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SUMMARY

- The Labour Government has, since 1997, made much of its “business-friendly” credentials. However, study of its employment legislation and its relaxation of Trade Union regulation shows that, in reality, employers have been faced with significant extra burdens and that the rights enjoyed by Trade Unions have been greatly strengthened.
- Since 1997 the Labour Government has introduced 18 Acts and over 280 Statutory Instruments that deal directly with employment.
- Despite business representatives increasingly speaking out against the growing burden of regulation and the resulting erosion of Britain's competitive advantage, the process is now accelerating. Trade Unions and Labour MPs are calling for more employment protection and more rights for Trade Unions. A further Employment Bill is being prepared for 2007-08.
- Trade Unions have benefited significantly from the policies of the Labour Government since 1997. The Working Time Directive, the Warwick agreement, the Employment Relations Act and the Legal Services Act are all examples of legislation which has been favourable to the Trade Unions.
- Over the same period, the Trade Unions have been generous donors to the Labour Party. In 2006, Labour received donations of £11.8 million. Of these, £8.6 million, or 73% came from the Trade Unions. Since the beginning of 2001, when parties were first required to declare donations, the Unions have given £55.5million to the Labour Party, two thirds of all the donations to Labour.
- Most trade unionists are not Labour voters: the 2005 British Election Study reveals the majority of trade unionists (54.3%) voted for Parties other than Labour.

- Although the law states that ‘political donations’ are to be voluntary, and that union members who do not subscribe to them should not be disadvantaged, the majority of Trade Unions do not inform their members of their legal right to opt out on membership application forms.
- Companies face strict regulatory provisions in relation to political donations. Trade Unions do not. There seems to be little justification for this anomaly.
- The Government has also attempted to exempt Trade Unions from regulatory regimes aimed at protecting the consumer.

SUMMARY OF RECOMMENDATIONS

The following recommendations would mean that **political donations** made by Trade Unions would be subject to similar levels of transparency and democracy as apply to companies and individuals.

- Unions’ members should vote annually on maintaining a political fund.
- A Union’s members should be required to vote on the level of the political levy annually.
- The political fund opt-out right should be clearly stated on Trade Union membership application forms or a specific opt-in introduced.
- The opt-out right should be offered annually to each union member.
- Union members who do wish to contribute to the political fund should be able to decide either directly as individuals or collectively via a members’ vote to which party/parties/causes their funds should be put.
- The accounting reporting requirements of Unions should be reviewed – particularly with a view towards improving transparency.

In addition, the following proposals would ensure that the **transparency and accountability** of Trade Unions was improved:

- The Employment Relations Act 2004 Modernisation Fund should be abolished.
- There should be a review of regulatory exemptions for unions, including regulation in the provision of legal services.
- There should be an inquiry into the Unions’ participation in the miners’ compensation claim fiasco.
- There should be a review of the role and governance of the Certification Officer.
- There should be a review of the relationship between the Certification Officer and the Electoral Commission, both as regards the monitoring of Union elections and the registration of political donations.

CHAPTER ONE

TRADE UNION DONATIONS TO THE LABOUR PARTY

The Trade Unions have donated over £55 million to the Labour Party since 2001, a figure which represents 65% of the Party's total income from donations.

Not all Trade Unions with political funds affiliate to a political party; but those that do affiliate to the Labour Party. They are charged a fee to affiliate. Trade Unions also affiliate to other bodies, such as the National Pensioners' Convention and Amnesty International, some of which will also be paid for from the Trade Union's political fund.

DONATIONS BY TRADE UNIONS TO THE LABOUR PARTY

Some Trade Unions have given donations to parties other than the Labour Party, but the majority of donations are made to the Labour Party. Sixteen Trade Unions affiliate to the Labour Party out of the 29 who have political funds, although these figures are subject to change due to union mergers.¹ The

¹ See Appendix 9 of the Official Report of the Certification Officer 2006/07 for details of affiliated Trade Unions and Appendix 1 for details of donations to the Labour Party made by individual Trade Unions.

table below, based on data collated by the Electoral Commission, shows the percentage of donations the Labour Party has received from Trade Unions.²

DONATIONS TO THE LABOUR PARTY

Year	Total cash donations to the Labour Party (£ million)	Cash donations from Trade Unions (including affiliation fees) to Labour Party (£ million)	Percentage cash donations from Trade Unions (%)
2001	12.0	9.7	81
2002	11.0	6.7	61
2003	14.7	8.0	54
2004	15.1	10.7	71
2005	20.6	11.8	57
2006	11.8	8.6	73
Total	85.2	55.5	65.1%

Notes

- 1 Reporting requirements came in part way through 2001, so the data for that year are not comparable with following years.
- 2 The table only covers cash donations as defined by the Electoral Commission. Trade Unions also made significant other non-cash donations to the Labour Party. The value of these non-cash donations is not included in the above table. See Appendix 2 for detailed methodology.
- 3 Donations only form part of the total income of the Labour Party. The above data do not therefore include sources of income such as, for example, membership fees, fundraising income, commercial income or government grants. Nor do they include loans made on “friendly terms” to the Labour Party.

