

Options assessment

Title: Fire and rehire: changes to expenses and benefits, and shift patterns

Type of measure: Secondary legislation

Department or agency: Department for Business and Trade (DBT)

IA number: DBT-088-25-CMRR

RPC reference number: RPC-DBT-25091-0A (1)

Contact for enquiries: ERDAnalysisEnquiries@businessandtrade.gov.uk

Date: 04 February 2026

1. Summary of proposal

1. This options assessment (OA) considers the impact of protecting shift changes from fire and rehire and the impact of removing protections on expenses and benefits in kind.

The Employment Rights Act 2025

2. Once the fire and rehire provisions of the Employment Rights Act 2025 (referred to as the Act in this document) are commenced, it will be an automatic unfair dismissal for employers to use the practice in order to change certain core contractual terms unless they meet a narrow exemption for financial difficulties. These core terms include reductions to pay, changes to measures of work done where these determine an element of pay, changes to pensions, changes to total hours, reductions to leave entitlement, and specified changes to shift patterns. These terms have been identified because they could have a significant adverse impact on employees if they are changed without agreement. The Act allows the Secretary of State to set out in regulations which variations to the timing or duration of a shift are to be a restricted variation. Furthermore, the Act includes the power for the Secretary of State to make regulations which exclude the reduction or removal of specified expenses/benefits in kind from being a restricted variation (further information on this can be found in points 15 and 16).
3. In addition, the Act specifies factors which the Employment Tribunal must consider when deciding if a fire and rehire has been fair. This applies in cases where an employer has made a dismissal to make a restricted variation but meets the financial difficulties exemption, or where an employer has dismissed an employee to make a non-restricted variation, such as location or job role. If an employer can demonstrate that it meets the exemption, the dismissal will not be automatically unfair. These factors differ depending on the type of dismissal, but include whether the employer has engaged in meaningful consultation and fair negotiations with the employee and their representatives when making such changes. The measures strike the right balance between ensuring that employees are protected from unscrupulous fire and rehire and fire and replace practices, while granting employers flexibility to make necessary operational changes.

Consultation

4. The consultation, which this options assessment accompanies, builds on the Employment Rights Act 2025. It seeks views on the variations to shift patterns which should be restricted variations (thereby making fire and rehire on these an automatic unfair dismissal unless the employer meets a narrow exemption for financial difficulties) and on the expenses and benefits in kind which should be excluded from the scope of the restricted variation of reductions to pay.
5. This consultation does not include preferred options. Table 1, table 2 and table 3 (below) provide the estimated NPSV, EANDCB and EANDCH for different combinations of shortlisted options under considerations. The EANDCB, EANDCH and NPSV are estimated relative to a 'Do Nothing' option. Note that the 'Do Nothing' option has been shortlisted for shift changes, but not for expenses and benefits in kind.

Table 1: Net Present Social Value over the ten-year appraisal period (2024 prices, 2026 present value)

Option	Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 2B – Shift changes not included in new protections ('Do Nothing')
Option 1A: Expenses and benefits in kind excluded	£-123m (with range of between £-36m and -£210m)	Nil as all impacts are transfers between households and employers
Option 1B: Specified list of expenses and benefits in kind protected	£-123m (with range of between £-97m and -£149m)	Nil as all impacts are transfers between households and employers

Table 2: Equivalent Annual Net Direct Cost to Business¹ (2024 prices, 2026 present value)

Option	Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 2B – Shift changes not included in new protections ('Do Nothing')
Option 1A – Expenses and benefits in kind excluded	£52m (net cost)	£-10m (net benefit)
Option 1B – Specified list of expenses and benefits in kind protected	£57m (net cost)	£-5m (net benefit)

¹ The Public sector has been excluded.

Table 3: Equivalent Annual Net Direct Cost to Households (2024 prices, 2026 present value)

Option	Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 2B – Shift changes not included in new protections ('Do Nothing')
Option 1A – Expenses and benefits in kind excluded	£-44m (net benefit)	£10m (net cost)
Option 1B – Specified list of expenses and benefits in kind protected	£-49m (net benefit)	£7m (net cost)

2. Strategic case for proposed regulation

6. Employers may sometimes propose changes to employees' contracts of employment. If employees do not agree to some or all of the contractual changes proposed by the employer, the employer may dismiss employees, before offering to re-engage them, in substantively the same roles, in order to effect the changes. This is referred to as "fire and rehire". Employers may also sometimes dismiss employees and then hire a new employee to do the same role but with a varied contract of employment, this is referred to as "fire and replace". Although sometimes referred to as dismissal and re-engagement, in the rest of this document both situations of fire and rehire and fire and replace will come under the term 'fire and rehire'. Currently employers can use fire and rehire where they have a sound business reason for seeking to change a contract of employment. This may include responding to economic changes, changing working practices or harmonising terms and conditions.
7. The Advisory, Conciliation and Arbitration Service (Acas) conducted a fact-finding exercise with stakeholders to better understand the practice, its use and impact². The findings of this exercise were published in June 2021 reporting:
- the practice was not a new phenomenon but had become more prevalent in the pandemic
 - the practice was increasingly used as a pressure tactic in the early stages of negotiations
 - while much of the attention on fire and rehire was driven by high-profile cases involving large employers and unionised workforces, its use was more widespread across a range of sectors, business sizes and across unionised and non-unionised workforces
 - it is used as a practice for a range of circumstances and reasons such as:
 - redundancy scenarios, both to minimise redundancies by cutting pay roll costs, and to enable the maximum reduction in head count by for example changes to the working hours for remaining staff
 - harmonising terms and conditions between staff
 - introducing flexibility into contracts
 - interrupting continuity of service
 - negotiations around organisational responses to changes in consumer behaviour, sectoral change or changing operational needs
8. The previous Government developed a Code of Practice on fire and rehire but did not change the law. The new measures in the Act restrict employers' ability to use fire and rehire by amending the law on unfair dismissal. Once the provisions of the Act are commenced, it will be an automatic unfair dismissal for employers to use the practice in order to change certain core terms unless they

² Acas (2021), ['Dismissal and re-engagement \(fire-and-rehire\): a fact-finding exercise'](#)

meet a narrow exemption for financial difficulties. These core terms include reductions to pay, changes to total hours, reductions to leave entitlement and changes to shift patterns which are specified in regulations. These terms have been identified because they could have a significant adverse impact on employees if they are changed without agreement.

9. If an employer can demonstrate that it meets the exemption, the dismissal will not be automatically unfair. Employment tribunals will still consider whether the employer has followed a fair process, including consulting with employees. It will not be an automatically unfair dismissal where employers make a non-restricted variation to an employees contract, such as location and job role. These changes will be subject to enhanced protections to ensure employers engage in meaningful consultation and fair negotiations with employees and their representatives when making such changes. The measures strike the right balance between ensuring that employees are protected from unscrupulous fire and rehire practices, while granting employers flexibility to make necessary operational changes.

Rationale for intervention

10. The government intervenes in the labour market to extend employment rights for efficiency and equity reasons. A well-functioning labour market, which provides necessary rights and protections, provides employees with high quality jobs whilst also empowering business to operate competitively.
11. From an economic theory perspective, the practice of fire and rehire and the threat of its use provides undue bargaining power to the employer in employer-employee relationships. The threat of fire and rehire is often enough to ensure employees agree to lower pay and reduced terms and conditions. In addition to the strong equity reason for intervention, there is an efficiency argument. Power asymmetry in bargaining can create quasi-rents that the more powerful party can capture. This power asymmetry can therefore incentivise the more powerful player to act strategically, which can lead to a less optimal outcome socially. In other words, the option of fire and rehire could incentivise businesses in general to pay less or provide lesser employment terms and conditions to employees (allocative inefficiency). In turn, this can lead to less optimal outcomes for society (e.g. lower standards of living, health, wellbeing).
12. The Government does not think the current laws and Statutory Code of Practice on fire and rehire strike the right balance between ensuring that employees are protected from unscrupulous fire and rehire practices, while granting employers flexibility to make necessary operational changes. While the Statutory Code of Practice on fire and rehire aims to make fire and rehire a last resort, the current legal framework allows it to be used when an employer has a sound business reason for seeking to change a contract of employment. This can include responding to economic changes, amending working practices, or harmonising terms and conditions.
13. The government considers this to be too imbalanced against the interest of employees. The scope of changes which can be imposed via fire and rehire includes matters such as reductions to pay and changes to working hours, which can have significant adverse impacts on employees if they are changed without agreement.
14. The overall policy aim is to prevent unscrupulous fire and rehire practices by restricting the circumstances when the practice of fire and rehire is permissible. Once the provisions of the Act are commenced, it will be an automatic unfair dismissal for employers to use the practice in order to change certain core terms unless they meet a narrow exemption for financial difficulties. These core terms include reductions to pay, changes to total hours, reductions to leave entitlement and

specified changes to shift patterns. These terms have been identified because they could have a significant adverse impact on employees if they are changed without agreement. It will also be an automatically unfair dismissal for an employer to dismiss their employees in order to replace them with non-employees (for example agency workers) to do substantially the same work.

15. The Act includes a power to exclude certain expenses and benefits in kind from the restricted variation of the reduction/removal of sums payable. If excluded, these terms could be reduced or removed by an employer without giving rise to an automatically unfair dismissal. This aims to give employers necessary flexibility to amend or remove expenses and benefits in kind, while retaining the policy's important protections on employees' core pay.
16. The Act also includes a power to specify which variations to the 'the timing or duration of a shift' will be a restricted variation. Shift patterns span a huge variety of workplace arrangements, some of which could have significant impacts on employees if unilaterally changed by employers. Meanwhile, other shift changes are more routine and operational, where employers will need flexibility to adapt practices and stay competitive. The policy objective is to ensure that employees are protected from unscrupulous fire and rehire practices, while giving employers flexibility to make necessary operational changes.
17. The consultation is seeking views and evidence about whether there are any types of changes to shift patterns that should be protected as a restricted variation, as well as which expenses and benefits in kind should be excluded from the scope of the restricted variation of reductions to pay, in order to balance employer flexibility and employee protection.

Impact of no intervention

18. The evidence on the prevalence of the practice of fire and rehire is limited. Analysis of a survey conducted in 2022 by YouGov on behalf of DBT suggests that 12,100 businesses might engage in the practice of fire and rehire each year (<1% of employers) and this could affect 125,000 workers. It is important to acknowledge the time and context in which this survey was conducted as a possible limitation to this data. As this data covers the pandemic period, the estimates are likely to be on the higher side due to the economic conditions businesses were facing at the time. Please see Annex A for further information on the YouGov survey cited above. Data from the ONS Business Insights and Impacts on UK Economy survey corroborate that this practice is rare. Wave 133 reports that 3.4% of businesses changed employment contracts in the last 12 months and the number who reported changing contracts by dismissing staff and rehiring them on new employment contract terms is so low, it had to be suppressed³.
19. DBT analysis estimates 27,000 workers per year are affected by fire and rehire relating to shift changes and 5,000 workers per year are affected by fire and rehire relating to expenses and benefits in kind.
20. Lack of intervention would keep the door open to continued use of this practice for shift changes with significant adverse impacts to employees (lack of protection) and would maintain full protections on expenses or benefits in kind with subsequent detrimental impacts to employers (lack of flexibility).

