
Meeting: JOINT CONSULTATIVE COMMITTEE **Agenda Item:** 4
Portfolio Area: Resources
Date: 30 November 2015

TRADE UNION BILL

NON-KEY DECISION

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1 PURPOSE

- 1.1 To inform the Joint Consultative Committee of the proposals in the Trade Union Bill (the Bill).

2 RECOMMENDATIONS

- 2.1 To note the proposed reforms set out in the Trade Union Bill.

3 BACKGROUND

- 3.1 The Trade Union and Labour Relations (Consolidation) Act 1992 currently sets out the balloting and notification requirements that trade unions must comply with in instigating industrial action. If the union complies with these requirements it will obtain immunity from liability from specified torts.
- 3.2 The government published its Trade Union Bill on 15 July 2015, which sets out various reforms to the law regulating trade unions. The Bill was open for public consultation from 15 July 2015 until 9 September 2015 and the LGA and the TUC have provided formal responses to the public consultation.

4. THE TRADE UNION BILL PROPOSALS

- 4.1 The main proposals of the Bill are reforms to: ballot thresholds for industrial action, information requirements relating to industrial action, timing and duration of industrial action, picketing, application for funds for political objects, trade union facility time, and further powers of Certification Officer.
- 4.2 Further detail concerning the main reforms set out in the Bill are outlined below:
- All strike ballots must have a turnout of at least 50% of those entitled to vote
 - In defined 'important public services' such as health, children's education and transport, at least 40% of those entitled to vote must vote 'yes' (so if

the strike ballot gets a 50% per cent turnout at least 80% of those voting must vote 'yes')

- The voting paper will need to include a 'reasonably detailed indication' of the matters in dispute between the union and the employer
 - Instead of asking whether the members support a strike or action short of a strike, the voting paper will need to specify what kind of action short of a strike is being contemplated.
 - The voting paper must also indicate the period or periods within which industrial action is expected to take place
 - In notifying its members and the employer of the result of the ballot the union will have to give details of the turnout and whether it matches the new requirements
 - The union will have to describe any industrial action it has taken in the previous year when making its annual return to the Certification Officer
 - The period of notice which the union has to give the employer in order to take industrial action will increase from seven to fourteen days.
 - The industrial action ballot will only be valid for four months from the last day on which votes will be cast. Any industrial action taking place after that period will need to be authorised by a fresh ballot.
 - Where a union organises a picket, the union must appoint an official or union member to be the 'Picket Supervisor' and a range of requirements currently set out in the Code of Practice on Picketing will become a formal legal requirement.
 - The union must notify the police of the location of any picket, giving the Picket Supervisor's name and contact details.
 - The Bill also proposes new restrictions on a union's ability to donate to political parties, with changes to union political funds from the current 'opt-out' system to an 'opt-in' system, requiring all existing and new trade union members to sign an "opt-in" form every 5 years.
 - The Bill contains provisions requiring public sector organisations to publish certain information relating to facility time provided to trade union officials, and includes a power to make regulations that could set a limit on trade union facility time.
 - The Bill proposes to remove the prohibition on the use of agency workers to cover those employees on strike.
- 4.3 The Bill proposes the need for an increased "yes" vote for "important public services". The "important public services" are defined as: health services, education of those aged under 17, fire services, transport services, decommissioning of nuclear installations and management of radioactive waste and spent fuel, or border security.
- 4.4 At present providing industrial action starts within four weeks of the close of the ballot (or eight weeks if the employer agrees), that ballot can be relied upon for industrial action for as long as the trade dispute (that is the subject of the ballot) continues. The new Bill will introduce a new four-month limit, meaning the ballot will only be valid for and mandate industrial action that takes place within four months from the date of the ballot.

- 4.5 There is currently a statutory Code of Practice on Picketing (the Code) which sets out information on what constitutes lawful picketing, alongside good practice. The Code does not of itself impose any legal obligations, but its contents may be taken into account in any relevant legal proceedings. The Bill proposes to make many of these recommendations legally enforceable.
- 4.5 The Bill contains provisions requiring public sector organisations to publish certain information (in relation to facility time) provided to trade union officials. Stevenage Borough Council currently presents annual data concerning trade union facility time in line with our requirements under the Data Transparency Code.
- 4.6 The Bill includes a power to make regulations that could set a limit on public sector trade union facility time. There is currently no indication in the Bill regarding the % limit for facility time. Based upon the Stevenage Borough Council Data Transparency return for the year to September 2015, the trade unions reported that the total time spent on trade union “duties” amounted to 1732 hours/234 working days. This equates to approx 0.1% of the total employer pay bill.
- 4.7 Currently, where a trade union has a political fund, individual union members are treated as automatically signed up to pay the political levy, but can contract out of this if they choose to do so. The Bill, however, proposes to reverse this by requiring that individual union members would have to expressly “opt in” to contributing to the fund. The union would then be required to ask the member again every five

5. RECOMMENDATIONS

- 5.1 The public consultation period for the Bill has closed and the LGA and the TUC have provided formal responses to the Bill.
- 5.2 Whilst the government’s public consultation period for the Bill has closed, the Bill still has a considerable process to go through and could be subject to further change. Therefore, it is recommended that we continue to monitor how the Bill progresses, to consider any implications for Stevenage Borough Council as an employer.

6. REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

- 6.1 The opportunity to respond as part of the public consultation has closed.

7 IMPLICATIONS

7.1 Financial Implications

- 7.1.1 There are no financial implications from these proposals

7.2 Legal Implications

7.2.1 As detailed above.

7.3 Equalities and Diversity Implications

7.3.1 The Bill directly relates to trade union legal reform and trade union officials and trade union members are protected from discrimination on the grounds of their membership. However, whilst we will continue to engage with the trade unions and strive to build upon the existing good industrial relations, we will need to ensure compliance with the relevant legislation, as an employer.

7.4 Risk Implications

7.4.1 There are no significant risks to the Council at this stage in considering the proposals of the Trade Union Bill.

7.5 Policy Implications

7.5.1 There are no implications to current policy.