# MAYFIELD SCHOOL

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# TRADE UNION PARTNERSHIP AGREEMENT & CONSULTATION ARRANGEMENTS

**Human Resources March 2010**

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TRADE UNION PARTNERSHIP AGREEMENT

Introduction

Torbay Council recognises its statutory obligations under the Trade Union and Labour Relations (Consolidation) Act 1992 to provide reasonable time off to employees who are officials of recognised trades unions and teachers’ associations to carry out certain union duties and to undergo training. The Council recognises and supports the view that providing reasonable time off to officials should also aid and improve the conduct of employee relations within the Authority and Schools.

Schools that employ union officials are responsible for following this guidance and should contact Torbay Council Human Resources for specific advice.

This document summarises the arrangements governing the partnership framework in place for trade union and teachers’ association representatives.

Who can take time off

Officials of recognised trades unions and teachers’ associations are entitled to reasonable time off during working hours to carry out certain trade union duties. An official includes any employee who has been elected or appointed in accordance with the rules of the union to be a representative of some or all of the union’s members e.g. as an employee representative, steward, branch representative etc.

The unions and teachers’ associations currently recognised by the Authority and to whom these arrangements apply are:

- UNISON
- GMB
- Unite the Union
- ASCL
- ATL
- NAHT
- NASUWT
- NUT
- Voice
Recognised trade unions and teachers’ associations will provide a list, after branch elections, to the Head of Human Resources of which employees are accredited by the relevant union/association to represent their members and the role they have been elected to. This list should indicate which union representatives are capable of accompanying a worker, or representing a union member, at a disciplinary or grievance hearing. Any new appointments or resignations of union representatives must be notified in writing to the Head of Human Resources as soon as possible.

At present (October 2009) Learning Representatives have not been appointed to work with Torbay Council or Schools. Should this situation change, they would be entitled to the same rights to time off as a recognised union representative.

Time off arrangements will not normally apply to ordinary union members unless they have been appointed or elected to represent their members.

**Entitlement to time off for Union Duties**

Council and Schools employees who are recognised union representatives are permitted to reasonable time off during working hours to carry out trade union duties concerned with negotiations or in connection with collective bargaining. These duties may typically relate to:

(a) **terms and conditions of employment, or the physical conditions in which workers are required to work.** Examples include:
- pay
- hours of work
- holidays and holiday pay
- sick pay arrangements
- pensions, eg annual pension meetings convened by Devon County Council
- learning and training,
- equality and diversity
- notice periods
- the working environment
- operation of digital equipment and other machinery;

(b) **engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers.** Examples include:
- recruitment and selection policies
- human resource planning
- redundancy and dismissal arrangements, including the receipt of information and consultation related to the handling of collective redundancies

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• TUPE negotiations;

(c) allocation of work or the duties of employment as between workers or groups of workers. Examples include:
  • job grading
  • job evaluation
  • job descriptions
  • flexible working practices/work-life balance;

(d) matters of discipline. Examples include:
  • disciplinary procedures
  • arrangements for representing or accompanying employees at internal interviews
  • arrangements for appearing on behalf of trade union members, or as witnesses, before agreed outside appeal bodies or employment tribunals;

(e) trade union membership or non-membership. Examples include:
  • representational arrangements
  • any union involvement in the induction of new workers;

(f) machinery for negotiation or consultation and other procedures. Examples include arrangements for:
  • collective bargaining
  • grievance procedures
  • joint consultation such as attendance at the TJCNC or EJCNC and pre-meetings
  • attendance at WAMG for education trade union representatives
  • attendance at any sub-group formed of the TJCNC or EJCNC of which it has been decided that the union representative is a member. In such cases, membership should be confirmed with the relevant Executive Head in conjunction with the Head of Human Resources or the Headteacher
  • communicating with members
  • communicating with other union representatives and union full-time officers concerned with collective bargaining with the employer.