³ ONS (2025) Business and Insight Survey Wave 133

3. SMART objectives for intervention

21. The objectives of the fire and rehire policy are to prevent unscrupulous fire and rehire practices so that employers will only be able to use the practice to change core terms (such as reductions to pay, changes to total hours, reductions to leave entitlement, changes to pensions, and specified shift pattern changes) when they meet a narrow exemption for financial difficulties. These changes will be subject to separate enhanced protections that seek to ensure employers engage in meaningful consultation and fair negotiations with employees and their representatives when making such changes.
22. This intervention seeks to extend protections to employees who are subject to fire and rehire in relation to a specified list of shift changes. The policy objective is to prevent employers unilaterally imposing unreasonable shift pattern changes, while giving employers flexibility to make necessary operational adjustments.
23. This intervention also seeks to exclude certain expenses and benefits in kind from the restricted variation of pay and in doing so, permit these being reduced or removed by fire and rehire without triggering an automatic unfair dismissal. The policy objective is to provide employers with some flexibility to respond to changing conditions while maintaining crucial protections to core elements of employee pay.
24. The intended outcomes are to reduce the occurrence of fire and rehire, prevent certain forced changes to shift patterns, and increase employer flexibility to change expenses and benefits in kind.
25. SMART objectives
 - A reduction in the number of employers engaging in, or threatening to engage in, the practice of fire and rehire to change shift patterns each year.
 - A reduction in the number of employees affected by or threatened by the practice of fire and rehire to change their shift patterns each year.
 - Employer flexibility to make reasonable changes to expenses and benefits policies (that are out of scope of the protections).

Link to growth

26. As a result of this policy, there may be productivity benefits from providing better employment security. The efficiency wages theory suggests that when workers feel valued and are satisfied with their jobs, they are expected to become more engaged and committed to their place of work and therefore work more efficiently. This efficiency is seen to drive higher productivity and in turn can increase business output and economic growth.
27. There is some evidence that boosting employment rights can support higher participation and increased productivity. For example, the OECD is clear in their Jobs Strategy⁴ that labour market flexibility is not alone sufficient for a high-performing labour market, and that policies that boost job quality and inclusiveness must also play a role.
28. As well as being good for workers' health, wellbeing and job satisfaction, employment protections can improve productivity. Oswald et al (2015)⁵ find wellbeing boosts performance at work with four

⁴ Organisation for Economic Co-operation and Development (2018). 'Good Jobs for All in a Changing World of Work'.

⁵ Oswald AJ et al (2015) 'Happiness and Productivity'. Journal of Labor Economics: Volume 33(5), pages 789–822.

different experiments. Similarly, Bellet et al (2024)⁶ find a positive impact of happiness on productivity. Similarly, Bryson et al. (2017)⁷ and De Neve et al. (2019)⁸ also find a positive association between employee job satisfaction and productivity.

29. There is also a large literature that argues that job insecurity can be damaging to both physical and mental wellbeing as argued by Green (2020)⁹. Insecure work is associated with numerous negative health and wellbeing impacts, which in turn is related to worse productivity. Work Foundation (2023)¹⁰ polling found that ‘insecure’ workers were twice as likely as secure workers to experience job related stress 4-6 days of the week (26% compared with 13%), in particular related to uncertainty over total earnings. Their polling also finds that these insecure workers are nearly four times more likely to experience this poor mental health when they also lack confidence in being able to afford an unexpected expense. Negative health outcomes have an impact on worker and therefore firm productivity.
30. On the other hand, preventing unscrupulous fire and rehire practices will reduce the flexibility of employers to forcibly reduce some employment terms and conditions. This may lead to internal inefficiencies from having non-harmonised contracts or being prevented from certain operational changes which might improve the employer’s productivity.
31. However, employers generally do not use fire and rehire and there is an argument that those who do are benefitting from an uncompetitive practice to reduce their costs. Recent evidence from the ONS Business Insights and Conditions Survey reports that 63% of employers making changes to terms do so through consultation, negotiation and voluntary agreement with employees, while <1% used fire and rehire. We would expect mutual agreement to yield better outcomes for workers than when changes are forced through via fire and rehire. Fire and rehire enables employers to reduce labour input costs to a larger extent.

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

32. As a result of the Act fire and rehire will be an automatic unfair dismissal in relation to core terms (including pay, total hours, leave), unless the employer is in severe financial difficulties and has no reasonable alternative.
33. The consultation, which this options assessment accompanies, builds on the Act. It seeks views on which changes to the timing or duration of a shift should be a restricted variation (thereby making fire and rehire on these an automatic unfair dismissal unless the employer meets a narrow exemption for financial difficulties) and on the expenses and benefits in kind to exclude from the restricted variation of pay.

⁶ Bellet C et al (2019) ‘Does employee happiness have an impact on productivity?’. Saïd Business School: Working Paper

⁷ Bryson A et al (2017). ‘Does employees’ subjective well-being affect workplace performance?’. Human Relations: Volume 79(8), pages 1017-1037

⁸ De Neve et al (2019). ‘Does Employee Happiness have an Impact on Productivity?’.

⁹Green, F (2020) Health effects of job insecurity. IZA World of Labor.

¹⁰ Work Foundation (2023) [Zero Choices: Swapping Zero-Hour Contracts for Secure, Flexible Working](#)

Theory of change

34. **Input:** Secondary legislation.

35. **Outputs:**

- Fire and rehire cases relating to specified shift patterns changes are prohibited (i.e., will be considered to be an unfair dismissal), unless the employer meets a narrow exemption for financial difficulties. Any employer who wishes to use fire and rehire in relation to specified shift patterns changes must demonstrate that they were in financial difficulties threatening their business and that they could not avoid the need to change the employee's employment contract.
- Fire and rehire relating to the removal or reduction of certain expenses and benefits in kind are permitted but employers must follow a fair and transparent process, including meaningful engagement with employees, and their representatives.

36. **Outcomes of the fire and rehire policy as a whole:**

- A reduction in the number of employers engaging in, or threatening to engage in, the practice of fire and rehire each year.
- A reduction in the number of employees affected by or threatened by the practice of fire and rehire each year.
- An increase in the proportion of fire and rehire cases which had sufficient/adequate consultation.
- Any fire and rehire case to be deemed automatic unfair dismissal in relation to core terms (including reductions to pay, changes to total hours, reductions to leave entitlement and specified changes to shift patterns), unless the employer meets a narrow exemption for financial difficulties.

37. **Impact of the fire and rehire policy as a whole:**

- Increase in job and income security.
- Fairer employer-employee relations and bargaining.
- Possible productivity benefits from providing better employment security.

38. **Risks of the fire and rehire policy as a whole:**

- Employers may erode wages over time as an alternative means to generate cost reductions.
- Employers may make redundancies as an alternative means to generate cost reductions.
- Increase in Employment Tribunal cases.

5. Summary of long-list and alternatives

39. This consultation is seeking views to define the expenses/benefits in kind and the shift changes to be protected from fire and rehire. The initial long list of options under consideration were the following:

40. **Options grouped by issue: (1) Expenses and benefits in kind to be excluded from the scope of pay for fire and rehire protections**

- Do nothing (discarded).** This option would result in all expenses and benefits in kind being protected as they would come under the core term of 'pay'. This outcome would fail our intended outcomes, as they do not balance employer flexibility with employee protections. As a result, this option has been discarded.

- b. All expenses and benefits in kind are excluded from the scope of pay.** This option would allow for any expenses payments to be reduced or removed unilaterally. This would give employers flexibility to make changes to expenses and benefits in kind where they are out of date or to make expenses and benefits consistent across a workforce. If employers made the decision to remove entitlements to expenses completely it could have significant implications for some employees e.g. requiring employees to travel for work but not reimbursing any expenses. However, employees still have enhanced protections under the ordinary unfair dismissals process. The employer would need to demonstrate they had acted fairly in all the circumstances, and whether they consulted with affected employees beforehand (including with relevant trade union representatives).
- c. Only certain expenses and benefits in kind are protected. Other expenses and benefits in kind are excluded.** The objective is to maximise certainty and flexibility, considering the impact on both employees and employers. The consultation will seek views on whether travel expenses, payment in shares, and accommodation should be protected.

41. Options grouped by issue: (2) Specific shift patterns to be included in scope of fire and rehire protections

- a. Do nothing.** There would be no change to the status quo for businesses changing shift patterns through fire and rehire. Employees would be able to claim enhanced ordinary unfair dismissal protections where they have been dismissed for failing to agree to a shift change. In these cases, Employment tribunals will still consider whether the employer has followed a fair process, including consulting with employees.
- b. Only egregious shift changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) are protected.** This option reflects shift changes that can have significant adverse impacts on employees if they are changed without agreement, particularly where they have wider responsibilities (e.g. caring) or may hold multiple jobs. Night work will be considered any work scheduled between 11pm and 6am, drawing on existing definitions in UK legislation. Weekend working would simply be defined as work on Saturday or Sunday. Employees would be protected from being unilaterally forced to undertake such working hours where there was no such requirement before. The consultation asks for stakeholders' views and evidence on the scenarios where employers require flexibility to ask employees to work on weekends.
- c. Changes of specified number or proportion of scheduled hours are protected (discarded).** This would include options such as a change to the timing or duration of a shift of over e.g. 6 hours, or a change of over 50% of the hours. The underlying rationale is that a change of this magnitude could have a significant impact on employees. This option has been discarded during shortlisting. This option would be difficult to arrive at fairly and in a way that is applicable to individuals working in different circumstances. Shift patterns are defined differently across the economy (e.g. contracts can specify availability in terms of days, weekly, or multi-weekly basis) and the impact of a change to the timing or duration of shift on individuals will depend on, for example, whether they are currently part-time or full-time. Furthermore, if a fair level were arrived at, it would be operationally difficult to implement.

- d. **Changes to the timing or duration of a shift that would have a significant detriment for the employee are protected (discarded).** The benefit of this option is to provide employers with some flexibility to make non-detrimental changes, while focussing on the employee's particular circumstances. The downside is the lack of clarity for both employers and employees. Furthermore, requiring tribunals to make judgements on whether a change caused an employee significant detriment would increase litigation and strain on the tribunal system. This option was discarded during shortlisting.

42. The purpose of the consultation is to seek input on regulations to be made under powers in the Act, in relation to shift changes, and benefits and expenses in kind.

43. Non-regulatory options were considered at the inception of this policy (see published impact assessment) but were discarded in favour of legislation in the form of the Employment Rights Act. This consultation and the policy options considered within are a continuation of this process, seeking to adjust the policy introduced in the Act. Non-regulatory options are therefore not considered here. Furthermore, they would not achieve the intended outcomes of the policies under consideration.

6. Description of shortlisted policy options carried forward

44. Options grouped by issue: (1) Expenses and benefits in kind to be excluded from the restricted variation of sums payable to an employee in connection with the employment

The following options have been shortlisted for the consultation:

- a. **Option 1A – All expenses and benefits or payments in kind are excluded from the restricted variation of sums payable to an employee in connection with the employment.** This option would give further flexibility to employers, whilst employees would still benefit from enhanced ordinary unfair dismissal protections. This would help meet the aims of the policy, reducing business burden, and giving simplicity and certainty. Employees would be protected through enhanced ordinary unfair dismissal protections, under which employers would need to show that a dismissal is fair in all the circumstances, and a tribunal would consider whether the employer had engaged in meaningful consultation and fair negotiations with employees and their representatives when making such changes.
- b. **Option 1B – All expenses and benefits or payments in kind are excluded apart from certain types of: share schemes, travel expenses, and accommodation.** This option would only protect certain expenses and benefits in kind such as travel expenses, payment in shares, and accommodation. Although this option would give greater protections to employees relative to option 1A, it would lead to less flexibility for employers to make necessary operational changes.

45. We estimate Option 1A would generate a benefit to business and a cost to households of £11m (£2m to £17m range), a direct and equal transfer. Option 1B would have a smaller absolute impact than Option 1A. It would generate a benefit to business and a cost to households of £6m per annum (£1m to £8m range), also a direct and equal transfer. Note that our analysis on Option 1B is on basis that accommodation, travel and share arrangements are protected.

46. Options grouped by issue: (2) Specific shift pattern changes to be included in scope of fire and rehire protections

The following options have been shortlisted for the consultation:

- a. Option 2A – Shift changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) are protected.** This option best achieves the policy objectives and intended outcomes, protecting employees from changes to shift patterns that can have significant detrimental impacts on them, whilst providing businesses flexibility to make certain shift changes.
- b. Option 2B – Do nothing.** There would be no change to the status quo for businesses changing shift patterns through fire and rehire. While this option would give full flexibility to employers, it would not meet the policy objectives and intended outcomes, including increased job and income security for workers and fairer employer-employee relations and bargaining.

