



## DERBYSHIRE FIRE AND RESCUE SERVICE

### **CONDITIONS AND ALLOWANCES FOR THE PROVISION OF TRADE UNION REPRESENTATION**

#### **COLLECTIVE AGREEMENT WITH FBU & UNISON REVISED 12 FEBRUARY 2018**

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# **1. Introduction**

- 1.1 ACAS issued a revised Code of Practice (3) on time off for Trade Union duties and activities in 2010. Since the Employment Protection Act 1975, Trade Union representatives have had a statutory right to reasonable time off work with pay from employment to carry out Trade Union duties and to undertake Trade Union training. Union representatives and members were also given a statutory right to reasonable time off without pay when taking part in Trade Union activities.
- 1.2 All the time off provisions were brought together in Sections 168 - 170 of the Trade Union and Labour Relations (Consolidation) Act 1992. Section 43 of the Employment Act 2002 added a new right for Union Learning Representatives to take time off work with pay during working hours to undertake their duties and to undertake relevant training.
- 1.3 This policy follows the guidance set out by ACAS and its general purpose is to aid and improve the effectiveness of relationships between Derbyshire Fire & Rescue Service and the recognised Trade Unions (as outlined in the constitution of the Derbyshire Fire & Rescue Authority), who have a joint responsibility to ensure that the arrangements work to mutual advantage. Copies of the ACAS code can be found on the ACAS website.
- 1.4 The document provides for the statutory requirement of the Code of Recommended Practice for Local Authorities in Data Transparency 2013 to publish the payments made to trades union officials for public scrutiny.

# **2. Time off work for Trade Union Duties - Recognised Trade Unions**

- 2.1 Employees who are representatives of an independent Trade Union (i.e. one which is recognised by Derbyshire Fire & Rescue Service for the purposes of collective bargaining) are entitled to reasonable time off work during working hours to carry out certain Trade Union duties. The definitions of duties for the purpose of this document are matters which relate to negotiations with the employer and collective bargaining by the Service along with employment related matters such as representation in a discipline situation.
- 2.2 An official representative is an employee who has been elected or appointed in accordance within the rules of the recognised Union to be a representative of all or some of the Union's members in Derbyshire Fire & Rescue Service.
- 2.3 Trade Union representatives as outlined above therefore may, be approved time off work with pay, for the following purposes: negotiation, consultation and collective bargaining, and individual member representation

for matters relating directly to Derbyshire Fire & Rescue Service. This is provided that the Union has given the Derbyshire Fire & Rescue Service notice in writing that the employee is a representative of the Trade Union, in what capacity, and that their role is appertaining to the above.

- 2.4 Time made available will always be subject to the exigencies of the Service, and operational commitment will always take precedence.
- 2.5 It is expected that an individual undertaking Trade Union duties will return to normal duties/retained availability at the earliest opportunity after completion of the duties. It is also expected that Trade Union representatives will undertake all appropriate training and development within the required timescales and will ensure they maintain their competency in role.

### **3. Payment Principles**

- 3.1 There is no statutory entitlement to receive pay for time/be granted accrued time off in lieu where a Trade Union duty/training is carried out at time when the representative would not otherwise have been at work.
- 3.2 However, to support effective employee relations, if the reason is for a meeting with management/a hearing where attendance is requested/agreed by Line Manager or their nominated officer, for matters of joint interest, when the representative would normally be off duty, and prior approval to attend has been granted, then there will be an entitlement to accrue time off in lieu/make a claim for paid time at overtime rates in accordance with the Grey Book. All parties must be mindful of the requirements of the Working Time Regulations when arranging / agreeing to hold meetings.
- 3.3 Where the employee is on duty or is normally available, and has gained prior approval to take time off, then they will be entitled to book approved time off work with pay (based on plain time) for the actual time taken off up to the approved limit outlined in this policy.
- 3.4 TU representatives will try to avoid undertaking TU duties on a RDS drill night. However, it is accepted that there will be occasions where this is not possible. Where TU duties take place on a scheduled RDS drill, the payment principles will apply, but with the proviso that any missed drill will be made up with an alternate drill at a later date. It is expected that TU representatives will undertake all appropriate training and development within the required timescales and will ensure they maintain competency in role. It is understood that Fire Appliances will not be taken off the run in order to attend TU duties other than in exceptional circumstances and then only with the approval of the Duty Strategic Manager (DSM).

