UK Government

Government Response to:

Making Work Pay: Strengthening remedies against abuse of rules on collective redundancy and fire and rehire

4 March 2025

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Contents

Introduction

1. The government's plan to Make Work Pay is a central part of our mission to grow the economy, raise living standards across the country and create opportunities for everyone. It will help more people stay in work, make work more family-friendly and improve living standards, putting more money in working people's pockets.

2. As part of this, the government is committed to updating Britain's employment protections so that they are fit for our modern economy and for the future of work. The plan to Make Work Pay included commitments to strengthen redundancy protections, to end unscrupulous fire and rehire practices and to ensure that there are effective remedies against abuse.

3. Between 21 October 2024 and 2 December 2024, we consulted on strengthening remedies against abuse of rules on collective redundancy and fire and rehire. The consultation sought views on increasing the maximum period of the Protective Award for failing to adhere to collective consultation requirements, and on applying interim relief to fire and rehire and collective redundancy scenarios.

4. We received 195 responses, both written and through an online survey. During the consultation period, we also held roundtable meetings with businesses, trade unions and business representative organisations. They were used to discuss views on the topics and themes raised in the consultation, with attendees also reminded that more specific answers to the consultation should be provided via the consultation itself, either via email or online form.

5. The government is very grateful to all respondents to the consultation for their considered and helpful responses. This document sets out a summary of the feedback received in the consultation, the government's response, and next steps.

Responses to consultation questions

Section 1: About you

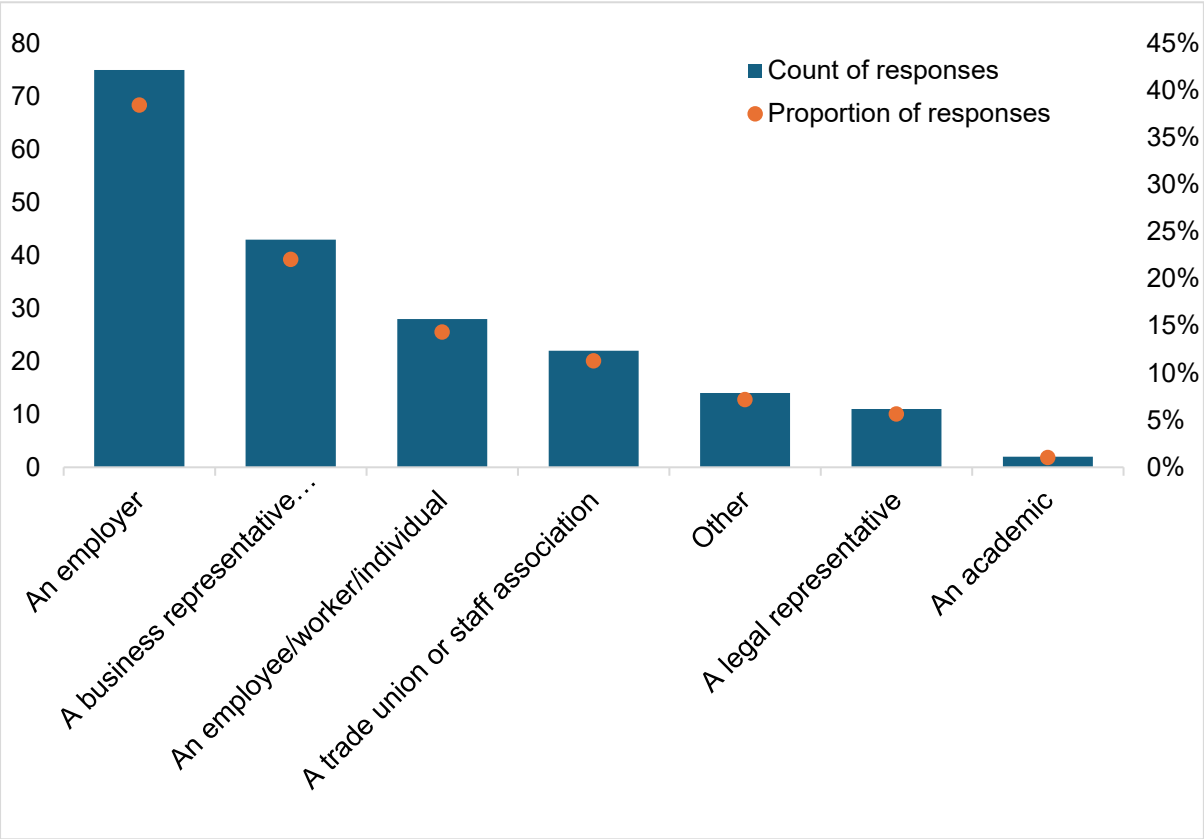
6. These questions gave us information on the type of organisation the respondents were representing, their size and the number of responses. These allowed us to break down responses to other questions by organisation type and number of responses. We received 126 (65%) responses to an online survey[1] and 69 (35%) responses in writing.

7. The most common category of respondent was 'an employer' (38%), followed by 'a business representative organisation/trade body' (22%). This was followed by 'an employee/worker/individual' (14%), 'a trade union or staff association' (11%), and 'other' (7%). Many of the respondents within this 'other' category were HR professionals. Finally, 'legal representatives' accounted for 6% of respondents and academics for 1%. The table below provides a breakdown.

Table 1: Please indicate whether you are responding as:...

	Count	Proportion
All respondents	**195**	**100%**
An employer	75	38%
A business representative organisation/trade body	43	22%
An employee/worker/individual	28	14%
A trade union or staff association	22	11%
Other	14	7%
A legal representative	11	6%
An academic	2	1%

[1] This excludes cases where respondents either opened the online survey and did not respond to any questions, or only responded to the questions in the "About You" section.



8. In terms of business, organisation, or workplace size, respondents were more often from large organisations (250+ staff) (66%). This was followed by respondents from small organisations (11 to 50 staff) (17%), then medium organisations (51 to 250 staff) (12%). Only 4% of respondents were from micro organisations (fewer than 10 staff) (4%).

9. Multiple representative organisations (for example trade unions and business representative organisations) responded to the consultation. It is important to he responses by these representative organisations were taken into account as one response each without weighting the responses to the number of people or businesses they represent. The analysis below is therefore determined by the demographics of the respondents and not the size of their representation.