(g) Union health and safety representatives are permitted to reasonable paid time, as is necessary, during working hours, to perform their functions. This can include:
  • attendance at health and safety meetings and committees on a Council/School-wide or Business Unit basis and carrying out their responsibilities under the Health and Safety legislation

Additionally, reasonable time off may be sought to:
  • prepare for negotiations, including attending relevant meetings
  • inform members of progress and outcomes, prepare for meetings with Torbay Council or any of its schools about matters for which the trade union has only representational rights.
Requesting time off for trade union duties

Trade union representatives requesting time off to pursue their duties or activities should provide their line manager, with as much notice as practically possible concerning:

- the purpose of such time off, while preserving personal confidential information relating to individuals in grievance or disciplinary matters
- the intended location
- the timing and duration of time off required.

Union representatives should minimise business disruption by being prepared to be as flexible as possible in seeking time off in circumstances where the immediate or unexpected needs of the business make it difficult for colleagues or managers to provide cover for them in their absence. Equally managers should recognise the mutual obligation to allow union representatives to undertake their duties.

When deciding whether requests for paid time off should be granted, consideration would need to be given as to their reasonableness, for example to ensure adequate cover for safety or to safeguard the provision of service. Similarly, managers and unions should seek to agree a mutually convenient time which minimises the effect on services. Where workplace meetings are requested, consideration should be given to holding them, for example:

- towards the end of a shift or the working week
- before or after a meal break.
- In schools, workplace meetings are more practical during breaks and before/after lessons

For their part line managers should be familiar with the rights and duties of union representatives regarding time off. They should be encouraged to take reasonable steps as necessary in the planning and management of representatives’ time off and the provision of cover or work load reduction, taking into account the legitimate needs of such union representatives to discharge their functions and receive training efficiently and effectively.

Managers need to consider each application for time off on its merits; they should also consider the reasonableness of the request in relation to agreed time off already taken or in prospect.

Paid time off and expenses for trade union duties

Where time off for trade union duties is granted, union representatives must be paid for the time off taken. Payment must be for either the amount that the union representative would have earned had they worked during the time off taken or, where earnings vary with the work done, an amount calculated by reference to the average hourly earnings for the work they are employed to do.
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. Employees who work part time will be entitled to be paid if employees who work full time would be entitled to be paid.

**Time off to Accompany Workers at Disciplinary or Grievance Hearings**

Trade union representatives are statutorily entitled to take a reasonable amount of paid time off to accompany a worker at a disciplinary or grievance hearing so long as they have been certified by their union as being capable of acting as a representative.

All approved time off within an official’s contracted working time will be paid. Officials will be expected to clearly record on their timesheets, flexi-cards and other departmental or school records any time spent on approved trade union activities.

Where carrying out union duties involves travel, the appropriate mileage allowance or public transport fares may be reclaimed, where expenses incurred are not reimbursed by the trade union. The Council or School’s travel and subsistence and expenses policies must be followed.

The Council or School reserves the right not to pay for activities undertaken by officials where prior authorisation has not been obtained from the relevant line manager/headteacher without good reason.

Where a trade union allows for full or part reimbursement of salary costs of their officials attending meetings (usually National Committee meetings), any costs reimbursed or claimable will be paid to the Council where employees are receiving their normal remuneration. — **Review monitoring**

**Time off for training and development**

Union Representatives may be granted appropriate paid time off during working hours to undergo training relevant to carry out their union duties within Torbay Council or associated school for which time off is granted. More time off for training may be needed for newly appointed representatives to enable them to perform their duties effectively. Attendance and other special leave of absence will be taken into consideration when granting time off for training. Training must be approved by the trade union/teachers’ association as relevant for the official concerned. **The trade unions and teachers’ associations will provide a list of training courses which they consider as relevant training for new stewards.** The Council welcomes the opportunity to explore opportunities for joint training with the trade unions/teachers’ associations on appropriate issues.
In order to ensure officials have access to the training they require, requests to undergo relevant training should be made at least a few weeks in advance to the line manager/headteacher of the official concerned. The details of the contents of the training course should also be provided. All requests will be considered carefully; however, it may be necessary on occasions to refuse requests on grounds of effective service provision.

**How much time off can be taken**

Officials will be entitled to take reasonable time off. Union officials must keep records indicating the total time spent and expenses incurred whilst carrying out union duties. The reports should be submitted on a quarterly basis to the Head of Human Resources for Corporate employees and to the Headteacher for schools based employees.

