



Trade Union (Deduction of Union Subscriptions from Wages in the Public Sector) Regulations 2023

Guidance for public sector organisations



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Ministerial Foreword

The Government is publishing this guidance to support public sector organisations in complying with the Trade Union (Deduction of Union Subscriptions from Wages in the Public Sector) Regulations, also known as the 'Check-off' regulations. This guidance aims to support employers in ensuring that there is no cost to the taxpayer as a result of the administration of Check-off.

The Government recognises that there are significant benefits to both employers and employees when organisations and unions work together effectively to deliver high quality public service. Whilst the payment of union subscriptions directly through payroll remains the preference of many employees and employers, and therefore supports this positive working relationship, the administration of this process should not represent a cost to the taxpayer.

The costs for administering check-off often fall to public sector employers in the form of time spent processing the union subscription deductions from payroll each month. Currently, only a small proportion of employers seek to recover these costs from Trade Unions. It is right and necessary that organisations are always looking to ensure effective and efficient spending of public funds regardless of subject in question and the administration of check-off is no exception. As such, the Regulations require all public sector employers that offer check-off to their employees to charge Trade Unions a 'reasonable' cost for the administration. This cost should be substantially equivalent to the costs associated with administering check-off, to ensure that there is no cost to the taxpayer. In addition, where the option to pay union subscriptions through check-off exists, the Regulations require that an alternative method of payment is also available.

This Guidance therefore aims to support public sector employers in determining 'reasonable' cost, and identifying alternative methods for the payment of subscriptions.

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1. Introduction

- 1.1. The Government has legislated to bring into force the Trade Union (Deduction of Union Subscriptions from Wages in the Public Sector) Regulations that stem from section 116B of the Trade Union Labour Relations (Consolidation) Act 1992 as inserted by 15 of the Trade Union Act 2016. The Act¹ specifies that a relevant public sector employer can only make deductions from its workers' wages in respect of Trade Union subscriptions (commonly referred to as "check-off") if:
 - the Trade Union pays the employer a reasonable amount for this service; and,
 - workers have the option to pay their subscriptions by other means.
- 1.2. The Government recognises that while there are significant benefits to both employers and workers when organisations and unions work together effectively to deliver high quality public service, there must be no cost burden to the taxpayer as a result of check-off. This instrument allows check-off arrangements to exist between the employer and union, which many unions find a useful method by which to collect subscription fees from their members, but ensures unions pay reasonable costs for this service.
- 1.3. The Government has committed to produce guidance to help employers understand the obligations this legislation places upon them. In particular, this guidance seeks to explain how an employer may calculate a 'reasonable amount' to charge the union for the provision of the check-off service, determine alternative mechanisms to pay trade union subscriptions, and terminate the use of check-off.
- 1.4. 'Check-off' is the practice of a worker paying their union subscriptions by having them deducted from their pay by their employer 'at source', and then paid to the relevant trade union. There is no statutory obligation for an employer to provide this service.
- 1.5. The Trade Union (Deduction of Union Subscriptions from Wages in the Public Sector) Regulations were laid before Parliament on 9 November 2023, and will come into force from 9 May 2024. Relevant public sector employers may wish to use this guidance in preparation of making arrangements from 9 May 2024, or if they wish to review any ongoing charges in future, or introduce new check-off arrangements, after that date.

¹ S116B(1) Trade Union and Labour Relations (Consolidation) Act 1992



2. In scope organisations

- 2.1. The Regulations define the relevant public sector employers in scope, including public authorities specified or described in Schedule 1 of the Regulations. These are organisations which are funded wholly or mainly from public funds, excluding those which do not routinely employ staff, are an advisory body or expert panel, are funded by a levy on a finite or discrete group, or who are predominantly commercially focused. This therefore includes, but is not limited to, the following categories of Public sector employers:
- Local Authorities;
 - National Health Service;
 - maintained schools, academies or other educational institutions;
 - Police staff;
 - UK Government departments – except the Secret Intelligence Service, the Security Services and the Government Communications Headquarters; and
 - Scottish Ministers.
- 2.2. The Regulations apply to all public sector bodies in England and Scotland that are either wholly or mainly publicly funded. Although the Regulations do not apply to devolved Welsh Bodies (due to the passing of the Trade Union (Wales) Act 2017), public sector organisations that operate within Wales and are not devolved, are caught by the Regulations.



