

**LANCASHIRE SCHOOLS FORUM**  
**Date of meeting 18 October 2022**

**Item No 10**

**Title: Recommendations of the Schools Block Working Group**

**Appendices A-D refer**

**Executive Summary**

On 20 September 2022, the Schools Block Working Group considered a number of reports, including:

- Schools Block Funding Arrangements 2023/24
- Inclusion Hub Report
- Service De-delegations 2023/24.
- Clawback Exemption Request

A summary of the information presented, and the Working Group's recommendations are provided in this report.

**Recommendations**

**The Forum is asked to:**

- a) **Note the report from the Schools Block Working Group held on 20 September 2022;**
- b) **Ratify the Working Group's recommendations.**

## **Background**

On 20 September 2022, the Schools Block Working Group considered a number of reports. A summary of the information presented, and the Working Group's recommendations are provided below:

### **1. Schools Block Funding Arrangements 2023/24**

On 19 July 2022, the DfE made announcements about the 2023/24 school funding arrangements.

Overall, core schools funding (including funding for mainstream schools and high needs) is increasing by £1.5 billion in 2023/24 compared to the previous year.

Funding through the schools NFF is increasing by 1.9% overall in 2023-24, and 1.9% per pupil, compared to 2022-23.

Government announcements confirm that the DfE will move forward with its plans to implement a direct national funding formula (NFF). As part of the transition to the direct NFF, in 2023/2024, local authorities will be required to start bringing their own formulae closer to the schools NFF, with the aim of moving to the direct NFF by the 2027 to 2028 funding year, or sooner.

As members will be aware. Lancashire has already adopted the NFF as the local funding methodology, so there are no implications in 2023/24 from DfE requirements.

### **National Funding Formula (NFF) 2023/24**

The basic structure of the National Funding Formula (NFF) remains unchanged for 2023/24, but DfE have increased factor values and made some other changes to the arrangements. Further details are provided below:

Key changes to the schools NFF in 2023 to 2024 are:

- rolling the 2022 to 2023 schools supplementary grant into the NFF by:
  - adding an amount representing what schools receive through the grant into their baselines
  - adding the value of the lump sum, basic per pupil rates and free school meals Ever 6 (FSM6) parts of the grant onto the respective factors in the NFF
  - uplifting the minimum per pupil values by the supplementary grant's basic per-pupil values, and an additional amount which represents the average amount of funding schools receive from the FSM6 and lump sum parts of the grants
- increasing NFF factor values (on top of the amounts we have added for the schools supplementary grant) by:
  - 4.3% to free school meals at any time in the last 6 years (FSM6) and income deprivation affecting children index (IDACI). DfE say that this additional support directed to disadvantaged pupils, by increasing the FSM6 and IDACI factors in the schools NFF by a greater amount than other factors,

means that a greater proportion of schools NFF will be targeted towards deprived pupils than ever before. 9.8% of the schools NFF will be allocated according to deprivation in 2023/24. 2.4% to the basic entitlement, low prior attainment (LPA), FSM, English as an additional language (EAL), mobility, and sparsity factors, and the lump sum.

- 0.5% to the floor and the minimum per pupil levels (MPPL)
- 0% on the premises factors, except for Private Finance Initiative (PFI) which has increased by Retail Prices Index excluding mortgage interest payments (RPIX) which is 11.2% for the year to April 2022

### **Minimum Pupil Funding**

The DfE announcements included the relevant minimum pupil funding (MPF) levels for primary and secondary schools, which incorporate the 3.37% uplift for 2023/24:

- The primary schools, the MPF level will be £4,405 per pupil in 2023/24 compared to £4,180 per pupil in 2022/23.
- For secondary schools, the MPF level will be £5,715 per pupil from 2023/24 compared to £5,415 per pupil in 2022/23.

Members are reminded that the MPF levels are not the same as the Age Weighted Pupil Unit (AWPU) or the basic pupil element in your school funding. AWPU is the rate set to allocate the basic entitlement of funding for pre-16 pupils in mainstream schools that is provided for all pupils. This is then supplemented by other formula factors based on the characteristics of your pupils and the school, including your lump sum allocation. The MPF funding ensures that schools receive a minimum level of funding calculated by dividing all your pupil led factors plus the lump sum allocation by the number of pupils on roll. This calculation excludes other factors, for example rates.

### **Schools Business Rates**

Further to the DfE announcements following consultation on changes to the payment process of schools business rates revised arrangements were introduced on some LAs in 2022/23. However, the historic arrangements continued to apply in Lancashire, and at this point, schools business rates we expect the existing rates arrangements to continue in 2023/24.

DfE have indicated that they have asked local authorities to confirm by January 2023 the payment process they will be implementing for April 2023. In 2 tier local authority areas (like Lancashire), all billing authorities need to agree to implement the National Non Domestic Rates (NNDR) changes before they are introduced and if mutual consent is not reached it will not be possible for any billing authority to adopt the revised payment process.

### **Local Schools Block Formula 2023/24**

Even though Lancashire has adopted the national funding formula methodology as the local funding formula, a degree of local discretion remains about the schools block arrangements in 2023/24. Further information is provided below.

#### *Minimum Funding Guarantee (MFG)*

For 2023/24, during the transition to the direct NFF, there remains local discretion around the level of Minimum Funding Guarantee (MFG). LAs have the freedom to set the MFG in local formulae between +0.0% and +0.5% per pupil.

Views will be sought from Lancashire primary and secondary schools and academies in the consultation to take place early in the autumn term 2022. The LA proposal included in the consultation will be for the MFG to be set at +0.5% in 2023/24, as this provides the maximum allowable protection for Lancashire schools and academies and matches the funding floor protection included in the NFF.

### *Notional SEN*

Local authorities are required to identify a notional budget for their mainstream schools which helps them comply with their duty to use their 'best endeavours' to meet the special educational needs (SEN) of their pupils. **The notional SEN budget is not a separate budget or funding allocation** but is identified within a maintained school's delegated budget share, or an academy's general annual grant, and is calculated by each LA using their local mainstream schools funding formula factors.

The DfE's 2023/24 operational guidance emphasised that LAs should keep their notional SEN budget under review to make sure that their schools' notional SEN budget is a realistic amount for meeting the costs of additional SEN support up to £6,000 per pupil, and that any shortfall in this notional budget can be appropriately met from additional high needs targeted funding. High needs top-up funding is allocated in addition to the notional SEN budget for SEN support costs in excess of £6,000 per pupil.

Alongside the operational guidance for 2023/24, the DfE have published additional information about notional SEN. This information confirms that there is currently no national approach to the calculation of schools' notional budget for pupils with SEN through the NFF. The guidance does provide data about the notional SEN calculations nationally. It notes that most LAs calculate their schools' notional SEN budget using a combination of funding from the basic entitlement factor, the deprivation factors, and the low prior attainment factors in the local funding formula.

DfE indicates that the overall percentage of formula allocations which are designated as the notional SEN budget across all local authorities is 11.3% in 2021 to 2022. The median notional SEN allocation is 10.8%.

In order to assist consideration of the notional SEN budget, the DfE have made available data about the national position from analysis of LAs schools block funding formulae 2022 to 2023, as shown below:

<b>Notional SEN % in formulae</b>	<b>Count of LAs</b>	<b>% of LAs</b>
0% to 5%	9	6%
5% to 7.5%	22	14%
7.5% to 10%	35	23%
10% to 12.5%	38	25%
12.5% to 15%	24	16%
15% to 17.5%	16	11%
17.5% to 20%	5	3%
Above 20%	3	2%
<b>All</b>	<b>152</b>	<b>100%</b>

Lancashire's notional SEN figure in 2022/23 equates to 17.3%.

The national data also provides details of the main factors used to determine schools' notional SEN budgets. The table below shows the number of LAs for which each main factor is being used to determine schools' notional SEN budgets in the 2022 to 2023 formulae and also indicates if it used in the Lancashire calculation

<b>Factor</b>	<b>Count of LAs using factor in 2022 to 2023 calculation</b>	<b>Lancashire</b>
Basic entitlement	138	No
Deprivation	152	Yes
English as an additional language	100	Yes
Looked-after children	9	No
Prior attainment	148	Yes
Mobility	96	Yes
Lump sum	95	No
Sparsity	3	No
MPPF	14	Yes
MFG	10	No

Members will recall that the Lancashire notional SEN calculation was reviewed ahead of the 2020/21 financial year, and following a consultation with schools, the Forum supported the introduction of a simplified notional SEN calculation from April 2020.

The revised methodology, which remains applicable in 2022/23 is shown below

- 100% of Prior Attainment ;
- 100% of EAL;
- 100% of FSM;
- 100% of FSM Ever 6;
- 100% of IDACI;

After reviewing the Lancashire position ahead of FY 2023/24, the LA is not proposing any amendment to notional SEN methodology from April 2023. This is because:

- The Lancashire calculation has been subject to a recent review and consultation with schools;
- The DfE benchmarking shows that Lancashire's calculation is identifying a notional SEN figure at the higher end of the range nationally;
- Due to various staffing changes within the school funding team at the county council, it is judged best to minimise any changes to the funding arrangements
- It seems likely that the DfE will in future issue national guidance about notional SEN calculations as part of a direct NFF.

The Working Group are asked to consider this position and support the proposal to retain the current notional SEN calculation for the 2023/24 financial year.

The LA will keep the notional SEN calculation under review in future years, especially in the light of any national guidance from the DfE.

## **Exceptional Circumstances Factor**

The 2023/24 Schools Block Operational Guidance continues to allow for an exceptional circumstances factor to be included in the formula. The exceptional circumstances factor must relate to premises costs and is only applicable where the value of the factor is more than 1% of a school's budget and applies to fewer than 5% of the schools in the local authority's area.

This factor has been utilised by Lancashire for a number of years and in 2022/23 supported 3 schools for a 'rents' payment where the schools needed to rent premises to deliver the curriculum.

Guidance for 2023/24 specifies that where LAs have already received approval for exceptional circumstances from 2018 to 2019 onwards, they can continue to use the approved factors if the criteria are still being met. Where the latest approval was prior to 2018 to 2019 the local authority will need to submit a new disapplication request for consideration.

In Lancashire's circumstances a new disapplication request will need to be submitted.

The 3 schools involved will continue to rent premises in 2023/24 and initial modelling indicates that the criteria for the value of the factor to be more than 1% of a school's budget and applicable to fewer than 5% of the schools in the area are still met.

The disapplication deadline to submit applications for exceptional circumstances is 10 October 2022.

The Working Group is asked to support the disapplication to the DfE to request the continued use of an Exceptional Factor in the Lancashire formula, to provide allocations to 3 schools to cover the costs of renting premises for the schools

At the Schools Forum on 18 October members will be asked to formally vote on supporting the submission of disapplication request to the DfE, as this will form part of the disapplication request.

## **Dedicated schools grant (DSG) transfers**

Local authorities continue to be able to transfer up to 0.5% of their schools block to other blocks of the DSG, with schools forum approval.

Any DSG underspend brought forward from the previous year can be used to support the growth or falling rolls fund in the schools block, the central school services block, the high needs block, or the early years block.

In 2020/21 and 2021/22, following consultation with schools and academies, the Forum agreed to transfer Schools Block headroom to support pressures in the Early Years Block. This transfer equated to £2m in each year. In 2022/23, no transfer was possible, as there was no headroom available in the schools block. Further local modelling will be needed to assess the 2023/24 position, but at this point it is not expected that headroom will be at available at levels that were accessible in 2020/21 and 2021/22.

If required, an urgent consultation about any possible Schools Block transfer will be held with schools and academies once final 2023/24 DSG allocations are received from DfE and have been assessed.

### **Deficit management**

The DfE recognises that there may well be some local authorities which, despite their best efforts and the increased funding for the high needs block, will still not be able to pay off their historic deficit from the DSG over the next few years. In these cases, the department expects to work together with the local authority to agree a plan of action to enable the local authority to pay off its deficit over time.

To date, Lancashire has managed to maintain a surplus DSG reserve.

ESFA continues to provide support and guidance nationally to LAs with highest historic deficits.

### **Central School Services Block (CSSB)**

As members are aware, the Central School Services Block (CSSB) is made up from a formulaic 'ongoing responsibilities' element that relates to responsibilities that local authorities continue to have for all schools, and a 'historic commitments' element that relates to certain commitments entered into before April 2013.

