

Final stage impact assessment

Title: Dismissal for failing to agree to variation of contract, etc (Fire and Rehire)

Type of measure: Primary Legislation

Department or agency: Department for Business and Trade

IA number: DBT-032-24-CMRR

RPC reference number: ...

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1. Summary of proposal

1. The policy will ensure that employers can only use the practice of fire and rehire if they can demonstrate that they were facing financial difficulties that threatened their viability, and that changing the employee's contract was unavoidable (e.g. it was the only way to prevent insolvency).
2. In addition, the Bill will specify factors which the Employment Tribunal must consider when deciding if the dismissal and re-engagement has been fair, namely whether the employer has consulted with the employee and any relevant trade union or employee representatives on the proposed contractual changes and whether the employer offered the employee anything in return for agreeing to a variation.

2. Strategic case for proposed regulation

3. Employers may sometimes propose changes to employees' contracts of employment. If employees do not agree to some or all of the contractual changes proposed by the employer, the employer may dismiss employees, before either offering to re-engage them, or offering to engage other employees, in substantively the same roles, in order to effect the changes. This is referred to as "fire and rehire". Employers may also sometimes dismiss employees and then hire a new employee to do the same role but with a varied contract of employment, this is referred to as 'fire and replace'. In the rest of this document both situations of fire and rehire and fire and replace will come under the term 'fire and rehire'. Currently employers can use fire and rehire where they have a sound business reason for seeking to change a contract of employment. This may include responding to economic changes, changing working practices or harmonising terms and conditions.

4. Acas conducted a fact-finding exercise with stakeholders to better understand the practice, its use and impact¹. The findings of this exercise were published in June 2021 reporting:
 - The practice was not a new phenomenon but had become more prevalent in the pandemic.
 - The practice was increasingly used as a pressure tactic in the early stages of negotiations.
 - While much of the attention on dismissal and re-engagement was driven by high-profile cases involving large employers and unionised workforces, its use was more widespread across a range of sectors, business sizes and across unionised and non-unionised workforces.
 - It is used as a practice for a range of circumstances and reasons such as:
 - redundancy scenarios, both to minimise redundancies by cutting pay roll costs, and to enable the maximum reduction in head count by for example changes to the working hours for remaining staff;
 - harmonising terms and conditions between staff;
 - introducing flexibility into contracts;
 - interrupting continuity of service; and
 - negotiations around organisational responses to changes in consumer behaviour, sectoral change or changing operational needs.
5. The previous Government developed a Code of Practice on fire and rehire, but did not change the law. The new measure in the Employment Rights Bill will restrict employers' ability to use fire and rehire by amending the law on unfair dismissal. Where employees are dismissed for failing to agree to a change in their terms and conditions, or where employees are dismissed for the employer to hire someone else in the same role on a varied contract, these dismissals will be treated as automatically unfair unless the employer meets the narrow exception for financial difficulties in the new section 104I(4).

Rationale for intervention

6. The government intervenes in the labour market to extend employment rights for efficiency and equity reasons. A well-functioning labour market, which provides necessary rights and protections, provides employees with high quality jobs whilst also empowering business to operate competitively.
7. From an economic theory perspective, the practice of fire and rehire and the threat of its use provide undue bargaining power to the employer in employer-employee relationships. The threat of fire and rehire is often enough to ensure employees agree to lower pay and reduced terms and conditions. In addition to the strong equity reason for intervention, there is an efficiency argument. Power asymmetry in bargaining can create quasi-rents that the more powerful party can capture. This power asymmetry can therefore incentivise the more powerful player to act strategically, which can lead to a less optimal outcome socially. In other words, the option of fire and rehire could incentivise businesses in general to pay less or provide lesser employment terms and conditions to employees (allocative inefficiency). In turn, this can lead to less optimal outcomes for society (e.g. lower standards of living, health, wellbeing).
8. The Government does not think the current laws and Statutory Code of Practice on dismissal and re-engagement strike the right balance between protections for employees and flexibility for employers to restructure where they genuinely have no alternative. While the Statutory Code of Practice on dismissal and re-engagement aims to make fire and rehire a last resort, the current legal framework allows it to be used when an employer has a sound business reason for

¹ Acas (2021), [‘Dismissal and re-engagement \(fire-and-rehire\): a fact-finding exercise’](#)

seeking to change a contract of employment. This can include responding to economic changes, amending working practices, or harmonising terms and conditions.

9. The policy aim is to significantly reduce the use of fire and rehire by ensuring that such dismissals will only be permitted when the employer meets the narrow exception for financial difficulties in the new section 104I(4). The aim is to only allow fire and rehire in these very narrow circumstances, rather than banning them outright, to avoid perverse consequences such as an increase in employee redundancies and/or business insolvencies.

Impact of no intervention

10. Lack of intervention would keep the door open to continued use of this practice. The evidence on the prevalence of the practice of fire and rehire is limited, data from a survey suggests that 12,200 businesses might engage in the practice of fire and rehire each year (<1% of employers).
11. To note, these estimates are uncertain. We will continue to build further evidence and engage stakeholders to refine these estimates.

3. SMART objectives for intervention

12. The objectives of the policy are to end fire and rehire except where the employer meets the narrow exception for financial difficulties in the new section 104I(4) and to ensure any occurrence follows a fair process based on dialogue and common understanding between employers and employees.

13. The intended outcomes are to (i) reduce the occurrence of fire and rehire; (ii) ensure any occurrence of fire and rehire follows proper consultation process with relevant parties.

14. SMART objectives

- A reduction in the number of employers engaging in, or threatening to engage in, the practice of fire and rehire each year.
- A reduction in the number of employees affected by or threatened by the practice of fire and rehire each year.
- An increase in the proportion of fire and rehire cases in which employers engaged in meaningful consultation with employees.

Link to growth

15. This policy would safeguard better pay and terms for employees. As laid out in the Summary IA, there is a relationship between job satisfaction, pay and productivity. The efficiency wages theory suggests that when workers feel valued and are satisfied with their jobs, they are expected to become more engaged and committed to their place of work and therefore work more efficiently. This efficiency is seen to drive higher productivity and in turn can increase business output and economic growth. In addition, low pay and income insecurity may reduce consumption of those employees and provide insufficient incentives for engagement and effort.
16. Businesses can react to higher labour costs in several ways. Businesses may look to absorb these costs by cutting expenditures elsewhere such as business investment. They may also look to pass on costs to consumers in the form of higher prices. These reactions would be

detrimental to economic growth. On the flipside, some business reactions could be pro-growth, for example by generating efficiencies.

17. There is no specific evidence linking fire and rehire to economic growth.

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

18. The preferred option would prevent the use of fire and rehire, with the exception of circumstances where the employer meets the narrow exception for financial difficulties in the new section 104I(4). This should directly reduce the fire and rehire occurrences.

Theory of change

19. **Input:** Primary legislation.

20. **Outputs:**

- Fire and rehire cases due to severe financial pressures are permitted, but they are prohibited (i.e., will be considered to be an unfair dismissal) for any other reason.
- Any employer who wishes to use fire and rehire must demonstrate that there were in financial difficulties threatening their business and that they could not avoid the need to change the employee's employment contract. The employer should have followed a fair and transparent process, including meaningful engagement with employees, and trade unions or other employee representatives.

21. **Outcomes:**

- A reduction in the number of employers engaging in, or threatening to engage in, the practice of fire and rehire each year.
- A reduction in the number of employees affected by or threatened by the practice of fire and rehire each year.
- An increase in the proportion of fire and rehire cases which had sufficient/adequate consultation.
- Any fire and rehire case to be deemed unfair dismissal where the employer does not meet the narrow exception for financial difficulties in new section 104I(4).

22. **Impact:**

- Increase in job and income security.
- Fairer employer-employee relations and bargaining.

5. Summary of long-list and alternatives

23. This proposal is part of a broader package of policies aimed at strengthening employment rights and protections in the UK labour market. The Government is committed to ending unscrupulous fire and rehire tactics. As noted above, the non-regulatory option of a Code of Practice has already been introduced.

- a. **Ban fire and rehire with no exemption:** A full ban for employers to use fire and rehire practices even if they had no other reasonable economic alternative. This option would likely lead to a significant increase in redundancies, as employers may not have any other alternatives when they are facing economic difficulties. This may also risk pushing employers towards insolvency. This alternative was discarded because of these risks.
- b. **Strengthen the Code of Practice only:** The recently published Statutory Code of Practice on dismissal and re-engagement could be amended to discourage the use of fire and rehire unless there is no reasonable economic alternative. However, the Code would not change the current law that allows fire and rehire to be used where an employer has a sound business reason, thereby undermining the effectiveness of the policy in reducing fire and rehire practices. This option was therefore discarded to achieve the intended outcomes of this policy. Nevertheless, Make Work Pay committed to strengthening the Code of Practice in addition to amending the rules around fire and rehire. The Department for Business and Trade may therefore consider this as a complementary policy in future.
- c. **Do nothing:** Maintain the current legislation. Employers would be able to use fire and rehire if they have a sound business reason for seeking to change a contract of employment, including responding to economic changes, amending working practices, or harmonising terms and conditions. This alternative was discarded because it would continue to allow the use of fire and rehire in a broad range of scenarios.

