



Department
for Business
Innovation & Skills

Impact Assessment

Tackling intimidation of non-
striking workers (consultation
impact assessment)

JULY 2015

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Title: Tackling intimidation of non-striking workers (consultation impact assessment) IA No: BISLMD003 Lead department or agency: BIS Other departments or agencies:			Impact Assessment (IA)	
			Date: 14/7/2015	
			Stage: Consultation	
			Source of intervention: Domestic	
			Type of measure: Other	
			Contact for enquiries: Joseph Betts joseph.betts@bis.gsi.gov.uk Abbey 1, Floor 3, 1 Victoria Street, London, SW1H 0ET	
Summary: Intervention and Options			RPC Opinion: Awaiting Scrutiny	
Cost of Preferred (or more likely) Option (Option 1)				
Total Net Present Value	Business Net Present Value	Net cost to business per year¹ (EANCB on 2009 prices)	In scope of deregulatory target?	Measure qualifies as
£ -0.71 million	£ -0.69 million	£ 0.06 million	Yes	IN
What is the problem under consideration? Why is government intervention necessary? Picketing is governed by a detailed framework of civil and criminal laws and this is accompanied by the Code of Practice on Picketing (“the Code”), which helps to ensure that picketing is lawful and peaceful without intimidating those who want to go into work. While most unions observe the Code, recent years have seen the emergence of new forms of protest in order to further industrial disputes and there have been allegations of intimidation of non-striking workers and third parties, such as suppliers and customers, as well as the general public. The Government is concerned that broader protests associated with trade disputes as well as some picketing, are a key area of risk for the intimidation of non-striking workers and third parties. Improving transparency of unions’ planned actions during industrial disputes, a negative externality of industrial action, requires a robust but balanced solution that can only be achieved by Government intervention.				
What are the policy objectives and the intended effects? The Government’s aim is to achieve greater transparency and accountability during industrial disputes in order to tackle the intimidation of non-striking workers during the course of such disputes. The Government’s consultation therefore invites further evidence of intimidatory behaviour experienced during industrial disputes. It seeks views on gaps in the current legal framework, whether and how this could be strengthened, for example by way of new sanctions. More specifically, we propose to improve transparency by requiring unions to publish plans of action related to picketing and protests linked to industrial disputes to minimise risks of intimidation so that all affected parties (including union members) will benefit from increased transparency regarding the union’s intentions. It will strengthen democratic accountability and give unions the option to repudiate any behaviour it does not endorse. Additionally, the current Code does not extend to protests linked to industrial disputes. We further propose to broaden the scope of the Code so that this provides guidance on such protests and misuse of social media, and sets out clearly the rights and remedies for non-striking workers, businesses, the public and pickets.				

¹ In this impact assessment the 'cost to business' refers to cost to unions.

What policy options have been considered, including any alternatives to regulation?**Option 0: Do Nothing**

The counterfactual to the options discussed is to leave current rules as they are. Currently trade unions are not required by the Code to submit formal plans of intended action during a dispute.

Option 1 – To require union to publish a plan of action in relation to picketing and protests for each industrial dispute; to require unions to report on industrial action in their annual report; and extend the Code to include guidance on industrial dispute-related protests.

As part of the Trade Union Bill, key aspects of Section F of the Picketing Code will be enshrined in legislation. The Government seeks views on other practices that should be legally enforceable to improve accountability. Such changes may or may not be included in the final bill (dependent on the outcome of the consultation). Other proposals set out as part of one comprehensive consultation include requiring unions to publish plans of intended action during industrial disputes, requiring them to set out in their annual reports to the Certification Officer numbers of picketing and protests held and any related arrests. We also propose to update and broaden the scope of the Code to include guidance on protests linked to industrial disputes and modernise the Code to cover, for example, use of social media.

Will the policy be reviewed? Yes. If applicable, set review date: 2020

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	Large 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: Nick Boles
MP



Date: 15 July 2015

Summary sheets of Costs and Benefits

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -1.35	High: -0.36	Best Estimate: -0.71

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.30	1	0.01	0.36
High	1.18		0.02	1.35
Best Estimate	0.60		0.01	0.71

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

There are expected transition costs to business (unions) of £602k (familiarisation and legal fees). There are also expected annual costs to unions of £90k (producing plans of action during disputes and producing extra statistics). Finally, the Certification Officer (CO) will incur an annual cost of around £17k associated with administration of extra statistics.

