

LIBERTY

PROTECTING CIVIL LIBERTIES
PROMOTING HUMAN RIGHTS

**Liberty's response to the Department for
Business Innovation and Skills
*Consultation on tackling intimidation of
non-striking workers; Consultation on
hiring agency staff during strike action:
reforming regulation; and, Consultation on
ballot thresholds in important public
services***

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About Liberty

Liberty (The National Council for Civil Liberties) is one of the UK's leading civil liberties and human rights organisations. Liberty works to promote human rights and protect civil liberties through a combination of test case litigation, lobbying, campaigning and research.

Liberty Policy

Liberty provides policy responses to Government consultations on all issues which have implications for human rights and civil liberties. We also submit evidence to Select Committees, Inquiries and other policy fora, and undertake independent, funded research.

Liberty's policy papers are available at

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Introduction

1. This is Liberty's response to three separate consultations published by the Department for Business, Innovation and Skills on 15 July 2015: Consultation on tackling intimidation of non-striking workers; Hiring agency staff during strike action: reforming regulation; and, Consultation on ballot thresholds in important public services. The consultations concern the Trade Union Bill (the Bill) which had its first reading on 15 July 2015, with two of the consultations relating directly to proposals in the Bill and the third paper closely associated with changes in the Bill. However we note with concern that the policy underlying the significant proposals made in the Bill have not been subject to consultation, with the present consultations asking only about detail and implementation of a select few proposals. It is also of concern that even this limited public consultation has been rushed, with respondents given only eight weeks to respond and with these eight weeks falling over Parliament's summer recess. In view of the very grave nature of a number of the proposals, it is disappointing that there has been an inadequate process of consultation and policy development. Our concerns are echoed by the Regulatory Policy Committee, whose analysis of the impact assessments accompanying these consultations concluded that the Government had not adduced the evidence to support its proposals, and accorded them "*not fit for purpose*" rating.¹

2. If implemented, the proposals contained in the consultations would represent an authoritarian intrusion into the liberty of individuals to associate freely, form trade unions, and protest. They would also infringe the right to a private life of trade union members. The implications of the proposals for the wider right to protest are not explored in the documents. However given that there is no logical distinction between protests concerning industrial relations and other types of protest, these proposals surely represent a threat to our proud democratic tradition of open demonstration and dissent.

3. The consultations iterate the sentiment "*This is not about banning strikes*" and that "*trade unions can play an important role in the workplace.*"² However the impact of each of these proposals along with the changes in the Bill will be to create so many bureaucratic and legal hurdles as to make it exceptionally difficult for unions to engage in industrial action without incurring injunctions or fines. The right of individuals to form a

¹ Regulatory Policy Committee, Impact Assessment reports on Consultation on tackling intimidation of non-striking workers; Hiring agency staff during strike action: reforming regulation; and, Consultation on ballot thresholds in important public services, published 18 August 2015.

² For example, BIS, Ballot thresholds in important public services, paragraphs 1 and 7.

trade union and to strike will become illusory, and trade unions may well struggle to encourage employers to engage with them in the task of ensuring that workplace rights are upheld, contravening both the UK's international human rights obligations and the range of workplace protections set out by Parliament in statute.

The right to freedom of association, assembly and to form a trade union

4. Article 11 of the European Convention on Human Rights guarantees to individuals the right to freedom of assembly and association. It explicitly protects the right to join a trade union, stating that:

“Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.”

The Convention only permits freedom of association and assembly to be limited in the interest of national security or public safety, for the prevention of crime and disorder, for the protection of health and morals or for the protection of the rights and freedoms of others. In these circumstances, only restrictions that are necessary, proportionate and in accordance with law may be introduced. States must not only refrain from taking steps to prevent individuals enjoying this freedom; there is also a “positive” obligation on the state to ensure that this right is practical and effective. For example, the Court of Human Rights has stated that *“What the convention requires is that under national law trade unions should be enabled, in conditions not at variance with Article 11, to strive for protection of their members interests.”*³ The Court considers whether individuals have the effective enjoyment of the right and recognises that there may be various ways in which the right can be enjoyed. The Court has accorded member states a margin of appreciation when determining how trade unions should be heard in this manner. In a more recent case it held that *“The terms of the Convention require that the law should allow trade unions, in any manner not contrary to article 11, to act in defence of their members’ interests... Strike action, which enables a trade union to make its voice heard, constitutes an important aspect in the protection of trade union members’ interests...”*⁴ It is clear that measures short of an outright prohibition on the right to form a trade union or strike ban come within the scope of article 11. Where the individual or cumulative impact of legislation is to render the right to form trade unions

³ Swedish Engine Drivers Union v Sweden (1976) para 40.

