

Impact Assessment

Trade Union Bill

JANUARY 2016

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Title: Trade Union Bill Impact Assessment IA No: BIS LM008 Lead department or agency: BIS Other departments or agencies:	Date: 07 th January 2016
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Primary legislation
	Contact for enquiries: Lm.correspondence@bis.gsi.gov.uk
Summary: Intervention and Options	

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2014 prices)	In scope of deregulatory target?	Measure qualifies as
£82.43 million	£12.61million	-£1.41 million	Yes	OUT

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

Trade unions can play an important and constructive role in the modern workplace. The Trade Union Bill sets out a number of changes which will reform their regulation. At present, strikes triggered by a small minority of a unionised workforce can lead to a huge amount of disruption to business and to ordinary hardworking people. We know that employers have been subject to strike threats for which the original balloting took place some years before. Intervention is also necessary to tackle the intimidation of non-striking workers. Reforms to public sector facility time, how contributions to political funds are made and the role of the Certification Officer are necessary to improve union practices and increase transparency.

What are the policy objectives and the intended effects?

These measures will ensure that strike action, which can be disruptive to the wider public, only takes place as the result of a clear, recent decision. The Bill will also tackle the intimidation of non-striking workers during times of industrial action. The Bill will work to make trade union operations more transparent and increase public confidence.

What policy options have been considered, including any alternatives to regulation?

The Government is introducing fundamental reforms to modernise trade union law. Reforms introduced by the Trade Union Bill will include:

Option 1a: Introduce thresholds for industrial action ballots
 Option 1b: Introduce a 4 month time limit to the validity of a ballot mandate
 Option 1c: Tackle the intimidation of non-striking workers
 Option 1d: Reform of the process of contributing to political funds so that members are required to opt-in
 Option 1e: Reform the role of the Certification Officer

The Government's modernising reforms will ensure strikes happen only as a result of a clear, positive decision by those entitled to vote. These reforms will restore public confidence that where industrial action takes place, it has the strong support of union members The Trade Union Bill will improve union practices and transparency.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 2021					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? NA				Traded:	Non-traded:

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

Signed by the responsible Minister:



Date: 7th January 2015

Summary: Analysis & Evidence - Policy Option 1A

Description: Introducing a 50% turnout threshold for a ballot to provide a legal mandate for industrial action and an additional threshold for 40% of those entitled to vote to be in favour in 6 specified sectors

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 101.11

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.3	0	0.3
High	1.1	0	1.1
Best Estimate	0.5	0	0.5

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

There are expected transition costs to unions of £525k (familiarisation and legal fees). We have assumed that all 163 unions incur the transition costs as every ballot will be subject to the 50% threshold.

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

Trade Unions may wish to promote ballots amongst their members in order to ensure they meet the relevant thresholds for the ballot, in addition to any promotion which may already take place. It is not possible in advance of the measure to predict the extent to which unions will do this.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High	0		
Best Estimate	0	11.8	101.6

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

We estimate this measure will likely reduce the number of working days lost to strike action in important public services and other sectors. We have estimated the impacts in the health, education, fire, transport and nuclear decommissioning sectors and the Border Force separately from the other sectors as they will be subject to both thresholds, whereas in other sectors only the 50% turnout threshold will apply. This IA only includes the impacts from the 50% threshold, (the 40% threshold impacts will be set out in a separate IA alongside the secondary regulations). The combined effect across the whole economy will be a direct increase in output, of an estimated benefit of £11.8m per annum.

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

We have not monetised benefits in the fire or nuclear decommissioning sectors because either ballots in these sectors tend to meet the proposed thresholds, or strike action is too rare for impacts to be estimated. There will be indirect benefits to the wider economy, in particular for working people and businesses that rely on important public services. We expect these benefits to be large. Analysis has shown the indirect impact of large education strikes to be in the hundreds of millions of pounds. Since the indirect impact of each strike is very different, it is not possible to produce a robust annual figure for this Impact Assessment.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

We have assumed that working days lost are equally distributed amongst strikes, and that this measure will not affect smaller or larger strikes in greater proportions. We have assumed that as a result of the legislation there will be an increase in ballot turnouts of up to 25%.

BUSINESS ASSESSMENT (Option 1A)

Direct impact on business (Equivalent Annual) £m:			In scope of target?	Measure qualifies as
Costs: 0.1	Benefits: 2.6	Net: 2.5	Yes	OUT (Overall IA)

Summary: Analysis & Evidence - Policy Option 1B

Description: Introduce a 4 month time limit to the validity of a ballot mandate, move to 14 day notice of industrial action, require unions to provide more information on ballot, remove requirement to take action within 4-8 weeks, report details of industrial action

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -0.7

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1		
High			
Best Estimate		0.5	0.0

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

There will be a one-off transition cost for all unions of £543k (familiarisation cost).
There will be an ongoing annual cost of £18k for reporting of details of industrial action undertaken in the unions' annual reports to the Certification Officer.

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

There is a risk that trade unions may need to run additional ballots if their mandates expire whilst a dispute is taking place.

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

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

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

There may be a gross benefit for wider society as a result of a reduction in the likely number of strikes occurring a long time after the mandate ballot result.

There may be a small benefit from reduced industrial action due to the removal of the requirement to take some industrial action within 4 to 8 weeks of securing a ballot mandate.

Key assumptions/sensitivities/risks

Discount rate

3.5%

There are two possible and opposing effects of specifying that a ballot mandate expires after a period of 4 months. On the one hand, it may encourage unions to settle more disputes through strike action rather than negotiations, if they perceive 4 months to be too short a period in which to conclude negotiations. On the other hand, the requirement to be more specific about the nature of the trade dispute on the ballot paper will provide greater clarity about the issue in dispute to both union members and employers.

BUSINESS ASSESSMENT (Option 1B)

Direct impact on business (Equivalent Annual) £m:			In scope of target?	Measure qualifies as
Costs: 0.1	Benefits: 0.0	Net: -0.1	Yes	OUT (Overall IA)

Summary: Analysis & Evidence - Policy Option 1C

Description: Making Section F of the Picketing Code of Conduct into a statutory obligation

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -1.05	High: -0.26	Best Estimate: -0.53

COSTS (£m)	Total Transition (Constant Price)Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.3		0.3
High	1.1	1	1.1
Best Estimate	0.5		0.5

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

There are expected transition costs to business (unions) of £525k (familiarisation and legal fees).

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

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

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

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

There will be a non-monetised benefit to employers involved in disputes in the form of increased clarity during pickets and certainty that a picketing supervisor will be present. Non-striking workers and other individuals not involved in the action will benefit from increased transparency of picketing and related activity. Government may also benefit through a reduced need for policing during pickets and related activities.

Key assumptions/sensitivities/risks

Discount rate

3.5%

Many of the assumptions made in the analysis are the result of consultation with stakeholders, and have been used in previous impact assessments. Further details on this are discussed within. There is no definitive evidence of the scale of any problem relating to picketing and intimidation, although there were submissions to the Carr Review indicating the use of so-called "leverage tactics".

BUSINESS ASSESSMENT (Option 1C)

Direct impact on business (Equivalent Annual) £m:			In scope of target?	Measure qualifies as
Costs: 0.1	Benefits: 0	Net: -0.1	Yes	OUT (Overall IA)

Summary: Analysis & Evidence - Policy Option 1D

Description: Reform of political funds so that members are required to opt-in to a trade union's political fund, and to refresh that decision every 5 years, and the reform of reporting of political fund expenditure to the Certification officer

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -8.11

COSTS (£m)	Total Transition (Constant Price) Year	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0		
High			
Best Estimate		0.3	0.9

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

Trade unions would face transition costs for the change to opt-in to contributing to political funds (£0.1 million) and for familiarising themselves with the new requirements for reporting political fund expenditure (£0.003 million). Unions face a cost from obtaining external legal advice on the changes (£0.17 million). We estimate that unions would have the cost of posting information on opting-in to contributing members just after policy commencement and again five years after at a cost of £1.3 million in each instance. Unions would also pay the postage for returns of written notices from members stating that they wish to contribute, costing £1.5 million in each instance. Unions would also face costs for postage materials, estimated at £0.23 million each time. Unions also face additional administration costs to post correspondence and process the returned notices, of £1,130k in each of the two instances over the period.

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

There are no key non-monetised costs.

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

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

There are no monetised benefits.

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

Trade union members benefit from the proposed legislation as it will mean that they will only contribute to the trade union's political fund if they actively choose to do so. The renewal of the opt-in decision ensures that the membership actively considers their contributions to the political fund every 5 years, triggering an ongoing awareness amongst members on political fund usage.

The enhanced requirement that unions report on political fund expenditure will ensure that unions meet a minimum standard of transparency on the use of political funds. This information can be used by members to decide whether to make a contribution to the political fund.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

As members need to give written notification of opt-in, it is assumed that unions with political funds will use a postal approach to maximise the number of opt-in responses and will send opt-in forms to every contributing member.

Our estimate assumes that the numbers of members contributing to the political fund remains unchanged. We have modelled some sensitivity analysis in the main text.

BUSINESS ASSESSMENT (Option 1D)

Direct impact on business (Equivalent Annual) £m:			In scope of target?	Measure qualifies as
Costs: 0.9	Benefits: 0	Net: -0.9	Yes	OUT (Overall IA)

Summary: Analysis & Evidence - Policy Option 1E

Description: Reforming the role of the Certification Officer

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -9.34

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.3	0.8	6.9
High	1.1	1.4	13.0
Best Estimate	0.5	1.1	9.8

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

We have monetised the one-off familiarisation cost to unions and the CO to learn about the changes in the role of the Certification Officer including the new levy. There will be £1,079,000 extra cost to run the Certification Office post changes. We have monetised the one-off familiarisation cost to Employer Associations to understand the new levy.

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

The cost of the Office of the Certification Officer will be covered through a levy of trade unions and employer associations (a separate impact assessment will accompany the regulations covering the levy). This is a benefit to taxpayers and a transfer of funds from the organisations that will pay the levy.

BENEFITS (£m)	Total Transition (Constant Price) Year	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	N/A	0.1	0.5

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

There will be increased annual fine revenue of £55,000 to the Consolidated Fund.

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

Any deterrent effects on compliance from the changes have not been monetised. There will be a benefit to the taxpayer as the Office of the Certification Officer will be paid for by a levy of the organisations it regulates, trade unions and employer associations (which is a transfer of funds, as above).

Key assumptions/sensitivities/risks

Discount rate

3.5%

The anticipated increase in enforcement orders is an increase of 10 over a 5 year period based on current levels of enforcement orders and expected impact.

BUSINESS ASSESSMENT (Option 1E)

Direct impact on business (Equivalent Annual) £m:			In scope of target?	Measure qualifies as
Costs: 0.1	Benefits: 0.0	Net: -0.1	Yes	OUT (Overall IA)

Evidence Base (for summary sheets)

Strategic overview

1. The Government is introducing fundamental reforms to modernise trade union law. Reforms introduced by the Trade Union Bill¹ (The Bill) will:
 - ensure that strike action only ever takes place on the basis of clear and representative mandates, through new thresholds that strike ballots must meet;
 - Specify that members' agreement to a union's proposed industrial action will automatically expire 4 months after the ballot. It will also require 14 days' notice of strike action, and give employers a greater chance to prepare for industrial action and put in place contingency plans. It will also remove the need to take industrial action in the first 4-8 weeks after a successful ballot;
 - tackle the intimidation of non-striking workers during a strike by requiring the appointment of a picket supervisor;
 - improve transparency of the operation of political funds;
 - improve transparency and oversight of trade unions through reforming the role of the Certification Officer;
 - Reform trade union facility time in the public services by requiring public sector bodies to publish details of their resources used;
 - Prohibit the deduction of union subscriptions from wages in the public sector (check-off).
2. This document assesses the impact of the measures covered in the Bill except the introduction of the 40% threshold for ballots in important public services, the reform of trade union facility time in the public services and the prohibition on deduction of union subscriptions from wages in the public sector, which will each be considered in separate impact assessments. Where possible detailed cost and benefit analysis is set out for each measure covered. This impact assessment sets out the transition costs for all of the measures identified above in a section towards the front, as the same approach is used for a number of the measures. Then it considers each measure in detail, including an assessment of ongoing costs and benefits.
3. The Government consulted on two areas that relate to the Bill². These are on:
 - Ballot thresholds in important public services. The Government sought information on the roles and functions within the fire, health, education, transport, border security and nuclear decommissioning sectors should be subject to the 40% threshold. In addition to 50% of those eligible to vote taking part, this threshold also requires at least 40% of those eligible to vote in an industrial action ballot vote in favour for the mandate to be valid; and
 - Tackling intimidation of non-striking workers. The Government sought views on how to improve transparency and accountability for picketing and associated protests, It also sought views on whether there are gaps and weaknesses in the frameworks governing picketing and protests linked to industrial disputes, and how they can be remedied.

¹ BIS, Trade Union Bill, July 2015 <http://www.publications.parliament.uk/pa/bills/cbill/2015-2016/0058/16058.pdf>

² BIS, Trade Union Bill Consultations, July 2015 <https://www.gov.uk/government/collections/trade-union-bill>

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4. These consultations ended on 9th September 2015. Ballot thresholds received 205 responses and tackling intimidation of non-striking workers received 177 responses. The Government was in the process of analysing the responses to the ballot thresholds consultation at the time of drafting this impact assessment, and these will be taken into account in a separate impact assessment on the 40% ballot threshold. The responses to the tackling intimidation of non-striking workers were considered in this impact assessment (see the section “evidence gathered on intimidatory behaviour: the Government consultation”). The Government has published its response to this consultation³.
 5. In addition to the 8-week long public consultations, communicated through the gov.uk website, which sought views via Citizen Space, e-mail returns and letters, the Government held around 20 meetings with business and trade union stakeholders to discuss the Bill and possible effects. The evidence received was limited, however where possible we have taken account of this evidence in this impact assessment.

Timing

6. The Bill has been introduced into Parliament. The commencement date of the legislation will depend on the Bill's passage through Parliament.

Monetised and non-monetised costs and benefits

7. This Impact Assessment identifies both monetised and non-monetised impacts with the aim of understanding what the overall impact to society might be from implementing these options. The costs and benefits of the proposed option are compared to the no change option. Where possible, the estimated costs and benefits have been monetised, but it is not possible to monetise all of the potential impacts.
8. Where possible, we have used methodologies used in previous, similar impact assessments for consistency. These methods were originally informed through input from relevant stakeholders. Figures for union numbers and working days lost were sourced from published material.
9. We have included sensitivity analysis within the impact assessment to reflect uncertainty in assumptions within the analysis. For example, when calculating costs using time spent by staff on tasks in the familiarisation cost estimates, a lower, best and upper estimate were used for the amount of time assumed each task would need. This results in an upper, lower and best estimate for each final cost.

No change option (Option 0)

10. Option 0 is the no change option. This provides the baseline against which the policy option is compared. Therefore its costs and benefits are not monetised.

Option 1: The proposed legislative reforms put forward in the Bill

³ Department for Business, Innovation and Skills, Trade Union Bill: Government response to the consultation on tackling intimidation of non-striking workers, November 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/473515/BIS-15-621-government-response-document-to-tackling-intimidation-consultation.pdf

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11. This option covers the five measures set out below which are included in the legislation. These cover all the various elements identified in the Policy Option sections. The five main parts are:
 - Option 1a: ballot thresholds
 - Option 1b: ballot mandate reforms
 - Option 1c: tackle the intimidation of non-striking workers
 - Option 1d: political fund reform
 - Option 1e: reforms to the role of the Certification Officer
 12. There were potential alternatives to the measures included in the Bill, such as minimum service level requirements for public services, or codes of practice on ballot mandates. We have looked at international evidence, summarised later in this document. It is clear that other countries adopt a wide range of approaches to help ensure that disruption from industrial action is proportionate for those not involved in a labour dispute. That includes the use of ballot thresholds. It is also the case that these approaches are not mutually exclusive, with some countries employing more than one approach to help regulate the level of disruption to third parties from a labour dispute. Approaches taken by respective Governments will depend on their industrial relations history.
 13. However, the Government believes that it is important that unions have the strong support of their members for industrial action and therefore setting thresholds on the proportions of those eligible to vote is the right approach to ensure this. The Government also strongly believes that unions should be required to have a current mandate for any industrial action, and that only a statutory requirement would guarantee this.
 14. We also think recent evidence of intimidatory picketing make it necessary to strengthen protection of non-striking workers, by making part of the existing Code of Practice on Picketing legally binding. As the Bill reforms the regulatory framework for trade unions, the Government feels it needs to provide the regulator, the Certification Officer, with relevant tools to encourage compliance, and ensure robust regulation of trade unions.

The Government considers it sensible that trade union political funds should continue to operate within a regulatory framework, but that framework should be reformed so that only members who actively choose to opt-in to a fund contribute to it.

Transition costs

Familiarisation: trade unions

15. We estimate that trade unions will have to spend time familiarising themselves with the proposed changes, and will engage external legal advice to understand what the legal implications are. In the case of political funds, trade unions will be required to revise their rule books.
16. Responses from Trade Unions to the public consultations indicated that Trade Unions did believe that they would incur familiarisation costs in the form of time taken to understand the policy changes, attending training sessions to acquire knowledge and costs associated with obtaining external advice. The responses did not include any estimates, but generally supported the inclusion of these costs.

Senior Officials' time spent

17. Trade unions would have to familiarise themselves with the Bill's proposed legislative changes that affect them. Based on the evidence obtained from unions in the consultation on the certification of trade union membership registers, as set out in the impact assessment⁴, which placed additional requirements on unions to maintain their membership registers, we assume that it would take between half a day and two days in meetings for the union General Secretary and four other senior directors, with a best estimate of one day (of 8 hours), to familiarise themselves with the reforms in each of the five areas (Options 1a to 1e, and therefore excluding facility time which relates to public sector employers). Whilst this is not the mid-point, it is informed by the consultation process used in the Impact Assessment cited above. This reflects the fact that there are a small number of very large unions, who may have higher costs than the majority of unions. For Option 1d, the best estimate is 11.2 hours (10/25 x 16 hours+15/25 x 8 hours) because the 25 unions with political funds include 10 of the largest 13 unions by membership size, with the remaining 15 covering the range of membership sizes from below 1,000 to up-to 100,000. We estimate that the proposed legislation in each of the five areas is of broadly similar complexity as the reform of union membership registers. Whilst there may be some economies of scale, we are not able to quantify these. These measures affect different parts of unions' operations, and therefore we quantify the same amount of familiarisation time for each of the measures considered in this section using estimates previously produced during a consultation process.

Table 1: Hours spent by different categories of staff on familiarising with the changes

Familiarisation	General secretary			Other senior director		
	Best	Low	High	Best	Low	High
Familiarisation (1a to 1c, 1e)	8	4	16	32	16	64
Familiarisation (1d)	11.2	4	16	44.8	16	64

18. To estimate the labour costs we use median gross hourly wages data from the 2014 Annual Survey of Hours and Earnings (ASHE). For general secretaries, we use the wage figure for chief executives and senior officials, while for other senior directors of the trade unions we use the wage figure for functional managers and directors. To estimate total labour costs, we use the estimate of non-wage labour costs as 19.8% of wage costs, based on Eurostat data⁵. These figures are set out below.

Table 2: Estimated median hourly wage costs and labour costs, 2014

Staff	Median hourly wages <u>excluding overtime</u>	Hourly <u>labour costs</u>
Chief executives and senior officials (representing general secretaries)	£41.35	£49.54
Functional managers and directors (representing other trade union senior directors)	£21.56	£25.83

⁴ BIS, Certification of trade unions' membership registers and investigatory powers for the Certification Officer Impact Assessment, December 2014, p10 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414353/bis-15-143-trade-union-assured-register-of-members-final-impact-assessment.pdf

⁵ Eurostat, Labour costs per hour in EUR, 2004-2014, whole economy excluding agriculture and public administration, http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Labour_costs_per_hour_in_EUR,_2004-2014_whole_economy_excluding_agriculture_and_public_administration.png

19. The cost per union of time spent on familiarisation for each area of reform is therefore the labour costs for the general secretary and for other senior directors by the hours spent on familiarisation.

Table 3. Estimated costs of time spent on familiarisation per area of reform, per union

Familiarisation	<u>Best</u>	<u>Low</u>	<u>High</u>
Familiarisation (1a to 1c, 1e)	£1,223	£611	£2,446
Familiarisation (1d)	£1,712	£611	£2,446

20. All 163 unions will need to familiarise themselves with the proposed changes introducing ballot thresholds, the reforms to ballot mandates, the picketing reforms and the reform of the role of the Certification Officer. However only those 25 trade unions that have political funds will need to familiarise themselves with the political fund reforms.
21. The total costs of time spent on familiarisation for all the unions affected for each of the individual areas is set out in the table below. These costs are set out in the 'Summary: analysis and evidence' sheets for the individual areas of reform at the start of the document.

Table 4: Estimated total costs of time spent on familiarisation by area of reform

Option	Number of unions	Best	Low	High
1a. Ballot thresholds	163	£199,000	£100,000	£399,000
1b. Ballot mandates	163	£199,000	£100,000	£399,000
1c. Picketing	163	£199,000	£100,000	£399,000
1d. Political funds	25	£43,000	£15,000	£61,000
1e. Role of Certification Officer	163	£199,000	£100,000	£399,000

Legal advice

22. The consultation for the certification of trade union membership registers found that a few unions were certain that they would need external legal advice on the legislative change, with the others not certain. In line with the approach set out in the impact assessment accompanying that consultation⁶, we have assumed that all trade unions will obtain external legal advice on the proposed changes in the Bill. In line with the estimates for legal costs set out in the referenced impact assessment, our estimate is based on an hourly rate of £250 (as suggested by unions in the related consultation).

⁶ BIS, Certification of trade unions' membership registers and investigatory powers for the Certification Officer Impact Assessment, December 2014, p10
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414353/bis-15-143-trade-union-assured-register-of-members-final-impact-assessment.pdf

23. Again following the example of the impact assessment on the certification of union membership registers, we have assumed that an external lawyer would be present at the meetings of senior union officials to familiarise themselves with each change. Therefore, we estimate that hours spent on legal advice for familiarisation will be between 4 and 16 hours, with a best estimate of 8 hours, or 11.2 hours for unions with political funds, due to the different size distribution⁷. This reflects the fact that there are a small number of very large unions, who may have higher costs than the majority of unions. Our best estimate for the cost per union is £2,000 (£2,800 for unions with political funds), with our low estimate at £1,000 and our high estimate at £4,000.
24. Whilst there may be some economies of scale, we are not able to quantify these. These measures affect different parts of unions' operations, and therefore we quantify the same amount of legal advice costs for each of the measures considered in this section using estimates previously produced during a consultation process. Applied to all unions, the cost of external legal advice for familiarisation for each area of reform is set out in the table below.

Table 5: Estimated total costs of external legal advice as part of familiarisation by area of reform

Option	Number of unions	Best estimate	Low	High
1a. Ballot thresholds	163	£326,000	£163,000	£652,000
1b. Ballot mandate reforms	163	£326,000	£163,000	£652,000
1c. Tackle the intimidation of non-striking workers	163	£326,000	£163,000	£652,000
1d. Political fund reform	25	£70,000	£25,000	£100,000
1e. Reforms to the role of Certification Officer	163	£326,000	£163,000	£652,000

Revising union rule books

25. The legislative changes proposed in the Bill require that trade unions with political funds will need to amend their rule books so that they reflect the reforms.
26. To write amendments to the union rule book and prepare it for it to be debated at Conference, we estimate that it would take between 4 hours and 16 hours, with a best estimate of 11.2 hours, of the time of the General Secretary and four other senior directors, again in line with the consultation evidence as set out in the impact assessment referenced above.
27. The process for amending the rulebook varies for each union. In many cases an executive committee will need to meet to agree the implementation on a provisional basis prior to the next General Meeting. This would in most cases be part of a meeting that would otherwise be scheduled. We therefore allow 4 hours of additional time for the General Secretary and 4 other senior directors to approve the implementation.

⁷ This is estimated on the basis that the 10 largest unions take 16 hours, while the remaining 15 take 8 hours (the best estimate for 163 unions).

28. This provides the following estimates of time spent by union officials on familiarisation and amending the rule book.

Table 6: Hours spent on amending rule book by different categories of staff, per union

Action	General Secretary			Other senior director		
	Best	Low	High	Best	Low	High
Rulebook changes	11.2	4	16	44.8	16	64
Approval	4	4	4	16	16	16
Total	15.2	8	20	60.8	32	80

29. We multiply the hourly labour costs for the General Secretaries and other senior officials as set out in Table 2 by the estimated hours required of senior union officials to revise their rule book to estimate the cost of time to each union with a political fund. We then multiply by 25 to get the total cost to unions of amending the rule book to reflect the reforms to political funds. These costs are set out in the table below.

Table 7: Estimated cost of time spent on amending the rule book by union officials, all unions with political funds

Costs of time spent	Best estimate	Low estimate	High estimate
	£58,000	£31,000	£76,000

30. The consultation on certification of union membership registers also suggested that external legal advice would be required for changes to the rule book. We base the estimate of the cost of legal advice for rule changes on the hourly rate of £250 (discussed above), and the time spent set out in table 6, of 8 to 20 hours with a best estimate of 15.2, 11.2 hours plus 4 hours (reflecting that 40% of unions with political funds are among the largest unions). Therefore, the cost of legal advice on rule changes per union is estimated at between £2,000 and £5,000 with a best estimate of £3,800. The total cost of this legal advice to unions with political funds is set out below.
31. The Certification Officer will aim to provide model clauses reflecting the changes proposed by the political fund reforms. These could be used by unions to amend their rule books, and therefore could potentially reduce the costs of amending the rules books from those provided.

Table 8: Estimated cost of external legal advice in relation to amending the rule book, all unions with political funds

Costs of legal advice	Best estimate	Low estimate	High estimate
	£95,000	£50,000	£125,000

Familiarisation with the additional reporting requirements on industrial action taken (option 1B) and for political fund expenditure (option 1D)

32. Trade unions currently have to inform affected employers of the outcome of ballots for industrial action and provide seven days' notice of any resulting industrial action planned. The Bill will require unions to provide additional information in their annual report to the Certification Officer. This will cover any industrial action undertaken during the reporting period, and will include information on the nature of the trade dispute relating to the industrial action, the type of industrial action, when the industrial action taken, and the results of the ballot and how it met the voting thresholds. All this

information is currently readily available to the unions (information on industrial action is typically published on union websites, and unions have access to the independent scrutineers' reports on industrial action ballots). Therefore this measure should not involve the need for any new system of information gathering.

