# Trade Union Recognition and Facilities Agreement

**Author:** JNC Task and Finish Group  
**Date:** 14 April 2015  
**Version:** 2d  
**Sponsoring Executive Director:** Ruth Davies, Director of Workforce and Organisational Development  
**Who will present:** Ruth Davies, Director of Workforce and Organisational Development  
**Date of Board / Committee meeting:** 28 April 2015  
**Committee/Groups that have received or considered this paper:**  
- JNC Task and Finish Group – approved 24 June 2014  
- Public Health Wales Partnership Forum – approved 9 December 2014  
- Executive Team – February 2015  

The Board / Committee are asked to: (please select one only)  
- **Approve** the recommendation(s) proposed in the paper.  
- **Discuss** and scrutinise the paper and provide feedback and comments.  
- **Receive** the paper for information only.  

**Link to Public Health Wales commitment and priorities for action:**  
(please tick which commitment(s) is/are relevant)  
- **Heart**  
- **Cross**  
- **Home**  
- **Order of Service**  
- **Suitcase**  
- **Check**  

Priorities for action:  
include relevant priority for action(s)
1 Introduction

The Trade Union Recognition and Facilities Agreement sets out Public Health Wales’ approach to trade union recognition and representation for Agenda for Change staff throughout the organisation. The Board is asked to approve for adoption throughout Public Health Wales.

2 Background

In May 2012, the Welsh Government published ‘Working Together for Wales’ which set out the strategic direction for the health workforce and other public sector workers. Public Health Wales and the unions are committed to implementing the principles of partnership working which are core to this framework and have developed an agreement which observes legal requirements, the appropriate ACAS Code of Practice and the Agenda for Change NHS Terms and Conditions of Service.

3 Timing

It is recommended that the agreement is approved and adopted by Public Health Wales as soon as possible.

4 Description

The agreement sets out the recognition arrangements in place within Public Health Wales for Agenda for Change staff and describes the time off and facilities with which trade union representatives will be provided.

5 Financial Implications

There are no financial implications to this decision.

6 Recommendation(s)

It is recommended that the Board approve the Trade Union Recognition and Facilities Agreement.
Trade Union Recognition and Facilities Agreement

Agenda for Change staff

14 April 2015
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1 **Definition of Terms**

In this agreement:

1.1 The Organisation: refers to Public Health Wales

1.2 The Unions: refers to Unison, Unite, Royal College of Nursing and Society of Radiographers

1.3 Staff: refers to all employees of the Organisation

2 **Signatories & Commencement Date**

2.1 This agreement commences on ................................................

Agreed and Signed By:

<table>
<thead>
<tr>
<th>Public Health Wales Director Workforce &amp; Organisational Development</th>
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<tbody>
<tr>
<td>Unison</td>
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<tr>
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Date of Signing:
3 Introduction

3.1 In May 2012 Llywodraeth Cymryu Welsh Government published ‘Working Together for Wales’ – A Strategic Framework for the Public Service Workforce in Wales setting out the strategic direction for health workforce and other public sector workers. The principle of Partnership Working between Management and Staff is core to this framework.

‘The framework sets the standards for high quality employee relations and partnership with trade unions, employers and other social partners. The framework recognises that excellent employee relations is not an end in itself but should always support the vision for world class public service delivery, linking the workforce with the need for citizen-centred services’

Public Health Wales and the Unions are committed to implementing the principles of ‘Working Together for Wales’ and recognise the core values underpinning partnership working which are:

- Team working
- Openness
- Honesty
- Mutual Respect
- Recognition of individual contribution

This policy reflect the ACAS Code of Practice 3 (January 2010) which complies with Section 199 of the Trade Union and Labour Relations (Consolidation) Act 1992, which came into force by order of the Secretary of State on 1st January 2010.

It also reflects guidance from the Agenda for Change NHS Terms and Condition of Service Handbook– Section 25: Time off and Facilities for Trade Union Representatives (May 2009)

4 Representation

4.1 The provision of this policy applies to accredited representatives of the specified Trade Unions, who have been duly elected in accordance with the rules of the respective trade unions.
4.2 The Trade Union in partnership with the Organisation will determine the appropriate number of representatives they wish to appoint and seek to ensure that representation has due regard for the Organisation’s workforce different roles and location.

4.3 The Union agrees to inform the Organisation in writing of all elected representatives and to notify the Organisation of any subsequent changes. Representatives notified by this process to the Organisation will be the sole representatives of their respective Unions.

