

# Options assessment

Title: Flexible Working - Requirement to Consult

Type of measure: Consultation for Secondary Legislation

Department or agency: Department for Business and Trade

IA number: DBT-04-26-CMRR

RPC reference number: N/A

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## 1. Summary of proposal

1. Since April 2024, employers who are considering rejecting a flexible working request have been required to consult with the affected employee before making their decision. This has the objective of encouraging constructive conversations between employers and employees, to establish arrangements that are mutually beneficial. It also provides an opportunity for employees to inform their employer if the proposal should be considered as a request for a reasonable adjustment.
2. However, the legislation did not outline the consultation process. Without a clear and well-defined process, employers are likely to interpret the requirement to consult in different ways and there is a risk that opportunities to discuss alternatives and wider support are missed.
3. The Employment Rights Act has amended legislation so that:
  - Employers can only reject a flexible working request where it is reasonable to do so on the grounds of one (or more) of the eight business reasons (which are already set out in primary legislation).
  - If an employer wants to reject a request, they will need to consult with the employee (as they currently do) but, in doing so, follow a specified process, which will be set out via secondary legislation.
  - If an employer rejects a request, they must explain to the employee why their decision is reasonable.

4. The Impact Assessment (IA) accompanying the primary legislation provided a high-level analysis of the impacts that could follow from these primary powers, and as such were not assessments of a specific implementation approach.
5. Specific details of implementation are to be set out in secondary legislation, following public consultation. This assessment therefore provides a more in-depth appraisal of the options being considered during consultation relating to the requirement to consult element of these reforms only.
6. Alongside these legislative changes, Government has stated that statutory guidance will be published to assist employers in considering requests. There is an existing Acas (Advisory, Conciliation and Arbitration Service) Code of Practice on flexible working requests, and Government recommends that an update to this code will be the best vehicle for this guidance.
7. Any changes to the Acas Code would be subject to a consultation independent of the Department for Business and Trade (DBT) and is therefore not being considered as part of this consultation.

## 2. Strategic case for proposed regulation

### Problem Under Consideration

8. Having the ability to vary the time, hours and place of work is key to the functioning of the UK's flexible labour market. It enables employers to attract and retain a diverse workforce, support career progression, employee wellbeing and productivity<sup>1</sup>, and foster greater inclusivity both within and across organisations by removing barriers to participation for all, including those with caring responsibilities and other commitments<sup>2</sup>.
9. The Right to Request Flexible Working provides a framework, alongside wider cultural shifts, to help employers and employees overcome these barriers and embed flexibility as a core feature of organisational practice. In April 2024, the Government introduced reforms to strengthen this framework, including making flexible working a day-one right and requiring employers to consult with employees before rejecting a request. These changes were intended to broaden access and encourage constructive dialogue between employers and employees prior to decisions being made.
10. However, despite these legislative changes, evidence from stakeholder surveys<sup>3</sup> and roundtables facilitated by the Department for Business and Trade indicate that the previous reforms are not operating as effectively or equitably as intended. This is reflected in persistent issues with the practical application of the reforms, including undefined and ambiguous processes, inconsistent handling of requests, and limited accountability when employers reject requests.
11. For example, the legislation does not define what consultation with employees before rejecting a request should involve - its format, procedural steps, or scope of discussion. In practice, this ambiguity has led to significant variation in the depth, quality and scope of consultations across organisations and industries<sup>4</sup>, ranging from informal conversations to structured discussions.

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<sup>1</sup> [Flexible and hybrid working practices in 2025](#), CIPD, 2025

<sup>2</sup> [Helping carers gets into work, and stay in work](#), React Working Carers, 2025

<sup>3</sup> [Flexible and hybrid working practices in 2025](#), CIPD, 2025

<sup>4</sup> [Organisational case studies on flexible working: variations in practice | Acas](#), 2024

12. Evidence from the Management and Wellbeing Practices survey<sup>5</sup> underscores this inconsistency: only 23% of workplaces offering flexible working had a formal, organisation-wide procedure for decision-making, while 5% applied team or department specific processes. In contrast, the majority (65%) relied on ad hoc decisions based on circumstances, a practice particularly common in smaller workplaces.
13. 2025 CIPD evidence reinforces this, finding that among organisations with formal flexible working policies, only half of responding organisations (51%) reported specifying the meeting process in their policies. Fewer than half (42%) included detail on how meetings should be conducted, and 48% included details on how outcomes should be communicated<sup>6</sup>. This indicates a lack of consistency across most organisations that embed flexible working within their culture. Such variability can lead to employers being uncertain about their obligations and further, employees unclear about their rights.
14. Furthermore, only 51% of organisations reported that their policies included guidance on accommodating alternative arrangements. Without clear guidance, employers may default to rejecting requests outright, overlooking opportunities to agree on workable solutions that balance organisational needs with employee flexibility. Structured discussions about alternatives can help ensure requests are accepted wherever feasible and foster a more inclusive approach to flexible working. However, evidence from stakeholder roundtables facilitated by DBT suggest this is often not the case in practice.
15. These issues together create an imbalance of power between employers and employees. Research by Acas reveals this dynamic through highlighting inconsistencies in how employees access flexible working across organisations, specifically highlighting challenges around equitable decision-making and the impact of this on workforce relations.<sup>7</sup>
16. The absence of a standardised approach to consultation and a lack of exploration of reasonable alternatives creates scope for requests to be inconsistently handled and rejected with minimal explanation, leaving employees with little recourse to challenge. This may lead to inconsistent decision-making and eroded trust in the process, discouraging people from submitting flexible working requests through the statutory framework - either because they believe their request will be rejected or due to concerns they'll be treated unfairly if they do.
17. In this context, there are potentially three market failures: positive externalities, asymmetric information and equality.

