



Department  
for Business  
Innovation & Skills

**Amendment to the Trade Union  
and Labour Relations  
(Consolidation) Act 1992: Trade  
Unions' Registers of Members**

Impact Assessment

SEPTEMBER 2013

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<b>Title:</b>  <b>Amendment to the Trade Union and Labour Relations (Consolidation) Act 1992: Trade unions' registers of members</b>  <b>IA No:</b> BIS LM001  <b>Lead department or agency:</b> Department for Business, Innovation and Skills	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 03/09/2013		
	<b>Stage:</b> Bill IA		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Primary legislation		
<b>Contact for enquiries:</b> Andrew.Rowlinson@bis.gsi.gov.uk			
<b>Summary: Intervention and Options</b>			<b>RPC Opinion: Red</b>

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 One-In, Two-Out?   Measure qualifies as
£-5.20m	£-4.00m	£0.37m	Yes   IN

**What is the problem under consideration? Why is government intervention necessary?**

It is important that union decisions reflect the will of their members. Therefore, the Trade Union and Labour Relations (Consolidation) Act 1992 includes a duty to compile and maintain a register of members' names and addresses, and so far as it is reasonably practicable, keep the register accurate and up-to-date. Individual unions represent an increasingly large and diverse membership across different employers, job types, and regions. We do not believe that the current statutory obligations provide an adequate mechanism for all the parties involved to obtain assurance that the register is accurate and up-to-date. The proposed policy change will provide information to members, the general public and employers to assure them that membership lists are accurate.

**What are the policy objectives and the intended effects?**

The policy objective is to give greater assurance that unions comply with the existing duty to maintain a register of members' names and addresses. However, we wish to do this in a way which minimises the burden on the union in providing this assurance and is not prescriptive. Unions ballot their members on a range of issues including the election of new Executive members through to industrial action. The intended effect of the policy is to ensure that members, the general public and employers are confident that voting papers and other communications reach trade union members so they have the opportunity to participate in union activity - as far as is reasonably practicable - even if they choose not to exercise it.

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

Option 0: Do nothing (the counterfactual).

Option 1: Statutory duty on trade unions to provide an annual membership audit certificate to the Certification Officer (CO) that provides an opinion on the maintenance of the register. Additional powers to the CO to appoint inspectors to investigate and to make orders requiring a trade union or person to cooperate with an inspector's investigation. The CO can also issue declarations and enforcement orders for non-compliance with duties relating to the register. These changes will increase confidence, and provide a level of transparency and consistency, which is not being achieved by the current legislation.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 10/2019

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	<b>Large</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> 0	<b>Non-traded:</b> 0	

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.***

Signed by the responsible Minister Jo Swinson MP,  
 Parliamentary Under-Secretary of State for Employment  
 Relations and Consumer Affairs:



Date: 02/09/2013

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Duty to provide trade union membership audit certificate, and additional powers to the Certification Officer

## FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -7.20	High: -3.16	Best Estimate: -5.20

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.0	0.4	3.2
High	0.0	0.8	7.2
Best Estimate	0.027	0.6	5.2

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

There will be a one-off familiarisation cost for all unions (£27k). Trade unions with 10,000 or more members will incur costs in the procurement of assurers (£210k - £630k per annum) and will incur costs through time spent by those personnel on the audit process (£0.3k - £3.4k per annum). Trade unions with less than 10,000 members will incur self-certification costs (£26k - £53k). The exchequer may incur costs as a result of the additional costs for inspections and enforcement (£130k -£150k per annum).

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

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

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

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

Greater transparency of the process for maintaining an accurate and up-to-date register will increase the confidence of the public and employers in trade unions' democratic accountability.

### Key assumptions/sensitivities/risks

### Discount rate (%)

3.5%

We have assumed unions are in full compliance with their existing duties, and only additional costs and benefits arising from the Bill are included. In the absence of detailed guidance on the audit process, a number of assumptions are made. These are subject to some uncertainty and are set out clearly in the notes. There may be risks including: displacing core trade union work and increasing subscription fees. These are mitigated by fewer requirements on unions with less than 10,000 members.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0.4	Benefits: 0.0	Net: -0.4	Yes	IN