47. We estimate Option 2A would generate a cost to business of £69m per annum (£67m to £71m range). The benefit to households would be £55m (£52m to £57m range). Most of the monetised cost to business is transferred and realises as an equal and opposite benefit to households (i.e. they cancel each other out when looking at the society level). However, we also monetise a cost to business from recruiting new staff to replace those who were made redundant as a result of the policy on shift changes. This is not reflected in a benefit to households, and so the net monetised impact on society (i.e. the NPSV) is negative.

48. We have not been able to monetise all the impacts of these measures, and some of the impacts we have not monetised play an important part of the policy objectives and intended outcomes, for example, an increase in job and income security and fairer employer-employee relations and bargaining.

49. Table 4, table 5, table 6 below provide the estimated NPSV, EANDCB and EANDCH for different combinations of shortlisted options under consideration. The EANDCB, EANDCH and NPSV are estimated relative to a 'Do Nothing' option. Note that the 'Do Nothing' option has been shortlisted for shift changes, but not for expenses and benefits in kind.

Table 4: Net Present Social Value over the ten-year appraisal period (2024 prices, 2026 present value)

Option	Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 2B – Shift changes not included in new protections ('Do Nothing')
Option 1A: Expenses and benefits in kind excluded	£-123m (with range of between £-36m and -£210m)	Nil as all impacts are transfers between households and employers
Option 1B: Specified list of expenses and benefits in kind protected	£-123m (with range of between £-97m and -£149m)	Nil as all impacts are transfers between households and employers

Table 5: Equivalent Annual Net Direct Cost to Business¹¹ (2024 prices, 2026 present value)

Option	Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 2B – Shift changes not included in new protections ('Do Nothing')
Option 1A – Expenses and benefits in kind excluded	£52m (net cost)	£-10m (net benefit)
Option 1B – Specified list of expenses and benefits in kind protected	£57m (net cost)	£-5m (net benefit)

Table 6: Equivalent Annual Net Direct Cost to Households (2024 prices, 2026 present value)

Option	Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 2B – Shift changes not included in new protections ('Do Nothing')
Option 1A – Expenses and benefits in kind excluded	£-44m (net benefit)	£10m (net cost)
Option 1B – Specified list of expenses and benefits in kind protected	£-49m (net benefit)	£7m (net cost)

Small and micro business assessment

50. The 2022 YouGov survey provides insight on the use of fire and rehire by business size – see table 7 below. Overall, it finds little difference in the prevalence of fire and rehire by business size, although medium sized businesses are most likely to engage in the practice. Figures in the tables

¹¹ The Public sector has been excluded.

below have been updated since the 2024 Impact Assessment on fire and rehire, as we are now applying the 2024 Business Population Estimates rather than 2023.

Table 7: Businesses engaging in fire and rehire per annum by business size (number of employees)

Businesses engaging in fire and rehire	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000+
Proportion engaging in fire and rehire within group	0.6%	2.1%	2.3%	2.6%	3.0%	2.2%	1.6%
Estimated businesses engaging in fire and rehire	6,574	4,469	579	316	122	45	31

Source: unpublished 2022 YouGov survey and Business Population Estimates for Great Britain 2024

51. Table 8 below provides estimates of the number of workers currently affected by fire and rehire by business size. To note, these estimates are uncertain but present our best assessment of the prevalence of fire and rehire. The evidence base section presents our method to estimate this.

Table 8: Estimated number of workers affected by fire and rehire per annum by business size (number of employees)

Business size by number of employees	Total	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000+
Number of workers affected by fire and rehire per annum	125,000	8,000	36,000	8,000	19,000	10,000	11,000	32,000

Source: DBT analysis (2024), rounded to the thousand

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

53. A 2023 study by HMRC showed that medium and large employers were significantly more likely to offer Benefits in Kind and reimburse expenses than small employers. For small employers, only

a quarter (25%) offered any type of Benefit in Kind, compared to nearly two-thirds (64%) of medium employers and nearly three-quarters (72%) of large employers¹². Unfortunately, there is limited evidence on shifts patterns and hours by business size.

54. Exemption: The objective of the policy is to prevent unscrupulous fire and rehire practices for changes to core terms except where the employer meets the narrow exception for financial difficulties. While the smallest employers are those least likely to engage in the practice according to the YouGov survey and, according to the 2023 HMRC survey mentioned above, are less likely to offer Benefits in Kind, they represent the majority of employers. Therefore, to exempt smaller businesses would cause this policy to fail its intended outcome to end the practice, as smaller businesses represent over 99% of the business population, thereby still leaving many employees vulnerable to fire and rehire practices.
55. Mitigation: The objective of the policy is to end fire and rehire for changes to core terms except where the employer meets the narrow exception for financial difficulties. Smaller businesses in financial difficulties may be more likely to have no reasonable economic alternative and therefore for fire and rehire to be permitted. Smaller businesses are often most vulnerable to insolvency and financial issues as they typically possess less capital and more limited financial reserves than larger businesses, making them often more susceptible to prolonged cash flow disruptions or unforeseen financial pressures¹³. In addition, where an employer is able to show it meets the narrow exemption for financial difficulties in the new s104I(7)-(9), the Employment Tribunal will consider all the circumstances before determining whether a dismissal was fair or not.
56. That noted, for the cases where fire and rehire is prevented, the impact on smaller businesses may be relatively larger because of the reasons outlined above. Nevertheless, the broader societal benefits of increased job security and fairness in the UK labour market justify the policy's scope.

7. Regulatory scorecard for preferred option

57. This consultation does not include preferred options. We provide overall impacts in the regulatory scorecard below for Option 1A (expenses and benefits in kind excluded) and Option 2A (changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected). These are options which the consultation indicates that the government is minded to legislate in line with, subject to considering views received as part of this consultation.

Part A: Overall and stakeholder impacts

(1) Overall Impacts on total welfare

Impact	Description of impact	Directional rating
Description of overall	On balance, we expect the net effect to society to be positive . Overall, the policy is expected to reduce the number of instances of fire and rehire. In our analysis,	Positive

¹² HMRC (2023) [Research with employers on Benefits in Kind and expenses](#)

¹³ PwC (2024) [Insolvency Trends Uncovered-Restructuring Insights Q2 2024](#)

expected impact	<p>most of the monetised costs to businesses are transfers to households and therefore cancel each other out at a societal level. The monetised cost to businesses that are not transfers to households include recruitment costs in the limited cases where businesses make existing workers redundant on the basis that there is a reduced need for their work, and recruit new workers. While the monetised impacts suggest a negative overall impact, we expect the policy to lead to potentially significant unquantified benefits, including higher wellbeing and productivity. We therefore assess that the policy will likely have positive impacts overall.</p> <p>The evidence on fire and rehire is limited and our analysis is subject to a number of assumptions. We will continue to refine and test our analysis, including through the consultation.</p>	
Monetised impacts	The Total Net Present Social Value of Option 1A and Option 2A combined is £-123m (net cost) over the ten-year appraisal period (2024 prices, 2026 present value). This is due to additional hiring costs in the limited cases where businesses make existing workers redundant and recruit new workers. All other impacts are transfers from employers to employees.	Negative
Non-monetised impacts	Non-monetised impacts are expected to be positive overall. These include better physical and mental wellbeing and improved productivity. Those made redundant may suffer from longer term 'scarring' through increased future incidence of unemployment and lower subsequent earnings in employment. We do not think this negative impact to be large or likely.	Positive
Any significant or adverse distributional impacts?	There is limited evidence on the characteristics of those subject to fire and rehire practices. Nevertheless, a 2021 TUC online poll suggests that fire and rehire practises affect more vulnerable workers (young, lower socio-economic groups, and ethnic minorities), therefore strengthening protections will improve equality and fairness.	Positive

(2) Expected impacts on businesses

Impact	Description of impact	Directional rating
Description of overall business impact	<p>This policy is expected to generate a net cost to business. Overall, the policy is expected to reduce the number of instances of fire and rehire. The cost of including certain shift changes as restricted variations outweighs the benefits to employers of excluding some expenses and benefits in kind from the scope of a restricted variation.</p> <p>In our analysis, we have assumed that businesses have an imperative to change shift patterns. Therefore, we expect businesses would seek to negotiate with employees, with three possible scenarios: workers accept the shift changes or the change is foregone, workers accept the shift changes with some compensation (we have monetised the cost to business of providing compensation), or businesses make workers redundant (if they can show the principal reason for their dismissal was a reduced need for work) and hire new workers (we have monetised the cost to business of redundancy payments and recruitment costs).</p> <p>By comparison, we have assumed that businesses are changing expenses and benefits in-kind for more discretionary reasons (cutting costs or increasing profits) and, therefore, we assume that workers affected would retain their terms and conditions in the baseline (where expenses and benefits in kind are not excluded from core terms). We then monetise the benefit to businesses as there are more permissible cases of fire and rehire (relative to baseline) for expenses and benefits in kind.</p>	Negative
Monetised impacts	The EANDCB of Option 1A and Option 2A combined is £52m (net cost) (2024 prices, 2026 present value).	Negative
Non-monetised impacts	There may be productivity impacts – either positive from improvements in wellbeing and morale, or negative from reduced business flexibility to change shifts.	Uncertain
Any significant or adverse distributional impacts?	<p>No</p> <p>Business sectors</p> <p>The YouGov survey finds slight sector variation in the propensity to fire and rehire, with the information and communication sector most likely to engage in the practice, but overall, the difference by sector is small.</p>	Neutral

	<p>Overall, while there is some variation in impacts across sectors, these are not deemed significant or adverse.</p> <p>Regional impacts</p> <p>No regional impacts to note, this policy will affect businesses all across Great Britain in all sectors. The YouGov survey does not find any significant differences in use of fire and rehire across the UK regions.</p>	
--	---	--

(3) Expected impacts on households

Impact	Description of impact	Directional rating
Description of overall household impact	<p>The impact on households is directionally opposite to that on businesses.</p> <p>Overall, this policy is expected to generate net benefits to households.</p>	Positive
Monetised impacts	<p>The EANDCH of Option 1A and Option 2A combined is £-44m (net benefit) (2024 prices, 2026 present value). The benefit from preventing fire and rehire related to the shift changes specified more than offsets the cost to households from losing fire and rehire protections on certain expenses and benefits in kind.</p>	Positive
Non-monetised impacts	<p>Non-monetised impacts are expected to be positive overall. These include better physical and mental wellbeing and improved productivity. Those made redundant may suffer from longer term 'scarring' through increased future incidence of unemployment and lower subsequent earnings in employment.</p>	Positive
Any significant or adverse distributional impacts?	<p>There is limited evidence on the characteristics of those subject to fire and rehire practices. Nevertheless, a 2021 TUC online poll of 2,231 individuals in England and Wales found:</p> <ul style="list-style-type: none"> nearly a fifth of (18%) of 18 to 24-year-olds said their employer had tried to rehire them on inferior terms during the pandemic. working-class people (12%) were nearly twice as likely than those from higher socio-economic groups (7%) to have been told to re-apply for their jobs under worse terms and conditions. 	Positive

	<ul style="list-style-type: none"> Black Minority Ethnic workers (15%) had been faced with fire and rehire at nearly twice the rate of white workers (8%). <p>We would therefore expect this policy to generate positive distributional impacts to households.</p>	
--	---	--

Part B: Impacts on wider Government priorities

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

8. Monitoring and evaluation of preferred option

58. The Department for Business and Trade will lead on all monitoring and evaluation activities.

59. The Government will undertake proportionate monitoring and evaluation of reforms implemented through the Act and associated secondary legislation. To determine whether the policy has met its objectives, we will be monitoring its impacts and will consider undertaking a proportionate review of this policy within 5 years following the policy taking effect.

