

TUB 08a

Bil yr Undebau Llafur (Cymru)

Trade Union (Wales) Bill

Ymateb gan: Conffederasiwn GIG Cymru a chyflogwyr GIG Cymru (Additional Information)

Response from: Welsh NHS Confederation and NHS Wales Employers

Our questions

1. The Welsh Government believes that the effect of the law currently in place should continue, in which Welsh public service employers are not be able to use workers employed by an employment business to provide cover for staff taking industrial or providing cover for them.

Do you agree?

Yes. NHS organisations in Wales recognise that their members of staff have a right to take industrial action without it being held against them in any way. The need to cope successfully with industrial action remains a key challenge for many employers and managers. However, it is recognised that it is not lawful for an employment agency to provide workers to cover work normally carried out by employees on strike. Therefore, in line with our guidance for managing industrial action, managers should not use agency workers to cover the work of employees on strike, or to cover the work of employees who are not on strike but who are covering the work of employees who are on strike. On strike days, there is no requirement to stop using agency workers who are already working in the NHS Organisation.

2. The Welsh Government believes that the current voluntary arrangements are adequate to ensure that 'life and limb' continues to be protected by public services during industrial action.

Do you agree?

Yes, in general we agree with the Welsh Government. However, there occasions when voluntary arrangements are not always enforceable to protect service provision.

3. The Welsh Government does not anticipate that the proposal would significantly affect the financial position of employment agencies and businesses.

Do you agree?

Yes, it is merely maintaining the status quo and so there should be no detrimental affect on the plans/finances of employment agencies.

4. Do you agree that the option to use primary legislation to create a duty on Welsh public service employers not to use agency workers best achieves our intention?

No. Current voluntary arrangements are adequate. Partnership working is a key component of the way in which the NHS operates. We have successful partnership working arrangements which have developed and matured over the past fifteen years trade union representatives appointed as Independent Members on each Board. The need for exemptions are discussed in partnership at local level. We believe that these arrangements are effective and primary legislation in this area is not required.

5. Do you agree that the option to use guidance or Ministerial direction to Welsh public service employers best achieves the intention?

Yes, the use of guidance and direction rather than primary legislation will be the most effective approach.

See response to Q4.

6. Are there any circumstances which should be exempted from the duty and if so what do you think would be the consequences of not exempting them?

None.

7. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: