



Regulatory Impact Assessment

Employment Relations Directorate

Establishment of a Union Modernisation Fund (UMF)

May 2005

<http://www.dti.gov.uk/er>

Purpose and intended effect of measure

Objective

A Union Modernisation Fund (UMF) is to be established. The purpose of the fund is to help trade unions to modernise their operations so that they can better adapt to changing labour market conditions and contribute to high performance workplaces. The Fund will support a range of innovative projects in areas such as:

- Improving the understanding of modern business practices by full time officers and lay representatives, to better enable unions to work constructively with employers as partners to improve business performance. In particular, projects will be welcomed which equip full time officers and lay representatives for their roles in the implementation of the Information and Consultation of Employees Regulations;
- Improving two-way communication between unions and their members, leading to a potential for greater participation of members in the union;
- Improving the ability of unions to respond to the increasing diversity of the labour market, and to supply services geared to the needs of a diverse membership;
- Applying modern management methods to the running of unions as efficient, outward-looking and flexible organisations;

- Assessing the challenges and opportunities of union restructuring and union mergers; and
- Developing the professional competence of union officers.

It is proposed that, in general, the Fund will support up to 50% of eligible project costs, up to a maximum of £200,000. However, where strong evidence is provided in support of a larger bid, the Supervisory Board will have discretion to recommend that a larger grant of up to £500,000 be awarded. Larger bids will be subject to rigorous scrutiny of the evidence for the project's additionality and to ensure that day-to-day activity will not be funded. There will be no limit on the number of bids which a union may make to the Fund and no limit on the number of bids submitted by a single union which can be supported in a given bid round.

Risk assessment and rationale

The world of work has changed in recent decades through the development and spread of new ICT technologies, increasingly flexible working patterns and growth of female participation in the labour market. Faced with increased competition, employers need a better trained and a more motivated workforce. To this end, the best employers now use a wider range of managerial initiatives to engage their workers. Unions need to understand these changes and work with employers to maximise the potential benefits of new ways of working.

Unions are taking initiatives to modernise themselves. However, the pace of change is relatively slow. Competition among unions for members has the effect of suppressing membership subscriptions – levels in Britain are among the lowest anywhere in the OECD, and significantly limit the ability of unions to raise funds to re-organise and update themselves. Moreover, most unions are small organisations. Most employ fewer than 20 people, and only a handful employ more than 250 people. Like many small businesses, unions have a limited capacity to invest for the longer term and to take financial risks associated with innovation.

Despite union mergers, there remain a very large number of unions in this country – over 200. In addition, observers generally consider union structures to be inefficient and sub-optimal. Arguably, this situation represents a market failure, justifying a policy intervention to support improvement to internal management systems, restructuring and, where desirable, mergers.

A union presence in the workplace is associated with more progressive workplace policies towards training, health and safety and diversity. By supporting a forward-looking agenda for unions, the Union Modernisation Fund should therefore enable unions to realise more fully their potential to improve the world of work for all concerned.

Policy objectives for the design of the scheme

- i. A strategic approach needs to be taken to ensure that Fund monies achieve the greatest possible transformational impact;
- ii. The Fund must demonstrate good value for money;
- iii. The Fund must be as simple and as efficient as possible to run;
- iv. The Fund must be managed from start to finish so as to ensure transparency and accountability in the use of public funds;
- v. The Fund must have the flexibility to adapt in the light of experience and changing circumstances;
- vi. Fund guidelines and other documentation must be clear and easily accessible to prospective bidders; and
- vii. The Fund must be effectively monitored and evaluated.

Options

1. Do nothing. Leave financing of the organisational development of trade unions to their own resources.

PROS: Spending on the UMF can be freed for other Government priorities.

CONS: Unions continue to struggle to resource necessary organisational development. Their capacity to effectively provide employee voice and contribute to the development of progressive employment practices will be restricted. The potential benefits associated with trade union presence in the workplace for union members, non-members and employers alike will therefore not be fully realised. In particular, unions' contribution to the successful roll-out of new structures for informing and consulting workers under the Information and Consultation of Employees Regulations is likely to be more limited without UMF support.

2. Regulatory options to modernise unions.

PROS: Spending on the UMF can be freed for other Government priorities.

CONS: It is not practical or appropriate to stimulate spending on union modernisation through legislation. The scale of union modernisation efforts has generally been restricted due to a lack of funds rather than a lack of desire on the part of unions. Unions are democratic membership-driven organisations, and so it would be inappropriate for the Government to dictate the direction of their organisational development through legislation. Such an approach could cut across UK commitments on freedom of association.

