



TRADE UNION FACILITIES POLICY

About

This policy sets out the managerial procedure for the granting of reasonable requests for Trade Union paid time off, or facilities to undertake trade union activities in the workplace.

The Senior Managers of the Service are fully committed to this policy.

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Appendix 1

Trade union representative and mileage guidance

1. POLICY STATEMENT

- 1.1. This policy clearly sets out the procedure for the granting of reasonable requests for Trade Union paid time off, paid time for representatives who are On-call employees, or facilities to undertake trades union activities in the workplace. The policy has been formulated with due consideration for those provisions set out in the Trades Union Labour Relations (Consolidation) Act 1992 and resultant ACAS code "Time off for trade union duties and activities". Both the act and the code aim to provide the employer and trades unions with a basis to establish what is "reasonable" in terms of provision of paid time and facilities.

2. SCOPE

- 2.1. This policy applies to all employees of the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (the "Service"), including those on a fixed-term contracts, casual contracts, full and part-time employees and employees with flexible working agreements, who are also trade union representatives.

3. PRINCIPLES

- 3.1. Essex County Fire and Rescue Service is committed to ensuring all policies treat their employees and members of the public equally, regardless of their age, race, religion or belief, gender, disability or sexual orientation.
- 3.2. The Service recognises the right for employees to be accompanied in the pursuance of advising and accompanying workers before and/or during grievance or disciplinary hearings. The granting of such time off will not be subject to riders and would not be unreasonably refused.

4. PROCEDURE

Statutory Obligations

- 4.1. Facilities and paid time off for Safety Representatives is defined elsewhere and as such does not form part of this policy. (Please see 'Arrangements for Safety Representatives, Safety Committees and the Health and Safety (Consultation with Employees) Regulations 1996 pdf_1653494695.pdf (msapproxy.net))
- 4.2. Trade union representatives have a statutory right to reasonable paid time off work (or time paid for representatives who are on-call employees) to carry out trade union duties and activities, to undergo training and to accompany a worker to a grievance or disciplinary hearing. Trade union learning representatives also have a right to reasonable paid time off to perform their duties and undergo training.
- 4.3. Employees who are trade union officials are permitted reasonable paid time off (or time paid for representatives who are on-call employees) to carry out their duties in connection with:
- negotiations in relation to collective bargaining;
 - i. the performance of other permitted functions related to collective bargaining;
 - ii. information and consultation over collective redundancies or TUPE transfers;
 - iii. agreeing new terms for the workforce following a TUPE transfer in an insolvency situation
 - undergoing training in aspects of industrial relations relevant to those duties which has been approved by the Trades Union Congress and/or by their own Trade Union.
 - accompany an employee to a disciplinary or grievance hearing, or other formal hearings held under other Service policies referred to in Section 6.
- 4.4 In respect of "collective bargaining", Section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992 sets out those matters for "collective bargaining" as being those related to:
- terms and conditions of employment, or the physical conditions in which any workers are required to work;
 - engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers;

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- allocation of work or the duties of employment as between workers or groups of workers;
- matters of discipline;
- a worker's membership or non-membership of a trade union;
- facilities for officials of trade unions;
- machinery for negotiation or consultation, and other procedures, relating to any of the above matters, including the recognition by employers or employers' associations of the right of a trade union to represent workers in such negotiation or consultation or in the carrying out of such procedures.

4.5 The Service recognises that reasonable time off may also be sought to:

- prepare for negotiations, including attending relevant meetings
- inform members of progress and outcomes
- prepare for meetings

4.6 Employees who are members of a trade union can take reasonable time off (or time paid for representatives who are on-call employees) to perform duties as a union learning representative, providing that the relevant Trade Union has given the Service notice in writing that the employee is a learning representative of the Union and that the representative is, or will be, sufficiently trained to carry out the learning representative duties.

4.7 There is no requirement to pay for time where the duty is carried out at a time when the union representative would not otherwise have been at work unless they work atypical hours and are attending the workplace to undertake recognised union activities. Union representatives carrying out trade union duties whilst off duty are entitled to re-imbursment for their time by way of time off in lieu (TOIL).

4.8 The amount of time off which an employee acting on behalf of the trade union is permitted to take, together with the purposes for which that time off is requested, must be reasonable in all the circumstances.

4.9 The Service has the right to refuse an employee who wishes to take an unreasonable period of time off, and can impose reasonable conditions on the exercise of the right, including limiting the purposes for which time may be taken and when it may be taken.

