



Department for
Business, Energy
& Industrial Strategy

TRADE UNION ACT IMPACT ASSESSMENT

September 2016

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Title: Trade Union Bill Enactment Impact Assessment IA No: BEIS022(E)-16-LM Lead department or agency: Other departments or agencies:	Impact Assessment (IA)		
	Date: 15th December 2016		
	Stage: Enactment		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Lm.correspondence@beis.gov.uk			
Summary: Intervention and Options		RPC Opinion:	

Cost of Preferred (or more likely) Option

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2014 prices)	In scope of one in/three out?	Business Impact Target status
£m93.91 million	£m23.69million	-£2.6 million	Yes	OUT

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

Trade unions can play an important and constructive role in the modern workplace. The Trade Union Act sets out a number of changes reforming their regulation. At present, strikes triggered by a small minority of a unionised workforce can lead to a huge amount of disruption to business and to ordinary hardworking people. We know that employers have been subject to strike threats for which the original balloting took place some years before. Intervention is also necessary to tackle the intimidation of non-striking workers. Reforms to public sector facility time, how contributions to political funds are made and the role of the Certification Officer are necessary to improve consistency in union practices and increase transparency.

What are the policy objectives and the intended effects?

These measures will ensure that strike action, which can be disruptive to the wider public, only takes place as the result of a clear, recent decision. The Act also tackles the intimidation of non-striking workers during times of industrial action, and works to make trade union operations more transparent, increasing public confidence in trade unions and their operations.


What policy options have been considered, including any alternatives to regulation?

The Government has introduced fundamental reforms to modernise trade union law. Reforms introduced by the Trade Union Act include:

Option 1a: Thresholds for industrial action ballots
Option 1b: A 6 month (or 9 month by mutual agreement) time limit to the validity of a ballot mandate, a requirement for unions to provide more information on ballot papers, a requirement for unions to report annually on their industrial action and ballots, and an increase in the notice period for industrial action to 14 days
Option 1c: Reform of union supervision of picketing
Option 1d: Reform of the process of contributing to political funds so that new members are required to opt-in
Option 1e: Reform the role of the Certification Officer

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 2021					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? NA				Traded:	Non-traded:

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 option.

Signed by the responsible Minister: 

Date: 15th December 2016

Summary: Analysis & Evidence - Policy Option 1A

Description: Introducing a 50% turnout threshold for a ballot to provide a legal mandate for industrial action.

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2016	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 107.81

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

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

There are expected transition costs to unions of £548k (familiarisation and legal fees). We have assumed that all 158 unions incur the transition costs as every ballot will be subject to the 50% threshold.

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

Trade Unions may wish to promote ballots amongst their members in order to ensure they meet the relevant thresholds for the ballot, in addition to any promotion which may already take place. It is not possible in advance of the measure to predict the extent to which unions will do this.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate		12.6.4	108.4

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

We estimate this measure will likely reduce the number of working days lost to strike action in important public services and other sectors. We have estimated the impacts in the health, education, fire and transport sectors and the Border Force separately from the other sectors as they will be subject to both thresholds, whereas in other sectors only the 50% turnout threshold will apply. This IA only includes the impacts from the 50% threshold, (the 40% threshold impacts will be set out in a separate IA alongside the secondary regulations). The effect across the whole economy will be an increase in output, creating an estimated direct benefit of £12.6.4m per annum.

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

We have not monetised benefits in the nuclear decommissioning sectors because there is limited data for impacts to be estimated. There will be indirect benefits to the wider economy, in particular for working people and businesses that rely on important public services. We expect these benefits to be large. Analysis has shown the indirect impact of large education strikes to be in the hundreds of millions of pounds. Since the indirect impact of each strike is very different, it is not possible to produce a robust annual figure for this Impact Assessment. There would also be benefits to employers and the economy resulting from action short of a strike not taking place due to the related ballots not passing the threshold (the data is not available to monetise these benefits).

Key assumptions/sensitivities/risks

Discount rate (%)

We have assumed that working days lost are equally distributed amongst strikes, and that this measure will not affect smaller or larger strikes in greater proportions. We have assumed that as a result of the legislation there will be an increase in ballot turnouts of up to 25%.

BUSINESS ASSESSMENT (Option 1A)

Direct impact on business (Equivalent Annual) £m:			In scope of target?	Measure qualifies as
Costs: 0.1	Benefits: 3..3	Net: 3.3	Yes	OUT (Overall IA)

Summary: Analysis & Evidence - Policy Option 1B

Description: Introduce a 6 month (or up to 9-month by mutual agreement) time limit to the validity of a ballot mandate, move to 14 day (or 7 day by mutual agreement) notice of industrial action, require unions to provide more information on ballot, remove requirement to take action within 4-8 weeks, report details of industrial action.

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -0.72

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		1		
High				
Best Estimate	0.6		0.0	0.7

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

There will be a one-off transition cost for all unions of £566k.
There will be an ongoing annual cost of £18k for reporting of details of industrial action undertaken in the unions' annual reports to the Certification Officer.

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

There is a risk that trade unions may need to run additional ballots if their mandates expire and if the dispute still exists.

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

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

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

There may be a gross benefit for wider society as a result of a reduction in the likely number of strikes occurring a long time after the mandate ballot result.

There may be a small benefit from reduced industrial action due to the removal of the requirement to take some industrial action within 4 to 8 weeks of securing a ballot mandate.

Key assumptions/sensitivities/risks	Discount rate	3.5%
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There are two possible and opposing effects of specifying that a ballot mandate expires after a period of 6 (or up to 9) months. On the one hand, it may encourage unions to settle more disputes through strike action rather than negotiations, if they perceive that taking strike action in a specific period of time will be more effective. On the other hand, the requirement to be more specific about the nature of the trade dispute on the ballot paper will provide greater clarity about the issue in dispute to both union members and employers, which may help resolve the dispute more quickly.

BUSINESS ASSESSMENT (Option 1B)

Direct impact on business (Equivalent Annual) £m:			In scope of target?	Measure qualifies as
Costs: 0.1	Benefits: 0.0	Net: -0.1	Yes	OUT (Overall IA)

Summary: Analysis & Evidence - Policy Option 1C

Description: Making Section F of the Picketing Code of Conduct into a statutory obligation

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -1.10	High: -0.27	Best Estimate: -0.55

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

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

There are expected transition costs to business (unions) of £548k (familiarisation and legal fees).

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

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

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

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

There will be a non-monetised benefit to employers involved in disputes in the form of increased clarity during pickets and certainty that a picketing supervisor will be present. Non-striking workers and other individuals not involved in the action will benefit from increased transparency of picketing and related activity. Government may also benefit through a reduced need for policing during pickets and related activities.

Key assumptions/sensitivities/risks

Discount rate

3.5%

Many of the assumptions made in the analysis are the result of consultation with stakeholders, and have been used in previous impact assessments. Further details on this are discussed within the impact assessment. There is limited evidence of the scale of any problem relating to picketing and intimidation, mainly via submissions to the Carr Review indicating the use of so-called "leverage tactics".

BUSINESS ASSESSMENT (Option 1C)

Direct impact on business (Equivalent Annual) £m:			In scope of target?	Measure qualifies as
Costs: 0.1	Benefits: 0	Net: -0.1	Yes	OUT (Overall IA)

Summary: Analysis & Evidence - Policy Option 1D

Description: Reform of political funds so that new members are required to opt-in to a trade union's political fund, and unions must inform members annually of their right to opt-out, and the reform of reporting of political fund expenditure to the Certification officer

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -3.49

COSTS (£m)	Total Transition (Constant Price)	Year	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		1		
High				
Best Estimate	3.0		0.1	3.5

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

Trade unions would face transition costs for the political fund reforms, including legal advice and making changes to the rule book (£0.277 million) and for familiarising themselves with the new requirements for reporting political fund expenditure (£0.033 million). Unions face a cost from amending their membership forms to include an opt-in section and to align their membership IT systems (£0.631 million). Unions face a cost for additional administration during transition of £0.351 million). Unions face an annual cost of £0.065 million for reporting political fund expenditure. Some unions will require special conference for rule book changes at a cost of £1.7million.

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

There are no key non-monetised costs.

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

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

There are no monetised benefits.

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

Trade union members benefit from the proposed legislation: Those who wish to opt-out will be able to do so electronically. New members of unions with existing political funds, and all members of unions setting up political funds will only contribute to the trade union's political fund if they actively choose to do so, and will be reminded every year of their right to opt-out of contributing,. All new members of relevant unions will be asked on their membership form if they wish to opt-in, ensuring that they are given an active choice.

The enhanced requirement that unions report on political fund expenditure will ensure that unions meet a minimum standard of transparency on the use of political funds. This information can be used by members to decide whether to make a contribution to the political fund.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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We have assumed that unions will use existing communications to provide new members with their annual notification of their right to opt-out. We have carried out sensitivity testing looking at changes in proportions of union members contributing to political funds

BUSINESS ASSESSMENT (Option 1D)

Direct impact on business (Equivalent Annual) £m:			In scope of target?	Measure qualifies as
Costs: 0.4	Benefits: 0	Net: -0.4	Yes	OUT (Overall IA)

Summary: Analysis & Evidence - Policy Option 1E

Description: Reforming the role of the Certification Officer

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -9.14

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1		
High			
Best Estimate		0.7	1.0

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

We have monetised the one-off familiarisation cost to unions and the Certification Officer to learn about the changes in the role of the Certification Officer including the new levy, and one-off transition costs of £100,000 for the Certification Officer. There will be £942,5000 extra cost to run the Certification Office post changes. We have monetised the one-off familiarisation cost to Employer Associations to understand the new levy. We estimate annual costs of £36,000 to unions for dealing with additional investigations, and £7,000 to compliant unions of taking cases to the EAT.

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

The cost of the Office of the Certification Officer will be partially covered through a levy of trade unions and employer associations (a separate impact assessment will accompany the regulations covering the levy). This is a benefit to taxpayers and a transfer of funds from the organisations that will pay the levy.

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

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

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

Any deterrent effects on compliance from the changes have not been monetised. There will be a benefit to the taxpayer as the Office of the Certification Officer will be largely paid for by a levy of the organisations it regulates, trade unions and employer associations (which is a transfer of funds, as above). There will be increased annual fine revenue to the Consolidated Fund

Key assumptions/sensitivities/risks

Discount rate

3.5%

The anticipated increase in enforcement orders is an increase of 10 over a 5 year period based on current levels of enforcement orders and expected impact.

BUSINESS ASSESSMENT (Option 1E)

Direct impact on business (Equivalent Annual) £m:			In scope of target?	Measure qualifies as
Costs: 0.1	Benefits: 0.0	Net: -0.1	Yes	OUT (Overall IA)

Evidence Base (for summary sheets)

Strategic overview

1. The Government is introducing fundamental reforms to modernise trade union law. Reforms introduced by the Trade Union Act¹ (The Act):
 - Ensures that industrial action only ever takes place on the basis of clear and representative mandates, through the introduction of a 50% turnout threshold and in addition for important public services a 40% support threshold among those eligible to vote that ballots must meet to provide a mandate for industrial action;
 - Specifies that members' agreement to a union's proposed industrial action will expire 6 months after the ballot, or up to 9 months if the employer and union agree. It will also require 14 days' notice of strike action (unless the employer and union agree to a 7 day notice period), and give employers a greater chance to prepare for industrial action and put in place contingency plans. It will also remove the need to take industrial action in the first 4-8 weeks after a successful ballot;
 - Tackles the intimidation of non-striking workers during a strike by requiring the appointment of a picket supervisor;
 - Improves transparency of the operation of political funds;
 - Improves transparency and oversight of trade unions through reforming the role of the Certification Officer;
 - Reforms trade union facility time in the public services by requiring public sector bodies to publish details of their resources used;
 - Ensures the deduction of union subscriptions from wages in the public sector (check-off) is not funded by the public sector.
2. This document assesses the impact of the measures covered in the Act except the introduction of the 40% threshold for ballots in important public services which will be considered in a separate impact assessment, and the reform of trade union facility time in the public services and the reforms related to the deduction of union subscriptions from wages in the public sector, which have been considered in separate impact assessments. Where possible detailed cost and benefit analysis is set out for each measure covered. This impact assessment sets out the transition costs for all of the measures identified above in a section towards the front, as the same approach is used for a number of the measures. Then it considers each measure in detail, including an assessment of ongoing costs and benefits.
3. Prior to Royal Assent, the Government consulted on two areas that relate to the Act². These are on:
 - Ballot thresholds in important public services. The Government sought information on the roles and functions within the fire, health, education, transport, border security and nuclear decommissioning sectors should be subject to the 40% threshold. In addition to 50% of those

¹ BIS, Trade Union Act, May 2016 http://www.legislation.gov.uk/ukpga/2016/15/pdfs/ukpga_20160015_en.pdf

² BIS, Trade Union Bill Consultations, July 2015 <https://www.gov.uk/government/collections/trade-union-bill>

eligible to vote taking part, this threshold also requires at least 40% of those eligible to vote in an industrial action ballot vote in favour for the mandate to be valid; and

- Tackling intimidation of non-striking workers. The Government sought views on how to improve transparency and accountability for picketing and associated protests, It also sought views on whether there are gaps and weaknesses in the frameworks governing picketing and protests linked to industrial disputes, and how they can be remedied.
4. These consultations ended on 9th September 2015. Ballot thresholds received 205 responses and tackling intimidation of non-striking workers received 177 responses. These will be taken into account in a separate impact assessment on the 40% ballot threshold. The responses to the tackling intimidation of non-striking workers were considered in this impact assessment (see the section “evidence gathered on intimidatory behaviour: the Government consultation”). The Government has published its responses to both of these consultations³.
 5. In addition to the 8-week long public consultations, communicated through the gov.uk website, which sought views via Citizen Space, e-mail returns and letters, the Government held around 20 meetings with business and trade union stakeholders to discuss the then Trade Union Bill and possible effects. The evidence received was limited, however where possible we have taken account of this evidence in this impact assessment.

Timing

6. The Trade Union Act 2016 received Royal Assent on 4th May 2016.. We expect to implement the Act in a phased approach, as a number of provisions require further consultation and secondary legislation.

Monetised and non-monetised costs and benefits

7. This Impact Assessment identifies both monetised and non-monetised impacts with the aim of understanding what the overall impact to society might be from implementing these reforms. The costs and benefits of the reforms are compared to the no change position. Where possible, the estimated costs and benefits have been monetised, but it is not possible to monetise all of the potential impacts.
8. Where possible, we have used methodologies used in previous, similar impact assessments for consistency. These methods were originally informed through input from relevant stakeholders. Figures for union numbers and working days lost were sourced from published material.
9. We have included sensitivity analysis within the impact assessment to reflect uncertainty in assumptions within the analysis. For example, when calculating costs using time spent by staff on tasks in the familiarisation cost estimates, a lower, best and upper estimate were used for the

³ Department for Business, Innovation and Skills, Trade Union Bill: Government response to the consultation on tackling intimidation of non-striking workers, November 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/473515/BIS-15-621-government-response-document-to-tackling-intimidation-consultation.pdf

Department for Business, Innovation and Skills, Trade Union Bill: Government response to the consultation on ballot thresholds in important public services, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/493880/bis-16-15-consultation-on-ballot-thresholds-in-important-public-services-government-response.pdf

amount of time assumed each task would need. This results in an upper, lower and best estimate for each final cost.

No change option (Option 0)

10. Option 0 is the no change option. This provides the baseline against which the policy option is compared. Therefore its costs and benefits are not monetised.

Option 1: The legislative reforms put forward in the Act

11. This option covers the five measures set out below which are included in the legislation. These cover all the various elements identified in the Policy Option sections. The five main parts are:

- Option 1a: ballot thresholds
- Option 1b: ballot mandate reforms
- Option 1c: tackle the intimidation of non-striking workers
- Option 1d: political fund reform
- Option 1e: reforms to the role of the Certification Officer

12. There were potential alternatives to the measures included in the Act, such as minimum service level requirements for public services, or codes of practice on ballot mandates. We have looked at international evidence, summarised later in this document. It is clear that other countries adopt a wide range of approaches to help ensure that disruption from industrial action is proportionate for those not involved in a labour dispute. [That includes the use of ballot thresholds. It is also the case that these approaches are not mutually exclusive, with some](#) countries employing more than one approach to help regulate the level of disruption to third parties from a labour dispute. Approaches taken by respective Governments will depend on their industrial relations history.

13. However, the Government believes that it is important that unions have the strong support of their members for industrial action and therefore setting thresholds on the proportions of those eligible to vote is the right approach to ensure this. The Government also strongly believes that unions should be required to have a current mandate for any industrial action, and that only a statutory requirement would guarantee this.

14. We also think recent evidence of intimidatory picketing make it necessary to strengthen protection of non-striking workers, by making part of the existing Code of Practice on Picketing legally binding. As the Act reforms the regulatory framework for trade unions, the Government feels it needs to provide the regulator, the Certification Officer, with relevant tools to encourage compliance, and ensure robust regulation of trade unions.

15. The Government considers it sensible that trade union political funds should continue to operate within a regulatory framework, but that framework should be reformed to make the process of contributing to the fund more transparent, and also improves overall transparency on political fund expenditure..

16. The 50% turnout and 40% support thresholds were manifesto commitments for the current Conservative Government, as were placing a time limit on ballot mandates, tackling the intimidation of non-striking workers, increasing the transparency of the contribution process for union political funds and reforming the role of the Certification Officer.

Transition costs

Familiarisation: trade unions

17. We estimate that trade unions will have to spend time familiarising themselves with the changes, and will engage external legal advice to understand what the legal implications are. In the case of political funds, trade unions will be required to revise their rule books.
18. Responses from Trade Unions to the public consultations indicated that Trade Unions did believe that they would incur familiarisation costs in the form of time taken to understand the policy changes, attending training sessions to acquire knowledge and costs associated with obtaining external advice. The responses did not include any estimates, but generally supported the inclusion of these costs.

Senior Officials' time spent

19. Trade unions would have to familiarise themselves with the Act's legislative changes that affect them. Based on the evidence obtained from unions in the consultation on the assurance of trade union membership registers, as set out in the impact assessment⁴, which placed additional requirements on unions to maintain their membership registers, we assume that it would take between half a day and two days in meetings for the union General Secretary and four other senior directors, with a best estimate of one day (of 8 hours), to familiarise themselves with the reforms in each of the five areas (Options 1a to 1e). Whilst this is not the mid-point, it is informed by the consultation process used in the Impact Assessment cited above. This reflects the fact that there are a small number of very large unions, who may have higher costs than the majority of unions. For Option 1d, the best estimate is 11.3 hours (10/24 x 16 hours + 14/24 x 8 hours) because the 24 unions with political funds include 10 of the largest 13 unions by membership size, with the remaining 14 covering the range of membership sizes from 1,000 to up-to 100,000⁵. We estimate that the legislation in each of the five areas is of broadly similar complexity as the reform of union membership registers. Whilst there may be some economies of scale, we are not able to quantify these. These measures affect different parts of unions' operations, and therefore we quantify the same amount of familiarisation time for each of the measures considered in this section using estimates previously produced during a consultation process.

Table 1: Hours spent by different categories of staff on familiarising with the changes

Familiarisation	General secretary			Other senior director		
	Best	Low	High	Best	Low	High
Familiarisation (1a to 1c, 1e)	8	4	16	32	16	64
Familiarisation (1d)	11.3	4	16	45.2	16	64

20. To estimate the labour costs we use median gross hourly wages data from the 2015 Annual Survey of Hours and Earnings (ASHE). For general secretaries, we use the wage figure for chief executives and senior officials, while for other senior directors of the trade unions we use the wage figure for functional managers and directors. To estimate total labour costs, we use the estimate of non-wage labour costs as 20.2% of wage costs, based on Eurostat data⁶. These figures are set out below.

⁴ BIS, Certification of trade unions' membership registers and investigatory powers for the Certification Officer Impact Assessment, December 2014, p10 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414353/bis-15-143-trade-union-assured-register-of-members-final-impact-assessment.pdf

⁵ Annual Report of the Certification Officer, 2015-16, July 2016

⁶ Eurostat, Labour costs per hour in EUR, 2004-2015, whole economy excluding agriculture and public administration, **Error! Hyperlink reference not valid.** <http://ec.europa.eu/eurostat/statistics->

Table 2: Estimated median hourly wage costs and labour costs, 2015

Staff	Median hourly wages <u>excluding overtime</u>	Hourly <u>labour</u> <u>costs</u>
Chief executives and senior officials (representing general secretaries)	£39.14	£46.89
Functional managers and directors (representing other trade union senior directors)	£28.49	£34.13

21. The cost per union of time spent on familiarisation for each area of reform is therefore the labour costs for the general secretary and for other senior directors by the hours spent on familiarisation.

Table 3. Estimated costs of time spent on familiarisation per area of reform, per union

Familiarisation	<u>Best</u>	<u>Low</u>	<u>High</u>
Familiarisation (1a to 1c, 1e)	£1,467	£734	£2,935
Familiarisation (1d)	£1,986	£734	£2,935

22. All 158 unions⁷ will need to familiarise themselves with the changes introducing ballot thresholds, the reforms to ballot mandates, the new statutory requirements on picketing and the reform of the role of the Certification Officer, including the sections of the Act relating to financial penalties and the levy. However only those 24 trade unions that have political funds will need to familiarise themselves with the political fund reforms.

23. The total costs of time spent on familiarisation for all the unions affected for each of the individual areas is set out in the table below. These costs are set out in the 'Summary: analysis and evidence' sheets for the individual areas of reform at the start of the document.

explained/index.php/File:Labour_costs_per_hour_in_EUR,_2004-2015_whole_economy_excluding_agriculture_and_public_administration.png

⁷ Annual Report of the Certification Officer, 2015-2016, July 2016, reports that there were 145 listed trade unions and 13 scheduled trade unions at 31st March 2016.

Table 4: Estimated total costs of time spent on familiarisation by area of reform

Option	Number of unions	Best	Low	High
1a. Ballot thresholds	158	£232,000	£116,000	£464,000
1b. Ballot mandates	158	£232,000	£116,000	£464,000
1c. Picketing	158	£232,000	£116,000	£464,000
1d. Political funds	24	£50,000	£18,000	£70,000
1e. Role of Certification Officer	158	£232,000	£116,000	£464,000

Legal advice

24. The consultation for the certification of trade union membership registers found that a few unions were certain that they would need external legal advice on the legislative change, with the others not certain. In line with the approach set out in the impact assessment accompanying that consultation⁸, we have assumed that all trade unions will obtain external legal advice on the changes in the Act. In line with the estimates for legal costs set out in the referenced impact assessment, our estimate is based on an hourly rate of £250 (as suggested by unions in the related consultation). An alternative approach would have been to estimate the legal costs using the approach used for familiarisation (taking the labour costs of legal professionals based on ASHE 2015 data). We have gone with the prudent approach of estimating the cost of external legal advice based on the hourly rate for legal services that was suggested by trade unions. BEIS analysts researched online the fixed hourly rates for employment law advice quoted by around ten employment lawyers and these were broadly in-line on average with the £250 figure.
25. Again following the example of the impact assessment on the certification of union membership registers, we have assumed that an external lawyer would be present at the meetings of senior union officials to familiarise themselves with each change. Therefore, we estimate that hours spent on legal advice for familiarisation will be between 4 and 16 hours, with a best estimate of 8 hours, or 11.3 hours for unions with political funds, due to the different size distribution⁹. This reflects the fact that there are a small number of very large unions, who may have higher costs than the majority of unions. Our best estimate for the cost per union is £2,000 (£2,825 for unions with political funds), with our low estimate at £1,000 and our high estimate at £4,000.

