Factsheet: Repeal of the Trade Union Act 2016

Department for Business & Trade

What is the current policy/legal framework?

The Trade Union Act 2016 provides for:

- 50 per cent turnout threshold in strike ballots.
- Additional requirement of 40 per cent support threshold in strike ballots for industrial action in important public services (IPS). IPS are education of those aged under 17, fire, health, border security, transport and nuclear decommissioning.
- Electronic balloting review and piloting scheme.
- Ballot papers to give a summary description of the matters in dispute, as well as stating exactly what type of industrial action is proposed.
- Unions to specify to members how many members were entitled to vote in industrial action ballots, and whether the minimum thresholds of 50% and (if it applies) 40% are met.
- Trade unions, in their annual return to the Certification Officer, to include details of any industrial action taken during the period of the return.
- Trade unions to give 14 days' notice to an employer where they intend to take industrial action
- Mandates for industrial action to last for 6 months, or up to 9 months if agreed between the union and the employer.
- Extra requirements for union supervision of picketing, including the appointment of a picket supervisor.
- New members joining a union being automatically opted out of contributions to their union's political fund, unless they expressly opt in.
- Unions to include detail on expenditure from political funds over £2,000 in their annual return to the Certification Officer.
- Relevant public sector employers to publish information relating to facility time for relevant union officials.
- Powers for a Minister to impose a cap on facility time after 3 years.
- Revised investigatory and enforcement (financial penalties) powers for the Certification Officer.
- Payroll deductions for trade union subscriptions to only be administered by public sector employers where affected workers had the option to pay their trade union subscriptions by another means and unions agree to pay for this service.
- The Certification Officer levy, funded by trade unions and employers' associations.

Policy Intent

The Government believes strong collective bargaining rights and institutions are key to tackling problems of insecurity, inequality, discrimination, enforcement and low pay. When workers are empowered to act as a collective, they can secure better pay and conditions. The Government is of the view that the Trade Union Act 2016 places unnecessary restrictions and red tape on trade union activity. This repeal of the 2016 Act, together with the repeal of the Strikes (Minimum Service Levels) Act 2023, will update existing trade union legislation and reset industrial relations between unions, employers and workers.

How will it work?

The broad intention of this policy is for the law to return to its pre-2016 position, with three main exceptions: retaining the ballot mandate expiration date (but increasing it from 6 to 12 months); shortening the 14-day notice period for industrial action from 14 to 10 days (rather than the 7 days it was pre-2016); and retaining the independence of the Certification Officer from political control (ministerial direction).

The Employment Rights Bill will repeal the great majority of the Trade Union Act 2016 accordingly and this will result in the following changes:

- New members joining a trade union will automatically be opted in to contribute to a political fund, unless they expressly opt out.
- Trade unions will no longer have to pay for the administration of check-off in the public sector.
- The requirement for public sector employers to publish information on the amount of facility time taken by union officials will be removed. The power to impose a cap on facility time in the public sector will also be removed.
- Trade unions will no longer have to adhere to certain reporting requirements relating to industrial action. This includes providing additional information on the voting paper, to members and employers, and to the Certification Officer in their annual return.
- For a lawful strike or other industrial action, trade unions will need a simple majority of members who respond to an industrial action ballot to vote in favour of industrial action.
- Trade unions will not be required to secure 40% support in strike ballots for six important public services (fire, health, education, transport, border security and nuclear decommissioning sectors).
- Additional requirements on unions to supervise picketing, including the appointment of a supervisor, will be removed.
- The requirement to consult and publish a review on electronic balloting will be removed. The Government is committed to introducing the use of modern and secure electronic balloting for trade union statutory ballots. We will consult a working group with stakeholders including cyber security experts, trade unions and business representatives, with the view of rollout following Royal Assent of the Employment Rights Bill.
- The Certification Officer will no longer have various investigatory powers to undertake investigations into a trade union following a complaint by a third party or on the Certification Officer's own initiative, nor the power to require the production of documents and appoint inspectors to investigate. The Certification Officer will also no longer be able to impose financial penalties or make a declaration against a trade union in regard to the annual return requirements added by the Trade Union Act 2016. They will however continue to have the power to investigate financial affairs, which was brought in prior to the Trade Union Act 2016.
- The power requiring trade unions and employers' associations to pay a levy to the Certification Officer will be removed.