60. At a high level, our Monitoring and Evaluation plans will consider:

- whether the measure has achieved its stated objectives (found in section 3 and section 4 of this options assessment)
- whether the impacts of the policy were in line with those estimated in this options assessment and the previous impact assessment on fire and rehire
- whether the policy has resulted in any unintended consequences

61. Our initial Monitoring and Evaluation work is focussed on baselining, developing key metrics, and ensuring that there is a coordinated programme of research to fill evidence gaps. This work will start shortly.

Key measures and sources of data

62. The below outlines some of the potential key measures and data sources for the evaluation of the fire and rehire measure. As noted, these are subject to change.

SMART objectives

- A reduction in the number of employers engaging in, or threatening to engage in, the practice of fire and rehire to change shift patterns each year.
- A reduction in the number of employees affected by or threatened by the practice of fire and rehire to change their shift patterns each year.
- Employer flexibility to make necessary operational changes to expenses and benefits policies (that are out of scope of the protections).

Sources (non-exhaustive)

New data collection:

- A repeat of the 2020 YouGov fire and rehire survey
- A follow up qualitative study with businesses on employment decisions and policy impact
- Qualitative data collective with key stakeholders

Drawing from current data sources:

- Include contract change questions on the Business Insight and Conditions survey again
- Draw evidence from the Labour force survey
- Explore adding questions to departmental surveys

Overview of considered Monitoring and Evaluation data collection approaches

63. The intended outcome of this policy is to limit the use of fire and rehire practices for changes to core terms except where the employer wants to change core terms and meets the narrow exception for financial difficulties in the new section 104(7)-(9). The best option from a research standpoint would be to repeat the 2022 YouGov survey used in this impact assessment within five years of introduction and undertake a before-after comparison.
64. Additionally, we could consider including a recontact question in the second wave of the 2022 YouGov survey to generate a sample of businesses for follow-up discussions on the impact of the policy changes. Although this qualitative research would be externally commissioned, we must account for the potential interviewer effect, which could compromise data quality- particularly if businesses feel reluctant to speak candidly about their use of fire and rehire practices when approached on behalf of the government.
65. To note, an effective policy could reduce our ability to capture evidence of fire and rehire and may therefore reduce the value for money of undertaking such a survey. One way of overcoming this could be to expand the scope of the survey and use it as a data collection tool for a range of the Act's measures. This would enhance the survey's value for money. We will continue to explore this.
66. To assess if the objectives have been met, the survey questions would ask a representative sample of employers if they have changed their workers' terms and conditions in recent years. If they have worsened any terms and conditions, the survey would explore employers' reasons for doing so, including whether they used the threat of fire and rehire in negotiations, and whether they carried out fire and rehire. The number of workers affected by these practices, and their impact on workers, would also be investigated. In this survey we could also explore other key factors such as cost to businesses and unintended consequences such as redundancies.
67. Alongside considering the value of a repeat of the survey above, we intend to gather intelligence and evidence on the effects of this policy through discussions with Acas, the Employment Tribunal, trade unions, and others. Alongside these efforts, we will monitor real-life instances of fire and rehire through web-based research and continued engagement with the organisations above. This information will be used to assess evaluation options, including the benefit of running a bespoke survey, and other options (e.g. adding gathering data via existing, ongoing surveys such as the Labour Force Survey and continue to ask and develop questions in the Business Insight and Conditions survey). Furthermore, the Business Insight and Conditions survey will provide helpful monitoring data, as it is a frequent and ongoing survey providing data from a large number of businesses. We currently have questions in this survey regarding the prevalence of fire and rehire, we will keep monitoring the responses as part of our Monitoring and Evaluation efforts.
68. A small number of cases may result in redundancies as a consequence of this policy. While we can monitor redundancy rates and levels, it will be difficult to isolate the effects of this policy. Engagement with key stakeholders such as Acas, the Insolvency Service, and trade unions might provide information on this effect. Interviews with businesses and trade associations might provide useful insights, especially following collective redundancy cases. This could bring light to decision-making in redundancy scenarios and if the practice of fire and rehire could have prevented these.

Review objectives

69. Any review or evaluation of this measure would look to assess whether the anticipated outcomes as set out in the Theory of Change and SMART objectives have been achieved, and the extent to which the measure has led to any unintended consequences. This will help to develop our understanding of impact of the measure. These plans will be developed alongside HMT Green Book / Magenta Book guidance.

70. Below are some high-level evaluation questions, these are subject to change and further developments:

- To what extent, have changes to the fire and rehire measure impacted the prevalence of the practice?
- To what extent, have changes to the fire and rehire measure impacted the use of fire and rehire as a threat in employer-employee negotiations?
- To what extent have the measures caused increased employee job security?
- In what ways have the measures achieved their intended outcomes and impacts?
- In what ways have the measures produced or contributed to any unintended consequences?

71. We will also need to evaluate the economic impact of the measure, including its costs and benefits. These questions will vary depending on the final scope of the evaluation, though this is expected to include:

- What costs have been incurred by employers?
- What benefits have been generated by the implementation of this measure for both employers and employees?
- What is the nature and scale of direct costs incurred by businesses?
- What is the nature and scale of indirect costs incurred to businesses and the wider economy as a result of this measure?

72. We will further continue to explore developments to our monitoring and evaluation plans with a focus on how we gather insights into the impacts of the options explored in this options assessment, taking into consideration proportionality and feasibility. We will also consider opportunities to align our Monitoring and Evaluation work with the wider evaluation of the Act, this will be subject to further consideration.

9. Minimising administrative and compliance costs for preferred option

73. This policy is expected to generate no additional administrative costs to the vast majority of businesses because most employers do not engage in fire and rehire. Administrative costs might be generated for those who engage in fire and rehire following the introduction of the Act when a case is brought against them at the Employment Tribunal. Here, there may be costs from employers needing to demonstrate the details of the fire and rehire, including financial position, the lack of any other alternatives, and the process followed. These administrative costs are expected to be similar to those currently incurred in such cases. The change is a reduction in the circumstances where this practice is deemed acceptable.

Declaration

Department:

Department for Business and Trade

Contact details for enquiries:

ERDAnalysisEnquiries@businessandtrade.gov.uk

Minister:

Minister for Employment Rights, Competition and Markets - Kate Dearden MP

I have read the Options Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed:

A handwritten signature in blue ink that reads "Kate Dearden." The signature is written in a cursive style.

Date: 04/02/2026

Summary: Analysis and evidence

Price base year: 2024

PV base year: 2026 (appraisal period: 2026 to 2035)

Description	Option 1A: Expenses and benefits in kind excluded and Option 2A: Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 1A: Expenses and benefits in kind excluded and Option 2B: Do nothing- shift changes not included in new protections	Option 1B: Specified list of expenses and benefits in kind protected and Option 2A: Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 1B: Specified list of expenses and benefits in kind protected and Option 2B: Do nothing- shift changes not included in new protections
Net present social value (with brief description, including ranges, of individual costs and benefits)	£-123m (with range of between £-36m and -£210m)	Nil as all impacts are transfers between households and employers	£-123m (with range of between £-97m and -£149m)	Nil as all impacts are transfers between households and employers
Public sector financial costs (with brief description, including ranges)	The policy could generate costs to the public sector, insofar that it prevents the use of fire and rehire by public sector employers.	The policy could generate costs to the public sector, insofar that it prevents the use of fire and rehire by public sector employers	The policy could generate costs to the public sector, insofar that it prevents the use of fire and rehire by public sector employers	The policy could generate costs to the public sector, insofar that it prevents the use of fire and rehire by public sector employers
Significant un-quantified benefits and costs (description, with scale where possible)	<ul style="list-style-type: none"> Better physical and mental wellbeing: Insecure work is associated with numerous negative health and wellbeing impacts. Productivity: Negative health outcomes have an impact on worker 	<ul style="list-style-type: none"> Better physical and mental wellbeing: Insecure work is associated with numerous negative health and wellbeing impacts. Productivity: Negative health 	<ul style="list-style-type: none"> Better physical and mental wellbeing: Insecure work is associated with numerous negative health and wellbeing impacts. Productivity: Negative health outcomes have an 	<ul style="list-style-type: none"> Better physical and mental wellbeing: Insecure work is associated with numerous negative health and wellbeing impacts. Productivity: Negative health outcomes have an

	<p>and therefore firm productivity.</p> <ul style="list-style-type: none"> • Redundancies: Those made redundant may suffer from longer term 'scarring' through increased future incidence of unemployment and lower subsequent earnings in employment. Furthermore, those made unemployed may have negative health and wellbeing effects caused by the stress of losing employment and anxiety around future finances. 	<p>outcomes have an impact on worker and therefore firm productivity.</p> <ul style="list-style-type: none"> • Redundancies: Those made redundant may suffer from longer term 'scarring' through increased future incidence of unemployment and lower subsequent earnings in employment. Furthermore, those made unemployed may have negative health and wellbeing effects caused by the stress of losing employment and anxiety around future finances. 	<p>impact on worker and therefore firm productivity.</p> <ul style="list-style-type: none"> • Redundancies: Those made redundant may suffer from longer term 'scarring' through increased future incidence of unemployment and lower subsequent earnings in employment. Furthermore, those made unemployed may have negative health and wellbeing effects caused by the stress of losing employment and anxiety around future finances. 	<p>impact on worker and therefore firm productivity.</p> <ul style="list-style-type: none"> • Redundancies: Those made redundant may suffer from longer term 'scarring' through increased future incidence of unemployment and lower subsequent earnings in employment. Furthermore, those made unemployed may have negative health and wellbeing effects caused by the stress of losing employment and anxiety around future finances.
Results of sensitivity analysis	<p>More stringent financial difficulties exemption:</p> <p>NPSV = £-141m</p>	<p>More stringent financial difficulties exemption:</p> <p>NPSV = Nil as all impacts are transfers between households and employers</p>	<p>More stringent financial difficulties exemption:</p> <p>NPSV = £-141m</p>	<p>More stringent financial difficulties exemption:</p> <p>NPSV = Nil as all impacts are transfers between households and employers</p>

OFFICIAL

	<p>Less stringent financial exemption: NPSV = £-93m</p> <p><i>This sensitivity analysis has been produced using the central estimates.</i></p>	<p>Less stringent financial exemption: NPSV = Nil as all impacts are transfers between households and employers</p> <p><i>This sensitivity analysis has been produced using the central estimates.</i></p>	<p>Less stringent financial exemption: NPSV = £-93m</p> <p><i>This sensitivity analysis has been produced using the central estimates.</i></p>	<p>Less stringent financial exemption: NPSV = Nil as all impacts are transfers between households and employers</p> <p><i>This sensitivity analysis has been produced using the central estimates.</i></p>
--	--	--	--	--

Assumptions and risks

The analysis makes several assumptions. The most important are set out below. We will continue to test these with stakeholders, including through the public consultation, with the aim of refining them for the final impact assessment. In addition, DBT has commissioned research to improve its evidence in this space.

Assumption / risk	Confidence Rating-Red, Amber and Green (RAG)	Importance	Explanation	Risks
Prevalence of fire and rehire	Amber	Very high	We use the 2022 YouGov survey as our best evidence.	<p>We think this may be an over-estimate based on conversations with stakeholders, DBT monitoring, and ONS BICS data. In addition, this data covers the pandemic period (employers were asked about experiences in 2020-22) therefore the estimates are likely on the higher side due to the economic conditions businesses were facing at the time.</p> <p>However, we do not hold evidence to robustly adjust this.</p>
Cases relating to timing or duration of shift changes	Green/Amber	Medium	We use the 2022 YouGov survey as our best evidence on the categories of employment terms and conditions employers change through fire and rehire. The response options included: pay levels, holiday / pay entitlement, agreed hours of work, location of work, access to enhanced contractual entitlements / incentives, redundancy terms, pension, notice periods, and other. We assume that the 'agreed hours of work' category is the best proxy to shift changes and does not include cases where employers change total hours of work.	If incorrect, this would lead to over-estimating the impacts of preventing fire and rehire on specified shift changes. As a result, the NPSV would be smaller (i.e. closer to zero).

