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THE MORAY COUNCIL

**TIME-OFF FOR TRADE UNION
DUTIES AND ACTIVITIES**

POLICY AND PROCEDURE

Date Reviewed: 2008
Next Review Date:

1.0 PURPOSE AND SCOPE

- 1.1 The following policy and procedure has been drafted to provide guidelines against which applications for time-off can be determined. This is to ensure fairness and consistency across the Authority and to facilitate better planning so that the needs of the service continue to be met and are not prejudiced in any way.
- 1.2 The guidelines will apply to all employees of the Council covered by the following National Schemes of Conditions of Service:-
- JNC for Chief Officials of Local Authorities (Scotland)
 - SJC for Local Government Employees
 - SJNC for Local Authorities Services (Craft Operations)
- 1.3 The guidelines will apply to the following independent trade unions which are recognised by the Moray Council:-
- UNISON
 - GMB
 - UNITE
 - AEEU

2.0 BACKGROUND

- 2.1 The policy and procedure has been drafted on the basis of the relevant legislation, outlined below, and the ACAS Code of Practice No 3 on Time-Off for Trade Union Duties and Activities.
- 2.2 The Employment Protection Act 1975 gave trade union officials a statutory right to reasonable time-off from employment to carry out trade union duties and to undertake trade union training. Union officials and members were also given a statutory right to reasonable unpaid time-off when taking part in trade union activities. These rights were subsequently re-enacted as Sections 27 and 28 of the Employment Protection (Consolidation) Act 1978.
- 2.3 The Employment Act 1989 amends these provisions to restrict time-off to those covered by recognition agreements between employers and trade unions and to the official's own employer only.
- 2.4 The Moray Council accepts its statutory responsibilities to permit any employee who is either an official or a member of an appropriate independent recognised trade union to take time-off work, subject to certain conditions, to enable him/her to take part in specified trade union duties or activities.
- 2.5 The Moray Council encourages trade union involvement in working parties and consultations at the earliest stage possible and granted time-off for officials is reflective of this recognition.

3.0 ENTITLEMENT TO TIME-OFF

3.1 **Eligibility**

- 3.1.1 An official is an employee who has been elected or appointed in accordance with the rules of the union to be a representative of all or some of the union's members in the Moray Council.
- 3.1.2 Employees who are members of an independent trade union recognised by the Moray Council can take reasonable time off to undertake the duties of a Union Learning Representative, provided that the union has given the Moray Council notice in writing that the employee is a learning representative of the trade union and the training conditions are met.
- 3.1.3 Safety representatives are entitled to be consulted 'in good time' about health and safety measures. 'In good time' means that the employer must allow enough time to tell the safety representatives about what is proposed, and for the safety representatives to consult with their fellow workers and get their views. Those views then need to be reported back to the managers before any final decision is made or any action is taken. In emergencies or urgent situations, however, action needs to be taken first.
- 3.1.4 To ensure that time-off arrangements work satisfactorily, each trade union must provide the Personnel Services Section, with a list of officers' remits within 1 month of the AGM. Thereafter, trade unions must also advise the Personnel Services Section of appointments or resignations of officials as soon as possible, after the appointment/ resignation has taken place in order that the list remits accurate and up-to-date. The name of the officer must be on the list that has been provided to the Personnel Services Section to be eligible for time off.
- 3.1.5 The list should include details of the post to which the individual has been appointed and describe the constituency and the duties which the employee has been appointed to undertake.

3.2 **Trade Union Duties**

- 3.2.1 Employees who are officials of an independent trade union recognised by the Moray Council will be permitted reasonable time-off during working hours to carry out trade union duties which fall under the following headings:
- (a) Collective bargaining, negotiations and consultations with management, including attendance at Joint Consultative Committees and Safety Committee Meetings;
 - (b) Interviews with and on behalf of members on matters of discipline and grievance concerning them and the Moray Council;
 - (c) Interviews with and on behalf of members on matters covered under the Change Management Policy and Procedure;

- (d) To meet with full-time trade union officers and other officials concerning industrial relations between the Moray Council and those of its employees who are his/her constituents.

3.2.2 The functions for which time off as a Union Learning Representative is allowed are:

- (a) Analysing learning or training needs.
- (b) Providing information and advice about learning or training matters.
- (c) Arranging learning or training.
- (d) Promoting the value of learning and training.
- (e) Consulting the employer about carrying on any such activities.
- (f) Preparation to carry out any of the above activities.
- (g) Undergoing relevant training.

