



## FLINTSHIRE COUNTY COUNCIL

<b>Date of Meeting</b>	Wednesday, 1 <sup>ST</sup> March 2017
<b>Report Subject</b>	Trade Union (Wales) Bill
<b>Report Author</b>	Chief Executive

### EXECUTIVE SUMMARY

The Council debated and passed a Notice of Motion at its meeting on 1st March 2016 on the then Parliamentary Bill, which has since been enacted. The Welsh Government has recently published a piece of draft legislation called the Trade Union (Wales) Bill. The purpose of this Bill is to dis-apply certain of the provisions of the Trade Union Act 2016 in Wales. In supporting the previous Notice of Motion, Council was in opposition to contents of the then Parliamentary Bill.

The Bill was discussed at Cabinet on 14<sup>th</sup> February 2017. Cabinet has formally responded to the Equalities, Local Government and Communities Committee of the National Assembly for Wales. This is the Committee which is scrutinising the Bill and had invited responses to its call for evidence.

The Cabinet resolved to support the Trade Union (Wales) Bill jointly with recognised Trade Unions.

### RECOMMENDATION

1.	That the Council supports the Trade Union (Wales) Bill, on the recommendation of the Cabinet and recognising established Council policy as set out in the Notice of Motion.
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## REPORT DETAILS

<b>1.00</b>	<b>THE TRADE UNION (WALES) BILL</b>
1.01	The Trade Union Act 2016 introduced a number of controls on trade union activities within public sector employing bodies. The Act is a controversial piece of legislation. The Welsh Government has published the Trade Union (Wales) Bill which proposes to dis-apply certain of the provisions of the Act in Wales, in the interests of ‘the continued and effective delivery of public services’, specifically:- the 40% ballot threshold for industrial action to be legitimate where key public services would be affected; restrictions on facilities agreements (agreements between public sector employers and recognised trade unions for employees to be released for trade union duties in work time); restrictions on the ability of employers to deduct trade union subscriptions from their salary at source.
1.02	The Equalities, Local Government and Communities Committee of the National Assembly for Wales is scrutinising the Bill and has invited responses to its call for evidence. Whilst the call for evidence closed on 17 <sup>th</sup> February, and Cabinet has already responded with the Trade Unions in support of the Bill, Council is also invited to make a response. The Committee is aware that our meeting is taking place after the deadline and will still receive a Council response.

<b>2.00</b>	<b>THE COUNTY COUNCIL’S SUPPORT FOR TRADE UNIONS – THE NOTICE OF MOTION ON 1<sup>st</sup> MARCH 2016.</b>
2.01	<p><i>At the meeting of the County Council on 1<sup>st</sup> March 2016, the following Notice of Motion from the Leader was considered and supported.</i></p> <p><i>“Flintshire County Council notes:</i></p> <p><i>The UK Government has set out plans in its Trade Union Bill that specifically impact on local Authorities and our relationships with our employees and trade unions.</i></p> <p><i>The UK Government intends to grant Ministers the power to cut so-called “facilities time” in the public sector. This is paid time off, mutually agreed between employers and unions, for union reps to represent their members and negotiate with their employer.</i></p> <p><i>The UK Government also proposes to prohibit public sector employers assisting unions to collect their membership subscriptions through payroll (check-off) – even though this is used for a variety of other staff benefits such as cycle-to-work schemes and childcare vouchers, and even though unions often meet the costs of this.</i></p>

