

Minimum Service Levels Consultation: Ambulance service

TUC response

Introduction

The Trades Union Congress (TUC) exists to make the working world a better place for everyone. We bring together more than 5.5 million working people who make up our 48 member unions. We support unions to grow and thrive, and we stand up for everyone who works for a living.

The Minimum Service Bill would place severe and unacceptable restrictions on the fundamental right of a worker to take industrial action to defend their pay and conditions.

The TUC strongly believes that this Bill is unfair, undemocratic, and likely in breach of our international legal commitments. The introduction of minimum levels of service in the ambulance service would:

- place severe and unacceptable restrictions on the fundamental right of a worker to take industrial action to defend their pay and conditions.
- be anti-democratic: it gives secretaries of state enormous power to define and introduce minimum service requirements without the input of workers or employers and with parliament having little say.
- be draconian: it could lead to individual workers being sacked for taking part in industrial action that was supported in a democratic process. Trade unions could face large damages.
- be counter-productive: the government's own analysis has warned that it could lead to more strikes.
- And it is unnecessary: it is custom and practice for life-and-limb cover to be agreed by unions during industrial disputes. This legislation would replace a system tailored to the needs of the workplace and agreed by employers and unions with a national service level mandated from Whitehall.

We believe that the measures included in the bill are not only disproportionate but actively misguided. They propose a division between the interests of ambulance service workers and the patients they provide life-saving care for. But ambulance service workers have a detailed knowledge of the needs and interests of the patients who rely on them, and as demonstrated during the pandemic, put their patients' needs at the heart of what they do.

Minimum service levels in the ambulance service will do nothing to help resolve current or future industrial disputes, or to improve the quality of public service delivery. In fact, the government's own assessment suggested industrial disputes are likely to become more protracted and prolonged. This will do nothing to improve the recruitment and retention emergency in our ambulance service or to improve ambulance response

times, both of which are at crisis point due to a decade of government-imposed pay cuts and underfunding.

We have answered consultation questions, framed by our principled and practical opposition to the Bill and our strong opposition to the introduction of minimum service levels in the ambulance service.

Consultation questions

1. Roughly how far away do you live from the nearest hospital? If you're unsure, see the NHS service [Find a hospital](#), or select 'Don't know'.

Less than 1 mile

1 to 2 miles

2 to 5 miles

5 to 10 miles

10 to 15 miles

15 or more miles

Don't know or prefer not to say

Not applicable

2. Do you have any physical or mental health conditions or illnesses lasting or expected to last 12 months or more?

This is about health conditions, illnesses or impairments you may have. Consider conditions that always affect you and those that flare up from time to time. These may include, for example, sensory conditions, developmental conditions or learning impairments.

Yes

No

Prefer not to say

Not applicable

3. Do any of your conditions or illnesses reduce your ability to carry out day-to-day activities?

This is about whether your health condition or illness currently affects your ability to carry out day-to-day activities.

Yes, a lot

Yes, a little

Not at all

Prefer not to say

Not applicable

The proposal to introduce minimum service levels for ambulance services relates to England, Scotland and Wales (Great Britain).

4. To which part of the UK does your response relate? Select all that apply.

England

Scotland

Wales

Northern Ireland

Prefer not to say

5. To what extent do you agree or disagree with the proposed introduction of minimum service levels for ambulance services in the NHS?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

If you wish, please explain your position and provide any supporting evidence. (Maximum 500 words)

The TUC strongly opposes the introduction of minimum service levels (MSLs) to ambulance services that would apply during periods of strike action. The TUC strongly believes that the Strikes Bill is unfair, undemocratic, and likely in breach of our international legal commitments.

The introduction of minimum service levels would place severe and unacceptable restrictions on the fundamental right of an ambulance service worker to take industrial action to defend their pay and conditions.

The Bill would give government power to set an arbitrary minimum level of service during industrial action, requiring a work notice to be issued by the employer

mandating individuals to work during industrial action. This could lead to individual workers being sacked for taking part in lawful industrial action that was supported in a democratic process, if they do not comply with the work notice.

Trade unions must ensure their members named on employers' work notices turn up to work on strike days – facing an injunction or being forced to pay damages if they are deemed not to take "reasonable steps" to do so while removing protection from unfair dismissal for those individual workers who fail to comply. Trade unions could face paying large damages if members do not comply with the requirement to work notice. Yet, the Bill does not define what the reasonable steps are that trade unions should take.

