

STRUCK OUT

REFORMING LONDON
UNDERGROUND'S
STRIKE LAWS



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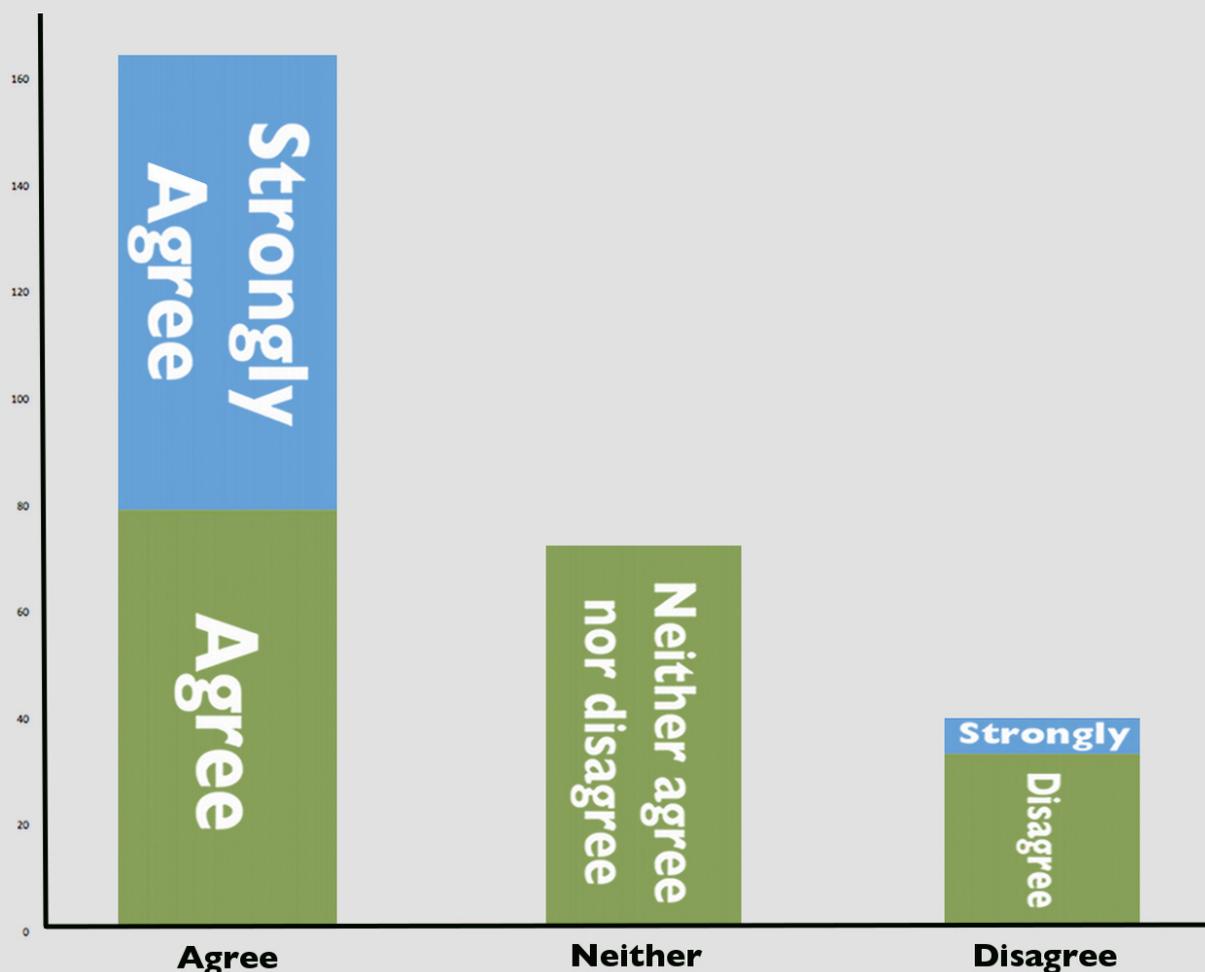
INTRODUCTION

The average strike on the London Underground costs London's economy approximately £48 million per day.¹ The GLA Conservatives' earlier report on 'Driverless Trains' found there were 20 days of strikes between December 2005 and 2009, costing London's economy nearly a billion pounds over this four year period. "All of these actions were called by the National Union of Rail, Maritime and Transport Workers (RMT)."² Given there were 36 separate instances of strike action between May 2000 and January 2011³, it seems reasonable to consider whether there might be an alternative.

TOO EASY TO STRIKE?

In a poll of 285 Londoners conducted by Bryter Research on behalf of the GLA Conservatives*, 6 in 10 (59%) agreed that it is currently too easy for London's Tube workers to strike. Over a quarter (28%) strongly agreed with that statement. Only 14% disagreed or strongly disagreed.

