

COLLECTIVE REDUNDANCIES

Consultation on changes to the
rules – Impact Assessment

JUNE 2012

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Title: Collective Redundancy Consultation IA No: BIS0347 Lead department or agency: BIS Other departments or agencies:	Impact Assessment (IA) Date: 20/06/2012 Stage: Consultation Source of intervention: Domestic Type of measure: Secondary legislation Contact for enquiries: Carl Davies
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Summary: Intervention and Options	RPC: AMBER
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£m	£m	£m	Yes	OUT

What is the problem under consideration? Why is government intervention necessary?
 The UK transposition of the Collective Redundancies Directive is causing bad quality consultation about large-scale redundancies. The law requires that redundancies affecting 100 or more employees cannot take place until at least 90 days after the start of consultation. This requirement gold-plates the Directive and is causing consultation to focus too much on the process of consultation and not enough on the key issues. This leads to poorer quality decision-making which does not have the support of employees. The proposals will remove the 90-day period and create a simpler framework that will allow the parties to concentrate on the key issues.

What are the policy objectives and the intended effects?
 The aim of the proposed policy is to create a simple, understandable process that promotes quality consultation and will:

- allow the parties to engage in consultation that is best suited to their circumstances;
- improve business flexibility to restructure effectively; and
- reduce business burdens.

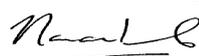
What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1 - Do nothing
 2a - Reduce the minimum period before redundancies can take effect to 30 days.
 2b - Reduce the minimum period before redundancies can take effect to 45 days.
 3 - Improve the guidance available to help provide clarity for the parties involved. This is a non-regulatory measure

The preferred option is a combination of the non-regulatory option 3 alongside either of regulatory option 2a or 2b. This will help to improve consultation practice by providing more clarity over key issues and business flexibility by reducing the minimum period before consultation can take effect. A further option, to reduce the minimum period to 60 days, was considered but is not being taken forward and is not reported here.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 01/2016					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro No	< 20 No	Small No	Medium Yes
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)			Traded:		Non-traded:
			N/A		N/A

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



Signed by the responsible SELECT SIGNATORY:

Date: 20 June 2012

Summary: Analysis & Evidence

Policy Option 1

Description: Option 2 (a) Reduce the minimum period before redundancies could take effect to 30 days

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate			

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

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

Employers: for those employing more than 100 employees, there may be limited familiarisation costs
 Employees: Potential reduction in period of time in which to search for a new job, potential reduction in the amount of time paid by their current employer. Exchequer: possible increase in employment tribunal claims during assimilation period relating to consultation and informing employees in redundancy situations.
 Possible very small increase in Job Seeker's Allowance claims.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate			

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

Maximum of 5 lines

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

Employers: increased flexibility in making business changes, some potential for reduction in wage costs by allowing large scale redundancies to take place more quickly, potential for improved productivity relative to current situation.
 Employees: reduction in period of uncertainty, possible reduction in stress experienced

Key assumptions/sensitivities/risks

Discount rate (%)

Expected impacts are not yet monetised due to uncertainty around the impacts. In understanding the scale of the issue we rely upon administrative data submitted to the Insolvency Service as collective redundancies have to be notified. The impact of the policy is intended to be an improvement in agreement between employers and employees due to less reliance on prescriptions in regulation. There is a risk that employers will reduce their consultation periods without addressing quality.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO? Yes	Measure qualifies as OUT
Costs: N/Q	Benefits: N/Q	Net: N/Q		

Summary: Analysis & Evidence

Policy Option 2

Description: Option 2(b) Reduce the minimum period before redundancies could take effect to 45 days

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)
Low					
High					
Best Estimate					
Description and scale of key monetised costs by 'main affected groups' Maximum of 5 lines					
Other key non-monetised costs by 'main affected groups' Employers: for those employing more than 100 employees, there may be limited familiarisation costs Employees: Potential reduction in period of time in which to search for a new job, potential reduction in the amount of time paid by their current employer. Exchequer: possible short-term increase in employment tribunal claims relating to consultation in redundancy situations; possible very small increase in job seeker's allowance claims.					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Benefit (Present Value)
Low	Optional		Optional		Optional
High	Optional		Optional		Optional
Best Estimate					
Description and scale of key monetised benefits by 'main affected groups' Maximum of 5 lines					
Other key non-monetised benefits by 'main affected groups' Employers: increased flexibility in making business changes, some potential for reduction in wage costs by allowing large scale redundancies to take place more quickly, potential for improved productivity relative to current situation. The impact will be lower than for policy option 2a Employees: reduction in period of uncertainty, possible reduction in stress experienced					
Key assumptions/sensitivities/risks					Discount rate (%)
Expected impacts are not yet monetised due to uncertainty around the impacts. In understanding the scale of the issue we rely upon administrative data submitted to the Insolvency Service as collective redundancies have to be notified.					

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/Q	Benefits: N/Q	Net: N/Q	Yes	OUT

Summary: Analysis & Evidence

Policy Option 3

Description: Improve guidance on carrying out collective redundancy consultations

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate			

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

Maximum of 5 lines

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

Exchequer: production of guidance will entail some staff time.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate			

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

Maximum of 5 lines

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

Employers: improves certainty and provides greater clarity on their obligations for running collective redundancy consultations. Potential for higher quality consultations between employers and employees ensuring a more constructive relationship.

Employees: will benefit from any improvement in the quality of consultation, leaving them better placed to find alternative employment or maintain their existing employment relationship.

Key assumptions/sensitivities/risks

Realisation of the benefits of this option is dependent on the guidance being a clear and simple to understand product that can be well communicated to those affected.

Discount rate (%)

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	No	NA

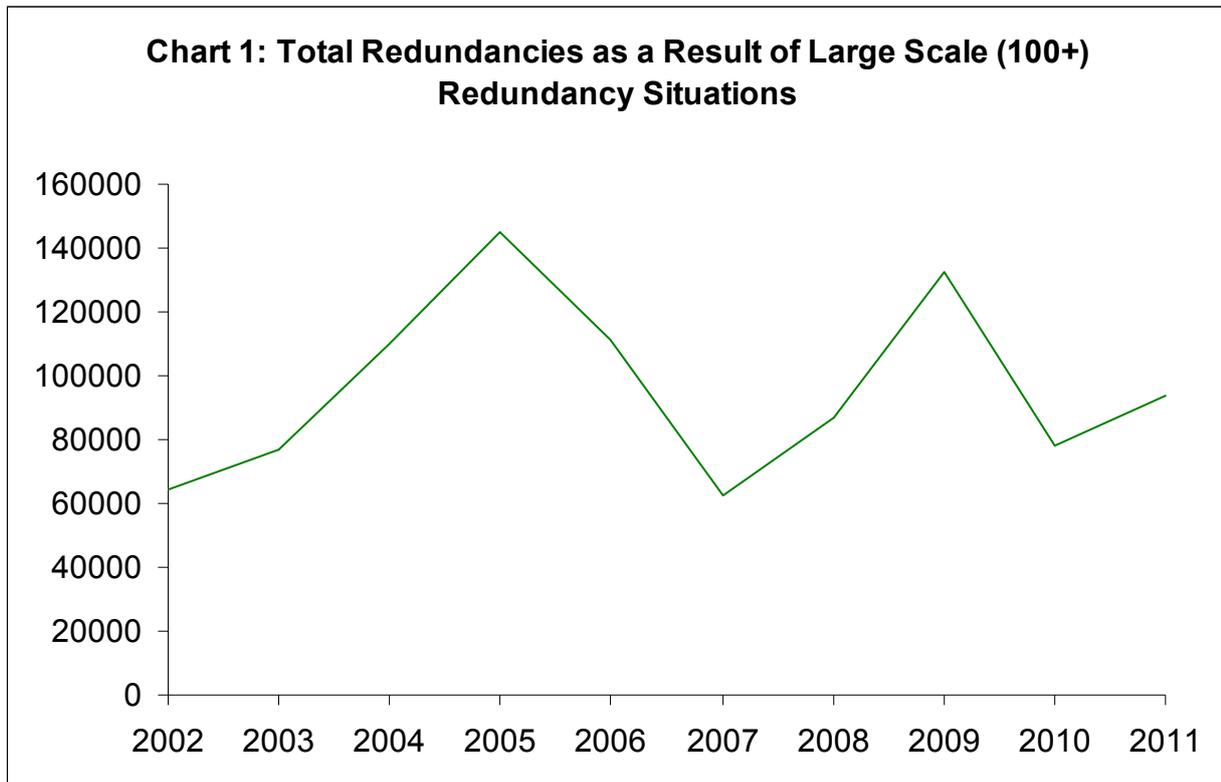
Evidence Base (for summary sheets)