Key Stats[1]

There are around 6.1 million workers who are trade union members in Great Britain, and around 10.9 million (39%) of workers whose pay is determined with reference to collective bargaining.

In 2023, the average earnings of UK employees who were members of a trade union were 4.2% higher than those who were not members.

[1] Trade union statistics 2023 - GOV.UK

What is the current policy/legal framework?

Currently, employees who are also trade union representatives are able to take paid time off for the purpose of carrying out various trade union duties/undertaking training. The legislation currently provides that the time off (amount of time, purpose for taking it and any conditions attached) is subject to what is reasonable in all the circumstances having regard to any relevant provisions of a Code of Practice issued by ACAS, The same test is applied to the time off that can be taken by a union learning representative, and to union representatives accompanying a worker to a disciplinary and grievance proceeding.

There is no explicit statutory provision made for union representatives, including learning representatives, to be provided with access to facilities in relation to that time off. In addition, currently the role of "trade union equality representative" is not recognised in statute, and no specific statutory rights to time off apply to trade union reps with specific equality responsibilities.

Policy Intent

Despite the fact that most union representatives do receive paid time off, this is often insufficient to allow them to carry out all of their trade union duties and many union representatives use significant amounts of their own time to do so.

The Government wants to ensure that union workplace representatives are able to take sufficient paid facility time with sufficient access to facilities to enable them to fulfil their union representative duties.

This will lead to improved worker representation and industrial relations by giving trade unions and workplace representatives the freedom to organise, represent and negotiate on behalf of their workers and increased cooperation between employers and unionised workers, leading to beneficial outcomes for the economy.

How will it work?

The Employment Rights Bill will ensure union workplace representatives can effectively represent their members by:

- Strengthening the existing right to reasonable paid facility time for union representatives to carry out their duties by establishing a presumption that the employee's view on what is considered reasonable time off is reasonable in all the circumstances, having regard to an ACAS Code of Practice issued by ACAS, and requiring that the employer show (in the tribunal) that it was not a reasonable amount of time off.
- Requiring employers to provide union representatives, where permitted to take time off as required, with access to facilities (for example, office and meeting space and access to the internet / intranet) as is reasonable in all the circumstances, having regard to any relevant provisions of a Code of Practice issued by ACAS) to enable them to carry out their duties or undergo training.

The Bill will provide a new statutory right for trade union equality representatives to take time off (as is reasonable in all the circumstances having regard an ACAS Code of Practice) during the employee's working hours for the following purposes:

- Carrying out activities for the purpose of promoting the value of equality in the workplace;
- Arranging learning or training on matters relating to equality in the workplace;
- Providing information, advice or support to qualifying members of the trade union in relation to matters relating to equality in the workplace;
- Consulting with the employer on matters relating to equality in the workplace;
- Obtaining and analysing information on the state of equality in the workplace;
- Preparing for any of the things mentioned above.

The above in relation to equality representatives applies only if:

- The trade union has given the employer notice in writing that the employee is an equality representative of the union and has undergone sufficient training to enable them to carry out the activities listed above;
- The trade union has given the employer notice in writing of that fact;
- the trade union has in the last six months given the employer notice in writing that the employee will be undergoing such training; or
- Within six months of the trade union giving the employer notice in writing that the employee will be undergoing such training, the employee has done so, and the trade union has given the employer notice of that.

Key Stats

The most recent comprehensive assessment of the contribution by union reps towards improved business performance was made by the then Department of Trade and Industry in 2007[2] as part of the previously mentioned review of union reps' facilities and facility time.

