

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

Response by Thompsons Solicitors

September 2012

About Thompsons

Thompsons is the most experienced trade union, employment rights and personal injury law firm in the country with 28 offices across the UK. On employment and industrial relations issues, it acts only for trade unions and their members.

Thompsons represents the majority of UK trade unions and advises on the full range of employment rights issues through its specialist employment rights department.

Please note that in responding to this consultation, we have made general comments on the issues rather than addressing the specific questions.

The value of trade union facility time

We are concerned that this consultation is based on assumptions about the cost of paid facility time to the civil service and the tax payer not representing value for money. There has not been, it seems, any effort to explore whether facility time provides value for money because of the savings it delivers for employers.

Recent reports demonstrate the value of trade union facility time to businesses. Research by NatCen Social Research [The Value of Trade Union Facility Time: Insight, Challenges and Solutions June 2012] established four main benefits arising from the use of facility time:

- Provision of a ready-made structure for meaningful consultation and negotiation saving organisations money and providing reassurance to members that their views are valued in decision-making.
- Facilitation of partnership working with trade unions that improved workplace relations and the reputation of an employer as 'a good place to work'.
- Earlier intervention in relation to complaints, grievances and disciplinaries preventing escalation into more serious problems; thereby saving organisations and taxpayers' money by reducing the amount of management time spent on such issues and significant legal costs on Employment Tribunal cases.
- Better communication to manage change during restructuring and redundancy processes; thereby improving understanding of decisions, minimising negative impacts, reducing the number of working days lost through industrial action and saving legal costs on Employment Tribunal cases.

If, as NatCen found, facility time improves the availability of representatives to work with employers on areas of common interest then it is difficult to understand why the government should want to reduce it in the civil service. The research shows that union reps who are able to focus on their trade union duties are better prepared for meetings with management and build relationships of respect and trust with managers over time.

At a time when the government is seeking fundamental reforms within the civil service, including of pay, other terms and conditions and employment related policies and procedures, such relationships are vital. It is not in the interests of the government, taxpayers or civil service employees for facility time agreements to be

emasculated at such a critical time, for this will lead to disruption and greater cost in the long term.

Ultimately, it isn't just union members who benefit from union facility time, it is the entire workforce and the business as a whole which benefits.

As a trade union law firm, Thompsons understands the value of experienced and dedicated union reps to employers. Much of our work is providing short advices to union reps in relation to personal cases and discussions/negotiations with employers. Union reps who are able to represent employees themselves at grievance and disciplinary hearings and wherever possible and appropriate, to broker settlements that keep employers out of tribunals, can lead to significant savings in legal and other costs.

This was established, as the TUC reminds us in its report *Facility time for union reps – separating fact from fiction (January 2010)*, by BERR's 2007 review of facility time. BERR's calculation that the value of union reps through the savings they provide equated to £223m pa to £586m pa was updated by the TUC. It estimated the savings, based on 2010 prices, to be between £267m to £701m pa.

We note the consultation proposal of benchmarking the proportion of the civil service pay bill which is spent on facility time and of the amount of time spent on specific duties. We would suggest instead that research take place to establish how much management time and departmental money is saved by the current facility time arrangements.

We believe that limiting paid facility time to 50% will result in departments having to hire more HR professionals to advise on employment law matters and to deal with disputes and will also increase the number of employment tribunal hearings departments will face.

Further, it is worth remembering that employees facing disciplinary and grievance hearings have a statutory right to be accompanied by a trade union representative or work colleague (Section 10 Employment Relations Act 1999). So reducing facility time for some representatives, which prevents them carrying out such duties, will simply lead to requests for representation by other colleagues, perhaps with less experience and knowledge and less of a willingness to seek out a compromise solution.

Finally, in response to the proposal to end paid time off for union activities, we agree with the ACAS code of practice that payment for union activities can ensure that workplace meetings are fully representative. The TUC report also points out that many public and private sector employers provide paid time off for union activities because they recognise that efficient, effective and professional union representatives need to be able to discuss with members, and other union representatives, issues that influence how representatives approach the issues at hand in representation and bargaining. We fully endorse that view.

Reducing such paid time off will decrease employee understanding of and engagement and involvement in strategic decision making, leading to more demotivated and disengaged workforces and / or to industrial unrest. This will cancel out any 'savings' made.

In summary, there is no doubt that current industrial relations practices have a cost attached to them but the benefits they bring far exceed that cost. Reducing facility time will not lead to any overall savings since the cost of such cuts will be demotivated, disengaged, demoralised workforces resulting in increased management time spent resolving disputes, increased legal costs for employment tribunal and civil court cases and increased industrial unrest.

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