Final stage impact assessment

Title:	ZHC - Right to Reasonable Notice of Shift Patterns and Payment for Shifts Cancelled, Moved or Curtailed at Short Notice
Type of measure:	Primary Legislation
Department or agency:	Department for Business & Trade
IA number:	DBT-033-24-CMRR
RPC reference number:	
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1. Summary of proposal

1. The Government is committed to ending one-sided flexibility, ensuring that all jobs provide a baseline of security and predictability. This includes ending exploitative zero hours contracts. The Government will deliver this commitment through two measures:

   a. Ensuring that workers have the right to have a contract that reflects the number of hours they regularly work for their employer, based on a reference period (expected to be 12 weeks but to be set out in regulations).

   b. Ensuring that workers get a reasonable notice of their shift patterns, and of any changes in their shift patterns, with payment for shifts cancelled, moved or curtailed at short notice.

2. This Impact Assessment (IA) summarises our evidence on the latter measure related to ensuring that workers are provided with a right to reasonable notice of their shift patterns and payment where notice of shift cancellation, movement or curtailment is short. The clauses in the Employment Rights Bill provide the framework for the policy, setting out the new obligations on employers and the scope of types of workers to be covered by the policy. Policy details such as the length of notice for cancellation, movement and curtailment of shifts at short notice or the amount of the payment for short notice cancellation, movement and curtailment will be determined in secondary legislation using powers created in the Bill. It is the Government's intention to consult on such details. This IA therefore presents a range of possible policy parameters to account for the current uncertainty of such details. However, given this uncertainty, the estimates contained within this IA are to be taken as indicative, and will be refined over time as policy development continues.

2. Strategic case for proposed regulation

3. Currently, there is no legislation mandating that employers must give advance notice of shift timings and changes to these, meaning many workers experience short notice of their shifts and short notice cancellations and other changes to their shifts. Some workers are informed about the cancellation of their shifts with as little as 12 hours' notice or less, or occasionally when they turn up to work. Survey data from the Living Wage Foundation[1] suggests that 25% of 'insecure' workers have had shifts cancelled unexpectedly, with 88% receiving less than full shift compensation.

4. Many workers receive their shift schedules without reasonable notice to be able to effectively plan their work and social lives. Living Wage Foundation data found that in Q2 2023, 78% of workers received less than 2 weeks advance notice of shifts, with 59% of workers receiving less than 1 week. This can disadvantage workers' ability to effectively plan their future income, particularly where this relates to their ability to effectively budget for regular outgoings.

5. Where shifts are cancelled, moved or curtailed at short notice, the impacts on workers include increased reliance on debt, inability to forecast income or find substitute work, and lost childcare and travel expenses. These represent the 'one-sided flexibility' of current employment relationships, whereby workers on zero-hours and low-hours contracts bear the risk of changing labour demand and/or poor workforce planning.

6. Government intends to rebalance the risk and benefits between firms and workers of these variable hour types of contracts through providing a mechanism to incentivise better workforce planning of shifts and ensuring that workers do not lose out where firms do not abide by this.

7. This policy does not intend to hinder flexible working practices which can benefit both workers and employers, allowing firms to respond to changing market conditions and individuals to work in a range of different ways, on hours which can fit around other responsibilities. Instead, they seek to provide some level of security (in pay and hours) to workers, whilst still providing the flexibility that many desire which also benefits the responsiveness of businesses and the economy.

8. The evidence around the extent and issues caused by short notice shift cancellation is covered in detail in paragraphs 40 to 54.

9. There are three main groups of workers who are expected to be in scope of the new right to reasonable notice of shifts and payment for late cancellation: workers on zero-hour contracts and zero-hour arrangements, workers on low-hour contracts and agency workers on such contracts. In total, our analysis of the Labour Force Survey (LFS) suggests there could be up to 2.4 million workers benefiting from these new rights, which are referred to throughout this analysis as those on 'variable' forms of contract. The full detail of workers in scope will be set out in secondary legislation in due course.

10. It is the Government's policy intent to include some agency workers within these protections and the Bill is providing a power to do so. Agency workers have a unique type of employment relationship. For a typical worker, there are two parties in the employment relationship: the worker and the employer. For agency workers, there is a third party, the employment agency. In some cases, there is also a fourth party; an intermediary which handles payroll functions for the employment agency. With several organisations involved in the placement, the Government intends to set out which party(ies) will be required to provide reasonable notice and make payment for cancellation or curtailment.

[1] Precarious pay and uncertain hours: Insecure work in the UK labour market, Living Wage Foundation, 2023

11. Including some agency workers in scope is not aimed at discouraging the use of agency workers, and the benefit to firms of using agency workers to fill short term vacancies or for specialist skills is clear. This form of working arrangement can also be beneficial to the workers themselves as they can often choose the contracts which suit them and allow them to benefit from the flexibility of accepting work for shorter periods of time without being restricted by a permanent employment relationship.

12. Instead, the aim of this policy is to ensure that the agency workers included in the scope of the policy have a level of security when planning out their upcoming work schedule alongside protection where they have planned to work but are left without it (at short notice) and the associated remuneration.

13. Exactly how this policy will be applied to agency workers will be determined in due course following the intended consultation with stakeholders.

3. SMART objectives for intervention

14. The key policy objectives of this proposal are:

    a. Improve the security of employment for workers on variable contracts, increasing their financial stability through more predictable income/hours.

    b. Promote genuine two-sided flexibility, that enables workers to balance their working life with their personal commitments such as caring or parental responsibilities.

    c. Prevent unscrupulous employers from abusing relationships with their workers through poor workforce planning.

    d. Provide workers with security in their rights to know that they will not be negatively affected if they choose not to take shifts offered to them with little to no notice.

15. More generally, together with the right to guaranteed hours[2], the Government is seeking to rebalance the benefits and risks of flexibility between firms and workers, so that workers can better predict their working patterns and have greater security over their income.

4. Description of proposed intervention options and explanation of the logical change process whereby this achieves SMART objectives

Option 0: Do nothing

16. The ‘Do Nothing’ option would mean that employers have no obligations to provide employees with a ‘reasonable’ notice of shift patterns and any change in shifts, and with payment for any shifts cancelled, moved or curtailed at short notice. Likewise, under this scenario we assume that the right to guaranteed hours is not implemented. This would mean that the problems of income insecurity and unpredictability associated with the one-sided flexibility involved in certain variable contract employment relationships would persist due to the market failures outlined in paragraphs 40 to 44.

17. Thus, this option is discounted moving forwards, however, the costs and benefits of option 1 are considered relative to the status quo of ‘doing nothing’. The Government has decided

[2] Employment Rights Bill Impact Assessments, Department for Business and Trade, 2024

not to commence the Workers (Predictable Terms and Conditions) Act 2023, which would bring in a ‘right to request’ a predictable contract that could be turned down by the employer, and as a result this does not form part of this counterfactual.

Option 1: Legislate to introduce a right to ‘reasonable’ notice of any change in shifts, and to proportionate payment for shifts cancelled, moved or curtailed at short notice

18. The preferred option (Option 1) is to legislate through the Employment Rights Bill to introduce an obligation to provide workers with reasonable notice of shifts and payment for late cancellation, movement or curtailment. In doing so, this policy will rebalance the employment relationship in these cases to provide more power to workers.

19. Employers will still be able to ‘flex up’ after the reasonable period for notice has passed (i.e., offer additional hours to variable hours workers) but workers would be protected from detriment if they say no, by introducing a right to take their employer to tribunal for any financial loss suffered from lack of reasonable notice or for being subjected to a detriment by the employer if they choose to turn down a shift offered to them without reasonable notice. The compensation for any detriment or financial loss for eligible workers not receiving reasonable notice of shifts will be enforced through the employment tribunal system.

20. Alongside this, there will be provision for workers to receive payment from employers where shifts which have been agreed upon by both parties of the employment relationship and are then cancelled, moved or curtailed by the employer at short notice.

21. This will allow workers to better plan their lives and finances in advance and not be subject to sudden changes in weekly hours and pay. While the main elements of this policy are set out in the Employment Rights Bill, the Bill contains powers to set out many of the specific features of how this policy will function in secondary legislation, which the Government intends to enact following consultation. These will include prescribing what is considered ‘short notice’ for shift notice curtailment, movement and cancellation, alongside the amount of payment. Alongside this, there may be exemptions to these regulations so that firms can cancel, moved or curtail shifts without having to make the statutory payment in certain circumstances.

22. We anticipate that these changes will incentivise firms to invest in their workforce planning, and this will lead to more transparent and fair conversations between workers and employers about shifts, ensuring security for both sides of the employment relationship.

23. Other countries have previously sought to provide more security and predictability for the income of those in these forms of employment, particularly zero-hours contracts. For example, in Ireland casual workers on zero-hours contracts have the right to receive a minimum payment if they are called to work but are sent home without working. This minimum payment works out as 25% of their possible hours, with an hourly rate charged at 3 times the National Minimum Wage (NMW). For instance, if scheduled 20 hours and receive none, pay will be NMW x 3 x 5 hours (25% of guaranteed 20 hours).

24. As stated previously, the Government’s commitment to ‘end exploitative zero-hour contracts’ will be achieved through two commitments aimed at tackling the exploitative elements of these forms of variable contracts. As such, the option considered in this IA is combined with a right for workers to a regular contract reflecting their working pattern over a reference period, i.e., workers will have the option to move onto a contract reflecting their normal working hours, and the right to receive reasonable notice of shift patterns, with payment for late notice cancellation, movement or curtailment. Together, these policies provide workers with a more predictable working pattern which is less likely to be subject to late changes therefore giving workers more security and predictability over their income.

5. Summary of long-list and alternatives

25. Previous consultations have shown there are various approaches to tackling the issue of one-sided flexibility. However, many of those options, including the Predictable Working Act 2023[3], which the Government intends to repeal, are unlikely to go far enough to resolve the issues of income insecurity and unpredictability. Likewise, an outright ban on variable contracts, such as zero-hours contracts, would be ill-targeted and unnecessarily burdensome since there are many cases where flexibility is genuinely beneficial to worker and employer.

26. An outright ban is unsuitable because many workers on these forms of contract suffer from an imbalance of power and imperfect information around alternatives which precludes them from moving out of these forms of work onto a more predictable pattern which they may otherwise prefer.

