

Strikes (Minimum Service Levels) Bill: Community Union Submission to the Joint Committee on Human Rights

About Community

1. Community is a general trade union that represents over 40,000 workers, both employed and self-employed, across the UK economy. This includes logistics, steel and manufacturing, education and early years, privatised justice, custodial and immigration, finance and professional, betting and retail, social care, and many more sectors.
2. Community welcomes the Joint Committee on Human Rights conducting legislative scrutiny over the Strikes (Minimum Service Levels) Bill and is pleased to have the opportunity to respond to this call for evidence.
3. Community believes that the Strikes (Minimum Service Bill)'s imposition of minimum service bill is incompatible with human rights, as it restricts the right to freedom of assembly and association under article 11 of the European Convention on Human rights, as well as other recognitions of the right to strike which have been ratified by the UK parliament.

The secretary of state's powers are too far-reaching

4. In this bill, the secretary of state is given far too much leeway to determine acceptable service levels and affected sectors. This could lead to the secretary of state defining sectors very broadly, in order not to promote public safety, but rather to restrict the right to strike or even to pursue political aims.
5. Further, this bill could lead to the secretary of state determining the minimum service level at a very high level, again constraining the ability of workers to lawfully exercise their rights to strike, under their rights to freedom of association. The lack of limits on the Secretary of State's powers means that these restrictions on the right to strike are highly likely to exceed the thresholds for (exceptional) lawful and necessary restrictions set out under article 11 of the EHCR.
6. We are also concerned that there are no obligations on the secretary of state to consult social partners, nor to ensure that the regulations that they pass are consistent with ILO conventions.

Consequences for workers and union reps are disproportionate

7. We are deeply concerned that where a worker fails to comply with a work notice, they would be liable to discipline and dismissal, and the legal protections for unfair dismissal for participating in a strike would be lifted. This is, in our view, wholly disproportionate.
8. The injustice would particularly apply in such cases where union officials were subject to a work notice. It is clear that it would be unconscionable for union representatives to countenance crossing a picket line and yet the legislation would revoke unfair dismissal protections from such workers.

Reasonable steps and the consequences of not taking them are unclear

9. We are concerned that it would be difficult for trade union to take reasonable steps to ensure that their members of the union comply with the notice, as this bill requires.
10. This bill requires unions to act to undermine their own strike action, which is wholly unreasonable, and places obligations on unions to act on behalf of employers. Trade unions should not be required by law to undermine their own interests, and the interests of their members.
11. Courts will have to determine what is a “reasonable step”, and parliament will not be providing the courts with any guidance as to what this means. This could mean trade unions will need to do more to undermine their strikes, in order to comply with the vague and unclear duty.
12. We further note that there are no such legal obligations on trade unions in any other country in the world.
13. Finally, we are deeply concerned that trade unions could face severe damages if a court determines they have not taken reasonable steps. The bill is unclear as to whether members who had been dismissed because the union had failed to take reasonable steps could hold the union legally liable. Indeed, it is even unclear if a member of the public whose access to a service was impaired, if it was determined that the union had failed to take reasonable steps, could take legal action against the union.

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Please direct any questions to research@community-tu.org