Most trade unionists are not Labour voters: analysis of the British Election Study 2005 indicates that only 45.7% of Trade Union members voted Labour in 2005, compared with 19.0% for the Conservatives and 22.1% for the Liberal Democrats.

Most trade unionists are not Labour voters: the House of Commons Library analysis of the British Election Study 2005 indicates that only 45.7% of Trade Union members voted Labour in 2005, 19.0% Conservative, 22.1% Liberal Democrat and 13.2% other parties (mainly SNP and Plaid Cymru, 4.3% and 4.2% respectively).³ However, the bulk of these individuals are not given the right to pay reduced subscription fees as a result of opting out of such a donation to the Labour Party. Nor can they choose to donate this money to an alternative political party.

² See Appendix 2 for full details of the methodology of extracting the data from the Electoral Commission website.

³ University of Essex, *British Election Study 2005*, 2006.

THE POLITICAL FUNDS

Legislation introduced in the 1980s and early 1990s was intended to make sure that the process by which Trade Unions made political donations were transparent; and that individual trade unionists should have the right to withhold their political donation should they so wish. In practice, however, the rights of individual Trade Union members are not being respected as fairly as they might be. Equally, the transparency and accountability of Trade Union donations needs to be improved at least to the same level as that which has been imposed on political donations made by companies.

A Trade Union that wishes to spend money on party political activities must set up a separate political fund for financing any such expenditure. Trade Unions must comply with specific statutory requirements in setting up and running such funds and union members have rights in relation to the requirements. For example, no member is obliged to contribute to a Trade Union's political fund. The Trade Union Act 1984, which is now the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR 1992), made it a legal requirement for Trade Unions to re-ballot their members every 10 years to keep a political fund in operation.

A member can, under the provisions of the TULR 1992, opt out of paying into the political fund at any time. The Trade Union is bound by law to cease collecting a contribution to the political fund from that member, unless the member opts to pay contributions again. A Trade Union may not make paying the political levy a condition of membership of the union or cause non-contributing members to suffer detriment.

Of the 17 Trade Unions with online application forms, only three mention the right of opt-out from payments to the political fund.

However, the intention of this legislation – to protect the rights of members relating to the political donations made by their Trade Union – is not being achieved in practice. In particular, there are a number of problems with the Political Funds. For example, of the 17 Trade Unions which have accessible online application forms, only three mentioned the right of opt-out.⁴

Recommendation: The political fund opt-out right should be clearly stated on Trade Union membership application forms or there should be a specific political fund donation opt-in for Trade Union members.

⁴ 29 Trade Unions are listed in Appendix 9 of the *Official report of the Certification Officer* 2006/07. The 17 with accessible online membership application forms are: Amicus, ARC (through the FDA), BECTU, Connect, EIS, GMB, Musicians union, NASUWT, RMT, POA, Prospect, TGWU, TSSA, UCATT, USDAW, Unison and Unity. Of these, only the POA and ARC mentioned the opt-out right, and only Unison provided for a specific opt-in.

Furthermore it seems that opting out does not necessarily mean that a member's contribution will be reduced by the amount of the political contribution.

Recommendation: Trade Union subscription fees should be automatically reduced by the amount of the political fund contribution in the event of the member exercising an opt-out or not exercising the opt-in.

A Trade Union can also set the political levy at whatever rate it wishes. It will take the decision based on what it wants to use the political fund for. Companies, in contrast, are now required annually to receive shareholder approval for political funding.

Recommendation: A Trade Union's members should be required to vote on the level of the political levy annually.

To set up a political fund, a Trade Union must first ballot its members to adopt "political objects" as a union objective. Trade Unions can only support "political objects" with money from their political funds. The fund may, however, also be spent on union objectives which are not political. If a Trade Union wishes to campaign on political issues, but not necessarily support any political party, it needs to establish a political fund, even if it does not wish to affiliate to the Labour Party.

Recommendation: Trade Union members who do wish to contribute to the political fund should be able to decide which party/parties/causes their funds should be put. In addition, the opt-out right should be offered annually to each union member.

AFFILIATION

A Trade Union wishing to affiliate to the Labour Party will seek the approval of its Delegate Conference and any subsequent review of the decision would be taken using the same mechanism.

