

Employment Rights Bill

Lead department	Department for Business and Trade
Summary of proposal	The Employment Rights Bill contains a range of proposals aimed at tackling low pay, poor working conditions and poor job security. These proposals are set out in a summary impact assessment for the Bill and individually in 23 further IAs on specific policy proposals.
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RPC reference	RPC-DBT-24003-IA(1)
Date of issue	21 November 2024

RPC opinion

Rating	RPC opinion
Not fit for purpose	The RPC has assessed eight of the 23 individual IAs as ‘not fit for purpose’ and six of these are in the ‘highest impact’ measure category in the summary IA. The overall assessment for the Bill IA is therefore ‘not fit for purpose’. Given the number and reach of the measures, it would be proportionate to undertake labour market and broader macroeconomic analysis, to understand the overall impact on employment, wages and output, and particularly, the pass-through of employer costs to employees. The eight individual IAs and the summary IA need to provide further analysis and evidence in relation to the rationale for intervention, identification of options (including impacts on small and microbusinesses) and/or justification for the preferred way forward. The issues are summarised in the main body of the opinion and provided in detail at Annex A.

Urgent measure statement

The department has used the Better Regulation Framework's 'urgent measures' process for this provision. Where the Government decide that legislation is required urgently and there is insufficient time ahead of seeking collective agreement for a preferred regulatory option, and the necessary options assessment (OA) to be submitted to the RPC for independent scrutiny in accordance with the framework, departments are, instead, required to submit an impact assessment (IA) for scrutiny as early as possible after obtaining collective agreement. The IA should contain evidence, which should have been set out in the OA, on the rationale, identification of options and the justification for preferred way forward. The RPC then offers an opinion that includes an overall fitness-for-purpose (red/green) rating, informed by the individual red/green ratings for those three categories. In this case, not only was the IA submitted for RPC scrutiny after the proposal to legislate had been agreed and announced, but it was submitted after the legislation had been introduced to Parliament.

RPC summary

Consistent with that noted above, the overall quality ratings for the Bill IA (consisting of the summary IA and 23 individual IAs) across the three ‘red’ or ‘green’ rateable scrutiny categories below is determined by the lowest ratings for the individual IAs since the impact of the associated measures accounts for a significant part of the impact of the overall Bill.

Category	Quality¹	RPC comments
Rationale for intervention	Red (<i>relating to six of the 23 individual IAs; Green for the remaining 17 individual IAs</i>).	The assessment needs to be improved in relation to six of the measures. The issues are mainly around lack of evidence to support the problem being addressed and insufficient evidence to justify market failure or other rationales for intervention. More specifically, the Department needs to provide evidence supporting an imbalance of power between employers and workers in certain sectors of the economy, such as some public services and transport, which represents a rationale for a number of the measures.
Identification of options (including SaMBA)	Red (<i>relating to seven of the 23 individual IAs; Green for the remaining 16 individual IAs</i>).	The individual IAs do not generally consider a ‘long-listing’ of options to achieve the objectives, while they appraise only the ‘do nothing’ and preferred policy option. The seven IAs rated not fit for purpose are generally ones where viable alternative options are most readily identifiable and amenable to proportionate assessment.
Justification for preferred way forward	Red (<i>relating to eight of the 23 individual IAs; Green for the remaining 15 individual IAs</i>).	The assessment needs to be improved in relation to eight of the measures. The issues are mainly insufficient consideration of alternative options preventing adequate justification for the preferred way forward and an inadequate assessment of disproportionate impacts on SMBs and associated potential mitigation. For some of the individual IAs there are also issues around missing business impacts, lack of proportionate monetisation and insufficient assessment of key risks.
Regulatory Scorecard	Weak (<i>relating to ten of the 23 individual IAs; others Satisfactory with one Good</i>)	The summary IA and many of the individual IAs provide insufficient justification for the directional ratings, particularly in relation to business impacts and impacts on the business environment. The IAs would also generally be improved by further consideration of wider impacts, such as on prices, employment, competition and economic growth, and how employers might respond to the measures. Trade impacts are not expected, however, the IAs do not consider the competitiveness of UK supply chains for exporting businesses.
Monitoring and evaluation plan	Weak (<i>relating to 12 of the 23 individual IAs, of which two Very weak; others Satisfactory and one Good</i>)	Around half of the IAs would benefit significantly from providing more detail at this stage, particularly in setting out, at least initially, the questions that a post-implementation review would address and measurement of the achievement of policy objectives. A number of the proposals contain many different measures, and the plans would benefit from considering these individually.

¹ The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. Please find the definitions of the RPC quality ratings [here](#).

The table below provides a summary of the RPC ratings for the 23 individual IAs. The IAs are listed in the order they appear in the summary IA (table A1, pages 2-3) and 'impact' is the 'order of magnitude' classification in that IA (tables A3 to A5, pages 34-42).

Table 1: RPC ratings for each individual IA

<u>Measure/IA</u>	<u>Impact</u>	<u>Rationale for intervention</u>	<u>Identification of options</u>	<u>Justification of preferred way forward</u>	<u>Regulatory scorecard</u>	<u>Monitoring & evaluation plan</u>
Day 1 unfair dismissal rights	Highest	Red	Red	Red	Weak	Weak
Repeal TU Act 2016	Highest	Red	Red	Red	Weak	Weak
Repeal Strikes MSL Act 2023	Highest	Red	Red	Red	Weak	Weak
Establish a Fair Pay Agreement	Highest	Red	Red	Red	Weak	Satisfactory
Fire and Rehire	Highest	Green	Green	Red	Satisfactory	Satisfactory
ZHCs notice of shifts	Highest	Green	Green	Green	Satisfactory	Weak
ZHCs guaranteed hrs	Highest	Green	Red	Red	Satisfactory	Weak
Establish Fair Work Agency	Highest	Green	Green	Green	Satisfactory	Satisfactory
Statutory Sick Pay LEL etc	Highest	Green	Green	Green	Good	Weak
Trade union access etc	Low	Green	Green	Green	Satisfactory	Weak
Whistleblowing protections	Low	Green	Green	Green	Satisfactory	Very Weak
Collective redundancy	Medium	Green	Green	Green	Satisfactory	Satisfactory
Strengthen tipping law	Low	Green	Green	Green	Satisfactory	Satisfactory
Pregnant workers	Medium	Green	Green	Green	Satisfactory	Satisfactory
Flexible working	Low	Red	Red	Red	Weak	Weak
Bereavement leave	Medium	Green	Green	Green	Satisfactory	Weak
Day 1 paternity leave	Medium	Green	Green	Green	Satisfactory	Good
Equality Action Plans	Low	Green	Green	Green	Weak	Satisfactory
Outsourced workers - GPG	Low	Green	Green	Green	Weak	Satisfactory
All reasonable steps - SH	Low	Green	Green	Green	Weak	Satisfactory
specific steps - SH	Low	Green	Green	Green	Weak	Satisfactory
Harassment by third parties	Low	Red	Red	Red	Weak	Weak
Redundancy - seafarers	Low	Green	Green	Green	Satisfactory	Very Weak

Introduction

This opinion provides an assessment of all 23 individual IAs. This is provided in detail at Annexes A and B. Annex A provides the ‘red-rated’ issues across eight of the IAs, which represent a substantial portion of the overall impacts. (The better regulation framework provides for green/red-rating on three criteria: rationale for intervention, identification of options and justification for the preferred way forward.) Annex B provides comments and other (non-red rated) areas for improvement across all 23 IAs. This includes ratings (good/satisfactory/weak/very weak) across the other two criteria: regulatory scorecard and monitoring & evaluation plans.

The opinion also provides comments on the summary IA. The summary IA is essentially a summary of the 23 individual IAs and therefore the rating of the summary IA is largely determined by the ratings of the individual IAs. However, the summary IA provides additional overarching discussion, mainly in relation to rationale for intervention, regulatory scorecard and monitoring & evaluation plans. The opinion, therefore, provides additional comments on the summary IA in these areas.

Summary of proposal

The Employment Rights Bill (‘the Bill’) contains a range of proposals in pursuit of the Government’s plan to ‘*Make Work Pay*’, which the Government sees as a core part of a mission to grow the economy, raise living standards across the country and create opportunities for all. The Bill is intending to tackle low pay, poor working conditions and poor job security, as areas considered by the Government to be holding back the economy. The Department for Business and Trade (DBT), supported by other government departments, has produced a summary IA for the Bill. This IA is supported by 23 individual IAs on more specific proposals. These IAs are listed at Table A1 (pages 2-3) of the summary IA and are presented (in the same order) at Annex B to this opinion.

Impacts of the proposal

The summary IA presents (Table A6, page 44) a net present social value (NPSV) estimate of -£2.8 billion over ten years (in 2024 prices; 2024 present value). The IA notes that this does not represent a full assessment, as many anticipated impacts are not monetised, particularly on the benefit side. The figure represents monetised resource costs; the proposals also involve transfers from business to employees and the IA treats these as netting to zero in NPSV terms. The main contributors to the NPSV figure:

- Zero hours contracts (ZHCs) – Right to reasonable notice of shifts with payment for shifts cancelled, moved and curtailed at short notice (-£1.8 billion in NPSV terms, mainly in administrative and workforce planning costs).
- ZHCs – Right to guaranteed hours (presented as around -£0.6 billion in the summary IA, consisting of administrative and workforce planning costs).

- Day one unfair dismissal – (around -£0.25 billion, consisting of familiarisation and costs of additional early conciliation and Employment Tribunal (ET) cases).
- Day one right to paternity leave and unpaid parental leave – (-£0.2 billion, consisting of administrative and reorganisation costs).

The summary IA reports a business NPV negative impact figure of -£7.4 billion. This includes the costs to business in the NPSV (accounting for nearly all of the -£2.8 billion figure) and transfers from businesses to employees. The latter includes payments in respect of:

- improved access to Statutory Sick Pay by removing the Lower Earnings Limit and removing the waiting period (around -£3.5 billion);
- ZHCs – Right to reasonable notice of shifts etc (around -£0.9 billion); and
- day one unfair dismissal – (around - £0.1 billion to -£0.2 billion in costs of ET awards and early conciliation settlements).

The EANDCB figure of £0.9 billion is an annualised representation of the business NPV figure. The summary IA also provides an equivalent figure in respect of households: an 'EANDCH' of -£0.5 billion. This is an annualised figure of the transfers from businesses to employees referred to above.