### Positive Externalities

18. Currently, employers can face uncertainty around the appropriate process to follow when discussing and responding to flexible working requests. This can lead to an under provision of flexible working as employees may be deterred from discussing further and employers may not be considering the wider established benefits to the economy. Surveys from the Office for National Statistics (ONS)<sup>8</sup> and Behavioural Insights Team (BIT)<sup>9</sup> show that flexibility drives job choices and re-entry into the labour market. The BIT evidence in particular shows that without a nudge or mandate, employers might not offer flexible arrangements due to

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<sup>5</sup> [Findings from the Management and Wellbeing Practices Survey](#), National Institute of Economic and Social Research (NIESR), 2018

<sup>6</sup> DBT internal analysis of [CIPD – Flexible Working 2025](#)

<sup>7</sup> [Employment Rights Bill: how will it affect flexible working? | Acas](#), 2025

<sup>8</sup> [Reasons for workers ages over 50 years leaving employment since the start of the coronavirus pandemic: wave 2](#), ONS, 2022

<sup>9</sup> [BIT's biggest trial so far encourages more flexible jobs and applications](#), BIT, 2021

perceived administrative burdens, cultural norms, or a lack of understanding of the long-term benefits, so take-up lags behind its potential impact.

### Asymmetric Information

19. Without a clear and well-defined process to ensure the impacts of flexible working can be fully discussed, there is the potential for an imbalance of power between employers and employees. Employers typically hold more information about operational constraints, but less around the employee's personal circumstances. Conversely, employees understand their own needs and the potential productivity gains of flexibility, but lack insight into the employer's internal decision-making processes.
20. Consequently, employers may be uncertain about the full impact (costs and benefits) of a flexible working arrangement and act cautiously, defaulting to 'no' to protect the status quo and minimise perceived risk. For example, an employer might narrowly and instinctively reject a remote working request without taking into account the negative impact on an employee's performance if they continue to work in way that makes it harder to balance their responsibilities.
21. Findings from Acas' organisational case studies on flexible working<sup>10</sup> show that line managers frequently face knowledge gaps and uncertainty when assessing flexible working requests. Whilst the reports do not directly state that managers systematically refuse requests in these situations, it demonstrates that uncertainty about operational consequences strongly influences decision-making and can lead managers toward risk-averse responses – in this case, cautious handling of requests.
22. Disparities in information undermine fairness, reduce confidence in the process, and risk inconsistent application across organisations. Encouraging discussions and sharing information will help to reveal the full impacts on both parties and enable a more accurate assessment of requests.

### Equality

23. The lack of clarity and definition in the existing flexible working consultation process can contribute to feelings of discomfort among employees in raising requests, particularly those in underrepresented or vulnerable groups. 2025 CIPD Survey evidence suggests that 3 in 10 respondents wouldn't feel comfortable requesting flexible working through the statutory framework, with those who have a disability significantly less likely to feel comfortable than those without.<sup>11</sup> This unequal distribution limits fair participation in the labour market. When flexibility is concentrated among specific groups, its wider economic and social benefits remain unrealised, creating a market failure.

### **Case for Intervention**

24. Without Government intervention, the practical challenges of the consultation process are likely to persist, perpetuating unequal access to flexible working. Employees - particularly protected groups - will continue to face unclear and inconsistent processes, which could further discourage them from making requests and erode confidence in the system. Similarly, employers, lacking clear guidance and accountability mechanisms, will continue to use varied approaches in assessing requests, resulting in unequal treatment within and across

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<sup>10</sup> [Organisational case studies on flexible working: variations in practice | Acas](#), 2024

<sup>11</sup> [Flexible and hybrid working practices in 2025](#), CIPD, 2025

organisations and sectors. Over time, this could undermine the framework's credibility and its role in promoting inclusive employment.

25. Government action can help address these challenges by promoting transparency, accountability, and equitable treatment within and across organisations. By simplifying guidance and supporting both employers and employees in navigating the consultation process to implement flexible working arrangements effectively, this policy can help overcome those barriers and unlock the broader economic and social advantages that flexible working offers.
26. CIPD evidence shows that if the legislation is strengthened through the Employment Rights Act, more than one third (36%) of respondents expect their organisation to approve more flexible working requests, a further 52% anticipate no change, 11% are unsure, and only 1% predict a decrease<sup>12</sup>.
27. By raising the minimum standard for flexible working discussions across organisations, Government can shift attitudes and close information gaps. This will create consistency and encourage organisations to embed these practices as a core element of their workplace culture, in ways that support both employers and employees.

### 3. SMART objectives for intervention

28. The policy objectives of this intervention are to:

- Improve access to flexible working by putting more emphasis on employers accepting flexible working requests where they are feasible.
- Encourage employers to more carefully consider flexible working requests and assess alternative arrangements where they are feasible.
- Improve employee-employer discussions on flexible working and transparency in how refusal decisions are reached.