The report found that the work of union reps resulted in:

- Savings to employers and the exchequer of between £22m - £43m as a result of reducing the number of Employment Tribunal cases;
- Benefits to society worth between £136m - £371m as a result of reducing working days lost due to workplace injury and;
- Benefits to society worth between £45m - £207m as a result of reducing work related illness.

The DTI publication Workplace Representatives: a review of their facilities and facility time[1], from 2007, suggests that many union workplace representatives also carry out union duties in their own time, such that the value of this work (in terms of the wages they could have earned in the time) was estimated at £115 million a year, around 29% of the value of the paid facility time the report estimated.

The 2007 DTI report on workplace representatives estimated that they brought an identifiable range of benefits ranging worth between £476 million and £1.1 billion a year, with “potentially significant other gains from increased productivity”. These identified benefits come from reduced dismissal rates, reduced voluntary exits by workers, better workplace resolution of individual disputes, benefits from increased worker training due to the input of Union Learning Representatives and better workplace health and safety/fewer workplace injuries.

[2] [ARCHIVED CONTENT] DTI - Workplace Representatives: A review of their facilities and facility time

What is the current policy/legal framework?

Blacklisting in the context of employment law is the practice of compiling information on individuals concerning their trade union membership and activities, with a view to that information being used by employers or employment agencies to discriminate against those individuals in relation to recruitment or treatment. This could include deciding not to employ someone based on their trade union membership or activity, offering them fewer shifts, or dismissing them.

A range of protections already exist in law prohibiting blacklisting and discrimination against trade union members, including:

1. The Employment Relations Act 1999 (Blacklists) Regulations 2010
   Under the Employment Relations Act 1999 the Government has the power to make regulations prohibiting the compilation of lists of trade union members or those involved in trade union activity with the intent to discriminate.

   Regulations were introduced following a national scandal caused by the discovery of a secret blacklist of thousands of construction workers. The blacklist had been compiled by The Consulting Association and used by a number of companies for employment vetting purposes.

   The regulations make it unlawful to compile, sell, supply or use a “prohibited list.” Workers, including agency workers, cannot be refused employment or access to employment agency services on the basis of a blacklist.

2. Trade Union and Labour Relations (Consolidation) Act 1992
   There are protections against discrimination in employment on the grounds of an individual’s trade union membership and activities. This includes refusal to employ or provide services due to an individual’s trade union membership, protection against detriment (any action short of dismissal), or dismissal.

3. Data protection
   Information about an individual’s trade union membership is special category data for the purposes of data protection legislation. As a result, alongside considering a breach of the Blacklisting Regulations, the creation, supply or use of a blacklist is likely to amount to a breach of data protection legislation. Data protection breaches are for the most part enforced by the Information Commissioner who has the power to impose a fine.

Policy Intent

Rules on blacklisting have not been updated for over a decade and need to be modernised. This Bill will update and broaden the scope of the blacklisting legislation set out in the Employment Relations Act 1999, to protect a wider range of people from blacklisting due to trade union membership or activity. This includes making it clear that blacklisting prohibitions extend to lists created by predictive technology. For example, this could include where AI has created a list of workers which is subsequently used to discriminate against those workers based on their trade union membership or activity. The intention is to also prohibit third parties from compiling blacklists, not just those in an employment relationship.

How will it work?

The Bill extends the scope of the blacklisting legislation by amending the Employment Relations Act 1999, so that further protections can be delivered by secondary legislation and guidance. Currently lists are prohibited if they are prepared for the purposes of discrimination. This Bill will extend prohibitions to lists that are not prepared for the purposes of discrimination, but that are subsequently used for that.

The Government will then bring forward secondary legislation and guidance to make it clear that blacklisting prohibitions extend to lists created by predictive technology.

The Bill also removes references to employers or employment agencies within the blacklisting legislation, thereby widening the scope of the existing power so that regulations can be made to strengthen protections in relation to third parties compiling blacklists, for example, those who do not have a direct employment relationship with the individual being blacklisted.