Question #1: To what extent do you agree or disagree with the following statement: 'It is currently too easy for London's tube workers to strike.'



1. As the following link shows, this figure was true in 2007 so the real figure is likely to be significantly higher. http://www.londonchamber.co.uk/lcc_public/article.asp?id=0&did=47&aid=4550&st=&oaid=-1

2. Page 2, <http://glaconservatives.co.uk/wp-content/uploads/2012/02/Driverless-Trains.pdf>

3. <http://www.newstatesman.com/blogs/the-staggers/2011/01/strike-deal-boris-tube-mayor>

Every weekday there are 3.4 million journeys on the London Underground⁴ as workers who are highly paid, low paid and every level in between commute to work. When union leaders seek to use strike action to cripple the Tube, their dispute may be with London Underground's management, but the collateral damage is to ordinary Londoners. That is why the GLA Conservatives and indeed ordinary Londoners want the status quo to change.

50%+1

The GLA Conservatives have long called for a change in the rules on strike balloting so that, in order for a ballot to pass, 50%+1 of all eligible trade union members would have to vote in favour. Our reasoning is straightforward: strike action on the London Underground can be hugely disruptive, has been estimated to cost London's economy £48 million per day and stops many people – including those on low wages – from getting to work. Therefore we have argued that, for strike action to go ahead, it should have the informed consent of a majority of those choosing to strike.

The vast majority of strike ballots on the London Underground take place after only a minority of union Members have voted in favour of strike action. For example in May 2011 the RMT proceeded with strike action despite just 29% of those balloted voting in favour.⁵ Given the effect of strike action on the lives of Londoners we believe this is unacceptable.

REDUCING STRIKE ACTION

When presented with different options to reduce the frequency of strike action, half of Londoners (48%) favoured an option that included a complete ban on strikes. 16% favoured a complete ban with no alternative form of restitution to replace it.

Taylor Law

16% of Londoners wanted to see a London equivalent of New York's Taylor Law.

In 1966 the New York Subway suffered crippling strike action. The 12-day strike started on New Year's Day and ended all services on the entirety of the city's subway system as well as on all buses throughout the city. When the strike ended it had cost the city millions of dollars and it was forced into a \$60 million package of wages and benefits increases. These included a wage rise from \$3.18 to \$4.14 an hour, additional paid holiday and increased pension benefits. In total, the union's gains averaged nine per cent for the next eight years.

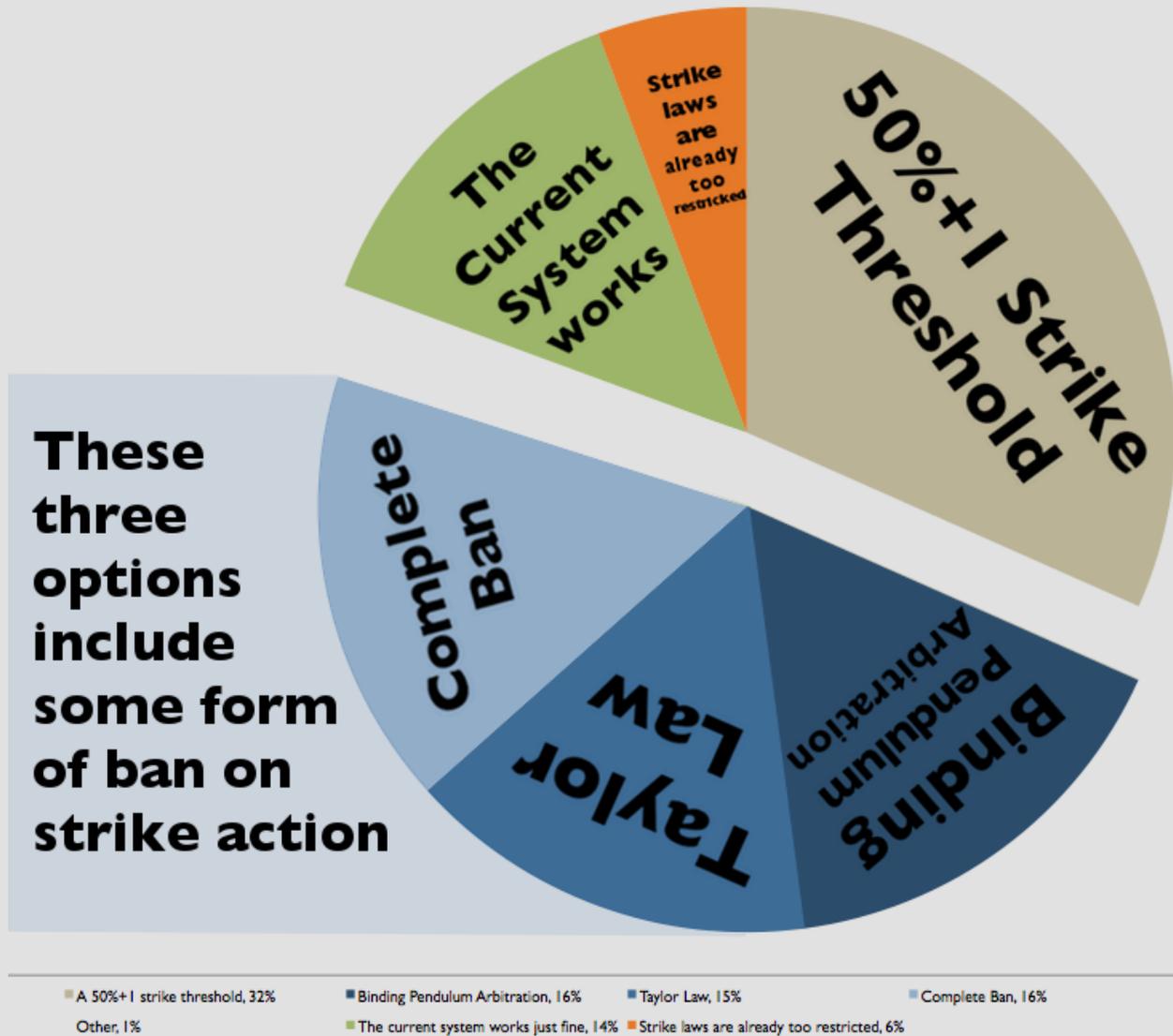
In light of this strike, the City of New York passed The Public Employees Fair Employment Act in 1967. Commonly known as Taylor Law, it grants public employees the right to organise and elect union representatives. It defines the boundaries for how public employers and unions negotiate and sets out the terms for the founding of the Public Employment Relations Board – a state agency that administers the law in the case of disputes.

