

# Annual Report of the Certification Officer

2017-2018



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CERTIFICATION OFFICE  
FOR TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

**Annual Report  
of the Certification Officer  
2017-2018**

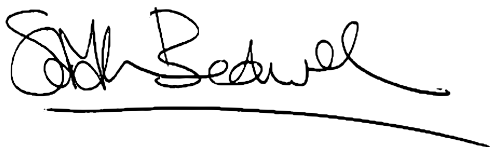
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I am required by the Trade Union and Labour Relations (Consolidation) Act 1992 to submit to you both a report on my activities as the Certification Officer during the previous reporting period. I have pleasure in submitting such a report for the period 1 April 2017 to 31 March 2018.

A handwritten signature in black ink, appearing to read 'Sarah Bedwell', with a long horizontal line extending from the end of the signature.

SARAH BEDWELL  
*The Certification Officer*  
14 June 2018



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# Introduction

I was appointed as Certification Officer on 1 January 2018. Gerard Walker held the position on an interim basis until 31 December 2017. I have appointed Mr Walker as Assistant Certification Officer and I am grateful for the support he has already given me in this role. We have prepared this report together.

My statutory functions 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”). These are set out in Appendix 12.

## **Trade Union Act 2016 Implementation**

The Trade Union Act 2016 received royal assent on 4 May 2016. Three sections of the Act that relate to the work of the Certification Officer and apply to mainly to trade unions, were implemented on 1 March 2017:

*Section 7: Information to Certification Officer about industrial action etc*

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

*Section 12: Union’s annual return to include details of political expenditure*

I am pleased to report that Mr Walker and myself have now approved the rule changes required by section 11 of the Act for all trade unions wishing to retain a political fund. This has involved a significant amount of work by those unions and by my team. I am very grateful to the relevant trade unions for their cooperation with my office in bringing about this significant change which means that trade union members joining after 1 March 2018 have to opt-in rather than opt out of contributing to a trade union political fund.

The duties to report on political fund expenditure and to provide information about industrial action apply to the reporting periods which begin after 1 March 2017. For the majority of trade unions this will mean that they will provide this information, for the first time, in their annual returns to me for the period ending 31 December 2018 which should be provided to me before 1 June 2019. In preparation for this my team have amended the template which trade unions use to report to this office so that unions can provide the additional information required.

Those provisions of the Act which give me the power to investigate and determine breaches of statutory provisions without receiving a complaint from a trade union member and enable me to impose financial penalties have not yet been implemented. Nor have those which require trade unions and employers’ associations to pay a levy as a contribution to the costs of my office.

## **Trade Unions, and Employers' Associations**

The number of trade union members recorded in the Annual Returns received in 2017-2018 is 6,875,231. This represents an increase of 10,175 members or 0.15% over the membership recorded in my last Annual Report. However, UNISON have told me that they have not included their retired members (147,330) in previous annual returns. These members are now included in the overall total. Without this figure the total figure would have been 6,727,901 or a decrease of 2%.

On 31 March 2018 there were 146 trade unions which is a fall of four from the previous year. Seven trade unions were removed from the list and schedule, three were added. Of the seven which were removed, one ceased to exist due to a transfer of engagements, two amalgamated to form a new trade union and four were dissolved or deemed no longer to meet the statutory definition of a trade union.

At the end of this reporting period there were 91 employers' associations, the same number as at the end of the previous reporting period.

## **Complaints from Union Members**

Over the past reporting year 55 complaints were determined by Mr Walker, myself and our Assistant Certification Officers (ACOs). Of these, 52 complaints alleged that a union had breached its own rules. The other 3 related to alleged breaches of statute. A summary of these decisions can be found in Chapters 3, 4, 8 and 9 of this report.

The issue that attracted the most interest was the decision made by HHJ Mary Stacey in her role as Assistant Certification Officer to hear the complaints of Burgess and Ors against UNISON. The complaints related to the General Secretary election in 2015. There were multiple applicants and 16 complaints that required a preliminary hearing and three full days of evidence and submissions. Following this, the ACO made a single declaration that the union had breached its own rules relating to the election; she considered it inappropriate to make an enforcement order on the basis that it would be disproportionately punitive, in response to the breach found, to order the General Secretary election to be run again. The ACO's decision was upheld by the Employment Appeal Tribunal on appeal by the applicants.

## **The Website**

Our website has continued to be the primary source for those interested in obtaining information about the work of the Certification Office. It contains all decisions made by myself, my predecessors and ACOs as well as the annual returns from trade unions and employers' associations 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 our 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.

## **Annual Returns**

This Annual Report relates to those annual returns received from trade unions and employers' associations between 1 April 2017 and 31 March 2018. 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 2017 and the oldest annual returns are in respect of a reporting period ending in October 2016 (see paragraph 4.1).

### **The Certification Office**

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.

I am fortunate to be supported by a strong team within the Certification Office. On 31 March 2018 there were nine staff in post in the Certification Office. The net cost of the office for the year ending 31 March 2018 was £651,370 which represents an increase of £124,854 or 23.7% over the figure for year ending 31 March 2017 (£526,516) and £115,749 or 21.6% over the figure for year ending 31 March 2016 (£535,621.) The main reasons for the increase are the requirements to pay for legal advice from the Government Legal Department, payment for hearing venues as a consequence of our move from Euston Tower, and an increase in staff to deal with the new responsibilities around trade union membership registers and some aspects of the Trade Union Act 2016. In addition, the post of Certification Officer is now full time.

The above figures do not include costs for some of the services provided by Acas for my office, for instance the provision of IT equipment, its maintenance and HR services. It is estimated that such costs were £232,000 for year ending 31 March 2018. My salary as Certification Officer at 31 March 2018 was £125,695. This sum is pensionable and is taxed under PAYE.

Where I 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. Such payments amounted to £1,262.85 during this period. Assistance with legal costs is not available.

### **Accounts**

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 22% of the Office's resources were allocated to work connected with the maintenance of the lists of trade unions and employers' associations, 47% to work relating to complaints and trade union finances, 19% to ensuring receipt of annual returns and their processing, 9% to political funds and the remainder to other matters including certification of independence and mergers. The growth in resources devoted to the maintenance of my lists is a reflection of the increased work associated with the more recent applications for listing as a trade union.

### **Assistant Certification Officers**

I appointed Mr Gerard Walker to act as an Assistant Certification Officer to assist me whilst I hold the position of Certification Officer. Ms Christine Stuart continues to hold her appointment as Assistant Certification Officer for Scotland. During his appointment as Certification Officer, Mr Walker also appointed HHJ Mary Stacey and His Honour Jeffrey Burke QC to hear complaints. Jeffrey Burke QC continues to hold his position as Assistant Certification Officer to hear complaints brought by Mr Coyne and Mr Brooks against Unite the Union arising out

of the General Secretary election in 2017. We are grateful for the support given by Ms Stacey and Mr Burke during their appointments.

### **Protected Disclosures and the Certification Officer**

The Certification Officer is a designated a 'prescribed person' under the Public Interest Disclosure Regulations 2014 in relation to relevant disclosures by employees/workers of trade unions and employers' associations. Under Part IVA of the Employment Rights Act 1996 and the 2014 Regulations, employees or workers of a trade union or employers' association may be protected if they make a relevant disclosure to me. A relevant disclosure to the Certification Officer is defined in the 2014 Regulations as being one related to fraud, and other irregularities relating to the financial affairs of trade unions and employers' associations.

During this reporting period I received no relevant disclosures.

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

My team 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 may, for instance, be inappropriate for us to give guidance on, or prior approval to, a specific course of action in areas where complaints can be made to me by an individual member. It would also be inappropriate for us to comment on the merits of a possible complaint. That said my team is, of course, happy to assist where we can and guidance covering different aspects of my responsibilities is available on our website [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer). Our guidance is listed in Appendix 11; requests for further information on any aspect of my duties should be made to the Certification Office, Lower Ground, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX, tel: 0330 109 3602, e-mail: [info@certoffice.org](mailto:info@certoffice.org).

Finally, I am very grateful for the support which has been given to me by my team since my appointment was announced. They are a strong team who are keen to deliver a good service to those we work with.

# Lists of Trade Unions and Employers' Associations

*Any trade union or employers' association may apply to have its name included in the public lists maintained by the Certification Officer. This chapter sets out the background to that process. It also gives the numbers on the lists at 31 March 2018 and the changes that have occurred during the previous twelve months. The lists are set out in full in Appendix 1 (trade unions) and Appendix 2 (employers' associations).*

## **Entry in the lists and its significance**

- 1.1 The Certification Officer maintains a list of trade unions and a list of employers' associations in accordance with the provisions of sections 2-4 and sections 123-125 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act").
- 1.2 Listing is voluntary and any organisation of workers or of employers may apply to be listed. A fee is payable on application (see Appendix 10). The name of the organisation shall be entered in the relevant list if the Certification Officer is satisfied that it falls within the appropriate definition in the 1992 Act (see paragraphs 1.19 and 1.20). The Act does not impose any test of size or effectiveness but entry in the list is not automatic. The Certification Officer will test whether the organisation satisfies the statutory definition. There are simplified provisions for the listing of a trade union or unincorporated employer's association formed by the amalgamation of two or more trade unions or unincorporated employers' association which were already on the list (see paragraph 1.6).
- 1.3 Any organisation aggrieved by the refusal of the Certification Officer to enter its name in the relevant list may appeal on a point of law to the Employment Appeal Tribunal (EAT).
- 1.4 For trade unions, listing is an essential preliminary to any application for a certificate of independence under section 6 of the 1992 Act. There are a number of other advantages of being listed for trade unions and unincorporated employers' associations. It is one of the requirements for obtaining tax relief in respect of expenditure on provident benefits (section 981 of the Corporation Tax Act 2010). There are certain procedural advantages in connection with the devolution of property following a change of trustees (section 13 of the 1992 Act). The fact of being on the relevant list is evidence (in Scotland, sufficient evidence) that the organisation is a trade union or employers' association. The name of a trade union or employers' association is protected by the provision that an organisation shall not be entered in the relevant list if its name so nearly resembles the name of an organisation already on that list as to be likely to deceive the public.

- 1.5 The current lists are available for inspection free of charge at the Certification Office, Lower Ground, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX. The lists for organisations having their head office in Scotland are also available for inspection at the office of the Assistant Certification Officer for Scotland, Melrose House, 69a George Street, Edinburgh EH2 2JG. They also appear on the website of the Certification Officer, [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer).

### **Unions and employers' associations formed by amalgamation**

- 1.6 Upon the amalgamation of two or more unions or unincorporated employers' associations listed in accordance with Chapter VII Part I of the 1992 Act, the amalgamated union or unincorporated employers' association shall automatically be listed by the Certification Officer when the instrument of amalgamation takes effect. The newly amalgamated union or unincorporated employers' association shall, however, be removed from the list if it does not send certain prescribed information to the Certification Officer within six weeks of the date the instrument of amalgamation takes effect or such longer period as the Certification Officer may specify. The information to be sent to the Certification Officer is a copy of the rules of the new union or unincorporated employers' association, a list of its officers and the address of its head or main office, together with the prescribed fee (see Appendix 10).

### **Trade unions and employers' associations not on the lists (scheduled bodies)**

- 1.7 As entry on the lists is voluntary, it is difficult to know precisely how many trade unions and employers' associations exist but have not applied to be listed. At the end of this reporting period, the Certification Officer was aware of 12 trade unions and 38 employers' associations which met the statutory definitions but which had not sought to be listed. These are on the schedules to the relevant lists. There may be other organisations which meet the statutory definitions of a trade union or employers' association. The fact that an organisation is not on the relevant list does not exempt it from its statutory responsibilities, including the requirement to make an annual return. The returns from the scheduled bodies are available for inspection in the same way as are those of listed organisations. Those trade unions and employers' associations known to the Certification Office but which have not applied to be included in the relevant lists are set out in the schedules to Appendices 1 and 2 respectively.

### **Removal from the lists and schedules**

- 1.8 If at any time it appears to the Certification Officer that an organisation whose name is entered on the relevant list is not a trade union or an employers' association its name may be removed from the list. The organisation concerned will be given an opportunity to make representations as to why its name should not be removed. There is a right of appeal to the EAT on a point of law against the removal of a name from a list. The Certification Officer must also remove the name of an organisation from the list if she is satisfied that it no longer exists or if the organisation requests that she should do so.



- 1.9 The table below gives the names of the seven trade unions and one employers' association removed from the lists and schedules during the period 1 April 2017 to 31 March 2018. An asterisk denotes those which ceased to exist as a result of a merger. The others were dissolved or deemed no longer to meet the statutory definition of a trade union or employers' association.

***Trade Unions***

***England and Wales – Listed***

Association of Teachers and Lecturers\*

Association of Somerset Inseminators

Ellington Branch of the North East Area of the National Union  
of Mineworkers

National Union of Teachers\*

NUM Northumberland Area

Staff Union West Bromwich Building Society\*

***England and Wales – Scheduled***

None

***Scotland – Listed***

None

***Scotland – Scheduled***

National Union of Mineworkers (Scottish Area)

***Employers' Associations***

***England and Wales – Listed***

None

***England and Wales – Scheduled***

Fencing Contractors Association

***Scotland – Listed***

None

***Scotland – Scheduled***

None

## **Additions to the lists and schedules**

- 1.10 The table below gives the names of three trade unions added to the list or schedule during the period 1 April 2017 to 31 March 2018. An asterisk denotes one which was added as a result of a merger. One employers' association was added to the list or schedule during this period.

### ***Trade Unions***

#### ***England and Wales – Listed***

Confederation of British Surgery  
CU Staff Consultative Group  
National Education Union\*

#### ***England and Wales – Scheduled***

None

#### ***Scotland – Listed***

None

#### ***Scotland – Scheduled***

None

### ***Employers' Associations***

#### ***England and Wales – Listed***

Welsh Local Government Association

#### ***England and Wales – Scheduled***

None

#### ***Scotland – Listed***

None

#### ***Scotland – Scheduled***

None

## **Decisions of the Certification Officer in relation to listing applications**

- 1.11 In this reporting period the Certification Officer made a decision to refuse an application from an organisation named Foster Carers Workers Union (now known as the National Union of Professional Foster Carers) to be entered on the list of trade unions on the basis that it did not meet the statutory definition of a trade union (CO/L/1/17-18). This decision has been appealed to the EAT and is awaiting a hearing.

## **The lists and schedules at 31 March 2018**

- 1.12 As required by sections 2 and 123 of the 1992 Act, this report includes the names of those trade union and employers' associations on the lists and schedules as at 31 March 2018. They are reproduced as Appendices 1 and 2. The lists comprised 134 trade unions and 53 employers' associations whilst the schedules comprised 12 trade unions and 38 employers' associations.

