

Title: The Transport Strikes (Minimum Service Levels) Bill IA No: DFT00451 RPC Reference No: N/A Lead department or agency: Department for Transport Other departments or agencies: N/A	Impact Assessment (IA)
	Date: 17/10/2022
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Primary Legislation
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Summary: Intervention and Options	RPC Opinion: No Opinion
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Cost of Preferred (or more likely) Option (in 2019 prices): NQ			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status Qualifying Provision
NQ	NQ	NQ	

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

Strike action on the transport network can lead to widespread service disruption, as well as causing financial and wider negative impacts on the UK economy. Negotiations between unions and employers do not consider wider externalities such as the impact on the wider economy, the environment or categories of users who experience significant disbenefits from not being able to travel when they most need it. Government intervention is needed in the sector to protect the rights of the public to access the transport network to go about their daily lives, and this will be achieved through statutory requirements for minimum services levels to be provided in the event of a strike.

What are the policy objectives and the intended effects?

Objective: The legislation is seeking to reduce the adverse impacts of strike action on users, the movement of freight and the wider economy, whilst maintaining workers' right to strike.

Intended effects: A legislative framework will be established for the agreement of Minimum Service Levels (MSL). This will ensure that regulations may be passed to ensure that future strike action in transport services will be subject to an agreed minimum level of service for the safe operation of services, fairly balancing the rights of workers to strike with the needs of the travelling public, including the movement of freight, and mitigating the risks of disproportionate impacts on the wider economy, society and the environment. This should enable key workers and other passengers who cannot reasonably make alternative travel arrangements continued access to transport services to access work and deliver their obligations in key sectors such as healthcare, education, policing and other essential services. Freight services will also be able to run with fewer impediments, delivering essential goods and materials across the country.

What policy options have been considered, including any alternatives to regulation?

Option 0 – Do nothing. Transport workers retain the right to strike in line with current arrangements. The level of services provided on the transport network will vary during strike action depending on the nature and extent of the action, with full and ongoing network closures possible in worst-case scenarios.

Option 1 – Voluntary Minimum Service Agreements (MSA) with no government incentivisation. MSAs are introduced into the transport sector on a voluntary basis with Government setting out expectations for their introduction through non-statutory guidance but no accompanying incentives for trade unions to engage. The level of service provided will depend on the extent to which MSAs are mutually agreed between employers and their trade unions, and the associated level of service contained within the agreement.

Option 2 – Voluntary Minimum Service Agreements (MSA) with government incentive. MSAs are introduced into the transport sector on a voluntary basis with Government setting out expectations for their introduction through non-statutory guidance and providing financial incentives to employers for the purpose of enabling employers to incentivise trade unions.

Option 3 – Statutory Minimum Service Agreements (MSA) (Preferred Option). MSAs are introduced into the transport sector on a statutory basis through legislation. This sets the basis for a minimum service level (MSL). The legislative framework sets the framework for negotiations, and methods to achieve the outcomes sought by policy.

Following primary legislation and subsequent secondary legislation setting out the transport services in which MSLs would apply, employers and trade unions will be responsible for ensuring that the required staffing levels will be available to allow at least a minimum level of service to be run by the operator.

Option 3 is the preferred option because it is the most effective way to deliver the objectives of the proposal and ensuring the right to strike is fairly balanced against the rights of the travelling public to go about their business and importantly to incorporate a mechanism to internalise factors such as access to important facilities and wider social and economic impacts.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** January 2026

Is this measure likely to impact on international trade and investment?	No			
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: NQ		Non-traded: NQ	

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

Signed by the responsible Minister Date:

Summary: Analysis & Evidence

Policy Options 1,2,3

Description: The below impacts apply to options 1, 2 and 3.

FULL ECONOMIC ASSESSMENT

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

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

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

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

All three policy options are anticipated to impose similar costs on Government, business, unions and transport workers. Option 3 is expected to lead to a greater number of MSLs, implying that there may be higher costs (including increased administrative costs, enforcement costs, operational costs, and impacts on the ability to strike), associated with it than the other options. This is also likely to be the case for familiarisation costs, assuming that Option 3 will require more organisations to familiarise with MSLs.

Government:

- Administrative and familiarisation (direct)
- Enforcement costs (direct)

Businesses (transport operators and infrastructure managers):

- Administrative and familiarisation (direct)
- Operational costs from running more transport services on strike days (direct - magnitude dependent on the frequency and nature of industrial action)

Unions: Administrative and familiarisation (direct)

Transport sector workers:

- Lost utility arising from the restricted right to strike (direct)
- Indirect cost associated with less strength of bargaining power in relation to workplace disputes, which could result in lower pay and working conditions than they might otherwise have achieved (indirect).

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

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

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

As with costs, benefits are likely to be greater under Option 3 than the other options. This is because Option 3 is expected to result in a greater number of MSLs than Options 1 or 2, resulting in increased revenue for operators and benefits from reduced negative impacts of strikes, which will materialise to government, business and consumers.

Government: additional tax receipts from business and wider economy (indirect)

Businesses (transport operators and infrastructure managers): increased revenue from service operation (direct)

Consumers:

- Improved transport user experience due to increased and more reliable transport services on strike days (direct)
- Avoided impacts on access to work or ability to earn a living (direct)
- Avoided impacts on private and family life, education, and health (direct)

Wider Impacts: Avoided negative impacts on economic output, leisure expenditure, supply chains and other modes (indirect)

Key assumptions/sensitivities/risks	Discount rate	N/A
<p>Our working assumption for the purpose of assessing the costs and benefits is that they would raise service levels compared with Option 0. At this stage, details around the level of service that would be required under Minimum Service Agreements have not been established. Scale of impacts will depend on the extent to which service levels are increased by the legislation compared with Option 0.</p>		

BUSINESS ASSESSMENT

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

1.0 Policy Rationale

Background

1. **The transport system supports all sectors of the economy and is a crucial enabler for economic growth.** It plays a key role in the UK economy by providing connectivity for transport users and freight. In 2019¹, the average person in England travelled 6,500 miles² and 122 billion tonne miles of domestic freight was moved within the UK.³
2. **Public transport is critical for the everyday lives of UK citizens.** Demand for transport is a derived demand: it is necessary for people to go to work, visit family and friends, travel to important appointments and destinations, and allows goods and materials to flow to the right places where they are needed. In 2019, an average of 97 public transport trips were made per person in England, covering 1,106 miles and 77 hours of travelling.⁴ Bus and rail (including underground) are the most commonly used public transport modes, between them covering over 80% of trips made and 90% of distance covered by public transport in 2019.⁵
3. **Rail and bus are particularly important for commuting.** Although the majority of commuting trips were made by car in 2019, an estimated 12% of commuting trips were made by rail (including underground) and 8% by bus in 2019 in England. As demonstrated in Figure 1 below, a relatively high proportion of bus and (especially) rail trips were made for commuting in 2019 in England.
4. **This is particularly the case around London, where there are almost as many trips made by public transport as by car.** In 2019 there were an estimated 9.7 million journeys per day by public transport in London, compared to 10 million per day by private transport (car).⁶ 60% of London Underground trips and 28% of London bus trips were for commuting in 2019.⁷ For surface rail in 2019-20, almost two-thirds of rail passenger journeys in Great Britain started or ended in London,⁸ and 17% of London commutes were made by rail (not including underground) prior to the pandemic.⁹ In Autumn 2019, over one million passengers travelled to central London by train on a typical weekday, with over half of these arriving between 7-10 am.¹⁰
5. **Public transport, and buses in particular, also play a key role in access to education.** Figure 1 indicates that, compared with other modes, a relatively large proportion (21%) of bus

¹ Data from 2019 has been used here to describe key elements of the transport sector. More recent data has been heavily affected by the COVID pandemic, which led to substantial impacts on the transport sector, particularly through a reduction in usage. Post-COVID data reflects a short-term recovery position of the sector, and therefore it is expected that pre-COVID data will provide a better description of the transport sector over the longer-term, for which the proposed legislation is expected to apply. It should be noted that there are limitations to this approach because the impacts of the pandemic on the transport sector are not expected to be limited only to the short-term.

² National Travel Survey (2022). Table 0303. Average number of trips, stages, miles and time spent travelling by main mode: England, 2002 onwards. <https://www.gov.uk/government/statistics/national-travel-survey-2021>

³ Department for Transport (2020). Transport Statistics Great Britain: 2020. <https://www.gov.uk/government/statistics/transport-statistics-great-britain-2020>

⁴ National Travel Survey (2022). Table 0303. Average number of trips, stages, miles and time spent travelling by main mode: England, 2002 onwards. <https://www.gov.uk/government/statistics/national-travel-survey-2021>

⁵ National Travel Survey (2022). Table 0303. Average number of trips, stages, miles and time spent travelling by main mode: England, 2002 onwards. <https://www.gov.uk/government/statistics/national-travel-survey-2021>

⁶ TfL (2021). Travel in London Report 14, Figure 3.1. <https://tfl.gov.uk/corporate/publications-and-reports/travel-in-london-reports>

⁷ National Travel Survey (2022). Table 0409. Average number of trips (trip rates) and distance travelled by purpose and main mode: England, 2002 onwards. <https://www.gov.uk/government/statistics/national-travel-survey-2021>. Note: "Other" includes "shopping", "other escort", "personal business", and "other including just walk". "All modes" includes "walk", "pedal cycle", "car/van", "motorcycle", "other private transport", "bus in London", "other local bus", "non-local bus", "London Underground", "surface rail", "taxi/minicab", "other public transport".

⁸ ORR (2020). Regional Rail Usage, p5. <https://dataportal.orr.gov.uk/media/1933/regional-rail-usage-2019-20.pdf>

⁹ Labour Force Survey (2019)

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/adhocs/11694usualmethodoftraveltoworkbyregiontraveltoworkareaoccupationandindustryukoctobertodecember2019>

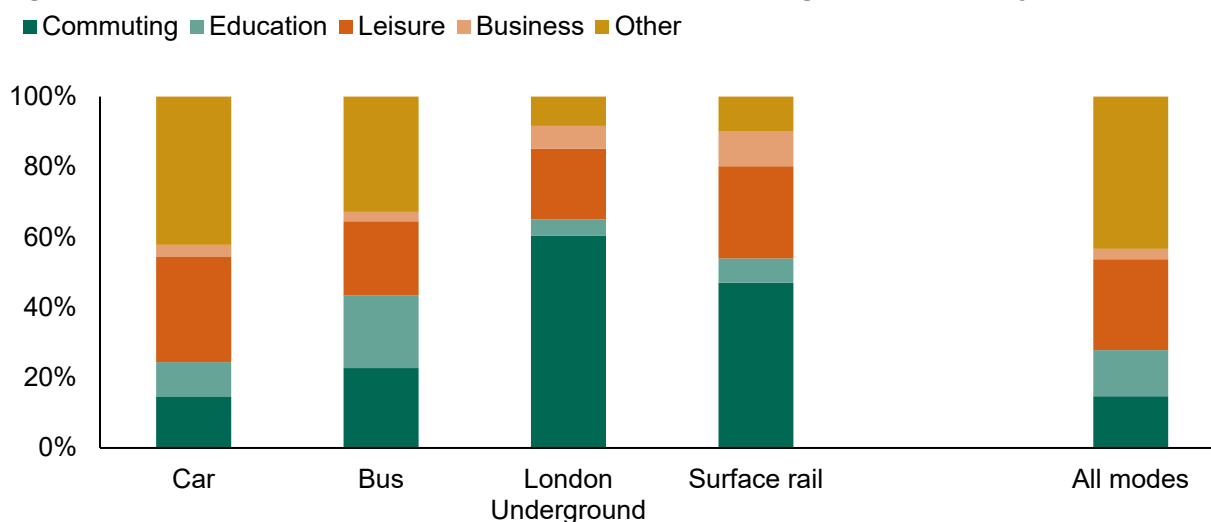
¹⁰ Rail Factsheet (2020), p3. Passengers arriving into London, Autumn weekday 2019.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942425/rail-factsheet-2020.pdf

trips are for travel to education, and an estimated 8% of all trips to education are made by bus.¹¹ Rail and underground are also used for transport to education establishments.