27. Non-legislative approaches such as guidance are unlikely to have enough 'bite' to protect these vulnerable workers facing detriment as there would be little incentive for employers to change their behaviour. Where some employers want to provide greater security and fairly share the risks of unpredictable demand, there is a commercial incentive for some employers to transfer risk to workers unfairly. Only regulation will achieve a level playing field for employers and enable workers to access a contract with guaranteed hours.

28. As such, legislation is necessary to ensure that employers, not workers, are financially responsible for the cancellation and curtailment of shifts at short notice. Other options may work for subsets of workers and encourage some firms to abide by best practices, however they would not create a level-playing field whereby all employers have an obligation to provide workers with reasonable notice of shifts and changes to these.

29. While this IA only appraises Option 1, as it is the only option which viably meets the commitments laid out by the Government in the Plan to Make Work Pay and the objectives in Section 2, the legislation in the Employment Rights Bill sets out the broad policy and provides the Secretary of State with several powers on how to apply the policy. This means that much of the policy detail will be set out in secondary legislation, which the Government intends to make after consultation with stakeholders. This will include what notice period will be presumed to be reasonable, the notice period after which payment is due and the amount that firms will be obliged to pay for late cancellation, movement or curtailment.

30. The analysis included in this IA, therefore, considers the various options in which this policy could be implemented in the assumptions that it makes to show an illustrative range of the potential impact. However, in as far as shortlisted policy options carried forward this IA only considers option 0 and option 1 laid out in paragraphs 16 to 24.

[3] Workers (Predictable Terms and Conditions) Act, Department for Business and Trade, 2023

6. Regulatory scorecard for preferred option

Part A: Overall and stakeholder impacts

(1) Overall impacts on total welfare		**Directional rating**
Description of overall expected impact	The overall impact of the policy is uncertain as this depends on how well targeted the policy is, which will be determined by the subsequent secondary legislation. This policy represents a transfer of risk from the workers on variable hour contracts facing insecurity because their hours are unpredictable. This means the benefits and risks of flexibility are more evenly shared between workers (on the contracts which are in scope of the policy) and their employers. This represents significant benefits for workers in terms of increased predictability, income security and wellbeing, but at a cost to employers. Much of the monetised analysis included in this IA is highly uncertain, due to unknown variables around final policy design and potential business reaction. Based on current business behaviour, the payments due to variable hours workers would be worth around £110 million per year. However, to avoid a payment for late cancellation, movement or curtailment (herein referred to as "cancellation payment"), firms will likely invest more time into workforce planning to ensure that workers are given sufficient notice of shift patterns wherever possible. This will mean the level of payment is much lower, but workers are afforded more notice and predictability regardless. At a societal level, the impacts to firms and workers will net off against each other to some degree. The extent to which the policy will provide a net positive will depend upon (i) how well targeted the policy is to maximise the security and welfare benefits to workers while minimising the situations where firms are expected to incur a cancellation payment or call workers in when they do not have sufficient work; and (ii) the extent to which the wellbeing effects for workers feed through into productivity improvements for business. For business, the primary costs will be felt in the form of administration of the advance notice and payment mechanisms, alongside additional workforce planning. Likewise, there will be a loss of flexibility for firms where they previously regularly waited until the last minute to offer hours of work or regularly cancelled shifts at late notice. This will be particularly problematic where demand is inherently unpredictable, and firms will face	**Uncertain** **Based on all impacts (incl. non-monetised)**

	greater difficulty in flexing their workforce up or down at short notice. For workers, this legislation is expected to reduce the risk attached to flexible/variable working in the form of last-minute changes in working hours which directly affect their income. This is expected to improve the wellbeing of workers in these forms of work, reducing anxiety associated with inability to effectively plan a secure income stream. While this will not preclude workers from being able to pick-up last-minute shifts, they will gain protection from unfair treatment as a result of turning these down if they do not suit. Likewise, there may be a benefit to business associated with creating a level playing field, with businesses misusing variable hours contracts no longer able to undercut competitors by forgoing proper and fair workforce planning.	
Monetised impacts	With the current evidence base, the only monetisable impacts are the business administration costs, and transfers in cancellation payments from firms to workers. These include familiarisation and implementation costs for business, alongside the ongoing costs to business of workforce planning to provide reasonable notice and the potential costs associated with payment for late cancellation, movement and curtailment. There is a Net Present Value (NPV) of between -£1.1 billion and -£4.7 billion with a central estimate of around -£1.8 billion when calculated over a 10-year period and discounted to present values as per the Green Book. We assume that businesses will seek to comply with the legislation and will undertake planning exercises to ensure that they do not have to pay workers when they are not working. The biggest costs associated with this policy are, therefore, related to a workforce planning exercise undertaken by firms to effectively set shifts out to provide reasonable notice as well as avoid the late cancellation payment. This cost partially captures the costs of lower flexibility to employers. We assume that not all firms can prevent shifts being cancelled, curtailed or moved, leading to an expected cash transfer from employers to workers. The ranges reflect different assumptions in policy design and business reaction. We cannot robustly monetise benefits to workers beyond this cancellation payment at this stage.	**Negative**
Non-monetised impacts	Overall, the non-monetised impacts of this policy are uncertain at this stage. A significant non-monetised impact of this policy will be the loss of flexibility for firms. We know that firms place a high value on flexibility,	**Uncertain**

	particularly where they operate in a sector with highly fluctuating demand. However, some of the flexibility that firms currently enjoy also leads to an increase in risk for workers. As a result of this change, workers will benefit in the form of improved income security and predictability. Evidence suggests that the income insecurity premium could be worth as much as £160 million per year across the population in scope. Whether this benefit to workers outweighs the cost to business (loss of flexibility, administrative cost and cost of payments) will depend on how well targeted it is at those instances where workers are facing detriment and the impact on flexibility in instances of genuinely unpredictable demand. For some employers, this increased formalisation of working arrangements and increased incentives for workers to stay with firms, could potentially lead to improvements in productivity. Likewise, good management practice through improved workforce planning may contribute to better productivity for firms. These impacts are expected to be secondary to the more direct impact on wellbeing and flexibility.	
Any significant or adverse distributional impacts?	Yes, and these are explained in the relevant household and business sections.	**Uncertain**

(2) Expected impacts on businesses		
Description of overall business impact	The overall impact on businesses of the right to reasonable notice of shifts and shift changes on businesses is expected to be negative. This is primarily due to the rebalancing of risk and flexibility of these forms of contract between worker and firm, meaning that firms are taking on increased risks associated with employment, and the associated costs with administration of this right and the workforce planning associated. Similarly, firms without sufficiently thorough workforce planning, and where it is not possible to predict demand for work, will likely bear costs associated with either cancellation payments for those shifts or paying wages for little return if they still bring the worker in but with little work for them to do. However, it is expected that firms will endeavour to comply where possible and therefore level of payments made by business will	**Negative**

	reduce over time. This will, however, affect the flexibility with which they currently operate.	
Monetised impacts	The average cost to business Equivalent Annual Net Direct Cost to Business (EANDCB) is estimated to be £320 million per year. These costs relate to the transitional familiarisation and set up costs associated with the policy, and the ongoing costs with workforce planning and cancellation payments paid by employers to workers. The average administrative costs to businesses are estimated to be around £210 million per year, which includes familiarisation and set up costs, as well as costs associated with shift planning. Over a 10-year appraisal period and discounted as per the Green Book, this gives a business NPV of -£2.1 billion to -£5.5 billion with a central estimate of -£2.7 billion.	**Negative**
Non-monetised impacts	A loss of flexibility and increased risk of not meeting consumer demand beyond the costs captured by increased workforce planning as firms are no longer able to easily flex up their workforce. Shift work is a small but important section of the labour market, and we know that firms use variable contracts where their demand is difficult to effectively predict, with 28% of firms suggesting that the hours of their zero-hour contract workers either vary greatly each week or were impossible to predict. If the viability of this kind of work and sectors relying on zero-hour contracts are affected by these changes, there could be a loss in output or an increase in operating costs. Conversely, there may also be a benefit to firms through the improved wellbeing for workers feeding through to productivity improvements, and gains from better workforce planning. These are expected to be smaller than the impacts on flexibility and payments made.	**Negative**
Any significant or adverse distributional impacts?	Yes, variable forms of contracts are used considerably in the retail and hospitality sectors, as well as health and social work. These policies are likely to have impacts on those sectors which have variable, sometimes unpredictable demand. Some sectors rely on business models where they keep a pool of flexible workers to meet demand. Rights to reasonable notice of shifts and to payment for late cancellation, movement or curtailment would reduce the viability of these business models and potentially these industries due to the	**Uncertain**

	increase in costs associated with this policy and the right to guaranteed hours. It is estimated that there are around 900,000 agency workers in the United Kingdom (UK), of which around 140,000 are also identified as being on a zero-hours contract. Due to the expected inclusion of some agency workers, this policy could have an impact on the operation of the agency work model and thus agencies in the UK, which make up around 2% of total UK Gross Domestic Product (GDP). How this policy applies to agency workers will be set out after intended consultation. Analysis of the LFS shows that the population of workers covered by this policy are more highly represented in both London and the West Midlands.	

