

# Impact Assessment, The Home Office

**Title:** Minimum Service Levels (MSL) Border Security Consultation

**Date:** 11<sup>th</sup> August 2023

**IA No:** 0442 **RPC Reference No:** N/A

**Stage:** Consultation

**Other departments or agencies:** Department for Business and Trade, Department for Health and Social Care, Department for Transport.

**Intervention:** Domestic

**Measure:** Secondary legislation

**Enquiries:**

BorderSecurityMSLConsultation@homeoffice.gov.uk

**RPC Opinion:** Not Applicable

**Business Impact Target:** Non-qualifying regulatory provision

## Cost of Preferred (or more likely) Option (in 2022/23 prices)

Net Present Social Value NPSV (£m)	N/A*	Business Net Present Value BNPV (£m)	N/A*	Net cost to business per year EANDCB (£m)	N/A*

### What is the problem under consideration? Why is government intervention necessary?

Strike action undertaken by those working in border security can negatively impact the safety and security of our borders. 'Border security' could be defined to include activity undertaken by a range of different agencies but for the purposes of this impact assessment, it is activity undertaken by Border Force. Without a permanent skilled presence at the border, there is a significant risk to the security of the UK. Government intervention is needed in the sector to establish a fair balance between the ability to strike and the need to ensure our borders are safe and secure in the event of a strike. By mandating that a minimum level of service is required on strike days, Border Force can maintain its complex operation and keep the country safe.

### What is the strategic objective? What are the main policy objectives and intended effects?

**Strategic Objective:** To maintain border security in the event of a strike.

**Policy Objectives:** To use powers in the new Strikes (Minimum Service Levels) Act 2023 to set a minimum service level (MSL) to protect border security in the event of a strike by employees of Border Force, whilst deploying these powers in a way which recognises the ability of those employees to strike.

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

**Option 1:** Do nothing

**Option 2a:** Deliver statutory Border Force MSL – 50 per cent MSL

**Option 2b:** Deliver statutory Border Force MSL – 60 per cent MSL

**Option 2c:** Deliver statutory Border Force MSL – 70 per cent MSL

### Main assumptions/sensitivities and economic/analytical risks

**Discount rate (%)**

3.5%

A key assumption for the purposes of assessing costs and benefits is that an MSL would raise service levels during periods of strike activity. At this stage, details around the level of service that would be required under an MSL have not been established. Scale of impacts will depend on the extent to which service levels are increased by the legislation compared with Option 1.

**Will the policy be reviewed?** It will be reviewed. If applicable, set review date: 2028

*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 Minister



Date: 11/08/23

\*At this stage, a specific minimum level of service (preferred or most likely option) has not been established. To assist the consultation, this IA provides an appraisal of a range of MSLs across Options 2A-2C in the summaries below. The appraisal demonstrates that a positive NPSV is achieved in the central scenario for each MSL level tested.

# Summary: Analysis & Evidence

# Policy Option 2A

**Description:** Deliver a statutory Border Force MSL - staffing numbers must not fall below 50 per cent.

## FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2022/23	PV Base	2023/24	Appraisal	10	Transition	1
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	-0.7	High:	14.8	Best:	4.7	Best BNPV	0.0	

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.2	0.0	0.2	0.0	0.0
High	0.9	0.0	0.9	0.1	0.0
Best Estimate	<b>0.4</b>	<b>0.0</b>	<b>0.4</b>	<b>0.0</b>	<b>0.0</b>

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

Monetised costs of this option relate to familiarisation costs to trade unions (£3,000 to £12,000, central estimate £6,000) and Border Force staff (£209,000 to £834,000, central estimate £417,000), and to legal advice sought by trade unions to assist them in complying with the law (£5,000 to £19,000, central estimate £9,000).

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

A number of potential costs have not been monetised in this IA, including potential enforcement costs, costs from the potential changing nature of strike action, and any operational costs to employers and unions.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.0	0.1	0.1	0.0	0.0
High	0.0	15.0	15.0	1.7	0.0
Best Estimate	<b>0.0</b>	<b>5.1</b>	<b>5.1</b>	<b>0.6</b>	<b>0.0</b>

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

The monetised benefits of this policy arise from the increase in hours worked by Border Force staff on strike days. This totals £0.1m to £15m, central estimate £5.1m.

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

An MSL will likely reduce the public cost of Border Force arranging contingency resources and provide additional certainty to port planning. An MSL will likely result in an improved economic output, through improving service levels at the border during strike action which has knock-on effects on tourism, prevention of harmful goods entering the UK and greater certainty around trade.

## BUSINESS ASSESSMENT (Option 2a)

Direct impact on business (Equivalent Annual) £m:									
Cost, £m	0.0	Benefit, £m	0.0	Net, £m	<b>0.0</b>				
Score for Business Impact Target (qualifying provisions only) £m:					N/A				
Is this measure likely to impact on trade and investment?					Y				
Are any of these organisations in scope?		Micro	Y	Small	Y	Medium	Y	Large	Y
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				Traded:	N/A	Non-Traded:	N/A		

## PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 2a)

Are all relevant Specific Impacts included?	Y	Are there any impacts on particular groups?	Y
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# Summary: Analysis & Evidence

# Policy Option 2b

**Description:** Deliver a statutory Border Force MSL - staffing numbers must not fall below 60 per cent.

## FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2022/23	PV Base	2023/24	Appraisal	10	Transition	1
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	0.5	High:	18.5	Best:	7.2	Best BNPV		0.0

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.2	0.0	0.2	0.0	0.0
High	0.9	0.0	0.9	0.1	0.03
Best Estimate	0.4	0.0	0.4	0.0	0.0

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

Monetised costs of this option relate to familiarisation to trade unions (£3,000 to £12,000, central estimate £6,000) and Border Force staff (£209,000 to £834,000, central estimate £417,000), and to legal advice sought by trade unions to assist them in complying with the law (£5,000 to £19,000, central estimate £9,000).

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

A number of potential costs have not been monetised in this IA, including potential enforcement costs, costs from the potential changing nature of strike action, and any operational costs to employers and unions.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.0	1.4	1.4	0.2	0.0
High	0.0	18.8	18.8	2.2	0.0
Best Estimate	0.0	7.7	7.7	0.9	0.0

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

The monetised benefits of this policy arise from the increase in hours worked by Border Force staff on strike days. This totals £1.4 million to £18.8 million, central estimate £7.7 million.

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

An MSL will likely reduce the public cost of Border Force arranging contingency resources and provide additional certainty to port planning. An MSL will likely result in an improved economic output, through improving service levels at the border during strike action which has knock-on effects on tourism, prevention of harmful goods entering the UK and greater certainty around trade.

## BUSINESS ASSESSMENT (Option 2b)

Direct impact on business (Equivalent Annual) £m:									
Cost, £m	0.0	Benefit, £m	0.0	Net, £m	0.0				
Score for Business Impact Target (qualifying provisions only) £m:					N/A				
Is this measure likely to impact on trade and investment?					Y				
Are any of these organisations in scope?		Micro	Y	Small	Y	Medium	Y	Large	Y
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				Traded:	N/A	Non-Traded:	N/A		

## PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 2b)

Are all relevant Specific Impacts included?	Y	Are there any impacts on particular groups?	Y
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# Summary: Analysis & Evidence

# Policy Option 2C

**Description:** Deliver a statutory Border Force MSL - staffing numbers must not fall below 70 per cent.

## FULL ECONOMIC ASSESSMENT

Year(s):	Price Base	2022/23	PV Base	2023/24	Appraisal	10	Transition	1
Estimate of Net Present Social Value NPSV (£m)						Estimate of BNPV (£m)		
Low:	1.8	High:	22.3	Best:	9.8	Best BNPV		0.0

COSTS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.2	0.0	0.2	0.0	0.0
High	0.9	0.0	0.9	0.1	0.03
Best Estimate	0.4	0.0	0.4	0.0	0.0

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

Monetised costs of this option relate to familiarisation to trade unions (£3,000 to £12,000, central estimate £6,000) and Border Force staff (£209,000 to £834,000, central estimate £417,000), and to legal advice sought by trade unions to assist them in complying with the law (£5,000 to £19,000, central estimate £9,000).

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

A number of potential costs have not been monetised in this IA, including potential enforcement costs, costs from the potential changing nature of strike action, and any operational costs to employers and unions.

BENEFITS, £m	Transition Constant Price	Ongoing Present Value	Total Present Value	Average/year Constant Price	To Business Present Value
Low	0.0	2.7	2.7	0.3	0.0
High	0.0	22.5	22.5	2.6	0.0
Best Estimate	0.0	10.2	10.2	1.2	0.0

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

The monetised benefits of this policy arise from the increase in hours worked by Border Force staff on strike days. This totals £1.8 million to £22.3 million, central estimate £9.8 million.

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

An MSL will likely reduce the public cost of Border Force arranging contingency resources and provide additional certainty to port planning. An MSL will likely result in an improved economic output, through improving service levels at the border during strike action which has knock-on effects on tourism, prevention of harmful goods entering the UK and greater certainty around trade.

## BUSINESS ASSESSMENT (Option 2c)

Direct impact on business (Equivalent Annual) £m:									
Cost, £m	0.0	Benefit, £m	0.0	Net, £m	0.0				
Score for Business Impact Target (qualifying provisions only) £m:					N/A				
Is this measure likely to impact on trade and investment?					Y				
Are any of these organisations in scope?		Micro	Y	Small	Y	Medium	Y	Large	Y
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)				Traded:	N/A	Non-Traded:	N/A		

## PEOPLE AND SPECIFIC IMPACTS ASSESSMENT (Option 2c)

Are all relevant Specific Impacts included?	Y	Are there any impacts on particular groups?	Y
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# Evidence Base

## A. Strategic objective and overview

### A.1 Strategic objective

1. Strategic objective: to maintain border security in the event of a strike.

### A.2 Background

#### Legislative background

2. Strike action undertaken by those working in border security can negatively impact the safety and security of our borders. 'Border security' could be defined to include activity undertaken by a range of different agencies but for the purposes of this impact assessment, it is activity undertaken by Border Force. Border Force operates 24 hours a day, 365 days a year to secure the UK Border and promote national prosperity.
3. The Strikes (Minimum Service Levels) Act 2023<sup>1</sup> was introduced to Parliament on 10 January 2023, and received Royal Assent on 20 July 2023. It creates a framework for delivering minimum service levels (MSL) in the event of strike action in key sectors. These include border security. The Act creates a number of powers and processes to support the delivery of MSLs:
  - a. First, it creates a power for the Secretary of State to make secondary legislation setting out what 'relevant services' are in scope for 'border security' for the purposes of MSLs.
  - b. Second, it creates a further power for the Secretary of State to make secondary legislation setting out what the MSL should be in respect of those relevant border security services. The Home Office envisages that for relevant border security services, the Secretary of State for these purposes would be the Home Secretary.
  - c. Third, the Act provides that in the event of strike action, an employer would be able to issue a 'work notice' to a trade union, identifying the members of staff required to work on a strike day, and the work they are required to do, in order to meet the MSL. Such work notices must not identify more persons than are reasonably necessary for the purpose of providing the levels of service under the MSL regulations.
  - d. Fourth, a union would have to take 'reasonable steps' to ensure that those of its members identified in a work notice come to work and do the work required of them on a strike day. A union which failed to take such reasonable steps would lose their protection from tort liability, which means employers could take court action against them. This could lead to a union being required to pay damages or the court could issue an injunction to prevent the strike from taking place. A person identified in a work notice who participated in a strike would lose their automatic protection from unfair dismissal for industrial action – in the same way as individuals who participate in 'wildcat' strikes do today.