29. The intended outcomes are therefore to:

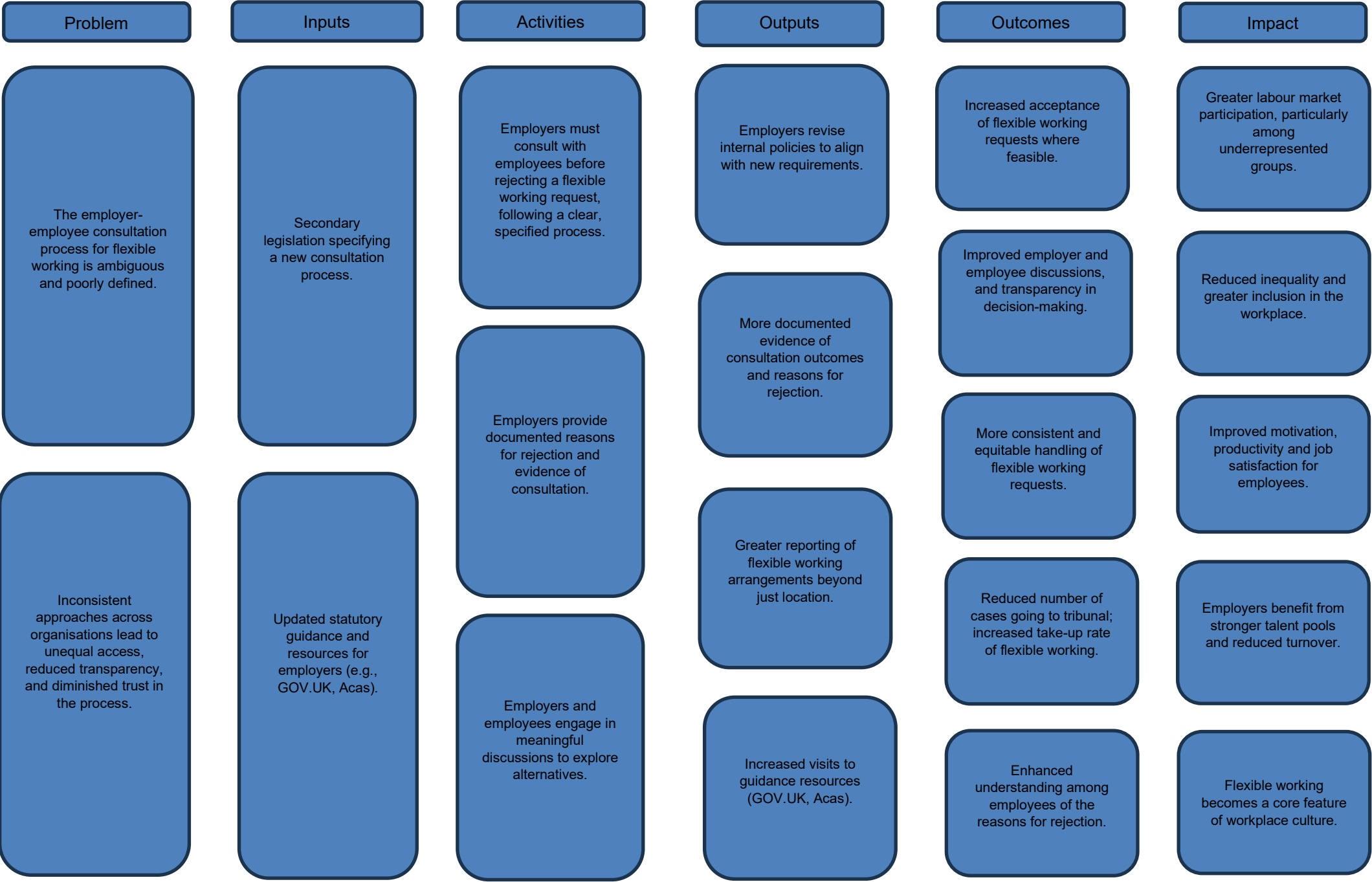
- Enable, as much as possible, a broad of range of employees and employers to benefit from flexible working arrangements.
- Encourage employers to accept flexible working requests except where it is not feasible for them to be accommodated.

30. These reforms contribute to the Government's agenda to support working people and encourage economic growth. Many employers already offer flexible conditions to boost productivity, morale, and retention. Setting clearer rules for considering flexible working requests will help more people achieve a better work-life balance, benefiting both employees and organisations. This supports the objective around tackling inactivity and getting more people into work by ensuring that employers have strong talent pools to hire from to grow the economy.

*Figure 1: Logic Model*

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<sup>12</sup> DBT internal analysis of [CIPD – Flexible Working 2025](#)



## 4. Options Analysis

31. Through the Employment Rights Act, Government has taken a power to specify a new consultation process through secondary legislation. This is designed to bring about a transformative shift in how employers and employees approach flexible working requests.
32. Rather than defaulting to refusal, the emphasis will be on engaging in meaningful dialogue to explore each proposal and find a mutually agreeable solution, while also helping employers manage resource pressures.
33. In developing options, the Government has sought to strike a balance between clarity and flexibility. The reforms focus on strengthening requirements for a specific element of existing legislation, where non-statutory guidance is already in place. Consequently, the scope for variation in policy design has been shaped by both legal constraints and practical considerations.
34. Three options were developed based on existing consultations and non-statutory guidance for other employment rights, drawing on areas such as individual redundancy, where structured consultation has proved effective in promoting fairness and transparency. A fourth option of no regulation was also considered.

*Table 1: Summary of Options*

<b><u>Policy Instrument</u></b>	<b><u>Option</u></b>	<b><u>Description</u></b>
Regulation	Principles-Based	Clearly specifying objectives for consultation, as well as steering principles for employers to follow in approaching consultation.
Regulation	Process-Based	Prescriptive approach, specifying when and how consultation meetings should occur, who should attend, and agenda points for discussion.
<b>Regulation - Preferred</b>	Hybrid	An approach that would combine elements of a principles and process-based approach.
Non-regulatory	Status-Quo	Retain the existing framework with no additional regulatory requirements being introduced.

### **Option 1 - Regulatory: Principles-based approach**

35. Regulation on the consultation process for flexible working could set out objectives employers must aim to meet. This could include:
  - To explain challenges in implementing the proposed arrangement (in relation to the reasonableness test) and consider ways to work around those challenges.
  - To consider whether alternative flexible working arrangements might be reasonably feasible and suitable for the employee.
36. Alongside stated objectives, the regulations could refer to one or more principles that employers should follow in consulting with employees. This could include:
  - 'Meaningful' or 'genuine' consultation, whereby both parties are expected to listen to the other as well as contribute, and with the employer discussing options before reaching a decision.



