

**THE CASE FOR
MAINTAINING A POOLED
BUDGET FOR
TRADE UNION FACILITY
TIME FOR SCHOOLS**

**PRESENTED BY
ATL; GMB; NAHT; NASUWT; NUT;
UNISON AND UNITE.**

LA Position Statement

For a considerable number of years the LA has supported the 'pooled' funding arrangements for TU Facilities time. This has enabled bay wide trade union representatives to undertake activities supporting schools in the timely and constructive resolution of 'people' issues with minimal disruption to the day to day staffing requirements within maintained schools.

As a consequence of the School Funding Reforms the LA supports the principle of the continuation of primary and secondary maintained schools to 'de-delegate' the funding into a pooled arrangement for TU facilities time.

The LA will also support the special schools and nursery schools to be able to 'buy in' to the pooled arrangement for TU facilities time.

Currently there is no arrangement in place for Academies or non-maintained schools to 'buy in' to the pooled arrangement. However, consideration of such arrangements being put in place could be incorporated as part of any future trading with schools options.

1. Introduction

All LAs have to tell the EFA by end of October this year the methodology for delegating to schools the current pooled budget for trade union facilities time to take effect April 2013. This will be done via a per pupil rate (current facilities budget divided by total no of pupils in all school types.)

A proposal on this matter will be presented to Schools Forum in September.

Schools Forum representatives can make their views known to schools on whether or not the facilities budget should be de-delegated and retained in a pool.

Academies that will have their share of the delegated facilities budget can choose to join pooled arrangement (see below).

50% or more of a phase of schools needs to agree to retain the pooled arrangement before it can be pooled; otherwise it will remain delegated within a school's budget.

If 50% or more agree to retain the pooled budget then all LA maintained schools in that school phase will be part of a pool (i.e. the top-sliced fund from the DSG for LA schools will be retained by the LA).

Academies within a phase of schools where 50% or more have chosen to retain a pooled budget can request to join the pooled arrangement. To achieve this, and upon request to the LA, they will be invoiced by the LA for the amount delegated to

them. A servicing charge of £25 will be made against the amount delegated. The same applies to all special schools.

2. What is at stake?

The future access to local trade union representatives to support staff at all levels of seniority within schools is at stake if the current pooled facilities funds are dispersed rather than held within a pooled arrangement as at present.

3. What are the sums involved in Torbay's pooled facilities budget?

The facilities pooled budget in Torbay currently stands at £23,382. The delegated sums would serve currently 7,060 pupils in Torbay LA schools. Secondary: 882, Primary 6,720 and Special Schools:

4. Who will decide?

The Schools Forum will make recommendations to all schools and seek their views on this issue. It will be headteachers and governors who will individually make the decision as to whether a pooled budget is retained.

If schools do not respond in sufficient numbers then the representative from each phase on the Schools Forum will decide.

5. THE ARGUMENTS IN SUPPORT OF RETAINING POOLED FACILITIES BUDGET

5.1 What activity does the pooled facilities budget support?

This budget enables bay wide representatives of all teacher, management and support staff trade unions to assist and represent their members in schools on issues of conditions of service.

Trade union facility time enables union representatives in workplaces in the public and the private sector to carry out demanding and complex roles, to advise and formally represent members in grievance and disciplinary hearings and negotiate terms and conditions with employers. This amounts to union representatives receiving paid time off work – but usually in work time – for a relatively tightly defined set of trade union duties. The legal basis for these arrangements is set out in the Trade Union and Labour Relations (Consolidation) Act 1992 and the ACAS Code of Practice on “Time off for Trade Union Duties and Activities”.

Where these representatives currently work within a school the pooled budget provides the school with funds to cover the costs of release to undertake these bay wide activities.

This directly refutes the argument that is sometimes made that schools do not need to collectively support local area trade union representation, as the individual trade union membership fees should provide them with all the support that they need via full time paid officials. However, all trade unions operate via their network of local and area-based representatives and employed staff cannot replace that function.

The regional officer for the professional association supporting headteachers and other members of the leadership team has made the following comments on the impact of the non-retention of a facilities budget.

Whilst Regional Officers are not directly funded through facilities agreements, they would be significantly affected by any changes that affected the role of Branch Secretaries and other local officials.

Local officials heavily support Regional Officials. The former not only filter cases but also are often able to offer pastoral and practical support, which the Regional Officer is unable to provide because they are geographically too remote.

In addition, the current RO network would not be able to participate in local consultation meetings, which could, potentially, leave our members vulnerable and disenfranchised in local negotiations. Any reduction of local capacity to support members would also have a huge impact on the workload of Regional Officers at a time when the demands on them are already increasing at an alarming rate.

In short, any cessation of local facilities funding would inevitably adversely affect the nature and type of support available to members leading to greater response times and more remote telephone type support, which would almost certainly be less successful in achieving quality outcomes for members than current arrangements.

