

National Negotiating Council for the Probation Service

**To: The Chair of the Probation Trust
The Chief Executive of the Probation Trust
(Copy enclosed for the Head of Human Resources)
The Secretary of the Probation Trust
Members of the NNC**

23 June 2011

NNC CIRCULAR NO.7/2011

Dear Madam/Sir

WORKPLACE REPRESENTATIVES: TIME OFF FOR TRADE UNION ACTIVITIES

Whilst the Joint Secretaries have no reason to believe that facility time is being unreasonably refused, it seemed opportune in the light of the amount of employment relations activity currently taking place across the service, to reiterate a few key points in respect of best practice in terms of the facility time for local trade union representatives.

A model Time Off and Facilities agreement is set out at Section B17 of the National Agreement on Pay and Conditions of Service. This remains broadly in line with the revised ACAS Code of Practice and guidance which were issued in 2010. The ACAS guidance however states additionally that the time off agreement should recognise that the amount of time required can vary over a period according to need and that it should acknowledge the time needed by union representatives to prepare for meetings with the employer. This might include holding preparatory meetings of all or some representative and should include time to communication with and meet external trade union officers as appropriate. Arising directly from the government's response to the consultation exercise carried out in 2007, the revised Code makes explicit reference to employers ensuring that, wherever necessary, work cover/and or work load reductions are provided when time off is required. This can include the allocation of duties to other employees, rearranging work to a different time or a reduction in workloads.

Employers' Side Secretary: Christine Lawrie
29 Great Peter Street
London SW1P 3LW
Telephone: 020 7340 0970
association@probationassociation.co.uk
www.probationassociation.co.uk

Trade Union Side Secretary: Jonathan Ledger
4 Chivalry Road
London SW11 1HT
Telephone: 020 7223 4887 Fax: 020 7223 3503

The variety of roles local union representatives undertake means that it is neither desirable nor possible to specify as a principle the minimum number of union representatives that should be appointed or state the number of hours per week that they require to undertake their duties. This will depend on the particular circumstances and it is for the employer and the union representatives to agree what is appropriate for them. The ACAS guidance makes specific mention of the special needs of union representatives in TUPE and collective redundancy situations when more time off from normal work will often be required to deal with these particular issues including dealing with the aftermath of these business decisions.

The Code also states that union representatives should minimise business disruption by being prepared to be as flexible as possible in seeking time off in circumstances where the immediate or unexpected organisational needs make it difficult for colleagues or managers to provide cover for them in their absence. Equally, however, employers should recognise the mutual obligation to allow union representatives to undertake their duties.

We also acknowledge that time off granted across the range of union activities should have due regard to business circumstances and be capable of being accounted for. What the model agreement does not currently include is a model facility time sheet which details the amount of facility time taken by each representative (Para 3 (d) of Section B17 refers). The sheet should be submitted by the individual's line manager on a monthly basis to the relevant officer, e.g. the Board Secretary, Head of HR and copied to the local TUS Joint Secretary. Using this or a similar return will also inform any periodic reviews of whether the time off remains reasonable and appropriate.

The Employers' and Trade Union Sides recognise the necessity for good and meaningful communication, formal consultation and where appropriate, negotiation at a local trust level across a range of issues and agree that such communication is even more essential when there is potential for a change of employer under TUPE regulations following the transfer of a contract for the provision of probation services away from local probation trusts. To that end, trusts are asked to consider positively any requests for additional facility time locally to cover such transfer activity or activities connected with redundancy/redeployment/restructuring. This is particularly relevant in the light of the current CP competition exercise.

The Joint Secretaries remain available to assist with any queries.

Yours faithfully

Christine Lawrie
Jonathan Ledger

Joint Secretaries

Appendix A

MONTHLY FACILITY TIME SHEET RECORD Month ending 2011

Name	Date	Actual Time Off Taken	Venue	Reason for Facility Time*

Name:
Signed:
Date:

*Reason for facility time

Please select from the following categories:

- Specific Working Group (please state name of group)
- Presenting training
- Attending training
- Individual representation e.g. discipline, capability, grievance, terms and conditions
- Collective representation e.g. Management of Change (please state reason)
- General advice to members
- Conference/seminar
- Preparation time (please state reason for preparation)
- Job Evaluation
- Attendance at management groups
- Local Health & Safety committee
- National activity e.g. NEC, NNC, representing external employee
- Communication and consultation with members
- Other (please detail)