6. Description of shortlisted policy options carried forward

24. The shortlisted option: **Prevent fire and rehire except where the employer meets the narrow exception for financial difficulties in the new section 104I(4)**

This is our preferred option. It restricts the ability of employers to use fire & rehire, thereby protecting employees from having their pay and employment terms forcibly amended. Simultaneously, it does not prevent employers from changing employees' contracts through fire and rehire if they can demonstrate that they were facing financial difficulties that threatened their viability, and that changing the employee's contract was unavoidable (e.g. it was the only way to prevent insolvency). This maintains a degree of flexibility for the business to adapt their labour input costs should they need to, thereby helping prevent additional job losses and possibly business insolvencies.

Small and Micro Business Assessment

25. The 2022 YouGov survey provides insight on the use of fire and rehire by business size – see table below. Overall, it finds little difference in the prevalence of fire and rehire by business size, although medium sized businesses are most likely to engage in the practice.

Table 1: Businesses engaging in fire and rehire by business size

	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
Proportion engaging in fire and rehire within group - per annum	0.6%	2.1%	2.3%	2.6%	3.0%	2.2%	1.6%
Businesses engaging in fire and rehire	6,736	4,530	557	319	117	45	29

26. The table below provides estimates of the number of workers currently affected by fire and rehire by business size. The evidence base section presents our method to estimate this. To note, these estimates are uncertain. They are calculated by weighting the minimum and maximum number of employees per business by survey evidence on the proportion of employees within businesses affected by fire and rehire. The best estimate is the mid-point of the minimum and maximum. The evidence base section provides further detail. **The Department for Business and Trade would welcome further evidence and input to refine these estimates.**

Table 2: Estimated number of workers currently affected by fire and rehire by business size

Rounded to the hundred	Total	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
Best estimate	178,000	15,300	66,500	10,300	24,000	12,600	13,700	35,800
Min	40,000	3,000	13,500	2,500	8,300	3,700	5,600	3,200
Max	317,000	27,600	119,600	18,100	39,700	21,500	21,700	68,500

27. Smaller businesses could be more exposed to the costs associated with this policy. They may have smaller profit margins and may be more constrained in their ability to raise prices. They do not benefit from the economies of scale that are possible within the largest businesses that could help them to offset costs. Lower reserves and lower levels of investment may mean there are barriers to investing in any productivity improvements that could help them to manage increased labour costs. As a result, the smallest businesses may be more likely to experience some of the potential negative consequences of higher labour costs, including lower profitability, having to reduce the number of paid hours, and potentially, market exit.

28. Exemption: The objective of the policy is to end fire and rehire except where the employer meets the narrow exception for financial difficulties in the new section 104I(4). While the smallest employers are those least likely to engage in the practice according to the YouGov survey, to exempt smaller businesses would cause this policy to fail its intended outcomes thereby leaving employees vulnerable to fire and rehire practices.

29. Mitigation: This policy permits fire and rehire in cases where the employer meets the narrow exception for financial difficulties in the new section 104I(4). Smaller businesses may be more likely to have no reasonable economic alternative and therefore for fire and rehire to be permitted. In addition, where an employer is able to show it meets the narrow exemption for

financial difficulties in the new s104I(4), the Employment Tribunal will consider all the circumstances, for example the size of the employer, before determining whether a dismissal was fair or not.

30. That noted, for the cases where fire and rehire is prevented, the impact on smaller businesses may be relatively larger because of the reasons outlined above. Nevertheless, the broader societal benefits of increased job security and fairness in the UK labour market justify the policy's scope.

7. Regulatory scorecard for preferred option

Part A: Overall and stakeholder impacts

(1) Overall impacts on total welfare		Directional rating
<p>Description of overall expected impact</p>	<p>On balance, we expect the net effect to society to be positive. By stopping pay and terms & conditions being cut for thousands of workers each year, households will benefit significantly. While the cash transfer nets out at a societal level, there will be additional wellbeing impacts and, since fire and rehire practises seem to happen more for more vulnerable workers (young, lower socio-economic groups, and ethnic minorities), stopping this practise will improve equality and fairness. We therefore assess that the policy will likely be positive overall.</p> <p>We expect this policy will have two effects.</p> <p>First, it would prevent the occurrence of fire and rehire unless the employer meets the narrow exception for financial difficulties in new section 104I(4). Under this condition, households benefit from higher wages and better terms & conditions compared to the do-nothing scenario. For businesses, preventing fire and rehire would increase labour costs – either due to better pay or better terms and conditions compared to the do-nothing scenario. This will be a direct transfer from employers to employees.</p> <p>The second effect is a possible unintended consequence of the policy. There may be a small risk of redundancies as an alternative means to reduce labour costs when fire and rehire is no longer permitted. For example, businesses may choose to make redundancies as an alternative to fire & rehire in instances of financial pressure where this pressure is not significant enough to meet the narrow exception for fire and rehire in new section 104I(4). Redundancies would generate a cost to households via a loss of income.</p> <p>To note, a small number of fire and rehire cases will still go ahead where employers can demonstrate that they</p>	<p>Positive</p>

	<p>were facing financial difficulties that threatened their viability, and that changing the employee’s contract was unavoidable (e.g. it was the only way to prevent insolvency). Since these cases also happen in the do-nothing scenario, they have no impact relative to our baseline.</p> <p>The evidence on fire and rehire is limited. This impact assessment therefore does not monetise impacts. The evidence base section provides illustrative analysis to understand possible effects and impacts. However, this impact assessment stops short of providing an NPV due to the scale of uncertainty.</p>	
Monetised impacts	<p>We lack data to robustly estimate the affected population. Furthermore, we lack information on practicalities and realities of fire and rehire. Because of this, we cannot robustly estimate the impacts of this policy.</p> <p>Please see the evidence base section for detail and discussion, including illustrative analysis.</p> <p>The policy would generate a transition cost. The impact is £0.4m in the year the policy is introduced.</p>	Uncertain
Non-monetised impacts	<p>This policy would result in costs to business from higher labour costs as a result of prevented fire and rehire.</p> <p>For households, preventing fire and rehire will generate benefits by improving wages and/or terms & conditions compared to the counterfactual and generating positive wellbeing effects.</p> <p>However, there may be costs to households if redundancies are generated as substitute to fire and rehire. Here, households would experience loss of income and negative wellbeing effects.</p> <p>The net effect to households is likely positive while that to business is likely negative.</p> <p>As above, we expect the net effect to society to be positive. While the cash transfer nets out at a societal level, there will be additional wellbeing impacts and, since fire and rehire practises seem to happen more for more vulnerable workers (young, lower socio-economic groups, and ethnic minorities), stopping this practise will improve equality and fairness. We therefore assess that the policy will likely be positive overall.</p>	Positive
Any significant or adverse	No – see further information below.	Neutral

distributional impacts?		
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(2) Expected impacts on businesses

Description of overall business impact	<p>This policy will prevent instances of fire and rehire unless the employer meets the narrow exception for financial difficulties in new section 104I(4). We estimate 12,200 businesses could engage in the practice each year (<1% of employers). As a result of this change, this population will be split into three – (i) those for whom fire & rehire is prevented, (ii) those for whom fire & rehire is still permitted, (iii) those who may make redundancies instead.</p> <p>Overall, we expect this policy to generate a net cost to business.</p>	Negative
Monetised impacts	<p>As above, we cannot estimate the impact of this policy due to lack of information. Please see the evidence base section for detail.</p> <p>There is also a transition cost. The impact is £0.4m in the year the policy is introduced.</p>	Negative
Non-monetised impacts	<p>The practice of fire and rehire permits employers to reduce labour costs. By reducing the practice, employers will pay higher labour costs compared to the counterfactual. This would generate a net cost to business.</p>	Negative
Any significant or adverse distributional impacts?	<p>No</p> <p><u>Business sectors</u></p> <p>The YouGov survey finds slight sector variation in the propensity to fire and rehire, with the information and communication sector most likely to engage in the practice, but overall the difference by sector is small.</p> <p>Overall, while there is some variation in impacts across sectors, these are not deemed significant or adverse. Breakdowns by sector groupings can be found in tables at the end of this impact assessment.</p> <p><u>Regional impacts</u></p> <p>No regional impacts to note, this policy will affect businesses all across the UK in all sectors. The YouGov</p>	Neutral

	survey does not find any significant differences in use of fire and rehire across the UK regions.	
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(3) Expected impacts on households

Description of overall household impact	<p>The impact on households is directionally opposite to that on businesses. Where fire and rehire is prevented, households benefit from better pay and terms compared to the counterfactual. For those made redundant, they suffer from a loss of income although this is partially offset by redundancy pay.</p> <p>Overall, this policy is expected to generate net benefits to households.</p>	Positive
Monetised impacts	As above, this impact assessment does not provide an estimate of the impacts to households.	Uncertain Based on likely household £NPV
Non-monetised impacts	<p>By preventing fire and rehire, this policy would generate a benefit to households by improving pay and/or terms & conditions compared to the counterfactual.</p> <p>However, should the policy cause businesses to simply make employees redundant as a substitute to fire and rehire, there would be a cost to households from a loss of income, although this would be partially offset by redundancy pay. We would expect universal credit to also offset some of the loss of income to households. This cost would be fully borne by the Exchequer. Those made redundant may suffer from longer term 'scaring' through increased future incidence of unemployment and lower subsequent earnings in employment.</p> <p>Furthermore, those made unemployed may have negative health and wellbeing effects caused by the stress of losing employment and anxiety around future finances.</p> <p>On the flipside, those benefiting from this policy i.e. those who would have had their pay and/or employment terms and conditions forcibly reduced in the counterfactual may experience wellbeing benefits from greater employment security, more certainty on future income and possibly better job quality.</p> <p>We expect this policy to prevent most fire and rehire cases and to make relatively few employees at risk of redundancy. On balance then, we expect the non-monetised impacts to be positive.</p>	Positive

