



Department  
for Business  
Innovation & Skills

Transparency of Lobbying, Non-Party  
Campaigning and Trade Union  
Administration Act 2014

**Consultation on Trade Union  
Assured Register of Members**

**SEPTEMBER 2014**

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## Foreword by the Minister for Employment Relations and Consumer Affairs

The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill received Royal Assent on 30 January 2014. When the Bill was introduced, Vince Cable, the Secretary of State for Business, Innovation and Skills, said that he would seek views on the effective implementation of the measures on trade union membership records, as well as on what guidance should be provided to ensure that unions can meet the new requirements, with the help of employers where needed. This consultation document aims to do exactly that.



I am also pleased we can use this consultation to gain a better understanding of the detail of how the administration procedures of trade unions will deal with the appointment of independent assurers. This will help us update our Impact Assessment, which is another commitment that we made during the passage of the Bill.

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 with them is intrinsic to a union's democratic accountability. That's why the Government decided to look again at the requirements surrounding unions' existing responsibility to keep their records up-to-date. Unions should be able to visibly demonstrate that they know who their members are and can communicate with them. In accordance with our general approach to employment law, it is important that we implement these new measures in a proportionate way. We have already taken an approach whereby only the largest unions (more than 10,000 members) will have to submit a Membership Audit Certificate which has been produced by an independent assurer.

The Government is also committed to producing guidance for unions, assurers and employers on these measures, and so the draft guidance is included as part of this consultation. This guidance is a crucial part of the implementation of these measures, and so I hope we can secure as many responses as possible, which will help us ensure the most effective and simple implementation.

I hope these new measures will continue to support the good relations between employers, employees and their representatives that we generally see today, and increase public confidence that participation in union processes is available to all union members.

We look forward to hearing your views and I would like to thank you for taking the time to respond.

A handwritten signature in blue ink that reads "Jo Swinson". The signature is fluid and cursive.

Jo Swinson MP

## Executive Summary

This consultation seeks views of stakeholders on the implementation of the new requirements placed upon trade unions as set out in Part 3 of the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act (the Act), which received Royal Assent on 30 January 2014. This amends the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA).

TULRCA already places a duty on all trade unions to compile and maintain a register of its members' names and addresses and ensure that the entries on the register are kept accurate and up-to-date, so far as reasonably practicable. Part 3 of the Act places a new statutory obligation on unions to provide assurance to the Certification Officer (CO) that this duty to compile and keep membership records accurate and up-to-date is met through an annual membership audit certificate (MAC).

We intend to implement these new measures using an approach which will result in a relatively small change to the existing procedures relating to a union's annual reporting year. The new requirement for unions to submit an annual MAC therefore complements the existing flexibility in the system which enables unions to have different reporting years as the new annual requirement follows the same timeframe. In other words, the implementation of this new requirement aims to follow as closely as possible existing timing requirements relating to the submission of annual reports.

We are keen to invite comments on the proposed implementation of the new requirement; the Government's preferred structure of the Order: the draft guidance (Annex A, B and C); the Impact Assessment (Annex D); and the Equality Assessment (attached separately).

The changes will extend to England, Scotland and Wales.

## How to respond to this consultation

We invite views on all the issues discussed in this consultation document. We particularly welcome responses to the specific questions which are raised in each section. It is not necessary to respond to all of the questions; you are welcome to provide answers only to those issues of most interest or relevance to you.

This consultation will run for 10 weeks and the closing date for responses is **4 December 2014**.

The response form is at Annex G.

When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.

You can also reply to this consultation online at via Survey Monkey <https://www.surveymonkey.com/s/H2PWPQV> The consultation response form is available electronically on the consultation page (until the consultation closes): <https://www.gov.uk/government/consultations/>.

The form can be submitted online/by email or by letter or fax to:

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Labour Market Directorate  
1 Victoria Street  
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Tel: 020 7215 8543  
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Email: [nick.morgan1@bis.gsi.gov.uk](mailto:nick.morgan1@bis.gsi.gov.uk)

Alternative formats of this document are available on request.

## Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

## Help with queries

Questions about the policy issues raised in the document can be addressed to:

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1 Victoria Street  
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## Current Trade Union Register Requirements

1. Section 24 TULRCA places a duty on all trade unions regardless of size, to keep a register of their members' names and addresses and ensure that the register is kept accurate and up-to-date, so far as reasonably practicable. Having an up-to-date register allows a union to communicate with its members and to make decisions which reflect the will of its members.
2. At present, complaints about a union's failure to comply with its duties with respect to the register of members' names and addresses can only be made by a trade union member. Whilst the CO has the power to investigate and issue a declaration and/or enforcement order against a union, this is currently limited to the member's complaint. A union member is only entitled to see the entry relating to themselves, and therefore in practice it may be difficult to know about the accuracy of the membership record as a whole.
3. Trade union activity has the potential to affect the daily lives of union members and non-members as well as the general public. There is a public interest that voting papers and other communications should reach union members so that members have the opportunity to participate in union activities, even if they choose not to exercise that right.
4. It is for that reason that a new statutory obligation has been placed on unions to give greater confidence to union members, the public and employers by requiring unions to provide assurance that the duty to ensure that membership records are kept accurate and up-to-date is certified annually through a MAC.
5. What constitutes a 'member' will continue to be defined by a trade union's rule book. The new requirements do not affect this.

## What has changed – overview of new requirements

6. A new statutory obligation will be placed on all unions (unless they are less than one year old) requiring them to provide an annual assurance that union membership records are kept accurate and up-to-date through a MAC to the CO.
7. With regard to the MAC, new powers of the CO are introduced to enable the CO to require the production of relevant documents if the CO thinks that there is good reason to do so. The CO may also appoint inspectors to investigate circumstances where it appears that a union has failed to fulfil its legal obligations under section 24 TULRCA in relation to duties regarding the register of members. The CO will be able to take into account information provided by union members or third parties.
8. Trade unions with more than 10,000 members, must appoint an assurer (who is a qualified independent person) to complete a MAC. Smaller unions will be able to self-certify their MAC. The CO's powers to require the production of documents and to investigate unions in relation to duties regarding the register of members will apply to all unions, regardless of size.

9. The requirement to produce a MAC will not apply to newly created trade unions less than one year old, regardless of size. This will include any unions which have merged in the previous year.
10. The changes will extend to England, Scotland and Wales.
11. The requirements and options for the implementation of these areas are set out in further detail below.



## Issues for consultation

### 1. Membership audit certificate (MAC)

12. As referred to in the Introduction, there is an existing duty (set out in section 24 of TULRCA) on all trade unions to compile and maintain a register of their members' names and addresses and ensure that this is kept accurate and up-to-date, so far as reasonably practicable.
13. All unions will be required to submit a MAC to the CO to provide annual assurance that the union has complied with its obligations under section 24(1) TULRCA (duty to maintain register of members' names and addresses). The MAC will likely comprise of a 1 or 2 page pro-forma which will require confirmation whether the union in question has complied with this duty. Once this measure comes into force, the pro-forma MAC will be available from the Certification Office and a completed MAC will need to be included with a trade union's annual return to the CO. In order to limit the burden on unions, the period covered by the MAC will coincide with a trade union's annual reporting period. However, where a union has been in existence for less than one year the duty to maintain a register of members' names and addresses does not apply.
14. Where a trade union's membership exceeds 10,000 members, the MAC must be completed by an assurer (see Section on Assurers) who is a qualified, independent person and who is appointed by the trade union. For unions with 10,000 or less members, the MAC will be signed by an officer of the trade union.
15. Section 32 of TULRCA currently allows a union a period of up to five months (immediately following a trade union's annual reporting period) for the completion and submission of a trade union's annual return to the CO. The same time period will be allocated for the completion of the MAC.

**For example, where the new measures come into force on 6 April 2015:**

Unions using calendar year for the annual audit:

- Reporting year 1 January 2016 – 31 December 2016
- 5 month for MAC completion 1 January 2017 – 31 May 2017
- MAC due to CO 1 June 2017

Unions using financial year for the annual audit:

- Reporting year 1 April 2016 – 31 March 2017
- 5 month for MAC completion 1 April 2017 – 31 August 2017
- MAC due to CO 1 Sept 2017

**Question 1: Do you have any comments regarding the proposed operation of the MAC? Please indicate why.**

## 2. Assurer (a qualified independent person)

16. Where a trade union has in excess of 10,000 members, it must appoint a qualified independent person to act as an assurer who will be tasked with the completion of the MAC for the CO. Unions will decide which assurer they will appoint. The Order will determine who can be an assurer.
17. In order to act as an assurer for the purpose of providing a MAC to the CO on behalf of a trade union, the assurer must be a qualified independent person. The Secretary of State has powers in section 24ZB(3)(a) of TULRCA to make an Order which specifies conditions which must be met for a person to be a qualified independent person or to specify the names of qualified independent persons. These powers are similar to the Secretary of State's powers in section 49(2) of TULRCA to specify the conditions for qualification or those qualified to act as a scrutineer. The Order determining the qualification for appointment as an assurer will be finalised once the Government's response to this consultation is published.
18. Our approach for the criteria for assurers would be to broadly reflect the existing conditions set out in the Trade Union Ballots and Elections (Independent Scrutineer Qualifications) Order 1993 (the Scrutineer Order). This would mean that a solicitor or a qualified auditor would be able to act as an assurer.
19. Should the outcome of this consultation be that we are required to run a public competition (see Section on Content of Order) to identify other persons seeking to operate as an assurer but who do not fall within the list of professional qualifications i.e. solicitor/auditor, they could satisfy the criteria set out below.
  - Independent and impartial
  - Competent
  - Adequately resourced
  - Adequately experienced
20. These criteria were previously used in order to grant approval to the persons specified by name in the Scrutineer Order (see the Public Competition for Organisations to Scrutinise Ballots and Elections under Trade Union Law – issued September 2009).

### Question 2:

**Do you agree with the Government's proposed approach? Please indicate why.**

### Question 3:

**Are there any other groups that should be able to act as an assurer? If so, please state who these should be and give your reasons why.**

### 3. Content of the Order

21. The Secretary of State's powers under section 24ZB(3)(a) of TULRCA to determine who may act as an assurer, can be exercised in a number of ways. We are considering the options set out below. These options only affect the process of appointment of an assurer and not the assurer's role.

#### Option 1

- To follow the structure of the Scrutineer Order and make an Order which lists professional qualifications which enable a person to act as a qualified independent person, e.g. solicitor / auditor, and also list named persons who meet the criteria (set out in paragraph 19 above) to be qualified independent persons.
- The list of named qualified independent persons would be compiled following a public competition and set out in the Order. The public competition will commence once the Government response to this consultation has been published.
- This list of qualified independent persons could only be amended by amending the Order. In other words, once the Order is made, should any of the qualified independent persons named in the Order cease to operate, the named list would have to be updated by way of statutory instrument following a further public competition. Similarly, any new organisations entering the market would have to wait until a further public competition is held before they could be included on the statutory list. We anticipate that the Secretary of State would review the list every time the Order was amended.

