

<b>Title:</b> Proposals to reform existing rights and entitlements of employees to flexible working.	<b>Regulatory Impact Assessment (RIA)</b>
	<b>Date:</b> June 2024
	<b>Type of measure:</b> Primary Legislation
<b>Lead department or agency:</b> Department for the Economy	<b>Stage:</b> Initial
	<b>Source of intervention:</b> Domestic NI
<b>Other departments or agencies:</b> N/A	<b>Contact details:</b> <a href="mailto:goodjobsconsultation@economy-ni.gov.uk">goodjobsconsultation@economy-ni.gov.uk</a>

## Summary Intervention and Options

**What is the problem under consideration? Why is government intervention necessary? (7 lines maximum)**

Having the ability to vary the time, hours and place of work will help play a key role in ensuring that our labour market functions efficiently. In 2023, NISRA<sup>1</sup> data showed an uptake of flexible working by 54.3% of workers who responded, showing a 6.6% increase since 2020. However, overall take-up levels have remained inconsistent, with female employees still more likely to work flexibly than male employees and some employees reporting 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.

Flexible working is an agreed way of meeting the needs of an employer and an employee through alternative approaches to working. These can include flexibilities such as flexible start and finish patterns; compressed hours; job sharing; part-time working; home, remote or hybrid working arrangements; or any combination thereof.

Flexible Working rights in Northern Ireland enable an employee who has been continuously employed for a period of at least 26 weeks to make a flexible working application to their employer. Such an application can currently be made once within a 12-month period. The employer must notify the employee of their decision and any business ground(s) for rejecting the application, should that be their determination, but does not have to justify their decision. The Covid-19 pandemic brought about a huge shift to homeworking and other forms of flexible working- for the first time in many cases. It is therefore timely to review current legislation to maximise the personal and economic benefit flexible working can provide. The analysis within this report utilises information from the Business Population Estimates 2023 which estimates the number of NI businesses and employees within the scope of this project is 39,205 and 463,000 respectively. It should be noted that this data includes only those employees who work within the private sector and the 463,000 figure therefore excludes workers who work in the public sector.

<sup>1</sup> [Work Quality in Northern Ireland – July 2022 to June 2023 | Northern Ireland Statistics and Research Agency \(nisra.gov.uk\)](#)

**What are the policy objectives and the intended effects? (7 lines maximum)**

The proposed reforms to the existing rights and entitlements of employees to flexible working legislation aim to:

- Encourage communication between employer and employee on how best to balance work requirements and an individual's needs.
- Provide all employees with the same access to the right to request flexible working.
- Improve the functioning of the labour market by facilitating a diverse pattern of working arrangements.

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.

**Benefits to businesses** – increases in flexible working can result in increased motivation and productivity from employees. It is generally accepted that a flexible workforce is important to competitiveness and prospects for business investment and job creation. It is anticipated 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** – there is a wide range of research which 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 potential. 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<sup>2</sup> has shown that offering flexible working can attract up to 30% more applicants to job vacancies, and a recent ONS publication<sup>3</sup> revealed that older workers working flexibly would be more likely to be planning to retire later. 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.

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<sup>2</sup> [Behavioural Insights Team Research](#)

<sup>3</sup> [Living longer: impact of working from home on older workers - Office for National Statistics \(ons.gov.uk\)](#)

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum)**

The following options have been considered:

- **Option 1: Do nothing.** This option is ruled out as it will not improve the uptake of flexible working and will not fully deliver against the objectives outlined below:

- Encourage communication between employer and employee on how best to balance work requirements and an individual's needs.
- Provide all employees with the same access to the right to request flexible working.
- Improve the functioning of the labour market by facilitating a diverse pattern of working arrangements.

It is unlikely that this option will enhance the uptake of flexible working and it will not fully deliver the environmental, economic and societal benefits which flexible working can deliver for employers and employees. This option would mean the full benefits of flexible working are not realised and would fail to deliver on the commitment to encourage flexible working.