What is the current policy/legal framework?

Section 146 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act") currently protects workers from being subjected to detriment related to trade union membership or taking part in trade union activities.

In a ruling in April 2024, the UK Supreme Court found that workers taking official strike action were not protected under section 146 from detriment short of dismissal for taking protected industrial action and that this lack of protection was incompatible with Article 11 of the European Convention on Human Rights[1] in so far that it fails to provide any protection against detriments (sanctions, short of dismissal), intended to deter or penalise trade union members from taking part in lawful strike action.

The Court accepted that the right to strike is not absolute, and that the UK is not required to provide universal protection in all circumstances to all workers against any detriment (however slight) intended to dissuade or penalise them from participating in a lawful strike. However, the Court stated that the UK's legislation must strike a fair balance between the competing interests of employers and workers i.e. that some detriments may be permitted. The Court considered that the absence of limits on employers meant that our legislation did not set a fair balance in this instance.

Currently, workers can claim unfair dismissal if they are dismissed for taking protected industrial action and the dismissal takes place within 12 weeks of the worker starting the industrial action. This strike action could be intermittent rather than continuous.

The worker will also be automatically regarded as unfairly dismissed if they are dismissed after the 12-week period but had stopped taking action before the end of that period. They could also be considered as unfairly dismissed if dismissed after the first 12 weeks if the employer has not taken reasonable steps to resolve the dispute. If some workers taking strike action are dismissed and others are not, there could be other grounds for an unfair dismissal claim.

Protected industrial action means industrial action where the union qualifies for immunity from liability in torts (such as 'inducing a breach of contract') under section 219 TULRCA 1992 and official action is generally when the strike is authorised or endorsed by a trade union.

Policy Intent

The measures in the Bill will strengthen existing rights and protections for individuals in relation to industrial action and help unions to represent their members interests in the workplace, provide independent worker voice to employers and enable unions to fully represent their members in collective disputes.

In addition, the approach taken in the Bill with regard to protection against detriment for taking industrial action will address the ruling by the Supreme Court and ensure that our legislation will be compatible with ECHR and that protections against some forms of detriment for trade union representatives and members extend to industrial action.

How will it work?

The Employment Rights Bill amends the 1992 Act by inserting new section 236A into Part V (Industrial Action) of the Act. New section 236A provides that a worker has the right not to be subject as an individual to detriment of a prescribed description by an act, or any deliberate failure to act, by the worker's employer, if the act or failure takes place for the sole or main purpose of preventing or deterring the worker from taking protected industrial action, or penalising the worker for doing so.

The prescribed detriment(s) will be set out in secondary legislation following consultation, to take place after Royal Assent of the Bill.

The Bill removes the 12-week cap that an employee is protected for when taking industrial action, where the reason for the dismissal is taking protected industrial action. Employees will now be protected regardless of the length of the strike action against unfair dismissal when taking protected industrial action.

Should the employer wish to dismiss an employee during long-running protected industrial action, the dismissal would have to be for reasons other than participating in industrial action.

Key Stats

ONS data on disputes involving industrial action in 2022 and 2023 showed that approximately 33% of strikes during those two years had strike action in 4 or more months[3].

Common questions

Why are you not prohibiting all detriments?

The Supreme Court accepted that the UK is not required to provide universal protection in all circumstances to all workers against any detriment (however slight) intended to dissuade or penalise workers from participating in a lawful strike.

The Government will consult on what should be prescribed as a detriment. The power in the Bill enables the Secretary of State to prohibit all detriments in secondary legislation should that be the preferred approach following consultation.

When will you consult on detriments?

The Government will consult this year following Royal Assent of the ERB.

[3] Labour Disputes Inquiry, UK: 2022 and 2023 - Office for National Statistics

What is the current policy/legal framework?

