

Duty to inform workers of their right to join a trade union

Consultation response on behalf of Thompsons Solicitors LLP

Thompsons is the most experienced trade union, employment rights, and personal injury law firm in the country, with 19 offices across the UK. It acts only for trade unions and their members on employment and industrial relations issues.

Thompsons represents most UK trade unions and advises on the full range of employment rights issues through its specialist employment rights department.

Thompsons is a large employer with over 250 employees.

Section A: Content

I. Do you agree that the following types of information should be included in the statement provided to workers?

- A. A brief overview of the functions of the trade union – Yes
- B. A summary of the statutory rights in relation to trade union membership – Yes
- C. A list of all trade unions that the employer recognises (if any) – Yes
- D. A signpost to a GOV.UK page with list of trade unions – No
- E. See below
- F. See below

Thompsons reminds itself of the policy objectives which was set out in ‘*Next Steps to Make Work Pay*’ (October 2024),

‘Voice at work

37. As part of our commitment to strengthen workers’ rights, we are ensuring that people are more empowered in the workplace. Trade unions play an important role in protecting and representing workers across the economy, ensuring people are empowered at work and driving standards across the economy. ...

38. Unions are key to helping working people bargain and negotiate with their employers to settle disputes. The Government is committed to updating trade union legislation to remove unnecessary restrictions on trade union activity and ensuring industrial relations are based around good faith negotiation and bargaining. ...

40. ... This Government also intends to further strengthen the collective voice of workers through trade unions by simplifying the union recognition process, bringing in a new right of access – with a transparent framework and clear rules designed in consultation with unions and business – for union officials to meet, represent, recruit and organize members.’

We remind ourselves too of the following passage in the Supreme Court's decision on the UNISON Employment Tribunal fees case,¹ which places those observations in a broader context,

'Relationships between employers and employees are generally characterised by an imbalance of economic power. Recognising the vulnerability of employees to exploitation, discrimination, and other undesirable practices, and the social problems which can result, Parliament has long intervened in those relationships so as to confer statutory rights on employees, rather than leaving their rights to be determined by freedom of contract. In more recent times, further measures have also been adopted under legislation giving effect to EU law. In order for the rights conferred on employees to be effective, and to achieve the social benefits which Parliament intended, they must be enforceable in practice.'

It would be a mistake to approach the provision of this information without acknowledging this, or that it needs to be appropriate in all workplace contexts – friendly and hostile alike. Trade unions operate as one of the checks and balances to the imbalance of economic power which the Supreme Court referenced and this statement should reflect that head-on and in clear language.

Almost every piece of information from an employer to their employee can be controlled and phrased by that employer. This is why the government should be brave in the content of this statement, and why employees should be signposted to the TUC's website and not to that of a government which necessarily seeks to appease the business community.

Thompsons also considers in relation to question 1B that the statement should reference a list of rights that a trade union and its members acquire upon *recognition*, since this goes hand in hand with the other aims of the government's proposals about promoting trade union recognition. Explaining the benefits members acquire following recognition will enable employees to make better-informed decisions as to whether to join a union. These rights are (currently):

- the right for the union's officials, learning representatives and other members to time off work (ss 168, 168A and 170 Trade Union and Labour Relations (Consolidation) Act 1992 ("**TULRCA**")).
- the right to information from the employer for the purposes of collective bargaining (s 181 TULRCA).
- the right to consultation in the event of collective redundancies (s 188 TULRCA).
- the right in certain circumstances to insist that the employer consult the union about training of workers within the bargaining unit (s 70B TULRCA).
- rights to information and consultation and other rights in connection with the transfer of an undertaking (Regulation 13 Transfer of Undertakings (Protection of Employment) Regulations 2006 SI 2006/246).

¹ R (on the application of UNISON) (Appellant) v Lord Chancellor (Respondent) [2017] UKSC 51

- the right to appoint safety representatives and associated rights to information and consultation (Safety Representatives and Safety Committees Regulations 1977 SI 1977/500).
- various rights to information and consultation in relation to occupational pension schemes (s 113 of the Pension Schemes Act 1993; Regulations 3 and 4 of the Occupational Pension Schemes (Contracting-out) Regulations 1996 SI 1996/1172; Regulation 12 of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 SI 2006/349; and Regulations 6–8, 11 and 29 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 SI 2013/2734).

Section B: Form of the statement

- 2. Do you agree that the statement should be a standardised statement provided by the government? (2a. If no, please explain your answer.)**

Yes.

- 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? (3a. If no, please explain your answer.)**

There can be no sensible justification for allowing an employer to draft this statement. Doing so assumes a degree of knowledge and balance that many employers will not possess. Those who oppose trade union involvement will abuse that task and will fail to provide a statement of the type which would achieve the policy aim of this reform. The fact that it would impose an additional drafting burden would increase the likelihood that it would never be done at all. Any employer input should be limited to identifying any union which is recognised or how to contact them such as in the equivalent model for health and safety information.

Section C: Manner of delivery

- 4. Do you agree that the written statement should be delivered directly to new workers? (4a. If no, please explain your answer.)**

Yes

- 5. Do you agree that employers should be able to deliver the statement indirectly or directly to existing workers? (5a. If no, please explain your answer.)**

No, it should only be delivered directly.

All employers have the means to communicate directly with their workers. They need to do so to comply with various statutory requirements and to provide with managerial instruction and guidance. The risk of an employee not receiving a statement because it was delivered indirectly can be entirely obviated by a requirement for direct transmission. Further, allowing for indirect transmission hands imaginative reluctant employers an evasion opportunity which would directly undermine these reforms. Thompsons sees no coherent justification for not making this requirement one involving direct transmission.

6. Do you agree that employers should be required to provide workers with the statement, or reminder, on an annual basis? (6a. Please explain your answer.)

Yes.

This period strikes a balance between achieving the aim of the reform and not being an administrative burden. However, we also consider that where indirect means are also used, e.g. intranet pages or a noticeboard or a policy document, the frequency can be greater – even to the point of being continuous.

7. Do you agree that a standardised frequency should apply to all organisations regardless of sector or size? (7a. If no, please explain your answer.)

Yes.

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?

No.

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

Question 6a: Please explain your answer.

Part of the purpose of the reforms is to effect a culture change. For too long the government and media narrative has been anti-trade union. Regular reminders go a limited way to countering that narrative and effecting that cultural shift.

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

Yes

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

not applicable

Section E: Additional comments (optional)

Thompsons implores the government to avoid timidity. This exercise is about restoring some balance in the workplace and any assessment which starts on the basis that there is an existing equilibrium is deeply flawed. For 50 years the pendulum has swung in the employer's favour, and they will resist any attempt to shift it back. The multiple failures of the UK government in this regard are set out in the annual reports of the International Labour Organisation.

Dire warnings, doom-laden predictions and stalwart resistance must all be measured against this basic factual position. This is not an exercise in giving trade unions or their members special protections – this is an exercise in restoring some rights previously removed and remedying a improper lacuna in others.

Thompsons LLP December 2025