(3) Expected impacts on households		
Description of overall household impact	This option is expected to directly and positively impact workers, through improving their security and predictability at work, giving them more certainty and tangible reductions in anxiety and stress linked to these. This policy is aimed at transferring risk from workers to firms employing them, and vice versa with the benefits of flexibility. Similarly, we expect this policy will incentivise better workforce planning of shifts for firms, or ensure workers are covered financially where this is not possible. This will ensure that workers are given greater advance notice of any shift patterns or changes to them, allowing them to make alternative arrangements or find work with a different employer. This will mean that workers will face fewer costs associated with last minute changes in their work schedule, such as higher travel costs or late notice childcare. Where workforce planning is not carried out or cannot prevent cancellations, this policy will ensure that workers are not financially disadvantaged. Much of the monetised benefit to workers comes in the form of cancellation payments, where they currently receive none because of late cancellation, movement or curtailment of their shifts.	**Positive**
Monetised impacts	For shifts which are currently not able to be better planned, we anticipate that the Equivalent Annual Net Direct Cost to Households (EANDCH), in the form of a transfer from firms to workers, is estimated to be around -£110 million per year (a £110 benefit to workers). This	**Positive**

	gives a NPV between £0.8 billion and £1.0 billion (central £0.9 billion) over a 10-year appraisal period. This relates to the payment to workers by employers that cancel, move or curtail shifts at late notice and is an indicative figure given details around the payment mechanism is not being set out in primary legislation, although we expect that this will be at the high end as we would expect that many firms would adapt their practices to plan better.	
Non-monetised impacts	A right to payment for shifts cancelled, moved or curtailed at short notice is expected to reduce income precarity and unpredictability. However, the impact will depend upon the determined short notice period (i.e. If too short, it could do little to reduce these issues and thus maintain current 'one sided flexibility', if too long it could place these types of jobs at risk). Income insecurity has been linked to anxiety and stress as well as debt issues and an inability to save for the future, affecting other socio-economic factors, like access to housing. By addressing this concern around whether shifts will change at short notice and therefore income isn't assured, it is anticipated this will feed through to improved wellbeing for these workers. Likewise, this legislation is likely to give workers more recourse to properly assert their rights without the risk of their employer reducing or changing their future hours.	**Positive**
Any significant or adverse distributional impacts?	Yes - Many people in the group (likely to be) covered by the legislation are lower paid. The latest LFS data suggests that median hourly pay for workers on zero-hour contracts is £10.75; pay for variable hour workers (excluding zero-hours) £11.70 and for agency workers £15.38 compared to £16.18 across all other employment. These workers are therefore more exposed to fluctuations in weekly hours and the effect this has on their income. Therefore, this policy is expected to primarily affect low-income workers by providing improved certainty around their hours and pay, as well as security regarding their pay should shifts be cancelled at short notice. This will help ease income and hours insecurity particularly, as it is a policy aimed at raising standards for low earners. Similarly, workers in scope of this policy are more likely to be young (16-24), female and from minority ethnic backgrounds. This implies that these workers would benefit disproportionately from the wellbeing impacts of this policy. By increasing labour costs on forms of contracts that are more used by those with a weaker attachment to the labour market (e.g. students), these measures may	**Positive**

	reduce labour demand for these workers. However, if these measures are well targeted, the increase in labour costs should be relatively small compared to total labour costs and employers are likely to take a range of approaches to dealing with higher costs, beyond just cutting workers.	

Part B: Impacts on wider government priorities

Category	Description of impact	Directional rating
Business environment: **Does the measure impact on the ease of doing business in the UK?**	The UK's flexible labour market, or the ability of its jobs market to match labour supply and demand, thereby maintaining low unemployment, is often cited as a major benefit of doing business in the UK. One key part of this flexibility is the array of variable contracts possible in the UK and the relative lack of regulation on these forms of work. Through this legislation, and the right to guaranteed hours, there will be more rules governing these variable forms of work, so firms may be more hesitant to hire workers on these contracts. Likewise, this may deter some firms from entering the market as they are concerned about the increase in risk associated with jobs matches. However, there is evidence in the literature of a link between job quality, wellbeing and productivity. As such, by improving the security and predictability for workers in these forms of contract, firms could potentially be incentivised to invest more in their workers and this alongside improved wellbeing may feed through into productivity improvements.	**Uncertain**
International Considerations: **Does the measure support international trade and investment?**	It is not expected that this policy will have any direct impact on trade and investment because these contracts are mainly used in non-traded sectors such as retail, hospitality, health and social care.	**Neutral**
Natural capital and Decarbonisation: **Does the measure support commitments to improve the environment and decarbonise?**	It is not expected that this policy will have any impact on the environment.	**Neutral**

7. Monitoring and evaluation of preferred option

31. The preferred option considered in this IA falls outside of the statutory review requirements under the Small Business Enterprise and Employment Act 2015, as it will be delivered through primary legislation for which the full details of implementation will not be decided until secondary legislation is laid in Parliament. This means that a full Monitoring and Evaluation (M&E) plan for this policy, alongside any commitment to conduct a post implementation review, will be set out alongside secondary legislation once full details of implementation are set out.

32. Since much of the detail of this legislation will be delivered through secondary legislation, the Government intends to conduct an extensive consultation exercise with stakeholders to ensure that the policy design works for those it affects.

33. However, the Government also intends to monitor the impact of the change once implemented. Whilst detailed plans will be provided following the development of the secondary legislation, at this stage we expect M&E will be undertaken through conducting more primary survey data collection, alongside targeted stakeholder engagement, involving:

    a. Regular engagement with key stakeholders, including considering the case for commissioning surveys of a statistically representative group of individuals and businesses to ensure that regulations are working for different groups.

    b. Consideration of convening focus groups of stakeholders and representatives to ensure that the regulations are working as intended, and that concerns are understood and addressed.

34. There is currently quarterly data from the ONS on the use of variable hours contracts from the LFS as well as one-off and semi-regular surveys completed by thinktanks and business stakeholders which cover the behaviour around cancellations.

35. However, additional monitoring will be required to assess whether the policy is operating effectively and as anticipated and to ensure that the objectives, in Section 3, are being met. This would likely include measuring whether there is a reduction in the number of workers who face short notice shift cancellation (and the associated detriment), measuring whether businesses are complying with the legislation, and whether there have been any unintended consequences from reducing the flexibility available to employers in those sectors that face variable demand.

Summary: Analysis and evidence

Price base year:	2023
PV base year:	2026

	1. Business as usual (baseline)	2. Preferred way forward (if not do-minimum)
Net present social value (with brief description, including ranges, of individual costs and benefits)	N/A Baseline NPSV is not calculated as it relates to the scenario where individuals remain on variable contracts and the one-sided flexibility associated, which would be negative but non-monetisable.	Net present social value in the central estimate of around -£1.8 billion when calculated over a 10-year period. This includes the administrative costs of implementing the proposed option. Within this, the value of the payments for late cancellation will net off as it is a direct transfer between firms and workers.
Public sector financial costs (with brief description, including ranges)	No public sector financial costs to BAU	As the public sector is a major employer in the UK, including those on these forms of contract, there will be a cost associated with the increased formality of arrangements. Approximately 17% of the workers in the sample are estimated to work in the public sector. This, however, will underestimate the cost as many of the workers in sectors such as health and social care on these contracts are used by independent providers who receive public sector funding. Therefore, while public sector costs cannot be robustly estimated, we anticipate they will form a significant proportion of both monetised and un-monetised costs in this IA.
Significant un-quantified benefits and costs (description, with scale where possible)	Benefits: firms can flexibly adapt their workforce to suit periods of high and low demand. Costs: Workers remain on these forms of contract which offer little security of income or predictability, suffering from same one-sided flexibility.	Benefits: Workers receive advance notice of their shifts and any changes to these, allowing them to be more secure in their income and to better predict and plan their work and social lives. This is essentially a transfer of the risk of these forms of employment from workers to firms. This will have a tangible wellbeing impact as well as

		allowing workers to get access to credit, making it easier for them to access markets which need finance, such as housing. Costs: Firms will need to better plan out their work demand to provide workers with reasonable notice of their shifts, including cancellations, movements or curtailments. This will affect their ability to operate as flexibly as they did before, potentially affecting the viability of certain business models.
Key risks (and risk costs, and optimism bias, where relevant)	N/A	The key risks associated with the analysis is the lack of detail around the policy specifics, which is to be decided in secondary legislation after intended consultation. To account for this, we have flexed assumptions both around policy design and business reaction. There may be risks associated with avoidance behaviour. Future policy will focus on ensuring that these are minimised.
Results of sensitivity analysis		The results of the monetisable element are dependent on assumptions about policy design and business reaction to this legislation, which are highly uncertain. We have flexed these assumptions, adapting the potential population in scope and the time taken for businesses to familiarise and implement a system by which they can comply with the new legislation. The sensitivity analysis provides the range estimate of between -£1.1 billion and -£4.7 billion. The range reflects the uncertainty inherent in policy design and how much business planning firms will need to undertake.

Evidence base

Problem under consideration, with business as usual, and rationale for intervention

36. Section 2 sets out how variable contracts can in some cases manifest in the form of income insecurity, unpredictability when planning work and social lives, and inability to assert rights for fear of having work denied to them later.

Evidence on the extent of the problem

37. The 2017 Taylor Review of Modern Working Practices[4] found that many workers on zero-hours contracts struggle with one-sided flexibility whereby workers are often required to be available to their employers at late notice without any guarantee of work in any given week. This makes it difficult for individuals to manage financial obligations or, for example, gain access to reliable credit sources. This creates a situation where much of the risk of an employment relationship sits with the worker. Many of those on variable forms of contract suffer from underemployment, which is a situation where the worker would like to work more hours than they are offered. The underemployment of those on zero-hour contracts is estimated at around 23%, compared to around 5% in the wider labour market.[5]

38. In addition, there are specific concerns around workers not receiving suitable notice of any shifts or changes to their shifts, and they often have little to no protection if an employer reduces or cancels shifts unexpectedly, having a significant impact on personal finances. A 2023 survey by the Living Wage Foundation[6] found that around 25% of 'insecure' workers had shifts cancelled unexpectedly.

39. Beyond cancellations, workers often require reasonable notice of their upcoming work schedules particularly when trying to manage their finances or plan their social lives. The Living Wage Foundation survey found that 59% of workers receive less than a week's notice for shifts, with 13% receiving less than 24 hours. While this notice will suit some of these workers as it allows them to pick up shifts at late notice, it does not provide the majority of workers with security in their working hours.

Rationale for intervention: Market failures

40. The primary market failure is the monopsony power that these firms can exert over workers on these forms of contract. This is because there is a considerable number of people on zero-hour or variable contracts who are in low-skilled, low-paid sectors, meaning that their labour is more substitutable and thus firms can use their market power to hold down their terms and conditions. This means that in some cases workers are placed on contracts which give employers maximum flexibility at cost to the worker. The precarity and low income of people in these forms of work mean they will often have no choice but to accept shifts or have little course of action if they incur costs for a shift that is then cancelled.

41. This one-sided flexibility clearly imposes externalities and undue risk on these workers. There are three main manifestations of the externalities associated with the risks of this variable work which accrue to workers: insufficient hours, income insecurity and inability for workers to assert their rights appropriately for fear of being negatively affected in the future, particularly in the form of being denied future work. This can affect the welfare of the

[4] Good work: The Taylor Review of Modern Working Practices, Matthew Taylor, 2017
[5] DBT analysis of ONS microdata.
[6] Precarious pay and uncertain hours: Insecure work in the UK labour market, Living Wage Foundation, 2023

workers on these forms of contract through creating anxiety and reducing opportunity for leisure time, which will affect their health.

