# Final stage impact assessment

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| Title: | ZHCs - Right to Guaranteed Hours |
| Type of measure: | Primary Legislation |
| Department or agency: | Department for Business & Trade |
| IA number: | DBT-034-24-CMRR |
| RPC reference number: | |
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| Date: | 21/10/2024 |

# 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 compensation for shifts cancelled at short notice.

2. This impact assessment (IA) summarises our evidence on the right to a guaranteed hours offer. The Government is legislating for a new obligation on employers to offer a contract which reflects the hours that workers regularly work over a reference period. This will create a statutory requirement for businesses to calculate the hours that each of the workers in scope is entitled to, once they reach a threshold period of working with their employer (the reference period) and subsequently offer guaranteed hours of work to the worker. After undertaking this calculation, the employer will be under an obligation to approach the worker and make an offer of guaranteed hours; and at which point the worker can choose to accept or reject this offer. The legislation will also include a provision for a subsequent reference period, the details of which will be determined in secondary legislation, but the expectation is that it will put an obligation on employers to offer a new guaranteed hours offer after a certain period of time should the worker remain or become eligible.

3. The relevant clauses in the Employment Rights Bill set out the framework for this policy, detailing which types of workers would be in scope, how the mechanism will work, and the

obligations placed on parties in the employment relationship. Policy details, such as the conditions as to regularity, number or otherwise, over the reference period; the exact workers in scope of the policy, or how the guaranteed hours will be determined to reflect the hours worked during the reference period and whether there are any situational exemptions to the policy, will be set out in regulations. It is the Department's intention to consult on those elements prior to making secondary legislation. There is also a clause relating to agency workers, allowing for provisions to be made under a power to replicate the provisions applying to non-agency workers. As a result, this IA presents a range of possible policy parameters, to show the range of possible impacts whilst reflecting the potential policy decisions (and unknown variables) at this stage.

# 2. Strategic case for proposed regulation

4. Variable contracts 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. Most prominently, "variable contracts" come in the form of zero-hour contracts, which are those where the worker has no guaranteed hours per week contracted with their employer, but where they are offered hours of work in accordance with business needs.

5. As of March 2024, there were 1,030,000 people on zero-hour contracts in the UK according to the Labour Force Survey (LFS) (representing around 3.1% of total employment), up from around 168,000 (or 0.6% of UK employment) in 2010. Zero-hour contracts are used most prominently in sectors where overall demand is highly variable such as the retail, hospitality, health and social care sectors.

6. A report from the Chartered Institute of Personnel and Development (CIPD) (2022) [1] found that students, people with fluctuating health conditions, and older workers downshifting towards retirement are among the groups who can benefit most from this flexibility afforded by zero-hour contracts. As such, used in the right way, they can provide workforce flexibility to employers and employment opportunities to those who might otherwise not enter the labour market at all.

7. However, the evidence suggests that these arrangements do not work for a sizeable minority of workers who are on zero-hours contracts, with 22% of workers on zero-hour contracts indicating that this contractual arrangement doesn't suit their life (CIPD, 2022). The 2017 Taylor Review of Modern Working Practices[2] 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 their time and their financial obligations, or for example secure a mortgage. This creates a situation where individuals bear most of the financial risk of fluctuating demand for work.

8. The manifestation of this 'one-sided' flexibility for some individuals comes in the form of income insecurity, unpredictability when planning their work and personal lives, and inability to assert rights for fear of having work denied to them later.

9. Likewise, there are several negative impacts to the worker, firm and the wider economy associated with this form of insecure work arrangement. Most notably, these include lower levels of job satisfaction and poorer physical and mental health. These issues are linked to lower levels of worker productivity[3]. Furthermore, zero-hour contracts enable poor

[1] Zero Hours Contracts, Evolution & Current Status, CIPD 2022
[2] Good work: The Taylor Review of Modern Working Practices, Matthew Taylor 2017
[3] Zero Hours Contracts, ReWage Policy Brief, Dix and others, 2023

workforce planning practices to persist – even though there is evidence that proper workforce planning is good for businesses as well as for workers[4].

10. The Taylor Review recommended the creation of a right to request a contract which guarantees hours which better reflect the actual hours worked for those on zero-hour contracts. In 2018, the Government consulted on introducing a new right to request a more predictable contract. The Government committed in the Good Work Plan[5] (2018) to introduce a new right for all workers (including agency workers) to request a more predictable contract after 26 weeks with their employer. The Workers (Predictable Terms and Conditions) Act 2023[6] (often known as the Predictable Work Act, here PW 2023) would have created a new right for workers to request more predictable working conditions.

11. However, in 2019 the Low Pay Commission (LPC) suggested that this framework would not tackle the underlying issue of one-sided flexibility as it provided businesses with a wide scope of reasons to reject requests, and so was likely to leave many workers suffering the same issues as they would without the legislation.

12. The Government has committed in the Plan to Make Work Pay to introduce a right for workers to have a contract which reflects the number of hours that they regularly work over a reference period. Alongside this, the Government is intending to legislate to give workers a right to reasonable notice of shifts and a right to payment for shifts cancelled at late notice. Together, these proposals seek to address the issues raised by some forms of variable contract, and therefore address the commitment in Make Work Pay to end exploitative zero-hour contracts.

13. There are three main groups which will be in scope of the new right to advance notice of shifts and payment for late cancellation: workers on zero-hour contracts and zero-hour arrangements, workers on low-hour contract and agency workers on such contracts. In total, our analysis of the 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.

14. Further evidence on the workers in scope and to support to the case for intervention can be found from paragraph 48.

# 3. SMART objectives for intervention

15. The key policy objectives of this proposal are:

    a. To improve the predictability of hours for workers on variable contracts, and thus ensure that they are not exposed to income insecurity and the accompanying anxiety, while maintaining the option to keep the flexibility of these forms of work for those who want it.

    b. Incentivise better workforce planning from firms to provide more predictability to working patterns and improve employer-worker relations.

    c. Prevent misuse of these forms of contract by employers in situations where the work can be completed through the use of regular hour contracts, which provide the worker with more security and predictability.

16. Together with the right to 'reasonable' notice of shifts and a right to payment where shifts are cancelled or curtailed at short notice (covered in the IA related to the right to

[4] A Response to Government on One-Sided Flexibility, LPC 2019
[5] Good Work Plan, Department for Business, Energy and Industrial Strategy, 2018
[6] Workers (Predictable Terms and Conditions) Act, Department for Business and Trade, 2023

reasonable notice of shifts and payment for shifts cancelled, moved or curtailed at short notice[7]), Government is seeking to rebalance the benefits and risks of flexibility between firms and workers, such that workers can better predict their working pattern 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

17. The 'Do nothing' option would mean that employers have no obligations to provide workers on variable contracts with the offer of a contract reflecting their hours worked over a reference period. The use of zero-hour contracts is extensive in low-paying and labour-intensive sectors such as retail, hospitality, and social care. In the absence of Government action, we would expect this to persist. This would mean that the problems of income insecurity and unpredictability associated with the one-sided flexibility would remain for a significant minority of workers on such variable contracts.

18. Therefore, this option is discounted moving forwards, however the costs and benefits of Option 1 are considered relative to the status quo of 'Do nothing'. The Government has decided 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. It is envisaged that this Act will be repealed as part of the new measures, and as a result this does not form part of this counterfactual.

### Option 1: Legislate to introduce a right to guaranteed hours

19. The preferred option is to legislate through the Employment Rights Bill to introduce a right to guaranteed hours. This will allow workers on variable hours contracts to choose whether to remain on these contracts with the associated flexibility or move towards a contract which reflects the actual terms and conditions of their working arrangement. This policy aims to reduce the prevalence of one-sided flexibility for those workers in scope, ensuring that they are able to access a more predictable working pattern should they prefer that arrangement, and therefore be able to more accurately predict their income over time.

20. Option 1 is the preferred option to tackle the problem outlined in Section 2. The policy will provide a framework to allows those individuals who meet the conditions as to regularity, number of hours, or otherwise set out in regulations (i.e., they "work regularly") and are under no guarantee that they will be provided work (or which guarantees a low number of hours which falls within a threshold to be set out in regulations and they work in excess of those hours), to be offered guaranteed hours which reflect the amount of work they regularly work for an employer over a reference period. It will be given effect through primary legislation, with the specific details of how the policy will work, for example how guaranteed hours are determined to reflect the hours worked, to be set in secondary legislation after an intended public consultation.

21. While the exact scope of the workers who would be covered by this legislation has not yet been determined, there are three main groups who could be covered: zero-hour contract workers and those working under a zero hours arrangements (under the first they are under an obligation to accept work, but not under the second), low-hour contract workers (e.g., those with some guaranteed hours but fewer than the level set out in regulations) and some agency workers. The definition of low hours will be in secondary legislation. Among

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

these groups, there may be provisions for some limited, circumstance-based exemptions from this legislation. This too would be set out in secondary legislation following intended consultation. It is not expected that these exemptions will cover many workers as this would counteract the objectives of the policy.