Cases relating to expenses and benefits in kind	Green/Amber	Medium	From the fire and rehire cases DBT has information on, a quarter of cases relating to pay included expenses and/or benefits in kind. We therefore assume 25% of the cases relating to pay affected expenses and/or benefits in kind.	If incorrect, this would bias the impacts of excluding expenses and benefits in kind from protections. To note, stakeholders have told us that expenses and benefits in kind are often set out in policies rather than needed to be changed through fire and rehire. It is therefore possible that our approach over-estimates the impacts of this change.
Proportion of shift patterns caught by policy options	Green/Amber	High	From the fire and rehire cases DBT has information on, half of cases relating to shift changes included day to night (or vice versa) and weekday to weekend working (or vice versa). We therefore assume that 50% of cases relating to shift patterns are changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) as defined by Option 2A.	This is our best estimate but it is not based on comprehensive data. It could therefore be an over-estimate or an under-estimate.
Reduction in pay by fire and rehire	Green/Amber	High	The analysis assumes pay is reduced by 15% in the best estimate scenario, 2% in the low scenario, and 22% in the high scenario.	This would amend the impacts from excluding expenses and benefits in kind. We draw from case study evidence and use a range to account for uncertainty.
Value of reductions from expenses and benefits in kind	Amber	High	We assume that fire and rehire cases relating to expenses and benefits in kind are equivalent to a 7.5% reduction in wage (approx. £2,500 for the UK median wage), assuming 1% in the low scenario (£330) and 11% in the high scenario (£3,600).	This could be an under-estimate or an over-estimate. We do not hold evidence to assess this. We use a range to address this uncertainty. We will continue to build our evidence in this space.

OFFICIAL

Multiplier for redundancy pay	Green	Low	We assume 1.23 pay per year employed. This is estimated with the weighted average of the number of years at each multiplier, assuming retirement at 66 and entering work at 19.	This would amend redundancy pay estimates, with implications for the overall NPSV.
Probability of outcomes following prevented fire and rehire on shift changes	Amber/Red	Medium	<p>We assume 10% agree / the change is forgone, 70% negotiate compensation, 20% are made redundant for option 2A. See point 137 for explanation.</p> <p>For the additional cases caught by option 2B, we assume a 1/3 probability for all three outcomes.</p>	Based on logic and some evidence but this evidence is not robust. We will continue to build our evidence in this space over the coming months.
Recruitment costs from redundancy	Amber	Low	We assume recruitment costs are incurred for all redundancies.	This approach will over-estimate impacts. This is because some fire and rehire cases will realise as fire and replace. Therefore, the employer would incur the recruitment cost in the counterfactual as well as in the policy scenario. We do not have evidence to adjust for this however and therefore make a maximalist assessment.

Evidence base

74. The consultation which this options assessment accompanies seeks views on the changes to the shift patterns which should be protected as a restricted variation (thereby making fire and rehire on these an automatic unfair dismissal unless the employer meets a narrow exemption for financial difficulties) and on which expenses and benefits in kind to exclude from the restricted variations of pay.
75. To note, this analysis only focuses on the options consulted upon. The Act aims to prevent unscrupulous fire and rehire practices. Once the provisions of the Act are commenced, it will be an automatic unfair dismissal for employers to use the practice in order to change certain core terms unless they meet a narrow exemption for financial difficulties. These core terms include reductions in pay, changes to total hours, reductions to leave entitlement, changes to pensions, and specified shift pattern changes, and are referred to as restricted variations. These protections include all expenses and benefits in kind. Meanwhile, the changes to shift patterns, which will also trigger automatic unfair dismissal if changed by fire and rehire (unless the employer meets the narrow exemption for financial difficulties), are to be set in regulations following this consultation. Therefore, the summary impacts, the NPSVs, the EANDCB etc. in this analysis focus only on the impacts of including specified shift patterns in these protections and excluding expenses and benefits in kind. Impacts from restricting fire and rehire on pay, total hours, leave, pensions, and specified shift patterns changes – are covered in the fire and rehire enactment impact assessment. The summary impacts set out in this analysis are therefore additional to that in the fire and rehire enactment impact assessment.
76. The following provides our initial analysis of the options consulted upon; we will continue to refine and test our analysis with stakeholders through the consultation. This initial analysis first provides an overview of the impact of the full fire and rehire policy in theory, before setting out our evidence on the practice of fire and rehire. Following this, it sets out the impact of the policy options on fire and rehire cases, before setting out the impacts to business, the impacts to households, and the unquantified impacts. It finishes with the Net Present Social Value (NPSV), Estimated Annual Net Direct Cost to Business (EANDCB), and Estimated Annual Net Direct Cost to Households (EANDCH) of the options under consideration.
77. The analysis below draws on data from an unpublished 2022 YouGov survey, ONS Business Population Estimates data, Annual Survey of Hours and Earnings data and logic-based assumptions to estimate the impacts of this policy. Business Population Estimates data and Annual Survey of Hours and Earnings data are from 2024, and this analysis is in 2024 prices. It also draws on DBT intelligence of fire and rehire cases. Due to the sensitivity of such cases, details of individual cases are not provided in this document.
78. Table 9, table 10 and table 11 below provides the estimated NPSV, EANDCB and EANDCH for different combinations of shortlisted options under considerations. The EANDCB, EANDCH and NPSV are estimated relative to a 'Do Nothing' option. Note that the 'Do Nothing' option has been shortlisted for shift changes, but not for expenses and benefits in kind.

Table 9: Net Present Social Value over the ten-year appraisal period (2024 prices, 2026 present value)

Option	Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 2B – Shift changes not included in new protections ('Do Nothing')
Option –1A: Expenses and benefits in kind excluded	£-123m (with range of between £-36m and -£210m)	Nil as all impacts are transfers between households and employers
Option 1B: Specified list of expenses and benefits in kind protected	£-123m (with range of between £-97m and -£149m)	Nil as all impacts are transfers between households and employers

Table 10: Equivalent Annual Net Direct Cost to Business¹⁴ (2024 prices, 2026 present value)

Option	Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 2B – Shift changes not included in new protections ('Do Nothing')
Option 1A – Expenses and benefits in kind excluded	£52m (net cost)	-£10m (net benefit)
Option 1B – Specified list of expenses and benefits in kind protected	£57m (net cost)	-£5m (net benefit)

Table 11: Equivalent Annual Net Direct Cost to Households (2024 prices, 2026 present value)

Option	Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 2B – Shift changes not included in new protections ('Do Nothing')
Option 1A – Expenses and benefits in kind excluded	£-44m (net benefit)	£10m (net cost)
Option 1B – Specified list of expenses and benefits in kind protected	£-49m (net benefit)	£7m (net cost)

¹⁴ The Public sector has been excluded.

Fire and rehire policy: theory

79. Under the policy, we would expect a reduction in the number of cases of fire and rehire because many cases would no longer be permitted.
80. This will impact employer labour costs as more employees will now be retained on their existing core employment terms (such as pay and annual leave entitlement), rather than being moved to contracts where these core terms and conditions are reduced.
81. On the flipside, employees will benefit from an increase in pay and improved other terms and conditions compared to the counterfactual.
82. Employers will likely take steps to mitigate these costs. For example, they could negotiate more with employees over terms and conditions. They may also choose to make redundancies, particularly in cases where the prevention of a fire and rehire case causes financial difficulties that are not sufficient to meet the exemption. We explain each of these potential mitigations below:
83. **Negotiate more with employees:** Where employers respond to restrictions on fire and rehire by negotiating more with employees, it is likely employers will incur some additional cost (the costs of running negotiations) but achieve some of the benefits of the fire and rehire outcomes without having to use fire and rehire (e.g. reduced pay or other terms and conditions). This is an intended outcome of the policy. Changes to contracts should be negotiated and agreed between the employer and the employee.
84. **Make redundancies:** employers may also respond by making redundancies. This would likely only occur in employers that are using fire and rehire to reduce financial pressures but where these pressures are not significant enough to meet the threshold for the exemption. This is an unintended consequence of the policy.
85. Redundancy is often a last resort for employers. In making redundancies, they lose output and must make a redundancy payment (where the employee qualifies for a statutory payment or contractual payment or where the business' policies require a payment to be made). In addition, the employer is losing factors of production thereby harming its longer-term productive potential. Should the business wish to increase production, it would need to hire new employees and incur recruitment and training costs. Furthermore, productivity may be harmed via a loss of human capital and negative effects on morale. There is a saving in the short term, but there may be a cost in future time periods. In reality then, we would expect businesses to avoid making redundancies where possible.
86. Note whilst a small increase in redundancies is a possible consequence of restricting the use of fire and rehire, this will only lead to an increase in unemployment if these individuals do not find alternative jobs quickly. Given that these are individuals who the employers would have otherwise willingly rehired, it is likely that they would find jobs again relatively quickly at similar employers given current state of the labour market.
87. Furthermore, even if the above was not true, evidence on the link between redundancy and unemployment suggests that, at sufficiently small scale, most people made redundant find a new job reasonably quickly. For example, ONS data on time spent unemployed tells us that

around 60% of those unemployed were unemployed for less than 6 months¹⁵. This is consistent since 2019. This is echoed by the Resolution Foundation: “Prior to the pandemic, more than two-fifths (42%) of people who had been made redundant in the last three months were already employed in a different job, with just over a third (35%) becoming unemployed”¹⁶.

88. Employers will then also respond to the remaining additional costs they face in a number of ways, such as by absorbing the cost through reduced profits or passing the cost through to real wages (i.e. via higher prices in the short run or lower pay increases over time). We take each of these in turn below. Further discussion on employer reactions to the costs of employment legislation can be found in the Bill Enactment Impact Assessment.
89. **Absorb the cost:** Businesses may look to absorb these costs thereby reducing their profits compared to the counterfactual. This may be restricted for employers in financial difficulty (that are not severe enough to enable the use of fire and rehire financial difficulties exemption).
90. **Pass the cost onto customers:** They may look to pass on costs to customers in the form of higher prices.
91. **Pass the cost through to employees:** They may look to pass costs through to employees in the form of lower wages. Whilst this channel is restricted in the short run this may translate into smaller pay increases over time as employers look to erode pay over time. Employees may in turn respond to this lower pay through reducing their labour supply.

Evidence on fire and rehire – pre-policy

Prevalence of fire and rehire

92. To understand the prevalence of fire and rehire and to understand the circumstances in which this practice is used by employers, we use the findings from a 2022 YouGov survey commissioned by Department for Business and Trade¹⁷. Figures in the tables below have been updated since the 2024 Impact Assessment on fire and rehire, as we are now applying the 2024 Business Population Estimates rather than the 2023 estimates.
93. The YouGov survey asked respondents, “To the best of your knowledge, has your organisation made changes to any workers' terms and conditions of employment?”. Those who selected “Yes, through dismissing staff and rehiring on new terms, following consultation/negotiation where agreement was not achieved” are those which engaged in fire and rehire.
94. These estimates are then applied to 2024 Business Population Estimates data for Great Britain (the same geographical area covered by the policy) to estimate the number of businesses engaging in fire and rehire within each size band, as shown in Table 12.
95. It is important to note that the tables and figures below relate to before the measures come into effect.

¹⁵ ONS (2025) UNEM01: Unemployment by age and duration: People (seasonally adjusted)

¹⁶ Resolution Foundation (2021), The Resolution Foundation Labour Market Outlook – Quarterly Briefing Q3 2021

¹⁷ Full details of this survey, are provided in Annex A

Table 12: Businesses engaging in fire and rehire per annum by business size (number of employees)

Businesses engaging in fire and rehire	Total	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000+
Proportion engaging in fire and rehire within group	0.95%	0.6%	2.1%	2.3%	2.6%	3.0%	2.2%	1.6%
Estimated businesses engaging in fire and rehire	12,136	6,574	4,469	579	316	122	45	31

Source: unpublished 2022 YouGov survey and Business Population Estimates for Great Britain 2024

96. From this breakdown, we then estimate the number of workers affected. The survey does not ask the number of workers affected. However, it asks “Overall, approximately what proportion of workers who were dismissed by your organisation would you estimate were rehired on the new terms and conditions?” with four answers possible: (1) 1% - 25%; (2) 26% - 50%; (3) 51% - 75%; (4) 76% - 100% (results shown in Table 13b).