4.4 The Union will notify the Organisation of the number and location of constituencies for which each representative will be responsible.

Appendix 1 provides a link to the website which gives details of current union representatives and the constituency they represent.

4.5 Accredited representatives will:

- Abide by the rules of their trade union and the policies and procedures of the Organisation.
- Represent their members on matters that are of concern to the employing organisation and / or its employees.

5 Trade Union Duties & Activities

5.1 The Trade Union and Labour Relations (Consolidation) Act (1992) provides a recognised union representative with a statutory right to reasonable paid time off from their employment to carry out trade union duties. Subject to the needs of the service and adequate notification, accredited representatives are permitted paid time off for union duties and activities, including time to prepare for meeting, disseminate information and outcome to members during working hours.

It is good practice that staff representatives should indicate the general nature of the business for which time off is required, where they can be contacted if required. Requests should be made as far in advance as possible as is reasonable in the circumstances. Wherever possible, the representatives should indicate the anticipated period of absence. The expectation is that requests for paid time off for trade union representatives will not be unreasonably refused.
5.2 Below is a list of examples of trade union duties. It should be noted that this list is not exhaustive and there may be other duties, which may require paid time off work.

5.2.1 **Examples of Trade Union Duties:**

a. To participate with management in jointly agreed local partnership, consultative / negotiating forum, including sub-groups or working groups, established under these arrangements.

b. To undertake the role of the Trade Union representative at Trust Board and to attend any associate mandatory training for Board members, which may assist them to perform effectively and undertake this role.

c. To consult or negotiate with management on specific issues, for example, on proposed policies, service or employment changes or developments.

d. To attend meetings with Public Health Wales members regarding any consultation process and/or regarding negotiations with management.

e. To attend meetings with other union representatives or with full time officers of recognised trade unions on matters, which are concerned with Public Health Wales workplace issues and employee relations matters.

f. To accompany Public Health Wales union members in accordance with employment policies e.g. disciplinary, grievance, sickness absence, managing performance, dignity at work.

g. To consult or negotiate with management on matters relating to redundancy or the transfer of employment of Public Health Wales staff, in accordance with the Transfer of Undertakings (Protection of Employment) Regulations (2006).

h. To prepare for meetings with management and feed back progress and outcomes to their members.

i. To appear, if authorised by their trade union, on behalf of a member, or as a witness before an external official body for example, an Employment Tribunal, which is dealing with an employee relations matter concerning Public Health Wales.
j. To undergo training relevant to these duties, including health and safety training and delivery of employment policy training.

k. To participate on Public Health Wales panels that are related to Agenda for Change.

l. To undertake their training which is relevant to their function as a recognised learning representative of Public Health Wales and/or to carry out recognised duties i.e. analysing learning/training needs, providing information or advice, arranging training or promoting learning and training.

m. To undertake health and safety work, which is relevant to their function where they are recognised health and safety representative, of Public Health Wales.

n. To attend new employee induction programmes

o. To attend Equality Group meetings

p. To attend Learning Education and Development (LEaD) meetings

5.2.2 Trade Union Activities

It is the responsibility of the Trade Union to ensure that the time and resources provided in the context of Union activities are used appropriately. Examples of Union activities are listed below, once again it should be noted that this list is not exhaustive and there may be other activities, which may require paid time off work.

a. Union Executive Committee meetings or annual conferences or regional meetings

b. Voting in properly conducted (non-postal) industrial relations ballots

c. Voting in Union elections

d. Meetings to discuss urgent matters relating to the workplace

e. Recruitment and organisation of members
5.3 Time off and payment for Trade Union duties

5.3.1 The provision of paid time off for trade union duties is to enable the union representative to carry out duties concerning any appropriate matters which arise between employees and Public Health Wales management. It is neither practicable nor helpful to be prescriptive about the amount or frequency of time off which can be granted to union representatives. This will vary according to fluctuations in demand on the union representative’s role and the immediate and in some cases unexpected needs of the service and other local factors.

5.3.2 In all cases the amount of time off requested and granted must be reasonable and each application will be considered on its merits. Request for time off, paid or unpaid, should not be unreasonably withheld and in the interests of good industrial relations managers will make every effort to accommodate requests within reasonable timescales. Union representatives will not be disadvantaged by losing time accumulated as a result of trade union work.