Under the current legislative framework, unions do not have an independent right of access to workplaces and can only exercise their functions through individual members in the workplace. Where membership is limited, there is limited scope for collective bargaining and for trade unions to exercise their functions of negotiation and dispute resolution.

Policy Intent

This policy will provide a framework for access agreements between an employer and trade unions with a certificate of independence issued by the Certification Officer.

Where an access agreement with an employer is reached, trade union officials can (subject to the terms of the agreement) physically access workplaces, or communicate with workers 'digitally' or via other means aside from physical access, for purposes such as to represent, recruit or organise members, and to facilitate collective bargaining.

This policy also establishes an enforcement framework for trade union access to the workplace, allowing cases to be referred to the Central Arbitration Committee (CAC) for arbitration.

For unrecognised unions, this is an opportunity to recruit and organise within a workplace with the aim of gaining recognition.

How will it work?

Request for access process

Through the Employment Rights Bill, we set out a framework for how a qualifying trade union may provide an employer with a request for access to a workplace. This approach aims to balance both employer and union interests and operates as follows:

- The request must include specific information and be in a prescribed format, which will be detailed in secondary legislation, after consultation.
- Upon receiving a union's notice of access, an employer can either agree or object to the request.
- If both parties agree on access terms, the CAC is notified to record the agreement and proceed.
- If no agreement is reached within a set timeframe, either party can refer the case to the CAC for a decision on access.
- The CAC will have some discretion when making a determination about whether access should take place or not. This decision will be subject to principles set out in the Bill, which aims to consider the needs of both employers and unions.
- The Chair will decide whether the CAC will sit as a tripartite panel: with a union and employer representative, and the chairman or deputy chairman of the Committee present; or as a single person The 'single person' being either the Chairman or Deputy Chairman. When making this decision the Chair must consider the complexity of the case, with a single person able to deal with less complex matters.
- When deciding whether a matter is less complex the Chair must also consider if the proposed access agreement meets prescribed terms. The prescribed terms will be outlined in secondary legislation, following consultation.

- Should the CAC decide that the union is to have access, it will specify terms on which this access should occur.
- Any CAC determination must comply with provisions made in secondary legislation regarding the terms of access and circumstances where access must or must not be granted, both of which will be consulted on.

This framework will not impact existing voluntary access agreements between a union and an employer.

Private dwellings are exempted from access provisions. Further exemptions will be provided for in secondary legislation, following consultation.

Enforcement mechanism
The proposed enforcement mechanism for Right of Access agreements is as follows:

- A party complains to the CAC about a breach of access agreement or interference by a third party.
- The CAC can then vary the agreement, declare the complaint well-founded or not, and issue orders for specified steps to be taken to ensure compliance.
- If a well-founded complaint is made and the action is repeated within 12 months, and a subsequent complaint is made, or the order is breached, the CAC can again declare the complaint well-founded and may order a penalty, payable to the CAC (who pay it to the Consolidated Fund).
- The penalty would be subject to a maximum, a minimum, and can be tied to various metrics, such as the liable party's annual turnover. These will be set in secondary legislation, following consultation.
- Appeals on CAC determinations, declarations, or penalty orders can be made to the Employment Appeal Tribunal (EAT).

Regulations relating to a union's right of access, including the detail of the process for agreeing access, the conditions of reasonable access, as well as some specifics of the enforcement framework, will be prescribed in secondary legislation following consultation on the detail.

Common questions

What will 'digital access' entail?

Precise details of how 'digital' access will work in practice will be set out in secondary legislation/guidance, following consultation.

What will happen to existing access arrangements that have been agreed on a voluntary basis?

Existing access arrangements between a union and an employer will not be affected.

Will it only be recognised trade unions that are given access?

No. Any trade union that has a Certificate of Independence from the Certification Officer can apply for access.

Factsheet: Right to Statement of Trade Union Rights

Department for Business & Trade

What is the current policy/legal framework?

