



Department  
for Education

# **Review of trade union facility time in schools**

**Results of government call for evidence**

**January 2014**

# Contents

Introduction	3
List of abbreviations used in the report	3
Summary of responses received and the government's response	4
Main findings from the call for evidence	4
Question 1: the percentage of a school employer's pay bill that should be used to fund trade union facility time	4
Question 2: suggestions about how facility time arrangements in schools could be made more efficient	6
Question 3: reasonable time off for trade union duties for a union representative working in a school	8
Question 4: accountability for the trade union duties carried out during facility time	10
Question 5: gathering and publishing details of facility time spending	12
Responses from campaigns	13
Next steps	14
Annex A: List of organisations that responded to the consultation	15

## Introduction

The Department for Education has reviewed trade union facility time in schools. Trade union representatives are entitled to reasonable paid time off (known as facility time) to take part in trade union duties<sup>1</sup>, such as negotiating with employers and representing members in grievance procedures. A public call for evidence was launched on 19 September 2013 to gather views from employers, school leaders, representative organisations, teachers and members of the public about trade union facility time. It was publicised via the Department's communication channels and discussion groups.

The call for evidence, which closed on 25 October 2013, set out our proposals and asked how taxpayer subsidy of trade union activity through paid facility time should operate. We asked for views on the percentage of a school employer's pay bill that should be used to fund trade union facility time, and what could be considered reasonable time off for trade union duties for representatives working in schools. We also asked whether trade union representatives should be accountable to employers and managers for the work carried out in facility time, and whether details of spending should be gathered and published. More generally, we asked for comments on how facility time arrangements could be made more efficient. The review did not cover how trade unions spend the funds they generate from membership fees, which is a matter for the trade unions themselves.

This report summarises the findings of the call for evidence and lists the organisations that responded (see Annex A). In response to this review, the Department for Education will publish advice to schools and employers on managing trade union facility time.

## List of abbreviations used in the report

Acas – Advisory, Conciliation and Arbitration Service

ASCL – Association of School and College Leaders

ATL – Association of Teachers and Lecturers

FASNA – Freedom and Autonomy for Schools - National Association

NAHT – National Association of Head Teachers

NASUWT – National Association of Schoolmasters Union of Women Teachers

NEOST – National Employers' Organisation for School Teachers

NUT – National Union of Teachers

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<sup>1</sup> Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) sections 168-168A and 169, and Advisory, Conciliation and Arbitration Service (Acas) Code of Practice on trade union duties and activities (The Code of Practice).

## Summary of responses received

The call for evidence received 247 responses in total.

Breakdown of types of respondent:

Teacher	23%
Academy	13%
Local authority	13%
Headteacher	13%
Trade union	9%
Representative organisation	2%
School	4%
Governor	5%
Parent/Carer	4%
Public	5%
Other <sup>2</sup>	9%

## Main findings from the call for evidence

### Question 1: we asked for views on the percentage of a school employer's pay bill that should be used to fund trade union facility time.

1. **33 per cent** of respondents felt that the percentage of an employer's pay bill used to fund facility time should be reduced to 0.05 per cent or less (in line with the private sector average), and a further **6 per cent** of respondents to this question believed it should be 0.14 per cent or below, in line with average public sector spending on facility time. **15 per cent** of respondents suggested that it should be 0.15 per cent or higher (see figure 1.1).
2. **29 per cent** of respondents felt that there should be no benchmark figure as facility time spending should be determined by need or local circumstances, or calculated according to union membership numbers. Some felt that the private sector benchmark of 0.04 per cent should not be used, as union density levels are higher in the public sector.
3. Comments on this question revealed a range of views. Some respondents felt that no change was needed to the current system, whilst others felt that overall spending on facility time should be reduced to provide better value for money. Some responses urged that the benefits of facility time should be considered alongside the costs:

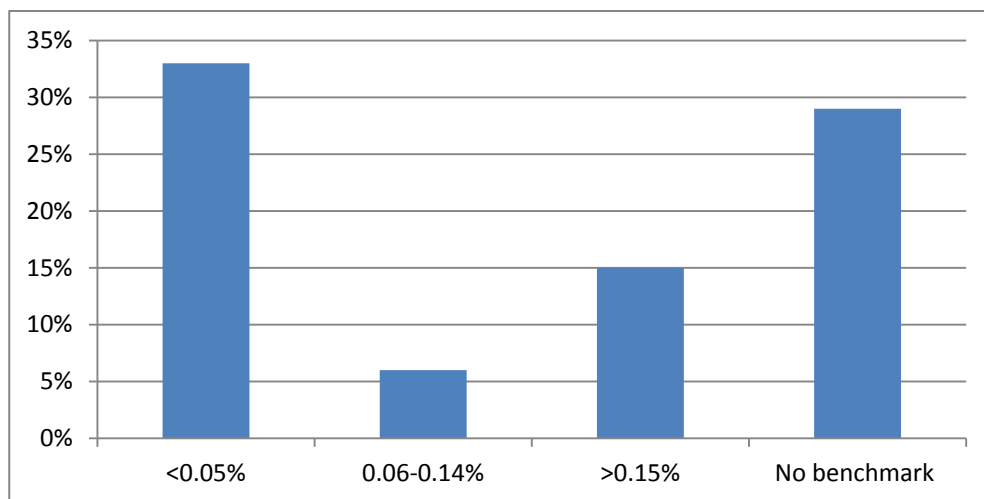
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<sup>2</sup> Within this category, four respondents identified themselves as 'principal of sixth form college', 'retired headteacher', 'trade union lawyers' and 'NUT school representative'.

*“The support and facilitation of industrial relations provided by those whose time is catered for through facilities time cannot be overestimated and needs to be recognised.” (NAHT)*

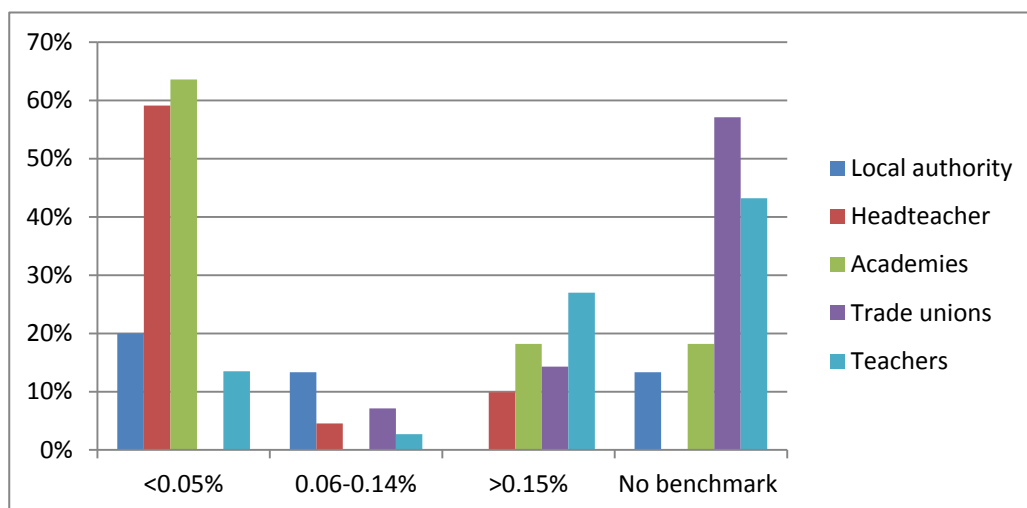
*“We recognise the importance of working with trade unions and that it can result in savings to the employer and help to ensure effective delivery.” (North Tyneside Council)*

Figure 1.1: Responses to Q1 giving % or no benchmark figure



4. There was a significant difference in the views of certain groups responding to this question. For example, a larger number of academies and headteachers felt that facility time spending should be reduced to 0.14 per cent or less (or should at least be reduced overall to provide value for money). Teachers and trade unions were more likely to hold the view that there should be no national benchmark, or that spending should be higher than 0.15 per cent of the paybill (see figure 1.2).

