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## Impact Assessment

Reporting of trade union facility time  
in the public sector

JANUARY 2016

<b>Title: Impact Assessment: reporting of trade union facility time in the public sector</b>	
<b>IA No: BIS LM008</b> <b>Lead department or agency:</b> BIS <b>Other departments or agencies:</b>	<b>Date: 13<sup>th</sup> January 2016</b>
	<b>Stage: Final</b>
	<b>Source of intervention: Domestic</b>
	<b>Type of measure: Primary legislation</b>
	<b>Contact for enquiries:</b> Lm.correspondence@bis.gsi.gov.uk
<b>Summary: Intervention and Options</b>	

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
£m	£m	£m	No	N/A

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

The cost of facility time in the public sector is paid for out of public funds. There was inadequate monitoring and control of this spending in the Civil Service prior to reforms and evidence suggests this remains the case in parts of the wider public sector. This measure will extend the requirement to publish certain information on trade union facility time to the wider public sector, to improve transparency and accountability.

**What are the policy objectives and the intended effects?**

The objective of the policy is to ensure that taxpayers' money spent on trade union facility time in the public sector is properly monitored and reported. This transparency will enable Government, employers and taxpayers to verify whether taxpayers' money is only spent on appropriate and accountable trade union work that represents value for money.

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

Policy Option 0: Do Nothing

Policy Option 1: Require reporting of facility time across public sector employers to improve transparency and monitoring to help ensure taxpayer value for money and accountability;

Policy Option 2: Introduce limits on the levels of facility time that public sector employers provide in proportion to their total pay bill.

The preferred option is option 1, in line with similar reforms in the Civil Service, but with a power to make regulations setting a cap on the paid time off taken by the employers' trade union representatives for facility time to a percentage of the employers' pay bill (option 2). The Government will assess the information published by public sector employers on facility time before deciding whether regulations to implement Option 2 are appropriate. If such regulations are to be laid, a separate impact assessment would be produced.

**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.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? NA	<b>Traded:</b>		<b>Non-traded:</b>		

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view

Signed by the responsible Minister:



Date: 13 January 2016

## Summary: Analysis & Evidence - Policy Option 1

Description: Reporting trade union facility time in the public sector

### 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:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate	2.2	2.4	22.9

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

The costs of the facility time transparency proposals only relate to public sector bodies, not to business or civil societies and therefore this specific provision is outside the scope of the Better Regulation Framework. However, to be as transparent as possible, costs have been estimated as a one-off familiarisation cost of £2.2m and £2.4m recurring annual reporting cost. This represents the cost of every employer (each school, each NHS trust, each council, etc.) compiling and publishing the required information.

#### 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		

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

While it is difficult to estimate the impact on the wider public sector, even a small fraction of the potential benefits seen in the civil service after similar reform would outweigh the above costs. Given some of the uncertainties, a final monetised benefit is not claimed. However, as an illustration, if the same reductions in facility time seen in the civil service occurred in the wider public sector the reduction in facility time costs would be over £100m per annum.

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

The reform provides increased transparency and public scrutiny of facility time allowing taxpayers better understanding and openness about how resources are used. It encourages public sector employers to monitor and, where appropriate, evaluate the amount of money spent on this.

#### Key assumptions/sensitivities/risks

##### Discount rate

We have assumed that it will take 8 hours to become familiar with the changes for each public sector body affected. The reporting cost for schools is assumed to cost 8 hours of time and 24 hours of time for all other public sector bodies affected. These figures are based on consultation with public sector bodies.

3.5%

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of target?	Measure qualifies
Costs: 0.0	Benefits: 0.0	Net: 0.0
	No	OUT (Overall IA)

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# Evidence Base (for summary sheets)

