

Your entitlement to time off work for trade union training

Officials of recognised trade unions are entitled to paid time off from work for trade union training. Section 168(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 states that an employer must permit trade union representatives to take time off during their working hours for the purpose of undergoing training in aspects of industrial relations. For NASUWT Representatives, courses must be approved by the NASUWT, TUC or WTUC.

All employees with 26 weeks of continuous service have the statutory right to request time off for work-related study or training by virtue of s63D to 63K of the Employment Rights Act 1996. This right applies in organisations with 250 or more employees. There is no automatic right to payment in this case. For clarity, the NASUWT takes the view that all the Union's training courses are work related.

If you are in doubt about any aspect of the above, contact the NASUWT Wales National Centre.

Rules regarding the training course

The course must be related to or connected with the carrying out of your union role (in relation to your employer) as defined in Section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992. This means that it must be concerned with:

- a. terms and conditions of employment or the physical conditions in which any workers are required to work;
- b. engagement or non-engagement, or termination or suspension of employment, or the duties of employment, of one or more workers;
- c. allocation of work or the duties of employment between workers or groups of workers;
- d. matters of discipline;
- e. a worker's membership of a trade union;
- f. facilities for officials of trade unions; and
- g. machinery for negotiation or consultation and

other procedures relating to any of the above matters, including the recognition of the union by an employer or employers' association of the right of a trade union to represent workers in such negotiation or consultation or in the carrying out of such procedures.

NASUWT trade union courses satisfy all of these conditions.

The amount of time allowed

The law says that trade union representatives should be given 'reasonable' time off for training. The law does not define 'reasonable'. However, a TUC course for workplace representatives that lasts for ten days has been judged 'reasonable' by an Employment Tribunal. Most NASUWT trade union courses last for one or two days and would be considered 'reasonable' by this definition.

In many instances, a local agreement between unions and the employer (e.g. the local authority) will provide further details in respect of the amount of time off allowed. However, the lack of a local agreement does not, in itself, deny an individual his/her statutory entitlement to time off, nor does any agreement override this right.

Payment for time off

Union representatives must be paid for time off when undertaking trade union training. Such payment must be at the rate of pay the representative would have earned had s/he worked during that time. Where the representative is employed on a part-time basis, whose usual working day is shorter than the duration of the training, s/he should also be paid for the excess hours undertaking training. The right to payment for time off includes a right to be paid for ALL time off, including that covered by a separate contract with the same employer (e.g. during the lunch hour or after the end of school). The additional implication of this is that the directed hours that would have been worked on the days spent participating in trade union training must be credited as though they had actually been worked.

Informing the employer

The NASUWT Representative should always give the employer as much notice as possible of their wish to attend the NASUWT training course. Providing notice to the employer in good time is important and will enable the employer to make suitable alternative arrangements, such as the provision of appropriate supply cover. If the employer asks for a copy of the course programme, the Representative should provide one. The NASUWT Representative should also tell the employer where the course is being held and how much time off is required.

If time off for training is refused

An employer who unreasonably refuses time off to officials of recognised trade unions for the purpose of training as described above is ultimately answerable to an Employment Tribunal. Similarly, an employer who allows time off but withholds pay is also answerable to an Employment Tribunal.

Cover

Whilst the NASUWT Representative is on the course, it is the employer's responsibility to ensure that the Representative's job is done. It is wrong, for example, that the Representative should be asked to gain the agreement of their colleagues to cover classes as a condition of attending a trade union course. The law does not tell employers how to carry out their responsibility, but simply places the responsibility upon them. In some areas there will be an agreement between the unions and the employer that will specify what happens when a trade union representative attends a course.

It is the responsibility of the employer to ensure that there is sufficient and appropriate cover to enable the representative to participate in trade union training. The employer is responsible for paying for supply cover. It is the employer's responsibility and trade union representatives should not be prevented from attending appropriate courses because of arguments about who pays agencies for supply cover.

An employer should expect that the NASUWT Representative may, from time to time, submit requests to undertake trade union training. Given that such requests are foreseeable, the employer should have appropriate contingency strategies in place to enable them to accede to requests for time off, in accordance with the requirements under the legislation and any local agreements. It would be unreasonable for an employer to refuse to allow a representative to attend a trade union training course on the grounds that such requests were not foreseeable.