- 33. Trade unions currently have to record income and expenditure from their political funds as part of their annual accounts, and in their annual returns to the Certification Officer. They will therefore already need records of each item of expenditure to ensure that these accounts are accurate. So we are not expecting trade unions to have to alter their accounting systems. The proposed new requirements for reporting political fund expenditure to the Certification Officer involve setting out the expenditure in more detail for specified categories of expenditure. Some unions already provide detailed information.
- 34. A union official will need to familiarise themselves with the new reporting arrangements, and identify how different items of expenditure will fit the categories set out. We estimate that this will take a day (estimated at 8 hours) of a trade union official's time to familiarise themselves with each new set of reporting requirements.
- 35. We use the median gross hourly wage excluding overtime from the 2014 ASHE for officers of non-government organisations, and add non-wage labour costs by taking 19.8% of wage costs, to get an overall figure for labour costs. We then multiply the labour costs by 8 to get the cost per union. This produces a familiarisation cost of £109 per union.
- 36. For the new reporting requirements on industrial action, we assume that all 163 unions will need to familiarise themselves with the reporting requirements. The estimated familiarisation costs for this new reporting requirement is therefore $163 \times £109 = £18,000$ (to the nearest £000). This has been included in the costs for Option 1b.
- 37. All 25 unions with political funds will need to familiarise themselves with the additional reporting requirements for political fund expenditure. The estimated familiarisation costs are therefore $£109 \times 25 = £3,000$ (to the nearest £000).

Table 9: Cost of familiarising with additional reporting requirements

Cost category	Cost estimates (2014)
Median hourly wage excluding over time, for officers of non-government organisations	£11.42
Hourly labour cost	£13.68
Familiarisation cost for reporting requirements per union	£109
Total cost of familiarisation with industrial action reporting requirements	£18,000
Total cost of familiarisation with political fund reporting requirements	£3,000

Total union familiarisation costs for each area of reform proposed

- 38. The table below sets out the estimated total familiarisation costs for trade unions for each of the proposed areas of reform.

Table 10: Total union familiarisation costs by area of reform

Option	Best	Low	High
1a. Ballot thresholds	£525,000	£263,000	£1,051,000
1b. Ballot mandate reforms	£543,000	£281,000	£1,069,000
1c. Tackle the intimidation of non-striking workers	£525,000	£263,000	£1,051,000
1d. Political fund reform	£269,000	£124,000	£365,000
1e. Reforms to the role of Certification Officer	£525,000	£263,000	£1,051,000

Other familiarisation costs

Familiarisation of the Certification Office with the proposed reforms to the role of the Certification Officer (option 1E)

39. The Certification Officer will incur some familiarisation costs associated with the change in its role. The time spent on familiarisation will be similar to that for the trade unions. We assume that each member of staff in the Certification Office will spend 8 hours (1 day) to become familiar with the changes. We cost this up using Annual Survey of Hours and Earnings 2014 average hourly pay data for the public sector. Eurostat non-wage labour cost uplift factor is applied to the wage data. The total one-off familiarisation cost is estimated at £1,800.

Certification Officer familiarisation cost = 8 hours x £14 x 1.198 x 13 staff = £1,800.

Familiarisation of employer associations with the introduction of the Certification Officer levy (option 1E)

40. We have accounted for the costs of trade unions' familiarisation with the levy as part of the combined costs listed above. The levy will also require familiarisation by employers' associations, which we account for here.
41. There will be some familiarisation costs that fall to Employer Associations to become familiar with the introduction of a levy which funds the CO. The 2014-15 Annual Report of the Certification Officer shows there are currently 93 Employer Associations (EA). We assume that each EA spends two hours to become familiar with the levy part of the Certification Officer reforms, given that the exact cost will be determined by the Certification Officer and the only administrative burden being placed on EAs is the arrangement of payment. Costing this value of time at £10.55 per hour (Annual Survey of Hours and Earnings 2014 median private sector hourly wage) and applying a 1.198 uplift for non-wage labour costs (Eurostat) gives £2,400 familiarisation cost. We assume that private sector median wages would be representative of the wage costs incurred by Employer Associations.

Employer Association levy familiarisation cost = 93 Employer Associations x 2 hours x £10.55 x 1.198 = £2,400.

Options 1A - Ballot thresholds

Problem under consideration

Issues relating to industrial action

42. When unions call a strike this not only affects the direct employer of the members but also indirectly negatively affects others in the economy. For example, a public service strike in health impacts on patients, a strike in teaching affects parents and their employers and transport related collective stoppages affects commuters and businesses.
43. At present it is possible for a trade union to call a strike even if it reflects the views of only a small number of its members. Some strikes that take place are based on ballots calling for strike action in which less than half of those union members eligible to vote actually do so. These strikes can have a substantial economic impact.
44. The Office for National Statistics (ONS) judgement is that the public sector strike on 30 November 2011 is likely to have had some impact on GDP in the fourth quarter⁸, though the ONS said it wasn't possible to measure the effect on GDP directly. Information from the ONS's Labour Disputes Inquiry, suggests that nearly one million working days were lost, representing about 0.2 per cent of the total number of working days for the public sector for the quarter.
45. HM Treasury estimated prior to the strike that a closure of two-thirds of state schools would lead to a 3-4% decrease in private sector output for the duration of the strike.⁹
46. This formed part of an overall estimate of a £480 million decrease in output as a result of the strike. Around one third of this was caused by the indirect impact of school closures¹⁰, leading to an estimate of £160 million in these indirect impacts. This figure represents the scale of indirect impact to the wider economy of a national education strike.

Background

47. The number of working days lost due to strikes can be substantial. In 2014, there were 155 labour dispute stoppages accounting for 788,000 working days lost¹¹. Working days lost due to strikes occur predominantly in the public sector. In 2014, over three-quarters of working days lost occurred in strikes of 1 day's duration¹².

⁸ ONS, GDP Preliminary Estimate Q4 2011, January 2012 http://www.ons.gov.uk/ons/dcp171778_254088.pdf

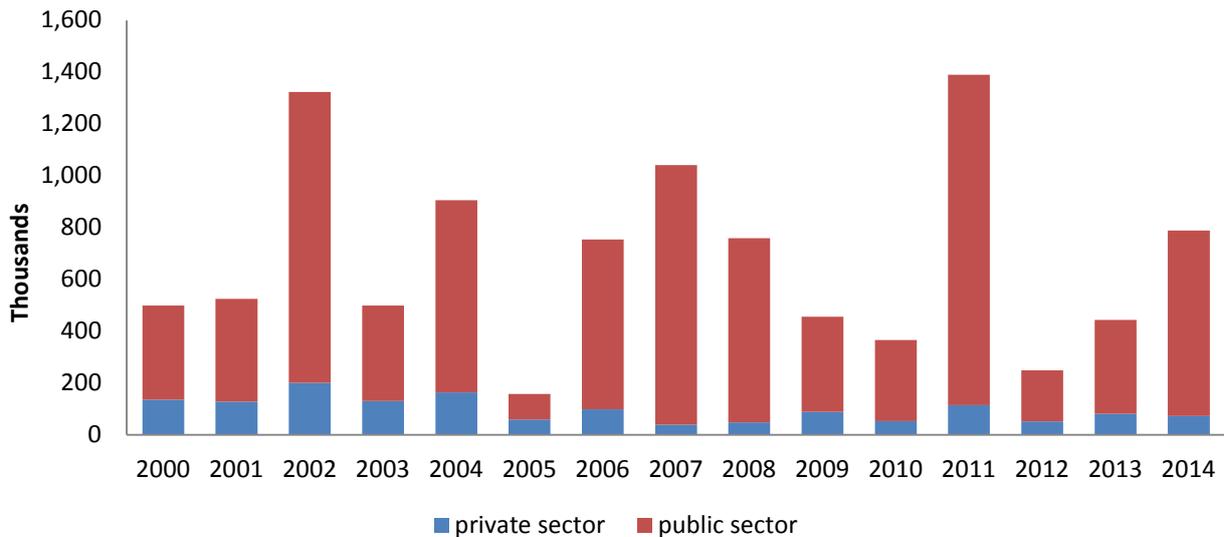
⁹ HM Treasury, Freedom of Information Response, December 2011
https://www.whatdotheyknow.com/request/breakdown_of_500_million_estimat

¹⁰ Around 2/3rds of the lost output was accounted for by the direct loss of output in the strike affected organisations.

¹¹ ONS, Labour Disputes Annual Article 2014, July 2015. http://www.ons.gov.uk/ons/dcp171776_411531.pdf The ONS labour Disputes Survey excludes labour disputes stoppages that involve less than 10 workers or last less than a day unless the stoppage accounts for more than 100 working days lost.

¹² ONS, Labour Disputes Annual Article 2014, July 2015, p19.

Figure 1: Number of Working days lost due to strike action, ONS Labour Market Statistics, 2000-2014



48. Whilst the number of working days lost was significantly higher during historical periods of industrial action, for example during the 1980s, there is some evidence that the economic environment in which industrial relations operate has changed significantly since these periods¹³. We therefore refer primarily to the past 5 years in this Impact Assessment.
49. Electoral Reform Services, an organisation which carries out ballots, conducted 650 ballots calling for industrial action in 2014. Of these ballots, 628 called for strike action (up from 469 in 2013). Around 88% (550) of these ballots calling for strikes were successful, with 68 unsuccessful and 10 producing a split decision¹⁴.
50. In recent years, there have been strikes in public administration and in education that have been carried out using mandates from ballots conducted around two years prior to the strikes (see examples following paragraph 171).

Rationale for intervention

51. Trade Unions can play an important role in the work place. They have a legitimate need to represent their members' interests, and sometimes that involves balloting for industrial action. However, there is also a responsibility to ensure that industrial action is only used as a measure of last resort and where there is a clear and ongoing support for doing so.
52. Disruptive industrial action should not take place on the basis of low ballot turnouts. Such action does not always represent the views of the majority the union members eligible to vote. The Government therefore is introducing a new minimum requirement that at least 50% of union members entitled to vote must turn out for a ballot, and a simple majority (i.e. at least 50% and one vote) must be in favour in order for action to go ahead. This ensures that strikes can only take place on the basis of clear support from union members.

¹³Gill Dix, John Forth, Keith Sisson, Conflict at Work: the pattern of disputes in Britain since 1980, Acas Research paper, 2008

¹⁴ ONS, Labour Disputes Annual Article 2014, July 2015, p19. The Electoral Reform Services conduct the majority of industrial action ballots for trade unions in the UK, though a few other organisations are also registered to conduct these ballots. Ballots involving less than 50 union members do not require scrutineer services.

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53. Industrial action can have far reaching effects on significant numbers of ordinary people who have no association with the dispute. This is particularly true in important public services given the numbers of people who rely on them.
 54. In economics these effects are called 'negative externalities'. Taking an example of a teaching strike, parents may have to take the day off work to look after their children who cannot attend school. If the parent is in employment this may result in loss of output for their employer, uninvolved in the dispute. Externalities, in these circumstances, are the effects on the third parties in the economy outside the industrial dispute.
 55. Whilst the varying nature of industrial action from year to year means it is not possible to produce a meaningful annualised estimate of the scale of these externalities, we know that where negative externalities do occur the impact can be very large. We explore these impacts in the costs and benefits section below. For example, analysis by HM Treasury estimates an indirect loss of £160 million in the case of a one-day national education strike. This is in addition to the direct reduction in output in the education sector, and reflects the size of the externality discussed above.
 56. Whilst the most illustrative cases may occur in the important public services, it is equally true that these externalities are caused by incidents of industrial action in other sectors. For example, where a business is unable to provide goods or services to its clients, this can have a wider impact on a whole supply chain if the client is in turn unable to provide goods or services to other businesses or consumers.

Policy objectives

57. None of these changes are about banning strikes. The Government's overarching policy is to encourage workplace disputes to be resolved without the need for industrial action; and to ensure where industrial action is used, it is as a last resort with clear and ongoing support for action by the membership.
58. Disruptive industrial action, particularly in important public services, should not take place on the basis of low ballot turnouts and therefore low overall support for industrial action. The challenge is to get the balance right between the interests of union members and the interests of the majority of people who rely on the services they provide.
59. The Government is seeking to pass a law in the Trade Union Bill to make sure that industrial action in the fire, health, education, nuclear waste management and decommissioning, transport sectors and the Border Force will also require the support of at least 40% of all those entitled to vote. The objective is to ensure that strike action in these sectors, which can have an adverse impact on a wide range of third parties and on public safety, is not on the basis of support from only a small proportion of union members. This will be in addition to the 50% turnout threshold, which will apply in all sectors.
60. These thresholds bear similarities to some systems in operation in other countries. Whilst the nature of industrial relations can vary widely between different countries and cultures, there exist ballot thresholds or systems aimed at ensuring strikes are a last resort in key sectors in several European countries. In the Danish case, balloting rules tend to be laid down in collective agreements rather than at a legal level. The largest collective agreement requires the support of 75% of those covered by the agreement for a strike to go ahead. Other countries, such as the Czech Republic¹⁵ and Romania, have provisions for ballot thresholds in industrial relations law covering the whole economy. They have requirements for both turnout and approval thresholds. Germany has a system where for regular strikes a turnout of 75% is required. While the ballots are secret, there is no mandatory postal ballot system, as in the UK, and there are rules to ensure that

¹⁵ In the Czech Republic, a ballot is required to justify a strike, the ballot needing to achieve a 50% turnout, and two-thirds of votes cast to be in favour.

votes take place at convenient times and places. It is also possible to carry out “warning strikes” in Germany, a last resort action to give an indication of employee resolve after wage negotiations are deemed to have failed. These are more common than regular strikes in some sectors, and do not require a ballot. Some countries, such as Canada and Spain forbid strike action in some industries rather than use thresholds. Spain also has some legislation on minimum service provision in key sectors that have an impact on the wider economy.

Policy options

61. This Bill proposes to introduce a new requirement that in all ballots for industrial action, at least 50% of the trade union members entitled to vote must do so in order for the ballot to be valid.
62. It is also proposed that in ballots for industrial action in important public services, trade unions must also receive the support of at least 40% of those members eligible to vote in order for the ballot to provide a mandate for industrial action. The 40% approval requirement needs secondary legislation to implement and some key details of that legislation have yet to be determined. For this reason, an initial estimate of the impact of the 40% approval threshold is set out below, but the impact of introducing this requirement will also be examined in more detail in the impact assessment that accompanies the secondary legislation. While, the Bill identifies that the important public services will be limited to the six sectors identified in paragraph 65, the final definition of what is covered – in terms of roles and functions, will be set out in the secondary legislation. This final definition will influence the impacts of the 40% threshold. The Government will continue to engage with stakeholders, including trade unions and business representatives, when bringing forward the secondary legislation to gather detailed evidence to separate the effects of the two thresholds.

Ongoing Costs and benefits

Increase in economic output – Direct Benefit

63. We will first calculate the benefits in the important public services, applying the 50% turnout threshold alone.
64. We will then analyse the impact of the 50% threshold in other sectors.
65. We have separated out important public services from the other sectors for greater transparency within this impact assessment.

Impact of the 50% turnout threshold in health, education, transport, fire, nuclear decommissioning and the Border Force

Scope of this calculation

66. The approach uses historic data to look at whether work stoppages would have gone ahead had the 50% threshold been put in place.
67. The estimates contained in this impact assessment use ONS data for work stoppages in the Transport, storage, information and communication sector, the Education sector, the Health and social work sector, and the Border Force. This data is collected at an aggregate sector level and for the purpose of calculations in this impact assessment we use that level of data.
68. Nuclear decommissioning is a vital service, and without proper maintenance and oversight the relevant facilities have the capacity to cause widespread harm to the wider public. Maintaining these facilities safely where strike action does occur can cause significant cost and disruption, substantially above that incurred in some other industries. These costs represent a negative externality, and so it is important that strike action only occurs in this industry where there is a democratic mandate to do so.
69. The benefits of the inclusion of nuclear decommissioning as an important public service cannot be robustly estimated using historical data. Our sample of ballots does not include cases of strike

ballots in the nuclear decommissioning industry, and therefore we do not go on to monetise direct benefits in the nuclear decommissioning industry, although intuitively the indirect benefits of less industrial action in this sector are likely to be large.

70. Furthermore, we exempt the fire service from this impact, since it appears from our data sample that every strike in the fire service in the past 5 years would have met the 50% thresholds. For the purposes of this impact assessment we assume no reduction in working days lost in fire services. The sample underlying our estimated reduction in active strike ballots nevertheless does include fire ballots, since we are seeking to estimate a percentage point change across all sectors covered by the 50% threshold wherever possible.
71. The consultation sought views on defining the range of roles and functions subject to the 40% threshold. In so doing it will help Government establish which occupations should not be subject to the 40% threshold. The responses to this consultation are currently being analysed and a Government response will be issued in due course. A separate impact assessment accompanying the secondary legislation will consider the impacts of the 40% threshold.

Calculation

72. BIS analysts used a sample of around 60 ballots held in the education, transport, health and fire sectors and the Border Force held since August 2010 which were covered in the press. This sample differs slightly to that used in the consultation Impact Assessment on the 40% ballot threshold in important public services. The sample has been updated and evaluated. The same procedure was applied to analysis of the impact in the remaining sectors presented in a later section.
73. Using this sample we find that for important public services the data shows that the 50% threshold would result in a reduction in work stoppages of 58%. However, it seems likely that the introduction of ballot thresholds for industrial action will mean that the past is not a perfect guide to the future impact. For example, we would expect some unions to emphasise to members the need to vote to ensure that the ballot can provide a mandate for industrial action. This might be particularly where there is deemed a risk of falling below the threshold. It is not clear how much that would influence the behaviour of those that previously might not have voted. They might be particularly hard to persuade not to abstain. There is also likely to be interplay with the 40% approval threshold. Those voters who previously might not have voted but are persuaded to vote in the future might have a different voting pattern. The voting pattern may also be affected by the new requirements in the Bill for enhanced ballot paper information. However, this Impact Assessment is not directly considering the 40% approval threshold impact.
74. Where turnout is not already high, we believe there would be a reasonable likelihood of Trade Unions increasing ballot turnout. This is because they may place even more emphasis on engaging their members where they assess a risk that the threshold may not be met. We provide sensitivity analysis, below, with three scenarios of how voting turnout may increase. We take the mid-scenario which is equivalent of an increase of up to 25% on the historic turnout level. While a significant increase, we think it feasible as unions would be incentivised to make their arguments most persuasive and communicate those arguments to members when they are close but believe they are still potentially short of achieving the new threshold. Applying this to the available data would mean those historic ballots with 40% turnout and higher could have been successful. The calculation of benefits resulting from a reduction in days lost due to strike is based on the number of days lost in historic strikes with 39% turnout or less. This provides an estimate of a reduction of work stoppages of around 37% when the 50% turnout threshold is applied.
75. We therefore take a best estimate of the reduction in work stoppages of 37%. This section will show the costs and benefits for the best estimate case.
76. This methodology will be outlined below. We assume that the working days lost are evenly distributed between work stoppages. This is done since we would expect strikes affecting larger and smaller numbers of workers to be affected equally by the measure.

77. Furthermore, evidence from the Labour Disputes Survey¹⁶ and anecdotal evidence suggests the majority of large strikes last for only one day. This is particularly true of recent education and transport strikes. Where some strike action may last less than one day, this can be balanced against those incidences where strike action lasts longer than one day. We therefore deem that it is reasonable to assume a best estimate of one day as the average strike duration.
78. This means that for every percentage point fall in work stoppages, we would estimate the same percentage point fall in working days lost.
79. Since we anticipate a 37% reduction in work stoppages because of applying a 50% turnout threshold we therefore estimate a 37% reduction in working days lost in transport, education, healthcare and the Border Force. We will first take a 5 year average of working days lost in education, transport and healthcare using the results of the ONS Labour Disputes Survey. Likewise, we will use a 5 year average of working days lost shown in Management Information for the Border Force, held by the Home Office.
80. We take averages as there is some volatility in the number of working days lost from year to year. A five year average provides a more representative annual figure.
81. The Labour Disputes Survey groups certain sectors together when collecting data. For example, working days lost in transport are collected with those lost in storage, information and communication. Health and social work are also amalgamated for these purposes. We will assume that working days lost in these groups are entirely in the important public services. This does not affect our data on the Border Force since it comes from an alternative source.
82. The table below shows our calculations for working days lost in education, transport and healthcare.

Table 12: Working days lost per sector, ONS Labour Market Statistics table LABD0217, Border Force data from Home Office Management Information

Year	Sector	Transport, storage, information and communication	Education	Health and social work	Border Force
2010		76,000	5,400	0	8,810
2011		18,600	654,500	221,400	5,342
2012		28,400	39,300	4,100	2,588
2013		23,700	215,000	3,700	1,551
2014		24,900	312,700	36,300	2,985
5 year total		171,600	1,226,900	265,500	21,276
5 year average		34,320	245,380	53,100	4,255

83. We must then calculate the number of hours lost, so that we can estimate the impact this has on output. We use data from the Labour Force Survey to calculate the mean weekly working hours of union members and the mean number of days worked per week in transport, education and healthcare. For the Border Force, we again use data from the Home Office, suggesting the most

¹⁶ ONS, Labour Disputes Survey Annual Article 2014, July 2015, p18-19.

¹⁷ <http://www.ons.gov.uk/ons/rel/lms/labour-market-statistics/june-2015/table-labd02.xls>

common working pattern is 37 hours divided over 5 days each week. We divide the former by the latter for each sector to calculate the average number of hours worked per day.

84. The definition of sectors can be somewhat narrower than in the Labour Disputes Survey when using data from the Labour Force Survey. Consequently, we use transport and storage as our proxy for the transport sector as a whole. We must continue to use the working days lost figure from the wider category, making use of the assumption stated earlier.
85. We can then multiply the number of working days lost by this mean number of hours per day to calculate the working hours lost to industrial action.

Table 13: Calculation of working hours saved in key sectors by 50% turnout threshold being applied in important public services

Input	Transport and storage	Education	Health and social work	Border Force
Hours worked per week (1 decimal place)	41.9	39.2	36.1	37
Days worked per week (1 decimal place)	5.2	4.8	4.5	5
Hours worked per day (1 decimal place)	8.0	8.2	8.1	7.4
Working days lost (5 year average)	34,320	245,380	53,100	4,255
Working hours lost (5 year average)	275,329	2,022,495	428,465	31,478
Percentage reduction due to threshold (best estimate)	37%	37%	37%	37%
Working hours saved by threshold	101,872	748,323	158,532	11,650

86. We can then monetise the economic impact of these working hours saved. The ONS publish Gross Value Added (GVA) statistics for each sector on a quarterly basis. We use the 2014 four quarterly average figures in our calculations since they are the most recently available figures. This shows the contribution to economic output of each sector.
87. Productivity adjusted hours figures are provided by the ONS as part of their statistics on productivity. They amalgamate health, education and the Border Force amongst government services, and so we must calculate output per hour on a grouped basis for these sectors. The ONS provide these figures in the form of a weekly average across a calendar quarter. We must therefore multiply these figures by 13 so that we divide the quarterly GVA figures by quarterly productivity adjusted hours worked figures. The final figures taken represent the four quarterly averages for 2014.

Table 14: Output per hour worked in the key sectors (2014, four quarter average)

Output per productivity adjusted hour worked	Transport and storage	Government services
	£24.43	£23.52

88. We can then multiply this figure for each sector with the number of hours saved in that sector by the threshold, to calculate the increase in economic output generated by the sector.
89. Businesses will pay wages to employees for these additional hours worked. We do not calculate these wages as a benefit to employees. We assume that the employees who now provide hours worked incur some disutility from working (given the counterfactual is that the employee preferred and wanted to strike). It is assumed that the disutility offsets the wages paid to the employee as the employee was originally willing to forego their wages to strike. The overall impact is that we do not consider wages as a benefit for employees.

Table 15: Total direct net benefit of the 50% turnout threshold being applied in important public services

Input	Transport and storage	Education	Health and social work	Border Force
Output per productivity adjusted hour worked	£24.43	£23.52	£23.52	£23.52
Median wage	£11.83	£13.82	£11.70	£15.53
Median total labour cost per hour (non-wage labour cost uplift)	£14.17	£16.56	£14.02	£18.60
Difference between output and total labour cost per hour	£10.26	£6.96	£9.50	£4.92
Working hours saved by thresholds	101,872	748,323	158,532	11,650
Net benefit to business	£1,044,964	£5,211,054	£1,506,592	£57,261
Total net benefit	£7,819,872			

90. Businesses will therefore gain the difference between the additional output generated and the increase to their wage bill. This difference represents an increase in economic efficiency, since capital will now be used during these hours where previously it would have gone unused. In the named sectors, this would for example include vehicles in the transport industry or medical equipment in healthcare being used.
91. We calculate this total wage bill using median hourly wages in each sector where we monetise direct benefits from the 2014 Annual Survey of Hours and Earnings (ASHE). For transport, education and health, we use Standard Industry Codes to establish median wage. This means that we take median wage for transport and storage, education and health and social work. In the Border Force, we use the median wage for Standard Occupation Code 3319, which encompasses Immigration Officers. This approach has been agreed with the Home Office as a reasonable approximation of median wage.

92. We multiply these median figures by the hours saved in each sector to give us the additional wage bill in each sector. Firms must also pay non-wage labour costs for these hours worked. We therefore adjust these wage figures by the non-wage labour cost uplift calculated by Eurostat. This is currently 19.8%. We then subtract this adjusted wage bill from the sectoral output increase to gain the net benefit to business in each sector.
93. The £7,819,872 is the net benefit accrued from the 50% ballot threshold in the important public services. We calculate the benefit accrued to the rest of the economy from the 50% ballot threshold below.

Sensitivity Analysis – important public services

94. Given the potential for changes in typical turnout levels during industrial action ballots, which informs our best estimate, we have undertaken sensitivity analysis on the reduction in working days lost and subsequent economic benefits. These are presented in the table below.
95. We have assumed in all cases that the balance between votes in favour and votes against industrial action has remained constant, whilst turnout has increased or decreased. Since we do not have any ability to forecast any changes in the balance between different votes, it would not be possible to explore changes in this balance in a robust way.

Change in turnout level	Reduction in working days lost	Overall economic impact (to nearest £100000)
No change from historic turnout levels	58%	£12,300,000
Increase 5 percentage points	55%	£11,600,000
Increase 10 percentage points (best estimate)	37%	£7,800,000
Increase 15 percentage points from current level	28%	£5,900,000

Impact of the 40% threshold in important public services

The Bill includes a provision to introduce a threshold in important public services where 40% of those eligible to vote in industrial action ballots must vote in favour of the action for the ballot to be successful. This threshold would operate alongside the 50% turnout threshold.

The secondary legislation will set out which roles and functions within the important public services the 40% threshold will apply to. To assess the impacts of the 40% threshold we would apply the same methodology as used for the 50% threshold. Our initial calculations, based on all occupations and using the same dataset indicate that the 40% threshold would lead to an additional 8 percentage points reduction in working days lost. The size of benefit from introducing a 40% threshold in addition to the 50% turnout threshold would be in the region of 1/5th (£1.7 million) of the benefit from the 50% threshold in important public services.