- 3.5 Additionally, approved hours undertaken by an RDS or part-time employee for TU duties/training, up to the approved limit outlined in this policy when off duty and where the hours booked do not exceed the normal working week of a full-time equivalent employee, payment will be made at the basic hourly rate.
- 3.6 In all instances in this document, the basic hourly rate or time off work with pay does not include any entitlement to disturbance payments, and any part hour of attendance will be rounded up to the nearest 15 minutes.
- 3.7 Where contractual weekly earnings vary, an amount will be calculated by reference to the average hourly earnings for the work they have been employed to do over the previous 12 weeks.
- 3.8 There is no entitlement to subsistence claims for Trade Union duties:
- where the duties/event are held within Derbyshire
  - where the duties/event are held outside of Derbyshire and meals have been provided
- 3.9 There is no entitlement to subsistence claims for trade union activities.
- 3.10 Where the representative incurs any financial loss in respect of any, other normal occupation as a result of involvement in Trade Union duties/activities, the service will not make any payment in recompense.

## **4. Roles and Entitlements**

### **4.1 Senior Trade Union Representatives**

The Service recognises there are senior Fire Brigades Union (FBU) & UNISON representatives.

In Derbyshire F&RS, Senior Trade Union Representatives for the FBU are recognised as the Brigade Secretary and Brigade Chair.

In order to facilitate industrial relations in the workplace, it is recognised that Senior Trade Union Representatives have greater demands placed upon them. In recognition of this, time off work with pay, for additional duties is available, provided that the recognised Union has given notice in writing to the Service that the employee is a senior representative of the Trade Union. Written notice will be provided to the nominated Area Manager.

The Strategic Leadership Team (SLT) may in very exceptional circumstances and subject to the exigencies of the service, give authorisation to drop to four riders on their particular appliance in respect of enabling a senior representative to participate in a specific meeting, usually with a member, or members of SLT.

Approval will be given for 2 FBU and 1 UNISON Senior Trade Union Representatives to attend to industrial relations matters which are directly related to the employees they represent. A list of additional meetings/forums considered to be approved Trade Union duties for Senior Representatives is shown below. These duties are in addition to those outlined for Brigade Executive Representative and Local Representatives.

## **5. Approved Additional Duties for Recognised Senior Trade Union Representatives**

5.1 For elected Senior Representatives, there will be an entitlement to time off work with pay, which will be based on the actual duration of the meeting/conference, plus reasonable travelling time. Claims for payment will be made via the Area Manager nominated by the Service for approval for payment.

- **Attendance at other Meetings with Management as a Senior Trade Union Representatives**  
These meetings will normally be at the request of management and will be directly related to matters of consultation/negotiation or to employment related matters such as disciplinary investigations.
- **Annual Conference**  
Three FBU delegates & 1 UNISON delegate will be allowed time off work with pay to attend annual conference. Conference attendance will normally be restricted (in the case of the FBU) to the Brigade Chair, Secretary and one other member of the Brigade Executive. It is agreed that where an employee has been elected to a national role, their attendance at Conference will not impact on the numbers above.
- **Monthly SLT/ FBU meetings**  
Up to two FBU 1 UNISON representatives will be allowed time off work with pay or time off in lieu in accordance with the Grey Book with prior agreement on both sides. This may include up to two additional parties for specialist agenda items with prior notification to management.

- **Full Fire Authority Meetings**  
Attendance at the open full Fire & Rescue Authority Meetings (*this does not include sub-committees/other Fire Authority Member Working Groups*).
- **Pension Board Meetings**  
Attendance at Pension Board Meetings and any required associated training.
- **Regional Committee's**  
Senior Representatives will be entitled to time off work with pay to attend Regional Committee's if they are scheduled to be at work or on call. There will be no other remuneration for Regional Committee's if they are scheduled for any other times.

