



Department  
for Business  
Innovation & Skills

Impact Assessment

Ballot Thresholds in Important  
Public Services  
Consultation Impact Assessment

JULY 2015

<b>Title:</b> Ballot Thresholds in Important Public Services  <b>IA No:</b> BISLM002  <b>Lead department or agency:</b> BIS  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 15/07/2015		
	<b>Stage:</b> Consultation		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Primary legislation		
	<b>Contact for enquiries:</b> Labourmarket.consultations@bis.gsi.gov.uk		
<b>Summary: Intervention and Options</b>		<b>RPC Opinion:</b> Awaiting Scrutiny	

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of deregulatory target?	Measure qualifies as
£117.98m	£26.19m	*	Yes	Zero IN (net beneficial to business)

**What is the problem under consideration? Why is government intervention necessary?**  
 Trade Unions can play an important role in the work place. They have a legitimate need to represent their members' interests, and sometimes that involves balloting for industrial action. However disruptive industrial action should not take place on the basis of low ballot turnouts. In particular, industrial action in important public services can have far reaching effects on significant numbers of ordinary people who have no association with the dispute. Government intervention is necessary to ensure that strike action in these key sectors, which can have an adverse impact on a wide range of third parties, is not on the basis of the support of only a small proportion of union members.

**What are the policy objectives and the intended effects?**  
 The Government is introducing a law in the Trade Union Bill to make sure that industrial action in the fire, health, education, transport, border security and nuclear decommissioning sectors will require the support of at least 40% of all those entitled to vote. This is in addition to a 50% participation threshold. The objective is to ensure that strike action in these sectors is not on the basis of the support of only a small proportion of union members.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
 Option 0: Do nothing  
 Option 1: In the fire, health, education, transport, border security and nuclear decommissioning sectors, require at least 40% of those entitled to vote in a ballot for industrial action to do so in favour before industrial action was possible. For example, in a bargaining unit of 1000, at least 40% of the 1000 members eligible to vote would need to vote in favour to enable industrial action: that is 400 members. A simple majority of those who voted is still required in all ballots, so if all 1000 members had voted, then 501 votes in favour would be required to enable industrial action. The Government is consulting on how to define important public services, and on the occupations that should be subject to the 40% threshold.  
**\*The EANCB figure will appear in the Trade Union Bill overarching impact assessment.**

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 01/2021					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				<b>Traded:</b> N/A	<b>Non-traded:</b> 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 Minister: Nick Boles MP  Date: 15<sup>th</sup> July 2015

## Summary: Analysis & Evidence

## Policy Option 1

**Description:** Introducing a 40% approval threshold for a ballot to provide a legal mandate for industrial action.

### FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 117.98

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.3	0	0.3
High	0.5	0	0.5
Best Estimate	1.1	0	1.1

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

There are expected transition costs to unions of £535k (familiarisation and legal fees). We have assumed that all 166 unions incur the transition costs as they will have to determine if any of their members are covered by the 40% approval threshold.

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

Trade Unions may wish to promote ballots amongst their members in order to ensure they meet both this 40% important public services threshold and additionally the 50% participation threshold. It is not possible to predict the extent to which unions will do this in advance of the measure.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	0	0
High	0	0	0
Best Estimate	0	13.7	118.2

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

This measure will reduce the number of working days lost to strike action in important public services. For this IA both the 50% participation and the 40% important public services thresholds have been examined together. They are difficult to disentangle separately. The education, health and transport sectors and Border Force will see a direct increase in output, of an estimated benefit of £13.7m. We have assumed all occupations in these sectors are affected. The consultation is to determine if it should be a subset.

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

We have not monetised benefits in the fire or nuclear decommissioning sectors because ballots in these sectors either tend to meet the proposed thresholds, or strike action is too rare for impacts to be estimated. There will be indirect benefits to the wider economy, in particular for working people and businesses that rely on important public services. We expect these benefits to be large. Analysis has shown the indirect impact of large education strikes to be in the hundreds of millions of pounds. Since the indirect impact of each strike is very different, it is not possible to produce a robust annual figure for this Impact Assessment. We will explore this during the consultation.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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We have assumed that working days lost are equally distributed amongst strikes, and that this measure will not affect smaller or larger strikes in greater proportions. We have not performed sensitivity analysis at this stage but intend to do so once we have gathered further information through the consultation.

