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FACILITIES ARRANGEMENTS FOR TRADE UNIONS AND PROFESSIONAL ORGANISATIONS PIN POLICY

MAY 2011

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FOR TRADE UNIONS AND
PROFESSIONAL
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Ministerial Foreword



NHSScotland aims to deliver the highest quality healthcare services and, through this, to ensure that NHSScotland is recognised by the people of Scotland as amongst the best in the world. The *Quality Strategy*¹ sets the overall direction for achieving this, both now and in the future, focussing on three Quality Ambitions: ‘person-centred’, ‘safe’ and ‘effective’. Delivering against all three is dependent on having a committed, dedicated, professional and healthy workforce.

I am proud of the progress made by NHSScotland Boards in striving towards exemplar employer status. Staff Governance (ensuring the fair and effective management of staff) has been enshrined in legislation, and enjoys equal status with the other pillars of clinical and financial governance. Similarly, the evolution of partnership working between employers and trade unions/professional organisations at both local and national level has helped to ensure that we have a health service in which employees are actively involved in the decisions which affect them and engaged in delivering high quality services. Indeed, the approach to employee relations within NHSScotland has been described in a recent report as ‘groundbreaking’ and ‘arguably the most ambitious labour-management partnership so far attempted in the UK public sector’.²

The development of NHSScotland Partnership Information Network (PIN) policies provides a means of further ensuring sound staff governance practice. They set a minimum standard of practice in the area of employment policy, helping to ensure a fair and consistent means of managing staff which meets both current legislative requirements and best employment practice. These PIN Policies have been published following significant work in partnership between the Scottish Government, NHSScotland employers and recognised trade union/professional organisation partners, and following widespread consultation across the service.


¹ <http://www.scotland.gov.uk/Topics/Health/NHS-Scotland/NHSQuality/QualityStrategy>

² Nottingham University Business School, 2011. *Evaluating Labour-Management Partnership in NHSScotland: first-findings*.

These PIN Policies form part of the terms and conditions of employment of all NHSScotland employees. While Boards may develop policies to meet particular local needs, I expect all Boards to adhere to the PIN policies and ensure that practice never falls short of any of the provisions set out within these policies. By doing so, we can ensure that employees are treated fairly and consistently irrespective of the part of the service in which they work.

I am asking all NHSScotland managers and leaders to ensure that they adopt and embrace the PIN policies within their Boards and within their individual roles. I am also tasking Employee Directors and Board Partnership Forums to champion these policies and to raise non-compliance in a positive and constructive manner.

These PIN policies represent an exemplar approach to employment policy and practice, and I look forward to seeing evidence of their implementation across NHSScotland in the months and years ahead.

A handwritten signature in black ink, reading "Nicola Sturgeon". The signature is written in a cursive style with a large initial 'N'.

Cabinet Secretary for Health, Wellbeing and Cities Strategy

Preface

Staff Governance

Staff Governance is defined as “a system of corporate accountability for the fair and effective management of all staff”. The [Staff Governance Standard](#)³ which is applicable to all staff employed in NHSScotland, sets out what each NHSScotland employer must achieve in order to improve continuously in relation to the fair and effective management of staff. The Standard requires that all NHS Boards must demonstrate that staff are:

- Well informed;
- Appropriately trained;
- Involved in decisions which affect them;
- Treated fairly and consistently; and
- Provided with an improved and safe working environment.

It is recognised that staff are central to achieving the principal aims of NHSScotland, namely to improve health and wellbeing, and to deliver high quality care to those with ill health. Achievement against the Staff Governance standard is therefore key to the effective and efficient delivery of services by providing an environment that is inclusive and conducive to employees giving of their best.

NHSScotland’s commitment to staff governance has been reinforced by its legislative underpinning within the [National Health Service Reform \(Scotland\) Act 2004](#)⁴, which ensures parity with the other two governance pillars of clinical and financial governance.

PIN Policies

Partnership Information Network (PIN) policies define a minimum standard of best employment practice and are designed to achieve a consistent approach to the way NHSScotland deals with its employees. They have been developed in partnership between NHSScotland management, trade unions/professional organisations and Scottish Government. While local adaptations may be agreed in partnership to suit Boards’ own local needs, any such adaptations must still meet or exceed the minimum standards set out within the PIN policies.

³ <http://www.staffgovernance.scot.nhs.uk>

⁴ <http://www.legislation.gov.uk/asp/2004/7/contents>

Compliance with the Staff Governance Standard includes implementation of PIN policies. Boards will be expected to evidence adherence to the PIN policies as part of the annual SAAT and accountability review processes. Part 1: Principles and Partnership of the *Agenda for Change Terms and Conditions Handbook*⁵ incorporates PIN policies within the terms and conditions of employment of all NHSScotland staff and serves to further reinforce the fact that adherence to the minimum standards set out within them is mandatory for all NHSScotland Boards.

Board Partnership Forums therefore have a key role in ensuring that locally developed policies meet or exceed the minimum standards set out in the PIN policies; and in raising non-compliance in a positive and constructive manner.

⁵ <http://www.msg.scot.nhs.uk/wp-content/uploads/Agenda-for-Change-Handbook-Master-Scottish-Copy-Amendment-24.pdf>

CONTENTS

	Page
1 Introduction	1
2 Main Report	3
2.1 Principles & Values	3
2.2 Legal Framework	5
2.3 Strategic & Policy Framework	9
2.4 Scoping Facilities Time	11
2.5 Managing Facilities Arrangements	12
2.6 Funding Arrangements	14
2.7 Indicators of Success	15
2.8 Monitoring & Evaluation	18
Appendix 1	19
Model Facilities Agreement	19
Annex A: Facilities Management Tool (Individual)	27
Annex B: Facilities Time Request and Monitoring Form	30
Appendix 2	33
PIN Policy Review Group	33



1 Introduction

The success of the NHS, and the delivery of quality services, depends on the commitment of management, trade unions/professional organisations⁶ and staff to establishing effective employee relations. Partnership processes and other procedural agreements will enable differences to be dealt with appropriately, while recognising that trade unions/professional organisations retain the right to represent and promote independently the interests of their members.