37. A principles-based approach would provide organisations of varying size and sectors the option to tailor processes to their needs. By focusing on clear, outcome-orientated discussions, this model would encourage an exploration of options that work for both parties. Furthermore, it is likely to foster genuine participation and dialogue rather than encouraging a compliance-driven, tick-box exercise approach, making it a potentially more effective and sustainable outcome for all stakeholders.
38. This type of approach has been successfully applied to other employment rights, thereby providing a clear precedent for its use in this context. Notable examples include the Individual Redundancy Regulations and Acas guidance on consulting and changing employment contracts. These frameworks demonstrate how a flexible, light-touch model can support meaningful engagement between employers and employees.
39. However, there is a risk that a principles-based approach alone may not be sufficient to drive the change in decision-making. For example, it might be possible for employers to meet the principles in a cursory way without giving full consideration to alternative options. Similarly, there could be challenges in defining high-level principles through legislation, given they may be interpreted in different ways by both employers and employees. Stakeholder engagement with smaller employers also revealed preferences for clearer expectations around what is required of them, and a principles-based approach would not address these needs. As such, this option was not taken forward in full.

## **Option 2 - Regulatory: Process-based approach**

40. Government could set out prescriptive steps for employers to follow when consulting with employees. This process would be based on the existing Acas non-statutory guidance with revisions to elevate the advisory language to mandatory requirements, thereby strengthening employer obligations and ensuring consistency in practice.
41. Examples of steps that could be included are:
- The employer must hold a meeting with the employee within 4 weeks of receiving the request and this must be at least 30 minutes long.
  - The employer must plan the meeting in advance, offer the option of holding the meeting either virtually or in person and share an agenda beforehand, allowing the employee the opportunity to input.
  - The employer must give at least 2 days' notice of the meeting and send a written record of the meeting to the employee within a week of the meeting being conducted.
  - The employer must communicate to employees that they can use working time to prepare for this meeting.
42. A process-based approach would facilitate a more consistent approach to consultation both within and among organisations, improving the way flexible working is perceived by both employees and employers. By specifying detailed steps, greater clarity about expectations would be provided. This could facilitate a more thorough approach to consultation and prompt further discussion points that may not have previously been raised.
43. However, whilst offering greater structure and clarity, a process-based approach may not be the most practical option for employers of varying sizes. It is likely to be more resource-intensive than a principles-based model, requiring additional staff time. Roundtables hosted by DBT with stakeholders suggested this could be particularly challenging for larger organisations who may already have policies in place which may need to be reviewed and redrafted in line with the new requirements. Such complexity could inadvertently increase the



risk of litigation, as employees may bring claims if any steps are missed, regardless of the employer's overall intent.

44. Moreover, without guiding principles, there is a risk that employers could meet the procedural requirements in a superficial way without genuinely seeking agreement. Employers might feel compelled to follow the letter of the process rather than its spirit, potentially undermining the quality of decision-making. This is especially relevant when considering proposals that require employers to explore alternative arrangements.
45. Additionally, given that employees are limited to two statutory requests per year, clear parameters would be needed to distinguish whether discussions about alternatives constitute a separate request. Without such clarity, both employers and employees could face confusion, and the intended flexibility of the system may be compromised. As such, a purely process-based approach was not taken forward in full.

### **Option 3 - Regulatory: Hybrid approach - Preferred**

46. The Government's preferred approach to achieving the stated policy objectives is a hybrid approach to consultation, whereby Government combines elements of options 1 and 2 - setting a clear objective alongside a limited number of prescriptive steps.
47. By building on familiar frameworks and introducing proportionate refinements, the Government aims to enhance clarity and enforceability while minimising disruption for stakeholders. This ensures coherence with current expectations and supports the development of legal requirements in a practical and balanced way.
48. An example of a hybrid approach could include:

Consultation objective: This would involve setting a clear objective for consultation, such as

*"To consider ways to address challenges with the requested arrangement and explore whether a suitable alternative arrangement could be agreed."*

### Process

- The meeting must be held without unreasonable delay and must take place within the two month period for making a decision. In practice, to allow time for potential follow-up conversations to agree an alternative arrangement before a decision is agreed, the conversation should happen within six weeks of a request being made.
- The employee must be informed about the context of the meeting in advance to allow them to prepare for it.
- A person with the authority to make a decision about flexible working arrangements must attend the meeting. This could be the employee's line manager, or it may be a different member of staff. They will be referred to as the decision maker for the purposes of the requirement to consult.
- The decision-maker must clearly communicate any challenges they identify with the original request. They must explain why they feel that it would not be feasible to accommodate the request, or why the request is not reasonable, referring to the relevant business reason(s).
- The decision-maker must consider whether there might be ways to navigate these challenges and accommodate the request.
  - For example, if the proposed start date of the flexible arrangement is incompatible with business needs according to a relevant business reason, the employer must

consider whether a different start date may be feasible and discuss this with the employee.