## Strategic overview

1. The Government is introducing fundamental reforms to modernise trade union law in the Trade Union Bill (the Bill). Included in the Bill is a measure to require the reporting of trade union facility time in the public sector, which is considered in this impact assessment.
2. Also included in the Bill are measures to ensure that industrial action, which can be disruptive to the wider public, only takes place as a result of a clear, recent ballot in favour of industrial action. There is also reform to tackle the intimidation of non-striking workers during times of industrial action. The Bill also contains measures to reform trade union political funds, reform the role of the certification officer, and to prohibit the deduction of trade union subscriptions from wages in the public sector. These measures are aimed at improving trade union practices and transparency.
3. The impact of most of these measures is assessed in the Trade Union Bill Impact Assessment, published alongside this document. However, there will also be separate impact assessments on the 40% ballot threshold in important public services and on the prohibition of deduction of trade union subscriptions from wages in the public sector.
4. All of the measures described in paragraph 2 have impacts on businesses. For instance, measures to ensure a clear, recent ballot mandate for industrial action will positively impact on employers potentially facing industrial action. Measures aimed at improving trade union practices and transparency will impact on trade unions. They are therefore in scope of the Better Regulation Framework deregulatory target.
5. The facility time reform covered by this impact assessment, which require the reporting of trade union facility time in the public sector directly affects only public sector organisations. Therefore, it falls outside the scope of the Better Regulatory Framework. Nevertheless, to aid transparency, an impact assessment has been undertaken for these proposals.

## Problem under consideration

6. The cost of facility time in the public sector is paid for out of public funds. The Facility Time Framework for the Civil Service issued by the Cabinet Office ensures that the Civil Service publishes certain information regarding this. There was inadequate monitoring and control of this spending in the Civil Service and evidence (including research carried out by the Taxpayers' Alliance) suggests this remains the case in the wider public sector. These measures will extend this publishing requirement to the wider public sector, in the interests of transparency and accountability.

## Rationale for intervention

7. The whole public sector needs to ensure it delivers value for money; it is unacceptable that taxpayers' money should be spent without proper monitoring and control. This measure in the Bill is to help ensure taxpayers' money is only spent on appropriate and accountable trade union work that represents value for money to the tax payer.

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8. The percentage of the Civil Service paybill spent on facility time fell after the implementation of reforms, from 0.26% in 2012 to just 0.07% in the 1<sup>st</sup> quarter of 2015<sup>1</sup>. Facility time in the wider public sector is reported to be around 0.14%, around twice that of the Civil Service. Other public sector employers need to ensure that their spending on facility time is transparent and efficient and provides value for money for the taxpayer.
  9. The Government is therefore introducing a new requirement that all public sector employers publish similar facility time information to that which government departments are currently required to publish by the Cabinet Office's Facility Time Framework for the Civil Service. The Trade Union Bill also enables Ministers, at a future date, to set a cap on the time and money spent on facility time if they consider it appropriate to do so.
  10. Trade union representatives can get paid time off to carry out 'duties' for which the right to paid time off is set out in legislation. This includes health and safety activities, negotiating with employers, representing members in the workplace and union learning activities<sup>2</sup>. Employers may also grant time off for union activities for which there is no statutory right to paid time off. Therefore, whilst we expect that the transparency measure may reduce the proportion of the pay bill accounted for by trade union facility time, it will be for the individual employers to decide how this is done. Taking into account experience in Civil Service bodies, it is not expected that the proposed legislation will result in a significant impact on trade union representatives carrying out their trade union duties for which there is a legal entitlement to reasonable paid time off work.

## Policy objectives

11. At a time when the whole public sector needs to ensure it delivers value for money, it is unacceptable that taxpayers' money should be spent without proper monitoring and control. This measure in the Bill is to ensure taxpayers' money is only spent on appropriate and accountable trade union work that represents value for money. The challenge is to get the balance right between supporting effective representation of trade union members and giving taxpayers better value for money.
12. The Government's overarching policy is to provide the transparency to enable taxpayers to see how much facility time in the public sector costs. If this transparency shows unacceptable inefficiencies in spending on facility time or poor value for money for the taxpayer, then we may bring forward proposals to cap the spending by public sector employers on facility time, and limit the time individual union representatives can spend on trade union work.