# Evidence Base (for summary sheets)

## Problem under consideration

1. As membership organisations, it is important that trade union decisions reflect the will of their members. Knowing who their members are and being able to engage them is intrinsic to a union's democratic accountability.
2. The Trade Union and Labour Relations (Consolidation) Act 1992 reflects this by including under Section 24(1) a duty to maintain a register of members' names and addresses that is, so far as reasonably practicable, accurate and up-to-date.
3. Trade unions are required to keep accurate and up-to-date registers so they can reach their members with voting papers and other communications. This is particularly important for unions' statutory requirement to carry out postal ballots for certain activities including industrial action, election of the General Secretary, mergers, and the maintenance of political funds.
4. Individual unions represent an increasingly large and diverse membership across different employers, job types, and regions. Although the stock of trade union membership has remained relatively stable from the mid 1990s onwards, with membership levels falling slightly from 7 million to 6.5 million employees, there are significant inflows and outflows of union membership.
5. An increase in an individual union's membership diversity and membership turnover is a key reason why managing a large database of members is complex. It means that the information held in the unions' registers will decay rapidly. In addition, the information held on the registers will decay for other reasons:
  - changes of addresses; and
  - deaths, divorces, and marriages.
6. All of these changes may undermine the accuracy of union registers, unless adequate and relatively frequent management procedures are in place to resolve inaccuracies and maintain the register. Some of the reasons for inaccurate data are explored in more detail below.

## Membership turnover

7. One factor influencing these movements is the high degree of churn in the UK labour market – there are millions of movements between jobs, and between employment, unemployment and inactivity in a given year. Table 1 below demonstrates some of these movements in the period between quarter 3 of 2012 and quarter 2 of 2013 (note that this is just one period and comes from an Office for National Statistics experimental series, but it illustrates the magnitude of movements).
8. The flows estimate the size of the movements between the three main labour market statuses of employment, unemployment and economic activity. So, for example, although the net increase in employment was 400 thousand between quarter 3 2012 and quarter 2 of 2013, the total numbers of people moving in and out of employment was 7.6 million – 4.0 million in and 3.6 million out. So, around 1 in 4 people (7.6 million as a share of total employment of around 29.8 million move in or out of work in this year.

**Table 1: Gross and Net Flows by Work Status Q3 2012 – Q2 2013**

Millions

	Employment	Unemployment	Inactivity
Gross Inflows	4.0	3.7	3.4
Gross Outflows	3.6	3.8	3.7
Net Flows	0.4	-0.1	-0.3

Source: Office for National Statistics, Labour market flows August 2013 (Experimental statistics), working-age population (16-64), seasonally adjusted

9. And there is a similar significant amount of turnover amongst union members. Table 2 shows that around 2 million people move in and out of union membership – around 1 in 4 (2 million as a share of 7.6 million) of union membership. Consequently, unless registers are refreshed at least once a year, the information on the membership records are likely to have decayed by at least a quarter just from this source alone

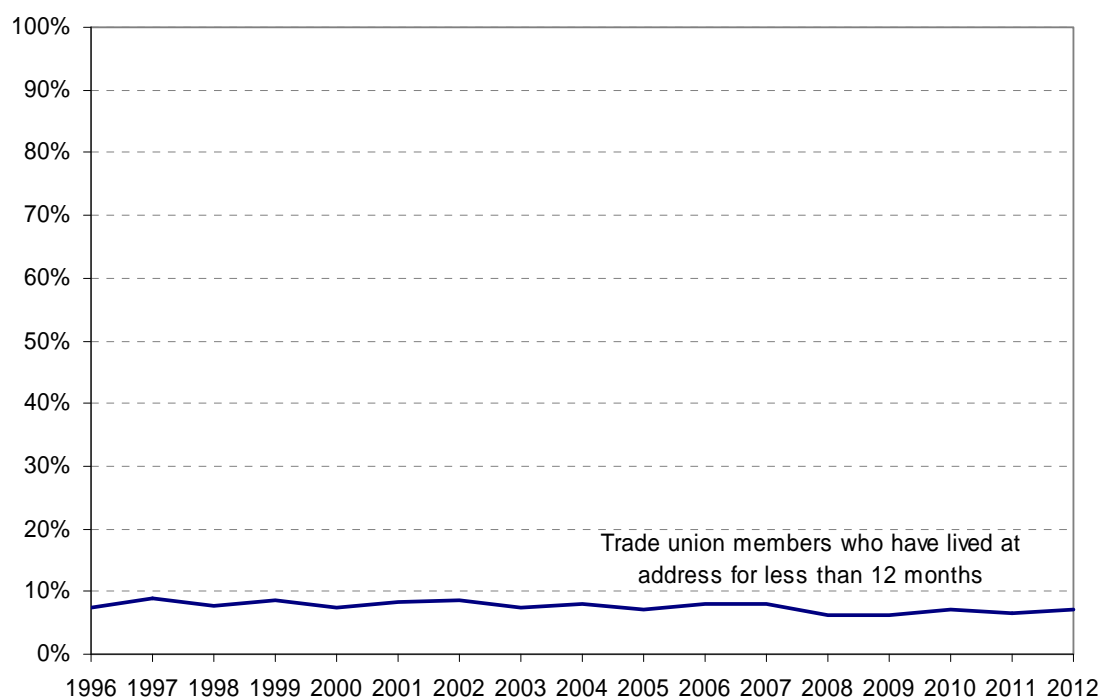
**Table 2: Union membership flows October-December 2011 to October-December 2012**