RPC comment on estimation of overall direct business impact

It should be noted that the EANDCB figure of £0.9 billion excludes a number of measures where direct impacts on business are described in the summary IA as not monetised. Some of the individual IAs include indicative or illustrative estimates and the summary IA would benefit from including these, on that basis, in its overall EANDCB figure or explaining why this is not appropriate. In particular, the 'fire and rehire' IA includes an annual illustrative annual cost figure of around £0.4 billion and it would seem more appropriate to include this figure, and others relating to, for example, bereavement leave, whilst acknowledging their uncertainty, than to exclude them.

On business costs, the summary IA reports confidence that the total direct cost to business will be less than £5 billion per year. This figure is derived from summing the top-end of the broad order of magnitude cost ranges from the summary IA's grouping of the proposals in Tables A3, A4, and A5 (pages 35-44). The approach is a very rough approximation. It would appear that the figure of up to around £4.5 billion (para 101, page 45) is calculated as four measures at £1 billion, four measures at £100 million and around 12 measures at £10 million; however, the IA would benefit from clarifying the calculation. In particular, it is unclear whether and, if so, how the 'fire and rehire' case is included. The cost of the Adult Social Care Fair Pay Agreement is 'capped out' at £1 billion; however, the IA should acknowledge that the cost could be much higher than this.

The direct impact on business estimate does not account for the likelihood employers may offset the costs of regulation and mandated benefits through wage adjustments, benefit reductions or other compensatory mechanisms which would

eventually be borne by the employee. For example, the Institute for Fiscal Studies noted, based on empirical evidence on the impacts of previous reforms of this kind, that it generally expects much, and potentially close to all, of the cost to be passed through to lower wages.² There may also be negative impacts on recruitment, including from employers potentially adopting labour-saving technological measures such as AI systems and self-service check outs.

The IA takes the approach meant for more limited regulatory measures – to add the direct impacts for each of the component IAs, separately, such as familiarisation costs. Given the significant reach of the measures to change employee rights and industrial relations across the economy, the RPC maintains that it would be proportionate to undertake labour market and broader macroeconomic analysis, to understand the overall impact on employment, wages and output, and particularly the pass-through of employer-costs to employees. Without understanding the direct macroeconomic impacts on employment, wages and output, it is not possible to validate the departments' estimated impacts.

This analysis would also be required to substantiate the assertion that the combination of measures would aid growth in the economy.

Overall, the RPC has a low level of confidence in the estimated direct impacts included in the IA.

Rationale for intervention

The RPC considers that the evidence and analysis supporting the rationale for intervention is insufficient in respect of the following six individual IAs:

- a) Day one unfair dismissal rights
- b) Repeal of Strikes (Minimum Services Levels) Act 2023
- c) Adult Social Care Fair Pay Agreement (FPA)
- d) Flexible Working
- e) Repeal of the Trade Union Act 2016
- f) Employer liability for all workplace harassment of employees by third-parties.

The reasons for the RPC's assessment are set out in detail at Annex A. The issues are mainly around lack of evidence presented for the problem being addressed and insufficient discussion of market failure or other (e.g. equity) rationales for intervention. More specifically, on b) and e) there is, in particular, insufficient evidence presented relating to the claimed imbalance of power between employers and workers in certain sectors of the economy, such as some public services and transport. On c), the IA needs to provide evidence that the proposal would address the problems identified, which appear to be more around low local authority fees and insufficient government funding, and achieve the policy objectives.

On the evidence presented in the summary IA, sections 2-3 (pages 3-7) and section 9 (pages 23-32) provide an overarching discussion around the problem under consideration and rationale for intervention. This provides a clear listing of policy

² <https://ifs.org.uk/articles/labours-policies-workers-rights-and-mandated-workplace-benefits>

objectives (para 20). However, the IA does not provide evidence that the proposals would achieve the desired policy outcomes, including improved productivity and wage growth, equality of opportunity, job security, increased economic activity and employment (as referred to at para 18). In particular, the IA would benefit from addressing concerns that the proposals could make it more difficult for those unemployed or economically inactive to access jobs, either through overall negative impacts on employment and/or a strengthening of ‘insider’ power. Insider power may disadvantage young people entering the workforce for the first time, the unemployed and parents returning to work for example and could lead to increased reliance on internal hiring or recruitment based on personal networks, restricting opportunities for individuals with limited professional connections. The IA could also address further the risk that the proposals would encourage employers to offer temporary or fixed term rather than permanent positions as well as increased use of staffing agencies, and the negative effect this would have on achievement of the policy objectives.

The summary IA’s discussion of market failures could be improved in a number of areas. First, as indicated in our comments on two of the individual IAs, the discussion of an imbalance of power between employers and employees should consider sectoral variations, i.e. whether this holds in areas such as some public services and transport provision. Second, the IA should explain more clearly what is meant by ‘information asymmetries’ in this context. Third, the IA mentions but does not develop the role of “uncompetitive markets”, including whether there are implications for alternative or complementary policy options to increase product market competition. Finally, the IA would benefit from addressing equality/equity considerations for intervention separately from market failure.

Identification of options (inc. SaMBA)

The RPC considers that the evidence and analysis supporting the identification of options is insufficient in respect of the following seven individual IAs:

- i. a) to f) above; and
- ii. ZHCs - right to guaranteed hours.

Annex A provides details of the RPC assessment. There is an issue across all the individual IAs in that there is generally no long-listing of options and frequently only the do nothing and preferred option are subject to option short-list appraisal. There is also limited consideration of non-regulatory alternatives, such as voluntary codes or incentives. The IAs rated not fit for purpose on identification of options are generally the ones where viable alternative options are most readily identifiable and amenable to proportionate assessment. Annex A provides details of these potential options.

On the scope options, the IAs generally provide a satisfactory explanation for why it is considered that small and micro businesses (SMBs) should not be exempt from the proposal.

Justification for preferred way forward

The RPC considers that the evidence and analysis supporting the justification for the preferred way forward is insufficient in respect of the following eight individual IAs:

- a) to f) above;
- ii. ZHCs - Right to guaranteed hours; and
- iii. 'Fire and rehire'.

Annex A provides details of the RPC assessment. The issues are mainly two-fold: insufficient consideration of alternative options preventing adequate justification of the preferred way forward and (for IAs b) to d) and f) above) insufficient consideration of the disproportionate impacts on SMBs and associated mitigation. For some of the IAs there are also issues around missing business impacts (such as likely higher wage costs as employers manage underperforming employees), lack of proportionate monetisation and insufficient assessment of key risks. An area for improvement is the evidence and analysis on employer pass-through of costs, specifically how additional regulatory costs might impact wages and benefits.

The RPC notes that, in part due to the very short timescale in which the IAs have been produced, there is generally very limited direct evidence or input from stakeholders to inform the estimates of impact, although there are plans to undertake consultation on a number of the proposals. This contributes to the relatively high uncertainty in many of the estimates. Where measures are subject to secondary legislation, the departments should seek to use consultation to obtain information to make its estimates more robust. One area where the present IAs could be improved is through greater use of international comparisons (see Annexes A and B for details).

Regulatory Scorecard

Part A of the 'regulatory scorecard' considers overall welfare impacts and distributional impacts, particularly on business and households (including employees). Part B of the scorecard provides an assessment against three government priority areas: business environment; international trade and investment; and natural capital and decarbonisation. The RPC's comments and ratings for the 23 individual IAs are presented at Annex B. The RPC considers the completion of the scorecard to be 'weak' in respect of ten of the 23 individual IAs (all others being 'satisfactory' with one 'good'). All five Cabinet Office IAs are rated as 'weak'.

The main issues with the 'weak' rated scorecards are insufficient justification for the directional ratings, particularly in relation to business impacts and impacts on the business environment. For example, the IAs need to justify the use of 'neutral' over 'may work against' on the latter and consider indirect impacts on employees through pass-through effects, namely how increased regulatory costs might impact wages and benefits of employees, especially in competitive or low-wage sectors.

The assessments would also benefit from greater discussion of impacts on competition and innovation. There is generally limited discussion of wider impacts, such as impacts on prices to consumers (for example, the impacts of an FPA on individuals self-funding social care), particularly in low-wage sectors such as retail and hospitality, and more generally how businesses might react to the proposals (for example, potential market exit).

Most of the component IAs cite a low or zero impact on trade, given that the expected impacts fall on non-exporting businesses. In general, the RPC is concerned that the IA fails to recognise the negative impact on the supply chain businesses which would generate costs to be passed onto exporting businesses. The IA would be improved by assessing the relative impact on UK competitiveness, compared to the *status quo*.

The summary IA provides a useful discussion of how businesses might respond to the proposals (pages 45-46) and assessments of unintended consequences, wider, sectoral and regional impacts sections 15-18. The evidence for impacts on prices, employment and growth is mixed and the assessment of impact is highly uncertain. Although the IA acknowledges that impacts may be more significant in individual areas of the labour market, the IA would benefit from further justifying its assessment that negative impacts on employment and growth overall would be small. The section on unintended consequences uses a parallel with the national minimum/living wage to suggest that the risk of negative employment effects is small. This assessment would benefit from greater consideration of the differences to NMW/NLW, such as the Bill proposals involving significant resource costs in addition to a large transfer from employers to employees (in terms of the direct impact). The IA could also usefully discuss how the impact of the proposals could combine or interact with other substantial increases in business cost, such as the recently announced increases in the NLW and employers' national insurance contributions.

Monitoring and evaluation

The RPC's comments and ratings for the 23 individual IAs are presented at annex B. The RPC considers monitoring and evaluation plans to be 'weak' in respect of 12 of the 23 individual IAs, of which two are rated 'very weak' (all others being 'satisfactory', with one 'good'). Although most of the IAs include some discussion of data sources for a post-implementation review, the plans are generally lacking in detail, particularly in setting out, at least initially, the questions that the PIR would address and the possible indicators for measuring the outputs, impacts and outcomes outlined in the logic model. A number of the proposals include many different measures, and the plans would benefit from considering these individually.

The summary IA includes a section on monitoring and evaluation plans (section 6). This provides a high-level overview of data sources, research methods, type of evaluation and overall questions that a PIR might address. Although the IAs indicate that for policy measures implemented via secondary legislation further detail will be provided at that stage, the IAs would benefit significantly from additional detail at this stage.

Regulatory Policy Committee

For further information, please contact regulatoryenquiries@rpc.gov.uk. Follow us on Twitter [@RPC_Gov_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](#) or consult our website www.gov.uk/rpc. To keep informed and hear our views on live regulatory issues, subscribe to our [blog](#).