Figure 2: Proportion of respondents by organisation size

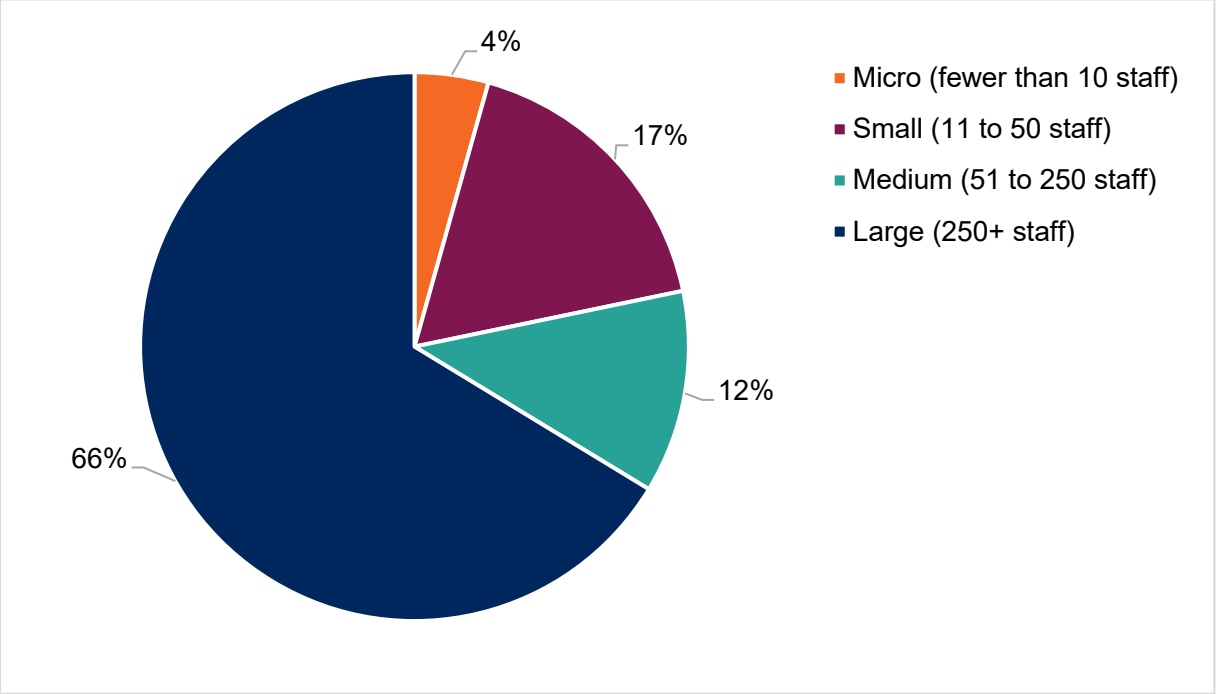


Table 2: Count and proportion of respondents by organisation size

	Count	Proportion
All respondents	92	100%
Micro (fewer than 10 staff)	4	4%
Small (11 to 50 staff)	16	17%
Medium (51 to 250 staff)	11	12%
Large (250+ staff)	61	66%

Section 2: Collective Consultation Obligations

10. This section considered responses for general views on the protective award, views on the proposals to double or remove the upper limit for the protective award and any other wider changes respondents would like to see made to the collective redundancy framework.

Part 1: General views on the Protective Award

Q1: Do you think the cap on the Protective Award should:

Be increased from 90 to 180 days?
Be removed entirely?
Be increased by another amount?
Not be increased?

Please explain your answer.

11. This allowed respondents to set out which option they believed to be the best, alongside any evidence they may have to support their view.

12. Responses to this question were driven by demographics. Employers, business representative organisations, and trade bodies generally opposed an increase while trade unions and others representing worker perspectives tended to support an increase or removal. The table below provides a breakdown.

Table 3: Count of responses to Question 1 - Do you think the cap on the Protective Award should…

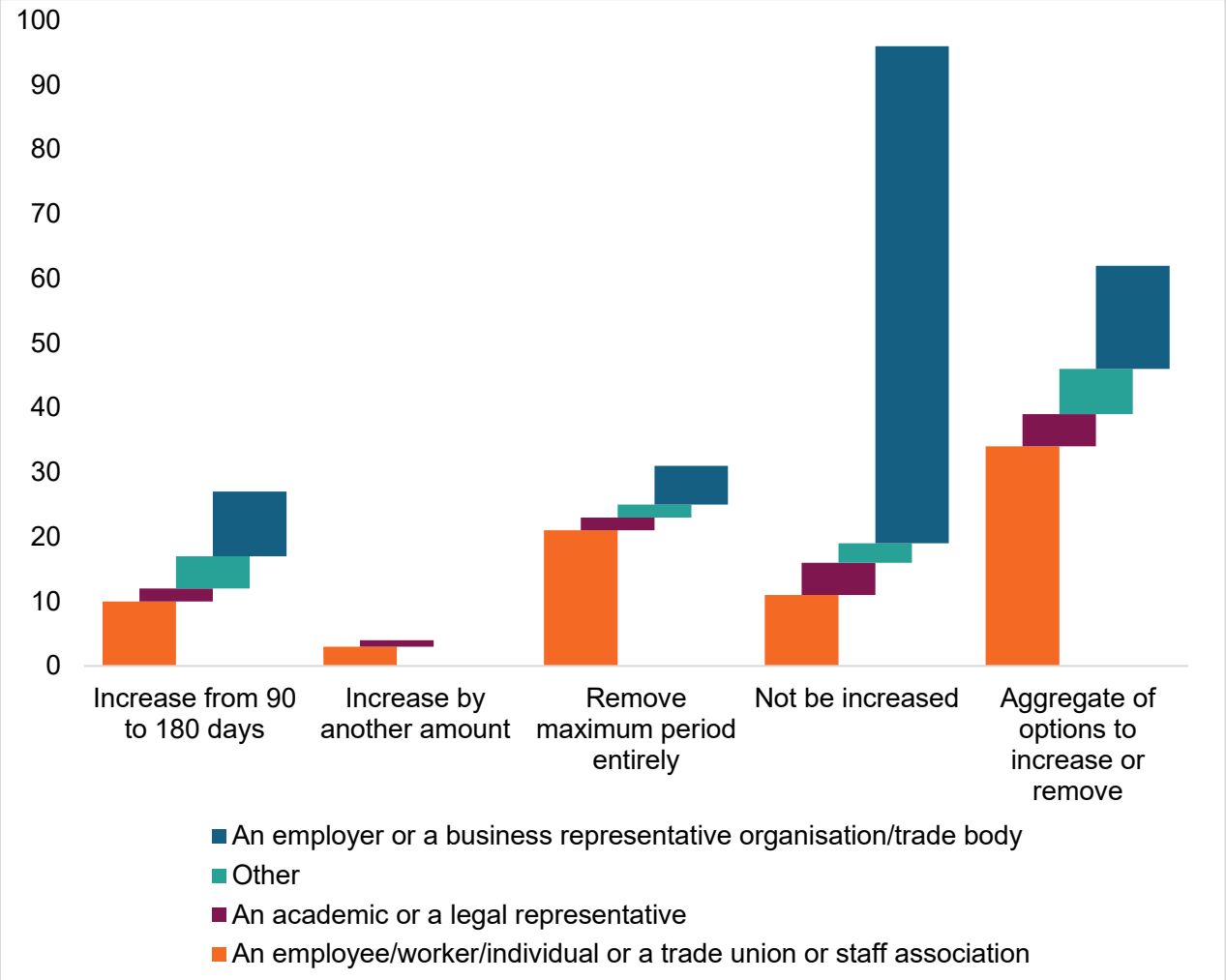
	Count of responses	Increase	Not increase
All respondents	**158**	**62**	**96**
An employer or a business representative organisation/trade body	93	16	77
An employee/worker/individual or a trade union or staff association	45	34	11
An academic or a legal representative	10	5	5
Other (please specify)	10	7	3

Note: Increase reflects responses in support of a) Increased from 90 days to 180 days, b) Removed entirely, c) Increased by another amount.

13. Of those supporting an increase in the maximum Protective Award period, employees, trade unions, and staff associations were more supportive of having no maximum period than other options to increase it. Meanwhile employers, business representative organisations, and trade bodies who supported an increase favoured doubling the maximum Protective Award period.

14. The diagram below provides a breakdown by respondent type for the number of responses in support of each option. Note the bar furthest to the right aggregates options a) Increased from 90 days to 180 days, b) Removed entirely, c) Increased by another amount.

Figure 3: Breakdown of responses to question 1 by respondent type



15. Paragraphs 16-25 provide insight into the key themes around responses to question 1, broken down by the options offered.

Kept at 90 days

16. Respondents who favoured keeping the Protective Award at 90 days felt that increasing the maximum period would increase business uncertainty, raising further financial and operational risks. Removing the cap on the Protective Award period altogether would add to this uncertainty.

17. The majority of these respondents felt that increasing the Protective Award period could act as a disincentive to recruit more staff, especially those small to medium-sized enterprises where profit margins are smaller. Respondents suggested that changes to the Protective Award, coupled with the changes contained in Clause 23 of the Employment Rights Bill (as introduced) could also be problematic for larger companies with multi-site operations, with the starting point for consultations increasingly difficult to pinpoint.

