



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**

**Impact Assessment**

SEPTEMBER 2014

|  |  |
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| <b>Title:</b><br>Certification of trade unions' membership registers and investigatory powers for the Certification Officer<br><b>IA No:</b> BIS LM001<br><br><b>Lead department or agency:</b><br>Department for Business, Innovation and Skills<br><br><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><br>rob.haynes@bis.gsi.gov.uk |

|  |                           |
|--|---------------------------|
| <b>Summary: Intervention and Options</b> | <b>RPC Opinion: Green</b> |
|--|---------------------------|

| Cost of Preferred (or more likely) Option |                            |  |   |
|---|----------------------------|--|---|
| Total Net Present Value                   | Business Net Present Value | Net cost to business per year (EANCB on 2009 prices) | In scope of One-In, Measure qualifies as Two-Out? |
| £-6.34                                    | £-5.13                     | £0.47  | Yes   IN  |

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

It is important that union decisions reflect the will of their members. Therefore, the Trade Union and Labour Relations (Consolidation) Act 1992 (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.

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

The policy objective is to give greater assurance that unions comply with the existing duty to maintain a register of members' names and addresses, 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

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

Option 0: Do nothing (the counterfactual).

Option 1: Statutory duty on trade unions to provide an annual membership audit certificate to the Certification Officer (CO) that provides an opinion on the maintenance of the register. 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.

|  |  |                     |                       |                     |                         |
|--|--|---------------------|-----------------------|---------------------|-------------------------|
| <b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 10/2019                |  |                     |                       |                     |                         |
| Does implementation go beyond minimum EU requirements?   |  |                     |                       | N/A                 |                         |
| Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.                       |  | <b>Micro</b><br>Yes | <b>&lt; 20</b><br>Yes | <b>Small</b><br>Yes | <b>Medium</b><br>Yes    |
| What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent) |  |                     |                       | <b>Traded:</b><br>0 | <b>Non-traded:</b><br>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: 23/09/2014

# 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<br>Year 2012 | PV Base<br>Year 2015 | Time Period<br>Years 10 | Net Benefit (Present Value (PV)) (£m) |             |                      |
|-------------------------|----------------------|-------------------------|---------------------------------------|-------------|----------------------|
|                         |                      |                         | Low: -8.36                            | High: -4.32 | Best Estimate: -6.34 |

| COSTS (£m)    | Total Transition<br>(Constant Price)<br>Years | Average Annual<br>(excl. Transition)<br>(Constant Price) | Total Cost<br>(Present Value) |
|---------------|---|--|-------------------------------|
| Low           | 1   | 0.5  | 4.3                           |
| High          |   | 0.9  | 8.4                           |
| Best Estimate |   | 0.7  | 6.3                           |

### 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 week consultation period.

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

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

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

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

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

We have assumed unions are in full compliance with their existing duties, and only additional costs and benefits arising from the 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

1. 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.
2. 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.
3. The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill received Royal Assent on 30 January 2014. During the progress of the Bill, no amendments were made to the trade union measures. This impact assessment has therefore been updated to reflect the comments of the Regulatory Policy Committee and 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 we will be seeking further evidence during this consultation period in order to improve the cost and benefit estimates.

## Problem under consideration

4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.

10. 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

11. 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).
12. 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

13. And there is a similar significant amount of turnover amongst union members. Table 2 shows that around 2 million people move in and out of union membership – around 1 in 4 (2 million as a share of 7.2 million) of union membership<sup>2</sup>. Consequently, unless registers are refreshed at least once a year, the information on the membership records are likely to have decayed by at least a quarter just from this source alone