Partnership working within NHSScotland has progressed significantly since the publication of the *Human Resources Strategy: 'Towards a New Way of Working (1998)'* and the subsequent *NHS MEL(1999)59: Local Partnership Agreements*⁷. The implementation of PIN publications and the Staff Governance Standard have built upon the foundations of partnership working, and now the inclusion of staff governance within the *National Health Service Reform (Scotland) Act 2004*⁸ makes it imperative for NHSScotland employers to invest in modern and robust Facilities Agreements.

Successful implementation of partnership working is contingent upon an effective system of employee relations built on sound facilities arrangements with trade unions/professional organisations. It is vital to good employee relations that the workforce is properly represented by recognised trade unions/professional organisations. Fully representative and effective trade unionism will enhance workplace employee relations. Facilities Agreements are the cornerstone of good employee relations and are key to the delivery of the *Staff Governance Standard*⁹.

In addition to partnership working, modern Facilities Agreements must encompass statutory provisions and legislative guidance beyond those required by the National Health Service Reform (Scotland) Act 2004. These provisions include ACAS guidance and NHS terms and conditions in regard to time off for trade union/professional organisation duties and activities.

⁶ This PIN Policy refers to facilities arrangements for accredited representatives of trade unions/professional organisations recognised within NHSScotland (a list of which, in addition to the British Medical Association, is provided in Section 40 of the Agenda for Change Terms & Conditions Handbook) <http://www.msg.scot.nhs.uk/wp-content/uploads/Agenda-for-Change-Handbook-Master-Scottish-Copy-Amendment-24.pdf>

⁷ http://www.sehd.scot.nhs.uk/mels/1999_59.htm

⁸ <http://www.legislation.gov.uk/asp/2004/7/contents>

⁹ <http://www.staffgovernance.scot.nhs.uk>

Major changes in the workplace mean trade unions/ professional organisations are now supporting more members in a wide variety of situations (such as integrated care, Community Health Partnerships, workforce and financial planning, procurement, eHealth etc.).

Traditional arrangements relying on legislative minimum standards are no longer enough, and a framework for facilities arrangements is essential. To this end, this PIN Policy seeks to set out:

- a) The principles and practice which support facilities arrangements;
- b) How facilities arrangements support partnership working;
- c) The legal and policy framework; and
- d) Advice on scoping and funding good Facilities Agreements.

This document also includes a Model Facilities Agreement for NHSScotland employers.

Indicators of success are outlined for local evaluation of implementation of this document. These indicators will be followed up through the accountability review process.

2 Main Report

2.1 Principles & Values

The key principles underpinning Facilities Agreements are that:

- Boards must put into place local mechanisms, agreed by the Board's Area Partnership Forum (or equivalent), to enable facilities time to be quantified, funded, monitored and to demonstrate adherence to the principles of ensuring that facilities time funding is fair and equitable across the organisation;
- Individuals will not be refused employment nor be subjected to detrimental treatment during the course of their employment on the grounds of their membership of a trade union/professional organisation or activities as a trade union/professional organisation representative; and
- The practice of managers and trade union/professional organisation representatives will be governed by the duties and responsibilities outlined below.

There are specific responsibilities for employers and trade unions/professional organisations in this context:

2.1.1 **The responsibilities of trade unions/professional organisations party to Facilities Agreements will be to:**

- Elect and accredit representatives in accordance with trade union/professional organisation constitutions;
- Notify the Director of Human Resources (HR) or equivalent in the local NHS Board of their accredited representatives and areas of responsibility;
- Provide appropriate training for their representatives;
- Ensure their representatives are familiar with the Facilities Agreement provisions and that they comply with these;
- Ensure that the time and resources provided in this context will be used appropriately and cost-effectively; and
- Ensure that representatives give reasonable notice of time off requirements and comply with monitoring requirements.

2.1.2 The responsibilities of NHS employers in this context will be to:

- Fund the costs of facilities time and provide appropriate resources to recognised trade unions/professional organisations;
- Ensure management at all levels are familiar with Agreements and arrangements relating to time and facilities for trade unions/professional organisations;
- Ensure no detrimental treatment of employees as a result of their trade union/professional organisation involvement and that individuals' employment and careers are not prejudiced; and
- Audit the implementation of Agreements.

2.2 Legal Framework

The legislation that provides the right for time off for trade union duties¹⁰, and protection from detrimental treatment in relation to the carrying out of such duties is mainly contained within the *Trade Union and Labour Relations (Consolidation) Act 1992*¹¹.

Other relevant legislation includes the provisions referred to below.

These legislative sections are supported by the '*ACAS Code of Practice - Time Off for Trade Union Duties and Activities*'¹², the purpose of which is to aid and improve the effectiveness of relationships between employers and trade unions. The Code applies the spirit of the legislation and offers practical advice to employers and trade unions in the application of the law. The Code provides practical examples of trade union duties and activities. While the Code stops short of being prescriptive, it offers some practical considerations for both employers and trade unions.

2.2.1 Health and Safety at Work etc. Act 1974 and related legislation

The *Health and Safety at Work etc. Act 1974*¹³ imposes obligations on employers to ensure that they meet their responsibilities in terms of health and safety, including consulting with and providing facilities for safety representatives. The *Safety Representatives and Safety Committee Regulations 1977*¹⁴ deal specifically with paid time off for safety representatives while carrying out their duties or undergoing safety training. The *Health and Safety (Consultation with Employees) Regulations 1996*¹⁵ place a duty on employers to consult with employees who are not represented by a trade union safety representative and this could be done directly or through an elected employee safety representative. The *Health and Safety Executive Code of Practice - 'Consulting workers on health and safety'*¹⁶ supports the legislation by providing practical advice.

