



The implication of the Police Bill for unions: a briefing for activists published by [Free Our Unions](#)

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Though there are many different aspects to the 2021 [Police, Crime, Sentencing and Courts Bill](#), the Government has made it clear that those parts pertaining to public order result from [its desire to clamp down on Extinction Rebellion \(XR\) and Black Lives Matter \(BLM\)](#) activities. And though unions are never specifically mentioned, there are clear implications and ramifications for unions. This is not just as pressure groups similar to XR and BLM whose stock in trade is protests and demonstrations. Critically and crucially, it is also as industrial/economic organisations which are focussed upon exerting leverage over employers at the points of production, distribution and exchange in the economy concerning the work conditions at those points of production, distribution and exchange.

The critical parts of the Bill with implications for unions is to be found in Parts Three and Four on 'Public Order' and 'Encampment', being set out in [Sections 54 to 63](#). To summarise, according to ['Police, Crime, Sentencing and Courts Bill 2021: A Briefing for Trade Unionists'](#) compiled by the Stop the Police Bill organising group, these would:

- Allow the police to impose conditions on a protest, where they believe that the noise generated by the protest may cause 'serious disruption' to an organisation's activities, or cause people in the area to experience 'serious unease, alarm or unease'. The conditions could include any that the police decide is 'necessary' to prevent 'disorder, damage, disruption, impact or intimidation'.
- Give new powers to the Home Secretary to decide what the terms 'serious disruption to the life of the community' and 'serious disruption to the activities of an organisation' mean.
- Increase the maximum fine for breaching conditions from £1,000 to £2,500. There would be no need to show that the person charged actually knew that the conditions were in place - which would have the effect of criminalising people who unwittingly breach conditions. The maximum sentence for the protest organiser would be

increased from 3 months to a staggering 11 months imprisonment, plus a £2,500 fine.

- Create a broad statutory offence of causing a public nuisance, which would include obstructing the public or a section of the public in the exercise of their rights, or causing them 'serious harm'. The Bill expands the definition of 'serious harm' beyond any common sense understanding of the term: it includes causing someone to suffer, or putting them at risk of suffering, 'serious annoyance', 'serious inconvenience' or 'serious loss of amenity'. This new offence - punishable to up to ten years in prison – would replace the common law offence of public nuisance.
- Create a new criminal offence of trespass – currently a civil matter – which would apply to someone 'residing' on land (even temporarily) 'in or with a vehicle'.

The seemingly most obvious threat to unions as industrial/economic organisations is in regard of picketing during strike action. For example, the '[Police, Crime, Sentencing and Courts Bill 2021: A Briefing for Trade Unionists](#)' states the Bill: '... would make it easier for the Government to target groups it does not like, such as striking workers picketing outside their workplace ...'. This is true in as much as picketing in Britain is a stationary affair and often noisy. And yet existing picketing law, especially over lawful numbers allowed, is very seldom enforced. This is because very few pickets, no matter their numbers above the lawfully permitted numbers, do not even try to stop – or, indeed, stop – the movement of people and goods in and out of premises. What routinely passes as picketing are congregations of striking workers and supporters who seek to make it evidently public to the employing organisation and passers-by that a strike is taking place. This usually means 'picketing' takes place in the morning when work begins and until about mid-morning or lunchtime (or the equivalent where shifts are not passed on 9am-5pm working hours). In effect, the 'picketing' last for a few hours.

Of course, that is not to say that the Bill could not have an impact on future picketing should it seek to become more effective. As the application and enforcement of the proposed law will heavily depend upon local police discretion, there could be situations akin to the instances of social distancing regulations being used by the police to disperse pickets. Thus, [at the Optare bus factory in Yorkshire, the police broke up a picket in late 2020](#). Though this [decision was successfully challenged](#), it indicates how laws can be applied in ways that are not germane to their original intentions. The point was underscored by [police in Edinburgh dispersing a picket-line at SAICA Packaging](#) in early 2021 using the COVID regulations. And, [in one case at DHL in Liverpool in late 2020, the employer called the police to enforce social distancing](#).

Nonetheless, where the Bill is likely to a significant effect on the other of unions' industrial tactics concerns leverage campaigns. As practised, in particular by UNITE, the IWGB and UVW, leverage campaigns which involved static demonstrations (like flashmobs and the using whistles, drums and vuvuzelas, etc.) outside employers' premises are often held to be the 'clincher' in the success of a campaign because they are highly disruptive and publicly visible (in practice and via mainstream and social media). They also help create reputational and brand damage. Such leverage campaigns are now numerically more common than

attempts at effective picketing. It should be noted here that such static demonstrations do not necessarily take place during strike action and they can be part of a campaign that does not involve strike; they can be akin to secondary action in that they can target suppliers and buyers up and down stream of the targeted employing organisation; and they can be akin to picketing in that they stop the movement of people and goods in and out of premises.

Such a tactic was highly successful in defeating in 2011-2012 the introduction of the Building Engineering Services National Agreement (BESNA) and has since been used in a similar way outside many construction sites and by the IWGB and UVW unions to end precarious work (like bogus self-employment). In a period of the decline in the strength of workplace unionism, this tactic has been important for workers and their supporters to exert leverage on employers from the outside (rather from the inside as per a conventional strike). It could have further relevance if unions used disruptive tactics against employers who use 'just-in-time systems' of production, where there is no safety net of a stock of components. And, we can recall that the Carr Review was launched by the Cameron-led Government in the aftermath of the 2013 INEOS Grangemouth dispute and focussed upon such tactics given their visibility and effectiveness.

There is another aspect of the Bill in regard of 'encampment' (Section 4). The new offence here, supported by new powers to enable police to 'seize any relevant property', could be used to against pickets and workplace occupations where they take place on the employer's property or that of a private landowner. The same proviso about the paucity of effective picketing also applies to occupations, whether of the type used at the likes of BiFab in 2017 or by single construction workers in occupying a crane. But the absence of the widespread use of occupations (or sit-ins) may not continue should widespread redundancies result from the end of the furlough scheme in September 2021.

Despite the current difficulties surrounding Boris Johnson's premiership, it is not anticipated that the Bill will not be put on the statute book because of the Tories' sizeable (c.80 seat) majority in the Commons. To think that protests and demonstrations could stop this happening is to fail to recognise two important historical examples, namely, the Criminal Justice and Public Order Act 1994 and the Industrial Relations Act 1971. In the case of the former and with a weaker Tory majority, sizeable protests did not prevent the Bill becoming an Act. In the latter case, and again despite even bigger protests, it took the protests around the jailing of the Pentonville dockers in 1972 for breaking the Industrial Relations Act 1971 (with regard to picketing) after it came into effect that led this law to become a 'dead letter'. Its repeal took a change in government in 1974. This suggests that the most likely and effective means of defeating the Police, Crime, Sentencing and Courts Bill when it becomes law is through a rear-guard action that makes those parts of it pertaining to protests inoperable and unenforceable as a result of protests swelling once it becomes clear in practice what the change in the law means.