Background

1. This impact assessment considers potential changes to the rules surrounding collective redundancy consultation where employers are considering making 100 or more people redundant. These situations are often referred to as “large scale redundancies” throughout this text.
2. There are over 29 million people employed in the UK. The UK labour market is characterised by a high degree of churn – there is significant movement between jobs, and between employment, unemployment and inactivity in a given year. There are millions of movements in a year both between jobs and between employment, unemployment and inactivity. Table 1 below demonstrates some of these movements in the period between quarter 4 of 2010 and quarter 4 of 2011 (note that this is just one period and comes from an ONS (Office for National Statistics) experimental series, but it illustrates the magnitude of movements).

Table 1: Gross and Net Flows by Work Status Q4 2010			
millions, totals may not add due to rounding			
	EMPLOYMENT	UNEMPLOYMENT	INACTIVITY
Gross inflows	4.03	3.83	3.71
Gross outflows	3.72	3.87	3.97
Net flows	0.31	-0.05	-0.26
Source: ONS, Labour market flows (Experimental statistics), working-age population, not seasonally adjusted			

3. Redundancies are one reason why employees will leave their current employment. Labour Force Survey (LFS) data shows that during 2011, 589,000 people were made redundant. After a redundancy some will move directly into other employment, whilst some will move to unemployment or inactivity for a period of time. Redundancies as a whole are still a relatively small reason for movements in the labour market.
4. Large scale redundancies (where 100 or more people are made redundant in one exercise) are subject to collective redundancy consultation rules (the subject of this impact assessment). There is some uncertainty around the number of redundancies stemming from such large scale exercises. In these situations, employers have to notify the Secretary of State, and this administrative data gives some indication of the scale of redundancies.
5. An alternative source is the European Restructuring Monitor. This is maintained by Eurofound and gathers information about planned redundancies via press reports across European countries. As such it is subject to error but data collection is systematic and although this suggests a slightly higher level of redundancies per year it is within the same order of magnitude as the administrative data (known as HR1 data).
6. Collective redundancy situations involving 100 or more employees have typically led to about 75,000 redundancies per year (averaged over the last five years according to HR1 data). The European Restructuring Monitor suggests a slightly higher level, but given a time series which is illustrated in Chart 1 below. By contrast HR1 data shows that over the last five years an average of nearly 400,000 per year were made redundant in collective redundancy situations involving between 20 and 99 people. Eurofound also provides some information about which sectors are most affected by these large scale redundancies. Over the last 10 years, 27 per cent of these situations have been in manufacturing, 18 per cent in financial services and 16 per cent in public administration. The recent recession caused a rise in redundancies. However, this represents numbers made redundant. More employees are affected by the rules, as consultations will cover a wider number of employees and will decide who is to be made redundant out of a pool of potential workers.



Source: European Restructuring Monitor

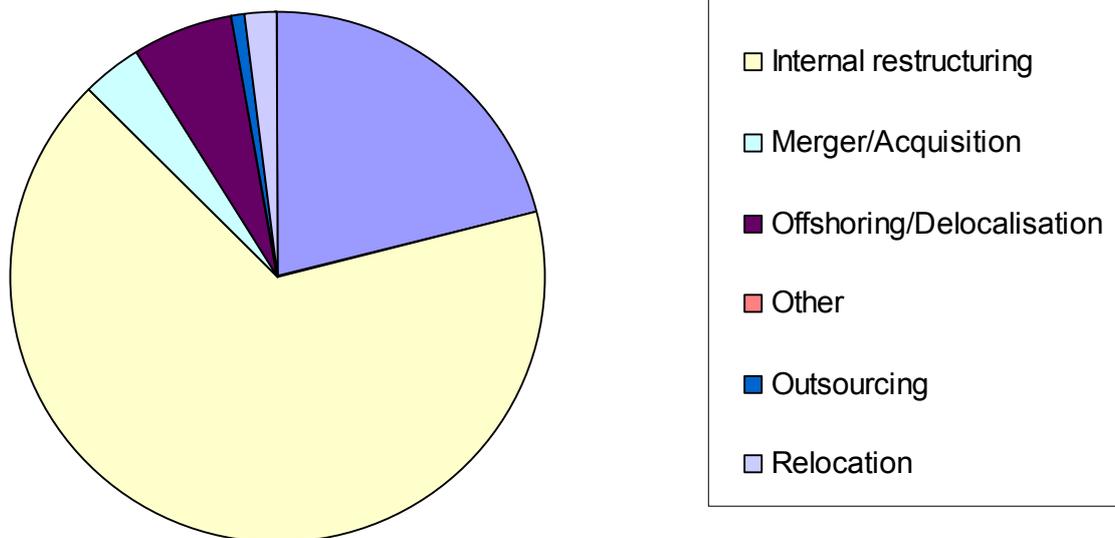
7. The UK has one of the most flexible labour markets in the world according to the OECD's employment protection index. However, the UK performs relatively less well on the component of that index that relates to collective redundancies and there may be room for greater flexibility here.
8. UK employers have claimed that the current regime for collective redundancy consultation is harming their competitiveness on a global level. They state that it is much quicker to restructure in other, competitor, nations, both within the EU and beyond. Table 2 shows that, compared to the main competitor nations across Europe and globally, the UK has a much higher requirement for minimum periods before large-scale redundancies can take effect. However, the table does not tell the whole story. Some of the competitor nations listed (including France and Germany) rely on strict enforcement and monitoring regimes to ensure minimum standards of consultation where the UK relies on minimum periods before redundancies can take effect.

Table 2: Collective redundancy requirements in other countries

Country	Consultation Required?	Notify government?	Number of redundancies required to trigger consultation	Minimum Consultation Period	Minimum Notice Period
Belgium	Yes	Yes	50% of workforce if fewer than 11 total workforce 6 for some rules Else 10 employees	30 days	30 days
France	Yes	Yes	2	None	Under 100 - 30 days 100-249 – 45 days More than 250 – 60 days
Germany	Yes	Yes	5	None	None
Ireland	Yes	Yes	5	30 days	30 days
Spain	Yes	Yes	10	30 days	30 days
Italy	Yes	Yes	5	45 days	45 days
Netherlands	Yes	Yes	20	1 month	1 month
Poland	Yes	Yes	10	45 days	45 days
United States	No – But unions use collective agreements legislation to force it	Yes – if more than 100 employees affected	Dependent on collective agreement with union	None	60 days
Canada	Yes – Must set up a joint planning committee	Yes	None specified	16 weeks (112 days)	16 weeks (112 days)
Japan	No	Yes	N/A	None	None
Australia	Yes	Yes	15	None	None
New Zealand	Yes	No	1	None, but consultation must be genuine and allow the representatives an opportunity to input	None

9. The last Workplace Employment Relations Survey (conducted in 2004) looked at the number of workplaces that had reported redundancies (of any scale) in the previous 12 months. It found that 13 per cent of workplaces had reported redundancies in the previous 12 months. A further 2 per cent had been proposed redundancies that were later withdrawn. The study also looked into the reasons why employers had made redundancies, the most popular reasons were:
- Re-organised working methods (37 per cent of respondents cited this)
 - Lack of demand for products/services (28 per cent)
 - Improving competitiveness/cost reduction/efficiency (19 per cent)
10. The European Restructuring Monitor gives information on the reasons for large scale redundancies, with internal restructuring by far the most common reason, followed by bankruptcy/closure.