The total funding for the current responsibilities is £292 million in 2023/24. This funds all local authorities for functions that they have a statutory obligation to perform for all students in the schools and academies they maintain.

For 2023/24, the per pupil rate used in the formulaic ongoing responsibilities calculation will receive an uplift similar to the Schools Block, but the historic commitments funding will continue to decrease, by a further 20% from April 2022.

### **Provisional Allocations for 2023/24**

Government NFF announcements in July 2022 were accompanied by provisional data on the allocations LAs will receive for 2023/24 and notional allocations at individual school level. The data is available [here](#) and contains all primary and secondary schools and academies nationally.

It must be noted that the provisional allocations are calculated using pupil numbers from the October 2021 census. Final allocations, to be issued to schools in February 2023, will be based on pupil numbers from the October 2022 school census.

Even though schools are guaranteed an increase in funding per pupil for their pupil-led funding in the NFF in 2023/24, allocations may still reduce at an individual school level if a school has fewer pupils than before.

## Lancashire Position

The July 2022 government announcements contain the actual units of funding for primary and secondary schools that will be used to calculate the 2023/24 Schools Block allocations. Information for Lancashire is provided below, including 2022/23 SUF and PUF values for comparison:

Unit of Funding	2022/23	2023/24
Actual primary unit of funding (PUF)	£4,697	£4,931
Actual secondary unit of funding (SUF)	£5,891	£6,214

Announcements also contained provisional 2023/24 allocations for all DSG funding blocks, except early years. The Lancashire information is provided in the table below and it should be noted that the early years block figures for 2022/23 have been replicated for 2023/24 to complete the 2023/24 DSG estimate. The baseline figures also incorporate schools supplementary grant allocations, which were issued as a separate grant in 2022/23.

Forecast DSG Income	2022/2023 Baseline £m's	DfE notional 2023/24 allocation (using Oct 20 data) £m's	Difference £m's	Difference %
Schools Block	899.471	917.412	17.941	2%
High Needs Block	172.44	183.029	10.589	6%
Early Years Block (NOT UPDATED)	82.472	82.472	0	0%
CSSB	6.8384	6.7962	-0.042	-1%
<b>Total</b>	<b>1,161.221</b>	<b>1,189.709</b>	<b>28.488</b>	<b>3%</b>

The current forecast shows an total increase of circa 2% in the Schools Block from April 2022, however, it must be remembered that actual DSG allocations in Lancashire, to be published in December 2022, could be lower than those in the provisional notification from the DfE, dependant on pupil data from the October 2022 school census.

The Schools Block figures are also shown without the Growth Fund allocations, as these are calculated outside the NFF methodology, although it should be noted that the DfE NFF consultation referred to elsewhere on the agenda starts to develop possible proposals on this subject.

The Schools Block funding increase is welcomed, but members will be aware that there are considerable costs pressures currently facing the sector, with staff costs, energy and general inflation all increasing significantly above this level.

The High Needs Block is forecast to increase by circa 6% for 2023/24.



In HNB, demand growth over the last few years has been circa £10million per year and inflationary pressures will only add to the cost increases for the sector going forward. There is therefore expected to be considerable strain on the HNB in 2023/24.

The reduction of the 20% in the CSSB historic spend element in 2023/24 is largely offset by the increase in the ongoing responsibilities funding, leaving the CSSB facing a marginal decrease from April 2023.

Members will recall that the Forum has made arrangements to mitigate the loss of historic commitments funding by ceasing to support some services and transferring other support to the HNB.

## **Recommendations**

### **The Working Group:**

- a) **Noted the report and that the final allocation for 2023/24 would be notified in December 2022.**
- b) **Noted that consultation responses on the level of MFG would be presented to the Forum meeting on 18 October 2022 and that the Forum would be asked to formally consider the 2023/24 rate.**
- c) **Supported the proposal to retain the current notional SEN calculation for the 2023/24 financial year.**
- a) **Supported the proposed voting arrangements as set out for consideration of the MFG proposals.**
- b) **Supported the disapplication to the DfE to request the continued use of an Exceptional Factor in the Lancashire formula, to provide allocations to 3 schools to cover the costs of renting premises for the schools.**

## **2. Inclusion Hub Report**

To consider the update from the Inclusion Hubs.

### **The Working Group:**

- a) **Suggested for Inclusion Services to attend future School Forum meeting**
- b) **Noted that the Inclusion report should be made available in due course.**

***After the meeting, copies of the report were circulated to members. It was noted that the report did not have accurate information, therefore Inclusion Services will be working on the second version, which will be provided to School Forum on 18 October 2022.***

## **3. Service De-delegations 2023/24**

Each year, the primary and secondary school members of the Schools Forum must decide on Service De-delegation proposals put forward by the Authority. Where appropriate, agreed de-delegations are then offered to nursery schools, special schools and PRUs as group buy-backs.

At the July 2022 working group meeting, initial proposals for 2023/24 de-delegations were presented for consideration. Proposals included a continuation of the 4 service de-delegations that had been approved by the Forum for 2022/23, which were:

- Staff costs – Public Duties/Suspensions
- Heritage Learning Service - Primary Schools Only
- Support for Schools in Financial Difficulty
- Inclusion Hubs - Primary Schools Only

The consultation also proposed the de-delegation of an additional service in 2023/24, relating School Improvement Functions. Tim Roger has attended the meeting to provide information about School Improvement Functions.

The working group supported the 4 services being included in annual de-delegation consultation with schools. The proposals included the amended charging structure for the Staff costs – Public Duties/Suspensions and Support for Schools in Financial Difficulty de-delegations which ceased the use of a lump sum element in the charging methodology for these 2 services and has moved to a purely number on roll (NOR) based calculation in order to offer more equitable arrangements for smaller schools. To minimise turbulence, the lump sum element was reduced by 50% only as per Forum recommendation for 2022/23, with the corresponding increase in NOR rates. Colleagues will recall that the charges in 2022/23 were set at a transitional rate with the lump sum reducing from the historic level.

Proposals for the Heritage Learning Service and Inclusion Hubs de-delegations are being held charges at the 2022/23 levels.

At the time of the working group, the de-delegation consultation papers had not yet been approved for publication, but it was agreed to circulate the papers to members once they were cleared.

The closing date for consultation responses is 14 October 2022 and a final analysis and comments will be provided to the Schools Forum meeting on 18 October 2022 when maintained primary and secondary schools members will be asked to formally vote on the 2023/24 de-delegation proposals.

The working group supported the operation of the de-delegation voting at the Forum, which would take place at the meeting.

#### **The Working Group:**

- a) Noted the report;**
- b) Noted that de-delegation papers would be circulated to members after the meeting.**
- c) Noted that consultation responses would be presented to the Forum meeting on 18 October 2022 and that the Forum would be asked to formally consider de-delegation decisions for 2023/24.**
- d) Supported the proposed de-delegation voting arrangements.**

***Subsequent to the meeting, copies of the 2023/24 service de-delegations and schools block funding formula full consultation document and the summary document were circulated to members and copies are attached to this report as Appendix A and Appendix B.***

***Analysis and comments from the consultation responses will be presented to the***

## **Forum meeting on 18 October 2022.**

### **4. Clawback Exemption Request**

In July 2022, the Forum considered the School Balances and Clawback Policy for 2022/23 and agreed that clawback should be reintroduced on excessive revenue balances at March 2023.

The agreed policy is

#### **School Balances and Clawback Guidance 2022/23**

**This guidance applies to school balances at 31 March 2023**

#### **Guideline Balances**

The Authority's current maximum guideline balance is:

- 12% of Consistent Financial reporting (CFR) income for all phases of maintained school *(It is suggested that the 12% guideline figure is not seen as a target);*
- A £75,000 minimum balance threshold will be applied. *(This has been increased from £60,000 for 2022/23 taking into account inflation over the years since the last time that the minimum value was raised. This will provide smaller schools with a larger level of allowable balance as a protection against future costs pressures).*

#### **Clawback of "excess balances"**

The Authority's clawback arrangements are:

- A clawback rate of 50% is to be applied to any balance above guideline in the first year a school exceeds the guideline (after adjusting for exemptions). ;

#### **Clawback Exemption Requests 2022/23**

Following notification of the Forum's decision, requests has been received from 2 Lancashire secondary schools requesting exception to the policy at March 2023.

#### **Request (1)**

The school in question has saved funds for artificial pitch (MUGA), which impacts on its ability to deliver a full curriculum offer in PE. Funds have been saved for the artificial pitch to be installed on site, but installation is being delayed due to planning permission not yet being granted. The actual expenditure for the artificial pitch with these delays will fall into 2023/24.

The school has struggled to find suitable outdoor playing space to support both curricular and non-curricular activities as the playing field has very little drainage and is unusable for most of the year. The proximity of a tidal waterway running around the site leads to a high-water table at certain points of the year which adds to the problem.

In preparation for the potential costs, the school have managed to save a significant amount of money for the project. The school is requesting Forum to consider exempting £225,000 from clawback at the end of the financial year so that the funding can be utilised to fund the artificial pitch to provide curricular and non-circular activities to its students in 2023/24 in response to the ongoing issue with site drainage.

## **Request (2)**

Second secondary school in question has accumulated a Capital of 390,000. They are currently approaching on completing one project but planning to start second project before end of the year. This project was delayed due to a few factors and not have started by the 31st of March due, one of which is the limited times that capital works can be completed. The worst case could be that school would have £290,000 ring fenced for capital works that will not be completed as at 31st of March 2023. Details of the projects are provided below.

### **Development of the old site supervisors house to a business and conference centre**

There is no designated meeting space within school whatsoever – every room has been utilised for curriculum use, including former meeting spaces which are now intervention rooms. So the meeting spaces have been re-allocated to curriculum use.

The former meeting spaces were not appropriate for parental meetings because they were all placed within the main building of the school, so parents were moving around the corridors at the same time as pupils and could easily walk into any classroom if they were determined to. Meetings that were contentious and sometimes became heated were less private than they should be, because of the position of the meeting space.

Consequently, we need to create appropriate and safe meeting spaces that allow us to engage with parents and professionals whilst keeping our pupils safe. The refurbishment of the house allows us to do this. Parents and professionals will not enter the main school building at all, they will be accommodated in the house only, which means that they will never cross paths with our pupils, thereby enhancing our ability to safeguard pupils during the school day.

So the refurbishment of the house will allow us to engage meaningfully with parents and professionals, a critical element of our work as we seek to improve attendance, re-engage pupils and parents who have disengaged with us and facilitate the growing number of professionals who are involved on a regular basis in private/confidential meetings with our pupils.

### **Curriculum benefit for redevelopment of our HE classroom :**

Our Home Economics room is barely fit for purpose. It is our only specialist food technology room and has insufficient workstations/cookers/hobs for the class sizes we now must

accommodate. Additionally, the room is the original room from when the school was built so is some 30 years old. Pupils are working in a room that has a poor layout, inadequate equipment and insufficient capacity to expand using the current gas and electrical infrastructure. Refurbishing this classroom is a priority, since pupils cannot cook in any other room in the school. To not refurbish the room would result in a narrowing of the curriculum, meaning school would not be delivering the full breadth and balance of Technology that the National Curriculum requires.

### **Science Learning Partnerships**

In addition, the School holds a Science Learning Partnerships contract for Lancashire and Cumbria. They maintained this contract for many years and the current agreement is valid from 1 April 2022 for 17 months until 31 August 2023. This partnership is related to STEM learning and is ultimately funded by the DfE. Significant balances are often held at the end of the year, for example as of 31.03.22 £200,000 was in their bank account for this contract.