¹⁰ The legislation and ACAS Code of Practice refers only to trade unions. However, for the purposes of this PIN Policy and NHSScotland read trade unions/professional organisations

¹¹ <http://www.legislation.gov.uk/ukpga/1992/52/contents>

¹² <http://www.acas.org.uk/index.aspx?articleid=2391>

¹³ <http://www.legislation.gov.uk/ukpga/1974/37/contents>

¹⁴ <http://www.legislation.gov.uk/uksi/1977/500/contents/made>

¹⁵ <http://www.legislation.gov.uk/uksi/1996/1513/contents/made>

¹⁶ <http://books.hse.gov.uk/hse/public/saleproduct.jsf?catalogueCode=9780717663118>

2.2.2 Trade Union and Labour Relations (Consolidation) Act 1992¹⁷

Part III of this Act contains rights in relation to trade union membership and activities, including the following:

- *Section 137*
Prevents employers from refusing to employ a person because they are, or are not, a member of a trade union;
- *Section 146*
Provides the right for a worker not to be subjected to any detriment by any act or failure to act by their employer for the sole or main purpose of preventing or deterring them from taking part in trade union activities, or penalising them for doing so;
- *Section 152*
Provides that, for the purposes of the *Employment Rights Act 1996*¹⁸, the dismissal of an employee shall be unfair if the reason for it was that the employee had taken part, or proposed to take part, in trade union activities;
- *Sections 168-170*
Provide that:
 - Trade union officials have a statutory right to reasonable paid time off to undertake trade union duties and trade union training; and
 - Trade union officials and members have a statutory right to reasonable unpaid time off when taking part in trade union activities.

Specifically:

- *Section 168*
Describes the duties for which an employer must permit an official to take time off;
- *Section 168 (4)*
Gives the employee the right to present a complaint to an employment tribunal that their employer has failed to permit them to take time off as required;
- *Section 168A*
Gives guidance on time off for union learning representatives;
- *Section 169*
Provides that employers have to pay employees who take time off under s.168 to perform trade union

¹⁷ <http://www.legislation.gov.uk/ukpga/1992/52/contents>

¹⁸ <http://www.legislation.gov.uk/ukpga/1996/18/contents>

duties. (There is no statutory duty on employers to pay representatives for time off for trade union activities, but the *ACAS Code of Practice – Time Off for Trade Union Duties and Activities*¹⁹, at paragraph 41, suggests that employers may wish to do so in certain circumstances.);

- *Section 169 (5)*

Gives the employee the right to present a complaint to an employment tribunal that they have not been paid properly for the time taken off;

- *Section 170*

Provides for trade union officials and members to take time off during working hours for the purpose of taking part in trade union activities.

- *Section 171*

Describes the time limits applicable to raising employment tribunal proceedings in respect of the rights to time off for trade union duties and activities;

- *Section 172*

Describes the remedies that are available to the tribunal.

2.2.3 **'ACAS Code of Practice – Time Off for Trade Union Duties and Activities'**²⁰

This Code contains useful practical guidance on the application of the relevant legislative provisions, for example:

- *Paragraphs 12-15*

Give examples of the types of duties mentioned in section 168 of the *Trade Union and Labour Relations (Consolidation) Act 1992*²¹;

- *Paragraph 38*

Gives examples of the types of activities mentioned in section 170 of the *Trade Union and Labour Relations (Consolidation) Act 1992*²².

2.2.4 **Employment Rights Act 1996**²³

- *Section 61*

Restates the right of an employee representative to take reasonable time off during working hours to perform their functions as such an employee representative or to undergo training for such functions;

¹⁹ <http://www.acas.org.uk/index.aspx?articleid=2391>

²⁰ <http://www.acas.org.uk/index.aspx?articleid=2391>

²¹ <http://www.legislation.gov.uk/ukpga/1992/52/contents>

²² <http://www.legislation.gov.uk/ukpga/1992/52/contents>

²³ <http://www.legislation.gov.uk/ukpga/1996/18/contents>

- *Section 62*
Allows an employee representative to be paid appropriate remuneration for the time taken off.

2.2.5 Employment Relations Act 1999²⁴

- *Section 10*
Gives employees the right to be accompanied to a disciplinary or grievance hearing. If the representative chosen by the employee is not available at the time proposed for the meeting, the employer must postpone the hearing to the alternative time suggested by the employee, provided that such alternative time is reasonable and falls before the end of five working days after the day proposed by the employer.
- *Section 10 (7)*
Specifies that the relevant sections of *Trade Union and Labour Relations (Consolidation) Act 1992*²⁵ in relation to time off for carrying out trade union duties shall apply in respect of trade union officials accompanying employees to such hearings.

2.2.6 National Health Service Reform (Scotland) Act 2004²⁶

This Act amends the National Health Service (Scotland) Act 1978 in a number of respects, including the introduction of a duty in relation to the governance of staff at section 12I.

- *Section 12I*
It shall be the duty of every Health Board and Special Health Board and of the Agency to put and keep in place arrangements for the purposes of -
 - a) Improving the management of the officers employed by it;
 - b) Monitoring such management; and
 - c) Workforce planning.

This section aims to ensure that staff governance has equal legislative parity with the rest of the governance framework (clinical and financial governance) within which NHS employers must operate. The *Staff Governance Standard*²⁷ is the key policy document to support this legislation, and having appropriate facilities arrangements in place will be crucial for NHS employers to be able to make progress in relation to

²⁴ <http://www.legislation.gov.uk/ukpga/1999/26/contents>

²⁵ <http://www.legislation.gov.uk/ukpga/1992/52/contents>

²⁶ <http://www.legislation.gov.uk/asp/2004/7/contents>

²⁷ <http://www.staffgovernance.scot.nhs.uk>

this Standard (in particular, the element relating to staff being involved in decisions that affect them).

2.3 Strategic & Policy Framework

Partnership was the key theme contained within the 1997 White Paper *'Designed to Care,'* which set out the commitment of the then Scottish Office to renewing the NHS.

Integral to this vision is to give staff and their trade unions/ professional organisations a bigger say in the design and management of the NHS and it is clear that the success of modernisation programmes will be influenced in no small measure by effective relations in the workplace.

The policy framework which underpins facilities arrangements within the NHS is derived from three key documents:

- *Staff Governance Standard*²⁸
- NHS terms and conditions (see section 25 of the *Agenda for Change Terms and Conditions Handbook*²⁹)
- *NHS MEL(1999)59: Local Partnership Agreements*³⁰

2.3.1 Staff Governance Standard³¹

As stated above, of particularly relevance in this context is the requirement under the Staff Governance Standard, for staff to be 'involved in decisions that affect them', at the earliest possible stage. This requirement goes beyond historical communication and consultation arrangements.

