

CERTIFICATION OFFICE
FOR TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

**Annual Report
of the Certification Officer
2011-2012**

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I am required by the Trade Union and Labour Relations (Consolidation) Act 1992 to submit to you both a report on my activities as the Certification Officer during the previous reporting period. I have pleasure in submitting such a report for the period 1 April 2011 to 31 March 2012.

A handwritten signature in black ink, appearing to read 'David Cockburn', with a long horizontal line underneath it.

DAVID COCKBURN
The Certification Officer
13 June 2012

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Introduction

This is the thirty-sixth Annual Report to be published since the post of Certification Officer was established in 1975. It deals with my activities during the period 1 April 2011 to 31 March 2012.

The functions of the Certification Officer are contained in the Trade Union and Labour Relations (Consolidation) Act 1992 (as amended) (referred to in this report as “the 1992 Act” or “the Act”). They include responsibility:

under Part I, Chapter I – for maintaining a list of trade unions and for determining the independence of trade unions;

under Part I, Chapter III – for dealing with complaints by members that a trade union has failed to maintain an accurate register of members or failed to permit access to its accounting records; for seeing that trade unions keep proper accounting records, have their accounts properly audited and submit annual returns; for the investigation of the financial affairs of trade unions; for ensuring that the statutory requirements concerning the actuarial examination of members’ superannuation schemes are observed; and for dealing with complaints that a trade union has failed in its duty to secure that positions in the union are not held by certain offenders;

under Part I, Chapter IV – for dealing with complaints by members that a trade union has failed to comply with one or more of the provisions of the Act which require a trade union to secure that its president, general secretary and members of its executive are elected to those positions in accordance with the Act;

under Part I, Chapter VI – for ensuring observance by trade unions of the statutory procedures governing the setting up, operation and review of political funds; and for dealing with complaints about breaches of political fund rules or about the conduct of political fund ballots or the application of general funds for political objects;

under Part I, Chapter VII – for seeing that the statutory procedures for amalgamations, transfers of engagements and changes of name are complied with, and for dealing with complaints by members about the conduct of merger ballots;

under Part I, Chapter VIIA – for dealing with complaints by members that there has been a breach, or threatened breach of the rules of a trade union relating to the appointment, election or removal of an office holder; disciplinary proceedings; ballots of members other than in respect of industrial action; or relating to the constitution or proceedings of an executive committee or decision making meeting;

under Part II – for maintaining a list of employers’ associations; for ensuring compliance with the statutory requirements concerning accounting records, annual returns, financial affairs and political funds; and for ensuring that the statutory procedures applying to amalgamations and transfers of engagements in respect of employers’ associations are followed.

In December 2011 the Public Bodies Bill received Royal Assent. This Act contains powers for the Secretary of State to merge the Certification Officer and the Central Arbitration Committee. At the time of writing, the required secondary legislation to bring about such a merger had not been forthcoming.

As in each Annual Report, I give details of the membership of trade unions as reported to me in the relevant period. The number of trade union members recorded in the Annual Returns received in 2011-2012 is 7,261,210. This represents a decrease of 67,695 or 0.92% over the membership recorded in my last Annual Report. Within these figures, the number of non-contributing members has increased from 8.5% to 10.6% of total members.

Further, the total number of trade unions and employers associations has again decreased over the most recent reporting period. This continues the trend which has now been uninterrupted since 1983. In 1983 there were 502 trade unions and 375 employers’ associations. At the end of this reporting year there were 170 trade unions and 102 employers’ associations. In the current period, 13 trade unions and six employers’ associations ceased to exist. Two trade unions ceased to exist by reason of having merged, 10 were dissolved and one, the Association of Professional Management Staffs, a constituent part of Unite the Union, ceased submitting an annual return independently of Unite the Union. Of the six employers’ associations, four no longer met the statutory definition of an employers’ association and two employers’ associations in the local government sector dissolved following reorganisation. However, the reorganisations resulted in the emergence of two new employers’ associations which are now on the schedule. One employers’ association which was on the schedule was transferred to the list at its request. On the other hand, six entirely new unions were added to the list of trade unions.

During this reporting period I began a prosecution of the General Workers Union for failing to submit an annual return of its financial affairs as required by section 32 of the 1992 Act. The prosecution related to the annual returns for the years ending 31 December 2009 and 31 December 2010. At the end of the reporting period the case was waiting to be heard.