	<p><i>Flintshire County Council believes:</i></p> <p><i>All workers should have the right to belong to, and be active in, an effective trade union.</i></p> <p><i>Trade unions play an essential role in ensuring good industrial relations. The facilitation of trade union representatives to carry out their roles and duties, and the collection of union dues by “check-off” are useful tools in ensuring good industrial relations.</i></p> <p><i>Flintshire County Council resolves:</i></p> <p><i>Immediately to support the unions’ efforts to move members onto direct debit subscriptions, through:</i></p> <p><i>Allowing union officials access to workers;</i>  <i>Allowing additional facility time to Union representatives to visit their members to achieve this aim;</i>  <i>Allowing the distribution of union material through our email, intranet, payslips, internal mail and other communication systems.”</i></p>
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<b>3.00</b>	<b>THE VIEWS OF THE WELSH LOCAL GOVERNMENT ASSOCIATION</b>
3.01	<p>The Welsh Local Government Association (WLGA) Co-ordinating Committee was due to discuss the Bill on 24th February 2017. In its report the Association comments that the Welsh Government has maintained that it did not wish to apply some aspects of the Trade Union Act to the public sector in Wales, believing that it would undermine the social partnership approach that had been developed.</p> <p>The recommendation made to the Co-ordinating Committee was to note the consultation and reaffirm the previous decision of the WLGA Council to support a distinct Welsh approach.</p>

<b>4.00</b>	<b>THE COUNCIL’S RELATIONSHIP WITH THE TRADE UNIONS</b>
4.01	<p>The Council has a long history of mutual co-operation and effective working with the trade unions. The principal recognised unions in Flintshire (public services trade unions with members in our employment) are GMB, UNISON and UNITE, and the teaching trade unions. The only industrial action taken within Flintshire in recent years has been participation in national actions over pay and conditions of employment. There is no recent history of local industrial disputes which have been escalated to industrial action. Therefore, the need to impose thresholds for trade union member participation in ballots has not been tested locally.</p>

4.02	<p>The Council has a local Trade Union Procedural and Facilities Agreement with the recognised trade unions. This Agreement has recently been reviewed and updated. The Agreement provides clarity over the types of roles undertaken by the trade unions - for example Union Learning Representatives (ULRs) and Health &amp; Safety Representatives - and steps for approving reasonable time allowances for trade union related duties. Without a Facilities Agreement it would be difficult to make sufficient provision for employees to act in trade union capacities or indeed to regulate the number of trade union officials and their total working hours on their trade union duties. Trade unions are recognised by law and play an invaluable role in negotiating changes to the terms of employment, such as the local Single Status Agreement, and in advising the workforce in times of planned organisational change such as the recent agreement to move to a Leisure, Libraries and Museums employee mutual. Employees are also entitled to trade union representation in disciplinary and other cases, and when placed at the risk of redundancy during times of service review and change. Facilities Agreements should be flexible, subject to local agreement, and are best based on recommended practice without requiring the imposition of law. The Council promotes access to trade union membership for its employees as it is in their interests to have access to advice, support and representation should they so wish.</p>
4.03	<p>The Council provides the facility for employees to pay their trade unions subscriptions through their salary. This is convenient for the employee and the trade unions and generates a transaction handling income for the Council as the employer. This is a beneficial business arrangement for all three parties. There is no practical reason to discontinue with the arrangement.</p>

<b>5.00</b>	<b>RESOURCE IMPLICATIONS</b>
5.01	None directly as the Bill, if enacted, would reinforce the status quo.

<b>6.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
6.01	Consultations held with the Flintshire Joint Trade Union Committee.

<b>7.00</b>	<b>RISK MANAGEMENT</b>
7.01	None at this early stage.

<b>8.00</b>	<b>APPENDICES</b>
8.01	Appendix 1 – Consultation Letter Appendix 2 - Equality, Local Government and Communities Committee Inquiry into Trade Union (Wales) Bill -Submission on behalf of the Welsh Local Government Association

<b>9.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
9.01	Minute 103 of the Council, 1 <sup>st</sup> March 2016.  <a href="http://committeemeetings.flintshire.gov.uk/ieListDocuments.aspx?CId=143&amp;MId=3514&amp;Ver=4&amp;LLL=0">http://committeemeetings.flintshire.gov.uk/ieListDocuments.aspx?CId=143&amp;MId=3514&amp;Ver=4&amp;LLL=0</a>  Contact Officer: Chief Executive Telephone: 01352 702101 E-mail: chief.executive@flintshire.gov.uk

<b>10.00</b>	<b>GLOSSARY OF TERMS</b>
10.01	<b>Recognised Trade Unions:</b> trade unions which have members who are employees of the employing body.  <b>Facilities Agreement:</b> an agreement between public sector employers and recognised trade unions for employees to be released for trade union duties in work time.

