, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race; and engage employers on a range of equality issues. Equality representatives have no statutory rights to time off, training or facilities but their work and their time off should form part of the overall branch allocation depending upon branch priorities. E.g. if the branch is planning on submitting a Race Pay Gap claim or Gender Identity Policy claim, then they should allocate sufficient hours from the overall branch allocation to the Equality Rep in order that they can adequately take part in that work on behalf of the branch.

Environment/Green Representatives

Currently there is no legal right to appoint green reps. This contrasts with health and safety, and union learning reps, who do have statutory recognition. In the absence of legal rights branches are urged to make the case for recognition of the role directly with the employer. Further guidance can be accessed [here](#)

- ✓ Read the existing guidance on facility time and the HE/FE model agreements and discuss an allocation approach with the branch committee.
- ✓ What are the branch's key priorities?
- ✓ Liaise with the other recognised unions if it is a joint recognition agreement
- ✓ What areas require resources to move the branch to a proactive bargaining position?
Further guidance can be sought from the regional/nation official.

STEP FIVE: TIME ON FOR HOURLY PAID REPS OR PGRS

To support casualised staff to become reps and to play a full part in negotiations, branches can submit a claim for the employer to provide access to facility time 'paid time on'. It is important to ensure that branches understand and make the arguments for facilities time for casualised staff and in particular paid time on for hourly paid reps and PGRs. The guidance on the legal position of hourly paid and other part time reps is set out below in Appendix III.

Many university and college employers refuse to pay part-time workers for time spent on trade union duties outside of their normal working hours. This refusal frequently rests on the ambiguous and inconsistent statutory situation in relation to the rights of part-time workers to paid time off for union duties. Alternatively, where there is no disagreement in principle, an employer's objections may stem from an unwillingness to establish the required alternative reporting mechanisms to provide facility time to these workers

Making the argument for paid time on

Employers have a general positive duty to provide paid time off for all employees who are trade union representatives. This means having arrangements for employees of all kinds to have access to paid time for the performance of trade union duties. Refusal to pay additional time for hourly paid workers to perform trade union duties effectively conflicts with this general duty.

The provision of facility time paid on is an important factor in making trade union participation more accessible for casualised staff. Most hourly paid workers would like to work more than they do and depend heavily on the teaching hours they are contracted for. While these members may wish to play a more active role in their union, the need to undertake a sufficient number of hours of work per week, in addition to an already overwhelming workload, may constitute a significant barrier to their doing so. The provision of even a small amount of facility time 'paid on', therefore, represents an important means of ensuring that active participation does not come at the cost of being able to afford to live.

Providing hourly paid workers, or PGRs who are not currently contracted to undertake teaching or other forms of accompanying employment, with facility time paid on, therefore, represents an important commitment by an employer to engage with these

groups of workers and their issues via working groups or other negotiating channels. It is worth noting that this commitment is cost-neutral for the employer at most, where the establishment of an alternative mechanism for providing facility time does not in itself impact upon the total allocation for a branch.

Existing practice in the sector

Many employers simply insert a sentence into their facilities agreements that reiterate the interpretation of statute from the ACAS Code of Practice, stating that no payment will be made for performance of duties out of work time.

However, UCU has negotiated agreements with some employers that embeds the principle of paid time on, and these are set out in the Appendix together with a specific clause to be included in any facilities time agreement as set out in Appendix I

CASE STUDY

At the University of Sheffield there is an agreement in place for members of the Sheffield UCU branch committee, whereby PGRs and hourly paid staff are able to claim hours of facility time 'paid on' up to their individual facility time allocation, which is typically 0.1FTE. Reps submit claim forms detailing the work carried out together with the time for approval to HR, which is then processed by payroll. This is paid at an agreed hourly rate at a Grade 7 (commensurate with the rate for Graduate Teaching Associates (Hourly Paid teaching staff)).

