



Department
for Business
Innovation & Skills

**Transparency of Lobbying, Non-party
Campaigning and Trade Union
Administration Act 2014**

**Consultation on Trade Assured
Register of Members**

Response Form

SEPTEMBER 2014

The Department may in accordance with the Code of Practice on Access to Government Information, make available, on public request individual responses.

The closing date for this consultation is **4 December 2014**

Please return completed forms to:

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 Department of Business, Innovation and Skills
 Labour Market Directorate
 1 Victoria Street
 London SW1H 0ET

Tel: 020 7215 8543 Fax: 020 7215 6414

Email: nick.morgan1@bis.gsi.gov.uk

Your details

Name: Employment Law Committee of the Birmingham Law Society representing solicitors and barristers in the Greater Birmingham area. The committee members are in private practice and in other membership organisations and provide advice to employers and employees.

Organisation (if applicable)

Address

Telephone

Fax

Please tick the boxes below that describe you as the respondent to this consultation.

<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Trade or Professional Representative Body
<input type="checkbox"/>	Trade Union (over 1000 members)
<input type="checkbox"/>	Trade Union (under 1000 members)

	Other (please describe)
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Consultation questions

Membership audit certificate (MAC)

Question 1

Do you have any comments regarding the proposed operation of the MAC? Please indicate why.

We consider that these additional obligations provide little useful benefit to any party which may be affected by them. They impose additional cost on the relevant unions and provide little or no benefit to employers.

Assurer

Question 2

Do you agree with the Government's proposed approach? Please indicate why.

We do. The ability to act as an assurer should be qualitative rather than tied to particular or specific qualifications. It is agreed that certain qualifications should be taken as evidence of competence but that should not preclude others from discharging the role.

Question 3

Are there any other groups that should be able to act as an assurer? Please state who these should be and give your reasons why

Not applicable.

Content of the Order

Question 4

Which is your preferred option? Please give your reasons why

Option 2

Question 5

Do you have any other suggestions with regard to the content of the Order? Please explain your answer.

There appears to be no benefit to anyone in the competitive process identified in Option 1.

Guidance questions

Guidance for Trade Unions

Question 6

Do you propose any amendments to the guidance for trade unions? Please clearly state what these are and set out your reasons for the proposed changes.

Section 3 – Although it is accepted that trade unions are private membership organisations (subject to some degree of external regulation) could the assessor appointment issue not be addressed by the relevant provisions being implied in to the rule book as a matter of law as is the case in e.g. the Equal Pay legislation which implies a relevant clause.

Guidance for Assurers

Question 7

Do you propose any amendments to the guidance for assurers? Please clearly state what these are and set out your reasons for the proposed changes.

We are not in a position to comment.

Guidance for Employers

Question 8

Do you propose any amendments to the guidance for employers? Please clearly state what these are and set out your reasons for the proposed changes.

The current draft seems acceptable save that if an employer receives a request for addresses of the TU members and does not provide them, then it will be difficult for an employer to argue that the TU has failed to afford the opportunity equally to all those entitled to vote (section 227 of Trade Union and Labour Relations (Consolidation) Act 1992 (“**TULRCA**”). It could be seen as a requirement to provide the information so that the TU can comply with (section 230(1)(b) of TULRCA).

A balance needs to be sought between, on the one hand, compelling the employer to provide the information if it is deemed important that the union should be kept up to date and on the other issues around the transfer of the administrative burden from the entity faced with the obligation to keep its records up to date to the employer with nothing to gain from that process. In addition how would issues of inaccuracy, failure to provide the information, privacy and possible (albeit unlikely) data protection objections be addressed?

On balance we are of the view that employers should be required to provide the information where it is available to them but should not be obliged to undertake any work beyond that.

Impact Assessment questions

Impact on Trade Unions

Question 9

Do you have any evidence that could help to refine the assessment of union familiarisation costs?

Not in a position to comment.

Question 10

[For unions with more than 10,000 members] What are the estimated costs of making an amendment to your rule book to provide for the appointment and removal of an independent assurer?

Not in a position to comment

Question 11

[For unions with more than 10,000 members] How often will your union seek to re-tender the contract for an independent assurer?

Not in a position to comment.

Question 12

Do you have any evidence that could help to refine the assessment of the fee paid to an independent assurer?

Not in a position to comment

Question 13

Do you have any evidence that could help to refine the assessment of the time costs to larger unions with more than 10,000 members?

N/A

Question 14

Do you have any evidence that could help to refine the assessment of the time costs to smaller unions with fewer than 10,000 members?

N/A

Question 15

Do you have any evidence that could help to refine the assessment of the compliance costs?

N/A

Question 16

Do you have any evidence that could help to refine the assessment of the total costs to unions of implementing this legislation?

No

Impact on Trade Union Members

Question 17

Do you have any evidence that could help to refine the assessment of benefits of implementing this legislation?

No

Additional Questions (not included in the IA)

Question 18

Do you have any evidence that could help us assess whether it would be necessary to convene an extra, unscheduled rules conference in order to make the rule book changes to allow the appointment of an independent assurer?

No

Question 19

Do you have any evidence that could help us assess the costs of convening an extra rules conference should this be necessary?

No

Question 20

Do you have any evidence that could help us assess whether there are any costs to employers of employees attending an additional conference to agree rule book change?

The additional costs will arise where employees are also senior lay officials of the TU and part of the “rules” committee. As the TU will be required to implement these changes to its rules to comply with current legislation it is likely that this will be considered as time off with pay for TU duties and/or activities. This will impact more on larger employers as they have more sophisticated collective bargaining and facility time arrangements.

Question 21

[For unions with 10,000 members or less] Do you have any evidence that the process of self-assurance will affect the cost of compliance with section 24 of TULRCA? If so, does your evidence indicate that the costs of compliance would increase or decrease? Please provide details of your rationale.

No

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes No

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