

<b>Title:</b> Right to request a more predictable working pattern <b>IA No:</b> BEIS002(F)-23-LM  <b>RPC Reference No:</b> <b>Lead department or agency:</b> Department for Business, Energy and Industrial Strategy <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> February 2023			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Primary legislation			
<b>Contact for enquiries:</b> <a href="mailto:lm.correspondence@beis.gov.uk">lm.correspondence@beis.gov.uk</a>				
<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> 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
£-145.2m	£-145.2m	£16.9m	Qualifying provision

**What is the problem under consideration? Why is government action or intervention necessary?**  
 The Taylor Review of Modern Working Practices highlighted the issue of one-sided flexibility. One-sided flexibility refers to employers using flexible contracts to transfer risk to, and thus exert control over, workers. By introducing a right for workers to request a more predictable working pattern, we aim to encourage employers to think carefully about their responsibility towards their workforce and reduce the impact of one-sided flexibility. This will increase the sharing of benefits of flexibility to both sides in the employment relationship; the business and the worker.

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

- Improve the stability of employment for atypical workers, increasing their financial stability through guaranteed hours or permanent employment;
- Prevent employers from abusing forms of atypical work by forcing workers to remain in these forms of employment for extended periods of time without valid business justification;
- Encourage conversations between employees and employers to facilitate the sharing of the benefits of flexibility and to promote effective workforce management.

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


- Option 1: Introduce a right to request a more predictable working pattern for agency workers and workers on zero-hour contracts.
- Option 2: Introduce a right to request a more predictable working pattern **for all workers and employees**.

The preferred option is option 2. By extending the right to a wider population, this will bring a larger number of workers into scope and lead to higher benefits to workers.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 5 years after implementation				
Is this measure likely to impact on international trade and investment?		N/A		
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded:</b> N/A		<b>Non-traded:</b> N/A

***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 Kevin Hollinrake MP, Parliamentary Under Secretary of State for the Department for Business and Trade:


 Date: 27/02/2023

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Option 1 – Introduce a right to request a more predictable working pattern for agency workers and workers on zero hours contracts

## FULL ECONOMIC ASSESSMENT

Price Base Year 2021	PV Base Year 2023	Time Period 10 years	Net Benefit (Present Value (PV)) (£m)		
			Low: -228.4	High: -76.9	Best Estimate: -130.0

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
	Optional	1		
Low	Optional	1	2.9	76.9
High	Optional		20.5	228.4
Best Estimate		51.7	9.1	130.0

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

There is a one-off familiarisation and implementation cost to business of £51.7m. These are the costs incurred as businesses familiarise themselves with any new requirements with the policy, and create a process by which they handle requests. There are ongoing procedural costs to business of £9.1m (central). These are the costs incurred as businesses review requests, handle appeals and tribunal claims. We have taken an overall cautious approach in our analysis and used sensitivity analysis where assumptions are uncertain. We have modelled a constant number of requests over time; this is likely to significantly over-state the costs of the policy.

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

The regulatory changes allow, but do not force, businesses to accept predictable working pattern requests. When accepting a request, businesses might incur some transitional costs (e.g. producing new terms and conditions, reorganising work schedules or adjusting IT systems). Businesses may also incur costs in cases where, for example, new terms and conditions leads to lower flexibility to meet variable customer demand. However, given the grounds on which businesses can reject requests, we assume that businesses will accept requests in cases where the benefits to the business of doing so outweigh the costs.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
	Not quantified	1		
Low	Not quantified	1	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'

We have not been able to monetise the benefits of the policy; these are summarised below.

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

The policy is expected to increase the wellbeing of workers by providing a clear framework for discussions on the predictability of work to occur. In cases where requests are accepted, workers will have more predictable terms and conditions that better suit their individual circumstances, leading to higher job satisfaction. Given the grounds on which businesses can reject requests, we assume that businesses will accept requests in cases where the benefits to the business of doing so outweigh the costs. The wider literature indicates a positive link between worker wellbeing, engagement at work, firm performance and productivity.

Key assumptions/sensitivities/risks	Discount	3.5
<p>Key assumptions include:</p> <ul style="list-style-type: none"> <li>The number of eligible workers that make a request.</li> <li>The number of requests that will be accepted; the lower this number, the higher the potential for appeals and employment tribunal cases.</li> <li>The proportion of individuals who will pursue a grievance process if their request is rejected (as well as the businesses that may offer an internal appeals process, even if not required to do so).</li> </ul> <p>We have taken an overall cautious approach in our analysis and used sensitivity analysis where assumptions are uncertain. We have modelled a constant number of requests over time; this is likely to significantly over-state the costs of the policy.</p>		

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 15.1	Benefits: 0.0	Net: 15.1	

## Summary: Analysis & Evidence

## Policy Option 2

**Description:** Option 2: Introduce a right request a more predictable working pattern for all workers and employees

### FULL ECONOMIC ASSESSMENT

Price Base Year 2021	PV Base Year 2023	Time Period 10 years	Net Benefit (Present Value (PV)) (£m)		
			Low: -312.3	High: -93.4	Best Estimate: -170.6

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	1	4.8	93.4
High	Optional		30.3	312.3
Best Estimate		51.7	13.8	170.6

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

There is a one-off familiarisation and implementation cost to business of £51.7m. These are the costs incurred as businesses familiarise themselves with the new requirements of the policy, and create a process by which they handle requests. There are ongoing procedural costs to business of £13.8m per year (central). These are the costs incurred as businesses review requests, handle appeals and tribunal claims. We have taken an overall cautious approach in our analysis and used sensitivity analysis where assumptions are uncertain. We have modelled a constant number of requests over time; this is likely to significantly over-state the costs of the policy.

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

The regulatory changes allow, but do not force, businesses to accept predictable working pattern requests. When accepting a request, businesses might incur some transitional costs (e.g. producing new terms and conditions, reorganising work schedules or adjusting IT systems). Businesses may also incur costs in cases where, for example, new terms and conditions lead to lower flexibility to meet variable customer demand. However, given the grounds on which businesses can reject requests, we assume that businesses will accept requests in cases where the benefits to the business of doing so outweigh the costs.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Not quantified	1	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'

We have not been able to monetise the benefits of the policy; these are summarised below.

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

The policy is expected to increase the wellbeing of workers by providing a clear framework for discussions on the predictability of work to occur. In cases where requests are accepted, workers will have more predictable terms and conditions that better suit their individual circumstances, leading to higher job satisfaction. Given the grounds on which businesses can reject requests, we assume that businesses will accept requests in cases where the benefits to the business of doing so outweigh the costs. The wider literature indicates a positive link between worker wellbeing, engagement at work, firm performance and productivity.

Key assumptions/sensitivities/risks	Discount rate	3.5
-------------------------------------	---------------	-----

Key assumptions include:

- The number of eligible workers that make a request.
- The number of requests that will be accepted; the lower this number, the higher the potential for appeals and employment tribunal cases.
- The proportion of individuals who will pursue a grievance process if their request is rejected (as well as the businesses that may offer an internal appeals process, even if not required to do so).

We have taken an overall cautious approach in our analysis and used sensitivity analysis where assumptions are uncertain. We have modelled a constant number of requests over time; this is likely to significantly over-state the costs of the policy.

#### **BUSINESS ASSESSMENT (Option 2)**

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>Score for Business Impact Target (qualifying provisions only) £m:</b>
<b>Costs: 19.8</b>	<b>Benefits: 0.0</b>	<b>Net: 19.8</b>	