Millions

	Gross Flows
Membership gross outflow: member to non-member	0.9
Membership gross inflow: non-member to member	1.1

Source: Labour Force Survey (5 quarter longitudinal), Office for National Statistics, working-age population, non-seasonally adjusted

10. In addition, members can frequently move their residential address, which may lead to inaccurate details unless unions are subsequently updating their registers. A proxy for movements between residential addresses is obtained from the percentage of union members who have lived in their address for less than 12 months. In the period between 1996 and 2012, this amounted to approximately 6 to 9 per cent of union members.



Source: Labour Force Survey

11. A combination of high turnover in union members and frequent changes in address, in addition to events such as deaths, or changes of names through divorces and marriages may undermine the value of the data held by unions. From the indicative figures above it suggests that a cautious estimate of the likely turnover in the register is around 1 in 4 members a year. This estimate is based on Labour Force Survey data on union membership flows. Table 2 shows that around 2 million people move in and out of union membership – around 1 in 4 (2 million as a share of 7.6

million) of union membership. Given this degree of turnover keeping the register up-to-date is important.

12. Individual unions represent an increasingly large and diverse membership across different employers, job types, and regions. An increase in membership diversity along with difficulties associated with maintaining an accurate register could lead to the general public, union members and employers lacking confidence in the extent to which union actions accurately reflect the will of their members. Anecdotal evidence from a few employers provided as part of informal consultation with stakeholders suggests that some employers would benefit from being provided greater assurance that membership lists are accurate.

## Rationale for intervention

13. Given the complexity of maintaining up-to-date registers there is a danger that trade union members, employers and the general public will not be confident that unions are complying with their duty to maintain an accurate and up-to-date register. And, as trade union activity has the potential to affect the daily lives of members and non-members, the general public should be confident that voting papers and other communications are reaching union members so that they have the opportunity to participate, even if they choose not to exercise it.
14. The Government interventions in the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill addresses these difficulties by requiring trade unions with more than 10,000 members to demonstrate they comply with the regulations. They will have to present an annual membership audit certificate, which will be completed by an independent qualified assurer. Smaller trade unions will be able to self-certify. The certificate will visibly demonstrate that unions know who their members are and can communicate with them. It will also demonstrate that union registers are accurate and up-to-date, without prescribing a specific method. Therefore unions will have the flexibility to choose the method that most suits their circumstances.
15. Where it appears that unions are not complying with their duties the Certification Officer will also be given powers enabling him to both act on his own authority to appoint inspectors and require documents to be produced to help investigations. The powers will provide a mechanism by which the general public and employers can ensure that trade unions are complying with their duty to maintain an accurate and up-to-date register.
16. The trade union measures in the Bill will provide information to members, the general public and employers to assure them that membership lists are accurate. These changes will increase confidence, and provide a level of transparency and consistency, which is not being achieved by the current legislation.

## Policy objective

17. The policy objective is to give greater assurance that unions comply with the existing duty to maintain a register of members' names and addresses. However, we wish to do this in a way which minimises the burden on the union in providing this assurance and is not prescriptive. Unions ballot their members on a range of issues including the election of new Executive members through to industrial action. The intended effect of the policy is to ensure that members, the general public and employers are confident that voting papers and other communications reach trade union members so they have the opportunity to participate in union activity - as far as is reasonably practicable - even if they choose not to exercise it.

## Description of options considered (including do nothing)

### Do Nothing

18. The counterfactual against which this policy is assessed is the continuation of the current policy as set out in Trade Union and Labour Relations (Consolidation) Act 1992. This would maintain the status quo. The do-nothing option would generate no additional costs or benefits to parties over the years assessed in the Impact Assessment.