#### **The Working Group:**

- a) Noted the report.**
- b) Supported clawback exemptions for 2022/23 to be taken as a recommendation to the School Forum meeting.**

# **Consultation on the Schools Block Funding Arrangements and Service De-delegations 2023/24**

## **Summary Document**

## Summary

- The Government made various announcements in July 2022 about school funding for 2023/24. These announcements confirmed that the DfE have made limited changes to the funding arrangements from April 2023 and confirmed that de-delegation arrangements continue to be allowable from April 2023.
- This consultation is seeking views about the continuation of services de-delegations in 2023/24, and one supplementary which are:
  - Staff costs – Public Duties/Suspensions – Proposals are similar to 2022/23, but proposals look to remove the lump sum element that was historically included in the charge.
  - Heritage Learning Service (Museum Service) - Primary Schools Only – Proposals are similar to 2022/23 and charges are held at the same level.
  - Support for Schools in Financial Difficulty – Arrangements are similar to 2022/23 but also includes proposals to remove the lump sum element that was historically included in the charge.
  - Primary Inclusion Hubs – Proposals are similar to 2022/23 and the charge remains as per the current year.
  - School improvement functions – Proposal for 2023/24 to provide a wide range of services to schools and work in partnership with, primary and secondary schools. The work focuses on every child having a quality education from 0-18 years old and support to improve their functions.
- It is extremely important to the County Council and the Schools Forum to be able to reflect the views of Lancashire schools when making decisions about de-delegation arrangements for 2023/24, as these decisions are binding on all primary and secondary schools.
- De-delegations are not permitted for academies, special schools, nursery schools or PRUs, however, some services will be offered as a buy-back and separate information will be provided about these options, where appropriate.
- Following a previous consultation with schools and the Schools Forum, Lancashire has adopted the NFF methodology as the local funding formula. The main document also sets out the main formula changes that will be introduced for 2023/24 and seeks views on the level of Minimum Funding Guarantee (MFG) that should be applied in Lancashire from April 2023.
- Please let us know your views on the de-delegations proposals for 2023/24, by completing the consultation questionnaire available [here](#), by **14 October 2022**.
- If there are any proposals to transfer funding from Schools Block to other funding blocks in 2023/24 that emerge once we have modelled allocations from the DfE on the schools funding arrangements, further consultation will be issued seeking schools' views.

# **Consultation on the Schools Block Funding Arrangements and Service De-delegations 2023/24**



## **Executive Summary**

The Government made various announcements in July 2022 about school funding for 2023/24. These announcements confirmed that the DfE has made limited changes to the funding arrangements from April 2023.

This means that the 'soft' National School Funding Formula (NFF) arrangements will continue for 2023/24, where the allocations for each Local Authority (LA) are calculated on the aggregated individual school National Funding Formula (NFF) amounts, but the LA's local formula still applies in making actual allocations to primary and secondary schools.

The soft NFF arrangements will allow the continuation of de-delegation arrangements in 2023/24, subject to consultation with primary and secondary schools and approval of the Schools Forum.

This consultation is seeking views about the continuation of services de-delegations in 2023/24, which are:

- Staff costs – Public Duties/Suspensions;
- Heritage Learning Service (Museum Service) - Primary Schools Only;
- Support for Schools in Financial Difficulty;
- Primary Inclusion Hubs.
- Support for Education Improvement

The main change from 2022/23 relates to the charging methodology for the Staff Costs and Schools in Financial Difficulty de-delegations, where proposals look to remove the lump sum element that was historically included in the charge.

It is extremely important to the County Council and the Schools Forum to be able to reflect the views of Lancashire schools when making decisions about de-delegation arrangements for 2023/24, as these decisions are binding on all primary and secondary schools.

De-delegations are not permitted for academies, special schools, nursery schools or PRUs, however, some services will be offered as a buy-back and separate information will be provided about these options, where appropriate.

Please let us know your views on the de-delegations proposals for 2023/24, by completing the consultation questionnaire available [here](#), by **14 October 2022**.

Following a previous consultation with schools and the Schools Forum, Lancashire has adopted the NFF methodology as the local funding formula. This document also sets out the main formula changes that will be introduced for 2023/24 and seeks views on the level of Minimum Funding Guarantee (MFG) that should be applied in Lancashire from April 2023.

If there are any proposals to transfer funding from Schools Block to other funding blocks in 2023/24 that emerge once we have modelled allocations from the DfE on the schools funding arrangements, further consultation will be issued seeking schools' views

### **PART A 2023/24 DE-DELEGATION PROPOSALS**

The school funding framework continues to allow service de-delegations in 2023/24. As per the funding arrangements in recent years, de-delegated services must be allocated through the formula but can be de-delegated for maintained mainstream primary and secondary schools, subject to consultation with schools and with Schools Forum approval.

De-delegations apply to a limited range of services where central provision for maintained schools (but not academies) may be argued for on the grounds of economies of scale or pooled risk. These services and their funding are delegated to schools and academies in the first instance, however if maintained primary and secondary schools if a phase agree, via a majority vote through the Schools Forum, the services can be provided centrally by returning the funding to the Local Authority. The final net delegated budget available to each school would then exclude these amounts.

For 2022/23, the Schools Forum approved a number of de-delegations, following consultation with schools. However, service de-delegations must be approved on an annual basis and this consultation document sets out proposals for 2023/24 and seeks your views.

Proposals for 2023/24 involve the 4 services that were approved by the Forum in 2022/23, plus an additional service which are:

- Staff costs – Public Duties/Suspensions;
- Heritage Learning Service (Museum Service) - Primary Schools Only;
- Support for Schools in Financial Difficulty;
- Primary Inclusion Hubs - Primary Schools Only
- School Improvement Functions

One key issue that is different for the 2023/24 proposals for the Staff Costs and the Support for Schools in Financial Difficulty de-delegations relates to the charging methodology.

The de-delegation charges for these 2 services have historically utilised a per pupil rate plus a lump sum.

The Schools Forum have previously raised concerns that a greater proportion of small primary schools are identified in the higher risk categories using the County Council's Schools in Financial Difficulty (SIFD) categorisation. It may be argued that lump sum charges disadvantage smaller schools, as the lump sum element is the same regardless of the size of school or its budget. Per pupil only charges are more reflective of different sizes of school and also to any year on year changes in pupil numbers, which impact on the revenue funding each school receives.

The Forum have therefore recommended that these services move to Number on Roll (NOR) only charging methodologies for 2023/24. Colleagues will recall that the charges in 2022/23 were set at a transitional rate with the lump sum reducing from the historic level.

Further details of the impact of these changes is provided in the relevant sections below.

This consultation document also provides information on all the proposed de-delegation service offers and charging structures from April 2023, and possible service options where

these are available. Supplementary information providing additional details around the proposals are included in various appendices and annexes.

Decision taken by the primary and secondary school members of the Schools Forum will be binding on all schools in that phase, so it is important that members are aware of the views of schools when they are making the de-delegation decisions.

De-delegations are not permitted for academies, special schools, nursery schools or PRUs, however, some services will be offered as a buy-back arrangement and separate information will be provided about these options where appropriate.

## **1. Staff costs – Public Duties/Suspensions**

The 2022/23 de-delegation consultation presented a number of Staff Costs options, particularly around the trade union duties following a review of the Trade Union Facilities Time Agreement.

In accordance with the most popular option from school responses, the Forum agreed to support the 2022/23 staff costs de-delegation at the level of service provided in previous years.

For the 2023/24 consultation, various options are again presented for consideration by schools and information on the different possibilities are included below and in the appendices.

Background information, which was shared with the Schools Forum in summer term 2022, provided an update about the Trade Union Facilities Agreement and a copy of this report is attached at [Appendix A](#). The report includes information about the historical position of the facilities time agreement, the legal requirements, recent union amalgamations and number of school staff supported from the de-delegation and how this has changed in recent years.

### ***Further Information from Trade Unions***

In response to the consideration of the de-delegation options for 2023/24 trade union colleagues have submitted further information setting out their positions on the facilities time issue and the advantages the agreement provides.

The teacher trade unions have produced two joint papers. The first is a paper titled 'In Defence of Pooled Facility Time' and provides a summary of the legal context and some practical advantages of the current system from the unions' perspective. This paper is attached at [Appendix B](#).

A second document on behalf of the teacher unions is a position paper that sets out the union's view about the benefits of the facilities time agreement in more detail, including some possible costings at school level if the agreement were not in place. This document is attached at [Appendix C](#).

[Appendix D](#) is a paper from Unison setting out their position, which makes representations about the balance of support provided through the facilities time agreement should be reviewed to be based on membership numbers in Lancashire schools, which would suggest

that a greater share of the funding should be allocated to Unison. The Unison submission also includes information in support of the general benefits of facility time and the shared funding of facility time.

### **2023/24 De-delegation Options**

Having considered the information provided, the options available for this de-delegation in 2023/24 are:

- a) Continue the 'Staff Costs - Public Duties/Suspensions' de-delegation using the same policy as 2022/23
- b) Continue the 'Staff Costs - Public Duties/Suspensions' de-delegation but with a reduced Trade Union Facilities Time contribution to reflect a smaller workforce;
- c) Continue the 'Staff Costs - Public Duties/Suspensions' de-delegation but without any Trade Union Facilities Time contribution;
- d) Completely discontinue the 'Staff Costs - Public Duties/Suspensions' de-delegation.

Further details on each of the options are provided in the following sections, which also includes the relevant adjustments to the de-delegation charges that are proposed for 2023/24 under each of the options.

#### ***a) Continue the 'Staff Costs - Public Duties/Suspensions' de-delegation using the same policy as 2022/23***

One option available in 2022/23 is to continue the existing de-delegation arrangements using the same policy as applied in 2022/23.

The 2022/23 'Staff Costs - Public Duties/Suspensions' de-delegation incorporated reimbursement to schools for staff costs associated with duties including:

- Magistrates/Justices of the Peace;
- Jury Service;
- Attendance at Court/Tribunal as a Witness;
- Teachers who are Governors of schools other than their own;
- Territorial Army/Royal Naval Reserve/Royal Air Force Reserve;
- Trade Union Duties under the County Council's Facilities Time Agreement.
  
- And, if a member of staff is suspended from duty.

The total 2022/23 de-delegation budget equated to circa £736k, including public duties, trade union duties and suspensions.

In order to respond to the 2022/23 overspend, and to transition away from the lump sum element of the charge by reducing it by 50% from April 2023 (with the equivalent increase in the per pupil element) the revised de-delegation rates for 2023/24 are shown below:

	Primary	Secondary
Rate per pupil	£ 5.34	£ 6.13

An impact assessment has been undertaken based on the implementation of the purely NOR based methodology and this is provided in the Schools in Financial Difficulty section below, as that de-delegation is also subject to proposals to move to a NOR only methodology and this allows the overall impact to be assessed.

It should be noted that as the de-delegation showed an overall underspend in 2021/22, the proposed 2023/24 charges have been calculated to generate the same level of income from the purely NOR methodology, but do not include any further uplift in the charging rate.

#### *Advantages of this option*

- The Facilities Agreement for teacher trade unions demonstrates the commitment that the schools and Schools Forum have towards fostering and maintaining good relations with employee representatives;
- Continuing the 'Staff Costs - Public Duties/Suspensions' de-delegation will assist in maintaining the very positive relationships with the trade unions when dealing with issues affecting staff in schools in addition to financially supporting schools for staff undertaking other public service duties;
- In the current financial climate in the school sector, with significant numbers of schools facing financial difficulties, the input from trade union representatives to assist with school reorganisation proposals will be in continued demand and it may be counterproductive to reduce the support available by decreasing the level of the de-delegation;
- This option minimises the risks financially and otherwise on individual schools of needing to provide time off for school based trade union representatives during working time to deal with casework in their own school and of bearing such costs, which would need to be met from individual schools budgets.

#### *Disadvantages of this option*

- The number of school staff covered by the de-delegation has reduced in recent years as the number of academies in Lancashire has increased, but this option does not reflect that change (figures are provided below in option b);
- Other options for the Staff Costs de-delegation reduce its costs, which would release some funding back to individual school budgets;

- It does not take into account Trade Union members paying fees and subscriptions to their associations that provide for Regional Officials to deal with very serious casework matters;
- From 1 April 2018, the County Council withdrew all funding for trade union representatives. From this date, workplace representatives have been required to undertake the role within their service areas, supported by regionally/nationally funded colleagues. The continuation of any Facilities Time Agreement funded by the de-delegation is not necessarily consistent with the County Council's decision.

***b) Continue the 'Staff Costs - Public Duties/Suspensions' de-delegation but with a reduced Trade Union Facilities Time contribution;***

A second option for consideration proposes to continue the Staff Cost de-delegation in 2023/24, but to reduce the Trade Union Facilities Time contribution.

FTE teacher numbers in Lancashire in 1999, the year after Blackpool and Blackburn LAs went unitary, are broadly similar to those in 2010. Since 2011, the number of teachers covered by the Facilities Time Agreement has been affected as schools convert to academies.

Based on the most recent School Workforce data, the number of teaching staff in Lancashire schools is 10,206. Of these, 20% (2,070) are based in academies. When a school converts to become an academy, they are no longer able to draw on the Facilities Agreement funding, unless they arrange a separate buy-in arrangement. Despite this, there has been no equivalent reduction in the number of funded FTE trade union representatives.

