

Title: Proposals to reform flexible working regulations (The Flexible Working Regulations 2014) IA No: RPC Reference No: Lead department or agency: Department for Business, Energy and Industrial Strategy Other departments or agencies:	Impact Assessment (IA)			
	Date: September 2021			
	Stage: Consultation			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
Contact for enquiries: labourmarketparticipation@beis.gov.uk				
Summary: Intervention and Options				RPC Opinion: N/A

Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
£TBC	£TBC	£TBC	TBC

What is the problem under consideration? Why is government action or intervention necessary?

Flexible Working take-up has remained broadly consistent over the last 10 years, female employees are more likely to use it than male employees and some employees report negative career consequences. The pandemic has necessitated a huge shift to homeworking, but this is not an option available for all workers and other forms of flexible working are needed to respond to personal commitments (including childcare, eldercare and unwell family members) which have been exacerbated by Covid-19. Government policy can help ensure that the wider societal benefits from flexible working are maximised by making improvements to the existing framework.

What are the policy objectives of the action or intervention and the intended effects?

The proposed reforms to the Right to Request Flexible Working legislation aim to:

- Encourage communication between employer and employee on how best to balance work requirements and an individual's needs to increase availability and take-up of flexible working.
- Provide all employees with the same access to the right to request flexible working.
- Improve the functioning of the labour market by facilitating a diverse pattern of working arrangements.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The following options have been considered:

- Option 1: Do nothing
- Option 2 (preferred option, regulatory approach):
 - a. Make the Right to Request Flexible Working a day one right
 - b. Explore whether the reasons for refusing a request are still valid
 - c. Require an employer to suggest an alternative (where possible);
 - d. Allow multiple requests for flexible working within a 12-month period
 - e. Raise awareness that temporary flexible working arrangements can be requested.

Flexible working needs to begin with a conversation between employer and employee about how best to balance work requirements and an individual's needs. We, therefore, believe that the existing overarching legislative framework, which is based on an employee making a formal request for changes to their hours and/or location or work, and a business having a right to refuse the request if it is incompatible with its business needs, remains appropriate. However, there are improvements that can be made to the framework to encourage more constructive dialogue between both parties and to make the right available to more employees. A 'do nothing' option would involve maintaining the status quo where the full benefits of flexible working are not realised and would fail to deliver on the manifesto commitment to reform flexible working.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: TBC				
Does implementation go beyond minimum EU requirements?		N/A		
Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	N/A		Traded:	Non-traded:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 2

Description: A number of regulatory reforms to the existing overarching legislative framework to help realise the full benefits of flexible working.

FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 2023	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: - 106.27	High: - 9.44	Best Estimate: - 42.86

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	8.58	0.23	9.44
High	25.74	9.75	106.27
Best Estimate	17.16	3.25	42.86

Description and scale of key monetised costs by 'main affected groups'

We have produced cost estimates for three out of five of the proposed regulatory reforms as the other options require further scoping through the consultation process. The initial assessment of costs for the options costed is low (less than £5m per annum). However, we will refine the key assumptions, particularly to understand how individuals and employers react, and improve the robustness of the estimates following using evidence gathered through the consultation phase and refine our estimates accordingly.

Other key non-monetised costs by 'main affected groups'

We have not monetised costs to employers of accommodating flexible working for the following reasons: Firstly, the regulatory changes are permissive in nature as they allow, but do not force, businesses to do something (hence, the benefits to business will outweigh the costs). Secondly, we assume these costs will have fallen significantly from the 2012 Impact Assessment due to more widespread use of portable IT equipment, flexible working generally, and, specifically, homeworking during the pandemic.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Not quantified	Not quantified	Not quantified
High	Not quantified	Not quantified	Not quantified
Best Estimate	Not quantified	Not quantified	Not quantified

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

Benefits to businesses - increases in flexible working can result in increased motivation and productivity from employees. CBI found that 99% of all businesses surveyed believed that a flexible workforce is vital or important to competitiveness and prospects for business investment and job creation. We anticipate that the proposed policy options will lead to benefits to both employees and employers. This includes potential for positive effects on workplaces from reduced absenteeism, reduced vacancy costs and increased skill

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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See annex 2 – which provides a complete list of the key assumptions.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	Score for Business Impact Target (qualifying provisions only) £m: TBC
Costs: 4.96 Benefits: 0 Net: 4.96	

Evidence Base

Problem under consideration and rationale for intervention

Policy Overview

In April 2003, the UK Government first introduced the Right to Request flexible working for parents and certain other carers. The Right included requesting a change to work location, number of working hours and the associated working pattern. That Right was extended in 2014 to all employees with 26 weeks continuous service. The statutory framework was intended to:

- provide employees with access to contractual flexible working;
- help employees to better reconcile their work and non-work lives; and
- help employers to secure the business benefits of flexible working.

The Government's 2019 manifesto committed to encourage flexible working and consult on making it the default unless employers have good reasons not to. The manifesto was clear that the Government could do more to make things easier for those balancing work with caring and other commitments.

Over the past 18 months, Covid-19 has affected how we have been able to live our lives – at home, at work and more widely – in a way that would have been unimaginable before the pandemic started.

To address the immediate economic impacts, the Government put in place an unprecedented economic package, providing businesses and individuals with support and certainty – and spending hundreds of billions to support people's jobs, businesses, and public services across Britain. As we look beyond the initial response, we must ensure we can rise to the longer-term challenges of economic recovery.

Britain is a great place to start and grow a business, home to some of the world's best companies. But for many jobs there are still invisible restrictions that hold people back – like the need to live in high-cost accommodation close to the centre of cities or maintain working arrangements that make it hard to manage family or other responsibilities. We want to enable a high skilled, high productivity, high wage economy that also delivers on our ambition to make Britain the best place in the world to work – whoever you are and wherever you live.

That is why a world-leading approach to flexible working is a key part of the Government's ambition to build back better, ensuring that our flexible labour market is primed for the opportunities and challenges of the post-Covid-19 economy.

We know there are particular times in people's working lives when they may need extra flexibility to balance their work with other commitments or responsibilities. That is why the Government's 2019 manifesto committed to introduce two new leave entitlements for working carers and those who have experienced a premature birth, and also to make it easier for fathers to take paternity leave. However, it remains the case that there are also many other occasions when people may need that little extra flexibility – for instance as they approach retirement, recover from a longer-term illness, or as childcare arrangements change. Or even just to get medical treatment or attend other appointments. That is why the Government's manifesto also committed to encourage flexible working and consult on making it the default unless employers have good reasons not to.

Flexible working is not just good for employees. We know that it can also bring considerable benefits for employers. There is a strong, unmet demand for more flexible jobs - 87% of people surveyed by Timewise want to work flexibly¹. This rises to 92% for young people² surveyed by

¹ Timewise Flexible Jobs Index (2018): https://timewise.co.uk/wp-content/uploads/2018/07/Timewise_Flexible_Jobs_Index_2018.pdf quality jobs defined a £20k +FTE

² UKCES (2014) The future of work: jobs and skills in 2030: <https://www.gov.uk/government/publications/>

Deloitte. 9 in 10 employees surveyed for HSBC consider flexible working to be a key motivator to their productivity at work (89% – even more than financial incentives (77%)).³ The CBI Employment Trends survey⁴ found that 99% of all businesses surveyed believed that a flexible workforce is vital or important to competitiveness and the prospects for business investment and job creation. The business case for flexible working is compelling.