Annex A: IAs considered not fit for purpose: red-rated issues

Measure/IA	Summary of measure and impacts	Red-rated issues
<p>Day 1 unfair dismissal rights</p>	<p>Proposal would make general unfair dismissal protection a day one employment right and prescribe the duration of an initial period when the employer can more easily dismiss an employee fairly.</p> <p>The IA presents an NPSV of - £323.9m to - £338.7m. Annual direct costs to businesses are estimated to be £41.5 million and £43.2 million. Costs consist of familiarisation, additional early conciliation and Employment Tribunal (ET) cases and settlements/awards. Household NPV is estimated at £113m (based on annual direct costs of early conciliation and ET cases of £9.6 million and annual direct benefits of settlements and awards of £22.7 million.)</p>	<p><i>Rationale for intervention.</i> The IA notes that it does not have robust data on the incidence of dismissal for those under two years of employment (para 96) and needs to provide further discussion of the existence and extent of the problem being addressed. The IA briefly mentions asymmetric information (page 13) but needs to provide a substantive discussion of market failure. The IA refers to equity but also needs to discuss fairness in terms of how long-standing employees might view the same rights being given to new employees from day one.</p> <p><i>Identification of options.</i> The IA considered only the do nothing option and the proposal for day one rights. The IA notes that “...<i>consideration was given to reducing the qualifying period by less than two years, but it was noted that this would fail to achieve the policy objectives to rebalance entitlements between employees and employers, improve job security and reduce the risk associated with switching jobs for employees with less than two years tenure.</i>” (para 47). The IA needs to address why options of reducing the qualifying period to points in between the current two years and proposed day one would not provide an appropriate re-balancing, and/or address options relating to ‘probation’ periods (which are discussed but not assessed in detail).</p> <p><i>Justification of preferred way forward.</i> The IA needs to justify the preferred way forward against other ‘do something’ options. This could include reference to widening existing circumstances under which employees can bring unfair dismissal claims without having two years’ service. The IA needs to clarify whether there are additional costs to business, including salary costs during performance management, during disputes, retention costs from tribunal risk aversion and increased settlements offered to avoid legal claims. The IA could consider evidence from existing unfair dismissal cases of the likelihood of employees bringing claims, which may depend on whether jobs are lower skilled or professional, and also reputational risks associated with bringing a claim, particularly for professional positions. The IA also needs to address the potential</p>

		<p>indirect and dynamic impacts on the labour market, such as how day one rights might affect recruitment, employee turnover or retention rates.</p>
<p>Repeal Trade Union (TU) Act 2016</p>	<p>The proposal would largely reverse the measures introduced in the 2016 Act, such as the 50% turnout and 40% support in important public services thresholds in industrial ballots.</p> <p>The IA estimates an NPSV figure of £2.7 million, consisting primarily of reduced administration costs. The IA presents business NPV and EANDCB figures of £5.6 million and -£0.6 million, respectively.</p>	<p><i>Rationale for intervention.</i> The IA states that the 2016 Act weakened collective worker voice and contributed to the imbalance of power between employers and workers. The IA needs to address why it considers there to be an imbalance of power in favour of employers in the important public services, such as health, education and transport, where there is relatively high union density and strikes have been prevalent in recent years. The IA would have benefitted from being able to draw on a post-implementation review of the 2016 Act. The IA could include reference to international labour rights conventions and comparisons to the 2016 Act.</p> <p>The IA also suggests that increasing TUs ability to strike might reduce strikes and/or reduce their length. This appears to be in anticipation of improved co-operation between employers and TUs, and increased TU leverage incentivising employers to settle earlier. The IA needs to address why this is more likely than the more direct effect that lowering thresholds will increase the likelihood of a successful ballot for industrial action and therefore strike action, particularly in view of the evidence presented that the 2016 Act reduced strike action in 2017-2019 (paragraph 34). (Table 8, page 25 also shows that a substantial percentage of ballots failed to pass the thresholds.) Again, the IA would benefit from some reference to international conventions and evidence from countries that have stronger rights to strike.</p> <p>The IA appears to link an imbalance of power in its evidence base to low real wage growth, low training and job insecurity (pages 15-16). This is presumably relative to capital, as a share of national income, as there is limited evidence (page 41) on how the proposal might raise underlying drivers of pay, such as productivity growth. The IA needs to clarify the role of the proposal in addressing its apparent objectives, such as increasing real wage growth. This should include addressing the implication of raising wages through collective bargaining which is not matched by productivity, where the dynamic effect in labour market economics is that the ‘demand for labour’ would fall. More generally, the IA would benefit from including a basic description of labour market economics, outlining different effects in a competitive market or a monopsony.</p>

		<p><i>Identification of options.</i> The IA reports consideration of an alternative option regarding the opt-in (to a political fund) measure (para 22). The IA also notes there will be consultation on aspects of some measures, such as the required number of days' notice of industrial action and number of months a mandate is valid for (para 20). However, the IA needs to provide consideration of options/sub-options in relation to other measures, such as reducing rather than abolishing ballot thresholds.</p> <p><i>Justification of preferred way forward.</i> The IA needs to justify the preferred way forward against other 'do something' options/sub-options. The IA should also address the potential impacts on employment referred to above.</p>
<p>Repeal Strikes (Minimum Service Levels) Act 2023</p>	<p>The proposal would mean that employers would not be able to require individuals to work to meet a minimum level of service (MSL) on strike days.</p> <p>The IA provides NPSV and business NPV figures of -£0.1m, consisting of familiarisation costs.</p>	<p><i>Rationale for intervention.</i> The level of evidence for the rationale is limited by the existing Act being in place for less than 12 months and that it has not yet been used by employers. The IA argues that the Act contributed to reducing the 'collective voice' and hence bargaining power of workers to challenge employers on wages, skills development and job security, and the imbalance of power between workers and employers (para 7). However, the IA needs to demonstrate that the balance of power favours employers in the sectors covered by the Act, in view of the relatively high union density, level of strikes and apparent unwillingness of employers to use MSL. The IA would benefit from some discussion around UK commitments under the Freedom of Association and Protection of Right to Organise Convention.</p> <p>The assessment should address the balance between the wider society costs of strikes in critical sectors (with some quantification) with the unquantified freedom/principle to be allowed to strike.</p> <p>The IA notes that "...the preferred option meets the government growth objective by reducing barriers to collective worker voice. Removing minimum service levels will reduce the red tape on trade unions thereby reducing barriers to unions carrying out strike action." (para 12). The IA needs to provide evidence that this will support the objective of helping to increase economic growth.</p>

		<p>The rationale appears to be partly based upon on an assumption that removing power to invoke MSL will improve relations and cooperation between unions and employers, reducing strike action. However, paragraph 91 accepts this is 'speculative' and the IA needs to present evidence or further reasoned argument for why this can be expected.</p> <p><i>Identification of options.</i> The IA notes that, as a manifesto commitment, a long-list of policy options was not developed for this IA (para 16). The IA notes that alternatives to a full repeal of the 2023 Act would not have been sufficient to achieve the Government's objective of restoring power to unions, as they would still impose constraints on collective bargaining and limit unions' ability to exert meaningful influence during industrial action (paras 16 and 17). The IA needs to clarify whether these are objectives in themselves or a means to achieve government objectives of supporting growth and improving real pay growth, adjusting its discussion of options as appropriate. The IA should discuss whether there are intermediate options such as allowing MSLs in a smaller number of critical sectors and relaxing elsewhere.</p> <p><i>Justification of preferred way forward.</i> The IA needs to set out a clear counterfactual, i.e. assumptions around employers' use of the existing legislation. In the scenario where MSLs are applied. The assessment of small and microbusiness impact (paras 93-97) needs to discuss impacts on 'ancillary' SMBs, e.g. coffee shops at rail stations, and SMBs in supply chains, particularly if the measure results in no services at all and therefore there is station closure on strike days.</p>
<p>Establish a Fair Pay Agreement (FPA) process in the adult social care (ASC) sector</p>	<p>An FPA is an agreement in a sector, negotiated between relevant employer and worker representatives, which sets out the minimum pay and other terms for relevant workers in the sector. The proposal would introduce regulation-making powers that would</p>	<p><i>Rationale for intervention.</i> The IA provides evidence of the supply of social care labour services not meeting demand and links this to local authority monopsony power, with fees to providers being too low and central government funding insufficient (pages 11 and 13). However, the IA does not show how the proposal addresses this problem. The IA indicates that an FPA leading to higher pay could encourage higher fees but acknowledges this is uncertain. The IA also notes that if funding and thereby fees do not increase, higher pay could reduce the amount</p>

	<p>enable the creation of an FPA in the ASC sector via secondary legislation.</p> <p>No NPSV or EANDCB figures have been provided at this stage.</p>	<p>of social care provided. The IA needs to provide evidence that the proposal would address the market failure and achieve the policy objectives.</p> <p><i>Identification of options.</i> The IA needs to include or discuss options, or complementary options, that would address the problem identified (these may include non-regulatory approaches, e.g. increased government funding allowing LAs to pay higher fees.)</p> <p><i>Justification of preferred way forward.</i> The IA does not consider other options and provides very little monetisation. The IA notes, but only for illustrative purposes, that a package equivalent to a 1% increase in wages in 2022/23 (approx. 10p per hour per worker) would have increased the wage bill by £266 million (page 21). No estimate is provided of costs if FPA covers non-pay benefits. There is no indication of what range of percentage increases might likely result from a FPA. The IA does not consider international evidence, such as recent experience in New Zealand (reported, for example, by the <i>Institute of Government</i>), or estimates of the cost of an FPA by other organisations, for example by <i>Policy Exchange</i>. The IA needs to address these issues to provide sufficient analysis and evidence to justify the preferred way forward.</p> <p>The IA addresses exemption for SMBs satisfactorily. However, the IA indicates that 84% of ASC providers are SMBs (para 60) and that these would be more exposed to higher labour costs under an FPA. There is a brief mention of possible market exit. The IA provides some discussion of mitigation. However, the IA needs to address the impact of the proposal on SMBs in more detail, including the risk of market exit and therefore risk to achievement of the policy objectives.</p> <p>The IA should address the impact on individuals who may have to pay more to fund social care.</p>
<p>Dismissal for failing to agree to variation of contract, etc</p>	<p>The proposal would prevent fire and rehire except where the employer meets the narrow exception for financial difficulties. The IA provides</p>	<p><i>Justification of preferred way forward.</i> The IA usefully provides an illustrative estimate of the potential cost to business of the preferred option (£82 million to £641 million, central estimate of £361 million). These estimates would appear to be annual figures. There is a brief discussion of alternative options on page 5 and in the 'summary: analysis and evidence' table (pages 14-16), with some</p>