<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**

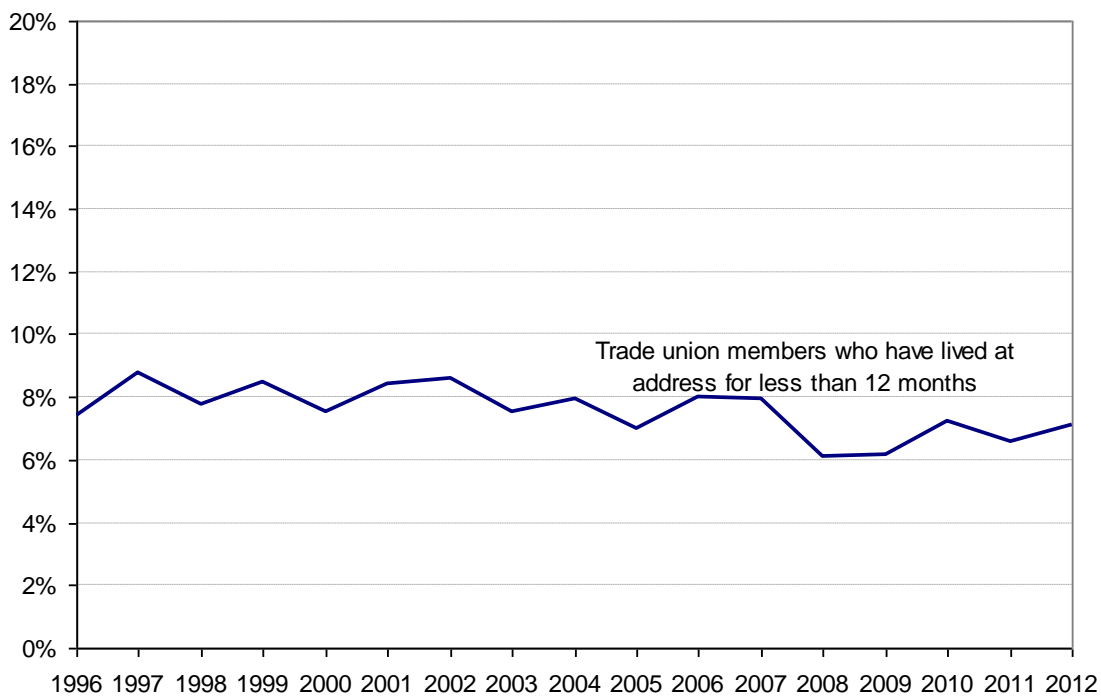
Millions

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

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

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

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



Source: Labour Force Survey

15. A combination of high turnover in union members and frequent changes in address, in addition to events such as deaths, or changes of names through divorces and marriages may undermine the value of the data held by unions. From the indicative figures above it suggests that a cautious estimate of the likely turnover in the register is around 1 in 4 members a year. This estimate is based on Labour Force Survey data on union membership flows. Table 2 shows that around 2 million people move in and out of union membership – around 1 in 4 (2 million as a share of 7.2 million) of union membership. Given this degree of turnover keeping the register up-to-date is important.

16. 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

17. Given the complexity of maintaining up-to-date registers there is a danger that trade union members, employers and the general public will not be confident that unions are complying with their duty to maintain an accurate and up-to-date register. And, as trade union activity has the potential to affect the daily lives of members and non-members, the general public should be confident that voting papers and other communications are reaching union members so that they have the opportunity to participate, even if they choose not to exercise it.
18. The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act addresses these difficulties. Trade unions with more than 10,000 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 method. Therefore unions will have the flexibility to choose the method that most suits their circumstances.
19. 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.
20. 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

21. 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.
22. 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

23. 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**

24. 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.
25. 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.
26. 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.
27. 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.
28. 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.
29. 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.
30. Similarly, where a union or person refuses to supply relevant documents or otherwise refuses to cooperate with an investigation, the Certification Officer will be able to order compliance with the requirement.
31. 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.
32. 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.
33. 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

34. 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.
35. 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.
36. 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)

37. 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.
38. 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.
39. 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.
40. 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.
41. 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.
42. 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

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

that trade union staff will carry out their activities during core operating hours only. Hence any ASHE data that includes overtime pay is excluded.

43. 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

44. 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.
45. 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 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.
46. 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.
47. 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>             |

<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 ( $3.26 / (21.60 - 3.26) \times 100 = 17.8$ ). 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)

48. 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

49. 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.