Figure 1.2: Breakdown of responses to Q1 according to respondent type<sup>3</sup>



<sup>3</sup> Some respondent types are not included in graphs due to small sample sizes

5. Even where respondents felt that a single benchmark for facility time spending would be unhelpful, many indicated that having clear guideline figures would prove useful. For example:

*“It would be helpful to issue guidelines with a range of figures likely to be suitable, to which governing bodies and other employers could refer.” (ASCL)*

*“In my LA..., as a budget share it is a very small slice; something like 0.07%? However, on a per pupil basis it is over £3 per pupil per annum. I have no benchmark data to inform me whether this is a low or high number and therefore find it difficult to take any objective decision... I think about £1.50 per pupil should be allocated – or about 0.03%.” (School governor)*

*“Agree with principle of having a benchmark- a percentage of the pay bill is a potential basis for the calculation. This should be a recommended ‘good practice guideline’ as opposed to something that is enforced: there needs to be some flexibility.” (North Yorkshire County Council)*

6. The evidence we have gathered on current facility time expenditure shows significant variation in spending, from £1.00 per pupil per annum, to £5.70 per pupil per annum (in different local authorities). This level of variation has led to difficulties for some respondents:

*“We welcome this review. We are currently working across four local authorities and each has a different cost of facility funding. One local authority will not let us purchase facility time”. (Multi-academy trust)*

## **Question 2: we asked for any further suggestions about how facility time arrangements in schools could be made more efficient.**

7. Suggestions in response to this question can be grouped into four main areas:

- i. ‘Pooled’ arrangements can be very effective. This view was held by many local authorities, employer associations and trade unions responding to the survey. For example:

*“(Pooled arrangements) have for many years enabled employers and trade unions to operate effective arrangements for representation and negotiation on behalf of union members across the whole community of schools in a local area. They allow trade union duties to be undertaken by local trade union officers who are experienced...with a good knowledge of the local context.” (NUT)*

*“Local authority-level management of significant elements of facilities time is the norm in most parts of the country. In most cases these arrangements have been in place for many years. ... The arrangement is based on identifying the ‘authority wide’ representatives and putting back into the relevant schools’ budgets the funding required to cover the individual’s absence.” (NEOST)*

*“ATL would encourage the adoption of “pooled” arrangements for facility time within academy chains, and also between academies and LAs...as this ensures no individual school is left with an inordinate bill to cover the trade union duties of their staff.” (ATL)*

- ii. Schools should have the freedom and flexibility to manage their own facility time arrangements:

*“In autonomous schools, which are the employer, there may be a helpful list of activities which they are required to allow facility time for. This, coupled with a maximum percentage allowed would give schools the freedom to manage this effectively and co-operatively with their union representatives. Schools should then make their own arrangements as to how union reps are allocated time to carry out the prescribed activities – with a cap based on the % of the pay bill.” (FASNA)*

- iii. Facility time would be more efficient if it was funded by union subscription fees:

*“Facility time arrangements would rapidly become more efficient if the Trade Unions were meeting the costs.” (Academy)*

- iv. Time off for union duties should take place outside of teaching hours:

*“My view is that reps should not be out of school when lessons are taking place - they should be teaching. They should conduct their business outside lesson time.” (Headteacher)*

8. Union representatives in schools are entitled to reasonable time off during working hours to take part in trade union duties without loss of pay. Union representatives and members are also entitled to reasonable time off to take part in trade union activities. **The Department for Education is not seeking to change this entitlement.**

9. A number of responses provided examples of how facility time arrangements work in practice. Some pointed out that the majority of school-based representatives (representing members within a single school) rarely take time out of teaching to carry out union duties. Representatives working across a number of schools or an entire region often have timetabled facility time. For schools under local authority control this is usually paid from pooled funds de-delegated to the local authority from the schools forum, or (in some areas) via a service level agreement which schools can choose to buy into. Some academies choose to buy into local authority arrangements, however, some local authorities do not allow academies to do so.<sup>4</sup>