Some Trade Unions affiliate more members than contribute to their political fund while several do not collect enough money in a year to affiliate all their political fund contributors.

The Labour Party has set the affiliation fee based on £3 per member.⁵ The number of members used in the calculation of the affiliation fee determines the weight attached to that Trade Union's vote on various Labour Party matters. Trade Unions do not necessarily affiliate the same number of members as they have contributing to the political fund.

⁵ Unions Together (TULO), (<http://www.unionstogether.org.uk/thelink/affiliations.html>), as accessed at 19 October 2007.

The following table illustrates two points. Firstly, that some Trade Unions can and do affiliate more members than contribute to their political fund. Secondly that several do not collect enough money in a year to affiliate all their political fund contributors at £3 a head.⁶

COMPARISON OF AFFILIATION FEES AND POLITICAL FUND CONTRIBUTIONS

Affiliated Trade Union*	% of members paying into political fund included in calculation of affiliation fee	% political fund spent on affiliation fees	Contribution per member to political fund†	Balance of political fund at year end
AMICUS	109.4%	57.4%	£5.96	£1,227,000
ASLEF	84.3%	66.2%	£8.47	£218,785
BFAWU	19.8%	16.1%	£2.91	£22,774
BECTU	31.3%	58.9%	£1.65	£2,528
CWU	104.1%	66.1%	£5.36	£729,111
GMB	72.8%	57.7%	£4.70	£511,000
Musicians Union	38.5%	86.5%	£2.06	£48,726
NUM	82.1%	24.4%	£12.45	£81,773
TGWU	57.7%	42.4%	£2.77	£1,479,000
UCATT	63.4%	99.4%	£1.92	£58,000
UNISON	49.05%	25.2%	£5.84	£3,026,000
USDAW	100.00%	68.9%	£4.62	£1,028,826
UNITY	11.28%	33.8%	£6.47	£362,185
NACODS	100.00%	47.7%	£5.15	£17,756
TSSA	94.17%	49.1%	£4.45	£115,035
Totals	71.27%	44.4%	£4.84	£8,928,499

Source: Certification Officer annual return for 2004/2005, affiliation fee data for 2005 provided by Unions Together (the organisation for Trade Unions who are affiliated to the Labour Party).

Notes:

* Trade Unions which merged during 2004/2005 are excluded from this table as figures for only part of the reporting period were available.

† This column assumes that income is from members only – some will be from other sources e.g. investment, but data on this is not readily available.

Recommendation: The accounting reporting requirements of Trade Unions to be reviewed – particularly with a view towards improving transparency.

⁶ In addition to this national affiliation, many Trade Unions affiliate at regional and local level. The mechanisms vary considerably between Unions. For example, the annual report of the Transport and General Workers Union shows expenditure of £233,000 on affiliation fees at regional level in 2005 and £95,000 in 2004. The data does not record whether these affiliations were all to the Labour Party, or also to other organisations.

CHAPTER TWO

STRENGTHENING THE TRADE UNIONS

PRO-UNION LEGISLATION UNDER LABOUR SINCE 1997

Since 1997, the Labour Government has introduced 18 Acts and over 280 Statutory Instruments that deal directly with employment.⁷ The impact has been to increase the complexity and burdens on employers while strengthening both Trade Union and employee rights. Despite business representatives increasingly speaking out against the growing burden of regulation and the resulting erosion of Britain's competitive advantage, the process is now accelerating.

Since 1997, the Labour Government has introduced 18 Acts and over 280 Statutory Instruments that deal directly with employment.

Not all this new employment legislation should be considered as “bad” in itself. Each Act and Statutory Instrument could of course be defended on its own merits. The question here is the cumulative effect of the legislation and the ratcheting up of Trade Union rights – two outcomes which can only cause long-term damage to British competitiveness.

⁷ Appendix 3 lists the main employment Acts and regulations passed since 1997.

A major piece of pro-union legislation introduced by Labour which imposed further regulation on business was the Employment Relations Act 1999. This legislation introduced statutory employment procedures for Trade Union recognition in firms with more than 20 employees. It also introduced protection for workers taking part in industrial action from dismissal during the first eight weeks of an official strike.

This was followed by the Transnational Information and Consultation of Employees Regulations in 1999, implementing the EC European Works Council Directive. These Regulations require the establishment of machinery for informing and consulting workers in multinational companies with over 1,000 employees in the EU and 150 in each of at least two Member States.

