

|  |   |  |  |  |
|--|---|--|--|--|
| <b>Title:</b> Commercial Rents (Coronavirus) Bill<br><b>IA No:</b> BEIS043(F)-21-SSA<br><b>RPC Reference No:</b> RPC-BEIS-5106(1)<br><b>Lead department or agency:</b> Department for Business, Energy & Industrial Strategy<br><b>Other departments or agencies:</b> Department for Levelling Up, Housing and Communities | <b>Impact Assessment (IA)</b>               |  |  |  |
|  | <b>Date:</b> 08/11/2021                     |  |  |  |
|  | <b>Stage:</b> Final Stage Impact Assessment |  |  |  |
|  | <b>Source of intervention:</b> Domestic     |  |  |  |
|  | <b>Type of measure:</b> Primary legislation |  |  |  |
| <b>Contact for enquiries:</b> Martin Gunther   |   |  |  |  |

**Summary: Intervention and Options****RPC Opinion:** Green**Cost of Preferred (or more likely) Option** (in 2019 prices)

| Total Net Present Social Value | Business Net Present Value | Net cost to business per year | Business Impact Target Status<br>Non-qualifying regulation provision (de minimis) |
|--------------------------------|----------------------------|-------------------------------|---|
| £6.8m                          | £-1.6m                     | £1.6m                         |   |

**What is the problem under consideration? Why is government action or intervention necessary?**

During the Covid-19 pandemic many businesses were mandated to close in full or in part by government Non-Pharmaceutical Interventions (NPIs). To protect businesses from eviction and insolvency, the government introduced an eviction moratorium and related protection measures. As a result, many businesses have accrued debts, estimated at £6.4bn as of March 2021, creating the risk of insolvencies and job losses should these debts not be resolved through sustainable repayment plans. Regulatory intervention is required as existing non-legislative options have left many parties unable or unwilling to reach negotiated settlements. The government plans to introduce legislation to support the orderly resolution of these debts, including a set of principles for negotiation and a binding-arbitration backstop.

**What are the policy objectives of the action or intervention and the intended effects?**

This policy is designed to encourage landlords and tenants to resolve accrued rent debt. The policy has three key objectives: 1) To encourage landlords and tenants to come to agreements on rent arrears caused by being mandated to close in full or in part during the pandemic as soon as possible. 2) To prevent significant numbers of insolvencies of otherwise viable businesses due to the accrual of rent debt following being mandated to close under Covid-19 restrictions. 3) To protect against redundancies and safeguard jobs for workers in sectors that were mandated to close during the pandemic. This policy will support one of BEIS' key priorities, 'Fighting Coronavirus'.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 1) Do nothing (baseline). Current measures end in March 2022.  
 Option 2) Non-binding arbitration: Landlords and tenants are encouraged to negotiate based on legislated principles and an arbitration backstop. The outcome of the arbitration is a non-binding proposal and not enforced by courts, meaning dissatisfied parties may disagree with the arbitrator's proposal and pursue court action  
 Option 3) Binding arbitration: Legislated principles as in Option 2 and a stronger binding arbitration backstop, where the outcome is binding and enforced by courts creating the strongest incentives to negotiate rent debts.


- Option 3a) Binding arbitration (**Preferred option**): only firms mandated to close in full or part are in scope of the policy. This option is preferred due to better deliverability, given arbitrator capacity constraints.
- Option 3b) Binding arbitration: firms mandated to close or that closed voluntarily due to Covid-19 impacts are in scope.

**Will the policy be reviewed? It will not be reviewed. If applicable, set review date: n/a**

|   |                     |                     |                         |                     |
|---|---------------------|---------------------|-------------------------|---------------------|
| Is this measure likely to impact on international trade and investment?   | No                  |                     |                         |                     |
| Are any of these organisations in scope?  | <b>Micro</b><br>Yes | <b>Small</b><br>Yes | <b>Medium</b><br>Yes    | <b>Large</b><br>Yes |
| What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions?<br>(Million tonnes CO <sub>2</sub> equivalent) | <b>Traded:</b><br>0 |                     | <b>Non-traded:</b><br>0 |                     |

***I have read the Impact 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 by the responsible Minister:



Date:

08/11/2021

# Summary: Analysis & Evidence

# Policy Option 1

Description: Do Nothing (Baseline)

## FULL ECONOMIC ASSESSMENT

| Price Base<br>Year 2019  | PV Base<br>Year 2020                               | Time Period<br>Years 2 | Net Benefit (Present Value (PV)) (£m)                         |  |                  |  |
|--|--|------------------------|---|--|------------------|--|
|  |  |                        | Low: 0  | High: 0                                  | Best Estimate: 0 |  |
| <b>COSTS (£m)</b>  | <b>Total Transition<br/>(Constant Price) Years</b> |                        | <b>Average Annual<br/>(excl. Transition) (Constant Price)</b> | <b>Total Cost<br/>(Present Value)</b>    |                  |  |
| Low  | 0  | 2                      | 0   | 0  |                  |  |
| High   | 0  |                        | 0   | 0  |                  |  |
| Best Estimate  | 0  |                        | 0   | 0  |                  |  |
| <b>Description and scale of key monetised costs by 'main affected groups'</b>    |  |                        |   |  |                  |  |
| No change from current situation – no net costs                                  |  |                        |   |  |                  |  |
| <b>Other key non-monetised costs by 'main affected groups'</b>                   |  |                        |   |  |                  |  |
| No change from current situation – no net costs                                  |  |                        |   |  |                  |  |
| <b>BENEFITS (£m)</b>   | <b>Total Transition<br/>(Constant Price) Years</b> |                        | <b>Average Annual<br/>(excl. Transition) (Constant Price)</b> | <b>Total Benefit<br/>(Present Value)</b> |                  |  |
| Low  | 0  | 2                      | 0   | 0  |                  |  |
| High   | 0  |                        | 0   | 0  |                  |  |
| Best Estimate  | 0  |                        | 0   | 0  |                  |  |
| <b>Description and scale of key monetised benefits by 'main affected groups'</b> |  |                        |   |  |                  |  |
| No change from current situation – no net benefits                               |  |                        |   |  |                  |  |
| <b>Other key non-monetised benefits by 'main affected groups'</b>                |  |                        |   |  |                  |  |
| No change from current situation – no net benefits                               |  |                        |   |  |                  |  |
| <b>Key assumptions/sensitivities/risks</b>                                       |  |                        |   | <b>Discount rate (%)</b>                 | 3.5              |  |
|  |  |                        |   |  |                  |  |

## BUSINESS ASSESSMENT (Option 1)

|  |                    |               |  |
|--|--------------------|---------------|--|
| <b>Direct impact on business (Equivalent Annual) £m: 0</b> |                    |               | <b>Score for Business Impact Target (qualifying provisions only) £m:</b> |
| <b>Costs: 0</b>  | <b>Benefits: 0</b> | <b>Net: 0</b> |  |
|  |                    |               |  |

## Summary: Analysis &amp; Evidence

## Policy Option 2

**Description:** Non-binding arbitration (only firms mandated to close with deferred rent)

**FULL ECONOMIC ASSESSMENT**

| Price Base<br>Year 2019 | PV Base<br>Year 2020 | Time Period<br>Years 2 | Net Benefit (Present Value (PV)) (£m) |            |                    |
|-------------------------|----------------------|------------------------|---------------------------------------|------------|--------------------|
|                         |                      |                        | Low: -43.7                            | High: 24.7 | Best Estimate: 1.4 |

| COSTS (£m)    | Total Transition<br>(Constant Price) Years |      | Average Annual<br>(excl. Transition) (Constant Price) | Total Cost<br>(Present Value) |
|---------------|--|------|---|-------------------------------|
|               | Low  | 25.1 |   |                               |
| High          | 65.3                                       |      | 0.0   | 65.3                          |
| Best Estimate | 30.8                                       |      | 0.0   | 30.8                          |

**Description and scale of key monetised costs by 'main affected groups'**

Businesses face costs of arbitration (£26.6m) and costs of negotiation (£2.0m).  
Businesses (£2.1m) and arbitrators (£0.1m) each face a one-off familiarisation cost.  
Consumers and workers face no costs.  
All costs accrue in the first year.

**Other key non-monetised costs by 'main affected groups'**

Forgone rent repayments represent a cost to landlords and an equal benefit to tenants, offsetting each other.  
Forgone rent repayment could deter commercial property landlords from future investment.  
Supporting existing tenant businesses, could potentially help less productive firms and prevent more productive ones from replacing them.

| BENEFITS (£m) | Total Transition<br>(Constant Price) Years |      | Average Annual<br>(excl. Transition) (Constant Price) | Total Benefit<br>(Present Value) |
|---------------|--|------|---|----------------------------------|
|               | Low  | 21.6 |   |                                  |
| High          | 49.8                                       |      | 0.0   | 49.8                             |
| Best Estimate | 32.1                                       |      | 0.0   | 32.1                             |

**Description and scale of key monetised benefits by 'main affected groups'**

Businesses benefit from averting direct costs related to making workers redundant (£0.4m), costs related to insolvency (£0.8m) and court costs (£23.2m).  
Workers benefit from protecting their wages for a period by averting redundancies (£3.6m).  
Other businesses benefit from safeguarded loan payments (£4.1m).  
All benefits accrue in the first year.

**Other key non-monetised benefits by 'main affected groups'**

Reduced uncertainty can benefit both workers and businesses. For workers this could lead to additional consumption. For businesses, reduced uncertainty could lead to higher investment. Averting redundancies also have the added benefit of reducing the risk of long-term unemployment scarring.  
There may be indirect benefits to neighbouring and supply chain businesses through fewer business units being empty.

|  |                      |     |
|--|----------------------|-----|
| <b>Key assumptions/sensitivities/risks</b> | <b>Discount rate</b> | 3.5 |
|--|----------------------|-----|

Key uncertainties exist around time spent in negotiations, arbitration, and court; costs associated with negotiation, arbitration, and courts; the number of cases entering negotiations, arbitration, and court proceedings. Uncertainties also exist around the distribution of rent arrears agreements between different sectors as well as arbitration capacity in the market.

**BUSINESS ASSESSMENT (Option 2)**

|  |                |           |  |
|--|----------------|-----------|--|
| <b>Direct impact on business (Equivalent Annual) £m:</b> |                |           | <b>Score for Business Impact Target (qualifying provisions only) £m:</b> |
| Costs: 30.8  | Benefits: 24.4 | Net: -6.4 |  |
|  |                |           | 6.4  |

## Summary: Analysis &amp; Evidence

## Policy Option 3a

**Description:** Binding-Arbitration (only firms mandated to close with deferred rent)

**FULL ECONOMIC ASSESSMENT**

| Price Base<br>Year 2019 | PV Base<br>Year 2020 | Time Period<br>Years 2 | Net Benefit (Present Value (PV)) (£m) |            |                    |
|-------------------------|----------------------|------------------------|---------------------------------------|------------|--------------------|
|                         |                      |                        | Low: -36.7                            | High: 31.9 | Best Estimate: 6.8 |

| COSTS (£m)    | Total Transition<br>(Constant Price) Years |      | Average Annual<br>(excl. Transition) (Constant Price) | Total Cost<br>(Present Value) |
|---------------|--|------|---|-------------------------------|
|               | Low  | 25.1 |   |                               |
| High          | 65.3                                       |      | 0.0   | 65.3                          |
| Best Estimate | 30.8                                       |      | 0.0   | 30.8                          |

**Description and scale of key monetised costs by 'main affected groups'**

Businesses face costs of arbitration (£24.4m) and costs of negotiation (£2.2m).  
Businesses (£2.1m) and arbitrators (£0.1m) each face a one-off familiarisation cost.  
Consumers and workers face no costs.  
All costs accrue in the first year.

**Other key non-monetised costs by 'main affected groups'**

Forgone rent repayments represent a cost to landlords and an equal benefit to tenants, offsetting each other.  
Forgone rent repayment could deter commercial property landlords from future investment.  
Supporting existing tenant businesses, could potentially help less productive firms and prevent more productive ones from replacing them.

| BENEFITS (£m) | Total Transition<br>(Constant Price) Years |      | Average Annual<br>(excl. Transition) (Constant Price) | Total Benefit<br>(Present Value) |
|---------------|--|------|---|----------------------------------|
|               | Low  | 23.9 |   |                                  |
| High          | 55.2                                       |      | 0.0   | 55.2                             |
| Best Estimate | 35.5                                       |      | 0.0   | 35.5                             |

**Description and scale of key monetised benefits by 'main affected groups'**

Businesses benefit from averting direct costs related to making workers redundant (£0.4m), costs related to insolvency costs (£0.9m) and court costs (£25.8m).  
Workers benefit from protecting their wages for a period by averting redundancies (£3.9m).  
Other businesses benefit from safeguarded loan payments (£4.5m).  
All benefits accrue in the first year.

**Other key non-monetised benefits by 'main affected groups'**

Reduced uncertainty can benefit both workers and businesses. For workers, this could lead to additional consumption. For businesses, reduced uncertainty could lead to higher investment.  
There may be indirect benefits to neighbouring and supply chain businesses through fewer business units being empty.

|  |                      |     |
|--|----------------------|-----|
| <b>Key assumptions/sensitivities/risks</b> | <b>Discount rate</b> | 3.5 |
|--|----------------------|-----|

Key uncertainties exist around time spent in negotiations, arbitration, and court; costs associated with negotiation, arbitration, and courts; the number of cases entering negotiations, arbitration and court proceedings. Uncertainties also exist around the distribution of rent arrears agreements between different sectors as well as arbitration capacity in the market.

**BUSINESS ASSESSMENT (Option 3a)**

|  |                |           |  |
|--|----------------|-----------|--|
| <b>Direct impact on business (Equivalent Annual) £m:</b> |                |           | <b>Score for Business Impact Target (qualifying provisions only) £m:</b> |
| Costs: 28.7  | Benefits: 27.1 | Net: -1.6 |  |
|  |                |           | 1.6  |

## Summary: Analysis &amp; Evidence

## Policy Option 3b

**Description:** Binding-Arbitration (all firms with deferred rent that closed because of Covid-19)

**FULL ECONOMIC ASSESSMENT**

| Price Base<br>Year 2019 | PV Base<br>Year 2020 | Time Period<br>Years 2 | Net Benefit (Present Value (PV)) (£m) |            |                     |
|-------------------------|----------------------|------------------------|---------------------------------------|------------|---------------------|
|                         |                      |                        | Low: -81.0                            | High: 75.7 | Best Estimate: 19.1 |

| COSTS (£m)    | Total Transition<br>(Constant Price) Years |      | Average Annual<br>(excl. Transition) (Constant Price) | Total Cost<br>(Present Value) |
|---------------|--|------|---|-------------------------------|
|               | Low  | 53.7 |   |                               |
| High          | 140.3                                      |      | 0.0   | 139.0                         |
| Best Estimate | 66.5                                       |      | 0.0   | 65.9                          |

**Description and scale of key monetised costs by 'main affected groups'**

Businesses face costs of arbitration (£55.5m) and costs of negotiation (£5.4m).

Businesses (£5.0m) and arbitrators (£0.1m) each face a one-off familiarisation cost

Consumers and workers face no costs.

Arbitration costs are spread across the first and second year. All other costs accrue in the first year.

**Other key non-monetised costs by 'main affected groups'**

Forgone rent repayments represent a cost to landlords and an equal benefit to tenants, offsetting each other.

Forgone rent repayment could deter commercial property landlords from future investment.

Supporting existing tenant businesses, could potentially help less productive firms and prevent more productive ones from replacing them.

| BENEFITS (£m) | Total Transition<br>(Constant Price) Years |      | Average Annual<br>(excl. Transition) (Constant Price) | Total Benefit<br>(Present Value) |
|---------------|--|------|---|----------------------------------|
|               | Low  | 58.0 |   |                                  |
| High          | 128.9                                      |      | 0.0   | 128.9                            |
| Best Estimate | 85.1                                       |      | 0.0   | 85.1                             |

**Description and scale of key monetised benefits by 'main affected groups'**

Businesses benefit from averting direct costs related to making workers redundant (£1.8m), costs related to insolvency costs (£2.1m) and court costs (£54.1m).

Workers benefit from protecting their wages for a period by averting redundancies (£16.0m).

Other businesses benefit from safeguarded loan payments (£11.1m).

All benefits accrue in the first year.

**Other key non-monetised benefits by 'main affected groups'**

Reduced uncertainty can provide benefits to both workers and businesses. For workers this could lead to additional consumption. For businesses, reduced uncertainty could lead to higher investment.

There may be indirect benefits on neighbouring and supply chain businesses through fewer business units being empty.

|   |                      |     |
|---|----------------------|-----|
| <b>Key assumptions/sensitivities/risks</b>  | <b>Discount rate</b> | 3.5 |
| Key uncertainties exist around time spent in negotiations, arbitration, and court; costs associated with negotiation, arbitration, and courts; the number of cases entering negotiations, arbitration and court proceedings. Uncertainties also exist around the distribution of rent arrears agreements between different sectors as well as arbitration capacity in the market. |                      |     |

**BUSINESS ASSESSMENT (Option 3b)**

|  |                |           |  |
|--|----------------|-----------|--|
| <b>Direct impact on business (Equivalent Annual) £m:</b> |                |           | <b>Score for Business Impact Target (qualifying provisions only) £m:</b> |
| Costs: 33.5  | Benefits: 29.5 | Net: -4.1 |  |
|  |                |           | 8.1  |

# Evidence Base (for Summary Sheets)

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## 1) Problem under consideration

1. During the Covid-19 pandemic many businesses were mandated to close in full or in part by government Non-Pharmaceutical Interventions (NPIs). The aim of these closures was to help stop the spread of the virus, and were put in place alongside restrictions on international travel and working in offices.
2. Throughout the pandemic HMG's key policy aim was and remains to preserve otherwise viable businesses and the millions of jobs that they provide. That is why, last year, the government introduced a range of measures to protect commercial tenants who would otherwise have struggled to pay their rent due to Covid-19 disruptions from eviction and forms of debt recovery.
3. These measures included legislation to prevent landlords of commercial properties from being able to evict tenants for not paying rent, restrictions on landlords' abilities to recover rental arrears through the seizure of tenants' goods, through the use of Commercial Rent Arrears Recovery, and restrictions on winding-up petitions based on non-payment of sums in statutory demands, implemented through the Corporate Insolvency and Governance Act 2020.
4. HMG's preferred solution was to support landlords and tenants to agree their own arrangements for paying or writing off commercial rent debts through the voluntary Code

of Practice published by the Government in June last year, setting out best practice for these negotiations.

