

# FREE OUR UNIONS

 [fb.com/freeourunions](https://fb.com/freeourunions)  [@freeourunions](https://twitter.com/freeourunions)  
[www.freeourunions.wordpress.com](https://www.freeourunions.wordpress.com)



The Free Our Unions campaign is producing this briefing in the context of the upsurge in industrial action in summer 2022. A number of national and local pay disputes, including some unofficial disputes, have occurred or are likely to occur in the transport, logistics, refuse, manufacturing, construction, public sector and other industries. At the same time, the candidates to be the UK's next Conservative Prime Minister have both announced their intention to introduce new laws restricting trade union action.

We aim here to give an overview of the current situation facing workers who wish to take action, and the likely effects of any new laws.

## THE CURRENT SITUATION

Since 1980 a series of laws passed by Conservative governments have created one of the most hostile environments for union organising in any democratic society in the world. These laws:

- Prohibit workers from undertaking “solidarity” or “sympathy” strikes in support of workers in other industries
- Restrict strikes to “trade disputes” against their own employer, meaning workers cannot strike in support of wider social causes or against political decisions they disagree with
- Force unions to undertake the slow process of postal balloting before any action is taken
- Force unions to give notice to an employer before strike action is taken
- Restrict the definition of lawful picketing and encode criminal offences in relation to picketing
- Make it easier for employers to use court injunctions to prevent strike action and find unions liable for action
- Restrict how unions can use their funds and resources for political purposes

The most recent piece of anti-union legislation is the Trade Union Act 2016. This Act:

- Introduces an arbitrary 50% minimum turnout threshold for any statutory industrial action ballot
- Introduces a “support threshold” provision for “important public services” where 40% of all those eligible to be balloted have to support industrial action, for example on a 50% turnout, 80% have to vote Yes
- Doubles the notice a union must

serve an employer before industrial action is taken from 7 to 14 days

- Forces unions to re-ballot every 6 months
- Forces unions to appoint “picket supervisors” on every picket, who must be contactable by the police
- Gives the government the power to cap union facility time in the public sector

In the summer of 2022, in response to strikes on the railways, the government finally overturned a long-standing ban on the use of agency workers during strikes. This met with opposition from not only unions but also many employment agencies. The move is open to legal challenge and it isn't yet clear whether it will be practically applied in many industries.

## THE NEW ANTI-UNION LAWS

The exact details of any new anti-union measures remain to be seen. During a live BBC TV debate, both Tory leadership candidates answered “Yes” to the question of whether they would ban strikes in essential services outright. Liz Truss has promised to bring in a new law within 30 days of taking office on 5 September. Potential proposals include:

- Doubling again the notice unions must give employers before taking action, from 14 to 28 days
- Increasing the “support threshold” provision from 40% to 50%
- Expanding the “support threshold” provision from “important public services” to any strike ballot
- Introducing “minimum service provision” requirements during strikes. Perhaps even outright bans

- on strikes in some sectors
- Forcing unions to re-ballot after a certain number of strike days have been undertaken
- Forcing workers to pay tax on strike pay

## THE LIKELY EFFECTS OF THE NEW PROPOSALS

The overall aim of these proposals is to make it as difficult as possible for workers to take lawful industrial action, and to reduce the effectiveness of any action that is taken.

Increasing notice periods will enable employers to prepare and mitigate the effects of a strike. Coupled with the lifting of the agency worker ban, it could mean employers find it easier to use scab labour to break strikes.

Expanding the support threshold will not only make it harder for unions to get the turnouts required to take action, but will also make it easier for employers to challenge ballot results in the courts and get injunctions to block strikes.

Minimum service requirements will undermine the effectiveness of strikes, the whole point of which is to disrupt the employer's economic operations. They may even force unions to be responsible for the minimum service, essentially making unions complicit in undermining their own actions.

Taken together, these proposals represent a major attack on workers' rights and a further shrinking of the boundaries of what constitutes lawful trade unionism.

## THE LABOUR MOVEMENT'S RESPONSE

Senior Labour Party politicians have condemned the plans. Since 2015, party conference has repeatedly passed policy to repeal all anti-trade union laws. Publicly, however, the party leadership tends to focus only on repealing the 2016 Act.

Union pressure did manage to remove some clauses from the 2016 Act. Many individual unions have their own policies opposing anti-union laws, some of which are summarised here: [shorturl.at/anyDX](https://shorturl.at/anyDX). The RMT and Unite both have policies to call demonstrations against the anti-union laws. Unison has launched a legal challenge to the government's agency worker proposals.

Few of the motions to 2022 TUC Congress explicitly mention anti-union laws. Motion 21 from the RMT urges the TUC to put repeal of the anti-union laws at the centre of its campaigning. Motion 23 from UCU supports the removal of the ban on solidarity action. There is the possibility that an emergency motion will be presented if Truss announces her proposals in early September.

The Labour left group Momuntem set up a "Labour for labour" campaign in August 2022 to advocate for the Labour Party to support striking workers. One of this campaign's demands is for the repeal of anti-union laws.

## WHAT DOES FREE OUR UNIONS SAY?

Free Our Unions is advocating for the unions to actively and energetically campaign against any new anti-union laws, and for the repeal of all existing laws.

This should include using union influence in the Labour Party to ensure that Labour MPs and the leadership publicly call for the scrapping of all anti-union laws and commit to doing so when in power. The party in government should also legislate to improve trade union rights, including enshrining the right to strike in law.

We advocate for a public, union-led campaign against the anti-union laws. This should include a national demonstration called as soon as the new proposals are formally unveiled.

While “political” strike action remains unlawful, there is nothing to stop unions co-ordinating the actions taken in their various trade disputes. Broad, co-ordinated action this Autumn, taking place while a new law is introduced into

Parliament, will be the most effective show of force against such a law and provide national and local platforms for trade unionists to mobilise and argue against it.

## WHAT YOU CAN DO!

- Pass our motion at your union branch. For motion text visit: [shorturl.at/Ci189](https://shorturl.at/Ci189)
- Invite a speaker from Free Our Unions to address your union branch, political party branch, or trades council
- Write to your union's NEC to demand they act on their policies and campaign on this issue
- Work with others via Trades Councils and CLPs to organise public meetings and action locally
- Share this briefing with workmates and on local picket lines, and host a meeting to discuss the threat from existing and new anti-union laws

This new round of anti-union laws pose an existential threat to the labour movement's ability to organise and win. We need you to help us beat them back.