97. To estimate the number of workers affected, we start with the average number of workers per employer within each employer size band (e.g. within the employer size 2-9, the average employer has 4 employees). We then multiply this by the sum of the product of the midpoints of how many workers were affected (as set out in the first column of table 13b) and the % of employers reporting being affected in that way (the value in each cell), across employers of that employer size. To illustrate, for employers with between 2 and 9 employees, we calculate that the average number of workers being fired and rehired within each employer of that size is = $(12.5\% \times 58\% \times 4 + 38\% \times 21\% \times 4 + 63\% \times 0\% \times 4 + 88\% \times 21\% \times 4)$. We can then multiply by the number of employers in the size band to estimate the total number of employees who are fired and rehired by employers within that size band. We sum across all size bands to calculate the total below.

Table 13a: The average number of workers in a business by business size

Business size by number of employees	Total	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000+
Average number of workers in a business	5,951	4	20	69	155	347	689	4,668

Source: 2024 Q3 Inter-Departmental Business Register

OFFICIAL

Table 13b: The proportion of workers affected by FRH by business size

Proportion of workers affected by fire and rehire	Total	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000+
1% -25%	64%	58%	39%	84%	38%	60%	54%	80%
26% -50%	14%	21%	22%	0%	31%	33%	12%	4%
51% - 75%	13%	0%	23%	16%	24%	7%	15%	11%
76% - 100%	4%	21%	16%	0%	7%	0%	18%	5%

Source: unpublished 2022 YouGov survey

Calculation of the number of workers affected per business

$12.5\% \times \% \text{ employers reporting using fire and rehire on 1\% - 25\% of their workforce (table 13b)} \times$
 $\text{average number of workers per employer (table 13a)}$

+

$38\% \times \% \text{ employers reporting using fire and rehire on 26\% - 50\% of their workforce (table 13b)} \times$
 $\text{average number of workers per employer (table 13a)}$

+

$63\% \times \% \text{ employers reporting using fire and rehire on 51\% - 75\% of their workforce (table 13b)} \times$
 $\text{average number of workers per employer (table 13a)}$

+

$88\% \times \% \text{ employers reporting using fire and rehire on 76\% - 100\% of their workforce (table 13b)}$
 $\times \text{average number of workers per employer (table 13a)}$

This calculation is performed per employer size band – please refer to table 13c for results.

98. Table 13c presents the estimated number of workers affected by fire and rehire per business. It is estimated by multiplying the relevant figures from table 13a by the relevant figures from 13b.

Table 13c: The number of workers affected by FRH by business size

Workers affected per employer	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000+
Average (rounded)	1	8	14	59	85	254	1,053

Source: 2024 Q3 Inter-Departmental Business Register

99. We can then multiply by the number of employers in the size band to estimate the total number of employees who are fired and rehired by employers within that size band. We sum across all size bands to calculate the total below.

100. Note that this policy applies to employees only and not workers. We do not differentiate between both in this analysis and therefore our estimates may overstate the impact of the policy.

101. Based on this survey, we estimate that, **in the baseline, 12,100 employers engage in the practice of fire and rehire each year (<1% of employers) and this could affect 125,000 workers.**

Table 14: Estimated number of workers affected by fire and rehire per annum by business size (number of employees)¹⁸

Business size by number of employees	Total	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000+
Number of workers affected by fire and rehire per annum	125,000	8,000	36,000	8,000	19,000	10,000	11,000	32,000

Source: DBT analysis (2024), rounded to the thousand

102. The YouGov data also provides insights on the terms affected – see table 15 below.

Table 15: Breakdown of terms affected by fire and rehire

Terms changed by employers using fire and rehire	Proportion
Proportion of employers using fire and rehire to change pay	20%
Proportion of employers using fire and rehire to hours of work	30%
Proportion of employers using fire and rehire to change leave entitlement	20%
Proportion of employers using fire and rehire to change none of the above	39%

Source: unpublished 2022 YouGov survey

Note: Respondents could select multiple responses. Therefore, the sum of these proportion of responses is greater than 100%. None of the above does not include any cases which changed any of pay, hours, or holiday.

103. We can therefore break down the number of workers by term affected by multiplying the number of cases (125,000) by the proportion relating to any particular term (table 15). Of these, we estimate:

- 49,000 cases impacted non-core terms
- 76,000 cases impacted core terms, of which
 - 25,000 cases reduced pay
 - 38,000 cases changed the agreed hours of work
 - 25,000 cases reduced leave entitlement

¹⁸ This table has been updated since the 2024 IA, we have now only included the central estimate, rather than also including min and max estimates.

OFFICIAL

104. To note, the sum of cases relating to pay, agreed hours of work, and holiday entitlement is 88,000. This is because a single case will often change more than one term.

105. For this analysis, we assume those cases which changed agreed hours of work are those which relate to shift changes¹⁹.

106. We use the YouGov survey as our best evidence. Based on conversations with stakeholders and from DBT monitoring of the press, this may be an over-estimate. However, we do not hold evidence to robustly adjust this.

107. Data from the ONS Business Insights and Impacts on UK Economy survey corroborate that this practice is rare. Wave 133 reports that 3.4% of businesses changed employment contracts in the last 12 months and the number who reported changing contracts by dismissing staff and rehiring the on new employment contract terms is so low, it had to be suppressed²⁰.

Reasons for using fire and rehire

108. The survey also asks why the change in terms was sought. This gives us an insight into what portion of the annual fire and rehire cases may be exempt from the policy on the basis of financial pressures, and also how employers may respond to the policy.

109. Answers are reported separately by employer size, but the reasons given are broadly consistent across employers of different sizes, with a reduction in costs due to financial pressures being the top reason given, followed by organisation change. Other common reasons include seeking to mitigate the risks of redundancy, harmonising terms and conditions across the workforce and introducing flexibility into the contract.

Table 16: Reason(s) for reducing workers' terms and conditions (as % of responses) by business size (number of employees)

Reason	Total	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000+
To reduce costs due to financial pressure	43%	55%	37%	44%	30%	59%	38%	44%
As part of an organisational response to changing customer behaviour or sectoral environment	29%	35%	28%	21%	25%	36%	34%	26%
To mitigate the risks of redundancy	27%	28%	32%	22%	22%	28%	24%	26%
Harmonising terms and conditions across the workforce	25%	23%	19%	14%	30%	27%	21%	29%
Introducing flexibility into contracts	25%	18%	16%	13%	20%	38%	28%	27%
Other	8%	5%	10%	11%	13%	5%	5%	8%

¹⁹ Note total hours of work is protected by the policy to avoid employers reducing pay indirectly. This analysis therefore assumes that the cases which relate to pay capture both pay and changes to total hours worked. This is because the impact of changing the number of hours would materialise via changes to pay.

²⁰ ONS (2025) Business and Insight Survey Wave 133

OFFICIAL

Don't know	7%	0%	2%	18%	4%	12%	11%	6%
------------	----	----	----	-----	----	-----	-----	----

Source: unpublished 2022 YouGov survey

Notes: multiple responses were permitted therefore totals sum to greater than 100%.

110. For those reportedly engaging in fire and rehire due to financial pressure, a follow-up question was asked: "You said that a reason for your organisation reducing workers' terms and conditions was to reduce costs due to financial pressure. Overall, which of the following best describes the degree of this financial pressure?". Responses from employers include "severe pressure", "moderate pressure", "light pressure" and "unknown".

Table 17: Degree of financial pressure (as % of responses) by business size (number of employees)

Degree Of Financial Pressure	Total	2 to 9	10 to 49	50 to 99	100 to 249	250 to 499	500 to 999	1,000 +
Severe pressure	39%	60%	43%	55%	21%	27%	48%	37%
Moderate pressure	51%	32%	55%	45%	68%	59%	37%	52%
Light pressure	8%	3%	3%	0%	11%	9%	15%	9%
Unknown	2%	5%	0%	0%	0%	6%	0%	2%

Source: unpublished 2022 YouGov survey

111. Most pertinent to this analysis is the proportion of cases due to severe and moderate financial pressure reported, broken down by term affected. This is used in the analysis to assess the cases which would still be permitted following policy introduction. See table 18 below for the breakdown.

Table 18: Proportion of cases due to severe financial pressure for a given term affected

Degree Of Financial Pressure	Pay	Hours	Leave entitlement	Any core term
Severe pressure	26%	29%	22%	23%
Moderate pressure	22%	17%	8%	23%

Source: unpublished 2022 YouGov survey

112. There is a subsequent question which asks if this was in response to imminent financial pressures, expected longer-term financial pressures, or other. We use this subsequent question to adapt for uncertainty on the detail of the financial difficulties exemption.

Degree of contractual variation

113. There is no survey evidence looking at the degree of contractual variations typically resulting from cases of fire and rehire. Instead, we use DBT intelligence of real-world cases to inform our assumptions on this point. This intelligence is drawn from our monitoring of fire and rehire cases, stakeholder conversations with trade unions and business representative organisations, and desk-based research. Due to the sensitivity of such cases, details of individual cases are not provided in this document. We will keep refining and testing this analysis, including through the consultation, further discussions with stakeholders and continued monitoring of fire and rehire cases.

114. **Reduction in pay:** Our analysis assumes pay is reduced by 15% in the best estimate scenario, 2% in the low scenario, and 22% in the high scenario. The range reflects the full range

OFFICIAL

of real-world cases identified through our stakeholder engagement and research, while the central estimate reflects our assessment of the most common outcome. These assumptions are reasonable when compared to real cases of fire and rehire.

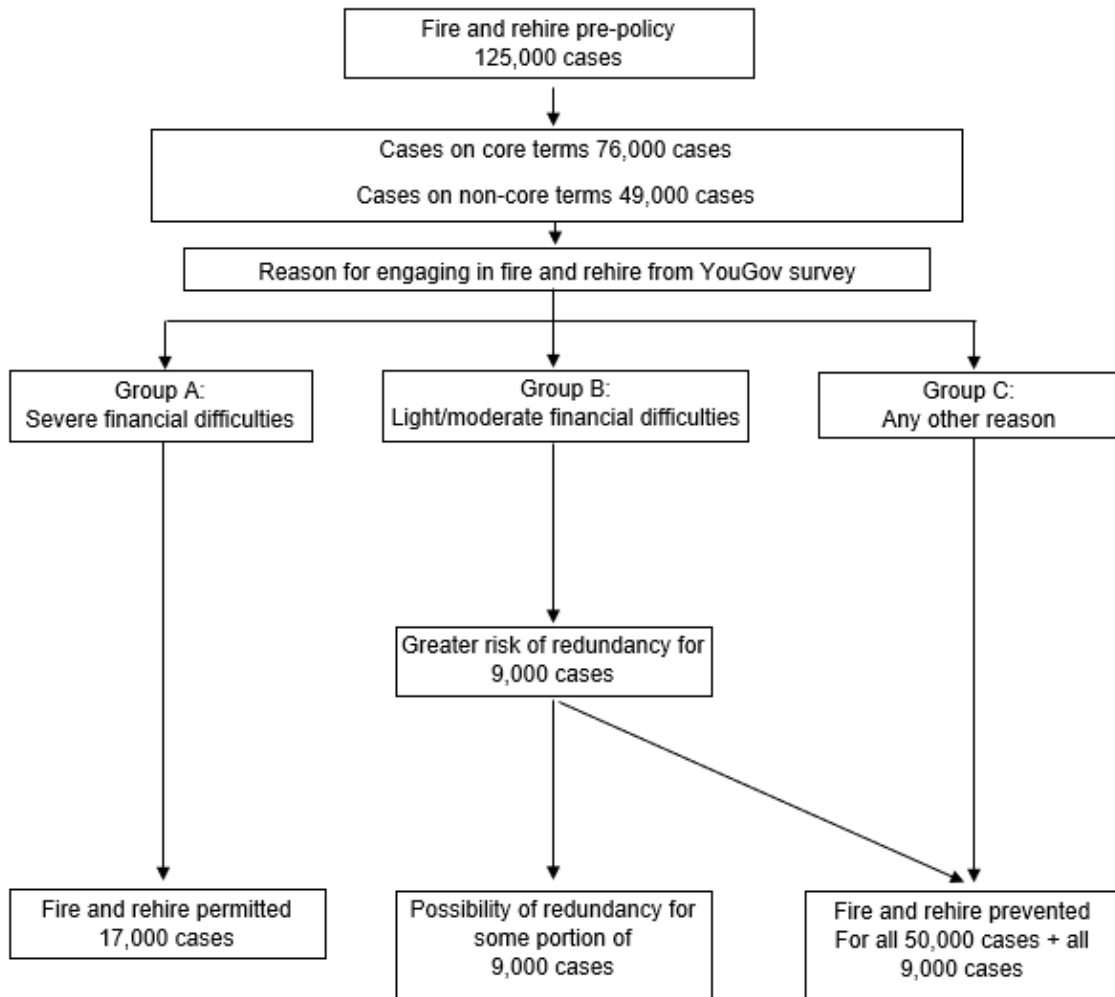
115. **For expenses and benefits in kind**, drawing again on evidence from real life fire and rehire cases, we apply a 50% scalar to the assumptions on pay, thereby assuming that the impact from reducing expenses and benefits in kind is half of that when pay is reduced. Therefore, we assume that fire and rehire cases relating to expenses and benefits in kind are equivalent to a 7.5% reduction in wage, assuming 1% in the low scenario and 11% in the high scenario.
116. **Shift patterns**: We assume that 50% of cases relating to shift patterns are changes from day to night working (or vice versa) and weekday to weekend (or vice versa) working as defined by Option 2A.

