

Title: Proposals to reform flexible working regulations (The Flexible Working Regulations 2014) IA No: RPC Reference No: Lead department or agency: Department for Business, Energy and Industrial Strategy Other departments or agencies:	Impact Assessment (IA)
	Date: September 2022
	Stage: Final IA
	Source of intervention: Domestic
	Type of measure: Primary legislation
	Contact for enquiries: labourmarketparticipation@beis.gov.uk
Summary: Intervention and Options	RPC Opinion: N/A

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
£12.5m	£12.5m	£1.5m	£7.3m

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

Having the ability to vary the time, hours and place of work is key to the functioning of the UK's flexible labour market. In 2020, 80% of employees reported availability of any flexible working at their workplace and 59% of employees reported take-up. However, take-up levels have remained broadly consistent over the last 10 years, female employees are still more likely to work flexibly than male employees and some employees report negative career consequences.

The pandemic created challenges for employers which, in turn, necessitated changes to work patterns and hours, whether people were able to work from home or not. Access to all forms of flexible working is needed to support a flexible labour market in which all people can participate, and businesses can benefit. The right to request flexible working serves to provide that access and the changes we are introducing can help ensure that the wider economic and social benefits are maximised.

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

The key objective of the right to request flexible working policy is to:

- provide employees with better access to contractual flexible working.
- help employees to better reconcile their work and non-work lives; and
- help employers to secure the business benefits of flexible working.

The proposed changes will help to secure more flexible working where this meets the needs of both individuals and businesses. They will do this by encouraging more constructive dialogue about flexible working and prompting both the employer and employee to focus on identifying an arrangement that might be possible. The changes will speed up the administrative process, providing better access to a diverse range of working arrangements.

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

The following options have been considered:

- Option 1: Do nothing
- Option 2: Non-legislative approach
 - Publishing additional guidance to raise awareness of the right to request flexible working.
 - Further work with the Flexible Working Taskforce on campaigns designed to reach certain parts of the economy.
- Preferred Option: Regulatory approach:
 - Introduce a new requirement for employers to consult with the employee before rejecting their flexible working request.
 - Allow an employee to make two statutory requests in any 12-month period (rather than the current one request).
 - Reduce the decision period (within which an employer administers the request) from three months to two months; and

- Remove the existing requirement that the employee must explain what effect, if any, the change applied for would have on the employer and how that effect might be dealt with.

Does implementation go beyond minimum EU requirements?		N/A		
Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded:	Non-traded:	

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** TBC

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 Dean Russell MP, Parliamentary Under-Secretary of State at the Department for Business, Energy and Industrial Strategy:



..... Date: 20/10/2022

Summary: Analysis & Evidence

Preferred Policy Option

Description: A number of regulatory reforms to the existing legislative framework to help realise the full benefits of flexible working.

FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 2024	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: - 7.2m	High: - 29.9m	Best Estimate: - 14.4

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.3	0.8	7.2
High	0.3	3.4	29.9
Best Estimate	0.3	1.6	14.4

Description and scale of key monetised costs by ‘main affected groups’

We have quantified the impact for two of the four elements of the regulatory reforms and qualitatively described the other two measures. The assessment of costs for the regulatory reforms is low, less than £2m per annum, made up of £0.3m in upfront familiarisation, £0.7m in annual familiarisation and £0.9m in annual business administration costs. Since the consultation-stage, we have gathered evidence to refine the key assumptions, particularly to understand how individuals and employers might react, and improve the robustness of the estimates.

Other key non-monetised costs by ‘main affected groups’

We have not monetised any costs to employers of accommodating flexible working because:

- the statutory provisions, including with the proposed changes, are permissive. The employee has a right to request flexible working, not a right to have. Businesses may refuse requests, and are only likely to agree if the benefits will outweigh the costs; and
- we assume these costs will have fallen considerably from the 2012 Impact Assessment due to more widespread use of portable IT equipment and accommodating different ways of working particularly during the pandemic.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Not quantified	Not quantified	Not quantified
High	Not quantified	Not quantified	Not quantified
Best Estimate	Not quantified	Not quantified	Not quantified

Description and scale of key monetised benefits by ‘main affected groups’

Other key non-monetised benefits by ‘main affected groups’

Benefits to businesses – increases in flexible working can result in increased motivation and productivity from employees. CBI found that 99% of all businesses surveyed believed that a flexible workforce is vital or important to competitiveness and prospects for business investment and job creation¹. We anticipate that the proposed policy options will lead to benefits to both employees and employers. This includes potential for positive effects on workplaces from reduced absenteeism, reduced vacancy costs and increased skill retention, and increases to profit and productivity.

Economic benefits – wider research indicates that flexible working can unlock opportunities for growth. It suggests that, in the absence of suitable working hours or locations, groups of people are either not employed, have retired early, or are working below their potential². In the present context of labour shortages in the economy, there is a role for flexible working in attracting and keeping people in work. Research conducted by the Behavioural Insights Team has shown that offering flexible working can attract up to 30% more applicants to job vacancies³, and a recent ONS publication revealed that older workers working flexibly would be more likely to be planning to retire later⁴. These reforms can help to ‘normalise’ a flexible working conversation between employers and employees and will improve the existing right to request framework. This has the potential to both help attract people back to work and make it easier to stay in work.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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The key uncertainty relates to the percentage of people who make a formal request for flexible working under the statutory framework and whether employers accept or reject those requests in the same pattern as current evidence suggests. We have assumed a flexible working take-up rate of 4%, in the central case, based on survey evidence and performed sensitivity tests to account for this uncertainty. There is limited evidence on the impact of requiring a consultation between employee and employer but we assume that 91% of requests will continue to be agreed when employees make a second request.

See annex 1 for a full list of key assumptions.

BUSINESS ASSESSMENT

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m: TBC
Costs: 1.7	Benefits: 0	Net: 1.7	

¹ CBI & Pertemps (2017) Employment Trends Survey: <http://www.cbi.org.uk/index.cfm/?api/render/file/?method=inline&fileID=57DEC8F4-AF4B-4101-82B2406D3BE1CBCA>

² See Gornick and Hegewisch (2010) <https://www.gov.uk/government/publications/work-life-balance-business-costs-and-benefits-literature-review>

³ Behavioural Insights Team Research <https://www.bi.team/blogs/bits-biggest-trial-so-far-encourages-more-flexible-jobs-and-applications/>

⁴ ONS Release <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/ageing/articles/livinglongerimpactofworkingfromhomeonolderworkers/2021-08-25>

Evidence Base

Problem under consideration and rationale for intervention

In 2003, legislation came into force which provided employed parents, and certain other carers, of children under the age of 6 (or disabled children under 18) with 26-weeks of continuous service (with their employer) a statutory right to request a flexible working arrangement – for example a change to their work location, working hours and/or associated working pattern. This was extended to carers of adults (2006) and children under 17 (2009).

All statutory requests must be considered by the employer but can be refused for one of eight prescribed business reasons. Eligible employees may make one statutory request in any 12-month period and employers must respond to requests within three months.

