

HR.91 Trade Union Recognition Agreement

Document Summary

The Trust is committed to partnership working and staff involvement and recognises the benefits of ensuring that staff side representatives are trained and knowledgeable. This Agreement covers the arrangements for granting facilities and time off work for accredited representatives of unions and professional organisations which are recognised by the Trust.

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Accountable Director	Director of HR & OD
Policy Author	Director of HR & OD

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1. SCOPE

The provisions of this agreement apply to all accredited representatives of those staff side and professional organisations recognised by Wye Valley NHS Trust (the Trust).

2. INTRODUCTION

This Agreement covers the arrangements for granting facilities and time off work for accredited representatives of unions and professional organisations which are recognised by the Trust.

The Trust is committed to partnership working and staff involvement and recognises the benefits of ensuring that representatives are trained and knowledgeable. It also recognises the need for staff side representatives to be afforded time off and facilities.

This Agreement is intended to accord with the principles contained in Section 25 of the Agenda for Change Handbook and the ACAS Code of Practice 3 - Time off for trade union duties and activities (January 2010).

The Agreement is also intended to ensure compliance with the statutory requirements contained in the Trade Union and Labour Relations (Consolidation) Act 1992 and Transfer of Undertakings (Protection of Employment) Regulations 2006.

The Trade Union Recognition Framework currently in operation within the Trust is outlined in Appendix 1.

3. STATEMENT OF INTENT

The purpose of this Agreement is to ensure the common objective of:

- Maintaining good and positive employee relations through joint consultation and negotiation on a Trust-wide basis.
- Continuous development and strengthening of partnership working.
- Facilitating the efficient operation and development of the Trust in the best interests of its patients and employees.

In applying the provisions of this policy consideration should be given to:

- The amount and frequency of time off to undertake trade union duties must be reasonable in all circumstances.
- Staff side representatives should be aware of the difficulties and operational requirements that need to be taken into account when seeking or agreeing arrangements for time off.
- The Trust should bear in mind the difficulties for staff side representatives and members in ensuring effective representation and communications with, for example, shift workers and part-time employees.

The Trust is committed to supporting, developing and promoting diversity and equality in all practices and activities and aims to establish an inclusive culture free from discrimination and based on the values of fairness, dignity and respect. Employees will not be discriminated against during the course of their employment for staff side membership or undertaking activities as a staff side representative.

4. DEFINITIONS

Facilities	Working space, equipment, and time
Full Time Union Officer	A Trade Union official who is employed by a trade union or professional body to represent members in the workplace, or groups of workplaces, where the union is recognised for collective bargaining purposes.
Health & Safety Representative	A member of staff who has been elected or appointed by their trade union or professional body to be a health and safety representative of the union in the workplace
Learning Representative	A member of staff who has been appointed by their trade union or professional body to be a learning representative in the workplace
Staff Side	TUC affiliated trade unions or professional bodies
Staff Side Representative	A member of staff who has accreditation as a representative of a trade union or professional body recognised by the Trust.

5. DUTIES

5.1 Director of Human Resources is the Director with overall responsibility for promoting and supporting positive and effective employee relations and good partnership working for implementation of this policy.

5.2 Staff Side should:

- Ensure that any representatives are aware of their role, responsibilities and functions.
- Inform the Director of HR, in writing, as soon as possible of resignations, and of any proposed new representatives prior to appointment and before commencement of union duties.
- Ensure that new representatives receive any appropriate written credentials / training promptly.
- Ensure that any new representatives receive training from their representative union before commencing their duties.
- Ensure that they engage with their manager regarding reasonable time off for union duties in line with the Agreement.
- Be aware of the Working Time Directive and ensure that they work within its parameters.
- Ensure that they consider potential conflict of interest when agreeing to take a case i.e. where the member may be a relative or close working colleague.

5.3 Managers should:

- Make available to trade union representatives the facilities, including time, necessary for them to perform their duties.
- Communicate effectively with staff side.
- Ensure they are aware of the sections of this Agreement regarding paid and unpaid time off.
- Fairly apply the Agreement when agreeing time away from the workplace for staff side representatives.

6. RECOGNITION

The following staff side and professional organisations are recognised by the Trust:

- Association for Clinical Biochemistry and Laboratory Medicine (ACBLM)
- British Association of Occupational Therapists
- British Dental Association
- British Dietetic Association
- British Medical Association
- British & Irish Orthoptist Society
- Chartered Society of Physiotherapy
- Federation of Clinical Scientists
- GMB
- Managers in Partnership
- Royal College of Nursing
- Royal College of Midwives
- Society of Chiropractors and Podiatrists
- Society of Radiographers
- UNISON
- Unite

It is acknowledged that this list may need to be reviewed and amended from time to time.