3. Modest fund to stimulate modernisation of unions.

PROS: Injecting a modest amount of money to assist unions to modernise by supporting innovative projects, formally evaluating them, and disseminating the results more widely throughout the union movement, will provide a demonstration of ways in which unions can transform themselves. This should provide benefits to the broader economy as unions are enabled to more fully realise their potential to improve the world of work for both workers and employers.

CONS: Intervention could distort the "market" for trade union membership. There is a risk that if the additionality of Fund-supported projects is compromised, displacement of union funds to activities excluded from Fund support might occur. There is a need to build in exclusions on supported activity to ensure that relations between trade unions and particular employers are not directly affected by the Fund.

Conclusion: Option 3 is recommended.

Options for design of the Union Modernisation Fund

A1) Contract out the administration of bidding rounds

PROS: Minimises Civil Service time spent on administrative work.

CONS: Employment relations is a sensitive policy area. Trade union organisations, structures and working practices differ quite significantly from those of business or NGOs. The Government considers that there is value, at least during the period of embedding the Fund, in keeping the administration of bidding rounds close to those with a detailed understanding of the policy issues involved.

Contracting out the Fund would also reduce the money available for the support of substantive project activity.

A2) DTI administers the fund

PROS: In addition to the arguments against contracting out the administration of the fund (see above), informal discussions with stakeholders have revealed a general consensus that the fund should be administered in house.

CONS: Civil service time spent on administration cannot be spent on other activities.

Conclusion: This option (A2) is recommended over option A1.

B1) Rolling applications and non-competitive process

PROS: No peak of activity in civil service workload. The timetable for union bids could be more closely driven by project need. This option could lend itself to a more streamlined selection process.

CONS: The Government considers that there is value in conducting a competitive assessment whereby the quality of proposed projects can be comparatively and fairly assessed. A competitive process provides greater clarity to unions bidding for funds and it promotes the development of a recognised standard for the quality of projects. A rolling process would require a greater commitment of time from members of the Supervisory Board and would add to the administrative complexity and cost of the scheme.

B2) Annual bid rounds and competitive process

PROS: The positive aspects of this option represent the drawbacks that have been highlighted in option B1.

CONS: The drawbacks of option B2 are equivalent to the positive elements of option B1.

Conclusion: Option B2 is recommended over option B1.

C1) No strict requirement for matched funding

PROS: Not being required to make a matched funding contribution to their projects would be likely to increase some unions' ability to undertake innovative modernisation initiatives.

CONS: The Government considers that it is proper that unions should show a financial commitment to their projects. The Fund is designed to assist and to catalyse union modernisation, not to directly subsidise it. Matched funding is a general requirement in most Government grant schemes.

C2) General requirement for 50 per cent matched funding, to be provided in cash or in kind

PROS: The advantages of matched funding represent the disadvantages of not imposing a strict requirement for matched funding (see option C1 above).

CONS: The positive aspects of option C2 represent the drawbacks of option C1.

Conclusion: Option C2 is recommended over C1.

D1) Make expenditure on capital investment ineligible for support

PROS: Capital investment tends to be expensive. Making capital investment ineligible for support, as in some other Government grant schemes, would be likely to increase the number of projects that could be supported.

CONS: Improving communications with an increasingly mobile membership and increasing the scope for them to participate in union democracy is an important challenge facing modern unions. Developments in ICT technology have significant transformational potential in this regard. The Government therefore considers that to restrict the uses of the Fund to exclude investment in the hardware necessary to support such technologies would significantly reduce the transformational impact of the Fund. Whilst capital investment is excluded from funding in some business-facing Government support schemes, businesses are able to exploit investment in capital equipment for profit. Trade unions are generally unable to offset the costs of such investment against future income.

D2) Support capital investment where it is shown that it will contribute to a transformational project.

PROS: The advantages of option D2 are outlined in the drawbacks of option D1.

CONS: Similarly the disadvantages of option D2 are equivalent to the positive elements of option D1.

Conclusion: Option D2 is recommended over D1.

E1) Bids assessed solely by civil servants (i.e. no Supervisory Board)

PROS: Reduces the administrative complexity of the Fund and the need to conduct recruitment for Board membership.

CONS: An independent Supervisory Board will provide expertise on the trade union movement and the strategic challenges it faces, including a detailed understanding of the internal operations of unions and the broader employment relations context. The use of a Supervisory Board, following the model successfully applied in the Partnership at Work Fund, will ensure the objective and expert analysis of bids.

E2) Bids assessed by a independent Supervisory Board

PROS: The positive aspects of option E2 are represented by the disadvantages of option E1.

CONS: The drawbacks of this option are equivalent to the advantages of option E1.