- ✓ Increasing the overall allowance of facilities time to branches to enable them to distribute time-on to hourly paid reps.
- ✓ If your facilities time is paid in a block, make sure that hourly paid reps are receiving payment for the time they spend on trade union duties, however that is defined in your recognition agreement. The Branch should negotiate a 'time-on' clause to union facilities agreements and we should be seeking paid time on for attendance at UCU national committees as we would seek for local duties. This should be carried out on a fractional basis (See model agreement Appendix II below).
- ✓ Part-time workers' access to paid time-on for the performance of trade union duties should be established on the same basis as access to training. Government guidance on the provision of training for part-time workers recommends, 'paying the part-time worker (at their normal rate of pay) for the extra hours they attend outside their normal working hours'. Where agreements are in place for individual members to claim facility time as 'paid on', additional hours to cover the attendance of training activities should be claimed from the employer on top of the member's regular allocation of facility time. Where there is not a regular facility time agreement in place for an individual member, the employer should provide facility time 'paid on' to attend training on an ad hoc basis.

SUBMIT THE CLAIM!

- ✓ Keep the other recognised trade unions informed. If there is a joint recognition agreement you must discuss with the other unions before submitting a claim.
- ✓ Use the model letter in Appendix I below to help shape your claim depending upon the findings of your review and identified need. Speak to your regional office or the Bargaining & Negotiations team for any support
- ✓ Use existing bargaining structures to put the claim on the agenda (e.g. JNCs)
- ✓ Take the initiative – don't let management control the bargaining agenda

BUILD LEVERAGE

- ✓ Use some of the campaign materials here
www.ucu.org.uk/branchdocuments?q=%22facilities+time%22&sort=Relevance&size=20#facetedsearch
- ✓ Publicise the Claim
- ✓ Keep members informed

NEGOTIATE & FEEDBACK

- ✓ Remind employers of all the benefits to the workplace of facility time.
- ✓ Any discussions with your employer may be an opportunity to push for more recognition of the work you undertake with extensions to your facility time. Make sure you are prepared to make suggestions about what an extension to that provision would look like. You can consult FE/HE model agreements to prepare for this eventuality.
- ✓ The role of green/environment rep and equalities rep should be recognised by the employer and afforded time off for training

APPENDIX I

MODEL CLAIM LETTER

Dear Employer

Re: Claim for Increased Facilities Time

Our UCU branch has resolved to pursue a local claim on an increase to facilities time for the recognised trade union(s).

The branch has recently carried out an audit of existing facilities time. We are of the view that the existing entitlement [insert no of hours] is not sufficient to carry out our duties and engage in collective bargaining.

Our claim therefore is as follows [set out according to assessment of need/work required for the branch/sector specific]:

X hours per week Branch Chair/Secretary

X hours per week Equalities Officer

X hours per week Environment Officer

X hours per week Anti-casualisation Officer

X hours per week PGR/GTA (or equivalent) Officer

We are also claiming for a 'time-on' clause to be added to our recognition agreement as follows:

In the case of representatives who work part-time but on an hourly paid or sessional basis, where trade union duties are performed outside of the period where the representative is performing their normal working duties, the employer will allow additional pay for time spent on trade union duties at their normal hourly rate on a fractional basis.

The claim seeks to establish that part-time workers' access to paid time for the performance of trade union duties on the same basis as access to training. Government guidance on the provision of training for part-time workers recommends, 'paying the part-time worker (at their normal rate of pay) for the extra hours they attend outside their normal working hours'.

We look forward to discussing this at our next JNC [or convening of a special JNC] to progress this claim in order that we can meaningfully engage in the collective representation of our members [give examples of specific areas of work].

Subject therefore, to measurable progress on this within an agreed timeframe we wish to progress discussions and reporting back to our membership. The branch reserves our position to escalate via other means, if we do not feel sufficient progress has been made via negotiations.

We trust that you will consider this request and look forward to discussing this with management at the earliest opportunity.

Yours UCU Branch Committee

APPENDIX II

MODEL AGREEMENT

Introduction

The following commentary aims to explain the key issues that it is recommended your branch seek to incorporate when negotiating a comprehensive trade union time off and facilities agreement. An overview is provided for each headed section of the model agreement and specific issues are highlighted and explained. After reading through this section you should have a better insight into why the structure of the agreement follows the pattern it does and also why the terminology and language used is important.

Model trade union time off & facilities agreement

1. Purpose

1.1 The purpose of this agreement is to establish facilities and time off arrangements for representatives of UCU. For the purposes of this agreement UCU representatives include: regional and national committee members, health and safety representatives and learning representatives.

1.2 The spirit and intention of this agreement is to recognise the importance of good industrial relations between the university and its staff through the development of collective bargaining and good employment practice.