5.3.3 In the spirit of partnership working, the union representative and their manager should be prepared to be as flexible as possible, when seeking or considering a request for time off work. This approach should allow the time off request to be granted at a time which ensures minimum disruption to the service and allows the union representative to undertake their duties.

5.3.4 Accredited representatives who work part time, shifts or night duty will be treated equitably and as such the time off requested must be reasonable. They should therefore be granted time off to undertake this work during their normal working hours and credited for it on an hour for hour basis. Public Health Wales recognises that union representatives employed part time or on shift work face particular problems in respect of the effective representation and communication with their members. As such these representatives may request to adjust or re-arrange their work commitments accordingly and such requests will not be unreasonably refused. However, part time staff who are Trade Union representatives should endeavour to ensure that their representative case work, role and responsibilities are proportionate and reasonable so as not to impact adversely on their employed service role.
5.3.5 Paid time off for trade union duties will therefore, normally be granted subject to:

a. The provision of reasonable notice of the request for time off by the representative to their manager. This is to allow sufficient time for the manager to make alternative arrangements for the representative’s work (usually by redirection of the work or provision of cover). It should be recognised that emergency meetings are called occasionally at short notice and a request for time off should be granted following consideration.

b. The provision by the representative of sufficient information using Appendix 2 ‘Application for Time Off for Union Duties and Activities’ to enable the manager to make an informed decision. This information should include the nature of the business, the reason for the request, intended location and expected period away from work, together with any foreseeable implications on the provision of services, resulting from the representative’s release from their duties. It is not appropriate for personal details of the members and the issues they are raising to be disclosed as this is confidential.

c. The request for time off being for legitimate trade union duty or activity.

5.3.6 A record of time off should be kept by the manager and the trade union representative. The purpose of this is not to limit time off, but to be used retrospectively in case of any dispute.

5.3.7 Reasonable travelling time within the union representative’s contracted hours of work will be given in relation to the performance of trade union duties and activities. Wherever practicable, the union representative is required to return to work once they have completed their trade union duties.

5.3.8 A union representative should not leave their post or take time off for trade union duties or activities without their manager’s express permission other than in exceptional circumstances. Such permission will not be unreasonably withheld by the manager. Managers should not use the requirements of the service or service delivery merely as a device for restricting union representatives from performing their
recognised trade union duties and activities. Reasonable time off for trade union duties and activities will normally be granted as long as this permission does not hinder or adversely affect the provision or maintenance of associated health care services provided by Public Health Wales.

5.3.9 Where a union representative is rostered to work and requests time off to undertake trade union duties, payment will be made for the agreed time off to undertake these duties. This payment will reflect the amount the union representative would have earned had they worked during the time taken off, unless the union representative’s earnings vary. In which case the payment for this time will be calculated by reference to their average hourly earnings, for the work they are normally employed to undertake. All such calculations will be undertaken with due regard to any other payments they are entitled to in accordance with their contract of employment e.g. working outside of normal hours payments etc.

5.3.10 Union representatives will not normally be paid for time off or given Time off in Lieu, where union duties have been undertaken at a time when they would not have otherwise been in work. Exceptions will be made in the case of duties related to meetings requested and arranged by management, where another representative from the same trade union is not available and where the manager’s agreement is given in advance, to grant time off in lieu or payment in respect of those duties. Exceptions will also be made where part time employee representatives are travelling to and from attending work related meetings with trade union representatives, members and or managers in what would be their own time. The intention is that part time employee representatives will not be disadvantaged.

5.3.11 Where a union representative works atypical hours (e.g. night shift), but needs to perform union representative duties outside of their normal working hours and their request has been approved by the manager, they will be granted time off in lieu, based on the amount of time requested, to undertake this duty.

5.3.12 Travelling expenses incurred by a representative whilst carrying out approved Trade Union duties will be met by the Trust and payable in accordance with the appropriate terms and conditions of service.
**NB. Time off for all Trade Union ‘activities’ as opposed to ‘duties’:**
There is no statutory right to paid time off taken on trade union activities. However, the organisation will be open to reasonable written requests using - **Appendix 2 ‘Application for Time Off for Union Duties and Activities’** - for time off for union activities as specified in paragraph 5.2.1 and these will be considered using the criteria specified in 5.3

**5.4 Time off for Trade Union Learning Representatives**

Trade Union Learning Representatives are accredited by the union(s) to support organisations in identifying learning and development needs and ensuring that staff have access to learning and development provision. Learning Representatives have the right to reasonable paid time off for undertaking these duties and for relevant training.