The trade union representative has a vital role in working with the employer to achieve the best outcome and resolve issues as locally as possible. That undoubtedly reduces the risks of litigation and is a benefit that assists schools. The case studies (Appendix 1) show clearly that being taken to an employment tribunal is damaging to a school's reputation and costly in both time and money.

Although many of the unions employ regionally based staff to deal with high level cases it is beneficial to all parties to resolve issues at the earliest opportunity. This is why supporting paid time off for local union representatives makes sound business sense.

Under the Trade Union and Labour Relations Act (and Appendix III of the Burgundy Book and Part 2, Section 18 of the Green Book – see Appendix 2), employees are entitled to reasonable time off to carry out trade union duties. This is a principle that has been universally recognised and actively supported by schools across Bristol. Paying into a joint budget for trade union facilities time to enable adequate representation ensures that costs are more predictable. The service received is also much more reliable than paying for release for a Division or Association Secretary on

an ad hoc basis or waiting until a member of regional staff becomes available. Dealing with concerns swiftly and locally is the key to effective employment relations.

In addition to paid time off to undertake trade union duties, union representatives also carry out much of this representative work in their own time (i.e. not in paid work time). In a survey carried out by the TUC in 2005, 16% of union reps said that less than a quarter of the time they spent on union duties was paid for by their employer. A survey by the Department for Business, Enterprise and Regulatory Reform (BERR, now Business Innovation and Skills or BIS) found that union reps in the public sector contribute up to 100 000 unpaid hours of their own time each week.

In a recent survey for the TUC and Personnel Today (January 2007) the majority of responding HR professionals agreed that unions were an “essential part of modern employer/employee relations”, and that union officials approached meetings with managers in an “open, constructive manner”.

In 2007, BERR (now BIS) conducted a review of the facilities and facility time available to workplace representatives. Using data from the government-sponsored 2004 Workplace Employment Relations Survey (WERS 2004), this review – in Annex B of its consultation document – calculated the costs of union representatives and the benefits accrued from such representation. The report states that union representatives’ duties and roles are best and most appropriately carried out within the workplace and within work time when union members and managers are collectively present and available in the workplace. The key findings published as part of BERR’s report were that:

1. Dismissal rates were lower in unionised workplaces with union reps – this resulted in savings related to recruitment costs of **£107m-£213m pa.**
2. Voluntary exit rates were lower in unionised workplaces with union reps, which again resulted in savings related to recruitment costs of **£72m-£143m pa.**
3. Employment tribunal cases are lower in unionised workplaces with union reps resulting in savings to government of **£22m-£43m pa.**
4. Workplace related injuries were lower in unionised workplace with union reps so resulting in savings to employers of **£126m-£371m pa.**
5. Workplace related illnesses were lower in unionised workplace with union reps so resulting in savings to employers of **£45m-£207m pa.**

Putting these figures together at 2004 prices means that in the range of **£372m pa to £977m pa** in savings were accrued in large measure as a result of the presence and work of union representatives. When updating these figures to take account inflation using the Bank of England calculator, the figures for 2010 come out between **£267m pa to £701m pa.** It should also be stressed that these figures do not include the

benefit of union representatives to productivity performance which is widely acknowledged – but this benefit is much harder to calculate in order to provide a robust and singular figure. Yet what they do show us is that for every **£1** spent on trade union facility time in the public sector that **between £3 and £9** is returned in accrued benefits on the measures of the costs of dismissal and exit rates. That is a return on investment which most investors would rate highly, and which many most FTSE250 companies would struggle to match.

Please refer to Appendix 1 for a variety of case studies to exemplify this.

5.2 The activities within schools supported by the facilities budget

Each trade union representative supported by the pooled budget is involved with policy discussions affecting terms and conditions of service and other wider matters with the local authority officers. This latter work now involves consultation with Academies and Trusts. Each union manages their part of the fund to ensure that local representatives are available to help their members with issues affecting them and to be involved in the above consultations on terms and conditions of service.

5.3 Enabling staffing matters to be effectively discharged

The facilities funds enable knowledgeable local representatives to provide professional advice and support to staff where required.

This applies equally to senior school leaders accessing a local representative and asking them for information and support and assisting with signposting advice on managing difficult HR issues. Where a member's own employment is in jeopardy a senior union officer is usually involved.

This external support (for their staff member and separately for themselves as managers if they seek advice) enables them to manage the processes more effectively to an appropriate conclusion.

Trade union duties and activities undertaken by union representatives paid out of the pooled budget include:

- Attending meetings to discuss internal union business
- Attending meetings of union policy making bodies
- Attending workplace meetings to discuss union negotiations with employers
- Meeting with union officers to discuss workplace issues.