Furthermore, assessment of organisational progress in relation to the Staff Governance Standard is carried out by the Area Partnership Forum (or equivalent). The role of trade union/ professional organisation representatives is key to this process, and incorporated in legislation. It is crucial for this to be recognised by NHSScotland organisations and appropriate facilities arrangements accommodated to meet this obligation.

2.3.2 NHS MEL(1999)59: Local Partnership Agreements³²

NHS MEL(1999)59 signalled a new era in employee relations and called for a far greater degree of involvement, co-operation and working together than had previously been seen in the NHS. This MEL clearly stated that partnership is not merely about good employee relations. It is about trust,

²⁸ <http://www.staffgovernance.scot.nhs.uk>

²⁹ <http://www.msg.scot.nhs.uk/wp-content/uploads/Agenda-for-Change-Handbook-Master-Scottish-Copy-Amendment-24.pdf>

³⁰ http://www.sehd.scot.nhs.uk/mels/1999_59.htm

³¹ <http://www.staffgovernance.scot.nhs.uk>

³² http://www.sehd.scot.nhs.uk/mels/1999_59.htm

integrity and openness across all activities in NHSScotland. These values still hold true, and thus embrace the core values of fairness and consistency that are central to the *Staff Governance Standard*³³.

Partnership is also about the day-to-day issues that affect people in their daily working lives and working practices, as it is recognised as the way of developing consensus around changes to service delivery and provision within the NHS. This implies substantial and sustained commitment by both management and trade unions/professional organisations, and places specific responsibilities on both parties, which can only be achieved by the creation of modern facilities arrangements that go beyond the requirements of both the relevant legislation and NHS terms and conditions.

NHS MEL(1999)59 not only defines the principles and values of partnership working, but also includes a framework through which all stakeholders can fulfil their responsibilities, by working in partnership through the various stages of formulation, consultation and negotiation, implementation and evaluation. This will allow organisations to meet the element of the *Staff Governance Standard*³⁴ which states that staff are entitled to be 'involved in decisions that affect them' – as long as all parties define and recognise their role and responsibilities within this framework. This framework can only be successful in practice if it is underpinned by robust and resourced facilities arrangements. Facilities Agreements must also take full account of the changing roles/responsibilities of trade unions/professional organisations and managers.

Even in stringent financial times local Facilities Agreements should be seen as an investment, not a source of financial saving. NHSScotland will be well placed to cope with budget pressures by building shared values, including the rights and roles of all staff and patients, robust negotiation and consultation procedures, and the earliest possible involvement of staff representatives in important decisions.

³³ <http://www.staffgovernance.scot.nhs.uk>

³⁴ <http://www.staffgovernance.scot.nhs.uk>

2.4 Scoping Facilities Time

2.4.1 Given the current position outlined in 2.3 above, and to be able to adequately support the partnership arrangements in each NHSScotland organisation, there is a need to adopt a joint approach to the sizing of the role for trade union/professional organisation representatives and providing the resources to facilitate it. This should be viewed as a mutual responsibility of management and staff-side and is the first step in delivering adequately funded facilities time and supporting trade union/professional organisation representatives, managers, staff and patients on whom this will ultimately have an impact. Partnership working involves an additional workload to be shared between management and staff-side associated with delivering organisational compliance with the requirements of the Staff Governance Standard.

2.4.2 Each component part of NHSScotland is unique in its make up, workings and relationships. It is therefore essential that individual employers look at their needs and those of individual trade union/professional organisation representatives to be able to support partnership working to the level required. Organisations should establish a group to explore the various factors that give rise to the need for, and the pressures caused by, the granting of facilities time. This group should include lead HR staff, operational managers and trade union/professional organisation representatives, with the Employee Director and full-time officers included as deemed appropriate within each organisation. This work should be used to define the resources required to deliver the level of facilities time needed to meet the needs of both parties and should be reviewed regularly by mutual agreement.

To assist in this exercise a *Facilities Management Tool (individual)* is attached as Annex A to the Model Facilities Agreement. This identifies areas of work that individuals may be involved in which may require facilities time. The list is not exhaustive but provides a helpful baseline. This tool should be completed by each representative to allow the organisation to collate information on facilities to reflect the needs of the organisation, estimate requirements for the following year and inform funding allocation for the necessary backfill. NHS organisations are required to demonstrate appropriate investment in facilities arrangements through the Staff Governance self-assessment audit tool.

The following considerations should be made when calculating an individual trade union/professional organisation representative's time requirements:

- Grade and rate of pay of representative;
- Geographical spread of the organisation and travel time;
- Role played by lead representatives and office bearers;
- Preparation time; and
- Backfilling of resultant vacant posts (or parts of posts).

2.5 Managing Facilities Arrangements

Once an organisation has scoped the facilities time required by trade union/professional organisation representatives across the organisation, it must then consider the most appropriate approach to meet these requirements. The approach will depend on a number of factors such as the ease of backfill, numbers of staff in the department and availability of particular skills.

2.5.1 Planned Release

One of the most common approaches is through full or part-time planned release. This allows the organisation to quantify the facilities time that requires to be backfilled/covered. Backfill arrangements can include:

- Fixed-term appointments on a like-for-like basis;
- Fixed-term appointments on a different grade, ensuring the needs of the service are met;
- Use of overtime, additional and bank hours;
- Acting up arrangements from within the service area; and
- Training other staff within the department to undertake additional roles.

The form of planned release will vary greatly depending on the employer, but can be arranged into two distinct categories of staff-side and individual trade union/professional organisation facilities time.

In the case of staff-side facilities time, this tends to be one or two individuals elected or selected by the staff-side on short or long-term planned release from their substantive post.

Individual trade union/professional organisation facilities time is approached in a different manner. In some instances, for example, individual trade unions/professional organisations negotiate an agreement on behalf of their union/organisation, while in other areas all unions/organisations bid for a slice of the facilities time 'cake'.

The main area of concern for management is not usually the amount of facilities time that trade union/professional organisation representatives require, but rather how an individual manager will backfill the vacancy for a planned release, or staff the hours or shifts needed by representatives to fulfil their roles.

Some additional factors associated with the planned release of trade union/professional organisation representatives on a full or part-time basis which should be considered are:

- Preservation of earnings;
- Training (including personal development);
- Line management arrangements;
- End of planned release issues (e.g. redeployment);
- Replacement costs; and
- Retention of Mental Health Officer or Special Class Status for superannuation purposes.

