



FIRE BRIGADES UNION

The professional voice of your firefighters

FBU submissions to consultations on the Trade Union Bill

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Foreword

Fire Brigades Union, general secretary, Matt Wrack

The Conservatives are trying to shackle trade unions and silence workers from raising legitimate concerns in the workplace. They are pitching this Bill as a check on 'trade union barons', when in reality it is an attack on all working people. It will open the door for employers ride roughshod over workers.



This is the biggest raft of anti-union legislation we have seen in a generation. We have to ask ourselves, why now? Trade unions are the first line of resistance to unfair and unsafe policies. Government knows trade unionists will not stand idle while our living standards are attacked and our services are cut to pieces. They have already announced further pay freezes for public sector workers and are planning more cuts of up to 40% across government departments over the next five years.

This government see working people organised together in trade unions as a threat to their agenda. In the last parliament it was trade unions that led the struggle against the austerity agenda and the attacks on pay and pensions.

A lot of attention has been given to the proposals on strike ballots. The proposals set out two thresholds. Firstly every ballot must have a turnout of 50% or above. Secondly in 'important public services', including the fire service, 40% of all those eligible to vote must vote in favour of strike action. That means if you meet threshold one and get 50%, the yes vote must be 80% for the ballot to succeed.

This is completely undemocratic. It inexcusably treats an abstention as a no vote. Under these rules virtually no MP or councillor would be in office. The Tories were elected with just 37% of all the votes cast, only 24% of eligible voters supported them. Police and Crime Commissioners were elected on an average turnout of just 15.1%, yet rather than negating PCCs to the dustbin of history the Tories want to expand their powers and allow them to take control of the fire service. This is sheer hypocrisy.

The Bill goes much further than hypocritical proposals on ballots. It aims to put even more power in the hands of the bosses and undermine our ability to negotiate. The new laws would see trade unionists being asked to comply with pointless bureaucratic measures such as appointing a picket supervisor, making that 'supervisor' wear an armband, making unions give forward notice of their social media plans and giving new powers for the Certification Officer to investigate trade unions. All this from a government who claims to oppose 'red tape'. They are also trying to limit the facilities time that reps have to conduct their union business.

The flawed proposals are being rushed through parliament. It is disgraceful that government are not consulting on parts of the Bill such as political funds, facility time, extending notice periods and ballots lapsing after four months. The consultation itself was limited. We were given a tiny 8 week window over the summer to respond, and the questions have clearly been fixed to gain more ammunition to attack trade unions with. This document details the Fire Brigades Union's response to the government's bogus consultation.

The Fire Brigades Union will continue to oppose and campaign against the entirety of the Bill. We will not stand by while this government attempts to insulate themselves and their friends from any kind of protest or resistance to their unfair, undemocratic policies.

Introduction

This is the Fire Brigades Union's submission to the Department for Business, Innovation & Skills consultations on the Trade Union Bill. The FBU is the authoritative, professional voice of firefighters across the UK. The union represents the vast majority of 50,000 firefighters in England, Scotland, Wales and Northern Ireland, including wholetime (full-time) and retained (part-time, on-call) operational firefighters and control staff. The fire and rescue service is an indispensable public service, a public good rightly held in high esteem by the taxpayers who fund it and who receive a first-class service.

The Trade Union Bill is an unprecedented attack on the rights of working people, including fundamental democratic rights to organise, assemble, to free speech and collective action. Stripped of its veneer, the Bill is nothing more than a naked attempt by this government to obliterate the right of working people to their own representation, to diminish own collective voice at work and in politics, and to undermine important democratic freedoms won through workers' struggle.

General comments

The Trade Union Bill aims to impose the harshest anti-trade union measures for thirty years and is aimed at hampering the capacity of trade unions to defend our members' interests. David Cameron let slip the real reason for these changes at prime minister's questions on Wednesday 15 July 2015 as the Bill was announced, when he referred to "our anti-strike laws".