Do not get drawn into discussions about cover. It is the responsibility of the employer, not yours, to ensure that your job is covered. If cover is not provided and used as the reason for withholding time off, inform the NASUWT Wales National Centre. Problems with cover should not prevent you from attending your course.

Summary

The law gives the elected NASUWT Representative the right to time off with pay to receive trade union training. The law also provides protection for the Representative if such time off is unreasonably withheld by the employer.

If you wish to attend an NASUWT course, please submit your application (a telephone call will do) and give your employer/school/college as much notice as possible of your wish to attend. You should also tell them where the course is to be held and how much time off with pay you need.

The NASUWT will be able to provide information about any local agreements on time off that may be applicable.

If you are refused time off (or allowed time off but without pay), inform the NASUWT Wales National Centre immediately.



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NASUWT REPRESENTATIVES

TIME OFF FOR TRAINING

Information and Guidance



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Eich hawl i gael amser i ffwrdd o'r gwaith ar gyfer hyfforddiant gan eich undeb llafur

Mae gan swyddogion undebau llafur cydnabyddedig hawl i amser i ffwrdd o'r gwaith gyda tâl ar gyfer hyfforddiant yr undebau llafur. Mae Adran 168(2) o Ddeddf Undebau Llafur a Chysylltiadau Llafur (Cydgrynhoi) 1992 yn datgan bod rhaid i gyflogwr ganiatáu i gynrychiolwyr undebau llafur gymryd amser o'r gwaith yn ystod eu horiau gwaith at bwrpas ymgymryd â hyfforddiant mewn agweddau ar gysylltiadau diwydiannol. Rhaid i NASUWT, TUC neu WTUC gymeradwyo'r cyrsiau ar gyfer Cynrychiolwyr NASUWT.

Mae gan bob gweithiwr sydd wedi gweithio am 26 wythnos yn ddi-dor yr hawl statudol i ofyn am amser i ffwrdd o'r gwaith ar gyfer hyfforddiant neu astudiaethau sy'n gysylltiedig â gwaith, yn rhinwedd a63D i 63K Deddf Hawliau Cyflogaeth 1996. Mae'r hawl yn berthnasol i sefydliadau sy'n cyflogi 250 neu fwy o weithwyr. Ni cheir hawl awtomatig i gael tâl yn yr achos hwn. Er eglurder, mae NASUWT o'r farn bod holl gyrsiau hyfforddi'r Undeb yn gysylltiedig â gwaith.

Os ydych chi'n ansicr o unrhyw agwedd o'r uchod, cysylltwch â Chanolfan Genedlaethol NASUWT Cymru.

Rheolau'n ymwneud â'r cwrs hyfforddi

Rhaid i'r cwrs ymwneud â neu fod yn gysylltiedig â chyflawni'ch rôl gyda'r undeb (o ran eich cyflogwr) fel y'i diffiniwyd yn Adran 178(2) Deddf Undebau Llafur a Chysylltiadau Llafur (Cydgrynhoi) 1992. Mae hyn yn golygu bod yn rhaid iddo ymwneud â:

- thelerau ac amodau cyflogaeth neu'r amodau ffisegol y mae disgwyl i unrhyw weithwyr weithio ynddynt;
- cyflogi neu ddirwyn cyflogaeth i ben, neu derfynu cyflogaeth neu wahardd cyflogai o'r gwaith, neu ddyletswyddau gwaith, un neu fwy o'r gweithwyr;
- dyrannu gwaith neu ddyletswyddau gwaith rhwng gweithwyr neu grwpiau o weithwyr;
- materion yn ymwneud â disgyblaeth;
- aelodaeth gweithiwr o undeb llafur;

- cyfleusterau ar gyfer swyddogion undeb llafur; a
- g) cyfryngau i negodi neu ymgynghori, a gweithdrefnau eraill sy'n gysylltiedig ag unrhyw un o'r materion uchod, gan gynnwys cydnabod yr undeb llafur gan gyflogwr neu gymdeithas cyflogwyr a hawl undeb llafur i gynrychioli gweithwyr mewn negodiadau neu ymgynghoriadau o'r fath neu wrth ymgymryd â gweithdrefnau o'r fath.