The Covid-19 pandemic plunged us into a world where many of us had to think differently about how we work. Whether the result was working from home or changing or reducing hours to accommodate other responsibilities outside of work, the extent of flexible working across the country – and across sectors – has been significant.

Employers have done a tremendous job in responding to this challenge - ensuring that many businesses which would otherwise have had to shut down have continued to operate. At the height of the first lockdown in April last year, 47% of the workforce reported working from home.⁵

That experience has shown us that we can do things differently in the workplace – and this appears to be influencing some employers to look to more permanent changes. According to an IOD survey, 74% of company directors have stated their organisation intends to keep increased homeworking after the pandemic.⁶ Flexible working is not only about the location of work, it is a much wider concept also covering how many hours people work and the timing of those hours.

Rationale for Intervention

A number of organisations have requested that the Government should make the right to request flexible working a day one right including the Women and Equalities Committee in its recent report on the gendered impacts of Covid. The pandemic has revealed how external events (which may require flexibility at work to deal with) do not discriminate between employees with differing lengths of service. Introducing a day one right would mean that an employee is able to make a statutory request for flexible working from the first day of their employment.

The objective in making the right to request flexible working the default a day one right would be to bring more employees into the scope of the legislation. It will also help to encourage, or nudge, certain behaviour changes from employers so that they consider flexible working options early in the job design/recruitment process and give employees more confidence to make a request.

We estimate that around 8% of employees have changed their jobs, or started one, within the last six months. That is 2.2 million people who currently are unable to make a statutory request for flexible working.⁷

The 26-week qualifying period was introduced, in part, to balance some of the potential business burdens of administering statutory requests for flexible working. The Post-Implementation Review of the 2014 Flexible Working regulations (2021) did not find any evidence of unreasonable cost burdens on employers resulting from administering or accommodating flexible working requests.

However, a long qualifying period has negative consequences for making flexible working the default. For instance, it can help reinforce the commonly held perception that flexible working is something an employee must earn or may receive as a “perk”.

Making the Right to Request Flexible Working a day one right could also, in part at least, address the issues we consulted in the July 2019 consultation, “Good Work Plan: Proposals to support

³ HSBC (2017) accessed at: <https://www.about.hsbc.co.uk/-/media/uk/en/news.../171108-flexible-working.pdf>

⁴ CBI & Pertemps (2017) Employment Trends Survey: <http://www.cbi.org.uk/index.cfm/?api/render/file/?method=inline&fileID=57DEC8F4-AF4B-4101-82B2406D3BE1CBCA>

⁵ ONS (2020): <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/whichjobscanbedonefromhome/2020-07-21>

⁶ Institute of Directors (Oct 20) [home-working here to stay](#)

⁷ BEIS analysis of 2019 Labour Force Survey data.

families” which contained proposals to require an employer to say whether a job is open to flexible working in the advert. As a job applicant, you would know that the right to request flexible working applied from your first day at work – and that would enable you to ask questions about flexible working during the recruitment process. Additionally, if an employer knows that a job applicant can submit a statutory request on their first day at work, he or she is likely to have considered what the response might be in advance of the recruitment exercise.

A number of respondents to the July 2019 consultation also suggested that requiring an employer to say whether a job is open to flexible working in the advert would drive the wrong response from those we were most looking to influence – those employers ‘hesitant’ to embrace flexible working would simply default to “no”.

For these reasons, the Government does not feel that now is the right time to introduce a statutory requirement for employers to say in job adverts whether flexible working is available. We believe that making the Right to Request Flexible Working a day one right will better help deliver the culture change which could lead to flexible advertising becoming the norm, alongside the other proposals put forward in this consultation document.

The consultation therefore seeks views about whether the qualifying period may be removed and what benefits this might deliver.

We believe that there are three market failures related to flexible working in the economy: Positive Externalities, Equality, and Asymmetric Information. All can be addressed through a range of policy options. Below details each in turn and how government policy extensions can improve the situation.

The profound increase in homeworking since the onset of the Covid-19 pandemic is likely to have prevented further contractions in the economy. As the economy begins to further reopen, it is important that the opportunity for flexible working remains readily available for employees. This is because the positive social benefits associated with flexible working are important to embed in the recovery. Private benefits to employees from flexible working may have been considered too narrowly in silo, yet this past year has demonstrated that businesses can also benefit from large amounts of flexible working. Additionally, the Flexible Working Post Implementation Review (FW PIR)⁸ has highlighted positive externalities to both participation and satisfaction with work-life balance. For participation, an informal study carried out prior to the Covid-19 pandemic made reference to the untapped productive potential in the economy whereby segments of the population could be enabled to work more productively (full-timers), work more hours (part-timers) or could be more willing to work (unemployed/inactive) if provided the opportunity to ‘work from anywhere’ regularly.⁹ Over half of employees (55%) working flexibly in the 2020 Employee Rights Survey said that a positive consequence of these arrangements was a better work-life balance. Government policy can help ensure that the wider societal benefits from flexible working are maximised.¹⁰ Furthermore, this does not require drastic policy changes as there is evidence that businesses are seeking to shift to hybrid working and that a light touch action may be sufficient.

It is important that we continue to ensure equality for both employees and employers through both access to the right to request and fairness in reviewing requests. The FW PIR highlighted that the extension in 2014 increased inclusivity but had the unintended consequence of leaving a small subset out of scope. Fairness arguments might suggest that we should bring this group within scope. Furthermore, bringing this group into scope might widen participation as employees with current arrangements in place may feel that they are prevented from seeking other jobs due to a perceived risk of losing flexible working benefits. Widening the eligibility criteria for accessing the right to request to all employees with 26 weeks continuous service provided more choice over working flexibly among those previously ineligible. Additionally, in keeping with the above

⁸ Flexible Working Post Implementation Review (2021)

⁹ CEBR (2014) The productive value of the untapped workforce: A study into the potential economic impacts of a flexible working culture, Centre for Economic and Business Research

¹⁰ BEIS (forthcoming) Employee Rights Survey 2020, Department for Business, Energy and Industrial Strategy

comments about Covid-19 impacts on flexible working, it is important that we continue to ensure that requests are dealt with in a fair way and that businesses try to accommodate requests where possible. Government policy can ensure that the right to request is a fair and accessible policy.

Additionally, the Impact Assessment (IA) produced for the 2014 extension highlighted an informational failure (or asymmetric information) in understanding the benefits of flexible working and addressing “cultural expectations”. The Flexible Working Post Implementation Review has found that awareness that any employee (with more than 26 weeks continuous employment) had a legal right stood at 57%, much below that of the awareness of legal right for those with children under 17 (74%) or carers (79%). Whilst there is a likelihood that this informational failure has also been impacted (and improved) through the pandemic-forced shift towards homeworking, these awareness statistics suggest there is still some scope for improvement and that increasing clarity about the options available to employees and employers will help. Additionally, the FW PIR highlighted that there is still a risk that there are negative perceptions of how flexible working may impact career consequences and it is important to continue to tackle this. Government policy can intervene to help reduce this asymmetric information.

Lastly, demand for flexible working remains within the economy. BEIS analysis of Understanding Society shows that in June 2020, around nine in ten individuals who are currently working from home would like to work from home (at least some of the time) once social distancing measures are fully relaxed.¹¹ Therefore, the Government may be best placed to intervene to ensure that flexible working remains accessible to all and to ensure that all parties understand the options available and the associated benefits.

