

Facility Time Arrangements

Trade Union Facility Time &
Facilities

1. Introduction

The Forestry Commission (FC) recognises the important contribution that trade unions (TU) make to the organisation and in supporting their members. Staff are encouraged to join a trade union and, where they wish, take an active role within it.

The FC adheres to the statutory requirement to provide 'reasonable' paid time off for representatives to carry out TU Duties (see section 4.1) and 'reasonable' unpaid time off for representatives to carry out TU Activities (see section 4.2), as set out in section 168 of the Trade Union and Labour Relations (Consolidation) Act 1992.

These Facility Time Arrangements set out the practices which govern the facilities made available by the FC to employees who are accredited representatives or members of unions recognised by the FC. It takes due account of all relevant legislation and the ACAS Code of Practice 'Time Off for Trade Union Duties and Activities' (January 2010)

This document sets out the parameters within which facility time and facilities will be used. It takes into account the principles set out in the Cabinet Office Central Facility Time Framework.

These arrangements replace all previous facility time arrangements and is effective from 1st April 2014

2. Recognised Trade Unions

The following TUs are recognised by the FC, covered by these arrangements and collectively referred to as the Forestry Commission Trade Unions (FCTU)

- Public and Commercial Services Union (PCS)
- Unite
- Prospect
- GMB Union
- First Division Association of Civil Servants (FDA)

Employees have legal rights relating to TU membership and the functions carried out by representatives. These mean that they will not suffer any detriment as a result of their TU membership or status as a representative.

2.1. FCTU Office

The FC provides for one 50% post (FCTU Secretary) and one 40% post (FCTU Chair) to represent the constituent unions and support all areas of the FC. Post holders for these

roles are selected by the unions through an internal election process; they are elected for a period of 5 years.

The FCTU Secretary and Chair will take up their appointment at their substantive grade. If assessment of their FJP against the Forestry Commission's job evaluation criteria indicates a higher pay band Temporary Responsibility Allowance (TRA) will be awarded for the duration of the appointment.

The FCTU Secretary and Chair maintain their status as Civil Servants and are therefore subject to FC policies, the Civil Service Code of Conduct and Civil Service Management Code. The role of line manager for the FCTU Secretary post will be carried out by a representative from FC Human Resources (HR) another agreed individual.

3. Accredited representatives

For the purposes of these arrangements an accredited representative is a FC employee who has been appointed by a recognised union to represent their members within the union structure of the FC at Departmental, Regional or Local level.

It is the responsibility of union members to collectively determine who is elected to represent them, through the appropriate processes determined by the TU.

3.1. Notification of accredited representatives

The FCTU will notify FC HR of the names and locations of accredited representatives and any facility time they have been allocated. FC HR will confirm accreditation and the amount of facility time allocated, as appropriate, with the individual and their line manager.

Facility time allocations are provided for three types of accredited representative:

- TU Representatives
- TU Health and Safety Representatives
- TU Learning Representatives

3.2. Management of accredited representatives

Accredited representatives are FC employees and maintain their status as Civil Servants when carrying out TU Duties and Activities. They are therefore subject to FC policies, the Civil Service Code of Conduct and Civil Service Management Code.

As FC employees, accredited representatives will be subject to the FC Performance Management System (PMS) and Reporting Officers will set objectives that reflect their FC role. If an individual is an accredited representative they may be provided with a facility

time allocation that should be recorded in their Forward Job Plans (FJPs) and other objectives amended to reflect this time allocation.

Accredited representatives who rarely require facility time to carry out TU Duties will have no allocation in their FJP. If the representative does start to engage in regular or extensive duties they will discuss this with the FCTU Office who may decide to provide an allocation for their FJP, FC HR would be notified accordingly.

4. Time off for TU Duties and Activities

The functions carried out by trade unions fall into two categories, 'duties' (see section 4.1) and 'activities' (see section 4.2). Facility time is the provision of time during working hours to carry out these functions. Facility time is subject to agreement (see section 5) and ongoing reporting and monitoring (see section 7).

Facility time paid by the Forestry Commission for TU Duties should fall within the guide figure of 0.1% of the paybill (see section 6).

4.1 Trade Union Duties (TUD)

Trade Union Duties (TUD)

- Attract reasonable paid time off
- Are carried out by accredited representatives on behalf of members and wider staff
- Concern negotiations, consultation and/or functions related to collective bargaining which takes place between FC management and trade unions.

Accredited representatives are entitled to paid facility time to carry out TUD, subject to agreement from the individual's line manager. This provision is in line with the requirements of the ACAS Code.

Where an amount of facility time has been allocated and included in FJPs, representatives will be expected to fulfil their TUD within that time.

All paid facility time must be recorded by the accredited representative and submitted quarterly to enable monitoring against the guide figure and adjustment if necessary (see section 7).