6. **Use of the transport network for leisure travel is another of the most common passenger uses.** In 2019, 26% of all passenger trips were made for leisure purposes, in addition to the almost 20% of trips that were made for shopping in the same year.¹² These types of trips contribute to local economies by supporting expenditure in sectors such as retail, hospitality, and tourism.

Figure 1. Proportion of trips made for each purpose in England in 2019, by mode.¹³



7. **Aviation plays a key role in the UK's domestic and international transport networks for passengers,** enabling travel for leisure, visiting friends and relatives and business. In 2019, 297 million terminal passengers arrived at or departed from a UK reporting airport.¹⁴ Approximately 19% of terminal passengers surveyed at major UK airports in 2019 were travelling for business, with 81% travelling for leisure and minimal commuting.¹⁵ There was 36% growth in passenger numbers at UK airports between 2009 and 2019, with 2019 seeing the largest number of terminal passengers ever recorded.¹⁶ In the same year, UK airports handled over 2.2 million commercial air transport movements;¹⁷ an average of approximately 6,200 flights per day.
8. **Transport delivers direct and wider economic benefits to the UK.** The UK 'Transport & Storage' sector, for instance, directly employs around 1.6 million people¹⁸ and generates substantial wider economic impacts by connecting people and goods across the country, opening job opportunities, and supporting productivity and growth.
9. **The transportation of freight delivers vital benefits to the UK economy.** Of the 120 billion tonne-miles of domestic freight moved within the UK in 2019, 79% was moved by road, 13% by

¹¹ National Travel Survey (2022). Table 0409. Average number of trips (trip rates) and distance travelled by purpose and main mode: England, 2002 onwards. <https://www.gov.uk/government/statistics/national-travel-survey-2021>

¹² National Travel Survey (2022). Table 0409. Average number of trips (trip rates) and distance travelled by purpose and main mode: England, 2002 onwards. <https://www.gov.uk/government/statistics/national-travel-survey-2021>

¹³ National Travel Survey (2022). Table 0409. Average number of trips (trip rates) and distance travelled by purpose and main mode: England, 2002 onwards. <https://www.gov.uk/government/statistics/national-travel-survey-2021>. Note: "Other" includes "shopping", "other escort", "personal business", and "other including just walk". "All modes" includes "walk", "pedal cycle". "car/van", "motorcycle", "other private transport", "bus in London", "other local bus", "non-local bus", "London Underground", "surface rail", "taxi/minicab", "other public transport".

¹⁴ Civil Aviation Authority (2020). Annual airport data 2019, Table 9. <https://www.caa.co.uk/data-and-analysis/uk-aviation-market/airports/uk-airport-data/uk-airport-data-2019/annual-2019/>

¹⁵ Civil Aviation Authority (2020). Passenger survey report 2019, Table 2.2. <https://www.caa.co.uk/data-and-analysis/uk-aviation-market/consumer-research/departing-passenger-survey/passenger-survey-report-2019/>

¹⁶ Department for Transport based on Civil Aviation Authority data (2021). Aviation statistics: data tables (AVI), AVI0101. <https://www.gov.uk/government/statistical-data-sets/aviation-statistics-data-tables-avi>

¹⁷ Civil Aviation Authority (2020). Annual airport data 2019, Table 6. <https://www.caa.co.uk/data-and-analysis/uk-aviation-market/airports/uk-airport-data/uk-airport-data-2019/annual-2019/>

¹⁸ Office for National Statistics (2022). EMP13: Employment by industry – August release.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/employmentbyindustryemp13>

water and 8% by rail.¹⁹ Additionally, it was estimated that around 270 million tonnes of freight arrived into, and 140 million tonnes left, the UK in 2019. The majority of international freight is transported by the maritime sector, delivering benefits through increased access to goods and sale of exports abroad.²⁰ In 2019, over 2.5 million tonnes of freight were handled by UK airports,²¹ the vast majority of which was transported internationally.²² That year, the UK exported over £90bn of freight by air to non-EU countries, accounting for about 50% of exports of non-EU trade by value.²³ As one example of the economic benefits of freight transport, a report commissioned by the Rail Delivery Group found that in 2018/19, rail freight contributed £2.45bn to the UK economy.²⁴

Problem under consideration and rationale for intervention

10. Workers in the UK can take industrial action against their employer²⁵. Industrial action may be used as a last resort, in relation to a dispute over aspects of their terms and conditions. Industrial action is designed to impose an economic cost on the employer, in order to encourage the employer to resolve the grievance. Workers taking industrial action will also face a cost as they will lose their pay for the hours they don't work.
11. Strike action also leads to adverse personal and financial impacts for some transport users and generates wider social, economic and environmental impacts on the UK and its economy. Whilst a substantial number of users and economic agents bear the impact of strike action, they are neither party to any dispute nor have any avenue to have their interests represented. The impact of strike action on these parties represents a negative externality which is not reflected in the interests of employers and trade unions. Government intervention is appropriate in sectors where strike action imposes significant negative externalities.
12. The negative externalities associated with strike action in parts of the transport sector are considered to be disproportionate. The role of transport in enabling a wide range of economic and social activities means that the impact of any disruption in services will be widespread. Whilst there may be several modes of transport or alternatives to travel which allow some economic and social activities to take place (e.g., video-conferences) they may not be available to some people and/or impose significant additional costs and challenges (e.g. longer journey times). Evidence of this includes:
 - Depending on the nature of strikes, they can result in removals of service provision by a particular mode, either across the whole transport network or in specific network or geographical locations. For example, during the RMT rail strike on 27th July 2022, only 20% of passenger services ran²⁶ on a severely reduced network, as illustrated by the Network Rail map in Figure 2. Although this is just one example, and network coverage will vary under different strikes scenarios for different transport modes, it demonstrates the substantial impact of strikes on service reductions, including the complete closure of

¹⁹ Department for Transport (2020). Transport Statistics Great Britain: 2020. Table 0401. <https://www.gov.uk/government/statistics/transport-statistics-great-britain-2020>

²⁰ Department for Transport (2020). Transport Statistics Great Britain: 2020. <https://www.gov.uk/government/statistics/transport-statistics-great-britain-2020>

²¹ Civil Aviation Authority (2020). Annual airport data 2019, Table 13.2. <https://www.caa.co.uk/data-and-analysis/uk-aviation-market/airports/uk-airport-data/uk-airport-data-2019/annual-2019/>

²² Civil Aviation Authority (2020). Annual airport data 2019, Table 14. <https://www.caa.co.uk/data-and-analysis/uk-aviation-market/airports/uk-airport-data/uk-airport-data-2019/annual-2019/>

²³ DfT analysis of HMRC trade data. <https://www.uktradeinfo.com/trade-data/ots-custom-table/>

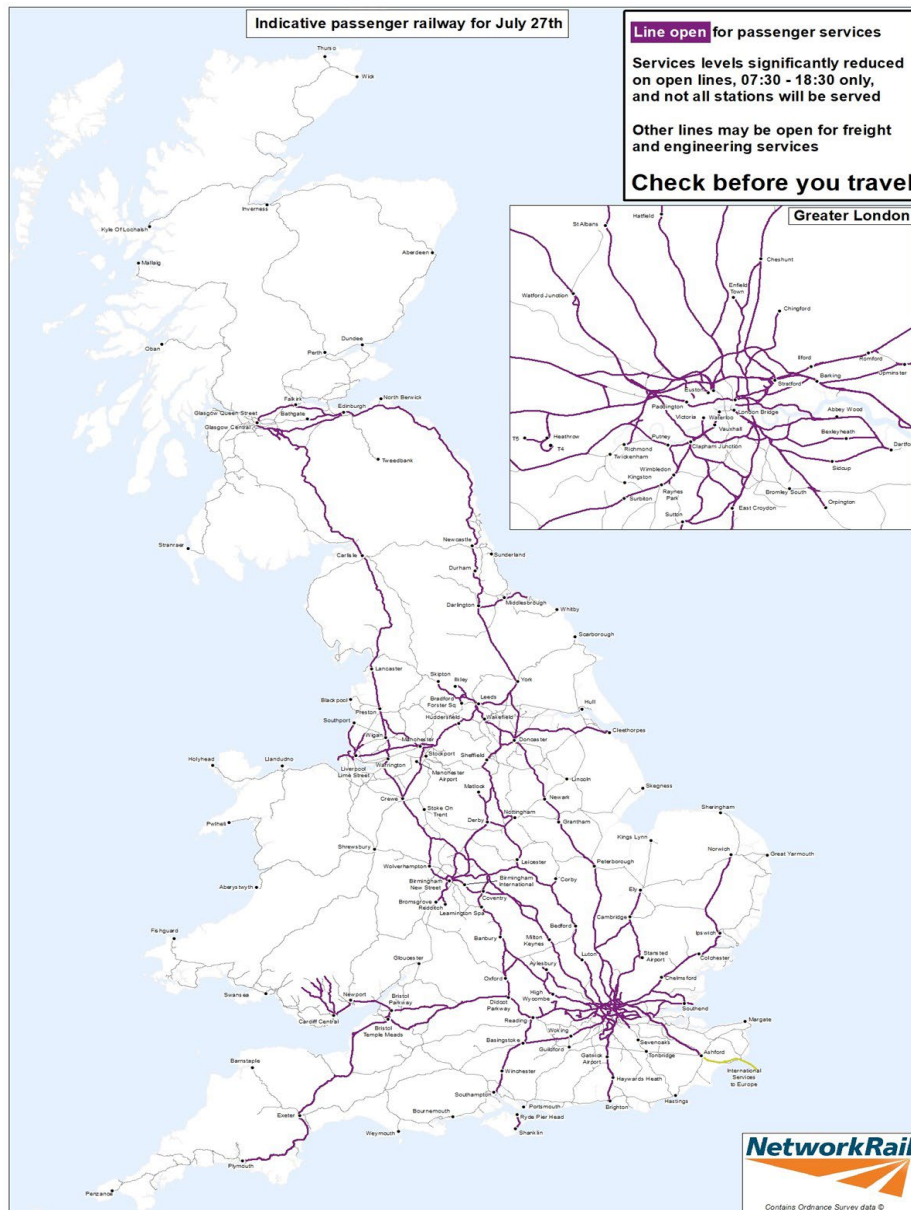
²⁴ Rail Delivery Group (2021). The role and value of rail freight in the UK. <https://www.raildeliverygroup.com/media-centre-docman/12807-2021-04-role-and-value-of-rail-freight/file.html>

²⁵ GOV.UK, Taking part in industrial action and strikes, <https://www.gov.uk/industrial-action-strikes/your-employment-rights-during-industrial-action> (accessed 21 June 2022)

²⁶ Network Rail (2022). <https://www.networkrailmediacentre.co.uk/news/passengers-urged-to-plan-ahead-and-only-travel-by-train-if-necessary-on-27-july-amid-further-national-industrial-action> [Accessed 16.10.22]

some routes. The considerable impacts of strike action are often distributed unevenly across passengers, with certain routes and lines more disrupted than others. In many of these cases, where there is little or no feasible alternative transport mode, strikes may cause serious disruption to people's lives, from not being able to travel to a workplace, to access educational settings or healthcare appointments, or missing leisure activities.