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

We have made use of the available evidence base to model the costs of reforming the existing framework. Where relevant, we have used methodology from similar family-related leave policies to model the impacts on business. To estimate familiarisation costs, we have followed a similar methodology (albeit different calculations) to those for Carers Leave and Parental Bereavement Leave IAs as it is reasonable to assume that employers familiarise in a similar way. We have drawn on the conclusions made in the Post Implementation Review of the 2014 extension to Flexible Working and used relevant survey evidence, from the forthcoming Management and Wellbeing Practices Survey and the Employee Rights Survey, to feed into the cost modelling.

The initial assessment of costs for these options is low (less than £5m per annum). However, we will refine the key assumptions, particularly to understand how individuals and employers react, and improve the robustness of the estimates using evidence gathered through consultation and refine our estimates accordingly.

Description of options considered

Option 1: Do nothing

A ‘do nothing’ option would involve maintaining the status quo where the full benefits of flexible working are not realised and would fail to deliver on the manifesto commitment to reform flexible working. Some employees by nature of the fact they have recently joined an organisation are not able to make a flexible working request under the statutory legislation. There is some anecdotal information that a 26-week continuous employment requirement and constraints within the right to request process could:

- mean employees are unable to achieve a good work-life balance – reducing their productivity.

¹¹ University of Essex, Institute for Social and Economic Research. (2021). *Understanding Society: COVID-19 Study, 2020-2021*. [data collection]. 10th Edition. UK Data Service. SN: 8644, <http://doi.org/10.5255/UKDA-SN-8644-10>

- reinforce the perception that flexible working is something an employee must earn or receive as a 'perk' rather than something that should be considered from the outset.
- discourage some employees from moving jobs to fill vacancies across the labour market to avoid losing their existing flexible working arrangement.
- prevent employees and employers from sufficiently exchanging information to understand which flexible working arrangements would be compatible.

We will use the consultation process to better understand the extent of these concerns.

Initial policy options considered whether a non-regulatory approach alone could be adopted. Specifically, could the Flexible Working Taskforce developed lessons learnt (good and bad) over the last 18 months and **share best practice** with employers. This could potentially be supported by a Government **call for evidence** to identify ways to secure flexible working friendly culture across and within organisations. However, such an approach requires employers to voluntarily provide best practice or evidence to stimulate flexible working. This approach could prove useful in identifying how 'good' employers can embed flexible working, but guidance alone is unlikely to be sufficient in widening participation and enabling broader flexible working take-up. Therefore, we are carrying out a consultation on a regulatory approach.

Preferred regulatory option

Flexible working needs to begin with a conversation between employers and employees about how best to balance work requirements and an individual's needs. The 26-week qualifying period for the right to request flexible working, designed to allow the employer to make an assessment of the individual's capability to work flexibly, means that up to 2.2 million employees do not have access to the entitlement. Some existing employees working flexibly may be deterred from changing employer as a result of the qualifying period as they risk losing these benefits. We therefore believe that the existing overarching legislative framework, which is based on an employee making a formal request for changes to their hours and/or location or work, and a business having a right to refuse the request if it is incompatible with its business needs, remains appropriate. However, there are improvements that can be made to the framework to encourage more constructive dialogue between both parties and to make the right available to more employees.

The options proposed cover:

1. ***Making Flexible Working a Day One right***, currently only employees who have worked with their employer for 26 weeks can request flexible working.
2. ***Exploring whether the eight business reasons for refusing a request all remain valid***, currently there are eight broad reasons for rejecting a flexible working request. The consultation seeks to understand whether these reasons (listed below) remain valid:
 - it will cost the business too much
 - work cannot be reorganised among other staff
 - additional staff cannot be recruited
 - a negative effect on quality and performance
 - a negative effect on the business' ability to meet customer demand
 - a negative effect on performance
 - not enough work for the employee to do when they've requested to work
 - there are planned changes to the business, for example, if the employer intends to reorganise or change the business and does not think this request will fit with those plans.

3. **Requiring an employer to suggest an alternative** (where possible), currently an employer simply has to say that a request to work flexibly cannot be accommodated and give the relevant business reason(s) why that is the case. The consultation considers whether an employer should offer alternatives to facilitate the conversation further. For example, if the request could be accepted on a time-limited basis or if different days can be agreed for a part-time working request.
4. **Amending the administration process to allow multiple requests for flexible working within a 12-month period**, currently only 1 request is permitted per year.
5. **Increase awareness** that temporary flexible working arrangement can be requested. The current legislative framework already enables temporary arrangement to be agreed but informal discussions with stakeholders suggests flexible working for a defined, time-limited period may be under-utilised. The consultation seeks views on this issue.

Our proposals to strengthen the right to request flexible working address many of the policy objectives the 2019 consultation on advertising flexible working was intended to achieve – ensuring that employees can have early conversations about the potential for flexible working and that employers are more transparent about what they can and cannot offer. There was also some concern that requiring a job advert to mention flexible working would become a ‘tick-box’ bureaucratic exercise, rather than effecting real change.

We have made a cost assessment of policy options 1, 3 and 4 only as policy options 2 and 5 require further scoping through the consultation process. However, policy option 2 is similar to 3, in that, it is focused on changing the way employers respond to flexible working requests. Therefore, policy option 3 can be considered a good proxy for option 2. For policy option 5, awareness raising activity is unlikely to introduce additional burdens on business, but may impact take-up rates.

Summary and preferred option with description of implementation plan

The main policy option of making the right to request apply from the first day of employment can be achieved through secondary legislation. The other options designed to ensure that the employer gives a request proper consideration (e.g. more than one request per year and considering alternatives) will require primary legislation.

Statutory flexible working begins with a conversation between employer and employee to understand how to balance particular work requirements and specific individual needs. These consultation options attempt to reshape the existing regulatory framework by encouraging better discussions between employee and employer. Regardless of whether an individual is a time-served employee, a new entrant or a someone applying for a job, the framework aims to facilitate discussions of what might be possible and encourage employers and employees to consider flexible working options. Ultimately these reforms aim to support the objective of making flexible working the default unless employers have good reasons not to.

From an enforcement perspective, employers must consider all flexible working requests in a ‘reasonable manner’ as set out in the Acas code of practice. It is for employers and employees to ensure that rights are used appropriately but employees can complain to an employment tribunal if the employer:

- did not handle the request in a ‘reasonable manner’
- wrongly treated the employee’s application as withdrawn
- dismissed or treated an employee poorly because of their flexible working request, for example refused a promotion or pay rise

- rejected an application based on incorrect facts

Subject to the outcomes of the consultation, we expect that April 2023 may be the earliest that any measures come into force.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Direct Costs to Business

The estimated direct costs to business for the modelled policy options are based on two categories:

- a) **Familiarisation Costs** – Costs incurred by businesses from having to understand new employee rights.
- b) **Administrative Costs** – Costs incurred by businesses from going through the process of receiving a new flexible working request. This includes costs of considering initial requests, and then any resulting appeals and tribunals.

We do not anticipate any set-up costs as we are proposing adjustments to the existing legislative framework therefore this will only require minor modification of employers' policies and the assessment of familiarisation costs takes into account the time senior managers and HR professionals need to consider changes.

The costs to employers of accommodating flexible working (e.g., re-organising work schedules, adjustments to IT systems, recruiting additional staff to cover an employee on reduced hours) have not been included for these reforms for the following reasons.

Firstly, the regulatory changes are permissive in nature as they allow, but do not force, businesses to do something. In this case, businesses must consider requests for flexible working, but they can reject requests on the grounds of cost. Where an employer accepts a request for flexible working, we assume that the benefits to the business (workforce satisfaction, retention, productivity etc) outweigh the direct costs.