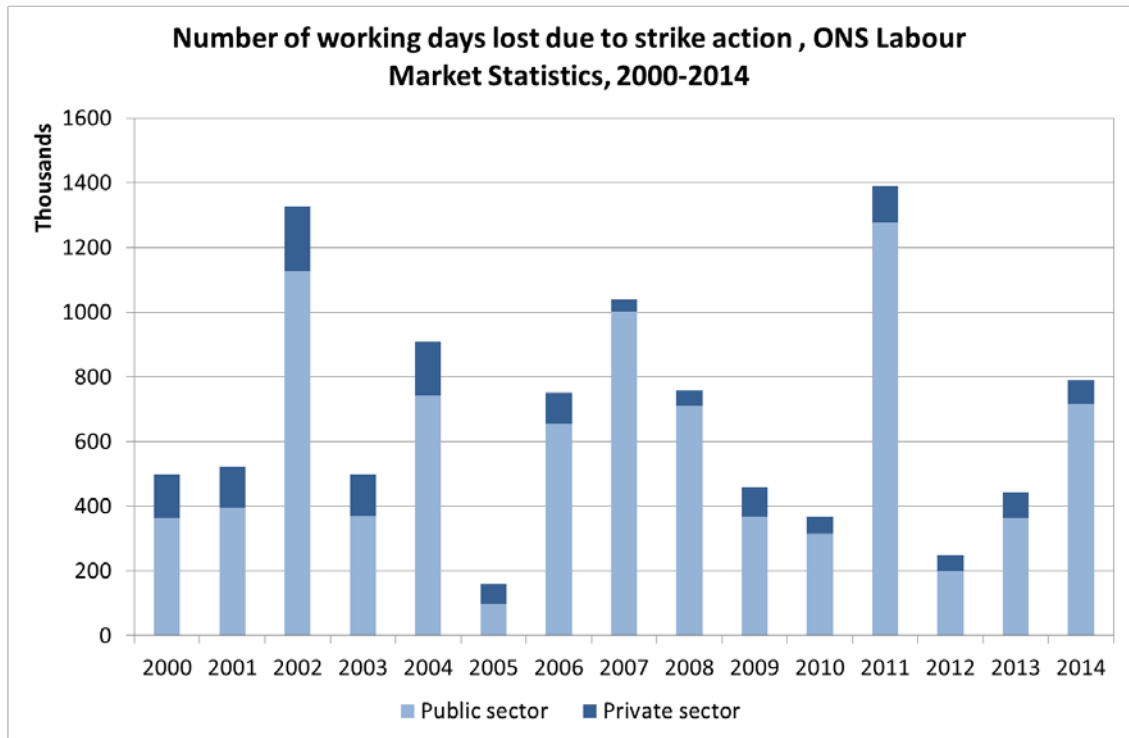
### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of target?	Measure qualifies as
Costs:	Benefits	Net: *	Yes	IN

## Evidence Base (for summary sheets)

### Problem under consideration

1. When unions members strike this not only affects the direct employer of the members but also indirectly negatively affects others in the economy. For example a public service strike in health impacts on patients, a strike in teaching affects parents and transport related collective stoppages affects commuters and businesses.
2. At present it is possible for a trade union to call a strike even if to do so does not reflect the views of the majority of its members.
3. The number of working days lost due to strikes can be substantial. In 2002 and 2011 over 1 million working days were lost in the public sector due to strikes.



4. The Office for National Statistics (ONS) judgement is that the public sector strike on 30 November 2011 is likely to have had some impact on GDP in the fourth quarter<sup>1</sup>. ONS did not measure the effect on GDP directly due to the difficulty around estimating the impact. Information from the ONS's Labour Disputes Inquiry, suggests that nearly one million working days were lost, representing about 0.2 per cent of the total number of working days for the public sector for the quarter.
5. HM Treasury estimated prior to the strike that a closure of two-thirds of state schools would lead to a 3-4% decrease in private sector output for the duration of the strike.<sup>2</sup>
6. This formed part of an overall estimate of a £480 million decrease in output as a result of the strike. Around one third of this was caused by the knock-on impact of school closures, leading to an estimate of £160 million in these indirect impacts. This figure represents the scale of knock-on impact to the wider economy of a national education strike.

<sup>1</sup> [http://www.ons.gov.uk/ons/dcp171778\\_254088.pdf](http://www.ons.gov.uk/ons/dcp171778_254088.pdf)

<sup>2</sup> [https://www.whatdotheyknow.com/request/breakdown\\_of\\_500\\_million\\_estimat](https://www.whatdotheyknow.com/request/breakdown_of_500_million_estimat)

## **Rationale for intervention**

7. Trade Unions can play an important role in the work place. They have a legitimate need to represent their members' interests, and sometimes that involves balloting for industrial action. However, there is also a responsibility to ensure that industrial action is only used as a measure of last resort and where there is a clear and ongoing support for doing so.
8. Disruptive industrial action should not take place on the basis of low ballot turnouts. Such action does not always represent the views of all the union members. The Government therefore is introducing a new minimum requirement that at least 50% of union members entitled to vote must turn out for a ballot, and a simple majority (i.e. at least 50% and one votes) must be in favour in order for action to go ahead. This ensures that strikes can only take place on the basis of clear support from union members.
9. Industrial action in important public services can have far reaching effects on significant numbers of ordinary people who have no association with the dispute. This reflects the important public service these workers provide, and the numbers of people who rely on them.
10. In economics these effects are called '**negative externalities**'. Taking an example of a teaching strike, parents may have to take the day off work to look after their children who cannot attend school. If the parent is in employment this may result in loss output for their employer, uninvolved in the dispute. Externalities, in this circumstance is the effect on the third parties in the economy outside the industrial dispute.