This option proposes to reduce the financial contribution to support the Facilities Time Agreement in line with the % of staff now employed in academies (20%)

A UNISON post, which provides support for support staff in schools, is also funded from this de-delegation, and this proposal would require a reduction in their allocation equivalent to 20%.

In 2022/23, the trade union budget represented circa £472k of the total Staff Costs de-delegation. A realignment of the trade union costs element of the de-delegation would equate to the following school level savings in 2023/24 compared to the cost of maintaining the de-delegation at 2022/23 service levels, as set out in a) above. (Based on 2022/23 pupil numbers):

- £0.68 per pupil in primary schools;
- £0.79 per pupil in secondary schools.

*Advantages of this option*

- This option realigns the costs of the 2023/24 Facilities Time Agreement to one equivalent to that when the agreement was originally created in terms of teaching staff supported and reflects the number of staff now employed in academies that are no longer covered by the agreement;
- All parts of the school sector are facing considerable costs pressures and this proposal shares that burden with the unions benefitting from the de-delegation;
- A significant level of funding would still be provided for the Facilities Time Agreement, so the existing benefits of the de-delegation arrangements should, for the most part, be able to continue;
- A reduced amount of funding would be deducted from individual schools budgets, as set out above;
- Going forward, if de-delegations remain allowable, the level of contribution for the Facilities Time Agreement could perhaps be reviewed annually on the basis of any changes to the number of staff being supported and the budget position of Schools Forum;

#### *Disadvantages of this option*

- The level of funding released on a school by school basis is relatively small, and given that demand for union support in budget driven reorganisations is likely to increase as school funding gets tighter, it may be a better use of resources to leave the de-delegation at the 2022/23 level;
- Any decrease in the level of funding provided for the Facilities Time Agreement risks increasing demand on individual schools to provide time off for school based trade union representatives.

#### ***c) Continue the 'Staff Costs - Public Duties/Suspensions' de-delegation but without any Trade Union Facilities Time contribution***

Another option for consideration is to continue the Staff Costs de-delegation, but without the Facilities Time Agreement contribution.

This option would release circa £472k costs associated with the Facilities Time Agreement into individual school budgets. This would equate to the following school level savings in 2023/24 compared to the cost of maintaining the de-delegation at 2022/23 service levels, as set out in a) above. (Based on 2022/23 pupil numbers):

- £3.42 per pupil in primary schools;
- £3.93 per pupil in secondary schools

#### *Advantages of this option*

- This option would provide a more substantial level of funding to release into individual school budgets;

- It would mirror the decision taken by the County Council to withdraw funding for trade union representatives;
- Regional Trade Union officials would still be available to provide support with serious casework matters;
- The de-delegation would still provide insurance type cover to schools for other 'public duties and suspensions'.

#### *Disadvantages of this option*

- The relationships with Lancashire level trade union officials could be lost; as would considerable local knowledge and expertise that benefits employee relations in Lancashire schools;
- There would be greater demand on individual schools to provide time off for school based trade union representatives during working time to deal with casework in their own school, the costs of which would need to be met from individual schools budgets;
- Delays could be caused in resolving HR issues in schools, particularly where the school must rely on the availability of regional officials to manage HR casework;
- The occurrence of costs on individual schools would not be even, and schools facing the prospect of reorganisations due to budgetary constraints would face a higher risk that their budgeted resources would be needed to release staff to undertake trade union duties and activities.

#### **d) Completely discontinue the 'Staff Costs - Public Duties/Suspensions' de-delegation**

A final option for consideration would be to discontinue this de-delegation completely. This would mean that no staff costs de-delegation funding is collected from schools in 2023/24 and would equate to the following school level savings in 2023/24 compared to the cost of maintaining the de-delegation at 2022/23 service levels, as set out in a) above. (Based on 2022/23 pupil numbers):

- £6.13 per pupil in secondary schools;
- £5.34 per pupil in primary schools;

However, it is important to note that if this service is not de-delegated the County Council has no proposals to develop a traded service and schools would need to make their own arrangements.

#### *Advantages of this option*

- This option provides the largest saving against the 2022/23 de-delegation costs;
- In a given year, some schools do not benefit from this de-delegation, if they have no cause for trade union involvement, no staff undertaking public duties and do not suspend anyone from duty;



- This option also mirrors the decision taken by the County Council to withdraw funding for trade union representatives;
- Regional Trade Union officials would still be available to provide support with serious casework matters;

*Disadvantages of this option*

- The relationships with Lancashire level trade union officials would be lost; as would considerable local knowledge and expertise that benefits industrial relations in Lancashire schools;
- There would be greater demand on individual schools to provide time off for school based trade union representatives during working time to deal with casework in their own school, the costs of which would need to be met from individual schools budgets;
- Delays could be caused in resolving HR issues in schools, particularly where the school must rely on the availability of regional officials to manage HR casework;
- The occurrence of costs on individual schools would not be even, and schools facing the prospect of reorganisations due to budgetary constraints would face a higher risk that their budgeted resources would be needed to release staff to undertake trade union duties and activities;
- The 'insurance' type cover offering protection for individual school budgets from this de-delegation would be lost, and some schools risk considerable additional costs if they have staff who undertake significant levels of public duties or who are suspended.

**Q1. What is your preferred de-delegation option for 'Staff Costs - Public Duties/Suspensions' in 2023/24?**

- **Continue the 'Staff Costs - Public Duties/Suspensions' de-delegation using the same policy as 2022/23;**
- **Continue the 'Staff Costs - Public Duties/Suspensions' de-delegation but with a reduced Trade Union Facilities Time contribution to reflect academisations and union amalgamations;**
- **Continue the 'Staff Costs - Public Duties/Suspensions' de-delegation but without any Trade Union Facilities Time contribution;**
- **Completely discontinue the 'Staff Costs - Public Duties/Suspensions' de-delegation;**
- **Not Sure.**

*Please note that charges quoted in this section may vary marginally, based on pupil numbers from the October 2022 school census.*

**2. Heritage Learning Team - Primary Schools Only**

The Schools Forum have historically supported the work the Heritage Learning Team undertakes for primary schools to help meet the national curriculum and to support wider cultural learning and learning outside the classroom aims. With the emphasis being placed on cultural education by the government's Culture White Paper, it is proposed that this budget continues to be de-delegated in 2022/23 to ensure that this service is maintained.

The de-delegated budget is used by the Heritage Learning Team to pay for the creation, design, curriculum development and resourcing of the learning sessions provided across LCC's museums, schools outreach, Lancashire Archives and a range of partner museums across the county. Learning is therein offered both at the museums, cultural venues and as outreach into schools. The money also covers staff training for the freelancer delivery team and the on-going monitoring/evaluation of the quality standards. The funding also enables new sessions to be developed in response to fluid curriculum changes. Free monthly and whole school CPD events are offered to teachers at the Preston Conservations Studios or as sessions within school. The Heritage Learning Team also offer a free curriculum development service to help inspire and engage. The Heritage Learning Team holds five Sandford Awards for excellence in Heritage Education, recognising the high quality and relevance of the sessions it offers to schools. The service has also been able to offer long term projects to schools including music programmes 'Turns and Tunes' and 'The People Versus'. 'The Lancashire Schools Magic Fest' focussed on numeracy, literacy, self-confidence, creativity, and the now annual 'Lancashire Schools Storytelling Festival'. Developments for 2022/23 include new STEAM sessions at the Lancaster Maritime Museum and Clitheroe Castle Museum, a range of new special events, and new funded projects covering a range of cross curricular themes.

The Heritage Learning Team also deliver a range of digital learning opportunities- Our Niche Academy packages include Shakespeare, Storytelling, Explorers and WWI. The 'Whole Lot of History Podcast' provides entertaining and exciting pathways into various historical topics designed solely for young people. We also offer a range of video guides and activities through our YouTube Channel.

The schools' loans service offered by the Heritage Learning Team is a subscription scheme, the charges are kept to a minimum, covering delivery and collection of loans boxes. Support from the de-delegated money enables development and resourcing of new loans boxes in line with the curriculum and teacher requests. During the last academic year, this has included new resources linked to Prehistory, Anglo Saxons, WWI, Romans, Seaside, Vikings, and Explorers.

Schools will continue to receive a small charge for museum visits, but only to cover the cost of paying the freelance delivery staff. Continued de-delegation will mean current charges for school visits, outreach sessions and loans boxes will again be held during the coming academic year.

Due to museum transition the learning team have ensured Lancashire schools can still access high quality sessions at Helmsore and Queen Street mills, the Museum of Lancashire, Judges Lodgings and Fleetwood museum. The Heritage Learning Team work with a range of external educational associates as critical learning partner to bring the best of learning to schools. We are delighted to announce they will be delivering the learning provision at the Harris Museum and Art Gallery.

If delegated, this service would only allocate just under £2.00 per pupil. If a traded service were to be offered the central service would only remain viable if all schools entered into the arrangement. On this basis, the authority would suggest that if schools would wish to see the service continue, the primary school museums budget should be de-delegated.

The proposed cost of this de-delegation in 2023/24 is provided in the table below (based on 2022/23 pupil numbers)

### Heritage Learning Team

	Primary	Secondary
	£	£
Rate per pupil	1.97	0.00
Lump sum	0.00	0.00
<b>Total De-delegation</b>	<b>183,296</b>	<b>0</b>

**Q2. Do you support the de-delegation of funding for the Heritage Learning Team in 2023/24?  
(Primary schools only)**

- **Yes;**
- **No;**
- **Not Sure.**

### 3. Support For Schools In Financial Difficulty (SIFD)

Currently support for schools in financial difficulty is offered in a number of ways which include:

- Brokering school to school support with schools sharing expertise at various levels e.g. leadership, teaching, subject leadership, assessment, curriculum models;
- Providing teaching and learning support through teaching and learning consultants e.g. bespoke professional development for teachers;
- Providing financial management support for schools e.g. complex recovery plans;
- Providing HR and financial support to enable schools to reduce staffing;
- Providing one off financial support, via a bid to the schools forum to enable the school to develop a sustainable recovery plan.

There are occasions when schools do not have sufficient resources available to meet the needs of their pupils and in these cases the Schools in Difficulty fund provides schools with the resources to help them overcome the challenges they are facing. There are clear, published eligibility criteria for access to these funds and these are managed on behalf of Schools Forum by the School Improvement Challenge Board (SICB). The funds are provided in order to help schools to raise achievement and create sustainable improvements in the quality of provision.

The de-delegation also includes some Termination of Employment costs (formerly Premature Retirement Costs), which can be a useful mechanism to facilitate staffing reorganisations in schools, particularly when they are in financially difficulty.

Current evidence indicates that this approach is well received and highly valued by headteachers and governors. The partnership between schools and the local authority has also proved invaluable in helping schools to improve the quality of provision in a sustainable way.

It is important to note that if this service is not de-delegated, the County Council has no proposals to develop a buy-back service to support schools in financial difficulty and schools would need to make their own arrangements.

The proposed cost of this de-delegation in 2023/24, based on a continuation of existing provision, is provided in the table below (based on 2022/23 pupil numbers).

As with the Staff Costs de-delegation earlier, proposals for the Support for Schools in Financial Difficulty service in 2023/24 look to transition the charging methodology away from the lump sum element of the calculation and move to a purely NOR based methodology. As recommended by the Schools Forum, 2023/24 proposals below reduce the lump sum by 50% compared to 2022/23, with an associated increase in per pupil rates.

#### Support for Schools in Financial Difficulty

	Primary	Secondary
	£	£
Rate per pupil	8.39	12.64
Lump sum	500.00	500.00
<b>Total De-delegation</b>	<b>1,011,888</b>	<b>515,408</b>

An impact assessment has been undertaken based on the implementation of the purely NOR based methodology for this, and the 'Staff Costs' de-delegation and examples based around differing school sizes in both the primary and secondary phases are provided below:

Primary	Staff Costs Public Duties and Suspensions	Support for Schools in Financial Difficulty	Total
<b>Number of Pupils</b>	<b>No Lump Sum</b>	<b>No Lump Sum</b>	<b>No Lump Sum</b>
<b>50</b>	£169	£376	<b>£545</b>
<b>100</b>	£113	£252	<b>£365</b>
<b>210</b>	<b>-£9</b>	<b>-£21</b>	<b>-£31</b>
<b>315</b>	<b>-£127</b>	<b>-£282</b>	<b>-£408</b>
<b>420</b>	<b>-£245</b>	<b>-£545</b>	<b>-£790</b>
<b>630</b>	<b>-£473</b>	<b>-£1,051</b>	<b>-£1,524</b>

Secondary	Staff Costs Public Duties and Suspensions	Support for Schools in Financial Difficulty	Total
Number of Pupils	No Lump Sum	No Lump Sum	No Lump Sum
500	£92	£205	£297
700	£37	£83	£120
900	-£11	-£25	-£37
1100	-£63	-£140	-£202
1300	-£116	-£259	-£375
1500	-£176	-£391	-£567

*If the Support for Schools in Financial Difficulty de-delegation continues in 2024/25, it is anticipated that the charges would be calculated on a Number on Roll (NOR) only basis.*

**Q3. Do you support the de-delegation of Support for Schools in Financial Difficulty in 2023/24?**

- Yes;
- No;
- Not Sure.

