

TRADE UNION FACILITIES RECOGNITION AGREEMENT

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DOCUMENT DETAIL

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TABLE OF CONTENTS

| | | |
|---|---------------------------------------|----|
| 1 | INTRODUCTION | 4 |
| 2 | PURPOSE | 4 |
| 3 | DEFINITIONS | 4 |
| 4 | DUTIES (Roles and Responsibilities) | 5 |
| 5 | Trade Union Representatives | 7 |
| 6 | Facilities for Union Representatives | 7 |
| 7 | Variation Or Termination Of Agreement | 12 |
| 8 | Training | 12 |
| 9 | References | 12 |

APPENDICES:

| | |
|--|----|
| Appendix A: Flowchart showing process for recognition within UH Bristol | 13 |
| Appendix B: List of Recognised Trade Unions | 14 |
| Appendix C: TRAINING FOR UNION REPRESENTATIVES | 15 |
| Appendix D: Template - Acceptance Of Recognition Of Employee As Accredited Trade Union Representative | 16 |
| Appendix E: Template – Reasons For Concerns About Recognition Of Employee As Accredited Trade Union Representative | 17 |
| Equality Impact Assessment Screening Form | 18 |

1. INTRODUCTION

University Hospitals Bristol NHS Foundation Trust recognises the importance of working in partnership with staff side representatives in order to facilitate the efficient operation and development of the Trust in the best interests of its patients and staff.

2. PURPOSE

The purpose of this document is to aid and improve the effectiveness of relations between UH Bristol and trade unions.

This agreement sets out the minimum facilities which will be provided. It takes account of employee relations legislation, Agenda for Change Terms & Conditions, and ACAS's Code of Practice "Time off for Trade Union Duties & Activities".

All parties to this agreement have the common objective of:

- Maintaining good employee relations through joint consultation and negotiation, conducted in a timely manner, on a Trust wide basis.
- Continuous development and strengthening of partnership working through the Trust's Staff Consultative Council, Industrial Relations Group, *Terms & Conditions Group* and Agenda for Change Panels
- Facilitating the efficient operation and development of UH Bristol in the best interests of its patients and staff, and upholding the Trust's Values and the behaviours laid down in the Trust's Staff Conduct Policy

3. DEFINITIONS

Trade Union Recognition - A trade union is 'recognised' by an employer when it negotiates agreements with employers on pay and other terms and conditions of employment on behalf of a group of workers. This process is known as 'collective bargaining'.

Voluntary Recognition - This is when an employer recognises a trade union voluntarily, usually in response to a formal written request.

Statutory Recognition - This is when a union applies to the Central Arbitration Committee for recognition in organisations that employ at least 21 workers, if a formal application to the organisation has been rejected. In order for the CAC to consider an application, certain requirements must be met.

In this paper a Trade Union Representative means an employee who has been elected or appointed in accordance with the rules of the independent union to be a representative of all or some of the union's members in UH Bristol where the union is recognised for collective bargaining purposes.

In this paper a full time union officer means a trade union official who is employed by an independent trade union to represent members in workplaces, or groups of workplaces, where the union is recognised for collective bargaining purposes.

In this paper a Union Learning Representative is an employee who is a member of an independent trade union recognised by the employer who has been elected or appointed in accordance with the rules of the union to be a learning representative of the union at the workplace.

In this paper a Health & Safety Representative is an employee who is a member of an independent trade union recognised by the employer who has been elected or appointed in accordance with the rules of the union to be a health & safety representative of the union at the workplace.

In this paper, 'facilities' mean working space, equipment, and time.

4. DUTIES (Roles and Responsibilities)

4.1 Role of the Trust

UH Bristol recognises the right of local representatives to have the assistance of full time union officers. Full time officers of recognised unions will be granted necessary access to the workplace to enable them to undertake satisfactorily their roles. (This would include representation of Trust wide local representatives.)

UH Bristol will not unreasonably deny, when requested, facilities to assist in the election of union representatives at the workplace.

4.2 Role of the Trade Unions

Recognised Trade Unions will arrange for the election of representatives to be appointed to act on their behalf in accordance with the terms of this agreement, and to carry out their duties in accordance with the union's rules.

It will be the responsibility of the relevant Lead Representative/Trade Union Officer, on receipt of written notification from the appropriate Union body of the appointment / replacement of representatives, to write to the relevant line manager, with a copy to the relevant HR Business Partner, to formally request recognition and facilities, and to encourage a timely response to this request *by completion and return of the form at Appendix D.*

Role of the Line Manager / HRBP / Chair of the Joint Unions

It is the responsibility of the line manager to discuss with the HRBP and the Lead Representative (or Chair of the Joint Unions) any concerns about the recognition of a representative.

If the concern is about the release of the representative to fulfil their duties because of concerns over service needs, the line manager should bring to the meeting a written explanation of these concerns (see Appendix E for template).

If the line manager, HRBP, Lead Representative or Chair of the Joint Unions has any other concerns about recognising an accredited representative, these should be discussed as soon as possible and an appropriate response agreed and communicated to the accredited representative and the Chair and Secretary of the JUC.

4.3. Role of the Associate Director of Human Resources

On receipt of written agreement to recognition and facilities, the Associate Director of HR should send to the accredited representative a letter of confirmation together with a copy of this Agreement. The letter should be copied to the Chair and Secretary of the Joint Union Committee and the Lead Representative.

It will be the responsibility of the Associate Director of Human Resources to maintain an up-to-date list of accredited representatives in partnership with staff side (via the Secretary of the JUC).

4.4 Definitions of roles of Health & Safety and Learning representatives:

What is a union safety representative?

A safety representative is a fellow worker elected by other union members to look after the health and safety of their team and area.

The role of the health and safety representative is independent of management. Representatives are there to represent the interests and concerns of their co-workers and respond on their behalf.

Safety reps in union recognised workplaces have the legal right to paid time off for union approved safety training.

Union Learning Reps (ULRs)

A union learning representative (ULR) is a member of an independent trade union, recognised by their employer, and elected by their union in the workplace.

ULR statutory functions

- Analysing learning or training needs
- Arranging and supporting learning and training

- Consulting the employer about carrying out such activities
- Preparing to carry out the above activities

Statutory rights for ULRs and union members

Union learning representatives are entitled to reasonable paid time off for training and for carrying out their duties as set out above.

Union members are entitled to unpaid time off to consult their learning representative, as long as they belong to a bargaining unit for which the union is recognised.

5. TRADE UNION REPRESENTATIVES

Representatives shall be current employees of the Trust and will normally have had not less than 6 months' service with the Trust or another NHS employing body.

No employee will be entitled to take time off to undertake trade union duties until he/she has been formally elected.

Time off for accredited representatives will include time off for training to perform their role. Details of duration of training for different unions and roles can be found at Appendix C.

Details of the appointment and function of Union appointed safety representatives are set out in the Trust Health & Safety Policy

6. FACILITIES FOR UNION REPRESENTATIVES

6.1 Time off for trade union duties

Employees who are union representatives of an independent trade union recognised by UHBristol are to be permitted reasonable time off during working hours to carry out certain trade union duties.

Union representatives are entitled to time off where the duties are concerned with:

- negotiations with the employer about matters which fall within section 178(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) and for which the union is recognised for the purposes of collective bargaining by the employer
- any other functions on behalf of employees of the employer which are related to matters falling with section 178(2) TULR(C)A and which the employer has agreed the union may perform. These are:
 - terms and conditions of employment;
 - engagement, non-engagement, suspension or termination of employment;
 - allocation of work or duties;

- disciplinary matters;
 - trade union membership or non-membership;
 - facilities for trade union officials; and
 - procedures and the framework for negotiations or consultation on the matters above.
-
- the receipt of information from the employer and consultation by the employer under section 188 TULR(C)A, related to redundancy or under the Transfer of Undertakings (Protection of Employment) Regulations 2006 that applies to employees of the employer
 - negotiations with a view to entering into an agreement under regulation 9 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 that applies to employees of the employer
 - the performance on behalf of employees of the employer of functions related to or connected with the making of an agreement under regulation 9 of the Transfer of undertakings (Protection of Employment) Regulations 2006

6.1.1 Examples of Trade Union Duties

Subject to the recognition or other agreement, 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.