⁸ BIS, Certification of trade unions' membership registers and investigatory powers for the Certification Officer Impact Assessment, December 2014, p10
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414353/bis-15-143-trade-union-assured-register-of-members-final-impact-assessment.pdf

⁹ This is estimated on the basis that the 10 largest unions take 16 hours, while the remaining 14 take 8 hours (the best estimate for 158 unions).

26. As above, there may be some economies of scale, but we are not able to quantify these. Applied to all unions, the cost of external legal advice for familiarisation for each area of reform is set out in the table below.

Table 5: Estimated total costs of external legal advice as part of familiarisation by area of reform

Option	Number of unions	Best estimate	Low	High
1a. Ballot thresholds	158	£316,000	£158,000	£632,000
1b. Ballot mandate reforms	158	£316,000	£158,000	£632,000
1c. Tackle the intimidation of non-striking workers	158	£316,000	£158,000	£632,000
1d. Political fund reform	24	£68,000	£24,000	£96,000
1e. Reforms to the role of Certification Officer	158	£316,000	£158,000	£632,000

Revising union rule books

27. The legislative changes in the Act require that trade unions with political funds will need to amend their rule books so that they reflect the reforms.
28. To write amendments to the union rule book and prepare it for it to be debated at the relevant conference, we estimate that it would take between 4 hours and 16 hours, with a best estimate of 11.3 hours, of the time of the General Secretary and four other senior directors, again in line with the consultation evidence as set out in the impact assessment referenced above.
29. The process for amending the rulebook varies for each union. In some cases an executive committee will need to meet to agree the implementation on a provisional basis prior to the next conference. This would in most cases be part of a meeting that would otherwise be scheduled. We therefore allow 4 hours of additional time for the General Secretary and 4 other senior directors to approve the implementation.
30. This provides the following estimates of time spent by union officials on familiarisation and amending the rule book.

Table 6: Hours spent on amending rule book by different categories of staff, per union

Action	General Secretary			Other senior director		
	Best	Low	High	Best	Low	High
Rulebook changes	11.3	4	16	45.2	16	64
Approval	4	4	4	16	16	16
Total	15.3	8	20	61.2	32	80

31. We multiply the hourly labour costs for the General Secretaries and other senior officials as set out in Table 2 by the estimated hours required of senior union officials to revise their rule book to estimate the cost of time to each union with a political fund. We then multiply by 24 to get the total cost to unions of amending the rule book to reflect the reforms to political funds. These costs are set out in the table below.

Table 7: Estimated cost of time spent on amending the rule book by union officials, all unions with political funds

Costs of time spent	Best estimate	Low estimate	High estimate
	£67,000	£35,000	£88,000

32. The consultation on certification of union membership registers also suggested that external legal advice would be required for changes to the rule book. We base the estimate of the cost of legal advice for rule changes on the hourly rate of £250 (discussed above), and the time spent set out in table 6, of 8 to 20 hours with a best estimate of 15.3 (11.3+4) hours (reflecting that 40% of unions with political funds are among the largest unions). Therefore, the cost of legal advice on rule changes per union is estimated at between £2,000 and £5,000 with a best estimate of £3,825. The total cost of this legal advice to unions with political funds is set out below.
33. The Certification Officer will aim to provide model rules reflecting the changes introduced by the political fund reforms. These could be used by unions to amend their rule books, and therefore could potentially reduce the costs of amending the rules books from those provided.

Table 8: Estimated cost of external legal advice in relation to amending the rule book, all unions with political funds

Costs of legal advice	Best estimate	Low estimate	High estimate
	£92,000	£48,000	£120,000

Familiarisation with the additional reporting requirements on industrial action taken and ballots (option 1B)

34. Trade unions currently have to inform affected employers of the outcome of ballots for industrial action. The Act requires unions to provide additional information in their annual report to the Certification Officer. This will cover any industrial action undertaken during the reporting period, and will include information on the nature of the trade dispute relating to the industrial action, the type of industrial action, when the industrial action took place, and the results of industrial action ballots and how they performed against the voting thresholds. All this information is currently readily available to the unions (information on industrial action is typically published on union websites, and unions have access to the independent scrutineers' reports on industrial action ballots). Therefore this measure should not involve the need for any new system of information gathering.
35. A union official will need to familiarise themselves with the new reporting arrangements, and devise a way of collating and reporting the information held on ballots for industrial action and the industrial action that has taken place. We estimate that this will take a day (estimated at 8 hours) of a trade union official's time on average. While we expect some unions may have to collate quite a lot of information (Electoral Reform Services, which scrutinises the majority of industrial action ballots reported 650 such ballots in 2014, while the Labour Disputes Survey shows 159 stoppages in 2014

and 117 in 2015) many will have been involved in little or no industrial action or balloting during a reporting year.

36. We use the median gross hourly wage excluding overtime from the 2015 ASHE for officers of non-government organisations, and add non-wage labour costs by taking 20.2% of wage costs, to get an overall figure for labour costs. We then multiply the labour costs by 8 to get the cost per union. This produces a familiarisation cost of £115 per union.
37. For the new reporting requirements on industrial action and ballots, we assume that all 158 unions will need to familiarise themselves with the reporting requirements. The estimated familiarisation costs for this new reporting requirement is therefore $158 \times £115 = £18,000$ (to the nearest £000). This has been included in the costs for Option 1b.

Table 9: Cost of familiarising with additional reporting requirements

Cost category	Cost estimates (2015)
Median hourly wage excluding over time, for officers of non-government organisations	£11.96
Hourly labour cost	£14.33
Familiarisation cost for reporting requirements per union	£115
Total cost of familiarisation with industrial action reporting requirements	£18,000

Familiarisation with the additional reporting requirements on political fund expenditure (option 1D)

38. The new requirements for reporting political fund expenditure to the Certification Officer involve setting out the expenditure in more detail for specified categories of expenditure. . Trade unions currently have to record income and expenditure from their political funds as part of their annual accounts, and in their annual returns to the Certification Officer.. Some unions already provide a good deal of transparency of political fund expenditure in their annual returns. This new requirement will ensure a more consistent and detailed level of transparency.
39. In union evidence to the House of Lords Trade Union Funds and Political Party Funding Committee in February, USDAW flagged up concerns about potential financial and reputational damage to unions if they accidentally filed inaccurate returns. This reflects the fact that the Certification Officer needs to verify the unions' annual returns. USDAW argued that a senior member of staff would therefore need to be involved in preparing the report of political fund expenditure. They estimated that completing the annual return section on political fund expenditure would take two weeks of that senior official's time¹⁰. This would include collating and validating the information, and checking the accounts. In terms of familiarisation with the reporting requirements and the transitional preparation – putting robust systems in place for collating of information - we estimate that this would take a week of a senior official's time, as this will not involve the additional detailed accounting work. Setting up

¹⁰ House of Lords, Trade Union Political Funds and Political Party Funding Committee Oral and Written Evidence, February 2016 p353

robust systems may involve developing information flows from regional and local branches of some unions¹¹, who enable some political fund expenditure to take place at this level.

40. As noted above, we estimate that the hourly labour cost for a senior union official is £34.13. We estimate that a week of work comprises 40 hours (8 hours a day, 5 days a week). Therefore the estimated familiarisation and transition cost per union is $40 \times £34.13 = £1,365$.
41. All 24 unions with political funds will need to familiarise themselves with the additional reporting requirements for political fund expenditure. The estimated familiarisation costs are therefore $£1365 \times 24 = £33,000$ (to the nearest £000).

Amending trade union membership application forms to include information relating to opting-in and opting-out of contributing to political funds (option 1D)

42. Many of the estimated costs to trade unions resulting from the political fund reforms contained in the Act differ from those estimated in the Trade Union Bill Impact Assessment, as the reforms were revised after that impact assessment had been published.
43. As part of the political fund reforms, unions with political funds will be required to include on their membership application forms:
- A statement setting out that the person joining may opt to contribute to the political fund, and,
 - A statement setting out that if the person chose to opt out of contributing to the political fund at a later date they would not lose out on any of the benefits of the union, and would not be placed at any disadvantage relative to other members.
44. 23 of the 24 unions with political funds provide membership forms online via their websites. Unions will also provide paper membership forms to potential members. Some unions (the Educational Institute of Scotland, and the Association of Revenue and Customs) already enable individuals joining the union to select whether they wish to contribute to the political fund, and include a link to information which includes a statement about the right to opt out without discrimination.
45. The change required is in itself relatively small. It is likely that unions will include an option on membership forms for joiners to choose whether they want to opt-in to the political fund (as unions will require a notice from new members that they agree to contribute to the fund), some text promoting the political fund and the statement relating to the right of individuals to opt-out without facing disadvantage. However, some unions have multiple membership forms reflecting the wide range of occupations comprising their membership. We estimate that it might take on average three days of a senior union official's time to draft the required amendments to the paper membership joining form. As noted above, in Table 2, we estimate that the hourly labour cost for a senior union director is £34.13. Multiplied by 22 to get the total cost to unions with political funds that don't already contain the information on their membership forms, and 24 to cover 3 working days of 8 hours a day, we get £18,000.
46. The form of text required may be discussed with legal advisors. We have estimated above that unions with political funds obtain external legal advice on familiarisation with the political fund reforms and the linked requirement to change their rule books. We therefore estimate that the additional legal advice on the required text on membership forms would take one hour. As above, we estimate that the hourly rate for external legal advice is £250. Multiplied by 22 (the number of unions adding the required political fund text to their membership forms), the total estimated cost of legal advice on amending membership forms is £5,500.

¹¹ House of Lords, Trade Union Political Funds and Political Party Funding Committee Oral and Written Evidence, February 2016 p28.

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47. Potentially, the revised paper joining form would be distributed to relevant union representatives by e-mail, at negligible cost. However, unions suggest that there would be a transitional need to print some of the revised membership forms to have a stock of membership forms available. We assume that unions with political funds maintain a stock of around 50,000 membership forms in total (many individuals joining unions will do so online, and generally the process of recruitment is more likely to be at the individual or relatively small group level). It is possible to get A4 leaflets printed at a cost of £144 per 1,000¹², so the cost of printing 50,000 membership forms is estimated at £144 x 50 = £7,200. We estimate that the postal distribution of these membership forms is around £6,000: The Royal Mail charges around £119 for 100 large letters (weight 300g) as part of its business mail service¹³, and we estimate distribution to around 5,000 union representatives (119 x 5000/100).
48. The total estimated cost of revising, printing and distributing the paper membership forms is around £37,000.

Amending trade union membership online application forms and adapting union IT systems (option 1D)

49. As noted above, 23 of the unions with political funds have online membership forms, with two already giving joiners the choice of opting-in or out of contributing to the political fund. We estimate above the cost of unions agreeing the text for membership forms required by the Act. 21 unions would need to include this on their online forms. For some this may be relatively straightforward, but for others there may be online membership forms on a number of different websites. In addition, some unions suggest that due to the political fund reforms they would have to adapt their IT systems to take account of whether members had joined after the transition period and the different subscription rates for those that opt-in and those that opt-out. This would involve revising the existing set up, and testing that the software revisions were functional and robust. It should be noted that currently 23 of the 24 unions with political funds do have members that have opted out of contributing to the fund, and therefore they must have some sort of system in place to enable these members to not be charged that part of their subscription that goes to the political fund. It is therefore unclear the extent of adaptation required for each union's system. For some, with more developed existing systems which may take account of opting-out members, we expect the adaptation to be relatively minimal. For others, it may be more complex. On average, we assume that the adaptations would take twelve working weeks of an IT consultant's time (we assume unions would contract-in IT services). We would expect that consultants used would be familiar with the programming language, and be able to ensure that the additional data was digitised along with the rest of the data entered on the online form. It is likely that a similar approach would be taken for each website where a union has multiple websites. The website itjobswatch.co.uk¹⁴ estimates that the median daily rate for IT consultants in England in the three months to June 2016 was £450, based on over 2,000 quoted daily rates. As two unions already include the required information on their online form, we multiply this by 22 to get the number of unions who would need to undertake this development. Also, we multiply by 60 to account for the number of days worked (5 per working week, and 12 working weeks). This produces an estimated cost for revision of online forms and adaptation of IT systems of £594,000.

Trade unions with political funds administration costs associated with transition (option 1D)

¹² Printexpress.co.uk, estimated cost of printing 1,000 double-sided gloss A4 leaflets on 17th August 2016, <http://www.printexpress.co.uk/colour-printing/leaflets/9/2p-n-032/>

¹³ Royal Mail, pricing for marketing, general correspondence and publishing mail – get a quote for your mailing, <http://www.royalmailtechnical.com/calculator/calculator.cfm> [accessed 17th August 2016]

¹⁴ Consultant IT contracts, [itjobswatch.co.uk](http://www.itjobswatch.co.uk/contracts/uk/consultant.do), <http://www.itjobswatch.co.uk/contracts/uk/consultant.do> [accessed 3rd June 2016]

50. The finance teams within unions will need to carry out some administrative work as part of the transition process. Unions suggest that they will need to contribute to the systems development process and understand and get used to working with the new system. In some cases, unions' finance teams will need to put in place new check-off details. On average, we estimate that for each of the 24 unions with political funds this would involve 4 weeks of a senior union official's time (at an hourly labour cost of £34.13) and 4 weeks of a finance team's time (assuming 4 union officials, at an hourly labour cost of £14.33). Assuming a working day of 8 hours, over 4 weeks (20 days) we get a cost per union of around £15,000 ($£34.13 \times 160 + £14.33 \times 4 \times 160$). The total for the 24 unions is around £351,000.

Trade unions with political funds setting up annual notification of members that they have the right to provide a withdrawal notice from contributing to political funds (option 1D)

51. Unions with a political fund at the end of the transition period will need to notify all new members on an annual basis of their right to opt-out of contributing to the political fund. They will need to do this within 8 weeks of the submission of their annual return to the Certification Officer. They can do this by including the notification in a publication of the union if this is in line with its practice when providing information of general interest to its members. Specifically, unions would be able to include the notification in the statement to members following the annual return, which TULR(C)A requires unions to send every year.
52. Unions already have to send a notice about the right to opt-out to their members following the adoption of the resolution approving the furtherance of political objects (in other words the resolution that sets up or continues the political fund). The current guidance from the Certification Officer¹⁵ provides a model notice, and it is likely that the guidance will be updated to take account of the Act. Therefore unions will be able to utilise the model notification when providing the annual notification. As unions will be able to use existing publications to send the notification to members, including the statement following the annual return, any additional costs to unions with political funds would be marginal.

Total union transition costs for each area of reform proposed

53. The table below sets out the estimated total familiarisation costs for trade unions for each of the proposed areas of reform.

Table 10: Total union transition costs by area of reform

Option	Best	Low	High
1a. Ballot thresholds	£548,000	£274,000	£1,096,000
1b. Ballot mandate reforms	£566,000	£292,000	£1,114,000
1c. Tackle the intimidation of non-striking workers	£548,000	£274,000	£1,096,000
1d. Political fund reform	£1,292,000	£1,140,000	£1,389,000

¹⁵ Certification Office, Political Funds: A guidance for trade unions and employers' associations wishing to establish a political fund, January 2016, p10.

1e. Reforms to the role of Certification Officer	£548,000	£274,000	£1,096,000
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Other familiarisation costs

Familiarisation of employers facing industrial action with the reforms of union supervision of picketing

54. The reforms of union supervision of picketing involve the inserting of key aspects of Section F of the current Code into TULR(C)A. This should mean that those that undertake picketing should already be familiar with these aspects of the code. Employers facing industrial action are not required to undertake any action by the reforms, which place statutory requirements on unions around providing a picket supervisor if they are going to undertake a picket. Nevertheless, employers facing industrial action may choose to familiarise themselves with the changes, if they perceive that such familiarisation will be of benefit to them. As noted in the section on Option 1c below, most union picketing appears to adhere to the Code of Practice on Picketing, meaning it would be legal under the terms of the Act. However, if a picket breached the terms of the Act then the employer may be entitled to take legal action against the picket. Relatively few employers face industrial action in any one year. Over the past five years, the ONS Labour Disputes Survey has estimated that there were between 114 and 155 stoppages a year due to industrial action. While some stoppages may involve multiple sites, we do not have any evidence of the extent of picketing at locations where industrial action is taking place. If affected employers did choose to familiarise themselves with the reforms to union supervision on picketing, it would take them a few minutes, as the Act sets out the reforms clearly in around 1 page of text. We have not monetised the cost of this potential familiarisation.

Familiarisation of the Certification Office with the proposed reforms to the role of the Certification Officer (option 1E)

55. The Certification Officer will incur some familiarisation costs associated with the change in its role. Following discussions with the Certification Office¹⁶, we assume that each member of staff in the Certification Office will spend around a week (or 40 hours based on 5 x 8 hours) to become familiar with the changes. This reflects the changes in terms of remit – the extension of the Certification Officer’s powers, and monitoring the additional areas that will need to be covered in unions’ annual returns. We cost this up using Annual Survey of Hours and Earnings 2015 average hourly pay data for the public sector. Eurostat non-wage labour cost uplift factor is applied to the wage data. The total one-off familiarisation cost is estimated at around £9,000..

Certification Officer familiarisation cost = 40 hours x £14.48 x 1.202 x 13 staff = £9,000 (to the nearest £000).

56. The Certification Officer is also likely to call on around two days (16 hours) of legal advice during this familiarisation process. Currently, the Certification Office utilises civil service lawyers to provide advice. The average hourly rate of a Grade 7 or Grade 6 lawyer is around £32. Hourly Labour costs (including non-wage labour costs at 20.2% of wages) are therefore around £38. We estimate the cost of legal advice for the Certification Officer during familiarisation will cost around £1,000 (to the nearest £000).

57. In addition to familiarisation costs, the Certification Office in its initial estimates of costs to the Certification Office resulting from the reforms identified that there would be a number of one-off costs. These would include the redesign of the AR21 form (used by unions to provide their annual returns), and preparing for the introduction of penalties and the levy and the reforms of union rule

¹⁶ The familiarisation costs estimated for the Certification Officer have been revised following the Trade Union Bill Impact Assessment following discussions with the Certification Office.

books, requiring investment in new software to cover invoicing and recording how much time the Certification Office spent on different activities. The estimate for these one-off transition costs is £100,000.

58. Overall, transition costs to the Certification Office are estimated at £110,000.

Familiarisation of employer associations with the introduction of the Certification Officer levy (option 1E)

59. We have accounted for the costs of trade unions' familiarisation with the levy as part of the combined costs listed above. The levy will also require familiarisation by employers' associations, which we account for here.

60. There will be some familiarisation costs that fall to Employer Associations to become familiar with the introduction of a levy which funds the CO. The 2015-16 Annual Report of the Certification Officer shows there are currently 92 Employer Associations (EA). We assume that each EA spends two hours to become familiar with the levy part of the Certification Officer reforms, given that the exact cost will be determined by the Certification Officer and the only administrative burden being placed on EAs is the arrangement of payment. Costing this value of time at £10.67 per hour (Annual Survey of Hours and Earnings 2015 median private sector hourly wage) and applying a 20% uplift for non-wage labour costs (Eurostat) gives £2,400 familiarisation cost. We assume that private sector median wages would be representative of the wage costs incurred by Employer Associations.

Employer Association levy familiarisation cost = 92 Employer Associations x 2 hours x £10.67 x 1.202 = £2,400.

Options 1A - Ballot thresholds

Problem under consideration

Issues relating to industrial action

61. When unions call a strike this not only affects the direct employer of the members but also indirectly negatively affects others in the economy. For example, a public service strike in health impacts on patients, a strike in teaching affects parents and their employers and transport related collective stoppages affects commuters and businesses.
62. At present it is possible for a trade union to call a strike even if it reflects the views of only a small number of its members. Some strikes that take place are based on ballots calling for strike action in which less than half of those union members eligible to vote actually do so. These strikes can have a substantial economic impact.
63. The Office for National Statistics (ONS) judgement is that the public sector strike on 30 November 2011 is likely to have had some impact on GDP in the fourth quarter¹⁷, though the ONS said it wasn't possible to measure the effect on GDP directly. Information from the ONS's Labour Disputes Inquiry, suggests that nearly one million working days were lost, representing about 0.2 per cent of the total number of working days for the public sector for the quarter.
64. HM Treasury estimated prior to the strike that a closure of two-thirds of state schools would lead to a 3-4% decrease in private sector output for the duration of the strike.¹⁸
65. This formed part of an overall estimate of a £480 million decrease in output as a result of the strike. Around one third of this was caused by the indirect impact of school closures¹⁹, leading to an estimate of £160 million in these indirect impacts. This figure represents the scale of indirect impact to the wider economy of a national education strike.

Background

66. The number of working days lost due to strikes can be substantial. The latest ONS Labour Disputes Annual Article shows that in 2014, there were 155 labour dispute stoppages accounting for 788,000 working days lost²⁰. More recent Labour Disputes Survey data showed that in 2015 there were 117 stoppages accounting for 170,000 working days lost. The difference is primarily due to large public sector strikes that took place in 2014. On average in recent years, working days lost due to strikes have occurred predominantly in the public sector. In 2014, over three-quarters of working days lost occurred in strikes of 1 day's duration²¹.

¹⁷ ONS, GDP Preliminary Estimate Q4 2011, January 2012 http://www.ons.gov.uk/ons/dcp171778_254088.pdf

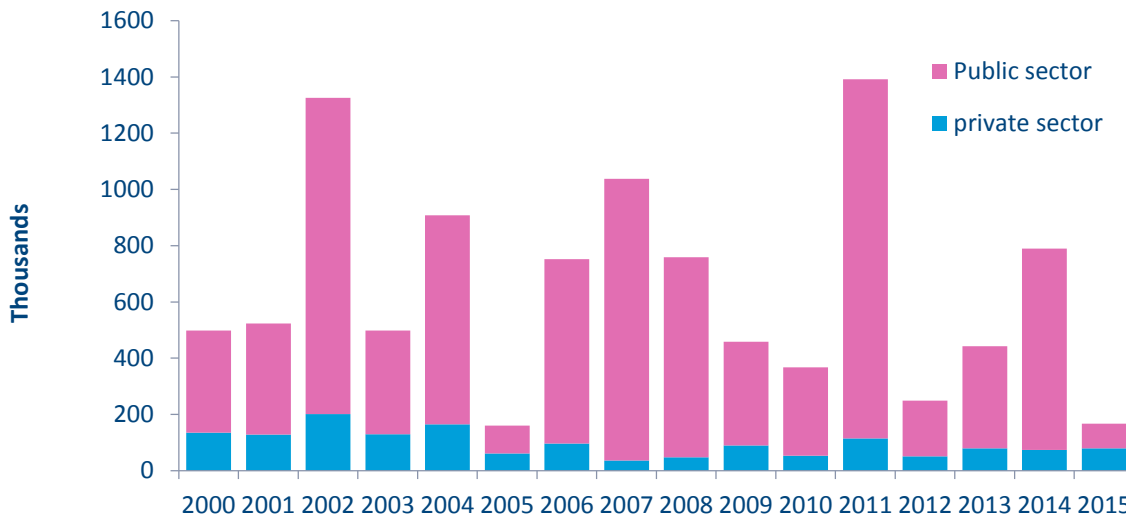
¹⁸ HM Treasury, Freedom of Information Response, December 2011
https://www.whatdotheyknow.com/request/breakdown_of_500_million_estimat

¹⁹ Around 2/3rds of the lost output was accounted for by the direct loss of output in the strike affected organisations.