18. Business and employer bodies responding highlighted that most employers behave appropriately, and suggested that the extra administrative burden to consult any further could be onerous. They recognised the public reports three years ago where P&O Ferries did not fulfil their collective consultation obligations when making over 700 employees redundant but felt that this was not representative of most employers. It was therefore suggested that the current Protective Award period is proportionate and already carries a substantial and effective mechanism to encourage compliance.

19. These respondents stated that most non-compliance occurs within an insolvency or impending insolvency situation, where employers are unable to carry out consultations before they go insolvent. They suggested that the government should establish the level of non-compliance in solvent employers in order to consider a suitable change to the maximum Protective Award period.

<u>Increasing the cap from 90 to 180 days</u>

20. Respondents who supported doubling the maximum Protective Award period from 90 to 180 days such as trade unions indicated that this will further encourage employers to comply and will act as an improved deterrent. They argued that it will disincentivise unscrupulous employers from “pricing in” the cost of redundancies, and that the approach would strike the right balance between protecting workers’ rights and business requirements. Many of these respondents therefore believed that this is the most balanced approach, and that the current 90-day Protective Award period is too low. Some respondents also argued the current Protective Award doesn’t act as an incentive for an employee to make a claim nor is it punitive enough to encourage an unscrupulous employer to collectively consult.

21. Those respondents arguing for doubling, rather than removing the upper limit on the Protective Award, indicated removing it entirely could create confusion for employers and the courts, and that new guidelines would have to be put in place if there wasn't an upper limit on the Protective Award period. Arguments were made that the Protective Award period needs to remain at a defined value of some description to provide greater certainty for both employers and employees but one that is higher than the current maximum period to act as a sufficient deterrent.

Removing the cap altogether

22. Respondents who favoured removing the upper limit on the Protective Award period felt that it would generally be an effective deterrent against abuse of the rules of collective redundancy consultation.

23. Those who preferred this option indicated that it would potentially prevent unscrupulous employers from "calculating" the cost of redundancies and "pricing" it in. They suggested that this may require the production and development of a new guidance framework to help the tribunals determine the appropriate amount to award.

24. Some respondents set out that a possible alternative to an unlimited Protective Award would be to use a percentage of annual turnover as the punitive figure, so there would still be some clarity as to the potential sum that a tribunal could award while avoiding a "one-size fits all" approach.

Part 2: Doubling the maximum Protective Award period

25. Questions 2-5 dealt with the impact of doubling the maximum Protective Award.

Q2: Do you think that increasing the maximum Protective Award period to 180 days will incentivise businesses to comply with existing collective redundancy consultation requirements?
Yes
No
Don't know

Please explain why and note any other benefits.

Q3: What do you consider the impacts will be on employers of increasing the maximum Protective Award period from 90 to 180 days?

Q4: What do you consider the impacts will be on employees of increasing the maximum Protective Award period from 90 to 180 days?

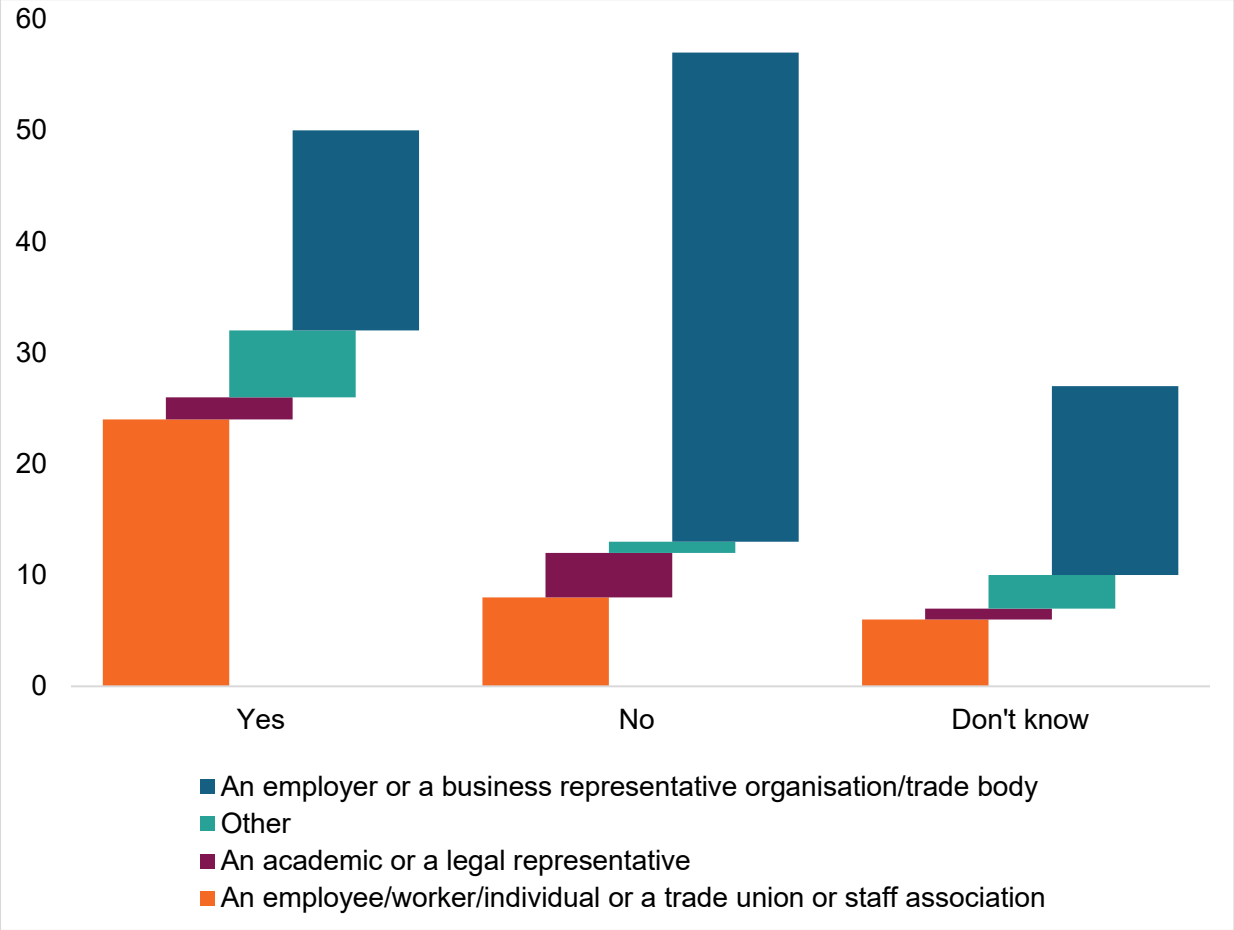
Q5: What do you consider to be the risks of increasing the maximum Protective Award period from 90 to 180 days?

26. A higher number of respondents did not think that increasing the Protective Award period to 180 days would incentivise businesses to comply with existing collective redundancy consultation requirements (43%) compared to those that did (37%). This was again driven by respondent type. Employers and employer representatives reported that doubling or removing the Protective Award period would not incentivise businesses to comply with collective redundancy consultation requirements. Meanwhile, employees and their representatives reported that this would increase compliance.

Table 4: Count of responses to Question 2 - Do you think that increasing the maximum Protective Award period to 180 days will incentivise businesses to comply with existing collective redundancy consultation requirements?