#### Border Force background

4. Border Force is a law enforcement command within the Home Office. It secures the UK border by carrying out immigration and customs controls for people and goods entering the UK in over 140 ports and airports across the UK and overseas. In addition, and in accordance with the UK's

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<sup>1</sup> The Strikes (Minimum Service Levels) Act: <https://bills.parliament.uk/bills/3396>

national and international obligations, it identifies and protects potential victims of Modern Slavery and Human Trafficking and other vulnerabilities at the border. There is a particular focus on protecting children as set out in Section 55 of the Borders, Citizenship and Immigration Act 2009 and pursuing the perpetrators of exploitation.

5. Border Force works in partnership with key organisations, including Immigration Enforcement, UK Visas and Immigration, His Majesty's Revenue and Customs, the police, the National Crime Agency, the Armed Forces and private contractors, to deliver a wide range of border activity necessary to ensure the UK has a strong, effective border.
6. Since 2018, Border Force has dealt with unprecedented numbers of people making dangerous Channel crossings, preventing loss of life in the Channel and ensuring safe processing of people arriving illegally. Border Force has also been crucial in supporting legitimate travel, migration, tourism and trade – activities which contribute to economic prosperity. Border Force transparency data demonstrates the important role Border Force plays. In 2022 Border Force made 224 referrals of potential adult and child victims of modern slavery<sup>2</sup>. Meanwhile, in the 2021/22 reporting year<sup>3</sup>, Border Force protected £578 million of tax revenue through detecting goods where excise duty has not been declared and seized:
  - 17,097 kg of cocaine
  - 1,117 kg of diamorphine (heroin)
  - 19,964 kg of herbal cannabis.
  - 293 lethal firearms – as well as 5,620 knives and 2,282 other offensive weapons.

### **Industrial action background**

7. Border Force staff can become members of four unions recognised by the Home Office for collective bargaining purposes: the Public and Commercial Services Union (PCS), the Immigration Service Union (ISU), the First Division Association (FDA) and Prospect. The largest of these unions is PCS, which represents members throughout the Civil Service, including Border Force staff. PCS and ISU are the unions which primarily represent operational Border Force staff. In November 2022, Home Office staff including Border Force voted for a six-month mandate for strike action, as part of a PCS union ballot in a Civil Service-wide dispute regarding pay, pensions, redundancy terms and job security.
8. Since that PCS ballot, the union has called on their members in Border Force to take strike action on a number of occasions during December 2022 and then again in February, March and April 2023. National Border Force strikes were held by PCS on 1 February, 15 March and 28 April. Local strikes were held by PCS at six airports (including Heathrow and Gatwick) plus Newhaven port on six days in December 2022. Strike action was also held by PCS at locations on the Short Straits between the UK and Continental Europe on three days in February 2022.
9. During this recent strike action, the Home Office has been able to manage threats to our border security, and to ensure that passengers are not unduly inconvenienced, because cover has been provided to support Border Force by personnel from other parts of the Civil Service and members of our Armed Forces. However, in setting a Border Force MSL, the Home Office cannot rely on that cover being available in the future.
10. In May 2023, Home Office staff, including Border Force, voted for a further six-month mandate for strike action. This is part of a second PCS union ballot in the ongoing Civil Service-wide dispute.

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<sup>2</sup> [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022)

<sup>3</sup> [Border Force transparency data: Q1 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/border-force-transparency-data-q1-2023)

## International comparison

11. The International Labour Organisation, which is an agency of the United Nations, has stated that minimum service levels are justifiable for the following services:
  - a. Services, the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term).
  - b. Services which are not essential in the strict sense of the term but where the extent and duration of a strike might be such as to result in an acute national crisis endangering the normal living conditions of the population, and in public services of fundamental importance.
12. Restrictions on the right to strike are indeed common across Europe. Outright bans on striking are usually in place where border security is provided by the police or by members of the armed forces. The exact picture is complex and differs from country to country.
  - a. In Belgium, border security, including immigration control, is a responsibility of the Federal Police. Customs checks are the responsibility of the General Administration of Customs and Excise. Both are allowed to strike in certain circumstances; however, police officers can be obliged to work in order to ensure public order and security and those working in 'essential services' can be required to deliver minimum service levels.
  - b. In Spain, border security, including immigration control, is the responsibility of the National Police. Customs checks are the responsibility of the Civil Guard along with the Customs Control and Surveillance Agency. The National Police and Civil Guard (as law enforcement bodies) do not have the right to strike. Members of the Customs Control and Surveillance Agency have the right to strike providing they comply with MSLs, which are set on a case-by-case basis for each service and each strike which are set out in a decree.
  - c. In Germany, border security, including immigration control, is the responsibility of the Federal Police as well as the physical security of the border and territorial seas. Customs checks are the responsibility of German Customs. The vast majority of these have the German civil servant obligation to neutrality and loyalty to the state and a ban on participating in industrial action.
  - d. In Italy, border security, including immigration control, is primarily the responsibility of the Border Police Service. Customs checks and some immigration control checks are the responsibility of the Financial Police. Members of both agencies are banned from striking.
  - e. In France, border security, including immigration control, is primarily the responsibility of their Border Police. Some border security functions are also carried out by the National Gendarmerie. Members of the Border Police and the National Gendarmerie are banned from striking.
  - f. In EU countries where there is a provision for a MSL for essential services, these can be set using a mixture of legislation, arbitration, a negotiated agreement between the trade union and the employer or a government authority. If any negotiated agreement fails under these circumstances, then the setting of an MSL can be referred to either arbitration, an independent body or through the courts.

## A.3 Consultation

13. The Secretary of State is required to consult before making secondary legislation setting out what relevant services are in scope for border security for the purposes of MSL, and also before making secondary legislation setting out border security MSL. The Home Secretary is therefore now launching a consultation in order to meet these requirements in respect of border security.. The consultation will last for six weeks and will be complemented with a series of engagement sessions for interested parties. These sessions will be open to all.

14. This impact assessment complements the consultation document. It assesses costs and benefits associated with the operationalisation of an MSL which covers Border Force and formalises an appropriate level of staffing during strike action, to ensure the border is operable, safe and secure. In particular, it assesses the costs of strike activity by Border Force, which are calculated by setting high, central and low estimates for the percentage of staff who may choose to strike on a strike day, and correspondingly, the benefits that may accrue if a proportion of these staff members do not strike in order to deliver an MSL.

### **Groups affected**

15. The proposed legislation would affect the following groups:
  - a. **Border Force:** in particular, employees engaged in providing border security services.
  - b. **Passengers:** in particular those seeking to travel on the day of any strike action.
  - c. **Businesses:** in particular, those concerned in passenger travel or the importation or exportation of goods.
  - d. **Trade unions:** in particular, those representing employees engaged in providing border security services.

## **B. Rationale for intervention**

16. Strike action in public services can lead to adverse impacts for users of these services, as well as generating wider social, economic, and environmental impacts on the UK and its economy. Whilst a substantial number of economic agents bear the impact of strike action, they are neither party to any dispute or have any avenue to have their interests formally represented. The impact of strike action on these parties therefore represents a negative externality which is not reflected in the interests of employers and trade unions.
17. In the border security sector in particular, without a permanent skilled presence at the border, there is a significant risk to the security of the UK. Government intervention is needed in the sector to establish a fair balance between the ability to strike and the need to ensure the UK borders are safe and secure in the event of such a strike. By mandating that a certain level of service is required on strike days, complex operations are maintained which are required to keep the country safe.
18. MSLs need to, in the first instance, be able to mitigate against risks to border security by formalising an appropriate level of staffing during strike action to ensure the border is operable, safe and secure. This would also have benefits to the public and to businesses, whether that be through reduced disruption at our borders, increased public safety, reduced public costs, or reduced adverse impacts on the movement of goods and/or people.

## **C. Policy objective**

19. To use powers in the new Strikes (Minimum Service Levels) Act 2023 to set a minimum service level or MSL to protect border security in the event of a strike by employees of Border Force. To use these powers in a way which recognises the ability of those employees to strike.



## D. Options considered and implementation

### Options previously considered

#### Enter into non-legislative agreements with the unions to deliver voluntary Border Force MSLs

20. The Home Office to enter into negotiations with the Trade Unions to agree voluntary agreements to deliver a minimum level of service in the event of a strike. Under this option, the Home Office would not seek to use any of the powers contained in the Strikes (Minimum Service Levels) Act 2023.
21. This model would only be viable if all relevant unions entered into voluntary agreements with the Home Office. This is principally because under the terms of the Act the Home Office must not have regard to whether an employee is a member of a union, or if so which union, when drawing up a statutory work notice. This would mean that the Home Office could not take into account whether an employee was a member of a union with which the Home Office has a voluntary agreement. A union could therefore find that despite having a voluntary agreement with the Home Office, their members are still named in a statutory work notice. This would not be tenable.
22. The Home Office sought discussions with unions representing employees of Border Force. However, the department have not been able to secure the agreement of all unions to enter into voluntary agreements. This option is therefore not feasible and was thus not taken forward as part of the appraisal in section E.

