

Title: Certification Officer Levy IA No: N/A RPC Reference No: N/A Lead departments: Department for Business, Energy and Industrial Strategy.	Impact Assessment (IA)	
	Date: September 2017	
	Stage: Consultation	
	Source of intervention: Domestic	
	Type of measure: Secondary legislation	
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Summary: Intervention and Options	RPC Opinion: Not Applicable	

Cost of preferred option (impacts enabled by primary and secondary legislation only)				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2016 prices)	One-In, Three-Out	Business Impact Target Status
-£m	N/A	N/A	Not in scope	N/A

What is the problem under consideration? Why is Government intervention necessary?

The Certification Officer is funded by Government and is responsible for ensuring that trade unions and employers' associations abide by statutory requirements, primarily in relation to governance, under the UK's trade union law. Running the office of the Certification Officer, required to ensure that trade unions and employers' associations comply with relevant regulation, currently falls to the Exchequer. The Government believes that the taxpayer should not be required to meet the costs of regulating trade unions and employers' associations and that these organisations should make a contribution towards the cost of the Certification Officer.

What are the policy objectives and the intended effects?

The objective of the policy is that the costs incurred by the Certification Officer in regulating trade unions and employers associations will be recovered (where eligible) from the organisations being regulated. The intention is that the total amount of cost to be recovered via levies (after any non-eligible costs have been removed) will be divided up in a way that is fair across the organisations eligible to make payment. This is in line with the operation of other levy schemes for other regulators. The framework for the levy scheme should accord, to the extent possible, with four key objectives; that the levy is:

- Equitable: user pays for functions consumed based on cost recovery (in accordance with statute);
- Simple: and easily understood by organisations;
- Predictable: so organisations can plan ahead; and
- Affordable: so that organisations can still invest in services for their members.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

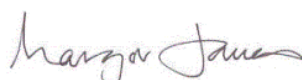
The Government has considered several options:

- A levy contribution that is equal (flat-rate) across all organisations irrespective of type of organisation, functions used, membership size, income or costs incurred;
- A levy contribution based on the size of the organisation;
- A levy contribution based on the principle that costs should be paid by the type of organisation such costs are referable to (adjusted rate); and
- A levy based on a percentage of declared income of an organisation;
- A combined model, where a levy contribution is based on the functions that organisations use and on an affordability cap. This is the Government's preferred approach.

Will the policy be reviewed? Not applicable If applicable, set review date:				
Does implementation go beyond minimum EU requirements?			No	
Are any of these organisations in scope?		Micro Yes	Small Yes	Medium Yes Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Ministers:



Date: 26/09/17

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Summary: Analysis & Evidence

Option (v)

Description: The levy contribution is based on the functions that organisations use and on an affordability cap.

FULL ECONOMIC ASSESSMENT (of primary legislation and subsequent secondary legislation)

Price Base Year 2016	PV Base Year 2018	Time Period Years 10	Net Benefit (Present Value (PV), legislative impacts only) (£m)		
			Low: N/A	High: N/A	Best Estimate: -£0.07

COSTS (£m) Legislative impacts only	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low				
High				
Best Estimate		£0.1m	£1.6m	£14.2m

Description and scale of key monetised costs by 'main affected groups'

We have monetised the one-off familiarisation cost of £65,941 to the trade unions and to the employers' associations to understand the functioning of the new levy framework. The Certification Officer Levy of £1,638,000 is a transfer of funds and has been classed as a form of taxation (as it is compulsory, unrequited and redistributed), under HM Treasury classification.

Other key non-monetised costs by 'main affected groups'

The eligible cost of the Certification Officer will be covered through a levy of trade unions and employers' associations. However, this is a transfer of funds from the organisations that will pay the levy, with an equal and offsetting benefit to taxpayers.

BENEFITS (£m) Legislative impacts only	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate		N/A	£1.6m	£14.1m

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

There will be a benefit to the taxpayer as the Certification Officer will be largely paid for by a levy of the organisations it regulates, namely trade unions and employers' associations. This is a transfer of funds, as above.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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BUSINESS ASSESSMENT (of reform following option (v), legislative impacts only)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A	Benefits: N/A	Net: N/A	N/A

Evidence Base (for summary sheets)

A. Problem under consideration

1. The position of the Certification Officer was established in 1975 but has existed in one form or another since the 1871 Trade Union Act. The Certification Officer is funded by Government and is responsible for ensuring that trade unions and employers' associations abide by statutory requirements, primarily in relation to governance, under the UK's trade union law. Some of the regulatory functions include:
 - Maintaining a list of trade unions and employers' associations;
 - Ensuring compliance with statutory requirements for annual returns from trade unions and employers' associations, keeping them available for public inspection;
 - Determining complaints concerning trade union elections, certain other ballots and certain breaches of trade union rules.
2. The role of the Certification Officer makes a contribution to the Government's priority of enhancing rights and protections in the workplace and is essential in ensuring there can be confidence in how trade unions and employers' associations operate in a workplace environment.
3. Running the office of the Certification Officer, required to ensure that trade unions and employers' associations comply with relevant regulation, currently falls to the Exchequer. The Government believes that taxpayers should not be required to meet the costs of regulating trade unions and employers' associations and that these organisations should make a contribution towards the cost of the Certification Officer. This is particularly relevant in light of the ongoing fiscal constraint¹.

B. Rationale for intervention

4. The Government introduced reforms to the Certification Officer's role in the Trade Union Act 2016 ("the 2016 Act"). The 2016 Act received Royal Assent on 4th May 2016 and amends the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act") – detail in Annex C. The 2016 Act provides for partial recovery of the costs incurred in the delivery of the Certification Officer's regulatory function.
5. There are other examples of where regulators use a levy to recover their costs. The Pensions Regulator operates a general levy which is based on the total number of members in the scheme at the end of the scheme year before last. The levy is in place to cover the cost of running the Pensions Regulator, the Pensions Ombudsman and the Pensions Advisory Service². Another example is the levy that is imposed on supermarkets by the Grocery Code Adjudicator, which is the new independent adjudicator that oversees the relationship between supermarkets and their suppliers.

¹ Public sector net borrowing (excluding public sector banks) was £45.1 billion in the fiscal year ending March 2017 (April 2016 to March 2017) according to ONS, Public Sector Finances: July 2017, available at: <https://www.ons.gov.uk/economy/governmentpublicsectorandtaxes/publicsectorfinance/bulletins/publicsectorfinances/july2017> [Last Accessed: 5th September 2017].

² The Pensions Regulator, Levy, available at: <http://www.thepensionsregulator.gov.uk/trustees/levy.aspx> [Last Accessed: 5th July 2017].

C. Policy objective

6. The objective of the policy is that the costs incurred by the Certification Officer in regulating trade unions and employers' associations will be recovered (where eligible) from the trade unions and employers associations being regulated
7. The intention is that the total amount of cost to be recovered via levies (after any non-eligible costs have been removed) will be divided up in a way that is fair across the organisations eligible to make payment. This is in line with the operation of other levy schemes for other regulators. The framework for the levy scheme should accord, to the extent possible, with four key objectives; that the levy is:
 - **Equitable:** user pays for functions consumed based on cost recovery (in accordance with statute);
 - **Simple:** and easily understood by organisations;
 - **Predictable:** so organisations can plan ahead; and
 - **Affordable:** so that organisations can still invest in services for their members.
8. It should be noted that whilst the Government aims to implement a levy scheme in accord with the above objectives, there will be a degree of trade-off between the principles as all four cannot be maximised. To ensure no organisation is significantly worst off after the implementation of the levy, we have decided that our preferred option should maximise the affordability principle, whilst also ensuring the 3 other objectives are achieved.
9. The principles of managing public money provide that only regular and relatively stable expenditure can be levy-funded. It is important that the Certification Officer's levy regime aligns with these principles. Some of the costs incurred by the Certification Officer in delivering the Office's functions are more variable than others. To manage the impact of this, during the parliamentary passage of the 2016 Act, the Government made a commitment that the levy will recover regular and relatively stable costs in accordance with HM Treasury guidance.
10. Costs which are for occasional services (and therefore less predictable) will continue to be funded by the Government. This ensures that the levy will operate fairly. Ministers specifically committed to consult on excluding the costs of external inspectors for investigations, as these form the most variable costs (estimated in the 2016 Act Impact Assessment at £275k p.a.)³. This would bring the estimated total of the costs to be recovered through the levy down to £1.638 million. The 2016 Act includes a requirement for the Secretary of State to consult trade unions, employers' associations, and Acas before making regulations on the levy.

D. Background

11. The 2016 Act provides for the Secretary of State of the Department for Business, Energy and Industrial Strategy to be given a power to make affirmative regulations to provide for trade unions and employers' associations to pay for the partial recovery of the costs of running the Certification Office. The 2016 Act also limits the fees to partial cost recovery,

³ In the House of Lords on 19th of April 2016 (Report Stage, 2nd day), Baroness Neville-Rolfe for the Government made a commitment that the Government would propose at consultation stage that the levy would not include the costs of external inspectors.

and provide that the following may be taken into account when the levy contribution fees are calculated – see section (4)(c) in Annex C for more details:

- Membership size of trade unions and employers' associations;
- Income of trade unions and employers' associations;
- Whether the organisations are federated or not; and
- The different proportion of the Certification Officer's expenses that are referable to the different types of organisations.