Figure 2. Indicative Passenger Railway for July 27th 2022.²⁷



- The 2011 Census data for England and Wales shows that of those whose primary mode of commute is bus or rail (including underground, metro, light rail, trams, minibus and coach), around one third do not have access to a car.²⁸ This is especially the case for those travelling by 'underground, metro, light rail and tram', and those travelling by 'bus, minibus or coach', for which around 40% do not have access to a car. A recent survey by the ONS found that, of those who said their travel plans had been disrupted by the strikes in July 2022, 4% said they were unable to work and 15% said they were unable to work the hours they had planned to.²⁹

²⁷ Network Rail (2022). <https://media.raildeliverygroup.com/resources/national-industrial-action-disruption-july-22> [Accessed 22.08.22]

²⁸ Census (2011)

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/adhocs/04288ct04642011censusmethodoftraveltoworkbycarorvanavailability/soasinenglandandwales>. Note that the equivalent dataset is not currently available from the 2021 Census.

²⁹ ONS (2022). Public opinions and social trends, Great Britain: 3 - 14 August 2022.

<https://www.ons.gov.uk/peoplepopulationandcommunity/wellbeing/bulletins/publicopinionsandsocialtrendsgreatbritain/3to14august2022>

- Although the Covid-19 pandemic has raised resilience through the increased ability to work from home, this is not the case for all workers. Many, including key workers in sectors such as health, education, and hospitality are unable to work remotely. A recent ONS survey indicates that 42% of workers aren't able to work from home.³⁰

13. Action is required, as parts of the transport sector frequently suffer disruption due to strikes. For example, in the rail sector, according to internal DfT records as of the end of August 2022, 161 disputes have been lodged by trade unions against employers within rail since 2019. The same records indicate that there have been 60 different disputes lodged by unions in 2022 (as of August 2022) and since 2019 strike mandates have been ongoing on our railways. The impact of the ongoing mandates means that there is an ongoing threat of strike action at 14 days' notice for 6 months for each active mandate.

Policy objective

14. Addressing the issue of disruption caused by strike action was part of the 2019 Conservative manifesto which stated:

*"We will require that a minimum service operates during transport strikes. Rail workers deserve a fair deal, but it is not fair to let the trade unions undermine the livelihoods of others."*³¹

15. Minimum Service Levels legislation will meet the Conservative manifesto commitment to operate a minimum service during transport strikes.³² The Government's aim is to maintain a fair balance between the rights of workers to strike and the rights of others to use transport services to attend work, access healthcare and education and to go about their daily life. The legislation is seeking to reduce the adverse impacts of strike action on users, the movement of freight and the wider economy, whilst maintaining the right to strike.

Options considered

Option 0 – Do nothing.

16. There would be no Minimum Service Agreements (MSAs) in place meaning bespoke strike timetables would continue to need to be developed between infrastructure managers and operators or employers at short notice each time they are given notice of strike action. The level of service provided by the strike timetables would continue to depend on the nature and extent of the strike action, and the transport sector within which strike action is taking place. This would continue to lead to limited or no services on some routes or modes during strike action as it would not be possible to ensure a consistent level of services being available across the country.
17. The distribution of union membership across different classes of workers can have a profound impact on the services which may be able to run during strikes. For example, in the case of rail, if a union which predominantly represents drivers or railway signallers strikes then typically a

³⁰ ONS (2022). Public opinions and social trends, Great Britain: travel to work and rail disruptions. 3 – 14 August edition. <https://www.ons.gov.uk/peoplepopulationandcommunity/wellbeing/datasets/publicopinionsandsocialtrendsgreatbritaintraveltoworkandraildisruptions>

³¹ Conservative Party Manifesto 2019. <https://www.conservatives.com/our-plan/conservative-party-manifesto-2019>
 m Service Determination (MSD), or set through Minimum Service Regulations (MSR).ough a Minimum Service Level Agreement (MSA), determined through the independent Central Arbitration Committee, a Minimum Service Determination (MSD), or set through Minimum Service Regulations (MSR).

substantial number of services would be unable to run.

Option 1 – Voluntary MSAs with no government incentives

18. MSAs would be introduced into the sector on a voluntary basis with the Government setting out expectations for their introduction through non-statutory guidance, with no accompanying incentives for trade unions and/or employers to engage. The level of service by employers would depend on the extent to which MSAs are mutually agreed between employers and their trade unions, and the associated level of service contained within the agreement.
19. Incentives to enter into voluntary MSAs could be financial (such as an associated pay increase, discounted travel or other work-related benefits) or non-financial (which relate more to working conditions such as job security, flexible hours, additional annual leave and other related benefits). Incentives for the employer may include Trade Union agreement to enter into an MSA which would provide for continuity of service to a degree and a less severe financial hit in the event of strike action.
20. In seeking to agree a voluntary MSA in the transport sector, there is no evidence that this is a credible option. In the absence of a penalty for failing to engage or achieve a balanced outcome, there may be no real incentive on trade unions to achieve an outcome that minimises or appropriately addresses the negative externalities on transport users and the wider economy as it would temper the adverse impact of strike action. As such, it is unlikely employers and trade union(s) would reach agreement on an MSA.

Option 2 – Voluntary MSAs with government incentives

21. MSAs would be introduced into the sector on a voluntary basis with the Government setting out expectations for their introduction through non-statutory guidance and providing financial incentives to employers for the purpose of incentivising trade unions to reach agreement.
22. Incentives to enter into voluntary MSAs could be financial (such as an pay allowance, discounted travel or other work-related benefits) or non-financial (which relate more to working conditions such as job security, flexible hours, additional annual leave and other related benefits). The nature of these benefits is not within scope of this Impact Assessment.
23. The level of service provided on the network would depend on employers and trade unions reaching agreement on service levels and the extent to which it might qualify for Government funding. Even with funded incentives to induce unions to engage in negotiations and agree a minimum level of service, there is a significant risk that these incentives would be insufficient or unsustainable.
24. The recent strike action taken by several rail trade unions has been prompted due to the inability to agree pay and conditions. This demonstrates that in certain cases the expectations of negotiating parties are likely to remain too far apart, resulting in failed negotiations. Whilst incentives may in some cases provide a solution, they do not guarantee that MSAs will be agreed.
25. Unless employers and trade unions agreed to enter into a legally binding contractual agreement, under the voluntary approach, the unions could simply choose to withdraw from an MSA in the event of a dispute.

Option 3 – Statutory MSAs (Preferred Option).

26. MSAs would be introduced into the sector on a mandatory basis through legislation. This option would set out the basis for a minimum service level (MSL).
27. Following primary legislation and subsequent secondary legislation setting out the transport services to which MSLs would apply, employers and trade unions would be responsible for ensuring that the required staffing levels would be available to allow at least a minimum level of services to be run by the operator.
28. The employer would do this via its normal rostering processes, in addition to issuing a work notice to the trade unions and affected staff in line with the agreed Minimum Service Specification, whether it be a Minimum Service Agreement (MSA, agreed between the union and employer), Minimum Service Determination (MSD, a determination made by Central Arbitration Committee or CAC), or Minimum Service Regulation (MSR, an interim MSL imposed by the Secretary of State). The level of services provided would depend on the level of service agreed by each employer and trade unions as part of the MSA or prescribed within an MSD or MSR.
29. Ordinarily, it is hoped employers and trade unions would reach mutual agreement to develop and agree an MSA in line with secondary legislation and any government guidance. Where agreement could not be agreed voluntarily, it would be referred to the CAC, an independent body with the aim of resolving collective disputes in England, Scotland and Wales, to make a determination and produce an MSD. Where an MSA had not been agreed and the CAC were yet to reach a determination, employers and trade unions would be bound by MSRs set out by the Secretary of State until either the parties come to an agreed MSA, or the arbitrator creates an MSD. These measures provide an incentive to agree an MSA where possible, as the default position would be for the CAC to make a determination.

Implementation and justification of preferred option

30. In deciding whether to take industrial action and the form this will take, trade unions will primarily be concerned with defending the interests of their members. As a result, they are unlikely to take sufficient account of the impact of strike action on the public and wider economy, unless those interests are aligned. Legislating for MSLs (option 3) redresses this situation by providing a level of protection for the travelling public (establishing a reasonable limit on the disbenefits they are exposed to) whilst also maintaining a mechanism to use strike action in a proportionate way. The use of secondary legislation to identify transport modes which will be subject to MSLs and to establish the detailed requirements, will allow for the appropriate balance to be identified in each case.
31. Voluntary options (options 1 and 2) have been ruled out on the basis that these risk being ineffective, particularly in situations where there are major disagreements between unions and employers. Further, there is a risk they would suffer from the same underlying problems associated with strike action, i.e. that insufficient regard would be given to protecting for the travelling public and wider economy.
32. The Bill provides for an initial negotiation period of 3 months between the employer and the unions following affirmative regulations setting out the transport services to be covered by this legislation. Secondary legislation will also outline the required structure and content of MSAs along with specifying the transport services which MSLs will apply to.
33. When developing and negotiating the MSA, parties will be expected to take into account some key evidence and indicators, which will be developed and issued as guidance during implementation. These may include factors such as the distribution of services on routes over

some agreed time periods (such as peak weekday, rest of weekday, Friday evenings, weekends, Sundays and on special occasions such as special events), with the proportion of passengers needing to, or able to, use these services (at given time periods, specific conditions or features of particular routes of point to point flows, such as those which provide access to hospitals, schools, critical national infrastructure, and other places of significant economic importance).

34. The Bill requires Government to consult on the development of MSRs and for the employer to consult certain bodies when negotiating an MSA. These could include regulatory bodies and passenger representatives.
35. The negotiated process, independent arbitration and requirement to consult at various points are necessary to ensure that MSLs are appropriate to the sector and locality to which they will apply.
36. Statutory provisions will also be developed on penalties or remedies following a breach and will be introduced through secondary legislation. They should help incentivise compliance and/or increase the likelihood of effective implementation.

2.0 Costs and Benefits

37. This section describes the potential costs and benefits that may arise as a result of the proposal in comparison to the Do Nothing option. The Bill will establish a broad framework for the introduction of MSAs and their operation and enforcement. Details around the levels of service that would be required under MSAs will not be included in the primary legislation. More information will be set out through regulations which will allow the Secretary of State to set out the content and structure of MSAs. The Secretary of State will be able to set interim MSLs prior to the parties reaching agreement or the CAC determining this. These alternative levers may encourage the parties to agree an MSA themselves. In light of these alternative approaches for determining MSAs, at this stage it is not possible to provide detailed quantified estimates of the expected costs and benefits of this option. The comparison of costs and benefits in this section largely provides a qualitative assessment of the expected costs and benefits associated with increased service levels during strikes. These will be reviewed as secondary legislation is prepared with a view to increasing the scope of costs and benefits monetised for the particular transport services to which MSAs will be applied.

Option 0 – Do Nothing

38. The Do Nothing option involves a continuation of the status quo in relation to strikes. This means that strikes will continue to present the risk of significant disruption to transport users, as seen from recent rail and bus strikes which have resulted in reduced services on strike days, with some strikes resulting in no services at all on certain routes. Some of the main detrimental impacts of strikes include disruption to transport users and freight, impacts on revenue for businesses and government, disruption to planned maintenance, and impacts on the wider economy and rest of the transport network. Evidence in relation to these impacts is presented in the comparison of options below.