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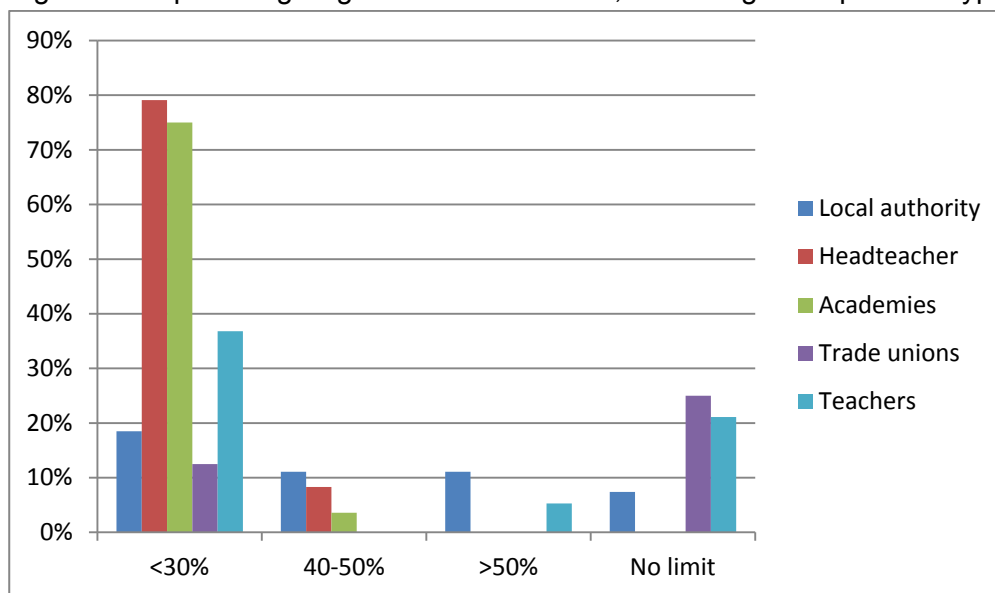
<sup>4</sup> Evidence gathered by the Local Government Association demonstrates the variation between local authority approaches to academies buying into their services.

**Question 3: we asked for views on what could be considered reasonable time off for trade union duties for a union representative working in a school.**

10. **51 per cent** of respondents to this question answered that 30 per cent of contracted working hours or less should be spent on trade union duties, and a further **10 per cent** felt that facility time duties should take up 50 per cent or less of contracted working hours. In comparison, only **3 per cent** of respondents suggested that more than 50 per cent of working hours could be considered reasonable time off. Some responses gave opposing views: **12 per cent** felt that teachers should not be permitted any time off from teaching, whereas **14 per cent** of respondents felt that there should be no limit on reasonable time off for union duties.

11. **100 per cent** of headteachers and academies responding to this question felt that union representatives should be grounded in classroom practice, spending at least 50 per cent of their time in the classroom. Trade unions were more likely to suggest that there should be no limit on ‘reasonable’ time off. Figure 2 demonstrates the variation in responses to this question by respondent type.

Figure 2: responses giving views on % time off, according to respondent type



12. In addition, a significant number of respondents felt that it was not possible to quantify ‘reasonable’ time off. **28 per cent** of those responding to this question believed reasonable time off was dependent on the exact union role, and there should be a degree of flexibility to account for differing levels of casework. For example:

*“The arrangements for trade union facilities time need to afford sufficient flexibility that recognises the breadth of employers from the City of London which has one secondary school to Birmingham City Council which has 95, and has to take account of the context of a primary school employing two teachers through to a large secondary school employing 150 teachers or more including across a multi site establishment. In a school*



*setting there cannot be a one size fits all formula which is applicable in all circumstances.” (NASUWT)*

*“We believe that reasonable time off for trade union duties for any individual union representative or official will equally be determined by the local circumstances, including the constituencies, the number of members the union has in the employ of the employer and the demand on the role of the union representative.” (NUT)*

*“It must be remembered that schools may have more than one union representative. Hence this is a difficult question to give a generic answer to.” (FASNA)*

13. A large number of comments agreed with the government’s position that union representatives should be grounded in classroom practice (including several respondents who did not feel able to quantify ‘reasonable’ time off). For example:

*“I need my teachers to be teaching and representing the interests of teachers here if they are union reps.” (Headteacher)*

*“We believe it is reasonable to expect that teacher union representatives still spend part of their time doing their school based jobs. To work full time on union duties whilst being employed as a teacher runs the risk of becoming de-skilled if not in curricular or policy matters, in the day by day practicalities of classroom teaching.” (Voice the union)*

*“We have concerns about the impact on the career of a representative who has a lengthy period spending 100% of his/her time on union duties.” (NEOST)*

*“There are some teachers who have been made over to 100% trade union work for several years, have lost touch with schools and their own members, and have become a source of friction and difficulty for all rather than a moderating and positive influence on industrial relations.” (ASCL)*

14. Several respondents expressed the view that the expertise of local union representatives on full-time release can be beneficial for negotiations at local authority level. For example:

*“UNISON analysis of the allocation of facility time in schools suggest that the most common approach taken is to use a combination of a full time convenor supporting all schools in an area and school based representatives with partial release...” (UNISON)*