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	0		0	0
High	0		0	0
Best Estimate	N/A		0	0

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

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

We expect a non-monetised benefit to firms, the general public and the state, who will all benefit from increased union transparency during disputes.

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. Evidence from the Carr review indicated that breaches of the code do happen, however this evidence could not be substantiated. We aim through consultation to seek further views on the proposed measures and how they relate to the potential problems.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of deregulatory target?	Measure qualifies as
Costs: 0.06	Benefits: 0	Net: -0.06	YES	IN

Evidence Base (for summary sheets)

Background

Legal Framework

1. Picketing in Great Britain is 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 Code helps to ensure that picketing is lawful and peaceful without interfering or intimidating those who want to continue to work.
2. The current legislative requirements for a lawful picket are set out in section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (“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 TULCRA;
 - 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.

The Picketing Code of Practice

3. The Code of Practice on Picketing (the “Code”) was last updated in 1992 and provides practical guidance on picketing during trade disputes for those contemplating, organising or taking part in a picket or activities associated with picketing. The Code itself is not legally binding. But statute law provides that any parts of the Code are to be admissible in evidence and taken into account in proceedings before any court where they consider them relevant.
4. Whilst there is no specific ‘right to picket’ under law, attendance has long been considered a lawful activity. The law does impose certain restrictions on under what conditions a picket can take place, and how and where it is conducted. For example, the Code stipulates (among other things) that pickets can use ‘peaceful persuasion’ in attempting to stop others from working. It also recommends that the number of pickets should not exceed six outside any entrance/exit to a workplace to avoid giving rise to fear and resentment. It also states that a picket can be conducted only at or near the actual workplace of those picketing.
5. There is no formal requirement for unions to publish a plan of the industrial action they plan to take. Some unions do publish the action they plan to take on their websites, and details of pickets are generally communicated to police prior to the action. There is also currently no requirement for unions to report the number of protests, pickets or arrests made each year during industrial disputes.

Section F of the Code of Practice on Picketing

6. Section F of the Code sets out the guidelines surrounding the organisation of pickets. The key aspects of the Code have been included in the Trade Union Bill.

The impact of this has been set out in a further Impact Assessment dealing with the new measures introduced by the Bill.

Strike action

7. There are no data on the number of incidents of picketing and protests linked to industrial action that takes place. However, for the purpose of illustration, the level of industrial action that took place in the year ending March 2015 included 211 stoppages, totalling around 708,000 working days lost to strike action. This compares with 176 stoppages, totalling around 498,000 working days lost in the previous year ending March 2014.²

Problem under consideration

8. There is a detailed framework of civil and criminal law which govern picketing. In addition to this there are statutory government guidelines set out in the Code of Practice on Picketing³ (“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 which have proven difficult to address.
9. However, allegations of intimidatory tactics have not been limited to picketing activities and some unions have allegedly pursued new forms of protests in order to further industrial disputes. Some of these were described in the media as ‘leverage tactics’, which prompted the Carr Review⁴.
10. The Carr Review considered alleged evidence of intimidatory behaviour in relation to picketing and protests linked to industrial disputes. A number of instances were identified of pickets preventing 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.
11. Intimidation of union members is currently protected by existing provisions in respect of detriment or unjustifiable discipline. These laws allow redress through

² http://www.ons.gov.uk/ons/publications/re-reference-tables.html?newquery=*&newoffset=50&pageSize=25&edition=tcm%3A77-363535 table LABD01: labour disputes.

³ <https://www.gov.uk/government/publications/code-of-practice-picketing>

⁴ <https://carr-review.independent.gov.uk/>

the courts where such unacceptable behaviour is experienced by a union member, either at the hands of the employer or the union itself.

