**Trade Union Bill – Campaign Update**

February 2016

What is the Trade Union Bill and why does it matter? The Trade Union Bill is a new set of laws that will severely restrict working people’s ability to organise for their own rights and campaign for a more progressive society. The Bill is now in its Committee Stage in the Lords. If it continues its Parliamentary progress, it could become law this spring and apply in England, Scotland and Wales.

**Introduction**

UNISON is campaigning against the Trade Union Bill because we believe MPs should be focusing on the real problems our country faces and working with everyone, including trade unions, to solve them, rather than taking away people’s right to be supported at work.

UNISON members have made a huge difference already – turning out in large numbers at rallies and demonstrations as well as a massive lobby of Parliament on 2 November 2015.

UNISON members spent the autumn of 2015 speaking to employers, councillors, MPs and government ministers to tell their stories, making compelling arguments and keeping up the pressure on the government. Members and branches were also key in getting employers across England, Scotland and Wales to speak up against the government’s plans. They added their voices to that of the Welsh and Scottish governments who have challenged the constitutionality of the Trade Union Bill.

On 10 November, the Scottish Parliament agreed a motion"That the Parliament opposes and condemns the Trade Union Bill as proposed by the UK government; believes that it restricts the fundamental rights of workers to organise, bargain collectively and, if necessary, withdraw their labour, and further believes that it will both undermine the effective engagement of trade unions across Scottish workplaces and, in particular, across the Scottish public sector ..”

The minister also confirmed that the law officers have been instructed to consider the legal grounds for a challenge if the UK government doesn't seek a Legislative Consent Motion.

On 28 January 2016, the Welsh Assembly passed a Legislative Consent Motion challenging the Westminster decision making powers within the Trade Union Bill on the additional 40% threshold on industrial action ballots, additional regulation around facility time and the removal of ‘check off’ in the Welsh public sector.

The Bill does not apply to Northern Ireland.

**♡ UNISON week of action**

UNISON’s campaign against the Trade Union Bill goes further than Westminster – because whatever happens with the Bill, it has shown us that this government is intent on hurting working people and undermining trade unions. At workplace level, UNISON will be recruiting, organising and campaigning as never before. As part of this, on 8 to 14 February, branches and members across the UK took part in a TUC week of action. To find out more, visit <https://www.unison.org.uk/tag/heart-unison/>

**Trade Union Bill – what it means for workers**

**General briefing**

The government has made a number of concessions to their plans mid-way through the Parliamentary progress of the Bill, which are reflected in this briefing.

**The Trade Union Bill undermines social partnership in the public sector**

Clause 14 of the Trade Union Bill prohibits the direct deduction of trade union subs from workers wages in the public sector.

The majority of UNISON’s 1.3 million members choose to have their subs taken straight from their wages – a process efficient and beneficial for both employers and members. It is underpinned by three contractual relationships – the written agreement between the staff member and the employer, the collective agreement between the employer and the union and the contract of membership between the member and the union.

Not a single public sector employer has spoken up in support of removing check-off.

Virtually all the human resources directors in the National Health Service, including those in the biggest hospitals, have questioned the government’s plans, along with all local authorities in Scotland and Wales and many others in England.

UNISON has offered to pay for the costs of administering check-off with public sector employers. An amendment proposed at the House of Commons Report stage by Conservative MP Jeremy Lefroy would have enabled this. Tory peer Richard Balfe has now tabled a similar amendment in the House of Lords.

**The Trade Union Bill undermines the right to strike**

The Bill subjects trade union members to unprecedented levels of civil and criminal penalties, regulations and technical and monitoring requirements.

Workers will only be able to withdraw their labour through industrial action if 50% or more of eligible members vote in the industrial action ballot.

For industrial action in ‘important public services’ 40% of all members eligible to vote would have to vote yes for a union to have a strike mandate. That means if 50% of members vote, 80% of those must vote yes.

‘Important public services’ affects UNISON members working in health.

If a group of workers spend part of their time delivering a service in an ‘important’ area, they would be covered by the 40% threshold.

However, the government has **dropped** plans to include ‘ancillary workers’ in affected sectors under the 40% threshold. It also now looks likely that UNISON members in education will not be affected by the 40% threshold, though the position for members in FE is still unclear.

Action that meets every threshold could still be stopped on legal technicalities around whether all rules were followed. For example, new rules will require ‘reasonably detailed’ information on all balloting papers. Reasonably detailed is yet to be defined but lack of ‘reasonably detailed’ information on ballot papers could be used by employers as a basis for legal action.

Unions must give extended notice of industrial action – 14 days, up from the current seven days.

Unions will have new time limits on ballot mandates. After four months, whether a dispute is resolved or not, unions will have to re- ballot.

**The Trade Union Bill will allow employers to use agency workers to break strikes**

Employers will be allowed to bring in agency workers when their employees are on strike.

The use of agency workers during strikes undermines the right to strike and could impact on the safety and quality of the services normally provided by trained and qualified staff.

Not only will it put those agency workers in a difficult and stressful position as they are asked to cover a service in a workplace they are not familiar with, it may also compromise the safety of the services that are provided.

**The Trade Union Bill will restrict the ability of unions to protest**

If the Bill becomes law, picketing will only be lawful if unions appoint a picket supervisor and notify the police of their name and contact details.

The supervisors will be required to carry a letter of approval which must be shown to the employers or their representatives on demand.

They will also be required to wear armbands or badges which identify them.