Options 1, 2 and 3 – Minimum Service Agreements

39. The three policy options considered in this Impact Assessment all involve a form of Minimum Service Level. For Options 1 and 2, agreements would be voluntarily reached, while these would be mandatory in Option 3.

40. Our working assumption for the purpose of assessing the costs and benefits is that they would raise service levels and reduce disruption compared with Option 0 on strike days. It is possible that the proposal could also impact days adjacent to strike days, which in the case of some sectors, also tend to face disruption. At this stage, details around the level of service that would be required under Minimum Service Agreements have not been established, therefore, it is not possible to provide quantified estimates of the expected costs and benefits of each option. This section provides evidence on the expected costs and benefits associated with increased service levels during strikes, which may be applicable to all three options. Aside from potential differences in administrative costs, if implemented, in theory all three options could result in the same level of service so costs and benefits have been assessed for all options together. However, we note that the likelihood of these benefits realising under Option 3 will be highest. This is because there will be greater certainty that a binding MSL will be in place whether by agreement between the parties within the 3-month consultation period or something determined through the CAC or similar process. For this reason, we anticipate that costs and benefits, to different parties to varying degrees, are likely to be largest in magnitude for Option 3.

Summary

41. Noting the uncertainties relating to how different groups will be impacted by MSLs, the table below summarises the relevant groups we have identified as potentially impacted by MSLs. We have also aimed to describe the impacts in terms of the costs and benefits (relative to the counterfactual of Option 0), even though in certain cases some of them will either be impossible to quantify or monetise. Impacts have been classified as direct in so far as they are unavoidable first order consequences of an increase in service levels during strikes, as per RPC guidance³³, even where these may be a result of the secondary legislation which will consider the implementation of MSLs in more detail. Second order impacts have been classified as indirect.

Costs and benefits summary

Group	Costs	Benefits
Government	Administrative and familiarisation costs (direct) Enforcement costs (direct) Increased funding due to cost of running additional services (direct)	Increased revenue from operators running more transport services during strikes (direct) Change in tax receipts to Government from business and wider economy (indirect)
Businesses – transport operators and infrastructure managers	Administrative and familiarisation costs (direct) Increased costs to businesses of running more transport services (direct)	Increased revenue from running more transport services during strikes (direct) Reduced negative business impacts associated with strikes (direct)
Transport users	N/a	Reduced negative impacts of strikes on user experience (direct) Reduced impacts on access to workplaces or ability to earn a living (direct) Change in transport costs for consumers (direct) Reduced impacts of strikes on access to private and family life, education, and health (direct)
Unions	Administrative, familiarisation and compliance costs (direct)	N/a
Workers	Lost utility arising from the restricted right to strike (direct)	N/a
Wider Impacts	N/a	Reduced negative impact of strikes on wider economy and environment (indirect)

Costs

Costs to Government

Administrative and familiarisation costs

42. There will be administrative costs associated with implementing the policy. These costs will be incurred by Government as well as other relevant parties in the agreement. The administrative costs such as form filling, serving of notices, consulting on the development of MSRs have not been quantified in this Impact Assessment. They are expected to be relatively small, and will be a function of the number and severity of disputes, which are highly uncertain at this stage.

³³ RPC case histories - direct and indirect impacts, March 2019 - GOV.UK (www.gov.uk)

43. There will be costs to Government in enabling the Central Arbitration Committee to become the independent adjudicator on MSLs, and to arbitrate final MSDs when required. It is likely that this will largely be transitional, as once MSAs are in place for the specified services then additional work would be limited. The budget for the CAC in 2021-22 was £612,300, but with additional overheads covered by The Advisory, Conciliation and Arbitration Service the annual costs rise to around £1m. We have not attempted to monetise this as we do not know the extent to which the independent adjudicator will need to be involved. This will be partly determined by the some of the factors raised in relation to negotiations (such as the level of negotiations). It will also depend on the extent to which negotiations are successful, and whether the arbitration process can be staggered. Ongoing work once MSAs are in place would largely be around variation associated with changes to the employers.

Enforcement costs

44. Government (including Local Government and devolved authorities) will incur some costs around the enforcement of Minimum Service Agreements. This includes potential costs to Government relating to the CAC. It is anticipated that this cost will depend on a number of factors, including the number of disputes arising and the potential arrangements for imposing MSLs on the relevant parties. Some of the practicalities of implementation and enforcement will be determined by secondary legislation, which could have some dampening impact on such costs. Furthermore, the cost of enforcing penalties/remedies for breach of MSLs is currently uncertain/unknown.

Impacts on funding to transport sector

45. There are no other significant direct costs to Government from the proposal. Given some of the contractual relationships between Government and transport companies, some direct cost implications for these businesses (e.g. in the form of increased operational costs) may indirectly impact Government costs, though this is subject to variation across modes and is subject to change if future contractual arrangements change. These direct costs are captured in the 'Cost to businesses' section below.

Costs to businesses (operators and infrastructure managers)

Familiarisation Costs

46. It is expected that the sector will be required to familiarise themselves with the legislation and any relevant guidance produced to support the policy, though this is not expected to be an ongoing cost or ongoing at the same level.
47. There will be familiarisation costs associated with implementing the proposal as it requires employers to negotiate MSAs (depending on the level at which MSAs are negotiated) and put MSAs into practice operationally if there are strike days affecting them. They will therefore need to familiarise themselves with the legislation. It is not possible to estimate the number of employers affected as it is yet to be determined which transport services would be required to have MSAs in place. To some extent MSAs will require action at the individual employer level, and possibly the individual establishment level.
48. For illustrative purposes we have used the transport services that are referenced as being covered in the Guidance on the Important Public Services Regulations 2017³⁴ by the 40% ballot

³⁴ [Important Public Services Regulations 2017 – guidance on the regulations - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/important-public-services-regulations-2017)

threshold set out in the Trade Union Act 2016 as a proxy for employers affected by the MSA requirements. These transport services include London bus services, passenger rail services, and civil air traffic control services. There are a number of employers for each of the services covered. For example, Rail Delivery Group lists 47 passenger, freight and track services companies in the rail industry.³⁵ Transport for London lists 17 companies operating bus services in London (with some overarching ownership through Abellio and Avanti).³⁶ There are 56 airports in Great Britain,³⁷ and NATS and Serco are involved in air traffic control services. In addition, we have included an estimate of the number of local bus operators to illustrate the potential scale of familiarisation costs in the bus sector. Outside London, there are approximately 600 bus service operators, of which a large number are SMEs.³⁸

49. To estimate familiarisation costs, we assume that, as a minimum, senior management teams would take 8 hours to familiarise themselves with the legislation.³⁹ This is an underestimate of total familiarisation time because it applies only to the primary legislation, and much of the specifics will be set out in following secondary legislation. Familiarisation will need to happen at operational level too, such as planners developing rail or bus timetables. For most of the employers that we expect will need to familiarise themselves with the legislation, we assume a chief executive or senior official, an HR manager or director, a legal professional, and a senior manager or professional in the specific industry would form the management team familiarising themselves. Estimated median hourly wages for the relevant occupations, taken from the Annual Survey of Hours and Earnings 2021, have been updated by 17.9% to take account of non-wage labour costs.⁴⁰ The median hourly wage rates (excluding overtime) and estimated related labour costs, set out below, have been used to estimate the costs per organisation.⁴¹

Hourly median wages and labour costs for employer management team occupations

Job role	Median hourly wage (excl. overtime)	Median hourly labour costs (incl. non-wage costs)
Chief executives and senior officials	£43.15	£50.87
HR managers and directors	£24.33	£28.69
Managers and directors in transportation and distribution	£17.96	£21.17
Legal professionals	£26.60	£31.36
Total	£122.04	£132.09

50. The costs for each of the selected modes are estimated as the hourly labour cost multiplied by the hours of familiarisation and the estimated number of employers affected. These are intended to give a sense of scale of familiarisation costs rather than a calculation of total familiarisation costs from the proposal. They are set out in the table below.

³⁵ Rail Delivery Group. Passenger, Freight & Track Services. <https://www.raildeliverygroup.com/uk-rail-industry/passenger-freight-track.html> [Accessed October 2022]

³⁶ [Who runs your bus - Transport for London \(tfl.gov.uk\)](https://www.tfl.gov.uk/who-runs-your-bus)

³⁷ House of Commons Library (2022). Regional Airports. [Regional airports - House of Commons Library \(parliament.uk\)](https://www.parliament.uk/research-summaries/2022/01/regional-airports) [Accessed October 2022]. This comprises 50 regional airports in addition to 6 airports in London.

³⁸ Annual bus statistics, quality report: 2021. <https://www.gov.uk/government/publications/buses-statistics-guidance/annual-bus-statistics-quality-report-2021#coverage>

³⁹ We expect that the proposal will place similar responsibilities onto employers and unions. This is reflected in assumptions relating to the time required to familiarise themselves with the changes to legislation.

⁴⁰ Estimated from latest ONS Index of Labour Costs per Hour publication.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/indexoflabourcostsperhour/ich/julytoseptember2020> Here, the non-wage labour cost uplift uses 2019 Q4 to 2020 Q3 figures (seasonally adjusted). To estimate the uplift, non-wage costs per hour as a proportion of total labour costs (15%) are divided by wage costs per hour as a proportion of total labour costs (85%) (i.e. $0.152/0.847=0.179$). Therefore, we have uplifted wages by 17.9% to get an estimate of total labour costs.

⁴¹ ONS (2021). Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010ashtable14>

Estimated familiarisation costs for employers in selected transport sectors

Employers	Estimated number of employers	Estimated hourly labour cost of familiarisation team	Hours taken	Familiarisation cost (nearest £10,000)
Rail	47	£132	8	£50,000
London Buses	17	£132	8	£20,000
Airports, air traffic control	56	£132	8	£60,000
Buses (excluding London)	600	£132	8	£630,000

51. Beyond the familiarisation costs associated with primary legislation, it is expected there would be further familiarisation costs for employers when the scope of the policy is specified in secondary legislation.
52. There would be a requirement for employers to inform workers and unions of those workers required to work to provide the minimum services, and to consult unions while selecting the workers required.
53. The primary legislation will set out requirements for employers during the set-up of the policy (i.e. transitional costs). For instance, as part of the MSA negotiation process, employers will need to take account of a range of information. This includes i) Regulations setting out the content and structure of an MSA along with interim MSLs produced by the Government, ii) any other Final MSL available arrived at either through negotiation or arbitration, and iii) relevant other information which parties will have regard to. We have not monetised the cost of taking relevant factors into account. We will aim to monetise this impact when secondary legislation Impact Assessments are brought to Parliament.

Administrative costs

54. In addition to the familiarisation costs set out above, it is expected that there will be additional administrative costs to businesses associated with this proposal, such as those relating to negotiating with unions to agree an MSA. These have not been monetised here as the nature of these costs will depend on the requirements identified in secondary legislation. These will be considered alongside secondary legislation.

Operational Costs

55. Given the assumption that the proposal would result in a higher level of services during strike action relative to Option 0, one of the implications of increased transport services on strike days will be the increase in operational costs incurred by operating companies. Total operational costs vary significantly across and within modes but typically involve fixed costs (vehicles, infrastructure, performance regimes etc.) and variable costs (staff salaries, fuel, electricity etc.) costs. Increased service provision would increase variable costs. These have not been monetised here as the nature of these costs will vary by mode and depend on the requirements identified in secondary legislation. These will be considered alongside secondary legislation.