²⁰ ONS, Labour Disputes Annual Article 2014, July 2015. http://www.ons.gov.uk/ons/dcp171776_411531.pdf The ONS labour Disputes Survey excludes labour disputes stoppages that involve less than 10 workers or last less than a day unless the stoppage accounts for more than 100 working days lost.

²¹ ONS, Labour Disputes Annual Article 2014, July 2015, p19.

Figure 1: Number of Working days lost due to strike action, ONS Labour Market Statistics, 2000-2015



67. Whilst the number of working days lost was significantly higher during historical periods of industrial action, for example during the 1980s, there is some evidence that the economic environment in which industrial relations operate has changed significantly since these periods²². We therefore refer primarily to the past 5 years in this Impact Assessment.

68. Electoral Reform Services, an organisation which provides balloting and scrutineer services to trade unions, conducted 650 ballots calling for industrial action in 2014. Of these ballots, 628 called for strike action (up from 469 in 2013). Around 88% (550) of these ballots calling for strikes were successful, with 68 unsuccessful and 10 producing a split decision²³.

69. In recent years, there have been strikes in public administration and in education that have been carried out using mandates from ballots conducted around two years prior to the strikes (see examples following paragraph 183).

Rationale for intervention

70. Trade Unions can play an important role in the work place. They have a legitimate need to represent their members' interests, and sometimes that involves balloting for industrial action. However, there is also a responsibility to ensure that industrial action is only used as a measure of last resort and where there is a clear and ongoing support for doing so.

71. Disruptive industrial action should not take place on the basis of low ballot turnouts. Such action does not always represent the views of the majority the union members eligible to vote. The Government therefore is introducing a new minimum requirement that at least 50% of union members entitled to vote must turn out for a ballot, and a simple majority (i.e. at least 50% and one vote) must be in favour in order for action to go ahead. This ensures that strikes can only take place on the basis of clear support from union members.

²²Gill Dix, John Forth, Keith Sisson, Conflict at Work: the pattern of disputes in Britain since 1980, Acas Research paper, 2008

²³ ONS, Labour Disputes Annual Article 2014, July 2015, p19. The Electoral Reform Services conduct the majority of industrial action ballots for trade unions in the UK, though a few other organisations are also registered to conduct these ballots. Ballots involving less than 50 union members do not require scrutineer services.

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72. Industrial action can have far reaching effects on significant numbers of ordinary people who have no association with the dispute. This is particularly true in important public services given the numbers of people who rely on them.
73. In economics these effects are called 'negative externalities'. Taking an example of a teaching strike, parents may have to take the day off work to look after their children who cannot attend school. If the parent is in employment this may result in loss of output for their employer, uninvolved in the dispute. Externalities, in these circumstances, are the effects on the third parties in the economy outside the industrial dispute.
74. Whilst the varying nature of industrial action from year to year means it is not possible to produce a meaningful annualised estimate of the scale of these externalities, we know that where negative externalities do occur the impact can be very large. We explore these impacts in the costs and benefits section below. For example, analysis by HM Treasury²⁴ estimates an indirect loss of £160 million in the case of a one-day national education strike. This is in addition to the direct reduction in output in the education sector, and reflects the size of the externality discussed above.
75. Whilst the most illustrative cases may occur in the important public services, it is equally true that these externalities are caused by incidents of industrial action in other sectors. For example, where a business is unable to provide goods or services to its clients, this can have a wider impact on a whole supply chain if the client is in turn unable to provide goods or services to other businesses or consumers.

Policy objectives

76. None of these changes are about banning strikes. The Government's overarching policy is to encourage workplace disputes to be resolved without the need for industrial action; and to ensure where industrial action is used, it is as a last resort with clear and ongoing support for action by the membership.
77. Disruptive industrial action, particularly in important public services, should not take place on the basis of low ballot turnouts and therefore low overall support for industrial action. The challenge is to get the balance right between the interests of union members and the interests of the majority of people who rely on the services they provide.
78. The Government has introduced an additional requirement in the Trade Union Act to make sure that industrial action in the important public services (falling within the fire, health, education of those under 17, nuclear waste management and decommissioning, transport sectors and the Border Force) will also require the support of at least 40% of all those entitled to vote. The objective is to ensure that strike action in these services, which can have an adverse impact on a wide range of third parties and on public safety, is not on the basis of support from only a small proportion of union members. This is intended as part of a package of reforms with the 50% turnout threshold, which will apply in all sectors.
79. These thresholds bear similarities to some systems in operation in other countries. Whilst the nature of industrial relations can vary widely between different countries and cultures, there exist ballot thresholds or systems aimed at ensuring strikes are a last resort in key sectors in several European countries. In the Danish case, balloting rules tend to be laid down in collective agreements rather than at a legal level. The largest collective agreement requires the support of 75% of those covered by the agreement for a strike to go ahead. Other countries, such as the Czech Republic²⁵ and Romania, have provisions for ballot thresholds in industrial relations law covering the whole economy. They have requirements for both turnout and approval thresholds. Germany has a system where for regular strikes a turnout of 75% is required. While the ballots are secret, there is no

²⁴ https://www.whatdotheyknow.com/request/breakdown_of_500_million_estimat

²⁵ In the Czech Republic, a ballot is required to justify a strike, the ballot needing to achieve a 50% turnout, and two-thirds of votes cast to be in favour.

mandatory postal ballot system, as in the UK, and there are rules to ensure that votes take place at convenient times and places. It is also possible to carry out “warning strikes” in Germany, a last resort action to give an indication of employee resolve after wage negotiations are deemed to have failed. These are more common than regular strikes in some sectors, and do not require a ballot. Some countries, such as Canada and Spain forbid strike action in some industries rather than use thresholds. Spain also has some legislation on minimum service provision in key sectors that have an impact on the wider economy.

Policy options

80. This Act introduces a new requirement that in all ballots for industrial action, at least 50% of the trade union members entitled to vote must do so in order for the ballot to be valid.
81. It also introduces a requirement that in ballots for industrial action in important public services, trade unions must also receive the support of at least 40% of those members eligible to vote in order for the ballot to provide a mandate for industrial action. The Act does not specify which important public services are in scope of the 40% approval threshold, and secondary legislation will be needed to set this out and implement the provisions. For this reason, a headline estimate of the impact of the 40% approval threshold is set out below, but the impact of introducing this requirement will also be examined in more detail in the impact assessment that accompanies the secondary legislation. While, the Act identifies that the important public services will be limited to the six sectors identified in paragraph 77, the final definition of what is covered – in terms of roles and functions, will be set out in the secondary legislation. This final definition will influence the impacts of the 40% threshold. The Government will continue to engage with stakeholders, including trade unions and business representatives, when bringing forward the secondary legislation to gather detailed evidence on the impact of the 40% threshold.

Electronic balloting (e-balloting)

82. Current ballot requirements are that a postal ballot is required for all industrial action, union election and political fund ballots. This is because postal ballots are considered to be an inclusive and secure way of allowing all eligible members to vote, in secret, with the lowest risks of intimidation, corruption and fraud.
83. In assessing the impact of the 50% turnout threshold, the assumption was made that trade unions could be expected to increase voter turnout, for example through more targeted communication. The assumed increase of 25% on historic turnout levels was based on the assumption that voting would still be done via a postal ballot.
84. The Trade Union Act includes a provision for undertaking a review of e-balloting to determine whether the system is suitable, and sufficiently secure, for use in industrial action ballots.
85. Given that there are no plans to introduce e-balloting at the time of this impact assessment, the analysis continues to assume that all industrial action ballots will be postal ballots. If changes are made in relation to e-balloting then, in line with normal practice, the Government will produce an accompanying impact assessment.

Ongoing Costs and benefits

Increase in economic output – Direct Benefit

86. We will first calculate the benefits in the important public services, applying the 50% turnout threshold alone.
87. We will then analyse the impact of the 50% threshold in other sectors.
88. We have separated out important public services from the other sectors for greater transparency within this impact assessment.

Impact of the 50% turnout threshold in health, education, transport, fire, nuclear decommissioning and the Border Force

Scope of this calculation

89. The approach uses historic data to look at whether work stoppages would have gone ahead had the 50% threshold been put in place.
90. The estimates contained in this impact assessment use ONS data for work stoppages in the Transport and storage sector, the Education sector, and the Health and social work sector. This data is collected at an aggregate sector level and for the purpose of calculations in this impact assessment we use that level of data. Information on work stoppages in the fire services and the Border Force come from Home Office management information.
91. Nuclear decommissioning is a vital service, and without proper maintenance and oversight the relevant facilities have the capacity to cause widespread harm to the wider public. Maintaining these facilities safely where strike action does occur can cause significant cost and disruption, substantially above that incurred in some other industries. These costs represent a negative externality, and so it is important that strike action only occurs in this industry where there is a democratic mandate to do so.
92. The Trade Union Act includes a provision for the nuclear decommissioning sector coming under the scope of 40% support threshold. However, the secondary legislation does not seek to specify services under the 40% threshold in this sector at this stage. The benefits of the inclusion of nuclear decommissioning as an important public service cannot be robustly estimated using historical data. Our sample of ballots does not include cases of strike ballots in the nuclear decommissioning industry, and therefore we do not go on to monetise direct benefits in the nuclear decommissioning industry, although intuitively the indirect benefits of less industrial action in this sector are likely to be large.

Calculation

93. BEIS analysts used a sample of around 75 ballots held in the education, transport, health and fire sectors and the Border Force held since August 2010 which were covered in the press. This sample has been updated since the Bill Impact Assessment to include ballots up to December 2015. The same procedure was applied to analysis of the impact in the remaining sectors presented in a later section.
94. Using this sample we find that for important public services the data shows that the 50% threshold would result in a reduction in work stoppages of 59%. However, it seems likely that the introduction of ballot thresholds for industrial action will mean that the past is not a perfect guide to the future impact. For example, we would expect some unions to emphasise to members the need to vote to ensure that the ballot can provide a mandate for industrial action. This might be particularly where there is deemed a risk of falling below the threshold. It is not clear how much that would influence the behaviour of those that previously might not have voted. They might be particularly hard to persuade not to abstain. There is also likely to be interplay with the 40% approval threshold. Those voters who previously might not have voted but are persuaded to vote in the future might have a different voting pattern. The voting pattern may also be affected by the new requirements in the Bill for enhanced ballot paper information. However, this Impact Assessment is not directly considering the 40% approval threshold impact.
95. Where turnout is not already high, we believe there would be a reasonable likelihood of Trade Unions increasing ballot turnout. This is because they may place even more emphasis on engaging their members where they assess a risk that the threshold may not be met. We provide sensitivity analysis, below, with three scenarios of how voting turnout may increase. We take the mid-scenario which is equivalent of an increase of up to 25% on the historic turnout level. While a significant increase, we think it feasible as unions would be incentivised to make their arguments most persuasive and communicate those arguments to members when they are close but believe they are still potentially short of achieving the new threshold. Applying this to the available data would mean those historic ballots with 40% turnout and higher could have been successful. The calculation of

benefits resulting from a reduction in days lost due to strike is based on the number of days lost in historic strikes with 39% ballot turnout or less. This provides an estimate of a reduction of work stoppages of around 35% when the 50% turnout threshold is applied.

96. We therefore take a best estimate of the reduction in work stoppages of 35%. This section will show the costs and benefits for the best estimate case.
97. This methodology will be outlined below. We assume that the working days lost are evenly distributed between work stoppages. This is done since we would expect strikes affecting larger and smaller numbers of workers to be affected equally by the measure. Our approach is also proportionate to the data available (there is no information about the number of working days lost associated with each ballot, for instance).
98. Furthermore, evidence from the Labour Disputes Survey²⁶ and anecdotal evidence suggests the majority of large strikes last for only one day. This is particularly true of recent education and transport strikes. Where some strike action may last less than one day, this can be balanced against those incidences where strike action lasts longer than one day, or a ballot results in more than one strike. We therefore deem that it is reasonable to assume a best estimate of one day as the average strike duration.
99. This means that for every percentage point fall in work stoppages, we would estimate the same percentage point fall in working days lost.
100. Since we anticipate a 35% reduction in work stoppages because of applying a 50% turnout threshold we therefore estimate a 35% reduction in working days lost in transport, education, healthcare and the Border Force. We will first take a 5 year average of working days lost in education, transport and healthcare using the results of the ONS Labour Disputes Survey. Likewise, we will use a 5 year average of working days lost shown in Management Information for the Border Force, held by the Home Office.
101. We take averages as there is some volatility in the number of working days lost from year to year. A five year average provides a more representative annual figure.
102. The Labour Disputes Survey groups certain sectors together when collecting data. For example, working days lost in transport are collected with those lost in storage. Health and social work are also amalgamated for these purposes. We will assume that working days lost in these groups are entirely in the important public services. This does not affect our data on the Border Force since it comes from an alternative source.
103. The table below shows our calculations for working days lost in education, transport and healthcare.

²⁶ ONS, Labour Disputes Survey Annual Article 2014, July 2015, p18-19.

Table 11: Working days lost per sector, ONS Labour Market Statistics table LABD03, Border Force data from Home Office Management Information

Sector	Transport and storage	Education	Health and social work	Border Force
Year				
2011	10,500	654,500	221,400	5,342
2012	28,000	39,200	4,100	2,588
2013	16,200	215,000	3,900	1,551
2014	23,400	312,800	36,300	2,985
2015	60,200	21,500	20,000	0
5 year total	138,300	1,243,100	285,700	12,466
5 year average	27,660	248,620	57,140	2,493

Fire service data

104. Please note that the fire and rescue service data is not included in the above because it has been provided in a different format (in terms of hours lost rather than days). The raw data provided required some manipulation in order to make it suitable for inclusion in this impact assessment. Annex B provides detail on how we manipulated the data from the fire and rescue service. The fire service data on hours lost due to industrial action is as follows:

Table 12: Working hours lost in the fire service, from Home Office Management Information

Sector	Fire Services
Year	
2013	33,500
2014	238,000
2015	24,000
3 year total	295,500
3 year average	98,500

105. For health, transport, education and the Border Force, we must then calculate the number of hours lost, so that we can estimate the impact this has on output. We use data from the Labour Force Survey to calculate the mean weekly working hours of union members and the mean number of days worked per week in transport, education and healthcare. For the Border Force, we again use data from the Home Office, suggesting the most common working pattern is 37 hours divided over 5 days each week. We divide the former by the latter for each sector to calculate the average number of hours worked per day.

106. We can then multiply the number of working days lost by this mean number of hours per day to calculate the working hours lost to industrial action.

Table 13: Calculation of working hours saved in key sectors by 50% turnout threshold being applied in important public services

	Hours worked per week (1 decimal place)	Days worked per week (1 decimal place)	Hours worked per day (1 decimal place)	Working days lost (5 year average)	Working hours lost (5 or 3 year average)	Percentage reduction due to threshold (best estimate)	Working hours saved by threshold
Transport and storage	41.5	5.10	8.1	27660	224046	35%	78416
Education	35.1	4.60	7.6	248620	1889512	35%	661329
Health and social work	34.4	4.40	7.8	57140	445692	35%	155992
Border Force	37.0	5.00	7.4	2,493	18448	35%	6457
Fire Services	42.0	-	-	-	98500	35%	34475

107. We can then monetise the economic impact of these working hours saved. The ONS publish Gross Value Added (GVA) statistics for each sector on a quarterly basis. We use the 2015 four quarterly average figures in our calculations since they are the most recently available figures. This shows the contribution to economic output of each sector.

108. Productivity adjusted hours figures are provided by the ONS as part of their statistics on productivity. They amalgamate health, education, fire and the Border Force amongst government services, and so we must calculate output per hour on a grouped basis for these sectors. The ONS provide these figures in the form of a weekly average across a calendar quarter. We must therefore multiply these figures by 13 (the number of weeks in a quarter) so that we divide the quarterly GVA figures by quarterly productivity adjusted hours worked figures. The final figures taken represent the four quarterly averages for 2015.

Table 14: Output per hour worked in the key sectors (2015, four quarter average)

Output per productivity adjusted hour worked	Transport and storage	Government services
	£27.99	£24.13

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

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

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

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

112. We calculate this total wage bill using median hourly wages in each sector where we monetise direct benefits from the 2015 Annual Survey of Hours and Earnings (ASHE). For transport, education and health, and the fire service we use Standard Industry Codes to establish median wage. This means that we take median wage for transport and storage, education and health and social work. In the Border Force, we use the median wage for Standard Occupation Code 3319, which encompasses Immigration Officers. This approach has been agreed with the Home Office as a reasonable approximation of median wage.
113. We multiply these median figures by the hours saved in each sector to give us the additional wage bill in each sector. Firms must also pay non-wage labour costs for these hours worked. We therefore adjust these wage figures by the non-wage labour cost uplift calculated by Eurostat. This is currently 20.2%. We then subtract this adjusted wage bill from the sectoral output increase to gain the net benefit to business in each sector.
114. The £7,662,275 is the net benefit accrued from the 50% ballot threshold in the important public services. We calculate the benefit accrued to the rest of the economy from the 50% ballot threshold below.

Table 15: Total direct net benefit of the 50% turnout threshold being applied in important public services

	Output per productivity adjusted hour worked (£)	Median wage (ASHE 2015)(£)	Median total labour cost per hour(£)	Difference between output and total labour cost per hour(£)	Working hours saved by thresholds	Net benefit to business(£)
Transport and storage	27.99	12.15	14.6	13.39	78,416	1,049,990
Education	24.13	14.01	16.84	7.29	661,329	4,821,088
Health and social work	24.13	11.79	14.17	9.96	155,992	1,553,680
Border Force	24.13	15.59	18.74	5.39	6,457	34,803
Fire Services	24.13	15.18	18.25	5.88	34,475	202,713
Total net benefit						7,662,275

Sensitivity Analysis – important public services

115. Given the potential for changes in typical turnout levels during industrial action ballots, which informs our best estimate, we have undertaken sensitivity analysis on the reduction in working days lost and subsequent economic benefits. These are presented in the table below.
116. We have assumed in all cases that the balance between votes in favour and votes against industrial action has remained constant, whilst turnout has increased or decreased. Since we do not have any ability to forecast any changes in the balance between different votes, it would not be possible to explore changes in this balance in a robust way.

Table 16: Sensitivity analysis of direct impact from 50% threshold on important public service sectors

Change in turnout level	Reduction in working days lost	Overall economic impact (to nearest £100000)
No change from historic turnout levels	59%	£12,900,000
Increase 5 percentage points	53%	£11,600,000
Increase 10 percentage points (best estimate)	35%	£7,700,000
Increase 15 percentage points from current level	31%	£6,800,000

Impact of the 40% threshold in important public services

The Act includes a provision to introduce a threshold in important public services where 40% of those eligible to vote in industrial action ballots must vote in favour of the action for the ballot to be successful. This threshold would operate alongside the 50% turnout threshold as part of a single package of reforms.

The secondary legislation sets out which roles and functions within the important public services the 40% threshold will apply to. To assess the impacts of the 40% threshold we would apply the same methodology as used for the 50% threshold. Our calculations, based on the expected application of the 40% threshold and using the same dataset indicate that the size of annual net benefit from introducing a 40% threshold in addition to the 50% turnout threshold would be in the region of £0.7 million.

50% turnout threshold in other sectors

117. We will first calculate the extent to which the introduction of the 50% turnout threshold in the rest of the economy will generate a reduction in working days lost. Once we clarify this figure, we will use the same methodology as in the above section to calculate output per hour, median wages and thus the net benefit to business.

118. There exists a choice of source enabling the estimation of the reduction in days lost generated by the 50% threshold. The Workplace Employment Relations Survey (WERS) conducted in 2011 asked managers for information on ballot turnout in disputes they had been involved in over the previous 12 months. This work was sponsored by BIS and is the only published source of information available to BEIS analysts at the time of writing. The survey suggests that across the whole economy, 38% of ballots in the period studied achieved a turnout of less than 50%. This figure has been used on multiple occasions in public discourse.

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119. Whilst WERS has the advantages of being a published data source and is survey-based, the age of the underlying data may mean that it does not reflect the most recent trends in industrial action. Furthermore, it reflects the relatively narrow time period over which the fieldwork was carried out. This period includes the November 2011 public sector pension strikes, which potentially affects the aggregate figure in the published WERS results.
120. For the purpose of this Impact Assessment we therefore again undertook analysis of a sample of ballots based upon media reports which is the best available data for the required purpose. These ballots were solely in sectors which fall outside the possible scope of the 40% threshold. In this case, we study 69 ballots held since February 2011 and conclude that, based on the historic data, 45% of these ballots would not be valid were the 50% threshold to be applied to them. However, we apply the assumptions used for the important public services that with the introduction of ballot thresholds unions would place emphasis on raising voter participation, causing increases in turnouts of up to 25% on the historic levels of turnout. This assumption means that we estimate that all ballots in the dataset with turnouts of 40% would, if this increase in turnout was achieved, pass the 50% threshold. Our revised estimate for ballots in the other sectors is that 29% of ballots would not be valid under the threshold, leading to an estimated reduction in working hours lost of 29%.
121. The similarity of the WERS figure covering the whole economy and the figure calculated during our analysis lends confidence to the robustness of our subsequent calculations. Nevertheless, given the difficulties encountered and the possibility for dynamic response in turnout after the introduction of the Bill, we have performed a sensitivity analysis which can be found at the end of this section.
122. Using our estimated reduction of 29% in working days lost, we follow the same methodology used in the above section. In summary, we estimate the number of hours this will save, output per hour and median labour cost in each sector in order to calculate the increase in output in hours. This uses the same data sources as those used above. The first step is to calculate a 5 year average figure for annual working days lost in the sectors covered only by the 50% turnout threshold. As above, due to the categories used in the Labour Disputes Survey, we must use amalgamated groupings. However, our approach differs slightly from that in the Trade Union Bill Impact Assessment in that here we have used the most detailed published breakdowns of labour disputes at the industry level from the Labour Disputes Survey. In the Bill IA, a smaller number of more aggregated industry groups were used, and the estimates of output (GVA) were based on the GVA for the largest industry within the aggregate industry group). This often meant that for some industries in the aggregated industry groups, those with higher GVAs, the impact of the 50% threshold was underestimated. Using the full industry detail from the Labour Disputes Survey means that the relevant GVA estimates for the industries can be used. This has led to an increase in the estimated benefit from the 50% threshold in the other sectors compared to the Bill IA.

123. For each of these sector groupings, as in the example above we must calculate the number of hours lost to industrial action. We use the Labour Force Survey (Q4 2015) to estimate the mean number of hours worked per day and then apply this figure to the number of working days lost above for each sector. We then apply the 29% to estimate the working hours saved by implementing the threshold.

