

Title: One-Sided Flexibility Consultation IA No: BEIS010(C)-19-LM RPC Reference No: RPC-4405(1)-BEIS Lead department or agency: Department for Business, Energy and Industrial Strategy Other departments or agencies:	Impact Assessment (IA)			
	Date: 31/07/2019			
	Stage: Consultation			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
Contact for enquiries: Harry Ravi harry.ravi@beis.gov.uk				
Summary: Intervention and Options			RPC Opinion:	

Cost of Preferred (or more likely) Option (in 2016 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status Qualifying provision
-£158.4m/-£80.2m	-£158.4m/-£2,145.2m	£18.4m/£249.2m	

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

An issue highlighted within the Taylor Review of Modern Working Practices was around those in flexible forms of work, termed 'one-sided flexibility'. This reflects the way that some employers use the flexibility on offer in the labour market, to transfer risk to, and thus exert control over workers. As found by the Low Pay Commission, some employers exert their control to offer or cancel working hours at short notice, leading to issues around income insecurity, unpredictability and an inability for workers to exert their rights. The Low Pay Commission have recommended Government intervention to address this imbalance of power amongst egregious employers and vulnerable workers. We are consulting on how to effectively do this.

What are the policy objectives and the intended effects?

The policy options here look to address this imbalance of market power, with four key objectives.

- To improve the stability of employment for atypical workers, increasing their financial stability through guaranteed hours or permanent employment
- Address instances of poor workforce planning by some employers
- Encourage conversations between workers and employers to facilitate the sharing of the benefits of flexibility and to promote effective workforce management

Promote genuine flexibility to enable workers to balance working life with personal commitments

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

The consultation will invite views on two legislative options: a right to reasonable notice of work schedules (e.g. a worker should get notice of their working hours x days prior), and the provision of compensation for shifts cancelled at short notice. These are based on recommendations set out by the Low Pay Commission. We will also invite views on a non-legislative option of providing guidelines to employers and engaging with business to help them drive change throughout their respective industries. At this stage, the Government does not have a preferred option. This will be refined post-consultation in a Final-stage Impact Assessment.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: tbc				
Does implementation go beyond minimum EU requirements?		N/A		
Is this measure likely to impact on trade and investment?		N/A		
Does this measure comply with our international trade and investment obligations, including those arising under WTO agreements, UK free trade agreements, and UK Investment Treaties?		N/A		
Are any of these organisations in scope?		Micro Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded:		Non-traded:

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

Signed by the responsible SELECT SIGNATORY Date:

FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 2020	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -135	High: -217	Best Estimate: -186

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£42.5	£10.8	£135.2
High	£124.1	£10.8	£216.8
Best Estimate	£93.5	£10.8	£186.2

Description and scale of key monetised costs by ‘main affected groups’

There is anticipated to be a substantial familiarisation and implementation cost for businesses, reflecting the fact that this is the creation of a new right. The implementation costs associated with this policy include employers undertaking a “workforce planning” exercise, whereby the take stock of their current practice and identify necessary adjustments, the maintenance of records for when workers are notified of their shifts, and an ongoing cost of record provision to workers.

Other key non-monetised costs by ‘main affected groups’

There is the potential for a loss of flexibility that businesses are able to accrue from offering shifts at short notice. If businesses are unable to find workers to meet their working hours, there may be an increased risk of output loss, however we believe that this risk is minimal. It is proposed that, under the right to reasonable notice of work schedules, workers should be able to take on additional shifts should they wish, with protection from detriment for turning down short notice shifts.

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

Description and scale of key monetised benefits by ‘main affected groups’

No benefits have been monetizable in this impact assessment.

Other key non-monetised benefits by ‘main affected groups’

This policy would address three specific areas of one-sided flexibility – income insecurity, unpredictability of hours and the ability for workers to assert their rights. Improved workforce planning by employers could allow workers to improve their work-life balance and allow for additional work to be taken on. Additionally, we believe that this policy will have benefits to the employer too, as quality labour standards enable innovation, flexibility and responsiveness by firms.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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Our low, central and high estimates vary significantly due to the assumptions made on what time is deemed as “not reasonable notice”. For this IA and to present indicative costs, we have assumed this could be 24 hours, 72 hours or 7 days. However, we do not wish to presuppose the consultation and will revise these assumptions pending the consultation results. We make assumptions around the time spent to undertake various tasks, most notably for the workforce planning exercise. It is likely that the behavioural responses by employers will manifest in a variety of ways.

Our initial assumptions have been informed through informal engagement with stakeholders, however we will test this more rigorously throughout the consultation period.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 21.6	Benefits: 0.0	Net: 21.6	
			92.0

FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 2020	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -65.3	High: -130.8	Best Estimate: -94.3

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	65.4	238.7	2,119.8
High	130.8	360.2	3,231.1
Best Estimate	94.3	282.1	2,522.3

Description and scale of key monetised costs by ‘main affected groups’

There is anticipated to be a substantial familiarisation and implementation cost for businesses, reflecting the fact that this is the creation of a new right. The implementation costs associated with this policy include employers undertaking a “workforce planning” exercise, whereby the take stock of their current practice and identify necessary adjustments, the maintenance of records for when shifts are cancelled at short notice, and an ongoing cost of compensation to workers for short notice shift cancellations.

Other key non-monetised costs by ‘main affected groups’

There is the potential for a loss of flexibility that businesses are able to accrue from cancelling shifts at short notice. Additionally, the provision of compensation may result in employers cutting back on other benefits to workers (e.g. paid breaks) to mitigate the additional financial cost. Dependent on the compensation mechanism (on which we are consulting), employers may choose to schedule short shifts, thus lowering the amount of compensation they would be liable to pay if it is cancelled.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	238.7	2,054.4
High	0.0	360.2	3,100.3
Best Estimate	0.0	282.1	2,427.9

Description and scale of key monetised benefits by ‘main affected groups’

The compensation that is paid by businesses, due to short notice shift cancellations, will be received by workers (i.e. a substantial amount of the monetised cost to business will be a transfer to workers).

Other key non-monetised benefits by ‘main affected groups’

This policy would allow employers to benefit from quality labour standards, that enable innovation, flexibility and responsiveness by firms. They may also benefit from the improved worker relationship and the benefits associated with no longer experiencing detriment by unfair competition from egregious employers. Additionally, compensation for shift cancellations would incentivise better workforce planning by employers, addressing worker issues around income insecurity and unpredictability.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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Our low, central and high estimates vary significantly due to the assumptions made on what time is deemed as “not reasonable notice”. For this IA and to present indicative costs, we have assumed this could be 12 hours, 24 hours or 7 days. However, we do not wish to presuppose the consultation and will revise these assumptions pending the consultation results. We make assumptions around the time spent to undertake various tasks, most notably for the workforce planning exercise. We have attempted to quantify behavioural responses where possible, however it is likely that they may manifest in a variety of ways. Our initial assumptions have been informed through informal engagement with stakeholders, however we will test this more rigorously throughout the consultation period.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 293.0	Benefits: 0.0	Net: 293.0	
			1,246.1

FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 2020	Time Period Years 1	Net Benefit (Present Value (PV)) (£m)		
			Low: -	High:-	Best Estimate: -6.7

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	-	-	-
High	-	-	-
Best Estimate	6.7	-	6.7

Description and scale of key monetised costs by ‘main affected groups’

There is an estimated indirect, one-off familiarisation cost incurred by businesses of £6.7 million. This assumes that all businesses who utilise flexible working arrangements will familiarise themselves with the principles put forward.

Other key non-monetised costs by ‘main affected groups’

While the content of the guidance is still to be determined, it is feasible that the principles put forward may result in indirect implementation costs. There may be further indirect costs such as the potential for a loss of flexibility or employers cutting back on other benefits to workers (e.g. paid breaks) to mitigate any additional financial/output loss.

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’

No benefits have been monetizable in this option

Other key non-monetised benefits by ‘main affected groups’

It is anticipated that the principles set out in the guidance would allow employers to benefit from quality labour standards, that enable innovation, flexibility and responsiveness by firms. They may also benefit from the improved worker relationship and the benefits associated with no longer experiencing detriment by unfair competition from egregious employers.

Key assumptions/sensitivities/risks

Discount rate (%)

-

The principles that will form the guidance have not yet been set out, and are subject to the consultation. Therefore it is not clear what costs or benefits will actually materialise. It is also not yet clear what the take-up of such voluntary guidance would be. We have currently estimated that all businesses who utilise flexible working arrangements (20% of the entire business population) would take the time to familiarise themselves with the guidance

BUSINESS ASSESSMENT (Option 3)

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

Evidence Base (for summary sheets)

Background

1. The Matthew Taylor Review of Employment Practices in the Modern Economy ('Good Work: The Taylor Review of Modern Working Practices'; hereafter referred to as 'The Review') was a wide-ranging review of whether, and how, employment practices need to change to keep pace with modern business models. The Review considered the implications of new forms of work (e.g. those driven by digital platforms) and less secure forms of work (e.g. agency work and zero-hour contracts) for:
 - a. Employee rights and responsibilities;
 - b. Employer freedoms and obligations; and
 - c. Our existing employment law framework.
2. In particular, The Review identified that, while a flexible labour market has enabled businesses to respond to changing market conditions and supported record employment rates, there is an issue of flexibility not being reciprocated. Some workers are "required to be available for work at very short notice, without any guarantee that work will actually be available". This issue, where workers do not enjoy the same flexibility as employers, is termed "one-sided flexibility" – we describe this issue in further detail below.
3. As one of the several recommendations made by The Review, it was recommended that 'the Government should ask the independent Low Pay Commission (LPC) to consider the design and impacts of the introduction of a higher National Minimum Wage (NMW) rate for hours that are not guaranteed as part of the contract' (hereafter referred to as "the NMW premium") as a means of addressing the issue of 'one-sided flexibility'.
4. The Government's response to the Review, published in February 2018, accepted this recommendation to investigate the feasibility of an NMW premium. In addition to this, Government, alongside the LPC, investigated alternative means of tackling the issue of one-sided flexibility.
5. Following extensive stakeholder engagement and public consultation, the LPC published their report in December 2018. This outlined the scale and nature of 'one-sided flexibility', an assessment of the possible impacts of an NMW premium and their proposals for alternative policy options.
6. Government has welcomed the LPC's findings, and as outlined in the Good Work Plan, will be consulting on the alternative options put forward by the LPC. In particular, the consultation document will ask employers and workers for their views on the LPC's suggestions for a "right to reasonable notice of work schedules", and "compensation for shifts that are cancelled at short notice". We will also be consulting on the non-legislative option to provide guidance and best practice (to identify how employers can drive change across their workforce and industry). This Impact Assessment only assesses the first two proposals, as they are regulatory, and we describe each option in greater detail in the 'Policy Options' section of this document.

Problem under consideration

7. At the heart of the recommendations made in the Taylor Review was the aspiration for all work to be fair and decent for the individual in the job. An issue highlighted by the Review around those in flexible forms of work is a phenomenon termed 'one-sided flexibility'. This reflects the way that some employers use the flexibility on offer in the labour market, to transfer risk to, and thus exert control over, workers.
8. As the Taylor Review notes, "*being able to work when you want is a good thing; not knowing whether you have work from one day to the next when you have bills to pay is not*"¹. We are aware that, for different forms of atypical work, this one-sided flexibility can take different forms. For example, for zero-hours contracted workers there is no guarantee of receiving any or the same number of hours in a given week of work, whilst for agency workers there is lower security of employment as they can be made redundant quickly and cheaply.
9. As outlined by the LPC, 'one-sided flexibility' can pose several problems for some workers. These include income insecurity, unpredictability, and an inability to assert their rights. We describe each of these issues in further detail below.

Income Insecurity

10. '*One-sided flexibility and the associated variation in hours and pay, as well as a fear of losing shifts completely, can lead to income security*' (LPC, 2018). This in turn can make it difficult for people to manage their financial obligations or access credit.
11. For example, Citizens Advice (2018)² found that 18% of workers with unpredictable incomes had experienced a reduction in pay or decrease in hours in the last 12 months. This research also found that individuals on unpredictable incomes are more likely to borrow money from friends and family, use their overdraft or take out high cost loans, compared to those with stable incomes.
12. Additionally, research by the University of Greenwich found anecdotal evidence that some people with non-guaranteed hours struggled to manage their finances due to variability in their weekly hours. This supports previous findings from the Resolution Foundation, who in 2013, interviewed individuals working on zero-hours contracts. While some respondents spoke about the benefits of the contracts, others spoke about issues that they had – "*Budgeting is very difficult. I'm paid two weeks in arrears, so I have some idea of what I'll be getting in but given my hours vary from week to week, I have to be careful about spending on shopping and other bits*" (quote from an interviewed female, domiciliary care worker in Newcastle).

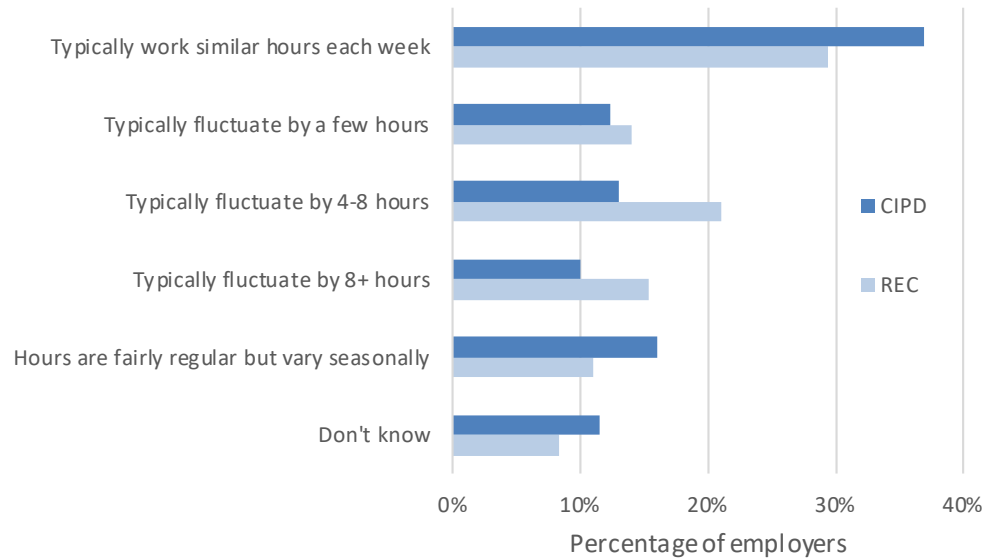
Unpredictability

13. Poor workforce planning can make it difficult for workers to manage their lives around frequently changing and/or unpredictable work schedules. This was noted in several representations received by the LPC, throughout their consultation process. They state that, while in most industries a degree of unpredictability is inevitable, there were a range of examples where poor workforce planning and scheduling were having an impact on individuals' ability to plan their lives.
14. The LPC's analysis of the Labour Force Survey (LFS) found that nearly 40% of all UK workers say that their hours 'tend to vary from week to week'. However, the LFS cannot identify *by how much* workers' hours vary week to week. For this we look to other data sources. Figure 1 illustrates employers' views on the typical variability of weekly hours of low-paid flexible workers, using estimates from surveys undertaken by the Chartered Institute of Personnel and Development (CIPD) and the Recruitment and Employment Confederation (REC).