The time off granted to individual officials will be subject to the requirements of service provision in a particular area and the time off which has been granted to individuals to undertake other approved activities. Attendance and other special leave of absence will be taken into consideration. Each official will be expected not to unduly or unnecessarily prolong the time they are absent from work on union duties.

The established arrangements, including the take up and demand for time off for trade union duties will be reviewed annually. Allowances granted to individual unions will be reviewed each year.

**Time Off for Trade Union Activities**

An employee who is a member of a recognised trade union is permitted reasonable time off during working hours to take part in any trade union activity. For schools based employees consideration must be given to performing these duties outside of school hours.

**Examples of trade union activities**

The activities of a trade union member can be, for example:

- attending workplace meetings to discuss and vote on the outcome of negotiations with the employer. Where relevant, and with the employer’s agreement, this can include attending such workplace meetings at the employer’s neighbouring locations.
- meeting full-time officers to discuss issues relevant to the workplace
- voting in union elections

Where the member is acting as a representative of a recognised union, activities can be, for example, taking part in:

- branch, area or regional meetings of the union where the business of the union is under
discussion
- meetings of official policy making bodies such as the executive committee or annual conference
- meetings with full-time officers to discuss issues relevant to the workplace.

There is no right to time off for trade union activities which themselves consist of industrial action.

**Payment for time off for trade union activities**

There is no statutory requirement that union members or representatives be paid for time off taken on trade union activities. Nevertheless consideration should be given to payment in certain circumstances, for example to ensure that workplace meetings are fully representative.

The amount and frequency of time off should be reasonable in all the circumstances. Trade unions should be aware of the wide variety of difficulties and operational requirements to be taken into account when seeking or agreeing arrangements for time off, for example:

- the need to maintain a service to the public
- the need for safety and security at all times.

Managers in turn should have in mind the difficulties for trade union representatives and members in ensuring effective representation and communications with, for example:

- shift workers
- part-time workers
- home workers
- those employed at dispersed locations
- workers with particular domestic commitments including those on leave for reasons of maternity, paternity or care responsibilities.
- workers with special needs such as disabilities or language requirements.

For time off arrangements to work satisfactorily trade unions should:
- ensure that union representatives are aware of their role, responsibilities and functions
- inform management, in writing, as soon as possible of appointments or resignations of union representatives. This should in the first instance be communicated to the Head of Human Resources
- ensure that union representatives receive any appropriate written credentials promptly
- ensure that the Head of Human Resources receives details of the functions of union representatives where they carry out special duties or functions.
Managers should ensure that, where necessary, work cover and/or work load reductions are provided when time off is required. This can include the allocation of duties to other employees, rearranging work to a different time or a reduction in workloads. Schools must be mindful of their rarely cover policy when allocating work.

The established arrangements, including the take up and demand for time off for trade union activities will be reviewed annually.

Allowances granted to individual unions will be reviewed each year.

**Facilities for Trade Union Representatives**

Torbay Council and any School that employs a Trade Union Representative will consider the facilities that will be made available to union representatives to assist them in performing their duties efficiently. Facilities will be reviewed annually.

Torbay Council has an arrangement with UNISON for the provision of accommodation to carry out branch activities.

Trade Unions recognised by Torbay Council are encouraged to attend the Torbay New Starters Event to promote their Union and attain membership for corporate employees.

Where resources permit the following facilities will be made available:

- accommodation for meetings
- access to a telephone and other communication media used or permitted in the workplace.
- the use of notice boards
- where the volume of the union representative’s work justifies it, the use of dedicated office space.
- confidential space where an employee involved in a grievance or disciplinary matter can meet their representative or to discuss other confidential matters.

When using facilities provided by Torbay Council, or an associated school, for the purposes of communication with their members or their trade union, union representatives must comply with agreed procedures both in respect of the use of such facilities and also in respect of access to and use of Council/School information. Examples include compliance with the Council/School Computer Security Policy, Code of Conduct, and any normal booking arrangements for the use of meeting rooms.
**Industrial Action**

Management and unions have a responsibility to use agreed procedures to settle problems and avoid industrial action. Time off may therefore be permitted for this purpose particularly where there is a dispute. There is no right to time off for trade union activities which themselves consist of industrial action. However, where a union representative is not taking part in industrial action but represents members involved, normal arrangements for time off with pay for the union representatives should apply.