- **Option 2:** Encourage employers to go beyond current regulatory requirements without regulatory intervention. This option is ruled out as they may lead to inconsistent practices and similarly to option 1 it is unlikely to see a broad enhancement of flexible working across our economy and will therefore fail to achieve the core objectives. Many flexible working arrangements are already agreed outside of the statutory framework; therefore, encouraging employers to develop flexible working and introducing guidance alone is unlikely to be sufficient in making improvements to encourage more effective dialogue between employer and employee. This option is therefore ruled out.

- **Option 3:** (preferred option, regulatory approach):

- a. Make the Right to Request Flexible Working a day one right for all employees;
- b. Allow two statutory requests for flexible working within a 12-month period; and
- c. Remove the requirement for employees to explain what effect, if any, the requested change would have upon their employer and how that may be mitigated.

Flexible working requires an open conversation between employer and employee about how best to balance work requirements and an individual's needs. Working practices and job roles have evolved significantly since the right to flexible working was first introduced in NI. This is particularly so post-Covid. We believe it is timely for changes to be made to the existing legislative framework to encourage greater participation, retention and flexibility within the workforce which will benefit businesses, individuals and the wider economy.

An option involving encouraging employers to go beyond minimum legislative requirements without regulation could lead to no change, inconsistent practices and fail to realise the full benefits of flexible working for businesses and their employees. It will also result in divergence with rights available to employees in other parts of the UK.

**Will the policy be reviewed?** It will be reviewed

**If applicable, set review date:** Post-Consultation

<b>Cost of Preferred (or more likely) Option</b>		
<b>Total outlay cost for business</b> £m	<b>Total net cost to business per year</b> £m	<b>Annual cost for implementation by Regulator</b> £m
£0.035m	£0.14m to £1m	N/A

<b>Does Implementation go beyond minimum EU requirements?</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input checked="" type="checkbox"/>		
<b>Is this measure likely to impact on trade and investment?</b>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input checked="" type="checkbox"/>		
<b>Are any of these organisations in scope?</b>	<b>Micro</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Small</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Medium</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<b>Large</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

**The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.**

Approved by: Colin Jack Date: 21 June 2024

## Evidence Base

There is discretion for departments and organisations as to how to set out the evidence base. It is however desirable that the following points are covered:

- Problem under consideration;
- Rationale for intervention;
- Policy objective;
- Description of options considered (including do nothing), with reference to the evidence base to support the option selection;
- Monetised and non-monetised costs and benefits of each option (including administrative burden);
- Rationale and evidence that justify the level of analysis used in the RIA (proportionality approach);
- Risks and assumptions;
- Direct costs and benefits to business;
- Wider impacts (in the context of other Impact Assessments in Policy Toolkit Workbook 4, economic assessment and NIGEAE)

**ECONOMIC ASSESSMENT**

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring) (excl. transitional)	Total Annual Cost
	(constant price)	Years		
Low	£0.035m		£0.14m	£0.18m
Best Estimate	£0.035m		£0.57m	£0.61m
High	£0.035m		£1.0m	£1.03m

**Description and scale of key monetised costs by ‘main affected groups’** Maximum 5 lines  
 One-off familiarisation costs for businesses may be incurred, however these are likely to be mitigated by the existence of rights for all employees to make a statutory flexible working request since 2015. The proposed new entitlements will make this right available from the first day of employment and allow two non-concurrent applications to be made in a 12-month period. All other rights and obligations will remain the same. 54% of employees already enjoy some form of flexible working and many businesses already go beyond their statutory obligations in order to retain and recruit the best employees therefore the uptake of these strengthened rights and entitlements may be more measured than if the rights were being introduced for the first time. Many businesses able to accommodate a statutory flexible working request are likely to have the appropriate IT infrastructure in place to facilitate remote and agile working as a result of the Covid-19 pandemic.