The subjects connected with collective bargaining **may** include one or more of the following:

(a) Terms and conditions of employment, or the physical conditions in which workers are required to work. Examples could include:

- pay
- hours of work
- holidays and holiday pay
- sick pay arrangements
- pensions
- learning and training
- equality and diversity
- notice periods
- the working environment
- operation of digital equipment and other machinery

(b) Engagement or non-engagement, or termination or suspension of employment of the duties of employment, of one or more workers. Examples could include:

- recruitment and selection policies
- human resource planning
- redundancy and dismissal arrangements

(c) Allocation of work or the duties of employment as between workers or groups of workers. Examples could include:

- job grading
- job evaluation
- job descriptions
- flexible working practices
- work-life balance

(d) Matters of discipline. Examples could include:

- disciplinary procedures
- arrangements for representing or accompanying employees at internal interviews
- arrangements for appearing on behalf of trade union members, or as witnesses, before agreed outside appeal bodies or employment tribunals

(e) Trade union membership or non membership. Examples could include:

- representational arrangements
- any union involvement in the induction of new workers

(f) Facilities for trade union representatives. Examples could include any agreed arrangements for the provision of:

- accommodation
- equipment
- names of new workers to the union

(g) Machinery for negotiation or consultation and other procedures. Examples could include arrangements for:

- collective bargaining at the employer and/or multi-employer level
- grievance procedures
- joint consultation
- communicating with members
- communicating with other union representatives and union full-time officers concerned with collective bargaining with the employer

The duties of a representative of a recognised trade union must be connected with or related to negotiations or the performance of functions both in time and subject matter. Reasonable time off may be sought, for example, to:

- prepare for negotiations, including attending relevant meetings
- inform members of progress and outcomes
- prepare for meetings with the employer about matters for which the trade union has only representational rights

Trade union duties will also be related to the receipt of information and consultation related to the handling of collective redundancies where an employer is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 30 days (or 45 days where redundancies of 100 or more are proposed) (Under s.188(1A) of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended by the Trade Union and Labour Relations (Consolidation) Act 1992 (Amendment) Order 2013.) , and where the Transfer of Undertakings (Protection of Employees) Regulations apply but also including the negotiations with a view to entering an agreement under regulation 9 of the Regulations (variation of contract in insolvency).

6.1.2 Time off to Accompany Workers at Disciplinary or Grievance Hearings

Trade union representatives are statutorily entitled to take a reasonable amount of paid time off to accompany a worker at a disciplinary or grievance hearing so long as they have been certified by their union as being capable of acting as a worker's companion.

6.2 Reasonable time off for trade union duties

Reasonable time off will be determined by the needs of the service. It should be agreed between the individual concerned and their manager or deputy, with as much notice as possible. It will be given at the manager's discretion, but will not be unreasonably withheld.

If facility time is considered to be unreasonably withheld, a meeting should be held between the representative, the manager, and the Chair (or appropriate lead representative) of the Joint Union Committee.

If a manager is concerned about releasing staff, a meeting should be held with the Chair (or delegated deputy) of the Joint Union Committee.

Representatives will have recourse to refer major difficulties in obtaining reasonable paid release to attend to trade union duties to their Manager or the Head of Human Resources/Deputy Director of Workforce and Organisational Development.

6.3 Payment for time off for trade union duties

Paid release by the Trust (with direct pay if on day off or out of hours) for representatives to attend to their relevant duties will be agreed between the individual concerned and their manager or deputy. Where meetings are planned and regular, representatives will provide a list of those meetings and agree, in advance and in a timely manner, with their manager which ones they are able to attend. (These regular meetings should be publicised in advance, where appropriate, on the Staff Side page of Connect.) The maximum possible notice should be given so that service provision is not affected, and in this case permission will not be withheld unreasonably. Such duties may include:

Attendance at appropriate planned meetings between staff and management sides (such as the Trust Partnership Forum, and Trust Reward & Performance Group),

and staff side meetings agreed with management. This includes at least 6 meetings of the Joint Union Committee a year.

Managers should be given as much prior notice as possible of the need for any employees or representatives to attend official meetings.

All representatives will receive their normal hourly rate of pay to attend official meetings and relevant training. The principle of 'no loss – no gain' should apply to such attendance. Therefore, for example, night duty rates should be paid to representatives who usually work at night to attend meetings and training during the day.

