

## TRADE UNION BILL BRIEFING – 26<sup>TH</sup> JANUARY 2016

### Background

We are pleased at the widespread opposition to the Trade Union Bill in Scotland, and the stance of the majority of the Parliament to date that trade unions are a valued partner, enabling positive industrial relations.

### RCN Position

We strongly oppose the Trade Union Bill. If enacted it would have serious consequences for productivity and staff morale in the NHS. We value the work of the Parliament's Devolution (Further Powers) Committee on the Bill and support the recommendations made in its Report on the impact of the UK Government's Trade Union Bill in Scotland.

### Facility time

In Scotland, trade union facilities arrangements within the NHS are agreed through the national Partnership information network (PIN) guidelines (Scottish Government, 2011) and form part of the NHS Staff Governance framework.

Clauses 12 and 13 propose changes to the current arrangements for union facility time under the Trade Union and Labour Relations (Consolidation) Act 1992. These clauses enable the Minister to impose a cap on the percentage of facility time that trade union representatives are allowed for carrying out their duties. Provisions would also give the Minister power to require public sector employers to annually publish details of funds used for trade union facilities, including paid time off for union officials.

At a UK level the RCN is calling for provisions in the Bill which enable the Minister to cap facility time to be rejected.

The underlying assumptions on which this Bill is based - that there are excessive numbers of trade union representatives in the public sector at great cost to the public purse, and that restricting trade union facility time will help to improve public sector finances - are mistaken. Independent research commissioned by the RCN into facility time in the NHS casts doubt on these assumptions, and shows that clauses 12 and 13 attempt to solve a problem that simply does not exist.

The Department for Trade and Industry's 2007 review of union facility time echoed the findings of the RCN's research, based on analysis of the 2004 Workplace Employment Relations Survey, which found cost savings associated with union representation. It concluded that union activity is associated with:

- lower voluntary exit rates, saving £72-£143 million annually in recruitment costs, and lower dismissal rates, saving £107-£213 million annually in recruitment costs
- lower rates of employment tribunals, saving the Government £22-£43 million annually
- lower rates of workplace related injuries, saving employers £126-£371 million annually and
- lower incidences of workplace-related illness, saving employers £45-£207 million annually.

Facility time for union representatives is linked to increased productivity, crucial in the NHS for delivering high quality, cost effective care.

Trade unions invest in their representatives bringing skills, knowledge and experience to the workplace and to partnership. This is a cost effective way of developing practice and managing organisations. Without this, alternative provision would be costly to employers and the tax payer.

We also agree with the evidence given to the Devolution Committee by Shirley Rodgers of NHS Scotland that:

“the NHS took the view that we wanted to invest in co-production; we wanted to front-load our investment in facility time to allow us to have a better product rather than spend our time in conflict resolution and dispute management. The proof is in the pudding that, during the past 10 to 15 years, we can count on one hand the number of disputes that we have had.”

Current arrangements for facility time are beneficial to the safety of practice environments, staff welfare and, consequently, patients.

## Ballot thresholds

Provisions in the Trade Union and Labour Relations (Consolidation) Act 1992 that the Bill seeks to amend contain appropriate checks and balances which recognise the imbalance of power between employee and employer. Industrial action is only ever proposed as a last resort, when negotiations have not resulted in an outcome that is considered acceptable or fair.

To date the RCN has not authorised industrial action on behalf of its members. Up to 1995 industrial action was not supported by our Rules. After a change in the Rules in 1995 industrial action could be authorised by RCN Council as long as it was not detrimental to the interests or wellbeing of patients or clients.

The RCN's experience is that members have requested industrial action ballots because of concerns about patient care in a specific unit or department and only after significant steps by members to engage with employers in trying to resolve the issue. In such instances the proposed thresholds could render industrial action impossible. The refusal of employers in some situations to engage meaningfully in resolving issues in the workplace will not be solved by placing a threshold on ballots.

Trade unions are democratic organisations and workplace democracy is no different to any other form of democracy. A Parliamentary, local government, or trade union leadership election is not decided on the basis of the number of abstentions. Industrial action ballots should be no different.

RCN opposes the ballot thresholds set out in clauses 2-3 of the Bill. The turnout thresholds in the Bill are undemocratic and should be rejected both on this basis and in the interests of patient safety.

## Improving patient care

Health care employees, union representatives and employers share a common goal to improve services and deliver high quality patient care.

Productive partnerships between union representatives and managers are made possible because of the provision of facility time.

Positive industrial relations enable situations to be resolved before they escalate. Any reduction in union facility time will reduce the ability of union representatives to carry out their roles, weaken union/employer partnerships and intensify the potential for industrial unrest.

Attacking employees' rights and lowering morale even further, will result in patient care bearing the brunt of these changes.

Evidence shows that the current arrangements for union facility time are working well and the RCN believes that in the interests of patient care and staff welfare they should not be capped.

## Conclusion

Continued pay restraint coupled with the attack on workplace democracy contained within the Trade Union Bill will do nothing to improve industrial relations.

We believe that this Bill poses a profound risk to productivity, morale and the delivery of safe patient care in the NHS.

## Further information sources

The independent research commissioned by RCN into facility time can be found [here](#).

The Department for Trade and Industry's 2007 review of union facility time can be found [here](#).

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