Chart 2: Reasons for redundancies in 100+ category 2002 -2011



Source: European Restructuring Monitor

11. The last Workplace Employment Relations Survey (2004) explored what was covered during redundancy consultations. Common answers were:
- The criteria for selection for redundancy (86 per cent cited this)
 - Redundancy payments (59 per cent)
 - Options for reducing the number of redundancies (67 per cent)
12. However, the same study also asks whether consultation led to changes in managers' original proposals. In 78 per cent of cases the answer was "no". In 10 per cent of cases there were reductions in the numbers made redundant.

Problem Under Consideration

13. Where an employer is proposing to dismiss 20 or more of its employees as redundant at a single establishment in a 90-day period they must consult about the redundancies with representatives of the affected employees. Where between 20 and 99 redundancies are proposed they cannot take effect until at least 30 days after the start of the consultation. Where 100 or more redundancies are proposed this time period increases to 90 days. After collective redundancy consultation has concluded, employees have notice periods which need to be honoured. This means that even in possible cases where consultation would reduce to 30 days, notice would still apply on top of this. The process is set out in Table 3.
14. The UK law has been in place largely unchanged since 1975 and it implements the EU Collective Redundancies Directive. It goes beyond the EU Directive in many respects. The most contentious aspect of 'gold-plating' is the inclusion in the UK law of the minimum periods before redundancies can take effect. The Directive requires only that redundancies cannot take effect until 30 days after the employer has notified the Government of the planned redundancies. The review of the UK rules considers how they can be improved and whether these instances of 'gold-plating' need to be removed.

Table 3: The collective consultation Process

Process triggered	<p>Employer identifies that there is the potential for collective redundancies.</p> <p>Employer begins consultation with employee reps in good time.</p> <p>Employer notifies Government that consultation has begun.</p>
Consultation with a view to reaching agreement	<p>Possible for employer and union to reach agreement before end of minimum time period.</p> <p>If agreement reached and consultation genuinely complete, redundancy notices can be issued but dismissal cannot take effect.</p> <p>The statutory period is a minimum period so it is possible for the consultation to run on longer should the employer choose.</p>
Day 30	Final day of minimum time period for 20-99 redundancies
Day 31	Earliest that dismissals can take effect for collective redundancies involving 20-99 redundancies
Day 90	Final day of minimum time period for 100+ redundancies
Day 91	Earliest that dismissals can take effect for collective redundancies involving 100+ redundancies

15. BIS conducted a call for evidence between November 2011 and January 2012. The Call for Evidence sought responses to questions on a number of issues but primarily focused on the impact of the 90-day minimum period before redundancies could take effect. Over 100 responses were received and they provided evidence of the operation of the collective redundancies rules in practice. Overall, the Call for Evidence showed that there is a high degree of confusion about the current rules which is having a negative impact on business flexibility to restructure and is producing poor quality consultation. The lack of business flexibility is making it harder for employers to react to changing market conditions. The poor quality consultation is

causing employees to engage less in the consultation and redundancy processes and is having a detrimental impact on employee morale and productivity

16. The lack of clarity in the UK's legal regime and inconsistency in the way that employers and employee's representatives apply the law indicates a lack of understanding of it. Many employers are unclear about the point at which they can issue redundancy notices and when redundancies can take effect. The higher-level, 90-day, minimum period and the lack of a clear definition of an 'establishment' are at the heart of the confusion.
17. The current collective redundancy consultation legal framework unduly delays employers' ability to restructure effectively and distracts the parties to the consultation from the important issues under discussion. The call for evidence highlighted that this leads to poorer outcomes for both employers and employees and increases uncertainty. In turn this leads to low morale, a drop in productivity and potentially an increased risk of business failure.
18. The Call for Evidence showed that the 90-day minimum period coupled with a lack of certainty and agreed understanding about the consultation process has driven negative behaviour by both employers and employees' representatives. Employers and employees' representatives do not have an agreed understanding of the point at which consultation should start, the nature of the consultation or the type of information that should be provided to underpin the consultation. There is evidence of employers using the vague definition of an 'establishment' to break up redundancies into smaller component parts in order to avoid the 90-day minimum period, constraining consultation to a smaller unit of employees, and union engagement to a lower level of management. There is also evidence of employees' representatives drawing out ostensibly complete consultations until the 90th day in order to ensure that their constituents continue to draw a salary for as long as possible. Combined, these issues have resulted in a shift away from consultation on substantive issues, such as minimising the number of redundancies or mitigating their impact, and towards a focus on tactics surrounding the consultation process itself.
19. According to HR1 administrative data, approximately 16 per cent of all large-scale redundancies in the UK meet the threshold for the longer minimum period (because they involve 100 or more people). However, a number of employers consult for 90 days or longer even where they are not required to do so by law. In some cases this is driven by an agreement between the employer and the employees' representatives. In other circumstances, employers will do so of their own volition as they recognise the benefits to both them and their employees. Other employers feel compelled by a fear that they will inadvertently fall foul of the legislation and face a costly Employment Tribunal claim.
20. It is important to note that the rules on collective redundancy consultation do not affect only those employees eventually made redundant. The pool of employees involved in the consultation will often be considerably wider and the employer will need to select those to be made redundant from that pool. In this situation most employees will delay seeking alternative employment until their personal position is known. Others, especially those with transferable skills, may be unwilling to accept this uncertainty, resulting in the company losing employees that it may have identified as important to its future successful operation. The Call for Evidence suggests that this uncertainty causes a drop in morale and productivity.
21. The Call for Evidence highlighted that the impact of the current rules was not universal. Some issues were highly sector-specific. In particular, the Call for Evidence highlighted that the application of the rules to the termination of fixed-term contracts at the end of the contract period impacts mostly in the Higher Education sector. It is also understood that this is an issue for the film-making sector. Clarifying the situations where the rules do or do not apply to fixed-term contracts would have a potentially beneficial effect on these sectors.
22. It is also important to consider the impact of changes to the current rules on the ability of Government to offer support to employers and employees. Currently the Government can offer support through its agencies (for example Jobcentre Plus) to help affected employers find the right employees to move forward and to help employees find alternative training or employment opportunities. It is important that the new regime continues to allow the Government to offer this support.

Rationale for intervention

23. In May 2010, the Government made a commitment to review employment laws "for employers and employees, to ensure they maximise flexibility for both parties while protecting fairness and

providing the competitive environment required for enterprise to thrive". The review of the collective redundancy consultation rules is an important contribution to this.

24. Government intervenes in the labour market for efficiency and equity reasons. There are rules in place to cover how collective redundancies are undertaken to overcome information and market power problems which would prevail if left to the market. However, the call for evidence highlighted that the form of intervention could be more efficient, and that the current intervention is changing behaviour in unintended ways (in other words the reason for intervention is Government failure).
25. It is important that employment law is suited to the labour market which it supports. As such, it is right that the Government should be considering changes to collective redundancy consultation rules that have been largely unchanged since 1975. The UK labour market is now more flexible and advances in IT and communications technologies have made consultation easier and faster to carry-out. Similarly, job-seekers have easier access to alternative employment or training opportunities. The balance in this time period has shifted between collective employment rights and individual employment rights, with more emphasis on the latter. This effect is documented in the Acas Research paper "Conflict At Work: The Pattern of Disputes since 1980".
http://www.acas.org.uk/media/pdf/ff/j/Acas_Research_Conflict_at_work_03_08-accessible-version-July-2011.pdf
26. It is important, therefore, to address the inconsistencies in the way that the law is applied by employers and employees' representatives and to improve employer understanding of their obligations. This will help to improve the quality of consultation and will result in better outcomes for both employers and employees. The changes proposed are intended to contribute to a flexible labour market designed to help promote growth and to remove the gold-plating present in the current legislation.
27. When considering Government intervention, it is important to remember that the consultation period is followed by statutory or contractual notice periods for employees selected for redundancy. The intention of this notice period, and not of the consultation period, is to allow employees to seek alternative employment and to put their affairs in order. There is no objective reason why employees affected by redundancies of 20 or more employees should receive greater protection in this regard than those affected by smaller redundancies.