5. The Code of Practice was developed in close collaboration between government and leaders from the sector. It encourages tenants to continue to pay their rent in full if they can do so, and advises that others should pay where they can, whilst acknowledging that landlords should provide support to businesses if they are able to do so.
6. To protect commercial tenants, the current measures were extended until March 2022. However, extending them further will not lead to the estimated £6.4bn<sup>1</sup> of liabilities in the system being settled: not all landlords and tenants have used the last year to negotiate over arrears, and we have no reason to believe a further extension without additional measures would shift behaviour. If commercial tenants were unable to repay their rent debt, they might be at risk of insolvency, leading to their workers being made redundant. Recognising the ongoing potential impact on jobs in firms impacted by these debts, the government launched in April 2021 a 'Call for Evidence' about what further actions to take to support the resolution of these debts while preserving jobs in businesses at the heart of local communities.
7. The 'Call for Evidence', which closed on 4 May 2021, aimed to gather data on the state of negotiations between landlords and tenants regarding rent arrears and ongoing lease terms. It also sought views on steps that government could take after 30 June, ranging from a phased withdrawal of current protections to legislative options targeted at those businesses most impacted by COVID-19.
8. What it and other sources highlighted, was that despite the messaging in the Code of Practice and extensions to the moratorium and other protection measures to give landlords and tenants more time to come to negotiated solutions, many businesses have yet to reach a resolution on the significant accrued debts to landlords while affected by Non-Pharmaceutical Interventions (NPIs) during Covid-19.<sup>2</sup>
9. Earlier this year, 78.7% of rent had been paid across all sectors 35 days after the 25 March rent payment date.<sup>3</sup> Some sectors that have been hardest hit by the pandemic have struggled to pay and continue to lag behind. Hospitality rent payment in particular is significantly below the average with just 44.1% of rent paid within 35 days. Within this, only 23.6% of rent has been paid by pubs, bars and restaurants within 35 days.
10. HMG plans to introduce legislation to support the orderly resolution of these debts. Legislation will be introduced in this Parliamentary session 2021-22 to establish a backstop so that, where commercial negotiations between tenants and landlords are not successful, they can enter binding arbitration, which will apply certain principles as to how the unpaid rent should be resolved.
11. This legislation will apply to debts accrued by those occupying premises under business tenancies to which Part 2 Landlord and Tenant Act 1954 apply, which have been mandated to close in part or in full. Measures in place to protect commercial tenants have been extended to protect them from eviction and insolvencies.

## 2) Rationale for intervention

12. The Government was required to put into place a series of NPIs to stop the spread of Covid-19 between March 2020 and July 2021, including mandating the closure in part or in full of different types of businesses. The debts that businesses have accrued to their landlords because of this requires further intervention to secure a positive resolution for this debt.

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<sup>1</sup> Remit Consulting rent collection data (2021) for rent due January to March 2021.

<sup>2</sup> From the Call for Evidence it was found that the majority of tenants (52.9%) believed that between 0-20% of landlords were engaging in the spirit of the code of practice. On average, landlords stated that 56.5% of tenants were engaging in the spirit of the code of practice.

<sup>3</sup> Remit Consulting rent collection data (2021).

13. Allowing the current measures to come to an end in March 2022 could create a wave of unnecessary insolvencies and job-losses, and non-legislative options have left many parties unable or unwilling to reach negotiated settlements around rent debt and ongoing lease terms. The voluntary Code of Practice, supplementary guidance, and communications around the importance of negotiation have already been published but have not produced the desired outcomes.
14. The projected significant numbers of insolvencies and job losses due to Covid-19-induced rent liabilities would also undermine the efficacy of the Government's unprecedented package of economy-wide support on both wages (Coronavirus Job Retention Scheme) and tax (business rates relief and VAT deferrals): the two fixed main costs for businesses alongside rent.
15. Protecting business from insolvencies and workers from redundancies are a key rationale for this intervention, there are also two market failures that need to be addressed:
  - **Information asymmetry** exists in the commercial rent market between landlords and tenants. Landlords may be unaware of a tenant's financial position and their ability to repay rent arrears. Due to this lack of information between parties, landlords would be unwilling to engage with their tenants to negotiate an outcome on rent arrears, currently causing negative consequences. Introducing legislated principles and a system of binding arbitration will bridge this information gap and encourage parties to negotiate openly and transparently. In the absence of policy, the information asymmetry would persist along with the projected negative consequences.
  - **Market inflexibility** exists in form of inflexible commercial rent contracts. There is inflexibility relating to contract lengths, limited break clauses and opportunities for downwards revision in rent payments. This has left the market unable to resolve issues that arise from extreme changes in the financial positions of tenants, which in this case has been brought on by the pandemic. Without intervention, the market's inflexibility will leave it unable to resolve the issue of rent arrears.

### 3) Policy objectives

16. This policy is designed to encourage landlords and tenants to come to a solution regarding their rent that has built up in sectors that were impacted by mandatory closures during the pandemic. The policy has three key objectives:
  - To encourage landlords and tenants to come to agreement on rent arrears caused by being mandated to close in full or in part during the pandemic and return the commercial property sector to normal operation as soon as possible.
  - To prevent significant numbers of insolvencies of otherwise viable businesses due to the build-up of rent debt following being mandated to close in full or in part by Covid restrictions.
  - To protect against redundancies and safeguard jobs for workers in the sectors that were mandated to close in full or in part during the pandemic.
17. This policy will support one of HMG's priorities of 'Fighting Coronavirus'. The policy will support businesses to bounce back from the economic impacts of the pandemic and provide them with the roadmap to recovery and renewal into the future.

### 4) Options considered

18. This impact assessment considers the option of the system of binding arbitration compared to a non-binding arbitration option and a do-nothing option.
19. First, this assessment considers a do-nothing option. This would see the current measures around rent come to an end in March 2022. This would see some landlords



and tenants not enter negotiations to resolve their rent debt, and no further agreements being made. This would lead to evictions, insolvencies, and redundancies as some tenants will be required to pay back their rent debt at once.

20. Next, a non-binding arbitration policy approach is assessed. In this process, landlords and tenants are initially encouraged to negotiate based on a set of legislated principles<sup>4</sup>, which will lead to resolution of rent debt. Those landlords and tenants who do not come to agreements on deferred rent debt then enter arbitration. The outcomes of the arbitration would be to waive a portion of the debt or defer the payments. The outcome of the arbitration is non-binding and not enforced by the courts, meaning dissatisfied parties can disagree with the arbitrator's proposal and pursue court action. This option would have the benefit of resolving some of the rent debt issues as more agreements are likely to be made with the input of an impartial third party, leading to some insolvencies and redundancies being averted compared to the do-nothing option, but fewer averted than in the binding arbitration option.
21. Finally, this assessment considers the preferred option of binding arbitration. First, like the non-binding option above, landlords and tenants are encouraged to enter negotiation and come to agreements based on a set of legislated principles.<sup>5</sup> For those that do not, they enter a system of binding arbitration, where the outcomes are binding and enforced by courts. This option will have the benefit of preventing a greater number of insolvencies and redundancies from March 2022 than non-binding arbitration. This option is currently split into two sub-options, based on the scope of businesses included:
- a. **Option 3a** – only firms that have deferred rent and were mandated to close in full or part by HMG during the pandemic are in scope of the policy.
  - b. **Option 3b** – all firms that have deferred rent and were closed either as mandated by HMG or voluntarily due to being impacted by Covid-19.
22. To support an evidence-based assessment of the costs and benefits of binding arbitration, data has been collected and used from a range of sources. This includes published sources such as the ONS, information requested from a range of stakeholders, including tenants from a range of sectors, direct investors, landlords, commercial property owners, lawyers, industry bodies and international comparators in the public sector. This engagement also included a formal Call for Evidence that received 508 responses.
23. The narrow scope Option 3a is preferred over Option 2 as it delivers a greater net social benefit. While net benefits are smaller in the narrow scope option than in the wide scope Option 3b, we believe that Option 3a has significantly more certainty around a timely delivery of the policy benefits given the limits on arbitration capacity. This is based on our estimated arbitration capacity and caseload, as outlined in paragraphs 193 to 197 below. This analysis suggests that under the narrow Option 3a it would take 3 to 15 months (central estimate is 7 months) to resolve all arbitration cases, while for the wider Option 3b it would take 6 to 35 months (central estimate is 17 months). The potential for a significant delay to the resolution of cases under the wide scope option could bring with it second order costs which are difficult to quantify, such as impacts on investment due to uncertainty, and which would ultimately undermine the policy objectives of enabling a faster return to market normality.

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<sup>4</sup> Legislated Principles are outlined in Annex A.

<sup>5</sup> Legislated Principles are outlined in Annex A.

## 5) Option 1 – Do-nothing

24. Under the do-nothing option, the existing moratorium on the eviction of commercial tenants would expire on 24 March 2022. Landlords would not be able to evict tenants for non-payment of rent debt incurred due to Covid-19 restrictions until that date.
25. From March 2020 onwards the Government introduced legislated measures (the moratorium on commercial evictions, owned by MHCLG, suspension of certain insolvency measures, owned by BEIS, and restrictions on the use of Commercial Rent Arrears Recovery (CRAR), owned by MoJ) to protect tenant businesses that are unable to pay their rent. In June 2021 the Government extended the moratorium on commercial evictions until 25 March 2022, while winding-up petitions based on unpaid statutory demands also remained restricted for a further three months until September 2021, to protect companies from creditor enforcement action where their debts relate to the pandemic.
26. While the current moratorium and associated measures have achieved their objectives of preventing evictions and insolvencies, they are now seen as too blunt a tool for the period of recovery, where Ministers want to strike a balance between encouraging a return to normal contractual arrangements for those tenants who can pay full rent and continuing to protect those who cannot, while also giving landlords increased certainty over future incomes.
27. Allowing the tenant protection measures to lapse will produce uncertain outcomes. There is a significant risk it could create a wave of insolvencies and job losses as landlords' rights to evict, make insolvent, or seize the goods of tenants, for non-payment of rent is restored.
28. Responses from the Call for Evidence find that most respondents were against letting measures expire. The majority (53.7%) of respondents stated that this option would either reduce or cease trade. The vast majority of those that responded this way were tenants (88.3%). Most landlords stated that it would enable trade (54.1%).
29. The majority (51.4%) of respondents stated that the do-nothing option would either reduce or cease employment. The vast majority of these were tenants (89.3%). predominant reason expressed for this was the expiration of measures would harm the respondent's business or force its closure. This was followed by a significant group (27%) who thought it would have no impact on employment. A small subgroup, mainly made up of landlords, thought this option would increase employment. The reason for this was the increased income from the payment of rent arrears.
30. Significant numbers of insolvencies and job losses due to Covid-induced rent liabilities would undermine the efficacy of HMG's package of economy-wide support on both wages and taxes: the two main fixed costs for businesses alongside rent.
31. There is a further potential risk that landlords of tenants with multiple outlets will take steps to drive the entire business into insolvency due to accumulated rent arrears on a single property. This would magnify the impact that a single landlord can have, potentially affecting many other high streets, town centres and shopping centres and leading to significant job losses.
32. This would also mean that the landlords who have reached terms with such a tenant could find themselves losing their tenant due to the actions of other landlords. This could discourage landlords of tenants with multiple outlets from reaching an agreement on rent arrears.

## 6) Option 2 – Non-binding arbitration

33. Non-binding arbitration would address the unresolved rent debt faced by businesses while preserving the parties' rights to seek resolution of their dispute in the courts if they are dissatisfied with the outcome of the arbitration. As arbitration will be required as a

precursor to parties being able to bring a claim in court for unpaid rent arrears, it could resolve a significant proportion of disputes and limit pressure on the courts system.

34. This option would support both vulnerable tenants and the landlords of tenants who have been using the current blanket protections. It would directly address the build-up of rent arrears in the system, but this option does not guarantee the enforcement of the outcomes of arbitration.
35. This option does not cover all otherwise-viable businesses that have been impacted by Covid-19 and have deferred rent. Only businesses that were mandated to close, or had some proportion of their businesses mandated to close, as part of HMG's Covid-19 response would be in scope of this option.
36. Under this option, landlords would be encouraged to waive or defer rent arrears for tenant businesses that suffered due to the pandemic, which would safeguard against redundancies and insolvencies. However, by its non-binding nature we could not ensure the outcomes of this are adhered to and therefore the benefits achieved, compared to Option 3. Parties that are dissatisfied with the outcome could take their claim to court.
37. Responses from the Call for Evidence found that the predominant reason expressed by respondents not in favour of this option was that it needs to be binding to ensure its effectiveness. The most common expected outcomes of non-binding arbitration were negotiation on rent arrears amount owed (39.8%), negotiation on rent arrears duration to pay and rent arrears demanded in full. A significant proportion of those who responded (40.4%) suggested that this option would enable trade. The vast majority of these were tenants (87.2%). The predominant reasons suggested for this was the increase in income and the resolution of the conflict.

## 7) Option 3 – Binding arbitration (preferred option is 3a)

38. This option would establish legislated principles which landlords and tenants should follow in negotiating rent arrears accrued during Covid-19 restrictions from March 2020 until ending of restrictions up to July 2021. It would introduce the requirement to seek legally binding arbitration if no agreement has been reached. Arbitrators could then defer, or potentially waive a portion of, rent debt based on the ability of a viable tenant to pay their rent arrears.
39. The legislated principles that landlords and tenants should follow during negotiations and, as a last resort, in arbitration, are outlined in Annex A.
40. This option is separated into two sub-options, which reflect the types of businesses that would be in scope of this policy. They are:
  - **Option 3a** – only firms that have deferred rent and were mandated to close in full or part by HMG during the pandemic are in scope of the policy.
  - **Option 3b** – all firms that have deferred rent and were closed either as mandated by HMG or voluntarily due to being impacted by Covid-19.
41. There could be some legislative provisions that are put in place in the future to expand the ringfence period, which currently prevents landlords seeking winding-up, seizure of property or evictions relating to rent debt accrued from March 2020 to the date restrictions were removed for their tenants' sectors (up to 18 July 2021 or 7 August for Wales). This would be intended to include any additional periods of closure and impacts, so that commercial tenants are protected in cases of future restrictions. This is not included in the benefits and costs calculations due to uncertainty around if and when future restrictions would be mandated.
42. In the Call for Evidence this option had the largest number of respondents indicate that it would enable employment (42% compared to 21% in the next highest option, non-binding arbitration) and increase their ability to invest in the future. Most respondents

(63%) stated that this option would enable trade, as it would both build certainty and confidence, as well as resolve conflict and help to re-establish cash-flow. This option was also the most preferred by tenants, with 57% of tenant respondents stating that it was their preferred.

## 8) Costs and benefits

43. This section outlines the costs and benefits of the options examined in this Impact Assessment, including the direct costs to businesses. We attempt to quantify impacts where possible. We also consider wider costs and benefits qualitatively.
44. The analysis provided in this section is based on the best evidence available to us, this includes published data, detailed modelling, and consultations with numerous stakeholders across a range of industries. We have used monitoring data from the government of New South Wales, Australia after they implemented a similar policy. We have held discussions with other government bodies, such as the Insolvency Service, Government Legal Department and Ministry of Justice to inform assumptions made throughout the analysis. Evidence generated from the Call for Evidence, which had 508 respondents, is also used to inform the analysis.
45. For this Impact Assessment, a shorter appraisal period has been used to assess the benefits and costs of this policy and to estimate the Net Present Value and Equivalent Annualised Net Direct Cost to Business (EANDCB). Based on the estimated time to resolve all arbitration cases we apply a two-year appraisal period. This period is shorter than the default period of ten years. We expect all benefits and costs of the policy to materialise within the first year of the policy, except for arbitration costs given capacity constraints, as described below.
46. The key costs of all options are 1) one off familiarisation costs to parties to understand the new policy, 2) negotiations costs between landlords and tenants, and 3) the costs associated with the arbitration process. Familiarisation and negotiation costs are expected to arise as soon as the policy comes into force (Year 1). Arbitration costs depend on the scope of the policy option, which determines the number of potential arbitration cases. In Options 2 and 3a, once current measures end, cases in scope are expected to be swiftly brought to arbitration and are expected to be arbitrated in approximately seven months (unless additional time is needed for any stages).<sup>6</sup> This is so that the arbitration requirement introduced by this legislation does not place excessive pressure on businesses' time and resources and so that the commercial property sector can return to normal operation as soon as possible. In the wider scope, Option 3b, we estimate two years to resolve all arbitration cases in scope. Therefore, in Option 3b arbitration costs are spread across two years. Note that based on stakeholder intelligence and the modelled number of arbitration cases, there is a risk of insufficient arbitration capacity for all cases of disputed rent debt to pass through arbitration.
47. The primary benefits of all options are to avert insolvencies, redundancies, and court cases when the current measures come to an end in March 2022. These are expected to be avoided soon after the current measures end. Therefore, benefits would be expected to be realised within the first year of the legislation being introduced in all options.
48. The modelled number of insolvencies and redundancies that are averted because of the policy is based on HM Treasury's modelling. This is based on an accountancy-based framework that uses firm-level financial data to assess firm decision-making around usage of business support, and firms at risk of insolvency<sup>7</sup> and jobs at risk of

<sup>6</sup> See paragraphs 193-197 for background.

<sup>7</sup> These are firms with a negative cash position. There is a chance they may not fail as they could have other sources of income such as assets they could sell.

redundancy<sup>8</sup>. It works by converting illustrative macro assumptions and policy interventions to micro-outputs, in terms of insolvencies and redundancies by firm. The underlying data sample represents 100,000 firms, which is then scaled up to the whole economy based on sector and size. The model is used to look at dynamic trends instead of forecasting precisely and so the estimates presented here come with a degree of uncertainty. For more details on the HMT modelling see Annex B.

49. Like the arbitration market, we assume that courts take less than one year to resolve cases relating to deferred rent debt disputes and therefore the benefits of averting court costs are assumed to take place within the first year. There is a risk that court proceedings could take longer to resolve.
50. A summary of the costs and benefits of each option, both monetised and un-monetised, is outlined in the next section.

## Option 1 – Do-nothing

51. Under the do-nothing option, the current moratorium on evictions will come to an end in March 2022. This will mean that landlords will be able to evict their tenants for the non-payment of rent.
52. Our modelling shows that under the do-nothing option, there will be a significant number of firms at risk of insolvency and jobs at risk of redundancy. However, as our baseline, all costs and benefits are relative to this option, so impacts for this option are taken as zero. There are no additional insolvencies or redundancies caused by the do-nothing option.

