

The use of agency workers during strike action

Consultation Response Form

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Our questions

1. The Welsh Government believes that the effect of the law currently in place should continue, in which Welsh public service employers are not be able to use workers employed by an employment business to provide cover for staff taking industrial or providing cover for them.

Do you agree? Yes/No

Yes

2. The Welsh Government believes that the current voluntary arrangements are adequate to ensure that 'life and limb' continues to be protected by public services during industrial action.

Do you agree? Yes/No

Yes

3. The Welsh Government does not anticipate that the proposal would significantly affect the financial position of employment agencies and businesses.

Do you agree? Yes/No

Yes

4. Do you agree that the option to use primary legislation to create a duty on Welsh public service employers not to use agency workers best achieves our intention?

Yes/No

No firm position – this is an important matter of principle which deserves proper debate and scrutiny. However, primary legislation should always be employed as a last resort, and given the positive partnership working in Wales (see 7 below) this may be unnecessary.

5. Do you agree that the option to use guidance or Ministerial direction to Welsh public service employers best achieves the intention?

Yes/No

No firm position – comments under 4 apply.

6. Are there any circumstances which should be exempted from the duty and if so what do you think would be the consequences of not exempting them?

No firm position – comments under 4 apply.

7. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

A key aspect to the management of public services in Wales is the Partnership arrangement in place between Welsh Government and public bodies and between employers and trade unions. This Partnership approach results in a meaningful and constructive relationship between government and trade unions, and is reinforced by workers having recourse to industrial action as a last resort. It encourages all parties to seek consensus rather than conflict and is one reason that strike action in the public sector in Wales is comparatively rare.

The use of agency workers during strike action would directly change the historical and legal basis of industrial disputes and the balance of power within the employer/ employee relationship. It will no longer be that an employer has to seriously attempt to resolve a dispute in their workforce.

The RCN would not be in favour of this change. In health it is difficult to see how it will have any serious effect on the resolution of disputes. There is no 'reserve army' or qualified nurses or others able to be brought into deliver services at short notice.

As many agency nurses are already NHS employees they will themselves also be affected by the dispute and are unlikely to wish to work and thus undermine their own interests. Health is a regulated profession. Not just in terms nurse regulation but also the wider controls placed on workers. All of these mitigate employers bringing in casual staff to undermine the interests of their fellow workers.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: We are happy to be made public.