## Policy Context and Rationale for Intervention

1. The Government is committed to ensuring the UK is the best place in the world to work and grow a business. To do this, we need a strong and flexible labour market, which supports participation and economic growth. While the Government is keen to ensure that everyone can enjoy the benefits of flexible working, we remain determined to tackle unfair working practices.
2. The 2017 Taylor Review of Modern Working Practices found that many workers on zero hours contracts struggle with one-sided flexibility where, for example, workers must be available to their employer with no guarantee of work. It found that employers can schedule or cancel shifts with little notice, leading to insecurity of hours and income for workers. The Review recommended that the Government should introduce a right to request a direct contract of employment for agency workers who have been placed with the same hirer for 12 months. It also recommended that the Government should introduce a right to request a more predictable contract for zero hours contract workers, after they have worked for their employer for 12 months.
3. In 2018, the Government consulted on introducing a new right to request a more predictable contract. The Government committed in the Good Work Plan (December 2018) to introduce a new right for all workers (including agency workers) to request a more predictable contract after 26 weeks with their employer. The Government reconfirmed its commitment to introduce a right to request a more predictable contract in the 2019 Conservative Manifesto.
4. Under the new right to request a more predictable working pattern, a worker will be entitled to make a statutory application to their employer which will consist of writing to the employer to formally make the request. The employer must then consider the request and make a decision within one month. This new right will be broadly similar in procedural terms to the already existing right to request flexible working. 'Working pattern' refers to the number of hours the worker works, the days of the week and times the worker works and the length of the worker's contract.
5. If the employer accepts the application, they will have to change the worker's terms and conditions to reflect the new agreement. If they were to reject the application, the employer must write to the worker giving valid business reasons as to why the request was rejected. Although there is no obligation for the employer to do so, should the request be rejected, the employer may offer an internal appeal process. There is also the option for the worker to complain to an employment tribunal if their employer:
  - Didn't handle the request in a reasonable manner
  - Wrongly treated the application as withdrawn
  - Dismissed or treated a worker poorly because of their request
  - Rejected an application based on incorrect facts
6. Whilst the worker does not have the right to complain directly to an employment tribunal simply on the grounds that the request was rejected, if the employer does not provide valid business reasons for rejecting an application it is likely that they will not have considered the request in a reasonable manner.
7. Part of dealing with a request in a reasonable manner is to give serious consideration to the request, and if the employee feels that the request has not been dealt with in such a manner, they may be able to take their employer to employment tribunal. What is considered a reasonable manner could include, but is not limited to:
  - Holding a meeting to discuss the request with the employee
  - Considering the advantages and disadvantages of accommodating the request
  - Offering an internal appeal process should the request be rejected
8. We recognise that one-sided flexibility remains a problem which exists in some parts of the labour market, where employers misuse flexible working arrangements, creating an unpredictability in

working hours, income insecurity and a reluctance among workers to assert basic employment rights. This can be detrimental to both workers and their employers.

9. The creation of a statutory right will mean that workers will be able to begin conversations with their employers to find an outcome that works for both parties, safe in the knowledge that starting the conversation will not result in a detriment to the worker. It will empower and encourage workers to talk to their employers about their working pattern.
10. The right will be applicable to those who have first worked for their employer a set period before they make their application. This period will be set out in secondary regulations and is expected to be 26 weeks. We expect that this will generally provide employers with sufficient opportunity to observe the worker's working hours and draw on this when considering a request. In addition to allowing businesses to reject requests on the grounds of business costs, we believe that this mitigates the risk that the right has an adverse effect on the flexibility of the UK labour market.
11. Overall, we believe that the right to request a more predictable working pattern is a proportionate measure to address issues that workers on less secure forms of workers face, whilst maintaining the benefits of flexibility of the UK labour market.

### **Groups that are likely to make use of the new right to request**

12. We believe that it is likely that requests will primarily come from the following groups:
  - Individuals on zero-hour contracts;
  - Other workers with highly variable working patterns.
  - Temporary workers (including agency workers).

#### *Zero-hour contracts and other workers with highly variable working patterns*

13. Workers on zero hours contracts do not have to be provided with a minimum number of working hours by their employer, and do not have to accept any work offered to them. Analysis of the Labour Force Survey (LFS) shows that there are around 950,000 employees on zero-hour contracts in the UK, representing around 3% of all UK employees. Around 44% usually work more than 20 hours per week (the median number of hours worked per week for a part-time worker).
14. Analysis of the LFS shows that there are an additional 720,000 employees in the UK who report that their weekly working hours tend to vary and had a variance from regular hours of more than 10 hours in a particular week. This excludes those on zero-hour contracts. This is a large and broad group, many of whom will be content with their working hours.
15. We note that these figures do not necessarily capture some aspects of one-sided flexibility where, in addition to the total number of hours worked per week, businesses are able to dictate the days of the week that a worker must work, potentially with little notice.
16. Recent research by CIPD<sup>1</sup> show that zero-hour workers have comparable job satisfaction with other staff. They report better work-life balance and are less likely to say their work has a negative impact on their physical and mental health. Zero-hour contracts also provide employment opportunities for those who might otherwise not be able to work because they cannot commit to more regular pre-determined working hours due to ill-health, care or studying needs, for example.
17. However, the CIPD research also shows that there are challenges with one-sided flexibility that may benefits employers rather than workers. Those on zero-hour contracts are less likely to be satisfied with their employment contract and pay and conditions. Individuals on zero-hour

---

<sup>1</sup> <https://www.cipd.co.uk/knowledge/fundamentals/emp-law/terms-conditions/zero-hours-contracts-report>

contracts may experience challenges associated with having an unsecured income stream, and having limited control over their working hours.

18. It is important to note that the rationale for intervention is not to hinder workers who wish to benefit from the flexibility that zero-hour contracts can offer, or to prevent businesses from benefitting from the capacity for a flexible workforce. Zero-hour contracts work for many people and give them the ability to maintain a good work-life balance or to balance other commitments with their working life. Instead it is targeted at unfair employment practices, where all of the business risk is passed on to the worker under the guise of purported flexibility. It would also provide a nudge mechanism for employers who may not have thought about adjusting working patterns in the absence of this right, despite being able and willing to do so should a request be made.

### *Temporary workers (including agency workers)*

19. Like workers on a zero-hour contract, temporary workers and agency workers are at risk of experiencing one-sided flexibility. Unlike regular employees, temporary workers and agency workers have limited protection against redundancy. This means that businesses can employ temporary and agency workers as a form of wrap-around, disposable pool of labour.
20. Analysis of the LFS shows that there are around 740,000 agency workers in the UK. There are a further 1.3m temporary workers who are not agency workers. The creation of a right to request a more predictable working pattern could enable some of these workers to transition to a permanent form of employment, with the associated job security.
21. Agency workers have a unique type of employment relationship. For a typical worker, there are two parties in the employment relationship; the worker and the employer. For agency workers, there is a third party; the employment agency. In some cases, there is also a fourth party; an intermediary which handles payroll functions for the employment agency. With a number of organisations involved in the placement, it can be difficult for the agency worker to know which organisation is the one to begin the conversation with about transitioning to a permanent job.
22. The aim of the policy is not to prevent businesses from utilising temporary workers. We acknowledge that the ability to bring a worker in for a short period of time can help a business respond to changing market conditions rapidly. Such a form of employment can also be beneficial to the workers themselves as they can accept jobs that they wish to work or accept work for shorter periods of time without being restricted by a permanent employment relationship.
23. Instead, the aim is to ensure that temporary workers have an opportunity to request to move into a permanent job if they want one. There is the risk that some workers will be wary of requesting a permanent job. By creating a statutory right, we intend to give temporary and agency workers a voice, and to address the imbalance of power between the business and worker.

## Policy Objectives

24. In our rationale for intervention we have highlighted the imbalance of market power between the employer and the worker in some working relationships. Through the creation of a right to request a more predictable working pattern, we aim to address this imbalance, creating a mechanism which encourages employers and workers to have open conversations.
25. Where a worker has terms and conditions that does not truly reflect the hours they work or expects them to be available to the employer every day of the week, we are looking to give them the right to request a working pattern that gives them more predictability. We aim to bring back some of the control to the worker.

26. There are three key objectives:

- Improve the stability of employment for atypical workers, increasing their financial stability through guaranteed hours or permanent employment;
- Prevent employers from abusing forms of atypical work by forcing workers to remain in these forms of employment for extended periods of time without valid business justification;
- Encourage conversations between employees and employers to facilitate the sharing of the benefits of flexibility and to promote effective workforce management.

## Policy Options Considered

27. The right will be applicable to those who have first worked for their employer a set period before they make their application. This period will be set out in regulations and is expected to be 26 weeks. We expect that this will generally provide employers with sufficient opportunity to observe the worker's working hours and draw on this when considering a request. As such, the options considered relate only to the scope of this right in terms of who will have it. Three options are considered (including a 'Do Nothing'):

- *Option 0 – Do Nothing.* The Government is committed to improving the quality of work for workers on insecure contracts, addressing the issues currently faced. Option 0 would not deliver on the Government commitment, and consequently this option is discounted. The costs and benefits of options 1 and 2 are measured relative to the 'do nothing' position (i.e. the status quo represents the counterfactual in this analysis).
- *Option 1 – Legislate to create a right to request a more predictable working pattern for agency workers and workers on zero-hour contracts.* The Government is committed to extending this right to a wider group of workers. As a result, this option is discounted.
- *Option 2 – Legislate to create a right to request a more predictable working pattern for all workers and employees.* This is the preferred option. As mentioned previously, it is expected that additional groups that are likely to consider making a request include other temporary workers and other workers with highly variable working patterns. Whilst option 2 has a wider scope and higher direct cost to business, it is also expected to lead to higher wellbeing benefits to workers with corresponding benefits to employers and the wider economy. This option also helps to mitigate some of the risks of Option 1 if businesses respond to requests by moving workers to terms and conditions where they are no longer considered in-scope of the policy, without a substantive change in the reality of the worker's experience at work.