⁴ Enerji Yapi-Yol Sen v Turkey (2009).

illusory and ineffective and cannot be justified in accordance with article 11 this will constitute a violation of the Convention.

Consultation on tackling intimidation on non-striking workers

5. This consultation seeks views on extremely serious proposals concerning the regulation of protest and the creation of new criminal offences. It is therefore deeply regrettable that the consultation paper is premised on vague and unsubstantiated assertions or allegations, contains confusing terms, and implies a fundamental misunderstanding as to the nature and application of the current law as well as the role of law enforcement officers.

6. **The first question** asked by the consultation paper is whether respondents have any evidence of intimidatory behaviour that should be considered as part of the consultation. While it is of course legitimate for the Government to use a consultation process to seek to gather evidence about the need for reform or the likely impact of proposed reforms, this first question serves to highlight a significant problem with this consultation paper: the complete absence of coherent, definite and proven evidence that there is a problem with picketing that requires a remedy. The consultation paper states that “*The Government believes this conduct is unacceptable and action is needed to prevent it happening in future*”⁵ but its evidence supporting this assertion is lacking. The consultation paper cites submissions made to the Carr review in 2014 as examples of problems on the picket line, but acknowledges in the footnotes that “*all events remain alleged and it (the review) was limited in what it concluded*”.⁶ It also cites evidence submitted by ACPO to the same review about incidents taking place away from a picket line. In addition to being bound by the same caveat just noted, even the text of these particular examples makes plain the untested and unproven nature of the allegations. One example states “*Some concerns have been expressed about ...*”⁷ but is able to offer no evidence that those “*concerns*” are events that actually occurred. It should also be noted that while some allegations are clearly linked to specific events, there is no indication as to whether a number of the allegations took place as separate instances or whether they were part of the same dispute. As it stands, there are perhaps at most a handful of instances where this type of behaviour is even alleged to have taken place.

7. While a number of the allegations are clearly of a determinate – if unsubstantiated – nature (such as assault), a number of the other allegations are expressed in vague terms

⁵ BIS, Tackling intimidation of non-striking workers, paragraph 7.

⁶ Ibid, footnote 1.

⁷ Ibid, paragraph 6.

that fail to give any insight into the actions that have been complained of. For example, behaviour is described as “*intimidatory*”⁸, “*persistent*”⁹, “*occasionally aggressive*”¹⁰, and as causing “*anxiety*”.¹¹ But there is no practical description of what happened, meaning the reader has no way to know whether exactly what is being claimed took place or whether such behaviour crossed a threshold of criminal behaviour. On this basis it is very difficult to conclude that there is a pressing problem that can only be solved by further legislation. The Regulatory Policy Committee noted that “*there is little evidence presented that there will be any significant benefits arising from the proposal.*”¹² We urge the Government to reconsider its position.

8. Another puzzling feature of the examples of behaviour that apparently give rise to the need for further civil or criminal regulation is that they appear to fall squarely within the list of civil and criminal sanctions already available, as listed over the course of pages 6, 7 and 8 in the consultation paper. For example the listed allegations include “assault”. This is clearly already a criminal offence. **The second question** asks whether there are any gaps in the legal framework in relation to intimidation of non-striking workers and third parties. It asks for suggestions for how the framework could be strengthened, in particular querying whether there should be a new criminal offence of intimidation on the picket line. However, as the consultation paper notes, there is already an offence of using violence or intimidating a person, their partner or children, or injuring property on the picket line. It is extremely difficult to see why there would therefore be a need for a further offence of intimidation on the picket line or why, if the behaviour alleged in the Carr review took place, these existing sanctions were not applied.

9. The consultation paper states that creating a new criminal offence “*would send a clear signal and clarify the intention of policy-makers that the legitimate right to protest should not prevent the enforcement of criminal activity.*”¹³ We understand this statement to mean that it should not prevent the enforcement of criminal *sanctions* – enforcing criminal behaviour seems to be the exact opposite of what policy makers would intend. However this makes no sense in policy, legal or practical terms and adds to the concerns that these proposals have not been properly considered and that this consultation is inadequate. It is already the case that criminal sanctions can apply to individuals at protests. The

⁸ Ibid paragraph 4.