Travel time and expenses may be paid in relation to TUD, provided requests are reasonable, and the cost must be recorded against the guide figure. If extensive travel to remote or smaller locations is necessary this will be taken into consideration if an accredited representative is unable to fulfil their TUD within the allocated facility time in their FJP. In

these circumstances the representative should raise this with the FCTU Office who will discuss with FC HR.

4.1.1 Examples of Trade Union Duties

Examples of TUD include (this list is not exhaustive):

TU Representatives

- prepare for and attend meetings with management (for example on terms and conditions, HR policies, collective redundancy or the transfer of Undertakings),
- attend pre-meetings (including Trade Union side meetings) and review and comment on papers,
- communicate with members about negotiations and discussions with management, to inform them of progress and outcomes,
- represent members in personal cases (such as redundancy, disciplinary, sickness absence management, grievance) including time to prepare and conduct meetings and interviews with and on behalf of members, including Civil Service Appeal Boards and Employment Tribunals with and on behalf of members,
- attend meetings of union Group, Section and Branch Executive Committees and their sub-committees where the majority of the meeting is dealing with TUD (for meetings where 50% is TUD and 50% is TUA reasonable paid facility time should only be taken for the proportion of the meeting which is TUD),
- speak to new employees about the role of the union in the workplace (eg; at an induction event),
- attend training and learning relevant to the role of union representative.

TU Health & Safety Representatives

The Health and Safety at Work acts defines TU representatives roles, functions and duties, and requirements for workplace representation. Examples are to:

- represent employees in consultation and discussions with the employer on health, safety or welfare,
- investigate accidents, near misses and other potential hazards and dangerous occurrences in the workplace,
- investigate a complaint made by an employee they represent about their health, safety or welfare in the workplace,
- undertake training relevant to the role of H&S representative, beyond "Stage One".

Health & Safety is an integral part of Forestry Commission's business and undertaking "Stage One" Health & Safety training to become a TU Health and Safety Representative should be recorded as facility time but would be in addition to any allocation within an individual's FJP.

Union Learning Representatives

- analyse learning or training needs of individuals and the organisation,
- provide information and advice about learning or training matters,
- promote and arrange learning or training and encourage participation,
- promote the value of learning or training,
- assist in activities relating to Learning at Work day,
- provide support information and advice about learning or training matters,
- consult the employer about carrying out such functions,
- prepare to carry out any of the above activities,
- undergo relevant training.

4.2 Trade Union Activities (TUA)

Trade Union Activities (TUA):

- attract reasonable time off without pay,
- tend to be union facing and relate to the running and administration of the recognised trade union,

Accredited representatives and employees who are union members can undertake TUA and are entitled to reasonable unpaid time off during working hours.

Accredited representatives will not receive a facility time allocation for TUA.

4.2.1 Examples of Trade Union Activities

Examples of TUA include (this list is not exhaustive):

- to communicate with members on issues that are not related to negotiation or discussions with management,
- attend meetings of union Group, Section and Branch Executive Committees and their sub-committees where the majority of the meeting is dealing with TUA (for meetings where 50% is TUA and 50% is TUD reasonable unpaid facility time should be taken for the proportion of the meeting which is TUA),
- attend a Section or Branch Annual General Meeting,
- attend union conference whether as a officer, delegate, trainee delegate or recognised conference official (e.g. steward),
- Treasurer's duties,
- recruitment and organisation duties (eg; helping out at a union recruitment event),
- travel relating solely to any of the above.

There is no right to time off for activities which involve taking part in industrial action or political activities.

5. Agreeing facility time

Accredited representatives are entitled to reasonable paid time off to undertake TUD (see section 4.1). Accredited representatives and union members are entitled to reasonable unpaid time off to undertake TUA (see section 4.2). There is no absolute definition of what constitutes reasonable time and when approving facility time, managers will be required to make a decision depending on the circumstances.

Any concerns regarding the approval of facility time should be raised with the FCTU Office who will liaise with the appropriate HR Business Partner, if required.

5.1 Paid facility time for Trade Union Duties

Where an accredited representative has a facility time allocation in their FJP they should still discuss and agree with their line manager when the facility time will be taken. If necessary a suitable working pattern should be agreed. However it is recognised that this is not always possible and accredited representatives should endeavour to provide as much notice as possible of their intention to take paid facility time.

It is expected that an accredited representative will not exceed their allocated allowance of paid facility time over the course of a year.

5.1.1 Union meetings to brief members

Where a recognised union feel it is necessary to hold a meeting of members to communicate about progress and outcomes of negotiations or discussions with FC management the union should agree the arrangements with management as far in advance as possible.