Costs to unions

56. The proposal is anticipated to have direct and indirect impacts on unions. There will be administrative, familiarisation and compliance costs associated with the negotiation and implementation of the MSAs. The combined impact of primary and secondary legislation will be to reduce, for those unions affected by the secondary legislation, the current protections from potential damages claims under statutory immunity. This may negatively impact the bargaining power of those unions which could result in lower pay and conditions for their members and non union members working in the relevant transport services. As these potential impacts are experienced by workers, they are considered below.

Familiarisation Costs

57. We anticipate that unions will have to spend time familiarising themselves with the proposed changes, and will engage external legal advice to understand their legal implications. Familiarisation costs may include the time taken to understand the legislative changes, attending training sessions to acquire knowledge and costs associated with obtaining external advice.

58. Based on the evidence obtained from unions in the consultation on the assurance of trade union membership registers, as set out in the related Impact Assessment,⁴² which placed additional requirements on unions to maintain their membership registers, we assume that it would take between half a day and two days in meetings for the union General Secretary and four other senior directors, with a best estimate of one day (of 8 hours), to familiarise themselves with the proposed policy. A similar approach was also taken in the Trade Union Act 2016 Enactment Impact Assessment. We consider this to be a conservative estimate, due to the potential that much of the detail will be included in subsequent secondary legislation, and as mentioned above, because a number of listed unions (including many of the smallest) are unlikely to be affected by the policy. Estimates from the Annual Survey of Hours and Earnings (ASHE)⁴³ suggest that the median hourly wage of a General Secretary is £43.15, and a senior union official is £25.88.⁴⁴ These values are then uplifted by 17.9% to cover the non-wage labour costs. The calculations are presented in the table.⁴⁵ This results in a central estimate of familiarisation costs for union officials of £1,383 per union.

Hourly median labour costs for Union roles

Job role	Number of Officials	Median Hour Pay (Uplifted)	Time Taken (Hours)	Total (nearest £'00)
General Secretary	1	£50.87	8	£400
Other Senior Official	4	£30.51	8	£1,000

59. We also expect that unions will seek legal advice on the reform as part of the familiarisation process. Using a similar methodology to the Trade Union Enactment Impact Assessment, we assume that this will take 8 hours – this is a best estimate of between 4 and 16 hours. The 2016 IA, based on evidence from unions, assumed that it would cost £250 per day for legal advice. We

⁴² BIS, Certification of trade unions' membership registers and investigatory powers for the Certification Officer Impact Assessment, December 2014, p10 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414353/bis-15-143-trade-union-assured-register-of-members-final-impact-assessment.pdf - this placed additional requirements on unions to maintain their membership registers.

⁴³ ASHE (2021). Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14. <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010ashtable14>

⁴⁴ We use the median wage of 'Chief executives and senior officials' (SOC 1115) as a proxy for a General Secretary's wage and the median wage of 'Functional manager and directors n.e.c' as a proxy for a union senior official wage (SOC 1139).

⁴⁵ This assumption is informed by evidence obtained from unions in the consultation on the certification of trade union membership registers. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/493636/BIS-16-70-trade-union-bill-impact-assessment.pdf

use the Bank of England inflation calculator to update this value to find it in 2021 prices (£277).⁴⁶

Estimated legal expenses associated with familiarisation

Legal Cost (hourly)	Hours taken	Total Legal Cost (to nearest £'00)
£277.05	8	£2,200

60. The total familiarisation cost, including legal advice, per union is estimated at around £3,600. This cost is expected to be incurred by unions representing transport sectors. For example, in the rail sector this would include unions such as RMT, ASLEF, TSSA and UNITE. There may be further familiarisation required by some unions when the secondary legislation setting out specific details of the MSAs is introduced. Separate Impact Assessments will cover these proposed regulations.
61. Unions may also have to amend their Rule Books and would incur the cost of following set processes for doing so. The primary legislation will also set out requirements for unions during the set-up of the policy, which may result in transitional costs for unions. We have been unable to monetise the cost of unions taking relevant factors into account. We will aim to monetise this impact when secondary legislation is brought to Parliament.

Administrative costs

62. As for businesses, it is anticipated that the proposal will impose an additional administrative cost on unions, such as time and legal costs associated with negotiating an MSA with operators. This has not been monetised here and will be considered alongside secondary legislation.

Costs to transport sector workers

Disbenefits of restrictions on right to strike

63. Given the fact that the services subject to MSLs are to be determined by Secondary Legislation, there remains a number of uncertainties around (a) the extent to which the policy would restrict the right to strike, (b) the relationship between the ability to strike and the strength of workers' ability to bargain on terms and conditions of employment through collective bargaining, and (c) the value workers place on collective bargaining relating to terms and conditions of employment. We have, therefore, not monetised the cost to workers of potential reductions in wages and working conditions in this Impact Assessment, as this would be speculative.

Reduced benefits of being in a union

64. There are a number of benefits of being part of a union. One of these benefits is that unions help counterbalance the monopoly power that employers have over their staff. Strike action may in some cases lead to improved terms and conditions, including increased pay deals. MSLs may reduce the utility that workers receive by being part of a union.
65. Should strike action lead to improvements in terms and conditions, the marginal benefit of extra income would be greatest for those on lower incomes. Estimates of annual salaries are provided by ONS in the Annual Survey of Hours and Earnings dataset.⁴⁷ This includes percentile estimates of the distribution of salaries for different job types, indicating a range of salaries for various transport-related roles which demonstrates that while a large proportion of employees receive

⁴⁶ <https://www.bankofengland.co.uk/monetary-policy/inflation/inflation-calculator>.

⁴⁷ ONS (2021). Annual Survey of Hours and Earnings. Table 14: Earnings and hours worked, occupation by four-digit SOC. <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010ashtable14>

above UK median salary, some transport workers receive salaries lower than the UK median salary. Were the introduction of MSLs to lead to relatively greater adverse impacts on lower paid workers this would result in proportionately larger social costs. This is something which would be considered when secondary legislation is introduced into Parliament.

Benefits

Benefits to Government

Impacts on funding to transport sector

66. Assuming the proposal results in an increased level of transport services relative to Option 0 during strikes, more users would be able to access the transport network and so it would generate more revenue. The volume of revenue loss that is avoided by MSLs, would depend on the extent of the difference in services provided under the two scenarios and the number of passengers who chose to travel on a strike day. The avoided revenue loss would count as a net benefit to transport operators and could put them in a more financially sustainable position than under Option 0. Where transport networks rely on Government funding, this could lead to less Government support to the transport sector, but this would need further consideration, once the secondary legislation is ready. The extent of support to the sector would depend on many other factors such as the contractual arrangements between operators and the Government, the response of demand to the extra level of services, and current financial health of the operators. The impact on funding is also dependent on future Government policy.

Changes in tax revenue (indirect)

67. If the policy were to result in a higher level of services being run during strike action, with a significant increase in users relative to Option 0, then it may generate wider economic impacts (such as on hospitality, catering and other sectors). This in turn could lead to more tax revenues from increased volume of economic activities, indirectly benefiting Government finances. Given the uncertainty around changes to transport workers' wages and working conditions, the extent to which this increase in tax revenues is offset by reductions in income tax remains highly uncertain.

Benefits to businesses (operators and infrastructure managers)

Increases in revenue

68. Given the assumption that, relative to Option 0, MSLs would result in more transport services, more revenue would likely be generated by transport operators. The extent of revenue increases under the proposed legislation would depend on both the nature of strike action occurring in the absence of MSLs, and the service levels resulting from their introduction MSS. Both of these are subject to significant uncertainty, and the resulting revenue impact is expected to be highly variable across modes meaning it would not be possible to quantify this impact at this stage.
69. An indicative order of magnitude for the potential scale of revenue in the rail sector can be gauged from an inspection of revenue data. The Office for Rail and Road report that the rail industry collected around £10.3bn a year from passenger fares prior to the pandemic, equivalent to roughly £28m a day.⁴⁸ A worst case scenario in Option 0 when no services run, suggests an

⁴⁸ <https://dataportal.orr.gov.uk/statistics/finance/rail-industry-finance/>. Daily estimate doesn't account for weekday/weekend revenue differences or seasonal variation.

upper bound for passenger revenue benefit from MSLs could be around £28m per strike day. This is an overestimation as service levels even in the presence of an MSA would be lower than a normal non-strike timetable. Furthermore, in most incidences of strike action some services continue to run. The total estimated operating revenue for local bus services in Great Britain was £6.1bn a year with about £3.5bn (£10m a day) coming from passenger fare receipts, with TfL reporting London Underground fare income of £2.7bn (£7m a day) in 2019/20.^{49,50,51}

Reduced efficiency losses

70. The successful operation of the many transport networks across the UK requires significant forward planning and coordination of various organisations, workers and infrastructure to ensure a reliable service is available for users. Short term disruption to the transport network due to strike action causes disruption to operational and maintenance plans which requires time and resource intensive efforts to mitigate. This results in efficiency losses e.g., through maintenance and enhancement plans that are delayed and rescheduled for later dates at an increased expense. Though it is not possible to quantify, an increased level of service during industrial action disputes would likely reduce and minimise any costs associated with efficiency losses.

Benefits to transport users and freight

User Experience

71. One of the principal benefits to transport users may be an improvement in experience due to a likely increased service on strike days and days adjacent to strikes. With more services on offer, consumers would have greater flexibility to travel when it suits their needs and wouldn't need to change their work/leisure plans as much to align with severely reduced timetables produced at short notice.

Reduced impacts on access to work or ability to earn a living

72. In 2019, 54% of rail journeys in England were made for commuting to work or education.⁵² This includes employees across a variety of sectors, including key workers in education and health who may have low ability to work from home. A recent survey found that the rail strikes in July 2022 disrupted 13% of respondents' travel plans, of which 4% said they were unable to work and 15% were unable to work the hours they had planned to.⁵³ A report by CEBR forecasted that the strikes on rail and the London Underground in June 2022 would cost the economy £91m across three strike days due to people being unable to reach their place of work.⁵⁴ Assuming MSLs increase the number of services on strike days, they would reduce the impact of strikes on workers' ability to access their workplace. However, the impact of future strikes may be different to those recently experienced and is subject to substantial uncertainty, therefore the extent to which MSAs would reduce the impact on workers' ability to access their workplace is not feasible to estimate.

⁴⁹ Department for Transport (2021). Costs, fares and revenue (BUS04). <https://www.gov.uk/government/statistical-data-sets/bus04-costs-fares-and-revenue>.

⁵⁰ Passenger fare revenue was estimated using the proportion of operating revenue that was passenger fare revenue for local bus services in England in 2019/20 (61%). https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1030718/annual-bus-statistics-year-ending-march-2021.pdf.

⁵¹ Transport for London (2020). <https://content.tfl.gov.uk/tfl-annual-report-2019-20.pdf>. Note that the figures presented here are therefore intended to give a sense of scale of costs and are not intended to identify the total revenue across all modes.

⁵² Rail Factsheet (2020), p3. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942425/rail-factsheet-2020.pdf

⁵³ ONS (2022). Public opinions and social trends, Great Britain: 3 - 14 Aug 2022.