(Fire and Rehire)	illustrative monetisation only at this stage.	exploration of the impact of an outright ban option on page 30. The IA provides no comparative, if only indicative, monetisation of impacts against the preferred option and the discussion of non-monetised, distributional impacts and risks is brief. Given the relatively large impact of this measure, the IA needs to provide a stronger comparative assessment of impacts across the different options to justify the preferred way forward.
ZHCs - Right to guaranteed hours	<p>The proposal aims to ensure 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).</p> <p>The IA provides a central estimate NPSV of -£2.0 billion and an EANDCB of around £230 million. Both figures consist of additional administrative costs to business, the large majority relating to workforce planning.</p>	<p><i>Rationale for intervention</i> – see ‘areas for improvement’ in annex B.</p> <p><i>Identification of options.</i> The IA discusses briefly other possibilities (paras 30-34) but focuses on the preferred and ‘business as usual’ options. The IA could readily have included a ‘less ambitious’ option (The Workers (Predictable Terms and Conditions) Act 2023 allowed to commence) and a ‘more ambitious’ (ban on ZHC), as per Green Book guidance. The IA needs to address this.</p> <p><i>Justification of preferred way forward.</i> The IA needs to address the comments above on options to justify the preferred way forward. The IA also needs to provide a clear assessment against the counterfactual and assess more fully the potential for the policy to increase unemployment/worklessness, and how far this risk is mitigated by ZHCs remaining potentially available. The IA should also discuss the impact on workers who might like to work fewer than the guaranteed number of hours or days.</p>
Making flexible working the default	The proposal would introduce stricter requirements on employers before rejecting a flexible working request, including only being able to reject a flexible working request where it is reasonable to do so on the grounds of one (or more) of the eight business reasons already set out in primary legislation.	<i>Rationale for intervention.</i> The IA provides some indication of unmet demand for flexible working (para 35, first bullet on 2023 Flexible Jobs Index) and there is some discussion of market failure (e.g. information failure, para 43). However, there is little evidence presented that employers are rejecting requests unreasonably. The IA could discuss ET data on flexible working disputes. There is limited discussion of the measures that came in April 2024, which we understand extended the right to request to day one (from 26 weeks service). It is, therefore, difficult to assess the justification for the additional measures in this proposal. The IA needs to address these issues.

	<p>The estimates NPSV and business NPV at -£13.0 million and an EANDCB figure of £1.5 million. These costs consist of £7.8 million familiarisation costs and £0.6 million annual administrative costs.</p>	<p><i>Identification of options.</i> Only two options are considered: do nothing and the proposal. The IA needs to set out a clear ‘do nothing’ option by clearly reflecting the changes that came into effect in April 2024 through the Employment Relations (Flexible Working) Act 2023. The IA also needs to consider non-regulatory options, such as campaigns to increase awareness of right to request among employees.</p> <p>On SMBs, the IA discusses satisfactorily why SMBs cannot be exempt.</p> <p><i>Justification of preferred way forward.</i> The IA notes that SMBs are less likely to have staff on flexible working and that applications tend to be considered more informally but needs to provide a more substantive discussion of disproportionate impacts. This should include SMBs potentially requiring more formal documentation and increasing the likelihood of them being drawn into the ET process for the first time.</p> <p>There are some areas in the assessment of business costs that need to be addressed:</p> <ul style="list-style-type: none"> - the costs to employers of engaging with more ET cases and hearings taking longer because they will now be considering wider and more subjective factors; and - the IA assumes that there are no net costs to employers of accepting requests, on the basis that they would do so only if the benefits at least matched the costs. However, this does not necessarily hold as rational, risk averse employers will also factor in the increased cost/risk of rejecting requests under the proposal, seeking to avoid costly employment tribunals and, especially for SMBs, the opportunity cost of the CEO needing to spend time on them etc.
<p>Requiring employers to not permit the harassment of their</p>	<p>The proposal would introduce an obligation on employers to not permit the harassment of their employees by third parties under the Equality Act 2010. It will cover all three forms of</p>	<p><i>Rationale for intervention.</i> The IA needs to present sufficient evidence specifically in relation to the prevalence of third-party harassment and its impact (page 2).</p> <p><i>Identification of options.</i> The IA needs to address the comments below in relation to SMBs.</p>

<p>employees by third parties</p>	<p>harassment in section 26 of the 2010 Equality Act 2010: verbal, visual, and physical harassment. In addition to sexual harassment, it will cover all protected characteristics covered by the existing harassment provision: age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.</p> <p>The IA estimates a business NPV of -£23 million, translating to an EANDCB figure of around £2.9 million. This consists almost entirely of familiarisation costs, with a £0.1 million annual cost to businesses arise from the legal costs of defending additional ET cases.</p>	<p><i>Justification of preferred way forward.</i> The IA needs to provide a much stronger assessment of risks. There is no mention of risks/impacts that led the Worker Protection (Amendment to the Equality Act 2010) Act 2023 being revised during parliamentary passage. This included the dropping of the third-party requirements, due to concerns around free speech and costs to employers. The IA needs to provide evidence from business and stakeholders on these risks. The IA must address the costs to businesses of taking steps required to prevent the harassment. The IA should address how the proposal would relate to high-risk areas, such as GPs dealing with mental health patients or doctors in A&E with patients under the influence of alcohol.</p> <p>On SaMBA, the IA notes no disproportionate impacts on SMBs (para 10.54) but needs to justify this and discuss whether the proposal could bring SMBs into contact with ET system for first time (pages 30-31).</p>
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Annex B: Other comments and non-red rated areas for improvement

Measure/IA	Summary of measure and impacts	RPC comments on quality of assessment and areas for improvement
Day 1 unfair dismissal rights	See annex A.	<p><i>Rationale for intervention.</i> The IA discusses the relationship between labour market regulation and employment but would benefit from providing more information on international comparisons.</p> <p><i>Justification of preferred way forward.</i> The IA provides reasonable monetisation of direct impacts on business (familiarisation, additional ACAS and ET cases and awards), estimating costs of around £43.2 million per year. The ten-minute familiarisation assumption should be justified and non-monetised costs to</p>

		<p>employers could be discussed further. Public sector (ACAS and ET) costs are monetised (page 30).</p> <p>There is some discussion of disproportionality (e.g. SMBs being slightly under-represented in ET unfair dismissal cases) but this could be addressed further. There is some discussion of potential mitigation (para 114).</p> <p>Negative impacts on employment and hiring are discussed but could be taken further, including discussing incentives for employers to turn to temporary or fixed-term workers etc (pages 28-29, 33). As noted earlier, the IA should address further concerns that the proposals could make it more difficult for those unemployed or economically inactive to access jobs, either through overall negative impacts on employment and/or a strengthening of ‘insider’ power. The IA should address further that the proposal changes employer risks and creates a barrier to recruitment, for example by encouraging employers to promote from within and recruit individuals through personal connections.</p> <p><i>Regulatory scorecard.</i> Weak. The IA should clarify the NPSV estimate of - £323.9m to - £338.7m in view of the business and household NPV figures presented. The IA should justify the assessment of impacts on the business environment as ‘uncertain’, as opposed to ‘may work against’ (page 9, plus text on page 29), particularly given the empirical evidence from OECD countries linking countries with higher hiring and firing costs to an increase in the unemployment rate (para 151, page 33). Similarly, the IA should justify why non-monetised costs to business are not assessed as ‘negative’ (page 7).</p> <p><i>Monitoring and evaluation plan.</i> Weak. The IA includes some useful discussion on data and indicators of success but should provide more details.</p>
<p>Repeal Trade Union (TU) Act 2016</p>	<p>See annex A.</p>	<p><i>Justification of preferred way forward.</i> The IA provides monetisation in some areas. The balance of the IA would benefit from discussing the risk of an increase in strikes before the possibility of a reduction due to better cooperation etc.</p>

		<p>The IA uses some data from the 2016 IA (paras 45 and 89) but would benefit from comparing its estimates of impact with those in the 2016 IA. The IA could estimate an illustrative annual net direct benefit to employers of reduced strike action due to the thresholds in place since 2016. This could usefully be compared to estimates in the 2016 Act IA.</p> <p>TUs are mostly SMBs and will benefit from the proposal. The IA also notes that SMB employers tend to have lower unionised workforce and will, therefore, be less affected.</p> <p>The IA mentions international comparisons (para 135) but could say more about arrangements in other countries.</p> <p><i>Regulatory scorecard. Weak.</i> The IA's ratings of 'positive' for overall expected welfare impact and non-monetised impacts, and 'uncertain/neutral' for business and business environment impacts should be justified. This should also take account of risks of knock-on effects on sectors such as healthcare, transport and education.</p> <p>The scorecard includes monetised familiarisation costs and administrative savings to TUs. It also includes assessment of public sector impacts, such as on employers ('check-off') and exchequer (funding of certification officer levy being switched to taxpayers).</p> <p><i>Monitoring and evaluation plan. Weak.</i> The M&E plan needs to consider the many individual measures individually.</p>
<p>Repeal Strikes (Minimum Service Levels) Act 2023</p>		<p><i>Justification of preferred way forward.</i> The IA provides a largely qualitative comparison of the two options. The IA could strengthen significantly its assessment of the potential costs of additional strikes on society and the wider economy. This could include comparison with occupations (armed forces and police force) where strikes are not allowed due to the negative costs to society. As noted above, the assessment should include a focus on the balance between wider society costs and the freedom/principle to be allowed to strike. The evidence base could draw more on IA(s) supporting the introduction of MSL, e.g.</p>

		<p>scale of potential net revenue gain to train operating companies of running services on MSL days (para 68). There is a useful discussion of why employers have been unwilling to use MSL (paras 33-37).</p> <p><i>Regulatory scorecard.</i> Weak. The IA needs to justify the rating of ‘positive’ (rather than ‘uncertain’ or ‘negative’) for impacts on overall welfare and distributional impacts. This should take account of low-income households that rely on public services potentially being disproportionately impacted by strike disruptions. Similarly, the IA should justify ‘uncertain’ (as opposed to ‘negative’) for overall business impacts (whilst recognising benefits to TUs). The household impacts section should take account of potential impacts on households unable to get to work, missing appointments etc without MSLs.</p> <p><i>Monitoring and evaluation plan.</i> Weak. The plan is brief and high-level and would benefit, in particular, from providing more consideration of how improvement of relations between unions and employers will be measured.</p>
<p>Establish a Fair Pay Agreements process in the adult social care sector</p>	<p>See annex A.</p>	<p><i>Regulatory scorecard.</i> Weak. The scorecard appropriately notes negative effects on business and business environment. The scorecard would benefit from considering further wider impacts, such as risk of market exit and the impact on individuals who may have to pay more to fund social care.</p> <p><i>Monitoring and evaluation plan.</i> Satisfactory. The plan usefully includes discussion of research methods and considers confounding factors.</p>
<p>Dismissal for failing to agree to variation of contract, etc (Fire and Rehire)</p>	<p>See annex A.</p>	<p><i>Rationale for intervention.</i> The IA provides sufficient discussion of equity and efficiency arguments for intervention. The IA states that it does not have an accurate picture of the prevalence, practicalities and realities of fire and rehire (para 37) but provides some survey evidence on the extent of the practice. The IA would benefit from consideration of sectoral analysis in its discussion of relative bargaining power, e.g. whether ‘quasi-rents’ might be extracted by powerful unions rather than employers in areas such as transport and public services. The IA would also benefit from providing further evidence that the new Code of Practice is insufficient to address the policy objectives.</p>