#### Option 2

- To lay an Order which lists the professional or other qualifications which enable a person to act as an independent qualified person. This would include solicitors and auditors and potentially other groups such as scrutineers.
- This would forego the need to conduct a public competition for assurers and would simplify the procedure to update the Order.

#### Question 4:

**Which is your preferred option? Please give your reasons why.**

#### Question 5:

**Do you have any other suggestions with regard to the content of the Order? Please explain your answer.**

## 4. Guidance for Trade Unions – Annex A

### 1. Introduction

- 1.1. This guidance aims to clarify the new requirements placed on trade unions under Part 3 of the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act (the Act).
- 1.2. Section 24(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) requires a union to compile and maintain a register of members' names and addresses and, so far as is reasonably practicable, ensure the register is accurate and kept up-to-date (section 24 duty).
- 1.3. The requirements under Part 3 of the Act build on the existing statutory requirement under section 24 by introducing a new statutory duty on trade unions to supply an annual assurance to the Certification Officer (at the same time as they submit their annual return) in relation to their register of members. The annual assurance will take the form of a Membership Audit Certificate (MAC), which all unions will need to supply to the Certification Officer (CO) irrespective of their size.
- 1.4. It is important to note that the new requirements do not alter the existing section 24 duty. Unions will continue, as now, to be required to compile and maintain their membership register and to keep it accurate and up-to-date, so far as reasonably practicable. Similarly, the existing duty to keep a register of members only requires the union to compile and maintain a list of names and addresses. This remains unchanged.
- 1.5. The new requirements under Part 3 of the Act do not stipulate how unions should keep their membership records – this is a matter for each individual union. If a union is already complying with the section 24 duty, it should not need to change its membership system.
- 1.6. Unions with 10,000 members or less at the end of their preceding reporting period will need to provide a MAC in the form of an annual self-assurance as to whether they have complied with the section 24 duty, alongside their other annual reporting requirements.
- 1.7. Unions that have more than 10,000 members at the end of their preceding reporting period will need to appoint a qualified independent person (the assurer) to provide a MAC regarding their system for compiling and maintaining their membership register in accordance with the section 24 duty. The union will then supply this to the CO.
- 1.8. Part 3 of the Act also enables the CO to require relevant documents or to investigate circumstances which suggest that a union has failed to comply with statutory requirements in relation to the register of members or audit requirements.

## 2. Clarification of the existing duty under Section 24(1) of TULRCA

- 2.1. Under the section 24 duty, a union is required to compile and maintain a register of members' names and addresses and shall secure, so far as is reasonably practicable, that the entries in the register are accurate and kept up-to-date.
- 2.2. In considering the issue previously the CO has said that the register does not have to be a single, centrally-located register. It may be a computer record. A register can be divided into parts, each of which is kept in separate places. In other words, each section or branch of a union may keep a register of their own members, though the union itself always remains responsible for the register as a whole.
- 2.3. The statutory duty only requires a union to maintain the names and addresses of its members. A union does not have to keep a record of a member's job title, branch or grade, etc. The address to be recorded can be the member's home address or any such other address that the member has requested the union in writing to treat as his postal address. Where a union does not have an address for a member, it must ask for one. In order to help meet statutory obligations, unions could have in place a system which encourages members to notify it of any changes of address.

### Reasonable practicability

- 2.4. The existing section 24 duty requiring unions to maintain a membership register that is up-to-date and accurate so far as reasonably practicable, has been interpreted by the CO in decisions made under section 25 of TULRCA. This relates to the right of a member to apply to the CO for a decision whether a union is complying with the section 24 duty. To help unions to comply with the section 24 duty, discussion of CO decisions on reasonable practicability is provided below.
- 2.5. A union needs to devote sufficient resources to the task and institute efficient systems for recording the necessary information and checking and updating the records from time to time. Whilst the primary responsibility for informing a union of a change of address lies with the member, the union must remind members to update their address details, as and when appropriate.
- 2.6. The following CO decisions on reasonable practicability may help unions to comply with the section 24 duty. In *Re Civil and Public Services' Association* (1996) the CO listed the steps routinely taken by a trade union to comply with the duty and concluded that they were 'very much the sort of actions that unions have to take in my judgement to satisfy the requirement to "secure so far as is reasonably practicable" that the register of members is accurate and up-to-date'.
- 2.7. These are:
- the membership application form contains a specifically designated box for 'the ballot address'
  - the union follows up applications for membership when no appropriate address was given
  - similarly, if mail is returned undelivered to the union, the union is to check whether the member's address needs to be updated
  - the union has regular membership verification exercises

- in its journal, the union regularly advertises the need for members to keep the union informed of their current balloting address; and
- the union regularly reminds branch secretaries of the need to have up-to-date addresses.

2.8. In *Re Manufacturing, Science and Finance Union* (1998), the CO held that the duty to maintain an up-to-date register meant that a union was under an obligation to operate a system for removing the names of those members who no longer wished to be members.

2.9. CO decisions determining reasonable practicability are made on a case by case basis. This is because what is reasonable practicable may vary from one union to another taking into account its circumstances such as its size, membership turnover, etc.

### 3. Timing and commencement of new provisions

3.1. The measures under Part 3 of the Act cannot be applied retrospectively. Unions will be required to submit a MAC (whether this be under self-assurance or provided by the assurer), alongside their annual return, for the first full reporting year after *[implementation date to be inserted following consultation]* the date at which these new provisions take legal effect.

3.2. As unions can have different reporting years, the point at which the new duties take effect on each individual union will vary. In the same way as for their annual return, all unions will have up to five months from the end of their reporting year to get their MAC to the CO.

3.3. Where unions are required to appoint an assurer, such an appointment must be made early enough (possibly at the beginning of the reporting year) so that the assurer can carry out the work to give the assurance required.

### 4. Changing union rules

4.1. Unions with more than 10,000 members may need to update their rule books to allow for the appointment and removal of an assurer to produce a MAC.

4.2. We anticipate that unions may need to set out the process for appointing and removing an assurer in their rule books. Union rule books should allow for the appointment and removal of an assurer and these rules should not conflict with the statutory provisions introduced into TULRCA by Part 3 of the Act. These statutory conditions will have effect notwithstanding anything set out in the union rules.

4.3. An assurer, once appointed, cannot be removed from office except by resolution passed at a general meeting of the members of the union or of delegates of its members.

4.4. Furthermore, a person appointed as an assurer in relation to a reporting period must be re-appointed for the following reporting period unless:

- a resolution has been passed at a general meeting of the trade union expressly stating that they are not to be re-appointed or appointing someone else instead
- they have given notice that they do not wish to be re-appointed

- they no longer meet the qualifications for appointment, or
- they are no longer able to act as an assurer due to incapacity.

4.5. However, a union does not have to automatically re-appoint an assurer where

- notice has been given of an intended resolution to appoint somebody else instead
- a resolution cannot be proceeded with at the general meeting because of the death or incapacity of the proposed replacement.
- they are retiring

4.6. As long as the statutory conditions listed above are met, unions will have flexibility in how they set out the process of appointing and removing an assurer in their rules.

## 5. Appointment of an assurer

5.1. Unions that have over 10,000 members will need to appoint a qualified independent person (the assurer) to provide a MAC to confirm that the trade union's system for compiling and maintaining its membership register is satisfactory. Where unions include overseas members as part of their total membership figures in their annual return to the CO, then those members are to be included in the 10,000 membership threshold to appoint an assurer.

5.2. Whether or not a union is required to appoint an assurer will be based upon the membership figure submitted in the previous annual report. In other words, the duty to appoint an assurer will only be activated if the number of members in the previous annual report is above the 10,000 membership threshold.

5.3. Where unions are required to appoint an assurer, such an appointment must be made early enough (possibly at the beginning of the reporting year) so that the assurer can carry out the work to give the assurance required.

5.4. It will be for a union to decide who is appointed as its assurer. Part 3 of the Act stipulates that such an appointment must require the assurer to provide a MAC after carrying out enquiries and the assurer must treat the membership details as confidential.

5.5. Apart from these statutory requirements, other terms of the appointment will be agreed by the union and its assurer. For instance, unions will be free to agree, subject to compliance with the duties in the Act, with assurers the detail behind the assurance process depending on individual union circumstances, eg membership rules and individual record-keeping systems. Similarly, both unions and assurers can agree when the process will happen – either at the end of the reporting year or throughout.

5.6. *[Note - subject to the outcome of the consultation, a section will be inserted here on the finalised criteria to be met by independent qualified persons to act as an assurer and whether assurers could be recognised professionals, such as solicitors, auditors or independent scrutineers.]*

5.7. When making the appointment, a union must have no grounds for believing that the person or organisation appointed will carry out the assurer's functions otherwise than competently or that their independence may be reasonably called into question. Consequently, any officer or employee of a trade union, or any person who is related to,

employs or is employed by them, cannot act as an assurer.

5.8. Guidance on the role of the assurer, their duties, how they will determine whether a union's membership system is satisfactory to meet, so far as reasonably practicable, the section 24 duty is provided in separate guidance for assurers.

## **6. Providing documents and data protection**

6.1. The CO has powers to require the production of union documents, including the register of members, which the CO considers may be relevant to the duties in relation to the register of members where there is good reason to do so. The CO or any inspector appointed by the CO, can ask anyone who may have documents relevant to the investigation to supply these. They may also ask individuals to attend meetings and to co-operate with their enquiries.

6.2. Though unions will be statutorily required to comply with the above requests from the CO, assurer or inspector, there are clear safeguards introduced into TULRCA by Part 3 of the Act that ensure that member data is treated as confidential and can only be disclosed for specified purposes or with consent.

6.3. The CO and any inspector appointed will be bound by comprehensive legal safeguards. They can only access data specifically required for the performance of their functions in relation to the register and the audit requirements under TULRCA.

6.4. Furthermore, existing Data Protection rules will continue to apply to union membership data. The CO, assurers and inspectors will also be bound by these rules in accessing any other personal data under their powers from TULRCA. Also, under TULRCA as amended by Part 3 of the Act, names or addresses of union members cannot be disclosed without their permission, unless required by the CO, inspector or assurer to complete their duties, or as part of a criminal investigation or proceedings.

6.5. Where an assurer has been appointed, their role will be to confirm that the trade union's system for compiling and maintaining its membership register in accordance with the section 24(1) duty was satisfactory throughout the reporting period. Currently, it is anticipated that the assurer will want to check how the union collects data from new joiners, how it reminds members about keeping records up-to-date, the ease with which members can notify changes and how quickly changes are made. It is also expected that an assurer may be interested in the data cleansing processes larger unions use for electronic databases.

## **7. Membership Assurance Certificate (MAC)**

7.1. For unions of over 10,000 members, the assurer will state in the MAC whether the union has a satisfactory system in place for keeping the register of names and addresses accurate and up-to-date. The MAC will also state, in the assurer's opinion, whether they have been given access to the information they consider necessary to carry out their functions.