Policy objective

28. The aim of the proposed policy is to support growth through a flexible labour market by creating a simple, understandable process that promotes quality consultation and can be adapted to suit the needs of the variety of redundancy situations.
29. To achieve these aims it is necessary to create a framework that reflects modern working practices and the needs of the modern labour market. We want to help employers work with their employees to ensure that they have the right workers in the right jobs at the right time.
30. This process should be underpinned by a light-touch system of Government support, through agencies such as Jobcentre Plus and the Local Enterprise Partnerships. The Government should be in a position to offer support to employers and employees without distorting the employer's decision making process.
31. We aim to encourage good corporate behaviour through a more flexible regime that is less reliant on statutory intervention and more reliant in awareness of the benefits that good quality consultation can bring.
32. By creating an alternative legislative framework and better quality consultation the new regime will aim to:
 - allow businesses and employees' representatives the flexibility to engage in a consultation exercise that is best suited to their circumstances;
 - improve business flexibility to restructure effectively, ensuring that employers have the right people with the right skills in the right place at the right time;
 - increase the likelihood of agreement between employers and employees' representatives;
 - increase employee buy-in to the decision-making process; and
 - reduce business burdens.

Description of options considered (including do nothing)

33. There is a clear case for a change in the current regime. There are a number of ways that this change can be achieved to allow for greater flexibility but retain a strong element of employee protection.
34. The following options are not mutually exclusive, and the combined effects of some options may in some cases be different from the individual effects.
- Option 1 - Do nothing
35. Making no change either to the legislative framework or the guidance would leave the existing complexities and inconsistencies in place. Whilst a developing set of case law on some of the current issues will help to offer some certainty to business, this is likely to be available only to those with dedicated legal advice. Not changing the current situation will remove any assimilation cost, but anecdotal evidence suggests that there is a lack of understanding of the current law so this advantage is not significant.
- Option 2 – Reduce the minimum period before redundancies could take effect:
36. Reducing the minimum period before redundancies can take effect would help to alleviate business concerns about a lack of flexibility expressed in the call for evidence, and would reduce business costs including wage costs and management time. In practice, some reduction in the time taken may be expected, but the apparent reduction in wage and management costs are tempered somewhat by the fact that many employers will continue to consult beyond this minimum period where there is an identifiable benefit to doing so, for example investigating alternative opportunities for specialist staff with skills that the employer would wish to retain. This was borne out by the call for evidence where responses were clear that where consultation needed to take longer, it did.
37. The option would also help employees by reducing uncertainty around their future role within an organisation. Facing redundancy is a stressful position, as many responses to the call for evidence highlighted.
38. There are two options available to reduce the minimum period:
- a) Reduce it to 30 days
39. This would be the simplest option, ensuring that all collective redundancy consultations would require the same minimum period before dismissals could take effect. It is the option preferred by employers.
40. Harmonising the minimum periods would mitigate the need to decide what the establishment is and allow consultation to concentrate on the substantive issues, rather than procedural issues, and should lead to better quality decisions.
41. The change would also improve certainty for the workforce by increasing the speed with which employees in the pool being consulted know whether or not they personally are going to be made redundant.
42. The change to a 30 day minimum period would require a degree of familiarisation, but that one-off cost would be far outweighed by the ongoing benefit of a less complex regime.
- b) Reduce it to 45 days
43. Discussions with stakeholders during the call for evidence suggested that most consultations reasonably conducted can be concluded in around 45 days, although there will always be differences in complexity. Reducing the period to 45 days would, therefore, have many of the same benefits as the reduction to 30 days in terms of lower wage and management costs for the employer.
44. However, there would be higher assimilation costs and the ongoing uncertainty over whether an employer was required to consult for 30 or 45 days would be less effective in dealing with current difficulties and drivers of bad consultation.
- Option 3 – Improve guidance
45. Assistance could be provided to both employers and employees by clarifying the current law through updated or improved guidance (non-statutory). This could be achieved by either

updating guidance on existing channels or through creating a wholly new Code of Practice setting out the suggested process of consultation.

46. Improved guidance would provide a degree of clarity for employers and employees and would help to improve employer confidence. Better guidance would improve understanding of the point at which consultation should start, the nature of the consultation and the type of information that should be provided to underpin the consultation. This option complements option 2a and option 2b in addressing the quality of consultation and reduces the risks that could be associated with those options.
47. Whilst it is probable that improved guidance will realise some benefits if introduced independently of option 2a or option 2b, it would not achieve legal certainty nor simplify the process to improve business flexibility. It would help to explain the process and to give both employers and employees a focus for establishing good consultative practices, but would not remove the main barriers to good quality consultation.
48. There would be minimal Exchequer costs in establishing and disseminating this guidance.

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

49. Detailed data on how collective redundancy consultations are conducted is limited, so BIS issued a call for evidence to improve understanding of how the current collective consultation rules affect business and to gain an early understanding of what impact possible changes might have. This IA relies on information collected in that call for evidence, together with Labour Force Survey data on redundancies and administrative data on large scale collective redundancies (referred to as HR1 data through the text). There is also information from the European Restructuring Monitor.
50. The objective of the policy is largely qualitative, around achieving a higher quality of consultation which should lead to better outcomes for employers and employees. However, the nature of the objective and the intervention means that the impacts are also largely qualitative and very difficult to quantify. Where impacts can be quantified this is set out and explained.

Monetised and non-monetised costs and benefits of each option

Who is Affected?

51. **Employers of 100 or more people** are subject to the longer, 90-day minimum period set out in the rules around large scale redundancies if they make 100 or more people redundant. These proposals could reduce the amount of labour costs paid by these employers if consultation periods reduce, and allow them more flexibility to adjust to changing circumstances. However, this effect is partly offset by a reduction in output that would have been produced in many cases during consultation.
52. **Employees involved in collective consultation but not made redundant.** Administrative data (HR1) suggests that over the last five years on average only 17 per cent of those employees consulted were actually made redundant. Many more employees are consulted but not made redundant. These proposals would potentially shorten the period of consultation and if guidance is effective, improve the quality reducing the negative impact on employees' morale and productivity.
53. **Employees made redundant.** Those that are made redundant as a result of a large scale collective exercise are likely to receive their redundancy notice more quickly than under the current situation, and therefore be paid for a shorter period of time by their current employer. Depending on their job search behaviour the changes will affect people differently. For some they may be able to move to a new job more quickly, for a small number of people this may cause them to need to claim job-seeker's allowance where they may previously have moved straight into alternative employment. Those that would have claimed JSA for a time anyway may do so sooner, but the duration of time spent claiming JSA will be unaffected.
54. **Economy-wide.** Whilst changes in the rules will affect employers and employees involved in collective redundancy consultations, the economy-wide effect may be a rise in productivity if employees move more quickly to new employment or can move on more quickly within their current employment, as the identified impact of employees being less productive during collective

consultation should be reduced. Whilst affected employers should also see a drop in labour costs (with associated reductions in output as workers leave more quickly), these effects are both local to the firm and aggregate at the economy level.

