

Report to: **Lead Member for Resources**

Date: **24 November 2015**

By: **Chief Operating Officer**

Title of report: **Notice of Motion: Opposition to the Trade Union Bill ('the Bill')**

Purpose of report: **To consider the Notice of Motion by Councillor Webb and Councillor Charman regarding the proposal that the Council opposes the Trade Union Bill**

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**RECOMMENDATION: The Lead Member is recommended to recommend that the County Council note the contents of this report and adopts an amended Notice of Motion as set out in paragraph 3.1 of the report.**

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## **1 Background Information**

1.1 The following Notice of Motion has been submitted by Councillor Webb and Councillor Charman:

"As a major employer in the area, this Council welcomes the positive benefits that arise from the relationship that we have with recognised trade unions, and seeks to encourage trade union membership in its own workforce, as well as promoting the benefits of trade union membership in the county as a whole. However, the County Council notes that the Trade Union Bill 2015 and associated secondary legislation, if enacted, would:

- Allow agency labour to be used to substitute for striking workers (currently outlawed);
- Introduce very high thresholds for industrial ballots, with an extra threshold in certain public services, without doing anything to improve the ability of workers to participate in ballots;
- Severely restrict the right to picket and peacefully protest, including organising campaigns through social media;
- Potentially reduce trade union facility time and withdraw check off union contributions in the council and other employers in East Sussex;
- Require union members to 'contract in' to their union's Political Fund every 5 years.

This Council believes that the relationship between employers and their employees in East Sussex through their collective representatives would be damaged by the above proposals and calls on the Government to scrap the Trade Union Bill and all associated secondary legislation.

We request that the Leader of the Council writes to the Secretary of State for Business, Innovation and Skills stating the Council's opposition to the Bill and requesting that Government scrap the proposed legislation."

1.2 In line with the Council's practice the matter has been referred by the Chairman to the Lead Cabinet Member for Resources for consideration to assist and provide information to the County Council and help inform the debate. The Lead Member's decision will be reported to the County Council at its next meeting on 1 December 2015.

1.3 The Bill was announced during the Queen's Speech on 27 May 2015, described as "legislation to reform trade unions and to protect essential public services against strikes". The announcement followed commitments in the Conservative Party manifesto 2015, which set out many of the proposals which feature in the Bill.

## **2. Supporting Information**

### Summary of the Bill

2.1 A summary of the Bill is set out in Appendix A.

2.2 The Trade Union Bill includes new restrictions on the right to strike, with the introduction of a 50% voting threshold for union ballot turnouts and a new requirement that 40% of those entitled to vote must vote in favour of industrial action in certain essential public services including fire, education, health and transport. Currently a strike is valid if it achieves a majority of those voting. Whilst the definition of essential public services will be the subject of a separate consultation, it is likely to include some services within the County Council such as parts of Adult Social Care and Children's Services.

2.3 Alongside the Bill, the Department for Business, Innovation and Skills (BIS) is also consulting on measures which do not currently feature in the Bill that may be achieved by secondary legislation using powers from the Bill:

- repealing the existing prohibition on hiring agency staff to replace workers participating in industrial action; and
- changes to the law on picketing, including the possible creation of a new criminal offence of “intimidation on the picket line”.

2.4 In addition to the Bill’s current provisions, the Government has indicated it intends to amend the Bill to abolish check-off in the public sector. Check-off is a system whereby union membership payments are deducted from union members’ salaries by their employers and paid over to unions.

#### Passage of the Bill through Parliament

2.5 The Bill has passed through all the House of Commons Stages and is now in the House of Lords Stages. The first reading in the House of Lords took place on 11 November 2015. The second reading, which will give the opportunity for a general debate on all aspects of the Bill, is yet to be scheduled.

2.6 There are a number of organisations in both the public and private sector that either support or object to the Bill. A number of written submissions from these outside bodies and individuals have been circulated to MPs appointed to examine the Bill during the committee stage in a Public Bill Committee. Written submissions have been made from organisations including Unison, GMB, NUT and the Taxpayers’ Alliance. Details of these can be found via the links at the bottom of this report.