Table 17: Calculation of working hours saved in other sectors by the 50% turnout threshold being applied

	working days lost due to strikes (5 year average)	Average hours worked per week	Average days worked per week	hours worked per day	working hours lost due to strikes	% reduction due to threshold	working hours saved due to threshold
Manufacturing	9620	41.04	4.9	8.37	80519	29%	23351
Electricity, gas and air conditioning	340	42.08	5.0	8.43	2866	29%	831
Water supply, sewerage, waste management	2520	41.21	5.0	8.3	20916	29%	6066
Construction	8020	42.07	5.0	8.48	68010	29%	19723
Wholesale and retail trade; repairs	1220	32.73	4.5	7.29	8894	29%	2579
Accommodation and food service	2740	30.09	4.4	6.86	18796	29%	5451
Information and communication	3740	40.18	4.9	8.2	30668	29%	8894
Financial and insurance	360	39.43	4.8	8.15	2934	29%	851
Real estate activities;	620	36.41	4.7	7.79	4830	29%	1401
Professional, scientific and technical	1920	39.46	4.8	8.23	15802	29%	4583
Administrative and support services;	5860	36.43	4.8	7.6	44536	29%	12915
Public administration and defence ²⁷	227700	37.39	4.8	7.81	1661389	29%	481803
Arts entertainment, recreation, other services	9860	31.44	4.4	7.15	70499	29%	20445

124. Now that we have calculated estimates for the annual number of working hours saved by the 50% turnout threshold in these sectors, we use ONS productivity figures to estimate sectoral output per hour figures. This follows the methodology already applied when analysing the important public services sectors. We divide the gross value added figures for each sector and divide them by productivity adjusted hours worked figures. We then subtract the median labour cost for each sector (based on the median hourly wage excluding overtime, taken from ASHE 2015, and updated using Eurostat 2015 data by 20.2% to take account of non-wage labour costs).

125. This gives us the business benefit per hour in each sector. We multiply this by the hours which will be saved by the 50% threshold in the remaining sectors to calculate the direct benefits. .

Table 18: Total direct net benefit of 50% turnout threshold being applied in other sectors

	Output per hour (£)	median hourly labour cost (£)	Difference between output per hour and labour cost (£)	working hours saved due to threshold	net benefit (£)
Manufacturing	31.73	15.25	16.48	23,351	384,824
Electricity, gas and air conditioning	73.62	21.91	51.71	831	42,971
Water Supply, sewage, waste management	61.15	14.86	46.29	6,066	280,795
Construction	23.91	15.4	8.51	19,723	167,843
Wholesale and retail trade; repairs	24.86	10.48	14.38	2,579	37,086
Accommodation and food service	14.57	8.41	6.16	5,451	33,578
Information and communication	41.73	20.97	20.76	8,894	184,639
Financial and insurance	56.05	21.5	34.55	851	29,402
Real estate activities;	237.77	15.29	222.48	1,401	311,694
Professional, scientific and technical	28.19	18.45	9.74	4,583	44,638
Administrative and support services;	20.23	11.12	9.11	12,915	117,656
Public administration and defence	24.13	17.98	6.15	481,803	2,963,088
Arts entertainment, recreation, other services	27.58	11.53	16.05	20,445	328,142
Total net benefit					4,926,356

Sensitivity Analysis of 50% threshold

126. Following the same methodology as that used in the sensitivity analysis of the impact of ballot thresholds in important sectors above, we estimate the economic impact of the 50% turnout threshold in other sectors were turnout levels to change from their current levels. We analyse a variety of scenarios in the table below.

Table 19: Sensitivity analysis of direct impact of 50% turnout threshold in other sectors

Change in turnout level	Reduction in working days lost	Overall economic impact (nearest £100,000)
No change from historic turnout levels	45%	£7,600,000
Increase 5 percentage points	35%	£5,900,000
Increase 10 percentage points (best estimate)	29%	£4,900,000
Increase 15 percentage points from historic level	25%	£4,200,000

Action short of strike

127. It is very challenging to estimate the impact of industrial action short of strikes. For example, work-to-rule periods, overtime bans and so-called “go-slows” would all have different impacts on a workplace. At present, trade unions are not required to state any details more specific than “action short of strike” on ballot papers and therefore it is difficult to estimate the relative proportions of these types of action.

128. Furthermore, the impact of this action would be much more challenging to measure in hours lost to industrial action. It would therefore be much more difficult to quantify decreases in output generated by action short of strike.

129. Nevertheless, the 50% threshold will apply to ballots for action short of strike. The threshold is likely to improve the productive output of workplaces across the economy. For example, a reduction in overtime bans would better enable employers to respond to changing circumstances and improve the reliability of services. This can be expected in the important public services. Media reports cite overtime bans and working-to-rule as causal factors in disruption to the London Underground²⁸.

130. Based on analysis of a sample of around 59 ballots for action short of a strike held since August 2010 which were covered in the press, around 61% would not have passed the 50% threshold based on historic turnout rates. However, assuming that once the threshold is

²⁸ <http://www.standard.co.uk/news/huge-delays-on-underground-as-overtime-ban-brings-travel-chaos-to-tube-6525460.html>, <http://news.sky.com/story/1534400/work-to-rule-action-adds-to-tube-misery>

introduced there is an increase in turnout of 25% for those ballots close to the threshold, around 41% would not pass the 50% threshold.

131. Given the additional information that unions will be required to include in their annual returns on industrial action and related ballots, including ballot outcomes and type of industrial action undertaken, under the Act, we expect to be able to provide some deeper analysis in the Post Implementation Review.

Summary of direct benefits generated by thresholds

132. These benefits can be added together, taking the benefit figure from the important public services and other sectors, to yield the total net direct benefits from increased output.

Table 20: Combined benefit to business of 50% turnout threshold in important services, and 50% turnout thresholds in other sectors

Sector	Important public services	Other sectors
Total Benefit	£7,662,275	£4,926,356
Total	£12,588,631	

Increase in output in other sectors – Indirect Benefit

133. There is limited evidence which quantifies the indirect impact on other sectors of strike action in the transport, education, health, fire and nuclear waste management and decommissioning sectors and the Border Force. Where attempts have been made, it is clear that the size, duration and industry where the strike takes place strongly influence the external impact of strikes. This means that the impact varies widely depending on specific circumstances. In 2015, BIS consulted with ONS on the potential for collecting regular information on the indirect impacts of strike action. ONS's view was that existing data sources were not sufficient to measure indirect impacts, and there were inherent difficulties in obtaining estimates of these indirect impacts which would militate against obtaining reliable data from a survey.

134. Since the nature of strike action tends to vary from year to year, with the ability of large strikes in certain sectors and years to cause a disproportionate impact, it is not readily possible to provide a total annual estimate of the knock-on impact of strike action in the five sectors and Border Force.

135. In turn, this means it is not currently possible to estimate in a sufficiently robust way the annual indirect benefit generated to other sectors as a result of the ballot thresholds.

136. We will consider some examples of analysis showing the impact of strikes, in particular in education and transport. This will provide context for this indirect benefit, however it will not form a monetised part of this Impact Assessment.

137. These examples show that where large strikes occur, they can have a considerably higher indirect impact in addition to their direct impact in the workplace where they occur.

Strikes across all sectors

138. The Workplace Employment Relations Survey 2011 was carried out between March 2011 and June 2012. It asked whether businesses had been indirectly affected by strike action at another workplace in the past 12 months. 3% of businesses responding to the survey indicated that they had been.
139. Unfortunately, we do not know the scale of disruption caused, and so it is not possible to monetise the overall impact to the economy. WERS results are representative of almost 750,000 workplaces. This would suggest around 22,500 workplaces were indirectly affected by strike action during the period covered by the survey.
140. Even if the impact on each workplace was relatively small, it is clear that the indirect impact to business as a whole of strike action would be high, given the number of workplaces involved.

Education strikes

141. Education strikes can have a much wider-ranging impact than a reduction in the number of students at school on the day of action. A school strike may also mean that parents and guardians are unable to go to work, which can have an effect on every sector of the economy.
142. HM Treasury estimated that a closure of two-thirds of state schools would lead to a 3-4% decrease in output in sectors not directly connected to education for the duration of the strike. This figure was calculated in the period leading up to the November 2011 public sector pension strikes²⁹.
143. This formed part of an overall estimate of a £480 million decrease in output as a result of the strike. Around one third of this was caused by the indirect impact of school closures, leading to an estimate of £160 million in these indirect impacts. This figure represents the scale of indirect impact to the wider economy of a national education strike.

Transport strikes

144. Transport strikes are another example where some analysis has attempted to quantify indirect, external impacts. Acas commissioned a report in 2007 examining the value for money delivered by the organisation³⁰. Since part of Acas' role is to help conciliate collective disputes, this involved some estimation of the impact of strikes which Acas managed to help avert. The figures we quote have not been adjusted for inflation since 2007.
145. The report estimated that the knock-on impact of a 2 day transport strike affecting 3.4 million weekday passengers would lead to a £52 million cost to other businesses, since workers do not arrive at work and other events have to be cancelled. These costs were calculated in the Acas report by accruing the costs to work-related travellers only, and allowing one hour of lost productive time during the days of the strike for each work-related traveller.
146. An air travel related strike affecting 70,000 passengers is estimated in the Acas report to have cost businesses not directly party to the dispute around £38 million. This is based on costs accrued by both business and leisure travellers, assuming the loss of half a day for all leisure travellers, the cancellation of 5% of overseas business trips and 4 wasted productive hours for each business trip not cancelled.

²⁹ https://www.whatdotheyknow.com/request/breakdown_of_500_million_estimat

³⁰ <http://www.acas.org.uk/index.aspx?articleid=1328>

147. Disruption to transport networks can cause very significant economic and welfare impacts. Analysis by the Department for Transport estimates the cost of one day's severe disruption to transport networks caused by weather to be around £280 million.

148. Analysis was also undertaken by the Department for Transport of the likely economic impact were the proposed Network Rail strikes in June 2015 to go ahead. Using the National Travel Survey, the estimated economic cost was likely to be between £80 million and £230 million, depending on the extent to which those who normally commute to work by train are able to work from home.

Border Force strikes

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

Nuclear waste management and decommissioning strikes

150. Nuclear waste management and decommissioning is an administrative and technical process. It includes clean-up of radioactive materials and progressive demolition of nuclear plants. However, there will be an environmental risk to the public during the decommissioning phase should industrial action take place.

Non-monetised costs

151. Strike ballots are mandatory postal ballots hence the Trade Unions would be sending ballot information by post. The Trade Union may also provide extra communication to encourage members to vote. As Trade Unions do this already there are negligible additional costs associated with communication because of the introduction of turnout thresholds. It is also likely there would be more focus on making the argument as compelling as possible in communications rather than necessarily increasing the number of communications. Any additional communication would be a matter of choice for the trade union, where the union has considered that the benefits of this communication exceed the costs.

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

152. This Impact Assessment uses a wide range of data sources to estimate the economic impact of the introduction of the 50% turnout threshold.

153. This has enabled us to estimate the direct benefit that these measures will bring to the sectors cited, making use of published ballot result figures. This represents the output produced by the sectors themselves, which we would expect to increase after the introduction of the thresholds. The chosen approach of estimating the benefit to business per hour saved is considered to be the most appropriate assumption in the absence of further evidence.

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

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

Risks and assumptions

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

Direct costs and benefits to business calculations

157. The measures contained in this impact assessment are in scope of the Business Impact Target. The direct impacts for the important sectors which have been monetised largely affect the public sector, particularly in the health and education sectors. Direct effects on the other sectors will be predominantly seen in the private sector.

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

159. We can then multiply the proportion of union members in the private sector by the expected benefits in each sector to achieve an indication of the benefit to private sector organisations, which can then be scored under deregulatory methodology. This calculation is demonstrated in the tables below.

160. As explained in paragraph 120, our approach for other sectors differs slightly from that in the Trade Union Bill Impact Assessment in that here we have used the fullest published breakdowns of labour disputes at the industry level from the Labour Disputes Survey. Since the previous approach underestimated the impact of the 50% threshold this change has led to an increase in the estimated benefit from the 50% threshold in the other sectors compared to the Bill IA.

Table 21: Total direct net benefit of the 50% turnout threshold being applied in the health, education and transport sectors and the Border Force to organisations in scope of the deregulatory target

	Total benefit	Proportion of union members who are private sector employees (to 1 decimal place)	Benefit applicable to the private sector
Transport and storage	£1,049,990	88.3%	£926,664
Education	£4,821,088	10.8%	£521,375
Health and social work	£1,553,680	18.4%	£285,106
Border Force	£34,803	0.0%	£0
Fire Services	£202,713	0.0%	£0
Total	£7,662,275		£1,733,145

Table 22: Total direct net benefit of the 50% ballot turnout threshold being applied in all other sectors to organisations in scope of the deregulatory target

	<u>Total benefit</u>	% of employee union members in private <u>sector</u>	Benefit applicable to the private <u>sector</u>
Manufacturing	384,824	97.7%	375,914
Electricity, gas and air conditioning	42,971	97.6%	41,950
Water Supply, sewage, waste management	280,795	62.9%	176,566
Construction	167,843	70.4%	118,178
Wholesale and retail trade; repairs	37,086	98.5%	36,539
Accommodation and Food service	33,578	87.4%	29,352
Information and Communication	184,639	84.8%	156,627
Financial and Insurance	29,402	93.8%	27,592
Real estate Activities	311,694	86.4%	269,399
Professional Scientific and technical	44,638	67.9%	30,288
Administrative and support services	117,656	76.1%	89,575
Public administration and defence	2,963,088	8.1%	241,369
Arts Entertainment, Recreation, other services	328,142	45.5%	149,303
Total	4,926,356		1,742,652

Table 23: Total private sector costs and benefits resulting from 50% ballot thresholds being applied across the UK economy

One off familiarisation costs for trade unions	Cost
Total	£548,000
Annual Private sector benefit	
Important sectors	£1,733,145
Other sectors	£1,742,652
Total	£ 3,475,797

161. The EANDCB figure for the 50% threshold is -£3.3m

Option 1B –Ballot mandate reform

Problem under consideration

162. In some cases, unions have threatened strike action based on successful strike ballots that took place over a year or two earlier, creating prolonged periods of uncertainty for both employers and workers (see section below paragraph 183). The support indicated in the earlier ballot may no longer be present among the union membership: the circumstances of workers may have changed since the ballot and there is likely to have been some churn in the workforce since the ballot.
163. When balloting for industrial action, information as to the cause of the dispute can be as vague as “pay”, “terms and conditions” or “redundancies”. This lack of transparency means that both employers facing industrial action and trade union members when voting in the ballot are not fully informed about the purpose of potential industrial action. It is necessary that trade disputes are clearly defined and at present this may not always be the case.
164. Currently, trade unions are required to provide 7 days’ notice of industrial action once a ballot mandate has been secured. This means that employers facing industrial action, and others who may be affected, have only a week to make contingency plans, which could exacerbate the negative impacts on the economy of the industrial action. This Act doubles this to 14 days’ notice, unless the employer and union agree to a shorter notice period, which can be no less than 7 days.

Rationale for intervention

165. Under TULR(C)A as it stands, it is possible for certain unions to take strike action on the basis of a successful ballot that was conducted years before the strike. The rationale for imposing a **6 month time limit to the validity of a ballot mandate** (unless the employer agrees with unions that the limit can be longer, up to a 9 month maximum) is to ensure that industrial action can only take place on the basis of a contemporary mandate, resulting in better allocative efficiency. Concurrently, we will remove the requirement for some form of industrial action to take place within 4 to 8 weeks of a ballot result so that the ballot may remain valid. Given the externalities caused by industrial action described above, it is important that such action is supported by a recent ballot.
166. The rationale for extending from 7 to 14 days the period of notice that a trade union must provide to an employer after it has secured a ballot mandate for industrial action, unless the employer agrees to a shorter notice period, is to ensure that the employer has more time to make contingency arrangements, if needed, and allows more time for continued negotiations before strike action goes ahead. This may enable resources in the economy to be used more efficiently.
167. Also, unions do not currently have to specify the details of the trade dispute on the ballot. This makes it easier to use the ballot mandate for industrial action relating to different specific issues within the remit of one broad cause. Over a period of a year or two, there may be some turnover of union membership in the organisation that voted for industrial action and the nature of the dispute may change, so the mandate if used two years later may not reflect the views of the current union members and the situation of the dispute. These updates to legislation seek to clarify the rules around this, in order to create a clearer, more transparent and fairer system for all parties and provide more time for on-going negotiation. Also, unions are not required to provide information on the extent of industrial action and the number of related ballots that they carry out each year, meaning that the public lacks comprehensive information on the number of industrial action ballots (and outcomes) and incidences of industrial action, and the causes driving these disputes.

Policy objectives

168. The Act imposes a time limit (of six months from the end date of the ballot, or up to nine months if there is an agreement between the employer and union) that a ballot under Part V of the Trade Union and Labour Relations (Consolidation) Act 1992 can remain valid for lawful industrial action, and to require unions to set out the detailed nature of the issues in dispute on the ballot paper. The policy objective here, as set out in the Conservative Party manifesto, is to “ensure strikes cannot be called on the basis of ballots conducted years before”. It is also to ensure that union members voting on industrial action know the specific issues in dispute that the potential industrial action relates to, enabling them to make a more informed decision. We are simplifying the process to take industrial action. As a result, we are repealing the current requirement that there must be some industrial action within a period of 4 to 8 weeks in order for the mandate to remain valid.
169. The law requires a trade union to provide an employer with notice of industrial action after it has secured a mandate for industrial action and before any such action is taken. The Act extends the period of that notice from 7 to 14 days, unless the employer agrees with the union a shorter notice period, of not less than 7 days. The policy objective is to ensure that the employer has more time to continue to negotiate, as well as make contingency arrangements should strike action go ahead.
170. The Act also includes a requirement for unions to report information on industrial action undertaken. This will help to better inform the public about the extent of industrial action, especially industrial action short of a strike, and the causes of trade disputes leading to industrial action.

Policy options

171. The Act replaces the requirement for some industrial action to take place within 4 to 8 weeks of the ballot for the mandate to remain valid with the introduction of a 6 month time limit (potentially extended to 9 months with employer agreement) on strike-ballot mandates. This would mean that a successful ballot would only provide a mandate for industrial action in the six (or up to nine) month period beginning from the end date of the ballot. After this period any strike action will be deemed unlawful and treated as such, unless another successful strike mandate is voted in by members. It also removes the requirement for industrial action in the first 4-8 weeks of the mandate provided by the ballot to validate it.
172. It also requires unions to include more detailed information on ballot papers. This includes stating on each ballot paper in detail the issues in dispute that have led to the ballot, and the specific industrial action that is proposed, together with an indication of the expected time period during which these actions will take place.
173. The legislation also increases the notice period for industrial action that unions must provide once a ballot mandate has been obtained from 7 to 14 days. However, the affected employer can agree a shorter notice period, of no less than seven days, with the union.
174. The Act requires a trade union to include details of any industrial action taken in the reporting period, and any industrial action ballot, in its annual return to the Certification Officer. This should include the nature of the trade dispute relating to the industrial action, the type of industrial action when the industrial action was taken, as well as information on ballots such as purpose, turnout, the numbers voting in favour, or against, and whether the relevant ballot thresholds have been met.

Monetised and non-monetised costs and benefits

Six (or 9) month mandate time limit

175. We have not been able to quantify how this time limit will affect the number of working days lost to strike action, since we do not have data to reliably estimate the number of strikes across the whole economy which occur more than 6 (or 9) months after the result of a ballot. We nevertheless have some examples of specific cases where this has happened, but due to the lack of a national-level data source we cannot provide a percentage reduction in this analysis.
176. We have considered the possible net impacts on the frequency and likelihood of strikes as a result of specifying a time limit for the validity of ballot mandates.
177. A time limit is likely to reduce the number of strikes where unions have either taken multiple strike actions over an unlimited period of time, or used older mandates to justify contemporary strike action.
178. The data set out below provides some evidence of the correlation between the date of ballot mandates and the date of subsequent strike action.
179. This suggests that the length of time between a union securing a ballot mandate and taking strike action ranges from less than a month to around 2 years.
180. Negotiations start well before a union reaches the stage of balloting its members for industrial action. A ballot mandate, set at 6 months (unless the affected employer agrees to an extension to up to 9 months), ensures that industrial action is called on a current mandate (rather than a ballot conducted years before) and it still allows sufficient time for negotiations to continue and industrial action (should this prove necessary) to take place.
181. Issues regarding industrial action are likely to be fluid and can change quickly. Six months is a reasonable period in which a trade union and employer might be expected to make significant progress in resolving any dispute. Therefore expiry of a mandate after 6 months (or up to 9 months if the employer agrees to an extension) strikes the right balance.
182. Currently courts are asked to consider whether a ballot mandate is still valid and that includes assessing whether there has been a substantial interruption in the industrial action so that the result of the original ballot can no longer be relied upon.
183. Of course each case will turn on its own facts but in the case of *Westminster Kingsway College v University and College Union* 2014 EWHC 4409, the High Court held that the proposed strike was not protected by the ballot as there had been a substantial interruption. In that case the ballot had taken place 11 months before the further proposed strike.

Relationship between dates of ballot mandates and dates of strike action

- The Public and Commercial Services Union (PCS) has held the following strikes on a mandate from March 2013:
 - o 15 October 2014
 - o 10 July 2014
 - o 20 March 2013

- The PCS held the following strikes on a mandate from June 2011:

- 10 May 2012
 - 30 November 2011
 - 20 June 2011
- The National Association of Schoolmasters Union of Women Teachers (NASUWT) held the following strikes on a mandate from November 2011:
- 17 October 2013
 - 1 October 2013
 - 27 June 2013
 - 30 November 2011
- The National Union of Teachers held the following strikes on mandates from June 2011 and September 2012:
- 10 July 2014
 - 26 March 2014
 - 17 October 2013
 - 1 October 2013
 - 27 June 2013
 - 28 March 2012
 - 30 November 2011
 - 30 June 2011

184. We have also considered whether placing a time limit on a mandate might encourage a union to strike earlier, for longer or more frequently. However, there are several factors that militate against such an effect.

185. It is in the interests of both parties involved in a trade dispute to resolve the matter by negotiation, and the requirement for a 6 month time limit to the ballot mandate does not alter this. Both parties would still, as now, seek to reach a mutually acceptable conclusion to the dispute without resorting to a ballot for industrial action.

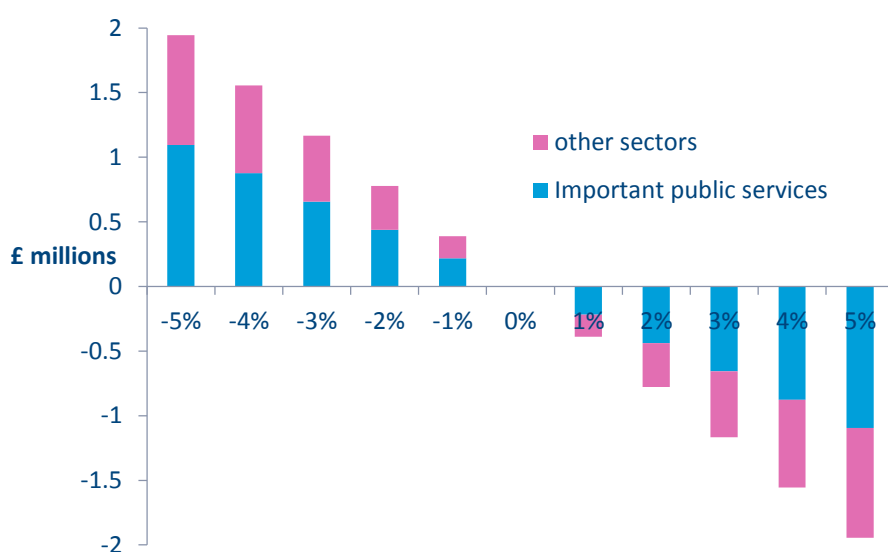
186. Where negotiations break down and a union does wish to seek a mandate for industrial action from its members, the Act requires the union to state on the ballot paper the nature of the trade dispute and the type of industrial action proposed together with an indication of the expected time period during which such action could take place. The objective is to ensure that members are clear about exactly what they are voting for. A union which seeks to secure a mandate for premature or prolonged industrial action would be less likely to secure support from its members.