⁹ Ibid paragraph 6.

¹⁰ Ibid paragraph 6.

¹¹ Ibid paragraph 6.

¹² RCP, Opinion on Tackling intimidation of non-striking workers, published 18 August, Page 1.

¹³ BIS, Tackling intimidation of non-striking workers, paragraph 10.

Government adduces no evidence to show that individuals do not understand that the criminal law still applies at pickets or protests. Certainly, the high profile police presence at many protests gives good reason to think that the population is already aware of the fact. If such a problem does exist, then the Government has a problem of education and communication. Such a problem should be addressed by proper public legal education, not new law. It is a non-sequitur to suggest that if indeed the public does not understand that the criminal law applies in these situations then the creation of simply more criminal law will change this fact.

10. It is concerning that in the consultation paper it is stated with apparent disapproval that police forces have deemed criminal sanction “*disproportionate*” in cases where there was no direct evidence of criminal behaviour.¹⁴ If the relevant criminal justice authorities have deemed that evidential and legal thresholds have not been met then as a matter of law the offence cannot be prosecuted or proven. If the Government wants the creation of a new criminal offence to “*send a clear signal*” in circumstances where the authorities have deemed that prosecutions are not appropriate, this would be an entirely unwarranted incursion into the operational independence of police forces, prosecutors and judiciary, as well as a subversion of the rule of law.

11. In more general terms, we must question the need to create criminal offences targeted only at those involved in industrial action. If behaviour is of sufficient gravity that the Government considers that the criminal law must be involved, why is this same standard not applied across the whole range of social interactions and public order instead of discriminating against those participating in a picket? One explanation for this is that the intention behind increasing the number of criminal offences surrounding pickets and protest is in fact an attempt to criminalise picketing. This would clearly contravene the right to peaceful protest and must be resisted in the strongest terms. Another possibility is that the Government hopes that by creating the perception that pickets are dangerous and criminal places, individuals will choose not to exercise their right to get involved in one. It is deeply irresponsible for institutions of the state to scare individuals into submission, as well as an abrogation of the state’s international human rights obligations to facilitate peaceful protest. Even if unintended the consequence of these proposals will surely be to impair the right to peaceful assembly and reduce the methods employees can use while seeking to enforce their workplace rights and entitlements.

¹⁴ Ibid paragraph 8.

12. **Question three** asks whether there are practices currently contained within the Code of Practice that should be directly legally enforceable, such as requirements for training or for all individuals on a picket to be identifiable to the police. This would be in addition to the proposals contained in the Bill that a union would have to appoint a picket supervisor; take reasonable steps to tell the police the picket supervisor's name, where the picketing will take place, and how to contact the picket supervisor; and, provide the picket supervisor with a letter of authorisation. In addition, the legislation already would require the picket supervisor to: show the letter of authorisation to any police officer and/or any other person who reasonably requests to see it; be present when the picket is taking place or be contactable by the union or police and able to attend the picket at short notice; and, wear a badge, armband, or other identifying item.

13. Again, there seems to be very little evidence base to support the suggestion that these changes are required or will serve to improve the conduct of pickets. The Government notes *“Though meeting these provisions cannot guarantee intimidation will not occur, the Government believes that doing so will make it more likely the picket will be conducted responsibly – for example by ensuring that there is engagement with the police”*¹⁵ and *“As most unions already observe the guidelines of the Code, these new requirements should have little impact on responsible picketing”*.¹⁶ In addition to noting the shadowy undertones of the suggestion that police are there to ensure people behave “responsibly” rather than “lawfully”, these excerpts certainly do not make the case that there is a problem to be addressed in legislation nor that these changes would address any such problem.

14. The consultation paper contains the specific suggestion to put in primary legislation a requirement that union officials participating in a picket must be trained in the relevant law. While unions may indeed think that training is helpful and choose to provide such training, it is a huge incursion into the right to freedom of assembly to enshrine in law a requirement that individuals participating in a picket can only do so with training. Should such a requirement also be extended to the huge number of people across the country who each year attend other forms of peaceful protest? Over the past decade, there have been peaceful public protests on the broadest range of issues, from the 2002 the Countryside Alliance march attended by over 400,000 people to increase awareness of a range of rural problems to the 2003 march of over one million people against the Iraq war. How would this proposal be enforced? And what about our other rights? Will they too only become exercisable only on the condition that an individual is trained in them?

¹⁵ Ibid paragraph 15.

¹⁶ Ibid paragraph 18.