The government says it is standing up for the majority affected by strikes, but it cuts public services such as fire, education, health and transport that the majority of the public use and benefit from. The government says it accepts the right to strike, yet it is doing almost everything possible to obstruct balloting, prevent strikes and then to render strikes ineffective. On 21 August 2015, the Regulatory Policy Committee – an independent body appointed by the government which verifies the costs and savings of proposed changes to businesses and civil society – slammed the government's impact assessments on these trade union proposals as "not fit for purpose".

The government says industrial action should be a last resort, but it is stripping unions of the ability to negotiate settlements at an earlier stage by reducing facility time. The fault for industrial disputes generally lies with employers and government (pensions, pay freeze), not with unions. The employers have the power, they make the decisions.

The Bill is deeply undemocratic. It goes beyond the pledges made in the 2015 Conservative manifesto. The measures are put forward by a governing party that received just 24% of the total eligible to vote (and 37% of those who did vote) in the May 2015 general election. The Bill is undemocratic because the government are not consulting on wide areas of the Bill, such as changes to the political fund, facility time, extending notice periods and ballots lapsing after four months. It is not consulting on its proposed ban on the check off system for collecting trade union membership fees – designed to reduce union income and tie up representatives in administrative work for the next year.

These attacks on trade unions are part of the hollowing out of democracy. The government clearly wants to insulate themselves and employers from any kind of resistance to their decisions on austerity and privatisation. This government wants a labour market where all the advantages are held by the employers and the state, where workers are atomised and rendered voiceless. Trade unions will not accept this. The government should stop and reverse course now before it does irreparable damage to the economy, industrial relations and democratic institutions.

Specific points in the Trade Union Bill

Clause 2: a new 50% turnout requirement for all industrial action ballots

This clause imposes an arbitrary turnout requirement, so that even where a majority of those participating vote for industrial action, at least half of eligible members have to have voted. The government's own impact assessment for the Trade Union Bill acknowledges that the FBU has met this threshold in its recent ballots. Nevertheless the union does not accept this requirement should be laid down in law. It does not apply to any other form of elections, whether it is for national, European or local government elections, mayoral elections, police and crime commissioner elections, shareholder elections or any other elected office.

The proposal may well be in breach of international human rights law, such as the European Convention of Human Rights. The International Labour Organisation states that only votes cast in ballots should be taken into account in strike ballots. This proposal converts a non-voter into a no voter, creating an absurd electoral system in which abstentions count more than votes against.

This government and its predecessors have rejected trade union proposals to improve turnout such as electronic voting. Many membership organisations, including the RNIB, the Institute of Chartered Accountants for England and Wales, the National Trust, the Magistrates' Association, the Countryside Alliance and the Royal College of Surgeons, use electronic and online balloting for elections. A recent Speakers' Commission for Parliament recommended that by 2020 secure online voting should be an option for all voters. The provision for electronic voting already exists. The government's reluctance to bring it into force indicates that turnout is not the central issue in these proposals, but mere garnish for efforts to stop strikes.

Clause 3: A new threshold for "important public services" such as fire, health, education and transport, where the yes vote has to be at least 40% of those entitled to vote

This is a further arbitrary threshold designed to stop strikes, even where a majority have voted yes and where a majority of members have participated. It creates an entirely arbitrary category of "important public services". It is well known that all public services are important to the public that relies on them and to the people who deliver them. As with the 50% turnout threshold in Clause 2, this extra restriction has no basis in domestic or international law or in other voting systems. The threshold and the selected sectors mostly reflects the government actual intention – expressed in its Impact Assessment – of reducing the number of days "lost" to strikes by two-thirds.

It also clear from the Impact Assessment that very few businesses have been affected by recent strike action – 3% according to the government's own figures. The 30 November 2011 strikes would never have taken place had the government negotiated properly with trade unions. It was the last government that imposed new pensions schemes making public

sector workers pay more, work longer and less: if the fault lies anywhere for the “disruption”, it is with those who instigated the attack.