		<p>The IA would also benefit from discussing the rationale for financial difficulties and the distinction between accounting and economic profit, where the latter takes into account the opportunity cost of capital (and as used in economic regulation by Ofwat, Ofgem etc). This should address whether financial difficulties are when economic profit is negative (i.e. return on capital is higher elsewhere) but the normal accounting profit is still positive.</p> <p><i>Identification of options.</i> The IA could usefully include an option of ‘wait and see’ the impact of the new Code of Practice. The IA could clarify the proposal in relation to financial difficulties being experienced in a specific (cost centre) part of a business or a specific location, and whether how this would be treated could form option variants of the proposal. The IA could improve its presentation of options by making it clearer that the ‘long-list’ options presented on page 5 have been considered further in the IA, particularly through their inclusion in the summary: analysis and evidence’ table (pages 14-16).</p> <p>On SMBs, there is a reasonable discussion of why they should not be exempt, a presentation of statistics by business size, discussion of disproportionality and consideration of mitigation. The latter could be extended to include how SMBs will be informed of the change and how they can seek advice.</p> <p><i>Regulatory scorecard.</i> Satisfactory. The IA provides a reasonable assessment of business and household impacts, but the scorecard would benefit from inclusion of the illustrative cost (to business) and benefit (to household) figures, and from justifying the impact on the business environment as ‘neutral’. For businesses operating at low profit margins, the IA should explore how employee costs can be cut quickly and discuss how such businesses would react, for example, to another pandemic or 2008-style financial crisis.</p> <p>The IA should address whether vulnerable workers, such as those in lower socio-economic groups or young people, face higher risks of being laid off if redundancies replace fire and rehire practices. The assessment should also include any negative impacts on employees due to greater job uncertainty, where fire and rehire to lower wages would reduce the risk of redundancy.</p>
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		<p>The IA would benefit from addressing unintended consequences further, including whether employers might increasingly use variation clauses in contracts, allowing them to vary a contract without employee agreement. The IA could also discuss whether businesses might react by reducing wage settlements to cut costs over a longer period.</p> <p><i>Monitoring and evaluation plan.</i> Satisfactory. The plan includes discussion of data and research methods but would benefit from more detail on questions that the PIR would address and metrics.</p>
<p>ZHCs – Right to reasonable notice of shifts with payment for shifts cancelled, moved and curtailed at short notice</p>	<p>The proposal would oblige employers to provide workers with reasonable notice of shifts and payment for late cancellation, movement or curtailment. The IA provides estimates of -£1.8 billion, -£2.7 billion, £320 million and -£110 million for the NPSV, business NPV, EANDCB and EANDCH, respectively. About two-thirds of the cost to employers are administrative costs, mostly in relation to shift/workforce planning.</p>	<p><i>Rationale for intervention.</i> The IA provides a reasonable level of evidence of the problem, especially on variability of hours. The IA would benefit from providing further evidence on cancellations (pages 16-17) and from using a wider variety of independent sources (there appears to be a reliance on information from the <i>Living Wage Foundation</i>). There is a reasonable discussion of market failure (page 16).</p> <p><i>Identification of options.</i> The IA could discuss a potential option of workers waiving their rights in return for higher pay. The IA could usefully expand its consideration of evidence from other countries (paras 23 and 131).</p> <p><i>Justification of preferred way forward.</i> The IA provides a detailed costing of familiarisation (£50 million, para 72), workforce planning (£200m per year, para 79) and cancellation payments (£110m per year, para 92). The EANDCB is estimated at £320 million. The IA acknowledges that its estimate of the cost of cancellation payments might be too low and could discuss this further (para 93). The IA would benefit significantly from addressing the risk that employers (often in fluctuating demand sectors such as hospitality and retail) may respond by scheduling fewer shifts to avoid penalties for cancellations, and the consequential lost output to the economy.</p> <p>The IA uses a ‘one-sided flexibility’ IA quite extensively. The IA would benefit from discussing more up-to-date evidence.</p>

		<p>The IA would benefit from discussing further the impacts on the hospitality sector.</p> <p><i>Regulatory scorecard.</i> Satisfactory. The scorecard includes the monetised estimates referred to above. The IA could usefully say more about public sector (as employers) costs (page 14). The scorecard could also justify why impacts on business environment is rated as ‘uncertain’ rather than ‘may work against’.</p> <p><i>Monitoring and evaluation plan.</i> Weak. The plan is very brief and, although there is some information on data collection, the plan would benefit from further details.</p>
<p>ZHCs - Right to guaranteed hours</p>	<p>See annex A.</p>	<p><i>Rationale for intervention.</i> The IA presents evidence on the problem (negative impact on individuals), particularly at paras 41-47 (e.g. CIPD research) and under ‘non-monetised benefits’ on paras 100-112. There is discussion of market failure at paras 48-49. Areas for improvement include further discussion on:</p> <ul style="list-style-type: none"> - Increased discussion around flexibility that ZHC can give employees, recognising that employees may not have to work and can have more than one ZHC; - impacts if the measure applied to agency workers, given the potentially very large impact (over 900,000 agency workers) (paras 54-59); - the interaction with the accompanying measure on ‘right to reasonable notice of shift patterns’ – subject to separate IA - (para 85e); and - the apparent levelling off of ZHC growth (para 52). <p><i>Identification of options.</i> The IA satisfactorily addresses why SMBs should not be exempt (paras 120-123). The IA provides some reference to practice in other countries but could usefully expand this (para 26).</p> <p><i>Justification of preferred way forward.</i> The IA acknowledges a “slight disproportionate impact on SMBs” (para 120) and discusses mitigation (para 124). The assessment of dynamic factors (page 27), indicating why costs may be lower should also address risk of costs being higher. The IA could usefully say more about costs to employment agencies (pages 28-29). As noted above,</p>

		<p>the IA should further address the risk that ZHC jobs may not exist as guaranteed hours versions and that people on ZHCs then move to unemployed, economic inactive (care responsibilities etc). The Department should aim to collect stakeholder evidence, particularly in low-wage sectors and sectors which require flexibility due to seasonal demand etc.</p> <p><i>Regulatory scorecard.</i> Satisfactory. The scorecard is largely qualitative but reasonably well-balanced. There is a rough order monetisation of administrative impacts on business (£230m EANDCB). It would be useful to set out more of the calculations leading up to the EANDCB figure at para 83. The calculations use recent IAs; this seems reasonable as the relevant measures are too recent for PIRs, but it would be useful to know how far the estimates/assumptions in those IAs were based on stakeholder information (page 20). The IA would benefit from assessing further how businesses may adapt by subcontracting or outsourcing work to self-employed or gig workers, effectively avoiding the need to offer guaranteed hours. The scorecard could address distributional impacts further by discussing that, under the assumption of a competitive market, costs can only go to reduced wage growth, benefits or hours for other employees and/or consumers through price increases.</p> <p>There is a qualitative discussion around the impact on employers of a loss of flexibility (page 28). The IA could explore potential increases in wage bills, as workers are paid when not needed or if very short-term workers are brought in to meet peaks. The IA could say more on public sector costs (as employers), at page 14. There is a useful discussion of impacts on growth and employment (pages 29, 31 and 35). The IA should discuss a potential lack of flexibility for some employees, who may want to work less than guaranteed hours.</p> <p><i>Monitoring and evaluation plan.</i> Weak. The plan is very brief and, although there is some information on data collection, the plan would benefit from further details.</p>
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<p>Establish the Fair Work Agency (FWA) to bring together existing state enforcement functions</p>	<p>The proposal would create the FWA, bringing together the core enforcement bodies and their enforcement powers. The FWA remit would cover the enforcement of holiday pay regulations which are currently individually enforced through the Employment Tribunal system and Statutory Sick Pay (SSP).</p> <p>The IA provides an EANDCB figure of around £4 million, consisting of one-off familiarisation costs.</p>	<p><i>Rationale for intervention.</i> The IA describes the fragmentation of existing enforcement bodies and its negative impacts, including on compliance and distributional impacts (page 2). The IA cites an independent ('Taylor') review of modern working practices (2017) and other evidence supporting intervention (para 36). The IA would benefit from discussing evidence from any other countries that have single enforcement bodies. The FWA will have new powers to enforce holiday pay entitlement, and the IA provides sufficient evidence for non-compliance in this area. The IA would benefit from discussing any evidence of the impact of the Director of Labour Market (DLME) set up in 2016 to set strategic direction for the core employment rights enforcement bodies and provide a more joined up approach (para 31.)</p> <p><i>Identification of options.</i> The IA discusses why non-regulatory options would not achieve the policy objectives. The IA reports that another option had previously been considered another (paras 21 and 45) and would benefit from providing details of this and how it differs from the preferred option, particularly as the recommendation of one of the reports at para 36 appears to more closely match option 2.</p> <p>The IA addresses satisfactorily why SMBs should not be exempt.</p> <p><i>Justification of preferred way forward.</i> On SMB impacts, the IA notes that "...smaller businesses may face disproportionate challenges due to their limited resources" (para 86). The IA would benefit from discussing what these challenges are and where the potential disproportionate impacts might occur.</p> <p>Familiarisation costs for business have been monetised, accounting for the EANDCB estimate of around £4 million. The IA usefully provides enforcement costs per business where a business has been found to be compliant. The IA would benefit from discussing the possible overall scale of this impact (page 7 and para 81).</p> <p>The IA provides some discussion of FWA set-up costs (paras 56-59) and costs of holiday pay entitlement enforcement (para 66) but would benefit from</p>
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		<p>providing more information on this, perhaps drawing upon the cost of setting up any comparator bodies.</p> <p>The IA provides good information on the operational costs of the existing agencies. The IA would benefit from discussing potential efficiency savings and risks of reduced effectiveness of a new single agency.</p> <p><i>Regulatory scorecard.</i> Satisfactory. The scorecard includes the monetised business familiarisation costs. The scorecard would benefit from better justification of ‘supports’ for business environment. The IA would benefit from discussing unintended consequences, wider impacts, impacts on self-employment and increased potential for the gig economy, as workers are mostly recognised as self-employed.</p> <p><i>Monitoring and evaluation plan.</i> Satisfactory. The plan notes that a review will be undertaken after three years. There is a brief but useful discussion on datasets and KPIs.</p>
<p>Improve access to Statutory Sick Pay by removing the Lower Earnings Limit (LEL) and removing the waiting period</p>	<p>The proposal would mean that employees will be eligible for SSP regardless of earnings and that SSP will be payable from the first day of work missed due to sickness.</p> <p>The IA estimates EANDCB and EANDCH figures of £428 million and -£425 million, respectively. These reflect a transfer from employers to employees in increased sick pay and a small transitional cost. The IA presents a relatively small positive NPSV as positive overall impacts on output are assumed to more than offset transitional costs.</p>	<p><i>Rationale for intervention.</i> The IA describes the problems resulting from the existing arrangements, policy objectives and intended outcomes. The proposal appears more equity than efficiency-based but would benefit from discussing these concepts more explicitly. The IA would benefit from explaining the rationale for the existing restrictions on SSP eligibility.</p> <p>There is good use of international evidence in terms of assessing impacts, but the IA would benefit from setting out what the arrangements are in other countries (for example, it appears that France has, or has had, a three-day waiting time – page 21).</p> <p><i>Identification of options.</i> The IA provides a good long and short-listing of options (pages 14-16), focussing on the LEL. This could say more in relation to waiting period options. The IA would benefit from more clearly acknowledging that the self-certification process (for sickness up to seven days) remains.</p>