## **Policy objective;**

11. Disruptive industrial action, particularly in important public services, should not take place on the basis of low ballot turnouts. The challenge is to get the balance right between the interests of union members and the interests of the majority of people who rely on the services they provide.
12. The Government therefore is seeking to pass a law in the Trade Union Bill to make sure that industrial action in the fire, health, education, transport, border security and nuclear decommissioning sectors will also require the support of at least 40% of all those entitled to vote. The objective is to ensure that strike action in these sectors, which can have an adverse impact on a wide range of third parties, is not on the basis of only a small proportion of union members.
13. None of these changes are about banning strikes. The Government's overarching policy is to encourage workplace disputes to be resolved without the need for industrial action; and to ensure where industrial action is used, it is as a last resort with clear and ongoing support for action.

## **Description of options considered (including do nothing);**

14. This Impact Assessment accompanies the consultation on the new 40% threshold for important public services. The consultation covers the scope of secondary legislation which will enact a provision in the Trade Union Reform Bill currently before parliament.

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This Bill includes a separate 50% threshold on turnout which would apply to all sectors, which will also be analysed in the separate Impact Assessment accompanying the bill.

15. We have monetised the combined effect of applying a 40% approval threshold and the 50% turnout threshold together in this Impact Assessment. The approach uses historic data to look at whether work stoppages would have gone ahead had these thresholds been put in place. It would in theory be possible to disaggregate the different effects historically from each of the 40% and 50% thresholds. When disaggregated, most of the impact, assessed below, would be derived from applying the 50% turnout threshold. However, we think it more accurate to assess the combined impact of both thresholds. It is likely that had either of thresholds been in place behaviour and response to them would have been different. For example, more effort may have been put in place to raise participation if a turnout threshold was a requirement. That may have affected the relative balance and impact and therefore the relative importance of the two thresholds. To help reduce the effect of behavioural responses in our analysis we therefore take the view that it is more robust to apply the 40% and 50% thresholds together to the historic data rather than ascribe separate impacts to each of them.
16. Furthermore, the 50% turnout threshold and 40% approval threshold are intended to be packaged and thus enacted closely together. The precise dates of enactment will depend on the passage of the Trade Union Bill and subsequent secondary legislation setting out the occupations within the six sectors subject to the 40% threshold. However, we intend that both thresholds are introduced at around the same time.

### **Do nothing (option 0)**

17. This option would see no 40% threshold applied to ballots for industrial action in important public services.

### **Implement a 40% approval threshold on the fire, health, education, transport, border security and nuclear decommissioning (option 1)**

18. In the fire, health, education, transport, border security and nuclear decommissioning sectors, we would require at least 40% of those entitled to vote in a ballot for industrial action to do so in favour before industrial action was possible. For example, in a bargaining unit of 1000, at least 40% of the 1000 members eligible to vote would need to vote in favour to enable industrial action: that is 400 members. A simple majority is still required of those who have voted in all ballots. So if all 1000 members had voted, then 501 votes in favour would be required to enable industrial action. The Government is consulting on the occupations which would be covered by such an approval threshold.

**Table 1: Illustrative outcomes of a bargaining unit of 1,000**

Number of members that vote in ballot	Required number of members that must vote yes to pass 40% approval and win ballot
1,000	501
900	451
800	401
700	400
600	400
500	400
400	Does not meet 50% turnout requirement
300	Does not meet 50% turnout requirement
200	Does not meet 50% turnout requirement
100	Does not meet 50% turnout requirement

19. Whilst this will not change the impact to the wider economy of strikes based on ballots which do meet this threshold, it will ensure that these costs are only borne when there is clear support from members to proceed.
20. This IA accompanies a consultation on the scope of this approval threshold. This will consider including specific occupations rather than covering entire sectors. We will update our estimates after the consultation.

**Monetised and non-monetised costs and benefits of each option (including administrative burden);**

**Option 0 – do nothing**

21. There are no direct costs or benefits associated with this option.

**Option 1**

**Familiarisation costs (direct cost)**

22. We have estimated costs here for senior union staff becoming familiar with the new 40% approval threshold. In line with previous impact assessments on Trade Unions we have assumed a lawyer will need to be consulted, and estimated the cost of this in the model. The familiarisation cost of the 50% turnout threshold will be considered in the Trade Union bill impact assessment.
23. We have estimated that it will take the General Secretary 8 hours with 4 other senior directors to become completely familiar with what is required and how they will implement this. This is based on figures we have used in a previous impact assessment, in which unions were required to become familiar with assuring membership list. This was originally based on feedback from the unions themselves during consultation.
24. We have also assumed that a lawyer will need to be consulted. Using figures from a previous impact assessment on assuring membership lists (originally based on feedback from unions); we estimate the fee for a lawyer to be £250 per hour. This has been

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included in the cost estimates. The familiarisation cost is applied to all 166 unions as they will need to determine if any of their members are covered under the 40% approval threshold.