28. The costs and benefits to business and workers of Options 1 and 2 are considered in the next section of this Impact Assessment.

## Monetised Costs and Benefits

29. The regulatory changes allow, but do not force, businesses to accept predictable working pattern requests. Businesses must consider requests for a more predictable working pattern, but they can reject requests on the grounds of cost. Where an employer accepts a request, we assume that the benefits to the business (e.g. more productive staff due to higher wellbeing) outweigh the costs of doing so.

30. The estimated direct cost to business for the proposed reforms can be split into two categories:

- **Familiarisation and set-up costs** – the costs incurred by businesses to understand any new requirements associated with the policy, and to create a process by which they handle requests. These are one-off costs that occur when the policy starts.



- **Procedural costs** – the costs incurred by businesses to go through the process of receiving a new request. This includes the cost of reviewing or considering requests, handling appeals and tribunal claims.
31. We note that businesses may incur additional (un-monetised) costs from accepting a request (e.g. producing new terms and conditions, reorganising work schedules or adjusting IT systems). Given the grounds on which businesses can reject requests, we expect that these costs will be lower than the corresponding benefits to the business, i.e. accepting a request would be a net benefit to business. This is considered in more detail in the Non-Monetised Costs and Benefits sections.
  32. The process to request a more predictable working pattern is expected to operate in a broadly similar way in procedural terms to the already existing right to request flexible working. Therefore, we make regular use of the methodology and assumptions in the 2022 Impact Assessment for the Employment Relations (Flexible Working) Bill<sup>2</sup> ('FW IA (2022)') and, where relevant, the 2021 Impact Assessment for the 'Making flexible working the default' consultation<sup>3</sup> ('FW IA (2021)'). We provide justifications in cases where we depart from the approach taken in those IAs. In some cases, we refer to the 2012 Impact Assessment for the 'Modern Workplaces' consultation<sup>4</sup> ('FW IA (2012)').

### **Familiarisation and set-up costs**

33. The creation of a right to request a more predictable working pattern is anticipated to result in one-off familiarisation and implementation costs for businesses. For the purposes of this Impact Assessment, we assume that familiarisation would consist of the relevant employee(s) in the business reading and understanding the new requirements and any accompanying guidance, considering the implications on the business, and, if necessary, consulting with other relevant employees (e.g. line managers). The set-up cost is the cost of creating a process by which businesses handle requests. For example, this may include producing a template form for workers to use when making a request or producing a policy for HR to follow when responding to requests. This new right is anticipated to operate in a broadly similar way to other 'rights to request', helping to mitigate the familiarisation and implementation costs for some businesses. In practice, we expect these costs to vary business-by-business.
34. To estimate the familiarisation and implementation costs, we have taken data from the latest Business Population estimates<sup>5</sup>. Across all options, we assume that the 1.4m employers in Great Britain which have more than one employee would incur these costs. This is likely to be a cautious approach, particularly in Option 1 where only agency workers and workers on zero-hour contracts would be in scope. However, we do not have robust data on the number of businesses that specifically use these groups of workers, and it is possible that businesses that do not currently employ these workers would still take time to understand the changes as it may affect future hiring decisions.
35. The FW IA (2022) makes use of findings from a BEIS-commissioned survey of employers on the time taken to familiarise with the current statutory flexible working policy. The survey 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 FW IA (2022) assumes a relatively small amount of time taken to familiarise (10 minutes) as the policy option increases the scope of current flexible working legislation. We note that the FW IA (2022) did not include any set-up costs as the policy options considered adjusting an existing right and so only minor modification of employers' policies would be required.

<sup>2</sup> <https://bills.parliament.uk/bills/3198/publications>

<sup>3</sup> <https://www.gov.uk/government/consultations/making-flexible-working-the-default>

<sup>4</sup> <https://www.gov.uk/government/consultations/consultation-on-modern-workplaces>

<sup>5</sup> <https://www.gov.uk/government/collections/business-population-estimates>

36. When considering the employee(s) responsible for familiarisation, and the timing of when this occurs, we take an overall more cautious approach than the FW IA (2022), reflecting that this policy creates a new right (rather than extending an existing right).
- The FW IA (2022) assumes that one manager familiarises themselves across all business sizes. We take a more cautious approach, recognising that this is the creation of a new right, and assume that implementation of the policy is undertaken by a Corporate Manager / Director in small and micro businesses (as they are less likely to have a dedicated HR function) and one HR Manager / Director and three HR Administrative Assistants in medium and large businesses<sup>6</sup>. We expect that larger firms will have to understand the implications of the legislation across a wider (and potentially more diverse, in terms of working arrangements) workforce.
  - The FW IA (2022) assumes all medium and large businesses familiarise when the policy starts but micro and small businesses only do so when they start to receive requests. We take a more cautious approach and assume that all businesses incur familiarisation costs with the policy when it starts.
  - The FW IA (2022) assumes a relatively small amount of time taken to familiarise (10 minutes) as the policy option increases the scope of current flexible working legislation. We take a more cautious approach and assume that the time taken to familiarise with the policy is higher (30 minutes) given that this is a new right. This mirrors the approach taken in Impact Assessments for other changes to employment legislation (e.g. the National Living Wage in 2016).
37. Revised 2021 ASHE data<sup>7</sup> gives the average hourly pay of a Corporate Manager / Director as £29.24<sup>8</sup>, HR Manager / Director as £26.07<sup>9</sup>, and HR Administrative Assistant as £12.38<sup>10</sup>. We uplift these hourly costs by 17.9% to cover non-wage labour costs, such as employer-paid pension and National Insurance contributions<sup>11</sup>.
38. The familiarisation costs are calculated according to the following formula.

$$\text{Familiarisation cost} = N \times E \times F \times W$$

Where:

**N** is the number of businesses in Great Britain by business size.

**E** is the employee(s) who are responsible for familiarising with the legislation (assumed to be 1 Corporate Manager / Director in small and micro businesses, and 1 HR Manager / Director and 3 HR Administrative Assistants in medium and large businesses).

**F** is the time taken for the relevant employee(s) to familiarise with the legislation (assumed to be 30 minutes)

**W** is the average wage rate per year for the relevant employee(s)

39. The one-off familiarisation costs are estimated to be **£25,849,000** under each of the options. This is likely to be an upper bound estimate, particularly for Option 1. The one-off familiarisation costs by business size are outlined in the following table.

<sup>6</sup> This is similar to other Impact Assessments, e.g. <https://bills.parliament.uk/bills/3191/publications>

<sup>7</sup> <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010ashtable14>

<sup>8</sup> SOC Code: 11

<sup>9</sup> SOC Code: 1136

<sup>10</sup> SOC Code: 4136

<sup>11</sup> BEIS analysis of Index of Labour Costs per Hour, 2019Q4 – 2020Q3

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/indexoflabourcostsperhour/ich/julytoseptember2020>

<b>Table 1: One-off familiarisation costs, by business size (rounded to nearest 1,000)</b>		
Business size	Number of businesses	Total familiarisation costs
Micro and small (1 - 49 employees)	1,391,000	£23,972,000
Medium (50 - 249 employees)	40,000	£1,494,000
Large (250 - 499 employees)	5,000	£185,000
Large (500+ employees)	5,000	£198,000
<b>Total</b>	<b>1,441,000</b>	<b>£25,849,000</b>

#### *Set-up cost*

40. In addition to the time taken to familiarise themselves with the change, we assume that businesses will incur a set-up cost as they have to create a process by which they handle requests. For example, this may include producing a template form for workers to use when making a request or producing a policy for HR to follow when responding to requests.
41. We note that the FW IA (2022) did not include any set-up costs as the policy options considered adjust an existing right and so only minor modification of employers' policies would be required. In this case, we expect that businesses will generally incur set-up costs as the policy creates a new right.
42. To estimate the set-up costs, we apply the same assumptions in terms of employee(s) responsible and time taken as the familiarisation costs. This effectively means that the one-off costs are doubled. This broadly mirrors the approach taken in the FW IA (2012) where the total management time required to implement the policy is assumed to be twice as long for businesses that do not have experience of requests for flexible working. As the right to request a more predictable working pattern will be a new right, we assume that a comparable argument applies. The set-up costs are therefore estimated to be **£25,849,000**.

#### *Total one-off costs*

43. The total one-off cost to business is therefore estimated to be **£51,697,000** under each of the options. This is likely to be an upper bound estimate, particularly for Option 1 as we have assumed all business familiarise with this policy change. The total one-off familiarisation (familiarisation and set-up) by business size are outlined in the following table.

