



CabinetOffice

Consultation on reform to Trade Union facility time and facilities in the Civil Service

Government Response

8 October 2012

Trade Union facility time

Executive Summary

There are at least 6,800 Trade Union representatives across the Civil Service with an annual estimated cost of £36 million in gross salary. The Government recognises that Trade Unions can play a constructive role contributing to the effective and efficient operation of public services in a modern workplace. Where this operates well it serves the interest both of the union members and the employer.

However, departmental budgets are under great pressure and Government is seeking to find efficiencies in every area of expenditure. The Civil Service is reducing in size and its business restructuring. Facility time cannot be exempt from the current cross-Government drive for efficiency.

This consultation did not seek to change the nature of the duties and activities that can be undertaken by Trade Union representatives during working hours. It sought to review the level, frequency and cost of the provision of facility time to ensure that the time we pay for Trade Union representatives to spend on duties and activities during working hours is appropriate, accountable and that the value for money is transparent and identifiable.

The consultation opened on 13 July 2012 and ran until 7 September 2012. The Cabinet Office met with the nationally recognised Civil Service Trade Unions on a number of occasions throughout the consultation period to engage in constructive discussions. Alongside this, a total of 565 individual responses were received from civil servants across departments.

In summary, the key changes which departments and agencies will be encouraged to introduce are:

- more rigorous monitoring and reporting - through the introduction of a standardised reporting mechanism for departments with a requirement to report quarterly to the Cabinet Office and publish annually;
- Trade Union representatives will spend at least 50% of their time delivering their Civil Service job;
- in exceptional circumstances, where a department and Trade Union agree that it is essential that a representative spends more than 50% of their time on Union work, this will be subject to agreement by the Secretary of State or Chief Executive, and such roles will be time-limited to no more than three years;
- those Trade Union representatives who have already held 100% roles for more than three years will only be able to continue to do so for one further year;
- if a 100% representative is promoted to a new role they will not be able to continue as a 100% representative;
- the default position will be that activities will not attract paid time off. Where a department does, in exceptional circumstances, wish to provide paid time off for activities, it will need to seek agreement from the Secretary of State or Chief Executive, and report on any exceptions;
- the use of new guidance provided by Cabinet Office to support departments to determine which functions are activities not attracting paid time off;
- the use of new guidance provided by Cabinet Office to assist line managers and representatives in managing facility time robustly;

- the introduction of a guide figure to monitor the spend on facility time. In the first year the guide figure will be 0.1% of the paybill, including all facility time, time for Health and Safety representatives and time for Union Learning representatives; for any spend over 0.1% of paybill departments will need agreement from the Secretary of State or Chief Executive, and report it to Cabinet Office in advance.

These changes will be introduced by the Cabinet Office through a central framework and supporting guidance that departments will be expected to adopt, and will be monitored through quarterly reporting to the Cabinet Office and annual publication.

That guidance will also support Departments to reassert what is and is not acceptable especially in relation to the use of Departmental notice-boards, email and literature distributed on their premises. The guidance will include clear boundaries and potential sanctions if not used appropriately. The guidance will assert that facility time cannot be provided for political activity.

Combining rigorous line management, robust reporting and reviewing the use of time, money spent, facilities and processes to ensure best efficiency in all these areas will ensure that the right balance is struck between supporting effective engagement and value for money.

These changes will be reviewed one year after they are implemented in departments to assess the progress made and identify areas where further support for departments may be required. Monitoring and reporting on facility time will commence immediately.