¹ See Taylor (2017), *Good Work*, Page 42:

² Unless directly specified, all references in this Impact Assessment are taken from the Low Pay Commission's report on one-sided flexibility

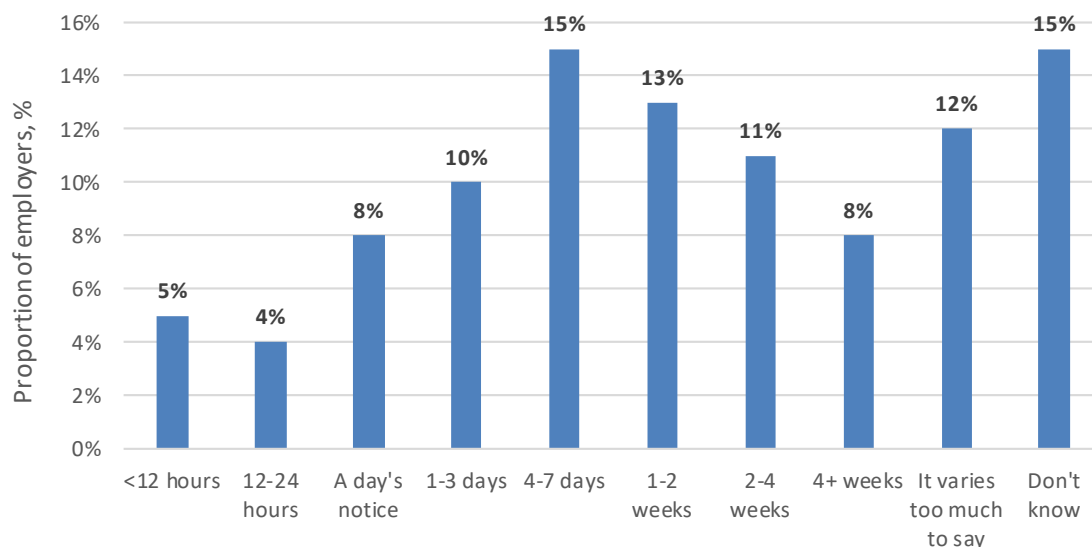
Figure 1: Employer views on typical variability of weekly hours of low-paid flexible workers



Unweighted base: ~292 employers

15. This identifies that while a large proportion of workers typically work similar hours each week or were regular but varied due to seasonality. Approximately 10% - 16% of low-paid flexible workers said that their hours fluctuated by more than 8 hours, which further illustrates how some workers experience unpredictability in their hours. However, it is not clear whether this variability is driven by the worker and their circumstances or by their employer choosing to offer/cancel hours (i.e. we cannot determine what subset of these workers experienced detriment as a consequence of this variability). While 16% of respondents to CIPD's survey stated that their hours varied seasonally, this did not indicate that this was due to cancellation – indeed the fact that they also stated they were fairly regular would suggest otherwise. We go on to use CIPD's estimates in our costings within this Impact Assessment.
16. Associated with this variation in hours is the lack of notice that some workers receive, with regards to what their working hours are. This can either be in the form of having hours offered with short-notice, or conversely have hours cancelled at short-notice. The University of Greenwich research uncovered instances where a worker would receive unreasonable notice:
 - a. *A social care worker, Bob, testified that his schedules had been sent to his mobile at only a day's notice because of staff turnover, which subsequently increased to three days' notice- this was still insufficient: 'you can't plan a life at all', he said.*
 - b. *Andreas, a hospitality worker [said]: 'It's not steady because if we're not busy I get sent home. There have been days that they've called me, and they've told me they don't need me, like an hour before my shift'.*
17. Anecdotes within other sources appear to support this message. Acas (2017) have previously reported that an agency worker 'explained she had previously been getting two hours' notice ahead of being due on site, but this had been reduced to one hour's notice, which she had found was not enough time to get ready and get to work'. One hotelier described to the LPC how they would routinely schedule more staff than they needed, as it was easier to cancel shifts than it was to call people in at the last minute.
18. These qualitative findings are supplemented by quantitative evidence from the CIPD. Figure 2 illustrates their survey findings, when asking employers of low-paid flexible workers how much notice they provided their staff prior to the start of a shift. Seventeen per cent of surveyed employers reported that they provided a day or less of notice, with 42% of employers (of low-paid flexible workers) offering less than a week's notice.

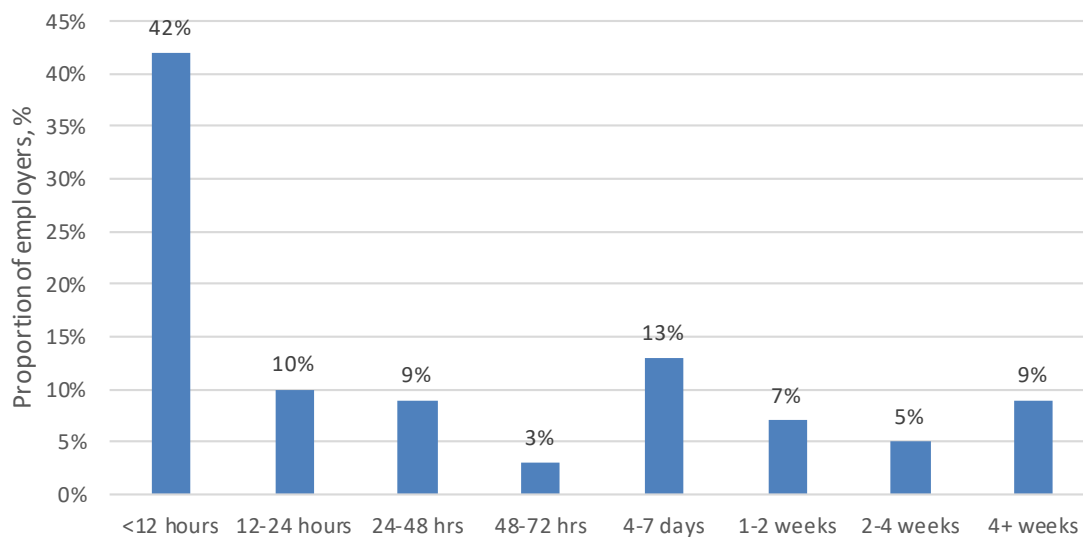
Figure 2: Shift start notice periods for low-paid flexible workers, 2018



Unweighted base: ~292 employers

19. Figure 3 illustrates similar findings from a previous study undertaken by CIPD in 2013, which specifically focused on zero-hours contract workers³. This finds that 52% of zero-hours contract workers received less than 24 hours' notice prior to their shift starting. While these two sets of figures may suggest that greater notice is now being provided compared to five years prior, it should be noted that the two groups for which each survey was asked to, are different. This makes comparisons challenging.

Figure 3: Shift start notice periods for zero-hours contract workers, 2013⁴



Unweighted base: ~456 employers

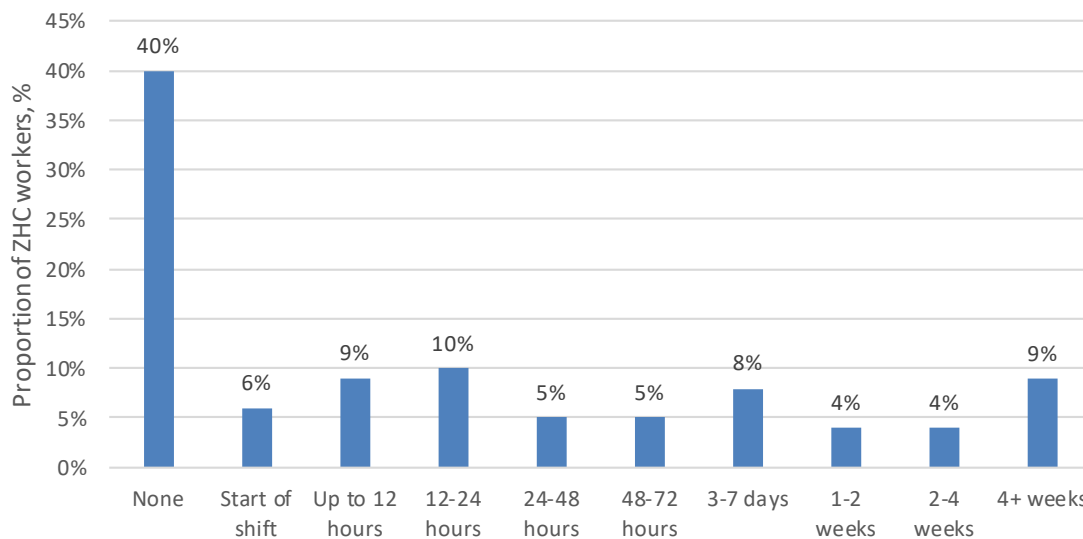
20. Within CIPD's 2013 survey, questions were also asked about the notice period workers received prior to a shift being cancelled. This is illustrated in Figure 4. Forty per cent of surveyed zero-hours workers stated that they received no notice prior to a shift being cancelled, with 65% stating that they received less than a day's notice. This compares to findings from the TUC, which found that 51% of zero-hours workers had had work cancelled with less than 24 hours'

³ CIPD, 2013, 'Zero-Hours Contracts – Myth and Reality'

⁴ Where relevant we will refer to the figures from the 2018 survey, for notice of shifts being offered. These figures, for the 2013 survey, are provided for direct comparison to the 2013 figures on notice for shift cancellations. As the 2013 survey contains the most recent data for cancellations, we will refer to these figures for shift cancellation notice periods. We note the differences in the groups who have responded to the 2013 and 2018 surveys as an area of risk with the data (as noted in paragraph 19).

notice. As stated by the LPC, these surveys would seem to indicate that short-notice cancellations are relatively common amongst zero-hours contract workers.

Figure 4: Shift cancellation notice periods for zero-hours contract workers, 2013



Unweighted base: ~456 employers

21. The Resolution Foundation have previously heard workers speak about the personal issues around managing a proper work-life balance with such variable hours; *“It’s really disruptive as you basically have to take what hours you’re given. So, on any typical week I might have a Friday off, when I’d rather be working but then have to make up my hours by working on a Sunday, when I want to spend time with the kids”* (female domiciliary care worker, Edinburgh).
22. This study found some workers who highlighted the issue of great flexibility for the business but no reciprocal flexibility for the worker, despite a willingness to accept uncertain hours: *“It’s not the uncertainty that bothers me. I have a relatively constant number of working hours, but these contracts only work one way anyway – they don’t offer any flexibility to those who’d want it”* (female day services support worker, Kendal). This assertion is supported by further qualitative evidence found by the University of Greenwich. They found cases where ‘workers could refuse work, but there were clear pressures mitigating against this with implications for the allocation of future work’.
23. It should be noted that some respondents to the Resolution Foundation study did highlight the positive impacts of zero-hours contracts, especially around the flexibility that worked for them, with the report explicitly stating that it is “important not to assume that employment on a zero-hours contract is uniformly undesirable”. As we discuss in further detail in the Policy Options section of this Impact Assessment, both the LPC and the Taylor Review found that banning zero-hours contracts and the flexibility that benefits many workers would not be an appropriate solution.

Inability to assert rights

24. Throughout their consultation, the LPC also heard instances where workers felt unable to assert their statutory rights for fear of being denied work. This concern about losing future hours of work was found in one visit undertaken by LPC Commissioners to Birmingham, where underemployed retail workers tried to get a second job, but were told that their ‘loyalty’ should be to their initial employer. Since 2016, the Government has provided zero-hours workers with added protection against exploitation from unscrupulous employers, by prohibiting the use of “exclusivity clauses”. Employers must allow individuals to take work elsewhere in order to earn an income if they themselves do not offer sufficient hours.

25. The University of Greenwich also found that some respondents were unclear about holiday and sickness entitlement, and were reluctant to take holidays. The LPC go on to state that where entitlements were in place in businesses, reluctance to take those entitlements was usually accompanied by a perception that asking for or taking leave risked eliciting punitive action from employers. It should be noted that, in March 2019, the Government launched a new Holiday Pay campaign, with the aim to ensure that everyone know that they are entitled to holiday pay, including people working in atypical roles. This new awareness campaign comes as a response to the Taylor Review, which highlighted a need for better information in this area. It is anticipated that this campaign will continue to address this specific issue.

The scale of one-sided flexibility and atypical working

26. This issue of one-sided flexibility is in stark contrast to the two-way flexibility that many workers in the UK experience, whereby workers can adapt their working time and arrangements around their personal lives, work additional hours when it suits them and can make use of arrangements such as job-sharing. The Taylor Review highlighted that there are benefits to atypical working, such as higher participation rates for individuals who have traditionally found labour market participation to be extremely difficult.