25. We have included sensitivity analysis in the form of high and low estimates, again using figures from a previous impact assessments supported by evidence provided by unions during a consultation process.

**Familiarisation costs**

**Table 2: Hours spent by different categories of staff on familiarising with the changes**

	General secretary			Other senior director			Lawyer		
	Low	Best	High	Low	Best	High	Low	Best	High
Familiarisation	4	8	16	16	32	64	0	0	0
Legal	0	0	0	0	0	0	4	8	16

**Table 3: Monetised time cost for different staff (familiarisation)**

	General secretary			Other senior director			Lawyer		
	Low	Best	High	Low	Best	High	Low	Best	High
Familiarisation	£198	£396	£793	£413	£827	£1,653	£0	£0	£0
Legal	0	0	0	0	0	0	£1,000	£2,000	£4,000

Based on Annual Survey of Hours and earnings 2014 data

**Table 4: Aggregated familiarisation costs for unions (incl. legal fees)**

	Cost per union (incl. legal fees)			Number of unions	Total (nearest thousand)		
	Low	Best	High		Low	Best	High
Familiarisation	£611	£1,223	£2,446	166	£101,499	£202,998	£405,996
Legal fees	£1,000	£2,000	£4,000		£166,000	£332,000	£664,000
<b>Total</b>	<b>Empty cells</b>				<b>£267,499</b>	<b>£534,998</b>	<b>£1,069,996</b>

**Increase in output in the affected industries – Direct Benefit**

Scope of this calculation

26. The full estimates for the benefits and costs of the 50% turnout threshold, alongside all other measures in the Trade Union Reform Bill (which includes the 40% approval threshold), will be outlined in the final stage Impact Assessment accompanying the bill.

27. Industrial action is relatively uncommon in the nuclear decommissioning industry. We are consulting on specific occupations which will be covered by the 40% threshold in this industry. Nuclear decommissioning is a vital service. Maintaining these facilities safely where strike action does occur can cause significant cost and disruption, substantially above that incurred in some other industries. These costs represent a negative externality, and so it is important that strike action only occurs in this industry where there is a strong democratic mandate.



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28. The benefits of the inclusion of nuclear decommissioning under the 40% threshold are therefore forward looking and cannot be robustly estimated using historical data. Our sample of ballots therefore does not include cases of strike ballots in the nuclear decommissioning industry, and we do not go on to monetise direct benefits in the nuclear decommissioning industry as industrial action is too rare for impacts to be estimated robustly, although intuitively the indirect benefits of less industrial action in this sector are likely to be large.
29. Furthermore, we exempt the fire service from this impact, since it appears that every strike in the fire service in the past 5 years would have met the 40% threshold. For the purposes of this impact assessment we assume no reduction in working days lost in fire services. Our estimate of reductions in active strike ballots nevertheless does include fire ballots, since we are seeking to estimate a percentage point change across all sectors covered by the 40% threshold wherever possible.
30. The consultation will seek to define the range of occupations within each sector subject to the 40% threshold. In so doing it will help Government establish which occupations should not be subject to the 40% threshold.
31. There is, therefore, a potential range of outcomes from the consultation. Evidence could be received indicating that the 40% threshold should apply to a wide range of occupations, or be focused upon a smaller number of occupations. In this IA we cannot analyse all of these different variations. Some of the strikes found in our sample were not amongst the occupations listed as under consideration in the consultation. A narrower interpretation of which occupations may become subject to the 40% threshold could lead to a smaller reduction in working days lost.
32. Furthermore, the estimates contained in this impact assessment use ONS data for work stoppages in the transport, storage, information and communication sector, the Education sector, the Health and social work sector, and the Border Force. This data is collected at an aggregate sector level and for the purpose of calculations in this impact assessment we use that level of data.

### Calculation

33. BIS analysts used a sample of around 78 ballots held in the education, transport, health and fire sectors and the Border Force in the past 5 years which were covered in the press. Using this sample we estimate a reduction of work stoppages of around 65% when both the 50% turnout threshold and the 40% approval threshold are applied in tandem.
34. We therefore take a best estimate of the reduction in work stoppages of 65%. This section will show the costs and benefits for the best estimate case. The impact assessment which will accompany the Trade Union Bill will consider the use of a range of estimates.
35. The methodology for monetising the increase in output in these sectors will follow the same approach as that used in the final stage Impact Assessment accompanying the Bill; however will focus specifically on the impact in the sectors cited.
36. This methodology will be outlined below. We assume that the working days lost are evenly distributed between work stoppages. This is done so that our analysis is proportionate at this stage, and since we would expect strikes affecting larger and

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smaller numbers of workers to be affected equally by the measure. We will test this assumption over the course of the consultation.