12. Due to issues with the methodology of the report mentioned above, all events referred to above remain alleged due to the review's inability to engage with unions regarding the findings. The report states that during the majority of industrial disputes, pickets do follow the guidelines set out in the Code, and do not engage in intimidation. However, there is evidence in the media that people not involved in the dispute can feel intimidated. The proposed changes therefore aim to improve transparency during industrial action in a robust but balanced way.
13. Currently there is no requirement for unions to publish formal plans of their intended action during disputes. Prior access to formal union plans will allow for greater transparency when action is being undertaken by the union, whether at a place of work or as part of a protest linked to industrial disputes, without preventing them taking place.
14. The provision of prior notice by publication of plans has the potential to strengthen democratic accountability and improve reputational protection. Publication of plans would improve accountability for actions undertaken in the name of a trade union, and will give the union the option to repudiate a particular protest where individuals have ignored the union's strategy and are acting on their own accord. Advance awareness of planned protests will enable the police to alert the union in the first instance and support them as appropriate in handling issues which may arise during picketing or protests linked to industrial disputes.

Rationale for intervention

15. Industrial action, where the correct legal procedures are followed, is the lawful stoppage of work by workers, and is intended to temporarily disrupt firm output. The intended disruptions are caused by workers ceasing work for a pre-determined amount of time. Strike action can be accompanied by peaceful picketing or other forms of protest.
16. Workers of any workplace are given the choice to participate in strike action or not, and are protected whichever choice they make.
17. The practice of "leverage tactics" during industrial disputes is a recent development. These tactics can cause fear and intimidation in those not participating in the strike action. One aim of this consultation is to invite further evidence of intimidatory behaviour which will be assessed as to whether it needs to be addressed, either in legislation or guidance set out in an updated Code.
18. Where such intimidation does occur, a social cost is borne by non-striking workers and in some cases the wider public. These legislative changes would ensure that these costs are shared with the union and its members and thus address a negative externality problem.

19. The consultation encompasses both picketing and protests in the context of an industrial dispute. Since intimidation could occur in both cases, the consultation's scope includes both following this rationale.

Policy objective

20. The policy objective is to create greater union accountability and transparency during industrial disputes for parties who are affected by industrial disputes. The key aspects of Section F of the Code introduced in the Trade Union Bill go some way towards improving the accountability of unions.
21. Many unions already publish or provide certain bodies (e.g. police) with this information by their own volition. By requiring unions taking part in picketing industrial action to produce a plan of their intended action, and report on actions taken annually, all parties to be affected will benefit from increased transparency in respect of a union's intentions during industrial disputes.
22. In addition to the proposals considered in this Impact Assessment, the Government's consultation also welcomes evidence of intimidatory behaviour experienced during picketing and protests linked to industrial disputes. It seeks views whether there are gaps or weaknesses in the current framework and how the framework could be strengthened, including whether new and stronger sanctions should be introduced. The impact of any new proposals that are taken forward as a result of this consultation will be set out in a further Impact Assessment.

Policy options

Option 0 - Do Nothing

23. The counterfactual to the options discussed is to leave current rules as they are. Currently trade unions are not required by the Code to submit formal plans of intended action for each industrial dispute or provide an annual report of the activities undertaken.

Option 1 – To require unions to publish a plan of action in relation to picketing and protests for each industrial dispute, to require unions to provide an annual report on the industrial action undertaken, and extend the Code to include guidance on industrial dispute-related protests.

24. As part of the Trade Union Bill, key aspects of Section F of the Picketing Code will be enshrined in legislation. The Government seeks examples of other practices that should be legally enforceable. Such changes may or may not be included in the final Bill and will be dependent on the outcome of this consultation.
25. This option involves requiring unions to publish plans of their intended actions during disputes. The information we would expect unions to provide is set out below, and we will consider whether these requirements should be set out in legislation or the Code. The information we would wish the plans to include are:
- Specifying when a union is intending to hold a protest or picket

- Where it will be
- How many people it will involve
- Confirmation that people have been informed of the strategy
- Whether there will be loudspeakers, props, banners etc.
- Whether it will be using social media, specifically Facebook, Twitter, blogs, setting up websites and what those blogs and websites will set out
- Whether other unions are involved and the steps to liaise closely with those unions
- That the union has informed members of the relevant laws

26. A further requirement would be for unions to provide some additional information in their annual report. Unions are already required to submit an annual report to the Certification Office, covering things such as member numbers and union finances. This option would require unions to also include figures each year for the number of protests and pickets that have taken place, and whether there have been any court injunctions, arrests or criminal prosecutions related to those pickets and protects.