12. The 2016 Act provides for regulations to set out the framework for the levy scheme. The specific amounts of the levy and the organisations' contribution rates will be determined by the Certification Officer, in accordance with the framework designed through secondary legislation.
13. The 2016 Act states that failure to pay the levy would be recovered as a debt, with additional surcharges for late payment. The Certification Officer will be required to report annually to Parliament on income received from the levy and on his expenditure.
14. The underlying principle of a cost-recovery levy is that the contributions for one year will be based on the actual amounts of cost incurred in the previous year alongside forecast costs for the year in question (such as staff salaries, accommodation, overheads, legal spend etc.). In practice, the Certification Officer will use the total levy received from organisations, which are included in his annual report, to make those calculations in accordance with the framework set in regulations. The Officer's aim is to ensure that the total amount of funding recovered from organisations does not exceed total costs over any three-year period.
15. The Impact Assessment for the 2016 Act estimates that running costs of the Certification Officer's office are likely to increase from £850,000 to approximately £1.9 million per annum (if all costs are included) once the 2016 Act is implemented. This accounts for additional staff, office expansion, and new systems required as a result of the wider reforms in the 2016 Act to the Certification Officer's investigatory and enforcement powers. As Ministers are consulting on excluding the costs of external inspectors for investigations (estimated in the 2016 Act Impact Assessment at £275,000 per annum), the total cost to be recovered through the Certification Officer Levy comes down to £1.638 million.

E. Description of options considered

16. The Government is conducting a consultation on the Certification Officer Levy between 31st August and 26th October. We are seeking stakeholders' views on how we should design the frameworks to meet our objectives. In particular we are seeking views on:
 - What cost components the Certification Officer should use to calculate the contributions that trade unions and employers' associations should make; and
 - How much these organisations should pay towards the levy.

Option 0 – Do nothing

17. Option 0 is the no change option, whereby no levy is applied to trade unions and employers' associations and the public purse continue to fully fund the regulation of these organisations.

18. As no organisations will contribute towards the costs of running the Certification Officer's regulatory function, the Exchequer will have to fund the estimated £1.638 million cost that should have been recovered through the levy scheme.
19. This option does not meet the Government's objective that taxpayers should not continue to fully fund the entire running costs of the Certification Officer's regulatory function and is therefore not considered as viable.

Discarded Options

20. The Government has considered a number of mechanisms for calculating the levy contribution which will fall to the organisations:
- Option (i) – A levy contribution that is equal (flat-rate) across all organisations irrespective of the type of organisation, functions used, membership size, income or costs incurred;
 - Option (ii) – A levy contribution based on the size of the organisation;
 - Option (iii) – A levy contribution based on the principle that costs should be paid by the type of organisation such costs are referable to (adjusted rate); and
 - Option (iv) – A levy based on a percentage of declared income of an organisation.
21. None of these options however fully meet the objectives the Government has set, namely that the Certification Officer Levy should be equitable, simple, predictable and affordable. As a result, these options have been discarded (further detail on the reasons for this are included in the following section).

F. Preferred option

Option (v) – A combined model, where a levy contribution is based on the functions that organisations use and on an affordability cap

22. None of the aforementioned options, by themselves, fully meets the set objectives but using a combination of them would allow us to create a balanced model. Our proposal is that the framework will be a combined version and will comprise two working concepts that the levy contributions will be:
- Based on the functions that organisations use and the resource that the Certification Officer spends on them – we do this by apportioning costs, making a different charging structure between non-federated trade unions, federated trade unions, and employers' associations (both non-federated and federated);
 - Ensuring that the levy each organisation pays more accurately reflects their ability to pay by applying an affordability cap which is based on a percentage of an organisation's declared annual income – we propose setting this at 2.5%.
23. We will use the Certification Officer's time recording system to estimate how much of his time is spent on which functions and therefore attributable to which type of organisations. This is in line with the criteria specified in the 2016 Act – see paragraph 11 and section (4)(c) in Annex C – and remains the most logical basis on which to develop the levy framework.
24. We currently estimate that 51% of the Certification Officer's time is spent on functions where the distribution of the levy will apply to all organisations and on general

administration outside the regulatory activity of the Certification Officer. Around 49% of the Certification Officer's time is taken up by functions that only regulate non-federated trade unions, or only apply to them. Splitting the cost of running the Certification Officer accordingly will result in two different charging structures:

- A **basic contribution**, to be levied amongst all organisations; and
- An **adjusted contribution**, to be levied amongst non-federated trade unions only and representing the costs of functions which regulate or apply to non-federated trade unions only.

25. We propose to achieve the second principle by applying a progressive 'income criteria' and by setting charges according to three bands based on income levels. These income bands will be based upon an organisation's declared annual income by reference to the value of the levy, which will vary from year to year depending on the operating costs of the Certification Officer. This number of bands helps make reasonable adjustments for income level and ensures no organisation pays more than 2.5% of declared annual income. As part of this approach:

- An organisation with a low income will be exempted and pay nothing – classified as such if the basic levy rate (for a federated trade union, non-federated employers' association, or federated employers' association) or the adjusted levy rate (for a non-federated trade union) exceeds 2.5% of its annual income;
- Middle income organisations will pay the basic levy or adjusted levy contribution rate; and
- Large income organisations will subsidise the exempted organisations, by paying a higher fixed amount, but their levy payments will not exceed 2.5% of their annual income.

Monetised and non-monetised costs and benefits

26. The main source of data used to model the impact of different levy contribution rates on trade unions and employers' association are the declared returns to the Certification Officer, submitted by trade unions and employers' associations on an annual basis⁴. The annual returns set out, amongst others, the organisations income (including subscriptions, investment returns etc.) and membership size for the previous financial years. These annual returns are published by the Certification Officer on his website and summarised in the Certification Officer's Annual Report meaning that the criteria used in the different options are transparent and publicly available.
27. This impact assessment separates trade unions and employers' associations into two categories: non-federated and federated. Federated trade unions or employers' associations consist wholly or mainly of constituent, affiliated organisations, or representatives of such organisations and are described fully within sections 118 and 135 of the 1992 Act⁵. Those federated bodies which are composed of representatives of trade unions or employers' associations are exempt from certain provisions of the 1992 Act, including the duty to supply a copy of their rules, to keep accounting records and to submit annual returns.
28. The estimated total cost of £1.638 million to be recovered through the Certification Officer Levy originates from the Trade Union Act 2016 Impact Assessment. To date, the costs quoted in the 2016 Act Impact Assessment remain the best estimate for the cost of running the Certification Officer and to be recovered by the levy. This is because the different provisions included in the 2016 Act have yet to be implemented, which means no new data has been produced to assess the running costs of the Certification Officer going forward. The Certification Officer will be asked to re-evaluate its future costs for when the levy framework is finalised and we expect to reconsider the total cost to be recovered through the levy when the final impact assessment is produced.
29. At the time of writing the consultation document and accompanying impact assessment, there were a total of 239 organisations: 142 non-federated trade unions, 7 federated trade unions, 87 non-federated employers' associations, and 3 federated employers' associations. The data on organisations' income and membership size was extracted from the organisations' annual returns, published on the Certification Officer's website. The dataset was created with all information publically available up to January 2017. The dataset will be updated with the latest published information following on from the Certification Officer Levy consultation. The numbers cited in this impact assessment are subject to change as the organisations merge or stop being in business and as their income and membership size fluctuates yearly.
30. To help develop the levy framework option, we have used the detailed time recording that the Certification Officer has been undertaking since December 2016. At the time of writing, time-keeping data was available from December 2016 to April 2017. The consultation period is an opportunity to collect further data on the workings of the

⁴ Certification Officer Official list and schedule of trade unions and their annual returns, available at: <https://www.gov.uk/government/publications/public-list-of-active-trade-unions-official-list-and-schedule> [Last Accessed: 1st September 2017].

⁵ Annual Report of the Certification Officer 2015-2016, pp. 18-19, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/629399/Cert_Off_Ann_Rep_2016-2017.pdf [Last Accessed: 1st September 2017].

Certification Officer and therefore to refine our estimates of the use of resources on each functions and organisations.

31. As the number of organisations will have changed when the final Certification Officer Levy framework is implemented and as more time-recording data will have been collected, the final contribution rates for the levy are likely to differ from the ones suggested below. The numbers quoted are however our best estimates with available data. The consultation period is an opportunity for organisations and relevant stakeholders to provide feedback on the levy *framework* and *mechanism* suggested.

Familiarisation Cost

32. We estimate that all organisations will have to spend time familiarising themselves with the Certification Officer Levy and its framework. The Trade Union Act 2016 Impact Assessment already takes into account the costs for trade unions and employers' associations of familiarising themselves with the provisions relating to the levy in the 2016 Act. Both types of organisations will however need to familiarise themselves with the particular framework of the levy that will be set out in secondary legislation. We estimate that this **familiarisation will take 2 hours**, given that the exact contribution rates will be determined by the Certification Officer and that the only administrative burden being placed on the organisations is the arrangement of payment.
33. Based on the evidence obtained during the consultation for the 2016 Act, we assume that the employers' associations' director or the trade unions' general secretary will meet with the finance director to familiarise themselves with the levy. We also assume that a contracted accountant will participate in that meeting.
34. To estimate the labour costs we use median gross hourly wages data from the 2016 Annual Survey of Hours and Earnings (ASHE). We do not anticipate that any organisation will need external legal advice on the implementation of the Certification Officer Levy. To calculate total labour costs, we use the estimate for non-wage labour costs as 19.76% of wage costs, based on Eurostat data⁶. These figures are set out in table 1 below.

Table 1: Estimated median hourly wage costs and labour costs, 2016.