Changes during the year are summarised in the tables below:

**Listed trade unions and employers' associations**

	<i>On lists at 31 March 2017</i>	<i>Changes between 1 April 2017 and 31 March 2018</i>		<i>On lists at 31 March 2018</i>
		<i>Additions</i>	<i>Removals</i>	
Trade Unions	137	3	6	134
Employers' Associations	52	1	0	53

**Scheduled trade unions and employers' associations**

	<i>On schedules at 31 March 2017</i>	<i>Changes between 1 April 2017 and 31 March 2018</i>		<i>On schedules at 31 March 2018</i>
		<i>Additions</i>	<i>Removals</i>	
Trade Unions	13	0	1	12
Employers' Associations	39	0	1	38

1.13 As at 31 March 2018 the total number of listed and scheduled trade unions and employers' associations is, therefore, as follows:

**Listed and scheduled trade unions and employers' associations**

	<i>Listed</i>	<i>Scheduled</i>	<i>Total</i>
Trade Unions	134 (137)	12 (13)	146 (150)
Employers' Associations	53 (52)	38 (39)	91 (91)

The figures in brackets are the equivalent figures in the previous reporting year.

## **Special register bodies**

- 1.14 Under the Industrial Relations Act 1971, a special register was established for the registration of organisations which were either companies or incorporated by charter or letters patent and which took part in collective bargaining on behalf of their members. These were mainly professional bodies.
- 1.15 Section 10(3) of the 1992 Act provides that trade unions cannot have corporate status. However, section 117 provides for an exception to preserve the position of those bodies which were already on the special register.
- 1.16 Special register bodies are also exempt from the requirement to conduct elections for the posts of president and general secretary where they are not voting members of the Executive. However, the voting members of the executive committee of special register bodies must be elected in accordance with the statutory provisions.
- 1.17 The following 13 special register bodies remain on the list of trade unions:

Association for Clinical Biochemistry & Laboratory Medicine  
British Association of Occupational Therapists Limited  
British Dental Association  
British Dietetic Association  
British Medical Association  
Chartered Society of Physiotherapy  
Educational Institute of Scotland  
Headmasters and Headmistresses Conference  
Royal College of Midwives  
Royal College of Nursing of the United Kingdom  
Society of Authors  
Society of Chiropodists and Podiatrists  
Society of Radiographers

**Changes of name of listed trade unions and employers’ associations**

1.18 Sections 107 and 134 of the 1992 Act provide that a change of name of a listed trade union or employers’ association must be approved by the Certification Officer before it can take effect. During the reporting period approval was given to the changes of name of two trade unions and one employers’ association, the details of which are given in the table below:

		<i>Effective Date</i>
<b>Trade Unions</b>		
<i>From</i>	Leeds Building Society Staff Association	07/02/2018
<i>To</i>	Leeds Building Society Colleague Association	
<i>From</i>	National Association of Stable Staff	02/08/2017
<i>To</i>	National Association of Racing Staff	
<b>Employers’ Associations</b>		
<i>From</i>	Graphics Enterprise Scotland	21/08/2017
<i>To</i>	Print Scotland	

**Definition of a trade union**

1.19 Section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 provides as follows:

*“In this Act a “trade union” means an organisation (whether temporary or permanent) –*

*(a) which consists wholly or mainly of workers of one or more descriptions and whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers’ associations; or*

*(b) which consists wholly or mainly of –*

*(i) constituent or affiliated organisations which fulfil the conditions in paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or*

*(ii) representatives of such constituent or affiliated organisations,*

*and whose principal purposes include the regulation of relations between workers and employers or between workers and employers’ associations, or the regulation of relations between its constituent or affiliated organisations.”*

## **Definition of an employers' association**

1.20 Section 122 of the Trade Union and Labour Relations (Consolidation) Act 1992 provides as follows:

*“(1) In this Act an “employers’ association” means an organisation (whether temporary or permanent) –*

*(a) which consists wholly or mainly of employers or individual owners of undertakings of one or more descriptions and whose principal purposes include the regulation of relations between employers of that description or those descriptions and workers or trade unions; or*

*(b) which consists wholly or mainly of –*

*(i) constituent or affiliated organisations which fulfil the conditions in paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or*

*(ii) representatives of such constituent or affiliated organisations,*

*and whose principal purposes include the regulation of relations between employers and workers or between employers and trade unions, or the regulation of relations between its constituent or affiliated organisations.*

*(2) References in this Act to employers’ associations include combinations of employers and employers’ associations.”*

## Trade Union Independence

***A trade union which is on the list of trade unions may apply for a certificate of independence. Independence is defined as meaning independence from an employer or group of employers. This chapter discusses independence and explains how such applications are dealt with and their outcome.***

### The statutory provisions

2.1 Section 5 of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) defines an independent trade union as:

“... a trade union which –

- (a) *is not under the domination or control of an employer or group of employers or of one or more employers’ associations, and*
- (b) *is not liable to interference by an employer or any such group or association (arising out of the provision of financial or material support or by any other means whatsoever) tending towards such control”.*

2.2 The procedure for determining the independence of trade unions is provided for in section 6 of the 1992 Act. A union must be listed (see Chapter 1) before it can apply for a certificate of independence. A fee is payable on application (see Appendix 10). The Certification Officer keeps a public record of all applications for such certificates and their outcome. She may not take a decision on an application until at least one month after it has been entered in the record. A notice that an application has been received is placed on the ‘News’ page of the Certification Officer’s website, [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer), and is normally published in the London Gazette and/or the Edinburgh Gazette as appropriate. The Certification Officer must take into account any relevant information submitted by any person and is required to give reasons if a certificate of independence is refused. A union which has been refused a certificate of independence has a right of appeal on a point of law to the Employment Appeal Tribunal (EAT).

2.3 Where two or more trade unions, each with a certificate of independence, amalgamate, a certificate of independence will automatically be issued to the new union when the instrument of amalgamation is registered by the Certification Officer. The newly amalgamated union will, however, have its certificate of independence removed if it does not send certain prescribed information to the Certification Officer within

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<sup>1</sup>In *Squibb UK Staff Association v Certification Officer* ([1979] 2 All ER 452, [1979] IRLR 75, CA), it was held that the word “liable” in this context should be interpreted as implying “vulnerability to interference” rather than “likelihood of interference”.

six weeks of the date the amalgamation takes effect or such longer period as the Certification Officer may specify. The information to be sent to the Certification Officer is a copy of the rules of the new union, a list of its officers and the address of its head or main office, together with the prescribed fee (see Appendix 10).

- 2.4 The Certification Officer may withdraw a certificate of independence at any time if she is of the opinion that the trade union concerned is no longer independent. As in the case of a refusal, a trade union aggrieved by a decision to withdraw its certificate has a right of appeal on a point of law to the EAT.
- 2.5 Once the Certification Officer has determined that a trade union is independent and has issued a certificate, that certificate remains valid until it is withdrawn by the Certification Officer or is cancelled. This applies even to certificates issued under legislation in force prior to its consolidation into the 1992 Act.
- 2.6 The 1992 Act provides that, where a question as to the independence of a particular union arises in proceedings before the courts, employment tribunals, Central Arbitration Committee or the EAT and no certificate has been issued or refused, those proceedings may not continue until that question has been decided by the Certification Officer. The granting of a certificate by the Certification Officer, or its refusal, is conclusive evidence for all purposes that the union is or, as the case may be, is not independent. This position was considered by the Court of Appeal in the case of *Bone v North Essex Partnership NHS Foundation Trust* [2014] IRLR 635. The Court of Appeal held that a certificate of independence was retrospective in its effect for a reasonable period before the date of the certificate.

### **Criteria**

- 2.7 The principal criteria which have been used by the Certification Officer in determining whether or not an applicant union satisfies the statutory definition are explained in the Office's booklet *Guidance for trade unions wishing to apply for a certificate of independence*. These appear under the headings: history, membership base, organisation and structure, finance, employer-provided facilities and negotiating record. A copy of the guidance can be found on the Certification Officer's website and is available on request from the Office. The Certification Officer's decision is strictly bound by the statutory definition, having regard to the circumstances as a whole. Other considerations, such as the effect the issue of a certificate might have on employment relations, may not be taken into account.

### **Applications, decisions, reviews and appeals**

- 2.8 During the reporting period two applications for certificates of independence were received. The first application was received from United Voices of the World on 1 April 2017. The Certification Officer granted it a certificate of independence on 21 August 2017. The second application was received from the National House Building Council Staff Association on 9 November 2017. The Certification Officer granted it a certificate of independence on 7 March 2018.



2.9 A certificate of independence was issued to National Education Union, a new union formed by the amalgamation of two unions, Association of Teachers and Lecturers and National Union of Teachers, which already held certificates of independence.

2.10 No formal reviews of existing certificates of independence were undertaken during the period.

2.11 Four certificates of independence were cancelled because the unions concerned ceased to exist, three of which were a result of a merger. These were:

Ellington Branch of the North East Area of the National Union of Mineworkers  
Staff Union West Bromwich Building Society\*  
Association of Teachers and Lecturers\*  
National Union of Teachers\*

(\* unions marked with an asterisk ceased to exist as the result of a merger)

2.12 On 31 March 2018 there were 92 unions which held certificates of independence.

## Annual Returns, Financial Irregularities and Access to Accounting Records

*This chapter deals with the requirements for trade unions and employers' associations to keep proper accounting records and to submit annual returns to the Certification Officer. It also deals with the provisions relating to the investigation of the financial affairs of trade unions and employers' associations and with the provisions giving union members a right of access to accounting records.*

### **The statutory provisions**

- 3.1 Sections 28 and 131 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act") provide respectively that every trade union and every employers' association (except those which consist wholly or mainly of representatives of constituent or affiliated organisations) must keep proper accounting records in respect of its transactions, assets and liabilities. Each trade union or employers' association must establish and maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and remittances. The accounting records kept must be such as are necessary to give a true and fair view of the state of affairs of the organisation and to explain its transactions.
- 3.2 Under sections 32 and 131 of the 1992 Act such an organisation (unless it has been in existence for less than 12 months) is also required to submit an annual return to the Certification Officer in the form prescribed. The return is to include revenue and other accounts and a balance sheet, which must give a true and fair view of the matters to which they relate. The return must also give details of the salary and other benefits paid to each member of the executive, the president and the general secretary (see paragraphs 4.21 and 4.22). Any changes in the organisation's officers or in the address of its head office must be shown on the return and it must be accompanied by a copy of the rules in force at the end of the period covered by the return. All funds maintained by the trade union or employers' association must normally be included in the return made to the Certification Officer. Section 24ZA of the 1992 Act, inserted by the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 requires trade unions to submit a membership audit certificate, in relation to the relevant reporting period at the same time as it sends to the Certification Officer its annual return.
- 3.3 Organisations which consist wholly or mainly of constituent or affiliated organisations or representatives of such organisations, are referred to within the 1992 Act as "federated" trade unions or employers' associations and are described fully within sections 118 and 135 of the Act. Those federated bodies which are composed of representatives of trade unions or employers' associations are exempt from certain provisions of the Act, including the duty to supply a copy of their rules, to keep

accounting records and to submit annual returns. The same does not apply to those federated bodies which are composed of constituent or affiliated organisations.

- 3.4 It is not the responsibility of the Certification Officer to determine whether an organisation is financially viable but to ensure that accounts in the prescribed form covering all funds administered by the organisation are available for public inspection.
- 3.5 The Act requires trade unions and employers' associations to submit before 1 June each year a return of their financial affairs covering the year ending the preceding 31 December. However, the Certification Officer may direct that the return is to relate to a different annual period. This is usually done if the normal timetable would cause serious inconvenience to the organisation concerned.
- 3.6 The annual return must include a copy of the auditor's report on the accounts. Under section 34 of the 1992 Act, a person is qualified to act as auditor of a trade union's or employers' association's accounts if he or she is eligible for appointment as a company auditor under Part 42 of the Companies Act 2006 ("a Companies Act auditor"). Section 37 of the 1992 Act sets out the rights of auditors including access to information and the entitlement to attend and speak at general meetings of the organisation.
- 3.7 A trade union (other than a special register body as described in Chapter 1 of this report, paragraphs 1.14 to 1.17) or an employers' association may have its accounts audited by someone who is not a Companies Act auditor if its receipts and payments do not in aggregate exceed £5,000, the value of its assets is less than £5,000 and it has less than 500 members. If any one of these conditions is not satisfied, it must use a Companies Act auditor.
- 3.8 The auditor must state whether, in his or her opinion, the accounts give a true and fair view of the matters to which they relate. The auditor has a duty to carry out such investigations as will enable an opinion to be formed on whether proper accounting records have been kept, whether a satisfactory system of control has been maintained and whether the accounts are in agreement with the accounting records. If, in the opinion of the auditor, the statutory requirements have not been satisfied or the union or employers' association has failed to supply all the necessary information and explanations the auditor must say so in the report by way of qualification.
- 3.9 There were no returns received by the Certification Officer during this reporting period containing an audit report in which the auditors gave a qualified opinion as to whether the return gave a true and fair view.
- 3.10 To avoid the duplication of broadly similar financial statements, the Certification Officer allows a special register body or an employers' association incorporated under the Companies Acts, to submit with its return, in lieu of the completion of certain pages in the return form, a copy of its accounts prepared under the Companies Acts provided the period covered is the same and there is no significant diminution

in the degree of disclosure. In such circumstances, however, and notwithstanding anything in the Companies Acts, an auditor's report for the purposes of the 1992 Act is still required.

- 3.11 Where trade union membership exceeds 10,000, the union is required by section 24ZB to appoint an assurer. The assurer is required to provide to the union a membership audit certificate in relation to the relevant reporting period. This must be sent at the same time as it sends to the Certification Officer its annual return. Where a union has less than 10,000 members this is done by an authorised officer of the union (See paragraph 4.15).
- 3.12 With the exceptions already noted, the duties imposed by sections 28 and 32 of the 1992 Act apply to all trade unions and employers' associations, whether or not listed under sections 2 or 123. Refusal or wilful neglect to perform any of them is an offence for which the organisation concerned may be prosecuted and fined. The Certification Officer is responsible for enforcing these provisions, but does not generally undertake prosecutions for offences such as theft or fraud which would normally be dealt with by other prosecuting authorities. However, the Certification Officer is able to appoint inspectors to investigate allegations of financial irregularities in the affairs of a trade union or employers' association (see paragraph 3.19 below).

#### **Late submission of returns**

- 3.13 The 1992 Act requires an organisation to submit an annual return to the Certification Officer before 1st June in the calendar year following the year to which the annual return relates. This applies to most organisations (71%) whose financial year coincides with the calendar year and ends on 31 December. The remaining 29% have differing reporting periods that have been agreed by the Certification Officer. By 31 March 2017, all due returns had been received. The annual returns of 11.4% of organisations were submitted more than three months after their due date.
- 3.14 The Certification Officer continues to seek full compliance with the statutory requirements and will take steps to improve the performance of those organisations which consistently submit late annual returns.