Secondly, we assume these costs have fallen significantly since the previous Impact Assessment in 2012 for several reasons including, more widespread use of portable IT (i.e. laptops and smartphones), increased awareness and greater use of flexible working generally (outside of the right to request legislation) and more recently large shifts to flexible working (specifically homeworking) during the pandemic.

Evidence from various sources suggest that in 2020, at the peak of the pandemic restrictions, the share of those in employment doing some form of homeworking stood at around 45%¹² of the population. Crucially, there is further evidence that businesses are looking to imbed flexibility into everyday business functions and implement various forms of hybrid working¹³. This will serve to reduce the burden of accommodating any requests made under the legislation.

¹² Evidence from the ONS Labour Market Study suggested that 46.6% of people were doing some work from home in April 2020. This compares to the Opinions and Lifestyle Survey estimate of 44.6% for the period 9th to 20th April and the Business Impacts of Coronavirus survey estimate of 46.8% for the 6th to the 19th of April. See ONS study here: [ONS Homeworking Study](#)

¹³ The Big Four auditors are one high profile example adopting hybrid working: <https://www.ft.com/content/dc461e5b-37c5-44f4-aaad-0406b82230f2>

Annex 1 contains a detailed flowchart of how the direct costs to businesses are modelled, including the assumptions made at each step. Annex 2 has a full breakdown of all the assumptions made and the evidence underpinning them.

The following two sections break the two categories of costs highlighted above into two further subsections, “Coverage” and “Process”. “Coverage” describes how we have obtained the population of interest for the relevant cost whereas the “Process” section explains how we utilise this population of interest to generate cost estimates and the steps undertaken.

Administration Costs

Coverage

Prior to assessing the administration costs generated by any policy option, we first have to estimate the population in scope for any amendment/ extension (i.e. those who are employees with either more than 26 weeks or less than 26 weeks continuous service). We have estimated the population of interest in two steps:

- a) Firstly, data from the Labour Force Survey (LFS) suggests that there was an average of 26.7 million employees in the labour market across 2019. Data from 2019 has been selected as it considered more reliable than more recent data which has been impacted by Covid-19. We have focused on ‘employees’ only (i.e. excluded the self-employed as they are ineligible under the right to request) as well as those based in Great Britain only (as Northern Ireland have a separate policy process).
- b) From this data we have estimated those who have worked in their current job for less than 26 weeks (2.2 million employees), roughly 8% of the total employee population.

Table 1 below details estimates of employees by length of service from the ONS Labour Force survey.

Table 1: Number of employees in Great Britain by length of employment with same employer

Length of employment with same employer	Estimate LFS January - December 2019 (millions)
0-26 Weeks	2.2
26 Weeks +	24.5
Total number of employees	26.8

Process

Utilising the population of interest from table 1 above, the administrative costs are calculated based on three fundamental aspects:

- a) *Requests*: Cost to employers of having to consider and process new requests resulting from the policy change. The below formula illustrates how we have estimated the costs of requests:

$$\text{Cost of Requests} = P \times R \times F \times (\text{unit cost of a request})$$

Where:

P is the population of interest (either those with less than or more than 26 weeks continuous service;

R is the request rate for flexible working (assumed to be 4%¹⁴);

F is the share of requests which are made under the statutory right to request (where 1 – F = Informal request);

Unit Cost of a Request = average time to review a request x hourly wage of reviewer. We assume that it takes a HR professional (whose wage of £29.85 we take from ASHE 2019 and uprate using non-wage costs from Eurostat to account for employer pensions and national insurance contributions etc) 1.5 hours to review a request for flexible working. This is approximately half the time we assume it takes to familiarise with completely new entitlements such as Parental Bereavement Leave, this reflects the fact that flexible working is more established. We will test this assumption with stakeholders. This gives a unit cost of £45.

- b) *Appeals*: Cost of any appeals where an employer has turned down a request resulting from the policy change. Evidence from the recently published Post Implementation Review on the 2014 extension to the Right to Request found that 91% of requests for flexible working are successful. Of the 9% rejected some of these go onto an appeal (based on the Employee Rights Survey 2020, we assume that 21%¹⁵ are taken to an appeal/ negotiation). The below formula illustrates how we have estimated the costs of appeals:

$$\text{Cost of Appeals} = (P \times R \times F) \times RR \times A \times (\text{unit cost of an appeal})$$

Where:

P, R and F are the same as above;

RR is the share of those requests which have been rejected (and as above is assumed to be 9%);

A is the share of those failed requests which are taken to an appeal (assumed to be 21%);

Unit Cost of an Appeal = average reviewing time for an appeal x hourly wage of reviewer. We assume that it takes a HR professional (whose wage of £29.85 we take from ASHE 2019 and uprate using non-wage costs from Eurostat to account for employer pensions and national insurance contributions etc) 3 hours (similar to the assumption in the Statutory Parental Bereavement Leave IA) to review a request for flexible working this reflects the potential for more careful, technical considerations of an appeal. This gives a unit cost of £90.

- c) *Tribunals*: Costs from employees seeking redress through an Employment Tribunal (ET). We assume that 18% of cases are successful at appeal and therefore, that 82% are rejected (RA below). Of the 82%, some of those go onto an ET. Data for 2017-18 suggests that there were 112 ETs related to FW, therefore, based on the number of rejected requests which go to an appeal but are unsuccessful, we estimate that roughly 1% (SET below) take a rejected appeal to an ET¹⁶. Therefore, the formula to estimate the cost of ETs is:

$$\text{Cost of ETs} = (P \times R \times F \times RR \times A) \times RA \times SET \times C$$

Where:

¹⁴ We have taken the 4% request rate from the Flexible Working PIR (which estimates this figure from the 2018 British Social Attitudes Survey).

¹⁵ The 21% is based on responses to the Employee Rights Survey (forthcoming).

¹⁶ To be exact, the 112 cases divided by circa 90k failed requests multiplied by 21% appealing and 82% of those failing, gives an estimate of 2.0%.

P, R, F, RR and A are the same as above;
RA is the share which are rejected at appeal;
SET is the share which go to an Employment Tribunal;
C is the average cost of tribunal (£5,900).

In order to estimate the total administration cost, we sum together the cost of requests, the cost of appeals and the cost of ETs.

Policy Option 1: Making Flexible Working a Day One Right

For policy option 1 – making flexible working a day one right – we use the population estimate for those with less than 26 weeks continuous employment. As highlighted above, roughly 91% of the population already meet the continuous employment requirement. Due to limited information, we currently assume that there is no deadweight (i.e. zero employers already consider/accept requests from those with less than 26 weeks employment)¹⁷; this is a highly cautious assumption which will lead to higher total administration costs and we plan to test during consultation. Table 2 below details the key assumptions for each policy option and the administration cost.

The number of additional requests originating from those with 26+ weeks continuous service each year may also be minimal/close to zero as a day one right option may merely bring forward requests that would otherwise occur after they have worked for 6 months.

Table 2: Administration Costs for Policy Option 1

Additional Population in Scope	Scenario	Request Rate	Share of requests made under the statutory right to request¹⁸	Total Administration Costs (millions)
2.2 million	Low	1%	10%	£0.1
	Central	4%	35%	£1.5
	High	7%	60%	£4.5

We have produced costs for a range of different take-up scenarios but have assumed these across all policy options to ensure consistency across all modelled options. The assumption for the low scenario are based on the previous IA produced for the 2014 extension. The 1% is an average of the rates used for men and women (0.75% and 1.25% respectively). The 10% figure used for the share of requests made under the statutory right to request framework (as opposed to informally agreed or non-statutory requests) is the same as the previous IA. In the central scenario, we have taken a 4% request rate which is reported in the Flexible Working PIR (which estimates this figure from the 2018 British Social Attitudes Survey) and the 35% share of formal requests comes from the Employee Rights Survey which is based on requests that resulted in a contractual change. For the high scenario, we have applied the differences between the central and low estimate to increase both the request rate and the share of requests made under the statutory right to request.

