



***Funding of Teacher Trade Union Facility Time***

---

**Report of the Head of HR and the Head of Finance**

**1. Purpose of Report**

- 1.1. To consider potential options regarding the costs of teacher TU facility time in maintained schools following consultation with schools on a proposed increase in the de-delegated budget per pupil rate for 2021/22.

**2. Recommendation**

- 2.1. Schools Forum is recommended to adopt option 1, set out in 4.2 and 4.3 below.

**3. Context**

- 3.1. Leicester City Council employed teacher trade union representatives are provided with facility time to support and represent members in maintained schools. This facility time is funded by a budget de-delegation arrangement with schools based on a per pupil rate. For the 2021/22 financial year, based on 2020/21 per pupil rates, this arrangement is forecast to generate funding of £144K.
- 3.2. Academies and special schools cannot de-delegate their budget. Instead, they can choose to have access to council employed representatives as part of a service level agreement, charged either on an annual or hourly (PAYG) basis. Projected income from this arrangement for 2021/22 (based on 2020/21 rates) is £32,080. However, this figure is dependent on those academy trusts which currently buy into the service continuing to do so and on PAYG usage which can vary significantly. It is worth noting though that a more sophisticated system of time recording for trade union representatives is being introduced in connection with PAYG and it is considered that this may result in more time being charged for. It has also been identified that the PRU does not contribute to the budget and it is, therefore, the intention to make continued provision of union support to them conditional on them entering into an annual or PAYG agreement as for special schools.
- 3.3. The paper circulated to schools in connection with the de-delegation consultation (appended, with some additional explanation added), following discussion of an earlier paper at Schools Forum in September 2020 advised that the facility time budget was forecast to continue to be overspent in 2020/21 and formed a view that continued reductions in the budget were likely to result in a significant funding gap in 2021/22.

- 3.4. It was proposed that both primary and secondary maintained schools de-delegate funds with an increase on the per pupil rates of 3% - generating additional income of £2,439 and £1,786 respectively – to close this gap. Secondary schools were not in favour of this; they wish to de-delegate without the 3% increase. Whilst initially in agreement with the proposed increase, primary schools do not wish to pay this if secondary schools are unwilling.
- 3.5. In light of the outcome of consultation it was agreed that options would be drawn up, together with their implications, for voting at this meeting.
- 3.6. Since consultation took place the forecasted cost of facility time has reduced resulting in a forecast budget surplus for 2021/22 of over £10K (see 4.3). However, it should be noted that this forecast is heavily dependent on income from academy and special school buy-in to the facility time service. All six special schools buy in under an annual arrangement. Of the 27 academies that currently buy in, nine do so on an annual basis and 18 on a PAYG basis. Total income generated in 2019/20 was:

**Title: Number of schools buying in**

		<b>2019/20 income</b>
<b>Academy annual</b>	9	£21,014
<b>Academy PAYG</b>	18	£7,476
<b>Special school annual</b>	6	£3,590
	<b>TOTAL</b>	<b>£32,080</b>

- 3.7. PAYG is a volatile income stream due to academy usage of facility time varying year on year. Whilst buy-in under the annual arrangement has stabilised over the last two years there is no guarantee this will continue as some academies may choose to switch to PAYG or put in place their own local arrangements.
- 3.8. Another factor to take into account is a further six academy conversions expected in 2021/22. Should none of these choose to buy into the facility time arrangement, over £24K income would be lost going forward, as follows:

**Title: Income 2020/21**

	<b>Pupils</b>	<b>Primary</b>	<b>Secondary</b>
<b>City of Leicester</b>	1732		£10,911.60
<b>Soar Valley</b>	1565		£9,859.50
<b>Millgate</b>	104	£432.64	
<b>Keyham Lodge</b>	112	£465.92	
<b>Westgate</b>	178	£740.48	
<b>Fosse Primary</b>	431	£1,792.96	
	<b>TOTAL</b>	£3,432.00	£20,771.10
		<b>GRAND TOTAL</b>	<b>£24,203.10</b>

- 3.9 For 2021/22, however, around half the above total could be retained as part of the de-delegation arrangements for academy conversions after 1<sup>st</sup> April.