## 6. Other Roles & Entitlements (Duties)

### 6.1 Members of Brigade Executive

For the purpose of trade union relations, the Service recognises that there is a FBU Brigade Executive consisting of the following roles:

- Women's Group
- Lesbian, Gay Bisexual and Transgender (LGBT)
- Black and Ethnic Minority Members (BEAM)
- Education
- Fairness at Work
- Retained Duty System
- Health and Safety
- Brigade Organiser (elected)
- Assistant Secretary
- Vice Chair

Time off work with pay will be afforded to Executive Representatives to undertake TU duties which are directly related to the employees they represent. (see 3.4.4).

This is in recognition of the Trade Union duties they may be expected to undertake, normally at the request or direction of a Senior Representative. Examples of these duties are those matters which relate directly to the representation of Union members in employment issues, consultation or negotiation with members of Service Management.

Where this is the case, the Senior Representative will identify to management the nominated Executive member in order that the relevant arrangements can be put in place for invitations to meetings etc. This is to facilitate industrial relations in the workplace, and recognises their roles in working with the appropriate level of management on relevant matters as outlined in the DFRS Dispute Resolution Procedure and includes attending meetings with management, explaining employment outcomes to represented members and communicating with other Union representatives also concerned with collective bargaining with DFRS.

Approval for payment for Trade Union duties in the case of appointed Executive representatives will be made via appointed Area Manager only where the Service has been made aware of the nominated official.

Additionally payment will be made for attendance at the following:

- For attendance at the Service Health and Safety Committee meetings which take place on a quarterly basis. As a nominated employee representative, entitlement to time off with pay will be calculated on the actual duration of the meeting, plus a reasonable travelling time. However, this will not go beyond a combined maximum of six hours.
- For attendance at the Inclusion & Equality Forum meetings as a nominated employee representative, entitlement to time off with pay will be calculated on the actual duration of the meeting, plus reasonable travelling time. However, this will not go beyond a combined maximum of six hours. The recognised Unions have one seat each at the Inclusion & Equality Forum however it is agreed that this nominated person may vary from time to time.
- For attendance at other meetings with management as a trade union representative, where they are called/agreed by their line manager or their nominated officer, entitlement to time off with pay will be calculated on the actual duration of the meeting plus reasonable travelling time. However, this will not go beyond a combined maximum of six hours.
- A total of one hour will be paid to Executive representatives for attendance at the Brigade Committee. Payment will not be made for any additional travelling time to and from the meeting.
- Brigade Executive Members will be afforded time off work with pay to meet as an executive for a maximum of 12 times a year. This will only be afforded when the executive member is on a duty shift and the appliance remains available at their respective workplace. No other remuneration will be afforded for meetings of this nature.

## **6.2 Branch Representatives**

The Service recognises that there are local FBU and Unison branch representatives. In the case of the FBU this is usually two main contacts per workplace or station. Time off work with pay to undertake TU duties which are directly related to the employees they represent will be made. The definition of TU duties is made in paragraph outlined within this document.

The Union will notify the Service of its Branch Representatives in writing to the nominated Area Manager as soon as is practicable after their appointment.

The Service will pay one hour per month per Branch Representative at each station/worksites to attend Brigade Committee. Payment will not be made for any additional travelling time to and from the meeting. If the brigade committee meeting falls on a duty shift for any branch representative then the employee will be afforded time off work with pay to attend the brigade committee meeting.

The purpose of this payment is to encourage positive working relationships between management and local Trade Unions and in return, the Service expects that levels of communication and information exchange will be maintained.

It is recognised that some administration will need to be carried out by Branch Representatives. For Wholetime Duty Branch Representatives this work will normally be carried out during their usual working hours with the agreement of their relevant line manager. For Retained Duty System (RDS) Branch Representatives a maximum of up to two hours will be allowed with pay per calendar month. Unused hours will not be carried forward into subsequent months and approval for payment (in the case of RDS) will be made via the Station Manager Response.