<p>Any significant or adverse distributional impacts?</p>	<p>There is limited evidence on the characteristics of those subject to fire and rehire practices. Nevertheless, a 2021 TUC online poll of 2,231 individuals in England and Wales found:</p> <ul style="list-style-type: none"> • nearly a fifth of (18%) of 18- to 24-year-olds said their employer had tried to rehire them on inferior terms during the pandemic. • working-class people (12%) were nearly twice as likely than those from higher socio-economic groups (7%) to have been told to re-apply for their jobs under worse terms and conditions. • BME workers (15%) had been faced with fire and rehire at nearly twice the rate of white workers (8%) <p>Furthermore, this analysis estimates lower paid sectors to benefit from the greatest reduction in fire and rehire.</p> <p>We would therefore expect this policy to generate positive distributional impacts to households.</p>	<p>Positive</p>
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Part B: Impacts on wider Government priorities

Category	Description of impact	Directional rating
<p>Business environment:</p> <p>Does the measure impact on the ease of doing business in the UK?</p>	<p>This policy will have a neutral effect on the UK business environment. It will have limited / no impact on the attractiveness of the business environment, on barriers to entry, on market concentration and competition, on foreign investment, and on the scope for businesses to bring innovative products and services to market. To note, while a reduction in business flexibility might reduce the attractiveness of the UK business environment, this practice is not widespread and we therefore expect this effect to be minor.</p> <p>At a business level, an increase in labour costs due to the prevention of fire and rehire could reduce investment, although businesses may react to higher costs in several ways. We estimate only 12,200 businesses engage in fire and rehire practices per year. This is a minor proportion (<1%) of the business population therefore the impact on the UK business environment will be minor.</p>	<p>Neutral</p>

<p>International Considerations:</p> <p>Does the measure support international trade and investment?</p>	<p>No impact on trade. This is a minor practice which will not affect UK international competitiveness.</p> <p>No link to international obligations.</p>	<p>Neutral</p>
<p>Natural capital and Decarbonisation:</p> <p>Does the measure support commitments to improve the environment and decarbonise?</p>	<p>This policy will have no impact on natural capital and decarbonisation.</p>	<p>Neutral</p>

8. Monitoring and evaluation of preferred option

31. The Government will undertake proportionate monitoring and evaluation of reforms introduced through the Bill. To determine whether the policy has met its objectives, we will be monitoring its impacts and will consider undertaking a proportionate non-statutory Post-Implementation Review (PIR) of this policy within 5 years following introduction. As amendments may be made to the Bill during the passage through Parliament, we do not deem it appropriate to include a statutory review clause at this stage.
32. The intended outcome of this policy is to end fire and rehire practices except where the employer meets the narrow exception for financial difficulties in the new section 104I(4). The best option from a research standpoint would be to repeat the 2022 YouGov survey used in this impact assessment within five years of introduction and undertake a before-after comparison. However, an effective policy would reduce our ability to capture evidence of fire and rehire and may therefore reduce the value for money of undertaking such a survey.
33. For these reasons, we intend to gather intelligence and evidence on the effects of this policy through discussions with Acas, the Employment Tribunal, trade unions, and other. This information will be used to assess evaluation options, including the benefit of running a bespoke survey, other options (e.g. adding gathering data via existing, ongoing surveys such as the Labour Force Survey).
34. To assess if the objectives have been met the survey questions would ask a representative sample of employers if they have changed their workers' terms and conditions in recent years. If they have worsened any terms and conditions, the survey would explore employers' reasons for doing so, including whether they used the threat of fire and rehire in negotiations, and whether they carried out fire and rehire. The number of workers affected by these practices, and their impact on workers, would also be investigated.
35. A small number of cases may result in redundancies as a consequence of this policy. While we can monitor redundancy rates and levels, it will be difficult to isolate the effects of this policy. Engagement with key stakeholders such as Acas, the Insolvency Service, and trade unions might provide information on this effect. Interviews with businesses and trade associations might provide useful insights, especially following collective redundancy cases. This could bring light to

decision-making in redundancy scenarios and if the practice of fire and rehire could have prevented these.

9. Minimising administrative and compliance costs for preferred option

36. This policy is expected to generate no administrative costs to the vast majority of businesses because most employers do not engage in fire and rehire. Administrative costs might only be generated for those who engage in fire and rehire following the introduction of policy and a case is brought against them at the Employment Tribunal. Here, there may be costs from demonstrating the lack of any other alternative to fire and rehire. These administrative costs are expected to be similar to those currently incurred in such cases. The change is a reduction in the circumstances where this practice is deemed acceptable.

Summary: Analysis and evidence

For Final Stage Impact Assessment, please finalise these sections including the full evidence base.

Price base year:

N/A

PV base year:

N/A

This table may be reformatted provided the side-by-side comparison of options is retained	Business as usual (baseline)	Strengthen the Code of Practice only	Preferred way forward	Outright ban
Net present social value (with brief description, including ranges, of individual costs and benefits)	Business as usual is the counterfactual therefore nil.	NPV not calculated. This weaker option would reduce the incidence of fire and rehire to a much lesser extent than the preferred option. As a result, impact would be lesser. However, the risk of redundancies as an alternative to fire and rehire would be reduced.	NPV not calculated.	NPV not calculated. This option would come with the expense of a significant increase in the risk of redundancies. Note the insolvency risk below in addition.
Public sector financial costs (with brief description, including ranges)	Ibid.	Not monetised. Public sector costs would be generated where public sector employers are prevented from fire and rehire, thereby increasing labour costs	Not monetised. Public sector costs would be generated where public sector employers are prevented from fire and rehire, thereby increasing labour costs	Not monetised. Public sector costs would be generated where public sector employers are prevented from fire and rehire, thereby increasing labour costs compared to the counterfactual.

		<p>compared to the counterfactual.</p>	<p>compared to the counterfactual.</p> <p>In addition, there may be costs generated from any Universal Credit payments to those made redundant.</p>	<p>In addition, costs may be generated from any Universal Credit payments to those made redundant which we expect to be higher than preferred option.</p>
<p>Significant un-quantified benefits and costs (description, with scale where possible)</p>	<p>ibid.</p>		<p>No impacts are quantified in this impact assessment. As above, this policy would result in costs to business from higher labour costs as a result of prevented fire and rehire.</p> <p>For households, preventing fire and rehire will generate benefits by improving wages and/or terms & conditions compared to the counterfactual and generating positive wellbeing effects.</p> <p>However, there may be costs to households if redundancies are generated as substitute to fire and rehire. Here, households would experience loss of</p>	<p>An outright ban would increase the risk of insolvencies. Businesses facing the most severe financial pressures and engaging in fire and rehire to avoid insolvency could become insolvent because of this ban. These businesses may not have reasonable alternatives to cut costs in the short-term and redundancies are unlikely to offer the same level of flexibility as a cost-cutting measure.</p> <p>Any wellbeing effects – it is not clear if these would be net positive or negative given the increase in redundancies compared to the preferred option.</p>

			<p>income and negative wellbeing effects.</p> <p>The net effect to households is likely positive while that to business is likely negative. The net effect to society is uncertain, although likely positive.</p>	
<p>Key risks (and risk costs, and optimism bias, where relevant)</p>	<p>Ibid.</p>		<p>Uncertainty in the number of employees affected by fire and rehire and uncertainty on the labour cost reductions generated by the practice. This analysis forgoes providing monetised impacts, instead providing illustrative analysis with wide ranges to account for the former and sensitivity analysis for the latter.</p>	<p>Uncertainty in the number of employees affected by fire and rehire and uncertainty on the labour cost reductions generated by the practice. This analysis forgoes providing monetised impacts, instead providing illustrative analysis with wide ranges to account for the former and sensitivity analysis for the latter.</p>
<p>Results of sensitivity analysis</p>	<p>Ibid.</p>		<p>N/A</p>	<p>N/A</p>