### Live Options

#### Option 1: Do nothing

23. Under **Option 1**, the Home Office would seek to continue to manage strikes as it has managed recent episodes of industrial action impacting on Border Force. This is not tenable in the medium to long term. This is principally because Border Force cannot continue to rely on contingency resourcing being provided by civil servants and from members of the Armed Forces. This model is not viable.

#### Option 2: Deliver statutory Border Force MSLs

24. Statutory MSLs could be constructed so as to mean that minimum levels of staffing are provided solely by Border Force, without the need for cover from other civil servants or from the Armed Forces. It would also provide a clear legal mechanism to enable the Home Office to construct statutory work notices to mitigate the risks of there being inadequate cover on strike days.
25. Much remains to be determined, and views from all interested parties are being sought as part of the consultation process to help the Home Office to deliver a viable border security MSL.
26. For appraisal purposes Option 2 is split into three MSL levels to demonstrate indicative costs and benefits. For appraisal purposes it is assumed here that a MSL will be set at the national level, however, it is important to note that this is subject to the consultation. The options are:
  - a. **Option 2a:** Implement statutory MSL – staffing numbers must not fall below 50 per cent
  - b. **Option 2b:** Implement statutory MSL – staffing numbers must not fall below 60 per cent
  - c. **Option 2c:** Implement statutory MSL – staffing numbers must not fall below 70 per cent

### Implementation date

27. The Home Office is working on the assumption that the statutory instrument containing the MSL would be laid before Parliament in late 2023 or early 2024. If that affirmative statutory instrument is approved, which would entail debate and approval by both Houses of Parliament, the Home Office is working on the basis the first work notices could be issued in late 2023 or early 2024.

## E. Appraisal

28. The following sections present analysis of the costs and benefits of the options in the consultation compared to the 'do-nothing' option.

### General assumptions and data

29. The best available data has been used for this IA. Costings for the appraisal section are based on data primarily from the Home Office and Department for Business and Trade (DBT). Further evidence will be gathered ahead of a final stage IA.
30. The appraisal period for measuring the impact of the MSL proposals is ten years in line with HM Treasury Green Book (2022) guidance<sup>4</sup>. A social discount rate of 3.5 per cent is used to discount future values to present values. All costs and benefits are in 2022/23 price base year (PBY), with a 2023/24 present value base year (PVBY).
31. Transition/set-up costs are assumed to occur in year one only, and ongoing costs and benefits are expected to occur from year one of the policy onwards. It is hoped that the consultation may provide further data and information to refine the estimates of costs and benefits presented here.

The main assumptions used in this impact assessment (IA) are listed in Table 1 below:

**Table 1: Assumptions**

ID	Assumption Description
1.1	<p>It is assumed that the total staff numbers for Border Force remain constant over the 10-year appraisal period because of an absence of specific data on how officer numbers may change over the next 10 years. Total staff numbers across England, Scotland and Wales are assumed to be 9,989 (FTE) and 10,528 (Headcount).</p> <p>This excludes out-of-scope staff, such as Agency, Overseas, Contractors and those on Loan.</p>
1.2	<p>It is assumed for the purpose of this IA that only Border Force staff fall within the in-scope workforce for the policy as the main provider of border security in the United Kingdom. The consultation document seeks views on whether further organisations or agencies should be in scope; these will be incorporated into the final-stage IA if relevant.</p> <p>For the purposes of monetising benefits in this IA, it is assumed that all Border Force staff across all grades would have the potential to receive work notices and be impacted by a minimum service level. This is because frontline roles, rely on support from back office or HQ roles, such as targeting teams or operational planners, to function effectively. This assumption will be further reviewed following the consultation.</p> <p>For the remainder of the IA, this group of Border Force staff are referred to as the 'in-scope workforce'. For the benefits appraisal, only the in-scope workforce is analysed.</p>

<sup>4</sup> The Green Book (2022): <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020>

	Given that all Border Force staff, regardless of rank would be expected to familiarise themselves with the MSL legislation and any MSL that is set after senior leadership input, all job ranks are included in the estimation of these familiarisation costs.
1.3	<p>A full-time Border Force staff member will be scheduled to work approximately 42 hours per week, on average, across a rostered period. This means that each member of full-time Border Force staff will work on average 25 per cent of the time over an average week.<sup>5</sup></p> <p>This means that we assume that at any point in time 2,498 individuals (25 per cent of the Border Force Full Time Equivalent (FTE) workforce) are on shift and therefore in-scope of the policy.</p>
1.4	<p>The turnout for strike action (the proportion of the FTE workforce in scope that would strike) is estimated to be 70.3 per cent, with a low estimate of 51.1 per cent and a high estimate of 89.5 per cent. These estimates are based on the results, received in November 2022, of the PCS ballot to strike; there was a 57 per cent turnout among Home Office staff and 89 per cent of those who voted, voted for strike action<sup>6</sup>. The high estimate for strike turnout is the proportion of voters who voted for strike action, the low estimate is the proportion of eligible PCS members that voted for strike action<sup>7</sup>, with the central estimate being the midpoint of these two figures. Note that due to data constraints it has not been possible to obtain ballot results specifically for Border Force, this methodology therefore assumes that Border Force turnout figures reflect the turnout of the wider Home Office of which Border Staff comprise one element. It is assumed that turnout is the same in all Border Force regions in Great Britain, with this assessed in Section E: Place-based analysis.</p>
	<p>One single industrial action mandate period is estimated to equate to 148.6 hours of national strike action. This means that, for every six-month period of strike action, there are 148.6 hours of national action in which a proportion of the in-scope workforce are on strike. This estimate is derived from analysis into the quantity and coverage of strike action during the first 130 days of the November 2022 – May 2023 PCS strike mandate<sup>8</sup>. The total number of Border Force staff hours that this impacts are determined by the number of incidents of strike action that occur over the 10 year appraisal period, the proportion of the in-scope workforce that strike in the do-nothing scenario (<b>Option 1</b>), and the level at which the MSL is set.</p> <p>For the purposes of monetising benefits in this IA, in the low estimate scenario, it is assumed that two periods of national strike action occur in the 10 year appraisal period. In the central scenario, it is assumed that four periods of national strike action occur in the appraisal period. In the high estimate scenario, it is assumed that six periods of national strike action occur in the 10 year appraisal period. Therefore, it is assumed that 29.7 hours per year of national strike action occur in the low estimate scenario, compared to 59.4 hours of national strike action per year in the central</p>

<sup>5</sup>  $\frac{42 \text{ hours worked}}{168 \text{ hours in a week}} = 25\%$

<sup>6</sup> 'PCS national industrial action ballot results 2022': <https://www.pcs.org.uk/campaigns/pcs-pay-pensions-jobs-campaign/pcs-national-industrial-action-ballot-results-2022>

<sup>7</sup>  $57.1\% * 89.5\% = 64.2\%$

<sup>8</sup> The analysis estimates the hours of national Border Force strike action per mandate period by considering the number of strike days observed over the 6-month PCS mandate period starting in November 2022 (due to project timescales the analysis was only able to include the period from the start of the industrial action on the 7<sup>th</sup> November 2022 to the 16<sup>th</sup> March 2023). This time period saw national strikes on the 1<sup>st</sup> February and 15<sup>th</sup> March, as well as localised strike action on the 23<sup>rd</sup>, 24<sup>th</sup>, 25<sup>th</sup>, 28<sup>th</sup>, 29<sup>th</sup> and 30<sup>th</sup> December as well as the 17<sup>th</sup>, 18<sup>th</sup>, and 19<sup>th</sup> February. The estimate is calculated by adding together the 48 hours of national strikes and the 216 hours of localised strikes, weighted downwards according to the proportion of national Border Force staff located at the striking locations. This resulted in a total of 106.7 hours of national equivalent strike action. This figure was uplifted to account for the 51 days of strike action taking place after the writing of this IA; with the assumption that strike action continues at the same rate.

	<p>estimate scenario, and 89.2 hours of national strike action per year in the high estimate scenario<sup>9</sup>.</p> <p>An example of how these assumptions are used to estimate the number of Border Force staff hours saved by the MSL options is given in Table 6 below.</p>
1.6	<p>The benefit to society of a Border Force officer's work is proxied here through the use of ONS data to calculate the output per worker per hour for those working in "public administration and defence; compulsory social security", as determined by standard industry classification (SIC<sup>10</sup>) code 84. This approach is similar to that employed by Department for Business and Trade (DBT) in the Strikes (MSL) Bill IA.</p> <p>Analysis of ONS labour productivity data<sup>11</sup> generates an output per worker per hour figure of £44.24<sup>12</sup>. This is calculated by taking the annual Gross Value Added (GVA) value associated with SIC 84 in the most recently available labour productivity data period (2020 Q4 – 2021 Q3) and dividing through by the total number of productive hours worked across this period by the same industry group.</p> <p>This proxy measure is necessary because of a current lack of quantitative evidence on the marginal value added of a Border Force officers time given the breadth of activity which takes place at, and ensures the security of, the UK border. Further detail is included in paragraphs 50 and 51.</p> <p>For the basis of this appraisal, the benefit of an hour of Border Force time is assumed to be consistent across all in-scope grades. The values are also assumed to remain constant across the appraisal period.</p>
1.7	<p>The benefits of the policy are assumed to be spread evenly amongst each of the 10 years of the appraisal period, because it is not possible to predict exactly when and what scale of strike action could occur.</p>
1.8	<p>For appraisal purposes, it is assumed that all Border Force staff will need to familiarise themselves with the new policy and what it means for their ability to strike. Meanwhile, officers ranked Assistant Director (Civil Service Grade 7) or above are assumed to require an in-depth understanding of the new policy as these staff may be involved in implementing business continuity plans and distributing work notices to staff.</p>
1.9	<p>The labour costs and staffing numbers used in the appraisal are shown in Table 2 below. The employment costs for Border Force staff below Senior Civil Servant (SCS) has been taken from internal Border Force HR data and includes pay and other non-pay staff expenditure such as pensions and national insurance. Border Force SCS Staff costs have been sourced from Home Office Central Economics Unit data.</p> <p>Labour costs for union officials come from estimates from the Annual Survey of Hours and Earnings (ASHE), which suggests that the median hourly wage of a General Secretary or a senior union official is £30.83<sup>13</sup></p>
1.10	<p>There are four trade unions for Border Force staff; these are PCS, ISU, FDA, and Prospect. It is assumed that one general secretary and four senior directors from each trade union will need to familiarise themselves with the legislation to understand the</p>

$$^9 \frac{(148.6*2)}{10} = 29.7, \frac{(148.6*4)}{10} = 59.4, \frac{(148.6*6)}{10} = 89.2$$