Staff	Median hourly wages excluding overtime	Hourly labour costs
Chief executives and senior officials (representing general secretaries and directors)	£43.82	£52.48
Financial managers and directors (representing finance directors)	£29.62	£35.47
Total cost	£73.44	£87.95

35. We have gone with the prudent approach of estimating the cost of external accountancy service based the median contractor rate for an accountant in advertised job vacancies

⁶ Eurostat, Labour costs per hour in euro, whole economy (excluding agriculture and public administration), available at: [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Labour_costs_per_hour_in_euro,_whole_economy_\(excluding_agriculture_and_public_administration\)_T1.png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Labour_costs_per_hour_in_euro,_whole_economy_(excluding_agriculture_and_public_administration)_T1.png) [Last Accessed: 1st September 2017]. Iterations $(16.5/(100-16.5))$ were made to calculate the non-wage labour cost as a percentage of wages, rather than as a percentage of total cost (as given in Eurostat data).

during the 6 months to 5th September 2017. The median contractor rate was £350 per day, or £50 an hour based on a 7 hour day⁷.

36. The cost per trade union (federated and non-federated) of time spent on familiarisation of the Certification Officer Levy is the labour costs for the general secretary and finance director (i.e. £87.95) multiplied by the hours spent on familiarisation (i.e. 2 hours) plus the hourly rate of a contracted accountant (i.e. £50.00) multiplied by the hours spent on familiarisation (i.e. 2 hours). The estimated cost of time spent on familiarisation per trade union (federated and non-federated) is therefore £275.90⁸. All 149 trade unions will need to familiarise themselves with the levy, which results in a total familiarisation cost for trade unions (federated and non-federated) of £41,110.
37. The cost per employers' association (federated and non-federated) of time spent on familiarisation of the Certification Officer Levy is the labour costs for the director and finance director (i.e. £87.95) multiplied by the hours spent on familiarisation (i.e. 2 hours) plus the hourly rate of a contracted accountant (i.e. £50.00) multiplied by the hours spent on familiarisation (i.e. 2 hours). The estimated cost of time spent on familiarisation per employers' association (federated and non-federated) is therefore £275.90⁹. All 90 employers' associations will need to familiarise themselves with the levy, which results in a total familiarisation cost for employers' associations (federated and non-federated) of £24,831.
38. As a result, **the total cost of organisations familiarising themselves with the Certification Officer Levy is £65,941**. A summary of familiarisation costs for all organisations is set out in table 2 below.

Table 2: Estimated cost of time spent on familiarisation with the Certification Officer Levy.

	Trade Unions	Employers' Associations
Cost per organisation	£275.90	£275.90
Number of organisations	149	90
Total cost of familiarisation	£41,110	£24,831

Option 0 – Do not introduce the Certification Officer Levy

39. Option 0 is the no change option, whereby the Government does not introduce the Certification Officer Levy. This option would not incur any costs to the trade unions or to the employers' associations.

Discarded Options

Option (i) – Levy contribution based on an equal contribution ('flat-rate')

40. The first option considered was to require all organisations to pay an equal contribution, also known as a 'flat-rate', thereby ensuring that every organisation that might use the functions of the Certification Officer contributes equally to the running costs. This option

⁷ IT Job Watch, available at: <https://www.itjobswatch.co.uk/contracts/uk/accountant.do> [Last Accessed: 5th September 2017].

⁸ £275.90=(£87.95*2)+(£50.00*2)

⁹ Ibid.

would not differentiate between any type of organisations, regardless of their use of functions, their membership size or their income.

41. A flat-rate levy contribution would have been fair (since all organisations pay), simple, and predictable – thereby meeting some of the policy objectives outlined above. The Certification Officer's running costs would have simply been divided across the total number of organisations and, as this information will be published in the Certification Officer's annual return, all organisations could have easily predicted their contribution rate in advance. Based on our dataset, dividing the estimated levy of approximately £1.638 million across the total number of trade unions and employers' associations (239 in the dataset used) would create a flat-rate levy contribution of £6,854 per organisation.
42. However, organisations have very different levels of income and not all would have sufficient income to pay the levy contribution. Based on the declared annual income in the dataset, a flat-rate levy would completely exceed the income of 34 (14%) organisations. The amount of levy contribution would also substantially impact the ability of other unions with low declared annual incomes to continue to deliver all of their current functions to their members. **A flat-rate contribution would not meet the Government's objective that the levy should be affordable.**
43. In addition, a flat-rate would not distinguish between the amount and type of functions used by the different organisations. In practice, **some of the functions are only used by non-federated trade unions** and many are time variable with the same function taking a longer or shorter time according to the requirement. We consider that it would be fairer that, where the exercise of a function is predominantly exercised in respect of a particular type of organisation, this type of organisation should bear the proportionate cost incurred by the Certification Officer for that function.
44. Our view is that it would not be equitable to calculate an amount payable based on an assumption that all organisations use all functions at the same rate and that all organisations have sufficient income to cover this – **we have therefore decided to discard option (i).**

Option (ii) – Levy contribution based on size of organisation membership

45. We also considered an alternative option where the levy contribution rate could be adjusted by the membership size of each organisation. The Pensions Regulator has this as a key criterion and a levy regime based on membership size would likely be broadly predictable. There are however some differences between membership numbers and relative wealth of an organisation, as trade unions and employers' associations respectively represent workers and employers with different earnings potentials.
46. There is a high correlation between trade union membership and income but this is not the case for employers' associations. This is because non-federated trade unions are based on the membership of individual workers and predominantly get their income from membership subscriptions (which will be based on a proportion of the individuals' wages). There is more scope for variation in earnings among employers, which represent the membership of employers' associations. This means that **there are some organisations (especially employers' associations) with very few members that have a relatively large declared annual income, while others have more members but relatively low income.** For example, the London Councils have only 35 members but have a declared annual income of £72,740,739 (according to their annual returns for the year ended on 31st of March 2015) whilst the National Federation of Retail Newsagents have 15,042 members but have a declared annual income of £4,606,377 (according to their annual returns for year ended on 31st of December 2015).

47. As a membership based approach would be especially inappropriate for employers' associations, **we would have to devise separate mechanisms to calculate the levy for trade unions and employers' associations**, due to the different relationship between membership and income of each type of organisations. This would mean that using membership size as the basis for adjusting the levy scheme would not be consistent and would not be simple. In addition, **membership size as a levy framework would not take into consideration the affordability of the levy contribution rate or the amount of functions used by the different types organisations** (as discussed in paragraph 43).
48. Since a levy scheme adjusted by membership size would not be consistent, simple, equitable, or affordable it does not meet all of the Government's objectives – **we have therefore decided to discard option (ii).**

Option (iii) – Levy contribution based on the principle that costs should be paid by the type of organisation such costs are referable to (i.e. adjusted rate contribution)

49. We have set out why we believe that a flat-rate regime, i.e. option (i), would not provide a balanced method for calculating levy contribution costs because some of the functions are only used by trade unions. Table 3 below sets out the functions and which organisations use them.

Table 3: Breakdown of functions performed by the Certification Officer and the organisations they are applicable to.

Function	Applicability	Distribution
a. Determining applications to be listed, and maintaining lists and schedules	Function is applicable to all	Divide equally between all organisations
b. Ensuring annual returns and accounts are made	Function is applicable to all	Divide equally between all organisations
c. Supervising mergers	Function is applicable to all	Divide equally between all organisations
d. Investigating alleged breaches of financial irregularities	Function is applicable to all	Divide equally between all organisations
e. Determining member complaints in respect of breach of statute	In practice complaints are only raised in respect of trade unions	Divide equally between all trade unions
f. Determining applications for certificates of independence	Function only applies to trade unions	Divide equally between all trade unions
g. Investigating alleged breaches in relation to trade union membership records	Function only applies to trade unions	Divide equally between all trade unions
h. Complaints in respect of breaches of union rules	Function only applies to trade unions	Divide equally between all trade unions
i. Supervising political fund ballots, and approving rule books	Function only applies to trade unions	Divide equally between all trade unions
j. Supervising funds set up for members' superannuation schemes	Function only applies to trade unions	Divide equally between all trade unions
k. Investigating alleged breaches of statutory rules (new powers under TU Act)	Function only applies to trade unions	Divide equally between all trade unions

50. Functions (a) to (d) are used by all organisations and therefore all should contribute to the cost. The remainder are **only used, or only used in practice, by non-federated trade unions so the cost of these functions should fall only to them**. To apportion the cost appropriately we need to understand how much resource the Certification Officer spends in delivering each set of functions.
51. The Certification Officer introduced a detailed time-recording system in December 2016. Using this data, we estimate that 51% of the Certification Officer's time is spent on functions where the distribution of the levy will apply to all organisations and on general administration outside the regulatory activity of the Certification Officer. The remaining Certification Officer's time, around 49%, is taken up by functions that only regulate non-federated trade unions, or only apply to them.
52. **The consequence of this principle will result in separate costs referable to each type of organisation** (i.e. non-federated trade unions, federated trade unions, non-federated employers' associations, federated employers' associations).
53. Sharing the levy in this manner moves us closer to an equitable division amongst the different type of organisations but does not account for the fact that organisations vary in their ability to pay. As for option (i) and (ii), there needs to be a consideration of affordability in the way the levy contribution is set. As mentioned in paragraph 8, we believe that the objective of affordability should be maximised, to ensure no organisation is significantly worst off after the implementation of the levy. As a standalone, **this option does not meet all of the Government's objectives and we have therefore decided to discard it**.