5.4 Help in the context of new school governance structures.

With academies and the role of academy governors as full employers leadership team members will have no buffer to intercede on their behalf when the member in difficulty, other than their professional association representative, as the LA is not involved (other than in standards issues and post OFSTED issues) HR advisers will be acting for the governors. This issue is even more acute within academy chains with more 'distant' governance structures.

5.5 Support with OFSTED outcomes

Also with the new OFSTED regime and the linkages to the enforced academy programme, other than in the case where an LA itself challenges an OFSTED verdict, the senior leadership team members are vulnerable and require high-level support in all the issues that may flow from a special measures or requiring improvement categorisation. This issue will increase in the future.

5.6 Ensuring professional interests are represented in LA and academy forums

Local area representatives are also currently involved in representing their unions' views to elected members and officers on any LA policy likely to affect their members. They also are involved in inter union discussions and relationship building on key issues affecting the entire education workforce. They also scrutinise and comment upon all HR policies that are intended for schools to adopt/adapt.

5.7 The future of local consultation structures

The emergence of larger joint academy structures involving a number of secondary and primary academies creates large entities with 600-800+ staff that have overarching governance consultation mechanisms for area union representation. This is increasing pressure on local representatives to attend these additional meetings where issues affecting their members are discussed.

This process, and sets of academies coalescing into larger trusts, is an ongoing process and likely to be accelerated. Converting academies are also adding hugely to local workload as they all involve TUPE discussions and will need a mechanism for consulting with trade unions in the long term in accordance with the TUPE regulations.

At present there are still a high percentage of primary and special schools that are not converting to academies and see no future reason for doing so. This will leave these schools with the LAs as employer of last resort and will require ongoing consultation by local recognised teacher professional associations and other union representatives on matters affecting LA schools.

Local representatives will be managing support in both LA and academy settings and if current processes of change continue then purely with separate academies and trusts.

If the facilities budget pool is not retained, who will pay for the release costs for trade union representatives who are undertaking training or local area roles for their union?

If the pooled funds were dispersed and not retained centrally then in the future this cost would fall to the individual school to meet. Currently there is no mechanism to achieve this.

The professional association representing more than 28,000 school leaders in England, Wales and Northern Ireland, covering virtually every special school, 85 per cent of primary schools and more than 40 per cent of secondary schools, as well as many early years, further education establishments and other education leaders, fully supports the retention of local authority facilities budgets within pooled arrangements. All other recognised trade unions representing school staff fully support that position.

We trust that you will give this document your most thorough attention. Please do come back to us if you have further queries or would like further discussion.

Appendix 1

Case Study 1

Costs for a discrimination case

Discrimination claims can include not only race discrimination but also discrimination on the grounds of faith or belief which can be quite wide ranging. The legislation also allows claims for alleged discrimination on grounds of sex, disability, sexuality and age, all of which may also be pursued as separately identified cases against a school. Employees can also pursue claims for victimisation where they have made a complaint of discrimination (whether internally or externally) and feel they received treatment that victimised them in response to that complaint.

Other key pieces of legislation that teachers have been known to pursue claims under include the Fixed Term Employee Regulations, the Part Time Worker Regulations, the Agency Worker Regulations, Unfair Dismissal and Unfair Selection for Redundancy. These are the commonest claims the trade unions generally handle for teachers, although there are other heads of law that could be relied upon.

This case study demonstrates the costs associated with a case where a teacher believed that he was being discriminated against on grounds of race and disability. This teacher raised the issue of race discrimination with the school but was not satisfied with the way in which his complaint was handled or resolved. This led to extreme stress and anxiety which after a period of time manifested it in physical illness diagnosed as severe and chronic irritable bowel syndrome and severe migraines. This teacher was then off sick for a considerable length of time resulting in the school commencing procedures to dismiss the teacher on grounds of ill health. This teacher was convinced that his illness was caused by the racial discrimination he experienced in his workplace and intended to take a claim for unfair dismissal and discrimination on the grounds of race and disability to employment tribunal. There was medical evidence to support this view for legal purposes.

The case was eventually settled by way of a compromise agreement after more than 18 months of meetings and negotiation.

The NUT rep spent in the region of 168 hours or approximately 24 days over 18 months on this case. The associated cost of release from normal duties is £3,216.

Had the member not had NUT representation, he would undoubtedly have taken the case to tribunal. The NUT would have covered the member's legal costs but the school would have had to prepare and defend themselves in an employment tribunal which would have been listed as a 5 day hearing. The legal costs for the school would have been solicitor's fees of approximately £20,000 plus VAT. Since the case involved two strands of discrimination, the school would have considered using a barrister. Barristers' fees are at least £1,500 per day (and may be much more) so

including preparation time this could easily have been in the region of a further £10,000 plus VAT.