## Policy options

13. The Bill includes provisions to tighten the rules around taxpayer-funded paid facility time for union representatives.
14. The Bill will enable Ministers to make regulations requiring public sector employers to publish similar information to that required of government departments by the Cabinet Office's Facility Time Framework for the Civil Service. Voluntary

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<sup>1</sup> <https://www.gov.uk/government/publications/trade-union-facility-time>

<sup>2</sup> Unite, Unite Briefing: the facts about trade union facility time, 2012

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transparency codes are likely to have an uneven impact in terms of encouraging greater transparency across the wider public sector, for example, the earlier experience with the Code of Recommended Practice for Local Authorities on Data Transparency. The Government therefore believes that, in line with similar reforms in the Civil Service, there should be a requirement in legislation to report facility time across public sector employers to improve transparency and monitoring to help ensure taxpayer value for money and accountability. The information that could be required to be published includes the number of trade union representatives by type, how many of them spend a specified percentage of their time on trade union duties and activities, and information about the relevant employers' spending on facility time.

15. However, the Government will also take a power in the Trade Union Bill to make regulations setting a cap on the paid time off taken by the employers' trade union representatives for facility time. The Government will assess the information published by public sector employers on facility time before deciding whether such regulations are appropriate. If such regulations are to be laid, a separate impact assessment would be produced. The cap could relate to a percentage of the employers' paybill, or alternatively as a percentage of the representative's working time.

## **Monetised and non-monetised costs and benefits**

### **Familiarisation of public sector employers with proposed reforms relating to facility time of union representatives**

16. Civil Service employers are already required to publish and report their spending on facility time, and are therefore not expected to incur any further costs as a result of the legislation. Any additional administrative burdens imposed on local authorities should not be significant given that the Local Government Transparency Code already requires them to publish certain information on trade union facility time. Data gathered from Civil Service organisations is used here to estimate the impact of the legislation on other public sector employers. Table 11 below shows that not all public sector bodies currently provide information on facility time (an estimated 21,086 public sector bodies).
17. The introduction of this legislation will result in one-off familiarisation costs to all public sector employers including schools, NHS trusts, fire services, constabularies (police staff), and local authorities. Table 11 below sets out the numbers of bodies in each category. This is based on a targeted web based search of data sources that contain information on the number of public bodies that would be affected. We believe the final figure is representative of the number of organisations which will be covered by this familiarisation cost but the figure may be slightly higher.

**Table 1 – Number of public sector bodies affected by the measure**

Public sector body	Number
State funded primary and secondary education	20,086
Fire services	51
Constabularies (police staff)	48
Local authorities	380
Health Authority and Trusts (NHS)	511
Transport	10
<b>Total</b>	<b>21,086</b>

18. For each public sector body, a limited number of staff will need to be made aware of the impacts the proposed legislation would have on their operations. We assume that the amount of time taken to become familiar with the proposals in this impact assessment will be small as the Bill introduces relatively minor amendments to existing reporting rules for public sector bodies. Familiarisation may include activities such as one official in each public body reading and understanding the proposed regulatory change, learning how it impacts their operations, and producing a report for senior management/leadership. This information may then be disseminated widely in public sector bodies, e.g. through an email or face to face meetings.
19. For the purposes of this impact assessment, we assume that the type of staff involved in familiarising themselves with these proposed regulations will be public sector administrative officials. Using the Annual Survey of Hours and Earnings data (2014 provisional), the basic hourly median pay for 'administrative occupations: government and related organisations' (the closest available job category) is £10.93. Uprating by 19.8% to reflect non-wage costs (Eurostat) the total hourly cost for an administrative official will be approximately £13.09.
20. Assuming that the above familiarisation activities take approximately one day (8 hours) of an official's time, the total familiarisation cost per public sector organisation will be around £104.72 (£13.09 x 8 hours). Based on the above estimates, the total one-off familiarisation cost to the public sector is estimated at £2.2m.

## Ongoing Costs and benefits

### Reporting by all public sector bodies

21. The introduction of the legislation will also result in reporting costs to all public sector bodies, who will now be required to report annually on spend on trade union facility time.