22. This policy will remove the potential concerns with the balance of power associated with workers having to request a contract, by placing the obligation on the employers. There will be a provision for a subsequent reference period to allow workers to have another chance to fall within the scope of the right, and to ensure that these hours are still reflective of the hours worked or offering guaranteed hours to those who rejected the guaranteed hours contract in the first place (or fell out of scope the first time). The details of this will be set out for consultation in due course.

23. By introducing a right to guaranteed hours reflecting workers' hours worked during the reference period which meet additional conditions such as regularity, we aim to address the current imbalance for some workers, creating a mechanism which ensures that businesses must offer to formalise the working arrangements of those who have been working regularly for a period of time to be set out in regulations, assumed to be 12-weeks in this IA. However, this policy will also ensure that the option of a variable contract is available to individuals who prefer that form of arrangement, by allowing workers to decline the offer of guaranteed hours.

24. Having a reference period is necessary to ensure that workers are offered guaranteed hours which reflect the hours they regularly work. We believe 12 weeks would be the right length – balancing the need for workers to be offered guaranteed hours reasonably soon after they start a role, and the need for a reference period long enough to establish the hours that they regularly work. However, the length of the reference period will be set out in secondary legislation, following a public consultation.

25. These changes will allow those workers who have terms and conditions which are not reflective of the hours they work, to move towards more stable work arrangements on which they can place some reliance, and which give them more predictability and security. The Bill retains the right for workers to remain on their variable contracts should they choose to do so. The Bill allows for regulations to be made, if necessary, requiring that a guaranteed hours offer should reflect the days and times or working pattern worked in the reference period.

26. Many countries have sought to ban zero-hour contracts outright, making them impermissible to any or most workers. New Zealand, Ireland and Norway have specifically introduced legislation to mandate guaranteed hours in contracts, New Zealand and Norway through outright banning them, while Ireland chooses to prohibit them with limited exceptions. In the Netherlands and Finland, if workers consistently work a set shift pattern, their employers must offer them a contract on those terms.

27. While this option sets out the broad framework of the policy, a number of the details will be set out in secondary legislation. This will include details around how the regular contract will be calculated, who will be in scope of the new right (the definition of regularity) and whether there are any exceptional circumstances where a worker could be excluded from the right to have a guaranteed hours contract well as other elements. These are intended to be subject to consultation in due course.

28. Small and micro businesses (SMEs) will be included within the scope of this legislation, as excluding them will undermine the objectives of the policy. Over the course of the intended consultation period, we will be engaging with stakeholders to determine how best to limit the impact on SMEs. A further explanation of impacts on SMEs is given in paragraphs 120 to 124.

29. The option considered in this IA is combined with a right for workers to receive reasonable notice of their shifts and payment for any late cancellation or curtailment of these. Together, these policies provide workers with a more predictable working pattern which is less likely to be subject to late changes and therefore give workers more security and predictability over their income.

# 5. Summary of long-list and alternatives

30. As previous consultations have shown, there are several possible options to tackle the issue of one-sided flexibility. However, many of those options, including the Predictable Working Act 2023, which Government intends to repeal, are unlikely to go far enough to resolve the issues of income insecurity and unpredictability.

31. This is 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.

32. 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 likely achieve a level playing field for employers and enable workers to access a contract with guaranteed hours. Alternatively, 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.

33. The only viable options to achieve the objectives laid out in Section 3 will be those that oblige firms to offer this contract. Other options may work for subsets of the affected workers, but only regulation will correct this imbalance of power and provide a framework for workers to move onto a more regular and predictable pattern of work, while leaving them the option to remain on their original flexible terms should they wish.

34. The Bill will provide Ministers with several powers to make regulations in the future on the details of the right to a guaranteed hours contract. This IA includes an assessment of different ways that these measures can be implemented through secondary legislation (e.g., which workers are in scope and how regular hours are defined) but does not cover non-legislative approaches or alternative regulatory approaches. However, in as far as shortlisted policy options carried forward this IA only considers option 0 and option 1 laid out in section 4.

# 6. Regulatory scorecard for preferred option

## Part A: Overall and stakeholder impacts

| (1) Overall impacts on total welfare | | Directional rating |
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| **Description of overall expected impact** | The main impact of the right to guaranteed hours is a transfer of risk from workers on variable hour contracts facing insecurity (from unpredictable hours), to employers. This represents a significant benefit in terms of greater wellbeing and income security for workers, whilst imposing a cost to employers. The expected costs and benefits of this policy are heavily dependent on the policy detail, much of which will be set out after consultation in secondary legislation.<br><br>At a societal level, these impacts will net off against each other to some degree. The extent to which the policy will provide a net positive for total welfare will depend on (i) how well targeted the policy is at those facing insecurity whilst retaining flexibility for employers and those workers who value it, and (ii) the extent that wellbeing impacts of the policy feed through to productivity improvements for business.<br><br>The cost on business will result from the administrative burden of handling and processing these contracts for workers on variable contracts, but more so the potential loss of flexibility for firms who currently rely on it in their business models. The magnitude of these costs will depend on the scope of the regulations, what employers need to do to be compliant, how many workers choose to accept or decline the guaranteed-hours contracts that they are offered and how employers decide to evolve their business models.<br><br>However, this policy will also provide a significant benefit to workers who are on variable contracts and struggle with elements of one-sided flexibility and allow these workers to move towards a contract with more predictability. Workers will be able to decline the offer if the more variable form of work suits them, so that they will then retain the benefits of the flexibility.<br><br>There is potential for pro-business benefits from creating a level playing field, and from higher worker productivity resulting from better wellbeing. | **Uncertain**<br><br>Based on all impacts (incl. non-monetised) |
| **Monetised impacts** | With our current evidence base, the only impacts we can monetise are the business administration costs. These include transition costs associated with familiarisation with the policy change and the subsequent set up costs of businesses to the requirements of this policy, the ongoing costs to business of having to track hours in order to calculate the | **Negative**<br><br>(based on administrative costs to business) |

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| | correct contract required, and the process by which they offer this to their workers. We also calculate a cost to employers for the additional workforce planning may need to undertake if they have access to fewer flexible workers. This costs partially captures the costs of lower flexibility to employers. These are calculated over a 10-year period with costs incurred in future years discounted to present values as per the Green Book.<br><br>This gives a net present social value of -£1.5 billion to -£4.7 billion, with a central estimate of -£2.0 billion, over a 10-year appraisal period. The ranges reflect different assumptions in the policy design and the potential direct effects these differences in administrative burden will have on business behaviour. | |
| **Non-monetised impacts** | We expect the cost of loss of flexibility for firms to be significant, and whilst this is partially captured through additional workforce planning costs, we expect there will be further costs (e.g., by it being harder to flex their workforce to meet variable demand). We know that firms value flexibility, particularly where they operate in a sector with highly fluctuating demand.<br><br>However, workers will benefit from this policy in the form of improved income security and predictability.  Several studies have shown a link between better quality jobs and improved wellbeing, particularly where it relates to anxiety generated around income and being able to effectively plan work and social lives. This can help workers gain access to credit, subsequently allowing easier access to markets which require finance such as housing.<br><br>There is a chance that for some employers, this increased formalisation of working arrangements, through wellbeing enhancements and increased incentives for workers to stay with their employer, could lead to improvements in productivity. | **Uncertain** |
| **Any significant or adverse distributional impacts?** | Yes – this policy entails a large transfer from employers of zero-hour contract workers, to those workers that are suffering the impacts of one-sided flexibility. Since we cannot quantify the cost of lower flexibility for employers, nor the wellbeing benefits for workers, it is not possible to say whether this is net positive or negative at a societal level.<br><br>There is potential risk for adverse impacts for those workers who would like to retain the flexibility of zero-hour contracts, as firms may shift towards more guaranteed hours contracts which leaves fewer shifts available to be flexibly picked up. However, we do not believe this issue is large and is | **Neutral** |

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| | outweighed by the benefits to those workers who would prefer the security of guaranteed hours. | |

| **(2) Expected impacts on businesses** | | |
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| **Description of overall business impact** | The regulatory change places an obligation on businesses to offer guaranteed hours contracts to eligible workers after an assumed 12-week reference period. Businesses will incur costs related to familiarisation and implementation as well as procedural costs of the policy. Alongside this, there is the potential loss of flexibility which may affect the viability of certain business models and incur higher workforce planning costs.<br><br>As a result of improvements in worker welfare and incentives for better planning of work and shifts, there is potential for productivity improvements, which would drive benefits to firms. Similarly, some firms will already be operating in ways that comply with this legislation, e.g., avoiding zero and low-hours contracts. This will allow these firms to compete on a level playing field with firms that transfer excessive risk to their variable hour workers. | **Negative** |
| **Monetised impacts** | The average administrative cost to business is estimated to be around £230 million per year (EANDCB). This gives a net present value of -£1.5 billion to -£4.7 billion, with a central estimate of -£2.0 billion, over a 10-year appraisal period. The ranges reflect different assumptions in the policy design. These costs relate to the familiarisation and subsequent set up costs of businesses to the requirements of this policy, alongside ongoing costs to business of having to track hours to calculate the correct new contract required, and the process by which they offer this to their workers. The largest cost will be associated with workforce planning, as firms will need to plan out their available shifts with their obligated hours, where previously they may just have used a pool of variable contracts. | **Negative** |
| **Non-monetised impacts** | The main non-monetised impact on business of this policy is the potential loss of flexibility for those firms that rely on these forms of contract, particularly where demand is seasonal or unpredictable. The degree that employers lose flexibility will depend on details that are defined in secondary legislation and on how they choose to evolve their business models in response. | **Negative** |