#### 4. Options

4.1 As can be seen above it is very difficult to predict the overall facility time funding that will be generated each year. Taking account of existing and new academies, in a worst case scenario £56,283 of funding could be lost. On the other hand, a surplus is now forecast this year. Against this background four options are put forward for consideration.

#### 4.2 Option 1: No increase in per pupil rate or reduction in facility time

4.3 Assuming academy and special school income remains the same, and no loss of income due to future academy conversions, it would be possible to fund the current level of facility time without any increase in the de-delegation rates:

<b>Projected cost of facility time (based on 20/21*)</b>	<b>£165,595</b>
<b>Forecast de-delegation</b>	£144,000
<b>Projected shortfall</b>	-£21,595
<b>Add projected academy &amp; special school income</b>	£32,080
<b>Projected surplus</b>	<b>£10,485</b>

\*No allowance made for 2021 pay award.

#### 4.4 Option 2: Reduction in facility time

4.5 Any significant loss of academy/special school income would justify a reduction in facility time as this would be accompanied by a reduction in trade union members to be supported.

4.6 A judgement would need to be made regarding the level of reduction to be made in order to provide a robust financial buffer.

4.7 The table below shows the budget deficit that would result if academy and special school income reduced by varying amounts (taking account of new academy conversions as well as existing ones) and the percentage reduction in facility time that would be needed to balance the budget:

% reduction in variable income	Budget deficit	% reduction in facility time to balance budget
<b>100%</b>	-£45595	28%
<b>75%</b>	-£31575	19%
<b>50%</b>	-£17555	11%
<b>25%</b>	-£3535	2%

#### 4.7 Option 3: Continue the de-delegation arrangement for primary schools, with a 3% uplift, whilst secondary schools are given the option to enter into a traded arrangement with the council.

4.8 Projected de-delegated income from primary schools for 2021/22 is £91,583.44 inclusive of a 3% uplift. Under this option there could be a gap in funding of £59,305.62 from secondary schools no longer contributing to the de-delegated budget.

4.9 A traded service model similar to the one currently in place with special schools may help to recoup some of the monies. However this would involve significant risk as secondary schools

will have the option to make their own arrangements resulting in the need for a reduction in facility time.

4.10 Such an arrangement would also be difficult to manage and would place additional administrative and cost burdens on the council.

**4.11 Option 4: Continue the de-delegation arrangement for both primary and secondary schools but add a 3% uplift for primary schools only**

4.12 This two-tier arrangement would clearly reduce the amount by which the funding gap is closed. It is also difficult to identify, implement and enforce a mechanism which will reduce the amount of facility time TU's can spend in secondary schools by the appropriate amount given that there is currently no limit. No workable solution has been identified.

**5 Reducing facility time – issues to consider**

5.1 A decision would need to be made regarding where any reduction in facility time should fall and the NEU and NASUWT would need to be consulted on proposals. It should be noted that NEU has already voluntarily reduced its facility time recently, recognising the financial situation. There would be limited scope to reduce the NASUWT's facility time which stands at four days per week.

5.2 In terms of the impact on individuals of a reduction in facility time, a representative who is part time seconded from a school would be able to return to their teaching post resulting in no lost income whereas a representative solely engaged to undertake trade union work would lose income.

5.3 Reductions in facility time will inevitably result in reduced availability of TU representatives to support their members and negotiate on their behalf. This could result in delays throughout consultative processes and individual employee matters. However, if the need to reduce facility time is driven by a loss in income from academies, there will be fewer schools for TU's to support meaning a reduction in facility time should not have this impact.

**6 Report Authors**

Kalpesh Masani, HR Policy & Projects Adviser  
Jo Poynton, HR Policy & Projects Manager

**SCHOOLS FORUM**

**TEACHER TRADE UNION FACILITY TIME**

**BRIEFING PAPER**

**1. Purpose**

- 1.1 The purpose of this paper is to provide background information regarding teacher trade union facility time in order to inform future decisions regarding the de-delegated budget.