1. Introduction

- 1.1 Trade Union representatives have a statutory right to be granted reasonable paid time off to undertake Trade Union duties and reasonable unpaid time to undertake Trade Union activities. There is no intention to seek a change in the statutory basis for the provision of Trade Union duties and activities. However the Government is committed to addressing and rebalancing the amount of paid time off provided to undertake Trade Union duties, and to review the level, frequency and cost of providing paid time off for Trade Union activities.
- 1.2 The Cabinet Office consulted on a proposed Government approach: to find a suitable balance between supporting effective and constructive employee relations with the recognised Civil Service Trade Unions for the good of public services; and providing the best value for the taxpayer.
- 1.3 There are currently a range of differences across the Civil Service in the provision of facility time that may not be justified. The Government wants to ensure that a more consistent, open and transparent approach is taken in future, where the money spent on the provision of facility time is clearly accountable and justifiable to the taxpayer. The Government believes that facility time arrangements must align with the significant reduction in the size of the Civil Service wide workforce and overarching business restructuring.
- 1.4 It is not solely the responsibility of the Civil Service to justify how taxpayers' money is best and most efficiently spent. Both the Civil Service and the Trade Unions must demonstrate responsibility and care in how public money is used and spent and the value that they provide as a result.
- 1.5 The Government consultation also covers the use of facilities by Trade Union representatives, for example telephones, photocopying and use of office accommodation, to ensure it is appropriate and represents value for money for the taxpayer.

2. Consultation proposal

2.1 The Cabinet Office set out four proposals in its consultation document. Views were invited on these proposals, which were laid out as follows:

2.1.1 Reporting and benchmarking - developing a common system for reporting and monitoring facility time across the Civil Service.

The Government proposed to introduce:

- a) A common reporting mechanism for departments, and the requirement for departments to publish details of facility time.
- b) A Civil Service benchmark on the proportion of paybill spent on facility time.
- c) Benchmarking of the amount of time spent on specific duties, to make sure that the money spent on Trade Union duties is appropriate to the needs of the duty and to the organisation so as to ensure that this is best value for money.

Views were also invited on the following questions:

- How should we establish this approach?
- Are there any other approaches that you can suggest?

2.1.2 Ending or limiting the practice of 100% of Civil Service employees' time being spent on Trade Union duties and activities.

The Government proposed that the preferred approach with regard to civil servants who spend 100% of their time undertaking Trade Union duties and activities would be that:

- a) No employee spends less than 50% of their time delivering their Civil Service job. In order to function effectively and be able to adequately represent the views of employees, Trade Union representatives should be actively involved in the work of their department or agency.
- b) Where employees have effectively become a 100% representative through a combination of general Trade Union duties and specific health and safety and/or learning representative roles, they will need to prioritise accordingly to ensure that they are spending no less than 50% of their time delivering their Civil Service job, rather than seeking additional facility time.

Views were also invited on the following questions:

- How can we best establish this practice?
- Are there any other approaches to address this issue that you can suggest?

2.1.3 Reviewing arrangements for time off for Trade Union activities so that the default is that this time is unpaid.

The Government proposed that:

- a) The default position should be that departments do not pay for time off for Trade Union activities.
- b) A rigorous checking regime to support departments to differentiate between time off for duties and activities will be developed and introduced.

However the Government does accept that there may be circumstances where paid time off for activities may be appropriate and invited views on a reasonable mechanism for deciding this.

Views were also invited on the following questions:

- How can we best introduce this approach?
- Are there any other approaches that you can suggest?

2.1.4 Reduction in overall facility time across the Civil Service, in particular through more rigorous individual management of facility time. Ensuring that the provision of the use of facilities is appropriate, and represents good value to the taxpayer.

The preferred Government approach was to introduce a more rigorous management of facility time and facilities at a line manager level.

Views were also invited on the following questions:

- How can we support line managers and Trade Union representatives to make sure that the provision of, and use of, facility time and facilities gives the best value for money and meets business needs?
- What mechanisms can we implement to ensure the most effective use of facility time and facilities?