¹⁷ We expect there are some cases where firms offer flexible working to new workers, and will aim to understand this issue through the consultation. Our assumption of 0% deadweight will lead to an upper boundary cost estimate.

¹⁸ A statutory request involves a specific process (e.g. an eligible employee writing a letter/email to their employer with the change they would like, when it would start, any effects the change could have on the business, the date of any previous requests and if it relates to something covered in the Equality Act). The employer then has three months to consider. If they agree, this changes the terms within the employment contract. If they reject, they must write to the employee giving the business reasons for the refusal - <https://www.acas.org.uk/making-a-flexible-working-request/how-to-make-a-flexible-working-request>.

The range of costs, from the low of £0.1million to a high of £4.5million. The total costs of increasing the scope of the right to request flexible working to those with less than 26 weeks continuous service is low with the central estimate at £1.5million.

Policy Option 3: Requiring Employers to Suggest an Alternative, where possible

For policy option 3, requiring employers to suggest an alternative, the methodology is required to change. This is because the likely result of this policy is that the share of requests accepted increases. Therefore, using the population of employees with more than 26 weeks continuous service (the population who are currently within scope of the right to request) we can get an estimate for the number of requests ($P \times R \times F$) which are evident in a given year (the deadweight number of requests). However, we assume that the 9% of requests which would usually be rejected are all offered an alternative. This generates the following formula for the costs of administration for policy option 3:

$$\begin{aligned} & \text{Cost of suggesting an alternative} \\ & = (P \times R \times F \times RR) \times (\text{unit cost of suggesting an alternative}) \end{aligned}$$

Where:

(P x R x F x RR) is the number of failed requests;

P is the population of interest (either those with more than 26 weeks continuous service;

R is the request rate for flexible working (assumed to be 4%¹⁹);

F is the share of requests which are made under the statutory right to request (where $1 - F$ = Informal request);

RR is the share of those requests which have been rejected (and as above is assumed to be 9%);

Unit cost of suggesting an alternative = average time take to suggest an alternative x hourly wage of reviewer. We assume that it takes a HR professional (whose wage of £29.85 we take from ASHE 2019 and uprate using non-wage costs from Eurostat to account for employer pensions and national insurance contributions etc) 25% of the time they already take to review a request in full to suggest an alternative where possible²⁰. This gives a unit cost of £11. We will test this time assumption with stakeholders.

Table 3 below details the driving assumptions for this policy option and the costs at each stage:

Table 3: Administration Costs for Policy Option 3

Current Population within scope ²¹	Scenario	Population in Scope (9% of rejected requests)	Total Administration Costs (millions)
24.5million	Low	2k	£0.02
	Central	31k	£0.3
	High	93k	£1.0

¹⁹ We have taken the 4% request rate from the Flexible Working PIR (which estimates this figure from the 2018 British Social Attitudes Survey).

²⁰ We assume that suggesting an alternative takes an additional 25% (23mins) of the time currently estimated to review a request (1.5hours) based on the understanding that considering the initial request is a more time-demanding process and a manager will already have a good sense of realistic alternatives. We will test this assumption further with stakeholders.

²¹ The current population is shown in Table 1. Policy options have been costed in isolation in order to identify the individual impact of the proposals. If we assume policy options 1 and 3 are taken forward, these costs will increase by c.9%.

Table 3 indicates that requiring employers to suggest an alternative will lead to an annual, best estimate administration cost of circa £0.3 million. We do not assume any costs from appeals or tribunals as this policy option is reducing the number of cases which go to these stages.

Policy Option 4: Amending the Administration Process (allowing more than 1 request per year)

For policy option 4, amending the administration process to allow more than 1 request per year, the methodology closely matches that of policy option 3. This is because option 4 is also likely to increase the number of accepted requests. As above, we estimate the share of rejected requests is 9% and this indicates the total population who may apply multiple times. We assume this because whilst there will be some who drop out of this number after successful appeals and tribunals, it is possible others request multiple times (e.g. to perhaps change the terms of a previously made arrangement). Hence, we believe this a suitable population estimate. Additionally, we also know that the current proportion of employees requesting flexible working multiple times is 1%²², which might indicate the ‘latent demand’ for multiple requests is low but clearly some employees will not request even though it would be desirable to do so. However, we will look to test this assumption with stakeholders. Due to this uncertainty with the 1%, we assume zero deadweight i.e. all employees are currently unable to make more than one flexible working request per year. Therefore, based on using the higher population and no deadweight, it is likely that our estimate is a cautious upper bound estimate. Using a similar methodology to policy option 3, we generate the following formula:

$$Cost\ of\ multiple\ requests = (P \times R \times F \times RR) \times (unit\ cost\ of\ a\ request)$$

Where:

(P x R x F x RR) is the number of failed requests;

Unit cost of a request is the same as above (the unit cost of a request = £45).

This generates similar outputs to policy option 3 but assumes a higher unit cost. This is because we assume all of these apply again (and hence use the original £45) rather than require a small additional amount of time to suggest an alternative. Using the population of interest and the above formula, we estimate the administration costs. Table 4 below details costs for policy option 4:

Table 4: Administration Costs for Policy Option 4

Current Population within scope ²³	Scenario	Population in Scope (9% of rejected requests)	Total Administration Costs (millions)
24.5million	Low	2k	£0.1
	Central	31k	£1.4
	High	93k	£4.2

Table 4 indicates that amending the administration process will lead to a potential annual administration cost of between £0.1 million and £4.2 million, with a best estimate of £1.4million. This estimate is so low due to the low additional population which we estimate will utilise such a policy

²² We have taken the 1% latent demand for multiple requests from the Flexible Working PIR (which estimates this figure from NatCen Social Research’s British Social Attitudes survey, 2018).

²³ The current population is shown in Table 1. Policy options have been costed in isolation in order to identify the individual impact of the proposals. If we assume policy options 1 and 4 are taken forward, these costs will increase by c.9%.

option. We do not assume any costs from appeals or tribunals as this policy option is reducing the number of cases which go to these stages.

Familiarisation Costs

Coverage

To cost the impact on employers from familiarising with any given policy change, we have taken data from the latest Business Population estimates (for the start of 2020). These estimates yield a total business population of 1.3 million employers across Great Britain. We only count those business which have more than 1 employee; we assume that in order to have to process a right to request flexible working, there needs more than one other employee to make a request.

Process

We assume that for any new policy, there is the requirement that businesses need to familiarise with changes.²⁴ To calculate the total familiarisation cost we assume that for all businesses of size *i* it takes 10mins²⁵ of either a HR professional (SOC code 1135) or a manager's (SOC code 1) time at the respective hourly wage to familiarise with any of the proposed policy options. We will test this time assumption with stakeholders.

Familiarisation Cost:

Number of businesses x familiarisation time x relevant hourly wage

In our central scenario, for medium and large businesses (which sum to a total of 52,720 businesses) using ASHE 2019 (and uprated using non-wage labour costs from Eurostat to account for employer pensions and national insurance contributions etc) for HR professionals, £29.85, and the assumed 10 mins, leads to a total cost of £0.26million. For micro and small businesses (which sum to a total of 1,283,485 businesses) using the non-wage adjusted ASHE data for managers, £25.52, and the assumed 10mins, leads to a total cost of £5.5million.