15. It is also concerning that the paper proposes that all individuals participating in a picket should be identified in the same manner as the picket supervisor would be required to be identified under the Bill. It is unclear whether the Government is suggesting that picketers wear an armband, carry a letter of authorisation, be required to give prior notice of their contact details to the police, or all three. In any context, these type of proposals would be a mark of an authoritarian and controlling Government and once again it must be asked whether the Government intends to extend such requirements to all those who exercise their right to protest and how it expects to implement them. But in the particular context of trade union members, the history of blacklisting makes it even more important that these proposals are not pursued. Blacklisting was the shameful process whereby individuals who were trade union members, were otherwise known to hold particular political views, or to be involved in defending workplace rights, were added to a database which was used by over 300 companies when recruiting. Many individuals found their lives fell apart as they struggled to find employment due to their inclusion on these lists. It also seems certain that the security services and police forces contributed information to the blacklists and were complicit in the discrimination and misery that ensued. Forcing trade union members to identify themselves as such and to hand over personal details such as phone numbers to the police would inevitably inhibit many from joining pickets and protests, and may even act as a disincentive to joining a union altogether, as well as engaging the right to a private and family life of trade union members. It would also be entirely disproportionate if failure to train, provide advance information, or ensure the wearing of armbands or letters of authorisation were to form a legal basis for an employer seeking an injunction or damages against a trade union.

16. Protests which take place away from a picket line are governed under the law relating to protest. **Question 5** asks whether the Government should require in primary legislation that trade unions provide details of their picketing and protest strategy to employers, the police and the Certification Officer by publishing a plan 14 days before the start of industrial action. It is proposed that the Code of Practice would outline the type of information to be conveyed, including when and where a protest or picket is planned; how many people it will involve; whether there will be loudspeakers, props, and banners; whether the union will be using social media, specifically facebook, twitter, blogs, websites, and what these blogs and websites will set out. Unions would be permitted to change their plans but only if they update the plan. Failure to provide a plan would be grounds for an injunction to prevent a protest taking place and would subject the union to fines. Failure to adhere to the plan would not give rise to civil liability directly but could be used as evidence against trade unions and individuals.

17. The paper states that there are well-established public order grounds for some restrictions on the right to protest and this is correct. But it is not explained why the Government seeks to treat protests relating to industrial issues in a manner different from other protests. It states that there is a need to manage risks of intimidation or risks to public order, but these surely apply to any situation, not just a work-related protest? There is perhaps an underlying assumption that those attending these protests do so with the purpose of causing public disorder or intimidation, but there is no evidence to show that this is the case. There will presumably be some situations where that does occur – but this is the same in all areas of public life: there will be some individuals who have criminal intent, but the vast majority will not. Applying this reasoning, these draconian restrictions could easily be extended to all protests or public gatherings where there is a risk – however tiny – of intimidation or unrest.

18. In the past, British public authorities have crossed into disproportionate and unlawful restrictions on the right to protest and the proposals here would certainly do so too. There can be no public order justification for requiring trade unions to identify whether they will use websites/social media and to require prior warning of the content of such websites is nothing short of a violation to the right to freedom of expression as well as assembly. To use failure to stick to a preordained content plan as evidence in legal proceedings is censorship. The consultation paper itself mentions that lack of prior notification makes it harder to “monitor” the activities of trade unions. It surely cannot be believed that in a free country such as the UK the monitoring of groups of individuals as they exercise their freedoms of assembly and speech is appropriate or lawful? It is behaviour befitting of dictators who fear an uprising – as in Egypt during the Arab Spring – rather than a free and successful democracy. The proposal also has no relation to the dynamic nature of social media, the way it is used and who uses it. Would it only be trade union official accounts that are subject to this rule? What about the private accounts of trade union officials or volunteers, or even members? The proposals are also counterproductive to the Government’s stated aim. The consultation paper states that the lack of plans means that there is *“less transparency or accountability to members and the public...than there would otherwise be.”*¹⁷ But in fact the internet – and in particular social media – is the ultimate tool in public accountability. Allowing individuals and the unions of which they are members to express themselves freely would surely give the public more rather than less of a sense of the motivations, intentions and facts of a situation. Increasingly, social media has been used to reveal unlawful behaviour on the part of the police at public protests. The truth of the police’s involvement in the death of Ian Tomlinson

¹⁷ Ibid paragraph 23.

while he was working as a newspaper vendor in an area where protests were taking place only came to light when an individual bystander sent video footage to the Guardian Newspaper. It is chilling that these proposals could be used to discourage individuals from capturing similar incidents.