<sup>10</sup> Standard industrial classification of economic activities (SIC) - GOV.UK: <https://www.gov.uk/government/publications/standard-industrial-classification-of-economic-activities-sic>

<sup>11</sup> Labour productivity by industry division - Office for National Statistics: <https://www.ons.gov.uk/file?uri=/economy/economicoutputandproductivity/productivitymeasures/datasets/labourproductivitybyindustrydivision/julytoseptember2021/division.xlsx>

<sup>12</sup> This figure has been updated from 2020/21 to 2022/23 prices using a GDP deflator. <https://www.ons.gov.uk/generator?format=csv&uri=/economy/grossdomesticproductgdp/timeseries/ybgb/qna>

<sup>13</sup> ASHE (2022) Table 14.6a Hourly pay - Excluding overtime (£) - For all employee jobs: United Kingdom, 2022: <https://www.ons.gov.uk/file?uri=/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitoc2010ashtable14/2022provisional/ashtable142022provisional.zip>

	implications for the work of their trade unions. See Table 3 for the labour costs and total staff number across all four unions used to calculate familiarisation costs.
1.11	For the purposes of estimating the benefits, the weighted average hourly wage (uprated to account for non-wage labour costs) of Border Force staff (the in-scope labour force, across Great Britain) is calculated to be £24.46. The sources for the workforce numbers used to calculate this weighted average are listed in assumption 1.9, and the wages are in Table 2.
1.12	As the actual statutory MSL percentage has not been decided, analysis assumes possible MSLs of 50 per cent, 60 per cent and 70 per cent of Border Force workforce. These are presented in Options 2a, 2b and 2c respectively.  These MSLs have been selected as they achieve the strategic objectives of the reform: Border Force staff maintain an ability to strike, whilst service levels are lifted above baseline (where MSLs are not implemented), achieving economic benefits. The baseline here is assumed to be the level of service provided on strike days by those Border Force workers who decide not to strike.

**Table 2: Border Force Staff by Grade and Median Hourly Labour Cost<sup>14</sup> (£, 2022/23 prices)**

<b>Staff</b>	<b>Staff in Scope - FTE</b>	<b>Staff in Scope - Headcount</b>	<b>Weighted Average Hourly Labour Cost</b>
<i>Senior</i> <sup>15</sup>	450	459	52.7
<i>Non-Senior</i> <sup>16</sup>	9,539	10,069	23.1
<i>Total</i>	9,989	10,528	24.5

*Table 2 Source: Staff FTE and headcount figures taken from internal Border Force HR data and covers all staff working within all functions of Border Force. Median hourly labour cost for Border Force staff taken from internal Border Force HR data and includes base pay and other non-pay staff expenditure such as pensions and national insurance. Border Force SCS Staff costs have been sourced from internal analysis.*

32. 'Headcount' refers to each employee being counted individually. Headcount figures are used to calculate familiarisation costs as it is expected each employee will require some time to familiarise themselves with the policy, regardless of their working patterns. For example, part time and full-time staff in the same grade are expected to require the same amount of familiarisation time.
33. For the calculation of benefits, we employ FTE staff figures. This standardises employees across different working patterns, allowing a more accurate understanding of the hours saved and subsequent benefits achieved through Minimum Service Levels.

**Table 3: Union Officials by Role and Median Hourly Labour Cost (£, 2022/23 prices)**

<b>Role</b>	<b>General Secretary</b>	<b>Senior Director</b>
<i>Headcount</i>	4	16
<i>Median Hourly Labour Cost</i> <sup>17</sup>	36.0	36.0

*Table 3 Source: Adapted from DBT MSL IA. See assumption 1.10 for further details.*

<sup>14</sup> Data excludes staff based in Northern Ireland, as well as Non-Payroll (Agency, Contractors), Overseas Staff and those on Loan. Data is as of January 2023.

<sup>15</sup> Staff at Grade 7 and above

<sup>16</sup> Staff at AO/AA – SEO grades (or Border Force equivalents)

<sup>17</sup> Wages uplifted by 17.9 per cent to account for non-wage labour costs for union officials. Sourced from DBT MSL IA – <https://www.gov.uk/government/publications/strikes-minimum-services-levels-bill-2023>

## **COSTS**

### **Option 1: Take no action and make no legislative changes (do-nothing)**

34. This is the do-nothing option and so no costs have been monetised. For **Option 1**, no legislation is undertaken and so there is no impact of the proposals. This is the baseline against which all options are measured.
35. There are costs associated from **Option 1** if looking at it in isolation, because in this option there would be a higher level of strike impact than in the other options. However, these costs are instead accounted for through reframing these costs as benefits associated with Options 2a, 2b, and 2c against the counterfactual, non-legislative, **Option 1**.

### **Option 2: Deliver statutory Border Force MSLs**

#### **Set-up costs for Option 2**

36. There will be one-off set-up costs in year one of the appraisal period from trade unions, Border Force senior leaders and other Border Force staff familiarising themselves with the policy.

#### **Familiarisation – trade unions**

37. It is expected that trade unions will have to familiarise themselves with any regulations and any relevant guidance produced to support the policy. It is assumed that it would take between half a day (4 hours) and two days (16 hours) in meetings for the union general secretary and four other senior directors, with a best estimate of one day (of 8 hours), to familiarise themselves with the proposed policy. This is based on the trade union familiarisation estimates provided in the DBT MSL Bill IA<sup>18</sup>. Given that the hourly labour cost of union officials is £36.35, it is assumed that five union officials per union will need to familiarise themselves with any regulations (see assumption 1.10), and there are four relevant trade unions, the familiarisation cost is estimated to be between £3,000 and £11,000, with a central estimate of £6,000.<sup>19</sup>

#### **Familiarisation – Border Force staff**

38. It is expected that all staff in Border Force will need to familiarise themselves with any regulations and any relevant guidance produced to support the policy. This expectation will be assessed following the consultation. It is assumed that all Border Force staff below Grade 7 will take between 30 minutes and 2 hours, with a central estimate of 1 hour, to familiarise themselves with the proposed policy. The familiarisation cost is calculated by multiplying familiarisation time by the labour cost of each Border Force staff member. This gives an estimate of the familiarisation cost of between £0.1 million and £0.5 million, with a central estimate of £0.2 million.

#### **Familiarisation – Border Force senior leadership teams**

39. It is expected that senior Border Force staff (G7 and above) will have to do the same level of familiarisation as trade union officials (see paragraph 39), so in a range of 4 to 16 hours with a central estimate of 8 hours. This is because there are similar responsibilities placed on employers and unions by this policy. This familiarisation cost has been calculated in the same way as the familiarisation costs for other Border Force staff, but accounting for the longer familiarisation times. This gives an estimate of the familiarisation cost of between £0.1 million and £0.4 million, with a central estimate of £0.2 million.

#### **Legal Costs – trade unions**

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<sup>18</sup> Sourced from DBT MSL IA - <https://www.gov.uk/government/publications/strikes-minimum-services-levels-bill-2023>

<sup>19</sup> Estimates can be found in Table 10.

40. It is expected that Trade Unions will require and seek legal advice on the reform. We assume that each Trade Union will require between 4 and 16 hours of legal advice, with a central estimate of 8 hours. This assumption follows the methodology used in the Trade Union Bill Enactment Impact Assessment<sup>20</sup> (2016) where it was estimated that it would cost £250 per day for legal advice. The Bank of England inflation calculator is used to uprate this value to £302 in 2022/23 prices.<sup>21</sup> Table 4 illustrates the total legal costs incurred by the four Trade Unions. The central estimate is that unions will spend £9,000 on legal costs across the appraisal period.

**Table 4: Present Value legal expenses associated with familiarisation (£, millions 2022/23 prices)**

<b>Scenario</b>	<b>Legal Cost (Hourly)</b>	<b>Hours Taken</b>	<b>Number of Trade Unions</b>	<b>Total Legal Cost</b>
<i>Central</i>	302.26	8	4	<b>0.009</b>
<i>Low</i>	302.26	4	4	<b>0.005</b>
<i>High</i>	302.26	16	4	<b>0.02</b>

Table 4 Source: Home Office calculations based on legal costs as presented in the Trade Union Bill Enactment IA

### Total set-up costs for Option 2

41. Total set-up costs are presented in Table 5. The costs are estimated to be between £0.2 million and £0.9 million, with a central estimate of £0.4 million.

**Table 5: Present Value Total set-up costs Option 2, (£ million, 2022/23 prices)**

<b>Cost area</b>	<b>Low</b>	<b>Central</b>	<b>High</b>
<i>Familiarisation – trade unions</i>	0.003	0.006	0.01
<i>Familiarisation – Border Force staff</i>	0.1	0.2	0.5
<i>Familiarisation – Border Force senior leadership</i>	0.1	0.2	0.4
<i>Legal costs – trade unions</i>	0.005	0.009	0.02
<b>Total</b>	<b>0.2</b>	<b>0.4</b>	<b>0.9</b>

Table 5 Source: Home Office calculations

<sup>20</sup> Trade Union Act 2016 Enactment Impact Assessment (BEIS, 2016): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/583579/trade\\_union\\_act\\_enactment\\_IA\\_BEIS\\_clean.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/583579/trade_union_act_enactment_IA_BEIS_clean.pdf)

<sup>21</sup> This figure has been uprated from 2020/21 to 2022/23 prices using a GDP deflator. <https://www.ons.gov.uk/generator?format=csv&uri=/economy/grossdomesticproductgdp/timeseries/ybgb/qna>

## Total costs

**Table 6: Present Value Costs for Options 1 to 2c, (£ million, 2022/23 prices)**

<i>Policy Option</i>	<i>Familiarisation – trade unions</i>	<i>Familiarisation – senior BF staff</i>	<i>Familiarisation – BF staff</i>	<i>Legal Advice – trade unions</i>	<i>Total discounted Cost (10 years)</i>
<b>Option 1</b>					
<i>All</i>	0.0	0.0	0.0	0.0	<b>0.0</b>
<b>Options 2a, 2b, and 2c</b>					
<i>Low</i>	0.003	0.1	0.1	0.005	<b>0.2</b>
<i>Central</i>	0.006	0.2	0.2	0.009	<b>0.4</b>
<i>High</i>	0.01	0.4	0.5	0.02	<b>0.9</b>

Table 6 Source: Home Office calculations

## Non-monetised costs

42. There are a number of additional costs, that apply to all these options to various degrees, which should be considered. These will be further assessed ahead of a final-stage IA, following the results of the consultation.