#### **4. Primary Inclusion Hubs (Primary Schools only)**

There is a shared vision in Lancashire to ensure children and young people achieve their potential, ambitions and aspirations. In order to achieve this we need to work together locally to ensure that schools are able to better meet the needs of all pupils.

It is proposed that the de-delegation allocations for 2023/24 continue to be calculated at individual school level on the basis of an amount per pupil and allocated to each district on the basis of pupil numbers and a deprivation factor (rather than a lump sum per district). This is to reflect the varying number of pupils being support in different districts.

The primary school Inclusion Hubs in each district are designed to:

- reduce the need for permanent exclusions;
- improve attendance of pupils;
- ensure that pupils' needs are better met by a 'local' offer;
- provide high quality training for staff in schools;

- share good practice and sign-post schools to expertise;
- develop an agreed set of principles within each district that promotes educational inclusion and reflects the local challenges and expertise;
- bring together schools and local authority teams (Social Care, Inclusion, School Improvement and the Children and Family Wellbeing Service) to work together to address particular issues in a locality.

The funding can be used in a range of ways to support inclusion, for example to provide staff training, advice and support packages and alternative provision.

Nominated headteacher members will report on the use of funding and impact to the Children and Young People's Partnership Board.

In the autumn term 2022, the Schools Forum received an update of the work of the Inclusion Hubs from the Inclusion Hubs.

The proposed cost of this de-delegation in 2023/24 is set out below, with the rate per pupil remaining unchanged for 2022/23.

#### Primary Inclusion Hubs

	Primary	Secondary
	£	£
Rate per pupil	11.00	0
Total De-delegation	1,000,000	0

**Q4. Do you support the de-delegation of funding for Primary Inclusion Hubs in 2023/24?**

- **Yes;**
- **No;**
- **Not Sure.**

#### 5. School Improvement Functions

The Schools Forum is being asked to agree the proposal of de-delegation of funds for School Improvement Functions.

**The School Improvement Team** provide a wide range of services to schools and work in partnership with, primary and secondary schools. These teams provide a universal service of advice, support and challenge that is accessed by all; an enhanced package is also available for purchase as a School Service Guaranteed or School Level Agreement. The team supports all schools with Ofsted inspections by partnership work with staff and governors through SSG/SLA or MIT (Monitoring and Intervention Team), on a needs-based consultancy. In addition, during an inspection (Graded or Ungraded, or due to a qualifying

complaint) the advisers have discussions with inspectors to provide external validation of school evaluations. The team of advisers and consultants work with all schools irrespective of Ofsted judgement or financial situation to ensure all Lancashire children have the very best all-round education possible.

**The Advisory Team** work alongside schools and other teams (HR, finance, governors, service provider) on forming collaborations or federations. These arrangements secure the future of some schools by creating a stable leadership structure.

At a school level the support and challenge covers all aspects of school life; providing external validation of school judgements and decisions or opening up questions to challenge actions. The work focusses every child having a quality education from 0-18 years old and includes: reviews of quality of education; audits of leadership and management; curriculum development; training and awareness raising for governors and staff.

Schools are provided with a wealth of documents to support them in delivering a high-quality education to all pupils. These documents include summaries of key information (local and national) saving school leaders time and ensuring that they do not miss something vital. The advisers meet with Regional Schools' Commissioner and Senior HMI termly and can act as an interface with these government departments to represent school views and bring back key messages for schools and academies.

**The Monitoring and Intervention Team (MIT)** sit within the School Advisory Team but has a very specialist role which is not part of the traded SSG / SLA offer. The Local Authority has a statutory duty to promote high standards in schools and to intervene when Ofsted have placed a school into a category of concern. In Lancashire the remit has always extended further so that enhanced support and intervention can be accessed by schools judged by Ofsted as requiring improvement and, increasingly, as declining following an ungraded inspection; referral by the adviser; referral by the school. The Local Authority recognises the benefits of strong school-to-school support and brokers this to meet specific needs. However, there is often lack of capacity and expertise to manage more complex improvement requirements in this way; the MIT team provide an intensive and highly skilled package of monitoring and intervention, agreed via the School Improvement Challenge Board (SICB). Where a school is in financial difficulty this will be fully funded. The high proportion of Lancashire schools being graded good or better by Ofsted is, in part, testament to the vital work of this team.

If a school is at risk of being "less than good" based on self-evaluation, Local Authority evaluation or as judged by Ofsted then enhanced support is provided by the Monitoring and Intervention team of advisers and consultants. This is bespoke support that is provided immediately. The work of this team is both preventative and developmental.

**The Ethnic Minority Team** support all new arrival families with holistic support (health, children family wellbeing, special educational needs). Significantly this support facilitates language acquisition for children to promote school readiness at all ages and adult language too. The team respond 24 hours a day to critical incidents and works tirelessly with others to ensure the entire school/academy community is fully supported. The advisers invariably take the lead co-ordination role in such situations providing the key contact for media, health, emergency services, (e.g. school fire, death of a member of staff or pupil).

The proposed cost of this de-delegation in 2023/24 is provided in the table below (based on 2022/23 pupil numbers)

## **School Improvement Functions)**

	Primary	Secondary
Rate per pupil	£ 14.00	£ 20.00
Total De-delegation	1,250,000	750,000

**Q5. Do you support the de-delegation of funding for School Improvement Functions in 2023/24?**

- **Yes;**
- **No;**
- **Not Sure.**

### **Responding to the consultation**

It is extremely important to the County Council and the Schools Forum to be able to reflect the views of Lancashire schools when making decisions about de-delegation arrangements for 2022/23, as these decisions are binding on all primary and secondary schools.

Please let us know your views on the de-delegations proposals for 2023/24, by completing the consultation questionnaire available [here](#), by **14 October 2022**, so that responses can be reported to the Schools Forum on 18 October 2022.



## **PART B 2023/24 SCHOOLS BLOCK FUNDING ARRANGEMENTS**

In July 2022, the DfE made announcements about the 2023/24 school funding arrangements.

Overall, core schools funding (including funding for mainstream schools and high needs) is increasing by £1.5 billion in 2023/24 compared to the previous year.

### **National Funding Formula (NFF) 2023/24**

The basic structure of the National Funding Formula (NFF) remains unchanged for 2023/24, but DfE have increased factor values and made some other changes to the arrangements. Further details are provided below:

Key changes to the schools NFF in 2023 to 2024 are:

- rolling the 2022 to 2023 schools supplementary grant into the NFF by:
  - adding an amount representing what schools receive through the grant into their baselines
  - adding the value of the lump sum, basic per pupil rates and free school meals Ever 6 (FSM6) parts of the grant onto the respective factors in the NFF
  - uplifting the minimum per pupil values by the supplementary grant's basic per-pupil values, and an additional amount which represents the average amount of funding schools receive from the FSM6 and lump sum parts of the grants
- increasing NFF factor values (on top of the amounts we have added for the schools supplementary grant) by:
  - 4.3% to free school meals at any time in the last 6 years (FSM6) and income deprivation affecting children index (IDACI). DfE say that this additional support directed to disadvantaged pupils, by increasing the FSM6 and IDACI factors in the schools NFF by a greater amount than other factors, means that a greater proportion of schools NFF will be targeted towards deprived pupils than ever before. 9.8% of the schools NFF will be allocated according to deprivation in 2023/24. 2.4% to the basic entitlement, low prior attainment (LPA), FSM, English as an additional language (EAL), mobility, and sparsity factors, and the lump sum.
  - 0.5% to the floor and the minimum per pupil levels (MPPL)
  - 0% on the premises factors, except for Private Finance Initiative (PFI) which has increased by Retail Prices Index excluding mortgage interest payments (RPIX) which is 11.2% for the year to April 2022

### **Minimum Pupil Funding**

The DfE announcements included the relevant minimum pupil funding (MPF) levels for primary and secondary schools, which incorporate the 3.37% uplift for 2023/24:

- The primary schools, the MPF level will be £4,405 per pupil in 2023/24 compared to £4,265 per pupil in 2022/23.
- For secondary schools, the MPF level will be £5,715 per pupil from 2023/24 compared to £5,525 per pupil in 2022/23.

### **Local Schools Block Formula 2023/24**

For 2023/24, during the transition to the direct NFF, some local discretion remains around the level of Minimum funding guarantee (MFG). LAs have the freedom to set the MFG in local formulae between +0.0% and +0.5% per pupil.

Views will be sought from Lancashire primary and secondary schools and academies in the consultation to take place early in the autumn term 2022. The LA proposal included in the consultation will be for the MFG to be set at +0.5% in 2023/24, as this provides the maximum allowable protection for Lancashire schools and academies and matches the funding floor protection included in the NFF.

Please remember whilst the MFG will offer protection for per pupil funding levels between years, individual school budget allocations can still go down if your pupil numbers reduce.

**Q5. Do you agree that the Minimum Funding Guarantee (MFG) level should be set at +0.5% in the Lancashire formula in 2023/24?**

- **Yes;**
- **No;**
- **Not Sure.**

Please let us know your views on the de-delegations proposals for 2023/24, by completing the consultation questionnaire available [here](#), by **14 October 2022**, so that responses can be reported to the Schools Forum on 18 October 2022.

### **Schools Block Transfer to other funding blocks**

In recent years, following consultations with schools, funding has been transferred from the schools block to help mitigate pressures in other funding blocks (High Needs and Early Years). If there are any proposals to transfer funding from Schools Block to other funding blocks in 2023/24 that emerge once we have modelled allocations from the DfE on the schools funding arrangements, a further consultation will be issued seeking schools' views.

## **REPORT TO SCHOOLS FORUM - TRADE UNION FACILITIES AGREEMENT (JUNE 2022)**

The Facilities Agreement for teacher trade unions demonstrates the commitment that the Schools Forum and Council have towards fostering and maintaining good relations with employee representatives. As an Authority, we enjoy very positive relationships with the trade unions when dealing with issues affecting staff in schools.

Each year a report is submitted to Forum for consideration of the level of trade union facilities agreement funding, set in 1998 and which had remained at the same level, despite the fact that each year a number of teachers transfer from maintained schools into academy schools that are not covered by de-delegation decisions, including access to paid local trade union officials via the Facilities Agreement.

Since October 2018 and on an annual basis, Forum voted on the staff costs de-delegation and decided to continue the de-delegation at the existing levels. This had also been the option receiving the highest overall response from schools during the Forum consultation process.

However, Forum members agreed to keep the contribution level of the facilities time agreement under review, as some members had supported the option to reduce the level in line with the teacher numbers/union reorganisation adjustment. This report has been prepared to provide the current position and allow Forum members to re-consider this issue.

### **Historical position**

The current level of funding was set in 1998, when Blackburn and Blackpool became unitary authorities and 25% of Lancashire teachers transferred out of Lancashire Authority. At this time, the number of FTE facilities posts was reduced from 15 to 12.

In approximately 2010, the Council took a decision to reduce the number of centrally funded UNISON representative posts by 2 FTE. At that time, due to the increasing numbers of support staff in schools and the fact that the Equal Pay and terms and conditions reviews were ongoing, Schools Forum agreed to fund one post for a schools UNISON officer. This arrangement has remained in place ever since.

### **Funding position**

On an annual basis, schools are asked whether they wish to de-delegate funding for Public Services duties. The large majority of this budget funds facilities time equating to 12 Full Time Equivalent (FTE) teaching posts for the four main teaching unions – NAHT, ASCL, NASUWT and NEU, and the 1 FTE post for UNISON.

