Good Work Lab

FREE EMPLOYER GUIDE / NOVEMBER 2026

Trade Union Facility Time: 18 Employer FAQs

Who qualifies, what must be paid, what is reasonable and how employers should govern facilities and time off.

THE ESSENTIAL DISTINCTION

Paid time off for qualifying union duties is not the same as **unpaid time off for union activities**. A separate question concerns the facilities needed to perform representative functions. The 2026 reforms make those distinctions especially important.

PRACTICAL INDUSTRIAL RELATIONS GOVERNANCE

An employer-facing guide to lawful release, operational planning and a workable relationship with recognised trade unions.

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01 / THE LEGAL STARTING POINT

Identify the right - before setting the allowance

01 What is trade union facility time?

Facility time commonly means the working time an employer releases a qualifying union representative from their normal duties to carry out recognised union responsibilities. It is distinct from the provision of physical or digital **facilities**, such as meeting space, access to a telephone or appropriate communication equipment. Some release is required by statute; additional arrangements may be negotiated through recognition agreements or workforce policies. A useful employer protocol identifies the role, purpose, payment status, approval route and recording method for each request.

TULRCA 1992, sections 168, 168A and 170; relevant Acas Code of Practice.

02 Who is entitled to paid time off for union duties?

Under **section 168**, an employee who is an official of an **independent trade union recognised by the employer** for collective bargaining is entitled to reasonable paid time off during working hours for specified union duties and approved training. An official may be a workplace representative properly elected or appointed under union rules. Recognition, the representative's status and the purpose of the time off all matter. This is not an automatic entitlement to paid release for every employee who belongs to a union or every person holding a union title.

TULRCA 1992, sections 119 and 168.

03 Does facility time cover an employer with no recognised union?

The core statutory paid-time-off rights for trade union officials and learning representatives generally depend on recognition of the independent union and the statutory conditions being met. Other rights may still apply, including a worker's entitlement to be accompanied at a qualifying disciplinary or grievance hearing, and separate statutory provisions for certain representatives. Employers may also voluntarily agree release arrangements. **Workplace access rights are a different regime**: a union seeking access to recruit or communicate with workers does not automatically gain collective bargaining recognition or a general facility-time entitlement.

TULRCA 1992, sections 168-170; Employment Relations Act 1999, section 10; workplace-access provisions.

02 / DUTIES, ACTIVITIES AND LEARNING

Paid and unpaid time off are different questions

04 Which activities normally qualify as paid union duties?

Qualifying duties under section 168 include work connected with collective bargaining, specified employer information and consultation functions, and approved Industrial Relations training relevant to those duties. Examples may include preparing for a pay negotiation, attending an agreed joint negotiating meeting, or participating in relevant collective redundancy or TUPE consultation. The representative must be released for a **reasonable** amount of time. The label on the meeting invitation is not decisive; assess what work is actually being undertaken and its statutory or agreed basis.

TULRCA 1992, section 168(1)-(3); Acas time-off guidance.

05 Are union meetings and campaigning automatically paid?

No. Section 170 provides qualifying members of recognised independent unions with reasonable **unpaid** time off for union activities and certain representative activities, subject to statutory conditions. Industrial action itself is excluded from this entitlement. Branch meetings, elections and internal organising are not automatically paid section 168 duties, although an employer may agree paid arrangements by contract or collective agreement. Separating a negotiating duty from a general union activity protects both statutory compliance and transparent budgeting.

TULRCA 1992, section 170; agreed contractual arrangements.

06 Do union learning representatives have paid time-off rights?

Yes, where the statutory conditions apply. A qualifying union learning representative may take reasonable **paid** time off to analyse learning needs, advise members about training, arrange or promote learning, consult the employer and prepare for those tasks. The union must notify the employer of the appointment, and the representative must satisfy the applicable training condition or notification arrangements. This should not be confused with an unlimited entitlement for all employees to undertake union-sponsored training during paid working time.

TULRCA 1992, section 168A.

03 / REASONABLENESS AND WORKFORCE COVER

Make release decisions that can be explained

07 How much facility time is reasonable?

There is no universal statutory quota or fixed number of hours. Reasonableness depends on the purpose and complexity of the duty, the number and location of workers represented, the representative's workload, the urgency of the matter, established arrangements and legitimate service or production needs. A major restructuring consultation may justify more time than a routine monthly meeting. Employers should assess the request against the actual work required and record the reasons for any adjustment, rather than relying on an arbitrary allowance.

TULRCA 1992, sections 168(3), 168A; Acas Code on time off.

08 Can employers impose a fixed allowance or a blanket cap?

An agreed annual or monthly release allocation can support forecasting, line-manager cover and fairness between representatives. It should not be treated as an automatic legal ceiling that overrides the statutory right to **reasonable** time off. Exceptional bargaining, disciplinary accompaniment or urgent consultation may require a different assessment. Where a collective agreement specifies allocations, apply its review and escalation provisions and distinguish voluntary benefits from statutory minimum duties.

TULRCA 1992, sections 168-170; relevant recognition or facilities agreement.