**2. Trade union representatives and facility time**

- 2.1 Where an employer recognises trade unions, as is the case in Leicester City Council, employees who are representatives of those unions (elected or appointed in accordance with the union's rules) have a statutory entitlement to reasonable paid time off work (known as 'facility time') to undertake union duties. 'Union duties' can be summarised as representing individual members who are subject to action for disciplinary/capability/absence reasons or raising a grievance, taking part in restructuring/redundancy/TUPE consultation and taking part in collective bargaining with the employer. (There are also rights to time off for safety representatives and union learning representatives.)
- 2.2 Trade unions also employ staff, usually at regional/national level. These are funded by union members' subscriptions as is the rest of the union's infrastructure. Union-employed regional officers provide expert support to 'lay' local representatives and will normally become directly involved with employers on major issues only, although they may provide direct support to members if the union has no, or very few, elected representatives.
- 2.3 In many cases employees who are union representatives will have an 'ordinary' job and take time off from this as and when required to undertake union duties. However, it is not uncommon in large organisations such as local authorities for a union's structure to include some senior roles, particularly branch secretaries and convenors or assistant branch secretaries, and for these to be granted a specified amount of facility time. This may be x number of days per week or it may be all their contracted hours (known as 'full time release').

**3. Leicester City Council teacher trade unions**

- 3.1 Historical agreement was reached with the Trade Unions on a specified amount of facility time for representatives of NUT, ATL (now combined to form NEU) and NASUWT around 2012 by Brian Berkowitz, a previous Strategic Service Partner for HR Children's. Whilst we can't find a copy of this agreement, it is safe to assume, as the facility time has broadly remained unchanged (over than through rep's leaving), that the current level broadly matches this agreement. Some of these are

teachers in city schools who are released for part of the week and some are retired teachers who are engaged solely to undertake union duties. The current facility time position is follows:

### NEU

13 days per week in total across six representatives;

- 1 x Branch Secretary: 3 days
- 3 x Assistant Branch Secretaries: 8 days
- 1 x Health & Safety Organiser: 1 day
- 1 x Supply Teachers Officer: 1 day

The facility time for NEU has reduced from 16 days per week from the beginning of 2019/20 to the current level of 13 days. This is as a result of the retirement of the former ATL representative, and one NEU Assistant Branch Secretary with the replacement having two days facility time rather than three.

### NASUWT

4 days per week in total across 1 representative;

- 1 x Branch Secretary: 4 days

3.2 Other than the changes mentioned above the facility time has not been reviewed since the onset of academisation.

## **4. Funding of teacher union facility time**

- 4.1 This facility time aims to represent members across all maintained schools in the city and is funded via the de-delegated budget, the basis of which was originally set to cover the costs of the agreed teacher union facility time. Note that, historically, special schools did not contribute to the facility time costs.
- 4.2 The cost per school is determined by pupil numbers on roll. De-delegation must be based on a per pupil rate. For the 2019/20 financial year the per pupil rate was £3.96 and £6.00 for primary schools and secondary schools respectively. This same rate was applied in 2018/19. The differential rate per pupil between primary and secondary is based on historic costs of providing the service to each phase.
- 4.3 Prior to the onset of academisation teacher union representatives supported members in 101 maintained schools. In 2019/20 they supported members in a total of 80 maintained schools and academies. As academisation has increased across the city, and because academies' budgets cannot be de-delegated, less schools are paying into the DSG resulting in additional pressure on the facility time budget. This pressure has resulted in the facility budget being consistently overspent. Overspends on a de-delegated service are in general the responsibility of the service itself however when overspends occur in the facility time budget the City Council has been meeting this cost. This approach is not sustainable.
- 4.4 To attempt to address these pressures we agreed, at the request of the teacher unions, to introduce an arrangement whereby they could represent members in academies and the council would charge

academies for this service on an annual or PAYG basis. This was implemented from the 2017/18 financial year. At the same time as the academy arrangements were introduced, special schools also started to be charged (on the same per pupil rate basis as maintained schools for those that agreed to the annual service, or at a PAYG rate of £65 per hour – the same as PAYG academies). Academies and special schools cannot be compelled to take up this service and may not do so if, for example, unions have local representatives within the trust.

- 4.5 As it stands the council administers the service on behalf of the teacher unions. There is however no real benefit to the council with this approach. The challenge of funding facility time for council teacher union representatives to support maintained and academies is a union and Schools Forum issue. Not exclusively a Council one.

