

Tackling intimidation of non-striking workers

Department for Business, Innovation and Skills

RPC rating: not fit for purpose

Description of proposal

The Department explains that currently picketing is governed by a detailed framework of civil and criminal laws. Accompanying the framework is the code of practice on picketing, which helps to ensure that picketing is lawful and peaceful, without intimidating those who wish to go to work. Following allegations of intimidation of non-striking workers, the Government propose to tackle such intimidation through greater transparency and accountability. The proposal will require unions to publish plans of action related to picketing and extend the code to cover protests linked to industrial disputes.

Impacts of proposal

The Department explains that the proposals will require each union to incur transition costs of around £3,600, resulting in a total one-off cost of £602,000 across all 166 unions. These costs include staff time spent becoming familiar with what is required and incurring legal fees, as the Department assumes unions will need to take legal advice.

Unions will also incur costs when producing plans of action during disputes and recording extra statistics. The Department estimates that it will cost £515 for each dispute at a total cost of £90,000 each year for the estimated 174 disputes.

Quality of submission

The RPC's view is that the IA is not fit for purpose as:

- the IA claims that a requirement to publish strike plans, etc. will increase the democratic accountability of unions. The link with the problem of intimidation must be discussed further;
- there is little evidence presented that there will be any significant benefits arising from the proposal. The Department explains that the problem requiring intervention is, as described through the media, that there have been allegations of intimidatory tactics during picketing activities and that new forms of protests have been undertaken to further industrial disputes (paragraph 9). The IA cites the Carr Review, which sought to consider the evidence of such allegations. While stating that, in the majority of cases, picketing appeared to follow the guidelines of the code, the review was unable to engage with

unions to ascertain the validity of the allegations. As a result, the Department intends to use the consultation to gather evidence on the extent of the problem. On this basis, the definition of the problem currently appears weak and must be substantiated, so that the costs of this measure can be assessed against its benefits; and

- under the proposal, the Department intends to extend the code and place it within legislation. The IA does not discuss whether the code will remain fully voluntary or not, i.e. whether the intention is for the code to become statutory and does not discuss any transition costs related to this broadening of guidance.

The Department must address these issues within the final stage IA. The RPC notes that the IA has already been published for use in a public consultation, without prior scrutiny by the RPC.

In addition to the above points, the Department should:

- test the initial costs and analysis at consultation. The Department should however consider, and explain further, whether costs to unions in communicating to members could be considered direct (paragraph 46); and
- recalculate the EANCB and NPV figures, as they appear to be incorrect. The Department will need to address this at the final stage.

Other comments

Finally, the SaMBA appears reasonable for this stage. Smaller unions would not be exempt from the proposal but the Department provides sufficient evidence that doing so would undermine the policy objective. For instance, the IA explains that unions with 10,000 or fewer members represent around 75% of all listed and scheduled unions. In addition, the Department estimates that 24% of unions with more than 10,000 members have fewer than 50 employees. At the final stage, the Department should provide further analysis of the impact of excluding the smaller unions on delivering the policy objective. This should include providing an assessment of the proportion of the policy objective that would be achieved by exempting smaller unions and how the impact might be mitigated.

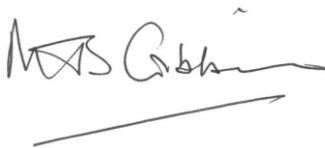
Initial departmental assessment

Classification	In scope
Equivalent annual net cost to business (EANCB)	£0.06 million
Business net present value	-£0.69 million

Societal net present value	-£0.71 million
----------------------------	----------------

RPC assessment

Classification	In scope
Small and micro business assessment	Sufficient at this stage



Michael Gibbons CBE, Chairman