**Other key non-monetised costs by ‘main affected groups’** Maximum 5 lines  
 We have not monetised costs to employers. The employee has a right to make a statutory request, however a business may refuse such a request and are likely to agree if the benefits to the business outweigh the costs. IT equipment required to facilitate a flexible working request such as hybrid working is already widespread. These rights have broadly been in place since 2003 and available to all employees from 2015. Many employees already have flexible working arrangements in place and many employers will have considered such a request therefore familiarisation costs are considered to be low.

Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring) (excl. transitional) (constant price)	Total Benefit (Present Value)
	(constant price)	Years		
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’** Maximum 5 lines  
 All the benefits of this entitlement are non-monetisable.

**Other key non-monetised benefits by ‘main affected groups’** Maximum 5 lines  
 An entitlement to a flexible working request from the first day of employment may assist those currently outside the labour market due to personal circumstances return to the labour market increasing diversity within the workforce and assisting in closing the gender pay gap. Those already in employment with flexibilities may be happier to apply for new roles if they are able to make a flexible working request which meets their current arrangements whilst others may remain within the workforce if they are better able to balance personal and work commitments through additional flexibilities. Business may benefit from increased motivation and productivity from their employees, reduced absenteeism and an increased ability to retain and attract skilled employees.

**Key Assumptions, Sensitivities, Risks** Maximum 5 lines  
 There is a degree of uncertainty around the take-up assumptions of the right to make a statutory flexible working request. These rights have been in existence for over 20 years and available to all employees since 2015 therefore many employees have already agreed flexibilities with their employer. An employer is not obligated to grant a flexible working request should the cost outweigh the benefits to the business although it is accepted that in some circumstances monetary costs will be outweighed by the benefits of an employer accommodating the personal circumstances of an employee.

### **Cross Border Issues (Option )**

**How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines**

These proposals would bring the rights and entitlements in the north of Ireland into line with those in Britain. In the south of Ireland, the Irish Government have implemented the EU's Work Life Balance Directive (EU) 2019/1158 via the Work Life Balance and Miscellaneous Provisions Act which was signed into law by Michael D Higgins, President of Ireland on 4 April 2023. In the south, all employees have a right to request remote work and those with caring responsibilities have the right to request flexible working arrangements.

## Evidence Base

### **Problem under consideration**

The statutory right to make a flexible working request was first introduced here in 2003 and was extended to all employees in 2015. The law currently entitles an employee who has been continuously employed for a period of at least 26 weeks to make a flexible working request in a prescribed format.

Currently the request can only be made once in a rolling 12 month period. We believe this restriction does not adequately reflect the often fluid nature of personal circumstances, including childcare and other caring responsibilities and those times when extra flexibility is required to balance personal and work commitments.

We also believe that requiring a six month continuous employment requirement before a statutory flexible working request can be made causes an unnecessary imbalance between new and existing employees and can have undesirable and negative impacts upon those who wish to enter or return to the workforce or those considering moving employment if their personal circumstances cannot be met through flexible working practices.

An inability to achieve this balance can require an employee to reduce working hours or exit the workforce. This not only has negative impacts upon the economy, it has long term financial implications for individuals and can exacerbate persistent issues such as the gender pay gap, the gender imbalance relating to caring responsibilities and regional imbalance.

Currently an employee making a statutory flexible working request must identify the potential impact upon the business and state how this may be mitigated. We believe this can lead to requests being framed in the negative and such discussions should properly take place during consultation between the employer and employee before a decision has been reached.

The uptake of home or remote working in the north of Ireland is the lowest of all UK regions (the NI rate is 17% in comparison to the UK rate of 31%)<sup>4</sup>. There are notable variances in the uptake of flexible working across genders, age and social demographics. We believe the right to make a statutory flexible working from the first day of employment and an ability to make two such requests within a rolling 12 month period will help to encourage the uptake of flexible working practices which will in turn help to realise the societal and economic benefits flexible working can bring.

### **Contextual information – NI evidence**

The Northern Ireland Statistics and Research Agency (NISRA) release work quality statistical indicators sourced from the Labour Force Survey and from the Annual Survey of Hours and Earnings (ASHE).