1.3 The university further recognises its statutory obligations and the guidance provided within all relevant legislation including the following:

1.3.1 Trade Union & Labour Relations (Consolidation) Act 1992

1.3.2 Safety Representatives & Safety Committee Regulations made under the Health & Safety at Work Act 1974

1.3.3 Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 and 1999

1.3.4 Transfer of Undertakings Regulations 1981

1.3.5 Employment Act 2002 Time off for Trade Union Learning Representatives

1.3.6 ACAS Code of Practice 3 – Time off for Trade Union Duties and Activities

1.3.7 ACAS Code of Practice on Disclosure

1.4 In terms of time off for trade union duties, activities and training, the institution will recognise as trade union representatives, employees who have been elected or appointed in accordance with the rules of UCU, to be representatives of all academic and academic-related staff groups within the university. This section may also apply to UCU representatives who have been elected to sit on the union's national committees, including those reps who are part-time, hourly paid or otherwise casualised.

1.5 In fulfilling their duties and responsibilities, the trade union representatives will abide by, and use their best endeavours to ensure that members comply with, all agreements between the university and UCU.

2. Scope of representation

2.1 The scope of trade union representation will relate to those connected with the following:

2.1.1 terms and conditions of employment, e.g. pay, hours of work, holidays, sick pay, pensions, training, equal opportunities, the work environment including the physical conditions in which staff are required to work

- 2.1.2 appointment or non-appointment, or termination or suspension of employment or the duties of employment of one or more staff e.g. recruitment and selection policies, human resource planning, redundancy and dismissal arrangements
- 2.1.3 allocation of work or the duties of employment as between staff or groups of staff e.g. job grading, job evaluation, job descriptions
- 2.1.4 matters of discipline e.g. disciplinary procedure, representation, case preparation
- 2.1.5 a member of staff's membership or non-membership of a trade union e.g. representational arrangements, involvement during induction of new staff
- 2.1.6 facilities for trade union representatives e.g. accommodation, equipment, staff lists
- 2.1.7 procedures for consultation or negotiation and other procedures e.g. arrangements for collective bargaining, grievance procedures, joint consultation, communicating with members, communicating with other trade union representatives also concerned with collective bargaining with the university
- 2.1.8 appearing on behalf of members before an official outside body, such as an employment tribunal, which is dealing with an industrial relations matter concerning the university.

2.2 In terms of representing UCU members at national meetings regarding matters within the scope of representation, trade union representatives will be afforded time off with pay to attend (including staff who are part-time, hourly-paid or otherwise casualised). A notification of the annual cycle of meetings and associated responsibilities together with the name(s) of proposed attendee(s) will be forwarded to the personnel manager.

Where an agreement cannot be reached about the reasonableness of a request for time off for trade union duties, the matter shall be referred to the UCU regional official.

3. Amount of time off

3.1 The university will grant an amount of time off with pay as is reasonable in all the circumstances. In this respect, the trade unions must be aware of the university's circumstances and operational requirements when requesting time off. These will include academic and support requirements, working arrangements and health and safety considerations.

3.2 In accordance with the principles of the ACAS Code of Practice on Time Off for Trade Union Duties and Activities Section 4 Paragraphs 35-42, the university's line managers and trade union representatives must seek to agree mutually convenient times to minimise the operational impact of the time off.

3.3 In the interests of minimising the impact on the institution's operations of the trade union time off, the personnel manager, following consultation with the branch secretary, will advise line managers of the schedule of the trade unions' workloads or commitments, where possible identifying a period of two hours per week when all union reps are free of teaching duties.

3.4 An agreed allowance of time off for trade union duties shall be negotiated and agreed with UCU and the other recognised trade unions. The allowance will be proportionate to the size of the bargaining unit each union represents.

3.5 In the case of representatives who work part-time but on an hourly paid or sessional basis, where trade union duties are performed outside of the period where the representative is performing their normal working duties, the employer will allow additional pay for time spent on trade union duties at their normal hourly rate on a fractional basis.

4. Time-off arrangements

4.1 The university will provide trade union representatives with reasonable time off, with pay, from their teaching timetable and their research responsibilities to enable them to fulfil their duties and responsibilities.