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| | There may also be a benefit to firms through improved wellbeing for workers and incentives for better planning of work and shifts feeding through to productivity improvements. Imposing an obligation on the worker to accept work (which is not the case under most variable contracts) gives the employer more certainty and may diminish the need to administer a large pool of workers to ensure demand is met. | |
| **Any significant or adverse distributional impacts?** | 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. For example, if a hospitality business has volatile demand, it may not be straightforward to implement guaranteed hours. Likewise, where a business keeps a pool of flexible workers to meet demand, a right to guaranteed hours would introduce constraints in these business models and potentially additional costs.<br><br>It is estimated that there are around 900,000 agency workers in the UK, of which around 140,000 are also identified as being on a zero-hours contract. Due to the 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 GDP. The scope of this policy towards agency workers will be set out after intended consultation.<br><br>Analysis of LFS data shows that the population of workers covered by this policy are more highly represented in both London and the West Midlands. | **Uncertain** |

| **(3) Expected impacts on households** | | |
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| **Description of overall household impact** | This regulatory change is expected to directly and positively impact workers, by reducing anxiety associated with unpredictability and income insecurity, which have numerous wellbeing and financial implications for workers. Therefore, this policy is aimed at balancing out some of the risks of this type of employment by transferring this risk from the employees to the firms employing them, and vice versa with the benefits of flexibility. | **Positive** |
| **Monetised impacts** | We are unable to monetise any impacts to households (EANDCH), as the main impacts to workers will come in the form of wellbeing and financial security | **Uncertain** |

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| | improvements, where we lack the evidence base to robustly estimate a monetised impact. This is because while there is evidence linking job security and quality of work to wellbeing, there is not robust evidence directly linking having guaranteed hours to wellbeing impacts. However, we expect these impacts to be significant given the insecurity faced by some variable hour contract workers. | |
| **Non-monetised impacts** | This regulatory change is expected to directly and positively impact households through allowing workers in scope with variable hours who meet the conditions as to "regularity", number or otherwise, an option to move onto guaranteed hours after the reference period (we assume 12 weeks but to be set out in secondary legislation), if they would prefer that, while allowing those who value variable contracts to stay on them. This reduces anxiety associated with unpredictability and income insecurity, which have numerous wellbeing implications for workers. | **Positive** |
| **Any significant or adverse distributional impacts?** | Many people in the group covered by the legislation are lower paid. January – March 2024 LFS data suggests that median hourly pay on zero-hour contracts was £10.75, for variable hour workers (excluding zero-hour contracts) was £11.70 for agency workers £15.38 compared to £16.18 across other forms of work. These workers are therefore more exposed to fluctuations in weekly hours and the effect this has on their income. This policy is expected to primarily affect low-income workers by providing improved certainty around their hours and pay. 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.<br><br>However, 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 in employment. 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. However, we expect these risks to be relatively small as this policy will focus more on formalising working arrangements, with truly variable hour contracts remaining an option which many workers will stay on. | **Positive** |

**Part B: Impacts on wider government priorities**

| Category | Description of impact | Directional rating |
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| **Business environment:**<br><br>**Does the measure impact on the ease of doing business in the UK?** | The UK's flexible labour market, or its ability to match labour supply and demand and thereby maintain 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.<br><br>Through this legislation, and similarly the rights to reasonable notice of shifts and payments for late cancellation or curtailment, there will be more rules governing these variable forms of work. This will constrain the options for firms who need to manage variable demand, increasing the need to invest in better workforce planning to better map out periods of demand and match workers to these.<br><br>However, one of the key objectives of this option is to incentivise firms to recognise and formalise the working patterns of their workers. In many cases, firms may already be doing this, so this will go some way to level the playing field for firms. Similarly, there is a well-researched relationship between job quality, wellbeing and productivity. By improving the security and predictability for workers in these forms of contract, firms may be incentivised to invest more in their workers. Likewise, improved workforce planning may lead to more efficiency in firms. Alongside improved wellbeing, these will feed through into productivity improvements, improving the business environment and the incentives for businesses to invest. | **Uncertain** |
| **International Considerations:**<br><br>**Does the measure support international trade and investment?** | It is not expected that this policy will have any direct impact on trade and investment. Variable hours contracts are predominantly used in non-traded sectors, such as retail, hospitality, health and social care. | **Neutral** |
| **Natural capital and Decarbonisation:**<br><br>**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

35. 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 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.

36. As 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.

37. However, the Government is also intending to monitor the impact of the change. We expect this will be undertaken through conducting more primary survey data collection, alongside targeted stakeholder engagement. The Government will develop more detailed plans once the secondary legislation is developed, 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. The Government will consider convening focus groups of stakeholders and representatives to ensure that the regulations are working as intended, and that concerns are understood and addressed.

38. We currently have data from the worker perspective on the use of variable hours contracts from the LFS and ad-hoc surveys completed by interested think-tanks and business stakeholders, which give an idea of the extent of their use by businesses and the reasons for it.

39. However, detailed Monitoring and Evaluation (M&E) of this policy will be required to ensure it is operating effectively and as anticipated and to ensure that the objectives are being met. This M&E will be required to ensure that businesses are complying with the regulation and that the risks laid out in paragraphs 139 to 141 are being minimised.

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# Summary: Analysis and evidence

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| **Price base year:** | 2023 |
| **PV base year:** | 2026 |

| | 1. Business as usual (baseline) | 2. Preferred way forward (if not do-minimum) |
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| **Net present social value** (with brief description, including ranges, of individual costs and benefits) | N/A<br><br>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-monetizable. | NPSV in our central estimate is approximately -£2 billion. This includes the administrative costs to business of implementing the preferred option. This does not include the benefits to workers of moving towards greater security and predictability, nor the cost to firms associated with a loss on flexibility. |
| **Public sector financial costs** (with brief description, including ranges) | No public sector 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 major proportion of both monetised and un-monetised costs in this IA. |

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| **Significant un-quantified benefits and costs** (description, with scale where possible) | Benefits: firms are able to flexibly adapt their workforce to suit periods of high and low demand.<br><br>Costs: Workers remain on these forms of contract which offer little security of income or predictability, suffering from same one-sided flexibility. | Benefits: Workers can move away from these highly variable forms of contract towards a guaranteed contract reflecting their working pattern over a reference period, providing them with predictability and security over future income. They are also able to remain on these forms of contract should they prefer to do so. This transfers risk from employees to employers, allowing workers to benefit from the flexibility of these forms of contract while giving them an option to move towards a more permanent working arrangement.<br><br>Costs: Firms will not be able to easily and quickly flex their workforce depending on variable demand, as they will be required to provide guaranteed hours where previously they did not have this obligation. |
| **Key risks** (and risk costs, and optimism bias, where relevant) | N/A | Potential for avoidance behaviour by firms, moving workers to contracts which have the same issues of insecurity but are not in scope of the policy. This avoidance has been considered by policy design, but the size of the risk will depend on further policy development. |
| **Results of sensitivity analysis** | N/A | The results of the monetizable element are dependent on assumptions about policy design and business reaction to this legislation, which are highly uncertain. Therefore, 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. This sensitivity analysis gives the range estimate of between -£1.5 and -£4.7 billion. While we appreciate this is a large range, this accounts for the details to be set out in secondary legislation and the potential business reaction to these. |

# Evidence base

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

40. Section 2 sets out how variable contracts can in some cases manifest in the form of income insecurity, unpredictability when planning their work and personal lives, and inability to assert rights for fear of having work denied to them later. This section provides a summary of further supporting evidence for that assessment.

### Evidence on the extent of the problem

41. CIPD (2022)[8] research shows that zero-hour workers have comparable job satisfaction with other staff. They report better work-life balance and are less likely to say their work has a negative impact on their physical and mental health. Zero-hour contracts also provide employment opportunities for those who might otherwise not be able to work because they cannot commit to more regular pre-determined working hours due to ill-health, care or studying needs, for example.

42. Evidence suggests that whilst many workers value the flexibility that zero-hour contracts bring, these arrangements do not work for a sizeable minority of workers on such contracts, with 22% of workers on zero-hour contracts indicating that this contractual arrangement does not suit their life (CIPD, 2022). This would imply that there are around 260,000 workers on zero-hour contracts who indicate that this form of work is not suitable for them.

