

Notice of Motion: Trade Union Bill 2015-16

Briefing Paper by the Head of Services for Communities

1. Summary

The County Council at its meeting held on 10 December 2015 considered a Notice of Motion on the Trade union Bill, from Councillor Hannan as follows:

“The Council notes the positive contribution that trade unions make to the delivery of public services in Devon. Through partnership rather than conflict, trade unions represent their members, assist in the development of a safe and decent working environment, and add to the overall ethos of this Council as an attractive place to work.

The Council believes that proposals in the Trade Union Bill could undermine collaboration between employers and trade union members, and is concerned about the impact this would have here and in many other workplaces across the County and therefore resolves:

to endeavour to continue to offer a check-off service - the ability of trade union members to have their subscriptions deducted at point of payment - to all members of staff at Devon County Council and if this is not possible, to come up with a local plan to facilitate alternative methods of payment;

to support the continuation of Trade Union Facility Time, in recognition of its contribution to reduced litigation and to promoting a healthier, safer and more positive working environment”

In accordance with Standing Order 6(6) the Notice of Motion was referred, without discussion, to the Cabinet for consideration.

(County Council Minute 160 (f) refers.)

This paper provides information to assist Members in responding to the Notice of Motion.

2. Background

The Trade Union Bill 2015-16 was introduced in the House of Commons on 15 July 2015 and was described during the Queen’s Speech on 27 May 2015 as ‘legislation to reform trade unions and to protect essential public services against strikes’. In addition to the focus around industrial action, the Bill also proposes to create reporting requirements in respect of the amount of time off for trade union duties or activities (known as facility time) taken by union representatives in the public sector and create a power by which Ministers could limit this time off. Union representatives have had a statutory right to reasonable paid time off from employment to carry out trade union duties and to undertake trade union training since the Employment Protection Act 1975. Union representatives and members were also given a statutory right to reasonable unpaid time off when taking part in trade union activities. Trade union duties include:

- Collective bargaining on issues like terms and conditions
- Consultation on redundancies/restructures and TUPE
- Health and Safety issues
- Advice and support on individual issues like conduct, absence and capability
- Job Evaluation

Trade union activities can include attendance at branch, area or regional union meetings or meetings with full time officers to discuss issues relevant to the workplace. The Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice on Time Off for Trade Union Duties and Activities provides guidance on all facility time rights and is designed to 'aid and improve the effectiveness of relationships between employers and trade unions'.

Check-off allows employers to deduct trade union subscription fees from trade union members' salaries on behalf of the unions. At the time of writing, the Bill does not contain any provisions on check-off, although the Government has indicated it intends to amend the Bill to abolish check-off in the public sector.

3. DCC Practice

Check off - Devon County Council currently operates the 'check off' system to enable employees to have their trade union subscriptions deducted from their pay, rather than paying direct to the trade union. At the Personnel Partnership meeting on 15 October 2015, the trade union staff side raised concerns about the proposal to end check off and it is recorded that the employer side 'advised that the Council would continue to deduct union membership fees from staff salaries for as long as it was able to'.

Facility time - Devon County Council values the work that Trade Union representatives do and the contribution they make to assisting in the effective delivery of services. As such the Council currently contributes funding towards trade union representatives from UNISON and GMB (Education unions are funded separately). The funding has helped the Council consult on and achieve the best outcomes during a period of considerable change and workforce reductions over the past few years. We are currently consulting with the Unions on a proposal to reduce the amount of funded trade union representative facility time for UNISON and GMB. The proposal is to reduce that funding by approximately 50%, which would equate to a reduction of 2 posts from the current 4.1 that are funded, but is felt to still represent a realistic, sustainable funding arrangement to ensure that employee and collective issues are resolved as quickly and effectively as possible. Without the funding, the statutory requirement to allow reasonable time off for trade union duties exists so there remains a cost to the organisation through release of unfunded trade union representatives from work to undertake these duties.

The Transparency Code requires the publication of the numbers of trade union representatives, including those who spend at least 50% of their time on trade union duties and activities, the names of the unions recognised and the estimate of spending on unions as a percentage of the total pay bill. This information is published on the Devon County Council website.

John Smith
Head of Services for Communities