7. ACCREDITED REPRESENTATIVES

The provisions of this Agreement shall apply to accredited representatives of those staff side and professional organisations listed in section 6, above.

Accredited representatives will be current employees of the Trust and will normally have had not less than 6 months' service with the Trust or another NHS organisation.

It shall be for staff side to determine an appropriate number of representatives, having regard for the size and location of its membership.

It will be the responsibility of the appropriate Trade Union Lead to inform the Staff Side Chair of the appointment of any new representatives. The Staff Side Chair is responsible for notifying the Director of HR in writing of the appointment, resignation and replacement of representatives.

Having received a written request for appointment, within a reasonable timescale, not exceeding 1 month, the Director of HR will inform the appropriate Divisional / Directorate / Head of Department Manager to advise of the appointment.

Once confirmation of the appointment has been received by the Staff Side Chair from the Director of HR, s/he will inform the Trade Union Lead that the new representative may commence duties. It is for the Trade Union Lead to liaise with their representative.

No employee shall be entitled to take time off to undertake staff side duties or training until their appointment has been formally recognised by the Director of HR. This will normally be done within 1 month, however in exceptional circumstances it may take longer.

8. TIME OFF FOR STAFF SIDE REPRESENTATIVES

Subject to the needs of the service and adequate notification, staff side representatives should be permitted paid time off, including time to prepare for meetings and disseminate information

and outcomes to members, during working hours to carry out duties that are concerned with any aspect of the following:

- Negotiation and/or consultation on matters relating to:
- Terms and conditions of employment
- Engagement or termination of employment
- Allocation of work
- Disciplinary matters
- Grievances and disputes
- Union membership
- Facilities for staff side representatives
- Trade Union Recognition Framework in support of negotiation, consultation or other procedures (Appendix 1).
- Meetings with members
- Meetings with other lay officials e.g. ACAS or full time Trade union officers
- Appearing on behalf of members before internal and external bodies
- All policy implementation and partnership working
- Agenda for Change matching and consistency checking panels
- Other matters relating to employee relations and partnership working

9. FACILITIES

The Trust will provide the following facilities to staff side for the purposes of their official roles as staff side representatives:

- Access to appropriate accommodation for meetings and secure storage for files and records.
- Staff side information to be available at inductions.
- Facilities for the deduction of staff side subscriptions from employee salaries.
- Access to internal and external telephones for the use in staff side activity with due regard given for the need for confidentiality.
- The provision of notice boards.
- Access to internal and external mail systems.
- Access to the Trust intranet systems, e-learning tools, emails and internet The use of Trust computers for work in respect of employee relations.
- Access for staff side representatives to all joint documents relating the local partnership process.
- The provision of dedicated office space.
- Access to private space to discuss confidential matters.

10. ADDITIONAL FACILITIES

10.1 Staff Side Chair

Due to the Trust wide coordinating role of the Staff Side Chair s/he will be entitled to 0.30 WTE per week release.

The employing department will be compensated by central funds for this time commitment.

The Staff Side Chair post will be a seconded position, reviewed bi-annually, and the pay of the post will equate to the earnings the employee would otherwise have received had s/he been at work, including any allowances and enhancements.

10.2 Deputy Chair of Staff Side

The Deputy Chair of Staff Side will be entitled to 0.20 WTE per week release.

The employing department will be compensated by central funds for this time commitment.

The Deputy Chair of Staff Side post will be a seconded position, reviewed bi-annually, and the pay of the post will equate to the earnings the employee would otherwise have received had s/he been at work, including any allowances and enhancements.

11. HEALTH AND SAFETY REPRESENTATIVES

Under the Safety Representatives and Safety Committees Regulations 1977 regulation 4(2)(a) employers must allow union health and safety representatives paid time, as is necessary, during working hours, to perform their functions.

Further advice on time off provisions for health and safety representatives is provided by the Health and Safety Executive in their approved Code and Guidance 'Consulting workers on health and safety'.

Managers should seek advice from the Director of HR in the first instance if they are unsure as to whether this applies in specific cases.

12. UNION LEARNING REPRESENTATIVES

Employees who are members of an independent trade union recognised by the employer can take reasonable time off to undertake the duties 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 (see paras 28 – 33 for further information on the training condition).

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

- 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.

13. TRAINING

Reasonable time off with pay will be granted to staff side representatives to attend training courses approved by the TUC or recognised trade unions.

Paid time for part time employees will be given pro rata and any queries in this respect should be directed to the Director of HR in the first instance.

Wherever possible, requests should be made to the appropriate line manager at least 4 – 6 weeks in advance of the course commencement, together with details of course, length, times, dates and its content. Permission may be denied if, after consultation with the appropriate Trade Union lead, it is felt that the course is not appropriate. In this instance the Staff Side Chair must be informed.