Supporting reasonable time off

4.10 In supporting reasonable time off for trades unions, the Service will follow the principles set out below. So that the Service is able to effectively manage resources the granting of time off for trade union purposes will be assessed so as to determine if the request is “reasonable”. This will include the potential to impact upon operational effectiveness of both service delivery and service support functions. In identifying what constitutes “reasonable” time off for trades unions the following principles will be applied, that:

- requests for facilities will be legitimate, timely and reasonable, and as such would not be unreasonably refused. Whilst having due regard for business circumstances and operational requirements i.e. they are subject to sufficient maintenance of riders on appliances or planned departmental work. However, repeated refusal for these reasons, without mitigation, will be deemed ‘unreasonable’.
- the Service reserves the right, following proper notification to representative trade unions within the workplace, to suspend the operation of individual facility entitlements in the event of a representative misusing time off or facility provisions.
- Service managers, when processing applications for the granting of reasonable paid time off to undertake recognised trade union activities, will consider the use of pre-arranged out-duties, other agreed Service policies and practices, and other flexible working arrangements to support the granting of trade union leave and maintain appliance availability.

Supporting facilities

4.11 Facilities can be defined as workplace resources that may be made available to trades union officials for the legitimate purposes. While there is no statutory right for facilities for union representatives, except for representatives engaged in duties related to collective redundancies and the transfer of undertakings, employers should, where practical, make available to union representatives the facilities necessary for them to perform their duties efficiently and to communicate effectively with their members, other representatives and full-time officers. Reasonable use of facilities may include requests for:

- the use of accommodation for meetings which could include provision for union learning representatives and a union member(s) to meet to discuss relevant training matters

- reasonable access to devices and media used or permitted in the workplace such as email, intranet and internet subject to the relevant policies and governance.
- the appropriate use of notice boards within the workplace, where the direct responsibility for the content of and nature of those items displayed upon them will rest with the trade union branch representatives and be closely monitored by the manager responsible for that premises or area. Failure to appropriately manage notice boards and / or to allow defamatory or malicious material to appear may result in disciplinary action.
- the reasonable use of office space to where an employee involved in a grievance or disciplinary matter, or other meetings reasonably held under other Service policies referred to in Section 6 can meet their representative or to discuss other confidential matters.

5. FURTHER MATTERS

Exclusions

- 5.1 The use of facilities does not extend to the wearing of Personal Protective Equipment provided by the Service for use by employees at work. PPE is provided exclusively for the protection of employees working within an operational environment and is not be used outside this environment without express written permission from the Service.
- 5.2 Request for paid time off to undertake trade union business which does not constitute engagement on those key areas set out in this policy and which are considered as an internal matter for trades unions are not considered reasonable and will not be granted.
- 5.3 Requests for paid time off for activities which themselves consist of industrial action or officials meeting to contemplate or advance a trade dispute are not considered reasonable and will not be granted.
- 5.4 Request for paid time off in lieu for trade union activity undertaken off-duty and solely for purposes of the trade union concerned are not considered reasonable and will not be granted. Cumulative requests for paid time off that have the potential to impact upon operational competence should be subject to specific consideration by line manager with regards to their potential impact on the individual and operational effectiveness of the watch or team.

Operational control measures

- 5.5 Wherever possible individuals should seek to minimise disruption to routine or planned activity by ensuring local union meetings are held during stand down periods. Managers and officials should ensure accurate recording of paid time off for trades union purposes is made and monitored against the relevant annual allowance set.
- 5.6 Reasonable time off in lieu accrued should be taken at the earliest opportunity (subject to riders) and not be carried forward beyond a 12-month period from the date of accrual.

Dispute resolution to the trade disputes between Essex Fire Authority and the Fire Brigades Union

- 5.7 Where matters regarding facilities are covered by the dispute resolution document, the terms of the dispute resolution document shall preside unless superseded by other agreements.

6. LINKS TO OTHER PROCEDURES

Attendance Policy

Disciplinary Policy

Grievance Policy

Organisational Change Policy

Performance Management Policy

Dispute resolution to the trade disputes between Essex Fire Authority and the Fire Brigades Union

Service Order Vol.6/14

7. MONITORING AND REVIEW

- 7.1 The procedures will be formally reviewed at least every three years. The policy may be updated more regularly to maintain compliance with legislation and best practice.

| Implementation Date | Author | Summary of changes | Date to be reviewed |
|---------------------|----------------------------------|--|---------------------|
| September 2022 | Steve Tovey, Lead People Partner | Clarification of additional extended range of meetings (e.g., attendance management hearings); reference to dispute resolution; addition of collective bargaining section; clause 4.10 | September 2025 |