27. However, the imbalance of market power between the employer and worker in such a relationship can leave the worker in a situation where they are in an insecure form of employment without any compensatory flexibility:

Many of the people who attended the Review's evidence sessions told us they liked the flexibility of working atypically – and we must be sure not to lose this. However, flexibility must not be one-way with individuals absorbing all the risk". (Taylor Review, Page 34)

28. Identifying the scale of one-sided flexibility is inherently difficult – two colleagues may have the same employment relationship (in contractual terms) however may feel that they experience very different types of flexibility, solely based on that individual's specific needs and requirements. The LPC, following an extensive review of both qualitative and quantitative evidence, state that "assessing the full scale and nature of [one-sided flexibility] is challenging". Indeed, the LPC go on to recommend that Government should consider ways to specifically measure the scale of one-sided flexibility.

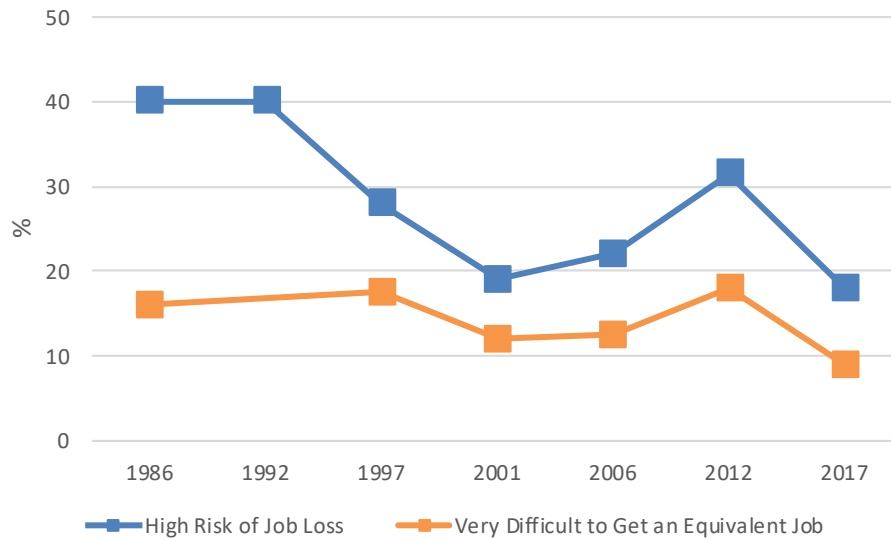
29. The distinction between hours and pay varying, and workers experiencing detriment is key in analysing the scale of the issue in question. The LPC cite work undertaken by *Felstead et al. (2018)*, who estimate the scale of one-sided flexibility by using the Skills and Employment Survey. This found that seven per cent of employees (equivalent to 1.7 million individuals) were very anxious that their working hours could change unexpectedly – a symptom of one-sided flexibility. Their analysis found that this estimate was more than two and a half times the number of employees on zero-hours contracts (705,000 employees at the time – Q2 2017).

30. This research also compared findings from the 2012 iteration of the survey to identify how insecurity at work has changed between 2012 to 2017. Figure 5 shows the proportion of workers who reported a high risk of job loss as well as the proportion reporting that it would be very difficult to get a replacement job. While the risk of job loss was at its highest in 2012, this has now fallen to its lowest level (since data was collected). "In 2017, one in ten (9%) workers reported an evens or better chance that they would lose their job in the following 12 months."⁵

31. These figures provide vital context for this Impact Assessment, especially where older data is considered to be the most representative (such as information from CIPD's 2013 survey e.g. Figure 4), as it is likely that these numbers have decreased. As previously mentioned, questions within the consultation document and broader stakeholder engagement will continue to test how valid any assumptions made in this assessment are.

Figure 5: Risk and Cost of Job Loss (%), 1986-2017, Felstead et al. 2018

⁵ Felstead, Gallie, Green, Henseke; *Insecurity at Work in Britain*; 2018



32. Looking more broadly, the Labour Force Survey provides us with estimates on a range of different flexible working practices, with Figure 6 illustrating these different types of work, such as non-guaranteed hours and agency work.

Figure 6: Number of flexible workers, Labour Force Survey 2018 Q2

	All workers	
	Number (000s)	Per cent
Flexitime	3,390	11%
Annualised hours contract	1,630	5%
Term time working	1,330	4%
Job-sharing	140	0%
Nine-day fortnight	100	0%
Four-and-a-half-day week	200	1%
Zero-hours contract	780	2%
On-call working	720	2%
No flexible working	24,380	76%
Temporary agency	300	1%
Permanent agency	450	1%

33. In addition to this, nearly a third of businesses (29%) make use of flexible employment arrangements for low-paid workers, according to CIPD's 2018 survey (of 1,008 employers). This includes arrangements such as zero-hours contracts, short-hours contracts or agency work. This increased to 38% of the public sector, compared to 26% of the private or voluntary/third sector.

Rationale for intervention

34. As discussed above, while there is no one single measure that identifies the scale of the problem, the various pieces of evidence do begin to form a broader picture of the issue of 'one-sided flexibility'. This issue is apparent in work when an employer transfers undue risk onto their workers. This is possible due to businesses being able to exert their market power to the detriment of their workforce. It is likely that this market power manifests primarily amongst lower-skilled workers, who are less mobile and/or face greater competition from other workers due to the abundance of their skills. This may be prevalent in specific localities where the local labour market is dominated by one/a small number of employers.
35. It is common and prudent for businesses to take steps in order to minimize the risk they face, however in some cases this is achieved at the expense of the workforce. Whilst this may be due to a business looking to drive costs down, it is also possible that the business genuinely believes that the culture of high flexibility is benefitting the workers. This may be despite workers not having a choice in their type of employment.
36. It is true that some workers would greatly appreciate the flexibility on offer, however there is the possibility that others would prefer greater security regarding their hours of work. We note that the greatest benefits from flexibility are accrued when the type of flexible employment is agreed between the employer and the worker. There is also the possibility of a change in circumstances for the worker, and where once flexibility may have been wanted, greater stability may now be preferred.
37. The interventions the Government are consulting on would look to directly address the issues described in the previous section. We describe the varying impacts that different forms of intervention may have in the Policy Objectives section of this impact assessment.
38. Interventions may also provide a nudge mechanism for employers who may not have thought about the potential worker detriment that occurs due to working hours/pay being continuously varied. By intervening, the Government is hoping to influence business culture to the point where workers feel comfortable discussing the material conditions of their employment with their employer. This is reflected in the Confederation of British Industry's (CBI's) response to the Government's publication of the Good Work Plan on the 17th December, in which they highlighted how it is important to help start conversations between businesses and their workforce.

Impact on labour market flexibility

39. There is a risk that intervention in the labour market, to address this issue of one-sided flexibility may have unintended consequences, especially on those workers and businesses that both enjoy the flexibility on offer. It is our intention, through the process of this consultation, to understand what these consequences may be. In the event that future legislation is taken forward, Government will design policies that minimise these impacts.

Policy objectives

40. We have previously outlined the imbalance of market power between the employer and workers who experience one-sided flexibility, potentially resulting in workers having their hours offered or cancelled at short notice. We have acknowledged in earlier chapters that one-sided flexibility is a wide-ranging issue, affecting some workers in atypical working relationships. Alongside the measures described below, we will address this imbalance by creating a new right to switch a more predictable and stable contract. This would allow a worker to converse with the employer to switch onto a contract that better reflects the hours they work or set out the days they are expected to work. Employers will either accept this switch or reject it on the basis of conditions to

be set out in legislation. Further details of this policy and the estimated costs to businesses are estimated elsewhere in a separate Impact Assessment.

41. The policies assessed in this Impact Assessment has several key objectives:

- a. Improve the stability of employment for atypical workers, increasing their financial stability through guaranteed hours or permanent employment
- b. Prevent unscrupulous employers from abusing relationships with their workers through poor workforce planning
- c. Encourage conversations between workers and employers to facilitate the sharing of the benefits of flexibility and to promote effective workforce management
- d. Promote genuine flexibility to enable workers to balance their working life with their personal commitments such as caring or parental responsibilities

42. Much like with the National Minimum Wage, these policies aims to address unequal bargaining power in the labour market. Workers may feel that the imbalance of power in employment relationships hinders their ability to challenge unfair working practices.

Description of options considered

43. The consultation seeks stakeholder views on three measures, which are considered within this Impact Assessment. The Government does not have a 'preferred' option at this stage and is seeking stakeholder views and evidence towards each option. We assess each option against the counterfactual of a "do nothing" scenario, where the existing practice prevails.

- a. Option 0: "Do nothing"
- b. Option 1: Right to reasonable notice of work schedules
- c. Option 2: Compensation for shifts cancelled at short-notice
- d. Option 3: Non-statutory guidance on one-sided flexibility

44. We are specifically consulting on variables within each policy (such as what length of time is deemed "reasonable" or "short-notice", or what the level of compensation would be for shift cancellations), which will impact the total cost incurred by business. Once the details of these policies are clarified, we will provide revised estimates in any Impact Assessment that sits alongside final proposals. The estimates provided within this Impact Assessment should therefore be treated as illustrative. Figures used as definitions for "reasonable notice" or "short-notice" do not and should not presuppose findings received from the consultation and are provided here only to illustrate the possible magnitude of costs to businesses from the proposed policies.

45. It is also possible that the results from the consultation suggest that multiple options should be pursued simultaneously. For example, by only implementing a policy that penalises short-notice cancellations, Government may unintentionally incentivise employers to offer shifts with short-notice (when it is certain that they are needed and will not be cancelled) – the opposite would be possible if only penalising shifts from being offered at short-notice. At this time, this Impact Assessment does not estimate the costs to business of an option where multiple policies are taken forward, and the interdependencies that would arise. In the event that multiple policies are taken forward, we will estimate the collective impact in a final-stage Impact Assessment.

Option 0 – "Do Nothing"

46. This option would entail no further Government intervention to address one-sided flexibility. This Government is committed to improving the quality of work for workers experiencing one-sided relationships and it is unlikely that a "do nothing" option would meet this commitment. We estimate that a "do nothing" position would result in no additional costs being incurred by business. Costs and benefits for the other options assessed in this Impact Assessment are measured relative to the "do nothing" position (i.e. the status quo represent the counterfactual in this analysis).

Option 1 – Right to reasonable notice of work schedules

47. Representations to the LPC highlighted examples where some workers were allocated shifts with limited notice, making it difficult for workers to plan their lives or find other work. This contrasted to good practice by many employers who worked hard to plan ahead and provide good notice of future requirements.
48. As a result of these variations in practice, the LPC recommend that every individual should have a right to reasonable and recordable notice of their working hours. They believe this would discourage poor scheduling practice by employers, reduce unpredictability for workers and aid income security.
49. In practice, this policy would require an employer to provide a “reasonable” period of notice (where “reasonable” is to be defined and informed through the consultation, balancing both worker and employer needs) to a worker, prior to their shift starting. The provision of the shift will need to be recorded.
50. There is evidence that some workers feel obliged to accept extra shifts when their employer asks, even if this is at short notice, or interferes with their commitments. A 2015 CIPD survey found that 42% of employers of zero-hours workers said that there was either a contractual or a practical obligation on workers to sometimes or always accept any offered work. Qualitative evidence from the University of Greenwich found cases where two-sided flexibility existed in theory but not necessarily in practice, as ‘workers could refuse work, but there were clear pressures mitigating against this with implications for the allocation of future work’.
51. Following the advice of the LPC, we would not wish to detriment workers who wish to take on additional work. Therefore, where a shift is offered with less than “reasonable” notice, a provision would be explicitly included so that workers will not experience any detriment for turning down these. This protection would be enforceable via employment tribunal. As stated by the LPC, workers on zero-hours contracts have, in theory, the right to turn down shifts. We anticipate that reiterating this protection in this proposal will further raise awareness of workers’ rights, tackling the issue identified in the LPC’s report regarding some workers’ inability to assert their rights.
52. The LPC anticipate that successful implementation of this policy would reduce unpredictability for workers. They go on to suggest that this can help with income insecurity, enabling workers to better manage their finances and their domestic lives, as they would know their shifts in advance, and potentially find other work if needed.
53. We are specifically consulting on the length of time that would constitute “reasonable”. Within this Impact Assessment, we use the figures of 24 hours, 3 days and 7 days as our low, central and high estimates respectively. This is **purely illustrative**, and we acknowledge that consultation responses may suggest that “reasonable” could be a shorter or longer length of time. These figures are used as benchmarks, following the length of time currently provided to low-paid flexible workers prior to shifts starting (see figure 2)⁶. As a further reference point, we can look at examples across Europe. For example, in Germany, workers are obliged to accept work ‘only if they receive notice a minimum of four days in advance’. In Italy, a minimum notice of one working day is required for intermittent work.

Option 2 – Compensation for shifts cancelled at short-notice

54. The practice of employers cancelling scheduled shifts at the least minute, as evidenced through the LPC’s consultation and survey results from the CIPD, was thought to be unfair by both employers and workers. Consequently, the LPC recommended a proposal whereby workers who have their shifts cancelled at short-notice should be entitled to some form of compensation.
55. The effectiveness of such a policy would be determined by the specific details of the proposal. In addition to attempting to understand the wider impacts that this policy may have, we are specifically consulting on what period would constitute short-notice and what an appropriate level of compensation would be. On the former, we can once more provide **illustrative figures**, based

⁶ Once removing responses that state ‘it varies too much to say’ and ‘don’t know’, we crudely calculate that the 25th percentile of respondents approximately lies within the category “a day’s notice”, the 50th percentile in “4-7 days” and the 75th percentile in “1-2 weeks”. We take the conservative approach of using the upper bound for each category.

on estimates from a previous CIPD study (shown in Figure 4). This leads us to use the figures of 12 hours, 24 hours and 7 days as a low, central and high estimates respectively. With regards to the level of compensation, the LPC suggested three indicative options, which were the value of the shift/hours in question; the worker’s appropriate NMW rate multiplied by their scheduled number of hours cancelled (at short notice); and a simple multiple of the NMW. Figure 7 illustrates LPC’s assessment of the different advantages and disadvantages that each of these compensation levels.