The potential costs of this case had it not been resolved by the intervention and support of the trade union concerned have been assessed as follows:

NUT rep	24 days @ £134 per day supply rate	£ 3,216
Solicitor's fees		£ 24,000
Barrister's fees		£ 12,000
TOTAL		£ 39,216

Further associated costs for the school would have been the time for staff in the school in preparing for the case and being witnesses at the hearing. If we take conservative figures of:

Headteacher	12 days @ annual salary of £90,000	£ 2,959
Admin support	12 days	£ 657
Witnesses x 8	2 days per person @ supply rate	£ 2,144
TOTAL COST		£ 44,976

By settling via a compromise agreement rather than having to represent themselves at employment tribunal, **the school saved at least £41,759** before consideration is given to any award that would have been made if the member won his claim. The teacher would not have signed a compromise agreement without NUT support and would certainly have continued to pursue his intended course through the employment tribunal if not given timely and competent advice regarding case prospects and settlement terms by his trade union. The employment tribunal service is well-known for being inundated with claims from unrepresented claimants with little understanding of legal processes and ultimately poor case prospects, whereas none of the teacher trade unions would ever support a member in pursuing a claim without reasonable prospects of success being clearly assessed and identified. The trade union rep's input into this at an early stage is a key element that needs to be supported properly by schools.

Paying into the facilities budget saved this academy school at least £42,935 after taking into consideration their contribution to the facilities budget.

(NB: The figures above do not take into account any compensatory payment made to the employee as part of the compromise agreement).

Case Study 2

The Cost of an Employment Tribunal Case

The likely costs of any hearing will depend on the complexity of the case and the length of the hearing. However, ATL recently had costs awarded against them for a failure to consult case that was only listed for half a day. These costs, set by the employment tribunal, were £4371.

The School's solicitor's hourly rates were:-

Partner: £ 260.00
Solicitor: £ 155.00
Trainee: £ 98.00

A standard unfair dismissal case could easily take 40 hours to prepare so at £155 per hour that would be **£6,200** (or, for the services of a partner, the cost would be **£10,400**.) Some claims involve a solicitor and a partner working together so those costs would turn out to be quite considerable for a school.

A two day hearing on top (which is fairly standard for unfair dismissal) is £2,480 (a barrister would probably charge around £5,000 for a two day case).

Therefore a straight forward unfair dismissal case could cost £8,000 to £10,000 in fees alone, using a standard level solicitor to prepare and present the case for the school. There would be additional costs if the school were to lose the case and/or have separate costs awarded against them. The average award for unfair dismissal in 2010/11 was £8,924.

Discrimination cases are usually more complex, which means greater solicitor costs, the likely involvement of a barrister to prepare or present a case and a longer Employment Tribunal hearing. In addition, awards in discrimination cases are typically far higher, for example the average award for age discrimination claims in 2010/11 was **£30,289**.

Case Study 3

The True Costs of a Failure to Agree – Dispute Resolution Case

Whether they are an employer or a trade union representative, everyone is generally committed to transparent, effective and positive employment relations. This is stipulated under recognition agreements but in any case is a good practice model. Dispute issues do occasionally arise within a school, usually around working conditions or practices or the introduction of new measures, and the maintenance of positive employment relations in that context becomes especially critical.

It is in the interests of all employees and employers to resolve potential dispute issues as near to their point of origin as possible and with the minimum amount of conflict and disruption occurring. Schools want to see matters resolved in a timely

and effective manner so that their focus can return to the proper business of teaching and learning and the management of their establishment. It is also the wish of every trade union to work in such a manner.

For these reasons, all parties always work hard to achieve agreement and constructively negotiated outcomes that are mutually beneficial and agreeable. If it is to be achieved successfully, this takes time (and therefore money.) Without that commitment to resources being given, any dispute that came to the attention of the unions, no matter how trivial it may be in its origins, would translate immediately into collective balloting activity and/or collective employment tribunal applications, which we do not see as being in the interests of schools or members. This is particularly relevant in the initial stages as all evidence demonstrates that disputes are most capable of constructive resolution at their early phase.

Below is an outline of a dispute issue that arose in a school which we have analysed for time spent and costs to illustrate how and why we believe the intervention of trade union representatives saves schools considerable time and money.

Context and Progress of Dispute:

The school wished to change its Directed Time formula to lengthen the school day. In addition, there was a wish to introduce one late finish per week (5pm) for teachers in exchange for leaving earlier (2pm) on a Friday afternoon once a month. Although the members understood the school's rationale and were not totally unhappy about all of the proposals, the effect of the school's proposal overall was to add 35 minutes to each teacher's contact time each week. This they were extremely unhappy about and the view of all three unions involved was that this would breach the relevant teacher conditions if implemented.