The government says that none of these changes are about banning strikes. Yet it believes the two clauses will reduce working days lost to strikes by 65%. The average for working days lost in the last five years (2010-2014, including the 2011 pension strikes) was 647,000. If this legislation succeeds in its aim, then working days lost to strikes would reduce to an average of 215,000 per annum – lower than any actual year since figures were first collected for 1891, lower than the lowest level of strikes in recent years (235,000 in 1997). While it does not ban strikes, it attempts to restrict them to such an extent as to almost entirely negate the right to take collective action.

Clause 4: Information on the ballot paper

This clause imposes more onerous requirements on what has to be included on ballot papers for industrial action. Ballot papers and other guidance already allow union members to make informed decisions in their ballots. The changes simply offer employers more opportunities to trip up industrial action through legal injunctions. Disgracefully, the government is not even consulting formally on this proposal.



Clause 6: Information to the Certification Officer about ballot results

This clause imposes a duty to report details of any industrial action taken to the Certification Officer. Industrial action figures are already provided by the Office for National Statistics and the Department for Business. There is no good reason to report this information to the Certification Officer. Disgracefully, the government is not even consulting formally on this proposal.

Clause 7: Two weeks' notice of industrial action to employers, instead of the current one week

This clause extends the current notice period given to employers from seven days to fourteen days. This is simply designed to make bargaining harder for unions and give employers more time to undermine strikes. It will drag out disputes that might be settled. It will escalate industrial action earlier than previously, in order to have an impact. Disgracefully, the government is not even consulting formally on this proposal.



Clause 8: A new automatic expiry of the mandate to take industrial action four months after the ballot

This clause means that ballots will automatically run out after four months, thereby requiring another ballot. This rigid and mechanistic approach will simply interfere with negotiating solutions, as unions and employers know that they only have a limited time frame for talks before a further ballot. It will also increase costs to unions by imposing more ballots. Disgracefully, the government is not even consulting formally on this proposal.

Clause 9: The supervision of picketing

This clause further obstructs the right to make majority decisions to take industrial action effective through picketing. It creates the onerous role of “picket supervisor”, who must be known to police and wear an armband or badge for identification. It imposes an unworkable and unenforceable set of conditions, including the use of twitter, Facebook, websites and blogs during the campaign. It could criminalise ordinary workers engaged in picketing and even involve the use of anti-social behaviour orders (ASBOs) against trade unionists. It will create more work for the police, diverting their resources from catching real criminals and terrorists.

The government's Impact Assessment cites the FBU's 2010 shifts dispute as an example of why these restrictions are necessary. It refers to the Carr Review, a report published under the last government that did not even bother to speak to the FBU at any level about this dispute. The facts are that the London Fire Brigade threatened to sack all 6,000 firefighters to impose a new shift system. Firefighters rightly were outraged by this management bullying and voted for strike action. These strikes exposed the dire contingency arrangements made by the brigade, leading to the union authorising members to leave picket lines to put out fires that agency staff were unable to accomplish.

Firefighters rightly picketed fire stations and fire service headquarters when they were threatened with the sack and the loss of their livelihoods. There were no arrests of FBU members arising from that action, no prosecutions and no convictions. The most significant injuries sustained during that action were to two FBU pickets, including the FBU's London Executive Council member Ian Leahair, who was run over by a fire engine driven by an agency worker. This agency worker was apparently arrested but not prosecuted, despite the injuries sustained by Mr Leahair.

Clause 10: Compulsory "opt-in" for individuals into the political fund every five years, affecting all union campaigning funds (including political donations)

This requires unions to get members to formally opt into political fund donations every five years. Currently members are balloted every ten years on whether to have a political fund and unions have always met these conditions. The measure is designed to reduce the funds available to trade unions for campaigning purposes and to reduce the voice of workers in politics. It is designed to reduce the revenue of trade unions and to prevent unions from representing members' views in campaigns.