<https://www.ons.gov.uk/peoplepopulationandcommunity/wellbeing/bulletins/publicopinionsandsocialtrends-great-britain/3to14august2022>

⁵⁴ [Rail and tube strikes to cause hit of at least £91m to the UK economy \(cebr.com\)](https://www.cebr.com/news/rail-and-tube-strikes-to-cause-hit-of-at-least-91m-to-the-uk-economy)

Reduced negative environmental impacts

73. The proposal is expected to result in increased public transport services, which may increase public transport usage and reduce private car usage. If this is the case, the proposal could reduce negative environmental impacts attributable to private car use as public transport tends to be less polluting than travel by car. For example, rail carried around 10% of all passenger miles and around 9% of freight moved prior to the pandemic but produced only around 1% of Great Britain's domestic transport emissions.⁵⁵ Additionally, for every mile travelled, passenger trains produce around one third of the emissions of the average petrol car.⁵⁶ Great Britain's buses and coaches contribute around 3% of total UK domestic transport emissions, while accounting for 7% of total trips (excluding walks and cycles) taken in a normal year (2019).^{57,58} Therefore, modal shift towards public transport is likely to have positive environmental impacts. This potential benefit depends on the extent to which the proposal will facilitate modal shift and the extent of additional public transport services which themselves emit CO₂, which is highly uncertain and has not been monetised here. It is also dependent on the geographical distribution of services, offsetting emissions from running additional public transport services, and factors that affect traffic on the day of strike actions.

Change in travel costs

74. Strikes on the transport network often lead to travellers using alternative modes of transport to travel to their destination. Evidence from recent rail strikes, for example, shows that this results in increased travel costs. A recent survey found that for passengers whose plans were disrupted as a result of the rail strikes in July and August 2022, 19% reported that they spent more money on travel.⁵⁹ The extent to which travel costs increase under different strike scenarios and across different users depends on the nature of the strikes and choices around alternative modes of travel, but it is likely that increased service provision enabled by MSAs will reduce any additional costs of alternative travel and enable users to choose the most cost effective and convenient way to travel.

Reduced disbenefits of strike action on private and family life

75. The policy will impact those who use transport for leisure reasons, including visiting family and friends, caring for family and friends, shopping, tourism and other non-work reasons. These leisure activities contribute to the wellbeing of society and the ability to go about such activities is restricted during strike action on the transport network. The proposal will therefore likely reduce the disbenefits of strikes on transport users. While they are not possible to quantify or monetise, they are significant factors against which the disbenefits to employees of restricting the right to strike should be balanced.
76. A recent survey found that 13% of adults said that their travel plans had been disrupted by rail strikes in July 2022.⁶⁰ Of those who said that the rail strikes in July 2022 had disrupted their travel plans:

⁵⁵ Williams-Shapps Plan for Rail (2021), p88.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/994603/gbr-williams-shapps-plan-for-rail.pdf

⁵⁶ Williams-Shapps Plan for Rail (2021), p88.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/994603/gbr-williams-shapps-plan-for-rail.pdf

⁵⁷ Ending UK sales of new, non-zero emission buses and calls for evidence on coaches and minibuses (Consultation)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1063585/non-zero-buses-coaches-minibuses-consultation.pdf

⁵⁸ Transport Statistics Great Britain. TSG0103 (NTS0303): [Average number of trips, stages, miles and time spent travelling by main mode](#)

⁵⁹ ONS (2022). Public opinions and social trends, Great Britain: 3 - 14 August 2022.

<https://www.ons.gov.uk/peoplepopulationandcommunity/wellbeing/bulletins/publicopinionsandsocialtrends/greatbritain/3to14august2022>

⁶⁰ ONS (2022). Public opinions and social trends, Great Britain: 3 - 14 August 2022.

<https://www.ons.gov.uk/peoplepopulationandcommunity/wellbeing/bulletins/publicopinionsandsocialtrends/greatbritain/3to14august2022>

- 39% were unable to take part in leisure activities (could include going to a restaurant or cinema)
- 2% were unable to care for family or friends
- 7% were unable to go on holiday

Impacts on access to education

77. The proposal should improve access to education during strikes. Public transport networks are used by school, college and university students to travel to education and by workers in the education sector to travel to work. Therefore, strike action can limit the ability of students and teachers to travel to schools, colleges and universities. Although the most common mode of accessing education in England⁶¹ in 2021 was either walking or taking private cars, around 7% of school students used public transport as their main mode of travel to their place of education (5% bus, 2% surface/underground rail), and, prior to the pandemic the figure was even higher at around 11%. Disruption could be felt particularly in urban areas where dedicated home-to-school transport is less common. In London, for example, around 250,000 school children used the bus daily, with the majority during the morning peak.⁶²
78. Additionally, only a small proportion of workers in the education sector are currently working from home – the April 2022 Business Insights and Conditions Survey found that 10% of workers in education were working from home.⁶³ Although the number of people ‘currently’ working from home is a different measure to ‘ability’ to work from home, we would expect the two to be correlated.
79. A recent survey found that, of the 15% of respondents who reported that the rail and London Underground strikes in June 2022 had disrupted their travel plans, 4% reported that they had been unable to attend school, college or university.⁶⁴ While this is a relatively small proportion of respondents, it is worth noting that the survey included adults only, of which only a small proportion are in education, and will not appropriately capture the impacts on school children. It is also the case that the June 2022 strikes did not result in a complete network shutdown, and so many who are reliant on rail may have been able to travel in spite of the strikes or possibly work or study from home on a short term basis.
80. A higher level of transport services enabled by the proposal will reduce the disruption faced by those accessing educational settings. It is not possible to quantify and monetise this impact, other than establishing some of the core facts about the use of the railway for the different purposes which operators will have regard to when setting MSLs.

Impacts on health and delivery of healthcare

81. Prior to the pandemic, around 16% of workers in the health sector in the UK travelled to work by bus, with 7% travelling by rail (including underground, light railway and tram)⁶⁵ and evidence in

⁶¹ Department for Transport (2021). National Transport Survey – Trips to and from school per child per year by main mode: England, 2020. <https://www.gov.uk/government/statistical-data-sets/nts03-modal-comparisons>

⁶² <https://tfl.gov.uk/info-for/media/press-releases/2020/august/tfl-reminds-londoners-of-important-changes-to-buses-when-schools-start-to-return-next-week>

⁶³ Business Insights and Conditions Survey data (Wave 57). Based on responses from 9,418 UK businesses referencing the period 1 April 2022 to 30 April 2022. Data from currently trading businesses only.

<https://www.ons.gov.uk/economy/economicoutputandproductivity/output/datasets/businessinsightsandimpactontheuconomy>

⁶⁴ ONS (2022). Public opinions and social trends, Great Britain: 22 June to 3 July 2022.

<https://www.ons.gov.uk/peoplepopulationandcommunity/wellbeing/bulletins/publicopinionsandsocialtrendsgreatbritain/22juneto3july2022>

⁶⁵ ONS (2020). Figure 6: Different modes of transport by industry, UK, 2018.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/coronavirusandtraveltowork/june2020>

the April 2022 Business Insights and Conditions Survey⁶⁶ indicates that health & social workers (5% of workforce working from home) are among industries with the lowest proportion of people currently working from home and hence more likely to be impacted by transport strikes. While those who are 'currently' working from home is a different measure to the ability to work from home, we would expect there to be a correlation. The June 2020 wave (wave 7)⁶⁷ of the survey – taken as the country was starting to come out of the first lockdown – indicated that Health and Social care workers had the highest proportion of employees not working from home, with 68% of those still working (surveyed among enterprises that remained open and not including those on furlough) still attending a dedicated place of work.

82. A recent survey found that, of the 15% of respondents who reported that the train strikes in June 2022 had disrupted their travel plans, 1% had been unable to attend a medical appointment.⁶⁸ While this is a very small proportion of respondents, only a small proportion of the population would have a medical appointment scheduled on any given day. It is also worth noting that the June 2022 strikes did not result in a complete network shutdown. It is possible that a more severe level of disruption in services compared to recent strikes may result in more significant impacts on ability to attend medical appointments than we have observed.

Wider Impacts

Wider economic impacts (indirect)

83. Evidence from recent rail strikes in July 2022 indicates the kinds of disruption that transport strikes can have on household finances and productivity. A survey found that, of the 13% of adults who said their travel plans had been disrupted by rail strikes in July 2022, 4% were unable to work and 15% were unable to work the hours they had planned to.⁶⁹ A separate survey found that 6% of businesses reported that they had been affected by industrial action in July 2022. The most common reasons reported (excluding 'Other') were that the 'workforce was unable to perform their roles' (28%), the 'workforce had to change their working location' (20%), and the 'business was unable to operate fully' (18%).⁷⁰
84. The extent to which personal finances and businesses, and consequently the impact on the wider UK economy, are impacted by strikes is highly uncertain and will vary by mode, geography and severity of strike. However, with more services running on strike days under the proposal, the adverse effects would likely be reduced to some extent. Given the outstanding uncertainties, quantification of these impacts and how they contribute to the wider economy has not been possible.

Increased freight services reduce risks of supply chain disruption

85. The proposal may increase the availability of freight movements across the transport network which could prevent supply chain disruption that may have otherwise occurred. For example, rail freight moves a number of key commodities, including metals, fuel, oil and petroleum,

⁶⁶ Business Insights and Conditions Survey data (Wave 57). Based on responses from 9,418 UK businesses referencing the period 1 April 2022 to 30 April 2022. Data from currently trading businesses only.

<https://www.ons.gov.uk/economy/economicoutputandproductivity/output/datasets/businessinsightsandimpactontheukeconomy>

⁶⁷ Wave 7 1 June to 14 June: Business Impact of COVID-19 Survey (BICS) results - Office for National Statistics (ons.gov.uk)

⁶⁸ ONS (2022). Public opinions and social trends, Great Britain: 22 June to 3 July 2022. <https://www.ons.gov.uk/peoplepopulationandcommunity/wellbeing/bulletins/publicopinionsandsocialtrendsgreatbritain/22juneto3july2022>

⁶⁹ ONS (2022). Public opinions and social trends, Great Britain: 3 - 14 Aug 2022.

<https://www.ons.gov.uk/peoplepopulationandcommunity/wellbeing/bulletins/publicopinionsandsocialtrendsgreatbritain/3to14august2022>

⁷⁰ Business Insights and Conditions Survey data (Wave 63). Based on responses from 9,207 UK businesses referencing the period 1 July 2022 to 31 July 2022. Data from currently trading businesses only.

<https://www.ons.gov.uk/economy/economicoutputandproductivity/output/datasets/businessinsightsandimpactontheukeconomy>

construction goods, intermodal containers including long life food products and waste.⁷¹ Rail freight services were severely disrupted during strikes in the summer of 2022. Whilst limited disruption is manageable within sectors through stockpiling or movement of goods in advance, continuous or protracted industrial action is likely to see a more significant impact on freight networks.

Reduced stress on other modes of transport during strikes

86. The proposal could increase the number of transport services running on strike days for any given mode of transport experiencing strike action, therefore could avoid the additional pressure on alternative modes of transport that could be used. This may be especially important in urban centres where congestion is more likely, given a relatively large travelling population.

Impact on pay and conditions in other sectors

87. If the effect on worker power derived from the ability to take impactful strike action is substantially reduced then potentially there could be a wider impact of generally reduced terms and conditions for workers than would otherwise be the case if collective worker power was stronger. According to the Annual Survey of Hours and Earnings around 40% of workers had their pay determined through collective bargaining in 2021.⁷² If terms and conditions are reduced over time relative to the strength of the economy in one sector then there is a potential for employers in other related sectors to be able to offer similarly reduced terms and conditions to attract and retain the workers they need. Collective worker power would only be one factor determining the employer offer: the tightness of the labour market and the skills required by the employer (and their abundance in the labour market) would also be factors, along with the regulatory requirements such as holiday entitlement or paying the National Minimum Wage.

