

# Introduction

This is the forty first Annual Report to be published since the post of Certification Officer was established in 1975. It deals with my activities during the period 1 April 2016 to 31 March 2017.

This is my first Annual Report as Certification Officer. David Cockburn retired from the position on 30 June 2016, after nearly 15 years service and I was appointed on an interim basis on 1 July 2016. A permanent appointment had not been made at the time of this report.

The functions of the Certification Officer are contained in the Trade Union and Labour Relations (Consolidation) Act 1992 (as amended) (referred to in this report as “the 1992 Act” or “the Act”). They include responsibility:

*under Part I, Chapter I* – for maintaining a list of trade unions and for determining the independence of trade unions;

*under Part I, Chapter III* – for dealing with complaints by members that a trade union has failed to maintain an accurate register of members or failed to permit access to its accounting records; for seeing that trade unions keep proper accounting records, have their accounts properly audited and submit annual returns; for the investigation of the financial affairs of trade unions; for ensuring that the statutory requirements concerning the actuarial examination of members’ superannuation schemes are observed; and for dealing with complaints that a trade union has failed in its duty to secure that positions in the union are not held by certain offenders;

*under Part I, Chapter IV* – for dealing with complaints by members that a trade union has failed to comply with one or more of the provisions of the Act which require a trade union to secure that its president, general secretary and members of its executive are elected to those positions in accordance with the Act;

*under Part I, Chapter VI* – for ensuring observance by trade unions of the statutory procedures governing the setting up, operation and review of political funds; and for dealing with complaints about breaches of political fund rules or about the conduct of political fund ballots or the application of general funds for political objects;

*under Part I, Chapter VII* – for seeing that the statutory procedures for amalgamations, transfers of engagements and changes of name are complied with, and for dealing with complaints by members about the conduct of merger ballots;

*under Part I, Chapter VIIIA* – for dealing with complaints by members that there has been a breach, or threatened breach of the rules of a trade union relating to

the appointment, election or removal of an office holder; disciplinary proceedings; ballots of members other than in respect of industrial action; or relating to the constitution or proceedings of an executive committee or decision making meeting;

*under Part II* – for maintaining a list of employers’ associations; for ensuring compliance with the statutory requirements concerning accounting records, annual returns, financial affairs and political funds; and for ensuring that the statutory procedures applying to amalgamations and transfers of engagements in respect of employers’ associations are followed.

As was reported in last year’s Annual Report the Trade Union Act 2016 received royal assent on 4 May 2016. The Act, when fully implemented, will significantly impact on the role and work of the Certification Office. To date three sections of the Act, that relate to the work of the Certification Officer, have been implemented:

*Section 11: Opting in by union members to contribute to political funds*

The law relating to the way members of trade unions contribute to the political funds of their unions has been amended to favour a system of opting in rather than requiring members to opt out of making an otherwise automatic contribution. The government has set a transition period of 12 months beginning 1st March 2017. Following the end of the transition period new members joining a union with a political fund or all members of a union which establishes a new political fund will have to opt in if they wish to contribute to a political fund. To comply with the changes trade unions with political funds will have to amend their rules relating to these funds and the amended rules must be approved by me before the end of the transition period. My office has produced new guidance and model rules to assist unions in complying with the new law. Trade unions with political funds and the TUC were consulted on the new guidance and model rules prior to being published on my website;

*Section 12: Union’s annual return to include details of political expenditure and Section 7 Information to Certification Officer about industrial action etc.*

Trade unions will be under a duty to include significantly more information in their annual returns to the Certification Officer. In particular, trade unions will have to report on:

- all industrial action undertaken by that trade union and all ballots relating to industrial action
- details of all payments made by that trade union on political purposes and any other payment from its political fund if not made for a political purpose (where total expenditure during the period from a political fund exceeds £2,000).

Both of these provisions were commenced on 1 March 2017. However, the duty relates to reporting periods that commence after that date. For the majority of trade unions this will mean that they will first have to provide such information in their annual return to me for the period ending 31 December 2018 (such returns will be due in my office by 1 June 2019). My Office will ensure that an amended annual return form including guidance notes is sent to all relevant unions well before the reporting periods commence.

The remaining provisions, which are those that have the greatest impact on the role of the Certification Officer, have yet to be commenced, this includes the investigation and

determination of breaches of statutory provisions without a complaint from a member and increased penalty and enforcement powers.

As in each Annual Report, I give details of the membership of trade unions as reported to me in the relevant period. The number of trade union members recorded in the Annual Returns received in 2016-2017 is 6,865,056. This represents a decrease of 83,669 members or 1.2% over the membership recorded in my last Annual Report. Within these figures, the number of non-contributing members as a percentage of the total members has decreased from 8.2% in the previous year to 5.8% this reporting year.

At the end of the previous reporting period there were 158 trade unions. At the end of this reporting period there were 150 trade unions. Whilst nine trade unions were removed from the list and schedule, one was added. Of the nine which were removed, four ceased to exist due to a transfer of engagements and five were dissolved or deemed no longer to meet the statutory definition of a trade union.