Conclusion: Option E2 is recommended over option E1.

Costs and benefits

Business sectors affected

The degree to which a business sector will be affected is largely dependent on the extent of trade union density (that is the proportion of employees that are members of a union) in that sector.

Trade union density is highest in the public sector (including sectors such as health, education and public administration) with a figure of 59.1 per cent compared to 18.2 per cent in the private sector as a whole. Within the private sector, the transport and communication sector has the highest density at 42.3 per cent, followed by mining and quarrying, manufacturing and financial intermediation with densities of 28.0 per cent, 26.2 per cent and 25.9 per cent, respectively.

Impact on employers and individuals

The direct impact of the fund on employers (including those in both the private and voluntary sectors) is expected to be minimal.

The fund is not intended to be used to support or subsidise recruitment campaigns or collective bargaining with particular employers and so we do not expect it to have any material impact on union/employer wage bargaining. We therefore do not expect any significant impact on wages or employment levels.

Whilst it would not be the place of Government to intervene to increase levels of union membership, it is in the interests of public policy to ensure that unions operate efficiently and provide a good service, relevant to the modern labour market, to those people who decide to belong. Efficient and responsive unions provide a coherent “voice” for their members, which should lead to improved workplace dialogue, better dispute prevention and, to the extent unions are key stakeholders in public policy-making, a more informed debate about public policy.

By improving workplace dialogue, the UMF may also bring broader benefits for the economy (for both employers and non-union members as well as union members) in terms of improved workplace performance and the extending and deepening of progressive workplace practices associated with a union presence.

According to WERS 1998¹ workplaces that have a recognised union and eight or more high commitment management practices have:

¹ Workplace Employee Relations Survey (WERS) 1998

- i) Above average financial performance;
- ii) Above average labour productivity; and
- iii) Lower levels of voluntary resignations and lower levels of dismissals than other workplaces.

While such benefits are welcome, we are aware that Union Modernisation Fund is a modest programme. Therefore it is unlikely that statistically significant quantifiable benefits will directly result from Fund expenditure. In the long term, however, it is hoped that the demonstration effect provided by Fund-supported projects to others in the trade union movement and the stimulus for further modernisation initiatives which the Fund will generate, will result in significant benefits of this kind.

Impact on the Exchequer

The gross cost to the Exchequer as a result of establishing the UMF will be between £5-10 million. This cost will be spread across three to four years beginning in the 2005-06 financial year.

Unintended consequences

For those unions that receive funds for modernising activities, it is possible that there could be some displacement whereby income that would have been earmarked for "modernising activities" such as essential updating of the unions' infrastructure could be diverted to other day-to-day uses such as basic training for lay representatives. However, additionality is one of key criteria of the scheme and the intention is a requirement for matched funding. We therefore consider that any displacement would be modest and do not expect the Fund to have any significant impact on the employment relations climate.

Implementation risks

Risk: Fund monies are not spent on agreed purposes or there is inadequate monitoring and verification of expenditure.

DTI will address this risk up front by providing as much information and clarity as to the legitimate uses of the Fund as possible. Checks and sanctions built-in to Fund rules will ensure effective monitoring, and the DTI will have the ability to reclaim funds where there is evidence of misuse. On the basis of past experience, the Government does not believe that the risk of funds being misused is at all significant. The Partnership at Work Fund (a grant award scheme designed to improve employer-employee relationships, workplace productivity and job satisfaction) has been in operation for 6 years and to date there have been no cases of misuse.

Risk: Individual projects fail to meet objectives.

DTI will seek to address this risk at the earliest opportunity by encouraging sound project planning and project management. DTI will raise awareness prior to the launch of the Fund and will provide support on preparing applications and ongoing project support. Effective project management will be one of the selection criteria. The Fund will finance the monitoring and evaluation of individual projects to ensure that these are built-in to project design at the outset. DTI will focus on building constructive relationships with project managers in order to identify and address problems early. The TUC and STUC and other federations will be encouraged to provide appropriate support for their affiliates.

Equity and fairness

The distributional impacts of the Fund are difficult to assess in advance, as these will depend on the nature of bids submitted by unions and which of these are selected for support.

It is reasonable to assume that distributional impacts will largely reflect the sectors and firms where trade union density² (that is the proportion of employees that are members of a union) is strongest.

Larger workplaces with 50 employees or more have a greater density (38.9 per cent), so larger workplaces are more likely to notice any difference in union performance than smaller workplaces. Also, density is lowest amongst 16-24 year olds (at 10.6 per cent), so organisations that tend to employ young workers are least likely to notice any change in union performance as a result of the setting up of the Fund.