187. The ready reckoner³¹ below shows the total cost/benefit to output (less labour costs in producing output) associated with percentage increases or decreases in strike action. As can

³¹ A 5-year annual average (2011-2015) of working days lost to strikes was calculated for each sector. This was multiplied by average hours worked in a day to estimate the number of annual hours lost to strikes in each sector. Hourly output for each sector was then used to calculate the total output associated with the number of working hours lost in each sector (Hourly output * working hours lost = output changes due to strikes). Similarly, average labour costs for each sector were used to calculate the total labour costs associated with the number of working hours lost (hourly labour costs * working hours lost = labour cost changes due to strikes). The changes in labour cost associated with each percentage change in strikes was taken from the changes in output associated with each percentage change in strikes (total sector output change – total sector labour cost change = sector change in output associated with strikes)

be seen, in the case that strike action was reduced by 5% due to this policy, this should result in around a £1.9 million benefit to total UK output after labour costs are deducted. It is important to remember the counterfactual assumes that the ballot thresholds (presented earlier in this impact assessment) are in effect. This means that these figures were calculated using the total amount of working days lost after the effects of thresholds has been taken into account.

Figure 2: Aggregated change in UK firm output (minus labour costs) as strike action increases/decreases



Non-monetised – reballoting costs

188. There is a risk that trade unions may need to run additional ballots if their mandate expires in a given dispute. Since we are unable to estimate the proportion of ballots where this may apply in the absence of robust, national data linking the date a ballot mandate becomes valid with the dates on which strike action occur, we have not monetised this potential cost.

189. The examples provided above do not enable us to produce an annualised figure, since they do not provide a figure for the whole economy. We would expect that this measure may change behaviour where negotiation is taking place. As such, it would be inappropriate for us to monetise this cost.

Non-monetised – effect on consumer and wider economy

190. There may be a gross benefit for wider society as a result of a reduction in the number of strikes occurring a long time after the mandate is validated. It is possible, as suggested by the ready reckoner, that the ballot mandate time limit could lead to a pressure to strike within the 6 to 9-month period. However, as unions would generally ballot for industrial action when negotiations have broken down, the resulting industrial action is already likely to be scheduled for the months directly following the successful ballot.

Finally, the total output changes for each sector were added together to estimate total UK firm output associated with percentage changes in working days lost to strikes. These have been summarized in the ready reckoner chart.

191. These effects could be far-reaching and very diverse, making them difficult to monetise. If there was a reduction in industrial action, these effects could include (but are not limited to) a reduction in: parents forced to take time off work for childcare in the case of teachers' strike, commuters who take time off work in the case of transport strikes, or businesses who see a reduction in sales or a reduction in productivity due to transport strikes.
192. Due to the diversity, complexity and a lack of reliable data being available for these different costs, they cannot be measured in any accurate sense. They have therefore not been included as a monetised cost of strike action in this impact assessment. It is however, important to remember that these costs are associated with strike action, and would amount to an unspecified benefit in the case of reduced strike actions.

Non-monetised - Benefits from removal of requirement to take some action within 4-8 weeks

193. The removal of the requirement on a union to take some action within 4-8 weeks of securing a ballot mandate is likely to result in a small reduction in industrial action. This is based on the assumption that some action previously taken during this period was taken for the sole purpose of validating the mandate. Once this requirement is removed, it follows that there should be a small reduction in industrial action taken during this early period, as it will no longer be necessary to validate the mandate. This would benefit unions and their members, employers and wider society. This has been included as a non-monetised benefit due to a lack of available data needed to cost such effects.
194. No data is available on the amount of action (strike or otherwise) unions tend to take within this period, or how much of this action is solely to keep the mandate live. Given that the action does not have to be strike action (it can be industrial action short of a strike, such as an overtime ban), it is assumed that this decrease in disruption should be minimal as a proportion of all disruption attributable to industrial action each year.

Non-monetised - effects from the Increase in notice period for strike action required of unions from 7 to 14 days (unless a shorter period is agreed with the employer)

195. The increase of notice period from 7 to 14 days (unless the employer agrees to a shorter notice period) should reduce costs for business and could increase benefits for business, unions and wider society. It could have a cost to workers taking industrial action if employers were able to use the additional notice to mitigate the potential disruption of the industrial action.
196. It could reduce costs for business by providing a longer period of time for businesses to make contingency arrangements in the event that strike action goes ahead. This longer period should increase the possibility of businesses being able to make more cost effective contingency arrangements. It is likely that employers would only agree to a shorter notice period if it was beneficial for them to do so. For instance, if they are able to make contingency arrangements more quickly. It could increase benefits for business and wider society by providing a longer period for negotiations after a union has secured a ballot mandate, thereby maximising the possibility of the dispute being resolved without the need to resort to industrial action. We are unable to monetise any benefits arising as the impacts will depend on the specific cases where industrial action ballots have been successful, and there is a lack of data available.

Non-monetised - Costs and benefits from the requirement for unions to include more information on the ballot paper

197. The proposed requirement to provide more information on ballot papers about the areas of dispute, and the type of non-strike industrial action planned should benefit union members and

employers. The extra clarity should help union members make a more informed decision during the voting process regarding the nature of the dispute and intended action.

198. We anticipate that the cost to unions of including more information on the ballot paper will be negligible. The unions will already know the information required, and will be able to add this easily to the ballot form.

199. It is possible that greater clarity on the ballot paper as to the nature of the dispute could affect voting behaviour, but we are not able to quantify this impact before the measure is in place.

Ongoing costs to unions of reporting details of industrial action in their annual returns

200. Trade unions will be required to provide information on each industrial action undertaken in the reporting period and each ballot for industrial action, in their annual returns to the Certification Officer. The details required, set out in paragraph 173, are all readily available to unions, and we expect that it would be relatively straightforward for unions to compile this information and report it on an annual basis.

201. We have assumed that the staff producing the return to the Certification Officer will familiarise themselves with the new reporting requirements. This should help them in devising an approach to record the information required which they have available to facilitate the annual compiling of the return. We therefore assume it will take a day on average of a trade union official's time each year to provide the details of the specific industrial actions undertaken in the annual return to the Certification Officer. **While some unions might have a number of ballots and industrial actions to report on, many will have few or none.**

202. As with the familiarisation costs, to get the annual costs per union we take the median hourly labour cost for an officer of non-government organisations (based on ASHE 2015 wages data updated by 20.2% to take account of non-wage labour costs) and then multiply by 8 to reflect the hours in a working day. To get the total annual costs of the additional reporting, we multiply by 158, the total number of unions³².

Table 24: Annual cost of complying with additional reporting requirements

Input	Cost estimates (2015)
Median hourly wage excluding overtime, for officers of non-government organisations	£11.96
Hourly labour cost	£14.33
Cost per union of reporting details of industrial action in annual returns	£115
Total cost for unions of complying with reporting requirements (to nearest £000)	£18,000

³² Not all unions will undertake industrial action in the reporting period, so for some the cost will be zero, however, some unions might be involved in multiple industrial actions in the year.

Risks and assumptions

203. The period between a successful strike ballot and strike action is generally used to continue negotiations between employer and union. Sometimes these negotiations can be complex and require substantial amounts of time in order to reach a resolution.
204. There are two possible and opposing effects of specifying that a ballot mandate expires after a period of 6 (or up to 9) months. On the one hand, it may encourage unions to settle more disputes through strike action rather than negotiations, if they perceive 6 months to be too short a period in which to conclude negotiations. On the other hand, the requirement to be more specific about the nature of the trade dispute on the ballot paper not only enables union members to make informed choices about whether to support industrial action but, given that a copy of the voting paper is provided to the employer (see section 229 of the TULR(C)A), the employer should have greater clarity about the nature of the dispute, which should aid successful negotiations. Further, a union which secures a strong ballot mandate for specific types of industrial action within specific periods of time is in a good position to influence those negotiations, which in turn should result in less industrial action and strike action taking place.

Direct costs and benefits to business calculations

205. The monetised impacts in this document are the familiarisation costs and ongoing costs of additional reporting of details of industrial action, which are accrued by unions.
206. The best estimate of one-off familiarisation costs is £566,000, including £18,000 for familiarisation with the reporting requirements for details of industrial action.
207. There are ongoing annual costs of £18,000 for the reporting of details on industrial action undertaken in the unions' annual returns to the Certification Officer.
208. This translates to an EANDCB of £0.1 million at 2014 prices based upon a present value from 2016.

Option 1C - Tackle the intimidation of non-striking workers

Problem under consideration

209. There is a detailed framework of civil and criminal law which governs the behaviour of those on a picket line. In addition to this there are guidelines set out in the statutory Code of Practice on Picketing³³ (“the Code”) regarding how picketing should be conducted. In their current form these guidelines can be taken into account by a court, but are not themselves enforceable³⁴. Most picketing action taken by unions appears to adhere to the guidelines set out in the Code. However, despite the legal framework and the guidance, issues have arisen in recent years. There have been a number of allegations that intimidatory behaviour took place whilst picketing.
210. However, allegations of intimidatory behaviour have not been limited to picketing activities and there have been allegations of new forms of activity in order to further industrial disputes (so called ‘leverage tactics’). Such activity caused public and political concern and prompted the Carr Review³⁵.
211. The Carr Review considered submissions detailing alleged intimidatory behaviour in relation to picketing and protests linked to industrial disputes. Instances identified where pickets prevented non-striking employees from carrying out their work using more than informative persuasion. This included the misuse of social media in order to identify and intimidate non-striking workers and the use of threats, for example, ‘we know where you live’ which were allegedly sent to non-striking workers in attempts to deter them from working during any further industrial action.
212. In the majority of industrial disputes, pickets do follow the guidelines set out in the Code, and do not engage in intimidation. However, the media has reported that people not involved in a dispute can feel intimidated. The proposed changes therefore aim to improve compliance with the law during industrial action in a robust but balanced way.

Evidence gathered on intimidatory behaviour, the Carr review

213. Bruce Carr QC was commissioned by the Secretary of State for Business, Innovation and Skills and the Minister for the Cabinet Office to conduct an Independent Review into the Law Governing Industrial Disputes.
214. The origins of the Carr Review go back to October 2013 and the high profile industrial dispute between INEOS and Unite the Union (“Unite”) at the Grangemouth Chemicals and Refining plant. This was a complicated dispute, but a key feature of it was the alleged use of ‘inappropriate’ and ‘intimidatory’ tactics by Unite during that dispute, which was widely reported in the media at the time³⁶.

³³ BIS, Code of Practice: Picketing, 1996
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249871/96-681-code-of-practice-picketing.pdf

³⁴ Not following the Code, of itself, would not lead to enforcement action, but Courts could consider whether or not the Code was followed as part of the evidence in a relevant case.

³⁵ Bruce Carr, The Carr Report, October 2014, <https://carr-review.independent.gov.uk/wp-content/uploads/2014/10/Carr-Review-Final-Report.pdf> , <https://carr-review.independent.gov.uk/>

³⁶ See for example a report in the Daily Telegraph on 31 October

215. The Carr review included nine case studies. These case studies describe either a specific dispute or a series of related disputes (involving particular employers or sectors) where ‘extreme’ tactics are said to have been used. The information for these case studies has been gathered through direct contributions to the Review (primarily from employers or organisations representing employers) and through other sources readily available to the review, such as newspaper articles, YouTube videos or social media updates.

216. Below are some extracts from the published Carr review report containing alleged intimidation.

Disputes in London Underground Limited and Transport for London

217. Strikes affecting London Underground Limited (LUL) have taken place four times so far in 2014 (with another three called off), involving all the major transport unions – the RMT, TSSA, Unite and ASLEF. There have been continuing allegations of LUL employees carrying out ‘inappropriate’ and ‘intimidatory’ behaviour during industrial action, some of which has been the subject of court cases.

218. TfL has described the atmosphere and conduct of picket lines as sometimes being intimidating to non-striking staff and potentially customers. They cite the example of alcohol being consumed by a picket outside the Seven Sisters Depot. Pictures of the event are available on the ‘RMT London Calling’ website, although it is not clear from these pictures that alcohol was consumed³⁷.

219. TfL alleged that inappropriate behaviour towards colleagues is fairly common, and there are a number of cases covered in the media. TfL’s submission described a case in 2014 in which “a member of staff was approached by a trade union activist as he entered the premises and was verbally abused in strong terms”. The Police attended this incident but there was insufficient evidence to charge the individual involved. Cases involving RMT members Mark Harding and Arwyn Thomas have a lot of media coverage – neither resulted in a conviction, but both give a sense of the atmosphere on picket lines and the strength of feeling on both sides³⁸.

Fire and Rescue Services disputes

220. The London Fire Brigade (LFB) submission suggests that more extreme tactics were used in 2010. The 2010 dispute seems to have been marked by ill-tempered confrontations on the picket line, exacerbated by contingency fire crews working out of LFB fire stations. This meant that it was more likely they would come into conflict with picketers outside of fire stations.

221. The YouTube clip called ‘*Firefighters run over by strike breakers*’, appears to show a picket line with a large number of people gathered around a fire engine³⁹. Another YouTube clip is called ‘*LFB Firefighters strike – Southwark FBU mass picket*’ and again shows a large number of people listening to speeches made by FBU officials⁴⁰. It appears from these clips that picket

³⁷ RMT London Calling (23 April 2009) *RMT Drivers Strike for Justice* [online] Available: <http://www.rmtlondoncalling.org.uk/node/509> [Accessed: 18 September 2014]

³⁸ BBC News (22 June 2011) *Tube strike driver Arwyn Thomas unfairly dismissed* [online] Available: <http://www.bbc.co.uk/news/uk-england-london-13879563> [Accessed: 18 September 2014] and RMT London Calling (2 June 2014) *Mark Harding Not Guilty* [online] Available: <http://www.rmtlondoncalling.org.uk/mark> [Accessed: 18 September 2014]

³⁹ YouTube (Uploaded on 1 November 2010) *Firefighters run over by strike breakers* [Online] Available: http://www.youtube.com/watch?v=Zn2wfcy_gq4 [Accessed: 15 September 2014]

⁴⁰ YouTube (Uploaded on 1 November 2010) *LFB Firefighters strike – Southwark FBU mass picket* [Online] Available: <http://www.youtube.com/watch?v=7GdQagtVvkg> [Accessed 15 September 2014]

lines during this dispute may not have followed the guidance contained in the Code of Practice on Picketing that states “pickets and their organisers should ensure that in general the number of pickets does not exceed six at any entrance to, or exit from, a workplace”⁴¹.

Evidence gathered on intimidatory behaviour, the Government consultation

222. In July 2015 Government launched its consultation on tackling intimidation of non-striking workers. The consultation closed on 9th September 2015 and a government response document was published in November⁴². Below is an extract from the consultation responses. We have not substantiated the claims made by respondents to the consultation.

A union submitted the following to the department as part of their consultation response:

223. Although picketing is already subject to statute and a statutory code of practice our experiences suggest that, in practice, the current measures are not particularly effective where small groups of pickets and low-level intimidation is involved.

224. Where there is no imminent threat of violence or other acts of public disorder, the police service can be reluctant to intervene to remove pickets; even when picketing is technically ‘unlawful, for example at mobilising locations such as Territorial Army bases away from normal workplaces.

225. We believe that it would be helpful for unions undertaking strike action to set out where pickets will be stationed as this would allow action to be taken where picketing takes place at other locations or where planned picketing is not appropriate or lawful.

226. We have no objection to peaceful persuasion being practiced at normal workplaces but we would support the restriction of picket size to 6 people as larger numbers would certainly feel intimidatory to anyone attempting to enter a place of work. The practice of picketing may well be outdated since people who are not members of a trade union that has lawfully balloted for strike action may be deemed to be in breach of contract if they did not report for work.

Background

227. Offences committed during picketing in Great Britain are already governed by a detailed framework of civil and criminal law. This is further guided by a statutory Code of Practice on Picketing (the “Code”) which was last updated in 1992. The current rules are intended to help ensure picketing is legal and peaceful without intimidating or interfering with those who want to work.

228. The current legislative requirements for a lawful picket are set out in section 220 of TULR(C)A. A person can peacefully obtain or communicate information, or they can peacefully persuade any person to work or abstain from working, provided that :

⁴¹ UK Government, (no date) , *Code of Practice: Picketing* [Online] Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249871/96-681-code-of-practice-picketing.pdf [Accessed: 15 September 2014]

⁴² Department for Business, Innovation and Skills, Trade Union Bill: Government response to the consultation on tackling intimidation of non-striking workers, November 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/473515/BIS-15-621-government-response-document-to-tackling-intimidation-consultation.pdf

- There is a trade dispute - as defined in TULR(C)A;
- The picketer is at or near his workplace; or
- The picketer is a dismissed employee who pickets his former workplace; or
- The picketer is a union official who accompanies a person whom he represents and that person is at or near his workplace.

229. The Picketing Code of Practice provides practical guidance on picketing in trade disputes for those contemplating, organising or taking part in a picket or activities associated with picketing. It also provides information and guidance on the legal framework that applies to picketing, for example, the Code explains (among other things) that pickets can use 'peaceful persuasion' in attempting to stop others from working. It also explains the law which requires that a picket can only be conducted at or near the actual workplace of those picketing.

230. Section F of the Code sets out guidelines regarding the organisation of pickets. This includes the requirement for the appointment of a picket supervisor by a trade union. The supervisor's role is to ensure the picket is conducted peacefully, lawfully and that those who want to cross the picket line can do so without being intimidated.

231. The Code itself imposes no legal obligations and failure to observe it does not by itself render anyone liable to proceedings. However, provisions of the Code are admissible in evidence and taken into account in proceedings before a court, where considered relevant. This Act does not impede the ability of employers to seek injunctions in these cases.

Rationale for intervention

232. Strike action is the lawful stoppage of work by workers (contingent on certain conditions being met), and is intended to temporarily disrupt firm output. The intended disruptions are caused by workers ceasing work for a pre-determined amount of time. These days, strike action is often accompanied by picketing or other forms of protest.

233. Unionised workers of most workplaces have the choice to participate in strikes and pickets, or to continue working. In the cases cited above (by the Carr Review, by respondents to the consultation, and by the media), it is alleged that workers who choose not to strike are at times harassed or intimidated by striking workers. These workers need to be protected from intimidation if they choose not to participate in industrial action.

Policy objectives

234. The Act introduces new requirements on unions when they are picketing during industrial action, with the objective of ensuring that picketing is lawful and peaceful. The guidelines in Section F of the Code of Conduct on Picketing were not legally binding. The Act enshrines some key provisions in legislation; thereby providing greater union accountability to ensure that those not wishing to participate in strike action can do so without fear of intimidation. It further ensures that the way picketing is conducted is consistent.

Policy options

235. The Act includes a provision inserting key aspects of Section F of the current Code into TULR(C)A, including the appointment by the union of a picketing supervisor who must be readily contactable by the union and police, and able to attend at short notice. The union must provide the supervisor with a letter of approval for the picketing activity, and the supervisor must be easily identifiable as the supervisor if in attendance at the picket. The supervisor must also be familiar with the Code on Picketing. Failure to comply with these new requirements means that employers could apply to the courts for an injunction and seek damages.

Monetised and non-monetised costs and benefits

Benefits to employers (non-monetised)

236. There will be a benefit to employers: an appointed picket supervisor will result in greater clarity for the employer when they need to contact the person responsible for the conduct of pickets and will improve union accountability. Where the union has failed to comply with the new requirements, the employer may be able to apply to the courts for an injunction though a court's ruling should take into account the impact on other rights, such as right to assemble and freedom of expression.

237. Whilst most picketing appears to be lawful and peaceful, the Carr review reports that some intimidation tactics had at times been used during pickets. The prevention of these incidents should have benefits for firm output during picketing action. This benefit has not been monetised in the impact assessment. This is due to a lack of reliable data available on how prevalent this behaviour is, or the impact of picketing on firm output; without which it is difficult to calculate any valid monetised benefit for this.

Benefits to non-striking workers and other individuals (non-monetised)

238. Submissions to the Carr Review also gave examples of workers allegedly being threatened where they refused to take part in strike action or crossed a picket line.

239. In response to the Government consultation on tackling intimidation of non-striking workers, 45% of respondents reported incidents of observed intimidatory behaviour either whilst on the picket line or more generally as a result of the strike action. Responses showed a range of different intimidatory behaviour experienced by non-striking and striking union members, non-union members and others. One union which canvassed its membership found that over half of its members had experienced such intimidation of its non-striking union members.

240. The requirement to appoint a picket supervisor, who is responsible for the conduct of the pickets should enable those who do wish to work to enter the workplace without fear of intimidation. This has also not been monetised due to the difficulty around quantifying increases in well-being.

Benefits to government (non-monetised)

241. It is also expected that the government should benefit due to the police receiving advance notice of the appointed picket supervisor. This will result in a clear contact person responsible for the conduct of pickets and improve union accountability. This may result in reduced costs as fewer police resources will be needed for policing workplaces and other sites during strike action. Again this benefit is not monetised in this impact assessment due to difficulties assessing the current cost of policing strike-sites and by how much this need would be reduced under the rules.

Minor costs to unions (non-monetised)

242. This measure makes certain elements of the Code a statutory obligation. Where unions already follow the Code, there will be no additional costs to them. Unions will be required to provide a letter of approval for the picketing activity to the picket supervisor and the supervisor must be easily recognised. It is not possible to robustly quantify the cost of providing the letter and making the supervisor easily recognisable for trade unions that are not currently doing this. The ONS collect information about strikes but not actual picket numbers.. As the current framework is a voluntary code there are no strong reasons to record information on compliance with the code so apportioning non-compliant unions is not possible. Both of these factors make it difficult to robustly quantify the population levels (number of pickets affected). Evidence from Trade Union stakeholders as part of the Government consultation process indicated a good

level of compliance with the current code. This suggests that additional costs associated to moving to a statutory code will be minimal. The current code requires all picket line members to identify themselves whereas the statutory code will only require the picket supervisor to identify themselves, in theory making the new code less costly. The letter issued will not be long in length and once issued by a union could be standardised for future use keeping the costs low. By way of illustration a single yellow jacket to make supervisors visible costs £1.99⁴³. This again indicates a low level of costs to make supervisors recognisable. In summary, it is not possible to quantify any additional costs to unions as a result of this but we would expect them to be very small.

Direct costs and benefits to business calculations

243. The only monetised impacts in this document are the familiarisation costs, which are accrued entirely by unions. The best estimate of one-off familiarisation costs is £548,000. This translates to an EANDCB of £0.1m at 2014 prices.

⁴³ http://www.amazon.co.uk/Blackrock-Mens-Hi-Vis-Waistcoat-XXXX-Large/dp/B0055RU27O/ref=pd_sbs_193_5?ie=UTF8&refRID=0QF2JBC2A90HNZKXTHNV&dpID=41YghP02rkL&dpSrc=sims&preST=_AC_UL200_SR146%2C200_

Option 1D - Political funds

Problem under consideration

244. Trade unions and unincorporated employer associations that have passed a political resolution are able to run political funds. The political fund can be used to finance party political activities or other political activity. Currently, when there has been a successful ballot on a political resolution, the union or employer association must write to each of its members setting out the rules of the political fund, and informing them that they can opt-out of the fund (and letting them know where an opt-out form can be obtained). Union or employer association members are also able to opt out of the political fund at any time.
245. However, if the union or employer association member does not actively notify the union that they do not wish to contribute to the fund, they will automatically contribute to the fund. The union or employer association will not have to remind them that they are contributing and have a right not to until the next ballot on the political resolution, which must happen every ten years.
246. Union or employer association members who are automatically opted-in to the political fund will make a contribution to this fund. This contribution can be taken as a proportion of their union subscription. This may mean that some members are contributing to a political fund that they do not actively support, due to a potential lack of awareness among members about their contribution to the fund (there is no statutory requirement for unions or employer associations to communicate with new members about contributing to the political fund, or existing members apart from in the three months following the political resolution ballot).
247. Currently, where trade unions and employer associations have a political fund they can be asked to provide information about their political expenditure by the Certification Officer. However, there is inconsistency between the information provided in union returns. Some unions provide few details of their political fund expenditure and simply categorise all political fund expenditure as connected to 'administration expenses in connection with political objects' or 'expenses in connection with section 82' of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A).