09 What should happen when urgent release conflicts with operational needs?

Confirm what is requested, why the date matters, whether the function is statutory or agreed, and what cover is genuinely necessary. Explore workable adjustments - a different meeting time, shorter release, remote participation or alternate representative - while avoiding an approach that deprives the representative of the right in substance. Safeguarding, clinical cover and safety-critical operations can be relevant to reasonableness, but should be evidenced rather than used as an automatic refusal. Escalate unresolved requests promptly to a named Industrial Relations decision-maker.

TULRCA 1992, sections 168-170; Acas good-practice principles.

04 / FACILITIES AND THE 2026 REFORMS

Do not confuse planned reforms with verified commencement

10 Must an employer provide meeting rooms, equipment or digital access?

Practical facilities may include a confidential meeting room, reasonable communication methods and access to relevant equipment. Historically, the general section 168 time-off right did not itself create an equivalent universal facilities duty, although other legal duties and negotiated terms could apply. **Section 64 of the Employment Rights Act 2025** provides for reasonable accommodation and other facilities, on request, for qualifying union officials and learning representatives. Before treating the expanded duty as in force, verify the applicable commencement instrument and Acas Code.

Employment Rights Act 2025, section 64; TULRCA 1992, proposed sections 168(3A) and 168A(8A).

11 What changes does the Employment Rights Act 2025 make to facility-time disputes?

The reforms provide for complaints about failure to supply reasonable facilities and specify that, in certain complaints alleging refusal of time off, the employer must show that the proposed amount was not reasonable. The statutory framework and revised Acas Code also provide a stronger basis for examining accommodation, equipment and practical obstacles to representation. These provisions were **scheduled** for 30 October 2026 in the Drive materials reviewed; those materials do not themselves prove that every commencement step occurred. Confirm implementation before publishing or applying the revised enforcement provisions.

Employment Rights Act 2025, section 64; TULRCA 1992, sections 168, 168A and 172, as amended when commenced.

12 Do equality representatives now have paid time off and facilities?

Section 65 of the Employment Rights Act 2025 provides for a new statutory role under proposed section 168B. Subject to commencement and conditions, a recognised independent union's properly notified equality representative may receive reasonable paid time off for defined equality functions, relevant training and reasonable facilities on request. The legislative scheme includes notification and training conditions; not every equality-related activity automatically qualifies. Employers should check commencement, the relevant Acas guidance, the representative's status and the purpose of the request before applying the new entitlement.

Employment Rights Act 2025, section 65; TULRCA 1992, proposed section 168B.

05 / RECORDS, PAY AND PUBLIC-SECTOR CONTROLS

Govern time without obstructing legitimate representation

13 How should paid facility time be recorded and remunerated?

Use the applicable statutory and contractual payment rules and distinguish paid statutory duties from voluntary paid arrangements and unpaid activities. A clear recording system should capture the representative, date, time, general activity category, approved release and manager authorisation. Records should be proportionate: recording a confidential grievance worker's identity or the substance of protected union communications is generally unnecessary for a payroll reconciliation. Agree how working time, shifts, overtime and payroll treatment will be administered rather than leaving each manager to improvise.

TULRCA 1992, sections 168-170; applicable pay and data-protection rules.

14 Do public-sector employers still have to publish annual facility-time statistics?

Not under the repealed section 172A regime for periods ending after 18 February 2026. Section 66 of the Employment Rights Act 2025 repealed TULRCA sections 172A and 172B, including the statutory publication framework and reserve powers, with effect from 18 February 2026. Transitional saving provisions preserve obligations for reporting periods that had already ended before that date. A public employer may still choose or be required under other arrangements to report internally or publish management information. Do not mistake an old template or historic guidance for a continuing statutory duty.

Employment Rights Act 2025, section 66; 2026 commencement and saving provisions, Schedule 2, paragraph 6.

15 Should employers agree a formal facility-time protocol with unions?

Yes. A short written protocol should cover who qualifies, what counts as duties versus activities, the request and approval process, release planning, urgent applications, reasonable facilities, payroll and reporting, confidentiality, disputes, review arrangements and who may authorise exceptions. Include line-manager training and a means of addressing cumulative workloads across several unions. An agreement is valuable because it reduces recurring disputes over individual requests - but it should not attempt to contract out of statutory protections.

Recognition agreements; Acas time-off Code; TULRCA 1992, sections 168-170.

06 / REFUSALS, CHALLENGES AND GOOD PRACTICE

Make decisions defensible and maintain trust

16 Can an employer refuse a facility-time request?

The employer can examine whether the request comes from a qualifying person, relates to a qualifying purpose and involves a reasonable amount and timing of release. A decision to refuse or modify the request should be explained promptly, with reasons and sensible alternatives where possible. **Blanket refusal** because the employer dislikes the union, opposes a claim or wants to discourage representation may create legal and Industrial Relations risk. Keep the statutory entitlement separate from an optional extra agreed with the union.

TULRCA 1992, sections 168-170; section 172 remedies; other protections against union-related detriment.