50% turnout threshold in other sectors

96. We will first calculate the extent to which the introduction of the 50% turnout threshold in the rest of the economy will generate a reduction in working days lost. Once we clarify this figure, we will use the same methodology as in the above section to calculate output per hour, median wages and thus the net benefit to business.
97. There exists a choice of source enabling the estimation of the reduction in days lost generated by the 50% threshold. The Workplace Employment Relations Survey (WERS) conducted in 2011 asked managers for information on ballot turnout in disputes they had been involved in over the previous 12 months. This work was sponsored by BIS and is the only published source of information available to BIS analysts at the time of writing. The survey suggests that across the whole economy, 38% of ballots in the period studied achieved a turnout of less than 50%. This figure has been used on multiple occasions in public discourse.
98. Whilst WERS has the advantages of being a published data source and is survey-based, the age of the underlying data may mean that it does not reflect the most recent trends in industrial action. Furthermore, it reflects the relatively narrow time period over which the fieldwork was carried out. This period includes the November 2011 public sector pension strikes, which potentially affects the aggregate figure in the published WERS results.
99. For the purpose of this Impact Assessment we therefore again undertook analysis of a sample of ballots based upon media reports. These ballots were solely in sectors which fall outside the possible scope of the 40% threshold. In this case, we study 69 ballots held since March 2011 and conclude that, based on the historic data, 45% of these ballots would not be valid were the 50% threshold to be applied to them. However, we apply the assumptions used for the important public services that with the introduction of ballot thresholds unions would place emphasis on raising voter participation, causing increases in turnouts of up to 25% on the historic levels of turnout. This assumption means that we estimate that all ballots in the dataset with turnouts of 40% would, if this increase in turnout was achieved, pass the 50% threshold. Our revised estimate for ballots in the other sectors is that 26% of ballots would not be valid under the threshold, leading to an estimated reduction in working hours lost of 26%.
100. The similarity of the WERS figure covering the whole economy and the figure calculated during our analysis lends confidence to the robustness of our subsequent calculations. Nevertheless, given the difficulties encountered and the possibility for dynamic response in turnout after the

introduction of the Bill, we have performed a sensitivity analysis which can be found at the end of this section.

101. Using our estimated reduction of 26% in working days lost, we follow the same methodology used in the above section. In summary, we estimate the number of hours this will save, output per hour and median labour cost in each sector in order to calculate the increase in output in hours. This uses the same data sources as those used above. The first step is to calculate a 5 year average figure for annual working days lost in the sectors covered only by the 50% turnout threshold. As above, due to the categories used in the Labour Disputes Survey, we must use amalgamated groupings. This is performed in the table below.

Table 16 -Working days lost per sector, sectors not covered by the 40% threshold, ONS Labour Market Statistics table LABD023

Year	Public admin/defence	Arts, entertainment and Recreation, Other Service and personal services	Finance, real estate, Professional, Scientific, technical, and Administrative and Support Services	Wholesale and retail trade; repairs; Accommodation and Food Service	Construction	Manufacturing	Water Supply, Sewerage, Waste Management and Remediation Activities	Mining, quarrying, electricity, gas, Steam and Air conditioning
2010	260,200	11,700	800	700	800	9,100	900	0
2011	389,800	29,100	19,100	13,700	27,800	10,000	5,900	0
2012	150,200	1,000	9,200	0	3,400	12,100	1,400	0
2013	180,200	1,500	6,000	0	4,400	7,100	1,800	0
2014	390,500	700	6,600	4,700	2,700	7,600	400	1,200
5 year total	1,370,900	44,000	41,700	19,100	39,100	45,900	10,400	1,200
5 year average	269,925 ¹	8,800	8,340	3,820	7,820	9,180	2,080	240

¹ The 5 year average for the whole public administration and defence sector is 274,180. We subtract 4,255 working days lost per year from this, since these working days lost have been accounted for in the Border Force calculations undertaken in the section covering the 40% threshold.

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102. For each of these sector groupings, as in the example above we must calculate the number of hours lost to industrial action. We use the Labour Force Survey to estimate the mean number of hours worked per day and then apply this figure to the number of working days lost above for each sector.
 103. As was inevitable in certain cases when analysing the sectors covered by both thresholds above, the sector groupings provided by the Labour Disputes Survey differ from those available in the Labour Force Survey. We have therefore, in some cases, had to match certain sector groups from the Labour Disputes Survey with those in the Labour Force Survey. Table 19 explains how this has been done in a consolidated way towards the end of this section.

Table 17: Calculation of working hours saved in other sectors by the 50% turnout threshold being applied

Hours	Public admin/ defence	Arts, entertainme nt and Recreation, Other Service and personal services	Finance, real estate, Professional, Scientific, technical, and Administrative and Support Services	Wholesale and retail trade; repairs; Accommodation and Food Service	Construction	Manufacturing	Water Supply, Sewerage , Waste Management and Remediation Activities	Mining, quarrying, electricity, gas, Steam and Air conditioning
Hours worked per week ¹ (1 decimal place)	33.5	30.4	34.2	30.2	38.4	36.1	37.1	36.3
Days worked per week ² (1 decimal place)	4.8	4.6	4.8	4.6	5.1	4.9	4.9	5.0
Hours worked per day (1 decimal place)	7.0	6.7	7.1	6.6	7.6	7.3	7.5	7.3
Working days lost ³ (5 year average)	269,925	8,800	8,340	3,820	7,820	9,180	2,080	240
working hours lost (5 year average)	1,881,737	58,837	58,935	25,204	59,424	67,331	15,649	1,752
% reduction due to threshold (best estimate)	26%	26%	26%	26%	26%	26%	26%	26%
Working hours saved by threshold	489,252	15,298	15,323	6,553	15,450	17,506	4,069	456

^{1, 2} Source: Labour Force Survey micro-data

³ Source: ONS labour market statistics table LABD023

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104. Now that we have calculated estimates for the annual number of working hours saved by the 50% turnout threshold in these sectors, we use ONS productivity figures to estimate sectoral output per hour figures. This follows the methodology already applied when analysing the important public services sectors. We divide the gross value added figures for each sector and divide them by productivity adjusted hours worked figures. We then subtract the median wage for each sector.
 105. This gives the deadweight loss per unworked hour in each sector. We multiply this by the hours which will be saved by the 50% threshold in the remaining sectors to calculate the direct benefits. This again requires using imperfectly matched groupings of sectors. Our handling of this is detailed below table 18.

Table 18: Total direct net benefit of 50% turnout threshold being applied in other sectors

Input	Public admin/ defence	Arts, entertainment and Recreation, Other Service and personal services	Finance, real estate, Professional, Scientific, technical, and Administrative and Support Services	Wholesale and retail trade; repairs; Accommodation and Food Service	Construction	Manufacturing	Water Supply, Sewerage , Waste Management and Remediation Activities	Mining, quarrying, electricity, gas, Steam and Air conditionin g
Output per productivity adjusted hour worked ¹	£23.52	£30.74	£28.20	£24.22	£23.45	£28.13	£51.72	£53.41
Median wage ²	£14.65	£8.85	£15.38	£8.62	£12.78	£12.70	£12.55	£17.04
Median total labour cost per hour (non- wage labour cost uplift ³)	£17.55	£10.60	£18.43	£10.33	£15.31	£15.21	£15.03	£20.41
Difference between output and total labour cost per hour	£5.97	£20.13	£9.78	£13.90	£8.14	£12.92	£36.69	£32.99
Working hours saved by thresholds	489,252	15,298	15,323	6,553	15,450	17,506	4,069	456
Net benefit	£2,921,637	£308,014	£149,839	£91,059	£125,830	£226,118	£149,283	£15,031
Total net benefit	£3,986,811							

¹ Source: ONS published statistics, calculated as described above

² Source: ONS published data (ASHE)

³ Source: http://ec.europa.eu/eurostat/statistics-explained/index.php/Hourly_labour_costs

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106. As was the case when considering the impact of the 50% threshold on the specified sectors in the previous section, multiple sources were used in constructing these estimates. Because of this, some matching of imperfect sector categories took place in the calculations. Since we consider a wider range of sectors in this section, we have provided a brief explanation and table explaining this matching below.
 107. The sector splits provided by the Labour Force Survey (LFS) (used to calculate average hours per day/days per week) differ slightly from the sector splits provided by ONS in the sector output figures. Where there was discrepancy between sources regarding groupings of sub-sectors within sectors, a decision had to be made about which figures to use. Details of these decisions are set out below.
 108. The source used for gathering output provided a more detailed breakdown of sectors than the source used for working days lost. This means that for some sectors there were multiple possible figures to use for the output of that sector. In deciding which sub-sector output figure to use, each sub-sector was assessed in terms of the total number of hours worked in each sector for the most recent quarter (Q4 2014). The sub-sector with the highest number of hours worked was selected to provide the output figure for the sector for which it was included in the other source.
 109. The breakdown of sectors given in the LFS (variable INDS07M - used for calculating average hours/days worked in sectors) also gives a more detailed breakdown of the sectors than given for working days lost calculations. For consistency, the same sub-sectors were used for this as were used in estimating sector output. Details of the different breakdowns, and which sub-sectors were used are included below

Table 19: Sub-sectors used to estimate figures for larger sector groupings where sectors given by different sources did not match

Larger sector groupings (working days calculations)	Public admin/defence	Arts, entertainment and Recreation, Other Service and personal services	Finance, real estate, Professional, Scientific, technical, and Administrative and Support Services	Wholesale and retail trade; repairs; Accommodation and Food Service	Construction	Manufacturing	Water Supply, Sewerage, Waste Management and Remediation Activities	Mining, quarrying, electricity, gas, Steam and Air conditioning
Sub-sector used to estimate output/hours per day calculations for larger sectors	Public admin/defence	Arts and entertainment	Professional and scientific	Wholesale, retail, repair of vehicles	Construction	Manufacturing	Water supply, sewerage and waste	Mining and quarrying
Other sub-sectors within larger sector (not used in estimating output/hours per day calculations)			Other service activities	Accommodation and food services				Electricity, gas, air conditioning supply
			Real estate activities					
			Professional, scientific and technical activities					
			Administration and support services					
			Financial and insurance activities					

Action short of strike

110. It is very challenging to estimate the impact of industrial action short of strikes. For example, work-to-rule periods, overtime bans and so-called “go-slows” would all have different impacts on a workplace. At present, trade unions are not required to state any details more specific than “action short of strike” on ballot papers and therefore it is difficult to estimate the relative proportions of these types of action.
111. Furthermore, the impact of this action would be much more challenging to measure in hours lost to industrial action. It would therefore be much more difficult to quantify decreases in output generated by action short of strike.
112. Nevertheless, the 50% threshold will apply to ballots for action short of strike. The threshold is likely to improve the productive output of workplaces across the economy. For example, a reduction in overtime bans would better enable employers to respond to changing circumstances and improve the reliability of services. This can be expected in the important public services. Media reports cite overtime bans and working-to-rule as causal factors in disruption to the London Underground¹⁹.
113. Given the additional clarity brought about by other sections of the Bill, we expect to be able to provide some deeper analysis in the Post Implementation Review.

Sensitivity Analysis of 50% threshold

114. Following the same methodology as that used in the sensitivity analysis of the impact of ballot thresholds in important sectors above, we estimate the economic impact of the 50% turnout threshold in other sectors were turnout levels to change from their current levels. We analyse a variety of scenarios in the table below.

Change in turnout level	Reduction in working days lost	Overall economic impact (nearest £100,000)
No change from historic turnout levels	45%	£6,900,000
Increase 5 percentage points	33%	£5,100,000
Increase 10 percentage points (best estimate)	26%	£4,000,000
Increase 15 percentage points from historic level	22%	£3,400,000

¹⁹ <http://www.standard.co.uk/news/huge-delays-on-underground-as-overtime-ban-brings-travel-chaos-to-tube-6525460.html>, <http://news.sky.com/story/1534400/work-to-rule-action-adds-to-tube-misery>

Summary of direct benefits generated by thresholds

115. These benefits can be added together, taking the benefit figure from the important public services and other sectors, to yield the total net direct benefits from increased output.

Table 20: Combined benefit to business of 50% turnout threshold in important services, and 50% turnout thresholds in other sectors

Sector	Important public services	Other sectors
Total Benefit	£7,819,872	£3,986,811
Total	£11,806,683	

Increase in output in other sectors – Indirect Benefit

116. There is limited evidence which quantifies the indirect impact on other sectors of strike action in the transport, education, health, fire and nuclear waste management and decommissioning sectors and the Border Force. Where attempts have been made, it is clear that the size, duration and industry where the strike takes place strongly influence the external impact of strikes. This means that the impact varies widely depending on specific circumstances.

117. Since the nature of strike action tends to vary from year to year, with the ability of large strikes in certain sectors and years to cause a disproportionate impact, it is not readily possible to provide a total annual estimate of the knock-on impact of strike action in the five sectors and Border Force.

118. In turn, this means it is not currently possible to estimate in a sufficiently robust way the annual indirect benefit generated to other sectors as a result of the ballot thresholds.

119. We will consider some examples of analysis showing the impact of strikes, in particular in education and transport. This will provide context for this indirect benefit, however it will not form a monetised part of this Impact Assessment.

120. These examples show that where large strikes occur, they can have a considerably higher indirect impact in addition to their direct impact in the workplace where they occur.

Strikes across all sectors

121. The Workplace Employment Relations Survey 2011 was carried out between March 2011 and June 2012. It asked whether businesses had been indirectly affected by strike action at another workplace in the past 12 months. 3% of businesses responding to the survey indicated that they had been.

122. Unfortunately, we do not know the scale of disruption caused, and so it is not possible to monetise the overall impact to the economy. WERS results are representative of almost 750,000 workplaces. This would suggest around 22,500 workplaces were indirectly affected by strike action during the period covered by the survey.

123. Even if the impact on each workplace was relatively small, it is clear that the indirect impact to business as a whole of strike action would be high, given the number of workplaces involved.

Education strikes

124. Education strikes can have a much wider-ranging impact than a reduction in the number of students at school on the day of action. A school strike may also mean that parents and guardians are unable to go to work, which can have an effect on every sector of the economy.
125. HM Treasury estimated that a closure of two-thirds of state schools would lead to a 3-4% decrease in output in sectors not directly connected to education for the duration of the strike. This figure was calculated in the period leading up to the November 2011 public sector pension strikes.¹
126. This formed part of an overall estimate of a £480 million decrease in output as a result of the strike. Around one third of this was caused by the indirect impact of school closures, leading to an estimate of £160 million in these indirect impacts. This figure represents the scale of indirect impact to the wider economy of a national education strike.

Transport strikes

127. Transport strikes are another example where some analysis has attempted to quantify indirect, external impacts. Acas commissioned a report in 2007 examining the value for money delivered by the organisation². Since part of Acas' role is to help conciliate collective disputes, this involved some estimation of the impact of strikes which Acas managed to help avert. The figures we quote have not been adjusted for inflation since 2007.
128. The report estimated that the knock-on impact of a 2 day transport strike affecting 3.4 million weekday passengers would lead to a £52 million cost to other businesses, since workers do not arrive at work and other events have to be cancelled. These costs were calculated in the Acas report by accruing the costs to work-related travellers only, and allowing one hour of lost productive time during the days of the strike for each work-related traveller.
129. An air travel related strike affecting 70,000 passengers is estimated in the Acas report to have cost businesses not directly party to the dispute around £38 million. This is based on costs accrued by both business and leisure travellers, assuming the loss of half a day for all leisure travellers, the cancellation of 5% of overseas business trips and 4 wasted productive hours for each business trip not cancelled.
130. Disruption to transport networks can cause very significant economic and welfare impacts. Analysis by the Department for Transport estimates the cost of one day's severe disruption to transport networks caused by weather to be around £280 million.
131. Analysis was also undertaken by the Department for Transport of the likely economic impact were the proposed Network Rail strikes in June 2015 to go ahead. Using the National Travel Survey, the estimated economic cost was likely to be between £80 million and £230 million, depending on the extent to which those who normally commute to work by train are able to work from home.

Border Force strikes

132. Management Information provided by the Home Office suggests that where strikes in the Border Force do occur, the fall in staffing levels is often between 10% and 40%. Where these staffing reductions cause delays at borders, they may reduce the hours in which travellers are able to work or waste the leisure time of those not travelling for work purposes.

¹ https://www.whatdotheyknow.com/request/breakdown_of_500_million_estimat

² <http://www.acas.org.uk/index.aspx?articleid=1328>

Nuclear waste management and decommissioning strikes

133. Nuclear waste management and decommissioning is an administrative and technical process. It includes clean-up of radioactive materials and progressive demolition of nuclear plants. However, there will be an environmental risk to the public during the decommissioning phase should industrial action take place.

Non-monetised costs

134. Strike ballots are mandatory postal ballots hence the Trade Unions would be sending ballot information by post. The Trade Union may also provide extra communication to encourage members to vote. As Trade Unions do this already there are negligible additional costs associated with communication because of the introduction of turnout thresholds. It is also likely there would be more focus on making the argument as compelling as possible in communications rather than necessarily increasing the number of communications. Any additional communication would be a matter of choice for the trade union, where the union has considered that the benefits of this communication exceed the costs.

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach);

135. This Impact Assessment uses a wide range of data sources to estimate the economic impact of the introduction of the 50% turnout threshold.
136. This has enabled us to estimate the direct benefit that these measures will bring to the sectors cited, making use of published ballot result figures. This represents the output produced by the sectors themselves, which we would expect to increase after the introduction of the thresholds.
137. There are significant challenges with the availability of data in this area, which has meant that it would be disproportionate to attempt to cost the indirect impact of thresholds in any sector. That would represent the gains to output since the public and other businesses are able to rely on the continued operation of public services and other parts of the economy.
138. The indirect impact of strikes can vary widely, and estimating an annual figure would require knowledge of the number of employees working in other sectors who were affected by every single strike in the named sectors under consideration. This data is not currently collected, and so producing a robust estimate is not possible.

Risks and assumptions

139. We have assumed that our sample of industrial action ballots reported in the press is representative of all industrial action ballots. Since larger ballots are more likely to attract press attention, we believe this sample will cover a high proportion of those union members balloted who work in the named sectors under consideration.

Direct costs and benefits to business calculations

140. The measures contained in this impact assessment are in scope of the Business Impact Target. The direct impacts for the important sectors which have been monetised largely affect the public sector, particularly in the health and education sectors. Direct effects on the other sectors will be predominantly seen in the private sector.

141. Using the Labour Force Survey, we can estimate the proportion of union members working in either the public or private sector within each of the sectors where we have estimated reductions in strike action will take place (excluding fire services and nuclear waste management and decommissioning).
142. We can then multiply the proportion of union members in the private sector by the expected benefits in each sector to achieve an indication of the benefit to private sector organisations, which can then be scored under deregulatory methodology. This calculation is demonstrated in the tables below.

Table 29: Total direct net benefit of the 50% turnout threshold being applied in the health, education and transport sectors and the Border Force to organisations in scope of the deregulatory target

Input	Transport and storage	Education	Health and Social Work	Border Force
Total benefit	£1,044,964	£5,211,054	£1,506,592	£57,303
Proportion of union members who are private sector employees (to 1 decimal place)	89.0%	9.9%	19.1%	0%
Benefit applicable to the private sector	£929,616	£515,925	£287,692	£0
Total	£1,733,233			

Figures may not sum up to individual parts due to rounding.

Table 30: Total direct net benefit of the 50% ballot turnout threshold being applied in all other sectors to organisations in scope of the deregulatory target

Benefit	Public admin/defence	Arts, entertainment and Recreation, Other Service and personal services	Finance, real estate, Professional, Scientific, technical, and Administrative and Support Services	Wholesale and retail trade; repairs; accommodation and Food Service	Construction	Manufacturing	Water Supply, Sewerage, Waste Management and Remediation Activities	Mining, quarrying, electricity, gas, Steam and Air conditioning
Total benefit	£2,921,637	£308,014	£149,839	£91,059	£125,830	£226,118	£149,283	£15,031
Proportion of union members who are private sector employees (1 decimal place)	5.3%	49.2%	82.3%	95.3%	68.1%	98.4%	66.7%	97.7%
Benefit applicable to the private sector	£155,727	£151,393	£123,385	£86,958	£85,668	£222,545	£99,519	£14,689
Total	£939,884							

Table 31: Total private sector costs and benefits resulting from 50% ballot thresholds being applied across the UK economy

One off familiarisation costs for trade unions	Cost
Total	£525,000
Annual Private sector benefit	
Important sectors	£1,733,233
Other sectors	£939,884
Total	£ 2,673,117

143. The EANCB figure for the 50% threshold is -£2.52m

Option 1B –Ballot mandate reform

Problem under consideration

144. In some cases, unions have threatened strike action based on successful strike ballots that took place over a year or two earlier, creating prolonged periods of uncertainty for both employers and workers (see section below paragraph 171). The support indicated in the earlier ballot may no longer be present among the union membership: the circumstances of workers may have changed since the ballot and there is likely to have been some churn in the workforce since the ballot.
145. When balloting for industrial action, information as to the cause of the dispute can be as vague as “pay”, “terms and conditions” or “redundancies”. This lack of transparency means that both employers facing industrial action and trade union members when voting in the ballot are not fully informed about the purpose of potential industrial action. It is necessary that trade disputes are clearly defined and at present this may not always be the case.
146. Currently, trade unions are required to provide 7 days’ notice of industrial action once a ballot mandate has been secured. This means that employers facing industrial action, and others who may be affected, have only a week to make contingency plans, which could exacerbate the negative impacts on the economy of the industrial action. This Bill doubles this to 14 days’ notice.

Rationale for intervention

147. Under TULRCA as it stands, it is possible for certain unions to take strike action on the basis of a successful ballot that was conducted years before the strike. The rationale for imposing a **4 month time limit to the validity of a ballot mandate** is to ensure that industrial action can only take place on the basis of a contemporary mandate, resulting in better allocative efficiency. Concurrently, we will remove the requirement for some form of industrial action to take place within 4 to 8 weeks of a ballot result so that the ballot may remain valid. Given the externalities caused by industrial action described above, it is important that such action is supported by a recent ballot.
148. The rationale for extending from 7 to 14 days the period of notice that a trade union must provide to an employer after it has secured a ballot mandate for industrial action is to ensure that the employer has more time to make contingency arrangements should strike action go ahead. This may enable resources in the economy to be used more efficiently.
149. Also, unions do not currently have to specify the details of the trade dispute on the ballot. This makes it easier to use the ballot mandate for industrial action relating to different specific issues within the remit of one broad cause. Currently, information can be as unclear as “pay”, “terms and conditions” or “redundancies”. Over a period of a year or two, there may be some turnover of union membership in the organisation that voted for industrial action, so the mandate if used two years later may not reflect the views of the current union members. These updates to legislation seek to clarify the rules around this, in order to create a clearer, more transparent and fairer system for all parties and provide more time for on-going negotiation. To improve transparency, unions will also be required to report details of industrial action undertaken during the reporting period in their annual returns to the Certification Officer.

Policy objectives

150. The Bill imposes a time limit (of four months from the end date of the ballot) that a ballot under Part V of the Trade Union and Labour Relations (Consolidation) Act 1992 can remain valid for lawful industrial action, and to require unions to set out the detailed nature of the issues in dispute on the ballot paper. The policy objective here, as set out in the Conservative Party manifesto, is to “ensure strikes cannot be called on the basis of ballots conducted years before”. It is also to ensure that union members voting on industrial action know the specific issues in dispute that the potential industrial action relates to, enabling them to make a more informed decision. We are simplifying the process to take industrial action. As a result, we are repealing the current requirement that there must be some industrial action within a period of 4 to 8 weeks in order for the mandate to remain valid.
151. The law requires a trade union to provide an employer with notice of industrial action after it has secured a mandate for industrial action and before any such action is taken, and the Bill extends the period of that notice from 7 to 14 days. The policy objective is to ensure that the employer has more time to continue to negotiate, as well as make contingency arrangements should strike action go ahead.
152. The Bill also includes a requirement for unions to report information on industrial action undertaken. This will help to better inform the public about the extent of industrial action, especially industrial action short of a strike, and the causes of trade disputes leading to industrial action.

Policy options

153. The Bill replaces the current requirement for some industrial action to take place within 4 to 8 weeks of the ballot for the mandate to remain valid with the introduction of a 4 month time limit on strike-ballot mandates. This would mean that a successful ballot would only provide a mandate for industrial action in the four month period beginning from the end date of the ballot. After this period any strike action will be deemed unlawful and treated as such, unless another successful strike mandate is voted in by members. It also removes the requirement for industrial action in the first 4-8 weeks of the mandate provided by the ballot to validate it.
154. It also requires unions to include more detailed information on ballot papers. This includes stating on each ballot paper in detail the issues in dispute that have led to the ballot, and the specific industrial action that is proposed, together with an indication of the expected time period during which these actions will take place.
155. The proposed legislation will also increase the notice period for industrial action that unions must provide once a ballot mandate has been obtained from 7 to 14 days.
156. The Bill requires a trade union to include details of any industrial action taken in the reporting period in its annual return to the Certification Officer. This should include the nature of the trade dispute relating to the industrial action, the type of industrial action when the industrial action was taken, as well as confirmation that the relevant ballot thresholds have been met.

Monetised and non-monetised costs and benefits

Four month mandate time limit

157. We have not been able to quantify how this time limit will affect the number of working days lost to strike action, since we do not have data to reliably estimate the number of strikes across the whole economy which occur more than 4 months after the result of a ballot. We

nevertheless have some examples of specific cases where this has happened, but due to the lack of a national-level data source we cannot provide a percentage reduction in this analysis.

158. We have considered the possible net impacts on the frequency and likelihood of strikes as a result of specifying a time limit for the validity of ballot mandates.
159. A time limit is likely to reduce the number of strikes where unions have either taken multiple strike actions over an unlimited period of time, or used older mandates to justify contemporary strike action.
160. The data set out below provides some evidence of the correlation between the date of ballot mandates and the date of subsequent strike action.
161. This suggests that the length of time between a union securing a ballot mandate and taking strike action ranges from less than a month to around 2 years.
162. Negotiations start well before a union reaches the stage of balloting its members for industrial action. A ballot mandate, set at 4 months, ensures that industrial action is called on a current mandate (rather than a ballot conducted years before) and it still allows sufficient time for negotiations to continue and industrial action (should this prove necessary) to take place.
163. Issues regarding industrial action are likely to be fluid and can change quickly. Four months is a reasonable period in which a trade union and employer might be expected to make significant progress in resolving any dispute. Therefore expiry of a mandate after 4 months strikes the right balance.
164. Currently courts are asked to consider whether a ballot mandate is still valid and that includes assessing whether there has been a substantial interruption in the industrial action so that the result of the original ballot can no longer be relied upon.
165. Of course each case will turn on its own facts but in the case of *Westminster Kingsway College v University and College Union* 2014 EWHC 4409, the High Court held that the proposed strike was not protected by the ballot as there had been a substantial interruption. In that case the ballot had taken place 11 months before the further proposed strike.