2.2 The Cabinet Office invited views on the specific proposals and questions outlined above.

3. Consultation process

- 3.1 The consultation opened on 13 July 2012 and ran until 7 September 2012. The Cabinet Office met with the nationally recognised Civil Service Trade Unions on a number of occasions throughout the consultation period to engage in constructive discussions.
- 3.2 The nationally recognised Civil Service Trade Unions were invited to provide their responses to the consultation document and a number of formal responses were provided.
- 3.3 The Cabinet Office published the consultation document on its website and a dedicated email address was launched to capture the responses of individual Civil Servants to the consultation.
- 3.4 A total of 565 individual responses were received from civil servants across departments. The respondents included both present and former Trade Union representatives from the recognised Civil Service Trade Unions.
- 3.5 Additional responses and relevant comments were received from wider bodies, which included the National Offender Management Service and the TaxPayers' Alliance. A full list of those who have responded to the consultation has been included in Annex A.
- 3.6 Responses and views were invited on the four proposals laid out in the consultation document, as well as the additional questions that came underneath each of the proposals.

4. Key Findings

- 4.1 The consultation invited views on reforming facility time arrangements across the Civil Service. This section sets out the views expressed by respondents on the four proposals from the consultation and the Government's response to the consultation and changes that it will make to the provision of facility time in the Civil Service.

Reporting and benchmarking – developing a common system for reporting and monitoring facility time across the Civil Service.

- 4.2 A common reporting system was welcomed by the vast majority of respondents to the consultation. This system would need to be supported by clear guidance to ensure consistency in application across departments.
- 4.3 The Trade Unions are against benchmarking as suggested in the consultation document.
- 4.4 There were concerns that reporting systems should not be unnecessarily onerous and should be functional within the operational environment in which Trade Union representatives work. Good examples for achieving effective reporting were provided.

Response

- 4.5 The Government will introduce an effective system for monitoring and reporting facility time. Departments will collect standardised information; this will provide a clear understanding of the paid and unpaid time off being given in departments and across departments, including data about the frequency and time spent on the main duties. The information will be reported quarterly to Cabinet Office and published annually to provide transparency in the use of taxpayer's money. Clear guidance will be provided to departments.

Ending or limiting the practice of 100% of Civil Service employees' time being spent on Trade Union duties and activities.

- 4.6 Many respondents acknowledged that spending a long period of time as a 100% representative can be detrimental to the skills and knowledge of the individual. In some cases this may mean they are not sufficiently able to represent colleagues in their business area.
- 4.7 However, it was suggested that in some exceptional circumstances, a civil servant spending 100% of their time on Trade Union duties and activities may provide best value for money, as the technical knowledge or skills of a representative can be utilised more efficiently.
- 4.8 Some respondents with line management responsibilities suggested that it would be more effective to replace large numbers of part-time representatives with full-time representatives.

Response

- 4.9 The Government believes that civil servants should spend at least 50% of their time doing their Civil Service job. This includes representatives who are elected to a number of different Trade Union positions. It is important that Trade Union representatives remain closely linked to their business area, in order to best represent colleagues and maintain their skills and knowledge.
- 4.10 The Government agrees that in exceptional circumstances there may be a need for civil servants to spend more than 50% of their time on Trade Union duties for a time limited period. In those circumstances, where for good business reasons departments and Trade Unions believe it is essential to have Trade Union representatives spending more than 50% of their time on Trade Union work, this will need to be agreed by the relevant Secretary of State or Chief Executive, as appropriate, through use of an exceptions process. In these exceptional circumstances, representatives who spend more than 50% of their time on Trade Union business, will be limited to doing so for a maximum of three years.
- 4.11 Those Trade Union representatives who have already held 100% roles for more than three years will only be able to continue to do so for one further year. This could be extended in exceptional circumstances, with agreement from the Secretary of State, and agreement from the Minister for the Cabinet Office.
- 4.12 Any decision to allow a trade union representative to spend 100% of their time on Trade Union duties and activities will be by exception and linked to the needs of that business unit. If a 100% representative is promoted to a new role they will not be able to continue as a 100% representative.
- 4.13 The Government understands that handling requests for time off can be difficult. The Cabinet Office will provide guidance for line managers to clarify when paid time off should be provided and increase confidence in managing requests for facility time.

Reviewing arrangements for time off for Trade Union activities so that the default time is unpaid.