Moray Council has in place well established training and development programmes and Union Learning Representatives should liaise with the Employee Development Service to ensure that their respective training activities complement one another and that the scope for duplication is minimised.

3.2.3 Safety representatives are appointed by trade unions to represent their members on health and safety issues. The Safety Representatives and Safety Committees Regulations 1977 set out their legal functions, which include:

- (a) representing employees in discussions with the employer on health, safety or welfare issues and in discussions with HSE or other enforcing authorities;
- (b) being consulted 'in good time' over a large range of health and safety issues;
- (c) being involved with risk assessment procedures;
- (d) attending safety committee meetings;
- (e) having access to relevant health and safety information;
- (f) inspecting the workplace;
- (g) investigating potential hazards;
- (h) investigating notifiable accidents, cases of diseases or ill health, and dangerous occurrences;
- (i) investigating employees' complaints;
- (j) receiving information from health and safety inspectors;
- (k) being given paid time off their normal work to carry out their functions and undergo training;
- (l) having access to suitable facilities and assistance to carry out their functions.

3.3 Training of Officials

3.3.1 Employees who are officials of an independent trade union recognised by the Moray Council will be permitted reasonable time-off during working hours to undergo training relevant to the carrying out of their trade union duties. The training must be in aspects of industrial relations relevant to the duties of an official and be approved by the Trade Union Congress or by the independent trade union of which the employee is an official. It is expected that officials will reach and maintain their level of competency within their trade union remit to enable appropriate representation of their members and contribute to discussions with management.

3.3.2 Employees who are members of an independent trade union recognised by the Moray Council are entitled to reasonable paid time off to undertake the functions of a Union Learning Representative. To qualify for paid time off the member must be sufficiently trained to carry out duties as a learning representative: either at the time when the trade union gives notice to the Moray Council that they are a learning representative of the trade union, or within six months of that date.

3.3.3 In the latter case, the trade union is required to give the Moray Council notice in writing that the employee will be undergoing such training and when the employee has done so to give the employer notice of that fact. It should be confirmed by the union in a letter that the training undertaken is sufficient to allow the Learning Representative to undertake their role.

3.4 **Trade Union Activities**

3.4.1 Employees who are officers of an independent trade union recognised by the Moray Council will be permitted reasonable time-off with pay during working hours to take part in trade union activities outlined below:-

(a) To attend Branch or District meetings of the trade union concerned during normal working hours where the issues relate primarily to Council business.

(b) To attend the annual conference of his/her trade union, or one other annual conference, per trade union per year.

3.4.2 Employees who are members of an independent trade union recognised by the Moray Council in respect of that description of employee will normally be granted, on request and at times to be agreed, time-off without pay to participate in trade union activities, apart from industrial action, eg workplace meetings, meeting full-time officials. Time-off without pay will also normally be granted to attend meetings of such external bodies as the TUC, STUC and Trades Council as a nominated representative of his/her trade union.

3.4.3 Whilst it is recognised that where there are relatively small numbers involved in trade union branch activities relating to the Moray Council, there is still an expectation that trade unions officials will balance the priorities of work with attending trade union activities by limiting the number of officials required to attend activities and encouraging rotation of officials at activities where appropriate.

4.0 **PAYMENT FOR TIME-OFF**

4.1 Officials will be paid for the time-off taken in respect of carrying out trade union duties where these duties are concerned with industrial relations between the Moray Council and its employees such as those outlined in Para 3.2.1 and paid time-off will also be granted for activities such as those outlined in Para 3.2.2 and Para 3.2.3, and for training which is relevant to their official duties and approved as at Para 3.3.1 and Para 3.3.2, which is undertaken at a time when the official would have normally been at work. Time-off with pay will also be appropriate for activities under Para 3.4.1.

Where the duties or training is undertaken when the official would not otherwise have been at work, no payment will be made for this time.

- 4.2 Officials and trade union members will not be paid for time-off to participate in activities such as those outlined at Para 3.4.2.
- 4.3 Where time-off with pay has been granted, the pay for the period of the employees authorised absence shall be the pay that the employee would ordinarily have received for the period of absence, including any enhanced rates that would have been paid had the employee been at work.