#### **Prosecution**

- 3.15 No prosecutions for failure to submit an annual return were initiated during this period.

#### **Statement to members**

- 3.16 A statement containing specific information must be issued to all members within eight weeks of the submission of the annual return to the Certification Officer. The statement must specify:
- (i) the total income and expenditure of the union;
  - (ii) how much of the income consisted of payments in respect of membership;

- (iii) the total income and expenditure of any political fund of the union; and
- (iv) the salary and other benefits paid to each member of the executive, the president and the general secretary.

The statement must also give the name and address of the auditor, set out in full the auditor's report and should not contain anything which is inconsistent with the contents of the annual return. Members must also be told how they can complain should they be concerned that some irregularity is occurring or has occurred in the financial affairs of the trade union. The 1992 Act is specific about how this must be done and the wording of the prescribed statement is reproduced below.

*“A member who is concerned that some irregularity may be occurring, or have occurred, in the conduct of the financial affairs of the union may take steps with a view to investigating further, obtaining clarification and, if necessary, securing regularisation of that conduct.*

*The member may raise any such concern with such one or more of the following as it seems appropriate to raise it with: the officials of the union, the trustees of the property of the union, the auditor or auditors of the union, the Certification Officer (who is an independent officer appointed by the Secretary of State) and the police.*

*Where a member believes that the financial affairs of the union have been or are being conducted in breach of the law or in breach of rules of the union and contemplates bringing civil proceedings against the union or responsible officials or trustees, he/she should consider obtaining independent legal advice.”*

A model statement and guidance is available on the Certification Officer's website, [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer).

- 3.17 It is not a requirement that the statement to members is distributed individually. As an alternative, section 32A(2)(b) of the 1992 Act provides that unions may use *“any other means... which it is the practice of the union to use when information of general interest to all its members needs to be provided to them.”*
- 3.18 Trade unions have in the main readily complied with the requirement to provide members with a statement which contained the required information and met the statutory timescale. The Certification Officer will endeavour to ensure that full compliance with the 1992 Act is maintained.

### **Financial affairs of trade unions and employers' associations – use of statutory powers**

- 3.19 The 1992 Act allows the Certification Officer to investigate the financial affairs of almost all trade unions and employers' associations (exceptions being in respect of federated employers' associations and trade unions made up wholly or mainly of representatives of constituent affiliated organisations and in respect of

organisations that have been in existence for less than twelve months). Under the 1992 Act, the Certification Officer may, if she thinks there is good reason to do so, give a direction to the organisation concerned to produce relevant documents and explanations of them. In addition, the Certification Officer may appoint an inspector(s) to investigate the organisation's financial affairs and to report on them. However, the Certification Officer may only appoint an inspector(s) if one or more of the following circumstances are suggested: *that the financial affairs of the trade union or employers' association have been or are being conducted fraudulently or unlawfully, that those managing those affairs have been guilty of fraud, misfeasance or other misconduct in connection with that management, that the organisation concerned has failed to comply with a duty under the Act relating to its financial affairs or that a rule of the organisation relating to its financial affairs has not been complied with.* A member may complain to the Certification Officer that there are circumstances suggesting any of the foregoing. The Certification Officer must then consider whether it is appropriate to exercise any of the powers conferred on her by the 1992 Act in that respect.

- 3.20 Information suggesting circumstances where one or more of the situations described in paragraph 3.19 above have occurred may come to the Certification Officer's attention from a variety of sources including, for example, from members who query information supplied by the union in its statement to members. In addition, the Certification Officer's staff monitor references in the media for situations which suggest that such circumstances may exist in the financial affairs of a trade union or employers' association.
- 3.21 Not all the information received by the Certification Office is of sufficient merit to warrant an approach to the body concerned. Where an approach is warranted, the matter is frequently resolved either through correspondence between the Certification Office and the parties concerned or by means of informal meetings with the body or the individual or a combination of these methods.
- 3.22 At the end of the last reporting year enquiries were in progress concerning allegations of financial irregularities in two trade unions, Unite the Union Bassa Branch and NUM (Northumberland Area). By the end of this reporting year the enquiry into NUM (Northumberland Area) had concluded. The Certification Officer used his powers under section 37A of the 1992 Act to require documents to be produced in relation to his enquiries into the NUM Northumberland Area.
- 3.23 The Unite the Union Bassa Branch enquiries continued during this reporting period. In addition, new concerns were raised about the conduct of two other unions, however, in both of those cases the Certification Officer did not deem it necessary to make enquiries with the union.
- 3.24 Where the Certification Officer concludes her enquiries regarding a possible financial irregularity which has been raised by a union member and decides not to appoint an inspector, she must notify that member of her decision and, if she thinks fit, will also give her reasons. In the case of NUM (Northumberland Area) no

inspector was appointed. A letter to the Union setting out the Certification Officer's main findings and explaining his decision not to appoint an inspector was published on the Certification Officer's website: [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer).

### **Public inspection of annual returns**

3.25 Copies of the annual returns and the rules of trade unions and employers' associations from 1974 onwards are available for public inspection. The returns of existing organisations are available at the Certification Office or, where appropriate, the Office of the Assistant Certification Officer for Scotland. The returns of former trade unions and employers' associations are mainly kept at The National Archive where they are also publicly available for inspection. Also available for public inspection (with notification of one week) are the earlier annual returns, accounts, copies of rules and other documents submitted for the purposes of:

- (a) the Trade Union Acts 1871 to 1964
- (b) the Industrial Relations Act 1971; and
- (c) the Trade Union and Labour Relations Act 1974.

3.26 The annual returns of trade unions and employers' associations submitted in this reporting period are available on the Certification Officer's website, [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer).

### **Access to accounting records**

3.27 Section 30 of the 1992 Act provides a member of a trade union with a right of access to any accounting records of the union which are available for inspection. Where a member claims that a trade union has failed to comply with his or her request for access to the trade union's accounting records under section 30 of the Act, the member has the option of applying to the court or to the Certification Officer under section 31 of the 1992 Act. The Certification Officer may not consider an application if the claimant has applied to the court in respect of the same matter. Similarly, once an application has been made to the Certification Officer, the same matter may not be put to the court.

3.28 On application to her, the Certification Officer is required to make such enquiries as she thinks fit and give the claimant and the trade union an opportunity to be heard. On receipt of an application the Certification Officer will, so far as reasonably practicable, determine it within six months of it being made.

3.29 If the Certification Officer decides that the complaint is well-founded she is required to make such orders as she considers appropriate for ensuring that the claimant:-

- (a) is allowed to inspect the records requested;
- (b) is allowed to be accompanied by an accountant when making the inspection of those records; and
- (c) is allowed to take, or is supplied with, such copies of, or of extracts from, the records he may require.

- 3.30 An order made by the Certification Officer under this section may be enforced in the same way as an order of the court.

### **Applications and complaints received in 2017-2018**

- 3.31 In this reporting period the Certification Officer concluded the complaint outstanding from the previous reporting period, *Markham v GMB* (D/51/17-18). The Certification Officer upheld the complaint but did not deem it necessary to make an order as the union had subsequently provided access to the accounting records. One new complaint was received in this reporting period and is currently being considered by the Certification Officer.
- 3.32 Sections 28 to 30 of the 1992 Act do not define “accounting records”. However the Certification Officer has considered this matter in the cases of *Mortimer v Amicus* (D/1/03), *Foster v Musicians Union* (D/13-17/03) and *Lee v NASUWT* (D/3/06). This was reconsidered in the case of *Mills v Unite* (D/38/15-16). The decision was appealed to the EAT (UKEAT/0148/16/LA). Although upholding the decision and dismissing a cross-appeal the EAT did make a point significant to this decision. At paragraph 60 of their decision the EAT stated: *‘we disagree with this [the Certification Officer] observation “that accounting records are those that are created or kept principally for the purpose of accounting”. Whether something is an accounting records an objective test is to be applied. It may be that invoices and receipts are retained for the purpose of accounting. They may need to be made available to the auditor for checking the accounts. The fact that documents are kept for the purposes of accounting does not transform them into accounting records within the meaning of TULRCA section 28(1)(a) and (2)’*. The EAT goes on to say at paragraph 61: *‘Proper accounting records within the meaning of section 28 are those which are “necessary to give a true and fair view of the state of affairs of the trade union and explain its transactions”*. Copies of all decisions made by the Certification Officer are available on the Certification Officer’s website: [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer). Hard copies of decisions can be obtained free of charge upon request to the Certification Office.



## Financial and Membership Information and Membership Register

*This chapter identifies changes in the membership levels, income and expenditure of both trade unions and employers' associations between the figures reported last year and those reported in the current reporting year. It also covers the jurisdiction of the Certification Officer to determine complaints about the maintenance of trade union membership registers.*

### **Annual Returns received in 2017-2018**

- 4.1 The information in this chapter is derived from the annual returns received during the reporting period. Statistical information is given at Appendices 4, 5, 6 and 9. That information and the following comments in this chapter relate to those unions whose annual returns were due, and received, in this office between 1 April 2017 and 31 March 2018. Unions and employers' associations must submit their annual returns to the Certification Office within five months of the end of their accounting year. This results in the information contained in my annual report being abstracted from annual returns which cover accounting periods ending between October 2016 and September 2017. However, the majority (71%) of returns are for unions or employers' associations with accounting periods ending 31 December 2016.

### **Trade unions: numbers and membership**

- 4.2 Appendix 4 contains a summary of the statistics concerning the membership and finances of trade unions recorded in annual returns received during 2017-2018. Details are shown for the 13 trade unions with more than 100,000 members.
- 4.3 The statistics in Appendix 4 are based on 153 returns from listed and scheduled unions. This is two more than reported in the Annual Report for 2016-2017.
- 4.4 The number of unions and employers' associations which submit annual returns in any given reporting year is seldom the same as the number of unions and associations on the list as at the end of the reporting year. This is because organisations which have ceased to exist still have to submit an annual return and new organisations may not have to submit a return until the next reporting period.
- 4.5 The trade unions from which returns were received, recorded a total membership of 6,875,231. The 13 unions with a membership of over 100,000, accounted for 5,824,111 members or 84.7% of the total. Returns received in the period show the distribution of trade union membership by size is as follows:

**Trade unions: distribution by size**

<i>Number of Members</i>	<i>Number of Returns</i>	<i>Membership</i>	<i>Number of Unions</i>		<i>Membership of all Unions</i>	
			<i>Per cent</i>	<i>Cumulative Per cent</i>	<i>Per cent</i>	<i>Cumulative Per cent</i>
Under 100	23	458	15.0	15.0	0.0	0.0
100-499	27	6,640	17.7	32.7	0.1	0.1
500-999	18	12,582	11.8	44.4	0.2	0.3
1,000-2,499	25	39,145	16.3	60.8	0.6	0.9
2,500-4,999	8	31,284	5.2	66.0	0.5	1.3
5,000-9,999	8	61,638	5.2	71.2	0.9	2.2
10,000-14,999	5	61,360	3.3	74.5	0.9	3.1
15,000-24,999	10	201,055	6.5	81.1	2.9	6.0
25,000-49,999	12	395,250	7.9	88.9	5.7	11.8
50,000-99,999	4	241,708	2.6	91.5	3.5	15.3
100,000-249,999	6	947,328	3.9	95.4	13.8	29.1
250,000 and over	7	4,876,783	4.6	100.0	70.9	100.0
Total	153	6,875,231	100		100	

- 4.6 The trade union membership of 6,875,231 recorded in this annual report compares to 6,865,056 reported in the previous annual report. This indicates an increase of 10,175 members or 0.15%. However, this included 147,330 retired members of UNISON that had not been included in previous totals. Without this figure the total figure would have been 6,727,901 or a decrease of 2%. The total recorded membership of around 7.0 million compares with a peak of 13.2 million in 1979, a fall of about 48%.
- 4.7 The following table shows the trade unions whose membership has increased or decreased by more than 5,000 since the previous reporting period.

**Trade Unions: Changes in Membership over 5,000 members**

	<i>Total Membership</i>		
	<i>2016-2017</i>	<i>2015-2016</i>	<i>% changes</i>
<b><i>Increases</i></b>			
Royal College of Nursing	452,669	444,685	+1.79
UNISON: The Public Service Union	1,397,803 <sup>1</sup>	1,255,653	+11.32
<b><i>Decreases</i></b>			
British Medical Association	161,708	169,908	-4.83
Association of Teachers and Lecturers	192,646	200,631	-3.98
Public and Commercial Services Union	185,785	195,091	-4.77
Unite the Union	1,282,671	1,382,126	-7.19

4.8 The annual returns submitted by unions to the Certification Officer require each union to provide figures for both total membership and members who pay contributions. There can be significant differences between these figures. This is usually the result of total membership figures including retired and unemployed members, members on long term sick and maternity/child care leave and those on career breaks. The returns submitted by unions during this reporting period show that the total number of contributing members was around 94.6% of the total number of members. This compared to 94.2% in the preceding year.

**Membership register**

4.9 A trade union has a duty to maintain a register of the names and addresses of its members and a duty, so far as reasonably practicable, to ensure that entries in the register are accurate and kept up-to-date. The 1992 Act provides that a trade union should allow any member on request, with reasonable notice, to ascertain from the register, free of charge, whether there is an entry on it relating to him or her. An application that a trade union has failed to comply with the requirements of section 24 of the 1992 Act can be made to either the Certification Officer or the court.

4.10 The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (“the Lobbying Act”) introduced new provisions relating to the membership register of trade unions, which took effect from 6 April 2016. These provisions, incorporated into section 24 of the 1992 Act, impose a requirement on trade unions to submit to the Certification Officer annually a Membership Audit Certificate at the same time as the union’s annual return. The new provisions also provides further powers to the Certification Officer to investigate concerns that the provisions of section 24 of the 1992 Act are not being or have not been complied with by a trade union. These powers came into force on 1 June 2016.