- 4.14 Many respondents argued that the distinction between Trade Union activities and duties is not always straightforward and should be taken in to account when considering a reform of facility time provision. A number of suggestions were made as to what functions should be classed as duties and would therefore attract paid time off.
- 4.15 Where activities are clearly concerned with union business and are not employee facing, the proposal to remove paid time for activities was strongly supported by many respondents. Respondents stated that the taxpayer should not be funding the agenda of the Trade Unions in the provision of paid time off for activities.
- 4.16 However, some respondents referred to the ACAS Code of Practice that suggests an employer may wish to provide paid time off for activities in some circumstances, for example 'to ensure that workplace meetings are fully representative'.

Response

- 4.17 We have carefully considered the responses provided on reviewing paid time off for activities balanced against the need to ensure best use of taxpayers' money. The Government has decided that the default position in the civil service should be that activities do not attract paid time off. In circumstances where it is unclear as to whether the function being undertaken is a Trade Union duty or activity, guidance will be provided to departments to give clarity. Where a department does, in exceptional circumstances, wish to provide paid time off for activities, it will need to be agreed by the Secretary of State or Chief Executive, and it will report on any exceptions.
- 4.18 Departments will be reminded, and guidance will set out that facility time cannot be provided for political activity.

Reduction in overall facility time and ensuring appropriate use of facilities across the Civil Service.

- 4.19 Some respondents said that as part of a smaller and more efficient Civil Service fewer Trade Union representatives, and less paid time, should be needed. Other respondents said that the duties undertaken by the Trade Unions continue to be required at current levels. Respondents felt that the Trade Unions played an important role in dealing with grievances, avoiding costly litigation.
- 4.20 Respondents said that departments and Unions should consider the value, frequency and type of meetings that are held. They suggested that to give the best value for money departments and the Unions should make better use of their time and facilities, in particular through technology and modern working practices. One option would be to hold meetings using a teleconference or videoconference facility rather than travelling.

Response

- 4.21 We recognise that Trade Union representatives can play an important role in the workplace; however where these costs are borne by the taxpayer there is a responsibility for management and the Trade Unions to ensure facility time is used as efficiently as possible.
- 4.22 Line managers play a pivotal role in managing the provision of facility time at an individual level. They need to be confident in understanding what reasonable paid time off looks like and how to manage requests from Trade Union representatives. Guidance will be provided to encourage a consistent approach, and to give line managers the confidence and knowledge they need to be reasonable and robust.
- 4.23 The Government will introduce a guide figure for the overall percentage of the paybill to be spent on paid facility time, based on the experience of Civil Service departments and other employers. This benchmark will be 0.1% of paybill in the first year, to be reviewed after the first year. Improved reporting will enable departments to monitor the spend on an ongoing basis and allow it to be reviewed at senior levels. This will include all facility time, time for Health and Safety representatives and time for Union Learning representatives.
- 4.24 The Government recognises that there may be occasions where further provision of facility time may be required beyond this guide. Where a department expects or intends to spend

more the guide figure it will need to be agreed by the Secretary of State or Chief Executive, and reported to the Cabinet Office in advance. Robust information gathered through reporting mechanisms will facilitate a discussion between a department and the centre to understand why further facility time is required.

- 4.25 The Government believes that in granting access to facilities consideration should be given to business needs and ensuring careful use of taxpayers' money. Facilities should only be used for the duties that are agreed in advance. Usage will be monitored and reported on in the same way as paid time.
- 4.26 Guidance will be provided on the provision of facilities to support departments to reassert what is and is not acceptable especially in relation to the use of departmental noticeboards, email and literature distributed on their premises. Clear boundaries will be set for the use of notice boards and the distribution of literature on departmental premises. This will include a process to deal with, and potential sanctions that might be imposed for, any infringement of those boundaries.

A central framework

- 4.27 The view of the Trade Unions was that facility time can be best reformed via an agreed central framework agreement, providing guidance and direction to all Civil Service employers.