### **Option 1 – Implement the provisions in part 3 of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill (Trade Unions’ Registers of Members’)**

19. On 17 July 2013, the Government introduced into Parliament the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill. The Bill includes measures to deliver greater assurance that union membership records are kept accurate and up-to-date through unions providing an annual membership audit certificate to the Certification Officer and by giving the Certification Officer powers to require production of relevant documents and to appoint inspectors to investigate. This goes beyond what is currently required in legislation. The changes will extend to England, Scotland and Wales, but not to Northern Ireland.
20. Trade unions would specifically be required to provide an annual membership audit certificate to the Certification Officer alongside their annual return. For trade unions with more than 10,000 members, the membership audit certificate will need to be completed by a qualified independent assurer. At the end of 2012-13, there were 42 unions who under these regulations would be required to submit an audit certificate completed by a qualified independent assurer. This represents around 97 per cent of the total union membership, and 25 per cent of listed and scheduled unions.
21. Unions with less than 10,000 members will be able to self-certify their membership audit certificate. At the end of 2012-13, there were 124 unions with less than 10,000 members, representing just 3 per cent of the total union membership and 75 per cent of the listed and scheduled unions.
22. To prevent potential barriers to the creation of new unions, the requirements will not apply to newly created trade unions of less than one year old. In addition, unions will continue to determine through their rules who is a member. It will also be for unions to decide how they hold their membership register, whether that is electronic or paper-based and to decide how they collect their membership subscriptions.
23. The Bill will give the Certification Officer additional powers, beyond the existing powers that limit the scope of investigations and complaints to those from union members. Specifically the Certification Officer will be given additional powers:
  - to require documents to be produced where he thinks there is good reason to do so;
  - to appoint an inspector to investigate where it appears there are circumstances suggesting that the union has failed to comply with its duties in relation to the register of members.
24. The Certification Officer will be able to act on his own authority and may also take into account information brought to his attention by union members or third parties. Should the Certification Officer find that a union has not kept its membership record in accordance with the duty in section 24(1) of Trade Union and Labour Relations (Consolidation) Act 1992, or if there is a breach of the duties to provide a membership audit certificate, appoint an assurer or in relation to the appointment and removal of assurers, he will be able to make a declaration or a declaration and enforcement order as appropriate.
25. Similarly, where a union or person refuses to supply relevant documents or otherwise refuses to co-operate with an investigation, the Certification Officer will be able to order compliance with the requirement.
26. Orders made by the Certification Officer will be treated as an order of the High Court (or Court of Session in Scotland). There is to be a route of appeal on a point of law to the Employment Appeal Tribunal.
27. The Government’s preferred option is to implement the provisions in Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill. The current statutory obligations do

not provide an adequate mechanism to give greater assurance to members, the general public and employers that membership records are accurate, and that unions can effectively engage their members. The proposed policy change will provide information to members, the general public and employers to assure them that membership lists are accurate.

28. The analysis contained within this Impact Assessment is based on option 1. The total costs for option 1 are presented as the additional costs and benefits arising from option 1 when compared with the counterfactual ('do nothing').

## Assumptions behind Cost Benefit analysis

29. Under current impact assessment guidelines, cost benefit analysis is undertaken under the assumption (unless there is evidence to the contrary) that companies (and in this case unions) are currently in full compliance with existing legislation. We have received views from some employers that there is a perception that trade union membership details may be inaccurate. But we have no direct evidence that unions are not complying with the existing statutory duty to maintain their list of members.
30. The primary objective of these reforms is to give greater assurance of compliance with an existing duty to maintain a register of members' names and addresses that is, so far reasonably practicable, accurate and up-to-date. This impact assessment follows the usual impact assessment practice and assumes that all unions are currently in compliance with the Trade Union and Labour Relations (Consolidation) Act 1992 which under Section 24(1) requires a duty to maintain a register of members' names and addresses that is, so far as reasonably practicable, accurate and up-to-date.
31. This assumption therefore defines the scope of this impact assessment as focusing exclusively on the cost and benefits related to the independent assurance of union processes and controls regarding membership lists.