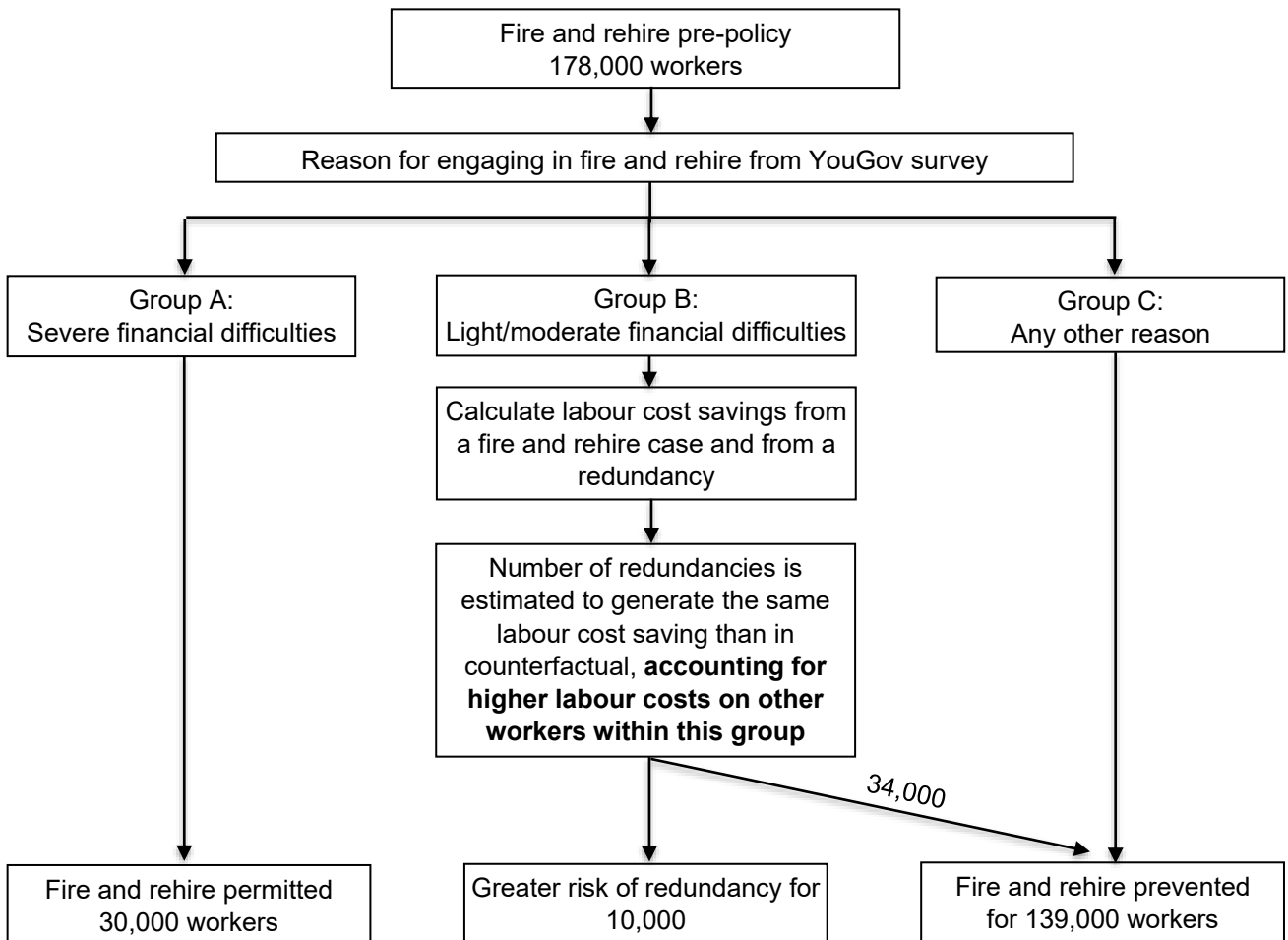
Evidence base

37. We do not have an accurate picture of the prevalence, practicalities and realities of fire and rehire. We cannot robustly estimate the number of businesses affected, the number of workers affected, the labour cost reductions as a result of fire and rehire, nor do we understand business behaviour in assessing alternative options.
38. **There is therefore too much uncertainty to robustly estimate the impact of this policy. We provide illustrative analysis below to aid discussion of impacts. However, it should be treated as illustrative. We will continue to build further evidence and engage stakeholders to refine these estimates.**
39. The analysis below draws on data from an unpublished 2022 YouGov survey, ONS Business Population Estimates data, Annual Survey of Hours and Earnings data and logic-based assumptions to estimate the impacts of this policy. Business Population Estimates data and Annual Survey of Hours and Earnings data are from 2023, and this analysis is in 2023 prices.

Effects of the policy

40. All impacts are generated by the change in circumstances where fire and rehire is permitted. This would prevent fire and rehire unless the employer meets the narrow exception for financial difficulties in the new section 104I(4).
41. This impact assessment assesses there will be no separate impact for specifying in legislation the factors which the Employment Tribunal must consider when assessing whether the employer has acted fairly. The purpose of specifying these factors is to reduce the circumstances where fire and rehire is permitted and ensuring any necessary fire and rehire is carried out fairly.
42. **Overall, when comparing to the do-nothing scenario, the majority of fire and rehire cases will be prevented, a small proportion of fire and rehire cases will be permitted, and a smaller proportion of current fire and rehire cases may be at risk of redundancy instead.**
43. Illustrative analysis of self-reported survey evidence suggests that of 178,000 workers that could be affected by this practice, 78% of cases would no longer be permitted under the new policy, 17% of cases would be permitted (as they meet the narrow exemption), and 5% may be at risk of redundancy to reduce labour costs where fire and rehire was not permitted. This is illustrative and rests on several assumptions – see below.
44. Our method to estimating the size of the group which may be at risk of redundancy relies on self-reported survey evidence on levels of financial difficulty. Furthermore, we lack information on the group which may be at risk of redundancy. There is therefore significant uncertainty on the extent to which this group exists and the extent to which redundancies might occur as a result of this policy.
45. This illustrative analysis therefore highlights the risk of redundancy but stops short of including the impact in the scorecard. As a sensitivity, we estimate a “worst case” scenario which assumes all those at risk of redundancy are made redundant.

46. The diagram below summarises our approach to estimate the size of these effects under the preferred option².



² Figures are rounded to the nearest '000 and may not sum to total.

Key Assumptions

47. This illustrative analysis makes certain key assumptions:

- A. Businesses considering redundancy as substitute to fire and rehire:** Certain businesses may need to reduce costs but may not qualify for the new section 1041(4) exemption. We assume for these businesses only that input costs are greater than revenues (i.e. they are loss making) and absorbing further costs or increasing prices are not available options, therefore they must reduce their input costs. Because these businesses currently engage in fire and rehire (rather than make other adjustments), we assume their capital is fixed and their only option is to reduce labour costs.

In many cases, these labour costs could be reduced through negotiation between employer and employees. There are two options when reducing labour costs – maintain the number of employees but reduce their pay and terms, or reduce the number of employees. With the first not possible voluntarily (hence the use of fire and rehire) and with this policy preventing a forced reduction of pay and terms, we assume these businesses instead reduce the number of employees (i.e. they make employees redundant).

It is important to note here that the labour cost savings from a redundancy will be greater than that of a firing & rehiring. The most an employer can reduce wages is to the level of the National Living Wage and National Minimum Wage. Meanwhile, a redundancy saves the entirety of that employee's labour costs, although output is lost, and the employer must provide redundancy pay. As above, we assume these specific cases of fire and rehire occur when input costs are greater than outputs. Therefore, the output per worker in this group would not exceed 100% of the relevant labour costs.

Nevertheless, redundancy is a second preference for employers. In making redundancies, the employer is losing factors of production thereby harming its longer-term productive potential. Should the business wish to increase production, it would need to hire new employees and incur recruitment and training costs. Furthermore, productivity may be harmed via a loss of human capital and negative effects on morale. The saving is equivalent in the short term, but there is a cost in future time periods.

In reality then, we would expect businesses to avoid making redundancies where possible. The below therefore highlights the risk of redundancy but stops short of including the impact. As a sensitivity, we estimate a "worst case" scenario which assumes all those at risk of redundancy are made redundant.

- B. Rational economic agents:** We assume businesses are rational economic agents. In this illustrative analysis, the businesses facing financial difficulties and making redundancies as an alternative to fire and rehire account for the increased labour costs from prevented fire and rehire cases. They make redundancies up to the point they achieve the same labour costs savings compared to the counterfactual where they fire and rehire, accounting for the greater labour costs on a portion of their staff who would otherwise have been fired and rehired in the counterfactual.

This is important because, as a result, the net impact to businesses from redundancies is nil. Meanwhile, all fire and rehire cases prevented generate a benefit to households, resulting in a positive overall welfare impact.

Although this assumption is consistent with traditional economic theory, evidence often suggests this is not the case. As above, businesses may be averse to making redundancies

and may therefore seek to reduce input costs by other means. This weakens the method used in this analysis, adding further uncertainty to any estimates of impact. Nevertheless, given our lack of evidence on business behaviour in making redundancies, we rely on traditional economic theory in the analysis below.

- C. Lost output from redundancy:** Businesses will lose output when making redundancies. In the below, we assume the businesses which would consider redundancy as an alternative to fire and rehire are ones where input costs are greater than outputs. Therefore, the output per worker in this group would not exceed 100% of the relevant labour costs (i.e. wage and non-wage cost uplift).

We do not have evidence on the extent to which these businesses' input cost is greater than their output. We would expect some workers to be producing close to 0% (e.g. when a business is struggling with low demand) and others close to 100% of their business' average input cost per worker, with many others throughout this range. Due to a lack of evidence, for the sake of illustration we assume a normal distribution within this range and take 50% of labour costs per worker as the average value of lost output per worker made redundant. This is in line with previous impact assessments green-rated by the RPC³.

This assumption is crucial in determining the costs and benefits of this policy. The greater the output lost per worker made redundant, the lower the cost savings from redundancies as an alternative to fire and rehire. As a result, a higher assumption for lost output per worker generates more redundancies because more redundancies are required to achieve the same labour cost saving from fire and rehire in the counterfactual. To bring this to life, firms that are loss making with relatively productive workers have to cut more workers to break even. On the other hand, if loss making is due to a small division or group of worker who are not delivering much output, then the number of redundancies to break even is smaller. This translates to greater costs to households as more employees are made redundant and suffer a loss of income, eroding the net positive welfare impacts of this policy.