50. 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.

51. 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.

52. 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.

53. 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>             |

54. 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

55. 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.

**Q8: Do you have any evidence that could help to refine the assessment of union familiarisation costs?**

**Q9: [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

56. 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.
57. 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.

**Q10: [For unions with more than 10,000 members] How often will your union seek to retender the contract for an independent assurer?**

58. 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.
59. 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.
60. 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.
61. 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         |

**Q11: 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*

62. 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.
63. 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.
64. 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.
65. 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.
66. 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*

67. 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).

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

68. 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.
69. 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.
70. 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.
71. 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*

72. 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).
73. 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>   |

74. 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.

**Q12: 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**

75. 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.
76. 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.

77. 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.
78. 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.
79. 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.
80. 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.
81. 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).
82. 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>   |

**Q13: 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**

83. 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.
84. 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.

85. 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.
86. 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.
87. 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).
88. 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.

**Q14: Do you have any evidence that could help to refine the assessment of the compliance costs?**

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

89. The evidence regarding the impact of the changes on IT costs is mixed.
90. 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.
91. 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.
92. 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.

<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>



## Summary of Trade union Costs

93. 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)**

|  | Unions with fewer than 10,000 members (Total:124 unions) | Unions with 10,000 members or more (Total:42 unions) |
|--|--|--|
| <i>Familiarisation Costs (One off)</i> <sup>1</sup>  | £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.

**Q15: 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)

94. 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.

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

## Impact on Assurers

### Receipt of fee

95. 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)

96. 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.
97. 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.
98. 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.
99. 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

100. 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

101. 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)

102. Discussions with trade unions suggested that the costs incurred by this Act would be passed on to its members via higher subscription fees.

103. 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            |

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

## Proportionality of evidence used in this impact assessment

105. 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.
106. 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

107. 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>
108. 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.
109. 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.

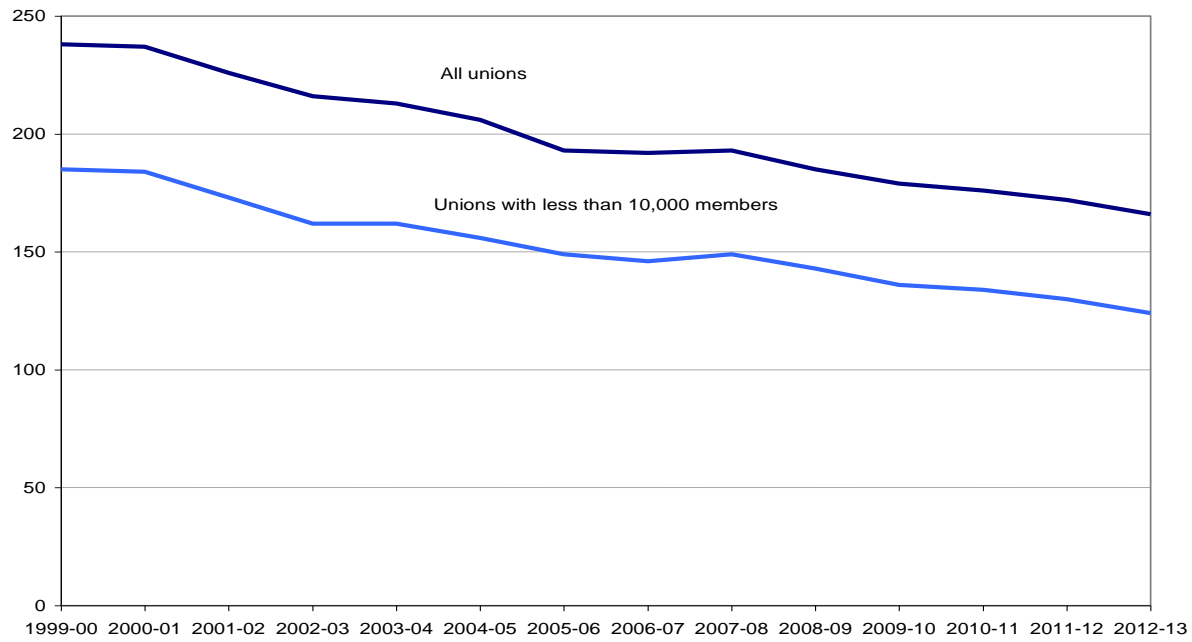
<sup>7</sup> These statistics are sourced from the [Certification Officer](#) annual report. They are derived from administrative records, which have a greater coverage than the Labour Force Survey estimates. For example, they include the unemployed or retired who are excluded from the Labour Force Survey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