Option 2a

Employers carrying out collective redundancy consultations:

55. *Reduction in management time spent in conducting the consultation.* Many responses to the Call for Evidence noted that a reduced consultation period would save management time and therefore cost in dealing with a collective redundancy consultation. However, the intention of the proposal is to achieve higher quality consultation through a simple, understandable process. This means that the process of consultation with staff may not take less time than it does currently in terms of management time, meetings with employees and employee representatives, just that once consultation is concluded employers do not face barriers (in terms of minimum time periods above 30 days) from going forward with their restructuring plans.
56. The consultation period will be used to explore further with stakeholders whether this exact proposal is likely to lead to reductions in staff time spent. No impact is quantified at this point, but if consultation reveals that savings are likely these will be quantified by multiplying likely time savings by wage and non-wage labour costs of the likely employees involved. This would be aggregated across the potential number of large scale collective redundancy situations to give an annual cost saving. HR1 administrative data suggests there are around 560 such situations in a year.
57. *Reduction in wages and non-wage labour costs paid by employers carrying out collective redundancies as a result of the removal of the 90 day minimum period.* Although some reduction in the time employees are paid for is anticipated, it is not the case that this will be a reduction of 60 days (90 days current less 30 days proposed). This is because a significant number of consultations will take much more than 30 days to conclude properly. The Call for Evidence sought to understand typical length of collective redundancy consultation. Many respondents did not answer this question, and of those that did, many recorded 90 days, possibly due to misunderstandings around the current legislative requirements. This gave an average length of time of 86 days. Furthermore, some employers are likely to change behaviour in response to any change in the minimum time period. Further discussions with stakeholders during the call for evidence suggested 45 days was a reasonable length of time to successfully carry out collective consultation, but there is clearly some uncertainty.
58. After collective redundancy consultation has concluded, employees have notice periods which need to be honoured. Statutory notice periods vary with length of continuous employment but are a maximum of 12 weeks for 12 years or more continuous service. Contractual notice periods are typically one month or three months where they differ from statutory notice periods. This means that even in possible cases where consultation would reduce to 30 days, notice would still apply on top of this, limiting the wage cost savings.
59. The problem in establishing typical collective redundancy consultation lengths at all is that the number of redundancy situations involving 100 people or more is limited (there are around 560 such situations per year on average according to HR1 data from the Insolvency Service), and situations vary considerably, so there is not a “typical” collective redundancy situation.
60. However, it is reasonable to conclude that there will be some reduction in the time it takes between the start of a collective consultation and the time that some redundancies take effect based on the volume of responses to the call for evidence that cited a reduction in wage costs as an impact of reducing the minimum consultation period.
61. The accompanying public consultation will seek to understand how much time could be saved, including by exploring the issue with businesses that have been through collective redundancy consultations, and once this is clearer the potential impact will be fully monetised.
62. The methodology for monetising possible savings in wage and non-wage labour costs will be as follows:

- (A) Number of people made redundant as a result of collective redundancy situation involving 100 or more people: 75,000 based on HR1 data (administrative data generated by the requirement of firms to notify a public sector body in these situation, this figure is an average across the last five years). European Restructuring Monitor data would suggest a slightly higher number, but HR1 data is taken as a more conservative approach.
 - (B) Median weekly pay (£404 from ASHE 2011), plus 16.4 per cent non-wage labour costs (source: Eurostat: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lc_an_struc_r2&lang=en)
 - (C) Time saving from removing the minimum time period for consultation (in other words how much quicker redundancies might take effect) in weeks. This assumption needs further investigation through consultation. As discussed above responses around the average time taken for consultation are not considered reliable, and in any event would ignore changes employers may make to processes if legislation on minimum time periods is changed. However, the call for evidence does suggest there is a time saving.
 - Total labour cost savings = A * B * C
63. To illustrate the potential monetised benefit, if, on average, redundancies took place one week earlier, this would result in approximately £35 million per annum saving to employers across the private and public sectors.
64. *Reduction in output that would have been produced.* However, any labour cost saving is at least partially offset by the loss of output that would have been produced during this period. As discussed in paragraph 8 and Chart 2, there are different reasons why collective redundancy situations arise. In some cases, it is because of bankruptcy or closure (21 per cent of cases). In other cases it is due to a fall in demand. In some of these situations there will be next to no output produced during collective consultation, in others output will be much higher.
65. As a result the net savings to employers will be the total labour cost savings less the output that this labour would have produced. There are two key reasons to believe that this loss of output will be lower than the reduction in labour costs (and that there would be net savings). Firstly, whilst a collective consultation is underway, respondents to the call for evidence highlighted that productivity will fall both due to the impact on morale, and due to the time needed for the process of collective consultation. Secondly, the decision to make large scale redundancies will often be taken because there is not enough value produced for the cost of this labour. During consultation on these proposals this effect will be explored to try to understand the magnitude of this loss of output effect.
66. *Productivity Benefits:* As highlighted above, a number of respondents to the Call for Evidence highlighted that during collective consultation exercises the impact of that consultation can be very disruptive. It can affect staff morale, and lead to a reduction in productivity both through impact on morale and the time needed to deal effectively with the consultation. Some staff will leave to take-up other posts. In addition, collective redundancy exercises often happen due to internal restructuring or bankruptcy/closure (see paragraph 9). Reducing the minimum consultation period should speed up the movement of resources to more productive uses across the economy.

Employees

67. *Employees who are made redundant after a collective redundancy consultation:* It is worth noting again that this option will apply to around 75,000 employees in a year (this is the average of the last five years' administrative data), which is a very small percentage of the employee population. Those made redundant not as part of a large scale (100 people or more) exercise will be unaffected, and currently have a 30 day minimum consultation period (for cases of 20 or more people) or no minimum period for small numbers of redundancies. The impact on employees is that where they are in a large scale collective redundancy and they are made redundant their redundancy situation may happen sooner.
68. *Reduction in wages received:* This would mean wages saved by employers are matched by wages lost to employees. The calculation for establishing what that reduction in wages paid by

their existing employer would be the same as that to establish the employer saving described in paragraph 56, with the exception that non-wage labour costs would not be included. The consultation on these proposals will seek better information on the likely reduction in time before redundancies take effect.

69. *Possible reduction in time to search for new employment:* Respondents to the Call for Evidence noted that a 90 day period does allow time for employees to look for alternative employment. During the consultation period, some individuals will actively seek alternative employment; whilst others will wait for receipt of their redundancy notice (after consultation) because at redundancy consultation stage it is often unclear which employees will actually be made redundant.
70. For those that actively seek employment before redundancy notices are issued, they may have less time for this job search activity. This could marginally increase the number of individuals made redundant who spend time unemployed before moving into new employment, but any effect would be very small. The average duration of unemployment should not increase as a result of these measures. Once a consultation has concluded, redundancy notices can be issued, but employees are then given their notice period. Standard notice periods vary, but the most typical lengths are one month and three months. The purpose of notice periods is to give individuals time to search for employment and sort out their financial situation. This is not the purpose of consultation periods, because at consultation stage in most cases individuals are not *certain* that they will be receiving a redundancy notice themselves.
71. On the other hand, some respondents to the Call for Evidence highlighted a friction between the employees' desire to move on before the end of the consultation period and their desire to receive their redundancy payout. The length of consultation can exacerbate this problem especially where this leads to difficult decisions with job offers that would require them to resign from their current employment before they are made redundant.
72. The latest quarter of Labour Force Survey shows that 32.9 per cent of those made redundant in the previous three months are in employment in the Labour Force Survey reference week. This refers to all redundancy situations, not just those involving 100 or more employees.
73. *Subsequent employment:* There is evidence (including a paper by Borland et al "They Get Knocked Down. Do They Get Up Again? Displaced workers in Britain and Australia") that spells of unemployment can lead to lower future earnings. However, as discussed, it is unlikely that these measures would affect this further.
74. *Possible improvement in quality of consultation and reduction in stress and uncertainty:* As discussed in paragraph 17, there is evidence of employers avoiding the 90-day minimum period and evidence of both parties prolonging or drawing out consultation for longer than necessary. These effects combined constrain consultation to a smaller unit of employees, and union engagement to a lower level of management. Having the same minimum period across all collective redundancy situations involving 20 or more people will improve the chances that consultation happens at the right level.
75. If a better quality consultation can be achieved with maintenance of reasonable relations on either side, then the impact on the employee is likely to be positive, with some reduction in the uncertainty and stress involved. This was an impact highlighted by some respondents to the call for evidence. Some time saving and a more constructive process should improve employee morale at a difficult time, as the current minimum time period can prolong uncertainty. An improvement in quality of consultation is likely from changing the current regulation, but the effect is likely to be stronger if this option is combined with effective guidance (option 3). Whilst issues over the quality of consultation have been raised extensively by the call for evidence, this will be further explored during consultation to test the extent to which it is likely that the quality of consultation will increase now that there are specific proposals.
76. *Employees involved in collective redundancy consultations who are not made redundant:* As discussed in paragraph 6 and 19 it is not just the employees who are made redundant who are affected by collective redundancy consultations, indeed of those involved in a collective consultation 17 per cent were actually made redundant (averaged across the last 5 years from administrative/HR1 data). Collective consultations will involve a pool of employees, from whom the employer will need to make decisions about who will receive a redundancy notice. All employees involved in the consultation face uncertainty and stress over whether they will have their current job going forward, and equally over the position of their friends and colleagues. As this proposal may lead to some reduction in consultation periods it could reduce uncertainty.