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<sup>1</sup>This figure includes 147,330 retired members that had not been included in the previous year’s totals

## **Membership Audit Certificate**

- 4.11 Where trade union membership exceeds 10,000, the union is required by section 24ZB to appoint a qualified independent person to be an assurer. None of the following may act as an assurer (a) an officer or employee of the trade union or of any of its branches or sections; (b) a person who is a partner of, or in the employment of, or who employs, such an officer or employee.
- 4.12 The assurer is required to provide to the union a membership audit certificate (“the certificate”) in relation to the relevant reporting period this must be sent at the same time as it sends to the Certification Officer its annual return.
- 4.13 The certificate must state the name of, and be signed by, the assurer. The certificate must state whether, in the assurer’s opinion, the trade union’s system for compiling and maintaining the register of the names and addresses of its members was satisfactory for the purposes of complying with the union’s duties under section 24(1) throughout the reporting period; and whether, in the assurer’s opinion, the assurer has obtained the information and explanations which the assurer considers necessary for the performance of the assurer’s functions.
- 4.14 If the certificate states that in the assurer’s opinion, the trade union’s system for compiling and maintaining the register was not satisfactory for the purposes of complying with the union’s duties under section 24(1) throughout the reporting period; or in the assurer’s opinion, the assurer has failed to obtain the information and explanations which the assurer considers necessary for the performance of the assurer’s functions, the certificate must state the assurer’s reasons for making that statement. In the case of a failure to obtain information or explanations, the certificate must also provide a description of the information or explanations requested or required which have not been obtained; and state whether the assurer required that information or those explanations from the union’s officers, or officers of any of its branches or sections.
- 4.15 Where trade union membership is less than 10,000, the membership audit certificate must be completed by an authorised officer of the union who must state his or her name and whether, to the best of that officer’s knowledge and belief, the union has complied with the section 24 duty throughout the reporting period.
- 4.16 In this reporting year 153 membership audit certificates were due and all of these were received. No circumstances arose leading the Certification Officer to use her investigatory powers under the sections 24ZH and 24ZI of the 1992 Act.
- 4.17 No complaints of an alleged breach of section 24 of the 1992 Act were received during the period 1 April 2017 to 31 March 2018.

## **Finance**

- 4.18 Trade union income derives mainly from membership subscriptions and income from investments. There may also be additional income and/or assets arising if, for example, a union accepts the transfer of engagements of another union. The figures given at Appendix 4 include both general and other funds where applicable, e.g. contingency, superannuation and political funds. Additionally, political funds are shown separately in Appendix 9.
- 4.19 From the returns received during this reporting period, the gross income of trade unions was £1,291.92 million, an increase of 0.4% on that recorded by unions in the previous year. Income from members rose by 0.5% to £917.36 million. Income from investments rose by 23.1% and income from other sources fell by 2.8%.
- 4.20 Gross expenditure by unions during this reporting period rose by 29.4% to £1,413.40 million, while at the end of the reporting period total funds (net assets) amounted to £1,307.90 million, a decrease of 14.0% over the previous period.

## **Salaries and benefits**

- 4.21 Trade unions are required to include in their annual returns to the Certification Officer information about the salaries and benefits paid to certain of their national officers and executive members from the organisation's funds. For the purpose of the annual return, benefits are defined as being: a) those designated as a taxable benefit by Her Majesty's Revenue and Customs; b) pension/superannuation arrangements; and c) redundancy and other termination payments. The Certification Officer requires that all benefits paid from the funds of the union are reported, whether such funds are maintained at national or other level. Information from trade union annual returns received in the reporting period showed that 18.30% of unions paid a salary to their general secretary of over £100,000; 20.92% paid between £60,001 and £100,000; 13.73% paid between £30,001 and £60,000; 9.8% paid up to £30,000; while the general secretaries of 33.33% did not receive a salary. A further six unions (3.92%), although paying no salary to their general secretary, did provide an honorarium or other benefits.
- 4.22 Appendix 5 gives information on the salary and benefit payments in respect of each union which makes a payment to its general secretary. There is no requirement to provide such information in relation to other employees, even if they are paid more than the general secretary. Employer's pension contributions make up a significant proportion of the benefits paid. Employer's national insurance contributions are excluded from the table at Appendix 5.

## **Employers' associations**

- 4.23 A summary of statistics concerning the membership and finances of employers' associations based on returns received within the reporting period is given in Appendix 6. Details are given for each of the 24 employers' associations (including scheduled associations) with total income of more than £2,500,000.

- 4.24 The statistics in Appendix 6 are based on returns from 91 employers' associations received in this reporting year compared with returns from 90 received in the reporting year for 2016-2017.
- 4.25 From the returns received in this period, the figures show the gross income of employers' associations was £449.04 million compared with £477.91 million recorded for the previous year, a decrease of 6.0%. Income from members fell from £195.40 million to £191.76 million, a decrease of 1.9%. Income from investments rose from £10.13 million to £12.53 million, an increase of 23.7%. Other income fell from £272.38 million to £244.75 million a decrease of 10.1%. During the same period, expenditure rose from £449.55 million to £486.52 million, an increase of 8.2%.
- 4.26 The figures given in Appendix 6 include both general funds and, where applicable, funds maintained for specific purposes. At the end of the reporting period the net assets of employers' associations amounted to £375.92 million, a decrease of £41.18 million (9.9%) over the figure reported for the previous period.
- 4.27 Employers' associations are not required by the 1992 Act to provide the Certification Officer with details of officers' salaries and benefits.

## Superannuation Schemes

*It is a legal requirement that any superannuation scheme maintained by a trade union or an employers' association for the benefit of members must be subject to periodic actuarial examination and that a copy of the actuary's report must be sent to the Certification Officer. An explanation of the statutory provisions is given in this chapter together with information on the number of schemes maintained and the number of reports received.*

### The statutory provisions

- 5.1 Sections 38-42 and section 131 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act") require that any superannuation scheme maintained by a trade union or employers' association<sup>1</sup> covering members (as opposed to staff) must be examined periodically by a qualified actuary and a copy of each actuarial report sent to the Certification Officer. The actuarial examination is to be made not later than five years after the effective date of the preceding examination, but the Certification Officer has power to direct that in any particular case the period of five years may be reduced to such shorter period as she may specify. The Certification Officer also has power to exempt a members' superannuation scheme from actuarial examination in certain circumstances. No trade union or employers' association may maintain a members' superannuation scheme unless it also maintains a separate fund for the payment of benefits in accordance with the scheme. A copy of the actuarial report made under the above provisions must be supplied free of charge to any member of the trade union or employers' association on application to the organisation concerned.
- 5.2 The 1992 Act requires that the report by the actuary, following his or her examination of any scheme, shall state whether in the opinion of the actuary the premium or contribution rates are adequate, whether the accounting or funding arrangements are suitable and whether the separately maintained superannuation fund is adequate. The Certification Office continues to ensure that these requirements are not overlooked.
- 5.3 Where appropriate, actuarial reports received by the Certification Officer may be sent to the Government Actuaries Department (GAD) for its specialist comment. The views of GAD are passed on to the union.

### Schemes maintained

- 5.4 At the end of the reporting period there were eight members' superannuation schemes known to the Certification Officer maintained by three trade unions. They are listed in Appendix 7 and are mostly small schemes. At the time of their last actuarial examination, four schemes had assets of over £500,000 and only the scheme of the National Union of Rail Maritime and Transport Workers covered more than 10,000 members.

<sup>1</sup> In practice the requirements affect trade unions only. The Certification Office is not aware of any schemes maintained by employers' associations.

- 5.5 The Certification Officer may grant exemption from the statutory requirement for actuarial examination on the grounds that a scheme is only applicable to a small number of members or for any other special reasons. There are three schemes which have been granted exemption on these grounds (see Appendix 7). During this reporting year, no application was made for exemption of any of the schemes.

**Actuarial reports received in 2017-2018**

- 5.6 An actuarial report on the Unite the Union – AEEU Section Superannuation Scheme was due and received during this period. There were no outstanding reports due at the end of the period. There are no actuarial reports due on superannuation schemes in the next reporting period.



## Mergers

*Mergers between trade unions and between unincorporated employers' associations may be carried out under the relevant statutory procedures. These procedures also allow for members to complain to the Certification Officer about particular aspects of the balloting process. This chapter details the statutory background.*

### The statutory provisions

- 6.1 The Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) and the Trade Unions and Employers’ Associations (Amalgamations, etc.) Regulations 1975, as amended, lay down procedures governing two types of merger between trade unions and between unincorporated employers’ associations. These are transfers of engagements and amalgamations. The procedures apply to listed and scheduled organisations. Their main purposes are to facilitate the processes of transfer and amalgamation and, at the same time, to safeguard the rights of members affected by the terms of a merger by ensuring that they are fully informed about the proposal and have the opportunity to vote on it.
- 6.2 Under a transfer of engagements, the transferring organisation loses its legal identity whilst the organisation to which it transfers continues in being with its legal identity unchanged. An amalgamation produces a new organisation replacing each of the amalgamating bodies, which cease to exist.
- 6.3 Organisations proposing to enter into a transfer of engagements or an amalgamation must prepare an instrument setting out the proposed terms of the merger and an explanatory notice to members. They must submit these documents to the Certification Officer. The documents must be approved before a ballot of members can be held (see Appendix 10 for the statutory fee).
- 6.4 In respect of trade union merger ballots, the ballots must be fully postal and subject to independent scrutiny. The inclusion in the notice to members of any statement making a recommendation or expressing an opinion about a proposed transfer or amalgamation is prohibited. Further, the voting paper sent to a member may not be accompanied by any material other than the notice to members, an addressed, pre-paid envelope and a document giving instructions for the return of the ballot paper. Other requirements relate to the storage, distribution and counting of votes by independent persons, the availability of a union’s membership register and the circumstances of its inspection by an independent scrutineer. For mergers involving employers’ associations, the provisions are different. Details can be found in the relevant guidance booklet on the Certification Officer’s website, [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer) or on request from this office.

- 6.5 In a transfer of engagements, only the members of the transferring organisation vote on the resolution to approve the instrument of transfer. An amalgamation requires a favourable vote by the members of each of the amalgamating organisations. If the majority of votes recorded in the ballots are in favour of the transfer of engagements or the amalgamation an application to register the instrument may be made to the Certification Officer. Such an application must be preceded by a copy of the scrutineer's report being sent to every member of the union or the members being notified of its contents by other means. If the union takes the second of the above two options, members must also be told that they will, on request, be provided with a copy of the scrutineer's report – either free or subject to a reasonable specified charge. The Certification Officer has power to direct an organisation to publicise its application to register a merger.
- 6.6 In the case of both a transfer and an amalgamation, an interval of six weeks must elapse between the application for registration and registration itself. Before the expiry of the six-week period, any member of the transferring organisation or of any amalgamating organisation may complain to the Certification Officer on the grounds that one or more of the statutory conditions governing the ballot arrangements have not been observed. The Certification Officer shall determine any such complaint and the parties have a right to an oral hearing. If the Certification Officer upholds the complaint, she shall make a declaration and may make an order specifying the steps which must be taken before she will register the instrument. There is a right of appeal against the Certification Officer's decision to the Employment Appeal Tribunal on a point of law. If no such complaint is received from a member, the Certification Officer will register the instrument of transfer after the end of the six week period if she is satisfied that the rules of the transferee organisation (including any amendments to the rules made to give effect to the provisions of the instrument) are in no way inconsistent with the terms of the instrument. The merger takes effect either on the date the instrument of transfer is registered or a later date if specified in the instrument.
- 6.7 Formal documents kept by the Certification Officer relating to mergers under the 1992 Act are available for public inspection for a prescribed fee (see Appendix 10).

### **Trade unions formed by an amalgamation**

- 6.8 Where each of the amalgamating unions was on the Certification Officer's list prior to the amalgamation, the new union will automatically be listed. Where each of the unions held a certificate of independence, the new union will automatically be issued with a certificate of independence. The listing and the certificate of independence shall be removed if the newly amalgamated union does not send certain prescribed information to the Certification Officer within six weeks of the date the amalgamation taking effect or such longer period as the Certification Officer may specify. The information to be sent to the Certification Officer is a copy of the rules of the new union, a list of its officers and the address of its head or main office, together with the prescribed fee (see Appendix 10).

## **Guidance**

- 6.9 The Certification Office has produced two guidance booklets on the statutory requirements for transfers of engagements and amalgamations, one for trade unions and the other for employers' associations. These explain the merger procedures in detail and set out, with explanatory notes, the matters to be included in an instrument of transfer or amalgamation. Copies are available on the Certification Officer's website, [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer), or may be obtained free of charge from the Certification Office. The Office will offer guidance where needed on the statutory provisions and staff are always prepared to meet officials of organisations considering a merger to discuss procedures and timetables.

## **Mergers during the period 2017-2018**

- 6.10 During this reporting period, there was one transfer of engagements and one amalgamation involving trade unions.
- 6.11 The registered transfer of engagements was Staff Union West Bromwich Building Society to Community which involved an estimated total of 478 members of the transferring union. The amalgamation was the National Union of Teachers (NUT) and Association of Teachers and Lecturers (ATL) which became the National Education Union (NEU). At the end of the last reporting period, the two unions which amalgamated had a combined total of 565,583 members. Details are given at Appendix 8.
- 6.12 The instrument of transfer of engagements for the National Association of Co-operative Officials (NACO) to Union of Shop Distributive and Allied Workers (USDAW) was approved in this reporting period but the instrument was not registered in this reporting period.
- 6.13 During the period 1 April 2017 to 31 March 2018, the Certification Officer received no complaints relating to any of the transfers of engagements or amalgamations.

## Political Funds

*The Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) enables trade unions and unincorporated employers’ associations to establish separate funds in furtherance of political objectives as part of their aims. Under the terms of the 1992 Act a resolution to adopt the political objects must be passed by a ballot of the members. The Certification Officer is the statutory authority for approving the establishment and continuance of such funds. This chapter explains the statutory provisions and reports developments in the period 1 April 2016 to 31 March 2017.*

### The statutory provisions

#### *General*

7.1 A trade union or an unincorporated employers’ association (whether listed or not) can include the furtherance of political objects among its objects. A resolution to adopt political objects must be passed by the members in a postal ballot held under rules which must have been approved by the Certification Officer. An independent scrutineer must be appointed to oversee the ballot. If political objects are adopted, the organisation must also adopt political fund rules which will govern the expenditure of funds on such objects. Those rules must again be approved by the Certification Officer.

#### *Exemption from contributing (for members who joined before 1 March 2018)*

7.2 It is a statutory requirement that members who notify their objection to contributing to the political fund must be exempted. These exempt members must not be excluded from any benefits of the organisation or placed under any disability or disadvantage compared with other members (except in relation to the control or management of the political fund). Also, contribution to the political fund must not be made a condition for admission to the organisation.

7.3 Members wishing to claim exemption must use an approved application form as prescribed in the 1992 Act or make an application giving the same information. Unless contributions to the political fund are collected by a separate levy, exempt members of the organisation must be relieved from the payment of the political fund element of the normal periodical contributions. The rules must provide for such relief to be given as far as possible to all exempt members on the occasion of the same periodical contribution. They must also provide for each member to know what portion, if any, of his or her contribution is a contribution to the political fund.