5.0 WHAT IS REASONABLE - GUIDELINES

- 5.1 Of paramount importance in considering requests for time-off for trade union duties, training and/or activities is the need to maintain services to the public at all times. Therefore, what is reasonable will be determined in accordance with this principle, taking all the circumstances of the request into account, including the operational requirements of the employee's workplace and the service in general.
- 5.2 As a general guide, officials of an independent trade union will not be permitted to spend more than 50% of their working time on trade union duties, training and/or activities. However, depending on the needs of the service delivery, time-off may still be reasonably refused within this general guideline if the service delivery is compromised and cannot be covered by any other means than refusal of time-off.
- 5.3 Each application for time-off will be considered on its merits. Agreed time-off already taken, or to be taken in the future, will also be taken into account in considering the reasonableness of a request. In addition, consideration will be given to the extent of the representational remit the official has in terms of the numbers of employees represented as well as the nature and complexity of the issues presented, in making a judgement as to what is reasonable in the circumstances. For example, it would be expected that, in general terms, an official who is responsible for representing a greater number of employees across a range of sections/departments/occupational groups would require more time-off than an official representing a few employees within a small number of sections/departments/occupational groups, although it is appreciated that, depending on the circumstances, this will not always be the case. There may also be occasions where there are fewer members but more complex issues to be dealt with.

6.0 PROCEDURE FOR REQUESTING TIME-OFF

- 6.1 Wherever possible, trade union officials and members must submit all requests for time-off, using the form provided to their Line Manager for consideration. Normally, where practical, this must be done at least two weeks before the date(s) to which the time-off relates.
- 6.2 Where the time-off is for training, however, at least four week's notice is required.
- 6.3 Requests which are made outwith this timescale will be considered in exceptional circumstances, where, for example, an emergency or special meeting is involved, or management has given short notice.

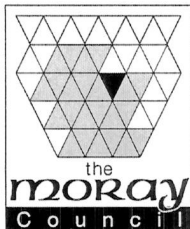
- 6.4 The request must outline the purpose for which time-off is requested; the location in which the duty/activity/training is to take place and the timing and duration of the time-off required.
- 6.5 Where a trade union official wishes to meet a member of his/her trade union at a workplace other than the official's own workplace, the trade union official must be mindful of the requirement for continuity of service delivery. Where meetings are to take place at the members place of work it is their responsibility to ensure that the relevant manager is aware of these arrangements.
- 6.6 Where time-off for training is requested, officials must submit a copy of the syllabus or prospectus indicating the contents of the training course along with the request.
- 6.7 The Line Manager, will consider all requests within the terms of these guidelines and respond to the official/member as soon as possible and in any event within two working days of the request being made. Where a request is being refused, the reasons for the refusal must be given in writing.
- 6.8 There is a form available for use which documents all relevant information regarding a request.

7.0 FACILITIES FOR TRADE UNION OFFICIALS

- 7.1 The scope for the provision of facilities at some Moray Council workplaces may be limited. However, as a minimum the Council will endeavour to provide for the use of accredited trade union lay officials at the appropriate workplace;
- (a) Access to a telephone and e-mail at all reasonable times for use on trade union business.
 - (c) Reasonable use of the internal mailing system.
 - (d) Where availability allows, access to meeting rooms for meetings with other officials, individual members or new employees.
 - (e) Where requested and where feasible designated display areas for Trade Union publications.
 - (f) Lockable storage facilities for documents relating to Trade Union business and for which Trade Union is responsible.

8.0 COMPLAINTS

- 8.1 Where an employee has a complaint regarding a decision to refuse time-off for trade union duties, training and/or activities or where conditions have been imposed upon the request, the employee (or trade union) may refer the review to the employees Head of Department or where the decision has been taken by the Head of Department the Chief Executive.



THE MORAY COUNCIL

APPLICATION FOR TIME OFF FOR TRADE UNION DUTIES AND ACTIVITIES

1. Name
2. Job Title
3. Department
4. Trade Union
5. Trade Union Position
6. Pay Number
7. Leave Requested (tick ✓ as appropriate)
Paid Unpaid
8. Trade Union Duties (ref para 3.2.1) Duties as Union Learning Representative (ref para 3.2.2)
Duties as Safety Representative (ref para 3.2.3) Training (ref para 3.3)
(please attach syllabus/prospectus for course)
Trade Union Activities (ref 3.4)
9. Details of Leave Requested

Date	Details	Location	Time

10. Number of days granted under this policy during current leave year _____
11. Any other relevant information
12. Employees Signature _____ Date _____
13. Application for time off * Approved/Not Approved
Line Manager Signature _____ Date _____
14. Where not approved, please record reason