**Resolving Disputes**

Every effort should be made to resolve any dispute or grievance in relation to time off work for union duties or activities. In the first instance, this should be resolved informally between the union representative and their line manager or person responsible for agreeing time off. Human Resources can also provide advice. Where the grievance remains unresolved the Council’s or School’s grievance procedure should be followed.

Where the grievance still remains unresolved, union representatives have a right to complain to an employment tribunal that their employer has failed to allow reasonable time off or has failed to pay for all or part of the time off taken. Such complaints may also be resolved by conciliation through ACAS or through a compromise agreement.

**Pay Arrangements – Funding**

Funding will be reviewed on an annual basis.

**Reference Material**

Full details on Trade Union Representation in the Workplace are available from acas.co.uk or by clicking on the following link:

ARRANGEMENTS FOR CONSULTATION WITH EMPLOYEES AND THEIR REPRESENTATIVES

Introduction

Torbay Council is committed to ensuring that effective channels of communication between managers and employees are established and maintained at all levels, to promote harmonious and effective working relationships. The Council wishes to foster a partnership approach in which employees and their representatives are important contributors of ideas and information.

This document confirms arrangements for Joint Consultative and Negotiation Committees for Corporate and Schools issues as an internal means to promote employee involvement in planning and decision making on issues which affect them and their employment.

Regular consultation with trade unions, staff associations and employee representatives is one method whereby closer working relationships with Commissioners, Executive Heads, their senior managers and the ongoing involvement of employees can be facilitated. This document sets out the principal arrangements by which consultation and negotiation will be achieved.

Objectives

The objectives of the consultation arrangements are to help:

(i) Promote open, positive relationships between management, employees and their representatives, which are based on mutual trust and respect.
(ii) Facilitate effective communication and discussion about issues of importance to the Council and its employees on a two-way basis.
(iii) Seek to improve the quality of the Council’s working environment and the services it provides.
(iv) Ensure compliance with the policies of Torbay Council, national agreements and legislation.
Definitions and Scope

This document relates to arrangements for consultation and negotiation.

**Negotiation is a process whereby two or more interested groups seek to reconcile their differences through attempts to persuade the other group to move from their initial position, with the overall aim of reaching an agreement.**

**Joint Consultation is a process whereby management and employees or their representatives meet to consider and discuss employment related issues. The extent of employee or union representative influence in any decision making process will be determined by Torbay Council.**

Matters on which consultation or negotiation may be initiated by either management or employee representatives include employment related issues and matters relating to the performance or provision of services of the Council or its Schools. It is expected that dialogue takes place before any ideas are developed and that discussions and debates include representatives from all interested parties.

To enable constructive consultation, the Council will disclose to employee representatives information for collective bargaining purposes in line with paragraphs 181-182 of the Trade Union and Labour Relations (Consolidation) Act 1992.

Relevant draft proposals and documents will be forwarded to employee representatives when appropriate and reasonable time provided for comments to be given. Similarly, proposals from employee representatives should be forwarded to management with reasonable time being given for consideration.

It is recognised that while the scope of this document encompasses all employees of the Council and its Schools, employee representatives may act collectively or singly in operating the arrangements.

Management decisions arrived at following consultation, whether formal or informal (and whether or not trade union / staff association representatives are included) remain management decisions within the sole accountability of the management decision making process. While discussions may include an expression of assent or agreement by representatives to management proposals, this does not necessarily mean that the outcome of the consultation is a formal joint agreement, unless it is formally agreed in writing.

The Role of Trade Union Representatives in Consultation and Negotiation

Recognised trade unions and staff associations negotiate nationally and regionally with local government employers to agree the framework of pay and working conditions of employees. Locally, they should be
included in any consultation and negotiation connected with the implementation, interpretation and variation of those agreements.

Trade union and staff association representatives are not the only vehicle for consultation between managers and employees. However, they do have a key role in the consultative process through providing the employee representatives at the formal Joint Consultative and Negotiation Committees. They also have a role in informal consultation outside JCNCs, especially where this relates to the operational implementation of:

- Joint agreements.
- Areas usually within the remit of the JCNCs as set out above.
- Other changes of particular significance to employees.