The number of employers' associations also continues to decrease. At the end of this reporting period there were 91 employers' associations, a net reduction of one from the previous period.

The general downward trend in the number of trade unions and employers' associations continues from the position in 1983 when there were 502 trade unions (now 150) and 375 employers' associations (now 91).

Over the past reporting year I determined 39 complaints. Of these, 33 complaints alleged that a union had breached its own rules. The other 6 related to alleged breaches of statute. A summary of these decisions can be found in Chapters 3, 4, 8 and 9 of this report. I determined a case which challenged the election of the General Secretary of URTU. In addition a case challenging the election of the General Secretary of UNISON has been heard by Assistant Certification Officer Her Honour Judge Mary Stacey, the decision was issued on 22 May 2017. In the case involving URTU I ordered that the General Secretary stand down and a new election be held.

Since the website of the Certification Office was absorbed into the government website (gov.uk) it has continued to be the primary source for those interested in obtaining information about the work of the Certification Office. Along with each of my decisions and the decisions of my predecessors since 1975, it contains all the annual returns from trade unions and employers association since 2012, with links to The National Archives website for returns from between 2003 and 2012. It also contains guidance on various aspects of my functions, copies or links to my Annual Reports back to 1999-2000 and a list of trade unions and employers' associations known to me. In addition it is possible to sign up on the website for e-mail updates of forthcoming hearings, my decisions and the work of the Certification Office.

This Annual Report relates to those annual returns received from trade unions and employers' associations between 1 April 2016 and 31 March 2017. Such annual returns must be lodged with me within five months of the end of their respective reporting period. Accordingly, the most recent annual returns are in respect of a reporting period ending in September 2016 and the oldest annual returns are in respect of a reporting period ending in October 2015 (see paragraph 4.1).

The Advisory, Conciliation and Arbitration Service (Acas) is required to provide me with the finance and support services necessary for the performance of my statutory duties. This in no way affects my independence from both Acas and the Secretary of State for Business, Energy and Industrial Strategy. On 31 March 2017 there were eight staff in post in the Certification Office. The net cost of the Office for the year ending 31 March 2016 was £535,621. This represents a 3.96% decrease in the cost of running the office compared to the previous reporting period (£557,682) and a decrease of 19.7% since the period 2007-2008. The above figures do not include costs for some of the services provided by Acas for my office, particularly such as for the provision of IT equipment and maintenance and HR services. The Trade Union Act 2016 contains a provision, not commenced at the time of this report, for the raising of a levy to be paid by trade unions and employers associations for the full cost of my office. My salary as Certification Officer at 31 March 2017 was £81,138 which included a payment to reflect my increased duties as the Certification Officer on an interim basis.

Accounts relating to the activities of the Certification Office, prepared under section 258 of the 1992 Act, are published separately by order of the House of Commons. In broad terms it is estimated that about 16% of the Office's resources were allocated to work connected with the maintenance of the lists of trade unions and employers' associations, 45% to work relating to complaints and trade union finances, 23% to ensuring receipt of annual returns and their processing and the remainder to other matters including political funds, certification of independence and mergers.

Where it is necessary to hold a hearing to determine a complaint I can make payments towards the expenses incurred by the complainant and their witnesses in attending the hearing. During the period under review such payments amounted to £264.80. Assistance with legal costs is not available.

I appointed Mr David Taylor to act as an Assistant Certification Officer to assist me whilst I hold the position of Certification Officer. Ms Christine Stuart continued to hold her appointment as Assistant Certification Officer for Scotland. In addition I appointed Her Honour Judge Mary Stacey to prepare for, hear and determine such applications to the Certification Officer that I saw fit to delegate my powers. HHJ Stacey heard a case with multiple applicants relating to alleged breaches of statutory and rule book provisions relating to the 2015 election for General Secretary of UNISON. Her decision was issued on 22 May 2017 and is available on my website.

Until recently the Certification Office shared premises with Acas at Euston Tower. However, my office has from 10 April 2017 permanently re-located to:- Lower Ground, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX.

### **Advice and contacts for information**

The Office receives many enquiries and requests for guidance from trade unions, employers' associations and their members. Often we can help but there are constraints on the advice that can be given. It is for example inappropriate, unless the law requires it, to give guidance on, or prior approval to, a specific course of action in those areas where complaints can be made to me by an individual member. It would also be clearly inappropriate for my Office to comment on the merits of a possible complaint. Where a complaint is made, I have to investigate it and

decide it impartially on the facts of the case and in the light of the representations made by the parties concerned. I and my staff must avoid giving advice which might seem in any way to prejudice that impartiality. That said, the Office is happy to assist where it can and guidance booklets covering different aspects of the Certification Officer's responsibilities are available on the Certification Officer's website [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer) or in hard copy format free of charge. They are listed in Appendix 11 and requests for further information on any aspect of the Certification Officer's duties should be made to the Certification Office, Lower Ground, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX, tel: 020 7210 3734, e-mail: [info@certoffice.org](mailto:info@certoffice.org).