## **6.3 Union Learning Representatives**

Employees who are members of an independent Trade Union recognised by Derbyshire Fire & Rescue Service can take reasonable time off to undertake the duties/training of a Union Learning Representative, provided that the Union has given the employer notice in writing that the employee is a learning representative of the Trade Union and the training condition is met. This must be either at the time when their Trade Union gives notice to DFRS that they are a learning representative or within 6 months of that date. The Union will also be required to notify DFRS when this training condition has been met.

In practice the roles and responsibilities of Union Learning Representatives (ULR's) will often vary by union and workplace, but will include one or more of the following activities, for which they will need to be able to demonstrate to their union that they have received sufficient training in:

- Analysing learning or training needs
- Providing information and advice about learning or training matters
- Arranging learning or training
- Promoting the value of learning or training
- Consulting the employer about carrying on any such activities
- Preparation to carry out any of the above activities
- Undergoing relevant training

ULR's must receive sufficient training from the recognised Trade Union in order to continue in role. With agreement their appointment may be extended, to take into account any significant unforeseen circumstances such as prolonged absence from work due to ill health, maternity, or bereavement.

The service will recognise 6 FBU Learning Representatives and 2 UNISON Learning Representatives.

Like many employers, Derbyshire Fire & Rescue Service has in place well established training and development programmes for our employees. ULR's should liaise with appropriate managers, in accordance with the Union Learning Agreement, to ensure that their respective training arrangements complement one another and the scope for duplication is minimised.

Time off work with pay to attend to Union Learning matters which are directly related to the employees they represent will be available to Union Learning Representatives. Up to 6 hours per calendar month will be available per Union Learning Representative. If unused, the hours cannot be carried forward to the following month.

#### 6.4 **Regional/National Officials**

Where an employee is elected as a Regional/National Official a meeting must be arranged with appropriate members of Service Management to discuss the appointment and agree mutually suitable arrangements regarding the fulfilment of the role.

#### 6.5 **Training – FBU Learning Pathways**

Recognised Trade Union representatives will be entitled to time off work with pay to undergo training and development relevant to carrying out their respective Trade Union official duties.

- Initial training in representational skills
- Further training where the representative has specialist responsibilities e.g. health and safety, equal opportunities, union learning fund.
- Training to develop skills in representation and negotiation
- Training on topics relevant to significant changes taking place in the workplace.
- Where legislative changes may impact on the conduct of employee relations in the workplace.

Where a Trade Union representative is approved to attend a Trade Union training course during a day which falls between night shifts, or after a night shift, then in the first instance the Watch Manager should try to adjust the staffing arrangements on station to provide suitable cover.

Approval for attendance on Trade Union related training courses and leave of absence outlined above should be subject to staffing levels being maintained. Managers may need to approve requests on occasions, where this leaves the watch one person less than normal staffing requirements. This should be the exception and approvals will always be subject to the exigencies of the service in all cases.

Entitlement to time off work with pay for attendance will be based on the actual duration of the training, plus reasonable travelling time.

Travelling, accommodation, and other allied expenses will not be reimbursed by Derbyshire Fire & Rescue Service; such costs will be the liability of either the delegate or their union. An approved list of courses is attached. Other courses may also be approved subject to the course syllabus being provided with the request for leave.

## **7. Time Off For Trade Union Duties - All Trade Unions**

7.1 This relates to all senior / local representatives who are employees of Derbyshire Fire & Rescue Service (*including those not formally recognised for collective bargaining purposes*), will have a right for nominated representatives to accompany members or be informed in the following circumstances:

- Attendance at corporate information giving/planning meetings where invited. Entitlement to time off work with pay will be based on the actual duration of the meeting, plus reasonable travelling time.