There is currently no explicit requirement within existing legislation for employers to actively inform their workers of their right to join a trade union, either at the start of their employment or on an ongoing basis. This may lead to some workers not being aware of their right to join a trade union. This lack of awareness may be contributing to declining union membership and reduced worker engagement in collective bargaining.

Policy Intent

The Government wants to introduce a legal duty for employers to inform their workers about their right to trade union membership, aligning with the Government's broader objective of empowering workers by ensuring they are fully informed of their rights.

This is a key part of the Government's wider commitment to strengthen workers' voices in the workplace, enhancing their representation, and ultimately improving working conditions through increased trade union membership and participation.

How will it work?

We will introduce a new duty on employers requiring them to provide their workers a written statement informing the workers of their right to join a trade union, and to inform all workers of this on a prescribed basis.

This statement will be provided by the employer alongside the written statement of particulars of employment that they are already required to produce for new workers under section 1 of the Employment Rights Act 1996.

Specific details of this requirement, including the form, the frequency and manner of communication, will be set out in secondary legislation, following consultation.

The prescribed information may include that the worker has rights conferred by Part 3 of the Trade Union and Labour Relations (Consolidation) Act 1992. These are right associated with being, or potentially being, a trade union member.

We will be adopting the existing enforcement mechanism that applies to a failure to provide the written statement of particulars of employment, set out in Section 38 of the Employment Act 2002.

Factsheet: Simplifying the Trade Union Recognition Process

Department for Business & Trade

What is the current policy/legal framework?

Where an employer refuses to recognise a trade union voluntarily, that union can apply to the Central Arbitration Committee (CAC) to obtain statutory union recognition. Under the current statutory union recognition scheme –

- On application, unions have to show to the CAC that firstly, they have 10% membership of the proposed bargaining unit and secondly, that they are likely to have a majority in the subsequent trade union ballot.
- Where a union has a majority in the bargaining unit on application, the CAC can decide to automatically recognise it without holding a trade union recognition ballot. However, the CAC may still hold a ballot if it receives evidence that workers want a ballot, or that there are doubts as to whether the union has a majority, or the CAC believes that holding a ballot would help further industrial relations.
- For a union to win, it must then obtain a majority in a recognition ballot and also, in that ballot, at least 40% of the workforce in the proposed bargaining unit must support union recognition.

Policy Intent

The Government believes that the existing legal framework needs to be simplified so that workers have a meaningful right to organise through trade unions. The proposal to remove the current requirement for a union to have at least 40% of the workforce in the proposed bargaining unit supporting union recognition is designed to achieve this.

The Government's view is that the current requirement for a union to demonstrate at the application stage that it is likely there will be a majority for union recognition poses a significant hurdle in modern workplaces which are increasingly fragmented.

The Government also wishes to consider whether the current 10% membership requirement on application to the CAC should be lowered in future.

The Government is also bringing in additional changes to provide better access arrangements for unions and deal more effectively with unfair practices during the recognition and derecognition process. The Government will also freeze the bargaining unit at the point a recognition application is submitted to the CAC.

How will it work?

The Bill therefore amends the existing statutory recognition process by:

- Deleting the current requirement for unions to have the support of at least 40% of the workforce in the proposed bargaining unit in a trade union recognition ballot. In future, unions would only need a simple majority of those voting to win.
- Deleting the requirement for a union to demonstrate on application to the CAC that they are likely to win a recognition ballot. In future, unions would only need to show the CAC that they have 10% membership of the proposed bargaining unit for their application for recognition to be accepted by the CAC.
- Providing a power to enable Ministers to issue affirmative secondary regulations to vary the 10% membership requirement on application in future, within parameters of 2% to 10% as set out in the Bill.