The July 2022 to June 2023 indicators showed an uptake of flexible working by 54.3% of workers who responded, showing a 6% increase since 2020. Across all indicators, flexible work has shown the largest difference between males and females since 2020. However, the gap has decreased from 20% in 2020 to under 15% in 2023. 61.5% of female employees responding indicated they worked flexibly, with 46.9% of male respondees indicating the same.

There are modest variances in employees with flexible work by age group, with 51.7% of those aged 18 to 39 with flexible work compared with 56.8% of those aged 40 and over. The difference is more pronounced when looking at those living in the most and least deprived areas. 50.1% of those living in the more deprived areas work flexibly compared with 60.8% of those living in the least deprived areas. The proportion of workers responding to the survey employed in low skilled jobs who worked flexibly was broadly similar to those working in high skilled jobs at 55.8% and 53.1% respectively.

The third quarterly business monitor report by Intertrade Ireland suggested 60% of businesses on the island of Ireland offer flexibility in working hours, with 35% offering flexibility in terms of work location.

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<sup>4</sup> Source- ONS, Labour Force Survey and UUEPC analysis



Remote working takes place outside of the traditional workplace environment- usually at home or another place and can be undertaken on a full or part time 'hybrid' basis. Whilst remote working is only one aspect of flexible working, it has become increasingly popular as a result of the pandemic.

In its July 2023 research 'Is remote working, working?' The Ulster University reviewed remote working trends in various countries, including the UK, Ireland, the United States and selected EU countries.

From 2001 up until 2019, the UK saw a gradual increase in the percentage of employees declaring they mainly worked at home, from 2.2% to 4.8%, although the overall percentage remained low. All UK regions saw an increase in working from home levels from 14.5% in Q4 2019 to 31.3% in Q1 2023 however NI has the lowest rates of working from home of any UK region as of 2023 and witnessed the smallest percentage increase between 2019 and 2023 at 7% which was less than half of the UK average increase.

Reported productivity reported by employers had remained largely unchanged from 2019, although some adaptation was required to staff management and development. There were some adverse impacts upon mentoring and staff training. 80% of employees indicated they were satisfied with their current working arrangements, with most typically working remotely 2-3 days per week. Employees highlighted benefits to their productivity and improved wellbeing through reduced commuting time and better work-life balance although some reported an 'always on' culture and home life distractions.

### **Rationale for intervention**

The benefits of flexible working can be environmental, economic and societal. We believe flexible working can offer benefits to both the employer and their employees and therefore wish to encourage and facilitate its uptake.

The need to balance personal and work commitments does not arise only after 6 months of starting a new job and therefore we believe the right to make a statutory flexible working request should be available to employees from the first day of employment.

We believe an ability to request flexible working from the first day of employment will address an imbalance of rights between new and existing employees; increase the number of employees capable of making a flexible working request; enable some to consider entering or returning to the labour market; and for those who are already in the labour market and enjoy flexible working, enable them to consider moving to new jobs if they are able to request the same flexibilities from the outset. Such a right will encourage employers to promote the flexible aspects of the role to prospective employees to attract the best candidates.

Enabling employees to make two statutory flexible working requests within a 12-month period will better reflect the fluid nature of personal circumstances and strike the right balance between meeting personal circumstances and a need for businesses to be able to plan ahead and administer such requests.

### **Policy objective**

The policy objective is to enhance current rights and entitlements to flexible working and increase its uptake by:

- allowing an employee to make two statutory requests in any 12-month period (the current entitlement being one such request);
- removing the current 26-week qualifying period before a flexible working request can be made, thereby making this a right available to new and existing employees; and
- removing the requirement that the employee must explain in the statutory request what effect the change would have on the employer and how that might be dealt with.