Figure 7: LPC analysis of compensation methods

Compensation Method	Advantages	Disadvantages
A. The value of the shift in question	Will ensure workers are compensated fully for the money they were expecting from the shift. Will enable workers to cover planned fixed costs e.g. travel and childcare.	Could encourage employers to schedule short notice shifts, and then ask staff to stay on to reduce the cost of cancelling shifts. Would be expensive for employers of higher wage employees.
B. Minimum wage rate (appropriate to age) multiplied by the scheduled number of hours	Will ensure minimum wage rate workers (and those near the minimum wage) are compensated fairly – they are the individuals this policy is aimed at.	Those who earn above the minimum wage will miss out on some of their planned earnings. [The LPC] believe this option would encourage employers to schedule short shifts.
C. A multiple of the minimum wage (e.g. in Ireland they have proposed 3x the minimum wage (irrespective of shift length). This could be related to the amount of notice given – e.g. a greater multiple of the NMW the less notice that is given	Directs the policy at the low-paid and avoids potential gaming by altering shift lengths. It is simple and consistent. Provides a minimum shift payment of three hours	There is a question as to whether this is high enough to discourage short notice shift cancellations and compensate workers, particularly if the shift in question is long. Further, the policy would have a relatively weaker effect further up the wage distribution, potentially raising questions over fairness.
D. Combination of A and C or B and C, whichever is higher	Provides a minimum shift payment of three hours.	Would affect higher paid staff.

Option 3 – Non-statutory guidance on one-sided flexibility

56. One alternative option identified by the LPC was the provision of guidelines for employers. Several organisations that they engaged with suggested that codes of practice or improved guidance could act as a means of tackling the problem of one-sided flexibility.

57. It is anticipated that guidance or codes of practice would enable best practice to be shared across employers and industries; and could be used to supplement the other policies proposed within the consultation or act as a standalone option that covers a broader range of practices. The contents of the guidance have not yet been determined as a result, and we will await the results of the consultation before making a fuller assessment of the costs in a Final Stage Impact Assessment.

Other options (longlist)

58. As part of the LPC’s assessment of how to address the issue of one-sided flexibility, they considered several options which they proceeded to rule out, such as⁷:

- a. An NMW premium for hours that were offered with less than “x” days of notice
- b. Ban or restrict zero-hours contracts
- c. Require employers to have a minimum length of time for each shift they offer

59. Box 1 outlines the rationale of why these options were not taken forward. A fuller description can be found in the Low Pay Commission’s report.

Box 1: Proposals not recommended by the Low Pay Commission

⁷ A definitive list can be found in Appendix 1 of the LPC’s report

An NMW premium for hours that were offered with less than “x” days of notice

In response to the issues around one-sided flexibility, Matthew Taylor recommended a higher minimum wage for non-guaranteed hours (referred to as ‘the premium’). There are varying models of this, with Matthew Taylor suggesting that, where hours are offered or requested with less than a seven-day notice period, a higher minimum wage should be paid – this was called the ‘tight’ model. A ‘loose’ model was identified by the LPC, which would require the premium to be paid on all hours above the agreed contract (therefore, if a contract guarantees no hours, then all hours worked would be subject to the premium).

Following an analysis of the impacts of both a ‘tight’ and ‘loose’ model, they did not recommend taking forward the proposal of the premium. They noted that, while the premium may solve some problems, it could create others. In particular, the LPC highlighted concerns that the premium could reduce the number of hours of work available, and the numbers of people employed. This could therefore damage the earnings of some low-paid people and is of particular detriment for underemployment.

The LPC did note that a ‘tight’ model could reduce unpredictability of shift scheduling (by having a financial cost associated with late-notice changes) and that a ‘loose’ model could encourage employers to change their employees’ contracts to avoid paying the premium. However representations they received from employers, who were concerned about the impact the premium would have on flexibility and the likelihood of enforcement, and workers, who believed that the premium could legitimise poor working conditions or potentially trap workers into precarious work, resulted in them suggesting an alternative package of proposals to address one-sided flexibility.

Ban or restrict zero-hours contracts

The LPC stated that it was clear that banning zero-hours contracts would not resolve all of the problems associated with one-side flexibility, suggesting that a more holistic approach would be more effective. They heard from many employers about the need for contracts to help adapt to changes in demand and supply. Other employers told the LPC that even when workers were offered a guaranteed-hours contract, staff will not always accept, preferring the flexibility of a contract when they can choose to turn down shifts.

They also note that, where it has been quoted that zero-hours contracts have been banned in other countries, this is not quite the case. For example, in New Zealand, legislation requires employers to specify the number of guaranteed hours of work that the employee is entitled to, although this can be zero. Ireland are currently proposing to ban some zero-hours contracts, except in cases of genuine casual work, or where they are essential to facilitate cover in emergency situations or short-term absences. However, the legal definition of zero-hours contracts in Ireland means that they require individuals to make themselves available for work and it is this type of contract that will be restricted. The use of an ‘If and When’ contract (which is more like a UK zero-hours contract and does not oblige the individual to work) is not being restricted

It should also be noted that this assessment concurs with the Taylor Review’s findings, which stated that “to ban zero hours contracts in their totality would negatively impact many more people than it helped”. However, as a further measure to address one-sided flexibility, the Government will be bringing forward legislation to introduce a right for all workers to switch to a more predictable and stable contract. Those who are content to work varied hours each week will be able to continue. However, those who would like more certainty will be able to move to a more fixed working pattern from their employer after 26 weeks of service, subject to conditions set out in legislation. This policy does not form part of this consultation, and the impact of it has been assessed elsewhere.

Require employers to have a minimum length of time for each shift they offer

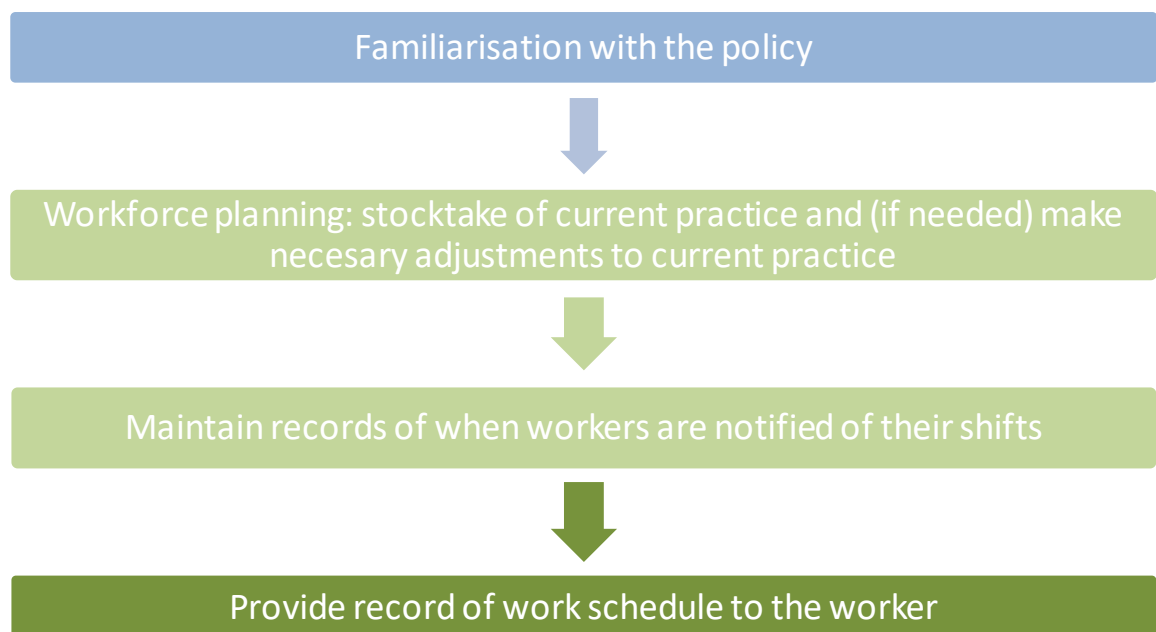
In order to address concerns that employers, who were deterred from cancelling shifts at the last minute, could instead send staff home early to avoid costs, the LPC considered the idea of a minimum shift length. This would ensure a minimum amount of pay for the worker. However, the LPC believe that the policy to provide compensation for shift cancellations can be designed in such a way as to reduce this risk. Therefore, a separate minimum shift length would not be necessary. Some representations received by the LPC also highlighted that a minimum shift length would not be appropriate in some sectors. For example, the Association of Convenience Stores highlighted the short hours worked in existence in home news delivery.

Evidence for the CIPD found that 54% of employers provide a minimum shift length, of which 44% guarantee at least four hours or more. There are also examples in Germany and the France where minimum shift lengths are used in some circumstances. In the Netherlands, contracts with less than 15 hours must have a minimum shift length of three hours. However, evidence has shown that employers often violate this, with employees not reporting this due to a lack of awareness of their rights or a fear of repercussions. (Eurostat 2015)

Monetised and non-monetised costs and benefits

Option 1 – Right for reasonable notice of work schedules

60. Within our consultation, we will be asking stakeholders to identify the potential impacts that the proposed policy will have on businesses. We currently believe that there will be four categories of direct costs, all of which are one-off costs except for the provision of a work schedule to the worker that would allow them to illustrate how much notice they were provided:



One-off familiarisation costs

61. Through this new right, employers would need to familiarise themselves with the detail of the policy. While the practice of providing workers with details of their shift naturally exists already, firms will now need to do so with “reasonable” notice, resulting in some firms having to change

their practices. For the context of this impact assessment, familiarisation is defined as the time it takes businesses to understand the proposed changes.

62. We believe that costs will be influenced by existing practices around the provision of notice periods and to what extent businesses have experience of providing advance-notice of shifts and providing a record of these shifts.
63. To estimate familiarisation costs, we use a standard assumption of 30 minutes to read and understand the requirements. We acknowledge that the time taken to familiarise will vary between businesses, we believe that 30 minutes is sufficient for an average large business to familiarise itself with the creation of the new right, however, will look to test this throughout the consultation period. This estimate is in line with the familiarisation time taken across other areas of employment law (such as that for the National Living Wage or the Right to Switch to a predictable contract), where a new employment right needs to be understood and information disseminated to their workforce. We use this same estimate for our high cost estimate.
64. This is more conservative than familiarisation time estimated by the Government's Employment Law Admin Burdens Survey 2008 – this assumed familiarisation time for providing written breakdowns showing calculations of redundancy payments (which we consider as an appropriate proxy for a policy whereby an employer would need to provide documentation to their worker) would be 5 minutes. We therefore use 5 minutes for our low-cost estimate (10 minutes for micro and small businesses).
65. While there is anecdotal evidence that smaller businesses have less experience of providing advance notice to their staff, quantitative data on this matter is not available. Through the consultation period, we will look to engage specifically with small businesses (or their representatives) to understand how this would vary for them. In absence of this, we make a conservative assumption that small and micro businesses will take twice as long, an average of one hour, to familiarise themselves with this policy.
66. For smaller businesses, we also assume that they are less likely to have dedicated HR staff (consistent with assumptions made in other Impact Assessments on employment regulations⁸), so it would be the general manager that would familiarise themselves. For a larger business, it is likely that a HR manager will be assigned to the task. The wage data for each type of employee is taken from ASHE (Annual Survey of Hours and Earnings) 2018. This provides the average hourly pay of a corporate manager/director as £22.64 and of a human resource manager/director as £24.66. We uplift these hourly costs by 21.78% to cover non-wage costs, in line with Eurostat methodology.⁹
67. While it is anticipated that this policy will only affect instances where employers ask their workers to work shifts or whose working hours vary, it is possible that all firms take time to understand the changes, as it may affect future hiring decisions and firms may want to check that their existing

⁸ Swedish Derogation

⁹ Eurostat, 2018

practice is compliant with the proposed legislation. For that reason, we use estimates for the entire (employing) business population, noting that this is a conservative approach.

68. Figure 8 below outlines the total familiarisation cost that this proposed policy would result in. We estimate that businesses would face a total familiarisation cost of £33.7 million (central and high estimate), with our low estimate being £5.6 million

Figure 8: Familiarisation cost

Cost of Senior Managers Time for Familiarisation						
Size of Business	Number of Businesses Affected ¹⁰	Hourly Cost of Person Undertaking Familiarisation (uplifted)	Time Taken for Familiarisation		Total Familiarisation Cost (£m)	
			Low	Central/High	Low	Central/High
Micro	734,145	£27.57	10 mins	60 mins	£3.4	£20.2
Small	466,635	£27.57	10 mins	60 mins	£2.1	£12.9
Medium	34,835	£30.03	5 mins	30 mins	£0.1	£0.5
Large	7,510	£30.03	5 mins	30 mins	£0.0	£0.1
Total	1,243,125				£5.6	£33.7

One-off Implementation costs – workforce planning

69. In practice we acknowledge that the time taken to implement the proposed policy will vary between businesses, therefore we will be consulting to identify how existing business practices would need to change to accommodate the proposed legislation. If the period determined to be “reasonable” is more than what the business currently provides to their workers, firms will need to reconsider how they plan their work and the certainty that they provide workers. We therefore estimate, as part of the implementation cost of this policy, that a HR manager in each business will need to take stock of the rostering across their organisation, to ensure that shifts are adequately covered with sufficient advance notice.
70. We would anticipate that a one-off exercise to review how the organisation plans their shifts would be sufficient to ensure that future shifts are offered with “reasonable” notice. At this point in time, following early discussions with industry stakeholders, our initial assumption is that a HR manager would spend *on average* half a day (3.75 hours) to undertake this exercise. However, we acknowledge that this assumption requires further testing throughout the consultation process. We also acknowledge that for some employers less time will be needed, as their current practice may deviate little from that suggested in the proposed policy, whereas other employers may need to undertake a more significant exercise and half a day may be an underestimate for those businesses (paragraph 72 highlights an appropriate sensitivity we have undertaken).
71. We use 3.75 hours as our low and central cost estimates, with our high estimate being a day (7.5 hours). We use the previous assumptions on who would carry out such an exercise in a small/micro business and a medium/large business here as well.
72. It is anticipated that businesses who do not employ workers on non-guaranteed hours contracts and who already provide more than “reasonable” notice will not need to undertake such an activity. To estimate who falls into this business population, there are two steps we undertake.
- a. *Businesses who use non-guaranteed hours contracts*

Evidence from the CIPD’s Spring 2018 Labour Market Outlook found that 29% of employers make use of flexible employment arrangements, such as zero-hours contracts, short-hours contracts or agency work, for low-paid workers (where low-paid is defined as those paid at or close to the NMW/NLW). They found that large firms (32%) are more likely to do this than small and medium-sized enterprises (20%). While acknowledging potential sampling bias that may lead to an overrepresentation of large firms in CIPD’s

¹⁰ BEIS, 2018, *Business Population Estimates 2018*

survey, we apply the proportions for large and small/medium firms to business population estimates. This results in an estimate of 250,000 businesses (central estimate).