<b>Table 2: Total one-off costs (familiarisation and set-up) by business size (rounded to nearest 1,000)</b>		
Business size	Number of businesses	Total one-off costs
Micro and small (1 - 49 employees)	1,391,000	£47,944,000
Medium (50 – 249 employees)	40,000	£2,988,000
Large (250 – 499 employees)	5,000	£369,000
Large (500+ employees)	5,000	£396,000
<b>Total</b>	<b>1,441,000</b>	<b>£51,697,000</b>

#### **Procedural costs (reviewing the requests, handling appeals and tribunal claims)**

44. Once businesses have familiarised themselves with the new legislation and created a process by which they handle requests, some of their staff will make use of the new right and submit a request for a more predictable working pattern. The procedural costs of handling these requests, as well as managing any appeals, will be a new administrative burden for businesses.

## Estimating the number of eligible workers in-scope

45. In option 1, the right to request a secure working pattern is restricted to those on zero-hour contracts and agency workers. This is extended to all workers under option 2. We expect that the two additional groups likely to make requests would be other temporary workers (who may want a permanent position) and staff with highly variable working patterns (who may want a greater degree of stability in their working hours). We have estimated the number of eligible employees that fall into each of these groups using LFS data. There are some important points to note when interpreting these figures:

- There is no detailed data for those who have variable working patterns in the LFS and working patterns can vary on both hours and days worked. We considered those who report that their working hours tend to vary and had a variance from regular hours worked of more than 10 hours in a particular week. This is a relatively cautious threshold when considering whether a working pattern is sufficiently unpredictable for workers to make a statutory request (e.g. for a full-time worker who, on average, works 37 hours per week, this would represent a variance of roughly 25% or more).
- The estimates of staff with highly variable work patterns exclude workers with zero-hour contracts. This is to avoid double-counting as the main type of request we anticipate for both groups is related to the stability of working hours.
- Similarly, the estimates of other temporary workers excludes agency workers. However, there remains some overlap across groups (for example, a worker may be a temporary worker and on a zero-hour contract).
- Eligibility is estimated based on the respondent's self-reported length of continuous employment with their employer. We note that whether a period of work is deemed continuous or not will depend on the respondent's circumstances and interpretation of the survey question. There is further potential error in the data for agency workers given there are three parties in the employment relationship (the agency worker, the employment agency and the hirer). Agency workers counted in the eligible population may have interpreted the question as referring to the agency (i.e. they would be eligible to make a request to agency, but potentially not a hirer). Agency workers could also deem that 'continuous' employment with an agency only starts when they work for a hirer (or multiple hirers) on a continuous basis. We acknowledge the uncertainty of the data, noting that there is no further scope within the LFS to mitigate this.
- There are some exceptional cases that may not be captured in our estimates of the eligible population. Under the proposed legislation, the right will be applicable to those who have first worked for their employer a set period before they make their application. This period will be set out in regulations and is expected to be 26 weeks. Workers will not have to have been working continuously for their employer for this set period. Workers will only need to have been employed during the month before that period (26 weeks) and be working for their employer when they make their request. Some exceptional cases (e.g. seasonal workers with large gaps in work) could therefore be eligible. However, we expect that the requests from this group would be limited and therefore expect limited impact on the monetised costs.
- The estimates are based on 2022 LFS data and may, at least partially, reflect the ongoing impact of the Covid-19 pandemic and other cyclical factors. Some of the estimates are high by historical standards.

**Table 3: Estimates of eligible workers in scope (rounded to nearest 1,000)**

Group	Total Number	Eligible (i.e. meet 26-week requirement)
Zero-hour contract workers	952,000	777,000
Agency workers	736,000	575,000
Temporary workers	1,337,000	983,000
Workers with highly variable work patterns	719,000	686,000
<b>Total (Option 1)</b>	<b>1,688,000</b>	<b>1,352,000</b>
<b>Total (Option 2)</b>	<b>3,744,000</b>	<b>3,020,000</b>

### Estimating the number of eligible workers in-scope who make a request

46. It is unlikely that all eligible staff in scope will make use of the new right as there is a degree of subjectivity to predictability at work. In addition, workers may anticipate that employers will be able to reject requests on the grounds of additional business costs. Therefore, we estimate the numbers in each eligible group in Table 4 that actually make a request. Whilst the procedures for this policy and flexible working are similar, we believe that there are sufficient differences between the two rights that the take-up rate for the initial requests is not directly comparable. Given that this is a new right, we have limited evidence on which to base a robust take-up rate.

#### *Group 1: Zero hour contract workers*

47. We consider it likely that the main type of working pattern requested will be one with guaranteed or more stable hours. We believe that the main two groups that could use their right will be those on zero-hour contracts who regularly work more than 20 hours per week (this is the average number of hours worked per week for part-time workers, i.e. zero-hour contract worker is likely to consider requesting a part-time contract) and, among those who do not regularly work more than 20 hours per week, those who have regulation variation in their hours worked (i.e. likely to consider requesting a higher level of stability).

48. We acknowledge that some zero-hour contract workers who work a small number of hours per week, and do not experience regular variation in their hours worked, may consider making a request for a guaranteed number of hours per week (e.g. a short-hours contract). However, we expect these requests to be limited as the regularity of weekly working hours already provides a degree of predictability for the worker.

49. LFS data suggests that there are 335,000 workers on zero-hour contracts who have completed at least 6 months with their current employer and usually work more than 20 hours per week. Of those who usually work less than 20 hours per week, 186,000 said that their weekly hours worked tend to vary. The combined total (520,000) represents a relatively large share (67%) of the number eligible in the group.

50. We note that whether these workers would prefer a more predictable working pattern will be subject to a degree of subjectivity. To address this, we make use of a recent CIPD research that asked those on zero-hour contracts where their employment contract suits their personal circumstances<sup>12</sup>. Respondents were provided with four response options: 'Not at all well', 'Not very well', 'Fairly well' and 'Very well'. We interpret the first two response options as indicative of a sufficient degree of dissatisfaction with the employment contract to motivate the worker to request a more predictable working pattern.

51. We note that the 'zero-hours' aspect of a zero-hour contract is one of many aspects of the contract. Some of the reported dissatisfaction may reflect aspects of the contract that are unrelated to the number and predictability of working hours. We also note that this assumes that

<sup>12</sup> <https://www.cipd.co.uk/knowledge/fundamentals/emp-law/terms-conditions/zero-hours-contracts-report>

the sub-population of zero-hour contract workers likely to consider making a request are equally likely to report 'Not at all well' or 'Not very well' as the wider population of zero-hour contract workers. We are unable to robustly test these assumptions based on the available data and this will depend on the drivers of how individuals responded to the CIPD survey. In the absence of more robust evidence, we apply the share that reported 'Not at all well' (8%) and the share that reported 'Not at all well' or 'Not very well' (21%) to the group likely to consider making a request to derive our low and high estimates.

52. For simplicity, we use the mid-point as our central estimate. Based on this, we estimate that there could be between **42,000 – 109,00 (central: 75,000)** requests from this group per year.

### *Group 2: Agency workers*

53. Any agency workers who are on zero-hour contracts, and would like more predictable working hours, will have been captured in the estimates under group 1. We expect that agency workers are typically employed on a permanent or open-ended contract with their agency. Therefore, the likely additional source of requests is cases where agency workers request a permanent position with a hirer.
54. Around 209,000 eligible agency workers are classified as 'temporary' in the LFS. Of those, around 12,000 (6%) indicated that they were in temporary work because they could not find a permanent job and reported that the duration of their non-permanent work was less than 12 months. A further 31,000 (15%) indicated that the duration of their non-permanent work was 'not yet fixed'; we make the cautious assumption that the duration of non-permanent work for these workers is also less than 12 months to derive our high estimate. Therefore, we estimate that between 12,000 (6%) and 43,000 (21%) agency workers classified as 'temporary' in the LFS could request a permanent position.
55. Around 366,000 eligible agency workers are classified as 'permanent' in the LFS. The LFS provides more limited information for these workers. We assume that a similar share of this group are in temporary work (i.e. on temporary assignments to a hirer) because they could not find a permanent role with a hirer and, of those, we assume that a similar share have an assignment duration that is less than 12 months (i.e. between 6% and 21%). Therefore, we estimate that between 20,000 and 76,000 agency workers classified as 'permanent' in the LFS could request a permanent position. We expect this to be a cautious approach as some agency workers could report in the LFS that their work as 'permanent' if they have been on a long-term assignment with a particular hirer, or have been employed with agency for a long period of time (i.e. have had longer to find and secure a permanent position).
56. For simplicity, we derive our central estimate as the mid-point between the low and high estimates. Therefore, we estimate that there could be **32,000– 119,000 (central: 75,000)** requests from this group per year. We consider this to be a cautious approach as whether agency workers would like a permanent position with their current hirer will be subject to a degree of subjectivity. We also note that we have assumed no deadweight, i.e. we have assumed that no employers offer to employ the worker on a permanent basis at the end of their temporary assignment.