7.2. If the assurer cannot be confident that the union has a satisfactory membership system in place, they must state their reasons on the MAC. Likewise, if they haven't received



the information they think necessary to supply the certificate, they must explain what information they requested and did not receive.

- 7.3. Unions must submit the MAC to the CO with their annual return. (This is likely to be a 1 or 2 page proforma to be included on the AR21 annual return to the CO. A link will be inserted in the published guidance.) However, where an assurer provides a MAC that states that a union does not have a satisfactory membership system in place or that they have not been given the information necessary to give an assurance, a copy of the MAC must be sent to the CO as soon as is reasonably practicable after it is provided to the union. It is open to a union to require an assurer to allow it an opportunity to comment on any draft certificate and to discuss any concerns it may have in relation to a certificate before the MAC is issued both to the union and to the CO. This could be specified by unions in their terms of appointment with the assurer.
- 7.4. If the terms of the contract with the assurer so provide, a union will have the opportunity to engage with the assurer before a qualified MAC is sent to the CO. It is anticipated that if a union is able to demonstrate that the certificate is inaccurate, they may be able to remedy it at that point.
- 7.5. The Government believes that the MAC needs to be publicly available. Unions already have to make their most recent annual return available on request, and the CO keeps copies of all annual returns for public inspection at all reasonable hours. The same obligations apply in relation to the MAC. As with the rights of access to audited returns, the union will be able to make a reasonable charge for supplying a copy of the MAC.

## **8. Certification Officer investigation**

- 8.1. The new provisions in Part 3 of the Act confer additional powers on the CO that mirror those that they already have in relation to accounting records. The CO will have powers to appoint inspector(s) to conduct investigations in relation to membership records that will be analogous to those they already have for financial records.
- 8.2. This means that the CO will be able to appoint an inspector if it appears to them that there are circumstances suggesting that a union is not in compliance with its section 24 duty, the duty to provide a MAC, or the duty to appoint an assurer. These circumstances may arise, for example, on receipt of a qualified MAC from an assurer, a complaint from a member, or where they are otherwise made aware of circumstances by a third party that indicate that a union may not be in compliance.
- 8.3. The CO can only appoint an inspector where there are circumstances suggesting that the union is not complying with its duties in relation to the membership register or the new assurance requirements. The CO can only request information where there is good reason to do so. The tests of circumstances to suggest good reason to investigate are consistent with other parts of TULRCA and the CO has been applying them in relation to financial records for many years.
- 8.4. It will be for the CO to make an initial assessment of any allegations to ensure that they merit further action.

### Role of the inspector

- 8.5. Should the CO decide to launch an investigation, they will be able to appoint an inspector to investigate. The inspector can be either a member of the CO's staff or an appropriate third party, chosen by the CO. The ability to appoint a third party gives the CO discretion to identify an inspector with specific expertise or to simply appoint additional resource.
- 8.6. What the inspector does will depend on the circumstances suggesting a union is not complying with its duties.
- 8.7. The inspector will then report their findings on the conclusion of their investigation to the CO, unless they are directed not to do so. The CO can redirect or terminate an investigation and will decide what action to take on the inspector's findings.

### Enforcement orders

- 8.8. Should a union or person fail to cooperate with a request for documents or an investigation, the CO may in some circumstances make an order requiring compliance, where it is reasonably practical to do so, after giving the union or person an opportunity to be heard. If the CO makes such an order, it will be treated as though it is an order of the court.

The order will specify the duties and requirements that have not been complied with and a specified period of compliance with the order. Failure to comply with this order will be contempt of court.

- 8.9. Should the CO find that a union is in breach of its duties under section 24, or the new assurance requirements, the CO may issue a declaration specifying the union's non-compliance and their reasons for making this declaration after enquiries have been made and given the union an opportunity to make representations. Unless it is considered inappropriate to do so, the CO will also issue an enforcement order specifying how the union should remedy the failures identified and, where appropriate, the date by which this should be done.
- 8.10. Furthermore, the CO will also have the power to proceed and make a declaration in a case where information they have asked for in that process has not been provided by a specified date.
- 8.11. Declarations and enforcement orders issued by the CO can be appealed to the Employment Appeal Tribunal (EAT) on a point of law.

## **9. Small unions - that have 10,000 or less members**

- 9.1. Unions that have 10,000 or less members, like larger unions, currently have to comply with the section 24 duty to compile and maintain a register of members' names and addresses and, so far as is reasonably practicable, ensure it is accurate and up-to-date.
- 9.2. The Act requires that the MAC must be signed by an officer of the trade union who is authorised to sign on its behalf. The officer will need to state, to the best of their knowledge and belief that the union has complied with the section 24 duty throughout

the reporting period. It may be beneficial to identify such an officer early enough so that they can carry out the work to give the assurance required, for example at the beginning of the reporting year.

- 9.3. Case law on reasonable practicability has been provided earlier in this document and all unions – large or small – should be mindful of the guidance provided by the CO to enable them to comply with the duty under section 24(1). This should not be problematic as the duty has been in place since 1984 and all unions should be aware of its requirements.
- 9.4. Under the new provisions introduced into TULRCA by Part 3 of the Act, unions that have 10,000 members or less will not have to appoint an assurer nor will they need to change their union rules to deal with such an appointment. Instead, a union officer will provide a MAC to the CO which has been certified by the union. The MAC will need to be submitted at the same time as the union's annual return [*Note – this is likely to be included on the AR21 to the CO – if so, a link will be included in the finalised guidance*].
- 9.5. Should a small union declare in its annual return that its membership has exceeded 10,000 members, it will need to take measures, including changing its union rules, to appoint an assurer to provide independent assurance of its membership for the following reporting year. Unions with membership numbers close to the threshold and where there is a possibility it may need to appoint an assurer in the future, may wish to consider making such provisions when next amending their union rules.
- 9.6. The ability of the CO to investigate concerns will be the same for all unions, no matter how large or small.

### **Question 6:**

**Do you propose any amendments to the guidance for trade unions?  
Please clearly state what these are and set out your reasons for the proposed changes.**

## 5. Guidance for assurers – Annex B

### 1. Introduction

- 1.1. Under the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) as amended by Part 3 of the Lobbying, Non-party Campaigning and Trade Union Administration Act (henceforth called “the Act”), unions that have more than 10,000 members at the end of their preceding reporting period will need to appoint a qualified independent person (the assurer) to provide an annual assurance regarding their system for compiling and maintaining their membership register.
- 1.2. The requirements under Part 3 of the Act build on the existing statutory requirement under section 24 by introducing a new statutory duty on trade unions to supply an annual assurance to the Certification Officer (CO) (at the same time as they submit their annual return) in relation to the register of members. The annual assurance will take the form of a Membership Audit Certificate (MAC), which all unions will need to supply to the CO irrespective of their size. The obligation under section 24 and the new obligations introduced by the Act do not apply to a trade union in the first year of its existence.
- 1.3. The measures introduced by Part 3 of the Act will require unions to submit a MAC alongside their annual return, for the first full reporting year after [*implementation date to be inserted following consultation*], when these requirements first take legal effect.
- 1.4. Where unions are required to appoint an assurer, such an appointment must be made early enough (possibly at the beginning of the reporting year) so that the assurer can carry out the work to give the assurance required.
- 1.5. This guidance clarifies the requirements for assurers and should be read alongside separate guidance that has been provided for trade unions.

### 2. What are the new requirements under Part 3 of the Transparency of Lobbying etc Act?

- 2.1. Section 24(1) of TULRCA requires a union to compile and maintain a register of members’ names and addresses and, so far as is reasonably practicable, ensure it is accurate and up-to-date.
- 2.2. The requirements under Part 3 of the Act build on the section 24 duty by introducing a new statutory duty on trade unions to supply an annual assurance to the CO (at the same time as they submit their annual return) in relation to their system for compiling and maintaining the register of members.
- 2.3. Unions with 10,000 members or less at the end of their preceding reporting period will not be required to appoint an assurer. Such unions will need to provide an annual self-assurance as to the accuracy of their membership register, alongside their other annual reporting requirements.
- 2.4. Unions that have more than 10,000 members at the end of their preceding reporting period will need to appoint a qualified independent person (the assurer) to provide a MAC

regarding their system for compiling and maintaining their register of members in accordance with the section 24 duty. The union will then supply this to the CO.

- 2.5. The amendments introduced by Part 3 of the Act also enable the CO to require documents or to investigate circumstances which suggest that a union has failed to comply with statutory requirements in relation to the duties in relation to the register of members.
- 2.6. It is important to note that the new requirements set out above do not alter the existing duty under section 24(1) of TULRCA. Unions will continue, as now, to be required to keep a membership register and ensure it is accurate and up-to-date, so far as reasonably practicable. Similarly, the existing duty to keep a register of members only requires the union to compile and maintain a list of names and addresses. This remains unchanged.
- 2.7. The new requirements under Part 3 of the Act do not stipulate how unions should keep their membership records – this is a matter for each individual union. If a union is already complying with the requirement under section 24(1), there should be no need to change its membership system.

### **3. Clarification of the existing duty under section 24(1) of TULRCA**

- 3.1. Under section 24(1) of TULRCA, a union is required to compile and maintain a register of members' names and addresses and, so far as is reasonably practicable, ensure it is accurate and up-to-date.
- 3.2. The register does not have to be a single, centrally-located register. It may be a computer record. A register can be divided into parts, each of which is kept in separate places. In other words, each section or branch of a union may keep a register of their own members, though the union itself always remains responsible for the register as a whole.
- 3.3. The statutory duty only requires a union to maintain the names and addresses of its members. A union does not have to keep a record of a member's job title, branch or grade, etc. The address to be recorded can be the member's home address or any such other address that the member has requested the union in writing to treat as his postal address. Where a union does not have an address for a member, it must ask for one. In order to help meet statutory obligations, unions could have in place a system which encourages members to notify it of any changes of address.

#### Reasonable practicable

- 3.4. The existing section 24 duty requiring unions to maintain a membership register that is up-to-date and accurate so far as reasonably practicable, has been interpreted by the CO in decisions made under section 25 of TULRCA. This relates to the right of a member to apply to the CO for a decision whether a union is complying with the section 24 duty. To help unions to comply with the section 24 duty, discussion of CO decisions on reasonable practicability is provided below.

3.5. A union needs to devote sufficient resources to the task and institute efficient systems for recording the necessary information and checking and updating the records from time to time. Whilst the primary responsibility for informing a union of a change of address lies with the member, the union must remind members to update their address details, as and when appropriate.

3.6. The following CO decisions on reasonable practicability may help unions to comply with the section 24 duty. In *Re Civil and Public Services' Association* (1996) the CO listed the steps routinely taken by a trade union to comply with the duty and concluded that they were 'very much the sort of actions that unions have to take in my judgement to satisfy the requirement to "secure so far as is reasonably practicable" that the register of members is accurate and up-to-date'.