2.5.2 Ad hoc Release

In some organisations trade union/professional organisation representatives request facilities time as the need arises, and managers authorise this through local procedures agreed by the Area Partnership Forum (or equivalent). In so doing, the range of options available to provide cover is reduced, but include:

- Use of overtime, additional and bank hours;
- Acting up arrangements from within the service area; or
- Training other staff within the department to undertake additional roles.

In these circumstances agreed budgetary arrangements will be in place to enable the manager to draw funding to backfill the positions of those released time.

2.5.3 Support Arrangements

Trade union/professional organisation representatives also require practical support from within the organisation to enable them to undertake their role. As the partnership agenda increases, organisations require to provide support arrangements to ensure success. These support arrangements include:

- Accommodation, including office space, IT (e-mail, intranet, internet access), PCs, phone/fax, storage/filing;
- Internal/external mail;
- Use of notice boards;
- Stationery; and
- Filing/archiving facilities.

It may be that due to the nature and size of the organisation, a mixture of the above suggestions would be appropriate. This remains for the employer and staff-side organisations to determine in partnership.

2.6 Funding Arrangements

Working in partnership has become increasingly important for organisations in the public, private, community and voluntary sectors. The *Staff Governance Standard*,³⁵ enshrined in legislation, raises the people management agenda within NHSScotland to a level equal to that of clinical and financial governance. It is now imperative that NHS Boards and Special Health Boards commit the resources required to implement this Standard.

Trade unions/professional organisations need to provide a supportive network. There is a need to equip people with skills that enable them to make a meaningful contribution to decision-making within partnerships. Enabling individual representatives to balance their substantive role with their trade union/professional organisation role and their home life should increase the quality of their working life. This in turn could lead to increased motivation, greater job satisfaction and improved job performance.

It is the responsibility of each organisation through their Area Partnership Forum (or equivalent) to decide what resources are required and how they will be made available. The section within this report on scoping facilities time provides guidance on how organisations can quantify the amount of resource required.

³⁵ <http://www.staffgovernance.scot.nhs.uk>

The Staff Governance agenda has placed an additional workload on partners and this will continue to be so. Given the requirement for the meaningful inclusion of trade union/professional organisations in the Staff Governance Standard, representatives can no longer be faced with the dilemma of attending a meeting, and leaving the ward or department short or having to cancel a clinic. Boards must put into place local mechanisms, agreed by the Board's Area Partnership Forum (or equivalent), to enable facilities time to be quantified, funded, monitored and to demonstrate adherence to the principles of ensuring that facilities time funding is fair and equitable across the organisation. These should reflect the findings of the individual facilities management tool submissions and be controlled by the Area Partnership Forum (or equivalent).

2.7 Indicators of Success

The key to the successful implementation of a Facilities Agreement is to ensure it is widely known and understood, that it is put into practice and that there is a system for feedback and review. To achieve this, consideration should be given to the following:

- Identify stakeholders who will influence the success of the Facilities Agreement and make them aware of the contents and the benefits to themselves and to the organisation;
- Provide all stakeholders with the opportunity to influence the shape of the local Agreement;
- Explain the role of stakeholders in implementation, monitoring and evaluation;
- Give feedback at critical points on the impact of the Agreement on the performance of the organisation;
- Review the Facilities Agreement in light of evaluation feedback;
- Hold joint awareness-raising and training sessions for HR managers, managers and trade union/professional organisation representatives; and
- Ensure a system is in place for recording and monitoring requests for time off.

It is important to publicise the existence of the Agreement and highlight the benefits to each of the stakeholders according to their perspective. Benefits include the following:

- Successful implementation of the *Staff Governance Standard*³⁶, feeding into the Area Partnership Forum (or equivalent) and accountability review;
- Motivated trade union/professional organisation representatives and managers, committed to working in partnership and the creation of good employee relations;
- An understanding by managers and trade union/professional organisation representatives of what is reasonable facilities time and an appreciation of the value being added through the contribution of the trade union/professional organisation representatives to the performance of the organisation;
- Well trained trade union/professional organisation representatives;
- All the benefits and successes for the organisation of working in partnership;
- A consistent approach to providing facilities time across the organisation;
- Resources to provide support for local facilities requests; and
- Greater commitment and co-operation in managing change fostered through full involvement of local representatives.

2.7.1 Provide all stakeholders with the opportunity to influence the shape of the local Agreement

Development of a local Facilities Agreement should be managed through the Area Partnership Forum (or equivalent) with maximum consultation with stakeholders.

2.7.2 Explain to stakeholders their role in implementation, monitoring & evaluation

- Stakeholders will be expected to be aware of the contents of the Agreement and understand why it is in place. Organisations must be publicly committed to the Agreement;
- Where stakeholders are line managers, they must bring the Agreement to the attention of their staff and ensure contents are understood; and
- Stakeholders must comply with requirements in relation to requesting, authorising and recording facilities time.

³⁶ <http://www.staffgovernance.scot.nhs.uk>

2.7.3 Give feedback at critical points on the impact of the Agreement on the performance of the organisation

The Area Partnership Forum (or equivalent) must consider how it can provide feedback to the Staff Governance Committee and the NHS Board which illustrates that the anticipated benefits of the Agreement are being realised.

2.7.4 Review the Facilities Agreement in light of evaluation feedback

Local Agreements should have a realistic review date. Responsibility for ensuring timely review rests with the Area Partnership Forum (or equivalent).

2.7.5 Hold joint awareness-raising and training sessions

Organisations should consider this as an opportunity to bring trade union/professional organisation representatives together with managers to facilitate a greater understanding of their respective roles, common objectives and common/differing problems faced when trying to achieve these objectives. Joint training will encourage a better appreciation of different roles.

2.7.6 Settling differences of opinion

In the event of disagreement over granting of time off, the advice of the HR department should be sought to seek an informal resolution. This may involve a senior trade union/professional organisation representative or full-time official as appropriate and as determined by the trade union/professional organisation. Only where matters remain in dispute should issues be pursued formally under the organisation's Grievance Policy.