*“We do not question the wisdom of union reps maintaining a link with the classroom, but we do not accept that this should mean a blanket ban on union reps, especially local authority reps, being seconded to carry out union duties across an LA on a full-time basis. It may suit all parties for there to be a single point of contact for a particular LA area...” (ATL)*

15. A number of respondents were concerned about the potential disruption to pupils' education caused by union representatives taking time off. Some expressed the view that teachers should carry out all of their trade union duties outside teaching time, whilst others felt that local and regional trade union representatives should have timetabled release time to minimise disruption:

*“Whilst it is agreed that the most effective union representatives will be those who are active in schools and in teaching, any proposal also needs to take account of the potential disruption that part time arrangements can create, particularly representatives undertaking leadership roles. If we accept the principle that active teaching should continue, then naturally time would need to be restricted to 2 or 3 days.” (Local authority)*

#### **Question 4: we called for views on whether union representatives in schools should regularly account for the duties and activities carried out during facility time to their manager or employer.**

16. There is widespread agreement that union representatives should be held accountable for the work they carry out during taxpayer-funded facility time. **64 per cent** of respondents to this question believed that representatives should regularly account to their manager or employer (see figures 3.1 and 3.2).

Figure 3.1: should union representatives account for work carried out during facility time?

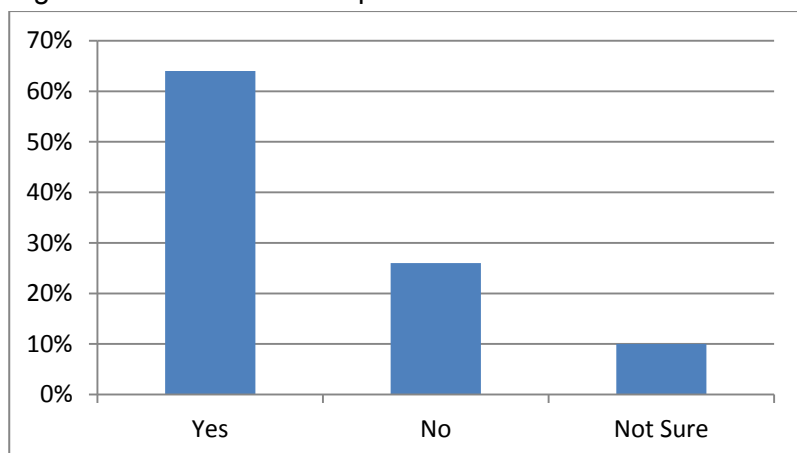
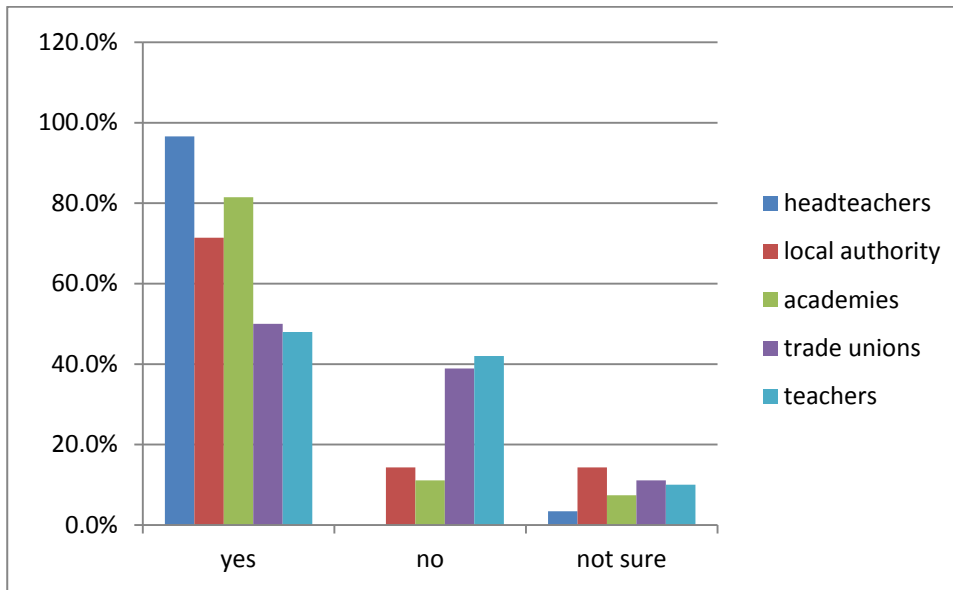