<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.

110. 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.

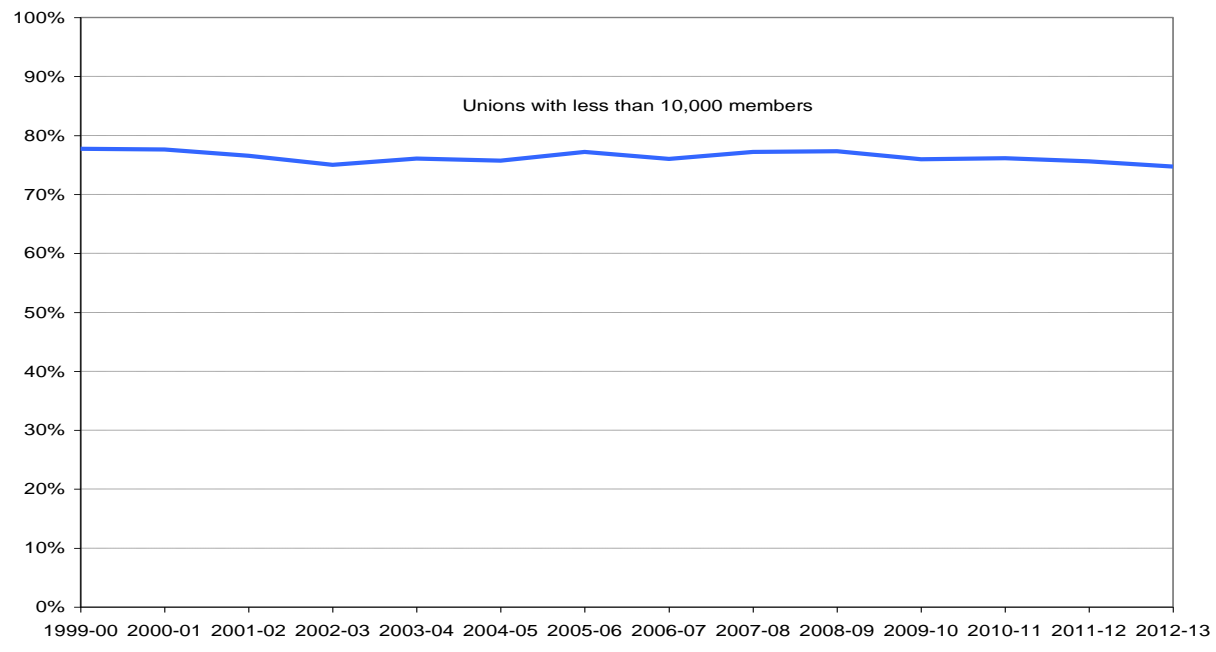
**Figure 2: Number of unions by size of union membership, 1999-2012**



Source: Annual Report of the Certification Officer

111. 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

112. 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>
113. 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>
114. 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.
115. 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

116. 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

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<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 (£52,400 / 124 = £423), 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>

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

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

**Basis of the review:** [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];

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:** [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]

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:** [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]

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:** [The current (baseline) position against which the change introduced by the legislation can be measured]

Current management information held by the Certification Office.

**Success criteria:** [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

A low level of complaints made to the certification office and a high level of compliance.

**Monitoring information arrangements:** [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]

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

**Reasons for not planning a review:** [If there is no plan to do a PIR please provide reasons here]

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