Relationship between dates of ballot mandates and dates of strike action

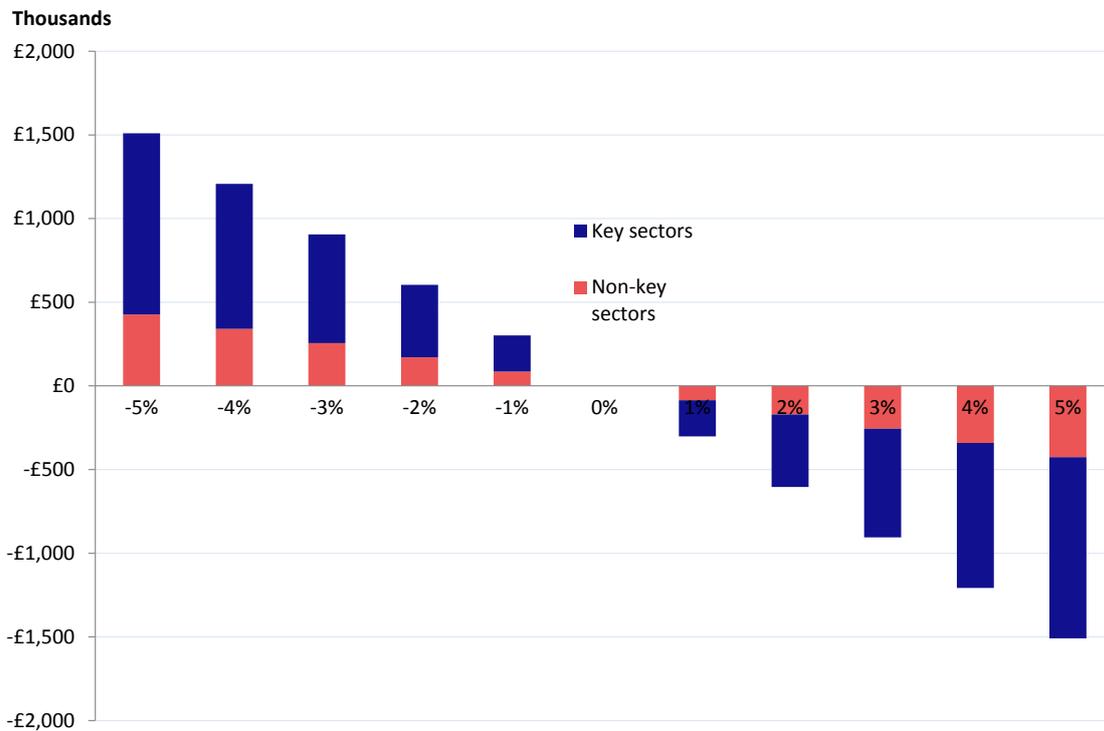
- The Public and Commercial Services Union (PCS) has held the following strikes on a mandate from March 2013:
 - o 15 October 2014
 - o 10 July 2014
 - o 20 March 2013
- The PCS held the following strikes on a mandate from June 2011:
 - o 10 May 2012
 - o 30 November 2011
 - o 20 June 2011
- The National Association of Schoolmasters Union of Women Teachers (NASUWT) held the following strikes on a mandate from November 2011:

- 17 October 2013
 - 1 October 2013
 - 27 June 2013
 - 30 November 2011
- The National Union of Teachers held the following strikes on mandates from June 2011 and September 2012:
- 10 July 2014
 - 26 March 2014
 - 17 October 2013
 - 1 October 2013
 - 27 June 2013
 - 28 March 2012
 - 30 November 2011
 - 30 June 2011

166. We have also considered whether placing a time limit on a mandate might encourage a union to strike earlier, for longer or more frequently. However, there are several factors that militate against such an effect.
167. It is in the interests of both parties involved in a trade dispute to resolve the matter by negotiation, and the requirement for a 4 month time limit to the ballot mandate does not alter this. Both parties would still, as now, seek to reach a mutually acceptable conclusion to the dispute without resorting to a ballot for industrial action.
168. Where negotiations break down and a union does wish to seek a mandate for industrial action from its members, the Bill requires the union to state on the ballot paper the nature of the trade dispute and the type of industrial action proposed together with an indication of the expected time period during which such action could take place. The objective is to ensure that members are clear about exactly what they are voting for. A union which seeks to secure a mandate for premature or prolonged industrial action would be less likely to secure support from its members.
169. The ready reckoner²² below shows the total cost/benefit to firm output (less labour costs in producing output) associated with percentage increases or decreases in strike action. As can be seen, in the case that strike action was reduced by 5% due to this policy, this should result in around a £1.2 million benefit to total UK firm output after labour costs are deducted. It is important to remember the counterfactual assumes that the ballot thresholds (presented earlier in this impact assessment) are in effect. This means that these figures were calculated using the total amount of working days lost after the effects of thresholds has been taken into account.

²² A 5-year annual average (2010-2014) of working days lost to strikes was calculated for each sector. This was multiplied by 7 to estimate the number of annual hours lost to strikes in each sector. Hourly output for each sector was then used to calculate the total output associated with the number of working hours lost in each sector (Hourly output * working hours lost = output changes due to strikes). Similarly, average labour costs for each sector were used to calculate the total labour costs associated with the number of working hours lost (hourly labour costs * working hours lost = labour cost changes due to strikes). The changes in labour cost associated with each percentage change in strikes was taken from the changes in output associated with each percentage change in strikes (total sector output change – total sector labour cost change = sector change in output associated with strikes). Finally, the total output changes for each sector were added together to estimate total UK firm output associated with percentage changes in working days lost to strikes. These have been summarized in the ready reckoner chart.

Figure 2: Aggregated change in UK firm output (minus labour costs) as strike action increases/decreases



Non-monetised – reballoting costs

170. There is a risk that trade unions may need to run additional ballots if their mandate expires in a given dispute. Since we are unable to estimate the proportion of ballots where this may apply in the absence of robust, national data linking the date a ballot mandate becomes valid with the dates on which strike action occur, we have not monetised this potential cost.
171. The examples provided above do not enable us to produce an annualised figure, since they do not provide a figure for the whole economy. We would expect that this measure may change behaviour where negotiation is taking place. As such, it would be inappropriate for us to monetise this cost.

Non-monetised – effect on consumer and wider economy

172. There may be a gross benefit for wider society as a result of a reduction in the number of strikes occurring a long time after the mandate is validated. It is possible, as suggested by the ready reckoner, that the ballot mandate time limit could lead to a pressure to strike within the 4-month period. However, as unions would generally ballot for industrial action when negotiations have broken down, the resulting industrial action is already likely to be scheduled for the months directly following the successful ballot.
173. These effects could be far-reaching and very diverse, making them difficult to monetise. If there was a reduction in industrial action, these effects could include (but are not limited to) a reduction in: parents forced to take time off work for childcare in the case of teachers' strike, commuters who take time off work in the case of transport strikes, or businesses who see a reduction in sales or a reduction in productivity due to transport strikes.

174. Due to the diversity, complexity and a lack of reliable data being available for these different costs, they cannot be measured in any accurate sense. They have therefore not been included as a monetised cost of strike action in this impact assessment. It is however, important to remember that these costs are associated with strike action, and would amount to an unspecified benefit in the case of reduced strike actions.

Non-monetised - Benefits from removal of requirement to take some action within 4-8 weeks

175. The removal of the requirement on a union to take some action within 4-8 weeks of securing a ballot mandate is likely to result in a small reduction in industrial action. This is based on the assumption that some action previously taken during this period was taken for the sole purpose of validating the mandate. Once this requirement is removed, it follows that there should be a small reduction in industrial action taken during this early period, as it will no longer be necessary to validate the mandate. This would benefit unions and their members, employers and wider society. This has been included as a non-monetised benefit due to a lack of available data needed to cost such effects.

176. No data is available on the amount of action (strike or otherwise) unions tend to take within this period, or how much of this action is solely to keep the mandate live. Given that the action does not have to be strike action (it can be industrial action short of a strike, such as an overtime ban), it is assumed that this decrease in disruption should be minimal as a proportion of all disruption attributable to industrial action each year.

Non-monetised - effects from the Increase in notice period for strike action required of unions from 7 to 14 days

177. The increase of notice period from 7 – 14 days should reduce costs for business and could increase benefits for business, unions and wider society. It could have a cost to workers taking industrial action if employers were able to use the additional notice to mitigate the potential disruption of the industrial action.

178. It could reduce costs for business by providing a longer period of time for businesses to make contingency arrangements in the event that strike action goes ahead. This longer period should increase the possibility of businesses being able to make more cost effective contingency arrangements. It could increase benefits for business, unions and wider society by providing a longer period for negotiations after a union has secured a ballot mandate, thereby maximising the possibility of the dispute being resolved without the need to resort to industrial action. We are unable to monetise any benefits arising as the impacts will depend on the specific cases where industrial action ballots have been successful, and there is a lack of data available.

Non-monetised - Costs and benefits from the requirement for unions to include more information on the ballot paper

179. The proposed requirement to provide more information on ballot papers about the areas of dispute, and the type of non-strike industrial action planned should benefit union members and employers. The extra clarity should help union members make a more informed decision during the voting process regarding the nature of the dispute and intended action.

180. We anticipate that the cost to unions of including more information on the ballot paper will be negligible. The unions will already know the information required, and will be able to add this easily to the ballot form.

181. It is possible that greater clarity on the ballot paper as to the nature of the dispute could affect voting behaviour, but we are not able to quantify this impact before the measure is in place.

Ongoing costs to unions of reporting details of industrial action in their annual returns

182. Trade unions will be required to provide information on each industrial action undertaken in the reporting period in their annual returns to the Certification Officer. The details required, set out in paragraph 162, are all readily available to unions, and we expect that it would be relatively straightforward for unions to compile this information and report it on an annual basis.

183. We have assumed that the staff producing the return to the Certification Officer will familiarise themselves with the new reporting requirements. This should help them in devising an approach to record the information required which they have available to facilitate the annual compiling of the return. We therefore assume it will take a day on average of a trade union official's time each year to provide the details of the specific industrial actions undertaken in the annual return to the Certification Officer.

184. As with the familiarisation costs, to get the annual costs per union we take the median hourly labour cost for an officer of non-government organisations (based on ASHE 2014 wages data uprated by 19.8% to take account of non-wage labour costs) and then multiply by 8 to reflect the hours in a working day. To get the total annual costs of the additional reporting, we multiply by 163, the total number of unions²³.

Table 32: Annual cost of complying with additional reporting requirements

Input	Cost estimates (2014)
Median hourly wage excluding overtime, for officers of non-government organisations	£11.42
Hourly labour cost	£13.68
Cost per union of reporting details of industrial action in annual returns	£109
Total cost for unions of complying with reporting requirements (to nearest £000)	£18,000

Risks and assumptions

185. The period between a successful strike ballot and strike action is generally used to continue negotiations between employer and union. Sometimes these negotiations can be complex and require substantial amounts of time in order to reach a resolution.

186. There are two possible and opposing effects of specifying that a ballot mandate expires after a period of 4 months. On the one hand, it may encourage unions to settle more disputes

²³ Not all unions will undertake industrial action in the reporting period, so for some the cost will be zero, however, some unions might be involved in multiple industrial actions in the year.

through strike action rather than negotiations, if they perceive 4 months to be too short a period in which to conclude negotiations. On the other hand, the requirement to be more specific about the nature of the trade dispute on the ballot paper not only enables union members to make informed choices about whether to support industrial action but, given that a copy of the voting paper is provided to the employer (see section 229 of the TULRCA), the employer should have greater clarity about the nature of the dispute, which should aid successful negotiations. Further, a union which secures a strong ballot mandate for specific types of industrial action within specific periods of time is in a good position to influence those negotiations, which in turn should result in less industrial action and strike action taking place.

Direct costs and benefits to business calculations

187. The monetised impacts in this document are the familiarisation costs and ongoing costs of additional reporting of details of industrial action, which are accrued by unions.
188. The best estimate of one-off familiarisation costs is £543,000, including £18,000 for familiarisation with the reporting requirements for details of industrial action.
189. There are ongoing annual costs of £18,000 for the reporting of details on industrial action undertaken in the unions' annual returns to the Certification Officer.
190. This translates to an EANCB of £0.08 million at 2014 prices based upon a present value from 2016.

Option 1C - Tackle the intimidation of non-striking workers

Problem under consideration

191. There is a detailed framework of civil and criminal law which governs picketing. In addition to this there are guidelines set out in the statutory Code of Practice on Picketing²⁴ (“the Code”) regarding how picketing should be conducted. In their current form these guidelines can be taken into account by a court, but are not themselves enforceable. Most picketing action taken by unions appears to adhere to the guidelines set out in the Code. However, despite the legal framework and the guidance, issues have arisen in recent years. There have been a number of allegations that intimidatory behaviour took place whilst picketing.
192. However, allegations of intimidatory behaviour have not been limited to picketing activities and there have been allegations of new forms of activity in order to further industrial disputes (so called ‘leverage tactics’). Such activity caused public and political concern and prompted the Carr Review²⁵.
193. The Carr Review considered submissions detailing alleged intimidatory behaviour in relation to picketing and protests linked to industrial disputes. Instances identified where pickets prevented non-striking employees from carrying out their work using more than informative persuasion. This included the misuse of social media in order to identify and intimidate non-striking workers and the use of threats, for example, ‘we know where you live’ which were allegedly sent to non-striking workers in attempts to deter them from working during any further industrial action.
194. In the majority of industrial disputes, pickets do follow the guidelines set out in the Code, and do not engage in intimidation. However, the media has reported that people not involved in a dispute can feel intimidated. The proposed changes therefore aim to improve compliance with the law during industrial action in a robust but balanced way.

Evidence gathered on intimidatory behaviour, the Carr review

195. Bruce Carr QC was commissioned by the Secretary of State for Business, Innovation and Skills and the Minister for the Cabinet Office to conduct an Independent Review into the Law Governing Industrial Disputes.
196. The origins of the Carr Review go back to October 2013 and the high profile industrial dispute between INEOS and Unite the Union (“Unite”) at the Grangemouth Chemicals and Refining plant. This was a complicated dispute, but a key feature of it was the alleged use of ‘inappropriate’ and ‘intimidatory’ tactics by Unite during that dispute, which was widely reported in the media at the time²⁶.
197. The Carr review included nine case studies. These case studies describe either a specific dispute or a series of related disputes (involving particular employers or sectors) where ‘extreme’ tactics are said to have been used. The information for these case studies has been gathered through direct contributions to the Review (primarily from employers or

²⁴ BIS, Code of Practice: Picketing, 1996
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249871/96-681-code-of-practice-picketing.pdf

²⁵ Bruce Carr, The Carr Report, October 2014, <https://carr-review.independent.gov.uk/wp-content/uploads/2014/10/Carr-Review-Final-Report.pdf> , <https://carr-review.independent.gov.uk/>

²⁶ See for example a report in the Daily Telegraph on 31 October

organisations representing employers) and through other sources readily available to the review, such as newspaper articles, YouTube videos or social media updates.

198. Below are some extracts from the published Carr review report containing alleged intimidation.

Disputes in London Underground Limited and Transport for London

199. Strikes affecting London Underground Limited (LUL) have taken place four times so far in 2014 (with another three called off), involving all the major transport unions – the RMT, TSSA, Unite and ASLEF. There have been continuing allegations of LUL employees carrying out ‘inappropriate’ and ‘intimidatory’ behaviour during industrial action, some of which has been the subject of court cases.
200. TfL has described the atmosphere and conduct of picket lines as sometimes being intimidating to non-striking staff and potentially customers. They cite the example of alcohol being consumed by a picket outside the Seven Sisters Depot. Pictures of the event are available on the ‘RMT London Calling’ website, although it is not clear from these pictures that alcohol was consumed²⁷.
201. TfL alleged that inappropriate behaviour towards colleagues is fairly common, and there a number of cases covered in the media. TfL’s submission described a case in 2014 in which “a member of staff was approached by a trade union activist as he entered the premises and was verbally abused in strong terms”. The Police attended this incident but there was insufficient evidence to charge the individual involved. Cases involving RMT members Mark Harding and Arwyn Thomas have a lot of media coverage – neither resulted in a conviction, but both give a sense of the atmosphere on picket lines and the strength of feeling on both sides²⁸.

Fire and Rescue Services disputes

202. The London Fire Brigade (LFB) submission suggests that more extreme tactics were used in 2010. The 2010 dispute seems to have been marked by ill-tempered confrontations on the picket line, exacerbated by contingency fire crews working out of LFB fire stations. This meant that it was more likely they would come into conflict with picketers outside of fire stations.
203. The YouTube clip called ‘*Firefighters run over by strike breakers*’, appears to show a picket line with a large number of people gathered around a fire engine²⁹. Another YouTube clip is called ‘*LFB Firefighters strike – Southwark FBU mass picket*’ and again shows a large

²⁷ RMT London Calling (23 April 2009) *RMT Drivers Strike for Justice* [online] Available: <http://www.rmtlondoncalling.org.uk/node/509> [Accessed: 18 September 2014]

²⁸ BBC News (22 June 2011) *Tube strike driver Arwyn Thomas unfairly dismissed* [online] Available: <http://www.bbc.co.uk/news/uk-england-london-13879563> [Accessed: 18 September 2014] and RMT London Calling (2 June 2014) *Mark Harding Not Guilty* [online] Available: <http://www.rmtlondoncalling.org.uk/mark> [Accessed: 18 September 2014]

²⁹ YouTube (Uploaded on 1 November 2010) *Firefighters run over by strike breakers* [Online] Available: http://www.youtube.com/watch?v=Zn2wfcy_gq4 [Accessed: 15 September 2014]

number of people listening to speeches made by FBU officials³⁰. It appears from these clips that picket lines during this dispute may not have followed the guidance contained in the Code of Practice on Picketing that states “pickets and their organisers should ensure that in general the number of pickets does not exceed six at any entrance to, or exit from, a workplace”³¹.

Cleaners’ disputes

204. Following a ballot in favour of strike action, IWGB members employed by Cofely at the University of London went out on strike from 27-28 November 2013, and the picket attempted to persuade people not to go to work. IWGB promoted this strike via the ‘3 Cosas’ website encouraging others to join them on the picket line: “There will be a carnival feel, with music, food and flags. Come along! Bring banners from your trade union, SU, or campaign.” This website shows a picture of the picket line on 27 November of about 50 people (it is unclear whether these were people on strike or other supporters), and IWGB report that as a consequence of the strike “Senate House library was completely closed, and many deliveries were turned away by the picket.” The Police are not reported to have intervened.

London Buses dispute

205. The strike on 22 June appeared to include picketing outside bus depots (for example, a YouTube video shows around 30 picketers outside Arriva’s South Croydon depot)³². According to Unite, bus workers in around 70 garages took part in the industrial action³³.

206. The single day of strike action seems to have been relatively peaceful, although the numbers of picketers on the picket line seems to have frequently gone over the six recommended in the Code of Practice on Picketing.

Evidence gathered on intimidatory behaviour, the Government consultation

207. In July 2015 Government launched its consultation on tackling intimidation of non-striking workers. The consultation closed on 9th September 2015 and a government response document was published in November³⁴. Below is an extract from the consultation responses. We have not substantiated the claims made by respondents to the consultation.

³⁰ YouTube (Uploaded on 1 November 2010) *LFB Firefighters strike – Southwark FBU mass picket* [Online] Available: <http://www.youtube.com/watch?v=7GdQagtVvkg> [Accessed 15 September 2014]

³¹ UK Government, (no date), *Code of Practice: Picketing* [Online] Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249871/96-681-code-of-practice-picketing.pdf [Accessed: 15 September 2014]

³² YouTube uploaded by ‘Shaleels’ (22 June 2012), *Arriva Bus Strike South Croydon South London* [Online] Available: <http://www.youtube.com/watch?v=MzQsyMH0dLc> [accessed 22 September 2014]

³³ UnitetheUnion (YouTube) (22 June 2012), *London Bus Strike Solid* [Online] Available: <http://www.youtube.com/watch?v=lbOmrOiphvg> [accessed 22 September 2014]

³⁴ Department for Business, Innovation and Skills, Trade Union Bill: Government response to the consultation on tackling intimidation of non-striking workers, November 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/473515/BIS-15-621-government-response-document-to-tackling-intimidation-consultation.pdf

A union submitted the following to the department as part of their consultation response:

208. Although picketing is already subject to statute and a statutory code of practice our experiences suggest that, in practice, the current measures are not particularly effective where small groups of pickets and low-level intimidation is involved.
209. Where there is no imminent threat of violence or other acts of public disorder, the police service can be reluctant to intervene to remove pickets; even when picketing is technically 'unlawful, for example at mobilising locations such as Territorial Army bases away from normal workplaces.
210. We believe that it would be helpful for unions undertaking strike action to set out where pickets will be stationed as this would allow action to be taken where picketing takes place at other locations or where planned picketing is not appropriate or lawful.
211. We have no objection to peaceful persuasion being practiced at normal workplaces but we would support the restriction of picket size to 6 people as larger numbers would certainly feel intimidatory to anyone attempting to enter a place of work. The practice of picketing may well be outdated since people who are not members of a trade union that has lawfully balloted for strike action may be deemed to be in breach of contract if they did not report for work.

Background

212. Offences committed during picketing in Great Britain are already governed by a detailed framework of civil and criminal law. This is further guided by a statutory Code of Practice on Picketing (the "Code") which was last updated in 1992. The current rules are intended to help ensure picketing is legal and peaceful without intimidating or interfering with those who want to work.
213. The current legislative requirements for a lawful picket are set out in section 220 of TULRCA. A person can peacefully obtain or communicate information, or they can peacefully persuade any person to work or abstain from working, provided that :
- There is a trade dispute - as defined in TULRCA;
 - The picketer is at or near his workplace; or
 - The picketer is a dismissed employee who pickets his former workplace; or
 - The picketer is a union official who accompanies a person whom he represents and that person is at or near his workplace.
214. The Picketing Code of Practice provides practical guidance on picketing in trade disputes for those contemplating, organising or taking part in a picket or activities associated with picketing. It also provides information and guidance on the legal framework that applies to picketing, for example, the Code explains (among other things) that pickets can use 'peaceful persuasion' in attempting to stop others from working. It also explains the law which requires that a picket can only be conducted at or near the actual workplace of those picketing.
215. Section F of the Code sets out guidelines regarding the organisation of pickets. This includes the requirement for the appointment of a picket supervisor by a trade union. The supervisor's

role is to ensure the picket is conducted peacefully, lawfully and that those who want to cross the picket line can do so without being intimidated.

216. The Code itself imposes no legal obligations and failure to observe it does not by itself render anyone liable to proceedings. However, provisions of the Code are admissible in evidence and taken into account in proceedings before a court, where considered relevant. This Bill will not impede the ability of employers to seek injunctions in these cases.

Rationale for intervention

217. Strike action is the lawful stoppage of work by workers (contingent on certain conditions being met), and is intended to temporarily disrupt firm output. The intended disruptions are caused by workers ceasing work for a pre-determined amount of time. These days, strike action is often accompanied by picketing or other forms of protest.
218. Unionised workers of most workplaces have the choice to participate in strikes and pickets, or to continue working. In the cases cited above (by the Carr Review, by respondents to the consultation, and by the media), it is alleged that workers who choose not to strike are at times harassed or intimidated by striking workers. These workers need to be protected from intimidation if they choose not to participate in industrial action.

Policy objectives

219. The Bill also proposes to introduce new requirements on unions when they are picketing during industrial action, with the objective of ensuring that picketing is lawful and peaceful. The guidelines in Section F of the Code of Conduct on Picketing are currently not legally binding. The Bill enshrines some key provisions in legislation; thereby providing greater union accountability to ensure that those not wishing to participate in strike action can do so without fear of intimidation. It will further ensure that the way picketing is conducted is consistent.

Policy options

220. The Bill includes a provision inserting key aspects of Section F of the current Code into TULRCA, including the appointment by the union of a picketing supervisor who must be readily contactable by the union and police, and able to attend at short notice. The union must provide the supervisor with a letter of approval for the picketing activity, and the supervisor must be easily identifiable. The supervisor must also be familiar with the Code on Picketing. Failure to comply with these new requirements means that employers could apply to the courts for an injunction and seek damages.

Monetised and non-monetised costs and benefits

Benefits to employers (non-monetised)

221. There will be a benefit to employers: an appointed picket supervisor will result in greater clarity for the employer when they need to contact the person responsible for the conduct of pickets and will improve union accountability. Where the union has failed to comply with the

new requirements, the employer may be able to apply to the courts for an injunction though a court's ruling should take into account the impact on other rights, such as right to assemble and freedom of expression.

222. Whilst most picketing appears to be lawful and peaceful, the Carr review reports that some intimidation tactics had at times been used during pickets. The prevention of these incidents should have benefits for firm output during picketing action. This benefit has not been monetised in the impact assessment. This is due to a lack of reliable data available on how prevalent this behaviour is, or the impact of picketing on firm output; without which it is difficult to calculate any valid monetised benefit for this.

Benefits to non-striking workers and other individuals (non-monetised)

223. Submissions to the Carr Review also gave examples of workers allegedly being threatened where they refused to take part in strike action or crossed a picket line.
224. In response to the Government consultation on tackling intimidation of non-striking workers, 45% of respondents reported incidents of observed intimidatory behaviour either whilst on the picket line or more generally as a result of the strike action. Responses showed a range of different intimidatory behaviour experienced by non-striking and striking union members, non-union members and others. One union which canvassed its membership found that over half of its members had experienced such intimidation of its non-striking union members.
225. The requirement to appoint a picket supervisor, who is responsible for the conduct of the pickets should enable those who do wish to work to enter the workplace without fear of intimidation. This has also not been monetised due to the difficulty around quantifying increases in well-being.

Benefits to government (non-monetised)

226. It is also expected that the government should benefit due to the police receiving advance notice of the appointed picket supervisor. This will result in a clear contact person responsible for the conduct of pickets and improve union accountability. This may result in reduced costs as fewer police resources will be needed for policing workplaces and other sites during strike action. Again this benefit is not monetised in this impact assessment due to difficulties assessing the current cost of policing strike-sites and by how much this need would be reduced under the rules.

Minor costs to unions (non-monetised)

227. This measure will make certain elements of the Code a statutory obligation. Where unions already follow the Code, there will be no additional costs to them. Unions will be required to provide a letter of approval for the picketing activity to the picket supervisor and the supervisor must be easily recognised. It is not possible to robustly quantify the cost of providing the letter and making the supervisor easily recognisable for trade unions that are not currently doing this. The ONS collect information about strikes but not actual picket numbers. In theory one strike could have multiple picket sites. This means estimating the total number of pickets is difficult. As the current framework is a voluntary code there are no strong reasons to record information on compliance with the code so apportioning non-compliant unions is not possible. Both of these factors make it difficult to robustly quantify the population levels (number of pickets affected). Evidence from Trade Union stakeholders as part of the Government consultation process indicated a good level of compliance with the

current code. This suggests that additional costs associated to moving to a statutory code will be small. The current code requires all picket line members to identify themselves whereas the statutory code will only require the picket supervisor to identify themselves, in theory making the new code less costly. The letter issued will not be long in length and once issued by a union could be standardised for future use keeping the costs low. By way of illustration a single yellow jacket to make supervisors visible costs £1.99³⁵. This again indicates a low level of costs to make supervisors recognisable. In summary, it is not possible to quantify any additional costs to unions as a result of this but we would expect them to be very small.

Direct costs and benefits to business calculations

228. The only monetised impacts in this document are the familiarisation costs, which are accrued entirely by unions. The best estimate of one-off familiarisation costs is £525,000. This translates to an EANCB of £0.06m at 2014 prices.