Figure 3.2: Breakdown of responses to Q4 by respondent type



17. A significant number of comments stressed the importance of public spending being fully accountable, and the changes needed to bring this about:

*“We cannot have union representatives being paid and not accounting for their time.”*  
(FASNA)

*“There is a lack of tracking and accountability regarding how facility time is used. I don’t think the LA monitors it. This is at the expense of the local taxpayer. Union reps using facility time should be accountable just like any other local government service.”*  
(Headteacher)

*“More importantly, [there should be] accountability for those area representatives who appear to be accountable to no one.”* (Headteacher)

*“This does not operate currently but a monitoring system could be introduced showing a time plan and details of trade union activities undertaken.”* (Local authority)

18. Some respondents expressed the view that accountability should be balanced against the need for confidentiality, and some pointed out the need to avoid unnecessary bureaucracy:

*“Accountability is important and the Acas code of practice already includes a requirement for accountability. However accountability should not supersede the ability of trade union representatives to act independently as outlined in the Trade Union and Labour Relations (Consolidation) Act 1992. It needs to be recognised that in many instances it would be inappropriate for an employer to have details of what was discussed or what activity was carried out during facility time because it will invariably be confidential.”* (Thompsons Solicitors)

*“It is important that union representatives’ activity is independent from the employer. We would not expect confidential information regarding names of members to be divulged.”*  
(Blackburn with Darwen Borough Council)

*“This should be a brief rather than detailed report – both to avoid unnecessary paperwork and to protect the names of union members...”* (ASCL)

**Question 5: we asked whether details of facility time spending should be gathered and published (5a) and how this could be done without placing additional burdens on schools (5b).**

19. The majority of respondents (**51 per cent**) agreed with the government’s position that details of facility time spending should be gathered and published (see figures 4.1 and 4.2).

Figure 4.1: should facility time spending be gathered and published?

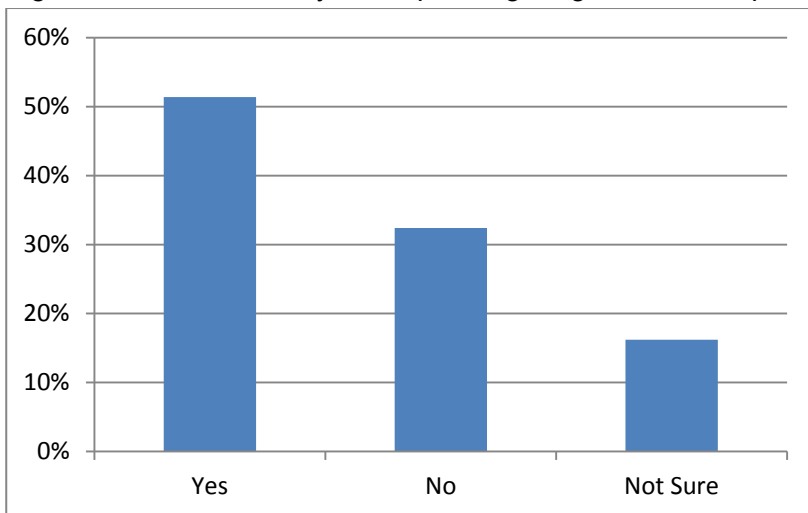
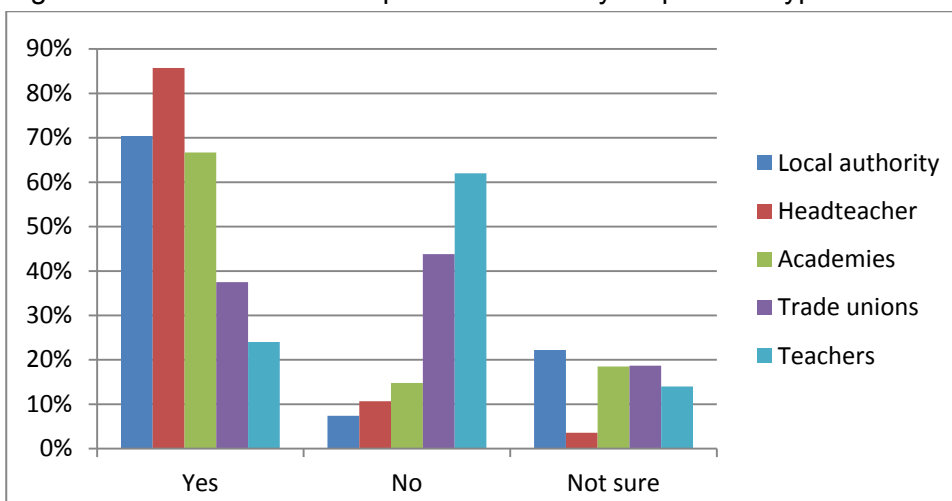