In addition to the representatives funded by the Schools Forum, many schools have workplace representatives who may deal with HR casework for their school. The cost of any

release for school representatives is met by the school budget and not by de-delegated funding.

Each trade union also has regional officials, funded by their association. Within Lancashire, regional officials deal with very serious casework matters, usually where a member's employment is at risk.

### **Contractual position**

All LCC-funded trade union representatives retain the terms and conditions of employment associated with their substantive post, including their grading level, any contractual enhancements and access to the pension scheme that applied to their substantive post. There is not a single set rate for the role of trade union representative. The exception to this is those representatives that do not have a substantive school post and are therefore placed on casual contracts with the council. These representatives are paid at Main Pay Range 6 (£36,961 per annum) and have access to the Local Government Pension Scheme.

### **Current allocations**

The current allocations to the teacher unions (from the 12 FTE) were determined as a result of membership numbers when the initial agreement was written in 1998, and were not changed following the amalgamation of NUT and ATL in 2017. These allocations are as follows:

<b>Union</b>	<b>NAHT</b>	<b>ASCL</b>	<b>NEU</b>	<b>NASUWT</b>	<b>UNISON</b>
No. of FTE representatives	1.6 FTE (13%)	1.2 FTE (10%)	6.0 FTE (50%)	3.2 FTE (27%)	1 FTE
Membership numbers*	608 (5%)	204 (2%)	6,480 (49%)	5,868 (45%)	5,886

\* Membership numbers have been taken from historical reports over the period 2013-18

Each union determines how its allocation is split between its nominated representatives. Currently the representation is provided by 11 serving teachers, 11 retired teachers, 1 supply teacher and 1 member of support staff. 9 of the 24 representatives are currently engaged on facilities time for more than 50% of their working hours.

Based on the most recent School Workforce data, the number of teaching staff in Lancashire Schools is 10,206. Of these, 20% (2,070) are based in Academy (former maintained) schools. When a school converts to become an Academy, they are no longer able to draw on the Facilities Agreement funding, unless they arrange a separate buy-in arrangement. Despite this, there has been no equivalent reduction in the number of funded FTE trade union representatives.

## **Trade Union duties and activities**

The legislation in relation to trade unions provides examples of Trade Union Duties and Trade Union Activities.

Trade Union Duties include:

- Providing advice and guidance to trade union members relating to recruitment and selection, discipline, grievance, capability and attendance issues, and terms and conditions of employment
- Formal and informal consultation and negotiation - this includes the County Union Secretaries forum
- Restructures, reorganisations and redundancy consultation
- Preparing for and representing trade union members at formal hearings

For representatives, Trade Union Activities may include:

- Branch, area or regional meetings of the union where the business of the union is under discussion;
- Meetings of official policy making bodies such as the executive committee or annual conference;
- Meeting full-time officials to discuss issues relevant to the workplace;

The legal position in relation to trade union duties and activities and whether representatives are entitled to be paid for them is outlined below.

### **Legal position**

There is no statutory requirement to provide specific funding solely for trade union duties and activities. The law requires that individual schools allow reasonable time off for trade union representatives during working time to be released from their workplace to undertake trade union duties and activities. If this occurs, the school will be compliant with the Trade Union and Labour Relations (Consolidation) Act 1992.

An employer who permits union representatives time off for trade union duties must pay them for the time off. However there is no statutory requirement that union representatives be paid for time off taken on trade union activities.

In addition, employees can take reasonable time off to undertake the duties of a Union Learning Representative (ULR), provided that the union has given the employer notice in writing that the employee is a ULR. The functions for which time off as a ULR is allowed include analysing, arranging, promoting and undergoing training.

The *Conditions of Service for school teachers in England and Wales* (Burgundy Book) requires individual local authorities to negotiate locally on the maximum amount of leave with pay that can be permitted for carrying out trade union duties.

The Trade Union (Facility Time Publication Requirements) Regulations 2017 came into force on the 1 April 2017. These regulations placed a legislative requirement on relevant public sector employers to collate and publish on an annual basis:

- Number of employees who were relevant union officials during the relevant period
- The percentage of working time that employees who were relevant union officials spent on facility time
- The percentage of the total pay bill that is spent on facility time
- The time spent on paid trade union activities as a percentage of total paid facility time hours

### **Financial implications**

The total annual budget provision for funding under the Trade Union Facilities Agreement amounts to £472,000 including oncosts. If a decision is taken to reduce the current level of funding, it would result in a saving to the Schools Forum. However, there may be indirect costs incurred by schools, as they may need to release their school-based representatives to undertake trade union activity within their school, and provide representation to fulfil the statutory obligations.

Approximately 13% of the total allocated funding was not used during the 2020-21 academic year. This equates to over 1.5 FTE (307.5 days).

### **County Council's position**

With effect from 1 April 2018, the County Council withdrew all funding for trade union representatives. From this date, workplace representatives have been required to undertake the role within their service areas, supported by regionally/nationally funded colleagues.

### **HR implications**

If Forum took a decision to reduce funding for the Facilities Agreement, then the serving teacher funded officers that would no longer be funded would return to their substantive posts in their schools. Any retired/supply teacher funded officers in that position would have their casual contracts brought to an end. The UNISON representative would return to their substantive role. It should be noted that some of the representatives have been away from a substantive teacher role for many years and therefore may require a period of re-introduction and/or training to enable them to transition back into a school-based role, in addition to being a workplace union representative.

### **Decision required**

Forum are asked to consider whether the existing number of representatives (12 FTE) should be reviewed. Forum may wish to consider the fact that 20% of teachers now work in schools that do not fall under the facilities agreement, and that over 1.5 FTE facilities time was not used during the last academic year. This is despite the fact that overall HR casework statistics within the Schools HR Team remained high during the pandemic.



21<sup>st</sup> July 2022

## In Defence of Pooled Facilities Time

Dear Colleagues

There are provisions within The Employment Provisions Act 1999, The Trade Union Relations (Consolidated) Act 1992 and The Safety Representatives and Safety Committees Regulations 1977 for the following:

- Paid time off for trade union representatives to accompany workers to disciplinary, capability, attendance or grievance hearings;
- Paid time off for trade union representatives to consult and negotiate with employer bodies;
- Paid time off for trade union health and safety representatives during working hours to carry out health and safety functions;
- Paid time off for trade union representatives to attend trade union training;
- Paid time off for trade union learning representatives to carry out relevant learning activities; and
- Paid time off for trade union representatives to carry out administrative trade union duties e.g., reading and disseminating union documentation.

### **This is a Legal Entitlement for the Recognized Trade Unions** **ASCL, NAHT, NASUWT & NEU**

Currently, Lancashire Schools do not have to be separately billed by individual unions for these legal responsibilities to be fulfilled each time there is a problem or a consultation involving any, or all, of the four recognized unions.

The pooled arrangements in place, because of de-delegation of the monies involved, allows this to take place with no disruption and no extra work for individual schools.

The extra workload on individual schools would be significant if we moved away from pooled arrangements. Imagine the costs to a school that had to have all its union representatives (including, of course, headteacher representatives) trained to a level that would allow them to negotiate with the Local Authority on policies and would allow them to support their

members in that school with complaints and grievances. What would happen, for example, if two members of staff from the same union were involved in the same dispute? Where would the other union representative come from?

How many school representatives would want to take on the responsibility of defending a colleague when their employment or career progression was at risk? That would be an overwhelming responsibility.

The present arrangements also allow for experienced trade union representatives, who understand the local context, without necessarily working in the school, to resolve issues, often informally, before they impact on schools. Lancashire has significantly fewer employment tribunal cases than similar authorities because of the excellent working relationships between Schools' HR and the recognized Trade Unions.

It is especially pleasing to note that increasing numbers of academy chains and stand-alone academies are now buying into Facilities Time. Other academy chains have also indicated that they will buy into the Facilities Time Agreement from September, increasing the demand on recognized Trade Union representatives.

The Pooled Arrangements also support maternity leave and the release for public services, such as jury service and Councillor duties.

At this present and difficult time, effective negotiations and problem-solving would not have been possible without the excellent industrial working relationships between the recognized trade unions and the employers.

It is important to note that the continuing pandemic massively impacts Lancashire HR and trade union officers' workload. It is therefore imperative that facilities time is, at the very least, maintained at the current level.

Kind regards







## **2. POSITION PAPER ON BEHALF OF THE TEACHER TRADE UNIONS FOR LANCASHIRE SCHOOLS' FORUM ON THE FUNDING OF FACILITIES' TIME**

### **1. INTRODUCTION**

This paper provides detailed information about Facilities' Time for representatives from the teaching unions which we hope will serve as a reminder to those who currently pay into the facilities fund and persuade those who don't to reconsider their position, based on the huge benefits the system brings to schools. The Local Authority Facilities' Time Fund is currently collected by Lancashire Local Authority through the process of de-delegation by Schools' Forum for maintained schools and from Academies which decide to buy-in to the pooled arrangements rather than operate their own systems. This method of funding facility time for representatives is in place in all North West local authorities and is not only the most cost-effective method but also ensures smooth running of all employment related matters without delay and provides the foundation of professional, working relationships between employers and their employees' teacher trade unions.

This paper has been prepared following discussions at Schools' Forum meetings about future funding arrangements where further information has been requested. The current practice across the Local Authority enables schools to discharge their legal obligations in respect of release for trade union duties in a time-tested, practical and cost-effective way. It is also consistent with existing practice that is in place across the North West region.

### **2. THE LEGAL POSITION**

Union representatives have had a statutory right to reasonable paid time off to carry out trade union duties since 1975, and most of the current provisions come under the Trade Unions and Labour Relations (Consolidation) Act 1992, introduced by the then Conservative government. Guidance on the practical application of these provisions is provided in the recently revised ACAS Code of Practice 'Time Off for Trade Union Duties and Activities'.

In Lancashire, local, elected trade union officials and representatives have used this legal entitlement to time off from their substantive posts to undertake trade union duties, including:

- negotiating with employers;
- resolving individual and collective casework;
- health and safety work; and
- training.

It is a legal requirement for all employers to provide a reasonable amount of time off with pay to undertake these very important trade union duties. It is not a question of whether an employer wishes to pay or not, but rather what the best mechanism is for employers to discharge this legal obligation.

### **3. THE BENEFITS OF FACILITIES TIME**

Employers' organisations, including the CBI and NEOST, recognise the value of Facilities' Time and the work of trade union representatives using that Facilities' Time, estimating that for every £1 spent on Facilities' Time, the employer saves between £3 and £9 on reduced staff absence, informal early resolution of potential disputes, and avoidance of legal and industrial action (see Case Studies section later).

The Lancashire Facilities' Time arrangements have helped schools to save significant amounts of time and money through the pooled funding of Facilities' Time by de-delegation of school budgets money over the longer term. This is supported by a study carried out by the Department for Business, Enterprise and Regulatory Reform which found that:

- Dismissal rates are lower in unionised workplaces with union reps – this resulted in savings for employers related to recruitment costs of at least £107m per annum
- Workplace-related injuries are lower in unionised workplaces with union reps resulting in savings to employers of £126m-371m per annum.
- Employment tribunal cases are lower in unionised workplaces with union reps resulting in savings to government of £22m-£43m per annum.
- 

Although the perception of employers is often that the trade unions exist simply to support employees who are under threat of a disciplinary procedure, many employees raise concerns in relation to whether their treatment by the employer is just and equitable. This is an area of employment relations over which the employer has significantly less control and if good employer/employee relations are not established and maintained, the employer can be surprised when the workforce expresses their discontent.

Employees who are dissatisfied with actions taken by their employer have the right, under Employment Law, to raise their concerns with their trade union and employer and this may be done individually, collectively or sometimes both. These concerns often relate to bullying and harassment, objections raised about restructuring proposals, claims of discrimination or that the employer has been negligent in their duty of care.

This report includes recently experienced case studies detailing an individual case of alleged discrimination, and a collective dispute case together with details of the costs that an employment tribunal awarded against one of the parties involved in another case.

These case studies show clearly that, in addition to the generally damaging issues for schools around the public arena that being taken to an Employment Tribunal represents, these situations can cost employers a great deal in time and money. The trade union representative has a vital role in working with the employer to achieve the best outcome and resolve issues as locally and informally as possible. This undoubtedly reduces the risks of litigation and is a benefit that assists all schools. We believe that the benefits of funding Facilities' Time centrally far outweigh the costs involved and are urging all schools and academies in Lancashire to make, or continue to make, this commitment in recognition of the universal benefits involved.