- Accompany at formal interviews/formal consultation meetings/Hearing/Appeal/Tribunal - Each union will be allowed time off work with pay for one Trade Union representative per case, to represent a specific individual/group & 1 observer/assistant through attendance at a hearing/appeal/tribunal in line with DFRS policies and procedures, and where the representative has been certified by the Union as being capable of acting as a workers companion. Entitlement to time off work with pay for attendance will be based on the actual duration of the meeting, plus reasonable travelling time.
- 7.2 Representatives should provide their line manager with as much notice as is practically possible concerning:
- The purpose of such time off, whilst preserving confidentiality
  - The intended location
  - The timing and duration of time off required

## **8. Time Off For Trade Union Activities**

- 8.1 It is recognised that to operate effectively and democratically, the Trade Unions need the active participation of members, occasionally this may be at a regional or national level. An employee who is a member of an independent recognised Trade Union, will be allowed reasonable time off without payment during working hours to take part in a Trade Union activity, or to access the services of a Union Learning representative.
- 8.2 The definition of an activity for the purpose of this document are those matters which are usually between the Trade Union and its members and do not involve management. This would include initial discussions with Union members in employment related matters and issues of general Union administration (for and on behalf of the Union).
- 8.3 However, there is no entitlement, to time off for Trade Union activities that in themselves consist of industrial action. In these circumstances the Industrial Action and Partial Performance Policy would apply.
- 8.4 Trade Union activities for representatives where reasonable time off work without pay can be granted includes:
- Meeting local/full-time representatives to discuss relevant issues for the workplace
  - Where an individual has been elected to a wider national/regional role

- 8.5 Where activities are undertaken at the workplace, it will be expected that those participating will maintain full operational availability during the course of the activity, if needed.

## **9. Facilities for Trade Union Representatives**

9.1 The following facilities will be made available to representatives of recognised independent Trade Unions, at the workplace for Trade Union duties, for the purposes of representing and communicating with their members, subject to pre-authorisation by the Line Manager or nominated officer responsible at the time, on each occasion prior to use:

- The facility to book an office/meeting room, at HQ, and each of the stations/worksites at no cost to the union as required. Provision of one dedicated office within the Service for the FBU.
- Provision of secure storage facilities for filing documents at each of the stations/worksites.
- Access to a photocopier where available, and a noticeboard at HQ, and each of the stations/worksites.
- Reasonable access to a telephone and computer (subject to compliance with DFRS policies and procedures).
- Use of a Service pool vehicle (where available) for travel on pre-approved Trade Union duties.

9.2 The recording of the use of facilities should where required by service policy be carried out in accordance with standing instructions in the normal way.

## **10. Trade Union Notifications**

10.1 The Secretary of each independent recognised Trade Union will provide notification in writing to the nominated Area Manager no later than one month after the Union's AGM:

- The names, function, and location of where their duties will be carried out, for all Trade Union Representatives including Regional and National roles.
- The nominated Executive representatives for the Health & Safety Committee and Inclusion & Equality Forum
- Dates of Brigade Committee Meetings

- The nominated representatives who may attend Brigade Committee meetings
- The senior representatives, if any, who may attend full regional committee meetings.
- Changes to the above notifications during the financial year, should be submitted in writing no later than 14 days from the date of change, and no later than 7 days prior to the change of date of meeting.

## **11. Procedure for Seeking Approval**

### **11.1 Time off Work with Pay**

Applications for Trade Union leave for Training/Annual Conference must be submitted for approval on the appropriate application form, indicating the content of the training course to the nominated Area Manager, prior to the event. If approved they will notify the relevant Line Manager.

Applications for time off work with pay for Trade Union duties should be submitted on the appropriate application form, to the Line Manager, where possible 7 days before the time off is required. This must be done electronically where available and applies to all elected representatives.

All applications must state the general nature of the business for which the time off is required, the intended location and the expected period of absence.

There may be occasions where urgent requests for time off work with pay for Trade Union duties (excluding Training) have to be considered at short notice and approved without prior notification. On such, the Line Manager must take into account the circumstances affecting the request when coming to a decision whether or not to approve the request. Approvals must still be given in the normal way and must be electronic where available.

### **11.2 Transport**

Where a Service vehicle is used, approvals will be subject to the exigencies of the service. Vehicle log book records must be completed in accordance with Service Policy. For approved use of Service Transport a Trade Union representative will be considered to be on duty for insurance purposes.

### **11.3 Other Facilities**

The use of other facilities as outlined in this policy will be made available to representatives of recognised independent Trade Unions, subject to pre- authorisation by the Line Manager at the time, on each occasion prior to use.