#### *Effect of the Trade Union Act 2016 (“the 2016 Act”)*

7.4 The provisions of the 1992 Act relating to political funds were amended by the 2016 Act during the reporting period. This means that members who join a trade union with a political fund from 1 March 2018 (the end of a one year “transition period” beginning on 1 March 2017) cannot be required to contribute to the political fund unless they

have given notice of their willingness to contribute to that fund (an “opt-in notice”). Such members may also withdraw an opt-in notice by giving a “withdrawal notice”. Unions must notify members who join the union after the transition period of their right to provide a withdrawal notice. This notification must be given not later than the end of the period of eight weeks beginning with the day on which the annual return of the union is sent to me. The trade union must then send me a copy of the notification which is provided to its members as soon as is reasonably practicable after it is given. This applies to annual returns which are sent from 1 March 2018 onwards. In addition, application forms for members who join from 1 March 2018 must include a statement to the effect that a member may choose to contribute to the political fund and that a member will not suffer any detriment should they choose not to contribute.

#### *Amended political fund rules*

- 7.5 The political fund rules of all unions with political funds were required to be amended during the reporting period to reflect the above changes. Twenty-one unions fell under this requirement, all of which applied for approval of their amended rules. All of these were approved by 28 February 2018 in time for the commencement of the new requirements brought in by the 2016 Act. The Office identified some rules which required minor amendments, this was largely caused by difficulties with the guidance issued by this Office.

#### *Complaints*

- 7.6 Any member of an organisation with a political fund who considers that the political fund rules have been breached may complain to the Certification Officer. If, after investigating the complaint, the Certification Officer considers that a breach has occurred, she may make an order to remedy it.
- 7.7 A member can complain to the Certification Officer if a political fund ballot has been held, or is proposed to be held, in a way that does not comply with the rules for holding the ballot. Any complaint must be made within the period of one year beginning with the date on which the result of the ballot is announced by the union.
- 7.8 A trade union member who claims that his or her trade union has spent money on political objects without a political fund resolution being in force or without approved political fund rules may apply to the Certification Officer for a declaration that it has done so. If the Certification Officer makes a declaration, she may also make such an order for remedying the breach as she thinks just under the circumstances. Appeals against decisions of the Certification Officer may be made to the Employment Appeal Tribunal on a point of law.

#### *Review ballots*

- 7.9 Trade unions and employers’ associations which already have a political fund resolution in force, and wish to continue to spend money on political objects, are required to hold a further ballot of their members at least once every ten years. This review ballot must be held in accordance with rules approved by the Certification Officer.

### **Guidance on procedures**

7.10 On request, the Certification Office gives advice on the procedures for establishing political funds and for holding review ballots. Guidance booklets which include model rules are available on the Certification Officer's website, [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer) or on request from the Certification Office. Any trade union or employers' association wishing to ballot its members on a political fund resolution should contact the Office at an early stage.

### **Effect of amalgamations**

7.11 Where two or more trade unions, each with a political fund in force, amalgamate, the amalgamated union will be treated under the provisions of section 93 of the 1992 Act as having passed a political fund resolution, provided that the rules of the union in force immediately after the amalgamation include political fund rules. The review ballot cycle (see paragraph 7.9) of such a newly constituted union is treated as having begun from the earliest of the political fund review dates of the amalgamating unions involved.

7.12 Where one or more amalgamating unions does not have a political fund the new amalgamated unions must, if it wishes to have a political fund, establish a new fund by putting a resolution for the furtherance of political objects to its members and adopting political fund rules which must be approved by the Certification Officer.

### **Political fund resolutions in force**

7.13 As at 31 March 2018, there were 21 unions which had political fund resolutions in force. This is a decrease of one from the number that was reported last year. This is because of the changes detailed in paragraphs 7.14 and 7.15 below. The listed and scheduled trade unions in Appendix 1 which have a political fund are identified by the symbol (P).

### **Organisations with new political fund rules approved for the first time during 2017-2018**

7.14 A certificate of approval was given to the political fund rules of National Education Union for the first time on 15 December 2017. This was a new trade union formed by an amalgamation of the National Union of Teachers and the Association of Teachers and Lecturers.

### **Political funds closed during the period**

7.15 The political funds of two unions closed within the period. The first of these was the political fund of National Union of Teachers which closed because the union ceased to exist as a result of amalgamation. The second was the Association of Revenue of Customs which confirmed, on 19 January 2018, the closure of its political fund.

### **Political fund review ballots**

7.16 During the reporting period, two trade unions were required by section 73(3) and 73(4) of the 1992 Act to hold a review ballot (see paragraph 7.9). These were POA and Education Institute of Scotland whose review dates were 15 August 2017 and 11 November 2017 respectively. POA's political fund was approved on 25 October 2017 and the Educational Institute of Scotland's was approved on 13 November 2017, meaning that, for each, there was a period during which their political fund resolution's had lapsed.

### **Political funds of trade unions at 31 March 2018**

- 7.17 Detailed statistical information about the political funds of trade unions is set out in Appendix 9. The statistics are derived from the 24 annual returns which were received during the reporting period from unions with political funds. In all cases, the accounting periods of the returns ended between October 2016 and September 2017 (see paragraph 4.1).
- 7.18 The number of returns received within a reporting period is not always the same as the number of political fund resolutions in force at the end of the reporting period. This is because there are those unions which submitted a final return within the reporting period but which, by the end of the period, had either dissolved their political fund or ceased to exist.
- 7.19 Annual returns received during the period 1 April 2017 to 31 March 2018 contain information derived from annual returns with accounting periods which mainly end in December 2016 (see paragraph 4.1). The relevant annual returns show the total income of political funds as £24.41 million compared with £24.54 million reported during the period 2015-2016, a decrease of 0.52%. The total expenditure from political funds was £22.06 million compared with £25.60 million in the preceding year, a decrease of 13.81%. The returns received within the period also show that the total value of political funds during the reporting period was £34.03 million: up £2.32 million (6.81%) on the £31.71 million reported in 2016-2017.

### **Political fund membership**

- 7.20 Appendix 9 also gives membership information provided by those unions which maintained political funds as indicated from the latest annual returns. These returns show that the number of union members contributing to a political fund was 4,652,084 compared with 4,777,168 reported in 2015-2016, a decrease of 125,084 members or 2.6%.

### **Exemption notices**

- 7.21 Exemption notices (see paragraph 7.3) are obtainable from the organisation concerned or from the Certification Office. The Certification Office did not supply any such notices during the period 1 April 2017 to 31 March 2018. The annual returns recorded 785,686 members who belong to unions with a political fund but who do not make a political fund contribution, either because they have claimed exemption or they belong to a category of membership which, under the rules of the union, does not contribute to the political fund.

### **Notification of members' right to give a withdrawal notice**

- 7.22 No notifications to members of their right to give a withdrawal notice (see paragraph 7.4) were received during the one month which fell within this reporting period.

### **Political fund complaints**

- 7.23 During the period 1 April 2017 to 31 March 2018, the Certification Officer received one complaint regarding the use of a trade union's fund for political purposes. This complaint has yet to be determined.

## Elections for Certain Positions

*The Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) requires that certain officers and all members of a trade union’s executive committee must be elected by postal ballot. If they seek to remain in that position for more than five years they must be re-elected. This chapter deals with the statutory provisions governing elections. As explained in chapter 9, the Certification Officer also has powers to deal with breaches of a union’s own rules governing elections and certain other matters.*

### The statutory provisions

- 8.1 A trade union must ensure that no-one takes up a position as a member of its executive committee, or as its general secretary without having been elected to that position. Nor may anyone remain in such a position for more than five years without having been re-elected to it. There are, however, exemptions in respect of amalgamations, newly formed unions, special register bodies and officers nearing retirement. Elections are required to be by postal ballot of the members of the union, conducted in accordance with the relevant provisions in the 1992 Act.
- 8.2 Individual trade union members, and candidates in the election, have the statutory right to apply to the Certification Officer, or to the court (but not to both in respect of the same complaint), for a declaration that their trade union has failed to comply with one or more of the relevant provisions of the 1992 Act. The Certification Officer will determine any such application and will give written reasons for her decision. Such reasons may be accompanied by written observations on any matter arising from, or connected with, the proceedings.
- 8.3 The 1992 Act also provides that where the Certification Officer makes a declaration she shall also, unless she considers that to do so would be inappropriate, make an enforcement order imposing on the union one or more of the following requirements –
- (a) to secure the holding of an election in accordance with the order.
  - (b) to take such other steps to remedy the declared failure as the Certification Officer may specify in the order.
  - (c) to abstain from such acts as the Certification Officer specifies with a view to securing that a failure of the same, or similar kind, does not occur in the future.
- 8.4 The 1992 Act also requires the Certification Officer to give the claimant and the trade union concerned an opportunity to be heard before the Certification Officer determines an application and makes, or refuses, the declaration sought. All hearings before the Certification Officer are held in public.



- 8.5 Section 256(2) of the 1992 Act requires the Certification Officer to make provision about the disclosure or otherwise of the identity of an individual who has made, or is proposing to make, any application or complaint. The 1992 Act requires that if the application or complaint relates to a trade union, the individual's identity is to be disclosed to the union unless the Certification Officer thinks the circumstances are such that it should not be disclosed.
- 8.6 The Certification Officer has made provision under section 256 of the 1992 Act to the effect that the identity of an individual who proposes to make an application or complaint will not generally be disclosed to the union, unless or until the application or complaint is accepted. When an application or complaint is accepted, the Certification Officer will generally disclose the individual's identity to the union (and others as the Certification Officer thinks fit) unless it is decided that the circumstances are such that it should not be disclosed. The Certification Officer makes that decision on a case by case basis. Fear of denigration will not of itself normally justify non-disclosure. The provision made by the Certification Officer under section 256 of the 1992 Act is on the Guidance and Forms section of the Certification Officer's website, [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer).
- 8.7 When a hearing is held, certain expenses incurred by claimants and their necessary witnesses attending the hearings may be reimbursed by the Office at the discretion of the Certification Officer. During the reporting period such payments amounted to £1,262.85.
- 8.8 Appeals on any question of law arising in proceedings before or arising from any decision of the Certification Officer may be made to the Employment Appeal Tribunal (EAT).
- 8.9 If it is decided that there has been a breach of the statutory provisions, the declaration made by the Certification Officer must state any steps which the union has taken or has agreed to take to remedy the breach or prevent such a breach from occurring in the future.
- 8.10 A person cannot complain to the Certification Officer if he or she has applied to the court in respect of the same matter even if the person subsequently withdraws his or her application to the court. Similarly, once an application has been made to the Certification Officer the claimant may not then apply to the court. Where an application to the Certification Officer is made by a different person alleging the same failures which had been considered and determined by the court, the Certification Officer is required to have due regard to any declaration, order, observations or reasons made or given by the court which are brought to the notice of the Certification Officer.

### **Applications and decisions**

- 8.11 In the period 1 April 2017 to 31 March 2018, the Certification Officer received an application consisting of 10 complaints relating to the position of General Secretary of the Unite the Union. The Certification Officer appointed His Honour Jeffrey

Burke QC to hear the case. A directions hearing was held on 26 January 2018. A preliminary hearing to determine complaint one was held on 27 March 2018. The decision was issued on 4 May 2018; the ACO did not uphold the complaint. An appeal by the applicants to the EAT was dismissed on 12 June 2018.

- 8.12 During the period 1 April 2015 to 31 March 2017, Certification Officer received multiple applications regarding the election of the General Secretary of UNISON. In total five members of the union made applications relating to the same issues. There were two hearings (6 October 2016 and between 19 December 2016 and 21 December 2016). The Certification Officer appointed Her Honour Judge Mary Stacy to hear the case. The applications totalled 16 complaints. These were made up of two breaches of statute (one alleged breach of section 49(4) and one alleged breach of section 49(6) of the Trade Union and Labour Relations (Consolidation) Act 1992 which deals the appointment of independent scrutineer) and 14 breaches of rule. The decision was issued on 22 May 2017. The Assistant Certification Officer upheld one complaint of breach of union rule but did not deem it appropriate to make an enforcement order on the basis that it would be disproportionately punitive, in response to the breach found, to order the General Secretary election to be run again. An appeal by the applicants to the EAT was dismissed on 8 February 2018.

## Breach of Trade Union Rule Applications

*The Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) provides that a member of a trade union who claims that there has been a breach or threatened breach of the rules of a trade union relating to certain matters as set out in the 1992 Act, may apply to the Certification Officer for a declaration to that effect*

### The statutory provisions

- 9.1 Individual trade union members have the right to apply to the Certification Officer if there has been a breach or threatened breach of a trade union’s rules relating to any of the matters set out in section 108A(2) of the 1992 Act. The matters are: –
- (a) *the appointment or election of a person to, or the removal of a person from, any office;*
  - (b) *disciplinary proceedings by the union (including expulsion);*
  - (c) *the balloting of members on any issue other than industrial action;*
  - (d) *the constitution or proceedings of any executive committee or of any decision-making meeting;*
  - (e) *such other matters as may be specified in an order made by the Secretary of State.*
- 9.2 The claimant must be a member of the union or have been a member at the time of the alleged breach or threatened breach. The Certification Officer may not consider an application if the claimant has applied to the court in respect of the same matter. Similarly, once a complaint has been made to the Certification Officer the same matter may not be put to the court.
- 9.3 The Certification Officer may refuse to accept a complaint if she is not satisfied that the claimant has taken all reasonable steps to resolve the claim by the use of any internal complaints procedure of the union.
- 9.4 If the Certification Officer accepts a complaint she is required to make such enquiries as she thinks fit and, before reaching a decision on the complaint, provide the claimant and the trade union with an opportunity to be heard. All hearings before the Certification Officer are held in public.
- 9.5 The Certification Officer must give written reasons for her decision and, where she makes the declaration sought, is required to make an enforcement order unless she

considers that to do so would be inappropriate. The enforcement order may impose on the union one or more of the following requirements –

- (a) to take such steps to remedy the breach, or withdraw the threat of a breach, as may be specified in the order;
- (b) to abstain from such acts as may be so specified with a view to securing that a breach or threat of the same or a similar kind does not occur in future.

Where an order imposes a requirement on the union as in (a) above, the order must specify the period within which the union must comply with the requirement of the order.

- 9.6 An enforcement order made by the Certification Officer may be enforced (by any person who is a member of the union and was a member at the time the enforcement order was made) in the same way as an order of the court.
- 9.7 An appeal on any question of law arising in proceedings before or arising from any decision of the Certification Officer, may be made to the Employment Appeal Tribunal (EAT).