In my last Annual Report, I observed that an increasing number of bodies were showing an interest in being listed as a trade union seemingly for the sole purpose of exercising the right to accompany workers at discipline and grievance hearings under section 10 of the Employment Relations Act 1999, frequently for a fee. I will continue to consider, on the facts of each individual case, whether any putative trade union meets the statutory definition or is engaged by itself or with others in a commercial activity which seeks to take advantage of the section 10 right to accompany workers. In the current year I have refused to list an organisation, Advocate, on the basis that it failed to meet the statutory definition of a trade union.

Over the past year I decided 87 complaints. Of these, 78 complaints alleged that a union had breached its own rules. The other nine related to breaches of statutory provisions. A summary

of these decisions can be found in Chapters 3, 8 and 9 of this report. The decision which attracted the most attention was that of *Dooley v UCATT (No.1)* which I determined towards the end of 2010-11 and in which I made an enforcement order requiring the newly elected general secretary to stand down and a further election to be held.

Copies of all decisions made by the Certification Officer since 1975 are now available on the Certification Office website www.certoffice.org.

My website continues to be the primary source for those interested to obtain information about the work of the Certification Office. Along with every decision made by the Certification Officer it contains all the annual returns from trade unions and employers' associations since 2003, guidance on various aspects of the Certification Office functions, copies of my Annual Reports back to 1999-2000 and a list of the trade unions and employers' associations known to me. In addition it is possible to sign up for e-mail updates of forthcoming hearings and issues relating to decisions of the Certification Officer.

The annual returns upon which I now report are those received from trade unions and employers' associations up to 31 March 2012. These mainly cover the period October 2010 to September 2011 (see paragraph 4.1).

The Advisory, Conciliation and Arbitration Service (Acas) is responsible for providing me with the finance and support services necessary for the performance of my statutory duties. This in no way affects my independence from both Acas and the Secretary of State for Business, Innovation and Skills. My Office will continue to receive professional advice on superannuation matters from the Government Actuary's Department, where appropriate.

Mr Gerard Walker and Ms Christine Stuart continued to hold their appointments as Assistant Certification Officer and Assistant Certification Officer for Scotland respectively. Mr Whybrew continues to be available to me as an Assistant Certification Officer to determine those complaints in which it would be appropriate that I recuse myself. On 31 March 2012 there were seven staff in post in the Certification Office. The net cost of the Office for the year ending 31 March 2012 was £596,508. This represents a decrease of £28,170, or 4.5% in the cost of the running of the office. My salary as Certification Officer at 31 March 2012 was £73,527 for a three-day week. This sum is pensionable at an additional cost to the public purse of £17,869.74. It is taxed under PAYE.

Accounts relating to the activities of the Certification Office, prepared under section 258 of the 1992 Act, are published separately by order of the House of Commons. In broad terms it is estimated that about 63% of the Office's resources were allocated to work connected with annual returns from trade unions and employers' associations, and the maintenance of the lists of trade unions and employers' associations, 27% to work relating to complaints and trade union finances and the remainder to other matters including political funds, certification of independence and mergers.

Where it is necessary to hold a hearing to determine a complaint, the Certification Officer can make payment towards the expenses incurred by the complainant and their witnesses in attending the hearing. During the period under review such payments amounted to £1,334.51. Assistance with legal costs is not available.

Advice and contacts for information

The Office receives many enquiries and requests for guidance from trade unions, employers' associations and their members. Often we can help but there are constraints on the advice that can be given. For example, unless required by law it is inappropriate, to give guidance on, or prior approval to, a specific course of action in those areas where complaints can be made to me by an individual member. It would also be inappropriate for my Office to comment on the merits of a possible complaint. Where a complaint is made, it must be processed and decided impartially on the facts of the case and in the light of the representations made by the parties concerned. I and my staff must avoid giving advice which might seem in any way to prejudice that impartiality. That said, the Office is happy to assist where it can and guidance booklets covering different aspects of the Certification Officer's responsibilities are available on the Certification Officer's website www.certoffice.org or in hard copy format free of charge. They are listed in Appendix 11 and requests for further information on any aspect of the Certification Officer's duties should be made to the Certification Office, 22nd Floor, Euston Tower, 286 Euston Road, London, NW1 3JJ, tel: 020 7210 3734, e-mail: info@certoffice.org.