The Collective Redundancies and Transfer of Undertakings (Protection of Employment) Amendment Regulations 1999 added to employers' obligations by: broadening the group of employers for whom representatives should be sought and consulted with; setting new rules for elections of employee representatives; and increasing the compensation payable in the event of a failure by the employer to consult (in line with the existing level for higher scale redundancies).⁸

The Government has created a £10 million 'Modernisation Fund' for the Unions. Why should the taxpayer, as opposed to the Trade Union itself, have to pay for these projects?

The Employment Relations Act 2004 (ERA 2004) created a £10 million 'modernisation fund' for the Trade Unions which was intended, in the words of the Department of Trade and Industry to "support... innovative projects which speed unions' adaptation to a changing labour market and new ways of working".⁹ The Department for Business Enterprise and Regulatory Reform (BERR) has so far handed out £5.8 million of taxpayers' cash under this to fund projects such as:¹⁰

- expanding ASLEF's website;
- improving the 'communication efficiency' of Amicus branch secretaries;
- collecting membership information for the RMT;
- supporting 'online discussion forums' at the TUC;
- building links between the T&G and the Polish Workers Association;
- developing an integrated membership system and website for the FDA.

⁸ See House of Commons Library, *Labour's employment legislation 1997-2001*, 2003.

⁹ See www.dti.gov.uk/employment/trade-union-rights/modernisation/what-is-the-fund/page20774.html

¹⁰ BERR website, <http://www.berr.gov.uk/files/file41360.doc>

Most independent organisations would expect to pay for these sort of projects themselves and it might be asked why Trade Union membership subscriptions are not paying for these projects. And, even if the Modernisation Fund is not directly financing political activity, it certainly leaves the Trade Unions with more money that could be used as a political donation.

Recommendation: The ERA 2004 Modernisation Fund should be abolished.

The new ERA 2004 also contained a clause which allows the Secretary of State to implement the EU Directive on Information and Consultation into national law. This imposes considerable further burdens on employers who now have to consult the workforce about the business in which they work and its prospects, with particular emphasis on the prospects for employment.¹¹

The Act gave Trade Unions other benefits. For example, it provides for any “lock-out” days to be added to the eight week protected strike period during which an employee is protected from unfair dismissal. The provisions apply regardless of the employer’s reasons for the lock out, such as damage to company property. This provision is on top of other new regulations which ban companies from employing temporary staff during official strikes.

A further provision of the ERA extends protection to flexible workers from unfair dismissal.¹² The clause must be read in the context of the history of the unfair dismissal claim. The Government has already:

- reduced the two year qualifying period for unfair dismissal claims to one year;
- increased the maximum award available;
- and included part-time workers in the unfair dismissal net.

Now the qualifying time for unfair dismissal claims for flexible working requests has been cut to only 26 weeks rather than the previous one year’s continuous employment.

THE LEGAL SERVICES ACT

The Legal Services Act was passed at the end of October 2007 and creates a new regulatory structure for the provision of legal services. Certain legal services, including conducting litigation, representation in court and probate activities, will become reserved activities, meaning that they can only be provided by a registered and regulated person.

¹¹ See House of Commons Library, *Labour’s employment legislation 2001-2005*, 2006.

¹² The terms “flexible workers” includes temporary workers, job-sharers, flexi-time workers, and home-working.

As the Bill progressed through Parliament, a number of amendments which were favourable to Trade Unions were made. For example, the Bill originally made explicit provision for Trade Unions *and* not-for-profit organisations to be exempt for a transitional period. Then, in Parliament in June 2007, the Minister of Justice Bridget Prentice MP announced that she would be tabling amendments to her own legislation to require that Trade Unions, but not other not-for-profit organisations, would be wholly exempt from the Act when providing legal services to their own members.¹³

Ministers have admitted that they changed their policy after lobbying from Trade Unions.¹⁴ The Labour Government has in effect agreed to exempt Trade Unions from legislation which is specifically aimed at protecting consumers from receiving poor or unscrupulous legal advice.¹⁵

The Government has, in response to Trade Union lobbying, exempted Trade Unions from legislation that is specifically aimed at protecting consumers – which is particularly surprising given the role of some Trade Unions in the £7 billion miners’ compensation fiasco.

Recommendation: There should be a review of regulatory exemptions for Trade Unions, including regulation in the provision of legal services.

