

Trade Union Act 2016: Consultation on the Certification Officer's levy

Response of the Association of School and College Leaders

- 1 The Association of School and College Leaders (ASCL) represents nearly 19,000 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business managers and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million young people in more than 90 per cent of the secondary and tertiary phases, and in an increasing proportion of the primary phase.
- 2 ASCL welcomes the opportunity to comment on the proposals on the Certification Officer's levy.
- 3 ASCL agrees that the cost of occasional services should continue to be funded by the government.
- 4 The association also believes that the cost of external inspectors for investigations should be excluded from the levy.
- 5 Whereas ASCL sees the logic of replacing the fee structure with a levy system, we consider that it is inappropriate to charge unions under the levy for activities that it does not engage with e.g. political fund, members' superannuation scheme.
- 6 ASCL therefore favours a levy scheme that is dependent on the functions that it could be required to use. It is not fair to levy a union for a function that it will not be called upon to use.
- 7 ASCL therefore favour a differentiated levy system which levies at a higher rate those unions that have political funds and/or superannuation schemes.
- 8 The association agrees with paragraph 22 in the consultation that it would not be equitable to calculate an amount payable based on an assumption that all organisations use all functions at the same rate and that all organisations should pay at the same rate. ASCL is therefore strongly opposed to option (i), a levy based on an equal contribution.
- 9 ASCL agrees with the comment made in paragraph 23 that 'A levy regime based on membership size is likely to be fair and broadly predictable.' We acknowledge that to operate this option would require a separate mechanism for employers' associations.
- 10 ASCL is broadly in agreement that the basic levy contribution is based on the principle that costs should be paid by the type of organisation that such costs are referable to – adjusted rate (Option (iii)). We do not agree that functions that ASCL or other unions do not use e.g. political funds, members' superannuation scheme should be included in their levy charge.

- 11 ASCL is broadly in favour of a levy system which incorporates the principle that costs should be paid by the type of organisation that such costs would refer to and that the levy is also based on membership size.
- 12 ASCL is also comfortable with a levy system that is based on a percentage of the union's income however the proposed banding system is ridiculously inequitable. It is blatantly unfair to put an association like ASCL with a membership of around 19,000 and an income in the region of £6.2m, in the same levy bracket as NASUWT with membership of over 320,000 and an income of £31.5m let alone Unite with its membership of 1,380,000 and income of £176.6m.
- 13 Should it be determined to impose a levy system based on income then a far more equitable banding system needs to be developed.
- 14 There are significant issues within the consultation which need to be addressed in order to ensure that a longer window of conversion does not have unintended consequences, such as increased anxiety and inconsistency.

With reference to your specific questions

Question 1

- 15 ASCL recognises that a levy is an appropriate way of recovering the costs for some of the functions, however we query why a trade union should pay for functions that it is not engaged with e.g. supervising political fund ballots, supervising funds set up for members' superannuation schemes.

Question 2

- 16 The association agrees that the costs of external inspectors should be excluded from the levy. This also raises the question as to whether the levy system penalises unions that are fully compliant.

Question 3

- 17 ASCL does not agree that unions that do not have political funds or their own members' superannuation schemes should pay for the regulation of those schemes. It would be fairer to have a graduated levy scheme by which unions with such schemes paid a higher levy.

Question 4

- 18 ASCL sees the logic of removing the Certification Officer's existing fees should a levy scheme be introduced. We do not see any unintended consequences of this proposed change.

Question 5

- 19 ASCL is comfortable with the principle of having exemptions and a limited subsidy and the affordability caps set for total exemption appear reasonable. However the banding arrangement above the total exemption level for trade unions are inequitable and penalise smaller unions significantly – see paragraph 12 above.

Question 6

- 20 ASCL accepts the broad principles given in paragraph 32 of the consultation however it strongly opposes the proposed income banding of the levy.

Conclusion

- 21 ASCL favours a differentiated levy based on functions of the Certification Officer that that the trade union may be required to use i.e. this would remove the political fund and superannuation scheme for ASCL.
- 22 ASCL finds a levy based on membership numbers or income acceptable but would require a far fairer banding system than that currently proposed i.e. an increased number of bands based on either membership or income.
- 23 I hope that this is of value to your consultation, ASCL is willing to be further consulted and to assist in any way that it can.

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Association of School and College Leaders
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