

EMPLOYEES' CONSULTATIVE FORUM: NOVEMBER 2015

UNISON REPORT ON THE TRADE UNION BILL (2015) AND THE IMPLICATIONS OF REMOVAL OF CHECK OFF (DOCAS) AND POTENTIAL RESTRICTIONS/REMOVAL OF TRADE UNION FACILITY TIME

SUMMARY AND DECISION REQUESTED

This report places on record Harrow UNISON Local Government Branch's deep concerns about the draconian measures contained in the Trade Union Bill which, if enacted, will dramatically impact industrial relations on a national level and will detrimentally impact existing arrangements at Harrow Council. The report focuses on the recently added measures by central Government which seek to scrap check-off arrangements in the public sector and which seek to control/remove facility time agreements that are agreed locally between Harrow Council and its recognised trade unions. The report recognises the supportive and positive approach adopted by the Leader of the Council and seeks to further this support at Council level when the Trade Union Bill Motion (a Motion submitted by the Branch in October) is debated at Full Council in November or December 2015. Given the positive contributions that trade unions and union members make across the Council and the detrimental financial impact if check off is removed (evidenced in the Chronology), this report requests ECF to agree and endorse a recommendation to Cabinet/Full Council to enter into an urgent local agreement with the recognised trade unions that seeks to continue Harrow Council's self-determination of facility time agreements and the existing check off arrangements of trade union membership fees.

CHRONOLOGY

DATE	ACTION	OUTCOME
13 th October 2015	'Drop the Trade Union Bill' Motion and letter sent to Leader of the Council and Portfolio Holder. The letter highlighted the measures impacting facility time arrangements and the removal of 'check off' payroll deductions for union subscriptions. The motion called on the Leader of the Council to submit a formal response to the Committee of MP's considering the Trade Union Bill raising concerns about measures contained in the Bill. It also calls on the Motion to be debated at the next Full Council.	The Leader of the Council submitted written evidence to the House of Commons Public Bill Committee on 26 th October 2015 expressing his concern about the measures in the Trade Union Bill relating to check off and facility time. He also made it clear that the Council would want to continue locally agreed industrial relations strategy and would take measures to maintain Council autonomy with regard to facility time and continuing check off in efforts to maintain good industrial relations.
13 th October 2015	Trade Union Bill raised as a concern during 'AOB' at ECF	UNISON representatives were advised to raise the issue at the next

	Sub Group in October.	Corporate Joint Committee (CJC).
14 th October 2015	Email from HRD Divisional Director to UNISON clarifying fees administering check off for UNISON and GMB in year 2014/15 and the revenue earned.	Email from HRD Divisional Director confirmed that Council revenue for administering check off for UNISON and GMB members in 2014/15 is approx. £6,000 per annum.
21 st October 2015	Trade Union Bill discussed as an agenda item at CJC.	HR representatives listened to UNISON and the concerns expressed about the Trade Union Bill. UNISON informed the Committee about the Motion submitted by the Branch concerning the negative effects of the Bill. HR representatives were supportive of this approach and expressed concern about the additional responsibilities the Trade Union Bill places on the Council in terms of recording and reporting facility time undertaken in the conduct of trade union duties.

REPORT

Background of the Trade Union Bill

At time of writing the Trade Union Bill is continuing its passage through the Westminster Parliament, with MPs and Peers discussing the Bill in the House of Commons (third reading in the House of Commons is on 10th November 2015) and in the Bill's Parliamentary Committee which has now ended. The Bill could become law by February 2016 and will apply in England, Scotland and Wales (Northern Ireland decides its own employment law matters).

Given the content of measures contained within the Bill (as mentioned below) the Trade Union movement have described the Trade Union Bill – or TU Bill - as the most draconian and aggressive anti-trade union laws ever proposed in the western world.

Criticism of the Bill has not just come from the trade union movement, as one would expect. On the contrary, academics have rounded on the Bill and have termed some of the measures, such as those relating to strikes, as 'perverse' and unwarranted given the dramatic reduction of working days lost through strike action since the 1980's (a fact the Government chose to ignore in a point made by the TUC in their submission response to Government).

The Chartered Instituted of Personnel and Development (CIPD), on their website, described the TU Bill has 'outdated' and the controversial measures on strike action as 'counterproductive' to good industrial relations. Further, even Conservative MP's (David Davis) compare the TU Bill to something emanating from 'Franco's (despotic) Spain'.

It is without question that the TU Bill will damage trade unions ability to organise and will fundamentally impact their collective bargaining and negotiating rights with employers across the country. In turn, this will contravene fundamental human rights e.g. Article 11 (Freedom of Assembly and Association) as defined in the Human Rights Act (1998) and as enshrined in Convention Rights enjoyed by all UK citizens leading civil rights groups to term the TU Bill as a 'major attack on civil liberties'.

Below is a summary of the draconian measures contained in the TU Bill.