Following consultation, we are bringing in reforms in relation to access and unfair practices during the recognition process. Broadly speaking, these changes on access and unfair practices will also apply to derecognition processes. These changes are:

- Extending the legislation and Code of Practice on access and unfair practices during recognition and derecognition ballots to apply from the point where the CAC accepts a trade union application.
- Setting a clear timetable for negotiations on access – 20 working days from the point the CAC accepts a trade union application. If no agreement is reached, the CAC will have 10 working days to determine a reasonable access agreement.
- Allowing 5 working days after the close of the recognition ballot for complaints to be submitted to the CAC where an unfair practice is alleged.
- Making it easier to win such complaints by only requiring the CAC to consider whether an unfair practice has occurred without considering the effect it may have.

We have also decided to bring in the following additional reforms:

- Dealing with mass recruitment into a bargaining unit for the purposes of diluting union membership by ensuring that following the submission of a recognition application to the CAC new recruits are not considered by the CAC for the purposes of the recognition process or entitled to vote in a recognition ballot.
- Preventing recognition of a non-independent union, in response to a request for voluntary recognition from an independent union, from blocking the independent union's subsequent recognition application.

Key Stats[4]

Since the statutory union recognition scheme was introduced in 1999, the CAC has considered 1427 applications for statutory recognition. Of these, the CAC has accepted 827 cases, 173 have not been accepted, 6 cases are pending, while 421 cases were withdrawn. Where a case is withdrawn, this often occurs because the parties have decided to reach a voluntary agreement, or the union chooses to withdraw its case in order to submit a fresh application at a later date.

Of the cases that the CAC has accepted, a further 255 were withdrawn during the recognition process. The CAC has granted statutory recognition without a ballot in 236 cases and held a recognition ballot in 301 cases. Of these, 189 ballots led to union recognition while 112 ballots resulted in the union not being recognised.

Since 1999, the number of recognition cases has fluctuated year on year, with no discernible pattern. On average, the CAC receives 60 trade union recognition cases per year.

Common questions

How will the new membership threshold be determined?
We will remove the antiquated rule that requires unions, when submitting their application, to show that at least a majority of workers are likely to support union recognition.

In future, a union will only need to demonstrate on application to the Central Arbitration Committee (CAC) that it has reached 10% membership within the proposed bargaining unit.

Ministers will also consider whether the 10% membership requirement should be reduced in future. The Bill has a power that will enable Ministers to do this through secondary legislation, with a minimum of 2%, should they decide to do so.

[4] Statistics provided by the Central Arbitration Committee, based on data in its 2023-24 report Final Version Annual Report, but with some data from the first part of 2024-25

The proposed changes to the recognition process will lead to more conflict in the workplace.

The Government is committed to strengthening collective bargaining rights and trade union recognition. We believe that strong trade unions are essential for tackling insecurity, inequality, discrimination, enforcement and low pay.

Our approach will foster a new partnership of cooperation between trade unions, employers and the Government.

Our changes to the recognition process will also ensure that working people have a more meaningful right to organise through their trade unions.

If workers don't want to be represented by a trade union, they will have the option to vote against recognition in a ballot.

What about reforms to the trade union recognition ballot?

We will only require unions to obtain a simple majority in the recognition ballot. We are also bringing in changes to ensure that only those employed within the bargaining unit when the CAC receives the recognition application will be able to vote in a recognition ballot.

Factsheet: Political Funds Review Ballots

Department for Business & Trade

What is the current policy/legal framework?

Trade unions are prohibited from using their general union funds for political purposes. Political funds are separate financial resources that unions can establish if they intend to spend union money on 'political objects' as defined by Section 72 of the Trade Union and Labour Relations (Consolidation) Act 1992. Union members have the right to decide whether they wish to contribute towards their union's political fund.

The Government is making changes to the current automatic opt-out arrangements for political fund contributions by members, see the section on the **Repeal of Trade Union Act 2016** for further details.

Trade unions that want to establish a political fund must first ballot their members to secure a mandate for this decision. Since 1984, the law has also required unions to hold review ballots every 10 years to ask trade union members whether the union should continue operating a political fund.