	Count of responses	Yes	No	Don't know
All respondents	**134**	**50**	**57**	**27**
An employer or a business representative organisation/trade body	79	18	44	17
An employee/worker/individual or a trade union or staff association	38	24	8	6
An academic or a legal representative	7	2	4	1
Other (please specify)	10	6	1	3

Figure 4: Breakdown of responses to question 2 by respondent type



27. Many respondents indicated that doubling the Protective Award period could create additional business burdens (financial, administrative, reduced hiring, risk of insolvency). Some also indicated that this could create an environment where there was an increase in vexatious claims. Additionally, some business representative organisations believe it would not increase the deterrent effect of the Protective Award, arguing that employers who decide to not follow the rules will continue to do so by utilising loopholes (such as staggering redundancies in a way to not trigger collective consultation obligations). Some were concerned that this may negatively impact the relationship between employees and employers by reducing communication and co-operation. There were also suggestions that employers will need further support to comply with the requirements (specifically SMEs, who may try to follow the rules but are unable to, due to not having a strong understanding of what processes to follow).

28. Despite this, many points were raised in support of doubling the Protective Award period. Respondents generally felt that increasing the period would improve its deterrent effect and allow for employees to reach more parity with employers. They would also be less likely to be exploited as result.

29. Respondents also suggested that, for employers contemplating non-compliance, doubling the Protective Award to 180 days may tip the balance towards that employer complying with their collective redundancy obligations. Employees may feel more empowered to pursue a legal claim where employers did not comply with their obligations. The publicity that could follow may then increase compliance more widely and over the longer term reduce the number of legal claims.

30. Moreover, some respondents suggested that improved compliance would result in improved consultation practices, such as improved communication and information sharing, between employer and employee representatives.

31. Finally, respondents indicated that there is a risk that increasing the Protective Award period any further than 180 days could act as a disincentive to economic growth and the recruitment of more employees. In particular, this could impact small to medium-sized enterprises, whose profit margins are typically smaller l.

Part 3: Removing a defined upper limit on the Protective Award

Questions 6-9 dealt with the impact of removing a defined upper limit on Protective Awards.

Q6: Do you think that removing the cap will incentivise businesses to comply with existing collective redundancy consultation requirements?
Yes
No
Don't know

Please explain why and note any other benefits.

Q7: What do you consider the impacts will be on employers of removing the cap on the Protective Award?

Q8: What do you consider the impacts will be on employees of removing the cap on the Protective Award?

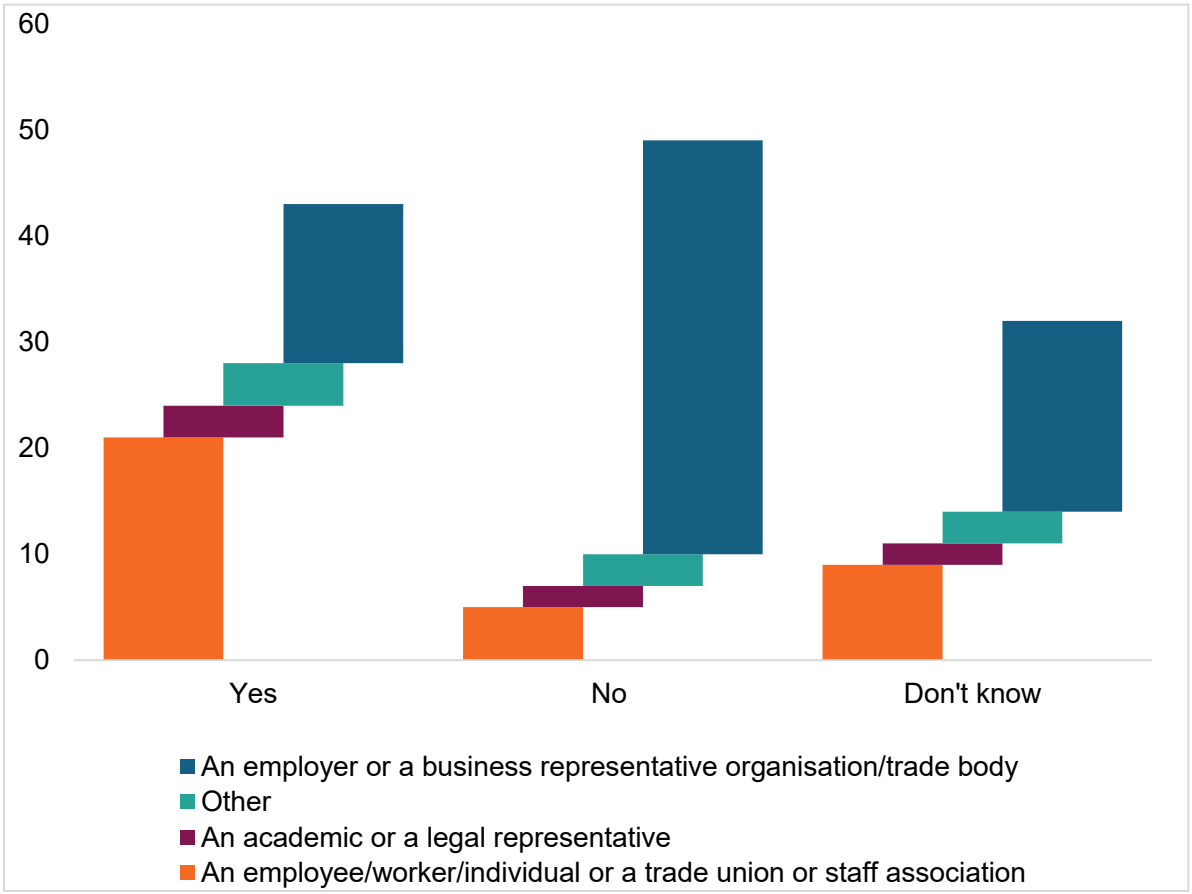
Q9: What do you consider to be the risks of removing the cap on the Protective Award?

32. Similarly to part 2, more respondents did not think that removing a defined upper limit on Protective Awards would incentivise businesses to comply with existing collective redundancy consultation requirements (40%) compared to those that did (35%). This was again driven by respondent type. Employers and employer representatives reporting that doubling or removing the Protective Award period would not incentivise businesses to comply with collective redundancy consultation requirements. Meanwhile, employees and their representatives reported that this would increase compliance.

Table 5: Count of responses to Question 6 - Do you think that removing the cap will incentivise businesses to comply with existing collective redundancy consultation requirements?

	Count of responses	Yes	No	Don't know
All respondents	**124**	**43**	**49**	**32**
An employer or a business representative organisation/trade body	72	15	39	18
An employee/worker/individual or a trade union or staff association	35	21	5	9
An academic or a legal representative	7	3	2	2
Other (please specify)	10	4	3	3

Figure 5: Breakdown of responses to question 6 by respondent type



33. Respondents who preferred removing a defined upper limit for the Protective Award period argued this is most effective in increasing its deterrent effect, as employers would not know the amount that an employment tribunal could award in the event of breach.

34. For those respondents who do not support removing an upper limit on the Protective Award period, the same or similar responses were given when compared to the responses on doubling the Protective Award (see para 36). Respondents indicated increased burdens to business, the risk of vexatious claims increasing, that the measure would not prevent non-compliance from 'bad employers', that it would add additional layers of complexity and therefore employers (and employees) would need more support to comply with obligations/take advantage of new rules. Additionally, respondents argued that the removal of a defined upper limit would be punitive to employers, without addressing the issues faced by employees when mass redundancies are proposed. Respondents also believe it would negatively impact growth of the UK economy, and result in longer waits for justice due to employment tribunals being overloaded with claims.

Part 4: Other changes to the Collective Redundancy Framework

Q15: Are there any wider changes to the collective redundancy framework you would want to see the government make?

This question helps to understand whether there are further ways to improve compliance.

35. 27 businesses and business representative organisations indicated a need for clearer guidelines or training on how to fulfil collective redundancy obligations, stating that the current framework can be confusing to comply with. In particular, more support for small and medium sized enterprises (SMEs) is needed as it is not always clear when they should be fulfilling collective consultation obligations, and what that means in practice.