37. This means that for every percentage point fall in work stoppages, we would estimate the same percentage point fall in working days lost.
38. Since we anticipate a 65% reduction in work stoppages on account of applying a 40% approval threshold and a 50% turnout threshold in tandem we therefore estimate a 65% reduction in working days lost in transport, education, healthcare and the Border Force. We will first take a 5 year average of working days lost in education, transport and healthcare using the results of the ONS Labour Disputes Survey. Likewise, we will use a 5 year average of working days lost shown in Management Information for the Border Force, held by the Home Office.
39. We take averages as there is some volatility in the number of working days lost from year to year. A five year average provides a more representative annual figure.
40. The Labour Disputes Survey groups certain sectors together when collecting data. For example, working days lost in transport are collected with those lost in storage, information and communication. Health and social work are also amalgamated for these purposes. We will assume that working days lost in these groups are entirely in the sector affected by the 40% approval threshold. We will test this assumption through the consultation process, and it does not affect our data on the Border Force since it comes from an alternative source.
41. Since the consultation will seek to gather views on which specific occupations should be covered by the 40% approval threshold, we will have a clearer idea as to the proportion of these sectors affected by the measure at a later stage in time and will seek to update this impact assessment using this information.
42. The table below shows our calculations for working days lost in education, transport and healthcare.

**Table 5: Working days lost per sector, ONS Labour Market Statistics table LABD02<sup>3</sup>, Border Force data from Home Office Management Information**

Sector	Transport, storage, information and communication	Education	Health and social work	Border Force
Year				
2010	76,000	5,400	0	8,810
2011	18,600	654,500	221,400	5,342
2012	28,400	39,300	4,100	2,588
2013	23,700	215,000	3,700	1,551
2014	24,900	312,700	36,300	2,985
5 year total	171,600	1,226,900	265,500	21,276
5 year average	34,320	245,380	53,100	4,255

43. We must then calculate the number of hours lost, so that we can estimate the impact this has on output. We use data from the Labour Force Survey to calculate the mean weekly working hours of union members and the mean number of days worked per week in

<sup>3</sup> <http://www.ons.gov.uk/ons/rel/lms/labour-market-statistics/june-2015/table-labd02.xls>

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transport, education and healthcare. For the Border Force, we again use data from the Home Office, suggesting the most common working pattern is 37 hours divided over 5 days each week. We divide the former by the latter for each sector to calculate the average number of hours worked per day.

44. The definition of sectors can be somewhat narrower than in the Labour Disputes Survey when using data from the Labour Force Survey. Consequently, we use transport and storage as our proxy for the transport sector as a whole. We must continue to use the working days lost figure from the wider category, making use of the assumption stated earlier.
45. We can then multiply the number of working days lost by this mean number of hours per day to calculate the working hours lost to industrial action.

**Table 6: Calculation of working hours saved in key sectors by the 40% approval threshold and 50% turnout threshold being applied in tandem**

	Transport and storage	Education	Health and social work	Border Force
Hours worked per week (1 decimal place)	41.9	39.2	36.1	37
Days worked per week (1 decimal place)	5.2	4.8	4.5	5
Hours worked per day (1 decimal place)	8.0	8.2	8.1	7.4
Working days lost (5 year average)	34,320	245,380	53,100	4,255
Working hours lost (5 year average)	275,329	2,022,495	428,465	31,478
Percentage reduction due to threshold (best estimate)	65%	65%	65%	65%
Working hours saved by threshold	178,964	1,314,622	278,502	20,467

46. We can then monetise the economic impact of these working hours saved. The ONS publish Gross Value Added (GVA) statistics for each sector on a quarterly basis. We use the 2014 four quarterly average figures in our calculations since they are the most recently available figures. This shows the contribution to economic output of each sector.
47. Productivity-adjusted hours figures are provided by the ONS as part of their statistics on productivity. They amalgamate health, education and the Border Force amongst government services, and so we must calculate output per hour on a grouped basis for these sectors. The ONS provide these figures in the form of a weekly average across a calendar quarter. We must therefore multiply these figures by 13 so that we divide the

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quarterly GVA figures by quarterly productivity adjusted hours worked figures. The final figures taken represent the four quarterly averages for 2014.

**Table 7: Output per hour worked in the key sectors (2014, four quarter average)**

	Transport and storage	Government services
Output per productivity adjusted hour worked	£24.43	£23.52

48. We can then multiply this figure for each sector with the number of hours saved in that sector by the threshold, to calculate the increase in economic output generated by the sector.

49. Employers will pay wages to employees for these additional hours worked. We do not calculate these wages as a benefit to employees. We assume that the employees who now provide hours worked incur some disutility from working (given the counterfactual is that the employee preferred and wanted to strike). It is assumed that the disutility offsets the wages paid to the employee as the employee was originally willing to forego their wages to strike. The overall impact is that we do not consider wages as a benefit for employees.