Representatives attending official meetings over and above their normal working hours should receive lieu time, which should be taken, wherever possible, within one month, and certainly within a maximum of 3 months of the extra hours worked. This should be by agreement with their Manager before attending. However, if they can provide evidence that they are unable to take this time off in lieu within three months, plain time rates will be paid. Representative should be allowed facilities to represent members from other divisions if an appropriate representative is unavailable from that area. Representatives should also be allowed to cross hospital sites in order to represent members if an appropriate representative is unavailable.

Union Learning Representatives also have equivalent rights.

Representatives who have a Bank only contract will not attract pay for union duties via the Bank.

6.4 Additional Facilities

University Hospitals Bristol NHS Foundation Trust undertakes to collect and remit union contributions through the Deduction Of Contributions At Source (DOCAS) facility, and the recognised unions undertake where practicable to inform the University Hospitals Bristol NHS Foundation Trust of their current membership numbers employed in the Trust on request.

University Hospitals Bristol NHS Foundation Trust undertakes to provide and maintain for the collective use of representatives, reasonable office facilities for union business, including the use of telephones, photocopying, a computer, and other necessary facilities such as E-mail, internet and fax, provision of a lockable storage facility and lockable filing system. Accommodation for confidential meetings will be available. At present, the Joint Union facilities are on Level 3, Whitefriars.

University Hospitals Bristol NHS Foundation Trust undertakes to provide access to lockable, covered notice boards for the use of accredited trade union representatives in order that notices of interest of staff may be exhibited. The siting of such boards will be jointly agreed. Union notices may not be exhibited elsewhere without the previous consent of Management.

Subject to the needs of the service and the availability of resources, UH Bristol will normally approve applications from representatives to attend their trade unions' Annual Conference. **One** representative of each trade union will be allowed paid time off to attend.

6.5 Trust wide responsibilities

Because of their particular Trust wide co-ordinating role in employee relations, Joint Union Committee Officers will be entitled to a total of 52.5 hours **per week** paid release, to be allocated by the Joint Union Committee.

The employing departments of the above will be compensated from a central HR budget for this time commitment.

7. VARIATION OR TERMINATION OF AGREEMENT

Variations to this agreement may be made by joint agreement between the parties. In the event of an issue remaining unresolved between UH Bristol and the Joint Unions, it shall be open to either party to invoke the agreed Grievance Policy & Procedure.

8. TRAINING

The Unions and UH Bristol agree that it is in the interests of good employee relations and partnership working that both managers and union representatives receive training to enable them to undertake their roles effectively. This should include TUC/Trade Union recognised and relevant courses (relevant courses meaning those appertaining to employee relations) subject to the availability of the course, with sufficient notice given so as not to affect service provision when releasing the member.

In addition, it is essential that newly appointed Trade Union representatives are provided with the appropriate induction about the Trust and Partnership working by their lead representative.