The Net Present Social Value of this policy would be negative if the output lost per worker is greater than 66% of labour input costs. The net positive welfare impacts of this policy therefore partly depend on the extent to which businesses choose redundancy as a means to generate cost reductions. If businesses are relatively comfortable in making redundancies, we would expect the average lost output per worker to be higher and therefore more redundancies to be made. This is because more lost output per worker would affect the opportunity cost of redundancy. Furthermore, there is an argument that as more redundancies are made, increasingly productive workers would be made redundant.

This illustrative analysis assumes the businesses currently engaging in fire and rehire due to light or moderate financial difficulties substitute fire and rehire with redundancy. Higher lost output per worker made redundant would weaken this assumption with implications for the methodology of this analysis and subsequent results.

On balance, assuming 50% lost output is therefore defensible for this illustrative analysis given lack of evidence and precedent.

- D. Reduction in pay from fire and rehire:** This analysis estimates the maximum labour input cost reduction from fire and rehire and scales this down. We do not hold evidence on the extent to which pay is reduced. We therefore assume a normal distribution and scale this

³ See for example: BIS (2013) [‘Collective Redundancy Consultation: Government Response’](#)

maximum down by 50% to arrive at our assumed average labour cost reduction per worker in a fire and rehire case.

In reality, the reductions they can offer will be limited by market forces. Businesses compete to retain and recruit workers. If they have limited wage setting power, the possible labour savings will be constrained because they cannot deviate too far from the 'going rate'. The 50% used in this impact assessment may therefore generate an overestimate.

We run two additional scenarios – one where this max reduction is scaled down by 25% and another where it is scaled down by 75%. In the former scenario, businesses make greater savings when firing and rehiring. The policy might therefore generate more redundancies compared to the central scenario. This is because more redundancies would be required to generate the same labour cost savings than in the counterfactual.

The latter scenario is the opposite, we assume firing and rehiring generates relatively small labour cost savings. As a result, fewer redundancies are required to generate the same labour cost savings than in the counterfactual. The policy might generate fewer redundancies compared to the central scenario.

Results from both scenarios are presented further below.

Estimating the current incidence of fire and rehire

48. Annex B provides an overview of the YouGov 2022 survey which this illustrative analysis draws from.
49. The YouGov survey asked respondents “To the best of your knowledge, has your organisation made changes to any workers' terms and conditions of employment since March 2020?” and another same question for the January 2018 to March 2020 period. Those who selected “Yes, through dismissing staff and rehiring on new terms, following consultation/negotiation where agreement was not achieved” are those which engaged in fire and rehire.
50. We use the pre-COVID-19 results for this analysis. The pandemic was a difficult and unusual time for business and evidence from the TUC4 suggests fire and rehire was used to a greater extent during this period. Because the question covered a two-year period, the proportion is divided by two to provide the per annum proportion of businesses engaging in fire and rehire per size band.
51. These estimates are then applied to Business Population Estimates data for Great Britain to estimate the number of businesses engaging in fire and rehire within each size band. See table below.

⁴ TUC (2021), [“Fire and rehire” tactics have become widespread during pandemic – warns TUC](#)

Table 3: Estimated number of businesses engaging in fire and rehire by business size

	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
Proportion engaging in fire and rehire within group	1.3%	4.2%	4.7%	5.3%	5.9%	4.3%	3.3%
Proportion engaging in fire and rehire within group - per annum	0.6%	2.1%	2.3%	2.6%	3.0%	2.2%	1.6%
Businesses engaging in fire and rehire	6,736	4,530	557	319	117	45	29

52. From this breakdown, we then estimate the number of workers affected. The survey does not ask the number of workers affected. However, it asks “Overall, approximately what proportion of workers who were dismissed by your organisation would you estimate were rehired on the new terms and conditions?” with four answers possible: (1) 1% - 25%; (2) 26% - 50%; (3) 51% - 75%; (4) 76% - 100%.

Table 4: Proportion of workers affected by fire and rehire by business size

	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
1% - 25%	58%	39%	84%	38%	60%	54%	80%
26% - 50%	21%	22%	0%	31%	33%	12%	4%
51% - 75%	0%	23%	16%	24%	7%	15%	11%
76% - 100%	21%	16%	0%	7%	0%	18%	5%

53. By combining this information with the minimum and maximum number of workers per business per size band then multiplying this by the number of businesses per size band, we can estimate a minimum and maximum number of workers affected by fire and rehire.

54. Accounting for demographics within each band would provide a more accurate estimate. This has not been undertaken here for reasons of proportionality. We take the mid-point between the minimum and maximum as our best estimate.

Table 5: Estimated number of workers affected by fire and rehire by business size

Rounded to the hundred	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
Best estimate	15,300	66,500	10,300	24,000	12,600	13,700	35,800
Min	3,000	13,500	2,500	8,300	3,700	5,600	3,200
Max	27,600	119,600	18,100	39,700	21,500	21,700	68,500

55. To note, this does not account for the introduction of the Statutory Code of Practice on dismissal and re-engagement. The purpose of this Code is to ensure that employers take all reasonable steps to explore alternative to fire and rehire. It is therefore possible that the Code of Practice

may have reduced the incidence of fire and rehire. This is not reflected in the analysis. As a result, the numbers above are possibly over-estimates.

Identifying three groups: prevented, permitted, risk of redundancy

56. The YouGov survey asked, “To the best of your knowledge, what was/were the reason(s) for your organisation reducing workers' terms and conditions?”. The table below provides the proportion of responses by size band. Note: multiple responses were permitted therefore totals sum to greater than 100%.

Table 6: Reason(s) for reducing workers' terms and conditions (as % of responses) by business size

	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
Harmonising terms and conditions across the workforce	23%	19%	14%	30%	27%	21%	29%
Introducing flexibility into contracts	18%	16%	13%	20%	38%	28%	27%
As part of an organisational response to changing customer behaviour or sectoral environment	35%	28%	21%	25%	36%	34%	26%
To mitigate the risks of redundancy	28%	32%	22%	22%	28%	24%	26%
To reduce costs due to financial pressure	55%	37%	44%	30%	59%	38%	44%
Other	5%	10%	11%	13%	5%	5%	8%
Don't know	0%	2%	18%	4%	12%	11%	6%

57. For those reportedly engaging in fire and rehire due to financial pressure, a follow-up question was asked “You said that a reason for your organisation reducing workers' terms and conditions was to reduce costs due to financial pressure. Overall, which of the following best describes the degree of this financial pressure?”

Table 7: Degree of financial pressure (as % of responses) by business size

	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
Severe pressure	60%	43%	55%	21%	27%	48%	37%
Moderate pressure	32%	55%	45%	68%	59%	37%	52%
Light pressure	3%	3%	0%	11%	9%	15%	9%
Unknown	5%	0%	0%	0%	6%	0%	2%

58. This data suggests that there could be 178,000 workers currently affected by fire and rehire, and these can be split into three groups:

1. Fire and rehire is prevented – Here we assume all cases not due to financial pressure are prevented. Additional cases will be added to this group in a later step.
2. Fire and rehire is permitted – Here we assume the fire and rehire cases due to severe financial pressure count as meeting the new section 104I(4) exemption and these realise. We estimate 30,000 cases of fire and rehire could occur each year, in a 6,000 – 53,000 range.
3. At risk of redundancy – A portion of the cases of fire and rehire caused by low & moderate financial pressure might be at risk of redundancy. Only part of the cases caused by low & moderate financial pressure finish in this group because the labour cost savings of redundancy per employee are greater than that of fire and rehire. Fire and rehire is prevented on the rest (adding to group 1).

59. We therefore estimate the labour cost savings from fire and rehire and from a redundancy to understand the number which are at risk of redundancy.

Estimating labour cost savings from fire and rehire

60. An employer’s savings from fire and rehire will be generated by a reduction in pay for employees and/or a reduction in terms and conditions. The YouGov survey asked, “Which of the following terms and conditions of employment, if any, has your organisation made changes to?” to which respondents could select multiple responses. Responses are summarised in the table below.

Table 8: Changes following fire and rehire

Changes following fire and rehire	
Pay levels	53%
Holiday/pay entitlement	26%
Agreed hours of work	44%
Location of work	49%
Access to enhanced contractual entitlements/incentives (e.g. company car/discounts)	20%
Redundancy terms	12%
Pension	16%
Notice periods	13%
Other	7%
Don't know	2%

61. We assume 53% of fire and rehire cases led to a reduction in pay and the remaining led to a reduction in other terms and conditions. This is a simplifying assumption.

62. For the maximum reduction in pay, we assume this is the difference between a sector’s median wage (or the weighted average of median pay where the survey grouped sectors) and the national living wage. For terms and conditions, we begin with the non-wage cost uplift assumption of 21%⁵ from which we remove National Insurance Contributions (assumed at

⁵ DBT (2024) analysis of UK Economic Accounts, 2023 data and Annual Survey of Hours and Earnings, 2023 data.

13.8%⁶). This 7.2% is then applied to the sector wage. We can therefore multiply the difference in pay by 53% and multiply the cost of T&Cs by 47% to estimate the maximum reduction in labour costs per worker.

