

<b>Title:</b> Certification of trade unions' membership registers and investigatory powers for the Certification Officer <b>IA No:</b> BIS LM001  <b>Lead department or agency:</b> Department for Business, Innovation and Skills <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 11/12/2014		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> connor.russell@bis.gsi.gov.uk			<b>RPC Opinion:</b> Green
<b>Summary: Intervention and Options</b>			

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
£-6.41	£-5.63	£0.50	Yes	IN

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

It is important that union decisions reflect the will of their members. Therefore, the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) includes a duty to compile and maintain a register of members' names and addresses, and so far as it is reasonably practicable, keep the register accurate and up-to-date. Individual unions represent an increasingly large and diverse membership across different employers, job types, and regions. Given this complexity there is a risk that trade union members, employers and the general public will not be confident that unions are complying with this duty. As trade union activity potentially affects the daily lives of members and non-members, the general public should be confident that voting papers and other communications are reaching union members.

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

The policy objective is to give greater assurance that unions comply with the existing duty to maintain a register of members' names and addresses, by introducing an effective reporting and enforcement regime in relation to this duty. However, we wish to do this in a way which is proportionate for unions in providing this assurance. Unions ballot their members on a range of issues. They also have a vital role in public debate, and union activity can have an impact that extends beyond the membership. The intended effect of the policy is to ensure that unions provide a regular, proactive assurance to their members, the general public and employers that they are diligent in maintaining what are often very large and complex membership registers, and in ensuring their democratic accountability to their members. The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 amends TULRCA to introduce a duty to provide this assurance. This requires enactment with further secondary legislation.

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

Option 0: Do nothing (the counterfactual).

Option 1: Enact the statutory duty on trade unions to provide an annual membership audit certificate to the Certification Officer (CO) that provides an opinion on the maintenance of the register. Powers to the CO to appoint inspectors to investigate and to make enforcement order and orders requiring a trade union to comply with the investigation. The CO can also issue declarations and enforcement orders for non-compliance with duties relating to the register. Implementation will increase confidence, and provide a level of transparency and consistency, which is not being achieved by the do nothing option.

**Will the policy be reviewed? It will be reviewed. If applicable, set review date:** 10/2020

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> 0		<b>Non-traded:</b> 0

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:



Date: 12/03/2015

# Summary: Analysis & Evidence

## Policy Option 1

**Description:** Certification of trade unions' membership registers and additional powers to the Certification Officer

### FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -10.17	High: -3.36	Best Estimate: -6.41

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.4	1	0.3	3.4
High	0.9		1.1	10.2
Best Estimate	0.6		0.7	6.4

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

There will be a one-off familiarisation cost for all unions (£600k). Trade unions with 10,000 or more members will incur costs in the procurement of assurers, which may be higher in the first year (£210k - £1.47m) than in subsequent years (£210k - £630k per annum). They will incur costs through time spent by union personnel on the audit process (£30k - £150k per annum). Trade unions with less than 10,000 members will incur self-certification costs (£30k - £50k). The exchequer may incur costs as a result of the additional costs for inspections and enforcement (£70k - £130k per annum). Trade unions may incur costs to comply with Certification Officer investigations (£5k - £13k per annum).

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

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

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

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

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

#### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

Following current impact assessment guidelines, we have assumed unions are in full compliance with their existing duties, so that only additional costs and benefits arising from the Act are measured. Guidance has been published for trade unions and assurers and has been refined through consultation with stakeholders, which is the basis for the assumptions in the analysis. These assumptions are subject to some uncertainty and are set out clearly in the notes. There may be risks including: displacing core trade union work and increasing subscription fees. These are mitigated by fewer requirements on unions with less than 10,000 members.

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0.5	Benefits: 0.0	Net: -0.5	Yes	IN

# Evidence Base (for summary sheets)

## Introduction

1. On 17 July 2013, the Government introduced into Parliament the [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill](#). This includes measures to deliver assurance that union membership records are kept up to date so far as is reasonably practicable through providing an annual membership audit certificate to the Certification Officer and by giving the Certification Officer powers to require production of relevant documents and to appoint inspectors to investigate.
2. At the same time as the Bill was introduced, a [discussion paper](#) was issued seeking views on the effective implementation of the trade union measures alongside detailed discussions with relevant trade unions, organisations and representative bodies. A total of 42 responses to the discussion paper were received in the four week discussion period ending 16 August 2013. The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act received Royal Assent on 30 January 2014.
3. Following this, the Government sought views of stakeholders on the effective implementation of the measures, as well as on what guidance should be provided to ensure that unions can meet the new requirements. The 10-week [consultation](#) on the implementation of the measures closed on 4 December 2014. There were 27 responses to this consultation. In addition, the Government engaged with a range of unions to gain a better understanding of the detail of how the administration procedures of trade unions will deal with the appointment of an independent assurer. This included writing to all of the 42 unions with more than 10,000 members, two of the unions with just under 10,000 members, and one union with around 1,000 members. Meetings took place with 11 trade unions, 3 organisations seeking to become assurers and an additional meeting was held with the Certification Officer. BIS officials also attended a meeting at the Trade Union Congress (TUC) to discuss the proposals and to seek feedback and evidence, which was attended by around 50 unions.
4. This is the third iteration of the Impact Assessment. The second iteration was given a green rating by the Regulatory Policy Committee subject to a further consultation being carried out to gather more information on the impact of the measure. This has now been completed and this iteration provides a deeper level of analysis of the impacts.

## Problem under consideration

5. As membership organisations, it is important that trade union decisions reflect the will of their members. Knowing who their members are and being able to engage them is intrinsic to a union's democratic accountability.
6. The Trade Union and Labour Relations (Consolidation) Act 1992 reflects this by including under Section 24(1) a duty to maintain a register of members' names and addresses that is, so far as reasonably practicable, accurate and up-to-date.
7. Trade unions are required to keep accurate and up-to-date registers so they can reach their members with voting papers and other communications. This is particularly important for unions' statutory requirement to carry out postal ballots for certain activities including industrial action, election of the General Secretary, mergers, and the maintenance of political funds.
8. The current system relies on an individual union member pro-actively checking whether their own details are correctly recorded on the membership register. But that member will not know whether the membership as a whole is correct. Nor will they know whether the register is accurate in recording new joiners or leavers. In addition, the Certification Officer can only investigate where there is a complaint from a union member.
9. Individual unions represent an increasingly large and diverse membership across different employers, job types, and regions. Although the stock of trade union membership has remained

relatively stable from the mid-1990s onwards, with membership levels falling slightly from 7 million to 6.4 million employees<sup>1</sup>, there are significant inflows and outflows of union membership.

10. An increase in an individual union's membership diversity and membership turnover is a key reason why managing a large database of members is complex. It means that the information held in the unions' registers will decay rapidly. In addition, the information held on the registers will decay for other reasons, for example changes of address or deaths.