3.7. These are:

- the membership application form contains a specifically designated box for 'the ballot address'
- the union follows up applications for membership when no appropriate address was given
- similarly, if mail is returned undelivered to the union, the union is to check whether the member's address needs to be updated
- the union has regular membership verification exercises
- in its journal, the union regularly advertises the need for members to keep the union informed of their current balloting address; and
- the union regularly reminds branch secretaries of the need to have up-to-date addresses.

3.8. In *Re Manufacturing, Science and Finance Union* (1998), the CO held that the duty to maintain an up-to-date register meant that a union was under an obligation to operate a system for removing the names of those members who no longer wished to be members.

3.9. CO decisions determining reasonable practicability are made on a case by case basis. This is because what is reasonable practicable may vary from one union to another taking into account its circumstances such as its size, membership turnover, etc.

#### **4. Appointment of an assurer**

4.1. Unions that have over 10,000 members will need to appoint a qualified independent person (the assurer) to provide a MAC to confirm that the trade union's system for compiling and maintaining its membership register is satisfactory. Where unions include overseas members as part of their total membership figures in their annual return to the CO, then those members are to be included in 10,000 membership threshold to appoint an assurer.

4.2. Whether or not a union is required to appoint an assurer will be based upon the membership figure submitted in the previous annual report. In other words, the duty to appoint an assurer will only be activated if the number of members in the previous annual report is above the 10,000 membership threshold.

- 4.3. It will be for a union to decide who is appointed as its assurer. Part 3 of the Act stipulates that such an appointment must require the assurer to provide a MAC after carrying out enquiries and the assurer must treat the membership details as confidential.
- 4.4. An assurer, once appointed, cannot be removed from office except by resolution passed at a general meeting of the members of the union or of delegates of its members.
- 4.5. Furthermore, a person appointed as an assurer in relation to a reporting period must be reappointed for the following reporting period unless:
- a resolution has been passed at a general meeting of the trade union expressly stating that they are not to be re-appointed or appointing someone else instead
  - they have given notice that they do not wish to be re-appointed
  - they no longer meet the qualifications for appointment, or
  - they are no longer able to act as an assurer due to incapacity.
- 4.6. However, a union does not have to automatically re-appoint an assurer where
- notice has been given of an intended resolution to appoint somebody else instead
  - a resolution cannot be proceeded with at the general meeting because of the death or incapacity of the proposed replacement.
  - they are retiring
- 4.7. Apart from these statutory requirements, other terms of the appointment will be agreed by the union and the assurer. For instance, unions will be free to agree, subject to compliance with the duties in the Act, with assurers the detail behind the assurance process depending on individual union circumstances, e.g. membership rules and individual record-keeping systems. Similarly, both unions and assurers can agree when the process will happen – either at the end of the reporting year or throughout the year.
- 4.8. When making the appointment, a union must have no grounds for believing that the person or organisation appointed will carry out the assurer's functions otherwise than competently or that their independence may be reasonably called into question. Consequently, any officer or employee of a trade union, or any person who is related to, employs or is employed by them, cannot act as an assurer.

## 5. Eligibility to be an assurer

- 5.1. *[Note - subject to the outcome of the consultation, a section will be inserted here on the finalised criteria to be met by independent qualified persons to act as an assurer and whether assurers could be recognised professionals, such as solicitors, auditors or independent scrutineers.]*

## 6. Role of the assurer and duties

- 6.1. The role of the assurer is to provide a MAC which must state whether, in the assurer's opinion, the union's system for compiling and maintaining its register of members was satisfactory for the purposes of complying with the duty under section 24(1) of TULRCA throughout the reporting period.

- 6.2. The assurer must also state whether, in their opinion, they were able to obtain all the information or explanations needed to carry out his task.
- 6.3. The assurer has a statutory right of access to information to ensure that the MAC is accurate. This means that the assurer must have access at reasonable times to the register of members and other documents necessary to fulfil their functions. The assurer can also ask any of the union's officers, from any branch or section, to provide the information and the explanations required.
- 6.4. The assurer has a duty to inform the CO if it considers that a MAC will find the union's system for compiling and maintaining the names and addresses of its members unsatisfactory for the purpose of complying with the section 24 duty. Having carried out whatever enquiries are necessary, an assurer must provide a MAC which unions will need to submit to the CO with their annual return.
- 6.5. Where an assurer is not confident that a union has a satisfactory membership system in place and produces a negative MAC stating this, a copy must be sent to the CO as soon as is reasonably practicable after it is provided to the union. If the terms of the contract with the assurer so provide, a union will have the opportunity to engage with the assurer before a qualified MAC is sent to the CO.
- 6.6. The assurer must state in the MAC their reasons for issuing a negative certificate. Likewise, if the assurer has not received the information they think necessary to supply the certificate, they must explain what information they requested and did not receive.

## **7. How to assess whether a union is complying with section 24(1)**

- 7.1. In essence, the assurer will need to assess whether a union has compiled and maintained a register of members' names and addresses and ensured, so far as is reasonably practicable, that it is accurate and up-to-date.
- 7.2. It is important to recognise that there may be good reason as to why there are occasional inaccuracies in membership registers (for instance, high membership turnover, failure of members to notify a union of change of address, etc). In making his assessment, the assurer should consider the guidance on reasonable practicability and the CO decisions set out under section 2 above. Assurers should bear in mind that reasonable practicability will vary from one union to another taking into account its circumstances such as its size, membership turnover, etc.
- 7.3. In order to make their assessment, an assurer will need to ask the union for information to ensure that the MAC is accurate. This guidance does not seek to specify exactly what information may be relevant. This may vary, depending how a union defines a member, and how it maintains its records. The union will agree terms directly with the assurer. It is important to note that the union does not have to provide information to the assurer unless it is relevant to the register of members' names and addresses.
- 7.4. However, an assurer may want to check how the union collects data from new joiners, how they remind members about keeping records up-to-date, the ease with which members can notify changes and how quickly changes are made. We would expect that an assurer will be interested in the data cleansing processes larger unions use for electronic databases.



7.5. When requesting information, assurers need not check the accuracy of every single member record as this would present a disproportionate cost burden to unions, and would be inconsistent with standard practice in comparable checks, for example of audited accounts.

## **8. Providing documents and data protection**

8.1. Assurers will need to access information so that the MAC is accurate.

8.2. Though unions will be statutorily required to comply with the above requests from the assurer, there are clear safeguards introduced into TULRCA by Part 3 of the Act that ensure that member data is treated as confidential and can only be disclosed for specified purposes or with consent

8.3. Existing data protection rules will continue to apply to union membership data. Assurers will be bound by these rules in accessing any other personal data under their powers from TULRCA. Also, under TULRCA as amended by Part 3 of the Act, names or addresses of union members cannot be disclosed without their permission, unless required by the CO, inspector or assurer to complete their duties, or as part of a criminal investigation or proceedings.

### **Question 7:**

**Do you propose any amendments to the guidance for assurers?  
Please clearly state what these are and set out your reasons for the proposed changes.**

## 6. Guidance for employers – Annex C

### 1. Introduction

- 1.1. This guidance explains the new requirements placed on trade unions under Part 3 of the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act (the Act).
- 1.2. The Act does **not impose any obligations** on an employer to provide information about its employees to a union in relation to the union's duty to maintain its register of its members' names and addresses. This information is sensitive data and an employer is required to comply with data protection legislation when supplying this information to third parties, including trade unions. An employer may choose to supply this information to a trade union in order to help the union maintain its membership data, provided that, where necessary, the individual member / employee has consented and data protection law is complied with.

### 2. What are the new requirements under Part 3 of the Act?

- 2.1. A trade union is required (under section 24 in the Trade Union Labour Relations (Consolidation) Act 1992) to compile and maintain a register of its members' names and addresses and to secure that the register is kept accurate and up-to-date, so far as is reasonably practicable. The obligation under section 24, and the new obligations introduced by the Act, do not apply to a trade union in the first year of its existence.
- 2.2. The requirements introduced by the Act build on the existing statutory duty under section 24 by introducing a new statutory duty on trade unions to supply an annual assurance to the Certification Officer (CO) in relation to their register of members. This annual assurance will take the form of a Membership Audit Certificate (MAC), which all unions will need to supply to the CO irrespective of their size. If the union has 10,000 or fewer members the MAC is a statement from an officer of the union as to whether the union has complied with the duties under section 24 in the period to which the MAC relates.
- 2.3. Unions with more than 10,000 members at the end of their reporting year are required to appoint a qualified, independent person (an assurer) to provide a MAC. The assurer will confirm whether the trade union's system for compiling and maintaining their membership register was satisfactory for complying with the duty under section 24 throughout the period to which the MAC relates.
- 2.4. MACs are sent to the CO by the trade union. They are available for inspection from the CO and must be supplied by the union on request. The CO has enforcement powers in respect of the section 24 duty and the new duties introduced by the Act.

### 3. How employers can help

- 3.1. Trade unions need to be able to communicate effectively with their members. Accurate registers of members enable them to do this.
- 3.2. There are occasions where an employer is more easily able to provide details of changes than a trade union on names and addresses of the union members and it is

here that employers could help, whilst observing data protection law and any obligations of confidentiality. For instance, some union members provide their union with their work address as a contact. Where an employer moves address, they could agree to inform the union, as a one-off communication, of the new contact details as members may forget to notify their union. Unions could then update their register with the new address where members have provided the work address as their contact details.

3.3. Practices such as these would help unions to fulfil their statutory obligations in relation to registers of members.

### **Question 8:**

**Do you propose any amendments to the guidance for employers?  
Please clearly state what these are and set out your reasons for the proposed changes.**

## 7. Impact Assessment – Annex D

<b>Title:</b> Certification of trade unions' membership registers and investigatory powers for the Certification Officer <b>IA No: BIS LM 001</b>  <b>Lead department or agency:</b> Department for Business, Innovation and Skills <b>Other departments or agencies:</b>		<b>Impact Assessment (IA)</b>		
		<b>Date:</b> 29/01/2014		
		<b>Stage:</b> Consultation		
		<b>Source of intervention:</b> Domestic		
		<b>Type of measure:</b> Primary Legislation		
		<b>Contact for enquiries:</b> ivan.bishop@bis.gsi.gov.uk		
<b>Summary: Intervention and Options</b>		<b>RPC Opinion: Green</b>		
<b>Cost of Preferred (or more likely) Option</b>				
<b>Total Net Present Value</b>	<b>Business Net Present Value</b>	<b>Net cost to business per year (EANCB on 2009 prices)</b>	<b>In scope of One-In, Two-Out?</b>	<b>Measure qualifies as</b>
£-6.34	£-5.13	£0.47	Yes	IN
<b>What is the problem under consideration? Why is government intervention necessary?</b>				
<p>It is important that union decisions reflect the will of their members. Therefore, the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) 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 TULRCA provides an adequate mechanism for all the parties involved to obtain assurance that the register is accurate and up-to-date. The Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act will provide information to members, the general public and employers to assure them that membership lists are accurate.</p>				
<b>What are the policy objectives and the intended effects?</b>				
<p>The policy objective is to give greater assurance that unions comply with the existing duty to maintain a register of members' names and addresses, as TULRCA does not provide for this. The objective is to introduce a more effective reporting and enforcement regime in relation to this duty. 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. They also have a vital role in public debate, and union activity can have an impact that extends beyond the membership. The intended effect of the policy is to ensure that unions provide a regular, proactive assurance to their members, the general public and employers that they are diligent in maintaining what are often very large and complex membership registers, and in ensuring their democratic accountability to their members</p>				
<b>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)</b>				
<p>Option 0: Do nothing (the counterfactual).</p> <p>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. 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. Implementation will increase confidence, and provide a level of transparency and consistency, which is not being achieved by the do nothing option.</p>				
<b>Will the policy be reviewed? It will be reviewed. If applicable, set review date: 10/2019</b>				

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, 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:  Date: 25/09/2014

Summary: Analysis & Evidence Policy Option 1

**Description: Certification of trade unions' membership registers 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: -8.36	High: -4.32	Best Estimate: -6.34

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1	0.5	4.3
High		0.9	8.4
Best Estimate		0.2	0.7

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

There will be a one-off familiarisation cost for all unions (£201k). 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 (£96k - £99k per annum). Trade unions with less than 10,000 members will incur self-certification costs (£40k - £67k). The exchequer may incur costs as a result of the additional costs for inspections and enforcement (£130k -£150k per annum). Trade unions may incur costs to comply with Certification Officer investigations (£3k per annum). These estimates will be refined during a further, longer period of consultation with stakeholders.

