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Bil yr Undebau Llafur (Cymru)

Trade Union (Wales) Bill

Ymateb gan: Undeb y Gweithwyr Cymdeithasol

Response from: The Social Workers' Union (SWU)

## **Response to the Enquiry by The Welsh Assembly into the proposed Trade Union (Wales) Bill**

February, 2017

### **Introduction**

The Social Workers' Union (SWU) represents social workers throughout the four nations of the UK. It was originally set up as an 'arms-length' trade union by the British Association of Social Workers (BASW) social work's professional association, which has offices in Wales, Scotland and Northern Ireland as well as its Head Office in England. SWU was certified as an Independent Trade Union in June 2011 and has grown significantly in membership and influence since that time.

I am the Assistant General Secretary of The Social Workers' Union and I am authorised by their Executive Committee to address this enquiry on their behalf.

### **Background**

When the UK government first introduced proposals for the Trade Union Act, 2016 it provoked an almost unprecedented public outcry. It was seen as a blatant attack on Trade Unions; an attempt to diminish their 'power', as well as an only slightly more subtle attack on the Labour party and, in particular, its' funding. However, it was not just the trade union movement or Labour Party supporters who were opposed to it. Highly vocal opinions came from human rights organisations, public sector employers and politicians of all parties, who felt it was an attack not only on an important part of civil society, but also on ordinary, otherwise non-militant workers' ability to defend their hard-won rights and to take action against unacceptable conditions or unreasonable demands made of them by their employers.

Despite being hailed as the Conservative government's 'flagship' piece of legislation, it was widely described as being ill-conceived and flawed, the consultation was undoubtedly 'limited' having been rushed, the document was poorly written and was 'light' on evidence which rendered it difficult to properly scrutinise.

Although the original provisions have been somewhat diluted, and concessions have been made, it remains a controversial piece of legislation which is, at best, divisive but at worst variously described as "undemocratic, unprincipled and [completely] unnecessary". It is thought that it will almost inevitably cause great resentment and make it very much more problematic for those involved on all sides in industrial relations to work together constructively and may even lead to more acrimonious disputes between trade unions and employers than would otherwise be the case. The Social Workers' Union concurs with this view but, moreover, its members have expressed fears that there is every likelihood that this will lead to greater costs due to a loss of productivity and disruption of services.

### **The Proposals of the Welsh Assembly to repeal the following provisions of The Act; The Trade Union (Wales) Bill:**

#### **The 'Double' Ballot**

The Social Workers' Union can see no justification in the raising of ballot thresholds (the so-called double ballot) for industrial action affecting 'important public services', (including social work provision) and suggest it is both unnecessary and unreasonable which, far from making strike action less likely, could provoke exactly the opposite reaction. Social Workers are not generally seen as 'militant' and are usually extremely reluctant to take any action which could jeopardise the safety and welfare of their service users. However, based on feedback from its members, SWU believes that the large majority of the profession would wish to reserve the right to withhold their labour, *as a last resort*, ie if there was no alternative and they felt 'forced' into such a position. If this 'action of last resort' is made more difficult for the trade unions of the public sector (alone) it is possible that, in order to redress such an imbalance, more of their members would feel obliged to vote in a ballot and, potentially to vote *for* strike action, thereby making the prospect more, not less, likely.

That said, as a trade union, our modus operandi would always be to engage directly with employers to negotiate ways forward in any dispute that arose. This is how we advise our members to approach any issues they might have and it is how we work – dealing openly and honestly with our members and their employers in a professional way to minimise confrontation and to reduce the risks of getting to a stand-off position which is always an expensive option and rarely helpful for either party.

Indeed, social workers are very used to 'working in partnership'; it is a long-held concept within our professional training and practice and so, of course, we applaud and welcome the devolved Welsh Government's model of a social partnership approach to industrial relations and would not wish to see that diminished or threatened.

### **Facility Time**

The Act also requires more information to be released regarding the amount of paid time out of their day to day work (facility time) requested to be given to employees to undertake work on behalf of their trade union, the ultimate aim being to reduce it. Again, this requirement is to be restricted to public sector (which clearly employs considerably more trade union members than the private sector) and so whilst its apparent aim is to reduce the 'cost to the tax payer' for work that is undertaken for union business, it can also be seen as an attack on the trade union movement as a whole.

The Social Workers Union does not have any 'shop stewards' – all our officers are employed by BASW and SWU is contracted by them to undertake the representation of our members. We do have 'workplace volunteers' but their roles are very limited and they are not expected to take much time out of their working day to do 'union work' so this provision would not affect our operations. Nevertheless, we maintain that trade unions are an important part of the development of workers' rights in this country and it has long been recognised that to have useful and effective trade unions is an advantage to employers too. Therefore the provision of paid facility time was seen as a benefit to all and, whilst we accept that the delivery of public services must take priority, we feel that this can be managed by working in partnership with the trade unions without government intervention.

### **The Deduction of Union Subscriptions from Wages**

One of the most contentious of the proposals aims to place restrictions on the ability for employers to deduct Trade Union subscriptions directly from wages (known as 'check-off'). The Social Workers Union is a small, specialist trade union, and as such is not a 'recognised' trade union in many local authorities and none in Wales. We therefore do not rely on 'check-off' for our members' subscriptions which are paid directly to us by the member. The drawback of this is that we rely on

our members to keep us informed whenever they change employers. This is necessary in order for us to comply with legislation on the balloting of members.

Clearly, for the large unions, who mostly use this form of subscription collection, this is a major change and potentially will cause them similar problems in terms of ensuring legal ballots and we do not support anything which makes such a democratic process more difficult. However, one 'unintended consequence' is that this system does benefit the large unions who are able to take advantage of the system and therefore places other, non-recognised trade unions at a distinct disadvantage. Consequently, anything that redresses that imbalance and would allow a more 'level playing field' for all trade unions is, of course, something our members would welcome.

That said, we understand that members are given *the option* to pay their subscriptions to the 'recognised' trade unions in this way, and more often than not, the trade unions pay the employers for that service so there is no cost to the public purse. The Social Workers' Union therefore feels that this should remain a matter of personal choice and as long as that 'choice' is genuine and there is no undue influence then legislation should not be required.

**Conclusion:**

Apart from as indicated above, we are not able to identify any other unintended consequences of the Bill, neither can we identify any major financial implications associated with its introduction. Indeed, from the evidence presented and for the reasons stated above, there is a real risk that it would be more detrimental in term of expenditure and that there would be greater costs associated with the adoption of the UK government's Trade Union Act 2016 in its entirety.

In our view, Trade Unions are one of the very foundations of democracy and we are proud to be a part of their rich history and heritage. We therefore fully support the Welsh government's Trade Union (Wales) Bill and applaud them in properly representing their electorate's democratic rights in repealing the UK governments Trade Union Act 2016 as it applies to public services devolved to them.

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The Social Workers' Union  
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