³⁵ http://www.amazon.co.uk/Blackrock-Mens-Hi-Vis-Waistcoat-XXXX-Large/dp/B0055RU27O/ref=pd_sbs_193_5?ie=UTF8&refRID=0QF2JBC2A90HNZKXTHNV&dpID=41YghP02rkL&dpSrc=sims&preST=_AC_UL200_SR146%2C200_

Option 1D - Political funds

Problem under consideration

229. Trade unions and unincorporated employer associations that have passed a political resolution are able to run political funds. The political fund can be used to finance party political activities or other political activity. Currently, when there has been a successful ballot on a political resolution, the union or employer association must write to each of its members setting out the rules of the political fund, and informing them that they can opt-out of the fund (and letting them know where an opt-out form can be obtained). Also, all new members must be informed, on joining, about the political fund and their right to opt out. Union or employer association members are also able to opt out of the political fund at any time.
230. However, if the union or employer association member does not actively notify the union that they do not wish to contribute to the fund, they will automatically contribute to the fund. The union or employer association will not have to remind them that they are contributing and have a right not to until the next ballot on the political resolution, which must happen every ten years.
231. Union or employer association members who are automatically opted-in to the political fund will make a contribution to this fund. This contribution can be taken as a proportion of their union subscription. This may mean that some members are contributing to a political fund that they do not actively support, due to a potential lack of awareness among members about their contribution to the fund (there is no statutory requirement for unions or employer associations to communicate with existing members about contributing to the political fund apart from in the three months following the political resolution ballot). The new measures will ensure members make an active choice to contribute to the political fund.
232. Currently, where trade unions and employer associations have a political fund they can be asked to provide information about their political expenditure by the Certification Officer. However, there is inconsistency between the information provided in union returns. Some unions provide few details of their political fund expenditure and simply categorise all political fund expenditure as connected to 'administration expenses in connection with political objects' or 'expenses in connection with section 82' of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA).

Background

233. Currently, TULRCA requires trade unions or employer associations with a political fund to hold a vote on the political resolution every ten years. The vote must be held via a secret postal ballot overseen by an independent scrutineer, with the electorate comprising the membership of the union. The union or employer association must send a copy of the scrutineer's report to all its members within three months of receipt of the report.
234. In Great Britain, members are automatically included as contributors to the political fund, unless they notify their union that they no longer wish to contribute. Unions and employer associations are obliged to make available statutory opt-out forms, and all new members will be given access to an opt-out form. There is currently no regular re-consultation of members on whether they wish to contribute to the fund or not. In Northern Ireland, union members have to actively opt-in to contribute to the political fund, though there is no requirement for unions or employer associations to regularly ask individual members whether they wish to contribute.

235. According to the Annual Report of the Certification Officer, 2014-15, there were 25 trade unions with political funds at the end of 2013-14³⁶. The Certification Officer does not report that there are any employer associations with an existing political fund.
236. The Certification Officer's 2014-15 report showed that there were around 4,950,000 trade union members contributing to political funds, with 80% being in the six largest (on the basis of contributing members): Unison, Unite, GMB, USDAW, NUT and NASUWT. The report sets out that for the period 2013-14, the trade union political funds had an income of £24.0m, spent £19.9m, and at the end of the period there was £29.1m remaining in the funds including income gained in previous years.

Rationale for intervention

237. Currently, members of trade unions or employer associations based in Great Britain with political funds automatically contribute to the political fund unless they notify their union that they do not wish to. This contribution can be taken as a proportion of their union subscription. This may mean that some members are contributing to a political fund that they do not actively support, due to a potential lack of awareness among members about their contribution to the fund (as noted above, unions or employer associations are only required to communicate with existing members about contributing to the political fund in the three months following the political resolution ballot). Unions and employer associations with political funds are required to provide their political fund expenditure in their annual returns to the Certification Officer. As we have said, there is inconsistency as to the level of detail of information provided in union returns, with some unions providing little detail of their political fund expenditure. The lack of information may make it difficult for members to decide whether they support the political fund, and whether they wish to contribute.

Policy objectives

238. This measure will ensure that only those members of trade unions and employer associations with a political fund who want to contribute to the fund do so. The Bill introduces a transparent opt-in process requiring members to opt into a political fund, and to refresh that decision every 5 years to ensure that the contribution remains a positive decision. To ensure unions meet a minimum level of transparency on the use of political funds and to reduce the information deficit on how trade unions and employer associations make use of the political funds, we will require unions and employer associations spending more than £2,000 per year on political expenditure to report in greater detail on how the funds are spent.

Policy options

239. Provisions in the Bill will require that trade union or employer association members will need to actively opt-into their union's or employer association's political fund by way of a written notice to the union or employer association.
240. For unions or employer associations with existing political funds, the new provisions will apply to all members from commencement with a 3 month transitional provision for members contributing under the current system. At the end of the 3 month period, unless existing contributing members have given written notice to 'opt-in' to the political fund, the union will not be able to collect monies from those members.

³⁶ Certification Officer, Annual Report 2014-15, p34-35. The report provides information for 2013/14 based on trade unions' annual returns received unions in 2014/15. Most returns refer to a period with end date 31st December 2013.

241. 5 years and 3 months after commencement (the first renewal date) members must renew their decision to contribute to a political fund. 5 years after the first renewal date members must again refresh their decision to contribute, and so on.
242. To renew an opt-in decision, members must give notice in writing in the three months before the 5 year renewal date. Should a member notify a union six months before a 5 year renewal date that they want to contribute, they are not required to renew this decision again at the renewal date. A member can cancel their 'opt-in' by giving written notice at any point.
243. The Bill also proposes more detailed reporting of political fund expenditure. Where a trade union or employer association spends more than £2,000³⁷ from its political fund in a year, it will need to set out in its annual return to the Certification Officer details of who the money is paid to, the amount paid and the nature of the expenditure. The nature of the spend is to be described by reference to the six categories of spending, which are currently set out in the existing provisions of TULRCA (section 71), in other words money for:
- Contributions to the funds of a political party (including payments of expenses incurred),
 - Provision of any service or property for use by or on behalf of a political party,
 - The registration of electors, the candidature of a person or the selection of a candidate (including the costs of ballots held by unions) for political office,
 - The maintenance of any holder of political office,
 - The holding of any conference or meeting by or on behalf of a political party or any meeting the main purpose of which is business connected with a political party,
 - On the production, publication or distribution of any literature, document or film etc with the main purpose of persuading people to vote or not to vote for a political party or candidate.

Monetised and non-monetised costs and benefits

Transition costs

244. The transition costs relating to the proposed change to the operation of political funds affecting trade unions are set out in the section on transition costs that covers all aspects of the Bill.

³⁷ Companies which make political donations or political expenditure exceeding £2,000 in a financial year must provide details of the political donation or expenditure in their Director's Report.

Ongoing Costs and benefits

Cost to trade unions of asking members to opt-in

245. If members wish to opt-in to contributing to the political fund, they will have to send a written notice to the union. As trade unions with political funds are likely to want to maximise the number of contributing members, we assume that they will contact them in writing about opting-in to the political fund (potentially providing a standardised opt-in form which members could complete). We also assume that the unions will provide a pre-paid response envelope for the opt-in decision to be returned as the decision to opt in must be sent to the union by post, though it can also be sent in person or through an authorised agent. Trade unions will need to repeat this process every five years, as the legislation sets out that the active opting-in to the political fund will lapse every five years.
246. Over the past ten years there has been some change in the number of unions with political funds. The Certification Officer's report for 2003/04 shows that there were 33 trade unions with political funds, compared to 25 at the end of 2013/14³⁸. Some of this change has been due to previous mergers (such as the merger of Amicus and TGWU to form Unite in 2007). Some unions have also set up new political funds during this period, while others have closed their political funds. However, we have assumed that the unions currently with political funds will maintain their political funds throughout the period covered by the impact assessment, and that no new political funds will be set up – as it is not feasible to predict any changes in which unions will have political funds. Our estimates are therefore based on the information on existing political funds as set out in the table below.

³⁸ Certification Officer, Annual Reports 2003-04 and 2014-15.

Table 33. Trade unions with political funds, and number of members contributing or not contributing (including those exempt), 2013-14

Trade Union	number of members contributing to a <u>political fund</u>	number of members not contributing to a <u>political fund</u>	Of which number of members exempt from contributing to <u>political fund</u>
Associated Society of Locomotive Engineers and Firemen	16,806	2,751	585
Association of Revenue and Customs	2,089	379	0
Bakers Food and Allied Workers Union	19,569	927	0
Broadcasting Entertainment Cinematograph and Theatre Union	22,787	619	146
Communication Workers Union	168,186	33,543	23,288
Community	24,091	2,678	2,273
Educational Institute of Scotland	44,869	9,711	6,259
Fire Brigades Union	32,624	7,359	6,339
GMB	593,276	23,788	23,788
Musicians Union	26,538	4,180	3,932
National Association of Colliery Overmen, Deputies and Shotfirers	231	235	0
National Association of Schoolmasters Union of Woman Teachers	256,318	76,905	1
National Union of Mineworkers	1,476	83	51
National Union of Rail Maritime and Transport Workers	71,668	8,437	254
National Union of Teachers	328,670	58,940	2,159
POA	30,662	468	4
Prospect	102,597	13,039	3,239
Public and Commercial Services Union	233,345	14,000	469
Transport Salaried Staffs Association	20,432	1,294	1,119
Union of Construction Allied Trades and Technicians	66,211	20,772	12,927
Union of Shop Distributive and Allied Workers	413,584	19,818	19,818
UNISON: The Public Service Union	1,193,255	89,305	8,624
Unite the Union	1,187,023	218,048	39,466
Unity	3,631	275	209
University and College Union	94,668	11,620	8,814
Total	4,954,606	619,174	163,764

247. Current Royal Mail prices for business postage range from 27.2p to 29.4p for 2nd class post that is unsorted when delivered to the post office, depending on the number of letters sent³⁹. We assume that soon after commencement trade unions will send the letter asking members to contract in to the political fund only to those currently contracted in, as the other members have already actively made the choice to contract out or belong to a category of membership which does not contribute to the political fund according to union rules. For the postage immediately following commencement of the legislation, we estimate the following costs for trade unions with political funds.

Table 34 Cost of postage of letters asking members to contract-in, following commencement

Number of members in union contributing to political fund	Number of contributing members	Cost of 2nd class unsorted post per letter	Total cost of postage (£)
Less than 1,000	231	29.4p	68
Between 1,000 and 2,490	3,565	29.0p	1,034
Between 2,500 and 9,999	3,631	28.4p	1,031
Between 10,000 and 24,999	103,685	27.8p	28,824
25,000 or more	4,843,494	27.2p	1,317,430
Total	4,954,606		1,348,388

248. The Royal Mail also offer a freepost response service at 31p per return letter posted. The latest available figures (for 2013-14) show that, in Great Britain, where automatic opt-in to trade union political funds operates, around 89% of members of trade unions with political funds contribute to the fund. This is up from 85% in the previous year.

249. In Northern Ireland, where they operate an opt-in system like the one proposed, around 33% of members of GB trade unions with political funds contribute to the funds. However, it is not clear that by switching to an opt-in arrangement for members of trade unions who are based in Great Britain there will be a similar decline in the proportion contributing. All unions with political funds in Northern Ireland operate across the UK, and they are likely to try and maintain a high contribution rate in Great Britain, which represents the core of their membership.

250. We have considered evidence of other types of scheme that involve active choices and automatic defaults. We did not find any example that was similar to the situation with political funds, where individuals make a contribution that funds collective expenditure on political activity in the individuals' interests. Primarily the examples we were able to find relate to environmental, pension or health policies. Environmental examples included interventions such as getting individuals to opt-in to make sustainable lifestyle changes⁴⁰, where active

³⁹ Royal Mail Price Guide, Advertising Mail (including Sustainable), Business Mail, Publishing Mail, Door to Door, Response Services and Inbound Mail Services, January 2015

⁴⁰ Lockhorst, Werner, Staats, Van Dijk and Gale, Commitment and Behaviour Change: A meta-analysis and critical review of commitment making strategies in environmental research, Environment and Behaviour 45(1) 3-34, SAGE Publications 2013.

participation is a new intervention, rather than a change from automatic participation. Pension auto-enrolment, for instance the requirement for UK employers to automatically enrol eligible employees into pension schemes, being phased in from October 2012⁴¹, is a move in the opposite direction to the political fund reforms, as the individuals affected would have had to actively seek pensions provision if they were interested previously. Similarly, a key health example is the consideration by the Organ Donation Taskforce of an active opt-out system for organ donation⁴², which suggested that adopting a presumed consent system for organ donation did not explain all the variation between donation rates in different countries, and identified positives and negatives of moving to a presumed consent position in this particular area.

251. There are a number of potential behavioural responses that could impact on the level of contributions to political funds after the Bill reforms. There will be greater onus on members to take action so that they continue to contribute to a political fund, although that can be facilitated in the way a union seeks responses. As with the discussion on ballot thresholds, we would also expect behavioural responses from unions to increase the persuasiveness and communication of arguments to members to sustain their contributions. Ultimately the demographics and motivations of individual members will also determine contribution levels. These are likely to vary over time but will drive the longer term coverage and level of contribution rates. Most recently contribution rates have risen (see below). Overall, we do not think that the net behavioural responses are more likely to lead to an assumption of a decrease rather than an increase in contribution levels.
252. We therefore calculate our estimate using the current contribution rates in Great Britain .This reduces the risk of underestimating the costs incurred by trade unions in implementing processes to comply with the measure. We do not have reliable data enabling us to estimate a change in contribution rates which may occur in Great Britain after the introduction of this measure. We believe the closer, most accurate and therefore best estimate for the costs incurred by trade unions is provided using the current Great Britain contribution rates.
253. We have carried out some sensitivity analysis (see below) that considers what the impact on trade union costs would be if there was some variation in the numbers contributing.
254. Based on the 4,954,606 members of unions with political funds who contribute, as set out above, and the cost of returned post of 31p a letter returned, we estimate the following costs to unions of arranging freepost responses.

Table 35: Estimated cost to unions of paying for freepost returns for contributing members, following commencement

Percentage contributing	89%
Number of responses	4,954,606
Cost of freepost responses	£1,536,000

⁴¹ The Pensions Advisory Service, Pensions Basics: Automatic enrolment, <http://www.pensionsadvisoryservice.org.uk/about-pensions/pensions-basics/automatic-enrolment> (Accessed 14 October 2015)

⁴² The Organ Donation Taskforce, The potential impact of an opt out system for organ donation in the UK, 2008

255. As set out above, the members' actively opting-in to contributing to the political funds will lapse five years after the opt-in arrangement comes into force three months after the commencement of the proposed policy. Trade unions with political funds will therefore have to repeat their mailing out to members who at that stage still contribute. This will give those members the chance to re-affirm their willingness to contract in to contributing to the political fund. Evidence from Northern Ireland, where opt-in arrangements operate without lapsing after a certain time period, suggests that the numbers actively opting-in has remained stable over time. Comparing data for the 13 trade unions that had a political fund for their Northern Ireland members in both 2009 and 2013, there appears to be a marginal increase in the proportion of members who have opted-in to contributing. Similarly, in Great Britain, the proportions of union members contributing have remained relatively stable in recent years, with the number and proportion contributing in 2013-14 rising compared to 2012-13⁴³. We therefore assume that there is no attrition in political fund contribution rates based on the ongoing need to opt-in.

256. Therefore, our estimates above remain unchanged. We assume no change in prices or union membership numbers, since we cannot forecast changes in postage costs or union membership. The calculation of Net Present Value and the Estimated Net Cost to Business accounts for inflation, and so as elsewhere in this IA we assume constant prices over time. We therefore simply estimate a repetition of the same costs incurred on commencement, but after 5 years.

Cost of postage materials

257. Trade unions will also face costs for the additional material they would need for the postage. Evidence from internet searches⁴⁴ suggests that bulk purchase of envelopes and A4 paper would enable unions to obtain envelopes at around 1.5 pence each, and A4 paper at around 0.8 pence a sheet. We assume that the correspondence to each contributing member consisted of two envelopes (one to return the written notice) and two sheets of paper (one to provide an explanation, one to provide a written notice to complete). As there are 4,954,606 contributors to political funds, the estimated cost of materials would be (to the nearest £ thousand):

$$4,954,606 \times 0.015 \times 2 + 4,954,606 \times 0.008 \times 2 = \pounds 149,000 + \pounds 79,000 = \pounds 228,000$$

258. This cost would occur both following commencement, and five years following commencement.

⁴³ The figures collated by the Certification Officer show the proportion contributing at around 89% to 93% between 2002-03 to 2005-06, then between 73% and 77% (down because of a change in how Unison measured the numbers contributing) in the years 2006-07 to 2011-12, then rising to 85% in 2012-13 (as Unison revised its method of measuring the numbers contributing) and 89% in 2013-14.

⁴⁴ For envelope costs <https://www.google.co.uk/#q=bulk+purchase+of+envelopes> suggests it is possible to get 1,000 envelopes for £15.11, around 1.5p per envelope – for A4 paper, the suggested costs are £19.33 for 2,500 sheets <https://www.google.co.uk/#q=bulk+purchase+of+writing+paper>

Total costs of postage of opt-in forms and return of completed forms

259. Union members wishing to contribute to a political fund will incur a time cost in posting the reply back to the union. Since we expect this to be very small and in the interests of proportionality, we have not monetised this.
260. The total costs to unions with political funds of corresponding with members to encourage contributing to political funds, and the cost of the return postage, is summarised below. As described above, there is both the initial round of correspondence following the commencement of the proposed reform of political funds, and the second round taking place five years after the first.

Table 36. Summary of cost to unions of writing to members encouraging contributing and receiving posted written notices

Cost category	Best estimate
Following commencement	
Cost of writing to members	£1,348,000
Cost of return of written notices	£1,536,000
Cost of materials	£228,000
Five years after commencement	
Cost of writing to members	£1,348,000
Cost of return of written notices	£1,536,000
Cost of materials	£228,000

Cost of additional trade union administration

261. Trade unions with political funds currently have to maintain membership records that show whether the member contributes to the political fund. However, the policy will introduce two periods, one immediately after commencement, and one five years later, where unions with political funds will have to post correspondence to their members contributing to the funds, and process a number of written notices of members wishing to contribute to the political fund. This will have some additional cost to trade unions. Unions with political funds vary substantially in membership size, so there will be some difference in the extent of additional administration required to process the correspondence and returned written notices.
262. As with the familiarisation costs, to get the costs per union for additional administration following commencement we take the median hourly labour cost for an officer of non-government organisations (based on ASHE 2014 wages data updated by 19.8% to take account of non-wage labour costs). We allow 30 seconds for the union administrator to print and envelope each item of correspondence. Potentially, this could be done a lot quicker if unions have access to postal technology available to mechanically print, and stuff and seal envelopes. We similarly allow 30 seconds for the union administrator to handle each returned envelope with a written notice. We assume this would be a relatively straightforward task, and believe this assumption is reasonable so that our analysis remains proportionate.

263. We have estimated above that unions with political funds will need to process returns for 89% of their members. This constitutes 4,954,606 responses. Allowing 30 seconds for each response yields approximately 41,300 hours. We multiply this by the hourly labour cost to estimate the cost per round of written notice returns. Over the ten year period covered by this impact assessment, there will be two rounds of written notice returns.

Table 37: Cost of additional administration due to processing of written notices, needed twice within a 10 year period

Labour cost	
Median hourly wage excluding over time, for officers of non-government organisations	£11.42
Hourly labour cost	£13.68
Administration cost of posting correspondence	
Total number of hours required across all unions for one round of postage	41,300
Total cost for unions of additional administration for one round of postage	£565,000
Total administrative cost of two rounds of postage	£1,130,000
Administration cost for handling returned written notices	
Total number of hours required across all unions for one round of returns	41,300
Total cost for unions of additional administration for one round of returns	£565,000
Total cost for unions of additional administration (two rounds)	£1,130,000
Total cost of additional administration	
Total cost for unions of one round of additional administration	£1,130,000
Overall total cost of additional administration (two rounds)	£2,260,000

Sensitivity analysis

264. The cost benefit analysis assumes that the number (and proportion) of members of unions with political funds contributing to fund remains unchanged from the latest number of 4,954,606 (89%). However, it is possible that there could be a change in participation following the move to automatic exemption from contributing (see arguments above). For instance, some previously contributing union members might not actively choose to opt-in to continue to contribute, causing a fall in numbers contributing. Alternatively, change in union membership demographics might cause the numbers contributing to rise: In Northern Ireland, the numbers contributing rose by around 1,000 on the year to 32,718 in 2013-14, while in Great Britain the numbers contributing rose by around 163,000 on the year to 2013/14⁴⁵. This rise was accompanied by declines in the numbers of members not eligible to contribute, and of those who had contracted-out. We have carried out some sensitivity analysis to estimate the effect on the cost to unions if there were changes in the proportions contributing.

⁴⁵ Northern Ireland Certification Officer and the Certification Officer annual reports.

Sensitivity analysis

This analysis considers the impact on union ongoing (postage and administrative) costs of changes in the proportions contributing to political funds.

The scenarios we consider are drops in the proportion of the membership contributing of 5 percentage points, to 84%, 10 percentage points to 79% and 15 percentage points to 74%.

We also consider the impact on union costs if changes to trade union membership demographics had led to an increase in the proportion of members contributing of 5 percentage points, to 94% at commencement.

As with our monetised estimate, we assume that total membership remains the same, that unions only write to contributing members, and that the proportion contributing remains stable five years after commencement.

For the three scenarios where participation rates drop, the initial cost of unions writing to members remains unchanged from the monetised estimate, at £1,348,000. The cost of postage materials also remains unchanged at £228,000.

Where we are estimating a fall in the proportion contributing, then the cost of the return of written notices following commencement would fall, as there would be fewer responses at the cost of 31 pence per letter.

Table A: Cost to unions of return of written notices following commencement

Proportions contributing	74%	79%	84%
Cost of return of written notices	£1,279,000	£1,365,000	£1,451,000
Difference from monetised estimate	-£257,000	-£171,000	-£85,000

Five years after commencement, unions with political funds would have to get contributing members to re-affirm their opt-in. This would involve writing to contributing members inviting them to re-submit a written notice opting in to the fund. In the three scenarios being tested above, the proportions opting-in have fallen to 74%, 79% and 84% respectively. As we assume that unions will write to those opting-in to ask them to renew their opt-in, the costs to unions of this round of correspondence, and the cost of postage materials, will fall relative to the monetised estimate.

Table B: Cost to unions of writing to contributing members on renewing opt-in five years after commencement

Proportions contributing	74%	79%	84%
Cost of writing to contributing members 5 years after commencement	£1,123,000	£1,198,000	£1,274,000
Difference from monetised estimate	-£226,000	-£150,000	-£74,000
Cost of postage material 5 years after commencement	£190,000	£203,000	£215,000
Difference from monetised estimate	-£38,000	-25,000	-13,000

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We assume, as with the monetised estimate, that the proportion opting-in will remain stable at this stage. Therefore, the estimated cost of the return of written notices five years after commencement is the same as that at the time of commencement.

Table C: Cost to unions of return of written notices 5 years after commencement

Proportions contributing	74%	79%	84%
Cost of return of written notices	£1,279,000	£1,365,000	£1,451,000
Difference from monetised estimate	-£257,000	-£171,000	-£85,000

In the scenarios exemplifying the impacts on union costs of a fall in the proportions contributing, there would also be an effect on the cost of administering the returned written notices, and also an effect on the administrative cost for the additional postage five years following commencement. These costs are based on the labour cost of a union officer, estimated at £13.68 an hour, and the time taken to process a written notice, estimated at 30 seconds per response.

Table D: Cost to unions of administering returned written notices opting-in

Proportions contributing	74%	79%	84%
Cost of administration for first round of posting	£565,000	£565,000	£565,000
Cost of administration for posting 5-years after commencement	£470,000	£502,000	£534,000
Cost of administration – 2 rounds of posting	£1,035,000	£1,067,000	£1,099,000
Cost of administration for one round of returns	£470,000	£502,000	£534,000
Total costs of administration for handling returns (2 rounds in 10 year period)	£940,000	£1,004,000	£1,068,000
Total costs of administration (2 rounds)	£1,975,000	£2,071,000	£2,167,000
Difference from monetised estimate	-£285,000	-£189,000	-£93,000

Overall, we estimate the following falls over the ten year period in ongoing postal and administrative costs resulting from the proposed change to the operation of political funds under the scenarios where the proportions contributing to political funds fell to 74%, 79% or 84%.

Table E: Fall in ongoing costs to unions from postage and administration of written returns under the scenarios of falls in the proportions contributing to 74%, 79% or 84%

Proportions contributing	74%	79%	84%
Overall cost of postage and administration of returned written notices	£7,422,000	£7,779,000	£8,135,000
Difference from monetised estimate	-£1,062,000	-£705,000	-£349,000

We have also tested the impact on trade union's ongoing postage and administration costs if at commencement, perhaps due to changes in trade union membership demographics, the proportion of members contributing to their union's political funds has risen to 94%.

Here we follow the approach used in the main estimate:

- overall membership levels remain the same at 5,574,000 in unions with political funds.
- the numbers contributing (at 94%, that is 5,239,000) remains stable over the period.

The higher numbers contributing will increase the cost of writing to contributing members asking them to opt-in, at both the commencement stage and five years following commencement, to £1,425,000 each time, up £77,000 from the figure for the main estimate.

The cost of postage materials will be higher, at £241,000 each time, up £12,000 from the figure in the main estimate.

The postal cost of the returned written notices will also be higher at both commencement and five years following commencement. At 31p per response, based on around 5,239,000 returned forms, the cost of returns will be £1,624,000 each time, up £88,000 from the figure in the main estimate.

The cost of administering the written notices at both commencement and five years after commencement will rise, on account of the higher number of returns, to £597,000, up £32,000 from the main estimate.

Overall, under the scenario of 94% of members of relevant unions contributing to union political funds at commencement, the costs to unions of postage and administering written returns relative to the main estimate are as follows.

	<u>94% contributing</u>	<u>Difference from main estimate</u>
Following commencement		
Cost of writing to members	£1,425,000	+£77,000
Cost of return of written notices	£1,624,000	+£88,000
Cost of postage materials	£241,000	+£13,000
Cost of additional administration	1,195,000	+£65,000
Five years after commencement		
Cost of writing to members	£1,425,000	+£77,000
Cost of return of written notices	£1,624,000	+£88,000
Cost of postage materials	£241,000	+£13,000
Cost of additional administration	£1,195,000	+£65,000
Overall for 10 year period	£8,970,000	+£486,000

Ongoing, annual cost of additional reporting requirements

265. Trade unions with political funds will be required to provide a more detailed breakdown of expenditure from their political fund if they spend more than £2,000 in the reporting year. The latest published data shows that all unions with a political fund have the resources to spend more than £2,000 from their political fund, although two of those still operating did not do so. As we cannot anticipate the years in which unions will not spend more than £2,000 from their political fund, we assume that all unions with a political fund will spend more than £2,000 each year.
266. We have assumed that the staff producing the return to the Certification Officer will familiarise themselves with the new reporting requirements. This should help them in allocating items of expenditure in the accounts to the various specified categories to be reported on when compiling the return. We therefore assume it will take a day of a trade union official's time each year to provide the details of the specific expenditure from the political fund in the annual return to the Certification Officer, as required under the policy proposal. We assume that unions will keep records of their expenditure, and so this process would simply require the collation of already existing data.
267. As with the familiarisation costs, to get the annual costs per union we take the median hourly labour cost for an officer of non-government organisations (based on ASHE 2014 wages data updated by 19.8% to take account of non-wage labour costs) and then multiply by 8 to reflect the hours in a working day. To get the total annual costs of the additional reporting, we multiply by 25, the number of unions with a political fund.

