

Manager Guidance – Time off for Trade Union duties

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Background

Trade Union representatives have a statutory right to reasonable paid time off from employment to carry out trade union duties and to undertake trade union training. Trade Union representatives and union members also have a statutory right to reasonable unpaid time off when taking part in trade union activities.

Trade Union duties must relate to matters covered by collective bargaining agreements between the University and the relevant trade unions.

Trade Union representatives are protected from dismissal or detriment in carrying out their duties or in standing for election.

There are 9 areas of law where Trade Union representatives have statutory rights to paid time off to perform their duties and, in some cases, will be released for training and will be provided with facilities. These are outlined in the table below with a brief summary of their legal rights:

Type of representative	Rights
Trade Union representatives appointed by an independent union in workplaces where the union is recognised for collective bargaining purposes under	• Paid time off to carry out their duties • Paid time off for training



the provisions of the Trade Union and Labour Relations (Consolidation) Act off for trade union duties and activities 1992 known as TULR(C)A. applies.	• Protection against dismissal and detriment
Union learning representatives appointed by independent unions in workplaces to promote and enable and training and learning where the union is recognised for collective bargaining purposes. These rights are in TULR(C)A off for trade union duties and activities as amended in 2002.	• Paid time off to carry out their duties • Paid time off for training • Protection against dismissal and detriment
Health and safety representatives appointed by trade unions in workplaces where the union is recognised. The representatives are covered by the Safety Representatives and Safety and Committees Regulations 1977.	• Paid time off to carry out their duties • Paid time off for training • The provision of facilities to help them perform their duties • Protection against dismissal and detriment
Information and consultation Union representatives may be elected or seconded to negotiate the set up and/or be members to of a subsequent information and consultation body under the Information Consultation of Employees Regulations 2004 (ICE). They may sometimes work alongside non-union representatives. ICE bodies are typically called 'employee forums' or 'works councils'.	• Paid time off to carry their duties • Protection against dismissal and detriment • The statutory rights only apply to those representatives who negotiate to create an ICE body and/or serve on it under a 'negotiated agreement' or a 'standard agreement' under the Regulations.
Pension representatives are those workplace representatives, whether union or non-union, elected for the purpose of consultation over changes to pension arrangements, known as 'listed' changes, under the Occupational and Personal Pension Scheme (Consultation by Employers and Miscellaneous Amendment) Regulations 2006.	• Paid time off to carry out their duties • Protection against dismissal or detriment.
'TUPE' representatives Where an independent trade union is recognised for collective bargaining purposes, the representatives, must be informed and consulted over the transfer of undertakings. (Transfer of Undertakings Protection of Employment) Regulations 2006), known as TUPE and in TULR(C)A applies. as amended in 2006.	• Paid time off to carry out their duties • Paid time off for training • The provision of facilities to help union, usually including the workplace them perform their duties • Protection against dismissal and detriment



Collective redundancy Where a trade union is recognised, consultation in circumstances where the redundancy of 20 or more employees is proposed within a 90 day period (Employment Rights Act 1996, known as 'collective redundancy'), must be with the union representatives. Time off rights were off for trade union duties and activities added to TULR(C)A in 2006.	• Paid time off to carry out their duties • Paid time off for training • The provision of facilities to help them perform their duties • Protection against dismissal and detriment
Workforce agreement representatives Workplace agreements may be found in circumstances where it is necessary for employers to agree the application of a statute to the workplace concerning working time, maternity and paternity and fixed term employment. Representatives may be union or non- union.	Employee representatives in these circumstances <u>do not</u> have rights to time off but have a right to: • Protection against dismissal and detriment
European consultative bodies Employee members, whether union or non-union, of a special negotiating body (a body established for the purposes of negotiating with central management an agreement for a European Works Council (EWC) under the Transnational Information and Consultation of Employees Regulations 1999) and the equivalent in a European Public Limited Liability Company (known as a European Company) and a European Cooperative Society (the European Co-operative Society (Involvement of Employees) Regulations 2006) all have statutory rights to enable them to set up with management appropriate consultative bodies like a EWC. Once established the rights apply to the employee representatives on these bodies irrespective of union membership.	• Paid time off to carry out their duties. • Protection against dismissal and detriment.