A key part of the Taylor Law is that it prohibits New York state public employees from striking. Instead they gain the right to binding arbitration if they are unable to reach agreement after negotiations.

4. <http://creativetraction.com/2012/11/16/cbs-digital-media-on-london-underground/>

5. <http://www.standard.co.uk/news/boris-johnson-condemns-idiotic-walkouts-as-tube-unions-strike-over-two-weeks-6397888.html>

Question #2: Which, if any, of the following alternative proposals to the current strike legislation would you be most in favour of, to help reduce the frequency of strike action?



An independent judge or panel will consider the views of employers and the union and then make a decision which both sides must accept. The fine for striking is an additional day's pay for each day of a strike. This means that a 5-day strike would amount to a fine worth 10 days' pay. In addition, union leaders can face imprisonment for leading strike action.

Since Taylor Law was introduced the New York Metro has only seen 2 strikes, in 1980 and 2005.

Binding Pendulum Arbitration

16% of Londoners favoured the introduction of Binding Pendulum Arbitration (BPA).

The very existence of the option of strike action can discourage reasonable behaviour on the part of trade union leaders and could encourage extremism. If a trade union decides to call a strike ballot – with the consequence of inconveniencing millions of Londoners – it makes logical sense that it does everything possible to ensure that the strike achieves as great a reward for the union's members as

possible.

Binding Pendulum Arbitration is an alternative to strike action which refashions the entire process of negotiation to encourage both sides to behave reasonably. Instead of the right to strike, trade unions would have the right to ballot for independent arbitration. However, under this system, the independently appointed arbiter, or judge, cannot compromise. Rather he or she has to choose between two positions.

For example if Transport for London (TfL) wished to freeze wages and the relevant union wanted a 10% wage increase, the judge could not decide that wages would be increased by, say, 4%. He or she would have to choose one of those two options.

There would be two major consequences of such a change. First, both sides would be incentivised to make reasonable demands and find a reasonable compromise. If TfL argued for a pay freeze and the union argued for a 10% rise then a freeze would be the more likely result. However, if the union proposed a 2% rise then the judge might well consider that the more reasonable option.

Secondly, London Underground workers would have an incentive to choose to belong to a reasonable union. Currently it often seems to make sense for workers to join an extremist union that pushes for the greatest possible wage increase, the most favourable conditions and the highest number of jobs - regardless of the state of the public finances, the effect this will have on fares or the long-term impact on the service. By removing the ability of unions to exploit their monopoly via strike action, BPA changes the equation and would make it more rational to join a union that picked its battles and was able to persuasively make its case.

Binding Pendulum Arbitration would protect trade unions' ability to seek redress when they consider the status quo to be unfair, but it would stop them inflicting misery on millions of Londoners when they do so.