Figure 4.2: Breakdown of responses to Q5a by respondent type



20. Some respondents indicated that publishing details of facility time spending would enable them to compare their facility time spending against others:

*“It is useful to be able to benchmark against other, similar, local authorities.” (North Yorkshire County Council)*

21. The call for evidence also asked for suggestions about how a system for gathering and publishing this information could be introduced without placing additional burdens on employers and school leaders. Whilst some respondents felt that gathering and publishing this data would be an unnecessary bureaucratic burden, others had suggestions for how this could be done. These included: a new question in the workforce census; a simple on-line timesheet format; a national recording system to be published in performance tables; and an addition to the financial returns employers are required to make to the Department for Education. The Department for Education will review these suggestions with a view to improving transparency in this area.

## **Responses from campaigns**

A small number of duplicate responses were submitted from campaigns (21 responses in total). These stressed the benefits of facility time to employers and employees, suggested that reasonable time off for trade union duties should be allocated according to local need and recommended centralised funding pools to increase efficiency. They warned against imposing bureaucratic accountability measures at a national level and felt that current facility time arrangements provide sufficient accountability and transparency.

## Next steps

The Department for Education will publish advice to schools and employers on trade union facility time. This will set out our expectations and include recommendations for good practice.

The call for evidence has shown widespread support for greater accountability and transparency. Regardless of different views on the best way to manage facility time arrangements, the overwhelming majority of respondents agreed that they should be efficient and should provide good value for money.

The wide range of respondent types has provided an invaluable insight into the varying situations of educational institutions across the country. This suggests that the most effective ways of managing facility time may differ due to local circumstances. For this reason there should be a level of autonomy at school or academy level to make decisions about the most efficient facility time model, be this through managing it independently, or through buying into pooled arrangements.

## Annex A: List of organisations that responded to the consultation (excluding confidential responses)

Organisation
Airey, David (Venerable Bede Academy)
Allen, Vincent
Anderson, Chris (Lathom High School)
Anderson, Stephen
Andrew, Adrian
ASCL
Association of Educational Psychologists
Association of Teachers and Lecturers
ATL West Midlands Area Association
Baker, Stephen
Barker, Steven (Collingwood College)
Barr, Stephen (Chair of Staffordshire Schools Forum)
Barratt, Robert (Hall Cross Academy)
Battell, JK
Beevers, Sally (Broadgreen International School)
Benson, Eleanor (St. Hilda's CE High School (Headteacher))
Bhandal, Manjinder (Association of Teachers and Lecturers - Coventry Branch)
Blackburn with Darwen Borough Council
Blackwell, David
Bray, Stephen (Vulnerable Learners' Service, North Somerset Council)
Brearley, Cathy (Croydon Council)
Burke, Vanessa
Carrington, Bridget
Central Bedfordshire Council
Cheshire West and Chester Council
Chinn, Jonathan (Meadow Park School)
Christ the King Catholic Primary School
Clarke, Derek (Retired Deputy Headteacher)
Clement, George (Voice)
Cluer, Graham (Heavers Farm Primary School -Chair of Governors)
Coates, Susan
Collins, Gill
Cope, Trevor
Coventry City Council
Croce, Andrea (Heathland School)
Crosshall Infant School Academy Trust
Cunningham, M
Darlington Borough Council
Dartmoor Federation
Davis, James
Dewes, Ian (Dunchurch Infant School and Nursery)