We acknowledge that an assumption is being made, as the proportions from the survey relate to low-paid workers, and this is being applied to the entire population. LPC analysis of the Labour Force Survey does suggest that, while a higher proportion of workers earning within 50 pence of the NMW/NLW are on zero-hours contracts (6%) than in the general population (2%), a slightly higher proportion of workers close to the NLW (79%) report no flexible working than for all workers (76%). This may suggest using a proportion focusing on low-paid workers, for the number of businesses using flexible employment arrangements, may not be fully reflective for the entire population. However, it has been previously reported that the accuracy of earnings data from the Labour Force Survey can be questioned (due to it being self-reported by workers). Due to this uncertainty and the small magnitude of difference in the percentages, we believe that applying CIPD's estimates for the general business population is fair.

b. Businesses who provide less than reasonable notice

As shown in Figure 2, estimates suggest that 17% of employers provide their workers with less than a day's notice, 27% provide less than 4 days' notice and 42% provide less than a week's notice. With the length of time deemed as "reasonable" to be determined pending the consultation's results, we use these figures as our low, central and high estimates respectively. We again stress this to be illustrative, so not to presuppose the outcome from the consultation.

73. We apply both sets of these proportions to the business population estimates to estimate the number of businesses who use non-guaranteed hours contracts (Figure 9). The cost estimates

these produces are illustrated in Figure 10 – **our central estimate for workforce planning is £7.0 million.**

Figure 9: Estimates for the number of businesses who will undertake a workforce planning exercise

Number of affected businesses								
Size of Business	Total Number of Businesses	% of businesses with flexible working arrangements	% of businesses who currently do not provide "reasonable notice"			Number of businesses affected		
			Low	Central	High	Low	Central	High
Micro	734,145	20%	17%	27%	42%	24,961	39,644	61,668
Small	466,635	20%	17%	27%	42%	15,866	25,198	39,197
Medium	34,835	20%	17%	27%	42%	1,184	1,881	2,926
Large	7,510	32%	17%	27%	42%	409	649	1,009
Total	1,243,125					42,419	67,372	104,801

Figure 10: One-off Workforce planning cost estimates

Workforce planning estimates							
Size of Business	Number of Businesses Affected	Hourly Cost of Person Undertaking Familiarisation (uplifted)	Time Taken for Workforce Planning		Implementation Cost – Workforce Planning (£m)		
			Low/Central	High	Low	Central	High
Micro	<i>See above</i>	£27.57	3.75 hrs	7.5 hrs	£2.6	£4.1	£12.8
Small	<i>See above</i>	£27.57	3.75 hrs	7.5 hrs	£1.6	£2.6	£8.1
Medium	<i>See above</i>	£30.03	3.75 hrs	7.5 hrs	£0.1	£0.2	£0.7
Large	<i>See above</i>	£30.03	3.75 hrs	7.5 hrs	£0.0	£0.1	£0.2
Total	<i>See above</i>				£4.4	£7.0	£21.7

74. While it is acknowledged that the group who responded to the survey from the CIPD may be self-selecting, we believe that the application of these proportions is appropriate and proportionate for this analysis. However, as a sensitivity, we have used the larger proportions for the number of hours' notice provided, as taken from CIPD's 2013 survey for zero-hour contract workers. This results in the central estimate increasing to £19.9 million. As an alternative sensitivity, if we assumed that the workforce planning exercise were to take two days (i.e. 15 hours), the cost would increase to £28.0 million (central). This estimate provides further impetus to test our assumption on the time taken for the workforce planning exercise, through our consultation process.

75. This workforce planning exercise will be a key mechanism through which employer behaviour will change as a consequence of the policy. It is intended that employers would now provide further notice to workers, without adverse impacts in terms of output loss, reduced employment or other

costly adjustment mechanisms. This is discussed further under the non-monetised costs section below, and will be considered throughout our consultation process, as firm behaviour is likely to vary from employer to employer.

One-off Implementation costs – amend systems for record keeping

76. While we have assumed that it is only businesses who currently provide less than reasonable notice that will undertake a workforce planning exercise, we anticipate that all businesses who utilise non-guaranteed hours contracts will need to keep a record of shift offerings, specifically *when* they were offered.
77. Qualitative evidence from the LPC and discussions with stakeholders has suggested that some businesses already do record when notice is given to workers of their shifts, however we have also heard from employers that they do not currently record the notice given to their workers. It is not possible to robustly translate this into a quantitative estimate. Therefore, we take the extremely conservative approach that all businesses employing workers on non-guaranteed hours contracts will have to amend their systems for record keeping.
78. To estimate the potential cost of this requirement here, we use estimates from comparable policies. For example, through the Working Time Regulation, where employers were required to maintain records of working time, it was estimated that the unit cost was £275 per employer – this estimate was produced in 2008. This could be considered a similar measure to the one proposed here, however is likely to overestimate the matter as that policy costing related to employers maintaining records of all working time, rather than just when working hours are offered. Additionally, a 2005 estimate for this was much larger at £1,188, due to a reduction in external goods costs. While it is inappropriate to translate the rate of the decreased cost into an estimate for today, it does suggest that the £275 figure is conservative. Therefore, we use £275 as our high estimate.
79. Noting that the feedback from case study interviews on Working Time Regulation costings suggested that the goods costs were made up of payroll software costs, we look to an alternative source for applicable estimates. In April 2019, legislation came into effect, for employers to require more information on the payslips of hourly-paid employees. This required employers to amend their payroll systems to present the number of hours employees are being paid to be stated on their payslip. Much like recording the notice provided prior to working hours, this policy required additional information to be recorded via an IT system. The evidence gathering process for that Impact Assessment found that businesses with a paid payroll software would incur a £130 per year cost by using a payroll system that has the functionality to record additional information (as outlined in Annex A of that Impact Assessment, this unit cost may decrease as the quantity purchased increases, therefore this assumption may in itself be considered conservative).
80. Also, within that IA are estimates for where changes are made to a bespoke payroll software. In the instance where a business will need to utilise a brand “new” system to record when they provide workers notice, employers may need to make adjustments to their internal systems. In line with the assumptions made in previous IAs, it is assumed that 8 hours of an IT professional’s time is taken to implement a new change. Using ASHE 2018 estimates for a programmer and software developer (£26.21 per hour, once uplifted to account for non-wage costs), we find that a total cost of £211.60 may be incurred by businesses.
81. This provides us with a range of cost estimates per business - £130, £212, £275 – which we use as low, central and high estimates respectively, prior to further engagement with businesses to understand the extent to which businesses may need to change. Using these figures, **we**

estimate that implementing a system to record the notice provided prior to a work shift is £52.8 million. Figure 11 provides these cost estimates across each different scenario.

Figure 11: Estimates for record-keeping

Implementation Cost of Recording Notice Provided to Workers							
Business Size	Number of businesses affected	Unit Cost			Total Cost		
		Low	Central	High	Low	Central	High
Micro	146,829	£130	£212	£275	£19.1	£31.1	£40.4
Small	93,327	£130	£212	£275	£12.1	£19.8	£25.7
Medium	6,967	£130	£212	£275	£0.9	£1.5	£1.9
Large	2,403	£130	£212	£275	£0.3	£0.5	£0.7
Total	249,526				£32.4	£52.8	£68.6

Ongoing Implementation costs – work schedule provision to workers

82. In addition to keeping these records, employers will need to provide their workers with a record of their shift with “reasonable” notice. While recording *when* the notice of a shift was provided may not be current practice, actual notice of the shift is inevitably already provided in nearly all instances. This could be via an email, a printed document or simply a text - as previously mentioned, we will be consulting on how the notice will be recorded and it is feasible that existing practice for how workers are notified may continue.
83. The LPC noted in their examples for notice of work schedules, that workers would receive their schedules on their mobiles (via text) or through emails. These are time-stamped therefore workers will be able to prove that they have received their work schedule with “reasonable” notice. However, there is some evidence has also suggested instances where work schedules are disclosed via phone calls or are put on whiteboards in the place of work (so workers would only find out when they are next working if they are in the place of work itself).
84. Research by IDR (2018) found that employers of zero-hours or minimum-hours contract workers mainly inform staff of their shifts by contacting them directly either by phone, email or text. However, 18% (7 employers) stated that the rotas were made available in the workplace. We use this as a proxy the proportion of businesses not providing workers with a record of their work schedule that would allow workers to know whether they were provided “reasonable” notice¹¹.
85. We do note that it is possible that making a rota available in the workplace could be done in a manner which equates to providing a worker with a record. Additionally, the research’s findings relate to zero-hours and minimum hours contracts, and from a small sample size of 40 employers. We use these estimates to illustrate the magnitude of potential costs and will test this assumption further during our consultation process.
86. The exact way in which a record could be provided to a worker is to be consulted on, with the LPC suggesting printed document, email or text as examples. We assume that it will take 10 minutes for a corporate manager/director (for small and micro businesses) or a HR manager/director (for medium and large businesses) to move their existing ‘rota in the workplace’ into an appropriate format, that would allow the worker to verify the period of notice they were provided.
87. This assumption of 10 minutes is taken from that used in the ‘extending the right to a written statement to non-employee workers’ impact assessment. In that instance, 10 minutes was assumed to be the time taken to put additional information into a written statement. We believe that this provision of ‘written’ information to a worker is comparable to the requirement in this proposed policy. This assumption is also consistent with findings from the Admin Burdens survey, which found that it would take 10 minutes for an employer to provide written employment

¹¹ We note the small sample size associated with this finding. Representations from the consultation will allow us to assess how best to refine this

particulars. With it possible to send emails out in a matter of minutes, it may be that 10 minutes is an overestimate.

88. Notice of working hours will need to be sent to all relevant workers. However, the policy proposal would require businesses to change the format in which they inform workers, rather than actually informing workers in the first instance. With one low cost method being to simply copy the rota in the workplace into an email/text/document and then sending it to all workers simultaneous, we believe it is appropriate to consider the cost at a business level, rather than for each individual worker. Indeed, an even lower cost method could be simply to generate print-outs from the IT system (which was described in the section above), where the unit costs would be negligible.
89. Using the assumptions above (of 10 minutes of a member of staff's time), we then estimate the unit cost of businesses now providing a record of working hours as £0.2 million. The frequency of providing this notice may depend on what period is chosen as "reasonable" notice and how much planning can be done in advance.
90. Assuming that businesses provide records on a weekly basis, **we estimate the cost of record provision being £10.8 million per year.** As a sensitivity, if assuming that records are provided to workers every single "working day" in the year (251 days), the cost increases to £52.0 million per year. However, it is highly likely that an alternative, more cost-effective mechanism would be pursued if daily provision of records were needed, such as providing a printout of the IT system's record, which may be a negligible additional cost (or already considered in the cost for record-keeping).
91. Over the course of the appraisal period, which is estimated to be 10 years, the total cost associated with businesses providing workers with records of their work shifts and the notice with which it was provided, is **£92.7 million.**

Figure 12: Providing a record of work shifts and the notice provided

Annual Cost of Providing a Record of Work Shifts							
	Number of businesses with flexible working arrangements	% who will need to change	Number of affected businesses	Hourly Wage of Person Providing Records (uplifted)	Time taken	No. of record provisions per year	Total Annual Notice Provision Cost
Micro	146,829	18%	26,429	£27.57	10 mins	52	£6.4 million
Small	93,327	18%	16,799	£27.57	10 mins	52	£4.0 million
Medium	6,967	18%	1,254	£30.03	10 mins	52	£0.3 million
Large	2,403	18%	433	£30.03	10 mins	52	£0.1 million
Total	249,526		44,915				£10.8 million

Total monetised costs – policy option 1

92. The table below summarises the different types of monetised costs that may arise from this potential policy, to provide workers with reasonable and recordable notice of their working hours. Under our central scenario, we estimate that **total one-off costs will amount to of £93.5 million** (with a range of £42.5 million and £124.1million). Assuming the standard 10-year appraisal period, **the total (discounted) ongoing costs amount to £92.7 million.** Therefore, **the total discounted cost of this policy option is £186.2 million** (range of £135.2 million and £216.8 million). As mentioned previously, these costings rely on assumptions that will be informed further by the consultation. The large range for these costings reflects not only these variables but also

the uncertainty surrounding the assumptions and evidence used. We will test these assumptions further, prior to a full Impact Assessment.