### *Group 3: Temporary workers (excluding agency workers)*

57. Any temporary workers who are on zero-hour contracts, and would like more predictable working hours, will have been captured in the estimates under group 1. Therefore, the likely additional source of requests is cases where other temporary workers request a permanent position. We apply a similar methodology to agency workers (see above).
58. Of the 983,000 eligible temporary workers, around 33,000 (3%) indicated that they were in temporary work because they could not find a permanent job and reported that the duration of their non-permanent work was less than 12 months. A further 45,000 (23%) indicated that the duration of their non-permanent work was 'not yet fixed'; we make the cautious assumption that

the duration of non-permanent work for these workers is also less than 12 months to derive our high estimate. Therefore, we estimate that there could be **33,000 – 78,000 (central: 55,000)** requests from this group per year. Again, we expect to this to be an overall cautious approach.

*Group 4: Workers with highly variable working patterns (excluding zero-hour contract workers)*

59. We consider it likely that the main type of request will be one for greater predictability of working hours. We note that some in this group will have a degree of autonomy over the number of hours worked per week and there will be a degree of subjectivity on the desirability of variable working hours. Based on the available information, the drivers of the variability of working hours is also unknown. Note that we have excluded zero-hour contract workers, and so the workers in this group are assumed to have some guaranteed hours per week.
60. To address this, we make use of CIPD 2021 Working Lives Survey<sup>13</sup> data on the extent to which workers have autonomy over the start and finish of the working day. Respondents were provided with five responses options: 'None', 'A little', 'Some', 'A lot', and 'Don't Know'. We interpret the first three response options as indicating that individuals have insufficient control over their working hours such that they would need to make a request to obtain a more predictable working pattern. Around 74% of respondents indicated the first three response options.
61. We note that, even among those who have limited control over their working hours, preferences for a more predictable working pattern will be subject to a degree of subjectivity. Whereas the methodology to estimate take-up for other groups made some use of survey evidence on subjective preferences (e.g. those who reported they are in temporary work because they could not find a permanent job; or zero-hour contract workers consider that their employment contract does not fit their personal circumstances), we do not have comparable evidence specific to staff with highly variable working patterns. Therefore, we expect that using the responses to the CIPD 2021 Working Lives Survey only as the basis of our range would lead to unrealistically high estimates.
62. To address this, we have considered that between 3 – 6% of eligible agency and temporary workers indicated that they would prefer different terms and conditions (permanent) to their current terms and conditions (temporary). In absence of more robust evidence, we consider this to be a reasonable indication of the share of workers with highly variable working patterns, and limited control over their working hours, that would prefer different terms and conditions.
63. Therefore, we estimate a take-up rate of between 2% (i.e. 74% multiplied by 3%) and 4% (i.e. 74% multiplied by 6%). For simplicity, we derive our central estimate as the mid-point between the low and high estimates. Based on this, we estimate that there could be **15,000 – 30,000 (central: 23,000)** requests from this group per year.

*Total*

64. Based on the analysis outlined above, it is estimated that there could be up to **74,000 – 228,000 (central: 151,000)** requests per year under option 1 and **122,000 – 336,000 (central: 229,000)** requests per year under option 2. Under Option 1, the take-up rate is estimated to be between 5% and 17% (central: 11%) of the eligible population. Under option 2, the take-up rate is estimated to be between 4% and 11% (central: 8%) of the eligible population.
65. We note that this range of potential take-up is higher than the estimates of between 1% and 7% (central: 4%) for the right to request flexible working in the FW IA (2022). This reflects both the uncertainty over the take-up of the right to request a predictable pattern, as this is a new right, and an overall cautious approach to estimating the take-up of requests, particularly for staff with highly variable work patterns. We also note that there is some potential for some double-counting (for example, an individual on a zero-hour contract and temporary employment could request for

---

<sup>13</sup> <https://www.cipd.co.uk/knowledge/work/trends/goodwork#ref>

guaranteed hours and a permanent contract in one request). We will continue to speak to stakeholders and will refine our estimates ahead of publication of the final legislation if necessary.

<b>Table 4: Estimates of eligible workers who make a request</b>		
<b>Group</b>	<b>Number of requests</b>	<b>Take-up rate (% of eligible population)</b>
Zero-hour contract workers	42,000 – 109,00 (central: 75,000)	5 – 14% (central: 10%)
Agency workers	32,000 – 119,000 (central: 75,000)	6 – 21% (central: 13%)
Other temporary workers	33,000 – 78,000 (central: 55,000)	3 – 8% (central: 6%)
Other workers with highly variable work patterns	15,000 – 30,000 (central: 23,000)	2 – 4% (central: 3%)
<b>Total (Option 1)</b>	<b>74,000 – 228,000</b> (central: 151,000)	<b>5 – 17%</b> (central: 11%)
<b>Total (Option 2)</b>	<b>122,000 – 336,000</b> (central: 229,000)	<b>4 – 11%</b> (central: 8%)

66. According to the Business Population Estimates, around 28% of employees are employed in small and micro businesses (1 - 49 employees), 14% in medium businesses (50 - 249 employees), 6% in large businesses (250 - 499 employees) and 52% in large businesses (500+ employees). We assign the requests per year by business size according to these proportions.

### **Procedural costs**

67. As mentioned previously, businesses will incur procedural costs due to the process of receiving a new request. This includes the cost of reviewing or considering requests, handling appeals and tribunal claims. Workers will have the right to submit up to two statutory requests per year. The methodology for each step of the process is summarised below. A number of assumptions are required; we will continue to speak to stakeholders and will refine our estimates if necessary. The Low / High cost figures are derived by setting all relevant assumptions to their Low / High simultaneously (i.e. these are extreme ranges).

#### Reviewing first requests

68. We assume that between 10% and 60% of requests (central: 35%) are reviewed formally by employers (similar to the FW IA (2022)). We consider this to be a reasonable range as the degree of informality broadly reflects the extent to which workers feel empowered to speak openly about their working conditions and arrangements. We take a more cautious approach than the FW IA (2022) and monetise the impact of both formal and informal requests, assuming that the informal requests are prompted by the policy and would not have occurred otherwise.

69. In terms of the time taken to review requests, the FW IA (2022) assumes that it takes 1.5 hours of management time. We take a slightly more cautious approach as this new right is less well-established. We also incorporate the assumption that a formal process is more time-intensive than an informal one. We broadly mirror the approach taken in the FW IA (2012) where the time taken to formally review a request is assumed to be double the time taken to informally review a request. We assume that it takes management (either a corporate manager / director or HR manager / director) 2 hours to formally review a request and 1 hour to informally review a request.

70. The methodology to estimate the cost of reviewing first requests is the following formula:



$$\text{Cost of reviewing first requests} = R \times [(I \times UC_I) + (F \times UC_F)]$$

Where:

**R** is the number of first requests

**I** is the share of requests that are processed informally by businesses (assumed to be between 40% and 90% (central: 65%))

**F** is the share of requests that are processed formally (assumed to be between 10% and 60% (central: 35%))

**UC<sub>I</sub>** is the unit cost of informally processing a request (assumed to be 1 hour for a Corporate Manager / Director for a micro or small business (£34 based on ASHE 2021 and uplifted for non-wage labour costs) and 1 hours for an HR Manager / Director for a medium or large business (£31 based on ASHE 2021 and uplifted for non-wage labour costs))

**UC<sub>F</sub>** is the unit cost of formally processing a request (assumed to be 2 hours for a Corporate Manager / Director for a micro or small business (£69 based on ASHE 2021 and uplifted for non-wage labour costs) and 2 hours for an HR Manager / Director for a medium or large business (£61 based on ASHE 2021 and uplifted for non-wage labour costs))

71. The ongoing cost of reviewing first requests is therefore estimated to be between **£2,581,000 - £11,593,000 (central: £6,475,000)** in Option 1 and between **£4,265,000 - £17,103,000 (central: £9,833,000)** in Option 2. We acknowledge that these are large ranges, reflecting that the low / high figures are estimated by setting all assumptions simultaneously to their low / high value (i.e. these are extreme ranges). The ongoing cost of reviewing first requests by business size are outlined in the following table.