36. Further responses indicated the government should take a targeted approach when remedying the collective redundancy framework against abuse, rather than sweeping changes that will impact all employers. These responses noted onerous administrative 'burdens' which may come as a result, especially alongside Clause 23 of the Employment Rights Bill (as introduced).

37. Finally, some responses indicated that the proposals included in the consultation, alongside Clause 23 of the Employment Rights Bill, are sufficient and no further changes will be required to the collective redundancy framework.

Government response

38. Responding to questions 1-9, while responses of most businesses and business representative organisations suggest that the 90-day maximum Protective Award period is largely considered to be an effective deterrent to non-compliance with collective redundancy obligations, most trade unions and individual employees argue the opposite, stating the current collective redundancy framework is too easily abused and there is not an adequate penalty for employers when they breach their obligations. The government believes that there remains a need to ensure that employers do not find it financially advantageous to deliberately ignore their legal and moralobligations.

39. Employers who avoid their collective redundancy obligations remove the opportunity to prevent or reduce the volume of redundancies via consultation. This means employers lose valuable staff and employees have their livelihood put at risk. Moreover, employers should not be able to pick and choose when to fulfil their legal obligations, nor should it be financially beneficial to 'buy-out' employees from their rights or "price in" the cost of non-compliance.

40. While in aggregate there were more responses against raising the Protective Award period, views were mixed and driven by demographics. More employers and business representative organisations responded to the consultation and these groups opposed such a policy. While these respondents considered that raising the protective award period could create uncertainty, many respondents representing employees preferred removing the protective award limit entirely.

41. The government has therefore decided to take a balanced approach. We wish to ensure that employers will not be able to deliberately ignore their obligations, and it should never be the case that it is financially beneficial to do so. For that reason, the government believes increasing the maximum period of the protective award to 180 days is the most proportionate response to

address these scenarios.

42. Employment tribunals will continue to have discretion to vary the length of the protected period, up to a maximum of 180 days, as they consider just and equitable in all the circumstances, having regard to the seriousness of the employer's actions, as well as any mitigating factors. This will provide an increased deterrent against cynical and deliberate breaches of the collective redundancy requirements, whilst also ensuring Tribunals can continue to consider the circumstances of the breach when making awards. Tribunals will thereby continue to make proportionate awards depending on the facts of each case. The government will bring forward an amendment to the Employment Rights Bill to reflect this position.

43. Regarding question 15, the government has listened carefully to suggestions that some employers may need greater support to ensure compliance with collective redundancy obligations and ensure any legal complexities in the obligations are well-understood. The government will issue further guidance for employers on consultation processes for collective redundancies, in due course. This will provide guidance to employers of all sizes on best practice when fulfilling their collective redundancy obligations.

Section 3: Interim Relief – Collective Redundancy and Fire and re-hire

44. The next section of the consultation considered whether interim relief should be available to employees who bring claims for the Protective Award, or who bring an unfair dismissal claim under the new Clause 22 of the Employment Rights Bill (as introduced), which will limit the use of fire and re-hire.

Part 1: Collective redundancy specific questions

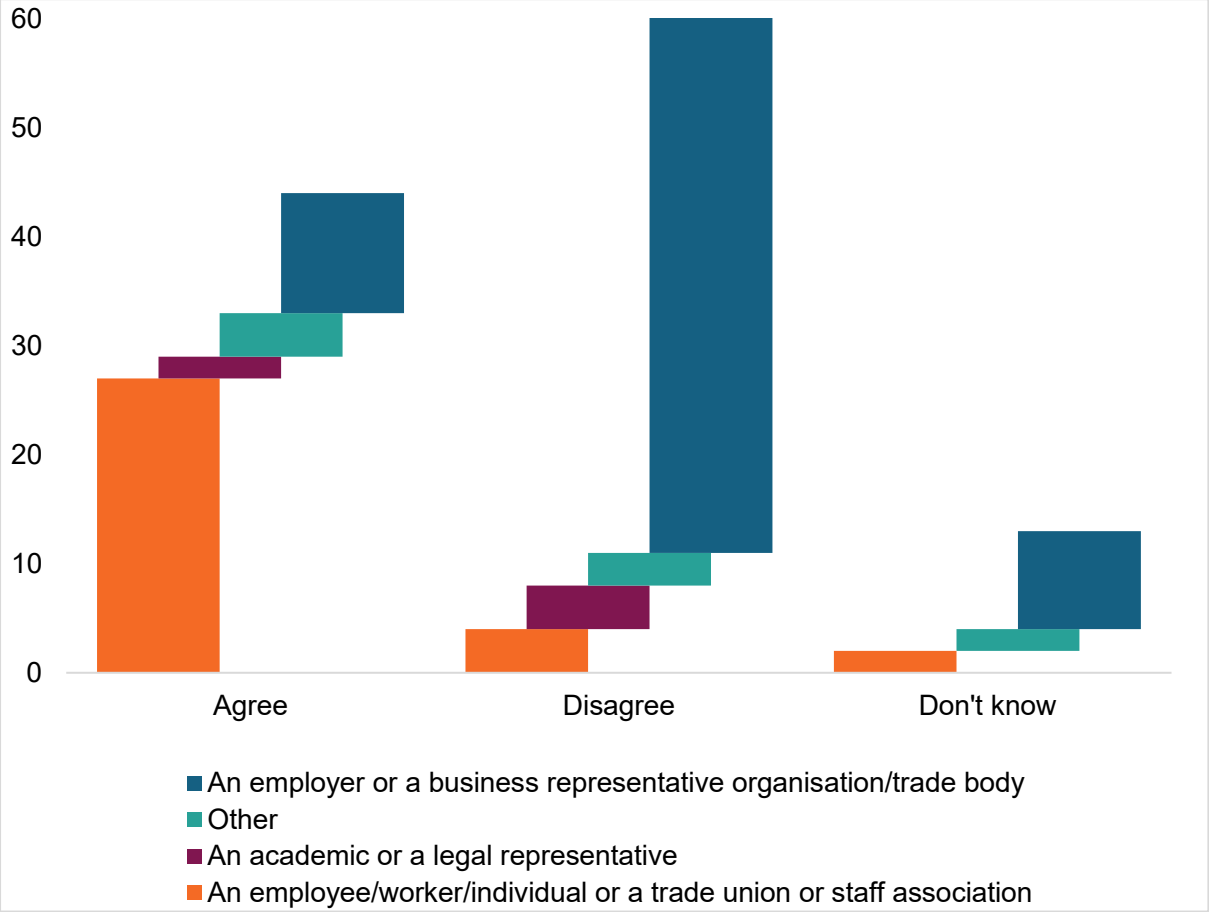
Q10: Do you agree or disagree with making interim relief available to those who bring Protective Award claims for a breach of collective consultation obligations? Please explain your answer.

45. More respondents disagreed with making interim relief available (54%). The breakdown by respondent type finds again that this was driven by demographics. Employers, business representative organisations and trade bodies overwhelmingly opposed the proposal while employees, trade unions and staff associations overwhelmingly supported the proposal.

Table 6: Count of responses to Question 10 - Do you agree or disagree with making interim relief available to those who bring Protective Award claims for a breach of collective consultation obligations?

	Count of responses	Agree	Disagree	Don't know
All respondents	**123**	**44**	**66**	**13**
An employer or a business representative organisation/trade body	75	11	55	9
An employee/worker/individual or a trade union or staff association	33	27	4	2
An academic or a legal representative	6	2	4	0
Other (please specify)	9	4	3	2

Figure 6: Breakdown of responses to question 10 by respondent type



46. For those opposed to the proposal, many referenced additional obligations places businesses (financial, administrative or otherwise). Others commented that the measure was unnecessary, with the current framework being sufficient and most businesses being compliant. In contrast, those in support of the proposal felt it would encourage employers to improve their business practices and consult employees more effectively. Some believed that the measure would assist employees considerably, particularly in terms of preventing financial hardship.