	<p>On SMBs, there is a good coverage of disproportionality and mitigation (see below), but the IA could address exemption for SMBs and MSBs more explicitly.</p> <p><i>Justification of preferred way forward.</i> The IA provides a good overall analysis of costs and benefits. Transitional and additional SSP costs to employers and SSP benefits to households/employees are monetised. The IA correctly identifies and monetises direct and indirect impacts, the latter being a result of behavioural changes by employees. The calculations are dependent upon assumptions, but these are evidence-based and seem reasonable. An EANDCB figure of £428m is estimated.</p> <p>The small positive NPV in the summary analysis and evidence table (page 10) should be caveated as it excludes the monetised transition costs. It is also dependent upon assumptions relating to ‘presenteeism’. This means that even though reduced absence length and increased absence incidence offset each other in terms of the number of sickness days being assumed constant, days in work post-measure are assumed to be slightly more productive on average (page 22). The IA could present the dependency of the overall assessment on this assumption more clearly. The IA would also benefit from clarifying its NPSV estimates as two different figures are presented on pages 3 and 10.</p> <p>Administrative costs are not monetised, and the IA could say more about these, given the increased complexity (page 13) of SSP under the proposal (a move from a flat to a percentage rate near the LEL).</p> <p>On SMBs, there is a good assessment of disproportionality, including identifying the share of costs borne by SMBs (pages 23-24) and recognising that this is proportionately higher (SMBs are more likely to pay SSP than occupational sick pay). The assessment covers the mitigation option of a rebate (although it could say more on why this was rejected) and mitigation of administrative costs (pages 14, 23-24 and 29).</p> <p><i>Regulatory scorecard.</i> Good. There is a good level of monetisation in relation to both businesses and households (employees), including at pages 24-25 on the latter. The categorisation of impacts on business in the scorecard is justified.</p>
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		<p>The scorecard identifies wider impacts on the public sector and adult social care sector (page 27).</p> <p><i>Monitoring and evaluation plan.</i> Weak. The IA provides only a single, high-level paragraph (16.1).</p>
<p>Strengthening workers' rights to trade union access, recognition and representation</p>	<p>The proposal includes a range of measures (listed at para 12), including measures aimed to make it easier for unions to obtain statutory trade union recognition and to ensure that union members and workers can access a union at work.</p> <p>The IA presents NPSV and EANDCB figures of -£22.9 million and £2.5 million, respectively. These consist of familiarisation costs of £17.5 million and other transition costs to employers from amending written statement templates (£5.8 million).</p>	<p><i>Rationale for intervention.</i> There are references to evidence of blacklisting (especially in the construction sector) and of an imbalance of power between workers and employers. The IA would benefit from providing more evidence of a problem across the range of measures being proposed and greater discussion of market failure and/or equity rationales for intervention. The IA should present data to describe how many people would be affected by the policy, i.e. the number of people who have not joined a union because they were unaware they could join. Where measures are expected to benefit employers (e.g. facility time at para 90), the IA would benefit from explaining why some employers do not currently allow or provide for this.</p> <p>There is discussion around reduced 'collective voice' of TUs being linked to problems in the labour market, such as low real wage growth, lack of training and job insecurity (pages 15-19). There are references to a literature review (e.g. paras 140-141, 155 - the latter citing an IMF study linking reduced collective bargaining power to lower wage growth) but the evidence appears to be unclear/uncertain. The discussion could be more balanced, taking account of evidence and economic theory that trade unions in a competitive market can reduce employment (by bargaining to increase wages). The IA could also discuss trade unions potentially being a counterbalance to monopsony power (in areas such as the public sector).</p> <p><i>Identification of options.</i> The IA notes that there will be consultation and further IAs on many of the proposed measures (para 19 to 20). The IA demonstrates satisfactorily that non-regulatory options would not address the policy objective.</p> <p>On SMBs, the IA explains that union recognition law applies only to employers with 21 or more workers, so that micros and many small businesses will not be</p>

		<p>affected. It also notes that unionisation tends to be more common in larger employers.</p> <p><i>Justification of preferred way forward.</i> The IA monetises familiarisation and some other transition costs, providing an EANDCB figure of £2.5m. The IA provides a good discussion of non-monetised business costs (paras 131-134). The IA would benefit from providing indicative figures for potential on-going costs, such as providing facility time.</p> <p>On SMBs, the IA usefully breaks down familiarisation costs by business size and there is a reasonable discussion of impacts on SMBs (pages 143-147).</p> <p><i>Regulatory scorecard.</i> Satisfactory. The scorecard provides a reasonable qualitative discussion and monetisation of familiarisation and transition costs. The scorecard should justify the overall impact on business and business environment as ‘uncertain’ and ‘neutral’, respectively, over ‘negative’/‘may work against’. The IA usefully includes estimate of costs to public sector employers.</p> <p><i>Monitoring and evaluation plan.</i> Weak. There is a useful listing of datasets that will be used but the plan should consider the many individual measures individually.</p>
<p>Whistle-blowing protections against sexual harassment (SH)</p>	<p>The proposal will add sexual harassment to the list of relevant failures under s.43B of the Employment Rights Act that a worker can blow the whistle about and qualify for employment protections.</p> <p>The overall impact expected to be very small and there is only illustrative monetisation at this stage.</p>	<p><i>Rationale for intervention.</i> SH cases may currently be brought forward where they fall under the existing categories listed at para 2 of the IA. There are no data available on the extent of SH cases (para 45) but the IA reports evidence from “a range of literature” and of challenges to reporting under the existing system (paras 4 and 25). Very few additional cases are expected (para 52). The IA would benefit from providing more details of the literature evidence and considering potential negative impacts on workplace dynamics.</p> <p><i>Identification of options.</i> The IA considers an alternative of guidance; the IA could usefully explain how far this could clarify that SH cases can be brought currently.</p>

		<p>On SMBs, the IA notes there are no data on SH cases (para 58) but the IA usefully explains why SH cases might be more difficult to bring in SMBs, indicating why SMBs should not be exempt.</p> <p><i>Justification of preferred way forward.</i> The IA provides illustrative monetisation of costs to business from potential additional ACAS and ET cases. It would be useful to have more discussion on risks/unintended consequences (para 90), taking account of SH cases possibly being more subjective than those falling into the existing categories.</p> <p>On SMBs, there is some discussion of disproportionality but, even though the overall are expected to be very small, the IA would benefit from discussing mitigation.</p> <p><i>Regulatory scorecard.</i> Satisfactory. A qualitative assessment but with illustrative public sector impacts. The justification of positive overall welfare impacts, taking account of risks, and ‘neutral’ for business environment impacts should be strengthened. This should take account of the risk of increased workplace tensions or retaliatory behaviours, particularly in firms with limited HR structures and/or small businesses, and how to guard against people wanting to cause harm, especially when they cannot be challenged because of confidentiality.</p> <p><i>Monitoring and evaluation plan.</i> Very weak. The plan briefly mentions data sources and stakeholder engagement but needs to set out M&E plans in much more detail, including the questions that a review would address.</p>
<p>Strengthening collective redundancy rights</p>	<p>The proposal would trigger collective redundancy obligations based on the total number of redundancies made by the employer across all work sites or units, rather than at individual workplaces/units.</p> <p>The IA does not provide NPSV or EANDCB figures but provides</p>	<p><i>Rationale for intervention.</i> The IA describes how the current legislation applying only to single establishments allows businesses with multiple sites to avoid collective consultation obligations, and the negative impacts this has on individuals and society. The IA would be improved by providing evidence on the incidence of redundancy without consultation across multiple sites and of examples where this has occurred (para 8).</p> <p>The IA discusses efficiency and equity rationales for intervention, the latter including power imbalance and information asymmetry. The IA would be improved by discussing why some employers do not voluntarily consult.</p>