That the Trade Unions have won this exemption is particularly surprising as the issue of the miners’ compensation claims suggests that Trade Unions deserve greater regulation, not less. The Government itself estimates that it will spend £7 billion paying damages to former miners suffering from chronic respiratory disease or a crippling hand condition as a direct result of their work in the coal industry.¹⁶

However, much of this money is not reaching the intended beneficiaries. Instead, some Trade Unions (as well as some solicitors) have benefited substantially from the Miners Compensation Scheme. Trade Unions were able to recruit claimants for a fee, by calling them “associate members” of the Trade Union. In practice the Trade Unions were operating as claim handlers; charging sick ex-miners (in one case) a £20 fee to access the legal services of a

¹³ *Hansard*, 4 June 2007, col. 30

¹⁴ In a written answer, the Justice Minister Bridget Prentice stated that “We have discussed the Legal Services Bill with those representing both the Trades Union Congress and individual unions. While they have expressed support for the aims of the Legal Services Bill, they have been concerned to ensure that it does not inadvertently restrict trade unions from providing valuable support and assistance to their members.” *Hansard*, 14 June 2007, col. 1255W.

¹⁵ After an ongoing campaign by opposition politicians and the Solicitors Regulation Authority, the absolute exemption was watered down slightly.

¹⁶ See www.berr.gov.uk/energy/coal-health/background/page19647.html

solicitor's firm approved by the Trade Union. The law firm would then pay 7.5% of the claimant's compensation to the Trade Union (even though all of the solicitors' fees are paid for by the Government). As Kevan Jones, Labour MP for North Durham stated in an adjournment debate of 23 May 2007:¹⁷

“We cannot be proud...of the way in which... some Trade Unions, have taken their money for their own greed... The scam – I have called it a scam before, because that is what it is: deluding people and taking payment from their compensation”.

Recommendation: There should be an inquiry into the Trade Unions' participation in the miners' compensation claim fiasco.

THE CERTIFICATION OFFICER

Trade Unions have also benefited from a very light-handed regulatory approach in regards to political donations. This subject concerns the role of the Certification Officer whose remit includes the following: maintaining a list of Trade Unions and employers' associations, determining complaints concerning Trade Union elections, certain other ballots and breaches of Trade Union rules, ensuring observance of statutory requirements, governing mergers between Trade Unions and between employers' associations, overseeing the political funds and the finances of Trade Unions and employers associations and certifying the independence of Trade Unions.

However, there is little evidence that the work of the Certification Officer is regularly monitored. For example, there is no record of either the Certification Officer or his representatives ever having met with the Electoral Commission;¹⁸ although the Commission “periodically” contacts the Certification Officer's office to verify the registration of Trade Unions which are reported as having donated to political parties.

Recommendation: There should be a review of the relationship between the Certification Officer and the Electoral Commission both as regards the monitoring of Trade Union elections and the registration of political donations.

It is questionable whether the Certification Officer is able to carry out his regulatory roles effectively. The office is a reactive as opposed to proactive one. The system relies on a complaint first being made against a Trade Union before any form of investigation will take place. This greatly weakens the oversight position of the Certification Officer as it relies on Trade Union members themselves having a detailed knowledge of the rules and regulations and therefore the background to make a complaint against a Trade Union.

¹⁷ *Hansard*, 23 May 2007, col. 459WH-460WH

¹⁸ Written question, 3 July 2007, column 948W.

It is also questionable whether the Certification Officer's remit of "scrutinising annual returns from unions" is being adequately fulfilled. Trade Unions do submit their returns and accounts to the Certification Officer but they are self-audited and there seems to be no thorough "scrutinising" of the returns. It is also telling that the Certification Officer, who is tasked with "determining complaints concerning trade union elections" does not meet with the Electoral Commission.¹⁹

The close connection between the Certification Officer and the Trade Unions also provides cause for concern. The question is to what extent the Certification Officer can regulate the Trade Union? He/she cannot realistically deal with issues about client care or quality of service as they relate to legal services, for example. Indeed, the Certification Officer does not appear to have been able to help with the issues arising in the miners' compensation cases – despite the Government maintaining that they are the regulators responsible for doing so.

The Certification Officer is relatively impotent. This must be addressed so that the Certification Officer is able to take an active role in the effective regulation of Trade Unions. The development of a proactive and effective Certification Officer role would also enable closer scrutiny of unacceptably opaque opt-out provisions relating to Trade Union members' contributions to political funds, or enforce a clear and specific opt-in requirement for members' political fund donations.

Recommendation: There should be a review of the role and governance of the Certification Officer.

WARWICK I AND II

A meeting was held between the Government and the Trade Unions to discuss Labour policy and trade union law at Warwick University in July 2004. The reason it was set up, it has been reported, was to reassure discontented elements in the Trade Unions and to secure support for the Labour Party in the 2005 General Election.²⁰

As a result of this meeting, the Trade Unions managed to secure over 60 commitments from the Government. These included:²¹

¹⁹ See the Written answer, 3 July 2007, column 984W, in which Peter Viggers MP, (who represents the Speaker's Committee on the Electoral Commission) stated that: "The Electoral Commission informs me that, while it has no record of any meetings having taken place with the Certification Officer or his representatives, it contacts the office of the Certification Officer periodically to verify the registration of trade unions which are reported as having donated to political parties."