49. A combined process and principles-based approach to consultation will provide clarity on the purpose of discussions, while setting proportionate expectations for how they should be conducted. This model offers a light-touch framework that reduces administrative burden for employers while encouraging constructive engagement. By embedding clear objectives within a simple process, it promotes meaningful dialogue, reduces procedural disputes, and ensures decisions are supported by documented reasoning. This balance of flexibility and structure helps employers understand not only what is required but also why, fostering a more collaborative and transparent culture.
50. The accompanying consultation document seeks views on the preferred option only; therefore, an assessment of the costs and benefits has been provided as part of the scorecard to illustrate the potential impacts that could result from this process. For a detailed explanation of the method used to produce these costings, please refer to Annex B. Minor adjustments have been made to the method for this analysis since the primary IA, including updating the eligible population of employees and revising the estimated rejection rate for large businesses to 30%, rather than 9%, in line with updated assumptions. More details on this are captured in Annex A at the end of this De Minimis options assessment.
51. Table 2 provides an indication of the number of requests made annually that are rejected and therefore in scope of the new requirements, incorporating the 30% rejection rate for large businesses. These figures relate solely to the additional administrative costs associated with handling rejected requests. However, familiarisation costs apply to all businesses, regardless of whether they reject any requests, as all employers will need to understand and implement the updated requirements.
52. The steps outlined in figure 2 illustrate how the number of requests rejected annually are calculated using the following formula:

*Figure 2: Number of requests rejected annually*

**Number of requests rejected annually =  $P \times R \times F \times RR$**

Where:

**P** is the population of interest (all employees);

**R** is the request rate for flexible working (assumed to be 4% in the central case);

**F** is the share of requests (35% in the central case) which are made under the statutory right to request (where  $1 - F$  = Informal request);

**RR** is the share of those requests which have been rejected;

Note that **RR** varies by business size:

**Micro:** 9%

**Small:** 9%

**Medium:** 9%

**Large:** 30%

Figures are summed across all business sizes to give total figures under each scenario.

*Table 2: Number of requests rejected annually*

Scenario	Number of requests rejected annually
Low	16,400
Central	57,600
High	98,700

53. The reforms aim to nudge employers to give further consideration to flexible working requests to ensure they are only rejected where it is not 'reasonably' feasible for them to be accommodated. This could potentially increase the number of requests and/or reduce the number of rejections and is supported by CIPD evidence.<sup>13</sup>

*Table 3: Illustrative impact of 1 pp increase in flexible working requests in response to policy reform*

Scenario	Request Rate	Share of requests made under the statutory right to request	Requests made that are rejected
Before intervention	4%	35%	414,800
After intervention	5%	35%	518,500
Difference	-	-	103,700

*Table 4: Illustrative impact of 1 pp decrease in flexible working requests rejected in response to policy reform*

Number of additional requests made under the statutory framework (illustrative)	Rejection Rate	Number of additional requests made under statutory framework that are rejected.
103,700	8%	8,300

54. We do not anticipate any significant impact on the Employment Tribunal (ET) caseload as a result of these reforms. HM Courts and Tribunals Service data covering 2017/18 to 2024/25<sup>14</sup> indicates there are on average 126 cases per year in relation to the "FLW (ST) - suffer a detriment and/or dismissal for claiming under the flexible working regulations or be subject to

<sup>13</sup> See page 5 for details of this evidence.

<sup>14</sup> Available on request from HMCTS\_Analysis\_and@justice.gov.uk

a breach of procedure” jurisdiction which covers the total employee population within scope of the statutory right to request – see Table 5.

55. As the current number of flexible working cases is already low, we therefore expect little to no effect on overall tribunal caseload. The changes are intended to support businesses in navigating the consultation process rather than creating additional barriers. By promoting constructive dialogue between employers and employees, the reforms aim to reduce misunderstandings and encourage greater flexibility, which should, in turn, minimise the number of disputes escalating to tribunal.

*Table 5: Number of accepted jurisdictional complaints received under the ‘FLW (ST)’ jurisdiction, 2017 to 2025*

	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
FLW (ST)	110	170	180	130	100	160	19	138

56. Given that this is an extension of the existing Right to Request framework, all businesses - regardless of size - are required to comply with the new regulations. The Flexible Working Post Implementation Review (PIR) found that the availability of at least one form of flexible working arrangement is almost universal across the British economy. Furthermore, 2025 CIPD evidence shows that SMEs are more likely than larger organisations to report that all or most employees can work flexibly (65% compared with 53%)<sup>15</sup>. This suggests that flexible working is already embedded within smaller businesses. As such, the additional requirements are intended to provide further support for these businesses by providing clarity and structure - rather than creating unnecessary burdens.
57. We therefore do not propose exempting small or micro businesses. Exempting them would not help in meeting the intended policy objectives for employees who work in smaller businesses. Similarly, creating a different process for businesses of different sizes would create complexity and would undermine equal rights of employees. The policy needs to be consistent across all employers for it work.

#### **Option 4 – Do not regulate: Status quo**

58. The ‘do nothing’ option would mean no change from the current system, with employers and employees continuing to follow an undefined and ambiguous consultation process. Without regulation, this uncertainty would persist, and the intended benefits of flexible working would remain unrealised.
59. Moreover, the absence of secondary legislation would leave the Government’s commitment under the Employment Rights Act - to make flexible working the default from day one, except where not reasonably feasible - unimplemented, rendering the policy incomplete and undermining its impact. These reforms are designed not to impose unnecessary burdens on businesses, but to provide clear guidance and practical support in navigating the statutory framework and consultation process so that arrangements can be mutually agreeable and work effectively for both employers and employees.