In 2014, as part of the Children and Families Act, the right to request flexible working was extended to all employees with 26 weeks continuous service. The statutory framework is intended to:

- provide employees with access to contractual flexible working.
- help employees to better reconcile their work and non-work lives; and
- help employers to secure the business benefits of flexible working.

In September 2021, the Government published a Post Implementation Review of the 2014 Flexible Working Regulations (PIR)⁵. This found that the majority of employees (80%) and employers (96%) report availability of flexible working at their workplace. The Review also found that in 83% of workplaces, where a request had been made, the request was granted. However, the Review also found that flexible working take-up (not necessarily achieved through a statutory request) has remained broadly flat since 2014 with 59% of all employees reporting they were or had worked flexibly in the last 12 months – as well as highlighting differences in reported take-up and availability across sectors, occupations, gender and size of workplace.

In the same month (September 2021), the Government published a consultation on proposals to encourage a better dialogue about flexible working opportunities, to increase the frequency of requests and to speed up the administrative process. The Government will publish its response shortly.

Present context

Britain is a great place to start and grow a business, home to some of the world's best companies. But for many jobs there are still invisible restrictions that hold people back – like the need to live in high-cost accommodation close to the centre of cities or maintain working arrangements that make it hard to manage family or other responsibilities such as taking children to school or caring for an elderly relative.

The right to request flexible working provides a framework through which employers and employees can consider the benefits that come with removing these invisible barriers. For employers, some of these benefits are listed below:

- There is a strong demand for more flexible jobs – 87% of people surveyed by Timewise want to work flexibly⁶. This rises to 92% for young people⁷ surveyed by Deloitte.
- 9 in 10 employees surveyed for HSBC consider flexible working to be a key motivator to their productivity at work (89% – even more than financial incentives (77%)).⁸
- The CBI Employment Trends survey⁹ found that 99% of all businesses surveyed believed that a flexible workforce is vital or important to competitiveness and the prospects for business investment and job creation.

⁵ Post Implementation Review of 2014 Regulations <https://www.legislation.gov.uk/uksi/2014/1398/resources/made>

⁶ Timewise Flexible Jobs Index (2018): https://timewise.co.uk/wp-content/uploads/2018/07/Timewise_Flexible_Jobs_Index_2018.pdf quality jobs defined as £20k +FTE

⁷ UKCES (2014) The future of work: jobs and skills in 2030: <https://www.gov.uk/government/publications/>

⁸ HSBC (2017) accessed at: <https://www.about.hsbc.co.uk/-/media/uk/en/news.../171108-flexible-working.pdf>

⁹ CBI & Pertemps (2017) Employment Trends Survey: <http://www.cbi.org.uk/index.cfm/?api/render/file/?method=inline&fileID=57DEC8F4-AF4B-4101-82B2406D3BE1CBCA>

Wider research indicates that flexible working can unlock opportunities for growth. It suggests that, in the absence of suitable working hours or locations, groups of people are either not employed, have retired early, or are working below their potential¹⁰. Additionally, the PIR showed that flexible working can reduce vacancy costs; increase skill retention; enhance business performance; and reduce staff absenteeism rates.

In the present context of labour shortages in the economy, there is a role for flexible working in attracting and keeping people in work. Research conducted by the Behavioural Insights Team has shown that offering flexible working can attract up to 30% more applicants to job vacancies¹¹ (helping employers to recruit from a more diverse talent pool) and a recent ONS publication revealed that older workers working flexibly would be more likely to be planning to retire later¹².

A recent ONS Lifestyle Survey (Wave 2) finds that among those who would consider returning to work (58%), the most important factors when choosing a paid job were flexible working hours (32%), good pay (23%), and being able to work from home (12%). Flexibility in the workplace were also important factors to those currently in work. Among adults aged 50 to 65 years who said they currently had a paid job, the most common factors they considered important were their main job offering, 'permanent employment' (61%) and flexible working hours (48%)¹³.

The experience of the Covid-19 pandemic has shown many organisations that they can do things differently in the workplace. Even for those employers who could not accommodate home working, the pandemic necessitated adjustments to start and finish times. For example, the requirement to self-isolate resulted in the need for significant flexibility in the workforce to maintain business operations.

This helps to demonstrate that flexible working is a broad concept covering how many hours people work and the timing of those hours, as well as where people work and when they work there.

The ONS Lifestyle Survey reports that more people appeared to be taking up flexible working when returning to work, which may be due to more flexible working options since the coronavirus pandemic. Among those who left work since the coronavirus pandemic and not returned, 18% accessed flexible working in their previous job, compared with 29% of those who left work after the coronavirus pandemic and have since returned¹⁴.

Table 1 provides a short description of some of the different types of flexible working:

Types of flexible working ¹⁵	Description
Job sharing	Two people do one job and split the hours.
Working from home	It might be possible to do some or all of the work from home or anywhere else other than the normal place of work.
Part time	Working less than full-time hours (usually by working fewer days).
Compressed hours	Working full-time hours but over fewer days.
Flexitime	The employee chooses when to start and end work (within agreed limits) but works certain 'core hours', for example 10am to 4pm every day.
Annualised hours	The employee has to work a certain number of hours over the year, but they have some flexibility about when they work. There are sometimes 'core hours' which the employee regularly works each

¹⁰ See Gornick and Hegewisch (2010) <https://www.gov.uk/government/publications/work-life-balance-business-costs-and-benefits-literature-review>

¹¹ Behavioural Insights Team Research <https://www.bi.team/blogs/bits-biggest-trial-so-far-encourages-more-flexible-jobs-and-applications/>

¹² ONS Release

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/ageing/articles/livinglongerimpactofworkingfromhomeonolderworkers/2021-08-25>

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<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/reasonsforworkersagedover50yearsleavingemploymentincethestartofthecoronaviruspandemic/wave2>

¹⁵ <https://www.gov.uk/flexible-working/types-of-flexible-working>

	week, and they work the rest of their hours flexibly or when there's extra demand at work.
Staggered hours	The employee has different start, finish and break times from other workers.
Phased retirement	Default retirement age has been phased out and older workers can choose when they want to retire. This means they can reduce their hours and work part time.

Rationale for Intervention

As table 1 (above) shows, flexible working does not come in one size only. The right to request flexible working is designed to support employers and employees to have constructive, open-minded conversations about the different types of available flexible working and then find working arrangements that work for both sides. The policy plays an important role in Britain's flexible labour market, delivering benefits at the individual, business and socio-economic level where new work arrangements are agreed. We believe that there are three market failures related to flexible working in the economy: positive externalities, equality, and asymmetric information. All can be addressed through a range of policy options. Below details each in turn and how government policy can improve the situation.

Positive externalities

The Flexible Working Post Implementation Review (PIR)¹⁶ has highlighted positive externalities to both participation and satisfaction with work-life balance. For participation, an informal study carried out prior to the Covid-19 pandemic made reference to the untapped productive potential in the economy whereby segments of the population could be enabled to work more productively (full-timers), work more hours (part-timers) or could be more willing to work (unemployed/inactive) if provided the opportunity to work flexibly.¹⁷ Over half of employees (55%) working flexibly in the 2020 Employee Rights Survey said that a positive consequence of these arrangements was a better work-life balance.