3. Compliance with the legislation

- 3.1. In order to comply with the legislation, relevant public sector employers may only make deductions from its workers' wages in respect of trade union subscriptions if:
- their workers have the option to pay their trade union subscriptions by other means; and
 - arrangements have been made for the trade unions in question to make reasonable payments to the employer that cover the costs of making the deductions.
- 3.2. Regulation 5(1) makes clear that any existing documents, including contracts of employment or collective agreement, should be read to give effect to the legislation and therefore the above conditions for offering Check-off. This means that the Regulations do not remove existing obligations, but from 9 May 2024, these must be applied in accordance with the Regulations.
- 3.3. In order to make arrangements for trade unions to make reasonable payments that cover the costs of making the deductions, employers may wish to take the following steps;
- assess the cost incurred by administering Check-off, including the time associated with administration, or any arrangements with third party suppliers in line with sections 4, 5 and 6 of the guidance;
 - inform trade unions of the cost and calculations made to arrive at that figure, including how this will be apportioned between unions where there are multiple recognised, or which fraction is being charged by each employer if check-off is administered through wider pooled arrangements with other employers;
 - provide the opportunity for trade unions to comment, and provide them with reasonable data to support their considerations, remaining clear that the fee recharged must be substantially equivalent to the total cost of administering Check-off;
 - aim to reach an agreement within a reasonable period, notably within the transition period which has been offered for these arrangements to take place before the coming into force date (9 May 2024);



- put in place arrangements, such as a monthly invoice or an agreed percentage reduction to the fee transferred from the collection of union subscriptions, to recharge trade unions for the fee agreed as reasonable and substantially equivalent to the total;
 - keep the arrangement under review to ensure that the cost recharged to trade unions remains substantially equivalent to the cost of administering Check-off.
- 3.4. In order to ensure their workers have the option to pay their trade union subscriptions by other means, employers may wish to consider one or multiple of the following actions:
- requesting from all recognised trade unions written confirmation of the various mechanisms available for members to pay their subscriptions;
 - checking recognised trade union websites to ascertain whether there are alternative arrangements readily available to staff;
 - writing to trade unions to request that they inform the employer if there are plans to remove any alternative mechanisms for paying union subscriptions, such as no longer accepting direct debit payments.
- 3.5. Employers must not profit from any recharge arrangements, as the costs should be substantially equivalent to the costs for administering check-off. Additionally, employers should not charge excessive amounts or use a mechanism for administering check-off that is more costly than needed, and so should look to administer check-off in the most cost effective way.
- 3.6. The total charge to all unions must be substantially equivalent to the overall cost to the employer. Where there are multiple trade unions for whom one employer administers check-off, the cost should be apportioned between each of the unions on the basis of the proportion each union is responsible for and not exceed the overall cost of administering check-off. Where an employer pools a payroll service with other public authorities, each employer should only charge a union for the proportion of that cost that falls to them specifically.
- 3.7. Where an employer uses a payroll system to process salaries, the employer should only charge unions for the additional cost of check-off, not the purchase of a contract or the full cost of using the payroll system. The



cost should stay under review and be updated when the contract or provider changes.

- 3.8. Whilst the Cabinet Office anticipates that engagement with Trade Unions and arrangements to comply will need to take place ahead of the coming into force date, employers must not seek to charge retrospectively. Charges can only represent reasonable payments for any employer costs incurred for administering Check-off from the date from which the Regulations come into force (9 May 2024).
- 3.9. In the instance that public sector employers have a query relating to their compliance with these legal obligations which is not addressed within this guidance, the Cabinet Office would recommend that employer specific legal advice is sought as arrangements will differ according to the various contractual arrangements and collective agreements that employers may have in place. Where possible, employers may seek to do this in collective workforce groups, to avoid excessive time or cost.