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<sup>15</sup> [Flexible and hybrid working practices in 2025](#), CIPD, 2025

## 5. Regulatory scorecard for preferred option

### Part A: Overall and stakeholder impacts

(1) Overall impacts on total welfare		Directional rating
		Note: These are examples only
<b>Description of overall expected impact</b>	The overall expected impact on total welfare is uncertain. This is because it has not been possible to reliably quantify all benefits and costs for both businesses and households. In addition, it is unclear whether, and by how much, unmonetised benefits to individuals and households will outweigh the small, monetised costs to business (in the form of familiarisation and administration).	<b>Uncertain</b>  <b>Based on all impacts (incl. non-monetised)</b>
<b>Monetised impacts</b>	<p>Business Costs:</p> <ul style="list-style-type: none"> <li>One-off familiarisation costs (£8.0 million)</li> <li>Ongoing admin costs (£1.0 million).</li> </ul> <p>Total £-16.6m NPSV (central case)</p>	<b>Negative</b>  Based on likely £NPSV of between - £-8.9m and - £38.1m with central estimate of £-16.6m NPV
<b>Non-monetised impacts</b>	<p>Business Costs:</p> <p>Costs of accommodating flexible working requests are not included as they are considered discretionary – employers can reject if they impose undue cost on the business.</p> <p>Business Benefits:</p> <p>Non-monetisable benefits could include increased productivity, greater employee loyalty and improved worker satisfaction. Employers may also have stronger talent pools to hire from to grow the economy through attracting and retaining more employees with existing knowledge and skill who may have gone elsewhere to access the flexibility they require.</p> <p>Household Benefits:</p> <p>Non-monetisable benefits could include greater labour market participation and progression of under-represented groups, improved job satisfaction, productivity, work-life balance, and wellbeing impacts by individuals remaining or returning to employment and retaining knowledge and skills.</p>	<b>Positive</b>
<b>Any significant or adverse</b>	Flexible working has traditionally been of particular benefit to some groups (parents and carers etc.) over others, but more recently has seen broad take-up. There are no significant or adverse distributional impacts.	<b>Neutral</b>

<b>distributional impacts?</b>		
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<b>(2) Expected impacts on businesses</b>		
<b>Description of overall business impact</b>	<p>Businesses will be impacted in 3 main ways:</p> <ol style="list-style-type: none"> <li>1. One-off familiarisation costs.</li> <li>2. Ongoing employer administration costs relating to the small amount of additional time in adhering to the new process.</li> <li>3. Non-monetisable benefits from securing flexible working arrangements beneficial to both employees and employers.</li> </ol> <p>These reforms may encourage more employees to request flexible working (if they perceive the likelihood of it being accepted has increased), which will increase admin costs. Estimates have been presented showing the impact of a 1 percentage point increase in the request rate and a 1 percentage point decrease in the rejection rate, but given the uncertainty in response to the policy, these are for illustrative purposes only and are not captured in formal monetised estimates.</p>	<b>Negative</b>
<b>Monetised impacts</b>	<p>Total Business Net Present value is expected to be between -£8.9m and -£38.1m. In our central case we estimate it to be -£16.6m.</p> <p>Approximate net financial cost to business EANDCB £1.9m, of which admin costs are £1.0m</p> <p>No pass-through costs from households to businesses have been deducted from these figures.</p>	<b>Negative</b>
<b>Non-monetised impacts</b>	<p>Non-monetisable benefits could include higher productivity, greater employee loyalty, and improved worker satisfaction. Employers may also have stronger talent pools to hire from to grow the economy through attracting and retaining more employees with existing knowledge and skill who may have gone elsewhere to access the flexibility they require.</p> <p>Employers may experience reduced costs associated with employee churn and decreased dissatisfaction in response to employers and employees finding flexible working arrangements that are mutually beneficial.</p>	<b>Positive</b>
<b>Any significant or adverse</b>	CIPD evidence finds that small and medium organisations are most likely to have all or most of their employees able to work flexibly (65%), compared with larger organisations (53%) <sup>16</sup> . However, as expected, larger employers are more than twice as likely to receive	<b>Neutral</b>

<sup>16</sup> [Flexible and hybrid working practices in 2025](#), CIPD, 2025

<b>distributional impacts?</b>	flexible working requests than smaller workplaces of 5-49 staff <sup>17</sup> . Smaller businesses may face challenges due to their limited resources but there is no evidence that these reforms have any significant or adverse impacts.	
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<b>(3) Expected impacts on households</b>		
<b>Description of overall household impact</b>	<p>The policy is expected to provide positive wellbeing impacts on employees, as they either gain a better understanding of the reasons why a flexible working request has been rejected or reach agreement on an alternative arrangement - this can improve employer-employee relations.</p> <p>In addition, any associated increase in the number of flexible working arrangements reached as a result of the new process will mean increased job satisfaction, productivity, work-life balance, and wellbeing impacts by remaining in employment and individuals retaining their knowledge and skills.</p>	<b>Positive</b>
<b>Monetised impacts</b>	We have not calculated any monetised impacts on individuals/households.	<b>Neutral</b>
<b>Non-monetised impacts</b>	<p>Non-monetised impacts include increased job satisfaction, productivity, work-life balance, and wellbeing impacts by remaining in employment or individuals returning to work with flexible arrangements, thereby retaining knowledge and skills.</p> <p>There is evidence that most workers value hybrid working (specifically) at somewhere between zero and ten percent of their salary.<sup>18</sup></p>	<b>Positive</b>
<b>Any significant or adverse distributional impacts?</b>	<p>The right to request flexible working legislation already covers all employees from day one of employment.</p> <p>Flexible working has traditionally been of particular benefit to some groups (parents, carers, etc.) over others but more recently has seen broad uptake, particularly in sectors that traditionally are site-based e.g. construction. As such, there are no significant or adverse distributional impacts.</p>	<b>Neutral</b>

<sup>17</sup> [Post-Implementation Review of the 2014 Flexible Working Regulations](#), Department for Business, Energy and Industrial Strategy, 2014

<sup>18</sup> [‘Competition and market power in the UK labour markets’](#), CMA Microeconomics Unit, 2024 (accessed on 28<sup>th</sup> Jan 2026)