Income Insecurity

42. Pay insecurity associated with variable forms of work due to their unpredictable working hours is an area of significant concern in relation to one sided flexibility. The lack of consistent guaranteed hours, and the impact of 'on call' contracts with short or no notice of cancellation adds to insecurity for workers. Often this leads to the incidence of 'unremunerated labour', where individuals make themselves available to work but are not offered hours.

43. We believe this affects a sizeable minority of the labour market. Citizens Advice (2018)[7] found that 18% of workers with unpredictable incomes had experienced a reduction in pay or decrease in hours in the last 12 months. Nearly half (49%) said that their income changed either a fair amount or a great deal from one month to the next, compared to 13% of all adults. This research also found that individuals on unpredictable incomes are more likely to borrow money from friends and family, use their overdraft or take out high-cost loans, compared to those with stable incomes.

44. The Living Wage Foundation (2023) have explored the concept of the insecurity premium, whereby, beyond the loss of income, individuals also suffer costs through childcare and travel expenses, as well as having to pay for more expensive alternatives (such as taxis) when shifts are offered late.

45. Additionally, extensive research has reported the impact of 'on call' contracts with short/no notice cancellation of shifts adding to insecurity and resulting in the occurrence of 'unremunerated labour', where individuals make themselves available for work, but are not offered hours.

Unpredictability

46. Analysis of the LFS suggests that around 31% of the UK workforce report that their hours of work tend to vary from week to week. However, this does not speak to what extent those hours change.

47. Poor workforce planning can make it difficult for workers to manage their lives around frequently changing and/or unpredictable work schedules. This was noted in the 2018 Low Pay Commission (LPC) Response to the Government on 'one-sided flexibility'.[8] This stated that, while in most industries a degree of unpredictability was inevitable, there were a range of examples where poor workforce planning and scheduling were having an impact on individuals' ability to plan their lives.

48. According to 2018 survey data from the Chartered Institute of Personnel and Development (CIPD)[9] approximately 10% - 16% of low-paid variable workers said that their hours fluctuated by more than 8 hours a week. However, it is not clear whether this variability is driven by the worker and their circumstances or by their employer choosing to offer/cancel hours (i.e. we cannot determine what subset of these workers experienced detriment as a consequence of this variability).

49. Variation in working hours is also associated with a lack of notice for those working hours. This can either be in the form of having hours offered with short-notice, or conversely having hours cancelled at short-notice. Evidence from the CIPD[10] shows that when asking

[7] Walking on thin ice: the cost of financial insecurity, Citizens Advice, 2018
[8] A Response to Government on One-Sided Flexibility, LPC, 2019
[9] Labour Market Outlook, CIPD, 2018
[10] Zero-hour Contracts: Myth and Reality, CIPD, 2013

employers of low-paid variable workers how much notice they provided their staff prior to the start of a shift, 17% of surveyed employers reported that they provided a day or less of notice, with 42% of employers (of low-paid variable workers) offering less than a week's notice.

50. 40% of surveyed zero-hours workers stated that they received no notice prior to a shift being cancelled, with 65% stating that they received less than a day's notice. This compares to findings from 2024 Trade Union Congress (TUC) research,[11] which found that 52% of zero-hours workers had had work cancelled with less than 24 hours' notice. As stated by the LPC, these surveys would seem to indicate that short-notice cancellations are relatively common amongst zero-hours contract workers.

Inability to assert rights

51. For many, some of the appeal of zero-hours contracts lies in the ability to turn work down, however, in some cases this may be difficult to assert, with those who turn work down being negatively affected through being offered insufficient work in the future.

52. Stakeholders responding to the LPC raised concerns about workers on flexible or variable contracts not being able to suitably assert their rights. This is due to fear of repercussions from their employer, most notably concerns around being 'zeroed down' or work being withdrawn or reduced.

53. While in theory many workers on zero-hour contracts and arrangements are free to turn down work with no negative consequence, CIPD (2022)[12] found that just 57% of employers said that their workers on zero-hour contracts were free to turn work down in practice, showing that a significant minority (43%) of employers did not provide their workers with this freedom of the flexibility.

54. The University of Greenwich[13] found that some respondents were unclear about holiday and sickness entitlement and were reluctant to take holidays. Likewise, the LPC found that where entitlements were in place in businesses, reluctance to take those entitlements was usually accompanied by a perception that asking for or taking leave risked eliciting punitive action from employers.

Workers covered

55. Three main groups are likely to be included in the scope of the policy: individuals on zero-hour contracts, individuals on 'low hours' contracts, and some agency workers. The following paragraphs explain how we have estimated the number of workers in these groups, which are then used for the remainder of the impact analysis. Relative to the Right to Guaranteed Hours IA[14], this policy may potentially capture other groups, the exact scope of the population entitled to this right will be set out in clauses in due course. However, we use the same population in both IAs as we have taken a cautious approach for workers on variable contracts and do not believe the risk of underestimation will be high.

56. Within the population in scope included in the analysis, we have not captured those who identify in the LFS as solely being 'casual', 'seasonal' or 'temporary'. While the exact workers in scope of the policy will be determined in secondary legislation, these groups have not been included in the analysis because these details have not been finalised, meaning that some of them may fall outside the scope of the policy. Depending on the

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[11] Trade Union Congress Polling, 2024
[12] Zero Hours Contracts, Evolution & Current Status, CIPD, 2022
[13] 'Non-Standard Contracts and The Minimum Wage: A Report for the Low Pay Commission', University of Greenwich, 2017
[14] Employment Rights Bill Impact Assessments, Department for Business and Trade, 2024

result of the secondary legislation this could mean the population is underestimated, which will lead to underestimates of the costs and benefits outlined in subsequent sections. Due to workers in these groups being included if they also identified as being on a zero-hour contract, a low-hour contract or being agency workers, as well as identifying as being on casual, temporary or seasonal contracts, we do not believe that the risk of underestimation is high.

Zero-hour contracts and other workers with highly variable working patterns.

57. Workers on zero-hours contracts do not have to be provided with a minimum number of working hours by their employer, and usually do not have to accept work offered to them. Analysis of the LFS from January – March 2024 shows that there are around 1,030,000 employees on zero-hour contracts in the UK, representing around 3% of all UK employees. LFS data shows that growth in zero hours contracts has stabilised in recent years following significant growth between 2010 and 2016, albeit part of this is likely to reflect the growing awareness of such contracts in addition to genuine increase in their use. So, our analysis assumes that the number of zero-hour contracts remains stable at around 1 million.

58. Analysis of the LFS shows that there are an additional 610,000 employees in the UK who report that their weekly hours tend to vary and that they are paid their wage at an hourly rate. Some workers within this group are likely to face similar issues of income volatility, since the number of hours they work directly impacts their take home pay. The Employment Rights Bill provides a power that it is expected will be used to provide that those on low-hours contracts will be entitled to reasonable notice of shifts and to payments for late notice cancellation or curtailment of shifts. Of these 610,000 workers, not all will be on 'low hour' contracts as this estimate does not exclude those beyond a maximum number of contracted hours. The exact definition of low-hours workers covered by this legislation has not yet been set out and will be determined in secondary legislation after intended consultation. Given this, we include all variable hours, hourly pay workers in our analysis.

Agency workers

59. Like workers on a zero-hour contract, agency workers are at risk of experiencing one-sided flexibility. Unlike regular employees, agency workers have limited protection against redundancy, meaning that businesses can employ agency workers as a disposable pool of labour, much in the same way that they can use zero or low-hour workers.

60. Agency workers have a unique type of employment relationship. For a typical worker, there are two parties in the employment relationship: the worker and the employer. For agency workers, there is a third party, the employment agency. In some cases, there is also a fourth party; an intermediary which handles payroll functions for the employment agency. With several organisations involved in the placement, it can be difficult to understand who would be responsible for any failure to provide reasonable notice of shifts or for making a payment for late cancellation, movement or curtailment. The Government intends to consider further how best to apply this policy to agency workers, balancing the needs of the parties involved.

61. This policy is not aimed at preventing the use of agency workers, and the benefit to firms of using agency workers to fill short term vacancies or for specialist skills is clear. This form of working arrangement can also be beneficial to the workers themselves as they can often pick up shifts flexibly to fit around their personal life.

62. Instead, the aim of this policy is to ensure that some agency workers are entitled to reasonable notice of shifts and are covered financially in the situation where shifts are cancelled, moved or curtailed at short notice. While the detail will be set out in due course, these rights will support workers by addressing the balance of power between business and worker.

63. The nature of agency work and the additional parties involved in the employment relationship mean that further consideration will be needed to determine how to effectively apply these policies to agency workers.

64. Analysis of the LFS shows that there are around 900,000 agency workers (of which around 140,000 are identified as being employed on a zero-hours contract). The creation of rights to reasonable notice of shifts and to payments for shifts cancelled, moved or curtailed at short notice could address security of hours and thus income for some of these workers. At this stage, the Bill is not specific about how this right will apply to agency workers. As such, we include all such workers in scope of our impact analysis (whilst adjusting for those workers who are both agency and zero-hour contract workers).

NPSV: monetised and non-monetised costs and benefits of each shortlist option (including administrative burden)

Monetised Costs

65. This section outlines how we have quantified the costs and benefits to business and households resulting from the rights introduced by the proposed legislation in Option 1. These will give workers the right to reasonable notice of shifts and changes to these, with payment due where short notice is provided of cancellation, movement or curtailment. This places obligations on business to create a system to ensure their compliance with these regulations and ensure any payments to workers where it is due.

66. In assessing the costs and benefits of the legislation in Option 1, we assume that employers will pay workers where shifts are cancelled, moved or curtailed at late notice. This is a cash transfer compared to the status quo in Option 0. However, we also expect that employers invest more time in workforce and shift planning to ensure compliance and the avoidance of payments for cancellation, movement or curtailment where possible. At this stage, details of the payment amount and how ‘short notice’ will be defined have not been established, which will determine the impact on business administration costs and flexibility. This means that a full appraisal of the costs and benefits of this option, particularly the indirect costs and benefits, is not possible. Furthermore, given the uncertainty of the impact on businesses dependent on the scope of the policy, all assumptions around impacts and business response will be tested and refined during consultation. To account for the uncertainty inherent in this modelling, we conduct scenario analysis as per Green Book[15] guidance, adjusting key assumptions around policy design and business reaction in our modelling. The estimated NPSV of this policy is estimated at between -£1.1 billion and -£4.7 billion, with a central estimate of approximately -£1.8 billion.