2.7.7 Ensure a system is in place for recording and monitoring time off requests

A formal system which records facilities time requests will enable the production of statistics indicating the amount of time spent on different trade union/professional organisation roles and the frequency and reasons for requests not being authorised. It is recommended that this information is presented to the Area Partnership Forum (or equivalent) on a regular basis as part of the review of the Facilities Agreement.

The Model Facilities Agreement includes a template which may be amended to suit local requirements. The list of activities provided on the form is neither exclusive nor exhaustive but is recommended as the minimum data set.

Monitoring arrangements should take into account the requirements of the *Working Time Regulations 1998*³⁷.

³⁷ <http://www.legislation.gov.uk/ukxi/1998/1833/contents/made>

2.8 Monitoring & Evaluation

The following is a list of key criteria by which the implementation of Facilities Agreements can be measured:

- Boards have in place local mechanisms, agreed by the Board's Area Partnership Forum (or equivalent), to enable facilities time to be quantified, funded, monitored and to demonstrate adherence to the principles of ensuring that facilities time funding is fair and equitable across the organisation;
- There is a commitment from the Board, senior managers and Area Partnership Forum (or equivalent) to promote the development and use of the Facilities Agreement;
- There is local awareness and implementation by HR staff and operational managers of the Facilities Agreement;
- There is equity of access for all to the Facilities Agreement;
- There are training and development plans to support local partnership arrangements;
- A system is in place for the Area Partnership Forum (or equivalent) to monitor effectiveness of local Facilities Agreements, including monitoring refused requests, turnover rates of representatives and the inclusion of investment within annual reports/service plan; and
- Compliance with the *Staff Governance Standard*³⁸, particularly the requirements of the 'involved in decisions which affect staff' and 'treated fairly and consistently' components.

³⁸ <http://www.staffgovernance.scot.nhs.uk>

Appendix 1

Model Facilities Agreement

1 Introduction

- 1.1** This Facilities Agreement identifies the framework for facilities and time-off for accredited representatives of independent trade unions/professional organisations recognised in accordance with NHS terms and conditions.
- 1.2** It takes cognisance of the relevant statutory framework, including the following:
- *Health and Safety at Work etc. Act 1974* and related legislation;
 - *Trade Union and Labour Relations (Consolidation) Act 1992*;
 - *Employment Rights Act 1996*;
 - *Employment Relations Act 1999*;
 - *National Health Service Reform (Scotland) Act 2004*; and
 - 'ACAS Code of Practice - Time Off for Trade Union Duties and Activities'.
- 1.3** *[Name of organisation]* recognises that time off for trade union/professional organisation duties and activities as well as the practical support (or 'facilities') needed to carry out all trade union/professional organisation work will be to the mutual benefit of the employer and trade unions/professional organisations.
- 1.4** *[Name of organisation]* recognises that it is vital to good employee relations that its workforce should be represented by accredited officials of recognised trade unions/professional organisations.
- 1.5** *[Name of organisation]* is committed to the partnership agenda and recognises that investment in good facilities arrangements is key to the effective management of the people who deliver health services to meet patient needs.
- 1.6** *[Name of organisation]* recognises the significant increase in demands made on trade unions/professional organisations within the Staff Governance Standard and is committed to supporting the roles required as detailed in the *National Health Service Reform (Scotland) Act 2004*.

2 Employer responsibilities

2.1 **[Name of organisation] will:**

- Put in place a mechanism, agreed by the Area Partnership Forum (or equivalent), to enable facilities time to be quantified, funded, monitored and to demonstrate adherence to the principles of ensuring that facilities time funding is fair and equitable across the organisation;
- Ensure that management at all levels are familiar with arrangements relating to the Facilities Agreement;
- Ensure no victimisation or detrimental treatment of employees in respect of their trade union/professional organisation involvement; and
- Provide facilities to recognised trade unions/professional organisations as detailed in 2.2 below.

2.2 **[Name of organisation] will provide the following facilities to recognised trade unions/professional organisations:**

- Appropriate accommodation for meetings and trade union/professional organisation education;
- Facilities for the deduction of trade union/professional organisation subscriptions from payroll. Information will be provided to trade unions/professional organisations in the format requested;
- Where practicable, provide organisational contact details of new employees or those employees changing jobs, or alternatively provide such employees with contact details of recognised trade unions/professional organisations;
- Secure office accommodation (including the provision of reasonable storage facilities for documentation) for use by representatives, to ensure that confidentiality can be maintained in the carrying out of trade union/professional organisation activity;
- Access to internal and external telephones for use in trade union/professional organisation activity with due regard given to the need for privacy and confidentiality;
- Access to the internal mail system. Where it is considered necessary to distribute to particular workplaces by post, the organisation will bear the cost where mailings are agreed in advance;

- Access to the employer's intranet and e-mail systems where available;
- Provision of pagers, where necessary, to trade union/professional organisation officers of Local Negotiating Committees and/or Local Partnership Forums;
- The use of PCs for essential work in respect of supporting employee relations;
- Access to administrative support to the trade union/professional organisation officers of the Local Negotiating Committees and/or Local Partnership Forums, with due regard given to the need for privacy and confidentiality;
- Access to the organisation's notice boards at all major locations for display of official trade union/professional organisation literature and information. Notices distributed elsewhere on organisation premises must be with prior consent;
- Access for representatives to all documents relating to agreements which affect represented members;
- Access to information for collective bargaining as specified by the '*ACAS Code of Practice - Disclosure of Information to Trade Unions for Collective Bargaining Purposes*';
- Access for representatives to all relevant information, such as minutes and agendas pertinent to the partnership process, including the local delivery plan, financial plans, service development and review plans;
- Facilities for representatives to meet with full-time officers by arrangement; and
- Facilities to enable recognised trade unions/professional organisations to conduct a ballot where this is required by law.

3 Trade Union/Professional Organisation responsibilities

3.1 Recognised trade unions/professional organisations will:

- Elect and accredit representatives in accordance with trade union/professional organisation constitutions;
- Notify the Director of Human Resources (HR) of accredited representatives and areas of responsibility;
- Provide appropriate training for their representatives;
- Ensure representatives are familiar with the Facilities Agreement provisions;
- Ensure that the time and resources provided in this context will be used appropriately and cost-effectively; and
- Ensure representatives give reasonable notice of time off requirements and comply with monitoring arrangements.