There was a mix of locally-based representation, with two out of the three main teacher unions having a School Representative. Joint and separate members' meetings had been held to consult and discuss the issues and, in the case of the represented unions, indicative ballots had been conducted because there was a strong request made for industrial action in response to the proposal from members almost immediately. These meetings had demonstrated virtually unanimous support for action to oppose the proposals being requested and both the local reps were asked to take this up with the Headteacher immediately. There had been one local meeting to discuss the situation but this had not gone well: the reps had essentially refused to discuss the proposals because it was outside of their union defined remit to do so, but had informed the Headteacher that everyone was upset, ballots were being requested and he had no prospect of implementing his proposal. The Headteacher had become extremely defensive and had stated that he intended to complain about the behaviour of both reps to their respective unions.

At this point, the matter was referred to the Local Secretaries, all of whom worked at other schools. There was also consultation with the Regional Officers of the unions,

both paid and elected. A joint Secretaries' letter was produced detailing the concerns expressed by members and sent to the Headteacher and Chair or Governors. A meeting was requested as a matter of urgency to discuss the situation and see if it might be resolved. In the case of one union, there was also 'behind the scenes' involvement from their National Officers because of the potential for a formal dispute.

In tandem with this, the Headteacher wrote a letter to each of the unions formally complaining about the attitude of the local reps. This greatly complicated the situation and led to an almost irretrievable break down in relations locally because of the entrenchment of positions. However, it was believed he may have done this in the heat of the moment, so the Headteacher was contacted by telephone by one of the Local Secretaries and was persuaded to withdraw these complaints in favour of assistance towards a dispute resolution process, since no progress could ever have been made otherwise.

An initial dispute meeting was held with the Headteacher, three Governors, and a Personnel Officer from the school and a HR Adviser from the relevant Local Authority. At the first meeting, the key issues from each side were explored in a controlled and appropriate manner, agreement was reached regarding how the negotiating process would be facilitated and barriers to progress each side felt existed were identified. This meeting took 4 hours and included specifications from each side for a joint document to agree how the resolution process would go forwards. This was drafted and shared afterwards, outside of the meeting process and it was used to inform all of the meetings that followed. The document took around 6 hours to produce, consult and come to agreement upon.

There followed a series of six further meetings, all of around 3 hours duration, in which negotiations continued and progress was achieved. The trade union side also held a joint pre-meeting for an hour before each of these to ensure continuity and assist progress of the dispute. Eventually, it was possible to come up with a re-negotiated proposal that met the needs of both the school and its teacher employees and the school was able to implement this positively for the following September after an effective consultation exercise to complete the process.

Commentary and Costing

The involvement of the locally based Association/Branch contacts in this dispute was absolutely crucial to its successful resolution. Without it, there could not have been the same level of commitment to a joint process and partnership to succeed in getting to a satisfactory resolution. The local representatives at the school were under significant pressure from their members and the Headteacher found it very difficult to negotiate on his original proposal because of the way in which it had been introduced and responded to right at the beginning. All of the reps' time was funded via existing facilities arrangements.

There was also considerable activity involved outside of the meeting schedule, to ensure good liaison and communication at all levels and a continuing commitment to the process. This time also included the drafting and sharing of documents, for both the school and the members the school was under an obligation to consult with. In this case, the three Secretaries met together and undertook those activities jointly, to maximise the best use of their available facilities time.

Had the local representatives been unable to assist the situation because of the lack of appropriate facilities support, then the situation would have relied on the employed officials of the three unions becoming involved in the alternative. This would have inevitably made the dispute appear much more serious and high-level than it needed to be, particularly at the outset. In the case of at least one union involved, it would also have necessitated the direct involvement of the General Secretary because a dispute was declared and then the procedure outlined in the Burgundy Book would have been invoked, meaning nothing could be changed or negotiated upon until there had been a National/Local Deputation meeting. That involves a large number of people and can take months to see through to fruition. It is also likely there would be a simultaneous ballot for industrial action if this route were to be taken.

Had it been adopted, that approach would have severely limited capacity for resolution on both sides, it ran the risk of missing locally-based knowledge and intelligence and the whole situation would have taken much longer, become intractable and would have remained extremely difficult to resolve.

In addition, owing to their wider level of functioning and resulting commitments, it is highly probable that all of the employed officials would struggle to find many days and times on which they could all be available which would also suit the school. The school would then have had to meet with each union separately (in the case of at least one union after the National/Local Deputation process had taken place.) In that circumstance, assuming the pattern of meetings above, the Governors, the Headteacher, the Personnel Officer and the HR representative would have to attend three times as many dispute meetings – even if there were only the seven above that were actually needed to resolve this case, this would amount to twenty-one meetings to resolve the issue overall. That has a significant cost implication for the school, even without anything else being accounted for.