43. The CIPD research also showed that there are challenges with one-sided flexibility that may benefit employers rather than workers. Those on zero-hour contracts are less likely to be satisfied with their employment contract and pay and conditions. Individuals on zero-hour contracts may experience challenges associated with having an unsecured income stream and having limited control over their working hours.

44. It is important to note that the rationale for intervention is not to hinder workers who wish to benefit from the flexibility that zero or low-hour contracts can offer or to prevent businesses from benefitting from the capacity of a flexible workforce. Zero-hour and variable hour contracts work for many people and give them the ability to maintain a good work-life balance or to balance other commitments with their working life. Instead, this policy is targeted at unfair employment practices, which pass undue risk on to the worker under the guise of purported flexibility. It would also provide a nudge mechanism for employers who may not have thought about adjusting working practices in the absence of this right, despite being able and willing to do so should a request be made.

45. Beyond zero-hour contracts it is hard to measure the full extent of the problems related to hours insecurity. While zero-hour contracts are the most understood group, this problem will extend to any workers who are regularly working more than their contracted hours. In the 2017 Skills and Employment Survey[9], 7% of employees reported feeling very anxious about unexpected changes in working hours, equating to over 2 million workers, suggesting that the problem is not limited to just those on zero-hours contracts.

46. The 2017 Taylor Review of Modern Working Practices[10] 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 secure

[8] Zero Hours Contracts, Evolution & Current Status, CIPD 2022
[9] Skills and Employment Survey, Cardiff University, 2017
[10] Good work: The Taylor Review of Modern Working Practices, Matthew Taylor 2017

a mortgage. This creates a situation where much of the risk of an employment relationship sits with the individual. 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, with the underemployment of those on zero-hour contracts estimated at around 23%, compared to around 5% in the wider labour market[11].

47. There are several negative impacts to workers, firms and the wider economy associated with this form of insecure work arrangement. Most notably, these include lower levels of job satisfaction and poorer physical and mental health, which in turn are linked to poorer worker productivity[12]. Likewise, zero-hour contracts enable poor workforce planning practices to persist – even though there is evidence[13] that proper workforce planning is good for businesses as well as for workers.

## Rationale for intervention: Market failures

48. The detriment faced by workers due to one-sided flexibility is down to a combination of market failures. Firstly, employers can transfer undue risk onto their workers due to their ability to exert market, or monopsony, power. The Competition and Markets Authority (CMA)[14] find that monopsony power is a feature of many parts of the UK labour market and has a real cost for workers, by allowing employers to push down terms and conditions. In the CMA's research, pay and hours worked are the main elements explored, but this would also apply to wider terms and conditions including the predictability of shift patterns. Employer-worker relationships that show one-sided flexibility are by their nature imbalanced towards the employers. This imbalance of power may exist where workers in low-skilled and labour-intensive sectors are more substitutable, giving them less bargaining power. Alternatively, monopsony power may occur because workers have limited choice of employer, partly due to lack of geographical mobility, or workers facing financial precarity are unwilling to change job due to the risk of doing so.

49. On top of this, variable and insecure forms of work have several negative externalities, meaning they are likely to be overused by employers in the absence of Government intervention. Where the flexibility of these contracts is one-sided in nature, it is likely that the employer does not consider and internalise the stress and negative impact on wellbeing, or the financial implications for markets such as housing that volatility in shifts patterns and subsequent income insecurity can bring. These issues are often derived from individuals not being able to effectively plan their income reliably, affecting their ability to access credit or pass checks for rent or mortgages. Similarly, this volatility will cause workers stress and anxiety, potentially affecting their productivity at work. Legislating for a right to guaranteed hours will help to better balance the cost faced by employers when scheduling shifts with the wider societal costs that one-sided flexibility creates.

## Groups impacted

50. There are three main groups which are likely to be included in the scope of the policy: individuals on zero-hour contracts or working under zero hours arrangements, 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.

51. 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

[11] DBT analysis of LFS microdata, January – March 2024
[12] These are outlined in paragraphs 109 - 112
[13] A Response to Government on One-Sided Flexibility, LPC 2019
[14] Competition and market power in UK labour markets, Competition and Markets Authority, 2024

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 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 or zero hours arrangements, 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*

52. 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 LFS data from January – March 2024 showed that there are around 1,030,000 employees on zero-hour contracts in the UK, representing around 3% of all UK employees. 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. Thus, our analysis assumes that the number of zero-hour contracts remains stable at around 1 million.

53. Analysis of the LFS data showed 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 Bill will set out that all workers on low-hours contracts who meet the conditions in relation to regularity are entitled to guaranteed hours. 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 such workers in our analysis.

*Agency workers*

54. 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.

55. 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 for the agency worker to know which organisation is the one to begin the conversation with about transitioning to a more predictable job. The Government intends to consider further how best to apply this policy to these workers, balancing the needs of the parties involved.

56. 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 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.

57. Instead, the aim of this policy is to ensure that some agency workers can move onto a contract which reflects their regular working arrangements. While the detail will be set out at a later stage, this right will support workers by addressing the balance of power between business and worker.

58. 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 this policy to agency workers.

59. Analysis of LFS data showed 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 a right to guaranteed hours could enable some of these workers to transition to a more predictable form of employment, with the associated security of hours and thus income. At this stage, the Bill is not specific about how this right will apply to agency workers. Therefore, 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 & Benefits

60. This section outlines how we have quantified the costs and benefits to business and households resulting from a right to guaranteed hours. Given the uncertainty inherent in the policy design at this stage of policy development, our analysis should be interpreted as order of magnitude estimates and indicative. Estimates are rounded to the nearest £10 million to account for this uncertainty. These estimates will be refined in due course as more evidence and policy design details become clearer through further policy work and intended consultation.

61. The proposed regulations will oblige firms to calculate and propose a contract reflecting an individual's regular working pattern over an assumed 12-week reference period. Businesses will need to identify eligible workers and track their working hours, then formalise these into a new contract at the end of the reference period. Workers may then choose to reject the offer if they would rather stay on their variable contract arrangement, which is assumed to be where that form of contract is more beneficial to them.

62. Our working assumption for assessing the costs and benefits associated with Option 1 is that this legislative change would lead to an increase in the proportion of workers on more regular forms of contract compared to the status quo in Option 0. At this stage, details around the definition of regularity and the process via which these contracts will be offered have not been established, meaning that a full appraisal of the costs and benefits, particularly the indirect costs and benefits, of this option is not possible. To account for this uncertainty, we undertake sensitivity analysis as per the Green Book[15], adjusting key assumptions around the policy design in the model.

63. The estimated direct cost to business of the proposed form will come in the form of:

    a. Familiarisation and set-up costs – the costs incurred by business to understand new requirements associated with the policy and set up or expand their system by which workers can have their hours tracked such that they are able to define which workers are in scope and what their regular contract should be.

    b. Procedural costs – these are the ongoing costs associated with the business going through the process of tracking individual workers' hours and formalising a new contract to the worker reflecting these, as well as providing an annual review of these

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

hours. Likewise, we anticipate that there will be costs associated with additional workforce planning for those firms who move workers from variable contracts to guaranteed hours.

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

65. We use the methodology and assumptions from the Workers (Predictable Terms and Conditions) Act 2023 Impact Assessment (PW 2023 IA)[18] and, where relevant, the IA for 'Reducing the administrative burden of the Working Time Regulations' (WTR 2023)[19]. This is because the framework for processing and moving workers onto new contracts is similar to the one set out in PW 2023, however it differs in that it is an obligation placed on an employer rather than for the worker to initiate. We assume that the level of record keeping required to ascertain what a regular contract should look like will be similar to that set out in the WTR IA, and thus we use evidence gathered for that IA to outline the costs associated. Through intended consultation we will refine these estimates to ensure they are reflective of the way that employers would respond in reaction to a right to guaranteed hours.