### Costs of Option 1

53. In the do-nothing option, there will be firms at risk of insolvency and jobs at risk of redundancy. As discussed above, we are setting these to zero to avoid double counting in the remaining options. Doing nothing, therefore, does not create any additional costs or benefits.
54. The do-nothing option will likely put strain and pressure on the court system. From April-June 2020, a total of 77,000 claims for a specified amount of money were made in County Courts in England and Wales.<sup>9</sup> Should a large proportion of tenants and landlords attempt to settle their disputes in the court, it would represent a significant proportion of specified money claims and put some strain and pressure on courts. In Option 1 (do-nothing) we estimate there would be approximately 32,000 additional court cases in total.<sup>10</sup> This represents 42% of the 77,000 County court cases in England and Wales quoted above. This is an undesired consequence of this option.
55. In the do-nothing option we will expect costs to arise for businesses that will go to court to resolve their rent arrears. As part of going to court, these businesses will face costs associated with this, including the cost of taking the claim to court, legal fees associated with this, as well as lost working time costs due to the time that is spent on the claim as opposed to working. These baseline costs are outlined in more detail in the 'reduced cost of court proceedings' sections of Option 2 and Option 3 benefits.

### Wider costs

56. There are some wider costs associated with the do-nothing option. These wider costs are un-monetised. They include:

<sup>8</sup> Firms in the model lay off staff to cut costs. In reality, firms may reduce employee hours or cut wages. Hence, jobs at risk of redundancy may not necessarily translate into unemployment.

<sup>9</sup> <https://www.gov.uk/government/statistics/civil-justice-statistics-quarterly-april-to-june-2020/civil-justice-statistics-quarterly-april-to-june-2020#statisticians-comment>

<sup>10</sup> This estimated figure is explained in paragraph 128.

- **Reduced investment:** Insolvencies and evictions could lead to reduced investment by both landlords and tenants. Landlords could face reduced rent payments should their units remain empty, potentially leading them to invest less into these and other units. On the tenant side, insolvencies and evictions would reduce the business population and potentially lead to reduced investment. During the Call for Evidence, 56% of respondents (including both tenants and landlords) stated that this option would decrease their ability to invest in the future, primarily due to the lack of income to be able to invest with.
- **Impacts on neighbouring businesses:** There could be negative impacts that would be faced by neighbouring businesses. Should business units on high streets or shopping centres become empty, it could lead to reduced footfall in those areas. With reduced footfall in these areas, neighbouring businesses face potentially losing out on business, reducing their turnover. This would have a negative effect on HMG's strategy to regenerate high streets, as announced in July 2021.<sup>11</sup>
- **Impacts on supply chains:** Similar negative impacts would also be felt by businesses who are upstream suppliers. These are businesses whose products and services will face reduced demand if there are a wave of business insolvencies. For example, should a restaurant business become insolvent and its commercial property empty, it would no longer purchase goods such as food and drink from wholesale suppliers, or interior décor from other retailers. These effects could be compounded if insolvencies are concentrated in an area and serviced by the same supplier.

## Benefits of Option 1

57. The current measures are providing protection for tenants who are unable to pay their rents, whether due to Covid or not, and are therefore providing potential protection to some firms that are in fact unviable. By allowing these measures to come to an end, it would enable landlords to evict potentially unviable and unproductive businesses, allowing more productive firms to take their place. This could have wider positive impacts on the UK economy. It should be noted that not all firms facing evictions and insolvencies in this scenario are unproductive.

## Option 2 – Non-binding arbitration

58. Option 2 is the policy of introducing non-binding arbitration. Tenants and landlords would be encouraged to seek agreement on rent arrears based on legislated principles being introduced, and in cases where they cannot find agreement, businesses would enter arbitration. The key difference of this policy compared with Option 3 is the that it is non-binding. This means if tenants or landlords were dissatisfied with the outcomes of arbitration, they are free to seek a resolution in the courts.

59. This option partially meets the objectives of this policy in terms of avoiding business insolvencies and safeguarding against redundancies. This option would lead to an increase in agreements and negotiations on the accrued rent debt due to Covid restrictions, and, therefore, avoid some insolvencies and redundancies. However, due to the non-binding nature of the arbitration, tenants and landlords expressed views in response to the Call for Evidence about reduced effectiveness of this option. A portion of landlords and tenants could dispute the arbitration decision, leading to fewer agreements being made and an increase in costs incurred through court proceedings.

## Costs of Option 2

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<sup>11</sup> <https://www.gov.uk/government/news/government-strategy-to-regenerate-high-streets>

## Costs of negotiation

60. Option 2 will establish a set of legislated principles which tenants and landlords will be encouraged to follow while negotiating. This would encourage a proportion of tenants and landlords to enter additional negotiations, which they otherwise would not have done in the absence of this policy. We consider the costs of these negotiations, including the time needed by tenants and landlords to familiarise themselves with this new policy.
61. Costs of negotiating are modelled by estimating the time that both landlords and tenants would spend on negotiations, which represents lost working time to them. These lost working hours are multiplied by a representative hourly labour cost to estimate the opportunity cost of spending time negotiating.
62. To estimate the number of negotiations, we use modelling from HMT, which covers all firms in the UK that may have used the rent moratorium policy to defer rent, and apply adjustments to it to account for the following factors outside of the HMT modelling: 1) The policy only covers England and Wales, 2) Landlords and tenants have already achieved agreements in many cases, 3) policy Options 2, 3a and 3b only cover a sub-set of all firms with deferred rent, and 4) we expect slightly more averted insolvencies in the binding policy Options 3a and 3b compared to Option 2.
63. HMT modelling suggests that around 1,000,000 businesses may have deferred rent at some point during the duration of the rent moratorium policy (April 2020 to March 2022). We adjust this to England and Wales only using the ONS business population resulting in 910,000 firms.<sup>12</sup> A study by UKHospitality and British Property Foundation reveals that as of June 2021 almost a quarter (23%) of businesses have not yet to come to agreements with landlords on resolving the unpaid arrears.<sup>13</sup> Those with unpaid rent are therefore 23% of the 910,000, estimated to be 210,000 businesses.
64. By the time this policy comes into effect in March 2022, we expect the number of businesses with deferred rent to have significantly reduced. This is driven by 1) the overall economic recovery, which means businesses can generate turnover and start repaying their debt between the ‘reopening’ date for their particular sector and March 2022; 2) additional time to negotiate made possible by extending the eviction moratorium until March 2022; and 3) the announcement of the arbitration policy along with the negotiation principles in the updated code of practice, which creates incentives for tenants and landlords to start negotiations. Intelligence from the hospitality industry suggests that the ‘threat of arbitration’ has started to open discussions and negotiation between landlords and tenants.<sup>14</sup> Tenants and landlords would have more clarity around what the outcomes might be, through the principles, and could look to save the cost of arbitration by reaching a similar resolution voluntarily.
65. Reliable forecasts on the expected number of remaining businesses with deferred rent by March 2022 are not available. We therefore take latest ONS BICS data to estimate the increase in businesses repaying their debt from June until August 2021.<sup>15</sup> Over the reopening period from April to May 2021, 68% of UK businesses had not increased their overall debt repayment compared to normal expectations for this time of year. By June to August 2021 this figure decreased to 54%. We take the share of businesses who are still not able to repay debt as 80% (54% over 68%), and we assume that overall debt is a good proxy for rent debt. We therefore expect 80% of those businesses with unresolved rent debt in June 2021 to remain by August 2021, resulting in 165,000 businesses. To be

<sup>12</sup> ONS (2020: UK business: activity, size and location. [Link](#).

<sup>13</sup> <https://bpf.org.uk/media/press-releases/british-property-federation-government-must-lift-moratoriums-on-commercial-property-owner-rights/>

<sup>14</sup> <https://www.ft.com/content/ef6c975b-91f4-4328-8466-70b686f7309d>

<sup>15</sup> This is based on ONS BICS question “Over the last month, how did your business's debt repayments compare with normal expectations for this time of year?”.

conservative, we assume this is also the number of businesses remaining in March 2022.<sup>16 17</sup>

66. Under this Option 2, only businesses in sectors mandated to close are within scope, which includes non-essential retail, accommodation and food services, other services (including hairdressers and other personal care) and arts, entertainment, and recreation. Based on modelling results, the number of businesses with deferred rent in sectors in scope equates to 30% of all businesses with deferred rent, resulting in 50,000 businesses.
67. Of these 50,000 businesses that are in scope of this policy and have deferred rent, we expect 29% to enter additional negotiations on the rent arrears owed as a direct result of this policy.<sup>18</sup> This figure is based on the Call for Evidence, where businesses were asked what the outcome of this option would be. Responses for each option differed significantly between landlords and tenants and we, therefore, take the lower of the two values to inform our expected outcome of this option, as both parties must be prepared to negotiate. In the Call for Evidence, 51% of landlords stated that ‘negotiation on rent debts’ would be the outcome of a non-binding arbitration policy.<sup>19</sup> We compare this value to responses to letting measures expiry as a proxy for our baseline do-nothing option. There, 22% of tenants stated letting measures expire would lead to negotiations on rent arrears. Taking the difference between the non-binding Option 2 and the do-nothing option results in 29%. Taking 29% of the above 50,000 businesses we expect 14,000 businesses to enter additional negotiations because of this policy option.
68. Based on stakeholder engagement, we assume that tenants and landlords do not spend equal time away from productive work to negotiate rent arrears. The burden of proof is on tenants to show that they are not able to repay rent arrears after being impacted by closure, and that they are otherwise viable. Based on discussions with stakeholders within the impacted sectors including UKHospitality, as well as the Government Legal Department, we estimate a total of one working day<sup>20</sup> (seven hours) to be dedicated to voluntary negotiation. Based on these conversations, we also assume that tenants would spend almost double the amount of time away from work as part of these negotiations than landlords. This results in 4.5 hours of negotiating time for tenants and 2.5 hours for landlords. We model related costs in a central, high (+50% time needed), and low (50% less time needed) scenario to reflect this uncertainty.
69. The lost time wages are estimated from ONS Annual Survey of Hours and Earnings (ASHE, 2020) data.<sup>21</sup> We assume that the type of worker negotiating would be a manager or senior official within the sector.<sup>22</sup> The wages across the sectors in scope of this policy are weighted by the share that each sector makes up of firms with deferred rent. Wages are also adjusted for a non-wage cost uplift.<sup>23</sup> For tenants, the average hourly labour cost across the sectors in scope is estimated to be £16.90, while for landlords the hourly wage is £21.60.<sup>24</sup>
70. The table below outlines the additional costs of negotiating rent arrears that are incurred because of the non-binding arbitration policy. All costs are adjusted upward by 10% to

<sup>16</sup> This is likely an upper bound, given the logic laid out in the previous paragraph 64.

<sup>17</sup> Note that for simplification we assume the share of businesses with deferred rent to be proportionate to the pound value of remaining deferred rent.

<sup>18</sup> See section 3.5 here: <https://www.gov.uk/government/consultations/commercial-rents-and-covid-19-call-for-evidence/outcome/call-for-evidence-on-commercial-rents-responses-and-analysis> .

<sup>19</sup> This is compared to 59% of tenants who thought this option would lead to negotiations on rent arrears owed.

<sup>20</sup> We define a working day as seven hours, based on the average number of hours worked per week (35) – ONS.

<sup>21</sup> ONS Annual Survey for Hours and Earnings (ASHE), 2020:

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2020>

<sup>22</sup> See Annex C for a table summarising the type of workers that are spending time as part of negotiations for each sector.

<sup>23</sup> Non-wage costs are estimated to be 18% of overall hourly labour costs. Source: Eurostat (2021) Hourly Labour Costs.

<sup>24</sup> Landlords are represented by SOC code 1251: Property, housing and Estate Managers.



reflect uncertainty and optimism bias. The cost of time spent negotiating in the central scenario is £2.0m.

| Scenario   | Central      | Low   | High  |
|--|--------------|-------|-------|
| Number of negotiations   | 14,000       |       |       |
| Number of hours spent negotiating                                | 7            | 3.75  | 10.5  |
| Cost of one negotiation  | £130         | £65   | £195  |
| Total costs of time spent negotiating (not adjusted)             | £1.9m        | £0.9m | £2.8m |
| Total costs of time spent negotiating (adjusted for uncertainty) | <b>£2.0m</b> | £1.0m | £3.0m |

### Costs of arbitration

71. This option requires firms to seek arbitration if no agreements have been made on the outstanding rent debt. Tenants and landlords will be required to pay for the costs associated with arbitration. In addition to that, like the negotiation costs above, parties will forego working time to conduct arbitration, which represents an additional cost to them.

### **Number of cases going to arbitration**

72. We estimate the number of cases entering arbitration based on the experience in New South Wales and Queensland, Australia. There the government introduced a similar policy, where businesses were required to seek mediation to resolve rent disputes before going to court. In New South Wales, as of June 2021, roughly 3,000 cases were brought to mediation out of a total business population of 805,000.<sup>25</sup> This is 0.37% of all businesses entering mediation. In Queensland, as of August 2021, roughly 860 mediation cases were brought forward out of a business population of 458,000, resulting in a share of 0.19%.

73. Restrictions in England and Wales lasted longer than they did in Australia. In New South Wales restaurants were required to close for 52 days, with restrictions covering a total of 100 days, and nightclubs for example were closed for 70 days.<sup>26</sup> By comparison, restrictions lasted longer in England.<sup>27</sup> Nightclubs were closed from 23 March 2020 until 19 July 2021 (438 days), pubs faced restrictions for over 226 days, retail for 207 days and theatres for 365 days.<sup>28</sup>

74. The Covid-19 Stringency Index, developed by University of Oxford (2020), is a composite measure that produces a value between 0 to 100 (where 100 is strictest) to compare restrictions across countries.<sup>29</sup> From 1 January 2020 to 13 August 2021, the average score for Australia was 56, compared to 61 for the UK, indicating that UK restrictions were stricter during the pandemic overall.<sup>30</sup>

<sup>25</sup> Australian Bureau of Statistics (2021): <https://www.abs.gov.au/statistics/economy/business-indicators/counts-australian-businesses-including-entries-and-exits/latest-release#interactive-map>

<sup>26</sup> NSW State government, Health department, [www.health.nsw.gov.au](http://www.health.nsw.gov.au)

<sup>27</sup> We use observed lockdown times in England to illustrate covid restrictions for England and Wales.

<sup>28</sup> Note that this does not include localised restrictions in England. Source: <https://www.instituteforgovernment.org.uk/charts/uk-government-coronavirus-lockdowns>

<sup>29</sup> The measure is based on nine response indicators including school closures, workplace closures, travel bans, restrictions on gatherings, public transport closures.

<sup>30</sup> Oxford COVID-19 Government Response Tracker, Blavatnik School of Government, University of Oxford.

Link: <https://ourworldindata.org/grapher/covid-stringency-index>

75. The economy of the UK was also more severely impacted by Covid-19 than Australia. Data from the World Bank indicates that the UK economy shrank by 9.8% in 2020, compared with just 0.3% for Australia.<sup>31</sup>
76. Due to the length of restrictions and economic impact in England and Wales compared to Australia, we assume that a greater share of firms would have accrued rent debt. These same firms would also have been open for a shorter period, and so would have been unable to earn as much revenue to service their accrued debt. The number of businesses that may seek arbitration would therefore most likely be above the upper estimate from New South Wales at 0.37%. To account for this and to illustrate a range, we estimate the central scenario to be three times the number of cases (1.12% of businesses), and a 'high' scenario where five times the number of cases seek arbitration (1.86% of businesses).
77. Applying this share to the total business population of England and Wales of 2,500,000, and assuming that figures are comparable for mediation and non-binding arbitration, the number of businesses that could potentially seek arbitration would be around 28,000 (range of 19,000 to 47,000 cases).
78. The policy in Australia encompasses a different, but generally broader scope of firms, where all firms with deferred rent debt are included. For Option 2 here, only firms mandated to close are covered under this policy, and so the estimate of 28,000 firms is likely to be an overestimate. This figure is therefore revised downwards based on the share that firms in scope make up of all those that have deferred rent, which is 30%.<sup>32</sup> We therefore expect approximately 8,200 cases going to arbitration in the central scenario.

### **Cost of appointing an arbitrator**

79. The average cost of arbitration is uncertain. Based on stakeholder engagement with firms in the legal industry, as well as the GLD the costs can range from under £1,000 for fast and highly controlled arbitration to up to £3,000-£10,000 for longer, more complex arbitration cases. The Chartered Institute of Arbitrators have stated that the cost of appointing an arbitrator averages around £1,500, which is the figure used as the central scenario for this appraisal. Arbitration in this option will be highly controlled, with a very specific issue that is being discussed (the inability to pay rent debt). The legislated principles also ensure that the case is more akin to a fast and highly controlled arbitration as opposed to more complex. We therefore use £1,500 as the central estimate.

### **Lost working time costs**

80. Arbitration also entails an additional cost to businesses in the time that they are required to spend on arbitration instead of working. The time spent on arbitration is made up of two separate categories: 1) the time spent as part of the arbitration hearing itself and 2) the time spent outside of the arbitration case in preparing documents, arguments and financial information.
81. Based on discussions with stakeholders in the legal sector, the GLD, and based on the experience of the similar mediation policy in Australia, the length of the arbitration hearing is estimated to be just over half a working day (four hours). Due to uncertainty, a high estimate for the length of the hearing is also taken, at one working day (seven hours), and a low estimate of just under half a working day (three hours). The time taken outside of the hearing is estimated to be short, as the arbitration is highly controlled, only requiring the preparation of financial documentation. This is estimated to take tenants around two hours in the central scenario, one hour in the low and three hours in the high.<sup>33</sup> As with the cost of negotiation, this cost falls more heavily on tenants, who are

<sup>31</sup> World Bank (2021) Link: <https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=AU>

<sup>32</sup> Based on HMT Modelling.

<sup>33</sup> These assumptions are based on feedback from the Australia experience (for one hour) and discussions with the Government Legal Department who, from experience, estimate it to be 2-3 hours.

required to prove that they are unable to pay their rent debt. Based on discussions with the legal sector, in comparing resources required for a defendant compared to a claimant, we assume the landlord will spend half as long on preparation outside of the arbitration hearing, compared to the tenant.

82. The total time spent on arbitration is therefore assumed to be eleven hours in the central scenario (six hours for tenants, five hours for landlords), eight and a half hours in the low (four and a half hours for tenants, four hours for landlords), and eighteen and a half hours in the high scenario (ten hours for tenants, eight and a half hours for landlords).

### Legal representation

83. We assume that both parties will have legal representation at arbitration, the costs of which are calculated on an hourly basis. The hourly cost of hiring legal representation can vary significantly, from around £111 for a junior solicitor to £230 for an experienced solicitor, up to as much as £395 for a partner at a firm.<sup>34</sup> Here, the lower bound of this hourly rate is assumed (£111). The arbitration cases are expected to only require basic legal representation, as it is based on a rent dispute. This also accounts for the fact that some parties may not seek legal representation at all (where costs would be £0), and others which may seek expert legal advice (hourly costs would be towards the upper bound).<sup>35</sup>
84. While we assume that both parties have legal representation during this process, we would expect arbitration to be a primarily document-based process, where tenants provide financial documents to evidence them being unable to afford rent payments. Legal representation is therefore expected to not be a deciding factor in the outcomes. This will help to mitigate against the risk of any asymmetry in legal representation and the impacts it could have on the arbitration decision.