19. One suggestion for the motive behind these proposals is that they are intended to set up the trade union to fail. The requirements are hugely impractical and it will be difficult if not impossible for a trade union to guarantee that the information they provide matches the reality. For example it will not always be possible for organisers of any protest to guarantee how many people will attend. Similarly, whether or not people choose to bring “props” will be out of the control of organisers, and the failure to guess correctly at the outset whether or not this will happen has no place as evidence in legal proceedings. The consultation paper states that the publication of a plan would allow unions to “repudiate” a protest where individuals are acting unofficially. Of course, if a trade union wishes to repudiate a strike or other action then they may do so, but this proposal would essentially create a legal requirement that forces the trade union to choose between protecting the union, who may be liable to pay damages if they do not stick to the plan, and protecting its members, who will then be removed from protection of the law and may find themselves subject to legal proceedings if the trade union issues a formal repudiation.

20. **Question 7** asks whether there should be a requirement for trade unions to publish information about protests in their annual reports. This would include what action has taken place, whether any injunctions were obtained against the trade union and whether there were any associated arrests. Unless the Government also intends for all kinds of associations to publish this type of information in their annual plans, this again seems to be a measure that discriminates against trade unions and their members. It is unclear that this is information that a trade union will necessarily have access to on a local basis, yet alone on a national scale. It is far from certain that the trade union would know whether an individual had been arrested. Holding them liable to a financial or other penalty if they fail to provide accurate information would be disproportionate.

Consultation on ballot thresholds in important public services

21. The Bill contains a requirement that for strikes in all sectors 50% of those entitled to vote must do so in order for the ballot to be lawful.¹⁸ It would also require that in six public sectors (fire, health, education, transport, border security, nuclear decommissioning), 40% of those entitled to vote must vote in favour of industrial action.¹⁹ This consultation seeks views only on whether there is any evidence that strikes in these sectors have an adverse impact and on whether the 40% threshold should apply to all staff within those sectors or only some.

22. The paper seeks to justify the 40% threshold on two grounds. First, it states that it is “*undemocratic*” for trade unions – which are membership organisations – to hold a strike without demonstrating that the majority of membership support the action.²⁰ Second, it states that as industrial action can have an adverse impact on those using and relying on public services, they should only be held as a last resort.

23. In terms of the first justification, this provision would mark a wholly unwarranted intrusion into the independence of trade union members to organise freely. Taking industrial action is of course a very serious step and individuals who participate in industrial action may suffer loss of pay and may even risk job loss. For the sake of trade unions and their members it is important that such decisions are not taken lightly. However the rules of a membership organisation as to how it wishes to organise itself can and should be determined by those members, not the state. If members wish to impose a requirement that a particular threshold be met before certain action is taken then it is for them rather than the Government to put such a threshold in place. Also, trade union members are not bound to follow a call from their union to take industrial action nor can they be sanctioned by their union in the event that they decide not to follow such a call. It therefore seems unnecessary for the Government to impose this requirement by claiming that it seeks to protect individuals from the consequences of a strike when individuals are already able to make an entirely independent decision as to whether they wish to participate or not even if the trade union calls a strike.

24. The proposal also takes a very simplistic view of the circumstances surrounding votes, why people choose to vote or otherwise, and inferences that can be drawn from their actions. It presumes that those who abstain from voting wish to vote against a proposal when there is absolutely no basis for thinking this is the case. It may be that an individual

¹⁸ Trade Union Bill clause 2.

¹⁹ Trade Union Bill, clause 3.

²⁰ BIS, Consultation on trade union ballot thresholds, paragraph 3.

does not support the action proposed. But alternatively it may be the case that an individual supports a motion but thinks that it is likely to get enough votes in favour and that there is no need to vote. An individual may forget to vote. Given that individuals are not bound by the results of a ballot and cannot be sanctioned by their trade union for not adhering to any calls for industrial action that may follow from the ballot, there may be little incentive for members to participate in a vote in certain circumstances, but this should not be counted as a vote against industrial action.

25. With regard to the second justification, it is of course the case that members of the public may feel the impact of strikes in the public sector. However, inconvenience is not one of the permitted reasons for a state to interfere with the right to freedom of assembly. Also, it will not always be the case that members of the public are affected. There are a great number of roles – even in essential public services – where the impact of strike action will be felt only by the employer and not by the public. The use by the Government of the term “important” rather than “essential” public services would appear to acknowledge this fact. In addition, even where frontline staff are taking industrial action there are always minimum levels of service provided in essential public services.