Table 5: Familiarisation costs

Scenario	Familiarisation costs (£m)
Low	2.9
Central	5.7
High	8.6

That leads to a total familiarisation cost of £5.7million. Lastly, we assume that all medium/large businesses familiarise when the policy starts but, that micro/small businesses only familiarise when they start to receive requests. For this group of businesses, we assume that 10% of micro/small firms familiarise a year and this spreads the cost over ten years (the standard green book appraisal period), leading to an annual cost of £0.5million. When adding the £0.26million from medium/large businesses, **leads to an upfront first year familiarisation cost of £0.8million.**

The low and high scenarios are based on adjusting the assumed time taken to familiarise with the policy. For the low scenario, we assume 5 minutes of familiarisation time. As with the 10mins, we have taken this assumption from the National Minimum Wage impact assessment. The high scenario assumes 15 minutes of familiarisation time and is based on adjusting upwards by the same amount we have adjust downwards.

²⁴ For simplicity, we assume that all policy options require the same familiarisation process and assumptions.

²⁵ We take the assumption of 10 mins of familiarisation time from the annual National Minimum Wage Impact Assessment. Whilst we think the policy options require minimal familiarisation, due to differences in the policy, we will test this assumption with stakeholders.

We have assumed there are familiarisation costs associated with each policy option. This is a conservative estimate, the true cost is likely to be lower.

Total Costs

Therefore, for the most expensive policy option (option 1), the best estimate total direct (nominal) cost to businesses is estimated at £20.7million. Assuming a 10-year policy impact, leads to an EANDCB of £2.07million. See table 6 below for central estimate costs for all options.

Table 6: Best Estimate Total Cost (£m)

Policy Option	Total Costs	EANDCB
1	20.69	2.07
3	9.18	0.92
4	19.57	1.96

We have also estimated the impact of the exchequer from any ETs. However, given the small additional number in of ETs from any of the potential policy options, the cost to the exchequer is negligible and less than £30k a year.

Impact on small and micro businesses

We have estimated all impacts of the policy by business size to understand how the costs are distributed.

For the administration costs, we have split out the costs by business size based upon assumptions from the Business Population estimates for the proportion of employees in each category. After removing the businesses with 0 or 1 employees, and reweighting these employee shares, we find that micro and small businesses employ 28% of the employee population and therefore that medium and large businesses employee 72%. This therefore means that the majority of costs are felt by medium and large businesses (particularly businesses with 500 or more employees who make up 52% of the costs). The unit costs at each step of the administration cost process do not differentiate by size of firm and are scaled purely by the number of requests, appeals and tribunals).

Table 7: Business Size by share of employees

Business Size	Share of employees
2-4	7%
5-9	6%
10-19	7%
20-49	8%
50-99	6%
100-199	6%
200-249	2%
250-499	6%
500 or more	52%

For familiarisation costs, these are already broken down by business size due to the nature of the estimation process. The findings indicate that total costs on the micro and small businesses (with employee numbers from 2-49) category are much larger than the medium and large business group. This is not however due to costs being higher, but rather the number of micro and small businesses being greater (over 1.2million versus just over 50k medium and large firms). Additionally, unlike the administration costs, the unit cost of familiarising for micro and small businesses is different and lower at £4.25 (10 mins x £25.52, the hourly wage of a manager) than medium and large businesses at £4.98 (10mins x £29.85, the hourly wage of a HR professional).

Therefore, in conclusion, we do not believe that small and micro businesses will be disproportionately impacted, nor do we think there is a justification to exempt them from the policy proposals which would create a two-tier labour market where rights vary according to the size of business an individual works in. Moreover, small and micro businesses are not required to make changes immediately and we assume these firms will familiarise with the legislation over time on a case-by-case basis.

Wider Impacts and Transfers

The Proposed Policy Options

We anticipate that the proposed policy options will go further and increase the benefits to both employees and employers. This includes the potential for positive effects on workplaces from reduced absenteeism, reduced vacancy costs and increased skill retention, and increases to profit and productivity. The PIR notes that overall, the majority of evidence suggests a significant and positive relationship between various flexible working practices and business performance. Flexible working arrangements more generally make an important contribution in achieving work-life balance, with over half of employees report better work-life balance as a result of working flexibly. It remains difficult to isolate the effects of flexible working legislative changes to business performance and productivity. We have not monetised these impacts due to the intrinsic difficulty in attributing the impact of specific policy changes from shifts towards flexible working (resulting from the Covid-19 pandemic) in the wider economy. We will look to develop this analysis during the consultation process through engagement with stakeholders. The following sub sections detail the wider benefits identified and analysed in the previous IA as well as the Flexible Working PIR's more recent review of the evidence base.

Previous IA benefits of FW

The impact assessment for the extension of the right to request in 2014 specified several benefits from flexible working for both employers and employees. For employers, this included: improved employee relations, improved employee motivation, reductions in recruitment, reduced labour turnover, increased productivity and reduced absenteeism. For employees, flexible working offered an improved work life balance, increased appreciation of employers' approachability as well as wider societal benefits of helping tackle child poverty, support single parents, carers, and older workers.

The IA also produced estimates of the magnitude for a subset of these benefits, including reduced vacancy costs and increased skill retention; increased productivity and profits; and reduced absenteeism rates. The below extract from the IA summarises these impacts:

“Average annual benefit to employers from higher productivity (£36.8m), lower labour turnover (£8.4m), and reduced absenteeism (£1.4m), over a period of ten years (total £46.6m), plus annual savings to employers from moving to a statutory code of practice (£9.1m). Subsequent years

include benefits accrued from the previous year's new working arrangements, which leads to a total net present value of benefits over the 10 years of £474.9m.”²⁶

Findings from the Flexible Working PIR

The Flexible Working PIR of the 2014 extension of the right to request to all employees with more than 26 weeks continuous service presents findings on the positive effect flexible working has contributed to the economy. Below focuses on the three key monetised benefits from the 2014 IA and provides a brief extract from the PIR:

1. Reduced vacancy costs and increased skill retention

More than four in ten employers report positive effects of flexible working on staff turnover and evidence has demonstrated a significant association of flexible working on staff turnover. Indicative estimates from a membership survey suggest that employer costs of hiring workers may have reduced over time. Employee retention rates across the economy overall are relatively consistent over time, with just under two thirds of employees staying with the same employer from one year to the next. Attributing any changes in employee turnover to the legislative changes is difficult, however, given the numerous other factors that affect staff turnover.

2. Increased productivity and profits

The literature has demonstrated a significant and positive relationship between various flexible working practices and business performance. The literature has demonstrated an association between flexible working and positive effects on productivity. There is also evidence of benefits of flexible working practices and improved productivity at organisational level.

The original impact assessment for the 2014 regulatory extension calculated the net share of businesses at the time (36%) reported productivity improvements from flexible working arrangements. It assumed a 5-percentage point output gain would be achieved among these organisations. Annual ongoing benefits of increased productivity and profits was reported to be £36.8 million.

As mentioned previously, in 2018 just under half of employers with 5 or more employees (48%) perceived positive effects of flexible working arrangements on productivity. There is insufficient evidence to determine the extent of productivity increases (as measured by output gain) experienced by firms or profits (as measured by gross operating surplus) as a result of flexible working.