67. The main estimated direct costs to business of this regulatory change are expected to come in the form of:

    a. Familiarisation and set-up costs incurred by business to understand new requirements associated with the policy and implement the systems by which variable contract workers in scope have the notice of shifts and any changes recorded, ensuring that these comply with regulations and that where they do not comply, the correct level of payment can be made as required.

    b. Workforce planning set-up costs are the costs associated with additional time invested in the scheduling of workers to corresponding hours/shifts in advance.

[15] The Green Book: Central Government Guidance on Appraisal and Evaluation

Whilst businesses already undertake some degree of workforce planning, we expect that the regulations will mean that workforce planning happens at an earlier stage, which represents a burden or cost on businesses. Otherwise, earlier workforce planning would already happen.

68. There will also be a cost associated with payment for cancellation, movement or curtailment for those firms that do not or cannot comply with the regulations, however, this is primarily presented as indicative. This is partly because many of the details of the payment scheme are yet to be determined and will be set out in secondary legislation, but also because we anticipate that many firms will be incentivised to plan out their shifts more efficiently. Therefore, we anticipate that including the cost of payments on current business behaviour would lead to an overestimate, and therefore assume that businesses would comply wherever possible.

69. In addition, many of the costs associated with Option 1 will also be incurred by businesses to comply with the right to guaranteed hours, particularly those related with setting up or upgrading systems associated with tracking hours and running a workforce planning process to ensure compliance. As such, while they are included in the costs in this IA, this may be double counting of these costs to business between the two policies.

70. To derive the number of businesses affected by the legislative change, we have applied an estimate of the proportion of firms that hire workers on variable contracts from the Resolution Foundation (2024)[16] to DBT estimates of the total number of businesses in Great Britain with more than one employee, derived from the Business Population Estimate (BPE).[17]

Table 1: Employment of workers on variable contracts, by firm size

Size of firm (employees)	Percentage of firms that employ at least one worker with a variable contract	Number of firms that employ at least one worker with a variable contract
Small & micro (1-49)	74%	1,080,000
Medium (50-249)	93%	39,000
Large (250+)	94%	10,000

71. We use the methodology of the 2019 One-Sided Flexibility (OSF)[18] IA, which looked at a similar proposal. This has been updated to reflect improvements in the evidence base where they are available, either using the consultation responses or appropriate external sources which have been referenced where they have been used.

72. We assume that businesses would incur a cost due to the need to familiarise themselves with the detail of the policy. While the practice of notifying workers of shifts or changes to these already exists in some form, firms will now need to consider the statutory requirements and at what point they would need to pay workers after cancelling, moving or curtailing shifts without sufficient notice. To estimate familiarisation costs we use an assumption that businesses will take 1 hour to read and understand requirements associated with the new legislation. This gives a one-off familiarisation cost of £50 million. To account for the uncertainty around how long employers will need to familiarise themselves, we conduct sensitivity analysis using 30 minutes and 2 hours for familiarisation to give a better understanding of the potential implications for businesses.

[16] 'Firm Foundations', Resolution Foundation, April 2024
[17] Business Population Estimates, Department for Business and Trade, 2023
[18] Addressing Unfair Flexible Working Practices, One-Sided Flexibility Consultation Impact Assessment, Department for Business, Energy and Industrial Strategy, 2019

a. We assume that because this is the creation of the new right, that the familiarisation and implementation of this policy is undertaken by the corporate manager/director[19] in small and micro businesses since they are less likely to have dedicated HR resource. In medium and large businesses, we assume that the familiarisation and implementation of this policy will be undertaken by one HR manager/director[20] and three HR administrative assistants.[21]

b. When accounting for an uprate by non-wage labour costs (21%) as per ONS[22] methodology, the total hourly costs as given by the Annual Survey of Hours and Earnings (ASHE) of these workers are £32.09 for corporate managers/directors; £31.84 for HR managers/directors; and £15.19 for HR administrative assistants.[23]

73. We assume that after familiarising themselves with the legislation, businesses will incur a set-up cost as they must create a process by which they track notice given and establish a process for where reasonable notice has not been given. For example, adjusting payroll systems to be able to automatically encompass payments for short notice cancellation, movement or curtailment or to flag where reasonable notice has not been given. To estimate the set-up costs, we apply the same assumptions in terms of employee(s) responsible and time taken as the familiarisation costs. This effectively means that the one-off costs are doubled. This broadly mirrors the approach taken in the Predictable Working IA (2023)[24] where the total management time required to implement the policy is assumed to be twice as long for businesses that do not have experience of requests for flexible working. As the rights to reasonable notice of shifts and payments for short notice cancellation, movement or curtailment will be new, we assume that a comparable argument applies. However, this assumption will be tested during further consultation.

74. We consider the main ongoing cost associated with this option to be the workforce planning which businesses will undertake to remain compliant with the new notice of shifts and changes to these that they are expected to provide their workers with. This is because, as evidence suggests, many firms that currently employ the types of workers in scope of this policy currently provide their workers with short notice of their shifts occurring, and often very short notice of any cancellations. However, they will now be obliged to provide 'reasonable' notice of these shifts occurring and similarly advance notice if these shifts are changed. This process and monetised cost partially capture the costs of lower flexibility to employers. Our understanding of how a business will adapt its workforce planning is still limited and the costs here are to be seen as indicative, especially given that the detail of the policy of what is defined as 'short notice' is likely to affect the level of workforce planning required to remain compliant. These will be revised throughout the consultation process as more evidence becomes available.

75. To estimate the number of businesses that would undertake such a workforce planning exercise, we take a similar step-by-step approach to the one outlined in the One-Sided Flexibility IA. This assumes a one-off exercise to review how the organisation plans their shifts would be sufficient to ensure that future shifts are offered with "reasonable" notice. We take a more cautious approach to time taken in this analysis to with our initial assumption for this new right, in that an HR manager would spend on average 15 minutes per week to effectively plan out shifts and provide notice to ensure compliance. We also acknowledge that for some employers less time will be needed, as their current practice may only deviate slightly from that suggested in the proposed policy, whereas other employers may need to undertake a more significant exercise. To account for this, in our high estimate we assume that 30 minutes per week will be needed. We intend to improve

[19] SOC code: 11
[20] SOC code: 1136
[21] SOC code: 4136
[22] DBT analysis based on ONS methodology
[23] Earnings and Hours Worked, Occupation by Four-Digit SOC, ASHE, 2023
[24] Right to Request a More Predictable Working Pattern, Department for Business and Trade, 2023

the evidence base underpinning this assumption during the consultation stage to get a better understanding of how businesses would react and the implications this would have in terms of their workforce planning.

76. To estimate the number of businesses that use ‘flexible’ contracts, we use the proportion of firms that use ‘flexible’ contracts (75%) of all businesses taken from the Resolution Foundation (2024) report.[25] The Resolution Foundation definition of ‘flexible’ contracts differs slightly to the definition of variable contracts used in this IA, meaning there is potential for an overestimate, but we do not believe this risk is large. The breakdown of variable contract employment by firm size is provided in ***Table 1***.

77. To get an idea of how many businesses would currently not comply with the legislation and therefore need to change or adapt their workforce planning processes, we use 2018 CIPD survey data[26] on how many firms currently provide notice at different periods of time. We use this survey as it allows us to break down the shift notice periods more comprehensively. Estimates suggest that 27% of employers provide their workers with less than three days’ notice, 42% provide less than a week’s notice of shifts and 55% provide less than 2 weeks’ notice. With the length of time deemed as ‘short’ to be determined in secondary legislation, we use these figures as our low, central and high estimates respectively. We again stress this to be illustrative, without prejudging the outcome of consultation and the provisions of the secondary legislation.

78. We apply these proportions to the Business Population Estimates (2023)[27] to estimate the number of businesses that would need to amend how they allocate working hours, such that cancellation, movement and curtailment payments are minimised. The formula in ***Box 1*** explains how this is calculated.

Box 1: Calculation for workforce planning costs associated with policy

$$Cost\ of\ Workforce\ Planning = [N \times N_F \times Adv \times UC_F]$$

Where:

N is the total number of businesses in the UK by size

N_F is the proportion of businesses in the UK who employ variable workers, by size

Adv is the proportion of businesses in the UK who do not currently provide ‘reasonable’ notice

UC_F is the unit cost associated with the workforce planning process, defined as the wage multiplied by the number of hours for the worker who completes the process

79. Overall, we anticipate that workforce planning would incur a yearly cost to business of between £130 million and £520 million (central estimate £200 million). Although the method for calculating workforce planning costs differs slightly due to the difference in businesses in scope, we anticipate that much of this cost will overlap with the workforce planning exercise which businesses will undertake for the right to guaranteed hours, and this is reflected in the relative size of the costs being comparable. This is because across both regulations many businesses will need to reassess and adapt the way they plan out future shifts. As such, these costs are presented in this IA but may be double counted given they

[25] ‘Firm Foundations’, Resolution Foundation, 2024
[26] Labour Market Outlook, CIPD, 2018
[27] Business Population Estimates, Department for Business and Trade, 2023

are incurred by the same types of business as the workforce planning costs associated with the right to guaranteed hours.

Payment for late cancellation, movement or curtailment

80. Aside from the costs associated with familiarising and complying with the change in legislation, there will be ongoing costs for those firms that face truly unpredictable demand and thus pay out for shifts which are cancelled, moved or curtailed without the due notice, or still ask the worker to attend work even if there is little to do.

81. We calculate that value of payments for cancellation, movement or curtailment assuming that employers who could plan around changing demand would be incentivised to do so, meaning that the rate of cancellations, movements and curtailments would fall as would the level of payments, and that these payments would only be made where demand was truly unpredictable. We assume this behavioural change as currently firms have no incentive or obligation to provide 'reasonable' notice, while this is likely possible in most cases. Therefore, to reduce the potential loss, businesses will provide notice wherever there is possible for them to do. Where employers could not predict demand in advance, there is potential that they would rather pay for the worker to complete their shift even if only a small output/benefit was delivered rather than pay a similar rate for no work. This depends on what rate the payment is set at, with the likelihood of such deadweight higher if the payment amount were set at close to or at the value of the shift in question.

82. The methodology for calculating the ongoing cost of payments for cancellation, movement or curtailment to businesses is based on an updated version of the 2019 OSF IA[28]. We assume throughout our analysis that the direct cost of Option 1 for businesses will come in the form of workforce planning to ensure that they comply where possible but make an indicative estimate of how much the ongoing cost of payments for cancellation, movement and curtailment could be in cases where they are unable to accurately arrange shifts through this planning process.