It is indirectly an attempt by the Conservative Party to reduce funds donated by trade unions to the Labour Party – or indeed other parties. No such limits exist for other donors – with no limits on business owners and their senior managers to hand over political funds to their friends, which is currently done without consulting the workforce. Disgracefully, the government is not even consulting formally on this proposal.

Clause 11: Union's annual returns to include political expenditure

This imposes a requirement to report political expenditure every year to the Certification Officer. Most unions already indicate in some detail what they spend members' money on in their annual reports. These matters are scrutinised by annual conferences and elected bodies at all levels as well as by auditors. No such reporting constraints affect businesses. Disgracefully, the government is not even consulting formally on this proposal.

Clause 12: Publication requirements for time off for trade union duties

This clause imposes the requirement on public sector employers to publish the amount of time union reps spend on trade union duties. These figures will not capture the enormous amount of important work carried out by lay, elected and accountable union representatives on all manner of activities relevant to work. Disgracefully, the government is not even consulting formally on this proposal.

Clause 13: Limits on time off for trade union duties

This gives ministers the arbitrary power to restrict those on legitimate trade union facility time. Making facility time harder to obtain will simply store up a backlog of problems for employers. It will breed resentment with employees at the lack of representation on individual and collective matters, such as pay and conditions, collective bargaining, health and safety, grievances and disciplinary matters, bullying and harassment at work. It will worsen morale in workplaces and contribute to worsening industrial relations.

Firefighters' safety will be directly threatened if this change comes into force. The FBU's Serious Accident Investigations involve hundreds of hours by union reps to undertake careful investigations of firefighter fatalities and other serious incidents. Lessons are also learned from the work of safety reps on injuries and near misses. This work has been absolutely essential to UK firefighter safety over generations, making the fire and rescue service far safer for firefighters and for the public. Restricting time off for trade union reps puts this in jeopardy.



Limits on time off for trade union duties will also hit some of the wider progressive work that trade unionists are involved with, such as equalities campaigns and environmental campaigns. Some union reps have taken by these roles in the workplace and in their local communities, adding their valuable experience and also bringing important ideas into the

workplace. Trade unionists are an authoritative voice for working people and restricting reps' time off will diminish this valuable contribution. Not long ago, the Department for Business was lauding these roles (BERR, How Businesses Can Gain from Modern Union Representation, 2009). Disgracefully, the government is not even consulting formally on this proposal.

Clause 14: New powers for the Certification Officer to investigate trade unions

This clause will expand the powers of the Certification Officer. It is unnecessary and may be counterproductive. It is an arbitrary attempt to overburden unions with regulations, taking them away from the legitimate business of representing their members. It is a bizarre proposal from a government which claims to want to reduce 'red tape.' Disgracefully, the government is not even consulting formally on this proposal.

Clause 15: New annual return requirements for the Certification Officer

This clause is another arbitrary attempt to overburden unions with regulations, taking them away from the legitimate business of representing their members. It is a bizarre proposal from a government which claims to want to reduce 'red tape.' Disgracefully, the government is not even consulting formally on this proposal.

Clause 16: new powers for the Certification Officer to fine trade unions

This clause is a capricious and heavy-handed attempt to penalise unions that do not meet onerous reporting and other requirements. It is a bizarre proposal from a government which claims to want to reduce 'red tape.' Disgracefully, the government is not even consulting formally on this proposal.

Clause 17: power to impose levy

Outrageously, the government intends to fund the expanded snooping role of the Certification Officer by a levy on trade unions. It is a bizarre proposal from a government which claims to want to reduce 'red tape.'

Removing the ban on the use of agency workers to replace strikers

The government plans to remove the current ban on the supply of agency workers to replace individuals who are participating in official industrial action. The ban is contained in The Conduct of Employment Agencies and Employment Businesses Regulations 2003, Regulation 7. The government can use secondary legislation to remove the ban on agency workers. The current ban on the use of agency workers to break strikes has been in place

since 1973. In recent years, large agencies operating across Europe have signed joint statements with trade unions recommending that agency workers should not be used to replace striking workers.