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Equality, Local Government and Communities  
Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

17 January 2017

Dear Colleague

### **Consultation on the Trade Union (Wales) Bill**

The Equality, Local Government and Communities Committee is undertaking an inquiry into the general principles of the [Trade Union \(Wales\) Bill](#). Further details about the Bill and the accompanying [Explanatory Memorandum](#) can be found on the [Bill page](#).

### **Terms of reference**

The Committee's terms of reference for its inquiry are:

To consider —

1. the general principles of the Trade Union (Wales) Bill and the need for legislation to ensure the continued and effective delivery of public services by dis-applying certain provisions of the UK Government's Trade Union Act 2016 as they apply to devolved Welsh authorities. The provisions to be dis-applied are as follows:
  - the 40% ballot threshold for industrial action affecting important public services,



- powers to require the publication of information on facility time and to impose requirements on public sector employers in relation to paid facility time, and
  - restrictions on deduction of union subscriptions from wages by employers;
2. any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them;
  3. whether there are any unintended consequences arising from the Bill; and
  4. the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum).

### **Invitation to contribute to the inquiry**

The Committee would like to invite you to submit written evidence to assist in its consideration of the Bill. It would be helpful if you could use the above terms of reference to frame your response.

Submissions should arrive by **Friday 17 February 2017**.

If you wish to submit evidence, please send an electronic copy of your submission to: [SeneddCommunities@assembly.wales](mailto:SeneddCommunities@assembly.wales)

### **Guidance**

Submissions should be no longer than five sides of A4, with numbered paragraphs, and should focus on the terms of reference.

If you are responding on behalf of an organisation, please provide a brief description of the role of your organisation.

Please see the [guidance for those providing evidence for committees](#).

### **Bilingual Policy**

The Committee welcomes contributions in both or either of our official languages, English and Welsh. Information not submitted bilingually will not be translated and will be published in the language of submission only. We expect





organisations to implement their own standards and schemes and to comply with their statutory obligations.

### **Disclosure of Information**

You can find further details about how we will use your information at [www.assembly.wales/InquiryPrivacy](http://www.assembly.wales/InquiryPrivacy). Please ensure that you have considered these details carefully before submitting information to the Committee.

### **Contact details**

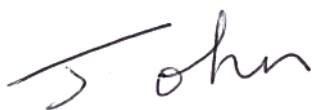
If you wish to speak to someone regarding this consultation, please use the following contact details:

Committee Clerk  
Equality, Local Government and Communities Committee  
National Assembly for Wales  
Cardiff Bay, CF99 1NA.

Email: [SeneddCommunities@assembly.wales](mailto:SeneddCommunities@assembly.wales)

Telephone: 0300 200 6565

Yours sincerely,



John Griffiths AM

**Chair, Equality, Local Government and Communities Committee**



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## **Equality, Local Government and Communities Committee Inquiry into Trade Union (Wales) Bill**

### **Submission on behalf of the Welsh Local Government Association**

#### **Introduction**

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and three fire and rescue authorities are associate members. The Association seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh local government and the communities they serve.