#### **Applications and decisions**

- 9.8 In this reporting period, the Certification Officer determined eleven of the fifteen applications (against eight unions) that were outstanding from the previous reporting period. Four applications were not progressed by the applicants.
- 9.9 The Certification Officer received 14 new applications (against nine unions) relating to alleged breaches of union rule in this reporting period. Two of these applications were determined in this reporting period.
- 9.10 As of 31 March 2018, 12 applications remained to be determined.
- 9.11 The Certification Officer determined 52 complaints on 11 applications of breach of rule during the period 1 April 2017 to 31 March 2018. This includes four applications which were outstanding from the previous reporting period that were combined as two applications on determination. Eleven declarations were made that a union had breached or threatened to breach its rules and five enforcement orders were issued. Seven of the complaints were dismissed by the Certification Officer on withdrawal by the applicant. Of the complaints determined, the following are noteworthy:-

- **Mr M Rolfe v POA D/53-55/17-18**

Mr Rolfe made three complaints of breach of union rules in relation to a disqualification from holding NEC posts until 2016. Two complaints were dismissed upon withdrawal by Mr Rolfe. The Certification Officer upheld one complaint in relation to a breach of union rule 10.9. The Certification Officer ordered that:-

The NEC remove the disqualification of Mr Rolfe from holding any National Executive post which was imposed on him under rule 10.9 following his resignation as a Prison Officer on 3 May 2017. This order will take effect from the date of this decision. This decision has been appealed by the union to the Employment Appeal Tribunal.

- **Boswell and Ors v URTU D/30-32/17-18**

The claimants made three complaints alleging that URTU had breached its rules relating to disciplinary proceedings. The then Certification Officer, Gerard Walker appointed Jeffrey Burke QC as an Assistant Certification Officer (ACO) to hear this. The ACO upheld one complaint that the union had breached its rules relating to its appeals process and dismissed the other two complaints.

The ACO made one enforcement order requiring the appeal to be held by the National Appeals Committee which had to be formed of members of the Triennial Delegate Meeting held on 23 October 2015.

- **Barron v University College Union D/40-48/17-18**

Prof Barron made nine complaints of breaches of rule of the LSE branch of the UCU pursuant to s.108A(2) of the Trade Union and Labour Relations (Consolidation) Act 1992. Mary Stacy, the ACO appointed to hear this case, made a declaration that breaches had occurred in relation to two of the complaints which concerned branch elections. The other complaints were dismissed. The ACO did not make any enforcement orders. This decision has been appealed by Prof Barron to the Employment Appeal Tribunal.

- **Dr Elliott & Dr Borbora v British Medical Association D/33-39/17-18**

Dr Elliott made four complaints and Dr Borbora made three complaints alleging breaches of union rule relating to disciplinary procedures under section 108A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992.

The Certification Officer refused all of Dr Elliott and Dr Borbora's applications.

- **Mr Alec McFadden v Unite the Union D/28-29/17-18**

The applicant made two complaints under section 108A(1) of the Trade Union Labour Relations (Consolidation) Act 1992 that Unite the Union had breached its rules relating to disciplinary proceedings. Following submissions from the parties on two preliminary issues Jeffrey Burke QC the ACO, appointed by the Certification Officer to hear the complaints, decided to uphold the applicant's complaints of breach of rules.

The ACO ordered that:

1. Unite take all reasonable steps to ensure that the Claimant is, within 14 days of this order, restored, for the remainder of the respective terms of each office, to each of the posts and positions within Unite from which he was removed by reason of the penalties imposed in those disciplinary proceedings.
2. Unite should forthwith communicate to each of its branches in its North-West region his decision in this case.

- **Mr Tully v National Crime Officers Association D/23-27/17-18**

The applicant made five complaints under section 108A(1) of the Trade Union Labour Relations (Consolidation) Act 1992 that the National Crime Officers Association had breached its rules relating to disciplinary proceedings. The Certification Officer made five declarations that the union had breached its rules. The following enforcement orders were made:

1. The National Executive Committee's decision at its meeting on 7 to 8 September 2016 to expel Mr Tully from membership of the NCOA is null and void.
2. The Union make arrangement to restore Mr Tully to membership of the NCOA by 19 November 2017.

- **Penkethman & Walker v Communication Workers Union D/21-22/17-18**

Ms Penkethman and Mr Walker made one complaint alleging a breach of rule relating to canvassing during the 2017 elections in the Midland No 7 branch of the CWU under section 108A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992. Mr Walker made a further separate complaint relating to the receiving of a voting paper during the same election.

The Certification Officer refused both of the claimants' applications. Mr Walker has appealed this decision to the Employment Appeal Tribunal.

- **Burgess and Ors, Wakefield, Bannister and Rogers v UNISON D/5-20/17-18**

The applicants made 16 complaints that UNISON had breached its rules in relation to its 2015 General Secretary election. Many of the complaints contained multiple allegations of breaches. In addition it was alleged that the Union breached section 49(4) and 49(6) of the 1992 Act also in relation to the 2015 UNISON General Secretary election. HHJ Mary Stacey, the ACO appointed to hear the case, made decisions relating to all of the above complaints. She made one declaration that the union had breached its rules relating to the use of union resources being used to support

candidates. No enforcement order was made, on the basis that it would be disproportionately punitive, in response to the breach found, to order the General Secretary election to be run again. An appeal by the applicants to the Employment Appeal Tribunal was dismissed on 8 February 2018.

9.12 Copies of all decisions made by the Certification Officer are available on the Certification Officer's website: [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer). Hard copies of decisions can be obtained free of charge upon request to the Certification Office.

9.13 In the period 1 April 2017 to 31 March 2018, a total of 924 enquiries were received. These fall under the following broad headings:

General advice on the role of the Certification Officer	81
Issues relating to the listing of trade unions and employers' associations	145
Enquiries about annual returns and financial issues	106
Certificates of independence	21
Appointment, election or dismissal from any office in the union	22
Disciplinary proceedings within the union	35
Balloting of union members (other than industrial action)	3
Political funds	78
Statutory elections	10
Inadequate representation of members by their union	293
Others	130
Total	924

9.14 There was a slight increase of five enquiries in the current reporting period compared to the figure reported in 2016-17.

9.15 Not all enquires made could result in applications to the Certification Officer. For example the Certification Officer has no jurisdiction regarding alleged inadequate representation of members by their union or in relation to the provision of union benefits or membership.





# Appendices

# Appendix 1

(see paragraph 1.12)

## List of Trade Unions at 31 March 2018

**Notes:**

- Italics* Denotes a trade union first entered in the list during 1 April 2017 to 31 March 2018.  
\* Denotes a trade union holding a certificate of independence at 31 March 2018.  
(P) Denotes a trade union with a political fund resolution in force at 31 March 2018.

**England and Wales**

- \* Accord
- \* Advance
- \* Affinity
  - Aircrew Officers Association Europe
  - Alliance for Finance
- \* Artists' Union England
  - ASPSU
- \* Associated Society of Locomotive Engineers and Firemen (P)
- \* Associated Train Crew Union
- \* Association for Clinical Biochemistry & Laboratory Medicine, The
- \* Association of Educational Psychologists
- \* Association of Local Authority Chief Executives
- \* Association of Revenue and Customs
- \* Association of School and College Leaders
  
- \* Bakers Food and Allied Workers Union (P)
  - Balfour Beatty Group Staff Association
  - BLUECHIP STAFF ASSOCIATION
  - Boots Pharmacists' Association (BPA)
- \* Britannia Staff Union
- \* British Air Line Pilots Association
- \* British Association of Dental Nurses
- \* British Association of Journalists
- \* British Association of Occupational Therapists Limited
- \* British Dental Association
- \* British Dietetic Association
- \* British Medical Association
- \* British Orthoptic Society Trade Union

Cabin Crew Union UK

- \* Chartered Society of Physiotherapy
- City Screen Staff Forum
- Cleaners and Allied Independent Workers Union (CAIWU)
- \* Communication Workers Union (P)
- \* Community (P)
  - Confederation of British Surgery*
  - Currys Supply Chain Staff Association (CSCSA)
  - CU Staff Consultative Group*

Driver and General Union

Employees General Union

Employees United

Equality for Workers Union (EFWU)

- \* Equity (Incorporating the Variety Artistes Federation)
- European SOS Trade Union

\* FDA

\* Fire Brigades Union (P)

\* Fire Officers Association

\* Finance Services Union

G4S Care and Justice Services Staff Association

General Federation of Trade Unions

\* GMB (P)

\* Guild of Professional Teachers of Dance, Movement to Music and Dramatic Arts

Headmasters and Headmistresses Conference

\* Hospital Consultants and Specialists Association

\* ISU

\* Independent Democratic Union

\* Independent Pilots Association

\* Independent Workers Union of Great Britain (IWGB)

\* Industrial Workers of the World

Institute of Football Management and Administration

\* Institute of Journalists (Trade Union)

Leeds Building Society Colleague Association

\* Leek United Building Society Staff Association

Leicestershire Overmen Deputies and Shotfirers Association

Locum Doctors Association

\* Musicians' Union (P)

Myunion

- \* NAPO – the Trade Union and Professional Association for Family Court and Probation Staff
- \* National Association of Co-operative Officials
- \* National Association of Head Teachers
- \* National Association of NFU Group Secretaries
- \* National Association of Schoolmasters Union of Women Teachers (P)
- \* National Association of Racing Staff
- \* National Crime Officers Association
- \* *National Education Union (P)*
- \* National House Building Council Staff Association
- \* National Society for Education in Art and Design
- \* National Union of Journalists
- \* National Union of Mineworkers (P)
  - National Union of Mineworkers (Cokemen’s Area)
- \* National Union of Mineworkers (Colliery Officials and Staffs Area)
- \* National Union of Mineworkers (Colliery Officials and Staffs Area) (Region No. 4)
  - National Union of Mineworkers (South Wales Area)
- \* National Union of Rail Maritime and Transport Workers (P)
- \* Nationwide Group Staff Union
- \* Nautilus International
  - News Union
  - North of England Zoological Society Staff Association
- Palm Paper Staff Association
- \* PDA Union
- \* POA (P)
- \* PPU
- \* Prison Governors Association
  - Professional Cricketers Association
  - Professional Footballers Association
- \* Prospect (P)
  - PTSC
- \* Public and Commercial Services Union (P)
  - R&C Trade Union
- \* Retail Book Stationery and Allied Trades Employees Association
- \* Retained Firefighters Union
- \* Royal College of Midwives
- \* Royal College of Nursing of the United Kingdom
  - RSPB Staff Association
  - Rugby Players Association

- \* Sales Staff Association
- \* SKYSHARE
- \* Social Workers Union (SWU)
- \* Society of Authors
- \* Society of Chiropractors and Podiatrists
- \* Society of Radiographers (P)
- \* Society of Union Employees (UNISON)
  
- \* Transport Salaried Staffs Association (P)
  
- \* Undeb Cenedlaethol Athrawon Cymru (National Association of Teachers of Wales)
- \* Union of Democratic Mineworkers  
Union of General and Volunteer Workers
- \* Union of Shop Distributive and Allied Workers (P)
- \* UNISON – The Public Service Union (P)
- \* United Road Transport Union
- \* United Voices of the World
- \* Unite the Union (P)
- \* University and College Union (P)
  
- \* Voice
  
- Warwick International Staff Association
- Welsh Rugby Players Association
- \* Workers of England Union
- \* Workers Uniting
- \* Writers Guild of Great Britain

### **Scotland**

- \* Aegis the Union
- \* Association of Head Teachers and Deputies in Scotland
  
- \* Educational Institute of Scotland (P)
  
- Independent Federation of Nursing in Scotland
  
- Scottish Artists Union
- \* Scottish Secondary Teachers' Association  
Solidarity
  
- \* United and Independent Union

#### **Notes:**

- Italics* Denotes a trade union first entered in the list during 1 April 2017 to 31 March 2018.
- \* Denotes a trade union holding a certificate of independence at 31 March 2018.
- (P) Denotes a trade union with a political fund resolution in force at 31 March 2018.

# Schedule to Appendix 1

(see paragraph 1.7)

**This schedule contains the names of those trade unions known to the Certification Officer which are within the statutory definition of a trade union but which have not applied to be entered on the list at 31 March 2018.**

**Notes:**

(≠) Denotes a branch of an American Trade Union.

**England and Wales**

Association of Flight Attendants (Council 07) ≠

Association of Local Council Clerks

Association of Trade Union Political and Public Sector Staff

Confederation of Shipbuilding and Engineering Unions

Employees Representatives

Federation of Entertainment Unions

International Transport Workers Federation

National Union of Mineworkers (North East Area)

Trades Union Congress

**Scotland**

National Union of Mineworkers (Scotland Area)

Professional Footballers Association Scotland

Scottish Colliery Enginemen Boilermen and Tradesmens Association

# Appendix 2

(see paragraph 1.12)

## List of Employers' Associations at 31 March 2018

**Notes:**

*Italics* Denotes an employers' association first entered in the list during 1 April 2017 to 31 March 2018

**England and Wales**

Advertising Producers Association

Association of British Orchestras

Association of Circus Proprietors of Great Britain

Association of Indian Banks in the United Kingdom

Association of Newspaper and Magazine Wholesalers

Association of Plumbing and Heating Contractors

British Amusement Catering Trades Association

British Lace Federation

British Printing Industries Federation

Builders Merchants Federation Ltd

Building & Engineering Services Association

Construction Plant-Hire Association

East of England Local Government Association

EEF Limited

Electrical Contractors Association

Engineering Construction Industry Association

England and Wales Cricket Board Limited

Federation of Dredging Contractors

Federation of Master Builders

Federation of Window Cleaners

Glass and Glazing Federation

Lancashire Textile Manufacturers Association

Leather Producers Association

London Councils

Mastic Asphalt Council

National Association of Farriers Blacksmiths and Agricultural Engineers  
National Association of Master Bakers  
National Farmers Union  
National Federation of Retail Newsagents  
National Hairdressers Federation Ltd  
National Trainers Federation  
North East Regional Employers Organisation for Local Authorities  
North Western Local Authorities Employers Organisation

Producers Alliance for Cinema and Television

Retail Motor Industry Federation Ltd

Showmens Guild of Great Britain  
Smithfield Market Tenants Association London  
South East Employers

Thermal Insulation Contractors Association 7

UK Cinema Association  
UK Fashion and Textile Association Ltd

Vehicle Builders and Repairers Association Limited

*Welsh Local Government Association*  
West Midlands Employers

Yorkshire and Humber (Local Authorities) Employers' Association

### **Scotland**

Electrical Contractors Association of Scotland  
Employers in Voluntary Housing Limited

Print Scotland

Malt Distillers Association of Scotland

NFU Scotland

Scottish Decorators Federation  
Scottish Engineering  
Scottish and Northern Ireland Plumbing Employers Federation



# Schedule to Appendix 2

(see paragraph 1.7)

**This schedule contains the names of those employers' associations known to the Certification Officer which are within the statutory definition of an employers' association but which have not applied to be entered on the list at 31 March 2018.**