What is in the TU Bill;

- Impose a 50% turnout threshold on industrial action ballots
- Requires a 40% yes vote in 'important public services' abolishing the simple majority vote decision as used in Britain's Parliamentary Election (including health and education implicating many services provided by local authorities)
- Lifts the ban on agency workers to replace striking workers (this practice has been unlawful since 1973)
- Extends the notice that trade unions must give of strike action to employers from 7 days to 14 days
- Imposes a new time limit of 4 months of strike ballots and industrial disputes that could mean employers will refuse to negotiate and sit out of disputes in efforts to run the clock down
- Creates 'Picket Line Supervisors' to carry letters of authorisation wearing special armbands under threat of a £20,000 fine and legal action if measures not met
- ASBO orders introduced in the regulation of the activities of strike pickets (thereby criminalising a previously lawful industrial dispute issue)
- Trade unions must publish picket, campaign and protest plans to employers, police, and the Certification Officer including use of websites, blogs and media, and inform what they will say and have to discipline union members who fall foul of the new laws thereby undermining the right to protest
- New affirmation requirements on trade unions Political Fund membership
- Remove check off arrangements of trade union members membership fees
- Require public sector employers (e.g. Harrow Council) to publish information and record the amount of money used for trade union facilities, including paid time off for local representatives. The Government is authorised to cap arbitrarily at will money a public employer spends on facility arrangements across a range of Trade Union duties e.g. health and safety, workplace learning and member representation

Whilst the impact of all of the above measures is damaging, it is the final two measures listed above that are of particular relevance to this report and of the decision required. The check off and facility time measures are expanded below;

1. Removal of Check Off membership fees

The Branch is sure that ECF is aware of the valuable role that trade union facility time plays in maintaining industrial relations across Harrow Council workplaces. Facility time allows trained trade union representatives time to spend some or all of

their working day supporting members with individual problems, working with managers to head-off possible disputes, working on allocated and cross-council projects, making workplaces safer and promoting learning opportunities, all of which benefits both the Council and the employee.

The TU Bill places additional burdens on public sector employers by requiring the Council to report on how much facility time it has agreed with trade unions. The Bill also contains a reserve power that would allow a Minister to cap arbitrarily the level of facility time that the Council is permitted to agree. This could be done at any time, without a debate in Parliament, and without any reference to your views as the employer or local circumstances.

It is our belief that good relationships between employers and workers are built on collectively negotiated and local agreements (e.g. the Modernising Collective Agreement) that match the needs of the workforce to the needs of the employer. Agreed time-off for union duties is an investment made by the employer and the union in good industrial relations arrangements. It is simply unreasonable that the Government plans to disrupt these relationships, which play an essential role in maintaining the good quality public services that exist here in Harrow.

2. Check-off: Payroll deductions for union subscriptions

The Bill allows the Government to outlaw the use of check-off or Deduction of Contributions at Source (DOCAS) systems for trade union subscriptions which are currently in operation across much of the public sector. Similar to the case of facility time, this will be a decision taken by the Government without reference to local circumstances or the views of public sector employers or workers.

Good industrial relations mean close relationships between unions and employers for the benefit of union members and other workers. It is right that employees should be able to ask their employer to deduct their union dues at source. It is easy, efficient and very cheap to administer, and creates a transparent relationship between the employer and the union.

Payroll deductions are used in a variety of ways by employers, with the consent of their employees, and can include deductions for charitable giving, pension contributions and bike loans. At present the Government is proposing only to prevent union subscriptions being paid through the payroll. Their justification for this is the cost of administering check-off. Given that many other deductions from source are also being made for employees and that these pay-roll systems are already in place, it seems unlikely that any significant saving will be achieved through the removal of check-off.

In fact, as the Branch has evidenced in the report's Chronology, removal of check off in Harrow Council will result in a significant financial detriment of approximately £6,000 per annum due to the Council charging administration fees for check off deductions (as determined via email by the HRD Divisional Director). In his submission to the Parliamentary Committee, the Leader of the Council expressed his concern regarding this point and of the detrimental financial impact that removal

of check off to Harrow Council would create. Harrow UNISON LG Branch places on record its appreciation of the Leader of the Council's position on this matter and we urge him to continue to support the Motion in its progression and support at Full Council in November/December 2015.

Harrow UNISON believes that these issues are serious, not simply due to the disruptive nature of the changes to agreed ways of working, but due to the anti-democratic nature of applying from Central Government a one size fits all approach to industrial relations. It is also without precedence that the UK Government would seek to intervene in the internal running of payroll systems or seek to cut across locally negotiated agreements.

CONCLUSION & DECISION REQUIRED

Given the positive contributions that trade unions and union members make across the Council and the detrimental financial impact if check off is removed, this report requests ECF to agree and endorse a recommendation to Cabinet/Full Council to enter into an urgent local agreement with the recognised trade unions that seeks to continue Harrow Council's self-determination of facility time agreements and the existing check off arrangements.

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