17 What remedies or protections exist if time off is unreasonably refused?

Qualifying employees can complain to an employment tribunal about failures to permit statutory time off; the statutory scheme includes remedies and limits. Separate protections may apply against detriment or dismissal for trade union membership or protected activities. The 2025 reforms also contemplate complaints about failures to provide reasonable facilities, subject to their commencement. Employers should investigate contested requests, retain contemporaneous reasons, resolve disputes through the agreed escalation route and seek legal advice where a protected right or a time limit may be engaged.

TULRCA 1992, sections 146, 152, 168-172; Employment Rights Act 2025, sections 64-65.

18 What is the best employer approach to facility time?

Treat facility time as part of the organisation's **Industrial Relations operating framework**, not a favour granted by a line manager. Identify recognised unions and representatives, classify protected duties and agreed activities, plan business cover, record paid release proportionately and make a single person accountable for legal interpretation and escalation. Review what is genuinely used and whether it supports timely consultation and negotiations. This is compatible with financial discipline: reasoned governance is more defensible than either unchecked release or reflexive restriction.

Good Work Lab practitioner guidance; TULRCA 1992, sections 168-170.

QUICK REFERENCE / TYPES OF TIME OFF

Which entitlement are we dealing with?

Classify the representative, task and statutory basis before deciding what time or facilities are reasonable.

Recognised union official	Reasonable **paid** time off for qualifying duties and approved relevant training.	Confirm status, recognised union, duties, timing and operational arrangements.
Union member / activities	Reasonable **unpaid** time off for qualifying union activities; industrial action is excluded.	Distinguish collective activity from formal negotiation duties and voluntary paid release.
Union learning representative	Reasonable **paid** release for defined learning functions, subject to notice and training conditions.	Check role, written union notification and relevant activity.
Union equality representative	New paid-time-off and facilities rights provided by the 2025 Act, **subject to commencement**.	Confirm in-force provisions, union notification, training condition and scope.

ILLUSTRATIVE EMPLOYER SCENARIO

Two representatives. One urgent request.

A recognised union asks for four days of release for two representatives during a proposed collective restructuring. One is coordinating statutory consultation; the other is preparing a branch recruitment event. A line manager rejects the entire request because the team is understaffed. The union challenges the decision, citing the need for meaningful consultation.

THE GOVERNANCE LESSON

Separate the duties: statutory consultation preparation may qualify for reasonable **paid** time off; a recruitment event does not become a paid duty merely because it occurs during the same week. Assess the requested hours, urgency and cover individually, document reasonable alternatives and refer unresolved matters quickly to the Industrial Relations lead.

Illustrative scenario only; not a reported case or Good Work Lab client outcome.

GOOD WORK LAB / EMPLOYER ACTION CHECKLIST

Make facility-time decisions governable

Use **Compliance, Control and Collaboration** to balance lawful representative release with organisational resilience.

- **Map recognition and representatives.** Record the union, bargaining unit, recognised roles, union notifications and learning/equality representative status.
- **Classify requests.** Separate statutory paid duties, statutory unpaid activities, different representative regimes and voluntary allowances.
- **Agree a release protocol.** Specify request channels, lead times, urgency, out-of-hours arrangements, authorisation and dispute escalation.
- **Apply a genuine reasonableness test.** Consider complexity, timing, service cover, worker numbers and any contractual or statutory rights.
- **Provide workable facilities.** Assess confidentiality, IT, meeting rooms, accessibility and safeguarding, with the 2026 commencement position checked.
- **Record proportionately.** Capture hours and cost without collecting unnecessary case details or union membership information.
- **Update outdated public-sector processes.** Recognise the repeal of sections 172A and 172B and identify any separate governance reporting duties.
- **Review collaboratively.** Monitor issues, tackle recurring disputes and ensure line managers do not make unsupported legal determinations.

GOOD WORK LAB / INDUSTRIAL RELATIONS ADVISORY

Good Work Lab supports employers with trade union agreements, representative facilities, collective bargaining, consultation and complex union relationships. We can help design proportionate facility-time protocols and strengthen negotiating and decision-making authority. **Discuss Your Industrial Relations Challenge** at goodworklab.co.uk.

PRIMARY LEGAL FRAMEWORK AND PUBLICATION NOTE

Trade Union and Labour Relations (Consolidation) Act 1992: sections 119, 146, 152, 168, 168A, 170 and 172. **Employment Rights Act 2025:** sections 64-66. **Employment Relations Act 1999:** section 10 (accompaniment).

2026 update: Sections 172A and 172B were repealed on 18 February 2026, subject to transitional saving provisions. The source library anticipated new facilities and equality-representative provisions from 30 October 2026 but did not independently establish their commencement. Check the relevant instruments and operative Acas Code before public release.

Editorial basis: Good Work Lab working legal library - trade union relationships, statutory time-off provisions, the Employment Rights Act 2025, Acas materials and model facilities agreements. This is original guidance, not a reproduction of proprietary notes.

Important: General information for employers in Great Britain, not legal advice on an individual request or dispute. Entitlements depend on role, recognition, purpose and the legislation in force at the relevant date.