Government policy can help ensure that the wider societal benefits from flexible working are maximised.¹⁸ For example, these wider societal benefits can result from helping parents to manage their childcare responsibilities or other workers balance their eldercare commitments while staying in work – meaning that there is less demand on the state to support those who have not felt able to stay in employment.

Equality

It is important that we continue to ensure equality and fairness for both employees and employers in reviewing requests. It is also important that we support employers to achieve the business benefits where these are to be gained from accommodating requests. The proposed reforms will help to ensure that the right to request is a fair and accessible policy.

The reforms will cover all employees within scope but we know from the Post Implementation Review of the 2014 extension to flexible working that some underrepresented and disadvantaged groups (e.g. females, those aged 16-24 and 65+, Asian/Asian British etc) are more likely to report availability and use of specific forms of flexible working.

Asymmetric information

The Flexible Working PIR assessing the impact of the 2014 extension highlighted an information failure (or asymmetric information) in understanding the benefits of flexible working and addressing “cultural expectations”. The PIR found that awareness that any employee (with more than 26 weeks continuous employment) had a legal right stood at 57%, much below that of the awareness of legal right for those with children under 17 (74%) or carers (79%). Whilst there is a likelihood that this information failure has also

¹⁶ Flexible Working Post Implementation Review (2021)

¹⁷ CEBR (2014) The productive value of the untapped workforce: A study into the potential economic impacts of a flexible working culture, Centre for Economic and Business Research

¹⁸ BEIS (forthcoming) Employee Rights Survey 2020, Department for Business, Energy and Industrial Strategy

been impacted (and improved) through the pandemic, these awareness statistics suggest there is still some scope for improvement and that increasing clarity about the options available to employees and employers will help. Additionally, the PIR highlighted that there is still a risk that there are negative perceptions of how flexible working may impact career consequences and it is important to continue to tackle this. By better facilitating conversations about flexible working between employee and employer, the proposed reforms can help to reduce asymmetric information.

Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

We have made use of the available evidence base to model the costs of reforming the existing framework. Where relevant, we have used methodology from similar family-related leave policies to model the impacts on business. To estimate familiarisation costs, we have followed a similar methodology (albeit different calculations) to those in the Neonatal Care Leave and the Carers Leave IAs, as it is reasonable to assume that employers familiarise in a similar way. We have drawn on the conclusions made in the Post Implementation Review of the 2014 extension to Flexible Working and used relevant survey evidence, from the forthcoming Management and Wellbeing Practices Survey and the Employee Rights Survey, to feed into the cost modelling.

The initial assessment of costs for these options is low (less than £5m per annum).

Description of options considered

Option 1: Do nothing

A 'do nothing' option would involve maintaining the status quo and the existing statutory regime for the right to request flexible working. This option would mean the full benefits of flexible working are not realised and would fail to deliver on the manifesto commitment to encourage flexible working.

Option 2: Non-legislative

Initial policy options considered whether a non-regulatory approach alone could be adopted. Specifically, whether the Flexible Working Taskforce could review and develop lessons learnt (good and bad) over the course of the pandemic and **share best practice** with employers. This could also be supported by a Government **call for evidence exercise** to identify ways to secure flexible working friendly culture across and within organisations. The first of these options has already been taken forward, with the Taskforce contributing to two products published in 2021. The Taskforce has also produced a 'flexible working business case' for employers to incentivise employer investment in the creation of flexible working opportunities across their workforce and to help them to attract people from difference backgrounds and experiences.

This has proven useful in identifying how employers can embed specific types of flexible working (home and hybrid working), but guidance alone is unlikely to be sufficient in making improvements to the framework to encourage more effective dialogue between employer and employee. Therefore, we are carrying out a regulatory approach.

Option 3: Legislative change

Summary of preferred regulatory option

Statutory flexible working begins with a conversation between employer and employee to understand how to balance particular work requirements and specific individual needs. The proposed reforms seek to amend the existing regulatory framework by encouraging the employer to think more closely about what benefits flexible working might bring.

The policy reforms will require primary legislation. The elements of the policy cover:

1. A new requirement for employers to consult with the employee before rejecting their flexible working request.

2. Allowing an employee to make two statutory requests in any 12-month period (rather than the current one request).
3. Reducing the decision period (within which an employer administers the request) from three months to two months; and
4. Removing the existing requirement that the employee must explain what effect, if any, the change applied for would have on the employer and how that effect might be dealt with.

We have quantified the impact of elements 1 and 2 and qualitatively discussed the impact of elements 3 and 4 in this Impact Assessment.

From a compliance perspective, employers will continue to be required to consider all flexible working requests in a 'reasonable manner' as set out in the Acas code of practice. It is for employers and employees to ensure that rights are used appropriately but employees can complain to an employment tribunal if the employer:

- did not handle the request in a 'reasonable manner'.
- wrongly treated the employee's application as withdrawn.
- dismissed or treated an employee poorly because of their flexible working request, for example refused a promotion or pay rise.
- rejected an application based on incorrect facts.

Justification of different elements of the policy

The process of embedding flexible working arrangements needs to begin with a conversation between employer and employee about how best to balance work requirements and an individual's needs. We therefore believe that the existing overarching legislative framework, which is based on an employee making a formal request to change their hours and/or location or work, and a business having a right to refuse the request if it is incompatible with its business needs, remains appropriate.

While the Post Implementation Review (PIR) of the Flexible Working Regulations 2014 showed that the right to request flexible working is generally functioning well (in 83% of workplaces, where a request has been made, the request has been granted), the review also identified some elements of the framework that could be improved – and these are listed below.

A new requirement for employers to consult with the employee before rejecting their request

The evidence suggests that a small minority of statutory flexible working requests are declined, but we recognise that some people may avoid making a request if they think it has a low chance of being accepted. The PIR showed that, in 2018, 34% of employees without a flexible working arrangement think it is unlikely that their employer would agree to them working flexibly.

To help address these perceptions, it is important that the legislation supports an informed discussion between the employer and employee. This measure will serve to encourage employers to think more closely about whether there may be business benefits associated with the requested flexibility and discuss the request directly with the employee. Working together to consider available options can help promote stronger working relationships and deliver more of the employer benefits flexible working can drive.

Changes to the administrative process

The 2021 consultation on flexible working found that individuals would benefit from the additional flexibility of a second request in 12 months, particularly in the event that their circumstances materially change in this period. A shortened statutory response time also supports quicker decisions when these are needed to support individual and business needs. These elements will serve to make the process more efficient for employers and employees. A more efficient and responsive system can prevent employees from dropping out of work, which is to the detriment of both parties.

The Chartered Institute of Personnel and Development (CIPD) support building more flexibility into the system and allowing employees to make up to two requests for flexible working per year based on the balance of evidence from our member consultation.