Option (iv) – Levy contribution based on a percentage of the declared income of an organisation

54. We also considered the option of adjusting the contribution rate to the levy scheme based on the organisations' declared annual income, as published by the Certification Officer and summarised in his Annual Report. This option implies that organisations with a smaller level of income contribute a smaller share to the levy than organisations with a large income.
55. This would ensure that the viability of the levy on smaller and newer organisations is examined, as organisations would not be made to pay a levy contribution that is considered as unaffordable. A levy regime built around recovering a percentage of declared income would be predictable and simple (i.e. such that unions with a low income pay a lower or no levy compared to larger unions).
56. As a standalone criterion, this however would not reflect how organisations use functions so would not fully meet our objective of equity. It would mean that the largest trade unions would pay a substantial proportion of the levy, while potentially utilising a similar amount of the Certification Officer's time as other, much smaller, trade unions which would pay a small proportion of the levy. For example, Unison: The Public Service Union and the Transport Salaried Staffs Association (TSSA) are both very active unions but have very different incomes – TSSA's declared annual income was £6,047,245 (for the year 2014) whilst Unison's was £209,753,000 (for the year 2015). If the levy was recovered through a percentage of declared annual income, the two would have vastly different contribution rates, even though they use similar levels of the Certification Officer's resources.
57. This option places affordability at the centre of the levy framework, but does not reflect how organisations use functions and so would not fully meet our objective of fairness. As a standalone, **this option does not meet all of the Government's objectives and we have therefore decided to discard it**.

Proposed Model – Option (v):

58. None of the options previously illustrated fully meet the objectives we have set for the framework but using a combination of them – of options (iii) and (iv) – would allow us to create a balanced model. Our proposal is that the framework will comprise three working principles that levy contributions will be:

- Based on the functions that organisations use and the resource that the Certification Officer spends on them – we do this by apportioning costs, making a different charging structure between trade unions, federated trade unions, and employers' associations;
- Exempted or subsidised according to the declared annual income of an organisation; and
- Subject to an affordability cap based on a percentage of an organisation's declared annual income– we propose setting this at 2.5%.

59. We would achieve this by setting charges according to three bands based on income levels.

Setting the levy contributions

60. The Certification Officer's detailed time recording system was used to assess how the £1.638 million of eligible costs incurred by his office in the delivery of their functions should be distributed amongst the different types of organisations. This allows the levy to represent the functions that the different organisations use and therefore the share of Certification Officer resources that they utilise.

61. Splitting the cost of running the Certification Officer accordingly will result in two different charging structures:

- A **basic contribution**, to be levied amongst all organisations; and
- An **adjusted contribution**, to be levied amongst non-federated trade unions only and representing the costs of functions which regulate or apply to non-federated trade unions only.

Federated Trade Unions, Non-Federated Employers' Associations and Federated Employers' Associations

62. According to the Certification Officer, 51% of his time is spent on functions used by all four types of organisations and therefore attributable to all four of them. £834,813 – or 51% of the estimated levy of £1.638 million – can be distributed across the total number of trade unions and employers' associations (239 in the dataset used). Dividing £834,813 equally across all 239 organisations creates a **basic levy contribution for all organisations regulated by the Certification Officer of £3,493**.

63. As established in Table 3 above, federated trade unions and employers' associations (both federated and non-federated) only use functions (a) to (d) and their contributions should therefore only cover these costs. As a result, **federated trade unions and employers' associations (both federated and non-federated) will only contribute the basic contribution amount of £3,493 towards the levy**. The outstanding amount will be distributed amongst non-federated trade unions, which utilise a larger share of Certification Officer resources.

Non-Federated Trade Unions

64. According to latest available data, 49% of the Certification Officer's time is spent on functions (f) to (k) in Table 3 above, which only regulate non-federated trade unions. As a result, this cost should only be distributed to non-federated trade unions, as it would not be equitable if the other organisations (i.e. federated trade unions and employers' associations) had to contribute to the cost of regulatory functions that don't apply to them. £803,187 – or 49% of the estimated levy of £1.638 million – can be distributed across the total number of non-federated trade unions only (142 in the dataset used). Dividing £803,187 equally across 142 non-federated trade unions creates an **uplift contribution amount of £5,656, to account for the additional expenditure encountered by this type of organisation.**
65. The non-federated trade unions also use functions (a) to (d) in Table 3 above and would therefore have to pay the uplift contribution on top of the basic levy contribution rate (paragraph 62). The basic levy contribution and the uplift amount added together means that **non-federated trade unions will have an adjusted levy contribution rate of £9,149.**
66. The different rates attributable to each type of organisations are summarised below in table 4.

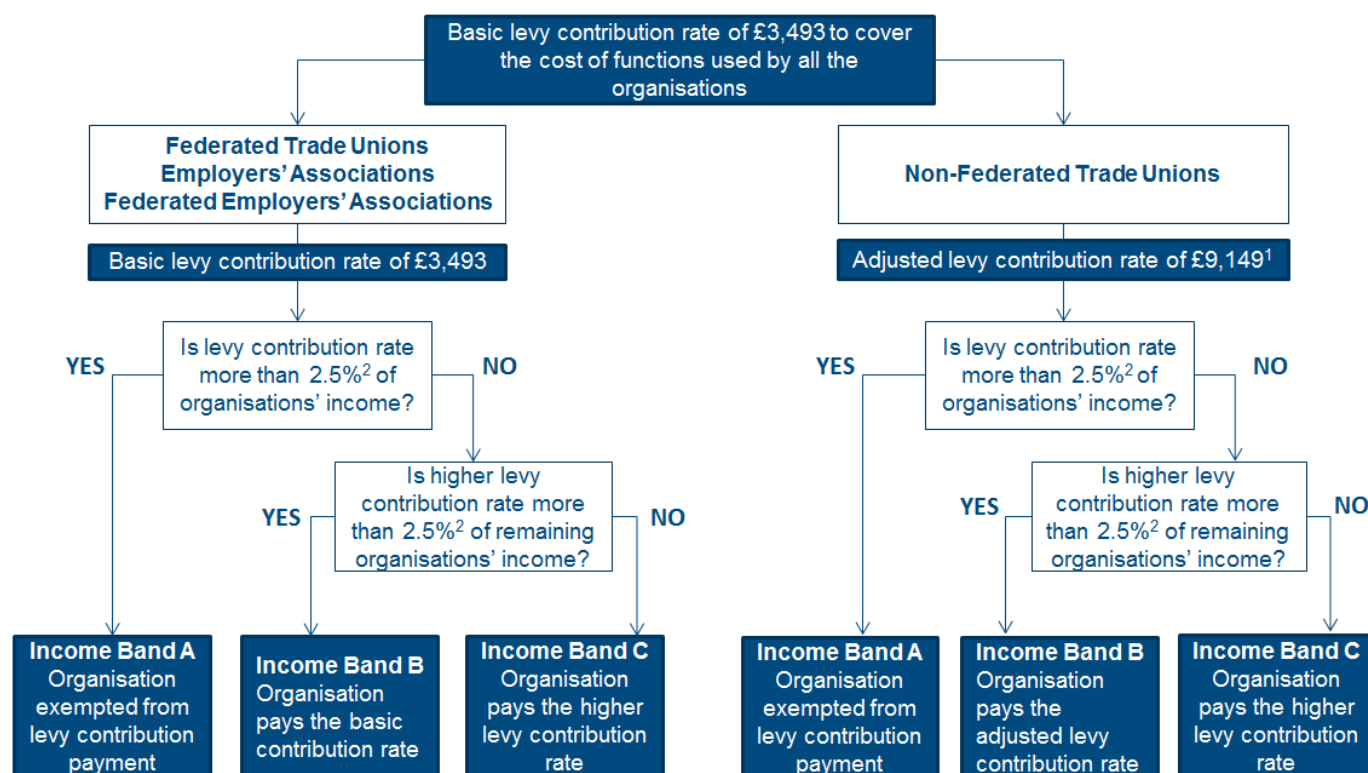
Table 4: Levy contributions under a basic and adjusted rate of contribution scenario

	Non-Federated Trade Unions	Federated Trade Unions	Non-Federated Employers' Associations	Federated Employers' Associations
Number of organisations	142	7	87	3
Levy contribution per organisation	£9,149	£3,493	£3,493	£3,493

Income Bands

67. The above framework is equitable as the organisations only contribute towards the costs of regulating the functions that they use in practice, in accordance with statute and as per established by the Certification Officer. It however needs to also consider the affordability of the levy contribution rate and the fact that organisations vary in their ability to pay. Building upon the above, our proposal therefore is that the framework for the levy will comprise:
- A basic rate to cover the functions of the Certification Officer that all organisations use;
 - An adjusted rate which covers the functions that only non-federated trade unions use;
 - An exemption mechanism for those organisations with a low declared annual income;
 - A limited subsidy regime to offset the exemption, and payable by organisations with a higher declared annual income;
 - An affordability cap for the exemptions and subsidy based on a percentage of declared annual income – we propose setting this at 2.5%.
68. The practical workings of our proposed levy framework are best illustrated in figure 1 below.

Figure 1: Flowchart representing the working of our proposed levy framework, under a 2.5% affordability cap.



¹ Adjusted levy contribution rate for non-federated trade unions of £9,149 = basic levy contribution rate of £3,493 + uplift levy contribution rate of £5,656 for those functions only used by non-federated trade unions and only payable by them.

² We have worked through three options for this: 10%, 5%, or 2.5% of an organisation's total income.

69. Using an income cap as an additional filter onto the basic levy and adjusted rate helps build a model that takes affordability into account. We therefore propose to set an affordability cap of 2.5% and to work with three bands of income levels. This number of income bands helps make reasonable adjustments for income level and avoids complexity.

70. We have chosen this level of affordability cap as it strikes a balance in disparities between the proportion of income paid as levy contribution by those organisations just above the threshold and by those just below it. It also limits the total amount of levy contributed by the wealthier organisations. We are consulting on the option of setting the affordability cap at 5% or 10% of an organisation's declared annual income – the levy framework mechanisms would remain the same but the levy contribution rates would differ, as shown in [Annex B](#).