**Table 8: Total direct net benefit of the 40% approval threshold and 50% turnout threshold being applied in key sectors**

	Transport and storage	Education	Health and social work	Border Force
Output per productivity adjusted hour worked	£24.43	£23.52	£23.52	£23.52
Median wage	£11.83	£13.82	£11.70	£15.53
Median total labour cost per hour (non-wage labour cost uplift)	£14.17	£16.56	£14.02	£18.60
Difference between output and total labour cost per hour	£10.26	£6.96	£9.50	£4.92
Working hours saved by thresholds	178,964	1,314,622	278,502	20,467
Net benefit to business	£1,835,748	£9,154,554	£2,646,716	£100,594
<b>Total net benefit</b>	<b>£13,737,612</b>			

50. Businesses will therefore gain the difference between the additional output generated and the increase to their wage bill. This difference represents an increase in economic efficiency, since capital will now be used during these hours where previously it would

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have gone unused. In the named sectors, this would for example include vehicles in the transport industry or medical equipment in healthcare being used.

51. We calculate this total wage bill using median hourly wages in each sector where we monetise direct benefits from the Annual Survey of Hours and Earnings (ASHE) undertaken by the ONS and last released in November 2014. For transport, education and health, we use Standard Industry Codes to establish median wage. This means that we take median wage for transport and storage, education and health and social work. In the Border Force, we use the median wage for Standard Occupation Code 3319, which encompasses Immigration Officers. This approach has been agreed with the Home Office as a reasonable approximation of median wage.
52. We multiply these median figures by the hours saved in each sector to give us the additional wage bill in each sector. Firms must also pay non-wage labour costs for these hours worked. We therefore adjust these wage figures by the non-wage labour cost uplift calculated by Eurostat. This is currently 19.8%. We then subtract this adjusted wage bill from the sectoral output increase to gain the net benefit to business in each sector.
53. These benefits can be added together for the three sectors and Border Force to yield the total net direct benefits from increased output. As discussed earlier, this will not account for any direct benefits in the nuclear decommissioning sector.

### **Increase in output in other sectors – Indirect Benefit**

54. There is limited evidence monetising the indirect impact of strike action in the transport, education, health, fire and nuclear decommissioning sectors and the Border Force has on the output of other sectors. Where attempts have been made, it is clear that the size, duration and industry where the strike takes place strongly influence the external impact of strikes. This means that the impact varies widely depending on specific circumstances.
55. Since the nature of strike action tends to vary from year to year, with the ability of large strikes in certain sectors and years to cause a disproportionate impact, it is not readily possible to provide a total annual estimate of the knock-on impact of strike action in the five sectors and Border Force.
56. In turn, this means it is not currently possible to estimate in a sufficiently robust way the annual indirect benefit generated to other sectors as a result of the 40% threshold.
57. We will consider some examples of analysis showing the impact of strikes, in particular in education and transport. This will provide context for this indirect benefit, however it will not form a monetised part of this Impact Assessment.
58. These examples show that where large strikes occur, they can have a considerably higher indirect impact in addition to their direct impact in the workplace where they occur.

### **Strikes across all sectors**

59. The Workplace Employment Relations Survey 2011 was carried out between March 2011 and June 2012. It asked whether businesses had been indirectly affected by strike

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action at another workplace in the past 12 months. 3% of businesses responding to the survey indicated that they had been.

60. Unfortunately, we do not know the scale of disruption caused, and so it is not possible to monetise the overall impact to the economy. WERS results are representative of almost 750,000 workplaces. This would suggest around 22,500 workplaces were indirectly affected by strike action during the period covered by the survey.
61. Even if the impact on each workplace was relatively small, it is clear that the indirect impact to business as a whole of strike action would be high, given the number of workplaces involved.

### *Education strikes*

62. Education strikes can have a much wider-ranging impact than a reduction in the number of pupils at school on the day of action. A school strike may also mean that parents and carers are unable to go to work, which can have an effect on every sector of the economy.
63. HM Treasury estimated that a closure of two-thirds of state schools would lead to a 3-4% knock-on decrease in sectors not directly connected to education for the duration of the strike. This figure was calculated in the period leading up to the November 2011 public sector pension strikes.<sup>4</sup>
64. This formed part of an overall estimate of a £480 million decrease in output as a result of the strike. Around one third of this was caused by the knock-on impact of school closures, leading to an estimate of £160 million in these indirect impacts. This figure represents the scale of knock-on impact to the wider economy of a national education strike.

### *Transport strikes*

65. Transport strikes are another example where some analysis has attempted to quantify indirect, external impacts. Acas commissioned a report in 2007 examining the value for money delivered by the organisation<sup>5</sup>. Since part of Acas' role is to help conciliate collective disputes, this involved some estimation of the impact of strikes which Acas managed to help avert. The figures we quote have not been adjusted for inflation since 2007.
66. The report estimated that the knock-on impact of a 2 day transport strike affecting 3.4 million weekday passengers would lead to a £52 million cost to other businesses, since workers do not arrive at work and other events have to be cancelled. These costs were calculated in the Acas report by accruing the costs to work-related travellers only, and allowing one hour of lost productive time during the days of the strike for each work-related traveller.
67. An air travel related strike affecting 70,000 passengers is estimated in the Acas report to have cost businesses not directly party to the dispute around £38 million. This is based on costs accrued by both business and leisure travellers, assuming the loss of half a day

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<sup>4</sup> [https://www.whatdotheyknow.com/request/breakdown\\_of\\_500\\_million\\_estimat](https://www.whatdotheyknow.com/request/breakdown_of_500_million_estimat)

<sup>5</sup> <http://www.acas.org.uk/index.aspx?articleid=1328>

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for all leisure travellers, the cancellation of 5% of overseas business trips and 4 wasted productive hours for each business trip not cancelled.