66. Businesses would incur a one-off cost associated with familiarising with the legislation. We assume that this familiarisation would consist of relevant employees or business owners reading and understanding the legislative change and any accompanying guidance, in order to consider the implications on the business and consulting with relevant employees. This may also involve some firms seeking legal advice on the change and what it means for their business. We use the same assumptions as the Workers (Predictable Terms and Conditions) Act 2023 IA in terms of the workers involved in familiarisation, namely:

    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[20] in SMEs 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[21] and three HR administrative assistants[22].

    b. When accounting for an uprate by non-wage labour costs (21%) as per Office for National Statistics (ONS)[23] methodology, the total hourly costs of these workers are £32.09 for corporate managers/directors; £31.84 for HR managers/directors; and £15.19 for HR administrative assistants.[24]

67. However, as this is the implementation of a new right which is likely to have wide ranging implications for a number of businesses, we estimate that familiarisation will take longer than the 30 minutes estimated for the PW IA, as firms will need to determine whether the worker falls within the circumstances applying to limited-terms contracts (e.g., work towards a specific task or until occurrence of an event) or whether there is a temporary need for the contract to be for a limited term. In our central estimate we take a cautious approach and

[16] 'Firm Foundations', Resolution Foundation, April 2024
[17] Business Population Estimates, 2023
[18] Right to Request a More Predictable Working Pattern,, Department for Business and Trade, 2023
[19] Reducing the Administrative Burden of the Working Time Directive, Department for Business and Trade, 2023
[20] SOC code: 11
[21] SOC code: 1136
[22] SOC code: 4136
[23] DBT analysis based on ONS methodology
[24] Earnings and Hours Worked, Occupation by Four-Digit SOC, ASHE, 2023

assume that the time taken to familiarise will be around one hour given this is a new right, and apply this to all firms, as all employers will familiarise themselves with these regulations in case they may want to hire workers on these forms of variable contracts in the future. A 2024 Resolution Foundation report found that currently over 75% of firms employ at least one worker on a variable contract, with this figure being 93% and 94% for medium and large employers, respectively. 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, however, we do not believe this risk is large. This gives a one-off familiarisation cost of £50 million in the central estimate. We again conducted sensitivity analysis using 30 minutes and two hours for familiarisation, in our low and high estimates, to account for the uncertainty.

68. Employers will need a record keeping system or an update or extension to existing systems by which they are able to effectively track hours of their workers on variable contracts. It is unlikely that regulation will specify exactly how records should be kept, and thus in practice the exact nature of these systems would vary from business to business. It would likely be specific to the size and type of business, the industry and nature of work. We believe that most firms will already have systems in place that sufficiently track the working hours of workers on these forms of contract as most of the workers are already paid by the hour, and therefore hours will be tracked for that purpose and for National Minimum Wage compliance. Therefore, this is presented as a unit cost primarily for firms who do not currently employ workers on these types of contracts but may want to in the future. This analysis uses a methodology based on a YouGov survey for the removal of the administrative burden of the Working Time Regulations (WTR) from a 2023 Impact Assessment[25]. When uprated for 2024 prices, this bases the estimate for a one-off implementation cost of record keeping systems of between £154-£393 for micro and small businesses and between £800-£1000 for medium and large firms.

69. We assume businesses will also incur a cost to create a process by which they officially track hours worked and formalise contracts or working arrangements with different guaranteed hours after the reference period for producing new contracts for workers. For example, determining who in the business will be responsible for determining whether workers are in scope, a process by which contracts are calculated and creating a stock contract document to provide workers with after the 12-week reference period. To estimate these 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 PW IA (2023) 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 right to guaranteed hours will be a new right, we assume that a comparable argument applies.

70. Combining the costs associated with familiarising with the policy and setting up a process by which they will handle the volume of tracking and formalising contracts after the reference period gives an overall transitional cost estimate of between £50 million and £200 million (central £100 million).

71. The largest monetised impact of the legislation is the ongoing procedural cost to offer and move workers onto guaranteed hours. Once businesses have familiarised themselves with the legislation and implemented a system to effectively track employee hours and handle the procedure, the actual process being carried out will be an extra administrative burden for businesses for each worker.

72. In Option 1, this will involve handling the effective tracking of hours, formalising of contract and offering these to the workers for all workers on a contract in scope, which is zero-hour

[25] This is used as we assume that firms will have to record the hours actually worked in order to formalise the contract after the twelve-week reference period, which will imply a similar level of procedural record keeping as is demonstrated in the WTR IA.

contract workers, low-hour contract workers and agency workers. As the policy contains provisions relating to a subsequent reference period which will be specified in regulations, businesses will need to track the hours of these workers to separate points, the first initial reference period (anticipated to be12-weeks) and wherever a subsequent reference period may apply. The population in scope in year one will include the stock of workers already on these contracts, even those who have been on them for many years, as well as the flow of workers across the remaining nine months of the year. Subsequent years will involve only the flow of workers who start a job on these contracts and who reach an assumed 12-week threshold, plus all subsequent reference periods for qualifying workers who have stayed with their employer where these may apply. For simplicity while the detail of the regulations has not been set out, we take a maximalist view and assume in this analysis that all qualifying workers who stay with their employer will be subject to this second reference period approximately one year after their initial contract is offered. This may under or overestimate the true impact of this policy, and this analysis will be refined as details of regulations are set out in secondary legislation.

73. Our estimate for the stock population of this group from the LFS in year one is approximately 2,410,000, of which 2,220,000 have been in post longer than 12-weeks. This estimate is fairly cautious, as it includes all workers on variable hours at a fixed hourly rate as a proxy in lieu of a robust estimate for the number of workers on low-hours contracts, and what is decided as the definition for low-hours workers in the clauses. However, some of these workers may have contracts which will already be above the threshold of low-hours contracts to be defined in secondary legislation.

74. To estimate the flow of workers who will be offered a switch to guaranteed hours after year one, we examine four quarters of 2023 from the LFS and calculate how many of each type of worker (zero-hour, agency, low-hours) reach the assumed 12-week reference period in each quarter to get our central estimate of the flow of workers. We test this against previous years to ensure that 2023 was not an outlier. We take the lowest and highest flows of zero-hour, low-hour and agency workers across the four quarters of 2023 and extrapolate across a full year for sensitivity analysis. This will count those workers who have multiple 12-week periods with different employers but does not consider workers where these 12-week periods with different employers are necessarily overlapping with each other, which would marginally increase the population in scope. Using this, we estimate the flow across the first year and combine this with the existing stock. Every year after year one we expect there to be around 940,000 workers in scope of the policy across the full year.

75. ***Table 1*** sets out the total number of workers in scope in year one (those currently on these forms of contract, and our estimate of the flow of new workers in the first year) and our assumption on how many would be in scope in future years. As a result of the policy design, firms will be obliged to offer all qualifying workers a contract guaranteeing the same number of hours worked (regularly) during the reference period, as well as reviewing these terms in accordance with the terms of a subsequent reference period.

**Table 1: Summary of how many switches to guaranteed hours will be offered by employers**

| Types of workers | Initial Year of Policy | | | Subsequent Years of Policy | | |
|---|---|---|---|---|---|---|
| | Low | Mid | High | Low | Mid | High |
| Zero-hour contract workers | 1,330,000 | 1,380,000 | 1,400,000 | 400,000 | 470,000 | 490,000 |
| Variable-hour (low-hour) workers | 690,000 | 720,000 | 760,000 | 100,000 | 150,000 | 200,000 |
| Agency workers | 950,000 | 1,000,000 | 1,070,000 | 250,000 | 320,000 | 410,000 |
| **All in scope** | **2,970,000** | **3,110,000** | **3,230,000** | **750,000** | **940,000** | **1,100,000** |

76. Whilst the Bill will provide powers for the Secretary of State to define carve outs where a regular-hours offer is not required and therefore employers would not be required to extend this offer to specific individuals, in practice it is not anticipated that this would be extensive so as not to undermine the policy intent. As such, we use an indicative estimate between 0-10% of the total population in scope may be covered by some exemption – this is a highly uncertain assumption used to estimate provisions such as emergency cover.

77. In terms of the time taken to track and verify a regular hour contract we again use the PW IA as a starting point, which assumes that it would take approximately 1-2 hours to review each formal PW request[26]. Given that the right to guaranteed hours differs in that the obligation is placed on the employer, we anticipate that there will not be a burden regarding determining the validity of a request in the same way, and considering many of these workers would have their working time tracked since they are being paid by the hour, we anticipate that the total time taken to 'track' and verify hours, and formalise these contracts is around 1 hour per qualifying worker. This is also consistent with survey evidence from the 2023 WTR IA, which applied a similar amount of time it would take to record and verify working hours. We also assume that this time would be the same for the initial assessment after the initial reference period (anticipated to be 12-weeks) and the subsequent reference period(s). Given that the Secretary of State may require that the offer suggests a specific pattern of work after the reference period, we include a high estimate of two hours per worker to account for the increased administrative time needed to determine the contract. A low estimate of 30 minutes is also included.

[26] This is used because we assume that the process by which a contract is formalised and presented to the worker will be similar.