To qualify for paid time off to undertake the function of a Learning Representative, the representative must have received sufficient training to carry out this role, either:

- **a.** At the time when their Trade Union/Staff Organisation advises Public Health Wales in writing that the employee has been appointed as a Learning Representative; or
- **b.** Within six months of the notification date. The six month qualifying period may be extended by agreement if the employee is unable to undertake the training during this period due, to significant unforeseen circumstances, for example, ill health, pregnancy, bereavement or unavoidable delays in arranging an appropriate training course.

Examples of Learning Representative Duties are as follows:

- Member of Learning Education and Development Group (LEAD)
- Training Needs Analysis
- Promoting Learning and Development
- Consulting staff in relation to the above duties
- Preparation in relation to the above duties
- Public Health Wales may grant a learning representative paid time off to attend meetings with external partners concerned with the development and provision of workforce training.
Union Learning representatives should liaise with the Learning and Development function to ensure that their respective training activities complement one another and that the scope for duplication is minimised.

5.5 Time off for Health & Safety Representatives

The Safety Representative and Safety Committee Regulations 1977 provides a legal entitlement for trade union appointed safety representation to have paid time off to carry out Health and Safety union duties.

5.6 Union Equalities Representatives: Do not have statutory rights to paid time off for union duties but Public Health Wales wishes to encourage union engagement in these important issues and would include these roles within the scope of union roles and duties.

5.7 Circumstances giving rise to refusal of paid time off for Union Duties

There may be occasions where paid time off will be declined and examples of when this might occur are as follows:

a. Unreasonable notice period given by the Union representative

b. Activities which do not fall within the scope or spirit of the outlined Union duties or activities

c. Conflict with service needs

6. Training for Trade Union Representatives

6.1 Public Health Wales recognises that representatives need certain skills and knowledge to carry out their trade union functions effectively. To this end, Public Health Wales will support recognised trade unions to discharge their responsibilities for the training of their representatives, by allowing reasonable time off with pay, for relevant training whether organised internally or externally.
6.2 Public Health Wales will support training opportunities for both newly appointed and to more established union representatives. They will also support from time to time where resources permit it, joint training and development activities between union representatives and managers to occur.

6.3 Requests for training for union representatives will be submitted using the standard ‘Application for Funding of Learning and Development form for approval by the appropriate manager and will be considered in the context of the following:

   a. The proposed training is relevant to the duties of the union representative as outlined in Section 2, or for further training particularly where the union representative has special responsibilities, for example in collective redundancies and TUPE transfers.

   b. The training must be approved by the TUC or the appropriate trade union. The union representative, if requested, shall provide their manager with a copy of any syllabus or prospectus, outlining the content of the course(s).

   c. The representative is a Learning Representative and the training is relevant to this function, for example, to undertake training to enable them to competently carry out this function or to receive update training.

   d. The proposed training is relevant for example to the application of the job evaluation process of the Knowledge and Skills Framework.

   e. The availability of E-learning packages, related to the role of union representatives and the ability to provide time off work during normal working hours for the union representative to undertaking this learning.

   f. Reasonable notice of the training event has been given to their manager, by the union representative.

   g. Previous trade union training opportunities provided to the representative.
h. The number of representatives undergoing training at any one time must not conflict with the need to maintain services.

6.4 The responsibility for fees and expenses for training rests with the union representative’s trade union. Training courses arranged by and for the benefit of Public Health Wales may however attract financial support.

6.5 Payment for time spent on training will be the same as for representatives undertaking trade union duties (See Section 2 above). Payment will only be made where a representative would normally have attended for work. Union representatives employed part time or on shift work face particular problems in attending training courses. Every effort should be made jointly to re-arrange or adjust their work commitments to facilitate their attendance. Where this is not practicable, appropriate time off in lieu shall be granted. Such variations are expected to be infrequent and shall be at the discretion of management and always subject to the exigencies of the service. Staff working on night duty should be granted appropriate time off in lieu.

6.6 Time off for all training will be subject to the exigencies of the service. Permission will not be unreasonably withheld, having regard for all the provisions of this section.

7 Facilities for Trade Union Representatives

7.1 Where feasible Public Health Wales will provide union representatives with desk space, and lockable filing cabinets and / or drawers, to enable them to carry out their duties efficiently and store papers securely.

