

EIS RESPONSES TO TRADE UNION BILL CONSULTATIONS 9 SEPTEMBER 2015

Consultation on tackling intimidation of non-striking 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?

We have no evidence of incidences of intimidation or unlawful behaviour occurring at any of our picket lines. We issue clear guidance on the rules of picketing and our members abide by these and are respectful and courteous at all times.

Question 2:

The Government is interested in whether there are any further gaps in the legal framework (see Box 1 on page 5) in relation to intimidation of non-striking workers and third parties. How could the framework be strengthened - for example, should there be a new criminal offence, such as for intimidation on the picket line?

We believe that existing provisions (ordinary Scottish Criminal Law and TULCRA) are sufficient to deal with all and any incidents that could occur on picket lines. We would again make clear that there is no evidence to suggest such issues arising in Scotland.

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.

We believe that the proposals are unnecessary and unhelpful.

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?

We do not believe that this step is necessary and have not seen any evidence of the benefits it would bring. The potential impact and pressure on those undertaking strike actions and we believe it will be detrimental to individual workers and to unions.

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.

It is a further strap on the straight jacket the Government is attempting apply to 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?

It is not the financial costs of publishing that are the issue. The further constraint this places upon unions in terms of developing strategy and conducting effective industrial action is the issue.

Question 7:

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

Unions are democratic and accountable to their membership. This bill is in our view politically motivated and designed to attempt to undermine trade union autonomy and free collective bargaining.

Question 8:

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

We do not accept the premise of this question. We are a democratic, representative organisation and our decisions, finances and actions are appropriately open and transparent.

Question 10:

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

We work with in the existing Code and we do not believe that any of our suggestions for improvement would be accepted by the current Government.

Hiring agency staff during strike action: reforming regulation response form

Question 1

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

We support the STUC view that this could lead to the establishment of agencies specialising in strike breaking. We do not believe that such agency provision would be able to be effectively used in to substitute for Scottish teachers given the legislative and regulatory requirements on the profession and the lack of supply staff currently in the system.

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

Temporary teaching staff who are not union members may be placed in difficult positions and would not wish to be directed to cover for colleagues engaged in industrial action.

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

We believe that this will have a negative impact on industrial relations within organisations and could escalate disputes.

e) ii) Please explain briefly what you think the impact will be on the wider economy and society?

It is a negative message that it is acceptable to undermine the effectiveness of workers' rights to take industrial action in this way. The practicalities of implementing this in the public sector have not been considered. It is our view that this would be an unworkable provision for the replacement of teachers or lecturers who are engaging in industrial action.

Consultation on ballot thresholds in important public services:

Question 1 (referring to paragraphs 1 through to 13)

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

As the leading Education Trade Union in Scotland we are responding to this consultation in the context of Scottish Education.

c) Education services

Strike action by teachers does have an impact on schools but strike action is action not lightly considered and has not been taken in by EIS members since 2011. This was a one-day strike which was well supported by EIS members in defence of their pensions.

We believe teachers should have the same rights as other workers and that additional threshold requirements are not necessary or appropriate.

Question 3.

What factors do you think are important in defining ‘important public services’? (Referring to paragraphs 14 through to 16)

We do not believe that there should be further legislation or regulation of trade union activities.

c) Do you agree these are occupations and functions in education services 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.

We do not believe that teachers or educational services should be included in this definition or subject to an additional threshold.

Education services:

No workers in this sector should be subject to the threshold.

Question 10. (Referring to paragraphs 22 through to 24)

Do you agree with the Government’s proposed approach to private sector workers? Why / Why not?

No, we do not believe that further regulation is helpful or would improve industrial relations.

Do you have any other comments that might aid the consultation process as a whole?

We fully support the TUC and STUC submissions on this Bill. We oppose further constraints on the right to strike and the introduction of additional barriers to the operation of trade unions.