

GMB

UNION

**CEC STATEMENT:
MINIMUM SERVICE
LEVELS**

GMB

UNION

**MAKE
WORK
BETTER**

GMB Congress

Bournemouth 2024

CEC Statement

Minimum Service Levels

Introduction

Minimum Service Levels – ‘MSLs’ – are the latest attack on workers’ fundamental rights.

In 2010, the Conservatives inherited some of the most restrictive trade union laws in Europe. Since then, they have imposed restriction upon restriction.

Through the Trade Union Act, they sought to frustrate our ability to ballot and organise. Through their attacks on facility time, they sought to frustrate our ability to represent our members. And under laws passed in the last two years, EU-era protections remain under threat, authoritarian provisions in the Public Order Act infringe on our right to demonstrate, and the way was paved the way for agency workers to be used as strikebreakers. This is a co-ordinated campaign with the aim of breaking the rights and power of organised labour.

The Strikes (Minimum Service Levels) Act, and its Regulations, represent the latest front in that campaign. It is perhaps its most bitter expression. The MSLs are a betrayal of the workers who saw the country through the pandemic, at great personal cost. The Tories have gone from clapping key workers to sacking them – just for exercising their essential right to withdraw their labour.

The NHS’s own figures show that ambulance delays actually fell during strike days, because the voluntary ‘life and limb’ cover negotiated by unions was comprehensive. GMB has also voluntarily put life and limb cover in place in other disputes, which are not covered by the Regulations, such as British Gas. Our members now report that such voluntary arrangements are less likely to be put in place. The Government’s own impact assessment said that MSLs would lead to absenteeism and longer disputes. This is not about protecting the public – this is an ideological attack on workers’ rights.

Even some employers have said that they don't want MSLs. Rishi Sunak has no democratic mandate for them: the Act and its regulations go far beyond a 2019 Conservative Party manifesto commitment to impose 'a minimum service ... during transport strikes.' The Act has been imposed across Great Britain, despite a House of Lords vote to exclude Scotland, and despite widespread opposition in the devolved nations.

The law provides no mechanism for arbitration or appeal in violation of the global norms as set out by the International Labour Organisation. And crucially, the MSLs will not make a single patient safer, nor will they advantage any pupil. Industrial action is an essential safety valve. Without the right to industrial recourse, public services will be denied the fight for the investment that people who rely on them desperately need.

GMB and other unions are fighting back. We fought against the legislation in Parliament. We are putting pressure on employers to pledge that they will never impose a Work Notice. Crucially, the union movement agreed a united industrial response in December 2023 – which this Statement asks GMB Congress to endorse. And, in line with the political objects of our union, we have a commitment that a Labour Government will repeal them.

We will fight this battle just as we have fought every other, with pride, with dignity and with solidarity, until we win, and the MSLs are consigned to the dustbin of history where they belong. This Statement sets out GMB's way ahead.

The threat to workers' rights

Our union's legal liability is increased by the MSL legislation. But the most important risk is to our members in the sectors affected, who are potentially less protected by the law than at any point since the infamous Taff Vale judgement.

Across the country, one in five workers – 5.5 million people – are at risk of losing their right to strike. GMB's members are already directly covered in ambulance services, schools, and parts of the transport sector, while the threat of Regulations in nuclear decommissioning stands at the time of writing. The Tories are threatening to 'strengthen' the law further, which could see MSLs extended to yet more sectors.

Under the Act (and its associated regulations and Code of Practice):

- Ministers have sweeping powers to impose arbitrary restrictions on the right to strike in affected sectors by issuing regulations.
- Employers can issue a 'Work Notice' at least 7 days before a strike. The Work Notice will set out the details of the workers that the employer believes are necessary to provide a minimum level of service. The Work Notice can be varied by the employer up to 4 days before a strike.
- If workers who are listed in the Work Notice take industrial action then they will lose their legal protection against dismissal for engaging in industrial action.
- If a union is found by a court to have not taken 'reasonable steps' to comply with the Work Notice then the court can issue an award against the union. The maximum amount was raised in 2022 from £250,000 to £1 million.
- The Government's new Code of Practice goes beyond the Act and states that unions may not act 'reasonably' unless they act to prevent picketers from encouraging workers named in the Work Notice from crossing a picket line.

The fact is that the MSLs are not just wrong and unnecessary – they are unworkable. In schools, each headteacher or Trust leader will be responsible for drawing up work notices: an impossible task in most cases. The MSLs are strongly opposed by 97 per cent of our members in schools. In ambulance services, the Government estimated that 80 per cent cover would be needed compared to a typical shift. GMB's research shows that:

- Ambulances are so worn out that only 78 per cent of vehicles are operable on a typical day.
- One in ten call handler posts are vacant – rising as high as four in ten in the worst affected areas.

The public is not being denied minimum service levels by trade unions. They are being denied effective services by almost fifteen years of cuts, privatisation, and Ministerial mismanagement. Without the redress of strike action, services will become more unsafe as a result of these draconian dictates.