Figure 13: Summary of total discounted monetised costs

Total Monetised Costs for Option 1 (£m)			
One-off costs	Low	Central	High
Familiarisation cost	£5.6	£33.7	£33.7
Workforce planning	£4.4	£7.0	£21.7
Record keeping	£32.4	£52.8	£68.6
Ongoing Costs	Low	Central	High
Notice provision (10 year, discounted)	£92.7	£92.7	£92.7
	Low	Central	High
Total Costs	£135.2	£186.2	£216.8

Benefits

93. We have not been able to identify any quantifiable benefits to business or workers resulting from this proposal. However, whilst not quantifiable, we anticipate that there will be clear benefits to both parties, linked to having improved certainty of worker's shifts and the rights of individuals
94. In particular, this policy would address three specific areas of one-sided flexibility – income insecurity, unpredictability of hours and the ability for workers to assert their rights. As identified by the European Council, for a similar proposal to provide minimum advance notice before a new assignment or a new period of work, setting a minimum advance notice period would limit the detrimental effects of not being able to effectively plan other engagements. They point out that this could improve work-life balance and allow additional work to be taken on. This concurs with that outlined in the 'rationale for intervention' section of this impact assessment – the lack of certainty around working hours for some individuals, can have a detrimental impact on their welfare.
95. As highlighted previously, much of the evidence collated by the LPC identified that the issue of one-sided flexibility was most prevalent amongst low-paid workers. It is therefore likely that the benefits to workers, described above, will be felt at the lower end of the income distribution.
96. Additionally, we believe that this policy will have benefits to the employer too. According to the Commission on Vulnerable Employment, employment protection also has clear business benefits. Good employers agree that quality labour standards are needed to enable innovation, flexibility and responsiveness by firms competing in a global economy. In a survey undertaken by CIPD, of over six hundred HR professionals, the majority of employers stated that employment law made a positive contribution to worker relationships, and less than 15 per cent said that employment law gets in the way of business. Sixty-seven (67) per cent agreed with the statement that employment law drives good business practice. Through implementing a policy of providing reasonable notice of work schedules, which may result in businesses undertaking workforce planning, employers would benefit from the improved worker relationship.
97. As highlighted previously, we note that there is the potential for a cost to business arising from the loss of flexibility from the creation of this right. Whilst we anticipate that firms' workforce planning would ensure that shifts are better organised, there will inevitably be situations which firms cannot account for, such as staff illness. The Government, as suggested by the LPC, do not intend to prevent workers taking shifts if they want to, therefore the proposed policy will have a provision for employers to offer shifts with less than "reasonable" notice. However, as outlined

above, workers would be under no obligation to accept that shift and should not experience any detriment for turning such a shift down. This additional protection from detriment is intended to empower workers to assert their rights – an issue that was identified by the LPC.

98. Furthermore, we would expect a positive outcome for employers retaining a workforce with normal amounts of flexibility, as they would now experience decreased unfair competition from employers who undertake abusive flexible working arrangements¹².

Non-monetised costs

99. As the policy is predicated on “reasonable” notice, which will be determined following consultation with workers and businesses, the chosen time period should minimise any adverse, unintended impacts incurred by businesses. The proposal is designed to give workers with a variable work schedules more notice and certainty around their likely working pattern. However the proposal does not move far from the current situation in that business may still ask a worker to unexpectedly work inside or outside of the “reasonable” notice period (as they can now), therefore not preventing workers from taking on work if they so wish, while allowing employers to cover unforeseen circumstances (such as staff illness). A worker would be able to reject work that is provided with less than “reasonable” notice (as they can now) however the key change is that workers will now be better protected and should feel more empowered to turn down such shifts, without the fear of suffering detriment as a result. The provision of the record of notice is key to this. The TUC (2019) found that more than a third (35%) of workers on zero-hours contracts have been threatened with not being given shifts in the future if they turn down work. The reinforcement within this policy, for workers not to face detriment for refusing a shift offered with less than reasonable notice, would address this finding.

100. This change may result in an increased risk of output loss, if businesses are unable to find workers to meet their working hours. We believe that this risk is minimal as workers are still likely to want to work (for example, 22% of ZHC workers want more hours¹³). Employers can still seek out cover from the pool of their existing workforce. Furthermore, the proposed policy would create an incentive for businesses to plan better, such that short notice cover is required less often. However, we welcome views from stakeholders in our consultation to inform Government of potential ongoing costs that firms will have to incur as a consequence of this policy, and we will look to revise this assumption depending on the results from consultation responses.

101. There is also the potential for an unintended adverse impact on workers from this proposed policy. If businesses become risk averse, they may choose to offer work in increased volumes compared to what they would have previously done. This may be done in order to cover any/every eventuality of circumstances, so that the employer would have any shift covered. When the employer identifies that a worker is no longer needed for a shift, they may then choose to cancel the shift last-minute. We believe that this practice would be unlikely – employer representations to the LPC (such as those made by Whitbread and UKHospitality), from businesses who already provide notice periods, do not provide an indication that this is a natural business response to providing advance notice of shifts. Furthermore, dependent on the results from the consultation, the proposed policy to provide compensation for short-notice shift cancellations (if taken forward in combination) would act as a strong deterrent for this behaviour.

102. Conversely the number of shifts offered may decrease if employers are unable to effectively plan their workforce to such an extent that they feel uncomfortable from offering some shifts. In addition to the previously mentioned “output loss” that this would lead to for businesses, this will have a negative impact on workers and their employment outcomes (which may impact those as the lower end of the income distribution, where one-sided flexibility is more prevalent). Again, the proposed policy would allow employers to seek out cover the pool of their existing workforce, so we do not anticipate that this would be a widespread practice, if at all.

103. It is also important to consider the distributional impact that the policy will have, both on firms and workers. A summary of our analysis, highlighting the impacts on small and micro businesses can be found at the end of this Impact Assessment. It is likely, however, that there

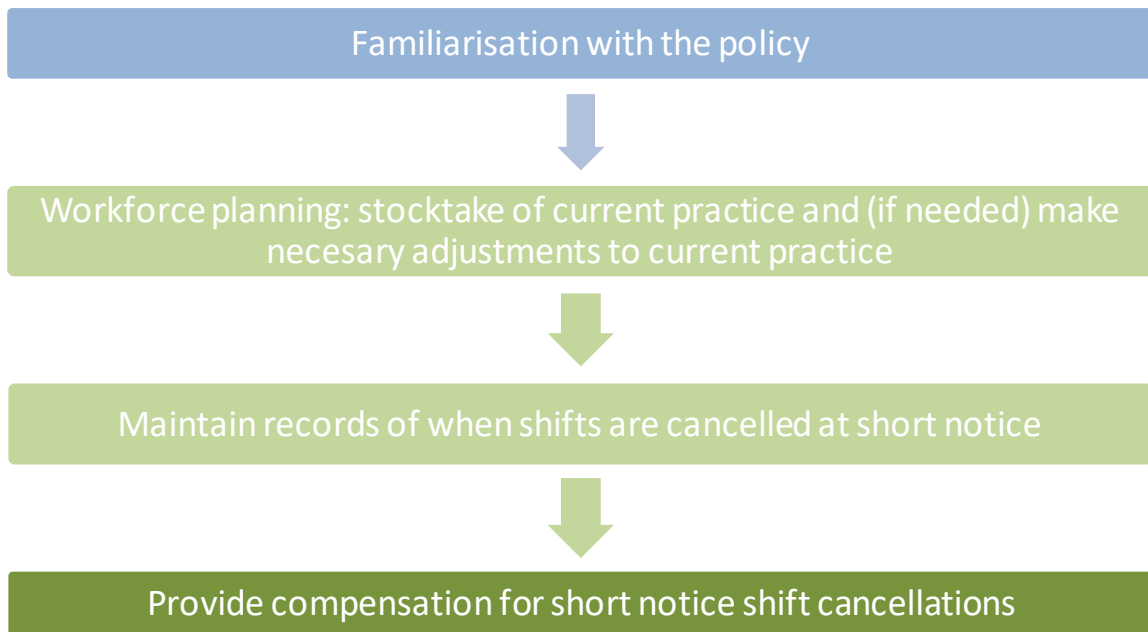
¹² European Commission, 2017, *Impact Assessment accompanying the Proposal for a directive on transparent and predictable working conditions in the EU*

¹³ ONS Labour Market Statistics, March 2019

will be variability in firms' behaviour as a consequence of this policy. We have attempted to monetise a workforce planning exercise that accounts for employers considering a behavioural response (alongside the changes directly made as a consequence of the policy). We will be engaging with a wide range of stakeholders throughout the consultation process, which will further inform the distributional impact.

Option 2 – Compensation for shifts cancelled at short notice

104. As before, we will be asking stakeholders to identify the potential impacts that this proposed policy will have on businesses. We again believe that there are four categories of key monetizable costs:



105. It should be noted at this early stage that some of these costs may in part be mutually exclusive, in that adequate workforce planning will minimise the need to provide compensation for short-notice shift cancellations. We discuss this in further detail below, under potential monetised costs.
106. It is anticipated that familiarisation, workforce planning and record maintenance will be one-off costs incurred by businesses, while the provision of compensation is likely to be an ongoing cost.

One-off familiarisation costs

107. Again, through this new right, employers would need to familiarise themselves with the detail of the policy. While the practice of alerting workers that their shift has been cancelled already exists in some form, firms will now need to consider compensating them for doing so, resulting in some firms having to change their practices.
108. While it is anticipated that this policy will only affect instances where employers ask their workers to work shifts or whose working hours vary (therefore where hours could be cancelled), it is possible that all firms take time to understand the changes, as it may affect future hiring decisions and firms may want to check that their existing practice is compliant with the proposed legislation. For that reason, we use estimates for the entire (employing) business population, noting that this is a conservative approach.
109. To estimate familiarisation costs, we again use a standard assumption of 30 minutes to read and understand the requirements. This estimate is in line with the familiarisation time taken across other areas of employment law (such as that for the National Living Wage; extensions to the right to a written statement; and the additional information requirements on payslips). This is more conservative than the familiarisation time estimated by the Government's Employment Law Admin Burdens Survey 2008 – this assumed familiarisation time for the Working Time Directive (which could be considered as an appropriate proxy for a policy whereby an employer would need to maintain records of workers' working time – although in this instance non-working time, where shifts are cancelled at short notice – and additional obligations) would be 22 minutes. We consequently use 22 minutes for our low-cost estimate.
110. Similar to the case under policy option 1, quantitative evidence that suggests the problem of short-notice cancellations is proportionately more acute in small businesses, is not available.

Through the consultation period, we will look to engage specifically with small businesses (or their representatives) to understand how this would vary for them. In absence of this, we again make a conservative assumption that small and micro businesses will take twice as long, an average of one hour, to familiarise themselves with this policy.

111. We also make the same assumptions regarding who would undertake the familiarisation exercise within businesses (differing by the size of the business) and, using wage data from ASHE 2018, we uplift these hourly costs by 21.78% to cover non-wage costs, in line with Eurostat methodology.
112. Figure 14 below outlines the total familiarisation cost that this proposed policy would result in. We estimate that businesses would face a **total familiarisation cost of £33.7 million** (central and high estimate), with our low estimate being £24.7 million.

Figure 14: Total familiarisation costs

Cost of Senior Managers Time for Familiarisation						
Size of Business	Number of Businesses Affected	Hourly Cost of Person Undertaking Familiarisation (uplifted)	Time Taken for Familiarisation		Total Familiarisation Cost (£m)	
			Low	Central/High	Low	Central/High
Micro	734,145	£27.57	44 mins	60 mins	£14.8	£20.2
Small	466,635	£27.57	44 mins	60 mins	£9.4	£12.9
Medium	34,835	£30.03	22 mins	30 mins	£0.4	£0.5
Large	7,510	£30.03	22 mins	30 mins	£0.1	£0.1
Total	1,243,125				£24.7	£33.7

One-off Implementation costs – workforce planning

113. We also consider what the potential cost would be if employers were to undertake a one-off workforce planning exercise, akin to that described under policy option 1. In this instance, this would enable employers to review what their current practice of cancelling shifts at short notice is and amend it through better planning (either to avoid paying compensation completely or indeed understand to what extent they can minimise the amount of compensation that may be required).
114. To estimate the number of businesses that would undertake such a workforce planning exercise, we take a similar step-by-step approach (by first estimating the number of business who use non-guaranteed hours contracts, the proportion of businesses who cancel shifts, and then the proportion of shifts that are cancelled at “short-notice”):

a. Businesses who use non-guaranteed hours contracts

CIPD’s (2018) survey of low-paid employers estimated that 32% of large firms and 20% of small and medium sized enterprises make use of flexible employment arrangements. We use these proportions as a proxy for the number of businesses with non-guaranteed hours contracts.

b. Businesses who cancel shifts

Small-scale survey work undertaken by IDR (2018), to understand the practices of low-paying employers who utilising zero/minimum hours contracts, provides some further information on existing practices. This found that 13% of employers (5 employers) never cancel shifts, while those that do cancel shifts generally provide at least 24 hours’ notice and inform workers via direct contact, such as a phone call or an email. We therefore assume that 87% of these businesses cancel shifts.

c. Businesses who cancel shifts at “short-notice”

It will be businesses who currently cancel at “short notice” who will be directly impacted by the compensation element of this proposed policy, therefore will need to amend their

practices. Through our consultation, we will be seeking views on what constitutes “short-notice”. In the absence of this, we assume what time period constitutes “short-notice”. Using estimates from the CIPD (2013), we assume that 55% of shifts are cancelled with 12 hours’ notice, 65% are cancelled with 24 hours’ notice and 83% are cancelled with 7 days’ notice. These three time periods (12 hours, 24 hours and 7 days) constitute our low, central and high scenarios respectively. It should be noted that the latest evidence from TUC suggests that 51% of zero-hour workers have shifts cancelled at less than 24 hours’ notice

115. We apply these sets of these proportions to the business population estimates to estimate the number of businesses who would need to amend how they allocate working hours, such that compensation payments are minimised (Figure 15).

Figure 15: Estimates for the number of businesses who will undertake a workforce planning exercise

Number of affected businesses									
Size of Business	Total Number of Businesses	% of businesses with flexible working arrangements	% of businesses who cancel shifts	% of businesses who currently cancel shifts at “short notice”			Number of businesses affected		
				Low	Central	High	Low	Central	High
Micro	734,145	20%	87%	55%	65%	83%	70,258	83,032	106,025
Small	466,635	20%	87%	55%	65%	83%	44,657	52,776	67,391
Medium	34,835	20%	87%	55%	65%	83%	3,334	3,940	5,031
Large	7,510	32%	87%	55%	65%	83%	1,150	1,359	1,735
Total	1,243,125						119,398	141,107	180,183

116. We once again assume that a HR manager (for large/medium businesses) or a senior manager (for small/micro businesses) would spend on average half a day to undertake this exercise. We use this estimate for our central and low scenarios, and assume a day is spent in

our high scenario. As before, we are aware of the sensitivity of this assumption and will test this considerably throughout the consultation process.