In the CIPD's consultation survey of members (Oct-Nov 2021: 1196 senior decision makers in UK employers) 44% of respondents believe the current statutory framework needs to change to allow employees to submit multiple requests to work flexibly. There were no significant differences by sector or between SMEs or larger organisations on this. In all, 39% of respondents disagree that any change is needed.

Of those respondents who believe the framework needs to change in this area, the highest number (34%) believe two requests should be permitted in a 12-month period, followed by 29% who think that there should be no limit on the number of requests and 28% that feel three requests should be allowed in the 12-month timeframe.

Removing the requirement for the employee to explain the impact of the request

Respondents to the consultation pointed out that the requirement on the employee to explain what effect their request would have on the employer unfairly favours those with more experience or better writing skills. Removing it will set a more level playing field among those submitting requests and support a more two-sided approach to assessing the request. This change will remove an administrative burden on employees but will have a limited impact on employers who do not need to take into account the employees perception of the effect of flexible working. Alongside the new requirement to consult, this will steer both sides to consider the business benefits of the requested flexibility.

Other options considered

In considering other options, we continue to think about non-legislative interventions.

In December 2018, we established the Flexible Working Taskforce to gain a better understanding of flexible working 'on the ground' in businesses and consider the barriers to take-up. Since then, the group has taken on discreet pieces of work. These have included developing a business case for flexible working, supporting a campaign to encourage employers to promote flexible working in job adverts and developing advice and guidance to help employers with the challenges and opportunities associated with new ways of working, such as hybrid working.

Awareness of the right is higher among parents and carers (some of whom have had the right since 2003) than it is among employees in general. Respondents to the 2021 consultation found that certain elements of the legislation (including requests for temporary, rather than permanent, requests for flexibility and the framework for refusing requests) could be made clearer. We are committed to ensuring guidance that supports the legislation remains fit for purpose and will update this in line with the legislative changes, seeking input from stakeholders such as the Flexible Working Taskforce.

Monetised and non-monetised costs and benefits of each element of preferred policy option (including administrative burden)

Monetisable Costs to Business

The estimated direct costs to business for the proposed reforms are based on two categories:

- a) **Familiarisation Costs** – Costs incurred by businesses from having to understand any new requirements associated with the policy.
- b) **Administrative Costs** – Costs incurred by businesses from going through the process of receiving a new flexible working request. This may include the cost of reviewing or considering requests, changes to any recording/reporting system and any resulting impact in terms of appeals and tribunals.

We do not anticipate any set-up costs to employers as we are proposing adjustments to the existing legislative framework therefore this will only require minor modification of employers' policies and the assessment of familiarisation costs already takes into account the time senior managers and HR professionals need to consider changes.

The costs to employers of accommodating flexible working (e.g., re-organising work schedules, adjustments to IT systems, recruiting additional staff to cover an employee on reduced hours) have not been included for these reforms for the following reasons.

Firstly, the regulatory changes are permissive in nature as they allow, but do not force, businesses to do something. In this case, businesses must consider requests for flexible working, but they can reject requests on the grounds of cost. Where an employer accepts a request for flexible working, we assume that the benefits to the business (workforce satisfaction, retention, productivity etc) outweigh the direct costs.

Secondly, we assume these costs have fallen significantly since the previous Impact Assessment in 2012 for several reasons including, more widespread use of portable IT (i.e., laptops and smartphones), increased awareness and greater use of flexible working generally (outside of the right to request legislation) and more recently large shifts to all forms of flexible working during the pandemic.

Evidence from various sources suggest that in 2020, at the peak of the pandemic restrictions, the share of those in employment doing some form of homeworking stood at around 45%¹⁹ of the population. Crucially, there is further evidence that businesses are looking to imbed flexibility into everyday business functions and implement various forms of hybrid working²⁰. This will serve to reduce the burden of accommodating particular requests for home working made under the legislation.

Lastly, we expect that an obligation on employers to consult with employees before rejecting their requests will reduce the potential for conflict and possibly the need for complaints to employment tribunals. This proposed reform is consistent with the Acas Code of Practice on handling flexible working requests, which already cites this as good practice.

There is little evidence on the extent to which employers and employees already meet the proposed policy reforms with the exception of the length of time taken to respond to a request (discussed in the specific policy cost section). Generally, we assume that the reforms will require a change of behaviour but where employers are already meeting employees before rejecting requests and providing opportunity to make multiple requests a year will bring down the assessment of costs further.

Annex 1 contains a detailed flowchart of how the direct costs to businesses are modelled, including the assumptions made at each step. Annex 2 has a full breakdown of all the assumptions made and the evidence underpinning them.

Business Administration Costs

Policy reform 1: Requiring employers to consult with the employee before rejecting their request

Prior to assessing the administration costs generated by this policy option, we first estimate the population in scope for the reforms. We have estimated the population of interest using data from the Labour Force Survey (LFS) which suggests there was an average of 24.5 million employees in the labour market across 2019. Data from 2019 has been selected as it is considered more reliable than more recent data which has been impacted by Covid-19. We have focused on ‘employees’ only (i.e., excluded the self-employed as they are ineligible under the right to request), those with 26 weeks or more of continuous service, as well as those based in Great Britain only (as Northern Ireland have a separate policy process). Table 1 below details estimates of employees by length of service from the ONS Labour Force survey.

Table 1: Number of employees in Great Britain in scope of right to request Flexible Working legislation

	Estimate LFS January - December 2019 (millions)
Total number of employees in scope	24.5

¹⁹ Evidence from the ONS Labour Market Study suggested that 46.6% of people were doing some work from home in April 2020. This compares to the Opinions and Lifestyle Survey estimate of 44.6% for the period 9th to 20th April and the Business Impacts of Coronavirus survey estimate of 46.8% for the 6th to the 19th of April. See ONS study here: [ONS Homeworking Study](#)

²⁰ The Big Four auditors are one high profile example adopting hybrid working: <https://www.ft.com/content/dc461e5b-37c5-44f4-aaad-0406b82230f2>

For the rate of requests made under the Right to Request Flexible Working legislation we have applied a range of take-up scenarios. The assumption for the low scenario (1%) is based on the previous IA produced for the 2014 extension. The 1% is an average of the rates used for men and women, 0.75% and 1.25% respectively. In the central scenario, we have taken a 4% request rate as reported in the Flexible Working PIR (which estimates this figure from the 2018 British Social Attitudes Survey)²¹. For the high scenario, we have calculated the difference between the low and central estimate and increased the rate accordingly.

Table 2: Flexible working take-up rate assumptions

Population in scope (millions)	Take-up scenario	Take-up rate assumption
24.5	Low	1%
	Central	4%
	High	7%

A statutory request involves a specific process (e.g., an eligible employee writing a letter/email to their employer with the change they would like, when it would start, any effects the change could have on the business, the date of any previous requests and if it relates to something covered in the Equality Act). Currently, the employer then has three months to consider. If they agree, this can change the terms within the employment contract. If they reject, they must write to the employee giving the business reasons for the refusal²².