- **Enforcement related costs:** There may be costs to Border Force of enforcing work notices. These could include administration and litigation costs. There could also be linked costs to trade unions and employees.
- **Trade union membership:** It is possible that the Government setting a MSL for Border Force could have an adverse impact on union membership by either raising the barrier to industrial action or increasing the strength of mitigating actions. It is also possible that some individuals may currently be reluctant to join a union due to concerns around impact of disproportionate industrial action on the public in the absence of statutory MSL. The proposed MSL models may therefore in theory, mean some individuals feel more empowered to join a union as this concern will no longer apply.
- **Increase in strike action in the short term:** There is a potential increase in strike action prior to MSLs being introduced, as unions may seek to cause disruption which is not mitigated by an MSL before they are implemented, in order to maximise their leverage. This may be mitigated by the costs to unions and their members, principally loss of pay, of taking industrial action.
- **Changing nature of strike action:** According to unions, a further consequence of this policy could be an increase in staff taking action short of striking which is not prohibited by legislation<sup>22,23</sup>. This is due to the incentive unions have to cause disruption in order to encourage employers to reach a favourable settlement in response to a dispute.

Where services are reliant on staff working additional hours beyond those that they are contracted to work, this could have a significant negative impact on the level of Border Force labour provided and therefore have a societal cost. It is important to note that such action could continue even when MSLs are in place, (so it could be that instead of taking strike action, action short of strike becomes a more prevalent form of lawful protest). Although hard to

<sup>22</sup> TUC “this Bill will prolong disputes and poison industrial relations – leading to more strikes”: <https://www.lrd.org.uk/free-read/union-movement-vows-fight-anti-strike-bill>.

<sup>23</sup> RMT unions might have to resort to novel methods such as extensive overtime bans and work to rule.



quantify, this is likely to be less disruptive than industrial action without MSL in place. It may nevertheless lead to a prolongation of the dispute.

It is unclear what the net impact of a move from strike action to action short of a strike would be, but it is likely on balance, to be lower than strike action without any form of MSL. This is because the impact of action short of strike can be mitigated through the changing of some working practices, such as not relying on overtime or ensuring that overtime working is incorporated into the employment contracts of workers. However, as staff would be paid their normal wage and carry out their contracted functions during action short of a strike, it is possible – although hypothetical - for such actions to be more protracted, which could build in a lower level of service or performance (if employers continued to rely on workers' goodwill).

- **Operational costs of MSL to Border Force and trade unions:** All MSL models under Option 2 would include a requirement for employers to inform workers and unions of those workers required to work to provide the minimum levels of service, and to consult unions while selecting the workers required. This would need to be done at least 7 days prior to the strikes starting. This process could lead to costs to Border Force, as the employer, who would have to inform trade unions of those who need to work. There may also be costs to unions, who would be required to take steps to ensure that workers specified to work, as part of a work notice, do not participate in strike action. Further details on this potential cost will be provided in the final stage IA.

There may also be additional costs to Border Force or wider Home Office employees pertaining to the specific setting of MSLs either nationally, or at a regional or port level. Given that this process is subject to consultation, this will be further considered in the final stage IA.

- **Reduced benefits of being in a union:** There are a number of benefits of being part of a union. One of these benefits is that unions help counterbalance the bargaining power that employers have over their staff. Strike action may in some cases lead to improved terms and conditions, including increased pay deals, which can have impacts on staff morale and motivation. If any of the proposed options were to change the balance between unions and employers, this may reduce the value that workers receive by being part of a union. If any of the options reduce the impacts of strikes, this could lead to potential reductions in future pay or working conditions for Border Force staff compared with **Option 1**. This potential reduction in terms and conditions for workers in unionised sectors over time (if bargaining power is substantially weakened) could have a downward effect on terms and conditions more generally in the labour market.

There will be fewer instances of pay being withdrawn on the basis of striking when comparing an individual strike in the counterfactual scenario to introducing an MSL. The net effect of such over a certain period of time is uncertain, as this is dependent on the extent to which strike action occurs and MSLs are applied and how they vary from any business continuity plan (BCP) which would have already been in place.

Workers who strike are not paid by employers for the period they are taking industrial action. If the MSL results in fewer individuals involved in strike action, employers would have reduced instances of withheld pay. Individuals who wanted to strike, but were unable to due to an MSL, would retain their pay for that strike period, but may also incur a cost (given that the counterfactual is that the worker may have preferred and wanted to strike). There is no guarantee that strike action leads to more favourable terms and conditions for workers and the proposed options for MSLs protects the ability for workforces to strike. If fewer strikes were successful in achieving improved terms and conditions as a result of MSLs, that would represent a cost to the worker. If MSLs are set at a level similar to BCP which would already have been in place, there could be limited material difference to individuals.

## **BENEFITS**

### **Set-up benefits (all options)**

43. There are no set-up benefits associated with any of these options. All benefits are assumed to be ongoing.

### **Ongoing and total benefits**

#### **Option 1: Do nothing**

44. As this represents the current situation, there are no benefits associated with this option.

#### **Option 2: Deliver statutory Border Force MSLs**

#### **Overall methodology for Option 2a, 2b, 2c**

45. There will be ongoing benefits across the 10 year appraisal period. These are benefits from an increase in hours worked by Border Force staff who would have otherwise undertaken strike action. These additional hours provide economic value to society; it is assumed that the work undertaken by Border Force staff has a benefit to society through the provision of border security over and above their wages costs which are incurred by the Government. Additional income received by Border Force staff, who would otherwise have been on strike, is not included as a benefit. This is because under Options 2a, 2b, and 2c the value that workers receive from strike action is exchanged for pay. By previously choosing strike action over pay they have demonstrated a revealed preference for strike action, implying that they value it more and are therefore not receiving additional benefit under these options.
46. As long as the MSL is greater than the percentage of the workforce that would have attended work during an industrial dispute (due to not undertaking strike action), then the MSL will prevent some Border Force staff from striking to the full extent that they would have done had the MSL not been in place. The net value of the hours of Border Force staff work that are gained because of the MSL represent a benefit to society and are monetised in this section.

#### **Monetising net benefit per individual Border Force hour**

47. The broad calculation used for estimating benefits is the number of Border Force work hours saved (that would have otherwise been lost to industrial action) multiplied by the net societal benefit of an hour of Border Force staff time. Border Force are assumed to generate prosperity through their work within the four systems of security, customs, immigration, and health and environment.
48. The net benefit within this appraisal is generated by assuming that the productivity of a Border Force staff member is similar to that of a worker in the wider category of public administration and defence, as measured by SIC 84<sup>24</sup>. To calculate this, ONS data on gross value added (GVA) per industry group for SIC 84 is divided by the total productive hours worked during the same time period and for the same industry group. This gives a value of £44.24<sup>25</sup> per hour which is used as a proxy for the economic output of Border Force staff per hour. Average staffing costs for Border Force staff (£24.46) are then subtracted from this figure to give a net benefit per hour worked of £19.78. This methodology is underpinned by the assumption that the benefit accrued by workers for receiving pay, which would otherwise have been withdrawn in the event of strike action, is expected to be lower than the disutility that they will incur from not being able to strike (on the basis that workers will only strike if the benefits of doing so exceed the costs).
49. The use of this proxy rather than a more specific Border Force productivity figure is due to an absence of specific data on the monetised value of Border Force to society. Given the challenges

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<sup>24</sup> See Table 1, assumption 1.6

<sup>25</sup> See Table 1, assumption 1.6 for full methodology

associated with measuring the output of public sector activity this will be an imperfect proxy, however, it is underpinned by an assumption that Border Force staff deliver a public service in excess of their cost of employment. This assumption appears reasonable given that Border Force carry out a number of activities which have wider social benefits; these include the provision of public goods such as the preservation of national security, effective trade, tourism, well-managed migration, healthy communities, and the environment. The provision of border security services acts as a deterrent against criminal activity which would otherwise have taken place including the movement of harmful goods and illegal migration. Although work has taken place within the Home Office to understand the societal benefit of seizures of particular illicit goods (such as firearms) it has not yet been possible to develop a holistic view on the total social value provided by the work of Border Force. This measure of societal benefit will be further considered in the final IA. The sensitivity analysis in section G evaluates how sensitive the overall cost-benefit position is to changes in this measure, given the level of uncertainty.

- 50. Note that this method, similar to that employed by DBT in the Strikes (Minimum Service Levels) Bill impact assessment<sup>26</sup>, assumes that benefits scale linearly with hours of strike action prevented. There is no clear evidence in either direction on whether this assumption is reasonable and will depend upon the extent to which the MSL is able to meet the objective of maintaining border security while recognising the rights of Border Force staff to strike. Should a MSL result in staff, considered crucial to maintaining border security on a given day, being mandated to work the benefits of these hours saved may be greater than for those staff rostered to be working on other, less crucial, Border Force functions on a strike day.
- 51. The distinction between the low, central, and high estimates for the benefits of Options 2a, 2b, and 2c is dependent upon two key modelled variables; the strike turnout, and the frequency of strike mandates during the 10-year appraisal period. Low, central, and high strike turnout has been estimated using the turnout and 'yes' vote within the PCS ballot in November 2022<sup>27</sup>. Strike mandate frequency is particularly challenging to estimate, given uncertainty about the likelihood of future periods of industrial action. However, two mandate periods is a reasonable lower bound given that this threshold is likely to be met in 2023 alone. The assumption of six strike mandate periods across the 10-year period has been chosen as an upper bound given the historic scarcity of Border Force strike action<sup>28</sup>. The central scenario then has an assumption of four strike mandate periods. These assumptions are listed in Table 7; the robustness of each assumption is tested as part of the sensitivity analysis in section G.