Business Impact Target Calculations

88. The proposal is expected to impose some costs on businesses, including increased operating costs and additional administrative/familiarisation costs, which are described above. These costs have largely not been monetised because the service levels that will be delivered under Minimum Service Agreements have not been established as part of this proposal and are highly uncertain. Therefore, we do not provide a Business Impact Target score or Equivalent Annual Net Direct Cost to Business in this Impact Assessment.

Indirect Costs and Benefits

89. In addition to the indirect costs and benefits set out above, there may be further indirect impacts as a result of the proposal.
90. The implementation of Minimum Service Agreements may lead to changes in the relationship between trade unions, employees and employers. These knock-on impacts are highly uncertain and could lead to costs or benefits for the transport sector depending on many factors.

Sensitivity Analysis

⁷¹ ORR (2022) Table 1310. <https://dataportal.orr.gov.uk/statistics/usage/freight-rail-usage-and-performance/table-1310-freight-moved-by-commodity/>

⁷² Trade union statistics 2021 - GOV.UK (www.gov.uk)

91. This Impact Assessment has monetised only a small proportion of the costs and benefits associated with the proposal. Therefore, a sensitivity analysis has not been conducted.
92. However, the costs and benefits of the proposal are expected to depend heavily on the service levels mandated by Minimum Service Agreements during a strike. Overall, the magnitude of costs and benefits of the proposal to different parties are expected to increase to varying degrees as the required service levels increase. For example, increases in service levels lead to increases in the avoided negative impacts of strike action to businesses (including increased revenue for operators), consumers and government. However, they are also likely to lead to greater disbenefits to workers and increases in operational costs associated with providing additional services during strikes.
93. Estimates of familiarisation costs to businesses and unions have been provided in this Impact Assessment to give a sense of possible scale, but these are based on high level assumptions about the amount of time and number of employees per organisation required to familiarise with the requirements of the proposal. For this reason they are highly uncertain.
94. Impacts of the proposal would also be sensitive to the assumption on service levels during strikes used in the Do Nothing option. Service levels can vary substantially depending on the transport mode and type of strike, ranging from a worst-case scenario of the complete shutdown of a given network to the possibility of much greater service levels. This proposal is expected to have greater impacts in cases where strikes would have caused larger service level reductions with little or no alternative options for travel.

3.0 Risks and unintended consequences

Risks

95. There are several risks to reflect in the analysis of impacts. The first is around implementation and the employers and unions failing to come to an agreement in respect of suitable MSLs for the various routes. Whilst the Bill contains provision for interim MSLs to be imposed while the CAC makes a determination, that determination may be challenged. If this is through a judicial review process, it could mean many months of protracted legal disputes between employers and unions if they are unable to reach a voluntary agreement.
96. The next is where MSLs are in place and those who are rostered to deliver the service do not turn up for work. The policy will be designed in a way so as not to restrict the right to strike for all transport workers, just those who are rostered to deliver the MSL that has been agreed and only temporarily for the time they are rostered. This also removes the protection from unfair dismissal for striking purposes. However, in the event these workers do not attend for shifts they are rostered for with no notice, in the short term this will have a direct impact as the service cannot be run, or it will be delayed while other staff are found to cover.
97. Given the highly skilled nature of certain job roles in the transport sector, such as specific driver route training, signallers, and air traffic controllers, there is a reliance on staff complying with the minimum service level and any notice given to them to work. It is difficult to mitigate against this, but the policy proposes to remove the automatic unfair dismissal protection from employees named on the notice who do not comply and continue to withdraw their labour.
98. Where rostered staff do not attend, they will need to follow the requirements set by the employer within the relevant absence policy. Failure to attend on the grounds that they are participating in strike action would be unauthorised and could be subject to disciplinary action. Those participating in strike action would not be protected from unfair dismissal if they are rostered to fulfil an MSL. However, this is intended as a deterrent and action taken would be a retrospective form of recourse for the employer. So this mechanism does not remove the potential for failure to provide the minimum service during the strike itself due to non-attendance of rostered employees
99. In the event that staff do lose their jobs as a result of failing to report for work when rostered to cover for MSLs, an unintended consequence could be that if a material number of workers have their employment terminated then employers may find that they are low on staff to run normal services if the situation becomes extreme. This situation becomes worse if certain staff classes such as drivers and signallers are impacted in this way. This may restrict the scope for employers to take action against employees who do not comply with the minimum service level.
100. In addition to the potential increase in strike action prior to MSLs being introduced, a further significant unintended consequence of this policy could be the increase in staff taking action short of striking. Where services are reliant on staff working additional hours, this could have a significant negative impact on the level of services provided and it is important to note that such action could continue even when MSLs are in place, (so it could be that instead of taking strike action, action short of strike becomes a more prevalent form of lawful protest). This could further disrupt the interests of the workers and businesses the legislation seeks to protect.
101. A similar risk is an increased frequency of strikes following a Minimum Service Level being agreed. This would reduce the overall impact of the policy as although service levels would likely be higher than the baseline, it could mean that an increased number of strikes could ultimately result in more adverse impacts in the long term.

102. The policy restricts the rights of some workers in the transport sector to strike. To that end it may be that those individuals, or trade unions on their behalf, seek to challenge the legislation under the Human Rights Act 1998.⁷³ It is understood that to withstand legal challenge, the policy must ensure that interference with the right to strike is proportionate and goes no further than necessary.
103. In preparing estimates consideration will need to be given to whether variable costs (or other cost components) may increase as a result of operating MSLs. Staff costs often form a significant proportion of total operating costs. For example, in the case of buses, drivers' salaries form about 40% of all costs.⁷⁴ Costs may rise if in order to deliver the MSL, operators need to use agency staff, who tend to be paid at higher rates. This is due to a) general shortages in the bus industry and b) agency drivers would demand a premium during a strike and the need to cross picket lines. The mean earnings for a bus driver in 2021 was £12.34 an hour.⁷⁵ Uprated by 17.9% to take account of non-wage labour costs, this becomes 14.55.⁷⁶ Accounting for a 50% increase would result in a rise in costs to £21.82 an hour for a bus driver. The total costs would depend on the service level that is agreed and the size of the premium. These sorts of costs could be particularly onerous for smaller operators.

Unintended consequences

104. Above, we have set out the direct and indirect costs that are expected to be incurred by government, businesses and transport sector employees. It is possible that the proposal could generate unintended consequences that have not been considered within the assessment. Any such impacts that may materialise are highly uncertain but the likelihood of these impacts to materialise may become clearer as details of the proposal are developed further.
105. Examples of potential impacts include:
- Additional impacts on operators beyond those set out above. These could result from the additional responsibilities or duties imposed on operators by the proposal.
 - Impacts on the supply chain affecting businesses not considered in the costs and benefits section.
 - Costs to other parties not included within the assessment of costs and benefits. It cannot be ruled out that such costs could affect small or micro businesses.
106. Additionally, the introduction of legislation around MSLs has the potential to have an unintended negative impact on industrial relations, which could have detrimental impacts for all parties.

⁷³ UK Government (1998). Human Rights Act 1998. <https://www.legislation.gov.uk/ukpga/1998/42/contents> [Accessed October 2022].

⁷⁴ Bus Industry Monitor (BIM), 2019, Breakdown of Operating Costs <https://passtrans.co.uk/content/index.php/performance-2019>

⁷⁵ ONS (2021). Annual Survey of Hours and Earnings. Table 15.5a: Hourly Pay – Gross (£) for all employee jobs.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010ashtable15>

⁷⁶ Estimated from latest ONS Index of Labour Costs per Hour publication.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/indexoflabourcostsperhourilch/julytoseptember2020>. <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/indexoflabourcostsperhourilch/julytoseptember2020> Here, the non-wage labour cost uplift uses 2019 Q4 to 2020 Q3 figures (seasonally adjusted). To estimate the uplift non-wage costs per hour as a proportion of total labour costs (15%) are divided by wage costs per hour as a proportion of total labour costs (85%) (i.e. $0.152/0.847=0.179$). Therefore, we have uplifted wage by 17.9% to get an estimate of total labour costs. estimated from latest ONS Index of Labour Costs per Hour publication.

4.0 Wider impacts

Innovation Test

107. We do not expect this proposal to directly impact innovation. Additionally, unforeseen innovation is not anticipated to materially affect the assessments provided in this Impact Assessment.

Small and Micro Business Assessment

108. Costs to businesses identified in this Impact Assessment include the following costs, both of which are likely to apply to transport operators:

- Costs associated with running additional services during strikes.
- Administrative and familiarisation costs to comply with the new regulations.

109. These costs have the potential to place a proportionately large burden on small and micro businesses if they are affected by the proposal. For example, smaller businesses may be required to devote a greater proportion of their resources to familiarising with the new legislation and addressing any additional administrative burden.

110. The 2022 business population estimates for transportation and storage are set out in the table below, which shows the number and percentage of employers in the sector in the UK that are micro, small, medium or large businesses.⁷⁷ The estimates indicate that a significant majority of employers in the transportation and storage sector are small or micro businesses. In addition to the employers included in the table below, there are 287,040 businesses listed as having no employees.

Business population estimates for employers in transportation and storage, 2022

Business size	Number of employers	Proportion of employers
All employers	51,685	100%
Micro (1-9 employees)	41,465	80%
Small (10-49 employees)	8,280	16%
Medium (50-249 employees)	1,560	3%
Large (250+ employees)	380	1%

111. There is considerable variation in the distribution of business sizes across different transport modes. This is illustrated by the table below, which sets out the number of businesses of different sizes for selected transport categories, as based on the 2022 business population estimates.⁷⁸ The majority of employers in the passenger rail transport (interurban) category are medium or large businesses. However, there are some businesses that are classified as small or micro businesses. This is more so the case amongst the other categories included below, for which the majority of businesses are small or micro businesses.

⁷⁷ Business Population Estimates for the UK and Regions 2022. Table 5 – Number of businesses in the private sector and their associated employment and turnover, by number of employees and industry sector, UK, start 2022. Transportation and Storage.

<https://www.gov.uk/government/statistics/business-population-estimates-2022>

⁷⁸ Business Population Estimates for the UK and Regions 2022. Table 7 – Number of businesses in the private sector and their associated employment and turnover, by number of employees and industry group, UK, start 2022. Selected transport categories.

<https://www.gov.uk/government/statistics/business-population-estimates-2022>

Business population estimates for employers in selected transport categories, 2022

Business size	Proportion of employers in each category			
	Passenger rail transport, interurban	Other passenger land transport	Passenger air transport	Support activities for transportation
Micro (1-9 employees)	25%	76%	54%	73%
Small (10-49 employees)	12.5%	20%	28%	19%
Medium (50-249 employees)	12.5%	3%	11%	6%
Large (250+ employees)	50%	1%	7%	2%

112. Primary legislation will grant the power to introduce MSLs into the transport sector. As this will apply broadly to the transport sector, it is not possible to exempt small and micro businesses at this stage. However, given the presence of small and micro businesses, secondary legislation to introduce MSLs for specific modes should give due regard to the business impacts identified in this Impact Assessment so that they do not disproportionately burden small or micro businesses.

Equalities

113. As set out above, the proposal is expected to interfere with the right to strike for those workers who are required to work on strike days, to comply with MSLs. Based on the 2021 Labour Force Survey the 'transportation and storage' sector in the UK is comprised of a higher proportion of men (77%) than women (23%).⁷⁹ By contrast, the employed population in the UK is more evenly distributed between genders, with 52% of employees being men and 48% of employees being women.⁸⁰ In terms of ethnicity, the 'transportation and storage' sector is broadly comparable to that of the overall population of employed people in the UK with 20% and 14% of the 'transportation and storage' sector and the overall employed population identifying as ethnic minorities, respectively.⁸¹ There is limited available sector data on other protected characteristics.

