

Academy applications and staff meetings



ATL school representatives will be understandably keen to arrange meetings of members and staff to discuss the possibility of their school seeking academy status, either as part of the first (September 2010) or second (January 2011) tranche of applications.

But what rights do reps have to organise such meetings? After all, the school's Senior Management Team (SMT) and/or governors may be very keen on the idea of the school becoming an academy, and they might not be happy with any activity which might provide a focus for opposition to their ambition.

The ACAS Code of Practice

Paragraph 13 of *The ACAS Code of Practice on time off for duties and training* states that "trade union representatives should be allowed to take reasonable time off for duties concerned with negotiations or, where their employer has agreed, for duties concerned with other functions related to or connected with the subjects of collective bargaining," and goes on to list various examples of potential trade union duties:

- a) *terms and conditions of employment, or the physical conditions in which 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 as between workers or groups of workers*

All of these issues would be affected by a school becoming an academy, and would also be encompassed by the statutory negotiations on TUPE. It is therefore legitimate for a school Rep to hold a meeting with members to discuss the implications for working conditions of a decision to move towards academy status.

Paragraph 46 of the Code also includes the following useful reference to physical facilities (my emphasis):

*While there is no statutory right for facilities for union representatives, except for representatives engaged in duties related to collective redundancies and the Transfer of Undertakings, **employers should, where practical, make available to union representatives the facilities necessary for them to perform their duties efficiently and communicate effectively with their members**, colleague union representatives and full-time officers. Where resources permit the facilities should include:*

- **accommodation for meetings** which could include provision for Union Learning Representatives and a union member(s) to meet to discuss relevant training matters
- access to a telephone and other communication media used or permitted in the workplace such as email, intranet and internet
- the use of noticeboards

The Burgundy Book

Paragraph 10 of the Facilities Agreement (Appendix III of the Burgundy Book) reads as follows (my emphasis):

The accredited school representatives of the recognised teachers' organisations should be permitted reasonable opportunities and given the necessary facilities to discharge their functions as provided for in the ACAS Code, namely:

*a) union matters such as recruitment, maintaining membership, collecting contributions and **communicating with members**;*

And Paragraphs 7.7 and 11 go on to cover physical facilities which accredited representatives and their union should be entitled to:

7.7) It is recommended that local agreements on the provision of facilities for the local officer of the recognised teachers' organisations should include:

(d) arrangements for use of accommodation in schools or other premises of the authority for association meetings;

11) The facilities envisaged are as follows:

(a) Notice board facilities to be provided by the LEA or governing body without charge and the titles of the organisations to be inscribed on the board or boards.

(c) Provision of a room for a meeting with the organisation's members as required, providing reasonable notice is given;

(d) Use of school typing, duplicating and photocopying equipment, where available, for essential union work within the school providing this does not interfere with the work of the school and on a basis of repayment by the organisation concerned for the materials used.

So not only are Reps entitled to hold a meeting on school premises, but via the auspices of the local Branch Secretary, a meeting can be held on other LEA premises, subject to availability. In addition, Reps can use Union noticeboards to highlight a meeting, and have access to school office facilities for the publication and printing of materials advertising the meeting.

Time off to organise and attend a meeting

The ACAS Code of Practice makes a clear distinction between trade union **duties**, which employers are bound to pay for where the union in question is recognised, and **activities**, for which an employer should allow its' employees reasonable time off to take part in, but with no obligation to pay them.

In practice, this means that school Reps should be allowed to use paid facility time to organise meetings on the potential move to academy status, but that members have no legal right to attend such meetings in work time. Reps may therefore request that meetings are held during the school day, but if the request is (almost inevitably) denied, then the meeting will need to take place either at lunch-time, or at the end of the working day.

Academies Bill – amendment

The government has announced (8 July 2010) an amendment to the Academies Bill, strengthening the need for schools to consult “those persons whom they think appropriate” before finalising any move toward academy status. Reps should refer to this amendment when pressing heads to allow for members’ meetings to discuss the matter, as meaningful consultation with the Union can only take place after the members have had an opportunity to get together to articulate their views and formulate any queries they may have.

Off-Site meetings

It may prove impossible to convince management to allow for a meeting to be held on school premises; or members may actually prefer to hold the meeting in a separate location, as they may feel more comfortable in an external environment. Either way, reps should not be deterred from providing a forum for members to get together to discuss what could be the most momentous decision the school will ever take.

Communicating with parents

School reps should seek to communicate the opinions and concerns of ATL members on a move towards academy status to parents. In the first instance, a request should be sent to the chair of governors (copied to the rest of the Governing Board), asking for the joint unions’ FAQs for parents to be circulated to them. Ideally, the letter should go in the name of all Unions with members at the school.

The letter to the chair should also stress that the National Governors Association has taken the view that “no governing body should submit an application to the Department for Education (DfE) unless and until they have consulted their key stakeholders (parents, pupils, staff, local authorities, or other local schools),” and that “the governing body should enable supporters and opponents of the proposal to circulate relevant materials to other consultees” – e.g. staff communications to parents. Meaningful consultation cannot take place when one of the key stakeholders – the parents – have no idea how the school’s employees feel on the matter.

If the chair proves unreceptive, then consideration should be given to leafleting parents, outside of school opening times. Again, a joint union initiative is

recommended. Reps should use the materials previously supplied by the ATL London Office for this purpose.

Finally, reps may wish to request permission to hand out joint union materials to pupils, for conveying to their parents. Given the nature of the exercise, such a course of action should only be undertaken with the Head's permission.

Conclusion

So a rep will be on strong ground when attempting to hold a members' meeting to discuss a move towards academy status, as both the ACAS Code and the Burgundy Book specifically allow for such meetings.

Having said that, and given the potentially contentious nature of a change in school status, it is important to:

- 1) Advertise the meeting as a chance to discuss the issue, or the ramifications of a move to academy status, rather than as an opportunity to begin the resistance to it. How the meeting will develop will be a matter for the members, but to prejudge the discussion could well lead to the school's management refusing to grant permission for it to go ahead.
- 2) Seek to hold the meeting in conjunction with the other Union reps with a presence in your school.

If you have any queries in relation to this circular, or you are having difficulties in arranging a school meeting to discuss the move to academy status, please contact Peter Morris, national official, at pmorris@atl.org.uk for further advice.