## **Description of options considered (including do nothing), with reference to the evidence base to support the option selection**

### **Option 1 - Do nothing.**

This option would mean the statutory right to request flexible working would remain unchanged. We are aware many employers already go beyond the statutory minimum however current rights and entitlements have resulted in the lowest uptake of remote and/or home working in the North of Ireland than other UK regions. We are also aware that the current six month qualifying period before a statutory flexible working request can be made will exclude a sizeable proportion of the workforce from eligibility. This option therefore is not conducive to supporting and encouraging the uptake to realise the full societal and economic benefits of flexible working.

### **Option 2 – Non-Regulatory**

We are aware that many employers already go beyond the statutory minimum requirements when it comes to considering the needs of their employees to balance work and personal commitments. However, a non-regulatory approach such as encouraging the uptake of the right to request flexible working or conveying the economic and productivity benefits of accommodating flexible working requests for employees can lead to inconsistent practices and is unlikely in and of itself to encourage the uptake of flexible working, nor address the imbalance of rights between new employees and those with over six months continuous employments in some instances.

All UK regions saw an increase in working from home levels from 14.5% in Q4 2019 to 31.3% in Q1 2023 however NI has the lowest rates of working from home (17%) of any UK region as of 2023 and witnessed the smallest percentage increase between 2019 and 2023 at 7% which was less than half of the UK average increase.<sup>5</sup> We therefore believe a non-regulatory approach would not achieve the desired effect nor address the current cohort who are excluded from the entitlements due to have less than six months continuous employment with their current employer.

### **Option 3 – Regulatory Option**

Making the right to request flexible working from the first day of employment will increase the cohort of employees able to make such requests and lead to an increased uptake. Such a step will address an inherent imbalance between the rights of new and existing employers, facilitate some employees to move to new roles and new organisations and enable other to be able to increase the number of hours they can work or to return or enter the workforce. Removing the requirement for the employee making the request to highlight the potential impact upon their employer and how this can be addressed will result in better discussions between the employer and the employee, facilitating the reaching of an agreed position in greater instances. Increasing the number of statutory requests to 2 in a rolling 12 month period will better meet the needs of employees to balance their work commitments and evolving personal circumstances.

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<sup>5</sup> [Remote working in Northern Ireland 2023 \(ulster.ac.uk\)](https://www.ulster.ac.uk/remoteworking)

## Risks and Assumptions

### Modelling risk and assumptions

The analysis within the Impact Assessment is dependent on a number of key assumptions. We have identified areas where the existing evidence base supporting these assumptions is very limited in places and outline the key risks to the model and estimated costs below:

<b>Assumption Log</b>		
<b>Assumption</b>	<b>Detail</b>	<b>Discussion</b>
Eligible population – employment characteristics and take up rate	Eligible population figures detail the numbers of eligible employees and projects the likely take up rate of the enhanced rights, including the extension of the right to employees with less than 6 months continuous employment.	The eligible population is determined using high quality data on the number of business organisations by size based on the number of employees. Available data shows that 54% of employee already enjoy some form of flexible working. We believe many employers already go beyond the minimum statutory requirements. We anticipate that the increased take up will be in line with projections made in Britain.
Familiarisation costs	Familiarisation costs are captured explicitly for firms with 50 or more employees, whereas they are included as part of admin costs for small and medium firms (therefore familiarisation occurs when requests arise) for firms with fewer than 50 employees.	Due to the proposals being an amendment to existing rights and entitlements which have been in place since 2015 we believe familiarisation costs will be mitigated. We believe smaller employers, who are unlikely to have a dedicated HR team, will familiarise themselves at the point in time when a statutory flexible working request is received.
Administrative costs	These are the costs to business of processing a statutory flexible working request.	We have assumed that businesses with fewer than 50 employees will spend longer processing an application as they will familiarise themselves with the legislation at that time. Larger businesses are anticipated already be familiar with the legislative requirements and will proportionately receive a larger number of requests and therefore will require a short period to administer a request.
Ancillary Costs	Ancillary costs are those falling upon a business as a result of granting a flexible working request.	These rights and entitlements have been in place since 2015. It is proposed that these requests will remain permissive in nature and a business will weigh up the benefits and costs before granting or refusing a request. Not all flexible working requests will involve home or remote working and require a technological solution. We have assumed in many instances where technology is required, things such as mobile phones and laptops will already be in place.