The use of agency workers raises genuine concerns about health and safety in the workplace and for the public if inexperienced workers without proper training are expected to take on the roles of the permanent workforce. These proposals will damage industrial relations, putting agency staff in an invidious position while antagonising striking workers.

Reviewing minimum service levels for strikes in essential services

The Conservative party has previously indicated that they are proposing to review the arrangements for minimum service levels for strikes in essential services. The existing arrangements have worked well for many decades and have not generally proved the focus of disputes. Unpicking existing agreements may lead to new tensions.

Firefighters are committed public servants and have always agreed to provide minimum levels of service to ensure that the public's safety and health is protected. Whenever the FBU has organised strikes it has put arrangements in place in case of major emergencies. During strike action at Christmas 2013, firefighters in the South East of England came off picket lines to assist with flood rescues. This was done with the national agreement of the Fire Brigades Union. The union and its members were thanked for their role by the then fire minister. To effectively remove the right to strike in "essential services" is a measure only enacted by dictatorships riding roughshod over democracy. Such a restriction has no place in a democratic society.

Check off

On 6 August 2015, after the Trade Union Bill and other measures had been announced and after parliament had risen, the government announced plans to abolish the check off system for collecting union membership dues in the public sector. Ministers claimed abolishing payroll check off system would achieve a saving of £6.5 million to the public purse. Yet only a year ago in July 2014, former coalition chief secretary to the treasury Danny Alexander wrote to Whitehall departments advising that "there was no fiscal case" for terminating the check off arrangements.

Some public servants also donate to good causes, such as the Firefighters' Charity through workplace check off. These funds will also be at risk. This is simply another capricious and unwarranted attack on trade unionists.

Consultations

A. Ballot thresholds in important public services

The FBU believes this is a bogus consultation. It does not evaluate the measures in the Bill from the point of view of their fairness, necessity or contribution to democracy. The questions merely request ammunition for the government to attack trade unions.

1. Do you agree these are the key impacts industrial action would have in these sectors? Why/why not?

The FBU does not agree with the government's interpretation of industrial action impacts. The government's proposals are unnecessary, discriminatory and will worsen industrial disputes. The impact assessments are flawed and incomplete, as indicated by the TUC, the Regulatory Policy Committee and other bodies. There is scant evidence for the proposals. The impacts will hit women and disabled people particularly hard, given the composition of the public and of modern trade unions, yet this discrimination is ignored. The proposals will make workplaces unsafe, yet this is not included. Mostly, the public are highly supportive when trade unions take action to defend our members' interests and thereby indirectly the goods and/or services we provide. Strikes in the fire and rescue service in recent years have been defensive. They have been entirely justifiable responses to government and employers' attacks on firefighters.



2. What other impacts are there of strike action in

- a) Fire services,*
- b) Health services,*
- c) Education services,*
- d) Transport services,*
- e) Border Force, or*
- f) Nuclear decommissioning?*

If relevant, please include specific examples of your experience of strike action taken in these sectors.

The FBU believes firefighters are perfectly well aware of the importance of the service they provide. They do not need to be patronised by ministers, who turn up on fire stations for a convenient photo opportunity, only to subsequently attack the service and its workforce. No account is provided of the years of disruption caused by government and employers, compared with very rare industrial action.

The government and employers have caused greater disruption to the fire and rescue service through years of underfunding and mismanagement than any industrial action taken over the years.

3. What factors do you think are important in defining 'important public services'?

Protection against loss of life/ serious injury

Maintenance of public safety and national security

Enabling economic activity across a significant area of the economy

Enabling significant numbers of people to get to their place of work

Others (please specify)

The FBU believes all public services are important. The distinction is spurious, with no basis in reality. It is merely a device to attack those sectors where unions have called action in recent years.

4. Do you agree these are occupations and functions in

- a) Fire services,*
- b) Health services,*
- c) Education services,*
- d) Transport services,*
- e) Border security, or*
- f) Nuclear decommissioning*

the Government should consider when defining those subject to the 40% important public services threshold? When answering, please consider those key in avoiding the adverse impacts discussed above.

