



Facility time for union reps - separating fact from fiction

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1 Introduction

On 30 November 2011 at the same time as up to two million public sector workers were taking industrial action in defence of their pensions, the Prime Minister announced in the House of Commons that a review of the funding for trade union facility time in the public sector would take place. This announcement, pre-dated by similar announcements by both Frances Maude, Minister for the Cabinet Office, and Eric Pickles, Secretary of State for Communities & Local Government, at the Conservative Party Conference, appeared to come as a direct result of continued agitation on this issue by the TaxPayers' Alliance (TPA), a right-wing pressure group. The TPA published *Taxpayer funding of trade unions (Research Note 97)* on November 25, 2011, and the Prime Minister made his announcement in response to a question which cited figures from the report from Conservative MP Laurence Robertson. Just a few days after this exchange the Prime Minister wrote to endorse the newly formed Trade Union Reform Campaign (TURC), headed up by Conservative MP Aidan Burley and whose staff includes former Conservative Future Chairman, Mark Clarke. Again, in their press and publicity work, TURC has drawn heavily on the research note published by the TPA.

The headline findings from the TPA's research note were that:

- a) Trade unions received £113m of funding from taxpayers in the year 2010-11
- b) This sum of £113m was accounted for by £80m in paid staff time and £33m in direct payments.
- c) That these sums represented the staff costs of 2,840 full-time equivalent public sector staff.

The overall thrust of the report – subsequently reported by the media – was that £113m of taxpayers money was being used to support the activity of union representatives in the public sector. In the words of the TPA, this funding represented a 'scandalous subsidy'.

Crucially, what was missing from the TPA report was any consideration of the benefits which might accrue to the tax payer and wider public from supporting the work of trade union representatives in the public sector. In other words, the report made no attempt to undertake a 'cost-benefit' analysis of the role of union reps in the public sector. The only calculations in the report concerned costs and these were not balanced out or contextualised by consideration of any benefits which might accrue from these costs.

This short report, commissioned by the TUC from the Work & Employment Research Unit at the University of Hertfordshire, seeks to redress that imbalance. It examines the benefits that accrue from the provision of funding for trade union facility time in the public sector.

Only by doing this is it possible to gain a balanced and holistic perspective on the current issue of the public funding given over trade union facility time.

This report also questions the methodology used by the TaxPayers' Alliance to arrive at the claimed figure of £113m for public funding for trade unions. If serious doubt is cast on this sum it then has significant ramifications for calculating the overall cost-benefit of the funding for trade union facility time in the public sector.

2 Trade union duties and activities

Trade union facility time provides the platform upon which union representatives in workplaces in both the public & private sector carry out often demanding and complex roles which include provision of advice to members, formal representation of members in grievance and disciplinary hearings and negotiating with managers over terms and conditions. This amounts to union representatives receiving paid time off work – but usually in work time – for a relatively tightly-defined set of trade union **duties**. The legal basis for these arrangements are set out in the Trade Union and Labour Relations (Consolidation) Act 1992 and the ACAS Code of Practice on 'Time off for Trade Union Duties and Activities'.

In addition to paid time off to undertake trade union duties, union representatives also carry out much of this representative work in their own time as well (i.e. not in paid work time). In a survey carried out by the TUC in 2005, 16 per cent of union reps said that less than a quarter of the time they spent on union duties was paid for by their employer. A survey by BERR (see below) found that union reps in the public sector contribute up to 100,000 unpaid hours of their own time each week.

Although there is no obligation on public or private sector employers to provide paid time off to union representatives or members engaged in union activities, it is not uncommon for them to do so. These activities might include:

- attending meetings to discuss internal union business
- attending meetings of union policy making bodies
- attending workplace meetings to discuss union negotiations with employers
- meeting with union officers to discuss workplace issues.

Many public and private sector employers provide this additional support because they recognise that efficient, effective and professional union representatives need to be able to discuss with members, and other union representatives, issues that influence how representatives approach the issues at hand in representation and bargaining. Many significant private sector employers specifically provide paid support for union representatives to undertake union organising and recruitment activity because they are keen to ensure that, where there is a union in the workplace, it is representative of the workforce as a whole.

This brief scene setting provides a rounded basis upon which to now provide calculations for the accrued benefits to the taxpayer from the public funding of trade union facility time in the public sector.