## **Monetised costs and benefits**

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; and

**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.

As our policy proposals are an enhancement of existing rights and entitlements, we do not believe there will be any set-up costs for businesses. Any changes to internal business policies are likely to be modest as many employers will already be familiar with current statutory flexible working rights and entitlements and have existing policies in place. We therefore believe any familiarisation costs will be largely mitigated.

Costs of accommodating flexible working requests have not been included as these rights are permissive in nature, i.e. a business is not forced to do anything and the granting of a statutory flexible working request will naturally include the weighing up of the benefits to the business against the direct cost of matters such as IT equipment, recruitment and reorganisation. The use of technology in many roles has been increasing significantly over the past number of decades. This progress was accelerated by the Covid-19 pandemic and for many businesses the necessary technological solutions will already be in place. We are also mindful that there are many different types of flexible working, including start and end times which are not likely to require any technological support.

An obligation for employers to consult with employees before rejecting their requests already exists. This obligation reduces the potential for conflict and possibly the need for complaints to employment tribunals. We do not believe that making a right to request flexible working from the first day of employment or extending the rights to include two such requests within a 12-month period will result in increased conflict or tribunal cases.

The estimated number firms and employee data has been sourced from Business population estimates 2023.

## **Costs to Business**

### **One-off familiarisation costs**

The amended policy will require businesses to familiarise themselves with the legislation. We anticipate that small and medium size businesses will familiarise themselves with the legislation when an employee seeks to avail of the enhanced entitlements. At the point the legislation is introduced, businesses with fewer than 50 employees may opt to spend a short time viewing online guidance. Larger businesses with dedicated HR departments, responsible for understanding and disseminating knowledge of employment law will invest time in familiarisation at the point the legislation comes into effect. These businesses will also have a higher probability of an employee claiming the rights due to higher number of people they employ.

How the legislation operates will be broadly similar to that of existing statutory flexible working entitlements therefore we would expect that the familiarisation process would be straightforward for most businesses. Some of the familiarisation could include understanding how employer's own policies interact with the statutory requirements and updating their internal guidance accordingly. How far employers go beyond understanding the statutory requirements, updating systems and raising awareness of the entitlement would be at their own discretion and therefore estimates do not account for this.

Small and large businesses are differentiated in how they will familiarise with the policy by assuming that businesses with fewer than 50 employees will not spend time on familiarisation when the policy is introduced. Instead, we assume they will spend additional time when they are processing requests

(recurring administrative costs) to account for their lack of familiarity but making it dependent on estimated case numbers. We assume that for employers with 50 or more employees, a manager/director/senior official will be responsible for familiarisation and will spend 1 hour on average, which will include: understanding the legislation, interaction with existing employer support, updating HR systems to process leave claims and updating any internal guidance for employees and managers.

Across all companies, resource costs are estimated using data from the Annual Survey of Hours and Earnings (ASHE) 2023. For businesses with 50 employees or more we assume a HR Manager/Director/senior official will lead on familiarisation. Using ASHE ('Managers, directors and senior officials' data), the median hourly wage of a HR Manager/Director/senior official is £25.85 per hour. Similarly to the methodology employed within the GB model, this salary is uprated by 17.95% to £30.49 per hour to include non-wage labour costs.<sup>6</sup> Box 1 shows how we have calculated these costs in practice.

### **Box 1: Derivation of one-off familiarisation costs**

The standard approach used in similar family-related leave entitlements to costing familiarisation has been used. Since these are one-off familiarisation costs, frequency is assumed to have value 1.