47. Questions 11-14 dealt with the impact of making interim relief available to those who bring Protective Award claims for a breach of collective consultation obligations.

Q11: Do you think adding interim relief awards would incentivise businesses to comply with their collective consultation obligations? Please explain why and note any other benefits.

Q12: What do you consider the impacts will be on employers of adding interim relief awards to collective consultation obligations?

Q13: What do you consider the impacts will be on employees of adding interim relief awards to collective consultation obligations?

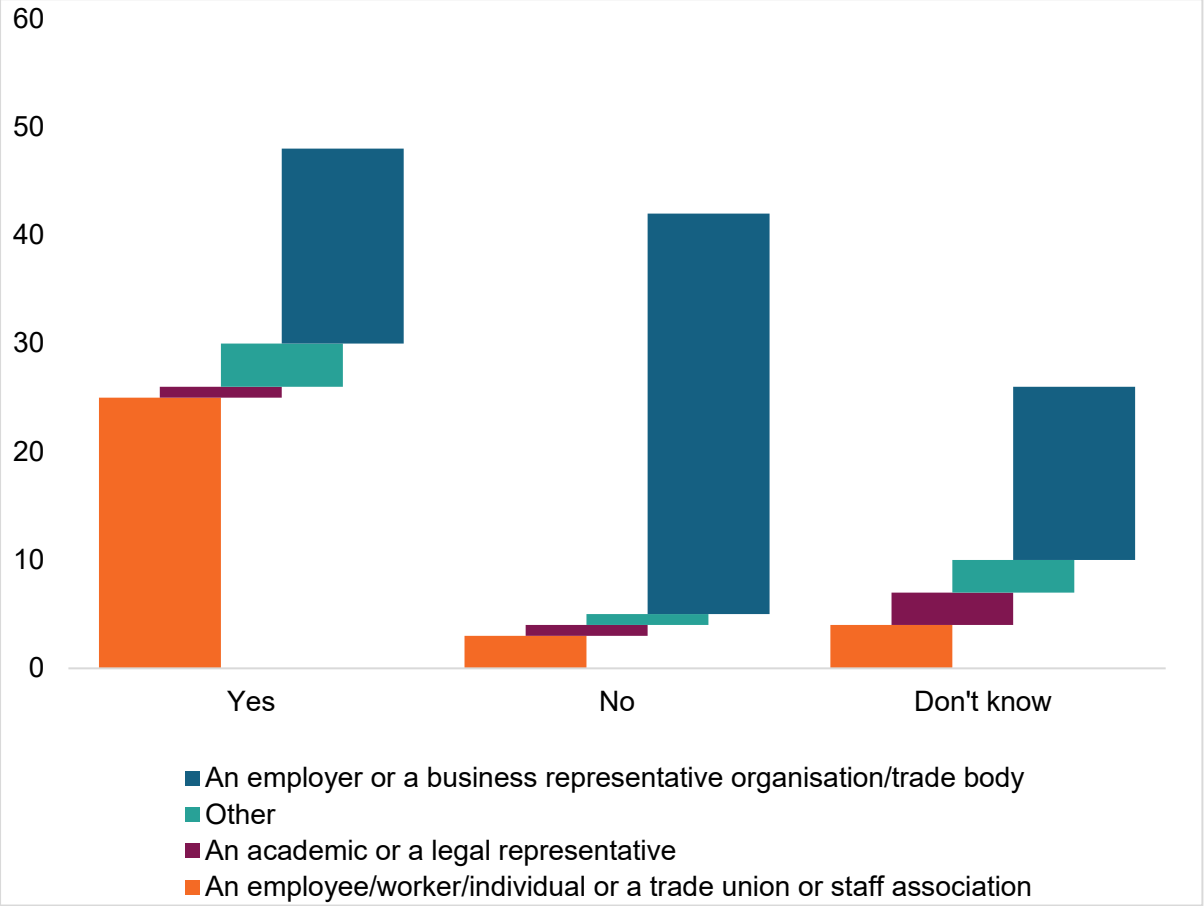
Q14: What do you consider to be the risks of adding interim relief awards to collective consultation obligations?

48. Respondents were largely split by demographic on whether adding interim relief awards would incentivise businesses to comply with collective consultation obligations. 25% of employer/business representative respondents answered yes, compared to 77% of employee/Trade Union respondents.

Table 7: Count of responses to Question 11 - Do you think adding interim relief awards would incentivise business to comply with their collective consultation obligations?

	Count of responses	Yes	No	Don't know
All respondents	**116**	**48**	**42**	**26**
An employer or a business representative organisation/trade body	71	18	37	16
An employee/worker/individual or a trade union or staff association	32	25	3	4
An academic or a legal representative	5	1	1	3
Other (please specify)	8	4	1	3

Figure 7: Breakdown of responses to question 11 by respondent type



49. Of those stating the measure would be ineffective in incentivising compliance, respondents suggested that the vast majority of employers are already compliant and that the availability of interim relief would not deter those extreme few employers who choose not to comply. Some respondents therefore felt that there was a risk that the measure would be more detrimental to employers than it is beneficial to employees.

50. Added burdens on businesses was a theme picked up by respondents on both sides of the argument – the increased costs of interim relief being seen either as a useful means of keeping businesses 'in check', or a mechanism that would disproportionately and negatively impact businesses. Some respondents pointed out that smaller businesses with fewer resources may not be fully aware of their legal obligations and would be disproportionately affected by the availability of interim relief, leading to increased risk of wider redundancies. Responses here stressed the importance of support for businesses to comply with requirements. There were also references to other

potential 'knock-on' effects of the measure, such as reluctance to recruit, more unemployment, or a detrimental impact on business as usual.

51. Many respondents agreed that employees would be better protected through the introduction of interim relief awards. Respondents highlighted the improved financial compensation through court proceedings, and noted the significant positive impact in relation to collective consultation. Some respondents felt there would be little or no impact on employees, with various reasons given, for example: because compliant businesses do not need a further incentive to comply with their collective consultation requirements so interim relief will not make a difference: or, because the concept of interim relief is not widely known or used by employees. Respondents felt that employees may face complexity in applying for interim relief and would also need support, for example some respondents suggested that there would need to be guidance alongside to be able to utilise it.

52. Finally, respondents (across both those who supported and opposed to the introduction of interim relief) raised concerns that it would be logistically difficult to implement in practice, particularly in the context of wider issues such as the existing high caseloads in the employment tribunal system. Some raised the risk that there could be an increase in frivolous or vexatious claims to the tribunals, increasing the strain on them.