The Bill has been the subject of significant criticism by the House of Lords Delegated Powers and Regulatory Reform Committee, the Joint Committee on Human Rights and the government's Regulatory Policy Committee.

These reports support the TUC's view that this legislation is anti-democratic: it gives Secretaries of State enormous power to define and introduce minimum service requirements and with parliament having little say.

Imposing minimum levels of service in the ambulance service would also be counter-productive: the government's own analysis has warned that it could lead to more strikes. And is likely to exacerbate the existing recruitment and retention crisis in the ambulance service, deterring potential new recruits and negatively impacting retention.

NHS Providers "believe that this Bill risks damaging relationships in the NHS between trust leaders and their staff, and between trust leaders and local union representatives at a particularly fraught time, without addressing and of the issues underlying current strike action or providing a useful alternative approach to managing service provision during periods of strike action."¹

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6. Currently on strike days, employers seek voluntary agreement from trade unions so that certain staff members refrain from taking strike action, in order to provide cover for essential services. To what extent do you agree or disagree that current arrangements are sufficient?

Strongly agree

Agree

Neither agree nor disagree

Disagree

¹ NHS Providers (2023) <https://nhsproviders.org/media/695220/strikes-minimum-service-levels-bill-hol-committee-stage-2.pdf>

Strongly disagree

If you wish, please explain your position and provide any supporting evidence. (Maximum 500 words)

Government-imposed minimum levels of services are unnecessary and anti-democratic. It is custom and practice for cover to be agreed at a local level between unions and employers during industrial disputes, as was the case during the ambulance service strikes that took place between December 2022 and February 2023.

There is a long-standing history of constructive, joint working between NHS employers and trade unions at a local level that has patient safety at its heart. This legislation would poison industrial relations, replacing a system responding to and tailored to the needs of the workplace by those best placed – local leaders representing employers and unions - with a national service level mandated from Whitehall that is far less responsive to the needs of local ambulance services.

In the government's first iteration of the Bill, Transport Strikes (Minimum Service Bill), the government recognised the importance of these existing measures in health. As noted by the Equality and Human Rights Commission (EHRC), the government has not made clear "what consideration has been given to these existing measures in the current Bill."² Consequently, the EHRC advise "more detail may be needed to articulate a legitimate aim for imposing Minimum Service Levels (MSLs) on each sector impacted by the Bill."

Scope of health services

7. To what extent do you agree or disagree that it is important to have consistent standards for minimum service levels in the event of strike action in the ambulance services across England, Wales and Scotland?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

If you wish, please explain your position and provide any supporting evidence. (Maximum 500 words)

² EHRC (2023) [strike minimum service levels bill statement feb 23 002.docx \(live.com\)](#)

Further to our principled and practical objections to the introduction of minimum service levels in the ambulance service as set out above, we do not agree this policy should be implemented.

Subject to the outcome of this consultation, our intention is that minimum service level regulations would be introduced to ensure that the ambulance service can respond to life-threatening and emergency incidents in England, Wales and Scotland during strike action. Therefore, we are considering designating ambulance services as relevant services where MSLs could be set.

8. To what extent do you agree or disagree that the ambulance service should be specified as a relevant service where MSLs could be required on strike days?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

If you wish, please explain your position and provide any supporting evidence. (Maximum 500 words)

Further to our principled and practical objections to the introduction of minimum service levels in the ambulance service set out above, we do not agree this policy should be implemented in the ambulance service or anywhere else in the public sector.

Our proposal is that life-threatening and emergency incidents would be responded to in times of strike action. These incidents could include stroke, chest pain, loss of consciousness, breathing difficulties, major lacerations, compound fractures, sepsis or major burns, among other incidents of similar severity. This could mean that less serious calls may be held until a resource becomes available to respond or a different response could be suggested, for example taking an alternative mode of transport to hospital, such as a taxi, referral to a GP or support provided by a community health service. By less serious calls we mean incidents such as late stages of labour, non-severe burns, diabetes, diarrhoea, vomiting and urine infections, among other incidents. Less serious calls could be reassessed as needing a prioritised response if a person's condition changed and became a life-threatening and emergency incident.

9. Which of the following types of medical incidents should be responded to, even in times of strike action, if any? Select all that apply.

