

UNISON Cymru/Wales Briefing – Dec 2016

Summary of UNISON response to the Welsh Government consultation on the use of agency workers during strike action

UNISON represents 100,000 people working to deliver public services across Wales. It is essential that workers have the ability to organise collectively to defend their jobs, their livelihoods and the quality of their working lives. Without this ability, employees will find it harder to secure pay increases and fair employment conditions. As a result, the gap between the rich and low paid in the UK will continue to grow and families will continue to struggle to meet household bills.

The working rights of people in Wales and the ability to defend those rights need to be protected as a matter of urgency. Any erosion of working rights of people in Wales will lead to greater poverty and deprivation, as well as all the impacts as outlined above.

Use of agency workers during strike action – an attack on collectivism and social partnership

There is no necessary or justifiable need for the removal of the ban on the use of agency workers to provide cover for staff taking industrial action. The right to strike is fundamental and must be respected in a free and democratic society. The use of agency workers to replace striking workers would restrict the ability of people at work to organise collectively, make their voice heard at work and take industrial action. In turn, this would significantly disempower employees and undermine social partnership in the workplace.

Furthermore, employment relations and workplace productivity would suffer. Unnecessary tensions between employers and their employees would make disputes more difficult to resolve.

The excessive cost of using agency workers is a factor that must be considered, particularly within the public sector where there is a direct accountability to the public purse.

Agency workers would face the unenviable choice between crossing the picket line or turning down an assignment and risk not being offered future employment.

There are genuine health and safety risks to agency workers providing cover for staff taking industrial actions who could find themselves asked to run entire services without the support, proper induction and direction from permanent

colleagues that temporary staff expect to allow them to do their job well. There is a significant difference between using agency staff to cover temporary vacancies in a business or a service, and staffing an entire organisation with temporary agency staff.

'Life and Limb'

Voluntary exemption arrangements are made between trade unions and employers where there would otherwise be a direct danger to 'life and limb' of any person, such as in the emergency services. In our experience, employers have regularly tried to abuse this voluntary arrangement by claiming services to be 'life and limb' when this has not been the case.

Voluntary arrangements between unions and employers have always worked effectively to ensure the safety of the public. There is no evidence to demonstrate that the current arrangements need to be altered. In fact, making 'life and limb' a mandatory arrangement would undermine industrial relations. It would be unfair, unnecessary and would create an imbalance of power in the workplace, with employers being in a position to damage the workforce ability to take meaningful industrial action.

Therefore, the current voluntary 'life and limb' arrangements are essential to fair and just employment relations.

Primary Legislation – a requirement

Primary legislation is required to ensure there is a legal duty on Welsh public sector employers not to use agency workers to cover duties normally undertaken by an employee who is taking part in strike or other industrial action. UNISON believes this could be included in the proposed Welsh primary to disapply sections of the UK Trade Union Act.

Ministerial direction is not sufficient to ensure the Welsh Government's aim to prevent the use of agency workers to cover duties normally undertaken by an employee who is participating in industrial action. Without the authority of a legal duty, employers could choose to ignore the guidance or direction without any consequences. As previously noted in this response, in our experience, employers have previously tried to abuse voluntary 'life and limb' arrangements and so we have no confidence that direction over the use of agency staff would have effect.

For further information, or a copy of the full response, please contact Amber Courtney, a.courtney@unison.co.uk, 02920 729421, 07908 143412.