

## Trades union bill - UCU briefing

September 2015

### Timeline

The trade union bill was introduced to the Commons on 15 July. The bill passed its second reading on 14 September with a majority of 33, and will now progress into committee stage. A final Commons vote is expected by November.

The TUC has had indications that the government plan to introduce secondary regulations allowing the use of agency workers to break strikes swiftly after the consultation period on this issue ends. This could take place as soon as 42 days after these regulations are laid, which seems likely to be in early October.

### Key proposals within the bill

- **50% turnout threshold** for ballots on industrial action - currently no min turnout.
- **40% support threshold for action in 'important public services'** - applies to all eligible members, affected services to be specified in regulations.
- **More information required on voting papers** about the dispute, timescale, etc.
- **4 month time limit on action** from time of ballot - currently can suspend and restart action within same dispute on basis of original ballot.
- **14 day minimum notice to employer prior to IA** - currently only 7 days.
- **Changes to political fund** - end to automatic levy, mandatory opt-in with 5 year renewal, reporting on spending over £2000.
- **Picketing restrictions** – new requirements for supervisors, letters of authorisation, advance notice of picket and publicity plans, criminal liability.
- **Enable agency staff to cover striking workers** - by removing the 1973 ban
- **Increased regulation** – new powers for Certification officer.

### UCU's position - key messages

UCU opposes the government's pernicious plans to undermine the role of trade unions by curtailing their ability to mobilise effective industrial action. The right to strike is a fundamental human right and these proposals are both excessive and unnecessary.

UCU calls on politicians to reject this draconian and interventionist legislation, which is a blatant attack on unions and which will only serve as a strain on industrial relations and weaken the position of employees in dealing with intransigent employers.

The legislation is flawed; it has been criticised by the Regulatory Policy Committee (RPC) and the TUC has raised concerns with the International Labour Organisation (ILO) about the bill's effect on freedom of association. The equality impact assessment also lacks statistical evidence to substantiate its conclusions.

The proposals around use of agency workers are of particular concern- our members are highly specialised professionals and much of their work simply cannot be covered by others without serious impact on the student experience and/or health and safety.

UCU has responded to the three consultations on the trade union bill, and endorses the views advanced by the Trades Union Congress (TUC) in opposing the bill.

## Potential implications of the bill for UCU

### Thresholds

The proposed 50% threshold will apply to all trade unions including UCU, and will mean that at least half the affected members in any dispute would need to vote in a ballot for industrial action.

It is our current understanding that UCU members will not be subject to the 'important public services' requirement for 40% support from the eligible membership. However, as some members in FE teach young people aged 17 and under, we will need to keep a close eye on the regulations to ensure that this position does not change.

### Key concerns:

- the 50% threshold proposal has not been subject to consultation, despite concerns raised by many, including the Regulatory Policy Committee (RPC)
- it is clearly intended to curtail the ability of trade unions to mobilise effective industrial action, handing further power to intransigent employers
- the RPC deemed the impact assessment as '**not fit for purpose**', with little evidence to support government's claims that thresholds will reduce strike action by 65%
- industrial action has been conflated with strike action as a justification for the thresholds- disputes which involve action short of strike should not be treated in same way if the primary concern is about the impact of strikes on the public
- the definition of 'important public services' is wider than 'essential services' defined in international law
- the bill includes no mention of potential for secure electronic balloting which could increase democracy and which is already used by several political parties and national membership organisations.

## Ballot and notice requirements

The more stringent requirements in relation to ballot papers, 14-day notice to employers and the four-month time limit on ballots will all have a significant effect on local and national action.

### Key concerns:

- the increased notice period will stifle unions' ability to move quick action against an intransigent employer
- there will be an administrative and financial burden attached to more frequent balloting during extended disputes.

## Political fund

The bill would require members to actively opt in to any political fund maintained by the union, and to renew this decision in writing every five years. Expenditure over £2,000 will have to be reported.

### Key concerns:

- UCU is a non-affiliated union and uses its political fund for issue-based campaigning and lobbying of decision-makers across the political spectrum
- union members can already choose to opt out of a political fund and the funding itself is subject to a vote every ten years. There is no need for further costly restrictions on this
- despite non-affiliation, UCU believes this proposed change is clearly designed to reduce funding for the Labour party, eschewing the traditional negotiation between all parties concerned.

## Picketing restrictions

The requirements around picketing are particularly pernicious. Every picket will be required to have a supervisor, whose details will be handed to police and who will have to carry a letter of authorisation. Local authorities could be given a right to issue anti-social behaviour orders to picketers and 14 days' notice of all picket activity (including social media coverage) would be required.

### Key concerns:

- existing picket rules are fit for purpose - these new regulations are overly bureaucratic
- protest restrictions are unjustified and will divert scarce police resources from serious crime
- this level of scrutiny and monitoring is excessive and undermines the freedom of association

- the TUC has raised concerns that these proposals contravene ILO guidelines on freedom of association.

## Use of agency workers

The legislation proposes that employers should be allowed to use agency staff to cover the work of striking workers. This would have a deleterious effect on industrial relations and seriously undermine the effectiveness of strike action.

### Key concerns:

- many of our members are experts in their field - their teaching is often based on specialist knowledge which cannot be provided by agency workers without a negative impact on the student learning experience; in many subject areas there may simply not be any agency workers with the appropriate subject knowledge to cover the work effectively
- a significant portion of our members' time is spent marking work - there may be a reputational risk if unqualified agency staff are used to mark and grade students' assessments
- in prison education and further education especially, there are major health and safety requirements (eg CRB/DBS checks, security clearances, pastoral care for vulnerable learners) for teaching staff which may not easily be satisfied by agency workers. This is also true of technical staff working in labs and workshops, whose technical knowledge is often crucial for health and safety
- goodwill is extremely important in the post-16 education sector – staff work more unpaid hours than in many other sectors because they see their work as a vocation; these measures would undermine that good will and may mean that staff are less inclined to 'go the extra mile' in the future
- the use of agency workers will be seen as a hostile act and will serve to lengthen industrial disputes.

## Key activities in opposing the bill

The TUC is leading a coordinated campaign against the bill, '**Protect the right to strike**', which UCU is supporting. To date this has included asking members to write to MPs ahead of the bill's second reading, and taking part in a coordinated day of action on 14 September. Key activities in the coming months include:

- demo at Tory Party conference on Sunday 4 October
- lobby of parliament and rally on 2 November.

Members can continue to **contact MPs** on this issue via the UCU website.

## Further reading

TUC submission to the ILO:

<https://www.tuc.org.uk/sites/default/files/ILOcomplaintontheTUBill.pdf>

IER/CLASS briefing document:

[http://www.ier.org.uk/sites/ier.org.uk/files/IER%20The%20Trade%20Unions%20Bill%20July%202015\\_0.pdf](http://www.ier.org.uk/sites/ier.org.uk/files/IER%20The%20Trade%20Unions%20Bill%20July%202015_0.pdf)

TUC campaign resources:

<https://www.tuc.org.uk/tubillresources>