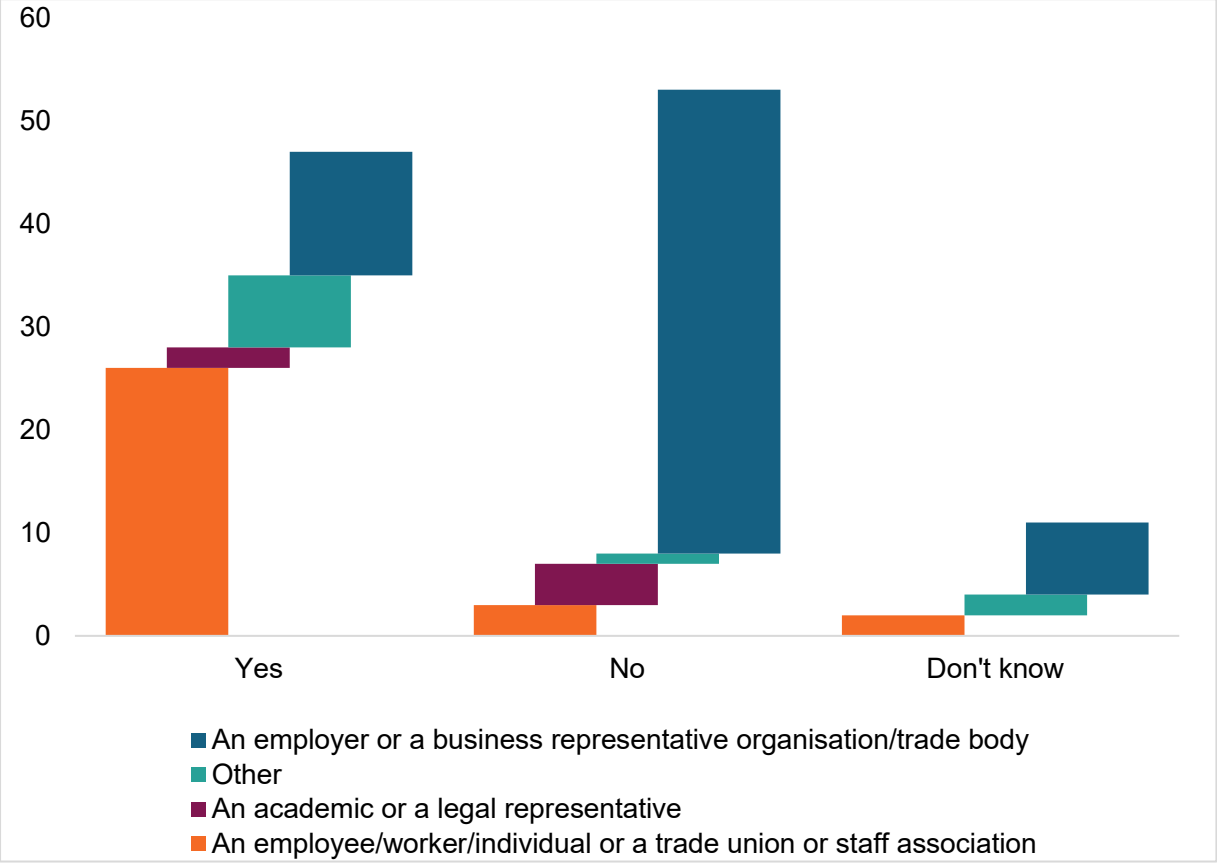
Part 2: Fire and rehire specific questions

Q16: Do you agree or disagree with adding interim relief awards to fire and rehire unfair dismissals? Please explain why.

Table 8: Count of responses to Question 16 - Do you agree or disagree with adding interim relief awards to fire and rehire unfair dismissals?

	Count of responses	Agree	Disagree	Don't know
All respondents	**111**	**47**	**53**	**11**
An employer or a business representative organisation/trade body	64	12	45	7
An employee/worker/individual or a trade union or staff association	31	26	3	2
An academic or a legal representative	6	2	4	0
Other (please specify)	10	7	1	2

Figure 8: Breakdown of responses to question 16 by respondent type



53. Slightly more respondents disagreed with the proposal (48%). Their reasoning was again largely focussed on the burden on businesses (financial, administrative or otherwise). Other reasons given were that the new rules wouldn't help solve the issue, that the tribunal system would come under further strain (longer waits for resolution of cases, more uncertainty) and that the new rules could worsen relations between employers and employees/ unions.

54. Amongst those who agreed with the proposal, many believed the new rules would not only help employees but also encourage employers to comply. A few mentions were made of the need for harsher penalties for exploitative employers or those engaged in bad business practices.

55. Some respondents felt that no changes were required because the current framework is adequate.

56. Questions 17-21 dealt with the impact of adding interim relief awards to fire and rehire unfair dismissals.

Q17: Do you think adding interim relief awards would incentivise employers to comply with the law on fire and rehire unfair dismissals? Please explain why and note any other benefits.

Q18: What do you consider the impacts will be on employers of adding interim relief awards to fire and rehire unfair dismissals?

Q19: What do you consider the impacts will be on employees of adding interim relief awards to fire and rehire unfair dismissals?

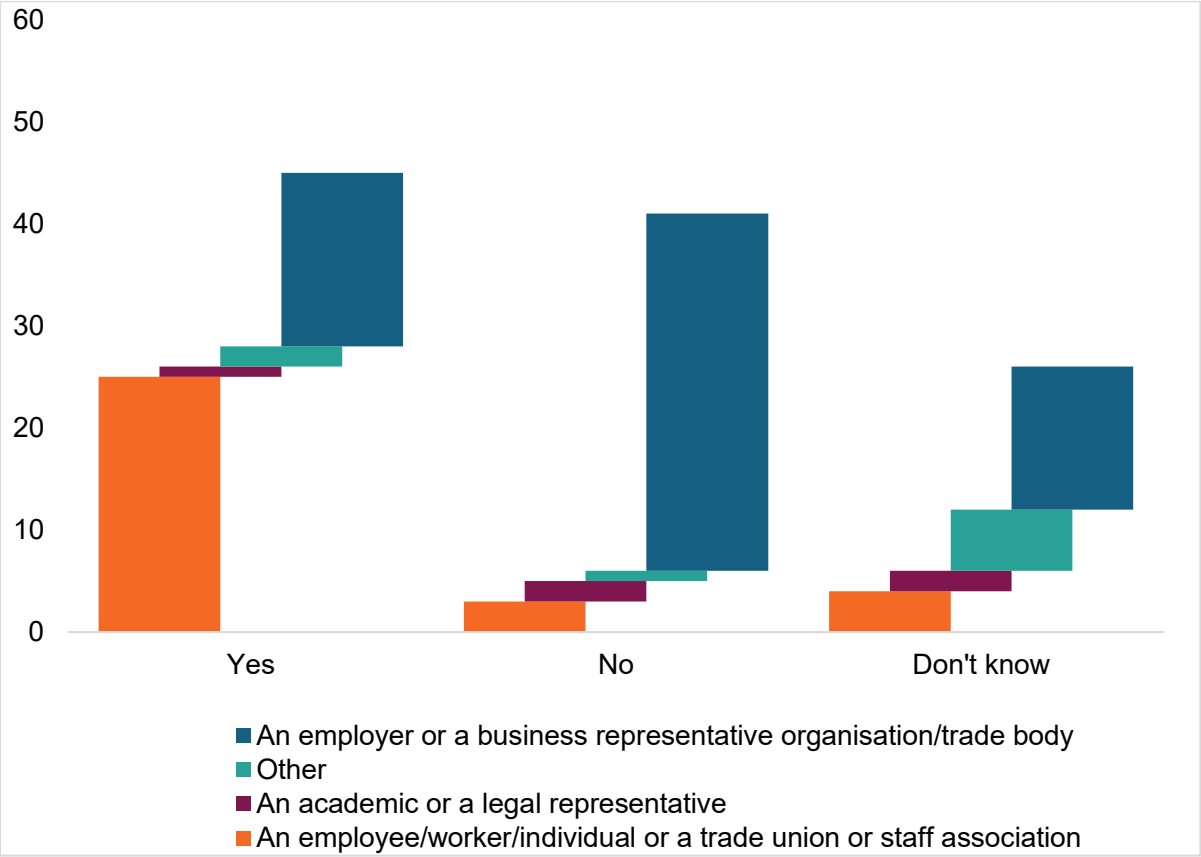
Q20: What do you consider to be the risks of adding interim relief awards to fire and rehire unfair dismissals?