The impact of the MSLs will not fall equally. History has shown that black, Asian and other ethnic minority workers have been at the forefront of strike action: from Grunwick and the Bristol colour bar strikes to NHS outsourced contracts and Amazon today. These unacceptable restrictions will be most keenly felt by these workers, and women and disabled workers, who are more likely to work in the affected sectors. GMB is committed to highlighting, researching, and politically campaigning on the disproportionate impact of the MSLs on these groups.

MSLs – fighting back

GMB has been at the forefront of the campaign against MSLs.

Through our political department, we worked to oppose, delay, and attempted to defeat the Bill when it was going through Parliament. We also helped to secure a commitment from the Labour Party that the Act will be repealed alongside all other post-2010 anti-trade union legislation in the first 100 days of a new Parliament.

Since the legislation was passed, we have pressured employers not to issue work notices. We recognise and welcome the fact that the Welsh and Scottish governments have both said that they will not impose work notices. In the rail sector, even the train operators directly controlled by the Government have declined to issue work notices – which showed how weak the support for the legislation really is.

Crucially, the TUC convened a Special Congress for the first time in more than forty years to agree a united response from the trade union movement. The STUC Congress has also carried strong statements against MSL. The TUC Special Congress agreed that all affiliates would work together to assert an industrial response based on solidarity when any trade union member is specified in a work notice; challenge to employers that co-operate with the legislation; challenge to the legislation itself in the

courts; and upholding the TUC's call to build a campaign of non-compliance.

GMB spoke in favour of the position, and we organised in support of the national demonstration in Cheltenham on 27 January. The actions agreed by the Congress are included as an appendix to this document. By bringing this Statement, the CEC is asking GMB Congress to endorse the position that our delegation took.

If a Work Notice is issued, the first discussions must be with the members affected, and held through our lay democratic structures. But these principles are fundamental: we will always seek to work in solidarity with other unions, and we will never leave our members behind.

These laws were made in Parliament. Ultimately, they must be defeated there too. The Labour Party has pledged to repeal the Strikes Act and its regulations within 100 days of a new Parliament. The MSLs are a desperate gambit from a Tory government that is out of touch, out of ideas, and out of time. As the General Election approaches, we will work tirelessly to secure a change in government, and to hold Labour to its pledge. We reiterate and uphold our call for the repeal of all anti-trade union clauses in wider employment law.

Appendix – actions resolved by the 2023 TUC Special Congress

Congress resolves that we will:

Support

1. Equip every trade union member with the tools to resist this legislation in the workplace. Unions will continue to work together to adopt different tactical approaches to non-cooperation and non-compliance. We will support affiliates in deploying novel and effective forms of industrial action to maximise resistance to work notices. We will develop practical solidarity plans for unions actively engaged in strategies of non-compliance.
2. Support any worker subject to a work notice, including with support from across the trade union movement, if their employer disciplines them in any way.
3. Ensure that where employers fail to resolve disputes, workforces are still able to exercise their democratic right to withdraw their labour.
4. Ensure that where any affiliate is facing significant risk of sanctions because of this legislation, we convene an emergency meeting of the Executive Committee to consider options for providing practical, industrial, financial and/or political backing to that union.

Resist

5. Continue our wider legal challenge to these undemocratic laws – leaving no stone unturned internationally and in UK courts.
6. Call on all employers and public bodies with oversight to oppose this counterproductive legislation. Employers and public bodies from across the public sector and the country have already signalled their opposition to the Strikes Act. All employers and public bodies must reject it.
7. Ensure that any employer tempted to deploy and impose work notices understands that the union movement will unite to resist them – in the workplace and in the courts.

8. Campaign to name and shame as anti-union and anti-worker all employers and public bodies who deploy work notices.
9. Seek to challenge minimum service levels on the grounds of public safety, worker safety, data protection, employees' existing contractual agreements and equalities.
10. Seek to ensure that the data protection and privacy rights of trades union members are fully respected and protected at all times, as we resist the imposition of these undemocratic restrictions.
11. Refuse to tell our members to cross a picket line.

Mobilise

12. Mobilise the whole trade union movement to march with the sacked GCHQ workers through Cheltenham on 27 January, to commemorate their struggle, and to recommit ourselves to defiant opposition to Conservative minimum service levels, trade union restrictions and any threat to the right to strike.
13. Call an urgent demonstration in the event a work notice is deployed and a union or worker is sanctioned in relation to a work notice.
14. Coordinate communications and campaigning activity across the trade union movement.

Repeal

15. Hold Labour to their commitment to repeal this legislation within their first 100 days of office as a key part of promoting and fully implementing the wider New Deal for working people as a flagship policy in the forthcoming general election.

For more than 150 years, unions have fought for safer workplaces with decent pay and conditions. And we have won. We will respond to this shameful Conservative attack on our rights by redoubling our efforts to build a stronger more diverse movement that keeps winning for workers. We will stand together. Our message is clear, we will not rest until this legislation is repealed.