### Membership turnover

11. One factor influencing these movements is the high degree of churn in the UK labour market – there are millions of movements between jobs, and between employment, unemployment and inactivity in a given year. Table 1 below demonstrates some of these movements in the period between quarter 3 of 2013 and quarter 2 of 2014 (whilst this is just one period and comes from an Office for National Statistics experimental series, it illustrates the magnitude of movements).
12. The flows estimate the size of the movements between the three main labour market statuses of employment, unemployment and economic activity. So, for example, although the net increase in employment was 534 thousand between quarter 3 2013 and quarter 2 of 2014, the total numbers of people moving in and out of employment was 7.7 million – 4.3 million in and 3.4 million out. So, around 1 in 4 people (7.7 million as a share of total employment of around 30.7 million) moved in or out of work in this year.

**Table 1: Gross and Net Flows by Work Status Q3 2013 – Q2 2014**

Millions

	Employment	Unemployment	Inactivity
Gross Inflows	4.3	3.4	3.5
Gross Outflows	3.4	3.9	3.9
Net Flows	0.9	-0.5	-0.4

Source: Office for National Statistics, Labour market flows November 2014 (Experimental statistics), working-age population (16-64), seasonally adjusted

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

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

<sup>1</sup> [Trade Union Membership 2013: Statistical Bulletin](#), Department for Business Innovation & Skills

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

**Gross Flows**

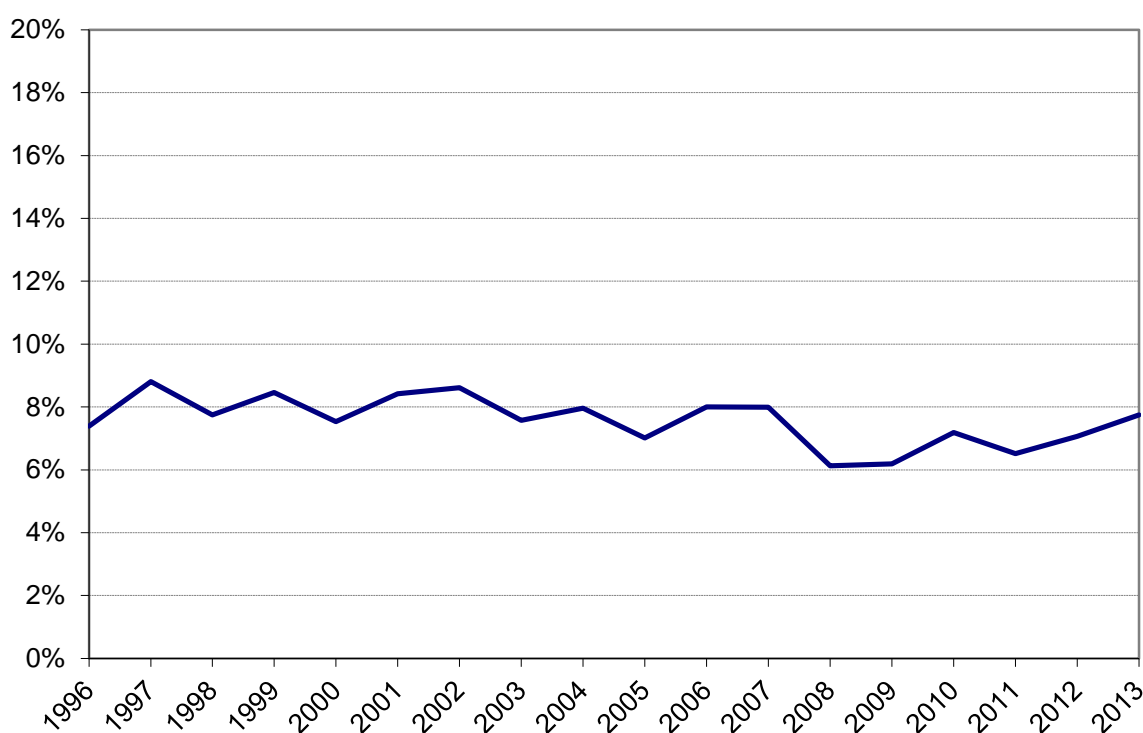
Membership gross outflow: member to non-member	0.9
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Membership gross inflow: non-member to member	1.1
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Source: Labour Force Survey (5 quarter longitudinal), Office for National Statistics, working-age population, non-seasonally adjusted

14. In addition, members can frequently move their residential address, which may lead to inaccurate details unless unions are subsequently updating their registers. A proxy for movements between residential addresses is obtained from the percentage of union members who have lived in their address for less than 12 months. In the period between 1996 and 2013, this amounted to approximately 6 to 9 per cent of union members.

**Figure 1: Percentage of union members who have lived at their address for less than 12 months, 1996-2013**



Source: Labour Force Survey

15. A combination of high turnover in union members and frequent changes in address, in addition to events such as deaths, or changes of names through divorces and marriages may undermine the value of the data held by unions. From the indicative figures above it suggests that a cautious estimate of the likely turnover in the register is around 1 in 4 members a year. This estimate is based on Labour Force Survey data on union membership flows. Table 2 shows that around 2 million people move in and out of union membership – around 1 in 4 (2 million as a share of 7.2 million) of union membership. Given this degree of turnover keeping the register up-to-date is important.
16. Individual unions represent an increasingly large and diverse membership across different employers, job types, and regions. An increase in membership diversity along with difficulties associated with maintaining an accurate register could lead to the general public, union members

and employers lacking confidence in the extent to which union actions accurately reflect the will of their members.

## Rationale for intervention

17. Given the complexity of maintaining up-to-date registers there is a danger that trade union members, employers and the general public will not be confident that unions are complying with their duty to maintain an accurate and up-to-date register. And, as trade union activity has the potential to affect the daily lives of members and non-members, the general public should be confident that voting papers and other communications are reaching union members so that they have the opportunity to participate, even if they choose not to exercise it.
18. The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act addresses these concerns. Trade unions with more than 10,000 will be required to present an annual membership audit certificate, which will be completed by an independent qualified assurer. Smaller trade unions will be able to self-certify. The certificate will visibly demonstrate that unions' systems are satisfactory and that they know who their members are and can communicate with them. It will also demonstrate that union registers are accurate and up-to-date, without prescribing a specific method. Therefore unions will have the flexibility to choose the method that most suits their circumstances.
19. Where it appears that unions are not complying with their duties, the Certification Officer will also be given powers enabling him or her to both act on their own authority to appoint inspectors and require documents to be produced to help investigations. The powers will provide a mechanism by which the general public and employers can be more confident that trade unions are complying with their duty to maintain an accurate and up-to-date register.
20. The membership audit certificate will provide confidence to members, the general public and employers to assure them that membership lists are accurate.

## Policy objective

21. The policy objective is to give greater assurance that unions comply with the existing duty to maintain a register of members' names and addresses. The objective is to introduce an effective reporting and enforcement regime in relation to this duty. However, we wish to do this in a way which is proportionate in providing this assurance and is not prescriptive.
22. Unions ballot their members on a range of issues including the election of new Executive members through to industrial action. They also have a vital role in public debate, and union activity can have an impact that extends beyond the membership. The intended effect of the policy is to ensure that unions provide a proactive assurance to their members, the general public and employers that they are diligent in maintaining what are often very large and complex membership registers, and in ensuring their democratic accountability to their members.