Training undertaken at a time when the employee would otherwise not have been at work will not be paid, nor will time off in lieu be given unless the staff side representative works flexible hours such as night shifts, but needs to undertake training during normal hours.

In exceptional circumstances and where the service needs cannot be met by other means, including backfill, time off for training may be denied. Notification of this will be given as soon

as possible following the request, however in exceptional circumstances only 24 hours' notice may be possible. The manager will confirm the refusal in writing, confirming the reason(s).

14. PROCEDURES FOR SETTLING DIFFERENCES

In cases of disputes over this agreement, managers, staff side members and representatives are encouraged, in the first instance, to resolve the matter through liaison with the relevant HR Business Partner/ Manager and the Staff Side Chair. Where things cannot be resolved in this manner, an employee may seek redress through the Trust's Grievance Policy.

Where the Trust has reason to believe that an individual employee or staff side representative is abusing the facilities etc. covered by this Agreement, the following actions will be taken:

- Informal efforts will be made to confirm and, where appropriate, correct the situation through discussion with the individual and senior representatives
- Where necessary, and before any further action is taken, attempts will be made to resolve the matter through discussion with the full-time official of the Trade Union concerned
- Exceptionally, and following discussion with the full-time official concerned, management reserves the right to withdraw or restrict facilities and/or to withdraw recognition of the representative's accreditation.

15. MONITORING COMPLIANCE WITH THIS DOCUMENT

Staff side representatives will keep a monthly record sheet which accurately records their facilities time taken and pass this to their manager within five days of the end of each month (Appendix 2).

Each year the Trust's Joint Consultative and Negotiating Committee (JNCC) Policy Sub Group will commission an audit of a sample of managers to ensure the policy is being adhered to and a formal report will be written and presented to the JNCC for information and action as necessary.

The table below outlines the Trust's monitoring arrangements for this policy.

Aspect of compliance or effectiveness being monitored	Monitoring Method	Individual responsible for the monitoring	Frequency of the monitoring activity	Group/committee which will receive the findings/monitoring report	Group/committee/ individual responsible for ensuring that the actions are completed
Facilities time granted in accordance with policy	Audit of records of Time off for TU Duties/ Activities	Head of HR	Annually	JNCC	JNCC Policy Subgroup

16. REFERENCES/ BIBLIOGRAPHY

NHS Terms and Conditions of Service Handbook
 ACAS, January 2010, Code of Practice 3 - Time off for trade union duties and activities including guidance on time off for union learning representatives
 Health and Safety Executive, 2014, Consulting workers on health and safety
 Trade Union and Labour Relations (Consolidation) Act 1992
 Transfer of Undertakings (Protection of Employment) Regulations 2006.
 Safety Representatives and Safety Committees Regulations 1977 (as amended)

17. RELATED TRUST POLICIES/PROCEDURES/GUIDANCE

Equality and Diversity Policy HR.08

18. EQUALITY IMPACT ASSESSMENT

1	Name and Job Title of person completing assessment	Sue Smith, Director of HR & OD
2	Name of service, policy or function being assessed	Trade Union Recognition Agreement
3	What are the main objectives or aims of the service/policy/function?	To clarify and promote arrangements for granting facilities and time off work for accredited representatives of unions and professional organisations which are recognised by the Trust in support of effective partnership working and staff involvement
4	Date	September 2017

Stage 1: Initial Screening

5	What evidence is available to suggest that the proposed service/policy/function could have an impact on people from the protected characteristics? Document reasons, e.g. research, results of consultation, monitoring data and assess relevance as: <i>Not relevant or Relevant Low/Medium/High</i>
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Protected Characteristic	Relevance	Evidence
A Race	Not relevant	
B Religion/Spirituality	Not relevant	
C Gender	Not relevant	
D Disability	Not relevant	
E Sexual Orientation	Not relevant	
F Age	Not relevant	
G Pregnancy/maternity	Not relevant	
H Gender reassignment	Not relevant	
I Marriage and Civil Partnership	Not relevant	
J Carers	Not relevant	

If you assess the service/policy/function as **not relevant**, please proceed to section 11.
 If you assess the service/policy/function as **relevant**, continue to Stage 2, Full Equality Impact Assessment.

11	Review date	
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I am satisfied that this service/policy/function has been successfully equality impact assessed.

Date: 15th January 2018

Author: Sue Smith, Director of HR & OD

Please send the completed assessment for scrutiny to: Risk and Policy Manager, Trust Headquarters, County Hospital, Union Walk, Hereford, HR1 2ER.

APPENDIX 1: TRADE UNION RECOGNITION AGREEMENT FRAMEWORK