Life-threatening cases or those needing immediate intervention and/or resuscitation (for example major trauma and cardiac and respiratory arrest, among other incidents)

Emergency cases including serious time-sensitive incidents (for example strokes and heart attacks, among other incidents)

Urgent issues that are not immediately life-threatening but need treatment to relieve suffering (for example pain control), and transport or management at the scene such as falls, among other incidents

Non-urgent cases that need assessment and possibly transport within a clinically appropriate timeframe

None of the above

Don't know or prefer not to say

If you wish, please explain your position and provide any supporting evidence. (Maximum 500 words)

Further to our principled and practical objections to the introduction of minimum service levels in the ambulance service as set out above, we do not agree this policy should be implemented.

Our preliminary proposal is for MSLs to cover the following services provided by NHS ambulance services:

- 999 emergency ambulance services
- Non-emergency patient transport services
- Inter-facility transfer services
- NHS 111
- Hazardous Area Response Teams
- Special Operations Response Teams
- Unexpected births in the community
- Healthcare practitioner call response

10. Which of these ambulance services, if any, should be covered by MSLs in ambulance services? Select all that apply.

999 emergency ambulance services

Non-emergency patient transport services

Inter-facility transfer services

NHS 111

Hazardous Area Response Teams

Special Operations Response Teams

Unexpected births in the community

Healthcare practitioner call response

Other

Don't know or prefer not to say

None of the above

If you answered other, please explain your answer. (Maximum 500 words)

Further to our principled and practical objections to the introduction of minimum service levels in the ambulance service as set out above, we do not agree this policy should be implemented in any areas of the ambulance service, or any area of the public sector.

11. We have outlined some options below on how MSL regulations could operate. Which options, if any, do you agree with? Select all that apply.

- Requiring ambulance trusts to respond to all life-threatening and emergency incidents, provide NHS patient transfer services, inter-facility patient transport services, including time-critical transfers for emergency treatment and essential critical infrastructure, for example IT support
- Requiring ambulance trusts to respond to a specified list of medical issues, provide NHS patient transfer services, inter-facility patient transport services, including time-critical transfers for emergency treatment and essential critical infrastructure, for example IT support
- Requiring ambulance trusts to respond to calls under the national ambulance response time categories, (for example in England all or a subset of Category 1, Category 2, Category 3 or Category 4 calls and equivalents in Scotland and Wales - see Annex A for category definitions), provide NHS patient transfer services, inter-facility patient transport services, including time-critical transfers for emergency treatment and essential critical infrastructure, for example IT support
- Requiring a percentage of service capacity to respond to 999 calls, provide NHS patient transfer services, inter-facility patient transport services, including time-critical transfers for emergency treatment and essential critical infrastructure, for example IT support

- Requiring a percentage of staffing to respond to 999 calls, provide NHS patient transfer services, inter-facility patient transport services, including time-critical transfers for emergency treatment and essential critical infrastructure, for example IT support

None of the above

Other

Don't know or prefer not to say

If you wish, please explain your position and provide any supporting evidence. (Maximum 500 words)

Further to our principled and practical objections to the introduction of minimum service levels in the ambulance service as set out above, we do not agree this policy should be implemented in any areas of the ambulance service.

In practice, where an MSL is set in regulations, employers will be able to issue a work notice, which must specify who will be required to work on strike days and what work will be undertaken. The work notice is therefore a mechanism by which the employer can plan a minimum level of service on strike action days. This will help to ensure the minimum level of service set in regulations, such as ambulances being able to respond to life-threatening and emergency calls, is in place during any strike action.

12. If minimum service level regulations are made, based on the requirement to name staff in work notices, which staff groups should be included within a minimum service level for the ambulance service? Select all that apply.

Emergency operations centre staff including call handling, clinicians, supervisors, ambulance dispatch staff and navigators

Paramedics (also including specialist paramedics, advanced paramedics, consultant paramedics)

Ambulance crews

Emergency care assistants

Ambulance care assistants

Emergency medical technicians

Doctors, other clinicians, managers acting as commanders or in a leadership role and other support staff

Hazardous Area Response Teams

Special Operations Response Teams

Don't know or prefer not to say

None of the above

Other

If you wish, please explain your position and provide any supporting evidence. (Maximum 500 words)

Further to our principled and practical objections to the introduction of minimum service levels in the ambulance service as set out above, we do not agree this policy should be implemented in any areas of the ambulance service, or any area of the public sector.

This consultation is focused on ambulance services. Other health services are not included in this consultation. The government may consult in the future regarding minimum service levels in the event of strikes for other health services.