3.2 Accredited trade union/professional organisation representatives will:

- Abide by the rules of their trade union/professional organisation and the policies and procedures of [*Name of organisation*];
- Represent their members on matters that are of mutual concern to [*Name of organisation*] and its employees; and
- Give reasonable notice of time off requirements. Where possible, pre-planned commitments should be notified over the prior 12 week period. Notification of time off for training courses should be given as early as possible and no later than four weeks prior to the training course.

4 Requests for facilities time and arrangements

- 4.1** It is not possible to be prescriptive about all the roles that require to be undertaken within [*Name of organisation*] or to be exact about the time required to carry them out. It is agreed that requests for paid time off will not be unreasonably refused.
- 4.2** Subject to adequate notification, accredited trade union/professional organisation representatives will be permitted paid time off during working hours to carry out duties that are concerned with negotiation and consultation with [*Name of organisation*] and for duties connected with meeting the requirements of the Staff Governance Standard including:
- Carrying out the staff survey and completion of the self-assessment audit tool;
 - Negotiation of terms and conditions of employment, attendance at Local Negotiating Committees or Sub-Committees, and relevant national bodies;
 - Matters of discipline or grievance, including time to prepare for meetings called under the relevant procedures;
 - The physical conditions in which staff are required to work, including participation in risk assessment programmes and local Health and Safety Committees;
 - Recruitment of employees to trade union/professional organisation membership, in particular attendance at employee induction courses;
 - Allocation of work or the duties of employment between workers or groups of workers; and
 - Machinery for consultation, including participation in the Area Partnership Forum (or equivalent) or its sub-groups, time to prepare for such meetings and disseminate information and outcomes to members and the time involved for travel for meetings away from the workplace. This also includes participation in relevant area-wide, inter-agency or Scottish Forums.
- 4.3** In addition, paid time off will normally be granted to notified delegates for attendance at trade union/professional organisation group meetings or conferences. It is expected that the trade unions/professional organisations will meet the costs of delegates' attendance (travel, subsistence etc).

- 4.4** Reasonable time off with pay will be granted to attend training courses approved by the TUC, the STUC or recognised trade unions/professional organisations. Requests should normally be made to the appropriate line manager at least four weeks in advance of the start of the course. Details of the course should be provided. Trade union/professional organisation branches should seek to undertake annual training needs assessment of representatives and branch officers and notify [*Name of organisation*] of requirements. Programmes of training may include joint courses with the employer.
- 4.5** Where time off with pay has been approved, the payment due will equate to the earnings the employee would otherwise have received had they been at work.
- 4.6** Where meetings called by management are held on matters covered by 4.2 above and where trade union/professional organisation representatives have to attend outwith their normal working hours, appropriate payment will be made or equivalent time off granted. This also applies to approved training courses which extend beyond contracted hours.
- 4.7** It is recognised that senior trade union/professional organisation representatives, branch secretaries and officers of Local Negotiating Committees and Area Partnership Forums (or their equivalent) bear a greater responsibility in terms of trade union/professional organisation duties. [*Name of organisation*] will, therefore, conclude agreements with trade union/professional organisations on appropriate secured paid time off for such representatives and arrangements for replacement staffing.

5 Planned release arrangements

Where full-time release for trade union/professional organisation duties is granted to a representative, arrangements should be made in line with the *Secondment PIN Policy*³⁹ (where appropriate).

6 Funding arrangements

The Board will put in place a mechanism, agreed by the Area Partnership Forum (or equivalent), to enable facilities time to be quantified, funded, monitored and to demonstrate adherence to the principles of ensuring that facilities time funding is fair and equitable across the organisation. This mechanism will be used to fund replacement staffing where, for example, agreements are made for planned release, or where ad hoc release occurs. A Facilities Management Tool (Individual) to assist this process is provided at Annex A of the *Facilities Arrangements for Trade Union & Professional Organisations PIN Policy*.

³⁹ <http://www.staffgovernance.scot.nhs.uk/>

7 Procedure for agreeing time off

7.1 Funding

A sub-group of the Area Partnership Forum (or equivalent) will agree the time/backfilling funds/physical resources required to support the role of trade union/professional organisation representatives in the employee relations agenda. The group will use the Facilities Management Tool (Individual) as part of the scoping exercise and will take account of good practice as described in the *Facilities Arrangements for Trade Union & Professional Organisations PIN Policy*. Recommendations will be made to the Area Partnership Forum (or equivalent) on how funds are put to best use.

7.2 Recording and Monitoring Facilities Time

It is the responsibility of the trade union/professional organisation representative to ensure that they maintain an accurate record of the facilities time required to undertake their trade union/professional organisation duties and activities. This is achieved through the use of the Facilities Time Request and Monitoring Form provided at Annex B of the *Facilities Arrangements for Trade Union & Professional Organisations PIN Policy*.

This form serves three functions: firstly, it acts as a means of recording formal authorisation given by the line manager; secondly, it requires the line manager to record the reason when authorisation has been withheld; and thirdly, it helps to build an accurate picture of the amount of time invested in the role of trade union/professional organisation representatives.

Trade union/professional organisation representatives must submit requests for planned facilities time within agreed timescales for authorisation by their line manager. At the end of each month, the trade union/professional organisation representative must complete the form on a retrospective basis, listing ad hoc or unplanned facilities time engagements.

Completed forms will be submitted to the HR Department for the compilation of a statistical report which will be presented to the Area Partnership Forum (or equivalent) on an annual basis (or as agreed) as part of the review of the Facilities Agreement.

8 Settling differences of opinion

- 8.1** In the event of disagreement over the granting of time off, the advice of the HR department should be sought to seek an informal resolution. This may involve a senior trade union/professional organisation representative or full-time official as appropriate and as determined by the trade union/professional organisation.
- 8.2** In the event of the matter remaining in dispute, the issue may be dealt with through [*name of organisation*]'s grievance procedure.