To measure the impact of requests made under the Right to Request Flexible Working framework specifically and to avoid capturing flexible working arrangements which are agreed between employer and employee 'informally' we apply an 'informal request' filter. In our low scenario, we assume 10% of requests are made under the statutory right to request framework (as opposed to informally agreed or non-statutory requests) which is the same as the previous Impact Assessment. In our central case, we assume 35% of requests are made under the statutory framework, this comes from the Employee Rights Survey which is based on requests that resulted in a contractual change. For the high scenario, we apply the difference between the low and central estimates to increase the rate accordingly.

Table 3: Flexible working requests made under the statutory framework assumptions

Statutory requests scenario	Share of requests made under the statutory right to request
Low	10%
Central	35%
High	60%

We then take evidence from the recently published Post Implementation Review on the 2014 extension to the Right to Request which found that 91% of requests for flexible working are accepted and therefore assume that 9% of requests which are rejected will now necessitate the employer consulting the employee before issuing a decision.

Finally, we estimate the unit cost of an employer consulting an employee from evidence from a BEIS commissioned YouGov employer survey. The survey provides evidence of both a) how long it takes employers to consult employees before they reject (the specific questions look at the time taken to review and separately how long to suggest an alternative arrangement) and b) who in the organisation is responsible for making flexible working decisions.

²¹ https://www.legislation.gov.uk/uksi/2014/1398/pdfs/ukiod_20141398_en.pdf

²² <https://www.acas.org.uk/making-a-flexible-working-request/how-to-make-a-flexible-working-request>

Firstly, the survey finds that 40% of employers estimate it takes less than 1 hour to process a flexible working request (25% take 2+ hours and 35% do not know). Given the majority of employers estimate between 0 and 60 mins, we take the mid-point (30 mins) as a reasonable proxy. This also makes intuitive sense when you consider that a discussion on a flexible working request could be accommodated within a standard workplace meeting. Secondly, the survey reports that in 43% of employers, a ‘Senior Management’ is responsible for making the decision on whether to accept flexible working request and, in 34% of employers a line-manager or supervisor is responsible. We therefore assume the respective hourly wage of ‘Managers, Directors and Senior Officials’ as reported by ASHE (SOC code 1) is a suitable proxy to estimate time taken to familiarise with the proposed policy reforms.

ASHE 2019 hourly earnings for a ‘Managers, Directors and Senior Officials’, uprated to cover non-wage costs from Eurostat (to account for employer pensions and national insurance contributions etc) gives a one-hour unit cost of £31.95.

This generates the following formula for the costs of administration for policy reform 1:

<p style="text-align: center;"><i>Cost of consulting employee = (P × R × F × RR) × (unit cost of consulting an employee)</i></p> <p>Where: (P x R x F x RR) is the number of failed requests. P is the population of interest (employees with 26 or more weeks of continuous service). R is the rate for flexible working request (assumed to be 4%). F is the share of requests which are made under the statutory right to request (where 1 – F = Informal request). RR is the share of rejected requests (and as above is assumed to be 9%);</p>

Table 4 shows the cost of requiring employers to consult with employees before rejecting a flexible working request:

Table 4: Business administration costs to consult employee before rejection

Population within scope	Take-up Scenario	Statutory requests scenario	Population in Scope (9% of rejected requests)	Total Administration Costs
24.5m	1%	10%	2.2k	£0.04m
	4%	35%	30.9k	£0.49m
	7%	60%	92.8k	£1.48m

Table 4 indicates that requiring employers to consult with employees before rejecting a request will lead to an annual, best estimate administration cost of circa £0.5 million. This is a cautiously high estimate as guidance encouraging employers to discuss flexible working with their employees before reaching a decision already exists. The Post Implementation Review²³ of the 2014 extension to flexible working shows that there are around 100 Employment Tribunal cases on average per year in relation to flexible working regulations as a whole. We do not estimate any subsequent increase in costs from Employment Tribunals or appeals as the policy aims to encourage conversations and resolve issues which should ultimately reduce the number of cases that require enforcement.

Policy reform 2: Allowing an employee to make two statutory requests in any 12-month period (rather than the current one request).

For policy reform 2, amending the administration process to allow a second request per year, as above, the starting population remains the same, employees with the required length of service. For simplicity, we then

²³ https://www.legislation.gov.uk/ukSI/2014/1398/pdfs/ukSIod_20141398_en.pdf

assume that the population of all those who have previously been rejected (9%) are the primary population in scope of making in a second request within 12 months²⁴.

We then must assume a proportion of those in scope, actually take up the right to make a second request. On one hand, it is expected that some employees will not have reason to request again (i.e. the discussion with the employer following the first request made clear that a flexible working arrangement cannot be accommodated as the employer does not see a compelling business case to allow it) while on the other hand, some employees (and employers) will have benefited from the discussion around flexible working related to the first request and will be encouraged to make a subsequent request. In the absence of strong evidence, we cautiously assume a high take up rate of 75%. This reflects the ease with which a second request can be made while also allowing for a small amount of attrition following the first request and employer response. We have tested this approach with CIPD who raised that take-up of second requests will depend on a number of factors (i.e. type of flexible working requested, employee job role and reason for rejection etc) but agree the assumption is reasonable.

We know that the current proportion of employees requesting flexible working multiple times is 1%²⁵ (compared to the overall percentage of requests received annually for the Right to Request Flexible Working at 4%). This could indicate that 'latent demand' for multiple requests is limited, however when the right to request twice a year exists in statutory legislation, we expect this figure to increase. On balance, we believe it to be a cautious position to assume a high proportion of rejected requests result in a follow-up request.

Finally, we assume that the percentage of flexible working requests which are rejected by an employer (and therefore require the employer to consult with the employee) remains the same (9%) for second requests as seen for first requests. It is not possible to reliably forecast any change in the rejection rate, however as the rejection rate is already low it is a cautious approach to hold this constant. We have tested this approach with the CIPD and they consider it reasonable.

Therefore, the methodology to cost policy reform 2 is the following formula:

$$\begin{aligned} \text{Cost of reviewing second requests} &= (P \times R \times F \times RR \times SR) \times (\text{unit cost of reviewing a request}) \\ &+ \\ \text{Cost of consulting employee before rejecting second requests} &= (\text{No. of second requests}) \times (\text{unit cost of consulting an employee}) \end{aligned}$$

Where:

(P x R x F x RR x SR) is the number of failed second requests.

P is the population of interest (employees with 26 or more weeks of continuous service).

R is the rate for flexible working request (assumed to be 4%).

F is the share of requests which are made under the statutory right to request (where 1 - F = Informal request).

RR is the share of rejected requests (and as above is assumed to be 9%).

SR is the share of second requests made (assumed to be 75%).

Unit cost of reviewing a request is again 30 mins from the YouGov survey based on a question asking how long it takes an individual in an organisation to review a flexible working request. We followed the same approach as policy reform 1 to estimate 0.5 hrs of a 'Managers, Directors and Senior Officials' time and again uprate it to account for non-wage labour costs. This gives a unit cost of £31.95. This essentially generates the same cost output to policy reform 1.