## Description of options considered (including do nothing)

### Do Nothing

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

### **Option 1 –Enact the statutory duty on trade unions to provide an annual membership audit certificate to the Certification Officer and additional powers to the Certification Officer**

24. On 30 January 2014 the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill received Royal Assent. The Bill includes measures to deliver greater assurance that union membership records are kept accurate and up-to-date through unions providing an

annual membership audit certificate to the Certification Officer and by giving the Certification Officer powers to require production of relevant documents and to appoint inspectors to investigate where the membership audit certificate shows deficiencies in their procedures. The changes cover England, Scotland and Wales, but not Northern Ireland. Secondary legislation is required to enact these changes.

25. Trade unions would specifically be required to provide an annual membership audit certificate to the Certification Officer alongside their annual return. For trade unions with more than 10,000 members, the membership audit certificate will need to be completed by a qualified independent assurer. During the reporting period October 2012 to September 2013 (which informs the Certification Officer's 2013-14 report), there were 42 unions who under these regulations would be required to submit an audit certificate completed by a qualified independent assurer. This represents around 97 per cent of the total union membership, and 25 per cent of listed and scheduled unions.
26. Unions with less than 10,000 members will be able to self-certify their membership audit certificate. During the aforementioned reporting period to the Certification Officer, there were 124 unions with less than 10,000 members, representing just 3 per cent of the total union membership and 75 per cent of the listed and scheduled unions.
27. To prevent potential barriers to the creation of new unions, the requirements will not apply to newly created trade unions of less than one year old. In addition, unions will continue to determine through their rules who is a member. It will also be for unions to decide how they hold their membership register, whether that is electronic or paper-based and to decide how they collect their membership subscriptions.
28. The Certification Officer will be given additional powers, beyond the existing powers that limit the scope of investigations and complaints to those from union members. Specifically the Certification Officer will be given additional powers:
  - to require documents to be produced where he or she thinks there is good reason to do so;
  - to appoint an inspector to investigate where it appears there are circumstances suggesting that the union has failed to comply with its duties in relation to the register of members.
29. The Certification Officer will also be able to act on their own authority and may take into account information brought to their attention by union members or third parties. Should the Certification Officer find that a union's system is not satisfactory for its membership record to be kept in accordance with the duty in section 24(1) of Trade Union and Labour Relations (Consolidation) Act 1992, or if there is a breach of the duties to provide a membership audit certificate, appoint an assurer or in relation to the appointment and removal of assurers, he or she will be able to make a declaration or a declaration and enforcement order as appropriate.
30. Similarly, where a union or person refuses to supply relevant documents or otherwise refuses to co-operate with an investigation, the Certification Officer will be able to order compliance with the requirement.
31. Orders made by the Certification Officer will be treated as an order of the High Court (or Court of Session in Scotland). There is to be a route of appeal on a point of law to the Employment Appeal Tribunal.
32. The Trade Union and Labour Relations (Consolidation) Act 1992 obligations do not provide an adequate mechanism to give greater assurance to members, the general public and employers that membership records are accurate, and that unions can effectively engage their members. The enactment of this measure will provide assurance to members, the general public and employers to assure them that membership lists are accurate.
33. This new measure will require that the assurer assesses the systems unions use to keep their membership registers up-to-date, are satisfactory. It will not require that membership registers are perfectly accurate at any particular point in time, and this is recognised by the legislation in terms of the TULRCA section 24 requirement to keep membership registers up-to-date "as far as reasonably practical".
34. For unions with more than 10,000 members, the assurance process will be the responsibility of the independent, qualified assurer and will depend on the specific nature of the system that the union uses to update its membership register. It will be for the independent assurer and union to agree the

exact scope of the assurance process that will enable the independent assurer to have the required level of confidence to sign off a membership audit certificate.

35. The Government is providing guidance to both assurers and unions, though making clear where contractual arrangements will provide the certainty that will be required by both parties.
36. The analysis contained within this impact assessment is based on option 1. The total costs for option 1 are presented as the additional costs and benefits arising from option 1 when compared with the counterfactual ('do nothing').

## Assumptions behind Cost Benefit analysis

37. Under current impact assessment guidelines, cost benefit analysis is undertaken under the assumption (unless there is evidence to the contrary) that companies (and in this case unions) are currently in full compliance with existing legislation. We have received views from some employers that there is a perception that trade union membership details may be inaccurate during the initial discussion period. But we have no direct evidence that unions are not complying with the existing statutory duty to maintain their list of members. The primary objective of these reforms is to give greater assurance of compliance with an existing duty to maintain a register of members' names and addresses that is, as far as reasonably practicable, accurate and up-to-date. This impact assessment follows the usual impact assessment practice and assumes that all unions are currently in compliance with the Trade Union and Labour Relations (Consolidation) Act 1992.
38. This assumption therefore defines the scope of this impact assessment as focusing exclusively on the cost and benefits related to the independent assurance of union processes and controls regarding membership lists.
39. In this Impact Assessment, the costs for unions with fewer than 10,000 members (small unions) and greater than 10,000 members (large unions) have been estimated separately since the cost impact will vary significantly.
40. Where costs have been provided to us in precise terms, we have rounded to the nearest £1. We have still used precise costs for all of our additions, and therefore the totals provided may not sum to the components due to rounding.
41. Seven stakeholders said in the discussions that unions would carry out the work to implement this measure in normal working hours and would not displace current union activity. We have therefore used hourly pay taken from provisional Annual Survey of Hours and Earnings 2014 (ASHE 2014) data without overtime to calculate time costs. Wages are uplifted by 18.1 per cent in line with Eurostat's estimates of non-wage costs for 2013<sup>3</sup>.
42. We use four different wage categories to calculate time costs using provisional ASHE 2014 data. These categories were selected based on the views of stakeholders. The table below outlines the categories, their Standard Occupation Codes (SOC 2010) and their levels before and after the uplift.

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<sup>3</sup> Source: [http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Wages\\_and\\_labour\\_costs#Labour\\_costs\\_2](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Wages_and_labour_costs#Labour_costs_2). In 2013, 15.3% of the labour costs per hour were estimated as non-wage costs. This represents 3.20 of the estimated 20.90 labour costs per hour ( $20.90 \times 0.153 = 3.20$ ). This is approximately 18.1 per cent of total wages excluding non-wage costs ( $3.20 / (20.90 - 3.20) \times 100 = 18.1$ ).



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

Standard Occupation Classification	Category used for:	Median hourly pay excluding overtime, 2014	Inflated (+18.1%) to include non-wage costs
<b>Chief executives and senior officials (SOC 2010: 1115)</b>	<b>General Secretary of large unions</b>	<b>£ 41.35</b>	<b>£48.83</b>
<b>Functional managers and directors (SOC 2010: 1139)</b>	<b>Other union directors; General Secretary of small unions</b>	<b>£21.56</b>	<b>£25.46</b>
<b>Officers of Non-Governmental Organisations (SOC 2010: 4114)</b>	<b>Union officials</b>	<b>£11.42</b>	<b>£13.49</b>
<b>IT Operations technicians (SOC 2010: 3131)</b>	<b>IT technicians</b>	<b>£13.95</b>	<b>£16.47</b>

**Source:**

Annual Survey of Hours and Earnings (**Table 14.6a**), 2014 Provisional Results, **Office for National Statistics**

Labour costs per hour in EUR, 2009-2013 whole economy excluding agriculture and public administration, Eurostat.