	<p>illustrative familiarisation and on-going costs per business estimates.</p>	<p><i>Identification of options.</i> The IA usefully discusses a non-regulatory, code of practice option.</p> <p>On SMBs, the IA explains that SMBs with fewer than 20 employees will not be affected. SMBs are less likely to operate across multiple sites and the IA argues that the proposal therefore helps to support fairer outcomes for SMBs.</p> <p><i>Justification of preferred way forward.</i> An estimate of the impact of this policy is not provided due to lack of information, but the IA does calculate monetised impacts per business and per employee/household. It provides a good discussion of why it is not possible to estimate the number of businesses and employees affected. The IA provides a 'break-even' analysis on the number of 'sub-optimal' redundancies that would need to be avoided by consultation to match costs. The IA would benefit from discussing whether an employer may spread redundancies over a more extended period to smoothen the impact and avoid triggering the threshold.</p> <p>On SMBs, the IA demonstrates no disproportionate impacts on SMBs.</p> <p><i>Regulatory scorecard.</i> Satisfactory. The scorecard includes monetised impacts per business and per employee/household. The scorecard is well-balanced, although the impact on 'business environment' as 'neutral' could be better justified. The IA could discuss unintended impacts, such as firm increasing use of temporary or contract staff given that the redundancy process will be more costly. More generally, the IA would benefit from more evidence on employer behaviour regarding redundancy to help to understand the impact on business environment. The IA discusses public sector (ACAS and ET) impacts.</p> <p><i>Monitoring and evaluation plan.</i> Satisfactory. The IA provides a reasonable discussion of data sources and research methods.</p>
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<p>Strengthen existing tipping law</p>	<p>The Employment (Allocation of Tips) Act 2023 requiring employers to hand over tips and to have a written tipping policy came into force on 1 Oct 24. This included a Code of Practice encouraging employers to consult staff. The proposal is to make consultation mandatory.</p> <p>NPSV and EANDCB figures of -£59.4 million and £6.9 million, respectively.</p>	<p><i>Rationale for intervention.</i> The IA explains why it is considered that making consultation mandatory is necessary to meet the policy objectives but would benefit from providing evidence to support the assumption that mandatory consultations will lead to a fairer tip distribution. The IA reports (para 41) that in April 2024 57% of employers were already consulting and acknowledges this could increase after 1 Oct (this is also acknowledged as a risk to the assumed counterfactual in the costings). The IA would benefit, therefore, from explaining further why a ‘wait and see’ approach in terms of the impact of the Code of Practice was rejected. The IA could discuss further the move away from a cash to a digital economy and whether this might drive a move away from tipping.</p> <p><i>Identification of options.</i> The consideration is limited to comparison of the preferred option against BAU, but this seems proportionate in this case given that the proposal is a relatively small addition to existing requirements. As noted above, the IA would benefit from discussing explicitly a ‘wait and see’ option given the code of conduct only came into effect on 1 October 2024.</p> <p>On SMBs, the IA provides sufficient detail on business size and considers exemption satisfactorily.</p> <p><i>Justification of preferred way forward.</i> The IA provides good, detailed monetisation, drawing upon the previous tipping IA. The IA presented NPSV and EANDCB figures of -£59.4 million and £6.9 million, respectively. This covers familiarisation costs and time costs of consultation, including estimate of lost output as staff spend worktime providing their views</p> <p>On SMBs, the IA provides sufficient detail on business size and considers disproportionality satisfactorily. The assessment would benefit from proportionately considering mitigation.</p> <p><i>Regulatory scorecard.</i> Satisfactory. The scorecard includes significant monetisation. The IA could justify further its assessment of ‘uncertain’ and ‘neutral’ for overall business impacts and impact on business environment, respectively.</p>
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<p>Protections against dismissal for pregnant workers</p>	<p>Proposal would extend protections from dismissal to cover the period of pregnancy prior to the start of Maternity Leave and for a period after the employee has returned to work. The detail of the extended dismissal protection and the specific circumstances under which dismissal will still be permitted will be subject to consultation and set out in secondary legislation.</p> <p>The IA does not present NPSV or EANDCB figures at this stage but provides indicative estimates of employer costs and household benefits.</p>	<p><i>Rationale for intervention.</i> The IA presents evidence of a problem (pages 2 and 13-14) and makes useful international comparisons (para 42). The IA refers to 2016 BIS and EHRC research finding that "...1% specifically were dismissed" (para 7) but would benefit from discussing how this compares with the general population. The discussion on equity is reasonable but consideration of market failure could be strengthened (para 43).</p> <p><i>Identification of options.</i> Non-regulatory options are addressed satisfactorily. The IA could better justify the limited nature of the options taken forward and explain what options/option variants may be assessed as part of the planned consultation and secondary legislation (para 21).</p> <p>The IA justifies why an exemption for SMBs would not be appropriate.</p> <p><i>Justification of preferred way forward.</i> The IA notes that a lack of available data means that it is not possible to estimate the costs and benefits of specific policy options (para 51). However, the IA provides indicative estimates of familiarisation costs (£46.9m), employer contributions to Statutory Maternity Pay (SMP) (£1.9m per year) and benefits to households of additional statutory payments (£5.8m per year). The IA would benefit from providing an indication of the potential scale of the cost of paying wages, even if presented only as an upper limit (page 6 and paras 70-72).</p> <p>On SMBs, the IA would benefit from further detail on disproportionality of impact, although mitigation is usefully discussed.</p> <p><i>Regulatory scorecard.</i> Satisfactory. The scorecard is reasonably well-balanced and judged, although it should justify 'neutral' over 'may work against' for</p>

		<p>business environment. There is useful indicative monetisation, including Exchequer costs.</p> <p><i>Monitoring and evaluation plan.</i> Satisfactory. There is useful discussion on objectives and potential data/evidence sources.</p>
<p>Making flexible working the default</p>	<p>See annex A.</p>	<p><i>Justification of preferred way forward.</i> The IA usefully includes an illustrative assessment of additional costs to employers if the proposal results in more requests. There are some areas for improvement in the assessment of business impacts:</p> <ul style="list-style-type: none"> - the IA uses information from a PIR of the 2014 Flexible Working Regulations. The IA notes that it uses data from two other IAs (paragraph 114) but could state what these are; - the IA states that “<i>If an employer wants to reject a request, they will need to consult with the employee (as they currently do) but, in doing so, follow a specified process, which will be set out via secondary legislation</i>” (para 2, 2nd bullet). The IA could provide an initial discussion of the potential cost implications for business; - the assessment of risk could be more balanced by also discussing risk of underestimating costs (page 31); and - the IA would also benefit from international comparisons. <p><i>Regulatory scorecard.</i> Weak. The scorecard’s assessments of overall business impacts as ‘neutral’, non-monetised business impacts as ‘positive’ and impacts on business environment as ‘neutral’ need justification. The IA would benefit from discussing unintended impacts, such as potential increased workloads for on-site staff.</p> <p>On public sector costs, the assessment that impacts on ACAS and ET caseload will be small would benefit from further justification.</p> <p><i>Monitoring and evaluation plan.</i> Weak. There is little information provided at this stage, but the IA indicates that a more detailed plan will be produced ahead of secondary legislation. The IA indicates likely overlap with the PIR for 2023 Act but could discuss how to assess the additional impacts of the present proposal.</p>

<p>New right to unpaid bereavement leave</p>	<p>The proposal would introduce a new statutory right to day one Bereavement Leave and define the detail of the entitlement, including the relationships in scope and the length of leave that can be taken, through secondary legislation.</p> <p>No NPSV or EANDCB figures provided at this stage, but IA monetises illustrative familiarisation and annual ongoing costs.</p>	<p><i>Rationale for intervention.</i> IA provides satisfactory information on existing rights, presents survey evidence supporting there being a problem and provides a reasonable justification on equity grounds (pages 1-3 and 14).</p> <p><i>Identification of options.</i> Non-regulatory options are discussed satisfactorily. The IA discusses an option of paid/partially paid bereavement leave. The IA monetises two option variants: one week entitlement and limited family member scope; two weeks and wider scope (paras 50 and 55).</p> <p>On SMBs, IA justifies why SMBs should not be exempt.</p> <p><i>Justification of preferred way forward.</i> The IA provides relatively good monetisation, including familiarisation and ongoing administrative and reorganisation costs. The modelling and costings are set out in detail (pages 16-31). No EANDCB figure is presented but illustrative one-off familiarisation costs of £46.9m and annual ongoing costs of £21.0m and £64.2m in the case of options/scenarios 1 and 2, respectively, are presented. The IA would benefit from providing indicative costs to employers relating to the expected small increase in ACAS and ET cases.</p> <p>The summary analysis and evidence table would benefit from including the illustrative estimates.</p> <p>On SMBs, there is reasonable discussion on disproportionality of impacts in relation to ability to re-organise and on ET cases. The IA notes that ways of mitigating administrative burdens on businesses and whether specific provisions for smaller businesses are necessary will be tested via consultation. The IA could say more about mitigation at this stage.</p> <p><i>Regulatory scorecard.</i> Satisfactory. Part A includes the monetisation of impacts. The IA should justify the ‘positive’ for non-monetised business impacts. On Part B, the IA should justify ‘uncertain’ over ‘may work against’.</p>

		<p><i>Monitoring and evaluation plan.</i> Weak. The plan needs to provide more detail, even ahead of any secondary legislation IA.</p>
<p>Day 1 right to paternity leave and unpaid parental leave</p>	<p>The proposal would remove the:</p> <ul style="list-style-type: none"> - 26-week continuity of service - requirement (up until the 15th week before the due date) for Paternity Leave; - one-year continuity of service requirement for Unpaid Parental Leave; and - restriction preventing Paternity Leave and Pay from being taken after Shared Parental Leave and Pay. <p>The IA presents NPSV and EANDCB figures of -£215 million and £25 million, respectively.</p>	<p><i>Rationale for intervention.</i> The IA presents an equity rationale mainly around job security, fairness and well-being. There is a reference to addressing inefficiency and the IA would benefit from addressing any market failure arguments more specifically.</p> <p>The IA makes good use of survey data. This shows potential for increased take-up. Data are presented showing numbers of employees not able to take parental leave due to ineligibility (page 14). However, this also shows that only around a quarter of this is due to the 26/52-week continuous service restriction. The IA should discuss the impact of this on the extent to which the proposal can meet its policy objectives. The IA would benefit from further sensitivity testing of the take-up is assumptions.</p> <p>The IA also makes a case for the proposal as being a simplifying measure as many other parental leaves apply from day one. The IA would benefit from setting out what these are and acknowledging more clearly that SSP eligibility remains at 26 weeks (page 17).</p> <p><i>Identification of options.</i> The IA justifies why other time limits (e.g. three months service) are not preferred (para 18). The IA could address further a non-regulatory option of increasing employee awareness of current eligibility.</p> <p>On SMBs, the IA addresses exemption satisfactorily.</p> <p><i>Justification of preferred way forward.</i> The IA provides good monetisation, of administrative and reorganisation costs, presenting an EANDCB figure of £25 million. This is driven mainly by reorganisation costs in relation to the unpaid parental leave reform. There is good use of data and survey evidence. The IA uses data from New Zealand (para 84), but would benefit from greater</p>