3. Reduced absenteeism rates

Around half of employers reported positive effects of flexible working on reducing absenteeism. The estimated benefits of flexible working on absenteeism may not have been realised across all employers reporting staff working flexibly in the economy. The econometric evidence on the association between flexible working and absenteeism is mixed. Sickness and absence have remained at relatively similar levels in the UK during the period of this review.

The PIR also highlighted some evidence on the potential non-monetised impacts stemming from the 2014 extension. This includes informal research polls indicating that some employers are planning to reduce office space as they consider health risks and cost savings and wider suggestions that there may be environmental benefits from working from home. However, despite one review suggesting that remote working may support energy savings, there is no consensus in the literature on how much energy consumption can be reduced, or whether there are unintended effects of working from home on non-work energy consumption.

²⁶ For the IA from 2014 and consultation IA from 2012, see here: <https://www.gov.uk/government/publications/right-to-request-flexible-working-impact-assessment-revised-cost-to-business> and <https://www.gov.uk/government/consultations/consultation-on-modern-workplaces>

Lastly, the PIR also discussed some unintended consequences from the extension in 2014 which the analysed policy options seek to address:

1. The 26-week qualifying period – the qualifying period means that around 2.2 million do not have access to the entitlement which results in a subset of workers deterred from changing employer as they risk losing benefits. Policy option 1 directly brings this group into scope for the right to request.
2. Perceived negative career consequences – Since the introduction of the right to request, there remains a risk of negative perceptions of flexible working. Widening the eligibility criteria for accessing the right to request to all employees with 26 weeks continuous service has provided more choice over working flexibly among those previously ineligible. Since the introduction of Covid-19 restrictions, indicative research has found that fewer employees may perceive negative career consequences among those working from home. Supportive workplace cultures where flexible working is visible and senior leaders show their backing can help reduce perceived negative consequences reported among employees. Efforts to improve take-up among a wider group of employees could potentially reduce any stigma associated with flexible working. All the analysed policy options look to improve the availability of flexible working, which combined with the current shift towards hybrid working as a response to Covid-19, will help further reduce any negative perception.

Equality Impact Assessment

The Public Sector Equality Duty (PSED) under section 149(1) Equality Act 2010 applies to the publication of the consultation document. The key issues which arise from these proposals in relation to the PSED are that the Right to Request Flexible Working can have positive impacts on individuals with protected characteristics (such as sex, age and disability). By making the Right available to more employees, we hope to further these positive impacts. We recommend pursuing with the consultation on the basis that it appears to have no disproportionate negative impact on equality and the need to advance equality has been considered appropriately.

Just under one in ten employees (8%) in Britain have less than six months continuous service.²⁷ Younger employees aged 16-24 are over twice as likely (18%) to report having less than six months continuous service compared with older age groups. Employees of Mixed/multiple ethnic groups (14%), Pakistani (11%) and Black ethnic groups (10%) are more likely to report less than six months continuous service. There are no differences by gender or disability status. The proposals will most likely have a disproportionate positive impact on protected groups.

Below details how the availability and use of flexible working differs by several diverse groups. The main indications are that:

1. Gender: Female employees are more likely to take-up flexible working than men (64% versus 54%).²⁸
2. Age: Findings suggest that older workers (aged 65+) and younger workers (16-24) had less access to flexible working.
3. Income: Those with household income of £40,000 or more reported greater availability of flexible working (85% versus 80%).
4. Sector: There is some difference in the take-up of flexible working by sector, with those in construction or transport sectors least likely to utilise the right.

The following is taken from the Employee Rights Survey:

²⁷ BEIS analysis of 2019 Labour Force Survey

²⁸ BEIS (forthcoming) Employee Rights Survey, Department for Business, Energy and Industrial Strategy

Gender

Recent estimates (2020) by gender show that female employees are more likely to take-up any flexible working (64%) than male employees (54%).²⁹ Furthermore, female employees (85%) are more likely to report availability of any flexible working arrangements than male employees (75%). Part-time working availability is greater among female (62%) than male (41%) employees. However, availability of flexitime, working from home on a regular basis and homeworking were slightly more likely to be reported among male employees than female employees.

Age

There are some differences in the availability of flexible working arrangements by age. Older employees aged 65 and over (69%) are less likely to report availability of any flexible working arrangements than employees overall (80%). Fewer younger employees aged 16-24 (13%) said that they had access to working from home on a regular basis than employees on average (30%). Home-based working is also less likely to be made available to younger employees, with 12% of 16-24-year-olds reporting access compared with 20% of employees overall.

Ethnicity

Employees of Asian/Asian British ethnicity were more likely to report any flexible working (66%) than employees of White/White British ethnicity (58%). There were no statistically significant differences in the take-up of part-time working or regularly working from home by ethnicity.

Disability

There is little variation in take-up of any flexible working among employees reporting a physical or mental health condition (no statistically significant differences).

Income

Staff with higher household incomes of £40,000 or more report greater availability of any flexible working (85%) than average (80%). Access to working from home increases with household income, from 6% among those with incomes of £10,000 or less, rising to 43% of employees having access to working from home on household incomes of £40,000 or more.

Sector

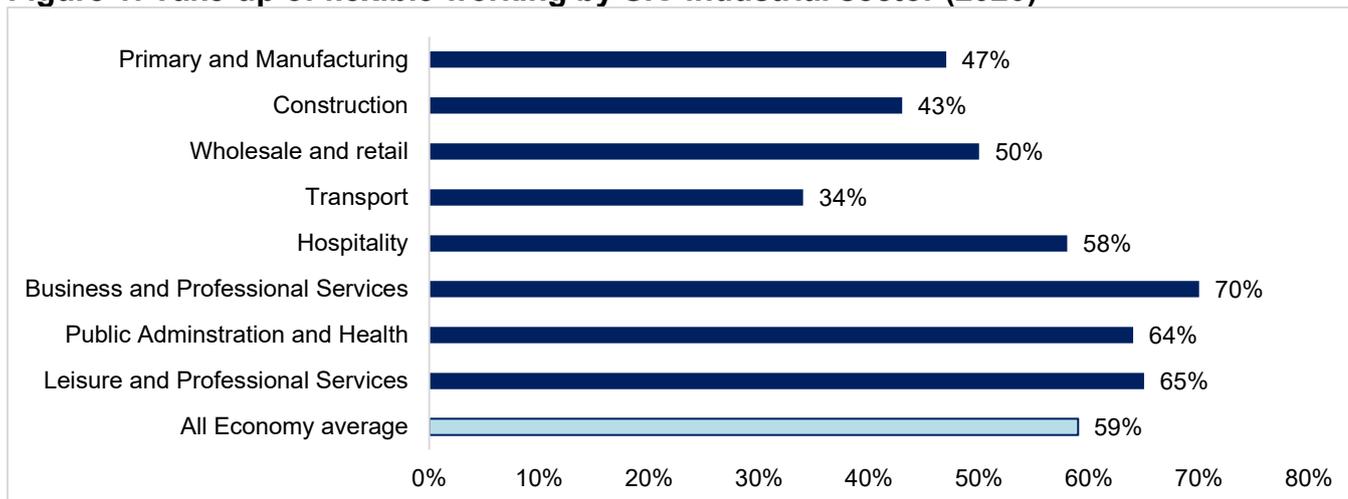
By sector, employees in Business and Professional Services (70%), and Public Administration and Health (64%) are more likely to report taking up flexible working than employees working in Construction (43%) and Transport (34%) sectors.³⁰ Without making any direct comparisons, the take-up of many forms of flexible working was also more common among public sector employees than sectors such as Manufacturing and Construction in 2011 according to the Work-life Balance survey.³¹

²⁹ BEIS (forthcoming) Employee Rights Survey, Department for Business, Energy and Industrial Strategy

³⁰ Differences in take-up reported by Understanding Society and the Employee Rights Survey can be explained by the different methodologies employed.