Policy Intent

The Government has stated its ambition for constructive, proportionate, and transparent industrial relations. The Government believes that 10-year review ballots are an unnecessary administrative burden on unions. Holding these ballots can cost tens of thousands of pounds, are complex to set up and require the involvement of an independent scrutineer. There have been no instances of members choosing not to maintain the political fund through this 10-year re-balloting arrangement and unions have their own internal democratic structures that members can utilise if there is support to close a political fund.

How will it work?

Trade unions will still be required to hold a members' ballot on establishing a political fund, but 10-year ballots on the question of maintaining this fund will no longer be required. Funds will remain in place indefinitely, unless closed by a trade union in line with their stated internal procedures. While the repeal of the Trade Union Act 2016 means that new members will be automatically opted-in to a union's political fund, members will continue to be free to choose to opt out.

The Government does acknowledge that removal of the 10-year re-balloting requirement could reduce awareness amongst trade union members that their union operates a political fund, and that they have the right to opt-out of contributing. The 10-year balloting requirement will therefore be replaced by a requirement for trade unions to send a reminder notice to members informing them of their right to opt-out of making political fund contributions every 10 years. This is proportionate to the current 10-year ballot requirement, whilst being significantly less onerous for unions to implement.

Factsheet: Simplifying Industrial Action and Ballot Notices

Department for Business & Trade

What is the current policy/legal framework?

Under Section 226A and Section 234A of the TULRCA 1992, unions are required to provide a notice of industrial action ballots and notice of industrial action, respectively. Under existing requirements, these notices must contain (among other things) the following:

A list of categories of workers being balloted	A list of categories to which relevant workers belong
A list of workplaces in which the workers work	A list of workplaces in which the said workers work
Total number of workers concerned	Total number of affected workers
Number of workers being balloted in each category listed	Number of affected workers in each category listed
Number of workers concerned at each listed workplace	Number of affected workers who work at each listed workplace
An explanation of how these figures were arrived at	An explanation of how these figures were arrived at

Policy Intent

The Government intends to simplify the requirements for ballot and industrial action notices, while ensuring that employers still have sufficient information to prepare for industrial action. This will reduce the scope for spurious legal challenges based on minor technicalities against industrial action that has the democratic support of the workplace.

We are keen to see employer and union resources instead be better dedicated to resolving disputes, thereby more evenly distributing power in industrial disputes and reducing pressure on the court system.

How will it work?

We have amended the Bill to include measures simplifying the information requirements under s.226A and s.234A. We are **removing** the requirement for unions to provide employers with the following:

- *Section 226A (Notice of Ballot)*
  - The total number of employees in each of the categories of workers being balloted;
  - The number of workers concerned at each workplace;
  - An explanation of how these figures, and the total number of employees concerned, were arrived at
- *Section 234A (Notice of Industrial Action)*
  - The number of affected workers in each category listed (and consequently, the duty to provide an explanation of how this figure was determined).

Therefore, under the simplified process, unions will (as compared with the items in the list above) only be required to specify in notices the following information:

Section 226A (Notice of Ballot)	Section 234A (Notice of Industrial Action)
A list of categories of employees being balloted	A list of categories to which relevant employees belong
A list of workplaces in which the employees work	A list of workplaces in which the said employees work

The total number of employees concerned	Total number of affected employees
	Number of affected employees who work at each listed workplace
	An explanation of how these figures were arrived at

Common Questions

Does this affect trade unions' ability to provide information via the check-off system?

We recognise that the check-off system can be a helpful tool for unions in providing employers with the required information.

Therefore, for notices of an industrial action ballot, we are retaining the option for unions to provide the employer with information to enable the employer to readily calculate the total number of employees, categories and workplaces itself.

As for notices of industrial action, the Government is retaining the existing ability for unions to provide information that allows employers to readily determine the total number of affected employees, categories and workplaces, as well as the number of affected employees in the workplaces itself.

When will these changes come into effect?

These changes will come into effect two months after the ERB receives Royal Assent.