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

For unions with more than 10,000 members, we have not been able to estimate the costs of amending union rule books to appoint and remove an independent assurer. However, further work will be undertaken to provide estimates of these costs during a further, longer period of consultation.

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.

3.5%

We have assumed unions are in full compliance with their existing duties, and only additional costs and benefits arising from the Act 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: 0.5	Benefits: 0.0	Net: -0.5	Yes	IN

## Evidence Base (for summary sheets)

### Introduction

- On 17 July 2013, the Government introduced into Parliament the [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill](#). This includes measures to deliver assurance that union membership records are kept accurate and up-to-date through 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.
- At the same time as the Bill was introduced, a [discussion paper](#) was issued seeking views on the effective implementation of the trade union measures alongside detailed discussions with relevant trade unions, organisations and representative bodies. A total of 42 responses to the discussion paper were received in the four week discussion period ending 16 August 2013.
- The impact assessment is published alongside a further, longer period of public consultation. The consultation seeks views of stakeholders on the evidence presented in this impact assessment, as well as the effective implementation of the trade union measures and what guidance should be provided to support unions in meeting the new requirements. The questions contained within this impact assessment are indicative of the areas on which we will be seeking further evidence during this consultation period in order to improve the cost and benefit estimates.

### Problem under consideration

- 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.
- 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.
- 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.
- The current system relies on an individual union member pro-actively checking whether their own details are correctly recorded on the membership register. But that member will not know whether the details of other members are correct. Nor will they know whether the register is accurate in recording new joiners or leavers. In addition, the Certification Officer can only investigate where there is a complaint from a union member. There is, therefore, no certainty that unions are compliant with the statutory requirement to maintain a register that is up-to-date so far as is reasonably practicable.
- 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<sup>1</sup>, there are significant inflows and outflows of union membership.
- 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

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<sup>1</sup> BIS analysis of LFS data Quarter Oct – Dec 2012

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.

- 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

- 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).
- 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 moved 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

- 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 annually – around 1 in 4, (2 million out of 7.2 million memberships)<sup>2</sup>. Consequently, unless registers are refreshed at least once a year, the information on the membership records are likely to be wrong in at least a quarter of cases just from this source alone.

<sup>2</sup> These statistics are sourced from the [Certification Officer](#) annual report. They are derived from administrative records, which have a greater coverage than the Labour Force Survey estimates. For example, they include the unemployed or retired who are excluded from the Labour Force Survey questions (for more details see the [Trade Union membership](#) statistics bulletin).



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

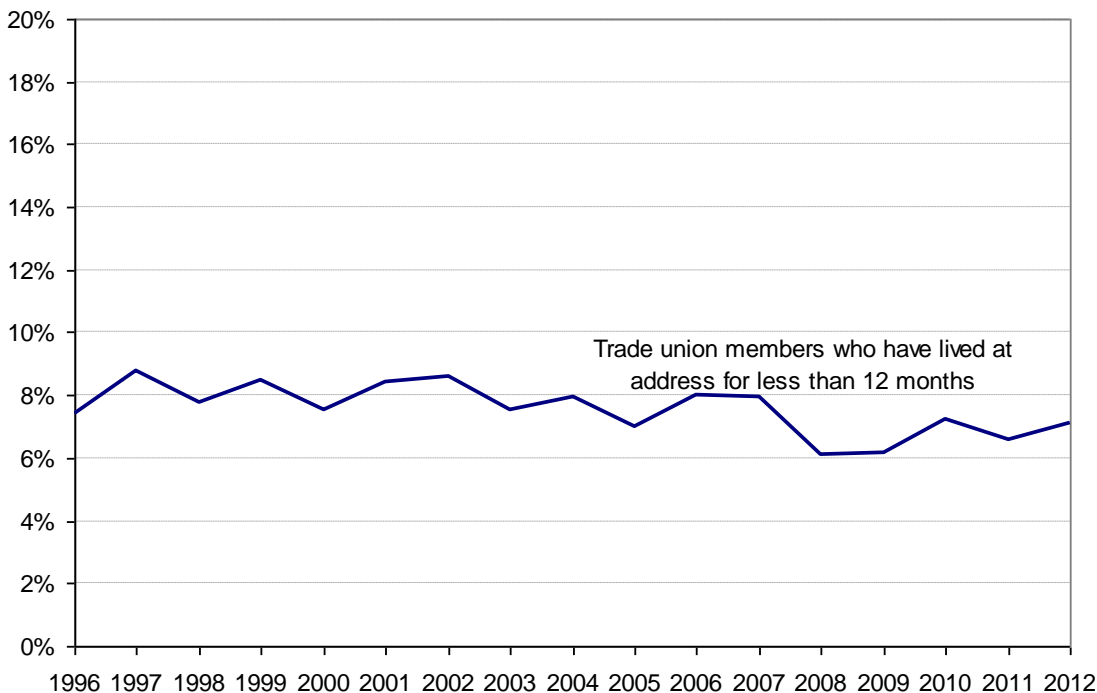
Millions

	<b>Gross Flows</b>
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

- In addition, members frequently move their residential address, which may lead to inaccurate details unless unions are regularly 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.

**Figure 1: Percentage of union members who have lived at their address for less than 12 months, 1996-2012**



Source:

Labour Force Survey

- A combination of high turnover in union members and 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 more than 1 in 4 members a year.

- 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

- 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 significantly 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 their rights to.
- The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act addresses these difficulties. Trade unions with more than 10,000 members will be required 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 way for this to be done. Therefore unions will have the flexibility to choose the method that most suits their circumstances.
- Where it appears that unions are not complying with their duties, the Certification Officer will also be given powers enabling them to both act on their 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.
- The trade union measures 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 Trade Union and Labour Relations (Consolidation) Act 1992.

## Policy objective

- The policy objective is to give greater assurance that unions comply with the existing duty to maintain a register of members' names and addresses, as the Trade Union and Labour Relations (Consolidation) Act 1992 does not provide for this. The objective is to introduce an effective reporting and enforcement regime in relation to this duty. 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. They also have a vital role in public debate, and union activity can have an impact that extends beyond the membership. The intended effect of the policy is to ensure that unions provide a regular, proactive assurance to their members, the general public and employers that they are diligent in maintaining what are often very large and complex membership registers, and in ensuring their democratic accountability to their members.

## Description of options considered (including do nothing)

### Do Nothing

- The counterfactual against which this policy is assessed is the continuation of the legislation 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 –Statutory duty on trade unions to provide an annual membership audit certificate to the Certification Officer and additional powers to the Certification Officer

- On 17 July 2013, the Government introduced into Parliament the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill. The Bill included 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. The changes cover England, Scotland and Wales, but not Northern Ireland.
- 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.
- 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.
- 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.
- The Act gives 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 or she 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.
- The Certification Officer will also be able to act on their own authority and may take into account information brought to their 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 or she will be able to make a declaration or a declaration and enforcement order as appropriate.
- 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.

- 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.
- The Government's preferred option is to implement the provisions in Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act. The Trade Union and Labour Relations (Consolidation) Act 1992 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 Act will provide information to members, the general public and employers to assure them that membership lists are accurate.
- 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

- 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.
- 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.
- 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)

- The introduction of this legislation will introduce one-off familiarisation costs for those unions preparing a membership audit certificate. The implementation makes a moderate amendment to the existing requirements, which all unions are already familiar with.
- The Regulatory Policy Committee assessment stated that the previous impact assessment accompanying the Bill understated familiarisation costs. The impact assessment did not consider the impact of unions putting in place the processes or facilities required to meet the new requirements, or the likelihood of the involvement of senior officials.
- We have refined our previous estimates to consider this assessment. We will also undertake further work during a further, longer period of public consultation – including seeking the views of the unions affected – to improve estimates in this regard, so we will be able to state with more certainty the magnitude of the familiarisation costs.
- Familiarisation costs in this impact assessment will therefore include the costs to unions of familiarisation with the guidance and advice provided by the Department for Business, Innovation and Skills and/or the Certification Officer to reach a point where a manager or relevant official at the union is aware of changes in the law and how they impact the union.

- It will also include costs associated with putting in place processes or facilities to meet the new requirements. For unions with over 10,000 members, this will include changes to rulebooks to allow the appointment and removal of an independent assurer. For a union with fewer than 10,000 members, the familiarisation costs will be lower because these unions will not be required to appoint an independent assurer.
- 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, and union managers and directors. Using the Annual Survey of Hours and Earnings data (ASHE 2012 provisional)<sup>3</sup>, the basic hourly median pay for officers of non-governmental organisations (closest match to a union official – SOC 2010: 4114) is £12.03 and for functional managers and directors (closest match to union managers and directors – SOC 2010: 1139) is £23.04. We 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.
- Adjusting for a 17.8% uplift to reflect non-wage labour costs<sup>4</sup>, the total hourly cost of a union official will be approximately £14.17 and for senior managers and directors will be £27.14.

