

## **Scottish Government and STUC - Trade Union Act Implementation**

### **Facility Time Reporting: Scottish Government and Scottish Trades Union Congress Guidance for Public Sector Employers**

#### **Introduction**

The Trade Union (Facility Time Publication Requirements) Regulations 2017<sup>1</sup> (“the Regulations”) require public sector employers to publish information relating to facility time taken by union representatives. These Regulations were laid following the enactment of the Trade Union Act 2016, which the Scottish Government strongly opposed throughout its passage.

Public sector employers will be in scope if they have at least one trade union representative and more than 49 full time equivalent (FTE) employees. Employers must publish the legally required information annually on their website and in any annual reports published by the organisation.

The reporting period will run from 1 April to 31 March and reports will need to be published by 31 July each year. The first reports will therefore need to be published by 31 July 2018.

While the UK Government has published guidance containing information about the Regulations, the purpose of this document is to outline the Scottish Government’s support for trade unions and facility time; to help ease the burden of the reporting requirements on public bodies; and ensure that the facility time data is set in the context of the benefits that facility time bring to the workforce.

#### **Scottish Government Support for Trade Unions and Facility Time**

The Scottish Government believes that a progressive approach to industrial relations and to trade unionism is at the very heart of a fairer, more successful society. Trade unions are key social partners in delivering our economic and social aspirations.

There is clear evidence that unionised workplaces have more engaged staff, have a higher level of staff training and a progressive approach to staff wellbeing. That is why the Scottish Government is committed to supporting strong trade unions in Scotland. This distinct approach is based on partnership working as demonstrated through the establishment of the Fair Work Convention and the Scottish Government’s endorsement of its Fair Work Framework.

We believe that facility time adds value to the management of public sector organisations by providing a framework for constructive consultation and negotiation with employers, ensuring the effective voice of workers and improving workplace relations.

The Scottish Government considers that facility time is an investment in the prevention of workplace disputes, providing savings to both the public sector and the public purse, through a reduction of negative impacts on staff time and the number of working days lost

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<sup>1</sup> <http://www.legislation.gov.uk/uksi/2017/328/contents/made>

through industrial action. In addition, involving the trade unions as partners in public sector organisations also contributes to our success and the well-being of our employees and facility time is an essential part of achieving this.

The UK Government's reporting requirements do not seek to capture any of the benefits of facility time and focus solely on costs. This is particularly concerning as the Trade Union Act 2016 enables UK Ministers to make further regulations at a future date to impose controls, such as cap on facility time, in order to deliver cost savings.

The Scottish Government is committed to working with public bodies, the STUC and trade unions to ensure that the facility time reporting requirements do not undermine the role of trade union representatives in the workforce.

### **The facility time publication requirements**

In responding to the Regulations, public sector employers in Scotland may wish to consider the following points:

#### **The Regulations require very specific information to be provided by public sector employers in relation to recording and reporting.**

The Regulations require public sector employers to report on:

- The number of trade union representatives employed during each reporting year
- The number of full-time equivalent representatives employed
- The number of relevant union representatives who spent 0 per cent, 1-50 per cent, 51-99 per cent or 100 per cent of their time on facility time
- The total costs of facility time.
- The total pay bill and the percentage of the total pay bill spent on facility time
- The percentage of facility time which is used for trade union activities.
- The costs of facility time include wages, pension contributions and National Insurance contributions.
- The Regulations do not require a detailed breakdown by types of union representative or of time spent on different union activities, or other costs linked to the provision of facilities.

#### **Public sector employers may wish to reach agreement with their recognised unions on how facility time information should be collated and not create any unnecessary administrative burden on union representatives or other staff.**

We strongly advise all public sector employers to work collaboratively with your recognised trade unions to develop a process for collating the required information and a response which maximises the benefits of facility time to your organisation.

#### **Public sector employers may wish to use the Scottish Government and STUC Facility Time Statement to accentuate the positive benefits of facility time.**

The Facility Time Statement is designed to be signed by the public sector employer and recognised trade union(s) and to be published with the facility time data on the employer's website and included in the employer's annual report.

Employer should refer to the UK Government's guidance for information on the format and mechanism for submitting the required data.

## **Conclusion**

The Scottish Government encourages all public sector organisations to adopt the principles set out in this guidance to ensure they continue to reap the benefits of facility time, both now and in the future, and that trade unions deliver the constructive employment relations that underpin a fairer, more inclusive and more successful economy.

**Scottish Government**  
**July 2018**

## **FACILITY TIME STATEMENT**

### **The Value of Facility Time**

Facility Time generates benefits for employees, managers and the wider community from effective joint working between union representatives and employers.

A number of studies have shown that union workplaces tend to be safer and that trade unions help to promote skills and training in workplace. The Scottish Government recognises this through our support for trade union learning and equality initiatives, including: include Scottish Union Learning, Close the Gap, Fair Work Convention, Partnership Working in the NHS and revised governance arrangements for Higher Education.