Q21: What is your view on whether adjustments to the current approach to interim relief would be needed to ensure that interim relief for fire and rehire cases can work effectively and be determined promptly by tribunal

Table 9: Count of responses to Question 17 - Do you think adding interim relief awards would incentivise employers to comply with the law on fire and rehire dismissals?

	Count of responses	Yes	No	Don't know
All respondents	**112**	**45**	**41**	**26**
An employer or a business representative organisation/trade body	66	17	35	14
An employee/worker/individual or a trade union or staff association	32	25	3	4
An academic or a legal representative	5	1	2	2
Other (please specify)	9	2	1	6

Figure 9: Breakdown of responses to question 17 by respondent type



57. In terms of whether adding interim relief would incentivise employers to comply with the law, large numbers of those who responded 'yes' felt that the measure would be effective and would encourage businesses to comply. As was the case with the same question in relation to collective redundancies (Question 11), the 'burden on business' reasoning was offered by respondents on both sides of the argument - viewed either as a means of ensuring compliance or a measure that could have significant unintended negative consequences for business.

58. Many of those who responded 'no' felt that the measure would be ineffective as most businesses already properly engage with their employees and genuinely use fire and rehire as a last resort, while businesses who can afford and choose to be non-compliant would continue to do so. Several respondents pointed out the need for further support to be available for employers to be able to comply with requirements.

59. Most respondents pointed out the negative financial impacts on employers, the risk of increased redundancies and legal issues. Some respondents suggested the measure may increase employer reluctance to make necessary changes to their business, which could even lead to insolvency. In contrast, other respondents pointed out that there would be positive impacts in terms of behavioural changes and the prevention of bad business practices. Respondents raised the risk of an increase in speculative claims or the 'tactical' use of an interim relief application, which would hinder good employer practice and engagement with employees.

60. In terms of impact on employees, many respondents pointed to financial incentives and benefits, additional job protections and increased job security. In contrast, other respondents believed there would be less security, on balance, for employees. This was attributed to the stress and uncertainty on the outcome of an interim relief claim, or around employees' ability to seek other employment, or indeed that the changes could lead to an increase in workers on fixed-term contracts. Some business body and employer respondents felt that employees would be unfairly advantaged, in terms of being empowered to disagree with changes the employer wants to make. There may be a strain on employee/employer relations, with a more 'adversarial' atmosphere where employees challenge proposals and employers are more cautious as a result. There were also a number of respondents who considered the impact would be minimal. Typically, this was on the basis that legal obligations around meaningful consultation are usually complied with; or that employees were unlikely to be aware of interim relief as an option.

61. In considering adjustments to the current approach for interim relief, the focus for respondents here was on the need for increased capacity in the tribunal system. Respondents were clear that the timeframe for cases to be heard in employment tribunals was already very lengthy and would only be exacerbated by the introduction of interim relief. Others again stressed the need for guidance and support to be made available to help employers and employees to follow best practice, the need for time limits to be adjusted to avoid delay in administration of interim relief, and the importance of greater communication to raise awareness of the measures among employers and employees. Some raised the difficulty of employees succeeding in an interim relief application if they have to prove that they are 'likely to succeed' in their substantive claim, and suggested that this threshold should change. On the

other hand, there were some respondents who felt that no adjustments were necessary.

Overall themes and views – interim relief for collective redundancies & fire and rehire

62. For many respondents, the implementation of interim relief - whether for collective redundancy or in a fire and rehire scenario – would place too much of a burden on businesses. This burden was expressed typically in financial and administrative terms. Respondents often made an important distinction between an 'unscrupulous few' and a 'compliant many' businesses, and the importance of punishing the former and protecting the latter.

63. Discussions in the round tables highlighted that interim relief applied to both collective redundancy and fire and rehire scenarios would be difficult to implement in practice. The nature of interim relief is that it is complex; it involves stringent time limits (as claims must be submitted within 7 days), and the need for the employee to demonstrate a high likelihood of success. Difficulty in implementing interim relief is a point that was echoed in the consultation responses. Employee representatives stated that even if an employee did have a case of fire and rehire or collective redundancy the time limit to apply for interim relief would be challenging for employees to meet and it may therefore be used infrequently in practice.
The increased pressure on the tribunal system was highlighted regularly, as was the likelihood of an increase in the number of vexatious and speculative claims by employees. There was also agreement that the interim relief measures would be logistically difficult to implement, and that both employers and employees would need a great deal of further support in order to comply.

64. Respondents championing interim relief referred to a number of benefits. For employees, interim relief would provide much needed financial support in cases of unfair dismissal, which would go a long way to preventing the distress and financial hardship that can often be experienced by workers in these scenarios. Respondents suggested that interim relief would also encourage businesses to comply. The many businesses that already comply with their obligations would see no difference in their practices

65. Additionally, some unions raised the prospect of adding injunctive relief to both fire and rehire and collective redundancy scenarios. They believed that

this would give more power to employees when employers had acted unscrupulously and failed to meet their legal obligations. They suggested that this could act as a pause in the process to halt the dismissals or redundancies that would be taking place and require employers to discharge their obligations to consult and notify employees.

66. Responses were, unsurprisingly, mainly split along demographic lines, with the employer group overwhelmingly less supportive of implementing the measures than the employee/ individual group.

67. The consultation also showed that some respondents were supportive of introducing interim relief as a way of enhancing protections to employees and providing a safety net to those who are affected by egregious employer behaviours.

Government response

68. The government has considered whether interim relief should be available to employees who bring claims, where they can show that they have a pretty good chance of showing that their employer breached their collective redundancy and fire and rehire obligations - in particular we considered whether this may be an effective way to punish egregious actions carried out by the 'unscrupulous few' as suggested by respondents

69. Given the implementation issues raised in relation to interim relief by respondents, for example the short deadline for application, we do not currently believe that interim relief would be an effective remedy to strengthen compliance or deliver additional benefits. Various respondents stated that it would be challenging to compile the complex evidence required to bring forward a claim within the time limit to apply for interim relief, and the remedy is therefore unlikely to be effective. We also agree with respondents that this measure would cause increased pressure on tribunals, employees and employers when taken alongside the other changes proposed in this area. Accordingly, the government will not be taking forward these proposals.

70. The government will continue to take the Employment Rights Bill through Parliament and update the Code of Practice on Dismissal and Re-engagement to reflect the updated law. With both Collective Redundancy and Fire and Rehire law undergoing significant changes in the Employment Rights Bill, there should be additional discussions with employers and employees to review the impact and implementation of these changes before additional remedies, such as interim or injunctive relief, can be considered.

71. The government passed legislation in 2024 that means in a collective redundancy scenario, where an employer has also not followed the Code of Practice on Dismissal and Reengagement, if relevant, the employment tribunal may apply an uplift in compensation of up to 25% to a protective award, if it considers the employer's failure to comply with the Code was unreasonable, and it considers it just and equitable in all the circumstances to do so. This came into effect on 20 January 2025. As the protective award is being doubled from 90 to 180 days (Paragraph 43) the 25% uplift could now increase the protective award by up to the equivalent of 45 days compared to the current 22.5 days. The government's view is that this combination provides an effective remedy to strengthen compliance with collective consultation obligations. However, it intends to monitor the level of compliance

in light of the doubling of the protective award and will consider if further measures are necessary should this prove not to be a sufficient deterrent.

Next Steps

72. The government will bring forward an amendment to the Employment Rights Bill to double the maximum period of the Protective Award from 90 to 180 days. To support employers' compliance, the government will issue guidance on consultation processes for collective redundancies, in due course.

73. The government intends to gather further views on strengthening the collective redundancy framework in 2025.

74. The government also intends to gather further views on updating the Code of Practice on Dismissal and Re-engagement in 2025, to ensure that it reflects the changes to fire and rehire made by the Employment Rights Bill.

Department for Business & Trade

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