

# **Report on Public Duties and Trade Union Time Off Funding Arrangements**

## ***Introduction***

Historically the Schools Forum set aside money each year to provide a fund to reimburse all Maintained Schools within the Borough for the cost of allowing staff to have paid absence to undertake Public Duties (usually Jury Service or sitting as a Magistrate) and to undertake Trade Union activities in work time in accordance with the Facilities Agreement for Schools.

## ***Funding Source***

This money was from pooled de-delegated funds which otherwise would have been paid to individual schools. At Schools Forum meetings in 2012, Academy representative colleagues joined with LA School colleagues in voting to retain (continue to 'de-delegate') to this central fund and this was therefore taken 'automatically' from their annual budgets.

From September 2012, however, the new school funding formula no longer allowed the de-delegation from Academies of those funds. Academies were therefore asked by the Chair of the School Forum at that time whether they would voluntarily contribute to the fund at a cost of 64p per pupil (this rate has not been increased since).

The situation now is that whilst the remaining Maintained Schools continue to contribute to the fund (at a cost of £1.00 per pupil), only 2 Academies have opted to voluntarily pay into the fund and to therefore have the ability to claim from it. These Academies are Southend High School for Boys and St Bernard's High School, both still at a cost of 64p per pupil.

## ***Administration of the fund payments***

HR have never been budget holders or monitors of this money and there are no resources available within HR to do any more than check that any claims received meet the basic criteria and then pass them on to Finance for payment.

## ***Current funding and expenditure***

For some years there have been no claims to reimburse schools for the cost of their staff taking agreed time off to undertake public duties. This may be because part-time staff undertake public duties outside of work time, jurors lost income is paid by the courts, or there is a lack of awareness of the availability of reimbursement.

The principal reimbursements from the fund are therefore for the cost of time off to undertake trade union duties. This too is limited as to who is actually reimbursed in that there is a national officer for a teacher union whose cost of time off is regularly reimbursed, but no other teacher union claims have been submitted recently. The fund is also used to offset the cost of the UNISON Borough officer who undertakes work with their non-teaching members in schools because there are no representatives working from those unions at schools who could undertake that work. £8,000 was allocated for UNISON for 2018/19 on that basis.

The result of the reduction in the number of Maintained schools, and therefore the associated income, is that their payments to the fund for 2018/19 reduced to £8,070. (now £5,538 in 19/20) In addition there will be income of less than £2,000 (based on

2017/18) from the two Academy schools which have 'bought in' to the arrangements. The total fund will therefore be less than the anticipated expenditure for 2018/19, continuing into 2019/20 which requires mitigating actions.

### ***Future funding and expenditure***

The Education Board will clearly now want to consider the issues with the funding arrangements for 2019/20 and some options for changes are set out later in this paper. Given that expenditure is currently entirely on Trade Union activities, a brief reminder of the Facilities Agreement and the current use of facilities time are set out below.

### ***Facilities Agreement and legal requirements***

The Trade Union Facilities Agreement for schools gives an allocation of a number of days of paid time off per academic year, set out in accordance with the number of members in that particular recognised trade union - NASUWT, NAHT, ATL and NUT teachers unions, and UNISON and GMB (ATL and NUT are now combined into NEU but there has been no discussion of how that may affect their allocation). In addition there are other facilities. The input from UNISON and GMB to schools is, however, almost entirely by Borough officers rather than school-based representatives.

In practice there have been no queries or concerns in recent times from any school covered by the agreement - Maintained School or the two Academies who have 'bought in'. It appears that these schools are coming to local arrangements, probably 'as and when necessary', to give any teacher union representatives in their school reasonable paid time off if this occurs at all - it is possible that in most schools routine trade union activities, such as circulating information or having informal discussions with a member, is undertaken at lunchtime or after school. Where more formal situations occur, such as representing a member at a Sickness Contractual Review, it seems that teacher trade union Regional Officers will attend.