### Total cost of arbitration

85. Finally, in line with all other cost and benefit items in this impact assessment, we add 10% adjustment for uncertainty and optimism bias. The total cost associated with arbitration is therefore estimated to be £26.6m in the central scenario. The table below outlines the costs associated with arbitration in different scenarios.

| Scenario   | Central       |        |        | High   |        |        |
|--|---------------|--------|--------|--------|--------|--------|
| Number of cases going to arbitration                               | 8,200         |        |        | 13,700 |        |        |
| Direct cost of arbitration   | £12.4m        |        |        | £20.6m |        |        |
| Total hours spent on arbitration                                   | 11            | 8.5    | 18.5   | 11     | 8.5    | 18.5   |
| Cost of lost working time from arbitration                         | £1.7m         | £1.3m  | £2.9m  | £2.9m  | £2.2m  | £4.8m  |
| Legal costs  | £10.1m        | £7.8m  | £16.9m | £16.8m | £13.0m | £28.2m |
| Total cost of arbitration  | £24.2m        | £21.5m | £32.2m | £40.3m | £35.8m | £53.7m |
| Total cost of arbitration (adjusted for uncertainty) <sup>36</sup> | <b>£26.6m</b> | £23.6m | £35.4m | £44.3m | £39.4m | £59.0m |

### One-off Familiarisation Costs

#### Businesses

86. For businesses in scope of this policy, we assume that an average of one hour is required for familiarisation, with a manager responsible for this. This time will include: building understanding of the principles that guide negotiation, awareness of the

<sup>34</sup> Hourly costs are taken from various sources, including Laker Legal and MBM Commercial, who provided figures on average costs.

<sup>35</sup> There is no evidence to suggest what share of parties will seek no legal representation, and those that would seek those with more experience.

<sup>36</sup> Note: Figures may not add up due to rounding. Arbitration costs are estimated at £1,500 per case.

arbitration backstop, and understanding what the outcomes could potentially be. Details of the legislated principles are being published on gov.uk, and businesses may find out about details of the policy through third party channels, such as industry bodies or the news. We assume that this will be required by both landlords and tenants, as both will be expected to negotiate based on the new principles, and both will be required to understand the arbitration process should it be required.

87. For tenant business, time has been valued using data from the Annual Survey of Hours and Earnings (ASHE), which provides the average wage for a manager in each sector in scope. A weighted average of the wage rate is calculated using the share that each sector makes up of deferred rent. This figure is then updated to account for non-wage costs, giving an hourly labour cost of £16.90. For landlords, the hourly labour cost has been estimated to be £21.60.

88. As outlined above, the number of firms with deferred rent debt in March 2022 is estimated to be 50,000. Landlords often own multiple properties which they lease out to multiple tenants. The number of landlords that will be required to read the guidance is therefore likely smaller than 50,000. The Call for Evidence gathered data from respondents on the number of premises that are leased by direct investors & landlords to commercial tenants and gave an average of 40.<sup>37</sup> To account for any landlords that own a single premise, two scenarios are modelled. One where there are 50,000 landlords (equal to the number of businesses with deferred rent) and one where 1,200 landlords (each landlord accounts for 40 tenant businesses). To be conservative in estimating familiarisation costs, we use the high number of landlords going forward.

89. Applying these hourly labour costs to our assumed familiarisation times, and using figures for the number of firms in scope with unresolved rent debt in March 2022, we estimate total familiarisation costs to be £1.9m. We adjust this upwards by 10% to account for uncertainty and optimism bias to arrive at £2.1m in the central case. The below table outlines these costs, including the range of the costs value:

| Scenario (number of landlords)                                   | Low    |       |       | High   |              |       |
|--|--------|-------|-------|--------|--------------|-------|
| Number of firms with deferred rent debt in March 2022            | 50,000 |       |       |        |              |       |
| Number of landlords of firms with deferred rent                  | 1,200  |       |       | 50,000 |              |       |
| Hours spent familiarising  | 0.5    | 1     | 1.5   | 0.5    | 1            | 1.5   |
| Total one-off cost of familiarisation                            | £0.4m  | £0.8m | £1.3m | £0.9m  | £1.9m        | £2.8m |
| Total one-off cost of familiarisation (adjusted for uncertainty) | £0.5m  | £0.9m | £1.4m | £1.0m  | <b>£2.1m</b> | £3.1m |

### Arbitrators

90. In all options, arbitrators will also be required to familiarise themselves with the details of the legislation, as they will be required to scrutinise the cases made by landlords and tenants and decide based on the legislated principles. Arbitrators will be required to have a high technical understanding of the legislation, and we therefore assume that arbitrators will spend twice as long as landlords and tenants in familiarising themselves with the legislation. The length of time is estimated to be two hours (one hour in the low scenario and three hours in the high).

91. Based on discussions with the Chartered Institute of Arbitrators and the Centre for Effective Dispute Resolution, we estimate that there are 1,200 arbitrators in England that are sufficiently skilled to undertake the complexity of these arbitration cases. As we cannot observe the number of arbitrators in Wales, we assume these are proportionate

<sup>37</sup> The number of premises leased by direct investors & landlords ranged from 1 – 6,322 in the Call For Evidence data.

to the number of legal services businesses between Wales and England.<sup>38</sup> We apply this proportion to the estimated number of arbitrators in England to arrive at 36 arbitrators in Wales, or 1,236 in total for England and Wales. This is the number of arbitrators who will be required to familiarise themselves with the legislation in detail.

92. Time for arbitrators has been estimated using data from the Annual Survey of Hours and Earnings (ASHE), which suggests the average wage of a 'Legal Professional' will be £25.50 per hour.<sup>39</sup> We have updated this to include non-wage labour costs, providing an estimate of £31.10 as the hourly labour cost.
93. Applying these hourly costs to the assumed familiarisation times and to the estimated 1,236 arbitrators and uplifting the costs by 10% for uncertainty, we estimate that arbitrator familiarisation costs to be £85,000 (£42,000 in the low scenario and £127,000 in the high).

### Wider costs

94. There are wider costs associated with the non-binding arbitration option, these have no direct impact on businesses, and are therefore un-monetised. They include:
- **Forgone rent payments:** The outcomes of the arbitration are highly uncertain. Arbitrators could make a judgement that a portion of rent debt should be waived, or that repayments should be spread over a longer period. Should a portion of rent debt be waived, landlords would lose a portion of their expected deferred income. This figure is a net transfer between landlords and tenants. Landlords will face this as a cost as they will have reduced income through the rent payments. Tenants on the other hand will have a portion of their rent debt waived, which is a direct benefit to them. Forgone rent payments for landlords therefore have no net impact on businesses and are not included in any EANDCB calculations.
  - **Reduced investment:** As explained above there is a possibility that landlords will lose out on a portion of their revenue if it is waived or deferred as part of negotiations or arbitration. This could deter commercial property landlords from future investment in the UK.
  - **Preventing more productive firms from moving in:** This policy would support businesses to come to agreements on their deferred rent debt. This could potentially help less productive firms and prevent more productive ones from being able to move in. However, this cost is mitigated by the smaller scope of businesses being included in scope of this policy. Businesses who were mandated to close faced a large impact on their income and ability to pay their rent through no fault of their own. We therefore assume most of these businesses would otherwise be viable.

## Benefits of Option 2

### Insolvencies averted

95. The non-binding option will have the benefit of encouraging agreements to be made between landlords and tenants on their rent debt, and to subsequently reduce the number of jobs at risk of insolvency.
96. To estimate the number of firms at risk of insolvency under the different policy options, we use modelling from HMT, which covers all firms with deferred rent in the UK, and apply adjustments to it to account for the following factors outside of the HMT modelling. These adjustments are identical to those described above in paragraphs 60 to 70 covering the number of firms with deferred rent. 1) The policy only covers England and Wales, 2) Landlords and tenants have already achieved agreements in many cases, 3)

<sup>38</sup> ONS Business numbers (2020).

<sup>39</sup> Legal Professional is SOC code 241, we assume that a working week is 35hrs (based on ONS estimates)

policy options 2, 3a and 3b only cover a sub-set of all firms with deferred rent, and 4) we expect slightly more averted insolvencies in the binding policy Options 3a and 3b, compared to Option 2.

97. HMT modelling estimates that if all deferred rent payments are spread over 24 months compared to a scenario where all deferred rent is paid in one bullet payment, there would be 4,000 fewer firms at risk of insolvency in the UK.
98. First, we adjust this figure based on the number of businesses to cover England and Wales only, which is 91% of the UK total, resulting in 3,600 businesses.
99. Second, this figure does not account for any agreements made between landlords and tenants to date and additional potential agreements from now until March 2022. We thereby take 23% of firms with remaining rent debt as reported by BPF in June 2021 and then an additional 80% based on the share of firms that increased debt repayments from June to August 2021.<sup>40</sup> As above due to the lack of available forecasts, we use this August 2021 figure as a conservative estimate for March 2022. We thereby estimate 660 firms at risk of insolvency for March 2022.
100. Third, the modelling considers a wider scope of firms to the scope of this non-binding policy option. The narrower scope of firms under this Option 2 is approximately 30% of the wider scope considered in the HMT modelling. The number of insolvencies averted are therefore adjusted downwards to account for this, taking the number of insolvencies averted to approximately 200.
101. It is important to note that this figure for the smaller number of firms at risk of insolvency could be an underestimate. While the proportion of firms with deferred rent in scope is approximately a third, those firms are expected to be in a worse position financially compared with the wider scope of firms. Data from ONS BICS suggests that businesses in the narrower scope have lower cash reserves than the average. As of 22 August 2021, 56% of 'Other services' and 38% of 'Accommodation & Food Services' firms<sup>41</sup> had less than 3 months of cash reserves remaining, compared with 37% for all businesses. Collection rates for rent in these sectors also continue to be behind that of others. In the leisure sector, 59.1% of rent was collected 35 days after the June 25<sup>th</sup> payment date for rent due that quarter. Within leisure, 45.4% of rent owed by pubs, bars & restaurants was paid within 35 days and 74.3% of rent owed by hotels. The rent collection rate at this period for Retail was 74.8%, including High Street (65.4%) and Shopping Centres (73.5%). These figures compare with 91.2% collection rate for Offices, and 89.5% for Industrial. Therefore, a higher proportion of businesses in scope at risk of insolvency and jobs at risk of redundancy are likely to be safeguarded in this option.
102. Finally, we estimate that fewer agreements on rent debt would be made in this non-binding option compared to a binding arbitration option (3a and 3b), due to weaker incentives for both sides if the outcome is not legally binding. We estimate that 92% of the insolvencies averted would be achieved in the non-binding scenario (see paragraph 66). Based on these fewer agreements, we expect the number of insolvencies to be averted to be 180. Given uncertainty we provide a separate low estimate with 25% fewer firms at risk of insolvency (130) and a high estimate with 25% more (220).
103. Insolvency proceedings represent a direct cost to businesses. Based on sector intelligence, company insolvency costs range from £4,200 to £6,000, where we assume the mid-point at £5,100. Averting these costs means businesses will benefit from this policy. We adjust all figures downward by 10% to account for uncertainty and optimism bias. We therefore estimate the benefit of averting insolvencies in this option is at £0.8m in the central case. The table below outlines these averted costs in the central, low and high scenarios.

<sup>40</sup> Based on British Property Federation (BPF) study ([link](#)), and ONS BICS (2021).

<sup>41</sup> Excluding those that had permanently stopped trading.

| Scenario  | Central      | Low   | High  |
|---|--------------|-------|-------|
| Number of insolvencies averted                      | 180          | 135   | 225   |
| Insolvency costs averted                            | £0.9m        | £0.7m | £1.1m |
| Insolvency costs averted (adjusted for uncertainty) | <b>£0.8m</b> | £0.6m | £1.0m |

104. Note that the modelling only covers the insolvencies averted for tenants, not landlords. There is a risk that landlords will lose out on a proportion of their owed rent, which in some cases could lead to insolvencies. The figure for averted insolvencies could therefore be higher if any landlord businesses become insolvent. However, this risk is likely small, as, if tenants become insolvent, landlords will lose out on an even greater amount of rent.

### Redundancies averted

105. This option will also have the benefit of protecting jobs at risk of redundancy, which are in part a result of averting businesses from going insolvent.

106. We estimate the number of jobs at risk of redundancy analogously to the above approach on firms at risk of insolvency, by combining HMT modelling with adjustments. HMT modelling estimates that if all deferred rent payments are spread over 24 months compared to a scenario where all deferred rent is paid in one bullet payment, there would be 34,000 fewer jobs at risk of redundancy in the UK. As above we adjust this to England and Wales only (taking 91%), accounting for existing and future negotiations (23%), accounting for the smaller scope of firms (30%), and accounting for the non-binding option leading to fewer negotiations (92%). We then arrive at 1,500 protected jobs in the central case, 1,100 (-25%) in the low case and 1,900 (+25%) in the high case.

107. Workers who are made redundant by businesses are entitled to statutory redundancy payment, should the worker have two years' continuous service. Workers are entitled to the following redundancy payment:<sup>42</sup>

- 1.5 weeks' pay for each full year of employment after their 41<sup>st</sup> birthday
- 1 weeks' pay for each full year of employment after their 22<sup>nd</sup> birthday
- Half a week's pay for each full year of employment up to their 22<sup>nd</sup> birthday

108. By preventing these redundancies, businesses would have the benefit of not needing to make these redundancy payments (either directly, or rather than paying their creditors in the case that they became insolvent). Using ONS ASHE data<sup>43</sup> on the average (median) wage in the sectors in scope of this policy (Retail, Hospitality, Other Services and Arts, Entertainment & Recreation), and the shares that they make up of firms with rent debt, we arrive at an estimate of £271 for the average weekly pay in the sectors in scope.

109. Using data from the ONS Annual Population Survey<sup>44</sup> on the age distribution of workers within the impacted sectors, we then estimate the share of the workers that fall into the age bands for redundancy payments above. We assume that the averted redundancies in each sector follow the same distribution as the age of workers in these sectors.

<sup>42</sup> <https://www.gov.uk/redundancy-your-rights/redundancy-pay>

<sup>43</sup> Annual Survey of Hours and Earnings (ASHE), values for 2020.

<sup>44</sup> ONS Annual Population Survey (APS), values for 2019.



110. Data from the OECD on average tenure by age is then used to derive an estimate for two items.<sup>45</sup> The first is the share of workers per age band that do not have more than two years of continuous service and are therefore ineligible for redundancy payments. For those under 22 years, 67% are not eligible, falling to 36% for 22-40 years and to 16% for over 41 years. These shares of workers are excluded from the benefits.
111. Second, the OECD data is used to derive the average length of tenure<sup>46</sup> for each age group. For these averages, we only consider workers with tenure of at least 2 years, as they otherwise would not qualify for statutory redundancy pay. These are estimated as 4.37 years for under 22, 7.65 years for 22-40 and 16.29 years for those over 41.
112. It should be noted that these figures for average tenure are based on economy-wide averages. The redundancies avoided are in sectors that tend to have a high turnover of workers and therefore lower tenure on average. ONS Annual Population Survey data shows that the UK average turnover rate across all sectors was 34%, this compares to a figure of 50% for Accommodation and Food Services, 42% for Other Services and 40% for Arts, Entertainment & Recreation.<sup>47</sup> The figures for job tenure are likely to be an over-estimate and may over-estimate the averted costs.
113. Finally, based on engagement with the Insolvency Service, insolvent businesses on average pay only roughly 10% of statutory redundancy pay. The remainder is covered by the Insolvency Service. We therefore take 10% of the statutory redundancy costs to fall on businesses.<sup>48</sup>
114. From these estimates, we derive the expected redundancy payments that are averted because of this policy. Due to uncertainty on the number of years of service per worker<sup>49</sup>, we have applied a reduction in the total benefits of averted redundancy payments of 10%. The table below outlines the monetised benefit.

| Scenario   | Central Estimate | Low estimate | High  |
|--|------------------|--------------|-------|
| Number of redundancies averted   | 1,500            | 1,100        | 1,900 |
| Total avoided redundancy payments  | £4.2m            | £3.3m        | £5.4m |
| Redundancy costs paid by business  | £0.4m            | £0.3m        | £0.5m |
| Total avoided redundancy payments by businesses (adjusted for uncertainty) | <b>£0.4m</b>     | £0.3m        | £0.5m |

115. The figures above represent only statutory redundancy pay which workers are entitled to. In addition, some workers will have separate contractual redundancy payment clauses, which could entitle them to additional redundancy pay. Here, only statutory redundancy payments averted are monetised due to uncertainty and lack of evidence on clauses within private employment contracts.
116. There is an additional wider social cost associated with the wave of redundancies. We quantify the costs of this to demonstrate the impact of them, though it does not constitute a direct cost to businesses because of allowing current measures to expire in March 2022.

<sup>45</sup> OECD (2021): Employment by job tenure intervals, values for 2020.

<sup>46</sup> OECD defines job tenure as "measured by the length of time workers have been in their current or main job or with their current employer"

<sup>47</sup> ONS (2020) Annual Population Survey.

<sup>48</sup> Note that the process is structured so that employees of insolvent businesses can apply for payment of statutory redundancy pay to the Insolvency Service, which then in turn attempts to recover these funds from the insolvent business.

<sup>49</sup> The OECD data is based on average duration of work tenure in the UK. The sectors in scope of this policy may have lower average tenure per worker than the UK average.



117. As shown above, 1,500 redundancies would be avoided by this policy option in the short term. These workers would lose out on their wages for the period for which they are unemployed.
118. The time that people spend in unemployment is uncertain and will differ for each individual. Data from the ONS Annual Population Survey<sup>50</sup> finds that the largest share of individuals spend between 0-3 months in unemployment (44%) followed by 3-12 months (31%). Based on this data, for the purpose of this analysis we assume that workers will be in unemployment for 3 months and will therefore lose out on their current wage for this period.
119. We assume that in the event of being made redundant, workers would receive a form of unemployment benefit which is assumed to be equal to job seekers allowance. Based on the age profile of workers in the impacted sectors, Job Seekers Allowance payments per worker per week are estimated to be £70.45.
120. To calculate the value of lost wages for affected workers, Job Seekers Allowance payments are compared to the sector-weighted median weekly pay for workers in these sectors, £272, and the difference applied across the three months. The value of wages saved are also adjusted downwards by 10%. This is to account for the uncertainty in the number of weeks that redundant workers are out of a job for, which could be longer than the estimated three months.
121. The table below outlines the benefit of wages safeguarded by this policy.

| Scenario  | Central Estimate | Low estimate | High  |
|---|------------------|--------------|-------|
| Number of redundancies avoided  | 1,500            | 1,100        | 1,900 |
| Average wages lost out by workers (wages lost * time out of work)                   | £2,600           |              |       |
| Total value of wages that are safeguarded by this policy                            | £4.0m            | £3.0m        | £5.0m |
| Total value of wages that are safeguarded by this policy (adjusted for uncertainty) | <b>£3.6m</b>     | £2.7m        | £4.5m |

122. Note that the modelling only covers the redundancies averted for tenants, not landlords. There is a risk that landlords will lose out on a portion of their owed rent, which in some cases could lead to some staff being laid off. The figure for averted redundancies could therefore be higher if any landlord businesses become insolvent.