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22. Existing legislation already requires public sector bodies to include pay reporting in their annual accounts. For each public sector body, this change in regulation is therefore an extension on current annual reporting rules. The activities associated with reporting are likely to involve an administrative officer collating facility time data, and producing and publishing a report including total spend on facility time as well as associated statistics. It is expected that in smaller public bodies (especially primary and secondary schools) with fewer staff per body such reporting will be very straightforward and will often involve 'nil returns' (no facility time spend). In larger bodies, on the other hand, this exercise will be more burdensome.
  23. It is, again, assumed that the staff involved in reporting activities will be administrative officials, at an hourly cost to public sector bodies estimated at £13.09 including wage and non-wage costs.
  24. Informal consultation with a number of Civil Service bodies who have been reporting on trade union facility time spend suggests that this reporting does not involve a large number of officials. Data gathered by the Cabinet Office from departments suggests that annual reporting activities involve, at most, 24 hours of an official's time. We estimate that for smaller organisations, this reporting will take around a day (8 hours) based on Cabinet Office estimates.
  25. The total annual reporting cost per smaller public sector body (schools) is therefore estimated at £104.72 (£13.09 x 8 hours), and for a larger public body at £314.16 (£13.09 x 24 hours). The total annual cost to the public sector is estimated at £2.4 m (£13.09 x 20,086 schools + £314.16 x 1000 other bodies).
  26. These estimated costs of reporting facility time only affect public sector bodies which fall outside the scope of the Better Regulation Framework for assessing costs and benefits. However, the above estimates are provided to be as transparent as possible on the potential impact. Discussion over the potential monetised benefits is also provided, below, to be as transparent as possible in considering the overall impacts of the public sector facility time measure.

### **Benefits of efficiencies in facility time due to increased transparency (indirect)**

27. Evidence from the Civil Service reform shows that the amount of paid time spent on trade union facility time has fallen since the introduction of reporting on time spent on facility time. There has been a fall from 0.26% of the Civil Service pay bill spent on facility time in November 2011, when reporting commenced, to 0.07% of the pay bill in the 1<sup>st</sup> quarter of 2015<sup>3</sup>. While it is not possible to prove how much of this fall of 0.19 percentage points of the Civil Service pay bill (73% of facility time costs) is directly attributable to the increased transparency resulting from reporting time spent, this increased transparency is likely to be a key factor accounting for at least some of the reduction.
28. There are uncertainties around the current level of facility time in the public sector, the extent to which the public sector behavioural response would be the same post-transparency reforms as in the civil service, and also the relative change in benefits to employers and unions following any re-allocation of resources away from facility time. Given these uncertainties, this impact assessment does not claim a specified, monetised benefit from the facility time reforms in the final net present value totals.

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<sup>3</sup> Cabinet Office, Facility Time Figures January to December 2014, 27 March 2015

<https://www.gov.uk/government/publications/trade-union-facility-time>

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However, the benefits are potentially large. We therefore provide an illustrative example.

29. The annual pay bill for the Public Sector excluding the Civil Service is around £153 billion<sup>4</sup>. There is no robust estimate, though one estimate is that around 0.14% of the annual pay bill in the wider public sector is spent on trade union facility time<sup>5</sup>. This indicates a spending level of around £214m on facility time in the public sector. If facility time expenditure fell to a level seen in the civil service of 0.07% of the pay bill, a drop of 50%, then the saving to the taxpayer would be approximately £100 million a year.
30. However, because of the uncertainties in making an exact estimate this assessment does not claim a monetised benefit in the final totals for the Impact Assessment.

## Risks and assumptions

31. The cost estimates above rest on assumptions around the amount of time it would take to perform administrative tasks.

## Direct costs and benefits to business calculations

32. **Not applicable.** This policy does not regulate or deregulate business.

## The Family Test

33. These proposals are about increasing transparency of resources spent on trade union facility time in the public sector. We do not expect there to be any direct, adverse impact on families as a result.

## Wider impacts

34. An equality analysis for the Trade Union Bill has been published at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/460114/BS-15-534-trade-union-bill-equality-analysis.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/460114/BS-15-534-trade-union-bill-equality-analysis.pdf).

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<sup>4</sup> National Audit Office, Central Government Staff Costs, June 2015, public sector staff costs for 2013/14 is £164 billion, of which £11.13 Billion is for the Civil Service.

<sup>5</sup> Bob Neill, Parliamentary Under Secretary for DCLG, answer to Parliamentary Question on 25 October 2011, <http://www.theyworkforyou.com/wrans/?id=2011-10-25a.69094.h&s=%22bob+neill%22+0.14%25#g69094.r0>

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