71. There are two essential considerations for the framework principles we have set out:

- Although we are varying costs by type of organisation, some will pay for services they do not use or do not use regularly;
- An exemption mechanism means that higher income organisations, mainly but not only trade unions, will subsidise those on a lower income.

72. As the different types of organisations will have different levy contributions, the framework and calculation methodologies for each will be analysed separately.

Non-Federated Trade Unions

73. Non-federated trade unions are the largest type of organisation and together will need to contribute £1.299 million towards the overall cost recovery of approximately £1.638 million. Based on the declared annual incomes in our dataset, the non-federated trade

union adjusted levy contribution of £9,149 would completely exceed the income of 24 (17%) unions. We want to ensure that trade unions with a lower income are still able to deliver a range of functions for their members. To do this, we need to ensure that the levy contribution is manageable.

74. We propose to set an affordability cap of 2.5% of income on the levy contribution as a guide to affordability. Under this option, **the non-federated trade unions for which the adjusted levy contribution of £9,149 equates to more than 2.5% of their income will be exempted from any levy payment.** In other words, any non-federated trade union whose declared annual income is less than £370,000 (i.e. £9,149 divided by 2.5%, rounded up to the nearest ten thousand for clarity) will be exempt from any payment. According to latest available declared annual income, there are 76 non-federated trade unions in the dataset are exempted from any levy contribution under this framework.
75. The total non-federated trade union levy contribution of £1.299 million will be shared amongst the remaining 66 non-federated trade unions. One option is to divide this amount equally between the 66 unions. This would result in a levy contribution of £19,682 (i.e. £10,536 more than the adjusted levy) per organisation. However if we continue to apply our rule that a levy contribution should never be more than 2.5% of an organisation's income, the higher adjusted levy contribution will be unaffordable for 12 of the remaining non-federated trade unions. We therefore propose that these unions should pay the established adjusted levy of £9,149, making a contribution of just under £110,000 towards the levy.
76. Once again, the outstanding £1.189 million could be divided equally amongst the remaining 54 non-federated trade union, resulting in a levy contribution of £22,026 per union. This would however breach the 2.5% affordability cap for one further non-federated trade union. To avoid additional complexity within the model, we have decided that this non-federated trade union should also pay the established adjusted levy of £9,149, thereby effectively placing this union in the middle income band.
77. The outstanding £1.180 million can be divided equally between the remaining 53 non-federated trade unions without exceeding 2.5% of their declared annual income. This equates to a higher adjusted levy contribution of £22,269 per organisations.
78. As a result of the above iterations, **the non-federated trade unions for which the established adjusted levy contribution equates to less than 2.5% of their income but for which the higher adjusted levy contributions (to subsidise exempted unions) equates to more than 2.5% of their income will pay the established adjusted levy contribution of £9,149.** In other words, any non-federated trade union whose declared annual income is more than £370,000 but less than £900,000 (i.e. £22,269 divided by 2.5%, rounded up to the nearest ten thousand for clarity) will contribute £9,149 towards the levy. There are 13 non-federated trade unions whose declared annual income in the dataset ranges between £370,000 and £900,000. These 13 unions will pay a levy contribution of £9,149 each, thereby making a contribution of just under £119,000 towards the levy.
79. In addition, **the non-federated trade unions for which the higher adjusted levy contribution rate equates to less than 2.5% of their income will pay the higher adjusted levy contribution of £22,269.** In other words, any non-federated trade union whose declared annual income is more than £900,000 will contribute £22,269 towards the levy. There are 53 non-federated trade unions whose declared annual income in the dataset is more than £900,000 and which will therefore pay the higher adjusted levy contribution rate.

80. Table 5 below summarises the different levy contributions for non-federated trade unions, based on their declared annual income, under option (v).

Table 5: Levy contributions for non-federated trade unions under option (v)

Income Bands	Non-Federated Trade Unions		
	Less than £370,000	More than £370,000 but less than £900,000	More than £900,000
Number of Organisations	76	13	53
Levy Payment	£0	£9,149	£22,269

Federated Trade Unions

81. The same framework will be applied to federated trade unions, although this type of organisations are required to contribute £24,451 towards the levy, as there are fewer of them (7 in the dataset used) and as they use fewer of the Certification Officer's resources. It was established in paragraph 63 that federated trade unions would pay a basic levy contribution of £3,493 per organisation – the adjusted levy contribution being only applicable to non-federated trade unions. The federated trade unions however also have large variance in income and the basic levy contribution is not affordable for all of them.

82. As for non-federated trade unions, we would set the same cap of 2.5% of income on the levy contribution as a guide to affordability. Under this option, the **federated trade unions for which the basic levy contribution of £3,493 equates to more than 2.5% of their income will be exempted from any levy payment**. In other words, any federated trade union whose declared annual income is less than £140,000 (i.e. £3,493 divided by 2.5%, rounded up to the nearest ten thousand for clarity) will be exempt from any payments. According to their latest declared annual income, there are 3 federated trade unions in the dataset exempted from any levy contribution under this framework.

83. The total federated trade union levy contribution of £24,451 will be shared amongst the remaining 4 federated trade unions. The outstanding payment can be divided equally amongst the remaining 4 federated trade unions without exceeding 2.5% of their declared annual income. This equates to a levy contribution of £6,113 per federated trade union.

84. To maintain the consistency of the framework for all types of organisation, we have nonetheless created a middle income band. The Certification Officer's running costs will vary from year to year, as will the organisations' declared annual income, so a middle income band may be used in the future.

85. As a result, **the federated trade unions for which the established basic levy contribution equates to less than 2.5% of their income but for which the higher basic levy contributions (to subsidise exempted unions) equates to more than 2.5% of their income will pay the established basic levy contribution of £3,493**. In other words, any federated trade union whose declared annual income is more than £140,000 but less than £250,000 (£6,113 divided by 2.5%, rounded up to the nearest ten thousand for clarity) will contribute £3,493 towards the levy. There are 0 federated trade unions whose declared annual income in the dataset ranges between £140,000 and £250,000.

86. In addition, **the federated trade unions for which the higher basic levy contribution rate equates to less than 2.5% of their income will pay the higher basic levy contribution of £6,113**. In other words, any federated trade union whose declared

annual income is more than £250,000 will contribute £6,113 towards the levy. There are 4 federated trade unions whose declared annual income in the dataset is more than £250,000 and which will therefore pay the higher basic levy contribution rate

87. Table 6 below summarises the different levy contributions for federated trade unions, based on their declared annual income, under option (v).

Table 6: Levy contributions for federated trade unions under option (v)

Income Bands	Federated Trade Unions		
	Less than £140,000	More than £140,000 but less than £250,000	More than £250,000
Number of Organisations	3	0	4
Levy Payment	£0	£3,493	£6,113

Non-Federated and Federated Employers' Associations

88. The same framework will be applied to non-federated and federated employers' associations, although these two types of organisations combined are required to contribute £314,368 towards the levy. It was established in paragraph 63 that non-federated and federated employers' associations would pay a basic levy contribution of £3,493 per organisation.

89. As for non-federated and federated trade unions, we would set the same cap of 2.5% of income on the levy contribution as a guide to affordability. Under this option, **the non-federated and federated employers' associations for which the basic levy contribution of £3,493 equates to more than 2.5% of their income will be exempted from any levy payment.** In other words, any non-federated and federated employers' association whose income is less than £140,000 (i.e. £3,493 divided by 2.5%, rounded up to the nearest ten thousand for clarity) will be exempt from any payments. According to latest declared annual income, there are 26 non-federated and federated employers' associations in the dataset exempted from any levy contribution under this framework.

90. Dividing the £314,368 levy contribution equally amongst the remaining 64 non-federated and federated employers' associations would result in a levy contribution of £4,912 (i.e. £1,419 more than the basic levy). If we continue to apply our 2.5% affordability rule, this higher basic levy contribution will be unaffordable for a further 4 non-federated and federated employers' associations. In other words, this higher basic levy contribution would equate to more than 2.5% of their declared income for a further 4 associations. We therefore propose that these associations should pay the established basic levy of £3,493, making a contribution of £13,972 towards the levy.

91. The outstanding £300,393 can be divided equally between the remaining 60 non-federated and federated employers' associations without exceeding 2.5% of their declared annual income. This equates to a higher basic levy contribution of £5,007 per organisations.

92. As a result of the above iterations, **the non-federated and federated employers' associations for which the established basic levy contribution equates to less than 2.5% of their income but for which the higher basic levy contributions (to subsidise exempted associations) equates to more than 2.5% of their income will pay the established basic levy contribution of £3,493.** In other words, any non-federated and federated employers' associations whose declared annual income is more than £140,000 but less than £210,000 (£5,007 divided by 2.5%, rounded up to the nearest ten thousand for clarity) will contribute £3,493 towards the levy. There are 4 non-

federated and federated employers' associations whose declared annual income in the dataset ranges between £140,000 and £210,000. These 4 associations will pay a levy contribution of £3,493 each, thereby making a contribution of £13,972 towards the levy.

93. In addition, **the non-federated and federated employers' associations for which the higher basic levy contribution rate equates to less than 2.5% of their income will pay the higher basic levy contribution of £5,007.** In other words, any non-federated and federated employers' associations whose declared annual income in the dataset is more than £210,000 will contribute £5,007 towards the levy.

94. Table 7 below summarises the different levy contributions for non-federated and federated employers' associations, based on their declared annual income, under option (v).