**Box 1: Calculation of procedural costs associated with policy**

$$Procedural\ cost = [N_P \times UC_T] + [N_F \times UC_F]$$

Where:

$\mathbf{N_P}$ is the number of workers firms will track the hours for and determine eligibility for the right

$\mathbf{UC_T}$ is the unit cost associated with this tracking process, defined as the wage multiplied by the time taken for the worker involved

$\mathbf{N_F}$ is the number of workers who will be in scope of the right after determining eligibility

$\mathbf{UC_F}$ is the unit cost associated with this formalising process, defined as the wage multiplied by the time taken for the worker involved

78. As part of the design of this policy, there will be an obligation for employers to review all qualifying workers' entitlement to receive guaranteed hours again after a reasonable period of time to be set out in regulation (assumed to be a year in this IA). This would capture workers who were out of scope after the initial reference period (anticipated to be 12 weeks) but whose circumstances have changed. It would also include workers who are offered guaranteed hours initially but turn it down, and those who moved onto guaranteed hours after the twelve-week reference period, but which did not quite reach the low-hours threshold. To estimate the number of workers who would take up the offer of guaranteed hours, we follow the PW IA. We assume that for zero-hour contract workers, those who indicate that zero-hour contracts suit their needs not at all well or not well (21% of those) will take up a guaranteed hour contract.[27] Likewise, for agency and variable hour workers, we use the Skills and Employment Survey of those workers who were 'anxious or very anxious' (18%) about changing shifts as a proxy for those who will want to move onto a guaranteed hour contract. We assume that there will be natural attrition from these roles, with 2024 analysis by CIPD[28] of the Annual Survey of Hours and Earnings (ASHE) suggesting that the average job turnover for workers is 34%, with this ranging between 24.5% (public administration & defence) 52.2% (accommodation and food services) depending on the industry. This range is used as the rate at which people leave their jobs before the review date.

79. The ongoing cost of tracking worker hours and formalising contracts after the reference period, which is calculated as per the formula in ***Box 1*** is therefore estimated to be between £50 million & £210 million (central: £100 million) for the existing stock of workers in scope with 9 months of flow for the first year of the policy and between £10 million & £70 million (central: £30 million) for the flow in future years. The difference between these estimates is driven by the scope of the number of workers in each scenario, and by varying the time taken by employers to complete these processes after consulting with stakeholders. The ongoing costs to business of formally tracking and formalising these contracts in the central scenario by business size are outlined below in ***Table 2***.

80. The ongoing cost of tracking worker hours and formalising contracts for the subsequent reference period, which this analysis assumes is approximately 12 months after the original contract is offered, is estimated to be between £20 million and £160 million (central: £60

[27] This is a much lower estimate than recent TUC polling, but is in keeping with other estimates of dissatisfaction with zero-hour contracts among workers.
[28] Benchmarking employee turnover: What are the latest trends and insights, CIPD, 2024

million) for the first cohort and between £10 million and £50 million (central: £20 million) in future years. As the details around this subsequent reference period will be set out in secondary legislation, these estimates are based around an assumption of this reference period occurring around a year after the initial offer. Depending upon the details of the legislation, this may under or over-estimate the scope and impact of this subsequent reference period.

**Table 2: Summary of costs of tracking, verifying and formalising contracts for each cohort, by business size**

| | First Year – Initial (Assumed 12 Weeks) Reference Period | First Year – Subsequent Reference Period | Subsequent Years – Initial (Assumed 12 Weeks) Reference Period | Subsequent Years – Subsequent Reference Period |
|---|---|---|---|---|
| Small & Micro | £50 million | £30 million | £20 million | £10 million |
| Medium | £30 million | £20 million | £10 million | £5 million |
| Large | £20 million | £10 million | £5 million | £5 million |
| All | £100 million | £60 million | £30 million | £20 million |

81. Because firms will be obliged to offer their employees guaranteed hours, after the assumed 12 weeks of employing a worker on a variable-hours contract, they will therefore incur costs associated with workforce planning from this policy (assuming workers accept the offer). This is because firms who previously employed variable-hour (and most prominently, zero-hour) contract workers may previously have given little to no notice of shifts, however they will now be obligated to guarantee shifts for workers and will therefore have to plan out their obligated shifts against the shifts they have to offer. This process and monetised cost partially capture the costs of lower flexibility to employers.

82. 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[29] [30], alongside survey evidence on how many firms using variable contract workers would alter their use of them should a right to guaranteed hours be introduced[31]. Using information gathered from stakeholders, we assume that businesses would take on average around 15 minutes per week to ensure the process by which they allocated their shifts considered their new obligations. For some businesses, we appreciate this may be more burdensome and as such we conduct a sensitivity analysis using 30 minutes per week. The methodology used to calculate these workforce planning costs is outlined in ***Box 2***. We estimate that firms will incur costs of between £140 million and £380 million (central: £160 million). These estimates are indicative, and we will test these with stakeholders during intended consultation.

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[29] Addressing Unfair Flexible Working Practices, One-Sided Flexibility Consultation Impact Assessment, Department for Business, Energy and Industrial Strategy, 2019

[30] We use this because this methodology sets out an idea of how long firms would take to reconsider how they plan their work going forwards, this will likely also be incurred by businesses who are aiming to comply with this legislation as they will lose some of the flexibility of having a workforce with no guaranteed hours and will thus be required to put more planning into the shifts they provide.

[31] 'Firm Foundations', Resolution Foundation, 2024

**Box 2: Calculation of workforce planning costs associated with policy**

$$Cost\ of\ Workforce\ Planning = [N\ \times\ Nf\ \times\ Chg\ \times UC_F]$$

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

**Chg** is the proportion of businesses in the UK who have indicated that they would adapt their use of variable hour workers if legislation on a right to guarantee hours was brought in

**$UC_F$** 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

83. Based on these administrative impacts to business, the overall Equivalent Annual Net Direct Cost to Business (EANDCB) is expected to be around £230 million. When considering the impact over a 10-year appraisal period, discounting future years at a rate of 3.5% per annum as per HMT Green Book Guidance, the estimated total cost to business of this new right is estimated at between -£1.5 billion and -£4.7 billion (central: -£2.0 billion). While we acknowledge that this is a large range, this uncertainty is inherent due to the nature of much of this policy being decided in secondary legislation after intended consultation, and the high/low estimates reflect the extremes of policy design around the workers in scope of the policy and potential business reaction in respect to setting up and carrying out the process by which the regular contract will be calculated and offered, which again will depend upon the scope of the policy. These estimates do not include the costs associated with the loss of flexibility, which are expected to be sizeable but are unmonetized.

84. Of the total population in scope of 2.4 million, around 900,000 (approximately 140,000 are also identified as being on zero-hour contract and so are counted in that group initially in our analysis so as not to duplicate costs) of these are identified to be agency workers and these account for approximately 37% of the total costs as estimated. These workers differ from the other workers in scope because there is often at least one other party in the employment relationship (the agency). These workers are also covered by other forms of employment rights than the zero or low-hour workers in the policy, such as the Agency Workers Regulations. The detail of how this policy will be applied to agency workers and which agency workers will and won't be in scope of the policy is not set out in the Bill and will be determined at a later stage. As such, the businesses which will be affected by and bear the cost of this new regulation will depend on this detail. These could be incurred by either the agency itself or by the direct engager/hirer of the agency worker. Likewise, the mechanism of how this policy applies to agency workers is likely to differ to how it applies to zero or low hour directly engaged workers.

85. It should be emphasised that the direct cost to business of the legislation will depend on how many workers are in scope (both in terms of the types of contracts covered and any exemptions), what the rejection rate for workers is of when offered guaranteed hours at the anticipated 12 weeks. Our ranges show that the impact is particularly sensitive to which workers are included in scope of the policy. Much of this detail will be determined after intended consultation and laid out in secondary legislation, and so this IA makes assumptions based upon a range of possible options. As such, there are several reasons why our modelling could lead to us over-stating the impacts of the policy:

a. As a result of the increased costs associated with variable hour contracts in scope of this policy, this could prompt wider cultural change or change incentives for firms whereby employers voluntarily offer a more predictable working pattern or contracts with more guaranteed hours as a default to both new and existing workers. It may be possible that workers and firms agree to changes in terms and conditions outside of the statutory obligation for firms to offer a new contract, reducing the costs associated with the regulatory change.

b. It is assumed that workers on zero-hours contracts, low-hours contracts and agency workers are generally more mobile than regular employees, meaning that our analysis assumes that workers will move and subsequently meet the assumed 12-week reference period potentially multiple times. It is possible that by moving towards guaranteed hours may mean that these workers become less mobile and therefore the population in scope in future years will reduce, decreasing the cost to business.

c. The ongoing costs of this policy are estimated to be based on the number of workers on variable hours contracts as of March 2024. There is a chance that as a result of this policy (either its implementation or its announcement), that employers will incorporate more predictable, guaranteed hour contracts in their business models, and therefore the number of people on these contracts to begin with will decline over time and as such will reduce the direct cost of this regulatory change on businesses.

d. We assume that for zero-hour contract workers, those who indicate that zero-hour contracts suit their needs not at all well or not well (21% of those) will take up a guaranteed hour contract. Likewise, for agency and variable hour workers, we use the Skills and Employment Survey of those workers who were ‘anxious or very anxious’ (18%) about changing shifts as a proxy for those who will want to move onto a guaranteed hour contract. If all these workers who accept the guaranteed hour contract move above the ‘low hour’ threshold which will be set out in due course, they will fall outside of scope of further administrative burden of the policy in respect to tracking hours and formalising working arrangements.

e. This policy will interact with the right to advance notice of shifts and shift changes, alongside payment where sufficient notice of cancellations is not given. To comply with this policy, we expect there to be workforce planning and procedural costs with setting up systems to track and forecast hours. As such, there may be duplication of costs across this IA and the IA related to the right to reasonable notice of shifts and payment for shifts cancelled, moved or curtailed at short notice[32] where in reality they may only incur the costs of setting these systems up or planning out shifts once for both policies.