4.2 The amount of time off will take into account preparing for meetings, attending meetings, informing members of progress and outcomes of meetings and representing members. The process for determining and allocating the amount of time off with pay for UCU is to be negotiated and agreed with UCU.

5. Training

5.1 The university will allow trade union representatives reasonable time off with pay to undergo training relevant to the fulfilment of their trade union duties and responsibilities regardless of contract type.

5.2 This agreement envisages initial trade union training in basic representation skills and, in the cases of representatives with special responsibilities, further training.

5.3 The trade union will provide the personnel manager with details of the training course syllabus to ensure that the training is relevant to the representative's duties and responsibilities and has been approved by the Trade Unions Congress or by UCU.

6. Paid time off for union learning representatives (ULRs)

6.1 Each ULR shall be allocated four hours per week reduction in class contact time and the associated non-teaching time.

6.2 Union learning committee members, or department union learning representatives, shall be allocated two hours per week reduction in class contact time and the associated non-teaching time to enable them to undertake ULR work, e.g. learning, committee meetings, consult members and report back.

6.3 Reasonable additional time off will be granted for one-off events, representation of members, training and meeting with management where such time off cannot be accommodated within the usual scheduled hours.

7. Facilities

7.1 The trade union representatives will be entitled to access to the following facilities in carrying out their duties and responsibilities:

7.1.1 telephone, fax, email and internet access

7.1.2 designated office accommodation

7.1.3 noticeboard provision at each campus, subject to compliance with normal rules governing the use of notice boards

7.1.4 use of the university's computers, photocopiers and other equipment for essential trade union work within the university, subject to there being no interference with the work of the university

7.1.5 in terms of recruitment, the personnel department will provide staff lists on a termly/annual basis

7.1.6 the staff induction process and timetable, and where appropriate and feasible, the ability to address staff during induction or orientation day activities

7.1.7 information in accordance with the guidance in the ACAS code of practice on disclosure e.g. pay and benefits, conditions of service, employment, financial. Where such information could cause substantive injury to the business interests of the university, it will be withheld and a confidential explanation provided to UCU.

8. Trade union meetings

8.1 The arrangements for trade union members of staff to attend official meetings will have regard to the needs of the service and take place normally during the lunch-time period or following normal office hours.

8.2 The university will offer facilities within normal working hours for the annual election of UCU branch representatives. The names of elected representatives will be given to the university as soon as possible after the election.

9. Variation / termination

9.1 This agreement will correlate with the duration of the recognition and procedure agreement.

9.2 Any variation to these procedures can only be made by agreement between the university and UCU.

9.3 The university and UCU recognise the need to review and agree jointly the terms of this agreement, following two years of its operation.

9.4 The university or UCU can terminate this agreement by giving six months' notice in writing.

Signed: _____ Date: _____
On behalf of the university

Signed: _____ Date: _____
On behalf of UCU

MODEL AGREEMENT CHECKLIST

CONTENT <i>(the agreements, terms and conditions)</i>	YES	NO	PARTIAL	COMMENT <i>e.g. notes on areas for further negotiation or difficulties arrived at</i>
Is the purpose of the agreement clearly stated?				
Are the UCU roles that attract paid time off clearly stated?				
Is the relevant legislation referred to for the purposes of paid time off for: collective bargaining, health and safety, collective redundancies, transfer of undertakings (TUPE), union, learning representatives and ACAS best practice?				
Is there recognition that UCU represents the interests of ALL academic and academic-related staff?				
Is there recognition that UCU rules determine who UCU representatives will be?				
Is paid time off provided for UCU union duties, activities and training?				
SCOPE OF REPRESENTATION				
Does the agreement clearly set out a wide range of issues that require trade union representation and therefore attract paid time off?				
Is there a clear reference to the branch receiving all new entrants into UCU bargaining units and regular updated staff lists?				
Does the agreement acknowledge that paid time off and facilities will be needed to ensure the effective operation of the consultation and bargaining machinery, the management				