Max fire & re – hire labour cost savings

$$= \% \text{ FRH where pay reduced} \times (\text{Sector median wage} - \text{National Living Wage}) \\ + \% \text{ FRH where terms \& conditions reduced} \times (\text{Sector median wage} \times (\text{non} \\ - \text{wage cost uplift assumption} - \text{NICs}))$$

63. We do not hold evidence on the extent to which pay or terms and conditions were reduced. We therefore assume a normal distribution and scale this maximum down by 50% to arrive at our average assumed pay reduction per worker in a fire and rehire case. This is a key assumption in the analysis. We therefore run two additional scenarios – one where this max reduction is scaled down by 25% and another where it is scaled down by 75%.
64. The table below provides a breakdown based on the GB median wage. In this example, the saving per annum per employee amounts to £2,813.10. This is calculated by multiplying the labour cost savings per hour by the average number of working hours per year. The Annual Survey of Hours and Earnings suggests a GB average of 32 working hours per week which we multiply by 52 for 52 weeks per year.
65. The full sector and scenario breakdown is provided in Annex A.

Table 9: Labour cost savings from fire and rehire

Labour cost savings from fire and rehire	
Per employee per hour	
Median wage - GB	15.96
National Living Wage	£11.44
Difference between median and National Living Wage	£4.52
Cost of Terms & Conditions	£1.15
Max FRH labour cost savings	£2.92
Labour cost saving from fire and rehire in central scenario	£1.46
Per employee	
Labour cost saving from fire and rehire in central scenario	£2,432.96

Estimating labour cost savings from redundancies

66. To estimate an employer’s labour cost savings from redundancy, we must take account of lost output and redundancy pay.
67. As above, we assume the businesses which would consider redundancy as an alternative to fire and rehire are ones where input costs are greater than outputs. Therefore, the output per worker in this group would not exceed 100% of the relevant labour costs (i.e. wage and non-wage cost uplift). Because we have no evidence on the extent to which these businesses’ input cost is greater than their output, we assume a normal distribution and take 50% of labour costs per worker as the value of lost output per worker.

⁶ Gov.uk (2024) [National Insurance rates and categories](#)

68. As of 12/09/2024, statutory redundancy pay stipulates half a week for each full year employed under the age of 22, one week pay for each year employed between the ages of 22 and 41, and one and a half week's pay for each full year employed over the age of 41. For simplicity, we assume one and a half weeks' pay per year employed.
69. We use the median wage per sector (or the weighted average of median pay where the YouGov survey grouped sectors) and multiply this by 32 to estimate the redundancy pay per week for each year employed.
70. To note, the redundancy pay provided to an individual made redundant could be higher than what is statutory. However, this is a business decision and not a direct impact of the policy. Therefore, we do not account for this in our analysis.
71. We use OECD data on UK job tenure⁷ and assume the midpoint per each band for the number of weeks of redundancy pay.

Table 10: Weeks of redundancy pay

	Proportion	Number of weeks' pay assumed
<1 month	2%	0
1 to <6 months	5%	0
6 to <12 months	8%	0
1 to <3 years	18%	1.5
3 to <5 years	12%	4
5 to <10 years	20%	7.5
10 years and over	35%	15

See Annex A for redundancy pay estimates by sector.

72. We then estimate the labour cost savings per person in a redundancy case by subtracting lost output and redundancy pay from the labour cost savings. The table below provides a breakdown using the GB median wage. In this example, the labour cost saving is £14,130.27 per employee.

Table 11: Labour cost savings from redundancy

Labour cost savings from redundancy	
Saved wages (inc. non-wage uplift)	£32,134.50
- Lost output	£16,067.25
- Redundancy pay	£5,769.71
= Labour cost saving from redundancy	£10,297.54

73. It is important to note that these savings account for one year only. In reality, the labour cost savings for business could be generated over a number of years and therefore the figure could be much higher. However, it becomes difficult to estimate a counterfactual over multiple years. Therefore, this illustrative analysis assumes the labour cost savings occur over one year only. This is true for all impacts in this analysis. We do not compound over time.

⁷ OECD (2023) Labour Market Statistics: Employment by job tenure intervals: persons

74. The tables in Annex A provide the full sector and scenario breakdown.

Risk of redundancy estimates

75. With both the labour cost savings from fire and rehire and those from redundancy calculated, these can be compared to estimate the labour cost savings from redundancy relative to fire and rehire. From this, we can estimate the number of employees which are at risk of being made redundant and the number which are kept on higher pay and conditions.

76. As a reminder, these are all cases of fire and rehire due to light or moderate financial pressure where the employers wish to reduce input costs but cannot qualify for the new section 104(4) exemption. Because they can no longer use fire and rehire to forcefully reduce labour costs, they may make employees redundant. The number of employees which might be made redundant will be less than those who would be fired & re-hired in the counterfactual because the labour cost savings of redundancy are greater than those of fire and rehire in this specific situation.

$$\text{Redundancies} = \frac{\text{Fire \& rehire cases due to low \& moderate financial pressure}}{\frac{\text{Labour cost saving per redundancy}}{\text{Labour cost saving per fire \& rehire}}}$$

77. We estimate 2,000 – 17,000 workers are at risk of redundancy, with a best estimate of 10,000. The remaining fire & rehire cases due to low & moderate financial pressure are prevented.

78. The table below summarises the effect of the policy.

Table 12: Policy effects - summary

Rounded to the '000		Best estimate	Minimum	Maximum
Fire and rehire cases pre-policy		178,000	40,000	317,000
Fire and rehire cases post-policy		30,000	6,000	53,000
Central scenario (50% of max labour cost reduction from fire and rehire)	Cases of fire and rehire prevented	139,000	31,000	246,000
	At risk of redundancy	10,000	2,000	17,000
Low FRH savings scenario (max labour cost savings from fire and rehire are scaled down by 75%)	Cases of fire and rehire prevented	144,000	32,000	255,000
	At risk of redundancy	5,000	1,000	8,000
High FRH savings scenario (max labour cost savings from fire and rehire are scaled down by 25%)	Cases of fire and rehire prevented	134,000	30,000	238,000
	At risk of redundancy	14,000	3,000	25,000

Impacts to business

79. To estimate the number of businesses and workers affected at a sector level, we assume the propensity to engage in fire and rehire is equivalent across sectors. The YouGov survey finds slight sector variation in the propensity to fire and rehire, with the information and communication sector most likely to engage in the practice, but overall, the difference by sector is small. This simplifying assumption permits us to split the number of businesses engaging in fire and rehire in each business size band by the sector split per size band in the full business population. See Annex A for the breakdown. With the breakdown by sector and the approach to cost estimates outlined above, we can estimate the impacts to business.
80. For the cases where fire and rehire is prevented by this policy, employers must now pay the higher labour costs compared to the do-nothing scenario where these employees would have been fired & re-hired on lower pay and/or terms and conditions. This generates a cost to business worth **£361m** in the first year of the appraisal period (£82m - £641m range)⁸.
81. For the cases where fire and rehire remains permitted following the introduction of this policy, there is no impact.
82. This policy would also generate a familiarisation cost. We assume this to be double the number of businesses currently engaging in fire and rehire per year. This impact would only realise upon introduction as we assume these are businesses considering fire and rehire as an option and would need to familiarise themselves with the legislation once again. We assume this takes an HR manager 30 minutes to familiarise themselves at a wage rate of £26.31/hour as per the Annual Survey of Hours and Earnings. The impact is **£0.4m** in the year the policy is introduced.

Impacts to households

83. For the cases where fire and rehire is prevented by this policy, this creates a direct and equal transfer to employees. This is worth **£361m** (best estimate) in the first year of the policy with a range of £82m - £641m. Estimates for the low FRH savings scenario and high FRH savings scenario are presented later.

Worst case sensitivity – Risk of redundancy realises fully

84. As a sensitivity, we estimate the impacts of a worst-case scenario where all those at risk of redundancy are made redundant.

Impacts to business

85. For the cases where fire and rehire is prevented by this policy, employers must now pay the higher labour costs compared to the do-nothing scenario where these employees would have been fired & re-hired on lower pay and/or terms and conditions. This generates a cost to business worth **£255m** in the first year of the appraisal period (£58- £452m range)⁹.

⁸ To note: this is in 2023 prices because it uses the latest earnings data available. However, EANDCB, EANDCH, and NPV estimates are in 2024 prices. This is to maintain consistency with the Employment Rights and Trade Union Bill Summary Impact Assessment.

⁹ To note: this is in 2023 prices because it uses the latest earnings data available. However, EANDCB, EANDCH, and NPV estimates are in 2024 prices. This is to maintain consistency with the Employment Rights and Trade Union Bill Summary Impact Assessment.

86. For the cases which realise as redundancies instead, the net impact to businesses from these redundancies is nil. This is because the greater labour cost savings from redundancies are offset by the higher labour costs from prevented fire and rehire cases compared to the do-nothing scenario. By making employees redundant, employers have achieved the same labour cost savings compared to the counterfactual (where they fire and rehire), accounting for higher labour costs on a portion of their staff. This is why this impact to business is lesser than in the scenario where redundancies do not occur.
87. This is only true in the short term, however. As noted previously, these businesses are achieving the same labour cost savings in the short term but are possibly forgoing future output. By losing factors of production, these businesses would need to hire new employees and incur recruitment and training costs if they wish to increase production. There may also be negative impacts on productivity via a reduction in morale and loss of human capital.
88. There are household impacts which are covered below.
89. For the cases where fire and rehire remains permitted following the introduction of this policy, there is no impact.
90. This policy would generate the same familiarisation cost. The impact is **£0.4m** in the year the policy is introduced.