43. A few stakeholders suggested that the wages for senior staff in large unions (greater than 10,000 members) in the previous impact assessment were too low. We have therefore changed the category of salaries for General Secretaries in large unions to reflect the higher wages they receive.<sup>4</sup> We have continued to use the functional managers and directors category for other managers and officers of non-governmental organisations for union officials as according to the ONS these categories are the closest matches to the respective roles<sup>5</sup>.
44. We have also continued to use the functional directors and managers category for all senior staff in smaller trade unions (10,000 members or fewer) as this more accurately reflects the salaries reported by the Certification Officer.

## Impact on Trade Unions

### Large Trade Unions (with more than 10,000 members)

#### Familiarisation and Transition Costs (Direct Cost)

45. The introduction of this legislation will introduce one-off familiarisation costs for those unions preparing a membership audit certificate. The implementation makes a moderate amendment to the existing requirements, which all unions are already familiar with.
46. We have revised the previous impact assessment estimates to reflect stakeholder views. We now estimate familiarisation costs for unions to read and understand the legislation and transition costs to prepare and approve rulebook changes to comply with Section 24ZC of TULRCA and to tender for an assurer.<sup>6</sup> We have also updated the cost to reflect greater use of senior staff time in the transition period.
47. A majority of the unions we spoke to suggested that we had previously underestimated the time needed to read and understand the requirements of the legislation. Figures given for the amount of

<sup>4</sup> This is in line with the salaries reported in the [Certification Officers Annual Report 2013-14](#) (see Appendix 5).

<sup>5</sup> Source: The ONS Occupation Coding Tool.

<sup>6</sup> The rulebook of unions must provide for the appointment and removal of an assurer

time needed to do this varied from half a day to two full days of time for a General Secretary and other senior directors. We were advised that a director responsible for membership and a legal director would likely be involved alongside the General Secretary. Some unions also intended to involve their IT director and other internal advisors. We have therefore accounted for the General Secretary and 4 other senior directors spending a whole day (8 hours) at this stage as a best estimate, with a half day and two days as lower and upper estimates respectively.

48. In meetings, we asked unions to share with us the amount of time they expected to spend on a tender for an assurer. We were advised in most cases that junior staff would carry out the tender process and provide results to senior directors to make decisions. We have estimated the amount of total time junior staff would spend directly working on the tender based on stakeholder views. Our lowest estimate is one week of full-time work (40 hours) and our upper estimate is three weeks (120 hours) with a best estimate of two weeks (80 hours).
49. It was also suggested that time would be needed to draft a change to the rulebook and prepare for it to be debated at a conference. Based on feedback, we account for the General Secretary and 4 other senior directors spending a whole day (8 hours) at this stage as a best estimate, with a half day (4 hours) and two days (16 hours) as lower and upper estimates respectively.
50. The process for amending the rulebook varies for each union. In many cases an executive committee will need to meet to agree the implementation on a provisional basis prior to the next General Meeting. 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.
51. The implementation of this measure will complement existing time frames for the completion of a union's annual return. The duty to submit an audit certificate will therefore not come into effect until a first full year of an annual return after the implementation date of this measure. Due to this long lead in period, in meetings during the consultation, most unions informed us that there was sufficient time to effect these changes to their rules without requiring an extraordinary meeting. Others informed us that their union rules had sufficient flexibility to enable its executive committee to make changes as required by the law.
52. Four unions expressed a need to consult external legal advice on the requirements of the legislation, and also to assist with changes to the rulebook. We asked what the expected fee would be, and received a mixture of per hour and total estimates of legal costs. The hourly rate varied around £250, whereas an estimated total cost was in the region of £10,000. If a lawyer were present throughout all meetings of senior staff, then this would take 20 hours at a cost of £5,000 using the suggested rate. Allowing for extra fees for lawyers to draft the rule (bearing in mind this is not in any way required – we reflect the costs unions believe they will need to face in their individual cases), then we take £5,000 as an overall best estimate, with £2,000 at the lower end and £10,000 at the higher end. We have assumed every union will wish to do this, as other unions were unsure at this stage.
53. Two unions also suggested that where branch secretaries play a significant role in maintaining membership lists these staff may be required to deal directly with an assurer. We were advised that unions may train such staff to prepare for this. We have accounted for the on-going costs of liaising with assurers in the next section, and so we only look at training. One stakeholder proposed in a consultation response that they would spend 3 hours training such staff at a total cost in the region of £50,000 to them. None of the other unions we met with told us that branch secretaries played a significant role in maintaining the membership register, and so in the absence of better information we assume this will affect 4 unions as a best estimate, as our meeting covered around a quarter of all large unions.
54. Tables are provided below detailing the amount of time spent on familiarisation, tendering and rulebook changes and the associated costs using the hourly labour costs calculated in the previous section.

**Table 4: Hours spent by different categories of staff in the transition period per union**

	General Secretary			Other senior director			Union Official		
	Low	Best	High	Low	Best	High	Low	Best	High
Familiarisation	4	8	16	16	32	64	0	0	0
Tendering	0	0	0	0	0	0	40	80	120
Rulebook changes	4	8	16	16	32	64	0	0	0
Approval	4	4	4	16	16	16	0	0	0
Total	12	20	36	48	80	144	40	80	120

**Table 5: Monetised time cost by different categories of staff in the transition period per union**

	General Secretary			Other senior director			Union official		
	Low	Best	High	Low	Best	High	Low	Best	High
Familiarisation	£195	£391	£781	£407	£815	£1630	0	0	0
Tendering	0	0	0	0	0	0	£539	£1079	£1618
Rulebook changes	£195	£391	£781	£407	£815	£1630	0	0	0
Approval	£195	£195	£195	£407	£407	£407	0	0	0
Total	£586	£977	£1758	£1222	£2037	£3667	£539	£1079	£1618

**Table 6: Aggregated costs for all large unions in the transition period**

	Cost per union			Unions affected	Total		
	Low	Best	High		Low	Best	High
Labour costs excluding branch training	£2,348	£4,093	£7,043	42	£98,603	£171,891	£295,809
Legal fees	£2,000	£5,000	£10,000	42	£84,000	£210,000	£420,000
Branch training	£50,000	£50,000	£50,000	4	£200,000	£200,000	£200,000
Total					£382,603	<b>£581,891</b>	£915,809

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

55. The implementation of the Part 3 of the Act requires trade unions with more than 10,000 members to produce a membership audit certificate which will need to be completed by a qualified independent assurer.
56. The use of an independent assurer will necessitate a payment of a fee for services rendered. This will act as a direct cost to a trade union.
57. In the most recent period of consultation we asked several unions what they expected to pay for the assurance service, based on their current fee level for similar work. We also spoke to three organisations who were interested in becoming assurers. All stressed that the estimates given are provisional, but the estimates form out best estimate of the likely fee level charged by assurers.
58. All unions agreed that the potential fee would vary depending on the size of the trade union, while the distribution of membership lists amongst various branches could also impact the level of fee charged to a union.