4. Reasonable payments to the employer in respect of check-off

- 4.1. Payments to cover any costs incurred to the employer for administering check-off will be considered “reasonable” if the employer is satisfied that the total amount is substantially equivalent to the total cost to public funds of making the deductions. It is therefore likely that the actual amount charged by each employer will differ on a case by case basis depending on the arrangements each employer has in place.
- 4.2. Employers should be able to evidence how they reached the calculation of a ‘reasonable amount’ that is charged to Trade Unions. The final amount may take the form of a standard monthly fee, a percentage deduction from the fees collected, an invoice for associated costs, or any other method which is agreeable to the employer so as that they can satisfy themselves that they have charged a total amount that is substantially equivalent to the total cost to public funds.
- 4.3. If no agreement can be reached and the relevant trade unions do not agree to pay the amount, then the employer may wish to consider taking steps to stop administering Check-off, taking into account the considerations set out in Section 6 of this guidance.
- 4.4. Employers should aim to agree the costs with their recognised Trade Unions, although ultimate responsibility for the total calculation of the value of the cost, and assurance that this is substantially equivalent to the total cost to public funds for administering the payroll deductions, lies with the employer.
- 4.5. Employers should act in the most cost efficient manner when administering Check-off so as not to incur unnecessary additional costs that could be recharged to Trade Unions, including appropriately apportioning costs between unions where there are multiple, and only seeking to recover the fraction that they incur if they make use of pooling arrangements.
- 4.6. To assist relevant public sector employers with calculating the costs to recharge to the Trade Unions, we have developed a non-exhaustive list of the type of things that employers may wish to consider, set out in the following sections.

A: Costs and time spent by the employer administrating check-off

- 4.7. This may include the costs and time, inclusive of wage and non-wage costs such as national insurance, and pension contributions, an employer spends:



The setting up of check-off arrangements, where this isn't already an established mechanism for staff to pay union subscriptions.

- Time spent introducing a system that would allow check-off to be administered. Costs associated with procuring any systems or contracts, or additional staffing resources, to enable this service to become available.
- Where the employer already has provision to enable check-off arrangements for workers, and these provisions were established before the regulations came into force, there should be no charge for setting up such a service. It is not the intention of the regulations to make charges retrospectively.

Enabling new staff to pay their union subscriptions through check-off

- Employer time associated with collecting and processing written consent from its staff.
- Time and costs associated with transacting new staff payroll arrangements to allow for Trade Union subscriptions to be paid directly through payroll.

Ending check-off arrangements for workers

- Employer time and cost associated with responding to staff requests to no longer have Trade Union subscription fees deducted from their wages directly through payroll.
- Where the employer has already ended the provision of check-off, and this was ended before the regulations came into force, there should be no charge to the unions for ending the service. It is not the intention of the regulations to make charges retrospectively.

Carrying out any ongoing administration associated with check-off

- Employer time and cost in the ongoing administration required, such as the time taken to process the deduction.
- Employer time and costs in administering expected or regular increases to Trade Union subscription fees which require amendment through the payroll system. For example, any increase in union subscriptions.



B. Costs within payroll contracts

4.8. This may include:

Any costs included within the contract that are charged by the payroll provider for their administering the deduction of trade union subscriptions from wages

- Where there is no (discernible) cost associated for administering Check-off, there must be no charge to the Trade Unions. This would include a circumstance whereby the inclusion in the contract has meant that the administration of check-off has become cost-neutral over the period of the contract.

C. Exceptional or additional costs arising from check-off arrangements which may be charged as 'one-off' payments

4.9. This may include:

Circumstances whereby an increase in trade union fees requires additional administration outside of that which is usually conducted

- This includes circumstances such as late notice for altering the amount of membership fees payable which results in additional administration time to make the amendments to the deductions.