As it was, since facilities funding was available to the key local activists of each union, the costs to the school were as follows:

3 x secretaries attending 7 meetings, inc pre-meets Facilities funded – 84 hours total	NIL COST
2 x local reps attending 7 meetings, inc pre-meets Facilities funded – 58 hours total, inc 1 hour for liaison/prep	NIL COST
Secretaries (3) and reps (2) consulting with employees	NIL COST

Facilities funded 4 mtgs – 80 hours total	
Secretaries drafting reports, agreements, updates etc Facilities funded – 30 hours total	NIL COST
Time spent travelling to/from school (assuming 1 hour each way) for Secretaries x 3 Facilities funded – 66 hours total	NIL COST

Without the TU facility time, assuming supply cover costs of £134 per day (approx £21 per hour), these costs would have been:

3 x secretaries attending 7 meetings 84 hours total	£ 1,764
2 x local reps attending 7 meetings 58 hours total	£ 1,218
Secretaries (3) and reps (2) consulting with employees 80 hours total	£ 1,680
Secretaries drafting reports, agreements, updates etc 30 hours total	£ 630
Time spent travelling to/from school 66 hours total (assuming 1 hour each way)	£ 1,386
GRAND TOTAL COST TO SCHOOL	£ 6,678

(NOTE: Both tables assume that the consultation with employees is a cost that falls to the employer because of the legal obligation to consult where new contractual proposals are being negotiated in recognised workplaces.)

Had the school been an academy paying into the facilities fund to support the resolution activity by the local trade union reps, their costs for this would have been the schools delegated sums – this would range from £1,155 for 300 pupils up to £3,465 for 900 pupils in a school.

On the figures above, this would represent a saving of between £3,213 and £5,523 in a single year after taking into account the school's contribution to the fund.

Costs Not Included Above

These figures only represent costs for trade union and/or member consultation time, they do not include any time that was required for school or Local Authority representatives to engage in and seek to resolve the dispute amicably, so the true business costs would have been considerably higher, probably at least twice the amount indicated above. For the purposes of this case study, we have only assessed the trade union time and costs as these are the figures we would present to any school that decided not to purchase the facilities of the Local Association Representatives as invited.

Further to the costs indicated above, without Local Association Secretarial intervention, it is extremely likely that this dispute would have proceeded into a legal arena at a very early stage, with the possibility of failure to consult claims being lodged by all three unions on behalf of each and every member (almost every teacher working there in this case.) Instead of this, the facilities fund enabled constructive attempts to be made by our Secretaries to resolve it as locally as possible. Had that not been available, the spectre of accumulating legal costs is raised immediately for any school, even before any tribunal process takes place, as in the case study example given above. Had such claims been lodged and won by the three unions involved, the award for failure to consult may have been quite considerable in a dispute case as it is calculated on the basis of amount awarded for each member who is part of the relevant bargaining group.

This case study was costed only on the basis of the real trade union time taken to resolve it. We believe it demonstrates clearly that the benefits to schools of purchasing facilities time far outweigh the costs of any significant dispute resolution activity, even where no recourse is taken to legal proceedings by either party. In that context, it represents very good value for money to a school.

Conclusion

In compiling this report, we have attempted to explain what the three trade unions who have worked on it have identified as the key projected costings for any school if we cannot maintain good employment relations. To achieve this, both schools and the trade unions need effective and positive support for members and employers that can remain locally based. If schools choose not to purchase facilities in the way we are suggesting, this is very much placed in jeopardy and the school runs a strong risk of higher costs arising than would be necessary under this proposal.

We hope that the three case studies described above will provide sufficient detail for Principals, Headteachers and Governors to appreciate the real costs that would arise if we cannot get your support. The proposed formula of £3.85 per pupil per school per year represents an affordable one for most schools and we believe that it is an investment worth making to secure peace of mind regarding the issues discussed in this report. We very much hope you will be persuaded by this information as well as your stated support for trade unions, which we appreciate. We are now asking you to commit your school to funding this agreement on an annual basis so we can begin to set the new arrangements up and make them effective in all schools across Torbay for the future.

Thank you for taking the time to read this report we hope it has been useful to you and your school.

Jessica Pearce, NUT Regional Officer
Fiona Westwood, NASUWT Regional Organiser
Helen Taylor, ATL Regional Officer

Appendix 2

a) Appendix III of the Burgundy Book

AGREEMENT ON FACILITIES FOR REPRESENTATIVES OF RECOGNISED TEACHERS' ORGANISATIONS

Introduction

1. This agreement between the Council of Local Education Authorities (CLEA), acting on behalf of the Local Government Association, and the teachers' organisations contains the principles and practices which are recommended to local education authorities and governing bodies in respect of the facilities to be made available to those teachers, not being paid officials of any of the recognised teacher organisations, who are representatives of these organisations. Each local education authority is advised to agree jointly with each of its recognised teacher organisations the detailed arrangements for the granting of facilities in accordance with the provisions of this agreement. Disagreements on points of principle and any requests for clarification may be referred to CLEA for discussions with the national teachers' organisations.