Table 7: Levy contributions for employers' associations (both non-federated and federated) under option (v)

Income Bands	Non-Federated and Federated Employers' Associations		
	Less than £140,000	More than £140,000 but less than £210,000	More than £210,000
Number of Organisations	26	4	60
Levy Payment	£0	£3,493	£5,007

95. Option (v) includes a limited subsidy regime, whereby organisations with a higher declared annual income pay a larger individual levy contribution rate to offset the exemption of organisations with a smaller declared annual income. We believe this is the best mechanism to ensure that the introduction of the Certification Officer's Levy does not jeopardise the survival of smaller organisations or of those with a small income. This will also ensure that the organisations are able to continue providing the current level of services to their members, despite the introduction of the levy. A list of the organisations listed at the time of writing, their declared annual income and their provisional levy contribution payment under option (v) is available in [Annex A](#).

96. Tables 5, 6, and 7 set out how the 2.5% affordability cap and the principle of three income bands would work across all the organisations. We could set the cap at different levels (for example 5% or 10%), which would affect the number of organisations exempted, paying the adjusted levy, and paying the subsidy levy accordingly – the tables in [Annex B](#) illustrate this.

Summary of Option (v)

97. Under option (v), the framework for the Certification Officer Levy will comprise:

- A basic rate to cover the functions of the Certification Officer that all organisations use;
- An adjusted rate which covers the functions that only non-federated trade unions use;
- An exemption mechanism for those organisations with a low declared annual income;
- A limited subsidy regime to offset the exemption, and payable by organisations with a higher declared annual income; and

- An affordability cap for the exemptions and subsidy based on a percentage of declared annual income – we propose setting this at 2.5%.

98. The organisations would only contribute towards the costs of regulating the functions that they use in practice, in accordance with statute and as established by the Certification Officer. Using the data and costs available, recouping £1.638 million of costs incurred by the Certification Officer would result in a fee structure as follows:

- **Basic levy contribution for all organisations:** 51% of the Certification Officer's time is spent on functions used by all organisations. Dividing 51% of the estimated levy of £1.638m across the total number of trade unions and employers' associations (239 in the dataset used) would create a basic levy of £3,493; and
- **Adjusted levy contribution for non-federated trade unions:** around 49% of the Certification Officer's time is spent on functions that only regulate non-federated trade unions. This means that, in addition to the basic levy, trade unions would have an uplifted amount (£5,656) to account for the additional expenditure. The adjusted levy for non-federated trade unions (142 in the dataset used) is £9,149.

99. We want to ensure that the levy contribution is manageable so that organisations with a lower income are still able to deliver a range of functions for their members. We propose to set an affordability cap of 2.5% on the levy contribution as a guide to affordability and to set contribution charges according to three bands based on income levels. These income bands will be based upon an organisation's declared annual income by reference to the value of the levy, which will vary from year to year depending on the operating costs of the Certification Officer. This number of bands helps make reasonable adjustments for income level and ensures no organisation pays more than 2.5% of declared annual income. As part of this approach:

- An organisation with a low income will be exempted and pay nothing – classified as such if the basic levy rate (for a federated trade union, non-federated employers' association, or federated employers' association) or the adjusted levy (for a non-federated trade union) exceeds 2.5% of its annual income;
- Middle income organisations will pay the basic levy or adjusted levy; and
- Large organisations will subsidise the exempted organisations, but their levy payments will not exceed 2.5% of their annual income.

100. Table 8 below sets out the distribution of the levy contribution rates for each type of organisation and the number of organisations affected.

Table 8: Levy contributions under option (v)

	Non-Federated Trade Unions			Federated Trade Unions			Non-Federated and Federated Employers' Associations		
Income Bands	Less than £370,000	More than £370,000 but less than £900,000	More than £900,000	Less than £140,000	More than £140,000 but less than £250,000	More than £250,000	Less than £140,000	More than £140,000 but less than £210,000	More than £210,000
Number of Organisations	76	13	53	3	0	4	26	4	60
Levy Payments	£0	£9,149	£22,269	£0	£3,493	£6,113	£0	£3,493	£5,007

101. Organisations listed with the Certification Officer at the time of writing, their declared annual income and their provisional levy contribution payment under option (v) is available in Annex A.

Analytical Notes

Direct Costs to Businesses

102. The Certification Officer Levy will benefit taxpayers as it will be a transfer of funds from the trade unions and employers' associations to enable a reduction in Government cost. The costs associated with the Certification Officer Levy (including the familiarisation costs) are not included in the Business Impact Target (BIT) as a levy is classed as a form of taxation (as it is compulsory, unrequited and redistributed), under HM Treasury classification. As a result, no equivalent annual net direct cost to business (EANCB) has been monetised for this proposal and this impact assessment does not require clearance by the Regulatory Policy Committee (RPC).

Small and Micro Business Assessment

103. The introduction of the Certification Officer Levy affects Civil Society Organisations¹⁰, therefore a Small and Micro-Business Assessment is applicable.
104. According to a 2014 BIS Impact Assessment, trade unions with fewer than 10,000 members are likely to employ less than 50 FTE staff and therefore would ordinarily meet the definition of small or micro-businesses. Applying this definition to the Annual Report of the Certification Officer 2016-17, there were 109 trade unions with fewer than 10,000 members in 2015-16 – and therefore classified as small or micro businesses – accounting for 72% of all unions.
105. We have considered all of the possible exemptions for small and micro businesses listed in the Better Regulation Framework Manual:
- Full exemption
 - Partial exemption
 - Extended transition period
 - Temporary exemption
 - Varying requirements by type and/or size of business
 - Specific information campaigns or user guides, training and dedicated support for smaller businesses
 - Direct financial aid for smaller businesses
 - Opt-in and voluntary solutions
106. As shown above, a large proportion of trade unions are likely to be small or micro businesses. Our preferred option for the setting of a levy scheme includes varying requirements by types of organisations, a full exemption for trade unions with a declared annual income less than £370,000 (which is likely to include most micro and small unions) and an affordability cap so that no union contributes more than 2.5% of its

¹⁰ Trade unions are included in the definition of Civil Society Organisations, which is a voluntary organisation which is neither a business nor public sector

income towards the levy scheme. Together these ensure that trade unions, including those categorised as micro and small business, can still invest in services for their members and carry out all their regulatory functions. They also ensure that potentially new trade unions are not put off by the levy, so that it doesn't act as a barrier to entry.

107. The 2016 Act includes a requirement for the Secretary of State to consult relevant organisations and Acas before setting the Certification Officer Levy. BEIS will take account of stakeholder views when considering the impact of the levy. There will be further opportunities for stakeholders, including small and micro businesses, to shape the policy as it progresses.

Family Test

108. Our proposal is about the internal operations of trade unions and employers' associations and the transfer of regulatory cost from the Exchequer to the organisations regulated by the Certification Officer. We do not expect there to be any direct, adverse impact on families as a result.

Annex A – List of Organisations, their income, and their levy contribution rate under Option (v)

Non-Federated Trade Unions

Non-Federated Trade Unions	Year End	Declared Annual Income	Levy Contribution
Accord	31/12/2015	£2,527,472	£22,269
Advance	31/12/2015	£732,955	£9,149
Aegis the Union	30/06/2015	£688,331	£9,149
Affinity	31/12/2015	£3,197,841	£22,269
Artists Union England	31/12/2015	£8,627	£0
ASPSU	31/12/2015	£11,255	£0
Associated Society of Locomotive Engineers and Firemen	31/12/2015	£6,337,952	£22,269
Associated Train Crew Union	31/12/2014	£46,456	£0
Association for Clinical Biochemistry & Laboratory Medicine	31/12/2015	£993,327	£22,269
Association of Educational Psychologists	31/12/2015	£1,024,000	£22,269
Association of Flight Attendants (Council 07)	31/05/2015	£0	£0
Association of Headteachers and Deputies in Scotland	30/06/2016	£467,344	£9,149
Association of Local Authority Chief Executives	31/12/2015	£105,975	£0
Association of Principal Fire Officers	31/12/2015	£65,958	£0
Association of Revenue and Customs	31/12/2015	£219,619	£0
Association of School and College Leaders	31/12/2015	£6,193,246	£22,269
Association of Somerset Inseminators	31/12/2015	£35	£0
Association of Teachers and Lecturers	31/12/2015	£17,770,000	£22,269
Association of Trade Union Political and Public Sector Staff	31/12/2015	£1,160	£0
Bakers, Food and Allied Workers' Union	31/12/2015	£3,009,138	£22,269
Balfour Beatty Group Staff Association	31/12/2015	£20,175	£0
BLUECHIP STAFF ASSOCIATION	31/12/2015	£93,364	£0
Boots Pharmacists' Association	31/12/2015	£90,774	£0
Britannia Staff Union	31/12/2015	£114,648	£0
British Air Line Pilots Association	31/12/2015	£6,373,539	£22,269
British Association of Dental Nurses	31/12/2015	£237,100	£0
British Association of Journalists	31/12/2015	£119,413	£0
British Association of Occupational Therapists Ltd	30/09/2015	£7,511,490	£22,269
British Dental Association	30/09/2015	£15,640,857	£22,269
British Dietetic Association	28/02/2016	£190,541	£0
British Medical Association	31/12/2015	£132,307,000	£22,269
British Orthoptic Society Trade Union	31/12/2015	£70,000	£0
Broadcasting Entertainment Cinematograph and	31/12/2015	£4,848,976	£22,269