Representatives can also make an important contribution in supporting initiatives to promote good communications within the Council.

It is expected that where more than one representative of a particular Union attends a consultation or negotiation meeting an agreed Union view should be expressed.

Time off will be given to appropriate representatives in accordance with the Trade Union Partnership Agreement. Representatives will be expected to notify their line managers in good time of any requirement to attend meetings with management. They should also keep a record of the time spent attending such meetings. The Authority will monitor and review its spending in this area from time to time and notify employee representatives of the outcome.

**Informal Joint Consultation**

Either management or employee representatives may wish to hold informal joint consultation meetings from time to time. These meetings may be ad hoc or regularly time-tabled as agreed by the parties. These employee consultation groups may relate to a specific employee group, a particular area of service delivery within a Business Unit or act as supplementary to other communication processes (e.g. employee newsletters, management briefings, team meetings etc.) within the Council/School.

An informal joint consultation group has been established for discussing issues relating to Corporate HR Policies. Reports will be given to the Torbay Joint Consultative and Negotiation Committee at their quarterly meetings.
**Formal Joint Consultation and Negotiation**

Formal joint consultation and negotiation will operate principally for the two main business areas: Corporate and Education.

The arrangements for formal Corporate consultation and negotiation are as described in the Torbay Joint Consultative and Negotiation Committee.

The arrangements for formal Education consultation and negotiation are as described in the Education Joint Consultative and Negotiation Committee.
Composition and Procedures for the Torbay Joint Consultation and Negotiation Committee

The mechanism for formal consultation and negotiation on corporate issues is the Torbay Joint Consultative and Negotiation Committee (TJCNC).

The role of the Committee will include:

- Consultation on significant issues referred to it by the Business Units.
- Matters of corporate interest across the Authority e.g. structure, budgets, equalities, job evaluation, health and safety and corporate HR and other policy matters.
- Acting as a forum for communication from management and/or employee representatives on matters relevant to all employees across the Council.

Exceptionally, and in the unlikely event that an issue fails to be resolved at this stage, then the procedure allows for a further stage of consultation and discussion.

Referring Issues to Elected Members

Every effort will be made to agree issues at the TJCNC level. Matters which are not agreed may be referred onto a Panel of elected members.

Employee representatives or management may call for a meeting between the two parties and elected representatives of the Council. A panel of 3 elected Members will be nominated by the Council each year and meetings will be held at an agreed time and venue, only in circumstances where it has proved impossible to resolve issues through other forum. If an issue between management and employee representatives progresses to this level of consultation or negotiation, then the outcome of this meeting will be deemed to be the end of the internal consultation or negotiation process within Torbay Council.

Membership

Human Resources will keep a list of membership to the TJCNC. Any permanent changes should be confirmed once known.

Representatives from recognised Trade Unions are to be nominated by each Business Unit. Full time union officials are also invited to attend.
Management will be represented by the Chief Executive, appropriate Commissioners or Executive Heads and a member of Human Resources. A representative from Human Resources Policy and Health and Safety will also attend.

In the event of a member of the Committee being unable to attend, the relevant body may nominate a substitute.

Paid officials and other management representatives with specialist knowledge or input may accompany either side provided that prior notification of 5 working days is given.

**Scheduling of Meetings**

Meetings will normally be arranged quarterly. Special meetings may be called at the request of either side and shall be held within 12 working days of the request, if at all possible.

**Attendance**

Invited attendees should confirm to the HR Administrator if they can attend the meeting in reasonable advance of the meeting. Where appropriate they will delegate a colleague to attend and lead on relevant agenda items. Where delegation is arranged, the HR Administrator must be advised.

**Administration**

The Secretariat will be provided by Human Resources who will keep a record of meetings and produce minutes which will be distributed promptly after meetings for comments. Agendas will be distributed in advance (recommended: 5 working days prior to meetings) and items will be sought from each side in advance of agenda being distributed.

Where possible, links to documents will be sent to internal employees of the Council to lessen the size of e-mails distributed.