114. In consideration of these limited evidence, the proposal may impact protected characteristics groups more than other groups. However, the extent to which protected characteristic groups are affected is uncertain, particularly as some job roles are likely to be more impacted than others.

Justice Impact Test

115. The Department is engaging with the Ministry of Justice on the Justice impacts of this proposal. A Justice Impact Test will be completed in due course.

Trade Impact

116. This proposal is not expected to have any implications for trade.

⁷⁹ Transportation and storage SIC code, used by ONS, relates to activities such as air, land and water transport (e.g. rail, taxi and passenger air transport etc.) and also relates to warehousing and support activities for transportation (e.g. warehousing and storage, cargo handling, and bus and coach station facilities etc.).

⁸⁰ Office for National Statistics (2022). EMP13: Employment by industry.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/employmentbyindustryemp13>

⁸¹ Office for National Statistics (2022). Annual Population Survey, ethnicity by industry. Accessed from Nomis.

<https://www.nomisweb.co.uk/datasets/aps180>

Family Test

117. This proposal is not expected to substantially impact family life, or rather aims to improve family life due to the expected positive impact on right to private life.

Health Impact Assessment

118. This proposal is likely to reduce the detrimental impacts of rail strikes. The costs and benefits section has some evidence relating to the use of rail for access to healthcare services or for work in healthcare.

Rural Proofing

119. This proposal is expected to increase transport services during strikes compared to strike actions where parts of the transport network can be completely shut down or experience very significant levels of service disruptions. For example, in rail these routes tend to be more significantly impacted by service reductions during strike action, as indicated by Figure 2 in this document.

Sustainable Development

120. The proposal is not anticipated to impact sustainable development.

Competition Assessment

121. The proposal is not anticipated to have substantial impacts on competition.

Greenhouse Gases/Wider Environmental Impact Test

122. The proposal is expected to result in increased public transport services, which may increase public transport usage and reduce car usage. If this is the case, the proposal could generate some benefits in terms of reduced carbon emissions and improved air quality as public transport tends to be less polluting than travel by car. For example, rail carried around 10% of all passenger miles and around 9% of freight moved prior to the pandemic but produced only around 1% of Great Britain's transport emissions.⁸² Additionally, for every mile travelled, passenger trains produce around one third of the emissions of the average petrol car.⁸³ Therefore, modal shift towards public transport is likely to have positive environmental impacts. This potential benefit depends on the extent to which the proposal will facilitate modal shift, which is highly uncertain and has not been monetised here. It is also dependent on the geographical distribution of services, offsetting emissions from running additional public transport services, and factors that affect traffic on the day of strike actions.

⁸² Williams-Shapps Plan for Rail (2021), p88.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/994603/gbr-williams-shapps-plan-for-rail.pdf

⁸³ Williams-Shapps Plan for Rail (2021), p16.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/994603/gbr-williams-shapps-plan-for-rail.pdf

5.0 Post implementation review

123. The primary legislation will provide powers to enable implementation of MSLs in relevant transport modes. The post implementation review (PIR) will evaluate both how the primary legislation is achieving its objectives, as well as the implementation through secondary legislation. This will include an assessment of how the intended outcomes are being achieved at a modal level, and how such outcomes align with the original objectives of the policy.
124. Given the uncertainties associated with the policy and its implementation, detailed evaluation plans will be developed for each transport service for which MSLs are introduced. The policy will be evaluated within the first three years from when the legislation comes into force. This will be a sufficient period to observe the effectiveness of the policy and collect adequate data for an evaluation study. However, if an event triggers a need for this evaluation to be conducted earlier, then this will be undertaken as soon as is practically feasible. Such triggers may include the need to learn lessons on implementation to inform whether the policy could be extended to other sectors or modes of transport, and whether the powers provided by the legislation are sufficient and effective to extend the policy or vary the policy as necessary. Other trigger factors may include evidence which show that some aspects of the legislative provisions are not sufficient, or that elements of enforcement have broken down (for example, but not limited to, protracted negotiations which have no resolution in sight or strength of enforcement proving ineffective).
125. The PIR will include an evaluation of the extent to which the policy has delivered its objectives in the following areas:
- How has the objective of fairly balancing the disbenefits from restricting the right to strike against the benefits to the wider public from better protecting their rights (to private life, to access health care, to access key worker employment) been achieved?
 - How have wider economic impacts and environmental impacts been incorporated into the factors that parties considered when agreeing MSLs?
 - How has the policy impacted the number of strikes, actions short of a strike and the likelihood of reaching an agreement within the 3 months of consultation and engagement?
 - How has the enforcement mechanism worked as an incentive mechanism to achieving an MSA?
 - What have been the impacts on transport operators?
 - Have there been unintended consequences from the policy, or through any mechanism put in place to deliver the policy?
 - What are the lessons learned that could be transferred to other areas?
126. It is anticipated that the evaluation will include both a process evaluation as well an impact evaluation. This will explore the process of developing secondary legislation, its implementation, the costs of familiarisation and other administrative functions needed to deliver the policy. This will aim to establish the cost of the different aspects of the process of implementing the policy and enforcing it. The impact evaluation will focus on the impacts on passengers, other users of the relevant transport system, operators, workers, the wider economy and the environment.

Post-Implementation Review (PIR) Plan

Regulation Name: Minimum Service Levels

1. Review status: Please classify with an 'x' and provide any explanations below.

<input type="checkbox"/>	Sunset clause	<input type="checkbox"/>	Other review clause	<input type="checkbox"/>	Political commitment	<input checked="" type="checkbox"/>	Other reason	<input type="checkbox"/>	No plan to review
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Policy will be reviewed on the third anniversary of the entering into force of secondary legislation for MSLs.

Regulations to be reviewed in parallel to policy. However, if implementation of regulations and any relevant guidance, triggers an event where a review is needed or will be significant for determining the baselining the evaluation for the review, then it will be conducted earlier. Monitoring data will be used to inform the decision on timing of the review and baselining that will be conducted.

2. EU or Domestic Regulation: Please indicate the origins of the regulation.

<input type="checkbox"/>	EU-derived regulation	<input checked="" type="checkbox"/>	Domestic regulation	<input type="checkbox"/>	Other
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3. Expected review date: month and year.

0	1	/	2	6
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4. Rationale for PIR approach:

Will the level of evidence and resourcing be low, medium or high?

Based on the quantity and quality of information that is currently available to set the baseline for an evaluation study, or to assess impacts of the policy, the level of evidence and resourcing will be medium to high.

Primary legislation will set out the broad framework for how MSLs would operate. The key evidence required to demonstrate whether the policy is having the expected impacts at an aggregate sector level may be relatively easy to collect, process and analyse. This will broadly look at whether the frequency of strike actions has changed with the policy coming into force, and some of the main implementation costs incurred. The level of evidence and resourcing would be low to medium.

However, to fully appreciate whether the core objectives of the policy are being met, such as whether the balancing between human rights has been achieved in a reasonable and fair manner, will require more detailed analysis at a modal level. This will require conducting new data collection and primary analysis. This will also include wide stakeholder engagement. The level or evidence and resourcing could be high.

What forms of monitoring data will be collected?

Data is currently collected during strike actions and on the adjacent days of strikes. We will continue to build on this evidence base so that a more comprehensive dataset of the impact of strikes could be analysed. This monitoring data is undertaken by DfT.

Additional monitoring data will be required with the introduction of the policy. This will include data from other Government departments such as ONS (on retail transactions, or the impact on the hospitality sector).

For rail, DfT also requires templated information to be provided by train operating companies, and from Network Rail. This activity will have to continue, and work needs to be undertaken in order to build a database of information from these sources which are key to establishing the impacts. DfT work closely with these companies and network rail. This information includes financial information such as cost impacts during strikes, demand information, and labour force data (absences etc). The quality of this information will need to be tested.

Other monitoring data will be available to assess the impact on other modes, using reporting information from wider transport sectors. Also, data on pay mandates, negotiations, and time spent on these processes will need to be collected and monitored. This will be from operators, some of the supply chain (to be confirmed), network operators, and devolved administrations.

What evaluation approaches will be used (e.g. impact, process, economic)?

Given the complexity of the policy and its implementation, it is currently envisaged that both a process and an impact evaluation will be undertaken.

The process evaluation is very important, including the fact that key lessons will need to be derived and hopefully used in improving implementation, and in using the lessons for other relevant sectors.

The impact evaluation will be key to delivering the analysis to make a judgement on whether secondary legislation will need particular amendments, for instance whether parties will be asked to have regard to particular factors more than others in coming up with an agreement on MSLs.

It will also look at whether any unintended consequences came about during implementation of due to any other factors, explained by the characteristics of the sector being regulated. One unintended consequence may be an increased likelihood of strike action happening because of the new legislation.

How will stakeholder views be collected (e.g. feedback mechanisms, consultations, research)?

The devolved administrations will be engaged through existing channels of data sharing and data collection. For rail, DfT has a good working relationship with TfL and some other administrations. A process of engagement through a light touch 'survey' may be sufficient. Hence consultations may be the method that may be deployed.

With regards to parties such as Network Rail and Train Operating Companies, these will be through a mixed method of formal request for information, informal regular engagements between franchise managers and operators, or colleagues working closely with Network Rail. We are currently unsure whether research will be required but will scope this depending on whether more structured evidence will be required, other than information that is already collected through existing means.

Other stakeholders (including unions and employees) will need to be scoped and an engagement plan will be developed, including following up with relevant parties who will have expressed clear views during the consultation exercise that is planned for secondary legislation. This is likely to take the shape of focus groups and structured interviewing to gather qualitative evidence, and if possible, some quantitative evidence on time spent in negotiations and costs etc.

Key Objectives, Research Questions and Evidence collection plans for the Post Implementation Review

Key objectives of the regulation(s)	Key research questions to measure success of objective	Existing evidence/data	Any plans to collect primary data to answer questions?
Achieving an MSL that aligns with policy	Successful delivery of MSL – to increase transport coverage over a larger geography.	Existing usage data by purpose, for example in the National Travel Survey. Existing supply-side information, e.g. rail timetables run during strike and non-strike days. Existing studies and research into passengers, responses to strikes, and other relevant data on uses of transport to access education, health and places of work. Some wider economic impacts of strikes.	Primary data to be collected on MSLs when developed. Information on MSRMs that are implemented. These will be compared with baseline data. Research into passengers' response to different strike actions, to build a more comprehensive database of data for further analysis. Analysis of distribution of impacts of transport sector strikes. Further research into the impacts on access to health and education.
Effective and efficient delivery of the policy	Frequency of CAC to review and to produce a determination.	Some evidence on CAC and the cost of enforcement, but baseline information on failed negotiations will be useful. Emerging evidence once policy is implemented at sector level, reviewing costs of implementation and any relevant administrative costs involved.	Evidence on CAC will require data collection to build the picture of costs. Research into costs to the wider sector and impacted parties, through a combination of focus group, interviewing and data collection.
Effective monitoring and enforcement	Impact of strikes on students, key workers and those travelling to attend key medical appointments – minimum impact.	Social research being conducted to study the impact of recent strikes.	Social research will need to continue and will need to cover a good sample of devolved administrations. Research will need to be conducted to understand the wider economic impact.
	Impact on economy minimised.	Studies on wider economic impacts, e.g. CEBR as referenced in the wider economy section of the IA. Other relevant data such as on hospitality and other sectors. Social research around impacts on commuters.	An overarching methodology will need to be developed to capture in a single framework the balancing of different interests to test the outcome of policy.