#### Reduced costs of court proceedings

123. By introducing the requirement for tenants and landlords to seek arbitration on disputed rent debts, Option 2 will bring in an additional step whereby fewer disputes will be required to be settled in court. This means, compared to the do-nothing scenario, this policy will lead to lower costs being faced by taking the claim to court.
124. We derive the number of court cases in this option from two steps: First, the share of cases that go to court after undergoing the non-binding arbitration, and second, cases that are out of scope in this option that will go to court. We then take the difference between the number of court cases under the baseline and Option 2 to show the number of averted court cases, representing a benefit to this option.<sup>51</sup>
125. First, due to the non-binding nature of the arbitration in Option 2, if parties are dissatisfied with the arbitration decision, they can take the case to court. Based on

<sup>50</sup>ONS (2021) Length of time spent in unemployment, Annual Population Survey 2018.

<sup>51</sup> Ideally the number of court cases should be based on the number of firms with deferred rent and that enter and fail negotiations. However, we don't have data available on the likely outcomes of these negotiations. We therefore take a separate input from the number of observed mediation cases in New South Wales and Queensland, Australia as described in the arbitration section above.

engagement with stakeholders in Queensland, Australia, there were 863 mediation requests of which 212 (25%) were unsuccessful. Of these 25%, a share will be required to settle their cases in court. Also, based on the monitoring undertaken in New South Wales, Australia, as part of their policy, around 14% of the mediations were not settled, resolved, or withdrawn in the mediation process, and so a proportion of these will go to court to settle the rent arrears. Stakeholders in New South Wales have estimated that approximately 50% of those that were unsuccessful in mediation would go to court to settle the arrears, while the remaining would settle outside of court. This equates to 7% for New South Wales, and 12.5% for Queensland.

126. We therefore assume a midpoint based on the Australian experience of 10% of firms that will look to settle their cases in court after arbitration. This 10% is applied to the 8,200 arbitration cases we would expect from this policy, as derived in the ‘costs of arbitration’ section resulting in roughly 820 firms that would go to court after entering non-binding arbitration.
127. Second, this option only requires businesses that are in scope to seek arbitration ahead of going to court. Businesses that are not required to seek arbitration would therefore still settle their dispute in the courts. To derive this estimate we first construct the baseline number of court cases in the “do nothing” option, and then determine the share of businesses out-of-scope of Option 2 which will proceed to court in this option. These are added to the firms that go through arbitration and then on to court, as detailed above. We then take the difference between do nothing and Option 2 as the court cases averted under Option 2.
128. To estimate the number of cases going to court in the do-nothing baseline we start with the expected number of arbitration cases derived from Australian precedent at 28,000 cases (see paragraph 77). To arrive at the estimate of court cases in the baseline, we then adjust this upwards by 15% due to the lack of negotiating principles in the “do nothing” option, resulting in **32,000 court cases in the baseline**.<sup>52</sup>
129. To get to the number of court cases arising from businesses being out of scope, we take the 32,000 baseline court cases and subtract the 8,200 arbitration cases in Option 2, resulting in 23,800 residual court cases in Option 2 because some go to arbitration. To this we add the 820 court cases from unsuccessful arbitration (see paragraphs above) to get to the final **number of cases going to court in Option 2 of 24,700**.
130. Next, we calculate the court costs associated with each case. First, there are direct fees associated with going to court. This includes court fees and any associated legal costs that are required for representation. Based on the average amount of unsettled rent debt per tenant (estimated to be £9,000 based on the amount of rent debt in the economy based on indicative HMT modelling and number of firms with deferred rent debt), and the fee to make a court claim for money (5% of the money disputed<sup>53</sup>), the court fees are therefore estimated to be £450 per court case.
131. We assume that both parties will have to pay fees for any legal support required in court during the claim process, the costs of which are calculated on an hourly basis. The hourly costs of hiring legal representation can vary substantially, from roughly £111 for a junior solicitor to £235 for an associate to as much as £395 for a Partner at a firm.<sup>54</sup> For this section, we assume the rate of an associate at £235, higher than in the arbitration stage. This is because court proceedings likely require more scrutiny than the arbitration stage.

<sup>52</sup> This 15% adjustment is based on stakeholder engagement on the likely impacts of the updated negotiating principles.

<sup>53</sup> <https://www.gov.uk/make-court-claim-for-money/court-fees>

<sup>54</sup> Hourly costs are taken from various sources, including Laker Legal and MBM Commercial.

132. We multiply this with the 24,700 expected court cases to arrive at a total direct cost of £74.8m. In the baseline this cost is £97.3m.<sup>55</sup>
133. Finally, as in the negotiation and arbitration settings, we account for lost working time for landlords and tenants. From discussions with various legal professionals including the Government Legal Department, the time spent at the court hearing itself would take around the same time as the arbitration hearing (which is estimated into a central scenario of half a working day (3.5 hours) and a high scenario of one working day (seven hours). The time that parties spend outside of the hearing time preparing for the court case is estimated to be around three hours (four hours in the high scenario). This is a similar time to that spent in the central scenario for arbitration, although court cases can be more complex, with the potential for additional documents needed to be gathered and various additional steps needed (such as submitting additional evidence, preparing witnesses).
134. In the central scenario we therefore assume a total of 6.5 hours spent each by landlords and tenants (13 hours total), compared with 22 hours total in the high scenario. We multiply this with the representative hourly wage of both<sup>56</sup> sides as before to arrive at the opportunity cost of going to court of £260 per case in the low scenario and £445 in the high. Based on the 24,700 estimated cases above and taking the higher cost per case of £445, this results in £11.0m total opportunity cost in this option. In the baseline, this cost is £14.2m.
135. The table below outlines the value of court costs that are averted in the baseline (panel A), in Option 2 (panel B) and the difference between baseline and Option 2 (panel C). In the central scenario the estimated benefits of averted court cases are **£23.7m**.

| <u>Panel A: Baseline do-nothing</u>             | Central Scenario |          | High     |          |
|---|------------------|----------|----------|----------|
| Number of cases going to court                  | 32,100           |          | 53,500   |          |
| Costs of court proceedings                      | £450             |          | £450     |          |
| Total direct cost of court                      | £14.3m           |          | £23.8m   |          |
| Time spent in court process (landlord + tenant) | 13 hours         | 22 hours | 13 hours | 22 hours |
| Time cost per case                              | £260             | £445     | £260     | £445     |
| Total Lost time due to court proceedings        | £8.4m            | £14.2m   | £14.0m   | £23.7m   |
| Legal costs of court proceedings                | £49.0m           | £83.0m   | £81.7m   | £138.6m  |
| Total cost of court proceedings                 | £71.8m           | £111.5m  | £119.6m  | £185.9m  |
| <b>Panel B: Option 2 (non-binding)</b>          |                  |          |          |          |
|   | Central Scenario |          | High     |          |
| Number of cases going to court                  | 24,700           |          | 41,100   |          |
| Costs of court proceedings                      | £450             |          | £450     |          |
| Total direct cost of court                      | £11.0m           |          | £18.3m   |          |
| Time spent in court (landlord + tenant)         | 13 hours         | 22 hours | 13 hours | 22 hours |
| Time cost per case                              | £260             | £445     | £260     | £445     |
| Total Lost time due to court proceedings        | £6.5m            | £11.0m   | £10.8m   | £18.3m   |
| Legal costs of court proceedings                | £37.7m           | £63.8m   | £62.8m   | £106.3m  |
| Total cost of court proceedings                 | £55.2m           | £85.8m   | £92.0m   | £142.9m  |

<sup>55</sup> Note that this is not included in the costs of the 'do nothing' scenario as it is not an additional cost to businesses by doing nothing.

<sup>56</sup> Estimated at £16.90 for tenants and £21.60 for landlords.

| <u>Panel C: Benefit of Option 2 compared to baseline</u>   | Central Scenario |               | High          |            |
|--|------------------|---------------|---------------|------------|
|  | Central hours    | High hours    | Central hours | High hours |
| Total cost of court proceedings                            | £16.3m           | £25.8m        | £27.6m        | £43.0m     |
| Total cost of court proceedings (adjusted for uncertainty) | £14.9m           | <b>£23.2m</b> | £24.9m        | £38.7m     |

### Payments to creditors are safeguarded

136. Firms across the economy have built up other forms of debt to other creditors in addition to the rent arrears they have accrued because of the pandemic. By averting insolvencies, it ensures that these debts to other creditors are not defaulted on and are safeguarded.
137. The SME Finance Monitor, produced by BVA-BDRC on behalf of UK Finance with support from BEIS, provides data on the share of firms per sector that use external finance as of Q2 2021. Using these figures, and the sectoral shares of firms that deferred rent, it is estimated that 51% of firms in scope of this policy have external finance and will therefore have loan payments outstanding.
138. Data on the average value of approved overdraft facilities per sector is provided by UK Finance, a trade body representing the UK banking and finance industry. Using this data, and data on sectors with deferred rent, an average value of loans per business is estimated at £60,100.
139. Data provided from the Insolvency Service based on Companies House estimates that in the event of an insolvency 16.2% of outstanding debts would be paid to creditors. For each insolvency averted among businesses using external finance, the remaining 83.8% of loan payments, otherwise defaulted on, will now be paid. This equates to £50,800 for each insolvency averted among businesses using external finance.
140. These figures are then applied to the number of firms with external finance, providing an estimate of £4.1m of debt repayments safeguarded. Note that this figure has been adjusted downwards by 10% to reflect uncertainty. The data on average loan size is accurate as of June 2021 and may not reflect the average value of loan sizes at the time they are safeguarded. Furthermore, the average loan size may not reflect the average loan of a business in distress, or one that has deferred rent debt during the pandemic.
141. The below table outlines the benefits of safeguarded debt payments because of this policy.

| Scenario  | Central Estimate | Low estimate | High  |
|---|------------------|--------------|-------|
| Number of insolvencies averted  | 180              | 130          | 225   |
| Number of insolvencies where firms use external finance                                     | 90               | 70           | 115   |
| Average loan size that is safeguarded per business  | £50,800          |              |       |
| Total value of debt payments that are safeguarded by this policy                            | £4.6m            | £3.4m        | £5.7m |
| Total value of debt payments that are safeguarded by this policy (adjusted for uncertainty) | <b>£4.1m</b>     | £3.1m        | £5.2m |

142. It should also be noted that insolvencies provide the highest return to creditors (which is estimated at 16.2%) when compared to other forms of company closure. For

example, Creditor's Voluntary Liquidation (CVL) has a much lower return, estimated at 1.5%. For CVLs, the value of the loans safeguarded by averting insolvencies would be greater.

### Wider Benefits

143. The wider benefits described here can be thought of as avoiding wider costs described in do-nothing Option 1. See Option 1 for full details. A quick summary is given below.
144. Reduced uncertainty can provide benefits to both workers and businesses. For workers this could lead to additional consumption. For businesses, reduced uncertainty could lead to higher investment.
145. There may be indirect benefits on neighbouring and supply chain businesses through fewer business units being empty.
146. Averting insolvencies in this option will also have the wider benefit of ensuring that debts companies have built up outside of rent debt and external finance, for example with suppliers, are safeguarded and are paid to creditors in full. Businesses, and in particular SMEs, have built up significant levels of late payment debt (estimated at £23.4bn in 2019).<sup>57</sup> The reduction in business insolvencies will protect debts not only to private sector companies but also to the public sector. Considerable support has been given to businesses through the taxation system, including £34bn in VAT deferral, as well as significant debts on other taxes. This measure will help to prevent a proportion of these debts going unpaid.
147. Avoiding redundancies could also have the wider benefit of avoiding long term labour market scarring, should they face a period out of work. A recent ONS study into which groups of society find it hardest to find a job following a period out of work finds that those who are lower skilled are less likely to return to a job.<sup>58</sup> Workers in the impacted sectors tend to be lower skilled than the UK average. For example, 6% of workers in Hospitality have a qualification above A-level, as do 12% in retail.<sup>59</sup> This is compared to 38% across the UK in total. A large share of workers in these sectors are therefore at risk of labour market scarring and averting redundancies in these sectors has a wider benefit.

### **Option 3 – binding arbitration (preferred option)**

148. Our preferred option is to introduce legislated principles that landlords and tenants should use to negotiate any remaining rent debt. Should agreements not be made, landlords and tenants will seek legally binding arbitration to resolve the rent debt. This option will ensure that some agreement is made on rent debt across all businesses in scope, which is expected to safeguard against a larger number of redundancies in the short term compared to Options 2 and 1.
149. Throughout this section, the costs and benefits of Option 3a (smaller scope of businesses – preferred option) and Option 3b (wider scope of businesses) are considered in parallel.<sup>60</sup> The types of costs and benefits are the same, but the figures used for insolvencies averted, redundancies averted, hourly wages and negotiation times in the assessment are different for each. Where this is the case, all differences in figures used and justifications for them are explained.

<sup>57</sup> Pay UK Bacs Direct Credit: <https://www.accountancydaily.co/late-payments-costing-uk-smes-ps234bn>

<sup>58</sup> ONS (2021) [Which groups find it hardest to find a job following a period out of work?](#)

<sup>59</sup> ONS (2019) Annual Population Survey 2018.

<sup>60</sup> Smaller scope of firms is defined as those that were mandated to close in part or in full during the pandemic. The larger scope of firms includes all those that deferred rent debt having been impacted by the pandemic.

### Costs of Option 3

#### Costs of negotiation

150. Binding arbitration will introduce a set of legislated principles to support and encourage landlords and tenants to negotiate rent arrears. The additional negotiations that will take place because of the introduction of these principles will mean businesses spend time away from work, incurring a cost. Note this only refers to negotiations between landlords and tenants that take place before arbitration and court proceedings, which we treat separately.
151. We estimate costs of negotiations consistent with the approach described under Option 2.
152. As described in Option 2, we start with the HMT model estimate of one million firms that may have deferred rent at some point during the duration of the rent moratorium policy (April 2020 to March 2022), adjusted to England and Wales at 910,000 firms, which is in turn adjusted downward to reflect the 23% of businesses yet to come to agreements with their landlords to give 210,000. This figure is then further downward adjusted to March 2022 by assuming 80% of these firms remain, taking the figure to 165,000. In Options 2 and 3a only mandated closed firms are in scope, which represent 30% of all firms with deferred rent. This results in 50,000 firms with deferred rent in Options 2 and 3a.
153. In Option 3b, mandated and voluntarily closed businesses are in scope, which we estimate to be 68% of all firms with deferred rent, resulting in 110,000 firms. The 68% figure is based on estimates using ONS businesses numbers and BICS on the number of mandated and voluntarily closed firms. The derived proportion is then applied to the HMT modelling for firms with deferred rent. This relies on the assumption that the number of mandated and voluntarily closed firms with and without deferred rent is proportionate.<sup>61</sup>
154. The number of additional firms that would enter further negotiations in line with the legislated principles is based on the Call for Evidence, where 54% of respondents suggested Option 6 it would lead to negotiation on rent debt, compared to 22% in doing nothing. The number of additional negotiations that are a direct result of this policy is therefore estimated as 32% of the firms (54% minus 22%) that have deferred rent debt in scope of each policy. This results in 15,500 firms in Option 3a and 36,000 firms in Option 3b.
155. Tenants and landlords will likely not spend equal time away from working to negotiate rent arrears. The burden of proof is on tenants to prove that they are not able to repay rent arrears after being impacted by closure, and that they are otherwise viable. As described in Option 2 and based on sector intelligence, we assume that tenants would spend around twice the amount of time away from work as part of these negotiations than landlords.
156. There is still a degree of uncertainty in the length of time that businesses would spend trying to come to an agreement as opposed to working. Intelligence from stakeholders including UKHospitality state that negotiations have taken around 1 working day. For each option, a total of one working day<sup>62</sup> (seven hours in total) would be dedicated to voluntary negotiation.

<sup>61</sup> Estimates based on ONS business numbers suggest that, regardless of whether firms have deferred rent or not, 350,000 firms were mandated to close over the Covid-19 period. Based on ONS BICS data, an additional 450,000 were closed for other reasons. The proportion of the latter over the former is 1.29, which we apply to the HMT modelled estimate of mandated closed firms with deferred rent (300,000, or 30% of the total of 1 million firms with deferred rent). This results in an estimate of 380,000 firms with deferred rent that closed for other reasons or voluntarily. Combining mandated closed (300,000) and voluntarily closed (380,000) firms gives 680,000 firms, which is 68% of the original HMT modelling of 1 million firms with deferred rent.

<sup>62</sup> We define a working day as seven hours, based on the average number of hours worked per week (35) – ONS.



157. While there are additional hours that would be spent should firms not come to an agreement and enter arbitration, the costs of lost working time here are associated with voluntary negotiations only. These figures are modelled in a low and a high scenario, which is detailed in the table below.

| Option   | Option 3a (Small scope) |        |        | Option 3b (Large scope) |        |        |
|--|-------------------------|--------|--------|-------------------------|--------|--------|
| Scenario   | Central Estimate        | Low    | High   | Central Estimate        | Low    | High   |
| Number of negotiations   | 15,500                  | 15,500 | 15,500 | 36,000                  | 36,000 | 36,000 |
| Number of hours spent  | 7                       | 3.5    | 10.5   | 7                       | 3.5    | 10.5   |
| Cost of one negotiation  | £130                    | £65    | £195   | £140                    | £70    | £205   |
| Total lost working time costs  | £2.0m                   | £0.9m  | £3.0m  | £4.9m                   | £2.4m  | £7.4m  |
| Total lost working time costs (adjusted for uncertainty) <sup>63</sup> | <b>£2.2m</b>            | £1.1m  | £3.3m  | <b>£5.4m</b>            | £2.7m  | £8.1m  |

### Cost of arbitration

158. This option brings in the requirement for firms to seek binding arbitration if no agreements have been made on the outstanding rent debt. Tenants and landlords will be required to pay for the arbitration, incurring a direct cost. In addition, businesses will be required to spend time as part of the arbitration (meetings, preparing financial documents) that could otherwise be spent working, representing the opportunity cost of entering arbitration.