## **England and Wales**

Association of Colleges

B F M Limited

British Allied Trade Federation

British Footwear Association

British Printing Industries Federation Ltd

British Travelgoods and Accessories Association

Chemical Industries Association Ltd

Confederation of Paper Industries Ltd

Co-operative Employers Association Limited

Dairy UK

East Midlands Councils

Freight Transport Association

Incorporated Guild of Hairdressers Wigmakers and Perfumers

Improvement and Development Agency

London Association of Funeral Directors

Master Carvers Association

Metal Packaging Manufacturers Association

National Federation of Roofing Contractors Ltd

Radio Electrical and Television Retailers Association (RETRA) Ltd

Refractory Users Federation

Road Haulage Association Limited

Society of London Theatre "SOLT"

South West Councils

UK Theatre Association  
Universities and Colleges Employers Association

**Scotland**

Angus and Kincardine Master Plumbers Association

British Packaging Association  
Banff and Moray Master Plumbers Association

Fife and Kinross Master Plumbers Association

Inverness and Northern District Master Plumbers Association

Lanarkshire Master Plumbers Association

Perth and District Master Plumbers Association

Scottish Association of Master Bakers  
Scottish Association of Meat Wholesalers  
Scottish Building Federation  
Scottish Motor Trade Association Limited  
SNIPEF Edinburgh and District Branch  
SNIPEF Glasgow and West of Scotland

# Appendix 3

(see paragraphs 2.8 to 2.12)

## Decisions on Trade Union Independence during the period 1 April 2017 to 31 March 2018

### **Certificates of independence issued**

United Voices of the World

National Education Union

National House Building Council Staff Association

### **Certificates of independence refused**

None

### **Certificates of independence withdrawn**

None

### **Certificates cancelled because the union's name was removed from the list of trade unions**

Ellington Branch of the North East Area of the National Union of Mineworkers

### **Certificates cancelled because the union's name was removed from the list of trade unions as the result of a merger**

Staff Union West Bromwich Building Society

Association of Teachers and Lecturers

National Union of Teachers

### **Applications in progress**

### **Number of Certificates in force as at 31 March 2018**

92



## Appendix 4

### Summary of Statistics – Trade Unions, returns received, during the period 1 April 2017 to 31 March 2018

The annual returns completed by trade unions for the Certification Officer require the accounts to be shown in a particular way. The figures used in this Appendix are taken from the summary sheets of these annual returns and provide a simple analysis of each union's financial affairs for the year. Individual annual returns are available on the website [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer) or copies can be obtained from the Certification Office.

The information in the table relates to returns received during the reporting period. Although a large proportion of these returns are for the year ending 31 December 2016, the table includes returns from trade unions with year ending dates ranging from October 2016 to September 2017 and therefore due in this Office between 1 April 2017 and 31 March 2018.

#### Notes to the Summary of Statistics schedule

- (a) The total membership reported by some trade unions includes a number of special categories (eg. honorary or retired) who are members under the union's rules but who either pay no contribution to union funds or make a nominal payment only.
- (b) Investment income is shown net of certain items such as outgoings on property held as an investment, but not, for most unions, net of tax paid on that income.
- (c) The total income and total expenditure figures are not confined to normal revenue income and expenditure. The figures cover all items which increased or decreased a union's total funds during the year. They are inclusive of recognised gains and losses, including revaluation of property and assets and other changes in the value of assets, which are not offset by an equal change in liabilities. Tax recoveries and provisions no longer required are included in total income, and tax paid is included in total expenditure.
- (d) Some figures may have changed from last year's report due to later information. Some unions may have made adjustments to the beginning of year figure.

## Summary of Statistics – Trade Unions, 2016-2017

(see paragraph 4.3)

	Number of Members (a) (1)	GROSS INCOME			
		From Members £000's (2)	From Investments (b) £000's (3)	Other Income £000's (4)	Total Income (c) £000's (5)
		UNISON: The Public Service Union	1,397,803	164,089	327
Unite the Union	1,282,671	166,620	10,482	6,731	183,833
GMB	617,213	66,623	1,747	25,207	93,577
Royal College of Nursing of the United Kingdom	452,669	47,869	747	2,705	51,331
Union of Shop Distributive and Allied Workers	434,790	39,830	2,363	4,049	46,242
National Union of Teachers	372,937	38,795	1,930	4,370	45,095
National Association of Schoolmasters Union of Women Teachers	318,700	28,074	1,029	4,030	33,133
Association of Teachers and Lecturers	192,646	16,926	138	578	17,642
Communication Workers Union	190,628	29,798	808	400	31,006
Public and Commercial Services Union	185,785	21,552	157	18,108	39,817
British Medical Association	161,708	51,313	4,126	80,572	136,011
Prospect	112,576	15,681	3,289	72	19,042
University and College Union	103,985	20,306	23	3,897	24,226
<b>Total for above unions with 100,000 members or more</b>	<b>5,824,111</b>	<b>707,476</b>	<b>27,176</b>	<b>159,345</b>	<b>893,997</b>
Total for 128 other listed unions with less than 100,000 members	1,048,533	186,882	20,398	90,347	297,627
Total for listed unions	6,872,644	894,358	47,574	249,692	1,191,624
Trades Union Congress	51	15,515	3,590	15,127	34,232
Total for 11 other unlisted unions which have submitted returns	2,536	7,489	1,302	57,273	66,064
<b>Total for all unions 2016-2017</b>	<b>6,875,231</b>	<b>917,362</b>	<b>52,466</b>	<b>322,092</b>	<b>1,291,920</b>
Total for all unions 2015-2016	6,865,056	912,458	42,621	331,401	1,286,480

Notes – see previous page

## Appendix 4

GROSS EXPENDITURE	TOTAL FUNDS		GROSS ASSETS				Total Liabilities
	Beginning of the Year (d) £000's (7)	End of the Year (e) £000's (8)	Fixed Assets (f) £000's (9)	Investment Assets (g) £000's (10)	Other Assets (h) £000's (11)	Total Assets (i) £000's (12)	
Total Expenditure (c) £000's (6)							
263,009	143,453	53,486	100,475	9,730	152,781	262,986	209,500
175,367	196,644	205,110	148,182	67,783	107,686	323,651	118,541
60,129	60,138	93,586	35,812	31,895	32,132	99,839	6,253
44,173	25,821	32,979	0	31,164	12,297	43,461	10,482
51,205	41,801	36,838	6,607	66,563	13,998	87,168	50,330
60,848	73,316	57,563	35,108	10,119	39,125	84,353	26,790
29,902	34,039	37,270	29,343	22,435	4,744	56,522	19,252
17,138	20,639	21,143	8,979	5,181	11,429	25,589	4,446
36,367	26,821	21,460	23,371	6,605	15,447	45,423	23,963
46,264	15,419	8,972	14,677	1,366	7,979	24,023	15,051
162,201	104,282	78,092	11,056	114,937	48,445	174,438	96,346
34,115	33,773	18,700	13,098	27,126	5,795	46,019	27,319
17,233	19,338	26,331	14,676	1,172	23,812	39,660	13,329
<b>997,951</b>	<b>795,484</b>	<b>691,530</b>	<b>441,385</b>	<b>396,078</b>	<b>475,670</b>	<b>1,313,132</b>	<b>621,602</b>
305,538	432,774	424,863	147,512	362,582	98,462	608,556	183,693
1,303,489	1,228,258	1,116,393	588,897	758,660	574,132	1,921,688	805,295
40,145	86,444	80,531	60,199	17,184	15,194	92,577	12,046
69,768	114,680	110,977	17,524	122,077	19,226	158,826	47,851
<b>1,413,402</b>	<b>1,429,382</b>	<b>1,307,901</b>	<b>666,620</b>	<b>897,921</b>	<b>608,551</b>	<b>2,173,091</b>	<b>865,192</b>
1,092,201	1,326,122	1,520,402	651,412	810,990	561,592	2,923,993	503,591

# Appendix 5

(see paragraph 4.21)

## Salary and Benefits of Trade Union General Secretaries

	<i>Title</i> (General Secretary unless otherwise stated)	<i>Salary</i> £	<i>Benefits</i> £
<b>England and Wales</b>			
Accord	General Secretary	118,518	20,828
Advance	General Secretary	15,699	3,959
Affinity	General Secretary	84,000	29,250
Associated Society of Locomotive Engineers and Firemen	General Secretary	94,425	23,170
Association of Educational Psychologists	General Secretary	65,132	7,040
Association of School and College Leaders	General Secretary	119,054 (a)	115,944 (a) (b)
Association of Teachers and Lecturers	General Secretary	123,765 (c)	18,358 (c)
Association of Trade Union Political and Public Sector Staff	Acting General Secretary	100	0
Bakers, Food and Allied Workers' Union	General Secretary	47,384	16,708
Bluechip Staff Association	General Secretary	30,031	0
Boots Pharmacists' Association (BPA), The	Chief Executive Officer	0	20,280 (d)
Britannia Staff Association	General Secretary	67,656	11,548
British Air Line Pilots Association	General Secretary	121,434	18,614
British Association of Journalists	General Secretary	31,589 (a)	0
British Dental Association	General Secretary	75,000	0
British Medical Association	Chairman	40,348	0
Broadcasting Entertainment Cinematograph and Theatre Union	General Secretary	70,806	8,039
Chartered Society of Physiotherapy	Chief Executive	120,000	20,670
Communication Workers Union	General Secretary	89,933	26,640
Community	General Secretary	109,003	31,471
Confederation of Shipbuilding and Engineering Unions	General Secretary	80,720	21,122



Curry's Supply Chain Staff Association (CSCSA)	General Secretary	29,741	5,497
Driver and General Union	General Secretary	39,239	0
Equity (Incorporating the Variety Artists' Federation)	General Secretary	107,650	0
FDA	General Secretary	102,987	28,903
Financial Services Union	General Secretary	135,104	66,654
Fire Brigades Union	General Secretary	72,848	52,964
Fire Officers' Association	General Secretary	37,248	2,341
G4S Care and Justice Services Staff Association	General Secretary	35,023	16,019
General Federation of Trade Union	General Secretary	67,009	10,721
GMB	General Secretary	221,000 (a) (e)	42,000 (f)
Guild of Professional Teachers of Dance, Movement to Music and Dramatic Arts	General Secretary	14,868	0
Headmasters' and Headmistresses' Conference	General Secretary	114,754	20,244
Hospital Consultants and Specialists Association	Chief Executive Officer	87,790	8,845
Independent Democratic Union	General Secretary	52,625	10,063
Independent Pilots Association	General Secretary	38,442	2,120
Institute of Football Management and Administration, The	General Secretary	8,620	0
Institute of Journalists (Trade Union)	General Secretary	37,089	2,776
International Transport Workers Federation	General Secretary	168,000	40,000
ISU	General Secretary	66,001	0
Locum Doctor's Association	Chairperson	0	200 (d)
Musicians Union	General Secretary	120,731	34,997
NAPO – The Trade Union and Professional Association for Family Court and Probation Staff	General Secretary	70,924	1,500
National Association of Co-operative Officials	General Secretary	66,003	25,077
National Association of Head Teachers	General Secretary	138,214	23,334
National Association of NFU Group Secretaries	General Secretary	10,534	0

National Association of Racing Staff	Chief Executive	55,229	2,450
National Association of Schoolmasters Union of Women Teachers	General Secretary	103,565	35,791
National Crime Officers Association	Secretary	34,186	0
National Society for Education in Art and Design	General Secretary	45,450	0
National Union of Journalists	General Secretary	108,843 (a)	33,7467 (a)
National Union of Mineworkers	Secretary	33,765	1,537
National Union of Mineworkers (Colliery Officials and Staffs Area) Region No 4	General Secretary	12,240	2,576
National Union of Mineworkers (Northumberland Area)	General Secretary	17,323	0
National Union of Mineworkers (South Wales Area)	General Secretary	54,817	0
National Union of Rail, Maritime and Transport Workers	Acting General Secretary	98,086	39,263
National Union of Teachers	General Secretary	87,895 (c)	8,287 (c)
Nationwide Group Staff Union	General Secretary	125,988	27,067
Nautilus International	General Secretary	94,798	19,288
News Union	General Secretary	82,693	819
PDA Union	General Secretary	0	5,000 (d)
POA	General Secretary	78,899	29,836
Professional Cricketers Association	General Secretary	137,273 (a)	5,560 (a)
Professional Footballers' Association	General Secretary	1,965,948 (g)	53,028
Prospect	General Secretary	112,000	17,000
Public and Commercial Services Union	General Secretary	93,810	13,978
Retail Book Stationery and Allied Trades Employees Association	President	35,019	12,616
Retained Firefighters Union	Chief Executive Officer	44,836	3,960
Royal College of Midwives	General Secretary	122,566 (h)	24,573 (h)
Royal College of Nursing of the United Kingdom	General Secretary	159,732 (i)	18,369 (i)
RSPB Staff Association	Chairperson	1,200	0
Rugby Players Association, The	General Secretary	84,758	6,318
Social Workers Union, The	General Secretary	58,166	0
Society of Authors, The	General Secretary	101,488	6,877
Society of Chiropodists and Podiatrists	General Secretary	128,045	10,243
Society of Radiographers	Chief Executive Officer	54,644	9,936

Staff Union West Bromwich Building Society	Acting General Secretary	0	16,770 (j)
Trades Union Congress	General Secretary	111,860	42,883
Transport Salaried Staffs Association	General Secretary	82,488	15,038
UFS	General Secretary	83,197	11,847
Undeb Cenedlaethol Athrawon Cymru (The National Association of the Teachers of Wales)	General Secretary	50,863	8,469
Union of Construction, Allied Trades and Technicians	General Secretary	81,453	17,872
Union of Democratic Mineworkers	General Secretary	50,260	14,570
Union of General & Volunteer Workers	General Secretary		750 (d)
Union of Shop Distributive and Allied Workers	General Secretary	104,294	34,289
UNISON: The Public Service Union	General Secretary	101,075 (k)	7,737
Unite the Union	General Secretary	74,802	15,717
United Road Transport Union	General Secretary	61,697	53,891
United Voices of the World	General Secretary	0	10,745 (d)
University and College Union	General Secretary	105,579	22,602
Voice	General Secretary	64,652	1,853
Welsh Rugby Players Association	General Secretary	19,500	0
Workers of England Union	General Secretary	19,378	0
Writers Guild of Great Britain	General Secretary	46,974	4,228

## Scotland

Aegis	General Secretary	74,119	14,287
Association of Headteachers and Deputes in Scotland	General Secretary	62,658	11,187
Educational Institute of Scotland	General Secretary	97,509	29,531
Independent Federation of Nursing in Scotland	General Secretary	29,904	0
National Union of Mineworkers (Scotland Area)	General Secretary	27,810	2,329
Professional Footballers Association Scotland	Chief Executive	64,494	498
Scottish Secondary Teachers Association	General Secretary	85,572	14,773
Solidarity	General Secretary	7,432	706

### Notes:

- (a) Total paid in respect of two people holding office as General Secretary within the period and is not the sum paid to one individual
- (b) This includes a termination payment of £100,000
- (c) Union submitted two returns in the Certification Officer's annual reporting period 17-18. Salary reported on is taken from the union's 2016 return. The union's second return covers the period of 8 months up until the union amalgamated to form the National Education Union on 1 September 2017. The General Secretary's salary for the 8-month period is published online along with the 2016 return
- (d) Honorarium
- (e) This includes a retirement testimonial of £113,000 to the outgoing General Secretary
- (f) This includes an assets transfer of £14,000 to the outgoing General Secretary
- (g) This includes bonus of £777,183
- (h) Salary paid to General Secretary includes all aspects of College and not just the Union
- (i) This includes payment of £62,015 made in respect of the General Secretary's role as chief executive of the RCN Charter Body
- (j) Secondment fee to WBBS
- (k) Salary sacrifice: £8,805

## Appendix 6

### Summary of Statistics – Employers’ Associations, returns received during the period 1 April 2017 to 31 March 2018

The figures used in Appendix 6 are taken from the summary sheets of the annual returns made by employers’ associations to the Certification Officer and provide a simple analysis of each association’s financial affairs for the year. Individual annual returns are available on the website or can be viewed at, or obtained from, the Certification Office. Where an association has functions outside the field of employment relations the return may relate to its activities as a whole and not merely to its employment relations functions.

