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<b>Report To:</b>	<b>Policy &amp; Resources Committee</b>	<b>Date:</b>	<b>17 May 2016</b>
<b>Report By:</b>	<b>Head of Organisational Development Human Resources and Communications</b>	<b>Report No:</b>	<b>HR/10/16/AW</b>
<b>Contact Officer:</b>	<b>Allan Wilson</b>	<b>Contact No:</b>	<b>2022</b>
<b>Subject:</b>	<b>The Trade Union Bill 2015-2016</b>		

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## 1.0 PURPOSE

- 1.1 The purpose of the report is to update the Policy & Resources Committee on progress of the Trade Union Bill 2015-2016 from its first reading in the House Commons in July 2015.

## 2.0 SUMMARY

- 2.1 The Trade Union Bill 2015-2016 was introduced to the House of Commons on 15 July 2015. It completed its stages in the Commons on 10 November 2015. The Bill then went to the House of Lords for consideration and this was completed on 25 April 2016. Once the Commons and Lords agree on the final version of the Bill, it can receive Royal Assent and become an Act of Parliament.

- 2.2 The key proposals in the Bill are set out below:

- Changes to the law on picketing.
- The repeal of the existing prohibition on employers hiring agency staff to replace workers participating in industrial action.
- The abolition of check-off in the public sector.
- A 50% turnout of those entitled to vote will be required for an industrial action ballot.
- Industrial Action in important public services (such as health, education, fire, transport, border security, and the nuclear decommissioning services) will require a further positive vote of at least 40% of those entitled to vote in the ballot, that is at least 40% of entire membership.
- Trade Unions will be required to include new types of information on industrial action ballots.
- The period of notice that trade unions must give employers prior to any industrial action is extended from 7 days to 14 days.
- Industrial action ballot mandates will expire after four months; industrial action after this point will require a fresh ballot.
- The political fund contributions will change from the present 'opt-out' to an 'opt-in' arrangement.
- Unions will be required to publish more detailed information on their political expenditure.
- Regulations will require public sector officials to publish information relating to 'facility time' taken by union officials.
- Reforms of the role of the Certification Officer (who regulates trade unions).

- 2.3 The Scottish Government is committed to exploring avenues that are open to express opposition to the Bill having failed to block it. The Parliamentary authorities rejected the request

from the Scottish Government made last year, to block the Bill.

- 2.4 The Government is to drop the proposal to change trade union funding arrangements. An amendment to the Bill will allow the check-off system to continue, whereby trade union members have their subscription deducted from their salaries, to continue where there was agreement with the employer and the union met the cost.
- 2.5 The House of Lords amendments to the Bill are outlined below, members have voted in favour of:
- The overhaul to funding should be restricted to new members only. Ministers had proposed trade unionists would have to agree in writing every five years to pay into their organisation's political fund, rather than the current system of automatically contributing unless they opted out. However, peers voted to exempt present trade unionists that already pay into a political fund.
  - Opt-in to a unions political fund remains however, after a longer transition period of 12 months ( rather than three)
  - Peers also voted to commission an independent review and pilots of electronic ballots for strike action before making changes that would require a turnout of 50%
  - Cap on trade union facility time to be looked at again
- 2.6 There have been two motions approved, in October 2015 and April 2016, by the Inverclyde Council recording opposition to the Trade Union Bill.

### **3.0 RECOMMENDATIONS**

- 3.1 It is recommended that Members note the content of this paper as the Bill makes its way through the parliamentary stages.

**Steven McNab**  
**Head of Organisational Development,**  
**Human Resources and Communications**

## 4.0 BACKGROUND

4.1 It was agreed at the Inverclyde Council meeting of 7<sup>th</sup> April 2016 that a report be submitted to the next meeting of the Policy and Resources Committee on the progress of the Trade Union Bill; this report satisfies this request.

4.2 The Trade Union Bill 2015-2016 was announced in the Queen's Speech on 25<sup>th</sup> May 2015. It was described as 'legislation to reform trade unions and to protect essential public services against strikes'. The Bill was introduced to the House of Commons on 15 July 2015. It completed its stages in the Commons on 10 November 2015. The Bill then went to the House of Lords for consideration and this was completed on 25 April 2016. Once the Commons and Lords agree on the final version of the Bill, it can receive Royal Assent and become an Act of Parliament.

4.3 The key proposals in the Bill are set out below:

- Changes to the law on picketing, including the creation of a new criminal offence of 'intimidation on the picket line'.
- The repeal of the existing prohibition on employers hiring agency staff to replace workers participating in industrial action.  
*Note these proposals – picketing and agency staff – do not currently feature in the Bill – The Department of Business, Innovation and Skills (BIS) has consulted on regulations required to implement them though with a view to making legislative changes.*
- The abolition of check-off in the public sector.
- A 50% turnout of those entitled to vote will be required for an industrial action ballot.
- Industrial Action in important public services (such as health, education, fire, transport, border security, and the nuclear decommissioning services) will require a further positive vote of at least 40% of those entitled to vote in the ballot, that is at least 40% of entire membership.
- Trade Unions will be required to include new types of information on industrial action ballots. That is, the type of industrial action must be specified and an indication of the time during which it is proposed that these specific types of industrial action will take place. All this information needs to be made available to trade union members prior to any ballot.
- The period of notice that trade unions must give employers prior to any industrial action is extended from 7 days to 14 days.
- Industrial action ballot mandates will expire after four months; industrial action after this point will require a fresh ballot. (Current legislation provides that so long as industrial action starts within 4 weeks of a successful ballot, the mandate for it remains intact for as long as the dispute exists).
- The political fund contributions will change from the present 'opt-out' to an 'opt-in' arrangement. The 'opt-in' arrangement will expire after five years and will need to be renewed.
- Unions will be required to publish more detailed information on their political expenditure.
- Regulations will require public sector officials to publish information relating to 'facility time' taken by union officials.
- Reforms of the role of the Certification Officer ( who regulates trade unions ). Trade Unions require to inform the Certification Officer of details of any industrial action taken in the reporting period in its annual return. The Certification Officer has investigatory and enforcement powers and can impose penalties – ranging from £200-£20,000.