83. While the policy set out in the Employment Rights Bill describes the overarching framework for a payment mechanism, much of the detail of this policy will be set out in secondary legislation. To account for this uncertainty, we adopt the notice periods for shift cancellation of less than 24 hours, 72 hours and 7 days as it remains undecided what will be deemed as appropriate notice of cancellation, movement and curtailment.

84. As the scope of this policy is restricted to those on zero-hour contracts and arrangements, low hours contracts and agency workers on these types of contracts/arrangements, we use this population (around 2.4 million workers, as explained in paragraphs 55 to 64) as a starting point. Survey data from the Living Wage Foundation (2023)[29] suggested that around 25% of workers in 'irregular' work have had shifts cancelled unexpectedly, as such we estimate that the population in scope is approximately 602,000 workers.

85. Estimates from CIPD[30] (2013) show that 65%, 75% and 83% of those workers who have experienced cancellations had done so at less than 24 hours, 72 hours and 7 days respectively. This is then used to estimate the number of workers with cancellations at each notice period.

86. While the detail of this payment mechanism has not been established and will only be set out in secondary legislation after an intended consultation has been completed, we use the LPC report as an indicative estimate of the types of mechanism which could be used. From

[28] Addressing Unfair Flexible Working Practices, One-Sided Flexibility Consultation Impact Assessment, Department for Business, Energy and Industrial Strategy, 2019
[29] Precarious pay and uncertain hours: Insecure work in the UK labour market, Living Wage Foundation, 2023
[30] Zero-hour Contracts: Myth and Reality, CIPD, 2013

the LPC report, we model two of their suggested methods for calculating payments to act as an indicative estimate of the size of this transfer from businesses to workers:

a. The value of the shift in question

b. The applicable minimum wage rate multiplied by the scheduled number of hours that were cancelled

Box 2: Calculation for payment for shift cancellation, movement or curtailment

$$Cancellation\ Payment\ = [V_{NMW} * N_S * N_W * P_{FP} * P_{SIP}]$$

Where:

V_{NMW} is the value of the hours cancelled multiplied by the national minimum wage

N_S is the number of shifts cancelled in a given year

N_W is the number of workers who have shifts cancelled at late notice, at each notice period

P_{FP} is the percentage of firms already paying some form of compensation for late cancellation

P_{SIP} is the percentage of firms who say their shifts are impossible to predict and therefore cancellations cannot be easily avoided even through workforce planning

87. To calculate the average number of hours cancelled per worker affected, we follow the methodology from the One-Sided Flexibility IA. The methodology is provided in ***Box 2.*** The number of hours cancelled used in this model is seen to be a high-end estimate of the number of hours cancelled overall. This is a highly uncertain proxy, and we intend to use the consultation process to understand better how often shifts are cancelled and what this means for hourly work. Data from CIPD[31] suggests that for employers of workers on variable employment contracts, 37% stated that their workers worked similar hours each week, 12% vary a few hours each week (e.g. 1-3 hours), 13% vary 4 to 8 hours and 10% vary more than 8 hours a week. The rest of the respondents indicate that their hours don't tend to vary week-to-week but do seasonally (16%) or that they don't know (12%).

88. If we take an average from the figures where workers indicate that their hours vary and adjusting for the 12% who indicate that they 'don't know', we are able to estimate the average number of hours that vary each week, which we take as a proxy for the average number of hours cancelled each week. We estimate that, where hours did vary, the average amount was by 4.3 hours a week. It should be noted that this data does not distinguish to what extent the variation is due to the employer or the worker. Additionally, the variation may occur due to workers taking on additional shifts. At this point in time, we make a simplifying assumption that variation is symmetric i.e. equally likely to relate to additional shifts as it is to cancelled shifts. We therefore assume that 2.15 hours are cancelled a week (or alternatively, that 4.3 hours are cancelled a fortnight). For the annual cancelled hours, we estimate that on average 112 hours (2.15 x 52 weeks) are cancelled per worker who have hours cancelled per year. Over the full sample of workers in scope (2.4 million), this assumes that approximately 28 hours are cancelled or curtailed at late notice per worker per year.

[31] Labour Market Outlook, CIPD, 2018

89. In the absence of detailed demographic information of the workers who have their shifts cancelled, we make a simplifying assumption using the 2024 National Living Wage (NLW, applicable for 21+ year old workers) of £11.44 an hour as the payment amount. We also adjust for the number of employers who already pay for cancelled or curtailed shifts. CIPD (2022)[32] estimates suggest that 33% of employers of low-paid variable workers do currently pay their workers for late cancellations, however, it is not fully clear what level that payment is. We assume that businesses will aim to comply where possible and adjust their notice periods as per statutory requirements through workforce planning. We use survey evidence from CIPD (2022) which suggested that 28% of businesses believed that the hours of their zero-hour contract workers either varied greatly each week or were impossible to predict as a proxy for those shifts which are not able to be better planned, and therefore may incur cancellation costs.

90. The exact nature of any exceptions to the legislation have not been set out and will only be set out in secondary legislation. It is therefore possible that a proportion of these shifts might fall under these exceptions and therefore firms might not incur a cost associated with compensating these workers. We present the costs associated with payments therefore as a high-end indicative estimate, while exemptions may reduce the overall payment costs.

91. Multiplying the number of affected workers (600,000) by the top-end estimate for the number of hours cancelled per year (112) and the payment amount (£11.44), alongside the adjustment for firms who would be able to comply and those already paying for late cancellation, movement or curtailment gives the year one payment for shifts cancelled, curtailed or moved from firms to workers (using method 'b' from paragraph 86) of between £90 million and £120 million (central £110 million) per year.

92. The same method is used to calculate the 'value of shift' (method 'a' from paragraph 86), but instead of the NLW, uses the median hourly wage of the workers in the sample, which is estimated at approximately £11.93. This equates to a transfer of between an estimated £100 million and £130 million (central £110 million) from businesses to workers per year.

93. We have applied a blanket assumption that the 33% of employers already paying their workers for late cancellation or curtailment for all lengths of short notice (i.e., up to 7 days). However, it is likely that fewer employers are likely to be paying out at periods around 7 days than for 24 hours' notice. Relaxing this assumption for one that reflected this would increase the level of payment due for the 7-day scenario.

94. Our ranges show that the expected cost of the legislation will depend on which workers are in scope and how the mechanisms for payment work. Since of the detail of these will be set out in secondary legislation after an intended consultation, this IA makes uncertain assumptions based upon the range of viable options. Inherently this means that there are reasons why this modelling could lead to us over-estimating the impacts of the policy:

    a. The ongoing costs of this policy are estimated based on workers on variable contracts as of March 2024. The policy considered in this impact assessment, alongside the policy providing workers with a right to guaranteed hours, there is a chance that, firms will incorporate more predictable, guaranteed hour contracts in operating models, and therefore the number of people who are on contracts where short notice cancellation, movement or curtailment is possible will decline over time. This will reduce the burden of this regulatory change on businesses.

    b. This estimate assumes no change in employer behaviour (i.e., they undertake better workforce planning to avoid shift cancellations where possible). Although in some cases cancellation will be unavoidable, evidence suggests some cancellation is due

[32] Zero-hour Contracts: Evolution & Current Status, CIPD, 2022

to poor planning. Where cancellation can be avoided without significant costs to the employer, the level of payments made will be far lower.

c. Likewise, employers may opt to not cancel a shift and instead go ahead with the shift, even if the work achieved by the worker is minimal, which could be more beneficial than paying a potentially similar amount to the wage paid in return for no hours worked. The extent of this will depend on whether the payment amount is at above, close to or below the cost of the shift, with the higher the level of cancellation payments the greater risk of deadweight.

Costs and benefits to households' calculations

95. The Equivalent Annual Net Direct Cost to Households is estimated to be at around -£110 million (equivalent to a benefit of £110m a year), related to the transfer from employers to employees associated with payments for cancellation and curtailment. Further benefits and costs to workers are not monetisable because many of the benefits to workers are related to wellbeing and security at work, which would rely on an estimate on how much workers value this by revealed preference. Currently, the evidence base required to quantify the benefits associated with the improved wellbeing expected from this legislation is not developed enough to robustly make this calculation.

Non-Monetised Costs & Benefits

Non-Monetised Costs

96. The main non-monetisable cost to business is related to the potential loss of flexibility for the business, where new terms and conditions lead to reduced ability to meet variable customer demand. This is especially pertinent to businesses that cover seasonal or emergency areas, where their business and employment models are based on this type of short-notice and relatively unscheduled work. This legislative change creates an obligation for employers to offer a 'reasonable' period of notice for shifts and changes to these. These costs to flexibility are partially captured through the additional workforce planning process outlined in paragraph 75, however, we expect there will be further costs, particularly around firms' abilities to flex their workforce in the face of variable demand. It will require strong workforce planning and may result in, at times, periods of too many or too few staff. This however, on aggregate, will be mitigated if policy exemptions are implemented for situations in which short notice shift changes are frequent or a necessity, the detail of which will be set out in due course. We are keen to work with stakeholders to better evidence the impacts on flexibility that we haven't yet been able to quantify in due course.

97. Employers choose to use variable forms of contract to allow them to quickly adapt to changing demands, and such that they have fewer medium to long term cost obligations in their workforce. Zero-hour and low-hour contracts and arrangements allow firms to have a pool of contingent labour which can be easily expanded or contracted to meet changing demand. Similarly, firms turn to agency workers due to supply-side constraints (Resolution Foundation, 2018), with 43% of firms using agency workers to cover holidays and absences, while other reasons such as inability to fill vacancies (29%) and needing specialist skills (25%) are also highlighted[33].

98. Many firms use zero-hour contracts to manage changing demand and with a view to keeping a flexible pool of labour to fill short term peaks and troughs in demand. A CIPD (2022) report[34] suggests that 64% of employers that made use of zero-hour contracts suggested one of the key reasons for doing so was to manage fluctuating demand.

[33] 'Choices, choices', Resolution Foundation 2018
[34] Zero Hours Contracts, Evolution & Current Status, CIPD 2022

99. This is particularly important for employers where demand varies seasonally. In April 2024 the Resolution Foundation released a report[35] containing survey data from 750 firms in the UK in April 2024. This report suggests that one-quarter of employers who use flexible forms of contract face seasonal demand, with a similar share (22%) suggesting that they experience 'uncertain' demand.