Unit cost of consulting an employee is the same as described for reform 1. These costs are relevant again as an employer will still be required to consult an employee before rejecting, even if it is their second request in 12 months.

²⁴ It is possible that some secondary requests make come from employees who have already been successful in agreeing flexible working (i.e., they may be seeking to make small adjustments to a previously agreed arrangement), but we assume these will be negligible.

²⁵ We have taken the 1% latent demand for multiple requests from the Flexible Working PIR (which estimates this figure from NatCen Social Research's British Social Attitudes survey, 2018).

Using the population of interest and the above formula, we estimate the administration costs for this policy reform in table 5 below:

Table 5: Business administration costs for reviewing a 2nd request

Population within scope	Scenario	Population who raise second request)	Population who raise second request and are rejected)	Total Administration costs
24.5m	Low	1.6k	0.1k	£0.03m
	Central	23.2k	2.1k	£0.40m
	High	69.6k	6.3k	£1.21m

Table 5 indicates that allowing two statutory flexible working requests per year and also requiring employers to consult employees before any rejection will lead to a potential increase of administration cost of between £0.03 million and £1.21 million per annum, with a best estimate of £0.4 million per annum.

In total the administration costs associated with reforms 1 and 2 (consulting employees before rejecting and allowing two requests per year) will lead to a potential increase of administration cost of between £0.1 million and £3.0 million per annum, with a best estimate of £1.0 million per annum.

We do not estimate any increased costs from appeals or tribunals as the fundamental aim of the reforms is to encourage greater employee-employer dialogue which will support a reduction in the number of employer-employee disagreements and ultimately cases which require enforcement action.

Non-monetisable impact to business

Proposed reform 3: Reducing the decision period (within which an employer administers the request) from three months to two months

This policy reform will simply mean that employers are required to respond to an employee's request within 2 months of submitting it. It does not place any new requirements on an employer in terms of their decision-making or the content of their response. This reform will not introduce any new costs on employers as they are already required to review and respond to all statutory requests, they will now have to do this to a slightly tighter timetable.

In addition, the vast majority of requests are responded to well within the three-month deadline, evidence from a BEIS Employee Rights Survey (2018) finds that of all employees who have made a request to work flexibly in the last 2 years, 84% have received a response within 2 months, with a further 12% either not knowing the length or currently awaiting a decision. This reform will tighten up the legislation for a small proportion of employers who are taking close to the current maximum amount of time available to them. Therefore, it is estimated that this change will only impose negligible impacts on business.

Proposed reform 4: Removing the existing requirement that the employee must explain what effect, if any, the change applied for would have on the employer and how that effect might be dealt with.

This policy reform will remove an existing requirement on employees to set out in their request, how they or their employer might deal with any effects the change could have on the employee's work or the organisation. The intention of the original requirement was for employees to present a persuasive argument about how the changes requested are workable and will not adversely affect the employer and may even bring benefits. However, consultation evidence suggested that this requirement unfairly favours those with more experience and better writing skills and removing it can level the playing field among employees.

We do not anticipate this reform to have any direct cost on business as employers will still be required to review a statutory flexible working request in the same way and this reform primarily reduces a burden on employees. There is limited evidence on how much employers benefit from the employee's perception of how flexible working may impact the organisation, but we do know this has the potential to remove some unnecessary details in the request that can make it longer for employers to consider. There will be some

small benefits to employees who are no longer required to set out the perceived impact of flexible working in the request, but they are considered too small to quantify.

Familiarisation Costs

We consider familiarisation costs together rather than look at the impact of each individual policy element. To assess the impact on employers of familiarising with the policy changes, we have taken data from the latest Business Population estimates (for the start of 2021). These estimates yield a total business population of 1.4 million employers with at least 1 employee across Great Britain.

To calculate the familiarisation cost of the reforms we use evidence from a BEIS commissioned employer survey conducted by YouGov. This survey asked employers to estimate how long it takes to familiarise with the current statutory flexible working policy, it found that 14% of employers estimated it takes up to 10 mins, 23% take between 10-30 minutes, 24% take 30-60 mins and 17% take more than 1 hour (the remainder did not know). The reforms proposed are small in relation to flexible working legislation as a whole and we therefore suggest that 10 mins is a reasonable estimate to capture the additional time employers will need to understand their requirements.

The YouGov survey also finds that in 43% of employers, a 'Senior Management' is responsible for making the decision on whether to accept flexible working request and, in 34% of employers a line-manager or supervisor is responsible. We assume that the respective hourly wage of a Manager (SOC code 1) is a suitable proxy to estimate time taken to familiarise with the proposed policy reforms.

The standard approach to costing familiarisation has been used, this is also used in similar employment law related entitlements. Since these are one-off familiarisation costs, frequency is assumed to have a value of 1.

Familiarisation cost

***= Mean Average wage rate per hour (Managers, directors and senior officials)
x time spent on activity
x no. businesses affected
x frequency***

We follow the same approach as earlier and use ASHE 2019 to estimate the hourly earnings of 'Managers, directors and senior officials' and uprate using non-wage labour costs from Eurostat (to account for employer pensions and national insurance contributions etc) to arrive at an hourly rate of £31.95. **This leads to a total familiarisation cost of £7.7 million.**

We assume that all medium/large businesses familiarise when the policy starts but, that micro/small businesses (which make up 96% of all businesses) only familiarise when they start to receive requests. For these businesses we spread the familiarisation costs over ten years (the standard green book appraisal period), leading to an annual cost of £0.7 million. When we add the £0.3 million from medium/large businesses who familiarise when the policy is announced, this **leads to an upfront first year familiarisation cost of £1.0 million.** For simplicity, we present the £0.3 million as recurring costs rather than transition costs (see page 3).

Total Costs

Therefore, the best estimate total direct (nominal) cost to businesses is estimated at £1.91 million per year. The costs of this policy will be realised when the regulations come into effect, which we expect would come in at 2024 at the earliest. See table 7 below for estimated costs for all options.

Table 7: Monetised costs associated with policy reforms, 2019 prices (£m)

Policy reform	Low estimate	Central estimate	High estimate
One-off familiarisation costs	£0.3m	£0.3m	£0.3m
Recurring (annual) familiarisation costs	£0.7m	£0.7m	£0.7m
Recurring (annual) Administration costs associated with requiring employers to consult employees before rejection	£0.04m	£0.5m	£1.5m
Recurring (annual) Administration costs associated with allowing two requests per year	£0.03m	£0.40m	£1.2m
Total	£1.1m	£1.9m	£3.7m

We do not estimate any increased costs from appeals or tribunals as the fundamental aim of the reforms is to encourage greater employee-employer dialogue which will support a reduction in the number of employer-employee disagreements and ultimately cases which require enforcement action.

Impact on small and micro businesses

We have estimated all impacts of the policy by business size to understand how the costs are distributed.