### **Number of cases going to arbitration**

159. The costs to business through legislating for this requirement are calculated similarly to those outlined under Option 2. Based on stakeholder intelligence and the Call for Evidence, we expect that slightly fewer firms are required to enter arbitration in the binding option when compared to the non-binding. The binding nature, where the outcome is final and cannot be brought to court, could discourage businesses from going to arbitration, as they would have more control over the settlement outcome in private negotiations than in arbitration proceedings. More claims therefore would be agreed upon outside of arbitration. The number of cases we would expect to go to arbitration in Option 3a would be 8% lower than in Option 2, resulting in approximately 7,500 claims.<sup>64</sup>

160. There are more businesses in scope of the policy in Option 3b, and it would require more businesses to seek arbitration before going to court. The figure above is therefore scaled in line with the total number of firms with deferred rent that were either mandated to close or chose to close for other reasons, producing an estimate at 17,500 under Option 3b.

### **Lost working time costs**

161. The lost working time as part of arbitration is estimated in three different scenarios to reflect the uncertainty in how long would be spent. The burden of proof is on the tenant to prove that they are unable to pay their rent debt due to Covid-19 impacts but are otherwise viable. Based on this and in line with the remainder of our analysis, we

<sup>63</sup> Note: Figures may not add up due to rounding.

<sup>64</sup> The 8% reduction is based on Call for Evidence responses. We use the reported additional negotiations in Option 2 compared to do-nothing (29%) and in Option 3a to do-nothing (32%) and take the ratio of Option 2 over Option 3a, which is equal to 92%. The 8% reduction in arbitration cases from Option 2 to Option 3a here is then 1 minus 92%.

estimate that tenants will spend twice the number of hours preparing for arbitration that landlords do.

### Legal representation

162. In line with Option 2, legal costs are determined at an hourly basis. Legal costs are estimated to be £9.2m in Option 3a and £21.1m in Option 3b.

### Total cost of arbitration

163. The total cost of arbitration after adjustment is £24.4m in Option 3a and £56.0m in 3b. We add 10% due to uncertainty and optimism bias. Due to uncertainty in the number of businesses that may enter arbitration a high estimate (taking a five-fold increase of the mediation numbers observed in Australia, as outlined in paragraph 77) is also included. The table below outlines the cost of arbitration in these options.

| Option   | Option 3a (Small scope) |        |        |        |        |        |
|--|-------------------------|--------|--------|--------|--------|--------|
| Scenario   | Central Estimate        |        |        | High   |        |        |
| Number of cases going to arbitration                               | 7,500                   |        |        | 12,500 |        |        |
| Direct cost of arbitration   | £11.3m                  |        |        | £18.9m |        |        |
| Total Hours spent on arbitration                                   | 11                      | 8.5    | 18.5   | 11     | 8.5    | 18.5   |
| Cost of lost working time from arbitration                         | £1.6m                   | £1.2m  | £2.7m  | £2.6m  | £2.0m  | £4.4m  |
| Legal cost   | £9.2m                   | £7.1m  | £15.5m | £15.4m | £11.9m | £25.9m |
| Total cost of arbitration (adjusted for uncertainty) <sup>65</sup> | <b>£24.4m</b>           | £21.7m | £32.5m | £40.6m | £36.1m | £54.1m |

| Option   | Option 3b (Large scope) |        |        |        |        |         |
|--|-------------------------|--------|--------|--------|--------|---------|
| Scenario   | Central                 |        |        | High   |        |         |
| Number of cases going to arbitration                               | 17,500                  |        |        | 29,000 |        |         |
| Direct cost of arbitration   | £26.0m                  |        |        | £43.3m |        |         |
| Total Hours spent on arbitration                                   | 11                      | 8.5    | 18.5   | 11     | 8.5    | 18.5    |
| Cost of lost working time from arbitration                         | £3.8m                   | £3.0m  | £6.4m  | £6.4m  | £4.9m  | £10.7m  |
| Legal cost   | £21.1m                  | £16.3m | £35.6m | £35.2m | £27.2m | £59.3m  |
| Total cost of arbitration (adjusted for uncertainty) <sup>66</sup> | <b>£56.0m</b>           | £49.8m | £74.8m | £93.4m | £83.0m | £124.6m |

### One-off Familiarisation Costs

#### Businesses

164. As outlined in Option 2, businesses in scope of this policy will be required to spend time familiarising themselves with the legislation, including the legislated principles and binding arbitration process. This one-off familiarisation is assumed to be required by both tenants and landlords, and we assume that they spend an estimated one hour. Two scenarios for the number of affected landlords are considered, as in paragraphs 86-89.

165. Using data from the Annual Survey of Hours and Earnings (ASHE) for wages, and adjusting them for non-wage costs, we estimate that the hourly labour cost of tenants is £16.90 for the small scope. For the larger scope, the hourly labour cost is slightly higher,

<sup>65</sup> Note: Figures may not add up due to rounding. Arbitration costs are estimated at £1,500 per case.

<sup>66</sup> Note: Figures may not add up due to rounding. Arbitration costs are estimated at £1,500 per case.



at £18.80, due to the higher median wages for managers in the sectors in scope. For landlords, the hourly labour cost is estimated to be £21.90.

166. Applying these hourly labour costs to assumed familiarisation times, and using figures for the number of firms in scope of each policy with unresolved rent debt in March 2022, we estimate total familiarisation costs to be £2.1m in Option 3a and £5.0m in Option 3b.

167. The table below outlines these costs (including a range based on the number of landlords and the number of hours spent familiarising) in more detail:

| Option   | Option 3a (small scope) |              |       |        |              |       |
|--|-------------------------|--------------|-------|--------|--------------|-------|
| Scenario (number of landlords)                                   | Low                     |              |       | High   |              |       |
| Number of firms with deferred rent debt in March 2022            | 50,000                  |              |       |        |              |       |
| Number of landlords of firms with deferred rent                  | 1,200                   |              |       | 50,000 |              |       |
| Hours spent familiarising  | 0.5                     | 1            | 1.5   | 0.5    | 1            | 1.5   |
| Total one-off cost of familiarisation                            | £0.4m                   | £0.8m        | £1.3m | £0.9m  | £1.9m        | £2.8m |
| Total one-off cost of familiarisation (adjusted for uncertainty) | £0.5m                   | <b>£0.9m</b> | £1.4m | £1.0m  | <b>£2.1m</b> | £3.1m |

| Option   | Option 3b (large scope) |              |       |         |              |       |
|--|-------------------------|--------------|-------|---------|--------------|-------|
| Scenario (number of landlords)                                   | Low                     |              |       | High    |              |       |
| Number of firms with deferred rent debt in March 2022            | 110,000                 |              |       |         |              |       |
| Number of landlords of firms with deferred rent                  | 2,800                   |              |       | 110,000 |              |       |
| Hours spent familiarising  | 0.5                     | 1            | 1.5   | 0.5     | 1            | 1.5   |
| Total one-off cost of familiarisation                            | £1.1m                   | £2.2m        | £3.2m | £2.3m   | £4.5m        | £6.8m |
| Total one-off cost of familiarisation (adjusted for uncertainty) | £1.2m                   | <b>£2.4m</b> | £3.6m | £2.5m   | <b>£5.0m</b> | £7.4m |

### Arbitrators

168. As outlined for the one-off familiarisation costs for Option 2, arbitrators will also face costs of familiarising themselves with the legislation. **This is estimated to be £85,000** (£45,000 in the low scenario and £127,000 in the high).

### Wider costs

169. Like Option 2, the option of binding arbitration includes wider un-monetised costs. These costs are the same as the costs faced in Option 2, although they might differ in magnitude due to the differences in the number of expected agreements. Thereby the costs associated with forgone rent payments, reduced investment and deterring of potentially more productive firms moving in might be higher here.

### Benefits of Option 3

#### Insolvencies are averted

170. Binding arbitration would encourage all firms with rent debt to come to an agreement. Agreements would either be made after voluntary negotiation based on the legislated principles or determined in arbitration. Coming to mutual agreements on rent arrears, as opposed to tenants being required to pay them back in full at once, would ensure that a wave of insolvencies is avoided.
171. We estimate the number of prevented insolvencies in the same way as under Option 2 (see paragraphs 95 to 103). Starting from 660 insolvencies at risk (paragraph 99) if all firms with deferred rent were in scope, we derive the number for Option 3a by taking 30% of firms in the narrow scope (200 firms)<sup>67</sup> and for Option 3b by taking 68% in the wider scope (450 firms).
172. Insolvency proceedings represent a direct cost to businesses. Based on sector intelligence, company insolvency costs range from £4,200 to £6,000, where we assume the mid-point at £5,100. Averting these costs means businesses will benefit from this policy.
173. The monetised benefits of averting insolvencies are estimated to be £0.9m in Option 3a, and £2.1m in Option 3b. The below table outlines these benefits in a central and low scenario. All figures are adjusted downwards by 10% to account for any uncertainty and optimism bias in the benefits calculation.

| Option  | Option 3a (Small scope) |       |       | Option 3b (Large scope) |       |       |
|---|-------------------------|-------|-------|-------------------------|-------|-------|
| Scenario  | Central Estimate        | Low   | High  | Central Estimate        | Low   | High  |
| Number of insolvencies averted  | 200                     | 150   | 240   | 450                     | 340   | 560   |
| Total benefits of insolvency costs averted <sup>68</sup>              | £1.0m                   | £0.7m | £1.2m | £2.3m                   | £1.7m | £2.8m |
| Total benefits of insolvency costs averted (adjusted for uncertainty) | <b>£0.9m</b>            | £0.7m | £1.1m | <b>£2.1m</b>            | £1.5m | £2.6m |

174. Note that the modelling only covers the insolvencies averted for tenants, not landlords. There is a risk that landlords will lose out on a proportion of their owed rent, which in some cases could lead to insolvencies. The figure for averted insolvencies could therefore be higher if any landlord businesses become insolvent.

### Redundancies averted

175. Averting insolvencies as part of this policy would equally ensure that redundancies are also averted, which is another key monetised benefit of the binding arbitration policy.
176. The number of redundancies is estimated as outlined under Option 2 in paragraph 106. From the 5,600 jobs at risk of redundancy, we estimate 30% or 1,650 (+/- 25% range of 1,250 and 2,100) would be within scope of Option 3a, and 68% or 3,800 (range 2,850-4,750) within Option 3b.
177. Following the same logic outlined in the benefits calculation for Option 2 – redundancies averted, we can derive an estimate for the redundancy payments that are averted in this option.

<sup>67</sup> As outlined above in paragraphs 99-101, the number of insolvencies averted in the narrow scope is likely to be an underestimate as firms in this scope are more likely to be in a financially weaker position and therefore benefit more from this policy.

<sup>68</sup> Note: Figures may not add up due to rounding.

178. Note that for Option 3b, due to the wider scope of firms and sectors included, the average age of workers and wages are larger than in Option 3a. The weighted average weekly wage for the larger scope of firms is estimated at £430 (compared to £270 in narrow scope 3a).

179. As explained under Option 2, only an estimated 10% of statutory redundancy costs falls on insolvent businesses. We therefore take 10% of the total cost as the final cost here.

180. The table below outlines the benefits of redundancy payments averted in each option. To reflect uncertainty in the average length of tenure and to account for any optimism bias, the figures are revised downwards by 10%.

| Option  | Option 3a (Small scope) |       |       | Option 3b (Large scope) |        |        |
|---|-------------------------|-------|-------|-------------------------|--------|--------|
| Scenario  | Central Estimate        | Low   | High  | Central Estimate        | Low    | High   |
| Number of redundancies averted  | 1,650                   | 1,250 | 2,100 | 3,800                   | 2,850  | 4,750  |
| Total avoided redundancy payments   | £5.0m                   | £3.7m | £6.2m | £19.8m                  | £14.8m | £24.7m |
| Total avoided redundancy payments paid by businesses                            | £0.5m                   | £0.4m | £0.6m | £2.0m                   | £1.5m  | £2.5m  |
| Total avoided redundancy payments paid by businesses (adjusted for uncertainty) | <b>£0.4m</b>            | £0.3m | £0.6m | <b>£1.8m</b>            | £1.3m  | £2.2m  |

181. As before, there is also a wider social benefit of averting redundancies. This benefit is safeguarding the wages of workers for the period that they would otherwise be out of work for.

182. The benefits calculations here are based on the logic outlined in the benefit calculation for Option 2. The table below outlines the value of safeguarded wages for Option 3a and 3b. To account for uncertainty in the length of time that wages are safeguarded for, figures are revised downwards by 10%.

| Option  | Option 3a (Small scope) |       |       | Option 3b (Large scope) |        |        |
|---|-------------------------|-------|-------|-------------------------|--------|--------|
| Scenario  | Central Estimate        | Low   | High  | Central Estimate        | Low    | High   |
| Number of redundancies avoided                                    | 1,650                   | 1,250 | 2,100 | 3,800                   | 2,850  | 4,750  |
| Average wages lost out by workers (wages lost * time out of work) | £2,600                  |       |       | £4,700                  |        |        |
| Total value of wages that are safeguarded by this policy          | £4.3m                   | £3.3m | £5.4m | £17.8m                  | £13.3m | £22.2m |

|   |              |       |       |               |        |        |
|---|--------------|-------|-------|---------------|--------|--------|
| Total value of wages that are safeguarded by this policy (adjusted for uncertainty) | <b>£3.9m</b> | £2.9m | £4.9m | <b>£16.0m</b> | £12.0m | £20.0m |
|---|--------------|-------|-------|---------------|--------|--------|

183. Note that the modelling only covers the redundancies averted for tenants, not landlords. There is a risk that landlords will lose out on a proportion of their owed rent, which in some cases could lead to some staff being laid off. However, it is unclear whether overall there would be more averted redundancies under Options 3a and 3b or the do-nothing baseline.

#### Costs of court proceedings are averted

184. The binding arbitration requirement will prevent tenants and landlords from seeking to solve their rent disputes in the courts. The costs associated here are the direct costs of bringing the case to court, associated legal fees and the time taken out of work. Because these costs are averted in Options 3a and 3b they represent a benefit over the baseline “do nothing” option. The approach taken here is identical to the one described for Option 2 in paragraphs 123-135.

185. In Options 3a and 3b, the arbitration decision is enforceable in court, compared to the non-binding arbitration option where if one party is not satisfied with the outcome they can come to another resolution in the courts. This will significantly reduce the number of cases going to court and the subsequent costs associated with this.<sup>69</sup>

- Option 3a – Those businesses in scope of arbitration do not face any court costs. But due to the smaller scope including only mandated closed businesses, it does not prevent all businesses with deferred rent debt from going to court. The number of remaining court cases in Option 3a is estimated as the difference between expected arbitration cases based on the Australian experience (32,000) and the arbitration cases in Option 2 (8,200), resulting in 24,000 court cases in Option 3a.<sup>70</sup>
- Option 3b – due to the larger scope, this option averts a larger share of court costs that would be faced in the do-nothing. We estimate the number of court cases as the difference between expected arbitration cases based on Australia (32,000) and the arbitration cases in Option 3b (17,300), resulting in 15,000 court cases in Option 3b.

| <u>Panel A: Baseline do-nothing</u>             | Central Scenario |          | High     |          |
|---|------------------|----------|----------|----------|
| Number of cases going to court                  | 32,100           |          | 53,500   |          |
| Costs of court proceedings                      | £450             |          | £450     |          |
| Total direct cost of court                      | £14.3m           |          | £23.8m   |          |
| Time spent in court process (landlord + tenant) | 13 hours         | 22 hours | 13 hours | 22 hours |
| Cost per case                                   | £260             | £445     | £260     | £445     |
| Total Lost time due to court proceedings        | £8.4m            | £14.2m   | £8.4m    | £14.2m   |
| Legal costs of court proceedings                | £49.0m           | £83.0m   | £49.0m   | £83.0m   |
| Total cost of court proceedings                 | £71.8m           | £111.5m  | £71.8m   | £111.5m  |

<sup>69</sup> Note that under all policy Options 2, 3a and 3b, both tenants and landlords have the option of challenging the arbitration decision if they can prove 'fundamental defect or a miscarriage of justice', (note the final decision is to be decided). We believe the number of these challenges to be small and outside of the scope of this impact assessment.

<sup>70</sup> Note this may not add up due to rounding.

| <u>Panel B: Option 3a (small scope)</u>                       | Central Scenario        |            | High          |            |
|---|-------------------------|------------|---------------|------------|
| Number of cases going to court                                | 24,000                  |            | 40,000        |            |
| Costs of court proceedings                                    | £450                    |            | £450          |            |
| Total direct cost of court                                    | £10.6m                  |            | £17.7m        |            |
| Time spent in court (landlord + tenant)                       | 13 hours                | 22 hours   | 13 hours      | 22 hours   |
| Cost per case   | £260                    | £445       | £260          | £445       |
| Total Lost time due to court proceedings                      | £6.3m                   | £10.6m     | £10.4m        | £17.7m     |
| Legal costs of court proceedings                              | £36.4m                  | £61.7m     | £60.7m        | £102.8m    |
| Total cost of court proceedings                               | £53.3m                  | £82.9m     | £88.9m        | £138.2m    |
| <b>Panel C: Option 3b (large scope)</b>                       |                         |            |               |            |
|   | Central Scenario        |            | High          |            |
| Number of cases going to court                                | 15,000                  |            | 25,000        |            |
| Costs of court proceedings                                    | £450                    |            | £450          |            |
| Total direct cost of court                                    | 6.6m                    |            | 11.0m         |            |
| Time spent in court (landlord + tenant)                       | 13 hours                | 22 hours   | 13 hours      | 22 hours   |
| Cost per case   | £260                    | £445       | £260          | £445       |
| Total Lost time due to court proceedings                      | £3.9m                   | £6.6m      | £6.5m         | £10.9m     |
| Legal costs of court proceedings                              | £22.6m                  | £38.2      | £37.6m        | £63.7m     |
| Total cost of court proceedings                               | £33.1m                  | £51.4m     | £55.1m        | £85.6m     |
| <b>Panel D: Benefit of Option 3a compared to the baseline</b> |                         |            |               |            |
|   | Central Scenario        |            | High          |            |
|   | Central hours           | High hours | Central hours | High hours |
| Total cost of court proceedings                               | £18.4m                  | £28.6m     | £30.7m        | £47.7m     |
| Total cost of court proceedings (adjusted for uncertainty)    | <b>£16.2m</b>           | £25.8m     | £27.6m        | £43.0m     |
| <b>Panel E: Benefit of Option 3b compared to the baseline</b> |                         |            |               |            |
|   | Option 3b (large scope) |            |               |            |
|   | Central Scenario        |            | High          |            |
|   | Central hours           | High hours | Central hours | High hours |
| Total cost of court proceedings                               | £38.7m                  | £60.1m     | £64.5m        | £100.3m    |
| Total cost of court proceedings (adjusted for uncertainty)    | <b>£34.8m</b>           | £54.1m     | £58.1m        | £90.2m     |

### Payments to creditors are safeguarded

186. Averting insolvencies as part of this option will ensure that other forms of debt that have been built up to other creditors are safeguarded. This benefit is similar to that laid out for Option 2.
187. The average amount of debt that firms have built up is estimated using data from the SME Finance Monitor. For Option 3a (small scope) the average loan size is estimated to be £60,100. For Option 3b, due to the larger scope of firms and sectors included, the average loan size is estimated to be £69,400.
188. Not all firms in the economy use finance from external creditors, and so the number of insolvencies averted for which their external debts will be safeguarded is reduced. For Option 3a, 51% of businesses in scope are estimated to use finance in Q2

2021, while for Option 3b there is a slightly smaller figure (47%) due to the differences in sectors in scope.