### *Border Force strikes*

68. Management Information provided by the Home Office suggests that where strikes in the Border Force do occur, the fall in staffing levels is often between 10% and 40%. Where these staffing reductions cause delays at borders, they may reduce the hours in which travellers are able to work or waste the leisure time of those not travelling for work purposes.

### *Nuclear decommissioning strikes*

69. Nuclear decommissioning is an administrative and technical process. It includes clean-up and storage of radioactive materials and progressive demolition of nuclear plants. Once a facility is fully decommissioned, no radiologic danger should persist. However, there will be an environmental risk to the public during the decommissioning phase should industrial action take place.

### **Indirect costs**

70. Trade unions may spend more funds communicating with their members about ongoing disputes to ensure they are well informed and to encourage them to vote. When a ballot is taking place. The measure itself will not require that trade unions do this, and it is impossible to quantify at this stage the steps unions may take to achieve this aim.

### **Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)**

71. This Impact Assessment uses a wide range of data sources to estimate the economic impact of the introduction of the 40% approval threshold for strike ballots and a 50% turnout threshold in important public services.

72. This has enabled us to estimate the direct benefit that these two measures will bring to the sectors cited, making use of published ballot result figures. This represents the output produced by the sectors themselves, which we would expect to increase after the introduction of the thresholds.

73. There are significant challenges with the availability of data in this area, which has meant that it would be disproportionate to attempt to cost the indirect impact of this threshold on other sectors. That would represent the gains to output since the public and other businesses are able to rely on the continued operation of public services.

74. The indirect impact of strikes can vary widely, and estimating an annual figure would require knowledge of the number of employees working in other sectors who were affected by every single strike in the named sectors under consideration. This data is not currently collected, and so producing a robust estimate is not possible.

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75. We nonetheless seek to provide evidence of the indirect impacts of specific examples of strikes, although since these cannot be annualised, they cannot be monetised and incorporated as part of the wider calculations for this IA.

### **Risks and assumptions**

#### **Ballot sample assumption**

76. We have assumed that our sample of 65 industrial action ballots reported in the press is representative of all ballots held in the key sectors. Since larger ballots are more likely to attract press attention, we believe this sample will cover a high proportion of those union members balloted who work in the named sectors under consideration. We will seek to test this assumption through the consultation.

#### **Voting behaviour**

77. We calculate the benefits of this measure assuming that turnout and support levels in industrial action ballots do not change after the introduction of either the secondary legislation to enact the 40% threshold or the broader provisions contained in the Trade Union bill.

#### **Policy detail around 40% approval threshold**

78. The precise policy detail around which occupations will be included is being consulted on. How the ballots will be conducted if the union that ballots has a mixture of occupations and public services covered and not covered by the 40% threshold is also being consulted on and subject to change. Given the final secondary legislation is yet to be made, the cost and benefit estimates are subject to change post consultation.

#### **Policy impact of 40% threshold**

79. We expect that union members who are inclined to support a ballot (i.e. vote yes) but currently do not turn out to ballot are more likely to vote after the introduction of thresholds on turnout and approval. Behavioural insight theory suggests that these union members would be receiving strong messages and incentives to vote. The outcome of this is that turnout levels are likely to rise which means the 40% threshold may be more binding than suggested by examining past historic ballot data.

#### **Direct costs and benefits to business calculations**

80. The measures contained in this impact assessment are in scope of the £2 billion deregulatory target. The direct impacts which have been monetised largely affect the public sector, particularly the health and education sectors.

81. Using the Labour Force Survey, we can estimate the proportion of union members working in either the public or private sector within each of the sectors where we have estimated reductions in strike action will take place (excluding fire services and nuclear decommissioning).



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82. We can then multiply the proportion of union members in the private sector by the expected benefits in health, education and transport to achieve an indication of the benefit to private sector organisations, which can then be scored under deregulatory methodology. This calculation is demonstrated in the table below.

**Table 9: Total direct net benefit of the 40% approval threshold and 50% turnout threshold being applied in the health, education and transport sectors and the Border Force to organisations in scope of the deregulatory target**

	Transport and storage	Education	Health and Social Work	Border Force
Total benefit	£1,835,748	£9,154,554	£2,646,716	£100,594
Proportion of union members who are private sector employees (to 1 decimal place)	89.0%	9.9%	19.1%	0%
Benefit applicable to the private sector	£1,633,109	£906,354	£505,404	£0
<b>Total</b>	<b>£3,044,868</b>			

1. Figures may not sum up to individual parts due to rounding.

83. The EANCB figure on the front page summary sheet has been left blank so as to not double count the figure with the Trade Union bill IA (the measures mentioned in this IA will appear in the Trade Union bill IA).