Cost benefit analysis

Assumptions behind cost-benefit analysis

27. The final figures given for cost estimates are presented in a range. The range contains a low, best and high estimate. Ranges are used due to the uncertainty around lengths of time for staff to complete tasks, and the incomplete nature of the data available. Each assumption of time taken is based on engagement with stakeholders, and has been used in previous impact assessments.
28. We have assumed unions will need time to familiarise themselves with the changes, and legal consultation during their familiarisation meetings. This is consistent with feedback we have previously received from trade unions regarding updates to rules.
29. For legal fees we have assumed that a lawyer is present for the meeting. In previous impact assessments, through consultation with unions we have used the figure £250 per hour for legal fees. We have used this again here.
30. In calculating costs we have used a range of estimated hours to complete tasks. The use of a range reflects the uncertainty surrounding the best estimates. This follows the methodology discussed with trade union officials during previous consultations on other legislative measures, and has been used in previous impact assessments.
31. It takes into account the range of processes required to agree and effect changes in different unions; some larger unions have very comprehensive processes for clearance whilst smaller unions may have fewer requirements. We assume that this range would be most likely to cover the majority of variation between unions in how they would respond to these proposals.
32. We have calculated the cost per union and multiplied by the total number of unions. Numbers for the total number of unions have been sourced from the Certification Officer's Annual Report (2014).⁵
33. Output figures in tables have been rounded to the nearest thousand (or in the case of smaller figures; the nearest hundred). Given the levels of uncertainty around the figures, it would be slightly misleading to offer final estimates to the nearest pound. We have used the unrounded figures in our working, therefore given totals provided may not sum perfectly to components due to rounding.
34. We use three different wage categories to calculate time costs for producing the plan using provisional ASHE 2014 data. SOC 2010: 1115 is used for the General Secretary. For senior officials we used SOC 2010: 1139. Union officials used SOC 2010: 4114.

⁵ <https://www.gov.uk/government/publications/annual-report-of-the-certification-officer-2013-2014>

35. We have also used one code in estimating the costs on the CO administrative certification office for receiving and recording the plans (SOC 2010: 4112).

36. These categories were selected based on the views of stakeholders and subsequent use in a previous impact assessment. The table below outlines the categories, their Standard Occupation Codes (SOC 2010) and their levels before and after adding the non-wage labour costs uplift.

37. These cost estimates reflect our current approach to costing these changes. However these methods may change dependent on feedback from consult.

Table 1 - Labour costs underpinning the costings:

Standard Occupation Classification	Category used for	Median hourly pay excluding overtime, 2014	Inflated (+19.8% ⁶) to include non-wage costs
Chief executives and senior officials (SOC 2010: 1115)	General secretary	£41.35	£49.54
Functional managers and directors (SOC 2010: 1139)	Other unions directors;	£21.56	£25.83
Officers of non-governmental organisations (SOC 2010: 4114)	Union officials	£11.42	£13.68
National government administrative occupations (SOC 2010: 4112)	Administrative staff of certification office	£10.40	£12.46

Source:

Annual Survey of Hours and Earnings (Table 14.6a), 2014 Provisional Results, Office for National Statistics
Labour costs per hour in EUR, 2014 whole economy excluding agriculture and public administration, Eurostat

⁶ Source: http://ec.europa.eu/eurostat/statistics-explained/index.php/Hourly_labour_costs

Benefits

Employers

Requirement to publish picketing and protest plans

38. We expect an ongoing benefit to employers in the form of increased transparency to help them understand whether action is being undertaken by the union whether at a place of work or as part of a protest linked to industrial disputes. This benefit has not been monetised in this impact assessment. This is due to a lack of data available on the impact of disputes on firm output, making it difficult to calculate a valid figure for increased output under the changes.

Union members and the general public

Requirement to publish picketing and protest plans

39. The provision of prior notice by the publication of plans has the potential to strengthen a union's democratic accountability and improve reputational protection. It has not always been clear whether certain tactics deployed during picketing and protests arise locally. The publication of such plans would improve the accountability for actions undertaken in the name of a trade union. The union will have the option to repudiate a protest where individuals have ignored the unions' strategy and are acting of their own accord.

Annual reporting on industrial action undertaken

40. More detailed reporting in the annual reports provides union members with greater transparency regarding their union's actions. The general public will also benefit from increased transparency from their annual reports.