Dockray, Anne (Timothy Hackworth Primary School)  
Dolben, Ian  
Dudley, Walter  
Dudley Metropolitan Borough Council  
East Leake Academy (Graham Legg)  
Ellery, Mary (Dartmoor Federation)  
Ellison, Paul  
Eynon, Daniel  
Farrier, Wendy (Backwell School)  
FASNA  
Feast, Gillian  
Featherstone, John  
Fielder, Andrew  
Garraway, Stephen (Unison)  
Gateshead UNISON  
Gray, Tracey (Walbottle Campus)  
Gray, Luke  
Greenwich NUT Committee member (Kirstie Paton)  
Griffiths, Michael (Samworth Church Academy, The)  
Guiterman, David  
Hall, John  
Hampshire County Council  
Hampson, Alison (ATL)  
Harris, Ian  
Hayes, Jon  
Healey, Paul  
Heyworth, Jo (Trinity Academy Halifax)  
Higgins, Maria (Ten Mile Primary School)  
Hinds, Colin (Sir Christopher Hatton Academy)  
Hitchman, P  
Hodgson Academy  
Hollingworth Academy  
Holmes Chapel Comprehensive School  
Horgan, Stephen  
Huckstep, Julie (ATL)  
Hudson, Richard  
Hughes, Steven (Abbs Cross Academy)  
Hughes, Christine  
Hunt, Amy  
Hunter, Robin (NUT Ordinary Committee Member)  
Jackson, Tracy (Ossett Academy & Sixth Form College)  
Jacobsberg, Asher  
Johnson, R  
Jones, Sarah  
Jones, Alex (Sheffield City Council)  
Joyce, Kimberley  
Kapadia, Robert (Tapton School)



Kilkenny, Keith (Aylward Academy)  
Kirklees Council  
Knappett, Kim  
Lewandowski, Christopher  
Lingard, Barry  
Lings, Andrew  
Lister, Dan (Nasuwt)  
Loft, Ed (Association of Teachers & Lecturers)  
London Borough of Bromley  
London Borough of Redbridge  
Longbottom, Sara (ATL)  
Maloney, Martin  
Marwood school (Barbara Martin)  
McCandlish, A  
McGeachie, James (Becket School, The)  
McManus, Jill  
Mcmurray, Shane (Hull College)  
Mee, Adrian  
Mellen, Philip (Stanley Grove Primary School, Bright Futures Educational Trust)  
Middlesbrough Council  
Middlesbrough Primary Head Teachers (Central Cluster)  
Mills, Alan (Cranbourne School)  
Mohammed, Amir  
Moore, Gordon (Greenacre Academy)  
NAHT  
Nash, Ann  
NASUWT  
National Employers' Organisation for Schoolteachers  
National Union of Teachers  
Neale, Richard  
Newcastle City Council  
Newman, Mark (Mullion School)  
Nicholls, Sam (Highfield School)  
Norfolk County Council  
North Somerset Council  
North Tyneside Council  
North Yorkshire County Council  
North Yorkshire NUT  
Northumberland County Council  
Oliver, Jack (Newburgh Primary School, Warwick)  
Paige, Jeremy  
Park View Business & Enterprise School  
Parker, Michael  
Parr, Craig (LIFE)  
Parrish, David  
Passingham, Keith  
Penney, Thomas Brian

Phillips, Amanda  
Pield Heath Non-maintained Special School  
Pridmore, Jane (Association of Teacher's and Lecturers.)  
Quigley, Liam  
Rankin, Colin  
Gini Wells  
Reynolds, Christopher (Saint Benedict Catholic Voluntary Academy)  
Ripley St Thomas CE Academy  
Rollinson, Sheila  
Ryles, Susan  
Sayers, Steve  
Sheriff, Janet (Prince Henry's Grammar School)  
Slater, Anne  
Smith, Katie (Liverpool City Council)  
Smith, John  
Soles, R  
Somerset County Council  
South Tyneside Council  
St. Teresa's Catholic Primary School  
Stacey, Gregory  
Tamblyn, Naomi  
Teacher's Liaison Panel for Hampshire  
Thompsons Solicitors  
Trafalgar School  
Trafford MBC  
Tranmer, David  
Tunstall, Neil (Mullion School, Cornwall)  
University of Chester Academies Trust  
UNISON  
VOICE the union for education professionals  
Wakefield and District NUT  
Waring, D  
Waring, Bobby  
Wasdell, Tim (NASUWT)  
Wayne, Philip (Chesham Grammar School)  
West Berkshire Council  
Westminster City Council  
Whitecross Hereford: High School and Specialist Sports College  
Williams, Katy (Outwood Grange Academies Trust)  
Willis, Jane (Notre Dame High School)  
Wiltshire Council  
Windeatt, Iain  
Woodard Academies Trust

The Department for Education would like to thank all those who have taken the time to contribute to this call for evidence.



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