³¹ BIS (2012) *The Fourth Work-Life Balance Employee Survey*, Department for Business, Innovation and Skills. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32153/12-p151-fourth-work-life-balance-employee-survey.pdf

Figure 1: Take-up of flexible working by SIC industrial sector (2020)



Source: Employee Rights Survey 2020
Unweighted base: all employees 5,291

Within sector by Employer Size

Larger employers of more than 250 staff were three times more likely (30%) to turn down a flexible working request than the economy average (9%).³² As mentioned previously, larger employers are more likely to receive any requests from staff. Education (15%), Public administration and defence (15%) and Manufacturing sector employers (14%) were also more likely to report turning down a flexible working request than workplaces overall (9%).

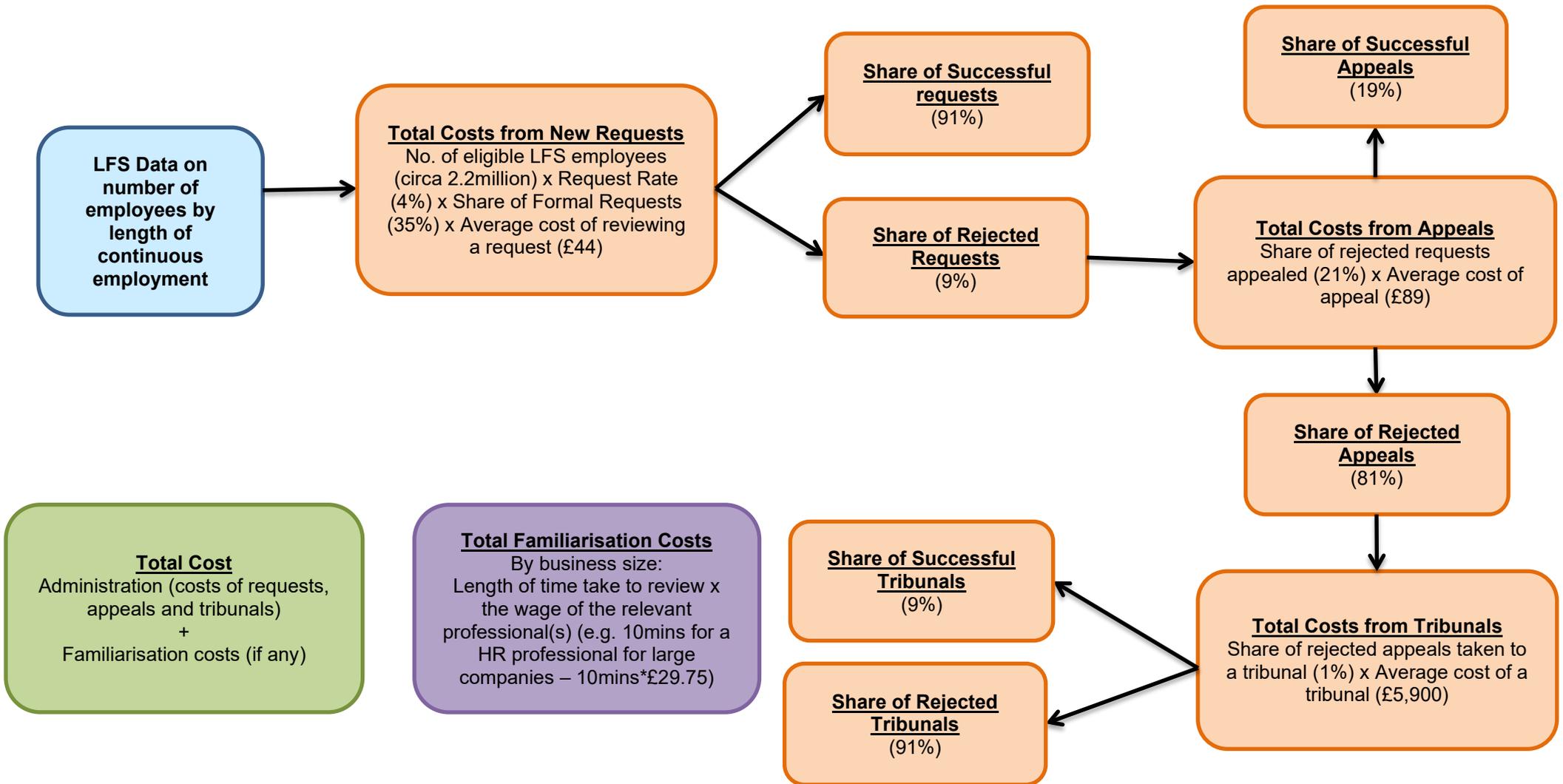
Monitoring and Evaluation

The review of the regulatory changes to the flexible working right to request will take place five years following introduction of the policy. The review will examine take-up of flexible working by protected characteristics since the extension of the right to request, individual attitudes and perceptions of working flexibly on career consequences. It will also explore the degree to which requests are accepted, employer attitudes to flexible working and the level of disputes via Employment Tribunal claims.

We anticipate that the series of employer and employee surveys will continue, and these can be designed to capture effects of the legislation. Additional sources of information will enable monitoring, such as Employment Tribunal statistics.

³² Management and Wellbeing Practices survey of employers, 2018.

Annex 1: Flow Chart for calculation of Business costs



Annex 2: Complete list of Assumptions and Source

Description of Assumption	Variable in formulae	Assumption	Source (all forthcoming)
Request Rate – The share of requests received annually for the Right to Request Flexible Working	<i>R</i>	4% (1% and 7% in sensitivity tests)	2018 British Social Attitudes Survey (the 1% is a mid-point from previous IA and 7% a BEIS estimate based on the difference between the 4% and 1%)
Share of requests which are made formally under the statutory right to request	<i>F</i>	35% (10% and 60% in sensitivity tests)	Based on Employee Rights Survey (the 10% is from the previous IA and 60% a BEIS estimate based on the difference between the 35% and 10%)
Average time taken to review a Flexible Working Request		1.5hrs	BEIS estimate based on previous IA and increased familiarity
Share of Successful (rejected) requests – The share of requests which are accepted.	<i>1 - RR</i>	91% (9%)	Management and Wellbeing Practices Survey
Share of rejected requests which go to an appeal	<i>A</i>	21%	ERS
Average time taken on a Flexible Working Appeal		3hrs	BEIS estimate based on previous IA and increased familiarity
Share of Successful (rejected) appeals – The share of appeals which are accepted.	<i>1 - RA</i>	81% (19%)	ERS
Deadweight Number of FW tribunals		112 (for 2017/18)	MoJ Tribunal Statistics
Average cost of an Employment Tribunal	<i>C</i>	£5,900	BEIS estimate based on MoJ data
Length of time taken for firms to familiarise with a new policy		10mins (5mins and 15mins in sensitivity tests)	The 5mins and 10mins are taken from National Minimum Wage IA (the 15mins is a BEIS estimate based on the difference).
Median wage for: HR Professional Manager		£24.51 £20.95	ASHE 2019 data
Non-labour wage costs		21.79%	Eurostat
Average time taken to suggest an alternative		25% of time taken to review a request (23mins)	BEIS estimate based on previous IA and increased familiarity