Impact of the policy

117. Our analysis draws on the YouGov (2022) survey to estimate the population impacted by this policy and the employer reaction to this policy. Specifically, we use data on the terms changed, the reasons for these changes, and the level of financial difficulty the employer was experiencing. We then draw from real fire and rehire cases to derive assumptions that we use to estimate impact, accounting for uncertainty with ranges.

OFFICIAL

118. The diagram illustrates our approach to analysis of the full fire and rehire policy.



119. All impacts are generated by the change in circumstances where fire and rehire is permitted. This would prevent fire and rehire unless changing core terms, where the employer meets the narrow exception for financial difficulties.

120. As set out in the diagram, we estimate:

- Fire and rehire pre-policy: 125,000 cases.
- Cases on non-core terms 49,000 cases.
- Cases on core terms 76,000 cases.
- We then use the reasons for engaging in fire and rehire from the YouGov survey.
 - Group A: Severe financial difficulties: 17,000 cases - Fire and rehire is permitted on these.
 - Group B: Light/moderate financial difficulties: 9,000 cases - Greater risk of redundancy for these and therefore the possibility of redundancy for some portion of 9,000 cases.
 - Group C: Any other reason: 50,000 cases. Fire and rehire is prevented for all these 50,000 cases + all of the 9,000 cases due to light/moderate financial difficulties.

Impact of the policy change on fire and rehire cases

121. As above, there are 49,000 fire and rehire cases which relate to non-core terms. These will be permitted under the new policy. We strip these out from the analysis.
122. As above, we estimate that 76,000 cases impacted core terms, of which
- 25,000 cases reduced pay (inc. expenses & benefits in kind)
 - 38,000 cases changed the agreed hours of work (i.e. shift patterns)

Financial difficulties exemption

123. There is no official definition of financial difficulties. Indicators of financial difficulty include unpaid bills to suppliers, outstanding wages to staff, difficulties in settling business costs such as utilities, and more broadly when a business is not able to meet financial obligations. We expect those who report severe and imminent financial pressures would demonstrate such indicators. Meanwhile, those reporting moderate or light financial pressures may demonstrate signs such as lower profits, delays/changes in payments and reduced cash flow. Non-financial indicators could also include high turnover of staff, delays in filing accounts and a declining relationship with the creditors of the business.
124. For the purposes of our analysis, we make the following assumptions about where policy will land:
- Central estimate: We assume that fire and rehire cases affecting protected terms are not automatically unfair if the employer is facing employer severe financial pressures.
 - A more stringent estimate: We assume that fire and rehire cases affecting protected terms are not automatically unfair if the employer is facing severe and imminent financial pressures.
 - A less stringent estimate: We assume that fire and rehire cases affecting protected terms are not automatically unfair if the employer is facing moderate and severe financial pressures.
123. These levels of financial difficulties are drawn from the YouGov 2022 fire and rehire survey. They are self-reported levels of financial difficulty and there is uncertainty on what respondents interpret each reported level of financial pressure to represent in practice. This introduces subjectivity as different businesses may classify the same indicators as different levels of financial pressure. Nevertheless, it is our best evidence for the purpose of this analysis. It is also important to acknowledge the time and context in which this survey was conducted as a possible limitation. As this data covers the pandemic period (employers were asked about experiences in 2020-22), the estimates of financial difficulty are likely to be on the higher side due to the economic conditions businesses were facing at the time.
124. For our central estimate, we assume that all cases which employers report as being due to severe financial pressure would continue to be permitted because of the exemption in section 104I(7)-(9). We multiply the number of cases on non-core terms (76,000) by the proportion due to severe financial pressure (23% - see table 18). This represents 17,000 cases. We do the same with cases relating to pay, hours, and leave entitlement – multiply the number of cases by the proportion which are due to severe financial pressure as found in table 19.

OFFICIAL

Table 19: Number of cases permitted due to financial difficulties exemption, by term (central estimate)

Term	Pay	Hours	Leave entitlement	Any core term
Number of cases meeting exemption	7,000	11,000	5,000	17,000

Note the sum of pay, hours and leave exceeds 17,000 because one case may affect multiple terms.

125. The YouGov data indicates that 63% of employers reporting severe financial pressures, reported that these financial pressures are imminent. We therefore multiply the percentages for severe pressure in table 18 by 63% to reduce the breadth of the financial difficulties exemption and use these adjusted assumptions for our more stringent estimate.

126. For the less stringent estimate, we broaden the financial difficulties exemption. To do so, we sum the percentages in table 18 for severe and moderate pressure and use these adjusted assumptions in our analysis. The table below summarises.

Table 20: Number of cases permitted due to financial difficulties exemption, by scenario

Policy landing zone	Central estimate	More stringent exemption	Less stringent exemption
Number of cases meeting the exemption	17,000 for financial difficulties exemption	11,000 for financial difficulties exemption	35,000 for financial difficulties exemption

127. **In our central estimate, there are therefore 19,000 cases relating to pay and 27,000 cases relating to shift changes which may be prevented by the fire and rehire policy.** This is estimated by subtracting the cases which are not automatically unfair dismissal because of the financial difficulties exemption (17,000 cases) and because they relate to non-core terms (49,000 cases).

Options under consideration

Table 21a: Number of cases by option by scenario (rounded to the nearest thousand)

Option	Central estimate	More stringent exemption	Less stringent exemption
Option 1A – All expenses and benefits in kind excluded	5,000	5,000	3,000
Option 1B – Specified list of expenses and benefits in kind protected	2,000	3,000	2,000

Table 21b: Number of cases by option by scenario (rounded to the nearest thousand)

Option	Central estimate	More stringent exemption	Less stringent exemption
--------	------------------	--------------------------	--------------------------

OFFICIAL

Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	14,000	16,000	10,000
Option 2B – Do nothing	0	0	0

128. Before exploring the options under consideration, it is important to note the assumptions made in the different motivations for changing shifts versus changing expenses and benefits in kind. We assume that businesses have an imperative to adjust shift patterns. In these cases, unless employers can successfully negotiate shift changes with employees, potentially offering pay compensation, they may resort to redundancies if the employer can demonstrate that there is a redundancy scenario, e.g., due to a reduced business need a particular kind of work, which is the principal reason for the dismissal. In contrast, changes to expenses and benefits in kind are typically driven by efforts to increase profitability or reduce costs. Here, it has been assumed that further negotiation with employees would generally not be considered worthwhile, and they will incur the cost of maintaining these benefits.

Options grouped by issue: (1) expenses and benefits in kind

129. We estimate that there are approximately 5,000 cases which affect expenses and/or benefits in kind per year, of which approximately 2,000 would be protected by option 1B (note rounded to the thousand).

130. This is estimated by assuming 25% of the cases relating to pay affected expenses and/or benefits in kind. In DBT intelligence of fire and rehire cases, 25% of cases relating to pay included changes to expenses and benefits in kind. Of these 25% of cases, we assume that 50% could be protected under option 1B. These are policy assumptions based on our monitoring of fire and rehire cases, conversations with stakeholders, and desk-based research. Due to the sensitivity of these cases, details are not provided.

131. As above, we assume that fire and rehire cases relating to expenses and benefits in kind are equivalent to a 7.5% reduction in wage (approx. £2,500 for the UK median wage), assuming 1% in the low scenario and 11% in the high scenario.

132. Method: To estimate the cost of preventing this reduction, we estimate the reduction in pay per worker from fire and rehire at the sector level by applying the assumed reduction to the sector median wage. The analysis includes a national living wage floor. As a result, the maximum reduction in wage is to the national living wage. This bites for sectors with median wages close to the national living wage (e.g. hospitality). The reduction in pay per worker per hour is multiplied by the number of working hours per year, assumed at 1924 (37 working hours per week and 52 weeks per year), to estimate the prevented reduction in pay per worker per year. Note this assumes full-time workers and therefore may over-estimate impacts. This is then multiplied by the number of cases.

Calculation of the value of expenses and benefits in kind in the central scenario

7.5% (1%-11% range) \times number of working hour per year (1924 hours) \times number of relevant cases

133. Based on the above, we estimate the value of expenses and benefits in kind in fire and rehire cases is £11m per annum (£2m - £16m range). As above, we assume that Option 1B would protect half of these. Therefore, we estimate the value of expenses and benefits in kind which would not be protected by Option 1B is £6m per annum (£1m - £8m range).

134. Option 1A would exclude all expenses and benefits in kind from the core terms to be protected from fire and rehire. Option 1B would maintain protections on a specified list of expenses and benefits in kind, with protections lost on all other. Both would generate a benefit to employers and a direct and equal cost to households.

Table 22: Impacts of Options 1A and 1B (not discounted)

Option	Benefit to employers	Cost to household
Option 1A: Expenses and benefits in kind excluded	£11m per annum (with range of between £2m and £16m range)	£11m per annum (with range of between £2m and £16m range)
Option 1B Specified list of expenses and benefits in kind protected	£6m per annum (with range of between £1m and £8m)	£6m per annum (with range of between £1m and £8m)

Options grouped by issue: (2) Shift Patterns

135. We estimate that 14,000 cases would be prevented by Option 2A (see table 21b).
136. This assumes that 50% of the cases relating to shift changes are changes from day to night working (or vice versa) and weekday to weekend (or vice versa) working as defined by Option 2A. These are policy assumptions based on our monitoring of fire and rehire cases, stakeholder conversations, and desk-based research. Due to the sensitivity of cases, details are not provided in this document.
137. Method: As a result of this policy, employers cannot forcibly change employees working hours. We assume that they generally have an imperative to enact this change and they therefore negotiate with the employee. There are three possible outcomes:

1. The shift change is voluntarily agreed or is foregone: We assume the policy generates no impact here, although in some cases there could be a cost of these further negotiations.
2. Compensation is negotiated: Here the employer and employee agree compensation to enact the shift change. We assume an 0.5% - 5% increase in wages as compensation for the change in shifts. We take 2.75% as our assumption for the central scenario. This is purely assumption-driven due to lack of evidence. Nevertheless, 0.5% represents £121 - £250 per annum (depending on sector, based on median wage) while 5% represents £1,208 - £2,499 per annum (depending on sector, based on median wage), which seem reasonable levels of compensation for a change in shift pattern.