## Part B: Impacts on wider Government priorities

Category	Description of impact	Directional rating
<b>Business environment:</b> Does the measure impact on the ease of doing business in the UK?	This policy is unlikely to have a significant effect on the business environment. The changes apply to all businesses and all sectors of the economy and given the small proportion of flexible working cases that are rejected; the vast majority of employers will not be affected.	<b>Neutral</b>
<b>International Considerations:</b> Does the measure support international trade and investment?	From a legal standpoint, the policy does not impact international trade as it is compliant with international obligations and does not have any implications for trade partners or foreign businesses operating in the UK. In addition, the impact is on total labour costs and therefore comparative advantage will be small. Furthermore, the preferred option will not introduce requirements on foreign-owned companies that go above and beyond those which are UK-owned.	<b>Neutral</b>
<b>Natural capital and Decarbonisation:</b> Does the measure support commitments to improve the environment and decarbonise?	We expect that there is nil or negligible impacts on the environment, natural capital, and decarbonisation as a result of the policy. The regulation does not directly relate to environmental or decarbonisation goals.	<b>Neutral</b>

## 6. Monitoring and evaluation of preferred option

60. The Government is undertaking a coordinated programme of monitoring and evaluation for the full package of policies introduced through the Employment Rights Act, drawing on both top-down and bottom-up approaches to evaluation. Individual policy-level monitoring and evaluation plans will form part of, and feed into, this overarching framework, ensuring that evidence generated for each measure contributes to understanding the effectiveness of the package as a whole. The activities discussed in this section are therefore intended to complement and align with these wider plans, while ensuring that the level of analysis remains proportionate to the expected magnitude of the policy impacts.
61. Given this is an extension to an existing framework, the Government intends to undertake proportionate monitoring and evaluation of this measure. The monitoring and PIR will assess whether the changes to the statutory framework have had a positive impact in encouraging more effective employee and employer conversations on flexible working. The review will also assess whether these changes have led to greater consistency in how employers handle

requests, and whether there is an increase in requests being accommodated where reasonably feasible.

62. To evaluate the impact of the new reforms and ensure they are meeting the stated policy objectives, the Government will draw on a range of evidence sources to undertake a comparative analysis of the pre and post reform data.
63. Survey data - such as the Employee Rights survey and the Management and Wellbeing Practices survey - have been used to monitor changes in attitudes and behaviours towards flexible working, as well as employer perceptions of the reforms. These surveys have complemented external evidence such as the British Social Attitudes survey. Questions can be adapted to capture the specific effects of these reforms, such as whether the proportion of rejected requests has declined and whether organisations are following the statutory requirements and best practice guidance.
64. Secondary analysis of official labour market statistics and Employment Tribunal cases by jurisdiction will also indicate labour market participation and whether fewer disagreements arise that require ET intervention.
65. Qualitative research through surveys, and stakeholder feedback through DBT led roundtables with employers, employees and specific focus groups will allow the Government to explore enablers and barriers to implementation and facilitation post reform. It will also enable the Government to identify unintended consequences, including those that may be disproportionately affected such as small businesses, as well as broader impacts such as the challenge of simultaneously balancing multiple requests fairly.
66. Administrative data will also provide key indicators. Statistics on Employment Tribunal cases by jurisdiction will help determine whether fewer disputes escalate to tribunal and whether employers are increasingly providing documented evidence to justify refusals in response to the new reasonableness test. Furthermore, analytics on visits to GOV.UK and Acas guidance pages will offer insight into improvements in employer awareness and accessibility of guidance.
67. Whilst the reforms are aimed at encouraging employers and employees to engage in more constructive dialogue, factors such as organisational capacity to implement arrangements and explore practical options may still shape the overall impact of these measures.
68. Similarly, there is evidence to suggest that some organisations are introducing return-to-office mandates, which represents a significant shift in workplace practices. Whilst this trend could influence employee expectations and organisational priorities around flexible working more broadly, the reforms will likely not be impacted by this as employers are legally required to consult with their employee if they are considering rejecting their request. However, these developments may affect the overall demand for flexible working and shape how employers approach requests in practice, which will need to be monitored as part of the evaluation to ensure the reforms remain effective and proportionate in a changing workplace context.
69. The provisions for the new reforms largely mirror those used for existing regulations to ensure continuity and comparability. Data from the 2021 PIR of the 2014 Flexible Working Regulations will provide a baseline to support this work. The reforms are set to be brought into force during 2027, and a review of the changes will likely take place five years after implementation to allow time for them to become sufficiently established and embedded into organisation policies.

70. Collecting robust data on flexible working can present challenges. Many flexible working arrangements are informal and often not systematically recorded in HR systems, limiting the availability of reliable administrative data. In addition to this, surveys do not often distinguish between statutory and non-statutory requests, which can obscure the specific impact of legislative changes. This lack of granularity makes it difficult to assess compliance with statutory requirements and to isolate the effects of specific policy reforms from broader organisational practices. To address this, Government may consider including specific questions in periodic surveys that capture informal practices more directly to supplement existing data.

## 7. Minimising administrative and compliance costs for preferred option

71. The hybrid approach to the new guidance aims to provide flexibility without being overly prescriptive. Businesses can adapt consultation processes to their own context while meeting statutory requirements, ensuring proportionality and supporting smaller organisations with limited resources.
72. The consultation seeks feedback on practical ways to reduce administrative burdens as part of this process to ensure the guidance reflects how businesses operate. Proposals build on existing practices across other employment rights to provide comparability, minimise complexity and avoid the need for specialist HR or legal expertise. Ultimately, the goal is to make the guidance as accessible as possible in order to help businesses implement changes confidently and reduce the risk of disputes.
73. Recognising the challenges for smaller businesses, the consultation also asks for views on ways to minimise impacts and identify proportionate solutions for this group.