100. For some firms, longer-term changes in demand dictate their use: a quarter of firms say that their demand has risen, and they have expanded their workforce using variable contracts, while a lower share (15%) report moving their staff onto variable contracts as an alternative to redundancy when their demand fell.

101. Some firms use variable contracts in response to labour market conditions, with one sixth (18%) of respondents saying that they find it easier to hire workers on variable contracts than those on other contract types. Similarly, many firms in low wage sectors report use these forms of contract as a buffer reaction to increases in the National Minimum Wage rates, ensuring that they have stricter control over their wage bill through the number of hours when the wage rates are increased. 2018 LPC analysis[36] of the LFS found that zero-hour contract workers were three times more likely to be within 50p of the NMW per hour than regular workers.

102. Consistently across the Resolution Foundation report, firms state cost reasons for using variable contracts, with 25% of firms saying that variable contracts allow them to reduce their overall wage bill, likely because these contracts allow firms to be highly responsive to changes in demand. Variable contracts are also seen to provide productivity benefits to firms that use them, with 14% of respondents reporting that workers on variable contracts are more productive than other staff, perhaps in the hope that they receive a more predictable contract as a result.

103. Another group that are likely to face higher costs as a result of these changes is expected to be employment agencies, who are the third party in employment relationships involving agency workers. Overall, the number of agency workers in the UK are estimated at around 900,000 and it is estimated that employment agencies make up approximately 2% of GDP in the UK. The Employment Rights Bill will provide the Secretary of State with powers to apply the right to reasonable notice of shifts and payment for late cancellation, movement and curtailment to agency workers, however, this will be determined in due course after an intended consultation and set out in secondary legislation. As such, the way in which this policy is applied to either the agencies or the hirers will affect how flexibly their business model can operate around the use of agency workers, and how appealing these will be as an alternative to zero or low-hour contracts.

Non-Monetised Benefits

104. The main aim of this policy, as outlined in the policy objectives, is to rebalance the power dynamic between workers and firms whereby the employment relationship is characterised by some form of variable contract, and the one-sided flexibility which exists in some of those relationships.

105. Firstly, there is strong evidence that links the problems inherent in one-sided flexibility employment, such as pay insecurity, unpredictability of working hours and inability to fully exert rights,[37] with a range of negative phenomena such as anxiety around unfair treatment, lower pay and greater anxiety about 'downgrading'.[38] These have been

[35] 'Firm Foundations', Resolution Foundation, 2024
[36] A Response to Government on One-Sided Flexibility, LPC 2019
[37] Zero Hours Contracts, ReWage Policy Brief, Dix and others, 2023
[38] Downgrading in this circumstance refers to the reduction of a worker's job level, position or pay grade within an organisation.

highlighted in the rationale for intervention. The Skills & Employment Survey (2017)[39] estimated that around 2 million people were 'very anxious' that their working hours could change unexpectedly, implying these issues are not limited to the approximately 1 million workers on zero-hour contracts.

106. Several studies[40] show that zero-hour contract and other variable contract workers often have to take on more than one job to make ends meet, often taking on other equally fragmented roles and as such the use and persistence of these types of contracts sustains in-work poverty. Likewise, the research by the University of Greenwich (2017)[41] found that some people with non-guaranteed hours struggled to manage their finances due to variations in weekly hours, and that this lack of predictability was a particular problem for individuals with regular outgoings such as rent, mortgages or childcare. The Resolution Foundation[42] found that two thirds of low paid workers in 2010/11 failed to move out of low-income work by 2019 and many workers cycle between low-pay and unemployment.

107. The Living Wage Foundation (2023)[43] paper suggests that those workers who are regularly subject to changes in their shifts are subject to an 'insecurity premium', which refers to the additional cost and income implications as a result of the way their hours are organised. This manifests in two main ways. The first is the loss of income associated with having shifts cancelled unexpectedly where they receive less than their full wage and are unable to find alternative work. Likewise, by not receiving sufficient notice of shifts being scheduled, workers are unable to use cheaper services to get to work in the first place (such as public transport or cheaper childcare). Findings from the Living Wage Foundation suggests that 27% of the insecure workers surveyed have faced higher travel costs because of the way their hours are organised, while 17% have experienced higher childcare costs.

108. Living Wage Foundation polling suggests that these costs can total up to more than £50 a month (£600 a year) for 17% of workers, and between £20-40 a month (£240-480 a year) for 48% of workers. This suggests that the legislation would have a significant financial benefit to workers i.e., if those figures are applied to the 600,000 who we estimate are affected by late cancelled shifts, this suggests a saving for workers of £160 million per year.[44] We do not include this figure in the NPSV or EANDCH calculation since it is highly uncertain, and it would double count the benefits estimated under the cash transfer to workers from cancellation payments (i.e. some of those costs would be covered by cancellation payments and some would be avoided by a reduction in short notice cancellations).

109. Beyond the direct financial implications associated with higher childcare or travel costs for workers in these more insecure forms of work, it also creates difficulties planning their lives. The same Living Wage Foundation survey found that 29% of workers surveyed suggested that lack of certainty over their working hours had led to them having to cancel social plans or occasions, with 27% facing increased difficulty in financial planning or budgeting.

110. As such, much of the benefit of this policy will come to the workers in the form of increased wellbeing, via counteracting the negative effects of one-sided flexibility. Most notably, these negative effects are related to pay insecurity, unpredictability and inability to assert rights.

[39] Skills and Employment Survey, Cardiff University, 2017
[40] Rubery and Grimshaw (2014) op. cit.; McBride and Smith (2021) op. cit.; Smith and McBride (2022) op. cit.
[41] Non-Standard Contracts and the National Living Wage: A Report for the Low Pay Commission', Moore et al, 2017
[42] The Great Escape? Low pay and progression in the UK's labour market, Resolution Foundation, 2017
[43] Precarious pay and uncertain hours: Insecure work in the UK labour market, Living Wage Foundation, 2023
[44] (600,000 x 17% x £50) + (600,000 x 48% x £30); this could be between £130 - £200 million depending on the proportion of the 48% paying the higher or lower limits.

111. Research by Smith and McBride (2022)[45] has reported the impact of 'on call' contracts with short or no cancellations of shifts adding to insecurity and resulting in a situation where individuals make themselves available for work but are not offered shifts. Citizens Advice (2018)[46] explored the financial insecurity of people with unpredictable incomes in a survey, finding that nearly half (49%) of people who are self-employed or in 'insecure work' said that their income changed either a fair amount or a great deal from one month to the next, compared to 13% for all adults.

112. This finding is reflected in the level of underemployment present in these forms of contract. For the sample of workers included in our quantitative appraisal, the level of underemployment is at 16%, compared to 5% among those in more standard forms of employment. Underemployment for those on zero-hour contracts specifically is at 23%.[47]

113. Several studies have demonstrated a link between health and wellbeing and job satisfaction in the workplace. Poor health and wellbeing in the workforce are costly to both employers and the economy due to increasing absenteeism and presenteeism, which has consequential impacts for productivity and economic growth.

114. Specifically, there is evidence to suggest that insecure work and poor-quality work can adversely impact workers' wellbeing by creating income insecurity and harming physical and psychological health. Wang, Narcisee and Togher (2024)[48] find that employed adults with greater job flexibility and higher job security were less likely to experience serious psychological distress or anxiety. They also show that greater job flexibility and higher job security was also associated with reduced presenteeism.

115. A study Schneider and Harknett[49] (2017) found consistent evidence that scheduling practices such as short notice of work schedules, irregular work schedules and hours, cancelled shifts and on-call shifts are associated with worse sleep quality, and more psychological distress and unhappiness.

116. It is therefore unsurprising that research find a negative association between worker mental and physical health and less permanent forms of employment in the UK. Analysis of the LFS finds that workers on zero-hours contracts are much more likely to report a long-term health condition than those on other forms of contract, with these workers are almost twice as likely to report mental ill health.[50] Work Foundation (2023)[51] polling found that 'insecure' workers were twice as likely as secure workers to experience job related stress 4-6 days of the week (26% compared with 13%), in particular related to uncertainty over total earnings. Their polling also finds that these insecure workers are nearly four times more likely to experience this poor mental health when they also lack confidence in being able to afford an unexpected expense.

117. As this policy is aimed at reducing income insecurity and giving workers more predictability over their income both in the short term and security over future income, this policy will help to contribute towards wider Government objectives around access to housing and poverty reduction. This is because workers will be able to better plan out their income into the future, giving them access to credit that they may not have been able to previously. This will make it easier for workers to effectively budget for regular outgoings, such as for rent or mortgages.

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[45] 'Low-paid Multiple Employment and Zero Hours Work', Smith & McBride, 2022
[46] Walking on thin ice: the cost of financial insecurity, Citizens Advice, 2018
[47] DBT Analysis of LFS Microdata, January – March 2024
[48] Job Flexibility, Job Security and Mental Health Among US Working Adults, Wang et al, 2024
[49] 'How Work Schedules Affect Health and Wellbeing: The Mediating Roles of Economic Insecurity and Work-Life Conflict', Schneider & Harknett, 2017
[50] Zero Hours Contracts, ReWage Policy Brief, Dix and others, 2023
[51] 'Zero Choices: Swapping Zero-Hour Contracts for Secure, Flexible Working', Work Foundation, 2023

118. Beyond the benefits to workers themselves, this could also lead to benefits to employers and the wider economy. The wider literature[52] indicates a positive link between wellbeing, engagement at work, firm performance and productivity. Similarly, it has been found that there is a negative impact of temporary employment on productivity. These temporary forms of employment also do not incentivise firms to make investments in human capital and training. The level of flexibility offered by these contracts impacts the rate of churn and the average tenure of these workers, which may disincentivise investment in training if firms believe workers are at risk of leaving.

119. Secondly, as suggested in the monetised element of this IA, it is likely that this policy will incentivise firms to invest more time and money into workforce planning. There is evidence to suggest that this will benefit firms as well as workers, by streamlining processes and making them more efficient in their operations.[53]

120. However, while the evidence shows the link between good and more secure work and productivity and incentivisation for firms to invest in workers, there is no evidence that enables us to quantify the impact that a right to a reasonable notice of shifts and payment for cancellation, movement or curtailment will have specifically.

