

Consultation Response

Make Work Pay:
Duty to inform workers
of their right to join a
trade union

December 2025



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18 December 2025

Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors. We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Employment Law sub-committee welcomes the opportunity to consider and respond to the UK Government's consultation: *Make Work Pay: Consultation on duty to inform workers of their right to join a trade union*.¹ The sub-committee has the following comments to put forward for consideration.

¹ [Consultation on duty to inform workers of their right to join a trade union](#)

Consultation Questions

Section A: Content

Question 1: Do you agree that the following types of information should be included in the statement provided to workers?

Please consider each item below:

A. A brief overview of the functions of a trade union.

☒ Yes

☐ No

B. A summary of the statutory rights in relation to union membership.

☐ Yes

☒ No

C. A list of all trade unions that the employer recognises (if any).

☒ Yes

☐ No

D. A signpost to a GOV.UK page with list of trade unions

☒ Yes

☐ No

E. Add other types of information (please specify)

Question 1f: Please explain your answer.

Whilst it will be useful to state the functions of a trade union at a factual level, it must be acknowledged that the specific functions might vary depending on employer and recognition. An encompassing statement may need to be varied or otherwise be non-exhaustive (as demonstrated in the background section to this consultation paper) to avoid misrepresenting the function of all Unions. Smaller employers are likely to benefit from a generic description, whereas larger employers who are familiar with Union functions and who have agreed recognition agreements in place will likely want to tailor their approach. To ensure consistency and simplicity we recommend that a model statement (with description) be provided to make compliance easier, but that employers be permitted to amend their approach should it be relevant to do so.

There are mixed views in relation to providing a summary of statutory rights in relation to union membership owing to the scale of Part 3 of The Trade Union and

Labour Relations (Consolidation) Act 1992 (TULRCA). Whilst this proposal is no doubt well intended, this approach may be inconsistent with other aspects of employment law (for example, an employee who goes on maternity leave is not forewarned of their rights should an employer breach employment laws) and signalling this at the outset could inadvertently create a cultural of cynicism and concern. Given the wide range to Part 3 of TULRCA and the different resources of employers, if this is to be included a model statement should be provided to make compliance easier.

Section B: Form of the statement

Question 2: Do you agree that the statement should be a standardised statement provided by the government?

☐ Yes.

☐ No, it should be drafted by employers

☒ Other (please specify)

Question 2a: If no, please explain your answer.

As stated above, we consider that a model standardised statement should be provided by the Government and that employers can adapt the statement to suit their workforce needs.

Question 3: If the proposal for an employer-drafted statement (option B) is chosen, do you agree that the Government should provide a model statement that employers can adapt?

☒ Yes.

☐ No

Question 3a: If no, please explain your answer.

Section C: Manner of delivery

Question 4: Do you agree that the written statement should be delivered directly to new workers?

☒ Yes.

☐ No, it should be delivered indirectly (please specify).

Question 4a: If no, please explain your answer.

Question 5: Do you agree that employers should be able to deliver the statement indirectly or directly to existing workers?

☒ Yes.

☐ Yes, but employers should also provide a reminder to ensure workers are aware of it.

☐ No, it should only be delivered directly.

Question 5a: Please explain your answer.

For the reasons already outlined in the consultation paper, the resources of an employer and appropriateness of communication style with a workforce will vary. Providing a choice for employers is essential to avoid the creation of unnecessary or disproportionate administration or cost, as well as ensuring more effective communication with workers.

Section D: Frequency of delivery

Question 6: Do you agree that employers should be required to provide workers with the statement, or reminder, on an annual basis?

☒ Yes.

☐ No, it should be every 6 months.

☐ No, it should be another frequency (please specify).

Question 6a: Please explain your answer.

Annual reminders are likely to be adequate and easier to implement for most employers as indicated in the consultation paper.

Question 7: Do you agree that a standardised frequency should apply to all organisations regardless of sector or size?

☒ Yes.

☐ No.

Question 7a: If you selected 'no', please explain your answer.

Section E: Additional comments (optional)

Question 8: Do you have any further comments on how the duty to inform workers of their right to join a trade union should be implemented?

We have some additional comments in relation to specific questions below.

In Question 1C, we consider that notifying employees of their right to join a trade union may only be part of a collective response and that employers should be able to increase awareness of other recognised employee committees, forums or workforce councils that similarly represent collective issues for workers and employees. To expect employers to do this piecemeal might create a confusing narrative for workers, and thought should be given to allowing employers some flexibility to adapt statements in this regard.

Further at question 4, we suggest that employers be given flexibility around the timing of the initial statement. There is a suggestion in the consultation paper that this be provided at the same time as the Statement of Particulars, and in this regard we suggest that the timescale aligns to section 1(4)(j) and section 2(4) of the Employment Rights Act 1996 (i.e. possibly as an instalment and within 2 months of the beginning of employment). We note that some employers would prefer to provide a statement as part of an onboarding process and therefore possibly after a contract of employment (which is often used to comply with the obligation to provide a Statement of Particulars) has been given.

In Question 7, we note that (and in comparison to some other aspect of employment law) the proposed standardised frequency should apply to all organisations, regardless of sector and size. We have concerns that it may be overly burdensome for very small employers. As a result, it was suggested that an exclusion for small employers (to be defined) may be appropriate.



For further information, please contact:

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