26. Strikes are an important way for employees to seek to influence how their employer treats them, and in the context of public services the employer is the state. Therefore if the aim of the Government is to reduce the impact of strikes by public sector employees on the public, the proper route for achieving this outcome is for the Government to ensure that it and other public sector employees treat employees in a lawful and fair manner, engage with workplace disputes at an early stage and participate in negotiations in good faith. Using the Government’s privileged position of control over the legislature to insulate it from having to act as a responsible employer is nothing short of an abuse of power.

27. We also note that even if these thresholds are met, the Government seeks to impose a whole range of other limitations on the exercise of the right to strike. If the Government’s true aims, as stated in this paper, are simply to ensure democracy within trade unions and to ensure public sector strikes only proceed where there is clear and pressing support for them, there would be absolutely no need to proceed with the remainder of the proposals contained in the Bill.

Hiring agency staff during strike action: reforming regulation

28. Regulation 7 of the Conduct of Employment Agencies and Employment Business Regulations 2003 prohibits employment businesses from supplying temporary staff to perform duties normally performed by workers on strike. The Government intends to revoke Regulation 7 so that workers can be supplied during strikes to replace staff who have chosen to take industrial action. The Government does not need to enact this provision in primary legislation.

29. The consultation paper seeks to justify this proposal by stating that *“the Government is committed to ensuring that strikes only ever happen as the result of a clear, democratic decision and commits to tackling the disproportionate impact of strikes in important public services.”*²¹ The first part of this justification bears absolutely no relation to the nature of the proposal and its impact. Allowing agency workers to replace striking workers will make no difference at all to the democracy or legitimacy of a ballot held by trade union members. It is bizarre to suggest otherwise. If anything, if the Government genuinely considers that its proposed thresholds will improve trade union democracy, there would be less rather than more justification for undermining legitimate strike action in this way. The second part of this statement bears no relation to the justifications permitted under the ECHR. Temporary inconvenience cannot be used as a basis for states to interfere with the right to freedom of association. Also, while this justification purports to relate to reducing the impact of public sector strikes, the provision in fact applies to all sectors.

30. The Regulatory Policy Committee has also commented that the impact assessment on these proposals in fact *“provides reasons why it might be more beneficial to the employer to take the short term costs associated with a strike instead of seeking temporary workers.”*²² It is therefore exceptionally unclear why the Government is making this proposal.

31. As stated above, the Government claims that it does not want to ban strikes. However if enacted these proposals will effectively have the same result as an outright ban. Strikes give employees a tool to get together to persuade employers to address problems in the workplace. Seeking to effect change through collective action by influencing business practice is entirely legitimate and is one not restricted to strikes. For example, the boycott of brands, products or services in order to influence either businesses or Governments have a

²¹ BIS, Hiring Agency Staff During Strike Action: Regulatory Reform, paragraph 18.

²² RPC, Opinion on Hiring agency staff during striker action: reforming regulation, published 18 August, page 1.

long and proud history, including as part of campaigns against apartheid South Africa, deforestation, and the use of exploitative practices in production of clothing. These types of action are effective as they give employers, businesses and Governments a reason to engage with concerns being raised. Removing the prohibition on hiring supply workers during strikes will significantly remove the force and value of strikes. This will mean not only will there be no point in employees going on strike if their employer fails to respond to concerns, but it means that there is no reason for employers to engage with their workers at all in the multitude of disputes that are currently resolved long before a ballot is called. Industrial disputes will go unaddressed and workplace rights will be violated.

Conclusion

32. The proposals in the Consultations would represent an unprecedented violation of the right to freedom of assembly and protest, as well as making it difficult for individuals to exercise their workplace rights and entitlements. The consequence would be to make it much harder to resolve workplace disputes in a fair and effective manner, if at all. They would also sully the reputation of the UK as a tolerant country where public dissent is permitted and would set a worrying precedent for the future curtailment of public debate, discussion and protest. The Government was elected to office on the promise of “*making work pay*” and has recently sought to emphasise its support for working people.²³ We strongly encourage them to drop these plans, which undermine those claims entirely.

Sara Ogilvie

²³ <http://www.conservativehome.com/thetorydiary/2015/05/halfon-is-out-to-build-a-new-party-and-he-stands-every-chance-of-doing-so.html>.