The information in the table relates to returns received during the reporting period. Although a large proportion of these returns are for the year ending 31 December 2016, the table includes returns from employers’ associations with year ending dates ranging from October 2016 to September 2017 and therefore due in this Office between 1 April 2017 and 31 March 2018.

#### Notes

- (a) Income from investments includes interest on short term deposits.
- (b) Total income and gross expenditure figures are not confined to normal revenue income and expenditure. The figures include all items which increased or decreased an association’s funds during the year. This includes any increases or decreases in the valuation of property and other assets. Tax recoveries and provisions no longer required are included in total income and tax paid is included in total expenditure.
- (c) Some figures may have changed from last year’s report due to later information.

## Summary of Statistics – Employers’ Associations, 2016-2017

(see paragraph 4.23)

	GROSS INCOME				GROSS EXPENDITURE
	From Members	From Investments	Other Income	Total Income	
	£000’s	£000’s	£000’s	£000’s	(b) £000’s
Employers’ Associations with over £2,500,000 total income	(1)	(2)	(3)	(4)	(5)
England and Wales Cricket Board Limited	0	676	118,886	119,562	156,921
London Councils	47,095	(765)	14,603	60,933	67,797
National Farmers Union	29,883	3,378	8,648	41,909	42,938
EEF Ltd	16,834	2,602	20,585	40,021	30,392
Freight Transport Association Limited	28,025	26	0	28,051	27,462
Electrical Contractors Association	4,095	1,410	19,778	25,283	24,794
Road Haulage Association Limited	3,863	18	6,119	10,000	9,360
Building & Engineering Services Association	3,724	596	5,579	9,899	14,926
Retail Motor Industry Federation Limited	3,712	393	3,716	7,821	6,116
Glass and Glazing Federation	1,067	796	5,021	6,884	3,801
Society of London Theatre “SOLT”	527	32	6,300	6,859	6,668
Association of Colleges	5,082	(299)	1,809	6,592	9,319
British Allied Trade Federation	1,151	342	3,906	5,399	2,549
Federation of Master Builders	3,848	2	925	4,775	4,814
Chemical Industries Association Limited	3,601	3	1,120	4,724	4,261
National Federation of Retail Newsagents	3,900	94	593	4,587	4,301
Electrical Contractors Association of Scotland T/A SELECT	1,440	1,002	1,612	4,054	3,244
British Printing Industries Federation	2,288	0	1,300	3,588	4,449
NFU Scotland	2,070	64	860	2,994	2,735
Showmen’s Guild of Great Britain, The	1,025	1	1,923	2,949	3,308
Producers Alliance For Cinema and Television Limited	2,354	7	522	2,883	3,548
Engineering Construction Industry Association	1,789	331	476	2,596	2,398
Scottish Motor Trade Association Limited	321	7	2,235	2,563	2,371
Building Merchants Federation Ltd	772	285	1,492	2,549	1,807
<b>Total for above Employers’ Associations</b>	<b>168,466</b>	<b>11,001</b>	<b>228,008</b>	<b>407,475</b>	<b>440,279</b>
Total for 36 other listed Employers’ Associations	11,683	937	10,479	23,098	23,863
Total for 31 other unlisted Employers’ Associations	11,608	593	6,261	18,462	22,373
<b>Total for all Employers’ Associations 2016-2017</b>	<b>191,757</b>	<b>12,531</b>	<b>244,748</b>	<b>449,036</b>	<b>486,515</b>
Total for all Employers’ Associations 2015-2016	195,401	10,130	272,381	477,912	449,546

See Notes on previous page

## Appendix 6

TOTAL FUNDS		GROSS ASSETS					
Beginning of the Year (c) £000's (6)	End of the Year £000's (7)	Fixed Assets £000's (8)	Investments £000's (9)	Other Assets £000's (10)	Total Assets £000's (11)	Total Liabilities £000's (12)	Number of Members (13)
73,106	35,747	1,842	43,751	52,104	97,697	61,950	287
(10,510)	(17,374)	1,538	0	22,485	24,023	41,397	35
110,684	109,655	16,952	125,582	9,996	152,530	42,875	85,953
46,308	55,937	24,391	54,623	15,374	94,388	38,451	2,027
3,474	4,063	3,665	0	10,020	13,685	9,622	16,007
50,459	50,948	3,406	56,285	30,712	90,403	39,455	2,730
3,086	3,726	2,064	290	4,023	6,377	2,651	6,941
6,380	1,353	2,973	7,925	8,952	19,850	18,497	1,240
22,662	24,367	5,067	22,618	1,360	29,045	4,678	10,768
7,755	10,838	3,175	5,719	3,931	12,825	1,987	426
911	1,102	1,643	0	18,317	19,960	18,858	185
(6,239)	(8,966)	124	0	6,258	6,382	15,348	305
11,924	14,774	1,431	14,430	1,415	17,276	2,502	3,086
8,086	8,047	4,909	2,111	3,062	10,082	2,035	8,149
2,250	2,714	329	0	3,448	3,777	1,064	94
7,725	8,011	3,988	3,247	1,615	8,850	839	14,346
4,721	5,531	2,915	50	3,177	6,142	611	1,222
(2,352)	(3,213)	433	0	885	1,318	4,531	2
2,410	2,669	179	2,505	752	3,436	767	8,297
6,543	6,184	4,014	5	2,696	6,715	531	3,669
2,189	1,524	20	0	2,373	2,393	869	538
5,017	5,215	12	1,516	5,368	6,896	1,681	203
2,198	2,390	547	438	1,913	2,898	508	1,106
3,406	4,148	2,416	1,292	2,110	5,818	1,670	580
<b>362,193</b>	<b>329,389</b>	<b>88,033</b>	<b>342,387</b>	<b>212,346</b>	<b>642,766</b>	<b>313,377</b>	<b>168,196</b>
34,311	33,547	12,145	33,458	21,127	66,730	33,183	14,150
16,893	12,982	9,268	7,739	16,835	33,842	20,860	5,525
<b>413,397</b>	<b>375,918</b>	<b>109,446</b>	<b>383,584</b>	<b>250,308</b>	<b>743,338</b>	<b>367,420</b>	<b>187,871</b>
388,733	417,099	100,249	372,718	242,682	715,649	298,550	187,958

# Appendix 7

(see paragraph 5.4)

## Trade Unions Maintaining Members' Superannuation Schemes 31 March 2018

**Notes:**

\* Denotes schemes exempt from the need for actuarial examination (see paragraph 5.5)  
These three schemes are reported on within Unite the Union's annual return each year.

GMB (BMS Section Members' Superannuation Fund)

National Union of Rail Maritime and Transport Workers (Orphan Fund)

Unite the Union: (6 schemes listed below)

AEEU Section Superannuation Scheme

British Aerospace Senior Staff Association Superannuation Fund

Litho Printers' Section Superannuation Fund

Plate Preparers' Section Superannuation Fund\*

MSF Section Craft Members (formally known as Sheet Metal Workers)

Superannuation Fund\*

TGWU Members/National Vehicle Builders Union Members' Superannuation Scheme\*



# Appendix 8

(see paragraphs 6.10 to 6.12)

## Mergers completed during the period 1 April 2017 to 31 March 2018

### Trade Union: Transfers of Engagements

<i>Engagements transferred from</i>	<i>To</i>	<i>Transfer registered on</i>
Staff Union West Bromwich Building Society	Community	1 February 2018

### Trade Union: Amalgamations

<i>Amalgamating unions</i>	<i>Forming</i>	<i>Amalgamation registered on</i>
National Union of Teachers	National Education Union	20 June 2017 (effective date 1 September 2017)
Association of Teachers and Lecturers		

### Employers' Association: Transfers of Engagements

None

### Employers' Association: Amalgamations

None

# Appendix 9

## Political Funds of Trade Unions, 2016-2017

(see paragraph 7.17)

	Number of Members contributing to the Political Fund (1)	Number of Members not contributing to the Political Fund (2)
Associated Society of Locomotive Engineers and Firemen	20,899	775
Association of Revenue and Customs	1,784	589
Bakers Food and Allied Workers Union	18,059	995
Broadcasting Entertainment Cinematograph and Theatre Union	27,027	686
Communication Workers Union	160,185	30,443
Community	17,960	5,515
Educational Institute of Scotland	42,152	13,727
Fire Brigades Union	27,957	5,885
GMB	592,810	24,403
Musicians Union	23,679	6,927
National Association of Schoolmasters Union of Woman Teachers	232,307	86,393
National Union of Mineworkers	187	624
National Union of Rail Maritime and Transport	78,758	355
National Union of Teachers	263,690	109,247
POA	24,125	5,896
Prospect	100,755	11,821
Public and Commercial Services Union	184,262	1,523
Society of Radiographers	22,840	4,114
Transport Salaried Staffs Association*	17,535	959
Union of Construction, Allied Trades and Technicians**	41,226	9,447
Union of Shop Distributive and Allied Workers	413,737	21,053
UNISON: The Public Service Union	1,181,345	216,458
Unite the Union	1,065,279	217,392
University and College Union	93,526	10,459
<b>Total for the 24 unions with political funds which reported in this period</b>	<b>4,652,084</b>	<b>785,686</b>
Total for the 24 unions with political funds which reported in the previous period	4,777,168	622,286

### Notes:

The information in the table is derived from annual returns received during 2017-2018, most of which relate to the year ending December 2016.

\* Enquiries regarding the deficit in the fund at the end of the year were made and steps are in place to bring the account back into credit.

\*\* Union merged with Unite the Union who have absorbed the deficit into their Political Fund.

Number of Members exempt from contributing to the Political Fund (3)	POLITICAL FUND (a)			
	Income	Expenditure	Fund at Beginning of Year	Fund at End of year
	£ (4)	£ (5)	£ (6)	£ (7)
775	209,260	200,839	5,400	13,821
0	5,388	0	128,463	133,851
0	79,525	78,649	6,660	7,536
191	42,779	27,599	37,611	52,791
20,782	1,655,035	1,573,626	1,184,895	1,266,304
5,203	198,000	85,000	52,000	165,000
11,221	369,028	34,090	2,289,721	2,624,659
4,995	237,527	278,350	680,791	639,968
24,403	3,227,000	3,496,000	848,000	579,000
5,532	85,461	69,007	7,930	24,384
16	191,797	163,090	118,552	147,259
23	3,352	9,434	88,854	82,772
203	276,000	270,000	23,000	29,000
1,798	457,452	234,695	667,684	890,441
5,896	39,285	44,046	35,499	30,738
0	61,000	84,000	631,000	608,000
406	204,744	69,878	251,806	386,672
3,227	14,943	0	0	14,943
505	140,172	181,305	6,155	-34,978
8,926	222,000	204,000	-54,000	-36,000
21,053	2,150,000	1,911,000	568,000	807,000
6,413	6,574,000	5,452,000	9,964,000	11,086,000
40,030	7,796,000	7,426,000	14,132,000	14,502,000
7,995	172,338	170,002	9,538	11,874
<b>169,593</b>	<b>24,412,086</b>	<b>22,062,610</b>	<b>31,683,559</b>	<b>34,033,035</b>
124,603	24,540,853	25,597,756	32,771,716	31,714,813

# Appendix 10

## Current statutory fees applicable

*Fees are set by the Secretary of State and were amended in Parliament by The Certification Officer (Amendment of Fees) Regulations 2005 (SI 2005/713) under the provisions of sections 108 and 293 of the Trade Union and Labour Relations (Consolidation) Act 1992.*

	Current Fee
Application for entry in the list of trade unions	£150
Application for entry in the list of employers' associations	£150
Application for entry in the list of an amalgamated organisation where each amalgamating organisation was already entered	£41
Provision of a certificate of independence to an amalgamated union where each amalgamating organisation already had a certificate of independence	£41
Application for approval of a change of name	£96
Application for a certificate of independence	£4,066
Application for formal approval of an instrument of transfer of engagements or an instrument of amalgamation	£1,850
Inspection of merger documents	£19

# Appendix 11

## Certification Office Publications

***The latest version of the following Certification Office publications are available to be printed or downloaded from the Certification Officer's website: [www.gov.uk/certificationofficer](http://www.gov.uk/certificationofficer). Printed copies may also be obtained free of charge on application to the Certification Office.***

*Guidance on making a complaint to the Certification Officer against a trade union*

*Disclosure of identity of individuals making applications and complaints to the Certification Officer*

*Guidance on procedure at formal hearings of the Certification Officer*

*Financial Irregularities in trade unions and employers' associations: the approach of the Certification Officer in exercising his powers of investigation*

*Independence: a guide for trade unions wishing to apply for a certificate of independence*

*Mergers: a guide to the statutory requirements for transfers of engagements and amalgamations of trade unions*

*Mergers: a guide to the statutory requirements for transfers of engagements and amalgamation of employers' associations*

*Political funds: a guide for trade unions and employers' associations wishing to establish a political fund*

*Political funds: a guide on the provisions in the Trade Union Act 2016*

*Political funds: a guide to review ballots*

*Trade Union' Register of Members: the Certification Officer's powers of investigation and enforcement*

*Certification Officer's Publication Scheme*

*Annual Reports of the Certification Officer*

*Guidance on The Certification Officer's Role as a Prescribed Person for the Purposes of Public Interest Disclosure Act 1998' - 'whistleblowing'*

*How to apply to be entered on the list of trade unions*

# Appendix 12

## Certification Office Functions

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 VIIA* – 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.



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