CONTENT <i>(the agreements, terms and conditions)</i>	YES	NO	PARTIAL	COMMENT <i>e.g. notes on areas for further negotiation or difficulties arrived at</i>
of casework, communications and meetings with members and working with the other trade unions?				
Does the agreement cover external bodies that UCU members may be elected to: regional or national committees or annual conference for example?				
Does the agreement allow paid time off for attending these meetings including for reps who are hourly-paid/casualised?				
If there are matters of dispute with regards to the granting of paid time off or trade union facilities, is there a referral route to the regional official?				
AMOUNT OF TIME OFF				
Is there a clear and agreed process for the administration of requests?				
How is the time allocated to the branch?				
Is there allocation afforded to hourly paid/PGRs?				
Has the branch sought guidance from your regional official on this matter and if so what was the advice and manager's response?				
Where other campus unions are recognised by your employer, has paid time off been provided and has it been prorated to reflect UCU bargaining unit responsibilities?				
Does the paid time off allocation cover the range of issues necessary to fulfil the obligations of the different representational roles set out in the agreement? e.g. health and safety, branch chair/president, ULR?				
Has your regional official advised the branch on these matters?				
TRAINING				
Does the agreement clearly set out the type of training that will attract paid time off?				
Does the agreement incorporate references to UCU training courses, TUC training courses or other UCU approved courses?				
Is paid time on for hourly paid and PGRs to attend training included?				
Is paid time off for union learning representatives part of the agreement?				

CONTENT <i>(the agreements, terms and conditions)</i>	YES	NO	PARTIAL	COMMENT <i>e.g. notes on areas for further negotiation or difficulties arrived at</i>
If the agreement covers ULRs, does it at least allocate four hours' reduction in teaching/research and associated work?				
Does it also recognise the other representational duties carried out by ULRs and provide for paid time off for these duties?				
Is paid time off included for Equalities Reps?				
Is paid time off included for Environment Reps?				
TRADE UNION FACILITIES				
As per the model agreement, are all reasonable trade union entitlements to facilities set out clearly in the agreement?				
Is UCU access to the induction timetable part of the agreement?				
Is the provision for requesting and receiving bargaining information from the employer clearly set out?				
As a minimum, does the agreement allow for UCU meetings on university premises at lunchtime and after normal office hours?				
Does the agreement allow for meetings during normal working hours, particularly for the branch AGM?				
VARIATIONS/TERMINATION				
Does the agreement contain clauses to deal with both matters, typically variation by agreement only and six months' notice by either side to terminate?				
SIGNED				
Is there provision for the agreement to be formally signed by all sides?				

APPENDIX III

PAID TIME ON – ADDITIONAL RESOURCES

Many university and college employers refuse to pay part-time workers for time spent on trade union duties outside of their normal working hours. This refusal frequently rests on the ambiguous and inconsistent statutory situation in relation to the rights of part-time workers to paid time off for union duties.

Under TULRCA 1992, a trade union official of a recognised union is entitled to paid time off for the period of their absence from work. Payment must be at their average hourly earnings and must take account of the type of payment system applying to the union representative including, as appropriate, shift premia, performance-related pay, bonuses and commission earnings.

However, case law (*Harsine vs Kingston Upon Hull City Council* [1992]) has determined that this right only extends to time that the worker would otherwise have been at work. The ACAS Code of Practice on Time off for trade union duties and activities summarises the position as follows:

“There is no statutory requirement to pay for time off where the duty is carried out at a time when the union representative would not otherwise have been at work unless the union representative works flexible hours, such as night shift, but needs to perform representative duties during normal hours.”

The statute clearly does not reflect the reality of work patterns for part-time staff on precarious contracts and creates an inequality of access to paid time for the performance of trade union duties. It is not clear, however, that this is arguable as a detriment under part-time workers regulations.

The legal situation is also complicated by the fact that part-time workers are legally entitled to paid time for the actual hours they spend at a training course, rather than simply for the work they have missed (*Davies vs Neath Port Talbot County Borough Council* [1999]).

Making the argument for paid time on

In the absence of helpful and clear statute in relation to employees who are hourly paid, or on zero hours contracts, we should be making the following arguments:

Employers have a general positive duty to provide paid time off for all employees who are trade union representatives. This means having arrangements for employees of all kinds to have access to paid time for the performance of trade union duties.

Refusal to pay additional time for hourly paid workers to perform trade union duties effectively conflicts with this general duty.

For hourly paid workers who are contracted to teach, say 4 hours a week, taking 1 hour per week to perform trade union duties and having to get cover for this teaching is likely to have a disproportionate effect, and would likely also be too logistically impractical for employers to arrange. Many report concern that they will not be offered teaching which they depend on to get by. In effect, it acts as a deterrent on them engaging as union reps.