The FBU does not agree with the 40% threshold. This is a further arbitrary threshold designed to stop strikes, even where a majority have voted yes and where a majority of members have

participated. It creates an entirely arbitrary category of “important public services” – when it is well known that all public services are important to the public who rely on them and to the people who deliver them. As with the 50% turnout threshold in Clause 2, this extra restriction has no basis in domestic or international law or in other voting systems. The threshold and the selected sectors mostly reflects the government actual intention – expressed in its Impact Assessment – of reducing the number of days “lost” to strikes by two-thirds.

5. What other occupations and functions should the Government consider within these six sectors?

The FBU believes the government should not subject any sector to these additional arbitrary ballot thresholds. A simple majority of those voting is sufficient.

6. (If relevant) Please explain why the additional occupation or function should be covered.

The FBU believes the list should be scrapped, not extended.

7. Do you agree with the Government's proposed approach to ancillary workers? Why/ why not?

The FBU believes ancillary workers, like all workers, should not be subjected to these additional arbitrary ballot thresholds.

8. Please give examples of ancillary workers in the six sectors discussed that you think should be subject to the 40% important public services threshold.

The FBU believes no ancillary workers, or any other workers, should be subjected to these additional arbitrary ballot thresholds.

9. (If relevant) Please explain why the ancillary worker(s) you have cited should be covered.

The FBU believes no ancillary workers, or any other workers, should be subjected to these additional arbitrary ballot thresholds.

10. Do you agree with the Government's proposed approach to private sector workers? Why / why not?

The FBU believes no groups of workers, in the public or private sector, should be subjected to these additional arbitrary ballot thresholds.

11. How common are disputes involving some workers who would fall within scope of the 40% important public services threshold, and others who would not?

Frequent

Infrequent

Never

Not sure

The FBU does not set worker against worker – that is the government’s approach.



12. Please give examples of a dispute that has or could include only a small proportion of workers undertaking “important public services” (using the definition used in this consultation).

The FBU believes all public services are important, therefore the question is irrelevant.

13. Do you agree that the Government should require a ballot to be run under the 40% important public services threshold if a majority of workers involved in the dispute are subject to the 40% threshold? Why/ why not?

The FBU opposes the 40% threshold for all workers.

14. What are the practical and administrative considerations a trade union would have to make to calculate whether a ballot ought to be conducted under the 40% important public services threshold?

The FBU complies with the law. These proposals will impose completely unreasonable costs on unions, for legal fees, while opening staff up to victimisation at work for taking legal industrial action. The whole package is a travesty.

B. Hiring agency staff during strike action: reforming regulation

The FBU believes this is a bogus consultation. It does not evaluate the measures proposed from the point of view of their fairness, necessity or contribution to democracy. The questions merely request ammunition for the government to attack trade unions. It is disgraceful to restrict some answers to 500 characters, the equivalent of three tweets, on matters of such importance.

Question 1)

a) i) How do you think the removal of Regulation 7 would affect employment businesses?

The FBU believes the removal of Regulation 7 would affect employment businesses negatively.

ii) Please explain briefly what you think the impact will be on employment businesses? (max 500 characters)

The FBU believes the role of employment businesses is to provide agency workers for new work, not to substitute for existing workers legitimately taking part in an industrial dispute. Agencies do not want to become embroiled in industrial disputes that are not of their own making. The agency industry is opposed to using agency workers to undermine strikes, for their own reputation, their duty of care to their staff and their own relations with unions.

b) i) How do you think the removal of Regulation 7 would affect work-seekers?

The FBU believes the removal of Regulation 7 would affect work-seekers negatively.

ii) Please explain briefly what you think the impact will be on work-seekers? (max 500 characters)

The FBU believes work-seekers do not want to take other workers' jobs. Agency workers want and should expect decent work. They are often not protected from detriment if they refuse assignments, these changes put agency workers in an invidious position.

c) i) How do you think the removal of Regulation 7 would affect hirers?