Note these assumptions are below the premium paid for work in unsociable hours. However, they aim to capture the additional compensation that is paid to employees, not the total compensation. Although employers exploit the power imbalance when using fire and rehire, they nevertheless have the incentive to offer some compensation in the counterfactual to avoid redundancy and hiring costs since the employee can reject the proposed new contract thereby leading to a dismissal and a fire and replace scenario. Therefore, we expect employers to offer a below-market offer in the counterfactual. The above estimates the additional compensation negotiated with the option of fire and rehire removed.

3. The shift change is rejected: If the employee refuses the change and the employer can demonstrate that there is a redundancy scenario, e.g., due to a reduced business need for said employee to carry out a particular kind of work, the employer would be able to dismiss them and claim the principal reason for dismissal was redundancy. They may then hire someone new to carry out the alternative work which is now required.

The employer would therefore incur a cost from hiring someone new. CIPD estimate the median cost of recruiting employees to be £1,500²¹. This includes in-house resourcing time, advertising costs, agency or search fees.

The employer would also incur a cost from making redundancy payments. To note, the redundancy pay provided to an individual made redundant could be higher than what is statutory. However, this is a business decision and not a direct impact of the policy. Therefore, we do not account for this in our analysis.

²¹ CIPD (2024) Resourcing and talent planning report 2024

OFFICIAL

Statutory redundancy pay stipulates half a week for each full year employed under the age of 22, one week pay for each year employed between the ages of 22 and 41, and one and a half week's pay for each full year employed over the age of 41.

Multiplier: For simplicity, we assume 1.23 pay per year employed. This is estimated with the weighted average of the number of years at each multiplier, assuming retirement at 66 and entering work at 19. We do not make any assumptions on the characteristics of those made redundant.

Tenure: CIPD have undertaken analysis of the Annual Population Survey to estimate a breakdown of tenure – see table 23 below. We take the mid-point for the number of weeks of pay. Note length of service is capped at 20 years. Based on this, we use 7.3 weeks' pay.

Redundancy pay per week: We use the median wage per sector to estimate pay per week. Statutory redundancy pay is capped at £700 per week. Therefore, any sector which exceeds £700 is set to £700.

Calculation: To estimate the average statutory redundancy pay per person, we multiply the estimated weekly pay (capped at £700) by 1.23 and by the sum of the product of the % tenure and number of weeks assumed.

Table 23: Outcomes and impacts of policy, by policy landing zones

Tenure	Proportion	Number of weeks' pay assumed
<3 months	4.30%	0
3-6 months	4.60%	0
6-12 months	8.70%	0
1-2 years	13.40%	1.5
2-5 years	21.60%	3.5
5-10 years	18.20%	7.5
10-20 years	17.50%	15
20+ years	11.80%	20

Source: CIPD (2024)²²

138. We assume a probability for each of the outcomes above, with the probabilities varying by option. As a result, the cost per prevented fire and rehire on shift changes is estimated calculation in box 3 below.

Calculation of the cost to business of preventing shift pattern changes

$0 \times \text{probability A} + \text{cost of compensation} \times \text{probability B} + (\text{cost of hiring} + \text{cost of redundancy}) \times \text{probability C}$

139. The approach to estimate the benefit to households is almost the same. We simply remove the cost of hiring from the calculation, as shown in box 4 below.

Calculation of the benefits to households of preventing shift pattern changes

$0 \times \text{probability A} + \text{compensation} \times \text{probability B} + \text{redundancy pay} \times \text{probability C}$

140. This is estimated at the sector level and is applied to the cases which change shift patterns and are not due to severe financial difficulties per sector (approx. 27,000 in total).

²² CIPD (2024), Benchmarking employee turnover: What are the latest trends and insights?

141. As above, it is important to note that our approach may over-estimate impacts. This is because some fire and rehire cases will realise as fire and replace. Therefore, the employer would incur the recruitment cost in the counterfactual as well as in the policy scenario. We do not have evidence to adjust for this however and therefore make a maximalist assessment.

142. Option 2A – Changes from day to night working (or vice versa) and weekday to weekend (or vice versa) working protected: As above, we estimate that 14,000 cases would be prevented by Option 2A. For these changes, we assume the following probabilities:

1. The shift change is voluntarily agreed or foregone (probability A) = 0.1
2. Compensation is negotiated (probability B) = 0.2
3. The shift change is rejected (probability C) = 0.7

143. The probabilities above have been assumed by reviewing evidence of fire and rehire cases alongside the evidence below outlining the impact of weekend and nighttime work.

144. Night and weekend work is less desirable than weekday daytime schedules. It can negatively affect health and well-being²³, reduce the quality of leisure time²⁴, and many employees working nights would choose daytime hours if given the option²⁵. Nevertheless, some employees might be happy to change to working nights and/or weekends, particularly when additional compensation is offered. Extra pay for work outside standard hours is common, particularly in industries such as healthcare, manufacturing, hospitality, and emergency services. Night work can also suit individuals with caring responsibilities, offering flexibility that daytime roles may not²⁶. Therefore, we assume that a small minority of employees would agree the change voluntarily, a minority negotiate compensation, and a majority reject the change.

145. From this, we estimate Option 2A would generate a cost to employers of £69m per annum (£67m - £71m range). The benefit to households would be £55m (£53m - £57m range).

146. Option 2B – Do nothing: We estimate that this option would have a cost to business and benefit to households of £0. This is because this option produces no impacts or changes that would either benefit households or cause an increase to business costs under this option.

Table 24: Impacts of Options 2A and 2B (not discounted)

Option	Cost to employers	Benefit to household
Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	£69m per annum (with range of between £67m and £71m)	£55m per annum (with range of between £53m and £57m)

²³ Sato et al. (2020) [Mental health effects of long work hours, night and weekend work, and short rest periods](#)

²⁴ Bryce (2021) [Weekend working in 21st century Britain: does it matter for the well-being of workers?](#)

²⁵ Living Wage Foundation (2024) [London After Dark: The Reality of Working at Night in the Capital](#)

²⁶ TUC (2024) The health and safety impacts of night working

OFFICIAL

Option 2B – Do nothing- shift changes not included in new protections	£0 per annum	£0 per annum
---	--------------	--------------

147. The tables below summarise the impacts of the possible permutations of options.

Table 25: Estimated cost to employers per annum of different permutations of options (not discounted)

Option	Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 2B – Shift changes not included in new protections ('Do Nothing')
Option 1A – Expenses and benefits in kind excluded	£58m per annum (with range of between £56m and £66m)	£-11m per annum (with range of between £-2m and £-16m per annum) (i.e. net benefit)
Option 1B – Specified list of expenses and benefits in kind protected	£64m per annum (with range of between £64m and £67m)	£-6m per annum (with range of between £-1m and £-8m per annum) (i.e. net benefit)

Table 26: Estimated benefit to households per annum of different permutations of options (not discounted)

Option	Option 2A – Changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) protected	Option 2B – Shift changes not included in new protections ('Do Nothing')
Option 1A – Expenses and benefits in kind excluded	£44m per annum (with range of between £41m and £51m)	£-11m per annum (with range of between £-2m and £-16m per annum) (i.e. net cost)
Option 1B – Specified list of expenses and benefits in kind protected	£49m per annum (with range of between £49m and £52m)	£-6m per annum (with range of between £-1m and £-8m per annum) (i.e. net cost)

Direct cost to business

148. Based on the 2022 YouGov survey, we estimate 13,000 fire and rehire cases occurred in public administration and other public sector employers. We strip these out from our analysis when estimating the cost to business. They are included in the benefits to households.

149. **We estimate that the cost to business of Option 1A and Option 2A combined would be £52m (£50m and £58m) per year** with the total cost consisting of the following components:

- a. **Benefit to business of excluding all expenses and benefits in kind from core terms (Option 1A):** We estimate that this would yield a benefit of **£10m per annum (£1m - £14m range)**.
- b. **Cost to business from preventing** changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) **in relation to shift patterns (Option 2A):** We estimate that preventing shift pattern changes via fire and rehire would yield a cost of **£61m per annum (£60m - £63m range)**.

150. **Familiarisation cost:** We estimate no familiarisation cost in this options assessment. The entry into force of the policy included in the Act and the policy to be included in secondary legislation will be aligned. Therefore, any familiarisation cost is incurred as part of the full fire and rehire policy and which is accounted for in the enactment impact assessment. To estimate this cost here would cause double-counting.

Direct benefit to households

151. **We estimate that the benefit to households of Option 1A and Option 2A combined would be £44m (£41m - £51m range) per year** (note includes public sector employees). This is composed of the following:

- a. **Cost to households from losing protections on expenses and benefits in kind (Option 1A):** We estimate that this would yield a cost of **£11m per annum (£2m - £16m range)**. This is a direct transfer from employer to employee, from businesses to households.
- b. **Benefit to households from preventing changes from day to night working (or vice versa) and weekday to weekend working (or vice versa) in relation to shift patterns (Option 2A):** We estimate that preventing shift pattern changes via fire and rehire would yield a benefit of **£55m per annum (£53m - £57m range)**.

Unquantified costs and benefits

152. This analysis is our best attempt to estimate the impacts of the options under consideration. Nevertheless, there are impacts which we do not quantify.

153. **Better physical and mental wellbeing:** Insecure work is associated with numerous negative health and wellbeing impacts, which in turn is related to worse productivity. Work Foundation (2023)²⁷ polling found that 'insecure' workers were twice as likely as secure workers to experience job related stress 4-6 days of the week (26% compared with 13%), in particular related to uncertainty over total earnings. Their polling also finds that these insecure workers are nearly four times more likely to experience this poor mental health when they also lack confidence in being able to afford an unexpected expense.

154. **Productivity:** Negative health outcomes have an impact on worker and therefore firm productivity. Please see section 3, subsection 'link to growth' for further information regarding productivity.

²⁷ Work Foundation (2023) [Zero Choices: 'Swapping Zero-Hour Contracts for Secure, Flexible Working'](#)

OFFICIAL

155. **Redundancies:** Those made redundant may suffer from longer term 'scarring' through increased future incidence of unemployment and lower subsequent earnings in employment. Furthermore, those made unemployed may have negative health and wellbeing effects caused by the stress of losing employment and anxiety around future finances. However, we expect these employees to find alternative employment quickly, given they are only made redundant for not accepting the change in shift patterns.

Net present social value

156. We assume these impacts are flat in real terms over time. This is because we do not hold evidence to support any change in profile over time. Therefore, we make the assumption that the prevalence and characteristics of fire and rehire would not have evolved over time. We assume that the policy comes into force in 2026.

157. However, the recent introduction of the Code of Practice on fire and rehire will likely reduce the prevalence of fire and rehire. Therefore, the impacts below are likely over-estimates.

158. The Total Net Present Social Value for Option 1A and Option 2A combined is £-123m (net cost) over the ten-year appraisal period (2024 prices, 2026 present value).

159. The Equivalent Annual Direct Cost to Business for Option 1A and Option 2A combined is £52m (net cost) (2024 prices, 2026 present value).

160. The Equivalent Annual Direct Cost to Households for Option 1A and Option 2A combined is £-44m (net benefit) (2024 prices, 2026 present value).

Public sector financial costs

161. The policy could generate costs to the public sector, insofar that it prevents the use of fire and rehire in the public sector. There is evidence of local government using fire and rehire tactics, therefore this policy could increase costs compared to the no-policy counterfactual with subsequent opportunity costs. Based on the 2022 YouGov survey, we estimate 13,000 fire and rehire cases occurred in public administration and other public sector employers.

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

Background

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

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

Aims

The survey aimed to understand:

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

Methodology

Sample

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

Design and Materials

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

- business size
- business sector
- business industry
- business region

Procedure

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

Limitations

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