**Table 5: Ongoing cost of reviewing first requests, by business size – Option 1 (rounded to nearest 1,000)**

Business size	Number of businesses	Cost of reviewing first request		
		Low	Central	High
Micro and small (1 - 49 employees)	1,391,000	£793,000	£1,989,000	£3,561,000
Medium (50 - 249 employees)	40,000	£345,000	£866,000	£1,551,000
Large (250 - 499 employees)	5,000	£149,000	£374,000	£670,000
Large (500+ employees)	5,000	£1,294,000	£3,245,000	£5,811,000
<b>Total</b>	<b>1,441,000</b>	<b>£2,581,000</b>	<b>£6,475,000</b>	<b>£11,593,000</b>

**Table 6: Ongoing cost of reviewing first requests, by business size – Option 2 (rounded to nearest 1,000)**

Business size	Number of businesses	Cost of reviewing first request		
		Low	Central	High
Micro and small (1 - 49 employees)	1,391,000	£1,310,000	£3,021,000	£5,254,000
Medium (50 - 249 employees)	40,000	£571,000	£1,315,000	£2,288,000
Large (250 - 499 employees)	5,000	£246,000	£568,000	£988,000
Large (500+ employees)	5,000	£2,138,000	£4,929,000	£8,573,000
<b>Total</b>	<b>1,441,000</b>	<b>£4,265,000</b>	<b>£9,833,000</b>	<b>£17,103,000</b>

### Appeals for first requests

72. To estimate the cost of appeals, we need to estimate the share of first requests that are accepted. For the right to request a more predictable working pattern, we expect a relatively high success rate in cases where the worker's requested terms and conditions reflect the hours they are already working. However, the acceptance rate may be lower in cases where this is not the case, e.g. agency workers and other temporary workers requesting a permanent position.

73. The FW IA (2022) assumes an acceptance rate for flexible working requests of around 91%. We consider this to be indicative of an upper bound when applied across all requests, noting the reasons above and the different implications for a business of accepting a request for flexible working versus a more predictable working pattern. As a lower bound, we have considered a scenario where 91% of requests are accepted only in cases where either (a) the new terms and conditions reflect hours already worked (i.e. zero-hour contract workers usually working more than 20 hours per week and requesting a part-time contract) on the assumption that cost of accepting are minimal; or (b) the change in terms of conditions is related to the predictability of working hours (i.e. requests for more stable hours from staff with highly variable working patterns, or zero-hour contract workers who usually work less than 20 hours per week and have hours that tend to vary) on the assumption that the adjustments needed to accommodate the request are similar to some forms of flexible working. In this scenario, around 40% of the total requests would be accepted. We consider this to be an unreasonably low acceptance rate, as rejected requests can lead to appeals and tribunal claims, and any substantial costs of accepting could still be outweighed by the benefits to the business. Therefore, we also consider feasible that at least a small share of temporary and agency workers would see their requests accepted. Therefore, on this basis, we assume that the overall acceptance rate is between 60% and 90% (central: 75%).
74. The FW IA (2022) does not monetise the subsequent cost of appeals (and tribunals) as the package of reforms considered are expected to ultimately reduce the number of cases that require enforcement. As this IA considers introducing a right to workers who previously did not have access to the right, we do monetise the subsequent cost of appeals and draw on evidence in the FW IA (2021). We note that the legislation does not necessarily require businesses to have an internal appeal process; however, we believe it remains best practice for businesses to offer this, if only because this reduces the possibility of a tribunal case.
75. The FW IA (2021) assumes that around 21% of rejected requests for flexible working are appealed. We consider to be a reasonable indication of scale for this policy as it reflects the types of appeal procedures that businesses are likely to adopt. There are also some similarities in terms of the factors that would encourage a worker to submit an appeal, e.g. the basis on which a business can reject a request and the basis on which a worker can appeal that decision will be similar. Given there is still some uncertainty around the figures and how they would apply for this policy, we assume a range of 15% to 25% (central: 20%).
76. In terms of the time taken to review requests, we following a similar approach to the FW IA (2021) and assume that the time taken to review an appeal is longer than to review a request, as there is a potential for more careful, technical considerations of an appeal. We also apply this argument to the formality of the review, and assume that all appeals are handled formally, as they are more likely to be scrutinised. The FW IA (2021) assumes that management need twice as long to review an appeal compared to review a request (i.e. 3 hours). Therefore, we assume it takes management (either a corporate manager / director or HR manager / director) 4 hours to process an appeal.
77. The methodology to estimate the cost of reviewing first requests is the following formula:

$$\text{Cost of appeals for first requests} = R \times RR \times A \times UC_A$$

Where:

**R** is as above (i.e. the number of first requests)

**RR** is the share of those requests which have been rejected (assumed to be between 10% and 40% (central 25%))

**A** is the share of those failed requests which are taken to an appeal (assumed to be between 15% and 25% (central 20%))

**UC<sub>A</sub>** is the unit cost of processing an appeal (assumed to be 4 hours for a Corporate Manager / Director for a micro or small business (£138 based on ASHE 2021 and uplifted for non-wage labour costs) and 4 hours for an HR Manager / Director for a medium or large business (£123 based on ASHE 2021 and uplifted for non-wage labour costs))

78. The ongoing cost of handling appeals is therefore estimated to be between **£141,000 - £2,898,000 (central: £959,000)** in Option 1 and between **£233,000 - £4,276,000 (central: £1,457,000)** in Option 2. We acknowledge that these are large ranges, reflecting that the low / high figures are estimated by setting all assumptions simultaneously to their low / high value (i.e. these are extreme ranges). The ongoing cost of handling appeals for first requests by business size are outlined in the following table.

**Table 7: Ongoing cost of handling appeals for first requests, by business size – Option 1**  
(rounded to nearest 1,000)

Business size	Number of businesses	Cost of handling appeals for first request		
		Low	Central	High
Micro and small (1 - 49 employees)	1,391,000	£43,000	£295,000	£890,000
Medium (50 - 249 employees)	40,000	£19,000	£128,000	£388,000
Large (250 - 499 employees)	5,000	£8,000	£55,000	£167,000
Large (500+ employees)	5,000	£71,000	£481,000	£1,453,000
<b>Total</b>	<b>1,441,000</b>	<b>£141,000</b>	<b>£959,000</b>	<b>£2,898,000</b>

**Table 8: Ongoing cost of handling appeals for first requests, by business size – Option 2**  
(rounded to nearest 1,000)

Business size	Number of businesses	Cost of handling appeals for first request		
		Low	Central	High
Micro and small (1 - 49 employees)	1,391,000	£71,000	£447,000	£1,313,000
Medium (50 - 249 employees)	40,000	£31,000	£195,000	£572,000
Large (250 - 499 employees)	5,000	£13,000	£84,000	£247,000
Large (500+ employees)	5,000	£117,000	£730,000	£2,143,000
<b>Total</b>	<b>1,441,000</b>	<b>£233,000</b>	<b>£1,457,000</b>	<b>£4,276,000</b>

Employment Tribunal claims for first requests

79. The FW IA (2021) assumes that around 82% of appeals are unsuccessful and around 2% of unsuccessful appeals could lead to a tribunal case. We consider these figures to be a reasonable indication of scale for this policy as it reflects the types of appeal procedures that businesses are likely to adopt. There are also some similarities in terms of the factors that would encourage a worker to submit a tribunal claim, e.g. the basis on which a business can reject a request and the basis on which a worker can appeal that decision will be similar. Given there is still some uncertainty around the figures and how they would apply for this policy, we assume a corresponding range of 75% to 85% (central 80%) for the share of appeals that are unsuccessful, and 1.5% to 2.5% (central 2.0%) for the share of unsuccessful appeals that could lead to a tribunal case. BEIS estimate that the average cost of a tribunal for an employer is £5,800. The methodology to estimate the cost of handling employment tribunal claims for first requests is the following formula:

$$Cost\ of\ employment\ tribunals\ for\ first\ requests = R \times RR \times A \times RA \times SET \times C$$

Where:

**R** is the number of first requests

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

**A** is the share of those failed requests which are taken to an appeal

**R, RR & A** assumptions are as above.

**RA** is the share which are rejected at appeal (assumed to be between 15% and 25% (central 20%))

**SET** is the share which go to an Employment Tribunal (assumed to be between 1.5 and 2.5% (central: 2%)).

**C** is the average cost of tribunal (£5,800)

80. The ongoing cost of handling tribunal claims for first requests is therefore estimated to be between **£14,000 - £826,000 (central: £175,000)** in Option 1 and between **£24,000 - £1,219,000 (central: £266,000)** in Option 2. We acknowledge that these are large ranges, reflecting that the low / high figures are estimated by setting all assumptions simultaneously to their low / high value (i.e. these are extreme ranges). The ongoing cost of handling tribunal claims for first requests by business size are outlined in the following table.