9. REFERENCES

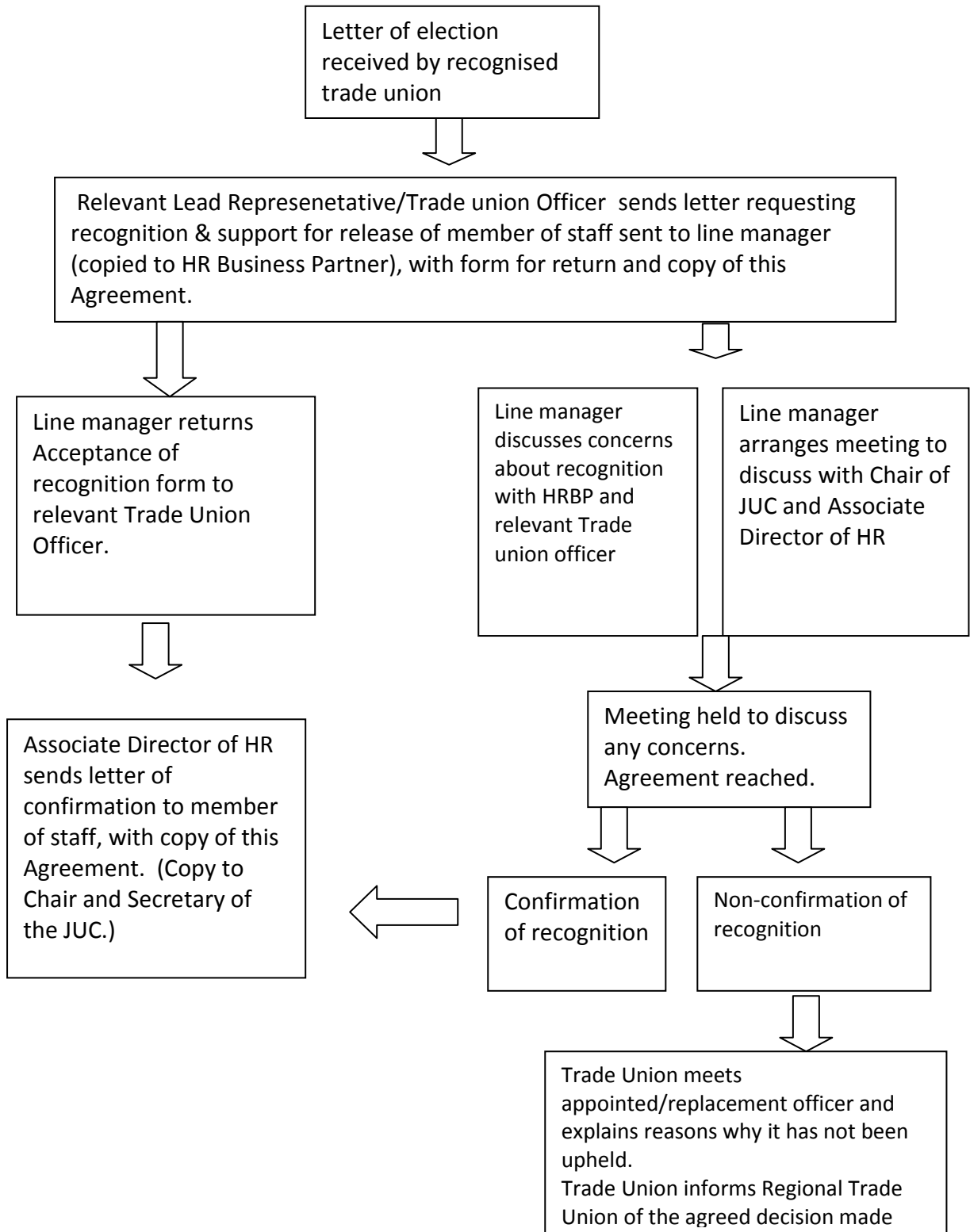
ACAS's Code of Practice "Time off for Trade Union Duties & Activities".

UH Bristol Staff Conduct Policy

UH Bristol Grievance Policy & Procedure

APPENDIX A

TRADE UNION REPRESENTATIVE RECOGNITION PROCESS WITHIN UH BRISTOL



APPENDIX B

List of Trade Unions recognised by University Hospitals Bristol NHS Foundation Trust

- BDA (British Dental Association)
- BDA (British Dietetic Association)
- BMA (British Medical Association)
- BOS (British Orthoptic Society)
- CSP (Chartered Society of Physiotherapists)
- FCS (Federation of Clinical Scientists)
- GMB Union
- RCM (Royal College of Midwives)
- RCN (Royal College of Nursing)
- SOCP (Society of Chiropodists and Podiatrists)
- SOR (Society of Radiographers)
- UNISON
- UNISON/BAOT (British Association of Occupational Therapists)
- UNITE

APPENDIX C

TRAINING FOR UNION REPRESENTATIVES

RCN

Information about training provided to RCN representatives can be found on the RCN website: <https://www.rcn.org.uk/get-involved/rcn-reps>

UNISON (from UNISON document)

The Organising Steward – 5 days (one day a week over five weeks)
Health & Safety Stage One – 10 days (one day a week over ten weeks)
Union Learning Representative – 3 days (normally one day a week over three weeks)

UNITE (from UNITE document)

Workplace Reps Introductory Certificate Stage 1 – 5 consecutive days
Workplace Reps Introductory Certificate Stage 2 – 5 consecutive days
Workplace Reps Introductory Certificate Stage 3 – 5 consecutive days
Workplace Reps Introductory Certificate Stage 4 – 5 consecutive days