The NatCen study<sup>2</sup> highlighted four main benefits from the use of facility time:

- Provision of a ready-made structure for meaningful consultation and negotiation saves money and reassures members that their views are valued in decision-making.
- Facilitation of partnership working with trade unions improves workplace relations and the reputation of an employer as ‘a good place to work’.
- Earlier intervention in relation to complaints, grievances and disciplinary action prevents escalation into more serious problems and saves organisations (and taxpayers) money by reducing the impact on staff time and possible legal costs.
- Better communication during restructuring and redundancy processes improves understanding of decisions, minimises negative impacts and reduces the number of working days lost through industrial action.

The Fair Work Convention<sup>3</sup> highlights these points through its ‘Effective voice’ principle. As they state: *“It is clear from international evidence that employees and workers want a voice, not only to resolve problems and conflicts (which is important) but also to engage and participate constructively in organisations.”*

On organisational change, they say: *“There are many examples in Scotland and elsewhere of how collective voice through trade unions working with employers has addressed a wide range of organisational challenges and contributed to organisational improvements.”*

It is the view of [PUBLIC BODY NAME] that facility time data legally required by the Trade Union (Facility Time Publication Requirements) Regulations 2017, should be set in the context of the vast benefits that facility time bring to the workforce and to the employer, as set out above. This is supported by the Scottish Government, the STUC and our affiliated trade unions.

### **Signature of Public Body Chief Executive**

### **Signature of Trade Union Rep**

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<sup>2</sup> <http://www.natcen.ac.uk/our-research/research/the-value-of-trade-union-facility-time/>

<sup>3</sup> <http://www.fairworkconvention.scot/>

## FACILITY TIME REPORTING TEMPLATE

### Facility Time Publication Requirements

The facility time data organisations are required to collate and publish under the new regulations is shown below.

- a) **TU representative** – the total number of employees who were TU representatives during the relevant period.

<i>Number of employees who were relevant union officials during the relevant period</i>	<i>FTE employee number</i>
36	31.45

- b) **Percentage of time spent on facility time** - How many employees who were TU representatives officials employed during the relevant period spent a) 0%, b) 1%-50%, c) 51%-99% or d) 100% of their working hours on facility time.

<i>Percentage of time</i>	<i>Number of representatives</i>
0%	24
1-50%	9
51%-99%	0
100%	3

- c) **Percentage of pay bill spent on facility time** - percentage of the total pay bill spent on paying employees who were TU representatives for facility time during the relevant period.

Total cost of facility time	£57,000
Total pay bill	£170,533,000
Percentage of the total pay bill spent on facility time, calculated as: (total cost of facility time ÷ total pay bill) x 100	0.03%

- d) **Paid TU activities** - As a percentage of total paid facility time hours, how many hours were spent by employees who were TU representatives during the relevant period on paid TU activities.

Time spent on paid TU activities as a percentage of total paid facility time hours calculated as:  (total hours spent on paid TU activities by TU representatives during the relevant period ÷ total paid facility time hours) x 100	At this time the Health Board's systems are unable to record TU activities, however, this is being reviewed going forward.
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## Annex B - Glossary of terms

Term	Definition
Relevant public sector employer	Relevant public sector employers are set out in Section 7 of the regulations.
TU representative	An official of an independent TU recognised by the employer.
Relevant period	A period of 12 months beginning with 1 April, the <b>first</b> relevant period starts on 1 April 2017.
Total pay bill	Is the total amount of (the total gross amount spent on wages) + (total pension contributions) + (total national insurance contributions) during the relevant period.
Full Time Equivalent (FTE) employee number	The (total number of full time employees) + (the total fractions of full time employee hours worked by all employees who are not full time).
TU Duties	Duties where there is a statutory right to reasonable paid time off during normal working hours to undertake recognised duties and to complete training relevant to their TU role. This arises under:  (a) section 168, section 168A of the 1992 Act (TULR(C)A)  (b) section 10(6) of the Employment Relations Act 1999;  (c) regulations made under section 2(4) of the Health and Safety at Work etc. Act 1974.
TU Activities	Means time taken off under section 170 (1) (b) of the 1992 Act.  TU activities could include: <ul style="list-style-type: none"> <li>• meetings - where the purpose or principal purpose is to discuss internal union matters</li> <li>• TU conferences</li> <li>• internal administration of the union e.g. answering internal union correspondence, dealing with financial matters, responding to internal surveys.</li> </ul> <p>There is no statutory entitlement to paid time off to undertake activities. However TU representatives are entitled to be granted reasonable unpaid time off to participate in TU activities.</p>
Total paid facility time hours	Total number of hours spent on facility time by TU representatives during a relevant period for which they receive pay.
Hourly cost	For each employee:

	<p>(the gross amount spent on wages) + (pension contributions) + (national insurance contributions) divided by the number of hours during the relevant period.</p>
<p>Total cost of facility time</p>	<p>For each employee who was a TU representative during the relevant period, facility time cost is calculated by:  (Hourly cost for each employee including on costs for pension and national insurance x number of paid facility time hours)</p> <p>Total facility time cost is then calculated by adding together the amounts produced by the calculation of facility time cost for each employee.</p> <p>Where an employer has a small number of employee representatives and it would be possible to identify an individual employee from the data, the figure for wages of that employee must be expressed as a notional hourly cost.</p>