#### **Background**

2. The WLGA and Welsh local authorities have a long-standing and mature working relationship with the recognised trade unions that developed further since devolution. All the key terms and conditions of employment within local government have been arrived at through national collective agreements and local negotiated agreements with the trades unions.
3. The WLGA has supported and embraced the concept of social partnership which has helped steer local government through severe financial difficulties. We strive wherever possible to seek consensus, although there are clearly occasions where employers and unions take a difference stance. For example, the use of third sector bodies or cooperatives in terms of delivering public services has been an area of disagreement in recent years. Nevertheless, we firmly recognise as employers that engaging with the workforce through the recognised trades unions played a significant part in ensuring that service continuity has been at the heart of some difficult decisions and fulfilling the Welsh Government's strategic aim of having citizen-centred services.
4. Industrial action within local government in Wales has been minimal over the past 10 years despite the backdrop of austerity, service efficiencies and a reducing workforce. Those that have occurred have been mainly instigated at a national level and in some circumstances the impact has been mitigated in Wales through a 'Welsh way' of dialogue and discussion, most notably with Teachers around the issue of 'Observation', in which the WLGA played a negotiating role.

#### **The Role of the Trades Unions**

5. The WLGA respects the role of trade unions and its members and understands that it can play a positive role in supporting the workforce.

The public face of trades unions is often seen as confrontational and being in constant disagreement, which is often symptomatic of an escalated industrial dispute. Whilst it is acknowledged that employers and trades unions do not agree on everything and disputes do occur, we believe strongly that there are many positive sides in working in partnership with Trades unions .

- a. **Health and Safety and Well-being.** The trades unions have a shared agenda with employers around the health and well-being of the workforce. Regulations in the form of The Safety Representatives and Safety Committees Regulations 1977 and the Health and Safety (Consultation with Employees) Regulations 1996 require employers to engage with their workforce on health and safety matters. Local government in Wales has often gone beyond this requirement and joined with trades unions to promote good health and safety and well-being. Undertaking health fayres, promoting specific health initiatives and generally supporting good health.
- b. **Learning and Development.** Welsh local government has worked with the Wales TUC to support Union Learning Representatives who help their members acquire essential/ core skills that helps them in work and life. Welsh local government has worked particularly closely with the Wales TUC to develop an e-learning hub called All Wales Academy for Local Government.
- c. **Pastoral care and Support.** The trades unions provide a range of pastoral supports and services that can assist employees who are members of a trade union. These can include a range of financial and legal services, health plans and support. These can have a positive impact on staff that enable them to continue in work and provide excellent public services.
- d. **Equalities** – The trades union have another shared agenda in promoting equality and diversity and avoiding discrimination in the workplace.
- e. **Advocacy & Representation** – there will be occasions when individuals or groups will be subject to employment processes that may affect their continued employment status. These may include discipline, redundancy and redeployment, performance management issues or retirement. Local government accepts that these individuals may require support and representation at a such a difficult time. Trades unions can assist the individual through the process, provide clarity on issues and often make these processes quicker and expedient.

## **Social Partnership**

6. The Welsh Government is committed to the concept of social partnership as set out in 'Working Together for Wales- A Strategic Framework for Public Service in Wales.'. Welsh local government is a key stakeholder in the arrangements that support this. Welsh local Government forms part of the Workforce Partnership Council (WPC), which is a tripartite forum involving Government; Trades Unions and public sector employers. It also

abides by the principles contained in the WPC's 'Partnership and Managing Change Agreement (2012)'

7. The WLGA has actively supported the 'Creating Successful Partnerships' programme and delivered the programme in a number of authorities.
8. Welsh local government continues to engage with trades unions at an all-Wales level and supports the Joint Council for Wales. This is a joint trade union and employer's forum that provides a useful vehicle to share new and emerging issues that impact on local government; seek to provide agreed solutions to national issues; share good practice and resolve disputes should they arise.

### **Dispute Avoidance and Resolution**

9. There will be occasions when disagreements will arise between local government employers and the trades unions. Mechanisms are in place to seek to resolve issues before formal disputes occur. Engagement at the earliest opportunity between employers and trades unions can help alleviate the need for disputes and avoid disputes escalating into industrial action.
10. In the event of formal disputes developing there is an expectation enshrined in ACAS codes that the parties should exhaust all 'local' procedures for dispute resolution prior to referral to ACAS or Employment Tribunal.
11. Welsh local government has a range of dispute resolution processes to help deal with individual and collective disputes.