The FBU believes the removal of Regulation 7 would affect hirers negatively.

ii) Please explain briefly what you think the impact will be on hirers? (max 500 characters)

The FBU believes any decent employer would recognise that if they bring in short-term cover during strikes they will worsen industrial relations with their existing workforce. It will affect goodwill among their own staff and damage their reputation. They may incur additional fees.

d) i) How do you think the removal of Regulation 7 would affect employees taking part in industrial action?

The FBU believes the removal of Regulation 7 would affect employees negatively.

ii) Please explain briefly what you think the impact will be on employees taking part in industrial action? (max 500 characters)

The FBU believes that when employees have voted for industrial action they have the democratic right to take it. The use of agency workers to replace striking workers will violate trade union members' right to strike which is safeguarded by international labour law and conventions. If agency staff stymie the action taken, the permanent workforce will resent their employer and the agency workers involved. That is entirely rational when their living is at stake.

e) i) How do you think the removal of Regulation 7 would affect the wider economy and society?

The FBU believes the removal of Regulation 7 would affect employees negatively.



ii) Please explain briefly what you think the impact will be on the wider economy and society? (max 500 characters)

The FBU recognises that permanent staff often undertake safety-critical jobs. Agency staff will put people and property at risk because they do not have the skills to do the job safely and are not trained properly for the job. This has been shown frequently when firefighters have taken industrial action and contract staff have attempted to provide fire cover. Better to leave these safety-critical jobs to the professionals and to negotiate properly with bona fide trade union representatives in order to resolve disputes.

Question 2)

a) The impact assessment for this consultation assumes that, between 17% and 27% of working days lost due to industrial action will potentially be covered by temporary agency workers, based on the limit of availability of suitable temporary agency workers, and the fact that some stoppages involve a large number of workers on a particular day. Do you think this assumption, as set out in the impact assessment, is reasonable?

The FBU believes the figures are arbitrary and almost certainly wrong.

b) Please give your reasons

The FBU believes agency staff cannot provide the same level of safe, professional fire cover as the regular workforce. The figures take insufficient account of the state of the labour market, the duration of disputes and the availability of temporary workers. Even the Regulatory Policy Committee believes the government's impact assessment is mistaken.

Question 3)

a) The impact assessment assumes that the current options for recruiting temporary labour to provide cover during industrial action are used infrequently, due to the additional costs and administrative burden of hiring staff directly, or contracting service providers at short-notice. Do you think this assumption is reasonable?

The FBU believes this assumption is unreasonable.

b) Please give your reasons

The FBU believes agencies cannot find skilled, professional substitutes because the best people are already doing the job on a permanent basis. Using agency staff reduces the quality of services provided or work performed, increases health and safety risks and worsens ongoing industrial relations.

Question 4)

a) The impact assessment estimates that a quarter of the pool of temporary agency workers would be available for a placement at short-notice to provide cover for workers taking industrial action. Do you think this estimate is reasonable?

The FBU believes this estimate is unreasonable.

b) Please give your reasons

The FBU believes the impact assessment should treat all workers, agency or permanent, as conscious, rational agents, not commodities to be substituted to suit capricious employers and their apologists in government. The FBU also believes it is unfair for unemployed workers to be pressurised into accepting an agency assignment which may undermine industrial action, for fear they otherwise they will lose out on benefits or face sanctions.



C. Tackling intimidation of non-striking workers

The FBU believes this is a bogus consultation. It does not evaluate the measures proposed from the point of view of their fairness, necessity or contribution to democracy. The questions merely request ammunition for the government to attack trade unions. It makes no attempt to gather information on the unfair treatment of workers for participating in trade union activities or in industrial action. The FBU has numerous examples of both, including the monitoring of personal and private matters by employers, the use of social media to discipline and sack trade unionists and other attacks on our human rights. Such a one-sided approach exposes the real aims of this process, which is to attack and undermine the rights of workers.