117. The cost estimates these produces are illustrated in Figure 16, where workforce planning is estimated to cost **£14.6 million** under our central scenario (range of £12.4 million to £37.4 million).

Figure 16: Workforce planning cost estimates

Workforce planning estimates							
Size of Business	Number of Businesses Affected	Hourly Cost of Person Undertaking Familiarisation (uplifted)	Time Taken for Familiarisation		Implementation Cost – Workforce Planning (£m)		
			Low/Central	High	Low	Central	High
Micro	See above	£27.57	3.75 hrs	7.5 hrs	£7.3	£8.6	£21.9
Small	See above	£27.57	3.75 hrs	7.5 hrs	£4.6	£5.5	£13.9
Medium	See above	£30.03	3.75 hrs	7.5 hrs	£0.4	£0.4	£1.1
Large	See above	£30.03	3.75 hrs	7.5 hrs	£0.1	£0.2	£0.4
Total	See above				£12.4	£14.6	£37.4

118. We acknowledge that the robustness of the estimate for businesses who cancel shifts may be questioned due to the low sample size of five employers. As a crude sensitivity, we considered other data sources. Specifically, approximately 35% of employers state that the hours for their workers fluctuated (varying each week from just a few hours to more than 8 hours in some instances) estimates, as taken from the CIPD’s Labour Market Outlook survey (2018). This may be an underestimate – workers may have their shifts cancelled and then rearranged within the same week, therefore appearing to have the same number of hours each week, but with significant variation within that – or an overestimate, as the variation in hours may be due to additional hours being offered rather than cancelled. We speak to this further in paragraph 120, however using this estimate reduces the cost to £5.9 million (central assumptions).

One-off Implementation costs – Record keeping

119. We take the same approach to that taken in Policy Option 1 costings.

120. Evidence from IDR (2018) suggests that, where shifts are cancelled, no employers notify workers via an online system. While there is again qualitative insights that suggest some firms do record when shifts are not worked (due to cancellations), we are guided by this (small-scale) qualitative evidence and take the conservative approach of assuming that all businesses employing workers with flexible employment arrangements, who cancel shifts, will need to amend their IT/record-keeping systems.

121. We once more use estimates from the Payslips IA, for where changes are made to a bespoke payroll software. In the instance where a business will need to utilise a brand “new” system to record when they provide workers notice, employers may need to make adjustments to their internal systems. In line with the assumptions made in previous IAs, it is assumed that 8 hours of an IT professional’s time is taken to implement a new change. Using ASHE 2018

estimates for a programmer and software developer (£26.45 per hour, once uplifted to account for non-wage costs), we find that a total cost of £211.60 may be incurred by businesses.

122. Using £130 and £275 once more (see paras 78 – 80) as our lower and upper estimates respectively, Figure 17 provides an estimate for the total cost to business of amending systems to keep a record of cancelled shifts, **with a central estimate of £45.9 million.**

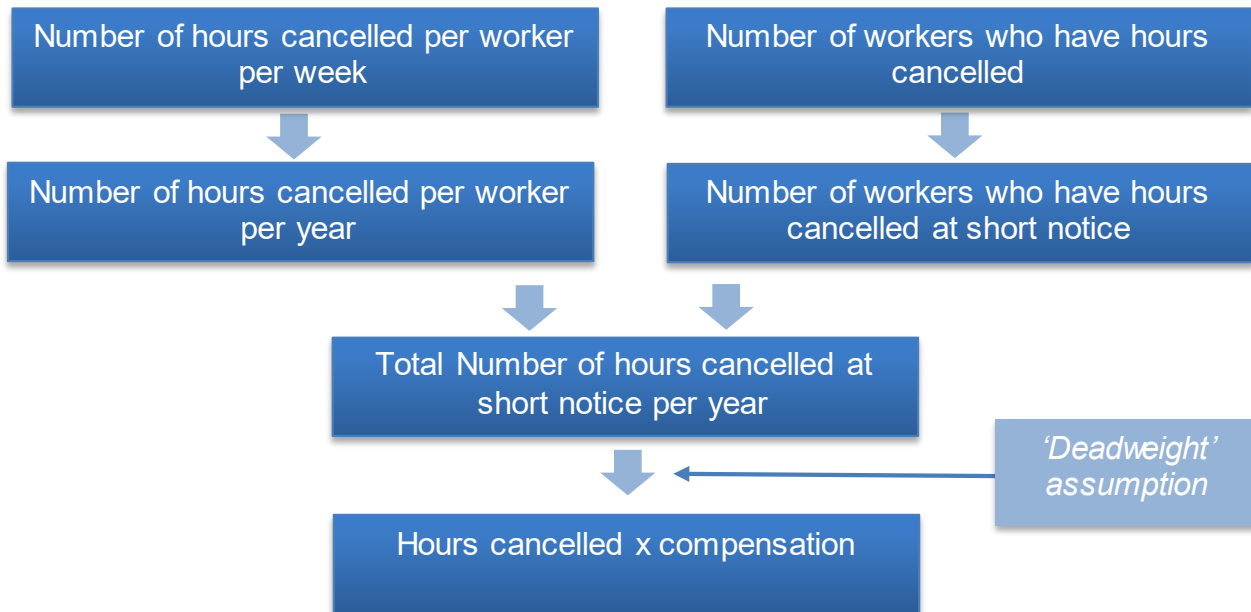
Figure 17: Estimated costs of amending record keeping systems

Implementation Cost of Recording (notice provided for) Shift Cancellations							
Business Size	Number of businesses affected	Unit Cost			Total Cost		
		Low	Central	High	Low	Central	High
Micro	127,741	£130	£212	£275	£16.61	£27.03	£35.13
Small	81,194	£130	£212	£275	£10.56	£17.18	£22.33
Medium	6,061	£130	£212	£275	£0.79	£1.28	£1.67
Large	2,091	£130	£212	£275	£0.27	£0.44	£0.58
Total	217,088				£28.22	£45.94	£59.70

Ongoing Implementation costs – compensation payments

123. In order to estimate the total value of compensation payments that may be incurred as a consequence of this policy, a step-by-step approach is taken, as outlined in the diagram below.

Estimates for both the number of hours cancelled and the number of workers who have hours cancelled are inferred, prior to estimating a gross £-value for compensation payments.



124. Having engaged extensively already through regular stakeholder engagement with business/worker representatives, individual employers and the LPC's own consultation, it is clear that there is not a robust estimate available for the proportion of all hours worked by individuals on flexible employment arrangements that are cancelled. This is in part due to a lack of record-keeping of cancelled hours (which we have discussed in the section above). Business representatives have suggested that it may lay somewhere in the range of 5% - 10%. Through our consultation process, we will attempt to identify a robust estimate of this. However, in its absence, we use existing data to form a proxy for the number of hours cancelled each week, to illustrate the potential magnitude of this policy.
125. Data from CIPD suggest that, for employers of workers on flexible employment contracts, 37% stated that their workers worked similar hours each week, 12% vary a few hours each week (e.g. 1-3 hours), 13% vary 4 – 8 hours and 10% vary more than 8 hours a week. If we take an average from these figures, we are able to estimate the average number of hours that vary each week, which we take as a proxy for the average number of hours cancelled each week¹⁴. We estimate that, where hours did vary, the average amount was by 5.77 hours a week. It should be noted that this data does not distinguish to what extent the variation is due to the employer or the worker. Additionally, the variation may occur due to workers taking on additional shifts. At this point in time, we make a simplifying assumption that variation is symmetric i.e. equally likely to relate to additional shifts as it is to cancelled shifts. We therefore assume that 2.89 hours are cancelled a week (or alternatively, that 5.77 hours are cancelled a fortnight).
126. This would mean that cancelled hours would comprise 16% of an average zero-hours contract worker's week (Labour Force Survey data suggests an average of 18 hours actually worked per week by these types of workers), which is higher than the range business representatives have informally told us (see para 128 for a relevant sensitivity analysis). The simple calculation of the number of hours cancelled per week (2.89 hours) multiplied by the number of weeks (52 weeks) finds an annual estimate for cancelled hours of 150 hours for one worker.
127. While specific estimates for the number of workers who have their cancelled are not available, evidence from Felstead et al. (2018) suggests that seven per cent of employees (equivalent to 1.7 million individuals) were very anxious that their working hours could change

¹⁴ We use the midpoints for the ranges of hours and adjust the percentages to take a weighted average. The specific calculation is $(2 \text{ hours} \times 34.29\%) + (6 \text{ hours} \times 37.14\%) + (10 \text{ hours} \times 28.57\%) = 5.77 \text{ hours}$. We note that the final category of "hours vary by more than 8 hours each week" is open-ended. We have assumed 10 hours.

unexpectedly. We use 1.7 million workers as a proxy for the number of workers who have some hours cancelled (short-notice or otherwise).

128. Of these 1.7 million individuals, we cannot distinguish to what extent their anxiety over hours variation (interpreted as “cancellations” for the purpose of this analysis) is due to short-notice cancellations. For this, we utilise the estimates from CIPD (2013) of 55%, 65% and 83% for cancellations with less than 12 hours, 24 hours and 7 days respectively. Latest evidence from TUC (2019) suggests that 51% of zero-hour contract workers have had a shift cancelled at less than 24 hours’ notice. The survey does not estimate how regular an occurrence this is; however, it does suggest to us that the figures from the CIPD may lead to an overestimate. Nevertheless, using these CIPD estimates, we assume that 65% of the 1.7 million workers face “short-notice” cancellations (in our central estimate) – this equates to 1.1 million workers.
129. As previously mentioned, the Low Pay Commission put forward three suggested levels of compensation:
- a. The value of the shift in question
 - b. The applicable minimum wage rate multiplied by the scheduled number of hours that were cancelled
 - c. A multiple of the minimum wage – we use Ireland’s proposal for three times the minimum wage)
130. These options are not fixed, and we will look to consult on what the most appropriate level could be. For the figures presented in our low, central and high estimates for this policy option, we consider a compensation level equivalent to the applicable minimum wage rate multiplied by the scheduled number of hours that were cancelled. Quantitative evidence on cancelled hours does not indicate the value of those shifts (or more importantly, the wage associated with those working in the shift). However, we are mindful that the compensation option whereby the value of the shift in question is paid to the worker, may result in a larger cost to business. We therefore undertake scenario analysis for both that compensation level and that for compensation equivalent to a multiple of the minimum wage.
131. In the absence of detailed demographic information of the workers who have their shifts cancelled, we make a simplifying assumption of using the National Living Wage (NLW, applicable for 25+ year old workers) of £8.21 an hour as the compensation amount. Multiplying the number of affected workers (1.1 million) by the number of hours cancelled per year (150) and the compensation amount (£8.21) equates to the total (maximum) annual cost of compensation - £1,361 million.
132. However, CIPD estimates suggest that 26% of employers of low-paid flexible workers do currently pay compensation. It is not clear what level that compensation is. Despite this, with the level of compensation within this policy not yet set and to be informed by the consultation results,

we believe it is reasonable to apply this proportion to the above cost, to account for potential deadweight. **This results in an annual total cost of £1,007 million.**

Scenario Analysis

While there is no basis to estimate the value of shifts currently cancelled at short notice, we are mindful that providing compensation equal to the value of the shift in question may be the most expensive compensation option. We therefore undertake sensitivity analysis on this option.

We use the median hourly wage across all workers as a proxy (this is £12.78¹⁵) to identify the possible cost associated with the first option of compensation equal to the value of the shift. Qualitative evidence from the Low Pay Commission and Incomes Data Research suggests that the cancelling of shifts is more prevalent amongst low-paying sectors, therefore we believe that this estimate is conservative.

Using estimates taken from above, for the number of hours cancelled each week and the number of workers who have hours cancelled, we estimate that this compensation option could cost businesses £1,568 million annually. This varies between £1,327 million and £2,002 million in the low and high estimates respectively (dependent on the period determined as short-notice for cancellations)

For the compensation option that uses a multiple of the minimum wage, we specifically use Ireland's proposal of three times the minimum wage i.e. $3 \times £8.21 = £24.63$.

Similar calculations to above result in an annual cost to business of £1,047 million. This estimate varies from £886 million to £1,337 million in the low and high estimates respectively.

133. As a sensitivity, we amend our simplifying assumption regarding the hours cancelled – instead of using 2.89 hours per cancelled, we use 5.77 hours (as described in paragraph 120). This increases the annual cost to £2,015 million (i.e. doubles in size). Using 5.77 hours as an estimate seems unrealistic at this stage as this represents 32% of a zero-hour contract workers' working hours, significantly higher than the estimated range suggested by employer representatives of 5%-10%. However, the impact shown in this sensitivity illustrates the need to refine this assumption, which we will look to do during the consultation.

Implementation costs - total

134. It is not clear yet to what extent the workforce planning exercise will allow companies to amend their practice and completely prevent short-notice cancellations of working hours, as some
135. Solely relying on a workforce planning exercise undertaken by employers would underestimate the potential costs of this policy. Alternatively, if we were to assume that the number of shifts that are currently cancelled at short notice were to remain, post the introduction of this policy, this would overestimate the cost – an anticipated effect of this policy would be to alter employer behaviour so that short-notice shift cancellations are not the norm amongst certain egregious employers. To assume that the number of short notice cancellations remains constant would be to pre-emptively assume a failure in policy.
136. Isolating what proportion of costings are due to unforeseen circumstances and what are due to poor planning, may enable for more robust estimates. A workforce planning exercise could look to eradicate short notice shift cancellations that arise from poor planning. Therefore, compensation would only be paid for short-notice cancellations that may occur irrespective of however well-prepared businesses are – for example, qualitative evidence provided to the LPC highlighted examples in agriculture, where sudden shifts in the weather may remove the need for labour on that day.
137. Evidence from the IDR (2018) found that 28% of respondents said hours for workers on zero-hours contracts were highly variable and difficult to predict (this compares to 0%, in relation

¹⁵ This is the average wage for a worker (includes full-time, part-time, men and women)

to *minimum-hours* contracts, therefore may be an overestimate when extrapolating to the entire population). Therefore, for our central estimate of the total cost, we assume that, in addition to the workforce planning exercise costs, 28% of short-notice cancellations cannot be mitigated with foresight and compensation fees will need to be paid. We will look to test this assumption through the consultation process, as it is likely that firm behaviour will change from employer to employer. This adjusts the annual cost of the compensation element of this policy to £1,007 million x 28% = £282 million. The low sample sizes associated with the IDR study, alongside the likelihood that firm behaviour will change to mitigate the costs as far as possible, do suggest that this estimate for compensation could be an overestimate.