Response

- 4.28 Taking account of the response to the consultation and meetings with the Trade Unions, the Government has decided to develop a central framework that departments will be expected adopt in reforming their own facility time arrangements. This framework will be supported by detailed guidance.
- 4.29 A review of the framework, information gained from reporting and the arrangements set out in this response will be done one year after departments have reformed their facility time arrangements. This approach has been raised with the Trade Unions as part of the consultation process. Monitoring and reporting on facility time will commence immediately.

5. Conclusion and next steps

- 5.1 This consultation did not seek to change the nature of the duties and activities that can be undertaken by Trade Union representatives. It sought to review the level, frequency and cost of the provision of facility time. This was to ensure that the time we pay for Trade Union representatives to spend on duties and activities is appropriate, accountable and that the value for money is transparent and identifiable.
- 5.2 The case for change, as set out at the start of the consultation, remains compelling. At a time of increasing pressure on departmental budgets we must be able to demonstrate good value for money for the taxpayer and examine every opportunity to increase efficiency. The Civil Service is reforming itself to become smaller and pacier. We must therefore ensure that whilst the provision of facility time is reasonable and allows effective engagement, it also reflects a modern workplace.
- 5.3 The Cabinet Office is appreciative for all of the responses submitted on the consultation. Having a number of responses and views from a wide range of respondents has raised some valuable issues for the Cabinet Office to consider moving forwards.
- 5.4 In summary the key changes from the current position will be:
- more rigorous monitoring and reporting through the introduction of a standardised reporting mechanism for departments with a requirement to report quarterly to the Cabinet Office and publish annually;
 - Trade Union Representatives will spend at least 50% of their time delivering their Civil Service job;
 - in exceptional circumstances, where a department and Trade Union agree that it is essential that a representative spends more than 50% of their time on Union work, this will need to be agreed by the Secretary of State or Chief Executive, and such roles will be time-limited to no more than three-years;
 - those Trade Union representatives who have already held 100% roles for more than three years will only be able to continue to do so for one further year;
 - if a 100% representative is promoted to a new role they will not be able to continue as a 100% representative;
 - the default position will be that activities will not attract paid time off. Where a department does, in exceptional circumstances, wish to provide paid time off for activities, this will need agreement from the Secretary of State or Chief Executive, and report on any exceptions;
 - guidance will provided to support departments to determine which functions are activities not attracting paid time off;
 - changing the culture so that both line managers and representatives manage facility time robustly. New clear guidance will be provided for departments to assist line managers in doing so;
 - a guide figure will be introduced to monitor the spend on facility time. In the first year the guide figure will be 0.1% of the paybill; for any spend over 0.1% of paybill departments will need agreement from the Secretary of State or Chief Executive, and report it to Cabinet Office in advance; this will include including all facility time, time for Health and Safety representatives and time for Union Learning representatives;

- 5.5 These changes will be introduced by the Government through a central framework and supporting guidance that departments will be expected to adopt, and will be monitored through quarterly reporting to the Cabinet Office and annual publication.
- 5.6 Combining rigorous line management, robust reporting and reviewing the use of time, money spent, facilities and processes to ensure best efficiency in all these areas will ensure that the right balance is struck between supporting effective engagement and value for money.
- 5.7 These changes will be reviewed one year on from after they are implemented in departments to assess the progress made and identify areas where further support for departments may be required. Monitoring and reporting on facility time will commence immediately.

ANNEX A

- A1 A total of 565 civil servants submitted their comments via a dedicated email address.
- A2 Formal responses were invited and received from the following nationally recognised Civil Service Trade Unions:
National Trade Union Committee
Public and Commercial Services Union (PCS)
FDA
Unite
Prospect
Prison Officers Association (POA)
Union of Construction, Allied Trades and Construction (UCATT)
- A3 Responses or views were also provided by the following bodies:

The TaxPayers' Alliance
Trade Union Reform Campaign
National Offender Management Service (NOMS)
Thompson Solicitors
Immigration Services Union (ISU)

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