13. To what extent do you agree or disagree that other health services should be included in MSL regulations?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

14. If you think other health services should be included, which health services should these be? Please explain your position and provide any supporting evidence. (Maximum 500 words)

Further to our principled and practical objections to the introduction of minimum service levels in the ambulance service as set out above, we do not agree this policy should be implemented in any area of the NHS, health services or any areas of the public sector.

IMPACT AND IMPLICATIONS OF POLICY

15. *Are there particular groups of people, such as (but not limited to) those with protected characteristics, who would particularly benefit from the proposed minimum service levels for ambulance services?*

See the Equality and Human Rights Commission definition of protected characteristics.

Yes

No

Don't know

Good industrial relations between employers and their workforce are in everyone's interests, particularly those groups who are more likely to rely on ambulance services such as the elderly and those with long-term health conditions. Instead, this Bill will damage industrial relations and could lead to worsening levels of service. Employers understand this and have voiced their concerns over this approach. As NHS Providers have stated, these proposals place: *'undue, and unfair, responsibility on trusts as employers to guarantee minimum service levels, without any of the tools to resolve the issues in hand given that NHS pay is determined nationally. There is also no detail about what would happen if these minimum levels are not met outside of a period of industrial action, or whose responsibility that would be'*³.

As recognised by the government in their impact assessment of minimum service levels in transport (the only impact assessment carried out and published in relation to this Bill), the imposition of minimum service levels will likely prolong and protract industrial disputes, and lead to more frequent industrial action, without resolving any of the underlying issues. Without resolution or the option to take industrial action, workers may vote with their feet, worsening the existing staffing crisis in our NHS and ambulance service and worsening patient outcomes.

If you answered yes, which particular groups might be positively impacted and why?
(Maximum 500 words)

16. Are there particular groups of people, such as those with protected characteristics, who would be particularly negatively affected by the proposed minimum service levels for ambulance services?

See the Equality and Human Rights Commission definition of protected characteristics.

Yes

No

Don't know

If you answered yes, which particular groups might be negatively impacted and why?
(Maximum 500 words)

Women, black and ethnic minority workers and disabled workers are overrepresented in the public sector workforce. Attempts to impose levels of minimum service in ambulance services would therefore have a disproportionate and negative impact on the rights of these workers with protected characteristics to participate in lawful, industrial action. Race

³ <https://nhsproviders.org/media/695220/strikes-minimum-service-levels-bill-hol-committee-stage-2.pdf>

equality organisations have raised their concern. The Equality Trust, the Joint Council for the Welfare of Immigrants (JCWI) and Runnymede Trust, joined TUC, to warn the Strikes Bill will be a huge step backwards for tackling racism at work in Britain and that “attacking the right to strike will hit BME workers’ wages by undermining their ability to win a better deal at work.”⁴

Individual workers could find themselves subject to dismissal if they exert their democratic and fundamental right to strike. And all workers in the service are liable to lose out economically due to the undermining of their ability to bargain for better terms and conditions. The government’s own impact assessment made this clear.

In the NHS, women make up 77% of the workforce. Women’s rights campaign groups have raised the alarm on the Bill, saying it will have a silencing effect on women. Jemima Olchawski, chief executive of the Fawcett Society, said: “For many women who work in systemically undervalued sectors, strike action is critical to making their voices heard. What’s more, we know that women, especially women of colour, are at the sharp end of the cost of living crisis – workplaces must work for women and the starting point for this must be decent pay and working conditions.”⁵

As noted in our response to question 6, there are arrangements already in place that do not contravene individual’s fundamental right to strike, as noted by the EHRC: “it is difficult to compare police officers, who have specific duties to protect the state, with workers in other sectors such as teachers, university lecturers or truck drivers - all of whom could be within the remit of this Bill. We would welcome further analysis of how such differential treatment can be objectively justified for workers across the broad range of services covered by this Bill.”⁶

Since the government does not have a sound rationale for the differential treatment and subsequent impact on workers with protected characteristics, if there were to be subsequent disproportionate, negative impact on workers with protected characteristics that are within scope, these are highly likely to fall foul of equality law.

Contact

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⁴ [Strikes Bill “huge step backwards” for tackling racism at work – TUC, Runnymede, Equality Trust and JCWI | TUC](#)

⁵ [Anti-strike bill discriminates against women, say campaigners | Industrial action | The Guardian](#)

⁶ [EHRC \(2023\) strike minimum service levels bill statement feb 23 002.docx \(live.com\)](#)