**Table 3: Labour costs underpinning the costings:**

	Median hourly pay excluding overtime, 2012	Inflated (+17.8%) to include non-wage costs
<b>Union officials</b>	<b>12.03</b>	<b>14.17</b>
<b>Managers and directors</b>	<b>23.04</b>	<b>27.14</b>

Source:

Annual Survey of Hours and Earnings (Table 14.6a), 2012 Provisional Results, Office for National Statistics

Labour costs per hour in EUR, 2008-2012 whole economy excluding agriculture and public administration, Eurostat:

### Familiarisation (Direct Cost) – Small Unions

- For a union with fewer than 10,000 members, we have refined our estimates for the familiarisation costs to include the likelihood of the involvement of senior union officials. We initially estimated that it would take 10 hours for union staff to become familiar with the new legislation based on the views of one stakeholder.
- This involved union officials learning how the proposed regulation impacts their operations, producing a report, and wider dissemination to other union staff either via email or face to face meetings.
- In the absence of better information, we have assumed that in smaller unions it will take on average 10 hours of union officials staff time to familiarise themselves with this proposed regulation. We have also assumed an additional week (35 hours) of union official staff time will be needed in order to

<sup>3</sup> Table 14.6a Hourly pay - Excluding overtime (£) - For all employee jobs: United Kingdom, 2012

<sup>4</sup> Wages are uplifted by 17.8 per cent in line with Eurostat's estimates of non-wage costs for 2012. In 2012, 15.1% of the labour costs per hour were estimated as non-wage costs. This represents 3.26 of the estimated 21.60 labour costs per hour ( $21.60 \times 0.151 = 3.26$ ). This is approximately 17.8 per cent of total wages excluding non-wage costs ( $3.26 / (21.60 - 3.26) * 100 = 17.8$ ). Source: [http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php?title=File:Labour\\_costs\\_per\\_hour\\_in\\_EUR,\\_2008-2012\\_whole\\_economy\\_excluding\\_agriculture\\_and\\_public\\_administration.png&filetimestamp=20130411095404](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php?title=File:Labour_costs_per_hour_in_EUR,_2008-2012_whole_economy_excluding_agriculture_and_public_administration.png&filetimestamp=20130411095404)

recommend an approach to senior managers for putting in place processes and facilities for self-certification. This does not include the actual costs of conducting the self assessment, as they are calculated separately.

- In the absence of better information, we have conservatively estimated that around 2 days (14 hours) of senior official time will be required to check and agree the resources, facilities, and processes required for self-certification. These unions will already be familiar with the existing duty to maintain a register of members’ names and addresses that is, so far as reasonably practicable, accurate and up-to-date, so the additional familiarisation costs will relate exclusively to putting in place the processes and facilities for self-certification.
- This means that for a union with 10,000 members or fewer, the total familiarisation costs per union will be £1017.61 (see table 4 below).

**Table 4: Total familiarisation costs for unions with fewer than 10,000 members:**

	Inflated median hourly wages excluding overtime	x	Total hours of familiarisation time	=	Total familiarisation costs
<b>Union officials</b>	<b>14.17</b>	<b>x</b>	<b>45</b>	<b>=</b>	<b>£637.65</b>
<b>Managers and directors</b>	<b>27.14</b>	<b>x</b>	<b>14</b>	<b>=</b>	<b>£379.96</b>
<b>All staff</b>					<b>£1027.61</b>

- In order to arrive at a total familiarisation cost for smaller unions the total familiarisation costs per union should be multiplied by the total number of unions. For unions with fewer than 10,000 members the total familiarisation costs will be (124 unions x £1017.61) £126,200. We will seek to refine this estimate during the consultation period by working closely with unions to assess familiarisation costs.

### **Familiarisation (Direct Cost) – Larger Unions**

- For a larger union, one with more than 10,000 members, we have assumed that familiarisation with the guidance and legislation will take longer due to the requirement to seek independent assurance for the membership audit certificate. We initially estimated that it would take on average 15 hours of a union officials staff time to familiarise themselves with the new requirements based on the views of a stakeholder, experienced with trade union operations. We have refined these estimates to take into account the likelihood of the involvement of senior officials and putting in place processes or facilities required to meet the new legislation.
- In the absence of better information, we have assumed that in larger unions it will take on average 15 hours of union officials staff time to familiarise themselves with this proposed regulation. We have conservatively estimated an additional two weeks (70 hours) of union official time will be needed to recommend an approach for putting in place processes or facilities required by the legislation. This is considerably longer than the time needed for smaller unions because they will be required to put in place processes and facilities for the procurement of an independent assurer.
- We have conservatively estimated that around 3 days (21 hours) of senior official time will be required to check and agree the resources and processes required for self-certification. This is longer than the time needed for smaller unions because they will be required to put in place processes and facilities for the procurement of an independent assurer. These unions will already be familiar with the existing duty to maintain a register of members’ names and addresses that is, so far as reasonably practicable, accurate and up-to-date, so the additional familiarisation costs will relate exclusively to putting in place the processes and facilities for independent assurance.

- During the August discussion document, a number of respondents stated that the changes will require unions to amend their rule books to allow the appointment and removal of an independent assurer. This will involve a one-off familiarisation cost. The process to amend the rule book will vary, some unions may require a referendum of all the members, and for others this may involve agreement at a rule change conference or executive committee meeting. In the absence of information on the varying costs of rule book amendments, this remains an unquantifiable cost. We will work closely with unions during the consultation period in order to assess the time requirements and costs associated with rule book amendments.
- For a union with 10,000 or more members, the total familiarisation costs per union will be £1774.39 (see table 5 below).

**Table 5: Total familiarisation costs for unions with 10,000 members or more:**

	Inflated median hourly wages excluding overtime		Total hours of familiarisation time	=	Total familiarisation costs
<b>Union officials</b>	<b>14.17</b>	<b>x</b>	<b>85</b>	<b>=</b>	<b>£1204.45</b>
<b>Managers and directors</b>	<b>27.14</b>	<b>x</b>	<b>21</b>	<b>=</b>	<b>£ 569.94</b>
<b>All staff</b>					<b>£1774.39</b>

- In order to arrive at a total familiarisation cost for larger unions the total familiarisation costs per union should be multiplied by the total number of unions. For Unions with 10,000 or more members the total familiarisation costs will be (42 unions x £1774.39) £74,500. We have not been able to establish the costs for amending union rule books. However, we will seek estimates of these costs during the consultation period.

**Familiarisation (Direct Cost) – All Unions**

The estimated total familiarisation cost for all unions will be (£126,200 + £74,500) £200,700. We will undertake further work during a further, longer period of public consultation – including seeking the views of the unions affected – to improve estimates of the familiarisation costs. In this impact assessment, we have assumed that the familiarisation costs of tendering an independent assurer occur only once over the 10 year assessment period. Further work will be taken over the consultation period to refine these estimates.

**Q9: Do you have any evidence that could help to refine the assessment of union familiarisation costs?**

**Q10: [For unions with more than 10,000 members] What are the estimated costs of making an amendments to your rule book to provide for the appointment and removal of an independent assurer?**

### Payment of fee (Direct Cost) – For unions with more than 10,000 members

- The implementation of the Part 3 of the Act requires trade unions with more than 10,000 members to produce a membership audit certificate which will need to be completed by a qualified independent assurer.
- 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.

**Q11: [For unions with more than 10,000 members] How often will your union seek to retender the contract for an independent assurer?**

- The Regulatory Policy Committee assessment stated that the estimated fee payable to the assurer within the previous impact assessment remains highly uncertain. It was unclear how accurate and up-to-date a membership register will have to be for a union to be considered ‘compliant’ with the proposed new requirements; or what process of investigation would be undertaken by an independent qualified assurer, or how rigorous that process would be. During a further public consultation, we will actively engage with unions to discuss the implementation of the new requirements and the proposed guidance, and to seek their input for improving the cost estimates.
- Our initial assessment based on analysis of stakeholder responses to the August discussion document yielded an **average fee of £10,000**. All unions agreed that the potential fee would vary depending on the size of the trade union, while the distribution of membership lists amongst various branches could also impact the level of fee charged to a union. 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.
- In the absence of better information, 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.
- 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 6). We will undertake further work during a further, longer period of public consultation – including seeking the views of the likely assurers – to improve estimates in this regard, so we will be able to state with more certainty the magnitude of the assurance fee.

**Table 6: 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

**Q12: Do you have any evidence that could help to refine the assessment of the fee paid to an independent assurer?**



## Time cost by complying with the assurance process (Direct cost) – For unions with more than 10,000 members

### *Working with the assurer*

- As part of the changes 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.
- 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. The Regulatory Policy Committee assessment stated that the previous impact assessment accompanying the Bill understated these staff time costs. The impact assessment did not consider time costs for responding to requests for information or explanations from the assurer, enabling the assurer to see the register, or the time spent considering how to handle the assurer's report.
- During the August consultation period, one union stakeholder mentioned that they would require at least one individual to be responsible for all matters relating directly to the relationship between the union and the assurer. We have therefore refined our estimates to include an additional union official who would be responsible for all matters relating directly to the relationship between the union and the assurer. We have conservatively assumed that the assurance process would take on average one month, and therefore this union official would be assigned to this matter for one month.
- Using the Annual Survey of Hours and Earnings data (2012 provisional)<sup>5</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. The estimated time cost for a union official to deal with matters relating to the assurer will therefore be (£14.17 x 35 work hours in week x 4.35 weeks in a month) £2,200. The total cost for all unions relating to this union official will be (42 unions x £2157.38) £90,600.
- In addition to this union official, one likely assurer also stated that most of their time would be incurred during 30 minute telephone interviews, when 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. The type of staff that would be interviewed would vary from union officials (branch managers), data entry clerks and IT operation technicians.

### *Assurer interviews*

- For our best estimate, we have assumed that the staff interviewed will be IT operation technicians. They are defined as being responsible for the day-to-day running of IT systems and networks including the preparation of back-up systems, and for performing regular checks to ensure the smooth functioning of such system (closest match to the interviewee). For an IT operation technician (SOC 2012: 3131) 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. Taking into account that staff members will take part in 30 minute interviews, the total maximum cost per IT operation technician will be approximately £8.04 an interview (£16.07 / 2).
- 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 likely assurer 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.

<sup>5</sup> Table 14.6a Hourly pay - Excluding overtime (£) - For all employee jobs: United Kingdom, 2012

- Under the maximum estimate scenario where 10 staff are interviewed the total cost to the union will be (10 staff x £8.04) £80.40. Assuming that there are 42 unions who have more than 10,000 members the total maximum cost to trade unions, for interviews is, (42 unions x £80.40) £3,400.
- Under the minimum estimate scenario where 1 staff is interviewed the total cost to the union will be (1 staff x £8.04) £8.04. Assuming that there are 42 unions who have more than 10,000 members the total minimum cost to trade unions, for interviews is, (42 unions x £8.04) £300.
- Under the best estimate scenario were 5 staff are interviewed the total cost to the union will be (5 staff x £8.04) £40.20. Assuming that there are 42 unions who have more than 10,000 members the total maximum cost to trade unions, for interviews is, (42 unions x £40.20) £1,700

*Report checking and handling*

- In addition, we assume that 4 hours of union official time will be needed for checking the assurer’s report and 2 hours of senior management staff time will be needed to agree handling of the report. It is assumed that the document will be submitted to the Certification Officer at the same time as their existing annual return and published alongside their return, so no further administration costs are included. The total cost for larger unions relating to checking and handling of the report will be £110.96 (4 hours of union official time at £14.17 per hour + 2 hours of senior management time at £27.14 per hour). The total cost to all larger unions for this will be £4,700 (£110.96 x 42 unions).
- A summary of the maximum, minimum and best estimates for the total familiarisation costs to unions more than 10,000 members are presented in table 7 below.