Theatre Union			
Chartered Society of Physiotherapy	31/12/2015	£17,951,758	£22,269
City Screen Staff Forum	31/12/2015	£0	£0
Communication Workers Union	31/12/2015	£32,933,654	£22,269
Community	31/12/2015	£7,805,000	£22,269
Currys Supply Chain Staff Association	30/04/2016	£308,989	£0
Driver and General Union	31/12/2015	£53,924	£0
Educational Institute of Scotland	31/08/2015	£7,791,472	£22,269
Ellington Branch of the North East Area of the National Union of Mineworkers	31/12/2015	£56	£0
Employees General Union	31/12/2015	£7,684	£0
Employees Representatives	31/12/2015	£4,002	£0
Employees United	31/12/2015	£6,589	£0
Equality For Workers Union	31/12/2015	£2,273	£0
Equity (Incorporating the Variety Artistes' Federation)	31/12/2015	£8,455,546	£22,269
European SOS Trade Union	31/12/2015	£0	£0
FDA	31/12/2015	£3,976,262	£22,269
Fire Brigades Union	31/12/2015	£11,430,550	£22,269
Fire Officers' Association	31/12/2015	£249,652	£0
G4S Care and Justice Services Staff Association	31/12/2014	£78,227	£0
GMB	31/12/2015	£76,453,000	£22,269
Guild of Professional Teachers of Dance, Movement to Music and Dramatic Arts	31/12/2015	£52,435	£0
Headmasters` and Headmistresses` Conference	31/03/2016	£2,430,468	£22,269
Hospital Consultants and Specialists Association	30/09/2015	£700,222	£9,149
IBOA The Finance Union	31/12/2015	£5,891,630	£22,269
Independent Democratic Union	31/12/2015	£530,735	£9,149
Independent Federation of Nursing in Scotland	31/12/2015	£111,586	£0
Independent Pilots Association	30/06/2015	£76,066	£0
Independent Workers Union of Great Britain	31/12/2015	£78,873	£0
Industrial Workers of the World	31/12/2014	£43,039	£0
Institute of Football Management and Administration	31/05/2015	£139,566	£0
Institute of Journalists	31/12/2015	£59,300	£0
ISU	31/12/2015	£302,586	£0
Leeds Building Society Staff Association	31/12/2015	£10,927	£0
Leek United Building Society Staff Association	31/01/2016	£5,610	£0
Leicestershire Overmen Deputies and Shotfirers Association	31/12/2014	£1	£0
Locum Doctors' Association	05/04/2016	£305	£0
Musicians Union	31/12/2015	£8,774,207	£22,269
Myunion	31/12/2015	£607	£0
NAPO - The Trade Union and Professional Association for Family Court and Probation Staff	31/12/2015	£1,878,586	£22,269
National Association of Co-operative Officials	31/12/2015	£464,167	£9,149
National Association of Head Teachers	31/12/2015	£10,607,000	£22,269
National Association of NFU Group Secretaries	31/10/2015	£239,712	£0

National Association of Schoolmasters Union of Women Teachers	31/12/2015	£31,558,665	£22,269
National Association of Stable Staff	31/12/2015	£423,668	£9,149
National Crime Officers Association	31/12/2015	£281,776	£0
National House Building Council Staff Association	31/12/2015	£15,867	£0
National Society for Education in Art and Design	30/09/2015	£271,436	£0
National Union of Journalists	30/09/2015	£4,970,524	£22,269
National Union of Mineworkers	31/12/2015	£2,050,450	£22,269
National Union of Mineworkers (Cokemen's Area)	31/12/2015	£7,278	£0
National Union of Mineworkers (Colliery Officials and Staffs Area)	31/12/2015	£0	£0
National Union of Mineworkers (Colliery Officials and Staffs Area) Region No 4	31/12/2015	£33,195	£0
National Union of Mineworkers (North East Area)	31/12/2015	£2,607	£0
National Union of Mineworkers (Northumberland Area)	31/12/2015	£13,192	£0
National Union of Mineworkers (Scotland Area)	31/12/2015	£48,150	£0
National Union of Mineworkers (Scottish Area)	31/12/2015	£0	£0
National Union of Mineworkers (South Wales Area)	31/12/2015	£155,066	£0
National Union of Rail, Maritime and Transport Workers	31/12/2015	£23,179,000	£22,269
National Union of Teachers	31/12/2015	£43,855,320	£22,269
Nationwide Group Staff Union	31/12/2015	£1,359,776	£22,269
Nautilus International	31/12/2015	£6,791,870	£22,269
News Union	31/07/2015	£241,048	£0
North of England Zoological Society Staff Association	31/12/2015	£6,002	£0
Palm Paper Staff Association	31/12/2015	£5,401	£0
Pharmacists' Defence Association Union	31/03/2016	£367,640	£0
POA	31/12/2015	£4,605,815	£22,269
Prison Governors Association	31/12/2015	£166,406	£0
Professional Cricketers Association	31/12/2015	£1,315,241	£22,269
Professional Footballers' Association	30/06/2015	£22,003,801	£22,269
Professional Footballers Association Scotland	30/06/2015	£219,451	£0
Professional Pilots Union	31/12/2015	£377,419	£9,149
Prospect	31/12/2015	£19,309,000	£22,269
PTSC	31/03/2015	£22,338	£0
Public and Commercial Services Union	31/12/2015	£43,810,858	£22,269
Retail Book Stationery and Allied Trades Employees Association	31/12/2015	£211,041	£0
Retained Firefighters Union	31/12/2015	£230,630	£0
Royal College of Midwives	31/12/2015	£8,790,019	£22,269
Royal College of Nursing of the United Kingdom	31/12/2015	£50,808,000	£22,269
RSPB Staff Association, The	31/03/2016	£26,652	£0
Rugby Players Association	31/08/2015	£1,269,133	£22,269
Sales Staff Association	31/12/2015	£13,413	£0
Scottish Artists Union	31/03/2015	£39,884	£0

Scottish Colliery Enginemen Boilermen and Tradesmens Association	31/12/2015	£39	£0
Scottish Secondary Teachers Association	31/12/2015	£1,052,856	£22,269
SKYSHARE	31/12/2015	£26,456	£0
Social Workers Union	30/09/2015	£846,719	£9,149
Society of Authors	31/12/2015	£1,124,771	£22,269
Society of Chiropodists and Podiatrists	31/12/2015	£6,546,703	£22,269
Society of Radiographers	30/09/2015	£6,088,856	£22,269
Society of Union Employees (UNISON)	31/12/2015	£32,934	£0
Solidarity	31/12/2015	£26,428	£0
Staff Union West Bromwich Building Society	31/12/2015	£93,581	£0
Transport Salaried Staffs Association	31/12/2014	£6,047,245	£22,269
UFS	31/12/2015	£518,430	£9,149
Undeb Cenedlaethol Athrawon Cymru (The National Association of the Teachers of Wales)	31/12/2015	£631,570	£9,149
Union of Construction, Allied Trades and Technicians	31/12/2015	£6,141,000	£22,269
Union of Democratic Mineworkers	31/12/2015	£407,106	£9,149
Union of General & Volunteer Workers	31/12/2015	£3,283	£0
Union of Shop Distributive and Allied Workers	31/12/2015	£66,723,000	£22,269
UNISON: The Public Service Union	31/12/2015	£209,753,000	£22,269
Unite the Union	31/12/2015	£176,652,000	£22,269
United and Independent Union	31/12/2015	£16,671	£0
United Road Transport Union	31/12/2015	£1,541,815	£22,269
United Voices of the World	31/12/2014	£1,955	£0
University and College Union	31/08/2015	£22,857,853	£22,269
Voice	31/12/2015	£1,995,579	£22,269
Warwick International Staff Association	31/12/2015	£12,759	£0
Welsh Rugby Players Association	31/12/2015	£118,750	£0
Workers of England Union	31/12/2015	£95,667	£0
Writers Guild of Great Britain	31/12/2015	£384,889	£9,149

Federated Trade Unions

Federated Trade Unions	Year End	Declared Annual Income	Levy Contribution
Alliance for Finance	31/12/2015	£7,249	£0
Confederation of Shipbuilding and Engineering Unions	31/12/2015	£1,658,448	£6,113
Federation of Entertainment Unions	31/12/2015	£13,250	£0
General Federation of Trade Unions	31/12/2015	£556,047	£6,113
International Transport Workers Federation	31/12/2015	£46,546,000	£6,113
Trades Union Congress	31/12/2015	£35,418,000	£6,113
Workers Uniting	31/12/2015	£132,938	£0