Exchequer

Requirement to publish picketing and protest plans

41. Prior notice of unions' plans will provide greater transparency to the police of public demonstrations, without preventing such protests from taking place. Advance awareness of planned protests will enable the police to alert the union in the first instance and support them as appropriate in addressing any handling issues that may arise during picketing or protests linked to industrial disputes.

Annual reporting on industrial action undertaken

42. The Government and the Certification Office (the union regulator) will also have access to greater information regarding union activity during disputes.

Transition costs

43. We have estimated costs here for senior union staff becoming familiar with the new requirements. We have included here familiarisation with producing action plans and new reporting requirement in their Annual Report. In line with previous impact assessments we have assumed a lawyer will need to be present during these meetings, and estimated the cost of this in the model.
44. For submitting action plans we have estimated that it will take the General Secretary 8 hours with 4 other senior directors to become completely familiar with what is required and how they will implement this. This is based on figures we have used in a previous impact assessment, in which unions were required to become familiar with some changes to their rule book and discuss implementation. This was originally based on feedback from the unions themselves.
45. Familiarisation of the extra statistics on picketing and associated protests to be added to the annual report is estimated to take also 1 hour for a General Secretary and 4 other senior directors to clarify how this will be done.

Familiarisation costs

Table 2: Hours spent by different categories of staff on familiarising with the changes

	General secretary			Other senior director			Lawyer		
	Low	Best	High	Low	Best	High	Low	Best	High
Plan	4	8	16	16	32	64	4	8	16
extra statistics	0.5	1	1.5	2	4	8	0.5	1	1.5
Total	4.5	9	17.5	18	36	72	4.5	9	17.5

Table 3: Monetised time cost for different staff (familiarisation)

	General secretary			Other senior director			Lawyer		
	Low	Best	High	Low	Best	High	Low	Best	High
Plan	£198	£396	£793	£413	£827	£1,653	£1,000	£2,000	£4,000
extra statistics	£25	£50	£74	£52	£103	£207	£125	£250	£375
Total	£223	£446	£867	£465	£930	£1,860	£1,125	£2,250	£4,375

Table 4: Aggregated familiarisation costs for unions (incl. legal fees)

	Cost per union (incl. legal fees)			Number of unions	Total (nearest thousand)		
	Low	Best	High		Low	Best	High
Plan	£1,611	£3,223	£6,446	166	£267,499	£534,998	£1,069,996
extra statistics	£201	£403	£656		£33,437	£66,875	£108,888
Total					£300,936	£601,873	£1,178,884

Table 5: Total familiarisation cost estimates for unions

Lower estimate	Best estimate	High estimate
£301,000	£602,000	£1,179,000

Ongoing costs

46. We do not estimate that this measure will increase the cost to unions of communicating the rules around picketing to their members. Unions already publicise pickets widely, and by its very nature a picket is a public event. The picketing code already makes provisions for union representatives to be on-site during a picket.
47. We expect there to be an annual cost associated with unions having to produce a plan for their actions during industrial disputes. We have found through engagement with stakeholders that some unions do produce less formal plans in some cases of action. However, we do not hold information on how many normally do this and to what extent. We have estimated costs assuming that no unions would produce this plan without being required to. We believe this to be a conservative assumption, although all unions may potentially have to do at least some extra work in meeting these new requirements.
48. For unions, we have estimated that it will take one full day for 4 union officials to produce the plan, and included half an hour for the General Secretary to clear before it is sent to the Certification Office (CO). We have used these hours as we assume the union will already have an internal plan, and officials will need to compile this information in to the report.
49. The cost is estimated here by taking the 5 year annual average⁷ (Jan 2010 – Dec 2014) of the number of stoppages for the whole UK economy. To estimate the number of disputes we have used the number of work stoppages as a proxy. Again, this is imperfect but the best method available, as no stoppage can happen without a dispute, and most disputes result in only 1 stoppage. We have used this as no data exists on the number of workplace disputes per year.
50. We have also included annual costs for unions of collecting and recording the extra statistics in the annual report. We have estimated that this will take 2 hours for a union official to collect and complete, and half an hour for the General Secretary to clear. We have estimated this as over the course of the year an official will be required to collect information during every dispute.

