TUB 16
Bil yr Undebau Llafur (Cymru)
Trade Union (Wales) Bill
Ymateb gan: Undeb y Gwasanaethau Cyhoeddus a Masnachol
Response from: Public and Commercial Services Union

Dear John Griffiths

I write on behalf of the Public and Commercial Services union (PCS) in Wales to submit evidence to assist the Committee in its consideration of the Trade Union (Wales) Bill.

PCS strongly supports the general principles of the Bill and congratulates the Welsh Government for bringing it forward. We note that, in doing so, the Welsh Government is acting in accordance with the will of the National Assembly as a whole, which voted overwhelmingly to withhold consent from the UK Government's Trade Union Act 2016 in relation to the areas now covered by the present bill. We regret that this decision was not accepted by the UK Government at the time and that it has therefore been necessary for Wales to undertake its own legislation to dis-apply the offending provisions of the UK Act.

We consider the UK Act overall to be nothing more than an attempt to undermine the capacity of the trade unions to organise in pursuit of their legitimate role of defending their members' jobs, pay and conditions of service. We recognise that the original version of the legislation tabled in Parliament was even more egregious than the final Act and are grateful for the efforts of those campaigners and parliamentarians who succeeded in having some of its worst excesses removed. Nevertheless, we look forward to the day when the Act will be repealed by a future Parliament; in the meantime, we hope that the Welsh Government will succeed in protecting workers in the devolved Welsh public sector from at least some of its provisions.

To consider each of those provisions in turn:

- the 40% ballot threshold for industrial action affecting important public services is an unwarranted restriction on the ability of unions to organise legitimate industrial action in pursuit of a trade dispute. It

proceeds from the false premise that British unions are in the habit of irresponsibly disrupting important public services by organising strike action that lacks the support even of a majority of their own members. In fact, strike action in this country remains at an historically low level and is always a last resort for unions, which attempt to achieve their objectives through negotiation. To attempt to undertake strike action without members' support would be foolhardy, since the union in question would struggle to make the action effective. Unions always therefore seek to maximise both the turnout in any ballot and the degree of support for the proposition being put. PCS and other unions have frequently appealed to the UK government to make participation in such ballots easier by (for example) allowing telephone and online voting, but our proposals have been rebuffed – demonstrating, in our view, the present UK government's lack of genuine commitment to trade union democracy.

- the powers to require the publication of information on facility time and to impose requirements on public sector employers in relation to paid facility time are an attempt to limit the time and other resources available to trade union representatives in the pursuit of their legitimate duties. These provisions are not just spiteful but counterproductive, since it is in the interests of the employer that their recognised unions are in the strongest possible position to engage in negotiation and consultation and generally to address problems at the workplace before they get out of hand. Most major employers recognise that adequate facility time is vital for the smooth and harmonious conduct of employee relations. We in PCS saw the facility time of our representatives in the UK civil service drastically cut back by the 2010-15 coalition government, which has caused us considerable difficulties, but ultimately not prevented us from defending our members' interests. We are glad that the Welsh Government did not apply these restrictions to its own staff's union reps and is attempting to prevent such restrictions being imposed by Westminster now.
- restrictions on deduction of union subscriptions from wages by employers (known as 'check-off') is an obvious attempt to undermine

union organisation by interfering with the recruitment and retention of members. Again, PCS has recent experience of this in the UK civil service (but, again, not the Welsh Government), where check-off was withdrawn by most UK government departments. While we were able to retain the vast majority of our affected members, by securing their agreement to pay their subscriptions by direct debit instead, this tied up considerable resources that could have been deployed in addressing workplace issues instead.

The main potential barrier to the implementation of the Bill's provisions is presumably the UK Government's purported belief that the National Assembly does not have the authority to legislate on this matter. This is contradicted, however, by legal advice to the UK Government that was leaked last year, which reinforced the view of the Welsh Government that the Assembly does have jurisdiction where legislation such as this impinges on staff in the devolved public sector.

We are not aware of any potential unintended consequences arising from the Bill; and believe that the likely financial implications of the Bill are reasonable and proportionate.

I hope that the above comments will be useful to the Committee.

Kind regards

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