To the extent that a majority of unions have their head offices in London, there is the possibility that funds may be disproportionately spent in the capital. However, a significant proportion of projects are likely to have a national, regional or local focus. Union members are spread throughout the country, with the highest concentrations in Wales and the North East of England³.

The Fund could be used to focus on the needs of particular groups of trade union members and potential members, for example, for the development of new services which meet the needs of disabled, ethnic minority, young, female or part-time workers. Such impacts are likely to be strongly beneficial and seek to redress existing imbalances in service provision to such groups by unions, relative to their participation in the labour market as a whole.

² Data on trade union density is for the UK and is from LFS Autumn 2003.

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Small Firms' Impact Test

Trade union density is relatively low in workplaces with fewer than 50 employees, and around half that of larger firms at 19.2 per cent. Less than one third of all employees who work in a small firm work in a place where there is one or more trade union members. Given the lower levels of unionisation in small firms we expect the UMF would have less impact than in larger firms and workplaces. No responses to consultation were received from small firms or their representative organisations.

Competition issues

As there is unlikely to be any material impact on employers' costs and benefits, we do not expect any impact on competition issues.

Consultation

In line with commitments made in the House of Commons when the establishment of the Union Modernisation Fund was announced in February 2004, the Government has consulted extensively on the design of the Fund. Two rounds of informal consultations with trade unions, employers, academics and organisations with employment relations expertise were conducted over the summer and autumn of 2004, alongside evidence-gathering on the operation of a number of other Government financial assistance schemes.

A formal public consultation document was published on 9 December 2004. Consultation closed on 3 March 2005. A total of 42 responses were received. In addition, the Government held a number of consultation meetings with trade unions, trade union federations and employer associations to seek their views on the proposed rules and procedures for the Fund. The Government will continue to consult key stakeholders on aspects of the detailed implementation of the Fund, for example, to ensure the accessibility and clarity of the application form for bidders.

In general, unions strongly welcomed the UMF initiative and expressed satisfaction with the Government's general approach. Despite expressing some reservations about the principle of a Union Modernisation Fund, employer organisations were also largely supportive of the Government's general approach to the Fund, commenting constructively on the detail of the proposals. The broad thrust of the Government's proposals for the scope, governance and criteria of the Fund was accepted by the overwhelming majority of respondents on both sides of industry. As a result of consultation the Government has made minor amendments to the proposed rules and procedures of the scheme and has provided more detailed explanation of the operation of particular aspects.

Compliance and enforcement

The Government intends to provide a programme of awareness raising activities in the lead up to the launch of the Fund, in order to ensure unions

have a clear understanding of eligibility criteria and the obligations which will be placed on successful bidders. Guidance on the Fund's criteria and the completion of the application form will be provided to all bidders in the application pack. Applicants will also be able to access advice from DTI officials. Applicants will have several weeks to prepare their bids.

All bids in scope will be assessed by an independent Supervisory Board which will make recommendations to the Secretary of State regarding those bids which they consider ought to receive Fund support in each round. All bids will also be assessed for financial viability of the union and ability to manage requested funds.

All successful bidders will be obliged to sign a grant offer letter setting out terms on which money is provided and circumstances in which funds may be reclaimed. Grant offer terms are those applied to all DTI financial assistance schemes on the basis of Government accounting rules. Additional sanctions are available to the Secretary of State in case of misuse of funds through expenditure on political objects.

Monitoring and review

There will be regular (usually quarterly) monitoring of progress and expenditure for all supported projects. All projects will be required to allow site visits by DTI officials. Failure to comply with monitoring activity may result in sanctions including withholding or reclaiming of funds.

The Government intends to conduct a phased evaluation of the Fund. Phase One will evaluate the operational effectiveness of the first bidding round. This will be completed in time to feed into the design of the next bidding round. Phase Two will evaluate the success of supported projects and impact of Fund monies. This evaluation will be undertaken by an independent researcher and will be published. All successful unions will be obliged under grant offer terms to co-operate with this evaluation activity.

Summary and recommendation

The aim of the UMF is to help trade unions to modernise their operations, thus supporting their contribution to the development of high performance workplaces. Several policy options were considered and a non-regulatory approach is recommended which would best achieve the above aims.

The direct impact on employers and industrial relations are expected to be minimal. However, if the Fund results in more unions being better at serving the interests of their members, then employers and workers alike may find that unions' capacity to provide effective employee voice and to work in partnership with employers is enhanced. This could help promote improvements in workplace performance.

The gross cost to the Exchequer as a result of establishing the UMF will be between £5-10 million. This cost will be spread across three to four years beginning in the 2005-06 financial year.

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