59. Some unions and one potential assurer expressed a belief that the fee level would be higher in the first year. Others disagreed with that belief. We therefore take a slightly higher best estimate and a wider range of fees for the first year than in subsequent years. Based on the feedback received our best estimate is £12,000, with a lower limit of £5,000 and an upper limit of £35,000. The upper limit was given by one assurer for particularly complex unions with multiple branches.
60. Our initial assessment based on analysis of stakeholder responses to the August discussion period yielded an average fee of £10,000, with a lower estimate of £5,000 and an upper estimate of £15,000. These levels were broadly supported for all subsequent years in the stakeholder meetings and consultation responses.
61. During the reporting period October 2012 to September 2013 (which informs the Certification Officer's 2013-14 report) there were **42 unions** who under these regulations would be required to submit an audit certificate completed by a qualified independent assurer. By multiplying our minimum estimate (£5,000/£5,000), best estimate (£12,000/£10,000) and maximum estimate (£35,000/£15,000) by the number of unions affected (42) we can present a cost range for fees incurred (see tables 7 & 8).

**Table 7: Total fee cost faced in the first year by trade Unions based on 2012-2013 union numbers and fee estimates**

Minimum Estimate	Best estimate	Maximum Estimate
£210,000	<b>£504,000</b>	£1,470,000

**Table 8: Total fee cost faced in subsequent years by trade Unions based on 2012-2013 union numbers and fee estimates**

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

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

62. As part of the changes unions with over 10,000 members will need an independent assurer to assure its procedures. The independent assurer will require the time of union staff in order to assess the systems for maintaining and updating a union's membership list.
63. Some stakeholders indicated that the on-going time cost would vary depending on the requirements of the assurer, and the level and type of scrutiny they felt was necessary in order to sign off the membership audit certificate. The certification process verifies systems rather than accuracy of data; however some assurers and unions told us they expected this to involve sampling the membership register. The process of acquiring these records, as well as explaining systems to assurers and considering their report will all use union staff time.
64. Several trade unions gave some details of the time costs during meetings held over the consultation period. Their approach to managing the on-going burden depended largely on their size, structure and IT systems. At the lower end, one union was sufficiently confident in their IT system that they intended to simply allow an assurer access to the system and allow them to work independently, with no staff time required. Additionally, one trade union and an unconnected potential assurer said that membership registers were already checked using random sampling during the financial audit process to produce the annual return (AR21).
65. Some unions suggested half a day of IT specialist time would be required every one or two months to extract the data and share it with assurer. Others suggested two all day meetings a year including the staff responsible for IT and membership, the General Secretary and an assurer firstly to clarify processes and secondly to feedback on the assurance process. We combine these requirements when calculating our best estimate, taking middle range figures for both IT specialist and senior union staff time. Our lower estimate reflects no IT specialist time and less senior union staff time, as some unions suggested to us that no IT services would be needed. Our upper estimate reflects the higher end of the range for both IT specialist and senior union staff time.

66. We have calculated the costs for an IT technician to extract the data and senior union staff to discuss the systems separately. We count the former in blocks of time needed to extract data for an assurer's use. At the upper estimate, we allow for 12 blocks of 4 hours IT operation technician time (48 hours in total). At the lower estimate we follow the view of one of our stakeholders that it wouldn't require any IT technician's time. Our best estimate is 6 blocks of 4 hours (once every two months).
67. We allow a whole day of time (8 hours) as a best estimate for the General Secretary, Head of Membership (or equivalent) and Head of IT to meet with the assurer to explain the systems the union has in place to comply with its duties, and answer any questions. As a lower estimate, some unions indicated they would expect this only to take a half day (4 hours) for each of these staff. As an upper estimate, we have estimated that it would take 12 hours.
68. Potential assurers and unions indicated to us that they would not expect to interview more junior staff, and so we have removed this costing which was present in a previous version of the Impact Assessment.
69. We allow a second whole day of time (8 hours) as a best estimate for the same three senior individuals to meet with an assurer to receive feedback on the assurance process and suggest potential improvements to the membership system. Whilst this is not a requirement of the measure, every potential assurer we spoke to indicated that they were very likely to provide this as part of the contract in order to maximise value. We have therefore included it in the time costs, however we are taking no time as our lower estimate and also a whole day as the upper estimate since stakeholders indicated they would be unlikely to exceed this.
70. Unions indicated to us that they would periodically need to retender the assurance contract so as to ensure they were continuing to get good value for money. We asked how often unions retendered their auditor or scrutineer contracts in an attempt to estimate this. Most unions agreed with this proxy for retendering of an assurance contract, and the frequency of retendering varied from every 2 years to retendering on an ad-hoc or infrequent basis. We therefore taken as a best estimate that a third (14 unions) of unions will retender every year.
71. We have already modelled the tendering process in the transition costs section, and so we continue to use those estimates. For the purposes of calculating costs, we assume 14 unions will retender each year, including the first year. This ensures that we account for unions switching assurer once the marketplace has become more regular after the first membership audit certificate have been written.
72. In meetings, we asked unions to share with us the amount of time they expected to spend on a tender. We were advised in most cases that junior staff would carry out the tender and provide results to senior directors to make decisions. We have estimated the amount of total time junior staff would spend directly working on the tender based on stakeholder views. Our lowest estimate is one week of full-time work (40 hours) and our upper estimate is three weeks (120 hours) with a best estimate of two weeks (80 hours).
73. Since this is not part of an overall transition cost and we are not anticipating senior union staff will meet every year to review the assurance contract, we have also accounted for a meeting after tendering to check and approve the recommendations put forward by the junior officials. Following the same rationale as in the transition section, we allow 4 hours of a General Secretary's time and an equal amount of time for 4 other senior directors. This is detailed in tables below.

**Table 9: Hours spent by different categories of staff on an on-going basis**

	General Secretary			Other senior director			Union Official			IT Operation Technician		
	Low	Best	High	Low	Best	High	Low	Best	High	Low	Best	High
Explaining systems	4	8	12	8	16	24	0	0	0	0	0	0
Record Retrieval	0	0	0	0	0	0	0	0	0	0	24	48
Assurer feedback	0	8	8	0	16	16	0	0	0	0	0	0
Retendering	4	4	4	16	16	16	40	80	120	0	0	0

**Table 10: Monetised time cost by different categories of staff in the transition period per union**

	General Secretary			Other senior director			Union official			IT Operation Technician		
	Low	Best	High	Low	Best	High	Low	Best	High	Low	Best	High
Explaining systems	£195	£391	£586	£204	£407	£611	0	0	0	0	0	0
Record retrieval	0	0	0	0	0	0	0	0	0	0	£395	£791
Assurer feedback	0	£391	£391	0	£407	£407	0	0	0	0	0	0
Retendering	£195	£195	£195	£407	£407	£407	£539	£1079	£1618	0	0	0

**Table 11: Aggregated time costs for all large unions on an on-going basis**

	Cost per union			Unions affected	Total		
	Low	Best	High		Low	Best	High
Labour costs	£399	£1,992	£2,786	42	£16,760	£83,645	£117,011
Retendering	£1,142	£1,682	£2,221	14	£15,991	£23,544	£31,097
Total					£32,751	<b>£107,189</b>	£148,108

### Small Trade Unions (with 10,000 members or fewer)

74. As mentioned in the assumptions section of this impact assessment, in order to more accurately reflect the labour costs in smaller unions, we now just use one category of union director for all senior staff in small unions. This category is Functional Managers and Directors (closest to Union Manager and Directors – SOC 2010: 1139)

### Transition Costs (Direct Cost)

75. For unions with fewer than 10,000 members, we have received one consultation response and held one meeting with stakeholders who fell into this category. We have used this feedback in preparing these estimates, but have allowed for a wider range of costs due to the limited evidence. We were advised that the estimates given in the previous version of this Impact Assessment were overestimates for smaller trade unions, and we have used the results of this consultation period to revise them downwards accordingly. We have attempted to consult this category of unions twice, during both consultation periods. We included a distinct set of questions specifically tailored to small unions in our consultation questionnaire.
76. In the case of a smaller union, the majority of the burden of this measure will fall to the General Secretary, who is likely to be the individual responsible for signing the membership audit certificate on behalf of the union. One stakeholder emphasised the importance of the General Secretary being familiar with it. Based on their feedback, we estimate it would take a General Secretary half a day (4 hours) to become familiar with the legislation and to plan how they will ensure compliance. We take 1 hour as a lower estimate, which would likely be the case for very small unions and one day (8 hours) as a maximum.
77. The General Secretary may also consult with a union official for one hour to clarify any queries about the membership system, and so we have accounted for this in the estimates.