3 Costs without benefits?

In 2007, the then Department for Business, Enterprise and Regulatory Reform (BERR, now BIS - Department for Business Innovation and Skills) conducted a review of the facilities and facility time available to workplace representatives. Using data from the government-sponsored 2004 Workplace Employment Relations Survey (WERS 2004¹), this review - in Annex B of its consultation document - calculated the costs of union representatives **and** the benefits accrued from such representation. This report updates these figures for 2010 to give an idea of the scale of the benefits which should be set against the costs of facilitating union representatives to carry out their duties and roles.

In doing this, the report makes a number of valid assumptions. These are:

- a) Most workplace representatives are union representatives.
- b) Union representatives' duties and roles are best and most appropriately carried out within the workplace and within work time when union members and managers are collectively present and available in the workplace.
- c) The overall benefits from the funded provision of trade union facility time in the public sector will be a proportion of those - when updated - from the BERR report because this included both the public and private sectors. The working assumption used to divide the calculated accrued benefit is that of 60% - this being related to the proportion of union members to be found in the public sector.
- d) In using this working assumption, it should also be borne in mind that the accrued benefits for the taxpayer relate to the entire workforce in the public sector and not just union members because of coverage of collective bargaining. Any 'benefits' of union representation are spread across the whole workforce, not just those in membership.

¹¹ The WERS data was collected between February 2004 and April 2005 and is referred to as WERS 2004. This dataset provides the most comprehensive picture of workplace practice and employment relations in the UK. The latest WERS survey is currently in the field.

The key findings published as part of BERR's report were that:

- i) Dismissal rates were lower in unionised workplaces with union reps – this resulted in savings related to recruitment costs of **£107m-£213m pa**
- ii) Voluntary exit rates were lower in unionised workplaces with union reps, which again resulted in savings related to recruitment costs of **£72m-143m pa**
- iii) Employment tribunal cases are lower in unionised workplaces with union reps resulting in savings to government of **£22m-43m pa**
- iv) Workplace-related injuries were lower in unionised workplaces with union reps so resulting in savings to employers of **£126m-371m pa**
- v) Workplace-related illnesses were lower in unionised workplaces with union reps so resulting in savings to employers of **£45m-207m pa**

Putting these figures together at 2004 prices means that in the range of **£372m pa to £977m pa** in savings were accrued in large measure as a result of the presence and work of union representatives. Bearing in mind these figures cover the public and private sectors, we can estimate the public sector 'worth' here is some 60% of the total, equating to a worth of **£223m pa to £586m pa**.

When updating these figures to take into account inflation using the Bank of England calculator, the figures for 2010 come out at between **£267m pa to £701m pa**.

It should be stressed that these figures do not include the benefit of union representatives to productivity performance which is widely acknowledged - but this benefit is much harder to calculate in order to provide a robust and singular figure².

Yet what they do show is that for every **£1** spent on trade union facility time in the public sector (using the TaxPayers' Alliance figure of £113m pa) , **between £2 and £5** is returned in accrued benefits on the measures of the costs of dismissal and exit rates. That is a very good return on investment.

² BERR estimated these benefits could be worth more than £10bn at 2006/7 prices.

And, it is for perhaps this reason that in a recent survey for the TUC and Personnel Today³ the majority of responding HR professionals agreed that unions were an 'essential part of modern employer/employee relations', and that union officials approached meetings with managers in an 'open, constructive manner'.

4 When is £113m not £113m?

The figures outlined above assume that the TPA is right in assessing that the taxpayer funds unions to the tune of £113m. However, a number of serious doubts can be cast upon the research conducted by the TPA. The force of these is to gravely undermine the veracity of the analysis undertaken by the TPA, an analysis that is seemingly so heavily relied upon by TURC and government ministers. These doubts can be categorised into two areas.

a) Union Learning

Sums spent on union-lead activity on learning and skills are included in the £113m figure even though the Union Learning Fund⁴ Union Learning Representatives (ULRs)⁵ are both very distinct from the broader representative role undertaken by union representatives and which are supported by union facilities and facility time. Accredited Union Learning Reps (ULRs) are entitled to paid-time off in unionised workplaces in both the public and private sector, to support their colleagues in updating existing and obtaining new skills and qualifications. This work has widely supported by employers⁶ and successive governments. Speaking to the unionlearn conference earlier this year, John Hayes, Minister for Lifelong learning noted, '*Unionlearn is central to the Government's vision for building the nation's skills, especially in helping to provide new access routes for apprenticeships*'. Some £33m of the funding identified in the TPA has been wrongly and gratuitously conflated with the funding attributed to trade union facility time. Removing this amount from the total identified by the TPA leaves a significantly lower figure of around £80m.