		<p>international comparisons. The IA uses evidence from a PIR of shared parental leave and from other parental leave IAs. The IA would benefit from providing more information on the latter.</p> <p>On SMBs, there is a good assessment of disproportionality, including calculating the share of costs borne by SMBs. There is some discussion of mitigation, e.g. producing guidance, although this could be strengthened.</p> <p><i>Regulatory scorecard.</i> Satisfactory. There is a generally well-balanced scorecard with monetisation included. The IA should justify business environment impact as 'neutral' rather than 'may work against'. Public sector (ACAS and ET) impacts are discussed.</p> <p><i>Monitoring and evaluation plan.</i> Good. The IA provides relatively high detail on policy objectives, evaluation methods and data (pages 9-10, 15).</p>
<p>Requiring large employers to publish Equality Action Plans</p>	<p>Organisations with 250 or more employees have been required to publish specific gender pay gap (GPG) data since 2017. The proposal is that these organisations would be required to publish action plans alongside their data, covering the steps they are taking to improve gender equality in their organisation, as well as how they are supporting women going through the menopause.</p> <p>The IA presents business NPV and EANDCB figures of £7.4 million and £0.7 million, respectively.</p>	<p><i>Rationale for intervention.</i> The proposal extends GPG reporting to include action plans and brings menopause in scope. The IA notes that the PIR for GPG reporting reports evidence of success in narrowing GPG in firms above the 250-employee threshold (para 2.4). However, the evidence on this is uncertain and there is no recommendation in the PIR itself for the measures covered by the proposal. The IA would benefit from providing further evidence of the problem and that the proposal will address it. More widely, the IA would benefit from a discussion of the usefulness of the GPG as an indicator and difficulties businesses might have in preparing action plans, drawing upon PIR evidence.</p> <p>The potential distorting effect of outsourcing low paid (cleaning etc) services on GPG reporting appears to be addressed by the next measure below.</p> <p><i>Identification of options.</i> There is a reasonable discussion of non-legislative options (para 5.5).</p> <p>On SMBs, the proposal will apply only to businesses with more than 250 employees.</p>

		<p><i>Justification of preferred way forward.</i></p> <p>The IA monetises familiarisation costs and costs of producing and updating action plans. The IA would benefit from discussing costs to employers of the actions themselves, given that the intention is that the GPG reporting service will include a list of actions and employers will be asked to identify which they are enlisting (para 1.2).</p> <p>The cost assumptions would benefit from being informed by the GPG reporting PIR.</p> <p><i>Regulatory scorecard. Weak.</i> The scorecard should justify ‘neutral’ for business and business environment impacts, as opposed to ‘uncertain’ or ‘negative’/‘may work against’. The ‘positive’ for overall welfare should also be justified, given risks around whether welfare gains would exceed additional resource cost to business. The scorecard includes public sector costs.</p> <p><i>Monitoring and evaluation plan. Satisfactory.</i> The proposal is to fold review into next GPG reporting PIR in 2028. There is reference to using similar methods as that PIR.</p>
<p>Ensuring outsourced workers are included in gender pay gap (GPG) reporting</p>	<p>Organisations with 250 or more employees have been required to publish specific gender pay gap (GPG) data since 2017. The proposal would make these organisations also required to report which organisations they received outsourced work from.</p> <p>The IA presents an EANDCB figure of £0.75 million.</p>	<p><i>Rationale for intervention.</i> The PIR on GPG reporting reports evidence of success in narrowing GPG in firms above threshold (para 2.5). The IA could present more evidence on how far employers may have responded to GPG by outsourcing low-paid work. The IA would benefit from discussing how outsourcing would be defined in the proposal and how far businesses would be required to list their supply chain.</p> <p><i>Identification of options.</i> There is a reasonable discussion of non-legislative options (para 5.6). The IA notes that this was tried this during the first years of GPG reporting.</p> <p>On SMBs, the proposal will apply only to businesses with more than 250 employees.</p>

		<p><i>Justification of preferred way forward.</i> The IA monetises costs of familiarisation, training and extracting/uploading data, presenting an EANDCB figure of £0.75m. The IA would benefit from clarifying how total costs have been arrived at and whether they include any implementation (e.g. software) costs.</p> <p>The cost assumptions would benefit from being informed by the GPG reporting PIR.</p> <p>There is a useful section on risks and assumptions (paras 10.82-10.90). The IA notes that assumptions will be tested through engagement as part of the development of secondary legislation, including feasibility of existing commercial systems to extract data on suppliers that provide outsourced services (para 10.83).</p> <p><i>Regulatory scorecard.</i> Weak. The scorecard should justify ‘neutral’ for business and business environment impacts, as opposed to ‘uncertain’ or ‘negative’/‘may work against’. The ‘positive’ for overall welfare should also be justified, given risks around whether welfare gains would exceed additional resource cost to business. The scorecard includes public sector costs.</p> <p><i>Monitoring and evaluation plan.</i> Satisfactory. The proposal is to fold review into next GPG reporting PIR in 2028. There is reference to using similar methods as that PIR.</p>
<p>Require employers to take “all reasonable steps” to prevent sexual harassment of their employees</p>	<p>The proposal would amend the duty on employers in the Worker Protection (Amendment to the Equality Act 2010) Act 2023, which came in on 26 Oct 2024, requiring ‘reasonable steps’ to be taken. The proposal adds ‘all’ before “reasonable steps”. It argues that this will strengthen the measure and align with the test in ET cases, reducing uncertainty.</p>	<p><i>Rationale for intervention.</i> The IA argues that the proposal will strengthen the existing measure and align with the test in ET cases, reducing uncertainty for employers and employees. The IA would benefit from discussing further an option of waiting to see the impact of the measure that has very recently taken effect.</p> <p>The IA would benefit from discussion of the likely effectiveness of the reporting, drawing upon gender pay gap data reporting evidence.</p> <p><i>Identification of options.</i> As noted above, the IA would benefit from discussing further an option of waiting to see the impact of the measure that has very</p>

	<p>The IA monetises one-off costs of familiarisation and annual costs of defending ET cases, equating to an EANDCB figure of around £1.6 million.</p>	<p>recently taken effect. There is a reasonable discussion of alternative options (pages 12-13).</p> <p>On SMBs, the proposal will apply only to businesses with more than 250 employees.</p> <p><i>Justification of preferred way forward.</i> The IA monetises one-off costs of familiarisation at £11.3 million and costs of defending ET cases at £0.16 million per year. The IA should discuss why ‘all’ was dropped during parliamentary passage from the Worker Protection (Amendment to the Equality Act 2010) Act 2023, apparently to alleviate business cost concerns. The IA should address further the significance of ‘all’ reasonable steps in potentially increasing business costs</p> <p><i>Regulatory scorecard.</i> Weak. Although the scorecard includes monetisation of familiarisation costs and defending ET claims, the scorecard needs to justify its description of the impact of the proposal as ‘neutral’ for business, ‘positive’ for non-monetised business impacts and ‘positive’ for business environment.</p> <p><i>Monitoring and evaluation plan.</i> Satisfactory. The plan describes the types of evaluation that will be carried out and the data sources/research methods that will be used. However, this is fairly generic and would benefit from setting out more specifics rating to the particular proposal.</p>
<p>Enabling regulations to specify specific steps employers must take to prevent sexual harassment</p>	<p>The proposal would amend the Equality Act 2010 to enable a Minister of the Crown to specify steps that are to be regarded as "reasonable" for the purpose of determining whether, for the purposes of the Equality Act 2010, an employer has taken, or failed to take, all reasonable steps to prevent sexual harassment of an employee.</p>	<p><i>Rationale for intervention.</i> The IA notes that final reporting contents to be decided via consultation and secondary legislation (pages 4-5).and commitments to further assessment at secondary legislation stage.</p> <p>The IA would benefit from discussing the likely effectiveness of the reporting, drawing upon gender pay gap data reporting evidence.</p> <p><i>Identification of options.</i> There is a reasonable discussion of alternative options (pages 12-13).</p>

	<p>The IA estimates an EANDCB figure of £0.34 million.</p>	<p>On SMBs, the proposal will apply only to businesses with more than 250 employees.</p> <p><i>Justification of preferred way forward.</i> The IA monetises costs of familiarisation, producing and updating action plans, with an EANDCB estimate of £0.34 million.</p> <p><i>Regulatory scorecard.</i> Weak. The scorecard should justify ‘neutral’ for business and business environment impacts, as opposed to ‘uncertain’ and ‘negative’/‘may work against’. The ‘positive’ for overall welfare should also be justified, given risks around whether welfare gains would exceed additional resource costs to business.</p> <p>The IA monetises costs to public sector organisations in scope.</p> <p><i>Monitoring and evaluation plan.</i> Satisfactory. The plan describes the types of evaluation that will be carried out and the data sources/research methods that will be used. However, this is fairly generic and would benefit from setting out more specifics rating to the particular proposal.</p>
<p>Requiring employers to not permit the harassment of their employees by third parties</p>	<p>See annex A.</p>	<p><i>Identification of options.</i> There is a brief discussion of an alternative (‘three-strikes’ rule) regulatory option and a code of practice but the IA would benefit from discussing non-regulatory options further.</p> <p><i>Regulatory scorecard.</i> Weak. The scorecard reflects monetised costs but not risks to businesses and individuals. The positive directional ratings on overall welfare, households, non-monetised business impacts and business environment need to be justified. The wider welfare benefits of reduced workplace harassment being complex and difficult to quantify and therefore monetise (page 12) suggests an “uncertain” overall welfare directional rating. The scorecard should discuss impacts on customers of premises affected by the proposal.</p> <p><i>Monitoring and evaluation plan.</i> Weak. The plan would benefit, in particular, from setting out how the risks associated with the proposal would be monitored and evaluated.</p>

<p>Declaring Collective Redundancy for Seafarers</p>	<p>The proposal would require firms who are calling regularly to ports in Great Britain but are not flagged to the UK to notify the Secretary of State in the event of collective redundancies.</p> <p>The IA presents an EANDCB figure of £0.002 million, consisting of familiarisation costs.</p>	<p><i>Rationale for intervention.</i> The IA presents evidence of a problem (2022 P&O case) and there is a brief discussion of asymmetric information.</p> <p><i>Identification of options.</i> The IA explains why a non-regulatory option would not address the problem. There is a brief discussion of an alternative scope option: vessels with a 'close connection' to the UK rather than to GB.</p> <p>On SMBs, the IA states that small businesses would not be impacted but elsewhere notes that they would face the same very small, fixed notification costs. The IA should clarify this. The IA explains why MSBs should not be exempt.</p> <p><i>Justification of preferred way forward.</i> The IA monetises familiarisation costs and (in the sensitivity analysis) notification costs. Both are very small. The IA could usefully discuss possible indirect impacts on employers of having to give notice (e.g. might workers then take action) and what action the Government could do from being better prepared/informed, and any indirect impacts on business/individuals.</p> <p><i>Regulatory scorecard.</i> Satisfactory. The scorecard is mostly qualitative but well-balanced and with estimates of familiarisation costs included. The IA should address more clearly how the proposal would be enforced for non for non-GB firms.</p> <p><i>Monitoring and evaluation plan.</i> Very weak. The IA says that it is not proportionate to carry out a post implementation review due to the low estimated costs to business (page 6). However, it would seem proportionate to include at least some discussion of how the measure might be monitored.</p>