Health & Safety Reps Certificate Stage 1 – 5 consecutive days
Health & Safety Reps Certificate Stage 2 – 5 consecutive days
Health & Safety Reps Certificate Stage 3 – 5 consecutive days
Health & Safety Reps Certificate Stage 4 – 5 consecutive days

Union Learning Reps Stage 1 – 5 consecutive days
Union Learning Reps Stage 2 – 5 consecutive days

APPENDIX D

TEMPLATE – ACCEPTANCE OF RECOGNITION OF EMPLOYEE AS ACCREDITED TRADE UNION REPRESENTATIVE

I have received notification that *(Name of employee)* has been elected as a representative of *(name of Union)*.

In recognition of the importance to the Trust of partnership working with staff side representatives, I confirm that this ward / department will support the release of this member of staff to fulfil their duties.

Name:

(please print)

Ward / Department:

Please complete and return to appropriate Lead Representative/Trade Union Officer

APPENDIX E

**TEMPLATE – REASONS FOR CONCERNS ABOUT RECOGNITION OF
EMPLOYEE AS ACCREDITED TRADE UNION REPRESENTATIVE**

I have received notification that *(Name of employee)* has been elected as a representative of *(name of Union)*.

Whilst recognising the importance to the Trust of partnership working with staff side representatives, I am concerned that this ward / department may not be able to support the release of this member of staff to fulfil their duties.

This is because their release would *(please give details of the reason(s) for concern. They may include, but not be limited to):*

- Have a detrimental effect on ability to meet customer demands
- Not be possible because we cannot reorganise work amongst existing staff
- Not be possible because we cannot recruit additional staff
- Have a detrimental impact on quality or performance

I look forward to discussing this further with you at our meeting on *(insert date of meeting with Chair of Joint Union/Lead Representative)*.

Name:

(please print)

Ward / Department:

Please complete and return to relevant Trade Union Official, copying in HRBP.

| EQUALITY IMPACT ASSESSMENT SCREENING FORM | | | |
|---|----------------------------------|---------------------------------|------------------------------------|
| Title: Trade Union Facilities Recognition Agreement | | | |
| Author: ██████████ | | Division: Trust Services | Date: Feb 2016 |
| Document Class: Policy | Document Status: Approved | Issue Date: TCB | Review Date: proposed 2020? |
| What are the aims of the document? To aid and improve the effectiveness of relations between UH Bristol and recognised trade unions | | | |
| What are the objectives of the document? To maintain good employee relations through joint consultation and negotiation To facilitate the efficient operation and development of UH Bristol in the best interests of its patients and staff | | | |
| How will the effectiveness of the document be monitored? Via regular meetings between members of the JUC and the Head of Reward | | | |
| Who is the target audience of the document (which staff groups)? All staff groups | | | |
| Which stakeholders have been consulted with and how? Members of the JUC via Policy Group. Other staff side representatives via Trust Industrial Relations Group | | | |
| Who is it likely to impact on? | | | |
| <input checked="" type="checkbox"/> | Staff | <input type="checkbox"/> | Patient |
| <input type="checkbox"/> | | <input type="checkbox"/> | Visitors |
| <input type="checkbox"/> | | <input type="checkbox"/> | Carers |
| <input type="checkbox"/> | | Other (please specify): | |

| | Yes or No | Give reasons for decision | What evidence was examined? |
|--|-----------|---|-----------------------------|
| Does the policy/strategy/function or proposed change affect one group more or less favourably than another on the basis of: | No | There is no exclusion on any equality strand grounds or any protected characteristic from applications for election to union duties | |
| Age | | | |
| Disability (including learning disability, physical, sensory impairment and mental health) | | | |
| Gender reassignment | | | |
| Marriage and Civil Partnership | | | |
| Race | | | |
| Religion or belief | | | |
| Sex | | | |
| Sexual Orientation | | | |
| Pregnancy and Maternity | | | |
| Human Rights | | | |

Document Title: Trade Union Facilities Recognition

Version 4

| | |
|---|--------------------------|
| Action Required: | |
| Action Lead: | To be delivered by when: |
| Progress to date: | |
| Next steps: | |
| How will the impact on the policy be monitored and evaluated? | |
| Person completing the assignment: | Date: Review Date: |