Table 38: Annual cost of complying with additional reporting requirements

Input	Cost estimates (2014)
Median hourly wage excluding overtime, for officers of non-government organisations	£11.42
Hourly labour cost	£13.68
Cost per union of providing additional detail of political expenditure in annual returns	£109
Total cost for unions of complying with reporting requirements (to nearest £000)	£3,000

Benefits from political fund reforms

268. The increased transparency resulting from the greater information on political fund expenditure made available and the clarity that the political funds are actively supported by contributing members whose agreement to contribute is relatively current, will provide a clearer mandate for political fund activity. This should benefit unions and union members. We have not attempted to monetise this benefit.

Political fund income

As set out in section 72 of TUL(R)CA, political funds can be used to finance party political activities or other political activity. Most unions don't have a political fund: According to the latest (2014-15) Annual Report of the Certification Officer, there were 163 trade unions as at 31 March 2015, of which 25 had political funds. While ten of the 13 largest unions (each with over 100,000 members) have political funds, three do not: the Royal College of Nursing, the Association of Teachers and Lecturers and the British Medical Association. Overall, unions have access to funds of around £1.1 billion: political funds are the equivalent of around 3% of total funds. Based on figures from the Certification Officer's report, in 2013-14 there were 4,954,606 contributing members, with total political fund income for the year of £23,973,707. Therefore, the average annual contribution per member to political funds is slightly under £5 a year.

The political fund is a fund to which members opting-in contribute a small amount (usually a part of their union subscription which opted-out members are exempt from) so that their union can collectively carry out political expenditure on their members' behalf. Members are able to choose through the union's democratic procedures what the fund is spent on. If union members opt-in then they are allowing a small amount of their income to be available for such collective expenditure. If a union member opts-out of contributing, then they have decided to re-allocate their expenditure from collective political spend carried out in their interests to some other use. The reforms move to a system of automatic opt-out and require increased reporting of political funding expenditure, so that only those who have positively chosen to contribute do so, and they are better informed to make that choice. This should improve the allocative efficiency of the members' choice. They will have more information about how the political fund is spent, to decide whether they agree that the spending represents their interest. Union members will also be clearly given the choice of whether they wish to opt-in to the fund, and if they don't positively choose to opt-in will be automatically opted out. This should rule out the potential for contributing members being unaware that they are contributing, a possibility under the current automatic opt-in system.

Our main estimate is that there will be no change in the number of members contributing to the political fund. We do not have reliable data to estimate any changes in the proportions contributing. However, we have conducted some sensitivity testing above examining the impact of changes to the proportions contributing to political funds on the costs to unions of dealing with the proposed changes to the operation of political funds. This looks at scenarios where the proportion of members contributing rises to 94%, or falls to 74%, 79% or 84% from the current rate of 89%. If there is a fall in political fund income, although it would not directly affect the funding of the activities of the union, it could have an indirect impact in terms of, for example, wider influence that unions as organisations may have.

We can't precisely estimate changes in the total amount currently contributed to political funds if the proportion contributing changes. The amount contributed is a function both of the level of contribution set by individual unions, and the proportion contributing for individual unions. However, we estimate potential changes to the overall level of contributions, based on broad averages, for the scenarios indicated above.

Table F: Estimated changes to political fund income based on scenarios of changed proportions contributing to the funds

Percentage contributing	74%	79%	84%	94%
Estimated annual political fund income	£19,958,000	£21,306,000	£22,655,000	£25,352,000
Difference from 2013-14 amount	-£4,016,000	-£2,668,000	-£1,319,000	+£1,378,000

Risks and assumptions

269. We have made a number of assumptions which we discuss below, considering potential risks to the impacts set out.
270. We assume that unions will try to maximise the number of members contributing to political funds, by getting them to provide written notices opting in to the fund. As members will have to provide a written notice by post, we have assumed that unions will correspond with contributing members by post, providing a freepost envelope for the required written notice to be returned. This is an approach most likely to maximise the return of written notices.
271. The costings also assume that unions only correspond with currently contributing members, as those not contributing are either not eligible to contribute according to the union rules or have actively chosen not to contribute. It is possible that unions might also write to those who have already chosen not to contribute, which would add to unions' postage costs.
272. We assume that the 25 unions who have political funds continue to remain as separate unions and continue to have a political fund. We have also assumed that no trade union sets up a new political fund. As noted above, over the past ten years, some unions with political funds have amalgamated, reducing the number of unions with political funds. There has also been some closure of political funds, as well as the setting up of some new ones. Given the different composition of unions, in terms of membership size and composition of membership, it would not be feasible to predict any amalgamations, or political fund closures or start-ups. There may be some impact on costs if more political funds closed than started up, or vice versa, though the impact would largely depend on the number of contributing members in the unions involved. Overall, the number of members contributing to political funds detailed in the Certification Officer annual reports were broadly similar in many of the years between 2005/06 and 2011/12 at around 4.4 million (though there were occasional years when the numbers contributing fluctuated away from this level). Therefore, historical data suggests that the number of contributing members remains relatively stable.
273. We have no evidence of whether there would be substantial attrition in membership participation resulting from the lapsing of active opting-in after five years. Therefore we have assumed no attrition. The evidence that the number of members contributing in Great Britain has remained relatively stable, and slightly rose in Northern Ireland on a like-for-like comparison provides some support for this assumption. However, neither offers a direct comparison to a required renewal of an active opt-in. If there was a fall in numbers opting in, this would result in reduced costs for unions.
274. We use prices for postage services provided by the Royal Mail, but other business postage companies exist so it may be possible for trade unions to obtain lower postage costs.

Direct costs and benefits to business calculations

275. Familiarisation costs to trade unions have been detailed in the section above.
276. Ongoing costs to trade unions of the policy proposal include:
- The cost of writing to contributing members encouraging them to opt-in following commencement of the policy, of £1.35 million. This occurs twice over the 10 year period we analyse in this document.

- The cost of paying the postage for the return of written opt-in notices, of £1.54 million. This occurs twice over the 10 year period we analyse in this document.
- The cost of postage materials, of £0.23 million. This occurs twice over the 10 year period we analyse in this document
- The cost of additional administration when posting correspondence to contributing members and when processing the written notices returned, of £1.13 million. This occurs twice over the 10 year period we analyse in this document.
- The annual cost of reporting detailed political fund expenditure in the annual returns to the Certification Officer, at £0.003 million

277. The equivalent annual net cost to business is estimated at £0.91 million.

Table 39: Summary of costs related to the political fund reforms

Transition costs	
Costs of time spent on familiarisation	£43,000
Cost of external legal advice on reforms	£326,000
Cost of time spent on Rule Book changes	£58,000
Cost of legal advice for Rule Book changes	£95,000
Cost of familiarisation with additional reporting requirements	£3,000
Following commencement	
Cost of writing to members	£1,348,000
Cost of return of written notices	£1,536,000
Cost of postage materials	£228,000
Cost of additional administration	£1,130,000
Five years after commencement	
Cost of writing to members	£1,348,000
Cost of return of written notices	£1,536,000
Cost of postage materials	£228,000
Cost of additional administration	£1,130,000
Annual cost	
Cost of reporting more detailed political fund expenditure	£3,000

Option 1E – Reforms to the role of the Certification Officer

Problem under consideration

278. The Trade Union Bill is modernising and reforming trade union law. Therefore, we will need a regulator that has the right tools to incentivise compliance with this updated framework, and in a proportionate manner. It is only fair that trade union members, employers and the public can rely on robust regulation of trade unions.
279. Running the office of the Certification Officer, required to ensure that trade unions and employer associations comply with relevant regulation, falls to the Exchequer. However, the economy is still in a period of financial restraint. Public sector net borrowing peaked at 10.2 per cent of GDP (£153.5 billion) in 2009-10 as the late 2000s recession and financial crisis dealt the public finances a significant blow. Fiscal consolidation and economic recovery then reduced the deficit to 4.9 per cent of GDP (£89.2 billion) by 2014-15.

Rationale for intervention

280. The main market failure arguments which underpin the existence of a regulator are externalities which occur because of union behaviour and imperfect information between employers and trade unions. The actions of unions can have wider impacts beyond their membership and their operations may not always be transparent to the wider public. The Certification Officer is responsible for ensuring that trade unions abide by statutory requirements, primarily in relation to governance, under the UK's trade union law. The regulator must have available sufficiently robust enforcement powers and sanctions to deter breaches. At present there is scope to broaden the powers and sanctions available to the Certification Officer.
281. The Trade Union Bill is modernising and reforming trade union law. Therefore, we will need a regulator that has the right tools to deter breaches with this updated framework, and in a proportionate manner. It is only fair that trade union members, employers and the public can rely on robust regulation of trade unions.
282. The Bill provides for recovery of the costs of running the regulator. The levy would be applied to trade unions and employer associations as the Government does not believe that taxpayers should continue to fund the regulation of these organisations, particularly at a time of ongoing financial constraint. There are other examples of where regulators use a levy to recover their costs. The Pensions regulator operates a general levy which is based on the total number of members in the scheme at the end of the scheme year before last. The levy is in place to cover the cost of running the Pensions Regulator, the Pensions Ombudsman and the Pensions Advisory Service. The Prudential Regulation Authority is responsible for the prudential regulation and supervision of around 1,700 banks, building societies, credit unions, insurers and major investment firms and makes use of regulatory fees and levies. Another example is the levy that is imposed on supermarkets by the Grocery Code Adjudicator, which is the new independent adjudicator that oversees the relationship between supermarkets and their suppliers.

Policy objectives

283. The Bill enhances the role of the Certification Officer to ensure robust and effective regulation of trade unions. To ensure greater union compliance the Bill gives the CO more powerful sanctions and extends the CO's powers to investigate. In this time of financial constraint, the Government also believes that unions and employer associations, and not the taxpayer, should pay for running costs of regulation by the Certification Officer. A levy to recover the costs of the CO from the regulation is included in the Bill.

Policy options

284. Provisions included in the Bill will widen the Certification Officer's powers of investigation to enable the Certification Officer to proactively investigate suspected breaches of statutory requirements in relation to particular areas (see below). The Certification Officer will have power to appoint an inspector, require documents and an explanation of these. He will be able to investigate of his own volition, or in response to information and concerns raised by 3rd parties. He can currently investigate suspected breaches if he receives a complaint from individuals within certain groups, such as trade union members, so the widening of powers does not impose any additional compliance cost on unions. However, there are tests that need to be met: primarily the Certification Officer can only require documents if there is good cause to do so and can only investigate where there are circumstances to suggest that a union could be in breach of a duty. The particular areas currently covered are:

- political fund rules,
- political fund ballots,
- expenditure of money on political objects (activities),
- union mergers,
- union internal leadership elections,
- ensuring that trade union membership registers are up to date so far as is reasonably practicable,
- appointing or failing to remove from a union office a person who has been convicted of certain financial offences.

285. The Bill provides for the Certification Officer to be able to impose, for the first time, financial penalties. Where the Certification Officer is able to issue enforcement orders, the Bill provisions will enable the imposition of financial penalties or conditional financial penalties. The latter will require that a particular action be taken within a certain timescale, otherwise a financial penalty will be imposed. The maximum variable financial penalty will be £20,000 and the minimum £200. The Bill provisions provide the Secretary of State with the power to make affirmative regulations covering:

- discounts for early payment,
- further penalties for late payment and interest on penalties,
- provisions for collecting outstanding financial penalties, and
- subject to Ministerial views, a separate fine regime for small and large unions

286. The Bill provides the Certification Officer with new enforcement powers, including the power to apply financial penalties, in two areas where new requirements on trade unions are being imposed by the Trade Union Bill:

- increased reporting requirements in relation to political fund expenditure,
- new reporting requirements on industrial action ballot mandates. Unions will be required to provide details over the past year of all industrial action ballots undertaken and their outcome, including whether they meet the new thresholds.

287. The Bill provides for the Secretary of State to be given a power to make affirmative regulations to provide for trade unions and employer associations to pay for the full recovery of the costs of running the Certification Office. The regulations will include a requirement for the Secretary of State to consult trade unions and employer associations on how the fees should be calculated. They will also limit the fees to cost recovery, and provide that the membership size of trade unions and the income of employer associations may be taken into account when the fees are calculated. Failure to pay the levy would be recovered as a debt, with additional surcharges for late payment. The Certification Officer will be required to report annually to Parliament on income received from the levy and on his expenditure. Following consultation a more detailed assessment of the levy can be conducted. This impact assessment focuses on the aggregate impact whereas post consultation an assessment of how the levy will affect an individual union or employer associated can be made.

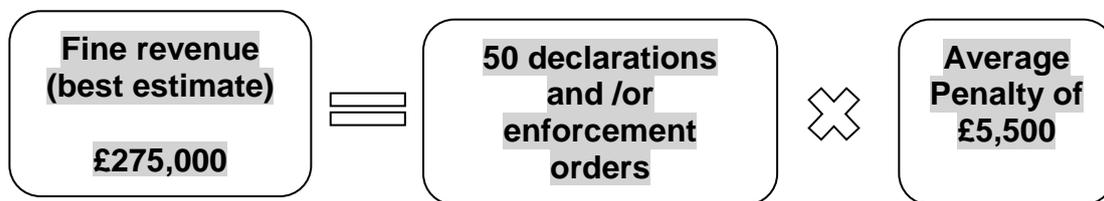
288. Appeals against financial penalties and against enforcement orders where we are increasing the Certification Officer's remit will be to the Employment Appeals Tribunal, as now in relation to the Certification Officer's current enforcement orders.

Monetised and non-monetised costs and benefits

289. The Certification Officer publishes decisions on the gov.uk website. Historical decision information shows that the Certification Officer currently issues 40 declarations and/or enforcement orders every 5 years. In relation to the new powers that he will have in new areas, we estimate that this will lead to an additional 25% declarations and/or enforcement orders being issued every 5 years. This represents an increase of 10 declarations and/or enforcement orders every 5 years which we believe is a reasonable assumption and based on an assessment of the new scope of powers compared to those held by the Certification Officer currently. We anticipate that this would lead to 2 additional appeals to the

Employment Appeal Tribunal (EAT) every 5 years. This is based on applying the historic appeal rates for other Trade Union related jurisdictions (which is around 20%) to the estimated additional 10 declarations. These estimates were discussed with the Certification Officer.

290. The anticipated increase in enforcement orders set out above will result in an estimated 50 cases where the Certification Officer issues a declaration and/or enforcement order every 5 years following the Trade Union Bill coming into force. The Certification Officer will have power to impose financial penalties as well as issuing these enforcement orders, but may not always do so. The Certification Officer may also choose to impose a financial penalty without issuing an enforcement order. It is anticipated that this may lead up to 50 financial penalties being issued every 5 years. This estimate is based on past historical data of 40 existing declarations and/or enforcement orders plus 10 additional declarations and/or enforcement orders. Our initial estimate, as discussed with the Certification Officer, is that income from financial penalties could be between £200,000 and £350,000 every 5 years, with a best estimate of £275,000. This is based on an average penalty of £5,500.



291. In relation to appeals against the Certification Officer's decisions to impose a financial penalty, we anticipate that this would lead to 10 - 12 additional appeals to the EAT every 5 years, assuming an appeal rate of around 20%.
292. Therefore, in view of the above, we anticipate an additional 12 - 15 appeals to the EAT every 5 years. This is the sum of appeals against both decisions (2-3 appeals every 5 years) and penalties (10-12 appeals every 5 years). These estimates are based on applying historic appeal rates of around 20% from similar jurisdictions to our estimated addition declarations and /or enforcement orders and financial penalties issued. Per annum this would equate to about 3 appeals in total.
293. Trade unions that incur costs associated with investigations or fines are not scored as incurring a regulatory cost. Trade unions which are investigated but subsequently found not to be in breach would incur a regulatory cost. There is uncertainty how much investigations will rise as a result of these reforms. It is likely that the Certification Officer may receive more representations from 3rd parties. This could in turn trigger more investigations. However, there are tests that need to be met: primarily the Certification Officer can only require documents if there is good cause to do so and can only investigate where there are circumstances to suggest that a union could be in breach of a duty. As a result, though there is likely to be some increase in investigations as a result of the changes in the Trade Union Bill, this increase is likely to be limited in view of the tests above. In addition to the tests above, after examining cases between 2010 and 2015, we were not able to find an instance where a Trade Union appealed a CO decision to the EAT and overturned the original CO decision. We therefore assume in this impact assessment that the reforms will not lead to additional cases of Unions not being in breach being investigated.
294. The change to the operations of the Certification Officer will not change the costs faced by compliant unions.

Introducing a levy to fund on a cost recovery basis future running costs of the Certification Officer

295. The mechanism in which the levy will be calculated will be consulted on with trade unions and employer associations. The framework for the levy is included in the Trade Union Bill. When calculating the levy, membership size of trade unions and the income of employer associations may be taken into account.
296. BIS funds Acas who in turn provide £560,000 funding to the Certification Officer. However, this does not reflect the full costs of running the Certification Officer, as Acas also apportions costs in their annual report for accommodation, IT, and depreciation. These apportioned costs amount to £290,000 pa. Therefore the total cost of running the Certification Office was £850,000 in 2014/15. In the course of further consultation, the Certification Officer has outlined additional costs that will arise as a result of the proposed reforms contained in the Bill. The summary table below sets out the estimated total additional costs. There is a range of costs provided for additional legal advice and additional inspectors; the best estimate is the average of the low and high estimate. For costs associated with a second Certification Officer's appointment, cost of additional staff, and overhead costs we have provided a single point estimate. The table shows that costs will rise by around £1,079,000 to pay for additional staff and running costs (this is based on the second Certification Officer's appointment, the Certification Officer employing up to 6 extra members of staff, largely at the Senior Executive Officer / Higher Executive Officer / Executive Officer grades and additional inspectors) and increased overheads, legal costs and additional inspectors).

Table 40 . Summary of the additional cost of bolstering the Certification Officer (estimates are based on consultation with the Certification Officer)

<u>Cost</u>	<u>High estimate</u>	<u>Best estimate</u>	<u>Low estimate</u>
Cost of second Certification Officer's appointment	n/a	£93,000	n/a
Cost of additional staff	n/a	£300,000	n/a
Overhead costs	n/a	£248,500	n/a
Legal costs	£250,000	£162,500	£75,000
Costs of additional inspectors	£500,000	£275,000	£50,000
Total cost	£1,391,500	£1,079,000	£766,500

297. With £850,000 as a cost base for the Certification Officer in 2014/2015, the estimated running cost for the CO after the Bill is introduced is £1.929 million. This represents the total amount of the levy (aggregated across all trade unions and employer associations). This is a direct cost for trade unions and employer associations. The levy represents additional

revenue for the Exchequer and a benefit of £1.929 million. At this stage the Trade Union Bill introduces powers for the levy and secondary legislation will set out how the levy will operate in more detail. For illustration costs have been included for the levy in this impact assessment but a further impact assessment will be needed for the secondary legislation.

298. We will continue to monitor the impacts of the Certification Officer reforms, in line with the monitoring for the rest of the Bill measures and will produce a Post-Implementation Review by 2021.

Table 41: Summary of the cost-benefit assessment of bolstering the Certification Officer role

<u>Organisation</u>	<u>Cost</u>	<u>Benefit</u>
The Exchequer	<ul style="list-style-type: none"> • Extra staffing and running cost resulting from bolstered role (£1,079,000) 	<ul style="list-style-type: none"> • Fine revenue of £275,000 • Broader set of sanctions available • Potential increased deterrent effects • Levy revenue of £1.9m
Trade Unions	<ul style="list-style-type: none"> • No assumed additional cost as extra declaration and /or enforcement orders fall on non-compliant Trade Unions. • Levy payment 	<ul style="list-style-type: none"> • No increased financial benefit • Members and the public will benefit from stronger regulatory regime
Employer associations	<ul style="list-style-type: none"> • Levy payment 	<ul style="list-style-type: none"> • None.

Risks and assumptions

299. The design of the levy will consider the inclusion of specified criteria such as the number of members or amount of income an organisation has. Also, the regulations may provide for the levy not to be payable, or for a reduced amount to be payable, in specified cases or in cases determined by the Certification Officer in accordance with the regulations.
300. There is uncertainty around the number of additional declarations and / or enforcement orders and fines issued. We will be engaging with the Certification Office to test assumptions used in this impact assessment.

Direct costs to business (deregulatory target)

301. The one-off familiarisation cost to trade unions of £525,000 and the employer associations of £2,400 from the introduction of a levy and reform of the Certification Officer's role are included in the deregulatory target. The cost of the levy paid by trade unions and employer associations of £1.9m p.a. are not included in the EANCB figure as the levy will require secondary legislation. The levy will benefit taxpayers as it will be a transfer of funds from the trade unions and employer associations to enable a reduction in Government costs. The levy also does not appear in the NPV figures for this impact assessment. **Based on 2014 prices this represents an EANCB of £0.06m.**

Direct costs and benefits to business calculations

302. In the above section, we have calculated the overall economic impacts of the measures in the Bill wherever possible. As part of the Government’s deregulatory target, some of these impacts will be counted as “in scope”. Specifically, those impacts to the private sector and civil society organisations (including trade unions) must be accounted for separately, and an Estimated Annual Net Cost to Business (EANCB) calculated. This section summarises the EANCB figures.

Summary table of EANCB and Net Present Value figures per option

Table 42: summary of EANCB figures for all options*

Option	Net Present Value	Business Net Present Value	EANCB (in 2014 prices)
Option 1a: Ballot thresholds	£101.11m	£22.48m	£-2.52m
Option 1b: Ballot mandate reform	£-0.70m	£-0.70m	£0.08m
Option 1c: Tackle the intimidation of non-striking workers	£-0.53m	£-0.53m	£0.06m
Option 1d: Political funds reform	£-8.11m	£-8.11m	£0.91m
Option 1e: Reform the role of the Certification Officer	£-9.34m	£-0.53m	£0.06m
Total	£-82.43m	£12.61m	£-1.41m

*Excludes the monetary assessment of the 40% threshold in important public services and the Certification Officer’s levy. Both these measures will be subject to secondary legislation, and a separate impact assessment will be produced for each.

Wider impacts

Impact on industrial relations

303. These reforms are one part of the wider framework for industrial relations and also the balance of interests between workers, union members and employers.

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304. The consultation responses received were not conclusive about how these reforms would impact on that balance and framework at a macro level. For example, employee representatives believed that the provisions of the Trade Union Bill, particularly the ballot threshold proposals, would create a serious imbalance of power between employers and working people. Business representatives did not share that view. They stressed that the current industrial relations framework is outdated, that when dispute resolution within the workplace does not achieve a positive outcome and strike action is considered, reforms are needed to ensure the workforce play a more active role in decisions that bring forward action.
305. The Government has developed an equality impact assessment to understand the impact on individual workers (both union and non-union members). This is set out at annex B. It concludes that there are no significant equality impacts arising from these measures. The Government is also of the view that these reforms are not primarily about a re-balancing of power between employers and trade unions, rather it is about ensuring that there is a strong connection between proposed action by unions and the views and participation of their members in those decisions. These reforms also need to be seen in context of the wider reforms the Government is putting in place to ensure an effective labour market (for example, through policies such as the introduction of the National Living Wage).

The Family Test

306. These proposals are about increasing transparency of union activities and ensuring that where industrial action occurs there is a recent and democratic mandate. We do not expect there to be any direct, adverse impact on families as a result.
307. Families rely on public services and thus those measures affecting strike action in public services will benefit families. A reduction in working days lost in the school sector is likely to mean children experience fewer disruptions to their education.
308. The remaining measures largely refer to the internal operations of trade unions and public sector employers and therefore have no direct impacts on families.

Annex A

Small and Medium Business Assessment

1. The measures included in the Bill dealt with in this IA cover five key areas that generate costs to business in the form of trade unions (and employers' associations in the case of reforms to the Certification Officer's role):
 - The Introduction of ballot thresholds for industrial action ballots
 - The introduction of a 4 month time limit to the validity of a ballot mandate, and associated reforms
 - Tackling the intimidation of non-striking workers
 - Political fund reforms
 - Reform the role of the Certification Officer
2. Other measures in the Bill, such as the 40% ballot threshold, reporting of trade union facility time in the public sector and the prohibition on deduction of union subscriptions from wages in the public sector (check-off), are being considered in separate impact assessments.
3. These measures affect Civil Society Organisations⁴⁶, therefore a Small and Micro-Business Assessment is applicable. A previous BIS Impact Assessment on Certification of trade unions' membership registers and related new investigatory powers for the Certification Officer⁴⁷ estimated that 24% of unions with 10,000 members or more employed less than 50 FTE staff and assumed that unions with fewer members would ordinarily meet the definition of small or micro-businesses.
4. According to the Annual Report of the Certification Officer 2014-15, there were 118 trade unions with under 10,000 members in 2013-14, accounting for 74% of all unions. 14 unions (9%) had between 10,000 and 25,000 members.
5. We have considered all of the possible exemptions for small and micro businesses listed in the Better Regulation Framework Manual:
 - Full exemption
 - Partial exemption
 - Extended transition period

⁴⁶ Trade unions are included in the definition of Civil Society Organisations, which is a voluntary organisation which is neither a business nor public sector.

⁴⁷ <https://www.gov.uk/government/consultations/trade-unions-assured-registers-of-members>

- Temporary exemption
 - Varying requirements by type and/or size of business
 - Specific information campaigns or user guides, training and dedicated support for smaller businesses
 - Direct financial aid for smaller businesses
 - Opt-in and voluntary solutions
6. As shown above, a large proportion of trade unions are likely to be small or micro businesses. The main aim of the Bill is to reduce the impact of undemocratic strike action and improve transparency. Therefore, if exemptions or varying requirements were applied to the proposed measures for unions employing less than 50 staff, the benefits of the policy would be significantly reduced. All parts of this Bill require wide coverage of the affected organisations so as to be effective. We also need to consider the impacts on small and micro businesses from these measures. Small businesses, alongside the rest of the economy, will experience the benefits of this measure. By exempting smaller trade unions and reducing the benefits, the Government would be impacting on small businesses who would be disadvantaged by any exemption.
7. The first three measures relate to industrial action. We do not anticipate these measures imposing significant costs to trade unions or any other business or civil society organisation. As detailed above, the additional cost to unions from these measures would be incurred around familiarisation. Responses from Trade Unions to the public consultations related to the Bill indicated that Trade Unions did believe that they would incur familiarisation costs in the form of time taken to understand the policy changes, attending training sessions to acquire knowledge and costs associated with obtaining external advice. The responses did not include any estimates but more generally supported the inclusion of these costs. Therefore our estimates of familiarisation costs are averages based on information from unions on the familiarisation costs of a recent reform of TULRCA in relation to the certification of trade unions' membership registers. For the measures in the Bill related to industrial action, the familiarisation costs largely relate to time spent by senior officials and legal advice. The amount of time spent on familiarisation and any legal advice obtained on the proposed changes is likely to be in proportion to the likelihood that the union will take industrial action.