⁷ http://www.ons.gov.uk/ons/publications/re-reference-tables.html?newquery=*&newoffset=50&pageSize=25&edition=tcn%3A77-360600 Table LABD01: Labour disputes

Table 6: Hours spent by different categories of staff on producing plans and collecting and recording extra statistics

	General secretary			Union official		
	Low	Best	High	Low	Best	High
producing plan	0.25	0.5	1	16	32	48
extra statistics	0.25	0.5	1	1	2	4

Table 7: Monetised time cost for different staff

	General secretary			Union official		
	Low	Best	High	Low	Best	High
producing plan	£12	£25	£50	£219	£438	£657
extra statistics	£12	£25	£50	£14	£27	£55

Table 8: Aggregated annual costs for unions

	Cost per dispute			Disputes per year	Total (nearest thousand)		
	Low	Best	High		Low	Best	High
producing plan	£231	£463	£706	174	£40,240	£80,480	£122,875
extra statistics	£26	£52	£104		£4,535	£9,071	£18,141
Total					£44,775	£89,551	£141,017

Table 9: Total cost estimates for unions

Lower estimate	Best estimate	High estimate
£45,000	£90,000	£141,000

Ongoing costs to the exchequer

51. We expect there to be no transition cost to the exchequer as a result of the new requirements for unions to submit action plans. There may be the requirement for occasional challenge from the CO, however this is expected to be very infrequent and has therefore not been included as a cost to the exchequer.
52. We do expect a small ongoing cost in administration for the CO in receiving, reading and recording the plans for each dispute. We have assumed there to be one day's work (8 hours) for an administrative staff member in receiving the plan. We have assumed a whole day as each plan will need to be recorded. In receiving the plan, the CO will need to ensure that the submitted document fulfils the requirements. In the case that a union does not comply with the new legal requirements or has failed to supply adequate information, this will need to be noted and time taken to include it in the CO's annual report.
53. The Certification Officer will have the power to request more information where documentation is incomplete, as is currently the case for the CO's receipt of Annual

Reports. So long as compliant unions submit fully completed documentation, then additional requests from the CO would pose no additional costs.

54. Again we have used the 5 year average of work stoppages (as above) to estimate the number of disputes per year. This has informed the amount of plans the administrative staff member is expected to receive each year.

55. An important caveat of this methodology is the distinction between a dispute and a stoppage. The guideline stipulates that one plan shall be produced for each dispute. The term dispute refers to the entire period of negotiation/strike action between unions and employers. A stoppage refers to any time that work is ceased by unions during a dispute. This means that one dispute can potentially include more than one 'stoppage', meaning the calculations below may potentially, slightly over-estimate the cost to the CO (as there should be slightly fewer disputes per year than stoppages). We have used stoppages as a proxy measure here as no data are available on the number of disputes per year, and believe the difference between the number of disputes and stoppages to be minimal.

Table 10: Hours spent by staff in receiving plan

	Administrative staff		
	Low	Best	High
Administration	4	8	12

Table 11: Monetised cost for administration in CO

	Administrative staff		
	Low	Best	High
Administration	£49.84	£99.67	£149.51

Table 12: Aggregated costs for administration of CO receiving plans

	Cost per stoppage			Annual stoppages	Total		
	Low	Best	High		Low	Best	High
Administration	£50	£100	£150	174	£9,000	£17,000	£26,000
Total					£9,000	£17,000	£26,000

Table 13: Total annual cost estimates for CO administration

Lower estimate	Best estimate	High estimate
£9,000	£17,000	£26,000

Deregulatory target

56. These changes present a net IN for the deregulatory target. There is expected to be a cost to business (unions) of £602k in transition costs (familiarisation). There would be a further £90k annual cost to unions (producing plans and extra statistics included in the annual report).
57. There are non-monetised benefits for firms involved in disputes with unions. This will result from increased transparency of intended union behaviour during disputes (see cost benefit section for further details).
58. This impact assessment has been produced in accordance with the Better Regulation Framework as at the time of drafting. The Better Regulation Framework is currently under review meaning the net present value and EANCB figures are subject to change.

Risks and unintended consequences

59. There is a small risk that some unions may be encouraged to picket more often if they are required to send information on this in their annual report, since the measure may draw focus to picketing as part of industrial disputes.