78. This means that for a union with 10,000 members or fewer, the total familiarisation costs per union will be £115.24 (see tables below).

**Table 12: Hours spent by different categories of staff in the transition period (small unions)**

	General Secretary			Union Official		
	Low	Best	High	Low	Best	High
Familiarisation	1	4	8	1	1	1

**Table 13: Monetised time cost by different categories of staff in the transition period (small unions)**

	General Secretary			Union official		
	Low	Best	High	Low	Best	High
Explaining systems	£25	£102	£204	£13	£13	£13

**Table 14: Aggregated transition costs for all small unions**

	Cost per union			Unions affected	Total		
	Low	Best	High		Low	Best	High
Labour costs	£39	£115	£217	124	£4,830	<b><u>£14,301</u></b>	£26,929

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

79. Under proposed legislation, unions with less than 10,000 members will not need to seek independent assurance in order to produce a membership audit certificate. Instead, unions with less than 10,000 members will be able to self-certify their membership audit certificate. It assumed that the process of self-certification will result in a cost for those unions with less than 10,000 members.
80. Our previous estimates were based on one stakeholder, experienced with trade union operations, who estimated that the process of self-certification would involve the union branch manager undertaking an internal assurer role each year. They estimated that depending on the size of the union, this would take one union official 15-30 hours. We therefore take 15 hours as a lower estimate, 30 as a maximum and 22 hours as our best estimate.
81. We then assume that this report would need to be queried, checked and signed off by the person responsible for signing the membership audit certificate. We have been advised by a stakeholder that this process will be negligible, and that we should allocate not more than one hour of General Secretary time. We have therefore used this as our best estimate. The tables below show the resulting costs:

**Table 15: Hours spent by different categories of staff on an on-going basis (small unions)**

	General Secretary			Union Officials		
	Low	Best	High	Low	Best	High
Annual checking	1	1	1	15	22	30

**Table 16: Monetised time cost by different categories of staff on an on-going basis (small unions)**

	General Secretary			Union official		
	Low	Best	High	Low	Best	High
Explaining systems	£25	£25	£25	£202	£297	£404

**Table 17: Aggregated on-going costs for all small unions**

	Cost per union			Unions affected	Total		
	Low	Best	High		Low	Best	High
Labour costs	£228	£322	£430	124	£28,243	<b><u>£39,949</u></b>	£53,287

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

82. The implementation of the Act will give the Certification Officer Office additional powers, beyond the existing powers that limit the scope of investigations to complaints from union members. For more details regarding the scope of these additional powers please refer to option 1 in the “Description of options considered” section within this impact assessment.
83. We consulted the Certification Office and several unions on the likely impact of investigations under the new powers. We were given significant information about the likely costs, but have limited evidence to estimate the frequency of complaints and investigations.
84. We have made substantial efforts to find an appropriate proxy or source to estimate the number of additional complaints that will be made to the Certification Officer under the provisions of this measure. We have studied organisations serving a similar role to the Certification Office, looked at other categories of Certification Office investigations, and also asked questions in the consultation document and discussion period. Finding a proxy remains difficult, and so we have looked at complaints currently made under Section 24 of TULRCA and allowed for an increase due to the ability of third parties to bring complaints introduced by this measure. In the past 10 years the Certification Officer has investigated 2 complaints relating to Section 24 of TULRCA, although this figure may increase since the base of potential complaints will be expanded to third parties under this measure. We allow for three additional investigations per year (revised down from four) as our best estimate, based on the number of complaints currently received by the Certification Officer under existing legislation. We will calculate the cost of these investigations to the Certification Office later in this Impact Assessment.
85. In the financial year 2013/14 the Certification Officer undertook 12 investigations related to union rules, 4 of which resulted in a union being found in breach of its rules or having threatened to breach its rules. In previous years, the proportion of cases where a breach is found has remained roughly stable. We therefore estimate that the same rate of non-compliance will be detected under the new powers. Therefore, of those three additional investigations we estimate one will be upheld. We must therefore account for the cost of two investigations per year to compliant unions for the purposes of this Impact Assessment.
86. Based on feedback from trade unions, we have revised upwards our estimates of the time costs of complying with an investigation. As a best estimate, we allow one week (40 hours) of General Secretary’s time (using the wage level applied to large unions above) and 4 weeks (160 hours) of union official’s time. As a lower estimate we allow 3 days (24 hours) and 2 weeks (80 hours) respectively. As a maximum estimate we allow 8 days (64 hours) and 6 weeks (240 hours).
87. The tables below summarise the costs:

**Table 18: Hours spent by different categories of staff on Certification Office requests (all compliant unions)**

	General Secretary			Union Official		
	Low	Best	High	Low	Best	High
Responding to investigation	24	40	64	80	160	240



**Table 19: Monetised time costs of staff dealing with Certification Office requests (all compliant unions)**

	General Secretary			Union official		
	Low	Best	High	Low	Best	High
Responding to investigation	£1,172	£1,953	£3,125	£1,079	£2,158	£3,237

**Table 20: Aggregated time costs of staff dealing with Certification Office requests (all compliant unions)**

	Cost per union			Unions affected per year	Total		
	Low	Best	High		Low	Best	High
Labour costs	£2,251	£4,111	£6,362	2	£4,502	<b>£8,223</b>	£12,725

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

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

## Summary of Trade Union Costs

92. Table 21 below presents a summary of the (**best estimated**) costs that potentially face trade unions under proposed legislation.

**Table 21: Best estimated costs to Trade Unions (Excludes cost to Exchequer)**

	<b>Unions with fewer than 10,000 members (Total:124 unions)</b>	<b>Unions with 10,000 members or more (Total:42 unions)</b>
<i>Transition Costs (One off)</i>	£14,300	£581,890
<i>Assurer fees (first year)</i>	NA	£504,000
<i>Assurer fees (subsequent years)</i>		£420,000
<i>Annual time costs</i>	£39,950	£107,190
<i>Cost to compliant unions of handling Certification Office requests per year</i>		£8,220
<i>IT costs</i>	0	0
<b><i>Total Cost (including familiarisation, using first year fees – CO requests counted in large unions section)</i></b>	<b>£54,250</b>	<b>£1,201,300</b>
<b><i>Total Cost (excluding familiarisation, using first year fees – CO requests counted in large unions section)</i></b>	<b>£39,950</b>	<b>£619,410</b>
<b><i>Total Costs for all unions (excluding familiarisation, after first year– CO requests counted in large unions section)</i></b>	<b>£39,950</b>	<b>£535,410</b>

## Impact on Trade Union members

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

93. Responses from stakeholders during the August 2013 discussion period suggested that a membership audit certificate awarded by an independent assurer, to a union, would improve confidence amongst trade union membership regarding the accuracy of membership lists. Members would be more confident that they and other members within the union were receiving up-to-date information on union activities.