**Table 9: Ongoing cost of handling tribunal claims for first requests, by business size – Option 1 (rounded to nearest 1,000)**

Business size	Number of businesses	Cost of handling tribunal claims for first request		
		Low	Central	High
Micro and small (1 - 49 employees)	1,391,000	£4,000	£50,000	£234,000
Medium (50 - 249 employees)	40,000	£2,000	£24,000	£114,000
Large (250 - 499 employees)	5,000	£1,000	£10,000	£49,000
Large (500+ employees)	5,000	£7,000	£91,000	£428,000
<b>Total</b>	<b>1,441,000</b>	<b>£14,000</b>	<b>£175,000</b>	<b>£826,000</b>

**Table 10: Ongoing cost of handling tribunal claims for first requests, by business size – Option 2 (rounded to nearest 1,000)**

Business size	Number of businesses	Cost of handling tribunal claims for first request		
			Central	High
Micro and small (1 - 49 employees)	1,391,000	£7,000	£75,000	£345,000
Medium (50 - 249 employees)	40,000	£3,000	£37,000	£169,000
Large (250 - 499 employees)	5,000	£1,000	£16,000	£73,000
Large (500+ employees)	5,000	£12,000	£138,000	£632,000
<b>Total</b>	<b>1,441,000</b>	<b>£24,000</b>	<b>£266,000</b>	<b>£1,219,000</b>

## Second requests

81. Workers will have the right to submit two requests per year. Similar to the FW IA (2022), we assume that the population of all of those who have been rejected (either initially or after an appeal) are the primary population in scope of making a second request within 12 months, as workers who would have had their requests accepted are unlikely to have had a substantive change in the predictability of their working hours (other than due to the new terms and conditions) over a relatively short period of time.
82. For those whose first request was rejected, on the one hand, we expect that some workers will not have reason to request again (i.e. discussion with the employer following the first request made clear that a more predictable contract cannot be accommodated). On the other hand, some workers (and employers) will have benefited from the discussion related to the first request and will be encouraged to make a subsequent request.
83. In the absence of strong evidence, the FW IA (2022) assumes a cautiously high take-up 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 expect that similar arguments can be made for the right to request a predictable working pattern. There are some similarities between the two policies that can lead to similar take-up rates of second requests, e.g. the procedural steps that need to be followed. Given there is still some uncertainty around the figures and how they would apply for this policy, we assume a cautiously high range of 70% to 80% (central: 75%). Otherwise, for simplicity, we assume that the other variables remain the same as first requests (similar to the FW IA (2022)). The methodology to estimate the number of second requests is the following formula:

$$\text{Number of second requests} = \{[R \times RR \times (1 - A)] + [R \times RR \times A \times RA]\} \times S$$

Where:

**R, RR, A, and RA** are as above.

**R x RR x (1 - A)** is the number of failed requests that are not taken to appeal

**R x RR x A x RA** is the number of requests that are unsuccessful at appeal

**S** is the take-up of second requests (assumed to be between 70% and 80% (central: 75%))

## Total ongoing procedural costs

84. The total ongoing procedural costs across all businesses are summarised in the following table.

<b>Table 11: Total ongoing procedural costs – Option 1 (rounded to nearest £1000)</b>			
	Low	Central	High
Review (first request)	£2,581,000	£6,475,000	£11,593,000
Internal appeal (first request)	£141,000	£959,000	£2,898,000
Employment Tribunal (first request)	£14,000	£175,000	£826,000
Review (second request)	£185,000	£1,263,000	£3,942,000
Internal appeal (second request)	£10,000	£187,000	£985,000
Employment Tribunal (second request)	£1,000	£34,000	£281,000
<b>Total</b>	<b>£2,932,000</b>	<b>£9,093,000</b>	<b>£20,526,000</b>
<b>Table 12: Total ongoing procedural costs – Option 2 (rounded to nearest £1000)</b>			
	Low	Central	High
Review (first request)	£4,265,000	£9,833,000	£17,103,000
Internal appeal (first request)	£233,000	£1,457,000	£4,276,000
Employment Tribunal (first request)	£24,000	£266,000	£1,219,000
Review (second request)	£305,000	£1,917,000	£5,815,000
Internal appeal (second request)	£17,000	£284,000	£1,454,000
Employment Tribunal (second request)	£2,000	£52,000	£414,000
<b>Total</b>	<b>£4,846,000</b>	<b>£13,809,000</b>	<b>£30,281,000</b>

85. There is considerable uncertainty for some of the assumptions. The costs, and how they evolve over time, will depend crucially on the number of requests and the acceptance rate. There is a challenging question on how to model the ongoing procedural costs over the standard 10-year appraisal period. There are three main reasons that modelling these costs every year could lead to us to significantly over-estimate the impact of the policy:

- Our analysis suggests that around 190,000 requests would be accepted (either initially, or after an appeal) every year under Option 2 (central estimate). This represents roughly around 5% of the current total eligible population in-scope. This means that the pool of workers in scope could decline over time, leading to a declining profile for the costs. This will also depend on a wider range of factors, including the rate of labour market churn, whether workers with accepted requests experience a sufficient change in their circumstances or working pattern to motivate new requests, and whether businesses start to incorporate more predictable working patterns in vacancies.
- Linked to the above, the policy could prompt wider cultural change where employers voluntarily offer a more predictable working pattern to both new and existing workers. It is also possible that workers and employers will increasingly agree changes in terms and conditions outside of the statutory right to request framework. This could lead to a decrease in the direct regulatory costs attributable to the policy.
- As discussed previously, our estimates are based on 2022 LFS data and may, at least partially, reflect the ongoing impact of the Covid-19 pandemic and other cyclical factors. Some of the estimates are high by historical standards.

86. At the same time, we note that a lower acceptance rate could lead to a greater number of appeals and tribunal cases, with the associated costs. There are also signs of longer-term growth trends in some groups in-scope of the right to request (e.g. zero-hour contract workers).

87. On balance, and given the difficulty in robustly modelling the relevant dynamics factors, we have modelled a constant number of requests over time. We acknowledge that this is likely to significantly over-state the costs of the policy over time. We also note that this remains a relatively small cost per business. Based on a business population of around 1.4m in Great Britain, the best estimate for option 2 represents an average cost per business of around £45 in year 1 and £10 in year 2 onwards, (these figures are averages and we expect that, in practice, the costs will vary business-by-business).

88. The final monetised impact on business of options 1 and 2 are shown in the table below. The figures are expressed in constant 2021 prices and presented over the standard 10-year appraisal period.

**Table 13: Total monetised impacts on business – Option 1 (rounded to nearest £1000)**

	<i>Low Estimate</i>	<i>Best Estimate</i>	<i>High Estimate</i>
Year 1	£54,629,000	£60,790,000	£72,223,000
Year 2	£2,932,000	£9,093,000	£20,526,000
Year 3	£2,932,000	£9,093,000	£20,526,000
Year 4	£2,932,000	£9,093,000	£20,526,000
Year 5	£2,932,000	£9,093,000	£20,526,000
Year 6	£2,932,000	£9,093,000	£20,526,000
Year 7	£2,932,000	£9,093,000	£20,526,000
Year 8	£2,932,000	£9,093,000	£20,526,000
Year 9	£2,932,000	£9,093,000	£20,526,000
Year 10	£2,932,000	£9,093,000	£20,526,000
Total cost over 10 years	£81,016,000	£142,623,000	£256,955,000

**Table 14: Total monetised impacts on business – Option 2 (rounded to nearest £1000)**

	<i>Low Estimate</i>	<i>Best Estimate</i>	<i>High Estimate</i>
Year 1	£56,543,000	£65,506,000	£81,979,000
Year 2	£4,846,000	£13,809,000	£30,281,000
Year 3	£4,846,000	£13,809,000	£30,281,000
Year 4	£4,846,000	£13,809,000	£30,281,000
Year 5	£4,846,000	£13,809,000	£30,281,000
Year 6	£4,846,000	£13,809,000	£30,281,000
Year 7	£4,846,000	£13,809,000	£30,281,000
Year 8	£4,846,000	£13,809,000	£30,281,000
Year 9	£4,846,000	£13,809,000	£30,281,000
Year 10	£4,846,000	£13,809,000	£30,281,000
Total cost over 10 years	£100,153,000	£189,783,000	£354,510,000

## Non-Monetised Costs

89. As mentioned previously, we note that businesses may incur additional (un-monetised) costs from accepting a request. These costs could include:

- Amending existing terms and conditions;
- Other transitional costs, e.g. reorganising work schedules, adjusting IT systems, recruiting additional staff to cover those who have reduced their hours, or any fees charged by an employment agency to cover the loss of revenue from losing an agency worker;
- Loss of flexibility for the business, e.g. where new terms and conditions leads to reduced ability to meet variable customer demand.