³ [Personnel Today](#), January 2007

⁴ The Union Learning Fund is delivered in partnership with the Department for Business Innovation & Skills. It supports union led projects aimed at giving employees access to new skills, and the current round of funding prioritises the following themes: engaging with disadvantaged learners; tackling skills gaps and shortages; developing high performance workplaces; reaching out to non unionised workplaces; equality and diversity

⁵ ULRs are entitled to reasonable paid time-off to analyse the learning or training needs of trade union members; provide information and advice about learning or training matters; arrange or promote learning or training; discuss related activities with their employer; and attend training to allow them to undertake their role. train as a learning representative

⁶ See '[Leaders in Learning](#)' for examples of employer case-studies

b) Funding recipients

There are a large number of errors made in the range of supposed unions which receive funding according to the tables appended to the TPA's report and from which the £80m figure was calculated. Amongst these errors is the inclusion of:

- i) Unions which do not exist anymore and have not existed for many years such as APEX, AEEU, ASTMS, EEPTU, and MSF;
- ii) Organisations (numbering twelve) which are not identified in the report itself or are unidentifiable as unions such as the APFU, ATU, CTWU, GAB, HTCC, NANUET, NAS, NAT, NFU, NMC SHA, and SUPT; and
- iii) Organisations (numbering eleven) which are not unions being managers or professional associations such as the Retired Officer Association, School Leaders Scotland, Alliance of Charters Towers State Schools, Institute of Biomedical Science, British Orthodontic Society, General Medical Council, Healthcare Supply Association, Association for Clinical Biochemistry, Scottish Transport Credit Union, Child Health, and Scots Cons Comm.

The standard definition of a trade union is one that is both registered with the Certification Officer and which exists to bargain over its members' terms and conditions of employment, and it is this definition which is used to judge whether a union still exists or not, and whether an organisation is classified as a union or not. These are important points because the TPA's report specifically notes that although the Police Federation receives some public funding, it is not a 'union' and the support it received was not included in the report's calculation for the overall sum spent on facility time. Unfortunately, as shown above, the same principle of methodological consistency was not applied throughout the report.

The significance of these points is that, in reality, the TaxPayers' Alliance report reveals that less than £80m pa was spent on trade union facility time in the public sector.

However, in order not to quibble too much as to the effect of the inclusion of organisations which are not unions, the round figure of £80m pa will be used to make the following calculation. Using a 'corrected' figure of £80m pa, the return in accrued benefits is not between £2 and £5 for every £1 spent but, in fact, **between £3 and £9**. That is a return on investment which most investors would rate highly, and which many most FTSE250 companies would struggle to match.

5 Conclusion

Good policy-making needs to be grounded in sound and reliable evidence. This report has shown that the TPA's *Taxpayer funding of trade unions* is fundamentally flawed. It conflates support for union learning with paid time-off for trade union representatives to carry out their legal duties. It makes no effort to quantify the benefits that might accrue from any public expenditure on paid time-off for union representatives.

These benefits are widely recognised by employers in both the public and private sector, and by employers organisations.

“Union representatives constitute a major resource: there are approximately 200,000 workers who act as lay union representatives. We believe that modern representatives have a lot to give their fellow employees and to the organisations that employ them.”

Extract from *'Reps in Action – how workplaces can gain from modern representation'*, foreword signed by Brendan Barber TUC, Lord Mandelson, Secretary of State BERR & Richard Lambert, then Director General of the CBI, 2009.

Successive governments have recognised the legal, moral and economic case of supporting independent trade unionism in the workplace. They have recognised that union representatives – many of whom give up significant amounts of time to carry out their duties and activities – bring benefits to union members, their fellow employees the organisations they work for and the economy as a whole. In this regard *Taxpayer funding of trade unions* does the work of these 200,000 representatives a disservice, and appears to be a flawed and partial attempt to undermine the positive work being undertaken jointly by employers and unions, in both the public and private sector, across the UK.

The TUC hopes that the government's forthcoming reviews of facilities and facility time in the civil service and local government will be evidence-based, and will take into account best practice in the private sector. In addition, it is crucial that any such reviews consider the benefits of supporting union representatives, and not just the costs of supporting such arrangements. Such an approach is essential if government is serious about assessing the true value for money of such arrangements, and the true benefit they bring to both public sector workers and the taxpayer.