²⁰ See, for example, *The Guardian*, "Q & A: The Warwick Agreement", 13 September 2005.

²¹ For a full list of concessions won by the Trade Unions at the Warwick meeting, see *The Guardian*, "Unions bury hatchet with Labour", 24 July 2004.

- establishing a women at work commission;
- pensions to be protected when a worker is transferred from one employer to another;
- government support for a new EU agency workers directive;
- protection for workers' pensions when moving jobs;
- a phased move towards employees having a 50% representation among trustees managing pension schemes;
- including pensions in statutory collective bargaining;
- provision of government-funded training for unskilled workers up to NVQ level 2, and a threefold increase in the number of Trade Union learning representatives to 20,000;
- introduction of a training levy on employers for those sectors that are judged not to meet minimum requirements to train;
- preparation of a Bill on corporate manslaughter; and,
- extending the period during which workers on strike are not allowed to be dismissed from the previous eight weeks to 12 weeks.

In the run-up to the 2005 General Election, the Trade Unions won over 60 commitments from the Government on employment legislation. They are now pushing for more.

The Trade Unions are now pushing for more government commitments to follow up the changes agreed in the first Warwick Agreement. Many Trade Unions have become dissatisfied with what they consider a slow pace of progress since the agreements of summer 2004. Their proposals include:

- the call by the TUC for “the repeal of the anti-union laws and their replacement with a framework of positive rights”. This included the right to secondary action; extending paid time off for parents; and greater Trade Union rights in the workplace;²²

²² See TUC 2005 Congress, *Organising and rights at work*, 2005 at www.tuc.org.uk/congress/tuc-10411-f1.cfm#tuc-10411-1

- proposals recently contained in the Trade Union Rights and Freedoms Bill proposed by John McDonnell MP which would give protection for workers starting from their first day at work and which would cut the amount of notice required for a strike ballot;
- attempts to improve conditions for temporary workers. For example, Paul Farrelly MP had introduced the Temporary and Agency Workers (Prevention of Less Favourable Treatment) Bill. The Bill aimed to ensure that temporary and agency workers would be treated equally with permanent staff from day one. Such a measure could potentially have dramatic negative consequences for both employers and employees who rely on the flexible nature of temporary and agency work.

Finally, as part of its Draft Legislation Programme for 2007/08, the Government has signalled its intention to introduce an Employment Bill. This is apparently intended to “simplify, clarify and build a stronger enforcement regime for key aspects of employment law”. This Bill is aiming to reform statutory dispute resolution procedures, to enforce the Minimum Wage through penalty fees, to allow Trade Unions to expel members on the basis of their membership of a political party and to “strengthen” employment agency standards. Whether this Bill will “simplify” employment law when the record of the Government has been to do the very opposite, is yet to be seen.

CHAPTER THREE

CONCLUSION

For many well-rehearsed reasons, the nature of political funding in this country is changing. Public scrutiny of donations is increasing, with a welcome increase in transparency being introduced in all major political parties. The one exception where transparency and scrutiny is not increasing is that of Trade Union funding.

The Labour Party, with falling membership rates, and with its base of new Labour entrepreneurs shrinking, is becoming more, not less, dependent on Trade Union funding.

Under legislation introduced by the Labour Government, companies' members now need to approve the level of political donations. Trade Union members do not. Companies must ballot their members on the matter annually. Trade Unions need to ballot their members only once a decade.²³

The Labour Party, with falling membership rates, and with its base of new Labour entrepreneurs shrinking, is becoming more, not less, dependent on

²³ Provisions governing political donations made by companies were introduced in the Political Parties, Elections and Referendums Act 2000 and amended in the Companies Act 2006. Trade Unions are governed by the Trade Union and Labour Relations (Consolidation) Act 1992.

Trade Union funding. As Labour becomes more reliant on such funding, there surely needs to be more answerability, greater transparency, better accountability, and increased openness over the source of that funding. And members deserve full transparency over the political donations that are made by their Trade Union.