138. This assumption, in addition to the costs associated with familiarisation and amending of IT systems, **leads to a central estimate cost of £2,428 million (discounted) for the proposed policy to provide compensation for short-notice shift cancellations.** Figure 18 provides a breakdown of these costs.

Figure 18: Summary of total discounted monetised costs

	Low	Central	High
One-off costs			
Familiarisation	£24.7	£33.7	£33.7
Workforce Planning	£12.4	£14.6	£37.4
Record-keeping	£28.2	£45.9	£59.7
Ongoing costs			
Compensation Payments (10 years, discounted)	£2,054.4	£2,427.9	£3,100.3
Total Discounted Costs	£2,119.8	£2,522.3	£3,231.1

139. We also undertake a form of sensitivity, by assuming that no shifts are cancelled at short notice. While there is some evidence from IDR (2018) that employers of minimum-hours contract workers believe that none of the hours worked were highly variable and difficult to predict, practicalities in certain sectors (such as hospitality, with last minute customer bookings or social care, with service users dying) may lead to “unavoidable” cancellations. Therefore, we do acknowledge this is an underestimate. However, this results in a total cost of £94 million.

Benefits

134. The ongoing costs to business associated with compensation for short-notice cancelled shifts will also manifest itself as a benefit to workers (who receive the compensation). Therefore, this Impact Assessment considers this cost a transfer. **This means that the benefits received**

by the worker are equal to £282 million annually, or £2,428 million over a 10-year period (discounted). These figures can be found in paragraph 131 and Figure 18 above.

135. In addition to these quantifiable benefits, there are further non-monetised benefits to business or workers, resulting from this proposal, that are not possible to estimate here. These include:

- a. Compensation for shift cancellations can limit the detrimental effects of not being able to effectively, while providing certainty on the occurrence of a shift
- b. Early notice of a shift-cancellation would allow the worker to either taken on additional work elsewhere (to maximise their income) or undertake another activity (to maximise their personal welfare)
- c. Employers may benefit from quality labour standards, to enable innovation, flexibility and responsiveness by firms. They may also benefit from the improved worker relationship
- d. Employers who currently provide their staff with reasonable notice prior to a shift cancellation would no longer experience detriment by unfair competition from employers who undertake abusive flexible working arrangements.¹⁶

136. By deterring employers from cancelling shifts at short notice, this policy would aim to provide workers with greater income and hours security. In addition, it would look to minimise some sunk costs incurred by individuals when they plan to work a shift – qualitative evidence found by the Low Pay Commission in their consultation highlighted instances of workers paying for travel or for childcare so that they could work a shift, only to find out either on the way to the place of work, or at the site itself, that their labour was no longer needed. It is anticipated that the proposed policy will therefore mean that these costs no longer needed to be incurred, or that the worker would be compensated to offset those costs.

137. As mentioned under policy option 1, much of the evidence collated by the LPC identified that the issue of one-sided flexibility was most prevalent amongst low-paid workers. It is therefore likely that the benefits to workers, described above, will be felt at the lower end of the income distribution. The lack of earnings data specifically related to those experiencing one-sided flexibility has resulted in these distributional impacts not robustly being monetised. However as crude guide, using Green Book methodology for distributional weighting, the benefits that accrue from this policy, to workers, could increase to as much as £1,533 million per year¹⁷. This distributional weight is not bespoke to this policy, therefore should only be considered indicative, illustrating the additional benefit that the compensation have on those further down the income distribution.

Non-monetised costs

138. This change may result in an increased risk of profit loss, if employers' margins become squeezed as a result of paying compensation. It is envisaged that the policy will change employer behaviour regarding late-notice cancellations, and it is plausible that we underestimate the behavioural change that businesses undertake to avoid this cost. Nevertheless, it is feasible that the additional cost pressures that result from this policy have negative impacts on other aspects of business performance. Additionally, the LPC have suggested that employers may look to offer shorter shifts – in the event that the compensation mechanism relates to the hours cancelled, having shorter shifts would reduce the amount of compensation that an employer would be liable to pay (as suggested in Figure 7). The policy can be designed to reduce the likelihood of this. However, we will engage extensively with employers throughout the consultation process to understand and mitigate any unintended consequences.

139. There is also the potential for a perverse adverse impact on workers from this proposed policy. If businesses become risk averse, they may choose to offer work only when they are certain that labour is needed and that there is minimal chance that a shift would be cancelled at

¹⁶ These points are covered in paragraphs 78 to 82 and are not repeated in full here.

¹⁷ A review of international evidence provides an estimate of the marginal utility of income at 1.3 (HMT Green Book 2018). We raise the annual benefit that workers would receive, as a consequence of the transfer of compensation (from employer to worker), by this amount i.e. £282m ^ 1.3 = £1,533m.

short-notice. It is possible that this could result in reduced employment, with a larger distributional impact on low-paid workers (where evidence from the LPC suggests one-sided flexibility is most prevalent).

140. However, this may also manifest in hours being offered at short-notice, to maximise the chance that the shift *would not* be cancelled. We will test this over the consultation period, however the existing provision of compensation for cancellations by some companies does suggest that it is not a natural business reaction to offer shifts last minute. Furthermore, dependent on the results from the consultation, the proposed policy to provide reasonable notice for work schedules would act as a strong deterrent for this behaviour.
141. One consequence of this policy may be that employers are moved to change the contract type of their staff, to forms that provide guaranteed hours. It is not yet clear how this behaviour impact will materialise or indeed the scale of this, and it is something we will look to test through the consultation period. However, it is likely that any additional cost to the business would be weighed against (and likely outweighed) by some of the benefits to business outlined above, and the benefits to workers that are associated with having a more stable and predictable contract (such as income security)

Option 3 – Non-statutory guidance to address one-sided flexibility

142. As before, we will be asking stakeholders to identify the potential impacts that this proposed policy will have on businesses. As mentioned, the content of the guidance is still to be determined therefore estimating the costs of this option are not immediately obvious. If this guidance were to supplement policy option 1 or policy option 2, we would anticipate that familiarisation and implementation would be covered within those costings.

143. Below, we present cost estimates for a standalone, non-statutory guidance that could arise as businesses familiarise themselves with the policy.

Estimating the familiarisation cost				
<p>We use many of the same assumptions under policy option 1 and policy option 2. However, with this guidance currently proposed to be non-statutory, we start by assuming that only businesses who utilise flexible working relationships will familiarise themselves with this voluntary guidance. Estimates from CIPD suggests that 20% of businesses use flexible working arrangements. We apply this proportion to the whole business population. This in itself may be an overestimate, as not all of these businesses have one-sided relationships with their workers. However, we assume that firms will take time to understand the principles put forward in the guidance, as it may affect their future hiring decisions and they may wish to check that their existing practice is aligned with best practice.</p>				
<p>We again use a standard assumption of 30 minutes to read and understand the principles set out in the guidance; and to disseminate this across their sites and workforce. This estimate is in line with the familiarisation time taken across other areas of employment law (such as that for the National Living Wage and National Minimum Wage).</p>				
<p>We also use previous assumptions for small businesses – in the absence of quantitative evidence at this stage, we make a conservative assumption that small and micro businesses will take twice as long, an average of one hour, to familiarise themselves with this policy. We use the same ASHE 2018 data to identify who will undertake the familiarisation exercise (by business size) and what their wage is. We again uplift this by 21.78% to cover non-wage costs.</p>				
<p>The culmination of these assumptions leads us to estimate that the total (indirect) familiarisation cost for implementing the principles set out in a non-statutory guidance is £6.7 million.</p>				
Size	No. of businesses with flexible working arrangements	Time taken for familiarisation	Hourly Cost of Person Undertaking Familiarisation (uplifted)	Total familiarisation costs
Micro	146,829	60 mins	£27.57	£4.0 million
Small	93,327	60 mins	£27.57	£2.6 million
Medium	6,967	30 mins	£30.03	£0.1 million
Large	1,502	30 mins	£30.03	(£23,000)
Total	248,625			£6.7 million

144. Alongside this indirect familiarisation cost, it is feasible that businesses incur indirect implementation costs. As illustrated under policy option 1 and policy option 2, changes to address practices that result in one-sided relationships, may incur costs to HR and/or payroll systems or separate payments, dependent on the principles put forward in the guidance

145. There may be further indirect costs such as the potential for a loss of flexibility or employers cutting back on other benefits to workers (e.g. paid breaks) to mitigate any additional financial/output loss.

146. However, alongside these costs, it is anticipated that these principles will generate benefits to businesses and workers. Reducing one-sided relationships will prevent unscrupulous employers from abusing relationships with their workers through poor workforce planning; and

promote genuine flexibility to ensure workers can balance their working life with their personal commitments. It is also anticipated that this guidance could encourage conversations between workers and employers to facilitate the sharing of the benefits of flexible working and promote effective workforce management

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

147. This Impact Assessment is for policy that is at development/consultation stage, with Government consulting on many of the variables that would inform the detail of proposed policies. The estimates used here (for example to represent what a “reasonable” amount of notice is or what should be considered “short-notice” for shift cancellations) are purely indicative and any Final Stage Impact Assessment would be informed by the findings we receive from the consultation. As outlined in the consultation, we welcome views on what an appropriate length of time should be considered as “reasonable”, what would be a fair level of compensation, alongside views on other variables of the proposed policies that would be integral in determining estimates of the final cost to business.
148. As this is a consultation stage IA, we have sought to monetise impacts as far as possible to inform consultees on the potential scale of impacts associated with the proposed changes, and the impacts estimates are indicative only.
149. We have utilised the extensive work undertaken by the Low Pay Commission in identifying the problem that Government should address (i.e. one-sided flexibility). Alongside the consultation to identify the impacts of the proposed policies, we will continue to refine the evidence base on the problem in question and will seek to update this within any final stage Impact Assessment.

Risks and assumptions

150. Throughout this Impact Assessment, we have outlined the numerous assumptions made in our calculations. Some of these are due to the consultation providing specific figures for variables, while others are due to the “challenging” (as stated by the Low Pay Commission) nature of identifying who exactly experiences issues of ‘one-sided flexibility’. On the latter, we will continue to engage stakeholders to test and refine our assumptions, prior to calculations in a Final Stage Impact Assessment.
151. At this stage, the risks associated with our assumptions may result in an overestimate or underestimate. This will depend on whether our assumed population of businesses who are affected is correct and whether the complexities of a workforce planning exercise have been appropriately considered here. Based on our sensitivity analysis, we believe it is our assumptions on the time taken for this workforce planning exercise that will need to be strengthened the most.
152. It should be noted that for the purpose of this Impact Assessment, we have assumed that each policy option could be taken forward in isolation. It is feasible that the results of our consultation suggest that, for example, policy options 1 and 2 are taken forward together. This would allow for a synergy in processes (i.e. an employer may only undertake one workforce planning exercise covering both shift offerings and cancellations, that would take less time than doing two separate exercises). As mentioned, we do not want to presuppose the consultation results at this stage, therefore will assess impacts of taking multiple options forward in a Final Stage Impact Assessment.

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

153. At this stage, we believe that the majority of the costs assessed in this impact assessment are direct costs to business. We have not identified any direct and monetizable benefits to business. This holds true for the benefits that could accrue to workers in Option 1 – in Option 2, workers will receive the monetizable benefit from the compensation. Figure 19 summarises the costs to private businesses and non-profit organisations. With no basis to remove the proportion

of costs that would accrue to the public sector, we have included all business costs into these calculations, consistent with BIT methodology.

Figure 19: Summary of costs to private businesses and non-profit organisations

	Description	Familiarisation	Implementation – one-off	Implementation - ongoing	Total Monetised Costs
Option 0	Do nothing	n/a	n/a	n/a	n/a
Option 1	Right to reasonable, and recordable, notice of work schedules	£33.7 m	£59.8 m	£92.7 m	£186.2 m
Option 2	Compensation for short-notice shift cancellations	£33.7 m	£60.6 m	£2,427.9 m	£2,522.3 m

Wider impacts

Small and Micro Business Assessment

154. Throughout this IA, where possible, we have attempted to monetise the impacts by business size (Figure 20 summarises these and show the costs to be distributed in similar size). At this stage, there is no evidence to suggest that small and micro businesses will be disproportionately impacted by the proposals. Indeed, the evidence we do have appears to suggest that the issues around notice not being provided to workers with sufficient notice is more prevalent amongst larger businesses. We will seek further information on businesses likely to be affected by the proposals during the consultation, and seek views on whether any types of employers or workers should be exempt from this proposed policy.

Figure 20: Total costs of each policy option, by business size (£m)

	Policy Option 1		Policy Option 2		Proportion of businesses	Proportion of employment
	£m	% of cost	£m	% of cost		
Micro	£109.8	59%	£1,489.7	59%	59%	9%
Small	£69.8	37%	£946.9	38%	38%	26%
Medium	£5.0	3%	£70.3	3%	3%	15%
Large	£1.7	1%	£15.4	1%	1%	49%
Total	£186.2	100%	£2,522.3	100%	100%	100%

Business Investment

155. While the practice of providing workers with notice of when shifts are offered or cancelled can be considered a non-wage related cost of employment, the policy proposal for short-notice cancellations to be compensated is a monetary-related cost of employment. It is therefore plausible that this additional financial cost may factor into decision-making, however there is no evidence to suggest that this change would materially affect the decision of firms considering investing in Great Britain. Indeed, it is currently within the European Union’s proposed Transparent and Predictable Working Conditions Directive for compensation to be provided to workers where hours are cancelled at short notice, suggesting that any relative difference on this matter, across some countries, may be negligible.