Background

248. Currently, TULR(C)A requires trade unions or employer associations with a political fund to hold a vote on the political resolution every ten years. The vote must be held via a secret postal ballot overseen by an independent scrutineer, with the electorate comprising the membership of the union. The union or employer association must send a copy of the scrutineer's report to all its members within three months of receipt of the report.
249. In Great Britain, members are automatically included as contributors to the political fund, unless they notify their union that they no longer wish to contribute. Unions and employer associations are obliged to make available statutory opt-out forms. There is currently no regular re-consultation of members on whether they wish to contribute to the fund or not. In Northern Ireland, union members have to actively opt-in to contribute to the political fund, though there is no requirement for unions or employer associations to regularly ask individual members whether they wish to contribute.

250. According to the Annual Report of the Certification Officer, 2015-16, there were 24 trade unions with political funds at the end of March 2016⁴⁴. The Certification Officer does not report that there are any employer associations with an existing political fund.

251. The Certification Officer's 2014-15 report showed that there were around 4,860,000 trade union members contributing to political funds, with 81% being in the six largest (on the basis of contributing members): Unison, Unite, GMB, USDAW, NUT and NASUWT. The report sets out that for the period 2014-15, the trade union political funds had an income of £24.5m, spent £20.7m, and at the end of the period there was £33.0m remaining in the funds including income gained in previous years.

Rationale for intervention

252. . As there is an automatic opt-in, this may mean that some members are contributing to a political fund that they do not actively support, due to a potential lack of awareness among members about their contribution to the fund (as noted above, unions are only required to communicate with existing members about contributing to the political fund every ten years, in the three months following the political resolution ballot). Unions with political funds are required to provide their political fund expenditure in their annual returns to the Certification Officer. As we have said, there is inconsistency as to the level of detail of information provided in union returns, with some unions providing little detail of their political fund expenditure. The lack of information may make it difficult for members to decide whether they support the political fund, and whether they wish to contribute.

Policy objectives

253. This measure will ensure that the process of members contributing to a political fund becomes more transparent. Individuals joining trade unions with existing political funds have to actively opt-in to contribute. They will be informed of their option to contribute to the political fund in their membership form, and of their right to opt out without prejudice, and the union must inform them each year of the right to opt-out of contributing. Unions setting up political funds subsequent to the policy being in place will require all members, including new members, to actively opt-in to contributing. These unions will also have to inform members each year of their right to opt-out. .

254. To ensure unions meet a minimum level of transparency on the use of political funds and to reduce the information deficit on how trade unions and employer associations make use of the political funds, we will require unions and employer associations spending more than £2,000 per year on political expenditure to report in greater detail on how the funds are spent.

Policy options

255. Provisions in the Act set out that:

- There will be a transition period of at least 12 months from the day in which the political fund reforms come into force (which will be set out in statutory regulations by the Secretary of State for Business, Innovation and Skills) within which the unions can prepare for the changes, which will apply once the transition period has ended.
- Unions that have a political fund at the end of the transition period will be required to:

⁴⁴ Certification Officer, Annual Report 2015-16, p37. This is the most up-to-date figure presented on the number of unions with political funds. Primarily, the report provides information for 2014/15 based on trade unions' annual returns received in 2015/16. Most returns refer to a period with end date 31st December 2014.

- i. Have a notice from members joining after the transition period that they are willing to contribute to the political fund (this can be delivered personally, by an authorised agent or by post, e-mail or other electronic means (including via electronic forms) to the union head office) in order to take contributions from these individuals.
 - ii. Take reasonable steps to notify each year (no longer than 8 weeks after filing the union's annual return with the Certification Officer) all members who have joined after the transition period that they have a right to submit a notice withdrawing from contributing to the political fund. This notification can be via a communication that unions use to provide information of general interest to its members. The union must provide the Certification Officer a copy of this notification.
- Unions that set up a political fund after the transition period has ended would be required to have a notice expressing a willingness to contribute from all members who contribute to the political fund. They would also be required to notify all union members each year of their right to submit a notice withdrawing from contributing to the political fund.
 - All unions with a political fund would be required to include on membership forms:
 - i. A statement that the person may opt to be a contributor to the political fund, and
 - ii. a statement setting out that they would be able to opt-out of contributing without prejudice (in other words, they would not lose out on any of the benefits of the union, and would not be placed at any disadvantage relative to other members if they chose to opt-out).
 - A member can opt-out by giving notice of withdrawal at any point. This opting out will take effect one month after the notice of withdrawal is given.

256. The Act also introduces more detailed reporting of political fund expenditure. Where a trade union spends more than £2,000⁴⁵ from its political fund in a year, it will need to set out in its annual return to the Certification Officer details of who the money is paid to, the amount paid and the nature of the expenditure. The nature of the spend is to be described by reference to the six categories of spending set out in the existing provisions of TULR(C)A (section 72(1)), or expenditure for campaigns that fall outside of the categories in section 72(1). The categories in section 72(1) relate to money for:

- a. Contributions to the funds of a political party (including payments of expenses incurred),
- b. Provision of any service or property for use by or on behalf of a political party,
- c. The registration of electors, the candidature of a person or the selection of a candidate (including the costs of ballots held by unions) for political office,
- d. The maintenance of any holder of political office,
- e. The holding of any conference or meeting by or on behalf of a political party or any meeting the main purpose of which is business connected with a political party,
- f. On the production, publication or distribution of any literature, document or film etc with the main purpose of persuading people to vote or not to vote for a political party or candidate.

⁴⁵ Companies which make political donations or political expenditure exceeding £2,000 in a financial year must provide details of the political donation or expenditure in their Director's Report.

257. The particular reporting requirements are as follows:

- For section 72(1) a), b) or e), unions will need to report the name of each political party in relation to which money was spent and the total amount spent for each political party.
- For section 72(1) c), unions must provide information for each election to a political office for which money was spent – so for example, the election for the London Mayor 2016. In relation to each election unions must provide the name of each political party to which money was paid and the total amount paid to each one; the name of each organisation (if not a political party) to which money was paid and the total amount paid to each one; the name of each candidate in relation to whom money was spent and the total amount spent on each candidate. Details must also be given of all other spending incurred. If details of spending on candidates have been covered by explaining the amount of money paid to a political party, then it does not need to be covered again. Further, where money is spent on candidates in general or of a particular party – then the union need only apply the name of the party and not the names of each candidate (see section 12(4)(iii) of the Act).
- For section 72(1) d), unions must provide the name and the total amount spent in relation to each holder of a political office on whose maintenance money was spent.
- For section 72(1) f), unions must provide the name of each organisation to which money was paid and the total amount paid to each organisation, the name of each political party or candidate that the union was trying to persuade people to vote for or against and the total amount spent in relation to each political party or candidate that the union was trying to persuade people to vote for or against.
- For political fund expenditure outside the section 72(1) categories, unions must report the nature of each cause or campaign for which money was spent and the total amount spent on each cause or campaign; the name of each organisation to which money was paid and the total amount paid to each organisation, and the total amount of all other expenditure.

258. These reforms were revised from those contained in the Trade Union Bill at the time that the Trade Union Bill impact Assessment was published.

Transition period

259. The Government has proposed a twelve month transition period for the political fund reforms.

This time period has been selected in order to ensure that the increased transparency resulting from the reforms to political funds are commenced as soon as allowed under the Act, while providing unions with adequate time to carry out the transitional work required. BEIS conducted an informal consultation with unions with political funds, the TUC and the Certification Officer, asking what technical, administrative and other factors needed to be taken into consideration when determining an appropriate transition period. Responses were received from fourteen unions, the TUC and the Certification Officer. Evidence from unions indicated that Rule Book changes generally involved the need for approval at annual conferences or rule book changing conferences. . Seven of the unions responding to the consultation demonstrated that they would not be able to make the rule book changes under their normal democratic processes under a twelve month transition period, and would require a special conference to approve the changes.

260. One union indicated that the cost of running a conference would be around £60,000, plus the costs of travel, accommodation and loss of wages for delegates. Based on responses to the consultation, we assume that the special conferences would be of one-day's duration. We estimate that the cost of travel is around £50. This is based on the average between the cost of travelling between London and Birmingham and Newcastle and Birmingham after 6pm, and the

cost of returning the following day at a similar time – with total respective costs of £24 and £75⁴⁶. We estimate that the cost of one night’s accommodation is around £40, based on it being possible to book accommodation in Birmingham at a well-known hotel chain for less than £40 over a month in advance⁴⁷. There are alternative locations for conferences that may result in higher or lower travel and accommodation costs; we have used Birmingham as an example because it is relatively central in the UK. For loss of earnings, we take the average median hourly earnings excluding overtime for all employees (using ASHE 2015) at £11.72, and multiply by 8 to cover a full working day. This comes to £93.76. The total cost per delegate is around £184. We assume around 1,000 delegates on average for the special conferences – based on the number that the third largest union of the seven in terms of membership have at their annual conference: while larger unions may have conferences with more delegates, smaller unions are likely to have fewer (or a similar number) of delegates. Multiplying the £184 by 1,000, we get a total of £184,000. Adding in the £60,000, we get an estimate for the cost of a special conference of £244,000. Multiplied by 7 to account for the unions needing a special conference, we get an estimated one-off transition cost of the 12 month transition period of £1,708,000.

Monetised and non-monetised costs and benefits

Transition costs

261. The transition costs relating to the proposed change to the operation of political funds affecting trade unions are set out in the section on transition costs that covers all aspects of the Act.

Ongoing Costs and benefits

Cost to trade unions of asking members to opt-in

262. Over the past decade or so there has been some change in the number of unions with political funds. The Certification Officer’s report for 2003/04 shows that there were 33 trade unions with political funds, compared to 24 as at 31st March 2016⁴⁸. Some of this change has been due to previous mergers (such as the merger of Amicus and TGWU to form Unite in 2007, and GMB and Unity in 2015). Some unions have also set up new political funds during this period, while others have closed their political funds. However, we have assumed that the unions currently with political funds will maintain their political funds throughout the period covered by the impact assessment, and that no new political funds will be set up – as it is not feasible to predict any changes in which unions will have political funds.

263. Our estimates are therefore based on the information on existing political funds as set out in the table below. The estimates only reflect the cost to unions of getting individuals joining after the transition period to provide a notice to agree to contribute to the political fund, as we are not taking account of unions setting up new political funds after the transition period. Unions

⁴⁶ This is based on using the trainline.com website, and looking at prices booking more than a month ahead, that is for 25th January on the 5th December.

⁴⁷ Using booking.com.

⁴⁸ Certification Officer, Annual Reports 2003-04 and 2015-16.

setting up new political funds would need to get opt-in notices from all members agreeing to opt-in, but the income from these funds would be in addition to that raised by the existing funds.

Table 25. Trade unions with political funds as at 31st March 2016, and number of members contributing or not contributing (including those exempt), figures for 2014-15

trade union	number of members contributing to a political fund	number of members not contributing to a political fund	Of which number of members exempt from contributing to political fund
Associated Society of Locomotive Engineers and Firemen	17,495	2,869	631
Association of Revenue and Customs	1,877	533	533
Bakers Food and Allied Workers Union	19,134	1,095	0
Broadcasting Entertainment Cinematograph and Theatre Union	24,093	660	185
Communication Workers Union	164,823	32,639	22,589
Community	22,594	4,672	4,075
Educational Institute of Scotland	43,926	10,419	7,948
Fire Brigades Union	30,945	6,920	5,929
GMB (figures include data for Unity)	606,321	23,320	23,267
Musicians Union	25,778	5,029	3,932
National Association of Schoolmasters Union of Woman Teachers	236,508	93,977	1
National Union of Mineworkers	1,220	75	47
National Union of Rail Maritime and Transport Workers	73,563	8,715	240
National Union of Teachers	330,391	45,817	1,998
POA	26,268	4,004	4,004
Prospect	101,400	13,858	2,872
Public and Commercial Services Union	213,359	17,964	429
Society of Radiographers	figures not available		
Transport Salaried Staffs Association	19,442	1,229	1,064
Union of Construction, Allied Trades and Technicians	41,800	19,429	11,823
Union of Shop Distributive and Allied Workers	414,284	20,338	20,338
UNISON: The Public Service Union	1,184,458	85,790	7,762
Unite the Union	1,166,538	239,300	75,851
University and College Union	93,167	12,280	9,574
Total	4,815,458	640,513	197,144

264. Trade unions that have a political fund at the end of the transition period will need to obtain notice from individuals joining subsequently that they are willing to contribute to the political fund. As these unions are also required to amend their membership forms to state that individuals joining can opt-in to contributing to the fund, we assume that this notice will be obtained via the membership forms, at the time when the individual joins the union. Existing

members who contribute to the fund will continue to contribute to the fund, unless they give notice to the union that they wish to be exempt from contributing.

265. We do not estimate any ongoing costs to trade unions arising from this process. As discussed above, we expect unions to update their IT systems during the transition process, and revise their membership forms. As the notice will be obtained through the process of joining the union, no additional processes in addition to that which registers new members will need to be set up. The allocation of people in unions' membership data as contributors or non-contributors to the political fund when they join should therefore continue to operate as part of the administrative process of registering a new member. The adapted membership systems that unions will have in place will facilitate this process. As almost all unions with political funds currently have members who have opted-out of contributing to the political fund, they would already be required to ensure that these members pay a lower subscription, or get a proportion of their subscription refunded. Unions will, however, have to make sure that only those who provide notice of a willingness to contribute are opted-in.

266. Members who join after the transition period will be able to opt-in to the political fund at a later stage if they don't choose to opt-in when they join. However, we would expect that the rate of this occurring would be similar to the current rate of individuals choosing to change from opt-in to opt-out or vice versa, and would be absorbed into the normal administrative activity of the unions.

Cost to trade unions of providing new members with their annual reminder of their right to opt-out

267. Unions with a political fund at the end of the transition period will need to notify all new members on an annual basis of their right to opt-out of contributing to the political fund. They will need to do this within 8 weeks of the submission of their annual return to the Certification Officer. They can do this by including the notification in a publication of the union if this is in line with its practice when providing information of general interest to its members. Specifically, unions would be able to include the notification in the statement to members following the annual return, which TULR(C)A requires unions to send every year.

268. As noted above in the familiarisation section, the Certification Officer guidance already provides a model notice for union members about their right to opt-out. It is expected that the Certification Office will update this guidance to reflect the Act. Therefore, unions will face a minimal cost of placing this notice in an existing publication such as the statement to members following the annual return.

269. Currently under TULR(C)A, following a successful political fund resolution ballot or political fund review ballot, as soon as is practicable unions must give notice to each of their members informing them of their right to be exempt from contributing to the political fund, and where they can obtain an exemption form⁴⁹. They can publish this notice to members by such methods as are used to publish notices of importance to members⁵⁰. This is similar to the approach unions could take when providing members with an annual notice of their right to exempt themselves from contributing to the political fund. To see if these notices following a review ballot have much impact on the number of exemptions, we have considered the numbers of exemptions from unions who have conducted review ballots in 2013 or in the first nine months of 2014 (which are likely to have provided the notice early enough for any impact on exemptions to be

⁴⁹ Certification Office, Political Funds: a guide to review ballots, January 2016, p8.

⁵⁰ Certification Office, Political Funds: a guide for trade unions and employer associations wishing to establish a political fund, January 2016, p10.

reflected in their end year figures). While there may be other factors, such as membership flows, which will affect the numbers, overall they suggest that currently the provision to members of a notice of their right to opt-out does not generate many new exemption notices.

Table 26. Change in numbers of members exempting themselves from contributing to political funds, during the period in which they were notified of the right to opt-out

		<u>Members exempt from contributing</u>					
		End of 2014		End of 2013		<u>difference</u>	
Political Fund	<u>review Ballot</u>	<u>number</u>	<u>membership</u>	<u>number</u>	<u>membership</u>	<u>number</u>	<u>membership</u>
			% of		% of		% of
ASLEF	Jul-2014	631	3.1%	585	3.0%	46	0.2%
BFAWU	Mar-2014	0	0.0%	0	0.0%	0	0.0%
BECTU	May-2014	185	0.7%	146	0.6%	39	0.2%
GMB (includes figures for Unity)	Aug-2014	23,267	3.7%	23,997	3.9%	-730	-0.1%
Musicians Union	Spring 2014	3,932	12.8%	3932	12.8%	0	0.0%
TSSA	Sep-2014	1,064	5.1%	1,119	5.2%	-55	-0.3%
		End of 2013		End of 2012		<u>difference</u>	
		<u>number</u>	<u>membership</u>	<u>number</u>	<u>membership</u>	<u>number</u>	<u>membership</u>
			% of		% of		% of
USDAW	Sep-2013	19,818	4.6%	19,553	4.6%	265	0.1%
Unite	May-2013	39,466	2.8%	53,776	3.8%	-14,310	-1.0%

270. Two factors may be important in explaining the minimal change in numbers exempted from contributing. Firstly, unions with political funds argue that members are broadly aware that unions are involved in political campaigning, see it as part of the union's normal activity and support the fact that unions are involved in this campaigning. While not being necessarily actively involved, they are content to have a small proportion of their subscription taken to contribute to this funding⁵¹. Secondly, inertia is likely to play a part. As explained by Lord O'Donnell and David Halpern of the Behavioural Insights Team, this is where individuals, even when aware of different options, choose to do nothing, or stick with the default⁵². The latest data for the end of 2014 suggests that around 12% of members of unions with political funds don't contribute to the political funds, with around 4% having opted-out of contributing⁵³.

271. We expect these factors to contribute to there being minimal change when unions send out their annual notice to new members about their right to opt-out. This would mean that unions would not face a substantial change to their administrative activity each time the notice was sent out, and any additional notices to opt-out would be subsumed into normal administrative

⁵¹ House of Lords, Trade Union Political Funds and Political Party Funding Committee Oral and Written Evidence, February 2016, p 4-5, p123-125,p134, p240, p354

⁵² House of Lords, Trade Union Political Funds and Political Party Funding Committee Oral and Written Evidence, February 2016, p 157-159

⁵³ Certification Officer, Annual Report of the Certification Officer, 2015-16, July 2016

activity. Therefore we are not estimating that unions will face additional administrative costs from this measure.

272. It should be noted that unions with political funds at the end of the transition period would only have to provide an annual notice of their right to opt-out to members joining after the transmission period has ended. If unions choose to do this, this may involve the development of a new communication to these members. Alternatively, unions could use information on their adapted IT membership systems to create a distribution list of just new members⁵⁴. This could enable unions to send a version of an existing publication containing the notice to be sent to new members only at minimal cost. Alternatively, the legislation could be complied with by including the notice as part of a regular publication to all members.
273. Also, the Act will enable members to opt-out using electronic communication. This could weaken slightly the inertia effect by making it easier for individuals to opt-out. However, if members of unions with political funds are broadly content that the union's political campaigning is done in their interest, and therefore they are happy with the status quo of contributing a small amount of their subscription to the political funds, as unions argue, then the risk is relatively small. Dr David Halpern of the Behavioural Insights Team emphasises the "overwhelming force of the default"⁵⁵, implying that those members who choose to opt out will be strongly motivated to do so.
274. Evidence presented by unions to the House of Lords Committee on Trade Union Political Funds and Party Political Funding indicates that trade unions already ask prospective members if they wish to contribute to the political fund as part of the joining process. Both USDAW and the FBU stated that new members join at face-to-face meetings when the option to opt-out of contributing to the political fund is clearly presented⁵⁶. They make the point that recruitment of union members often happens face-to-face in the workplace. NASUWT also state that prospective members are sent a membership form which sets out the costs of joining if choosing to contribute or if choosing to opt-out, making the options "very clear". If online recruitment is used, then the Educational Institute of Scotland (EIS), and the Association of Revenue and Customs (ARC) include the choice of opting in or out on the online joining form.

Ongoing, annual cost of additional reporting requirements

275. Trade unions with political funds will be required to provide a more detailed breakdown of expenditure from their political fund if they spend more than £2,000 in the reporting year. The latest published data shows that all unions with a political fund have the resources to spend more than £2,000 from their political fund, although the Association of Revenue and Customs did not do so in 2014. As we cannot anticipate the years in which unions will not spend more than £2,000 from their political fund, we assume that all unions with a political fund will spend more than £2,000 each year.
276. We have assumed that the staff producing the return to the Certification Officer will familiarise themselves with the new reporting requirements. This should help them in allocating items of expenditure in the accounts to the various specified categories to be reported on when

⁵⁴ Responses to an informal consultation on the political fund legislation suggests that unions would expect their adapted systems to include this information.

⁵⁵ ⁵⁵ House of Lords, Trade Union Political Funds and Political Party Funding Committee Oral and Written Evidence, February 2016, p163.

⁵⁶ House of Lords, Trade Union Political Funds and Political Party Funding Committee Oral and Written Evidence, February 2016, p119 and p121.

compiling the return. As, with the estimated familiarisation costs, we make use of the evidence provided by USDAW to the House of Lords Committee on Party Funding. This suggests that completion of the annual reporting of political funding expenditure at the detailed level will take two weeks of a senior official's time⁵⁷. USDAW argues that this is required in order to accurately collate the level of information required. A senior official's involvement is necessary as the annual return is subject to scrutiny by the Certification Officer, which could mean that inadvertently misreporting the expenditure runs the risk of 'financial and reputational damage'⁵⁸. Although, there has been some reduction in the level required since the Act passed through the House of Lords, the annual returns will still have to report on political fund expenditure in some detail, so that there is a clear record of causes and organisations that benefit from the political fund expenditure.

277. As with the familiarisation costs, to get the annual costs per union we take the median hourly labour cost for an union director (based on ASHE 2015 wages for functional managers and directors updated by 20.2% to take account of non-wage labour costs) and then multiply by 80 to reflect the hours in a two working weeks (8 hours a day for 5 days a week). To get the total annual costs of the additional reporting, we multiply by 24, the number of unions with a political fund.

Table 27: Annual cost of complying with additional reporting requirements

Input	Cost estimates (2014)
Median hourly wage excluding overtime, for functional managers and directors	£28.49
Hourly labour cost	£34.13
Cost per union of providing additional detail of political expenditure in annual returns	£2,730
Total cost for unions of complying with reporting requirements (to nearest £000)	£66,000

Benefits from political fund reforms

278. The increased transparency resulting from the greater information on political fund expenditure made available and the clarity that the political funds are supported by contributing members whose agreement to contribute is relatively current (based on having received an annual notice of their right to exempt themselves from contributing), will provide a clearer mandate for political fund activity. This should benefit unions and union members, and provide clarity for the general public. We have not attempted to monetise this benefit.

⁵⁷ House of Lords, Trade Union Political Funds and Political Party Funding Committee Oral and Written Evidence, February 2016, p353.