Question 1: Most of this consultation focuses on specific proposals. Before turning to this detail, do you have any other evidence of intimidatory behaviour, directed either at non-striking or striking workers, that you believe should be considered as part of this consultation? If so, do you have any estimate of the economic impact of this?

The FBU believes this legislation is solely about the intimidation of unionised workers who may need to exercise their democratic right to strike. The Bill is a serious attack on civil liberties and provides no protections for striking workers.

Question 2: The Government is interested in whether there are any further gaps in the legal framework (see Box 1 below) in relation to intimidation of non-striking workers and third parties. How could the framework be strengthened - for example, should there be new criminal sanctions such as an offence of intimidation on the picket line?

The FBU believes there are no gaps in the current legal framework that governs picketing or protests by trade unions and our members. If it reaches the statute book, the Trade Union Bill is likely to fall foul of the requirements of international law. The FBU believes anti-union laws should be repealed and a positive set of legal rights instituted, in consultation with the trade union movement. The FBU is opposed to an offence of “intimidation on the picket line”, which would merely be an attempt to attack, weaken and undermine workers’ rights.

Question 3: The Government is legislating to make a number of key aspects of the Code legally enforceable, such as the appointment of a picketing supervisor. Are there other practices that should be directly legally enforceable - for example, training or a requirement for all pickets to be properly identifiable in the same way as the supervisor? Please explain your views

The FBU believes pickets conform to the guidance set out in the Code and therefore making it legally enforceable is a pointless. The appointment of a picketing supervisor is onerous and will be unworkable. The proposals would criminalise picketing by imposing an unworkable and unenforceable set of conditions. It will create more work for the police, diverting their resources from catching real criminals and terrorists.

Question 4: Do you have any figures that would enable us to estimate any costs to unions generated by making aspects of the Code legally enforceable?

The FBU believes this is an admission the government does not know, nor does it seem to care, what this will cost unions. It is merely another vindictive attack on trade unions and an effort to silence working people in general.



Question 5: What are your views on the Government's proposal to require unions to publish their plans? What information should unions be required to provide? Please set out the reasons for your answer

The FBU is opposed to the Government's proposal to require unions to publish their plans. It is ironic a government so apparently committed to removing 'red tape' on employers is now imposing further onerous conditions on trade unions.

Question 6: Do you have any figures that would enable us to improve the estimates in the Impact Assessment of the cost to unions of publishing their plans??

The FBU believes this is an admission the government does not know, nor does it particularly care, what this will cost unions. If the costs were a real issue, these figures would have been sought before making the proposals.



Question 7: What are your views on the Government's proposal to strengthen accountability?

The FBU does not agree that unions should be required to report annually to the Certification Officer about public demonstrations and picketing activity that has taken place in the preceding year. This government is doing nothing to strengthen accountability at Westminster for decisions that impact on working people. Nor is this government holding employers and their senior managers to account for decisions that adversely affect their workforces. Trade unions are among the most policed and scrutinised organisations on the planet. They are voluntary associations of working people who freely decide to combine together to improve their livelihoods. Trade unions have strong internal mechanisms for holding representatives and members to account. The government's proposals add nothing to our own structures of accountability.

Question 8: Do you have any other suggestions how union accountability and/or transparency could be improved?

The FBU believes the government should remove the anti-union laws, enforce safety and other employment law, and prosecute employers that maim and kill workers. The government should take a libertarian, laissez faire approach to unions – leave them alone. Unions should be and are accountable to our members and it is for union members to hold their unions to account.

Question 9: Do you have any figures that would enable us to improve the estimates in the Impact Assessment of the cost to unions to report on industrial action in their annual reports?

The FBU already reports industrial action in its annual reports and has done so for decades, just as other unions have done so. Trade unions do not need an imposed duty to report to our members.

Question 10: How should the Code be updated to be more useful for parties affected by industrial disputes? Please explain your answer.

The FBU believes the Code of Practice is fit for purpose and does not need updating. The government can help by scrapping all these new proposals and ensure employers stick to the rules and treat workers' organisation with respect.