APPENDIX ONE

TRADE UNION DATA

UNION NAME	MEMBERSHIP DETAILS	CASH DONATIONS TO THE LABOUR PARTY SINCE 2001	OPT-OUT ON APPLICATION FORM?	OPT-OUT MENTIONED?	POLITICAL FUND FEES DISCLOSED?	REDUCED FEE FOR OPT-OUT?
	No. of Members	No. of Contributors to the Political Fund				
AMICUS	No accounts listed	£10,100,000	No	Opt-out not mentioned.	13p p/week (of £2.30).	No.
ARC	2,620	2,529	N/A (through the FDA)	Yes, through FDA	N/a	N/a
ASLEF	17,944	16,163 (Fund 1)	No sight of application form	No	Not disclosed	No
Aspect	3,969	3,757	No	Yes	£3 pa (of £240)	No, fund was introduced at 'no extra cost to members'
BFAWU	25,057	23,860	No sight of application form	Yes opt-out mentioned	3p of every £1 of subscription	Yes, 3p to be refunded
BECTU	27,354	26,550	No	Yes 'contracting out' mentioned	£1.56 per annum	Yes, a refund is provided
CWU	238,817	200,734	No sight of application form	Yes opt-out is mentioned	10p per week	Yes, a refund provided
Community	33,459	28,016	No sight of application form	No	No	Not stated
Connect	19,590	13,941	No	No	No	Not stated
EIS	59,978	53,251	No) No	£1.80 pa (of £120.60)	Not stated
FDA	16,209		Yes (through the FDA)	Yes, through ARC	25p extra p/month to join ARC	Yes as is an opt-in approach
FBU	46,811	36,044	No sight of application form	Yes, in political fund section	15p p/week	Not stated

UNION NAME	MEMBERSHIP DETAILS	CASH DONATIONS TO THE LABOUR PARTY SINCE 2001	OPT-OUT ON APPLICATION FORM?	OPT-OUT MENTIONED?	POLITICAL FUND FEES DISCLOSED?	REDUCED FEE FOR OPT-OUT?	
	No. of Members	No. of Contributors to the Political Fund					
GMB	575,892	549,751	£9,330,000	No	Yes, in campaign leaflet	12p p/w (of £2.30 p/w)	Not stated
Musicians Union	31,148	28,072	£210,000	No	Yes, in membership rates	No	Claim it is opt-in
NASUWT	289,930	203,399		No	Yes, on subscription rates page	70p pa (of £144 pa)	Yes, £143.30 without political fund
NACODS	429	336		No website			
NUM	10,793	10,675	£10,000	Not 'authorised to view' website			Not 'authorised to view' website
POA	35,317	29,746		Yes – Opt-out	Yes, on application form	No	Not stated
Prospect	101,531	77,455		No	Yes, in news reports	5p p/m (of £14.75 p/m)	Yes, refund provided on opt-out)
RMT	74,539	64,966	£150,000	No	No	No	Not stated
TGWU	No listing with Certification Office		£1,570,000	No	Yes, in news reports	No	Not stated
TSSA	31,356	28,970	£100,000	No	Yes, under 'campaigns'	8p p/w (of £2.70 p/w)	Yes, refund provided or money diverted to general fund)
UCATT	128,914	74,397	£380,000	No	No	No	Not stated
UDM	1,293	1,293		No website			No website
UNISON	1,317,000	476,216 (APP) 770,404 (Gen)	£11,520,000	Yes – an opt-in approach	Yes, on the application form (opt-in basis)	No, described as 'at no extra cost'	No refund provided
UNITY	8,076	7,604	£560,000	No	No	No	Not stated
USDAW	340,653	323,652	£1,400,000	No	Yes in the 'campaigns' section	8p p/w (of £1.91 p/w)	No discount

Sources: relevant Trade Union websites; the Electoral Commission (see following Appendix for detailed methodology); and the Certification Officer Annual Report 2006-2007 Appendix 9 p. 72-75. See <http://www.certoffice.org/annualReport/pdf/2006-2007.pdf>. Note that donations have been rounded to the nearest £10,000.

Note that donations listed in the above table total about £38 million. These figures do not include all donations because smaller donations fall below the reporting threshold and therefore do not need to be declared to the Electoral Commission (see explanation at Appendix two).

APPENDIX TWO

METHODOLOGY FOR CALCULATING TRADE UNION DONATIONS

The primary source for estimating Trade Union donations to the Labour Party was the register of political donations page of the Electoral Commission website.²⁴

The following selections were made from the drop down options:

Name of Registered Political Party: Labour

Type of Donation: Cash

Quarterly reporting period: from Q1 to Q4

Donor Status: Trade Union

This search revealed that a total of £9,722,232.93 in donations from Trade Unions to the Labour party in 2001, were made. The same process was used for each year.

The same process was also used to determine the total donations to the Labour Party for each year, with the only difference being that a donor status of “any” was selected.

This methodology was verified by the Senior Registrar at the Electoral Commission.