## Impact on Trade Unions

### Familiarisation (Direct Cost) – All unions

32. The introduction of this legislation will introduce one-off familiarisation costs for those unions preparing a membership audit certificate. We assume that the time taken to be familiar with the proposals in this impact assessment and its requirements will be small. The proposed Bill seeks to make a minor amendment to the existing Trade Union and Labour Relations (Consolidation) Act 1992 – under section 24(1) - which all unions are already familiar with.
33. One stakeholder, experienced with trade union operations, believed that conditional on the size of the union, it would take 1 or 2 days for union staff to become familiar with the new legislation. Familiarisation may involve a union official learning how the proposed regulation impacts their operations by analysing the changes and producing a report. This may then lead to the wider dissemination of this report to other union staff either via email or face to face meetings.
34. For a union with fewer than 10,000 members, a limited number of staff would need to be made aware of the impacts that the proposed legislation could have on their operations. We will assume that it takes on average 10 hours of union officials staff time to familiarise themselves with this proposed regulation. With most of time taken up by analysing and evaluating these changes.
35. For a larger union, one with 10,000 members or more, dissemination would presumably take longer as more staff would need to be made aware of the impacts that the proposed legislation could have on their operations. Thus for unions with more than 10,000 members we will assume it will take on average 15 hours of a union officials staff time to familiarise themselves with the new requirements.
36. For the purposes of this impact assessment we will assume that the type of staff involved in familiarising themselves with these proposed regulations will be union officials. Using the Annual Survey of Hours and Earnings data (2012 provisional)<sup>1</sup>, the basic hourly median pay for officers of non-governmental organisations (closest match to a union official – SOC 2010: 4114) is £12.03. We

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<sup>1</sup> Table 14.6a Hourly pay - Excluding overtime (£) - For all employee jobs: United Kingdom, 2012

have decided to use the basic hourly median pay (excluding overtime) as opposed to mean gross pay for two reasons. The first reason is that by using the median average pay we remove the effects of outliers on the average hourly wage. The second reason, regarding the exclusion of overtime, is based on the assumption that trade union staff will carry out their activities during core operating hours only. Hence any ASHE data that includes overtime pay is excluded.

37. Adjusting for a 17.8% uplift to reflect non-wage labour costs, the total hourly cost for a union official will be approximately £14.17.
38. This means that for a union with 10,000 members or fewer, the total familiarisation costs per union will be (10 hours of staff time x £14.17) £141.70.
39. For a union with 10,000 or more members, the total familiarisation costs per union will be (15 hours of staff time x £14.17) £212.57.
40. In order to arrive at a total familiarisation cost to unions the total familiarisation costs per union should be multiplied by the total number of unions. This includes those unions with 10,000 or more members (42 unions in total) as well as those unions below 10,000 members (124 unions in total) where an independent assurer is not needed for a membership audit certificate.
41. For Unions with 10,000 or more members the total familiarisation costs will be (42 unions x £212.57) £8,900.
42. For unions with fewer than 10,000 members the total familiarisation costs will be (124 unions x £141.70) £17,600
43. Therefore the estimated total familiarisation cost for all unions will be (£8,900+ £17,600) £26,500

#### **Payment of fee (Direct Cost) – For unions with 10,000 members or higher**

44. Under this Bill trade unions with more than 10,000 members will be required to produce a membership audit certificate which will need to be completed by a qualified independent assurer.
45. The use of an independent assurer will necessitate a payment of a fee for services rendered. This will act as a direct cost to a trade union.
46. In determining an average fee, evidence was collated via consultations with key stakeholders such as trade unions and potential assurers. All stakeholders agreed that the potential fee would vary depending on the size of the trade union and (guidance pending) the sample size used to check whether processes were robust. Additionally the distribution of membership lists amongst various branches could also impact on the level of fee charged to a union. Membership lists located in several different branches will require an assurer to potentially visit each site. This could result in a higher fee being charged. In contrast, fewer sites or just one central site will potentially reduce the level of fee charged.
47. With these caveats in mind, analysis of stakeholder responses yielded an **average fee of £10,000**. Some stakeholders were able to supply numbers that took into account membership size. One of the respondents whose union membership was in the 25,000-50,000 range gave a lower bound estimate of £5000. In terms of an upper bound estimate, a potential assurer suggested that Unions with a million or more members would most likely be charged between £13,000-£15,000.
48. For the purposes of this impact assessment we will therefore assume that the average fee for a union will be £10,000, with a minimum estimate of £5,000 and a maximum estimate of £15,000.
49. At the end of 2012-13, there were **42 unions** who under these regulations would be required to submit an audit certificate completed by a qualified independent assurer. By multiplying our minimum estimate (£5,000); best estimate (£10,000) and maximum estimate (£15,000) by the number of unions affected (42) we can present a cost range for fees incurred (see table 3)

**Table 3: Total fee cost faced by trade Unions based on 2012-2013 union numbers and fee estimates**

Minimum Estimate	Best estimate	Maximum Estimate
£210,000	<b>£420,000</b>	£630,000