***Familiarisation cost***

$$= \text{Average wage rate per hour (Manager/Director/Senior official)} \times \text{time spent on activity} \times \text{no. businesses affected} \times \text{frequency}$$

$$\underline{\underline{£30.49 \times 645 \times 1 = £19,666 \text{ for Business with 50-99 employees}}}$$

<b>Business size</b>	<b>Number of businesses</b>	<b>Assumed time</b>	<b>Estimated cost to business</b>
<b>50 - 99</b>	<b>645</b>	<b>1</b>	<b>19,666</b>
<b>100 - 199</b>	<b>280</b>	<b>1</b>	<b>8,537</b>
<b>200 - 249</b>	<b>60</b>	<b>1</b>	<b>1,829</b>
<b>250+</b>	<b>175</b>	<b>1</b>	<b>5,336</b>
<b>Total</b>	<b>1,160</b>		<b>35,368</b>

**Source:** Business population estimates 2023 and 2023 ASHE. Note that columns may not sum to total due to rounding.

<sup>6</sup> ONS, Index of Labour Costs per Hour UK (2019 Q4 - 2020 Q3 average)

## Recurring Administrative Costs

The cost of processing requests for flexible working are estimated based on the number of individuals taking up the entitlement. We assume that businesses with fewer than 50 employees will spend longer in processing an application to account for the lack of familiarity with the new policy compared to larger businesses.

The simplifying assumption is small businesses will spend 1.5 hours processing a case (which includes one hour spent on familiarisation). This additional time for small businesses could include time in consulting Labour Relations Agency guidance. We assume a large business will spend 30 minutes processing a flexible working request, as they will already be familiar with the entitlement. Similarly to familiarisation costs, we assume that, for large and small businesses a Manager/Director/senior official will process requests.

Based on ASHE 2023 data, we use the uprated average wage (including non-wage labour costs) for Managers, directors and senior officials to £30.49 per hour.

Table 2 below sets out the eligible population of employees entitled to make flexible working requests and identifies the recurring administrative cost to business based on the uptake of 1% (low); 4% (best estimate); and 7% (high). The number of workers entitled to make a flexible working request is based on employee numbers within the Business Population Estimates 2023 survey.

**Table 2: Recurring Administrative Costs**

	Low Estimate (1%)	Best Estimate (4%)	High Estimate (7%)
<b>No of workers entitled to make a flexible working request</b>	463,000	463,000	463,000
Uptake assumption	1%	4%	7%
<b>Large and Medium businesses</b> 225k employees			
Employee in workplace with 50 or more people (%)	49%	49%	49%
Time per case (hrs)	0.5	0.5	0.5
Eligible employees in L&M businesses	2,250	9,000	15,750
Updated hourly rate of Manager/Director/Senior Official	£30.49	£30.49	£30.49
<b>Recurring cost (£)</b>	<b>£34,301</b>	<b>£137,205</b>	<b>£240,109</b>
<b>Small businesses</b> 238k employees			
Employee in workplace with less than 50 people (%)	51%	51%	51%
Time per case (hrs)	1.5	1.5	1.5
Eligible employees in small businesses	2,380	9,520	16,660
Updated hourly rate of Manager/Director/Senior Official	£30.49	£30.49	£30.49
<b>Recurring cost (£)</b>	<b>£108,850</b>	<b>£435,398</b>	<b>£761,947</b>
<b>Total (£)</b>	<b>£143,151</b>	<b>£572,604</b>	<b>£1,002,056</b>
Sources: Employment shares are taken from the 2023 BPE, wage data from 2023 ASHE. Summary figures might not add up to the sum of components due to rounding.			

## Ancillary costs

These costs fall upon businesses as a result of employees being granted a flexible working request. As these requests are permissive in nature, the consultation and negotiation process between an employer and the employee making the request will include weight up the cost and benefits to the business. Not all requests will require reorganisation or technological intervention. We believe in many instances any required technological solutions will be in place in many instances, thanks in large part to home working measures necessitated by the Covid pandemic. For these reasons, we have not calculated ancillary costs to business.

## Non-monetisable impact to business

Removing the requirement on employees to say what the impact of their request will be upon their employer and how this may be mitigated is not anticipated to have any direct cost to business. This approach will not introduce any new costs and is likely to reduce the length of the overall length of the flexible working request and thereby reduce the consideration time required. The statutory request will still be considered in the same manner and in the same timeframes.