Each party will endeavour not to raise items under ‘any other business’ unless the nature of the issue means there has been insufficient time to place an item on the agenda. Where additional items are to be raised, these should be announced at the start of the meeting to determine whether there will be sufficient time available at the meeting.
**Chairing Meetings**

Management and the trade unions will each nominate a chairperson who will rotate the chairing of meetings.

**Other Consultation Arrangements**

The informal and formal consultation arrangements described are not intended to be prescriptive. From time to time, management may wish to communicate or consult with employees by other mechanisms, including, for example, open meetings or confidential employee opinion surveys. Whenever other communications mechanisms are used in this way, the Joint Consultative and Negotiation Committees will be kept informed, wherever possible.

Additionally, the Torbay Joint Consultative and Negotiation Committee may appoint sub-groups to investigate or consider specific issues. Any sub-group will be expected to report its findings and conclusions to the full Joint Consultative and Negotiation Committee. The Single Status Group appointed for the purposes of implementing Job Evaluation is an example of an established sub-group.
Composition and Procedures for the Education Joint Consultation and Negotiation Committee

The mechanism for formal consultation and negotiation on schools related issues is the Education Joint Consultative and Negotiation Committee (EJCNC).

The role of the Committee will include:

- Consultation on significant issues referred to it affecting schools.
- Matters of interest across Children’s Services e.g. structure, budgets, job evaluation, equalities, health and safety, schools HR and other policy matters.
- Acting as a forum for communication from management and/or employee representatives on matters relevant to all employees across Schools.

Exceptionally, and in the unlikely event that an issue fails to be resolved at this stage, then the procedure allows for a further stage of consultation and discussion.

Membership

Human Resources will keep a list of membership to the EJCNC. Any permanent changes should be confirmed once known.

Representatives from recognised Trade Unions are to be nominated by each Trade Union. Traditionally, this consists mainly of full time union officials.

Management will be represented by the Commissioning Manager of Resources and a member of Human Resources. A representative from Human Resources Policy and Health and Safety will also attend. Where appropriate, the People Commissioner may also attend.

Paid officials and other management representatives with specialist knowledge or input may accompany either side provided that prior notification of 5 working days is given.

In the event of a member of the Committee being unable to attend, the relevant body may nominate a substitute.
Scheduling of Meetings

Meetings will normally be arranged quarterly. Special meetings may be called at the request of either side and shall be held within 12 working days of the request, if at all possible. The dates of all meetings shall be confirmed by a representative of Human Resources.

Attendance

Invited attendees should confirm to the HR Administrator if they can attend the meeting in reasonable advance of the meeting. Where appropriate they will delegate a colleague to attend and lead on relevant agenda items. Where delegation is arranged, the HR Administrator must be advised.

Administration

The Secretariat will be provided by Human Resources who will keep a record of meetings and produce minutes which will be distributed promptly after meetings for comments. Agendas will be distributed in advance (recommended: 5 working days prior to meetings) and items will be sought from each side in advance of agenda being distributed.

Each party will endeavour not to raise items under ‘any other business’ unless the nature of the issue means there has been insufficient time to place an item on the agenda. Where additional items are to be raised, these should be announced at the start of the meeting to determine whether there will be sufficient time available at the meeting.

Chairing Meetings

The Commissioning Manager, Resources, will chair the meetings.

Other Consultation Arrangements

The informal and formal consultation arrangements described are not intended to be prescriptive. From time to time, management may wish to communicate or consult with employees by other mechanisms, including, for example, open meetings or confidential employee opinion surveys. Whenever other communications mechanisms are used in this way, the Joint Consultative and Negotiation Committees will be kept informed, wherever possible.
Additionally, the Education Joint Consultative and Negotiation Committee may appoint sub-groups to investigate or consider specific issues. Any sub-group will be expected to report its findings and conclusions to the full Joint Consultative and Negotiation Committee. The Single Status Group appointed for the purposes of implementing Job Evaluation is an example of an established sub-group.

The Workforce Agreement Monitoring Group has been established to discuss issues raised at a national level and how these affect local agreements/practices. Where possible, these meetings will be scheduled to take place after the JCNC meeting.