Non-Federated and Federated Employers' Associations

Employers' Association	Year End	Declared Annual Income	Levy Contribution
Advertising Producers Association	31/08/2015	£823,130	£5,007
Angus and Kincardine Master Plumbers' Association	30/04/2015	£2,349	£0
Association of British Orchestras	31/12/2015	£816,551	£5,007
Association of Circus Proprietors of Great Britain	31/12/2015	£24,370	£0
Association of Colleges	31/12/2015	£9,447,261	£5,007
Association of Indian Banks in the United Kingdom	31/12/2015	£62,500	£0
Association of Newspaper and Magazine Wholesalers	31/12/2015	£139,105	£0
Association of Plumbing and Heating Contractors	31/12/2014	£645,888	£5,007
Banff and Moray Master Plumbers Association	31/12/2015	£3,307	£0
BFM Limited	31/12/2015	£4,246,323	£5,007
British Allied Trade Federation	30/09/2015	£2,203,566	£5,007
British Amusement Catering Trades Association	31/12/2015	£6,070,751	£5,007
British Footwear Association	31/12/2015	£2,452,066	£5,007
British Lace Federation	31/12/2015	£195	£0
British Packaging Association	31/03/2016	£5,003	£0
British Printing Industries Federation	31/12/2014	£3,621,000	£5,007
British Printing Industries Federation Limited	31/12/2015	£2,251,768	£5,007
Builders Merchants Federation Ltd	31/12/2015	£1,956,260	£5,007
Building & Engineering Services Association	31/08/2015	£10,475,513	£5,007
Chemical Industries Association Limited	31/12/2015	£4,846,540	£5,007
Confederation of Paper Industries Ltd	31/12/2015	£1,830,748	£5,007
Construction Plant-Hire Association	31/03/2016	£1,220,499	£5,007
Dairy UK Limited	31/12/2015	£5,034,003	£5,007
East Midlands Councils	31/12/2015	£1,004,000	£5,007
East of England Local Government Association	31/12/2015	£4,319,185	£5,007
EEF Limited	31/03/2016	£38,013,000	£5,007
Electrical Contractors Association	31/12/2015	£24,034,496	£5,007
Electrical Contractors Association of Scotland	31/01/2016	£3,254,287	£5,007
Employers in Voluntary Housing Limited	31/03/2016	£1,042,642	£5,007
Engineering Construction Industry Association	31/12/2015	£2,482,452	£5,007
England and Wales Cricket Board Limited	31/12/2015	£136,278,000	£5,007
Federation of Dredging Contractors	31/12/2015	£0	£0
Federation of Master Builders	31/12/2015	£5,078,278	£5,007
Federation of Window Cleaners	31/12/2015	£141,425	£3,493
Fencing Contractors Association	31/12/2015	£110,775	£0
Fife and Kinross Master Plumbers' Association	31/12/2015	£2,577	£0
Freight Transport Association Limited	31/10/2015	£25,713,000	£5,007
Glass and Glazing Federation	31/03/2016	£3,413,510	£5,007
Graphic Enterprise Scotland	31/12/2015	£167,654	£3,493
Improvement and Development Agency for Local Government	31/12/2015	£81,476	£0

Incorporated Guild of Hairdressers, Wigmakers and Perfumers	31/03/2015	£1,687	£0
Inverness and Northern District Master Plumbers' Association	31/12/2015	£4,124	£0
Lanarkshire Master Plumbers Association	31/12/2015	£4,049	£0
Lancashire Textile Manufacturers Association	31/12/2015	£117,079	£0
Lancaster Morecambe and South Lakeland Master Plumbers Association	31/03/2016	£2,002	£0
Leather Producers Association	31/03/2015	£4,468	£0
London Association of Funeral Directors	31/12/2015	£25,251	£0
London Councils	31/03/2016	£72,740,739	£5,007
Malt Distillers Association of Scotland	30/11/2015	£25,813	£0
Master Carvers' Association	30/06/2015	£4,763	£0
Mastic Asphalt Council	31/03/2016	£166,374	£3,493
Metal Packaging Manufacturers Association	31/12/2015	£382,818	£5,007
National Association of Farriers, Blacksmiths and Agricultural Engineers	31/12/2015	£93,559	£0
National Association of Master Bakers	31/03/2015	£353,735	£5,007
National Farmers' Union	31/03/2016	£46,783,390	£5,007
National Federation of Retail Newsagents	31/12/2015	£4,606,377	£5,007
National Federation of Roofing Contractors Limited	31/07/2015	£1,932,903	£5,007
National Hairdressers Federation Ltd	31/01/2016	£1,466,555	£5,007
National Trainers Federation	31/03/2016	£462,027	£5,007
NFU Scotland	31/12/2015	£2,918,989	£5,007
North East Regional Employers' Organisation for Local Authorities	31/12/2015	£640,244	£5,007
North Western Local Authorities' Employers' Organisation	31/03/2016	£1,670,174	£5,007
Perth and District Master Plumbers Association	31/03/2015	£2,560	£0
Producers Alliance for Cinema and Television Ltd	28/02/2015	£2,599,037	£5,007
Radio, Electrical and Television Retailers' Association (RETRA) Limited	31/12/2015	£582,001	£5,007
Refractory Users Federation	30/09/2015	£14,400	£0
Retail Motor Industry Federation Limited, The	30/09/2015	£10,034,000	£5,007
Road Haulage Association Limited	31/10/2015	£9,299,746	£5,007
Scottish and Northern Ireland Plumbing Employers' Federation	31/12/2015	£913,002	£5,007
Scottish Association of Master Bakers	31/12/2015	£1,599,799	£5,007
Scottish Association of Meat Wholesalers	31/03/2016	£63,242	£0
Scottish Building Federation	31/03/2015	£783,716	£5,007
Scottish Decorators Federation	31/12/2015	£212,846	£5,007
Scottish Engineering	31/03/2016	£1,088,636	£5,007
Scottish Motor Trade Association Limited	31/12/2015	£2,263,878	£5,007
Showmen's Guild of Great Britain, The	30/06/2015	£2,689,974	£5,007
Smithfield Market Tenants Association London	31/12/2015	£173,312	£3,493
SNIPF Edinburgh & District Branch	31/12/2015	£13,741	£0
SNIPF Glasgow & West of Scotland	30/06/2015	£21,704	£0
Society of London Theatre "SOLT"	31/12/2015	£6,644,558	£5,007
South East Employers	31/12/2015	£1,083,544	£5,007

South West Councils	31/03/2016	£1,281,652	£5,007
Thermal Insulation Contractors Association	31/12/2014	£1,452,149	£5,007
UK Cinema Association Ltd	28/02/2016	£450,371	£5,007
UK Fashion and Textile Association Ltd	31/12/2015	£2,220,315	£5,007
UK Theatre Association	31/12/2015	£933,255	£5,007
Universities and Colleges Employers Association	31/12/2015	£1,830,939	£5,007
Vehicle Builders and Repairers Association Ltd, The	31/10/2015	£457,057	£5,007
West Midlands Employers	31/03/2015	£962,331	£5,007
Yorkshire and Humber (Local Authorities) Employers' Association	31/01/2016	£3,794,337	£5,007

Annex B: Levy contributions under different affordability caps

Levy contributions for all organisations when affordability cap is set at 5% of an organisation's declared annual income:

	Non-Federated Trade Unions			Federated Trade Unions			Non-Federated and Federated Employers' Associations		
Income Bands	Less than £190,000	More than £190,000 but less than £360,000	More than £360,000	Less than £70,000	More than £70,000 but less than £100,000	More than £100,000	Less than £70,000	More than £70,000 but less than £100,000	More than £100,000
Number of Organisations	62	13	67	2	0	5	21	2	67
Levy Payments	£0	£9,149	£17,616	£0	£3,493	£4,890	£0	£3,493	£4,588

Levy contributions for all organisations when affordability cap is set at 10% of an organisation's declared annual income:

	Non-Federated Trade Unions			Federated Trade Unions			Non-Federated and Federated Employers' Associations		
Income Bands	Less than £100,000	More than £100,000 but less than £160,000	More than £160,000	Less than £40,000	More than £40,000 but less than £50,000	More than £50,000	Less than £40,000	More than £40,000 but less than £50,000	More than £50,000
Number of Organisations	54	7	81	2	0	5	19	0	71
Levy Payments	£0	£9,149	£15,249	£0	£3,493	£4,890	£0	£3,493	£4,428

Annex C: Power to impose a levy

Section 20

(1) After section 257 of the 1992 Act insert— “257A Levy payable to Certification Officer

(1) The Secretary of State may by regulations make provision for the Certification Officer to require trade unions and employers’ associations (“relevant organisations”) to pay a levy to the Officer.

(2) The regulations must require the Certification Officer, in determining the amounts to be levied, to aim to ensure that the total amount levied over any period of three years does not exceed the total amount of the Officer’s expenses over that period that are referable to specified functions of the Officer.

(3) The regulations may make provision for determining what things count as expenses of the Certification Officer for the purposes of provision made by virtue of subsection (2), and may in particular provide for the expenses to be treated as including—

- (a) expenses incurred by ACAS in providing staff, accommodation, equipment and other facilities under section 254(5), or
- (b) Expenses in respect of which payments are made under section 255(1) or (2).

(4) The regulations may provide for the Certification Officer to determine the amount of levy payable by a relevant organisation by reference to specified criteria, which may include—

- (a) the number of members or the amount of income that the organisation has;
- (b) whether the organisation is—
 - (i) a federated trade union,
 - (ii) a trade union that is not a federated trade union,
 - (iii) a federated employers’ association, or
 - (iv) an employers’ association that is not a federated employers’ association;
- (c) the different proportions of the Officer’s expenses that are referable to—
 - (i) functions in relation to federated trade unions,
 - (ii) functions in relation to trade unions that are not federated trade unions,
 - (iii) functions in relation to federated employers’ associations, and
 - (iv) functions in relation to employers’ associations that are not federated employers’ associations.

(5) The regulations may provide—

- (a) for the levy not to be payable, or for a reduced amount to be payable, in specified cases or in cases determined by the Certification Officer in accordance with the regulations;
- (b) for the intervals at which the levy is to be paid;
- (c) for interest to be payable where a payment is not made by the required date;
- (d) for an amount levied to be recoverable by the Certification Officer as a debt.

(6) The regulations may contain such incidental, supplementary or transitional provisions as appear to the Secretary of State to be necessary or expedient.

(7) In this section—

- “federated employers’ association” has the same meaning as in section 135;
- “federated trade union” has the same meaning as in section 118;
- “specified” means specified in the regulations.

(8) Before making regulations under this section the Secretary of State must consult relevant organisations and ACAS.

(9) No regulations under this section shall be made unless a draft of them has been laid before Parliament and approved by a resolution of each House of Parliament.

(10) The Certification Officer shall pay into the Consolidated Fund amounts received by virtue of this section.”

(2) In section 258 of that Act (annual reports and accounts), after subsection (1) insert—

“(1A) A report under this section shall include details of—

- (a) amounts levied by the Certification Officer by virtue of section 257A in the year in question, and
- (b) how the amounts were determined.”