Mae cyrsiau undeb llafur NASUWT yn bodloni'r holl amodau hyn.

Faint o amser a ganiateir

Dywed y gyfraith y dylai cynrychiolwyr undeb llafur gael amser 'rhesymol' i ffwrdd ar gyfer hyfforddiant. Nid yw'r gyfraith yn diffinio 'rhesymol'. Fodd bynnag, dyfarnwyd fod cwrs gan y TUC ar gyfer cynrychiolwyr y gweithle a oedd yn para deng niwrnod yn 'rhesymol' gan Dribiwnlys Cyflogaeth. Mae mwyafrif cyrsiau undeb llafur NASUWT yn para un neu ddau ddiwrnod ac felly byddent yn cael eu cyfrif yn 'rhesymol' yn ôl y diffiniad hwn. Mewn llawer o achosion, bydd cytundeb lleol rhwng undebau a'r cyflogwr (e.e. yr awdurdod lleol) yn cynnwys manylion pellach o ran faint o amser i ffwrdd a ganiateir. Fodd bynnag, nid yw diffyg cytundeb lleol, ynddo'i hun, yn amddifadu, unigolyn o'i hawl unigol i gael amser i ffwrdd, ac nid yw unrhyw gytundeb yn gwrthwneud yr hawl hwn.

Tâl am amser i ffwrdd

Rhaid talu cynrychiolwyr undebau am amser i ffwrdd i fynd ar hyfforddiant undebau llafur. Dylai tâl o'r fath fod ar gyfradd y tâl y byddai'r cynrychiolydd wedi'i ennill petai wedi gweithio dros y cyfnod hwnnw. Os yw'r cynrychiolydd yn gweithio'n rhan amser, ac os yw ei ddiwrnod gwaith arferol yn fyrrach na hyd yr hyfforddiant, dylai gael tâl am yr oriau ychwanegol a dreuliodd ar yr hyfforddiant. Mae'r hawl i dâl am amser o'r gwaith yn cynnwys hawl i gael tâl am yr HOLL amser, gan gynnwys amser o dan gontract ar wahân gyda'r un cyflogwr (e.e. yn ystod amser cinio neu ar ôl oriau ysgol). Y goblygiad ychwanegol yn y cyswllt hwn yw bod rhaid i'r oriau a gyfeirir y byddai'r unigolyn wedi eu gweithio ar y dyddiau pan oedd yn cymryd rhan

mewn hyfforddiant undebau llafur gael eu credydu fel pe bai wedi eu gweithio mewn gwirionedd.

Hysbysu'r cyflogwr

Dylai Cynrychiolwyr NASUWT roi cymaint o rybudd â phosibl i'r cyflogwr bob amser o'u dymuniad i fynd ar gwrs hyfforddi NASUWT. Mae rhoi rhybudd i'r cyflogwr mewn da bryd yn bwysig gan y bydd yn galluogi'r cyflogwr i wneud trefniadau eraill, megis cael rhywun addas i lenwi'r bwlch. Os yw'r cyflogwr yn gofyn am weld copi o raglen y cwrs, dylai'r Cynrychiolydd ei gyflenwi. Dylai Cynrychiolwyr NASUWT ddweud wrth y cyflogwr hefyd ble mae'r cwrs yn cael ei gynnal a faint o amser i ffwrdd fydd ei angen.

Os yw'r cyflogwr yn gwrthod caniatáu amser i ffwrdd ar gyfer hyfforddiant

Mae cyflogwr sy'n gwrthod cais rhesymol am amser i ffwrdd i gynrychiolwyr undeb llafur cydnabyddedig i ddibenion hyfforddi fel y disgrifiwyd uchod yn atebol i Dribiwnlys Cyflogaeth yn y pen draw. Yn yr un modd, bydd cyflogwr sy'n caniatáu amser i ffwrdd ond sy'n gwrthod talu cyflog hefyd yn atebol i Dribiwnlys Cyflogaeth.