**Table 7: Total time cost of complying with the assurance process, for unions with 10,000 or more members**

	Minimum estimate	Best estimate	Maximum estimate
Union official to deal with assurer	£90,600		
Assurer interviews	£300	£1,700	£3,400
Checking and handling	£4,700		
<b>Total all unions</b>	<b>£95,600</b>	<b>£97,000</b>	<b>£98,700</b>

- We will undertake further work during a longer period of public consultation – including seeking the views of the unions affected – to improve estimates of the time costs to unions.

**Q13: Do you have any evidence that could help to refine the assessment of the time costs to larger unions with more than 10,000 members?**

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

- 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.

- The Regulatory Policy Committee assessment stated that the previous impact assessment accompanying the Bill should have made clearer the full recurring costs to smaller unions of complying with the legislation. We have refined our previous estimates to consider this assessment. We will also undertake further work during a further, longer period of public consultation – including seeking the views of the unions affected – to improve estimates in this regard, so we will be able to state with more certainty the magnitude of the time costs to unions with fewer than 10,000 members. This consultation will include additional advice on the requirements and the proposed guidance.
- Our previous estimates were based on one stakeholder, experienced with trade union operations, who estimated that the process of self certification would involve the union branch manager undertaking an internal assurer role each year. 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.
- In the absence of better information, we have assumed 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** per annum.
- 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) **£212.55**. 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** per annum.
- 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) **£318.83**. 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** per annum.
- In addition, we assume that 4 hours of union official time will be needed to check the auditors report and 2 hours of senior management staff time will be needed to agree handling of the report. It is assumed that the document will be submitted to the Certification Officer at the same time as their existing annual return and published alongside their return, so no further administration costs are included. The total cost for smaller unions relating to checking and handling of the report will be £110.96 (4 hours of union official time at £14.17 per hour + 2 hours of senior management time at £27.14 per hour). The total cost to all smaller unions for this will be £13,800 per annum (£103.92 x 124 unions).
- The total annual cost of self certification faced by all unions with less then 10,000 members is presented in table 8 below.

**Table 8: Total cost of self certification for all 124 unions with less than 10,000 members**

Minimum estimate	Best estimate	Maximum estimate
<b>£40,200</b>	<b>£53,300</b>	<b>£66,500</b>

**Q14: Do you have any evidence that could help to refine the assessment of the time costs to smaller unions with fewer than 10,000 members?**

### Cost of compliance with Certification Officer investigations (Direct cost) – All Unions

- The implementation of the Act will give the Certification Officer Office additional powers, beyond the existing powers that limit the scope of investigations to complaints 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.
- The Regulatory Policy Committee assessment stated that the previous impact assessment accompanying the Bill should have assessed the costs associated with inspections by the Certification Officer and subsequent appeals falling on compliant trade unions and their possible scale. We have refined our previous estimates to consider this assessment.
- We have assumed that as a result of the Act an additional four complaints and appeals will be made to the Certification Officer relating to the register of union members per annum. This is based on the number of complaints/referrals made to the Financial Reporting Council relating to financial reporting of FTSE 100 and FTSE 250 companies in 2011/12 (9 complaints divided by 350 companies = 2.6 per cent of companies with complaints/referrals, applying this percentage to the 166 unions in 2012-13 = 4 complaints/referrals).<sup>6</sup> Although financial reporting requirements are different from the requirements of this legislation, this is the closest available data that involves scrutiny of a recording and reporting process.
- Of these estimated 4 additional complaints and appeals to the Certification Officer, as far as this impact assessment is concerned we assume that unions are in full compliance with existing legislation, and therefore assume that complaints and appeals will fall on unions with accurate and up-to-date registers. Although the additional complaints and appeals may fall on unions who have not completed an annual membership audit certificate, we have already included the costs of completing a certificate so will not include additional costs here.
- We have conservatively assumed that the additional union staff time needed to comply with the investigation or appeal will involve one week of a union officials staff time, including information retrieval, submitting information to the Certification Officer, and communicating with the Certification Officer. We have also assumed one day of senior management time to agree handling procedures. The total cost for compliance with the investigation or appeal will be £685.93 (35 hours of union official staff time at £14.17 per hour + 7 hours of senior management staff time at £27.14 per hour). The total cost to unions for complaints and appeals where the union is found to be compliant with the legislation will be £2,700 (£685.93 x 4).
- We will undertake further work during a longer period of public consultation – including seeking the views of the unions affected and the Certification Officer – to improve estimates of the compliance costs.

**Q15: Do you have any evidence that could help to refine the assessment of the compliance costs?**

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

- The evidence regarding the impact of the changes on IT costs is mixed.
- During discussions with stakeholders in August some concerns were raised regarding IT costs. That is some stakeholders believed that a possible unintended consequence of this Act would be that some unions would need to update their IT systems. This would act as a cost to unions.

<sup>6</sup> Financial Reporting Review Panel, Annual Report 2012, September 2012, Financial Reporting Council. Available at: <http://www.frc.org.uk/getattachment/f46d075e-7d0b-439c-aaf6-d557de55f93f/Financial-Reporting-Review-Panel-Annual-Report-2012.aspx>

- 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 Act were not necessary. This is because, as far as they were concerned, most unions were capable of producing a list of names and addresses in an accessible digital format, regardless of how antiquated their 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.
- 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 implementation of the Act will be zero. This is because the existing IT structure in place with nearly all the unions is sufficient for meeting the objectives of the legislation.

### Summary of Trade union Costs

- Table 9 below presents a summary of the (**best estimated**) costs that potentially face trade unions under proposed legislation.

**Table 9: Best estimated costs to Trade Unions (Excludes cost to Exchequer)**

	<b>Unions with fewer than 10,000 members (Total:124 unions)</b>	<b>Unions with 10,000 members or more (Total:42 unions)</b>
<i>Familiarisation Costs (One off)<sup>1</sup></i>	£126,200	£74,500
<i>Payment of fee</i>	N/A	£420,000
<i>Time cost of complying with Independent assurers</i>	N/A	£97,000
<i>IT costs</i>	0	0
<i>Costs of self certification</i>	£53,300	N/A
<i>Total Cost (including familiarisation)</i>	£179,500	£591,500
<b><i>Total Cost (excluding familiarisation and investigations by Certification Officer)</i></b>	<b>£53,300</b>	<b>£517,000</b>
<b><i>Cost of investigations where union found to be compliant</i></b>	<b>£2,700</b>	
<b><i>Total Costs for all unions (excluding familiarisation)</i></b>	<b>£573,000</b>	
<sup>1</sup> We have not been able to establish the one-off familiarisation costs for amending union rule books to allow larger unions to appoint and remove an independent assurer. However, further work will be undertaken to provide estimates of these costs during the consultation period.		

**Q16: Do you have any evidence that could help to refine the assessment of the costs to unions of implementing this legislation?**

## Impact on Trade Union members

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

- Responses from stakeholders during the August discussion period 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.

**Q17: Do you have any evidence that could help to refine the assessment of benefits of implementing this legislation?**

## Impact on Assurers

### Receipt of fee

- 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)

- The implementation of the Act 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.
- What is evident is that the Certification Officer will need 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.
- To comply with its duties under the Act, 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.
- 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

- The measures contained in this impact assessment are in scope of "One-in-two-out" (OITO). This legislation 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 £0.47m in 2009 prices.

## Risks and unintended consequences

### Risks

#### Competition

- 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)

- Discussions with trade unions suggested that the costs incurred by this Act would be passed on to its members via higher subscription fees.
- 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)<sup>7</sup>, 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 10 below.

**Table 10: Annual cost per union member (for all members across all unions):**

Minimum Estimate	Best estimate	Maximum Estimate
£0.05	<b>£0.08</b>	£0.11

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

<sup>7</sup> These statistics are sourced from the [Certification Officer](#) annual report. They are derived from administrative records, which have a greater coverage than the Labour Force Survey estimates. For example, they include the unemployed or retired who are excluded from the Labour Force Survey questions (for more details see the [Trade Union membership](#) statistics bulletin).

## Proportionality of evidence used in this impact assessment

- 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 in August to inform our estimates. We will refine our estimates during a further, longer period of consultation with stakeholders, including likely assurers and unions.
- The impact assessment contains sensitivity analysis to reflect uncertainty over the evidence base and final policy guidance. Our best estimate for the EANCB to trade unions is £0.47m.

## Small and Micro-Business Assessment

- The Act regulates Civil Society Organisations<sup>8</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>9</sup>
- Unions are membership organisations. In the absence of data on the number of full time employee union staff, the Government has taken an approach of varying requirements based on the size of union membership. All trade unions will be required to submit an annual membership audit certificate, but unions with fewer than 10,000 members will be exempted from requirements to complete this certificate through a qualified independent assurer.
- The Act does not provide a full exemption for small unions, as the policy objective is to give greater assurance that unions are complying with the existing duty to maintain a register of members' names and addresses. Exempting unions with fewer than 10,000 members would exclude three quarters of unions from the requirement to complete an annual membership certificate. This would not achieve the policy objective of giving greater assurance that unions are complying with this duty, as a majority of trade unions would be excluded.
- There has been a general decline in the number of small trade unions since 1999-00, which has declined at a slightly faster rate than larger trade unions. At the end of 2012-13, there were 124 unions with less than 10,000 members, representing 75 per cent of the listed and scheduled unions.

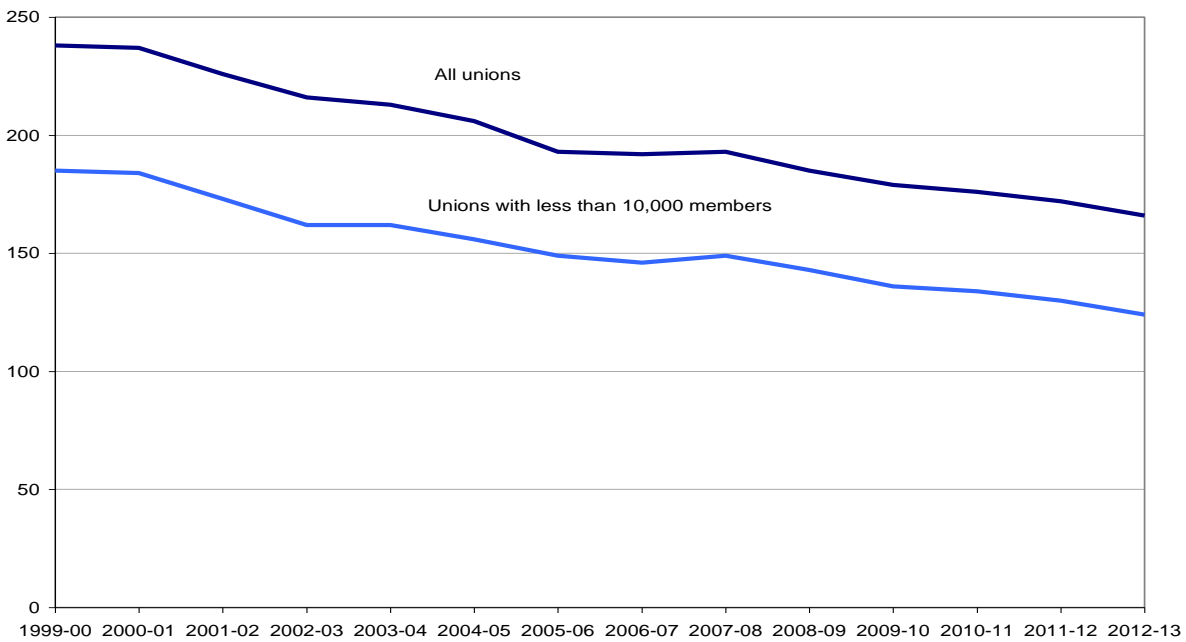
**Figure 2: Number of unions by size of union membership, 1999-2012**

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<sup>8</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>9</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.