### **The Trades Union (Wales) Bill**

12. The following comments are provided specifically in relation to those elements of the proposed Trades Union (Wales) Bill:

#### **Ballot Thresholds for 'Important Public Services'**

13. The WLGA does not recognise the distinction between 'health, education, fire and transport service' and the other services provided by local authorities. Waste collection, Social Care, regulatory service and others are all important public services. The WLGA does not recognise the need to differentiate between these services for ballot purposes.

#### **Paid facility Time and Publication of facility Time**

14. The Welsh local government position on facility time has been that reasonable time off with pay should be available for trade union activities. This has been stated a number of times in the Joint Council for Wales.
15. It is recognised that different authorities have differing facility agreements. These are based on a range of factors and features relevant to that authority and will include: -

- Size of workforce
  - Geographical area
  - Budget Constraints on supporting arrangements
  - Transformation and change management Programmes
16. Local authorities should be free to develop a facilities agreement that best suits the needs of the authority. These facilities agreements are revisited periodically to ensure they are fit for purpose.
  17. The WLGA supports the notion of localism and does not support a top down, one size fits all approach that would impose requirements on individual local authorities.
  18. The WLGA does not see the benefit in the wholesale publication of facility time agreements. As alluded to above each local authority will have its own factors and features that will dictate the characteristics of its facilities agreement. Without a thorough understanding and insight into the issues and challenges that authority is facing, some of which will be confidential and sensitive, it would be impossible to compare on a fair and consistent basis, and therefore it will not be in the public interest. Internal processes such as annual budgeting and review of HR and corporate policies provides, together with scrutiny arrangements provides robust opportunity to ensure that facility agreements are fair and reasonable in the context of each authority.

#### **Deduction of Union Subscriptions from Wages (check-off)**

19. There has been a longstanding arrangement for authorities to deduct union subscriptions through payroll processes. Since the UK Governments Trade Union Act was being considered oral evidence from authorities suggested that where this was happening Service Level Agreements were in place that ensured authorities were recompensed for undertaking this.
20. We understand that as a result of the proposed legislation a number of trade unions have opted to deduct their subscriptions direct through direct debit. In view of this the WLGA will seek to establish a more up-to-date picture on check -off arrangements.
21. There are also some advantages to local authorities of assisting trades unions with subscription collection. Apart from any recompense they receive it does also allow local authorities to have an appreciation of union membership and density. It assists with understanding level of turnout and voting in the event of a ballot being undertaken. This can also be used to inform the facility time agreement if membership levels change.
22. At another level it allows individual staff who are trade union members to be quickly and appropriately signposted to their trades union for help, support, advocacy and representation if necessary. Having this understanding can save time and resources.

## Conclusion

23. At the meeting of the WLGA Council in September 2015 it resolved (by majority of 21:1) to oppose the UK Government Trade Union Bill. As part of the debate they determined that the measures in the then Bill were disproportionate and they would undermine relationships between employers and the staff.
24. With the publication of the new White Paper on Local government it is the case that councils in Wales are due to embark on a significant journey. The White Paper recognises that "the local government workforce is an essential part of these proposals and the Welsh Government will consider, through the Workforce Partnership Council, how to support the transition over to the new arrangements, using statutory guidance where necessary". The employers recognise that in any major change programme, particularly in the context of recent years, it is vital to take the workforce with you and fully engage with their representative bodies. The trades unions provide an essential vehicle to ensuring that the workforce is represented and engaged in this change process over the coming years.
25. The evidence presented above supports the proposal to bring forward the Trade Union (Wales) Act that will help ensure that the mature and effective relationships that have been developed between employers and trades unions in local government continue to help improve public services in Wales.

Welsh Local Government Association

3<sup>rd</sup> February 2017

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