Trade Union Facility Time

Each of our recognised trade unions has a facility agreement with the University which outlines time off for trade union duties and activities for TU representatives and members.

Time off for trade union duties:

Reasonable time off will be granted during working hours to undertake the following duties given by the union:

- negotiations in relation to collective bargaining as defined by section 178(2) of TULRCA;



- the performance of other permitted functions related to collective bargaining;
- information and consultation over collective redundancies or TUPE transfers;
- to undergo training in aspects of industrial relations relevant to those duties which has been approved by the Trades Union Congress (TUC) or by the trade union (see below);
- to accompany a University employee to any formal meeting or hearing where such provision is given in the relevant policy or procedure (see below) and
- to attend regional and national meetings where the trade union representative has been elected as a regional or national representative.

Time off for training:

- Reasonable time off will be granted during working hours for representatives to undertake training relevant to carrying out their TU duties.
- Training must be approved by the TUC or the trade union and where necessary details of the training course can be requested by the University.

Time off to accompany employees during formal meetings:

- Union representatives may advise and accompany employees before and/or during formal meetings such as disciplinary and grievance hearings. Trade Union full time officers also have the right to accompany an employee if requested.
- Representatives undertaking this work may have to appear as witnesses before appeal bodies or employment tribunals as necessary.

Time off for trade union learning representatives:

- The individuals in this role must be appointed to this role under the union's rules. The union must ensure that the representative has been adequately trained and certify this to the university.
- The union must notify the university that the representative will be undergoing the training and confirm that the training has taken place within a six-month period. A union representative is entitled to paid time off within this six-month period to perform their duties.
- Reasonable time off will be granted during working hours to undertake duties such as arranging training, promoting training, and analysing training needs.



Time off for trade union H&S representatives:

- Reasonable time off will be granted during working hours for training and to perform their functions under H&S legislation.
- The functions of a H&S representative include investigating potential hazards, carrying out inspections and making representations to Warwick about matters concerning health and safety.
- The amount of time off that is necessary will vary according to the nature of the workplace and the extent of the hazards it presents.

Time off for trade union activities:

- Reasonable time off during working hours will be granted to access the services of a trade union learning representative or seek advice from a H&S TU representative.
- Reasonable time off will also be granted for the following activities:
 - attending meetings at work to discuss and vote on matters that have been discussed between the trade union and the university;
 - meeting full-time officers to discuss issues relevant to the workplace; and
 - voting in trade union elections.

The University will not pay trade union members for time off to undertake trade union activities.

Procedure for requesting time off:

- TU representatives and members should request time off to undertake trade union duties or activities to their line manager as soon as practically possible.
- Requests should be made in writing, setting out the purpose (while preserving confidentiality for individuals being supported where applicable) and time off requested.
- For those employees/workers who have a degree of autonomy and flexibility in their working day, it is not expected that approval must be sought if there will be no disruption to the working day. For those employees/workers working in a service delivery role, it is important that approval is sought from their line manager prior to leaving their position due to the potential impact their absence will have on the service delivery of the function they work within.
- It is acknowledged that both parties accept the need to be flexible within this process and recognise their duties and obligations to the University.



Reasonableness and requests for time off:

- Managers should be as flexible as possible with requests for time off but must also balance the needs of the University and should consider both aspects when considering requests for time off.
- The ACAS code advises trade unions, in making time off requests, to be aware of the difficulties that granting the request may cause the employer. In particular, it recommends that the union should take into account:
 - the size of the organisation and the overall number of employees that it has;
 - the production process;
 - the need to maintain a service to the public;
 - the complexity and number of issues that are expected to have to be dealt with;
 - the importance of training and preparation for meetings; and
 - the need for safety and security at all times.
- Managers should bear in mind the difficulties that union representatives might have in ensuring the effective representation of, and communication with, shift workers and part-time workers and those with atypical working arrangements or additional needs.
- All employees who meet the qualifying requirements have the right to time off. It is important not to assume that part-time workers or shift workers will be able to organise their union duties around their work and not take time off.
- Managers will need to consider each application for time off on its merits; they should also consider the reasonableness of the request in relation to agreed time off already taken or in prospect.
- If managers or union colleagues have concerns or questions about reasonable time off they should contact a member of the Employee Relations team at emprelations@warwick.ac.uk