6 Appendix

Below a number of employers in the public sector talk positively of the paid time off given to union reps and the benefits this brings to their organisations – improving workforce skills, advising on workplace safety, resolving at an early stage problems that occur at work, offering ideas on how to improve ways of working or trying to minimise the impact of spending cuts:

Liz Chandler, Merseytravel's Director of Corporate Development, said: "We greatly value the contribution made by union reps and the relationship that managers have with them. Management and reps have worked together on improving the skills of our workforce, significantly improving the professional profile of the workforce as well as the life skills of the individuals involved. This has helped make our organisation a safer place to work and created a culture in which management and unions work together productively to meet the challenges we face. We regard the cost of paid time off as an investment on which the organisation has had a significant return, reducing sickness and grievances, supporting succession planning and improvements to customer care."

Ian Jerams, Chief Operating Officer, Rotherham Doncaster and South Humber NHS Foundation Trust said, "Effective and efficient services require a workforce that is supported to deliver their very best. The provision of facility time for staff representatives and stewards helps to ensure the timely availability of representation, leading to the early resolution of staffing issues and ultimately to better outcomes for the workforce, employers and for the people benefiting from the service."

Barry Rowland, Chief Executive, Newcastle City Council, said: "Newcastle City Council has sustained excellent industrial relations through an extended period of unprecedented change. The full support of unions and the involvement of workers from across the organisation has been instrumental in helping us achieve budget savings of £44m in the current financial year and to develop proposals to save a further £30m next year. Many of these proposals arise from the innovation and ideas of our staff, and the contribution of union workplace reps has been an important part of that success."

And here are some case studies from union workplace reps across the public sector. The facility time available to the reps varies, yet all talk of union work that takes place in their own time, and of good working relationships with employers, despite often having to deal with difficult issues:

Carole Horstead works four days a week, two as head of Spanish at Virgo Fidelis Convent Senior School in Croydon and is branch secretary for the ATL in the London borough for the other two, though says her union work – Carole's also the workplace rep and a learning rep – often takes up much of her own time. Carole has taught at the 800-pupil school for the last 13 years, and says she has a very good working relationship with the head, who often comes to her for advice. Her

union work includes running training events for members working in Croydon and in the surrounding London boroughs, meeting officers and councillors about changes affecting schools still linked to the local council, giving advice to members being made redundant or facing a disciplinary, consulting over changes to pensions, or advising teachers concerned about the implications of their school becoming an academy.

Steve Gallin is a union rep for Community and works for PLUSS, a UK-wide organisation owned by a number of local authorities which not only employs people with disabilities across its many factories, but also offers training and help to unemployed disabled people looking for work. Steve is based at the company's Exeter office and says that the PLUSS HR department is very flexible when it comes to him needing to take time out from his job as a supervisor at the firm to represent the 160 or so Community members who work for PLUSS across the South West. As a result of government cuts in spending, many local councils are currently either cutting back on, or ending completely, their funding of PLUSS and so much of Steve's work at the moment is supporting those workers affected by redundancy as some of the factories are forced to close or lay off staff. Steve has worked at PLUSS for over 25 years, has been a rep for the last 15, and says that he has a good working relationship with the company's managers, a factor which helps when they are having to deal with difficult issues.

Angela Rayner is a full-time Unison rep at Stockport Council. She is the branch secretary and spends her working day (and a good deal of her own time) negotiating with senior council officers and councillors on behalf of some 4,000 Unison members. Her days are busy and varied and include discussions over pay and conditions, the market testing of council services, trying to lessen the impact of government spending cuts on council-run services, its staff and the local community, and advising the council on equality and employment matters. She also supports union members who are being made redundant, or facing a disciplinary, or who have raised whistleblower-style concerns. She combines all this with raising three children, is a school governor, a signer for deaf people, and in the remaining free time she has, Angela occasionally runs for charity. She sees herself as the council's critical friend – someone who is there to remind senior officers and councillors to consider the impact of council policies upon employees and the wider community. Angela was once a home help, but has been a full-time union rep for nine years.

Helen Kenny is a full-time Prospect rep working for the Forensic Science Service (FSS) in London. Since the government announced the closure of the Service in 2010, Helen's main role has been negotiating with HR securing decent redundancy terms for the thousand or so staff affected, as well as being involved in the TUPE arrangements being put in place for scientists being transferred across to the Metropolitan Police. Several years ago Helen was heavily involved in the transformation process in 2009 – after the FSS went from being part of the civil service to a government-owned company – which ultimately led to the closure of three FSS sites. Helen says the transformation process was one of the biggest

pieces of work she's ever been involved because it covered negotiations around changes to pensions, redundancies across the three sites affected, changes to terms and conditions, and a whole new look at the way in which the Service worked. She sees her role as trying to secure the best possible deal for members from what is ultimately a very depressing situation, and advising the Service's management on the best ways of achieving this.