Exchequer

77. There may be some (very small) overall increase in costs relating to job seeker's allowance (JSA). This is due to a possible (again small) increase in the number of employees who might go on to JSA before finding new employment amongst those employees who currently use the collective consultation period for job search and succeed in moving straight to new employment. However, we expect this to be limited because in general, collective consultations will cover many more employees than are actually made redundant, therefore although some search for alternative employment in this time, others will wait for confirmation that they are actually going to be made redundant. The consultation period will be used to try to understand this potential impact better through understanding employees' approach during this period. If this reveals a more significant potential impact we will monetise the Exchequer impact of additional JSA claims.
78. Under the current arrangements there are also individuals that end up claiming JSA after their redundancy before moving to other employment. As there may be some reduction in the amount of time between a redundancy consultation starting and redundancies taking place, these people could end up claiming JSA sooner. The proposals should not affect average duration of unemployment, therefore the amount of time spent claiming JSA should remain the same and the exchequer impact from this effect would be minimal.
79. There is a risk that in relying more on agreement between employers and employees to determine when consultation is complete that there may be more disputes about this, which could result in additional claims to employment tribunals. This would be anticipated in the short term. Data from Her Majesty's Courts and Tribunals Service (HMCTS) shows that in the last financial year (2010-11) there were 7,400 claims accepted to employment tribunal for failure to inform or consult about redundancy. Many of these claims will be multiple claims (a number of individuals claiming against the same employer). This effect will be mitigated in the long-term by successful implementation of option 3 which should make employers' and employees' obligations clearer.
80. The National Insurance Fund is sometimes required to pay employees in the case of companies that have become insolvent. However, the proposal has been discussed with the Insolvency Service and they do not anticipate an impact from these changes.

Option 2b

Employers

81. This option would reduce the minimum time for consultation relative to do nothing (90 days). As discussed in paragraph 56, stakeholder discussions suggest that most successful consultations last for around 45 days. This means that there may not be a reduction in the amount of time that the process of consultation with staff takes. It may be that it requires the same management time and the same number of meetings with employees and employee representatives. It will, however, mean that once consultation is concluded employers will face lower barriers (in terms of minimum time period above 45 days) from going forward with their restructuring plans.
82. However, it would retain some specific regulation about the length of time needed for consultation. As a result it is less likely that this option would improve the quality of consultation or stop entirely the reliance on procedure because a differential will still exist between collective consultation involving 20 – 99 employees, and collective consultation in the large scale (100 plus) cases.
83. This option is likely to yield similar savings in terms of reduced wage and non-wage labour costs to those detailed for option 2a.

Employees

84. The likely impacts on employees are very similar to option 2a in most respects, indeed as this length of time may well be consistent with the time taken to conduct successful consultation,

there may be little difference between option 2a and 2b in how much quicker a redundancy may take effect.

85. This option is likely to lead to a shortening of the minimum consultation period and therefore bring forward the time when a redundancy takes effect. This may provide benefits to employees in reducing uncertainty and allowing them to seek alternative employment more quickly. It also could lead to less time in their current place of employment receiving wage payments. Similarly for employees not facing redundancy it will decrease the period of uncertainty before their situation is known.
86. The main difference with option 2a would be that a continued difference in rules between situations affecting 20 to 99 employees and those affecting 100 or more is likely to mean that regulation continues to skew behaviour. The issues around the definition of 'establishment' will still arise and will be difficult to address fully through guidance. Although combining this option with successfully implemented guidance (option 3) should raise the quality of consultation, it is unlikely that option 2b on its own would do very much to improve the quality of consultation.

Exchequer

87. Although even smaller than in option 2a, there is potential for some additional JSA claims relative to leaving the time period for consultation at 90 days.
88. Altering the minimum time period as in this option may lead to more challenges at employment tribunal under the redundancy - failure to inform/consult jurisdiction. However, this impact is likely to be smaller than under option 2a, and is likely to be a short-term impact.
89. There is the potential that reducing the minimum periods could result in employees affected by very large-scale redundancies having less access to Government support and thus finding it more difficult to find alternative training or employment opportunities. This option would mitigate that impact to a degree when compared with option 2a. However, the Call for Evidence suggests that employers in these situations are unlikely to conduct shorter consultations and so the impact should be minimal.

Option 3: Guidance

90. The guidance currently available does not set out clearly what constitutes good quality consultation. Nor does it address important issues including scope (for example when fixed-term appointees should be included in the threshold count) and the definition of an 'establishment'.
91. Improved guidance will provide a useful tool for employers and employees' representatives to allow them to gain a better understanding of the point at which consultation should start, what it should cover, how it should be conducted and when it can be deemed to have finished. It will, however, leave sufficient flexibility to allow the consultation to be tailored to the unique circumstances of the individual consultation.
92. This will provide greater certainty for employers about their rights and responsibilities under the legislation. This will, in turn, allow them to conduct better quality consultation and reach better decisions. Employees will be more engaged in the process and will therefore suffer less reduction in morale and productivity.
93. Employees would benefit from improved quality consultation as they will be better placed to find alternative employment or to understand how they fit into the organisation in the future.
94. There would be minimal costs to the Exchequer in establishing a Code of Practice. It is hoped that a Code of Practice will help to minimise the impact of legislative changes on the number of employment tribunal cases.

Familiarisation Costs

95. There would be one-off familiarisation costs to employers as a result of options 2a and 2b. These would potentially apply to all employers employing more than 100 people. In practice, employers facing a collective consultation will familiarise themselves with the rules in depth at this stage, as

a result we estimate only a small amount of time is spent familiarising with the change in regulation by all relevant employers.

96. Familiarisation costs are calculated as: no of enterprises employing more than 100 * HR manager median hourly wage (£21.97 from ASHE 2011, with 16.4 per cent non-wage labour costs added) * time (hours) spent familiarising (calculation illustrated using 30 minutes). Business Population estimates (see <http://stats.bis.gov.uk/ed/bpe/>) show that there were 16,515 enterprises employing 100 or more staff in 2011.
97. This suggests that one-off familiarisation costs would be around £200,000, but this estimate is illustrative at this stage.