## **Time cost by complying with the assurance process (Direct cost) – For unions with 10,000 members or higher**

50. As part of this proposed Bill unions with over 10,000 members will need an independent assurer to assure its procedures, in order to potentially qualify for a membership audit certificate.
51. As part of this process the independent assurer will require the time of union staff to help it assess the controls and procedures when maintaining and updating a union's membership list. This is considered a cost to the union as staff are not being utilised for core union activities.
52. A few stakeholders mentioned that the final cost to the union, in regards to assisting the assurer, would be dependent on the final guidance produced by BIS – illustrating what the minimum requirements were for a membership audit certificate - and the size of a unions operation.
53. One stakeholder was prepared to give some details. They believed that most of time would be incurred during 30 minute telephone interviews, were an assurer would interview a union staff member over procedures and controls. Depending on the size of the union and the number of branches, they estimated that between 1-10 union staff would be asked to take part in interviews.
54. The type of staff that would be interviewed would vary from union officials (branch managers), data entry clerks and IT operation technicians. Using the Annual Survey of Hours and Earnings data (2012 provisional)<sup>2</sup> we already know that the total hourly cost of a union official when adjusted to reflect non- wage labour costs is approximately £14.17. For a data entry clerk (SOC 2010: 4122) the basic hourly median pay is £11.01. Adjusting for a 17.8% uplift to reflect non-wage labour costs, the total hourly cost for a data entry clerk will be approximately £12.97. Repeating this For an IT operation technician (SOC 2012: 3131) we find that the basic hourly median pay is £13.64. Adjusting for a 17.8% uplift to reflect non-wage labour costs, the total hourly cost for an IT operation technician is £16.07.
55. Unfortunately the combination of staff to be interviewed was not provided as it depended on the union operation and size. However from the numbers we do have, we can estimate the maximum cost to the union in terms of staff time lost, by using the highest paid staff member in our sample as the baseline. In this case this would be the IT operation technician with an hourly cost of £16.07. Taking account that staff members will take part in 30 minute interviews, the total maximum cost per IT operation technician will be approximately £8.03 an interview. It must be stressed that this is an overestimated value.
56. To determine a final cost value per union we will need to decide how many people on average will be interviewed. As mentioned previously, a stakeholder believed that depending on the union between 1-10 staff would be interviewed. As we have no definitive number we will present a maximum estimate where 10 staff are interviewed per union and a minimum estimate where just 1 staff is interviewed per union and a best estimate scenario where 5 staff are interviewed.
57. Under the maximum estimate scenario where 10 staff are interviewed the total cost to the union will be (10 staff x £8.03) £80.30. Assuming that there are 42 unions who have more than 10,000 members the total maximum cost to trade unions, in terms of staff time lost is, (42 unions x £80.30) £3,400.
58. Under the minimum estimate scenario where 1 staff is interviewed the total cost to the union will be (1 staff x £8.03) £8.03. Assuming that there are 42 unions who have more than 10,000 members the total minimum cost to trade unions, in terms of staff time lost is, (42 unions x £8.03) £300.
59. Under the best estimate scenario were 5 staff are interviewed the total cost to the union will be (5 staff x £8.03) £40.17. Assuming that there are 42 unions who have more than 10,000 members the total maximum cost to trade unions, in terms of staff time lost is, (42 unions x £40.17) £1,700
60. A summary of the maximum, minimum and best estimates are presented in table 4 below

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<sup>2</sup> Table 14.6a Hourly pay - Excluding overtime (£) - For all employee jobs: United Kingdom, 2012

**Table 4: Total time cost of complying with the assurance process, for unions with 10,000 or more members**

Minimum estimate	Best estimate	Maximum estimate
£300	<b>£1,700</b>	£3,400

61. Again it should be stressed that these numbers are possible over estimates as we based our benchmark total cost on the most expensive employee – the IT operation technician

### **IT costs (Indirect cost – non-monetised) – All unions**

62. The evidence regarding the impact of this Bill on IT costs is mixed.
63. During consultation with stakeholders some concerns were raised regarding IT costs. That is some stakeholders believed that a possible unintended consequence of this Bill would be that some unions would need to update their IT systems. This would act as a cost to unions.
64. The rationale behind this argument was the concern that some unions may be running antiquated IT systems that would make an independent assurer's job difficult when assessing the processes and controls regarding the accuracy of membership lists. However further consultations with potential assurers suggested that IT upgrades exclusively related to meeting the aims of the Bill were not necessary. This is because as far as they were concerned nearly all the unions they had prior experience with were capable of producing a list of names and addresses in an accessible digital format. Regardless of how antiquated their, the unions, IT systems were. This meant that any assurer with access to existing commercial software could easily interrogate the membership list if they needed to for the purposes of granting a membership audit certificate.
65. Even though some unions may feel the need to update their IT systems, as far as this impact assessment is concerned we believe that IT costs directly relating to the Bill will be zero. This is because the existing IT structure in place with nearly all the unions is sufficient for meeting the objectives of this Bill.