## Impact on Assurers

### **Receipt of fee**

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

## Impact on the general public and employers

### **Increase confidence (Indirect Benefit – non- monetised)**

95. Given the potential to affect the daily lives also of non-members and the complexity of maintaining up-to-date registers, annual assurance that trade unions are complying with their statutory duty to maintain an accurate and up-to-date membership register, would increase the confidence of the general public and employers that voting papers and other forms of communications are reaching

union members so that they have the opportunity to participate, even if they choose not to exercise it.

## Impact on the Exchequer

### Certification Office (Direct Cost)

96. The implementation of the Act will give the Certification Officer Office additional powers, beyond the existing powers that limit the scope of investigations and complaints to those from union members. For more details regarding the scope of these additional powers please refer to option 1 in the "Description of options considered" section within this impact assessment.
97. What is evident is that the Certification Officer will need to increase his or her resources in order to meet its additional enforcement duties. Consultations with the Certification Office have identified an estimated cost of this additional resource.
98. To comply with its duties under the Act, the Certification Office will need to recruit 1-2 additional staff, with a best estimate of the cost at £90,000 and an upper estimate at £130,000. In addition to this, an external investigator may need to be hired if an investigation into a union's membership activity is deemed to be warranted. The Certification Office were unable to estimate how often an investigation would take place. We therefore take an estimated range of costs as £70,000 to £130,000, with a best estimate at £90,000.

## One-in two out Rule

99. The measures contained in this impact assessment are in scope of "One-in-two-out" (OITO). This legislation will impose a net annual direct cost on trade unions (which are classified as civil society organisations). As civil society organisations are treated the same as businesses for the purposes of OITO the Equivalent Annual Net Cost to Business (EANCB) is estimated to be £0.50m in 2009 prices.

## Risks and unintended consequences

### Risks

#### Competition

100. It is important that the market for independent assurers remains as competitive as possible. At the same time the market for assurance can not be open to everyone as the competence level of assurers is important to ensure confidence in the certification process. To mitigate this risk, the proposed assurance certification process will be open to a number of independent, competent professional bodies.

### Unintended consequence

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

101. Discussions with trade unions suggested that the costs incurred by this Act would be passed on to its members via higher subscription fees.
102. If we look at all the trade unions and members affected by this proposed legislation (166 trade unions with a total of 7,086,116 members)<sup>7</sup>, and factor in all the trade union annual costs

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

(excluding one-off familiarisation costs and using fee levels from the second year onwards), the average annual cost per union member is presented in table 22 below.

**Table 22: Annual cost per union member (for all members across all unions):**

Minimum Estimate	Best estimate	Maximum Estimate
£0.04	<b>£0.09</b>	£0.13

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

## Proportionality of evidence used in this impact assessment

104. We have taken a considered proportional approach in the gathering and analysis of evidence used to underpin this impact assessment. Forty-two Trade Unions will be affected by the requirement to provide a membership audit certificate which is independently assured. At present there is no requirement to assure the process by which membership lists are maintained. As part of the Government's discussion document we sought evidence from relevant stakeholders on the likely costs and benefits of introducing an assurance certificate for trade unions with over 10,000 members. We have used evidence gathered from stakeholders in August 2013 and September-December 2014 to inform our estimates.
105. The impact assessment contains sensitivity analysis to reflect uncertainty over the evidence base and final policy guidance. Our best estimate for the EANCB to trade unions is £0.50m.

## Small and Micro-Business Assessment

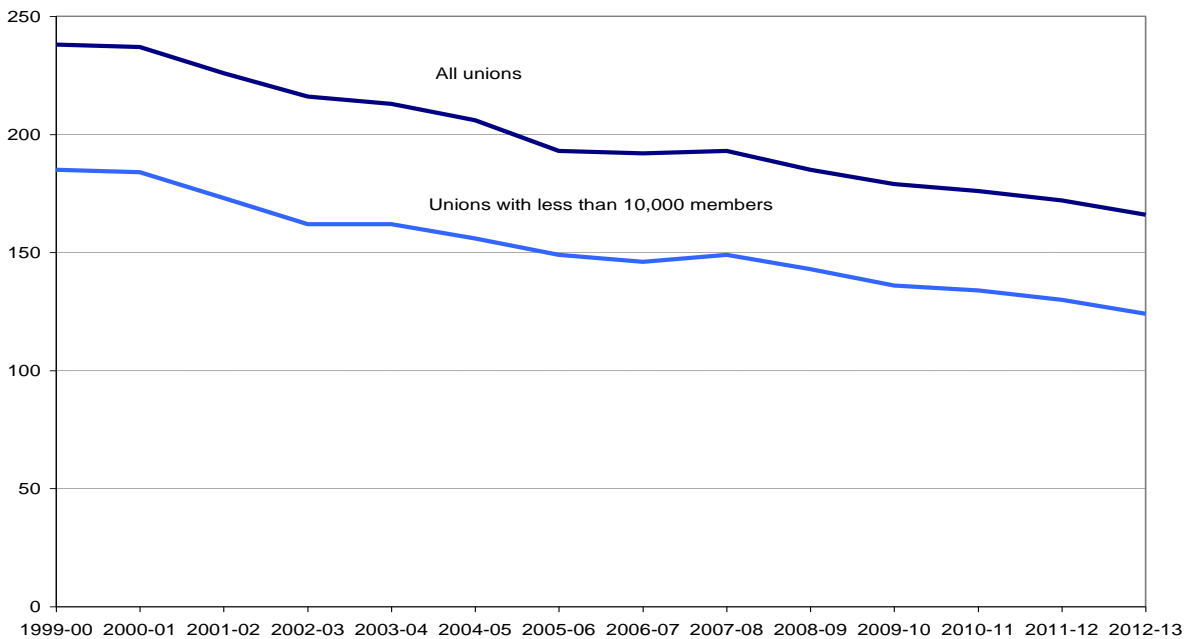
106. The Act regulates Civil Society Organisations<sup>8</sup> and will come into force after 31 March 2014 and therefore a Small and Micro-Business Assessment is applicable. It has not been possible to fully assess the likely impact on small businesses (up to 49 full time equivalent (FTE) employees) and micro-businesses (up to 10 employees) as there is no collated data on union employees.<sup>9</sup>
107. Unions are membership organisations. In the absence of data on the number of full time employee union staff, the Government has taken an approach of varying requirements based on the size of union membership. All trade unions will be required to submit an annual membership audit certificate, but unions with fewer than 10,000 members will be exempted from requirements to complete this certificate through a qualified independent assurer.
108. During the consultation period, we spoke to 10 trade unions with more than 10,000 members. This accounts for approximately a quarter of all trade unions over 10,000 members. The stakeholders gave us estimates for the number of staff in their union. 8 of those trade unions had over 50 staff, while all of the unions had more than 10 employees. Taking into account that we spoke with 24% of trade unions with more than 10,000 members, we have estimated that around 8 unions will be required to submit an independently verified membership audit certificate that would be classified as small businesses, with the majority of other small businesses being exempted from this requirement due to having membership of fewer than 10,000.
109. The Act does not provide a full exemption for small unions, as the policy objective is to give greater assurance that unions are complying with the existing duty to maintain a register of members' names and addresses. Exempting unions with fewer than 10,000 members would exclude three quarters of unions from the requirement to complete an annual membership certificate. This would not achieve the policy objective of giving greater assurance that unions are complying with this duty, as a majority of trade unions would be excluded.