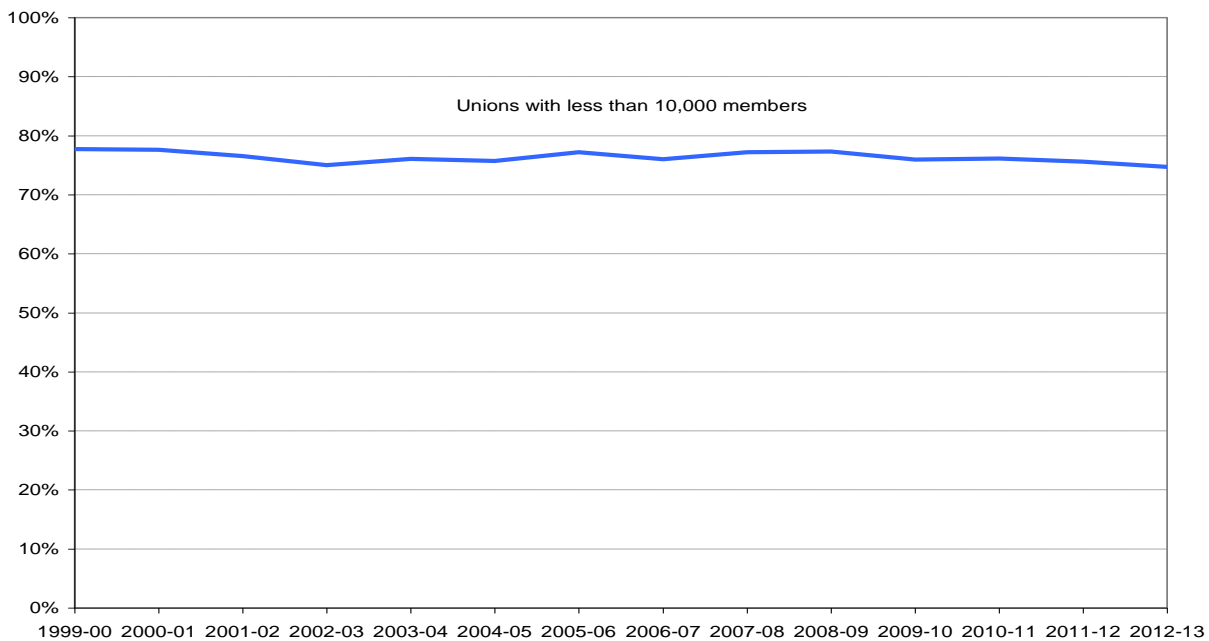




Source: Annual Report of the Certification Officer

- 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.

**Figure 3: Percentage of unions with less than 10,000 members, 1999-00 to 2012-13**



Source: Annual Report of the Certification Officer

- The exemption for small trade unions achieves the policy objective of greater assurance while also minimising the costs for small trade unions. The average costs (excluding familiarisation costs and

compliance costs) for unions with fewer than 10,000 members will be around £400, compared with around £12,300 for larger unions. This rises to £1,400 when accounting for the one-off familiarisation costs, compared with around £14,100 for larger unions.<sup>10</sup>

- To prevent potential barriers to the creation of new unions who potentially may have fewer full time employees, the requirements will also 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 10,000 members in their first return to the Certification Officer.<sup>11</sup>
- Commencement of the trade union administration provisions in the Act will be by Order. No union will have to supply a membership audit certificate until a minimum of 17 months after the legislation is commenced, as the provisions will not apply to reporting years that have already started when the legislation comes into force. This is a combination of the 12 month reporting period and the five months allowed by the Certification Officer for annual return to be submitted. We have taken the view that a transition period of at least 17 months is adequate for all unions to comply, regardless of size, as this gives unions plenty of time to prepare for the new arrangements. In addition, the process of preparing to comply should be simpler for small unions, as unlike larger unions, they will not have to appoint an assurer.
- The additional Certification Officer powers will apply to all unions, regardless of size. This is because all trade unions are statutorily required to maintain an up-to-date register. As part of the policy to maintain confidence in the ability of a union to be able to contact its members, it is important that problems with maintaining a union register can be investigated no matter the size of the union.

## Equality impact test

- We have published separately an Equality Impact Assessment<sup>12</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.

## Additional Questions

**Question 18:** Do you have any evidence that could help us assess whether it would be necessary to convene an extra, unscheduled rules conference in order to make the rule book changes to allow the appointment of an independent assurer?

**Question 19:** Do you have any evidence that could help us assess the costs of convening an extra rules conference should this be necessary?

<sup>10</sup> The average costs (excluding familiarisation costs) is calculated by dividing the costs excluding familiarisation costs for smaller unions (£52,400) by the number of smaller unions 124 (£53,300 / 124 = £430), for larger unions this is calculated in the same way (£517,000 / 42 = £12,310). Including familiarisation costs, the average costs will be around £1,400 for smaller unions (£179,500 / 124 = £1,448) and £14,100 for larger unions (£591,500 / 42 = £14,083).

<sup>11</sup> In addition, 87 per cent of the newly created unions reported membership of less than 1,000 members in their first return to the certification officer significantly less than the threshold for independent assurance.

<sup>12</sup> <https://www.gov.uk/government/publications/trade-union-membership-records-equality-impact-assessment>

**Question 20:** Do you have any evidence that could help us assess whether there are any costs to employers of employees attending an additional conference to agree rule book change?

**Question 21:** [For unions with 10,000 member or less] Do you have any evidence that the process of self-assurance will affect the cost of compliance with section 24 of TULRCA? If so, does your evidence indicate that the costs of compliance would increase or decrease? Please provide details of your rationale.

## Post Implementation Review (PIR) Plan

**Basis of the review:**

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.

**Review objective:**

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.

**Review approach and rationale:**

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.

**Baseline:**

Current management information held by the Certification Office.

**Success criteria:**

A low level of complaints made to the Certification Office and a high level of compliance.

**Monitoring information arrangements:**

The Certification Office will be collecting data on complaints and compliance.

**Reasons for not planning a review:**

## Consultation Principles – Annex F

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

### Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

John Conway,  
BIS Consultation Co-ordinator,  
1 Victoria Street,  
London  
SW1H 0ET

Telephone John on 020 7215 6402  
or e-mail to: [john.conway@bis.gsi.gov.uk](mailto:john.conway@bis.gsi.gov.uk)

**However if you wish to comment on the specific policy proposals you should contact the policy lead**

## Response form – Annex G

### Consultation on Trade Union Assured Register of Members

A copy of the consultation document can be found at:

<https://www.gov.uk/government/consultations/>.

You can complete your response online through survey monkey

<https://www.surveymonkey.com/s/H2PWPQV>

Alternatively, you can e-mail, post or fax this completed response form to

Nick Morgan  
Department of Business, Innovation and Skills  
Labour Market Directorate  
1 Victoria Street  
London SW1H 0ET

Tel: 020 7215 8543 Fax: 020 7215 6414

Email: [nick.morgan1@bis.gsi.gov.uk](mailto:nick.morgan1@bis.gsi.gov.uk)

The Department may in accordance with the Code of Practice on Access to Government Information, make available, on public request individual responses.

The closing date for this consultation is **1 December 2014**

### Your details

**Name:**

**Organisation (if applicable)**

**Address**

**Telephone**

**Fax**

**Please tick the boxes below that describe you as the respondent to this consultation.**

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union (10,000 or less members)
<input type="checkbox"/>	Trade union (over 10,000 members)
<input type="checkbox"/>	Other (please describe)

# List of questions

## Consultation questions

**Question 1:** Do you have any comments regarding the proposed operation of the MAC? Please indicate why.

**Question 2:** Do you agree with the Government's proposed approach? Please indicate why.

**Question 3:** Are there any other groups that should be able to act as an assurer? Please state who these should be and give your reasons why.

**Question 4:** Which is your preferred option? Please give your reasons why.

**Question 5:** Do you have any other suggestions with regard to the content of the Order? Please explain your answer.

## Guidance questions

**Question 6:** Do you propose any amendments to the guidance for trade unions? Please clearly state what these are and set out your reasons for the proposed changes.

**Question 7:** Do you propose any amendments to the guidance for assurers? Please clearly state what these are and set out your reasons for the proposed changes.

**Question 8:** Do you propose any amendments to the guidance for employers? Please clearly state what these are and set out your reasons for the proposed changes.

## Impact Assessment questions

**Question 9:** Do you have any evidence that could help to refine the assessment of union familiarisation costs?

**Question 10:** [For unions with more than 10,000 members] What are the estimated costs of making an amendment to your rule book to provide for the appointment and removal of an independent assurer?

**Question 11:** [For unions with more than 10,000 members] How often will your union seek to re-tender the contract for an independent assurer?

**Question 12:** Do you have any evidence that could help to refine the assessment of the fee paid to an independent assurer?



**Question 13:** Do you have any evidence that could help to refine the assessment of the time costs to larger unions with more than 10,000 members?

**Question 14:** Do you have any evidence that could help to refine the assessment of the time costs to smaller unions with fewer than 10,000 members?

**Question 15:** Do you have any evidence that could help to refine the assessment of the compliance costs?

**Question 16:** Do you have any evidence that could help to refine the assessment of the total costs to unions of implementing this legislation?

**Question 17:** Do you have any evidence that could help to refine the assessment of benefits of implementing this legislation?

## **Additional Questions (not included in the IA)**

**Question 18:** Do you have any evidence that could help us assess whether it would be necessary to convene an extra, unscheduled rules conference in order to make the rule book changes to allow the appointment of an independent assurer?

**Question 19:** Do you have any evidence that could help us assess the costs of convening an extra rules conference should this be necessary?

**Question 20:** Do you have any evidence that could help us assess whether there are any costs to employers of employees attending an additional conference to agree rule book change?

**Question 21:** [For unions with 10,000 members or less] Do you have any evidence that the process of self-assurance will affect the cost of compliance with section 24 of TULRCA? If so, does your evidence indicate that the costs of compliance would increase or decrease? Please provide details of your rationale.

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