Impacts to households

91. For the cases where fire and rehire is prevented by this policy, this creates a benefit for employees. This is worth **£332m** (best estimate) in the first year of the policy with a range of £75m - £590m.
92. Those made redundant suffer a loss of income. The Annual Population Survey provides insight on the number and proportion of people unemployed by time spent unemployed.

Table 13: Assumed time spent unemployed

Duration	%
0-3 months	44
3-12 months	31
1+ years	25

93. We assume those unemployed for one year or more are long-term unemployed and not relevant to this analysis. Therefore, we assume 59% of those made redundant will be unemployed for 0-3 months and 41% will be unemployed for 3-12 months. We apply these to our estimates of the population made redundant per sector to estimate the number who lose 0-3 months of income and those who lose 3-12 months of income.
94. We take the mid-point of each of these time ranges and calculate the number of working hours “lost” to unemployment. This is 222 hours for those unemployed 0-3 months and 1,110 hours for those unemployed 3-12 months.
95. We can then calculate the lost income due to redundancy by multiplying the number of lost working hours by the median wage per sector and our estimates of the population made redundant per sector income (time x median wage x population affected).

96. The “net” lost income must account for redundancy pay. The method for this is outlined earlier and the breakdown by sector is provided in Annex A.
97. The cost to households from the increase in redundancies is estimated at **£24m** (best estimate) in the first year of the policy with a range of £5m - £43m in the central scenario, increasing in each year of the appraisal period by projected earnings growth.

Alternative option: Ban fire and rehire

98. We have explored the impacts of a blanket ban on the use of fire & rehire with no exceptions on permissible use. Compared to the preferred option, this is a more stringent restriction on the ability of employers to use fire & rehire and would lead to a greater reduction in fire & rehire occurrences. Our analysis suggests 162,000 cases of fire and rehire could be prevented each year (best estimate), with a 36,000 – 288,000 range in the outright ban scenario. This option would therefore prevent an additional 23,000 cases of fire and rehire in the best estimate compared to the preferred option.
99. However, it comes at the expense of reducing the option to fire and rehire when businesses encounter financial difficulties and have no reasonable economic alternative. This limitation has a number of implications.
100. Firstly, we would expect more redundancies relative to our preferred option as businesses that would use fire & rehire to cut costs when facing severe financial difficulties would now have to turn to dismissals to cut their labour input costs. Our best estimate of the number of redundancies that could arise as a result is 16,000 per year, with a range of 3,000 to 29,000 per year. This is an increase of 6,000 redundancies in the best estimate compared to the preferred option. These would be in lieu of fire & rehire and represents a second-best option for businesses as retaining staff has long run productivity benefits.
101. Secondly, we expect that businesses facing the most severe financial pressures would be at increased risk of insolvency and could become insolvent because of this ban. These businesses may not have reasonable alternatives to cut costs in the short-term and redundancies are unlikely to offer the same level of flexibility as a cost-cutting measure. As noted above, there are negative impacts from redundancies in future time periods.

Annex A: Detailed breakdown of outputs by sector

Labour cost savings from fire and rehire per worker per hour

	Manuf acturing	Constru ction	Primary and utilities	Educati on	Healthc are	Wholesal e, retail and real estate	Transp ort and storage	Informati on and commun ication	Finance and insurance	Business services (e.g. consultanc y, law, PR, marketing, scientific and technical services)	Hotels, catering and restauran ts / Arts, entertain ment and recreatio n	Administ rative and support service activities and other service activities	Public adminis tration and other public sector	Volunta ry
Median wage or weighted average of medians if grouping of sectors	£16.66	£17.24	£17.50	£18.36	£15.88	£13.13	£15.49	£21.66	£23.76	£20.20	£11.49	£13.59	£17.98	£15.96
NLW	£11.44	£11.44	£11.44	£11.44	£11.44	£11.44	£11.44	£11.44	£11.44	£11.44	£11.44	£11.44	£11.44	£11.44
Difference between median and NLW	£5.22	£5.80	£6.06	£6.92	£4.44	£1.69	£4.05	£10.22	£12.32	£8.76	£0.05	£2.15	£6.54	£4.52
Cost of T&Cs	£1.20	£1.24	£1.26	£1.32	£1.14	£0.95	£1.12	£1.56	£1.71	£1.45	£0.83	£0.98	£1.29	£1.15
Max reduction per worker per hour	£3.32	£3.64	£3.79	£4.27	£2.88	£1.34	£2.66	£6.12	£7.30	£5.30	£0.42	£1.60	£4.06	£2.92
Central scenario	£1.66	£1.82	£1.89	£2.13	£1.44	£0.67	£1.33	£3.06	£3.65	£2.65	£0.21	£0.80	£2.03	£1.46
High FRH saving scenario	£2.49	£2.73	£2.84	£3.20	£2.16	£1.00	£2.00	£4.59	£5.47	£3.98	£0.31	£1.20	£3.04	£2.19
Low FRH saving scenario	£0.83	£0.91	£0.95	£1.07	£0.72	£0.33	£0.67	£1.53	£1.82	£1.33	£0.10	£0.40	£1.01	£0.73

Labour cost savings from redundancy per worker

	Manu factur ing	Constru ction	Primary and utilities	Educati on	Healthca re	Wholesa le, retail and real estate	Transpo rt and storage	Informat ion and commun ication	Finance and insurance	Business services (e.g. consulta ncy, law, PR, marketin g, scientific and technical services)	Hotels, catering and restauran ts / Arts, entertain ment and recreatio n	Administ rative and support service activities and other service activities	Public administr ation and other public sector	Volunta ry
Median wage or weighted average of medians if grouping of sectors	£16.6 6	£17.24	£17.50	£18.36	£15.88	£13.13	£15.49	£21.66	£23.76	£20.20	£11.49	£13.59	£17.98	£15.96
Pay per week	£533. 12	£551.68	£560.10	£587.52	£508.16	£420.19	£495.68	£693.12	£760.32	£646.40	£367.70	£434.93	£575.36	£510.72
Redundancy pay per week	£533. 12	£551.68	£560.10	£587.5	£508.16	£420.19	£495.68	£693.12	£760.32	£646.40	£367.70	£434.93	£575.36	£510.72
Average redundancy pay per person	£6,02 2.77	£6,232.4 5	£6,327.5 2	£6,637.3 4	£5,740.7 9	£4,746.9 9	£5,599.8 0	£7,830.3 2	£7,908.05	£7,302.52	£4,153. 98	£4,913.53	£6,499.96	£5769.7 1

Policy effects - central scenario

	Manufacturing	Construction	Primary and utilities	Education	Health care	Wholesale, retail and real estate	Transport and storage	Information and communication	Finance and insurance	Business services (e.g. consultancy, law, PR, marketing, scientific and technical services)	Hotels, catering and restaurants / Arts, entertainment and recreation	Administrative and support service activities and other service activities	Public administration and other public sector	Voluntary
Redundancies														
Best estimate	1,000	1,000	<1,000	<1,000	1,000	1,000	<1,000	1,000	<1,000	1,000	<1,000	1,000	1,000	1,000
Minimum	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000
Maximum	2,000	1,000	1,000	<1,000	1,000	2,000	1,000	1,000	1,000	2,000	<1,000	1,000	2,000	2,000
Fire and rehire cases prevented														
Best estimate	14,000	8,000	3,000	2,000	9,000	21,000	5,000	6,000	3,000	12,000	17,000	15,000	10,000	11,000
Minimum	3,000	2,000	1,000	<1,000	2,000	5,000	1,000	1,000	1,000	3,000	4,000	3,000	2,000	3,000
Maximum	25,000	14,000	6,000	4,000	16,000	38,000	9,000	11,000	6,000	21,000	30,000	26,000	19,000	20,000

**Policy effects – high FRH savings scenario
(max labour cost savings from fire and rehire are scaled down by 25%)**

	Manufacturing	Construction	Primary and utilities	Education	Health care	Whole sale, retail and real estate	Transport and storage	Information and communication	Finance and insurance	Business services (e.g. consultancy, law, PR, marketing, scientific and technical services)	Hotels, catering and restaurants / Arts, entertainment and recreation	Administrative and support service activities and other service activities	Public administration and other public sector	Voluntary
Redundancies														
Best estimate	2,000	1,000	<1,000	<1,000	1,000	1,000	1,000	1,000	1,000	2,000	<1,000	1,000	2,000	1,000
Minimum	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000
Maximum	3,000	2,000	1,000	1,000	2,000	2,000	1,000	2,000	1,000	4,000	1,000	2,000	3,000	2,000
Fire and rehire cases prevented														
Best estimate	14,000	7,000	3,000	2,000	9,000	21,000	5,000	6,000	3,000	11,000	17,000	15,000	10,000	11,000
Minimum	3,000	2,000	1,000	<1,000	2,000	5,000	1,000	1,000	1,000	3,000	4,000	3,000	2,000	2,000
Maximum	24,000	13,000	5,000	3,000	16,000	37,000	9,000	11,000	6,000	20,000	30,000	26,000	18,000	19,000