Wider impacts, Risks and Assumptions

98. An equality impact assessment has been carried out and is included at Annex A. These policy proposals are not expected to impact disproportionately on any protected group.
99. The policy is not applicable to small businesses as it only applies in large scale redundancies.
100. The policy intention is that improvements in the quality of consultation will compensate for the potential reduction in periods of consultation. It is possible, though, that some employers will reduce the amount of time for which they consult without addressing the quality of consultation. This could result in significant reductions in consultation periods over and above those envisaged for the variants of option 2, and worse outcomes for employees. It will be necessary to ensure that employees' representatives, in particular unions, understand their roles both in contributing to an effective consultation process and in ensuring employers' compliance.
101. Employers are free to dismiss their employees and re-employ them on altered terms and conditions of employment. Where this happens, they are currently required to consult as if it were a large-scale redundancy. Pursuing either option 2a or option 2b would make this easier, as it would not require 90 days' consultation. This could have an adverse effect on the quality of employees' continued employment, but would have a positive impact on employers' flexibility.
102. There is a further risk that a shorter minimum period could reduce the Government's ability to intervene in redundancies that could have a high social, economic or political impact. This could result in greater expense for the Exchequer due to longer-term unemployment of those affected. However, the Call for Evidence suggests that this risk is mitigated by the fact that, in the cases where Government can make a difference (for example in very large redundancies prompted by a single act such as disinvestment or a site closure), the employer tends to recognise the significance of their actions and runs either an extended consultation or offers an extended notice period.
103. As set out in paragraph 8 and table 2, there have been concerns raised by some that the current collective redundancies regime harms international competitiveness. A possible indirect consequence of pursuing option 2a or 2b could be an improvement in international competitiveness. However, as paragraph 8 notes, although minimum consultation periods in the UK are longer, there are other factors which make the picture less straightforward. It is therefore unlikely that these measures would have a significant impact on the attractiveness of operating a business in the UK.
104. The impact assessment relies on data around the level of large scale redundancies. The assessment recognises there are limitations in this data, but does assume that recent historical averages continue. Large scale redundancies will tend to increase in periods of recession or economic downturn.

Direct costs and benefits to business calculations (following OIOO methodology)

105. If consultation confirmed that the measures involved a net benefit to business, this measure would qualify as an out – it is an amendment of existing regulations which reduces regulatory requirements, with direct net benefit to business. It is outside the requirements of the micro business moratorium as the collective redundancy rules by definition do not apply to micro businesses and therefore this measure has no impact on micro businesses.
106. As set out in paragraph 60 to 64 it is unclear exactly what the magnitude of business benefits is likely to be, and this will be explored further through consultation.

Summary and preferred option

107. The Government's preferred option is to produce amended guidance as set out in option 3, in combination with either option 2(a) or option 2(b). The clearer guidance will help support better quality consultation whilst whichever option is selected for the reduced minimum period will help to improve business flexibility. Together they should meet the demands of employers for greater flexibility whilst still retaining protection for employees and allowing the Government to offer effective support to those affected.

Annex A: Equality Impact Assessment

The Department for Business, Innovation and Skills (BIS) is subject to the public sector duties set out in the Equality Act 2010. Equality Impact Assessments are an important mechanism for ensuring that we gather data to enable us to identify the likely positive and negative impacts that policy proposals may have on certain groups and to estimate whether such impacts disproportionately affect such groups. This Equality Impact Assessment takes a summary view of the equality impact of both proposals being taken forward by BIS on the rules regarding collective redundancy consultation.

The proposals considered here are:

- Proposal 1: Reduce the minimum periods before consultation can take effect
- Proposal 2: Improve Government guidance

The proposal's objectives are to create a simple, understandable process that promotes quality consultation and:

- allow the parties to engage in consultation that is best suited to their circumstances;
- improve business flexibility to restructure effectively;
- reduce business burdens; and
- ensure that affected employees are better equipped to re-enter the labour market after the redundancy.

The impact is not expected to involve a significant reduction in time spent on consultation and we do not anticipate a disproportionate impact on any protected group. However, we will use the consultation period to gather evidence and ensure a thorough understanding of the potential impacts of these proposals.

The Department for Business conducted a call for evidence between November 2011 and January 2012. The responses to that call for evidence did not highlight any specific equality impact issues.

Proposal 1 – Reduce the minimum periods before consultation can take effect

Currently, redundancies can only take effect at least 90 days after the start of consultation where 100 or more redundancies are proposed. In order to simplify the legislative framework, the Government proposes to reduce this to either 30 or 45 days to bring the minimum periods more in line with the minimum time period for effecting redundancies affecting 20-99 employees. The changed framework should provide for better quality consultation and better outcomes for both employers and employees.

Only 16% of collective redundancies feature 100 or more employees, affecting approximately 75,000 employees annually.

The policy proposal is not expected to lead to a higher number of redundancies, nor is it likely greatly to reduce the time between the start of consultation and the dismissal taking effect. However, there is the potential that the proposed change will result in employees being dismissed up to 45 or 60 days earlier than is currently the case.

It is believed that this will not have an impact on the ability of employees to find alternative employment; indeed it is likely that the employees will be in a better position, emotionally, to seek alternative employment where the potential for improved consultation standards is

realised. It is possible that employees will lose out on up to 60-days pay that they would receive under the current regime.

Proposal 2 – Improve Government guidance

There is currently a lack of understanding amongst employers and employees of the law around collective redundancies. This is driving bad quality consultation that focuses too much on the process of consultation and not enough on the substantive issues at stake. In particular, confusion about the definition of an ‘establishment’ is leading some employers to break up redundancies into smaller chunks than might otherwise be the case and other employers to delay dismissals for longer than is legally necessary. Similarly employers and employees’ representatives do not always have an agreed understanding of the points at which consultation should start and end.

This confusion means that employees suffer from uncertainty about the process for redundancies and the point at which the decision as to whether they will face will redundancy will be made. It delays the start of consultation with individual employees and has a negative impact on employee morale and productivity. Employees are also uncertain about when they can or should look for alternative employment or training opportunities.

Improving the available guidance will allow the Government to offer a degree of clarity on some of the most contentious issues. This should help to improve the quality of consultation. We do not expect this to reduce the number of redundancies which take place, but we do anticipate that it will have a positive effect on the affected employees’ experience of consultation and redundancy. This should result in employees feeling more positive about the final decision and as a consequence better-equipped to seek alternative training or employment opportunities, potentially reducing the length of time that they spend in unemployment.

Characteristics of those Made Redundant

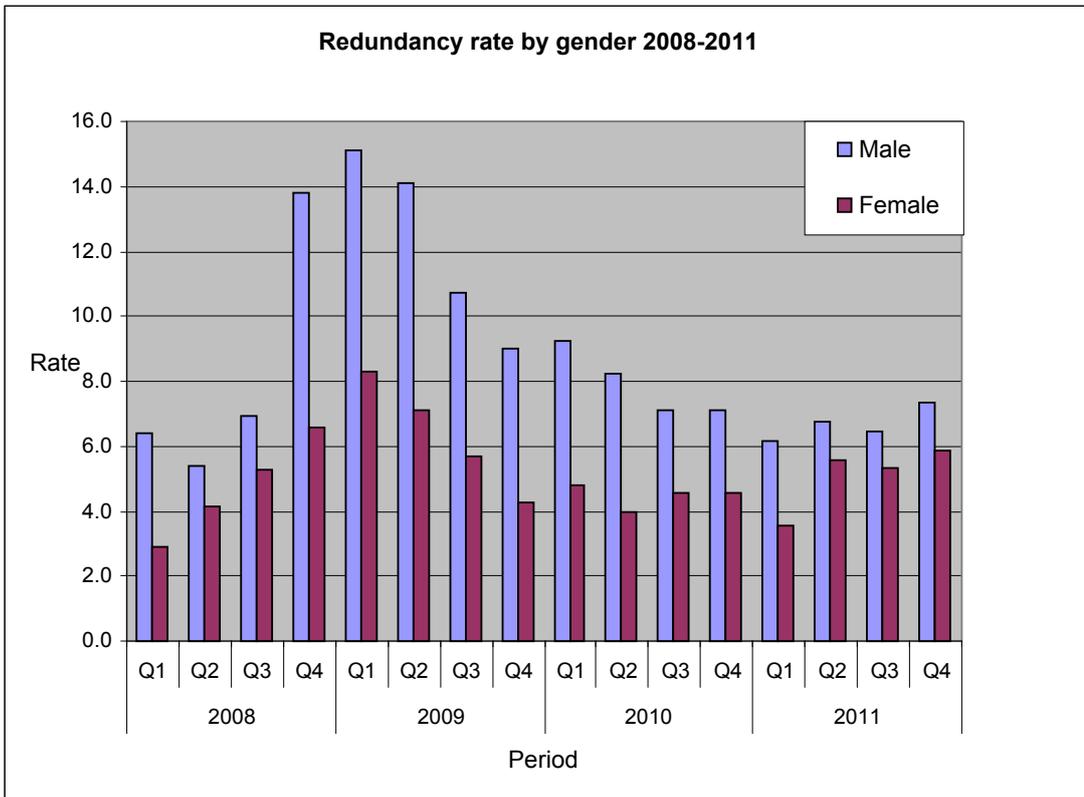
In the remainder of this assessment we consider what is known about the characteristics of those made redundant. There are no detailed breakdowns of the characteristics of those involved in collective redundancy situations involving more than 100 people. Similarly there is no data to reflect the number of employees involved in consultations who are not subsequently made redundant. Data from the Labour Force Survey is available to show how redundancy rates (a measure of redundancies relative to the number of employees in the particular group) vary by gender and by age.