Ballot thresholds

8. Most strikes are relatively small in scale. According to the ONS Labour Disputes Survey⁴⁸, in 2014 over half of all stoppages had less than 250 working days lost, with over three quarters of stoppages each accounting for less than 1,000 working days

⁴⁸ ONS, Labour Disputes Survey Annual Article 2014, July 2015.

lost. However, comprehensive data on the number of strikes or working days lost accounted for by different unions is not available, so we are not able to estimate the extent to which smaller unions are responsible for overall levels of strike action. Relatively small strikes will be conducted by small unions, as well as by individual sections of large unions. Strikes involving relatively few workers, for instance in the transport or health sectors, can cause substantial disruption to individuals and employers not involved in the dispute. We do know that smaller unions have taken part in disruptive large scale public sector industrial action, as well as in individual actions, in recent years.

9. The proposed policy on ballot thresholds is based on an important principle that for unions to take industrial action they should have the strong support of the membership eligible to vote. Industrial action by smaller unions (as well as by larger unions) will have an impact on business and individuals not involved in the dispute, so it would be wrong in principle to exempt unions with fewer members. It would be confusing to introduce extended transitions or temporary exemptions for smaller unions. The policy will change the criteria by which the success of a ballot is assessed, but the unions looking to carry out industrial action will have to carry out the ballot in the same way as they did before. There is therefore no need for tailored training or user guides for smaller unions. Guidance on the changes in relation to ballot thresholds will be provided on the gov.uk website.

4 month time limit for the validity of a ballot mandate

10. We do not have a comprehensive data set showing which ballot was used to provide a mandate for specific cases of industrial action. Therefore, we cannot analyse the extent to which smaller unions use ballots older than four months to provide a mandate for industrial action. The evidence we have suggests that predominantly, unions carry out industrial action within four months of the ballot result. The examples we have where old ballots were used to mandate industrial action, shown in the ballot mandate reforms section of the impact assessment, involve large unions (PCS, NASUWT and NUT). Therefore, we expect that the costs of the introduction of this measure are primarily familiarisation costs, as few unions will need to ballot more than once during a dispute to meet the four month time limit.
11. As above, the proposed reform on the time limit on ballot mandates is to ensure that employers and the wider economy are not affected by industrial action held on the basis of outdated ballots. It is also to ensure that if there is a call for industrial action, it reflects the recently collected views of the union members involved. Any exemptions or variations in the measures for smaller unions would mean that they could use outdated ballots to provide a mandate for industrial action, which would then not meet the objectives of the policy. Such a situation would cause confusion, as employers would need to know whether the union was classified as a small or micro union to know if the ballot mandate could extend over a longer period. Guidance on the proposed measures will be provided on gov.uk. We do not think that there is a case for special guidance training or support, or direct financial aid for smaller unions.

Tackling intimidation of non-striking workers

12. The proposed policy measures introducing new requirements on unions when picketing during industrial action are aimed at ensuring that picketing is lawful and peaceful. These build on section F of the Code of Practice on picketing, which, as far as we know, is complied with. Unlawful pickets are likely to occur with similar probabilities during industrial action by smaller unions and larger unions: it might only take the behaviour of one individual so is unlikely to vary by size of union. Therefore, to ensure that the policy objectives are met it is necessary that all unions are subject to the new requirements, and exemptions for smaller unions would undermine this. Exemptions would mean that pickets by smaller unions would not be subject to the same legal requirements as those for larger unions, which again could cause confusion for employers. Unions involved in industrial disputes should already be familiar with the Code of Practice on Picketing, which is relevant to all unions currently and is the basis for the new legal requirements, so special guidance for smaller unions should not be needed. The costs are predominantly transition costs linked to the time spent by senior union officials familiarising themselves with the changes, so there is no case for direct financial aid.

Political fund reforms

13. Of the 25 trade unions with political funds, ten have over 100,000 members, with a further six having between 25,000 and 100,000 members. Of the remaining 9, four had over 10,000 members but less than 25,000, while 5 had less than 10,000 members. The vast majority of small and micro unions will not be affected by this measure.
14. The proposed measures will require that members of trade unions with political funds will need to actively opt-in to contribute to political funds, and that trade unions report on their political fund expenditure in more detail. The policy aims to ensure that trade union members actively make the choice to contribute to their union's political fund, rather than this being automatic. It also aims to ensure that the choice remains active, by requiring that the active opt-in is renewed every five years. It also aims to ensure that unions publish information on political expenditure that will inform union members' decisions on whether they wish to opt-in.
15. Exemptions for small unions would therefore undermine the policy objective. It would enable these unions to continue to operate political funds with an automatic opt-in, so union members not actively choosing to opt-in may continue to pay their contribution to the political fund.
16. The primary cost to unions of the political fund reforms is estimated to relate to the costs of postage (writing to contributing members about opting-in to contribute, and paying for posted returns of written notices) and of administration in dealing with the returned written notices. These costs will be broadly proportionate to the number of contributing members, so will not disproportionately affect the smaller trade unions. The reforms will set the same renewal date for all contributing members, which will enable unions to concentrate their posting to members and administration of returns,

potentially reducing costs. The reforms will also not require those who have provided a notice to contribute in the six months before a renewal date, for instance someone joining the union, to refresh their decision at the renewal date. This will also provide some mitigation to union costs.

17. Transition costs for the political fund reforms are a combination of time spent by senior union officials familiarising themselves with the measures, legal advice and the costs of amending rule books. The Certification Officer aims to produce model clauses reflecting the reforms that can be used in trade union rule books, in time for when unions with political funds would need to amend their rule books. This would be similar to the current model clauses made available in the Certification Officer's published guidance on political funds⁴⁹. This should help simplify the procedure for unions of amending their rule books to reflect the new approach to political funds, potentially reducing the transition costs in this regard for small unions with political funds, as well as the larger unions.

Reform of the role of the Certification Officer

18. The role of the Certification Officer will be enhanced to ensure robust and effective regulation of trade unions. The Certification Officer will be given more powerful sanctions such as financial penalties and the Certification Officer's powers to investigate will be extended.
19. The Bill provides for the Secretary of State to be given a power to make regulations, subject to the affirmative procedure, for the Certification Officer to require trade unions and employer associations to pay a levy to cover the costs of the Certification Officer's expenses. The Bill includes a requirement for the Secretary of State to consult relevant organisations and Acas before making these Regulations. The fees will be limited to recovering the costs related to the functions of the Certification Officer, and the Regulations may provide for the amount that an organisation pays to be determined by specified criteria including their membership size and income.
20. The primary cost of these reforms outlined in this impact assessment for trade unions and employers' associations are familiarisation costs. Currently the Certification Officer issues around 40 declarations and/or enforcement orders every five years, and the impact assessment estimates that this will increase following the reforms to 50 every five years. Therefore any costs arising to compliant trade unions from these additional investigations would be marginal.
21. The mechanism for the setting of the levy has yet to be determined, and will be subject to consultation consulted on before any affirmative regulations are laid, so will be considered in impact assessments linked to the consultation and final regulations. As noted above, the provisions in the Bill allow the option of such Regulations specifying whether the Certification Officer, when specifying the levy amount

⁴⁹ The Certification Officer, Political Funds: a guidance for trade unions and employers' associations wishing to establish a political fund, revised September 2012

payable, would apply specified criteria such as number of members or size of income of the organisation and whether they are trade unions or employer associations.

22. Analysing the decisions made by the Certification Officer between 2010 and 2015 suggest that smaller unions are investigated by the Certification Officer. Unions likely to be small or micro unions (based on assessing membership numbers) account for around a fifth of investigations since 2010. It is therefore important that the Certification Officer's new powers are applied to all unions, to ensure that union members and the general public have confidence that the unions are effectively regulated. Exemptions for smaller unions would restrict the Certification Officer's ability to investigate potential breaches of statutory regulations by those unions exempted, meaning their potential breaches, which may affect their members or members of the general public, would be less effectively enforced. A two tier system could be confusing for unions and those who felt there were grounds for the regulator to investigate, which may undermine faith in the Certification Officer.

Annex B – Equality Assessment

Scope of this Equality Analysis

On 5 April 2011 the new public sector Equality Duty came into force. The Equality Duty replaces the three previous duties on race, disability and gender, bringing them together into a single duty, and extends it to cover age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment (as a whole these are called protected characteristics or protected groups). Based on a proportional analysis we will outline the impacts, both positive and negative, on these protected groups.

Equality Analysis documents are an important framework for demonstrating due regard, through considering evidence and analysis, to help identify the likely positive and negative impacts that policy proposals may have on certain protected groups, and to estimate whether such impacts disproportionately affect these groups. This Equality Analysis takes a summary view of the equality impacts of proposed legislative measures regarding the certification of trade union membership registers.

Assessment

We assess that there will be **no adverse equality impacts on any protected group** as a result of the Trade Union Bill. The Bill measures are expected to deliver benefits to both the economy (and therefore all members of society who benefit from economic growth) and individuals who rely on important public services. Since users of public services span the entire population, we determine that the benefits of the Bill measures will be distributed in accordance with the population without any equality impacts or different impacts on protected groups. Where certain protected groups use particular important services more frequently than average, they will disproportionately benefit from a reduction in strike action in this service.

The Bill will not impose costs directly on individuals. There will be some modest costs on trade unions however these will not be of a scope likely to have serious financial or material impact on the relationship between trade unions and their members. The Bill will create procedural change in the operations of trade unions in respect of industrial action ballots and regulations, political funds, facility time and union administration. Where certain protected groups may experience these procedural changes more frequently than others, they may also be beneficiaries of other aspects of the Bill as discussed above. We assess that these procedural changes are not adverse to any union member, and so there are no adverse equality impacts.

Since these procedural changes nonetheless affect union members rather than the whole population, we undertake an assessment of union membership below in the sectors being affected by the measures in the Bill in order to ensure all possible equality impacts have been considered. This includes some specific analysis of union membership in sectors affected by the reporting requirements on facility time (a breakdown looking at the public

sector) and the 40% approval threshold (analysis of membership in transport, health, fire and education). Our findings are summarised below:

- Trade union members are slightly more likely to be aged 35 or above than the general population of employees;
- 55% of trade union members are women, compared to around 50% of all employees;
- Women are more likely to work in the public sector, whilst men are more likely to work in the private sector. Union membership does not affect this materially;
- Men are more likely to work in the transport sector, whilst women are more likely to work in education or health. Union membership mostly does not affect this, with men slightly more likely to be union members in transport;
- The breakdown of people with disabilities is broadly comparable between union members and the general population of employees, and across all sectors. Union members are very slightly more likely have a disability;
- The composition of ethnic groups is also broadly comparable across all groups, with trade union members slightly more likely to be in the White ethnic group.

The evidence base

How are protected groups affected by these measures?

The benefits of these measures are stated above in the outline section. People have the right to expect that services on which they and their families rely are not going to be disrupted at short notice by strikes that have the support of only a small proportion of union members. This applies equally to all in society, including those falling within protected groups. These measures seek to guarantee this right and ensure that trade union activity is properly regulated. It is likely that certain protected groups use important public services more frequently. Where these protected groups are reflected in the union membership, they will also share in these benefits and thus we expect the net effect on most protected groups to be beneficial.

This regulation will affect all trade union members, some of which fall within protected groups. This will apply across all sectors. The 40% ballot approval threshold will affect only certain important sectors and so we provide separate and more focussed analysis for these.

This document explores in more detail how protected groups are affected, and concludes that **there are no significant equality impacts arising from these measures.**

Analysis by protected characteristics

Although the effects of the proposals may impact on different protected groups in different ways, our assessment suggests that there will be **no direct adverse equality impacts** on these groups from the implementation of the Bill measures. These measures are expected to be beneficial overall, since they are intended to ensure that there are strong democratic mandates from members for the actions of their trade union and to provide a regulatory framework for trade unions. However, as part of the consultations on certain parts of the Bill, we have invited any comments and evidence that may develop or further inform our assessment.

Details of our analysis of each protected group are provided below, with a section considering which groups are affected across all sectors by every Bill measure except the 40% ballot approval threshold. There will be an additional section looking at which groups are affected by the 40% threshold within the important sectors.

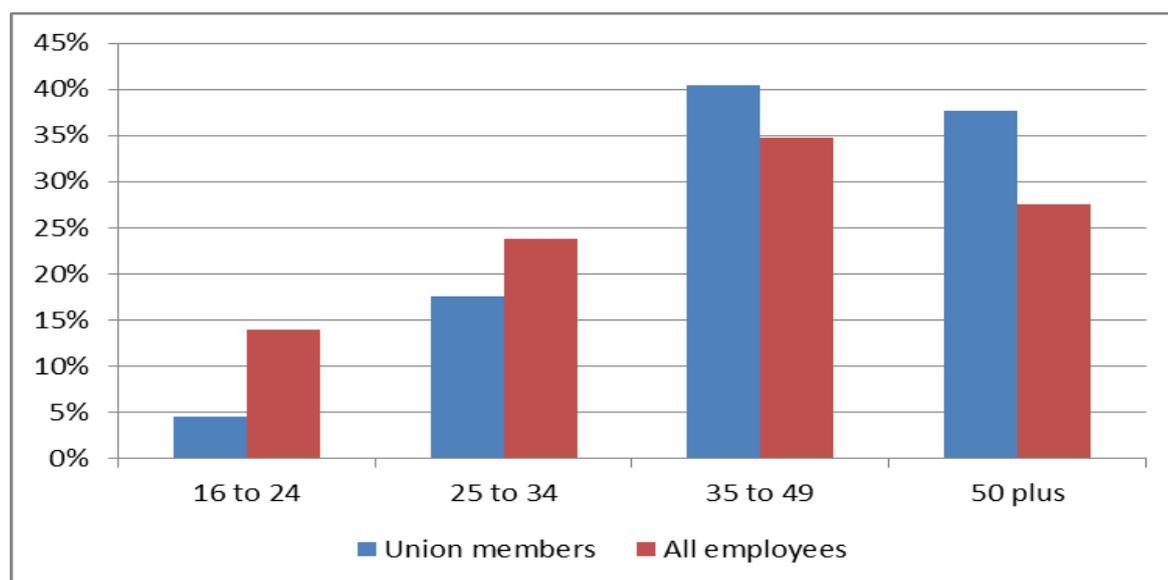
Age

All sectors

As stated above, we expect these measures to be beneficial overall to the public as a whole. Since they regulate trade union activity, we present the composition of trade union members compared to the wider population of employees below.

The proportion of older employees in trade unions has broadly increased historically. About 38 per cent of trade union member employees were aged over 50 in 2012, compared with 22 per cent in 1995. This may be linked to the rising employment rate among people in this age group in recent years.

Chart 1: Breakdown of trade union members in different age groups compared with the proportions of all employees in different age groups, 2014



Important sectors

The same trends observed for the economy as a whole are mirrored in the important sectors and so we would expect a similar impact from the measures in the important sectors to the impact overall. Where differences do occur, this is mostly driven by demographic differences in the sectors rather than differences in the likelihood of different age groups to be trade union members. Overall, union members are more likely to be in older age groups in all of the important sectors being considered.

Chart 2: Breakdown of trade union members in different age groups compared with the proportions of all employees in different age groups – transport and storage, 2014

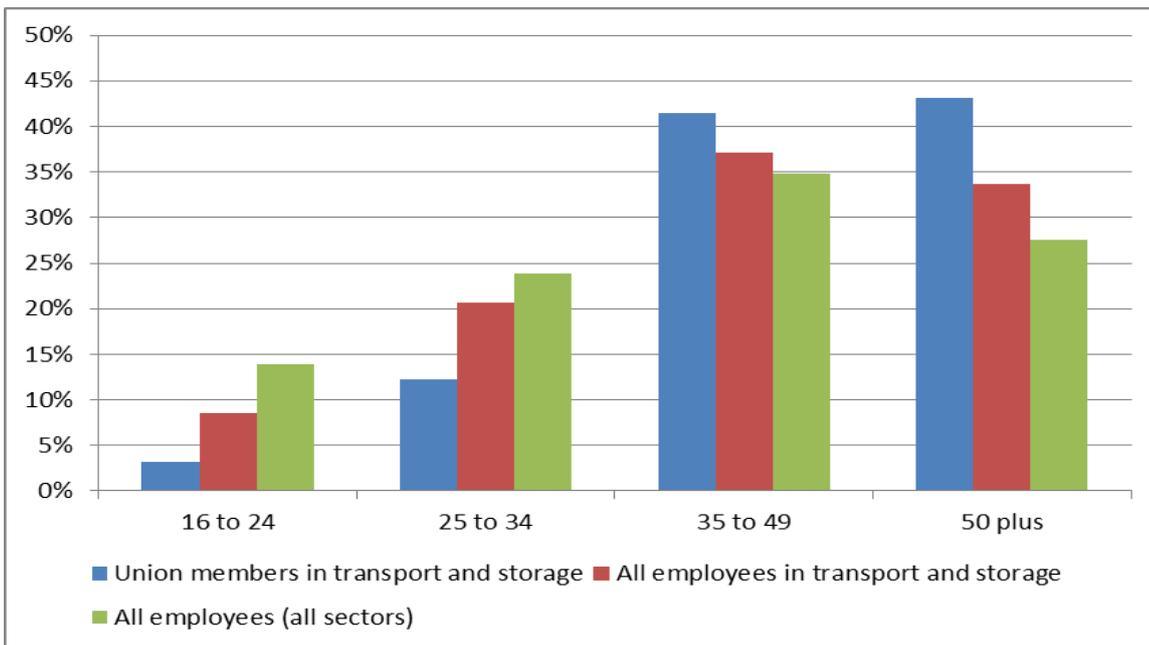


Chart 3: Breakdown of trade union members in different age groups compared with the proportions of all employees in different age groups – education, 2014

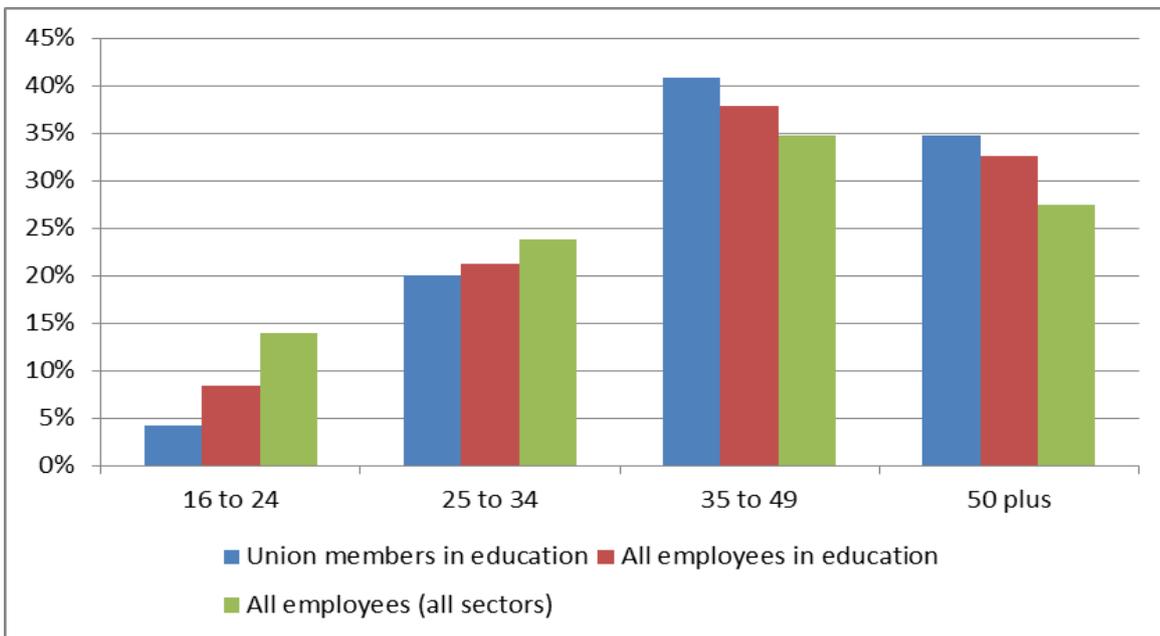
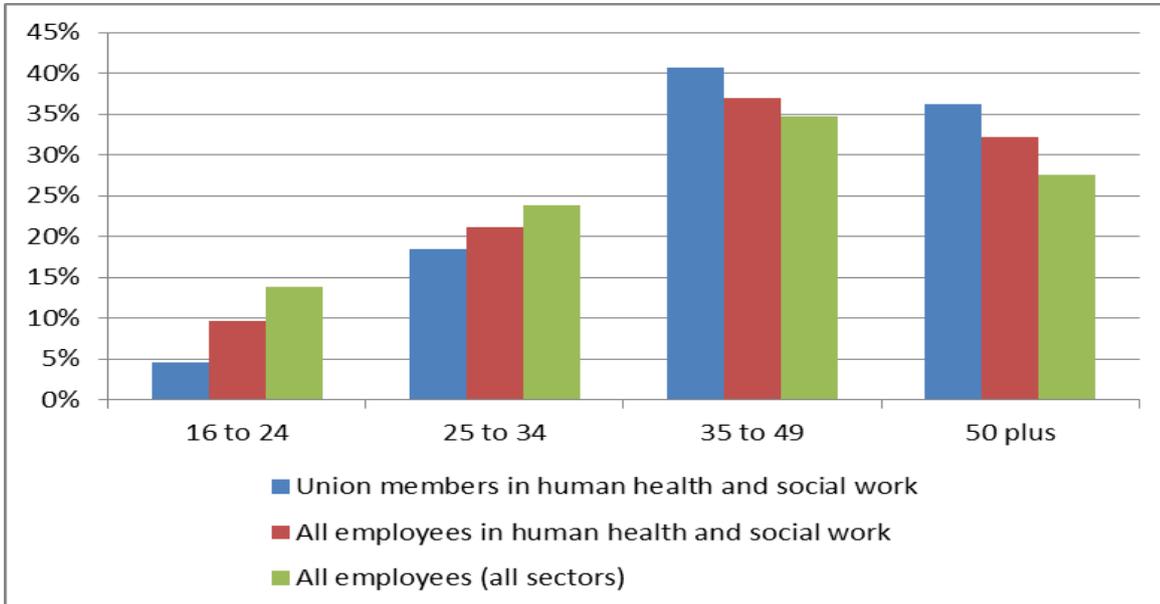


Chart 4: Breakdown of trade union members in different age groups compared with the proportions of all employees in different age groups – human health and social work, 2014



Public and private sectors

Public sector employment is more strongly concentrated amongst older people, whilst in the private sector the age distribution is somewhat more even. The age distribution of union members in the public sector is broadly the same as that of the whole population of

public sector employees. In the private sector, the breakdown of union members reveals a greater concentration of older people than that amongst all employees.

Chart 5: Breakdown of trade union members in different age groups compared with the proportions of all employees in different age groups – public sector, 2014



Chart 6: Breakdown of trade union members in different age groups compared with the proportions of all employees in different age groups – private sector, 2014

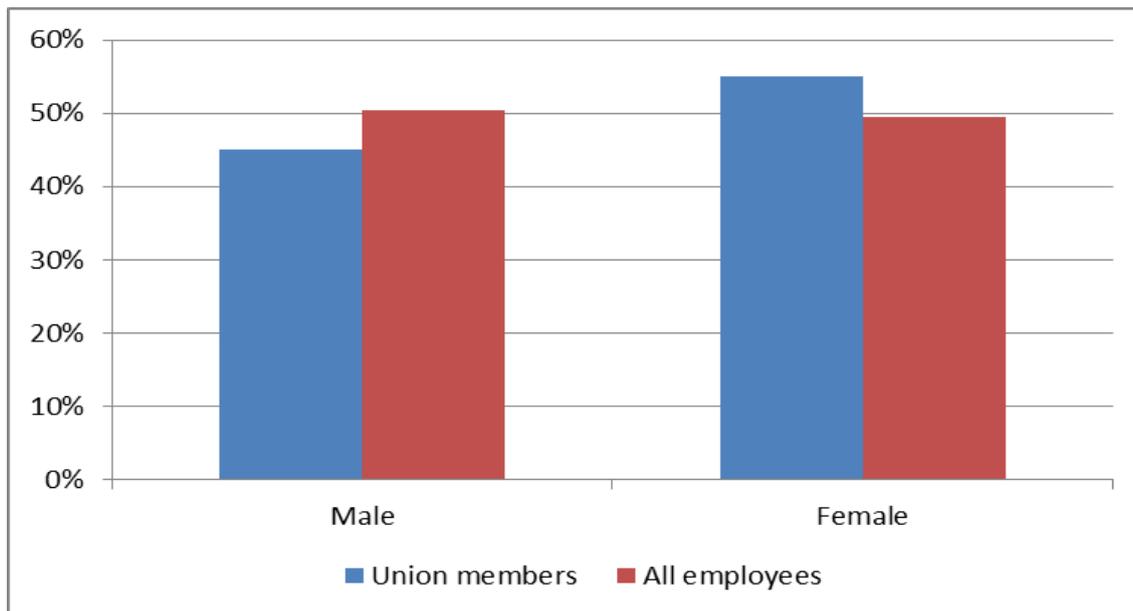


Gender

All sectors

Trade union members are slightly more likely to be female than male, with 55% of trade union members being female. By contrast, amongst all employees both genders constitute approximately 50%. We expect that the benefits of these measures will be evenly dispersed between men and women.

Chart 7: Breakdown of trade union members by gender compared with the proportions of all employees by gender, 2014



Important sectors

The gender makeup of the different important sectors we consider in this document has by far the greatest influence as to the gender of trade union members who would be covered by the 40% approval threshold. Since this measure will affect procedural change for union members, the group affected in each sector has a broadly comparable gender balance to that of all employees in the sector. In education and health particularly, the gender makeup of union members was extremely close to the makeup of all employees in the sector, with men slightly more likely to be union members in the transport sector.

Men are far more prevalent in the transport and storage sector, whereas employees in the education and human health and social work sectors are more likely to be women. This would suggest that both genders are affected in the important sectors in different ways because of their varying levels of prevalence as employees in different sectors, but that no gender is disproportionately affected because of an increased likelihood of being a trade union member. As stated earlier, 55% of trade union members are female whilst 45% are male. Since the changes being brought into effect by the Bill measures are not adverse to any group of individuals, there are therefore no adverse effects on men or women.

The charts below show the gender breakdown for each of the 3 important sectors we analyse in this section.