7.2 Public Health Wales will provide union representatives with access to a telephone, to include telephone conference facilities where possible; email to communicate with trade union members and other union representatives and officials; access to Video Conference facilities where possible to assist with attendance at remote meetings; access to photocopying and scanning facilities and to the internet for research (though arrangements for use of the internet during working hours must be agreed with the line manager in advance).

7.3 Public Health Wales will provide lead union representatives with a laptop to access their work e-mails at home and when working and attending meetings in other NHS sites.
7.4 Access to sufficient notice boards and Public Health Wales Trade Union Intranet web pages.

7.5 Union Representatives will also have access to new starters to explain the benefits of Union membership.

8 Disclosure of Information

Access to all joint documentation relating to local partnership working. Public Health Wales recognises the need to provide recognised trade unions with relevant information to assist them in carrying out their functions effectively. The nature of the information will be in accordance with the ACAS Code of Practice 2 on “Disclosure of Information to Trade Union for Collective Bargaining Purposes”:
http://www.acas.org.uk/CHttpHandler.ashx?id=273&p=0

9 Industrial Action

Management and unions have a responsibility to use agreed procedures to settle problems and avoid industrial action. Time off may therefore be permitted for this purpose, particularly where there is a dispute. There is no right to time off for trade union activities which themselves consist of industrial action. However, where a union representative is not taking part in industrial action but represents members involved, normal arrangements for time off with pay for the union representatives should apply.

10 Resolving Disputes

Where a dispute arises as a result of a request for time off for trade union duties or activities, in the first instance management will endeavour to resolve the matter informally. If an informal resolution cannot be found the matter will be dealt with in accordance with Public Health Wales’ Grievance Policy and Procedure.

11 Variation of Agreement

If either party wishes to suggest variations to this agreement, this shall be subject to negotiation.
12. **Communication**

Public Health Wales and the relevant Unions undertake to make known the contents of this Agreement to all who may in any way be affected by it or required to operate it.

13. **Legal Enforcement**

This Agreement does not in any way constitute a legally enforceable contract between the parties to it.

14. **Review**

This Policy will be reviewed every three years by the Assistant Director of Workforce in partnership with the staff side representative via the Public Health Wales Joint Negotiating Committee.
Appendix 1

Details of current union representatives and the constituency they represent may be found by following the link:

http://howis.wales.nhs.uk/sitesplus/888/page/53150
Appendix 2:

Application for Time off for Trade Union Duties
(Use 24hr notation)

Part 1 – For Completion by TU Representative:

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<table>
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<tbody>
<tr>
<td>1.</td>
<td>Name of the Trade Union Representative:</td>
</tr>
<tr>
<td>2.</td>
<td>Name of the Trade Union:</td>
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<tr>
<td>3.</td>
<td>Date application submitted to the manager:</td>
</tr>
<tr>
<td>4.</td>
<td>Date requested in respect of time off for TU duty/duties:</td>
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<tr>
<td>5.</td>
<td>Please state the duration of the meeting - starting and expected finishing times:</td>
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<tr>
<td>6.</td>
<td>Please state the location of the meeting:</td>
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<tr>
<td>7.</td>
<td>Please state the estimated travelling time required:</td>
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<tr>
<td>8.</td>
<td>Preparation time requested (if applicable):</td>
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<tr>
<td>9.</td>
<td>Please provide a brief description of the nature of the TU duty/business: (Please do not provide any information about confidential individual cases)</td>
</tr>
<tr>
<td>10.</td>
<td>Is the time off requested for a period when you would not otherwise be in work? Yes □ No □</td>
</tr>
</tbody>
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Date approved: | Version: 2d | Page 20 of 21
11. If you answered yes to question above, has your attendance at the meeting etc. been requested by management?

| Yes □ | No □ |

12. If compensatory time is applicable, please state (where possible) when this time off will be taken

| TU Representative’s Signature: | Date: |

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**Part 2 - For completion by Manager:**

13. Time off for the above TU duty/duties and travelling time approved:

| Yes □ | No □ |

14. Preparation time off approved (if applicable):

| Yes □ | No □ |

15. Compensatory time off (if applicable) approved:

| Yes □ | No □ |

16. Name of Manager approving /refusing the time off request:

| |

17. Reason(s) for refusal of time off request (if applicable):

| |

18. Please insert details any of alternative date(s)/time(s) suggested/offered, along with the reason(s) the suggestion/offer was accepted/rejected by the manager or staff side representative:

| |

Manager’s Signature:  
Date:  

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