### **11.4 Recording**

Local managers need to monitor all work time made available for Trade Union duties & activities, and all such time, whether paid or unpaid is to be recorded. A standard application form will be provided for application / recording purposes. Wherever possible, leave must be requested and approved/rejected electronically. All leave applications will be recorded on the electronic management system.

### **11.5 Audits**

Line Managers/or nominated officer must undertake the necessary audits to ascertain that claims are valid and justified. It is in the best interests of Trade Union representatives to maintain suitable personal records to substantiate claims for all time off work whether with / without pay, in case independent audits are undertaken.

Failure to substantiate claims for time off may result in disciplinary action.

## **12. Resolving Grievances about Time Off**

12.1 The Service Grievance Procedure is available to representatives to resolve grievances about time off for individual Trade Union representatives. It is recommended however, that due to the timely nature of decisions required on such matters that representatives use the informal stage of the grievance procedure wherever possible.

12.2 For collective matters relating to this policy then the dispute resolution policy will be used.

### 13. Review

13.1 The arrangements covered in this document will be reviewed 24 months from implementation and each 24 months thereafter. The review will cover the effectiveness of the arrangements and the level of paid time granted.

Signed for Derbyshire Fire & Rescue Service

Date

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Signed for Derbyshire Fire Brigades Union

Date

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Signed for UNISON

Date

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# **APPENDIX 1**

## **APPROVED COURSES**

### **TUC Courses**

The TUC courses outlined below provide an educational path for a new union representative to one of an official capacity. A representative is only allowed to a TUC course if they have fulfilled the pre-training required by their Trade Union and received approval.

### **Local Representatives**

#### **Union Representatives**

This is a core programme for union representative to develop their skills in order to become an effective representative.

### **Local & Senior Representatives**

#### **Handling Disciplinarys and Grievances**

This course will help union reps to:-

- Understand discipline and grievance procedures
- Identify some of the reasons for discipline and grievance issues arising at work
- Identify a structured approach to note-taking and interviewing
- Practice building cases - use a prepared strategy appropriately

#### **Successful Negotiating**

This short course has been developed to help all union reps develop and improve their negotiating tactics.

#### **Finding a Work Life Balance**

This course will enable reps to understand the changes occurring to working time and develop plans to help achieve work-life balance.

#### **Organise! A Voice in Every Workplace**

This course will help reps understand recruitment practices.

## **Speaking with Confidence for Trade Union Reps**

This course is to help reps with their speaking skills. One of the main purposes of the course is to help union reps with little or no experience of speaking - to feel better prepared and more confident about speaking at union meetings and conferences.

## **Trade Unions and the Environment**

This course will help union reps to identify environmental changes affecting the workplace.

### **(Senior Representatives)**

## **Stepping Up - The advanced course for union reps**

This course is designed for union representatives who have already completed the TUC Stage 1 Union Representatives Course or its equivalent, and who have had subsequent experience as an elected Union rep.

## **TUC Certificate in Contemporary Trade Unionism**

This course is designed for experienced Trade Union representatives, the key link between the workplace and the wider union. It is intended to help students understand the early, present and potential role of Trade Unions.

## **TUC Certificate in Employment Law**

This course is designed for experienced Trade Union representatives the key link between the workplace and the wider union. It will help engage with the development of employment law, and to develop skills needed for higher level study or activism.

### **Regional FBU Courses (Pathway)**

In addition the FBU also as a region run courses to supplement them. They provide a full education programme every year, but each course has a maximum of two consecutive day's duration.

### **Local Representatives**

- Union Reps
- Discipline & Grievance
- Dealing with Medical Appeals

### **Senior Representatives**

- Brigade Representative's School (2 days)
- Health & Safety
- Discipline & Grievance
- Dealing with Medical Appeals/IQMP/IDRP

### **Health & Safety Representatives**

- Health & Safety

### **Regional UNISON Courses**

In addition UNISON also as a region run courses. They provide a full Regional Education Programme every year, which can be found on the internet.