### **Costs of self certification (Direct cost) – For unions with less than 10,000 members**

66. Under proposed legislation, unions with less than 10,000 members will not need to seek independent assurance in order to produce a membership audit certificate. Instead, unions with less than 10,000 members will be able to self-certify their membership audit certificate. It assumed that the process of self-certification will result in a cost for those unions with less than 10,000 members.
67. One stakeholder, experienced with trade union operations, estimated that the process of self certification would involve the union branch manager undertaking an internal assurer role. They estimated that depending on the size of the union, this would take one union official 15-30 hours. From previous calculations, and adjusting for a 17.8% uplift to reflect non-wage labour costs, the total hourly cost for a union official will be approximately £14.17.
68. Under a **maximum estimate** scenario, where we assume that a union official will take **30 hours** to complete the self certification process, the total maximum cost to a single union with less than 10,000 members will be (30 hours x £14.17) **£425.14**. Applying that to all trade unions with less than 10,000 members (124 unions), gives us a total cost of (124 unions x £425.14) **£52,700**
69. Under a **minimum estimate** scenario, where we assume that a union official will take **15 hours** to complete the self certification process, the total minimum cost to a single union with less than 10,000 members will be (15 hours x £14.17) **£212.57**. Applying that to all trade unions with less than 10,000 members (124 unions), gives us a total cost of (124 unions x £212.57) **£26,400**.

70. Under a **best estimate** scenario, where we assume the number of hours lies in the mid range of our 15-30 hour estimate, that is **22.5 hours**, the total best estimate cost to a single union with less than 10,000 members will be (22.5 hours x £14.17) **£318.86**. Applying that to all trade unions with less than 10,000 members (124 unions), gives us a total cost of (124 unions x £318.86) **£39,500**.

71. The total cost of self certification faced by all unions with less than 10,000 members is presented in table 5 below.

**Table 5: Total cost of self certification for all 124 unions with less than 10,000 members**

Minimum estimate	Best estimate	Maximum estimate
<b>£26,400</b>	<b>£39,500</b>	<b>£52,700</b>

## Summary of Trade union Costs

72. Table 6 below presents a summary of the (**best estimated**) costs that potentially face trade unions under proposed legislation:

**Table 6: Best estimated costs to Trade Unions (Excludes cost to Exchequer)**

	Unions with fewer than 10,000 members (Total:124 unions)	Unions with 10,000 members or more (Total:42 unions)
<i>Familiarisation Costs (One off)</i>	£17,600	£8,900
<i>Payment of fee</i>	N/A	£420,000
<i>Time cost of complying with Independent assurers</i>	N/A	£1,700
<i>IT costs</i>	0	0
<i>Costs of self certification</i>	£39,500	N/A
<i>Total Cost (including familiarisation)</i>	£57,100	£430,600
<b><i>Total Cost (excluding familiarisation)</i></b>	<b>£39,500</b>	<b>£421,700</b>
<b><i>Total Costs for all unions (excluding familiarisation)</i></b>	<b>£461,200</b>	

## Impact on Trade Union members

### Increase membership confidence (Indirect Benefit – non monetised)

73. Responses from stakeholders suggested that a membership audit certificate awarded by an independent assurer, to a union, would improve confidence amongst trade union membership regarding the accuracy of membership lists. Members would be more confident that they and other members within the union were receiving up-to-date information on union activities.

## Impact on Assurers

### Receipt of fee

74. Assurers will receive a payment for services provided to Trade unions. This payment for services does not appear within the Net Present Value or the Equivalent Annual Net Cost to Business (EANCB) calculations.

## Impact on the Exchequer

### Certification Office (Direct Cost)

75. Under proposed legislation the Bill will give the Certification Officer Office additional powers, beyond the existing powers that limit the scope of investigations and complaints to those from union members. For more details regarding the scope of these additional powers please refer to option 1 in the "Description of options considered" section within this impact assessment.
76. What is evident is that this Bill will necessitate the Certification Officer to increase his or her resources in order to meet its additional enforcement duties. Consultations with the Certification Office have identified the cost of this additional resource.
77. To comply with its duties under the proposed Bill, the Certification Office will need to recruit 2 additional staff at a cost of £127,613. In addition to this, an external investigator may need to be hired if an investigation into a union's membership activity is deemed to be warranted. The Certification Office were unable to estimate how often an investigation would take place but they estimated that including the two staff the total cost to the exchequer would be in the region of £130,000-£150,000 per annum.
78. For the purposes of this impact assessment we will assume that the best estimate will be in the middle of the certifications high (£150,000) low (£130,000) estimate. Thus the assumed **best estimate** cost to the exchequer will be **£140,000**.