Annex A: Facilities Management Tool (Individual)

A.	BASIC STEWARDING/REPRESENTATIVE ROLE		
		AVERAGE HOURS PER MONTH	AVERAGE COST PER MONTH
1.	Recruitment/Induction		
2.	Grievance (preparation)		
3.	Disciplinary (preparation)		
4.	Advice/Guidance (informal resolution)		
5.	Consultation		
6.	Negotiation		
7.	Training		

B.	HEALTH & SAFETY		
		AVERAGE HOURS PER MONTH	AVERAGE COST PER MONTH
1.	Duties as statutory safety representative		
2.	Health and Safety Committees		
3.	Policy Development		
4.	Training		

C.	TERMS AND CONDITIONS		
		AVERAGE HOURS PER MONTH	AVERAGE COST PER MONTH
1.	Briefing/communication/advice		
2.	Steering Committee		
3.	Job Matching		
4.	Job Evaluation		
5.	Job Analysis		
6.	Appeals		
7.	KSF/PDR activity		
8.	Training		

D.	PARTNERSHIP INITIATIVES		
		AVERAGE HOURS PER MONTH	AVERAGE COST PER MONTH
1.	Health Board Meetings/Sub Committees		
2.	Staff Governance Committee		
3.	Area Partnership Forum (APF) (or equivalent)		
4.	APF Sub Groups		
5.	'Local' Partnership Forum (Divisional, CHP etc).		
6.	Service Planning/Re-design		
7.	Staff Side Meetings		
8.	Reading/Preparation		
9.	Training		

E.	ROLE WITHIN WIDER TRADE UNION/PROFESSIONAL ORGANISATION OR STAFF SIDE ORGANISATION		
		AVERAGE HOURS PER MONTH	AVERAGE COST PER MONTH
1.	Scottish		
2.	UK		
3.	Other		

F.	ROLE WITH OTHER EMPLOYERS		
		AVERAGE HOURS PER MONTH	AVERAGE COST PER MONTH
1.	PFI/PPP Contractors		
2.	Other (e.g. Nursing Homes etc.)		

G.	UNION LEARNING REPRESENTATIVE		
		AVERAGE HOURS PER MONTH	AVERAGE COST PER MONTH
1.	Statutory Role		
2.	Training		

Annex B: Facilities Time Request and Monitoring Form

[Name of Employer]

Facilities Time Request and Monitoring Form

Section 1: To be completed by Staff Representative

1.1 Personal Details

Name	
Job Title	
Ward/Department & Base	
Phone	
Trade Union/Professional Organisation	

1.2 Origin of Request

Is your time out at the request of...? (please tick)

[Name of organisation] Your union/organisation
 Your member(s) Both/all parties

1.3 Reason for needing time out (please tick)

Partnership Fund Duties & Activities

Area Partnership Forum (or equivalent) Local Partnership Forum
 Partnership Working Group Co-delivering local policy training
 Other (please specify):

Trade Union/Professional Organisation Duties & Activities

Staff Side Group Advising/representing members
 Attending in-house training Off-site training/conference
 Other (please specify):

1.4 Estimate of Facilities Requested

Date(s) for time out	
Start & end time	
Total time required (including travel)	
Date & time when back at work/on duty	
Signature	

Section 2: To be completed by Manager

Facilities time approved

Yes

No (*please specify reason*)

Partnership Fund Duties & Activities

Yes

No (*please specify reason*)

If time out attracts Partnership Fund money:

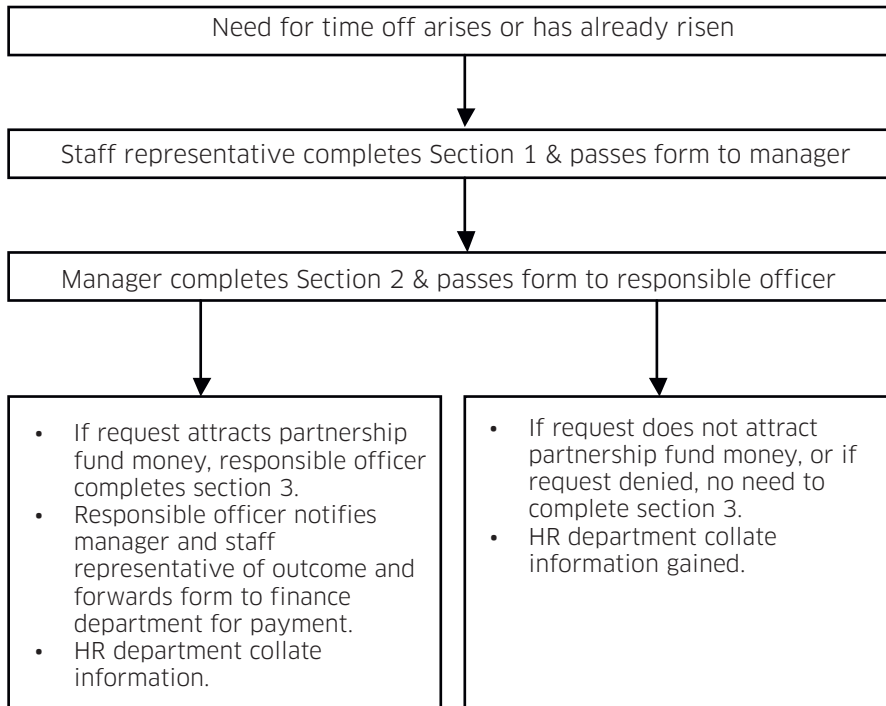
Grade of replacement costs	
Hours of replacement costs	
Budget code to receive replacement costs	
Name of manager (<i>please print in block capitals</i>)	
Signature	

Section 3: To be completed by Responsible Officer

I approve/do not approve (please delete as appropriate) of the Partnership Fund being used for this purpose. Please forward the necessary funds to budget code.

Name of Responsible Officer (<i>please print in block capitals</i>)	
Signature	

Process



Appendix 2

PIN Policy Review Group

Chair:	John Gallacher ⁴⁰	Regional Officer, UNISON
Members:	John Callaghan	Scottish Convenor, Society of Chiropodists and Podiatrists
	Sheila Rosher	Head of Resourcing, NHS Ayrshire and Arran
	Christine McCole	Deputy Director Human Resources, NHS Education for Scotland
	Caroline Fee	Staff Governance Associate, Scottish Government
	Darren Paterson	Staff Governance Associate, Scottish Government

⁴⁰ Member of the original PIN Policy Development Group