Following well publicised campaigning by trade unions and human rights groups, including UNISON’s “Two Week Warning” campaign, the government has **dropped** plans to:

* Make unions give 14 days notice of any plans for protests associated with their industrial action, including what will be written on websites and in Facebook posts and Tweets. If they do not provide details, or fail to provide updates of materials, unions will face financial penalties.
* Create a new criminal offence – intimidation on the picket line –, and Anti Social Behaviour Orders (ASBOs) could be used against people protesting outside their workplace.
* Force picket supervisors to show their letter of approval to anyone who asked to see it.

UNISON believes that the right to strike and peacefully to protest is a fundamental one, which should be respected in a free and democratic society. The UK already has one of the most regulated systems of industrial action in the world, with unions having to comply with highly complex legal requirements.

The new restrictions are unnecessary and the government’s own Regulatory Policy Body has found it ‘not fit for purpose’.

On 11 January 2016, the Equality and Human Rights Commission warned the government that the Trade Union Bill was in danger of imposing potentially unlawful restrictions on the basic human right to strike and protest. The Bill has also been criticised by the Joint Human Rights Committee of Parliament, and internationally, by the ILO Committee of Experts.

**The Trade Union Bill will restrict facility time**

New powers will require all public sector employers to publish information on the amount of money used for trade union facilities, including paid time off.

There will be new requirements on unions to publish the percentage of money spent on facility time and taken up with different trade union activities.

The government will have the power to introduce a cap on the amount of money local authorities can spend on facility time. The cap could also apply to different trade union activities.

During the House of Commons Committee stages, the Government conceded that any future cap should not interfere with EU based rights. As a result, time off for health and safety duties, consultations on collective redundancies and TUPE transfers should be exempt from any overall cap on facility time.

The power to cap facility time would be a ‘reserve power’. The Minister, Nick Boles also confirmed that facility time restrictions would not extend to the private or voluntary sector, including those providing outsourced services to the public sector. It would, however, apply to academy schools in England.

**The Trade Union Bill will damage equality in the workplace**

Trade unions play a vital role in challenging discrimination in the workplace. They also train officers and representatives to deal with a range of issues including bullying and harassment and to promote equality at work and in the community. The work done by unions in negotiating and bargaining for equality and the activities of members in self organised groups (SOGs) in challenging discrimination are vital. When the right to strike action is undermined, so are the incentives to employers to listen to their workers, resolve disputes and engage in constructive relationships with trade union representatives.

Along with restrictions on facility time, the Bill will mean that:

* The concentration of women in public services means that the Trade Union Bill’s provisions will have a disproportionate gender impact.
* Groups of workers who already face discrimination in the workplace are likely to be more vulnerable than ever before.
* Social partnership work and collective bargaining on tackling discrimination, ensuring fair and transparent employment processes, equal pay, family friendly working and health and safety will all be damaged.
* Dealing with the red tape and bureaucracy around industrial action and disputes will also divert trade unions away from core equalities work.

**The Trade Union Bill would restrict UNISON’s campaigning work with new laws on the political fund**

Lots of UNISON’s work is funded by our political fund. Our general political fund is what funds much of our high profile political campaigns, such as the Worth It campaign for fair pay, as well as all sorts of local projects and campaigns, such as anti-cuts campaigns, anti-racism campaigns or local campaigns against hospital closures. Our affiliated political fund goes towards work to take UNISON’s policies into the heart of the Labour Party.

UNISON members choose whether to pay a proportion of their subscriptions into the affiliated political fund (Labour Link), the general political fund (GPF), both, or neither.

Under the Trade Union Bill:

* Within three months of the Commencement of the Act the union must have received written consent from every member who currently pays into the political fund (both the general and affiliated fund) to say they wish to continue paying into the fund, otherwise their subscriptions cannot go into the fund.
* Each member who wants to continue to pay into the political fund must give written consent to do this every five years. This must then be renewed every five years thereafter.
* Unions will continue to ballot members every 10 years to maintain a political fund.

The House of Lords voted to send the political fund clauses for extra select committee scrutiny in a parallel process to regular Committee scrutiny. This is due to a widely shared perception that these clauses had a partisan impact on the Labour Party.

**The Trade Union Bill will give new powers for the Certification Officer (CO)**

The Certification Officer (CO), the body responsible for statutory functions relating to trade unions and employers’ associations, will have new powers that could restrict trade union activity.

The CO will have new powers to impose financial penalties.

The CO will have new powers to scrutinise how unions use their political funds; where the money goes and to what purpose.

It will be able to initiate its own investigations without a complaint from a union member (currently investigations happen when union members complain).

Employers and other third parties will be able to make complaints to the CO about trade unions and have them investigated.

The CO will have new investigatory powers including the ability to seize union documents from national offices and branches.

To fund an expanded and more powerful CO, trade unions will pay a levy that will be set by the government.

**Get involved**

This Bill will undermine employees’ ability to make their voice heard at work and hand more power over to employers. It is vital that defeating the Bill becomes the priority for all UNISON activists.

Here’s what you can do now:

Sign up to receive updates on the campaign at unison.org.uk/TradeUnionBill.

Tell us how you’re combating discrimination:

UNISON is currently running a survey to collate information on all the great work members do to tackle discrimination and promote equality. Please take part: <https://goo.gl/B7aJcK>

Take our facility time survey: <http://unsn.org.uk/t/2K5Z-LEDE-35BULP-9FGG7-1/c.aspx>