For the administration costs, we have split out the costs by business size based upon assumptions from the Business Population estimates for the proportion of employees in each category. After removing the businesses with 0 employees, and reweighting these employee shares, we find that micro and small businesses employ 29% of the employee population and therefore that medium and large businesses employ 71%. This therefore means that the majority of costs are felt by medium and large businesses (particularly businesses with 500 or more employees who make up 51% of the costs). The unit costs at each step of the administration cost process do not differentiate by size of firm and are scaled purely by the number of requests).

Table 7: Business Size by share of employees

Business Size	Share of employees
1	0%
2-4	7%
5-9	6%
10-19	7%
20-49	8%
50-99	6%
100-199	6%
200-249	2%
250-499	6%
500 or more	51%

For familiarisation costs, these are already broken down by business size due the nature of the estimation process. The findings indicate that total costs on the micro and small businesses (with employee numbers from 1-49) category are much larger than the medium and large business group. This is not however due to costs being higher, but rather the number of micro and small businesses being greater (over 1.4 million versus just over 50k medium and large firms).

Therefore, in conclusion, we do not believe that small and micro businesses will be disproportionately impacted, nor do we think there is a justification to exempt them from the policy proposals which would create a two-tier labour market where rights would vary according to the size of business an individual works in. Moreover, small and micro businesses are not required to make changes immediately and we assume these firms will familiarise with the legislation over time on a case-by-case basis.

Wider Impacts and Transfers

The Proposed Regulatory Reforms

We anticipate that the proposed reforms will go further and increase the benefits to both employees and employers. This includes the potential for positive effects on workplaces from reduced absenteeism, reduced vacancy costs and increased skill retention, and increases to profit and productivity. The PIR notes that overall, the majority of evidence suggests a significant and positive relationship between various flexible working practices and business performance. Flexible working arrangements more generally make an important contribution in achieving work-life balance, with over half of employees report better work-life balance as a result of working flexibly. It remains difficult to isolate the effects of flexible working legislative changes to business performance and productivity. We have not monetised these impacts due to the intrinsic difficulty in attributing the impact of specific policy changes from shifts towards flexible working in the wider economy. The following sub sections detail the wider benefits identified and analysed in the previous IA as well as in the Flexible Working PIR, which includes a more recent review of the evidence base.

Previous IA benefits of FW

The impact assessment for the extension of the right to request in 2014 specified several benefits from flexible working for both employers and employees. For employers, this included: improved employee relations, improved employee motivation, reductions in recruitment, reduced labour turnover, increased productivity and reduced absenteeism. For employees, flexible working offered an improved work life balance, increased appreciation of employers' approachability as well as wider societal benefits of helping tackle child poverty, support single parents, carers, and older workers.

The IA also produced estimates of the magnitude for a subset of these benefits, including reduced vacancy costs and increased skill retention; increased productivity and profits; and reduced absenteeism rates. The below extract from the IA summarises these impacts:

“Average annual benefit to employers from higher productivity (£36.8m), lower labour turnover (£8.4m), and reduced absenteeism (£1.4m), over a period of ten years (total £46.6m), plus annual savings to employers from moving to a statutory code of practice (£9.1m). Subsequent years include benefits accrued from the previous year's new working arrangements, which leads to a total net present value of benefits over the 10 years of £474.9m.”²⁶

Findings from the Flexible Working PIR

The Flexible Working PIR of the 2014 extension of the right to request to all employees with more than 26 weeks continuous service presents findings on the positive effect flexible working has contributed to the economy. Below focuses on the three key monetised benefits from the 2014 IA and provides a brief extract from the PIR:

1. Reduced vacancy costs and increased skill retention

More than four in ten employers report positive effects of flexible working on staff turnover and evidence has demonstrated a significant association of flexible working on staff turnover. Indicative estimates from a membership survey suggest that employer costs of hiring workers may have reduced over time. Employee retention rates across the economy overall are relatively consistent over time, with just under two thirds of employees staying with the same employer from one year to the next. Attributing any changes in employee turnover to the legislative changes is difficult, however, given the numerous other factors that affect staff turnover.

2. Increased productivity and profits

²⁶ For the IA from 2014 and consultation IA from 2012, see here: <https://www.gov.uk/government/publications/right-to-request-flexible-working-impact-assessment-revised-cost-to-business> and <https://www.gov.uk/government/consultations/consultation-on-modern-workplaces>

The literature has demonstrated a significant and positive relationship between various flexible working practices and business performance. The literature has demonstrated an association between flexible working and positive effects on productivity. There is also evidence of benefits of flexible working practices and improved productivity at organisational level.

The original impact assessment for the 2014 regulatory extension calculated the net share of businesses at the time (36%) reported productivity improvements from flexible working arrangements. It assumed a 5-percentage point output gain would be achieved among these organisations. Annual ongoing benefits of increased productivity and profits was reported to be £36.8 million.

As mentioned previously, in 2018 just under half of employers with 5 or more employees (48%) perceived positive effects of flexible working arrangements on productivity. There is insufficient evidence to determine the extent of productivity increases (as measured by output gain) experienced by firms or profits (as measured by gross operating surplus) as a result of flexible working.

3. Reduced absenteeism rates

Around half of employers reported positive effects of flexible working on reducing absenteeism. The estimated benefits of flexible working on absenteeism may not have been realised across all employers reporting staff working flexibly in the economy. The econometric evidence on the association between flexible working and absenteeism is mixed. Sickness and absence have remained at relatively similar levels in the UK during the period of this review.

The PIR also highlighted some evidence on the potential non-monetised impacts stemming from the 2014 extension. This includes informal research polls indicating that some employers are planning to reduce office space as they consider health risks and cost savings and wider suggestions that there may be environmental benefits from working from home. However, despite one review suggesting that remote working may support energy savings, there is no consensus in the literature on how much energy consumption can be reduced, or whether there are unintended effects of working from home on non-work energy consumption.

Equality Impact Assessment

The Public Sector Equality Duty (PSED) under section 149(1) Equality Act 2010 applies to this policy reform. The key issues which arise from these proposals in relation to the PSED are that the Right to Request Flexible Working can have positive impacts on individuals with protected characteristics (such as sex, age and disability). By improving the Right to Request Flexible Working framework, we hope to further these positive impacts. We estimate that these changes do not appear to have any disproportionate negative impact on equality and the need to advance equality has been considered appropriately.

Just over 90% employees (92%) in Britain have more than six months continuous service and are therefore in scope of the right to request flexible working framework²⁷. The proposed reforms do not alter the eligibility criteria but aim to make the existing framework more effective this will support all groups with protected characteristics.

The following demonstrates how the availability and use of flexible working differs across specific groups. The main indications are that:

1. Gender: Female employees are more likely to take-up flexible working than men (64% versus 54%).²⁸
2. Age: Findings suggest that older workers (aged 65+) and younger workers (16-24) had less access to flexible working.
3. Income: Those with household income of £40,000 or more reported greater availability of flexible working (85% versus 80%).
4. Sector: There are some difference in the take-up of flexible working by sector, with those in construction or transport sectors least likely to utilise the right.