<sup>8</sup> Trade unions are included in the definition of Civil Society Organisations, which is a voluntary organisation which is neither a business nor public sector.

<sup>9</sup> The Department for Business, Innovation & Skills collects data on the number of small and micro businesses in the UK, but unions are not included in these records.

110. There has been a general decline in the number of small trade unions since 1999-00, which has declined at a slightly faster rate than larger trade unions. During the reporting period October 2012 to September 2013 (covered in the Certification Officer's 2013-14 annual report), there were 124 unions with less than 10,000 members, representing 75 per cent of the listed and scheduled unions.

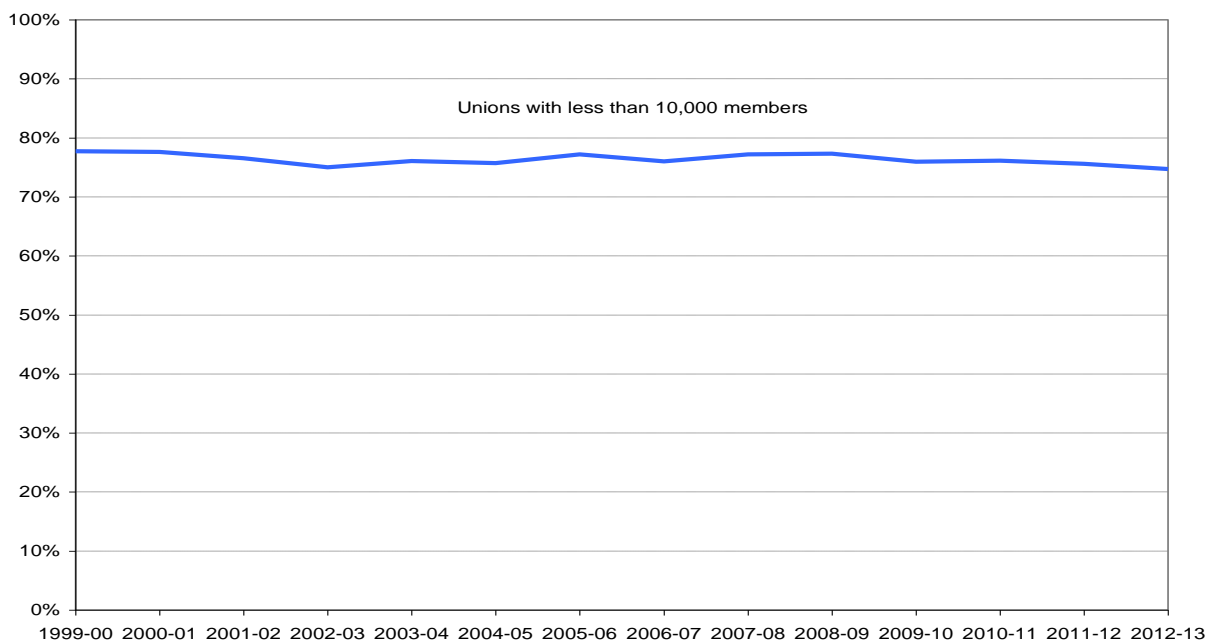
**Figure 2: Number of unions by size of union membership, 1999-2013**



Source: Annual Report of the Certification Officer

111. The percentage of unions with less than 10,000 members has remained relatively stable in the period between 1999-00 and 2012-13, representing around 75 per cent to 78 per cent of all listed and scheduled unions.

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



Source: Annual Report of the Certification Officer

112. The exemption for small trade unions achieves the policy objective of greater assurance while also minimising the costs for small trade unions. The average costs (excluding familiarisation costs) for unions with fewer than 10,000 members will be around £320, compared with around £13,560 for larger unions (using assurance fee levels from the second year onwards). This rises to £440 when accounting for the one-off familiarisation costs, compared with around £29,420 for larger unions (using assurance fee levels for the first year).
113. To prevent potential barriers to the creation of new unions who potentially may have fewer full time employees, the requirements will also not apply to newly created trade unions of less than one year old. In addition, it is likely that the majority of newly created unions will be able to self-certify their accounts in their second year. This is because newly created unions tend to be smaller than the 10,000 threshold for independent assurance. In the period between 2000 and 2012, only 2 of the 46 newly created unions reported a membership of greater than 10,000 members in their first return to the Certification Officer.<sup>10</sup>
114. Commencement of the trade union administration provisions in the Act will be by Order. No union will have to supply a membership audit certificate until a minimum of 17 months after the legislation is commenced, as the provisions will not apply to reporting years that have already started when the legislation comes into force. This is a combination of the 12 month reporting period and the five months allowed by the Certification Officer for annual return to be submitted. We have taken the view that a transition period of at least 17 months is adequate for all unions to comply, regardless of size, as this gives unions plenty of time to prepare for the new arrangements. In addition, the process of preparing to comply should be simpler for small unions, as unlike larger unions, they will not have to appoint an assurer.
115. The additional Certification Officer powers will apply to all unions, regardless of size. This is because all trade unions are statutorily required to maintain an up-to-date register. As part of the policy to maintain confidence in the ability of a union to be able to contact its members, it is important that problems with maintaining a union register can be investigated no matter the size of the union.

## Equality impact test

116. We have published separately an Equality Duty document<sup>11</sup>. Although the effects of the proposals may impact different protected groups in different ways, our assessment suggests that there will **be no direct adverse equality impacts** on these protected groups from the implementation of the proposed legislative measures regarding certification of trade union membership registers

## Family impact test

117. There are no direct costs to families as a result of implementation of this Act.

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<sup>10</sup> In addition, 87 per cent of the newly created unions reported membership of less than 1,000 members in their first return to the certification officer significantly less than the threshold for independent assurance.

<sup>11</sup> <https://www.gov.uk/government/publications/trade-union-membership-records-equality-impact-assessment>

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

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

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];</p> <p>To evaluate the policy we propose to review the impact in 2020. This is four years after the first set of audit certificates will be issued.</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The review will assess the policy objective of ensuring that trade union members, employers, and the general public are confident that unions comply with their duties to reasonably maintain membership lists.</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>A light touch approach will be taken by reviewing management information on complaints made to the Certification Office (CO) and use of compliance data from the CO.</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>Current management information held by the Certification Office.</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>A low level of complaints made to the certification office and a high level of compliance.</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p> <p>The Certification Office will be collecting data on complaints and compliance.</p>
<p><b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here]</p>