Proportionality of Evidence

60. The gathering and use of evidence in this impact assessment has been proportional and considered. 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 various published material.
61. We have included sensitivity analysis to reflect certain levels of uncertainty in the cost models. This uncertainty is a general reflection of assumptions within the model, and is included to provide some explanation of possible error from the best estimate. For example, when calculating costs using time spent by staff on tasks, 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.
62. Due mostly to gaps in the data available, the benefits to employers, non-striking workers and the government have been expressed in non-monetary terms. Evidence is not available on the difference in firm output during disputes, making it difficult to monetise the benefits of greater transparency on firm output during disputes.
63. We will refine our estimates where these data gaps are resolved through the consultation process.

Annex A

Small and Medium Business Assessment

Impact on unions

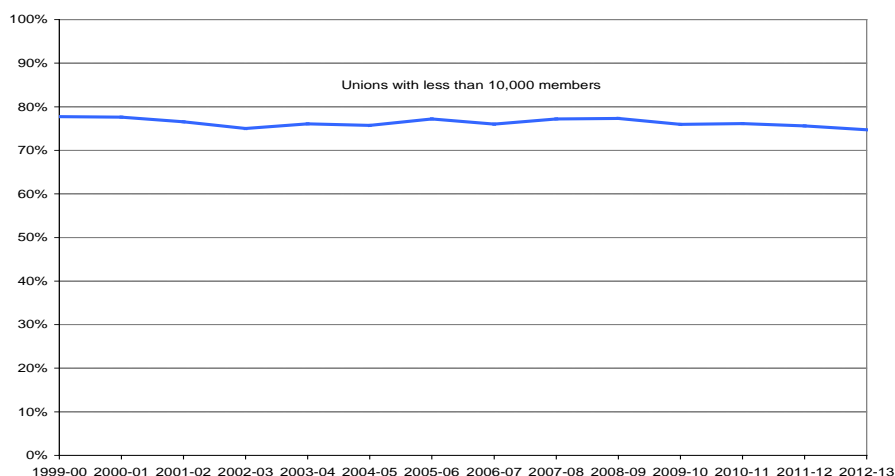
64. The measure affects Civil Society Organisations⁸, therefore a Small and Micro-Business Assessment is applicable. It has not been possible to fully assess the likely impact on small businesses (up to 49 full time equivalent (FTE) employees) and micro-businesses (up to 10 employees) as there is no collated data on union employees.⁹
65. We do not anticipate this measure imposing significant costs to trade unions or any other business or civil society organisation. As detailed above, the cost to unions would be incurred around familiarisation and increased working hours associated with producing plans and extra statistics. Since these costs would be relatively small in comparison to the wider benefit to business, it is proportionate not to exempt smaller unions from these requirements.
66. We have nonetheless attempted to quantify the impact this is likely to have on unions with less than 50 employees. A previous BIS Impact Assessment on Certification of trade unions' membership registers and investigatory powers for the Certification Officer¹⁰ 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.
67. Unions with 10,000 or fewer members make up a significant proportion of all unions. The percentage of unions with less than 10,000 members has remained relatively stable in the period between 1999-00 and 2012-13, representing around 75 per cent to 78 per cent of all listed and scheduled unions.

⁸ Trade unions are included in the definition of Civil Society Organisations, which is a voluntary organisation which is neither a business nor public sector.

⁹ The Department for Business, Innovation & Skills collects data on the number of small and micro businesses in the UK, but unions are not included in these records.

¹⁰ <https://www.gov.uk/government/consultations/trade-unions-assured-registers-of-members>

Chart 1: Percentage of unions with less than 10,000 members, 1999-00 to 2012-13



Source: Annual Report of the Certification Officer

68. A large proportion of trade unions therefore would be exempted if an exemption were applied to these unions. Were the new measures not to apply to unions employing less than 50 staff, the benefits of the policy would be significantly reduced.

Equality Assessment

69. A formal assessment of impact on equality will be published as a separate document, however equality has been considered at each stage of the policy development for these changes.

The Family Test

70. These proposals are about increasing transparency of union action during disputes. This should mostly affect the firms involved in disputes, and we do not expect there to be any direct, adverse impact on families as a result.

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