

TUB 18

Bil yr Undebau Llafur (Cymru)

Trade Union (Wales) Bill

Ymateb gan: Betsi Cadwaladr Bwrdd Iechyd Prifysgol

Response from: Betsi Cadwaladr University Health Board



Bwrdd Iechyd Prifysgol
Betsi Cadwaladr
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John Griffiths AM, Chair
c/o Committee Clerk
Equality, Local Government and
Communities Committee,
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Cardiff Bay
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Ein cyf / Our ref: GD/MJ/2723/631

Eich cyf / Your ref:

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Dyddiad / Date: 17th February 2017

Dear Mr Griffiths,

RE: Consultation on the Trade Union (Wales) Bill

Thank you for the opportunity to comment on the Trades Union (Wales) Bill.

In general, partnership working between employer organisations and trade unions works well in NHS Wales and we have established effective working relationships which support the development of effective and mutually beneficial solutions to a number of significant challenges which the service has addressed and continues to face. It is our view that the NHS's workforce challenges are best addressed by an efficient, engaged and productive workforce, where there is regular consultation and ongoing dialogue with our staff and a key element of this approach is through social partnership with trade unions representing NHS staff. To this end, we support the Welsh Government's commitment to strong, stable and effective workforce relationships, and its ongoing commitment to social partnership and subsequently the improvement of key public services in Wales.

Response to Specific Proposals

Ballot Response

Strike action in the NHS in Wales over the last decade has been minimal, despite considerable organisational change and the introduction of significant changes to terms and conditions. When there has been industrial action, the impact has been managed through partnership discussions so as to ensure that essential services are maintained and TU members are able to exercise their right to withdraw their labour.

Section 2 of the Trade Union Act 2016 has introduced a new requirement that in all ballots for industrial action, at least 50% of the trade union members entitled to vote must do so in order for the ballot to be valid. This provision supports a simple majority (i.e. more than half) of the votes cast being in favour of industrial action in order for action to go ahead.

Section 3, which this Bill is seeking to dis-apply, introduced the further "support requirement" that 40% of all union members, in important public services, entitled to vote in a ballot leading to industrial action should be in support of that action.



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This is in addition to the 50% participation threshold introduced by Section 2. The reality of this provision is that if there is a dispute comprising 100 staff, at least 50 members of staff will need to vote and of those 50, 40 would need to be in support of industrial action i.e. 80% of the turnout in this example.

As employers we recognise and understand the rationale for the provision set out in Section 3, in particular given our duty is to ensure that we are able to provide for the continuity of NHS service provision without disruption. Ensuring, out of a staff group, that 40% have positively assented to any action, does not in our view seem an unreasonable threshold for a trade union reach, so as to demonstrate a clear mandate for industrial action.

Furthermore, our principle observation regarding Section 3 is less about the percentage threshold but rather on the unintended consequences of this requirement on the conduct of industrial relations. The emphasis for both parties should always be focussed on resolving any dispute and the requirement to reach a 50% turnout and a 40% threshold may lead to Trade Unions concentrating more on tactical aspects of the management of the dispute e.g. targeting areas where support for strike action may be higher, rather than working with managers to reach a resolution.

Given the points noted above, we feel that there are broad considerations which need to be taken into account regarding the dis-application of this provision. We understand the rationale behind Section 3 and what it is seeking to achieve in ensuring that "important public services" are maintained without disruption. At the same time, we value social partnership and the need to ensure that all parties remain solution focussed and work together to resolve any disputes which may arise.

Facilities Time

We have our own agreed key principles framework for time off and facilities for trade union representatives in place and we believe that this meets the needs of the service and supports our approach to social partnership and so we do not feel that any further requirements in relation to the publication of information with regard to facilities time or imposing certain requirements on public sector employees in relation to paid facilities time is necessary or appropriate. Facilities time provides significant benefits to industrial relations, as well as providing savings and benefits to organisations and the Service as a whole, e.g. lower sickness absence, less disciplinaries, less employment tribunals and consequently improved productivity. We, therefore, support the proposal to dis-apply this provision.

Check Off System

This service is provided by payroll departments at a cost to the Trade Unions and where the facility is offered it enables employers to understand the numbers of members in any one union and gain an understanding of the relative TU membership across the organisation. In the light of this, we support the proposal to dis-apply this provision.



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In conclusion, we are keen to encourage all aspects of social partnership within the NHS in Wales and feel that the proposals to dis-apply the provisions in relation to facilities time and check off are appropriate and support this approach. We suggest that further consideration is given to the proposal to dis-apply the provision in relation to the 40% ballot threshold in support of industrial action.

Responding to this consultation in relation the 40% ballot threshold has put employers in a difficult position. As noted above, there is a balance between employers maintaining their duty to provide continuity of service to their local populations and ensuring good industrial relations which in itself, ensures the smooth running of NHS organisations. We suggest that further consideration is given to this matter, to ensure that the outcome is proportionate.

In terms of the financial implications of the Bill as outlined in appendix 2 of the explanatory memorandum, it could be suggested that the £85,000 cost of not applying the 40% threshold is slightly high, given the relatively low level of industrial action within NHS Wales and other public services in recent years. The other costings seem sound.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Gary Doherty'.

Gary Doherty
Prif Weithredwr
Chief Executive