General Principles

2. This agreement is based on a belief that both the teachers' organisations and the employing authorities accept their joint responsibility for ensuring a well ordered system of trade union organisation and industrial relations, and on a recognition of the contribution that can be made by the teachers' organisations and their local representatives to the smooth running of the education service at local and national levels. It is agreed that in jointly determining the nature and extent of the facilities required locally, and in their use, the parties to the local agreement will have regard not only to the value of the agreed facilities for effective employee representation as a means of promoting good industrial relations, but also to the need to avoid unnecessary cost, to maintain the effective running of the schools where the teacher representatives are employed, and to recognise that the provisions of the agreement will have to be introduced within the resources available to the employing authorities.
3. An accredited representative of a recognised teachers' organisation will be a teacher who is:
 - (a) a member of the national executive or other national committee of his organisation, or a representative of his organisation appointed by the national executive to serve on a national body;
 - (b) a local officer of such an organisation whose necessary official organisation duties are effectively at local authority level. The relations and negotiations with a local education authority shall be the sole responsibility of

the main unit of local organisation. The activities in which these local teacher representatives will be jointly involved with the LEA and governing bodies will include both individual and collective issues. In order to act effectively, the teacher representatives will need to put views to the authority concerned as appropriate, to consider proposals, to conduct correspondence and to consult members of their associations individually or collectively;

(c) a local officer whose duties are at the lower level of an association within the area of the main unit of local organisations;

(d) a school representative whose duties will be limited to activities which are a necessary part of his/her duties for his/her organisation and its members within the school in which he/she is employed.

In certain circumstances a representative may have responsibility for more than one of these functional levels. For their part the recognised teachers' organisations undertake to ensure that their accredited representatives locally understand the extent of their authority and responsibility as teachers' representatives.

4. It will be the responsibility of the recognised teachers' organisations to notify the local education authority and individual head teachers of the names of its accredited representatives and it will be to the accredited representatives only that the recommended opportunities and facilities are extended. It is appreciated that in very large or split site schools organisations may wish to appoint more than one representative, while in those areas where there are very small schools organisations may wish to have one representative to service more than one school.

5. The principal matters with which the appropriate accredited representative will deal, in accordance with the responsibilities defined in paragraph 3, are as follows:

(a) matters arising out of the use of grievance and disputes procedures which have been agreed between the teachers' associations at authority level and the local education authority and governing bodies;

(b) responsibilities of the teacher representatives to their unions (e.g. attendances as delegates to their national conferences);

(c) responsibilities of the teacher representatives in connection with the interests of their members in the schools;

(d) functions connected with the training of teacher representatives, including attendance at training courses arranged by the recognised teacher

organisations at national, regional or authority level for this purpose. In these respects consultation with the authority will be part of those functions.

6. It is expected that (b) above will include the involvement of members of the local committee of recognised teacher organisations in attendance at the meetings of those committees, which will not be expected to meet earlier than 4:00 p.m. on any school day, other than in exceptional circumstances⁶. Item (c) is likely to include, without interfering with the normal functioning of the school, the convening of meetings of newly appointed teachers for the purpose of meeting them and explaining the advantages of membership of a recognised organisation.

Facilities for Accredited Representatives

7. It is recommended that local agreements on the provision of facilities for the local officer of the recognised teachers' organisations should include:
 - (a) arrangements for carrying out his or her association's responsibilities within the schools and for obtaining permission to leave the school in which he or she is employed so that he or she can perform his or her functions as an accredited representative;
 - (b) provision of lists of newly appointed teachers in the authority's area and arrangements for communication direct with the new teachers;
 - (c) provision annually of a list of the teachers employed in the schools of the LEA by the means most convenient to the authority⁸;
 - (d) arrangements for use of accommodation in schools or other premises of the authority for association meetings;
 - (e) arrangements of the use of the local authority's distribution system to schools for the purposes of official union communication with their members, subject, if necessary, to approval by the national union or association concerned;
 - (f) arrangements for the deduction of membership subscriptions at source where this is requested by any local association of a nationally recognised teachers' organisation. It will be for the individual member to decide whether to opt for deduction at source.

6 Where meetings called for 4:00pm would adversely affect the school day, as might be the case when committee members in rural areas may have to travel significant distances to attend such meetings, a later starting time should be arranged.

7 It is expected that such agreements will be no less favourable than those already applicable in the area concerned or any similar agreements which authorities have made with recognised unions in respect of other groups of their employees, particularly with regard to the terms of sub-paragraphs (d), (e) and (f) of this paragraph.