**Table 7: Summary of Key Assumptions – strike turnout, frequency, hours and net benefit per hour of strike action prevented**

<b>Scenario</b>	<b>Strike Turnout</b>	<b>Strike Mandate Frequency</b>	<b>Strike Hours per industrial dispute</b>	<b>Net benefit per hour and per employee of strike action prevented</b>
<i>Low</i>	51.1%	2	148.6	£19.78
<b>Central</b>	<b>70.3%</b>	<b>4</b>	<b>148.6</b>	<b>£19.78</b>
<i>High</i>	89.5%	6	148.6	£19.78

Table 7 Source: Home Office calculations

<sup>26</sup> Strikes (Minimum Service Levels) Bill: impact assessment (publishing.service.gov.uk): [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1137662/strikes-minimum-service-levels-bill-impact-assessment.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1137662/strikes-minimum-service-levels-bill-impact-assessment.pdf)

<sup>27</sup> See Table 1 assumption 1.5

<sup>28</sup> See Table 1 assumption 1.6

## Individual hours saved – worked example

52. It is assumed that each six-month mandate period of national strike action consists of 148.6 hours where strike action takes place (assumption 1.5). This estimate is derived from analysis of the level of strike action within the 2022-23 strike mandate. The number of individual hours of Border Force staff time saved by an MSL is determined by the MSL level, the strike turnout in the do-nothing option, and the assumed number of hours for which there is a Border Force strike taking place. As a worked example:

- In the central estimate scenario for **Option 2a**, it is assumed that the MSL is 50 per cent and potential strike turnout is 70.3 per cent, meaning that 29.7 per cent of the workforce are not on strike and are able to contribute to the MSL. This leaves 20.3 per cent of the in-scope workforce who would have chosen to strike but will be required to attend work to satisfy the MSL.
- It is also assumed that four strike incidents occur over the 10-year appraisal period, so a total of 594 hours in which national strike action is taking place, or 59.4 hours per year.
- It is also assumed that, given operational shift patterns, approximately 25 per cent of the Border Force workforce will be on-shift during a strike day. Given that there are 9,989 Border Force staff, we assume 2,497 will be working at any one time<sup>29</sup>. This leads to a total of approximately 30,128 Border Force staff hours being saved per year. See below for detail.

$$\begin{aligned} \text{Hours saved} &= \text{In - Scope Workforce} * \text{Strike Hours Per Year} \\ & * \% \text{ of Workforce Prevented from Striking} = 2,497.25 * 59.423 * 0.203 = 30,124 \end{aligned}$$

- It is assumed that strike action is distributed equally across the 10-year appraisal period, covers all Border Force staff, and the number of Border Force staff in-post each year remains constant, therefore 301,240 hours are assumed to be saved in total under this Option.

## Total benefits

53. Table 8 shows the total benefits for **Options 1, 2a, 2b, and 2c**.
54. Option 1 contains no monetised benefits as it represents business as usual.
55. For all other options and estimates, some level of benefits are achieved as some percentage of the workforce are prevented from striking as a result of the reform.
56. We calculate total benefits by multiplying the hours saved per year through the MSL by the net benefit per hour of individual strike action prevented. For example, the central estimate of **Option 2b** is calculated as 44,968 \* £19.78 = £0.9 million per year, which equates to an estimated £7.7 million in present value terms over the appraisal period.

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<sup>29</sup> See Table 1, assumption 1.4 for further detail

**Table 8: Benefits for Options 1, and Options 2a-2c (2022/23 prices)**

<b>Policy Option</b>	<b>Assumed MSL</b>	<b>Intended strike turnout</b>	<b>Percentage of workforce prevented from striking</b>	<b>Hours saved per year</b>	<b>Total benefit per year, (£, million, Constant Prices)</b>	<b>Total discounted benefit, appraisal period (£, million)</b>
<b>Option 1</b>						
<i>Low</i>	0%	51.1%	0%	0	0.0	0.0
<b>Central</b>	<b>0%</b>	<b>70.3%</b>	<b>0%</b>	<b>0</b>	<b>0.0</b>	<b>0.0</b>
<i>High</i>	0%	89.5%	0%	0	0.0	0.0
<b>Option 2a</b>						
<i>Low</i>	50%	51.1%	1.1%	820	0.0	0.1
<b>Central</b>	<b>50%</b>	<b>70.3%</b>	<b>20.3%</b>	<b>30,128</b>	<b>0.6</b>	<b>5.1</b>
<i>High</i>	50%	89.5%	39.5%	87,926	1.7	15.0
<b>Option 2b</b>						
<i>Low</i>	60%	51.1%	11.1%	8,239	0.2	1.4
<b>Central</b>	<b>60%</b>	<b>70.3%</b>	<b>30.3%</b>	<b>44,968</b>	<b>0.9</b>	<b>7.7</b>
<i>High</i>	60%	89.5%	49.5%	110,185	2.2	19.0
<b>Option 2c</b>						
<i>Low</i>	70%	51.1%	21.1%	15,659	0.3	2.7
<b>Central</b>	<b>70%</b>	<b>70.3%</b>	<b>40.3%</b>	<b>59,808</b>	<b>1.2</b>	<b>10.2</b>
<i>High</i>	70%	89.5%	59.5%	132,445	2.6	22.5

Table 8 Source: Home Office calculations

### Summary of ongoing and total benefits for each option

57. Option 1: contains no benefits as this represents the business-as-usual situation.
58. Option 2a: Set a statutory MSL - staffing numbers must not fall below 50 per cent. The total hours saved per year from **Option 2a** is calculated to be between 820 and 87,926, with a central estimate of 30,128. This equates to a total discounted monetary benefit of between £0.2 million and £15 million with a central estimate of £5.1 million over the appraisal period.
59. Option 2b: Set a statutory MSL - staffing numbers must not fall below 60 per cent. The benefits of this option are calculated using the same approach as **Option 2a** but with the assumption that the MSL level is set at 60 per cent. The total hours saved per year from **Option 2b** is calculated to be between 8,329 and 110,185, with a central estimate of 44,968. This equates to a total discounted monetary benefit of between £1.4 million and £19 million with a central estimate of £7.7 million over the appraisal period.
60. Option 2c: Set a statutory MSL - staffing numbers must not fall below 70 per cent. The benefits of this option are calculated using the same approach as **Options 2a and 2b** but with the assumption that the MSL level is set at 70 per cent. The total hours saved per year from **Option 2c** is calculated to be between 15,659 and 132,445 with a central estimate of 59,808. This equates to a total discounted monetary benefit of between £2.7 million and £22.5 million with a central estimate of £10.2 million over the appraisal period.

### Non-monetised benefits

#### Reduction in costs to Border Force

61. MSL will likely reduce the public cost of Border Force arranging for contingency resource to bolster or secure their BCP. This may lead to direct cost savings, such as the contractual costs of employing agency staff, as well as opportunity cost savings as Border Force resources which would have been required to undertake planning and training for contingency staff can instead be repurposed to support business as usual activities.
62. An MSL will also lead to benefits in-terms of removing the need for military assistance during strike action, which can be provided to support Border Force. This assistance has a financial and economic cost on society (as it takes military personnel away from their own duties), and so the reduction in this assistance has benefits. This cost is highly uncertain as it will vary significantly depending on the type of strike action that occurs, so it has not been monetised in this IA.
63. An MSL may also provide additional certainty to Border Force national or local port planners, allowing them to more easily plan for periods of strike action by giving them a clear indication of how many staff they will have available on strike days.

### Wider non-monetised benefits

64. **Improved economic output:** The provision of MSLs for border security should result in a quicker and more dependable border for businesses and the public (including tourists) to move through during periods of industrial action. This is likely to result in economic benefits beyond the direct value provided by Border Force, such as the avoidance of harm goods entering the UK. These could also include increased international trade and investment as businesses have greater confidence in their ability to move goods without disruption across the UK border, although these trade impacts are not likely to be significant given the relative rarity of strike action by Border Force. It may also improve the reputation of the UK as a place to visit which may lead to economic benefits to the tourism sector.
65. **Increased Government revenue from business and individuals:** Following on from paragraph 66, should economic output increase due to a minimisation of strike-related disruption this may lead to increased Government revenue through business rates, customs duties, VAT, and other taxation mechanisms. Note that this is separate from the direct prevention of customs duty evasion undertaken by Border Force which is assumed to be captured within the monetised benefits section.

### NPSV, BNPV, EANDCB

#### Net Present Social Value (NPSV)

66. The costs, benefits, and NPSV of these policies (over 10 years) are presented in Table 9. The range in the NPSVs is calculated by comparing the low cost estimates, to the high benefit estimates, and the high cost estimates to the low benefit estimates, to give a full potential range.

**Table 9: NPSV for each policy option, (£, million 2022/23 prices)**

	<b>Costs (£,m)</b>			<b>Benefits (£,m)</b>			<b>NPSV (£,m)</b>		
	Low	<b>Central</b>	High	Low	<b>Central</b>	High	Low	<b>Central</b>	High
<b>Option 1</b>	0.0	<b>0.0</b>	0.0	0.0	<b>0.0</b>	0.0	0.0	<b>0.0</b>	0.0
<b>Option 2a</b>	0.2	<b>0.4</b>	0.9	0.1	<b>5.1</b>	15.0	-0.7	<b>4.7</b>	14.8
<b>Option 2b</b>	0.2	<b>0.4</b>	0.9	1.4	<b>7.7</b>	18.8	0.5	<b>7.2</b>	18.5
<b>Option 2c</b>	0.2	<b>0.4</b>	0.9	2.7	<b>10.2</b>	22.5	1.8	<b>9.8</b>	22.3

Table 9 Source: Home Office calculations<sup>30</sup>

<sup>30</sup> Calculations completed based on an average national MSL, however, in reality, these options may incur further monetised benefits if strike action was prevented on certain days or at certain locations where there is an MSL above expected strike turnout. This detail will be further considered in the final IA.

## Equivalent annual net direct cost to business (EANDCB) and Business net present value (BNPV)

67. The business net present value (BNPV) and equivalent annual net direct cost to business (EANDCB)<sup>31</sup> of these options are calculated based on trade union familiarisation costs and legal costs. **For Options 2a-2c**, the cost to business is estimated to be between £11,000 to £31,000 and so the BNPV is between -£11,000 to -£31,000. All these costs occur in year 1, and therefore the EANDCB is considered to be minimal.