Instead of the unfeasible arrangement of providing facility time for duties undertaken during regular working hours, providing facility time paid on constitutes an important factor in making trade union participation more accessible for casualised staff. While these members may wish to play a more active role in their union, the need to undertake enough hours of work per week, in addition to an already overwhelming workload, may constitute a significant barrier to their doing so. The provision of even a small amount of facility time ‘paid on’, therefore, represents an important means of ensuring that active participation does not come at the cost of being able to afford to live.

Employers can remedy this in a number of ways:

- **Negotiating with us the movement of hourly paid workers onto guaranteed hours contracts against which pro-rata access to time off for trade union duties could be calculated.**

- Negotiating a ‘time-on’ clause to union facilities agreements. Part-time workers’ access to paid time for the performance of trade union duties should be established on the same basis as access to training. Government guidance on the provision of training for part-time workers recommends, ‘paying the part-time worker (at their normal rate of pay) for the extra hours they attend outside their normal working hours’.

<https://tinyurl.com/49pd2dme>

- Increasing the overall allowance of facilities time to branches to enable them to distribute time on to hourly paid reps.

Existing practice in the sector

Many employers simply insert a sentence into their facilities agreements that reiterate the interpretation of statute from the ACAS Code of Practice, stating that no payment will be made for performance of duties out of work time. However, UCU has negotiated with some employers agreements that embed the principle of paid time on.

For example, one FE provider’s agreement states that ‘If the UCU representative is not full time or is on a sessional contract, they need to claim for Facilitation Time via the standard additional hours sheet marking the work as UCU Time and will be paid at the normal rate under the union cost centre code’.

Another University employer’s agreement states:

“In the case of employees who work shifts or unsocial hours, the university will allow reasonable time off for trade union duties and normally will make arrangements when the duties fall outside their on-duty hours. Managers calling meetings will try to ensure that the meetings take place while the appropriate representatives are on duty. If a meeting is to take place on the representative’s day off or while the representative is not on duty then an equivalent amount of time off in lieu will be given at a time agreeable to both parties. If it is impossible to arrange time off in lieu then payment for this time will be made.”

Several other universities use a similar wording stating that payments will be made where it’s not possible to arrange time off in lieu. Other employers have established mechanisms to provide facility time paid on to reps without a corresponding change to recognition agreements.

Regardless of what wording, or lack therefore, is negotiated within branch recognition agreements, in practice, providing facility time ‘paid on’ to hourly paid workers or PGRs without a contract of employment will typically involve members completing a standalone monthly timesheet. This claim for facility time paid on would be submitted to central HR who can process it through payroll via a proxy job role against which a member’s agreed facility time allocation can be checked.

This approach overcomes the main complication that many employers envision, in which departmental or faculty managers would have significant difficulty with monitoring and processing any hours that are claimed for facility time through the timesheets that exist for any hourly paid work. As such, it has been the experience of UCU that where employers are put in contact with HR managers at a different institution in which this mechanism exists, to discuss its practicalities, those employers have generally been receptive to subsequently implementing it in their own workplace. Please contact the Bargaining & Negotiations department for signposting.

So, to some extent, some employers do recognise the issue and already provide some allowance, however unsatisfactory.

APPENDIX IV

www.ucu.org.uk/media/13175/Health--safety-rep-functions/pdf/UCU_-_safety_reps_functions.pdf

Employers have a duty imposed on them by **Regulation 4(2)** of the *Safety Representatives & Safety Committees Regulations (SRSCR)* to permit safety representatives to take “such time off with pay during working hours as shall be necessary for the purpose of performing their functions....” Safety representatives’ functions are given by statute - **Regulation 4(1)** of the *SRSCR*. The absolute duty imposed on employers by this section provides an opportunity for UCU branches to appoint additional safety representatives and to then seek additional paid time off for those reps in addition to any existing pot of hours for facilities time. UCU recommends that Branches negotiate an agreement on statutory time off for safety representatives which DOES NOT undermine the standard of duty imposed by the Regulations.