## Monetised Costs and benefits to households’ calculations

86. We have not calculated Equivalent Annual Net Direct Costs to Households as none of the benefits to workers are directly quantifiable. This is because much 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 via revealed preference. While there is evidence linking job security and quality of work to wellbeing, there is not robust evidence directly linking having guaranteed hours to wellbeing impacts. Therefore, 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. However, we believe these benefits would be significant for those workers who face detriment due to one-side flexibility, as laid out in paragraphs 100 to 112.

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

# Non-Monetised Costs & Benefits

## Non-Monetised Costs

87. The main non-monetizable 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. These costs to flexibility are partially captured through the additional workforce planning process outlined in paragraph 81, however we expect there will be further costs, particularly around firms' abilities to flex their workforce in the face of variable demand. We are keen to work with stakeholders to better evidence the impacts on flexibility that we have not yet been able to quantify.

88. Unlike the Workers (Predictable terms and conditions) Act 2023[33], this legislative change creates an obligation for employers to offer qualifying workers guaranteed hours reflective of the hours worked during the reference period and that offer must be made after an initial reference period anticipated to be 12 weeks but to be set out in regulations. There will be provisions for regulations to be made to required that the hours offered also provide for a time, day of work or working pattern, reflective the hours worked during the reference period.

89. In general, firms value flexibility as it allows them to make changes to their workforce easily and have more flexible control over their wages and therefore their bottom line. This flexibility has been seen as particularly important over the past few years as a result of growing unpredictability of the business environment (Kalleberg, 2018)[34]. Challenged to foresee staffing requirements even in the short term, firms have embraced different HR practices, allowing them to adjust their staff more flexibly to changing demands over time.

90. Employers therefore choose to use variable forms of contract to allow them to quickly adapt to these changing demands, and such that they have fewer medium to long term cost obligations in their workforce. Zero-hour and low-hour contracts 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[35].

91. 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[36] suggests that 64% of employers who made use of zero-hour contracts suggested one of the key reasons for doing so was to manage fluctuating demand.

92. This is particularly important for employers where demand varies seasonally. In April 2024 the Resolution Foundation released a report[37] containing survey data from 750 firms in the UK in April 2024. This report suggests that one-quarter of employers who use 'flexible'[38] forms of contract face seasonal demand, with a similar share (22%) suggesting that they experience 'uncertain' demand.

93. 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

[33] Workers (Predictable Terms and Conditions) Act, 2023
[34] 'Precarious Lives: Job Insecurity and Well-being in Rich Democracies', Kalleberg (2018)
[35] 'Choices, choices', Resolution Foundation 2018
[36] Zero Hours Contracts, Evolution & Current Status, CIPD 2022
[37] 'Firm Foundations', Resolution Foundation, 2024
[38] A similar definition is used to the contracts included in scope of this policy, although the Resolution Foundation group is more exhaustive.

contracts, while a lower share (15%) report moving their staff onto variable contracts as an alternative to redundancy when their demand fell.

94. Some firms use flexible contracts in response to labour market conditions, with one sixth (18%) of respondents saying that they find it easier to hire workers on flexible contracts than those on other contract types. Similarly, many firms in low wage sectors report using these forms of contract as a buffer reaction to increases in the National Minimum Wage (NMW) 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[39] 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.

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

96. Together this shows that there is a multitude of reasons why firms will use variable forms of contract for at least a portion of their workforce. An obligation for firms to provide guaranteed hours after a reference period will detract from the flexibility of these forms of contract in the first place and may make firms hesitant to employ people or provide hours at the risk of having to guarantee these going forwards.

97. The same report found that almost two-thirds of firms said that policy changes, including if workers had a right to a fixed number of hours, would cause firms to reduce their use of flexible contract types. This has the potential to be problematic, as flexible working arrangements are a particularly valuable tool in increasing workforce participation among groups at risk of economic inactivity, such as older workers and parents of young children, and a reduction of firms offering these forms of contract could leave these workers excluded from the labour market.

98. Together this shows that there is a multitude of reasons why firms will use variable forms of contract for at least a portion of their workforce. An obligation for firms to provide guaranteed hours after a reference period will detract from the flexibility of these forms of contract in the first place and may make firms hesitant to employ people or provide hours at the risk of having to guarantee these going forwards.

99. Another business group who would face higher costs as a result of these changes are expected to be employment agencies, who are the third party in employment relationships involving agency workers. It is likely that this legislation will lead to increased administrative processes for employment agencies, depending on the scope to which the regulation is applied to these workers. Analysis of the LFS suggests that there are around 140,000 workers who identify as being employed through an agency and are also on a zero-hour contract. Overall, it is estimated that the model of employment agencies makes up approximately 2% of GDP in the UK[40]. How the right will apply and to which agency workers is not yet clear at this stage. We will provide further analysis of this alongside the relevant policy documents where necessary.

[39] A Response to Government on One-Sided Flexibility, LPC 2019
[40] UK Recruitment Industry Status Report, Recruitment & Employment Confederation, December 2023

## Non-Monetised Benefits

100. The main aim of this policy is to rebalance the power dynamic between workers and firms where one-sided flexibility is leading to detriment for workers.

101. As such, much of the benefit of this policy will be increased wellbeing for workers on such contracts, by reducing the negative effects of pay insecurity, unpredictability and the inability to assert rights. There is a wealth of evidence that links insecure and variable contracts to negative impacts on some workers. This is laid out below but given the difficulty in quantifying these less tangible impacts, they are not monetised.

102. 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[41], with a range of negative phenomena such as anxiety around unfair treatment, lower pay and greater anxiety about 'downgrading'[42]. The Skills and Employment Survey (2017)[43] estimated that around 2 million people were 'very anxious' that their working hours could change unexpectedly.

103. Within the 2024 Resolution Foundation report, firms stated that flexible working arrangements also lowered their responsibility for non-wage benefits such as sick pay or maternity or paternity pay (13%); or training and development costs (10%). Those firms who used flexible contracts regularly were around 10 percentage points more likely to report these motivations for using them than lower use firms. It is therefore clear that in certain cases, workers on these contracts face less favourable terms and conditions than those in more permanent forms of employment.

104. Several studies[44] 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)[45] 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.

105. This finding is reflected in the level of underemployment present in these forms of contract. For variable hour workers the level of underemployment is at 16%, compared to 6.5% among those in more standard forms of employment. Underemployment for those on zero-hour contracts specifically is 23%[46].

106. Research by Smith and McBride (2022) 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)[47] 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. This can cause issues for workers to get access to finance, or access markets which need a regular and predictable income, such as access to private renting or mortgages.

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[41] Zero Hours Contracts, ReWage Policy Brief, Dix and others, 2023
[42] Downgrading in this circumstance refers to the reduction of a worker's job level, position or pay grade within an organisation.
[43] Skills and Employment Survey, Cardiff University, 2017
[44] Rubery and Grimshaw (2014) op. cit.; McBride and Smith (2021) op. cit.; Smith and McBride (2022) op. cit.
[45] 'Non-Standard Contracts and the National Living Wage: A Report for the Low Pay Commission', Moore and others, 2017
[46] DBT Analysis of LFS microdata, January-March 2024
[47] Walking on thin ice: the cost of financial insecurity, Citizens Advice, 2018

107. Similarly, while variable contracts such as zero-hour contracts clearly provide valuable flexibility for some workers on them, several studies conclude that sections of zero-hour contract workers report ‘constrained choice’, in that they have no job alternatives, limited access to part-time working that fits with caring responsibilities or little or no additional financial or social support. Trade Union Congress (TUC) (2021)[48] polling showed that almost half of respondents (45%) said that the most important reason people take zero-hour contracts is that it is the only work available, with a further 16% suggesting that zero-hour contracts were commonplace in their line of work. More recent polling by the TUC (2024)[49], suggested that as many as 84% of zero-hour contract workers polled want regular hours of work, compared to around 14% who don’t. Similarly, Work Foundation (2023)[50] polling found that around 32% of those in ‘insecure work’[51] felt that they had limited job choice when they selected their job. The Resolution Foundation found that two thirds of low paid workers in 2010/11 failed to escape by 2019 and many workers cycle between low-pay and unemployment.[52] This implies that many on zero-hour contracts end up ‘stuck’ in these forms of work which provide little security and little opportunity to move towards a more secure working pattern.