**Policy effects – low FRH savings scenario
(max labour cost savings from fire and rehire are scaled down by 75%)**

	Manufacturing	Construction	Primary and utilities	Education	Health care	Wholesale, retail and real estate	Transport and storage	Information and communication	Finance and insurance	Business services (e.g. consultancy, law, PR, marketing, scientific and technical services)	Hotels, catering and restaurants / Arts, entertainment and recreation	Administrative and support service activities and other service activities	Public administration and other public sector	Voluntary
Redundancies														
Best estimate	1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	1,000	<1,000	<1,000	1,000	<1,000
Minimum	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000
Maximum	1,000	1,000	<1,000	<1,000	1,000	1,000	<1,000	1,000	<1,000	1,000	<1,000	1,000	1,000	1,000
Fire and rehire cases prevented														
Best estimate	15,000	8,000	3,000	2,000	10,000	22,000	5,000	7,000	4,000	13,000	17,000	15,000	11,000	12,000
Minimum	4,000	2,000	1,000	<1,000	2,000	5,000	1,000	2,000	1,000	3,000	4,000	4,000	2,000	3,000
Maximum	26,000	14,000	6,000	4,000	17,000	39,000	9,000	12,000	6,000	23,000	31,000	27,000	20,000	21,000

**Policy effects – ban FRH with no exemption scenario
(a full ban for employers to use fire and rehire practices)**

	Manufacturing	Construction	Primary and utilities	Education	Health care	Wholesale, retail and real estate	Transport and storage	Information and communication	Finance and insurance	Business services (e.g. consultancy, law, PR, marketing, scientific and technical services)	Hotels, catering and restaurants / Arts, entertainment and recreation	Administrative and support service activities and other service activities	Public administration and other public sector	Voluntary
Redundancies														
Best estimate	2,000	1,000	<1,000	<1,000	1,000	1,000	1,000	1,000	1,000	2,000	<1,000	1,000	2,000	1,000
Minimum	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000	<1,000
Maximum	3,000	2,000	1,000	1,000	2,000	3,000	1,000	2,000	1,000	4,000	1,000	2,000	3,000	2,000
Fire and rehire cases prevented														
Best estimate	16,000	9,000	4,000	2,000	11,000	26,000	6,000	7,000	4,000	14,000	20,000	18,000	12,000	13,000
Minimum	4,000	2,000	1,000	1,000	2,000	6,000	1,000	2,000	1,000	3,000	4,000	4,000	3,000	3,000
Maximum	29,000	16,000	7,000	4,000	19,000	46,000	10,000	13,000	7,000	25,000	36,000	32,000	22,000	23,000

Annex B: Department for Business and Trade / YouGov 2022 survey

Background

There is little to no published and reliable quantitative evidence on the prevalence of employers changing employment contracts without employees' consent. To monitor the prevalence of dismissal and re-engagement and to understand the circumstances in which this practice is used by employers, YouGov Plc was commissioned to carry out a survey on behalf of the Department for Business and Trade.

The survey asked a representative sample of employers about whether they have changed their workers' terms and conditions in recent years. If they have worsened any terms and conditions, the survey explored employers' reasons for doing so, including whether they used the threat of fire and rehire in negotiations, and whether they carried out fire and rehire. The number of workers affected by these practices, and the number of disciplinary or grievance meetings employers have had in the past year and their impact on workers, were also investigated.

Aims

The survey aimed to understand:

- Changes and reductions of benefits in worker's terms and conditions;
- Proportion of workforce affected by the changes;
- How were the changes achieved (including fire and rehire practices);
- Attitude of workers towards the proposed changes;
- Impact of dismissals as a result of the changes;
- The proportion of the dismissed workforce that was rehired;
- Reasons for the reduction of terms and conditions for workers;
- Number of disciplinary/grievance meetings;
- Employers attitude towards the right of having a representative;
- The outcome and impact of these procedures.

Methodology

Sample

The total sample size consisted of 2,513 employers, stratified by employer size and broad sector. The data have been weighed and are representative of all UK employers.

Design and Materials

The research adopted a quantitative survey design and consisted of two stages. Initial questions were used to filter the sample to questions on reducing terms and conditions. The full survey consisted of 30 questions and responses were stratified by:

- Business size;
- Business sector;
- Business industry;
- Business region.

Procedure

Data collection was undertaken between 22nd April - 9th May 2022. The survey was conducted using an online interview administered to members of the YouGov Plc UK panel of 800,000+ individuals who have agreed to take part in surveys. Emails were sent to panelists selected at random from the base sample. The e-mail invited them to take part in a survey and provided a generic survey link. Once a panel member clicked on the link, they were sent to the survey that they are most suitable for, according to the sample definition and quotas. For example, the sample definition could be "GB adult population" or a subset such as "GB adult females". The responding sample was weighted to the profile of the sample definition to provide a representative reporting sample. The profile is normally derived from census data or, if not available from the census, from industry accepted data. The data is anonymous and individual employers are not identifiable. The information collected is used for statistical analysis only. The outputs produced by YouGov Plc are tables showing various aggregated data and a datasheet with weights.

Limitations

While the survey aimed at establishing employers' practices and has ensured the anonymity of participating businesses, there are several limitations that must be considered when interpreting the data. Firstly, businesses may be uncomfortable disclosing poor management practice due to social desirability bias, and therefore some data may be an underestimate of actual prevalence. Secondly, the targeted sample of workers and employers affected by "fire and rehire" is a minority group in the labour market. Therefore, it would be difficult and costly to reach this group through a random probability quantitative survey, suggesting that the true population representation in the sample is likely to be underestimated. Lastly, the survey can only provide insights into individuals' perspective on the issue rather than determine whether employers have breached the employment law.

Please find data cuts below.

To the best of your knowledge, did your organisation make changes to any workers' terms and conditions of employment between January 2018 and March 2020? Please tick all that apply.

Organisation size

	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
<i>Unweighted base</i>	443	477	182	277	209	155	770
<i>Base: All</i>	342	383	137	214	271	209	959
Yes, through consultation, negotiation and voluntary agreement with workers	34	55	30	41	62	48	237
Yes, through dismissing staff and re-hiring on new terms, following consultation/negotiation where agreement was not achieved.	4	16	6	11	16	9	31
Yes, in another way	3	3	2	1	5	2	16
No, the organisation did not make any changes to workers' terms and conditions of employment between January 2018 and March 2020	287	283	79	130	158	124	499
Don't know	14	29	22	32	37	26	189

Overall, approximately what proportion of workers who were dismissed by your organisation would you estimate were re-hired on the new terms and conditions?

Organisation size

	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
<i>Unweighted base</i>	8	16	5	13	7	8	30
<i>Base: All whose organisation reduced terms for employees, aware of how many workers were dismissed and rehire</i>	8	13	4	8	9	9	39
1% -25%	5	5	3	3	6	5	31
26% -50%	2	3	-	2	3	1	2
51% - 75%	-	3	1	2	1	1	4
76% - 100%	2	2	-	1	-	2	2

To the best of your knowledge, what was/were the reason(s) for your organisation reducing workers' terms and conditions?
Please tick all that apply.

Organisation size

	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
<i>Unweighted base</i>	25	69	25	49	26	25	123
<i>Base: All whose organisation reduced terms for employees since March 2020</i>	20	55	21	34	39	36	141
Harmonising terms and conditions across the workforce	5	10	3	10	10	8	41
Introducing flexibility into contracts	4	9	3	7	15	10	38
As part of an organisational response to changing customer behaviour or sectoral environment	7	15	5	9	14	12	37
To mitigate the risks of redundancy	6	17	5	7	11	9	37
To reduce costs due to financial pressure	11	20	9	10	23	14	62
Other	1	5	2	5	2	2	11
Don't know	-	1	4	1	5	4	9

You said that a reason for your organisation reducing workers' terms and conditions was to reduce costs due to financial pressure. Overall, which of the following best describes the degree of this financial pressure?

Organisation size

	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
<i>Unweighted base</i>	13	25	11	15	15	10	53
<i>Base: All whose organisation reduced terms since March 2020 to reduce costs due to financial pressure</i>	11	20	9	10	23	14	62
Severe pressure	7	9	5	2	6	7	23
Moderate pressure	4	11	4	7	14	5	32
Light pressure	0	1	-	1	2	2	5
Don't know	1	-	-	-	1	-	1

Which of the following terms and conditions of employment, if any, has your organisation made changes to since March 2020?
Please tick all that apply.

Organisation size

	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 or more
<i>Unweighted base</i>	57	139	59	97	71	49	255
<i>Base: All whose organisation changed terms and/or conditions since March 2020</i>	44	110	47	73	88	74	309
Pay levels	26	50	32	33	42	34	175
Holiday/pay entitlement	8	26	19	22	22	10	87
Agreed hours of work	25	55	21	38	39	17	131
Location of work	17	46	21	32	56	25	169
Access to enhanced contractual entitlements/incentives (e.g. company car/discounts)	5	13	15	14	22	10	68
Redundancy terms	3	7	4	8	10	7	54
Pension	3	13	9	9	17	5	65
Notice periods	2	15	8	11	17	15	32
Other	3	6	1	6	3	16	20
Don't know	3	5	-	1	0	-	5