84. At the time of drafting this impact assessment it was produced in accordance with the current better regulation framework. The framework is under review which means the net present values and EANCB figures from this policy are subject to change.

### Small and Micro-business Assessment (SaMBA)

#### Impact on unions

85. The measure affects Civil Society Organisations<sup>6</sup> and will come into force after 31 March 2014 and therefore a Small and Micro-Business Assessment is applicable. It has not been possible to fully assess the likely impact on small businesses (up to 49 full time equivalent (FTE) employees) and micro-businesses (up to 10 employees) as there is no collated data on union employees.<sup>7</sup>

86. We do not anticipate this measure imposing significant costs to trade unions or any other business or civil society organisation. As detailed above, the cost to unions would be incurred around familiarisation (which will be accounted for in a separate IA, complete with a SaMBA) and increased promotion where ballots occur. Since these costs would be relatively small in comparison to the wider benefit to business, it is proportionate not to exempt smaller unions from these requirements. Seeking to apply exemptions, opt-outs or temporary exemptions to smaller unions would risk creating incentives for unions to

<sup>6</sup> Trade unions are included in the definition of Civil Society Organisations, which is a voluntary organisation which is neither a business nor public sector.

<sup>7</sup> The Department for Business, Innovation & Skills collects data on the number of small and micro businesses in the UK, but unions are not included in these records.

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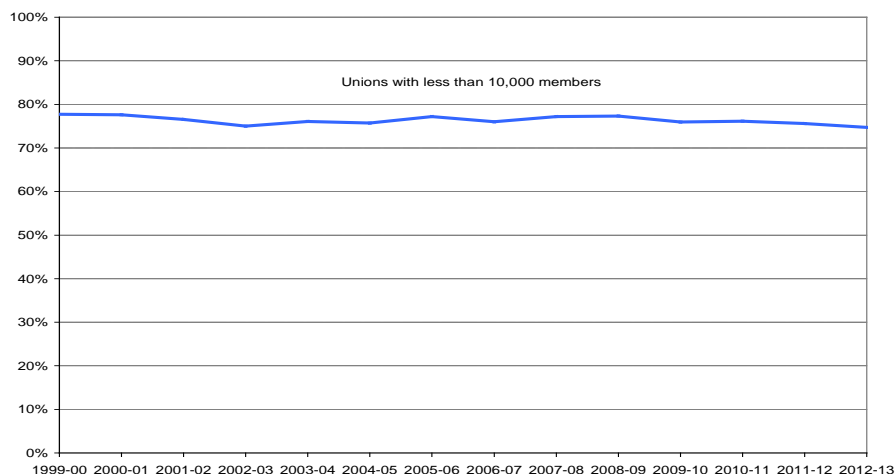
change their size to avoid ballots becoming subject to the 40% threshold. This would undermine the policy objective.

87. Furthermore, a strike held by a smaller union could still cause a very large impact on the wider economy, for example in highly specialised occupations where a small number of employees are engaged. In order to materialise the benefits to the wider economy, and following the rationale for intervention, it is not appropriate to exempt any union.

88. We have nonetheless attempted to quantify the impact this is likely to have on unions with less than 50 employees. A previous BIS Impact Assessment on Certification of trade unions' membership registers and investigatory powers for the Certification Officer<sup>8</sup> estimated that 24% of unions with 10,000 members or more employed less than 50 FTE staff and assumed that unions with fewer members would ordinarily meet the definition of small or micro-businesses.

89. Unions with 10,000 or fewer members make up a significant proportion of all unions. The percentage of unions with less than 10,000 members has remained relatively stable in the period between 1999-00 and 2012-13, representing around 75 per cent to 78 per cent of all listed and scheduled unions.

**Chart 1: Percentage of unions with less than 10,000 members, 1999-00 to 2012-13**



Source: Annual Report of the Certification Officer

90. A large proportion of trade unions therefore would be exempted if an exemption were applied to these unions. Were the 40% threshold not to apply to unions employing less than 50 staff, the benefits of the policy would be significantly reduced.

### Family test

91. We do not expect this measure to have any adverse impacts on families. Families rely on public services and thus these measures to ensure strike action in important public services is on the basis of a clear mandate benefits families. A reduction in working days lost in the school sector is likely to mean children experience fewer disruptions to their education.

### Equalities impacts

92. The impact of this policy on different protected groups has been fully considered, and a separate Equalities Assessment will be published in due course.

<sup>8</sup> <https://www.gov.uk/government/consultations/trade-unions-assured-registers-of-members>

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Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills  
1 Victoria Street  
London SW1H 0ET  
Tel: 020 7215 5000

If you require this publication in an alternative format, email [enquiries@bis.gsi.gov.uk](mailto:enquiries@bis.gsi.gov.uk), or call 020 7215 5000.

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