Llenwi'r bwlch

Tra mae Cynrychiolydd NASUWT ar y cwrs, cyfrifoldeb y cyflogwr yw sicrhau bod gwaith y Cynrychiolydd yn cael ei wneud. Er enghraifft, nid yw'n briodol gofyn i'r Cynrychiolydd sicrhau cytundeb ei gydweithwyr i gyflenwi yn ei ddsbarth fel amod ar fynychu cwrs undeb llafur. Nid yw'r gyfraith yn dweud wrth gyflogwyr sut mae cyflawni eu cyfrifoldeb ond yn syml, mae'n gosod y cyfrifoldeb arnynt. Mewn rhai ardaloedd, bydd cytundeb rhwng yr undebau a'r cyflogwr, a fydd yn nodi beth fydd yn digwydd pan fydd cynrychiolydd undeb llafur yn mynd ar gwrs. priodol oherwydd dadleuon am bwy sy'n talu asiantaethau am staff llanw.

Cyfrifoldeb y cyflogwr yw sicrhau bod digon o staff llanw priodol ar gael i weithio er mwyn galluogi'r cynrychiolydd i gymryd rhan mewn hyfforddiant yr undebau llafur. Cyfrifoldeb y cyflogwr yw talu am staff llanw. Cyfrifoldeb y cyflogwr yw hyn, ac ni ddylid atal cynrychiolwyr undebau llafur rhag mynychu cyrsiau priodol oherwydd dadleuon am bwy sy'n talu asiantaethau am staff llanw.

Peidiwch â chael eich denu i drafodaethau am staff llanw. Cyfrifoldeb y cyflogwr yw sicrhau bod rhywun ar gael i gyflawni eich swyddogaethau, nid eich cyfrifoldeb chi. Rhowch wybod i Ganolfan Genedlaethol NASUWT Cymru os na fydd staff llanw'n cael eu darparu ac os mai dyma'r rheswm a roddir dros pam na chaniateir i chi gael amser i ffwrdd. Ni ddylai problemau gyda staff llanw eich atal rhag mynd ar eich cwrs.

Crynodeb

Mae'r gyfraith yn rhoi'r hawl i Gynrychiolydd etholedig NASUWT gael amser i ffwrdd â thâl i fynd ar gwrs hyfforddi'r undeb llafur. Mae'r gyfraith hefyd ar ochr y Cynrychiolydd os yw cais am amser o'r fath yn cael ei wrthod yn afresymol gan y cyflogwr.

Os ydych yn dymuno mynd ar un o gyrsiau NASUWT, dylech wneud cais (gellir gwneud hyn dros y ffôn) a rhowch gymaint o rybudd â phosibl i'ch cyflogwr / ysgol / coleg o'ch bwriad i fynd ar y cwrs. Dylech ddweud wrthynt hefyd ble mae'r cwrs yn cael ei gynnal a faint o amser i ffwrdd â thâl fydd ei angen arnoch.

Peidiwch â chael eich denu i drafodaethau am staff llanw. Cyfrifoldeb y cyflogwr yw sicrhau bod rhywun ar gael i gyflawni eich swyddogaethau, nid eich cyfrifoldeb chi. Rhowch wybod i Ganolfan Genedlaethol NASUWT Cymru os na fydd staff llanw'n cael eu darparu ac os mai dyma'r rheswm a roddir dros pam na chaniateir i chi gael amser i ffwrdd. Ni ddylai problemau gyda staff llanw eich atal rhag mynd ar eich cwrs.

Os yw eich cyflogwr yn gwrthod rhoi amser i ffwrdd i chi (neu'n caniatáu i chi gael amser i ffwrdd, ond yn ddi-dâl), rhowch wybod i Ganolfan Genedlaethol NASUWT Cymru ar unwaith.



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Yr undeb athrawon mwyaf yng Nghymru

15/07053

CYNRYCHIOLWYR NASUWT

AMSER I FFWRDD AR GYFER HYFFORDDIANT

Gwybodaeth a Chanllawiau



Yr undeb athrawon mwyaf yng Nghymru