One way to achieve this is to secure an agreement that seeks to identify a minimum amount of time for branch safety reps which will vary depending upon the scope of each safety reps' role, their constituency size and the various hazards and complexities within that workplace. Any agreement should be clear that these are minimum requirements for paid time off that will enable planned reductions in workloads. Remember, safety reps are entitled to as much time as is needed to perform their functions, so will likely need additional time as various hazards or situations arise in the workplace. This includes paid time off in working hours for safety-related training also. Safety reps will make advance arrangements wherever possible (for workplace inspections or training, for example). Further details are available in the 'Brown Book' which details the Safety Representatives and Safety Committees Regulations 1977 together with the associated Codes of Practice and Guidance.

www.tuc.org.uk/sites/default/files/BrownBook2015.pdf

SRSC Regs Guidance note **42** “**Regulation 4(2) requires employers to allow health and safety representatives paid time as is necessary, during working hours, to perform their functions. In practice, this means they should carry out their functions (such as workplace inspections or attending health and safety committee meetings) as part of their normal job, and employers will need to take account of this in their workload.**”

Guidance note 43 ” **Regulation 4(2) also requires employers to allow health and safety representatives paid time as is necessary to receive training in aspects of their functions that is ‘reasonable in all the circumstances’.**” – time off with pay is always necessary – the training must be ‘reasonable in all the circumstances’ - case law is detailed in the TUC ‘Brown Book’ if you want to see some examples of this.

Note that the provisions for time-off are not qualified by the word ‘reasonable’ so, unlike a Branch Officer or Departmental Rep, who are entitled to ‘reasonable time off’, safety reps are entitled to whatever time is necessary for them to do the job effectively. These functions are a minimum standard: UCU believes that good employers will work with our safety reps to extend these functions significantly.

How many reps?

The regulations do not stipulate the number of safety representatives unions are allowed to appoint for any given workforce so this is a matter for unions to decide.

The number of safety representatives should be based on the needs of the workplace and to ensure all members are covered. To determine how many safety representatives are needed, the union needs to think about things like:

- the total numbers employed
- the variety of different occupations
- the size of the workplace
- the number of locations/where members work
- the operation of shift systems.

The HSE explain that a safety rep should be responsible for the interests of a defined group of workers and many unions built up organising models that generally reflected this idea - a safety rep in each building or team or defined part of the workplace. These are known as ‘rep constituencies’. Constituencies can be institution wide, based within a specific locality or thematic.

When deciding on a number of reps we should look at the hazards present, the potential severity caused by those hazards, whether the workplace is spread over a wider geographical area, on multiple sites and whether workers undertake shift work or seasonal work and so on.

This is not prescriptive of course and we often have safety reps who look institution wide (where they negotiate on safety committees and other collective forums and oversee work of other safety reps). We also have safety reps who may focus on specific hazards such as workload stressors – UCU workload (safety) reps look specifically at workplace stress and workload – a particularly serious hazard that remains prevalent in post-16 education.

NEGOTIATORS' RESOURCES

ACAS Guidance: Trade union representation in the workplace (March 2014)

www.acas.org.uk/sites/default/files/2021-03/trade-union-representation-in-the-workplace.pdf

The second HE Negotiating Pack, Chapter 1 is on Recognition and Procedural Agreements, and contains advice on facilities time and a model facilities agreement www.ucu.org.uk/media/8608/Recognition-and-procedural-agreements-RPAs---HE-negotiating-pack/pdf/ucu_recognition_procedure_agreements_guidance.pdf

In FE, UCU has agreed a model recognition and procedural agreement with the AoC which includes a section on facility time. The agreement can be found here www.ucu.org.uk/media/1574/Guidelines-on-local-recognition-and-procedural-agreements-in-FE-England-Dec-09/doc/feeng_localrecognition_dec09.doc

Facility time – A TUC guide to defending the right to represent members

www.tuc.org.uk/sites/default/files/FacilityTimeRepsGuide.pdf

UCU has also produced a guide on how to win better rights on facilities time

www.ucu.org.uk/media/3011/Winning-better-facilities-time-and-recruiting-new-staff---NOP-branch-support-pack-revised-2011/pdf/Facilities_time_booklet_revised_2011.pdf

Guidance on the UCU website is behind the firewall, so you will need your membership details to hand to access these documents.

An online copy of this bargaining guide
can be accessed here: www.ucu.org.uk/2969

University and College Union, Carlow Street, London NW1 7LH
Tel: 020 7756 2500 www.ucu.org.uk November 2024