## Summary

The table below summarises all the monetised costs and benefits presented within the Impact Assessment for the proposed policy. Both the costs and benefits of this policy will be realised when the regulations come into effect, which we expect would come in at 2026 [TBC] at the earliest.

**Table 3: Summary of costs and benefits**

	Costs		
	Low Estimate	Best Estimate	High Estimate
<b>Business costs</b>			
<b>One-off (familiarisation costs)</b>	£0.035m	£0.035m	£0.035m
<b>Recurring (annual) admin costs</b>	£0.14m	£0.57m	£1.0m

*Costs rounded*

## Rationale and evidence that justify the level of analysis used in the IA (proportionality approach):

In conducting this impact assessment we largely mirrored the GB approach and have drawn on evidence and sources used. In addition we have made use of existing data sources available to us and drawn on relevant research to evidence our assumptions and policy development.

As well informed as these assumptions might be, there is always a large degree of uncertainty around the take-up of such a policy, particularly where a second statutory request can be made in the circumstance where 54% of the population already enjoy some form of flexible working and many requests are made and considered outside of the statutory framework. Overall, there is an estimated one off familiarisation of £35k and recurring administrative costs of £143k up to £1m (this will depend on the volume of flexible working requests).

Given the uncertainty associated with the volume of flexible working requests, further analysis may be required upon completion of the consultation exercise to refine the project costs and to evaluate the policy options.

## Annex 1 - Data sources and SME analysis

The evidence underpinning the eligible employee population in this Impact Assessment has been sourced from the Business Population Estimates 2023 Survey).

### Small and Micro Business Impact Test (SAMBIT)

Small and micro-businesses will not be exempt from these enhanced entitlements. Allowing for the provision of the entitlement to differ across employers would create problems in the overall delivery of the policy objectives. Benefits described above such as improving labour force attachment and productivity savings would not materialise if some businesses were exempted from the policy.

Using the latest Business population statistics<sup>7</sup>, we estimate that around 97% of businesses affected are small and micro businesses<sup>8</sup>, with these businesses accounting for 51% of total employees within Northern Ireland. We have no specific information on the size of the employer that employees who already enjoy some form of flexible working can be aligned to. We have therefore assumed that the take up of flexible working will be proportionate across organisations of all sizes.

**Table 4: Number of businesses and employers by Business Size**

<b>Business Size (no. of employees)</b>	<b>No. Businesses</b>	<b>No. Employees</b>
1 to 9	32,120	119,000
10 to 19	3,725	52,000
20 to 49	2,200	67,000
50-99	645	45,000
100-199	280	39,000
200-249	60	13,000
250+	175	128,000
<b>Total businesses</b>	<b>39,205</b>	<b>463,000</b>
<b>Total in small and micro businesses</b>	<b>38,045</b>	<b>238,000</b>
<b>Share in small and micro businesses</b>	<b>97%</b>	<b>51%</b>

Source: Employment shares are taken from the Business Population Estimates 2023

Based on earlier view that small and micro-businesses familiarise on a case-by-case basis we include these costs as part of the recurring administrative costs and assess these to see if the smallest businesses bear a disproportionate burden.

We do not believe that small and micro businesses will be disproportionately impacted so as to justify their exemption from this policy. Small and microbusiness are already required to consider statutory requests, with such requests being permissive in nature. Familiarisation costs will be reduced over time as employers become more familiar with the requirements and many flexible working requests will be considered outside of the statutory framework. We therefore believe exempting small and

<sup>7</sup> Employment shares are taken from the Business Population Estimates 2023 Survey

<sup>8</sup> Defined here as having fewer than 50 employees as per Eurostat (<https://ec.europa.eu/eurostat/web/structural-business-statistics/structural-business-statistics/sme>)



microbusiness from the statutory requirements would make them less attractive to prospective employees.