## Value for money (VfM)

68. For a policy to be considered value for money (VfM), it must meet its strategic and policy objectives. In the central and high scenarios, **Options 2a-2c** meet the strategic and policy objectives of MSL, however, in the low benefits scenarios only **Option 2b and 2c** achieve VfM according to the NPSV calculations in Table 9 (as the NPSV of option 2a is negative). However, as there are a number of non-monetised benefits and costs, it is not possible to fully assess the VfM of these options.
69. The monetised VfM assessment in this IA is mainly determined by how many additional working hours of Border Force staff the MSL leads to. If an MSL is set at a level that is lower than what would have happened without it (in terms of strike turnout), the MSL is not likely to be considered VfM using the monetised benefit approach in this IA, because it doesn't lead to additional hours worked over the counterfactual. It will only incur monetised costs, and no monetised benefits. However, if the MSL level set is higher than the number of Border Force staff who would otherwise be available on days on strike action, then the policy would likely be VfM, as set-up costs are low, and it only requires a few additional hours of work for these costs to be outweighed by the benefits (see risks section G).
70. The bigger the difference between available Border Force staff on strike days, and the MSL, (assuming the MSL is higher than available staff on strike days), the more likely an option will be VfM. This is shown in Table 9, which demonstrates that in the low scenario for option 2a, the strike turnout is mostly absorbed by the non-striking workforce, with around 1% prevented from striking. As a result, monetised benefits are relatively small and are exceeded by monetised costs. Options 2b and 2c achieve positive NPSV across low-high estimates as the MSL achieves the policy objective of lifting service levels above the counterfactual. Of the options with monetised benefits, **Option 2c** is the most VfM, whereas **Option 2a** is the least.
71. However, there are a large number of costs and benefits that are not monetised in this IA, and so the overall VfM calculation is more complex. On the costs side, it has not been possible to monetise several costs including operational costs, enforcement costs, the reduced benefits of being in a union and the changing nature of strike action. Regarding benefits, the wider economic benefits to society, as well as the cost savings from contingency measures no longer being required are not monetised. These additional considerations could have a significant impact on which option should be considered as the most VfM. It would be logical to assume that some of these costs (especially the reduction in benefits of being in a union and reduced collective bargaining power) would increase as MSLs increase, however the linearity of this relationship is not assessed, and it is likely that those options with higher MSLs would also incur more non-monetised benefits.
72. This lack of monetisation makes any full VfM assessment of the options difficult at this stage. For the reasons outlined above, depending on the relationship between MSL and union benefits and cost saving benefits, **it could be the case that any of Options 1, 2a, 2b, or 2c would ultimately deliver the most VfM.**
73. Further work needs to be completed to assess the impact of each option on Border Force staff, and it is hoped that the consultation will be able to assist with this. The consultation process will allow individuals to voice their opinions on different options, so a fuller assessment of VfM can be completed in the final-stage IA. The purpose of this IA is to provide an indicative estimation of those

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<sup>31</sup> The EANDCB is defined as the Equivalent Annual net Direct Cost to Business. It is used as a comparative measure of the administrative burden on business from regulation by the Regulatory Policy Committee (RPC).

costs and benefits which can be monetised, so that individuals can make informed responses to the consultation. The sensitivity analysis in Section G tests the reactivity of the benefits presented in the IA to three crucial assumptions (strike turnout in the counterfactual, the value of an hour of Border Force work, and number of strike hours per year). **As costs and benefits are not fully monetised in this IA, it is not possible to accurately determine which option offers the highest benefit-cost ratio at this stage.**

## Place-based analysis

74. This policy does not have any specific spatial objectives, however there are place-based impacts that are worth considering. Currently the analysis in this IA looks at Border Force in Great Britain as a single entity, however Border Force staff are based at a variety of locations across the country, which may be impacted differently by these options. A more complete place-based analysis will be completed in the final-stage IA, accompanying any secondary legislation, however for now, initial areas for consideration are presented:

- **Impact on border security by location of Option 2a-c:** These options, as modelled, are based upon a set percentage MSL level being applied nationally across all Border Force. Although simple in principle, this may have divergent benefits and impacts depending on what the level is set at. Each Border Force location has different levels of business-as-usual staff utilisation that differ depending on time of year and activity. This means that a single set percentage that may mitigate most border security risk in one location, may not mitigate risk fully in another. The consultation for border security MSLs considers which factors should be considered when setting MSLs, including location. This would enable differential MSL levels to account for port or region level requirements. Location impacts will therefore be re-assessed within the final-stage IA once an MSL methodology is clear.
- **Local differences in trade union membership:** This IA has also assumed that any action will be distributed equally across the country and be co-ordinated by all union members. However, in reality, trade union membership as a proportion of total Border Force workforce will vary across the country. The impact of this is that some areas may currently (in **Option 1**) have more limited local impacts of strike action, because they have fewer staff who will go on strike. In these areas, the benefits of these options will be lower. Equally, there are some areas which are currently more impacted by strike action because of the likelihood of their local service, or port undertaking strike action. These areas may experience more benefits from the MSL models proposed, as they will have better, and more secured business continuity plans in the event of strike action which will provide them with public safety benefits. However, they may also experience more ongoing local strike action in future. This could also lead to differing local employment conditions, depending on local collective bargaining power.

## Impact on small and micro-businesses

75. These Options will impact four trade unions – the ISU, PCS, the FDA and Prospect – each will incur familiarisation costs from the proposals. These are the only businesses in-scope of the proposed MSL models. Analysis of the annual returns of the four in-scope trade unions suggests that these are all small or micro businesses, as although they have large membership numbers, they have few staff<sup>32</sup>. However, we will confirm this during the consultation process.
76. As trade unions are crucial to these proposed Options, and all are small businesses, it is not possible to exclude small businesses from analysis whilst still meeting the policy’s objectives and without undermining the policy. The impact of the policy is not expected to be disproportionate on small

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<sup>32</sup> ‘Trade unions: the current list and schedule’: <https://www.gov.uk/government/publications/public-list-of-active-trade-unions-official-list-and-schedule/trade-unions-the-current-list-and-schedule>



businesses because the cost to trade unions is expected to be relatively low at no more than £30,000 across the appraisal period (see Table 10).<sup>33</sup>

**Table 10: Present Value Total union costs (£, 2022-2023 prices)**

<b>Cost area</b>	<b>Low</b>	<b>Central</b>	<b>High</b>
<i>Familiarisation</i>	2,800	5,600	11,200
<i>Legal advice</i>	4,700	9,300	18,700
<b>Total</b>	<b>7,500</b>	<b>14,900</b>	<b>29,900</b>

*Table 10 Source: Home Office calculations*

- 77. The consultation will be used to seek further information from trade unions on whether they face any significant disproportionate impacts.

**F. Proportionality**

- 78. The level of analysis in this IA is considered proportionate at this stage, ahead of receiving consultation responses. There are a number of significant uncertainties in this analysis, and a number of assumptions have been made based on limited evidence. The best available data is used in the analysis. The consultation will seek input from stakeholders and the public. It is hoped that this will allow refinement and a strengthened assessment of the potential impacts of these policy changes in the final IA, ahead of any legislation.

**G. Risks**

- 79. The monetised benefits of this IA assumes that strike hours will be prevented as a result of this policy. Any displacement of strike hours (for example, through action short of strike, or an increase in the volume of strikes) will reduce the NPSV of this policy and have not been monetised.
- 80. The IA assumes full compliance from staff with regulation. However, staff who are trade union members may not conform to MSL regulation and seek to enlarge strike numbers due to union solidarity or other congruent reasons for example, poorly enforced regulation. More evidence will be collected during the consultation process to support non-compliance analysis.
- 81. This IA makes no assumption about the distribution of costs and benefits on individuals. Future strike action under a MSL may only be carried out by those individuals who are not served work notices. These individuals would bear the cost of striking (in terms of foregone wages), however all individuals employed by Border Force, even those who did not strike, may gain from the results of strike action.
- 82. As Border Force staff numbers based at some smaller ports and airports are very low, Options 2a-c, could mean that staff based at these locations are more likely to receive work notices, and so are less likely to be able to undertake strike action, when compared with other staff. Similarly, the requirement to maintain particular Border Force security functions during strike action could mean that officers trained in critical functions are less likely to be able to undertake strike action than those who have not taken the training. This IA has not assessed the impact of these Options on staff

<sup>33</sup> Legal Costs follow methodology in DfT MSL IA, employing an uprated legal advice figure from the Trade Union Act 2016 Enactment IA. See footnote 21 at para.39 for detail.

willingness to be located at smaller Border Force outposts or to undergo the training necessary to carry out critical border security functions.

## Sensitivity analysis

83. The appraisal contains assumptions on the proportion of the in-scope workforce that could withhold their labour during a strike incident, defined here as the 'strike turnout', as well as assumptions on the number of hours Border Force staff could strike for. Sensitivity analyses have been applied to these assumptions to ensure a robust approach to risk. Additionally, due to uncertainty within the evidence base, the assumption on value of output per worker has also been tested.

### Strike Turnout

84. Table 11 shows the results of applying sensitivities of 20 per cent, 40 per cent and 60 per cent strike turn out rates (relative to the central assumption of a 70.3% turnout), with all other central assumptions (that is, total strike hours and net benefit of worker per hour) held constant. MSLs for all options are considered. This analysis considers the impact of modelling an alternative level of turnout on the NPV and to ensure a robust consideration of evidence. Table 11 shows that as strike turnout decreases, the total number of staff hours and accrued benefits decreases in the central scenario. With a lower strike turnout, less Border Force staff will strike, the MSL will prevent less of the workforce from going on strike, preventing less hours of staff time being lost to strike action.

**Table 11: Sensitivity analysis – proportion of individuals who will strike across each Option MSL, and central cost and benefit assumptions (£ million, 2022-23 prices/hours in thousand)**

<b>Strike turnout</b>	<b>Total individual hours saved, across appraisal period</b>	<b>NPV, £/m</b>	<b>Benefit Cost Ratio</b>
<b>Central Scenario, Option 2a (MSL 50%)</b>			
20.0%	0	-0.4	0
<b>40.0%</b>	<b>0</b>	<b>-0.4</b>	<b>0</b>
60.0%	222,597	3.4	8.9
<b>Central Scenario, Option 2b (MSL 60%)</b>			
20%	0	-0.4	0
<b>40%</b>	<b>0</b>	<b>-0.4</b>	<b>0</b>
60%	445,193	7.1	17.8
<b>Central Scenario, Option 2c (MSL 70%)</b>			
20%	0	-0.4	0
<b>40%</b>	<b>148,398</b>	<b>2.1</b>	<b>5.9</b>
60%	667,790	10.9	26.7

Table 11 Source: Home Office calculations

85. In Option 2a, which has an MSL set at 50 per cent, the NPV is negative across central and low sensitivities in the central scenario at negative £0.4 million, when the strike turnout is below 70.3 per cent. The NPV turns positive in the high sensitivity of 60 percent at £3.4 million, with an estimated 222,000 hours saved . In Option 2b, which has an MSL set at 60 per cent, the NPV is only positive at the 60 per cent turnout rate at £7.1 million with an estimated 445,000 hours saved. In Option 2c, which has an MSL set at 70 per cent, the NPV is positive at the 40 per cent turnout rate at £2.1

million with an estimated 148,000 hours saved. The NPV is also positive at the 60 per cent turnout rate at £10.9 million, with an estimated 668,000 hours saved.

