

Secretary of State for the Department for Environment, Food and Rural Affairs (Respondent) v Public and Commercial Services Union (Appellant)

Case ID: UKSC 2023/0075

Case summary

Issues

Can the Public and Commercial Services Union ("PCS") enforce a contractual term offering the facility for "check-off arrangements", whereby employees' trade union subscriptions are deducted directly from their salaries through the payroll system and then paid to PCS, pursuant to section 1 of the Contracts (Rights of Third Parties) Act 1999?

Facts

These are three appeals involving persons employed by the Home Office, the Department for Environment, Food and Rural Affairs ("DEFRA") or the Commissioners for HM Revenue and Customs ("HMRC"). The employees are members of the appellant trade union, PCS. They paid their trade union subscriptions by means of "check-off arrangements" whereby the subscriptions were deducted directly from their salaries through the payroll system and then paid to PCS. The Home Office, DEFRA and HMRC withdrew these check-off arrangements at various dates in 2014 and 2015.

The employees brought claims against their employers. PCS was also a claimant. In each of the three cases, the High Court held that:

- i. the check-off arrangements were a term of the employees' contracts of employment;
- ii. the employees had not accepted any variation of their contracts by continuing to work after the check-off arrangements were withdrawn and had not waived any prior breaches of their contractual rights; and
- iii. PCS was entitled to enforce the term by reason of section 1 of the Contracts (Rights of Third Parties) Act 1999.

The Home Office, DEFRA and HMRC appealed to the Court of Appeal on issues (ii) and (iii), where all three cases were considered together. The Court of Appeal agreed with the High Court that the employees had not accepted the variation of their contracts by continuing to work. However, by a majority, it held that section 1 of the 1999 Act did not give PCS the right to enforce the term offering the facility for the check-off arrangements. PCS now appeals to the Supreme Court.

Judgment appealed

[\[2023\] EWCA Civ 551](#)

Parties

Appellant(s)

Public and Commercial Services Union

Respondent(s)

Secretary of State for the Department for Environment, Food and Rural Affairs

Appeal

Justices

Lord Reed, Lord Sales, Lord Burrows, Lady Rose, Lady Simler

Hearing start date

1 July 2024

Hearing finish date

2 July 2024

Watch hearing

1 July 2024 [Morning session](#) [Afternoon session](#)

2 July 2024 [Morning session](#)