## One-in two out Rule

79. The measures contained in this impact assessment are in scope of "One-in-two-out" (OITO). The Bill will impose a net annual direct cost on trade unions (which are classified as civil society organisations). As civil society organisations are treated the same as businesses for the purposes of OITO the Equivalent Annual Net Cost to Business (EANCB) is estimated to be £0.37m in 2009 prices.

## Risks and unintended consequences

### Risks

#### Competition

80. It is important that the market for independent assurers remains as competitive as possible. At the same time the market for assurance can not be open to everyone as the competence level of assurers is important to ensure confidence in the certification process. To mitigate this risk, the proposed certification assurance process will be open up to a number of professional bodies who already are familiar with trade union operations. Such professionals include solicitors, auditors and scrutineers.

## Unintended consequence

### Increase in membership fees (Indirect second round impact)

81. Discussions with trade unions suggested that the costs incurred by this bill would be passed on to its members via higher subscription fees.
82. If we look at all the trade unions and members affected by this proposed legislation (166 trade unions with a total of 7,197,415 members), and factor in all the trade union annual costs (excluding one-off familiarisation costs), the average annual cost per union member is presented in table 7 below.

**Table 7: Annual cost per union member (for all members across all unions):**

Minimum Estimate	Best estimate	Maximum Estimate
£0.03	<b>£0.06</b>	£0.10

83. It should be noted that the increase in membership fees is not included in the summary sheet as this is a second round impact.

## Proportionality of evidence used in this impact assessment

84. We have taken a considered proportional approach in the gathering and analysis of evidence used to underpin this impact assessment. Forty-two Trade Unions will be affected by the requirement to provide a membership audit certificate which is independently assured. At present there is no requirement to assure the process by which membership lists are maintained. As part of the Government's discussion document we sought evidence from relevant stakeholders on the likely costs and benefits of introducing an assurance certificate for trade unions with over 10,000 members. We have used evidence gathered from stakeholders to inform our estimates and have been cautious when making assumptions. The impact assessment contains sensitivity analysis to reflect uncertainty over the evidence base and final policy guidance. The EANCB to trade unions is estimated to be less than £0.37m.

## Small Business Impact Test

85. We do not believe there will be any significant adverse impact on small businesses or trade unions as a result of this policy.
86. There are only 28 unions of less than 100 members, accounting for only 1,000 of the total 7.2 million union members. These unions in addition to unions of less than 10,000 members will be able to self-certify their annual membership audit certificate, which will help smaller unions to comply with these regulations.
87. To prevent potential barriers to the creation of new unions, the requirements will not apply to newly created trade unions of less than one year old. In addition, it is likely that the majority of newly created unions will be able to self-certify their accounts in their second year. This is because newly created unions tend to be smaller than the 10,000 threshold for independent assurance. In the period between 2000 and 2012, only 2 of the 46 newly created unions reported a membership of greater than 5,000 members in their first return to the Certification Officer.

88. The additional Certification Officer powers will apply to all unions, regardless of size. However, we think it is unlikely that smaller trade unions will be subjected to the use of these powers. This is because it is simpler for smaller unions to maintain an accurate and up-to-date register as there are fewer entries in the register, so it is less likely that circumstances will arise where the Certification Officer would want to act on his own authority.

## Equality impact test

89. We have published separately an Equality Impact Assessment<sup>3</sup> (EQIA). Although the effects of the proposals may impact different protected groups in different ways, our assessment suggests that there will **be no direct adverse equality impacts** on these protected groups from the implementation of the proposed legislative measures regarding certification of trade union membership registers

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<sup>3</sup> <https://www.gov.uk/government/publications/trade-union-membership-records-equality-impact-assessment>

## Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];</p> <p>To evaluate the policy we propose to review the impact in 2019. This is four years after the first set of audit certificates will be issued.</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The review will assess the policy objective of ensuring that trade union members, employers, and the general public are confident that unions comply with their duties to reasonably maintain membership lists.</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>A light touch approach will be taken by reviewing management information on complaints made to the Certification Office (CO) and use of compliance data from the CO.</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>Current management information held by the Certification Office.</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>A low level of complaints made to the certification office and a high level of compliance.</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p> <p>The Certification Office will be collecting data on complaints and compliance.</p>
<p><b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here]</p>

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