Further breakdowns by protected characteristics are limited by small sample sizes, but where available, these are discussed below.

Gender

Chart 1 shows variation by gender, although this period covers the recent recession where redundancies disproportionately affected men. As the chart shows, in recent quarters, this gender gap has narrowed, probably due to more redundancies happening in the public sector.

Chart 1 (Source ONS Labour Force Survey)

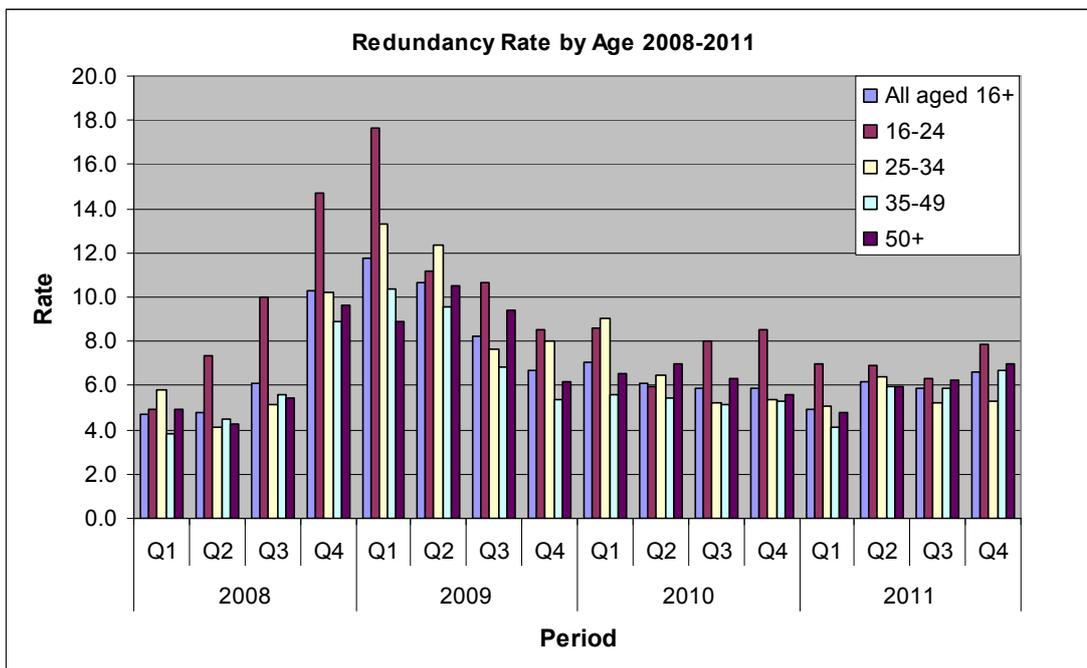


As far as this proposal is concerned it is hard to determine the gender proportions of those likely to be subject to large scale collective redundancies in the future. Further large scale redundancies in the public sector may affect women more, but manufacturing has typically also been a sector where large scale redundancies are more common. Here more men than women are employed.

Age

Chart 2 shows redundancy rates by age. This shows that often the redundancy rate of 16 – 24 year olds is higher than the average across the working population, although the effect has been less marked in recent data.

Chart 2

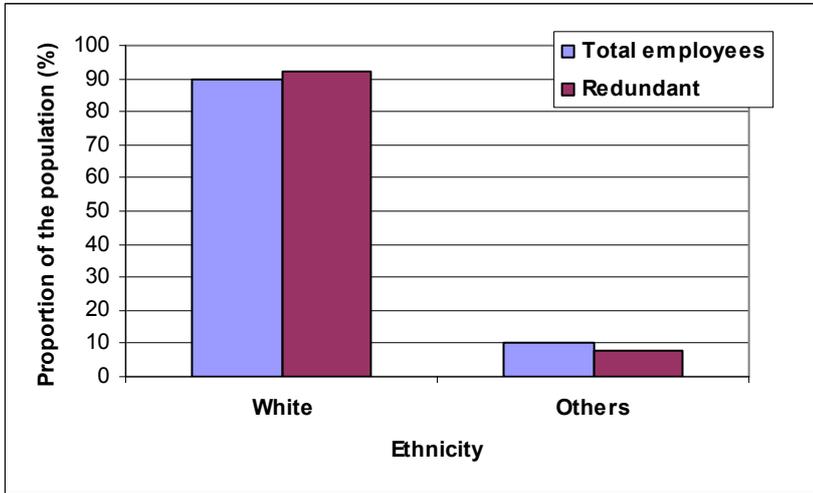


Source: Labour Force Survey

Ethnicity

Sample sizes do not allow us to look at a full breakdown of ethnic groups. All we can tell is that the proportion of white people amongst the population of those made redundant is slightly higher than the proportion in the employed population as a whole. For other groups this effect is the other way round.

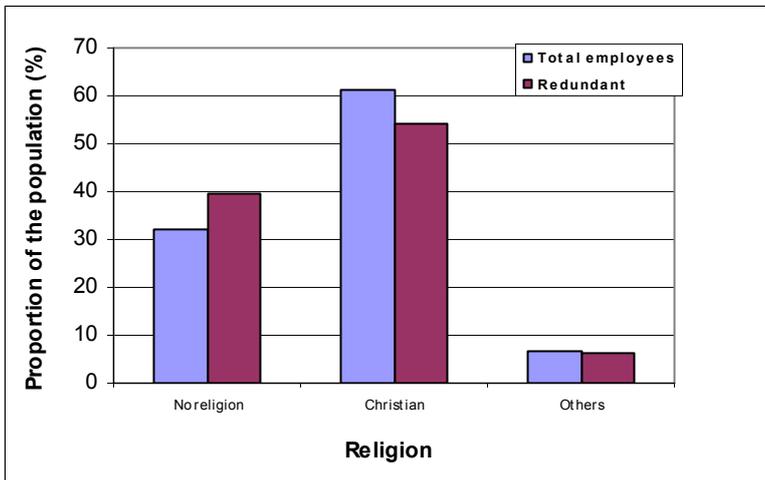
Chart 3: Ethnicity – proportion of the working and redundant populations



Source: Labour Force Survey

Religion

Similarly for religion we cannot see breakdowns by different religions, except “no religion” and “Christian”. Those with no religion are slightly over-represented in the population of those made redundant. This is the other way around for those stating they are Christian.



Source: Labour Force Survey

Annex B: Post Implementation Review

If any of these proposals are taken forward and implemented, they will be subject to Post Implementation Review after three to four years.

This will look at whether the objectives of the changes have been met and whether any of the risks have been realised (or indeed whether any other unintended consequences have emerged). This will require review of information including:

- Administrative data on collective redundancies (for example are there changes to the proportions of situations involving 100 or more employees)
- Administrative data on employment tribunal claims relating to consultation of employees in collective redundancy situations
- Feedback from business stakeholders on how the situation has changed, including work to determine changes in employer time and costs
- Feedback from employee stakeholders, including for example Jobcentre Plus, on what the impact has been on employees.

Before any proposals are implemented, baseline measures will be established.

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