Although all unions employ regionally based staff to deal with high level cases, resolutions being found at the earliest opportunity are always the most beneficial to all parties. This is why supporting paid time off for local union representatives makes so much business sense. There would be no advantage to the employer in waiting for a paid official to become available every time a low-level negotiation needs to be carried out. Indeed, it is often a significant disadvantage because nothing can happen locally in the meantime and involving them prematurely tends to escalate any situation somewhat precipitously. Local union officers have a much better understanding of the schools in our area and can form positive working relationships with individual headteachers and key local authority officers such as the Schools' HR team.

**Fortunately, in Lancashire, due to the tried and tested current Facilities' Time Agreement, the vast majority of cases are resolved at the informal, local level which prevents disputes escalating to the Employment Tribunal level, saving very significant amounts of time, money and stress for all concerned.**

#### **4. CASE STUDIES**

##### **Case Study 1 - Costs for a Discrimination Case in a North-West School**

The North-West may be thought of as an area with few black and minority ethnic teachers and a relatively low level of equality issues on a more general level. However, experience has shown that the frequency of cases where these teachers feel that they suffer from discrimination is actually relatively high, particularly when assessed against the local demographics. 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 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 in a North-West school 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 itself 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 local union representative 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 at the respective supply rate is £2,340.

Had the member not had union representation, he would undoubtedly have taken the case to tribunal. The union 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:

Union rep	24 days @ £130 per day supply rate	£ 3,120
Solicitor's fees		£ 24,000
Barrister's fees		£ 12,000
<b>TOTAL</b>		<b>£ 39,120</b>

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	£ 2,080
<b>TOTAL COST</b>		<b>£ 5,696</b>

If the school in question had been a maintained school or an academy paying into the facilities budget, their annual rate for this would have been **£2,040**.

If the school were releasing their school rep to support this member at an hourly rate the cost would have been **£4,244**. This represents a saving of **£1,452** even with no additional costs as indicated above. However, a School Representative can neither advise on nor represent a member in an employment tribunal claim.

By settling via a compromise agreement rather than having to represent themselves at employment tribunal, **the school saved at least £39,120** 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 union 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 school at least £40,572 after taking into consideration their contribution to the facilities budget.**

### **Case Study 2 – 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, 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 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 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 the existing facilities arrangement, which would not be possible without the LAFTP continuing in Trafford Authority.

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.

As travel time also had to be factored in reps were absent from their schools for longer than just their contact time, for several this was a whole day at a time just to attend the meetings in themselves.

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 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	<b>NIL COST</b>
2 x local reps attending 7 meetings, inc. pre-meets Facilities funded – 58 hours total, inc. 1 hour for liaison/prep	<b>NIL COST</b>
Secretaries (3) and reps (2) consulting with employees Facilities funded 4 mtgs – 80 hours total	<b>NIL COST</b>

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

Had the school not been part of its local authority's LAFTP, and assuming supply cover costs at a figure of £130 per day (approx. £21.66 per hour), these costs would have been:

3 x secretaries attending 7 meetings 84 hours total	<b>£ 1,819</b>
2 x local reps attending 7 meetings 58 hours total	<b>£ 1,256</b>
Secretaries (3) and reps (2) consulting with employees 80 hours total	<b>£ 1,733</b>
Secretaries drafting reports, agreements, updates etc 30 hours total	<b>£ 650</b>
Time spent travelling to/from school 66 hours total (assuming 1 hour each way)	<b>£ 1,429</b>
<b>GRAND TOTAL COST TO SCHOOL</b>	<b>£ 6,887</b>

*(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 £633 for 300 pupils up to £1,899 for 900 pupils in a school.

**On the figures above, this would represent a saving of between £6,254 and £4,988 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 Union Representatives as invited.

Further to the costs indicated above, without local union 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 based on the amount awarded for each member who is part of the relevant bargaining group.

This case study was costed only based on the real trade union time taken to resolve it. We believe it demonstrates clearly that the benefits to a school 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.

## **5. FACILITIES TIME POTS VERSUS ALTERNATIVE MODELS**

As explained earlier, it is not a question of whether an employer wishes to pay or not, but rather what the best mechanism is for employers to discharge this legal obligation.

It has been suggested that alternative systems of fulfilling the legal obligation to provide Facilities' Time for union duties should be explored. A common misconception is that local union officers are employed by their unions and funded by membership subscriptions – this is not the case. Local Officers are elected and are employed by local schools and released to undertake union work which is mutually beneficial to the employer.

### **a. 'Pay As You Go' System**

One Multi-Academy Trust has suggested that schools/academies could be billed at an hourly rate of £30-40 per hour for any casework done in their establishments, perhaps with the option to book time in blocks of 10 hours and/or pay a small annual retainer (e.g., £200). We do not believe that this system is viable for the following reasons:

- It will not be possible for schools to budget for such costs as it cannot be predicted how much time will be needed for cases each year;
- Casework (like maternity leave) does not fall evenly between schools and between years. Some years schools may find they save money and do not need the service of union reps at all but in other years the costs could vastly exceed the current formula allocations;
- The time spent doing cases that involves meetings with Heads and HR etc is only the tip of the iceberg with union officers spending a great deal of extra time meeting with members and preparing for meetings;
- There is also a lot of time spent resolving members' concerns informally and management will not be aware that this has taken place until unions have to account for the time spent on these;
- There is a risk that it will create a perverse incentive to escalate rather resolve cases in order to ensure that there is sufficient funding to meet the current FT bill;
- This will create a great deal of extra administration in operating this invoicing system;
- This system does not provide any funding for the other duties of union reps such as meetings with the LA, Policy Development, Health & Safety etc.

### **b. 'Home Grown' Reps**

Other MATs have suggested their preferred model is that, rather than paying into their LA Facilities' Time pots, members of their own schools' staff could become 'chain reps' and be given time out of class to undertake union duties on behalf of their colleagues. This suggestion has some merit and is supported in principle by some unions.

However, there are some serious obstacles to making this work in practice:

- All the unions are struggling to find volunteers to act as official School Representatives, because many staff are afraid to 'put their heads above the parapets'

and see becoming union reps as potentially detrimental to their personal career progression, let alone wishing to become 'super reps' for whole MATs;

- School/Chain Reps will need considerable training to develop the level of knowledge and expertise of our current team of local officers. A minimum of 10 days per year will be required for every rep for every union in every school for this to even begin to be feasible;
- There is a frequent turnover of school reps as staff move jobs which means finding and training new school-based reps is always going to be a constant battle;
- Some casework is simply not appropriate for school-based reps to undertake, such as redundancy situations where reps have a vested interest in the outcome of staffing reduction consultations for example, or when reps themselves are involved in sensitive situations or concerns about confidentiality arise.

## 6. TRAINING

Should schools choose not to buy in to collective facilities arrangements, each school rep will need to be trained to an appropriate level. All reps are entitled to paid time off for training. The ACAS code for training of trade union reps' states, "It is necessary for union representatives to receive training to enable them to carry out their duties. Such training will enable them to undertake their role with greater confidence, efficiency and speed and thus help them work with management, build effective employment relations and represent their members properly."

The Burgundy Book states that accredited representatives of recognised teachers' organisations are entitled time off for 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.

We would anticipate that each school would need a union rep, health and safety rep and union learning rep (ULR) for each union, although it is likely that the head teacher unions will not have a ULR or H&S rep in each school as well as a workplace rep. Whilst the provision of training for an equality rep has not been included, it is possible that there would be at least one equality rep from each union within the trust. These reps would need to be released for training as follows and this pattern reflects the costs in the table below:

Union Role	Year 1	Year 2 onwards
School Representative	10 days	4 days
School Union Learning Rep.	5 days	2 days
School Health & Safety	5 days	3 days

**Table of associated costs for release of reps for training\*:**

Year 1	Days per rep per teaching union	Cost of supply @£189/day per teaching union	Days for four teaching unions	Cost of teaching supply per school
Union rep	10	£1890	40	£7560
ULR	5	£945	10	£1890
H&S rep	5	£945	10	£1890
<b>Total</b>	<b>20</b>	<b>£3780</b>	<b>60</b>	<b>£11340</b>

Support Staff	Days per rep per support staff union	Cost of Cover @£64/day support staff per union	Days for three support staff unions	Cost of support staff cover per school
Union rep	10	£640	30	£1920
ULR	5	£320	15	£960
H&S	5	£320	15	£960
<b>Total</b>	<b>20</b>	<b>£1280</b>	<b>60</b>	<b>£3840</b>
<b>Grand Total Year 1</b>	<b>40</b>	<b>£5060</b>	<b>120</b>	<b>£15180</b>

Subsequent years (approx.) †	Days per rep per teaching union	Cost of supply @£189/day teaching union per	Days for four teaching unions	Cost of teaching supply per school
Union rep	4	£756	16	£3024
ULR	2	£378	4	£756
H&S rep	3	£567	6	£1134
<b>Total</b>	<b>9</b>	<b>£1701</b>	<b>26</b>	<b>£4914</b>
Support Staff Unions	Days per rep per support staff union	Cost of Cover @£64/day support staff per union	Days for three support staff unions	Cost of support staff cover per school
Union rep	4	£256	12	£768
ULR	2	£128	6	£384
H&S rep	3	£192	9	£576
<b>Total</b>	<b>9</b>	<b>£576</b>	<b>27</b>	<b>£1728</b>
<b>Grand annual total subsequent years</b>	<b>18</b>	<b>£2277</b>	<b>78</b>	<b>£6642</b>

\*These figures represent minimum costs **per school** based on M6 and are subject to variation as the release of representatives of the Heads unions will be substantially more.

† These figures are for representatives who remain in post after year one. Should a new rep be elected each year then the year one figure would apply.

## 7. NATIONAL EXECUTIVE MEMBERS

Whilst the work of National Executive Members can be undertaken outside of Lancashire, the benefits of this work are reaped by Lancashire schools and the LA. Our ongoing efforts campaigning nationally to fight cuts to school funding have had a positive impact locally.

Likewise, over the years there have been a number of national funding streams we have helped LA officers to access, such as the Schools' Access Initiative, which have benefitted Lancashire schools.

We would support a joint funding agreement with other LAs in the North-West to spread the cost of National Executive Members more fairly and would encourage Lancashire to explore such a system with its NW neighbours.

## **8. CONCLUSION**

We firmly believe that the current system of shared funding of FT, through de-delegation by Schools' Forum, remains the most cost effective and viable way of meeting this legal entitlement and will continue to benefit the schools, staff and pupils of Lancashire.

We hope that the case studies described above will provide sufficient detail for Principals, Headteachers and Governors to appreciate the real cost savings that paying into local authority facility time pots brings. The costs of de-delegation/buy-in are very modest compared to the very real risk of disputes escalating, and represent the most affordable, best-value option for schools. We believe that it is an essential investment to secure peace of mind and positive employment relations.

We are asking you to commit your schools to funding this agreement on an annual basis so the local officers of all unions can work with you in the best interests of the schools, the pupils, and our members across Lancashire Local Authority, for the future.

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



## **LCC Schools Facility Time 2023/24**

### **UNISON Submission**

This report is UNISON's submission to the Schools Forum review of the Trade Union Facility Time element of the de-delegation proposals 2023/24.

UNISON is the largest public sector trade union in the UK with 1.4 million members and has hundreds of thousands of members working in schools. UNISON represents and organises all non-teaching staff in schools (school support staff) and is the largest trade union for school support staff in the UK.

The current facility time arrangements are not reflective of today's modern school workforce. That is to say that school support staff make up a very large proportion of the school workforce, yet facility time is granted almost exclusively to teaching representatives. UNISON believe there should be a greater allocation of facility time to UNISON to acknowledge our membership numbers and the vital role of support staff in the school workforce.

UNISON believe the current system of shared funding of facility time through de-delegation is the most efficient system to operate facility time and allow schools to meet their statutory obligations on facility time. It also demonstrates the commitment of school employers towards maintaining good and constructive industrial and employee relations. UNISON's representation to the Schools Forum is that the de-delegation for Staff Costs – Public Duties/Suspensions be agreed without any further reduction to Trade Union Facility Time (option a).

UNISON have also included an appendix which sets out the general benefits of facility time in greater detail.