Chart 8: Breakdown of trade union members by gender compared with the proportions of all employees by gender – transport and storage, 2014

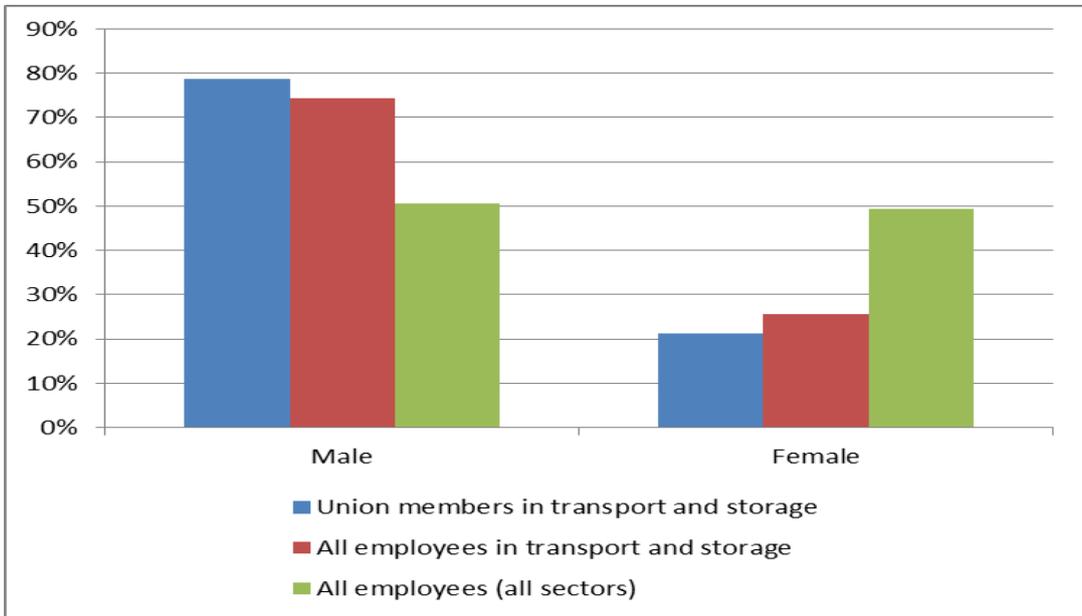


Chart 9: Breakdown of trade union members by gender compared with the proportions of all employees by gender – education, 2014

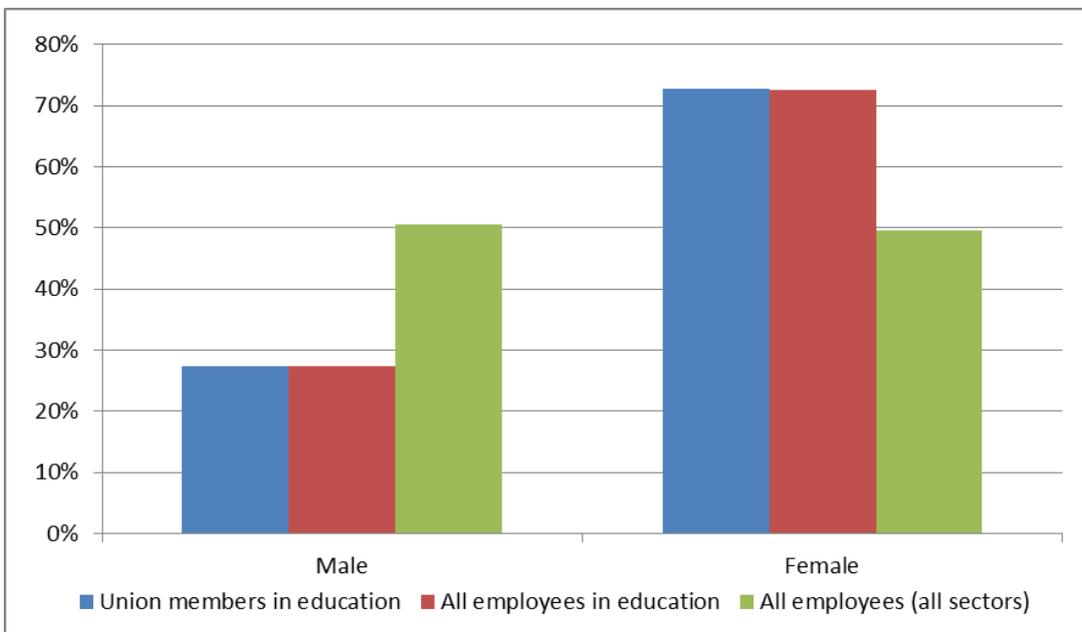
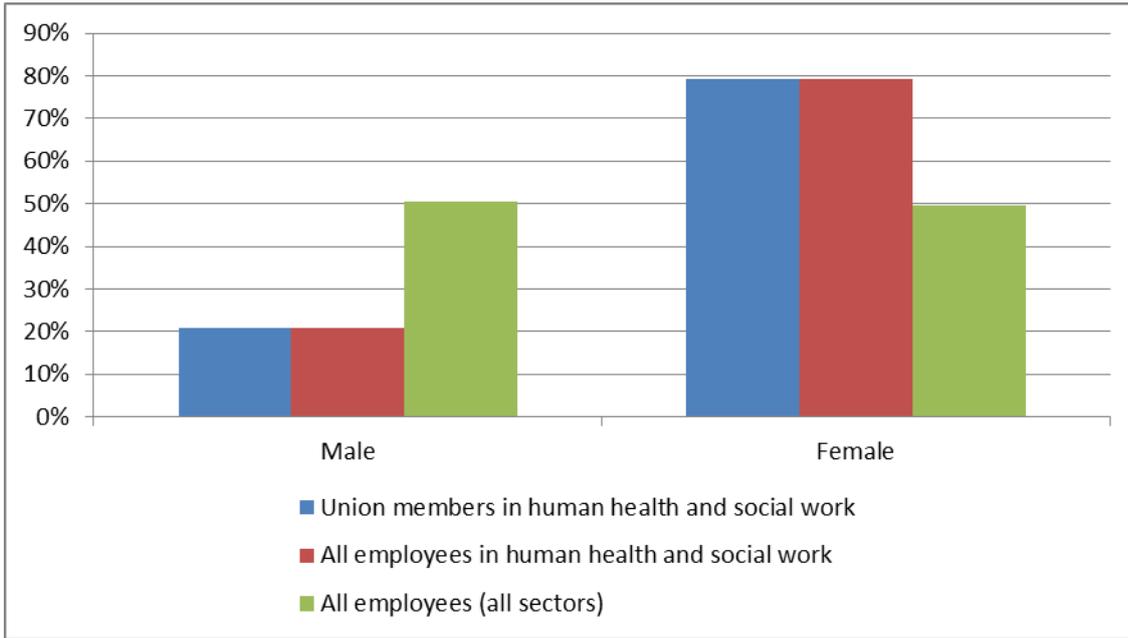


Chart 10: Breakdown of trade union members by gender compared with the proportions of all employees by gender – human health and social work, 2014



Public and private sectors

Women are somewhat more likely to work in the public sector, whilst men are more likely to work in the private sector. Union membership follows the same gender breakdown in the public sector as for general employees, whilst men are slightly more likely to be union members in the private sector.

Chart 11: Breakdown of trade union members by gender compared with the proportions of all employees by gender – public sector, 2014

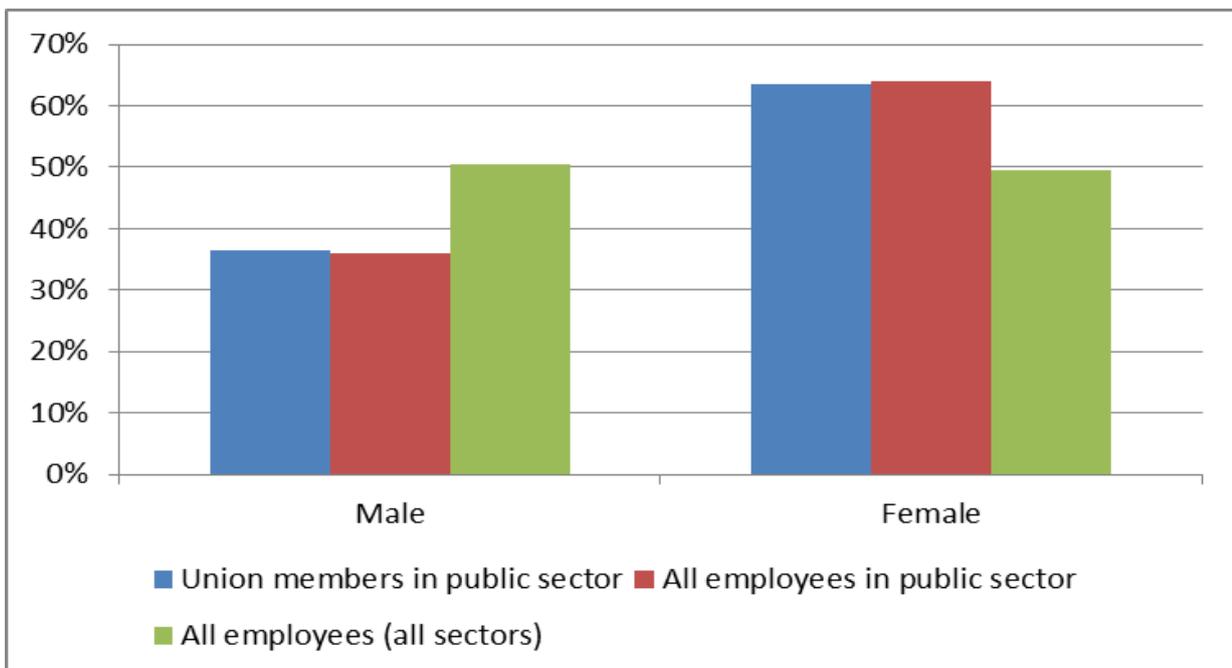


Chart 12: Breakdown of trade union members by gender compared with the proportions of all employees by gender – public sector, 2014



Disability

Around 14% of trade union members have a disability compared to around 12% of all employees. Proportions remain mostly in the same range in each of the important sectors considered in this part of the document.

There was a slightly larger proportion of employees with a disability in the transport and storage sector than in the overall population of employees, with 16% of union members and around 14% of all employees in the sector being classed as having a disability.

In education, 13% of union members were classed as having a disability compared to 12% of all employees. In human health and social work, around 14% of employees had a disability irrespective of union membership.

The charts below shows the proportion of employees classed as having a disability both for the entire population of employees and union members, with data provided separately for public and private sectors and the important sectors.

Chart 13: Proportion of trade union members classed as having a disability compared with the proportion amongst all employees – public and private sectors, 2014

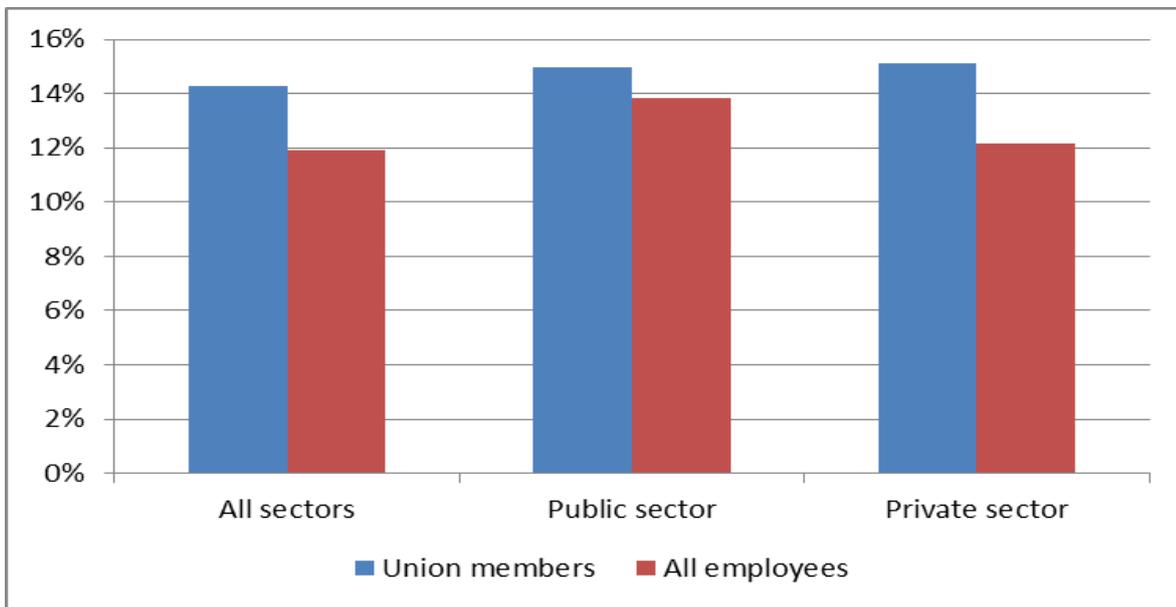
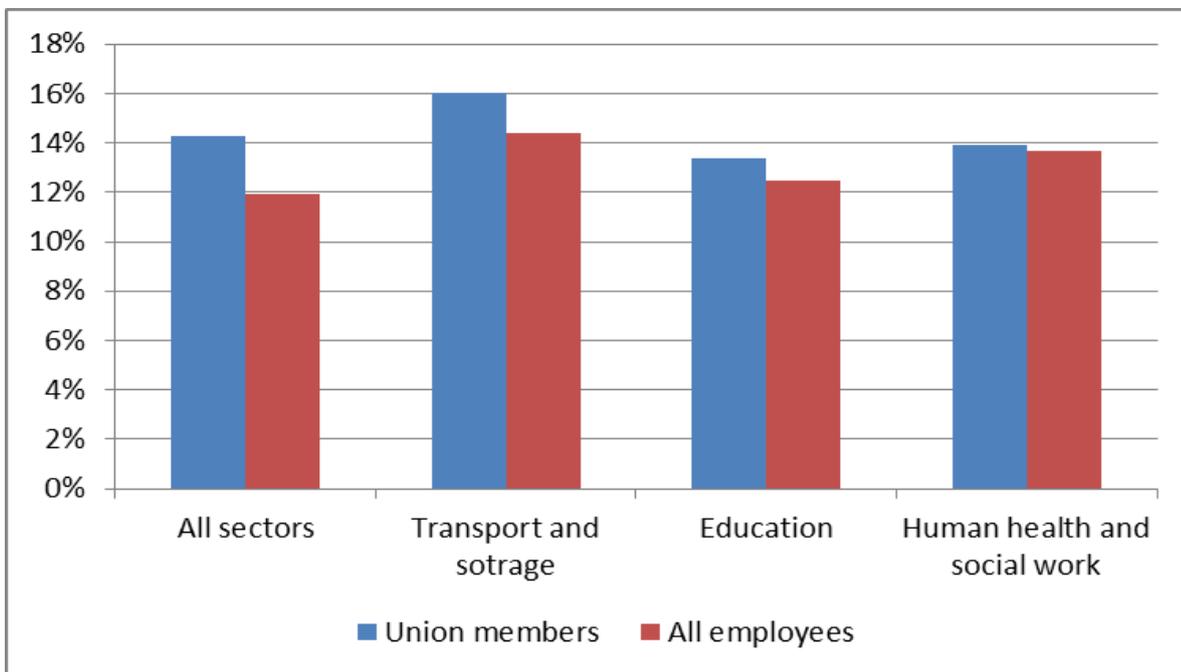


Chart 14: Proportion of trade union members classed as having a disability compared with the proportion amongst all employees – all sectors and important sectors, 2014



Ethnicity

The breakdown of trade union members by ethnic group is broadly comparable to that of the overall population of employees, as can be seen in the annexed tables. Overall, trade union members are slightly more likely to be in the White ethnic group when comparing to all employees. This is true in both the public and private sectors.

The sample size sometimes becomes too small to produce robust estimates when using the Labour Force Survey to estimate the breakdown of ethnic groups in the 4 named sectors. Where data is available, it appears that there are no significant equality impacts based on ethnic group on trade union members.

Religion and belief

In Great Britain, the breakdown of religion and belief amongst trade union members is broadly comparable to the general population of employees, with trade union members marginally more likely to be Christian and slightly less likely to have no religion or be Hindu or Muslim. This applies in both the public and private sector. Details are provided in Table 1 below.

The sample size becomes too small when we attempt to consider the 4 named sectors.

The Office for National Statistics asks a slightly different question in the Labour Force Survey pertaining to religion and belief in Northern Ireland. When using this question to analyse union membership, sample sizes become too small to produce robust estimates. Where data is available it appears that there are no significant equality impacts based on religion or belief on trade union members, in both Great Britain and Northern Ireland.

<i>Table 1: Religion and belief amongst union members compared with all employees – public and private sectors, Great Britain, 2014.</i>	<i>All union members</i>	<i>Union members – public sector</i>	<i>Union members – private sector</i>	<i>All employees</i>
No religion	33.4	33.7	33.0	36.8
Christian	60.8	60.7	61.0	55.9
Buddhist	0.3	* ⁵⁰	*	0.4
Hindu	1.1	1.1	1.3	1.6
Jewish	0.4	0.4	*	0.4
Muslim	1.8	1.8	1.9	2.8
Sikh	0.5	0.4	.7	0.5
Any other religion	1.7	1.8	1.5	1.6

⁵⁰ * indicates that the sample size is insufficiently large to produce an estimate.

Other protected characteristics

The Labour Force Survey is the main source of data used in this equality assessment, since it is the only comprehensive survey providing data sufficient to undertake equality analysis of the Trade Union Bill. BIS does not have access to reliable data enabling us to break down trade union membership by sexual orientation, gender reassignment, pregnancy and maternity.

Our assessment of the equality impacts of this policy therefore suggests that there would be **no direct, adverse equality impact** on the other protected groups. These are sexual orientation, gender reassignment, pregnancy and maternity. Where we have consulted on certain measures in the Bill, we welcomed comments that would enable us to refine this assessment.

Tabulated data

All Trade Union Members

The table below outlines key statistics on the characteristics of trade union members, taken from table 3.1 of the Trade Union Membership Statistics 2014, published by BIS.

<i>Table 2: Characteristics of union members and non-members, 2014</i>	<i>Union Members</i>	<i>Non-Members</i>	<i>All Employees</i>
<i>Gender</i>			
Male	45.0	52.2	50.5
Female	55.0	47.8	49.5
<i>Age</i>			
16 to 24	4.5	15.9	13.9
25 to 34	17.5	24.5	23.8
35 to 49	40.4	33.4	34.8
50 plus	37.6	26.3	27.5
<i>Ethnicity</i>			
White	91.5	89.6	89.3
Mixed	0.8	1.0	1.0
Asian or Asian British	3.7	5.4	5.4
Black or Black British	2.8	2.2	2.6
Chinese or other ethnic group	1.2	1.8	1.7
<i>Nationality</i>			
UK, British	95.4	89.2	90.5
Other	4.6	10.8	9.5
<i>Country of Birth</i>			
UK	89.6	83.9	84.8
Other	10.4	16.1	15.2
<i>Disability</i>			
Having a disability	14.3	11.4	11.9
Not having a disability	85.7	88.6	88.1
<i>Sector</i>			
Private	41.6	83.6	73.9
Public	58.4	16.4	26.1

Trade Union Members in important sectors

Transport

Following the methodology used in the Impact Assessment of the 40% approval threshold, we look at union members in the Transport and Storage sector since this is the closest major Standard Industry Code for the transport industry. The Trade Union Membership Statistics 2014 estimate that there were 454,000 trade union members in this sector. 37.4% of all employees in this sector were trade union members, compared with 25.0% of all employees across all sectors.

Table 3: Characteristics of union members and all employees in the Transport and Storage sector, 2014	<i>Trade union members in sector</i>	<i>All employees in sector</i>	<i>All union members</i>
<i>Gender</i>			
Male	78.8	74.4	45.0
Female	21.2	25.6	55.0
<i>Age</i>			
16 to 24	3.2	8.5	4.5
25 to 34	12.2	20.6	17.5
35 to 49	41.4	37.1	40.4
50 plus	43.2	33.7	37.6
<i>Ethnicity</i>			
White	90.1	88.5	91.5
Mixed	* ⁵¹	.9	0.8
Asian or Asian British	5.5	6.2	3.7
Black or Black British	2.8	3.0	2.8
Chinese or other ethnic group	*	1.3	1.2
<i>Nationality</i>			
UK, British	93.8	89.3	95.4
Other	6.2	10.7	4.6
<i>Country of Birth</i>			
UK	86.7	83.2	89.6
Other	13.3	16.8	10.4
<i>Disability</i>			
Having a disability	16.0	14.4	14.3
Not having a disability	84.0	85.6	85.7
<i>Sector</i>			
Private	89.1	91.3	41.6
Public	10.9	8.7	58.4

⁵¹ * indicates that the sample size is insufficiently large to produce an estimate.

Education

The Trade Union Membership Statistics 2014 estimate that there were 1,541,000 trade union members in this sector. 50.3% of all employees in this sector were trade union members, compared with 25.0% of all employees across all sectors.

<i>Table 4: Characteristics of union members and all employees in the Transport and Storage sector compared with characteristics of all union members, 2014</i>	<i>Trade union members in sector</i>	<i>All employees in sector</i>	<i>All union members</i>
<i>Gender</i>			
Male	27.3	27.4	45.0
Female	72.7	72.6	55.0
<i>Age</i>			
16 to 24	4.3	8.4	4.5
25 to 34	20.1	21.2	17.5
35 to 49	40.9	37.9	40.4
50 plus	34.8	32.6	37.6
<i>Ethnicity</i>			
White	93.9	92.0	91.5
Mixed	0.9	.9	0.8
Asian or Asian British	2.8	3.8	3.7
Black or Black British	1.7	2.0	2.8
Chinese or other ethnic group	*	1.3	1.2
<i>Nationality</i>			
UK, British	96.4	93.6	95.4
Other	3.6	6.4	4.6
<i>Country of Birth</i>			
UK	91.8	88.5	89.6
Other	8.2	11.5	10.4
<i>Disability</i>			
Having a disability	13.3	12.5	14.3
Not having a disability	86.7	87.5	85.7
<i>Sector</i>			
Private	9.8	28.8	41.6
Public	90.2	71.2	58.4

Healthcare

Following the methodology used in the Impact Assessment of the 40% approval threshold, we look at union members in the Human Health and Social Work Activities sector since this is the closest major Standard Industry Code for the health sector. The Trade Union Membership Statistics 2014 estimate that there were 1,508,000 trade union members in this sector. 39.9% of all employees in this sector were trade union members, compared with 25.0% of all employees across all sectors.

Table 5: Characteristics of union members and all employees in the Human Health and Social Work Activities sector compared with characteristics of all union members, 2014	<i>Trade union members in sector</i>	<i>All employees in sector</i>	<i>All union members</i>
<i>Gender</i>			
Male	20.7	20.7	45.0
Female	79.3	79.3	55.0
<i>Age</i>			
16 to 24	4.5	9.7	4.5
25 to 34	18.5	21.1	17.5
35 to 49	40.7	37.0	40.4
50 plus	36.2	32.2	37.6
<i>Ethnicity</i>			
White	86.8	85.5	91.5
Mixed	1.0	.9	0.8
Asian or Asian British	5.2	6.5	3.7
Black or Black British	5.2	5.2	2.8
Chinese or other ethnic group	1.7	1.9	1.2
<i>Nationality</i>			
UK, British	94.0	91.4	95.4
Other	6.0	8.6	4.6
<i>Country of Birth</i>			
UK	84.6	83.2	89.6
Other	15.4	16.8	10.4
<i>Disability</i>			
Having a disability	13.9	13.7	14.3
Not having a disability	86.1	86.3	85.7
<i>Sector</i>			
Private	19.1	45.5	41.6
Public	80.9	54.5	58.4

Fire services

We exempt the fire service from direct impacts in the Impact Assessment accompanying the consultation on the 40% approval threshold, since it appears that every strike in the fire service in the past 5 years would have met the 40% threshold. For the purposes of the Impact Assessment we assume no reduction in working days lost in fire services. Since we

do not anticipate these direct impacts, our assessment is that there will be no separate impact on protected groups in the fire service and therefore we do not analyse statistics on the characteristics of fire service union members.

Nuclear waste management and decommissioning

We do not have specific information about the characteristics of trade union membership in the nuclear waste management and decommissioning industry. Employment data from the Nuclear Decommissioning Authority (NDA) suggests that a higher proportion of NDA workers are male than among employees as a whole. The age distribution of NDA staff is broadly similar to that for those in employment overall. Information for the other protected characteristics is not available for the NDA estate workforce as a whole.

The Border Force

We do not have specific information about the characteristics of trade union members in the Border Force. Employment data from the Border Force suggests that a higher proportion of Border Force workers are male (58%) than among employees as a whole (50.5%). Border Force staff are also less likely to be aged 34 or under than those in employment overall (at 20% and 35% respectively). Border Force staff are more likely to be of an ethnic minority (21%) than employees overall (11%) and are less likely to have a disability (8% compared to 12% for employees overall).

Trade Union Membership by sector (public/private)

Public sector

The Trade Union Membership Statistics 2014 estimate that there were 3,764,000 public sector trade union members. 54.3% of all employees in this sector were trade union members, compared with 25.0% of all employees across all sectors.

<i>Table 6: Characteristics of union members and all employees in the public sector compared with characteristics of all union members, 2014</i>	<i>Trade union members in sector</i>	<i>All employees in sector</i>	<i>All union members</i>
<i>Gender</i>			
Male	32.8	33.9	45.0
Female	67.2	66.1	55.0
<i>Age</i>			
16 to 24	3.7	6.4	4.5
25 to 34	18.0	21.0	17.5
35 to 49	42.3	39.6	40.4
50 plus	35.9	32.9	37.6
<i>Ethnicity</i>			
White	91.6	89.8	91.5
Mixed	0.9	1.0	0.8
Asian or Asian British	3.6	4.6	3.7
Black or Black British	2.8	3.1	2.8
Chinese or other ethnic group	1.1	1.4	1.2
<i>Nationality</i>			
UK, British	96.1	94.1	95.4
Other	3.9	5.9	4.6
<i>Country of Birth</i>			
UK	90.0	87.6	89.6
Other	10.0	12.4	10.4
<i>Disability</i>			
Having a disability	13.4	12.4	14.3
Not having a disability	86.6	87.6	85.7

Private sector

The Trade Union Membership Statistics 2014 estimate that there were 3,764,000 private sector trade union members. 54.3% of all employees in this sector were trade union members, compared with 25.0% of all employees across all sectors.

<i>Table 7: Characteristics of union members and all employees in the private sector compared with characteristics of all union members, 2014</i>	<i>Trade union members in sector</i>	<i>All employees in sector</i>	<i>All union members</i>
<i>Gender</i>			
Male	62.0	56.4	45.0
Female	38.0	43.6	55.0
<i>Age</i>			
16 to 24	5.5	16.3	4.5
25 to 34	16.8	24.7	17.5
35 to 49	37.9	33.2	40.4
50 plus	39.8	25.7	37.6
<i>Ethnicity</i>			
White	91.3	89.2	91.5
Mixed	0.7	1.0	0.8
Asian or Asian British	4.0	5.7	3.7
Black or Black British	2.8	2.4	2.8
Chinese or other ethnic group	1.2	1.8	1.2
<i>Nationality</i>			
UK, British	94.5	89.2	95.4
Other	5.5	10.8	4.6
<i>Country of Birth</i>			
UK	89.0	83.8	89.6
Other	11.0	16.2	10.4
<i>Disability</i>			
Having a disability	15.5	11.7	14.3
Not having a disability	84.5	88.3	85.7

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