## Declaration

Department:

Contact details for enquiries:

[ERDAnalysisEnquiries@businessandtrade.gov.uk](mailto:ERDAnalysisEnquiries@businessandtrade.gov.uk)

Minister responsible:

Minister for Employment Rights, Competition and Markets, Kate Dearden

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:

*Kate Deocher.*

Date:

28/01/2026

## **Annex A:**

### **Key Data Sources and Assumptions Log**

Total Employee Population: [ONS Labour Market Statistics November 2025 – Table 3](#)

Business Population Estimates 2025: [DBT Analysis - Gov.uk](#)

2025 Wage Rates: [Annual Survey of Hours and Earnings](#)

Non-Wage Labour Costs: [UK Economic Accounts - Office for National Statistics](#)

30% rejection rate for large businesses: [Management and Wellbeing Practices Survey Data](#)

## Annex B:

### Cost to Business Calculations

#### Costs

##### Familiarisation

It is expected that all businesses will incur familiarisation costs as part of this reform as they understand and implement the new requirements. The steps outlined in the following section illustrate how this is calculated; figures are summed across all business sizes to give total figures.

#### **Familiarisation Costs = $P \times T \times W$**

Where:

**P** is the population of interest (all businesses in the economy excluding those with zero employees);  
**T** is the time each business will spend on familiarising with the new requirements;  
**W** is the average labour cost for the individual undertaking the task

Note that **W** varies by business size whereby:

**Micro and small** businesses are assumed to use a manager/director: £33.33

**Medium and large** businesses are assumed to use a HR professional: £36.23

To estimate the number of businesses affected, we use DBT Business Population Estimates (2025), excluding Northern Ireland and businesses with zero employees. We assume the same familiarisation time across all business sizes, with the task carried out by a manager or director in micro and small businesses, and by a HR professional in medium and large businesses. Hourly labour costs are based on 2025 ASHE wage data, uprated to include non-wage costs such as employer pensions and National Insurance contributions.

Business Size	Total Familiarisation Cost (Rounded)
Micro	£6,500,000
Small	£1,300,000
Medium	£300,000
Large	£49,000
<b>Total</b>	<b>£8,000,000</b>

##### Administration

The steps outlined in the following section illustrate how the number of requests rejected annually are calculated; figures are summed across all business sizes to give total figures under each scenario.

**Number of requests rejected annually =  $P \times R \times F \times RR$** 

Where:

**P** is the population of interest (all employees);

**R** is the request rate for flexible working (assumed to be 4% in the central case);

**F** is the share of requests (35% in the central case) which are made under the statutory right to request (where  $1 - F$  = Informal request);

**RR** is the share of those requests which have been rejected;

Note that **RR** varies by business size across all three scenarios (low, central and high):

**Micro:** 9%

**Small:** 9%

**Medium:** 9%

**Large:** 30%

All employees have the right to request flexible working. Based on ONS Labour Market statistics, we therefore estimate the eligible employee population to be 29.6 million. We apply a 4% request rate, drawn from the Flexible Working PIR<sup>19</sup> and the 2018 British Social Attitudes Survey. For rejections, we assume a 9% rate for micro, small and medium businesses<sup>20</sup>, and a higher 30% rate for large businesses, reflecting evidence from the Management and Wellbeing Practices survey<sup>21</sup> that large employers are three times more likely to reject requests than the economy-wide average of 9%. This is an updated assumption from the previous IA.

To account for uncertainty, we use three scenarios to estimate the share of requests made under the statutory framework. In the central scenario, we draw on the Employee Rights Survey<sup>22</sup>, which found that 35% of requests result in a contractual change - a reasonable proxy for formal statutory requests. The low scenario (10%) is based on the 2014 IA for the framework extension, while the high scenario (60%) reflects the difference between the central and low estimates.

This analysis suggests that between 16,400 and 98,700 requests are rejected annually where employers will need to follow the new process, depending on the scenario used. Using this information, we calculate the administration costs using the following formula.

**Administration Cost =  $N \times T \times W$** 

Where:

**N** is the number of requests rejected annually (low, central or high scenario);

**T** is the time spent per rejected request on administering the new requirements;

**W** is the average labour cost for the individual undertaking the task;

Note that **W** varies by business size as in the familiarisation calculations.

<sup>19</sup> [Post-Implementation Review of the 2014 Flexible Working Regulations](#), Department for Business, Energy and Industrial Strategy, 2021

<sup>20</sup> [Post-Implementation Review of the 2014 Flexible Working Regulations](#), Department for Business, Energy and Industrial Strategy, 2021

<sup>21</sup> [Findings from the Management and Wellbeing Practices Survey](#), National Institute of Economic and Social Research (NIESR), 2018

<sup>22</sup> (Forthcoming) Employee Rights Survey 2020, Department for Business and Trade, 2020

We assume all businesses spend 30 minutes processing each leave request. As with familiarisation costs, we assume the individual completing the task varies: managers or directors for micro and small businesses, and HR professionals for medium and large businesses. Hourly labour costs are based on 2025 ASHE data and are uprated to include non-wage costs such as employer pensions and National Insurance contributions.

Figures are summed across all business sizes to give total estimates under each scenario. These range from a low of 0.1 million to a high of 3.5 million, with a central estimate of 1.0 million.

Scenario	Total Administration Cost (Rounded)
Low	£100,000
Central	£1,000,000
High	£3,500,000

### Total Cost to Business

Scenario	One-off Familiarisation Cost	Administration Cost	Total Cost	Rounded
Low	£8,036,204.51	£144,990.68	£8,181,195.20	£8,200,000
Central	£8,036,204.51	£1,014,934.79	£9,051,139.30	£9,100,000
High	£8,036,204.51	£3,479,776.41	£11,515,980.92	£11,500,000