Where a meeting necessarily involves a large proportion of employees at any one time, then management and the union(s) concerned should agree on a convenient time which minimises the disruption of official work, e.g. towards the end of the working day.

5.2 Unpaid facility time for Trade Union Activities

Accredited representatives and union members are entitled to reasonable unpaid time off to undertake TUA. This could include: carrying out activities in their own time; lunch time; using flexi or time of in lieu (TOIL); annual leave; or requesting special unpaid leave.

Normal arrangements for seeking management approval for time off would apply. When considering requests management must take into account the need to provide reasonable unpaid time off for TU representatives to carry out TUA.

6. Cost of facility time

The overriding principle is to provide reasonable paid facility time for accredited representatives to undertake their statutory obligations (see section 4.1). Under the Cabinet Office Central Facility Time Framework it is expected that facility time will fall within the guide figure of 0.1% of the paybill.

In the Forestry Commission the paybill will be determined at 31st October each year. The relevant figure will be confirmed to the FCTU Office to enable them to allocate facility time.

The relevant figure will be allocated the FCTU Office to cover:

- FCTU Office
- Accredited representatives, where necessary; and
- Travel time or expenses in relation trade union duties

The paybill will be determined using the definition provided by HM Treasury in the Annual Pay Guidance and will include salary and associated costs (gross) of employees of the Forestry Commission, such as Employer National Insurance Costs and Employer Pension Contributions.

7. Recording, reporting and monitoring facility time

Facility time must be recorded and reported quarterly and will be used to monitor:

- The use of paid facility time for TUD; and
- The cost of paid facility time against the paybill.

Special unpaid leave taken to carry out TU activities will also be recorded, reported and monitored.

7.1 Recording facility time

All accredited representatives are required to keep a detailed record of the time, including travel time, used for TUD and each separate instance must be recorded. A Time Recording System (TRS) is provided to ensure information is captured consistently.

Approved special unpaid leave to carry out TUA will be recorded as normal by the HR Payroll system.

7.2 Reporting and monitoring facility time

In order to provide a clear understanding of how paid time is being utilised levels of facility time will be reported quarterly. The information will be reported in the standard format specified by the Cabinet Office.

The information will also be used to check that facility time is falling within the 0.1% guideline. If, following reporting and monitoring it is necessary for FCTU to re-allocate facility time FC management will be advised as soon as possible. Records will be updated and FC HR will send confirmation to the individual and their line manager so that FJPs can be adjusted.

8. Administrative facilities

Facilities are provided to for TU representatives to discuss issues relevant to the FC or to carry out TUD. If the FC determines that the use of facilities is excessive or inappropriate the facility could be permanently withdrawn.

8.1 Notice boards

FCTU will be given notice boards on which they may post notices of specific interest to staff. The information on the notice boards must be consistent with FC standards and not inaccurate or misleading.

We would not expect information to be posted which: publicises party political campaigning; campaigns for a particular outcome in a ballot; or encourages members to take industrial action (including unlawful industrial action).

Responsibility for managing notice boards falls to the FCTU.

In cases where a member of staff or manager is concerned by material posted on the FCTU notice board or unsure whether it is acceptable, this should be raised with FC HR who will bring this to the attention of the FCTU Office and advise on the appropriate action.

Inappropriate material will not be tolerated and in cases where a notice is considered to contravene these guidelines, management will request that the FCTU remove the material. In cases where there is disagreement, this will be referred to Director Central Services for a final decision. If the Director Central Services' decision is that the material should be removed, refusal to remove it may result in this facility being withdrawn.

8.2 Meeting Rooms

TU representatives meeting to discuss issues relevant to FC or carrying out TUD will be able to use the meeting room facilities subject to availability and the normal room booking process. A TU representative who needs to meet confidentially with a member may also use the meeting room facilities (e.g. to discuss a grievance, prepare for a formal disciplinary meeting, etc).

Meeting rooms should not normally be used to carry out TUA however it is acknowledged that there are circumstances when this may be necessary.

8.3 E-mail

TU representatives may have reasonable use of the e-mail system to communicate with members providing that they comply with the HR Procedure – E-mail, Internet & Social Media.

Email facilities should not normally be used to carry out TUA however it is acknowledged that there are circumstances when this may be necessary.

8.4 Telephone/Teleconferencing

TU representatives may have reasonable use of office phone, teleconferencing or mobile phone provided by FC for issues relevant to the FC and in order to carry out TUD. These must be issues that are relevant to employment with FC and the Civil Service.

8.5 Photocopying

TU representatives may have reasonable use of office photocopying facilities for issues relevant to FC and in order to carry out TUD. It is intended that this only be used for urgent and limited amount of copying of small documents which relate to TUD.

Copying of TU circulars, leaflets or large amount of copying should be resourced directly by the TU.