### **UNISON's representations**

#### **Current allocations of facility time**

UNISON has long stated that the current allocations of facility time are unfair on school support staff. Schools employ both teaching and non-teaching staff, often in equal numbers, and both groups of staff are equally entitled to trade union representation. The current allocations of facility time do not reflect today's school workforce and does not recognise the important role of support staff. The role and numbers of support staff has greatly developed and increased in recent time and yet facility time is almost exclusively allocated to teaching trade unions.

UNISON currently has the least amount of facility time (1fte). There is no correlation currently between membership numbers and facility time. Any review of School Facility Time should

take this into consideration when looking at allocation of facility time to each trade union. The Schools Forum could also take into consideration the Schools HR casework statistics to examine the split between teaching and support staff if such figures are available.

Yet again a portion of facility time has been unused and some of this unallocated facility time could be allocated to UNISON without any impact on other trade unions.

Some correlation between trade union membership in schools and amount of facility time would be fairer. Below is a table which uses the Schools Forum own figures. UNISON has amended the table to put UNISON on an equal footing, rather than treating UNISON as an “add on”, to highlight the disparity between allocation of facility time and membership numbers in schools.

<b>UNION</b>	<b>NAHT</b>	<b>ASCL</b>	<b>NEU</b>	<b>NASUWT</b>	<b>UNISON</b>
Allocation of facility time by FTE Representatives	1.6 FTE (12%)	1.2 FTE (9%)	6.0 FTE (46%)	3.2 FTE (25%)	1 FTE (8%)
Membership Numbers	608 (3%)	204 (1%)	6480 (34%)	5868 (31%)	5886 (31%)

As can be seen UNISON receives only 8% of the facility time by FTE but has 31% of trade union members in schools. UNISON believe support staff are as important as our teaching colleagues and this should be reflected.

### **Cost of UNISON facility time**

It is likely that any additional facility time granted to UNISON would cost less than a teacher trade union because UNISON members are in general on a lower salary. If cost of facility time were analysed then UNISON is receiving an even worse settlement than the FTE comparison highlights.

### **Overall level of facility time**

UNISON opposes any further reduction in the overall level of facility time (with further detail on this set out in the appendix). UNISON therefore advocates for option a). The HR report makes it clear that demand has remained high for Trade Union Representatives.

UNISON faced difficulty toward the end of the academic year in covering all the meetings at which our presence was required. Schools HR asked us if we could provide additional representatives to help cover which highlights that UNISON require a fairer allocation of facility time.

## **Method of providing facility time**

UNISON believe the current system of shared funding of facility time through de-delegation by Schools Forum remains the most efficient and viable way of Schools meeting their statutory obligations on facility time and it helps maintain good and constructive industrial and employee relations (further detail on this set out in the appendix).

## **Conclusion**

- UNISON should receive a greater allocation of facility time than it currently receives. UNISON is currently under resourced based on the Schools Forum's own figures.
- The allocation of facility time should not discriminate between teaching and non-teaching staff and there should be some correlation between facility time and membership numbers.
- Any unused facility time could be granted to UNISON.
- Additional facility time allocated to UNISON would likely cost less than teaching trade unions because support staff are paid lower salaries in general.
- The current system of shared funding of facility time remains the best way for Schools to meet their statutory obligations and maintain good employee and industrial relations.
- There should be no reduction in funding given HR statistics show case work remains high and expectations of demand on Trade Unions and employee/industrial relations are likely to increase. On that basis UNISON advocate for option a).

## Appendix 1

### **General Benefits of facility time and the shared funding of facility time.**

#### **Statutory rights to paid facility time**

There are three main trade union roles with statutory rights to time off and these are the traditional trade union workplace steward/rep, union learning reps and union health and safety reps. There are also some other legal time off rights where someone is representing a trade union.

An employer must give trade union representatives paid time off to carry out their trade union duties as per the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA). Examples of duties are;

- Negotiations with the employer;
- Functions which the employer has agreed may be performed by the trade union;
- Receiving information and being consulted on redundancies, business transfers or pensions changes;
- Training in industrial relations matters.

Time spent in negotiations/collective bargaining is set out in TULRCA as involving;

- Terms and conditions of employment or physical conditions of work;
- Recruitment, suspension, dismissal;
- Allocation of work;
- Discipline;
- Trade union membership or non membership;
- Facilities for trade union reps and officers;
- Procedural matters – eg consultation.

Trade union side meetings are also an example of a trade union duty as union reps need to meet separately from management to discuss and share information. In addition to statutory provision there is substantial case law which clarifies the right to paid time off and there is guidance set out in the ACAS Code of Practice.

Union health and safety reps have paid time off rights under the Health and Safety at Work Act 1974. Health and safety reps must be permitted time off under the Safety Representatives and Safety Committee Regulations 1977 (SRSCR). They have similar rights to time off as



other representatives however the SRSCR defines safety reps as having “functions” rather than duties and an employer must permit them time off with pay “as shall be necessary”.

This time off covers;

- attending meetings;
- undergoing training;
- investigating hazards and dangerous occurrences;
- investigating complaints and welfare at work;
- making representations to the employer.

There other matters set out within the SRSCR also. The Health and Safety Executive (HSE) also provide guidance that adds to the time that union health and safety reps need to take off.

Union learning reps (ULR) help open up learning opportunities for union members and supports them during the learning along with encouraging and developing a learning culture in workplaces. ULRs have a right to paid time off under TULRCA to carry out their duties. ULR duties involve analysing learning/training needs, arranging and promoting learning/training and consulting with the employer about these matters.

All reps have rights to time off when acting as a companion. The statutory right to be accompanied at a grievance or disciplinary hearing allows workers to request and have a union rep/officer as a companion. Paid time off used in this way by a rep is equivalent to a trade union duty and is part of facility time and the employer must permit a rep to take the paid time off. This extends beyond the hearing to meeting with the employee in advance for example.

There are also extensive statutory obligations on employers to consult when making collective redundancies under TULRCA. This consultation is with the trade unions and must be sufficient and meaningful with a view to reaching agreement. The employer must provide specified information to the trade unions and the employer must consider representations from union reps and reply to them. Reps need reasonable paid time off in order for this to be achieved and the rights for this are set out in TULRCA.

There are similar statutory obligations on an employer under the Transfer of Undertakings (Protection of Employment) Regulations. Here employers are required to inform and consult with representatives. Again, paid time off is required to achieve this.

In addition, following the decision of the Court of Appeal in UNISON, Vining & Ors v LB Wandsworth & the Secretary of State, trade unions have a right to be consulted under article 11 of the European Convention on Human Rights on any workplace issue which affects their members.

Where reasonable paid time off is not granted claims can be brought in the employment tribunal and there is case law which expands upon the legislation as written. In addition where an employer fails to properly collectively consult over redundancies or TUPE transfers there exists a punitive measure called a protective award can be brought for each employee affected which can result in massive financial penalty to the employer of 90 days gross pay in collective redundancy situations or 13 weeks pay for transfers.

## **Benefits of facility time in general and the current shared funding system**

### **The cost argument**

UNISON recognises the obvious financial challenges facing schools. Trade union facility time is often described as a cost and in very simple terms a cost can be associated with a member of staff being fully or partly released on a permanent basis. There are two issues with that simplistic measure;

1. it does not factor in the benefits of trade union facility time in general and the efficiencies realised in shared funding of facility time through de-delegation , a matter which is elaborated upon elsewhere in this report; and
2. those released on facility time via this system, either partly or wholly, carry out duties which schools would be obligated to grant paid time off for anyway from their own budgets.

Therefore, simply reducing the amount spent on facility time would not generate expected savings for schools and would in UNISON's experience create additional costs, a matter elaborated upon elsewhere in the report.

### **Benefits of facility time**

Notwithstanding that reps have a statutory right to paid time off as set out above there are benefits arising from paid facility time in general. The Trades Union Congress (TUC) has commissioned reports and analysis of the Government's own data from their Workplace Employment Relations Study (WERS). One such TUC report by Bradford University from 2016 is included as an appendix. Key points to note from this report are;

- Research commissioned by the trade union UNISON found that facility time;
  - Improved workplace relations and helped build the reputation of the employer as a good place to work.
  - Union representation enabled earlier intervention in relation to complaints, grievances and disciplinaries, which stopped them escalating which was less costly to the employer and the taxpayer as a result of reduced staff and legal costs.

- Union reps enabled better communication with staff during restructuring and redundancy processes, which led to greater understanding of management's rationale for the changes and reduced industrial action.
- In 2007 the then Department for Business Enterprise and Regulatory Reform (BERR – now BIS Department for Business Innovation and Skills) found the following benefits from trade union facility time based on WERS data from 2004;
  - Dismissal rates were lower in unionised workplaces with union reps – this resulted in savings related to recruitment costs of £107–213m pa.
  - Voluntary exit rates were lower in unionised workplaces with union reps, which again resulted in savings related to recruitment costs of £72–143m pa.
  - Employment tribunal cases were lower in unionised workplaces with union reps resulting in savings to government of £22–43m pa.
  - Workplace-related injuries were lower in unionised workplace with union reps resulting in savings to employers of £126–371m pa.
  - Workplace-related illnesses were lower in unionised workplace with union reps resulting in savings to employers of £45–207m pa.
- This gave £327-977m in savings across all sectors with around 60% being public sector equating to £223-586m pa.
- Updating this to 2014 figures to reflect the reduction in the size of the public sector and taking into account changes in real values gives a benefit of £250-674m to the public sector.
- Using the Taxpayers Alliance estimated total cost of public sector facility time (£108m in 2012-13) means **that for every pound spent on facility time, the accrued benefits have a value of between £2.31 and £6.24.**

There are clear benefits based on the Government's own data of paid trade union facility time in improving the working environment, promoting good and safe working practices free from discrimination and working with the employer to save jobs, protect services, retain skills and avoid compulsory redundancies.

UNISON believes in maintaining decent working relationships with schools to resolve any issues at the earliest possible stage and in the main the above benefits have been borne out in schools through that relationship.

### **Benefits of shared funding of facility time and the issues and risks if reduced**

There are clear benefits to trade union facility time in general. UNISON believe the current system of shared funding of facility time through de-delegation by Schools Forum remains the most efficient and viable way of Schools meeting their statutory obligations on facility time. If the current system were to be substantially changed or reduced, then the cost of facility time is a cost that individual schools would ultimately incur through local school representatives having to be trained and released instead.

The current system ensures that there are highly trained and knowledgeable union representatives available for schools to work with to fulfil their legal obligations. It allows for good working relationships to be built between the reps and schools which assists in resolving workplace issues at the earliest possible stage. This then saves the school both the difficulty and cost of workplace issues escalating. UNISON believes that there are currently good working relationships with schools and UNISON have worked effectively and professionally with schools and LCC HR Officers. Given the pressures and challenges that schools face UNISON believe that having experienced and knowledgeable trade union representatives available will benefit Lancashire Schools.

If there were no de-delegation funding of facility time, then every school would need to have their own trade union representative and each school would have a legal obligation to release these staff during the school day with paid time off for any trade union duties required. Having to release representatives on an “as and when” basis for trade union duties and training would be an inefficient method to implement facility time arrangements for schools and cause additional difficulties around cover during the school day. This would also lead to disputes around granting of facility time and release of representatives.

Whilst some schools do already have local representatives it is usually those representatives with facility time funded through the current system that undertake the majority of trade union duties – for example representation or consultations – allowing for minimal disruption to schools.

UNISON expect that if the current arrangements are substantially changed or reduced then this will result in a need for UNISON to retrain existing representatives across Lancashire Schools and recruit and train new representatives. This will be necessary to ensure there are representatives available when members need them but also when schools need them too. Paid time off would have to be granted by each school for a substantial number of representatives to be trained.

In the event of a school not having a local rep there will be a considerable delay in having issues resolved or meetings heard. In UNISON there are no regional officials who would automatically step in to cover and this will result in delays addressing employee relations and industrial relations issues.

Considering the above the following risks of substantially changing the current arrangements are highlighted;

- The desired savings will not be realised, and it may actually increase costs;
- A possible worsening of industrial and employee relations;
- Disruption of day to day employee relations matters such as disciplinary hearings;
- Lack of staff engagement and consultation resulting in a less engaged and demotivated workforce;

- More workplace issues, disputes and accidents resulting in greater cost through more demand on time and increased litigation against schools;
- Increased disputes and issues relating to requesting facility time itself, including increased claims brought against schools at the employment tribunal;
- Schools struggling to meet their legal obligations to consult, including increased claims brought against schools at the employment tribunal.