108. Specifically, zero-hour contracts can have long-term scarring effects on the labour market outcomes of young people, even for student workers. Youth labour markets have become increasingly insecure in the last few decades. Evidence suggests that existing personal insecurity, reinforced by limited state protection, inexperience and socio-economic background is intensified by the addition of job insecurity featuring transactional employment relations and a disbalance of power between worker and employer. Drawing on 35 semi-structured interviews, the evidence suggested zero-hour contracts structurally entrench insecurity in the lives of student-workers, lowering aspirations and hindering the prospects of social mobility (Rydzik & Bal, 2023)[53].

109. Studies have demonstrated a link between health and wellbeing and job satisfaction in the workplace[54]. 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.

110. 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)[55] 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.

111. It is therefore unsurprising that research finds 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[56]. Work Foundation (2023)[57] 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

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[48] Trade Union Congress, 2024
[49] Trade Union Congress, 2024
[50] Limiting Choices: Why People Risk Insecure Work, Work Foundation, 2023
[51] This definition includes all zero-hour, variable-hour and pay and temporary work.
[52] The Great Escape? Low pay and progression in the UK’s labour market, Resolution Foundation, 2017
[53] ‘The Age of Insecuritisation: Insecure Young Workers in Insecure Jobs Facing an Insecure Future’, Rydzik & Bal, 2023
[54] Work Related Well-Being is Associated with Individual Subjective Well-Being, Ray, 2022
[55] Job Flexibility, Job Security and Mental Health Among US Working Adults, Wang and others, 2024
[56] Zero Hours Contracts, ReWage Policy Brief, Dix and others, 2023
[57] ‘Zero Choices: Swapping Zero-Hour Contracts for Secure, Flexible Working’, Work Foundation, 2023

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.

112. Three studies[58] explored whether uncertainty surrounding working hours was a factor leading to mental health difficulties for workers on these forms of contracts. Qualitative interviews found that uncertainty over working hours was often stated by participants as a factor that had a significant negative impact on their mental health, most notably because of the effect on their ability to plan their lives, particularly their social and family lives.

### Benefits to employers and wider economy

113. Beyond the benefits to workers themselves, Option 1 could also lead to benefits to employers and the wider economy. Firstly, outlined in the Summary IA, the literature indicates a positive relationship between wellbeing, engagement at work, firm performance and productivity. Similarly, it has been found that more casual forms of employment can have a negative impact on productivity[59], since 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. For example, Bosworth and Warhurst (2020)[60] found that job insecurity negatively impacts labour productivity, with Lisi (2013)[61] finding that a 10% increase in the use of temporary employment leads to a 2%-3% decrease in labour productivity. Blanchard and Landier (2002)[62] argued that this is because the lower costs on fixed-term contracts may induce firms to design routine, low productivity jobs, which they can fill using fixed term contracts.

114. Secondly, it is likely that this, along with the right to advance notice of shifts and shift cancellation and payment for late notice 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[63].

115. Providing the obligation to offer a more formalised contract may increase incentives for workers to stay with their employer for longer, in turn incentivising the employers to invest more in their workers which could lead to productivity improvements.[64]

116. 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 enables us to quantify the impact that a right to guaranteed hours will have on productivity. Ultimately, the impact on productivity will depend on the interplay between better employee wellbeing, better workforce planning and the inefficiencies produced where employers are

[58] Unpredictable times: the extent, characteristics and correlates of insecure hours of work in Britain.; Falstead and others, 2020; Gig workers during the COVID-19 crisis in France, financial precarity and mental well-being, Apouey and others, 2020; An Investigation on the Widespread Use of Zero Hours Contracts in the UK and the Impact on Workers, Gheyoh 2021
[59] Good Jobs for All in a Changing World of Work, The OECD Jobs Strategy, 2018
[60] Does good work have a positive effect on productivity?, Bosworth and Warhurst, 2020
[61] "The Impact of Temporary Employment on Labour Productivity: Evidence from an Industry-Level Panel of EU Countries"., Lisi, 2009
[62] The Perverse Effects of Partial Labour Market Reform: Fixed-Term Contracts in France., Blanchard and Landier, 2002.
[63] A Response to Government on One-Sided Flexibility, LPC 2019
[64] 'Why do Wages Increase with Tenure? On-the-Job Training and Life-Cycle Wage Growth Observed Within Firms', Brown, 1989

less able to flex working hours to meet variable labour demand. This is a topic we intend to explore further as policy development continues.

# Wider Impacts

### Equalities Assessment

117. 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 qualifying workers by providing a mechanism by which workers can move towards a contract with guaranteed hours reflecting the hours they previously worked, and further regulations may require that the offer also provides for the time and days or a work pattern, which reflect the hours worked during the reference period. This will give the workers the right to accept or reject the offer of guaranteed hours, meaning that workers will be able to choose the arrangements which suit them better, leading to higher job satisfaction.

118. 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 all those in employment. 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.

### Regional Impacts

119. 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 3*** breaks down the number of individuals on zero-hour contracts by region and country within the UK.

**Table 3: Employment of individuals in scope of this policy by region and UK country**

| Country or 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

120. Guidance from the Regulation Directorate 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, alongside the potential to absorb flexibility impacts, we anticipate that there will be a slight disproportionate impact on SMEs. ***Table 4*** breaks down the proportion of firms by size who employ any workers on these variable forms of contract.

**Table 4: Employment of workers on variable contracts, by firm size[65]**

| 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 |

121. 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.

[65] 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.

122. 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.

123. 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.

124. 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

125. The UK's flexible labour market, or its ability to match labour supply and demand and thereby maintain low unemployment[66], 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.

126. Through this legislation, and similarly the rights to reasonable notice of shifts and payments for late cancellation or curtailment, there will be more rules governing these variable forms of work, which may cause frictions for employers to adjust labour costs in in the face of variable demand as they will be less able to adjust their total workforce's hours in times of low demand. 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.

127. However, the primary aim of this policy is around ensuring that workers who are already working regularly are able to access a contract which formalises and guarantees this going forwards, giving certainty to workers around their future income. It is likely that either many firms in the economy are already doing this outside of a statutory requirement, or it would create minimal difference to them to abide by the requirements. This measure will level the playing field for those employers who are already operating in line with the new statutory requirement.

128. As outlined previously, several countries within Europe and further afield have implemented policies which either ban or severely restrict the use of zero-hour contracts and have similar policy objectives to those outlined for this policy. This suggests that any relative difference on this matter, across some countries, may be negligible.

129. Similarly, there is a link in the literature between job quality, wellbeing and productivity. As such, there is a chance 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

130. We expect there to be some impact on the employment tribunal system as a result of the right to guaranteed hours, particularly as there will be a reliance on the tribunal system to

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

provide the 'bite' to ensure that workers who are eligible are provided with a guaranteed hours offer in accordance with the duty on employers to do so.

131. As this is a new right which does 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 this new right. The assessed impact of right to regular contract on the enforcement system is based on the frequency of cases within the Jurisdictions of, Part time worker regulations and written statement of terms and conditions. These jurisdictions represented 2.5% 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 a slight increase in cases.

132. We will continue to work with the Ministry of Justice to further understand the impact that these provisions will have on the employment tribunal system.

### Trade implications

133. As set out in the Better Regulation Framework guidance, all Impact Assessments must consider whether the policy measures are likely to impact on international trade and investment.

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

135. From an economic standpoint, the right to guaranteed hours will predominantly affect workers in sectors such as retail, hospitality, health and social care, which are not typically traded.

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

137. 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

138. The regulatory changes are not anticipated to have any impact on the environment or wider Governmental environmental objectives.

# Risks and assumptions

### Failing to meet policy objectives

139. It is possible that businesses could respond to the policy in a way that undermines the policy objectives. This risk is particularly present where firms are able to respond to an obligation to provide workers with guaranteed hours by moving towards using workers who are not in scope of the policy but are still likely to cause the same issues in the market as the contracts in scope of the policy. This avoidance behaviour has been considered by policy design (by including low-hours workers and potentially some agency workers), however the size of this risk will depend on further policy development which is currently to be confirmed.

## Employment Risks

140. 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 some firms choose to use variable contracts because they are cheaper, in turn they may choose to stop offering these roles more generally, which can be the only roles which these 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. The size of employment risks will be dependent upon the detail of the policy, much of which will be set out in secondary legislation after consultation. Overall, however, we expect this effect to be relatively small as after the reference period (anticipated to be a 12-week initial reference period), this will be more about formalising the working hours that the worker is already working, and possibly the working pattern if required under regulations. By making it a choice of the worker as to whether to accept or reject the guaranteed hours offer, we aim to maintain the flexibility for workers.

## Assumptions

141. The analysis included in this IA makes a number of assumptions around the policy design, including the number of people in scope of the policy and the potential necessity of different business reactions to this policy, depending on the extent of the policy detail. These have been developed where possible using stakeholder evidence and using external research to determine how and why these assumptions are made. Where evidence is less clear, particularly around policy design, we have used proxies for how the policy could be designed and how businesses could react. We include sensitivity analysis to account for this uncertainty and flex the assumptions accordingly. We will use future intended consultations to test and develop our assumptions going forwards.