4.4 The UK Government's position is that these reforms will ensure that the process of industrial action is more democratic and 'ensure strikes are the result of a clear and positive democratic mandate from union members: upholding the right to strike while reducing disruption to millions of people'.

4.5 Trade Unions locally and nationally have mounted a campaign against the Bill since its announcement in May 2015. The following Motion was agreed by Inverclyde Council on 7

April 2016 regarding the TU Bill:

“Council notes the Conservative Government are proposing a Trade Union Bill that will restrict the ability of this Council to engage in good industrial relations practices with our workforce and their representatives. Council believes the collection of union dues through the check-off arrangement, from which the Council receives income, is part of our collective and contractual arrangements with the trades unions and one which we will defend and support. Council commits not to use agency staff to break or weaken industrial action and to continue to support arrangements that afford trade union representatives sufficient resources to enable them to carry out their functions to ensure the continuation of good industrial relations. The Leader of the Council commits to writing to the Secretary of State for Business, Innovation and Skills stating Council’s opposition to this Bill and our resolve not to co-operate with any attacks on facility time or check off and to write to the First Minister calling on the Scottish Government to stand with Inverclyde Council and other local authorities in opposing the proposals in this Bill.”

A number of other Councils across Scotland have agreed similar Motions concerning the Bill.

## **5.0 Progress of Bill**

- 5.1 The Bill would apply to England, Wales and Scotland. For a Bill to become law, it requires to be progressed through specific procedures in both the House of Commons and the House of Lords. There is a first and second reading of the Bill in the House of Commons, before the Bill is considered at the committee stage and report stage. Amendments to the Bill can be proposed and made during this process. A third reading of the Bill then takes place. At that stage, no further amendments can be made, and after debate the House of Commons votes on whether to approve the third reading of the Bill. The Bill is then referred to the House of Lords. Again, there is a first and second reading of the Bill, before the Bill is considered at the committee stage and report stage. Amendments to the Bill can be proposed and made during this process. A third reading of the Bill then takes place. Unlike the House of Commons, amendments to the Bill can be made at the third reading in the House of Lords, provided the issue has not been fully considered and voted on during either committee or report stage.
- 5.2 After the third reading of the Bill by the House of Lords, the Bill is sent back to the House of Commons for consideration of any amendments made in the House of Lords. If there have been no amendments in the House of Lords, the Bill is sent to the Monarch for Royal Assent.
- 5.3 Where amendments to a Bill have been made by the House of Lords, the Bill will pass between the House of Commons and House of Lords to consider amendments or alternative proposals made by the other chamber. Both parties must agree on the exact wording of the Bill, and there is no set time period between the third reading of a Bill and consideration of any Commons or Lords amendments.
- 5.4 The dates on which each stage of the Trade Union Bill 2015-2016 within the House of Commons and House of Lords has either been completed, or is scheduled to take place, are as follows:

Passage of the Bill in the House of Commons:

- First reading – 15<sup>th</sup> July 2015
- Second Reading – 14<sup>th</sup> September 2015
- Committee Stage – 13<sup>th</sup> October 2015 – 27<sup>th</sup> October 2015
- Report Stage – 10<sup>th</sup> November 2015
- Third Reading – 10<sup>th</sup> November 2015

Passage of the Bill in the House of Lords:

- First Reading – 11<sup>th</sup> November 2015
- Second Reading – 11<sup>th</sup> January 2016
- Committee Stage – 8<sup>th</sup> February 2016 – 25<sup>th</sup> February 2016

- Report Stage – 16<sup>th</sup> March 2016 – 19<sup>th</sup> April 2016
- Third Reading – 25<sup>th</sup> April 2016

5.5 The Government is to drop the proposal to change trade union funding arrangements. An amendment to the Bill will allow the check-off system to continue, whereby trade union members have their subscription deducted from their salaries, to continue where there was agreement with the employer and the union met the cost.

5.6 The House of Lords amendments to the Bill are outlined below, members have voted in favour of

- The overhaul to funding should be restricted to new members only. Ministers had proposed trade unionists would have to agree in writing every five years to pay into their organisation's political fund, rather than the current system of automatically contributing unless they opted out. However, peers voted to exempt present trade unionists that already pay into a political fund.
- Opt-in to a unions political fund remains however, after a longer transition period of 12 months ( rather than three)
- Peers also voted to commission an independent review and pilots of electronic ballots for strike action before making changes that would require a turnout of 50%
- Cap on trade union facility time to be looked at again

5.7 Against that background, as at the date of writing this report, it unknown if the wording of the Bill shall be agreed between the House of Commons and the House of Lords, and if so, when the Bill shall subsequently receive Royal Assent and come into force.

## 7.0 IMPLICATIONS

### Finance

7.1 The Council receive £14,000 annually for the operation of check – off

#### Financial Implications:

##### One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement From	Other Comments
N/A					

##### Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact £000	Virement From (if Applicable)	Other Comments
N/A					

### Legal

7.2 Legal Services have been consulted on the content of this report

### Human Resources

7.3 N/A

## **Equalities**

7.4 Has an Equality Impact Assessment been carried out?

YES (see attached appendix)

NO - This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required.

## **Repopulation**

7.5 N/A

## **8.0 CONSULTATIONS**

8.1 The trade Unions have been consulted on the content of this report