5. Alternative ways of paying union subscriptions

- 5.1. Section 116B(1) of the 1992 Act (as inserted by section 15 of the Trade Union Act 2016²) sets out that workers must have the option to pay their union subscriptions through other means, indicating that check-off cannot be the only method of payment for membership fees.
- 5.2. It is the responsibility of the employer to ensure that any trade unions they have check-off agreements with, have alternative ways for workers to pay their union subscriptions. This may be through the employer making enquiries such as checking the websites, and/or asking for written confirmation from the trade unions. Some recognisable suitable alternative ways of paying union subscriptions, may include (this list is non-exhaustive);
 - **Direct Debit** - where the individual gives permission for the union to take the subscription directly from the members bank account.
 - **Cash / Card / Cheque** - which may involve the union sending a monthly statement of fees to the worker, and requiring them to pay for this service either through taking cash to a local branch, paying via card over the phone, or sending a cheque in the post.
- 5.3. If the employer is not satisfied that there are alternative arrangements in place for workers to pay their union subscriptions, and the trade union in question will not put anything in place within a reasonable timeframe, then they may wish to consider taking steps to stop administering Check-off, taking into account considerations set out in Section 6 of this guidance.

² s. 15 coming into force by [S.I. 2023/1193 reg. 2](#)



6. Terminating check-off arrangements

- 6.1. The Regulations do not seek to remove Check-off in the public sector. The Regulations enable employers to recover the costs of check-off administration to ensure that this is cost-neutral.
- 6.2. If, despite having taken the necessary steps to ensure compliance with the Regulations, employers find that workers do not have the option to pay trade union subscriptions by other means and arrangements are not made for the union to make reasonable payments, they may wish to consider steps to stop administering the provision. Employers will each need to consider their own arrangements and contractual obligations, and in doing so, may wish to pay attention to the following considerations.

A: Engagement with relevant Trade Unions

- 6.3. This may include:
 - informing Trade Unions of need to remove check-off, and the likely number of members this will affect;
 - informing Trade Unions of the date at which check-off will no longer be available to its members;
 - seeking information from Trade Unions on the alternative mechanisms that they have available for paying union subscriptions, which may be used in correspondence with staff;
 - identifying from the Trade Union a suitable point of contact for members of staff to speak to with regards to the removal of check-off.

B: Legal considerations

- 6.4. Employers may want to seek advice on:
 - the contractual status of their check off arrangements;
 - the need for collective bargaining on the removal of check-off, and/or the need to inform or consult workers where employment contracts may need to be varied;
 - the risks of withdrawing without due consultation with trade unions;
 - any alternative measures and reasonable steps that should be taken where the reason for the removal of check-off is due to not being able to agree on



a reasonable cost and/or the provision of an alternative mechanism for payment before check-off is removed

C: Engagement with staff

6.5. Employers may wish to:

- communicate any decision to remove check-off to staff, via usual communication channels such as an email or intranet post. This may contain:
 - i. a summary of the new legislation and the requirement on the employer;
 - ii. a summary of the actions taken to engage Trade Unions on the matter;
 - iii. details of when check-off will be removed;
 - iv. information regarding alternative ways to pay trade union membership once check-off has been removed;
 - v. a 'Frequent Questions' document to answer any questions that are likely to arise.
- provide staff with the details of a point of contact from HR and the trade union, in order to answer staff queries on the matter;
- distribute any communications requested by the Trade Union, related to the removal of check-off.

D: Stop administering check-off

6.6. Where agreement has not been reached on the cost of a reasonable fee and workers do not have the option to pay union subscriptions by other means, employers will need to stop administering Check-off. This may include:

- switching off the administration on their payroll if they are responsible for their own payroll provisions;
- contacting their payroll provider if they rely on a third party provider and requesting that check-off is no longer carried out;
- where the organisation is part of some sort of pooling arrangement where the workers of a group of employers are all paid by the same payroll provider, e.g. in the case of maintained schools where on occasion the local authority may be responsible for the payroll of schools within its



jurisdiction, that employers work together to ensure check-off is removed for all the organisations involved at the same time.

- 6.7. ensure that, where necessary, they are able to negotiate their contracts with third party payroll providers if there had been an additional cost built into the contract to account for the administration of check-off