#### Local Context

2.7 To date, the County Council has enjoyed a positive relationship with local trades unions which has resulted in the effective management of a number of large scale change programmes such as whole service restructures, the implementation of the local East Sussex Single Status pay and grading arrangements, as well as changes to contractual terms and conditions. Putting aside the impact from national related industrial action, such as annual pay awards negotiated nationally, over the course of the last 18 months, minimal reference to industrial action has been made by the unions in East Sussex.

### **3. Conclusion and Reasons for Recommendations**

3.1 Set against the above background and recognising our responsibilities as an employer of a large, complex, people based organisation, it is suggested that the original notice of motion should be amended as follows:

*“As a major employer in the area, this Council welcomes the positive benefits that arise from the relationship that we have with recognised trade unions, and seeks to encourage trade union membership in its own workforce, as well as promoting the benefits of trade union membership in the county as a whole.*

*This Council believes that the relationship between employers and their employees in East Sussex through their collective representatives would be damaged by the proposals and calls on the Government to scrap the Trade Union Bill and all associated secondary legislation.*

*We request that the Leader of the Council writes to the Secretary of State for Business, Innovation and Skills stating the Council’s opposition to the Bill and requesting that Government scrap the proposed legislation.”*

**KEVIN FOSTER**  
**Chief Operating Officer**

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Local Members: All

#### BACKGROUND DOCUMENTS

- (i) The Trade Union Bill (<http://www.publications.parliament.uk/pa/bills/cbill/2015-2016/0058/16058.pdf>)
- (ii) Written submissions from outside bodies (<http://services.parliament.uk/bills/2015-16/tradeunion/documents.html>)
- (iii) House of Commons briefing paper (<http://researchbriefings.files.parliament.uk/documents/CBP-7295/CBP-7295.pdf>)

## Summary of the Bill<sup>1</sup>

The main provisions of the Bill are as follows:

**Clause 1** defines the *Trade Union and Labour Relations (Consolidation) Act 1992* as “the 1992 Act”. The Bill would amend this Act.

**Clause 2** would introduce a 50 per cent turnout requirement for industrial action ballots, in addition to the current requirement for a majority vote in favour of action.

Under **clause 3**, industrial action in “important public services” would require a positive vote by at least 40 per cent of those entitled to vote in the ballot. This would be in addition to the 50 per cent turnout threshold and the requirement for a majority vote. “Important public services” would be defined in subsequent regulations, but could fall only within the following categories:

- health services;
- education of those aged under 17;
- fire services;
- transport services;
- decommissioning of nuclear installations and management of radioactive waste and spent fuel; or border security.

**Clause 4-6** would require unions to include new types of information on industrial action ballots. Following a ballot, unions would have to communicate more detailed information to union members, employers and the Certification Officer.

**Clause 7** would extend the period of notice unions must give employers prior to industrial action, from the current seven days to 14 days.

**Clause 8** of the Bill would provide that industrial action ballot mandates would expire after a four-month period; industrial action after this point would require a fresh ballot.

**Clause 9** would introduce new legal requirements relating to the supervision of picketing. The requirements would include, for example, that a picket supervisor must take reasonable steps to communicate information to the police. The clause would incorporate into law provisions of the 1992 Code of Practice on Picketing.

**Clause 10** would make it unlawful to require a member of a union to contribute to a political fund unless he has indicated in writing willingness to do so. This would change political fund contributions from an opt-out to an opt-in arrangement. The opt-in agreement would expire after five years, subject to the possibility of renewal. **Clause 11** would require unions to publish details of political expenditure in their annual returns if this expenditure exceeds £2,000 per annum. The annual return must detail the amount spent on political objects and the recipient(s) of each item of expenditure.

**Clause 12** would introduce a power, whereby a Minister may by regulations require a relevant public sector employer to publish information relating to facility time taken by union officials.

**Clause 13** would create a reserve power whereby a Minister may make regulations restrict facility time.

**Clauses 14-17** and **Schedules 1-3** would reform the role of the Certification Officer. They would introduce investigatory and enforcement powers; the power to impose financial penalties of between £200 and £20,000; and the power to, by regulations, make provision for the Certification Officer to require trade unions and employers’ associations to pay a levy, funding the performance of his role.

<sup>1</sup> <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7295>