⁵⁸ House of Lords, Trade Union Political Funds and Political Party Funding Committee Oral and Written Evidence, February 2016, p353.

Political fund income

279. As set out in section 72 of TULR(C)A, political funds can be used to finance party political activities or other political activity. Most unions don't have a political fund: According to the latest (2015-16) Annual Report of the Certification Officer, there were 158 trade unions as at 31 March 2016, of which 24 had political funds. While ten of the 13 largest unions (each with over 100,000 members) have political funds, three do not: the Royal College of Nursing, the Association of Teachers and Lecturers and the British Medical Association. Overall, unions have access to funds of around £1.1 billion: political funds are the equivalent of around 3% of total funds. Based on figures from the Certification Officer's report, in 2014-15 there were 4,859,578 contributing members, with total political fund income for the year of £24,546,834. Therefore, the average annual contribution per member to political funds is around £5 a year.
280. The political fund is a fund to which members opting-in contribute a small amount (usually a part of their union subscription which opted-out members are exempt from) so that their union can collectively carry out political expenditure on their members' behalf. Members are able to choose through the union's democratic procedures what the fund is spent on. If union members contribute then they are allowing a small amount of their income to be available for such collective expenditure. Normally, the political fund contribution will be a small proportion of the usual subscription amount. If a union member opts-out of contributing, then they have decided to re-allocate their expenditure from collective political spend carried out in their interests and be refunded (or retain the contribution), allowing them to spend it elsewhere as they choose. For unions with an existing political fund, the reforms move to a system of automatic opt-out for members joining after the end of the transition period, though it is likely that unions will present new members with a choice of opting-in or out when they join. For unions setting up a new political fund after the end of the transition period, all members will have to actively opt-in if they want to contribute to the fund. Annual notices to members (or new members for unions with existing funds) will ensure greater awareness among contributing union members that they are contributing, and that they have the right to opt-out if they wish. This should improve the allocative efficiency of the members' choice. The increased reporting of the detail of political fund expenditure will provide members with more information about how the political fund is spent, to help them decide whether they agree that the spending represents their interest. This should rule out the potential for contributing members being unaware that they are contributing, a possibility under the current automatic opt-in system.
281. It is not clear what impact the political fund reforms will have on political fund income. Some of the evidence presented to the House of Lords Committee on Trade Union Political Funds and Party Political Funding indicated that the proposed political fund reforms at that time would severely impact on political fund income⁵⁹. This was due to the need to specifically get a written notice from members opting-in to contributing to the fund. This would have relied on getting individual members to post back this written notice within a three month window, and unions and others argued that inertia would lead to a low response from members, Unions noted that response to mail-outs were generally low, and it was this inertia effect rather than a lack support among members for the unions' political campaigning that in their view would lead to a significantly fall in income.
282. However, the political fund reforms contained in the Act are substantially different. For unions with political funds at the end of the transition period, only new members joining after the

⁵⁹ House of Lords, Trade Union Political Funds and Political Party Funding Committee Oral and Written Evidence, February 2016, p5, p61, p119

transition period would have to opt-in. Unions would also have to inform these new members every year, potentially as part of an existing communication, of their right to opt-out.

283. The proportion of existing members contributing to the political funds should not be affected by the Act. This because the Act does not require any changes to the process of contributing to political funds for these members. Therefore, uncertainty around the impact of the Act relates to the extent to which new members joining after the transition period has ended will opt-in to contributing, and choose to remain opted-in.

284. As unions will be required to provide the option of opting-in on their membership forms, individuals joining the union will make the decision to opt-in or out as part of the process of completing the membership form. This will remove the issue of inertia. Unions will also be able to make the case for contributing to the political fund at recruitment meetings, and on the membership forms. It also seems likely that individuals joining the union will have a supportive viewpoint. In their evidence to the House of Lords Committee, unions said that broadly members did want their union to campaign politically in their interests⁶⁰. Therefore if unions make the case for the benefits deriving from their political campaigning, it seems plausible that a high proportion of new members would opt-in to contribute. This is especially so as the political fund contribution is a very small proportion of overall subscription fees – on average around £5 a year (based on data for 2014-15). As noted above, some unions already ask those joining whether they wish to contribute to the political fund and these all have relatively high proportions contributing, for instance USDAW at 95% of members, the FBU at 82%, the EIS at 81% and the ARC at 78%. Therefore, it isn't clear that requiring an opt-in from new members, when it can be provided as part of the joining process, will necessarily have a negative impact on the proportions contributing. It will depend on the unions' abilities to persuade these individuals that their political campaigning is beneficial.

285. As discussed above, the evidence suggests that it is unlikely that providing members who join after the transition period with an annual notice of their right to opt-out without detriment will have much impact on the proportions of members contributing.

286. It is not clear what the rate of churn of union membership is for each of the unions with political funds. However, USDAW states that it has a relatively high membership turnover of 20% a year⁶¹, and maintains a high proportion of contributing members. This suggests that potentially a high rate of churn in union membership will not lead to a substantial fall in proportions contributing to political funds under the Act.

287. Given the lack of certainty over the impact of the Act on the proportions contributing to political funds, and the relatively high contributing rates for unions that do make the opt-out option clear to individuals joining the union, our central estimate is that there will be no change in the proportion of members contributing to the political funds.

288. However, we have conducted some sensitivity testing examining the impact of changes to the proportions contributing to political funds. These consider what would happen if the proportion contributing rose to 95%, or fell to 85%, 80% or 75% of union members in unions with political funds. These proportions are broadly in the range of the contributing rates for those unions listed above which make the opt-out option clear to joiners. If there is a fall in political fund income, although it would not directly affect the funding of the activities of the

⁶⁰ House of Lords, Trade Union Political Funds and Political Party Funding Committee Oral and Written Evidence, February 2016, p5, p61, p123,

⁶¹ ⁶¹ House of Lords, Trade Union Political Funds and Political Party Funding Committee Oral and Written Evidence, February 2016, p132.

union in terms of representing members in workplaces, it could have an indirect impact in terms of, for example, wider influence that unions as organisations may have.

289. We can't precisely estimate changes in the total amount currently contributed to political funds if the proportion contributing changes. The amount contributed is a function both of the level of contribution set by individual unions, and the proportion contributing for individual unions. However, we estimate potential changes to the overall level of contributions, based on broad averages, for the scenarios indicated above.

Table 28: Sensitivity testing: Estimated changes to political fund income based on scenarios of changed proportions contributing to the funds

Percentage contributing	<u>75%</u>	<u>80%</u>	<u>85%</u>	<u>95%</u>
Estimated annual political fund income	£20,877,000	£22,269,000	£23,661,000	£26,444,000
Difference from 2013-14 amount	-£3,670,000	-£2,278,000	-£886,000	£1,897,000

290. Unions and their members decide how to spend their political fund income. Evidence from the Certification Officer Annual Reports suggests that in recent years political fund expenditure has generally been lower than income (by at least £3.9 million each year in the four years up to 2014-15. Although the data indicates that in General Election years this may be reversed, with fund expenditure higher than income, overall over a five-year period the level of political fund resources (fund at the end of the year) rises. It is therefore not clear that even if the reforms in the Act led to a fall in political fund income (as long as the fall was in the region of the sensitivity testing) that there would be an impact on political fund expenditure.

Table 29: Political fund income and expenditure 2009-10 to 2014-15

	Political fund income (£ m)	political fund expenditure (£ m)	political fund difference (£ m)	Fund at end of year (£m)
2009-10	22.0	17.8	4.2	18.7
2010-11	22.8	26.5	-3.7	14.6
2011-12	21.9	17.8	4.1	18.7
2012-13	24.1	17.8	6.3	25.0
2013-14	24.0	19.9	4.1	29.1
2014-15	24.5	20.7	3.9	33.0

Risks and assumptions

291. We have made a number of assumptions which we discuss below, considering potential risks to the impacts set out.

292. We assume that unions will use existing communications to members to provide the annual notice about members' rights to exempt themselves from contributing to the fund. This option presents negligible cost to unions, who would just have to add the pre-prepared notice to the communication. However, unions with existing political funds at the end of the transition period would only have to provide a notice to members who joined after the transition period. To do this may involve some administrative cost in setting up a new communication, or in distributing different versions of a communication to different groups of members.

293. We assume that the 24 unions who have political funds continue to remain as separate unions and continue to have a political fund. We have also assumed that no trade union sets up a new political fund. As noted above, over the past ten years, some unions with political funds have amalgamated, reducing the number of unions with political funds. There has also been some closure of political funds, as well as the setting up of some new ones. Given the different composition of unions, in terms of membership size and composition of membership, it would not be feasible to predict any amalgamations, or political fund closures or start-ups. If a union chooses to set up a political fund after the transition period, then it would have to get an active opt-in to contributing from all members, but all of the political fund income would be additional to that currently available. Historic data suggests that, despite changes in the number of political funds, the number of members contributing has remained relatively stable. For instance, between 2005/06 and 2011/12 the numbers contributing were similar in many of the years at around 4.4 million (though occasionally the numbers contributing fluctuated away from this level).

294. We assume, based on evidence of numbers opting-out following receiving a notice of their right to opt-out (following political fund review ballots), that the annual notice of the right to opt-out will have little impact. Possibly the ability to opt-out using electronic communication may increase this effect, but we have no evidence to suggest that it would.

Direct costs and benefits to business calculations

295. Transition costs to trade unions have been detailed in the related section above, and the costs resulting from the one-year transition period are £1.7 million.

296. Ongoing costs to trade unions of the policy proposal are the cost of reporting detailed political fund expenditure in their annual returns to the Certification Officer, estimated at £0.07 million a year.

297. The equivalent annual net cost to business is estimated at £0.2 million.

Table 30: Summary of costs related to the political fund reforms

Transition costs

Costs of time spent on familiarisation	£50,000
Cost of external legal advice on reforms	£68,000
Cost of time spent on Rule Book changes	£67,000
Cost of legal advice for Rule Book changes	£92,000
Cost of familiarisation with additional reporting requirements	£33,000
Cost of amending membership form and adapting IT systems	£631,000
Cost of additional administration in the transition period	£351,000
Cost of special conference due to transition period	£1,708,000

Annual cost

Cost of reporting more detailed political fund expenditure	£66,000
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Option 1E – Reforms to the role of the Certification Officer

Problem under consideration

298. The Trade Union Act is modernising and reforming trade union law. Therefore, we will need a regulator that has the right tools to incentivise compliance with this updated framework, and in a proportionate manner. It is only fair that trade union members, employers and the public can rely on responsible and diligent regulation of trade unions.
299. Running the office of the Certification Officer, required to ensure that trade unions and employer associations comply with relevant regulation, currently falls to the Exchequer. However, the economy is still in a period of financial restraint. Public sector net borrowing (excluding public sector banks) peaked at 10.3 per cent of GDP (£154.8 billion) in 2009-10 as the late 2000s recession and financial crisis dealt the public finances a significant blow. Fiscal consolidation and economic recovery then reduced the deficit to 4.0 per cent of GDP (£74.9 billion) by 2015-16⁶².

Rationale for intervention

300. The actions of unions can have wider impacts beyond their membership and their operations may not always be transparent to the wider public. The Certification Officer is responsible for ensuring that trade unions and employer associations abide by statutory requirements, primarily in relation to governance, under the UK's trade union law. The regulator must have available sufficiently robust enforcement powers and sanctions to deter breaches. At present there is scope to broaden the powers and sanctions available to the Certification Officer.
301. The Trade Union Act is modernising and reforming trade union law. Therefore, we will need a regulator that has the right tools to deter breaches with this updated framework, and in a proportionate manner. It is only fair that trade union members, employers and the public can rely on responsible and diligent regulation of trade unions.
302. The Act provides for partial recovery of the costs of running the regulator. The levy will be applied to trade unions and employer associations as the Government does not believe that taxpayers should continue to fully fund the regulation of these organisations, particularly at a time of ongoing financial constraint. There are other examples of where regulators use a levy to recover their costs. The Pensions Regulator operates a general levy which is based on the total number of members in the scheme at the end of the scheme year before last. The levy is in place to cover the cost of running the Pensions Regulator, the Pensions Ombudsman and the Pensions Advisory Service⁶³. The Prudential Regulation Authority is responsible for the prudential regulation and supervision of around 1,700 banks, building societies, credit unions, insurers and major investment firms and makes use of regulatory fees and levies. Another example is the levy that is imposed on supermarkets by the Grocery Code Adjudicator, which is the new independent adjudicator that oversees the relationship between supermarkets and their suppliers.

⁶² ONS, Public Sector Finances: May 2016, June 2016
<https://www.ons.gov.uk/economy/governmentpublicsectorandtaxes/publicsectorfinance/bulletins/publicsectorfinances/may16>

⁶³ The Pensions Regulator, Levy, <http://www.thepensionsregulator.gov.uk/trustees/levy.aspx>
[Accessed 6th July 2016]

Policy objectives

303. The Act enhances the role of the Certification Officer to ensure responsible and diligent regulation of trade unions. To ensure greater union compliance the Act gives the CO more powerful sanctions and extends the CO's powers to investigate. In this time of financial constraint, the Government also believes that unions and employer associations, and not the taxpayer, should pay towards the running costs of regulation by the Certification Officer. A levy to partially recover the costs of the CO is included in the Act.

Policy options

304. Provisions included in the Act widen the Certification Officer's powers of investigation to enable the Certification Officer to proactively investigate suspected breaches of existing statutory requirements in relation to particular areas (see below). The Certification Officer will have power to appoint an inspector, require documents and an explanation of these. He will be able to investigate of his own volition, or in response to information and concerns raised by 3rd parties. He can currently investigate suspected breaches if he receives a complaint from individuals within certain groups, such as trade union members, so the widening of powers does not impose any additional compliance cost on unions. However, there are tests that need to be met: primarily the Certification Officer can only require documents if there is good cause to do so and can only investigate where he has reasonable grounds to suspect that a union could be in breach of a statutory duty. The particular areas currently covered are:

- political fund rules,
- political fund ballots,
- expenditure of money on political objects (activities),
- union mergers,
- union internal leadership elections,
- ensuring that trade union membership registers are up to date so far as is reasonably practicable,
- appointing or failing to remove from a union office a person who has been convicted of certain financial offences.

305. The Act provides for the Certification Officer to be able to impose, for the first time, financial penalties. Where the Certification Officer is able to issue enforcement orders, the Act provisions will enable the imposition of financial penalties or conditional financial penalties. The latter will require that a particular action be taken within a certain timescale, otherwise a financial penalty will be imposed. The maximum variable financial penalty will be £20,000 and the minimum £200. The Act provisions provide the Secretary of State with the power to make affirmative regulations covering:

- discounts for early payment,
- further penalties for late payment and interest on penalties,
- provisions for collecting outstanding financial penalties, and
- separate fine regimes by size of unions and type of obligation -breached (a penalty maximum will be set below the £20,000 threshold for many breaches). The Government will set out more detail in consultation.

306. The Act also provides the Certification Officer with new enforcement powers, including the power to apply financial penalties, in two areas where new requirements on trade unions are being imposed by the Act:

- increased reporting requirements in relation to political fund expenditure,
- new reporting requirements on industrial action ballot mandates. Unions will be required to provide details over the past year of all industrial action ballots undertaken and their outcome, including whether they meet the new thresholds.

307. The Act provides for the Secretary of State to be given a power to make affirmative regulations to provide for trade unions and employer associations to pay for the partial recovery of the costs of running the Certification Office (it should be noted that the Government has made a commitment to propose in the consultation that this will not include the cost of external inspectors⁶⁴). The Act includes a requirement for the Secretary of State to consult trade unions and employer associations and Acas before making regulations on the levy. The Act also limits the fees to partial cost recovery, and provide that the membership size or income of trade unions and employer associations, and whether the organisations are federated or not, may be taken into account when the fees are calculated. Failure to pay the levy would be recovered as a debt, with additional surcharges for late payment. The Certification Officer will be required to report annually to Parliament on income received from the levy and on his expenditure. Following consultation a more detailed assessment of the levy can be conducted. This impact assessment focuses on the aggregate impact whereas post consultation an assessment of how the levy will affect an individual union or employer association can be made.

308. Appeals against financial penalties and against enforcement orders where we are increasing the Certification Officer's remit will be to the Employment Appeals Tribunal, as now in relation to the Certification Officer's current enforcement orders. The Act will allow appeals to be made on questions of fact as well as questions of law.

Monetised and non-monetised costs and benefits

Cost to trade unions of additional investigations

309. The additional powers that the Act provides to the Certification Officer mean that there is likely to be additional investigations into how trade unions have complied with the law. This is because the Certification Officer will have the power to investigate pro-actively when there are reasonable grounds for suspecting that a union has potentially breached a statutory duty, and because the areas covered by the Certification Officer have been extended slightly. As it is primarily union members who will be aware of situations where unions may have failed to abide by the relevant regulations, it remains likely that the majority of investigations will still be driven by members' complaints. Therefore, in line with the approach taken to estimate the increased number of declarations used in the Trade Union Bill IA⁶⁵, we estimate that there will be an increase of 25% in the number of investigations. Individual investigations can involve a number

⁶⁴ In the House of Lords on 19th April 2016 (Report Stage, 2nd day), Baroness Neville-Rolfe for the Government made a commitment that the Government would propose at consultation stage that the levy would not include the costs of external inspectors.

⁶⁵ BIS, Trade Union Bill IA, January 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/493636/BIS-16-70-trade-union-bill-impact-assessment.pdf p79

of complaints (by the same individual) of breaches of regulations. Over the past five years, according to Certification Office records⁶⁶, there has been an average of 16 investigations a year.

Table 31: Number of Certification Officer investigations, 2011/12 to 2015/16

<u>Year</u>	<u>Number of investigations</u>
2011/12	16
2012/13	16
2013/14	14
2014/15	20
2015/16	14
Average per year	16

310. An increase of 25% would mean that there would be an additional four investigations a year. Following discussions with the Certification Office about what an investigation might involve, and evidence from reports on investigations, we estimate that a union might spend on average three days collating documents and providing a written response to the subject of the investigation, and may be required to attend a hearing. In most cases, unions will get legal advice and use legal representation if they go to a hearing. Looking at Certification Office reports of investigations in 2015/16, around half went to a hearing, so we assume that hearings occurred in two of the four additional investigations. We assume that a senior union official, at an hourly labour cost rate of £34.13, was involved in preparing the draft response, and attending a hearing (in most hearings in 2015/16, one union staff member was present to give evidence). We estimate the cost of legal advice in preparing a response and legal representation at the hearings based on the hourly rate of £250 an hour, used in our transition cost estimates.

311. Assuming a day for a hearing and preparation for the hearing, we estimate that overall time spent for the additional four hearings is 14 days for senior union officials, and for legal advice (including two days at hearing), and two days for legal counsel. We assume an 8 hour working day. This produces the following cost estimates for unions for the additional investigations.

⁶⁶ Certification Office, Our Decisions, <https://www.gov.uk/government/organisations/certification-officer/about#our-decisions>

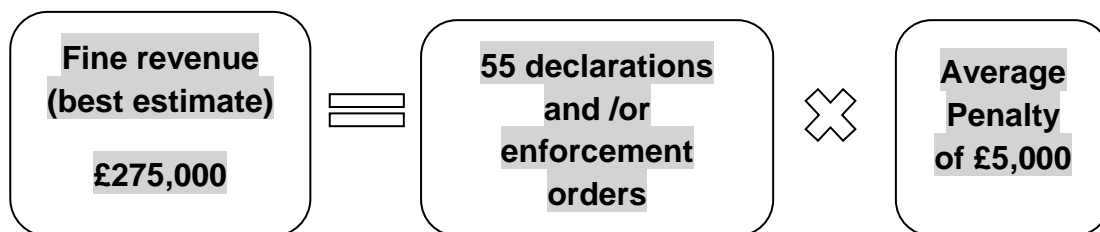
Table 32: annual cost to unions of additional investigations

	<u>Hourly labour cost</u>	<u>Hours spent</u>	<u>Cost</u>
Senior union official	£34,13	112	£3,823
Legal advice	£250	112	£28,000
Legal representation	£250	16	£4,000
Total annual cost			£35,823

EAT Appeals and penalties

312. As noted above, the Certification Officer publishes decisions on the gov.uk website. Historical decision information shows that the Certification Officer currently issues 44 declarations and/or enforcement orders every 5 years. In relation to the new powers that he will have in new areas, we estimate that this will lead to an additional 25% declarations and/or enforcement orders being issued every 5 years. This represents an increase of 11 declarations and/or enforcement orders every 5 years which we believe is a reasonable assumption and based on an assessment of the new scope of powers compared to those held by the Certification Officer currently. We anticipate that this would lead to 2 additional appeals to the Employment Appeal Tribunal (EAT) every 5 years. This is based on applying the historic appeal rates for other Trade Union related jurisdictions (which is around 20%) to the estimated additional 10 declarations.
313. Enabling unions to appeal the Certification Officer's decisions on a point of fact may also increase the number of appeals. There is no data available on whether appeals on point of fact are more likely than appeals on points of law. We therefore assume that there would be a similar number of appeals related to points of fact as there are on points of law. According to the EAT record of past decisions⁶⁷, there were 4 appeals under the Certification Officer topic (that were associated in some way with a judgement by the Certification Officer) in the past five years. So we assume that there would be 6 additional appeals every five years based on point of fact (4 based on the historic number of appeals, and 2 more related to the extension of powers).
314. The anticipated increase in enforcement orders set out above will result in an estimated 55 cases where the Certification Officer issues a declaration and/or enforcement order every 5 years following the Trade Union Bill coming into force. The Certification Officer will have power to impose financial penalties as well as issuing these enforcement orders, but may not always do so. The Certification Officer may also choose to impose a financial penalty without issuing an enforcement order. It is anticipated that this may lead up to 55 financial penalties being issued every 5 years. This estimate is based on past historical data of 44 existing declarations and/or enforcement orders plus 11 additional declarations and/or enforcement orders. Our initial estimate is that income from financial penalties could be between £200,000 and £350,000 every 5 years, with a best estimate of £275,000. This is based on an average penalty of £5,000. The financial penalties will be covered in a separate impact assessment to accompany the regulations relating to penalties, so will not be included in the overall costings of this IA.

⁶⁷ Employment Appeals Tribunal, previous decisions: Certification Officer topic, <http://www.employmentappeals.gov.uk/Public/results.aspx> [Accessed 22nd July 2016]



315. In relation to appeals against the Certification Officer’s decisions to impose a financial penalty, we anticipate that this would lead to 10 - 12 additional appeals to the EAT every 5 years, assuming an appeal rate of around 20%.

316. Therefore, in view of the above, we anticipate an additional 18 - 20 appeals to the EAT every 5 years. This is the sum of appeals against both decisions (8 appeals every 5 years) and penalties (10-12 appeals every 5 years). Per annum this would equate to about 4 appeals in total.