The following is taken from the Employee Rights Survey:

²⁷ BEIS analysis of 2019 Labour Force Survey

²⁸ BEIS (forthcoming) Employee Rights Survey, Department for Business, Energy and Industrial Strategy

Gender

Recent estimates (2020) by gender show that female employees are more likely to take-up any flexible working (64%) than male employees (54%).²⁹ Furthermore, female employees (85%) are more likely to report availability of any flexible working arrangements than male employees (75%). Part-time working availability is greater among female (62%) than male (41%) employees. However, availability of flexitime, working from home on a regular basis and homeworking were slightly more likely to be reported among male employees than female employees.

Age

There are some differences in the availability of flexible working arrangements by age. Older employees aged 65 and over (69%) are less likely to report availability of any flexible working arrangements than employees overall (80%). Fewer younger employees aged 16-24 (13%) said that they had access to working from home on a regular basis than employees on average (30%). Home-based working is also less likely to be made available to younger employees, with 12% of 16-24-year-olds reporting access compared with 20% of employees overall.

Ethnicity

Employees of Asian/Asian British ethnicity were more likely to report any flexible working (66%) than employees of White/White British ethnicity (58%). There were no statistically significant differences in the take-up of part-time working or regularly working from home by ethnicity.

Disability

There is little variation in take-up of any flexible working among employees reporting a physical or mental health condition (no statistically significant differences).

Income

Staff with higher household incomes of £40,000 or more report greater availability of any flexible working (85%) than average (80%). Access to working from home increases with household income, from 6% among those with incomes of £10,000 or less, rising to 43% of employees having access to working from home on household incomes of £40,000 or more.

Sector

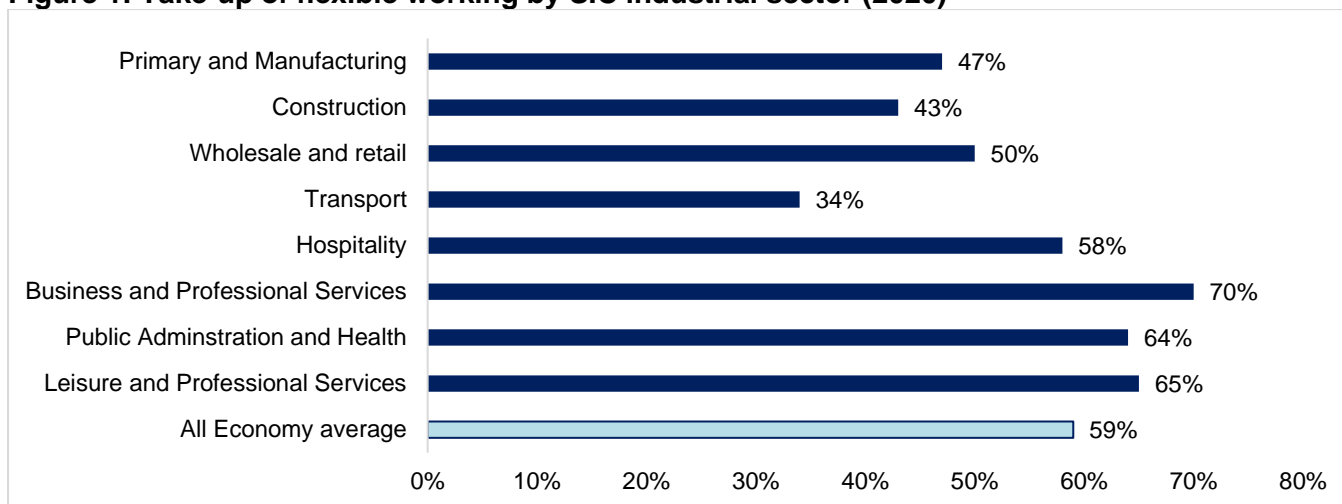
By sector, employees in Business and Professional Services (70%), and Public Administration and Health (64%) are more likely to report taking up flexible working than employees working in Construction (43%) and Transport (34%) sectors.³⁰ Without making any direct comparisons, the take-up of many forms of flexible working was also more common among public sector employees than sectors such as Manufacturing and Construction in 2011 according to the Work-life Balance survey.³¹

²⁹ BEIS (forthcoming) Employee Rights Survey, Department for Business, Energy and Industrial Strategy

³⁰ Differences in take-up reported by Understanding Society and the Employee Rights Survey can be explained by the different methodologies employed.

³¹ BIS (2012) *The Fourth Work-Life Balance Employee Survey*, Department for Business, Innovation and Skills. Available: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32153/12-p151-fourth-work-life-balance-employee-survey.pdf

Figure 1: Take-up of flexible working by SIC industrial sector (2020)



Source: Employee Rights Survey 2020
 Unweighted base: all employees 5,291

Within sector by Employer Size

Larger employers of more than 250 staff were three times more likely (30%) to turn down a flexible working request than the economy average (9%).³² As mentioned previously, larger employers are more likely to receive any requests from staff. Education (15%), Public administration and defence (15%) and Manufacturing sector employers (14%) were also more likely to report turning down a flexible working request than workplaces overall (9%).

These reforms will apply equally to all employees in scope of the right to request flexible working legislation but the evidence indicates that flexible working supports specific groups. We do not estimate the reforms to have any disproportionately negative impact on any groups with protected characteristics.

Monitoring and Evaluation

A proportionate, light-touch non-statutory review of the regulatory changes to the flexible working right to request will take place five years following introduction of the policy. The review will assess whether the changes to the statutory framework have had a positive impact in encouraging more effective employee and employer conversations on flexible working.

Stakeholder feedback will form the primary source of evidence, but we also anticipate that the series of employer and employee surveys will continue, and these surveys can be designed to capture some of the effects of these specific reforms.

³² Management and Wellbeing Practices survey of employers, 2018.

Annex 1: Complete list of Assumptions and Source

Description of Assumption	Variable in formulae	Assumption	Source
Request Rate – The share of requests received annually for the Right to Request Flexible Working	<i>R</i>	4% (1% and 7% in sensitivity tests)	2018 British Social Attitudes Survey (the 1% is a mid-point from previous IA and 7% a BEIS estimate based on the difference between the 4% and 1%)
Percentage of requests which are made formally under the statutory right to request	<i>F</i>	35% (10% and 60% in sensitivity tests)	Based on Employee Rights Survey (the 10% is from the previous IA and 60% a BEIS estimate based on the difference between the 35% and 10%)
Percentage of successful (rejected) requests – The share of requests which are accepted	$1 - RR$	91% (9%)	Management and Wellbeing Practices Survey
Percentage of second requests in scope made	<i>SR</i>	75%	No formal source, cautious figure assumed.
Mean wage for: Manager (SOC 1)		£27.09	ASHE 2019 data
Non-labour wage costs		17.95%	Eurostat
Average time taken for firms to familiarise with a new policy		10 mins	Informed by BEIS commissioned YouGov survey of employers (2021)
Average time taken to review a Flexible Working Request		0.5hrs	BEIS estimate based on previous IA and increased familiarity
Average time taken to consult an employee prior to rejecting		0.5hrs	Informed by BEIS commissioned YouGov survey of employers (2021)