Annex A - Frequently Asked Questions

1. [Should an employer charge Trade Unions for the employer time involved in the consultation to reach an agreement on a 'reasonable amount'?](#)
 - 1.1. No. Organisations should only seek to charge unions for the costs associated with making deductions from payroll. As such, no costs should be charged for the consultation or other actions taken to comply with these regulations.
2. [What should be done if an employer cannot reach an agreement with the unions on a 'reasonable amount', or the union refuses to pay the costs associated with check-off](#)
 - 2.1. If an agreement cannot be reached with the Trade Union, then the employer should remove the provision of check-off as a means of paying union subscriptions.
3. [Is there a need for any action if the employer already charges the Trade Unions for costs associated with check-off?](#)
 - 3.1. If an employer already charges the union for the costs of administering check-off, they should review whether they believe the amount is substantially equivalent to the total cost to public funds for administering the payroll deductions, and meet with the unions to discuss this. If they believe this is the case, no further action is necessary. If they identify any amendments to the cost, the amount charged to the trade unions should be amended accordingly.
4. [How do these regulations affect an employer where they use check-off but there are no costs associated with check-off, or the process is cost-neutral?](#)
 - 4.1. If an employer has reviewed the regulations, the guidance, and considered all other potential costs, but remains assured that there is no cost to public funds for administering the payroll deductions, they do not need to charge a fee to the unions. This should be reviewed on a regular basis.



Annex B - Worked Scenarios

1. Scenario 1: An employer takes one hour per month to administer check-off, plus 20 minutes per individual that is added or removed from the check-off arrangements, such as joiners and leavers.
 - a. In this instance, the employer would multiply the cost of 20 minutes of one individual's time (the time it takes to administer individual joiners and leavers) by the number of individuals (x) and add this to the rate for 1 hour of work.
 - i. $1hr + (0.33hr \times x)$
 - b. This cost would then be used by the employer to form the basis of the consultation with Trade Unions, and reach an agreement that this is an appropriate fee for the administration of the provision of check-off.
2. Scenario 2: An employer has a standing charge agreed with the payroll provider to cover the cost of administering check-off. However, the payroll provider does charge for any additional work caused by factors such as a short notice change to the cost of subscription fees.
 - a. In this instance, the employer would use the standard charge as the basis of the consultation with Trade Unions, and reach an agreement that this is an appropriate fee for the administration of the provision of check-off. The employer would also seek to recharge unions for additional costs incurred, except in instances where this cost is incurred at the fault of the employer.
 - b. The arrangement should be reviewed on a regular basis, particularly if the payroll provider makes amendments to the cost. If the employer has reason to believe that there are additional costs incurred which are not accounted for by this charge, they should seek to follow a calculation similar to scenario 1 above, and renegotiate the cost they charge trade unions for the administration of the provision of check-off.
3. Scenario 3: An employer has a long-standing contract with a payroll provider. Due to the length of the contract, the provision of check-off has become cost neutral.
 - a. In this instance, the employer should review the arrangement to ensure that they are satisfied that there is no cost to the taxpayer for the administration of the provision of check-off. If the employer is satisfied, there should be no charge to Trade Unions.



- b. The organisation should still consult with the Trade Union to agree that there will be no costs to the taxpayer, and therefore no charge to the union. However, the employer should hold regular reviews to ensure that this continues to be the case, particularly if there are any changes to the contract with the payroll provider.

- 4. Scenario 4: The employer does not offer check-off as a means of paying union fees.
 - a. In this instance, as there is no cost to the employer, and therefore the Taxpayer, there must not be any charge to the unions. There is also no need for consultation on this matter as the regulations will not affect the employer.

- 5. Scenario 5: A recognised union does not consult with the employer on agreeing a reasonable cost.
 - a. In this instance, the employer should make all reasonable efforts to engage the union in the consultation. However, should it not be possible to hold this meeting, the employer would be entitled to charge the union what they consider to be a reasonable cost for administering check-off.
 - b. If the union refuses to pay this cost, the employer should consider taking steps to stop offering Check-off, taking into account considerations set out in Section 6 of this guidance. check-off.

- 6. Scenario 6: A recognised union wishes for the employer to continue to offer the provision of check off, but does not offer an alternative arrangement to pay subscription fees.
 - a. In this instance, the employer should meet with the trade union to ensure they understand that the regulations require that workers have the option to pay their trade union subscriptions by an alternative method to the provision of check-off. The employer should allow the union reasonable time to implement an alternative arrangement.
 - b. If the union refuses to offer an alternative arrangement, then the employer should consider taking steps to stop offering Check-off, taking into account considerations set out in Section 6 of this guidance.