With regard to non-teaching staff, the GMB Borough officer (funded from the Council) appears to be supporting members in schools across the Borough and this means there is therefore no cost to schools and no need for a claim for reimbursement for the absence of representatives employed at the school. The UNISON Borough officer, who is part-funded from the Council and part funded from the fund, is also active in undertaking work with their non-teaching staff members in schools, and these include at least some recently converted Academy schools which have not 'bought in' to the Public Duties and Facilities Time arrangements.

It would be anticipated that where an Academy or MAT does not 'buy in' to the arrangements then each of the teacher trade unions and GMB and UNISON would have, or will seek to come to, an agreement which will cover recognition for collective bargaining purposes and a facilities agreement with that Academy or MAT. Whether they pay into the fund or not, Academies will inherit any recognition granted before conversion unless they have formally withdrawn this since. Where a trade union is not recognised by an employer, employees have no statutory right to time off to undertake any duties except that of accompanying a worker at a disciplinary or grievance hearing.

### ***Options going forward***

Given that the expenditure for 2019/20 is expected to exceed the funds allocated by the Education Board and that the number of Maintained Schools is likely to decrease further in future, the current situation does not seem sustainable.

The Options going forward would seem to be:

**1. Increased charges to 'buying in' Academies/MATs and to Maintained Schools in order to increase the size of the fund**

- This is likely to be resisted by schools given the financial pressures upon them (and Maintained have been capped at £1.00 per head, and it may be seen that this is unfair that they continue to further subsidize conversions to academies who pay 64p)

**2. Increasing the sign up of Academies and MATs so that a significant number contribute**

- This would increase the fund available but would it also increase awareness that it could be called upon for reimbursement?
- It is likely that some form of 'cap' on an individual school's reimbursement would be needed to avoid any increased requests for reimbursement exceeding the availability of the fund (even after increased payments into the fund), but how would this be set and what resources are there to administer it?
- Signing up to the fund arrangements would avoid the need for separate discussions or negotiations by an Academy or MAT with each trade union on facilities and paid time off for TU activities for any staff representatives employed by the Academy or 'bought in' to represent members when formal meetings are held with staff

**3. Cease the option for non-Maintained Schools to be part of the arrangements**

- Academies and MATs would not be able to buy in to the fund or take money from it and they would therefore not be reimbursed for their staff having paid time off for public duties or trade union duties
- Maintained Schools would still contribute through de-delegation and would be able to request reimbursement of paid time off for their staff on appropriate public duties or trade union activities
- Given the Maintained Schools will be more likely to be aware of this because it has now been raised, it is likely that some form of 'cap' on an individual school's reimbursement would be needed to avoid any increased requests for reimbursement exceeding the availability of the fund, but how would this be set and what resources are there to administer it?
- The reduced income to the fund (no Academy buy in at all and a reduced number of Maintained Schools) means that there would be clear implications for UNISON as this would probably mean that they would not be able to sustain their 'full time' officer on the 'combined' hours they are currently working for the Borough and for Schools

**4. Cease the arrangements for reimbursement completely**

- This would mean Maintained Schools would no longer pay into the fund and Academies would not be able to buy into a central process
- There would be clear implications for UNISON who would not be able to sustain their 'full time' officer on the hours they are currently working if this schools funding is no longer available
- The remaining Maintained Schools within the Borough would still collectively have to give some paid time off if the Facilities Agreement is unchanged (for example for any particular union in the band 'up to 200 members' across the

relevant schools there is a minimum allowance of 10 days per academic year) but this would not be reimbursed

- All schools which recognise Trade Unions will continue to have to grant paid time off if this falls under the statutory provisions

**ALSO FOR OPTIONS 1 to 4:**

- What administrative arrangements need to be set up to ensure the appropriate authorisation and records of reimbursement of public funds?
- Should the arrangements to reimburse for the Borough UNISON officer going into Maintained schools and Academies that 'buy in' to the scheme continue?
- If these arrangements are to continue then there may still be a need to address the issue of 'subsidising' UNISON going into Academies who do not 'buy in' – should the amount allocated to that union from the fund be reduced and, if so, how would this be calculated?

21<sup>st</sup> March 2019