### Sensitivity analysis – Number of strike hours per year

86. Table 12 shows what happens when, holding all else constant, the assumed number of hours for which national strike action takes place within a mandate period is amended. Table 12 gives the low (118.8 hours), central (148.6 hours) and high (178.3 hours) estimates for the number of hours per mandate period for which national strike action occurs, used in the NPV calculations for each policy option, plus a range around these assumptions. All other inputs are held at the central scenario levels. The number of strike hours per year is then calculated by combining the number of strike incidents that would be in the 10-year appraisal period and the number of hours of national strike action in a strike incident into one assumption on the number of hours of strike action per year.
87. Table 12 shows that, when the number of strike hours per year increases, the total number of hours of Border Force hours labour that is saved by the MSL increases. This is because, when the assumed number of strike hours increases, the policy will prevent more hours of strike action from going ahead, meaning fewer hours of Border Force staff work will be lost to strike action.

**Table 12: Sensitivity analysis – Number of strike hours per year, for all Options, using central assumptions for costs and benefits (£ million, 2022-23 prices/hours in thousands).**

<b>Strike Hours</b>	<b>Total individual hours saved, across appraisal period</b>	<b>NPV, £/m</b>	<b>Benefit Cost Ratio</b>
<b>Central Scenario, Option 2a (MSL 50%)</b>			
<i>Low (118.8 hours)</i>	150,624	2.1	6.0
<b>Central (148.6 hours)</b>	<b>301,248</b>	<b>4.7</b>	<b>12.0</b>
<i>High (178.3 hours)</i>	451,871	7.3	18.0
<b>Central Scenario, Option 2b (MSL 60%)</b>			
<i>Low (118.8 hours)</i>	224,823	3.4	9.0
<b>Central (148.6 hours)</b>	<b>449,645</b>	<b>7.2</b>	<b>17.9</b>
<i>High (178.3 hours)</i>	674,468	11.1	26.9
<b>Central Scenario, Option 2c (MSL 70%)</b>			
<i>Low (118.8 hours)</i>	299,022	4.7	11.9
<b>Central (148.6 hours)</b>	<b>598,043</b>	<b>9.8</b>	<b>23.9</b>
<i>High (178.3 hours)</i>	897,065	14.8	35.8

Table 12 Source: Home Office calculations

88. In Option 2a, the NPV increases from £4.7 million to £7.3 million when hours increase by 20 per cent from the central to high scenario. In Option 2b, the NPV increases from £7.2 million to £11.1 million. In Option 2c, the NPV increases from £9.8 million to £14.8 million.

### Sensitivity analysis – Value of a Border Force staff hour

89. The benefit of a Border Force staff member hour saved is estimated using ONS data but is highly uncertain. A proxy is used rather than a more specific Border Force productivity figure is due to a current lack of evidence on the monetised value of Border Force to society. As a result, a sensitivity analysis is given in Table 13 that shows how the NPV for each option changes when the value per hour of staff time is changed. For the sensitivity analysis in Table 13, all the same central cost and benefit assumptions are applied as in the appraisal section of this IA. Therefore, the scenario with a

£44.24 value of labour, aligns with the central estimates presented in the appraisal section. A low value of £35.39 and high value of £53.09<sup>34</sup> is given but within the central scenario of each option only.

90. Table 13 shows that when the estimate for the value of a Border Force staff hour increases, the NPV for each of the policy options increases because the benefit to society of preventing an hour of a striking increases. This means that each policy option will deliver a higher level of benefits to society, all other things being equal, if the value to society of an hour of Border Force staff member's work is assessed to be higher than what is monetised in this IA, and lower if it is deemed to be lower.

**Table 13: Sensitivity analysis – Value per Border Force staff hour, for all Options, using central assumptions for costs and benefits (£ million, 2022-23 prices)**

<b>Output Value per Worker per hour</b>	<b>Total individual hours saved, across appraisal period</b>	<b>NPV, £/m</b>	<b>Benefit Cost Ratio</b>
<b>Central Scenario, Option 2a (MSL 50%)</b>			
<i>Low (£35.39)</i>	150,624	1.0	3.3
<b>Central (£44.24)</b>	<b>301,248</b>	<b>4.7</b>	<b>12.0</b>
<i>High (£53.09)</i>	451,871	10.7	26.1
<b>Central Scenario, Option 2b (MSL 60%)</b>			
<i>Low (£35.39)</i>	224,823	1.7	5.0
<b>Central (£44.24)</b>	<b>449,645</b>	<b>7.2</b>	<b>17.9</b>
<i>High (£53.09)</i>	674,468	16.2	39.0
<b>Central Scenario, Option 2c (MSL 70%)</b>			
<i>Low (£35.39)</i>	299,022	2.4	6.6
<b>Central (£44.24)</b>	<b>598,043</b>	<b>9.8</b>	<b>23.9</b>
<i>High (£53.09)</i>	897,065	21.7	51.8

Table 13 Source: Home Office calculations

91. In Option 2a the NPV increases from £4.7 million in the central scenario to £10.7 million in the high scenario. In Option 2b, the NPV increase from £7.2 million to £16.0 million in the high scenario. In Option 2c, the NPV increases from £9.8 million to £21.7 million in the high scenario.

## H. Direct costs and benefits to business calculations

92. All the costs to businesses fall to trade unions in year 1. The total cost to businesses is set out in Table 14 below. There are no costs of Option 1 to businesses. All the costs to businesses are assumed to be minimal.

<sup>34</sup> A sensitivity of 20 per cent reduction and increase was applied to the central value.

**Table 14: Present Value Costs to business (£, 2022-2023 prices) for all Options**

<b>All Options, (£, millions)</b>	<b>Low</b>	<b>Central</b>	<b>High</b>
<i>Total set-up cost to business</i>	3,000	6,000	10,000
<i>BNPV</i>	-3,000	-6,000	-10,000
<i>EANDCB</i>	300	600	1,000

Table 14 Source: Home Office Calculations

## I. Wider Impacts

93. An Equality Impact Assessment has been completed as part of the consultation planning process, considering potential impacts of MSL both on Border Force workforce and on the travelling public. The main conclusions from the EIA are as follows:
- a) Potential impacts of these changes have been considered for two cohorts: Border Force employees; and the travelling public. Regarding Border Force employees, management information about the sex and age of Border Force employees shows that around 60 per cent are male and that over 30 per cent of Border Force's total workforce are aged between 50-59. We do not have data of comparable quality about other protected characteristics. Our assessment is that as the policy will apply to Border Force as a whole, there is no anticipated direct discrimination against any of the nine characteristics.<sup>35</sup>
  - b) Any possible indirect disadvantage resulting from this policy is proportionate and justified to ensure the border remains secure in the event of strike action; this could include ensuring essential border services such as immigration controls, customs checks and patrolling of the seas continue to be delivered to keep the border secure and the country safe. Any possibility of indirect impact will not, in our view, amount to indirect discrimination.
  - c) Regarding the travelling public, again, the policy will apply to this sector of the population as a whole. There is no anticipated direct or indirect discrimination. However, the policy may have a positive impact on disabled people. This is because disabled people may find it easier to travel on a strike day if MSLs are in place. The same may be true of people who have a vulnerability which makes it hard for them to travel.
  - d) The potential equalities impacts of the proposal will continue to be considered and will look to explore and gather more evidence to inform equalities analysis following consultation.
94. MSLs will also cover other sectors, including health services; education; transport services; decommissioning of nuclear installations and management of radioactive waste and spent fuel and fire and rescue services<sup>36</sup>. The total societal impact of this legislation should therefore be considered alongside the impact of accompanying primary and secondary legislation in other government departments.

## J. Trade impact

95. The policy has not been designed to have specific trade impacts and there are not expected to be direct impacts on trade from this policy. However, there may be some indirect impacts; the policy is expected to decrease the risk of friction at the UK border during strike action and may thereby reduce any costs that strike action would otherwise have on industry. This could also lead to some increase

<sup>35</sup> Border Force internal data as of 28 February 2023.

<sup>36</sup> Sourced from DBT MSL IA – <https://www.gov.uk/government/publications/strikes-minimum-services-levels-bill-2023>

in trade and investment as businesses have greater confidence in their ability to move goods without disruption across the UK border. Nevertheless, given the relative rarity of strike events by Border Force it is not expected that this would lead to a significant change in the long-term behaviour of those importing to, or exporting from, the UK.

**K. Monitoring and evaluation plan**

- 96. It is expected that the measures set out in this IA will require secondary legislation. The consultation closes in September 2023, and any secondary legislation will follow this, subject to the parliamentary timetable.
- 97. Success will be measured against the policy and strategic objectives; however, any evaluation is likely to be complex due to difficulties in establishing a robust counterfactual. Monitoring of this policy will likely include considering the level of strike action in Border Force and observing any impacts on cost savings, additional working hours during strikes and collective bargaining power. Further consideration on monitoring and evaluation of any proposed legislation will be set out in the final IA, alongside information on enforcement.
- 98. It is likely that this policy will be evaluated in 2028, however this will be confirmed in the final IA.

**L. Annexes**

**Impact Assessment Checklist**

<b>Mandatory specific impact test - Statutory Equalities Duties</b>	<b>Complete</b>
<p><b>Statutory Equalities Duties</b></p> <p>Home Office officials are actively considering the impact of MSL and how it might or will affect people with protected characteristics. This is an ongoing process. Policy officials will regularly review the Equality Impact Assessment (EIA) as the policy options develop.</p> <p>An EIA has been completed as part of the consultation planning process. A summary of its findings is that [awaiting input from Bill team].</p> <p><b>The SRO has agreed these findings.</b></p>	<b>Yes</b>

**Economic Impact Tests**

<b>Small and Micro-business Assessment (SaMBA)</b> A SaMBA has been carried out in section E	<b>Yes</b>
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