

# NHS Staff Council Staff Side Guidance on Facilities Time Reporting

June 2018

## Introduction

All NHS employers are committed to work in partnership with NHS trade unions as set out in the NHS Terms and Conditions handbook under the [principles and partnership](#) section.

Partnership working is central to the delivery of high quality and safe health and social care. Partnership working between employers and trade unions ensures that staff feel valued and are involved and consulted on decisions that affect them in the workplace. There is a growing body of evidence that shows that when staff are engaged and valued outcomes for NHS service users will improve.

The Francis Report into Mid-Staffordshire (in Recommendation 202) called for recognition of nursing representation by ensuring *'adequate time is allowed for staff for undertake this role and that employers and unions must regularly review the adequacy of these arrangements'*. Although specific in this report to nursing, it highlights the importance to patient safety of employee representation, and the need for paid protected time (facility time)

Trade union representatives carry out a range of valuable duties and activities in an organisation, including: working with managers, communicating and consulting with staff, resolving problems and conflicts at work, jointly developing workplace policies, promoting workplace learning, resolving health and safety issues, handling disciplinary and grievance matters and much more. To be effective trade union representatives need to have reasonable paid protected time from their normal job to enable them to undertake the role.

The Trade Union (Facility Time Publication Requirements) Regulations 2017 took effect on 1<sup>st</sup> April 2017 which means that NHS employers are now required to publish certain information on trade union officials and facility time on their website. This guidance has been written by the NHS joint staff side unions and sets out the **principles** by which we believe NHS employers should work with staff sides to collect and publish information that is legally required. This guidance will ensure that only information that is required is reported and there is a consistent approach that is in line with the NHS commitment to partnership working.

## What is facility time?

NHS employers will need to publish information if they have at least one employee who is a trade union official, a trade union learning representative or a safety representative.

Facility time will cover **duties** carried out for the trade union or as a union learning representative, for example (but not exhaustively):

- taking part in negotiations, including attendance at Joint Negotiating Committees (or similar partnership forums)
- accompanying an employee to a disciplinary or grievance hearing
- analysing training needs
- attending union training.

It can also cover trade union activities, which can include (not exhaustively):

- Attending trade union meetings

Union representatives are urged to refer to their local recognition and facilities agreements for more information on the above. The [ACAS Code of Practice](#) is also useful for more information as to what constitutes duties and activities.

There are separate regulations for union health and safety representatives, as health and safety is a function, not a duty or activity. According to the Safety Representatives and Safety Committee Regulations 1977, employers are required to allow union health and safety reps paid time, as is necessary, during working hours to perform their functions. There is no limit to the amount of time that can be taken.

### **Partnership time is not facility time**

The view of the staff side of the NHS Staff Council is that partnership time should not automatically be considered as facility time and therefore need not always be included in the reporting of facility time. Partnership time covers paid time spent by trade union representatives engaged in work that is distinct from member representation, consultation and negotiation, and is primarily a corporate benefit to the employer. This is because it gives them access to the representative's skills and expertise in functions that go beyond their representative role. Examples include (but not limited to)

- serving on job matching or evaluation panels
- contributing to staff training events
- taking part in policy development or service improvement projects
- acting in a corporate role such as board member, trustee, staff governor or employee director

Union representatives should have an early discussion about categorising and distinguishing partnership time from facility time.

### Information to be published

The regulations require the following information to be published on the employer's website:

<b>Table One: What was the total number of your employees who were relevant union officials during the relevant period?</b>	
Total number of employees who were relevant union officials during the relevant period	0
Full time equivalent employee number	0

The Act requires that facility time used should be reported in the ranges:

- 0 (zero)
- Between 1-50% and
- Between 51% and 100%

We believe that such a broad range is insufficient to capture the full range of facility time used in the service. While employers are legally obliged to report as above we believe that NHS employers should additionally report on their websites as per Table Two below:

<b>Table Two: How many of your employees who were relevant union officials employed during the relevant period spent a) 0%, b)1-10%, c) 11-20%, d) 21-30% e) 31-40% f)41-50% g) 51-60% h)61-70% i)71-80% j)81-90% k)91-99% or l) 100% of their working hours on facility time?</b>	
0%	0
1-10%	
11-20%	
21-30%	
31-40%	
41-50%	
51-60%	
61-70%	
71-80%	
81-90%	
91-99%	
100%	

<b>Table Three: Provide the figures requested in the first column of the table below to determine the percentage of your total pay bill spent on paying employees who were relevant union officials for facility time during the relevant period.</b>	
Provide the total cost of facility time	
Provide the total pay bill	
Provide the percentage of the total pay bill spent on facility time, calculated as: (total costs of facility time ÷ total pay bill) x 100	N/A

**Table Four: As a percentage of total paid facility time hours, how many hours were spent by employees who were relevant union officials during the relevant period on paid trade union activities (as opposed to trade union duties)?**

Time spent on paid trade union <b>activities</b> as a percentage of total paid facility time hours calculated as: (total hours spent on paid trade union activities by relevant union officials during the relevant period ÷ total paid facility time hours) x 100	N/A
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NHS employers must report these figures on their website starting with the financial year 2017/18. The deadline for the first year of reporting will be 31<sup>st</sup> July 2018.

**Principles for collecting and recording the information**

NHS employers need to work locally with staff sides to develop an agreed local policy for the collecting and publishing of required data on facilities time. The local policy should reflect the principles of partnership working; reflect the fact that to be effective trade union representatives need appropriate facilities time; and reflect the principles set out below:

**Simple** - it is important to keep the collection process simple so it is easily understood and consistent across the organisation. There is no requirement to break the information down into different types of duties and attempting to categorise types of duty may be difficult where there is overlap and this may lead to double-counting or inconsistencies. The employer needs to be responsible for the co-ordination of the data collection, working through the staff side.

**Consistent** - make sure everyone understands what needs to be counted in the time that needs to be reported and ensure this is the same across the whole of the employer. For example, everyone understands the difference between trade union duties and trade union activities (the reporting requirement in question four refers to paid trade union activities, not trade union duties).

**Data protection** - individual representatives should not be named or be able to be identified from the information provided. Additionally, it should not be possible to identify an individual official's salary from the information provided. In these circumstances the employer should use a notional hourly cost.

**Value for money** - as stated above, partnership working is central to the delivery of high quality and safe health and social care. Partnership working between employers and trade unions ensures that staff feel valued and are involved and consulted on decisions that affect them in the workplace. There is a growing body of evidence that shows that when staff are engaged and valued outcomes for NHS service users will improve. Therefore, you may wish to publish case studies alongside the data on the website showing the benefits of facility time for the organisation to accompany the information about the cost.

### **Partnership working**

The employer should consult with unions (via the staff side structure) before preparing the report, and consult on any draft before it is published – this should be at least two months before the required deadline. This work must be done in a planned and timetabled manner, allowing unions enough time to collect or validate the data required. Partnership arrangements should be in place to deal with any query or challenge over the figures.

### **More information**

The Government will publish guidance on facilities time reporting. You can find more information here: <https://www.gov.uk/government/collections/trade-union-bill>.

The Social Partnership Forum has information about facilities time on their website here: <https://www.socialpartnershipforum.org/about-spf/how-we-do-partnership/facilities-time/>.