189. As outlined in Option 2, in the event of an insolvency 16.2% of debts to creditors are often paid, and so by averting an insolvency 83.8% of the loan will be safeguarded.

190. The value of loans safeguarded for Option 3a in the central scenario is estimated to be £4.5m, while for Option 3b, the figure is estimated to be £11.1m. The tables below outlines this benefit for each option. Note that figures are revised downwards by 10% to reflect uncertainty in the figures.

| Option  | Option 3a (small scope) |              |       |
|---|-------------------------|--------------|-------|
| Scenario  | Central Estimate        | Low estimate | High  |
| Number of insolvencies averted  | 200                     | 150          | 250   |
| Number of insolvencies where firms use external finance                                     | 100                     | 75           | 125   |
| Average loan size per business that is safeguarded  | £50,800                 |              |       |
| Total value of debt payments that are safeguarded by this policy                            | £5.0m                   | £3.8m        | £6.3m |
| Total value of debt payments that are safeguarded by this policy (adjusted for uncertainty) | <b>£4.5m</b>            | £3.4m        | £5.6m |

| Option  | Option 3b (large scope) |              |        |
|---|-------------------------|--------------|--------|
| Scenario  | Central Estimate        | Low estimate | High   |
| Number of insolvencies averted  | 450                     | 325          | 550    |
| Number of insolvencies where firms use external finance                                     | 200                     | 150          | 275    |
| Average loan size per business that is safeguarded  | £58,200                 |              |        |
| Total value of debt payments that are safeguarded by this policy                            | £12.3m                  | £9.3m        | £15.4m |
| Total value of debt payments that are safeguarded by this policy (adjusted for uncertainty) | <b>£11.1m</b>           | £8.3m        | £13.8m |

### Wider benefits of Option 3

191. There are also wider benefits associated with Option 3, these are un-monetised, but could have significant impacts. They are the same as those listed in the wider benefits section of Option 2. Because the outcomes of the preferred option include preventing more insolvencies and more redundancies than Option 2, we would expect the magnitude of the benefits to be greater.

192. We would also expect the wider benefits of Option 3b to be greater than those in Option 3a, as the wider scope of firms included in scope of the policy will safeguard against an even greater number of insolvencies and redundancies.

### Wider consideration of Option 3 – arbitration capacity

193. It is difficult to estimate number of arbitrators in England and Wales. For England, we expect 1,200 arbitrators are sufficiently skilled to undertake the complexity of these arbitration cases, based on recent discussions with the Chartered Institute of

Arbitrators and Centre for Effective Dispute Resolution. As we can't observe arbitration capacity in Wales, we estimate an additional proportionate capacity of 36 arbitrators (see paragraph 91).

194. The arbitration capacity in England and Wales is estimated to be between 800-1,800 cases per month. This assumes there are 1,236 available arbitrators, cases take 2 to 3 months and where an arbitrator takes on 1 to 3 cases at one time.<sup>71</sup> Should the number of available arbitrators be smaller, capacity would be reduced, meaning cases would take longer to be resolved.

195. In both options, of those with unresolved rent arrears, some will enter arbitration. To estimate the number of businesses that will enter arbitration we use the experience in New South Wales, Australia, where 0.37% of the business population entered arbitration. We arrive at an estimate for those entering arbitration by applying that figure to the UK business population and adjusting for the difference in Covid-19 restrictions in the UK and Australia. In the central case we take three times the share of the business population observed in Australia and apply it to the UK population.

196. Under Option 3a, there will be approximately 50,000 businesses with unresolved rent debt as of March 2022. Of these, we estimate that 5,000-13,000 cases (central estimate of 7,500) will enter arbitration, taking arbitrators between 3-15 months (central estimate of 7 months) to resolve. In Option 3b, we estimate 110,000 businesses will have unresolved rent debt in March 2022, with approximately 11,500-29,000 cases (central estimate of 17,000) entering arbitration. This could take 6-35 months (half a year to just under 3 years, central estimate of 17 months) for arbitrators to resolve.

197. This therefore presents a capacity risk, whereby the arbitration system may be overwhelmed should a significantly wider scope be adopted for the legislation. The wider scope of firms included may also mean that cases are relatively more complex, making it challenging for the arbitrator to assess the viability of the businesses. This is due to a lack of clarity on which arrears were built up during periods in which it was uneconomical to open versus periods where the business was open.

### Value of deferred rent

198. The objective of this policy is to support landlords and tenants in negotiating outstanding rent arrears. HMT analysis based on Remit data suggests that the total value of deferred rent between March 2020 and March 2022 could be £9bn in the UK (see annex B). As explained in the body of this analysis we assume that the remaining amount of deferred rent by March 2022 will be significantly lower than that. As outlined in paragraphs 62-65, this is due to landlords and tenants already having achieved agreements on rent debt in many cases, additional time to negotiate between now and March 2022 and due to the recovery of the UK economy. We also adjust the figure to reflect only England and Wales. We therefore estimate the value of deferred rent remaining in March 2022 to be £1.5bn across all sectors. Under the narrow scope Options 2 and 3a rent debts of £0.4bn (30% of the total) are estimated to be in scope, and under the wider scope Option 3b it would be £1bn (68% of the total). As outcomes of the negotiations, some portion of this might be deferred or waived, however these outcomes are highly uncertain and can therefore not be estimated. Note we think the total remaining value is an underestimate as the remaining firms will likely have a proportionately larger share of deferred rent.

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<sup>71</sup> Note that we estimate the actual hours required for arbitration to be 11 hours in the central case, based on stakeholder discussions. This does not account for waiting times between arbitration steps, potential delays in communication etc. It also doesn't account for the time that the arbitrator spends assessing the evidence themselves and reaching and documenting their decision, which is not time spent by the parties to the case.



## 9) Impact on Small and Micro Businesses (SaMBA Assessment)

199. We anticipate that this policy supports small and micro business and there is no disproportionate burden on these types of businesses because of the regulation. The benefits and objectives of this policy will not be realised should small and micro businesses be excluded from it. While we cannot completely rule out small or micro businesses being affected by this policy, for the reasons outlined below, we have decided not to mitigate.

### Tenants

200. Of the sectors in scope of the preferred option (defined as all those businesses occupying premises for business purposes, covered by the Landlord and Tenant Act 1954, and which were mandated to close in whole or part), they are dominated by Small and Micro Businesses (SMBs, defined as having up to 49 Full Time Equivalent (FTE) workers). These types of firms make up 98% of businesses in sectors in scope at the start of 2020. By comparison, the UK economy overall is similar, with SMBs making up 99% of businesses at the start of 2020.<sup>72</sup>

201. Such businesses also make up a large proportion of the rent debt that has been accrued because of Covid-19. HMT Analysis estimates that Micro and SMEs make up two thirds of the estimated value of rent debt, while large firms make up just one third.<sup>73</sup> As Micro and SMEs, by definition, have a lower turnover than larger firms, the deferred rent burden falls disproportionately on them. They also only make up 52% of turnover and 61% of employment, whereas they account for 66% or two thirds of the outstanding rent debt, which shows they are particularly burdened.<sup>74</sup>

202. This policy is designed to support the resolution of this rent debt by encouraging negotiations between landlords and tenants on the debt, and to ensure that agreements are made on the debt. This aims to prevent a wave of insolvencies and redundancies. The businesses that will benefit from the policy are therefore disproportionately small and micro businesses due to the value of rent debt in these types of businesses, and the share that they make up of the targeted sectors.

203. One of the additional costs that is brought in by this policy is that tenants are required to evidence their viability and that their rent arrears have been impacted by Covid-19 mandated closures (in full or in part) during negotiations and during the arbitration process. This additional cost is likely to fall more heavily on small tenants compared to larger ones in terms of the resources they may be required to spend on preparing documentation, and potentially seeking legal representation. This would particularly be the case for firms not using professional accounting services. These firms are more likely to be small or micro.

204. Small and micro firms may therefore face more of a burden than medium or large ones. However, the alternative of excluding them from the policy of binding arbitration, which could see more insolvencies for these firms and redundancies for their workers would have a significant impact on the benefits of this policy being achieved.

205. Binding arbitration is designed as a backstop, which tenants and landlords must seek should negotiations fail on how to resolve rent arrears. If either the landlord or tenant is found not to have negotiated in line with the legislated principles then they will have to pay the cost of arbitration for both parties. This is designed to protect against some costs for small and micro businesses. This will prevent either party from being able to exploit the other in resolving rent debt.

<sup>72</sup> ONS (2020) UK business: activity, size and location.

<sup>73</sup> HMT Modelling (2021).

<sup>74</sup> Note this is an indicative estimate.



Landlords

206. The UK commercial property market is not transparent and therefore it is not possible to characterise a 'typical landlord' with sufficient certainty and hence predict the impact of this policy on small and micro firms. We currently have visibility over £486bn of the total £951bn of the market, which is around 50%.
207. Using a mix of ONS data on landlord enterprises (including residential landlord firms) in England and Valuation Office Agency (VOA) data for rental market prices by different type of business premises, we can give an indicative but uncertain segmentation of the commercial property sector.
208. The median landlord enterprise has an income between 75-99k and employs between 0-4 people (in fact 88% of landlord enterprises occupy this employment band). This probably reflects that the data includes the c.4% of residential landlords which operate as firms rather than private individuals. Given that residential landlords are more likely to be individual households, they may be skewing the enterprise population at the lower end of the turnovers and employment. Comparing this with VOA data for rental values would also suggest that the median landlord firm owns multiple business premises or one high value property.
209. The analysis suggests that by market share, more than half of the value of leasing real estate is captured by firms with turnover above £5 million, and over 70% of the value is captured by those with a turnover above £1 million.
210. This suggests that, while the commercial sector population could feature many relatively small landlords, most of the market share for commercial property, and by extension the accrued debt, is held by a small number of large landlords. This may indicate that a policy design option to exempt landlord enterprises with a turnover below an income threshold (e.g. £49,000) would leave most tenant liabilities within scope. However, as above, this only covers landlord enterprises, and not the extent of ownership by private individuals.
211. The policy would not automatically lead to losses for commercial landlords however, the policy is aimed at facilitating the agreement of debt payment that benefit both parties.

**10) Summary of Options**

212. This section provides a summary of the costs and benefits of each option that has been assessed as part of this Impact Assessment. In particular, the years in which costs and benefits for each option arise in.

Option 1

213. The NPSV of option 1 is estimated to be £0. This option has no additional costs and benefits associated with it.

Option 2

214. The EANDCB of this option is 6.4m. The NPSV of Option 2 is estimated to be £1.4m. This option has no additional costs and benefits associated with it. The below table outlines the total costs and benefits.

| Cost/Benefit                 | Year 1 (£m) | Year 2 (£m) | Present Value Total (£m) |
|------------------------------|-------------|-------------|--------------------------|
| Cost of arbitration          | 26.6        | 0.0         | 26.6                     |
| Cost of negotiations         | 2.0         | 0.0         | 2.0                      |
| One-off familiarisation cost | 2.1         | 0.0         | 2.1                      |
| <b>Total costs</b>           | <b>30.8</b> | <b>0.0</b>  | <b>30.8</b>              |

|                                 |             |            |             |
|---------------------------------|-------------|------------|-------------|
| Insolvency costs avoided        | 0.8         | 0.0        | 0.8         |
| Court costs averted             | 23.2        | 0.0        | 23.2        |
| Direct redundancy costs avoided | 0.4         | 0.0        | 0.4         |
| Wages safeguarded               | 3.6         | 0.0        | 3.6         |
| Loan payments safeguarded       | 4.1         | 0.0        | 4.1         |
| <b>Total Benefits</b>           | <b>32.1</b> | <b>0.0</b> | <b>32.1</b> |

### Option 3a

215. The EANDCB of this option is £1.6m. The NPSV of Option 3a is estimated to be £6.8m. The below table outlines the total costs and benefits.

| Cost/Benefit                    | Year 1 (£m) | Year 2 (£m) | Present Value Total (£m) |
|---------------------------------|-------------|-------------|--------------------------|
| Cost of arbitration             | 24.4        | 0.0         | 24.4                     |
| Cost of negotiations            | 2.2         | 0.0         | 2.2                      |
| One-off familiarisation cost    | 2.1         | 0.0         | 2.1                      |
| <b>Total costs</b>              | <b>28.7</b> | <b>0.0</b>  | <b>28.7</b>              |
| Insolvency costs avoided        | 0.9         | 0.0         | 0.9                      |
| Court costs averted             | 25.8        | 0.0         | 25.8                     |
| Direct redundancy costs avoided | 0.4         | 0.0         | 0.4                      |
| Wages safeguarded               | 3.9         | 0.0         | 3.9                      |
| Loan payments safeguarded       | 4.5         | 0.0         | 4.5                      |
| <b>Total Benefits</b>           | <b>35.5</b> | <b>0.0</b>  | <b>35.5</b>              |

### Option 3b

216. The EANDCB of this option is -£4.1m The NPSV of Option 3b is estimated to be £19.1m. The below table outlines the total costs and benefits.

| Cost/Benefit                    | Year 1 (£m) | Year 2 (£m) | Present Value Total (£m) |
|---------------------------------|-------------|-------------|--------------------------|
| Cost of arbitration             | 39.8        | 16.2        | 55.5                     |
| Cost of negotiations            | 5.4         | 0.0         | 15.5                     |
| One-off familiarisation cost    | 5.0         | 0.0         | 7.4                      |
| <b>Total costs</b>              | <b>66.5</b> | <b>31.8</b> | <b>92.4</b>              |
| Insolvency costs avoided        | 2.0         | 0.0         | 16.5                     |
| Court costs averted             | 54.1        | 0.0         | 119.6                    |
| Direct redundancy costs avoided | 1.8         | 0.0         | 14.3                     |
| Wages safeguarded               | 16.0        | 0.0         | 129.0                    |
| Loan payments safeguarded       | 11.1        | 0.0         | 89.2                     |
| <b>Total Benefits</b>           | <b>85.1</b> | <b>0.0</b>  | <b>368.7</b>             |

## 11) Risks and assumptions

217. The costings and analysis in this Impact Assessment are dependent on a set of key assumptions. Throughout the assessment of the costs and benefits associated with each option we have identified those areas where the evidence base is underpinning these assumptions is limited. We have used a range of data and sources, including evidence from stakeholders through the Call for Evidence to broaden the evidence base where possible. The analysis details what evidence and data that assumptions are based on.
218. In the assessment of options we allow for uncertainty by providing, where possible, low, medium and high estimates modelled around various assumptions on redundancies and insolvencies expected. We have also included adjustments for optimism bias and uncertainty where this applies across the analysis, adjusting costs upwards and benefits downwards accordingly.

## 12) Wider impacts on equality - Public Sector Equalities Duty (PSED)

219. The Government's preferred option has been formulated with due regard to the Public Sector Equalities Duty (PSED). The PSED is a legal duty on all public bodies to have due regard to the needs of people with 'protected characteristics'<sup>75</sup> in their day-to-day work. Public bodies must have due regard to the following:
- i. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - ii. Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - iii. Foster good relations between people who share a protected characteristic and those who do not.

### Workers in tenant businesses

220. Workers in industries within scope of this policy differ from the general UK workforce in several respects which will mean that firm failures and job losses will have a disproportionate impact. This policy is intended to provide benefits to the workers in the impacted sectors, meaning any disproportionate impacts would be positive.
221. **Age:** Workers in these industries are younger, on average, than in the UK economy. 37% of workers employed in hospitality, 29% of workers in non-essential retail and 20% of workers in personal care are aged 16-24, compared to only 11% across the UK economy. Any resulting firm failures or redundancies will therefore have a greater impact on younger ages.<sup>76</sup>
222. **Disability:** 17% of workers in the non-essential retail sector have a disability as defined under The Equality Act 2010 compared to 14% across all UK sectors.<sup>77</sup> This means this group is slightly overrepresented in these sectors and may be more impacted.
223. **Pregnancy:** A pregnant person is more vulnerable to changes in employment status as they are less able to seek new employment. Therefore, a pregnant person impacted by firm failures and redundancies may be disproportionately impacted. We do not have specific analysis on the number of employed pregnant persons. However, given that sectors in scope have a disproportionate share of workers who are younger and female, pregnant people are more likely to be employed in these sectors, ceteris

<sup>75</sup> Age, disability, gender reassignment, pregnancy & maternity, race, religion or belief, sex, sexual orientation and marriage & civil partnership.

<sup>76</sup> Source: ONS Labour Force Survey, June-August 2020.

<sup>77</sup> Source: ONS Labour Force Survey, June-August 2020.

paribus. There is also a risk of increased discrimination against pregnant person if businesses must make difficult decisions about which staff to keep on.

224. **Ethnicity:** In the hospitality sector there is a high number of workers from a minority ethnic background. One in twelve (8%) of workers from minority ethnic backgrounds are employed in the hospitality sector, compared with about one in 20 (5%) white British workers. In retail approximately 14% of workers in the wholesale and retail sector are from minority ethnic backgrounds compared to the national average of 12%.<sup>78</sup>

225. **Gender:** Women are disproportionately represented in close contact services (80%), non-essential retail (61%) and hospitality (56%). Across the UK economy, 48% of workers are women.<sup>79</sup> A recent beauty sector publication also estimates that 82% of businesses in the sector are owned by women.<sup>80</sup>

### Business owners

226. The characteristics of business owners are not as clearly available as those of workers. Data from Companies House on business owners in the UK finds that they tend to be older than average (54% of business owners are aged between 34-54, compared with 47% for workers, and 29% for the UK population). Of owners listed on Companies House with their title (e.g. Mr or Mrs) to identify gender, 73% were male compared to 27% for female.<sup>81</sup> We would not expect that business owners with protected characteristics, supported by this policy, are disproportionately impacted by this policy.