317. Non-compliant trade unions that incur costs associated with investigations or fines are not scored as incurring a regulatory cost. Trade unions which are investigated but subsequently found not to be in breach would incur a regulatory cost. After examining cases between 2010 and 2015, we were not able to find an instance where a Trade Union appealed a Certification Officer decision to the EAT and overturned the original Certification Officer decision. However, it is possible that given the broader scope that unions can appeal on, that in some cases unions may win their appeals. Based on the existing track record where appeals relating to Certification Officer are generally unsuccessful, we estimate that no more than one appeal a year might prove successful. The EAT requires a £400 fee for the lodging of an appeal, and a £1,200 fee for a final hearing. We have no information on the other costs to those lodging an appeal of preparing and making their case. The nearest similar estimate we have is that for those employers whose case reached an employment tribunal (ET) hearing. This is based on data from the Survey of Employment Tribunals (SETA) 2013⁶⁸. The median cost for employers whose case goes to a hearing is estimated as follows:

Table 33: Median cost to employers of employment tribunal case going to a hearing

	<u>Cost (£)</u>
Time spent on case (Directors and senior staff)	1,849
Time spent on case (other staff)	1,807
Cost of advice and representation	2,461
Total cost (to nearest £100)	5,400

⁶⁸ BIS, Findings from the Survey of Employment Tribunal Applications 2013, June 2014

318. Basing our estimate for the costs of an EAT appeal on the estimated median cost to employers of an ET case that goes to a hearing, the estimated annual cost to compliant unions of taking a case to the EAT is £5,400 plus £1,600 in fees, a total of £7,000.

Increase in running costs of the Certification Officer

319. BEIS funds Acas who in turn provide £560,000 funding to the Certification Officer. However, this does not reflect the full costs of running the Certification Officer, as Acas also apports costs in their annual report for accommodation, IT, and depreciation. These apportioned costs amount to £290,000 pa. Therefore the total cost of running the Certification Office was £850,000 in 2014/15. In the course of further consultation, the Certification Officer has outlined additional costs that will arise as a result of the reforms contained in the Act. The summary table below sets out the estimated total additional costs. There is a range of costs provided for additional legal advice and additional inspectors; the best estimate is the average of the low and high estimate. For costs associated with a likely move to a full time Certification Officer⁶⁹, cost of additional staff, and overhead costs we have provided a single point estimate. The table shows that costs will rise by around £942,500 to pay for additional staff and running costs (this is based on the Certification Officer becoming a full-time appointment, the Certification Officer employing up to 6 extra members of staff, largely at the Senior Executive Officer / Higher Executive Officer / Executive Officer grades and additional inspectors) and increased overheads, legal costs and additional inspectors). These additional costs to government relate to the Certification Officer's additional responsibilities introduced in measures contained in the Act.

Table 34: Summary of the additional cost of bolstering the Certification Officer related to measures in the Trade Union Act (estimates are based on consultation with the Certification Officer)

<u>Cost</u>	<u>High estimate</u>	<u>Best estimate</u>	<u>Low estimate</u>
Likely move to a full-time Certification Officer	n/a	£60,000	n/a
Cost of additional staff	n/a	£300,000	n/a
Overhead costs (HR, IT etc)	n/a	£145,000	n/a
Legal costs	£250,000	£162,500	£75,000
Costs of additional inspectors	£500,000	£275,000	£50,000
Total cost	£1,255,000	£942,500	£630,000

⁶⁹ The previous Certification Officer worked on a part-time basis (3 days a week) – taking an approximate salary of £75,000, we estimate that the additional two days a week will add £50,000 in wages, and around £10,000 in non-wage labour costs (based on these accounting for 20.2% of wages).

Introduction of levy to reclaim the costs of the Certification Officer

320. The Act introduces a power whereby the Secretary of State may regulate to make provisions for the Certification Officer to require trade unions and employer associations to pay a levy to the Certification Officer. A separate impact assessment on the levy will be produced alongside these regulations. We provide some information of the potential cost of the levy below, for illustrative purposes.
321. With £850,000 as a cost base for the Certification Officer in 2014/2015, there is also an addition of £120,000 in the Certification Officer budget relating to additional activities taken on under the Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014, taking the cost base to £970,000. The additional costs arising from the Trade Union Act lead to an estimated running cost for the CO of £1.913 million.
322. However, the Government has committed to propose in the consultation on the levy that the levy will not cover the cost of external inspectors. This is estimated at £275,000 in the best estimate. Excluding this amount leads to an estimated £1,638,000 for the total amount of the levy (aggregated across all trade unions and employer associations). This is a direct cost for trade unions and employer associations. The levy would represent additional revenue for the Exchequer and a benefit of £1.638 million, on this basis.
323. We will continue to monitor the impacts of the Certification Officer reforms, in line with the monitoring for the rest of the Act measures and will produce a Post-Implementation Review by 2021.

Table 35: Summary of the cost-benefit assessment of bolstering the Certification Officer role

<u>Organisation</u>	<u>Cost</u>	<u>Benefit</u>
The Exchequer	<ul style="list-style-type: none"> Extra staffing and running cost resulting from bolstered role (£942,500) 	<ul style="list-style-type: none"> Fine revenue of £275,000 Broader set of sanctions available Potential increased deterrent effects Levy revenue of £1.638m
Trade Unions	<ul style="list-style-type: none"> Annual cost of around £36,000 due to additional investigations and £7,000 for appeals to EAT Levy payment 	<ul style="list-style-type: none"> No increased financial benefit Members and the public will benefit from more responsive and diligent regulatory regime
Employer associations	<ul style="list-style-type: none"> Levy payment 	<ul style="list-style-type: none"> None.

Risks and assumptions

324. The design of the levy will consider the inclusion of specified criteria such as the number of members or amount of income an organisation has. Also, the regulations may provide for the levy not to be payable, or for a reduced amount to be payable, in specified cases or in cases determined by the Certification Officer in accordance with the regulations.
325. There remains uncertainty around the number of additional investigations, declarations and / or enforcement orders and fines issued. However, given the requirement for the Certification Officer to have reasonable grounds to suspect that there may be a potential breach, it is likely that there will be relatively few additional investigations.

Direct costs to business (deregulatory target)

326. The one-off familiarisation cost to trade unions of £548,000 and the employer associations of £2,400 from the introduction of a levy and reform of the Certification Officer's role are included in the deregulatory target. Also, included is the annual ongoing cost of around £36,000 to trade unions from dealing with additional investigations, and the annual cost of £7,000 to compliant unions of taking a case to the EAT. The cost of the levy paid by trade unions and employer associations of £1.6m p.a. are not included in the EANCB figure as the levy will require secondary legislation and is out of scope for the Business Impact Target. The levy will benefit taxpayers as it will be a transfer of funds from the trade unions and employer associations to enable a reduction in Government costs. The levy also does not appear in the NPV figures for this impact assessment. **Based on 2015 prices this represents an EANCB of £0.1m.**

Direct costs and benefits to business calculations

327. In the above section, we have calculated the overall economic impacts of the measures in the Bill wherever possible. As part of the Government's deregulatory target, some of these impacts will be counted as "in scope". Specifically, those impacts to the private sector and civil society organisations (including trade unions) must be accounted for separately, and an Equivalent Annual Net Cost to Business (EANCB) calculated. This section summarises the EANCB figures.

Summary table of EANCB and Net Present Value figures per option

Table 36: summary of EANCB figures for all options*

Option	Net Present Value	Business Net Present Value	EANCB (in 2014 prices)	BIT score
Option 1a: Ballot thresholds	£107.81m	£29.37m	£-3.3m	£-16.5m
Option 1b: Ballot mandate reform	£-0.72m	£-0.72m	£0.1m	£0.5m
Option 1c: Tackle the intimidation of non-striking workers	£-0.55m	£-0.55m	£0.1m	£0.5m
Option 1d: Political funds reform	£-3.49m	£-3.49m	£0.4m	£2.0m
Option 1e: Reform the role of the Certification Officer	£-9.14m	£-0.92m	£0.1m	£0.5m
Total	£93.91m	£23.69m	£-2.6m	£-13.0m

*Excludes the monetary assessment of the 40% threshold in important public services and the Certification Officer's levy and financial penalties. These measures will be subject to secondary legislation, and a separate impact assessment will be produced for each.

Wider impacts

Impact on industrial relations

328. These reforms are one part of the wider framework for industrial relations and also the balance of interests between workers, union members and employers.
329. The consultation responses received were not conclusive about how these reforms would impact on that balance and framework at a macro level. For example, employee representatives believed that the provisions of the Trade Union Bill, particularly the ballot threshold proposals, would create a serious imbalance of power between employers and working people. Business representatives did not share that view. They stressed that the current industrial relations framework is outdated, that when dispute resolution within the workplace does not achieve a positive outcome and strike action is considered, reforms are needed to ensure the workforce play a more active role in decisions that bring forward action.
330. The Government has developed and published⁷⁰ an equality assessment to understand the impact on individual workers (both union and non-union members). It concludes that there are no significant equality impacts arising from these measures. The Government is also of the view that these reforms are not primarily about a re-balancing of power between employers and trade unions, rather it is about ensuring that there is a strong connection between proposed action by unions and the views and participation of their members in those decisions. These reforms also need to be seen in context of the wider reforms the Government is putting in place to ensure an effective labour market (for example, through policies such as the introduction of the National Living Wage).

The Family Test

331. These proposals are about increasing transparency of union activities and ensuring that where industrial action occurs there is a recent and democratic mandate. We do not expect there to be any direct, adverse impact on families as a result.
332. Families rely on public services and thus those measures affecting strike action in public services will benefit families. A reduction in working days lost in the school sector is likely to mean children experience fewer disruptions to their education.
333. The remaining measures largely refer to the internal operations of trade unions and public sector employers and therefore have no direct impacts on families.

⁷⁰ BEIS, Equality Analysis of the Trade Union Bill, September 2015, <https://www.gov.uk/government/publications/trade-union-bill-equality-analysis>

Annex A

Small and Medium Business Assessment

1. The measures included in the Act dealt with in this IA cover five key areas that generate costs to business in the form of trade unions (and employers' associations in the case of reforms to the Certification Officer's role):
 - The Introduction of ballot thresholds for industrial action ballots
 - The introduction of a 6 month time limit (or up to 9 months if the employer agrees to an extension) to the validity of a ballot mandate, and associated reforms
 - Tackling the intimidation of non-striking workers
 - Political fund reforms
 - Reform the role of the Certification Officer
2. Other measures in the Act where the regulations impact on business, such as the 40% ballot threshold, are being considered in separate impact assessments.
3. These measures affect Civil Society Organisations⁷¹, therefore a Small and Micro-Business Assessment is applicable. A previous BIS Impact Assessment on Certification of trade unions' membership registers and related new investigatory powers for the Certification Officer⁷² estimated that 24% of unions with 10,000 members or more employed less than 50 FTE staff and assumed that unions with fewer members would ordinarily meet the definition of small or micro-businesses.
4. According to the Annual Report of the Certification Officer 2015-16, there were 117 trade unions with under 10,000 members in 2014-15, accounting for 74% of all unions. 15 unions (9%) had between 10,000 and 25,000 members.
5. We have considered all of the possible exemptions for small and micro businesses listed in the Better Regulation Framework Manual:
 - Full exemption
 - Partial exemption
 - Extended transition period
 - Temporary exemption
 - Varying requirements by type and/or size of business

⁷¹ Trade unions are included in the definition of Civil Society Organisations, which is a voluntary organisation which is neither a business nor public sector.

⁷² <https://www.gov.uk/government/consultations/trade-unions-assured-registers-of-members>

- Specific information campaigns or user guides, training and dedicated support for smaller businesses
 - Direct financial aid for smaller businesses
 - Opt-in and voluntary solutions
6. As shown above, a large proportion of trade unions are likely to be small or micro businesses. The main aim of the Act is to reduce the impact of undemocratic strike action and improve transparency. Therefore, if exemptions or varying requirements were applied to the proposed measures for unions employing less than 50 staff, the benefits of the policy would be significantly reduced. All parts of this Act require wide coverage of the affected organisations so as to be effective. We also need to consider the impacts on small and micro businesses from these measures. Small businesses, alongside the rest of the economy, will experience the benefits of this measure. By exempting smaller trade unions and reducing the benefits, the Government would be impacting on small businesses who would be disadvantaged by any exemption.
7. The first three measures relate to industrial action. We do not anticipate these measures imposing significant costs to trade unions or any other business or civil society organisation. As detailed above, the additional cost to unions from these measures would be incurred around familiarisation. Responses from Trade Unions to the public consultations related to the Act indicated that Trade Unions did believe that they would incur familiarisation costs in the form of time taken to understand the policy changes, attending training sessions to acquire knowledge and costs associated with obtaining external advice. The responses did not include any estimates but more generally supported the inclusion of these costs. Therefore our estimates of familiarisation costs are averages based on information from unions on the familiarisation costs of a recent reform of TULR(C)A in relation to the certification of trade unions' membership registers. For the measures in the Act related to industrial action, the familiarisation costs largely relate to time spent by senior officials and legal advice. The amount of time spent on familiarisation and any legal advice obtained on the proposed changes is likely to be in proportion to the likelihood that the union will take industrial action.

Ballot thresholds

8. Most strikes are relatively small in scale. According to the ONS Labour Disputes Survey⁷³, in 2014 over half of all stoppages had less than 250 working days lost, with over three quarters of stoppages each accounting for less than 1,000 working days lost. However, comprehensive data on the number of strikes or working days lost accounted for by different unions is not available, so we are not able to estimate the extent to which smaller unions are responsible for overall levels of strike action. Relatively small strikes will be conducted by small unions, as well as by individual sections of large unions. Strikes involving relatively few workers, for instance in the transport or health sectors, can cause substantial disruption to individuals and

⁷³ ONS, Labour Disputes Survey Annual Article 2014, July 2015.

employers not involved in the dispute. We do know that smaller unions have taken part in disruptive large scale public sector industrial action, as well as in individual actions, in recent years.

9. The proposed policy on ballot thresholds is based on an important principle that for unions to take industrial action they should have the strong support of the membership eligible to vote. Industrial action by smaller unions (as well as by larger unions) will have an impact on business and individuals not involved in the dispute, so it would be wrong in principle to exempt unions with fewer members. It would be confusing to introduce extended transitions or temporary exemptions for smaller unions. The policy will change the criteria by which the success of a ballot is assessed, but the unions looking to carry out industrial action will have to carry out the ballot in the same way as they did before. There is therefore no need for tailored training or user guides for smaller unions. Guidance on the changes in relation to ballot thresholds will be provided on the gov.uk website.

6 month time limit for the validity of a ballot mandate

10. We do not have a comprehensive data set showing which ballot was used to provide a mandate for specific cases of industrial action. Therefore, we cannot analyse the extent to which smaller unions use ballots older than six (or up to 9 months if the employer agrees to an extension) months to provide a mandate for industrial action. The evidence we have suggests that predominantly, unions carry out industrial action within six months of the ballot result. The examples we have where old ballots were used to mandate industrial action, shown in the ballot mandate reforms section of the impact assessment, involve large unions (PCS, NASUWT and NUT). Therefore, we expect that the costs of the introduction of this measure are primarily familiarisation costs, as few unions will need to ballot more than once during a dispute to meet the six (or up to nine) month time limit.
11. As above, the reform on the time limit on ballot mandates is to ensure that employers and the wider economy are not affected by industrial action held on the basis of outdated ballots. It is also to ensure that if there is a call for industrial action, it reflects the recently collected views of the union members involved. Any exemptions or variations in the measures for smaller unions would mean that they could use outdated ballots to provide a mandate for industrial action, which would then not meet the objectives of the policy. Such a situation would cause confusion, as employers would need to know whether the union was classified as a small or micro union to know if the ballot mandate could extend over a longer period. Guidance on the proposed measures will be provided on gov.uk. We do not think that there is a case for special guidance training or support, or direct financial aid for smaller unions.

Tackling intimidation of non-striking workers

12. The policy measures introducing new requirements on unions when picketing during industrial action are aimed at ensuring that picketing is lawful and peaceful. These build on section F of the Code of Practice on picketing, which, as far as we know, is complied with. Unlawful pickets are likely to occur with similar probabilities during industrial action by smaller unions and larger unions: it might only take the behaviour of one individual so is unlikely to vary by size of union. Therefore, to ensure that the

policy objectives are met it is necessary that all unions are subject to the new requirements, and exemptions for smaller unions would undermine this. Exemptions would mean that pickets by smaller unions would not be subject to the same legal requirements as those for larger unions, which again could cause confusion for employers. Unions involved in industrial disputes should already be familiar with the Code of Practice on Picketing, which is relevant to all unions currently and is the basis for the new legal requirements, so special guidance for smaller unions should not be needed. The costs are predominantly transition costs linked to the time spent by senior union officials familiarising themselves with the changes, so there is no case for direct financial aid.

Political fund reforms

13. Of the 24 trade unions with political funds, ten have over 100,000 members, with a further seven having between 25,000 and 100,000 members. Of the remaining 8, five had over 10,000 members but less than 25,000, while 2 had less than 10,000 members. The vast majority of small and micro unions will not be affected by this measure.
14. The policy aims to ensure that the process of members contributing to a political fund becomes more transparent. Individuals joining trade unions with existing political funds will be informed of their option to contribute to the political fund in their membership form (they must actively opt-in in order for unions to take contributions from them), and of their right to opt out without prejudice, and the union must inform them each year of the right to opt-out of contributing. Unions setting up political funds subsequent to the policy being in place will require all members, including new members to actively opt-in to contributing. These unions will also have to inform members each year of their right to opt-out. It also aims to ensure that unions publish information on political expenditure that will inform union members' decisions on whether they wish to contribute to the fund.
15. Exemptions for small unions would therefore undermine the policy objective. It would enable these unions to continue to operate political funds without the transparency of giving new members the option of actively opting in on their membership forms (and requiring an active opt-in from these new members), or of regularly informing members (on an annual basis) of their right to opt-out. It would also enable any exempted unions looking to set up a new political fund to automatically opt-in members to contribute to the new fund.
16. Transition costs for the political fund reforms are a combination of time spent by senior union officials familiarising themselves with the measures, legal advice and the costs of amending rule books. There are also transition costs relating to the additional reporting requirements, the requirement to adapt their membership forms to include statements that a) a person may opt-in to contribute to the political fund and b) that they can opt-out without prejudice, and the adaptation of IT systems to reflect the new requirements for members joining after the transition period, and related administration costs. For unions setting up a new political fund, there would be additional costs in requiring all existing members to provide a written statement that they had opted-in to contribute. However, the measures in the Act allow that this can be provided electronically, thereby potentially reducing any communication (postage) costs that may have been required.

17. Unions must provide an annual notice of a member's right to opt-out of contributing without prejudice to all members (for new political funds) and new members (for existing funds). However, the Act allows unions to include this notice within an existing communication to members. Also, the Certification Officer will produce a model notice of a member's right to exempt themselves from contributing, which unions will be able to place into an existing communication to fulfil this requirement.
18. The Certification Officer aims to produce model clauses reflecting the reforms that can be used in trade union rule books, in time for when unions with political funds would need to amend their rule books. This would be similar to the current model clauses made available in the Certification Officer's published guidance on political funds⁷⁴. This should help simplify the procedure for unions of amending their rule books to reflect the new approach to political funds, potentially reducing the transition costs in this regard for small unions with political funds, as well as the larger unions.

Reform of the role of the Certification Officer

19. The role of the Certification Officer will be enhanced to ensure robust and effective regulation of trade unions. The Certification Officer will be given more powerful sanctions such as financial penalties and the Certification Officer's powers to investigate will be extended.
20. The Act provides for the Secretary of State to be given a power to make regulations, subject to the affirmative procedure, for the Certification Officer to require trade unions and employer associations to pay a levy to cover most of the costs of the Certification Officer's expenses. The Act includes a requirement for the Secretary of State to consult relevant organisations and Acas before making these Regulations. The fees will be limited to recovering the costs related to the functions of the Certification Officer, and the Regulations may provide for the amount that an organisation pays to be determined by specified criteria including their membership size and income.
21. The primary cost of these reforms outlined in this impact assessment for trade unions and employers' associations are familiarisation costs. Currently the Certification Officer issues around 44 declarations and/or enforcement orders every five years, and carries out around 16 investigations a year. The impact assessment estimates that this will increase following the reforms to 55 declarations and/or enforcement orders every five years, and to around 20 investigations a year. Therefore any costs arising to compliant trade unions from these additional investigations would be relatively low.
22. The mechanism for the setting of the levy has yet to be determined, and will be subject to consultation before any affirmative regulations are laid, so will be considered in a separate impact assessment linked to the regulations. As noted above, the provisions in the Act allow the option of such Regulations specifying whether the Certification Officer, when specifying the levy amount payable, would

⁷⁴ The Certification Officer, Political Funds: a guidance for trade unions and employers' associations wishing to establish a political fund, revised September 2012

apply specified criteria such as number of members or size of income of the organisation, whether they are trade unions or employer associations, and whether they are federated or not.

23. Analysing the decisions made by the Certification Officer between 2010 and 2015 suggest that smaller unions are sometimes investigated by the Certification Officer. Unions likely to be small or micro unions (based on assessing membership numbers) account for around a fifth of investigations since 2010. It is therefore important that the Certification Officer's new powers are applied to all unions, to ensure that union members and the general public have confidence that the unions are effectively regulated. Exemptions for smaller unions would restrict the Certification Officer's ability to investigate potential breaches of statutory regulations by those unions exempted, meaning their potential breaches, which may affect their members or members of the general public, would be less effectively enforced. A two tier system could be confusing for unions and those who felt there were grounds for the regulator to investigate, which may undermine faith in the Certification Officer.

Annex B – Fire Service Data

Data on the number of strikes by the Fire Service has been provided by Home Office. Unfortunately, this data was not available in the same format as that for the transport, education, health and social work, and border force Sectors.

So that we could use the Fire Service data within this impact assessment, we have had to make some manipulations, based on what we consider to be reasonable assumptions. The methodology and assumptions used to estimate the impact of strike action within the Fire Service are as follows:

- Data is available on the latest national strikes, occurring between 2013 and 2015. In total during this period 295.5 strike hours were called by the FBU in a dispute regarding pensions. Therefore, our average annual figures for the Fire Service are based on a three year average rather than a five year average. The use of averages for the Fire Service data is justified based on the large annual variation in the number of hour lost despite the strikes being related to the same issue.
- Data was only available at a national level. **Strikes at local authority level are therefore not included in the data, and are not reflected in the overall quantification of impact.**
- The data has been provided in terms of the number of strike hours called. Additionally, Home Office have told us that during each period of strike action there were an estimated 4000 firefighters on strike. We cannot say with certainty how many working hours were lost by each of these 4,000 firefighters during any one period of strike action given that firefighters do not have a 'standard' working pattern.
- In order to try to establish a reasonable estimate of the number of working hours lost, we have used the following assumptions:
 - We know that firefighters are contracted to work 42 hours per week. Assuming that the shift pattern is across 7 days, we can say that an 'average' firefighter might work 6 hours per 24 hour day;
 - We therefore assume that in a 24 hour strike, 4,000 firefighters each lose 6 working hours.
 - We then assume that the number of hours lost is proportionate to the strike duration, so that if 24,000 hours are lost in a 24 hour strikes, 1,000 working hours are lost per hour of strike action in the Fire Service;
- We then apply this assumption of 1,000 working hours lost per hour of strike action to the total number of strike hours across the period. The result is a total of 295,500 hours lost in three years, which equates to an average annual loss of 98,500 hours.

-
- Home Office have pointed out that no firefighters are likely to work a 6 hour shift and that in many cases, shifts are 12 hours long and they might work on 4-days on, 4-days off rota system. However, others might also have completely different shift patterns. It is down to individual fire services to agree shift pattern with their representative bodies. Due to the difficulties associated with trying to estimate working patterns and the numbers of firefighters likely to be scheduled to work during specific strike hours, we have opted to use the above methodology, which seeks to establish a reasonable average estimate based on the information that we do have available.
 - We have assumed that the output per productivity adjusted hour worked is the same as that for the other public sector services (i.e. education, health and social work and the border force).

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