Wider Impacts

Equalities Assessment

121. The Public Sector Equality Duty (PSED) under section 149(1) Equality Act 2010 applies to the publication of the IA. This policy aims to reduce the impact of one-sided flexibility where employers use variable contracts to transfer risk to, and thus exert control over, workers. The regulatory changes are expected to have a positive impact on eligible workers by providing workers with more security over their income, knowing that they will receive 'reasonable' notice of their shifts and not be financially disadvantaged by late shift cancellations. Of the 2.4 million workers who we estimate would be in scope of this policy, the main indications of how this will affect several diverse groups are that:

    a. 51% of workers in scope are estimated to be female, compared to 48% of those in employment as a whole. However, within the subcategories, this is up to 59% female for those in the 'low hours' proxy group.

    b. 22% of those in scope have a disability as defined by the Equality Act 2010, compared to 18% of those employed in the labour market as a whole. 26% of zero-hour contract workers report having a disability by this definition.

    c. 24% are aged 16-24 compared to 10% of those in employment as a whole. 37% of zero-hour contract workers are in this age band.

    d. 11% identify as belonging to the Black ethnic group compared to 4% of those in employment as a whole.

    e. 51% of those in scope of this policy identify as being non-married, compared to 34% across all employment.

[52] 'Does good work have a positive effect on productivity? Research findings', Bosworth D and others, 2021; Böckerman P and others. 'The Job Satisfaction-Productivity Nexus: A Study Using Matched Survey and Register Data', Böckerman P and others, 2012; 'Does Employee Happiness have an Impact on Productivity?', De Neve and others, 2019
[53] A Response to Government on One-Sided Flexibility, LPC, 2019

Regional Impacts

122. The number of workers directly affected by the right to reasonable notice of shifts and payment for cancellation, movement or curtailment as a percentage of the regional workforce varies from region to region. ***Table 2*** breaks down the number of individuals on zero-hour contracts by region and country within the UK.

Table 2: Employment of individuals in scope of this policy by region and UK country

Country and region within the UK	Number of individuals in scope of this policy	Percentage of total workforce in the country or region who are in scope of this policy
North East	90,000	8.0%
North West	270,000	8.5%
Yorkshire and the Humber	250,000	10.7%
East Midlands	200,000	9.6%
West Midlands	260,000	10.4%
East of England	160,000	6.0%
London	360,000	9.0%
South East	290,000	7.2%
South West	200,000	8.5%
Scotland	140,000	6.2%
Wales	100,000	8.2%
Northern Ireland	60,000	7.6%
Total UK	**2,400,000**	**8.3%**

Impact on small and micro businesses

123. Guidance from the Regulation Directive states that Departments should explicitly consider the impacts of small and micro-businesses of regulatory policy. Throughout this IA, where possible, we have attempted to monetise the impacts by business size. Due to the impact that this legislation is likely to have on administration and compliance, we anticipate that there will be a slight disproportionate impact on SMEs, particularly in their ability to adapt to the reduced flexibility for employers. However, there is no suitable approach that the Government could take to exempt SMEs without undermining the policy objectives. ***Table 3*** breaks down the proportion of firms by size who employ any workers on these variable forms of contract.

Table 3: Employment of workers on variable contracts, by Firm Size[54]

Size of firm (employees)	Percentage of firms who employ at least one worker with a variable contract	Number of firms who employ at least one worker with a variable contract	Variable contract workers by employer size
Small & micro (1-49)	74%	1,080,000	1,260,000
Medium (50-249)	93%	39,000	640,000
Large (250+)	94%	10,000	510,000

[54] The percentage of firms that employ at least one worker with a variable contract is taken from the Resolution Foundation's Firm Foundations report; the number of firms is based on DBT internal analysis using the percentages from the Resolution Foundation and the number of firms from the BPE; the variable contract workers by employer size is DBT analysis of ONS microdata.

124. We note that the Government would not be able to exclude small and micro (1-49) and/or medium and larger sized businesses (50-499 employees) from this legislation without a significant adverse impact on the effectiveness of the policy and its objectives. This is because a significant proportion of variable hour workers work in small and micro businesses and so an exemption would significantly undermine the ability of this policy to address the possibility of employers exploiting their variable hour workers through one-sided flexibility. Moreover, as this is essentially a transfer of risk from the employees to employers, we assume that the cost imposed on small and micro businesses is directly related to the benefits the workers receive.

125. Likewise, there is the risk that exempting small and micro businesses could create a 'two-tier' labour market, as they would avoid the costs associated with raising the security of those on variable hour contracts and might even be incentivised to hire more people on these forms of contract, undermining the policy objectives. This would create a distortion in the market by distorting cost-competitiveness at the expense of medium and large businesses, similarly, creating a disincentive for these smaller firms to grow and therefore become in scope of the policy.

126. Similarly, there is a potential risk associated with medium and large businesses who are not exempt from these regulations potentially subcontracting SMEs who are exempt to avoid this legislation to provide services, thereby undermining the objectives of the policy.

127. Over the course of intended consultation, we will consider ways of reducing burdens on these small and micro businesses, through methods such as early engagement, with ample time and clear communication ahead of commencement and guidance.

Business environment

128. The UK's flexible labour market, or its ability to match labour supply and demand and thereby maintain low unemployment,[55] is often cited as a major benefit of doing business in the UK. One key part of this flexibility is the array of variable contracts possible in the UK.

129. Through this legislation, and similarly the right to guaranteed hours after a reference period, there will be more regulatory burden governing these variable forms of work. This may cause frictions for employers to adjust labour costs in in the face of variable demand as they will be less able themselves to react to sudden changes in their wider demand by cancelling shifts with no financial penalty. Therefore, there is the potential that this will affect the ability of firms to use variable contracts as efficiently as they had before, which may affect the viability of certain business models.

130. However, the primary aim of this policy is around ensuring workers are not financially disadvantaged for circumstances out of their control, giving certainty to workers around their future income. It is likely that many firms in the economy are already providing reasonable notice and giving workers some payment where work is cancelled at short notice, meaning it would create minimal difference to them to abide by the requirements. This measure will level the playing field for those employers that are already operating in line with the new statutory requirement.

131. As outlined previously, other countries within Europe and further afield have implemented policies which attempt to provide workers with payment when they are subject to late cancellations of shifts and have similar policy objectives to those outlined for this policy. This suggests that any relative difference on this matter, across comparable countries, may be negligible.

[55] Why Zero Hour Contracts are a Good Thing, Institute of Economic Affairs, 2020; Vital Role for Zero-Hours Contracts, CBI, 2013

132. Similarly, there is a link in the literature[56] between job quality, wellbeing and productivity. As such, it is possible that by improving the security and predictability for workers in these forms of contract, firms are incentivised to invest more in their workers and this alongside improved wellbeing will feed through into productivity improvements, improving the business environment and the incentives for businesses to invest.

Impacts on Tribunals

133. We expect there to be some impact on the employment tribunal system as a result of the rights to reasonable notice of shifts and payment for short notice cancellation, movement or curtailment, particularly as there will be a reliance on the tribunal system to provide the 'bite' to ensure that workers who are eligible are provided with reasonable notice and actually receive the payments due for short notice cancellation, movement or curtailment.

134. As these are new rights which do not map to any existing jurisdiction in the employment tribunal system, it is not possible to robustly estimate the number of employment tribunal cases that this would add to the system. We estimate at the top end that there are approximately 2.4 million workers in the UK currently who would be in scope of these new rights. The assessed impact of change to right to payment for late cancellation, movement or curtailment on the enforcement system is based on the frequency of cases within the Jurisdictions of; Equal pay, National minimum wage and Unauthorised deductions (formerly Wages act). These jurisdictions represented 30% of all complaints to employment tribunals in 22/23 and therefore an additional 2.4 million workers with the right to make a claim is expected to lead to an increase in cases.

135. We will continue to work with the Ministry of Justice to further understand the impact that this regulation will have on the employment tribunal system.

Trade implications

136. As set out in the Regulation Directorate guidance, all IAs must consider whether the policy measures are likely to impact on international trade and investment.

137. The policy is compliant with international obligations, including trade obligations, and should not have implications for trade partners.

138. The right to reasonable notice of shifts and payment for late cancellation, movement or curtailment will predominantly affect workers in sectors such as retail, hospitality, health and social care, which are not typically traded.

139. In addition, the impact on total labour costs and therefore comparative advantage will be small.

140. Furthermore, the preferred option will not introduce requirements on foreign-owned companies that go above and beyond those which are UK-owned.

Environment: Natural capital impact and decarbonisation

141. The regulatory changes are not anticipated to have a significant impact on the environment or wider Governmental environmental objectives.

[56] Does good work have a positive effect on productivity? Research findings', Bosworth D and others, 2021; Böckerman P and others. 'The Job Satisfaction-Productivity Nexus: A Study Using Matched Survey and Register Data', Böckerman P and others, 2012; 'Does Employee Happiness have an Impact on Productivity?', De Neve and others, 2019

Risks and assumptions

Avoidance Risks

142. It is possible that businesses may look to circumvent the policy and act in a way that undermines the policy objectives. This risk is present where firms may look to not offer shifts in the first place until they are certain that the work will be available, which will ensure that they will not be in scope of the cancellation payment. However, by the inclusion of a right to reasonable notice, this will ensure that workers are given protection against any negative financial impacts they might receive through this business behaviour. Further policy development will look to ensure that the risk of this avoidance behaviour is restricted.

Employment Risks

143. There is potentially a concern for labour demand – these policies could have an adverse effect on number of individuals employed, even if it has a positive effect on the hours worked and income security of those who are employed. This is because if some firms currently choose to use variable contracts because they are cheaper, in future they may choose to stop offering these variable roles more generally, which can be the only roles which some workers may choose to enter the labour market for. This risk is highest for younger workers given the other increases to labour costs for younger workers from other elements of the Employment Rights Bill. Overall, we anticipate that this effect will not be large as many of these workers are able to pick up work at late notice, which will still be possible. This policy is more focussed on ensuring that workers are not put at a financial or workplace disadvantage if they are subject to less than reasonable notice or short notice cancellations, movements or curtailments.

Assumptions

144. Throughout this IA we have outlined the numerous assumptions made in our calculations. Some of these are due to the nature and scope of the powers taken in primary legislation, whereby much of the detail will be set out in secondary legislation, while others are related to the difficulty in understanding which workers are experiencing the issues covered by this legislation.

145. At this stage, the risks associated with the assumptions may result in either an under or overestimate, in some cases depending on the targeting and scope of the policy which will be set out in secondary legislation. We have conducted sensitivity analysis to account for this uncertainty, but we will use consultation exercises alongside further stakeholder engagement to develop our understanding and assumptions underpinning this modelling as policy development continues.