### Landlords

227. Data on the characteristics of commercial landlords is not available. To provide some indication of what commercial landlords could be like, private landlord data is used.<sup>82</sup> This data is taken from the English Private Landlord Survey 2018. It finds that over half (59%) of landlords are aged 55 years or older, and the majority (89%) are white.<sup>83</sup>

228. Though not quantified through the modelling, this policy could potentially safeguard against redundancies in commercial landlord businesses, which could benefit the workers. Workers in the Real Estate sector are more likely to be female (55% of workers are female compared with 48% of workers across the economy). The share of workers who are 16-24 is lower than for the UK economy (8% compared with 11%). The share of workers in real estate that are from minority ethnic backgrounds is 12%, which matches that for the UK economy. Workers in this sector are not disproportionately represented across different protected characteristics, and we would therefore not expect this policy to disproportionately impact on these groups.

## 13) Wider impacts

229. **Regional impact:**

- This policy will support businesses across the country. The sectors in scope of this policy are in all areas of the country, and this policy will support businesses in all regions to negotiate rent debts, and to safeguard jobs across the country.

<sup>78</sup> Source: ONS Labour Force Survey, June-August 2020.

<sup>79</sup> Source: BEIS calculations based on ONS Labour Force Survey data, June 2020 – August 2020. Close contact services and hospitality defined as SIC codes 96 and I, respectively. Non-essential retail defined as SIC codes 47.19, 47.25, 47.26, 47.4, 47.51, 47.53, 47.54, 47.6, 47.71, 47.72, 47.75, 47.76, 47.77, 47.78, 47.79, 47.82, and 47.89.

<sup>80</sup> Source: NHBFI Industry Statistics 2020.

<sup>81</sup> Companies House (2020). Taken from: <https://www.finder.com/uk/business-owners-uk>

<sup>82</sup> Commercial Landlords are those who lease commercial property to businesses, while private landlords let privately rented accommodation (households).

<sup>83</sup> MHCLG (2019) English Private Landlord Survey 2018

- The table below outlines the regional spread of businesses that are in scope of the binding arbitration policy, as well as the spread of businesses for all sectors.<sup>84</sup>

| Sector                   | Hospitality | Retail | Arts, Entertainment & Recreation | Other Services | All sectors |
|--------------------------|-------------|--------|----------------------------------|----------------|-------------|
| North East               | 5%          | 3%     | 3%                               | 2%             | 3%          |
| North West               | 13%         | 13%    | 9%                               | 6%             | 11%         |
| Yorkshire and The Humber | 10%         | 9%     | 7%                               | 4%             | 8%          |
| East Midlands            | 8%          | 6%     | 9%                               | 4%             | 8%          |
| West Midlands            | 9%          | 7%     | 6%                               | 4%             | 9%          |
| East of England          | 10%         | 9%     | 10%                              | 9%             | 11%         |
| London                   | 18%         | 17%    | 29%                              | 47%            | 22%         |
| South East               | 15%         | 15%    | 18%                              | 17%            | 17%         |
| South West               | 12%         | 21%    | 10%                              | 8%             | 10%         |

- We see that the spread of businesses across the sectors in scope are broadly in line with the spread of businesses in all sectors in the UK. Some are however more concentrated in London, such as 'Other Services' where 47% of businesses in England are located there.
- We would expect that this policy will support businesses across all of England, with no disproportionate costs or benefits falling on one specific region.

230. **Net Zero:** We anticipate that this policy will have little to no impact on the Government's target to reach Net Zero Carbon emissions by 2050. The policy could lead to additional work being undertaken in office environments (for example additional negotiations and arbitrations) for a limited number of firms.

231. **Family test:** We consider the policy of binding arbitration to have little to no impact on family relationships and family functioning. This policy aims to prevent a wave of redundancies, which will have a positive effect on the wages of workers. Any impacts on families are expected to be positive.

232. **Trade implications:** We expect there to be little to no impacts on trade because of this policy.

- On the side of the tenants, the sectors in scope of the policy make up a relatively small proportion of UK exports. Exports of 'Personal, Cultural & Recreational' services made up 2% of UK exports in 2019.<sup>85</sup>
- Regarding investment, the UK commercial property market is not transparent. We currently have visibility over £486bn of the total £951bn of the market, which is around 50%. Of the part of the market we have visibility over, overseas investors owned 31% in 2018 – the largest proportion of stock.<sup>86</sup> There is a slight risk that this policy could discourage future overseas investment into the UK commercial property market. However, most of the overseas investor stock is in office buildings and industrial rather than retail or other commercial (£117bn compared with £40bn). Impacts on investment in UK commercial property because of this policy is therefore expected not to be significant.

<sup>84</sup> ONS (2021) UK Business Activity, Location

<sup>85</sup> ONS (2020) The Pink Book.

<sup>86</sup> <https://www.ipf.org.uk/resourceLibrary/the-size---structure-of-the-uk-property-market---year-end-2018-update--december-2019--full-report-.html>

## 14) Description of implementation plan

233. This Impact Assessment demonstrates the significant benefit that introducing a system of binding arbitration will deliver. There is strong interest in delivering the policy as quickly as possible to realise these benefits.
234. The government will lay primary legislation on binding arbitration by 25 March 2022. This ensures that the policy is implemented by the time that current measures come to an end.
235. BEIS, MHCLG and HMT are working closely with expert external stakeholders to prepare to deliver the policy in practice.

## 15) Post implementation review plan

236. Once the policy of binding arbitration has been introduced, it will need to be monitored and evaluated throughout its lifetime. The policy is expected to have significant impacts on businesses and is being brought in to provide benefits to businesses and to wider society. We will therefore look to conduct a review of the policy and collect monitoring data throughout.

### Objectives and Logic Model

237. The broad objective of this policy is to ensure that businesses that have accrued rent debt because of being mandated to close or partially close by HMG restrictions brought in during the Covid-19 pandemic come to agreements with their landlords on the resolution of that debt. This will protect against a projected wave of insolvencies when current measures end in March 2022, and safeguard against redundancies. The Logic Model below outlines the process of this policy.

| Inputs   | Activities   | Outputs  | Outcomes   | Impacts  |
|--|--|--|--|--|
| Primary legislation to establish binding arbitration where businesses with deferred rent debt because of mandated closure during the Covid-19 pandemic must negotiate based on legislated principles else seek arbitration | Tenants and Landlords negotiate on the accrued rent debt.<br><br>Those that do not come to an agreement will enter arbitration, the outcomes of which are binding. | Agreements are made on what to do with the accrued rent debt.<br><br>Deferrals on payments, waivers and payments of rent debt are made.    | Businesses can pay back their rent debt sustainably. | Redundancies are avoided.<br><br>Businesses do not become insolvent  |
| Other impacts at each stage  | Costs of arbitration are footed by businesses.<br><br>Businesses spend time in these negotiations instead of work  | Reduced uncertainty for businesses could lead to investment<br><br>Some landlords will miss out on a proportion of rent debt they are owed |  | Indirect benefits on neighbouring businesses and supply chains<br><br>Preventing more productive firms from being able to move in. |

### Lessons Learnt from Previous evaluations

238. Throughout this Impact Assessment, we have used data collected, and lessons learnt from two key sources: 1) the experience in New South Wales, Australia, and 2) data from the Call for Evidence.
239. The New South Wales Government collected information primarily on the number of cases that entered mediation (as a proxy for arbitration), and collected data on the outcome of those mediations. A comparable approach was taken by the government of Queensland, Australia, where a similar policy is in place. The data on the number of cases that go to mediation (arbitration in our case) will be used to monitor how well arbitrators are able to deal with the capacity constraints expected. New South Wales also collected data on the length of time that mediations take.
240. We would look to build upon the lessons learnt in Australia, while acknowledging that the UK experience of Covid-19 was different to that in Australia, particularly related to the length of restrictions and government support. Data collected on arbitrations and outcomes will enable us to learn lessons on the assumptions used in this Impact Assessment.
241. The Call for Evidence data showed the importance of stakeholder engagement to learn about the impact of policy. We will look to utilise stakeholder engagement throughout the monitoring of this policy to understand the experiences of tenants and landlords using this policy.
242. We therefore expect to build upon these experiences to inform our data collection as part of our PIR.

#### Evaluation Questions and data collection

243. We aim to answer a set of key evaluation questions as part of the review, as shown below. Note that each of these questions will be expanded further for the evaluation:
- To what extent have the policy objectives of this regulation been achieved?
  - Is the regulation and the way it was implemented the most appropriate approach?
  - Is this policy working as intended and does it continue to be the best option for achieving the desired objectives?
  - Were there any unintended consequences?
  - Could the measure be improved upon for future interventions?
244. The key research questions outlined above have been discussed and agreed with policy colleagues who will use the data to understand whether the policy is having its desired impact. Data collection will be on an ongoing basis from when the legislation comes into force to ensure that data can be collected to meet the needs of users.
245. The data required for this PIR will be through a mixed method approach, using monitoring data and primary data collection. We will collect data on the number of cases that were required to enter arbitration based on rent disputes, the number of rent disputes that were agreed and the outcomes of those agreements. Below contains a table outlining what we ideally like to measure.

| Impact of policy                                      | Question   | Data required   | From where?   |
|---|--|---|---|
| Landlords and tenants come to agreements on rent debt | How many agreements on rent debt were made based on the legislated principles? | <ul style="list-style-type: none"> <li>• Number of firms and sectors with deferred rent</li> <li>• Proportion of rent that is waived or deferred</li> <li>• Length of repayment period</li> </ul> | <ul style="list-style-type: none"> <li>• Quantitative evidence from stakeholder engagement (tenants, landlords, arbitrators)</li> <li>• Qualitative evidence from stakeholder engagement</li> <li>• Monitoring data on rental market</li> </ul> |



|                                |  |   | (REMIT data on rent collection)  |
|--------------------------------|--|---|--|
| Businesses enter arbitration   | <p>How many agreements were made on rent debt through arbitration?</p> <p>What were the most common outcomes of arbitration?</p> <p>Did arbitration place undue costs on businesses?</p> | <ul style="list-style-type: none"> <li>• Number of cases that enter arbitration</li> <li>• Proportion of rent that is waived or deferred</li> <li>• Length of time that arbitration cases take</li> </ul>   | <ul style="list-style-type: none"> <li>• Quantitative evidence from stakeholder engagement (tenants, landlords, arbiters)</li> <li>• Qualitative evidence from stakeholder engagement</li> </ul>   |
| Businesses do not go insolvent | Did the policy achieve its intended effects?   | <ul style="list-style-type: none"> <li>• Outcomes of arbitration and negotiation</li> <li>• Number of agreements made between businesses on rent debt</li> <li>• Of those that had deferred rent and entered arbitration, what is their current trading status</li> </ul> | <ul style="list-style-type: none"> <li>• Quantitative evidence from stakeholder engagement (tenants, landlords, arbiters)</li> <li>• Qualitative evidence from stakeholder engagement</li> <li>• Companies House data to monitor insolvencies</li> </ul> |
| Redundancies are avoided       | Did the policy achieve its intended effects?   | <ul style="list-style-type: none"> <li>• Number of agreements made on rent debt between businesses</li> <li>• Number of jobs in the businesses who came to agreements</li> <li>• Number of workers made redundant in firms who entered arbitration</li> </ul>             | <ul style="list-style-type: none"> <li>• Quantitative evidence from stakeholder engagement (tenants, landlords, arbiters)</li> <li>• Qualitative evidence from stakeholder engagement</li> </ul>   |

246. To monitor the impacts on different types of businesses, we will aim to collect metrics associated to business sector, size and location when monitoring the businesses that entered arbitration and agreements that were made on rent debt.

#### Evaluation approach

247. We plan to undertake both a process and an impact evaluation as part of the PIR.
- **Process:** For the process evaluation, we will utilise data collected on the number of cases that enter arbitration, including outcomes and duration of each. This will be used to understand whether there was sufficient capacity of arbitrators to review cases in a timely manner. We will also seek stakeholder views. Data collected as part of the process evaluation will be translated into a set of lessons learnt for future policy design. These will be included in a light touch interim report including both quantitative and qualitative research.
  - **Impact:** The impact evaluation of this policy aims to evaluate whether the policy has achieved its intended effects and met its objectives. We will also consider whether there have been any other impacts or consequences. The theory of change/logic model has been set out above, which will be used to assess the



extent to which the policy has met its intended objectives. This will draw heavily on the monitoring information we have and are looking to collect (also outlined above). We will also draw upon qualitative data collected from different stakeholders, including those from the legal industry, as well as tenants and landlords who were part of the arbitration process.

248. We aim to assess the extent to which the binding arbitration policy influenced the resolution of rent arrears accrued as a result of Covid-19. However, due to the number of confounding factors (other government policies, wider growth of the economy), it may be difficult to precisely attribute all resolutions of rent debt and the return of the rental market to normality to this policy.

Responsibilities & Timelines

249. Data will be collected on an ongoing basis throughout the expected lifetime of the policy, and so that its timely collection can meet the needs and requirements of its users. The below outlines a high-level timetable for the main stages of the monitoring & evaluation of this policy.

| Stage  | Timeline                  |
|--|---------------------------|
| Monitoring of data to understand current situation | Ongoing                   |
| Legislation comes into force                       | March 2022                |
| Monitoring of data                                 | Ongoing – from March 2022 |
| Light touch interim report                         | Q2 2024                   |
| Post Implementation Review                         | 2027                      |

250. Currently there is no allocated budget to commission out research externally. Given the scale of the impacts of this policy, the team may look to obtain budget in the future to commission this. The planned resource allocated to the monitoring and evaluation of this policy will be internal. A significant amount of internal resource has been spent on gathering data as part of the Call for Evidence, and in monitoring data relating to the current situation (stakeholder intelligence, industry bodies, quantitative rent collection data). Internal resource will be dedicated to collecting monitoring data from the range of sources outlined above.

251. The analytical resource dedicated to monitoring this policy and completing the light touch interim report will comprise of a portion of a Grade 7 and Higher Executive Officer’s time.

## Annex A – Summary of principles

1. The Bill establishes a system of binding arbitration to resolve disputes about arrears under business tenancies where the premises or the tenant business has been subject to mandatory closure or similar restrictions under regulations made under the Public Health (Control of Disease) Act 1984 during the COVID 19 pandemic (“protected rent debt”). The ring-fenced period starts on 21 March 2020 (when the first such restrictions came into force in England) and ends for a business when the regulations providing for closure of the business or similar restrictions for the relevant sector were lifted.
2. The Bill sets out two key principles which the arbitrator must take into account when deciding what award to make under the process. These are to achieve the main aim of protecting viable businesses by potentially giving tenants relief in respect of the protected rent debt. The principles are:
  - a. Any award should aim to preserve the viability of the tenant’s business so long as this does not prejudice the landlord’s solvency, and
  - b. Where possible, a tenant that is capable of paying the protected rent debt in full should do so without delay.
3. When considering both the viability of the tenant’s business and the landlord’s solvency, the arbitrator should disregard anything that either party has done to manipulate their financial affairs in order to improve their position regarding an award. This is to prevent ‘gaming’ of the system.
4. A landlord is considered solvent unless they are, or will become, unable to pay their debts as they fall due. Factors for the arbitrator to consider when assessing both the tenant’s viability and the landlord’s solvency are set out in the Bill. The assessment is a holistic one, depending on the particular circumstances of each party.
5. The arbitrator is entitled to decide in accordance with the statutory principles that the ring-fenced rent and interest owed to the landlord should be cancelled, reduced or paid over an extended time (up to a maximum of 24 months).

## Annex B – Further details on HMT Modelling

### Summary

- Extrapolating from industry intelligence, deferred rent liabilities will be around £9bn when the rent moratorium expires in March 2022.
- Internal HMT modelling estimates that if deferred rent repayments are spread over 24 months compared to the ‘do-nothing’ hypothetical scenario where deferred rent repayment is paid in one Q2 2022 bullet payment, there are around 34,000 fewer jobs at risk of redundancy and 4,000 fewer firms at risk of insolvency by the end of 2022.
- HMT modelling estimates that around 45% of firms will have deferred rent during the moratorium (April 2020 to March 2022), concentrated in NPI affected sectors such as retail and hospitality. SMEs are the biggest users of the policy.

### Key assumptions

- Covid-19 pressures gradually continue to ease increasing GVA across most sectors. No further reintroduction of NPIs, but gradual easing of travel restrictions. If further restrictions are imposed in the winter, we would expect additional firms at risk of insolvency and more jobs at risk of redundancy.
- No further policy mitigations- HMG support ends/tapers as planned. If HMG extends further support to firms, there will be fewer firms at risk of insolvency and fewer jobs at risk of redundancy.

### Caveats

#### Dataset

- The underlying dataset (Bureau van Dijk- FAME) covers 100,000 firms, scaled up to the ONS business population. This data has a bias towards larger firms, due to Companies House account reporting practices.
- The predominantly public sectors (Education, Health and Public Admin) have not been modelled, nor the financial sector.
- Given the dataset skews towards larger firms - for SMEs we should expect the deferred liabilities and non-payment to be higher, and hence a bigger share of turnover.

#### Model structure

- The modelling estimates are highly uncertain and indicative for 2022, given firm balance sheets have been modelled from the start of February 2020. Results should be used to look at dynamic trends instead of forecasting precisely or pinpoint estimates.
- The model period only runs until the end of 2022 and so we cannot say for certain how many of the redundancies saved in 2022 are in fact only delayed until 2023.
- The modelling estimates firms that enter a negative cash position. These are considered firms at risk of insolvency. In practice such firms may not fail if they have other income to provide liquidity, for example selling assets.  
The jobs at risk of redundancy are shown as outflows. Some of these will be reallocated. Firms could also cut worker hours or wages but retain staff meaning figures do not equate to unemployment increases.  
Not all HMG business support policies since March 2020 have been included in the modelling.

## Annex C – Occupations used for lost working time costs

1. As part of the calculations to estimate the lost working time of tenants and landlords as part of negotiations, arbitration and court costs, specific Standard Occupational Classification (SOC) codes are used. The table below shows the sectors and occupations that are used a part of this analysis, alongside the average wage.

| Sector                             | Occupation used  | Occupational Median Weekly Wage |
|------------------------------------|--|---------------------------------|
| Wholesale and retail trade         | Managers and directors in retail and wholesale                 | £532.10                         |
| Non-Essential Retail               | Managers and directors in retail and wholesale                 | £532.10                         |
| Accommodation                      | Hotel and accommodation managers and proprietors               | £554.70                         |
| Food Services                      | Restaurant and catering establishment managers and proprietors | £429.70                         |
| Professional Services              | Managers and proprietors in other services                     | £574.60                         |
| Admin and support services         | Other managers and proprietors                                 | £560.70                         |
| Other services                     | Managers and proprietors in other services                     | £574.60                         |
| Arts, entertainment and recreation | Managers and proprietors in hospitality and leisure services   | £475.10                         |
| Remaining Sectors                  | Other managers and proprietors                                 | £560.70                         |

Source: ONS (2021) Annual Survey of Hours & Earnings

2. The median wage used for landlords is estimated using the occupational definition “Property, housing and estate managers”. This occupation has a median weekly wage of £619.3.