90. Given the grounds on which businesses can reject requests, we expect that these costs will be lower than the corresponding benefits to the business, i.e. accepting a request would be a net benefit to business.

91. We believe that this right to request will encourage conversations between the employer and their workers. This will lead to a working pattern that can suit both parties, without compromising the business's flexibility. For example, in the instance that work may vary over the year, a worker may request a guaranteed 40 hours a week that reflects their recent work pattern during peak season. This may not be sustainable for the employer; however, the employer may decide that they are able to guarantee the worker 20 hours a week all year round and still allow the worker to work up to 40 hours in peak season. Whilst there would be a nominal loss of flexibility to the business in this scenario, by engaging with their workers they will be able to find a sustainable solution that minimises this loss, whilst benefitting the workers. For employers, if a worker makes requests that they would be unable to fulfil, they would be able to reject the request on grounds such as the cost of the request being too high, or there not being the work available for the periods that the workers wishes to work.
92. Therefore, we believe that requests would primarily be accepted by businesses who are able to change the structure of their workforce and can provide workers with set hours or permanent roles as opposed to the atypical contracts they currently use. We therefore believe that there will be a minimal loss of flexibility, as any businesses facing a high cost of accepting the request will either be accepting this voluntarily or rejecting due to the costs to their business.

## Non-Monetised Benefits

93. The policy is expected to increase the wellbeing of workers by providing a clear framework for discussions on the predictability of work to occur. In cases where requests are accepted, workers will have more predictable terms and conditions that better suit their individual, leading to higher job satisfaction. Job satisfaction is one of the indicators of wellbeing considered by the ONS<sup>14</sup>. The HMT Green Book supplementary guidance also mentions having a 'higher quality' job as a contributory factor to wellbeing<sup>15</sup>.
94. Beyond the benefits to workers themselves, this could also lead to benefits to employers and the wider economy. The wider literature indicates a positive link between wellbeing, engagement at work, firm performance and productivity<sup>16</sup>. We have assumed that workers making a request for a more predictable working pattern are doing so as they are unhappy with their current terms of employment. Without the capacity to change their terms of employment, they are more likely to consider alternative employers who can offer them the desired predictability. We expect that the policy will help to mitigate the associated recruitment costs through greater retention of workers.
95. Due to the broad similarities between the two options, we anticipate that the benefits will occur under both options. We do however note that under option 2 there is a greater number of individuals in scope. Therefore, we anticipate a greater number of requests being made, a greater number of requests being approved and thus benefits accruing to greater number of individuals. Although we have not monetised the benefits in either policy option, we believe that the benefits under option 2 will be greater than under option 1.

## Risks

### Failing to meet the policy objectives

96. It is possible that some businesses could respond to the policy in a way that undermines the policy objectives. This risk is particularly present under option 1 where, for example, businesses could respond to requests by moving workers to terms and conditions where they are no longer

<sup>14</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/wellbeing/articles/measuresofnationalwellbeingdashboardqualityoflifeintheuk/2022-08-12>

<sup>15</sup> <https://www.gov.uk/government/publications/green-book-supplementary-guidance-wellbeing>

<sup>16</sup> For example, see <https://whatworkswellbeing.org/blog/the-economics-of-wellbeing-workplace-mental-health-and-productivity/> ; <https://cepr.org/voxeu/columns/employee-wellbeing-productivity-and-firm-performance-evidence-18-million-employees>



considered in-scope of the policy, without a substantive change in the reality of the worker's experience at work. For example, a business could move from using zero-hour contracts to short-hour contracts that guarantee a very small number of hours per week. Extending the scope to all workers and employees would help to mitigate this risk.

## Vexatious Requests

97. There is a risk that some individuals would make repeated requests to their employer, despite no change in their working circumstances. Whilst this would be frustrating for businesses to handle, by restricting individuals to two requests per year, this risk should be minimised.

## Small and Micro Business Assessment

98. We note that we would not be able to exclude small and micro (1-49 employees) and/or medium and larger sized businesses (50-499 employees) from this legislation without a significant adverse impact on the effectiveness of the policy. We do note that this has the potential to be burdensome on those businesses.

99. By giving all businesses one month to respond to a request, we believe that this gives enough flexibility for businesses to respond to a request in the appropriate manner, mitigating the risk of costly appeals and tribunals. The Government will publish guidance that will help streamline the process for businesses, making this timeline achievable without creating excessive burdens.

100. Whilst we acknowledge that smaller businesses may be more likely to incur higher costs of accepting requests, we note that the regulatory changes allow, but do not force, businesses to accept predictable working pattern requests. Businesses must consider requests for a more predictable working pattern, but they can reject requests on the grounds of cost. Where an employer accepts a request, we assume that the benefits to the business (e.g. more productive staff due to higher wellbeing) outweigh the costs of doing so.

101. Throughout this Impact Assessment, we have presented costs and calculations broken down by business size. The table below summarises the final monetised costs of the preferred option (Option 2) by business size. Based on the monetised figures:

- Small and micro businesses account for around 93% of the total one-off costs, around 31% of the total ongoing costs and around 48% of the total costs over a 10-year period. By comparison, small and micro businesses account for around 97% of all businesses in Great Britain.
- Medium and larger sized businesses (50-249 employees) account for around 6% of the total one-off costs, around 19% of the total ongoing costs and around 16% of the total costs over a 10-year period. By comparison, medium and larger sized businesses (50-249 employees) account for around 3% of all businesses in Great Britain.

102. We note that, in our analysis, we have made a number of cautious assumptions (e.g. all small and micro businesses, will familiarise themselves with the regulatory change and incur set-up costs; and the number of requests is constant over a 10-year period). We also note that the monetised figures remain a relatively small cost per business. For example, based on around 1.4m small and micro business in Great Britain, the best estimate for option 2 represents an average initial (ongoing) cost per small or micro business of £34 (£3) (these figures are averages and we expect that, in practice, the costs will vary business-by-business).

103. In our monetised estimates, we have assumed that requests are distributed according to the wider share of employees employed in each business size category. There is limited evidence to further refine this estimate. CIPD data suggests that larger employers are more likely to employ

people on zero-hour contracts<sup>17</sup>. This is suggestive that small and micro could face proportionally fewer requests.

**Table 15: Summary – Total cost to business by business size, best estimate, Option 2 (rounded to nearest £1000)**

Business size	One-off costs	Ongoing costs	Total cost over 10-year period
Micro and small (1 - 49 employees)	£47,944,000	£4,234,000	£90,287,000
Medium (50 - 249 employees)	£2,988,000	£1,849,000	£21,474,000
Large (250 - 499 employees)	£369,000	£798,000	£8,354,000
Large (500+ employees)	£396,000	£6,927,000	£69,668,000
<b>Total</b>	<b>£51,697,000</b>	<b>£13,809,000</b>	<b>£189,783,000</b>

## Equalities Assessment

104. Section 149 of the Equality Act 2010 requires BEIS to have due regard to promoting equality of opportunity, eliminating discrimination and fostering good relations between groups. This policy aims to reduce the impact of one-sided flexibility where employers use flexible contracts to transfer risk to, and thus exert control over, workers. The regulatory changes are expected to have a positive impact on eligible workers by providing a clear framework for discussions on the predictability of work to occur. In cases where requests are accepted, workers will have more predictable terms and conditions that better suit their individual circumstances, leading to higher job satisfaction. The evidence indicates that eligible groups in-scope are more likely to be young, women, classified as disabled under the Equality Act 2020 and from ethnic minority backgrounds.

## International trade

105. The regulatory changes are not anticipated to have a significant impact on international trade.

## Monitoring and Evaluation

106. A proportionate non-statutory review of the regulatory changes to the right to request a more predictable working pattern will take place five years following introduction of the policy. The review will assess whether the changes have had a positive impact on the predictability of working patterns for atypical workers.

107. Stakeholder feedback will form the primary source of evidence. We will also consider the case for commissioning employer and worker surveys that can be designed to capture some of the specific effects of these reforms.

108. We will continue to develop the Monitoring and Evaluation plan for these regulatory changes and will look to publish this ahead of publication of the final legislation.

<sup>17</sup> <https://www.cipd.co.uk/knowledge/fundamentals/emp-law/terms-conditions/zero-hours-contracts-report#oref>