**4.5** For 2019/20 the actual cost of teacher trade union facility time was:

	Total facility time per year (Hours)	Total actual cost of facility time	Central	Schools	Academies
--	--------------------------------------	------------------------------------	---------	---------	-----------

(Directly funded by the DSG)							% Of activity within area	Actual cost within work area
			% Of activity within area	Actual cost within work area	% Of activity within area	Actual cost within work area		
<b>NEU</b>	4781.5	£141,538.44	11%	£15,569.23	83%	£117,476.91	6%	£8,492.31
<b>NASUWT</b>	1074	£44,468.16	0	£0	39%	£17,342.58	61%	£27,125.58
<b>Total</b>	<b>5855.50</b>	<b>£186,006.60</b>		<b>£15,569.23</b>		<b>£134,819.49</b>		<b>£35,617.89</b>

- 4.7 The facility time budget for 2019/20 totals £173,812, constituted as follows:

- De-delegation: £138,000 (£156,000 prior to further academisation)
- Special schools: £3,417
- Academies: £32,395

- 4.8 The cost of facility time was £186,006.60 providing a deficit of -£12,194.60. (Note: When the DSG report was originally prepared and presented there was a cost code error leading to a reported deficit of approximately -£45,000. This was subsequently corrected.)

- 4.9 Through this analysis of the facility time budget it has highlighted that those teachers directly employed by LCC through the central pot aren't contributing to this de-delegation budget however this is a relatively small number of people. In any case this position needs to be considered moving forward and potentially buy in to the service in the same way that academies and special school do.

4.10 For the financial year 2020/21, the de-delegated budget per pupil rate has increased to £4.16 and £6.30, a 5.3% and 4.3% increase for primary and secondary schools respectively. The same % increase has been applied to the academy and special schools offer for both the annual buy in and pay as you go options.

## 5. Academy take-up

5.1 The position regarding academies buying the facility time service in 2019/20 can be seen below represented by both Academy Trusts and Academies.

	Academy trusts	Academies
Total not buying facility time	<b>7 (47%)</b>	<b>17 (40%)</b>
Total buying facility time*	<b>8 (53%)</b>	<b>25 (60%)</b>
<b>*Annual subscription</b>	3 (38%)	9 (36%)
<b>*Pay as you go</b>	5 (62%)	16 (64%)

5.2 For the financial year 20/21 the forecasted facility time cost based on the 19/20 cost is £186,006.60. Based on current arrangements and hours spent by teacher TU representatives on facility time, the projected shortfall would be:

<b>De delegated Forecast</b>	<b>£144,000</b>
<b>Forecasted Income from Academy Buy In</b>	£28,490.42
<b>Forecasted Income from Special School Buy In</b>	£3590.08
<b>Total Monies</b>	<b>£176,080.50</b>
<b>Forecasted Facility Time Cost</b>	£186,006.60
Forecasted Deficit	<b>-£9,926.10</b>

5.3 The facility time budget continues to be overspent leading to a deficit year on year. Primarily this is due to the limited monies recouped from academy and special school buy in. Furthermore, over half of academy trusts buy into the service on a PAYG basis leading to an inconsistent source of funds from this stream.

## **6. Creating a sustainable future for facility time**

- 6.1 Both the de-delegated budget and the academy buy in continues to not be enough in covering the actual cost of the facility time. The practice of trying to close the gap with an academy/special school buy in model has not worked historically and comes with increased risks as we move forward.
- 6.2 As the only place the facility time budget can be met is from within the de-delegated budget, 3 options need to be considered:
- Re-align the budget to meet the entire cost of the facility time utilising revenue from academies and special schools as a surplus to be spent as deemed appropriate
  - Re-align the budget to meet the cost of facility time minus the forecasted revenue so the budget operates at a cost-neutral position
  - If the above is not possible, review the facility time
- 6.3 Academy and special school buy-in is important to sustain the current levels of facility time.
- 6.4 Currently Leicester City Council administer the buy in model with academies and special schools. It is important that regional and local union leads take an active role in encouraging buy-in to the service as this may increase buy-in resulting in a reduced risk of a shortfall in the facility time budget. We will continue to administer this model on behalf of Schools Forum.
- 6.5 It is recommended that for 2021/22 LCC continue to meet the funding gap in the facility time budget with a view of a decision being made by the appropriate stakeholders to be applied in the following budget year. This will allow further analysis and discussion ahead of any consultation.