Complete Ban

16% of Londoners favoured a complete ban on strike action on the London Underground.

Striking would be made illegal and those who chose to strike would be sacked for breaching their contract. It is worth noting that the so-called right to strike is not absolute. Neither the UK's police services nor the Armed Forces are allowed to strike, because the nature of their jobs is such that undertaking strike action would undermine public safety.

When employment laws were non-existent and over-mighty employers held an all-powerful position over their employees, there was a strong case for legal protection for workers who wished to join trade unions and withdraw their labour if negotiations failed to settle an industrial dispute. Today's world is a very different one. The vast increase in legal protection afforded to employees via employment law and the significant increase in labour mobility may both help to explain why trade union membership has been steadily dropping.⁶

It is noteworthy that almost one in six Londoners would like to see strike action made illegal and would not wish to see it replaced with an alternative way of seeking redress. Whilst the GLA Conservatives would like to see an alternative to strike action rather than banning it completely, in seeking a change to the status quo we should consider that a significant number of Londoners would

6. Page 9, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/16381/12-p77-trade-union-membership-2011.pdf

go further than our proposal.

ALTERNATIVES

All of the approaches examined above would require Parliament to pass legislation. Given the current unwillingness of the other parties to make such changes, it seems likely that the earliest that the law could be tightened would be after the next General Election. Even then it would be very unlikely to happen unless a Conservative Government had a parliamentary majority.

The Mayor of London and Transport for London cannot unilaterally alter the laws on strike action, but given this is already a significant problem for millions of Londoners, the Mayor should seek to implement those measures which are within his control. Two of those measures have been the subjects of previous reports by the GLA Conservatives: bringing in driverless trains on the London Underground⁷; and reforming TfL's ticketing policy to encourage more people to work from home.⁸

Driverless Trains

The [benefits of driverless trains](#) are legion. The evidence from around the world is that driverless trains are safer, faster and more efficient than trains with a driver on board. Furthermore, given that the highest paid Tube driver was paid £61,218 even before "Tube union bosses forced through a four-year inflation-busting deal, leading to train drivers increasing their basic pay to £52,000 by 2015"⁹, switching to a driverless system would have the potential to deliver considerable savings of taxpayers' and farepayers' money. A driverless system would not be at the mercy of strike action in the way the London Underground is now.

Working from home

Increasing the number of Londoners who are able to work from home has many benefits but, in terms of this report, the key advantage would be in reducing the effectiveness of strike action. As we have seen, strike action works by effectively blackmailing London. The cost to London's economy of a day of strike action on the Tube is at least £48 million. In recent years TfL has made huge efforts to help Londoners to get to work via other transport modes during Tube strikes, but there would be an even greater advantage to Londoners if more workers had the flexibility to work from home during strike action. Our report '[Home Works](#)' made the case for a more flexible ticketing system, including a 3-day per week Travelcard and an annual rebate for season ticket holders who worked from home. These initiatives would not eradicate the inconvenience of strike action but they would cut the resulting cost to London.

7. <http://glaconservatives.co.uk/wp-content/uploads/2012/02/Driverless-Trains.pdf>

8. <http://glaconservatives.co.uk/wp-content/uploads/2013/02/Home-Works.pdf>

9. <http://www.telegraph.co.uk/news/uknews/road-and-rail-transport/9036767/Best-paid-Tube-driver-is-on-61218-a-year.html>

RECOMMENDATIONS

We recommend the Government legislates at the earliest possible opportunity to:

1. Ban strike action on the London Underground.

2. Replace the right to strike with a right to binding pendulum arbitration.

(Using an independent judge or panel to choose between the competing positions of the relevant trade union and Transport for London with no compromise.)

3. Require a minimum of 50%+1 of all eligible trade union members to vote in favour of 'binding pendulum arbitration' for it to happen.

We believe that this would bring together the best of the various options in order to remove the threat of strike action, stop the practice of a small minority dictating a confrontational approach to negotiation and preserve the right of trade unions to seek redress if they believe that the London Underground is behaving unreasonably.

NOTES

- Although this report focuses on strike action on the London Underground, the concepts and recommendations within it might well apply to strikes on other forms of transport both within London and across the UK.
- This report will be sent to the Mayor of London, Boris Johnson. It will also be sent to Patrick McLoughlin, Iain Duncan Smith and Vincent Cable, the Secretaries of State for the Department for Transport, the Department for Work and Pensions and the Department for Business, Innovation and Skills respectively.

*A poll of 285 Londoners was conducted by Bryter Research on behalf of the GLA Conservatives between 23rd-25th March 2013.



FEEDBACK

Connect with us online and tell us what you thought about this paper.

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