There is a small discrepancy between the total donations and affiliation fees listed in the Labour Party statement of account for 2006 and the figure reached for all donations to the Labour Party according to the Electoral Commission website (the Labour Party statement of account showed a slightly higher total figure). The Senior Registrar explained that this discrepancy was likely to be caused by the fact that some donations to the Labour Party would fall below the reporting threshold and therefore would be recorded on the statement of account but not the Electoral Commission website.²⁵

²⁴ www.electoralcommission.org.uk/regulatory-issues/regdpoliticalparties.cfm

²⁵ Donations of under £5,000 to the central party and under £1,000 to accounting units, such as constituency associations fall beneath the reporting threshold.

APPENDIX THREE

LIST OF MAJOR EMPLOYMENT LEGISLATION AND REGULATION 1997 TO 2007

National Minimum Wage Act 1998

Working Time Regulations 1998, SI 1998/1833

Employment Rights (Dispute Resolution) Act 1998

Public Interest Disclosure Act 1998

The Children (Protection at Work) Regulations 1998 SI 1998/276

Deregulation (Deduction from Pay of Union Subscriptions) Order 1998, SI 1998/1529

Disability Discrimination (Exemption for Small Employers) Order 1998, SI 1998/2618

Employment Relations Act 1999

Unfair Dismissal and Statement of Reasons for Dismissal (Variation of Qualifying Period) Order 1999, SI 1999/1436

Transnational Information and Consultation of Employees Regulations 1999, SI 1999/3323

Collective Redundancies and Transfer of Undertakings (Protection of Employment) Amendment Regulations 1999, SI 1999/1925

Disability Rights Commission Act 1999

Employment Tribunals (Constitution and Rules of Procedure) Regulations 2001, SI 2001/1171

National Minimum Wage Regulations 1999 (Amendment) (No 2) Regulations 2001, SI No. 2673

Sex Discrimination (Indirect Discrimination and Burden of Proof) Regulations 2001, SI No. 2660

Working Time (Amendment) Regulations 2001, SI No. 3256

Maternity and Parental Leave (Amendment) Regulations 2001, SI No. 4010

National Minimum Wage Regulation 1999 (Amendment) Regulations 2002, SI No. 1999

Employment Act 2002

Maternity and Parental Leave (Amendment) Regulations 2002, SI No. 2789

Working Time (Amendment) Regulations 2002, SI No. 3128

Conduct of Employment Agencies and Employment Businesses Regulations 2003 SI No. 3319

Employment Equality (Sexual Orientation) Regulations 2003 SI No. 1661

Employment Equality (Religion or Belief) Regulations 2003 SI No. 1660

Disability Discrimination Act 1995 (Amendment) Regulations 2003 SI No. 1673

Equal Pay Act 1970 (Amendment) Regulations 2003 SI No. 1656

Race Relations Act 1976 (Amendment) Regulations 2003 SI No. 1626

Working Time (Amendment) Regulations 2003 SI No. 1684

National Minimum Wage (Enforcement Notices) Act 2003

National Minimum Wage Regulations 1999 (Amendment) Regulations 2004 SI No. 1161

Employment Act 2002 (Dispute Resolution) Regulations 2004 SI No. 752

Employment Tribunal (Constitution and Rules of Procedure) Regulations 2004 SI No.1861

Employment Relations Act 2004
Information and Consultation of Employees Regulations 2004 SI No.3426
Armed Forces (Pensions and Compensation) Act 2004
Carers (Equal Opportunities) Act 2004
Christmas Day Trading Act 2004
Disability Discrimination Act 2005
Gangmasters (Licensing) Act 2004
Equality Act 2006
The Employment Equality (Sex Discrimination) Regulations 2005 SI No.2467
Transfer of Undertakings (Protection of Employment) Regulations 2006 SI No.246
Work and Families Act 2006
Safeguarding Vulnerable Groups Act 2006
Employment Equality (Age) Regulations 2006
Smoking at Work: The Health Act 2006

FORTHCOMING LEGISLATION

The Employment Bill 2007-08
Proposed EC directive on temporary agency workers
EU review of the provisions in the Working Time legislation applicable in the UK allowing individual voluntary opt-out of the 48 hour limit on a working week.
Consultation on employment status in relation to statutory employment rights.

Sources: House of Commons Library, *Labour's employment legislation 1997-2001*, 2003; House of Commons Library, *Labour's employment legislation 2001-2005*, 2006; and House of Commons Library, *Labour's employment legislation from 2005 onwards*, 2007.



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CENTRE FOR POLICY STUDIES

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Simultaneously, the Trade Unions have been protecting themselves from the requirements of accountability and transparency with which other organizations must comply. If business is to flourish in a competitive global environment, this process must be reversed.”

Jill Kirby

Director, Centre for Policy Studies