8 The lists referred to may, if any authority so wishes, be provided in the form of copies of School returns.

8. Absence from teaching duties for the performance of their responsibilities as local officers of the recognised teachers' organisations is to be allowed without reduction in pay. A scale providing for the maximum amount of leave with pay permitted to the local officers should be negotiated locally, and have regard, inter alia, to the number of members of the organisation concerned who are employed by the local authority and serviced by the officers in question.
9. The likely extent of the time required by accredited representative for the performance of their level of responsibilities as representatives of the recognised teacher organisations should be assessed in accordance with an estimate of their local involvement. They should not unreasonably be refused the time necessary for the performance of their responsibilities. The time which these responsibilities are likely to occupy should be taken into account in respect of its effect on their teaching duties.
10. The accredited school representatives of the recognised teachers' organisations should be permitted reasonable opportunities and be given the necessary facilities to discharge their functions as provided for in the ACAS Code, namely:
 - (a) union matters such as recruitment, maintaining membership, collecting contributions and communicating with members;
 - (b) within the responsibilities conferred on them by their respective organisations, industrial relations matters within the individual school such as the handling of members' grievances.
11. The facilities envisaged are as follows:
 - (a) notice board facilities to be provided by the LEA or governing body without charge and the titles of the organisations to be inscribed on the board or boards. Multi-association boards should be used wherever possible;
 - (b) use of telephone with reasonable privacy (if available), with payment for outgoing calls;

(c) provision of a room for a meeting with the organisation's members as required, providing reasonable notice is given;

(d) use of school typing, duplicating and photocopying equipment, where available, for essential union work within the school providing this does not interfere with the work of the school and on a basis of repayment by the organisation concerned for the materials used.

12. Local officers should be provided with the documents which set out the pay, conditions of service and the regulations of the local authority which apply to the teachers employed in the authority's area. Accredited school representatives should be provided with access to such documents and also with information as to the structure and allocation of promoted posts applicable to their own schools and with the articles of government. These documents should be supplied without charge.

General

13. Guidance on aspects of this agreement is contained in the accompanying Commentary. Any changes will be notified to those concerned.

**COMMENTARY ON ASPECTS OF THE AGREEMENT ON FACILITIES
FOR REPRESENTATIVES OF
RECOGNISED TEACHERS' ORGANISATIONS**

1. Local Authorities have been advised that they should pursue policies designed to fulfil the recommendations of the ACAS Code of Practice with regard to facilities for Union representatives. Employment protection legislation requires employers to allow officials of independent trade unions, including employees who are accredited as representatives of recognised unions (or associations) to act on behalf of union members in the establishments where they themselves are employed, reasonable time off from work with pay for trade union activities which are a necessary part of the official's duties in connection with the employer's own organisation. The legislation provides for such an employee to complain to an Industrial Tribunal that permission has been unreasonably refused to allow him/her time off from work for these purposes.

2. The Agreement arrived at between CLEA and the recognised teachers' organisations seek to set out in detail the manner in which the recommendations of the ACAS Code on facilities for trade union representatives should be applied within the education service. The purpose of this Commentary is to offer guidance to authorities and teachers' organisations on aspects of that agreement, and the issues which stem from it.

3. It is recognised by CLEA that if the provisions of the agreement are to be given effect without imposing additional burdens on teaching staffs it may be necessary for LEAs to provide additional staffing resources in individual schools and authorities are accordingly recommended to make such provision as far as possible within the resources available to them and subject to the constraints of LMS formulae.

4. It will be noted that the agreement does not specify any limit on the amount of paid leave of absence which shall be granted to national representatives. It is accepted that individual representatives will be willing to inform the employing authority of the reasons for absence if the authority thinks it is necessary to ask.

5. The agreement provides for leave of absence with pay to be permitted for local officers in accordance with a scale to be negotiated locally and related, inter alia, to the number of members of an organisation employed in a LEA area and serviced by the officers in question.

6. With the developments taking place in the field of industrial relations, health and safety at work, and similar matters, the teachers' associations are giving increased attention to training programmes for their accredited representatives and to the needs of the schools. Authorities should therefore give encouragement and support to accredited union representatives wishing to attend courses for these purposes and teachers' organisations should regard to the needs of the school in arranging their training programmes. When arranging them they should consult with the LEA concerned before making any arrangements to hold a training course during term time.

7. The recommendations in the agreement are not intended to alter the relations which at present exist between the recognised teachers' organisations and individual local education authorities, particularly so far as negotiations are concerned.

Appendix 2

b) Part 2, Section 18 of the Green Book

18. Trade Union Facilities

18.1 Authorities shall provide the recognised trade unions with facilities necessary to carry out their functions, including paid leave of absence to attend meetings concerned with the work of the NJC and Provincial Councils and the operation of a check off system whereby, with the consent of the individual, trade union dues are deducted from pay.